

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

BILLERUD AKTIEBOLAG (PUBL) ,

Petitioner ,

-against-

WESTROCK MWV, LLC ,

Patent Owner .

Case No. IPR2023-01206

U.S. Patent No. 11,293,142

August 7, 2024

9:29 a.m.

DEPOSITION of CHARLES P. KCLASS,
taken by Petitioner, pursuant to Notice,
held at the offices of TROUTMAN PEPPER
LLP, 875 Third Avenue, New York, New York
before Wayne Hock, a Notary Public of the
State of New York.

BILLERUD EXHIBIT 1012
BILLERUD v. WESTROCK
IPR2023-01206

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ALSO PRESENT:

ANDERS WIRÉN

* * *

1

2

C H A R L E S P . K L A S S , having

3

been first duly sworn by a

4

Notary Public of the State of

5

New York, upon being examined,

6

testified as follows:

7

EXAMINATION BY

8

MR. BARNES:

9

Q. Good morning, sir.

10

A. Good morning.

11

Q. We met a moment ago. My name's

12

Thad Barnes. I represent Billerud.

13

Am I pronouncing it correctly,

14

Klass?

15

A. People in Germany would say

16

Klass. In the U.S., it's become Klass.

17

Q. I think you just gave it before,

18

but can you give your full name and

19

address?

20

A. It's Charles Patrick Klass II.

21

Q. And where do you reside, there?

22

A. 17148 Forge Surf Street, Land O'

23

Lakes, Florida.

24

Q. How long have you lived there?

25

A. Since January.

1 C. P. Klass

2 Q. Where did you live before that?

3 A. In Madeira Beach, Florida in a
4 condo right on the beach. Of course the
5 last weekend I was glad we were no longer
6 there.

7 Q. Did you all get rain?

8 A. They did. They got water. I
9 moved inland. I'm eighteen miles inland
10 and it's sixty-two feet elevation.

11 Q. Sir, I see from your CV, you've
12 been an expert in numerous things.

13 I assume you've given a
14 deposition before?

15 A. I have.

16 Q. I'll go over a couple of just
17 the ground rules just to make sure we're
18 on the same page.

19 It's not a marathon. Any time
20 you need to take a break, let me know.
21 The only thing I ask is, if there's a
22 question on the table, we get an answer.

23 Okay?

24 A. We agree, yes.

25 Q. And you and I will be having

1 C. P. Klass

2 this conversation and I'll shake my head
3 one way or another, you can, too --

4 A. It has to get into the record.

5 Q. Give a verbal response.

6 Let's wait for each other to --

7 MR. WOFSY: Let him ask you
8 questions.

9 Q. -- ask the question and then you
10 give me the answer. Because you and I
11 will understand it great, but it makes it
12 hard for everybody else.

13 A. I agree.

14 Q. You lived in Madeira Beach.

15 I've seen from records and
16 things like that you one time with your
17 business were in New Jersey; is that
18 correct?

19 A. No. Well, I lived in New Jersey
20 at one time but you may be referring to
21 Klass Associates which is Klass
22 Associates, Inc. was founded in the
23 Philadelphia area, in King of Prussia,
24 Pennsylvania, and it was there until we
25 moved to Florida.

1 C. P. Klass

2 Q. Klass Associates was in New
3 Jersey until you --

4 A. No, no, Klass Associates was
5 never in New Jersey. It was a
6 Pennsylvania corporation. And in 2004,
7 basically we relocated. Klass Associates,
8 Inc., a Florida corporation, acquired
9 Klass Associates, Inc., a Pennsylvania
10 corporation for tax purposes.

11 Q. And it then moved to Florida?

12 A. I moved to Florida, yes.

13 Q. In 2004?

14 A. Yes.

15 MR. BARNES: I'm going to hand
16 you, this was part of your
17 declaration, it's your CV.

18 (Whereupon, a document entitled
19 Appendix 1 was marked Exhibit B1
20 for identification.)

21 Q. Is this the most up-to-date CV?

22 A. Yes.

23 Q. And by my count, you have been
24 retained as an expert witness at least
25 forty-nine times?

1 C. P. Klass

2 A. I haven't counted them. If you
3 counted them, I will take your number.

4 MR. WOFSY: Objection.

5 Q. You don't have to count them. I
6 just wanted to know if you knew.

7 A. Let me check it. The when you
8 ask me if it was up-to-date, I want to
9 make sure it was truly up-to-date.

10 (Reviewing).

11 Yes. I have not listed this
12 case on there. So if you would list this
13 case for it, then it would be up-to-date.

14 Q. Other than the current case,
15 which is not listed, can you identify what
16 was the last time or the last case in
17 which you were retained as an expert?
18 Which one of these is it?

19 A. Several of them sort of overlap.
20 Sealed Air and Ranpack is still going on.
21 That's down at the bottom. It's a patent
22 matter, just above -- on page eighty-two.

23 Q. Which one was that?

24 A. Sealed Air versus Ranpack.

25 Q. Got you.

1 C. P. Klass

2 A. And the one -- go up to the next
3 one, page eighty-one, Acorn versus
4 International Paper Company. I have been
5 told to stop working on it. I don't know
6 if it's been settled, but I've been told
7 to stand by.

8 Q. And which one's that?

9 A. That is the one --

10 Q. International Paper --

11 A. Right above the patent and
12 trademark, you see that one there?

13 Q. Yes, sir.

14 A. And Huhtamaki, Lawrence Higgins
15 and Huhtamaki basically is currently in
16 progress.

17 Q. While you have that open there,
18 go to the United States Patent and
19 Trademark Office one on page eighty-one.
20 You list one International Paper Company
21 versus MeadWestvaco?

22 A. Yes.

23 Q. We tried to look up by the case
24 number and the patent number and couldn't
25 find anything.

1 C. P. Klass

2 Is that still an active matter?

3 A. It's not an active with me
4 anymore. It settled.

5 Q. When did that settle? What
6 year?

7 A. I'm not sure. I'm going to say
8 probably eight to ten years ago.

9 I did last night look it up. It
10 pops up on Google Patents.

11 Q. You said you appeared for
12 Plaintiff in that.

13 Which party was the plaintiff?

14 A. International Paper.

15 Q. Did you give a deposition in
16 that case?

17 A. No.

18 Q. Did you provide a declaration?

19 A. Yes.

20 I think it was a form of
21 declaration. It might have been titled an
22 expert report.

23 Q. In this current matter, when
24 were you first contacted about being
25 retained as an expert?

1 C. P. Klass

2 A. Sometime in 2023, about a year
3 ago. I mean, sometime last year. I can't
4 tell you when. I'd have to go back and
5 look at my things to tell you.

6 Q. And who contacted you?

7 A. An expert witness firm called
8 Teklicon.

9 Q. Called what?

10 A. Expert witness recruitment firm
11 Teklicon, T E C H L I K O N [sic].

12 Q. Do you have a relationship with
13 Teklicon?

14 A. I'm among the people that they
15 -- they are an expert witness referral
16 service, so the bottom line is yes, I have
17 a relationship. I send my invoices to
18 them and they send them on to -- and
19 ultimately I get paid, hopefully. Slowly.

20 Q. And you were contacted by them,
21 and what were you told? What were you
22 asked?

23 A. I was asked -- I was told that
24 they had a -- they were looking for an
25 expert in papermaking, particularly

1 C. P. Klass

2 focused on calendering.

3 Q. On calendering?

4 A. Among other things, yes.

5 Q. And after that first
6 conversation, what happened? Who did you
7 talk to?

8 MR. WOFSY: Objection to the form
9 of the question.

10 Q. You can answer.

11 A. I said let's arrange a call, as
12 is the usual case, let's arrange a gratis
13 call to see whether I provide what they're
14 looking for.

15 Q. And who was on the call, the
16 first call?

17 A. The call with Teklicon was
18 somebody at Teklicon, I think her name was
19 Trish, but at Locke Lord I believe the two
20 gentlemen here in the room were on the
21 conference call.

22 Q. Was there anybody from WestRock?

23 A. No.

24 MR. WOFSY: Let the record
25 industry that Scott Wofsy and Josh

1 C. P. Klass

2 Jones are the two gentlemen he's
3 referring to.

4 Q. Did you ever talk with folks at
5 WestRock as part of your service here as
6 an expert witness?

7 MR. WOFSY: Objection to the form
8 of the question.

9 THE WITNESS: Not relative to
10 this.

11 Q. To your declarations?

12 A. To my declaration, correct.

13 Q. So being retained by WestRock,
14 you've never communicated with anybody
15 from WestRock; is that correct?

16 MR. WOFSY: Objection to the form
17 of the question.

18 THE WITNESS: Let me clarify it.
19 I have never had any contact with
20 anybody with WestRock since being
21 retained about this matter. Just so
22 that we're all square, as a part of my
23 regular consulting business, I do at
24 times have contact with people with
25 WestRock about various things.

1 C. P. Klass

2 Q. So unrelated to this, you've had
3 -- you have communications and a
4 relationship with some people at WestRock?

5 A. I have.

6 Q. Let me ask you this.

7 Are you here as an expert
8 witness through Klass and Associates or is
9 it just you individually?

10 A. The invoices are by Klass
11 Associates Incorporated, Klass Associates,
12 Inc.

13 Q. So my question is has Klass
14 Associates ever retained by WestRock?

15 A. Not as an expert witness. I
16 mean, I have done consulting for WestRock
17 numerous times over the past three
18 decades.

19 I have done consulting for what
20 is now WestRock or actually what is now
21 Smurfit WestRock on various matters over
22 the past three decades.

23 Q. You've done consulting matters
24 through Klass Associates?

25 A. Correct.

1 C. P. Klass

2 Q. What type of --

3 MR. BARNES: Strike that.

4 Q. As you're here today, do you
5 know how many times you've been consulted
6 or worked with them on matters?

7 A. I wouldn't know without going
8 back through invoices or timesheets, but
9 it's been a number of times for various
10 sort of bill locations.

11 Q. Do you know approximately the
12 last time, the last year?

13 MR. WOFSY: Is there a question?

14 Q. Do you remember the last year
15 that you were contacted which WestRock?

16 A. What I can say to you is
17 pre-COVID, so the best thing is it might
18 have been 2018 but it was probably 2019.

19 Q. I do the same thing. Some
20 things are either pre-COVID or post COVID.

21 MR. WOFSY: It's the dividing
22 line of life.

23 THE WITNESS: They are
24 milestones.

25 Q. That pre-COVID work you did for

1 C. P. Klass

2 WestRock as a consultant, do you recall
3 what it was?

4 A. I want to be careful when I
5 answer because work with WestRock is
6 covered by an NDA. It was related to one
7 of their -- it was related to one of their
8 mills. It was at one of their mills.

9 Q. Where? Which mill?

10 A. Mahrt, Alabama, M A H R T.

11 Q. You can consult with counsel. I
12 think we're covered by a protective order,
13 but you can consult with counsel.

14 What was the work you were
15 retained to do?

16 MR. WOFSY: You can explain it
17 generally without revealing any
18 details.

19 THE WITNESS: They have made
20 some processing quality improvements
21 at the Mahrt mill. It would have
22 related to coating formulations.
23 Optimization of quality and cost of
24 the coated natural kraft paperboard.
25 I don't want to get more specific than

1 C. P. Klass

2 that, basically because --

3 Q. Did it involve anything that's
4 at issue in this litigation?

5 A. I can't say that it did, no.

6 Q. You said over I think you said
7 three decades you've done work for
8 WestRock?

9 A. Yes, including times before it
10 same -- the same company before it became
11 WestRock.

12 Q. And that's fine.

13 If I say WestRock, we had that
14 understanding, and I appreciate you
15 explaining that.

16 A. And I am including in that --
17 when you say WestRock, yes, WestRock and
18 some companies that are now WestRock.

19 Q. Klass Associates, over those
20 three decades, was there other employees
21 other than you?

22 A. Not close that get a W-2 from
23 me. I have associates that basically get
24 a 1099. They would be subcontractors from
25 a tax standpoint.

1 C. P. Klass

2 Q. Did those subcontractors, if you
3 recall, do work for WestRock?

4 A. Not that I recall.

5 Q. Is it fair to state you are the
6 only employee of WestRock of Klass
7 Associates over the last three decades?

8 A. Yes. I did have my ex-wife --
9 in the 1980s, I had my ex-wife as -- she
10 also got a W-2 from us. The complete
11 answer to your question is --

12 Q. She worked for you and then you
13 got divorced and she got fired?

14 MR. BARNES: Strike that.

15 MR. WOFSY: I instruct the
16 witness not to respond to that.

17 THE WITNESS: Without saying
18 anything, I don't want to go there.

19 Q. Other than -- my question here
20 does not involve what you've been paid for
21 this litigation.

22 Can you give me a ballpark
23 number of how much money Klass Associates
24 has invoiced WestRock over those three
25 decades of work?

1 C. P. Klass

2 A. Probably something in the
3 neighborhood of ten to twenty thousand
4 dollars. I doubt it's much more than
5 that. It might be a little less. I don't
6 know how many days I've been in the
7 various mills.

8 Q. So under \$25,000, a ballpark
9 would be?

10 MR. WOFSY: Objection to the form
11 of the question.

12 THE WITNESS: If I said under
13 \$25,000, to the best of my
14 recollection, it's probably under
15 \$25,000.

16 Q. For Klass Associates, if it was
17 a pie chart and trying to fill in what
18 type of work you do as the main employee
19 for Klass Associates, you're an expert
20 witness; correct?

21 A. Right.

22 Q. Is that the majority of the work
23 you do at Klass Associates?

24 A. At this point it's probably --
25 expert witness is probably twenty to

1 C. P. Klass

2 thirty percent of it. Again, I'd have to
3 go back and look at the records to tell
4 you.

5 Q. So over the last five years,
6 you'd say being an expert witness is
7 probably twenty to thirty percent of the
8 time you spent working for Klass
9 Associates?

10 A. I think over the past five years
11 in aggregate, that's probably pretty good.
12 It might be lower than that, it might be a
13 little higher.

14 Q. Just using rough numbers, that
15 leaves sixty-five to seventy percent of
16 the chart unfilled.

17 A. Right.

18 Q. What other types of work have
19 you done for Klass Associates?

20 A. I have done -- with the client
21 being paper companies, you have done
22 audits of papermaking operations, I have
23 done projects for repurposing machines to
24 make different grades of paper and
25 paperboard.

1 C. P. Klass

2 Q. Repurposing machines?

3 A. Yes.

4 I've done due diligence on
5 project financing.

6 Q. Due diligence on what? Project
7 financing?

8 A. Project financing or potential
9 M&A.

10 I think that pretty much covers
11 it. Basically, it's a combination of
12 business and technical and process
13 consulting.

14 Q. And my question was over roughly
15 over the last five years, that's what
16 you've been doing.

17 Sir, how would those either
18 percentages or tasks change if I ask you
19 to go back over the last three decades?

20 MR. WOFSY: Objection to the form
21 of the question.

22 Q. Would your expert witness time
23 go up or down?

24 A. Down, way down.

25 Q. So is it fair to state you've

1 C. P. Klass

2 been more of an expert witness in the last
3 five years than you were ten years ago?

4 A. Yes.

5 Q. When did you start having the
6 relationship with the expert witness
7 group? I forgot the name of it now, the
8 one that contacted you about this
9 litigation.

10 A. I think about three or four
11 years ago, but I'm not sure.

12 Q. And one of your duties --

13 MR. BARNES: Strike that.

14 Q. One of the jobs you were
15 describing that you were doing for Klass
16 Associates, you said you were doing
17 audits, audits for paper companies.

18 What do you mean by audit? What
19 type of audit were you doing?

20 A. I've been asking to go in and
21 look at pulp and paper mill operations
22 basically, to provide a professional
23 opinion on the business, what type of --
24 how it relates to the business plan, what
25 type of equipment modifications might be

1 C. P. Klass

2 necessary, and the viability of the
3 business.

4 Q. And viability, you mean whether
5 the business is profitable or is going to
6 be profitable in the future?

7 A. Whether they ought to shut it
8 down.

9 Q. When you talk about
10 modifications with the clients, are you
11 talking about modifying leaving the paper
12 business to go to a different type of
13 business?

14 A. No, I'm thinking more of -- I
15 use the term "repurposing". It's more in
16 that area. When I say modification, in
17 one case it might be making process or
18 equipment changes to improve profitability
19 or to provide the capability to make
20 different grades of paper or paperboard.

21 Q. Does that involve changing
22 equipment or personnel?

23 A. Generally, I would say more
24 often equipment, but in some cases
25 personnel. It's always a difficult thing

1 C. P. Klass

2 to recommend that somebody be replaced.

3 Q. Forgive me, I can't remember if
4 I've asked you this, have you in the last
5 five years worked for WestRock?

6 A. Well, it's '24. I don't recall
7 whether it was 2018 or 2019.

8 Q. It was the Alabama plant.

9 A. That's the only thing I can tell
10 you.

11 Q. And of the areas that you
12 described for me for my pie chart, where
13 would you classify the work that you do
14 for WestRock?

15 MR. WOFSY: I object to the form
16 of the question.

17 Q. Would it be an audit or the
18 repurposing or due diligence? Those are
19 the three areas you provided.

20 A. It wouldn't be due diligence.

21 Q. It would not be, you said?

22 A. It would not be due diligence
23 because the subject was not help us put
24 the -- should we invest in this or that.
25 It would be more on the relationship of

1 C. P. Klass

2 process improvement, quality improvement,
3 or cost reduction.

4 Q. Would that go under the audit or
5 the repurpose category, by your
6 definition?

7 A. It would be -- when I said
8 audit, I generally say I go in and do it.
9 In this particular case, it would be
10 working with people at the mill, so closer
11 to an audit but it would be a review of
12 their current operations, materials they
13 were using, grades they were making, and
14 efficiency of machinery, and
15 recommendations on what improvements might
16 be made.

