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

AMPHENOL CORP.,

Petitioner

v.

PPC BROADBAND INC.,

Patent Owner

Case No. IPR2023-01363

U.S. Patent No. 9,008,483

DEPOSITION OF DR. SAYFE KIAEI

APPEARING REMOTELY

May 23, 2024

10:00 a.m.

Reported by: Eileen Mulvenna, CSR/RMR/CRR

DIGITAL EVIDENCE GROUP

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Amphenol v. PPC
IPR2023-01363

PPC EX-2006

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3 REMOTE VIDEOTAPED DEPOSITION of
4 DR. SAYFE KIAEI, witness on behalf of Petitioner in
5 the above-titled action, held on Thursday, May 23,
6 2024, commencing at approximately 10:00 a.m., before
7 Eileen Mulvenna, CSR/RMR/CRR/RDR, Certified
8 Shorthand Reporter, Registered Merit Reporter,
9 Certified Realtime Reporter, Registered Diplomat
10 Reporter, and Notary Public of the State of New
11 York.

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

2

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1 A P P E A R A N C E S (Continued):

2

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13 ALSO PRESENT:

14

15 Darby Gifillan

16 Henry Marte, Document Tech

17

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19

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21

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Page 5

1 I N D E X

2 WITNESS EXAMINATION BY PAGE

3

4 DR. SAYFE KIAEI

5

6 MR. SULLIVAN 6

7 E X H I B I T S

8 PAGE

9

10 Exhibit 1001 Previously marked 16

11 Exhibit 1003 Previously marked 11

12 Exhibit 1004 Previously marked 26

13 Exhibit 1005 Previously marked 77

14 Exhibit 2001 Previously marked 30

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1 THE REPORTER: Will counsel please
2 introduce yourselves for the record.

3 MR. HART: I'm Paul Hart with Erise IP
4 on behalf of Petitioner, Amphenol Corp.

5 MR. SULLIVAN: Good morning. This is
6 Denis Sullivan with Barclay Damon, LLP, in
7 Syracuse, New York, on a behalf of the patent
8 owner, PPC Broadband. Joining me will be my
9 partner, Thomas Hoehner, also Barclay Damon,
10 Syracuse, New York.

11 (Witness sworn.)

12 THE REPORTER: Counsel, you may begin.

13 DR. SAYFE KIAEI,
14 having been duly sworn by Eileen Mulvenna,
15 a Notary Public of the State of New York,
16 was examined and testified as follows:

17 EXAMINATION

18 BY MR. SULLIVAN:

19 Q. Good morning, Doctor.

20 A. Good morning, sir. How are you, Dan?
21 Dan, right?

22 Q. Denis, yes. Thank you.

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1 A. Denis, I'm sorry. Good morning.

2 Q. Good morning.

3 And just -- how do you pronounce your
4 last name, Doctor?

5 A. Kiaei. So it rhymes with Hawaii. So
6 think the Korean car Kia and the --

7 (The reporter seeks clarification.)

8 THE WITNESS: Korean car, Kia. Kiaei.
9 It's still a lot of vowels.

10 BY MR. SULLIVAN:

11 Q. Just an administrative matter, I had
12 shipped a box of documents to you, which were the --
13 some of the exhibits that were marked in this case.

14 Do you have access to that -- those
15 documents?

16 A. Yes, they are sitting right next to
17 me, and thank you for sending me.

18 Q. Have you been deposed before, Doctor?

19 A. Yes, I have been deposed before.

20 Q. Have you been deposed in the context
21 of serving as a technical expert?

22 A. Yes, sir. I have been deposed as a

1 expert witness.

2 Q. And approximately how many times?

3 A. Over -- over 35 times.

4 Q. Do you understand that this proceeding
5 that we're here for today is an inter partes review
6 at the patent office?

