1 UNITED STATES PATENT AND TRADEMARK OFFICE
2 _____
3 BEFORE THE PATENT TRIAL AND APPEAL BOARD
4 _____
5 NESPRESSO USA, INC.
6 Petitioner
7 v.
8 K-FEE SYSTEM GMBH
9 Patent Owner
10 _____
11 Case No. IPR2023-00485
12 U.S. Patent No. 11,230,430
13 - - -
14 DEPOSITION OF MICHAEL JOBIN
15 9:00 a.m. Eastern Time
16 Location:
17 Mayer Brown LLP,
18 1221 6th Avenue
19 New York, New York 10019
20
21
22
23 REPORTED STENOGRAPHICALLY BY:
24 Jennifer Miller, RMR, CRR, CCR-NJ
25 Job No: 8205

1 A P P E A R A N C E S

2

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1 I N D E X

2 WITNESS PAGE

3 MICHAEL JOBIN

4 BY ATTORNEY BROOKS

5 E X H I B I T S

6 ****All Exhibits previously marked****

7

Exhibit 1003 Declaration of Michael Jobin 6
8

9 Exhibit 1003 Declaration of Michael Jobin 8
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Exhibit 1004 United States Patent Application, Yoakim et al. 14
11

12 Exhibit 1008 United States Patent Application, Rapparini 34
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Exhibit 1001 United States Patent Number 11,230,430 61
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15 Exhibit 1005 United States Patent Application, Jarisch et al. 79
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Exhibit 1041 International Publication Number WO 2010/099806 116
17

18 Exhibit 1047 September 2010 application, English translation 126

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K-FEE SYSTEM GMBH, EX2019, page 3
NESPRESSO USA, INC. v. K-FEE SYSTEM GMBH
IPR2023-00485, U.S. PATENT 11,230,430

1 P R O C E E D I N G S
2 MICHAEL JOBIN, after
3 having been first duly sworn, was
4 examined and testified as follows:
5 - - -
6 E X A M I N A T I O N
7 - - -
8 BY ATTORNEY BROOKS:
9 Q. Good morning.
10 A. Good morning.
11 Q. Could you please start by stating
12 your name for the record.
13 A. My name is Michael J. Jobin,
14 J-O-B-I-N.
15 Q. Mr. Jobin, you understand that you're
16 under oath?
17 A. Yes.
18 Q. And is there anything that would
19 prevent you from providing complete and
20 truthful testimony today?
21 A. No.
22 Q. You were previously deposed in an IPR
23 proceeding between Nespresso and K-fee,
24 correct?
25 - - -

1 (Stenographer clarification.)
2 - - -
3 THE WITNESS: Yes.
4 BY ATTORNEY BROOKS:
5 Q. That was in June of this year?
6 A. Yes.
7 Q. Since that time, has your employment
8 changed?
9 A. No.
10 Q. Have you relocated from Boston?
11 A. I have.
12 Q. Okay. Where are you located now?
13 A. I live in Naples, Florida.
14 Q. It's a lot warmer than here, huh?
15 A. Yes, it is.
16 Q. And since that deposition in June,
17 have you been asked by Nespresso to provide any
18 opinions on any other cases?
19 ATTORNEY MCCRAW: Objection.
20 Privileged.
21 You don't have to answer.
22 THE WITNESS: Yeah, I don't have
23 any opinions that I'm recalling that I
24 provided.
25

1 BY ATTORNEY BROOKS:
2 Q. Have you sat for any depositions
3 since your last deposition in June?
4 A. I'm trying to remember if there's
5 been one between then and now.
6 No. I think that was my last
7 depo.
8 Q. Have you provided any testimony in
9 court since the June deposition?
10 A. No.
11 - - -
12 (Whereupon, Exhibit 1003 was
13 previously marked for identification.)
14 - - -
15 BY ATTORNEY BROOKS:
16 Q. Mr. Jobin, I've handed you what's
17 previously been marked as Exhibit 1003 in the
18 '430 patent proceeding, the IPR2023-00485.
19 Can you please identify this
20 document?
21 A. Yes. This appears to be the -- my
22 declaration in the '430 patent matter.
23 Q. And if I direct your attention to
24 what is page 153 in the middle pagination of
25 the document -- it's also 158 of 209.

1 A. 158 of 209? Okay.
2 Would you normally use the page
3 numbers or the one in the corner of the
4 document?
5 Q. I'll probably use the one in the
6 middle of the page.
7 A. Okay.
8 Q. So that's 153.
9 A. Okay. 153.
10 Okay.
11 Q. Is that your signature there?
12 A. Yes.
13 Q. And this document was signed on
14 January 24th, 2023?
15 A. Correct.
16 Q. When did you start working on this
17 report?
18 A. It would have been in the probably
19 month to six weeks prior to this date. So it
20 would have been -- in December of '22 is when I
21 recall starting work on this document.
22 Q. Did you personally write the first
23 draft of this report?
24 A. Well, this report contains some
25 source material from the '491 declaration,

1 which I certainly wrote all of that source
2 material related to the drafts of that
3 document.
4 For this document, I also wrote
5 a great deal of it, and some of the material
6 was a collaborative effort with counsel.
7 Q. Appendix B to this document is the
8 materials considered list?
9 A. I see Appendix B.
10 Q. And does that contain all of the
11 materials you considered in putting together
12 this report?
13 A. Appendix B contains the list of all
14 the materials that I considered in preparing
15 this report.
16 ATTORNEY BROOKS: I'm going to
17 hand you another document.
18 - - -
19 (Whereupon, Exhibit 1003 was
20 previously marked for identification.)
21 - - -
22 BY ATTORNEY BROOKS:
23 Q. Mr. Jobin, I've handed you what's
24 been previously marked as Exhibit 1003 in the
25 IPR2023-502 proceeding related to the

1 '923 patent.
2 Can you please identify this
3 document?
4 A. Yes. This document appears to be my
5 declaration or a copy of my declaration in the
6 '923 patent matter.
7 Q. And if I direct your attention to
8 page 141, that's your signature there?
9 A. Yes, that's my signature.
10 Q. And this report is also dated
11 January 24th, 2023, correct?
12 A. Correct.
13 Q. When did you start working on this
14 report?
15 A. This report would have been
16 prepared -- I remember preparing this in
17 parallel with the '430, and so it would have
18 been in the December '22 time frame.
19 Q. And was this report also a result of
20 a collaborative effort with counsel?
21 A. Well, it contains certain materials
22 that I wrote in the '491 matter and other
23 material that I wrote directly and other
24 material that was prepared in collaboration
25 with counsel.

1 Q. This report also contains the
2 Appendix B materials considered, correct?
3 A. Yes, appendix B, located on pages 145
4 through 148. Yes.
5 Q. Are you aware of any other materials
6 that you considered prior to signing this
7 report that are not listed here?
8 A. This list is all of the materials
9 that I considered in forming my opinions in
10 this matter.
11 Q. Okay. What did you do to prepare for
12 your deposition today?
13 ATTORNEY MCCRAW: I'm just going
14 to instruct the witness not to disclose
15 any privileged conversations with counsel.
16 THE WITNESS: My preparation for
17 this matter was -- would be to -- was to
18 read both of my declarations through
19 again -- it's been some time since I've
20 looked at them and wrote them -- and to
21 review various exhibits that are cited in
22 the declaration over the past couple of
23 weeks.
24 BY ATTORNEY BROOKS:
25 Q. Did you review all of the exhibits

1 cited in the declaration?
2 A. No. I don't think I did, no.
3 I read probably -- you know,
4 particular -- especially the primary patent
5 references, for example, and certain others
6 where I needed to refresh my recollection of
7 certain topics.
8 But generally speaking, just
9 reviewing the declarations and becoming
10 familiar with the details of the -- of the
11 claims again.
12 Q. Approximately how much time did you
13 spend preparing for this deposition?
14 A. I haven't added it up, but it was
15 very much a part-time endeavor over the last
16 few weeks.
17 Q. Did you meet with anyone in
18 preparation for the deposition?
19 A. I met with counsel yesterday, and we
20 had a couple of teleconferences over the past
21 two weeks.
22 Q. Sitting here today, are you aware of
23 any errors or mistakes in your reports?
24 A. Yes. I'm aware of one in the '923.
25 Let's see if I can locate it.

1 On page 107 of my '923
2 declaration, in paragraph 215, I cite to
3 Figure 42, and that's a typo that is meant to
4 be Figure 52.
5 So instead of 42 and 54, it
6 should state Figures 52 and 54. And that typo
7 appears twice in that sentence.
8 Q. And why do you believe that that was
9 a typo?
10 A. Well, I remember what I intended to
11 put there, and I remember the figure that I
12 intended to cite. And in reviewing the
13 document in the last weeks, noted that the
14 figure was different from what I recollect. So
15 I assume it was a typo.
16 Q. What is different about Figure 52
17 from which you recollect?
18 A. I just remember looking at 52, and
19 that was what I was using to provide as an
20 example to support my opinion in 215. 42
21 didn't support that opinion.
22 Q. Why did 42 not support the opinion?
23 A. 215 is directed towards my opinion
24 that [as read]:
25 "Yoakim exclusively discloses

1 embodiments including portion
2 capsules that do not have a filter."
3 And 52 and 54 are exemplary in
4 supporting that opinion.
5 42, in my -- you know, looking
6 at 42 doesn't -- it doesn't support that
7 example.
8 Q. And why does Figure 42 not support
9 the opinion that Yoakim does not have a filter
10 in the cavity?
11 A. 42, as I recall -- I don't have in
12 front of me -- has some form of secondary --
13 some form of material below the membrane that
14 is in the capsule, and that is not what I
15 recall using as support for this opinion.
16 Q. Is it your understanding that the
17 membrane in Figure 42 would satisfy the filter
18 limitation?
19 ATTORNEY MCCRAW: Object to
20 form.
21 THE WITNESS: Again, I don't
22 have Figure 42 in front of me. It would
23 be helpful if I had it. It should be part
24 of the Yoakim patent.
25 - - -

1 (Whereupon, Exhibit 1004 was
2 previously marked for identification.)
3 - - -
4 BY ATTORNEY BROOKS:
5 Q. Mr. Jobin, I've handed you what's
6 previously been marked as Exhibit 1004 in both
7 the '430 patent proceeding and the '923 patent
8 proceeding.
9 It is the Yoakim reference,
10 correct?
11 A. Yes. This appears to be a copy of
12 the Yoakim reference, Exhibit 1004.
13 Q. Okay. And if we look at Figure 42 --
14 A. Yes.
15 Q. -- what is the material that you were
16 referring to?
17 A. Figure 42 does not have a call-out
18 for the -- for this -- there's two thin
19 materials at the top of the figure.
20 One is titled "186," and that is
21 what I understand to be the membrane that seals
22 the capsule.
23 And I'm just looking down for
24 the description of this image to refresh my
25 memory.

1 In Figure 43 nearby, it
2 describes an inner wall 180, and that inner
3 wall is described as -- as a porous wall 180.
4 Figure 42 doesn't call out 180,
5 but it's my understanding or interpretation
6 that that secondary or wall below the
7 186 membrane is a porous material.
8 Q. Uh-hum. Is it your understanding
9 that that porous material would provide a
10 filter function?
11 ATTORNEY MCCRAW: Object to
12 form.
13 THE WITNESS: Based on what I
14 have read in Yoakim and my understanding
15 of how that structure is used, during
16 centrifugation, fluid would traverse the
17 porous wall, go through it. And as such,
18 the -- a filtering function would occur.
19 In other words, the food
20 material -- coffee grounds, for example --
21 would remain in the capsule, and the fluid
22 would exit.
23 BY ATTORNEY BROOKS:
24 Q. At what point did you learn that
25 there was an error in paragraph 215 of your

1 '923 patent declaration?
2 A. As I stated, I was reviewing the
3 document, and I looked at Figure 42 and
4 realized that it wasn't the figure that I had
5 in mind when I -- when I was writing the
6 document.
7 So it would have been yesterday
8 when I was reading the document.
9 Q. Do you point to Figure 52 anywhere in
10 your declaration?
11 A. I have to review my declaration again
12 to know for sure. But I don't recall, at this
13 time, citing that anywhere else. I'll look at
14 the figure real quick.
15 I don't recall citing that in
16 any other particular section.
17 Q. Are you aware of any other errors in
18 either of your report?
19 A. No, not at this time.
20 Q. In your last deposition, you spoke
21 about two primary barcode-detection approaches
22 that you were familiar with.
23 Do you recall that?
24 ATTORNEY MCCRAW: Object to
25 form.

1 THE WITNESS: I don't recall
2 that testimony.
3 BY ATTORNEY BROOKS:
4 Q. So you testified -- or we spoke about
5 a light sensor as one barcode-detection
6 approach.
7 ATTORNEY MCCRAW: Object to
8 form.
9 BY ATTORNEY BROOKS:
10 Q. Do you agree that a light sensor that
11 detects the differences in the value or color
12 of the bars is an example of a
13 barcode-detection approach?
14 ATTORNEY MCCRAW: Object to
15 form.
16 THE WITNESS: I recall
17 discussing how a light source and a photo
18 detector could be used to sense the
19 values -- the color differences between
20 the bars, for example.
21 I remember -- I remember
22 testifying to that.
23 BY ATTORNEY BROOKS:
24 Q. Okay. The photosensor is one
25 approach?

1 ATTORNEY MCCRAW: Object to
2 form.
3 THE WITNESS: A photosensor
4 that -- in combination with a light source
5 is used. The light source illuminates the
6 barcode, and the sensor detects the value
7 that's read.
8 That's what I recall as being
9 one approach that you can use.
10 BY ATTORNEY BROOKS:
11 Q. Okay. Is that different from a --
12 sort of in the example of a photosensor that
13 would be capturing an image?
14 ATTORNEY MCCRAW: Could you
15 repeat the question?
16 ATTORNEY BROOKS: Oh, sure.
17 BY ATTORNEY BROOKS:
18 Q. In the example of a photosensor, you
19 would be capturing an image in order to read
20 that barcode?
21 ATTORNEY MCCRAW: Object to
22 form.
23 THE WITNESS: I recall
24 discussing a different approach that used
25 a CCD or a charge-coupled device, which is

1 an imaging sensor, one that captures a
2 photo or an image of the barcode, for
3 example, and then decodes it
4 electronically.
5 BY ATTORNEY BROOKS:
6 Q. Okay. Sorry. Go ahead.
7 A. That was another approach that I
8 remember discussing.
9 Q. Okay. So the CCD, is that the same
10 or different from the photosensor that you were
11 talking about earlier?
12 ATTORNEY MCCRAW: Object to
13 form.
14 THE WITNESS: A photocell or
15 photosensor typically is a simpler device.
16 It's designed to sense the presence of
17 light and the intensity of the light that
18 it's receiving.
19 So that's different, in my view,
20 from a charge-coupled device or a
21 so-called photosensor which images the
22 barcode.
23 BY ATTORNEY BROOKS:
24 Q. Okay. So how is the CCD approach
25 different?

1 ATTORNEY MCCRAW: Object to
2 form.
3 THE WITNESS: Different in terms
4 of the number -- you're collecting a --
5 instead of a series of pulses, you're
6 collecting a -- an image, a matrix of -- a
7 photo is a -- sorry.
8 A CC -- a charge-coupled device
9 has a number of elements that are
10 illuminated simultaneously or in parallel
11 to image an area that the -- that the
12 device is pointed at.
13 It's different from a photo
14 detector, which is imaging or sensing
15 pulses.
16 BY ATTORNEY BROOKS:
17 Q. And so when you're capturing an image
18 with a -- or a photo with a CCD, the image
19 would then be digitally processed in order to
20 read the barcode?
21 ATTORNEY MCCRAW: Object to
22 form.
23 THE WITNESS: In my experience,
24 the image is captured, and then it is
25 digitally processed to decode.