17 Q. I want to come back and ask you
18 now, we're here for your deposition today.
19 This is a question you probably always
20 get.

21 What did you do to prepare for
22 this deposition?

23 MR. WOFSY: I'm going to instruct
24 the witness to be careful here and not
25 to reveal any information that may be

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C. P. Klass
subject to the attorney-client
privilege.

To the extent you can respond
without doing so, you may.

MR. BARNES: Before you do, I
want to make clear, Scott, he's not
your client; right?

MR. WOFSY: Understood.

MR. BARNES: So communications
that you had with him are not
privileged; correct? You're not
asserting an objection to that?

MR. WOFSY: You can answer the
question to the extent you don't
reveal any information that may be
subject to attorney-client privilege,
work product, et cetera.

THE WITNESS: I flew up Monday
from Florida, managed to get out after
a five-hour airline delay because of
the storm, and I spent a little over
half of yesterday meeting with Scott
and Josh to discuss the case.

Q. Did you talk with anyone else

1 C. P. Klass

2 other than these two gentlemen about the
3 case?

4 A. No.

5 Q. Did you communicate in any way
6 with anyone else other than these two
7 gentlemen about the case?

8 A. No.

9 Q. And what did -- what were the
10 topics that you were focused on to prepare
11 for your deposition?

12 A. My declaration and my
13 supplementary declaration.

14 Q. Anything else?

15 A. We looked at some of the
16 documents, some of the things that were
17 referenced in my declaration or
18 supplementary declaration as exhibits or
19 reference there.

20 Q. Were you provided any additional
21 documents other than what were referenced
22 in your declaration?

23 A. No.

24 Q. Or referenced in your
25 declaration.

1 C. P. Klass

2 A. Not any other documents, no, no.

3 Q. Your answer leads me to -- were
4 you provided any other information other
5 than what was stated in your two
6 declarations?

7 A. The best answer I can give you
8 is no.

9 Q. How much are you charging per
10 hour in this matter?

11 A. I am charging Teklicon \$250 an
12 hour and Teklicon is charging Locke Lord
13 four hundred twenty-five.

14 Q. And what is your normal --

15 MR. BARNES: Strike that.

16 Q. Have you ever had relationships
17 with clients where Klass Associates enters
18 into the agreement without a third party?

19 A. Yes.

20 Q. What do you formally charge
21 there?

22 A. Three hundred an hour.

23 Q. And how much have you charged
24 WestRock so far?

25 A. I don't really know. I'd have

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C. P. Klass

to go back and look at my bill; I'd have to go back and look at the invoices I've submitted.

Q. Do you have a ballpark idea?

A. I would hazard a guess it wasn't been a big amount. I don't know. There's a difference between what I've charged and what's actually been paid.

Q. And so my question is what have you charged; do you recall?

A. Without going back into the records, it's probably in the range of eight to \$10,000.

Q. Did you bring any documents on the plane with you for this -- to prepare for this deposition?

A. No. Well, there are copies of some documents that are on my notebook computer that I had on the plane with me.

Q. What were those documents?

A. They would have been copies of my declaration. They would have been documents that would have included some of the things that are exhibits, like some

1 C. P. Klass

2 things from the pages from the Papermaking
3 book, a copy of what's referred to there
4 as a Fugitt patent, a copy of the patent
5 at issue, the '142 patent. I have those
6 in a file on my notebook computer, and
7 yes, that was with me on the plane.

8 Q. You've mentioned your two
9 declarations. I'll break it down.

10 Your first one where I got your
11 CV was eighty-four pages.

12 How long did it take you to
13 prepare this declaration?

14 A. I did it over a period of a
15 couple of months.

16 Q. When you say a couple of months
17 -- and understanding that you estimate
18 you've charged WestRock eight to \$10,000
19 -- can you provide me an estimate of how
20 many hours you spent on the first
21 declaration?

22 A. Well, if I was charging two
23 hundred fifty an hour, \$10,000 would be
24 forty hours. I think that's probably the
25 right range.

1 C. P. Klass

2 Q. So you think you spent about
3 forty hours working on the first
4 declaration?

5 A. I think that's a realistic
6 estimate. It might be a few more. I'd
7 have to look at what my 2023 billings were
8 and my 2024 billings were. It might have
9 been more than ten thousand, it might have
10 been less than ten thousand. So when you
11 say forty hours, in 2023 I don't know the
12 number, but it's in the right range.

13 Q. My question is if you know
14 approximately how many hours you spent
15 working on your first declaration.

16 MR. WOFSY: Asked and answered.

17 Q. And you said several months?

18 A. I worked on it over a period of
19 a couple of months. I didn't work on it
20 full time.

21 Q. And my previous question was how
22 much you have billed WestRock to date for
23 your work in total, and you estimate
24 around \$10,000?

25 A. Yep.

1 C. P. Klass

2 Q. You're now saying that you might
3 have to think back to 2023.

4 Does thinking back to 2023, does
5 that change your answer? Do you think it
6 needs to go higher?

7 A. It might need to go higher. I
8 really don't know because what I do is,
9 when I work on something, I put the hours
10 on an Excel spreadsheet, at the end of the
11 month basically I send an invoice, and I
12 don't keep in my mind how many hours I
13 work on various things. I was working on
14 a number of other projects at that point
15 in time. It also relates to your -- I'd
16 say it relates back to your question of
17 what percentage was expert witness work.
18 There were other things I was doing at
19 that point in time.

20 Q. Were you familiar with the '142
21 patent before you did your declaration?

22 A. When you say familiar with, no.
23 I did not see the '142 patent until it was
24 sent to me relative to whether I could be
25 an expert in this.

1 C. P. Klass

2 Q. You then in this matter
3 submitted a supplemental declaration;
4 correct?

5 A. Uh-huh.

6 Q. The same question: How long did
7 it take you to draft this declaration?

8 MR. WOFSY: I object to the form
9 of the question.

10 THE WITNESS: Again, I don't
11 know, but it probably is -- you know,
12 it was less -- considerably less than
13 it was to do the first declaration.

14 Q. Was it your idea to submit a
15 supplemental declaration?

16 A. The decision to do it was
17 arrived at jointly between me and Locke
18 Lord counsel.

19 Q. Why did you submit a
20 supplemental declaration?

21 MR. WOFSY: Objection to the form
22 of the question to the extent that it
23 seeks information that may be subject
24 to attorney-client privilege or work
25 product immunity.

1 C. P. Klass

2 Q. You can answer.

3 A. I did have a discussion with
4 Locke Lord counsel basically and we
5 jointly decided that I should provide a
6 supplemental declaration.

7 Q. Why?

8 MR. WOFSY: Objection.

9 Q. You can answer.

10 A. Because we agreed that there
11 would be a value in my providing a
12 supplemental declaration.

13 Q. What steps were you involved in
14 in creating your supplemental declaration?

15 A. Writing it.

16 Q. You wrote it?

17 A. Yes.

18 Q. And I don't think I got an
19 answer, but how long did it take you to
20 draft this supplemental declaration?

21 A. Again, it was done over a period
22 of a month or two. I didn't work on it
23 full time. It was done over a month or
24 two.

25 Q. And I think you said it took

1 C. P. Klass

2 less time than the first declaration;
3 correct?

4 A. I think that's correct.

5 Q. Was your intent that the
6 supplemental declaration should replace
7 the first declaration?

8 A. It was supplemental, so
9 supplemental means added to.

10 Q. So the answer to that is no, it
11 wasn't meant to replace?

12 MR. WOFSY: Objection. Asked and
13 answered.

14 Q. You can answer.

15 A. I believe it was meant to add to
16 and clarify, not to replace.

17 Q. You're aware that certain
18 paragraphs are clipped verbatim from the
19 first declaration into the supplemental;
20 correct?

21 MR. WOFSY: Objection. Assumes
22 facts not in evidence.

23 THE WITNESS: Yes. Well, show
24 me the two side by side, and I don't
25 doubt if I had -- there were

1 C. P. Klass

2 paragraphs that were -- that are the
3 same.

4 Q. As we're here today, is that
5 news to you or did you know that before I
6 just told you?

7 A. I knew that.

8 Q. Other parts of the original
9 declaration were left out of the
10 supplemental declaration; correct?

11 MR. WOFSY: Objection. Assumes
12 facts not in evidence.

13 THE WITNESS: Well, there are
14 differences between the supplemental
15 and the original, so the answer to
16 that is yes.

17 Q. As we're here now, can you tell
18 me why you decided to provide a
19 supplemental declaration that copied in
20 certain things but left out others from
21 your original declaration?

22 MR. WOFSY: Objection to the form
23 of the question.

24 THE WITNESS: In trying to
25 explain or provide -- amplify certain

1 C. P. Klass

2 areas of the original declaration,
3 basically to make it read better
4 through, I've decided that copying
5 some parts of it were appropriate.

6 Q. Let's flip over to your CV.
7 You went to Western Michigan?

8 A. I did.

9 Q. I was trying to think -- and I
10 should that looked that up -- are they the
11 Chippewas? Did I just offend you?

12 A. Broncos. They were originally
13 the Hilltoppers. They have been the
14 Broncos since they changed from Western
15 Michigan Normal to Western Michigan
16 College of Education.

17 Q. And you graduated from Western
18 Michigan in '62, 1962?

19 A. Yes, I did.

20 Q. And you had a major in math;
21 correct?

22 A. I did.

23 Q. You do not have an engineering
24 degree; correct?

25 A. No.

1 C. P. Klass

2 Q. And you got your master's at
3 Pace in '68; correct?

4 A. Correct.

5 Q. You worked in college to put
6 your way through; correct?

7 A. Yes.

8 Q. At Hamilton Paper, you worked
9 the night shift?

10 A. I did.

11 Q. And what did you do there?

12 A. I was the technical person --
13 this was a mill that de-inked wastepaper
14 and made paper, and I was the technical
15 person on shift that ran the controls in
16 the de-inking and bleach plant and also
17 did special testing on certain grades of
18 paper.

19 Q. And then in '60 and '61 you
20 moved to the Oxford Miami Paper Mill?

21 A. Yes, I did.

22 Q. And you were still a student;
23 correct?

24 A. My father had gotten sick and I
25 dropped out of school and basically went

1 C. P. Klass

2 back to my hometown and worked at Oxford
3 Miami Paper Company, which is in the same
4 region, worked days and took classes at
5 night at the University of Dayton.

6 Q. And you were a lab tech?

7 A. Yes.

8 Q. And then I take it you went back
9 to Western Michigan to graduate in 1962?

10 A. I did.

11 Q. And then you moved south to
12 Savannah, Georgia; is that correct?

13 A. Yes, sir.

14 Q. What type of business was Union
15 Camp?

16 A. It was -- at the time it was the
17 largest pulp and paper mill in the world.

18 Q. And you were a process engineer?

19 A. I was.

20 Q. And you worked there for a
21 couple of months; is that correct?

22 A. Actually, a couple of years. I
23 started in June of '62 and left in
24 November of '63.

25 Q. So a year and --

1 C. P. Klass

2 A. Yeah, under two years.

3 Q. And then you moved to Maryland?

4 A. I did.

5 Q. Why did you move to Maryland?

6 A. I was found by a headhunter.

7 Q. And you worked for is it

8 Westvaco?

9 A. Westvaco.

10 Q. What type of company was that?

11 A. Pulp and paper company.

12 Q. And you were there I believe
13 under a year?

14 A. I was there about a year, yeah.

15 Q. And then you moved to New York;
16 is that correct?

17 A. I did. My job moved to New
18 York.

19 Q. And did you become an associate
20 editor for a newspaper?

21 A. Actually, for a trade magazine,
22 Paper Trade Journal.

23 Q. But you became the associate
24 editor?

25 A. I did.

1 C. P. Klass

2 Q. After that, in approximately
3 1969, your job moved to New Jersey; is
4 that correct?

5 A. Well, the company was
6 headquartered in New Jersey.

7 Q. Where did you work?

8 A. At the beginning I was in field
9 sales in Mississippi, Louisiana, and
10 Texas, and then in the midwest, and then
11 in the head quarts in New Jersey.

12 Q. Lots of travel.

13 So you were in sales.

14 For how many years were you in
15 sales in that part of the job?

16 A. Sales and marketing. As a sales
17 rep basically the first couple of years
18 and then as a product manager and
19 marketing manager for about four years.

20 Q. How long were you the marketing
21 manager?

22 A. I was the marketing manager I
23 think -- I was a paper chemicals marketing
24 manager, I think it was the last two
25 years. It might have been two, two and a

1 C. P. Klass

2 half years.

3 Q. And then did you move to the
4 Lockport Felt division job?

5 A. I did.

6 Q. Did you all make felt?

7 A. We made what we called paper
8 machine clothing, that is felts and
9 fabrics that are used on paper machines.

10 Q. I read an interesting article
11 about it.

12 The company closed down in '77,
13 is that correct, and that's why you moved?

14 A. No.

15 Q. What happened?

16 A. The company was acquired in
17 1977. The day after -- I was in Ohio
18 burying my mother the day of the
19 acquisition took place and the next day I
20 walked in and they said we own it now, you
21 don't have a job.

22 Q. And you then moved over to Asten
23 Group?

24 A. Correct.

25 Q. And you were the marketing

1 C. P. Klass

2 director there, too?

3 A. I was corporate marketing
4 director.

5 Q. What type of business was Asten
6 Group at that point?

7 A. What we referred to as machine
8 clothing, that is forming fabrics, press
9 felts, and dryer fabrics for paper
10 machines.

11 Q. And in 1982, where did you go?

12 A. I went to work for what
13 ultimately became BTG Coating Systems. At
14 the time I went to work for them, it was
15 called AB -- it was named Inventing of
16 America Limited, and it was a subsidiary
17 of AB Inventing in Sweden.

18 Q. And what was your job duties
19 there?

20 A. Well, I set up the North
21 American sales and service and engineering
22 organization basically, so my title was
23 officially vice president, I would say
24 vice president/manager, but my title was
25 officially vice president.

1 C. P. Klass

2 Q. And it was vice president of
3 sales or of --

4 A. Just vice president, period. I
5 was responsible for sales, marketing, and
6 engineering, and service.

7 Q. And in 1986, you started Klass
8 Associates, which we were previously
9 talking about; is that correct?

10 A. That is correct.

11 Q. When you started Klass
12 Associates, did you leave the employment
13 of BTG or was there an overlap at some
14 point?

15 A. There had been a reorganization
16 at BTG and the new managing director
17 decided he could do without my services,
18 so I --

19 Q. Was that performance-based or
20 just a RIF?

21 MR. WOFSY: I object to the form
22 of the question.

23 You can respond.

24 Q. Let me say.

25 A. Let us say it wasn't

1 C. P. Klass

2 performance-based, because after I left,
3 it went down so bad that they ended up
4 selling the company a year or two later.
5 So the answer is it wasn't
6 performance-based. I was doing seventy
7 percent of the company's worldwide sales
8 by that time.

9 Q. You were in charge of seventy
10 percent of the sales?

11 A. We were doing seventy percent of
12 the global sales in the U.S.

13 Q. Why did you start Klass
14 Associates?

15 A. I'll give you an honest answer.
16 I was based in Philadelphia at that point
17 in time and I was offered a number of very
18 good jobs at various places that all
19 involved a relocation, and my ex-wife said
20 absolutely not, we are not moving. I
21 could find another job in the Philadelphia
22 area and said you've always said at the
23 end of your career, you wanted to teach
24 and/or consult. You're forty-six years
25 old, let's try it now. I started

1 C. P. Klass

2 consulting and got a couple of clients and
3 changed from sole proprietor to Klass
4 Associates, Inc. on the basis of the
5 advice of my attorney and the accountant.

6 Q. Did Klass Associates ever have a
7 website?

8 A. We do now.

9 Q. You do?

10 A. Yeah, Klass Associates, Inc.

11 MR. BARNES: I saw a Facebook
12 page.

13 (Whereupon, a copy of a Facebook
14 entry for Klass Associates, Inc.
15 was marked Exhibit B2
16 for identification.)

17 Q. Sir, is this the Facebook page
18 for your company?

19 A. It looks like it should be. I
20 don't recall spending time -- spending
21 recent time on Facebook looking at the
22 appearance, but it looks like it should
23 be.

24 Q. Did you set up the Facebook page
25 for your company?

1 C. P. Klass

2 A. Yes, some years ago.

3 Q. You said your company had a
4 website --

5 A. It's out of date.

6 Q. What is?

7 A. It still has the Madeira Beach
8 address, it still has the old phone
9 number. So what it says is I didn't go on
10 to Facebook and change those things.

11 Q. Madeira Beach, that was your old
12 address; correct?

13 And I see it has the website
14 Klassassociates.com.

15 A. Yes.

16 Q. Do you believe that's an active
17 website?

18 A. It is. Yes, I paid GoDaddy last
19 week to keep it active.

20 Q. Do you use that website? Have
21 you used it the past year?

22 MR. WOFSY: I object to the form
23 of the question.

24 THE WITNESS: Yes, I have used
25 it. I have looked at it at times and

1 C. P. Klass

2 I have had some inquiries come in from
3 that website.

4 Q. Has it been the same --

5 MR. BARNES: Strike that.

6 Q. How would you say over the past
7 twenty years clients have found
8 information about Klass Associates?

9 MR. WOFSY: Objection to the form
10 of the question.

11 If you know how.

12 THE WITNESS: There's been a
13 variety of things. In a lot of cases,
14 people -- clients or people that know
15 me in the paper industry have referred
16 clients to me. We mentioned -- you
17 know, we mentioned, for example, my
18 retention in this particular case is
19 through Teklicon. I'm registered with
20 several expert witness recruitment
21 services. I have quite a number of
22 publications, and I do conference
23 papers quite frequently or panel
24 discussions and people find out about
25 me there. I have been -- I have

1 C. P. Klass

2 several financial institutions here in
3 New York that basically I'm a go-to
4 person when they get a request in for
5 an additional screening of a project
6 financing or an M&A.