7 A. Yes, sir, I'm aware of it.

8 Q. And have you served as an expert in
9 any inter partes reviews at the patent office
10 before?

11 A. Yes, sir, I have.

12 Q. Do you understand that you are under
13 oath today as you would be in a courtroom?

14 A. Yes, sir, I do understand.

15 Q. Are you aware that under the rules for
16 inter partes reviews, once you begin your testimony
17 today and until the conclusion of your testimony,
18 your counsel cannot consult or confer with you
19 regarding the substance of your testimony except to
20 discuss a potential privileged issue?

21 A. Yes, sir, I am.

22 Q. During the course of today's

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1 deposition, your attorney may object to some aspect
2 of my question. Do you understand that if you --
3 unless you're instructed not to answer, if you
4 understand the question, you are required to answer
5 it?

6 A. Yes, sir, I do.

7 Q. Is there any reason why you cannot
8 give honest, complete, and truthful testimony today?

9 A. No.

10 Q. How were you retained for this
11 particular case? Was it through a service or some
12 other way?

13 A. No, it was directly contacted by the
14 counsel, Mr. Paul Hart.

15 Q. Have you worked with Attorney Hart
16 before?

17 A. Yes, I have.

18 Q. And you understand that Attorney Hart
19 is with the Erise law firm?

20 A. Yes, sir, I do understand that.

21 Q. Approximately how many cases or
22 proceedings have you worked with the Erise law firm?

1 A. The law firm, I don't recall the exact
2 number, but somewhere in between three, four, at
3 least.

4 Q. And same question with respect to
5 Mr. Hart?

6 A. Most of them has been with Mr. Hart.
7 I think at least one of them was not with him -- or
8 he may have been involved, but I didn't work with
9 him directly.

10 MR. SULLIVAN: Just another
11 administrative matter. So I have uploaded a
12 number of exhibits for today's deposition.
13 Each of the exhibits that I have uploaded has
14 already been marked as an exhibit in the IPR
15 proceeding, either a 1000 series number or a
16 2000 series number.

17 So this is for Mr. Marte. I'll be
18 producing exhibits, but they have already
19 been marked. So they won't require a new
20 number.

21 DOCUMENT TECH: Thank you.

22

1 BY MR. SULLIVAN:

2 Q. If you could go ahead, Doctor, and
3 please locate Exhibit 1003, which is your
4 declaration in this case.

5 (Exhibit 1003, Previously marked.)

6 THE WITNESS: Okay, I am just in the
7 process of downloading the marked exhibits.
8 So...

9 BY MR. SULLIVAN:

10 Q. And do you have a hard copy of that --
11 you should have a hard copy in the box of documents
12 that I sent you.

13 A. Yes, I have a hard copy, also. Yes, I
14 have them both. So...

15 Q. Okay. Let me know when you're ready
16 to look at that.

17 A. Sure. I don't see any items in the
18 Marked Exhibits folder in the Box that's marked
19 there. Am I doing --

20 DOCUMENT TECH: You can refresh the
21 page, and you should see it. So when a new
22 document is introduced, just refresh the

1 browser.

2 THE WITNESS: Oh, I see.

3 Ah, okay. I see it now.

4 BY MR. SULLIVAN:

5 Q. Let me know when you have that
6 document.

7 A. Yes, I have the exhibit in front of me
8 right now, yes.

9 Q. Okay. Now, that exhibit, which is
10 Exhibit 1003, your declaration, towards the back of
11 that document, starting at -- you see there's page
12 numbers in the lower right-hand corner that have
13 been marked Amphenol Exhibit 1003, page? Do you see
14 that in the bottom right corner?

15 A. Yes, sir, I do.

16 Q. So if I refer to those page numbers,
17 I'm referring to those page numbers.

18 If you could go to page 130, which is
19 the beginning of your CV, and it's also on the
20 screen.

21 Do you see that?

22 A. Yes, sir, I do. Yep, I have it in

1 front of me.

2 Q. Okay. If -- a little further along in
3 your CV at page 138, you --

4 A. I have it there, yeah.

5 Q. At the bottom of the page and then
6 going on to the next page, page 139, you list
7 "Expert Witness," and then in parentheses, it says
8 "(Patent, IP)."

