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

2 (All appearances via remote Zoom)

3

4 Attorneys for Plaintiff and The Witness:

5 LATHAM & WATKINS LLP

6 BY: SUSAN Y. TULL, ESQ.

7 555 Eleventh Street, NW, Suite 1000

8 Washington, DC 20004

9 (202) 637-3353

10 susan.tull@lw.com

11

12 Attorneys for Defendant:

13 MORGAN, LEWIS & BOCKIUS LLP

14 BY: ALEXANDER B. STEIN, ESQ.

15 AN LE, ESQ.

16 1400 Page Mill Road

17 Palo Alto, California 94304-1124

18 (650) 843-7278

19 alexander.stein@morganlewis.com

20 an.le@morganlewis.com

21

22

23 ALSO PRESENT:

24

25 ORSON BRAITHWAITE, Videographer

Page 4

1 EXHIBITS (CONTINUED)

2 Exhibit 8

Opening Expert Report of Joel Delman Regarding Invalidity of US Patent No. 8,840,635

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Exhibit 9

5 Annotated Iio Figure 8

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6 Exhibit 10

US Patent No. US 8,840,635 B2

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Exhibit 11

8 Wayback Machine archives Softclix image

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Exhibit 12

10 Evaluating the OneTouch Delica: A Low-Pain Lancing System for Self-Monitoring of Blood Glucose FACET_002171-178

117 24

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Exhibit 13

13 Rebuttal Expert Report of John M. Collins Regarding Inventorship

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Exhibit 14

15 Letter dated 8/23/17 LSI0000079467-473

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Page 3

1 -----I N D E X-----

2

WITNESS EXAMINATION BY PAGE

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4 JOHN M. COLLINS, BY MR. STEIN 6

PH.D.

5 BY MS. TULL 171

6

7 -----EXHIBITS-----

8 EXHIBITS PAGE LINE

9 Exhibit 1

Opening Report of John M. Collins

11 18

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Exhibit 2

Images

ASA279992-280002

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Exhibit 3

US Provisional Application No. 61084456

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Exhibit 4

US Patent Application Publication No. 2005/0131441

46 16

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Exhibit 5

Rebuttal Expert Report of John M. Collins Regarding Validity

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Exhibit 6

Expert Declaration of John M. Collins Ph.D. in Support of Facet Technologies, LLC's Opposition to LifeScan, Inc.'s Motion for Summary Judgement of Invalidity

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Exhibit 7

Annotated Figure 9(a)

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Page 5

1 THE VIDEOGRAPHER: Good morning,

2 We're going on the record at 9:00 a.m. on

3 July 6, 2023.

4 Please note that this deposition is

5 being conducted virtually. Quality of

6 recording depends on quality of camera and

7 Internet connection of participants. What is

8 seen from the witness and heard on screen is

9 what will be recorded. Audio and video

10 recording will continue to take place unless

11 all parties agree to go off the record.

12 This is Media Unit 1 of the remote

13 recorded deposition of Dr. John Collins in the

14 matter of Facet Technologies, LLC versus

15 LifeScan, Inc., filed in United States District

16 Court for the Central District of California,

17 Case No. 2:22-cv-01717.

18 My name is Orson Braithwaite

19 representing Veritext Legal Solutions. I'm the

20 videographer.

21 The court reporter is Stacey Daywalt

22 from the firm Veritext Legal Solutions.

23 Counsel will now state their

24 appearances and affiliations for the record.

25 (Counsel identify themselves on the

2 (Pages 2 - 5)