7 Q. On a paper company?

8 A. Yes.

9 (Whereupon, a document entitled
10 Declaration of Charles P. Klass
11 was marked Exhibit B3
12 for identification.)

13 Q. I hand you what's been marked as
14 Exhibit 3. It's your first declaration.

15 (Whereupon, a document entitled
16 Supplemental Declaration of Charles P.
17 Klass was marked Exhibit B4
18 for identification.)

19 Q. I'll hand you Exhibit 4 which is
20 the supplemental declaration.

21 I'll ask you to look at both of
22 those and confirm that B3 is your original
23 declaration submitted in this case and B4
24 is the supplemental declaration submitted
25 in this case.

1 C. P. Klass

2 A. (Reviewing).

3 They appear to be the documents
4 that I submitted.

5 Q. Turn in your first declaration
6 to the table of contents.

7 You provide a section -- go to
8 paragraphs forty-one to forty-six. It was
9 an exam of the patent.

10 Do you see that?

11 MR. WOFSY: Are you asking him to
12 refer to the table of contents or to
13 the actual paragraphs?

14 MR. BARNES: Paragraphs.

15 MR. WOFSY: And paragraph
16 forty-one, you said?

17 MR. BARNES: Forty-one through
18 forty-six. It starts on page twenty.

19 THE WITNESS: Okay. Yes,
20 forty-one through --

21 Q. Through forty-six, which is a
22 whole section.

23 A. That's fine. It's basically the
24 section that is there starting on page
25 twenty and ending on page twenty-three

1 C. P. Klass

2 that -- where the heading above forty-one
3 is B, examination of the '142 patent.

4 Q. The paragraphs before this
5 paragraph forty-one, like paragraph forty
6 and thirty-nine, are in your supplemental
7 declaration. You wrote it. I would
8 assume you probably remember that.

9 MR. WOFSY: Objection to the form
10 of the question.

11 Q. You can answer.

12 A. Yes, they are.

13 Q. Paragraph forty-one through
14 forty-six in your original declaration are
15 not included in your supplemental
16 declaration; correct?

17 MR. WOFSY: Objection to the form
18 of the question.

19 THE WITNESS: The two paragraphs
20 you refer to, thirty-nine and forty in
21 the original declaration are
22 paragraphs twenty-four -- twenty-three
23 and twenty-four in the supplemental
24 declaration.

25 Q. Yes, sir.

1 C. P. Klass

2 A. And the forty-one through
3 forty-six that we referred to are not in
4 the supplemental declaration.

5 Q. Correct.

6 You removed them; correct?

7 A. I didn't include them.

8 Q. Why?

9 A. I didn't see a need to.

10 Q. Are you no longer presenting
11 those statements in forty-one through
12 forty-six as evidence in this case?

13 MR. WOFSY: Objection to the form
14 of the question; seeks a legal
15 conclusion.

16 THE WITNESS: Both the original
17 declaration and the supplement I am
18 presenting as evidence in this case.

19 Q. You kept the prior paragraphs
20 the same.

21 Why did you say they weren't
22 needed in the second declaration,
23 forty-one through forty-six?

24 A. I didn't see a need for them.

25 Q. Why?

1 C. P. Klass

2 A. Because I didn't see a need.

3 Q. Because they weren't relevant
4 anymore?

5 MR. WOFSY: Objection to the form
6 of the question.

7 THE WITNESS: I didn't say they
8 weren't relevant. I said I didn't see
9 a need to repeat them.

10 Q. Paragraphs forty-seven through
11 sixty-six of your original declaration.

12 MR. WOFSY: Of Exhibit B3.

13 THE WITNESS: Forty-seven
14 through sixty-six?

15 Q. Yes, sir.

16 You identify that as claim
17 construction?

18 A. I did.

19 Q. Those were not included in your
20 supplemental declaration; correct?

21 A. I believe that's the case. I'm
22 going to check and see.

23 (Reviewing).

24 They were not.

25 Q. And on your second declaration,

1 C. P. Klass

2 supplemental declaration, paragraph
3 twenty-five, I think you're there; weren't
4 you, sir?

5 A. I am.

6 Q. Is it true that you're not
7 providing an opinion now on claim
8 construction in this matter; correct?

9 MR. WOFSY: Objection.

10 THE WITNESS: In this
11 supplemental declaration.

12 Q. So isn't it true that I guess
13 forty-seven through sixty-six, you're no
14 longer offering those opinions?

15 A. I have already offered them.

16 Q. But you're not providing an
17 opinion on claim construction; correct?

18 MR. WOFSY: Objection to the form
19 of the question.

20 THE WITNESS: Not in the
21 supplemental report.

22 Q. Do you adopt the claim
23 construction as set forth in the decision
24 to institute this action?

25 A. I'll have to see if I --

1 C. P. Klass

2 Q. Sir, before you go digging back
3 through, look at paragraph twenty-five.

4 Isn't it true, sir, that you
5 state that the patent owner adopt the
6 claim construction as set forth in the
7 decision to institute?

8 A. That is correct.

9 Q. That's your statement?

10 A. So that is my statement, yes.

11 Q. So therefore, isn't it true that
12 you said you are not providing an opinion
13 in this matter on claim construction in
14 this declaration?

15 A. That's correct.

16 Q. And you decided not to include
17 the claim construction section in your
18 supplemental declaration; correct?

19 A. I didn't see a need to.

20 Q. Because you're not offering an
21 opinion on claim construction?

22 MR. WOFSY: Objection to the form
23 of the question, if there is a
24 question.

25 THE WITNESS: Not in the

1 C. P. Klass

2 supplemental report.

3 Q. You're offering a claim
4 construction opinion in this matter?

5 MR. WOFSY: Is there a question?

6 Q. I'm asking, are you?

7 A. I had a discussion of review of
8 claim construction in my original report,
9 in my original declaration. I did not
10 repeat it or offer a new opinion on the
11 supplemental report.

12 Q. Sir, what you stated is you're
13 not providing an opinion on claim
14 construction.

15 A. That's what it says right here.

16 Q. And you're aware that the patent
17 owner is WestRock; correct?

18 A. That is correct.

19 Q. And they've adopted the board's
20 decision on claim construction; correct?

21 MR. WOFSY: Objection to the form
22 of the question.

23 You can answer if you understand
24 what WestRock would do.

25 THE WITNESS: Yes.

1 C. P. Klass

2 Q. So you would agree with me then,
3 if the parties -- if the party to the
4 proceeding is not objecting to claim
5 construction, are you just doing it on
6 your own?

7 A. No, I'm not providing an opinion
8 on claim construction.

9 Q. At all in this matter now;
10 correct?

11 A. Correct.

12 Q. Likewise, sir, the previous
13 ones, the previous paragraphs --

14 MR. WOFSY: Of which exhibit?

15 MR. BARNES: I'm going to it.

16 Hold on.

17 Q. Forty-one to forty-six that we
18 talked about in the first declaration,
19 you're not offering that opinion again;
20 are you?

21 MR. WOFSY: Objection to the form
22 of the question.

23 THE WITNESS: He's talking
24 about --

25 Q. The one we just went over.

1 C. P. Klass

2 A. (Reviewing).

3 What's your question on this.

4 Q. You did not include those
5 paragraphs in your supplemental
6 declaration; correct?

7 A. I did not.

8 Q. You're not offering those
9 opinions in paragraphs forty-one to
10 forty-six now; are you, sir?

11 A. Not in my supplementary
12 declaration.

13 Q. Sir, why don't we go to -- well,
14 let me just ask you first.

15 The supplemental declaration was
16 meant to provide additional information;
17 wasn't it?

18 A. Yes.

19 Q. Would you agree with me that the
20 majority of your supplemental declaration
21 is a copy and paste of your original
22 declaration?

23 MR. WOFSY: Objection to the form
24 of the question.

25 Q. You can answer.

1 C. P. Klass

2 A. I'd have to go through and see
3 how much -- there was some of it copied.
4 Whether it's the majority, in number of
5 word can count or things, I would have to
6 go back and do a paragraph-by-paragraph
7 comparison. But a substantial amount of
8 it was.

9 Q. Over half you'd agree with me;
10 correct?

11 MR. WOFSY: Objection to the form
12 of the question.

13 THE WITNESS: If you want to sit
14 here for the next hour or two and do
15 that, we can do that. I'm not going
16 to get you to put a range into my
17 mouth basically without taking the
18 whole time to do it.

19 Q. Are you finished with that
20 answer?

21 A. I believe so.

22 Q. You drafted the declaration?

23 A. I did.

24 Q. Did you do the cutting and
25 pasting?

1 C. P. Klass

2 MR. WOFSY: Objection to the form
3 of the question.

4 THE WITNESS: Yes, I did.

5 Q. So my question is: As we sit
6 here today, would you agree with my
7 statement that over half of this
8 supplemental declaration is cut and paste
9 from the first?

10 MR. WOFSY: Objection the to form
11 of the question.

12 THE WITNESS: Without going and
13 doing a side-by-side comparison. When
14 you say over half, it means over half.

15 Q. Did your supplemental
16 declaration offer a different opinion on
17 claim construction?

18 A. I didn't offer an opinion -- a
19 different opinion on claim construction in
20 my supplemental declaration. You can go
21 right back to the paragraph we looked at
22 where I said in paragraph twenty-five that
23 I did not offer an opinion on claim
24 construction.

25 Q. Does it matter to you in your

1 C. P. Klass

2 testimony that your client disagrees with
3 what you wrote about claim construction in
4 your first declaration?

5 MR. WOFSY: Objection to the form
6 of the question.

7 THE WITNESS: I haven't been
8 informed that my client disagrees.

9 Q. Because you've never spoken to
10 your client; correct?

11 A. That is correct.

12 MR. WOFSY: Objection to form.

13 THE WITNESS: I've only spoken
14 to counsel.

15 Q. Sir, did you change your opinion
16 from your original declaration to your
17 supplemental declaration regarding claim
18 one in this matter?

19 MR. WOFSY: Can you read back
20 that question, please?

21 (Whereupon the requested portion
22 was read back by the reporter)

23 THE WITNESS: I don't know that
24 I changed my opinion. I provided some
25 responses on feature-by-feature on

1 C. P. Klass

2 some of the claims.

3 Q. What paragraph were you just
4 referring to in what exhibit, please?

5 A. Exhibit 4 says that I didn't
6 provide an opinion on claim construction,
7 but I did include some discussion of
8 claims.

9 Q. And where is that that you were
10 referring to?

11 A. I'll find it.

12 (Reviewing).

13 If you go to page twenty of
14 Exhibit 4, it says claims analysis, and it
15 says, "in the section below, I provide my
16 response of the feature-by-analysis of the
17 petition, the Zotterman declaration, and
18 the decision to institute".

19 Q. That's at paragraph forty-one on
20 page twenty of Exhibit 4; correct?

21 A. Correct.

22 Q. Keep that open, Exhibit 4, and
23 go to Exhibit 3, page forty-six and
24 paragraph eighty-six.

25 A. Okay.

1 C. P. Klass

2 Q. This is under section both A,
3 ground one?

4 A. Correct.

5 Q. Claim one and two and five
6 through twenty-three; correct? Both those
7 headings state that part in A on page
8 forty-six and page twenty?

9 A. Yes.

10 Q. If you go down to claim one,
11 you'd agree with me that you changed your
12 testimony; correct?

13 MR. WOFSY: Objection to the form
14 of the question.

15 Q. Let me ask this question.

16 Under one, claims analysis A,
17 claim one, the paragraphs are different
18 from the two declarations.

19 We can agree on that; can't we?

20 A. I can agree to that. I just
21 compared them and they are different.

22 Q. Why did you not cut and paste
23 your paragraphs under A, claim one, which
24 go from eighty-seven to one hundred two --

25 MR. WOFSY: Objection to the form

1 C. P. Klass

2 of the question.

3 Q. -- and just didn't provide any
4 supplementation?

5 A. I think part of the answer is if
6 you look at the paragraphs above --

7 Q. Above what, sir?

8 A. Well, in Exhibit 3, basically
9 paragraph eighty-six, basically "the
10 sections below provide my responses to the
11 feature-by-feature analysis in the
12 petition and Zotterman declaration".

13 Q. Yes, sir.

14 A. And paragraph forty-one in
15 Exhibit 4 says, "in the section below, I
16 provide my responses to the
17 feature-by-feature analysis in the
18 petition, the Zotterman declaration, and
19 decision to institute". So what's added
20 there is the "decision to institute".

21 MR. BARNES: We can take a break.

22 (Whereupon a break was taken)

23 Q. Sir, why don't you turn to
24 paragraph twenty-six in your original
25 declaration.

1 C. P. Klass

2 A. In the original?

3 Q. Yes, sir.

4 MR. WOFSY: B3.

5 Q. Let me know when you get there.

6 A. Okay.

7 Q. Sir, am I correct that it's your
8 opinion that the hypothetical person
9 having ordinary skill in the art is
10 someone with a bachelor's degree in some
11 type of engineering?

12 A. Yes, I said "it's my opinion
13 that the hypothetical person having
14 ordinary skill in the art is a person with
15 a bachelor's degree in paper science and
16 engineering, chemical engineering, process
17 engineering, mechanical degree, or a
18 related degree with no more than three to
19 five years of experience in paperboard
20 manufacturing or a person with a master's
21 degree in their highest degree in paper
22 science and engineering, chemical
23 engineering, mechanical, or a similar
24 field with a specialization in paperboard
25 manufacturing. A person who had studied

1 C. P. Klass

2 pulp and paper technology or paper
3 engineering would understand the dynamics
4 and calendering when graduating, whereas
5 it is normal for a person with a general
6 chemical or engineering degree to need
7 three to five years of papermaking
8 experience to become a person of ordinary
9 skill in the art".

10 Q. You read that paragraph;
11 correct?

12 A. I did.

13 Q. My question to you, sir, is:
14 Isn't it true -- it's not a trick
15 question.

16 Isn't it true that someone who's
17 a hypothetical person skilled in the art
18 needs to have some type of engineering
19 degree?

20 A. No.

21 Q. Or a related field?

22 A. I said also or a technology
23 degree which isn't necessarily an
24 engineering degree.

25 Q. Where did you say a technology

C. P. Klass

degree?

A. A person who has studied pulp and paper technology or paper engineering would understand the dynamics as a result of calendering when graduating.

Q. I'm trying to understand your testimony.

If you look at paragraph twenty-six in the midsection where you make the statement "it's my opinion that the hypothetical person having ordinary skill in the art is a person with a bachelor's degree in paper science engineering".

A. Yep.

Q. That's an engineering degree; correct?

A. You can get a degree in paper science without an engineering degree.

Q. From a couple of select universities?

A. Yes, including the best one in Kalamazoo.

Q. But when you were making that

1 C. P. Klass

2 statement about paper science and
3 engineering, that was the paper science
4 and engineering degree that's offered at
5 Western Michigan; correct?

6 A. The paper science and
7 engineering degree is offered at Western
8 Michigan now.

9 Q. And you said chemical
10 engineering?

11 A. Yes.

12 Q. Process engineering; correct?

13 A. Yes.

14 Q. Mechanical engineering?

15 A. Right.

16 Q. And then you say, "or a related
17 degree".

18 This is my next question.

19 You go on to state, "or a
20 related degree with", and you emphasize,
21 you put italics there, "no more than";
22 right?

23 A. Yes.

24 Q. Why did you put italics?

25 A. That is -- basically to

1 C. P. Klass

2 emphasize about how long a person with a
3 general engineering degree or mechanical,
4 chemical experience that goes to work as a
5 process engineer in a mill or goes to work
6 in production in a mill, over a period of
7 about three to five years they learn all
8 about calendering.

9 Q. You're not saying there that
10 someone can't have more than three to five
11 years, you're saying they need three to
12 five years?

13 MR. WOFSY: Objection to the form
14 of the question.

15 THE WITNESS: In my opinion,
16 three to five years would be what
17 would be needed if they did not have a
18 degree that taught them specifically
19 while they were in undergraduate
20 school.

21 Q. In your declaration and in this
22 case, we've used the term about a prior
23 art called Papermaking.

24 Are you familiar with that?

25 A. I am familiar with the term

1 C. P. Klass

2 "Papermaking", yes.

3 Q. As a prior art reference, too?

4 A. As a prior art reference.

5 Q. Because you've stated it in your
6 declaration?

7 A. Yes.

8 MR. WOFSY: Just so the record is
9 clear, are we talking about
10 Papermaking as a reference and
11 papermaking as a method of
12 manufacturing?

13 MR. BARNES: I'm going to clear
14 it up right here.

15 I'm going to hand you what's
16 being marked as Billerud Exhibit 5.

17 (Whereupon, a document entitled
18 Papermaking Part 3 was marked
19 Exhibit B5 for identification.)

20 Q. Sir, to my previous question,
21 when you're making reference about prior
22 art to Papermaking, are you referring to
23 Exhibit 5?

24 A. I'm referring to -- prior art
25 would include many things with

1 C. P. Klass

2 papermaking. It would include this but it
3 wouldn't be exclusive to what's Exhibit 5.

4 Q. Sir, go to page thirteen in your
5 supplemental declaration which is
6 Exhibit 4, paragraph thirty.

7 A. Yes.

8 Q. Are you there?

9 MR. WOFSY: Page thirteen, it is.

10 THE WITNESS: I will be in a
11 minute.

12 Q. You used the heading
13 Papermaking; correct?

14 A. In italics, yes.

15 Q. Answer my question.

16 A. Yes, I did.

17 Q. Is that reference to Papermaking
18 at section B, paragraph thirty what is
19 marked as Exhibit 5?

20 A. Yes.

21 Q. You agree with me, sir, that
22 this Exhibit 5 was not provided to the PTO
23 office when they were examining the '142
24 patent; correct?

