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Transcript of Alexander H. Slocum, Ph.D.

Date: April 16, 2024

Case: Nintendo Co. LTD., et al. -v- Gamevice, Inc. (PTAB)

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WORLDWIDE COURT REPORTING & LITIGATION TECHNOLOGY

Petitioners NINTENDO CO., LTD., et al.,
Ex. 1041, IPR2023-00643

Transcript of Alexander H. Slocum, Ph.D.
Conducted on April 16, 2024

1 (1 to 4)

1	3
1 IN THE UNITED STATES PATENT AND TRADEMARK OFFICE	1 A P P E A R A N C E S
2 BEFORE THE PATENT TRIAL AND APPEAL BOARD	2
3	3 ON BEHALF OF PETITIONERS:
4 NINTENDO CO., LTD. and	4 GRANT E. KINSEL, ESQUIRE
5 NINTENDO OF AMERICA INC.,	5 PERKINS COIE LLP
6 Petitioners,	6 1201 Third Avenue
7 v.	7 Suite 4900
8 GAMEVICE, INC.,	8 Seattle, Washington 98101-3099
9 Patent Owner.	9 Telephone: (206) 359-8000
10	10 E-mail: gkinsel@perkinscoie.com
11 PTAB Case No. IPR2023-00643	11
12 Patent No. 10,391,393	12
13	13 ON BEHALF OF PATENT OWNER:
14 DEPOSITION OF ALEXANDER H. SLOCUM, PH.D.	14 KARTHIK KUMAR, PH.D., ESQUIRE
15 Reston, Virginia	15 FINNEGAN HENDERSON FARABOW
16 Tuesday, April 16, 2024	16 GARRETT & DUNNER LLP
17 9:05 a.m.	17 901 New York Avenue, Northwest
18	18 Washington, D.C. 20001-4413
19	19 Telephone: (202) 408-4000
20 Job No.: 533953	20 E-mail: karthik.kumar@finnegan.com
21 Pages 1 - 283	21
22 Reported By: Joan V. Cain	22
2	4
1 Deposition of ALEXANDER H. SLOCUM, PH.D.,	1 C O N T E N T S
2 held at the law offices of:	2 EXAMINATION OF ALEXANDER H. SLOCUM, PH.D. PAGE
3	3 By Mr. Kinsel 6, 278
4 FINNEGAN HENDERSON FARABOW	4 By Dr. Kumar 271
5 GARRETT & DUNNER, LLP	5
6 1875 Explorer Street	6 E X H I B I T S
7 Suite 800	7 (Attached to the Transcript.)
8 Reston, Virginia 20190-6023	8 SLOCUM DEPOSITION EXHIBITS PAGE
9 (571) 203-2700	9 EXHIBIT 1 Declaration of Alexander H. 7
10	10 Slocum, Ph.D., 1/28/24
11 Pursuant to Notice, before Joan V. Cain,	11 EXHIBIT 2 Chart of Limitations of 9
12 Court Reporter and Notary Public in and for the	12 Claim 1 of U.S. Patent No.
13 Commonwealth of Virginia.	13 10,391,393 B2
14	14 EXHIBIT 3 U.S. Patent No. 10,391,393 77
15	15 B2, 8/27/19
16	16 EXHIBIT 4 USPTO Certificate of 85
17	17 Correction for Patent No.
18	18 10,391,393 B2, 8/27/19
19	19 EXHIBIT 5 U.S. Patent Application 113
20	20 Publication No. 2012/0271967
21	21 A1, 10/25/12
22	22

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5 1 EXHIBITS CONTINUED 2 (Attached to the Transcript.) 3 SLOCUM DEPOSITION EXHIBITS PAGE 4 EXHIBIT 8 Declaration of Gary Kitchen, 132 5 3/6/23 6 EXHIBIT 9 U.S. Patent 2001/0045938 A1, 194 7 11/29/01 8 EXHIBIT 10 Korean Laid-Open Patent 194 9 10-2011-0116892, 10/26/11 10 EXHIBIT 11 International Publication 231 11 No. WO 2014/079264 A1, 12 5/30/14 13 EXHIBIT 12 U.S. Patent No. 9,539,507 252 14 B2, 1/10/17 15 16 EXHIBITS 17 (Retained by Counsel.) 18 SLOCUM DEPOSITION EXHIBITS PAGE 19 EXHIBIT 6 Parts for a Nintendo Switch 123 20 Device 21 EXHIBIT 7 Nintendo Switch Device 124 22	7 1 before we begin? 2 A No. 3 Q Okay. Very good. 4 Dr. Slocum, you provided an expert 5 declaration in connection with some Patent Office 6 procedures, correct? 7 A Correct. 8 Q Okay. And why don't we mark your 9 declaration to begin with as Exhibit 1. So we'll 10 mark your deposition -- or your declaration, I 11 should say, as Exhibit 1. Okay? 12 There you are. 13 - - - 14 (Slocum Exhibit 1 was marked for 15 identification.) 16 - - - 17 DR. KUMAR: Thank you. 18 BY MR. KINSEL: 19 Q Does that -- what we've marked as Exhibit 1 20 appear to be your declaration that you filed in this 21 matter? 22 A It does. This is a black-and-white
6 1 PROCEEDINGS 2 - - - 3 9:05 a.m. EDT 4 April 16, 2024 5 - - - 6 Whereupon, 7 ALEXANDER H. SLOCUM, PH.D., 8 having been duly sworn under penalties of perjury by 9 the Notary Public, was examined and did testify as 10 follows: 11 EXAMINATION BY COUNSEL FOR PETITIONERS 12 BY MR. KINSEL: 13 Q Good morning, Dr. Slocum. My name is Grant 14 Kinsel. I represent Nintendo. I'm here to ask you 15 some questions; is that all right? 16 A Yes. 17 Q Okay. I know you've been deposed before, 18 so do you need me to tell you the rules of a 19 deposition, or are you familiar with those? 20 A I think I'm familiar. 21 Q Okay. Do you have any questions about the 22 procedure or any issues that you'd like to raise	8 1 version. I brought my own copy, which is colored, 2 so I'm -- 3 Q Okay. I didn't have a color copier, so I 4 just printed out the black and white one. 5 A Do you want to use the color one? 6 Q No, I don't need the colored one. Thank 7 you. 8 But that appears, in substance, to be your 9 declaration, doesn't it? 10 A It does. 11 Q Okay. Anything missing from it that you 12 can identify, or any issues with it that you can 13 identify, other than the color issue? 14 A I think it's all right here. 15 Q Okay. Perfect. 16 All right. Now, Dr. Slocum, I reviewed 17 your declaration, and I just want to try to get a 18 handle on what you've got opinions on and what you 19 don't have opinions on. Okay? So that's where I 20 want to start. 21 A Okay. 22 Q And so the first thing I want to do is I

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9 1 want to talk about claim 1 of the '393 patent. 2 That's the patent that you've given a declaration 3 on, correct? 4 A Correct. 5 Q Okay. So what I did is I just put the 6 limitations for claim 1 into a chart so we can talk 7 about which limitations are at issue and which ones 8 aren't. All right? And so that's all this is. 9 This is the limitations from claim 1. Okay? 10 And that's marked as Exhibit 2. 11 - - - 12 (Slocum Exhibit 2 was marked for 13 identification.) 14 - - - 15 BY MR. KINSEL: 16 Q So these are just the limitations. Happy 17 to show you the patent if you think I've got these 18 wrong. I don't think I have them wrong, but those 19 are the ones -- these are the limitations from claim 20 1. Okay? 21 A It appears to be so. 22 Q Okay. Good.	11 1 Q Those are the three combinations I want to 2 talk about first, just at a high level. 3 With respect to those three combinations, 4 you don't dispute or you don't have an opinion on 5 element 1(pre): "A combination comprising," 6 correct? 7 A Correct. 8 Q And you don't offer an opinion with respect 9 to limitation (1)(a): "A computing device," 10 correct? 11 A Correct. 12 Q And you don't offer an opinion with respect 13 to (1)(b)(2)(a), which is: "Each of the pair of 14 confinement structures comprising a communication 15 link," with respect to those three combos, correct? 16 A I believe that is correct. 17 Q Okay. 18 A Let me just check one thing. 19 Q Sure. 20 A Let's see. Here we go. 21 Well, if we go to page 49, you see here 22 they're shown.
10 1 And as a preliminary matter, you don't 2 dispute -- or you don't have opinions on, I should 3 say, any of the dependent claims of the '393 patent, 4 correct? 5 A I did not offer an opinion on claims 2 6 through 7. 7 Q Okay. So those are the dependent claims. 8 You don't have any opinion with respect to claims 2 9 through 7. Your only opinions are with respect to 10 certain limitations of claim 1, correct? 11 A Correct. 12 Q Okay. All right. So what I'd like to do 13 is figure out where your opinions are with respect 14 to claim 1. Okay? 15 So let me first focus on the combination of 16 Willner and Schoenith and Willner and Park. 17 A Okay. 18 Q Sorry. Let me -- let me strike that. 19 Let's start with the three combinations: 20 Willner/Park, Schoenith/Park, and Schoenith/Kessler. 21 Okay? 22 A Okay.	12 1 Q Okay. Slow down. Let me get there. Page 2 49 of your declaration? 3 A Correct. 4 Q Okay. What paragraph are you talking 5 about? 6 A Well, if you look at the Figure 3 right 7 above paragraph 87 -- and I apologize. This is 8 where the coloring helps, but then now you go to 9 Figure 8 -- okay? -- on page 51. 10 Q Mm-hmm. 11 A So Mr. Kitchen is calling these raised 12 sidewalls. He's identifying those as the 13 confinement structures. 14 Q Mm-hmm. 15 A But there, there's no communication link in 16 those confinement structures that he had colored. 17 Q Okay. You don't offer any written on that, 18 do you? Can you show me where in your -- where in 19 your declaration you provide a written opinion with 20 respect to Schoenith not providing each of the 21 communication -- sorry -- each of the confinement 22 structures comprising a communication link?

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13 1 So that's (1)(b)(2)(a) that I want to find. 2 A If you'd go to paragraph 113, I don't say 3 explicitly about the communication link, but the 4 definition of -- I guess it's the Northern District 5 and/or the patent here itself is that the 6 confinement structures would have to include the 7 communication link, and in 113 I say: 8 "...Mr. Kitchen purports the claimed 'electronic 9 game control modules,' together with the right and 10 left side [sic] raised walls from...cradle...could 11 constitute the "pair of confinement structures..." 12 So they can't if they don't have the 13 ability to do communications. I don't think I said 14 explicitly in writing, but so I need to correct that 15 and also then add that if it's not in there. 16 Q Okay. So you don't -- you can't identify 17 anywhere in your declaration where you said that the 18 Schoenith sidewalls don't meet (1)(b)(2)(a): 19 "...each of the pair of confinement structures 20 comprising a communication link," correct? 21 A Correct. I should have explicitly said 22 that, so I'm correcting --	15 1 A And -- 2 Q You also don't raise 1(b)(2)(b) with 3 respect to these combinations that we're talking 4 about, Willner/Schoenith -- sorry -- Willner/Park, 5 Schoenith/Park, and Schoenith/Kessler, correct? 6 (Reporter Interruption.) 7 MR. KINSEL: Sorry. Yeah, I went too 8 fast. I'm sorry. 9 BY MR. KINSEL: 10 Q Let me just strike the question. Let me 11 try it again so I'm a little clearer. 12 With respect to limitation 1(b)(2)(b) from 13 Exhibit 2 that reads: "Each of the communication 14 links configured for electronic communication with 15 the computing device..." you don't dispute that 16 limitation? You don't offer an opinion with respect 17 to that limitation for the combinations of Willner 18 and Park, Schoenith and Park, and Schoenith and 19 Kessler, correct? 20 A Correct. 21 I did not write that here in my report. I 22 think I would offer an opinion, if asked, that those
14 1 Q I want to be clear. 2 You don't -- you don't say it at all, 3 correct? Explicitly or otherwise, you don't say it, 4 do you? 5 A Hold on. Let me see for my implicit. 6 Q Sure. 7 A Correct. Schoenith has the electronic 8 interface in the handles 4 and 3, not in the 9 sidewalls, and I didn't explicitly say that for the 10 confinement structures that Mr. Kitchen had 11 identified there should be the limitation of 1(b). 12 Q Okay. But you didn't say that in your 13 report, and, in fact, if you look at page 60 and 61, 14 following paragraph 106, do you see that? 15 A I do. 16 Q Those are the limitations that you 17 explicitly have opinions on, correct, 1(b)(1) and 18 1(b)(4)? 19 A That's my Section C, correct. That's what 20 I was focused on there. I did not raise the 1(b) 21 point. 22 Q Okay.	16 1 raised sidewalls of Schoenith do not meet that 2 1(b)(2)(a) or 1(b)(2)(b). 3 Q Okay. I'm going to strike everything after 4 the word "correct." 5 Next limitation is 1(c)(1), "A rigid 6 structural bridge disposed between and secured to 7 the pair of confinement structures." 8 You don't offer any opinion with respect to 9 that limitation for the three combinations that 10 we've been talking about, correct? 11 A Incorrect. 12 Q Okay. Can you point me to where you offer 13 an opinion with respect to that limitation? 14 A Okay. So if we go, for example, to -- 15 Q And let me just -- let me just be clear 16 here for a second, just so that we're on the same 17 page and maybe I can save you some time. 18 I'm not talking about Hirschman. I'm only 19 talking right now about Willner/Park, Schoenith and 20 Park, and Schoenith and Kessler. 21 A Correct. 22 Q Okay.

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17 1 A Understood. 2 Q Okay. 3 A So the -- the issue is, when we look at the 4 term "rigid" -- and now let's go to page 55. Okay? 5 And -- I'm sorry. 56, and there's -- it appears a 6 fair number of places that I'm sure we'll go into, 7 but if you'd go down about four lines in Exhibit 4, 8 this is Park -- 9 Q I'm sorry. Which paragraph? 10 A Well, the paragraph starts on the preceding 11 page, but on page 56, if you start let's say the 12 second line down, Park says that: "...the mobile 13 phone...may come loose during gaming or become 14 detached in severe cases, hindering comfortable and 15 stable operation of a game," and then Park talks 16 about he attempts to handle things. 17 And what happens is, and if you'd go to -- 18 because I explain the mechanics of it. It appears 19 in several places, but let's go to paragraph -- now 20 we'll just do it with respect to Kessler. 21 Q Okay. What paragraph? 22 A This is paragraph 129, and it's repeated	19 1 A And Park and Kessler, these extending 2 mechanisms, when you then go to squeeze the phone or 3 whatever the device is, the force that you're 4 squeezing the device -- because they sit on top of 5 the bridge, as Park identifies -- cause the thing to 6 bend, and unless you have the proper confinement 7 structures, the phone will pop out. 8 So the term, "rigid" is, in terms of it's a 9 plastic, it's a structural element -- it's not made 10 of a resilient material like rubber, but it has a 11 finite stiffness. So if you don't properly 12 constrain the phone or confine the phone, the 13 device, this bridge, it will bend when you're 14 putting the forces to try to grip it. 15 Q Okay. I-- 16 A Let me finish, please. 17 Q Go ahead. 18 A And that will cause it to bend and the 19 device to pop out. 20 Q Okay. I understand your opinion with 21 respect to that. I'm just trying to understand 22 whether you offered an explicit opinion with respect
18 1 there, and then if we go to -- 2 Q Sorry. You need to slow down because I 3 don't know what you mean when you say, "It's 4 repeated there." 5 What is the it you're talking about? 6 A Oh, Park is identifying that -- 7 Q The phone may come loose. 8 A The phone may come loose in these 9 structures. 10 Q Okay. Let's just slow down. 11 Your view is that this quotation from Park 12 is disputing limitation 1(c)(1). 13 Is that your testimony under oath? 14 A It starts the explanation, yes. 15 Q I just want to know if you -- I want to 16 know if you offered a specific, explicit opinion 17 with respect to 1(c)(1) -- 18 A Yes. 19 Q -- did you? 20 A So here would you please go to my paragraph 21 145. 22 Q Okay.	20 1 to 1(c)(1). 2 Did you, for example, cite 1(c)(1) anywhere 3 in your opinion? That limitation, "A rigid 4 structural bridge disposed between and secured to 5 the pair of confinement structures"? 6 A I understand your question now. Thank you. 7 Yes, I do not have a 1(c)(1) that this 8 bridge does not exist, correct. 9 Q Okay. Let me ask you slightly differently. 10 Do you quote the language from the claim 11 anywhere -- and when I say the language from the 12 claim, we're talking about 1(c)(1) -- anywhere in 13 your opinion? 14 A I am not quoting verbatim 1(c)(1) in my 15 opinion about this bending that will occur. 16 Q Okay. In fact, you don't quote that 17 limitation at all anywhere in your opinion, do you? 18 A That's what I just said I believe, correct. 19 Q Okay. And, in fact, the only two 20 limitations that you quote are 1(b)(1) and 1(b)(4), 21 correct? Again, with respect just to these two -- 22 these three combinations.

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21 1 A 1(b)(4)? 2 Q 1(d)(4). I'm sorry. I may have misspoken. 3 I apologize. 4 A Well, also 1(d)(5). So the -- the game 5 control module is separate and distinct from the 6 corresponding confinement structure -- oh, and, 7 right, for the first three you mentioned, I don't 8 quote 1(d)(5), yes. 9 Q So the only two limitations that you quote 10 or identify specifically for the first three 11 combinations are 1(b)(1) and 1(d)(4), correct? 12 A That is correct. 13 Q Okay. All right. 14 A Yes. 15 Q With respect to Hirschman, the fourth 16 combination, your expert declaration disputes, or 17 provides opinions expressly about, limitation 18 1(b)(1), (1)(b)(2)(a), 1(b)(2)(b), 1(c)(2)(a), and 19 1(d)(5), correct? 20 A I believe that's correct. Let me just 21 check. 22 Q Please.	23 1 the northern California on the claim terms. 2 BY MR. KINSEL: 3 Q Okay. 4 A I did not consider the PTAB. 5 Q Would it have been relevant to your opinion 6 to see what the PTAB had said about a similar 7 limitation? 8 A I don't have an opinion on that. I was 9 asked to opine on Mr. Kitchen's declaration. 10 Q So no one gave you a copy of the PTAB's 11 final written decision with respect to the '119 12 patent; is that correct? 13 A I believe that's correct. I didn't review 14 the '119 or the -- any decisions with it. I just 15 was opining on Mr. Kitchen's report. 16 Q Would you have wanted to see that in 17 preparing your opinion? Is that something that a 18 reasonable expert would have wanted to see? 19 A I don't think I have an opinion on that 20 because I was asked specifically, "Look at 21 Mr. Kitchen's report and opine on what, you know, 22 you think about it." So I don't have a need or
22 1 A Did you say 1(c)(2)(a)? Was that included 2 in your list? I think so. 3 Q 1(c)(2)(a), yes. 4 A Okay. Then we're -- then we're in 5 agreement, yes. Correct. 6 Q Okay. Good. 7 All right. Focusing on limitation 1(b)(1): 8 "A pair of confinement structures, the pair of 9 confinement structures interacting with the 10 computing device and adjacent at least two opposing 11 sides of the computing device, but not more than 12 three sides of the sides of the computing device." 13 Okay? Focusing just on that limitation? 14 A Okay. 15 Q Were you aware that the PTAB has already 16 found that the sidewalls of Willner and Schoenith 17 meet that limitation as is stated in one of the 18 grandparent patents? 19 DR. KUMAR: Objection. Form. 20 THE WITNESS: I did not consider the PTAB. 21 I'm just here replying to Mr. Kitchen and the 22 references he cited, and then the -- I think it was	24 1 opinion to go beyond what I was asked to do. 2 Q Would a reasonable expert in your position 3 have wanted to see a previous decision of the Board 4 on an issue that's related to the issue you're 5 opining on? You don't think that would be important 6 for an expert to understand? 7 DR. KUMAR: Object to form. 8 THE WITNESS: I am not a legal expert, so, 9 no, because I don't know how previously decisions on 10 different patents relate to the matter at hand. I'm 11 not a legal expert. 12 BY MR. KINSEL: 13 Q Okay. So you never saw it and never asked 14 to see it, correct? 15 A I don't recall if I had ever seen it. 16 Certainly not in the case of looking at 17 Mr. Kitchen's report. 18 Q Okay. Mr. Kitchen opined on it. You saw 19 that he opined on it, didn't you? 20 A Mr. Kitchen referenced -- gee, I have to go 21 through his report. I -- I specifically looked at 22 the opinions he provided for the combinations, and

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25 1 then I looked at the claims and said, "Do I see them 2 there?" And then what I do as an expert is, I have 3 to look at the claim construction. What relevant 4 claim constructions are there, and that -- my 5 understanding was the northern California claim 6 constructions, which I did review then. 7 Q And you don't think the PTAB might have 8 given a relevant claim construction for you to 9 consider? 10 DR. KUMAR: Object to form. 11 THE WITNESS: I'm not a lawyer. I can't do 12 anything other than what my understanding is, which 13 is here's the claim constructions. Here's 14 Mr. Kitchen's report. Opine on what he thinks and 15 the references he's cited, these patents that I'm 16 sure will -- 17 BY MR. KINSEL: 18 Q So you just ignored the section of 19 Mr. Kitchen's report where he talked about the '119 20 patent PTAB final written decision? You just 21 ignored that part, or did you read it? 22 A Well, I skimmed through it, and Mr. Kitchen	27 1 decision, though, correct? 2 A Well, of the -- the claim construction. I 3 don't go through and I did not read all of the ITC 4 documents associated with this. 5 Q And you're aware that the ITC found that, 6 under that claim construction, the walls of 7 Willner -- sidewalls of Willner and Schoenith met 8 the claim limitation 1(b)(1). 9 Were you aware of that? 10 DR. KUMAR: Object to form. 11 THE WITNESS: No, I don't think I'm aware 12 of that. Again -- 13 BY MR. KINSEL: 14 Q Would you have wanted to have been informed 15 of that? 16 A As I said before, I was asked to do a very 17 specific task. Here is Mr. Kitchen's report. Here 18 are the assertions he's making with respect to these 19 patents. Here's the claim construction. 20 You always have to ask what are the 21 relevant claim constructions when you're doing some 22 sort of analysis like this.
26 1 is not a lawyer. 2 Q Mm-hmm. 3 A I was asked to opine, as I said before, 4 here are the patents that we just went through: 5 Willner, Schoenith, Kessler, Hirschman, Park, here's 6 what the court claim construction on the terms was. 7 This is the northern California, which my 8 understanding from Mr. Kitchen is that's what he 9 relied on, and then I did the analysis as I was 10 asked to opine on them. 11 Q Okay. You opined -- you had some opinions 12 with respect to the International Trade Commission, 13 though, didn't you? 14 A I recall the ITC relied on the claim 15 constructions, so to the extent I'm looking at the 16 ITC, it was because, if I recall correctly -- and I 17 can look it up -- that they -- that that's the 18 origin of the claim construction. So let me check. 19 Yeah, I think that's where that -- 20 originally the northern California claim 21 construction reference came from. 22 Q Okay. So you were aware of the ITC	28 1 Q Wouldn't you want to know how a court has 2 applied those relevant claim constructions? 3 Wouldn't that be important to you? 4 A Not for the task I've been asked to do. 5 Q Okay. So even though the ITC specifically 6 found that Willner and Schoenith sidewalls are 7 confinement structures under the construction that 8 you're using, you didn't think it was important to 9 know that; is that fair? 10 A Well, that's a circular question because 11 you're asking me assuming that I know that's their 12 construction, is that important. 13 Q Yeah. 14 Assuming that I'm not lying and making it 15 up, is that important? Would that have been 16 important to you? 17 A It's still not important to me because my 18 task is look at the court claim construction, this 19 northern California. Look at what Mr. Kitchen is 20 opining on. Look at the claims of the '393, not the 21 '119 or whatever you found, and that's all I did. I 22 didn't -- in that respect, what another court does

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29 1 for a '119 patent in terms of what that claim -- 2 patent's claims are and with claim construction does 3 it meet something else, that's not important to me. 4 Q Okay. But let's be clear. I'm talking now 5 about -- we talked a moment ago about the PTAB final 6 decision in the '119 case. I'm not talking about 7 that at the moment. I'm talking about the ITC 8 decision that you understood the claim construction 9 adopted and the Northern District of California came 10 from. Okay? 11 A Okay. 12 Q Now in that ITC case, we're talking about 13 the '339 patent, not the '119 patent. Okay? 14 Are you with me so far? 15 A Okay. 16 Q All right. And in the ITC case, wouldn't 17 you have wanted to know how the Commission had 18 applied the construction that you are relying on in 19 your opinion? You don't think that would have been 20 important to know? 21 A No. 22 Q Okay. Do you think a reasonable expert in	31 1 applying to prior art was applied by a prior court 2 to that very prior art? 3 Do you think that would be important to 4 know? 5 A No, I don't think that is important to 6 know. 7 Q Okay. And you don't think a reasonable 8 expert would want to know that. Is that your 9 testimony here today? 10 DR. KUMAR: Object to form. 11 THE WITNESS: A reasonable expert is asked 12 to use their expertise to take specific definitions 13 and apply them to whatever materials are placed in 14 front of them to opine on what's the meaning of 15 those materials. That is the purpose of an expert, 16 to not be swayed by someone else's opinion. 17 BY MR. KINSEL: 18 Q Okay. And you don't think it -- I'm sorry. 19 Go ahead. I thought you were done. 20 Go ahead. 21 A Whether that is another expert or a court, 22 my job or any expert's job is to bring their
30 1 your position would have wanted to know how the 2 claim construction was being applied to the very art 3 that you were looking at? 4 A No. That's not relevant to the task I was 5 asked to opine on. 6 Q I know it wasn't relevant to the task you 7 were -- opined on. I'm asking a different question. 8 Do you think it would be important for a 9 reasonable expert to know how the claim construction 10 that he is using was applied to the art that he's 11 considering? That's what I'm asking. 12 Do you understand that question? 13 A No. 14 DR. KUMAR: Objection. 15 BY MR. KINSEL: 16 Q Okay. Let me try it again. 17 DR. KUMAR: I'd like to object as asked and 18 answered to the previous question. 19 BY MR. KINSEL: 20 Q The question is very specific: Do you 21 think it would be reasonable for an expert to want 22 to know how the claim construction that he is	32 1 expertise with definitions, not opinions, but 2 definitions that they're told to use by a court. 3 That's my job and that's the job of any 4 expert. 5 Q Okay. Have you completed your answer? 6 A I have. 7 Q Thank you. 8 I want to talk about claim limitation 9 1(d)(4) -- sorry. Strike -- yeah, 1(d)(4), 1 dog 4, 10 okay? And that one is: "Wherein each electronic 11 game control module is a separate and distinct 12 structure from each of their corresponding 13 confinement structures, forming no structural 14 portion of their corresponding confinement 15 structures..." 16 Do you see that? 17 A I do. 18 Q Now, this is one of the limitations you 19 specifically identified in your expert report; is 20 that right? 21 A That is correct. 22 Q Okay. Do you think that Willner, the --

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33 1 sorry. Strike that. 2 Where in your opinion do you provide 3 analysis of that limitation with respect to the 4 three combinations that we're talking about: 5 Willner/Park, Schoenith/Park, Schoenith/Kessler? 6 A Okay. They're generically -- and then we 7 can go broad in depth. If you'd go to and look at 8 each of these combinations in Sections VIII, IX, and 9 X, that is Section C in each of those -- or 10 subsection C in each of those broader sections, and 11 you can see it, for example, if you'd like me to 12 continue -- 13 Q Well, I'd like you to answer the question. 14 A That is my answer. 15 Q Is that your answer? That's fine. 16 Okay. I'm talking those specifically about 17 analysis of that limitation. 18 A Mm-hmm. 19 Q Where do you describe that, for example, 20 Willner doesn't include or doesn't disclose 21 limitation 1(d)(4), wherein each -- each electronic 22 game control module is a separate and distinct	35 1 device, and then now -- and what I'm doing is I'm 2 slowly adding in Mr. Kitchen's pieces. 3 So if you'd go to my page 66 and my 4 paragraph 117, I specifically say: "As can be seen 5 from Figure 14 above, Schoenith's left and right 6 side panels, 3 and [sic] 4 (i.e., Mr. Kitchen's 7 purported 'electronic game control modules') provide 8 an overhanging structure on top of smart device 30. 9 Mr. Kitchen implies that Park's adjustable 10 bridge (30, 40) could compress the raised side walls 11 of Schoenith's cradle...to hold Schoenith's smart 12 device 30. But without Schoenith's overlapping side 13 panels 3, 4 on top of smart device 30, compressing 14 Park's bridge (30, 40) while placing the smart 15 device 30 above Park's bridge (30, 40) will cause 16 Park's bridge (30, 40) to bow and tend to make the 17 smart device 30 pop out in the direction of the 18 user (out of the page)." 19 Would you like me to keep reading? 20 Q I don't understand what it has to do with 21 1(d)(4). Maybe you can explain to me what it has to 22 do with 1(d)(4).
34 1 structure from each of the corresponding confinement 2 structures, and so on? 3 A Okay. So, for example, page 61. 4 Q Okay. Let me get there. 5 Okay. Where at page 61 do you describe 6 that? 7 A The top of page 61, and this is the 8 combination of Schoenith and Park. 9 Q Okay. 10 A I cite explicitly 1(d)(4). 11 Q I know you cite it. I'm looking for your 12 analysis here. Where is your analysis of 1(d)(4). 13 That's what I'm looking for. 14 A Okay. Well, I can read from my report. 15 Q Just point me to the paragraph. 16 A Okay. If you'd go to paragraph 114, where 17 I'm showing how Schoenith, the -- he calls them the 18 side panels three and four, but the side panels 19 there are really the control modules, as Mr. Kitchen 20 also points out. And you can see, in Schoenith's 21 Figure 3 on page 65, it's very explicit how they 22 overlap that cradle structure which holds the	36 1 A Because in the court's claim construction, 2 the confinement structures have to hold the device 3 in place. The confinement structures as identified 4 by Mr. Kitchen will not hold the device in place. 5 Q Okay. But limitation -- 6 A I'm not done. 7 Q Go ahead. 8 A In order for Mr. Kitchen's combination to 9 work, you have to fully confine the electronic 10 device. It can't lift out of the page. It has to 11 be held in, in normal game use. Because, as 12 Mr. Park identified, things can come loose very 13 easily. You have to fully constrain it. The only 14 way Mr. Kitchen can fully constrain, or confine -- 15 same word -- the game control module is using -- I'm 16 sorry -- constrain the electronic device is using 17 the game control modules in addition to the 18 confinement device he identifies. 19 I'm done. 20 Q Okay. Does that make the electronic game 21 control module separate and distinct? Let's focus 22 on the first part of the limitation.