Page 6 1 record.) 2 THE VIDEOGRAPHER: Thank you. 3 Will the court reporter please swear 4 in the witness. 5 6 JOHN M. COLLINS, PH.D., 7 called as a witness, having been duly sworn by 8 a Notary Public, was examined and testified as 9 follows: 10 11 EXAMINATION BY 12 MR. STEIN: 13 Q. Good morning, Dr. Collins. 14 A. Morning. 15 Q. So as the videographer just 16 introduced, we're here to discuss your 17 testimony in a District Court case in the 18 Central District of California. 19 And I'll just refer to that as the 20 District Court case as we go along if that's 21 okay with you. 22 A. Yes. Yeah. 23 Q. And the patent that we'll primarily 24 be discussing is United States Patent 25 No. 8,840,635.	Page 8 1 Q. And we'll try to take a break about 2 once an hour, but I don't -- you know, that's 3 not a hard and fast rule. 4 So if you need a break more 5 frequently or less frequently, just please let 6 me know and we can work that out. 7 A. Great. 8 Q. And you've also submitted a few 9 different declarations in the District Court 10 case. Is that correct? 11 A. That's correct. 12 Q. And there's -- you have ones on 13 infringement, invalidity and some inventorship 14 issues. Correct? 15 A. Correct, for validity, yeah. 16 Q. And did you spend time preparing for 17 your deposition today? 18 A. Yes, I did. 19 Q. About how much time did you spend 20 preparing for your deposition today? 21 A. I would estimate probably ten hours 22 or so. 23 Q. And when did you spend that time 24 preparing for the deposition today? 25 A. On Monday and yesterday, Wednesday,
Page 7 1 And for simplicity, I'd like to just 2 refer to that as the '635 patent, if that works 3 for you. 4 A. Yes, it does. 5 Q. Okay. And you understand that I'm 6 here today representing the defendant LifeScan. 7 Correct? 8 A. I do. 9 Q. And today you'll be testifying 10 virtually either from your home or office. 11 But do you understand that the 12 testimony you give today under oath is subject 13 to the same penalty of perjury as though you 14 were testifying in a courtroom? 15 A. I do. 16 Q. And I'm going to -- as we go along, 17 I'll assume that you understand the questions 18 that I ask unless you explicitly tell me 19 otherwise. 20 Is that fair? 21 A. Yes. 22 Q. Is there anything that would prevent 23 you from thinking clearly and testifying 24 truthfully today? 25 A. Nope.	Page 9 1 and a little bit of time on Tuesday. 2 Q. What materials did you review in 3 preparing for your deposition? 4 MS. TULL: And I'm going to instruct 5 the witness you may answer that to the extent 6 you reviewed materials on your own. 7 But if there were materials you 8 reviewed in the presence of counsel, I'm going 9 to answer -- instruct you not to answer as to 10 that. 11 THE WITNESS: Yeah. 12 On my own just basically reread my 13 reports and the reports of Mr. Delman and 14 Mr. Hatch. 15 BY MR. STEIN: 16 Q. Did you prepare any new materials 17 that you used to assist yourself in preparing 18 for the deposition? 19 A. No. 20 Q. Did you take any notes on your 21 reports or anything like that as you were 22 preparing? 23 A. No. 24 Q. Did you bring a copy of any of your 25 reports or any of the exhibits that you

3 (Pages 6 - 9)

Page 18 1 evident where to grip. There's a pointy end 2 and a not pointy end, and you grab it on the 3 not pointy end. 4 BY MR. STEIN: 5 Q. Did you include any other 6 affordances or touch point indications that 7 would provide the users of the trocars with 8 guidance on where to handle the product? 9 A. Well, certainly. We designed the 10 handle so that it was comfortable to pick up, 11 and in particular it was comfortable for, in 12 this case the surgeon, to apply pressure to 13 insert it into the abdominal cavity. 14 Q. So what would you do in the design 15 to make sure that it was comfortable to pick 16 up? 17 A. Well, pick up and use. 18 Well, first, we designed it in a way 19 that we felt would be appropriate for a surgeon 20 to use it. 21 But then we made foam prototypes, 22 foam mockups, some nonfunctioning devices, and 23 handled those with representative users who 24 were surgeons. 25 And then certainly as we were	Page 20 1 MS. TULL: Same objection. 2 THE WITNESS: Yeah. 3 In what context? 4 Q. In the context of the product 5 development life cycle for lancets. 6 Sort of in line with what you were 7 discussing for trocars, would it also be 8 customary to make dimensional changes for 9 lancets during the product life cycle? 10 MS. TULL: Object to form, 11 incomplete hypothetical. 12 THE WITNESS: Yeah. 13 I would expect that it's pretty 14 typical of developing products, yeah. 15 BY MR. STEIN: 16 Q. Specifically for lancets though. 17 Would it be typical for developing 18 lancet products? 19 A. I don't -- well, again, I don't see 20 why -- I answered in a general context. I 21 don't see why lancets would be different from 22 other products, that once you've got your 23 design, once you've got your concept and you're 24 in the process of refining that product, you 25 know, for optimization, for commercialization.
Page 19 1 developing the works like and what we call 2 works like and looks like prototypes, those 3 would be used with physicians and they would 4 give us feedback. And we wouldn't specifically 5 ask about the handle but ask for their general 6 feedback typically about what they liked, what 7 they didn't like. And if they mentioned 8 something about the handle, then we used that 9 information to modify the handle if 10 appropriate. 11 Q. So part of that mockup process, you 12 would get feedback from the users and then you 13 would make changes to the product. Is that 14 correct? 15 A. Yeah, if necessary. I think we 16 would make changes if necessary, if we judged 17 it to be necessary. 18 Q. And would you make dimensional 19 changes to the product? 20 MS. TULL: Object to form. 21 THE WITNESS: Certainly the changes 22 could include dimensional changes. 23 Q. And would the making of dimensional 24 changes be something that you had understood 25 would be common for lancets as well?	Page 21 1 So it could be for user interface. 2 It could be for cost issues. It could be for 3 appearance issues that you'd end up tweaking 4 the design, tweaking the dimensions during the 5 development process. 6 Q. And would that include making one 7 aspect of a product larger than another aspect 8 of the product? 9 MS. TULL: Object to form, 10 incomplete hypothetical. 11 THE WITNESS: Well, I think the only 12 way I can answer that question is yes, because 13 if it changed one dimension, then certainly 14 something is made a different size than 15 another. 16 (Discussion was held off the 17 record.) 18 BY MR. STEIN: 19 Q. What were some of the other design 20 considerations you took into account when you 21 were working with trocars? 22 A. Yeah. A lot of our work was 23 focusing on the safety of the trocars. 24 So they're obviously sharp devices 25 and meant to penetrate the abdominal wall. And