25 A. I don't know whether it was

1 C. P. Klass

2 provided or not. I mean, I don't know
3 unless you could show me a document that
4 says they didn't see it. I'm not aware of
5 what was provided to them or not.

6 Q. As we're here today, are you
7 aware that your declaration admits that it
8 wasn't provided?

9 A. It says that it wasn't provided?

10 Q. Was not provided.

11 A. I don't know, can you show me
12 where I say that?

13 Q. Do you remember saying that in
14 your declaration as we're here today?

15 A. I don't recall. If you can show
16 it to me, I might have said it.

17 MR. WOFSY: Objection to the form
18 of the question.

19 Q. Go to --

20 MR. BARNES: Strike that.

21 Q. Sir, would you agree with me
22 that you stated in your declaration that
23 Papermaking is likely to be the largest
24 and most comprehensive book series in the
25 field of papermaking?

1 C. P. Klass

2 A. Yes, I agree with that.

3 Q. And that's in reference to in
4 part paragraph thirty that we were just on
5 when it talks about Papermaking is a
6 series of books; correct?

7 A. You're quoting me out of context
8 here. What I said was Papermaking, which
9 is an updated version of the original
10 edition, is likely to be the largest and
11 most comprehensive book series in the
12 field of papermaking but I question
13 whether it is universally considered to be
14 the most authoritative textbook on
15 papermaking.

16 Q. But sir, my question to you was:
17 Isn't it true you said that Papermaking is
18 likely the largest and most comprehensive
19 book series in the field of papermaking;
20 correct?

21 A. I did say that.

22 Q. And you agree with that
23 statement?

24 A. I agree with that.

25 Q. And I think you state in your

1 C. P. Klass

2 declaration you were a book reviewer for a
3 different part of the series of the
4 Papermaking series; correct?

5 A. That is correct.

6 Q. What is the job of a book
7 reviewer of the Papermaking series?

8 A. I went through all of the --
9 what was submitted for the book, basically
10 reviewed it. As I recall in some cases,
11 in that volume I went back to some of the
12 authors and said you need another
13 reference or you need to clarify this. I
14 made some recommendations to the authors
15 of that series and there was some
16 revisions to the textbook prior to the
17 time of publication.

18 Q. Thank you for that.

19 Would you agree with me then
20 that one of the jobs of a book reviewer is
21 to make sure that what is printed in
22 papermaking was correct?

23 A. I would agree with that.

24 Q. And you're a member of an
25 organization called TAPPI?

1 C. P. Klass

2 A. Yes, I am.

3 Q. And what does TAPPI stand for?

4 A. Technical Association of the
5 Pulp and Paper Industry.

6 Q. Is TAPPI -- it's founded as an
7 American organization?

8 A. It's headquartered in the U.S.
9 but it's a global organization.

10 Q. It covers America as well?

11 A. Yes, it does.

12 Q. Would you agree with me, sir,
13 that --

14 MR. BARNES: Strike that.

15 Q. You're involved in TAPPI?

16 A. Yes.

17 Q. You've been given awards in
18 TAPPI by TAPPI?

19 A. Yes.

20 Q. You'd agree with, sir, that
21 TAPPI, as an organization, recommends the
22 use of the Papermaking series for people
23 in the papermaking industry to train their
24 employees and to use as a reference in the
25 workforce; correct?

1 C. P. Klass

2 A. I would agree with that.

3 Q. And you'd agree with me, sir,
4 that TAPPI also touts that the textbook
5 series is an excellent resource for
6 universities and colleges; correct?

7 MR. WOFSY: I object to the form
8 of the question.

9 If you know.

10 THE WITNESS: I don't know if
11 I've seen a direct statement for that,
12 but in general I would say yes. You
13 may be able to find it in TAPPI press,
14 you may be able to find a statement to
15 that effect.

16 MR. BARNES: I'll hand you what
17 we'll mark as Exhibit B6.

18 (Whereupon, a document entitled
19 Papermaking Science and Technology
20 Book Series was marked Exhibit B6
21 for identification.)

22 Q. Sir, you see B6 here in front of
23 you?

24 A. I'm seeing it. I'm looking
25 through it.

1 C. P. Klass

2 Q. Let me direct you to the front
3 page.

4 A. Yes.

5 Q. The second full paragraph starts
6 with "this series".

7 Do you see that?

8 A. Yes.

9 Q. It states, "this series is ideal
10 to train employees at your company or as a
11 reference guide for your experienced
12 workforce"; correct?

13 A. Correct.

14 Q. That's a statement you just
15 agreed with me?

16 A. I agree with it.

17 Q. And the next sentence says, "the
18 Papermaking Science and Technology series
19 is also an excellent textbook resource for
20 universities and colleges"; correct?

21 A. I would agree with it.

22 Q. And we can agree, sir, they show
23 pictures on this front page and the others
24 about each one of the series of
25 Papermaking; correct?

1 C. P. Klass

2 A. I see them all on the front
3 page, yes.

4 Q. Including Exhibit 5; correct?

5 A. Yes.

6 Q. I'm going to switch gears a
7 little bit.

8 Sir, do you know what is the
9 temperature range, either Fahrenheit or
10 Celsius, for steam?

11 A. For steam?

12 Q. Yes, sir.

13 A. In general?

14 Q. Yes, sir.

15 A. It depends on the pressure.

16 Q. What do you mean?

17 A. Saturated steam can be made at
18 very high temperatures.

19 Q. How high?

20 A. I've seen some power boilers
21 basically that run at six, eight, ten
22 atmospheres at twelve hundred degrees.

23 Q. Twelve hundred degrees?

24 A. Fahrenheit.

25 Power boilers run at very high

1 C. P. Klass

2 temperature.

3 Q. Where was the power boiler used
4 that you saw at twelve hundred degrees?

5 A. At a mill to generate steam.

6 Q. Would you agree with me, sir,
7 that Papermaking, Exhibit 5 there, teaches
8 that steam can be successfully used up to
9 two hundred thirty-five Celsius as a
10 heating medium for calenders?

11 A. I believe you can find that. If
12 you want to point me to it, I can. I
13 don't disagree with that. I think I
14 recall that.

15 Q. It's two hundred thirty-five
16 Celsius was my statement, sir.

17 What does that relate to in
18 Farenheit?

19 A. I'd have to look at a conversion
20 chart, but I think you're going to find
21 it's around three hundred eighty.

22 Q. Two hundred thirty-five Celsius,
23 sir, would you agree with me translates to
24 four hundred fifty-five Fahrenheit?

25 A. I have to do --

1 C. P. Klass

2 Q. Or do you not know that?

3 A. I would have to do a calculation
4 on that.

5 Q. Is what kind of calculation
6 would you do?

7 A. From Fahrenheit to -- a
8 centigrade to Fahrenheit scale.

9 Q. Can you do that?

10 A. I have to see if I can remember
11 that. Farenheit's approximately
12 nine-fifths centigrade plus thirty-two,
13 so --

14 Q. Do you need a sheet of paper? I
15 can get you something if you need it.

16 A. Yeah, and a pen.

17 MR. WIRÉN: Do you want a
18 calculator?

19 THE WITNESS: A calculator would
20 be good.

21 You said what -- we said what's
22 Celsius range were we talking about?

23 Q. Two hundred thirty-five Celsius.

24 A. Four hundred fifty-five
25 Fahrenheit.

1 C. P. Klass

2 THE WITNESS: Thank you for the
3 calculator.

4 Q. Sir, would you also agree with
5 me that Papermaking teaches that, because
6 of a condensation or condensate problem,
7 one hundred forty Celsius or two hundred
8 eighty-four Fahrenheit is the lowest
9 reasonable target with steam?

10 MR. WOFSY: Objection to the form
11 of the question.

12 THE WITNESS: Say again, please?

13 Q. Sure.

14 Would you agree with me that
15 Papermaking, that exhibit in front of you,
16 teaches that because of the condensate
17 problem, one hundred forty degrees Celsius
18 or two hundred eighty-four Fahrenheit is
19 the lowest reasonable target with steam
20 that can be used?

21 A. That statement maybe be in
22 there, if you can show it to me.

23 Q. Would you agree with that
24 statement?

25 A. I think it's probably about the

1 C. P. Klass

2 range of what I've seen lowest
3 practically, but whether you can use lower
4 than that, it could be.

5 Q. But that's the lowest you've
6 seen used practically?

7 A. It's in the range of the lowest
8 I've seen.

9 (Whereupon, a copy of United
10 States patent 6,274,001 was marked
11 Exhibit B7 for identification.)

12 Q. I'm going to give you what's
13 been marked as Exhibit 7, which is been
14 identified previously in this litigation
15 as Mohan.

16 Sir, you've read Mohan before
17 this Exhibit 7 that's part of this
18 litigation; correct? Or do you not know?

19 A. It appears to be a complete copy
20 of Mohan. Yes, I've read it.

21 Q. Can you go to column four.

22 A. Okay.

23 Q. Would you agree with me that
24 Mohan teaches that the heating temp of the
25 calender can be two hundred fifty to four

1 C. P. Klass

2 hundred degrees?

3 MR. WOFSY: Is there a particular
4 place that you are referring to in
5 column four?

6 MR. BARNES: You can go to line
7 fifty-four.

8 THE WITNESS: Yes, line
9 fifty-four and fifty-six, "as the heat
10 input into the roll should be
11 sufficient to maintain a roll
12 temperature of two hundred fifty to
13 four hundred degrees F during
14 calendering of the web".

15 Q. So you agree with my statement?

16 A. Yes.

17 MR. BARNES: Thank you.

18 You can put that to the side for
19 a second.

20 I'm going to hand you what we've
21 previously talked about marked as
22 Exhibit 8, which is the '142 patent.

23 (Whereupon, a copy of United
24 States patent 11,293,142
25 was marked Exhibit B8

1 C. P. Klass

2 for identification.)

3 Q. You've seen this document
4 before?

5 A. Yes, I have.

6 Q. Sir, were you involved in any
7 way in the obtaining of this patent?

8 A. In the obtaining of it?

9 Q. Yes, sir.

10 A. No.

11 Q. Go to column two, please, at
12 approximately line sixty-two.

13 A. Let me get there.

14 Q. No worries.

15 A. Column two, around which line?

16 Q. Line sixty-two. It starts, "the
17 paperboard substrate".

18 Do you see that?

19 A. Yes.

20 Q. And what it states there in this
21 patent under the detailed description,
22 "the paperboard substrate may be any
23 paperboard material that is capable of
24 being coated such as with the disclosed
25 base coat".

1 C. P. Klass

2 Did I read that correctly?

3 A. You did.

4 Q. And then can you switch over to
5 column twelve, please.

6 A. Let me get there.

7 Q. Sure.

8 A. Okay.

9 Q. Under claim one, about the
10 middle of column twelve, it says, "what is
11 claimed, number one".

12 A. Okay.

13 Q. Have you read that before?

14 A. I have.

15 Q. Under one it says, "a method for
16 manufacturing a paperboard structure
17 comprising passing a paperboard substrate
18 through a hot hard calender to yield a
19 calendered paperboard substrate".

20 Did I read that correctly?

21 A. Yes.

22 Q. That's claim one; correct?

23 A. Correct.

24 Q. Can you go back to Papermaking,
25 the exhibit.

1 C. P. Klass

2 A. Exhibit 5?

3 Q. Yes, sir.

4 A. And?

5 Q. Sorry, wrong one.

6 MR. BARNES: I want to hand you
7 what is going to be marked as B9 this
8 document.

9 (Whereupon, a document entitled
10 Paper and Board Grades was marked
11 Exhibit B9 for identification.)

12 Q. Sir, you'd agree with me this is
13 another excerpt from the Papermaking
14 series we were just talking about;
15 correct?

16 A. Yes, it is.

17 Q. And this one is entitled Paper
18 and Board Grades; correct?

19 A. That is correct.

20 Q. It's book eighteen; correct?

21 A. Yes.

22 Q. Have you ever seen this document
23 before?

24 A. This particular document?

25 Q. Yes, sir.

1 C. P. Klass

2 A. I have seen it.

3 MR. WOFSY: Just for the record,
4 there appears to be highlighting in
5 the exhibit that --

6 MR. BARNES: Sorry, wrong one.
7 Thank you, Scott.

8 MR. WOFSY: Do you want to put a
9 label on this one?

10 MR. BARNES: Yes. It's just
11 where we're going.

12 Q. My question was: Have you ever
13 seen this document before?

14 A. The answer's yes.

15 Q. Go over to page fifty-five under
16 the heading paperboard grades.

17 A. Right.

18 Q. And this Papermaking series
19 teaches that paperboards are classified
20 into three categories.

21 Do you see that?

22 A. Correct.

23 Q. It's the second sentence.
24 Carton board, container board, and
25 specialty boards.

1 C. P. Klass

2 Do you see that?

3 A. I do.

4 Q. And then go to figure one right
5 next to it.

6 Do you see at the top it
7 identifies the broad category of
8 paperboard grades in this flowchart;
9 correct?

10 A. That is correct.

11 Q. And then the three types of
12 paperboard, it lists one of carton boards;
13 correct?

14 A. Correct.

15 Q. And under carton boards, under
16 that category, there's a folding boxboard;
17 is that correct?

18 A. Yes.

19 Q. That's the acronym FBB, correct,
20 for that?

21 A. It is -- the commonly used
22 abbreviation for it is FBB.

23 Q. White-lined chip board; correct?

24 A. Yes.

25 Q. What's the abbreviation for

C. P. Klass

that?

A. WLC is commonly used in Europe.

Q. Just Europe?

A. There are a few mills here in the U.S. --

Q. I thought you were saying using the abbreviated name.

A. There are some making it and I think basically I could go find a place where they refer to it as WLC.

Q. And solid bleach board?

A. Yes.

Q. SBB; correct?

A. SBS.

Q. SBS, I'm sorry.

A. Solid bleach board here is what's commonly referred to in the United States as SBS, solid bleach sulfate.

Q. Solid unbleached board is the next one; correct?

A. Yes.

Q. Liquid packaging board; correct? And below that is bleached and unbleached?

A. Yes.

1 C. P. Klass

2 Q. And then the other two
3 categories, container boards; correct?

4 A. Correct.

5 Q. And the third category,
6 specialty boards; correct?

7 A. Correct.

8 Q. And according to papermaking,
9 all of carton boards, container boards,
10 and specialty boards are all classified as
11 paperboard; correct?

12 A. That is correct.

13 Q. Can you turn in your
14 supplemental declaration, Exhibit 4, to
15 page nine.

16 A. Page nine?

17 Q. Yes, sir.

18 A. Yes.

19 Q. Figure four.

20 A. Figure four.

21 Q. Who created that chart, if you
22 know?

23 A. I don't know.

24 Q. You didn't; correct?

25 A. I did not.

1 C. P. Klass

2 Q. Can you keep that open and get
3 the '142 patent out, please, Exhibit 8.

4 A. All right.

5 Q. Turn to -- find figure four in
6 the patent. It's on sheet four of seven,
7 I believe.

8 A. Figure four?

9 Q. Yes, sir.

10 A. Yes.

11 Q. Now, in the '142 patent, the
12 figure four does not have those two lines
13 going from examples four through six or
14 examples one through three that are in
15 your declaration; correct?

16 A. Yes, figure four in the patent
17 does not have the two lines in it.

18 Q. And you can look in the patent.
19 I don't see where figure four
20 that's in your declaration that's in the
21 patent; correct?

22 A. That's correct, yes.

23 Q. And as we're here today, you
24 don't know where this chart came from
25 that's in your declaration, your

1 C. P. Klass

2 supplemental declaration that's Exhibit 3;
3 correct?

4 A. That's correct.

5 Q. Can we agree that, using your
6 chart or the chart that's in your
7 paragraph twenty-three, are those circles?
8 Can we call them circles that are all
9 over? Or are they diamonds?

10 A. There are circles, squares, and
11 diamonds.

12 Q. And the circles by the sort of
13 side, the guide, says those are prior art;
14 correct?

15 A. Correct.

16 Q. Isn't it true, sir, since you
17 didn't create this chart, that you don't
18 know how these prior art circles, what
19 they represent?

20 A. Other than how -- if we go back
21 to the '142 patent, let's look at the
22 discussion of figure four and see what it
23 says.

24 Q. Do you need to go back to figure
25 four to answer my question?

1 C. P. Klass

2 A. Yes.

3 Q. Go ahead.

4 And you're looking now at the
5 '142 patent at figure four.

6 A. In the '142 patent, in column
7 two, lines it looks like twenty-seven to
8 -- twenty-seven to thirty says, "figure
9 four is a graphical representation of
10 density versus caliper thickness of
11 various examples of disclosed smooth
12 low-density paperboard structures as well
13 as prior art examples".

14 Q. Correct, sir.

15 In the right corner, the
16 circles, state they are prior art; is that
17 correct?

18 A. Yes. They are identified as
19 prior art as circles.

20 Q. But you do not know how these
21 prior art circles were selected; do you?
22 How the prior art was selected that was
23 plotted on there?

24 A. No. I don't know how it was
25 selected.

1 C. P. Klass

2 Q. You don't know the parameters
3 that were utilized to select them;
4 correct?

5 A. No, they said they cited as
6 prior art, basically. I don't know how
7 that was done.

8 Q. You don't know what type of
9 paperboard each circle represents;
10 correct?

11 A. The answer is no, I don't know.

12 Q. Sir, you would agree with me
13 that you also don't know how each of these
14 prior art references was manufactured;
15 correct?

16 MR. WOFSY: Objection to the form
17 of the question.

18 THE WITNESS: No, I don't know
19 how they were manufactured.

20 Q. Let's go to figure eight which
21 is on paragraph -- your supplemental
22 declaration --

23 A. We're back on Exhibit 5 [sic]?

24 Q. Yes.

25 A. And where?

1 C. P. Klass

2 Q. Figure eight.

3 MR. WOFSY: You're talking about
4 his supplemental declaration?

5 MR. BARNES: Yes, I think it's in
6 both.

7 MR. WOFSY: That's page ten.

8 Q. You didn't create this chart;
9 did you, sir?

10 A. You're talking about figure
11 seven or figure eight?

12 Q. Figure eight.

13 A. Figure eight, no.

14 Q. And sir, the prior art on figure
15 eight by the legend in the bottom right
16 corner is denoted by a diamond; is that
17 right?

