IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 1:23-cv-00313-RM-KLM

FOX FACTORY, INC.,

Plaintiff,

v.

SRAM, LLC,

Defendant.

NOTICE OF FILING OF JOINT DISPUTED CLAIM TERMS CHART

Pursuant to this Court's March 16, 2023 Order (Doc. No. 88) and Local Patent Rule 14, Plaintiff Fox Factory, Inc. ("Fox") and Defendant SRAM, LLC ("SRAM") jointly submit the Joint Disputed Claim Terms Chart attached hereto as Exhibit A identifying disputed claim terms from U.S. Patent No. 9,739,331 ("the '331 patent") and U.S. Patent No. 8,550,223 ("the '223 patent"), along with each party's proposed construction with citations to supporting intrinsic and extrinsic evidence.

SRAM's Position: The Court's March 16, 2023 Order expressly requires that the parties identify "up to ten (10) of the most critical terms to be construed." (ECF No. 88, at 6). In keeping with the Court's Order, SRAM has limited its number of claim terms for construction to five (5), namely: "air bleed assembly disposed" and "manually operable" from the '331 patent, and "damper chamber," "compression portion [of the damper chamber", and "compression chamber" from the '223 patent. Despite the Court's limit and instead of providing its own five (5) "critical"

terms for construction, Plaintiff Fox insists on having a total of thirteen (13) different claim terms construed, including a term from claim 1 of the '331 patent, even after Fox repeatedly told the Court in the preliminary injunction context that claim 1 "does not require construction". (ECF No. 40, at 9; ECF No. 71, at 7). SRAM does not believe that the Court's Order permits construction of eighteen (18) terms and has repeatedly asked Fox to identify its five (5) terms for construction to meet the Court's prescribed limit of ten (10) terms. To make the record clear, SRAM has nonetheless provided its constructions of all thirteen (13) of Fox's proposed claim terms as well as the intrinsic and extrinsic evidence in support of SRAM's constructions for such terms.

FOX's Position:

SRAM is mischaracterizing FOX's position by stating that FOX has identified 13 claim terms. Not so. FOX has identified 10 claim terms, with substantially similar terms (e.g., "a fluid flow path formed in the bottom out cup" and "fluid flow path formed in the cup") grouped together for the Court's convenience because those related terms will be construed similarly. Moreover, during the preparation of this Joint Disputed Claims Terms Chart per D.C.COLO.LPtR 14, SRAM contended that a statement in the Scheduling Order (Dkt. 88) regarding the parties' initial exchange of disputed terms and proposed constructions allegedly limits each party to no more than five (5) disputed claim terms in this joint chart. FOX disagrees and believes SRAM is misreading the Scheduling Order, as explained below.

Paragraph g of the Scheduling Order, which SRAM crops and refers to above, states: "Deadline for parties to exchange list of claim terms to be construed and proposed construction, specifically identifying up to ten (10) of the most critical terms to be construed." Dkt. 88 at 5. By its very terms, Paragraph g relates to each parties' submission to the other during the initial exchange of terms for construction, not the content or number of claims that will later be listed in the joint disputed claims chart under LPtR 14. Paragraph g requires that when each party sends

its respective terms for construction to the other, that each party identify the ten terms from its own list that it believes are the most critical terms on its list to be construed. Thus, Paragraph g does not govern the Joint Disputed Claims Chart, which is covered in Paragraph h the Scheduling Order. And nothing in Paragraph g or h, nor any of the Patent Local Rules, limits each party to five terms in the joint disputed claims chart as SRAM contends.

FOX's reading of the Scheduling Order is also amply supported by the proceedings before this Court in *Brandt v. S & H Sheet Metal, Inc.,* Civil Action No. 1:15-cv-02785-RM-NYW, which FOX cited to SRAM during the parties' discussions over this dispute. In *Brandt*, the scheduling order (Dkt. 29 in *Brandt*) included the very same sentence now at issue in Dkt. 88 in this case. The *Brandt* parties' joint disputed claim terms chart included twenty terms for construction for the single patent-in-suit, which this Court's claim construction order noted had been prepared "in accordance with the Patent Local Rules" (Dkt. 144 in *Brandt* at 5). This Court also construed 21 terms in its claim construction order in that case. *Id*. The proceedings and claim construction order in Brandt thus support FOX's reading of this Court's scheduling order and the propriety of FOX including ten claim terms in this joint disputed claim terms chart. It also refutes SRAM's misinterpretation of the sentence at issue in the Scheduling Order.

Dated: August 3, 2023

Respectfully submitted,

/s/ Arpita Bhattacharyya

Robert F. McCauley
Arpita Bhattacharyya
FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER, LLP
3300 Hillview Avenue
Palo Alto, California 94304
Telephone: (650) 849-6600
Facsimile: (650) 849-6666
Email: robert.mccauley@finnegan.com
Email: arpita.bhattacharyya@finnegan.com

Attorneys for Plaintiff
FOX FACTORY, INC.

/s/ Michael J. Hickey

Richard B. Walsh, Jr.
Michael J. Hickey
Sarah A. Milunski
LEWIS RICE LLC
600 Washington Avenue, Suite 2500
St. Louis, Missouri 63101
Telephone: (314) 444-7600
Facsimile: (314) 241-6056
Email: rwalsh@lewisrice.com
Email: mhickey@lewisrice.com
Email: smilunski@lewisrice.com

Timothy R. Beyer
BRYAN CAVE LEIGHTON PAISNER LLP
1700 Lincoln Street, Suite 4100
Denver, Colorado 80203
Telephone: (303) 861-7000
Email: tim.beyer@bclplaw.com

Attorneys for Defendant
SRAM, LLC

ATTESTATION

Counsel for FOX Factory, Inc. hereby attests by her signature below that concurrence in the filing of this document was obtained from counsel for SRAM, LLC.

/s/ *Arpita Bhattacharyya*

Robert F. McCauley
Arpita Bhattacharyya
FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER, LLP
3300 Hillview Avenue
Palo Alto, California 94304
Telephone: (650) 849-6600
Facsimile: (650) 849-6666
Email: robert.mccauley@finnegan.com
Email: arpita.bhattacharyya@finnegan.com

Attorneys for Plaintiff
FOX FACTORY, INC.