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37 1 You agree with me, don't you, that the 2 panels from Schoenith are separate and distinct from 3 what Mr. Kitchen is calling the confinement 4 structures? 5 You agree with that, don't you? 6 A I don't agree with how Mr. Kitchen's 7 combination is working. He -- 8 Q I'm asking you a different question. I 9 move to strike as nonresponsive. I understand what 10 you're saying, but I'm asking you a different 11 question. 12 I'm asking you whether you agree that the 13 panels, the controllers in Schoenith, are separate 14 and distinct from what Mr. Kitchen is calling the 15 corresponding confinement structures. I'm not 16 asking you whether you agree that they're 17 confinement structures. I'm asking you whether 18 they're separate and distinct. 19 A Mr. Kitchen is blurry on that topic. 20 Q I'm not asking about Mr. Kitchen's opinion. 21 I'm asking about your opinion. 22 Are they separate and distinct, yes or no?	39 1 distinct. 2 Q Okay. And you agree also, don't you, that 3 Willner's hand-grippable controls are separate and 4 distinct from his -- I think he calls it an 5 accessory. 6 A From Willner's accessory, yes, I agree. 7 Q Yes. Okay. 8 And you agree that the Schoenith panels and 9 the Willner hand-grippable grips -- whatever they 10 are -- are also forming no structural portion of 11 either the panel in Schoenith or the accessory in 12 Willner, correct? 13 A Correct. For those individual patents, 14 those panels or controllers -- whatever we're 15 calling handles -- they are separate elements in 16 those patents. 17 Q And they form no structural portion to the 18 devices to which they're attached, correct? 19 A No, that's not true. Forget about the -- 20 well, even if you want to look at 1(d)(4), in both 21 of those patents, those handles, panels, whatever 22 you call them, are very important elements for
38 1 DR. KUMAR: Object to form. 2 THE WITNESS: I can't answer that yes or no 3 because Mr. Kitchen -- I'm opining on Mr. Kitchen. 4 Mr. Kitchen identifies elements piece by piece that 5 I've put in, and then he provides this figure where 6 he's showing arrows pointing to confinement 7 structures that's pointing to both. So all I can 8 assume is, in looking at Mr. Kitchen's mash-up, that 9 is using the left and right side panels as part of 10 the confinement structure, and that's what I'm 11 stating in my report. 12 BY MR. KINSEL: 13 Q Okay. I'm going to move to strike as 14 nonresponsive. 15 My question is to you: Do you have an 16 opinion about whether Schoenith panels are separate 17 and distinct -- let's just say from his cradle. Are 18 they separate and distinct from his cradle? 19 A Whose cradle? 20 Q Schoenith's cradle. 21 A They are from Schoenith's cradle. If I 22 just look at Schoenith, they are separate and	40 1 constraining the device. They themselves form 2 structures that are part of what holds the device in 3 place. 4 Q Okay. So it's your opinion, when -- and 5 let's just focus on Schoenith for the time being. 6 Okay? 7 When the panels are -- 8 A Hold on. Let me get the picture in front 9 of me. 10 Q Sure. 11 A Let's just go to Mr. Schoenith. Sometimes 12 it's easier if we go right to Schoenith's patent, by 13 the way. 14 Okay. So here we're looking at page 49 of 15 my report. That shows the exploded view and page -- 16 of Schoenith, and page 50 shows the assembled view 17 from Schoenith. 18 Q Okay. So I just want to get a handle on 19 what your opinion is. 20 Your opinion is that the two panels, and 21 those are the controllers in Schoenith, are separate 22 and distinct structures from his panel or from his

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41 1 cradle I should say, correct? 2 A Correct. 3 Q Okay. When they are assembled, are they -- 4 do they form a structural portion of the panel -- 5 sorry. Let me try it again. 6 When the panels are assembled onto the 7 cradle in Schoenith, do they form a structural 8 portion of the panel? 9 A Of the panel? 10 Q Yes, of the panel. Sorry. I'm sorry. I 11 apologize. I see -- I understand why you're 12 questioning. Let me strike it again. Let me try it 13 one more time. 14 When the panels are assembled onto the 15 cradle, do the panels form a structural portion of 16 the cradle? 17 A Okay. So it's not a structural portion of 18 the cradle. It's the panels and the cradle together 19 act to confine the device, such as 30, the iPad. 20 The cradle is analogous to the rigid structural 21 bridge. So when you -- when you attach panels to 22 the rigid structural bridge, it's not that they are	43 1 separate and distinct from the accessory, correct? 2 A That is correct. 3 Q Okay. And so the prior art also taught 4 controllers that didn't form a structural portion of 5 the thing to which they're attached, correct? 6 A That is incorrect. 7 Q Okay. Why is that incorrect? 8 A I will show you. If you'd go to my page 9 55 -- sorry -- 54 and 55 -- 10 Q I understand -- let me try to shortcut 11 this. I'm not -- I understand your opinion about 12 Schoenith and its holding a portion of the iPad. I 13 get it. You've already said that ten times. I get 14 it. That's not what I'm asking. I'm asking 15 something slightly different. So let me see if I 16 can articulate it better. 17 The prior art taught separate control 18 modules, correct? 19 A Correct. 20 Q And the prior art taught modules that could 21 be -- separate control modules that could be 22 attached to a device, right? You agree with that,
42 1 the rigid structural bridge because that machine 2 element is the thing that is taking bending loads. 3 The panels don't. So they're not part of the -- 4 that structural element. They're part of the 5 assembly that together provides that confinement to 6 hold the device. 7 Q Okay. So I think we're on the same page. 8 You agree with me, don't you, that the 9 prior art taught modules that were separate and 10 distinct from -- that were separate and distinct, 11 correct? I mean, you're looking at one right there, 12 Schoenith, top deck. 13 A Yeah, I'm just trying to figure out what 14 you mean by prior art separate and distinct. 15 There's a lot of things that are separate and 16 distinct. 17 But in the context here, Schoenith teaches 18 a cradle that is separate and distinct from panels 3 19 and 4, the panels being the control modules. 20 Q Correct. 21 And Willner taught separate hand-grippable 22 devices from its accessory, correct? They were	44 1 don't you? 2 A Well, they can be attached to this 3 structural bridge thing or the cradle. 4 Q Yeah. Whatever -- whatever device we're 5 talking about. In Willner it's the little adapter. 6 In Schoenith it's the cradle. The two controllers 7 can be attached to and removed from that device, 8 right? The prior art taught all that. 9 A Yes, that is correct. 10 Q Okay. That's all I want to -- we're on the 11 same page. The prior art taught that, correct? 12 A Correct. I need to -- you asked me the 13 question, "Do they form a structure," and that is a 14 very important word that is beyond what you just 15 asked, do we have modules that can attach to the 16 module. 17 Q Okay. We'll get there. We'll get there. 18 The prior art taught -- well, strike that. 19 What do you understand the word -- in 20 1(d)(4), the words "structural portion" to mean? 21 What do you understand that phrase to mean? 22 A That when you attach the control modules,

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45 1 they don't serve to do part of the function of 2 confinement. A structural portion means it can bear 3 loads. That's to one skilled in the art what that 4 term "structural portion" means. 5 Q Okay. So your view is that structural 6 portion requires something to bear a load? 7 A Correct. And that is what I was showing, 8 for example, as a mechanical engineer would in my 9 page 55, my Figure 12. 10 Q Do the Willner hand-grippable grips bear a 11 load? 12 A You have to be a little more focused in 13 your terminology there. They bear a load, 14 obviously, because you grip there. So they're 15 withstanding your grip. So bear a load of what? 16 Q Let me try it again then. 17 So when you say that the word "structural 18 portion" requires to bear a load, what's the load 19 that you're talking about? 20 A Okay. This is of the confinement 21 structure. That means that the control modules -- 22 Q Mm-hmm.	47 1 are not forming a structural portion of the adapter 2 to which they're attached, correct? 3 A In Willner that is correct. 4 Q Okay. And your dispute with Mr. Kitchen 5 with respect to limitation 1(d)(4) is your view that 6 the Willner sidewalls don't meet the confinement 7 structure limitation, correct? 8 A Say that again, please, slowly. 9 Q Sure. 10 Your view -- your dispute with Mr. Kitchen, 11 or your opinion about Mr. Kitchen's opinion, with 12 respect just to 1(d)(4) limitation, is that the 13 Willner sidewalls aren't confinement structures, 14 correct? 15 A Well, he doesn't take Willner's side -- I 16 have to understand what you're doing because Willner 17 has this adapter that has sidewalls, front walls, 18 back -- a bunch of walls, and Mr. Kitchen deletes 19 most of them and keeps just a couple. 20 So if you look on page 37 at Figure 4 -- 21 Q Doctor, I want to try to focus you on my 22 question. I'm trying to understand your dispute
46 1 A -- do not take part in the confinement 2 structure function. 3 Q Okay. So they don't bear a load with 4 respect to the confinement. Is that what you're 5 saying? 6 A Correct. That's how I read this 7 limitation -- 8 Q Okay. 9 A -- and I'm pretty sure that's the way it 10 was in the discussion of the claim construction. 11 Q Okay. It wasn't, but that's okay. It 12 doesn't matter. 13 What -- does Willner perform that function, 14 the hand-grippable grips? 15 A Okay. So Willner does not. If you look on 16 Figure 1 of Willner, Willner's adapter is what is 17 confining the device, not the grips. 18 Q Okay. So it's fair to say, then, that the 19 Willner device teaches electronic game control 20 modules that are separate and distinct, correct? 21 A Correct. 22 Q And it teaches game control modules that	48 1 with respect to 1(d)(4) -- 2 A Mm-hmm. 3 Q -- and I'm focused really only on Willner 4 for right now. Okay? 5 Your view is that Willner doesn't teach -- 6 or at least as Mr. Kitchen has put forward the 7 combination, doesn't teach confinement structures. 8 That's your -- that's your dispute with respect to 9 1(d)(4), right? 10 A Well, he's not doing just -- correct. But 11 Mr. Kitchen isn't just doing Willner. He's doing 12 Willner and Park. 13 Q I understand. 14 But you agreed already that Willner teaches 15 electronic game control modules that are separate 16 and distinct from the adapter, right? 17 A In Willner, correct. 18 Q In Willner. 19 And you've already admitted that or agreed 20 with me that Willner -- Willner's hand-grippable 21 controls do not form a structural portion of the 22 adapter, right?

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49 1 A Not of the adapter. The adapter itself 2 will hold a device. 3 Q Right. So that the dispute with respect to 4 Willner revolves around whether the Willner 5 sidewalls, as Mr. Kitchen has described them, are 6 confinement structures. That's the nature of that 7 dispute with respect to 1(d)(4), right? 8 A I think we're -- I think that is correct. 9 In other words -- I have to explain. Mr. Kitchen 10 didn't -- Willner doesn't have just sidewalls -- you 11 have to let me finish. 12 Willner has essentially, like, a box. 13 Mr. Kitchen takes just two sides of the box to then 14 somehow attach to Park or Kessler -- I'm sorry. 15 Just Park here. So he's taking a piece of Willner 16 and attaching it to Park, and then he's putting the 17 handles or the controllers, they will still press 18 into the D connectors. 19 So the handles of Willner, not forming a 20 structural part of the adapter of Willner, they 21 don't form a structural part of what Mr. Kitchen is 22 attempting to do by slicing up pieces of the adapter	51 1 because you don't spell it out anywhere specifically 2 in your opinion. So I -- that's all I'm trying to 3 figure out -- 4 A Okay. 5 DR. KUMAR: Object to form. 6 BY MR. KINSEL: 7 Q -- is what specifically is your dispute 8 here because you never say it. So maybe you can 9 help me understand it or maybe you can point me to 10 where you say it in your opinion. 11 A Okay. 12 DR. KUMAR: Object to form. 13 THE WITNESS: If you'd go to paragraph 14 85 -- 15 BY MR. KINSEL: 16 Q Is this Willner? I'm talking about Willner 17 right now, not Schoenith. 18 A Yeah, Willner and Park, paragraph 85. 19 Q Paragraph 85. Okay. 20 A And on this same page here you see this 21 with the big figure at the top: "Possible 22 modification of Willner to incorporate teachings of
50 1 and combining with pieces of Park. 2 Q Right. 3 They don't form a structural portion of 4 what Mr. -- of what Mr. Kitchen says is the 5 combination, correct? 6 A You have to go to -- 7 Q Hang on. Just stick with me. Is that 8 correct or not? 9 A You have to go to page 47. We're in this 10 condition again where Mr. Kitchen uses, like, 11 PowerPoint combination, and his mash-up here has 12 arrows now pointing to -- is it pointing to the D 13 connector which is part of the handle? You see 14 that's the problem, is that Mr. Kitchen is just not 15 explicit on what he's doing. 16 Q Okay. 17 A So I can't answer your question on this 18 piece-by-piece basis because that's not how 19 Mr. Kitchen did it, and I can't offer a new opinion 20 here. I'm only opining on what Mr. Kitchen did. 21 Q Okay. I'm just trying to understand the 22 nature of your dispute with respect to 1(d)(4)	52 1 Park," at the top. Okay? That's from Mr. Kitchen, 2 and my job is to opine on what Mr. Kitchen is 3 saying. I'm offering nothing else different. I'm 4 just commenting what he's doing. 5 Mr. Kitchen takes this mash-up, and he's 6 drawing these arrows that say: "Retain Willner's 7 confinement structures," but the arrows are also 8 pointing to, on one of them anyway, the handle. So 9 on paragraph 85 I say: "I...discussed my opinion 10 above in the context of a POSITA's motivation to 11 combine Willner and Park, that Mr. Kitchen's 12 proposed modification of Willner's adaptor 210 with 13 the teachings of Park's adjustable bridge -- 14 THE COURT REPORTER: I'm sorry. You're 15 going too fast for me. 16 THE WITNESS: Sorry. Do you want me to 17 start totally over? 18 BY MR. KINSEL: 19 Q You don't need to read the paragraph. You 20 can just point me to the paragraph. 21 A Okay. 22 Q I don't need you to read it to me.

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53 1 A Paragraph 85, what Mr. Kitchen is going to 2 do is just going to frustrate Willner's basic 3 purpose of retaining the computing device. 4 Q Okay. I understand that. But that doesn't 5 describe 1(d)(4) specifically, does it? 6 A I believe it does because, as I said: 7 "...would frustrate Willner's basic purpose of 8 retaining its computing device 10 in position 9 between its hand grippable housings..." 10 Q Okay. So is that the sum total of your 11 opinion with respect to 1(d)(4)? 12 A Well, the sum total of my opinion is 13 everything I wrote in my report. I can keep reading 14 if you would like. 15 Q I don't need you to read it to me. I just 16 want you to tell me where you've specifically 17 identified 1(d)(4) as missing from the combination. 18 That's what I'm trying to understand. Because I 19 don't see it anywhere specifically in here. Maybe I 20 missed it. So you tell me where it is. 21 A Well, in Section C, starting on page 43 -- 22 Q Mm-hmm.	55 1 paragraphs 77 through 85; is that correct? 2 A Where I'm specifically -- correct, where 3 I'm specifically citing, as you asked, 1(d)(4). 4 Earlier in that section, I am discussing my 5 interpretation of what he did to arrive at his 6 combination and what the deficiencies are. 7 MR. KINSEL: Okay. I'm going to move to 8 strike everything after "correct" as nonresponsive. 9 BY MR. KINSEL: 10 Q All right. You believe that the side 11 panels in Schoenith form a structural portion of the 12 cradle when they're assembled; is that correct? 13 Because it helps to hold the iPad or other computing 14 device in place; is that correct? 15 A Hold on. I want to have the figure in 16 front of me. So we're just talking Schoenith. 17 Q I'm talking about Schoenith right now. 18 A Okay. Let me have the picture in front of 19 me, please, and then I'll ask you to repeat your 20 question. 21 Okay. So I'm on page 49 of my report. It 22 shows Schoenith's Figure 3. I think that's what you
54 1 A -- I am discussing 1(d)(1) and 1(d)(4), and 2 in my paragraph 77 through 85 -- 3 Q Mm-hmm. 4 A -- I am going through the combination of 5 Willner and Park -- 6 Q Okay. 7 A -- as proposed by Mr. Kitchen. 8 Q Okay. 9 A And I am pointing out that the way he 10 sliced things up and seemingly attached them 11 together, first of all, will not constrain the 12 device or confine the computing device -- 13 Q Mm-hmm. 14 A -- and I'm also pointing out, and I just 15 take his figure, he's pointing to one of the 16 handles, by just showing right here in his picture, 17 the arrow is pointing right to it, and I'm saying 18 that's going to frustrate what Willner was saying he 19 would do. 20 Q Okay. So your testimony then, just so that 21 I'm clear, is your only -- the only portion of your 22 opinion that specifically disputes 1(d)(4) are the	56 1 were just asking me about. 2 Q Yeah. 3 I'm asking you whether the panels, when 4 they're assembled onto the cradle, form a structural 5 portion of the cradle, for purposes of limitation 6 1(d)(4). 7 DR. KUMAR: Object to form. 8 THE WITNESS: Well, not a structural 9 portion of the cradle. They form a structural 10 portion of the confinement structure. 11 BY MR. KINSEL: 12 Q I'm asking you if they form a structural -- 13 I know you don't think that those are confinement 14 structures. You've told me that already. 15 I'm just trying to understand whether -- 16 when they're attached in their form as disclosed by 17 Schoenith, whether or not the panels form a 18 structural portion of the cradle. 19 A 1(d)(4) -- I don't know how to answer your 20 question because you ask it in the context of 21 1(d)(4), and 1(d)(4) doesn't talk about the cradle. 22 Q I understand. I'm asking you a different

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57 1 question now. 2 A Ah, okay. 3 Q Okay. Do you think -- in your opinion, are 4 the panels, when they're assembled onto the cradle, 5 a structural portion of the cradle? 6 A You have to define what you mean by 7 structural portion of the cradle. 8 Q Well, I'm using it in the same way that 9 1(d)(4) is using it. Okay? Only instead of talking 10 about confinement structures, I'm now talking about 11 the whole cradle. So I'm using it in the same way. 12 A I don't understand your question how I can 13 use something in the same way that is different that 14 is in that claim term, so I'm not prepared -- 15 Q So you can't answer the question? 16 A I'm not prepared to offer a new opinion on 17 something that was not in Mr. Kitchen, nor my report 18 that you're now creating this new hypothetical. I 19 don't know. 20 Q Okay. All right. 21 If the Board agrees that the sidewalls are 22 confinement structures -- okay? -- the sidewalls of	59 1 there? 2 Q Let's start at the top, and this is 3 Appendix A to your report? 4 A It is. 5 Q Okay. You've been teaching since at least 6 1985; is that correct? 7 A Correct. 8 Q And before that, you worked for NIST as a 9 mechanical engineer; is that right? 10 A Correct. It was National Bureau of 11 Standards back then. There was a name change a few 12 years later. 13 Q Okay. Have you ever, as part of your 14 professional employment, designed a video game 15 controller? 16 A Not a video game controller. 17 Q Do you have any experience in marketing 18 video game controllers? 19 A I have no marketing experience in video 20 game controllers. 21 Q Do you have any experience in selling video 22 game controllers?
58 1 Willner and the sidewalls of Schoenith, the Board 2 agrees with Mr. Kitchen, you would agree, wouldn't 3 you, that limitation 1(d)(4) doesn't materially 4 change the outcome of -- of the determination, 5 right? 6 So, in other words, if the Board disagrees 7 with you and agrees with Mr. Kitchen that the 8 sidewalls of Willner and the sidewalls of Schoenith 9 can be confinement structures, you don't believe 10 that 1(d)(4) changes the question of invalidity in 11 any way, do you, in that hypothetical? 12 A I haven't opined on that, and I'm not 13 prepared to offer an opinion on a hypothetical. I'd 14 have to study it. I'd have to read exactly what the 15 Board said and why and any instructions they have. 16 Q I'm giving you a hypothetical. You can't 17 answer my hypothetical? 18 A I'm not prepared to answer such 19 hypotheticals today. 20 Q Okay. Let's take a look at your CV, and 21 that should be at the end of your report. 22 A It is. Where would you like to go in	60 1 A I have no experience in selling them. 2 Q Okay. What about sort of consumer products 3 more generally? Have you ever designed, marketed, 4 or sold consumer products more generally? Do you 5 know what I mean by "consumer products"? 6 A That's such a broad term, from blenders 7 to -- put it this way. I have actively designed 8 handheld instruments for medical devices, some with 9 and without electronics. My company OMAX, which we 10 had for 30 years or so, quite extensive human 11 interaction, including pendants -- 12 Q Pendants? 13 A Well, when you have a machine, a big 14 machine tool, the user often, because on the big 15 machines they have to have something in their hand 16 that they can walk around and look close up at 17 what's happening -- 18 Q Okay. So I'm not talking about big 19 machines, and I'm not talking about medical 20 instruments. I'm talking about consumer products 21 that I can go to the store and buy. That's what I 22 mean by consumer product.

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61 1 Have you ever designed, marketed, or sold 2 any such products? 3 A I've helped with the design of Polaroid 4 cameras. 5 Q Okay. When did you help with the design of 6 Polaroid cameras? 7 A Oh, I started doing work with Polaroid in 8 the early '90s, and I forgot for how long. 9 Q What was your role with respect to Polaroid 10 cameras? 11 A So, broadly speaking, the industrial 12 designers create the package that they want the 13 camera to be in. 14 Q When you say, "package," you mean the form 15 factor of the camera itself or you mean the 16 packaging that it's in? 17 A Sorry. The camera itself. And a very 18 typical thing was, for some of these devices, it had 19 to fit in a pocket. 20 Q Okay. 21 A Now you have to build the mechanism inside 22 this envelope that they give you. That is a	63 1 I would be working with, to create the product. 2 Q Okay. Other than this Polaroid camera 3 project from the '90s, have you been involved in the 4 design, marketing, or sale of any other consumer 5 products? 6 A Not since the time -- or up to the time of 7 the patent. Since then there have been one 8 particular one that is coming out now. It's called 9 Zerowheel. You can look it up. It's very 10 interesting. But up to the date of the patents, no. 11 The only consumer product work specifically was 12 Polaroid that I can recall. 13 Q Okay. Paragraph 18 of your report, 14 Exhibit 1, you describe what you believe to be the 15 level of skill in the relevant art. 16 Do you see that? 17 A Yes. 18 Q Paragraph 18. 19 A Okay. Yeah, it starts at 17, but 18 20 specifically for the '393, yes. 21 Q Yeah. We're talking about the '393 patent 22 and the level of skill in art for that, right?
62 1 challenge, typically, because there's -- I don't 2 know if you remember the Polaroid instant film, 3 there's rollers, and there's very high loads 4 internally as the film goes through. How do you 5 make things strong enough to do the precision motion 6 that was required and yet be contained in a small 7 package? 8 Q Okay. Have you described your role? 9 A I did. 10 Q Your role was to do what? To design those 11 rollers and the internal mechanisms of the Polaroid 12 device? Is that what you're saying? 13 A Yes. Well, it's a team effort, and my role 14 is specifically look at: Will the precision of the 15 device be maintained to what is required to give a 16 good print? 17 In the context of working with the team on 18 here is the form factor -- I call it package -- the 19 envelope of the device, and there was back and forth 20 between the product designers -- those are the 21 people who focus on the aesthetics and what the 22 function will be, and the mechanism designers, which	64 1 A Correct. 2 Q You say here: As of the effective date of 3 the '393 patent, a person of skill in the art would 4 have an undergraduate graduate degree in mechanical 5 engineering. 6 You obviously well exceed that. You have a 7 Ph.D. in mechanical engineering, correct? 8 A Correct. 9 Q Okay. 10 "...and two years of industry or research 11 experience in mechanical assemblies and hand-held 12 consumer devices..." and then there's another "or" 13 clause. I want to focus on that first "or" clause. 14 "...research experience in mechanical assemblies and 15 hand-held consumer devices..." 16 Do you meet that level? 17 A I believe I do. 18 Q Okay. Based on the Polaroid device? 19 A Yeah, at least based on the Polaroid 20 device. 21 Q Well, you say here that you have to have 22 research experience in mechanical assemblies and

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65 1 handheld consumer devices. 2 So the only consumer device that you 3 testified about was the Polaroid camera, right? 4 A So I need to add another area I've been 5 working with. I've been working with Milwaukee Tool 6 actually before this patent also on tool design. So 7 power tools, which when you asked consumer device, I 8 was thinking in terms of, like, cameras, that other 9 stuff. But I think power tools like at Home Depot, 10 that is also a consumer device. 11 Q Okay. So you're adding to the list of 12 consumer devices. You worked with Milwaukee Tool? 13 A Correct. 14 Q Okay. So what did you do for Milwaukee 15 Tool? 16 A So they're looking at -- when you look at 17 drill design and the area is -- I don't know if 18 you've ever used a drill, for example, and you 19 get -- it snags and you have kickback? 20 Q Yes. 21 A Well, that's not a good thing. How do 22 you -- how do you design the device to be safer?	67 1 Here it is on page 108 of my entire report. 2 This is the course 2.70: "Introduction to Design," 3 which I started teaching in the mid '90s, and they 4 changed the number, which was not a good thing, but 5 they did, to 2.007: "Design and Mfg I." It's the 6 same class number or the same class content. 7 And when you have that many students all in 8 the machine shop building their stuff at once, you 9 do studies as to where the blockages are. The drill 10 press. This is stupid. People can't work on their 11 machines because they can't get to the drill press. 12 Let's just give everybody a drill. I was able to 13 convince Milwaukee -- I think it was Milwaukee was 14 the first company at the time. We'll just give 15 everybody a drill. 16 Now we observe how they use the drills and 17 what's the feedback of how people use the drills to 18 make the drills better. That's how that 19 relationship started, and how I actually worked with 20 them on how you could make your drills better, for 21 example. 22 Q Okay. Was that a paid position that you
66 1 Where would you put the reaction handle on it, for 2 example? 3 And then in brainstorming sessions on what 4 are new power tools that would be of use, and I 5 can't describe any detail of that because that's all 6 proprietary. 7 Q Okay. Do you -- do you recall when you did 8 this work? 9 A Our relation with Milwaukee goes back -- 10 well, it started when I started teaching in the 11 realm of teaching this class 2.70 and then 2.007. 12 So that would be, if we go to my list of coursework, 13 2010 frame. 14 Q Okay. So in or around 2010. Is that your 15 testimony? 16 A Yeah, in that frame. Because what we would 17 do is we would obtain -- I give every student a 18 drill. Because we'd have a class with some hundred 19 to 150 students, and they all have to build their 20 robots. This is the precursor to the first robotics 21 which a lot of people know about. First robotics 22 grew out of this MIT class that I inherited.	68 1 had? 2 A That is not. That is in the context of my 3 teaching and having companies to be sponsors of the 4 class. It's not even a quid pro quo. It's just 5 something you do to keep your sponsors happy. You 6 give them as much detailed feedback about their 7 stuff they provide as you can. 8 Q Okay. So your testimony, then, is you 9 qualify under this second "or" clause based on the 10 feedback you gave to Milwaukee and the Polaroid 11 camera work you did, correct? 12 A Well, that's not the -- okay. Right. Or 13 research experience -- 14 Q I'm focused on just that second "or." 15 A Yes, I think that's so. 16 Q Okay. Nothing else that you can think of 17 at this time? 18 A No. Because I included the power tools as 19 consumer devices. 20 Q Okay. Fair enough. 21 Okay. But we can say for sure that you've 22 never designed, like, a video game controller of any

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69 1 kind? And I'm not talking about, you know, 2 controllers that are analogous to. I'm talking 3 about specifically video game controllers. 4 A I understand that, and, no, I have not 5 specifically worked on video game controllers. 6 Q Paragraph 19, you say that your definition 7 also considers the fact that a person of skill in 8 the art would know how these devices are used, 9 correct? 10 A I'm trying to understand your question. 11 Q I'm sorry. Let me strike it. I meant 12 paragraph 20. I beg your pardon. 13 Paragraph 20, you say: "...in my opinion, 14 POSITAs would have an understanding of the manner in 15 which normal users generally operate game 16 controllers." 17 Do you see that? 18 A I do. 19 Q Okay. And your understanding in this 20 regard comes from observations of high school 21 students using game controllers when they were 22 playing, right?	71 1 Q Okay. But you've never created a game 2 controller, so you've never used that experience 3 that you gained from watching kids play games to 4 design a game controller, right? 5 A Well, the answer to that is I haven't 6 designed a game controller, but that's not the 7 question I understood you asked me earlier. 8 Q Well, that's the question I'm asking now. 9 A Okay. I've observed students doing -- 10 people using game controllers. So if I asked, I 11 could sit down and do the mechanical design of such 12 a thing very straightforwardly, but have I been 13 asked or done that part of it, no. 14 Q I guess what I'm trying to focus on here is 15 you observing gamers in action. Like, you weren't, 16 for example, measuring forces or doing anything 17 technical in your observations, were you? You were 18 just watching kids play games. 19 A No, I disagree with that assessment. The 20 training I have and the way I train my undergraduate 21 students -- and I have written about this, and this 22 is all part of my course materials and many people's
70 1 A Correct. That's where I first was -- 2 really saw a lot of it, and then around the campus 3 you see students at university level also playing 4 video games. 5 Q Okay. So what part of your professional 6 expertise did you use to make these observations? 7 A So I teach students how to design things, 8 and I've published extensively. I have two books: 9 Precision Machine Design, and another one, 10 FUNdaMENTALS of Design, where I specifically talk 11 about you have to establish the functional 12 requirements for your design, and you do that -- one 13 of the ways is by observing users of similar 14 devices. 15 Because the ergonomics part of things, if 16 you create a device and people don't buy it because 17 they don't like it, you haven't -- you haven't 18 succeeded. You may mechanically succeed, but if no 19 one buys the product, that's no good. So you have 20 to observe people using similar things as part of 21 how you frame the design task to then go forward and 22 create either a new device or evolved device.	72 1 course materials. When you observe somebody using 2 something -- 3 Q Mm-hmm. 4 A -- you're wired, as a mechanical engineer, 5 to not just say, "Oh, look, they're playing 6 something." You're wired as you -- whenever you 7 observe somebody with a product, to look at the 8 product, how is it being used. How would you maybe 9 look at it and design a better one. This is called 10 keeping your eye open for opportunity, and that's a 11 very important part of training of a mechanical 12 engineer. 13 Q Were you keeping your eyes open for 14 opportunities when you were observing gamers? 15 A I certainly am looking at gamers and 16 looking at how they do that, and could I -- could I 17 think of how that works, could I make a better one, 18 perhaps. I do that with everything. Even your 19 little guy here on your iPad as you flip that up, 20 what's the stability of that structure. This is how 21 we're wired. 22 Q Okay. But I'm just trying to understand if