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Page 46 1 illustrations. 2 But certainly I saw that in the CAD 3 drawing or the CAD model. 4 Q. Okay. Moving on, did you review a 5 reference named Iio, I-I-O, in your reports? 6 A. Yes, I did. 7 Q. Is that reference US Patent 8 Application Publication No. 2005/0131441? 9 A. I don't remember the number. And I 10 remember looking at the document, but I don't 11 remember the number. 12 Q. Okay. I'll introduce that as 13 Exhibit 4 here and then go through the same 14 exercise of not being able to upload it 15 properly. 16 (Exhibit 4, US Patent Application 17 Publication No. 2005/0131441, marked for 18 identification.) 19 Q. Okay. It's been uploaded. 20 And now I'll open it. 21 A. Okay. I've got it open. 22 Q. Okay. Is this the Iio reference 23 that's discussed in your reports? 24 A. Yes, it is. 25 Q. And you're familiar with this	Page 48 1 Q. Sure. 2 Are you opening it, Dr. Collins, or 3 did you want me to do something? 4 A. Yeah. No, I only open things that 5 you post, so I'm not going to my hard drive or 6 anything else. 7 Q. Oh, okay. I wasn't sure. 8 Sure, we'll put them up there. 9 A. Yeah, I can if you want. I just was 10 trying to follow the rules. 11 Q. Sure. 12 A. And when we get to a break, I'd like 13 to refresh my coffee, so a quick break 14 whenever's good for you. 15 MR. STEIN: Okay. Now is fine, 16 Dr. Collins. We can take a break. 17 THE WITNESS: All right. 18 MR. STEIN: How long though? 10, 15 19 minutes? What do you want? 20 THE WITNESS: Five, ten. It's 21 whatever you -- five is fine. 22 MR. STEIN: Okay. Let's go with 23 ten. 24 THE VIDEOGRAPHER: Time is 25 10:14 a.m. This ends Unit 1.
Page 47 1 reference. Is that correct? 2 A. I've reviewed it, yes. 3 Q. Well, are you familiar with it or 4 not? 5 A. I'm familiar with it. I certainly 6 don't have it memorized, but I'm familiar with 7 it. 8 Q. In particular, are you familiar with 9 the second embodiment in Iio that is referred 10 to with reference to Figures 6 through 12 in 11 Iio? 12 A. Yes. 13 Q. In your reports do you dispute that 14 the second embodiment of Iio discloses a 15 protective sterility cap for a lancet? 16 MS. TULL: Object to form. 17 THE WITNESS: And which report are 18 you talking about now? 19 Q. In any of your reports. 20 MS. TULL: Same objection. 21 Q. Probably the invalidity ones would 22 be most relevant, but the question applies to 23 any of your reports. 24 A. Yeah. And so if I could open up my 25 invalidity response.	Page 49 1 We're off the record. 2 (Recess was taken from 10:14 a.m. to 3 10:24 a.m.) 4 THE VIDEOGRAPHER: The time is 5 10:24 a.m. This begins Unit No. 2. 6 We're on the record. 7 BY MR. STEIN: 8 Q. Okay. So Dr. Collins, we were 9 starting to look at the Iio reference if you 10 recall, and we were going to look at your 11 report to help answer a question I had. 12 So were you able to get the report 13 from the exhibit share? 14 A. Yes, I have. Thanks. 15 Q. Okay. So which portions of your 16 report would you like to look at to -- I can 17 repeat the question too. 18 Do you dispute in any of your 19 reports that the second embodiment of Iio 20 discloses a protective sterility cap for a 21 lancet? 22 A. I don't dispute that, no. 23 Q. Do you dispute in any of your 24 reports that Iio discloses a primary sheath for 25 initial embedment of a sharp lancing tip of an