18 A. That is correct.

19 Q. And sir, isn't it true that all
20 the prior art that is referenced in figure
21 eight is undefined just as it was in
22 figure four?

23 MR. WOFSY: Objection to the form
24 of the question.

25 THE WITNESS: I don't recall

1 C. P. Klass

2 seeing references to exactly how it
3 was defined, so the answer to your
4 question is no, I don't know, I don't
5 know how that was defined.

6 Q. So it's true that you don't know
7 how the prior art was defined; correct?

8 A. In this figure, yes.

9 Q. Which means we don't know the
10 details for each of the references;
11 correct?

12 A. Correct.

13 Q. Isn't it true, sir, that we
14 don't know, looking at this, how many
15 prior art diamonds are referenced in
16 figure eight?

17 A. There's a lot of them basically.
18 Looking at it here, it would be a
19 cumbersome process to count them all, but
20 basically they could be blown up and do
21 it. But the answer is there's a lot of
22 them.

23 Q. And you don't know how these
24 references were selected; correct?

25 A. No, I don't.

1 C. P. Klass

2 Q. And the patent doesn't describe
3 any of the reference points in the prior
4 art; correct? You just looked at that
5 before.

6 A. I don't see anything within the
7 '142 patent that describes how they were
8 selected.

9 Q. Sir, isn't it true that your
10 reliance on figure eight, this chart, is
11 simply because these undefined points are
12 above the Y2 curve?

13 MR. WOFSY: Objection to form.

14 THE WITNESS: I agree that they
15 are shown as above the Y2 curve, yes.

16 Q. And that's the only thing you
17 know about --

18 A. Correct.

19 Q. Let's go to your first
20 declaration, please, Exhibit 3.

21 A. Okay.

22 Q. Go to paragraph forty-three.

23 A. Paragraph forty-three, yes.

24 MR. BARNES: I'm going to go
25 ahead and mark this as the next

1 C. P. Klass

2 exhibit, as Exhibit 10.

3 (Whereupon, a copy of United
4 States patent application 2009/0236062
5 was marked Exhibit B10
6 for identification.)

7 Q. You have Exhibit 10 in front of
8 you.

9 Do you recognize that as what's
10 been identified in your declaration as
11 Fugitt?

12 A. Fugitt.

13 Q. Sir, in paragraph forty-three
14 you reference Fugitt in the last sentence;
15 correct? You see where you have it
16 italicized?

17 A. Yes. Paragraph forty-three.

18 Q. My question is do you reference
19 Fugitt in that last sentence?

20 A. Yes, I do.

21 Q. My question is, in that last
22 sentence, paragraph forty-three, you state
23 that "the temperatures in Fugitt were in
24 line with the traditional calendering
25 temperatures".

1 C. P. Klass

2 A. Correct.

3 Q. What are the temperatures in
4 Fugitt?

5 A. I don't see any reference to
6 temperatures in the Fugitt.

7 Q. You'll see there is no reference
8 that you see; correct?

9 A. No. It says they may be heated,
10 but no specific references.

11 Q. So you'd agree with me you don't
12 know the temperature in Fugitt; correct?

13 MR. WOFSY: Objection to the form
14 of the question. Asked and answered.

15 Q. I want to make sure.

16 Correct, sir?

17 MR. WOFSY: Objection to the form
18 of the question. Mischaracterizes the
19 testimony.

20 Q. You can answer.

21 A. I don't see in reference in
22 Fugitt to a temperature range in a
23 calendering.

24 Q. Then, sir, you don't have a
25 basis, do you, for your statement in

1 C. P. Klass

2 paragraph forty-three that Fugitt supports
3 that it's in line with traditional
4 temperatures; correct?

5 A. I don't have a basis for that.
6 I believe they were in line with the way
7 paperboard was being manufactured at that
8 time.

9 Q. But that's not based on Fugitt;
10 correct?

11 A. Not based on Fugitt, no.

12 Q. I want to look at paragraph
13 forty-four.

14 MR. WOFSY: Of Exhibit B3?

15 MR. BARNES: Yes.

16 Q. Your original declaration.
17 This paragraph was not included
18 in your supplemental declaration.

19 A. That is correct.

20 Q. We covered that; correct?
21 Neither was forty-three that we
22 just went over; correct?

23 A. You say it's not included in the
24 supplemental declaration? I believe
25 that's correct, but I will verify that.

1 C. P. Klass

2 Yes.

3 Q. On the first paragraph [sic] of
4 paragraph forty-three, you reference an
5 exchange between the examiner and the
6 patent owner, WestRock.

7 Do you see that?

8 A. Yes.

9 Q. You'd agree with me, sir, this
10 exchange wasn't referenced in the patent;
11 correct?

12 A. I believe that's correct.

13 Q. Where did you obtain that
14 information about this exchange?

15 A. From counsel that there was an
16 exchange.

17 Q. You were just told that?

18 A. I was told that.

19 Q. What were you told?

20 A. Exactly what it says, that the
21 context of the exchange between the
22 examiner and the patent owner included the
23 caliper basis weight range predicted by
24 the equation in claim one.

25 Q. Who told you that?

1 C. P. Klass

2 A. It could have been Scott.

3 Either of these attorneys.

4 Q. You don't recall?

5 A. I don't recall.

6 Q. Were you told that in writing or
7 verbally?

8 A. I believe it was in a virtual
9 meeting.

10 Q. Meaning Zoom meeting?

11 A. Meaning Zoom or Teams.

12 Q. Have you ever seen a piece of
13 paper or document that supports that
14 statement?

15 MR. WOFSY: Why don't you read
16 the paragraph.

17 MR. BARNES: Objection.

18 Are you really going to do that,
19 Scott? I'm asking a question and
20 you're instructing the witness
21 improperly.

22 MR. WOFSY: I am instructing the
23 witness to read the paragraph that
24 you're referring to. That's proper.

25 MR. BARNES: It's not, it's

1 C. P. Klass

2 absolutely not.

3 Q. Sir, you've never seen a
4 document to support that statement in the
5 first sentence of paragraph forty-four;
6 correct?

7 A. I don't recall seeing a
8 document. There may have been a document
9 provided to me that basically documented
10 something said by counsel. Sitting here,
11 I don't recall seeing it.

12 Q. If you had that document, would
13 it be in that file that you referenced to
14 me before on your computer?

15 A. Probably.

16 MR. BARNES: I'm going to ask you
17 at the break to look for that
18 document.

19 THE WITNESS: I don't have my
20 computer here.

21 MR. BARNES: Well, I'll make a
22 request to counsel that, if such a
23 document exists, that you all forward
24 it to us.

25 MR. WOFSY: The prosecution

1 C. P. Klass

2 history of the patent?

3 MR. BARNES: Whatever he's got in
4 his file that supports that.

5 Q. And to be clear, my question
6 relates to an exchange between the
7 examiner and the patent owner that you put
8 in the sentence in your declaration;
9 correct?

10 A. Yes.

11 Q. And your declaration says you
12 have personal knowledge of all these
13 facts; correct?

14 A. I said to the best of my
15 knowledge. Whether I say it specifically
16 that I have personal knowledge, I don't
17 know.

18 Q. You don't know as we're here
19 today what you swore to in your
20 declarations?

21 A. I would have to go back and look
22 at it.

23 Q. Why don't you look at paragraph
24 three.

25 Isn't it true you state you make

1 C. P. Klass

2 this declaration based upon your own
3 personal knowledge; right?

4 A. And experience, correct.

5 Q. You don't have any personal
6 knowledge about the first sentence of
7 paragraph forty-four; correct?

8 MR. WOFSY: Objection to the form
9 of the question.

10 THE WITNESS: I was not in the
11 discussion that you were referring to
12 between the patent examiner and --
13 with the patent examiner, so in that
14 case, I would have relied on a
15 document provided to me. And you've
16 asked for that document.

17 Q. Which would document the
18 exchange.

19 Let's be clear.

20 You've never spoken to the
21 patent examiner about this matter;
22 correct?

23 A. I have not.

24 Q. And you've never spoken to the
25 patent owner about this case; correct?

1 C. P. Klass

2 A. That is correct.

3 Q. Sir, I'll ask you to turn to the
4 '142 patent, Exhibit 8.

5 Are you familiar with the other
6 curves -- these curves in the patent
7 describing the relationship between basis
8 weight and caliper in figures seven
9 through ten?

10 A. Yes.

11 Q. You didn't create any of these
12 charts; correct?

13 A. That is correct, I did not
14 create any of these.

15 MR. WOFSY: You're talking about
16 the starts in Exhibit B8?

17 MR. BARNES: Exhibit 8. I'm just
18 asking.

19 THE WITNESS: In the patent.

20 Q. These four charts, seven through
21 ten, talk about the Y2 and Y3 curve;
22 correct?

23 MR. WOFSY: Objection to the form
24 of the question.

25 THE WITNESS: You say Y2 and Y3.

1 C. P. Klass

2 Figure seven and eight talk about Y2
3 and Y3.

4 Q. Y2' and Y3'.

5 MR. WOFSY: There's no question.

6 Q. Sir, in figure eight, all of the
7 prior art is above the Y2 curve; is that
8 correct?

9 A. It appears to be the case that
10 come are right on the border.

11 Q. Sir, you would agree with me
12 that these four charts talk about the
13 concept that if someone is manufacturing a
14 paperboard and you modified the
15 precalendering process such that you would
16 lose bulk, you could end up below the
17 curve?

18 MR. WOFSY: Objection to the form
19 of the question.

20 You can answer if you answer.

21 Q. Correct?

22 A. Depending --

23 MR. BARNES: Strike that.

24 THE WITNESS: Depending on the
25 precalendering process you did, you

1 C. P. Klass

2 could make a lot denser sheet and be
3 below the curve.

4 Q. And you'd agree with me that, if
5 you were just below one of those curves
6 and you modify the precalendering process
7 such that you lose bulk, you would end up
8 above the curve; correct?

9 MR. WOFSY: Objection to the form
10 of the question. Seeks a
11 hypothetical.

12 THE WITNESS: Well, it would
13 depend on how far you were below and
14 how you modified the calendering
15 process. The answer is you can reduce
16 density on a sheet to be coated by
17 modifying the calendering process.

18 Modifying the calendering
19 process is one of the ways that you
20 could increase bulk, you could
21 increase bulk and get the -- and come
22 above the curve.

23 Q. My question was about losing
24 bulk.

25 Again, I think we're in

1 C. P. Klass

2 agreement --

3 A. By losing bulk, do you mean
4 becoming more dense?

5 Q. You would lose bulk and end up
6 above the curve; correct? You could start
7 out below it and if you lost bulk, you
8 would end up above the curve?

9 A. Yes, yes. I'm sorry, bulk and
10 density are --

11 MR. WOFSY: He's asking the
12 questions, not him.

13 THE WITNESS: That's fine. No
14 problem.

15 Q. And does that also mean that if
16 you're just above one of those curves and
17 you modify the precalendering process such
18 that you save bulk, you would end up below
19 the curve?

20 MR. WOFSY: Objection to the form
21 of the question.

22 THE WITNESS: You use the term
23 "save bulk".

24 By that, do you mean becomes
25 bulkier or becomes less bulky?

1 C. P. Klass

2 Q. A higher or lower bulk.

3 A. In other words, you make a or
4 less dense sheet, yes, you could, yes.

5 Q. Go back to the Fugitt exhibit.

6 A. Exhibit 10.

7 Q. Yes.

8 Go over into the detailed
9 description 0026.

10 A. What column?

11 MR. WOFSY: Paragraph 0026.

12 THE WITNESS: Got you.

13 Q. If you go down to right above
14 0027, do you see that it starts with "the
15 nip loads"? Do you see that sentence,
16 "the nip loads and number of nips"?

17 A. Yes.

18 Q. Do you see that sentence?

19 A. You're referring to what is
20 thirty-seven, "the rolls of the calender
21 may be" --

22 Q. I think you're at the right
23 section.

24 The sentence that reads, "the
25 nip loads and number of nips of the

1 C. P. Klass

2 calender may be substantially reduced to
3 minimize or avoid reduction in caliper
4 thickness".

5 Do you see that?

6 A. Yes.

7 Q. I read that correctly?

8 A. Yes.

9 Q. Isn't that just another way of
10 saying that reducing the nip load or
11 number of nips will save bulk?

12 MR. WOFSY: Objection to form.

13 THE WITNESS: Increases bulk.
14 It saves bulk, I mean it -- yeah,
15 okay.

16 MR. BARNES: I'm going to hand
17 you B11.

18 (Whereupon, a document entitled
19 StoraEnso Fors Starts Up a MHV
20 Zone-Controlled Calender
21 was marked Exhibit B11
22 for identification.)

23 Q. Sir, I've handed you Exhibit
24 B11. And it is an article, a publication
25 from 2010 by Margaret Marley.

1 C. P. Klass

2 Do you see that at the top left?

3 A. Yes, I see it's Margaret Marley.
4 I won't dispute that it's from 2010, but
5 there isn't the publication on it.

6 Q. The second page has one,
7 February, 2010 up at the top.

8 Do you see that?

9 A. Oh, there it is. It's Paper
10 Technology, February of 2010.

11 Q. I'm going to give you a minute
12 if you'd like to read over it.

13 Have you ever seen this before?

14 A. I don't know. The answer is I
15 don't know.

16 Q. You're free to read the whole
17 thing --

18 A. I'm doing that if you're going
19 to ask me questions about it.

20 (Reviewing).

21 Okay.

22 Q. Sir, go down to the front page
23 at the part where it talks about a
24 calender was zone controlled.

25 Do you see that?

1 C. P. Klass

2 A. Right.

3 Q. Just generally overall, this is
4 an article about a rebuild at a paperboard
5 mill?

6 A. That is correct.

7 Q. In approximately 2008.

8 Do you see that?

9 A. Yes. Yeah, 2008, yes, correct.

10 Q. Would you agree with me, sir,
11 that as part of this rebuild, a hot hard
12 calender was installed?

13 A. That's what it says here.

14 Q. And sir, would you also agree
15 with me that the surface temperature of
16 the heated roll of the hot hard calender
17 was three hundred Celsius?

18 A. Yes. In the following
19 paragraph, it says the surface temperature
20 of the heated roll three hundred degrees
21 Celsius.

22 Q. And how much is three hundred
23 degrees Celsius in Fahrenheit?

24 A. Five hundred seventy-two
25 Fahrenheit.

1 C. P. Klass

2 Q. Would you agree with me that
3 five hundred seventy-two Fahrenheit is
4 within the temperature range of the '142
5 patent; correct?

6 MR. WOFSY: I object to the form
7 of the question.

8 THE WITNESS: Yes.

9 Q. And sir, this article, would you
10 also agree with me that this calender is
11 for pre-coating?

12 A. It says it's for pre-calender,
13 yes.

14 Q. It also states in the article
15 that a line force of ten to one hundred
16 newton per millimeter can be applied to
17 the calender; correct?

18 A. Yes.

19 Q. And would you agree with me,
20 sir, that the term "line force" is the
21 same as line load or nip load?

22 MR. WOFSY: I object to the form
23 of the question.

24 Q. As it's called in the patent.

25 A. Yes.

1 C. P. Klass

2 Q. I also understand from your
3 second declaration, sir, that you're
4 familiar with the conversion from metric
5 nip load units to PLI; correct?

6 A. I am. I don't have it memorized
7 but I'm familiar with it.

8 Q. You did it in paragraph
9 forty-seven.

10 A. Yes, I did it and I normally do
11 it on a spreadsheet.

12 Q. Do you agree with me that it's a
13 mathematical fact that ten newton per
14 millimeter is the same as ten kilonewton
15 per meter and that -- let's just stop
16 there.

17 Do you agree with that first
18 part?

19 A. Ten newtons?

20 Q. Yes, is the same as ten
21 kilonewton per meter.

22 A. Are you talking about ten
23 newtons -- you said not ten newtons, ten
24 newtons per millimeter but I think
25 basically the kilo in there is you're not

1 C. P. Klass

2 looking at millimeters, you're looking at
3 meters.

4 Q. Do you agree with me that it's a
5 mathematical fact that ten newtons per
6 meter is the same as -- I apologize,
7 sorry.

8 Do you agree with me that it's a
9 mathematical fact that ten newton per
10 millimeter is the same thing as ten
11 kilonewtons per meter?

12 A. Yes.

13 Q. And would you also agree with me
14 that it's a mathematical fact that a
15 hundred newtons per millimeter is the same
16 thing as a hundred kilonewtons per meter?

17 A. Yes.

18 Q. And you, yourself, have
19 converted ten kilonewton per meter to 57.1
20 PLI; correct?

21 A. I have no doubt we can find that
22 in my supplemental declaration. Yes.

23 Q. And you have also converted a
24 hundred kilonewton per meter to five
25 hundred seventy-one PLI; correct?

1 C. P. Klass

2 MR. WOFSY: Objection to the form
3 of the question.

4 At any time in his life?

5 Q. Sir, you can go to paragraph one
6 hundred four of your first declaration.

7 A. Yes.

8 Q. So my statement you have also
9 converted a hundred kilonewton per meter
10 to five hundred seventy-one PLI is
11 correct; correct?

12 A. If I look at one hundred four, I
13 have ten to forty kilonewtons per meter,
14 convert that 3.5 to eighty-eight PLI, that
15 says it's an incorrect conversion. It
16 should be stated as ten to forty
17 kilonewtons per meter converts to -- but
18 what I said was that ten to forty
19 kilonewtons per meter converts it to 57.1
20 to 228.6 PLI because 3.5 kilonewtons per
21 meter equals twenty PLI.