9 You see that?

10 A. Yes, sir, I do. Yeah.

11 Q. And this section of your CV lists
12 different areas in which you have served as an
13 expert, and then there's a number of different
14 bullets; correct?

15 A. That's correct, yeah. That's a
16 summary of them, yeah.

17 Q. I asked you earlier about how many
18 times you've been deposed as an expert, and I know
19 it was just an approximate number. I think you said
20 35; is that correct?

21 A. Around 35 or more. At least 35, yeah.

22 Q. And this -- these subject areas here

1 on pages 138 and 139 of your declaration, is that an
2 accurate list? Is that an up-to-date list?

3 A. It's not an updated list. This is
4 just the summary. For the accurate list, I create a
5 spreadsheet that I have all those in there, but this
6 is an approximate list that I have. Since it's
7 online on my ASU website, I try to keep it broad and
8 also keep it confidential.

9 Q. So you try and keep it confidential?

10 A. Well, I just put in the areas. That's
11 what I meant. I put in as the areas that I worked
12 on. So not necessarily the company names and so on.

13 Q. Understood.

14 A. Yeah.

15 Q. If we could go -- staying in the
16 declaration, if you could go to the section of the
17 declaration where you discuss the level of ordinary
18 skill in the art. And I'm going to page 23 of the
19 document and specifically paragraph 29.

20 A. Sure. Okay.

21 Q. Do you have that?

22 A. I'm there right now. Yes, please go

1 ahead.

2 Q. And I don't know if you know, Doctor,
3 as I'm asking questions, Mr. Marte is generally
4 calling up the portions of the document.

5 Are you able to see that?

6 A. Yes, I do, actually. I have them both
7 on in front of me --

8 Q. Okay.

9 A. -- and that way I can see the screen,
10 as well as the PDF document.

11 Q. Excellent. I just wanted to know if
12 you could see what I'm seeing. Thank you.

13 A. Yeah, thank you for reminding me that.

14 Q. So looking at paragraph 29 --

15 A. Yeah.

16 Q. -- in there -- in that paragraph, it
17 says, and I'll read it, "Based on my review and
18 analysis of the '483 Patent, the prior art cited
19 here, and the ordinary skill factors described in
20 this section, a POSITA in the field of the '483
21 Patent at the time of the earliest possible priority
22 date (April 5, 2011), would have been knowledgeable

1 regarding the field of communication networks."

2 Do you see that?

3 A. Yes, I do. Yeah.

4 Q. And then you go on to list what
5 experience someone might have, as well as what
6 education in the next few lines. And then you cite
7 to the '483 Patent, the second-to-last and then the
8 last line.

9 Do you see that?

10 A. Yes, sir, I do.

11 MR. SULLIVAN: Mr. Marte, if you could
12 call up Exhibit 1001.

13 BY MR. SULLIVAN:

14 Q. And, Doctor, that is a copy of the
15 '483 patent. And I was going to look at those
16 sections that you cited in paragraph 29.

17 So if we could go to Column 1,
18 lines 16 through 27.

19 (Exhibit 1001, Previously marked.)

20 THE WITNESS: Sure, I'm downloading
21 that now --

22

1 BY MR. SULLIVAN:

2 Q. Okay.

3 A. -- and...

4 Q. Let me know when you're ready.

5 A. Sure, sir. I'll be ready in one
6 second.

7 Column -- okay. On the "Background"
8 section.

9 Q. So in that section, starting at
10 line 16 in Column 1, it says -- and this from the
11 '483 patent. It says, "Disclosed embodiments relate
12 to connection of an optical fiber feed or 'drop'
13 cable from an optical fiber service provider to a
14 distribution point at a residence, dwelling or other
15 building, such as a multi-unit dwelling."

16 Do you see that?

17 A. Yes, sir, I do.

18 Q. And, actually, if we went back to the
19 cover page of the patent and just looked at the
20 title, the title of the '483 patent is an "optical
21 fiber cable drop interface box."

22 Do you see that?

1 A. Yes, sir, I do.

2 Q. And in the abstract, a little further
3 down to the right, there's an acronym. It says,
4 "drop interface box," and then it says "DIB."