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73 1 there's any -- if you brought to bear, when you were 2 observing any of these gamers in action, any 3 particular technical or scientific studies. So you 4 weren't, like, studying them. You were just 5 watching them the way, for example, a parent would 6 watch their kids play games, right? You were just 7 looking at them. 8 A No, that's incorrect. A parent watching 9 their kid playing video games typically is not 10 looking at how are you holding that, what are the 11 forces on that. Those -- those are well-documented. 12 Any mechanical design person with experience 13 designing things, whenever you see something, 14 somebody doing something, you are looking at it, and 15 you're playing this script. That's part of your 16 training. That's what we do. 17 Q Okay. Can you recall, for example, what 18 games they were playing? 19 A No, I don't recall the games. It was -- 20 typically, the action shoot-em-up games is the most 21 common that the kids would play. A few of them now 22 and then would play Tetris.	75 1 for example. That's what I mean when I say, "active 2 gameplay." 3 A Oh, I see. 4 Q Do you know if any of the games you were 5 watching had active gameplay in them? 6 A I don't recall they did. I think that was 7 before such things became -- I think the -- like the 8 Sony -- not the Sony. I think the Wii or whatever 9 does that. 10 Q So the games that you're talking about were 11 before the Wii? 12 A I'm trying to remember if there was overlap 13 with that. I don't recall. 14 Q Okay. Do you recall whether there were any 15 kids playing games sort of like with the structure 16 of, for example, the Park device, where there was a 17 phone inside of a controller? 18 Did you see any of those? 19 A I do not think at the time there was that 20 type of device. 21 Q Okay. So do you know if the -- any of the 22 devices had screens that were interactive? So, for
74 1 Q Do you recall what controllers they were 2 using? 3 A I do not. 4 Q Do you recall whether the controllers were 5 connected to, for example, a game console that had 6 the game on the TV? 7 A There was all types. When they first 8 started, things were wired. Then things went 9 remote, and sometimes they would play on the TV. 10 Sometimes they would sit and they would have the 11 whole game with them just -- you know, because you'd 12 have different kids and they'd have a game in their 13 hands. 14 Q Okay. Do you recall whether any of the 15 games that the kids had in their hands, as you put 16 it, included active gameplay elements? 17 Do you know what active gameplay is? 18 A I need you to define it, because to me all 19 games are active because you're playing them. 20 Q Okay. So what I mean is, for example, you 21 know, if you were playing a fishing game, you would 22 cast a rod. You'd mimic a motion of casting a rod,	76 1 example, a touchscreen. 2 A I know there was games they were playing 3 where there were controllers things and there was a 4 screen there. I do not know if that was a 5 monolithic device -- or I don't recall -- or it was 6 something that would be put together. That I do not 7 recall. I just recall you had devices, they were 8 controlling things and there was a screen. Because 9 they would sit there with their faces stuck in it. 10 Q Okay. 11 A And then some of them were, later on, 12 watching the TV. 13 Q Okay. But do you recall whether there was 14 any circumstances where the kids were interacting 15 directly with the screen, touching the screen? 16 A That I don't recall. 17 Q Okay. 18 A And whenever it's convenient, let's do a 19 bio break, please. 20 Q Sure. We can take a break now. That's 21 fine. Now's a good time. 22 (Recessed at 10:29 a.m.)

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77 1 (Reconvened at 10:37 a.m.) 2 BY MR. KINSEL: 3 Q I guess just for sort of housekeeping 4 purposes and mostly because I don't want to carry 5 these back with me, let me mark as Exhibit 3 the 6 '393 patent so we've got it. 7 - - - 8 (Slocum Exhibit 3 was marked for 9 identification.) 10 - - - 11 THE WITNESS: Okay. 12 BY MR. KINSEL: 13 Q All right. So -- 14 A This is -- excuse me. This is Mr. Kumar's 15 (indicating)? 16 Q Yes, it was. That was the idea. 17 DR. KUMAR: This is Exhibit 3? 18 MR. KINSEL: It is. 19 BY MR. KINSEL: 20 Q Okay. I want to start with something that 21 you say in paragraph 77 of your -- of your 22 declaration.	79 1 So this sentence was important to you for 2 some reason, because you blocked it and copied it 3 multiple times. 4 Why was this sentence important to you? 5 A The separate and distinct structure is 6 important. That part is why it's important. And 7 I'm copy/paste because Mr. Kitchen kept doing the 8 same combination -- my understanding of what he was 9 doing, in terms of relying on the control modules as 10 part of how he was confining things for his 11 different combos, and so I was pointing out this 12 1(d)(4) is really an important claim element, and it 13 just seemed that that is a very important piece 14 that, okay, as part of my explanation of what I'm 15 having to look for. 16 Q Okay. I understand what you're saying, but 17 I'm asking about this particular sentence, where 18 you're talking about what the examiner identified. 19 "...the Examiner identified aspects of this claimed 20 arrangement in [sic] his statements for [sic] 21 reasons of [sic] allowance." 22 Why was that important to say there? What
78 1 A Okay. 2 Q You say here, and first you quote 3 limitation 1(b)(1) and 1(d)(4), and then you say: 4 "During prosecution, the Examiner identified aspects 5 of this claimed arrangement in [sic] his statement 6 for [sic] reasons" -- sorry. Let me strike that 7 because there's a typo in here. Let me read it 8 again. 9 Paragraph 77: "During prosecution, the 10 Examiner identified aspects of this claimed 11 arrangement is his statement for [sic] reasons for 12 allowance," and then you cite to a portion of the 13 prosecution history. That's what 00925 through 26 14 is. Okay? 15 And you actually copy this sentence in 16 multiple places in your declaration, including the 17 typo. So you sort of blocked and copied it in 18 various portions. So, for example, it's in 19 paragraph 107, 135, and 150. Okay? 20 A It should be "in," not "is." 21 Q Clearly. Yeah, obviously, just a typo. No 22 big deal.	80 1 were you trying to communicate there? 2 A That the control modules have to be 3 separate and distinct. That's what I'm trying to 4 communicate. You asked me and I'm answering you. 5 That's what I thought was important. 6 Q What does the examiner have to do with 7 that? 8 A It just struck me as something that, yeah, 9 okay, the examiner, when he's talking about why this 10 patent was going to be allowed -- remember, there 11 was the discussion from Mr. Kitchen about the '119 12 patent, but I'm not looking at the '119 patent, and 13 Mr. Kitchen brings out -- he's providing opinions 14 about the '393, and I'm looking at, okay, so what 15 claim element here is really going to be the 16 differentiating element -- I'm not sure that's the 17 right word. What are -- when I look at 18 Mr. Kitchen's combinations and I look at the '393, 19 where do his combinations not hold? 20 Q But I'm not getting the answer that I'm 21 trying to elicit here because I don't quite 22 understand what the examiner has to do with what

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81 1 you're testifying about. 2 I understand you disagree with 3 Mr. Kitchen's combinations. You don't need to keep 4 repeating that. I get that you disagree with that. 5 I'm focused here on why you thought that the 6 examiner identifying aspects of this claimed 7 arrangement in his statements for reasons for 8 allowance was important. Why was that important? 9 You repeated it four different times, including the 10 typo. So it's obviously important to you for some 11 reason, and I'm trying to understand what that 12 reason is. 13 A I think I already explained it. 14 Q Okay. Maybe I missed it then. Go ahead 15 and explain it again. 16 A That the control modules have to be 17 separate and distinct. They cannot play a role in 18 confining the electronic device. 19 Q Okay. I get that -- I get that's your 20 understanding. 21 But did the examiner identify that as an 22 important reason in his reasons for allowance? Is	83 1 examiner had called out these two limitations as 2 somehow important, as opposed to some of the other 3 limitations, for example? 4 A Well, these are the two limitations that 5 are germane to why Mr. Kitchen's combinations are 6 not, in my mind, invalidating the patent. 7 Q I get it. I get that you disagree with 8 Mr. Kitchen. I get it. I'm not asking about 9 Mr. Kitchen. 10 I'm asking about what you were trying to 11 say here with respect to the examiner. What were 12 you trying to suggest that the examiner was saying 13 with his reasons for allowance? What were you 14 trying to get at? 15 DR. KUMAR: Objection. Asked and answered. 16 BY MR. KINSEL: 17 Q If you don't know, you can just say you 18 don't know. If it was written by the lawyer, you 19 can just say it was written by the lawyer. It 20 doesn't matter. I'm just trying to understand what 21 you were trying to get at. 22 DR. KUMAR: Object to form.
82 1 that why you cited his reasons for allowance here? 2 A We'd have to go back to Exhibit 1009 3 because that was a while ago when I looked through 4 that, and I'll have to reread that. 5 Q Were you trying to suggest that the 6 examiner had identified these two limitations as 7 somehow -- the two limitations that you're quoting 8 here as somehow important in his reasons for 9 allowance? 10 A I'd have -- I don't recall explicitly. I 11 have to go back. 12 Q Do you remember even reading the reasons 13 for allowance? 14 A I remember reading his -- as part of the 15 file wrapper, this particular statement, and that 16 reason. 17 Q Okay. But what is your recollection of 18 what that particular statement said? That's what 19 I'm to get at. 20 A That was a while ago. I'd have to go back 21 and look at that particular part. 22 Q Were you trying to suggest that the	84 1 THE WITNESS: As I said, I looked at the 2 patent. I reviewed the file wrapper. There are 3 particular claim elements that Mr. Kitchen is trying 4 to show his combinations -- show that it's obvious 5 and, therefore, the claim is invalid. 6 In my understanding of the patent, it's 7 important that you look at the patent, you know, the 8 figures, the specification, the claims, any claim 9 construction; and I also like to review the file 10 history. Do I recall all the other limitations that 11 the examiner was discussing? There was a lot of 12 discussion on -- because there's a lot of claim 13 elements, as you brought out individually in this 14 Exhibit 2. 15 My focus was on these particular elements, 16 like 1(d)(4) and 1(b)(1). Is there anything in the 17 file history that could help inform me of when I'm 18 looking at the claims and then comparing the claims 19 to, in this case, Mr. Kitchen's opinions? 20 BY MR. KINSEL: 21 Q Okay. Did you think that the reasons -- 22 statement of reasons for allowance informed you or

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85 1 gave you some information about these two 2 limitations that you've highlighted here? 3 A I think it just reinforced my understanding 4 that the control modules cannot be part of the 5 confining function. 6 Q Why did it reinforce that? 7 A Just reading it. I mean, I have to go -- I 8 don't recall exactly what. We'd have to go back 9 and -- 10 Q Okay. Well, why don't we take a look at 11 it. So I'm going to give you -- the whole file 12 history is rather lengthy, so I didn't copy the 13 whole thing. 14 A Exactly, it's a big one. 15 Q But I did -- let me finish my point. 16 But I did copy the pages that you 17 specifically called out. Okay? So that's 18 Exhibit 4. 19 --- 20 (Slocum Exhibit 4 was marked for 21 identification.) 22 ---	87 1 the examiner -- the key element here, as I read 2 through it all, that the controllers are separate 3 and distinct from how you actually hold the 4 electronic device. That's what I -- that is what I 5 get from this. 6 So when I'm reviewing Kitchen's 7 combinations, that helps me to understand that what 8 makes the claim novel or allowable, whatever word we 9 want to use, is that fact that the control modules 10 cannot participate in the confining function. 11 That's what I got from that. 12 Q He recites, effectively, all of the 13 limitations from the claim, doesn't he? 14 A Mm-hmm. 15 Q So how do you get what you just said from 16 his reciting all of the limitations from the claim, 17 or effectively all of the limitations? 18 A Well, the same way you did when we first 19 started out. You can look at a claim, and there's a 20 lot of elements of a claim, but what makes a claim a 21 claim is you have to have each and every one of 22 them.
86 1 BY MR. KINSEL: 2 Q It's portions of Exhibit 1009, pages 1 3 through 30. Okay? 4 A Okay. 5 Q And you cite to page 25 and 26 of this. 6 A Hold on. I have to get there. 7 Okay. Let me refresh myself by reading, 8 please. 9 Q Go ahead. 10 A You see, if you'd go to page 4 -- I'm 11 sorry. It says page 4 at the top here. It's page 12 27 of -- I'm sorry. So this actually occurs right 13 after. It should be 25 through 27. 14 In the second paragraph: "Game controller 15 with structural bridge is well known in the art. 16 For instance, Wu...in view of Willis...teaches a 17 game controller structural bridge. However, Wu in 18 view of Willis is silent on," and then he repeats 19 the claim. 20 In other words, what I found informative 21 was the examiner is pointing out there are a lot of 22 game controllers, structural bridges, and stuff, but	88 1 Q But you agree that the examiner didn't 2 isolate the two limitations that you're focused on, 3 did he? He didn't say, "These are the two 4 limitations that make this claim important," did he? 5 He recited almost all of the limitations. 6 A You have to look at the entire thing in 7 context, right. And if you were to go and look 8 at -- he also said, you know, this Wu and 9 Willis which was part of the wrapper -- and I didn't 10 cite explicitly to them -- 11 Q Well, you didn't cite to it at all. It's 12 not that you didn't cite to it explicitly. You 13 didn't cite to it. 14 A Exactly. 15 Q Okay. 16 A That's the point. The file wrapper's huge. 17 Here's the whole file wrapper. I looked at the file 18 wrapper. In this particular claim element is the 19 one that I'm focusing on -- well, these couple, with 20 respect to my opinion of Mr. Kitchen. 21 Q I understand that these are the ones you're 22 focused on. What I'm trying to get my head around

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89 1 is why you thought -- why you said that the examiner 2 identified aspects of this claimed arrangement in 3 his statement for allowance, citing the pages that 4 I've just directed you to, why you thought that was 5 significant when he was citing, effectively, all of 6 the limitations? 7 A Because if you look at the prior art that 8 the examiner was looking at, it had most of the 9 claim limitations except these particular elements, 10 for example. 11 Q Okay. But you don't say that in your 12 report, do you? You say -- you cite to page 25 and 13 26, where it says -- and you specifically call out 14 the examiner's statement of reasons for allowance -- 15 A Mm-hmm. 16 Q -- which I've just shown you, which 17 recites, effectively, all of the limitations from 18 the claim. It doesn't -- it doesn't single out the 19 two limitations that you claim to be important. 20 A I disagree with you. 21 DR. KUMAR: Form. 22 THE WITNESS: I just -- I just told you why	91 1 means. He said things like, "Make sure you state 2 explicitly the claim elements you're talking about, 3 to make your report easier to read." I know how to 4 do that. 5 And we go back and forth. I wrote this 6 report. You can even tell I even did the graphics, 7 the solid models. 8 Q Okay. 9 A And I do real solid models and real images 10 as a POSITA, not PowerPoint play. 11 Q Okay. Well, that's wonderful for you. 12 That's not my question, though. 13 A I believe it was your question. 14 Q My question is about paragraph 77 and why, 15 when you were drafting your opinion, you thought it 16 was so important to identify that the examiner 17 identified aspects of this claimed arrangement in 18 his statement for allowance. 19 Why did you think that was important when, 20 in fact, the examiner identified, effectively, all 21 the limitations in his statement for allowance? 22 Were you trying to mislead the Board?
90 1 I thought it was important. You can't tell me 2 that's not important what I thought was important. 3 I don't know how to answer that question. 4 BY MR. KINSEL: 5 Q I'm not asking you that. 6 A What are you asking me? 7 Q Well, your -- did you write this 8 declaration, or did somebody else write it for you? 9 A I wrote this declaration, and -- 10 Q So let's focus -- 11 A No. Let me finish my answer, please. 12 Q Go ahead. Finish. 13 A I was asked to read Mr. Kitchen, read the 14 patent, make sure I understood the patent and its 15 claims. "Now, Professor Slocum, what is your 16 opinion of Mr. Kitchen's report?" I draft my 17 outline. I make sure I'm covering things. I talked 18 to Mr. Kumar. "Did I cover everything you think you 19 want covered?" "I think so." 20 He went and gave me pieces, for example, 21 the boilerplate in the beginning, and I have to make 22 sure I understand what obviousness anticipation	92 1 DR. KUMAR: Objection. Asked and answered 2 several times now. 3 BY MR. KINSEL: 4 Q Were you trying to mislead the Board? 5 A No. I am -- 6 Q Were you trying to suggest that he 7 identified these limitations specifically? Because 8 he didn't, did he? 9 A You are taking my answer out of context. I 10 specifically point to where the examiner is 11 stating -- and I'll read it again. "In combination 12 with the remainder of the respective claims are not 13 anticipated or made obvious over the prior art of 14 record in the examiner's opinion." 15 I have to look at the prior art that the 16 examiner cited in the file wrapper. 17 Q Did you read Wu and Willis? 18 A I looked through the images of Wu and 19 Willis, and I think there was other stuff. The file 20 wrapper's quite extensive. The overall theme of the 21 examiner is, then he goes on: "Game controller with 22 structural bridge is well-known in the art."

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93 1 Q Mm-hmm. 2 A So that tells me that within claim 1 3 there's a lot of stuff which is a game controller 4 with a structural bridge. There are a lot of 5 elements, as we went through. So what is different? 6 The examiner is citing the whole claim, and 7 I am citing, in my report, what is specifically 8 different than, for example, Wu and Willis, and that 9 is, for example, 1(d)(4), and that's my answer. 10 Q Okay. But you didn't write any of that in 11 your opinion, right? For example, all you said was 12 that: "...the Examiner identified aspects of this 13 claimed arrangement..." 14 I presume that this claimed arrangement in 15 your sentence there that you wrote refers to the two 16 paragraphs that are above it, right? Isn't that 17 what you were referring to? 18 A These two claim limitations. 19 Q Yeah. The two paragraphs above it. 20 A Right. These are what differentiate the 21 whole claim on page 4 of the examiner's opinion. 22 Q Okay. The page you didn't cite.	95 1 Q Right. So it's not because of those 2 particular two limitations. He's saying it's 3 because of all of these limitations; isn't that 4 what's saying? 5 A You can't things out of context like that, 6 and neither did I. 7 Q How did I take it out of context? 8 A Because you're saying the entire file 9 wrapper is represented by two pages. 10 Q Doctor, you cited the two pages, not me. 11 This is your report that you said you wrote -- 12 A I'm not going to -- I don't know how to 13 respond to you. I just don't understand your 14 question. 15 Q Okay. Well, let me try it again. 16 Do the lines that you cited -- page 25 17 through 26, the reasons for the statement of 18 allowance -- do those pages -- does that citation 19 specifically call out the two limitations that 20 you're talking about as reasons for his allowance? 21 A Those two limitations are in his text here 22 starting on paragraph -- or Section 3.
94 1 A And I corrected that. It should be through 2 27. 3 Q Okay. So let's focus on what you did cite. 4 Okay? 5 A I'm telling you what I meant to cite then. 6 It should have included 27. 7 Q Okay. Can I at least just slow you down so 8 you can answer my questions about what you did cite? 9 We can agree, can't we, that what you did 10 cite doesn't call out specifically the two 11 limitations that you've identified, what you did 12 cite? We'll get to what you didn't cite. 13 What you did cite, paragraph 25 to 26, does 14 not specifically call out those two limitations as 15 important, correct? 16 A If you want to be pedantic about it, it 17 does. If you start on page 25, it says, in Item 3: 18 "The following is an examiner's statement of reasons 19 for allowance. The specific limitations of..." and 20 then he cites claim 1, and he's saying, "I'm 21 allowing it specifically because of all this stuff 22 in here."	96 1 Q Correct. And so is the structural bridge 2 and so is the passageway and so is the communication 3 link, and so are -- is the other confinement 4 structure, and so are the pair of electronic game 5 control modules. He was citing, effectively, the 6 entire limitation, the entire claim, wasn't he? 7 DR. KUMAR: Object to form. 8 THE WITNESS: He is citing the entire 9 claim. 10 BY MR. KINSEL: 11 Q Okay. That's all you have to say. He's 12 citing the entire claim. 13 And you were citing just the two 14 limitations? 15 A Those are the only two limitations that are 16 relevant to my opinion with respect to Mr. Kitchen's 17 combinations. 18 Q Got it. 19 But you can agree with me, can't you, at 20 least with respect to pages 25 and 26, that the 21 examiner wasn't singling out limitation 1(b)(1) or 22 1(d)(4)? He wasn't singling those out for special

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97 1 attention, was he? 2 A Well, we have to -- I have to go back and 3 read more because I still think it's implied he is, 4 but I meant to include page 27. 5 But now if you'd go to -- if you look at 6 the top, see where it says -- and I have to go back 7 and read the original claim language that's in here. 8 But at the very top of page 26, the examiner in 9 cite -- in going through the whole claim, says, for 10 example, here: "...corresponding confinement 11 structures, and in which each of the pair of 12 confinement structures are separate and distinct 13 structures from the structural bridge, forming no 14 structural portion of the structural, bridge (with 15 respect to, Claim 8)." 16 So I have to go back and review again what 17 the claim 8 was. He's -- he's -- after these -- 18 this key element, he's giving me another specific 19 look here. So -- 20 Q With respect to claim 8, a claim we don't 21 challenge. 22 A Well, I have to see -- I have to make sure	99 1 Q Because you won't let me finish my 2 question. 3 A Ask your question. 4 Q With respect to claim 1, he is rambling on 5 with respect to that claim limitation with respect 6 to all of the claim limitations in claim 1, right? 7 He's not highlighted claim 1(b)(1) or 1(d)(4) for 8 special attention in his recitation of the reasons 9 for allowance, right? 10 A I disagree. 11 Q Okay. All right. That's fine. 12 What is your understanding of confinement 13 structures as used in the claims, or in claim 1 at 14 least? 15 A Well, we can go to specifically from the 16 Northern District's, you know, discussion of this 17 topic, or we can just simply say the confinement 18 structure has to touch at least three sides of the 19 device -- the electronic device, and it has to 20 confine it. It has to perform the function to 21 enable the user to use this gaming console. So it 22 can't let it get loose.
98 1 that this was the same claim 8, and it's been a 2 while. But that's drawing attention specifically to 3 that element, that he's not just rambling on about 4 the whole claim. 5 Q In claim 1 he was rambling on about the 6 whole claim, though, wasn't he? 7 A No, he's not. 8 Q He's not? 9 A He's specifically parsing it here where 10 he's saying with regards to this forming no 11 structural portion of the structural bridge. 12 Q That's for claim 8. I'm talking about 13 claim 1. 14 A I understand that. 15 Q So I'm focused on claim 1, which is the 16 claim that you've -- that you've opined on, not 17 claim 8. You've not opined on claim 8. So I want 18 to focus on the stuff you have opined on. 19 With respect to claim 1, he's -- let me 20 finish my question. 21 A I don't know what -- I don't know how to 22 answer your question.	100 1 Q The construction from the Northern District 2 of California says: "Physical component(s) that 3 hold(s)," with the plurals, "a computing device"; is 4 that right? 5 A I think that's what it is, holds. 6 Q Okay. And did you apply that construction 7 in your analysis? 8 A I did. That's what keeps it from coming 9 loose. It holds it. 10 Q What do you mean by "holds"? 11 A Well, when a user is using the system, the 12 electronic device has to stay in place; otherwise, 13 you -- it doesn't function. 14 Q So can you give me a definition of how 15 you're using the word "hold" so that I understand, 16 so I can figure out if we're talking about the same 17 thing? 18 What does "hold" mean to you? 19 A Okay. For example, if you look at Mr. Park 20 as a reference that Mr. Kitchen himself is applying 21 or talking about -- and let me go to -- so for a 22 mechanical engineer, strict definition of hold would

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101 1 be I have a body, an electronic device; a user is 2 interacting with the system that has that body in 3 it, and as the user is moving, as the user is doing 4 things, the device remains fixed with respect to how 5 the user is holding it so their interaction with the 6 device doesn't have to change due to the thing 7 moving out of the context of this hold -- the device 8 that's holding it. 9 So, for example, as I cite in my report, 10 if, when using the device, the screen tips or were 11 to slide out, that would distract the user and would 12 confound the using of the device, so it no longer 13 functions. 14 And Mr. Park, for example -- let me find 15 that quote from Mr. Park. 16 Q I think you've read me the quote several 17 times. You don't need to read it to me again. I 18 know the quote you're talking about. 19 A Okay. 20 Q All right. Have you completed your answer 21 for the definition of the word "hold"? 22 A I have.	103 1 If there's some other sort of helper device 2 or helper structure, does that render the devices no 3 longer confinement structures? 4 A It sounds -- I haven't opined specifically 5 on that, but sitting here as I am, it sounds like a 6 non sequitur. Then it wouldn't be a confinement 7 structure. A confinement structure by itself has to 8 accomplish the function. If you want to add, you 9 know, suspenders to your belt, I guess you could, 10 but I haven't considered that. So I'd have to see 11 exactly what you're talking about in order to form 12 an opinion, but the confinement structures by 13 themselves have to confine. 14 Q Okay. So they have to do it by themselves? 15 A At least by themselves. 16 Q At least by themselves. What does that 17 mean, at least by itself? 18 A Well, as I just said, the belt and 19 suspenders analogy. It's a comprising claim. So 20 you have to do this. You have to have a confinement 21 structure. Confinement structure has to hold, and 22 it has to do the whole job. If you want to add
102 1 Q All right. Good. 2 In your understanding, does the confinement 3 structure by itself have to perform this function of 4 holding, or can other components be involved in the 5 holding? Does it have to do it all by itself? 6 A Okay. So it's a comprising claim. So if 7 there was something else in there that additionally 8 attached or whatever, that I didn't consider. All I 9 considered was the confinement structures, and 10 remember, it's in combination with the structural 11 bridge because the confinement structures themselves 12 can't -- they'll fly off. They have to be attached 13 to something that gives them their position in 14 space. 15 Q Okay. So I guess what I'm trying to 16 understand, though, is in your view, if a 17 confinement structure is capable of holding a 18 computing device, but maybe not holding it as firmly 19 as you would like and you have some other component 20 that is involved in the holding of the computing 21 device, does that render the structures no longer 22 confinement structures?	104 1 something else like a Velcro strap just to be sure, 2 you probably wouldn't sell it with it. People would 3 probably cut the strap off, but it doesn't mean that 4 you couldn't add it. 5 I think that's what your question was. 6 Q Okay. Let me -- maybe I can focus a little 7 bit. Why don't you go to Figure 11 in your report, 8 page 54, around paragraph 98 or so. 9 A Okay. 10 Q So this is your illustration of Park and 11 Schoenith? 12 A (b) is. 13 Q (b) is? 14 A 11(b). 15 Q Correct. Yeah. (b) is. 16 If the computing device in your 17 illustration, for example (b), was held in place by 18 a combination of the walls and the overlap of the 19 panels, does that mean that the walls are not 20 confinement structures? 21 A The walls themselves are not confinement 22 structures, no.

