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UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE PATENT TRIAL AND APPEAL BOARD

GLOBAL SHADE CORPORATION,)
Petitioner,) IPR2023-00580
v.) Patent 10,699,738
WITH-U E-COMMERCE (SHANGHAI) CO., LTD.,)
Patent Owner.)

VIDEO-RECORDED DEPOSITION OF
WENDY REFFEOR, PHD
Zoom Recorded Videoconference
05/28/2024
10:08 a.m. (EDT)

REPORTED BY: AMANDA GORRONO, CLR
CLR NO. 052005-01

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05/28/2024

10:08 a.m. (EDT)

VIDEO-RECORDED DEPOSITION OF WENDY REFFEOR,
PhD, held virtually via Zoom Videoconferencing,
before Amanda Gorrone, Certified Live Note
Reporter, and Notary Public of the State of New
York.

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

2 (Via Zoom Videoconferencing):

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18 ALSO PRESENT:

19 Henry Marte, Trial Tech - Digital Evidence Group

20

21

22

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1 I N D E X

2 WITNESS EXAMINATION BY PAGE

3 WENDY REFFEOR, PhD MR. REEVES 5

4 MR. JOHNSON 39

5

6 E X H I B I T S

7 EXHIBIT DESCRIPTION PAGE

8 Exhibit 29 Petitioner's Notice of 6

9 Cross-Examination Deposition of

10 Patent Owner Declarant Wendy

11 Reffeor, Ph.D.....

12 Exhibit 2021 Second Declaration of Wendy Reffeor, 10

13 Ph.D.....

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1 WENDY REFFEOR, PhD, called as a witness, having
2 been first duly sworn by a Notary Public of the
3 State of New York, was examined and testified as
4 follows:

5 THE WITNESS: I do.

6 THE COURT REPORTER: Thank you. You
7 may proceed.

8 EXAMINATION

9 BY MR. REEVES:

10 Q. Good morning, Dr. Reffeor. It's
11 nice to see you again.

12 A. Good morning.

13 Q. I know we've met before, but could
14 you please go ahead and state your full name for
15 the record?

16 A. My name is Wendy Reffeor.

17 Q. And could you also state your
18 address for the record?

19 A. 5262 Lamont Farms Drive,
20 Coopersville, Michigan 49404.

21 Q. All right. You've been deposed in
22 this IPR once before, right?

1 A. Yes.

2 Q. Okay. Have you been deposed any
3 other times?

4 A. No.

5 Q. I'm going to go over the rules
6 again. I know we went over them a few months
7 ago.

8 But just to refresh your memory, so
9 you understand that you're testifying under oath
10 today as if you were in court, right?

11 A. I do.

12 Q. Is there any reason why you would
13 not be able to give truthful and accurate
14 testimony today?

15 A. No.

16 Q. And you're represented -- and you're
17 here with counsel today, correct?

18 A. I am.

19 MR. REEVES: Can we bring up Paper
20 29. I think that's the Deposition Notice.

21 (Whereupon, Exhibit 29, Petitioner's
22 Notice of Cross-Examination Deposition of

1 Patent Owner Declarant Wendy Reffeor, Ph.D.,
2 was identified.)

3 BY MR. REEVES:

4 Q. Have you seen this document before,
5 Dr. Reffeor?

6 A. No.

7 Q. Okay. Just a few more ground rules.
8 If we need to take a break at any time, feel free
9 to let me know. My only request is that we not
10 take a break while we have a question pending.

11 Is that fair?

12 A. Yes.

13 Q. As I'm sure you know, the court
14 reporter is here to record my questions and your
15 answers. I'm going to do my best to avoid
16 talking over you, and I hope you can do the same.
17 I think that's especially important in this
18 remote deposition format.

19 Is that fair?

20 A. Yes.

21 Q. If you don't understand a question,
22 please let me know. And if you don't say

1 anything, I'm just going to assume that you
2 understood my question.