1 BY ATTORNEY BROOKS:
2 Q. What occurs during that processing?
3 ATTORNEY MCCRAW: Object to
4 form. Objection. Relevance.
5 THE WITNESS: Well, what I
6 previously stated is that the data is
7 collected in the form of an image that is
8 digitally processed.
9 It means that the controller is
10 interpreting the information that's
11 present in the image to scan the
12 barcode -- to decode the barcode, for
13 example. That's what I'm trying to
14 communicate.
15 BY ATTORNEY BROOKS:
16 Q. And so when decoding the barcode,
17 does the processing have to identify a start
18 point for the barcode?
19 ATTORNEY MCCRAW: Object to
20 form. Objection. Relevance.
21 THE WITNESS: The barcode is
22 sensed and read according to the
23 particular programming. So it's hard to
24 generalize as to exactly what order the
25 bars are interpreted and how they are

1 ultimately decoded.
2 That's up to the programmer and
3 to the barcode standard that's employed.
4 BY ATTORNEY BROOKS:
5 Q. In the case of the photo detector
6 approach, there are pulses that are measured?
7 ATTORNEY MCCRAW: Object to
8 form.
9 THE WITNESS: What I previously
10 stated and what I understand about a
11 photocell detector is that a light source
12 illuminates the barcode sequentially from
13 one end of the barcode to the other, and
14 the pulses are generated according to the
15 values. And this is taught in Yoakim, for
16 example:
17 Jarisch teaches similar
18 techniques.
19 BY ATTORNEY BROOKS:
20 Q. Have you considered whether any
21 patents cover Nespresso's products?
22 A. I have not formed any opinions that
23 patents are covering Nespresso's products, no.
24 I don't have any opinions like that.
25 Q. So you have not formed an opinion

1 about whether Yoakim covers Nespresso's
2 products?
3 A. No, I have not.
4 Q. You have not considered whether
5 Jarisch covers any Nespresso product?
6 ATTORNEY MCCRAW: Object to
7 form. Objection. Relevance.
8 THE WITNESS: I have not
9 considered whether they cover Nespresso's
10 products, and I further -- would further
11 observe that neither of those are issued
12 patents.
13 BY ATTORNEY BROOKS:
14 Q. I'd like to direct you to your '430
15 declaration, Exhibit 1003, and specifically to
16 paragraph 59, page 17.
17 A. Paragraph 59?
18 Q. Yes. Are you there?
19 A. Yes.
20 Q. You state there [as read]:
21 "The components of a
22 single-serve extraction system are
23 well known."
24 Do you see that?
25 A. Yes.

1 Q. At what point in time were you
2 referring to there?
3 A. We are in the technology background
4 section, and what I am doing here is
5 summarizing the state of the art as of the time
6 of the invention as to information that was in
7 the public domain that was known by persons of
8 ordinary skill at the time.
9 So this is written with that in
10 mind.
11 Q. So that statement would be true by
12 2010?
13 A. Well, as stated in paragraph 57
14 above, by 2010, that gives you evidence to what
15 time frame I'm talking about in a single-serve
16 coffee system over here.
17 Q. So you're referring to the 2010 time
18 frame when you're saying the components of a
19 single-serve extraction system are well known?
20 A. I would agree that as of -- or by
21 2010 the components of single-serve extraction
22 systems would have been well known, yes.
23 Q. Is a brewing chamber a component of a
24 single-serve extraction system?
25 ATTORNEY MCCRAW: Object to

1 form. Objection. Relevance.
2 THE WITNESS: A brewing chamber
3 is an element that I mentioned in the
4 following sentences in the same paragraph.
5 It says [as read]:
6 "The brewing chamber typically
7 includes blades or needles to pierce
8 a location of the capsule upon
9 closing."
10 So I agree that a brewing
11 chamber is a component of a single-serve
12 extraction system as of 2010.
13 BY ATTORNEY BROOKS:
14 Q. And a brewing chamber would have been
15 well known at that time?
16 ATTORNEY MCCRAW: Object to
17 form. Objection. Relevance.
18 THE WITNESS: In the context of
19 a single-serve extraction system, at that
20 time, a brewing chamber would have been a
21 component that was well known. I agree.
22 BY ATTORNEY BROOKS:
23 Q. Would it also have been well known to
24 put a capsule in a brewing chamber?
25 ATTORNEY MCCRAW: Object to

1 form.
2 THE WITNESS: A capsule was
3 something that would be inserted into a
4 brewing chamber, especially a single-serve
5 capsule. And this is described, for
6 example, in paragraph 58 above.
7 BY ATTORNEY BROOKS:
8 Q. If given a brewing chamber, would a
9 person of ordinary skill in the art understand
10 how to integrate that brewing chamber into a
11 coffee machine?
12 ATTORNEY MCCRAW: Object to
13 form.
14 THE WITNESS: Is there a
15 particular machine that you're speaking
16 about?
17 I think that the particulars
18 would be very different depending on what
19 machine you were thinking about.
20 BY ATTORNEY BROOKS:
21 Q. What particulars would be very
22 different depending upon the machine?
23 ATTORNEY MCCRAW: Object to
24 form.
25 THE WITNESS: What I'm trying to

1 communicate is that a brewing chamber --
2 the design details of a brewing chamber
3 would depend upon the machine and that
4 it's difficult to comment generally about
5 how one would implement a brewing chamber.
6 BY ATTORNEY BROOKS:
7 Q. When you refer to a single-serve
8 extraction system, is an example of that a
9 coffee machine?
10 A. I use the word "single-serve coffee
11 capsule extraction systems" in paragraph 58
12 above. The title of the section is
13 "Single-Serve Coffee System Overview."
14 I mean, the answer is that this
15 is the context in which I am describing these
16 types of components.
17 Q. Right. And is a coffee machine an
18 example of a single-serve coffee system?
19 ATTORNEY MCCRAW: Object to
20 form.
21 THE WITNESS: Could you repeat
22 the question, please.
23 BY ATTORNEY BROOKS:
24 Q. Sure.
25 Is a coffee machine an example

1 of a single-serve coffee system, as you're
2 referring to it on page 17 of your report?
3 ATTORNEY MCCRAW: Object to
4 form.
5 THE WITNESS: I would say that a
6 single-serve coffee machine is a coffee
7 machine.
8 That's -- if that helps.
9 BY ATTORNEY BROOKS:
10 Q. Is a coffee machine a component of a
11 single-serve coffee system?
12 ATTORNEY MCCRAW: Object to
13 form.
14 THE WITNESS: Again, a
15 single-serve coffee extraction machine is
16 a coffee machine.
17 I don't understand exactly what
18 the question is trying to understand.
19 BY ATTORNEY BROOKS:
20 Q. Do you understand a coffee machine to
21 be something different than a single-serve
22 coffee system?
23 ATTORNEY MCCRAW: Object to
24 form.
25 THE WITNESS: A coffee machine

1 and a single-serve coffee system are both
2 coffee machines.
3 BY ATTORNEY BROOKS:
4 Q. What would you need to know about a
5 single-serve coffee system in order to
6 integrate a brewing chamber into it?
7 What parameters would you need
8 to know?
9 ATTORNEY MCCRAW: Object to
10 form.
11 - - -
12 (Stenographer clarification.)
13 - - -
14 BY ATTORNEY BROOKS:
15 Q. What parameters would you need to
16 know?
17 A. It's a hypothetical question.
18 There's just too many unknown variables to give
19 a sensible answer.
20 Q. Okay. Would a person of ordinary
21 skill in the art understand how to integrate a
22 brewing chamber into a single-serve extraction
23 system?
24 ATTORNEY MCCRAW: Object to
25 form.

1 THE WITNESS: I mean, by
2 definition, a person of ordinary skill in
3 the art would understand how to design a
4 single-serve coffee system. That would
5 include how to design and integrate the
6 various elements that make up that system.
7 So that would be my
8 understanding of how one of ordinary skill
9 would interact with these elements.
10 BY ATTORNEY BROOKS:
11 Q. Do you understand the brewing chamber
12 to be one of those elements?
13 ATTORNEY MCCRAW: Object to
14 form.
15 THE WITNESS: As I've stated in
16 my declaration, a brewing chamber is
17 described as one of the components of a
18 single-serve extraction system.
19 BY ATTORNEY BROOKS:
20 Q. By 2010, would a person of ordinary
21 skill in the art have any experience with
22 optical design?
23 ATTORNEY MCCRAW: Object to
24 form.
25 THE WITNESS: Could you be more

1 specific?
2 BY ATTORNEY BROOKS:
3 Q. Sure.
4 By 2010, would a person of
5 ordinary skill in the art have any experience
6 with optical lens design?
7 ATTORNEY MCCRAW: Object to
8 form.
9 THE WITNESS: "Optical lens
10 design" could mean a lot of things.
11 In the context of this
12 declaration, I have described certain
13 elements that may be related to that.
14 I guess I don't understand the
15 context of your question.
16 BY ATTORNEY BROOKS:
17 Q. What elements have you described that
18 would be related to optical lens design?
19 ATTORNEY MCCRAW: Object to
20 form. Objection. Relevance.
21 THE WITNESS: I think the best
22 example, the one that comes to mind at
23 this time, is the Jarisch reference,
24 Figure 4, which describes an optical path
25 and design of an optical sensor or the

1 detection of an optical code.
2 BY ATTORNEY BROOKS:
3 Q. Would a person of ordinary skill in
4 the art have understood how to design the
5 optical path in Figure 4 of Jarisch?
6 ATTORNEY MCCRAW: Object to
7 form. Objection. Relevance.
8 THE WITNESS: One of the
9 sections of my technology background was
10 related to optical codes and sensors, as I
11 recall.
12 Just taking a look.
13 Yeah. In that section, I
14 describe the Jarisch example, for example,
15 which explains some of the aspects of the
16 detection scheme.
17 So in that time frame, this is
18 an example of the type of information that
19 was part of what one of ordinary skill
20 would understand.
21 I mean, to that extent, barcode
22 systems have been in common usage for a
23 long time prior to that, and that type of
24 knowledge would have been something one of
25 ordinary skill would employ when

1 implementing those types of optical
2 systems.
3 BY ATTORNEY BROOKS:
4 Q. By 2010, what was your experience
5 with optical path systems like the one
6 described in Jarisch Figure 4?
7 ATTORNEY MCCRAW: Object to
8 form.
9 THE WITNESS: I've described in
10 my background section some examples of
11 projects that I worked on that implemented
12 barcode scanning technology, for example.
13 So I had a wide range of
14 integrating -- from the very beginning of
15 my career, integrating sensors that
16 scanned barcodes for various purposes.
17 BY ATTORNEY BROOKS:
18 Q. Did you have any experience designing
19 a system that would scan a barcode in the
20 manner in which is described in Jarisch
21 Figure 4?
22 ATTORNEY MCCRAW: Object to
23 form.
24 THE WITNESS: My -- I can recall
25 various examples in which I had

1 implemented a sensor very similar to
2 what's described in Figure 4, yes.
3 - - -
4 (Whereupon, Exhibit 1008 was
5 previously marked for identification.)
6 - - -
7 BY ATTORNEY BROOKS:
8 Q. Mr. Jobin, I've handed you what's
9 previously been marked as Exhibit 1008 in the
10 '485 and '502 proceedings.
11 This is the Rapparini reference,
12 correct?
13 A. I have been handed what appears to be
14 the Rapparini reference, Exhibit 1008.
15 Q. If I could direct your attention to
16 Figure 10 of Rapparini.
17 A. Okay. Figure 10.
18 Okay. Yes, Figure 10.
19 Q. Okay. You see Figure 10, the --
20 there's a capsule shown there?
21 A. Yes. Figures 9 and Figures 10 are
22 the same capsule shown from different views is
23 my understanding.
24 Q. And what's illustrated here is a
25 flat-bottom capsule, correct?

1 A. Well, it's -- it's not flat in the
2 sense that there are grooves that are shown on
3 the bottom here, but it's -- otherwise appears
4 to be flat. It's not 100 percent clear.
5 Q. Okay. How would you describe a
6 capsule that's shaped like the one in
7 Rapparini?
8 ATTORNEY MCCRAW: Object to
9 form. Objection. Relevance.
10 THE WITNESS: I don't have a lot
11 of information about the details of the
12 sidewall draft angle, for example, but it
13 looks to be more or less a cylindrical
14 form.
15 It may be that there's some
16 draft, and it could be termed
17 frustoconical.
18 Overall, the aspect ratio is
19 relatively short compared to other
20 capsules that I'm familiar with.
21 BY ATTORNEY BROOKS:
22 Q. What would determine whether to give
23 a capsule in the shape of Figure 10 versus one
24 that would be more rounded on the bottom?
25 ATTORNEY MCCRAW: Object to

1 form. Objection. Relevance.
2 THE WITNESS: A capsule would be
3 designed for a particular application, the
4 details of which would depend on what the
5 designer was trying to achieve.
6 BY ATTORNEY BROOKS:
7 Q. So the brewing system within which
8 the capsule is being used would be a factor?
9 ATTORNEY MCCRAW: Object to
10 form. Objection. Relevance.
11 THE WITNESS: There are various
12 factors related to how much volume you
13 want to hold, what the -- dimensions are
14 required.
15 It's up to the designer to
16 select the overall form for the function.
17 BY ATTORNEY BROOKS:
18 Q. Does -- fitting into the brewing
19 system, is that one of the factors that would
20 be considered?
21 ATTORNEY MCCRAW: Object to
22 form. Objection. Relevance.
23 THE WITNESS: Well, what I can
24 state is that one of ordinary skill
25 would -- if one were designing a brewing

1 system that included a single-use capsule,
2 they would necessarily need to ensure that
3 the capsule fit the brewing chamber.
4 That would be a design
5 consideration that they would take into
6 account.
7 BY ATTORNEY BROOKS:
8 Q. In your experience, is the capsule
9 designed to fit the brewing chamber or is the
10 brewing chamber designed to fit the capsule?
11 ATTORNEY MCCRAW: Object to
12 form. Objection. Relevance.
13 THE WITNESS: I couldn't answer
14 that question without knowing more details
15 about the particular system and the
16 history of the project.
17 BY ATTORNEY BROOKS:
18 Q. Are there any advantages to using a
19 capsule of the shape shown in Figure 10 of
20 Rapparini?
21 ATTORNEY MCCRAW: Object to
22 form. Objection. Relevance.
23 THE WITNESS: I don't have any
24 opinion on the form of Figure 10 at this
25 time.

1 BY ATTORNEY BROOKS:
2 Q. What about a rounded capsule? Is
3 there any advantages to using a rounded
4 capsule?
5 ATTORNEY MCCRAW: Object to
6 form. Objection. Relevance.
7 THE WITNESS: Could you be more
8 specific? What do you mean by "rounded
9 capsule"?
10 BY ATTORNEY BROOKS:
11 Q. So one that is more domed on the
12 bottom side as opposed to, you know, what I've
13 described as flat in Rapparini. So less
14 frustoconical and more rounded.
15 ATTORNEY MCCRAW: Object to
16 form. Objection. Relevance.
17 THE WITNESS: There could be
18 functional aspects to the shape. I recall
19 Yoakim, for example, discussing some of
20 the benefits of shaping the capsule to
21 encourage the fluid to flow to the upper
22 rim as it was being centrifuged.
23 I guess that's an example.
24 BY ATTORNEY BROOKS:
25 Q. I'd like to direct your attention to

1 paragraph 61 of Rapparini.
2 Are you there?
3 A. Paragraph 61?
4 Q. Yes.
5 A. Yes.
6 Q. Do you see paragraph 61 discusses
7 Figure 10?
8 A. I see 61 is describing Figure 10.
9 Q. And what is shown in Figure 10 are
10 stiffening ribs 4, correct?
11 A. Stiffening ribs 4 are shown in
12 Figure 10, yes.
13 Q. Do you see paragraph 61 says that
14 [as read]:
15 "the alternate length of the
16 stiffening ribs 4 is particularly
17 advantageous in the present case"?
18 ATTORNEY MCCRAW: Object to
19 form. Objection. Relevance.
20 THE WITNESS: I see that
21 sentence.
22 BY ATTORNEY BROOKS:
23 Q. Do you have any opinion as to why the
24 stiffening ribs are particularly advantageous
25 in the container of Figure 10?