22 MR. WOFSY: That's paragraph one
23 hundred four.

24 THE WITNESS: It is paragraph
25 one hundred four.

1 C. P. Klass

2 Q. Go to paragraph thirty-three of
3 your supplemental declaration, Exhibit 4.
4 Let me know when you're there.

5 A. You said the supplemental, what
6 paragraph?

7 Q. Thirty-three.

8 A. I'm getting there.

9 Q. It's on page sixteen.

10 A. You said paragraph thirty-three?

11 Q. Yes, sir.

12 A. On page sixteen?

13 Q. Yes, sir.

14 A. All right.

15 Q. In the first line you state, "at
16 the time of the invention, hot hard nip
17 calendering with only one roll heated was
18 not used in coated paperboard mills in the
19 temperature ranges in the '142 patent".

20 Did I read that correctly?

21 A. That's correct.

22 Q. Sir, isn't it true that
23 Exhibit 11, the Marley article,
24 contradicts that statement?

25 A. It says, "the calender has a

1 C. P. Klass

2 working width of four meters and an
3 operating speed of seven MPM. The surface
4 temperature of the heated roll is 300C and
5 a line force ranging from ten to one
6 hundred newtons per MM can be applied
7 depending on the grade".

8 Q. Sir, it's true that Marley
9 contradicts your statement in paragraph
10 thirty-three; correct?

11 A. Well, it says the heated roll,
12 it doesn't say there's only one heated
13 roll. My statement was only one heated
14 roll.

15 Q. Is your only holdup that you
16 don't know if only one roll was heated?

17 A. I don't know -- I also don't
18 know whether there was more than one
19 counter-roll, whether it was a multinip
20 stack or not.

21 Q. Sir, Exhibit 5 is Papermaking.
22 We've talked about that before;
23 correct?

24 A. Yes.

25 Q. And this was published in 2009;

1 C. P. Klass

2 correct?

3 A. That is correct.

4 Q. Can you go to page eighty-two.

5 A. Okay.

6 Q. On page twenty-eight, the first
7 full paragraph, you see it says, "a modern
8 carton board".

9 Do you see that?

10 A. Yes.

11 Q. Sir, isn't it true that on page
12 eighty-two, that first little paragraph,
13 it states that "a modern carton board line
14 as a rule has one hot hard nip
15 pre-calender before the coating section,
16 especially in Asia"?

17 A. Yes.

18 Q. It goes on to state, "high
19 thermal roll temperatures, in some cases
20 over two hundred Celsius, result in bulk
21 savings because of the temperature
22 gradient"; correct?

23 A. Correct.

24 Q. Isn't it true, sir, that this
25 statement in Papermaking also contradicts

1 C. P. Klass

2 your statement in paragraph thirty-three
3 of your supplemental declaration?

4 MR. WOFSY: Objection to form of
5 the question, to the extent that it
6 uses the term "also" because it
7 presupposes that there was a prior
8 acknowledgment of that question.

9 Q. Sir, isn't it true that the
10 paragraph eighty-two of Papermaking from
11 2009 contradicts your statement in
12 paragraph thirty-three of your
13 supplemental declaration?

14 A. It may or may not be. It says,
15 "a modern paperboard line, as a rule, has
16 one hot hard nip calender before the
17 coating section". Maybe more than one
18 roll heated.

19 Q. But it's talking about here
20 that's what designated, too, as a rule has
21 one hot hard nip pre-calender?

22 A. I agree it says that.

23 Q. And that contradicts what you
24 said in paragraph thirty-three; correct?

25 MR. WOFSY: Objection to the form

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C. P. Klass

of the question. Asked and answered.
Mischaracterizes previous testimony.

THE WITNESS: It's not an
agreement, but whether it contradicts
or not is another question.

MR. BARNES: I'm going to hand
you what's been marked as Exhibit
Billerud 12.

(Whereupon, a document entitled
Quality Improvements was marked
Exhibit B12 for identification.)

Q. You have Exhibit 12, sir?

A. I do.

Q. And you've seen that before?
You've talked about it in your
declaration; correct?

A. Yes.

Q. Before I ask about that, I want
to go back to one statement.

The previous conversation we
were having was about Papermaking?

A. Yes.

Q. And that paragraph eighty-two.
Sir, you agree with me that

1 C. P. Klass

2 Papermaking, Exhibit 5, was not provided
3 or considered by the U.S. Patent and
4 Trademark Office during the examination of
5 the '142 patent?

6 MR. WOFSY: Objection to form.

7 THE WITNESS: I agree that --

8 Q. Papermaking was not provided or
9 considered by the U.S. PTO office during
10 the examination of the '142 patent. And
11 if you need help, you can go to your
12 declaration at paragraph five.

13 A. The original declaration?

14 Q. Yes, sir.

15 A. Yes, paragraph five.

16 Q. Thank you.

17 Now I want to go back to B12,
18 please, sir.

19 A. Okay.

20 Q. You cited this exhibit in your
21 second declaration; didn't you, sir?

22 A. I believe that's correct.

23 Q. Do you recall having done that
24 as we're here today?

25 A. I do recall referring to it,

1 C. P. Klass

2 yes.

3 Q. Sir, you would agree with me
4 that this exhibit relates to hot
5 calendering with induction heating and the
6 quality improvements you obtain when
7 manufacturing board grades; right?

8 A. It does include board grades,
9 yes.

10 Q. And you would agree with me it
11 relates to hot calendering with induction
12 heating and the quality improvements you
13 obtain when manufacturing; correct?

14 A. Yes.

15 Q. And this is from 1997?

16 A. That's also correct.

17 Q. And it was presented by -- or
18 presented at the 1997 TAPPI Newsprint
19 Forum?

20 A. Correct.

21 Q. Can you go to paragraph one of
22 the abstract. It starts with --

23 A. That's fine.

24 Q. You can read it to yourself. It
25 starts with "the application", that

1 C. P. Klass

2 paragraph.

3 Do you see that?

4 A. (Reviewing).

5 Yes.

6 Q. Would you agree with me that
7 paragraph one of this abstract states that
8 one of the improvements cited to hot
9 calendering is improvement to bulk?

10 A. Yes.

11 Q. Go over to page fifty-eight,
12 please, in the section internal induction
13 heating the middle of the page.

14 MR. WOFSY: Is there a question
15 pending?

16 MR. BARNES: I was waiting for
17 him to get there.

18 Q. Under the heading external
19 induction heating.

20 A. You said internal.

21 Q. Sorry.

22 Would you agree with me, sir,
23 that this exhibit on page fifty-eight
24 discloses that the induction heating
25 allows roll surface temperatures up to

1 C. P. Klass

2 four hundred twenty-eight degrees

3 Farenheit?

4 A. I would agree with that, yes.

5 Q. Four hundred eighty-two degrees.

6 Sorry.

7 Go to page sixty, please, the
8 bottom of the page under the heading
9 single induction heating system
10 applications on high quality board grades.

11 Do you see that?

12 A. Yes.

13 Q. It says, "most high quality"?
14 Do you see that line right there, the
15 bottom of page sixty?

16 A. I'm sorry, I'm on the other
17 paragraph. I was in the wrong area.

18 Q. You see that?

19 A. High quality, I see that.

20 Q. Isn't it true, sir, that in that
21 section it states that "most high quality
22 board machines have single nip calenders
23 at the reel and before on-machine
24 coaters"?

25 A. Yes.

1 C. P. Klass

2 Q. So they're talking about
3 precalendering; correct?

4 A. They are.

5 Q. Do you know which European
6 coated FBB mill they're referencing?

7 MR. WOFSY: Objection to the form
8 of the question.

9 Q. I'm just asking if you know.

10 A. No. I don't believe they
11 called --

12 MR. BARNES: Strike that.

13 Q. Go to the end of page sixty,
14 case B board.

15 Do you see that?

16 A. Yes.

17 Q. There it discusses a European
18 coated FBB mill having a single induction
19 heating system installed on the top roll
20 of a single nip precoated calender;
21 correct?

22 A. Yes.

23 Q. This is where my question is.
24 You don't know what mill that
25 is?

1 C. P. Klass

2 A. No.

3 Q. It continues on, this article
4 for case B board, on page sixty-two.

5 Do you see that, sir?

6 A. Yes.

7 Q. And it has a figure ten. Figure
8 ten is listed at the bottom of the --

9 A. I see it.

10 Q. Can you tell me from figure ten
11 what the temperature of the heated roll
12 was?

13 A. Figure ten, if I look on the
14 right-hand bar, on the top of this is
15 180C, so that's the temperature of the
16 roll. It says roll temperature, so I
17 believe that that to be it.

18 Q. What would 180C be in
19 Fahrenheit, please?

20 A. Three hundred fifty-nine, we'll
21 say three hundred sixty Fahrenheit.

22 Q. And sir, staying on this case B,
23 do you know if the nip in the mill of case
24 B is a soft nip or a hard nip from this
25 article?

1 C. P. Klass

2 A. It says it was a single nip
3 pre-coater calender. That is on page
4 sixty it says that, yes.

5 Q. Do you think it was a soft nip
6 or a hard nip?

7 A. It's a hard nip. It says it was
8 a hard nip.

9 Q. Sir, isn't it true that this
10 exhibit, which you utilized in your
11 declaration, also contradicts paragraph
12 thirty-three of your supplemental
13 declaration?

14 MR. WOFSY: Objection to the form
15 of the question. Use of the term
16 "also" presupposes previous testimony.

17 Q. You can answer.

18 A. It cites a temperature that's
19 within the range of what was in the '142
20 patent, yes.

21 Q. Which makes your first sentence
22 of paragraph thirty-three inaccurate;
23 correct?

24 MR. WOFSY: Objection to the form
25 of the question.

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C. P. Klass

THE WITNESS: I agree, yes.

Q. It's inaccurate; correct?

A. Inaccurate.

Q. Your statement at paragraph
thirty-three, the first sentence is
inaccurate; correct?

A. Okay.

Q. You can say yes.

A. I said yes. I already said yes.
You didn't hear it.

MR. BARNES: Now is probably a
good time for a lunch break.

(Lunch recess taken at 12:48
p.m.)

1 C. P. Klass

2 A F T E R N O O N S E S S I O N

3 August 7, 2024

4 1:39 p.m.

5 C H A R L E S P. K L A S S, having
6 been previously duly sworn by a
7 Notary Public of the State of
8 New York, upon being examined,
9 testified as follows:

10 EXAMINATION CONTINUED BY

11 MR. BARNES:

12 Q. So we're back on the record
13 after a lunch break.

14 I wanted to go back one second
15 to the Fugitt, if you could look at that.

16 MR. WOFSY: That's Exhibit 10.

17 THE WITNESS: Got it.

18 Q. Would you agree with me, sir,
19 Fugitt discloses calendering of sized but
20 not coated board?

21 MR. WOFSY: Objection to the form
22 of the question.

23 THE WITNESS: Say that again,
24 please?

25 Q. Sure.

1 C. P. Klass

2 Would you agree with me, sir,
3 that Fugitt discloses calendering of sized
4 but not coated board; correct?

5 A. Sized but not coated? Yes, yes,
6 yes. I'm with you.

7 Q. You agree with my statement?

8 A. Yes. It says, "optionally, a
9 sized press, twelve, may be used to add
10 functional properties and potentially
11 reduce the calender thickness of the
12 web" --

13 Q. You agree with my statement?

14 A. Yeah, it calenders a sized
15 board, yes.

16 Q. But not a noted board; correct?

17 A. At that point. I think later it
18 discusses finishing calendering.

19 MR. BARNES: Sir, I'm going to
20 hand you now another exhibit. This is
21 Exhibit 13.

22 (Whereupon, a document entitled
23 Temperature-Gradient Calendering of
24 Foodboard was marked Exhibit B13
25 for identification.)

1 C. P. Klass

2 Q. I've handed you what's marked as
3 Billerud 13. In this case, it's been
4 identified as Gratton.

5 Are you familiar with that, sir?

6 A. Yes.

7 Q. And you're familiar with this
8 exhibit?

9 A. I am.

10 Q. Can you turn to the second page.
11 Go to figure four. That's the bottom
12 right one.

13 Do you see that?

14 A. Yes.

15 Q. Sir, isn't it true that figure
16 four here is a diagram of surface
17 properties PPS versus bulk --

18 A. Right.

19 Q. -- at different calendering
20 conditions; correct?

21 A. Yeah.

22 Q. And the top line are circles.

23 Do you see that?

24 A. The very top line is filled
25 circles, yeah, and open circles below it.

1 C. P. Klass

2 Q. Thank you.

3 And the circles represent
4 conventional calendering; correct?

5 A. Well, the filled circles, the
6 black lines, the full black lines
7 represent conventionally calendered board.

8 Q. And the triangles represent
9 temperature-gradient calendering; correct?

10 A. They appear to be. They're
11 open. There appear to be more squares
12 than triangles, but I think I know what
13 you're referring to.

14 Q. Do you see above --

15 A. The triangles are -- okay, I'm
16 with you. The triangles and the --

17 Q. The triangles represent
18 temperature-gradient calendering; correct?

19 A. Yes.

20 Q. And that's abbreviated as TG?

21 A. Correct.

22 Now I'm with you.

23 Q. Sir, the filled circles and
24 triangles represent sized paperboard;
25 correct?

1 C. P. Klass

2 A. Yes.

3 Q. Looking at the chart, do you see
4 the filled circle at PPS about six with
5 the bulk of 1.5?

6 A. That's about right, yes.

7 Q. You see that circle?

8 A. Yeah, the second circle looks to
9 be about six, and if I go down to the
10 ordinate, basically -- yeah, it's right
11 about 1.5.

12 Q. Can you circle that one, please?
13 I'll give you a red pen.

14 A. This one (referring)?

15 Q. And now would you --

16 A. Did I circle the right one?

17 Q. No, the filled one.

18 A. I put an X through my circle.

19 Q. And go to the filled triangles.

20 A. The filled triangles, yes.

21 Q. It has the PPS of six and a bulk
22 of about 1.7.

23 Do you see that?

24 A. Yes.

25 Q. It's about the fourth one

1 C. P. Klass

2 filled; correct?

3 A. Yes.

4 Q. Can you put a circle around that
5 one, please?

6 A. All right.

7 Q. These two examples that you've
8 circled --

9 MR. BARNES: Strike that.

10 Q. These two samples that you've
11 circled both have about six PPS; correct?

12 MR. WOFSY: Objection to the form
13 of the question.

14 THE WITNESS: Yeah, they appear
15 to be at about six PPS.

16 Q. And that was obtained using
17 different techniques; correct?

18 MR. WOFSY: Objection to the form
19 of the question.

20 THE WITNESS: Yes.

21 Q. And the difference between the
22 two techniques is temperature; correct?

23 A. It's temperature-gradient
24 calendering, yes.

25 Q. Comparing those two samples, how

1 C. P. Klass

2 much higher is the bulk for the
3 temperature-gradient calendering
4 technique?

5 A. Two-tenths. It's basically an
6 increase from 1.5 to 1.7 square
7 centimeters per gram.

8 Q. Would you agree with me that the
9 difference is about 12.6 percent higher
10 between the two?

11 A. I can make the calculation. I
12 think that's right. Basically, let me --

13 Q. Yes, sir.

14 A. When in doubt, calculate.
15 Yes.

16 Q. Thank you.

17 Can you turn to the last page
18 which I think is page eighty-six, the
19 experimental section.

20 A. Got you.

21 Q. Under the section experimental,
22 the first sentence, do you see that?
23 Don't read it out loud. I just want to
24 know if you're there.

25 A. I'm here. Go ahead.

1 C. P. Klass

2 Q. Isn't it true it states that in
3 that sentence that the sized and unsized
4 samples were made from a hundred percent
5 bleached kraft pulp?

6 A. Yes.

7 Q. Isn't it true, sir, that that
8 means wood-free board?

9 A. Yes.

10 Q. And if you make your board from
11 a hundred percent bleached kraft pulp,
12 that's an SBS; correct?

13 A. Yes.

14 Q. Can you go to page forty-five of
15 your first declaration. I'm sorry,
16 paragraph forty-five.

17 A. Okay.

18 Q. Turn over to page twenty-three
19 of it.

20 Are you there?

21 A. Yes.

22 Q. Paragraph forty-five, page
23 twenty-three, the first full sentence you
24 state, "example three is the only place in
25 Fugitt where there is an example that

1 C. P. Klass

2 falls under the Y2 curve of claim one and
3 no other prior art provides such a
4 paperboard structure".

5 Do you see that?

6 A. Yes.

7 Q. You also go to paragraph seventy
8 of the same declaration.

9 A. Okay.

10 Q. At the last full sentence in
11 paragraph seventy, do you agree with me
12 you made a similar statement that "example
13 three is the only place in Fugitt",
14 parentheses, "or in any of the prior art",
15 end parentheses, "where there is an
16 example of a paperboard structure that
17 falls under the Y2 curve of claim one of
18 the '142 patent"?

19 A. Yes.

20 Q. Those are similar statements;
21 correct?

22 A. Yes.

23 Q. And go to paragraph twenty-nine
24 of your second declaration, please.

25 You would agree with me, sir,

1 C. P. Klass

2 that paragraph twenty-nine is just a cut
3 and paste of paragraph seventy from your
4 first declaration, including that
5 statement; correct?

6 A. Yes. It's identical, yeah.

7 Q. Sir, in all three of these, your
8 statement includes all prior art; correct?

9 A. Yes.

10 Q. Including Gratton; correct?

11 A. Yes.

12 Q. Did you make the calculations
13 for the paperboard samples in Gratton in
14 making those three statements?

15 MR. WOFSY: Objection to the form
16 of the question.

17 THE WITNESS: I'm not sure. I
18 may have.

19 Q. Can you show us where?

20 A. I don't recall doing it. I made
21 a lot of calculations, but I'm not sure
22 that I made a calculation from that
23 document.