3 Is that fair?

4 A. Yes, it is.

5 Q. Mr. Johnson may object to my
6 questions from time to time for the record. But
7 you should go ahead and answer my questions
8 anyway unless he instructs you not to.

9 Fair?

10 A. Yes.

11 Q. Last one, I'm going to refer to the
12 "738 patent" today; and when I do, I hope you'll
13 understand that that's US Patent No. 10,669,738
14 which is the subject of this IPR.

15 Fair?

16 A. Yes.

17 Q. Great.

18 What did you do to prepare for
19 today's deposition?

20 A. I reviewed all of the documents
21 listed in my opinion and spent sometime with
22 counsel discussing the different legal terms and

1 strategies.

2 Q. How -- how long approximately would
3 you estimate that you talked with counsel in
4 preparation for today's deposition?

5 A. A couple hours.

6 Q. Did you talk to anyone other than
7 counsel about today's deposition?

8 A. No.

9 Q. You've prepared two declarations in
10 connection with this IPR, right?

11 A. Yes.

12 Q. Okay. And I want to speak today
13 about the second declaration you prepared, fair?

14 A. Yes.

15 Q. Do you recall roughly how much time
16 you spent preparing that second declaration?

17 A. I don't know off the top of my head.

18 Q. Can you give me a ballpark? Is it
19 10 hours? 20 hours?

20 A. Probably somewhere around 10.

21 Q. What did you review while you were
22 preparing the declaration?

1 A. The documents I listed in the
2 declaration.

3 MR. REEVES: Okay. Let's go ahead
4 and bring up that declaration, which is
5 Exhibit 2021.

6 (Whereupon, Exhibit 2021, Second
7 Declaration of Wendy Reffeor, Ph.D., was
8 identified.)

9 MR. REEVES: And then we can go to
10 Page 3 and look at Paragraph 7.

11 THE TECH: What page was that?

12 MR. REEVES: Page 3, Paragraph 7.

13 THE TECH: Okay. Yeah, I got it.

14 MR. REEVES: And I think it extends
15 onto the next page as well.

16 BY MR. REEVES:

17 Q. So, Dr. Reffeor, this is the list of
18 references you were referring to that you
19 considered while you were preparing this
20 declaration, correct?

21 A. It is, in addition to my first
22 declaration.

1 Q. I want to clarify that last answer.
2 You're saying you also considered your first
3 declaration while preparing this declaration; is
4 that right?

5 A. Yes.

6 Q. Did you review or consider any other
7 references while preparing this second
8 declaration?

9 A. No, I did not.

10 Q. Let me ask that slightly broader.
11 Did you review or consider any other documents
12 while preparing this declaration?

13 A. Sorry. I don't understand the
14 difference between the two questions.

15 Q. I just wanted to clarify in case you
16 thought by "references" I meant patents or prior
17 art?

18 A. No, I didn't. What you're looking
19 at is what I considered in addition to my first
20 declaration.

21 Q. Did you review any of Dr. Stein's
22 declarations?

1 A. I did not.

2 Q. Did you review patent owner's motion
3 to amend?

4 A. I'm sorry. I didn't hear that
5 question.

6 Q. Let me repeat it. Did you review
7 patent owner's motion to amend?

8 A. No, I did not. Or wait. Are you
9 referring to the amended claims?

10 Q. I'm referring to the brief that the
11 patent owner submitted that contains the amended
12 claims and also arguments and such.

13 A. No, I didn't. I just reviewed the
14 amended claims. They were provided to me.

15 Q. Did you review the petitioner's
16 opposition to the motion to amend?

17 A. No, I did not.

18 Q. Did you search for any prior art
19 yourself that you thought might be relevant to
20 the amended claims?

21 A. I did not.

22 Q. Before we get too far ahead of

1 ourselves, let's go to the last page of the
2 declaration.

3 That's your signature there on the
4 last page, correct?

5 A. Yes, it is.

6 Q. Great.

7 And you reviewed this declaration in
8 full before signing it, correct?

9 A. Yes, I did.

10 Q. And to the best of your knowledge,
11 everything in it is correct?

12 A. Yes.

13 Q. While we're here at the end, let's
14 actually turn page to Page 18 and we can look at
15 Paragraph 58, which I think extends onto Page 19.