1 ATTORNEY MCCRAW: Object to
2 form. Objection. Relevance.
3 THE WITNESS: Well, I'm reading
4 paragraph 61. And it's describing what
5 the ribs are doing, but I don't see it
6 describing what the benefit -- what the
7 benefit would be. I don't have an opinion
8 at this time.
9 BY ATTORNEY BROOKS:
10 Q. So you don't know from looking at
11 Figure -- excuse me -- from -- excuse me.
12 Scratch that.
13 You don't know from looking at
14 Figure 10 and reading paragraph 61 why those
15 stiffening ribs would be particularly
16 advantageous?
17 ATTORNEY MCCRAW: Object to
18 form. Objection. Relevance.
19 THE WITNESS: What I can say is
20 that the Rapparini reference, in general,
21 is directed towards stiffening the
22 structure of the capsules that are given
23 as examples.
24 So it's reasonable to infer that
25 they're talking about stiffening the

1 cap -- this particular capsule shape in a
2 way that's advantageous.
3 BY ATTORNEY BROOKS:
4 Q. If the stiffening ribs were removed,
5 would that result in less rigidity of the
6 capsule?
7 ATTORNEY MCCRAW: Object to
8 form.
9 THE WITNESS: It's difficult to
10 say with any precision based on not having
11 the details of -- of the dimensions.
12 But what it's stating is that
13 they're stiffening ribs, so I infer from
14 that that they're designed to stiffen the
15 walls that they are present on. So it's
16 that -- that would be -- what I would
17 state is that their general purpose is to
18 stiffen that bottom wall.
19 BY ATTORNEY BROOKS:
20 Q. In the first sentence there in
21 paragraph 61, it talks about [as read]:
22 "The alternate length of the
23 stiffening ribs is particularly
24 advantageous."
25 Why is there a benefit from

1 alternate-length stiffening ribs?
2 ATTORNEY MCCRAW: Object to
3 form. Objection. Relevance.
4 THE WITNESS: It doesn't seem to
5 go into the reasoning for the alternating
6 lengths.
7 The longer ribs tend to diminish
8 in depth as they go towards their ends,
9 and the shorter ribs maintain their depth,
10 according to paragraph 61.
11 So maybe that's a motivation.
12 BY ATTORNEY BROOKS:
13 Q. But you don't know of any benefit
14 beyond what's already described in Rapparini?
15 ATTORNEY MCCRAW: Object to
16 form. Objection. Relevance.
17 THE WITNESS: Well, I haven't
18 cited to Figure 10, and so I haven't drawn
19 any opinions related to Figure 10.
20 So I haven't formed an opinion
21 on that -- on Figure 10, no.
22 BY ATTORNEY BROOKS:
23 Q. Let's talk about turbulent flow.
24 Are you familiar with the term
25 "turbulent flow"?

1 A. Well, the word -- the word
2 "turbulent" is a claim term in this matter.
3 It's used in the '923.
4 And "turbulent flow" is
5 described in my declaration as a form of
6 mixing, for example, of the fluid, to
7 encourage -- it's a complex flow is what I'm
8 trying to say.
9 Turbulence is the opposite of
10 smooth or laminar flow.
11 Q. What do you mean by "a complex flow"?
12 A. When you have two flow fronts coming
13 together, they mix in ways that are
14 unpredictable, that are randomized. So you
15 have what's called turbulence.
16 Q. And what is laminar flow?
17 A. It's a --
18 ATTORNEY MCCRAW: Object to
19 form.
20 THE WITNESS: Laminar flow is a
21 generally smoother, more organized flow in
22 which you don't have as -- you don't have
23 this characteristic of mixing.
24 BY ATTORNEY BROOKS:
25 Q. Would it be fair to characterize

1 turbulent flow as anything that's not laminar
2 flow?
3 ATTORNEY MCCRAW: Object to
4 form.
5 THE WITNESS: I think, generally
6 speaking, turbulent flow is non-laminar.
7 I think that's a -- that's my general
8 understanding.
9 BY ATTORNEY BROOKS:
10 Q. Does Rapparini make any mention of
11 turbulent flow?
12 ATTORNEY MCCRAW: Object to
13 form.
14 THE WITNESS: Rapparini does not
15 mention turbulent flow.
16 BY ATTORNEY BROOKS:
17 Q. Does Rapparini anywhere suggest that
18 its stiffening ribs provide turbulent flow
19 within the capsule?
20 ATTORNEY MCCRAW: Object to
21 form.
22 THE WITNESS: What I have
23 analyzed in my declaration is that the
24 grooves of -- can be applied to
25 thin-walled capsules such as Yoakim -- so

1 the teachings of the grooves are applied
2 to Yoakim -- and that one of ordinary
3 skill in the art would understand that
4 those grooves would induce turbulent flow.
5 BY ATTORNEY BROOKS:
6 Q. Is there anything in Rapparini that
7 would suggest to a person of ordinary skill in
8 the art that the stiffening ribs provide
9 turbulent flow?
10 ATTORNEY MCCRAW: Object to
11 form. Objection. Relevance.
12 THE WITNESS: I'm getting to
13 this claim discussion. One moment.
14 So context of turbulence in this
15 claim element is that it is claim 7. And
16 it's a dependent claim.
17 And it states that [as read]:
18 "The single-serve capsule,
19 according to claim 1, wherein the
20 cavity has grooves defined between
21 the ribs and the grooves in the
22 cavity generate turbulence of water
23 in the cavity."
24 And so the grooves in the
25 cavity, I have cited Rapparini as prior

1 art, which teaches that grooves in the
2 context of these capsules are known.
3 And I say furthermore that a
4 person of ordinary skill in the art would
5 understand that grooves in the cavity
6 generate turbulence of the water in the
7 cavity.
8 And I go on to state that while
9 spinning the Yoakim capsule is
10 centrifugal. Those grooves tend to
11 encourage the flow to be distributed into
12 those separate grooves, which promotes
13 that mixing as the flow points come
14 together.
15 I go on further to show that
16 Rapparini has these grooves which provide
17 discontinuities. Those discontinuities is
18 what causes the fluid to move in various
19 directions.
20 BY ATTORNEY BROOKS:
21 Q. But the flow of fluid is not
22 something that's discussed within Rapparini,
23 correct?
24 ATTORNEY MCCRAW: Object to
25 form. Objection. Relevance.

1 THE WITNESS: Rapparini is
2 directed towards forming grooves and ribs
3 in a thin-walled capsule that's comparable
4 in form and shape to the capsules
5 described in Yoakim.
6 I'm applying those grooves and
7 ribs in Yoakim and observing that one of
8 ordinary skill in the art would understand
9 that those grooves can generate turbulence
10 in the capsule.
11 BY ATTORNEY BROOKS:
12 Q. When you said you're applying those
13 grooves and ribs in Yoakim, you mean the
14 grooves and ribs described in Rapparini?
15 A. Grooves and ribs are described in
16 Rapparini, and the teachings of Rapparini are
17 being applied in Yoakim in this combination in
18 evaluating this dependent claim.
19 Q. And your opinion about the flow based
20 upon ribs in Rapparini is -- relies upon the
21 knowledge of a person of ordinary skill in the
22 art, correct?
23 ATTORNEY MCCRAW: Object to
24 form.
25 THE WITNESS: What I'm

1 describing in this section, for example,
2 in paragraphs 275 through 279 -- or,
3 rather, 280 of my '923 declaration is that
4 one of ordinary skill in the art would
5 understand that these types of groove
6 features in the context of the Yoakim
7 capsules would generate turbulence.
8 I cite also to other examples in
9 the prior art, the background, that
10 support this opinion.
11 I cite Sweeney in particular at
12 column 2, lines 30 to 35, which cites
13 grooves in a capsule that generate
14 turbulence.
15 BY ATTORNEY BROOKS:
16 Q. Would applying a single stiffening
17 rib to Yoakim's capsule result in turbulent
18 flow?
19 ATTORNEY MCCRAW: Object to
20 form. Objection. Relevance.
21 THE WITNESS: I haven't
22 considered that situation. I couldn't
23 answer that without more details.
24 ATTORNEY BROOKS: Let's take a
25 break.

1 - - -
2 (Whereupon, a short recess was
3 taken.)
4 ATTORNEY BROOKS: Welcome back,
5 Mr. Jobin.
6 THE WITNESS: Thank you.
7 BY ATTORNEY BROOKS:
8 Q. Are you familiar with the word
9 "schematic"?
10 ATTORNEY MCCRAW: Object to
11 form.
12 THE WITNESS: I'm familiar with
13 the word, but I don't understand the
14 context here.
15 BY ATTORNEY BROOKS:
16 Q. What's your understanding of the word
17 "schematic"?
18 ATTORNEY MCCRAW: Object to
19 form.
20 THE WITNESS: A schematic is a
21 diagram which -- for a system -- would be
22 a schematic. Could be used in electrical
23 or mechanical context.
24 BY ATTORNEY BROOKS:
25 Q. In the mechanical context, what do

1 you understand "schematic" to mean?
2 ATTORNEY MCCRAW: Object to
3 form. Objection. Relevance.
4 THE WITNESS: It's an
5 illustration which would show the various
6 systems or subsystems in a mechanical
7 device, for example.
8 BY ATTORNEY BROOKS:
9 Q. Are you familiar with the -- that the
10 Yoakim reference uses the word "schematic" in a
11 number of places?
12 ATTORNEY MCCRAW: Object to
13 form.
14 THE WITNESS: If it does, I
15 don't recall the word specifically, but
16 I'm happy to discuss any instances.
17 BY ATTORNEY BROOKS:
18 Q. Sure. Take a look at Yoakim,
19 Exhibit 1004, paragraph 30, for example.
20 A. In paragraph 30, it states [as read]:
21 "Figure 1 is a schematic
22 representation of system of the
23 invention."
24 Q. What do you understand "schematic
25 representation" to mean in paragraph 30?

1 ATTORNEY MCCRAW: Object to
2 form. Objection. Relevance.
3 THE WITNESS: Figure 1 in Yoakim
4 is described as -- in paragraph 30 as a
5 schematic representation of system of the
6 invention.
7 What I see here and what's
8 described in the spec is, if various
9 elements are depicted, the system would be
10 denoted, for example, by a dashed line.
11 And elements of that system that are
12 discussed include a water reservoir 5, a
13 pump 6, a heater 7. And then what I
14 understand to be a depiction of a brewing
15 chamber and a capsule and a motor are
16 depicted also in Figure 1.
17 So it's just, at a very high
18 level, depicting the types of components
19 that would be present that are then
20 discussed later in the specification.
21 BY ATTORNEY BROOKS:
22 Q. So do you understand Yoakim's use of
23 "schematic" to depict a high-level
24 representation?
25 ATTORNEY MCCRAW: Object to

1 form. Objection. Relevance.
2 THE WITNESS: To the extent that
3 the schematic representation in this
4 instance does not show all of the details,
5 it shows the -- the components that are
6 part of the discussion that happens
7 following.
8 I guess -- I don't know if I
9 would characterize at a high level. But a
10 schematic representation is, in my view,
11 depicted in Figure 1.
12 BY ATTORNEY BROOKS:
13 Q. Do you understand a schematic
14 representation to not show all the details?
15 ATTORNEY MCCRAW: Object to
16 form. Objection. Relevance.
17 THE WITNESS: What I stated in
18 my previous answer was that this Figure 1
19 example does not show all of the details
20 but, rather, the various subassembles that
21 may be included in either the system or
22 subsystem that is depicted.
23 BY ATTORNEY BROOKS:
24 Q. Figure 2 is also described in
25 paragraph 31 of Yoakim as a schematic

1 representation.
2 Do you understand that Figure 2
3 does not show all the details?
4 ATTORNEY MCCRAW: Object to
5 form. Objection. Relevance.
6 THE WITNESS: Paragraph 31
7 states [as read]:
8 "Figure 2 is a schematic
9 representation of a brewing module
10 in open position of the system of
11 the invention into which is inserted
12 a capsule."
13 They are depicting a view which
14 shows the various components of the
15 brewing module. Whether all of the
16 details are included or not is not stated.
17 But, you know, there are
18 other -- obviously, this subsystem goes
19 into a larger system. And there are
20 details which are excluded in this view
21 because it's intended to represent
22 particular information.
23 BY ATTORNEY BROOKS:
24 Q. Figure 3 is also a schematic
25 representation, correct?

1 ATTORNEY MCCRAW: Object to
2 form. Objection. Relevance.
3 THE WITNESS: Paragraph 32
4 describes [as read]:
5 "Figure 3 is a schematic
6 representation of a brewing module
7 in closed position of the system of
8 the invention which encloses a
9 capsule."
10 So similar to Figure 2. It's
11 just showed in a different state, and it
12 calls it a schematic representation.
13 BY ATTORNEY BROOKS:
14 Q. And do you understand that in the
15 case of Figure 3 there are certain details that
16 are excluded in that view?
17 ATTORNEY MCCRAW: Object to
18 form. Objection. Relevance.
19 THE WITNESS: The description,
20 to my recollection, doesn't give us
21 information as to what would be excluded,
22 but it is intending to represent what is
23 being described.
24 So various elements are called
25 out and described. But whether that

1 includes, quote, all of the elements, I
2 couldn't say.
3 BY ATTORNEY BROOKS:
4 Q. Do you see that in paragraph 33
5 figure 4 is described as "a detailed
6 cross-sectional view"?
7 A. I see paragraph 33 states [as read]:
8 "Figure 4 is a detailed
9 cross-sectional view of the system
10 of the invention in a first
11 embodiment."
12 Q. Do you understand Yoakim's
13 description of a detailed cross-sectional view
14 to provide more details than Yoakim's schematic
15 representation?
16 ATTORNEY MCCRAW: Object to
17 form. Objection. Relevance.
18 THE WITNESS: I don't know if I
19 would characterize it that way.
20 I see that the schematic
21 representations of Figure 2 and 3 are
22 drawn with less detail.
23 And Figure 4, details such as
24 threads on bolts and various features are
25 shown in more detail to help to explain

1 the invention.
2 BY ATTORNEY BROOKS:
3 Q. If I could direct you to your
4 declaration from the '502 proceeding, the one
5 relating to the '923 patent.
6 A. Okay.
7 Q. If you go to paragraph 213, which is
8 on page 106.
9 - - -
10 (Whereupon, a short recess was
11 taken.)
12 - - -
13 BY ATTORNEY BROOKS:
14 Q. Mr. Jobin, I was directing you to
15 page 106 of your '923 declaration.
16 Are you there?
17 A. 106 of the '923?
18 Q. Yes. In there, you talk about the
19 "with a cavity that is free of a filter"
20 limitation.
21 Do you see that?
22 A. I do.
23 Q. Here you identify in paragraph 213
24 Yoakim's paragraph 171, correct?
25 A. Yes.

1 Q. Yoakim paragraph 171 does not say
2 that Yoakim's capsule cavity is free of a
3 filter, does it?
4 ATTORNEY MCCRAW: Object to
5 form.
6 THE WITNESS: What I state in
7 paragraph 213 is that [as read]:
8 "Yoakim describes extraction of
9 coffee capsules using methods that
10 do not include a filter and, in
11 fact, confirm that the addition of a
12 filter structure is optional."
13 If I go to paragraph 171, I see
14 where it states that [as read]:
15 "An additional filtering layer
16 can be used to filter the liquid
17 depending on the size of the
18 outlets."
19 So it says that the filter layer
20 can be used, meaning that it could be
21 optional.
22 BY ATTORNEY BROOKS:
23 Q. Well, it's an additional filtering
24 layer, correct?
25 ATTORNEY MCCRAW: Object to

1 form.
2 THE WITNESS: What 171 is
3 describing in this embodiment is radial
4 outlets for brewed liquid. That is not a
5 filtering layer.
6 BY ATTORNEY BROOKS:
7 Q. Why are the radial outlets not a
8 filter layer?
9 ATTORNEY MCCRAW: Object to
10 form.
11 THE WITNESS: Well, they're not
12 described here as a filtering layer. They
13 describe them as radial outlets.
14 And it states that [as read]:
15 "a filtering layer can be used
16 to filter the liquid depending on
17 the size of the outlets."
18 BY ATTORNEY BROOKS:
19 Q. Do you understand that the radial
20 outlets are for the brewed liquid to exit the
21 cavity of the capsule?
22 A. Fluid passes through these radial
23 outlets, correct.
24 Q. Are there solid particles retained in
25 the capsule?