5 Do you see that?

6 A. Yes, I do.

7 Q. Prior to this case, were you familiar
8 with the term "drop interface box"?

9 A. Yes, I was.

10 Q. And is that also synonymous with a
11 network interface device, or NID? Have you heard
12 that term before?

13 A. Yes, NID is commonly used in the art.

14 Q. And is -- and I don't plan asking a
15 lot of specific questions. I'm just trying to get
16 some terminology.

17 If we refer to these boxes as a drop
18 interface box, would you understand that to be
19 substantially the same as a network interface
20 device, an NID, or are they different? What is your
21 understanding of that?

22 A. I haven't opined on that in my

1 declaration, but in general, NID is a network
2 interface box that doesn't necessarily correspond to
3 optical communications. It could be network
4 interface for other types of devices, too. So it's
5 a broader -- it could be a broader term, depending
6 on what we're looking at.

7 Q. So if I refer to the '483 patent
8 discloses a box, and it refers to it as a drop
9 interface box, you'll understand what I'm talking
10 about?

11 A. Yes, in -- relative to the discussions
12 that we have currently in this proceeding, yes, I
13 do. That corresponds to the drop-in box, as we
14 discuss it today.

15 Q. If you go back to your declaration,
16 Exhibit 1003, and we go to the section where you
17 talk about your background and experience starting
18 on page 9. And this section goes for a number of
19 pages from page 9 to page 13.

20 Do you have that in front of you?

21 A. Yes, sir, I do. Yes.

22 Q. Feel free to look through those

1 paragraphs. My question will be the various -- the
2 various things you list in this section, whether it
3 be academic or otherwise, which, if any, of those
4 dealt with drop interface boxes, whether it be
5 designing them or studying them or -- I'm just
6 trying to get a sense of what experience you have
7 with drop interface boxes prior to this case?

8 A. Absolutely, yes. On paragraph 5, I
9 was a Motorola broadband operations. And the
10 broadband operations dealt with a number of
11 broadband network wireless -- wireline -- sorry,
12 wireline communications systems, and there we had
13 DSL.

14 This is also fiber line. We worked on
15 optical communications. We worked on cable modems,
16 as well as we worked on other types of modems. That
17 was an interface to the Internet or the modem going
18 to the customer premises. So that was one area I
19 worked on.

20 When I joined Arizona State
21 University, I have taught courses in communications
22 and networks. And in these courses, we do discuss

1 network connections to the Internet, which is what's
2 coming from the service provider interface. And
3 then on the service provider, how do we send the
4 signal to the customer premise.

5 So we've had courses on that, and I've
6 taught some of those courses, as well as I have
7 research in more the electronics of the optical
8 communications, where we looked at those issues, but
9 in there, we had to understand the various aspects
10 of the network -- signals coming from the network
11 optically, as well as how do we get that signal and
12 transmit it to the customer premise.

13 Q. You specifically pointed to
14 paragraph 5, where you talked about your experience
15 at Motorola. And then you also referenced your time
16 at Arizona State, which I think is listed at
17 paragraph 7 in your declaration in the "Background"
18 section.

19 Were there any other paragraphs in
20 that section of your background, where you say that
21 you worked on or -- and I'll ask a more detailed
22 question, but had some connection to or experience

1 with drop interface boxes?

2 A. Those are the main things. Of course,
3 when we're studying in the graduate classes when I
4 was at Washington State, we did -- we did a -- in
5 the network classes, there was a discussion and so
6 forth, but that goes -- that tells my age. That
7 goes easily over -- over almost 35 years now. So I
8 don't remember the details there, but we did have
9 some discussions in those areas, as well. So...

10 Q. Great.

11 Now, in those experiences, whether at
12 Motorola or in the academic setting, whether as a
13 professor or a student, and you described the
14 work -- or at least at a high level you described
15 the work with networks and signals and what have
16 you.