CERTIFICATE OF SERVICE

I hereby certify that on this 3rd day of August, 2023, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following email addresses:

- Richard B. Walsh, Jr. (rwalsh@lewisrice.com)
- Michael J. Hickey (mhickey@lewisrice.com)
- Sarah A. Milunski (smilunski@lewisrice.com)
- Timothy R. Beyer (tim.beyer@bryancave.com)

/s/ Arpita Bhattacharyya

Robert F. McCauley
Arpita Bhattacharyya
FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER, LLP
3300 Hillview Avenue
Palo Alto, California 94304
Telephone: (650) 849-6600
Facsimile: (650) 849-6666
Email: robert.mccauley@finnegan.com
Email: arpita.bhattacharyya@finnegan.com

Attorneys for Plaintiff
FOX FACTORY, INC.

EXHIBIT A – DISPUTED CLAIM TERMS CHART

Claim	Disputed Term	Fox's Proposed Construction and Cites to Intrinsic and Extrinsic Evidence	SRAM's Proposed Construction and Cites to Intrinsic and Extrinsic Evidence
'331 patent, claim 1	"an upper bushing attached to and positioned adjacent to said lower leg seal"	"an upper bushing and the lower leg seal are in contact with and next to each other" <u>Intrinsic and Extrinsic Evidence</u> The '331 patent, e.g., Figs. 2-4 and associated texts; col. 3, l. 65—col. 4, l. 37. SRAM's invalidity contentions, associated charts, and prior art references cited therein The '331 patent file history, including Office Actions (and cited prior art therein) dated Oct. 2, 2015; Feb. 23, 2016; Aug. 16, 2016; Dec. 2, 2016. Dictionary definitions of "attached," "adjacent," and "seal" Deposition testimony of K. Wesling, e.g., at 6:4-68:12. Testimony of M. Galasso Testimony of A. Slocum	Plain and ordinary meaning. To the extent any construction is required, the plain and ordinary meaning would be construed as: "an upper bushing affixed to and positioned next to the lower leg seal". <u>Intrinsic and Extrinsic Evidence:</u> *E.g.*, '331 patent, 4:17-27; *id.*, 4:54-55; *id.*, Figs. 2-4. *E.g.*, '331 patent file history, Response to Office Action, dated Dec. 29, 2015 (FOX_0000335-349); *id.*, Office Action, dated Feb. 23, 2016 (FOX_0000363-377); *id.*, Response to Office Action, dated Mar. 2, 2017 (FOX_0000483, 491-503); *id.*, U.S. Pat. Pub. No. 2012/0080279 to Galasso et al. *E.g.*, American Heritage Dictionary definition of "attach" and "adjacent" Testimony of Dr. Eric Wang Testimony of Kevin Wesling
'331 patent, claim 1	"air bleed assembly disposed"	Plain and ordinary meaning, which should mean that the "air bleed assembly is disposed any where on the lower fork between the lower leg seal and a resting level of the oil bath in the lower fork" <u>Intrinsic and Extrinsic Evidence</u> The '331 patent, e.g., Figs. 2-4 and associated texts; col. 3, l. 65—col. 4, l. 37; claim 1 at 4:56- 5:4	Meaning as required by Fox's clear and unmistakable prosecution history disclaimers to obtain the '331 patent claims, specifically: "air bleed assembly located between the lower leg seal and the upper bushing".

EXHIBIT A – JOINT DISPUTED CLAIM TERMS CHART

Claim	Disputed Term	Fox's Proposed Construction and Cites to Intrinsic and Extrinsic Evidence	SRAM's Proposed Construction and Cites to Intrinsic and Extrinsic Evidence
		SRAM's invalidity contentions, associated charts, and prior art references cited therein The '331 patent file history, including Office Actions Response dated Mar. 2, 2017; Nov. 16, 2016 U.S. Patent No. 9,103,400 at 4:35-54 Testimony of M. Galasso Testimony of A. Slocum	<u>Intrinsic and Extrinsic Evidence:</u> *E.g.*, '331 patent, 3:65-4:30, Figs. 1-4. *E.g.*, '331 patent file history, Patent Application (FOX_0000290-304); *id.*, Office Action, dated Oct. 2, 2015 (FOX_0000320-324); *id.*, Response to Office Action, dated Dec. 29, 2015 (FOX_0000335-349); *id.*, Office Action, dated Feb. 23, 2016 (FOX_0000363-377); *id.*, Preliminary Amendment and Response, dated July 25, 2016 (FOX_000385-396); *id.*, Office Action, dated Aug. 16, 2016 (FOX_0000405-415); *id.*, Interview Summary, dated Nov. 15, 2016 (FOX_0000432-433); *id.*, Response to Non-Final Office Action, dated Nov. 16, 2016 (FOX_0000437-451); *id.*, Office Action, dated Dec. 2, 2016 (FOX_0000456-471); *id.*, Examiner Interview, dated Mar. 1, 2017 (FOX_0000504-505); *id.*, Response to Office Action, dated Mar. 2, 2017 (FOX_0000483, 491-503); *id.*, U.S. Pat. Pub. No. 2012/0080279 to Galasso et al. Testimony of Dr. Eric Wang Testimony of Kevin Wesling
'331 patent, claims 1, 3 & 7	"manually operable"	Plain and ordinary meaning, which should mean "able to be used by hand with or without tools" <u>Intrinsic and Extrinsic Evidence</u> The '331 patent, e.g., Figs. 2-4 and associated texts; col. 2, l. 20—col. 4, l. 37 SRAM's invalidity contentions, associated charts, and prior art references cited therein	Meaning as required by Fox's clear definitions in the '331 patent as: "able to be used by hand without tools". <u>Intrinsic and Extrinsic Evidence:</u> *E.g.*, '331 patent, Abstract; *id.*, 2:33-63; *id.*, 3:65-4:27; *id.*, 4:62-5:13; *id.*, 5:17-6:23; *id.*, Figs. 2-3; *id.*, U.S. Pat. No. 6,581,948, 26:46-51; *id.*, U.S. Pat. No. 7,273,137, 25:22-