1 ATTORNEY MCCRAW: Object to
2 form.
3 THE WITNESS: Well, I
4 differentiate between premade radial
5 outlets, which are designed for the
6 passage of fluid, and a filtering layer,
7 which does not have these -- they're not
8 holes and they're not pierced.
9 They are -- it's a
10 characteristic of the material that's
11 added for that function.
12 BY ATTORNEY BROOKS:
13 Q. Would the premade radial outlets
14 serve as a filter?
15 ATTORNEY MCCRAW: Object to
16 form.
17 THE WITNESS: According to 171
18 and my general understanding in Yoakim, it
19 depends on the size of the holes and that
20 one can add a filter to -- to change the
21 characteristics of the -- of the filtering
22 function.
23 BY ATTORNEY BROOKS:
24 Q. So depending upon the size of the
25 radial outlets, they may or may not serve as a

1 filter?
2 ATTORNEY MCCRAW: Object to
3 form. Misstates testimony.
4 THE WITNESS: There are examples
5 cited in Yoakim where there is no filter
6 element present. There is just a membrane
7 and a capsule wall.
8 Here they are describing a
9 particular embodiment in which it states
10 that a -- a filtering layer can be used,
11 which implies that it's optional.
12 And I go on further to cite at
13 343 another example where a filter is
14 described as an optional feature in the
15 capsule.
16 BY ATTORNEY BROOKS:
17 Q. So what's optional in Yoakim is a
18 filtering layer?
19 A. The claim language that I am
20 evaluating is with a cavity that is free of a
21 filter.
22 So we're talking about something
23 that's present in the cavity that forms -- that
24 is the feature that I'm looking for or looking
25 for the absence thereof when I'm looking at

1 examples within Yoakim that meet this
2 limitation.
3 Q. And what do you understand a filter
4 to be when you're interpreting that claim
5 limitation?
6 ATTORNEY MCCRAW: Object to
7 form.
8 THE WITNESS: To answer that
9 question, it would be helpful to have a
10 copy of the K-fee patent, specifically the
11 '430 patent.
12 - - -
13 (Whereupon, Exhibit 1001 was
14 previously marked for identification.)
15 - - -
16 BY ATTORNEY BROOKS:
17 Q. Mr. Jobin, I've handed you what's
18 been previously marked as Exhibit 1001 in the
19 '430 patent proceeding.
20 It's a copy of the '430 patent,
21 correct?
22 A. Yes. This appears to be a copy of
23 the '430 patent.
24 Q. And so what do you understand a
25 filter to be when interpreting the claim

1 element "with a cavity that is free of a
2 filter"?
3 ATTORNEY MCCRAW: Object to
4 form.
5 THE WITNESS: What I see in the
6 '430 is a variety of capsules that are
7 shown which do not include anything in the
8 capsule, presumably, except for coffee
9 grinds or other food material.
10 These are examples in the K-fee
11 patent of a -- of a cavity that is free of
12 a filter.
13 Based on this disclosure in '430
14 and in the context of that claim
15 limitation, I have identified capsules in
16 the Yoakim reference that have the same
17 characteristics.
18 BY ATTORNEY BROOKS:
19 Q. You haven't offered a claim
20 construction of the term "filter," correct?
21 A. Here I'm applying the claim and
22 ordinary meaning of the term "filter" as one of
23 ordinary skill in the art would understand it
24 at the time.
25 And I can clearly see in the

1 Yoakim reference examples of capsules that are
2 free of a filter.
3 Q. And that opinion is based in part on
4 paragraph 171 of Yoakim?
5 A. Well, it's based on a variety of
6 references that I discuss in paragraphs 213
7 through 216.
8 It's based in part on the
9 section of 171 that states [as read]:
10 "An additional filtering layer
11 can be used to filter the liquid
12 depending on the size of the
13 outlets."
14 The word "additional" is support
15 for a filter structure that is optional.
16 And I go on to discuss other
17 examples in which the lack of a filter is -- or
18 the presence of a filter is discussed as
19 options. For example, paragraphs 288 and 461
20 of Yoakim.
21 Q. If the size of the outlets are
22 larger, would that counsel in favor of an
23 additional filtering layer or against?
24 ATTORNEY MCCRAW: Object to
25 form. Objection. Relevance.

1 THE WITNESS: Well, according to
2 Yoakim, it says that [as read]:
3 "An additional filter can be
4 used depending on the size of the
5 outlets."
6 I think that's up to the -- up
7 to the designer of the capsule to
8 determine what's suitable for that
9 particular case. But it doesn't affect my
10 opinion that there are examples within
11 Yoakim that have no filter.
12 BY ATTORNEY BROOKS:
13 Q. I'd like to direct your attention to
14 paragraph 509 of the Yoakim reference.
15 Let me know when you're there.
16 A. All right. I'm at paragraph 509.
17 Q. About halfway through the paragraph,
18 there's a sentence that starts [as read]:
19 "Since many perforators are
20 placed evenly at the periphery of
21 the upper wall, liquid can also exit
22 by making a laminar flow of beverage
23 dispensed radially along the whole
24 periphery of the upper wall."
25 Do you see that?

1 A. I see the sentence that you just
2 quoted.
3 Q. Do I understand correctly from that
4 sentence that the laminar flow described in
5 Yoakim is how the liquid exits Yoakim's
6 capsule?
7 ATTORNEY MCCRAW: Object to
8 form. Objection. Relevance.
9 THE WITNESS: My interpretation
10 of this is that the liquid is exiting or
11 flowing along the capsule. As it is
12 disbursed radially along the whole
13 periphery, it forms a laminar flow or
14 sheet as it comes off of that capsule.
15 BY ATTORNEY BROOKS:
16 Q. What do you mean by "a sheet"?
17 A. A thin layer.
18 It's coming off that -- that
19 it's called -- [as read]:
20 "liquid can also exit by making
21 a laminar flow of beverage disbursed
22 radially along the whole periphery
23 of the upper wall."
24 So it's talking about the --
25 after it exits the perforator holes, it's

1 forming a laminar flow as it is disbursed
2 radially.
3 Q. And you've offered the opinion that
4 it would have been obvious to add grooves to
5 Yoakim's capsule in order to create turbulence
6 within the capsule, correct?
7 ATTORNEY MCCRAW: Object to
8 form. Objection. Misstates testimony.
9 THE WITNESS: I recall
10 discussing earlier today how the addition
11 of grooves inside the capsule -- grooves
12 and ribs inside the capsule would
13 influence flow and that it would be
14 obvious to one of ordinary skill in the
15 art that those features can induce
16 turbulence.
17 BY ATTORNEY BROOKS:
18 Q. Does Yoakim make any mention of
19 turbulence within those capsules?
20 ATTORNEY MCCRAW: Object to
21 form. Objection. Relevance.
22 THE WITNESS: The Yoakim
23 capsules, in general, describe and
24 illustrate it as having smooth internal
25 walls without these vertically oriented

1 radially arranged ribs and grooves.
2 In combination with those
3 features, I have stated that it would be
4 obvious that turbulence would be a result.
5 As to the question of whether
6 Yoakim discloses turbulence, I don't
7 recall that word being used in the Yoakim
8 reference.
9 BY ATTORNEY BROOKS:
10 Q. Why would someone add turbulence to
11 the capsules described in Yoakim?
12 ATTORNEY MCCRAW: Object to
13 form.
14 THE WITNESS: Yoakim does
15 mention features in the capsule that can
16 increase something called sheer, which is
17 an abrupt change in -- or sort of a
18 whipping or -- or a frothing action, a
19 sheer, in the liquid that's beneficial to
20 mixing.
21 It's obvious to one of ordinary
22 skill in the art to induce mixing in the
23 capsule as it's being brewed. We have
24 centrifugal forces at play which drives
25 fluid flow.

1 And I further cited, for
2 example, to Sweeney which talks about the
3 benefits of turbulent flow in a coffee
4 capsule context.
5 BY ATTORNEY BROOKS:
6 Q. Could you please take a look at
7 paragraph 16 of Yoakim.
8 A. Okay. Paragraph 16. I'm there.
9 Q. Paragraph 16 says [as read]:
10 "The enclosure advantageously
11 has a flared design of the widening
12 sidewall located between top and
13 bottom walls and an outer surface or
14 structure for engaging external
15 rotational driving means of a
16 centrifugal device."
17 Do you see that?
18 A. I see that.
19 Q. Do you understand from that passage
20 that the widening sidewall is different from
21 the outer surface or structure for engaging
22 external rotational driving?
23 ATTORNEY MCCRAW: Object to
24 form. Objection. Relevance.
25 THE WITNESS: I'm not sure I

1 understand your question. Could you
2 rephrase or repeat?
3 BY ATTORNEY BROOKS:
4 Q. Sure. So there's the use of the word
5 "and" there in front of "an outer surface."
6 Do you see that?
7 A. I see "and an outer surface."
8 Q. Okay. And so it describes in
9 paragraph 16 of Yoakim that [as read]:
10 "The enclosure advantageously
11 has a flared design with a widening
12 sidewall located between top and
13 bottom walls and an outer surface
14 for structure for engaging external
15 rotational driving means."
16 ATTORNEY MCCRAW: Objection.
17 Form.
18 BY ATTORNEY BROOKS:
19 Q. Do you understand that the
20 widening -- widening sidewall is different from
21 the outer surface?
22 ATTORNEY MCCRAW: Same
23 objection.
24 THE WITNESS: We're in the
25 "Summary of the Invention" section. No

1 particular figure is referred to here.
2 But my general understanding of
3 the capsule structures that are described
4 within Yoakim in general are that they
5 have a flaring design, a wall that goes
6 from a smaller diameter to a larger
7 diameter as you go up towards the top of
8 the capsule. Then that sidewall structure
9 is typically shown to include both inner
10 and outer walls.
11 And then here it claims
12 [as read]:
13 "an outer surface or structure
14 for engaging rotational driving
15 means."
16 So that is different from the
17 wall itself.
18 BY ATTORNEY BROOKS:
19 Q. If I could direct your attention back
20 to your '923 patent declaration, paragraph 266.
21 A. Okay.
22 Q. Here you're addressing the claim
23 limitation [as read]:
24 "wherein the wall region has an
25 electrically conductive section."

1 Do you see that?
2 A. I see that the claim limitation is
3 claim 5 [as read]:
4 "The single-serve capsule,
5 according to claim 1, wherein the
6 wall region has an electronically
7 conducted section."
8 Yes.
9 Q. And in paragraph 266, you say that
10 [as read]:
11 "Yoakim further discloses that
12 the capsule can be manufactured by
13 deep-drawn aluminum."
14 Do you see that?
15 A. I cite paragraph 215 of Yoakim to
16 disclose [as read]:
17 "the capsule can be
18 manufactured by deep-drawn
19 aluminum."
20 Q. Is it your opinion that a capsule
21 manufactured by deep-drawn aluminum would meet
22 this claim limitation?
23 ATTORNEY MCCRAW: Object to
24 form.
25 THE WITNESS: What I have --

1 what I have stated is that using K-fee's
2 apparent interpretation in which a capsule
3 that is manufactured by deep-drawn
4 aluminum is accused of infringement.
5 According to that apparent
6 interpretation, I also note that Yoakim
7 describes capsules made of metal,
8 including aluminum, including deep-drawn
9 aluminum.
10 And so under that construction,
11 I have made the determination that this
12 claim element is present in Yoakim.
13 BY ATTORNEY BROOKS:
14 Q. And so under your interpretation, as
15 presented in paragraph 266 of your '923 patent
16 declaration, a wall region made of metal,
17 including aluminum, would meet this claim
18 limitation?
19 ATTORNEY MCCRAW: Objection.
20 Asked and answered.
21 THE WITNESS: Well, here you're
22 talking about a wall region as opposed to
23 a capsule manufactured of aluminum.
24 I'm using K-fee's apparent
25 interpretation which -- under which a

1 capsule made out of aluminum meets this
2 claim.
3 BY ATTORNEY BROOKS:
4 Q. And you say in the second sentence
5 there [as read]:
6 "For example, Yoakim discloses
7 that the wall of the base element
8 may be made of metal, including
9 aluminum."
10 Correct?
11 A. I say that, yes.
12 Q. And so it's your opinion that a wall
13 of the base element made of metal, including
14 aluminum, would meet this claim element?
15 ATTORNEY MCCRAW: Objection.
16 Asked and answered. Objection. Misstates
17 testimony.
18 THE WITNESS: What I state is
19 [as read]:
20 "Yoakim discloses that the wall
21 of the base element may be made of
22 metal including aluminum."
23 And I cite to Yoakim
24 paragraphs 128 to 129 [as read]:
25 "The cup-shaped body may also

1 comprise gas barrier materials, such
2 as metal, for example, thin
3 aluminium and/or plastic."
4 So I take this to mean that a
5 capsule-based element in this case may be
6 made of thin aluminum.
7 BY ATTORNEY BROOKS:
8 Q. It could also be made of aluminum and
9 plastic?
10 A. According to this disclosure, it
11 could be aluminum, it could be plastic, or it
12 could be a structure that includes aluminum and
13 plastic.
14 That's how I interpret this
15 disclosure in Yoakim.
16 Q. How would the body include aluminum
17 and plastic?
18 ATTORNEY MCCRAW: Object to
19 form.
20 THE WITNESS: I haven't
21 evaluated that in any detail.
22 I recall -- you know, and I've
23 cited to various parts of Yoakim that
24 disclose how one or the other or both
25 materials could be used.

1 BY ATTORNEY BROOKS:
2 Q. But if you're envisioning a capsule
3 that's made of both aluminum and plastic,
4 what's an example of how that would be done?
5 ATTORNEY MCCRAW: Object to
6 form. Objection. Relevance.
7 THE WITNESS: K-fee's patent
8 itself provides examples of this notion
9 whereby a plastic capsule body is shown,
10 on which metal pieces are attached,
11 perhaps to this -- particular embodiments
12 where that's discussed, as I recall.
13 So that would be an example of a
14 structure that has both metal and
15 aluminum.
16 BY ATTORNEY BROOKS:
17 Q. So one example would be a plastic
18 structure that has metal attached to it?
19 A. I would point you to Figure 12 of
20 K-fee, for example. Figure 12 shows a metallic
21 strainer.
22 So you've got a plastic capsule
23 element and then a -- some type of a filter
24 that's made from wire or wire mesh or metal,
25 would be my guess, in Figure 12. I'd have to

1 go to the detailed description.
2 But that's an example of how you
3 can add metal.
4 Ferromagnetic would be an
5 example in Figure 13 where a metal addition to
6 the base could be -- is disclosed.
7 Figure 11, it says an embodiment
8 that can be detected by a metal detector.
9 Q. What if you had a plastic cup-shaped
10 body in Yoakim and applied a layer of aluminum
11 over the entire cup-shaped body?
12 ATTORNEY MCCRAW: Object to
13 form. Objection. Relevance.
14 BY ATTORNEY BROOKS:
15 Q. Would that satisfy the electrically
16 conductive section?
17 ATTORNEY MCCRAW: Same
18 objections.
19 THE WITNESS: I don't see that
20 particular example in K-fee. And I
21 haven't considered that example, so I
22 don't know. I don't have an opinion on
23 that.
24 BY ATTORNEY BROOKS:
25 Q. Do you understand, for Yoakim, that

1 thin aluminum would serve as a gas barrier?
2 A. My understanding from Yoakim is that
3 thin aluminum as a material has gas barrier
4 properties.
5 Q. What do you mean by "gas barrier
6 properties"?
7 A. Well, it says here in Yoakim
8 paragraph 128 to 129. I quote [as read]:
9 "The cup-shaped body may also
10 comprise gas barrier materials, such
11 as metal, for example, thin
12 aluminium."
13 So the aluminum material that
14 the body is made out of is understood by -- and
15 disclosed by Yoakim as comprising a gas barrier
16 material. Having properties which are
17 favorable for gas barrier is what it means to
18 me.
19 Q. Is it your understanding that a thin
20 aluminum layer would serve as a gas barrier?
21 ATTORNEY MCCRAW: Object to
22 form. Objection. Relevance.
23 THE WITNESS: What it states
24 here is that the cup-shaped body may
25 comprise gas barrier material.