16 In Paragraph 58 you're discussing
17 Claim 15, correct?

18 A. Yes.

19 Q. And if we look at Paragraph 59,
20 Paragraph 59 you're discussing Claims 16 and 17,
21 correct?

22 A. Yes.

1 Q. And these are the only 3 claims that
2 you address in the declaration, right?

3 A. To the best of my knowledge, yes.

4 Q. Let's go ahead and turn back to
5 Paragraph 12 on Page 5.

6 Can I have you go ahead and read
7 this paragraph into the record for me, please?

8 A. Yes.

9 "I understand that a reference is
10 analogous art to the claimed invention if: (1),
11 the reference is from the same field of endeavor
12 as the claimed invention (even if it addresses a
13 different problem); or, (2), the reference is
14 reasonably pertinent to the problem faced by the
15 inventor (even if it is not in the same field of
16 endeavor as the claimed invention)."

17 Q. This paragraph reflects what your
18 understanding of "analogous art" means; is that
19 right?

20 A. Yes, it does.

21 Q. You used the term "field of
22 endeavor."

1 Do you see that?

2 A. Yes.

3 Q. In your view, can an invention
4 relate to more than one field of endeavor?

5 A. Yes.

6 Q. You also use the term "problem faced
7 by the inventor."

8 Do you see that?

9 A. Yes.

10 Q. In your view, can an invention
11 address more than one problem faced by the
12 inventor?

13 A. Could you repeat that question?

14 Q. Sure.

15 In your view, can an invention
16 address more than one problem faced by the
17 inventor?

18 A. Yes.

19 Q. Based on your understanding, here in
20 Paragraph 12, you'd agree that Rousselle is
21 analogous art to the '738 patent, right?

22 A. I would.

1 Q. And, again, based on this
2 understanding in Paragraph 12, you would agree
3 that Tsai is analogous art to the '738 patent,
4 right?

5 A. I would.

6 Q. Again, based on your understanding
7 in Paragraph 12, do you agree that Seo is
8 analogous art to the '738 patent, right?

9 A. I do.

10 Q. And you don't address in your
11 declaration whether Ohnishi is analogous art to
12 the '738 patent, right?

13 A. I do not.

14 Q. Okay. Let's take a look at
15 Paragraph 19 on Page 9.

16 Is it fair to say that this
17 paragraph discusses your understanding of what
18 the petitioner has proposed as prior art for the
19 amended claims?

20 A. It is.

21 Q. What is that understanding based on?

22 A. The attorneys told me that that was

1 what was being discussed. That information was
2 supplied to me by the attorneys.

3 Q. So your understanding of what
4 petitioner has argued has come entirely from
5 counsel providing you that information; is that
6 correct?

7 A. Yes, it has.

8 Q. Excuse me. Let's move forward and
9 look at Paragraph 20.

10 So here you say you "understand the
11 Petition characterized the field of endeavor
12 as...'collapsible tents or canopies.'"

13 Right?

14 A. Yes.

15 Q. Do you agree that collapsible tents
16 or canopies is an applicable field of endeavor
17 for the '738 patent?

18 A. I do. I would say specifically
19 collapsible canopies.

20 Q. And the next sentence you say you
21 "understand the Petition also uses the term
22 'locking mechanisms for collapsible structures.'"

1 Right?

2 A. Yes.

3 Q. How do you understand the petition
4 to use that term?

5 A. This is based entirely on my own
6 understanding, as this is what was supplied to
7 me. But I applied that statement to the actual
8 locking mechanism for the canopy described in
9 Patent '738 as the reference.

10 Q. Is it your understanding that the
11 petition used that term "locking mechanisms for
12 collapsible structures," to characterize the
13 field of endeavor of the '738 patent?

14 A. Yes.

15 Q. Okay. Do you agree that locking
16 mechanisms for collapsible structures is an
17 applicable field of endeavor for the '738 patent?