13 (Pages 46 - 49)

Page 50 1 unused lancet therein? 2 A. I don't believe I do. 3 Q. Do you dispute that the second 4 embodiment of Iio discloses a secondary sheath 5 for receiving the sharp lancing tip of a used 6 lancet? 7 A. Are you asking about my reports 8 again or? 9 Q. Yeah, let me rephrase. 10 Do you dispute in any of your 11 reports that the second embodiment of Iio 12 discloses a secondary sheath for receiving the 13 sharp lancing tip of a used lancet? 14 A. I don't believe so, no. 15 Q. And you asked me earlier whether 16 this line of questioning is about your reports 17 or whether your opinions. 18 Would there be any difference in 19 your answers if the question were not limited 20 to your reports? 21 MS. TULL: Object to form. 22 THE WITNESS: No. 23 I just wanted to be clear if you 24 were asking me about my reports or something 25 else. You may ask me about something that's	Page 52 1 Is that accurate? 2 A. Yeah, it does not have any 3 dimensional information at all. 4 Q. Does it have enough dimensional 5 information to figure out that the gripping 6 handle portion is bigger than the lancet? 7 A. I don't believe so, no. 8 Q. So looking at Figure 8 of Iio. And 9 I know you earlier said that you labelled that 10 portion sort of in the center of the punctured 11 needle cap 91 a block. 12 You're unable to determine whether 13 that block is larger than the lancet? 14 A. What I'm saying is Iio provides no 15 dimensional information. 16 Q. But based on Figure 8, are you able 17 to discern whether what you've labelled as the 18 block is larger than the lancet? 19 A. Well, I can look at the cartoon, at 20 the illustration. And that's certainly what's 21 shown in the illustration, but that's not what 22 is necessarily claimed or -- that's not 23 claimed. 24 There are no dimensions in the 25 specification or the drawings and nothing to
Page 51 1 not in my reports. That's why I wanted the 2 clarification. 3 BY MR. STEIN: 4 Q. Okay. Do you dispute that the 5 second embodiment of Iio as discussed in your 6 reports discloses a gripping handle portion 7 extending between the primary sheath and the 8 secondary sheath? 9 A. Yeah, there's a portion that extends 10 between the two. I label it a block, but it's 11 something that would be gripped. 12 Q. Do you dispute that the second 13 embodiment of Iio as discussed in your reports 14 discloses: "With the primary sheath attached 15 at a first end of the gripping handle portion 16 and the secondary sheath attached at a second 17 end of the gripping handle portion when the 18 protective sterility cap is removed from the 19 lancet"? 20 A. No, I don't dispute that, that 21 that's the case before and after it's removed. 22 Q. So what you do dispute as far as I 23 understand it is whether Iio discloses 24 dimensional aspects for its gripping handle 25 portion relative to other portions.	Page 53 1 scale. 2 Q. Are you able to figure out whether 3 that block portion is larger than the primary 4 sheath in Iio? 5 A. It's the same answer. 6 There are no dimensions in Iio. 7 Q. So Figure 8 does not show that that 8 portion you labelled as a block is larger than 9 the primary sheath? 10 A. The figures here have no scale. 11 They're not dimensioned. 12 So it can be illustrated one way, 13 but it doesn't mean that's what -- that's 14 what's being -- the invention. 15 Q. So you do agree then that Figure 8 16 does illustrate it that way with the block 17 portion being larger than the primary sheath? 18 MS. TULL: Object to form. Object 19 to the extent it mischaracterizes the record. 20 THE WITNESS: Yeah, I keep going 21 back to these are cartoons. They're not meant 22 to convey dimensional information. 23 BY MR. STEIN: 24 Q. Okay. So do those cartoons, 25 including what you labelled as the block, show