EXHIBIT A – JOINT DISPUTED CLAIM TERMS CHART

Claim	Disputed Term	Fox's Proposed Construction and Cites to Intrinsic and Extrinsic Evidence	SRAM's Proposed Construction and Cites to Intrinsic and Extrinsic Evidence
		The '331 patent file history, including Office Actions Response dated Mar. 2, 2017; Nov. 16, 2016 Testimony of M. Galasso Testimony of A. Slocum	27; *id.*, U.S. Pat. No. 7,261,194, 25:24-29; *id.*, U.S. Pat. No. 7,128,192, 24:56-61; *id.*, U.S. Pat. No. 6,604,751, 27:5-10; *id.*, U.S. Pat. Pub. No. 2008/0053768A1, [0160]; *id.*, U.S. Pat. Pub. No. 2008/0043767A1, [0160]; *id.*, U.S. Pat. Pub. No. 2008/0035439A1, [0160]; *id.*, U.S. Pat. Pub. No. 2008/0007017A1, [0160]; *id.*, U.S. Pat. Pub. No. 2007/0296163A1, [0160]; *id.*, U.S. Pat. Pub. No. 2007/0262555A1, [0160]; *id.*, U.S. Pat. Pub. No. 2007/0228691A1, [0160]; *id.*, U.S. Pat. Pub. No. 2007/0228690A1, [0160]; *id.*, U.S. Pat. Pub. No. 2007/0227845A1, [0160]; *id.*, U.S. Pat. Pub. No. 2007/0227844A1, [0165]; *id.*, U.S. Pat. Pub. No. 2007/0158927A1, [0161]; *id.*, U.S. Pat. Pub. No. 2007/0119670A1, [0162]; *id.*, U.S. Pat. Pub. No. 2007/0068751A1, [0162]; *id.*, U.S. Pat. Pub. No. 2007/0012531A1, [0162]; *id.*, U.S. Pat. Pub. No. 2006/0065496A1, [0165]. *E.g.*, American Heritage Dictionary definitions of "manual" and "operable" Testimony of Dr. Eric Wang Testimony of Kevin Wesling
'331 patent, claim 3	"a valve activator coupled with said manually operable valve"	"a valve activator (that is separate from the manually operable valve) is connected with the manually operable valve" <u>Intrinsic and Extrinsic Evidence</u> The '331 patent, e.g., Figs. 2-4 and associated texts; col. 2, l. 20—col. 4, l. 37	Plain and ordinary meaning. To the extent any construction is required, the plain and ordinary meaning would be construed as: "a valve activator connected with the manually operable valve".

EXHIBIT A – JOINT DISPUTED CLAIM TERMS CHART

Claim	Disputed Term	Fox's Proposed Construction and Cites to Intrinsic and Extrinsic Evidence	SRAM's Proposed Construction and Cites to Intrinsic and Extrinsic Evidence
		SRAM's invalidity contentions, associated charts, and prior art references cited therein The '331 patent file history, including Office Actions Response dated Mar. 2, 2017; Nov. 16, 2016 Testimony of M. Galasso Testimony of A. Slocum	<u>Intrinsic and Extrinsic Evidence:</u> *E.g.*, '331 patent, Abstract; *id.*, 2:33-63; *id.*, 3:65-4:27; *id.*, 4:62-5:13; *id.*, 5:17-6:23; *id.*, Figs. 2-3. *E.g.*, '331 patent file history, Patent Application (FOX_0000290-304); *id.*, Office Action, dated Oct. 2, 2015 (FOX_0000320-324); *id.*, Response to Office Action, dated Dec. 29, 2015 (FOX_0000335-349); *id.*, Office Action, dated Feb. 23, 2016 (FOX_0000363-377); *id.*, Preliminary Amendment and Response, dated July 25, 2016 (FOX_000385-396); *id.*, Office Action, dated Aug. 16, 2016 (FOX_0000405-415); *id.*, Interview Summary, dated Nov. 15, 2016 (FOX_0000432-433); *id.*, Response to Non-Final Office Action, dated Nov. 16, 2016 (FOX_0000437-451); *id.*, Office Action, dated Dec. 2, 2016 (FOX_0000456-471); *id.*, Examiner Interview, dated Mar. 1, 2017 (FOX_0000504-505); *id.*, Response to Office Action, dated Mar. 2, 2017 (FOX_0000483, 491-503); *id.*, U.S. Pat. Pub. No. 2012/0080279 to Galasso et al. *E.g.*, American Heritage Dictionary definition of "couple" Testimony of Dr. Eric Wang Testimony of Kevin Wesling
'331 patent, claim 3	"whereupon when in said activation position, the trapped air pressure in said lower leg is equalized with the local ambient air pressure"	"whereupon when in said deactivation position, the trapped air pressure in said lower leg is equalized with the local ambient air pressure" <u>Intrinsic and Extrinsic Evidence</u>	Plain and ordinary meaning. No restatement necessary. <u>Intrinsic and Extrinsic Evidence:</u> *E.g.*, '331 patent, 4:39-5:13; *id.*, 5:17-27.

EXHIBIT A – JOINT DISPUTED CLAIM TERMS CHART

Claim	Disputed Term	Fox's Proposed Construction and Cites to Intrinsic and Extrinsic Evidence	SRAM's Proposed Construction and Cites to Intrinsic and Extrinsic Evidence
		The '331 patent, e.g., Figs. 2-4 and associated texts; Abstract; col. 2, l. 20—col. 4, l. 37; col. 4, l. 39-6:30 The '331 patent file history, including original claims submitted August 10, 2015 Claims of related patents, including the '400 patent SRAM's invalidity contentions, associated charts, and prior art references cited therein Testimony of M. Galasso Testimony of A. Slocum	*E.g.*, '331 patent file history, Patent Application (FOX_0000290-304); *id.*, Response to Office Action, dated Dec. 29, 2015 (FOX_0000335-349); *id.*, Office Action, dated Feb. 23, 2016 (FOX_0000363-377); *id.*, Preliminary Amendment and Response, dated July 25, 2016 (FOX_000385-396); *id.*, Office Action, dated Aug. 16, 2016 (FOX_0000405-415); *id.*, Interview Summary, dated Nov. 15, 2016 (FOX_0000432-433); *id.*, Response to Non-Final Office Action, dated Nov. 16, 2016 (FOX_0000437-451); *id.*, Office Action, dated Dec. 2, 2016 (FOX_0000456-471); *id.*, Examiner Interview, dated Mar. 1, 2017 (FOX_0000504-505); *id.*, Response to Office Action, dated Mar. 2, 2017 (FOX_0000483, 491-503). Fox's Disclosure of Asserted Claims and Infringement Contentions Related to U.S. Patent Nos. 9,739,331 and 8,550,223, dated Dec. 23, 2022, Attachment A, at 13-14, 23-25, 40-41. Fox's Amended Disclosure of Asserted Claims and Infringement Contentions Related to U.S. Patent Nos. 9,739,331 and 8,550,223, dated Mar. 16, 2023, Attachment A, at 14-15, 24-26, 41-42. Testimony of Dr. Eric Wang Testimony of Kevin Wesling
'331 patent, claim 8	"wherein said second position comprises"	"wherein said first position comprises" <u>Intrinsic and Extrinsic Evidence</u> The '331 patent, e.g., Figs. 2-4 and associated texts; Abstract; col. 2, l. 20—col. 4, l. 37; col. 4, l. 39-6:30	Plain and ordinary meaning. No restatement necessary.

