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

LIFESCAN, INC.)
)Case No. IPR2023-00712
Petitioner,)Patent No. 8,840,635
)
v.)
)
FACET TECHNOLOGIES, LLC,)
)
Patent Owner.)

)

REMOTE PROCEEDINGS OF THE
DEPOSITION OF JOHN M. COLLINS, PHD.
TUESDAY, MARCH 5, 2024

REPORTED BY NANCY J. MARTIN
CSR. NO. 9504, RMR, RPR
PAGES 1 - 156

1 UNITED STATES PATENT AND TRADEMARK OFFICE 2 BEFORE THE PATENT TRIAL AND APPEAL BOARD 3 _____ 4 LIFESCAN, INC.) 5)Case No. IPR2023-00712 6 Petitioner,)Patent No. 8,840,635 7) 8 v.) 9) 10 FACET TECHNOLOGIES, LLC,) 11) 12 Patent Owner.) 13 _____) 14 - - - 15 Tuesday, March 5, 2024 16 - - - 17 Remote Deposition of JOHN M. COLLINS, PH.D., 18 beginning at 9:59 a.m., before Nancy J. Martin, a 19 Registered Merit Reporter, Certified Shorthand 20 Reporter. All parties appeared remotely. 21 22 23 24 25 Page 2	1 I N D E X 2 3 TESTIMONY OF JOHN M. COLLINS, PH.D. PAGE 4 BY MR. STEIN 5 5 E X H I B I T S 6 NUMBER DESCRIPTION PAGE 7 Exhibit 1041 Annotated document by 17 8 Mr. Stein 9 Exhibit 1042 Patent Number: 5,314,417, 32 10 Safety Trocar 11 Exhibit 1043 Annotated Document by 83 12 Mr. Stein 13 EXHIBITS PREVIOUSLY MARKED 14 NUMBER PAGE 15 Exhibit 1001 54 16 Exhibit 1003 49 17 Exhibit 1005 73 18 Exhibit 1008 149 19 Exhibit 1031 51 20 Exhibit 2056 9 21 22 23 24 25 Page 4
1 A P P E A R A N C E S : 2 3 ALEXANDER B. STEIN, ESQ. 4 AN LE, ATTORNEY AT LAW 5 MORGAN LEWIS & BOCKIUS LLP 6 1400 Page Mill Road 7 Palo Alto, California 94304 8 (650) 843-7278 9 alexander.stein@morganlewis.com 10 Counsel for Petitioner 11 12 STEVEN PETERS, ESQ. 13 LATHAM & WATKINS LLP 14 555 Eleventh Street, NW 15 Suite 1000 16 Washington, D.C. 20004 17 (202) 637-2398 18 steven.peters@lw.com 19 Counsel for Patent Owner 20 21 22 23 24 25 Page 3	1 LEXINGTON, MASSACHUSETTS, TUESDAY, MARCH 5, 2024; 2 9:59 A.M. 3 - - - 4 JOHN M. COLLINS, PH.D., 5 having been sworn/affirmed, 6 was examined and testified as follows: 7 8 EXAMINATION 9 BY MR. STEIN: 10 Q. Good morning, Dr. Collins. 11 A. Good morning. I know it's early for you. 12 Q. I know last time we talked, even earlier than 13 this, so not quite as bad as last time. 14 So I know you've been deposed a few times 15 before, but I'll just kind of go through some general 16 parameters if that's okay with you. 17 A. Yes. 18 Q. So we're going to be discussing your 19 testimony in IPR2022-00712. 20 Is that your understanding? 21 A. Yes, it is. 22 Q. So just for kind of a shorthand, to keep 23 things easy, I'm just going to refer to that as "the 24 IPR." 25 Is that okay with you? Page 5

1 A. Yes, it is. 2 Q. And today I'm here representing the 3 petitioner, LifeScan. 4 Do you understand that? 5 A. I do. 6 Q. As we go through things, I'm going to make 7 the assumption that you've understood my questions 8 unless you explicitly tell me otherwise or ask for 9 clarification. 10 Is that fair? 11 A. Yes, it is. 12 Q. And is there anything that would prevent you 13 from thinking clearly and testifying truthfully today? 14 A. No, not that I can think of. 15 Q. Okay. And as we did with the last 16 deposition, I'll try to take breaks about once every 17 hour, but if you need to break sooner, just let me 18 know and we'll make that work. 19 A. Great. 20 Q. And you also understand that you're not to 21 discuss the content of your testimony with your 22 counsel during the breaks; is that right? 23 A. I do. I understand that. 24 Q. Okay. 25 All right. So where are you located today, Page 6	1 So how much time did you spend preparing for 2 today's deposition? 3 A. I reread my report this weekend, and I spent 4 time with counsel yesterday. Probably a total of 8 to 5 10 hours. 6 Q. Which "report" are you referring to? 7 A. The most recent report. 8 Q. And you said you do not have a copy of that 9 in front of you today; is that right? 10 A. That's correct. 11 Q. So you'll be comfortable with me sort of 12 sharing my screen as we go just so I can make sure 13 you're kind of looking and understanding the same 14 material I am? 15 A. To some degree, but also, I'd like an 16 electronic copy so that I can look through the 17 document to make sure I can answer your questions 18 completely. 19 Q. Sure. While you were preparing for your 20 deposition today, did you take any notes? 21 A. No, I did not. 22 MR. STEIN: Okay. So now I'm going to start 23 talking about your declaration. I understand you 24 don't have a copy in front of you. So I'll start by 25 just sharing my screen, and then if you need it Page 8
1 Dr. Collins? 2 A. In Lexington, Massachusetts, in my home. 3 Q. Is anyone in the room with you that you're 4 in? 5 A. No. 6 Q. Do you have any materials in front of you 7 today? 8 A. No, I don't. 9 Q. Anything electronic on your computer? 10 A. Just this one application is open. 11 Everything else is -- that's the only open 12 application. 13 Q. So nothing else running -- nothing else 14 that's an open window on your computer other than the 15 video feed for the deposition? 16 A. I have two screens. The one screen off to my 17 left is blank, and then the screen on my laptop is 18 just the Zoom. 19 Q. Okay. Do you have a cell phone next to you? 20 A. I do have a cell phone, yeah. 21 Q. Okay. Would you mind sort of putting that 22 face down, just sort of while we're talking about 23 questions. 24 A. Sure. 25 Q. Thank you. Page 7	1 E-mailed to you, I'm happy to do that. 2 MR. PETERS: So you could probably drop it in 3 the chat as well. 4 THE WITNESS: I do have a clean copy on my 5 hard drive, if you want me to open that. 6 MR. STEIN: That's fine with me. I'll share 7 my screen. 8 (Previously marked Exhibit 2056 was made 9 available to the witness.) 10 BY MR. STEIN: 11 Q. Okay. Dr. Collins, I have on the screen 12 share here what's been marked as Exhibit 2056. 13 Is this the report you were referring to in 14 response to my prior question? 15 A. Yes. 16 Q. So in the cover page of this, you refer to 17 "DECLARATION OF JOHN COLLINS IN SUPPORT OF PATENT 18 OWNER'S RESPONSES." 19 Do you see that? 20 A. I do. 21 Q. Why did you use the plural term "responses"? 22 A. Because my understanding is that the patent 23 owner had a number of responses in the report to the 24 various assertions that were made. 25 Q. So your understanding is that a patent owner Page 9

1 submitted more than one response in this IPR? 2 MR. PETERS: Objection. Mischaracterizes his 3 testimony. 4 THE WITNESS: I believe there is one 5 document, but there are many opinions expressed in 6 that document. 7 BY MR. STEIN: 8 Q. And your understanding is that each of those 9 opinions is a different response? 10 A. I don't know technically, but there are many 11 responses within that document. 12 Q. Okay. So now I want to jump to Paragraph 5, 13 and I'll keep sharing the screen just to make things 14 easier and save time. 15 So in Paragraph 5 here of your declaration, 16 Exhibit 2056, do you see the last line of Paragraph 5 17 you say, "This new Declaration represents my 18 considered opinion and supersedes my previous 19 Declarations." 20 Do you see that? 21 A. I do. 22 Q. Does that mean you're withdrawing your 23 opinions from your prior declarations? 24 MR. PETERS: Object to form. 25 THE WITNESS: These are my current opinions. Page 10	1 Q. What does it mean to disclaim claims of a 2 patent? 3 MR. PETERS: Object to form. Calls for a 4 legal conclusion. 5 THE WITNESS: My understanding is those are 6 no longer valid claims. They're no longer -- 7 (Indiscernible crosstalk.) 8 BY MR. STEIN: 9 Q. I may have interrupted you there, and I think 10 the court reporter may have missed it. I'll just ask 11 the question one more time and I'll not interrupt you 12 this time. 13 What does it mean to disclaim claims of a 14 patent? 15 MR. PETERS: Same objections. 16 THE WITNESS: My understanding is it's 17 basically withdrawal of those claims, that they're no 18 longer in force. 19 BY MR. STEIN: 20 Q. Does it also mean that the prior art that's 21 been advanced in the IPR invalidates those claims? 22 MR. PETERS: Objection. Calls for a legal 23 conclusion. Object to form. 24 THE WITNESS: I don't believe so, no. 25 BY MR. STEIN: Page 12
1 I don't recall anything on my prior opinions that I'm 2 walking away from. 3 BY MR. STEIN: 4 Q. Well, what does the term "supersede" mean to 5 you? 6 A. It means that these are my current opinions. 7 They're what I'm putting forward today. 8 Q. So if there's an inconsistency between what 9 you're putting forward today and your prior 10 declarations, what you're putting forward today 11 controls and you're withdrawing what's in your prior 12 declaration? 13 MR. PETERS: Object to form. 14 THE WITNESS: I would have to look and 15 understand the specifics to know how to answer that 16 question. 17 BY MR. STEIN: 18 Q. You also indicate in your declaration that 19 you were informed there was a disclaimer of certain 20 claims at issue in the patent here, the '635 patent; 21 is that right? 22 A. Where is that? 23 Q. Paragraph 6, the last line. "I understand 24 Facet then disclaimed claims 1 to 5"? 25 A. Yes, I see that. Page 11	1 Q. Why would a patent owner choose to disclaim 2 claims in a patent? 3 MR. PETERS: Objection. Calls for 4 speculation. 5 THE WITNESS: Yeah, I'm not a lawyer. I 6 don't know. 7 BY MR. STEIN: 8 Q. So let's continue. Later on in your 9 declaration you also say you reserve the right to 10 modify or update your opinions if necessary. That's 11 in Paragraph 9. 12 A. I see that. 13 Q. Is it your understanding that in an IPR 14 proceeding you're allowed to modify or update your 15 opinions however you see fit? 16 MR. PETERS: Object to form. 17 THE WITNESS: Certainly not however I see 18 fit, but I need to comply with whatever the Court's 19 procedures are. If there is a subsequent request of 20 counsel that they ask me a question, I'll respond. 21 BY MR. STEIN: 22 Q. You say, "if necessary." So the necessity of 23 updating your opinions would be determined by counsel? 24 MR. PETERS: Objection. Calls for 25 speculation. Page 13

4 (Pages 10 - 13)

1 THE WITNESS: Well, if I uncovered something 2 that I hadn't realized before, I'd tell counsel, but 3 certainly in the report would be the -- I'd be 4 supporting what counsel asked me. 5 BY MR. STEIN: 6 Q. In sitting there today, is there anything 7 you've uncovered that requires you to update or, using 8 your term, "modify or update" any of your opinions? 9 A. No, nothing in my opinions. I did find one 10 error in my report. It's a small error, but I did 11 uncover one error I'd like to correct today. 12 Q. Sure. What's the error? 13 A. That there's a picture of a lancet, and 14 there's a red line that is meant to show the 15 thickness, and that red line isn't in the right spot. 16 It didn't go the full height. 17 Q. Are you referring to, let's see, Page 75 of 18 your declaration above Paragraph 146? 19 THE WITNESS: Let me go there. 20 MR. STEIN: I can share the screen too. 21 (Pause.) 22 THE WITNESS: That's correct. The lower -- 23 sorry. Go ahead. 24 BY MR. STEIN: 25 Q. Which of the two red lines, the Delica Plus Page 14	1 A. By the way, there was one other error, now 2 that we're here, that I'd like to correct. I'm trying 3 to see if there's an image that I can use, but 4 basically, it's at the base, near the flange. 5 Q. Would one of these figures on Page 74, above 6 Paragraph 145 of your declaration Exhibit 2056, help 7 you show me where you took that measurement? 8 A. Yeah. So it would have been basically the 9 smallest dimension of the cap width -- 10 Q. So would it have been behind that red arrow 11 that you've annotated as "Primary Sheath"? Is that 12 the minimum cap width behind the primary sheath there? 13 A. I'm sorry. I thought you were asking about 14 the Delica Plus. 15 Q. Yeah, the Delica Plus. It has a red arrow 16 with a -- just kind of a hanging arrow with a red text 17 of "Primary Sheath." So where did you put the 18 calipers to measure the minimum cap width with respect 19 to where that red arrow is? 20 A. It would have been about there (indicating). 21 Q. Let me just see, just so I can make sure I 22 know what you're referring to. 23 I think I can annotate this. So a blue -- 24 you've already got a blue there. Let's use pink. Is 25 it about where I've drawn this pink line on the image Page 16
1 lancet or the Delica lancet, is in error? 2 A. The Delica lancet is in error. It should be 3 the whole height. So I just didn't draw the line long 4 enough. 5 Q. So you drew those two red lines yourself? 6 A. Yes, I believe so. 7 Q. And what tool did you use to draw those red 8 lines? 9 A. It would have been PowerPoint. 10 Q. As long as we're in this section of the 11 declaration, if you continue, you have a table on 12 Page 76 of your declaration below Paragraph 148. 13 Do you see that table? 14 A. Yes. 15 Q. And in that table you include certain 16 measurements that you took of the Delica Plus lancet, 17 the 30-gauge variety. 18 Do you see that? 19 A. I do. 20 Q. So in here, in the middle measurement column 21 you have something that you called a "minimum cap 22 width"; right? 23 A. Correct. 24 Q. Where did you take the measurement of the 25 minimum cap width on the Delica Plus? Page 15	1 you have at the top of Page 74 of your declaration? 2 A. That's correct. 3 MR. STEIN: I'm going to -- for the court 4 reporter, I'll just save this annotation and just mark 5 it as a new exhibit. It will be -- let's call it 6 Exhibit 1042. I'll send it around. 7 (Deposition Exhibit 1041 was marked for 8 identification.) 9 MR. STEIN: Obviously I haven't gotten any 10 better at this since we did this last time, 11 Mr. Collins. So I apologize for the delay here as I 12 try to take a screenshot. 13 (Pause.) 14 MR. STEIN: All right. Got it. Sorry. 15 Okay. I'll have my colleague send that 16 around. 17 (Pause.) 18 BY MR. STEIN: 19 Q. So same question for the Delica as well. So 20 when you took the measurement of the Delica lancet and 21 you were doing the minimum cap width, where did you 22 take that measurement? 23 A. It would have been just to the right of the 24 flange on the left end of the cap. 25 Q. So it would have been in a part of the cap Page 17

5 (Pages 14 - 17)

1 that is -- that you've labeled as the "Primary 2 Sheath"? 3 A. It would have been there, yeah. 4 Q. And the reason that you took the minimum cap 5 width is because you were trying to show that even if 6 you had a smaller measurement for span, your opinion 7 that the 1-1/2 times lateral span relative to lancet 8 thickness was still satisfied? 9 MR. PETERS: Object to form. 10 THE WITNESS: Pretty much. It's the span 11 that controls, but I wanted to show that even if there 12 was a disagreement over exactly where to measure the 13 span, that even at the smallest width it would still 14 satisfy it. 15 BY MR. STEIN: 16 Q. So staying with this part of the declaration, 17 in Paragraph 144 -- 18 A. I'm sorry. There is one other area that I 19 noticed, as I mentioned. 20 Q. Okay. Sure. 21 A. If you go down to the table at the top of 22 Page 77 -- 23 Q. Uh-huh. 24 A. One the lancet thickness, the second entry is 25 5.69. Page 18	1 Q. But you don't explain any methodology you've 2 applied to delineate why the gripping handle portion 3 that you've identified is, indeed, specially designed 4 for gripping. 5 MR. PETERS: Object to form. 6 THE WITNESS: I believe throughout my report 7 I made it very clear that the claims require a primary 8 sheath and a secondary sheath and a gripping handle 9 portion that extends between them. So that's -- I 10 was, you know, focusing on the claim language, and 11 that's clearly where the gripping handle is. 12 BY MR. STEIN: 13 Q. Okay. I was asking specifically about 14 Paragraph 144 though, where you're discussing the 15 Delica Plus lancet. Do you describe in Paragraph 144 16 how you determined what the gripping handle portion is 17 in the Delica Plus and in the Delica lancet? 18 MR. PETERS: Object to form. 19 THE WITNESS: 144 says, "The Delica Plus and 20 the Delica include a gripping handle portion that's 21 extending between the primary sheath and the secondary 22 sheath, with a primary sheath attached at a first end 23 of the gripping handle portion and the secondary 24 sheath attached at a second end of the gripping handle 25 portion when the protective sterility cap is removed Page 20
1 Q. Okay. 2 A. That clearly was a typo. It should -- I'm 3 pretty sure it should have been 2.69, because there's 4 no way that the -- first, I don't remember ever seeing 5 any deviation like that, and the standard deviation 6 wouldn't have been so small. That's got to be a typo. 7 Q. Okay. And what did you say the correction 8 was? It should be 2.69? 9 A. 2.69, correct. 10 Q. Who typed those numbers into the table there? 11 A. That would have been me. 12 Q. You just hit 5 instead of 2? 13 A. I guess. Obviously it's a 5 instead of a 2. 14 Q. So going back to Paragraph 144, here you 15 discuss the gripping handle portion, which you've 16 delineated as Limitation 1.c and 14.c. 17 Do you see that? 18 A. I do. 19 Q. In this paragraph of your declaration, do you 20 explain why the part that you've labeled as the 21 gripping handle portion is designed to be gripped? 22 MR. PETERS: Object to form. 23 THE WITNESS: The paragraph just describes 24 what the gripping handle portion is. 25 BY MR. STEIN: Page 19	1 from the lancet," which is what the claim requires. 2 BY MR. STEIN: 3 Q. Right. That's just reading the claim 4 language though. So I'm asking in Paragraph 144, 5 where do you explain how you delineated what the 6 gripping handle portion is? 7 A. I -- 8 Q. -- have an explanation in that paragraph. 9 A. I described as the -- just as the claim 10 requires. It's between the primary sheath and the 11 secondary sheath. 12 Q. So in order to be a gripping handle portion 13 consistent with Limitations 1.c and 14.c, all you need 14 to have is some material that extends between the 15 primary sheath and the secondary sheath. 16 Is that your testimony? 17 MR. PETERS: Object to form. Sorry. I was 18 muted. I also objected to the previous question. 19 Go ahead. 20 THE WITNESS: I'm not sure what you mean by 21 "any material." 22 BY MR. STEIN: 23 Q. So you told me, "I have explained just as the 24 claim requires. It's between the primary sheath and 25 the secondary sheath." So then I asked you if to be a Page 21