18 A. I think it considerably broadens the
19 scope. I would argue perhaps beyond what is
20 reasonable for a POSITA to consider.

21 Q. So we'd agree that at least
22 collapsible canopies would be an applicable field

1 of endeavor for the '738 patent, right?

2 A. Yes.

3 Q. Could there be other applicable
4 fields of endeavor for the '738 patent?

5 MR. JOHNSON: Objection. Calls for
6 speculation.

7 A. Can you refer me to where I
8 commented on that in my declaration?

9 BY MR. REEVES:

10 Q. I'm just trying to understand your
11 view of what the applicable field of endeavor for
12 the '738 patent is, which I think is what you're
13 discussing in this entire section of your
14 declaration.

15 So I just want to understand if
16 collapsible canopies is the only field of
17 endeavor you think might be applicable to the
18 '738 patent or if there might be others.

19 MR. JOHNSON: Objection. Calls for
20 speculation.

21 A. In trying to stick with, A, what I
22 understand; and, B, what was suggested by the

1 petitioner, I would say that collapsible canopies
2 is the most relevant.

3 And in terms of what is reasonable
4 for a POSITA to pursue, I would argue that
5 without hindsight, you are going to be looking at
6 a lot of speculation.

7 In other words, it would be very
8 hard to find other fields of endeavor without
9 already knowing what the invention is.

10 BY MR. REEVES:

11 Q. Okay. Let's look at Paragraph 21.
12 And so here you say you "understand the Petition
13 characterized the problem faced by the inventor,
14 as 'constructing sturdy, resilient, easy-to-use
15 collapsible canopies.'"

16 Right?

17 A. Yes.

18 Q. Do you agree that constructing
19 sturdy, resilient, easy-to-use collapsible
20 canopies was a problem faced by the '738 patent's
21 inventors?

22 A. Absolutely.

1 Q. And next you say you "understand the
2 Petition also uses the term 'reliable locking
3 mechanisms for collapsible structures.'"

4 Right?

5 A. Yes.

6 Q. And your understanding is it uses
7 that terms as another problem fixed by the
8 inventors, right?

9 A. I would not say it's another
10 problem. I would say it is a subcategory of what
11 is faced. Because in order to have a sturdy,
12 resilient, easy-to-use collapsible canopy, you
13 must have some form of reliable locking
14 mechanism.

15 Q. So you'd agree that reliable locking
16 mechanisms for collapsible structures was a
17 problem faced by the '738 patent's inventors; is
18 that fair?

19 A. Yes, that is fair.

20 Q. Did the '738 patent's inventors face
21 problems other than these two?

22 MR. JOHNSON: Objection. Calls for

1 speculation.

2 A. I do believe that the '738 patent
3 addresses other things than this, as well.

4 BY MR. REEVES:

5 Q. What are those other things that you
6 believe it addresses?

7 A. I believe it addresses available
8 head space. I believe it addresses egress.

9 Q. Any others?

10 A. No, because I believe the others
11 fall under what we've got here.

12 Q. Let's take a look at Paragraph 23.
13 And here in Paragraph 23 you discuss a quote from
14 the '738 patent; is that correct?

15 A. Yes.

16 Q. And this quote talks about needing a
17 better locking mechanism.

18 Do you see that?

19 A. I do.

20 MR. JOHNSON: Objection.

21 Mischaracterizes testimony.

22 BY MR. REEVES:

1 Q. If a person of ordinary skill in the
2 art is looking for a better locking mechanism,
3 they are going to look at prior art that includes
4 locking mechanisms, right?

5 MR. JOHNSON: Objection.

6 Mischaracterizes exhibit.

7 A. They would look for better locking
8 mechanisms in the related art. I do not believe
9 they would go far afield.

10 BY MR. REEVES:

11 Q. So is your view that the person of
12 ordinary skill in the art would only look for
13 better locking mechanisms in other canopies?