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Page 98 1 problem, but maybe we can just fix that. 2 Yeah. It doesn't bother me too 3 much, but we can enter a new Exhibit 10 maybe. 4 A. Yeah, it's up to you. It just... 5 Q. Yeah. Thanks for flagging it. 6 Right. So just going back to the 7 Column 6 of the '635 patent, Line 62 to 63: 8 "Elongate handle portion allows the user to 9 grab the lancet further from the needle during 10 decapping and disposal." 11 Do you see that? 12 A. Yes. 13 Q. Is that one of the problems you were 14 referring to? 15 A. Yes. That's one of the benefits, 16 yes. 17 Q. If you had a gripping handle portion 18 with a lateral span that was 1.4 times the 19 lancet thickness, would that still allow the 20 user to grab the lancet further from the needle 21 during decapping and disposal? 22 MS. TULL: Objection, incomplete 23 hypothetical. 24 THE WITNESS: Well, here the patent 25 is talking about the fact that it's elongated,	Page 100 1 the claims at issue here, the asserted claims 2 6, 8, 14 and 18, are they limited to a forked 3 arrangement of the gripping handle portion? 4 A. No. 5 Q. So that again wouldn't be a problem 6 that's specific to the lateral span being one 7 and a half times the lancet thickness. 8 Specific to the forked arrangement, that's not 9 expressly claimed. 10 A. I disagree that it's limited to the 11 forked arrangement. 12 It's -- the benefit is the greater 13 width. It's not the forked arrangement. It's 14 the greater width. You can get that with a 15 forked arrangement. It doesn't have to be. 16 Q. What if you had a lateral span that 17 was 1.4 times the lancet thickness? Would you 18 get the benefit of allowing the user to more 19 easily twist the endcap during removal from the 20 lancet? 21 MS. TULL: Objection, incomplete 22 hypothetical. 23 THE WITNESS: The greater the width, 24 the more -- the easier it is from a -- being 25 able to generate the torque.
Page 99 1 long, not wide. So it's the length that 2 provides the extra safety margin. 3 BY MR. STEIN: 4 Q. So let's find -- I want to find a 5 problem that is specifically about the one and 6 a half times requirement for the lateral span 7 of the gripping handle portion relative to the 8 lancet thickness. 9 Do you have an example in the patent 10 that talks about that since the couple I 11 pointed to were a little bit off? 12 MS. TULL: Object to form. Object 13 to the extent it mischaracterizes the record. 14 THE WITNESS: There's one element, 15 for example, on that same Column 6, Line about 16 53. 17 It says: "This forked arrangement 18 provides the handle with a greater width, 19 allowing the user to more easily twist the 20 endcap during removal from the lancet." 21 And there's got to be another one 22 somewhere about the picking it up. Let me see 23 if I can find it. 24 BY MR. STEIN: 25 Q. On that particular one though, are	Page 101 1 BY MR. STEIN: 2 Q. Would 1.4 times of lancet thickness 3 or lateral span relative to lancet thickness 4 have the -- I think you said have the ability 5 to allow the user to generate the torque? 6 MS. TULL: Same objection. 7 THE WITNESS: Yeah, I haven't 8 studied that specific question that's where is 9 this device equivalent or not. I haven't 10 studied that. 11 BY MR. STEIN: 12 Q. Well, does the patent explain that 13 sort of something magical happens when you get 14 to a ratio of 1.5 times of the lateral span 15 relative to lancet thickness, or does it seem 16 to be a bit arbitrary? 17 MS. TULL: Same objection. 18 THE WITNESS: It's based on the 19 inventor's experience in the device. 20 So I wouldn't call it arbitrary at 21 all. 22 BY MR. STEIN: 23 Q. What about in your experience? 24 I know in your reports you talked 25 quite a bit about inventors that you've worked

26 (Pages 98 - 101)