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105 1 Q Because they need something else to hold 2 the computing device in place, correct? 3 A Well, something else is needed, yes. It'll 4 fly out. 5 Q It'll fly out, in your opinion. And so 6 without the panels, the walls can't be confinement 7 structures, correct? 8 A Correct, and that's as Park points out too. 9 That's why Park had -- had a little pneumatic pump 10 with an active squeezer, for example. That was an 11 important part I read from Mr. Park, what he said 12 was part of his invention. 13 Q Okay. Just to make sure I'm clear, at 14 paragraph 112, you say -- and this is the last 15 sentence or so of your paragraph 112: "The right 16 and left raised walls from Schoenith's cradle 20 17 themselves cannot hold Schoenith's smart device 30, 18 and therefore do not satisfy the requirements of the 19 claimed 'pair of confinement structures' under the 20 construction that Mr. Kitchen and Nintendo have 21 applied," correct? You say that? 22 A Correct.	107 1 focused necessarily on Schoenith. I'm just trying 2 to get an understanding of what you believe 3 confinement structures mean. 4 So if I point to any structure but that 5 structure by itself cannot hold the computing 6 device, those structures can't be confinement 7 structures, correct? 8 A In general, I don't think they can, but I 9 reserve the right that you have to give me actual 10 pictures. 11 Q Sure. No. I understand. Okay. 12 A So an example of what is a confinement 13 device that, you know, I think clearly identifies 14 what could be, which you could then extrapolate, 15 is -- go to my page 45 and 46, where I'm taking from 16 the '393 patent, those two different views, 17 and 17 18. 18 Q Okay. Got it. 19 Let's say you have -- let's -- 20 hypothetically, okay, let's say that the Schoenith 21 sidewalls that Mr. Kitchen has identified were 22 screwed into the side of an iPhone or an iPad, some
106 1 Q Okay. And so what that means is if a 2 component that someone is calling a confinement 3 structure can't do the job by itself, then it can't 4 be a confinement structure, right? 5 A That is my opinion, that what Mr. Kitchen 6 is calling a confinement structure is not. I'm 7 opining that he's wrong. 8 Q Right. 9 Because the walls themselves can't do the 10 job. They can't hold the computing device, in your 11 opinion? 12 A Correct. Under normal use, it will come 13 out. 14 Q Okay. So if another structure is necessary 15 to hold the computing device in place, does that 16 mean that the identified structure is not a 17 confinement structure, within your understanding of 18 the term? 19 A Please clarify. When you say, "the 20 identified structure," the walls or this new 21 structure? 22 Q Just more generically. So we're not	108 1 computing device. Let's just -- hypothetically. 2 Would those sidewalls be confinement structures in 3 that circumstance? 4 DR. KUMAR: Objection. Scope. 5 THE WITNESS: I don't know how to answer 6 your hypothetical because I'm not aware if you're 7 able to screw anything together into an iPhone or 8 anybody. So -- 9 BY MR. KINSEL: 10 Q I'm just asking you hypothetically because 11 I'm trying to understand what you mean when you say 12 confinement structures. That's all I'm trying to 13 figure out. 14 So if the confinement structures are 15 permanently attached, the walls are permanently 16 attached, for example -- for example, in Hirschman, 17 right, the walls are permanently attached. Are 18 those confinement structures where the walls are 19 permanently attached? 20 A Okay. I prefer we didn't do Hirschman 21 unless we're going to go right in everything with 22 Hirschman, because Hirschman has a bunch of

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109 1 problems. 2 Q We're going to get to Hirschman. Don't 3 worry. 4 A Okay. 5 Q I'm trying to understand the limit of what 6 you believe a confinement structure is, that's all, 7 so I can understand it and apply it the way you 8 have. 9 If the sidewalls of Schoenith were screwed 10 into a computing device -- it doesn't have to be an 11 iPhone. Whatever computing device it is -- would 12 those sidewalls be confinement structures, in your 13 understanding? 14 DR. KUMAR: Objection. Form. Scope. 15 THE WITNESS: I have no clue. You have to 16 provide something explicitly for me to look, 17 evaluate, and then I can give you an opinion, but 18 I'm not prepared at this time to take a hypothetical 19 because you could say, well, this hypothetical add 20 this, add that. There's too many moving parts here. 21 BY MR. KINSEL: 22 Q Well, are there too many moving parts in	111 1 not a good thing to do. 2 Q Okay. But the -- I think where we can 3 agree is if the confinement structures -- whatever 4 structures we're pointing to as confinement 5 structures -- don't hold the computing device on 6 their own, they can't be confinement structures, 7 right? So if no -- if any other structures are 8 involved in holding the computing device in place, 9 the structures that we're calling confinement 10 structures can't be confinement structures, right? 11 That much we can agree on. 12 A Yes, with the proviso -- remember, the 13 confinement structures have to be attached to the 14 structural bridge, because if they're not, they will 15 go flying off sideways. 16 Q Obviously. They have to be attached to 17 something. I'm just focused on the confinement 18 structures themselves and what they have to do. 19 They have to, in your opinion, hold the 20 computing device all on their own without any 21 assistance from other structures or other 22 components, right?
110 1 the hypothetical I gave you? 2 A Yes. 3 Q Which are the moving parts? Maybe I can 4 eliminate them. 5 A Screwed into. Where are the screws? How 6 are they screwed? What to what? Is the screw a 7 part of the confinement structure? Now you've added 8 a new element. 9 Q Can the screws be part of the confinement 10 structure? 11 DR. KUMAR: Objection. Form. Scope. 12 THE WITNESS: I haven't considered that. 13 Mr. Kitchen kept talking about screwing things 14 together. Excuse me. But never he gave me any 15 images, any assessment of the forces. There was no 16 information. So I can't form an opinion on 17 something I can't see all the detail of, and I'm not 18 going to give an opinion unless I have all the 19 detail presented. 20 BY MR. KINSEL: 21 Q Okay. 22 A Off-the-cuff opinions like that are really	112 1 A Well, other than the structural bridge. 2 That's an important part. Because otherwise the 3 confinement structures themselves fly away. 4 Q Okay. So the confinement structures 5 attached to a structure bridge have to hold the 6 computing device without any assistance from any 7 other component to be confinement structures, right? 8 A Correct. Right. They cannot use, for 9 example, the control modules. 10 Q Okay. They cannot use the control modules. 11 Right. They can't use anything else, you know, 12 whatever other structures, right? 13 A Yeah. 14 MR. KINSEL: All right. Let's mark as 15 Exhibit 5 -- 16 THE WITNESS: Oh, just for housekeeping, so 17 I will set aside -- 18 BY MR. KINSEL: 19 Q For now, yeah. 20 A -- Exhibit 4. 21 Q Mm-hmm. 22 MR. KINSEL: Exhibit 5 is going to be

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113 1 Hirschman, so this is Exhibit 1007 from the filing. 2 - - - 3 (Slocum Exhibit 5 was marked for 4 identification.) 5 - - - 6 THE WITNESS: Okay. Thank you. 7 Okay. I see Hirschman. 8 BY MR. KINSEL: 9 Q Okay. All right. I want to start with -- 10 I want to start with your opinion -- let me just get 11 to the right page here. 12 Your opinion about Hirschman starts at 13 about page 82, paragraph 146. 14 A Yes. 15 Q Okay. You say -- at paragraph 153, you say 16 that the sidewalls of Hirschman 282 and retention 17 structures 260 are not connected together. You say 18 that at paragraph 153. 19 Do you see that? 20 A I do. 21 Q Okay. And your assertion is that that the 22 sidewalls 282 and retention structures 260 are	115 1 look at Figure 3 of Hirschman, Hirschman doesn't 2 show exactly how he is attaching, for example, 282 3 to the chassis 280. He may also be making use of a 4 portion of that bracket. I don't know how. 5 Q Okay. But that's not actually what you 6 say. What you say is, paragraph 153: "Instead, 7 these components are kept in place by being 8 separately and independently connected to chassis 9 280, e.g., via brackets 286 that are part of chassis 10 280." 11 That implies, doesn't it, that the 12 sidewalls are connected to the chassis via brackets 13 286? 14 A That's not my understanding of the English 15 language. E.g. is a for example, so for example 16 could apply to one or both. It has to apply to at 17 least one, but it doesn't necessarily have to apply 18 to both examples. 19 Q Okay. So let me ask it maybe differently. 20 How are the sidewalls 282 attached in this 21 device? 22 A If you look at Figure 3, you can't see
114 1 connected to the chassis via brackets 286; is that 2 right? 3 A That is correct. 4 And let me just do a nano correction, 5 please, to your earlier statement. They're not even 6 connected to one another. You said connected to 7 each other, I think. 8 Q Yeah. Okay. 9 A Because that's an important distinction. 10 Q Okay. They're not connected to one 11 another. 12 Your -- your view is that the sidewalls and 13 the retention structures are each connected to the 14 chassis via brackets 286, correct? That's what you 15 said. "Instead, these components are kept in place 16 by being separately and independently connected to 17 chassis 280...via brackets 286 that are part of 18 chassis 280"? 19 A I said, for example, via brackets, so that 20 for example, e.g., is important because 286, right, 21 is how the elements 260 is a little sliding 22 arrangement there that goes on there, and if you	116 1 explicitly how they're doing it. Maybe it's a 2 pedantic moot point, but 282 is not connected 3 directly to 260. At best, they are connected via 4 the chassis 280 and potentially 286 as sharing that 5 connection element. 6 Q Right. 7 But you don't actually know how the 8 sidewalls are connected; is that correct? 9 A Correct. That's why I used that 10 term "e.g.," for example. 11 Q Well, you know that the -- the retention 12 structure 260 is attached to the chassis via 13 brackets because that's what Hirschman says, right? 14 A Yeah. And I can look at the drawing and 15 see the way the dotted lines are on the drawing. 16 That's what those dotted lines mean. 17 Q Yeah. 18 So you know for a fact that the brackets 19 connect the retention structures. So were you 20 trying to suggest here in this sentence that the 21 sidewalls are also connected via brackets 286? 22 A I was not making -- I don't know. In other

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117 1 words, I'm not suggesting/impling anything. All 2 I'm saying is that we know that 282, the sidewall, 3 is somehow attached to the base structure 280, and 4 we know that the elements 260 are attached to 280 5 via 286. 6 Q Okay. 7 A That's all. 8 Q Why do -- why is it important, for purposes 9 of the confinement structures limitation, that the 10 sidewalls and the retention structures be connected 11 to one another? Why does that matter? 12 A It doesn't really matter. It says the 13 chassis may include sidewalls 282 to retain the -- 14 if you look at -- well, there's a whole stack of 15 elements there that you call the computing device, 16 and that's what Mr. Kitchen is referring to. But 17 the actual confinement of all those, what you would 18 call the electronic device or computing device, is 19 partially by the elements 260 with those fins 262, 20 but what keeps it from flying off away and truly 21 holds it are then the elements 288, these other 22 posts.	119 1 And what I'm saying is, irrespective of 2 that, what really holds this thing in place are 3 these screwed fasteners to hold it down, and you 4 have those tabs 262 on 260 that helps you align 5 everything in place initially so then you can screw 6 it down easily. And that's not a confinement 7 structure unitary as 1(d)(4) calls for. 8 Q So by screwing the circuit board into the 9 chassis, there's no confinement structures? That's 10 your testimony? So the sidewalls, for example, 11 aren't performing the function of holding those 12 circuit boards in place, correct? 13 A I think I understand your question. If you 14 don't have 288 and 220, you are not -- 15 Q Let me just slow you down. 16 A -- you are not confining. 17 Q Hold on. 18 288 are the receptacles and 220 are the 19 inserts? 20 A Right. 21 Q So those could, for example, just be screws 22 or whatever kind of inserts they are?
118 1 And I talk about that in paragraph 154. So 2 the patent calls it: "...(t)he touch-screen 230 and 3 circuitboard 240 may be secured by inserts 220" -- 4 you see those little round things -- "which may be 5 received by receptacles 288. The receptacles 288 6 may be extruded from or attached to the surface of 7 the chassis 280." 8 So that's what -- that's what really holds 9 the touchscreen and circuit board, so computing 10 device, electronic -- what did we call it? Yeah, 11 computing device is what the claim term calls it. 12 Q Okay. So what your testimony is, then, is 13 that the sidewalls and the retention structures are 14 not confinement structures because the touchscreen 15 and other electronic components like circuit board 16 are actually held in place via inserts 220 into 17 receptacles 288; is that true? 18 A I think I heard you correctly. Yeah, it 19 was -- Mr. Kitchen opined that, for example, 260 was 20 all it takes to be a confinement structure. And I 21 have to go back to him because I think he was also 22 calling out the sidewalls.	120 1 A Right. 2 Q Screws and posts. And the screws and posts 3 screw the LCD screen and the circuit board into the 4 chassis, and that's what's doing the confining in 5 your -- in your opinion, not the sidewalls and maybe 6 not even the fins from the retention structures, 7 right? 8 A There's a lot to parse there, so let me -- 9 let me take it piece by piece, please. Mr. Kitchen 10 says that 260, those elements 260 and 262 and then 11 the sidewalls -- and I have to go back to his 12 exact -- but that's the confinement structure. He 13 doesn't talk about 288 with 220 being required to 14 hold this computing device in place because 15 otherwise it'll fly off. I don't recall him 16 bringing that into the requirement. 17 He's saying that this patent by itself 18 anticipates, which means that it has everything 19 exactly what's in the claimed elements, and I don't 20 see those. I don't see a confinement structure, as 21 we've been talking about, what it needs to be, that 22 it has to fully hold the computing device. It'll

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121 1 fly away. You have to add something else, and 2 that's the 288 receptacles with those inserts 220. 3 Q Okay. So you say that Hirschman -- let me 4 just make sure -- go ahead. 5 A Oh, here. It was Mr. Kitchen who said, on 6 the bottom of page 86 in my paragraph 155, it was 7 Kitchen who said: "...a POSITA would have 8 understood that the sidewalls 282 and retention 9 structures 260 are secured to the chassis 280 by way 10 of brackets 286." 11 Q You disagree with that? 12 A I do. I say a POSITA would have no reason 13 and would not have been motivated to also connect 14 sidewalls to retention structures 260. 15 Q Okay. Let's slow down. We'll get there. 16 I get your point. I want to first understand why 17 you think that the sidewalls and the retention 18 structures are not confinement structures, and 19 they're not confinement structures, at least in 20 part, because what's really holding the circuit 21 board and the LCD screen together with the chassis 22 are the inserts and the posts, correct?	123 1 you. 2 I want to show you something. Mr. Kitchen 3 has some pictures of these things in his report, but 4 I thought I'd actually bring for you some parts. 5 Okay? So this is -- what this is -- and we'll mark 6 this group of exhibits or this whole thing as 7 Exhibit 6, but I'm going to keep possession of it. 8 - - - 9 (Slocum Exhibit 6 was marked for 10 identification and was retained by counsel.) 11 - - - 12 BY MR. KINSEL: 13 Q What this is, is it -- I think it's most of 14 the parts of a Nintendo Switch. Okay? 15 A Which, by the way, I've never seen one 16 assembled close up. 17 Q You've never seen one assembled, okay, 18 good. Well, I've got an assembled one for you and I 19 want to show it to you. 20 A I've probably seen it in a store, but I 21 haven't seen it close up, examining it. 22 DR. KUMAR: I'd like to note my objection
122 1 A Well, they're holding it vertically in 2 place. The lateral alignments come from, according 3 to Mr. Hirschman, those fins 262. And you can see, 4 again, by the dotted lines, how they go through the 5 slots in the various levels of the computing device. 6 Q Okay. But passing through those slots, in 7 your opinion, is not enough to render the retention 8 structures 260 into confinement structures, correct? 9 A Correct. It can fly off vertically, for 10 example. 11 Q Because it can fly out vertically? 12 A Right. 13 Q And so what you need is the screws that -- 14 or inserts that insert the circuit board and the LCD 15 screen into the posts that tie the circuit board and 16 the LCD screen into the posts, and without those, 17 you don't have confinement structures? 18 A Yeah, because the thing can fly off 19 vertically. 20 Q Okay. 21 A And that's -- I think I said it. 22 Q Yeah, no. No. I'm with you. I agree with	124 1 to this exhibit in this proceeding. 2 BY MR. KINSEL: 3 Q Okay. So let's start with the -- this is 4 an actual Switch, okay? So that's what a Nintendo 5 Switch looks like. 6 DR. KUMAR: I'm sorry, Grant, which exhibit 7 is that? 8 MR. KINSEL: We'll mark that as Exhibit 7. 9 So we'll mark the parts as Exhibit 6. 10 DR. KUMAR: Physical is Exhibit 7? 11 MR. KINSEL: We'll mark that as Exhibit 7. 12 I'll keep possession of those exhibits for 13 inspection later on. 14 DR. KUMAR: Note objection to physical 15 Exhibit 7 and the other exhibits, whether they're 16 marked or not, that are physical. 17 MR. KINSEL: Exhibits 6 and 7. 18 - - - 19 (Slocum Exhibit 7 was marked for 20 identification and was retained by counsel.) 21 - - - 22 BY MR. KINSEL:

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125 1 Q Okay. So that's a Nintendo Switch, and I 2 want to ask you about -- may I? 3 I want to ask you about these rails 4 (indicating). Do you see the rails on the side of 5 the Nintendo Switch? I want to ask you about those. 6 A I've never seen one before. 7 Q Okay. 8 A So there was a picture -- just kind of a 9 fuzzy picture in Kitchen, but I've never 10 physically -- 11 Q Well, that's what that is. That's what 12 Mr. Kitchen was showing. 13 The rails on the side, do you see the 14 rails? 15 A I think I see what you're pointing to 16 (indicating.) 17 Q Yeah, those are the rails. 18 And I'll show you how the rails are 19 connected using Exhibit 6. Let's see if I can 20 demonstrate this. 21 This component is called the upper frame 22 (indicating), and it has a sticker on it, RPX40.	127 1 A Time out. 2 DR. KUMAR: Objection. 3 THE WITNESS: You have to let me finish. 4 BY MR. KINSEL: 5 Q Okay. Go ahead. 6 A You asked me a question, can I see that? 7 Q Yes. Can you see that this is how the rail 8 is attached to the upper frame? 9 A And I'm saying no. 10 Q Okay. 11 A I need to have -- 12 Q Go ahead and take a look. 13 A Can I finish my answer? 14 Q Sure. Go ahead. 15 A I need to have -- to evaluate a device 16 properly, I need to have the assembly drawing that 17 goes with the device so I, as a mechanical engineer, 18 can look and assess things. I can't just look at 19 some random parts you provided here now and give you 20 an opinion. I need -- I need the drawings. I need 21 to know what the specific questions are, and then I 22 will consider them, and then I can answer. But I
126 1 It's from one of the prior trials. This is called 2 an upper frame (indicating). 3 And the circuit board and the battery are 4 mounted onto the upper frame, screwed in. You can 5 see the posts and the screw holes for the circuit 6 board to be mounted on there (indicating). 7 And this is a rail (indicating), the rails 8 that you see here, and the rails are screwed into 9 the upper frame like so (indicating). There's some 10 components in between, but that's how they're 11 attached. Okay? 12 Are you following? 13 DR. KUMAR: Object to form. 14 THE WITNESS: I'm seeing you doing things, 15 but unless I have a production drawing, exploded 16 view, something like the patent -- 17 BY MR. KINSEL: 18 Q Well, we tried to give you pictures in 19 Kitchen's report. You didn't like those. Now I'm 20 giving you an actual product. 21 A No. No. You're not. 22 Q You can't --	128 1 can't here off the cuff provide a new opinion of 2 something. That's all. 3 Q Okay. It's not a new opinion because these 4 pictures were in Kitchen's report. You decided not 5 to answer them. 6 A Well, show me where these were in there. 7 Show me where they were in there. I wasn't opining 8 on a combination from this. I was opining -- 9 Q You won't let me finish my question. 10 A Well, you won't let me finish my answer to 11 your question. 12 Go ahead. You go first. 13 Q So Mr. Kitchen included photos of this 14 actual very device in his report. The reason he did 15 that is because he was trying to explain Gamevice's 16 use of the word "confinement structure," for 17 purposes of explaining Hirschman. Okay? 18 And what Gamevice's position is, is that 19 these rails on the side of the Nintendo Switch are 20 confinement structures, and so we're trying to 21 understand whether using that understanding of 22 confinement structures would mean that the sidewalls

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129 1 on Hirschman are confinement structures too. That's 2 all. 3 Do you understand the question now? 4 DR. KUMAR: Object to form. 5 THE WITNESS: I think so, but let me try to 6 answer, and you can tell me if I'm answering what 7 you understand -- 8 BY MR. KINSEL: 9 Q Sure. 10 A -- that my understanding is. 11 Q Yeah. Yeah. 12 A When I look at Hirschman, and my 13 understanding of what Mr. Kitchen's saying Hirschman 14 was doing, Mr. Kitchen is saying Hirschman's 15 elements -- let me get them right. 16 Q 260 and sidewalls. 17 A -- 260 and 262 and sidewalls 282 fully 18 constrain this computing device, and I'm saying they 19 don't because you have to have 288 receptacle with 20 post 220. 21 Q Right. Because you have to screw the 22 circuit board into something?	131 1 of mechanical detail. This is what a POSITA must 2 have to render an opinion. 3 Q I see. 4 So if I tell you that the circuit board is 5 screwed into the upper frame in the Nintendo Switch, 6 just the same way the circuit board is screwed into 7 the chassis as shown in Hirschman, would that be 8 enough to tell me whether or not the rails could be 9 confinement structures? 10 DR. KUMAR: Objection. Form. Scope. 11 THE WITNESS: I'd have to -- I can't offer 12 an opinion. I have to see, and if you want me to do 13 an opinion, then go ahead and get it to me in all 14 the detail, and I'll do a supplemental report. But 15 I can't, sitting here now, give you an opinion on 16 new -- new stuff you're showing me that was not in 17 Mr. Kitchen's report. He didn't provide anything 18 like a Figure 3 for me to use. 19 BY MR. KINSEL: 20 Q He specifically provided images that 21 Gamevice offered to the court to show what they were 22 considering to be confinement structures.
130 1 DR. KUMAR: Object to form. 2 BY MR. KINSEL: 3 Q Right? 4 A That the computing device will fly away 5 unless it's held to this chassis. 6 Q Right. And -- go ahead. I'm sorry. 7 A The computing device is also the -- those 8 blades 262, which Mr. Hirschman points out, they're 9 also a very important part of holding the computing 10 device. That's why this assembly figure in Figure 3 11 has all the dotted lines showing me the things that 12 constrain and confine the computing device. 13 What I would need from Mr. Kitchen, if he 14 wants me to now try to understand this device, this 15 Switch in the context of Hirschman or vice-versa, I 16 need a similar drawing, with not a fuzzy picture of 17 the Switch, for example, with all the connections, 18 dotted lines, you know, this kind of exploded 19 assembly view. Then I'd be more than happy to 20 consider and give you my opinion. 21 Q Okay. 22 A But I can't do it unless I have this level	132 1 That wasn't enough for you? 2 A No. I am an actual mechanical engineer, 3 and you have to study things in the context of real 4 drawings in order to make sure what I opine on is 5 correct. I could give you an opinion, and it may or 6 may not be correct, and that's of no use to anybody. 7 Q What I'm trying to get my hands around are 8 what -- is whether you're applying a different 9 understanding of confinement structure than Gamevice 10 was. That's what I'm to get my understanding -- my 11 head around. Okay? 12 Because Gamevice says -- why don't we just 13 use Mr. Kitchen? Because this was in Mr. Kitchen's 14 report. Let's just go ahead and mark it. Maybe 15 that'll help. 16 MR. KINSEL: This will be Exhibit 8, 17 Mr. Kitchen. 18 - - - 19 (Slocum Exhibit 8 was marked for 20 identification.) 21 - - - 22 BY MR. KINSEL:

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133 1 Q This is Mr. Kitchen's report. 2 A Okay. Where would you like me to go? 3 Q Go to page 205. Okay? Oh, I'm sorry. 4 206. I beg your pardon. 5 There it is. Okay. 6 So that's a picture in the top of page 206 7 that Gamevice said proved that the rails that I've 8 shown you are confinement structures. 9 DR. KUMAR: Is that a question? Sorry. 10 Objection. Form. Scope. 11 THE WITNESS: That's a statement from you, 12 I think? 13 BY MR. KINSEL: 14 Q That's a statement so far. 15 That's the picture they submitted, and 16 that's what this is (indicating). That's why I 17 brought this along, because I wanted you to be able 18 to see it. 19 In your opinion, based on what you see, are 20 the rails confinement structures? 21 A Okay. And I'm telling you from this 22 picture and what Mr. Kitchen is saying Gamevice	135 1 Q When the -- in Hirschman there are 2 devices/controllers that would be inserted into the 3 sidewalls, right? 4 A Well, through the sidewalls. 5 Q Through the sidewalls? 6 A Right. 7 Q Right. 8 And I'm assuming that, you know, for the 9 sake of clarity, you'd be able to hold those 10 controllers and tilt the Hirschman device, right? 11 Like, if you want to play the Hirschman device and 12 you had two controllers inserted on either side of 13 the sidewalls, inserted through the sidewalls, do 14 you think you'd be able to play that device? Would 15 you be able to hold it and play it? 16 A Okay. When you look at Hirschman, as I 17 point in my report, and you see where Kitchen calls 18 out -- but this is also in the patent, calls out if 19 we go -- the retention posts, and if you look on 20 Figure 5 in particular and they're shown in a little 21 more detail in Figures 4a, 4b, and 4c of Hirschman. 22 The controllers' retention posts fit
134 1 said, I don't have enough information to render an 2 opinion on this particular device if this is the 3 confinement structure. That's why I offered no 4 opinion on that particular item you're asking me 5 about. I'm only offering an opinion in my report 6 and, as I sit here today, on Hirschman. That's all. 7 Q Okay. And the rails in Hirschman -- sorry. 8 Strike that. 9 The sidewalls in Hirschman are not 10 confinement structures, because what holds the 11 circuit board and the LCD together are the posts and 12 the inserts, correct? 13 A Hirschman does not have confinement 14 structures like 1(d)(4) because I can't point to a 15 singular thing in Hirschman that says, "This is what 16 is confining the device -- the computing device to 17 hold it to some structure such that then the control 18 modules are then attached to that structure in that 19 sequence." 20 That's what the claim 1 is about, that the 21 control modules themselves do not participate in 22 confining the computing device.	136 1 through that sidewall 282 and mate with, and you can 2 see very clearly in Figure 4c, structural mate with 3 the elements 260. That's what those holes in the 4 end of 260 are. 5 Q Right. 6 A And then the electrical connection, the 7 communication link, 164 on the control module, 8 passes through and plugs into the connector 242 on 9 the circuit board. So the purpose of 282 really in 10 that respect is to keep dust and dirt out and stuff. 11 It doesn't form a structural -- critical structural 12 link. If I eliminated it, I think the answer to 13 your question is, yes, structurally, your control 14 modules, would still -- you could play the game. 15 You've got to make sure you don't spill things in 16 it. 17 Q Okay. 18 A But the structural connection between the 19 controller unit happens with Figure 4. 20 Q No. I totally get it. I get what you're 21 saying. I understand. 22 Forgetting about whether the structural

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137 1 connection is made with the sidewalls or otherwise, 2 all I'm asking about right now is once I insert 3 those controllers through the -- with the posts into 4 the receptacles and the USB connector, once I put 5 all that together, I can hold the computing device 6 and play it with my controller, right? That's what 7 Hirschman's supposed to be disclosing? 8 A Yeah, with these elements 220 and 288 and 9 everybody. 10 Q Once it's all assembled -- 11 A Yeah. 12 Q -- you use those two controllers, and you 13 can play the game, right? 14 A Correct. 15 Q Okay. So it doesn't prove, for example, 16 that there are confinement structures that I can, 17 like, lift up the device and play the game, right? 18 That doesn't prove there are confinement structures 19 in the Hirschman device, does it? 20 DR. KUMAR: Object to form. 21 THE WITNESS: I don't find confinement 22 structures in Hirschman as defined by 1(d)(4). I	139 1 the retention structures 260 as being connected by 2 the brackets to the chassis, correct? 3 A Correct. The brackets 286. 4 Q 286, yeah. 5 And you say that, therefore, the retention 6 structures should be properly considered with the 7 chassis. 8 A Let me set aside Mr. Kitchen's report. 9 Q Sure. Set aside Kitchen for a minute. 10 A And if you're -- you're asking me about a 11 specific point? 12 Q Sure. I can get you to a particular 13 paragraph. 14 Paragraph 157 of your report, you say: "In 15 sum, the retention structures 260 are not taught or 16 suggested as connected to the sidewalls 282, but 17 instead to the chassis...via brackets 286." 18 Now, a little while ago you told me you 19 didn't know how the sidewalls were attached to the 20 chassis, but here you're saying they're attached via 21 the brackets 286? 22 A No. No. No that's 260. "In sum, the
138 1 find that the circuit -- excuse me -- the computing 2 device is confined, constrained -- those are 3 synonyms -- to the chassis 280 by these various 4 elements indicated by the dotted lines in Hirschman. 5 BY MR. KINSEL: 6 Q Got it. Okay. Got it. Understood. 7 All right. Let's talk -- I'm just going to 8 get this out of the way here so it's not in the way. 9 What happened to the -- 10 DR. KUMAR: It's right there (indicating). 11 MR. KINSEL: I don't want you walking off 12 with my Switch. I stole this one from my kid, so I 13 have to make sure I get it back. 14 DR. KUMAR: Besides, it's entertainment on 15 the ride home. 16 THE WITNESS: I just read on the airplane. 17 I'm sorry. 18 BY MR. KINSEL: 19 Q Let's talk about the connection between the 20 retention structures 260 and the chassis. 21 A Okay. 22 Q Your position is that Hirschman talks about	140 1 retention structures 260 are not taught or suggested 2 as connected to the sidewalls 282, but instead to 3 the chassis 280 via brackets 286." 4 Q Okay. So you're referring only to the 5 retention structures 260 as being connected via 6 brackets; is that correct? 7 A Correct. I still do not know how 282 -- I 8 mean, I can envision a bunch of ways you could, but 9 it's not explicit to me from the patent how 282 is 10 attached to 280. 11 Q Okay. Then you go on: "Thus, the 12 retention structures 260 are properly considered 13 with chassis 280 as part of Mr. Kitchen's purported 14 'structural bridge,' not with sidewalls 282 as 15 'confinement structures.'" 16 What -- what do you mean by "not considered 17 with"? 18 A I believe Mr. Kitchen was trying to say 19 somehow that elements 260 and 282 were connected 20 together and together form a confinement structure, 21 and I'm saying I don't see that connection. 22 Q Do they have to be connected together to