1 gripping handle portion consistent with 2 Limitations 1.c and 14.c all you need is something 3 between the primary sheath and the secondary sheath. 4 Is that your testimony? 5 A. And when you say something -- 6 MR. PETERS: Object to form to the extent 7 that there's a question there. 8 THE WITNESS: Yeah. It's a hypothetical. I 9 don't understand what you mean by "anything." 10 (Pause.) 11 BY MR. STEIN: 12 Q. Looking at the images that you have on 13 Page 73 of your declaration, above Paragraph 144, are 14 there differences that you can see between the Delica 15 Plus lancet and the Delica lancet? 16 MR. PETERS: Object to form. 17 THE WITNESS: Yeah. They're different 18 shapes. 19 BY MR. STEIN: 20 Q. Yeah. How are they different shapes? 21 A. I don't know that these images are to the 22 same scale. So I can't talk about the overall length. 23 So yeah. I mean I can't talk about dimensions 24 specifically without referencing the dimensions that I 25 took. But, for example, in the Delica lancet, there's Page 22	1 the secondary sheath is thicker than the secondary 2 sheath than the Delica Plus lancet. 3 Q. What about the wave at the -- what you've 4 delineated as the secondary sheath in the Delica 5 lancet, sort of appears to have a kind of pipe shape 6 with a bowl in the middle. Is that a difference... 7 MR. PETERS: Object to form. 8 THE WITNESS: I'm not sure I'm fully 9 following your question. 10 BY MR. STEIN: 11 Q. The secondary sheath that we see on the right 12 side of the images that appear on Page 72 of your 13 declaration, what shape does that secondary sheath 14 have in its interior perimeter? 15 A. You can't see it -- 16 MR. PETERS: Objection to form. 17 THE WITNESS: You can't see it from this 18 image. 19 BY MR. STEIN: 20 Q. You inspected these lancets physically, 21 though, didn't you? 22 A. Yes, I did. 23 Q. So are you able to answer my question based 24 on the physical inspections that you did? 25 A. I don't have -- Page 24
1 an open cavity between the arms, between the primary 2 sheath and the secondary sheath, and that's closed in 3 the Delica Plus, as an example. 4 Q. Any other examples you can point me to as to 5 the differences in shape? 6 A. The Delica lancet has a more pronounced 7 flange, where the Delica Plus lancet, that flange 8 blends into the arms more. That would be something 9 else. 10 Q. Any others you can point me to? 11 A. Small differences, but not major ones. 12 Q. Talk me through the small differences as 13 well. 14 A. The Delica Plus lancet has a logo on it. The 15 zero with a little arc or O with a little arc. 16 Q. Anything else? 17 A. The shapes are different. It's hard to 18 describe it. You can look at them and see that 19 they're different shapes. 20 Q. What about if we switch to the view that we 21 see on Page 72. Are there additional differences 22 between the Delica Plus and the Delica lancets that we 23 can see from that different view of the two lancets? 24 A. Yeah. The thickness in the image below 142 25 of the Delica lancet is -- at the far right hand of Page 23	1 MR. PETERS: Object to form. 2 THE WITNESS: I don't have those in front of 3 me. 4 BY MR. STEIN: 5 Q. So you don't remember what the interior of 6 that secondary sheath looks like in the Delica lancet? 7 A. I wouldn't try to describe it based on my 8 memory. 9 Q. It's just too complicated? 10 MR. PETERS: Objection. Form. 11 Mischaracterizes testimony. 12 THE WITNESS: It's hard to describe something 13 like that and do it accurately. A picture is worth 14 1,000 words. 15 BY MR. STEIN: 16 Q. Who selected the pictures that you chose to 17 include of the Delica Plus and the Delica lancets in 18 your declaration? 19 A. That is my declaration. So everything in 20 this declaration is mine. 21 Q. So your answer is that you selected these 22 images? 23 A. That's correct. 24 Q. Are these photographs? Did you take 25 photographs of the lancets? Page 25

1 A. I don't recall where I got the original 2 images. 3 Q. Do they appear to be photographs? 4 A. They appear to be photographs, correct. 5 Q. Going up to Paragraph 138 of your 6 declaration, you mentioned that you "used the 30-gauge 7 lancets for the demonstratives because it is easier to 8 see the contours in the photos." 9 Do you see that in Paragraph 138? 10 A. I do. 11 Q. What "contours" are you talking about? 12 (Pause.) 13 THE WITNESS: The image is easier to see the 14 overall shape of the device. 15 BY MR. STEIN: 16 Q. That's not what you said in Paragraph 138. 17 You said "It is easier to see the contours in the 18 photos." 19 I want to know what contours you're talking 20 about. 21 MR. PETERS: Objection. Asked and answered. 22 THE WITNESS: The contours that I was 23 referring to were the shape of the lancet. 24 BY MR. STEIN: 25 Q. So for the white version of the lancet, the Page 26	1 So what are the different scales that you're referring 2 to? 3 A. Just the images themselves. In comparing one 4 image to the other, that the -- they're not the same 5 dimensions. One picture could be bigger and the other 6 one could be smaller. Just the pictures themselves. 7 Q. You told me that you selected these 8 photographs -- right? -- for inclusion in your 9 declaration? 10 A. Yes. 11 Q. But you don't know what scale these 12 photographs are at? 13 MR. PETERS: Objection. Mischaracterizes 14 testimony. 15 THE WITNESS: I didn't feel that showing them 16 at exactly the same scale mattered. As I was talking 17 about it here, where I talk about scale, I'm very 18 clear about -- or comparing dimensions, I'm very clear 19 about the scale. But when you take two different 20 pictures, and I do it with a -- if you take two 21 different pictures, you can have two different size 22 images that are generated, and if I just wanted to 23 show those, I would not necessarily have them so that 24 they're exactly the same size. 25 And here I'm very clearly talking about the Page 28
1 33-gauge, that one is too difficult to see contours 2 because of its color? 3 A. Yeah, exactly. If you compare the images on 4 Page 171, it's just harder with the white one to see 5 the contrast. It's easier with the darker one. It's 6 easier to see. 7 Q. In the immediately preceding paragraph, you 8 again are referring to the photos. You say -- 9 A. I'm sorry. Which paragraph? 10 Q. Paragraph 138 on Page 69 of your declaration. 11 A. Okay. I'm there. 12 Q. You say, "I will use the term 'demonstrative' 13 to refer to the photos below because they are 14 annotated and at different scales." 15 What different scales are you referring to? 16 A. I'm sorry. I'm reading Paragraph 138, and I 17 don't see those words. 18 Q. I'll highlight it on the screen, and then 19 maybe you can find it in the version you're looking 20 at. So here, if you look sort of in the middle bottom 21 of the paragraph (indicating) -- 22 A. Paragraph 137. 23 Q. Yeah. Just a bit above 138, yeah. 24 A. So what's your question again? 25 Q. The sentence refers to "different scales." Page 27	1 size. It doesn't matter. I'm just identifying the 2 various components, the relative size of one device to 3 another. 4 BY MR. STEIN: 5 Q. Okay. So now I'm going to jump around a 6 little bit. I want to go back to Paragraph 10 of your 7 declaration. I'll stop sharing the screen for now. 8 You have a clean -- you said it's a clean 9 electronic copy that you're referencing -- right? -- 10 Dr. Collins? 11 A. That's correct. 12 Q. Okay. So just let me know when you get to 13 Paragraph 10. 14 A. I'm there. 15 Q. Do you see in the last sentence on Page 4 of 16 Paragraph 10, it starts with, "I have been responsible 17 for all aspects." 18 Do you see that? 19 A. Yes, I see that. 20 Q. And then you say, "including defining the 21 need in the market." What does it mean to define a 22 need in the market? 23 A. It means to understand how a product or a -- 24 something that's being done now and that there's an 25 unmet need that a user has and is prepared to -- you Page 29

1 know, he's motivated to make a change. 2 Q. Now, when you were in charge of a product's 3 development and you were defining the need in the 4 market, how would you know that there was an unmet 5 need? 6 MR. PETERS: Object to form. 7 THE WITNESS: The primary thing is you'd 8 observe users, what they do, and you analyze kind of 9 work flows to understand the economics, and you talk 10 to users. 11 BY MR. STEIN: 12 Q. So I believe you talked about a few different 13 trocars that you've designed; is that right? 14 A. Yes. 15 Q. So what type of user studies what you do when 16 you were designing trocars? 17 A. Well, it's an iterative process. You 18 start -- I start by typically talking to surgeons 19 about their experience in using trocars. 20 Q. Can you give me an example of how those 21 discussions would go and how you would identify sort 22 of a need that you wanted to fill? 23 A. Sure. A good example is the safety shield. 24 So the original trocars had a -- and the word "trocar" 25 has evolved over a period of time. It used to be just Page 30	1 Exhibit 2002, and I'll share my screen. 2 Is this your CV, Dr. Collins? 3 A. Yes, it is. 4 Q. If we go down here, is this the list of 5 patents you were mentioning a moment ago (indicating)? 6 A. This is a list of my patents. 7 Q. Okay. And this is the one I read out a 8 moment ago, but that's a patent that has a title 9 "Safety Trocar"? 10 A. That's correct. 11 MR. STEIN: Okay. So is this -- and I'll 12 send this around. 13 So this will be Exhibit 1042, which is U.S. 14 Patent No. 5,314,417. 15 (Deposition Exhibit 1042 was marked for 16 identification.) 17 MR. STEIN: We'll send that to Steve and the 18 court reporter. 19 MR. PETERS: I object to the introduction on 20 relevance. 21 Go ahead. 22 BY MR. STEIN: 23 Q. This is one of the patents you mentioned on 24 your CV -- right? -- Dr. Collins? 25 A. Yes, it is. Page 32
1 the short pointy thing, and now it refers to the whole 2 device. 3 So the trocar has a housing and a cannula, 4 and then there's a sharp tip that extends through the 5 end of the cannula. And the surgeon would make an 6 incision in the skin and then insert that sharp tip in 7 the cannula through the tissue into the abdominal 8 cavity, which it then expanded with CO2 gas to keep 9 the walls of the abdomen away from the tissue. 10 The problem is as you go through, sometimes 11 they can go too far and hit an organ with the tip of 12 the trocar. So that was a real concern that the 13 surgeons had. So I ended up developing a lightweight 14 trocar tip that as soon as it stops seeing resistance 15 to tissue, it would retract into the cannula and no 16 longer be a cutting surface. So that was a major 17 advance in the safety of trocars, and that was 18 something that surgeons definitely wanted to have. 19 Q. You talk about a few patents that you 20 obtained on a safety trocar or you mention them in 21 your CV; right? 22 A. Yes, I think I listed them in my CV as well. 23 Q. One of those is U.S. Patent No. 5,314,417? 24 A. I don't recall sitting here. 25 Q. I'm looking at your declaration here, Page 31	1 Q. So you brought the relevance into play. 2 So if we look at the patent here, which is 3 now Exhibit 1042, we see in Figure 1, is this a view 4 of your -- one of your designs for a safety trocar? 5 MR. PETERS: I'll object to form, and also, 6 the reporter object -- didn't record my objection to 7 scope. So I wanted to get that on the record as well. 8 Go ahead, Mr. Collins. 9 THE WITNESS: Am I going to get a copy of 10 this or... 11 MR. STEIN: Steve, do you want to send it to 12 him, or do you want me to just send it? 13 MR. PETERS: Can you just drop it in the 14 chat? 15 MR. STEIN: Yeah, if we're able to. It might 16 be disabled. If it's disabled, I can -- let me see if 17 I can do it. 18 It doesn't seem to want to let me put a 19 document in there. 20 MR. PETERS: Can you E-mail it to me? 21 MR. STEIN: Yeah. 22 MR. PETERS: I'll forward it to the witness. 23 (Pause.) 24 BY MR. STEIN: 25 Q. Okay. So turning back to this Exhibit 1042, Page 33

1 your patent 5,314,417, do you see Figure 1, 2 Dr. Collins? 3 A. Yeah. I'd like to have the document in front 4 of me before I answer questions about it. 5 Q. Which part of the document would you like to 6 see? 7 A. I don't know. I haven't looked at this 8 document in a long time. It's 30 years old. 9 MR. STEIN: I just sent the exhibits. 10 MR. PETERS: Thanks. I'll forward it as soon 11 as I get it. 12 THE WITNESS: I don't have Gmail open. So is 13 it okay if I open it? 14 MR. STEIN: Yeah. 15 So I'll ask some other questions while you're 16 waiting for a copy of this. 17 Q. In that same paragraph, Paragraph 10, after 18 defining the need in the market, you also talk about 19 "requirements, user interface," and "overall look and 20 feel." 21 Do you see those statements at the bottom of 22 Paragraph 10 on Page 4 of your declaration? 23 A. Uh-huh. 24 Q. What are requirements in the context of this 25 statement you've made here? Page 34	1 declaration, you talk about "performance/functionality 2 validation." What are those, performance and 3 functionality validation? 4 A. Just as I described before. So you establish 5 what your requirements are and then you set out to 6 demonstrate, in particular to the FDA, that you're 7 able to meet those requirements in a robust, 8 repeatable way. 9 Q. And what happens if you fail to meet those 10 requirements? What sort of changes might you make to 11 your product under design? 12 A. That's a hard question to answer. It all 13 depends on how it didn't meet the requirement, and, 14 you know, depending on how it didn't meet the 15 requirement, you would react, you know, very 16 differently. 17 Q. Say your doctors or surgeons told you that 18 the trocar was too heavy during your validation 19 testing. What changes would you make to address that 20 issue? 21 MR. PETERS: Object to form. 22 THE WITNESS: Well, first, I'd try to 23 understand what are the tradeoffs. Why is it heavy. 24 And if there's some feature that makes it heavy that 25 the surgeons really want, there may be a conflict Page 36
1 A. So a practice in developing medical devices 2 is to establish what the product requirements are, 3 what is it you're trying to accomplish, so that you 4 north star as you're doing development, and then you 5 got something to be able to validate that you've met 6 those requirements. 7 Q. What would an example of a requirement be for 8 one of your safety trocar designs? 9 A. A requirement would be probably something 10 like a penetration force in a simulated abdomen. So 11 it's something that I can quantify, or if it's not -- 12 if I can't quantify it, there's some way to validate 13 it. It could be opinion based. That's one that 14 sticks in my mind. 15 MR. PETERS: I just forwarded the witness 16 1042. 17 MR. STEIN: Okay. 18 Q. Next question I have, Dr. Collins, is about 19 overall look and feel. So tell me what that means in 20 the context of this paragraph. 21 A. Pretty much what it says, what is a product's 22 appearance, how does it feel in a user's hand, you 23 know, are all an important part of a product that's 24 acceptable to a user. 25 Q. And then at the end, now on Page 5 of your Page 35	1 between reducing the weight and reducing the 2 performance of that feature. 3 So just because they don't -- they feel it's 4 too heavy, if that's the feedback, you may not make a 5 change at all. So it all depends on the situation. 6 BY MR. STEIN: 7 Q. If you did find that you needed to make a 8 change though, how would you determine the sort of 9 magnitude of that change? 10 MR. PETERS: Object to form. Calls for 11 speculation. 12 THE WITNESS: That's such a broad question, 13 there's no way I can answer it in the -- without more 14 specifics. 15 BY MR. STEIN: 16 Q. So in the context of that trocar and the 17 feedback from the doctors being that it's too heavy, 18 if you determine that the component that's making it 19 heavy is not required, what type of changes might you 20 make to address the issue? 21 MR. PETERS: Same objections. 22 THE WITNESS: I have a hard time accepting 23 your hypothetical because you don't have a part in a 24 product that isn't necessary. At least to the best of 25 my knowledge, I don't put arbitrary pieces into a Page 37

1 design. Every design I work on, there's a rationale 2 for every piece that's there. 3 BY MR. STEIN: 4 Q. So when you have conducted 5 performance/functionality validation, what types of 6 changes have you ended up making to the products that 7 you were designing? 8 A. Sometimes there are -- you know, I can think 9 through strength issues. So we would make a wall 10 thickness a little bit stronger. Oftentimes, 11 particularly with prototypes, there are tolerancing 12 issues. So I'd end up tightening the dimensional 13 tolerances on parts. Those would be some classic 14 things that we did. 15 Q. Now you have a copy of Exhibit 1042? 16 THE WITNESS: Let me look. 17 (Pause.) 18 THE WITNESS: I'm viewing it, and I'll close 19 out of Gmail. 20 (Pause.) 21 THE WITNESS: Okay. I've got it open. 22 BY MR. STEIN: 23 Q. So turning to Figure 1, which is on Page 2 of 24 the PDF, do you see that image in Figure 1 there in 25 your patent? Page 38	1 Q. Tell me about the other types of sketches 2 that have names. 3 MR. PETERS: Objection. Form. 4 THE WITNESS: You can have an isometric 5 sketch. Those are the two that come to my mind, 6 isometric and perspective. And then you can just have 7 random sketches. 8 BY MR. STEIN: 9 Q. Okay. So in the perspective view of Figure 1 10 in your patent that we see in Exhibit 1042, what is 11 referenced in Numeral 12? 12 THE WITNESS: Give me a moment. 13 (The witness reviewed material.) 14 BY MR. STEIN: 15 Q. Are you looking for 12, Dr. Collins? 16 A. I said it's a cannula. 17 Q. Oh, sorry. I didn't hear you. 18 And what is referenced in Numeral 34? 19 A. That's the safety shield. 20 Q. Are you able to tell me whether 12 is larger 21 than 34 based on what we see in Figure 1? 22 MR. PETERS: Objection. Calls for 23 speculation. 24 (The witness further reviewed material.) 25 THE WITNESS: Yeah. I would look to Page 40
1 THE WITNESS: Let me just get familiar with 2 the patent. 3 MR. PETERS: I'm going to have a standing 4 objection to scope on questions related to the 1042. 5 THE WITNESS: Okay. I've scanned the images. 6 BY MR. STEIN: 7 Q. Okay. What is shown in Figure 1? 8 A. It's a sketch of the overall trocar device. 9 Q. And what type of a view is depicted in 10 figure 1 of the trocar device? 11 A. It's just a sketch. 12 Q. Does the patent call it a sketch? 13 A. I don't recall. 14 Q. Okay. Let's look at Exhibit 1042 at 15 Column 3, Line 37. 16 A. I see that. 17 Q. So what does the patent call Figure 1? 18 A. A "perspective view." 19 Q. Okay. So is a perspective view the same as a 20 sketch? 21 A. A perspective view is a type of a sketch. 22 Q. What are the other types of sketches? 23 A. Some are just kind of things that don't 24 follow any particular rules, but a perspective view 25 follows a particular rule. Page 39	1 Figure 2 -- well, first, I know that the safety shield 2 fits inside of the cannula. So it's a smaller 3 diameter, and that's clearly shown in Figure 2. 4 BY MR. STEIN: 5 Q. What about length? Are you able to tell me 6 whether 12 is longer than referenced Numeral 34, the 7 safety shield? 8 MR. PETERS: Same objection. 9 THE WITNESS: I can't tell from this picture. 10 BY MR. STEIN: 11 Q. You can't tell from Figure 1 whether 12 is 12 10 times longer than reference Numeral 34? 13 MR. PETERS: Objection. Asked and answered. 14 THE WITNESS: No, you can't, because 34 is 15 longer than what's just exposed. 34 goes into the 16 cannula, and the cannula goes into the housing. So I 17 can't see the overall length of the cannula or the 18 safety shield. 19 BY MR. STEIN: 20 Q. What about just comparing the exposed 21 portion. So the exposed portion of 12 and the exposed 22 portion of 34, are you able to determine which one is 23 longer? 24 MR. PETERS: Same objection. 25 THE WITNESS: I know, because I designed this Page 41