EXHIBIT A – JOINT DISPUTED CLAIM TERMS CHART

Claim	Disputed Term	Fox's Proposed Construction and Cites to Intrinsic and Extrinsic Evidence	SRAM's Proposed Construction and Cites to Intrinsic and Extrinsic Evidence
		SRAM's invalidity contentions, associated charts, and prior art references cited therein The '331 patent file history, including original claims submitted August 10, 2015 Claims of related patents, including the '400 patent Testimony of M. Galasso Testimony of A. Slocum	<u>Intrinsic and Extrinsic Evidence:</u> *E.g.*, '331 patent, 4:39-5:13; *id.*, 5:17-27; *id.*, 6:24-29. *E.g.*, '331 patent file history, Patent Application (FOX_0000290-304); *id.*, Response to Office Action, dated Dec. 29, 2015 (FOX_0000335-349); *id.*, Office Action, dated Feb. 23, 2016 (FOX_0000363-377); *id.*, Preliminary Amendment and Response, dated July 25, 2016 (FOX_000385-396); *id.*, Office Action, dated Aug. 16, 2016 (FOX_0000405-415); *id.*, Interview Summary, dated Nov. 15, 2016 (FOX_0000432-433); *id.*, Response to Non-Final Office Action, dated Nov. 16, 2016 (FOX_0000437-451); *id.*, Office Action, dated Dec. 2, 2016 (FOX_0000456-471); *id.*, Examiner Interview, dated Mar. 1, 2017 (FOX_0000504-505); *id.*, Response to Office Action, dated Mar. 2, 2017 (FOX_0000483, 491-503). Fox's Disclosure of Asserted Claims and Infringement Contentions Related to U.S. Patent Nos. 9,739,331 and 8,550,223, dated Dec. 23, 2022, Attachment A, at 13-14, 23-25, 40-41. Fox's Amended Disclosure of Asserted Claims and Infringement Contentions Related to U.S. Patent Nos. 9,739,331 and 8,550,223, dated Mar. 16, 2023, Attachment A, at 14-15, 24-26, 41-42. Testimony of Dr. Eric Wang Testimony of Kevin Wesling

EXHIBIT A – JOINT DISPUTED CLAIM TERMS CHART

Claim	Disputed Term	Fox's Proposed Construction and Cites to Intrinsic and Extrinsic Evidence	SRAM's Proposed Construction and Cites to Intrinsic and Extrinsic Evidence
'331 patent, claims 6 & 8	"air pressure by-pass into or out of said lower fork" / "air pressure does not by-pass into or out of said lower fork"	"air by-pass into or out of said lower fork"/"air does not by-pass into or out of said lower fork" <u>Intrinsic and Extrinsic Evidence</u> The '331 patent, e.g., Figs. 2-4 and associated texts; Abstract; col. 2, l. 20—col. 4, l. 37; col. 4, l. 39-6:30 SRAM's invalidity contentions, associated charts, and prior art references cited therein The '331 patent file history, including original claims submitted August 10, 2015 Claims of related patents, including the '400 patent Testimony of M. Galasso Testimony of A. Slocum	Plain and ordinary meaning. No restatement necessary. <u>Intrinsic and Extrinsic Evidence:</u> *E.g.*, '331 patent, 3:36-4:27; *id.*, 4:39-5:27; *id.*, 6:4-17; *id.*, 6:24-30. *E.g.*, '331 patent file history, Patent Application (FOX_0000290-304); *id.*, Response to Office Action, dated Dec. 29, 2015 (FOX_0000335-349); *id.*, Office Action, dated Feb. 23, 2016 (FOX_0000363-377); *id.*, Preliminary Amendment and Response, dated July 25, 2016 (FOX_000385-396); *id.*, Office Action, dated Aug. 16, 2016 (FOX_0000405-415); *id.*, Interview Summary, dated Nov. 15, 2016 (FOX_0000432-433); *id.*, Office Action, dated Dec. 2, 2016 (FOX_0000456-471); *id.*, Examiner Interview, dated Mar. 1, 2017 (FOX_0000504-505); *id.*, Response to Office Action, dated Mar. 2, 2017 (FOX_0000483, 491-503). *E.g.*, Merriam-Webster Dictionary definitions of "air" and "air pressure" Testimony of Dr. Eric Wang Testimony of Kevin Wesling
'223 patent, claims 1 & 11	"damper chamber"	Plain and ordinary meaning, which should mean "chamber configured to allow the piston and shaft to cause at least portions of the compression and rebound" <u>Intrinsic and Extrinsic Evidence</u>	Plain and ordinary meaning. To the extent any construction is required, the plain and ordinary meaning would be construed as: "enclosed space