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141 1 form a confinement structure? 2 A I didn't opine on that. He was saying they 3 were, and I'm saying they're not. Whatever they 4 are, they're not connected that way. The 260 is 5 connected to the chassis 280, and I don't see how 6 282 is connected to -- to anybody. I mean, it's 7 somehow -- obviously, it is, but I don't see how it 8 is. I was just opining what Mr. Kitchen was 9 claiming or opining on. 10 Q Okay. Sorry. I didn't mean to interrupt 11 you. But let me try to understand what you're 12 saying. 13 You say here that the retention structures 14 are properly considered with chassis 280 as part of 15 the structural bridge, not as part of a confinement 16 structure, and I'm trying to understand why that 17 would be the case. 18 What do you mean by "properly considered 19 with"? What does that even mean? 20 A Well, let's ask Mr. Kitchen because he 21 was -- he kept -- 22 Q No. I'm asking you. This is your opinion.	143 1 Q Inserts? 2 A Inserts 220, right. That's the first 3 thing. 4 The second thing is 282 is not even 5 connected to 260. In other words, 260 is held to 6 the chassis -- because, remember, confinement 7 structures by themselves do nothing. They have to 8 be attached to the structural bridge. But they are 9 attached to the chassis directly, these elements 10 260. They don't need the sidewalls 282. 11 So as you asked me the question earlier, if 12 we don't have sidewalls 282, could I still have the 13 control modules attached and play the game, and I 14 said, "Yeah. Don't spill anything because it'll 15 leak inside." That's all. That's what that -- 16 that's what I'm meaning here by saying this. 17 Q But can't you have confinement structures 18 that are properly considered with the chassis? Why 19 is it important that retention structures 260 are 20 properly considered with chassis 280? What does 21 that mean? 22 DR. KUMAR: Object to form.
142 1 A Yeah, but I'm -- 2 Q Let me finish my question. 3 This is in your paragraph that you quite 4 clearly told me you wrote, right? You wrote this 5 whole thing. You yelled at me because I was 6 suggesting you didn't write it. You raised your 7 voice with me because I suggested you weren't 8 writing it. We went through that. 9 So I'm trying to understand what you meant 10 when the you wrote: "Thus, the retention structures 11 260 are properly considered with chassis 280." What 12 does that mean, "are properly considered"? I don't 13 understand the phrase. 14 A Mr. Kitchen kept tying together, 15 connecting -- however you want to describe it -- the 16 sidewalls 282 with the structures 260 and his 17 discussion of why he believes that this patent by 18 Hirschman discloses confinement structures, and I am 19 pointing out very simply that, first of all, I don't 20 think they're confinement structures because the 21 thing will come flying off because you have to have 22 receptacles 288 and the elements 220.	144 1 THE WITNESS: Oh, I think I understand your 2 question. If you ask how are confinement structures 3 260, assuming they are confinement structures -- so 4 that's why I called them retention structures. 5 They're not fully confining. 6 BY MR. KINSEL: 7 Q I got you. I hear you. 8 A When a POSITA uses the term "properly" -- 9 you know, "properly" means what is the direct method 10 by which they are attached. They don't go through 11 the sidewalls and then to the chassis. That's not 12 what -- the term is the structural loop, but if you 13 follow the flow of forces, the flow of forces would 14 go through 260 properly, directly, synonyms, to the 15 chassis. 16 They don't -- the flow of forces doesn't 17 have to pass through the sidewall. If you eliminate 18 the sidewall, the thing will still work. 19 Q Right. 20 A That's what I mean by properly considered 21 with the chassis. They're not considered with the 22 sidewalls as how they're performing their retention

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145 1 function. 2 Q Is there anything about either the phrase 3 "confinement structure" or the construction that you 4 were applying that requires confinement structures 5 to be a single, unified component? 6 In other words, can you have multiple 7 components that are confinement structures, or do 8 you have to have just, like, one thing you can point 9 to? 10 A I don't know how to answer that other than 11 give you an example. Or let's look in the context 12 of Figures 17 and 18. 13 Because a confinement structure, if you 14 look at page 46, Figure 18, for example, and then 15 Figure 17, those pieces look to one as a monolithic 16 element, left-hand and right-hand monolithic 17 elements. Let's say that that was split in half for 18 molding purposes and then bolted together. If I 19 just drew a line across there and you asked me, "Is 20 that still a confinement structure?" the assembly -- 21 a mechanical engineer treats that one thing as one 22 thing -- if -- and it works.	147 1 portion of the structural bridge. Okay? 2 A Mm-hmm. 3 Q Mr. Kitchen says the chassis in Hirschman 4 is a structural bridge. 5 A Mm-hmm. 6 Q And I'm trying to understand whether -- in 7 your opinion, once the two retention structures 260 8 are attached via brackets into the chassis, whether 9 they meet that limitation. 10 Are they separate and distinct, forming no 11 structural portion of the -- what Mr. Kitchen is 12 calling the structural bridge? 13 A Correct. They are not a structural portion 14 of the bridge. The structural portion of the bridge 15 is that which when you apply loads, you're going to 16 transfer loads from one side to another, the bending 17 I went through in Park and Kessler, how that 18 expandable bridge can bend for example. 19 Q Okay. 20 A These are separate and distinct elements 21 260. They're even -- they're drawn that way. 22 Q Okay. So to --
146 1 If you're saying I have to put this on and 2 then some separate element that together function to 3 confine, like in Hirschman, see, you have 288 and 4 the post and the receptacle and then 220, you've got 5 to have those two things, plus you've got to have 6 260 and 262. Those are separate elements, so I 7 don't say those together are a confinement 8 structure. They're an assembly, a system of parts, 9 but they themselves are not the structure. 10 I don't know if that helps. 11 Q Okay. No, that helps a lot. Thank you. 12 The retention structures 260, once they're 13 in the brackets, are they separate and distinct from 14 the chassis in Hirschman? 15 A Well, they're separate elements and they're 16 attached to the chassis. Just like when you go to 17 Figure 18 -- right? -- and we see these elements 18 336, they're separate elements and then they're 19 attached to the structural bridge. 20 Q Stick with me. I'm talking now about 21 limitation 1(d)(5). The confinement structures have 22 to be separate and distinct and form no structural	148 1 A So they -- 2 Q I'm sorry. Go ahead. Don't let me 3 interrupt you. Go ahead. 4 A For that part, they're not confinement 5 structures because they don't do the full 6 confinement, but they are separate elements. So I 7 can't read and say, "Ah-ha, 1(d)(5), ah, these 8 confinement structures are separate because they're 9 not actually a confinement structure." 10 Q I get you don't think they're confinement 11 structures. I'm with you. I don't think they're 12 confinement structures either, to be honest with 13 you. 14 But do they meet the limitation 1(d)(4) -- 15 or sorry. Strike that -- 1(d)(5)? Putting aside 16 the fact that your opinion is that they're not 17 confinement structures. 18 DR. KUMAR: Objection. Asked and answered. 19 THE WITNESS: Yeah, if I read it -- if I 20 said wherein each of the retention structures 260 of 21 Hirschman, are they separate and distinct from that 22 chassis 280, which I'm fine with calling chassis 280

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149 1 the structural bridge, yes, they are separate and 2 distinct. 3 BY MR. KINSEL: 4 Q And they form no structural portion of the 5 structural bridge? 6 A Right. If I eliminate them, the structural 7 bridge still performs its function of -- it can 8 carry bending moments across its width. 9 Q Okay. And the same thing is true if you 10 combine the sidewalls and the 280/260, right? In 11 other words, the sidewalls are also separate and 12 distinct structures from the chassis, right? 13 A That's what's drawn there very clearly. 14 They're separate elements. 15 Q Separate elements. 16 And they also form no structural portion of 17 the chassis. They don't perform any of the bending 18 moments that you identified, right? 19 A Well, the end ones 282, the long side ones, 20 depending on how they're attached, could stiffen it 21 up quite a bit. 22 Q So they might actually not meet the	151 1 But you agree that Hirschman discloses that 2 you don't need to have all four, right? You can 3 have two? 4 A I agree. I'm just trying to be as complete 5 as possible. I apologize. Let's just predicate 6 everything I'm talking about with sidewalls are just 7 the end sidewalls, not the front and back. 8 Q Yeah, I'm just talking about the two 9 sidewalls now. 10 A I apologize for being too pedantic. 11 Q No, you're not being too pedantic. I just 12 want to make sure we're on the same page. 13 The two sidewalls, in your opinion, 14 depending on how they are attached, may or may not 15 meet 1(d)(5)? Putting aside, for the moment, that 16 you don't think they're confinement structures. I 17 get that. You don't need to repeat that. 18 A I don't think the -- as Hirschman is 19 showing, 282, because they don't really do anything; 20 they're just dust and dirt keep-outers. Those in 21 that context, when they are attached to 280, they're 22 separate and distinct, and they don't give me a
150 1 limitation 1(d)(5), in your opinion? 2 A These long side pieces, and I did not -- I 3 did not offer an opinion on that. The best I can 4 say is if you give me how they're attached, I could 5 do a structural analysis and let you know if they 6 matter or not. 7 Q Well, you did do an analysis on that. You 8 said that Hirschman doesn't meet 1(d)(5). 9 A Right. I'm saying if you told me that 10 these long ones on the sides -- 11 Q Mm-hmm. 12 A -- were attached and you told me how they 13 were attached, I could then tell you would they 14 assist 280 in being a structural bridge. That was 15 my comment now. 16 Because we've been focusing on the end 17 pieces, 282, the end ones -- 18 Q Mm-hmm. 19 A -- but Hirschman, I believe, calls the long 20 ones on the front and back also -- I forget exact 21 term, but they're also side elements. 22 Q Well, right.	152 1 structural bridge load capacity. 2 Q Okay. 3 A So they -- they're not affected by 4 1(d)(5) -- or they don't affect 1(d)(5), those 282s. 5 Q Okay. 6 A And whenever you're at a reasonable 7 breaking point, now is good for bio out and in. 8 Q Yeah, give me one more minute, and then 9 I'll take you up on that. 10 Just to be -- just so that I'm clear on 11 your opinion -- 12 A Yeah, go ahead and finish up. 13 Q -- because you do dispute 1(d)(5) in your 14 opinion, and I think you dispute it -- correct me if 15 I'm wrong, but I think that you dispute it because 16 you don't agree that retention structures 260 and 17 sidewalls 282 meet the confinement structures 18 limitation, not because they're not separate and 19 distinct and not because they don't form a 20 structural portion of the structural bridge. 21 It's because you don't think they're 22 confinement structures, right?

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153 1 A Yeah. I disagree with Mr. Kitchen saying 2 they are confinement structures. 3 Q Right. 4 And that's the basis for your opinion with 5 respect to 1(d)(5), correct? 6 A Yeah. They don't form -- they're not part 7 of the structural bridge. They're not confinement 8 structures. 9 Q Got it. 10 But -- but that's the basis for your 11 opinion on 1(d)(5), not that they're not -- not that 12 they aren't -- not that they're not separate and 13 distinct and not that they form a structural portion 14 of the -- what Mr. Kitchen is calling a structural 15 bridge, but because they're not confinement 16 structures? 17 A I know for at least that reason. Let me 18 just double check because I don't think I 19 specifically talked about that. 20 Q Okay. 21 A Let me check. 22 Yeah, because in my paragraph 157, I'm	155 1 Mr. Kitchen calls as a confinement structure. And 2 then earlier, even before that -- 3 Q The Willner sidewalls. I get it. Go 4 ahead. 5 So what's your point? 6 A Well, my point is, is that Mr. Kitchen kept 7 bringing in these sidewalls of the earlier art as 8 confinement structures -- 9 Q Mm-hmm. 10 A -- and then now with respect to Hirschman, 11 here are these sidewalls, and Kitchen is making some 12 other interesting opinions that I disagreed with, as 13 we went over. So in my paragraph 158, I'm saying if 14 you're going to do anything, you'd rather say 282 is 15 the start of a confinement structure, because 282 16 would keep the -- could keep the computing device 17 from rattling side to side or twisting. And then -- 18 but he's not even doing that. 19 So that's why I'm saying I don't know what 20 he's doing, but none of these things are confinement 21 structures. And 282 is not part of the structural 22 bridge 280 either, and it's not even telling me how
154 1 opining I disagree with Mr. Kitchen there. 2 Q Right. 3 And we've identified why you're disagreeing 4 with him. You're disagreeing with him because you 5 don't think 260 and 282 are confinement structures. 6 A Okay. Let me keep going because in 159 I 7 also talk about this. 8 So in 158 I'm specifically saying that if 9 you don't have 260, Mr. Kitchen does not argue that 10 sidewalls 282 by themselves hold the touchscreen 230 11 or circuit board 240. 12 And then I say -- reading down about seven 13 lines, I say: "Rather, it is the sidewalls 282, if 14 anything, that could possibly correspond to the 15 claimed 'confinement structures,'" and the reason 16 I'm saying that is because earlier Mr. Kitchen was 17 using similar end walls, if you will, from the other 18 art. So if you look at -- this is what I found -- I 19 find confusing about Mr. Kitchen's opinions here. 20 But go to, for example, on page 69 of my 21 opinion here: "Raised sidewall of Schoenith's 22 cradle," that's where, for example, earlier	156 1 it's attached, nor is Mr. Kitchen opining on it. 2 Q It's attached somehow, though, isn't it? 3 A Somehow. 4 Q And wouldn't a person of skill in the art 5 assume that it's attached directly or indirectly to 6 the chassis? 7 A I have to know how it's attached in order 8 to give you an opinion about what it's doing to that 9 chassis 280. 10 Q I'm asking you a much simpler question. 11 Wouldn't a person of skill in the art 12 understand, based on Hirschman, that the sidewalls 13 are attached directly or indirectly, in some manner, 14 to the chassis? 15 A I think that's a fair statement. They have 16 to be attached; otherwise, they come flying off. 17 Q Right. 18 So a person of skill in the art knows that 19 they're attached somehow? 20 A I can concur with that. 21 Q Okay. And a person of skill in the art 22 understands that the retention structures are

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157 1 attached via brackets directly to the chassis and 2 one potential way to attach the sidewalls would be 3 to attach them to those retention structures, 4 wouldn't it? Wouldn't that be one way to do it? 5 DR. KUMAR: Object to form. 6 THE WITNESS: Some way. I don't know how. 7 BY MR. KINSEL: 8 Q But a person of skill in the art trying to 9 figure out how to attach the sidewalls, one 10 potential way to do it is to attach them to the 11 retention structures, right? 12 DR. KUMAR: Object to form. Scope. 13 THE WITNESS: Does it -- you know, you 14 would consider all possible ways, and, sure, that 15 could be one of the ways. Is it the best one? I 16 don't have enough information to tell you is it the 17 best one or even the likely one, but is it possible? 18 It is possible. 19 BY MR. KINSEL: 20 Q Well, you say that a person of skill in the 21 art wouldn't even be motivated to attach the 22 sidewalls to the retention structures. That's what	159 1 AFTERNOON SESSION 2 (1:03 p.m.) 3 CONTINUED EXAMINATION BY COUNSEL FOR PETITIONERS 4 BY MR. KINSEL: 5 Q Did you have anything that you wanted to 6 change, amend, correct from the morning session of 7 your deposition, Doctor? 8 A Just the -- it should be 25 through 27, 9 where I cite to the examiner. 10 Q Okay. 11 A Page 27. That was the only thing. 12 Q Okay. Fair enough. 13 A And then the typo "is" should become "in." 14 Q Okay. Paragraph 159, and I want to clarify 15 something that you were talking about just before we 16 took a break. 17 I thought that you told me that the 18 retention structures for Hirschman 260 were separate 19 and distinct from the structural bridge, what Mr. -- 20 what Mr. Kitchen is calling the structural bridge to 21 the chassis. 22 Did I mishear you say that?
158 1 your opinion says. 2 A I wouldn't do it that way, but you asked me 3 the question could it, and I opined, yeah, there's a 4 bunch of ways, and you could consider it. I 5 wouldn't. But someone -- 6 Q It may not be the best way, but a person of 7 skill in the art could consider attaching sidewalls 8 to the retention structure. 9 That's one way to go, right? 10 A And I'm agreeing with you. You can 11 consider a lot of ways. I don't think I would. But 12 someone could. 13 Q Okay. 14 MR. KINSEL: Why don't we take our lunch 15 break now. 16 (Whereupon, at 12:09 p.m., the 17 proceedings in the above-entitled matter were 18 recessed, to reconvene at 1:03 p.m., this same day.) 19 20 21 22	160 1 A No, they are. You can see by the dotted 2 lines here in Figure 3, they are separate, distinct 3 elements that are assembled. It could be a 4 dovetail. It's not that explicit, but you can see 5 that little rectangular protuberance on 260. The 6 dotted line indicates that it slides into the 7 rectangular socket. That's how they're connected. 8 Q And I thought your testimony before we 9 broke was that those retention structures weren't a 10 structural portion of the chassis because they don't 11 take any of the bending moment. I think that's what 12 you called it. 13 A Yeah, they help the transfer loads do the 14 chassis, but in terms of the function of the chassis 15 itself acting as a structure to mechanically 16 transfer loads from one side to the other as the 17 person is holding the controller, it's that big 18 plate element 280 that transfers the loads across 19 from one side to the other. 20 Q The little retention structures don't do 21 that? 22 A They'll transfer loads into 280, but that

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161 1 doesn't perform the structural function of 280 to 2 transfer loads from the right side to the left side 3 and vice-versa. That's the bending moment. 4 Q Got it. 5 Take a look at paragraph 159: "An 6 alternative way of characterizing this deficiency is 7 that the so-called 'confinement structures' that 8 Mr. Kitchen identifies -- the combination of 9 sidewalls 282 and retention structures 260 -- are 10 not 'separate and distinct structures from the 11 structural bridge [i.e., chassis 280 including 12 retention structures 260], forming no structural 13 portion on the structural bridge." 14 Is that different than what you just told 15 me? 16 A Well, because Kitchen is saying the 17 sidewalls 282 and retention structures. I don't 18 know how the sidewalls 282 -- I don't -- because 19 he's saying that they're -- the sidewalls 282 and 20 the retention structures 260 together are a 21 confinement structure. 22 I can tell you that the 260 is not part of	163 1 a confinement structure. 2 So Mr. Kitchen is arguing that they are -- 3 these elements satisfy 1(d)(5). That's my reading 4 or my understanding of what Mr. Kitchen's opinion 5 is, and I'm opining on his opinion that 260 and 282 6 are confinement structures that do satisfy 1(d)(5). 7 I'm saying they're not -- they're not confinement 8 structures. Therefore, they cannot satisfy 1(d)(5). 9 Q Yeah, but you don't say that. You talk 10 about -- the limitation that you quote here is the 11 separate and distinct portion. In fact, you've -- 12 you've not only not quoted the confinement 13 structures part; you've put in a bracket instead of 14 the confinement structures part. 15 So am I not to take from that sentence that 16 you think the sidewalls and retention structures 17 are -- are not separate and distinct structures from 18 the structural bridge? Let's stop with the first 19 part. I mean, let me strike it. Let me strike it 20 and try it a different way. 21 Is it your opinion that sidewalls 282 and 22 retention structures 260 are not separate and
162 1 the bridge, but I don't have any information about 2 282, so I can't opine -- I can't agree with him that 3 it -- because it's not defined what it's doing. 4 Q That's not really what you say, though, is 5 it? 6 "An alternative way of characterizing this 7 deficiency is that the so-called 'confinement 8 structures' that Mr. Kitchen identifies -- the 9 combination of sidewalls 282 and retention 10 structures 260 -- are not 'separate and distinct 11 structures from the structural bridge [i.e., chassis 12 280 including retention structures 260], forming no 13 structural portion of the structural bridge." 14 Aren't you saying there that those two 15 items, the sidewalls and retention structures, are 16 not separate and distinct from the chassis? Isn't 17 that what you're saying? 18 A Okay. I -- the first thing is the claim 19 element requires -- it talks about a confinement 20 structure that's not part of the structural bridge. 21 Mr. Kitchen is saying these two elements are a 22 confinement structure, and I am saying they are not	164 distinct structures from the structural bridge; 2 i.e., the chassis? Is that your opinion? 3 A I need to do them one at a time. 262 -- 4 sorry. 260 is definitely not. Okay? I can tell by 5 the slide-ins. 6 282 -- 282 I don't know because it doesn't 7 tell me how it's attached or not. 8 Q Now you've thoroughly confused me. 9 A I'm sorry. 10 Q Let's try 260 singularly. I thought you've 11 said now several times that 260 is separate and 12 distinct? 13 A Yes. I just repeated that I thought. 14 Q Yeah. That's what I thought too. 15 But what your sentence says here is that: 16 "...the combination of the [sic] sidewalls 282 and 17 retention structures 260 -- are not 'separate and 18 distinct structures from the structural bridge..." 19 A That's not what I meant to say. 20 Q Well, that's what you say. 21 A I'm saying that's not what I meant to say. 22 What I meant to say is, first of all, 260

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165 1 is not part of the structural bridge. I think I 2 said that and you heard me say that. We're 3 agreeing. 4 Q Well, I agree. 5 A And you agree what I said. 6 Q Yeah, I agree. 7 A 282, I have no information how it is 8 attached or not to 280. 9 Q To 260. 10 A No. No. No. To 280. 11 Q To the chassis? 12 A To the chassis. 13 Q Gotcha. Okay. 14 A For all I know, this thing was -- they're 15 showing it in different parts, but maybe they welded 16 it or somehow were -- essentially, for all intents 17 and purpose, would be attached. 18 Q Okay. 19 A If I assume that it's as shown here 20 separate, and let's say, for example, 282 was 21 attached to 260, which you asked me earlier and I 22 said, "Yeah, you could. I wouldn't necessarily do	167 1 bridge? 2 A Yes, and it's not a confinement structure 3 either. 4 Q I hear you. 5 A Good. 6 Q But I'm just focusing on this bit -- 7 A Yes. 8 Q -- so I can make sense of the sentence 9 because I think the way it's written, it's contrary 10 to what you've testified. 11 A That was not my intent. They form no -- I 12 apologize for the clumsiness of my writing, but I -- 13 I'm opining on what Mr. Kitchen is identifying, that 14 the combination -- he says the combination of 15 sidewalls 282 and retention structures 260 are not 16 separate and distinct. 17 And I'm saying because I don't know what 18 282 is, how it's formed or whatever, and he doesn't 19 say it and the patent isn't specific, I can't agree 20 with him, and because I can't agree with him, I'm 21 going to disagree until I have more information. 22 That was the intent of my 159, nothing more, nothing
166 1 it that way, but you could." 2 Q Mm-hmm. 3 A Let's just do that. I'm willing to deal 4 with that hypothetical. 5 282 is attached to 260, and then 260 is 6 attached to 280 via the brackets 286. 7 Q Mm-hmm. 8 A Then I would agree that neither 260 nor 282 9 were part of 280. 10 Q Okay. So let me just piece through it a 11 little bit because I think I understand what you're 12 saying. 13 On the hypothetical that the sidewall 282 14 is connected directly or maybe indirectly to 260, 15 which are the retaining structures -- 16 A Mm-hmm. 17 Q -- on that hypothetical, you would agree 18 that that structure, that resulting assembly, if you 19 will, is separate and distinct from the chassis? 20 A Yes, I would agree with that. 21 Q And -- and you would also agree that it 22 does not form a structural portion of the structural	168 1 less. 2 Q Okay. But it wasn't to suggest that the 3 sidewalls and retention structures are not separate 4 and distinct structures from the -- from the 5 chassis, right? 6 I mean, you would agree they're clearly 7 separate and distinct structures, at least as shown 8 in the Figure 3? 9 A As you just -- if you just look at the 10 figure, I would agree with that. 11 Q Okay. 12 A He combined them into what he called a 13 confinement structure, implying they're one thing, 14 and I say, "I don't think so," and I also, by my 15 intent was then -- because I'm not told how 282 is 16 attached to 280, in no way it's even hinted at; 17 whereas, it's clear how 260 is. 18 Q Okay. But just so that I can make sure I'm 19 clear, if 282 is attached to 260 in some way, glued, 20 riveted, whatever, in some fashion, in that 21 circumstance, it's still not -- it is still a 22 separate and distinct structure from the chassis,

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169 1 and it still forms no structural portion of the 2 structural bridge? 3 A I would agree with that. 4 Q Okay. If -- and just for one last sort of 5 clarification, just so I'm getting it in my head, 6 okay? 7 Let's assume, for the sake of argument, 8 that 282 is screwed into 260. There are some 9 screws. Okay? In that circumstance, would the 10 resulting assembly 282 and 260 be separate and 11 distinct from the chassis? 12 A If the only connection then with that 13 assembly to the chassis 280 was via the elements 286 14 with those little rectangular protuberances on the 15 underside of 260. 16 Q Yeah. 17 So I'm assuming everything else is as 18 depicted in Hirschman. Okay? The only assumption 19 I'm asking you to make is that 282 is screwed into 20 260. 21 So in that hypothetical, the resulting 22 assembly, 282 plus 260 plus the screws, I guess, are	171 1 right? 2 A You would consider it amongst a bunch of 3 things. I don't think I would, but -- I think there 4 are better ways, but you could. 5 Q There may be better ways, but a person of 6 skill in the art using their skills could consider 7 screws? 8 A Yeah, you would typically go through, here 9 all the different possible attachment methods and 10 then the formal process of picking what's best for 11 this application -- 12 Q Okay. 13 A -- loads, cost, how it looks. Everything. 14 Q 260, I want to talk now a little bit about 15 what 260 does. Okay? So the retention structures. 16 You don't deny that the retention 17 structures 260 are taught to potentially include 18 signaling, correct? 19 A I don't think -- I think all the signaling 20 goes through the 242 connector. 21 Q Okay. Take a look at Hirschman. 22 A So let me see. Okay.
170 1 still separate and distinct from the chassis, and 2 they form no structural portion of the chassis? 3 A I'm willing to make that hypothetical 4 because I can see enough in this exploded view to 5 imagine how that could be, yes. 6 Q So the answer's yes? 7 A Yes. 8 Q Okay. 9 A To reiterate, 282 attached to 260 along the 10 dotted lines that are shown there, that you add an 11 attachment, which is not shown, I'm willing to add 12 it because they have the dotted lines there. And 13 then that subassembly then pops down onto 280 via 14 that rectangular protuberance and slot. 15 Q And it's not an unreasonable -- strike 16 that. 17 A person of skill in the art could 18 reasonably conclude that one way to attach 282 to 19 260 is via, for example, screws? 20 A There's a bunch of ways of doing it. So 21 screws would be one way you would consider. 22 Q But that would be one way you could do it,	172 1 Q And I'll direct you to paragraph 60 of 2 Hirschman. Hirschman, I've forgotten what exhibit 3 number that is. 4 A Exhibit 5. 5 Q Thank you. 6 A 60. 7 Q Paragraph 60, and you can read the whole 8 paragraph if you like. 9 A Okay. Let me just read it, and then when 10 I'm done, I'll let you know, and you can ask me the 11 question. 12 Okay. I've read -- it's in the first part 13 of paragraph 60. 14 Q Okay. And it discloses that: 15 "Communication signals may travel through retention 16 structures 260 and retention posts 160 as 17 illustrated in...2A, either alone or in combination 18 [sic] with communication [sic] ports 242 and 19 communication [sic] connector 264 [sic] as 20 illustrated in Figure 2A," right? 21 That's what it says? 22 A Conjunction. You said, "combination."

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173 1 Yeah, in conjunction. 2 Q Oh, I beg your pardon. In conjunction. 3 Okay. So Hirschman's disclosing that you 4 can have communications go through the retention 5 posts -- or retention structures 260; isn't he? 6 A That's what paragraph 60 we just read -- 7 that's -- he's using words to further describe what 8 could be in Figure 3. 9 Q Right. So let me now go back to my initial 10 question when I asked this. 11 You don't deny that the retention 12 structures 260 are taught to potentially include 13 signaling -- communication signaling, right? 14 A It says so right here in 60. If I said 15 that earlier, then I would have missed this, but I 16 see it here. That's what he's saying. 17 Q Okay. So 260 can include some signaling. 18 One of the limitations that you dispute 19 with respect to Hirschman is 2(b)(2)(a) and 20 2(b)(2) -- 2(b)(2)(b), which are the two 21 communication limitations -- the two communication 22 link limitations.	175 1 port 242...attached to circuit board 240 and adding 2 one or more wires going from retention" -- structure 3 adding -- let me try it again. 4 "Further, Mr. Kitchen attempts to modify 5 Hirschman by removing USB communication port 6 242...attached to circuit board 240 and adding one 7 or more wires going from retention structures 260 to 8 circuit board 240." 9 Okay? 10 A Mm-hmm. 11 Q I want to talk about the second part of 12 that first: "...adding one or more wires going from 13 retention structure [sic] 260 to circuit board 240." 14 He wasn't adding that. Hirschman 15 specifically disclosed that, didn't he? Isn't that 16 what Hirschman is saying when he says you can have 17 communications running through retention structures 18 260? 19 A He's saying you could. It's not shown. 20 And I'm saying I don't think he would do that. I 21 don't know why Hirschman is even suggesting it. 22 Q Okay. But leaving that aside, whether you
174 1 A Okay. Let me go there. 2 Q Sure. 3 So, for example, if you'd go to page 89 of 4 your report, you'll see what I'm talking about. 5 A Okay. What's your question? 6 Q Okay. My question is: You don't dispute 7 this limitation because retention structures 260 are 8 not taught to have communication abilities. You 9 dispute this limitation because you don't think that 10 the retention structures are confinement structures, 11 right? 12 A That is correct. That's what I'm saying in 13 paragraph 163. 14 Q Okay. And it's not because Hirschman isn't 15 teaching that you could have communications go 16 through it. It's because you don't think they're 17 confinement structures? 18 A Correct. That's what I'm saying in 163. 19 Q Got it. 20 And then you go on, and you say, in the 21 next paragraph, 164: "Further, Mr. Kitchen attempts 22 to modify Hirschman by removing USB communication	176 1 think it's a good idea or a bad idea, Hirschman 2 himself is disclosing having wires running -- 3 potentially running from retention structures 260 to 4 the circuit board 240, right? 5 A Correct. 6 Q Okay. So when you say that Mr. Kitchen is 7 adding one or more wires, that's not exactly 8 accurate, is it? 9 A I think it is because the drawing in what 10 he was showing doesn't have them in there. He 11 wants -- let me finish. 12 He wants to add them, as taught by 13 Hirschman, but I'm saying whether Hirschman is 14 saying you could add them -- or I should have been 15 more explicit in that respect. It's not just 16 Mr. Kitchen. Even if Mr. Kitchen is just saying, 17 "I'm going to add these wires in here as taught by 18 Hirschman," I would have still said the same thing: 19 "That would be, I think, a mistake to do." 20 Q Okay. I get that you don't like the idea 21 of adding the wires, but it's not really a fair 22 characterization of Mr. Kitchen's report, is it, to

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177 1 say that he's adding one or more wires to the 2 retention structures? Because Hirschman itself is 3 teaching that. 4 A I don't really know how to respond in terms 5 of is that a question or is that -- 6 Q I mean, is that really a fair 7 characterization? Do you feel like that's really a 8 fair characterization of what Mr. Kitchen is saying 9 when Hirschman itself is saying you can have wires 10 in there? 11 DR. KUMAR: Object to form. 12 THE WITNESS: I think it is because 13 Mr. Kitchen is saying, "Hey, the patentee is saying 14 you can" -- with words -- "you can add wires to an 15 embodiment that he's showing clearly works really 16 nice as it is," and I don't agree that's something 17 you would want to add. Is that being too mean to 18 Mr. Kitchen? I don't know. 19 BY MR. KINSEL: 20 Q It's not a question of whether you're being 21 mean. It's a question of whether it's misleading. 22 Don't you think it's misleading to say that	179 1 Q Do you see that the USB port is still on 2 the circuit board? 3 A There is some piece of like a stub, if you 4 will, and I don't know if he's whited it out, but 5 you can -- if you compare Hirschman Figure 3 to 6 Figure 3, if I'm just doing wires, then you wouldn't 7 need the USB connector. 8 Q Well, okay. But you say that Mr. Kitchen 9 is removing the USB. You see the USB port is still 10 on the figure, don't you? 11 A Well, if you look at that -- and let's 12 double check with his report. 13 Q Sure. 14 A Is this one in color? 15 Q That one is probably not in color either. 16 A Hirschman Figure 14. 17 DR. KUMAR: I'm handing a color copy of the 18 report that the witness had previously. 19 MR. KINSEL: Thank you. 20 THE WITNESS: You see I just -- in his 21 figure, I just don't see where he's got the USB 22 connector. It's not clear and as distinct as in the
178 1 he's adding one or more wires when, in fact, 2 Hirschman itself discloses one or more wires? 3 DR. KUMAR: Object to form. 4 THE WITNESS: I don't think it's 5 misleading. 6 BY MR. KINSEL: 7 Q Okay. 8 A I think if you want, you can say, 9 "Professor Slocum, should he have added more 10 detail," and I could have said, "Sure." 11 Q Okay. In the first part of the sentence, 12 you say: "... Mr. Kitchen attempts to modify 13 Hirschman by removing USB communication port 242." 14 Do you see that? 15 A I do. 16 Q Okay. If you'd go to -- well, stick in 17 your report for now. If you'd go to the beginning 18 of this section, page 83. 19 A Okay. 20 Q That's -- that figure, Figure 3, is a 21 figure from Mr. Kitchen's report, correct? 22 A Correct.	180 1 patent. So -- 2 BY MR. KINSEL: 3 Q I mean, you don't see the USB connector 4 right there on the figure? 5 A Well, I see what -- 6 Q Really? 7 A No. No. You didn't let me finish. 8 Q Oh, I'm sorry. I thought you had. Go 9 ahead, please. 10 A I said, "clear and distinct." Look at this 11 piece from Figure 3 here. Okay? And then compare 12 that to the USB connector feature 242. Maybe he put 13 in a different connector, but it's not the same 14 connector that is in Figure 3. 15 Q Okay. You -- oh, I'm sorry. Go ahead. 16 A So I'm not really sure. I'm not really 17 sure. 18 Q Okay. You cite to -- you've got 19 Mr. Kitchen's report open, right? 20 A I have to go reopen it. Hold on. What did 21 I do with it? 22 Here we go. Let's go to the exact cite.