1 So I'm citing to it forming the
2 body of aluminum, and that has gas barrier
3 properties.
4 BY ATTORNEY BROOKS:
5 Q. And that's consistent with your
6 understanding from your experience in using
7 thin aluminum?
8 ATTORNEY MCCRAW: Object to
9 form.
10 THE WITNESS: Well, my
11 understanding generally.
12 But my understanding, as
13 informed by Yoakim, is that aluminum is an
14 example of material that has gas barrier
15 properties.
16 ATTORNEY MCCRAW: Can we take a
17 break when you get a chance?
18 ATTORNEY BROOKS: Sure. We can
19 do it right now.
20 ATTORNEY MCCRAW: Perfect.
21 - - -
22 (Whereupon, a short recess was
23 taken.)
24 - - -
25 (Whereupon, Exhibit 1005 was

1 previously marked for identification.)
2 - - -
3 BY ATTORNEY BROOKS:
4 Q. Mr. Jobin, I've handed you what's
5 been previously marked as Exhibit 1005 in the
6 two proceedings.
7 This is a copy of the Jarisch
8 reference, correct?
9 A. I have a copy of Jarisch, which is
10 Exhibit 1005, yes.
11 Q. If I direct your attention to
12 Figure 4 of Jarisch, could you let me know when
13 you're there?
14 A. All right. Figure 4.
15 Q. You understand that what's labeled as
16 73 is the rim of the capsule in Jarisch?
17 A. Yes. And the description for
18 Figure 4, Jarisch cites rim 73.
19 Q. And that rim is depicted in Figure 4
20 as flat across the horizontal plane, correct?
21 ATTORNEY MCCRAW: Object to
22 form.
23 THE WITNESS: Well, the rim
24 itself is flat, and then it has an
25 inverted U shape to it is what I gather

1 from this sectional view.
2 And the rim, as it revolves
3 around the form of the body of the
4 capsule, is rotationally symmetric. So
5 that's how it's constructed.
6 BY ATTORNEY BROOKS:
7 Q. And what's labeled as 7 in Figure 4,
8 that's the capsule, correct?
9 A. In paragraph 64 of Yoakim, it
10 describes the capsule 7. So that's
11 encompassing the membrane and the --
12 feature 69, which is the body, as I understand
13 it.
14 Q. Okay. What do you understand this
15 slanted line is to indicate there of the
16 capsule in Figure 4?
17 A. Figure 4 depicts a series of diagonal
18 parallel lines. In a figure -- a
19 cross-sectional view, such as Figure 4, it's
20 customary to illustrate the cutting plane
21 surfaces as -- in a crosshatched pattern.
22 And that's what I interpret that
23 to be in Figure 4.
24 Q. If I could direct your attention to
25 paragraph 13 of Jarisch.

1 Do you agree that Jarisch
2 describes there that he seeks to address a
3 problem in the art with identifying a capsule
4 in a beverage preparation machine?
5 A. Figure -- paragraph 13 states
6 [as read]:
7 "A problem with identifying a
8 capsule in a beverage preparation
9 machine is that retrieving or
10 reading information from the capsule
11 is not always reliable or
12 convenient. The present invention
13 brings a solution to this problem."
14 So that's what I read.
15 Q. So Jarisch seeks to address an issue
16 of retrieving or reading information from the
17 capsule that's not always reliable for --
18 scratch that.
19 Do you understand that ahead of
20 paragraph 13 Jarisch identifies a number of
21 prior art systems?
22 A. This section of Jarisch is entitled
23 "Background Art." And various paragraphs
24 describe, very generally, certain prior art
25 references.

1 Q. And in a number of those prior art
2 references, it describes machines that use
3 barcodes, correct?
4 ATTORNEY MCCRAW: Object to
5 form.
6 THE WITNESS: A variety of -- a
7 couple of these references that I see here
8 use the word "barcode" in the description
9 of the prior art.
10 BY ATTORNEY BROOKS:
11 Q. So do you understand, by the use of
12 the word "barcode" in those descriptions of the
13 prior art, that those systems used a barcode?
14 ATTORNEY MCCRAW: Object to
15 form.
16 THE WITNESS: Well, an example
17 would be paragraph 8 in which a particular
18 reference is described.
19 And it states that [as read]:
20 "The packet further comprises a
21 machine-interpretable feature
22 located on the filter" -- which is
23 the rim of that particular capsule,
24 as I recall -- "such as a color, a
25 shape, a glyph, a text string, a

1 barcode, or a digital watermark."
2 So it describes a variety of
3 imprinted machine-interpretable features
4 on a capsule, and a barcode is one of
5 several examples cited.
6 In other cases -- I'm just
7 looking for the other example.
8 BY ATTORNEY BROOKS:
9 Q. I think paragraph 9 is another one.
10 A. Paragraph 9 describes [as read]:
11 "a concentric barcode which is
12 read when the capsule turns around
13 an axis which is placed outside of
14 its parameter, such as when the
15 capsule is stored in a carousel."
16 So it's an example of a barcode
17 being used for -- it's a machine-readable
18 identifier on a portion package.
19 Q. And then paragraph 12 is another
20 example, correct?
21 A. Here it states [as read]:
22 "The capsule may comprise a
23 barcode provided on an outside face
24 of the capsule and which enables a
25 detection of the type of capsule."

1 So it's describing a barcode
2 used in a slightly different way, but it's --
3 it is referencing a barcode in the context of
4 an identifier.
5 Q. Does Jarisch refer to a barcode when
6 it describes its invention?
7 A. The Jarisch disclosure is more
8 general than barcode. It doesn't state that
9 term. It uses the term "optical code."
10 Jarisch uses the term "bitcode"
11 in particular to describe one embodiment, and
12 it also describes colors as another example
13 that could be used for the optical code.
14 Q. Do you understand Jarisch to teach
15 using a barcode with his invention?
16 ATTORNEY MCCRAW: Object to
17 form.
18 THE WITNESS: My understanding
19 of Jarisch is that it is teaching how to
20 use an optical code and how to optimize
21 the location and placement and reading of
22 that optical code to enhance reliability.
23 BY ATTORNEY BROOKS:
24 Q. Would a barcode be an example of an
25 optical code that Jarisch is teaching?

1 ATTORNEY MCCRAW: Object to
2 form.
3 THE WITNESS: I haven't
4 considered which particular optical codes
5 they refer to. They use the more general
6 term, and they provide a specific example
7 which they refer to as a bitcode.
8 BY ATTORNEY BROOKS:
9 Q. What do you understand to be a
10 bitcode?
11 ATTORNEY MCCRAW: Object to
12 form. Objection. Relevance.
13 THE WITNESS: Jarisch describes
14 a bitcode as something that is using bits
15 representing binary information, such as
16 zeros and ones.
17 BY ATTORNEY BROOKS:
18 Q. Would a bitcode be any optical code
19 that uses bits such as zeros and ones?
20 ATTORNEY MCCRAW: Object to
21 form. Objection. Relevance.
22 THE WITNESS: Well, using the
23 word "any," I think, is too broad for me
24 to be able to agree with that statement.
25 I don't have an opinion.

1 BY ATTORNEY BROOKS:
2 Q. Do you have an opinion as to whether
3 the use of a bitcode in Jarisch would be more
4 reliable than the use of a barcode?
5 ATTORNEY MCCRAW: Object to
6 form.
7 THE WITNESS: It appears to me,
8 because they give some different examples
9 of codes that could be used, that the
10 primary teachings of Jarisch, in my view,
11 is teaching the location and the method
12 for reading and retrieving the barcode --
13 or the optical code information, rather,
14 from the bottom of the rim.
15 That's an area that provides
16 more reliable reading.
17 BY ATTORNEY BROOKS:
18 Q. So is it your understanding that
19 Jarisch would have the same reliability in
20 using a barcode as he would in using a bitcode
21 as described there?
22 ATTORNEY MCCRAW: Object to
23 form.
24 THE WITNESS: Well, what I have
25 taken from Jarisch in the combinations

1 that -- that address particular claim
2 limitations that include a barcode and its
3 location at the bottom of the flange is
4 that the teachings of Yoakim provide that
5 a barcode can be used as an identifier.
6 The teachings of Jarisch would
7 inform one of ordinary skill in the art of
8 ways to improve the reading of that --
9 that particular code on the bottom of the
10 flange and with the methods taught by
11 Jarisch.
12 So it's the combination that
13 is -- that I have determined is obvious in
14 light of these particular claims that I
15 discuss in these two declarations.
16 BY ATTORNEY BROOKS:
17 Q. So you're relying on Jarisch for the
18 placement of the location of the code?
19 ATTORNEY MCCRAW: Object to
20 form.
21 THE WITNESS: I recall
22 discussing this in my "Motivations to
23 Combine" section in both declarations, but
24 I can use '430 as an example.
25 Page 91 of the '430 -- the '430

1 declaration, here I discuss in more detail
2 the context of my previous answer in which
3 I'm combining the system and barcode and
4 details of Yoakim with the optical code
5 position and reading techniques of
6 Jarisch.
7 So I go on to cite why that
8 combination is suitable and how one of
9 ordinary skill in the art would expect to
10 be successful in using the teachings of
11 Jarisch in the context of Yoakim.
12 BY ATTORNEY BROOKS:
13 Q. So if I direct your attention to
14 page 95, paragraph 184, you talk about the
15 expectation of success in combining Yoakim and
16 Jarisch.
17 Do you see that?
18 A. Yeah. The first sentence of 184
19 states [as read]:
20 "Additionally, a person of
21 ordinary skill in the art would have
22 had an expectation of success in
23 this combination of Yoakim and
24 Jarisch."
25 Q. And third sentence there, you also

1 say [as read]:
2 "Jarisch further teaches how to
3 modify a centrifugal brewing
4 chamber, such as the one in Yoakim,
5 to read a code located on the bottom
6 side of a capsule flange, away from
7 the capsule membrane."
8 Do you see that?
9 A. I see that sentence.
10 Q. So what aspects of Jarisch are you
11 using to modify Yoakim for that combination?
12 A. Well, if you go on further in that
13 same paragraph, at the top of page 96, I state
14 [as read]:
15 "Specifically, Jarisch teaches
16 placing the light source at the
17 bottom of the capsule support
18 chamber (called centrifugal cell 3)
19 and configuring the capsule support
20 chamber to be of light-conductive
21 material such that a light source
22 will pass through the support
23 chamber and reach the bottom of the
24 capsule flange."
25 I also show on this same page an

1 illustration of Figure 4 that I have annotated
2 to show the optical path leading to the bottom
3 of the rim of the capsule.
4 These teachings from Jarisch is
5 what I am combining with the centrifugal
6 brewing system of Yoakim.
7 Q. So is it your combination utilizing
8 the centrifugal cell 3 of Jarisch?
9 ATTORNEY MCCRAW: Object to
10 form.
11 THE WITNESS: Well, my -- what
12 I'm combining is the system that Yoakim
13 described, the centrifugal brewing system.
14 And I'm applying the teachings of Jarisch
15 to that system.
16 So placing the code on the
17 bottom of the capsule and reading it
18 through a light-conductive centrifugal
19 cell is the combination that I have in
20 mind when I'm citing the combination of
21 Yoakim and Jarisch.
22 BY ATTORNEY BROOKS:
23 Q. Okay. Are you taking Jarisch's
24 centrifugal cell and placing it into Yoakim's
25 brewing system?

1 ATTORNEY MCCRAW: Object to
2 form.
3 THE WITNESS: In evaluating the
4 obviousness of particular claim
5 limitations in the '430 and the
6 '923 patents, one of ordinary skill would
7 read both the references and teachings of
8 Yoakim and Jarisch and determine whether
9 the claim was obvious based on the
10 teachings of both of those references.
11 A particular -- you know, taking
12 a particular physical embodiment and
13 putting it into the other is not required
14 to reach that determination.
15 But the teachings here in
16 Jarisch are quite explicit in that they
17 help the reader to understand the how in
18 addition to the why of the benefit, and
19 the combination of those two makes it
20 quite obvious that that limitation -- or
21 those limitations, in this case, are met.
22 BY ATTORNEY BROOKS:
23 Q. You have an annotated Figure 4 on
24 page 96 of your report.
25 Do you see that?

1 A. Yes, at the bottom of page 96.
2 Q. The red annotation indicates the
3 light path?
4 A. Correct. We have, as described,
5 the -- [as read]:
6 "Jarisch discloses using
7 mirrors as needed in order to
8 position the optical light source
9 and sensor" -- that's element 62
10 that's shown in this figure -- "in a
11 suitable location and orientation."
12 While it's not required to use
13 mirrors, it provides you with an alternate
14 location that may be more suitable.
15 The main teaching here is that
16 the capsule rim, which is supported by the
17 centrifugal cell, allows light to pass and to
18 read the -- the printed information on the
19 bottom of that flange through the transparent
20 walls of the cell.
21 Q. And so the annotation on that figure
22 which is red, that's to indicate the light
23 path?
24 A. The next sentence states that
25 [as read]:

1 "The Jarisch optical reader
2 configuration is shown here with the
3 light path (red) from the detector
4 (62) to the capsule rim (73)."
5 And then I would add
6 parenthetically that the light returns via the
7 same path to the sensor.
8 Q. And that light path is what's
9 depicted in red on this annotated figure,
10 correct?
11 A. As I just stated in this sentence
12 [as read]:
13 "the light path (red) from the
14 detector (62) to the capsule."
15 So red is indicating the light
16 path both towards the capsule and back to the
17 sensor.
18 Q. What is the yellow annotation
19 indicative of?
20 A. This is the -- it's highlighting
21 element 69, which is the part of the overall
22 capsule 7.
23 Q. 69 is the cup-shaped body?
24 A. 69 would be the cup-shaped body. And
25 60 would be the membrane, which is shown in

1 that arched shape at the top of that figure.
2 Q. Do you see the little blue
3 annotation?
4 A. I see a blue annotation.
5 Q. What does the blue annotation
6 indicate?
7 A. The blue annotation is used elsewhere
8 in this document to address claim limitations
9 related to the portion of the capsule body that
10 is an annular feature underneath the rim that's
11 a wider diameter than the rest of the capsule
12 body.
13 Q. Did anyone assist you with annotating
14 this figure?
15 A. I used an illustrator to provide
16 these images, to color them to help to
17 communicate the information that I'm putting in
18 writing and to help to clarify what I'm trying
19 to communicate.
20 Q. So you applied these annotations to
21 this figure?
22 A. What I stated --
23 ATTORNEY MCCRAW: Objection.
24 Misstates testimony.
25 THE WITNESS: What I stated was

1 that I use an illustrator to create the
2 images based on the information that I'm
3 trying to convey.
4 BY ATTORNEY BROOKS:
5 Q. Is the illustrator a person or a
6 tool?
7 A. An illustrator is a person that is
8 good at making images that are colored.
9 Q. Okay.
10 A. It's a skill set that some people
11 have and others struggle with.
12 I could certainly put something
13 together, but the illustrator in this case does
14 a nice job of making it readable.
15 Q. Does the illustrator that you used
16 have a name?
17 A. I don't know the person's name.
18 Q. Does the illustrator have a company
19 that he or she works for?
20 A. I don't know their working
21 relationship.
22 I know that I have certain
23 images that I wanted to include in my report
24 and certain annotations that I would like, and
25 this person does them for the report.