1 product, that the cannula needs to be thick enough to 2 go through the tissue wall, and you want the tip of 3 the safety shield to be small. So for this to 4 operate, the cannula would be longer than the tip. 5 BY MR. STEIN: 6 Q. And that's based on your knowledge of 7 designing this product but not based on figure 1 of 8 Exhibit 1042? 9 MR. PETERS: Object to form. 10 THE WITNESS: Well, it's consistent but 11 that's -- I designed it. So I know what -- I designed 12 the product and know what we wanted. 13 BY MR. STEIN: 14 Q. But a POSA that didn't design this product, 15 so not you, but looking at this from the perspective 16 of a POSA, would they be able to determine from 17 Figure 1 whether the exposed portion of reference 18 Numeral 12 is longer than the exposed portion of 19 reference Numeral 34? 20 MR. PETERS: Object to form. 21 THE WITNESS: Yeah. Again, a POSA would look 22 at Figure 1 in the context of the specification. And 23 just as I said, I can go back and find the specific 24 references, but it's very clear that the function of a 25 trocar is to be able to provide a passageway from Page 42	1 would depend on what application that they have. 2 BY MR. STEIN: 3 Q. So part of understanding the figures in your 4 patent, Exhibit 1042, is also reviewing the text of 5 the patent specification as well; right? 6 A. When I review a patent, I review the text as 7 well as the figures. 8 MR. STEIN: Okay. 9 MR. PETERS: Good time for a break? 10 MR. STEIN: Yeah. Are we at about an hour? 11 Yeah, sure. 12 Do you want a quick break, Dr. Collins? 13 THE WITNESS: Sure. 14 MR. STEIN: Maybe five minutes? Is five 15 enough, Steve? 16 MR. PETERS: I think I can get coffee in that 17 time. 18 (A recess was taken from 8:01 a.m. 19 to 8:07 a.m.) 20 BY MR. STEIN: 21 Q. Okay, Dr. Collins. We just took about a 22 short, five-minute break there. 23 Did you talk to your counsel during the 24 break? 25 A. No, I did not. Page 44
1 outside of the patient to the inside of the abdominal 2 cavity. So that cannula needs to be long enough for 3 the heaviest person that is intended to be used with. 4 So certainly a POSA would know that he or she 5 can make that cannula longer or shorter depending on 6 if you wanted to make this for really skinny people or 7 if you want to make it for very large people, you'd 8 change the length of the cannula appropriately. So 9 there is no specific length called out for the cannula 10 in Figure 1. 11 BY MR. STEIN: 12 Q. So a POSA, looking at Figure 1, your 13 testimony is that they would be unable to determine 14 whether reference Numeral 12, the exposed portion, is 15 longer than the exposed portion of reference 16 Numeral 34? 17 MR. PETERS: Objection. Asked and answered. 18 Mischaracterizes testimony. 19 THE WITNESS: Yeah. I didn't say that. I 20 said a POSA would look at Figure 1 in the context of 21 the specification and realize that the cannula needs 22 to be long enough to be able to provide a passage from 23 the outside of the person to the inside of the 24 abdominal wall, and the length of that cannula would 25 be made long enough to accommodate that, and that Page 43	1 Q. Okay. So now turning to Page 6 of your 2 declaration. At the bottom of Paragraph 13, is there 3 another little error there? Is there a typo? You 4 say, "In addition I managed CIMIT's Commercialization 5 Readiness Assessment and Accelerator for Solutions in 6 Healthcare ('CRAASH') which supports teams 7 commercialize promising healthcare innovations." 8 Is there commercializing? 9 A. No. It's the process of commercializing. So 10 they're helping teams commercialize, promising 11 innovations. 12 Q. So that grammar is correct? ..."which 13 supports teams commercialize promising healthcare 14 innovations"? 15 A. I believe it's correct. 16 Q. Okay. Turning to Page 8, you talk about 17 having worked on a lot of medical products, and I know 18 we talked about trocars a little bit. And you mention 19 lancets. That's the first bullet point there on 20 Paragraph 18. 21 Do you see that? 22 A. I do. 23 Q. How many sterility caps for lancets have you 24 designed? 25 MR. PETERS: Object to form. Page 45

1 THE WITNESS: When I was designing lancets, I 2 was only focusing on the lancet body. 3 BY MR. STEIN: 4 Q. So zero? 5 A. I have not designed a lancet cap. 6 Q. So zero? 7 A. Correct. 8 MR. PETERS: Object to form. Asked and 9 answered. 10 BY MR. STEIN: 11 Q. Okay. And now continuing, on Page 10, 12 starting on Page 9 you discussed the materials that 13 you reviewed to form the opinions in your declaration. 14 Do you see that? 15 A. I do. 16 Q. Is this table a complete list of the 17 materials that you reviewed? 18 A. Well, for this case there are other patent 19 matters. I reviewed other material, but for this 20 case, this is what I focused on. 21 Q. So you did not review Exhibit 1003; is that 22 correct? 23 A. I don't know what 1003 is. I don't see it 24 listed. 25 Q. If it's not in your table, that means you Page 46	1 the application that led to the '635 patent? 2 A. I did review the file wrapper in another 3 matter, but I don't remember the specifics. 4 Q. Do you know what a restriction requirement 5 is? 6 A. Legally? I'd have to read the text to be 7 sure. 8 Q. What's your colloquial understanding of a 9 restriction requirement? 10 A. I wouldn't even venture a guess. Obviously 11 it's some type of restriction, but I don't know what's 12 restricted or how much. I'd have to read the context 13 to understand it. 14 Q. So I'll share my -- so you don't have this 15 document available to you either, do you, 16 Exhibit 1003? 17 A. I may have it on my hard drive someplace. 18 Q. It might be on your hard drive, but you 19 didn't list it in the materials that you reviewed? 20 A. Because I would have reviewed it in another 21 matter. 22 MR. STEIN: Okay. I will share my screen. 23 (Previously marked Exhibit 1003 was made 24 available to the deponent.) 25 MR. PETERS: Do you want me to E-mail it to Page 48
1 didn't review it; right? 2 A. It means I didn't include it. 3 Q. So in Paragraph 21 you say, "In forming the 4 opinions expressed in this Declaration, while drawing 5 on my experience in the field of medical devices and 6 similar-type consumer products, I reviewed the 7 following documents," and then you have the table 8 that's on Pages 10 and 11, and 1003 is not in that 9 table, is it? 10 A. I don't see it there. 11 Q. So you did not review it in forming the 12 opinions expressed in your declaration; correct? 13 A. I may have reviewed it, but if I did review 14 it, I didn't think it was relevant to the subject 15 matter of my report. 16 Q. So Exhibit 1003 is the file wrapper for the 17 application that led to the '635 patent. So you did 18 not consider the file wrapper to be important in 19 understanding the patent at issue here? 20 MR. PETERS: Objection. Asked and answered. 21 THE WITNESS: I don't recall any issues that 22 were relevant to the file wrapper. 23 BY MR. STEIN: 24 Q. Do you understand that there was a 25 restriction requirement issued during prosecution of Page 47	1 him, Alex? 2 MR. STEIN: Sure. Can you? 3 MR. PETERS: Let's see how big it is. 4 MR. STEIN: It's going to be a big file. 5 MR. PETERS: It's 11 megabytes. So I think I 6 should be able to. 7 MR. STEIN: Okay. I'll come back to the file 8 wrapper. 9 Another exhibit I want to talk with you about 10 is 1016. 11 Q. Is that in the table of materials you 12 reviewed? 13 A. I don't see it listed much. 14 Q. Do you recall reviewing a provisional 15 application that was in the family of the Saikley 16 reference at issue here? 17 A. Again, I don't recall doing it for this case. 18 Q. What's the difference between a sterility 19 cap, a lancet, and a lancing system? 20 MR. PETERS: Object to form. 21 THE WITNESS: I'm sorry. The difference 22 between a lancet, a lancet cap and a lancing system? 23 BY MR. STEIN: 24 Q. That's fine. I said, "sterility cap" 25 (Indiscernible crosstalk.) Page 49

1 BY MR. STEIN: 2 Q. Otherwise, it was the same question. Yeah. 3 A. Okay. So generally what a person of ordinary 4 skill would understand is that a lancet includes a 5 lancet body, which is something that holds a needle 6 that's used to prick the skin and that there's a 7 sterility cap that's shipped -- that's covering the 8 needle, the unused needle. And then that sits inside 9 of a system to be able to actually do the pricking of 10 the finger. So that will include a device. 11 So I would say that the system was a device 12 plus a lancet. 13 Q. Turning to Paragraph 22 of your declaration, 14 you mentioned that you have been asked to assume that 15 the priority date is July 29, 2008. 16 Do you see that? 17 A. Yes, I do. 18 Q. What does it mean that you assumed that was 19 the priority date? 20 A. That's the date that I took to be the 21 priority date. 22 Q. Why did you take that to be the priority 23 date? 24 A. Because I was asked to use that date. 25 Q. Since you submitted this declaration, has Page 50	1 BY MR. STEIN: 2 Q. The claims of the '635 patent at issue in the 3 IPR, do any of them cover the lansing system? 4 MR. PETERS: Object to form. 5 THE WITNESS: I believe -- I have to go back 6 and check the language, but I believe all of the 7 claims relate to a lancet -- a cap and a lancet body. 8 BY MR. STEIN: 9 Q. All of the claims cover a cap and a lancet 10 body? Is that what you said? 11 MR. PETERS: Object to form. 12 THE WITNESS: I said I'd have to go back and 13 reread the claims, but that's my recollection. 14 BY MR. STEIN: 15 Q. So the cap and the lancet body, that's the 16 lancet system? 17 A. I believe that's a -- 18 MR. PETERS: Objection. Mischaracterizes 19 testimony. 20 THE WITNESS: I believe that's a lancet. 21 BY MR. STEIN: 22 Q. But my question was whether any of the claims 23 of the '635 patent cover the whole lansing system? 24 MR. PETERS: Objection. Asked and answered. 25 THE WITNESS: I believe they focus on the Page 52
1 anything changed your mind as to whether that priority 2 date is valid? 3 A. No. 4 MR. STEIN: Okay. So I have one other 5 exhibit. 6 (Previously marked Exhibit 1031 was made 7 available to the deponent.) 8 MR. STEIN: Okay. So this is Exhibit 1031. 9 This one has been served previously, but it's not 10 filed. So I'll just send it. 11 MR. PETERS: I have a copy of it. 12 MR. STEIN: Okay. Are you able to send it to 13 Dr. Collins? 14 MR. PETERS: Yes, I was going to do that. 15 (Pause.) 16 MR. PETERS: That one is on its way to the 17 witness. 18 MR. STEIN: Okay. 19 Q. All right, Dr. Collins. So the claims in the 20 patent at issue here are the '635 patent. 21 Do any of them cover the lansing system? 22 MR. PETERS: Object to form. 23 THE WITNESS: I'm just opening the document. 24 Let me just get that open. 25 Would you please reask the question. Page 51	1 lancet itself. 2 BY MR. STEIN: 3 Q. So then the answer is "no," the claims of the 4 '635 patent do not cover a lansing system; is that 5 right? 6 MR. PETERS: Objection. Form. Asked and 7 answered. 8 THE WITNESS: Well, they cover the lancet, 9 which is part of the lansing system. So I don't know 10 how to answer your question. 11 BY MR. STEIN: 12 Q. So do any of the claims of the '635 patent 13 cover the lansing device itself? 14 MR. PETERS: Object to form. 15 THE WITNESS: I don't believe so, no. 16 BY MR. STEIN: 17 Q. Did you get a copy of Exhibit 1031, 18 Dr. Collins? 19 A. I did. 20 Q. Do you remember discussing this provisional 21 application with me at a deposition for the district 22 court case? 23 A. No, I don't. 24 Q. Okay. 25 A. That was a while ago. Page 53

1 MR. STEIN: Yeah. Yeah. 2 (Previously marked Exhibit 1001 was made 3 available to the deponent.) 4 BY MR. STEIN: 5 Q. So before we go here, if we look at 6 Exhibit 1001, or if you can recall, do you recall that 7 the '635 patent meets a priority claim to a 8 provisional application? 9 A. That's my recollection, yes. 10 Q. And that's the July 29, 2008 date that you 11 referred to in Paragraph 22 of your declaration? 12 A. I believe so. 13 Q. So in Exhibit 1031, is there any reference to 14 the dimensional recitations, the relative 15 dimensional -- the relative dimensional recitations -- 16 sorry -- of Claim 6 and 14 about the lateral span 17 being 1-1/2 times the lancet thickness? 18 MR. PETERS: Object to form and object to 19 scope. 20 THE WITNESS: I don't know. I'd have to 21 review the document. 22 MR. STEIN: Go ahead and review it. 23 (The witness reviewed material.) 24 THE WITNESS: I've reviewed the document. 25 Can you ask your question again, please. Page 54	1 MR. PETERS: Objection. Form. Scope. Asked 2 and answered. 3 THE WITNESS: Yeah. Again, my 4 recollection -- and I only spent five minutes. It's a 5 document, and my recollection is the figures in this 6 document came from a CAD file, and that CAD file 7 had -- was obviously based on dimensions. 8 BY MR. STEIN: 9 Q. Does the provisional application mention 10 anywhere that the figures came from a CAD file? 11 MR. PETERS: Same objections. 12 THE WITNESS: I don't recall. 13 BY MR. STEIN: 14 Q. Based on the review that you just conducted 15 for five minutes, did you see any mention of the 16 figures coming from a CAD file? 17 A. Well, I don't want to say I reviewed the 18 document in depth. I scanned the document. Five 19 minutes is not a long time to study a document, and I 20 don't recall -- I was not looking for how the 21 illustrations were generated. 22 Q. So your answer is "no"? 23 MR. PETERS: Objection. Asked and answered. 24 Object to form. 25 BY MR. STEIN: Page 56
1 BY MR. STEIN: 2 Q. I asked in Exhibit 1031 is there any 3 reference to the relative dimensional recitations of 4 the lateral span of the sterility cap being 1-1/2 5 times the lancet thickness that's recited in Claim 6 6 and 14 of the '635 patent? 7 MR. PETERS: Objection. Form and scope. 8 THE WITNESS: Yeah. It's been quite a while 9 since I've looked at this, and my recollection is that 10 there were CAD drawings from which these illustrations 11 were made at the time, and those CAD drawings were 12 dimensions. 13 BY MR. STEIN: 14 Q. Did I ask you about the CAD drawings? 15 A. You asked me about -- 16 MR. PETERS: Object to form. 17 THE WITNESS: You asked me about the 18 document, and the document has images that, if I 19 remember correctly, were generated from a CAD program 20 that had dimensions. 21 BY MR. STEIN: 22 Q. The document that you just reviewed for the 23 better part of five minutes, does it have any mention 24 of the recitation of a lateral span of a sterility cap 25 being 1-1/2 times the lancet thickness? Page 55	1 Q. Let's look at Paragraphs 11, 12, and 13 of 2 Exhibit 1031. Do any of those indicate that any of 3 figures 1A to 3C are drawn to scale? 4 MR. PETERS: Object to scope. 5 THE WITNESS: They say what they say, but 6 again, my understanding -- my recollection is that 7 these were generated by -- in the CAD program. 8 BY MR. STEIN: 9 Q. You keep repeating that, but you're not 10 answering my questions. 11 So Paragraphs 11, 12, 13, do they indicate 12 that any of the references Figures 1A to 3C of 13 Exhibit 1031 are to scale? 14 MR. PETERS: Objection. Asked and answered. 15 THE WITNESS: Yeah. My answer is the same. 16 These are examples that I understand came from a CAD 17 program. 18 BY MR. STEIN: 19 Q. So Exhibit 1031 says they're drawn to scale. 20 Is that your testimony? 21 MR. PETERS: Objection. Argumentative. 22 THE WITNESS: No. It says they show example 23 embodiments, which I understand came from a CAD 24 drawing. 25 BY MR. STEIN: Page 57

15 (Pages 54 - 57)

1 Q. Okay. But the provisional does not say 2 anything about any CAD drawing; right? 3 MR. PETERS: Objection. Asked and answered. 4 THE WITNESS: I didn't look for that in my 5 quick scan of the document. 6 BY MR. STEIN: 7 Q. And in your quick scan of the document, did 8 you come across that 1-1/2 times lateral span relative 9 to lancet thickness that we talked about? 10 MR. PETERS: Objection. Scope. 11 THE WITNESS: Again, my recollection is that 12 that was in the dimensions of the CAD drawing. 13 BY MR. STEIN: 14 Q. Is it your understanding that if figures in a 15 provisional application come from a CAD drawing, you 16 can pull the dimensions from that underlying CAD file 17 and that is part of the provisional application? 18 MR. PETERS: Object to scope. 19 THE WITNESS: Yeah. I'm not a lawyer. I 20 don't know the specifics and my recollection is that, 21 you know, an inventor needed to be able to demonstrate 22 that they had the invention at the time. And 23 certainly, a CAD drawing would be evidence of that. 24 BY MR. STEIN: 25 Q. If we look at Figures 2b and 2c in the Page 58	1 Version lancet (RV), allowing the corresponding lancet 2 devices to be smaller." 3 Is there any indication in those sentences 4 that the specific dimensional -- relative dimensional 5 recitation of 1-1/2 times lateral span relative to 6 lancet thickness is needed to allow for a reduction in 7 size of the lancet? 8 A. That sentence -- very short words. It says 9 what it says. I don't understand your question. 10 Q. What part of my question did you not 11 understand? 12 A. The sentence says what it says. I can repeat 13 the words, and that's what it says. It doesn't say a 14 lot of other things. It says what it says. 15 Q. So it doesn't mention 1-1/2 times lateral 16 span relative to lancet thickness being necessary to 17 allow for a reduction in size of the lancet; right? 18 A. Those words aren't there in that section you 19 asked me to look at. 20 Q. What about at the bottom of Paragraph 17. It 21 lists, "One or more of the following 22 advantages/functions may be provided by example 23 embodiments of the lancet cap," and then it lists 24 eight advantages/functions. 25 For any of those eight, does the provisional Page 60
1 provisional application, Exhibit 1031, is the lateral 2 span or the lancet thickness labeled in any of those 3 figures? 4 MR. PETERS: Object to scope. 5 THE WITNESS: I don't see any labels in 6 Figure 2a or 2b or 2c. 7 BY MR. STEIN: 8 Q. Are you able to determine, from these figures 9 alone, whether there is a lateral span of 1-1/2 times 10 the lancet thickness shown in these figures? 11 MR. PETERS: Object to scope. 12 THE WITNESS: No, it is not proper to do that 13 from the figures, but certainly, you can do that from 14 the CAD drawing. 15 BY MR. STEIN: 16 Q. Paragraph 17 of Exhibit 1031, in the second 17 sentence, talks about -- 18 A. Hold on. Let me get there. One second. 19 Q. Okay. 20 A. Paragraph 17. Okay. 21 Q. Yeah. Do you see how it mentions that the 22 "cap or cover includes a 'handle,'" second sentence? 23 A. I do. 24 Q. And then it says, "The handles allow for the 25 body of the lancet to be smaller than a Regular Page 59	1 application specifically indicate that 1-1/2 times 2 lateral span relative to lancet thickness is necessary 3 to enable those advantages? 4 MR. PETERS: Object to form. 5 THE WITNESS: Again, my -- those specific 6 words aren't there, but again, you'd read it in the 7 context of the entire document. 8 BY MR. STEIN: 9 Q. Continuing in Paragraph 19, which continued 10 on to Page 7 of Exhibit 1031, do you see the Point 11 No. 2, where it says, "Curved design is easy to pick 12 up off of many different surfaces"? 13 A. I see that, yes. 14 Q. And then 3, "Troughs on the lancet body allow 15 for attachments area that interact with the lancing 16 device that holds the lancet in place." 17 Do you see that? 18 A. I do. 19 Q. What does that mean, the Point No. 3 there 20 about the troughs? 21 MR. PETERS: Objection. 22 THE WITNESS: Physical features, indentations 23 that can engage with the lancing device. 24 BY MR. STEIN: 25 Q. And is it important for the lancing device to Page 61