24 Q. Isn't it true, sir, that you
25 didn't make the calculation included?

1 C. P. Klass

2 MR. WOFSY: Objection.

3 THE WITNESS: I can't say I did
4 or I didn't, but sitting here I don't
5 recall making it.

6 Q. You would know how to make the
7 calculations; wouldn't you?

8 A. Yes.

9 MR. BARNES: I'm going to hand
10 you what we're going to mark as
11 Exhibit 14.

12 (Whereupon, a one-page document
13 was marked Exhibit B14
14 for identification.)

15 Q. Sir, do you have it?

16 A. I have, yes.

17 MR. WOFSY: Can you lay some
18 foundation for this exhibit?

19 MR. BARNES: Give me a second.

20 Q. I've given you a document that
21 calculates Gratton's basis weights based
22 on the information contained in Gratton.

23 Do you see that?

24 A. Yes.

25 Q. And it calculations the basis

1 C. P. Klass

2 weight and the Y2 curve; correct?

3 MR. WOFSY: So I'm going to
4 object to use of this document to the
5 extent that these numbers here are
6 just -- they're stated. There's no
7 indication where these numbers came
8 from. It appears that this document
9 was created by counsel. It is not a
10 prior art exhibit. And we're going to
11 object to the use of this document to
12 the extent that we have no idea how it
13 was created, by whom, or for what
14 purpose.

15 Q. Sir, go to table one in Gratton,
16 page eighty-two.

17 Do you see it, the bottom one
18 there?

19 A. Yes.

20 Q. Can you see that the information
21 contained that is identified at the top of
22 B14 is from Gratton table one?

23 A. Okay.

24 Q. And sir, we did the calculations
25 here to try to save time.

1 C. P. Klass

2 Do you disagree with the
3 findings here?

4 MR. WOFSY: Objection to the use
5 of this exhibit once again. Whether
6 he agrees or not, he's not performed
7 the calculations; apparently you have.

8 Q. You're welcome to.

9 You said you could do it;
10 correct?

11 A. I could do it. It's cumbersome,
12 but I could do it.

13 Q. Would you need a conversion
14 table?

15 A. It would be handy to have.

16 Q. I'm happy to provide that to you
17 as well to help.

18 A. That's good.

19 And I need to get a reference to
20 the equation.

21 MR. WOFSY: Do you want the
22 patent?

23 THE WITNESS: The '142.

24 Something keeps coming up wrong
25 here. I've been putting it in over

1 C. P. Klass

2 and over again. I don't know if I'm
3 hitting the wrong keys on this or
4 what.

5 Okay, got it.

6 I've made the Y2 calculations
7 and -- I come out within a tenth of --

8 Q. Let me ask you the question
9 again, since it's been a little bit of
10 time since you did the calculation.

11 Would you agree with me that the
12 calculations in B14 are accurate?

13 MR. WOFSY: Objection to the form
14 of the question.

15 THE WITNESS: The calculations
16 of Y2, yeah, subject to a little bit
17 of rounding error, they're
18 approximately accurate. Accurate,
19 maybe not precise.

20 Q. And you would agree with me
21 these examples are below the Y2 curve;
22 correct?

23 MR. WOFSY: Objection to the form
24 of the question.

25 THE WITNESS: They appear to be.

1 C. P. Klass

2 Q. Sir, going back --

3 MR. BARNES: Let's go ahead and
4 mark your work there as Exhibit 15,
5 B15.

6 (Whereupon, a one-page
7 handwritten document was marked
8 Exhibit B15 for identification.)

9 Q. Sir, go back to -- you have both
10 your declarations, but what I've showed
11 you before was paragraph forty-five in
12 your first, paragraph seventy in your
13 first, and twenty-nine in your second.

14 They all stated that you
15 considered Papermaking; correct? Let's go
16 to seventy.

17 A. Seventy in the first? Let me go
18 there.

19 Q. Go to forty-five in the first.

20 A. Forty-five in the first?

21 Q. Yes, sir.

22 A. I'm here.

23 Q. In this one, that sentence on
24 page twenty-three, you state that example
25 three is the only place in Fugitt where

1 C. P. Klass

2 there's an example that falls under the Y2
3 curve of claim one. And you go on to
4 state, "and no other cited prior art
5 provides such a paperboard structure,
6 including Mohan and the petitioner's newly
7 cited references of Papermaking, Gratton,
8 and Papermaking II"; correct?

9 A. Yeah.

10 Q. We just covered Gratton; didn't
11 we?

12 A. We just did, yes.

13 Q. And you said Papermaking doesn't
14 apply; correct?

15 MR. WOFSY: Objection to the form
16 of the question.

17 Q. You talk about petitioner's --

18 MR. BARNES: Strike that.

19 Q. You reference Papermaking in
20 that sentence; right?

21 A. Reference Papermaking, yes.

22 Q. Let's go to Papermaking. It's
23 Exhibit 5. Go to page eighty.

24 A. I believe Exhibit 5 isn't
25 actually Papermaking II?

1 C. P. Klass

2 Q. No.

3 Exhibit 5 you recall is
4 Papermaking; correct?

5 A. Yes.

6 Q. Go to page eighty.

7 A. Go to page eighty on this?

8 Q. Yes, sir.

9 A. Okay.

10 Q. I'm going to direct your
11 attention down there in the section under
12 4.4, carton boards, the figure sixty-two.

13 Do you see that that?

14 A. Right.

15 Q. You've seen that before;
16 correct?

17 A. I have.

18 Q. Isn't it true, sir, that figure
19 sixty-two shows coated board grades having
20 bulk values up to 1.9 cubic centimeter per
21 gram?

22 A. Yes.

23 Q. Sir, did you make the
24 calculations for these coated board grades
25 before stating that they're not falling

1 C. P. Klass

2 below the Y2 curve --

3 MR. WOFSY: Objection to the form
4 of the question.

5 Q. -- as you said in paragraph
6 forty-five of your first declaration?

7 A. I don't recall making those
8 calculations.

9 Q. The information is available in
10 this publication to make the calculations
11 you would agree with me; correct?

12 A. There is information available
13 in the publication, yes.

14 Q. We talked about this before,
15 keep that there, but figure eight in the
16 '142 patent, if you can grab that, too.

17 A. Yes.

18 MR. BARNES: I'm going to hand
19 you what we're going to mark as B16.

20 (Whereupon, a one-page document
21 was marked Exhibit B16
22 for identification.)

23 Q. Do you have B16, sir?

24 A. I do.

25 Q. I'll represent -- you see the

1 C. P. Klass

2 bottom part of B16 there's a revised
3 figure eight that has plotting on it.

4 Do you see that?

5 A. Figure eight was with some other
6 information plotted on it, yes.

7 MR. WOFSY: I'm going to object
8 the use of this document, Exhibit B16,
9 to the extent that it includes
10 calculations that are -- appear to be
11 added by counsel, unverified
12 calculations, there's handwritten
13 calculations and numbers on the
14 drawing. It differs in that respect
15 from figure eight. There are also
16 lines plotted on figure eight on
17 Deposition Exhibit 16 that appear to
18 have been added by counsel and
19 unverified not based on any data that
20 is in the record at the present time.

21 Q. Sir, the top part of B16 is a
22 chart.

23 That chart's accurate; isn't it,
24 sir?

25 MR. WOFSY: Objection to the form

1 C. P. Klass

2 of the question.

3 THE WITNESS: It appears to be
4 the same as figure eight in the
5 patent.

6 MR. WOFSY: He's talking about
7 the chart.

8 THE WITNESS: Oh, the top part?

9 Q. Yes, sir.

10 A. Wait a minute.

11 Where did the data on the top
12 come from?

13 Q. You can look at page eighty.

14 Do you see that provides the
15 basis weights; correct? In the middle
16 section, 4.4.1.

17 MR. WOFSY: Objection.

18 THE WITNESS: Page eighty, we're
19 talking about 4.4.1, the chart, yes.

20 Q. And you can check the math on
21 anything in the top part of B16. I'll
22 represent to you that it's accurate.

23 MR. WOFSY: Are you representing
24 that the data in the top of B16 is
25 taken from the chart on page eighty of

1 C. P. Klass

2 Papermaking?

3 MR. BARNES: It's taken from
4 Papermaking, this section of
5 Papermaking, yes.

6 MR. WOFSY: Which section?

7 MR. BARNES: The bulk is taken
8 from the chart.

9 MR. WOFSY: What chart?

10 MR. BARNES: Figure sixty-two.

11 Q. Correct, sir?

12 A. Yeah.

13 Q. So you'd agree that figure eight
14 on B16 drawn in there is a diagonal line
15 for bulk; correct?

16 MR. WOFSY: Objection to the form
17 of the question.

18 THE WITNESS: Without doing
19 every calculation basically and
20 looking on a graph, they appear to be
21 approximately correct.

22 Q. Thank you.

23 MR. WOFSY: And just for the
24 record, you said the table on B16 is
25 taken from where in -- where is the

1 C. P. Klass

2 data from?

3 MR. WIRÉN: The data is from
4 figure one. Like all you need is a
5 bulk. Every bulk is a diagonal line
6 in the graph. That's just a
7 mathematical fact.

8 MR. WOFSY: Figure one --

9 MR. BARNES: Figure sixty-two.

10 THE WITNESS: I will say the
11 data appear to be about the same.
12 They appear to be approximately right.

13 Q. And the plots are below the --
14 the dots are below the Y2 curve; right?

15 MR. WOFSY: Objection to the form
16 of the question.

17 Q. The lines are below the curve?

18 A. The points and the plots to them
19 are below the Y2 line, yes, at least to
20 the point of twenty-four caliper because
21 that's as far as it goes. But it appears
22 -- if I take the equation right, it
23 appears right.

24 Q. Go to page seventy-five of your
25 first declaration, please, sir. I'm

1 C. P. Klass

2 sorry, paragraph seventy-five.

3 A. Okay.

4 Q. You provide a diagram, a color
5 diagram. It's on the second page.

6 A. I do, yes.

7 Q. And you provide that image of
8 what, in your opinion, is a typical FBB;
9 correct?

10 A. It's representative of a typical
11 FBB, yes.

12 Q. A European FBB?

13 A. A European FBB.

14 Q. And both this FBB shown there
15 and an American SBS, isn't it true, sir,
16 that the fibers contacting and being
17 closest to the pre-calendered roll are
18 bleached kraft pulp fibers, not mechanical
19 pulp?

20 MR. WOFSY: Objection to the form
21 of the question.

22 THE WITNESS: I believe I heard
23 you say -- say it again, please.

24 Q. Isn't it true, sir, that both in
25 this FBB and an American SBS, the fibers

1 C. P. Klass

2 contacting and being closest to the
3 pre-calender rolls are bleached kraft pulp
4 fibers, not mechanical pulp?

5 A. That would be true.

6 Q. You would agree with me, sir,
7 that the greater caliper and greater bulk
8 is generally desired properties in board
9 making; correct?

10 MR. WOFSY: Objection to the form
11 of the question.

12 THE WITNESS: Greater bulk is
13 generally, yes.

14 Q. Sir, if a person skilled in the
15 art compares the quality of two different
16 paperboards, they would want to look in
17 bulk; correct?

18 A. Yes.

19 Q. Sir, turn to paragraph one
20 hundred twenty-two in your first
21 declaration, page fifty-nine.

22 A. Okay.

23 Q. In paragraph one hundred
24 twenty-two of your first declaration, you
25 discuss claim fifteen of the patent, which

1 C. P. Klass

2 includes the limitations of claim eleven
3 and claim thirteen; correct?

4 A. In one hundred twenty-two I say,
5 "claim fifteen depends on claim one,
6 therefore the same arguments provided
7 above with respect to claim one also apply
8 to claim fifteen".

9 Q. And isn't it true, sir, claim
10 fifteen of the patent includes the
11 limitations of claim eleven and claim
12 thirteen; correct?

13 MR. WOFSY: Do you want him to
14 look at the patent?

15 MR. BARNES: If he wants.

16 MR. WOFSY: Maybe you should look
17 at the patent. He's referring to
18 claim fifteen of the patent.

19 What's the question again?

20 Q. Do you understand the question,
21 sir?

22 A. You were asking if claim
23 fifteen --

24 Q. Includes the limitations of
25 claim eleven and claim thirteen.

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C. P. Klass

MR. WOFSY: Objection to the form of the question to the extent that it seeks a legal conclusion.

THE WITNESS: Well, claim fifteen teaches use of calcium carbonate, ground calcium carbonate pigment with at least ten percent by weight of said base coat pigment and at most sixty percent by weight of said base coat pigment, and then claim thirteen said the method of claim eleven wherein said calcium carbonate is ground calcium carbonate, and claim eleven says the method of claim one where said base coat pigment comprises calcium carbonate, so yes.

Q. So the answer to my question is yes?

A. Yes.

Q. Claim fifteen relates to base coat; correct?

A. Yes.

Q. And what the base coat is composed of; correct?

1 C. P. Klass

2 A. Yes.

3 Q. And in particular, to how much
4 calcium carbonate there is in the base
5 coat; correct?

6 A. In claim fifteen?

7 Q. Yes, sir.

8 A. It says at least ten percent and
9 at most sixty percent.

10 Q. So it relates to in particular
11 how much calcium carbonate there is in the
12 base coat?

13 A. What the range of calcium
14 carbonate is within the pigment.

15 Q. And isn't it true, sir, that the
16 range for the calcium carbonate content in
17 the base coat is ten to sixty percent by
18 weight?

19 A. In claim fifteen, yes.

20 Q. And sir, isn't it true that a
21 fifty percent calcium carbonate is within
22 this range, if something was fifty percent
23 calcium carbonate?

24 A. Yes.

25 Q. Let me shift gears.

1 C. P. Klass

2 At lunch, did you have any
3 conversations with counsel about --

4 A. Not about this. In fact, he
5 walked in and said I'm not going to
6 discuss anything about the case. I said
7 fine. I had a nice conversation about the
8 Olympics.

9 Q. We can have that afterwards,
10 too.

11 Why don't you pull out Fugitt
12 again, please, sir.

13 A. Pull out who?

14 Q. Fugitt.

15 A. Fugitt?

16 Q. Yes, sir.

17 A. Here we are.

18 Q. We've reviewed Fugitt
19 previously; correct?

20 A. We have.

21 Q. You would agree with me that
22 there was not an upper limit to the basis
23 weight in Fugitt; correct? There was only
24 a lower limit?

25 MR. WOFSY: Objection to the form

1 C. P. Klass

2 of the question.

3 Q. You would agree with me there
4 was not an upper limit to the basis weight
5 in Fugitt; correct?

6 A. I don't see an upper limit.

7 Q. So you would agree with me?

8 A. I agree.

9 Q. There was only a lower limit
10 disclosed in Fugitt; correct?

11 MR. WOFSY: I object to the form
12 of the question.

13 Q. You can go to claim one.

14 A. Well, if we go to claim one,
15 claim one says at least eighty-five pounds
16 per three thousand square feet. It
17 doesn't specify an upper limit.

18 Q. Sir, in the '142 patent, would
19 you agree with me that the same lower
20 limit was disclosed in '142 as was used in
21 Fugitt? And you can go to the column
22 three.

23 A. Column three?

24 Q. Column three, lines three
25 through five.

1 C. P. Klass

2 A. Column three, line three. Okay.

3 Yes. It says, "generally, a
4 paperboard substrate has an uncoated basis
5 weight of about eighty-five pounds per
6 three thousand square feet or more".

7 Q. This is the lower limit of an
8 open-ended range; correct?

9 A. The lower limit's disclosed,
10 yes.

11 Q. Open-ended at the top; correct?

12 MR. WOFSY: Objection to form.

13 THE WITNESS: I don't see any
14 limits on the top.

15 Q. Go back to Fugitt in there.

16 A. Okay.

17 Q. Sir, would you with agree with
18 me there's no disclosure in Fugitt about
19 the lower thickness --

20 MR. BARNES: Strike that.

21 Q. Would you agree with me, sir,
22 that there's no disclosure in Fugitt that
23 a lower thickness would be desirable;
24 correct?

25 MR. WOFSY: Objection to form.

1 C. P. Klass

2 THE WITNESS: I don't see any
3 statement that the lower thickness
4 would be desirable.

5 Q. And it's a fact the opposite for
6 Fugitt, it teaches that higher thickness
7 is desirable; correct?

8 A. I don't see that exact
9 statement, but I would agree that
10 that's --

11 Q. If you would, sir --

12 A. -- the case.

13 Q. Your supplemental declaration,
14 paragraph twenty-seven.

15 A. In the original?

16 Q. Supplemental.

17 Go to paragraph twenty-seven at
18 the bottom of page eleven over to page
19 twelve where you say one objective of
20 Fugitt was higher thickness was desirable;
21 correct?

22 A. Yes.

23 Q. Sir, if you go back to the
24 Papermaking exhibit. I think it's
25 Exhibit 5.

1 C. P. Klass

2 A. This one (referring)?

3 Q. Just get that open and have it
4 ready.

5 MR. WOFSY: That's what he's
6 talking about.

7 Q. Isn't it your opinion that the
8 only way to save bulk is to reduce the nip
9 loading?

10 A. The only way -- you're using the
11 term "save bulk"?

12 Q. Yes, sir.

13 A. If you're referring only to
14 calendering, yes. There are other things
15 that the papermaker can do to improve
16 bulk.

17 Q. In this litigation, sir, is it
18 your opinion that the only way to save
19 bulk is to reduce the nip loading?

20 MR. WOFSY: Objection. Asked and
21 answered.

22 Q. You can answer.

23 A. The focus of this litigation is
24 on calendering, and in terms of
25 calendering, yes. There are various ways

1 C. P. Klass

2 to -- there would be various ways to
3 improve bulk, a combination of nip loading
4 and nip loading and temperature.