1 Q. How did you find said person?
2 ATTORNEY MCCRAW: Objection.
3 And I think you're getting into
4 kind of privileged work product between
5 the attorneys and the expert here.
6 BY ATTORNEY BROOKS:
7 Q. I'm not asking for communications,
8 and I'm not asking for work product.
9 I'm just asking who this
10 individual is that annotated the images.
11 A. My understanding is that it's an
12 individual that works with Mayer Brown to
13 produce this image.
14 BY ATTORNEY BROOKS:
15 Q. There's an individual named on the
16 front of this Jarisch patent, Christian
17 Jarisch.
18 Have you ever spoken to him?
19 A. I have not spoken to Christian
20 Jarisch.
21 Q. What about Alexander Parentes?
22 A. I have not spoken to Alexander
23 Parentes.
24 Q. Let me direct you back to Figure 4
25 Jarisch.

1 Let me know when you're there.
2 A. Okay.
3 Q. I apologize. I don't have a
4 magnifying glass.
5 But if you squint really hard to
6 that area that was annotated in blue in your
7 report, do you understand that the capsule
8 body 69 does not touch that inner wall of
9 cell 3?
10 ATTORNEY MCCRAW: Object to
11 form. Objection. Relevance.
12 THE WITNESS: I haven't
13 evaluated that particular interface.
14 My interpretation is that that
15 diameter is designed to position the
16 capsule as it's put into place. That's
17 one aspect of that diameter change in that
18 location.
19 And it's indicated what appears
20 to be in very close proximity to the
21 sidewall of the centrifugal cell.
22 BY ATTORNEY BROOKS:
23 Q. Can you tell whether it's touching or
24 not?
25 ATTORNEY MCCRAW: Object to

1 form. Objection. Relevance.
2 THE WITNESS: It's illustrated
3 parallel to, but I couldn't determine if
4 it's actually touching this image.
5 BY ATTORNEY BROOKS:
6 Q. I'll direct you to paragraph 95 of
7 Yoakim. Let me know when you're there.
8 A. I'm on paragraph 95.
9 Q. The first sentence there says
10 [as read]:
11 "Another mode consists of
12 sensing a code provided on a
13 metallic surface of a capsule using
14 an inductive sensor."
15 Do you see that?
16 A. I'm at Yoakim paragraph 95.
17 Q. I'm sorry. Did I say "Yoakim"?
18 A. Yes.
19 Q. Jarisch.
20 A. Jarisch.
21 Q. I apologize.
22 A. That's okay.
23 Q. Jarisch, Exhibit 1005.
24 A. Okay. All right. I am now at
25 Jarisch paragraph 95.

1 Q. Okay. Jarisch paragraph 95, the
2 first sentence says [as read]:
3 "Another mode consists of
4 sensing a code provided on a
5 metallic surface of the capsule
6 using an inductive sensor."
7 Do you see that?
8 A. I see that sentence.
9 Q. Would a metallic surface of the
10 capsule, as described in paragraph 95, satisfy
11 the electrically conductive section limitation
12 of the K-fee patent?
13 ATTORNEY MCCRAW: Object to
14 form. Objection. Relevance.
15 THE WITNESS: Here we're talking
16 about -- it says [as read]:
17 "metallic surface of the
18 capsule using an inductive sensor."
19 The code is formed by reliefs or
20 recesses in the metallic surface."
21 I don't have enough information
22 here to know the details of it, but under
23 the -- well, I don't know the details of
24 the -- of the lid either.
25 But the construction that I'm --

1 K-fee's apparent construction that I
2 relied upon implied that a metal capsule
3 structure would meet that claim. And so,
4 in a sense, this is similar to that, as
5 far as I can tell.
6 BY ATTORNEY BROOKS:
7 Q. In paragraph 93, there's also a
8 disclosure in Jarisch of aluminum capsule
9 technology.
10 Under your interpretation, then,
11 would that disclosure also be -- would also
12 satisfy "electrically conductive section"?
13 ATTORNEY MCCRAW: Object to
14 form. Objection. Relevance.
15 THE WITNESS: I don't have a lot
16 of information here to go on.
17 I'm not using my interpretation
18 of this particular claim limitation. I'm
19 applying K-fee's apparent interpretation
20 to observe that the combination of Yoakim
21 and Jarisch and -- well, it depends on
22 which we're in.
23 But at least Yoakim and Jarisch
24 meet the claim, according to K-fee's
25 apparent interpretation.

1 BY ATTORNEY BROOKS:
2 Q. What do you understand K-fee's
3 interpretation of "electrically conductive
4 section" to mean?
5 A. Generally speaking, it has been my
6 understanding from reading K-fee's reply
7 documents, for example, that an aluminum --
8 all-aluminum structure would meet the claim
9 limitation here.
10 I think that they also state --
11 accuse the Nespresso capsule, which is
12 purported to be an aluminum capsule
13 structure -- and they accuse that of
14 infringement.
15 So using that apparent
16 construction, I'm evaluating capsules in Yoakim
17 that may, for example -- or are described as
18 being made from aluminum and finding that that
19 particular claim limitation is met by Yoakim.
20 Q. Is it your understanding that the
21 accused Nespresso capsule is an all-aluminum
22 structure?
23 ATTORNEY MCCRAW: Object to
24 form. Objection. Relevance.
25 THE WITNESS: Well, the

1 apparent -- the -- K-fee's apparent
2 construction here implies that it is
3 aluminum. And I've seen discussion of
4 that which leads me to understand that
5 their interpretation is that aluminum
6 structure meets that claim limitation.
7 BY ATTORNEY BROOKS:
8 Q. Do you know whether the accused
9 Nespresso capsule is all aluminum?
10 ATTORNEY MCCRAW: Object to
11 form. Objection. Relevance.
12 THE WITNESS: I have not
13 evaluated the Nespresso capsule in detail.
14 BY ATTORNEY BROOKS:
15 Q. How does what you understand to be
16 K-fee's construction of "electrically
17 conductive section" different from your
18 understanding of what that term means?
19 A. Well, I have not construed that term
20 in either of these declarations. I'm relying
21 on their apparent construction to form my
22 obviousness opinions.
23 Q. Well, when you say you're not using
24 your interpretation of this particular claim
25 limitation, what is your particular -- what is

1 your interpretation of the claim limitation?
2 ATTORNEY MCCRAW: Object to
3 form.
4 THE WITNESS: Well, that's not
5 what I said.
6 What I said was that I am using
7 K-fee's apparent interpretation in my
8 evaluation of this claim limitation, not
9 that I've applied my own or not applied my
10 own. That's not what I said.
11 BY ATTORNEY BROOKS:
12 Q. I'd like to direct your attention to
13 your '430 patent declaration, page 116.
14 A. Okay. I'm on page 116.
15 Q. Okay. Here you're illustrating how
16 Jarisch reads the capsule identifier?
17 A. Where are you -- where are you
18 directing me?
19 Q. So there's a figure at the top of the
20 page, page 116 of the '430 declaration.
21 A. Okay. I see the figure at the top of
22 page 116, which is part of the claim
23 limitation, which reads [as read]:
24 "a beverage machine comprising
25 a sensor detector configured to read

1 the barcode," which is claim element
2 1.e, "or a beverage machine
3 compromising a sensor/detector,"
4 which is claim element 7.e.
5 So this figure is intended to
6 inform that discussion.
7 Q. And is that figure indicating how a
8 sensor/detector would read the capsule
9 identifier in Jarisch?
10 A. The previous paragraph, 221,
11 describes what Jarisch discloses about reading
12 an optical sensor positioned on the underside
13 of the flange. And it goes in some detail in
14 paragraph 221, which is then illustrated by my
15 figure following.
16 Q. Would you agree that Jarisch teaches
17 having the sensor/detector down at the bottom
18 under the cell 3?
19 ATTORNEY MCCRAW: Object to
20 form.
21 THE WITNESS: Well, what it
22 states here is that this particular
23 methodology, which uses a mirror, allows
24 one flexibility in the positioning of
25 sensor/detector 62.

1 It states -- in paragraph 221, I
2 quote or state [as read]:
3 "In the case that the sensor 62
4 cannot be aligned with the
5 transparent part of the centrifugal
6 cell 3" -- directly is what I
7 understand that to mean -- "a mirror
8 can be placed, as illustrated in
9 Figure 4."
10 This allows one to place a
11 sensor/detector in another location that
12 is more convenient.
13 BY ATTORNEY BROOKS:
14 Q. How many mirrors does Jarisch teach
15 to use?
16 ATTORNEY MCCRAW: Object to
17 form.
18 THE WITNESS: The particular
19 paragraph 106 quote that I just quoted
20 part of says that [as read]:
21 "a mirror can be placed, as
22 illustrated in Figure 4."
23 So, for example, with a single
24 sensor, a mirror could be placed to direct
25 the light beam, as illustrated.

1 BY ATTORNEY BROOKS:
2 Q. Do you understand the embodiment of
3 Jarisch Figure 4 to use only one mirror?
4 ATTORNEY MCCRAW: Object to
5 form.
6 THE WITNESS: I don't recall any
7 further discussion of a mirror. Whether
8 other configurations or embodiments are
9 feasible, I don't recall reading them in
10 Jarisch.
11 But in this case, I see "a
12 mirror." And it says "a mirror," so I
13 take that to mean "one" in this figure.
14 BY ATTORNEY BROOKS:
15 Q. If we turn to 114 of your
16 declaration.
17 A. Page 114?
18 Q. Yes, sir.
19 A. All right. Page 114.
20 Q. Do you see the -- Figure 61 of Yoakim
21 reproduced there?
22 A. I see Figure 61.
23 Q. In Figure 61 of Yoakim, the
24 sensor/detector is at the top above the
25 capsule, correct?

1 A. In paragraph 219, I state [as read]:
2 "the optical sensing device to
3 read the optical identifier code is
4 shown as element 231."
5 Element 231 is located at the
6 top of the capsule.
7 Q. So if you were modifying Yoakim to
8 place the code on the bottom of the flange,
9 where would the sensor/detector have to be?
10 ATTORNEY MCCRAW: Object to
11 form.
12 THE WITNESS: We're evaluating a
13 specific example or a specific embodiment
14 in Yoakim.
15 One of ordinary skill in the art
16 would take all of the teachings of Yoakim,
17 combine them with the teachings of
18 Jarisch. Bodily incorporation is not
19 required to meet the claim.
20 In this case, Jarisch explicitly
21 teaches us the configuration that would
22 allow successful reading of the code at
23 the bottom of the capsule.
24 BY ATTORNEY BROOKS:
25 Q. Are you using Jarisch's solution, as

1 depicted in Figure 4, as the manner in which a
2 code on the bottom of a flange of Yoakim's
3 capsule would be read?
4 ATTORNEY MCCRAW: Object to
5 form. Asked and answered.
6 THE WITNESS: No. That
7 mischaracterizes my testimony.
8 What I stated was that one of
9 ordinary skill in the art would take the
10 teachings of Jarisch and the teachings of
11 Yoakim and understand how to construct a
12 system that met the claim limitations.
13 Bodily incorporation is not
14 required, in my understanding. The
15 teachings of Jarisch are explicit, though,
16 and give one much information as to how
17 one would achieve such a combination.
18 BY ATTORNEY BROOKS:
19 Q. How would you achieve such a
20 combination using Jarisch and Yoakim?
21 A. One of ordinary skill would be well
22 within their capabilities to take the teachings
23 of Yoakim and the teachings of Jarisch and to
24 assemble a system that would meet the
25 limitation of the barcode being read on the

1 bottom of the flange.
2 This is, again, something that
3 one of ordinary skill in the art would be --
4 would understand to be disclosed by the
5 combination of these two references.
6 Q. How would one of ordinary skill in
7 the art modify Figure 61 of Yoakim to read a
8 barcode on the underside of the flange?
9 ATTORNEY MCCRAW: Object to
10 form. Objection. Asked and answered.
11 THE WITNESS: As I stated in an
12 earlier answer, one of ordinary skill
13 would not necessarily modify a particular
14 embodiment of Yoakim. One would take the
15 teachings of Yoakim as a whole and the
16 teachings of Jarisch as a whole and would
17 find it obvious to -- to have a system
18 that would meet the limitation.
19 The obviousness determination
20 does not require bodily incorporation of
21 particular embodiments. It is a broader
22 inquiry.
23 And one of ordinary skill in the
24 art would find it obvious for this
25 particular claim limitation that we are

1 speaking of.
2 BY ATTORNEY BROOKS:
3 Q. Do you understand that Yoakim teaches
4 reading the barcode while the capsule holder is
5 rotated?
6 ATTORNEY MCCRAW: Object to
7 form.
8 THE WITNESS: Well, there are
9 examples in Yoakim in which the capsule
10 enclosure that supports the capsule and
11 the -- both the top and the bottom are
12 rotating mounted on a motor shaft, such as
13 we discussed earlier today in Figure 2, I
14 believe it was.
15 And my understanding would be
16 that there are different ways that could
17 be used to read a code. They don't
18 specify any singular way.
19 They -- you know, they talk
20 about the advantages of using a code and
21 detecting the code and identifying the
22 capsule.
23 That's what Yoakim is teaching.
24 BY ATTORNEY BROOKS:
25 Q. You haven't specified anywhere in

1 your report the light path that would be
2 followed in Yoakim's system in order to read a
3 barcode on the underside of the flange of
4 Yoakim's capsule, right?
5 ATTORNEY MCCRAW: Object to
6 form. Objection. Misstates testimony.
7 THE WITNESS: Once again, I'm
8 not relying on Yoakim to meet this
9 limitation. I'm relying on the
10 combination of Jarisch and Yoakim, in
11 particular the teachings of Yoakim and
12 Jarisch, that would inform one of ordinary
13 skill that these elements are obviously
14 met.
15 The notion of bodily
16 incorporation or of some type of very
17 specific embodiment does not need to be
18 constructed in order to meet that -- to
19 make that determination, in my
20 understanding.
21 BY ATTORNEY BROOKS:
22 Q. I'd like to direct you to your '923
23 declaration, page 102.
24 A. Page 102?
25 Q. Yes, please.

1 A. Okay. I'm at page 102.
2 Q. Starting at 102, you discuss the
3 preamble limitation [as read]:
4 "Single-serve capsule for
5 making a beverage, having:"
6 Do you see that?
7 A. I see that limitation, yes.
8 Q. And for this particular limitation,
9 you rely upon Yoakim's teachings?
10 A. As I state in the first sentence
11 [as read]:
12 "Yoakim discloses 'a
13 single-serve capsule for making a
14 beverage, having,' according to
15 K-fee's apparent interpretation."
16 Q. For this particular limitation,
17 you're only relying upon Yoakim, correct?
18 - - -
19 (Stenographer clarification.)
20 - - -
21 THE WITNESS: The following
22 paragraphs, 207 through 209, are all
23 citing to Yoakim. And so I'm relying on
24 Yoakim to meet the preamble of claim 1.
25

1 BY ATTORNEY BROOKS:
2 Q. And if you take a look at
3 paragraph 208, the specific examples in Yoakim
4 that you point to were Figures 6, 7, 26, and
5 27, correct?
6 A. I say "Yoakim at Figures 6, 7, 26,
7 and 27" and depict them below this -- at the
8 bottom of the page.
9 Q. Depicted there at the bottom of
10 page 104 and the top of 105?
11 A. Yes.
12 Q. And each of these capsules has a rim
13 on the top side?
14 A. It's my understanding that the four
15 capsules depicted in Figures 6, 7, 26, and 27
16 all include a feature that would be called
17 "rim." They're noted as 72 or 104.
18 Q. Is it your understanding that
19 Figures 6, 7, 26, and 27 all depict the same
20 capsule?
21 ATTORNEY MCCRAW: Object to
22 form. Objection. Relevance.
23 THE WITNESS: No. I don't see
24 that they depict the same capsule, but
25 they have certain similarities.