17 Did you personally ever work on a
18 project that a drop interface box was designed?

19 A. Sorry, go ahead.

20 MR. HART: Objection.

21 THE WITNESS: Somebody had a comment?

22 MR. HART: Just entering on objection.

1 You can answer.

2 THE WITNESS: Sure, sure.

3 I -- we worked -- in the broadband
4 operation, we worked as a group, and I was a
5 senior member that I developed the
6 architectures and so on. So I did consult
7 with a number of groups and staff and
8 engineers in our group that worked on the
9 broadband network interface boxes, and I did
10 have some discussions where we discussed
11 network interface boxes that that group was
12 designing. So...

13 BY MR. SULLIVAN:

14 Q. When you say "broadband," does that
15 include fiber, or is that coaxial or something else?

16 A. It included all three of them,
17 depending on the customer needs. It was a
18 relatively large group there in Austin, Texas. It
19 included all the broadband operations.

20 Q. If you could go to paragraph 30 of
21 your declaration. We were just looking at
22 paragraph 29 earlier, which is the beginning of the

1 level of person of ordinary skill in the art. And
2 we're just turning over to paragraph 30.

3 Just let me know when you're there.

4 A. I'm there.

5 Q. In that paragraph, it says, "As of
6 April 5, 2011, I had more than ordinary skill in the
7 art. I am, however, familiar with the skills and
8 knowledge possessed by those I would have considered
9 to be of ordinary skill in the art as of that date."

10 Do you see that?

11 A. Yes, sir, I do. Yes.

12 Q. And the next sentence, you say, "I
13 worked on the development of single chip IC for DSL
14 and optical communication at Motorola from 1993 to
15 1997 [sic]."

16 Do you see that?

17 A. Yes, I do. Yes.

18 Q. That experience that you're listing,
19 is that related to drop interface boxes, and if so,
20 how?

21 A. It is. We worked on a single chip
22 transceiver for DSL. And, also, we had a project --

1 the optical communication, actually, and both of
2 them and beyond them, those projects.

3 And, also, on the optical
4 communications, we worked on the device interface
5 and the design of receivers, as well as repeaters
6 for optical communications in that area. And the
7 receivers, what I mean by this is that includes the
8 network interface devices and what would go in the
9 customer premises and so on.

10 Q. The last sentence of paragraph 30, you
11 say, "I also worked on enclosures for reducing
12 coupling, noise interference, and environmental
13 issues," and it says, "for broadband communications
14 and developing enclosures."

15 And is it your testimony today that
16 those enclosures included drop interface boxes?

17 A. Yes, it did. Drop interface boxes for
18 the different broadband operation. We looked at the
19 noise issues and environmental issues. Yes, we did.
20 Yes.

21 Q. I want to turn to your declaration.
22 If you can go to page 45 of your declaration, which

1 is the beginning of section Roman numeral X, which
2 is: Opinions Regarding Ground 1 and Holmberg in
3 View of Battey.

4 Do you have that in front of you?

5 A. Yes, I'm there now.

6 Q. Great.

7 MR. SULLIVAN: And I also want to
8 introduce what has previously been marked as
9 Exhibit 1004, which is the Holmberg prior art
10 reference, which is U.S. patent application
11 publication.

12 (Exhibit 1004, Previously marked.)

13 BY MR. SULLIVAN:

14 Q. Doctor, if I refer to "Holmberg," do
15 you understand that I'm referring to what has been
16 marked as Exhibit 1004?

17 A. Yes, I do. Yes, I'm downloading that
18 now and...

19 Q. Just let me know when you're ready.

20 A. I have it in front of me, sir.

21 Q. If you could --

22 MR. SULLIVAN: And if you can keep the

1 dual screen, Mr. Marte, that's appreciated.

2 BY MR. SULLIVAN:

3 Q. If you can go in your declaration to
4 paragraph 68, which is on page 46?

5 MR. SULLIVAN: And in the Holmberg
6 reference, Mr. Marte, if you could call up
7 paragraph 52.

8 BY MR. SULLIVAN:

9 Q. Do you have that, Doctor?

10 A. I have the -- I have both of them now,
11 yes. I'm on paragraph 68, my declaration. And I
12 see 52 on the Holmberg reference.