1 be able to securely hold the lancet prior to it being 2 used to draw blood? 3 MR. PETERS: Object to form. 4 THE WITNESS: I would think so, certainly. 5 BY MR. STEIN: 6 Q. Now, turning back to your declaration, 7 Exhibit 2056, at the bottom of Page 12 in Paragraph 25 8 you mention -- 9 A. I'm not sure where you are. 10 Q. Your declaration, at the bottom of Page 12. 11 So Exhibit 2056, your declaration. 12 A. That is my declaration. I didn't know what 13 the number was. 14 Q. Yeah. 2056. 15 A. At the bottom of Page 12? 16 Q. 12. Yeah. 17 A. Okay. I'm there. 18 Q. Do you see that last full sentence of 19 Paragraph 25. You say, "For instance," and then you 20 list some figures, "show example embodiments of the 21 patented lancet." 22 What do you mean when you use the adjective 23 "patented" in front of "lancet"? 24 A. That these illustrations demonstrate and 25 practice the claims of the patent. Page 62	1 Q. So Figure 3B in the patent, which is 2 Exhibit 1001 here, but I understand you're looking at 3 an unmarked version of the exhibit with the same 4 content. 5 So can you look at Figure 3B? 6 A. I'm there. 7 Q. So you mentioned that Figure 3B is an example 8 of the patented lancet; is that right? 9 A. Yes. 10 Q. So Figure 3B would practice Claim 1 of the 11 patent? 12 MR. PETERS: Object to form. 13 THE WITNESS: I'd need to go back and see 14 which claims 3B practices. I haven't done that 15 analysis. 16 BY MR. STEIN: 17 Q. But in Paragraph 25, when you mentioned 18 example embodiments of the patented lancet and you 19 included Figure 3B, what analysis did you conduct? 20 A. That these are -- my understanding is these 21 are the examples, embodiments of the claimed lancet, 22 lancet body. 23 Q. Does Figure 3B have the troughs we were 24 talking about with some of the advantages listed in 25 the provisional application, Exhibit 1031? Page 64
1 Q. So one of them is Figure 3b; right? Is that 2 listed in your figure numbers there as being an 3 example embodiment of the patented lancet? 4 A. Yes. 5 Q. So are you able to look at Figure 3b in the 6 patent, or do we need to send you a copy of the 7 patent? 8 A. I do have the clean version of the patent, if 9 you want me to open it. 10 Q. Yeah, please do. 11 MR. PETERS: So for the record, John, you're 12 opening up Exhibit 1001? 13 THE WITNESS: No. I'm opening up the patent 14 which I downloaded from Google Docs -- I mean Google 15 Patents. So I assume that's the same one. 16 Do you want to send me one just to be safe? 17 MR. STEIN: I'm fine with your 18 representation, Dr. Collins, but if Steve wants to 19 send you the marked exhibit, that's also fine. If you 20 represent you got the patent and it's the same one 21 you've been looking at, that's fine with me. 22 MR. PETERS: Yeah. I mean I'll reserve the 23 ability to send it to him, but for now, we can 24 proceed. 25 MR. STEIN: Okay. Page 63	1 A. I would have to go back and review that. I'm 2 just not sure. 3 Q. In the next sentence of Paragraph 25 of your 4 declaration, Exhibit 2056, you also list some figures, 5 and then you indicate that those are example 6 embodiments of the patented end cap. 7 What is an end cap? 8 A. It would be the sterility cap. 9 Q. So those terms are synonymous? 10 A. In my mind, yeah. 11 Q. Is an end cap always going to be sterile? 12 MR. PETERS: Object to form. 13 THE WITNESS: I can't speak for every end 14 cap, but I can't imagine why one would introduce an 15 end cap that isn't sterile, doesn't maintain 16 sterility. 17 BY MR. STEIN: 18 Q. Going back to the patent, Column 6, 19 Line 66 -- maybe start at Line 61. Column 6, Line 61, 20 going down to the end of Line 66, the end of the 21 sentence in Column 6 of Exhibit 1001. 22 Do you see where it says, "The provision of 23 the elongate handle portion 516 allows the user to 24 grab the lancet further from the needle during 25 decapping and disposal." Page 65

17 (Pages 62 - 65)

1 Do you see that? 2 A. I do. 3 Q. To allow the user to grab the lancet further 4 from the needle during decapping and disposal, could 5 you do that if you had a cap that had a lateral span 6 that was 1.4 times the lancet thickness? 7 MR. PETERS: Object to form. 8 THE WITNESS: You'd have to give me more 9 information. I don't know. 10 BY MR. STEIN: 11 Q. What additional information would you need to 12 answer the question? 13 A. I'd need to understand what design you're 14 talking about. 15 Q. I'm talking about the design we see in the 16 patent, Figure 5A, in which the dimensions have been 17 altered so that the lateral span is 1.4 times the 18 lancet thickness. 19 MR. PETERS: Object to form to the extent 20 there's a question pending. 21 THE WITNESS: First, the span typically is 22 wider to enable easier torque, and the length is to 23 keep the fingers away. So this portion is talking 24 about the length. 25 BY MR. STEIN: Page 66	1 twist the endcap during removal from the lancet." So 2 with that describes "alleged advantage" in mind, I 3 want to ask the same question. 4 If we refer to the sterility cap design of 5 Figure 5a if the span is 1.4 times the lancet 6 thickness, would the user still be able to more easily 7 twist the end cap during removal from the lancet? 8 MR. PETERS: Object to form. 9 THE WITNESS: No. It wouldn't be as easy as 10 1.5. 11 BY MR. STEIN: 12 Q. How much more difficult would it be? 13 A. I haven't tried -- I have not tried to 14 quantify that. 15 MR. PETERS: For the record, I objected to 16 form on that question. 17 BY MR. STEIN: 18 Q. What about if the lateral span were 1.49 19 times the lancet thickness? 20 MR. PETERS: Same objection. 21 THE WITNESS: And same answer. 22 BY MR. STEIN: 23 Q. So 1.49 times the lancet thickness, it would 24 not be as easy to twist the end cap. 25 That's your answer? Page 68
1 Q. Are you not able to answer the question 2 because it's talking about length? The question is 3 still pending. 4 A. Could you ask the question again? 5 Q. Yeah. So I asked in the context of 6 Exhibit 1001 at Column 6, Lines 61 to 63 or so, to 7 allow the user to grab the lancet further from the 8 needle during decapping and disposal, could you do 9 that if you had a cap that had a lateral span that was 10 1.4 times the lancet thickness. 11 You asked me for a clarification, and I told 12 you that the design we're referring to is the cap that 13 we see in Figure 5a in which the lateral span is 14 altered to be 1.4 times the lancet thickness. 15 MR. PETERS: Object to form. 16 THE WITNESS: Well, in looking at the -- 17 reading this portion, they're talking about the -- 18 keeping the fingers further away from the needle tip, 19 and that's a function of length, not the function of 20 width. So the width shouldn't play a role in how far 21 away, from a length perspective, your fingers are. 22 MR. STEIN: Okay. Let's go with Column 6, 23 Line 52 instead. 24 Q. So there it describes that "the handle with 25 the greater width, allowing the user to more easily Page 67	1 MR. PETERS: Same objection. 2 Mischaracterizes testimony. Asked and answered. 3 THE WITNESS: Yeah, the wider it is, the less 4 force it takes to generate the same amount of torque. 5 BY MR. STEIN: 6 Q. So what if the lateral span were 100 times 7 the lancet thickness. That would be more desirable 8 because then you could twist it really easily? 9 MR. PETERS: Object to form. 10 THE WITNESS: There are always practical 11 tradeoffs that you need to worry about. If you make a 12 cap too wide, then indeed it would be easier to twist 13 off, but it would also be more likely to be damaged in 14 shipping and handling, and you're adding a lot of 15 material that you don't necessarily need. There 16 wouldn't be benefit for it. 17 So I don't think a POSA would ever do that. 18 BY MR. STEIN: 19 Q. And continuing to look at this statement at 20 Column 6 of Exhibit 1001, Line -- starting at Line 52, 21 it starts with "This forked arrangement provides a 22 handle with a greater width." 23 So is the advantage here about twisting the 24 end cap more easily, is that attributed to a specific 25 dimensional recitation or the use of the forked Page 69

1 arrangement? What is the patent saying? 2 MR. PETERS: Object to form. 3 THE WITNESS: Well, it talked about the 4 forked arrangement and references the illustration, 5 and certainly, it's the width -- a POSA would 6 understand it's the width of the fork that increases 7 the lever arm so that given a force in your fingers, 8 there's more torque with a longer lever arm. 9 BY MR. STEIN: 10 Q. Looking back to your declaration, 11 Exhibit 2056, Paragraph 35, you talk about analyzing 12 the prior art from the perspective of a POSA and not 13 simply providing your own personal conclusion. So 14 what's the difference between a perspective of a POSA 15 and a personal conclusion? 16 MR. PETERS: Object to form. 17 THE WITNESS: So a person of ordinary skill 18 is supposed to have knowledge at that time, and I 19 certainly have knowledge after that time. So I was 20 using the information that would have been available 21 to a POSA at the time of the invention. 22 BY MR. STEIN: 23 Q. Are any of your opinions different from the 24 opinions that you formed through the lens of a POSA? 25 MR. PETERS: Object to form. Page 70	1 knowing what I know today after the -- looking at the 2 invention, and then in hindsight, trying to pick or 3 cull pick pieces from the prior art. 4 Q. In Paragraph 45 you talk about "the possible 5 approaches and selection to solve the problem must be 6 known and finite." 7 What's the difference between something being 8 known and something being finite? 9 MR. PETERS: Object to form. 10 THE WITNESS: Well, in the context of 11 "known," that they're known to a person of ordinary 12 skill, and that there would be a -- in my view, a 13 reasonable number of possible combinations, 14 approaches. 15 BY MR. STEIN: 16 Q. Paragraph 46 you say, "I understand that 17 routine optimization may be sued." Is that a typo? 18 A. I'm sorry to interrupt. Go ahead. 19 Q. Yeah. I think we're on the same page. You 20 meant to say, "used"; right? 21 A. That's correct. 22 Q. And then in the last two lines of 23 Paragraph 46 you say, "explaining why a POSA would 24 have arrived at the claimed invention through routine 25 optimization." Page 72
1 THE WITNESS: All the opinions I formed were 2 in view of a POSA. 3 BY MR. STEIN: 4 Q. But you talk about, here in Paragraph 35, 5 that there's a difference between the perspective of a 6 POSA and your own personal conclusion. 7 So my question is did you have any personal 8 conclusions that would have differed from the 9 perspective of a POSA that you offer in the 10 declaration? 11 A. Not that I recall, no. 12 Q. So there was no difference between your 13 personal conclusions and the perspective of a POSA? 14 MR. PETERS: Object to form. Asked and 15 answered. 16 THE WITNESS: I don't recall forming any 17 personal opinions. I focused on looking at everything 18 through the eyes of a POSA. 19 BY MR. STEIN: 20 Q. Turning to Paragraph 41, you mention in the 21 last line of Paragraph 41 about selectively culling 22 from the prior art. 23 What does that mean? 24 A. Yeah. I hope it means just what it says, 25 that an obvious analysis can't be based on basically Page 71	1 So what are some examples of how a POSA can 2 arrive at routine optimization? 3 MR. PETERS: Object to form. Calls for a 4 legal conclusion. 5 THE WITNESS: So routine optimization, in my 6 mind, as I mentioned before, kind of tightening up 7 tolerances, maybe, you know, thinning walls to be able 8 to save on material cost, maybe finding ways of making 9 it easier to manufacture. 10 (Previously marked Exhibit 1005 was made 11 available to the deponent.) 12 BY MR. STEIN: 13 Q. Okay. So now talking about the Saikley 14 reference, are you familiar with the reference to 15 Saikley, Exhibit 1005? 16 A. I am. 17 Q. So Saikley describes a shortened lancet; 18 right? 19 A. That's correct. 20 Q. What's your understanding of what a shortened 21 lancet is? 22 A. That it's a lancet body that is relatively 23 short. 24 Q. Shorter than what? 25 A. I'd have to go back to see what he was Page 73

1 comparing it to. I don't recall. 2 Q. So you don't have that in front of you, do 3 you? 4 A. Saikley? Same thing. I should have a -- I 5 know I've got a copy of it on my hard drive. 6 MR. STEIN: Okay. Yeah. If you want to go 7 open that, that would be fine with me. 8 THE WITNESS: Okay. 9 (Pause.) 10 THE WITNESS: Okay. 11 BY MR. STEIN: 12 Q. Yeah. So I had asked what the shortened 13 lancet in Saikley means. Shortened relative to what? 14 (The witness reviewed material.) 15 THE WITNESS: I'd have to search the document 16 to figure it out. 17 (The witness further reviewed material.) 18 THE WITNESS: Yeah. I'd have to go through 19 the document to answer that question. I don't recall. 20 BY MR. STEIN: 21 Q. I thought you were doing that. Okay. 22 A. I did a quick scan, but unfortunately, this 23 one is not OCR'd. 24 Q. Okay. So have a look at Figure 3 of Saikley, 25 Exhibit 1005. Page 74	1 MR. PETERS: Object to form. 2 THE WITNESS: No. No. 3 BY MR. STEIN: 4 Q. You're changing the testimony you just told 5 me two questions ago? 6 MR. PETERS: Objection. Mischaracterizes 7 testimony. 8 THE WITNESS: I don't recall what you're 9 saying. 10 BY MR. STEIN: 11 Q. So I asked you, "And in order to perform the 12 blood-drawing operation does that lancet need to fit 13 through the opening 57?" 14 And your answer was, "It would." So is that 15 still your testimony, or are you changing that? 16 A. That's still my testimony. 17 Q. So if Saikley provides some dimensions for 18 that opening or ring 57, would that not give you some 19 information about the dimensions of the lancet 46? 20 A. No. 21 Q. Why not? 22 A. Because all I know is that the lancet needs 23 to go through it. So it does need to be smaller, but 24 I don't know how much smaller. It could be a lot 25 smaller. Page 76
1 Does the lancet that we see there, 46, does 2 that need to fit through the opening 57 that we see in 3 Figure 3? 4 A. Could you repeat the question? I didn't have 5 the figures in front of me. 6 Q. Okay. So Figure 3 of Saikley, Exhibit 1005, 7 is 46 a lancet? 8 A. I believe so. 9 Q. And in order to perform the blood-drawing 10 operation, does that lancet need to fit through the 11 opening 57? 12 A. It would. 13 Q. Do you recall if Saikley provides dimensions 14 for that opening 57? 15 A. Well, first, again, this is -- as I look at 16 this drawing, the device is at an angle, and the 17 lancet appears to be flat and not at an angle. So, 18 again, this is basically kind of -- just for me, it's 19 not anything to do other than to say that the device 20 is in the body -- the lancet is in the body of the 21 device in place. 22 Q. Well, what if Saikley gives you dimensions 23 for 57 though? Wouldn't that tell you something about 24 the dimensions for the lancet, which you told me needs 25 to fit through that ring 57? Page 75	1 Q. So it does tell you something; right? It 2 doesn't tell you nothing. 3 MR. PETERS: Object to form. 4 THE WITNESS: It tells me a little. 5 BY MR. STEIN: 6 Q. Okay. So let's look at Paragraph 38 of 7 Saikley. You'll see the -- 8 THE WITNESS: Hold on while I get there. 9 MR. STEIN: Sure. 10 (Pause.) 11 THE WITNESS: I'm there. 12 BY MR. STEIN: 13 Q. So the third sentence that starts with, "In 14 the preferred embodiment, ring 57." 15 Do you see that? 16 A. I do. 17 Q. And then it continues and gives some 18 dimensions. Has a major diameter about 19 11 millimeters, stands about 2 millimeters off of 20 cap 38 and has a width or minor diameter of about 21 1 millimeter. 22 So in the context of the questions we've been 23 discussing, what information can a POSA draw from 24 those dimensions in the understanding that the lancet 25 needs to fit through the ring 57? Page 77