1 BY ATTORNEY BROOKS:
2 Q. And you don't identify any other
3 capsule examples in Yoakim as satisfying the
4 single-serve capsule limitation, correct?
5 ATTORNEY MCCRAW: Object to
6 form. Objection. Relevance.
7 THE WITNESS: I cite to other
8 parts of Yoakim, such as paragraph 219,
9 which describes a single-use capsule in
10 words.
11 I cite to -- in other
12 paragraphs -- other parts of Yoakim that
13 also describe the capsule in the context
14 of a brewing device, that that capsule
15 could be discarded, which would indicate
16 that it's single-use, is what I should
17 add.
18 BY ATTORNEY BROOKS:
19 Q. Other than the four depicted on
20 page 104 and 105, you don't identify any other
21 specific capsules within Yoakim for this
22 limitation?
23 ATTORNEY MCCRAW: Object to
24 form. Objection. Asked and answered.
25 Objection. Relevance.

1 THE WITNESS: Again, the four
2 depicted are exemplary. There are others
3 that meet the same -- which would also
4 inform this claim.
5 Yoakim is an extensive -- it's a
6 long document. So there's a lot of
7 disclosure about single-serve capsules for
8 making a beverage within Yoakim.
9 Some of the support gets cited
10 here in my declaration.
11 BY ATTORNEY BROOKS:
12 Q. But you don't cite any of those for
13 this particular limitation, do you?
14 ATTORNEY MCCRAW: Object to
15 form. Objection. Misstates testimony.
16 THE WITNESS: I've cited what
17 I've cited in my declaration, and I
18 further observed that there are other
19 capsules in Yoakim that could
20 potentially -- that bolster this opinion.
21 But the information that I've
22 cited is sufficient, in my view, to
23 support my opinion.
24 ATTORNEY BROOKS: Break for
25 lunch?

1 ATTORNEY MCCRAW: Sure.
2 - - -
3 (Whereupon, a lunch recess was
4 taken.)
5 - - -
6 ATTORNEY BROOKS: Welcome,
7 Mr. Jobin.
8 THE WITNESS: Thank you.
9 - - -
10 (Whereupon, Exhibit 1041 was
11 previously marked for identification.)
12 - - -
13 ATTORNEY BROOKS: Now I'm going
14 to hand you a document.
15 I've handed you what's been
16 premarked as Exhibit 1041 in both
17 proceedings.
18 BY ATTORNEY BROOKS:
19 Q. This is the Rossi reference, correct?
20 A. Yes. This appears to be a copy of
21 the Rossi reference, Exhibit 1041.
22 Q. And Rossi teaches performing multiple
23 steps prior to making an edible product?
24 ATTORNEY MCCRAW: Object to
25 form.

1 THE WITNESS: Rossi, in my view,
2 is directed to a beverage-making machine
3 combined with a load element or capsule,
4 as we would normally call it.
5 And it has a process for
6 controlling the machine based on the
7 reading and interpreting of what it terms
8 recognition and validation elements. It's
9 got codes on the capsules that the machine
10 can read and make decisions based on
11 identifying those elements.
12 BY ATTORNEY BROOKS:
13 Q. And so the first element that it
14 recognizes is an identifying element?
15 A. There are two elements that are
16 described within Rossi, an identifying element
17 and a validation element. And it describes
18 these as possibly being barcodes or other
19 imprints, or other techniques could be used as
20 well.
21 So it describes different
22 methods, but the method recognizes initially
23 a -- it recognizes initially the identifying
24 element 4 which is shown in Figure 1, for
25 example.

1 Q. Okay. So it would first identify --
2 excuse me.
3 It would first recognize the
4 identifying element and then look for the
5 validation element?
6 A. The Rossi disclosure talks about
7 these two elements as means for both
8 identifying and determining whether a capsule
9 is -- has been used previously.
10 So the identifying element is
11 what it uses to determine whether the capsule
12 is of a particular group. And then it uses the
13 validation element to determine whether the
14 capsule has been previously used.
15 Q. Do I understand correctly that Rossi
16 only looks at the validation element if it
17 is -- if it obtains a match of the identifying
18 element?
19 ATTORNEY MCCRAW: Object to
20 form.
21 THE WITNESS: Generally
22 speaking, it describes a two-step process.
23 The process -- it describes the first step
24 of checking the identification element,
25 the second step of identifying -- or

1 viewing or reading the validation element.
2 It does state in the disclosure,
3 as I recall, that the elements could be
4 identical or combined. And it could make
5 that determination simultaneously in that
6 view is my -- my read on that.
7 BY ATTORNEY BROOKS:
8 Q. Okay. Before we get to that.
9 We're only going to -- Rossi
10 will only go to the validation step if he's
11 satisfied with the identifying step, correct?
12 ATTORNEY MCCRAW: Object to
13 form.
14 THE WITNESS: Rossi describes
15 methods of looking at identifiers on a
16 capsule and taking actions based upon
17 those -- the information that's contained
18 within those elements.
19 That method and that process is
20 what I am relying on in my combination
21 with Yoakim and Jarisch to meet the
22 limitations of various claims in the '430.
23 BY ATTORNEY BROOKS:
24 Q. Now, you said the two elements could
25 be combined and Rossi could make a

1 determination simultaneously.
2 Where does Rossi teach that?
3 A. I'd have to look at it. One moment.
4 Rossi, on page 9, I cite in
5 paragraph 264 of my '430 declaration [as read]:
6 "The validation element could
7 be identical to the identification
8 element but is preferably different
9 thereto and could be the same or of
10 a different type to the
11 identification element."
12 Q. What in that passage indicates to you
13 that the identifying element and validation
14 element would be combined into one?
15 A. What I've cited in Rossi at page 9 is
16 the evidence that I'm relying on for that
17 opinion.
18 I further recall that it talks
19 about one or more readers, which would -- which
20 would also support my view that the
21 identification of validation elements could be
22 combined into an identical element.
23 Q. Okay. But "identical" doesn't mean
24 that they're the same as far as the same
25 structure, correct?

1 ATTORNEY MCCRAW: Object to
2 form.
3 THE WITNESS: No. I view it
4 differently.
5 I view it that -- in this
6 passage, they're talking about them being
7 the same, but they could be different.
8 They could be of the same type as well, or
9 they could be of different types.
10 They're giving different
11 examples of how these identifying and
12 validation elements could be employed.
13 BY ATTORNEY BROOKS:
14 Q. Do you agree that you could have a
15 single reader that would read two elements of
16 the same type?
17 ATTORNEY MCCRAW: Object to
18 form.
19 THE WITNESS: My recollection is
20 that Rossi says it could have one or more
21 readers. I don't know that I've
22 considered whether one could read two
23 different elements on the same capsule.
24 I haven't considered that
25 combination.

1 BY ATTORNEY BROOKS:
2 Q. Is there anything else in Rossi that
3 would suggest to you that the validation
4 element and identifying element would be one
5 single element?
6 A. What one of ordinary skill in the art
7 would infer from reading Rossi and combining
8 the teachings of Yoakim, for example, would be
9 that it would be obvious to achieve the
10 functions of determining whether a capsule is
11 suitable for use based on reading an identifier
12 element.
13 That's -- the opinion that I
14 came to was that a single element in Yoakim
15 could apply the teachings of Rossi and achieve
16 the result of determining suitability for use.
17 Q. Is that true even if Rossi is found
18 to teach having two separate elements?
19 A. In my analysis of these claim
20 limitations, I show -- what I discuss in my
21 analysis of, for example, claim element 1.o is
22 that Yoakim controls the pump based upon
23 reading and interpreting information on a
24 identifier element and that, further, the
25 teachings of Rossi would inform one of ordinary

1 skill in the art that that same reading could
2 be used to determine whether a capsule is
3 suitable for use and then take action based on
4 that determination.
5 Q. Do you have your '923 patent
6 declaration?
7 A. Yes, I have the '923 declaration
8 here.
9 Q. Go to pages 72 -- page 72.
10 A. Page 72.
11 Q. Do I understand, from the right-hand
12 column here, that it's your opinion that
13 Exhibit 1046, which is the July 2010 German
14 application, discloses a barcode located on the
15 bottom side of the capsule flange?
16 A. This is a table that is related to my
17 analysis that the priority documents do not, in
18 any case, describe all of the elements of the
19 '923 patent. In this column, I'm evaluating
20 the July 2010 application.
21 The heading states [as read]:
22 "Barcode located on the bottom
23 side of the capsule flange?"
24 And Figure 2 is illustrated, and
25 I have the word "yes" in this box next to the

1 illustration.
2 Q. Does the "yes" indicate that the
3 July 2010 application at Figure 2 discloses a
4 barcode located on the bottom side of the
5 capsule flange?
6 A. Based upon my interpretation of the
7 July 2010 application at the time and of this
8 figure, I determined that "yes" was the answer
9 to that question.
10 Q. If I go to page 73, you make the same
11 determination with respect to the
12 September 2010 application as well?
13 A. The right-hand column states
14 [as read]:
15 "Barcode located on the bottom
16 side of the capsule flange?"
17 That's phrased as a question,
18 and the -- the box below says "yes."
19 Q. And is the opinion with respect to
20 the September 2010 application also based on
21 Figure 2 of that application?
22 A. Well, it's based on my understanding
23 of the -- of the disclosure in the
24 September '20 application generally.
25 Q. If I could direct your attention to

1 paragraph 167 of your declaration. It spans
2 pages 80 and 81.
3 A. Pages 80 and 81.
4 All right. I'm on
5 paragraph 165.
6 Q. Sorry. 167.
7 A. Paragraph 167. Okay.
8 Q. You state there in paragraph 167
9 [as read]:
10 "The September 2010 application
11 further includes embodiments
12 regarding a gear-shaped rim or
13 flange of the capsule, which is used
14 as an identifier."
15 Do you see that?
16 A. I see that sentence.
17 Q. Do you understand from the
18 September 2010 application that the gears serve
19 as an identifier?
20 ATTORNEY MCCRAW: Object to
21 form.
22 THE WITNESS: It would be
23 helpful if I had a copy of the
24 September 2010 application to refer to
25 here.

1 Thank you.
2 BY ATTORNEY BROOKS:
3 Q. Mr. Jobin, I've handed you what's
4 been premarked as Exhibit 1047 from the two
5 proceedings.
6 - - -
7 (Whereupon, Exhibit 1047 was
8 previously marked for identification.)
9 - - -
10 BY ATTORNEY BROOKS:
11 Q. It's a copy of the September 2010
12 German application.
13 A. I have a copy of that now.
14 Q. Mr. Jobin, would you agree that the
15 gears on the capsule in Figures 16 through 18
16 of Exhibit 1047 are used as an identifier?
17 A. What I recall -- what I would state
18 is that the disclosure in the September 2010
19 priority document is inconsistent in the way it
20 refers to the 2.4.2.
21 On page 41 of 61, which is -- of
22 this document, it states in the description for
23 Figure 16 that [as read]:
24 "The peripheral region 2.4 has
25 in its outer region a form-fitting

1 and/or friction-fitting means and/or
2 a detection means 2.4.2."
3 2.4.2 is described in various
4 embodiments from 16 through 17c as, for
5 example, fitting into a mating feature in a
6 capsule or interfacing with a pinion.
7 Why I'm confused is that the
8 term "detection" means -- elsewhere in this
9 document is described as "detection" means
10 "slash sensor."
11 And so it would indicate to me
12 that this physical feature, this two-ring
13 feature is employed in different ways. And so
14 it's difficult for me to say generally that
15 it's employed as an identifier.
16 Q. Well, if you look at paragraph 167 of
17 your report on the '923 patent, you say there
18 that the gear-shaped rim or flange of the
19 capsule is used as an identifier, correct?
20 A. I say that. And there is disclosure
21 within that that leads one to conclude that is
22 a possible use for the toothed ring. It's not
23 described that way.
24 And I would note that 2.4.2 is a
25 different designator than various others that

1 are used within this document to denote
2 different embodiments of an identifier.
3 So I would say that at best it's
4 a little ambiguous within this disclosure but
5 that in total it appears that it can be used as
6 an identifier here.
7 Q. And you agree that that gear shape is
8 found on the flange of the capsule, correct?
9 A. The way that it's described is that
10 it is -- let's see where it says it here.
11 My understanding is that the
12 tooth-ringed feature is formed in the outer
13 circumference of the flange. That's what I
14 recall from this disclosure.
15 Q. If you take a look at the German
16 application, Exhibit 1047, does the German
17 application -- the September 2010 German
18 application provide any limitations on the
19 placement of the detector?
20 ATTORNEY MCCRAW: Object to
21 form.
22 THE WITNESS: When you say "the
23 detector," could you be more specific?
24 BY ATTORNEY BROOKS:
25 Q. Sure. Detector 13.

1 A. And is detector 13 reflected in any
2 particular embodiment?
3 Q. Detector 13 appears in Figure 1 and
4 Figure 2. Figure 3 also has detector 13.
5 Figures 11 through 13 and Figure 15.
6 And so my question is: Does the
7 second German application place any limits on
8 where that detector can be placed?
9 ATTORNEY MCCRAW: Object to
10 form.
11 THE WITNESS: What I observed is
12 that in each of these referenced figures
13 different embodiments of identifiers and
14 sensor means are being described and that
15 the location of the sensor mean would be
16 particular to -- and necessary to function
17 would be particular to the type of
18 identifier and the location of that said
19 identifier.
20 So I think it really depends on
21 the specific embodiment as to what you can
22 do.
23 BY ATTORNEY BROOKS:
24 Q. Would a person of ordinary skill in
25 the art understand how to place the detector so

1 as to read the identifier of the particular
2 embodiment?
3 A. Well, I could discuss --
4 ATTORNEY MCCRAW: Object to
5 form.
6 THE WITNESS: I could discuss
7 any of these particular embodiments, but
8 it's difficult to generalize.
9 BY ATTORNEY BROOKS:
10 Q. Do you believe a person of ordinary
11 skill in the art would have trouble placing a
12 detector to read an identifier, as described in
13 the Exhibit 1047?
14 ATTORNEY MCCRAW: Object to
15 form.
16 THE WITNESS: Once again,
17 there's a variety of different embodiments
18 described. If there's a particular one
19 you'd like to discuss, I'd be happy to.
20 BY ATTORNEY BROOKS:
21 Q. In the -- let's look at page 38. I'm
22 looking at the page number on the bottom
23 right-hand corner.
24 A. Page 38 of 61?
25 Q. Yes.

1 And about, let's say, line 22
2 [as read]:
3 "as symbolized by the arrow 15,
4 for the barcode to be provided on
5 that side of the peripheral region
6 of the basic element which is
7 directed away from the membrane."
8 Do you see that?
9 A. I see that sentence.
10 Q. And you understand that that sentence
11 describes placing the barcode on what we've
12 generally referred to as the underside of the
13 flange?
14 ATTORNEY MCCRAW: Object to
15 form.
16 THE WITNESS: My understanding
17 is that the board has some questions about
18 whether this embodiment actually depicts
19 the barcode on the bottom of the flange.
20 I have, at the time of this
21 declaration, interpreted it to mean that
22 a -- I will say that Figure 2 is
23 relatively ambiguous as to that due to the
24 nature of the way that it's drawn.
25

1 BY ATTORNEY BROOKS:
2 Q. Okay. And so looking at Figure 2, as
3 you interpreted it at the time you put it in
4 your report, a person of ordinary skill in the
5 art would understand where to place the
6 detector in order to read the barcode on the
7 underside of the flange, correct?
8 ATTORNEY MCCRAW: Object to
9 form.
10 THE WITNESS: Well, Figure 2
11 shows a particular embodiment position of
12 the -- of the detector 13 on top of the
13 capsule.
14 I haven't considered the
15 ramifications of placing it underneath
16 other than that it's tight because the
17 capsule body is there.
18 BY ATTORNEY BROOKS:
19 Q. So you don't have an opinion as to
20 whether a person of ordinary skill in the art
21 would know how to place the detector in the
22 embodiment of Figure 2 to read the barcode on
23 the bottom side of the flange?
24 ATTORNEY MCCRAW: Object to
25 form. Misstates testimony.