14 A. Canopies or similar structures, yes.

15 Q. Do you know what a jewelry clasp is,
16 Dr. Reffeor?

17 A. Yes, I do.

18 Q. Can you tell me what it is?

19 A. It is the piece of a piece of
20 jewelry that allows the jewelry to be closed
21 about an arm or a neck.

22 Q. A jewelry clasp is a form of locking

1 mechanism, right?

2 MR. JOHNSON: Objection.

3 Foundation.

4 A. It is a form of locking mechanism,
5 but it is not one that I would say applies to
6 this field except in hindsight. And even then
7 I'm not sure because it's neither supporting a
8 structure nor is it related to a canopy or a
9 frame.

10 BY MR. REEVES:

11 Q. Okay. Let's turn ahead to
12 Paragraph 32 on Page 11.

13 And so here in Paragraph 32, you say
14 that a person of ordinary skill in the art "would
15 not have any reason to divide the structure of
16 Rousselle...into different bottom cap cover and
17 bottom cap seat portions."

18 Right?

19 A. Yes.

20 Q. What is your basis for that
21 statement?

22 A. A number of things, primarily

1 manufacturing cost. I don't know why you would
2 add extra pieces to something that doesn't
3 require them. So unless it's required, why would
4 you?

5 Q. Do you know whether -- whether
6 Dr. Stein testified that a person of ordinary
7 skill would have had any reason to do that?

8 A. I have no idea what Dr. Stein said.

9 Q. So it's fair to say you hadn't
10 considered any reasons that he might have
11 testified to; is that fair?

12 MR. JOHNSON: Objection. Calls for
13 speculation.

14 A. I wouldn't have any reason to have
15 referenced his opinion.

16 BY MR. REEVES:

17 Q. Okay. Next in this paragraph you
18 say a person of ordinary skill in the art "would
19 not have any reason to expect this structure
20 would be beneficial for a canopy."

21 Do you see that?

22 A. Yes.

1 Q. Is your basis for that statement
2 just the first part of this sentence where you
3 say that "Hoover is directed to a jewelry clasp
4 and not a collapsible canopy structure"?

5 A. Yes.

6 Q. Okay. Let's look at Paragraph 33
7 which I think extends, yeah, onto Page 12.

8 Here you mentioned that Hoover uses
9 an external spring whereas Rousselle and Ohnishi
10 use an internal spring; is that right?

11 A. Yes.

12 Q. Do you know whether the petitioner
13 proposed using Hoover's spring or not?

14 MR. JOHNSON: Objection. Calls for
15 speculation.

16 A. I don't. I don't know that.

17 BY MR. REEVES:

18 Q. And then the next sentence you say,
19 "Petitioner's proposed modifications would
20 require a reworking of the Rousselle/Tsai/Ohnishi
21 device to include the external spring
22 feature...or a reworking of Hoover to incorporate

1 the Rousselle/Tsai/Ohnishi device."

2 Right?

3 A. Yes.

4 Q. What is your basis for that
5 statement?

6 A. Having read those documents and my
7 understanding that the proposed changes involved
8 incorporating the five documents that we
9 discussed, so Rousselle, Tsai, Ohnishi, Hooper,
10 and Seo.

11 Q. When you analyzed these
12 combinations, did you assume that the physical
13 pieces of Hooper's device needed to somehow be
14 included in the result?

15 MR. JOHNSON: Could you repeat the
16 question, please?

17 MR. REEVES: Sure.

18 BY MR. REEVES:

19 Q. When you analyzed these
20 combinations, did you assume that the physical
21 pieces of the Hooper device needed to somehow be
22 included in the result?

1 A. I did not. However, I did a -- I
2 did consider the design intent of each of the
3 pieces.

4 Q. And so your view is that there would
5 be no way to include features of Hooper in the
6 Rousselle/Ohnishi device without including the
7 external spring; is that correct?

8 MR. JOHNSON: Objection.
9 Mischaracterizes testimony.

10 A. I did not say that. I said that it
11 would require considerable modification or as
12 said in this paragraph, reworking in order to
13 make that happen. There is no direct path.