1 MR. PETERS: Object to form. 2 THE WITNESS: That it needs to fit inside of 3 that opening. So it needs to be smaller than that 4 opening. 5 BY MR. STEIN: 6 Q. Okay. And so what would be the boundary 7 for -- the upper bound for how large that lancet is in 8 view of the dimensions of ring 57? 9 A. It can't be bigger than the opening. 10 Q. And how big is the opening? 11 A. As it's described there. 12 Q. Well, what does it say? 13 A. Do you want me to read the text? 14 Q. Yeah. 15 Paragraph 38, about halfway through it says, 16 "In the preferred embodiment, ring 57 is semi-toroidal 17 in shape and has a major diameter of about 18 11 millimeters, stands about 2 millimeters off" -- 19 THE WITNESS: Actually, let me go back and 20 look and make sure I understand the image. 21 (The witness reviewed material.) 22 THE WITNESS: Yeah. Maybe I misunderstood 23 because if I look now at -- I'd have to go back and 24 take a look, but as I look now at Figure 4, it's clear 25 that the lancet does not pass through that ring 57. Page 78	1 Q. What more information would you need to know 2 that if the reference provided dimensional information 3 for the collar 58, whether that would provide the POSA 4 with dimensional boundaries for some portion of the 5 lancet 46? 6 A. Yeah, sitting here right now, I'd need to 7 understand that -- the context, but I don't see how 8 the dimension 58 relates to 46, or maybe I should have 9 said 48 because I think 46 is the entire device or 10 entire lancet body. 11 MR. STEIN: So look at Paragraph 42 of 12 Saikley. 13 (The witness further reviewed material.) 14 THE WITNESS: We're getting near an hour. So 15 whenever is good for you. Just a quick heads up. No 16 rush. 17 BY MR. STEIN: 18 Q. Okay. Just maybe just a couple more 19 questions on this, and then we'll take a break. 20 A. Yeah. Paragraph 42? 21 Q. Yeah. Do you see where it says, "the guiding 22 feature on lancet 46 is a cylindrical collar 58 about 23 3 millimeters from the needle point"? 24 A. I do. 25 Q. What does it mean when Saikley says that the Page 80
1 So I misspoke that the lancet needs to pass through 2 it. I correct myself. 3 BY MR. STEIN: 4 Q. Okay. But based on Figure 4 and what we know 5 about ring 57, can we -- can a POSA form any 6 conclusions about some of the boundaries around the 7 dimensions of the lancet 46? 8 A. Not really, no. 9 Q. So could that lancet be like 100 millimeters 10 wide? 11 A. Yeah. The relationship -- yes, it could. 12 There is no mechanical relationship between the 13 ring 57 and the lancet body because the lancet is 14 stopped at, I believe it's shell 54. So the only 15 relative place where the two are relative to each 16 other is when that lancet is fully extended, and it's 17 only the needle that's surrounded by the part 57. 18 Q. And what if we had dimensional information 19 about that collar 58 of the lancet 46? Would that 20 provide some boundaries to the POSA as to dimensions 21 of portions of the lancet? 22 MR. PETERS: Object to form. 23 THE WITNESS: You'd have to -- I can't answer 24 that without more information. 25 BY MR. STEIN: Page 79	1 "cylindrical collar is about 3 millimeters from the 2 needle point"? 3 THE WITNESS: Let me go back and take a look, 4 make sure I understand. 5 (The witness further reviewed material.) 6 THE WITNESS: I believe what that means is 7 that the distance from the -- in this case, looking at 8 Figure 4, the vertical distance from the end of the 9 needle to the lancet body is about 3 millimeters. 10 BY MR. STEIN: 11 Q. Okay. Can you help me draw that so I know 12 that I understand? 13 So if we look here, I'm sharing my screen -- 14 oh, I have the wrong figure. Sorry. 15 A. That was the right one. 16 Q. You wanted 4; right? I had 10 accidentally. 17 A. Sorry. 18 Q. 4; right? 19 A. Yes. 20 Q. Okay. So I have Figure 4 on my screen. This 21 is Saikley Exhibit 1005. 22 So what you're saying is from here -- let me 23 try that again. I don't think you can insert 24 characters. 25 (Pause.) Page 81

1 BY MR. STEIN: 2 Q. So approximately between the ends of this 3 carat that I've drawn, if I pull 3 millimeters here, 4 that would be what you're talking about (indicating)? 5 A. That's correct. 6 MR. STEIN: I can't draw it for the life of 7 me. Do you think you could draw it? Let me try 8 again. 9 After I draw this, we'll take the break you 10 requested. Sorry to draw it out a little bit. 11 THE WITNESS: No. That's fine. 12 (Pause.) 13 BY MR. STEIN: 14 Q. Is that right now? So between the end of the 15 carat, the needle point is going to be 3 millimeters 16 based on what Saikley says in its text; right? 17 A. That's the way I read it, correct. 18 MR. STEIN: I'll save this as an exhibit, and 19 then we can take the break. 20 THE WITNESS: Uh-huh. 21 (Pause.) 22 MR. STEIN: So this is Exhibit 1043. 23 (Deposition Exhibit 1043 was marked for 24 identification.) 25 MR. STEIN: Okay. We'll send that around. Page 82	1 the proximal end of the secondary sheath. 2 BY MR. STEIN: 3 Q. Was that my question? You seem to be talking 4 about some limitations of some of the other claims, 5 which we'll get to in a second when with it talks 6 about the length. I'm only asking you about Claim 14. 7 Does Claim 14 recite a length? 8 A. I'm relying on the Court's construction and 9 talking about the length of the gripping handle 10 portion that the court, you know, said where it is, 11 and it's between those ends. There can be other 12 things in the device, or in the lancet, but the 13 gripping handle portion is between the end of the 14 distal end of the primary sheath and beginning of the 15 proximal end of the secondary sheath. 16 Q. And your understanding of that is formed by 17 the district court's conclusions concerning the length 18 of the gripping handle portion. 19 Is that what you said? 20 A. In part, as well as the specification itself. 21 Q. And where in Claim 14 does it recite a length 22 of the gripping handle portion? 23 A. I don't believe it does. 24 Q. So for purposes of Claim 14, does the claim 25 itself, Claim 14, say that the gripping handle only Page 84
1 Why don't we go off the record now. 2 (A recess was taken from 9:15 a.m. 3 to 9:27 a.m.) 4 BY MR. STEIN: 5 Q. Dr. Collins, I want to look at the claims of 6 the '635 patent for a minute. So if you could pull up 7 the '635 patent, or I could share my screen. 8 I will look at Claim 14. 9 A. Okay. I'm there. 10 Q. So where the claim recites "gripping handle 11 portion," it says at the top of Column 10, "and a 12 gripping handle portion extending between the primary 13 sheath and the secondary sheath." 14 Does the claim say the gripping handle 15 portion only extends between the primary sheath and 16 the secondary sheath and nowhere else? 17 A. No. It says it extends between them. 18 Q. So does that mean that some portion of the 19 gripping handle portion could be both between and 20 beside the primary sheath and the secondary sheath? 21 MR. PETERS: Object to form. 22 THE WITNESS: Well, I think in combination 23 with the Court's claim construction of the length of 24 the gripping handle portion. It's not decided. It's 25 only between the distal end of the primary sheath and Page 83	1 extends between the primary sheath and the secondary 2 sheath? 3 MR. PETERS: Objection. Asked and answered. 4 THE WITNESS: Yeah. I don't read Claim 14 in 5 isolation. If I read Claim 14, I read it in context, 6 and that's my understanding. 7 BY MR. STEIN: 8 Q. So let's look at the patent, and if we look 9 at Figure -- let's go with 5D. 10 A. D -- as in dog? 11 Q. Yeah. D -- as in dog. 12 What is 514 in figure 5d of the patent, 13 Exhibit 1001? 14 A. It's a secondary sheath. 15 Q. And the periphery of that secondary sheath, 16 does it extend beyond those arms 520? 17 MR. PETERS: Object to form. 18 THE WITNESS: I don't understand the 19 question. 20 BY MR. STEIN: 21 Q. Do you see those arms 520? 22 A. I do. 23 Q. What are those? 24 A. Arms 520. 25 Q. And what component of the claims are those an Page 85

1 embodiment of, in your opinion? 2 MR. PETERS: Object to form. 3 THE WITNESS: Yeah, they're called first and 4 second arms. 5 BY MR. STEIN: 6 Q. So that's not the gripping handle portion? 7 A. The gripping handle portion between -- the 8 gripping handle portion is shown in 5C because it's 9 easier to see and that's -- you know, the length of 10 the gripping handle portion is between the end of -- 11 the distal end of the primary sheath and the proximal 12 end of the secondary sheath. 13 Q. So the parts of those arms that extend beyond 14 the left edge of the Label L, those are not part of 15 the gripping handle portion. 16 Is that your opinion? 17 A. That would be my opinion, yes. 18 Q. The 512, so the needle is sheathed within 19 512; is that correct? 20 A. That's correct. 21 Q. How far does the needle extend within 512? 22 MR. PETERS: Object to form. 23 THE WITNESS: It's not shown, and my 24 recollection is the specification calls 512 "the 25 primary sheath." Page 86	1 Q. Well, let's see what Saikley says. So if you 2 go to Exhibit 1005 at Paragraph 13, what does Saikley 3 call -- Paragraphs 13 to 15. So what does Saikley 4 call 7A to 7C? 5 A. It calls them "perspective view." 6 Q. So you disagree with the author of the 7 reference? He didn't know what he was talking about? 8 MR. PETERS: Objection. 9 (Indiscernible crosstalk.) 10 THE WITNESS: He did not draw it. 11 MR. STEIN: You guys were talking over each 12 other. I couldn't hear you. 13 MR. PETERS: Sorry. I objected to form. 14 Go ahead, John. 15 THE WITNESS: I don't know what he knew or 16 what he didn't know. All I know is that these figures 17 are not perspective drawings. 18 BY MR. STEIN: 19 Q. Okay. If they were perspective drawings, my 20 question was if you have different perspective views 21 of an object, for example, this reduced length lancet, 22 would that allow you to discern dimensional 23 information about the object? 24 MR. PETERS: Object to form. 25 THE WITNESS: Not without knowing how the Page 88
1 BY MR. STEIN: 2 Q. And the primary sheath is for initial 3 embedment of the sharp lancing tip; correct? 4 A. Correct. 5 Q. So some portion of the needle extends within 6 512; right? 7 A. That's my understanding, yes. 8 (Pause.) 9 BY MR. STEIN: 10 Q. Okay. Let's go back to Saikley for a minute. 11 So I want to look at Figure 7C of Saikley. Let me 12 know when you're there. 13 A. I'm there. 14 Q. Is Figure 7C shown in the same perspective as 15 Figure 7A? 16 MR. PETERS: Object to form. 17 THE WITNESS: It doesn't look that way, no. 18 BY MR. STEIN: 19 Q. When you have multiple, different perspective 20 views of an object, does that allow you to learn 21 dimensional information about that object? 22 MR. PETERS: Object to form. 23 THE WITNESS: Well, first, I don't believe 24 these are perspective views. 25 BY MR. STEIN: Page 87	1 perspective was generated. So the view itself doesn't 2 tell you that. You have to know where the horizon 3 points are. 4 BY MR. STEIN: 5 Q. So you would need to know the horizon points. 6 What else would you need to know in order to draw a 7 dimensional conclusion? 8 A. You'd need to know -- well, you need to have 9 the drawing and the horizon points. That would be -- 10 and that would just give you kind of relative sizes, 11 not absolute sizes. 12 Q. So if you have the drawing and you have the 13 horizon points, you can form relative dimensional 14 conclusions. 15 Is that accurate? 16 A. Mathematically, you'd be able to, but you'd 17 need a way to be able to pull dimensions off of those 18 drawings. Actually, let me think about that. 19 The answer is no, I'm sorry you can't, 20 because there are angles you just don't know. For 21 example, how much something is twisted. So no. I'm 22 not confident that off of a perspective you'd be able 23 to generate dimensions. 24 Q. Well, for instance, in Figure 6 of Saikley, 25 you have the lancet 76 -- right? -- which is the Page 89

1 reduced lancet? 2 A. I see that. 3 Q. And in Figure 7A we have the same reference, 4 numeral 76 -- right? -- for the reduced length lancet? 5 A. I see that. 6 Q. In Figure 7B we have the referenced numeral 7 used again -- right? -- the reduced length lancet 76? 8 A. I see that. 9 Q. And in Figure 8 we have the reduced length 10 lancet depicted again. Do you see that in Figure 8 as 11 well? 12 MR. PETERS: Object to form. 13 THE WITNESS: I think that's a different 14 lancet. 15 BY MR. STEIN: 16 Q. Why do you think that? In the lower left 17 corner it's using the same reference numeral as 76 -- 18 A. I didn't see that. 19 Q. So do you now think it's the same reduced 20 length lancet we saw in 7A to 7C in Figure 6? 21 A. I'm just checking the drawings. Can you 22 remind me which comparisons we're making? 23 Q. The reduced length lancet, I'm just observing 24 that it's showing in a few different figures. So 25 Figure 6 has 76, as do Figures 7A, 7B, and 8, Page 90	1 In Figure 4, we know that that length is 2 3 millimeters, but the drawing itself doesn't have to 3 be 3 millimeters. 4 Q. I asked about the relative dimensional 5 comparison though. So the fact that we see this 6 reduced length lancet and we see that exposed needle 7 tip in a few different figures, can we determine that 8 the exposed needle tip is shorter than the rest of the 9 lancet -- the reduced length lancet's body? 10 MR. PETERS: Objection. Form. 11 THE WITNESS: Not necessarily. And these are 12 not perspective drawings, as far as I can tell, and 13 they're not consistent. 14 BY MR. STEIN: 15 Q. Well, what about Figure 8? So Figure 8 is 16 just a side view, and that exposed needle tip sure 17 looks a whole lot shorter than the rest of the lancet 18 body. But your opinion is that 50 might be far longer 19 than the rest of the lancet body? That's consistent 20 with Figure 8? 21 MR. PETERS: Object to form. 22 THE WITNESS: This is the same discussion we 23 had relative to my patents. These are teaching -- 24 these are not product drawings. These are 25 illustrations. In an actual -- if 3 millimeters isn't Page 92
1 Figure 8. 2 A. Yeah. I see they're all referenced in 76. 3 Q. So with them all depicting the reduced length 4 lancet 76 and with different views, are you able to 5 form -- is a POSA able to form any opinion concerning 6 the relative dimensions of that component? 7 A. No. 8 Q. So you don't think between those, let's see, 9 one, two, three, those four different figures, you 10 don't see any commonalities in terms of being able to 11 compare components of that reduced length lancet to 12 other components of that same reduced length lancet to 13 form relative dimensional conclusion? 14 MR. PETERS: Object to form. 15 THE WITNESS: Not from these drawings, no. 16 BY MR. STEIN: 17 Q. Okay. I'll ask a specific question then. 18 So earlier we talked about that distance that 19 I had trouble drawing of the 3 millimeters which was 20 the length of the exposed needle in Figure 4. 21 So we also see in Figure 6 and we see in 22 Figure 8 that there's an exposed needle depicted. So 23 can we not at least determine that that exposed needle 24 is shorter than the rest of the body of the lancet? 25 A. You can't infer any dimensional information. Page 91	1 long enough, I can make the needle longer. 2 BY MR. STEIN: 3 Q. That wasn't -- sorry. 4 A. My understanding and my practice is not to 5 infer any type of dimensional information from a 6 patent drawing unless it's explicitly called out as 7 being two scale or specific dimensions being 8 referenced. 9 Q. Okay. So turning to Figure 8, it's a 10 possibility that 50, the exposed needle tip of the 11 reduced length lancet 76, that might be far longer 12 than the rest of the lancet body that we see in 13 Figure 8? 14 MR. PETERS: Object to form. 15 THE WITNESS: Functionally I don't know why 16 that would be, but it's possible. 17 BY MR. STEIN: 18 Q. It could be maybe 10 times as big as the 19 lancet body. That would be consistent with what we 20 see in Figure 8? 21 MR. PETERS: Object to form. 22 THE WITNESS: Well, a POSA would basically 23 kind of use common sense to say, "I can make this 24 device work for what I want, and I can make the 25 dimensions what I want. If I want the needle longer, Page 93

1 I can make the needle longer." 2 BY MR. STEIN: 3 Q. Yeah, but that's not what I've been asking 4 you about. I'm asking you about Figure 8, and if your 5 opinion is that it would be consistent with Figure 8 6 to form a conclusion that the exposed needle tip 50 is 7 10 times as long as the rest of the lancet body. 8 MR. PETERS: Object to form. 9 THE WITNESS: As a POSA, I would look at this 10 as an example of what it looks like, and I can change 11 the lengths as I wish. 12 BY MR. STEIN: 13 Q. I'm not -- my question hasn't asked for you 14 to assume that you can change the length. I'm asking 15 you to interpret Figure 8 as you see it in the Saikley 16 patent, Exhibit 1005, and your opinion is through the 17 lens of a POSA as to whether viewing Figure 8, that 18 exposed needle tip, could be 10 times as long as the 19 rest of the lancet body after reviewing Figure 8. 20 MR. PETERS: Object to form. Asked and 21 answered. 22 THE WITNESS: Yeah. My answer remains the 23 same, that it's not proper to infer relative 24 dimensions off a patent drawing unless it's explicitly 25 called that it's drawn to scale. Page 94	1 BY MR. STEIN: 2 Q. The standard applications we've been talking 3 about in this case. So, you know, at-home 4 blood-pricking devices for glucose monitoring. Would 5 that be an interpretation that a POSA could reasonably 6 form, that that needle sharp might be 10 times as long 7 as the rest of the lancet body? 8 MR. PETERS: Object to form. 9 THE WITNESS: I think a POSA would generally 10 understand that these needles penetrate about 3 to 11 4 millimeters into the skin, but again, you can go 12 with a very short lancet body. 13 BY MR. STEIN: 14 Q. But, again, knowing that information, a POSA 15 brings that experience and knowledge to bear in 16 interpreting patent figures; right? They don't just 17 interpret the figure and think unreasonable things, 18 like the needle sharp might be 10 times as long as the 19 lancet body? 20 MR. PETERS: Object to form. 21 THE WITNESS: You can look at drawings, and 22 they do not assign dimensional information to those 23 drawings unless they're explicitly called out as being 24 to scale. 25 BY MR. STEIN: Page 96
1 BY MR. STEIN: 2 Q. So does a POSA bring their knowledge and work 3 experience to their evaluation of figures in a patent 4 as well? 5 A. I believe so, yes. 6 Q. So wouldn't knowing that this is a lancet 7 also be able to be used in interpreting the relative 8 dimensions that are depicted in the patent? So it's 9 not just the figure. It's also the POSA's experience 10 with these types of devices. 11 MR. PETERS: Object to form. 12 THE WITNESS: A POSA would certainly be aware 13 of prior art at the time and that things can vary. 14 BY MR. STEIN: 15 Q. So have you ever seen a lancet with an 16 exposed needle tip that is 10 times as long as the 17 rest of the lancet body? 18 A. No. 19 Q. So that would be something that a POSA would 20 not find reasonable upon reviewing Figure 8, would 21 they? 22 MR. PETERS: Object to form. 23 THE WITNESS: It depends on what application 24 was -- was being pursued. I can't personally imagine 25 what that would be. Page 95	1 Q. What about Figure 7D? Are you able to tell 2 me whether those needle points 118 are longer or 3 shorter than the lancet body 116? 4 MR. PETERS: Object to form. 5 THE WITNESS: 7B? 6 MR. STEIN: 7D -- as in dog -- of Saikley 7 Exhibit 1005. 8 THE WITNESS: Can you repeat the question, 9 please. 10 BY MR. STEIN: 11 Q. Are you able to determine -- viewing the 12 figure and looking at this figure through the lens of 13 a POSA who brings to bear industry knowledge and 14 experience with these devices, are you able to 15 determine whether the needle sharps 118 are longer or 16 shorter than the lancet body 116? 17 MR. PETERS: Object to form. 18 THE WITNESS: Yeah. My answer is the same, 19 that a POSA would not infer dimensional limitations 20 off of a drawing. 21 BY MR. STEIN: 22 Q. I didn't ask that though. I asked whether a 23 POSA bringing to bear not just the figure -- I'm not 24 asking about the figure standing alone. I'm asking 25 about the figure plus a POSA's experience with these Page 97

25 (Pages 94 - 97)