Page 102 1 with and all the organizations that you've kind 2 of spearheaded. 3 In your experience would you just 4 have a dimension like that without sort of 5 showing that something outside of that range 6 doesn't provide the benefit? 7 Otherwise, how do you know that the 8 benefit is attributable to that ratio? 9 MS. TULL: Same objection. Object 10 to form. 11 THE WITNESS: Yeah, I don't really 12 understand the question. 13 You know, they made an invention and 14 they characterized the dimension. And what 15 they saw was important to being able to have 16 those features. 17 And having a wide -- you know, a 18 large cap, both width and length, relative to 19 the size of the lancet was important for all 20 the reasons that I mentioned before. 21 BY MR. STEIN: 22 Q. But the thing I'm trying to 23 understand is whether the number 1.5 times is 24 magical somehow. 25 So that's why I was asking about 1.4	Page 104 1 reports for a minute. Let me just find the 2 exhibit number. 3 Thanks for bearing with hiccups of 4 remote depositions. It is what it is. 5 I think it's Exhibit 5. Let me just 6 double-check. Okay. Paragraph 247. 7 A. Of Exhibit 5? 8 Q. Yeah, Exhibit 5, so Page 90 -- 9 A. 3. 10 Q. Yeah, to 94. 11 Do you see in that Paragraph 247 of 12 your rebuttal invalidity report there is a 13 discussion of a device called the Roche 14 Softclix? 15 A. I see that, yeah. 16 Q. And if we go to Exhibit A to that 17 same report, all the way to the last page, 18 which is a portion of -- yeah, the Exhibit A 19 that identifies the materials you've reviewed. 20 Right? 21 A. Yep. 22 Q. And at the bottom of the table there 23 at the back of Exhibit A to your rebuttal 24 invalidity report, do you see there's a few 25 rows there on Wayback Machine articles that
Page 103 1 times, for instance, to show that if you're at 2 1.4 times, you don't get the magic, but you 3 jump to 1.5 times and all these great benefits 4 happen. 5 Is there anything like that 6 described in the patent application? 7 MS. TULL: Same objections. 8 THE WITNESS: I don't think the 9 patent tried to explain away everything, no. 10 It clearly described what they 11 thought was important for the invention to 12 work. 13 BY MR. STEIN: 14 Q. But it didn't sort of explain that, 15 for instance, in my example of 1.4 times of 16 lateral span relative to lancet thickness, why 17 that would not provide the benefits that 1.5 18 times does. 19 MS. TULL: Same objection. 20 THE WITNESS: The patent didn't go 21 into those details, no. And it didn't need to. 22 It described what they felt was 23 important. 24 BY MR. STEIN: 25 Q. I want to go to one of your other	Page 105 1 include the Accu -- or the Softclix device? 2 A. I see that, yep. 3 Q. Oh, Accu-Chek Softclix. Okay. 4 So now I'd like to introduce an 5 exhibit. This should be a snippet from one of 6 those Wayback Machine archives. Should be 7 Exhibit 11 and should be in there. 8 (Exhibit 11, Wayback Machine 9 archives Softclix image, marked for 10 identification.) 11 Q. Are you able to access that, 12 Dr. Collins? 13 A. I'm just -- yep, just downloading it 14 now. 15 Q. Okay. 16 A. I see that. 17 Q. On the left side there of the image, 18 is that the Softclix lancet that you indicated 19 in your rebuttal invalidity report you had 20 reviewed? 21 A. I had seen this page. 22 But certainly my understanding was 23 that this, the Roche product, was not being 24 allowed as prior art in his report. 25 Q. Well, you did discuss it in the body

27 (Pages 102 - 105)

Page 126 1 A. Again, I have not looked to the 2 specific figures for dimensions. 3 Q. Okay. Could you do that briefly. 4 So let's look at the provisional 5 application. 6 A. Which exhibit again is that? 7 Q. Yeah, I'm looking for it. 8 Exhibit 3. 9 A. Okay. What about it? 10 I got it open. 11 Q. The specific dimensions, including 12 that the lateral span be one and a half times 13 the lancet thickness required by the asserted 14 claims here, is that disclosed in any of the 15 figures of the provisional application? 16 A. I mean, the specific dimensions 17 weren't. 18 But certainly the -- you know, the 19 overall characteristics that are described were 20 disclosed, but not the specific dimensions. 21 Q. Is that same thing true for Iio, in 22 particular Iio's Figure 8, that the specific 23 dimensions aren't disclosed but the overall 24 characteristics were described? 25 A. No.	Page 128 1 And again, I wouldn't take 2 dimensions off of drawings unless those 3 dimensions are mentioned in the specific- -- or 4 in the text or in the -- or called out 5 specifically in the illustrations. 6 Q. So just to kind of summarize, the 7 specific dimensions, including the lateral span 8 being one and a half times the lancet 9 thickness, it's not specifically shown in the 10 figures of the provisional application. 11 Is that accurate? 12 A. It's not -- yeah, there aren't 13 specific dimensions called out in the 14 provisional. 15 Q. And as to the text of the 16 provisional application, does it call out 17 specific dimensions, including that the lateral 18 span of the gripping handle portion be one and 19 a half times the lancet thickness? 20 A. Yeah, I don't believe it did. 21 It talked about the larger handle 22 and the handle-ability and all the things I 23 talked about before without getting into the 24 specific dimension, which as we said, were 25 known to the inventors at the time based on the
Page 127 1 Q. Why not? 2 A. And again, because in Iio the 3 drawings are clearly not dimensioned, but 4 they're also not to scale. 5 Q. Okay. And the drawings in the 6 provisional application here, are they either 7 dimensioned or to scale? 8 A. These drawings, at least some of 9 these drawings, are recognized as being the CAD 10 drawings which are certainly drawn to scale. 11 And they are dimensioned, even though the 12 dimensions aren't shown in the provisional. 13 Q. And what in the provisional 14 application tells you that? 15 A. Just looking at the drawings that -- 16 or the images. 17 These images are very -- you know, 18 from a person of ordinary skill would look at 19 those images and know that they were generated 20 by CAD. You can see break lines and other 21 things, so that's a classic CAD illustration. 22 Q. So could you take measurements off 23 of these drawings in the provisional 24 application? 25 A. Could you?	Page 129 1 CAD model. 2 Q. Let's look at -- so you reviewed the 3 Court's claim construction order in this 4 District Court case. Correct? 5 A. That's correct. 6 Q. Did you agree with those 7 constructions? 8 A. Yes, I did. 9 And I applied them. 10 Q. Let's look at Exhibit 1 again and 11 Paragraph 88. 12 A. I see that. 13 Q. Do you see the sentence which is the 14 second sentence after the first citation: "I 15 understand that the Court found there was no 16 construction necessary for a gripping handle 17 portion between?" 18 A. I see that. 19 Q. And then immediately following that 20 you say: "I disagree." 21 A. (Reviewing document.) 22 I think I was disagreeing with the 23 LifeScan position. 24 So maybe my text wasn't great, but I 25 was disagreeing -- I agreed with the Court and