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Claim	Disputed Term	Fox's Proposed Construction and Cites to Intrinsic and Extrinsic Evidence	SRAM's Proposed Construction and Cites to Intrinsic and Extrinsic Evidence
		The '223 patent, e.g., Figs. 2, 3A-C, 4 and associated texts in cols. 3-7; Abstract; col. 1, l. 21-col. 2, l. 62. SRAM's invalidity contentions, associated charts, and prior art references cited therein The '223 patent file history, including Interview Summary, dated February 1, 2011; Response to Office Action, dated Mar. 4, 2011; Response to Final Office Action, dated July 26, 2011; Responses to Final Office Action dated Oct. 24, 2011 and Nov. 9, 2011; Responses to Office Actions, dated Apr. 16, 2012, Dec. 17, 2012, and May 22, 2013. Testimony of M. Galasso Testimony of A. Slocum	or cavity configured within which the piston and shaft generate compression and rebound forces". <u>Intrinsic and Extrinsic Evidence:</u> *E.g.*, '223 patent, Abstract; *id.*, 1:19-38; *id.*, 2:37-62; *id.*, 7:39-48; *id.*, 8:8-23; *id.*, Figs. 1-4. *E.g.*, '223 patent file history, Patent Application (FOX_0000024-45); *id.*, Office Action, dated Oct. 8, 2010 (FOX_0000085-92); *id.*, Interview Summary, dated 2/1/2011 (FOX_000097-98); *id.*, Response to Office Action, dated Mar. 4, 2011 (FOX_0000100-107); *id.*, Office Action, dated May 26, 2011 (FOX_0000114-125); *id.*, Response to Final Office Action, dated July 26, 2011 (FOX_0000126-133); Office Action, dated Aug. 11, 2011 (FOX_0000137-138); Second Response to Final Office Action and Response to Advisory Action, dated Oct. 24, 2011 (FOX_0000142-148); Supplement to Second Response, dated Nov. 9, 2011 (FOX_0000156-161); Office Action, dated Dec. 15, 2011 (FOX_0000169-176); *id.*, Response to Office Action, dated Apr. 16, 2012 (FOX_0000179-188); Office Action, dated May 17, 2012 (FOX_0000195-205); Response to Office Action, dated Dec. 17, 2012 (FOX_0000215-227); Office Action, dated Jan. 22, 2013 (FOX_0000234-241); Response to Office Action, dated May 22, 2013 (FOX_0000244-253); *id.*, U.S. Pat. No. 6,029,958 to Larsson et al.; *id.*, U.S. Pat. No. 2,924,304 to Patriquin; *id.*, U.S. Pat. No. 7,513,490 to Robertson.

EXHIBIT A – JOINT DISPUTED CLAIM TERMS CHART

Claim	Disputed Term	Fox's Proposed Construction and Cites to Intrinsic and Extrinsic Evidence	SRAM's Proposed Construction and Cites to Intrinsic and Extrinsic Evidence
			E.g., American Heritage Dictionary definition of "chamber" Testimony of Dr. Eric Wang Testimony of Kevin Wesling
'223 patent, claim 1	"compression portion" [of the damper chamber]	Plain and ordinary meaning, which should mean "portion [of the damper chamber] configured to allow the piston and shaft to cause at least a portion of the compression" <u>Intrinsic and Extrinsic Evidence</u> The '223 patent, e.g., Figs. 2, 3A-C, 4 and associated texts in cols. 3-7; Abstract; col. 1, l. 21-col. 2, l. 62. SRAM's invalidity contentions, associated charts, and prior art references cited therein The '223 patent file history, including Interview Summary, dated February 1, 2011; Response to Office Action, dated Mar. 4, 2011; Response to Final Office Action, dated July 26, 2011; Responses to Final Office Action dated Oct. 24, 2011 and Nov. 9, 2011; Responses to Office Actions, dated Apr. 16, 2012, Dec. 17, 2012, and May 22, 2013. Testimony of M. Galasso Testimony of A. Slocum	Plain and ordinary meaning. To the extent any construction is required, the plain and ordinary meaning would be construed as: "part [of the damper chamber] configured within which the piston and shaft generate compression forces". <u>Intrinsic and Extrinsic Evidence:</u> *E.g.*, '223 patent, 3:20-4:30; *id.*, 5:6-21; *id.*, 7:11-31; *id.*, 7:39-48; *id.*, 8:36-38; *id.*, Figs. 1-4. *E.g.*, '223 patent file history, Patent Application (FOX_0000024-45); *id.*, Office Action, dated Oct. 8, 2010 (FOX_0000085-92); *id.*, Interview Summary, dated 2/1/2011 (FOX_000097-98); *id.*, Response to Office Action, dated Mar. 4, 2011 (FOX_0000100-107); *id.*, Office Action, dated May 26, 2011 (FOX_0000114-125); *id.*, Response to Final Office Action, dated July 26, 2011 (FOX_0000126-133); Office Action, dated Aug. 11, 2011 (FOX_0000137-138); Second Response to Final Office Action and Response to Advisory Action, dated Oct. 24, 2011 (FOX_0000142-148); Supplement to Second Response, dated Nov. 9, 2011 (FOX_0000156-161); Office Action, dated Dec. 15, 2011 (FOX_0000169-176);

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Claim	Disputed Term	Fox's Proposed Construction and Cites to Intrinsic and Extrinsic Evidence	SRAM's Proposed Construction and Cites to Intrinsic and Extrinsic Evidence
			id., Response to Office Action, dated Apr. 16, 2012 (FOX_0000179-188); Office Action, dated May 17, 2012 (FOX_0000195-205); Response to Office Action, dated Dec. 17, 2012 (FOX_0000215-227); Office Action, dated Jan. 22, 2013 (FOX_0000234-241); Response to Office Action, dated May 22, 2013 (FOX_0000244-253); *id.*, U.S. Pat. No. 6,029,958 to Larsson et al.; *id.*, U.S. Pat. No. 2,924,304 to Patriquin; *id.*, U.S. Pat. No. 7,513,490 to Robertson. Testimony of Dr. Eric Wang Testimony of Kevin Wesling
'223 patent, claim 1	"a bottom out cup formed at the end of the compression portion"	"a secondary chamber at the lower end of the compression portion of the damper chamber and configured to receive a secondary piston at the end portion of a compression stroke" <u>Intrinsic and Extrinsic Evidence</u> The '223 patent, e.g., Figs. 2, 3A-C, 4 and associated texts in cols. 3-7; Abstract; col. 1, l. 21-col. 2, l. 62. SRAM's invalidity contentions, associated charts, and prior art references cited therein The '223 patent file history, including Interview Summary, dated February 1, 2011; Response to Office Action, dated Mar. 4, 2011; Response to Final Office Action, dated July 26, 2011; Responses to Final Office Action dated Oct. 24, 2011 and Nov. 9, 2011; Responses to Office Actions, dated	Plain and ordinary meaning. To the extent any construction is required, the plain and ordinary meaning would be construed as: "a cup-shaped feature located at the end of the compression portion" <u>Intrinsic and Extrinsic Evidence:</u> *E.g.*, '223 patent, 2:38-62; *id.*, 3:4-18; *id.*, 3:20-4:30; *id.*, 5:6-38; *id.*, 6:51-7:31; *id.*, 7:39-48; *id.*, 8:3-4; *id.*, 8:8-30; *id.*, 8:36-58; *id.*, 8:61-9:5; *id.*, Figs. 1-4. *E.g.*, '223 patent file history, Patent Application (FOX_0000024-45); *id.*, Office Action, dated Oct. 8, 2010 (FOX_0000085-92); *id.*, Interview Summary, dated 2/1/2011 (FOX_000097-98); *id.*, Response to Office Action, dated Mar. 4, 2011 (FOX_0000100-107); *id.*, Office Action, dated May 26, 2011 (FOX_0000114-125);