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181 1 Can you give me the -- 2 Q Yeah, I will give you an exact cite. 3 Go to paragraph 156 of your report. You 4 say -- I'm sorry. That's not where you cite it. 5 A I cite to paragraph 420 -- 6 Q 420. That's it. 7 A -- of Kitchen's Figure 3. 8 DR. KUMAR: I think you're looking for page 9 207, not to interrupt your questioning. 10 MR. KINSEL: Thank you. 11 BY MR. KINSEL: 12 Q Go ahead and read that page, and you tell 13 me where Mr. Kitchen tells you that he's removing 14 the USB. 15 A Paragraph 420 is on page 196. 16 Q I believe Mr. Kumar is right. I believe 17 you cite -- 18 DR. KUMAR: Page 207. 19 BY MR. KINSEL: 20 Q Yeah, let me get back to -- I know we're 21 all just trying to help. I appreciate that. Let me 22 get to the right paragraph.	183 1 on this paragraph, that Mr. Kitchen deleted the USB 2 port. 3 A Because as a POSITA who will design 4 interfaces between circuit boards and other 5 structures, if you have a USB connection such as 6 this, that's all you need. And Mr. Kitchen, I 7 believe, is qualified to say the design choice would 8 have been -- would have been a connection using one 9 or more wires going from the retention structures 10 260 to circuit board 240. 11 "For example, a POSITA would understand 12 that one could use...a [sic] variety of available 13 wired connections, to facilitate connections from 14 the retention structures 260 to the circuit board 15 240. A physical, flexible wired connection was and 16 is a known common way to connect electrical 17 components within computing devices, including 18 portable computing devices." 19 A, I agree with that statement. B, when 20 you're designing a consumer device, or actually any 21 device, you want to minimize the number of 22 connections. It doesn't make sense to have a USB
182 1 A 420 is the wrong paragraph. 2 Q 437 is the paragraph you cite. 3 So if you look at page 164 of your report, 4 you cite to Exhibit 1002, paragraphs 437. Can you 5 tell me where in paragraph 437 Mr. Kitchen is 6 removing the USB communication port? 7 A When you read -- let's see -- down at the 8 bottom -- 9 Q Sorry. 10 Down in the bottom of paragraph 432 on page 11 207? 12 A I'm sorry. 207. So this is paragraph 437. 13 Q Mm-hmm. 14 A Hirschman is talking as an electrical 15 engineering POSITA perspective. For example, 16 Hirschman -- I'm going to read the whole paragraph 17 because I think -- 18 Q Take your time to read the whole paragraph 19 because I want to understand why you think 20 Mr. Hirschman -- read the paragraph with the 21 following in mind. Okay, Doctor? 22 I want to understand why you believe, based	184 1 connection and these two additional wired 2 connections. Now you have three connections that 3 you have to worry about the integrity of. 4 Q Okay. I understand you don't like it as a 5 matter of design. But Mr. Kitchen does not anywhere 6 in this paragraph say he's deleting the USB, does 7 he? 8 A Well, you see, I believe he intrinsically 9 is because I don't see the full USB connector in his 10 figure anymore. 11 Q It's shown in the figure. It's shown in 12 the figure. You can see it. 13 A Well, it's not -- it's not the same USB 14 connector from here, and the way he's been adding 15 features, I don't know if he intended to -- to 16 delete that from this 242. I don't know. But I do 17 know -- let me finish. 18 He's saying what a POSITA would do, so I'm 19 putting myself into what a POSITA would do. A 20 POSITA would pick one or the other, and that was 21 what I inferred he was implying. If that is 22 incorrect, we can ask Mr. Kitchen what he wanted to

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185 1 do, and then I will opine back. If he said, "I 2 never intended to delete it. I don't think it 3 should be deleted," I'm okay with that. I just need 4 to have something more implicit than -- 5 Q Okay. But he doesn't say he's deleting it, 6 number one; and, number two, even though you think 7 it's not a great design, Hirschman itself says that 8 the communication can be in both 260 and 242. 9 That's what Hirschman says. Whether you agree with 10 the design, whether that's the way you would do it 11 or not is neither here nor there. 12 The question is: What does Hirschman 13 disclose? Hirschman says you can have both, doesn't 14 it? 15 A I agree with Hirschman saying that. 16 Q Right. 17 And isn't -- isn't Kitchen saying the same 18 thing, you could have both? 19 A You see, that's the whole thing. I don't 20 know. Because his figure looks like he's chopped 21 off 242. 22 Q Okay.	187 1 have any actual evidence that he did that? 2 A I just told you. If you look at Figure 3 3 from the patent from which is where Kitchen says he 4 takes this and does this modification, I don't see 5 the 242, the USB connector from the patent. Here I 6 see some piece or stub, but not what is in the 7 patent. So that tells me looks like he modified 8 this. Because that's not a USB connector like 9 that's in the patent. 10 Q Okay. So that's the full basis for your 11 opinion that Mr. Kitchen took USB communication port 12 242 off of the circuit board? 13 A Correct. 14 Q Is your view that the picture looks a 15 little bit different than Figure 3? 16 A Well, I think it looks significantly 17 different. And to me pictures are words, as any 18 POSITA will tell you. 19 Q Okay. What about the words, though? Do 20 the words say that he's removing the USB port? 21 A The words do not explicitly say, "remove 22 it."
186 1 A Now, again, if you want to represent to me 2 that he never intended it to look that way, that 3 he -- whatever happened, that 242 as shown in 4 Figure 3 of the patent is also right there in this 5 Figure 3, then I'm happy to change for my paragraph 6 437. But that is my inference. Because I believe 7 he implied that you would just have the wires. Not 8 because he said it in only words; he said in words 9 "add wires," but the figure shows to me it looks 10 like he chopped off 242. That's all. 11 Q Okay. 12 A There's nothing more and nothing less 13 there. All I can go is by what I see. 14 Q But, I mean, you're much more explicit than 15 that in your report. For example, at paragraph 147 16 of your report, you say: "As shown in the 17 illustration," referring to Figure 3, "Mr. Kitchen 18 maps, among other things, (1) touchscreen 230 and 19 circuit board 240, after removing USB communication 20 port 242 from the [sic] circuit board 240..." 21 A Mm-hmm. 22 Q Does Mr. Kitchen actually do that? Do you	188 1 Q Okay. So on the assumption that you're 2 just wrong about this, that Mr. Kitchen didn't 3 remove the USB port, your objections starting at 4 about paragraph -- bear with me here -- 164 and 5 continuing -- 6 A Hold on. 7 Okay. I'm at 164. 8 Q -- through 165 and 166 are not 9 well-founded, correct? 10 DR. KUMAR: Object to form. 11 THE WITNESS: So 164, 165, and 166? 12 BY MR. KINSEL: 13 Q Mm-hmm. 14 A If you or Mr. Kitchen, you know, warrant to 15 me that he never intended to -- to modify Figure 3, 16 that that was an oversight when he was deleting 17 stuff -- 18 Q Or maybe you just misunderstood it. 19 A No, I disagree with you. I make a living 20 on mechanical drawings, and that's a very clear 21 difference that means a lot to a POSITA. 22 Q And yet you didn't cite that in your

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189 1 reasons for -- what you cited was his paragraph 427. 2 A Yeah, which is talking about Figure 3, 3 where he's adding wires. 4 Q And you didn't say anywhere in your report, 5 "You could tell that Mr. Kitchen is removing the USB 6 because he's modified the way the USB port looks." 7 You didn't say that anywhere in your 8 report, did you? 9 A First of all, I wouldn't say, "the way it 10 looks," because that implies it's still there. 11 You're right. I should issue a supplementary 12 report, that look, I should have had more detail 13 that Mr. Kitchen removed it, did something to it. 14 It's no longer there as taught by Hirschman. So, 15 therefore, it's not there. 16 Q Now let's assume, for the sake of argument, 17 that you're misunderstanding what he is saying or 18 you're misunderstanding what he drew and that, in 19 fact, USB port remains, does your criticism at 20 paragraph 164 or 165 or 166 remain well-founded? 21 A If the USB port is still there, then 164, 22 165, and 166, with that context of the USB	191 1 If it's just these retention structures 260, then 2 you can run wires, as paragraph 60 of Hirschman 3 says. If there's not, there's no confinement 4 structures to run such passageways through. 5 Q Okay. So with respect to this limitation 6 1(c)(2)(a), you're not disputing that there could be 7 a passageway in the rigid structural bridge. 8 You're disputing whether 260 constitutes a 9 pair of confinement structures, right? 10 A No, that's not what I -- that's not -- 11 let's start over. 12 Q Okay. 13 A The rigid -- the claim limitation 14 1(c)(2)(a): "The rigid structural bridge comprising 15 a passageway between the pair of confinement 16 structures." 17 Q Mm-hmm. 18 A So, first of all, you do not have 19 confinement structures. You have retention 20 structures, A. You could run a wire from the 21 circuit board through the retention -- retention 22 structures, as we just discussed a minute ago, but
190 1 discussion, is no longer needed and go ahead and 2 delete them. 3 Q Okay. Okay. You take issue with the 4 passageway limitation. That's beginning at around 5 page 93 of your -- of your opinion, paragraphs 169 6 through 171. 7 Do you see that? 8 A I do. 9 Q Okay. And you argue here, or you're 10 implying here, that: "...Mr. Kitchen improperly 11 attempts to modify Hirschman by removing USB 12 communication port 242...attached to circuit board 13 240 and adding one or more wires going from 14 retention structures 260 to the [sic] circuit Board 15 240." 16 And then you say a POSITA would not have 17 understood that you could run those wires through an 18 empty portion of the chassis, right? That's 19 basically your criticism? 20 A Again, based on confinement structures. If 21 we're just looking at the retention -- if you call 22 it a confinement structure, there's nothing there.	192 1 that is not a passageway in the structural bridge 2 that goes between the pair of confinement 3 structures. 4 There's nothing in this structure 280 I see 5 that is a passageway to go from the -- we'll just 6 call it the right side to the left side. 7 Q So your understanding of this limitation is 8 it requires the passageway to run from one 9 confinement structure to the other; is that fair? 10 A That's what, for example, this Northern 11 District of California says. It says: "Passageway 12 is construed as a space that accommodates a 13 communication wire," and I don't see that space in 14 280. 15 Now, there is a space in the retention 16 structure part of it. 17 Q Does it -- does that construction, "A space 18 that accommodates a communication wire," require the 19 passageway to run from one confinement structure all 20 the way to the other, as I think what you're saying? 21 A Passageway is a space that accommodates a 22 communication wire. The claim says: "Rigid

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193 1 structural bridge comprising a passageway between 2 the pair of confinement structures." 3 Q So I just want to understand what your 4 reading of that is. 5 So your reading is that this space that 6 accommodates a communication wire must run from one 7 confinement structure to the other confinement 8 structure. That's what you're -- is that how you're 9 reading it? 10 A Well, that's my understanding. I mean, 11 that's what the claim element is calling. 12 Q That's what you would understand that 13 limitation to require, correct? 14 A Yeah. That's what it says, I think, in 15 plain English. 16 Q Okay. Let's move to Willner. So I don't 17 think I have marked Willner yet, have I? 18 I have not. 19 A I don't think so. Want me to set aside 20 Hirschman here? 21 Q Yeah, you can set aside Hirschman for now. 22 A And I'm going to set aside, for the	195 1 MR. KINSEL: Oh, okay. 2 DR. KUMAR: Did you have Willner, or did I 3 miss it? 4 MR. KINSEL: I passed it over. 5 THE WITNESS: There's two copies. 6 MR. KINSEL: That's an extra, yeah. Bonus. 7 BY MR. KINSEL: 8 Q Okay. So you've got Willner in front of 9 you? 10 A I do. 11 Q Great. 12 Willner -- strike that. 13 Your understanding of Mr. Kitchen's claim 14 mapping for Willner is that he has removed the back, 15 front lips, and retaining bar from the Willner 16 adapter to just -- just to have the two sides of 17 Willner, the two sidewalls, right? 18 A Correct, as I -- on my page 35. 19 Q Right. 20 And it's your view that the removal of the 21 back, front lips, retaining bar from Willner's 22 adapter when those two sidewalls are combined with
194 1 moment -- oh, no, I've mixed up the pages. There 2 they are -- Mr. Kitchen. 3 MR. KINSEL: Okay. So we'll mark, as 4 Exhibit 9, the Willner patent. 5 --- 6 (Slocum Exhibit 9 was marked for 7 identification.) 8 --- 9 THE WITNESS: Okay. 10 MR. KINSEL: And you know what. While I'm 11 at it, let me also mark Park, since we're going to 12 talk about them together. 13 --- 14 (Slocum Exhibit 10 was marked for 15 identification.) 16 --- 17 BY MR. KINSEL: 18 Q So Willner is Exhibit 9 and Park is 19 Exhibit 10. 20 A Okay. 21 Q There's Park. All right. 22 DR. KUMAR: You gave me two copies.	196 1 Park would allow the computing device to pop out, 2 essentially? 3 A Yes. It's no longer -- it's not confining 4 it. 5 Q Okay. And so from your point of view, that 6 means that the sidewalls on Willner can't be 7 confinement structures in that arrangement, the 8 arrangement with Park? 9 A Correct. 10 Q Okay. And you also say, though, at 11 paragraph 50 of your report, that even with all of 12 the structural elements that we're talking about, 13 the back, front lips, and retaining bar, the adapter 14 210 discussed above, the computing device can still 15 come loose during normal user operation? 16 A It could. There's one degree forward it 17 can come out. 18 Q Okay. 19 A Other -- other modes it is held in. 20 Q So at least with respect to that forward 21 mode, the whole Willner adapter, from your point of 22 view, isn't functional, right? It doesn't do the

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197 1 job? 2 A Can you state your question again, please? 3 Q Sure. 4 Your opinion is that even with all of the 5 elements of Willner intact, the Willner adapter 210 6 doesn't do the job of holding the computing device 7 in place? 8 A Yeah, it can come loose. 9 Q And so Willner by itself wouldn't even be 10 acceptable to you, right? 11 A I'd have to add something else in there, a 12 friction fit, spring pin, something to give it more 13 positive retention in some way. 14 Q Okay. Now I want to talk a little bit 15 about Park because we're going to put them together. 16 One of the objects of the Park invention 17 was to provide a game controller for a mobile phone, 18 right? 19 A Yes. 20 Q Okay. And do you understand Park to be 21 disclosing three different embodiments of that 22 controller?	199 1 A Yeah. 2 Q Okay. Good. 3 And it's got a ratcheting-type bridge in 4 between what he calls controller bodies, right, 5 Park? 6 A Correct. 7 Q Okay. How would a person of skill in the 8 art understand that that ratcheting bridge is 9 attached to the two controller bodies? 10 A Well, he's not explicit. So, for example, 11 you would have to assume that they are extending 12 underneath the controller bodies, and they may be a 13 dovetail. It may be -- it could even be a Velcro. 14 It could be screwed. There's a number of ways you 15 could do it. I don't think they're welded. I don't 16 think they're monolithic with it. 17 Q But a person of skill in the art would 18 understand there'd be a variety of ways that one 19 could attach this ratcheting bridge to the 20 controller bodies? 21 A Right. Because the controller bodies are 22 these large flat things, and the surfaces here of
198 1 A There's -- he's talking about several 2 things. I don't remember if it's exactly three 3 because you -- 4 Q So -- I'm sorry. Go ahead. 5 A One of the embodiments is plain. One of 6 the embodiments has this pad 60. Another one has -- 7 if you look on page 12 of Park, he's got, instead of 8 just the pad 60, an inflatable, expandable bellows 9 type thing. 10 Q Right. 11 So he's got like an expandable kind of 12 bladder type thing for one embodiment, a cushioning 13 pad for a second one, and then just the embodiment 14 without those two devices. Those are the 15 embodiments I'm talking about? 16 A Correct. And if you look at -- yeah, at 17 least those three. Whether or not he's implying 18 that there might be something else, like if you look 19 at Figure 1, I can't see what's on the front face of 20 one side, so he may have something else. So there's 21 at least those three. 22 Q But there's at least those three?	200 1 the structural bridge are large flat things, and 2 there's a number of ways you can envision two large 3 flat things being brought together. It's called a 4 lap joint. 5 Q That's one way to do it, or you could screw 6 them together or -- 7 A Well, a lap joint is -- can use screws, 8 glue, whatever. What a lap joint means is you have 9 two planar surfaces that overlap. That's where the 10 term "lap" comes from, overlap. 11 Q Understood. 12 But a person of skill in the art would 13 understand there'd be a variety of ways that one 14 could fasten that lap joint with screws or glue or 15 Velcro, any number of ways? 16 A You could have a snap-fit. You'd go 17 through your whole matrix and see what's most 18 appropriate. 19 Q And a person of skill in the art would have 20 a reasonable expectation of success in attaching the 21 ratcheting bridge to the controller bodies? 22 A Lap joints are not hard.

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201 1 Q Lap joints are not hard. 2 So a person of skill in the art would be 3 expected to be able to figure out how to make that 4 work, right? 5 A Yes. A lap joint is, right, very doable. 6 Q Okay. 7 A You can almost even look at Figure 1 and 8 see the implication is there, almost like a 9 dovetail-type connection between 20 and 40. Because 10 it's not 20 sitting on top of 40. Looks like 40 11 actually protrudes into the side. 12 So that would be when I mentioned 13 mechanical constraint, dovetail, and then it could 14 have a snap-fit. Like, you slide a dovetail in and 15 it snaps. You could have a dovetail that slides in 16 and screws, or you may not even use -- you may just 17 have a regular lap joint. Bunch of ways. 18 Q Okay. But screws are one way? 19 A Mm-hmm. 20 Q Snap-fit's another? 21 A For a lap joint, yes. 22 Q For a lap joint?	203 1 combination of Park and Willner. You're talking 2 about Park. 3 A Mm-hmm. 4 Q And paragraph 58 that I just pointed you to 5 is in that section where we're talking about Park, 6 not Park and Willner. That comes later. 7 So are you saying that Park -- the bridge 8 of Park isn't designed to be attached to the 9 controller bodies of Park with screws or snap-fit 10 connectors? 11 A I think I got ahead of myself here. 58, I 12 was intending, if you look at the next page, on 13 page -- see where you have Figure 2: "Structure of 14 Willner's adapter..."? You would not attach those 15 by screws or snap-fits. 16 Q That's not what I'm talking about yet. I'm 17 talking about -- let me finish my question. 18 A Okay. 19 Q Okay? Because I don't want you to run off 20 on a tangent. 21 A Okay. 22 Q What we're talking about here at paragraph
202 1 A Yes. 2 Q Okay. Take a look at paragraph 58 -- 3 A My report? 4 Q Sorry. Of your report, yeah. 5 A Okay. 6 Q You say at paragraph 58: "Like Willner, 7 Park does not anywhere discuss using screws or 8 snap-fit connectors to secure any of its components 9 together. In particular, a POSITA would understand 10 that Park's bridge (30, 40) is not designed to be 11 secured to another component using screws or 12 snap-fit connectors." 13 Isn't that different than what you just 14 told me? 15 A Okay. So, what I meant to say was another 16 component, as in these sidewalls. The bridge has to 17 be attached to the controllers so it's a non 18 sequitur to say it would not be designed to. 19 Q But let's take a look at the structure of 20 your report here because I'm confused. 21 Beginning at page 31, paragraph 54, you're 22 talking about Park. You're not talking about the	204 1 58 is just Park. So it's not true, is it, that a 2 person of skill in the art would not understand that 3 Park's bridge is designed to be attached to its 4 controller bodies using screws or snap-fit 5 connectors? A person of skill in the art would 6 think that or could think that, wouldn't they? 7 DR. KUMAR: Object to form. 8 BY MR. KINSEL: 9 Q Do you understand my question? 10 A I do. 11 Q Okay. 12 A And I'll answer. 13 Q Please. 14 A I agree. It could be, as I described, Item 15 40 of the sliding -- that bridge could be attached 16 to 20 by snap-fit or screws. I was getting ahead of 17 myself in this paragraph, and that's not what I 18 meant in terms of you would never attach 40 to 20 19 with that. Okay? 20 So I should modify that 58 -- I agree with 21 you -- to be you would not attach those sliding 22 devices to these sidewalls, for example. This is

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205 1 what I was -- that's what I wanted to say. 2 Q Okay. I got it. We'll talk about -- we'll 3 talk about the combination. I just want to stick 4 with Park, please. 5 A Right. So I am sticking with Park. I'm 6 explaining to you that you're right. In hindsight 7 now, 58 does not -- my comments in 58 do not apply 8 to attaching the Park structural bridge to Park's 9 modules 10 and 20. That was an error. 10 Q Okay. Got it. That's fair. 11 And so just to be clear, a person of skill 12 in the art reading Park would understand that one 13 way to attach a bridge to at least the Park bodies 14 could be screws or snap-fit connectors? 15 A I'm agreeing with you. 16 Q Okay. All right. Paragraph 102 of your 17 report -- 18 A Okay. 19 Q -- of your declaration, and this is a 20 discussion -- it shows up in a couple of different 21 places, so this may not be the only place that we'll 22 see it, and in fact this is in connection with	207 1 retention of a protrusion in the connecting holes; 2 is that right? 3 A Right. The ratcheting device I can -- it's 4 not positively constrained. Just by pulling it, 5 it'll pop open and slide open. 6 Q Right. 7 And so there's no mechanical component 8 that's -- that's preventing the protrusions from 9 escaping the catching holes? 10 A Right. It's not a proper snap-fit. 11 Q Okay. 12 A That's what I meant by positive retention. 13 Snap-fit will have -- it'll deflect and then snap 14 into place, and you can't release it unless you 15 actually physically push the snap out of the hole 16 with the secondary motion. 17 Q Okay. Do you think that a person of skill 18 in the art would have been able to modify Park to 19 solve that problem? 20 DR. KUMAR: Objection. Form. Scope. 21 THE WITNESS: See, here's the -- yes, you 22 could, but then you really are eviscerating what
206 1 Schoenith, not Willner, but I think you make the 2 same point with respect to Willner. 3 You say that Park's bridge: 4 "...compromises its ability to retain a mobile 5 device between its controller bodies during...user 6 operation." 7 Do you see that? 8 A Paragraph 102? 9 Q 102, yeah. Towards the end of that 10 paragraph. 11 A Okay. I see that. 12 Q You see it? 13 A Yeah. I didn't understand. Is there a 14 question? 15 Q Yeah. No. I just wanted to get you 16 oriented -- 17 A Oh. Okay. 18 Q -- to the paragraph I'm talking about. 19 Okay. So you've got that? 20 And the reason Park is compromising its 21 ability to maintain the mobile device between 22 controller bodies is because there's no mechanical	208 1 Park, I believe, was intending to do, which was to 2 make it easy to adjust -- rapidly adjust. So you 3 would be changing Park, I think, significantly to do 4 that. 5 BY MR. KINSEL: 6 Q Okay. 7 A So you could. One could see how to do it. 8 Q But it wouldn't take -- it wouldn't take a 9 significant experimentation for a person of skill in 10 the art to understand how to modify Park so that it 11 has a better retention of its size, for lack of a 12 better way to explain it? 13 DR. KUMAR: Objection. Form. Scope. 14 THE WITNESS: Well, there's the difference 15 between -- it would take a lot of experimentation in 16 terms of to make the change and then hand it to a 17 range of customers and say, "Do you like this better 18 than the way it was?" And you really -- you can't 19 predict what will happen because this gets to an 20 ergonomic issue. 21 Just mechanically could I do it, create the 22 molds or even the 3D print, and right away have

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209 1 something to test. I could work out the 2 spreadsheets and do the design. It'd take me a day 3 or two to get it right because snap-fits will break 4 off if you're not careful. 5 BY MR. KINSEL: 6 Q Okay. But assuming that a person of skill 7 in the art designs them carefully so they don't 8 break off, a person of skill in the art would be 9 expected to be able to create an adjustment to Park 10 such that the ratcheting structure doesn't pull 11 apart so easily? 12 DR. KUMAR: Objection. Form. Scope. 13 THE WITNESS: Well, the first thing I'd do, 14 I'd start with Park and see how can I adjust the 15 stiffness of things. Can I do so to -- where 16 customers would still be happy with it. Because 17 that would be better than having them having to do 18 some secondary operation. 19 If I do that range of experiments and 20 they're happy with it -- and maybe Park actually is 21 an existing device I can -- this maps to some 22 company actually made it. I don't know that.	211 1 little bit different, though. He says that if you 2 reduce the size of the controller too much such that 3 it is shorter than the length of the phone or 4 whatever device you're going to stick in there, that 5 you can damage the phone. 6 A You want to point me to where you're 7 talking about? 8 Q Sure. 9 A I recall that in general, but let's go to 10 the exact -- and the translation version is helpful. 11 Which paragraph? 12 Q Let me get it for you. 13 A You're talking about paragraph 41, I 14 believe. 15 Q Yeah, the one with all my highlighting that 16 I haven't been able to find. Yes, that's exactly 17 it. 18 A I've read this enough times. 19 Q Me too, and I've got red highlighting all 20 over it to make sure I find it for you quickly, and 21 I didn't. So I apologize for that. 22 Right. So one of the things he notes is
210 1 That's the first thing I'd check. 2 But if the customers weren't happy with 3 it -- you know, I have percentage are happy and 4 enough percentage that say, "I don't like this," 5 then I would design the positive action snap-fit, as 6 we were discussing, make it, and give, you know, a 7 statistically significant sample to the customers 8 and get their feedback. Yes, I would know how to do 9 that. 10 BY MR. KINSEL: 11 Q Well, not just you, but a person of skill 12 in the art would know how to do it. You're above 13 the level of skill in the art? 14 DR. KUMAR: Objection. Form. Scope. 15 THE WITNESS: I'm putting myself as a 16 POSITA when I say these things. 17 BY MR. KINSEL: 18 Q Okay. And so a POSITA would be expected to 19 do what you just described? 20 A I don't know what you mean by "expected," 21 but a POSITA could if they saw a need to. 22 Q Okay. Now, Park describes something a	212 1 that the phone can be damaged by the pressing 2 pressure of the two sides of the control bodies, 3 right? 4 A You're paraphrasing, but, essentially, 5 that's what he's saying. 6 Q That's what he's saying. 7 And does that suggest to you that at least 8 Park believes that his device can put sufficient 9 pressure onto the phone such that it can be used? 10 A No, I don't think he's talking about that. 11 I think he's saying, first of all, you could not put 12 enough pressure that it just, whee, comes loose. 13 Second of all, he says you may put too much 14 pressure that you could damage the phone, but when 15 you look at plastic on plastic, that's quite 16 slippery. You may damage the phone and still not be 17 enough. He doesn't talk about that, but that's 18 something a POSITA would understand. 19 Q Okay. But at least Park seems to be 20 suggesting that you could put sufficient pressure 21 such that you could actually damage the phone from 22 this device. That's what he says.