5 Q. What do you mean?

6 A. In other words, I want to
7 increase bulk. In a multistack calender,
8 I can take off nips. I don't use as many
9 nips. I can reduce nip loading. That's
10 going to decrease calendering intensity
11 and, if you decrease calendering
12 intensity, bulk is going to increase.

13 Q. You included temperature in your
14 last statement.

15 What do you mean by temperature
16 and how does that relate?

17 A. Temperature impacts --
18 temperature impacts the results of
19 calendering.

20 Q. I'd like to take you to
21 Exhibit 5, Papermaking, page eighty-two.

22 A. All right.

23 Q. Go to the first full paragraph
24 there.

25 A. Yes.

1 C. P. Klass

2 Q. Here Papermaking states that a
3 modern carton board line, as a rule, has
4 one hot hard nip before the coating
5 section and then the high thermo roll in
6 that calender --

7 MR. BARNES: Strike that.

8 Q. Here Papermaking states that a
9 modern carton board line, as a rule, has:
10 One, hot hard nip before the coating
11 section and then that a high thermo roll
12 temperature in that calender will result
13 in bulk savings; right?

14 MR. WOFSY: Objection to the form
15 of the question. The document speaks
16 for itself. Mischaracterizes
17 statements that are set forth in the
18 document.

19 THE WITNESS: The hot hard nip
20 basically in combination with the nip
21 loading can result in bulk savings,
22 bulk improvement.

23 Q. And that's what Papermaking says
24 there; correct?

25 A. Yes.

1 C. P. Klass

2 Q. Would you agree with me that the
3 implied teaching of Papermaking is that
4 the nip loading is reduced when the
5 temperature is higher?

6 MR. WOFSY: Objection to the form
7 of the question. The document speaks
8 for itself.

9 THE WITNESS: If the objective
10 is to -- it depends on the objective
11 of the papermaker. If the objective
12 is to improve bulk or increase bulk,
13 the nip loading could be reduced
14 because of the impact of temperature
15 on calendering.

16 Q. Because the temperature is
17 increased; correct?

18 A. Yes.

19 Q. Sir, going back to your CV, it
20 might be Exhibit 1, this International
21 Paper that's on page eighty-one, who was
22 counsel that you were working with in that
23 case?

24 A. I don't recall.

25 Q. Do you know what city they were

1 C. P. Klass

2 in?

3 A. What?

4 Q. Do you know what city they were
5 in?

6 A. Probably back at the time I was
7 still living in Philadelphia. I'm not
8 sure. Oh, no, probably when I was first
9 down in Florida, but I don't recall who.

10 Q. Do you have any records that
11 would show the case number, the IPR
12 number?

13 A. Of that?

14 Q. Yes, sir. Not with you.

15 A. I believe I included the IPR
16 number in that.

17 Q. We can't find anything based on
18 that number. I didn't know if it was a
19 typo perhaps.

20 A. I can assure you that it's not a
21 typo. I generally proofread things very
22 well, you know, years as an editor. But I
23 recall taking that exactly from the
24 captions on some of the documents that
25 were provided to me.

1 C. P. Klass

2 Q. And you gave a declaration in
3 that case?

4 A. I don't recall whether I gave a
5 declaration in that case or not. I'd have
6 to go back and look.

7 Q. Do you have those records?

8 A. I may have them in the archives
9 of my file back in Florida. I'm not sure.
10 It's a long time ago. And it settled. A
11 lot of times when cases settle, I'm
12 instructed to get rid of the records.

13 Q. What was the issue in the case
14 that you were retained for?

15 A. I believe it was a question on
16 the patent.

17 Q. Well, clearly --

18 A. And I was retained by counsel
19 for International Paper Company. I don't
20 know who that -- I can't sit here and tell
21 you who that was. For that matter, I
22 can't sit here and tell you who the
23 counsel was for WestRock.

24 Q. You appeared for International
25 Paper and you state that you gave opinions

1 C. P. Klass

2 for areas of expertise of pulp and
3 paperboard manufacturing and low-density
4 paperboard.

5 A. Right.

6 Q. And it's an IPR from 2016.
7 That's what this --

8 A. 2016, yes.

9 MR. BARNES: Give me a couple of
10 minutes and let me look at my notes.
11 I may pass the witness.

12 (Whereupon a break was taken)

13 Q. Sir, go to Exhibit 1, which is
14 your CV. Go to page eighty-one. We were
15 just talking about the International Paper
16 case.

17 A. Yes.

18 Q. You worked for the plaintiff,
19 which is International Paper; correct?

20 A. Correct.

21 Q. And the patent was held by
22 WestRock, that became WestRock; correct?

23 A. Correct.

24 Q. And you were retained to hold
25 the opinion that the patent that's

1 C. P. Klass

2 referenced in your CV there, 7,749,583,
3 was invalid; correct?

4 A. I don't recall whether validity
5 was the question or not, basically. I do
6 recall that being the patent number.

7 Q. This was an IPR; wasn't it?

8 A. Yes. In fact, if you'll notice,
9 the first IPR on here, so I didn't know
10 what IPR was before that.

11 Q. So was the validity at issue?

12 MR. WOFSY: Objection. Seeks a
13 legal conclusion.

14 THE WITNESS: I don't know the
15 answer to that. No.

16 Q. Go to -- keep that there and
17 pull out the '142 patent, please. It's
18 Exhibit 8.

19 A. Got it.

20 Q. And sir, on Exhibit 1, the U.S.
21 patent there that was at issue that you
22 list, that's a Fugitt patent; correct? If
23 you recall.

24 A. Gary was one of the inventors,
25 yeah.

1 C. P. Klass

2 Q. Gary?

3 A. Was one of the inventors, yes.

4 Q. And look at Exhibit 8, sir.

5 Do you see listed down there
6 under Fugitt the first one after
7 Breilsford? It's on the right-hand side of
8 Exhibit 8, the first page of the '142
9 patent.

10 A. Correct.

11 Q. Do you see the Fugitt patent
12 7,749,583 B2? Do you see that, sir?

13 A. 7,749,583 B2, yes.

14 Q. You agree with me, sir, that is
15 the same patent that you have listed on
16 your CV?

17 A. I have no reason to disagree
18 with that. It is the same number, so yes.

19 Q. And this Fugitt patent listed
20 there on Exhibit 8 was provided in this
21 attempt to obtain the patent from
22 WestRock; correct?

23 MR. WOFSY: Objection to the form
24 of the question.

25 Q. These patents that are listed

1 C. P. Klass

2 over here were provided to the PTO;
3 correct? They were submitted by WestRock?

4 A. I would assume they were because
5 they're listed on the patent. I don't
6 know that, but I would assume they were
7 because they're listed on the patent. I
8 would assume everything on here was
9 provided.

10 Q. Sir, a couple of times in your
11 second declaration, you mentioned the term
12 "impermissible hindsight".

13 Do you recall that?

14 A. I recall using that term, yes.

15 Q. Go to page twenty-six.

16 A. Okay.

17 Q. Just so you can have a reference
18 to it. And on page twenty-nine.

19 A. Okay.

20 Q. Do you see that where you use
21 the term "impermissible hindsight"?

22 A. Yeah, I see that at claim
23 twenty-three, yes.

24 Q. And you used the term
25 "impermissible hindsight" in your title;

C. P. Klass

correct?

A. I did.

Q. How would you define the concept or describe the concept of impermissible hindsight?

A. If it says 12.0, it means 12.0. 12.2 basically is not 12.0. And if you go back and make a calculation using that number that comes out favorable, then that's the general.

Q. You gave what you believe is an example, but my question to you is define the concept to me of impermissible hindsight.

MR. WOFSY: Asked and answered.

THE WITNESS: The concept to me is looking at something and finding the result that you want and then back calculate what it would have needed to be in order to get to that.

MR. BARNES: We'll pass the witness.

(CONTINUED ON NEXT PAGE)

1 C. P. Klass

2 EXAMINATION BY

3 MR. WOFSY:

4 Q. Mr. Klass, could you please turn
5 to what has been previously marked as
6 Exhibit Number 4, which is your
7 supplemental declaration.

8 A. Okay.

9 Q. Could you turn to page sixteen
10 of Exhibit Number 4, please.

11 A. Fifteen?

12 Q. Sixteen, please, one-six,
13 paragraph thirty-three.

14 A. Correct. Okay.

15 Q. The first sentence of paragraph
16 thirty-three says, "at the time of the
17 invention, hot hard nip calendering with
18 only one roll heated was not in use in
19 coated paperboard mills in the temperature
20 ranges in the '142 patent".

21 Do you see that, sir?

22 A. Yes.

23 Q. Do you agree with that
24 statement, sir?

25 A. Yes.

1 C. P. Klass

2 Q. I'm going to ask you now to turn
3 to Exhibit Number 5, which is the
4 Papermaking reference, and I'm going to
5 ask you to turn to page eighty-two,
6 please.

7 A. Okay.

8 Q. I'll ask you to refer to the
9 first full paragraph where it states, "a
10 modern carton board line, as a rule, has
11 one hot hard nip pre-calender before the
12 coating section, especially in Asia".

13 Do you see that sentence, sir?

14 A. Yes.

15 Q. And do you see where it says,
16 "one hot hard nip", sir?

17 A. Yes.

18 Q. How many rollers are in one hot,
19 hard nip, sir?

20 A. Two.

21 Q. Is there any indication in that
22 sentence or anywhere in Papermaking where
23 it discloses that the hot hard nip has
24 only one heated roller?

25 MR. BARNES: I object to the

1 C. P. Klass

2 form.

3 THE WITNESS: No.

4 Q. Can you please turn, sir, to
5 Exhibit Number 12, which is the Zakaib, Z
6 A K A I B, reference?

7 A. Here it is. Okay.

8 Q. Could you please turn, sir, to
9 pages sixty-four and sixty-five of the
10 Zakaib reference, Exhibit Number 12.

11 A. Yes.

12 Q. Could you take a moment to study
13 the illustrations on sixty-four and
14 sixty-five.

15 A. (Reviewing).

16 Yes.

17 Q. Take a moment to study the
18 illustrations on sixty-four and
19 sixty-five, please.

20 A. Yes.

21 Q. Do you those are calender
22 setups, sir?

23 A. Yes.

24 MR. BARNES: Object to the form.

25 Q. It states those are calender

1 C. P. Klass

2 setups, correct, on page sixty-four?

3 A. Yes.

4 Q. Are these calender stacks that
5 you see on page sixty-four and sixty-five?

6 MR. BARNES: I object to the
7 form.

8 THE WITNESS: Yes.

9 Q. And do you see that in these
10 calender stacks in particular on page
11 sixty-five, the calender stack includes
12 steam heated rollers; is that correct?

13 A. Yes.

14 Q. Includes induction heated
15 rollers; is that correct?

16 A. Yes.

17 Q. So it includes both induction
18 heating and steam heating; correct?

19 A. Correct.

20 Q. If you can turn to the section
21 on page sixty of Exhibit Number 12.

22 And you may recall that we
23 discussed earlier case B down in the lower
24 right-hand column where it states, "at a
25 European coated folding boxboard mill, a

1 C. P. Klass

2 single induction heating system was
3 installed on the top roll of a single nip
4 pre-coater calender".

5 Do you see that?

6 A. Yes.

7 Q. Is there any indication as to
8 whether the lower roll was heated?

9 A. No.

10 MR. BARNES: I object to the
11 form.

12 Q. Could the lower roll have been
13 heated in this instance?

14 A. Yes.

15 Q. Could it have been steam heated?

16 A. Yes.

17 Q. Could it have been induction
18 heated?

19 A. Yes.

20 Q. So then going back to paragraph
21 thirty-three of your supplemental opinion
22 which was Exhibit Number 4 where you
23 state, "at the time of the invention, hot
24 hard nip calendering with only one roll
25 heated was not in use in coated paperboard

1 C. P. Klass

2 mills in the temperature ranges in the
3 '142 patent", is that statement still
4 consistent and do you stand behind it even
5 with the knowledge of the disclosure of
6 B12?

7 A. Yes.

8 MR. BARNES: Objection to the
9 form. Foundation. Contrary to prior
10 testimony.

11 Q. If you can turn to Exhibit
12 Number 11, please, which is the Marley
13 reference.

14 A. I have it.

15 Q. In the Marley reference, you may
16 recall at the bottom of page seventeen,
17 which is the first page of the reference,
18 we discussed earlier a calender that has a
19 working width of four meters and an
20 operating speed of seven hundred MPM, the
21 surface temperature of the heated roll is
22 three hundred degrees C and a line force
23 ranging from ten to a hundred newton per
24 millimeter can be applied depending on the
25 grade produced.

1 C. P. Klass

2 Do you see that paragraph?

3 A. Yes.

4 Q. Do you have any understanding as
5 to whether or not the nip that includes
6 that heated roll has only one heated roll?

7 A. No.

8 MR. BARNES: I object to the
9 form.

10 Q. So there's no indication in
11 Marley as to whether or not it's teaching
12 a nip with only one heated roll; is that
13 correct?

14 A. It is correct, yes. The.

15 MR. BARNES: I object to the
16 form.

17 Q. Can you now turn to Exhibit
18 Number 13, which is the Gratton reference.

19 A. Yes.

20 Q. Do you recall, with respect to
21 the Gratton reference, we looked at a set
22 of data that was created by counsel for
23 Billerud? Do you recall that?

24 A. Yes.

25 Q. And does the Gratton reference

1 C. P. Klass

2 disclose a calender having a single nip
3 with only one heated roller?

4 MR. BARNES: I object to the
5 form.

6 THE WITNESS: No.

7 MR. WOFSY: No further questions.

8 MR. BARNES: Give me a minute.

9 (Whereupon a break was taken)

10 EXAMINATION BY

11 MR. BARNES:

12 Q. Sir, I have a couple of
13 follow-up questions.

14 Can we turn to B12, which was
15 the --

16 A. I'm getting there. They're back
17 in order.

18 Got it.

19 Q. You were just asked by your
20 counsel about drawings that were on page
21 sixty-four and sixty-five.

22 Do you recall that, sir?

23 A. Correct. Yes.

24 Q. And look at the bottom of
25 sixty-four.

1 C. P. Klass

2 The questions you were asked on
3 sixty-four relate to case D in this
4 teaching; correct?

5 A. I don't recall him asking me a
6 question about sixty-four, I think it was
7 about sixty-five.

8 Q. So on sixty-five, figure
9 fifteen, you were asked about that?

10 A. Yes.

11 Q. And isn't it true, sir, that's
12 relating to case D in this teaching;
13 correct? D as in dog.

14 A. Case D, yes.

15 Q. And do you recall, if you flip
16 back over to page sixty-two, my questions
17 that I asked you earlier related to case
18 B; correct?

19 A. Case B? Let me look and see.

20 Case B?

21 Q. Yes, sir.

22 A. You may have asked me a question
23 about case B.

24 Q. And I did not ask you any
25 questions about case C or D; correct?

1 C. P. Klass

2 A. I don't recall you asking me any
3 questions about case C or D.

4 Q. Let's go to Exhibit 11, please.
5 This is the Marley publication that you
6 were just asked some questions about.

7 A. Yes.

8 Q. Go down to the front page on
9 page seventeen, the section under a
10 calender was zone-controlled.

11 Do you see that?

12 A. Yes.

13 Q. It states in that first sentence
14 that the company Andritz supplied the
15 Prime Cal Hard calender; right?

16 A. Right.

17 Q. Andritz is a supplier; correct?

18 A. Yes. It was Andritz Küsters at
19 the time, yes.

20 Q. And the piece of equipment that
21 was provided was stated there as Prime Cal
22 Hard calender; correct?

23 A. Yes.

24 Q. Isn't it true, sir, you don't
25 know the information about this piece of

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C. P. Klass
equipment specifications?
A. Yes.
Q. You don't know?
A. I don't know from this document,
no.
Q. From your memory and history,
you don't know anything about it; correct?
A. Not in reference to this, no.
Q. So it's also true, sir, that you
don't know if this piece of equipment had
one or both rolls heated; correct?
A. I do not.
MR. BARNES: That's all I have.
MR. WOFSY: Nothing further on
this.
We're going to read and sign.
(TIME NOTED: 3:51 p.m.)

CHARLES P. KLASS

Subscribed and sworn to before me
this __ day of _____, 2024.

Notary public

* * *

I N D E X

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E X H I B I T S

B	DESCRIPTION	PAGE
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REQUESTS

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* * *

CERTIFICATION BY REPORTER

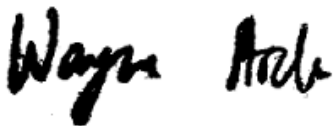
I, Wayne Hock, a Notary Public of the State of New York, do hereby certify:

That the testimony in the within proceeding was held before me at the aforesaid time and place;

That said witness was duly sworn before the commencement of the testimony, and that the testimony was taken stenographically by me, then transcribed under my supervision, and that the within transcript is a true record of the testimony of said witness.

I further certify that I am not related to any of the parties to this action by blood or marriage, that I am not interested directly or indirectly in the matter in controversy, nor am I in the employ of any of the counsel.

IN WITNESS WHEREOF, I have hereunto set my hand this 19th day of August, 2024.



WAYNE HOCK

VERITEXT/NEW YORK REPORTING, LLC

WITNESS ' NAME: CHARLES P. KCLASS

[illegible]

CHARLES P. KLASS

NOTARY PUBLIC
MY COMMISSION EXPIRES

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Federal Rules of Civil Procedure

Rule 30

(e) Review By the Witness; Changes.

(1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and

(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) Changes Indicated in the Officer's Certificate. The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

DISCLAIMER: THE FOREGOING FEDERAL PROCEDURE RULES ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY.

THE ABOVE RULES ARE CURRENT AS OF APRIL 1, 2019. PLEASE REFER TO THE APPLICABLE FEDERAL RULES OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

VERITEXT LEGAL SOLUTIONS

COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

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