EXHIBIT A – JOINT DISPUTED CLAIM TERMS CHART

Claim	Disputed Term	Fox's Proposed Construction and Cites to Intrinsic and Extrinsic Evidence	SRAM's Proposed Construction and Cites to Intrinsic and Extrinsic Evidence
		Apr. 16, 2012, Dec. 17, 2012, and May 22, 2013. Testimony of M. Galasso Testimony of A. Slocum	*id.*, Response to Final Office Action, dated July 26, 2011 (FOX_0000126-133); Office Action, dated Aug. 11, 2011 (FOX_0000137-138); Second Response to Final Office Action and Response to Advisory Action, dated Oct. 24, 2011 (FOX_0000142-148); Supplement to Second Response, dated Nov. 9, 2011 (FOX_0000156-161); Office Action, dated Dec. 15, 2011 (FOX_0000169-176); *id.*, Response to Office Action, dated Apr. 16, 2012 (FOX_0000179-188); Office Action, dated May 17, 2012 (FOX_0000195-205); Response to Office Action, dated Dec. 17, 2012 (FOX_0000215-227); Office Action, dated Jan. 22, 2013 (FOX_0000234-241); Response to Office Action, dated May 22, 2013 (FOX_0000244-253); *id.*, U.S. Pat. No. 6,029,958 to Larsson et al.; *id.*, U.S. Pat. No. 2,924,304 to Patriquin; *id.*, U.S. Pat. No. 7,513,490 to Robertson. Testimony of Dr. Eric Wang Testimony of Kevin Wesling
'223 patent, claims 11 & 19	"compression chamber"	Plain and ordinary meaning, which should mean "chamber configured to allow the piston and shaft to cause at least a portion of the compression" <u>Intrinsic and Extrinsic Evidence</u> The '223 patent, e.g., Figs. 2, 3A-C, 4 and associated texts in cols. 3-7; Abstract; col. 1, l. 21-col. 2, l. 62. SRAM's invalidity contentions, associated charts, and prior	Plain and ordinary meaning. To the extent any construction is required, the plain and ordinary meaning would be construed as: "enclosed space or cavity configured within which the piston and shaft generate compression forces". <u>Intrinsic and Extrinsic Evidence:</u> *E.g.*, '223 patent, Abstract; *id.*, 2:37-62; *id.*, 3:20-4:30; *id.*, 5:6-21; *id.*, 7:11-31; *id.*, 7:39-48; *id.*, 8:8-23; *id.*, 8:27-30;

EXHIBIT A – JOINT DISPUTED CLAIM TERMS CHART

Claim	Disputed Term	Fox's Proposed Construction and Cites to Intrinsic and Extrinsic Evidence	SRAM's Proposed Construction and Cites to Intrinsic and Extrinsic Evidence
		art references cited therein The '223 patent file history, including Interview Summary, dated February 1, 2011; Response to Office Action, dated Mar. 4, 2011; Response to Final Office Action, dated July 26, 2011; Responses to Final Office Action dated Oct. 24, 2011 and Nov. 9, 2011; Responses to Office Actions, dated Apr. 16, 2012, Dec. 17, 2012, and May 22, 2013. Testimony of M. Galasso Testimony of A. Slocum	*id.*, 8:36-38; *id.*, 8:61-9:5; *id.*, Figs. 1-4. *E.g.*, '223 patent file history, Patent Application (FOX_0000024-45); *id.*, Office Action, dated Oct. 8, 2010 (FOX_0000085-92); *id.*, Interview Summary, dated 2/1/2011 (FOX_000097-98); *id.*, Response to Office Action, dated Mar. 4, 2011 (FOX_0000100-107); *id.*, Office Action, dated May 26, 2011 (FOX_0000114-125); *id.*, Response to Final Office Action, dated July 26, 2011 (FOX_0000126-133); Office Action, dated Aug. 11, 2011 (FOX_0000137-138); Second Response to Final Office Action and Response to Advisory Action, dated Oct. 24, 2011 (FOX_0000142-148); Supplement to Second Response, dated Nov. 9, 2011 (FOX_0000156-161); Office Action, dated Dec. 15, 2011 (FOX_0000169-176); *id.*, Response to Office Action, dated Apr. 16, 2012 (FOX_0000179-188); Office Action, dated May 17, 2012 (FOX_0000195-205); Response to Office Action, dated Dec. 17, 2012 (FOX_0000215-227); Office Action, dated Jan. 22, 2013 (FOX_0000234-241); Response to Office Action, dated May 22, 2013 (FOX_0000244-253); *id.*, U.S. Pat. No. 6,029,958 to Larsson et al.; *id.*, U.S. Pat. No. 2,924,304 to Patriquin; *id.*, U.S. Pat. No. 7,513,490 to Robertson. American Heritage Dictionary definition of "chamber" Testimony of Dr. Eric Wang Testimony of Kevin Wesling
'223 patent,	"a bottom out cup"	"a secondary chamber at the lower end of the [primary] compression chamber and configured to receive a	Plain and ordinary meaning.