33 (Pages 126 - 129)

Page 138 1 Q. Yes, per your understanding that 2 what you've -- or what -- your explanation 3 today that what you've annotated here was just 4 the minimum portion. 5 A. No, I wouldn't say all of it is, no. 6 Q. Which portion of it cannot be part 7 of the gripping handle? 8 A. When you say "cannot," frankly, I've 9 not looked at what is excluded from being the 10 gripping handle. 11 I certainly looked at the device and 12 understand where it's gripped and the 13 description in the patent to describe what the 14 minimum is. And it can be -- it can extend 15 further. 16 But I don't know that anything is 17 explicitly excluded other than the parts that 18 are the primary sheath and the secondary 19 sheath. 20 Q. So if you don't know that anything 21 is explicitly excluded, isn't the logical 22 inverse of that that everything that's not been 23 colored could be part of the gripping handle? 24 A. No. 25 MS. TULL: Object to form.	Page 140 1 A. Because that's not gripped. 2 Q. But if you were only looking at 3 what's gripped to define the gripping handle, 4 why did you start with the primary sheath to 5 delineate the left edge of the gripping handle? 6 A. Again, what I was looking at was the 7 minimum length of the gripping handle portion. 8 So I was being very conservative to 9 measure the shortest length. 10 Q. And describe for me again, that 11 portion that you said the rim -- "a little 12 extra rim. I would not consider that to be 13 part of the gripping handle." 14 What extra little rim are you 15 referring to? 16 A. I think I described it. 17 So if you look at the, if you will, 18 the center line of the -- the vertical center 19 line of the secondary sheath colored in green, 20 on the right side of that, there is a small 21 gray portion of plastic that I wouldn't 22 consider to be part of the gripping handle. 23 Q. If we go to Page 43 of your 24 declaration. 25 A. The same declaration?
Page 139 1 Q. Well, then why can't you tell me 2 which portions that have not been annotated 3 cannot be part of the gripping handle? 4 A. Well, you didn't ask me that. 5 You asked me if all of the 6 noncolored portions were the gripping handle. 7 Q. Okay. 8 A. So you didn't ask me that. 9 Q. Okay. Which portions of the 10 gripping handle as you've annotated it on the 11 cap here on Page 35 cannot be part of the 12 gripping handle? 13 A. And again, the "cannot" part I'm not 14 clear about. 15 But certainly I would say that the 16 rim around the left -- if you look at the 17 secondary sheath, and at its midpoint to the 18 right, there's an extra little rim. I would 19 not consider that to be part of the gripping 20 handle. 21 But it doesn't mean that it can't 22 be. But I wouldn't include it as part of it, 23 no. 24 Q. Why wouldn't you include it as part 25 of it?	Page 141 1 Q. Yeah. 2 There's an image there with a 3 caption: "Insert a sterile lancet into the 4 lancing device and remove its protective 5 cover." 6 Do you see that? 7 A. No. 8 I'm just getting there. 9 Q. Okay. 10 A. I believe I'm there. 11 So could you re-ask your question. 12 Q. Yeah. 13 Do you see the image that appears on 14 the top of Page 43 with the caption starting 15 with: "Insert a sterile lancet"? 16 A. Yes. 17 Q. Does that provide any guidance as to 18 where the cap is gripped? 19 A. Sure, it's an example of where the 20 cap can be gripped. 21 Q. And are the fingers there touching 22 the rim portion that you said would not be part 23 of the gripping handle? 24 A. I don't believe so. 25 Q. What support do you have to draw