14 BY MR. REEVES:

15 Q. Let's turn to the next section and
16 look generally at Paragraphs 35 through 39.

17 Is it fair to say that in these
18 paragraphs you're discussing your view that Tsai
19 disparages canopies with a center strut?

20 A. That is part of what I'm discussing,
21 yes.

22 Q. What else would you say you're

1 discussing in these paragraphs?

2 A. Let's see, I can't see Paragraph 39.

3 Q. And just for the record, you can now
4 see Paragraph 39, correct?

5 A. I can.

6 MR. JOHNSON: Could you repeat that
7 question? I apologize.

8 BY MR. REEVES:

9 Q. My question was just what else would
10 you say you are discussing in these paragraphs?

11 A. Okay. Can we go back so I can see
12 37 and 38?

13 That is what I was discussing. All
14 of those paragraphs referred to the center strut.

15 Q. And you say that Seo has a center
16 strut, right?

17 A. Yes.

18 Q. And then in Paragraph 39 -- we can
19 go back there -- you say that Tsai would teach a
20 person of ordinary skill in the art not to use
21 the structure of Seo, right?

22 A. Yes.

1 Q. Is it your view that a person of
2 ordinary skill in the art would be taught not to
3 use any of the structure of Seo?

4 MR. JOHNSON: Objection. Calls for
5 speculation.

6 A. No, it is not my belief that that is
7 what is there. Just the center strut.

8 As a matter of fact, I think I
9 address other portions of that structure later in
10 the document.

11 BY MR. REEVES:

12 Q. Do you know whether the petitioner
13 has proposed using Seo's center strut?

14 MR. JOHNSON: Objection. Calls for
15 speculation.

16 A. I do not.

17 BY MR. REEVES:

18 Q. Let's look at Paragraphs 40 and 41.
19 Is it fair to say that here you're
20 discussing how Seo's canopy is unfolded?

21 A. It is.

22 Q. And you say that Seo doesn't use

1 center activation, right?

2 MR. JOHNSON: Objection.

3 Mischaracterizes testimony.

4 A. I say that "Seo teaches away from
5 center activation" because the two -- the two
6 actions of deploying the center post and
7 deploying the legs are separate.

8 BY MR. REEVES:

9 Q. Does Seo include any disclosure that
10 says center activation is bad for any reason?

11 A. I would have -- I would have to read
12 Seo to be sure of that.

13 Q. But sitting here right now, you
14 can't think of any; is that fair?

15 A. I think it's unfair, because I
16 haven't memorized Seo. If you'd like me to read
17 through it, I will gladly do so.

18 Q. Let me just ask you this: You
19 didn't discuss any disclosure in Seo that says
20 that center activation is bad in your
21 declaration; is that fair?

22 A. I did not. Except he kind of says

1 it's not possible here. So I guess indirectly.

2 MR. JOHNSON: I'm going to object to
3 that question. That mischaracterizes
4 testimony.

5 BY MR. REEVES:

6 Q. And you don't know whether --
7 whether Dr. Stein identified any motivation to
8 combine Seo with Rousselle or Tsai, right?

9 MR. JOHNSON: Objection. Calls for
10 speculation.

11 A. I don't because I don't know what
12 Dr. Stein said.

13 BY MR. REEVES:

14 Q. Let's go ahead and take a look at
15 Paragraph 44. Here in Paragraph 44 you say, "Seo
16 expressly teaches a single component design."

17 Do you see that?

18 A. Yes.

19 Q. Do you recall any disclosure in Seo
20 that says not to use a two-piece design?

21 MR. JOHNSON: Objection. Calls for
22 speculation.

1 A. I did not comment on that in my
2 declaration. I would have to read Seo again to
3 be able to confidently answer that question.

4 BY MR. REEVES:

5 Q. Okay. Let's look at Paragraph 46.

6 So on Paragraph 46 is it fair to say
7 you discussed two options for how a person of
8 ordinary skill in the art could incorporate Seo
9 with Rousselle?