EXHIBIT A – JOINT DISPUTED CLAIM TERMS CHART

Claim	Disputed Term	Fox's Proposed Construction and Cites to Intrinsic and Extrinsic Evidence	SRAM's Proposed Construction and Cites to Intrinsic and Extrinsic Evidence
claims 11 & 19		secondary piston at the end portion of a compression stroke" <u>Intrinsic and Extrinsic Evidence</u> The '223 patent, e.g., Figs. 2, 3A-C, 4 and associated texts in cols. 3-7; Abstract; col. 1, l. 21-col. 2, l. 62. SRAM's invalidity contentions, associated charts, and prior art references cited therein The '223 patent file history, including Interview Summary, dated February 1, 2011; Response to Office Action, dated Mar. 4, 2011; Response to Final Office Action, dated July 26, 2011; Responses to Final Office Action dated Oct. 24, 2011 and Nov. 9, 2011; Responses to Office Actions, dated Apr. 16, 2012, Dec. 17, 2012, and May 22, 2013. Testimony of M. Galasso Testimony of A. Slocum	To the extent any construction is required, the plain and ordinary meaning would be construed as: "a cup-shaped feature" <u>Intrinsic and Extrinsic Evidence:</u> *E.g.*, '223 patent, 2:38-62; *id.*, 3:4-18; *id.*, 3:40-4:30; *id.*, 5:6-38; *id.*, 6:51-7:31; *id.*, 7:39-48; *id.*, 8:3-4; *id.*, 8:8-30; *id.*, 8:36-58; *id.*, 8:61-9:5; *id.*, Figs. 1-4. *E.g.*, '223 patent file history, Patent Application (FOX_0000024-45); *id.*, Office Action, dated Oct. 8, 2010 (FOX_0000085-92); *id.*, Interview Summary, dated 2/1/2011 (FOX_000097-98); *id.*, Response to Office Action, dated Mar. 4, 2011 (FOX_0000100-107); *id.*, Office Action, dated May 26, 2011 (FOX_0000114-125); *id.*, Response to Final Office Action, dated July 26, 2011 (FOX_0000126-133); Office Action, dated Aug. 11, 2011 (FOX_0000137-138); Second Response to Final Office Action and Response to Advisory Action, dated Oct. 24, 2011 (FOX_0000142-148); Supplement to Second Response, dated Nov. 9, 2011 (FOX_0000156-161); Office Action, dated Dec. 15, 2011 (FOX_0000169-176); *id.*, Response to Office Action, dated Apr. 16, 2012 (FOX_0000179-188); Office Action, dated May 17, 2012 (FOX_0000195-205); Response to Office Action, dated Dec. 17, 2012 (FOX_0000215-227); Office Action, dated Jan. 22, 2013 (FOX_0000234-241); Response to Office Action, dated May 22, 2013 (FOX_0000244-253); *id.*, U.S. Pat. No. 6,029,958 to Larsson et al.; *id.*, U.S. Pat. No. 2,924,304 to Patriquin; *id.*, U.S. Pat. No. 7,513,490 to Robertson.

EXHIBIT A – JOINT DISPUTED CLAIM TERMS CHART

Claim	Disputed Term	Fox's Proposed Construction and Cites to Intrinsic and Extrinsic Evidence	SRAM's Proposed Construction and Cites to Intrinsic and Extrinsic Evidence
			Testimony of Dr. Eric Wang Testimony of Kevin Wesling
'223 patent, claims 1 & 11	"a fluid flow path formed in the bottom out cup" / "fluid flow path formed in the cup"	"a fluid flow path formed from the bottom out cup"/"fluid flow path formed from the cup" [with bottom out cup construed as above] <u>Intrinsic and Extrinsic Evidence</u> The '223 patent, e.g., Figs. 2, 3A-C, 4 and associated texts in cols. 3-7; Abstract; col. 1, l. 21-col. 2, l. 62. SRAM's invalidity contentions, associated charts, and prior art references cited therein The '223 patent file history, including Interview Summary, dated February 1, 2011; Response to Office Action, dated Mar. 4, 2011; Response to Final Office Action, dated July 26, 2011; Responses to Final Office Action dated Oct. 24, 2011 and Nov. 9, 2011; Responses to Office Actions, dated Apr. 16, 2012, Dec. 17, 2012, and May 22, 2013. Testimony of M. Galasso Testimony of A. Slocum	Plain and ordinary meaning. To the extent any construction is required, the plain and ordinary meaning would be construed as: "a fluid flow path formed within the bottom out cup" / "fluid flow path formed within the cup" <u>Intrinsic and Extrinsic Evidence:</u> *E.g.*, '223 patent, 2:38-62; *id.*, 3:4-18; *id.*, 3:20-7:31; *id.*, 7:39-51; *id.*, 7:57-8:23; *id.*, 8:27-33; *id.*, 8:36-58; *id.*, 8:61-9:5; *id.*, Figs. 1-4. *E.g.*, '223 patent file history, Patent Application (FOX_0000024-45); *id.*, Office Action, dated Oct. 8, 2010 (FOX_0000085-92); *id.*, Interview Summary, dated 2/1/2011 (FOX_000097-98); *id.*, Response to Office Action, dated Mar. 4, 2011 (FOX_0000100-107); *id.*, Office Action, dated May 26, 2011 (FOX_0000114-125); *id.*, Response to Final Office Action, dated July 26, 2011 (FOX_0000126-133); Office Action, dated Aug. 11, 2011 (FOX_0000137-138); Second Response to Final Office Action and Response to Advisory Action, dated Oct. 24, 2011 (FOX_0000142-148); Supplement to Second Response, dated Nov. 9, 2011 (FOX_0000156-161); Office Action, dated Dec. 15, 2011 (FOX_0000169-176); *id.*, Response to Office Action, dated Apr. 16, 2012 (FOX_0000179-188); Office Action, dated May 17, 2012