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213 1 Whether you agree with it or not is not 2 really the point. The question is what does he say, 3 and he says you can. 4 A Well, that's paragraph 42 of Park. 5 Q Right. 6 A That's what Park is saying there. 7 Q Okay. Do you think a person of skill in 8 the art, who was trying to design a device that 9 combined Willner and Park -- okay? Do you think a 10 person of skill in the art would have been able to 11 use, for example, the cushioning pad from Park to 12 help keep the phone in place? 13 DR. KUMAR: Objection. Form. Scope. 14 THE WITNESS: I did not go and do the 15 foam -- you said, "foam," not phone? 16 BY MR. KINSEL: 17 Q Cushioning pad. Yeah, the cushioning pad. 18 A Let's say, "cushioning pad," and not 19 "foam." 20 Q I meant cushioning pad. I beg your pardon. 21 Go ahead. I thought I said cushioning pad. 22 A Cushioning pad and foam. We'll never say	215 1 teaching me here. Where is the -- hold on. 2 It says, holds: And holds is very 3 specifically you need to do something like in 4 Figures 17 and 18 in order to hold it in there. 5 Otherwise, it's coming out. 6 Q Okay. So in order to be a construction -- 7 sorry. 8 In order to be a confinement structure, 9 your view is that the structure has to be something 10 like what's shown in Figures 17 and 18, right? 11 A You have to accomplish this function of it 12 can't pop out, and popping out, that's holds. 13 That -- 14 Q And the only way to do it, in your opinion, 15 is to have something that holds the top and bottom 16 of the phone? 17 DR. KUMAR: Object to form. 18 THE WITNESS: Well, that is one way that I 19 can definitely see does it. If Mr. Kitchen or 20 somebody else wants to offer me something else to 21 look at, I'd be happy to look at it, consider it, 22 and opine upon it. All of the constructions that --
214 1 foam and phone. 2 Q Yeah, I didn't think I did, but go ahead. 3 A I did not do a cushioning pad design. 4 Again, I am just opining on what Mr. Kitchen's 5 combinations are. I think regardless of what you do 6 there, unless you somehow have something to go over 7 the top of the phone, as I state several places in 8 my report, when you provide that squeezing force, 9 the plane of the squeezing force on the phone is 10 above the midline of the structural bridge. That 11 creates a bending moment that bends the bridge open. 12 That will now tend to pop your phone right out. 13 Q Okay. 14 A So that is really the basis of my -- all 15 these combinations that just have these vertical 16 walls, they're not confinement structures. This is 17 why the patent -- you know, confinement structure 18 you have to touch on at least three sides to give 19 you that constraint: bottom -- bottom side, top 20 side, side/side. 21 Q That's not what the patent says, though? 22 A Well, let's go [sic] what the patent is	216 1 or combinations -- excuse me -- is the word -- that 2 Mr. Kitchen has made, I opine they will not work for 3 this reason, and that was the sole purpose of my 4 report, was to opine on Mr. Kitchen's combinations. 5 BY MR. KINSEL: 6 Q Understood. But just so that I'm clear, 7 because I think I maybe didn't understand what you 8 meant when you were saying, "confinement structure." 9 So a confinement structure, as far as you 10 know, would have to have not just the ability to 11 push from the sides, but also the top and the 12 bottom -- 13 DR. KUMAR: Objection. Form. 14 BY MR. KINSEL: 15 Q -- of the phone; otherwise, it pops out? 16 A Again, I'm -- you're -- I'm opining only on 17 what Mr. Kitchen provides as combinations. All the 18 combinations he provide will pop out because they 19 don't provide a top and bottom constraint to prevent 20 popping out or this tilting moment. 21 Q Mm-hmm. 22 A Is there a way to do it other than that?

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217 1 Perhaps. Mr. Kitchen did not offer any such 2 combinations, and I didn't opine on anything. 3 Q Okay. 4 A Let me finish. I just want to not -- I 5 only can opine on what he offered, and, broadly, 6 that's how I covered it. Anything else, well, you 7 have to give me some specific example to look at. 8 Q Okay. And so let's see. Paragraph 65 of 9 your report, you say that the combination of Willner 10 and Park would frustrate Willner's basic purpose of 11 retaining a computing device between the 12 controllers, and that's because, in your view, it 13 will pop out or potentially pop out? 14 A Right. Because Mr. Kitchen removes the top 15 constraints. 16 Q Mm-hmm. Do you think that a POSITA would 17 have a reasonable expectation of success in adding 18 elements to help retain a computing device in place 19 if it were thinking about doing the Willner/Park 20 combination? 21 DR. KUMAR: Objection. Form. Scope. 22 THE COURT REPORTER: I'm sorry, Counsel. I	219 1 it, couldn't they? 2 DR. KUMAR: Object to form. Scope. 3 THE WITNESS: I could task someone and they 4 could figure it out. It wouldn't be an obvious, 5 simple thing to do. You'd make a bunch. Again, it 6 boils down to you can do the analysis of here's how 7 strong I think it will be. You have to give it to 8 the users and have them work it/play with it. Make 9 sure they don't break it. 10 Because it's hard to model how they put 11 forces on things in small pieces of plastic. You 12 have a good start, but, ultimately, you have to do 13 user testing to verify it. 14 BY MR. KINSEL: 15 Q Okay. Putting aside user testing, would a 16 person of skill in the art be able to make the 17 connection between Willner sidewalls and the Park 18 bridge? 19 A Eventually, you would figure it out. 20 Q Would a person of skill in the art be able 21 to use, for example, screws as one way to do it? 22 A I wouldn't use screws. The things are too
218 1 just crashed. I've got to go off the record. 2 MR. KINSEL: Why don't we take a 10-minute 3 break or a 15-minute break. 4 (Recessed at 2:16 p.m.) 5 (Reconvened at 2:20 p.m.) 6 BY MR. KINSEL: 7 Q Okay. We were talking about the Willner 8 and Park combination, and part of your criticism of 9 Mr. Kitchen is the computing device won't be held by 10 what he calls the component structures. It'll pop 11 out. Right? That's part of it? 12 A Correct. 13 Q And the other part of it is that you think 14 that a person of skill in the art wouldn't connect 15 the two sidewalls to the Park bridge? 16 A Well, I'm just saying that Mr. Kitchen 17 didn't give me any detail on how to do that. I 18 think that's a very difficult connection to do, as 19 he's implying. It would not be a simple thing to 20 do. You could do it, but this is not, as he quickly 21 says, "Oh, yeah, no problem." 22 Q But a person of skill in the art could do	220 1 thin. You'd likely break -- you'd break out from 2 whatever your attachment bosses are. A lot of cost. 3 I don't think you'd use screws in the end. I think 4 you'd use something else. 5 Q Okay. Whether it's the best-designed 6 choice or otherwise, a person of skill in the art 7 would know how to use screws, right? 8 A No, I disagree with "know how to use." 9 That implies success. So they would know how to 10 approach the problem to investigate might screws be 11 used. That I agree with. But it may not be 12 feasible in the end to use them for a product. 13 Q Could a person of skill in the art size up 14 the thickness of the Willner walls and the Park 15 bridge in order to accomplish screwing them 16 together? Would that be something they could do? 17 A Again, my earlier answer is they would know 18 how to approach the problem and have a go at it, and 19 then they'd test it, verify it. They could use 20 finite element analysis to try to make sure that -- 21 their assumptions of what the sizing of the bosses 22 are. So, again, they would know the process to move

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221 1 forward to start. 2 Q Okay. So is -- strike that. 3 A person of skill in the art reading Park, 4 knowing that, for example, you could use a lap joint 5 between the bodies and the bridge, would they be 6 able to apply that same knowledge to the combination 7 of Willner and Park? 8 A Not as Mr. Kitchen opined would be what you 9 would do. You'd have to do something different than 10 what he opined on. 11 Q Why? 12 A Because he's implying -- I'm just drawing 13 what he showed. Look at my Figure 4. And that's 14 all I have from -- I even went into more detail than 15 what he did I believe. You have a thin section on 16 the bottom, as taught by Park, and you want it to be 17 thin because you're trying to make a consumer 18 product. Minimize use of plastic. Not get in the 19 way of the user. Not hang up on things. 20 And now you have this sidewall. The thin 21 sidewall of Willner that was okay to be thin because 22 it had all the surrounding structure before that	223 1 a person of skill in the art have a reasonable 2 chance of success combining those two? 3 DR. KUMAR: Objection. Scope. 4 THE WITNESS: You mean the sidewalls of 5 Willner with the adjustable bridge like I have in my 6 Figure 4 here? 7 BY MR. KINSEL: 8 Q Yeah. 9 I mean, but forgetting about the specific 10 dimensions, right? You've given it specific 11 dimensions that you think came from Kitchen. That's 12 fine. Forgetting about whether they're the exact 13 dimensions that you've described, would a person of 14 skill in the art have a reasonable chance of success 15 of combining those two references together? 16 DR. KUMAR: Objection. Form. Scope. 17 THE WITNESS: You know, I think you'd 18 probably end up adding additional stuff to make it 19 work. But as I said, a POSITA would know how to 20 approach the problem so that ultimately they would 21 have a vertical sidewall connected to this -- each 22 element of the adjustable bridge. They would know
222 1 gave it structural integrity, and now you're taking 2 one thin thing to be butted against the end of 3 another thin thing. That's a very difficult -- 4 that's a moment connection to do on its face value. 5 Q Okay. So your view is that the 6 combination, exactly as you've drawn it with thin 7 pieces, thin side -- thin side rails and a thin 8 bridge, would be difficult to connect, right? 9 DR. KUMAR: Object to form. 10 THE WITNESS: I'm saying I've drawn what 11 Mr. Kitchener [sic] put forward, and then he says, 12 we'll use screws. I can't remember his exact -- let 13 me finish. All I can do is opine on what 14 Mr. Kitchen proposed. 15 BY MR. KINSEL: 16 Q I understand. I'm asking something, 17 though, slightly different. 18 Would a reasonable -- would a person of 19 skill in the art have a reasonable expectation of 20 success in combining Willner and Park? Forgetting 21 about whether it has to be the exact same dimensions 22 that -- that you think Mr. Kitchen is showing, would	224 1 that. They would know how to move forward. 2 BY MR. KINSEL: 3 Q Okay. And they would have a reasonable 4 expectation of succeeding in making that 5 combination, right? 6 A Well, eventually, they'd make it work, 7 yeah. 8 Q Yeah. And -- 9 A It's not a -- excuse me. 10 It's not a sit down, draw it up, we're 11 done. It's the process I described earlier. 12 Q Okay. But a person of skill in the art, 13 using the skills that they have and the -- the tools 14 that are in the art, would ultimately have no real 15 trouble combining those two things together. 16 Eventually they would make them work, 17 right? 18 DR. KUMAR: Objection. Form. Scope. 19 THE WITNESS: I don't know what you mean by 20 no trouble. It's a question of how much of a pain 21 in the body part it is to make it happen, but 22 they'll make it happen. That's what engineers do.

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225 1 BY MR. KINSEL: 2 Q Okay. 3 A They work at things until they figure them 4 out. 5 Q And one way that a person of skill in the 6 art could prevent the computing device from popping 7 out, which is one of the main defects that you've 8 identified, is they could put retaining lips, for 9 example, on the Willner sidewalls that you've drawn 10 in your figure -- I'm not sure what figure that is. 11 A Figure 4. 12 Q Figure 4. Thank you. Right? 13 DR. KUMAR: Objection to form. Scope. 14 THE WITNESS: I'm sorry. What's your 15 question again now? 16 BY MR. KINSEL: 17 Q So one way to solve one of the problems 18 that you've identified about the computing device 19 popping out would be that a person of skill in the 20 art could put retaining lips on the walls -- 21 sidewalls of Willner's adapter, right? 22 DR. KUMAR: Objection. Form. Scope.	227 1 Q Okay. Maybe this will help us. Let's take 2 a look at -- bear with me for a second here. I 3 thought I had it marked. 4 Okay. Let's go to paragraph 119 of your 5 report. This is talking about Kessler. 6 A Okay. Hold on. 7 Okay. 8 Q And I want to direct you to the first -- 9 first figure you got there, first two figures, 10 Figures 2 and 11. 11 Do you see that? 12 A I do. 13 Q Okay. And do you see those lips on the 14 side of the controllers? 15 A Do you want to give me a number? 16 Q They're not numbered. 17 The -- the two lips that are overlapping 18 the phone on either side, the left and right side, 19 do you see that in Figure 11? 20 A Okay. Or Figure 10 is easier to look at. 21 It's bigger, down at the bottom. 22 Q Sure.
226 1 THE WITNESS: You know, if Mr. Kitchen 2 wants to offer such a combination for me to look at, 3 I'll be happy to look at it, but, again, I'm not 4 going to opine on a hypothetical here because 5 there's too many variables about what you would have 6 to actually do to verify things can work. 7 BY MR. KINSEL: 8 Q But you don't deny that a person of skill 9 in the art knows about retaining lips, right? 10 A I don't know what you mean by "knows about 11 retaining lips." 12 Q Well, for example, Gamevice wasn't the 13 first inventor to come up with a structure that has 14 overhanging portions, were they? Was that in the 15 prior art before Gamevice? 16 DR. KUMAR: Objection. Form. 17 THE WITNESS: I don't know. All I did was 18 I opined on what -- let me finish -- Mr. Kitchen 19 provided as, "Here's the combination I want to 20 make," and I was asked to opine on Mr. Kitchen's 21 combinations. 22 BY MR. KINSEL:	228 1 A Okay. 2 Q Do you see the lips I'm talking about now? 3 A I think there's the -- the little 4 rectangular guys that overhang? 5 Q Right. 6 A Okay. I do. 7 Q I'm calling those lips for now. 8 A Okay. 9 Q Because that's similar to the term you used 10 in your report. 11 A Yeah, that's fine. 12 Q Okay. Do you think that a person of skill 13 in the art would know how to use rectangular 14 retaining lips? 15 DR. KUMAR: Objection. Form. 16 THE WITNESS: I mean, if they're practicing 17 Kessler, that's what Kessler is showing. 18 BY MR. KINSEL: 19 Q Right. 20 A Yeah. 21 Q And so do you think a person of skill in 22 the art trying to combine, for example, Schoenith

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229 1 with Kessler or Willner with Park would know that 2 they could use retaining lips like those shown in 3 Kessler to hold the computing device in place? 4 DR. KUMAR: Objection. Form. Scope. 5 THE WITNESS: I don't have an opinion on 6 that just because I'm only opining on what 7 Mr. Kitchen put forth, and Mr. Kitchen didn't seem 8 to think they were needed. So that's what I'm 9 opining on, that, "Mr. Kitchen, your combinations 10 don't work." 11 BY MR. KINSEL: 12 Q Okay. But do you think a person of skill 13 in the art would have had a reasonable expectation 14 of success of using retaining lips like on Kessler 15 in any of these combinations? 16 DR. KUMAR: Objection. Form. Scope. 17 THE WITNESS: I'd have to analyze it. I 18 can't provide an opinion here. I'd have to look and 19 see specifically how they're attaching the 20 sidewalls, the base to the expandable piece, and 21 what are the sizes of the lips and how that 22 overhangs the phone and is the user not happy with	231 1 Kessler's prior art? 2 A Well, I do think Kessler's prior art. 3 Q Okay. 4 A But since we're talking about Kessler, I'd 5 like to have Kessler, please. 6 Q Sure. We can do that. That's fine. 7 MR. KINSEL: We'll mark Kessler as 8 Exhibit 11. 9 --- 10 (Slocum Exhibit 11 was marked for 11 identification.) 12 --- 13 THE WITNESS: Thank you. 14 Okay. So here are the numbers I was 15 looking for. If you look at Figure 1 and 2, they're 16 actually numbered 22. 17 BY MR. KINSEL: 18 Q Okay. 19 A Let me go back. 20 Okay. Just give me a second. 21 Q Sure. 22 A Okay. So in paragraph 71, and I'm not
230 1 surfaces above the top of the phone like that. 2 You'd have to build it and test it. 3 Do I think -- sure, you could throw lips on 4 there, but you'd still have to test it and see if 5 it's acceptable or not. 6 BY MR. KINSEL: 7 Q No, I understand you'd have to test it and 8 see if it's acceptable or not, but my question is 9 different. My question is -- well, let me take a 10 step back. 11 First of all, we agree, don't we, that 12 retaining lips were part of the prior art, right? A 13 person of skill in the art, as of the priority date 14 of the patent, would have known that they could use 15 retaining lips as one way to hold a computing device 16 in place? 17 DR. KUMAR: Objection. Form. Scope. 18 THE WITNESS: Okay. Can you give me 19 Kessler, please? I think you have Kessler or I have 20 a Kessler. 21 BY MR. KINSEL: 22 Q We can mark it, but you don't think that	232 1 going to read the whole thing, but paragraph 71 is 2 saying that the left and right handle housings, 3 which are the control modules, they may have: "...a 4 pair of interlocking tongue members 22, 24, which, 5 when the controller apparatus 10 is in its closed 6 state generally cover the junction between the 7 opening end faces..." and it goes on to say then: 8 "...but which may, as can better be [sic] seen in 9 figure 12, act to retain a handheld information 10 processing device in a space defined between the 11 opposing end faces 12a, 14a of the left and right 12 handle housings..." 13 So that is just like Schoenith's handles or 14 end -- controller modules have an overhanging 15 structure that helps to retain the device, yes, 16 that's part of the -- the handles, and that's what a 17 user would see is, hah, I'm just going to practice 18 Schoenith or Kessler as-is. I have no reason to try 19 to put those on another element, which -- that's not 20 sure how you're going to connect it to. 21 That doesn't make any sense to take an 22 element from a patent that works, take it as you're

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233 1 chopping and combining it into something which now 2 is -- who knows if it's going to work. I'm just 3 going to practice Schoenith or Kessler as they are. 4 Q I understand that's your perspective, but 5 that's not the question I was asking. 6 The question I was asking was: Would a 7 person of skill in the art understand that they 8 could use structures like these retaining lips from 9 Kessler in the combinations that Mr. Kitchen has 10 identified? 11 DR. KUMAR: Objection. Scope. 12 THE WITNESS: I just don't understand your 13 question because a person skilled in the art 14 wouldn't be -- wouldn't go and do some combination 15 that's -- has a lot of uncertainty. If there's a 16 clear teaching that something -- that clearly works, 17 you're just going to use that. 18 BY MR. KINSEL: 19 Q Okay. The retaining lips, you would agree, 20 were in the prior art before Gamevice's patent, 21 right? 22 A As shown by Kessler here, yes.	235 1 overhanging lip where, again, you can have a better 2 structural joint. 3 What I'm not agreeing or disagreeing 4 with is that you have to do some -- you have to do a 5 fair amount of detailed design work, and then 6 testing is can you make this thin sidewall that 7 Mr. Kitchen is showing us he's opining as what you 8 would do, attach it to the base -- that clearly 9 won't work. 10 And now you're saying I want you to add 11 lips of Kessler on top of that. First of all, 12 Mr. Kitchen didn't make that proposal. He didn't 13 provide any engineering basis for how you would make 14 the connection and would you still be stiff enough 15 for it to work properly. 16 So all I'm saying is I haven't seen 17 anything that I can opine on. I can't sit here now 18 and say it will or will not work. I have to see the 19 details of what are being proposed in order to 20 answer your question or give you any sort of 21 opinion. 22 BY MR. KINSEL:
234 1 Q Yeah. Okay. 2 And so the person of skill in the art would 3 know about retaining lips because they're already in 4 the prior art, right? 5 DR. KUMAR: Objection. Form. 6 THE WITNESS: Retaining lips on these 7 controller modules, yes. On the controller modules, 8 that's what Kessler shows. 9 BY MR. KINSEL: 10 Q And they would have a reasonable 11 expectation of success in adapting those to other 12 combinations, wouldn't they? 13 DR. KUMAR: Objection. Form. Scope. 14 THE WITNESS: No, I don't agree with that. 15 I don't agree they would or would not. You'd have 16 to do the testing because, again, the -- Park or 17 Kessler, these expanding bridge units, they have a 18 lap joint between the expanding bridge member and 19 the controller, for example, the controller modules. 20 I can make that a good, tight structural connection. 21 Kessler, anyway, is teaching lips. Schoenith, that 22 combination that use Schoenith controllers has an	236 1 Q Okay. So your view is that -- let me take 2 a step back. Strike that. 3 Your opinion -- the basis of your opinion 4 is that you're taking precisely the exact structures 5 identified in Park and, for example, Willner by 6 Mr. Kitchen and putting them together with no 7 modifications of any kind, right? That's basically 8 your opinion? 9 In other words, you're sort of bodily 10 incorporating one reference into the other, right? 11 You're saying Mr. Kitchen says, "Take this bit and 12 take this bit and put them together, and you're 13 bodily incorporating them," right? Isn't that what 14 you're doing? 15 DR. KUMAR: Object to form. 16 THE WITNESS: No. 17 BY MR. KINSEL: 18 Q No? 19 A I'm saying Mr. Kitchen is offering an 20 opinion where he has taken, for example, Willner's 21 end plate. Removed all the rest of the structure. 22 Now I just have this thin Willner end plate, and he

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237 1 has magically somehow said they're attached to 2 Park's bridge elements. 3 My first step is to take issue with it's 4 not that simple. You have to do a fair amount of – 5 there's a process by which you could start to 6 investigate how you could best do it, but it's not 7 straightforward. But an engineer will figure out 8 something eventually. That's the line of 9 questioning we had earlier. 10 You still then have the issue of Park's 11 bridge. The forces are above the plane of the 12 bridge. The bridge is necessarily thin. So it's 13 going to bend and the device will pop out. 14 That's – that's where we're at. 15 Q Okay. But a person of skill in the art 16 could solve that problem, couldn't they? 17 DR. KUMAR: Object to form. Scope. 18 THE WITNESS: The pop-out problem? 19 BY MR. KINSEL: 20 Q Yeah. 21 A It's like before. The simplest thing a 22 person of skill in the art would do is take this old	239 1 Q Okay. And what you're showing here is an 2 iPad. What's being shown here is an iPad in this 3 combination device, right? 4 A Well, that's what Mr. Kitchen was showing, 5 but that's – sure. I'm taking his picture there on 6 11, and I'm showing it with an iPad in there. 7 Q Okay. Would you have the same opinion if 8 it were an iPhone? 9 DR. KUMAR: Objection. Form. Scope. 10 BY MR. KINSEL: 11 Q So that it's essentially the same width as 12 the bridge? 13 A Yeah, you still only have that little bit 14 of front overlapping. The iPad is going to be more 15 prone to tilt. Let me think about it. 16 Dynamically, there's no difference because 17 the center of mass is still about in the middle of 18 the bridge, but with an iPad it's worse because 19 you've got a piece overhanging that a user will just 20 maybe bump with their belly. There's a place to 21 actually pick up on it. 22 Q Okay. But your opinion would be the same
238 1 patent and say, "Let's do that." 2 Q Okay. What if they wanted removable 3 modules? 4 DR. KUMAR: Objection. Form. Scope. 5 THE WITNESS: These are things that 6 Mr. Kitchen did not present me with scenarios to 7 opine on. If you guys want me to opine on them, 8 then send it in another report, and I'll take it and 9 read it and issue my opinion, but I'm not going to 10 opine on those things off the cuff here. 11 BY MR. KINSEL: 12 Q Okay. Let's take a look at Figure 11 in 13 your report. This is above paragraph 98. 14 A Okay. Hold on. 15 Okay. 16 Q Your opinion here is that the iPad would, 17 effectively, tilt out of the combination device, 18 right? Isn't that sort of essentially what you're 19 opining here? 20 A Yeah, you will not be – have a device that 21 a user would be happy with, with respect to it can 22 tilt forward.	240 1 if this were an iPhone; is that right? 2 A With respect to a dynamic tilt, an iPhone 3 would still actually be able to pop. Remember, it 4 would not pop out necessarily, but you're focusing 5 on the game and if the angle of the screen tilts, 6 your perspective in the game tilts and you no longer 7 have something a customer may be happy with. The 8 customer may no longer be happy with the quality of 9 your device. 10 Q Okay. But that's not really what we're 11 talking about. I'm trying to understand whether 12 your opinion would be different with respect to this 13 question of tilting if the device were not an iPad, 14 and I think you're saying you would still have the 15 same opinion, but I'm not positive. 16 A There are two modes of tilting. So the 17 first thing, the mechanics of the stiffness of the 18 mounting are the same whether it's an iPad or an 19 iPhone. Because all that matters is this dimension 20 L, which stays the same. Dimension L in my Figure 21 12. 22 Q Okay.

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241 1 A And that stays the same whether it's the 2 iPad which hangs over the bridge, and how much it 3 hangs over doesn't affect L. So the mechanics of 4 how stiff it is are the same. 5 Now let's go into the mode of what provides 6 the moment of the disturbance? Generically, force. 7 There is a person doing a motion providing tipping 8 to guide acceleration. That is going to be more 9 likely to happen with the iPad, larger inertia. 10 Q Okay. 11 A But the primary thing you're going to find 12 is as the user's using it, do they bump it. An iPad 13 overhangs, so it's more likely to be bumped just in 14 normal use, not even actionable, you know, action 15 use. 16 You asked the condition of iPhone, which 17 I'm happy to consider because Park originally was 18 just an iPhone that doesn't hang over. So that's 19 why I'm fine with looking at an iPhone. 20 Q Okay. Have you completed your answer? 21 A I have. 22 Q Okay.	243 1 could size up any of the portions of these 2 components to make it easier, to make that 3 connection easier to make? 4 A Conditionally, because every time you 5 change the size and add plastic in something to one 6 of these devices, they're very small and tight and 7 constrained, and users are very finicky. This is my 8 experience from Polaroid working on camera designs, 9 for example, you know, small, pocketed handheld 10 things. 11 So I could go at it as a design of offshore 12 structures -- you know, structural engineer and make 13 it work. The customer may not want to buy it 14 anymore. So you do your best to do the strongest 15 connection you can, and you have to work with the 16 user focus groups back and forth to make sure it's 17 strong enough and it doesn't look bad, feel bad. 18 Q I'm not talking about user focus groups. 19 I'm just asking whether a person of skill in the art 20 would have within their tool chest, if you will, the 21 ability to size up the various components so that 22 they could be mated properly.
242 1 With respect to paragraph 74 of your 2 opinion -- 3 A Okay. 4 Q -- you say here that: "Depending on how 5 the [sic] screws or snap-fit connectors were 6 oriented, they would interfere with..." the housings 7 and whatnot. 8 Do you see that? 9 A Right. They could. I just don't have any 10 detail from Mr. Kitchen on how he proposes to do 11 that. 12 Q Okay. But you're not saying you couldn't 13 orient screws or snap-fit connectors to make this 14 work. You're just saying you don't know how he's 15 doing it? 16 A Again, this is where I say -- undue 17 experimentation is my term for this is not a 18 straightforward thing, that you would -- an engineer 19 could work it. It's not straightforward, and they 20 may not in the end even decide to use them. There 21 may be a better method. 22 Q Okay. Would an engineer know that they	244 1 DR. KUMAR: Objection. Form. 2 BY MR. KINSEL: 3 Q Is that something that a person of skill in 4 the art could do? 5 DR. KUMAR: Objection. Form. Scope. 6 THE WITNESS: I don't understand your 7 question because a person of skill in the art, in 8 these -- in practicing this art, it's not just 9 creating a structural connection. It's creating a 10 structural connection of the context of how the user 11 uses the whole device. It's a system design 12 problem. 13 You can't -- you shouldn't be treating 14 things in isolation like that. You end up with 15 unintended consequences. 16 BY MR. KINSEL: 17 Q Okay. So your testimony is that the only 18 way you could know whether you could make these 19 connections is by doing user testing. That's your 20 testimony? 21 A That you could make a successful 22 connection. Success is -- again, it has to succeed

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245 1 in the marketplace. 2 Q Okay. Do you think a person of skill in 3 the art looking at the Schoenith -- sorry -- the 4 Willner reference and the Park reference could put 5 those together, could just put those pieces 6 together? 7 Forgetting about how Mr. Kitchen drew it, 8 do you think that they could understand how to put 9 those two pieces together? 10 DR. KUMAR: Objection. Form. Scope. 11 THE WITNESS: I'd have to sit down and 12 actually do the engineering myself to understand is 13 this a straightforward task, or, again, you get back 14 to the engineering and the focus groups. 15 BY MR. KINSEL: 16 Q Okay. So you don't have an opinion then? 17 A I do. You didn't let me finish. 18 They would understand the process that you 19 would have to go to in order to attempt to do that. 20 Q By the way, how many focus groups did you 21 engage in with Polaroid? 22 A I personally did not do the focus group	247 1 trying to be helpful about how POSITAs design 2 things. 3 Q I'm not looking for a general lecture on 4 how a POSITA designed things. I'm just trying to 5 understand if you have an opinion about whether a 6 person of skill in the art would be able to increase 7 the size of the various components of, for example, 8 Park and Willner, in order to facilitate making a 9 connection? 10 DR. KUMAR: Objection. 11 BY MR. KINSEL: 12 Q Is that something a person of skill in the 13 art could do? 14 DR. KUMAR: Objection. Form. Scope. 15 THE WITNESS: Again, I have to answer with 16 qualifications because the condition of obviousness, 17 as I've been instructed, and we can go through 18 this -- first of all, there's who's of ordinary 19 skill in the art, and there's page 18, Section B on 20 obviousness, and particularly in paragraph 32, I 21 have to look at Mr. Kitchen's opinions as to whether 22 things are obvious from the perspective of would a
246 1 design. Marketing does that. There's a whole field 2 of anthropologists that do that, and the engineers, 3 we sit with the anthropologists and go through all 4 these things, and this is where -- this is what a 5 person of skill in the art does. You work with the 6 people who actually -- because there are scientific 7 methods for actually making sure that the user focus 8 groups are giving you valid data. 9 Q And so it's your testimony, then, that a 10 person of skill in the art, in this art, would have 11 to know how to talk to those anthropologists? Is 12 that your testimony? 13 A I'm saying that that's the best way to do 14 it. If you, as a design- -- 15 Q I'm asking you a different question. I'm 16 trying to stick with your opinion here, what's 17 written. Okay. I know you've got all sorts of 18 theories about this. 19 But you don't say anything about 20 anthropologists anywhere in your opinion, do you? 21 A No. You're asking me questions, totally 22 new ones, and asking me to opine on the fly, and I'm	248 1 POSITA do things through these criteria. 2 BY MR. KINSEL: 3 Q Mm-hmm. 4 A Okay? If the POSITA can simply know how to 5 do it and the results are obvious, they have a high 6 degree of assurance that this will work, that could 7 be obvious. I'm saying, in this field of consumer 8 devices, you know, handheld things, there are 9 unintended consequences that can happen by just 10 thickening up something to put a screw in it. 11 Q Mm-hmm. 12 A Sure, a POSITA can figure out how to do 13 that part, but would it work structurally? Probably 14 they could make it work. But would it function as a 15 handheld device that, you know, people would buy 16 that would actually be a useful embodiment? I don't 17 know. That's where the user focus group parts come 18 in. 19 Q Okay. So you don't, then, have an opinion, 20 for example, about whether the -- strike that. 21 Do you have an opinion as to whether 22 combining, for example, the Willner bridge --