1 THE WITNESS: Well, I'm
2 evaluating this particular reference. And
3 based on this reference, it's not taught.
4 I've evaluated a particular
5 combination in the context of obviousness.
6 Here I'm evaluating a priority document
7 and whether such a feature is disclosed.
8 And I haven't considered whether
9 one of ordinary skill would be able to
10 determine how to do that.
11 BY ATTORNEY BROOKS:
12 Q. Do you understand that what is
13 labeled as 12 in Exhibit 1047 is the brewing
14 chamber?
15 A. Sorry. It took me a moment. The way
16 that Figure 12 is rendered in Figure 1 is very
17 difficult to read.
18 Go back to the description for
19 Figure 1 for a moment.
20 All right. In Figure 1, for
21 example, this written description for Figure 1,
22 which is on page 37 of 61, the term "brewing
23 chamber 12" is used on line 10.
24 Q. If you turn to page 44 of 61.
25 Do you see there a list of

1 designations?
2 A. I see it.
3 Q. Do you understand this list of
4 designations to apply to the figures described
5 in Exhibit 1047?
6 ATTORNEY MCCRAW: Object to
7 form.
8 THE WITNESS: Generally, these
9 designations -- this table is used to help
10 the reader interpret the figures.
11 So, for example, 12 states
12 "brewing chamber." I would also note that
13 27 states "brewing chamber."
14 So there are other examples,
15 perhaps, that are in the figures.
16 BY ATTORNEY BROOKS:
17 Q. What do you understand "brewing
18 chamber 27" to mean?
19 ATTORNEY MCCRAW: Object to
20 form. Objection. Relevance.
21 THE WITNESS: "Brewing
22 chamber 27" appears to be used in
23 Figure 16. In the written description on
24 page 41 of 61, line 31, that designator
25 appears.

1 The words are the same. It's
2 pointing to different embodiments.
3 So I couldn't say if it has any
4 particular meaning as to whether they're
5 different, but it certainly implies that
6 they are.
7 BY ATTORNEY BROOKS:
8 Q. You have the '430 patent in front of
9 you?
10 A. No, I don't think I do.
11 Yes, I do.
12 Q. I'd like to direct your attention to
13 claim 1.
14 A. I've got claim 1 of the '430 in front
15 of me.
16 Q. Towards the end of -- it's line 64.
17 You see in claim 1 there's the
18 word "barcode"?
19 A. In claim 1, on line 64, it states
20 [as read]:
21 "and a barcode provided on the
22 bottom side of the flange."
23 Q. What do you understand the term
24 "barcode" to mean there?
25 ATTORNEY MCCRAW: Object to

1 form.
2 THE WITNESS: Well, in the
3 context of the '430 patent and of this
4 case, I applied the plain and ordinary
5 meaning of the term "barcode" as further
6 informed by the claim construction that
7 occurred in a related civil court matter.
8 BY ATTORNEY BROOKS:
9 Q. What do you understand to be the
10 plain and ordinary meaning of the word
11 "barcode"?
12 ATTORNEY MCCRAW: Object to
13 form.
14 THE WITNESS: Well, I'm looking
15 at the term "barcode" in the context of
16 this document. And one of ordinary skill
17 would understand what that would mean.
18 That is -- that's what I'm applying.
19 That understanding is further
20 informed by the claim construction order
21 that was part of the civil case, and
22 Judge Wu further clarified some aspects of
23 "barcode."
24 But my general understanding of
25 "barcode" is that its plain and ordinary

1 meaning is applied by a person of ordinary
2 skill.
3 BY ATTORNEY BROOKS:
4 Q. What do you understand the plain and
5 ordinary meaning to mean?
6 ATTORNEY MCCRAW: Object to
7 form. Objection. Asked and answered.
8 THE WITNESS: Well, I'm not
9 construing a term that's already been
10 discussed and construed here. The Court
11 has -- in another matter, has construed
12 the term "barcode."
13 In applying the plain and
14 ordinary meaning, one of ordinary skill,
15 for example, would understand the barcode
16 to include a collection of bars of light
17 and dark colors and of varying widths.
18 And these bars are arranged in patterns,
19 which convey the alphanumeric information,
20 for example, complex information as
21 opposed to just binary zeros and ones.
22 That's my understanding of
23 "barcode" and what one of ordinary skill
24 in the art at this time -- or at that time
25 would have understood in the context of

1 the '430.
2 BY ATTORNEY BROOKS:
3 Q. Would a code without variable-width
4 bars be a barcode?
5 ATTORNEY MCCRAW: Object to
6 form. Objection. Relevance.
7 THE WITNESS: Well, I've
8 provided you with what I understand a
9 barcode to include, and I provided a
10 similar description in a previous
11 deposition for the '491 matter.
12 I wouldn't say that your
13 characterization is in alignment with my
14 understanding.
15 BY ATTORNEY BROOKS:
16 Q. If you turn to column 13 of the
17 '430 patent, claim 1 continues at line 11
18 [as read]:
19 "a barrier layer to prevent
20 moisture or aroma from escaping out
21 of the single-serve capsule."
22 Do you see that?
23 A. I see the last -- well, I see one of
24 the clauses -- one of the limitations of the
25 first claim to state [as read]:

1 "a barrier layer to prevent
2 moisture or aroma from escaping out
3 of the single-serve capsule."
4 Q. Do you agree that aluminum is a type
5 of barrier layer?
6 ATTORNEY MCCRAW: Object to
7 form.
8 THE WITNESS: I testified
9 earlier today that aluminum, as a
10 material, has barrier layer properties, as
11 supported by citations from Yoakim, for
12 example.
13 BY ATTORNEY BROOKS:
14 Q. In your opinion, would aluminum
15 prevent moisture from escaping out of the
16 capsule?
17 ATTORNEY MCCRAW: Object to
18 form. Objection. Asked and answered.
19 THE WITNESS: I don't agree with
20 the characterization of "prevent." I
21 think that's a very -- it could be a very
22 difficult bar to reach.
23 Gas barrier properties can also
24 imply moisture barrier properties.
25 They're not always related. Sometimes

1 they are independent, depending on the
2 status of the material.
3 My understanding of
4 aluminum-based and supported by the
5 disclosure in Yoakim is that it discloses
6 aluminum as having a gas barrier property
7 which would help to preserve the material
8 that's inside the capsule.
9 BY ATTORNEY BROOKS:
10 Q. But it wouldn't necessarily prevent
11 the gas from escaping the capsule?
12 ATTORNEY MCCRAW: Object to
13 form. Objection. Misstates testimony.
14 THE WITNESS: I suppose it
15 depends on the gas. It depends on the
16 capsule, and it depends on the thickness
17 of the materials that are used and the
18 methods used to measure that.
19 BY ATTORNEY BROOKS:
20 Q. How would you measure the capsule in
21 Yoakim to determine whether or not it prevents
22 moisture or aroma from escaping out of the
23 capsule?
24 ATTORNEY MCCRAW: Object to
25 form.

1 THE WITNESS: Well, I'm not
2 saying that "gas barrier" is a claim term
3 in either of these cases. And if I'm
4 wrong, please correct me.
5 But the disclosure in Yoakim
6 mentions the gas barrier properties of
7 aluminum in a couple of different places
8 that I have cited in my declarations.
9 So that disclosure of barrier
10 layer aligns with my understanding of what
11 is being claimed in the '430 patent, for
12 example.
13 BY ATTORNEY BROOKS:
14 Q. What is it about Yoakim's mention of
15 gas barrier properties of aluminum indicates
16 that the aluminum in Yoakim would prevent
17 moisture or aroma from escaping out a
18 single-serve capsule?
19 ATTORNEY MCCRAW: Object to
20 form.
21 THE WITNESS: I mean, I cite
22 different parts of Yoakim, and I
23 explain -- at paragraph 239 of my '430
24 declaration, I cite to Yoakim,
25 paragraph 96, which states that [as read]:

1 "The capsule is made of
2 materials having gas barrier
3 properties and is sealed in a
4 fluid-tight manner so that ingress
5 of air is prevented."
6 So here is direct support for
7 the notion that the barrier layer prevents
8 air from entering or leaving the capsule.
9 BY ATTORNEY BROOKS:
10 Q. The material that's described in
11 Yoakim there and referred to in paragraph 96 is
12 aluminum and/or plastic, correct?
13 ATTORNEY MCCRAW: Object to
14 form.
15 THE WITNESS: It states -- I
16 state, rather, and cite in my
17 paragraph 238, paragraph 129 of Yoakim, in
18 part, that [as read]:
19 "The cup-shaped body may also
20 contain gas barrier materials, such
21 as metal, for example, thin
22 aluminium and/or plastic."
23 I take that to mean that the
24 capsule body in this case can be
25 manufactured from aluminum or plastic or

1 potentially both in this case.
2 BY ATTORNEY BROOKS:
3 Q. Those materials would satisfy the
4 barrier layer limitation claim 1 of the
5 '430 patent, correct?
6 ATTORNEY MCCRAW: Object to
7 form. Objection. Misstates testimony.
8 THE WITNESS: What I state in
9 paragraph 238 is that [as read]:
10 "Yoakim discloses a barrier
11 layer to prevent moisture or aroma
12 from escaping out of the
13 single-serve capsule based on
14 K-fee's apparent interpretation."
15 So specific examples of Yoakim
16 are cited to support that opinion that
17 this barrier layer element is met by
18 Yoakim.
19 BY ATTORNEY BROOKS:
20 Q. If you look again at the '430 patent,
21 at line 14, it refers to [as read]:
22 "a mandrel that's configured to
23 pierce the cover."
24 Do you see that?
25 A. It says [as read]:

1 "Wherein the beverage machine
2 also comprises a mandrel that is
3 configured to pierce the cover in a
4 region that is offset from the
5 central axis of the base element."
6 I see that.
7 Q. Would you agree that a spike would
8 satisfy a mandrel?
9 ATTORNEY MCCRAW: Objection to
10 form. Objection. Relevance.
11 THE WITNESS: Well, I'm looking
12 at this claim limitation in whole.
13 The word "mandrel" is used, but
14 it's used in the context of "pierced
15 to" -- "configured to pierce the cover."
16 I do have an example of a spike
17 that you would -- can show me in the
18 context of the '430.
19 BY ATTORNEY BROOKS:
20 Q. Figure 16A?
21 A. So Figure 16A, I think there's -- if
22 I remember what 29 was. I think it's called
23 "piercing element." Let me check.
24 It states that it's a
25 mandrel 29. It doesn't call it a spike.

1 Q. Do you understand from Figure 16A
2 that that is the spike?
3 ATTORNEY MCCRAW: Object to
4 form.
5 THE WITNESS: I don't know how
6 you define or characterize "spike." It's
7 not a term that I recall in the context of
8 the '430 disclosure.
9 You're using the term "mandrel"
10 here, which is a sharp object which is
11 designed to pierce the membrane.
12 BY ATTORNEY BROOKS:
13 Q. Okay. You can set that aside.
14 Are you aware that K-fee has
15 relied on the opinions of Dr. Laurens Howle in
16 the '430 proceeding?
17 A. I understand that Dr. Howle has
18 submitted declarations in the '430 proceedings.
19 Q. Do you know Dr. Howle?
20 A. I have not met him.
21 Q. Do you have any reason to believe
22 that he's unqualified to provide opinions with
23 respect to these patents?
24 ATTORNEY MCCRAW: Object to
25 form.

1 THE WITNESS: I have not formed
2 any opinions in my declarations about
3 Dr. Howle.
4 BY ATTORNEY BROOKS:
5 Q. Have you reviewed Mr. Kruger's
6 declaration?
7 A. I recall something about a
8 declaration from Mr. Kruger. I don't remember
9 if it was in the time frame of these
10 declarations or after, but I think it was
11 after. So I don't know if I've cited it here.
12 Q. I think it was after.
13 A. That's what I recall.
14 Q. Did you review his declaration?
15 A. It's been some time --
16 ATTORNEY MCCRAW: Hold on.
17 Object to form.
18 THE WITNESS: It's been some
19 time since I would have looked at it, but
20 I don't recall at the moment. I'd have to
21 refresh my memory.
22 BY ATTORNEY BROOKS:
23 Q. If I could direct you to the
24 '923 patent declaration, paragraph 151.
25 Specifically, you have a

1 footnote there, footnote number 1.
2 Do you see that?
3 A. Footnote number 1. I see that
4 footnote, yes.
5 Q. And you say there [as read]:
6 "I have not formed opinions
7 regarding whether PCT/EP2011/003677,
8 later-filed U.S. patent
9 applications, or the '923 patent
10 itself provide adequate written
11 description support for the claims
12 and reserve the right to address
13 these issues in any relevant
14 proceeding."
15 A. I see that.
16 Q. Sitting here today, have you formed
17 any opinions regarding whether the PCT
18 application provides adequate written
19 description support for the claims of the
20 '923 patent?
21 ATTORNEY MCCRAW: Object to
22 form.
23 THE WITNESS: I have not formed
24 any new opinions regarding the written
25 description support for the claims since

1 the time that I wrote this declaration.
2 BY ATTORNEY BROOKS:
3 Q. Have you read the PCT application?
4 ATTORNEY MCCRAW: Objection.
5 Relevance.
6 THE WITNESS: It's a lot of
7 numbers. I'd have to look at my list to
8 be sure, but I'm going to have to take a
9 quick look.
10 BY ATTORNEY BROOKS:
11 Q. Sure.
12 A. I'm not seeing it in my first scan of
13 my list of documents that I relied upon in this
14 declaration. So unless you can point me to it,
15 I don't recall reading this particular
16 document.
17 I haven't formed any opinions on
18 it in any regard.
19 ATTORNEY BROOKS: Let's take a
20 short break.
21 ATTORNEY MCCRAW: Sure.
22 - - -
23 (Whereupon, a short recess was
24 taken.)
25 - - -

1 ATTORNEY BROOKS: I pass the
2 witness.
3 ATTORNEY MCCRAW: Okay. Can we
4 take a quick break?
5 ATTORNEY BROOKS: Sure.
6 ATTORNEY MCCRAW: Thanks.
7 - - -
8 (Whereupon, a short recess was
9 taken.)
10 - - -
11 ATTORNEY MCCRAW: We have no
12 questions at this time.
13 ATTORNEY BROOKS: Thank you.
14 THE STENOGRAPHER: Can you
15 confirm for the record you would like a
16 rough draft and a two-day final?
17 ATTORNEY MCCRAW: Yes.
18 - - -
19 (Whereupon, the deposition
20 was concluded at 2:30 p.m.)
21 - - -
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1 ATTORNEY'S NOTES

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1 CERTIFICATE

2 I HEREBY CERTIFY that the
3 proceedings, evidence and objections are
4 contained fully and accurately in the
5 stenographic notes taken by me upon the
6 deposition of MICHAEL JOBIN, taken on
7 November 28, 2023 and that this is
8 a true and correct transcript of same.
9
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13 Jennifer Miller, RMR, CCR, CRR
14 and Notary Public
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IPR2023-00485, U.S. PATENT 11,230,430

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4 CASE: NESPRESSO USA, INC. vs. K-FEE SYSTEM GMBH
DATE: NOVEMBER 30, 2023
5 WITNESS: MICHAEL JOBIN REF: 8205

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21 _____
MICHAEL JOBIN

22 Subscribed and sworn to before me

23 this ____ day of _____, 20__.

24 _____

25 Notary Public

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