EXHIBIT A – JOINT DISPUTED CLAIM TERMS CHART

Claim	Disputed Term	Fox's Proposed Construction and Cites to Intrinsic and Extrinsic Evidence	SRAM's Proposed Construction and Cites to Intrinsic and Extrinsic Evidence
			(FOX_0000195-205); Response to Office Action, dated Dec. 17, 2012 (FOX_0000215-227); Office Action, dated Jan. 22, 2013 (FOX_0000234-241); Response to Office Action, dated May 22, 2013 (FOX_0000244-253); *id.*, U.S. Pat. No. 6,029,958 to Larsson et al.; *id.*, U.S. Pat. No. 2,924,304 to Patriquin; *id.*, U.S. Pat. No. 7,513,490 to Robertson. American Heritage Dictionary definition of "in" Testimony of Dr. Eric Wang Testimony of Kevin Wesling
'223 patent, claim 9	"a second fluid flow path within the bottom out cup"	"a second fluid flow path from the bottom out cup" [with bottom out cup construed as above] <u>Intrinsic and Extrinsic Evidence</u> The '223 patent, e.g., Figs. 2, 3A-C, 4 and associated texts in cols. 3-7; Abstract; col. 1, l. 21-col. 2, l. 62. SRAM's invalidity contentions, associated charts, and prior art references cited therein The '223 patent file history, including Interview Summary, dated February 1, 2011; Response to Office Action, dated Mar. 4, 2011; Response to Final Office Action, dated July 26, 2011; Responses to Final Office Action dated Oct. 24, 2011 and Nov. 9, 2011; Responses to Office Actions, dated Apr. 16, 2012, Dec. 17, 2012, and May 22, 2013. Testimony of M. Galasso Testimony of A. Slocum	Plain and ordinary meaning. No restatement necessary. <u>Intrinsic and Extrinsic Evidence:</u> *E.g.*, '223 patent, 2:38-62; *id.*, 3:4-18; *id.*, 3:20-7:31; *id.*, 7:39-51; *id.*, 7:57-8:23; *id.*, 8:27-33; *id.*, 8:36-58; *id.*, 8:61-9:5; *id.*, Figs. 1-4. *E.g.*, '223 patent file history, Patent Application (FOX_0000024-45); *id.*, Office Action, dated Oct. 8, 2010 (FOX_0000085-92); *id.*, Interview Summary, dated 2/1/2011 (FOX_000097-98); *id.*, Response to Office Action, dated Mar. 4, 2011 (FOX_0000100-107); *id.*, Office Action, dated May 26, 2011 (FOX_0000114-125); *id.*, Response to Final Office Action, dated July 26, 2011 (FOX_0000126-133); Office Action, dated Aug. 11, 2011 (FOX_0000137-138); Second Response to Final Office Action and Response to Advisory Action, dated Oct. 24,

EXHIBIT A – JOINT DISPUTED CLAIM TERMS CHART

Claim	Disputed Term	Fox's Proposed Construction and Cites to Intrinsic and Extrinsic Evidence	SRAM's Proposed Construction and Cites to Intrinsic and Extrinsic Evidence
			2011 (FOX_0000142-148); Supplement to Second Response, dated Nov. 9, 2011 (FOX_0000156-161); Office Action, dated Dec. 15, 2011 (FOX_0000169-176); *id.*, Response to Office Action, dated Apr. 16, 2012 (FOX_0000179-188); Office Action, dated May 17, 2012 (FOX_0000195-205); Response to Office Action, dated Dec. 17, 2012 (FOX_0000215-227); Office Action, dated Jan. 22, 2013 (FOX_0000234-241); Response to Office Action, dated May 22, 2013 (FOX_0000244-253); *id.*, U.S. Pat. No. 6,029,958 to Larsson et al.; *id.*, U.S. Pat. No. 2,924,304 to Patriquin; *id.*, U.S. Pat. No. 7,513,490 to Robertson. Testimony of Dr. Eric Wang Testimony of Kevin Wesling
'223 patent, claims 11 & 12	"sealingly engaging an interior of the bottom out cup" / "sealingly engaged within the bottom out cup"	"slidingly contacting an interior of the bottom out cup"/"in sliding contact with the bottom out cup" [with bottom out cup construed as above] <u>Intrinsic and Extrinsic Evidence</u> The '223 patent, e.g., Figs. 2, 3A-C, 4 and associated texts in cols. 3-7; Abstract; col. 1, l. 21-col. 2, l. 62. SRAM's invalidity contentions, associated charts, and prior art references cited therein The '223 patent file history, including Interview Summary, dated February 1, 2011; Response to Office Action, dated Mar. 4, 2011; Response to Final Office Action, dated July 26, 2011; Responses to Final Office Action dated Oct. 24, 2011 and Nov. 9, 2011; Responses to Office Actions, dated	Plain and ordinary meaning. To the extent any construction is required, the plain and ordinary meaning would be construed as: "contacting an interior of the bottom out cup to prevent the passage of fluid" / "contacted within the bottom out cup to prevent the passage of fluid" <u>Intrinsic and Extrinsic Evidence:</u> *E.g.*, '223 patent, 2:37-62; *id.*, 3:48-61; *id.*, 8:8-26; *id.*, 8:39-58; *id.*, Figs. 1-4. *E.g.*, '223 patent file history, Patent Application (FOX_0000024-45); *id.*, Office Action, dated Oct. 8, 2010

EXHIBIT A – JOINT DISPUTED CLAIM TERMS CHART

Claim	Disputed Term	Fox's Proposed Construction and Cites to Intrinsic and Extrinsic Evidence	SRAM's Proposed Construction and Cites to Intrinsic and Extrinsic Evidence
		Apr. 16, 2012, Dec. 17, 2012, and May 22, 2013. Dictionary definitions of "engage" and "seal"/"sealing"/"sealingly" Testimony of M. Galasso Testimony of A. Slocum	(FOX_0000085-92); *id.*, Interview Summary, dated 2/1/2011 (FOX_000097-98); *id.*, Response to Office Action, dated Mar. 4, 2011 (FOX_0000100-107); *id.*, Office Action, dated May 26, 2011 (FOX_0000114-125); *id.*, Response to Final Office Action, dated July 26, 2011 (FOX_0000126-133); Office Action, dated Aug. 11, 2011 (FOX_0000137-138); Second Response to Final Office Action and Response to Advisory Action, dated Oct. 24, 2011 (FOX_0000142-148); Supplement to Second Response, dated Nov. 9, 2011 (FOX_0000156-161); Office Action, dated Dec. 15, 2011 (FOX_0000169-176); *id.*, Response to Office Action, dated Apr. 16, 2012 (FOX_0000179-188); Office Action, dated May 17, 2012 (FOX_0000195-205); Response to Office Action, dated Dec. 17, 2012 (FOX_0000215-227); Office Action, dated Jan. 22, 2013 (FOX_0000234-241); Response to Office Action, dated May 22, 2013 (FOX_0000244-253); *id.*, U.S. Pat. No. 6,029,958 to Larsson et al.; *id.*, U.S. Pat. No. 2,924,304 to Patriquin; *id.*, U.S. Pat. No. 7,513,490 to Robertson. *E.g.*, American Heritage Dictionary definitions of "seal" and "engage" Testimony of Dr. Eric Wang Testimony of Kevin Wesling