10 MR. JOHNSON: Objection.

11 Mischaracterizes testimony.

12 A. Could you repeat the question again?

13 BY MR. REEVES:

14 Q. Sure.

15 My question was: In Paragraph 46 is
16 it fair to say that you discussed two options for
17 how a person of ordinary skill in the art could
18 incorporate Seo with Rousselle?

19 A. It is fair to say that.

20 Q. And is it fair to say that you
21 believe those are the only two options a person
22 of ordinary skill in the art would consider for

1 incorporating Seo with Rousselle?

2 MR. JOHNSON: Objection. Calls for
3 speculation.

4 A. Those are the only two that I
5 believe a POSITA would view, yes.

6 BY MR. REEVES:

7 Q. And what is your basis for that
8 view?

9 A. My basis for that view is the
10 invention required to perform or to integrate
11 those in any other way. In other words, you
12 would actually have to do a redesign requiring
13 engineering to -- at which point Seo and
14 Rousselle would no longer be relevant. You would
15 actually be creating something new.

16 Q. Let's just look back at Paragraph 43
17 for just a moment and we'll come back to
18 Paragraph 46.

19 But in Paragraph 43 you're
20 discussing what would happen if a person of
21 ordinary skill in the art attempted to modify
22 Rousselle and Tsai with Ohnishi, Hooper, and Seo,

1 right?

2 A. Yes.

3 Q. And that's the analysis that you're
4 also discussing in Paragraph 46, right?

5 MR. JOHNSON: Objection.

6 Mischaracterizes testimony.

7 A. I believe the paragraphs are
8 independent; although related.

9 BY MR. REEVES:

10 Q. So let me ask this: In Paragraph 46
11 and the analysis you were doing in Paragraph 46,
12 were you considering Hooper at all as part of
13 that analysis?

14 A. Yes. Paragraph 46 is independent of
15 Hooper.

16 Q. Let's take a look at Paragraph 47.

17 A. Okay.

18 Q. Could you go ahead and read this
19 paragraph for the record, please?

20 A. "Further, since Rousselle and Seo
21 both use a lower portion of a central lock and
22 have locking pieces there is no reason why a

1 POSITA would be motivated to modify these using
2 the jewelry clasp of Hooper (even if Hooper is
3 assumed to be analogous)."

4 Q. Hooper has a lock with a lower
5 portion, right?

6 MR. JOHNSON: Objection.
7 Foundation.

8 A. It certainly has two pieces.

9 BY MR. REEVES:

10 Q. Hooper has a lock with two pieces;
11 is that fair?

12 A. Well, multiple pieces, but it is not
13 a single bottom cap.

14 Q. Hooper has a locking piece, right?

15 A. Yes, it does.

16 Q. So Hooper is similar to both
17 Rousselle and Seo in these two ways you've
18 described, right?

19 A. No.

20 MR. JOHNSON: Objection.

21 Foundation, mischaracterizes testimony.

22 A. I do not see Hooper as being

1 relevant in any way except hindsight.

2 BY MR. REEVES:

3 Q. So if we agree that Hooper has a
4 lock with multiple pieces and has a locking
5 piece, then what is the basis for your statement
6 here in Paragraph 47 that there is no reason why
7 a person of ordinary skill in the art would be
8 motivated to modify Rousselle and Seo using the
9 jewelry clasp of Hooper?

10 A. Because both Rousselle and Seo work
11 perfectly well on their own, so why would you
12 complicate things.

13 BY MR. REEVES:

14 Q. Okay. Let's move ahead and look at
15 Paragraph 54. 54.

16 Can you just read Paragraph 54 to
17 yourself and let me know when you're done.

18 A. Okay. "Because a POSITA would not
19 start with Rousselle's umbrella tent, add
20 features from Ohnishi, add features from Hooper,
21 and add features from Seo to create the structure
22 of Substitute Claim 15, he or she would also not

1 combine the references to create the more
2 detailed structure of Substitute Claim 16."

3 Q. Is it fair to say that in Paragraph
4 54 you're relying on the analysis you did for
5 Claim 15 and saying that same analysis applies to
6 Claim 16?