1 types of devices. 2 Would that be sufficient to allow them to 3 determine whether 118 is longer or shorter than 116? 4 MR. PETERS: Object to form. Asked and 5 answered. 6 THE WITNESS: Yeah. My answer remains the 7 same. A POSA would not use a drawing for relative 8 dimensions. 9 BY MR. STEIN: 10 Q. I just want to make sure my question has been 11 understood. So I'm not -- you understand that I'm not 12 asking you about the figure alone. 13 Do you have that understanding? 14 A. I have that understanding. 15 Q. Okay. So I'm asking you about a POSA's 16 industry knowledge and experience with these lancet 17 devices. Do you understand a POSA to have that type 18 of background knowledge? 19 A. Certainly a POSA is aware of the prior art. 20 Q. So a POSA with that background knowledge, 21 reviewing Figure 7D, would they be able to determine 22 whether 118, the needle sharp, is longer or shorter 23 than 116? 24 MR. PETERS: Object to form. Asked and 25 answered. Page 98	1 MR. PETERS: Object to form. 2 THE WITNESS: 86 is sitting on that collar, 3 58. 4 BY MR. STEIN: 5 Q. Is it in the middle of the collar? 6 A. It looks to be in the middle of the collar. 7 Q. So you can't determine relative dimensions 8 but you can determine the relative positions? 9 A. It's shown as being there, and that's how I 10 would interpret it. 11 Q. And what about if we look at Figure 7A? Are 12 you able to determine the location of the twist-off 13 joint relative to the collar 58? 14 A. Yeah, it calls off the twist-off joint. 15 Q. So is it in the center of that collar 58 in 16 Figure 7A of Saikley Exhibit 1005? 17 A. I can't tell. 18 Q. So if we look at Paragraph 42 of Saikley -- 19 actually, look at Paragraph 50 instead of Saikley 20 Exhibit 1005. 21 There's a sentence that reads, "Cap 78 may be 22 an integrally -- 23 A. I'm sorry. I just want to see where it is. 24 Q. Okay. 25 A. About where in that paragraph? Page 100
1 THE WITNESS: And my answer remains the same. 2 A POSA would look at that illustration and not infer 3 anything from that illustration about the relative 4 sizes. A POSA could use other information to actually 5 design the product that he or she wants, but he or she 6 would not use any dimensional information from a 7 patent figure unless it's marked as to scale. 8 BY MR. STEIN: 9 Q. And let's look at Figure 7C. So Figure 7C 10 has this lathe-shaped sharp 64. Are you able to 11 determine, again, not using only the figure, but 12 looking at the figure through the lens of a POSA who 13 brings to bear their background knowledge of these 14 devices, are you able to determine whether 64 is 15 longer or shorter than the rest of the lancet body? 16 MR. PETERS: Object to form. 17 (Indiscernible crosstalk.) 18 THE WITNESS: My answer remains the same, 19 that a POSA would not look at a patent illustration 20 for absolute, relative dimensional information unless 21 it's specifically noted that it's drawn to scale. 22 BY MR. STEIN: 23 Q. What about the location of 86 in Figure 7C 24 relative to the rest of that collar 58? Are you able 25 to determine where 86 is located within that collar? Page 99	1 Q. Around the middle. A little closer to the 2 bottom, but around the middle. 3 A. I see that. Okay. 4 Q. "Cap 78 may be an integrally molded, pull-off 5 tab such as shown in Figure 7A." 6 What does the word "tab" mean in the context 7 of Paragraph 50 of Saikley Exhibit 1005? 8 A. I would interpret a tab as, you know, 9 something that you grab. 10 Q. So a tab is a gripping handle? 11 A. Not in the context of the claims. A tab is 12 something that you grab. 13 Q. And what does it mean when it says it's a 14 "pull-off tab"? What does the word "pull-off" add? 15 A. That my understanding is that it's to be 16 separated from the lancet body. 17 THE WITNESS: I'm just going to get up for a 18 second and close the door. My family is coming in. 19 One second. 20 (Pause.) 21 THE WITNESS: I'm back. 22 BY MR. STEIN: 23 Q. So Paragraph 49 also says, "Large Lancet Cap 24 for Handling." 25 Do you see that? Page 101

1 A. I see that. 2 Q. What does the word "Large" mean in that 3 paragraph? 4 A. It means it's bigger than something else. 5 Q. What does the word "Handling" mean in that 6 paragraph? 7 A. I believe it means being able to manipulate 8 the lancet. 9 Q. Then in Paragraph 50 there's also a sentence 10 that reads, "This short length might make the lancet 11 difficult for the user to handle and install." 12 Why would a short length lancet be difficult 13 to handle and install? 14 A. Because it's small, and this population may 15 have trouble with vision and dexterity. 16 Q. In that description there, the short length 17 lancet -- short length might make the lancet difficult 18 to handle and install, so the protective cap should be 19 made much larger than usual to aid handling." 20 So what does that mean? 21 A. Just what it says, that you can make the cap 22 larger to make it easier to handle. 23 Q. Is that the same advantage described at 24 Column 6, Line 10 of the '635 patent? 25 A. Column 6, Line 10? Page 102	1 Column 6 -- the line number is weird, but you said 2 Line 9, so Column 6, Line 9 to 10, "The handles allow 3 for the body of the lancet to be smaller." 4 So what does that mean to you? 5 A. It means that the lancet body can be -- can 6 be smaller. 7 Q. Okay. Then let's go to Paragraph 50 of 8 Saikley. When it says, "This short length" lancet -- 9 gosh, "This short length might make the lancet 10 difficult for the user to handle and install, so the 11 protective cap should be made much larger than usual 12 to aid handling." 13 Are those not articulating the same thing, 14 the lancet is smaller, so cap is larger? 15 MR. PETERS: Vague as to form. 16 THE WITNESS: No. They're comparing two 17 different things. Saikley is talking about 18 handleability, and the section of the '635 that we 19 talked about was relative to -- the advantage was in 20 the device. 21 BY MR. STEIN: 22 Q. Let's look at Column 6, Line -- that line 23 number is throwing me. It's 11, 12, 12 or so. "The 24 sterility caps optionally have one or more readily 25 visible circular or flat areas that can be used for Page 104
1 Q. Yeah. It starts with "The handle allows 2 for." 3 A. "The handle allows for the body of the lancet 4 to be smaller than a Regular Version (RV) lancet, 5 allowing the corresponding lancet devices to be 6 smaller." 7 Q. So is that the same advantage that Saikley 8 describes in Paragraph 50? 9 A. No. 10 Q. Why not? 11 A. Because it's talking about making -- the 12 '635, he's talking about, you know, making the lancing 13 devices smaller. 14 Q. "The handles allow for the body of the lancet 15 to be smaller than a Regular Version lancet." 16 So where -- the next clause talks about the 17 lancing devices, but what about the first clause here, 18 "The handles allow for the body of the lancet to be 19 smaller than a Regular Version lancet."? 20 Is that not the same advantage in 21 Paragraph 50 that we just looked at of Saikley? 22 A. I'm just reading what the words say, and it's 23 talking about -- the only advantage I see here is 24 relative to the device. 25 Q. How do you understand the phrase of Page 103	1 applying branding/logos." 2 Do you see that? 3 A. I do. 4 Q. What does "can be used" mean in the context 5 of the sentence in the '635 patent? 6 A. That it's something that a POSA could choose 7 to implement. 8 Q. So it's an intended sort of optional use? 9 MR. PETERS: Object to form. 10 THE WITNESS: You said, "intended optional 11 use"? 12 BY MR. STEIN: 13 Q. Yeah. 14 A. I'm not sure what "intended optional use" 15 means, but it says it's an option available to a POSA. 16 Q. Do you understand what the word "intended" 17 means? 18 A. I believe I do, but I don't know who you're 19 referencing as having the intent. 20 Q. The authors of the '635 patent. 21 And do you understand what the word "use" 22 means? 23 A. Where is that? 24 Q. In my question. 25 A. Okay. Yeah. I don't understand how to Page 105

1 answer your question. This is something that the 2 patent teaches is an option, and certainly it's 3 intended and they're discussing it. So they know it's 4 an option. 5 Q. So the use of the circular flat display area 6 for applying branding/logos in an intended use of that 7 area of the sterility cap? 8 MR. PETERS: Objection. Calls for a legal 9 conclusion. Object to form. 10 THE WITNESS: Yeah. It just says what it 11 says. I'm not sure how to answer it any other way. 12 BY MR. STEIN: 13 Q. Well, the circular or flat areas that it's 14 describing here, could you use them for something 15 else? Is the patent mandating that these must be used 16 for applying branding/logos? 17 MR. PETERS: Object to form. 18 THE WITNESS: That's not how I read it, no. 19 BY MR. STEIN: 20 Q. So it's an intended use of that area of the 21 sterility caps, but that flat area of the sterility 22 caps isn't limited to that use; is that right? 23 MR. PETERS: Object to form. Asked and 24 answered. Calls for a legal conclusion. 25 THE WITNESS: Again, it's described as an Page 106	1 limitations, but I think a POSA would expect that a 2 twist-off joint to a fairly small area with a thin 3 wall that could be easily broken, and you wouldn't 4 necessarily -- you don't want that to be too long, but 5 I understand that as a POSA. This drawing wouldn't 6 tell me how long it needs to be. 7 Q. So it is possible that that twist-off joint 8 could be as large as the entire handling tip? 9 MR. PETERS: Object to form. 10 Mischaracterizes testimony. 11 THE WITNESS: Yeah. I keep coming back. 12 There is no dimensional information that a POSA would 13 take from that drawing. 14 BY MR. STEIN: 15 Q. Well, what's the answer to my question? So 16 given that your opinion is that a POSA can't take any 17 dimensional information, is it a possibility that the 18 twist-off joint could be as large as the entire 19 handling tip? 20 MR. PETERS: Objection. Asked and answered. 21 THE WITNESS: Yeah. As I indicated, you 22 can't infer it. So is it a possibility? Sure. I 23 can't imagine, frankly, a scenario that would make 24 sense, but is it possible? Yeah. 25 BY MR. STEIN: Page 108
1 option that can be implemented. It doesn't have to 2 be. 3 BY MR. STEIN: 4 Q. Going back to Saikley, so you have a 5 discussion in your declaration about the delineation 6 of the primary sheath in Figure 7A of Saikley. 7 Do you recall that? 8 A. You'd have to point me to it. 9 Q. We can go there in a second, but if we look 10 at Figure 7A of Saikley, are you able to determine 11 where the needle sharp is within that cap 78? 12 A. I can't tell. 13 Q. Is it possible that it only extends as far as 14 the twist-off joint and it's not in the cap 78? 15 A. I don't believe that would be the case. 16 Q. So you believe it's in the cap 78. You're 17 just unable to determine how far in the cap 78 it 18 might be? 19 A. Well, it's not that I can. It's not shown. 20 It's not described. So it can be, basically, any 21 length inside of that P78. 22 Q. And looking at Figure 7A, as a POSA would, is 23 it your view that that twist-off joint could be as 24 large as the entire handling tab? 25 A. Well, again, you can't infer any conventional Page 107	1 Q. Okay. And what about the body of 76 that 2 sits on top of the collar? Is it possible that that 3 body of the reduced length lancet is smaller than the 4 twist-off joint? 5 MR. PETERS: Object to form. 6 THE WITNESS: I keep coming back to it. You 7 can't infer any dimensional information from the 8 patent drawing unless it's specifically noted to be 9 drawn to scale. 10 BY MR. STEIN: 11 Q. Sure. You got to answer the question though. 12 So it's a possibility that the twist-off 13 joint could be larger than the body of that reduced 14 length lancet 76 in Figure 7A of Saikley? 15 MR. PETERS: Object to form. Asked and 16 answered. 17 THE WITNESS: In terms of what a POSA would 18 implement, yeah, that's possible. 19 BY MR. STEIN: 20 Q. The body of the reduced length lancet -- 21 actually, strike that. 22 In your declaration you talk about the -- 23 that cap 78 having a rounded cuboid shape. 24 Do you remember that? 25 A. No, I don't. Page 109

1 Q. Pardon? 2 A. I don't recall specifically. 3 Q. Oh. Okay. Paragraph 50, in the middle. 4 A. I see that, yeah. 5 Q. That is a rounded cuboid? 6 A. So in my view, a cuboid would be basically 7 something that is -- across sections which are 8 cylindrical, but the edges are around it. 9 Q. And is it possible that the edges of this 10 rounded cuboid, as you've described it, of protective 11 cap 78 in Saikley are the same size as the length of 12 that rounded cuboid? 13 MR. PETERS: Object to form. 14 THE WITNESS: I didn't understand. Can you 15 ask that again? 16 BY MR. STEIN: 17 Q. You mentioned that a rounded cuboid has 18 edges; right? 19 A. Right. 20 Q. So is it possible that the edges of the 21 rounded cuboid, as you've described it, of protective 22 cap 78 are the same length as the front of the rounded 23 cuboid that we see in Figure 7A? 24 MR. PETERS: Object to form. 25 THE WITNESS: I still don't understand what Page 110	1 THE WITNESS: Let me go back and look at the 2 claims. 3 (The witness reviewed material.) 4 THE WITNESS: It requires that the primary 5 sheath is attached to the first end of the grip of 6 Claim 1, that the primary sheath is attached at the 7 first end of the gripping handle portion and the 8 secondary sheath is attached at a second end of the 9 gripping handle portion when the protective sterility 10 cap is removed from the lancet. That's all that's 11 required. 12 BY MR. STEIN: 13 Q. Okay. So what's the answer to my question? 14 Do the claims require that the primary sheath is 15 attached to the secondary sheath? 16 MR. PETERS: Object to form. Asked and 17 answered. 18 THE WITNESS: I believe it does because the 19 gripping handle portion has to be attached to the 20 primary sheath and to the secondary sheath at some 21 point. 22 BY MR. STEIN: 23 Q. So an attachment can cover some intervening 24 component as well. It doesn't require a direct 25 attachment? Page 112
1 I'm trying to compare. 2 MR. STEIN: I'll just withdraw that. 3 Q. So turning to Page 23 of your declaration. 4 You're discussing a reference to Stout. 5 Do you remember that reference? 6 A. I do. 7 Q. And you're -- in Paragraph 52 you refer to a 8 lancet body 142, and then continuing you're talking 9 about a lancet body 42 and a lancet body 42 again at 10 the end of the Paragraph 52. Does Stout have a lancet 11 body 42? 12 A. I'd have to go back and take a look. 13 Do you want me to review the patent? 14 Q. No. That's not necessary. 15 I want to jump over to Paragraph 60 of your 16 declaration. 17 So here you describe in Paragraph 60 that the 18 claims recite -- well, first, you start with, "Because 19 these components are recited separately and also 20 because the claims recite that they are 'attached' to 21 each other," I want to ask about this "'attached' to 22 each other." 23 So do the claims require that the primary 24 sheath is attached to the secondary sheath? 25 MR. PETERS: Object to form. Page 111	1 MR. PETERS: Object to form. 2 THE WITNESS: I believe that's true. 3 (Pause.) 4 BY MR. STEIN: 5 Q. What's your understanding of when a patent 6 reference uses a reference numeral for one component 7 and a different reference numeral for a different 8 component. Does that mean that the two components are 9 the same or different? 10 MR. PETERS: Object to form. Calls for 11 speculation. 12 THE WITNESS: It depends. I've seen 13 sometimes where the entire section is given a 14 reference number, and then components within that are 15 given a reference number. So they could be the same, 16 or they could be different to each other. 17 BY MR. STEIN: 18 Q. Okay. So let's move towards Paragraph 76 of 19 your declaration. 20 So in these paragraphs, starting earlier, 21 you're talking about Saikley and whether 7A is an 22 isometric drawing; is that right? 23 A. That's correct. 24 Q. Why did you decide to discuss whether Saikley 25 is an isometric drawing or not? Page 113

1 MR. PETERS: Object to form. 2 THE WITNESS: Well, I was looking at the 3 drawings to try to understand what they are, and as I 4 say, they don't appear to comport with any known 5 standard ways of representing things from an 6 engineering perspective, either a perspective drawing, 7 as it's called, or an isometric drawing. 8 BY MR. STEIN: 9 Q. You also told me a little bit earlier that 10 you don't think Figure 7A of Saikley is a proper 11 perspective drawing; is that right? 12 A. That's correct. 13 Q. Can you show me where in your declaration you 14 say that Figure 7A is not a proper perspective 15 drawing? 16 A. Well, for example, if you look at the top of 17 Page 37, I discuss the fact that all those angles that 18 are supposed to be through the thickness are just all 19 over the place, and that's completely inconsistent 20 with any proper drawing, perspective, isometric, or 21 et cetera. 22 Q. Okay. But where -- okay. I hear you saying 23 that now, but in your declaration do you say it's not 24 a proper prospective drawing? The section you pointed 25 to, you're discussing whether this is a proper Page 114	1 lancet have a certain contour, and if you didn't have 2 those lines, it would be difficult to see the 3 curvature? 4 MR. PETERS: Object to form. 5 THE WITNESS: Those are break points or break 6 lines, and again, it could be where there's curvature, 7 but those are meant to be perpendicular to the 8 surface. And those certainly are not consistent with 9 perpendicular. 10 BY MR. STEIN: 11 Q. Your opinion is that all contour lines need 12 to be perpendicular to the same plane? 13 A. I was talking about a particular type of line 14 which shows if you've got a straight line -- or a 15 straight wall and then there's a curve and then 16 there's a second straight wall, there's a break point 17 where the curvature starts. And those lines are shown 18 as lines to demarcate where the curve is and where the 19 flat portion is, and those are perpendicular to the 20 wall, for a straight wall. 21 Q. And then turning back to Page 36 where you 22 draw these angles on top of the S&L axes that 23 Mr. Delman drew, so for the figure in the upper middle 24 on Page 36, where you have this 22-degree angle 25 measured, do you see that? Page 116
1 isometric drawing. 2 MR. PETERS: Object to form. Asked and 3 answered. 4 (The witness reviewed material.) 5 THE WITNESS: Yeah. In the paragraphs around 6 82 it talks about the issues of this not being 7 consistent with a perspective drawing. 8 BY MR. STEIN: 9 Q. Where do you see that? I see you criticizing 10 Mr. Delman around this foreshortening thing, but I 11 don't see you saying that Figure 7 of Saikley is not a 12 proper perspective drawing. 13 A. Well, I wouldn't use those words, but that's 14 certainly what I was trying to convey. 15 Q. Let's go back to the part you pointed me to a 16 minute ago, on Page 37, where you draw these angles. 17 So those lines -- why did you decide to draw angular 18 lines around those short lines on the side of the 19 reduced length lancet of Saikley in Figure 7A? 20 A. Those are just extensions so it's easier to 21 see, but those are lines that should be, you know, 22 oriented along the depth, and they're all very 23 different angles. 24 Q. Aren't those just contour lines that are 25 showing the way that the sides of the reduced length Page 115	1 A. I do. 2 Q. And the one to the right of that where you 3 have the 67 degree angle measure, do you see that? 4 A. I do. 5 Q. Why are those on opposite sides of the line? 6 So the acute angle, the 22 degree angle relative to 7 the S line versus the angle that -- the also acute 8 angle you measured relative to the L line, why didn't 9 you measure them on the same side of the lines so that 10 the angle relative to L would have been obtuse? 11 A. Because I was basically using kind of the 12 standard way that isometric drawings are referenced. 13 So if you look on the left, that's a standard way of 14 using an isometric drawing with lines 30 degrees off 15 the horizontal. 16 Q. So if this were a proper isometric drawing, 17 what would you have expected to see? 30 and 30 for 18 these angles? 19 A. Correct. 20 Q. These angles that you've measured, though, 21 are not part of Saikley's figure; right? These are 22 annotations that Mr. Delman added on top of the 23 figure. 24 A. That's correct. 25 Q. So what can those annotations tell you about Page 117