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Page 142 1 that conclusion? 2 A. You asked me my impression of 3 looking at the drawing, and that's my reaction. 4 Q. Is any portion of the rim being 5 contacted by the fingers there? 6 A. The -- when you say "any portion of 7 the rim," you have to be more specific. 8 Q. The rim that you described for me 9 earlier as being something that can't be part 10 of the gripping handle. 11 A. I did not say it could not be part 12 of the gripping handle. 13 Q. So then can it be part of the 14 gripping handle? 15 A. It could be, but I don't think it is 16 because I don't think it's gripped. 17 Q. Did you conduct an analysis to 18 figure out which portions of that cap are 19 gripped? 20 A. I did not conduct a formal analysis, 21 no. 22 Q. Is a portion of the secondary sheath 23 contacted by the fingers in the image on the 24 top of Page 43? 25 A. I believe so.	Page 144 1 A. Well, again, it depends on what 2 you're worried about, because certainly the 3 safety margin applies both to decapping and 4 recapping. 5 So certainly you don't want to grab 6 it by the secondary sheath when you're 7 inserting the needle, the used needle, into the 8 secondary sheath. 9 Q. So for decapping the Delica Plus 10 lancet in the accused products more generally, 11 for the gripping handle portion, would it 12 provide a larger safety margin from the needle 13 tip if it were gripped at the secondary sheath? 14 A. Well, if it were only the secondary 15 sheath, which I don't know if you can grab it 16 all by itself, there's more distance. 17 But I'm not sure that -- I don't 18 know that that would really help a whole lot. 19 You've got significant distance from the needle 20 where the gripping handle is, where it's 21 identified in that figure. 22 Q. You took a number of measurements of 23 the samples of the accused products. 24 Is that a fair statement? 25 A. Yes.
Page 143 1 It's not a very clear image, but I 2 believe so. 3 Q. So a part of the secondary sheath is 4 gripped. 5 Is that accurate? 6 A. I would expect that to be the case, 7 sure. 8 Q. And looking back at the image on the 9 top of Page 35 of your infringement report, one 10 of the advantages that I think you described 11 earlier was that there would be a larger safety 12 margin from the needle tip for product 13 embodying the asserted claims. 14 Is that accurate? 15 A. Yes. 16 Q. What is the safety margin from the 17 needle tip for the gripping handle as you've 18 depicted it here? 19 A. Well, to define a safety -- so 20 basically you're -- there's more room for your 21 fingers. Your fingers don't have to be at the 22 very end of the device near the needle. 23 Q. And would there be a greater safety 24 margin if it were gripped closer to the 25 secondary sheath?	Page 145 1 Q. And I believe you had an Exhibit D 2 that sort of shows those measurements. 3 Correct? 4 A. That's correct, yep. 5 Q. Do you recall in that Exhibit D that 6 some of the measurements you made started from 7 the back of the flange at the end of the 8 lancet? 9 A. Yes. Yep. 10 Q. And you used that measurement from 11 the back of the lancet flange as informing your 12 measurements of the length. Right? 13 A. That was one of the two measurements 14 that I used to measure the -- to measure where 15 the end of the needle is, and therefore the end 16 of the primary sheath. 17 And I explained in my report why I 18 decided to use that feature to make that 19 measurement. 20 Q. But did you account for the fact 21 that that back end of that flange on the lancet 22 is not part of the cap? 23 A. I did. 24 Q. How did you account for that? 25 A. Well, why don't we -- let's see.

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1 ACKNOWLEDGMENT OF DEPONENT
2 I, JOHN M. COLLINS, Ph.D., do hereby
3 certify that I have read the foregoing pages 1
4 to 182 and that the same is a correct
5 transcription of the answers given by me to the
6 questions therein propounded, except for the
7 corrections or changes in form or substance, if
8 any, noted in the attached Errata Sheet.
9
10 _____
11 DATE SIGNATURE
12
13
14 Subscribed and sworn to before me
15 this _____ day of _____, 2023.
16
17 My commission expires:
18
19 _____
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22 _____
23 Notary Public
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25