7 MR. JOHNSON: Objection.
8 Mischaracterizes testimony.

9 A. No. I am saying that since
10 Substitute Claim 16 is more detailed through
11 Claim 15, there's no reason to believe that you
12 would somehow choose to combine those for
13 Substitute Claim 16.

14 Q. But you don't actually address in
15 your declaration any of the more detailed
16 elements of Claim 16; is that fair?

17 A. I do not directly address them, no.

18 Q. Okay. And if we look at Paragraph
19 57, is it fair to say that you don't actually
20 address in your declaration any of the more
21 detailed elements of Claim 17 as well?

22 MR. JOHNSON: Objection.

1 Mischaracterizes testimony.

2 A. Aside from this paragraph, I do not.

3 MR. REEVES: I'd like to take a
4 short break if we could.

5 THE COURT REPORTER: Off the record.

6 (Recess taken.)

7 THE COURT REPORTER: Back on the
8 record.

9 BY MR. REEVES:

10 Q. Dr. Reffeor, during the break, did
11 you discuss the substance of your testimony with
12 counsel at all?

13 A. I did not.

14 Q. Okay. I have no further questions
15 this morning.

16 A. Okay.

17 MR. JOHNSON: I just have a real
18 short redirect we can do right now if you're
19 good with it.

20 MR. REEVES: Sure.

21 MR. JOHNSON: Okay.

22 EXAMINATION

1 BY MR. JOHNSON:

2 Q. Dr. Reffeor, if you could turn to
3 Paragraph 33. If you could read Paragraph 33.

4 A. "Finally, both Rousselle and Ohnishi
5 use an internal spring while Hooper using an
6 external flat spring 28 to engage the locking
7 piece. Petitioner's proposed modifications would
8 require a reworking of the Rousselle/Tsai/Ohnishi
9 device to include the external spring feature
10 and/or a reworking of Hooper to incorporate the
11 Rousselle/Tsai/Ohnishi device."

12 Q. Thank you.

13 And could you read Paragraph 49?

14 MR. REEVES: Objection. Scope.

15 A. "Hooper is a jewelry clasp, does not
16 perform any folding/unfolding and would not be
17 capable of driving any retractable units during
18 an unfolding process."

19 Q. Okay. And, finally, if you could
20 look at Paragraph 32, the second clause. If you
21 could just read that.

22 A. "Given that Hooper is directed to a

1 jewelry clasp and not a collapsible canopy
2 structure, a POSITA would not have any reason to
3 expect this structure would be beneficial for a
4 canopy."

5 Q. So my only question to you is that
6 statement, a POSITA would not have any reason to
7 expect this structure would be beneficial for a
8 canopy, given that Hooper is directed to a
9 jewelry clasp and not a collapsible structure, a
10 POSITA would not have any reason to expect this
11 structure would be beneficial for a canopy is the
12 fact that Hooper is directed to a jewelry clasp
13 the only reason that you state that a POSITA
14 would not have any reason to expect this
15 structure would be beneficial for a canopy?

16 A. It is not the only --

17 MR. REEVES: Objection -- objection
18 to form.

19 A. It is not the only reason.

20 The other reason is the complexity
21 of the structure. If I have something that
22 already works, why would I make it more complex.

1 MR. JOHNSON: Okay. I don't have
2 any other questions.

3 MR. REEVES: Could we take a
4 five-minute break, so I can consider?

5 THE WITNESS: Yes.

6 THE COURT REPORTER: Off the record.
7 (Recess taken.)

8 THE COURT REPORTER: Back on the
9 record.

10 MR. REEVES: I have no questions on
11 recross, so thank you for your time this
12 morning, Dr. Reffeor.

13 THE WITNESS: Thank you.

14 MR. JOHNSON: Thanks, Nathan.

15 THE COURT REPORTER: Off the record.

16 MR. JOHNSON: No order.

17 (Time noted: 11:14 a.m. EDT)
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4 Date of deposition: May 28, 2024

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