1 the proper or improper isometric form of the drawing 2 itself? 3 A. Well, you can see that the lines he drew 4 are -- that the L line is more or less parallel -- 5 looks to be parallel -- and I haven't checked it. 6 It's parallel with the sides, and the S is parallel -- 7 or parallel with the bottom. 8 So those are, you know, the angles that this 9 thing is being drawn at. Plus in an isometric 10 drawing, the only way you can ever have -- for any 11 dimensional information, is only along the isometric 12 axes. It's very clear any dimension off that 13 isometric axes is not proper. 14 Q. I want to go back to your opinion about 15 whether Saikley is a proper perspective drawing. 16 There's a new opinion that's not really in your 17 declaration, but talk to me about why you're now 18 saying this is not a proper perspective drawing, 19 Saikley Figure 7A? 20 MR. PETERS: Objection. Mischaracterizes the 21 information. Object to form. 22 THE WITNESS: Yeah. It's not a proper 23 isometric drawing for a couple reasons. We talked 24 about the fact that the -- 25 BY MR. STEIN: Page 118	1 systems, lancing devices; correct? 2 A. Yes. 3 Q. But this cube, this cube is wholly generic 4 with no, you know, situational context whatsoever; 5 right? 6 A. I don't understand. I'm not trying to say 7 the cube is a lancet. 8 Q. We don't have any background information 9 about what type of product this cube might be; right? 10 It's just a generic cube. 11 A. It's just a cube. 12 Q. Have you ever seen a cube-shaped lancet? 13 A. I have not looked for a cube-shaped lancet. 14 Q. So have you ever seen a cube-shaped lancet? 15 A. I don't recall seeing a cube-shaped lancet. 16 The idea here is, just again, representing that when 17 you're looking at isometric drawings, and you can look 18 at a front view, you have no idea how deep that goes 19 in. If I change that cube, if I change the angle a 20 little bit, I only see a portion of the side, and I've 21 got no idea, based on that drawing, how deep that 22 goes. 23 So I was not representing that this was a 24 lancet. I was just explaining why you can't use these 25 drawings to be able to infer a dimensional information Page 120
1 Q. Perspective. I asked about perspective. 2 A. I'm sorry. It's not a proper perspective 3 drawing. We talked about the fact that at the top of 4 37, you know, those lines are all over the place, 5 inconsistent with a perspective drawing with lines 6 going toward the -- consistently going toward the 7 horizon. 8 And also, I did look at the image, and 9 basically the sides -- the side walls where kind of 10 the lines parallel to what Mr. Saikley had identified 11 as L, as an example, that those are directly parallel. 12 They do not converge. 13 Q. Wouldn't that make the figure more reliable 14 if there's no perspective in it because now the lines 15 have their truer dimensions? 16 A. So no, because therefore, it's not a 17 perspective, and I also said it's not isometric; 18 therefore, it's neither. 19 Q. What if it were just a photograph and then 20 some lines were added to it? 21 A. That would be different. 22 Q. Okay. Let's move on to this cube example 23 that you have on Page 39. 24 So the examples we have in Saikley, a POSA 25 would have some familiarity with lancets, lancing Page 119	1 unless you're given a lot more detail. 2 MR. STEIN: Yeah. That second part of the 3 answer there was not responsive. I didn't ask that 4 question. So I'll object to that. 5 Q. Paragraph 42, at the bottom of Paragraph 83, 6 you mentioned -- 7 A. Page 42? 8 Q. Page 42, yeah, Paragraph 83. 9 A. Okay. 10 Q. You have a parenthetical there after you say, 11 "perspective views/drawings are never used to convey 12 dimensional information," you say, "(without text 13 labels showing the sizes)." 14 What's a text label showing the sizes? 15 A. Yeah. So I could have an isometric drawing 16 where I add dimensions to that drawing. 17 Q. Is a perspective view a type of isometric 18 drawing? 19 A. No. 20 Q. Because I'm asking about a perspective view, 21 and you're answering about isometric. The sentence 22 here is about a perspective view. 23 So you said, "perspective views/drawings are 24 never used to convey dimensional information," and 25 then you have the parenthetical or caveat, "(without Page 121

1 text labels showing the sizes)." 2 So I'm asking about for a perspective view, 3 what would text labels showing the sizes look like? 4 A. Maybe I misspoke, but in a perspective 5 view -- I can have a perspective view and I can add 6 dimensions to that perspective view to show the 7 distance from one part to another. 8 THE WITNESS: We're coming up at about 1:30. 9 So whenever you get a good place to break. 10 MR. STEIN: Okay. Let me see. 11 We can break. That's fine. How long do you 12 think you need for lunch? 13 THE WITNESS: Half hour? 14 MR. STEIN: Steve, all right with you? 15 MR. PETERS: Yeah. 16 MR. STEIN: Okay. So that's 2:00 o'clock 17 Eastern, then. 18 (A recess was taken from 1:29 p.m. 19 to 2:08 p.m.) 20 BY MR. STEIN: 21 Q. Okay, Dr. Collins. We're back after lunch. 22 Do you remember earlier in the deposition we 23 were talking about Figure 5C of the '635 patent? 24 A. Yes. 25 Q. You told me that there's a portion of those Page 122	1 the two sheaths? 2 MR. PETERS: Object to form. 3 THE WITNESS: It's in the claim. That's what 4 the claim requires. 5 BY MR. STEIN: 6 Q. And going back to our discussion of Saikley, 7 we were talking about the type of drawing that 8 Figure 7A is in Saikley; right? 9 A. We talked about -- we've talked about the 10 drawing, yes. 11 Q. Yeah. So I had asked you what if Figure 7A 12 is a photograph and then the drafter sort of traced on 13 top of the photograph to produce the line drawing. Is 14 that a possibility? 15 MR. PETERS: Object to form. 16 THE WITNESS: I don't think so. 17 BY MR. STEIN: 18 Q. Why is that? 19 A. Well, as I mentioned the lines, for example, 20 in the -- on the lancet body showing depth are all 21 over the place. 22 Q. Okay. Putting aside those lines, is there 23 anything else that dissuades you from knowing that 24 this might be a photograph that was traced on top of? 25 MR. PETERS: Object to form. Page 124
1 handles 516 that is not part of the grouping handle 2 portion. 3 Was that accurate? 4 A. That's correct. 5 Q. So if we look at the patent, Column 6, 6 Line 5, it says, "a 'handle' or extension arm portion 7 516 extending between the primary and secondary 8 shrouds for assisting in removal of the cap from the 9 lancet." 10 So is the opinion you've offered today 11 consistent with the text of the patent? 12 A. Certainly. 13 Q. Why is that? 14 A. So it talks about a handle, the extension arm 15 portion 516. Also, if you look at Figure 5 -- yeah, 16 5B might be easier. So those arms can be considered a 17 handle, if not the handle portion of the claim. 18 Q. And how do you know where to terminate the 19 gripping portion, as you now understand it based on 20 your testimony today? 21 A. The same that I've done in all my reports. 22 It's between the distal end of the primary sheath and 23 the proximal end of the secondary sheath. 24 Q. So it's not defined by the portion that you 25 grip. It's defined only by the portion that's between Page 123	1 THE WITNESS: I haven't tried to analyze that 2 to see if that's consistent with a photograph. 3 BY MR. STEIN: 4 Q. If it were a photograph that was traced on 5 top of, would a POSA be able to discern relative 6 dimensions? 7 MR. PETERS: Object to form. 8 THE WITNESS: Well, again, if it were 9 representative as being a photograph, and therefore, a 10 photograph is, by default, a scaled image, then you'd 11 be able to use a scaled image, but this is not a 12 scaled image. 13 BY MR. STEIN: 14 Q. And looking at Figure 7A one more time, so 15 you told me -- or your opinion is that you can't 16 discern relative dimensions from Figure 7A. If we 17 look at that reference Numeral 82, what is that? 18 A. I believe they call it a cup or a pan or 19 something. Let me see. Yeah. In Paragraph 50 it's 20 called the "hollow cup or solid 'pin cushion' area, 21 82." 22 Q. Could that pin cushion area 82 be as large as 23 the entire cap? 24 MR. PETERS: Object to form. 25 THE WITNESS: There's no size constraints on Page 125

1 it. 2 BY MR. STEIN: 3 Q. So even though it has a boundary that shows 4 it as being within the cap 78, it's possible, based on 5 this figure and your opinions on that figure, that 82 6 could be as large as the entire cap? 7 MR. PETERS: Object to form. Asked and 8 answered. 9 THE WITNESS: There are no limits on the size 10 of that piece 82. 11 BY MR. STEIN: 12 Q. The handling tab 78, is it possible that that 13 has sort of equal dimensions, both in the length and 14 width directions? 15 MR. PETERS: Object to form. 16 THE WITNESS: Again, there are no 17 dimensional -- there's no dimensional information 18 provided. So that's not excluded. 19 BY MR. STEIN: 20 Q. Let's look at Figure 3 of Saikley. 21 In Figure 3 we have this reference numeral 22 51. Do you see that? 23 A. I do. 24 Q. What is 51? 25 A. I believe it's a cap. I don't remember what Page 126	1 MR. PETERS: Object to form. 2 THE WITNESS: What do you mean "larger"? 3 BY MR. STEIN: 4 Q. Longer. 5 MR. PETERS: Same objection. 6 THE WITNESS: Well, again, there are no 7 dimensions here, but you would expect the cap to cover 8 the lancet tip when it's first (inaudible). 9 BY MR. STEIN: 10 Q. Well, because there's no dimensions, it's 11 consistent with the figures and consistent with the 12 opinions you've offered today that needle 50 could be 13 longer with the cap 51. 14 MR. PETERS: Objection. Asked and answered. 15 Mischaracterizes testimony. 16 THE WITNESS: I don't think I said that. 17 Functionally, I would -- a POSA would know that that 18 cap covers the tip. 19 BY MR. STEIN: 20 Q. In Paragraph 44 of your declaration, you have 21 a Footnote 5. You say, "In my personal experience, 22 this was also the case for typical lancets." 23 So what "typical lancets" are you talking 24 about? 25 A. 44? Page 128
1 it's exactly called. Yeah. It's called removable 2 cap. 3 Q. Would that cap that we see, 51 at Figure 3, 4 would that be a cap that you would consider to be 5 handleable by a user with limited dexterity? 6 MR. PETERS: Object to form. 7 THE WITNESS: Again, you can't enforce 8 specific dimensions off of a drawing like this. 9 BY MR. STEIN: 10 Q. Did I ask you about dimensions, or did I ask 11 you whether it would be handleable? 12 MR. PETERS: Object to form. Argumentative. 13 THE WITNESS: For it to be handleable -- 14 typically "handleable" means you can easily grab it in 15 your hands, and that will depend on the size, and 16 there's no description at all about the size, shape, 17 or handleability of that piece 51. 18 BY MR. STEIN: 19 Q. What about 50? What's reference Numeral 50? 20 A. I believe, isn't 50 the -- I'd have to 21 double-check. It's the needle. It's the portion of 22 the needle extending beyond the lancet body. 23 Q. And that needle portion 50, is it possible 24 and consistent with Figure 3 that it could be larger 25 than the cap 51? Page 127	1 Q. Yeah. Footnote 5. 2 A. Oh, Page 44. 3 Q. Page 44, Footnote 5. 4 (The witness reviewed material.) 5 THE WITNESS: Yeah. My understanding of the 6 kind of the lancets that I've seen were -- generally 7 had small caps relative to the lancets, and that's 8 consistent. 9 BY MR. STEIN: 10 Q. Well, you mentioned "typical lancets." So 11 what's an example of a typical lancet? 12 A. I don't remember the names, but I've seen a 13 whole bunch of lancets. 14 Q. So you can't name a single example for me? 15 A. I'm not sure I'd get the names right, but 16 Vitrex stands out in my mind as one, and others. 17 There are a whole bunch. 18 Q. Do you remember earlier in the deposition I 19 asked you about the materials you reviewed, and I 20 mentioned Exhibit 1016, which is a provisional 21 application to Saikley. 22 Do you recall that discussion? 23 A. Generally, yeah. 24 Q. I can either share my screen or maybe Steve 25 can send you a copy. This one is in the record. Page 129

1 MR. PETERS: Yeah. I can send it to you. 2 MR. STEIN: 1016. 3 Q. While we're sending that, if you could look 4 at Page 45 of your declaration. 5 A. I'm there. 6 Q. You have some pictures there but no 7 citations. Are those pictures of your hands, or where 8 did you get those pictures? 9 A. I think I got them from literature, but I 10 don't recall. Those are not my hands. 11 Q. Why didn't you cite anything there? 12 A. It was an oversight on my part. 13 Q. Hard for us to evaluate a source of the 14 material without a citation. 15 MR. PETERS: Object to form. 16 THE WITNESS: I think the important thing is 17 that the lancet, you can see -- and that's what I was 18 trying to show is the relative size of the lancets in 19 use. 20 BY MR. STEIN: 21 Q. In the lancet that we see in the left hand 22 uncited figure on Page 45 of your declaration, which 23 part of the lancet is being gripped by the user's 24 thumb and index finger? 25 A. It looks like mostly the secondary sheath. Page 130	1 without knowing how much torque it takes to turn the 2 key? 3 A. Because I felt the torque in both cases. 4 Q. What type of a tool did you use to measure 5 your key? 6 A. My fingers. Oh, the tool? Calipers. 7 Digital calipers. 8 (Pause.) 9 MR. STEIN: Paragraph 111 of your 10 declaration, Page 55. 11 THE WITNESS: Okay. I'm there. 12 MR. STEIN: Just a second. 13 (Pause.) 14 BY MR. STEIN: 15 Q. So in this paragraph you're talking about a 16 reference to Stout. Is that a reference you're 17 familiar with? 18 A. Yes, I am. 19 Q. And you say, "Stout's cap - even though it is 20 just as wide as its lancet." So what's the basis for 21 your conclusion that Stout's cap, as you state here, 22 is just as wide as its lancet? 23 A. Because they both go through the same slot. 24 Q. So you use the figure standing alone to draw 25 that conclusion? Page 132
1 Q. Is any part of the thumb or index finger 2 touching what you've identified to be a "gripping 3 handle"? 4 A. I can't -- I don't think so, but it's hard to 5 tell from the image. 6 Q. And then on Page 46 of your declaration, you 7 have -- you're discussing Mr. Delman's key example, 8 and you have a key here, again, an uncited key with no 9 evidentiary citations. 10 So what is this key, where did you get it 11 from, and why didn't you cite anything? 12 A. Well, I did. I said it's my key. 13 Q. So this is the key to your house? 14 A. Yeah. 15 Q. Why did you decide to measure the key? 16 A. Just to show what the dimensions are of an 17 everyday key. 18 Q. How much torque does it take you to turn this 19 key in your home door lock? 20 A. I've not measured that just to give you an 21 exact number. 22 Q. You say in Paragraph 89, "the torque needed 23 to twist off a lancet is far less than turning the 24 above key." 25 So how could you support that conclusion Page 131	1 MR. PETERS: Objection. Mischaracterizes 2 testimony. 3 THE WITNESS: Yeah, there's nothing that says 4 it needs to be large and it needs to go into the same 5 slot. 6 BY MR. STEIN: 7 Q. My question was whether your basis for this 8 conclusion that Stout's cap is just as wide as its 9 lancet is coming from the figures standing alone? 10 MR. PETERS: Objection to form. Asked and 11 answered. 12 THE WITNESS: Yeah, it is because, again, as 13 I say, it shows them both going into the same slot. 14 BY MR. STEIN: 15 Q. And if we go back to Saikley, Exhibit 1005, 16 does Saikley's cap 78 go into the slot in which the 17 lancet is inserted in Saikley's system? 18 MR. PETERS: Object to form. 19 THE WITNESS: Could you repeat the question, 20 please. 21 BY MR. STEIN: 22 Q. If we go back to Exhibit 1005, does Saikley's 23 cap 78 go into the slot in which the lancet is 24 inserted in Saikley's system? 25 MR. PETERS: Same objection. Page 133

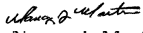
1 THE WITNESS: I don't believe that's ever 2 indicated in the patent. 3 BY MR. STEIN: 4 Q. So using the same logic you use to determine 5 that Stout's cap is as wide as its lancet, we should 6 be able to at least conclude that Saikley's cap is 7 wider than its lancet; is that right? 8 A. No. 9 MR. PETERS: Object to form. 10 BY MR. STEIN: 11 Q. Why not? 12 A. Because there's no -- there is no area that 13 they both have to -- there's no relative relationship 14 shown. So the cap can be -- the dimensions of the cap 15 are independent of the dimensions of the lancet. 16 Q. So for Stout it was fine for you to sort of 17 form relative dimensional conclusions about the cap 18 relative to the lancet, but in Saikley, it's 19 inappropriate? 20 MR. PETERS: Objection. Mischaracterizes 21 testimony. 22 THE WITNESS: Yeah, I disagree with that 23 characterization. 24 BY MR. STEIN: 25 Q. And why is that? Page 134	1 Exhibit 1005, which is the non-provisional version of 2 Exhibit 1016 we're just looking at, do Figures 1 and 3 Figures 2 -- Figure 1 and Figure 2 in Saikley 1005 4 correspond to what we saw in the provisional 5 Exhibit 1016 and the photographs of Figures 1 and 2? 6 MR. PETERS: Object to form. 7 THE WITNESS: I have not tried to compare 8 them. 9 BY MR. STEIN: 10 Q. But you can see that from the Saikley 11 provisional Exhibit 1016 to the Saikley 12 non-provisional Exhibit 1005, there were photographs 13 in the provisional, and the photographs are no longer 14 in the non-provisional exhibit, 1005; is that correct? 15 A. That's my understanding, yes. 16 Q. Does this alter any of the conclusions we 17 talked about earlier about whether Figure 7A of 18 Saikley could possibly have been a photograph that was 19 traced over? 20 A. It does not change my opinion, no. 21 Q. Let's go to Page 60, 6-0, of your 22 declaration. 23 A. Yeah. 24 Q. Do you see a toothbrush and a hand there? 25 A. I do. Page 136
1 A. Because as I pointed out in Stout, you can 2 see that there's a picture. There's an illustration 3 that shows those, both the cap and the lancet, sliding 4 into the device. 5 Q. Did you receive Exhibit 1016? 6 THE WITNESS: Let me look. 7 (Pause.) 8 THE WITNESS: Yes. 9 BY MR. STEIN: 10 Q. Can you go to Figure 1 of Exhibit 1016. 11 Figures 1 and 2. 12 THE WITNESS: I got to download it. One 13 second. 14 (Pause.) 15 BY MR. STEIN: 16 Q. Okay. 17 A. It's downloaded. I'll go to Figure 1. 18 I don't feel the figures are -- there it is. 19 Figure 2. Figure 1. Sorry. I got it. 20 Q. So Figures 1 and 2, do those appear to be 21 perspective views? 22 A. They look to me to be pictures. 23 Q. Photographs? 24 A. Photographs. 25 Q. Okay. And if we turn back to Saikley Page 135	1 Q. Whose toothbrush is that? 2 A. That's mine. 3 Q. You got your toothbrush and your key in this 4 declaration. All right. No citation, though, on this 5 toothbrush. 6 Okay. Let's go to Page 62. 7 A. I'm there. 8 Q. Is there a lancet -- is there a needle tip 9 shown in the figure that appears in Page 62 of your 10 declaration? 11 A. At the top of the page? 12 Q. Yeah. 13 A. Yes. There's a needle tip that's depicted; 14 although, again, I think that's another example of 15 this not being a real drawing because that needle tip 16 is supposed to be embedded in the plastic so you 17 wouldn't see it. 18 Q. Is that -- are you able to determine whether 19 that needle tip is larger than the thumb that's 20 depicted? 21 MR. PETERS: Object to form. 22 THE WITNESS: Again, No. 1, I don't think 23 that that's a thumb, and it's not proper to compare 24 dimensions in a sketch like this. 25 BY MR. STEIN: Page 137