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249 1 sorry -- the Willner sidewalls with the Park bridge, 2 is the use of a known technique to improve similar 3 devices in the same way? 4 DR. KUMAR: Objection. Form. Scope. 5 THE WITNESS: I don't understand your 6 question. 7 BY MR. KINSEL: 8 Q Do you have an opinion about whether using 9 the Willner sidewalls to -- with the Park bridge is 10 the use of a known technique to improve similar 11 methods -- to improve similar devices? 12 A I don't think it's straightforward like 13 that. I think it requires a lot more fiddling with 14 it to try to figure out could I do it and would I 15 come up with a useful result. 16 Q Okay. Is increasing the size of 17 components, for example, a known technique? Is that 18 a known technique? 19 A Again, the -- to do what? Tell me, to do 20 what? Increasing the size of components in general 21 just anywhere? 22 Q Increasing the size of the components that	251 1 it himself. 2 Q Do you think that there are a finite number 3 of predictable solutions to combining, for example, 4 Willner and Park? 5 DR. KUMAR: Objection. Form. Scope. 6 THE WITNESS: There is probably several 7 dozen different ways you could do it. 8 BY MR. KINSEL: 9 Q Okay. 10 A So is it finite? Is it less than infinity? 11 Yeah. Is it something you could resolve in a matter 12 of -- you know, predictive without doing the 13 testing? I would be hard pressed to agree with 14 that. 15 Q What about combining those two pieces of -- 16 of -- those two references? Would you have a 17 reasonable expectation of success in combining those 18 as a POSITA? 19 DR. KUMAR: Objection. Form. Scope. 20 THE WITNESS: I can't provide an opinion. 21 In other words, it's too complex. For me to say yes 22 or no, I have to run experiments with it.
250 1 we've been talking about for the last six hours. 2 The Willner sidewalls and Park bridge, for 3 example, increasing them so that you could put in 4 screws. Would that be a known technique? 5 DR. KUMAR: Objection. Form. Scope. 6 THE WITNESS: Again, you have to look at 7 the entire context. Sure, I know I can increase 8 sizes of things, but I may not be able to because it 9 may eviscerate the rest of what the device is trying 10 to do. You can't, out of context, suggest to do 11 that. You have to look at the whole system, and 12 that's why I keep saying I can only opine on what 13 Mr. Kitchen presented to me. 14 If there was something that is so 15 well-known that he says he, as a POSITA, would do, 16 then he should have shown it in detail so I could 17 opine on will this or will this not -- is it 18 feasible, but he didn't. 19 BY MR. KINSEL: 20 Q Mm-hmm. 21 A So I can't give you an opinion on something 22 that's hypothetical when Mr. Kitchen never even did	252 1 BY MR. KINSEL: 2 Q So, then, you don't have an opinion about 3 whether combining Park and Willner would result in a 4 reasonable expectation of success? 5 A Well, I do have an opinion. I stated 6 that -- let me go find it -- that you're more likely 7 than not to combine -- when you try to add Willner 8 to Park, you think you're adding the best of both, 9 but you may be adding some of the worst of both and 10 end up with a design that's worse, and I say that 11 very explicitly here. 12 So that's why you don't have -- 13 premeditated is not the right word. You don't have 14 an expectation of success. You can have an 15 expectation, well, I have to do a lot of detail, 16 engineering, and testing and see what happens, but I 17 don't have an expectation of success off the bat. 18 MR. KINSEL: Let's mark Schoenith just for 19 completion's sake. Schoenith is going to be 20 Exhibit 12. 21 --- 22 (Slocum Exhibit 12 was marked for

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253 1 identification.) 2 - - - 3 THE WITNESS: Okay. 4 BY MR. KINSEL: 5 Q Now, your opinion is, effectively, the same 6 as between Willner and Park and Schoenith and Park, 7 right? You don't really have differences in your 8 opinion. 9 It's essentially the same, that you 10 couldn't combine the sidewalls of Schoenith with 11 Park because the thing will pop out -- the computing 12 device will pop out, right? In other words, your 13 opinion is basically the same? 14 A The essence of the opinion is the same. In 15 terms of the mechanics of what's happening, they're 16 similar. 17 Q They're similar, right. 18 And the same thing is actually true with 19 respect to Schoenith and Kessler, that your opinion 20 is effectively the same thing, that the computing 21 device will pop out if it's -- if you combine the 22 sidewalls of Schoenith with the bridge of Kessler --	255 1 A There is 98(c), if I look on Figure 19. Is 2 that what you mean? 3 Q Well, let me get to Figure 19. 4 A I'm trying to -- that may be the actual -- 5 Q Actually, I think it's -- well, 96 is the 6 bridge. The sections that I'm talking about, 7 though, are 90 and 88. So if you look at Figure 10, 8 for example. 9 A Okay. Hold on. 10 Okay. 90 and 88. Okay. 11 Q Yeah. And those are described as being the 12 width of the device that's going in there. 13 A Okay. 14 Q Okay. If you were going to use a larger 15 device, do you think a person of skill in the art 16 would know to size those -- those sections up so 17 that they matched the size of the device that's 18 going in there? 19 DR. KUMAR: Objection. Form. Scope. 20 THE WITNESS: They would have to, again, do 21 the user study because, for example, if you look at 22 Schoenith, Schoenith has a cradle that goes all the
254 1 the retracting bridge of Kessler, right? 2 A Right. It is these control modules that 3 prevent that from happening for three and four. 4 Q Right. 5 So your opinion, for all three 6 combinations, is effectively the same? 7 A That you need the overhanging of the 8 control modules to keep it from popping out. 9 Q You need some other structure besides the 10 sidewalls, right? 11 A That's assuming that one took the time to 12 figure out how to attach the sidewalls, that topic, 13 correct. 14 Q Okay. Kessler describes -- Kessler 15 describes sizing up the -- strike that. 16 The bridge of Kessler shows -- it has 17 several plates to it, I guess, is maybe the best way 18 to talk about them. The plate closest to the 19 handle -- I think it's 90 and 80 -- or 90 and 88 20 maybe. 21 Do you see those, the section closest to 22 the handle?	256 1 way under the iPad, everywhere, so you can't bump 2 the device directly and dislodge it in tilting. 3 In Kessler or Park, it's implied the device 4 is the width of the bridge. So you can't bump it 5 from the bottom out of position. So if you're 6 asking me the question now, "Can I put an iPad in 7 Kessler?" I would have to do, again, the -- I could 8 run the -- the math, but I would have to do the user 9 testing to see how much of an issue is that. 10 BY MR. KINSEL: 11 Q Okay. 12 A And then if it is an issue and customers 13 some percentage marketing says this is not 14 acceptable and customers are unhappy, I would then 15 have to make 88 and 90 wider, perhaps the width of 16 the device. 17 Q Doesn't Kessler tell you that you can size 18 up the device so that it matches the size of the 19 computing device that goes in it? 20 A He might. I don't recall. 21 Q Paragraph 18. 22 DR. KUMAR: Object to form.

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257 1 THE WITNESS: It says: "...it will be 2 understood that the apparatus of the present 3 invention can be scaled up to accommodate a range of 4 sizes...such as [sic] tablet computers." 5 BY MR. KINSEL: 6 Q Right. 7 So a person of skill in the art reading 8 that would know that they could size up the bridge 9 to match the size of the computing device that it's 10 intended to be used for, right? 11 DR. KUMAR: Objection. Form. 12 THE WITNESS: That's what I said. You 13 could run tests, and you could figure out how wide 14 to make it. I guess the most conservative thing is 15 just to make it all the way the width like the way 16 Schoenith teaches, and then you wouldn't worry about 17 it being bumped out. 18 BY MR. KINSEL: 19 Q Okay. But a person of skill in the art 20 would know that they could -- reading the disclosure 21 of Kessler would know that you can change the size 22 of the bridge to stabilize the device that goes in?	259 1 and then you're not going to bump it out. Could you 2 go shorter? less wide? save some plastic? You'd 3 have to experiment. But the expectation of success, 4 yes, if I went and made it the entire width. 5 BY MR. KINSEL: 6 Q Does Kessler solve the deficiency that 7 you've identified in Park, that the device will sort 8 of come apart because it'll pull out of the ratchet? 9 Does Kessler solve that problem? 10 A Kessler addresses that issue with -- let me 11 find the element. I don't know which element. 12 Let's see. Is it -- it might be in Figure 19 it's 13 talking about it. But he talks about it -- I can't 14 remember if it's an elastomer -- let me see -- to 15 pull the bridge together. Hold on. 16 Q He uses springs, doesn't he? 17 A Yeah, and I don't know if it's -- I don't 18 recall if it was a mechanical spring or an 19 elastomer. 20 Q Okay. But the idea is that it's biased 21 towards closed, right? 22 A Yeah. Yeah, I think that's a fair way of
258 1 DR. KUMAR: Object to form. 2 BY MR. KINSEL: 3 Q Wouldn't they know that? 4 A Yeah, they would know here's the process by 5 which you would start increasing it. You could just 6 go all the way, and then you wouldn't even have to 7 test it. You'd know it would be then. 8 Q So a person of skill in the art would have 9 a reasonable expectation of success, in at least 10 solving some of the problems that you're describing, 11 by simply enlarging the size of the bridge? 12 Wouldn't that help? 13 DR. KUMAR: Objection. Form. Scope. 14 THE WITNESS: If they did what 19 said to 15 do, which says go ahead and increase the size of 16 things according to the size of the device. 17 BY MR. KINSEL: 18 Q Okay. They'd have a reasonable expectation 19 of success there, right? 20 DR. KUMAR: Objection. Form. Scope. 21 THE WITNESS: Yes, because they know they 22 could make it all the way the width of the tablet,	260 1 stating it. 2 Q Okay. 3 A You've got an element with compliance in it 4 that will -- F equals KX -- tend to close you. 5 Q Okay. And so does that -- pardon me. 6 Does that solve one of the deficiencies 7 that you've identified in Park, that the device can 8 pull apart? 9 A It does. Like I said, Kessler by itself is 10 a fine patent. 11 Q Okay. 12 A You know -- let's see. When was this -- I 13 don't know who actually makes this thing, but as of 14 2013, it looks like an actual CAD drawing. So I 15 imagine some company is actually making this, and 16 there's quite a lot of detail in the drawings. So 17 I'm assuming that this was actually a product that 18 was made and sold. 19 Q Okay. So your definition of a POSITA is 20 that they have at least an undergraduate degree in 21 mechanical engineering and two years of industry or 22 research experience, essentially, right?

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261 1 A Essentially. 2 Q Yeah. 3 Would somebody with that kind of experience 4 have a reasonable expectation of success in 5 combining Willner's walls with Park's bridge? 6 DR. KUMAR: Objection. Form. Scope. 7 THE WITNESS: Again, they would have a 8 reasonable ability to practice a process to 9 determine if it's possible or not. 10 BY MR. KINSEL: 11 Q Okay. 12 A So they would know the process to follow. 13 They wouldn't know a priori that it could be 14 successful, but they could have a process to follow. 15 Q Would they have a reasonable expectation of 16 success in combining Schoenith and Kessler? 17 DR. KUMAR: Objection. Form. Scope. 18 THE WITNESS: Same answer. They a priori 19 would not, but they would have a process to follow, 20 as I've discussed before, on how to proceed such 21 that if it were possible, they would be able to 22 discover it.	263 1 DR. KUMAR: Objection. Form. Scope. 2 THE WITNESS: As I said before, I don't 3 have an opinion on that now. I'd have to see the 4 exact combination you're talking about, and then 5 I'll study it and be happy to offer an opinion. 6 My opinion here is that Kessler is just 7 fine the way Kessler is and that's what I would 8 practice. That's what I would have a reasonable 9 expectation of success. 10 BY MR. KINSEL: 11 Q Okay. 12 MR. KINSEL: Let's take a ten-minute break. 13 I think we're just about done. Let's take a 14 ten-minute break. 15 (Recessed at 3:10 p.m.) 16 (Reconvened at 3:15 p.m.) 17 BY MR. KINSEL: 18 Q Would you agree that in a combination of 19 Willner and Park, if the sidewalls from Willner are 20 considered confinement structures, then they would 21 be separate and distinct from the controllers and 22 separate and distinct from the Park bridge?
262 1 BY MR. KINSEL: 2 Q Okay. Would such person be able to use the 3 cushion from Park to help keep a -- help keep the 4 computing device from popping out? 5 DR. KUMAR: Objection. Form. Scope. 6 THE WITNESS: In which combination are we 7 talking about? 8 BY MR. KINSEL: 9 Q In any of the combinations. 10 DR. KUMAR: Same objections. 11 THE WITNESS: I don't think the cushion 12 itself is what's going to enable you to prevent you 13 from popping out. I think you need to practice 14 something like Kessler. 15 BY MR. KINSEL: 16 Q Okay. But a person -- sorry. 17 A Or Schoenith, where you have the control 18 modules confine the computing device. 19 Q Okay. Would a person of skill in the art, 20 as you've defined it, have a reasonable expectation 21 of using the lip shown in Kessler with any of the 22 combinations that we've talked about?	264 1 DR. KUMAR: Objection. Form. 2 THE WITNESS: I mean, like on my page 35, 3 Figure 2, if by some miracle these things actually 4 were confinement structures -- 5 BY MR. KINSEL: 6 Q Well, some miracle like the ITC decided 7 that or the PTAB previously decided it. 8 DR. KUMAR: Objection. Form. 9 BY MR. KINSEL: 10 Q You didn't consider either of those 11 findings, though? 12 A If I was instructed by this court that 13 we're doing now, for this IPR, that, "Professor 14 Slocum, those two things in Figure 2 are confinement 15 structures," okay. So I will consider myself now 16 instructed. 17 So what was the question? 18 Q Okay. So under that instruction, you would 19 agree that the -- those -- what we're now calling 20 confinement structures are separate and distinct 21 from the Park bridge, right, and they're separate 22 and distinct from the controllers that attach to

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265 1 them? 2 A Okay. If there is an attachment mechanism 3 that I haven't seen yet -- this is part of the -- to 4 fully answer your question, I have to know how they 5 are -- maybe they're integral with the bridge, but 6 you'd have to also warrant that they are separate. 7 There is something that was designed that users 8 said, "We're happy with." See, I have to -- there 9 has to be more to your -- I'm trying to figure out 10 what I'm trying to call it -- your combination to 11 give you an answer. 12 Q All I'm trying to establish, and maybe we 13 can just sort of shortcut this, is with respect to 14 1(d)(4), which is one of the limitations that you've 15 disputed, I'm trying to understand how that sort of 16 changes the picture of invalidity. And I think what 17 you've told me is that the reason it's important 18 here is because the sidewalls for Willner and the 19 sidewalls for Schoenith aren't confinement 20 structures. 21 But I'm trying to understand if there's 22 anything else with respect to 1(d)(4) that's	267 1 the separate and distinct and all that other stuff, 2 right? 3 A Well, I think that's all -- all taken 4 together, that, again, you can't say the control 5 module is part of the confinement structure. So 6 when you -- yeah, so it can't be part of it. It has 7 to be separate and distinct. It means it's not 8 doing any confinement. 9 Q The control modules? 10 A Yeah, because it says: "Wherein 11 each...game control module is a separate and 12 distinct structure from each of their corresponding 13 confinement structures, forming no structural 14 portion of their corresponding confinement 15 structures..." 16 So that's telling me the game control 17 modules can't bear any loads -- that's what 18 structural means -- in conjunction with the 19 confinement structures. The control modules do 20 human input. They don't physically help hold the 21 computing device. That's what 1(d)(4) means. 22 Q Okay. So, for example, if I -- just so
266 1 material, other than that the sidewalls aren't 2 confinement structures. 3 A Ah. Correct, because in 1(d)(4), the 4 problem is the control modules act to confine the 5 computing device. If you don't have the control 6 modules, it flies out. So -- 7 Q I'm not sure what you mean by that. 8 A The -- what Mr. Kitchen said here, which 9 I've just taken from my Figure 2, structure of 10 Willner's adapter according to what Mr. Kitchen 11 wants to keep, those are not -- they won't confine 12 it. If you're now telling me the court instructs me 13 that they do confine it, you know -- if the court 14 instructs me -- I disagree the physics and all 15 that -- you're telling me they are confinement 16 structures, then they are, and then there's -- then 17 the control modules are not part of the confinement 18 structure anymore, and so 1(d)(4) is not an issue. 19 Q Okay. So that's really all I'm trying to 20 get my head around, is 1(d)(4) is an issue because 21 of your view with respect to confinement structures, 22 not because of the other parts of that limitation,	268 1 that I understand what you're saying, if I have a 2 device and I pick it up by the -- by the modules -- 3 okay? -- are the modules doing any of the confining 4 in that circumstance? 5 A No, they're not. The confinement 6 structures are supposed to do that. 7 Q Okay. And so if I pick up the computing 8 device and it doesn't sort of fall apart, that's not 9 suggesting that the control modules are part of the 10 confinement structure, right? Let me -- let me try 11 it again. Let me strike that. I can see you're 12 puzzled by that question. 13 You pick up a device by the control 14 modules. Okay? 15 A Okay. 16 Q Does that tell you that there are 17 confinement structures? 18 A It doesn't tell me anything. I have to 19 look at -- if I'm just picking it up and the device 20 doesn't fall out on the floor, something is 21 confining the device. I don't know yet until I look 22 at the guts of the device.

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269 1 Q Okay. And if the -- and if the modules are 2 playing any role in that, then the modules are not 3 meeting limitation 1(d)(4), right? 4 A That's correct. The control modules cannot 5 be the confinement -- part of the confinement 6 structure. 7 Q They can't even have a role in the 8 confinement, as you understand it, right? 9 A Yeah, they have to be separate and distinct 10 from their -- each corresponding confinement 11 structure. Now, if you have a confinement structure 12 and then you have belt and suspenders by also having 13 the modules overlap, you can have belt and 14 suspenders. It's a comprising claim. 15 Q Okay. Do you think that -- well, strike 16 that. 17 Do you think that this -- in view of 18 Willner and Schoenith, do you think that 1(d)(4) 19 materially alters the question of invalidity? 20 A I'm not -- I'm sorry. I just don't 21 understand your -- your question. 22 Q Yeah, so I guess what I'm -- what I'm	271 1 for coming down and talking to me. 2 A And thank you for flying all the way from 3 Seattle. 4 Q Pleasure. I love coming out. 5 DR. KUMAR: I have a few quick questions. 6 I assume you pass the witness? 7 MR. KINSEL: Mm-hmm. 8 EXAMINATION BY COUNSEL FOR PATENT OWNER 9 BY DR. KUMAR: 10 Q Could we turn to Hirschman, please? 11 A Hirschman, I just had it -- oh, here it is. 12 Okay. 13 MR. KINSEL: No, that's Kessler. 14 THE WITNESS: I'm sorry. That's Kessler. 15 BY DR. KUMAR: 16 Q Exhibit 5. 17 A Here we go. Okay. 18 Q Could you please turn to paragraph 58? I 19 believe that's on page 3. 20 A Okay. 21 Q I'd like to read into the record the 22 second -- some sentences from that paragraph
270 1 trying to get at here is: Willner and Schoenith 2 both talk about removable, separate controllers, 3 right? 4 A Correct. 5 Q So we know that removable, separate 6 controllers were in the prior art before Gamevice, 7 right? 8 A Yeah. Those two patents have it. 9 Q Those two patents have it, so it was 10 definitely in the prior art. 11 And so I'm just trying to understand if you 12 think that there's anything about 1(d)(4) that sort 13 of changes the question with respect to 14 invalidity -- materially alters the question of 15 invalidity? 16 A I mean, 1(d)(4) is what it is. It's saying 17 that the control modules are separate and distinct 18 from the confinement structures. You have to be 19 able to confine the device -- the computing device 20 without help from the control modules. 21 Q Okay. Okay. That's all I have for you 22 today, Doctor. I appreciate your time. Thank you	272 1 starting with the second one. 2 "The retention structures 260 may have a 3 'dorsal fin' structure 262, which may fit into slots 4 232 and 244." 5 Do you see that? 6 A I do. 7 Q Now, let me read the fourth sentence of 8 that paragraph 58: "The slots 232 and 244 may be 9 electrically conductive and may be part of at least 10 one of the circuits contained within the 11 touch-screen 230 and circuitboard 240." 12 Do you see that? 13 A I do. 14 Q And then let's read that last sentence 15 together: "The retention structures 260 may be 16 fabricated of metal or other conductive material in 17 some embodiments, and may serve as conduits for 18 electrical power as well as electrical signaling." 19 Do you see that? 20 A I do. 21 Q Do you recall Mr. Kinsel asking you some 22 questions about the retention structure

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273 1 communicating signals to the circuit board? 2 A Okay. 3 Q Now, if you read paragraph 58, do you have 4 an understanding, from that paragraph, as to how 5 retention structure 260 may communicate such signals 6 to circuit board 240? 7 A Well, it says because: "The slots 232 and 8 240 [sic] may be electrically conductive..." So 9 there is the part on the circuit boards. And then 10 it says: "The retention structures 260 may be 11 fabricated of metal or other conductive material..." 12 So that's telling me you have metal on the retention 13 structures and contact with metal on the circuit 14 board, and metal to metal can make electrical 15 contact, which is power or signaling. 16 Q In paragraph 58, do you see any mention of 17 wiring to do -- effect that communication of 18 electrical signals or power? 19 A No. This would be what you would call a 20 hard pin contact. 21 Q Okay. 22 A Excuse me. Point contact, which is usually	275 1 A Okay. 2 Q Do you see the figure up top? I believe it 3 is from Figure 3 of Hirschman, but Mr. Kitchen has 4 labeled it as: Hirschman Figure 3 (modified and 5 annotated). 6 A Okay. 7 Q Do you see he has a label that's 242 in 8 that figure? 9 A 242? Yes. It's slot 242, and then there's 10 slot 244. 11 Q So your understanding of what Mr. Kitchen 12 labels 242 is? 13 A Well, he calls it a slot, and that's what 14 the dorsal fin goes through for part of the 15 retention function. 16 Q Okay. 17 A And there's a little dotted line that's 18 shown there that shows one fits in the other. 19 Q Okay. Could we go back to Hirschman, which 20 is Exhibit 5, back to page 3, paragraph 58? 21 A Okay. 22 Q Let me read the third sentence of paragraph
274 1 with a pin. 2 Q Does paragraph 58 have any relationship to 3 your statement in your declaration that Mr. Kitchen, 4 quote, added wiring to the combination or to the 5 reference that we're talking about, the Hirschman 6 reference? 7 A Well, he added actual physical wires, not 8 point contacts. So that was his Figure 3 9 modification. It shows -- let's see. Where did he 10 put them? 11 If you'd go to my page 83, he physically 12 says: "Wire connecting retention structure 260 to 13 circuit board 240," and he shows a wire going from 14 the circuit board to the structure 260. I mean, a 15 physical separate wire, but that's not what that 16 paragraph 58 is talking about. 17 Q Thank you. 18 Could we turn to Mr. Kitchen's report -- 19 declaration, which is Exhibit 8? 20 A Okay. 21 Q I just want to clarify something. If you 22 can turn to page 207 of his declaration.	276 1 58: "Other interlocking configurations for the 2 retention structures 260 and slots 232 and 244 may 3 be provided in other embodiments." 4 Do you see that? 5 A I do. 6 Q How does that compare to what you just saw 7 in Mr. Kitchen's report labeling the slot as 242? 8 A Okay. So first of all, in Hirschman, he 9 says slots 232 and 244, so let me go back to see 10 who's got the typo. 11 Okay. So 244 is correct as a slot. 242 in 12 Figure 3 of Hirschman is pointing actually to the 13 connector. So why don't we just say slots such as 14 244 because -- 15 Q Right. 16 Going back to Mr. Kitchen's report, that 17 figure on page 207, do you see an arrow next to 18 labeled slot 242? 19 A I do. 20 Q What is that arrow pointing to? 21 A It says, "Slot 242," and the arrow, that 22 little arrow is pointing to a slot.

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277 1 Q And a slot in what? 2 A In the circuit board 240. 3 Q Okay. Last question: If you'd go back to 4 Hirschman, paragraph, for example, 59, you'll see a 5 reference to that label 242 -- actually, give me a 6 second. 7 Yeah, in paragraph 59, do you see the 8 reference to "communications ports 242"? 9 A I do. 10 Q Whatever Mr. Kitchen has pointed to in that 11 figure on page 207, is it your understanding that 12 that thing is a communication port? 13 A Well, that would be if, in accordance with 14 58, you're using that slot structure with conductive 15 metal to accommodate, as 58 says, you can do signals 16 or power. Signals would be communication in this 17 context because it's differentiated from power. 18 Q Well, that would be in the context of the 19 point contacts that you were referring to earlier? 20 A Correct. 21 DR. KUMAR: Thank you. No further 22 questions. I pass the witness.	279 1 there of some kind. There's a gray box that's a 2 connector of some kind. You would agree with that, 3 wouldn't you? Whether it's a USB connector or some 4 other connector? 5 A I don't know whether it's even a connector 6 or he meant to just delete everything. Because 7 there's a bunch of other features in his Figure 3 8 that are not in the Figure 3 of the patent. I don't 9 know if he did the drawing or his artist, but I 10 assume because it's his report, he went through 11 everything and okayed it. 12 Q Okay. One way to make the connection 13 between retention structure 260 on the circuit board 14 would also be a wire, right? That's one way you 15 could do it. A person of skill in the art would 16 know that they could do it that way too, right? 17 A You would have to have some other connector 18 that you plugged in when you assembled this whole 19 thing. 20 Q But that's something well within the skill 21 of a person of ordinary skill in the art, right? 22 A If we're attaching circuit boards with,
278 1 FURTHER EXAMINATION BY COUNSEL FOR PETITIONERS 2 BY MR. KINSEL: 3 Q Okay. I'll just ask you a couple of quick 4 questions here. 5 Focusing on the illustration that you've 6 got in front of you, Figure 3, is it possible that 7 Mr. Kitchen may have mislabeled the slot 242? 8 A I don't know. I can't opine on what I 9 think he was thinking. I mean, I just have what it 10 shows. 11 Q Okay. But you didn't cite any of that as 12 your basis for what we just talked about as your 13 basis for declaring that Mr. Kitchen had deleted the 14 USB port, did you? 15 A No, I did not cite that in terms of why I 16 don't see a USB port in his modified Figure 3. 17 Q Right. In fact, when I asked you about 18 this earlier, you didn't mention any of this 19 numbering, did you? 20 A I did not, other than no longer did I see 21 the 242 of the USB connector. 22 Q Okay. But you see that there's a connector	280 1 like, a flat strip wire, yes, that is known. 2 MR. KINSEL: No further questions. 3 DR. KUMAR: Thank you. 4 THE COURT REPORTER: Counsel, may I get 5 your orders, please? 6 MR. KINSEL: Yeah, I'll take as soon as you 7 can get. 8 THE COURT REPORTER: You want it tomorrow? 9 MR. KINSEL: Sure, that'd be great. 10 DR. KUMAR: What is the typical standard 11 processing side? 12 THE COURT REPORTER: Ten business days. 13 DR. KUMAR: I think for our side, we'd be 14 happy -- actually, I think we'll also ask for it 15 expedited. 16 THE COURT REPORTER: Okay. So tomorrow for 17 the final? 18 DR. KUMAR: Yeah. 19 MR. KINSEL: Yeah. 20 THE COURT REPORTER: Do either of you want 21 a rough tonight? 22 DR. KUMAR: I can wait. I don't need the

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71 (281 to 284)

281 1 rough. 2 MR. KINSEL: Yeah, if you can get me the 3 final tomorrow, that's fine. 4 (Signature having not been waived, 5 the deposition of Alexander H. Slocum, Ph.D. was 6 concluded at 3:36 p.m. EDT.) 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	283 1 of the parties to this action, and that I am in no 2 way interested, financially or otherwise, in the 3 outcome of this matter. 4 IN WITNESS WHEREOF, I have hereunto set 5 my hand and affixed my notarial seal this 16th day 6 of April 2024. 7 8 My Commission Expires: May 31, 2025 9 10 <i>Joan V. Cain</i> 11 _____ 12 NOTARY PUBLIC IN AND FOR THE 13 COMMONWEALTH OF VIRGINIA 14 VIRGINIA NOTARY REGISTRATION NO. 107144 15 16 17 18 19 20 21 22
282 1 CERTIFICATE OF SHORTHAND REPORTER - NOTARY PUBLIC 2 I, JOAN V. CAIN, court reporter and Notary 3 Public within and for the Commonwealth of Virginia 4 do hereby certify: 5 That Alexander H. Slocum, Ph.D., the witness 6 whose deposition is hereinbefore set forth, was duly 7 sworn by me before the commencement of such 8 deposition and that such deposition was taken before 9 me and is a true record of the testimony given by 10 such witness. 11 I further certify that the adverse party, 12 GAMEVICE, INC., was represented by counsel at the 13 deposition. 14 I further certify that the deposition of 15 Alexander H. Slocum, Ph.D., occurred at the offices 16 of Finnegan Henderson Farabow Garrett & Dunner, LLP, 17 1875 Explorer Street, Suite 800, Reston, Virginia 18 20190-6023, on TUESDAY, April 16, 2024, commencing 19 at 9:05 a.m. to 3:36 p.m. 20 I further certify that I am not related to 21 any of the parties to this action by blood or 22 marriage, I am not employed by or an attorney to any	

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