1 Q. So it could be that the needle tip is larger 2 than the thumb? 3 MR. PETERS: Objection. Calls for 4 speculation. 5 THE WITNESS: I don't think that that's a 6 thumb, and it's not proper to be comparing dimensions. 7 A practical person, a person of ordinary skill, would 8 understand that the needle tip is only supposed to 9 penetrate a finger enough to draw blood. 10 BY MR. STEIN: 11 Q. What would you prefer to call what I've been 12 referring to as a thumb? 13 A. A digit? I don't know. 14 Q. And at the bottom of the lancing device that 15 we see in that reproduced image, there's sort of four 16 ridges that we see at the bottom of the lancing 17 device. 18 What are those showing? 19 A. I believe those are kind of schematic 20 representations of four fingers. 21 Q. So four fingers and one digit but no thumb? 22 A. Those that don't have three bones, they have 23 two bones. 24 MR. STEIN: My screen -- can you still see 25 me? Sorry. Can we go off the record for a minute? I Page 138	1 up with something that was novel and nonobviousness 2 and, therefore, hadn't been seen before? 3 MR. PETERS: Object to form. 4 THE WITNESS: There's no dimensional 5 information in Saikley. So that can't be the basis 6 for its patentability. 7 BY MR. STEIN: 8 Q. You also have an image on Page 53 of your 9 declaration. It's Saikley 7A with an annotation that 10 you added. 11 Do you see that? 12 A. I do. 13 Q. For the length that you've annotated in here, 14 why did you choose to draw that length only between 15 the distal ends of the two sheaths? 16 A. You know, first, I'm starting in the position 17 that I don't agree with; right? I don't agree you can 18 take any dimensional information off of a drawing like 19 this. So that's the starting point. 20 But even if I did and even if I accepted 21 where Mr. Delman says the end of the needle is and the 22 start of the secondary sheath is, which I don't agree 23 with, but even if I accepted that, then I took that 24 length between what would be the end of -- the distal 25 end of the primary sheath and the proximal end of the Page 140
1 think something is messed up here. 2 MR. PETERS: Let's go off the record. We can 3 hear you though. 4 (A recess was taken from 2:35 p.m. 5 to 2:43 p.m.) 6 BY MR. STEIN: 7 Q. Okay. So jumping over to Page 53, 8 Paragraph 105 of your declaration, Dr. Collins, you 9 talk about this enormous cap proposed by Mr. Delman in 10 the middle of the paragraph. 11 Do you see that? 12 A. I see that. 13 Q. Then you mentioned that such an enormous cap 14 was unprecedented. 15 Do you see that? 16 A. I do. 17 Q. What is the nature of something being 18 unprecedented -- how is that relevant to the 19 obviousness inquiry? 20 MR. PETERS: Object to form. 21 THE WITNESS: Because it's not consistent 22 with anything that I've seen in the art. 23 BY MR. STEIN: 24 Q. Isn't that the fundamental nature of why the 25 government gives people patents, because they've come Page 139	1 secondary sheath. 2 Q. It looks to me like you took the distal end 3 of both sheaths. So why are you saying it's the 4 proximal end of the secondary sheath? That's the 5 further end. You've taken the further end of both of 6 the sheaths. 7 A. When I say, "distal" and "proximal," that's 8 relative to the whole lancet. So in my language, the 9 "distal" means, in this case, the top right, and then 10 it gets more distal as you go down. So, again, it's 11 the distal end of the primary sheath, and then the 12 proximal end, the upper right end of the secondary 13 sheath. 14 Q. I'm not sure I follow that. So let's look at 15 the patent. 16 So Exhibit 1001, and you had referred me to 17 Figure 5 of Exhibit 1001 not too long ago. So if we 18 look at -- there's a length annotated in Figure 5 of 19 Exhibit 1001; right? 20 A. Correct. 21 Q. So when we look at 512 -- we talked about 22 this earlier -- the needle, when it's sheathed in that 23 primary sheath, does it extend beyond that end of that 24 L annotation on the right-hand side? 25 A. No, it wouldn't. Page 141

1 Q. What's your basis for that conclusion? 2 A. The description that 512 is the primary 3 sheath and that the gripping handle portion is between 4 the primary sheath and the secondary sheath. 5 Q. Let's look at -- in your declaration page -- 6 let's see. Page 71 where you have the white version 7 of the 33-gauge Delica Plus. 8 THE WITNESS: One minute. 9 (The witness reviewed material.) 10 BY MR. STEIN: 11 Q. Are you there? 12 A. Yes. 13 Q. So why did you include this white version of 14 the 33-gauge Delica Plus in your declaration? 15 A. Just because it's easier to see where the 16 needle ends. 17 Q. And that needle, how far does it extend into 18 the flange there and beyond? 19 A. I'm not sure how to describe it. You can see 20 it. 21 Q. So is this different than your understanding 22 of the picture we just looked at in Figure 5C where 23 you're saying the needle tip does not extend beyond 24 512? 25 A. Well, the configurations are different. Page 142	1 Q. So what's your basis for the conclusion that 2 you would be having an overall increase in material as 3 compared to a decrease by making the cap larger but 4 the lancet shorter? 5 MR. PETERS: Objection. Mischaracterizes 6 testimony. Object to form. 7 THE WITNESS: Yeah. In Saikley there's no 8 relationship that I recall between the lancet body and 9 the lancet cap. So I can make the lancet body 10 shorter, and if I do that, there's no reason to make 11 the lancet cap much -- you know, change that 12 dimension. 13 BY MR. STEIN: 14 Q. You just mentioned in Saikley there's no 15 relationship -- 16 A. I'm sorry. I take that back. I think what I 17 should have said in response is that regardless of 18 what the size of the lancet body is, you don't want to 19 make the lancet cap any bigger than you need. 20 Q. To still allow for aiding handling, which is 21 what Saikley mentions; right? 22 A. Correct. 23 Q. I'm going back to Exhibit 1001, Column 7, 24 Line 26. The patent says, "The protective/sterility 25 cap or cover provides an intuitive modality for users Page 144
1 Q. What's different about them? 2 A. Well, you can see they're two different 3 shapes, two different caps. 4 Q. Is there something different about the 5 primary sheath? 6 A. The primary -- yeah. Well, in the figure of 7 the patent, the primary sheath is the flange, which 8 here the primary sheath includes a thickened portion, 9 but it also goes beyond that thickened portion. 10 Q. Going back to Page 53 of your declaration, in 11 the middle there of Paragraph 105. 12 A. Okay. I'm there. 13 Q. So when Saikley is talking about aiding 14 handling, what dimensions would a POSA understand can 15 be used to aid handling? 16 A. Any of the dimensions. 17 Q. What are the dimensions? 18 A. Well, generally, you can describe them in 19 three-dimensional space, X, Y, and Z. 20 Q. You also mentioned that the -- your 21 enormous -- your characterization of an enormous cap 22 is using extra material that would drive costs 23 upwards, but we talked about earlier that Saikley also 24 mentions using a shortened lancet; is that right? 25 A. Yes, he does. Page 143	1 to grab when handling a lancet." 2 Do you see that? 3 A. I do. 4 Q. When the lateral span is 1.4 times the lancet 5 thickness, would there still be an intuitive modality 6 for users to grab when handling a lancet? 7 MR. PETERS: Object to form. 8 THE WITNESS: When it gets smaller, it's less 9 intuitive. 10 BY MR. STEIN: 11 Q. But I didn't ask if it's less intuitive. The 12 statement is just "an intuitive modality." So if the 13 lateral span is still 1.4 times the lancet thickness, 14 is there still a intuitive modality for users to grab 15 when handling a lancet? 16 MR. PETERS: Object to form. Asked and 17 answered. 18 THE WITNESS: Yeah, the smaller it gets, the 19 less obvious it would be. 20 BY MR. STEIN: 21 Q. You're still not answering the question 22 though. I'm not asking you whether it's less obvious 23 or less intuitive. I didn't add that adjective. 24 I'm just asking you if the lateral span is 25 1.4 times the lancet thickness, is there still Page 145

1 provided an intuitive modality for users when handling 2 a lancet? 3 MR. PETERS: Same objections. 4 THE WITNESS: I wouldn't think so. Once it 5 gets smaller, it's no longer intuitive. 6 BY MR. STEIN: 7 Q. And how much smaller does it need to get to 8 no longer be intuitive? Is it when you get to 1.4, 9 that's when it's no longer intuitive? 10 A. The patent teaches as long as it's above 1.5. 11 Q. Okay. So what about 1.45 lateral span 12 relative to lancet thickness. Does that create an 13 unintuitive modality for a user to grab when handling 14 a lancet? 15 MR. PETERS: Object to form. 16 THE WITNESS: It's less so. I don't know 17 exactly at what point it changes. 18 BY MR. STEIN: 19 Q. Does the patent provide any guidance on at 20 which point it changes? 21 A. Yeah. 1.5. 22 Q. Where does the patent explain that below 1.5 23 there is not an intuitive modality for users to grab 24 when handling a lancet? 25 A. I don't remember that specifically being Page 146	1 saying they don't refer to dimensions? 2 That's what you're saying? 3 A. Yeah. Well, he provided motivation which I 4 don't agree with, but those motivations did not 5 address the dimensions. 6 Q. Okay. Yeah. I had understood the statement 7 as you saying he didn't provide the motivation at all, 8 but I get the clarification. 9 Going back to the discussion we had about 10 Stout, and you were telling me that the Stout cap and 11 the Stout lancet are of the same width because in the 12 figure, per your opinion on Page 55 and as you 13 testified today, they're inserted together through 14 this opening, but couldn't it also be true that the 15 lancet 142 in Stout is narrower than the cap and would 16 still fit through the opening? 17 A. Well, it's not just the opening. It's the 18 opening and the internal slot. 19 Q. Okay. Let's talk about the Peckham reference 20 for a minute. Are you familiar with the Peckham 21 reference that's at issue in this case? 22 A. Yes, I am. 23 MR. STEIN: Is that -- that's going to be 24 another one. 25 (Previously marked Exhibit 1008 was made Page 148
1 taught, but what is being taught is how to make it 2 intuitive to grab, and that is to make the -- you 3 know, practice the claims. 4 Q. Page 54 of your declaration, you have a 5 statement where you say, "There is an infinite number 6 of numbers" -- 7 A. Which paragraph? 8 Q. 107. 9 A. Thank you. 10 Q. "There is an infinite number of numbers." 11 What's an "infinite number of numbers"? 12 A. Well, there are infinite number of numbers. 13 So a number is a number, and there's an infinite 14 number of them. A number is a numeral, and I consider 15 a number of those numerals. 16 Q. Paragraph 109, you mention that "Mr. Delman 17 did not provide a motivation to combine Saikley and 18 Stout." 19 What's your basis for that opinion? 20 A. Well, I describe it, but go on to read he 21 "did not provide a" method -- "a motivation to combine 22 Saikley and Stout to arrive at the claimed 23 dimensions." So all of the motivations that he could 24 find, none of it had to do anything with dimensions. 25 Q. So he did provide motivations, you're just Page 147	1 available to the witness.) 2 BY MR. STEIN: 3 Q. Do you have a copy of it, or do you need it 4 to be sent? 5 A. I do have a copy. Again, it's not marked as 6 an exhibit. It's just a download from Google. 7 Q. That's fine. It's clean though; right? No 8 markings? 9 A. I believe so. 10 Q. Okay. So Peckham is Exhibit 1008, and I 11 understand you're looking at a clean, unmarked version 12 of the exhibit that's substantively the same? 13 A. I just checked, and I don't see any markings 14 on it. 15 Q. Okay. And on Page 66 of your declaration, in 16 Paragraph 129, you have a reproduction of Figure 2 of 17 Peckham? 18 A. One second before I get there. Yes. 19 Q. So reading Paragraph 130, it appears like 20 you're arguing that if you had ridges, you can make 21 the cap smaller. 22 Is that what you're arguing in Paragraph 130? 23 A. Yes. 24 Q. And why couldn't you do both? Why don't you 25 add ridges and make the cap larger? Page 149

1 A. You could, but you'd want to achieve the 2 right grip with a minimum amount of material. So if 3 you added the grip, you could probably reduce the 4 size. 5 Q. Would that require some redesign? If you're 6 starting from Iio and you're just adding the ridges, 7 wouldn't it be easier than redesigning EO to be 8 smaller and coming up with new CAD files and molds and 9 everything and just add ridges to what you already 10 have? 11 MR. PETERS: Object to form. 12 THE WITNESS: Help me understand your 13 hypothetical. So you're starting with a physical 14 embodiment that practices Iio? Is that what you're 15 saying? 16 BY MR. STEIN: 17 Q. Assuming that, you know, we have the 18 combination that Mr. Delman has proposed, which is Iio 19 as modified by Peckham to add ridges, my question was 20 wouldn't it be more straightforward, rather than 21 having to update your CAD models and your molds and 22 everything else, if you were going to actually 23 commercialize this, to reduce material of Iio, as you 24 suggested? Why wouldn't you just add ridges on top of 25 what you already have and simplify the modification? Page 150	1 eye? 2 A. Because I know the general sizes of these 3 things and putting a label on a ridge. You know, so a 4 small piece of a small piece is going to be hard to 5 see. 6 Q. Does Claim 16 say that the branding indicia 7 has to be visible? 8 A. No, I don't believe it does. But certainly a 9 POSA would understand. 10 Q. In Page 78 of your declaration, 11 Paragraphs 152 and 153, do you cite any sources in 12 those paragraphs, 152 and 153? 13 A. I don't see any sources. 14 Q. Only in 152 and 153. 15 A. Right. 16 Q. So no sources; right? 17 A. I don't see any. 18 Q. Going back to Page 15 of your declaration, 19 Paragraph 31. You say that -- 20 A. Can you wait for me to get there? 21 Q. Yeah. Yeah. 22 A. Paragraph 31? 23 Q. Yes. 24 A. Yep. 25 Q. So in this paragraph you say that you were Page 152
1 MR. PETERS: Same objection. 2 THE WITNESS: I want to make sure I 3 understand your hypothetical. 4 So I'm starting with a physical product that 5 implements Iio? 6 BY MR. STEIN: 7 Q. Correct. 8 A. Well, Iio teaches that -- and I don't know 9 what the dimensions are. So I can't say. But if it's 10 efficient to be grabbed, then why make any changes? 11 So a POSA wouldn't be motivated to make changes unless 12 it's to fix a problem or make something better. 13 Q. Well, in Paragraph 130 you said, "A POSA 14 reading Peckham would have understood that adding 15 ridges to Iio would give the users a better grip." 16 Did you not say that? 17 A. Yes. 18 Q. Continuing, so in Pages 67 and 68 of your 19 declaration you're discussing Claim 16, and in 20 Paragraph 135 you have a statement that "Mr. Delman's 21 proposed branding would be nearly invisible to the 22 naked eye." 23 Do you see that? 24 A. I do. 25 Q. Why would it be nearly invisible to the naked Page 151	1 "instructed by counsel to assume that the POSA 2 definition provided by Joel Delman is correct." 3 Do you believe it's correct, or do you 4 disagree with the definition of a POSA provided by 5 Joel Delman? 6 MR. PETERS: Object to form. 7 THE WITNESS: I disagree with it. 8 BY MR. STEIN: 9 Q. You disagree with it? 10 A. I do. 11 Q. Why is that? 12 A. I'd have to go back and look at his 13 definition, but I think he indicated, for example, 14 that it required someone taking a course or two or 15 whatever on designing an academic course in designing 16 high volume products. I don't see that as a 17 requirement. I never took that course. 18 Q. So if that course were a requirement for a 19 POSA, then would you not qualify as a POSA under that 20 definition? 21 MR. PETERS: Object to form. 22 THE WITNESS: It goes on to say you can 23 substitute one versus the other, but frankly, for a 24 lot of the people I work with, they did not take a 25 course like this. So I don't think that that's a Page 153

1 requirement. 2 BY MR. STEIN: 3 Q. And so when you were instructed by counsel to 4 assume that the POSA definition was correct, why did 5 you agree to do that if you disagree with that 6 definition of a POSA? 7 MR. PETERS: Object to form. 8 THE WITNESS: Because A, I was asked to do 9 it, and B, it doesn't change my opinion. If someone 10 took that course or not, it wouldn't change my opinion 11 of what a POSA would do. I don't see that as adding 12 anything to the other definitions. 13 MR. STEIN: Okay. If you give me about a 14 five-minute break, I think I'll just check my notes 15 here, and then I think I'm done. 16 THE WITNESS: Okidoke. 17 MR. STEIN: Thank you. 18 (A recess was taken from 2:11 p.m. 19 to 2:19 p.m.) 20 MR. STEIN: Okay. Thank you for your 21 testimony today, Dr. Collins. 22 I have no further questions. 23 THE WITNESS: Thank you. 24 MR. PETERS: No questions from me. 25 Thank you, Dr. Collins. Page 154	1 C E R T I F I C A T E 2 I do hereby certify that the aforesaid testimony 3 was taken before me, pursuant to notice, at the time 4 and place indicated; that said deponent was by me duly 5 sworn to tell the truth, the whole truth, and nothing 6 but the truth; that the testimony of said deponent was 7 correctly recorded in machine shorthand by me and 8 thereafter transcribed under my supervision with 9 computer-aided transcription; that the deposition is a 10 true and correct record of the testimony given by the 11 witness; and that I am neither of counsel nor kin to 12 any party in said action, nor interested in the 13 outcome thereof. 14 15  Nancy J. Martin, RMR, CSR 16 17 Dated: March 18, 2024 18 19 20 21 (The foregoing certification of this transcript does 22 not apply to any reproduction of the same by any 23 means, unless under the direct control and/or 24 supervision of the certifying shorthand reporter.) 25 Page 156
1 (Witness excused.) 2 (Deposition concluded at 3:19 p.m.) 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 Page 155	

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