13 Q. Paragraph 68, you -- which starts on
14 the bottom of page 46 and goes on to page 47, you
15 talk about the wall box 200 in Holmberg, and it
16 teaches that at least a portion of a jacket of the
17 jacketed cable is stripped in the interior of wall
18 box 200.

19 Do you see that?

20 A. Yes, I see that. Yes.

21 Q. So Holmberg teaches that the drop
22 cable, when it gets to the drop interface box, a

1 portion of that cable, the jacket or the outer
2 protection is stripped away for a certain length;
3 correct?

4 A. That is correct, yes, sir.

5 Q. And in paragraph 52 of Holmberg, which
6 you're citing within paragraph 68, that indicates
7 that -- just in the example, "In one embodiment,
8 about 4 feet of the outer jacket can be stripped."

9 Do you see that in paragraph 52?

10 A. Yes, sir, 83, I do.

11 Q. Now, I want to -- within -- within
12 paragraph 68 of your declaration, at the top of
13 page 47, about the third line, it says, "Holmberg
14 teaches cable management members 260 for storing a
15 length of jacketed cable (for example, with the
16 jacket stripped) within the wall box 200." And then
17 you quote Holmberg, paragraph 41.

18 Do you see that?

19 A. Yes, I see that, yes.

20 MR. SULLIVAN: And, Mr. Marte, if you
21 could pull up Holmberg, paragraph 41, please.

22 And if that means we don't show the

1 declaration, that's okay. If we could also
2 show Figure 6 of Holmberg.

3 So if we show paragraph 41, as well as
4 Figure 6.

5 BY MR. SULLIVAN:

6 Q. Do you have that in front of you,
7 Doctor?

8 A. Yes, I do, sir.

9 Q. So in paragraph 41 of Holmberg, which
10 you cite in paragraph 68 of your declaration, that
11 paragraph talks about the -- about the third or
12 fourth line of paragraph 41, it says, "four cable
13 management members 260."

14 Do you see that?

15 A. Yes, I do.

16 Q. And then it says, "Each of the cable
17 management members 260 includes a bend radius
18 limiter 264 that projects from the rear wall."

19 Do you see, the 264 reference?

20 A. I do.

21 Q. And then a little bit further down, it
22 says, "The cable management members 260 also include

1 cable retention members 268 that project laterally
2 outwardly from the bend radius limiters."

3 Do you see that?

4 A. Yes, I see that. Yeah.

5 Q. So the cable management members 260 in
6 the Holmberg box, which include the bend radius
7 limiters 64, as well as the cable retention members
8 268, those are used to store the drop cable;
9 correct?

10 A. That is correct, yes. They are -- the
11 drop cable, after it comes in, it gets stored in
12 those areas, yes.

13 Q. As part of your work in this case,
14 have you had a chance to review the declaration
15 submitted by Dr. Eldering?

16 A. No, I have not.

17 MR. SULLIVAN: If we could introduce
18 Exhibit 2001, which is a copy of the Eldering
19 declaration submitted in this case.

20 (Exhibit 2001, Previously marked.)

21 MR. SULLIVAN: And if you could go to
22 paragraph 43 of that declaration.

1 THE WITNESS: Would you like me -- oh,
2 I see now. Okay, it's on the web. I need to
3 download it.

4 BY MR. SULLIVAN:

5 Q. Sure. Let me know when you're ready.

6 A. It wasn't coming down. I'm going to
7 do it again. So...

8 Okay. I have it downloaded, sir.

9 Q. Great. I'm going to end up looking at
10 a diagram that's on the page after paragraph 43, but
11 if you go to paragraph 43, which Mr. Marte has on
12 the screen, it says, in Dr. Eldering's declaration,
13 "The stripped portion of the drop cable is" -- typo,
14 "is be spooled around the bend radius limiters 264
15 provided within the main body." And then he cites
16 to two paragraphs within Holmberg, including
17 paragraph 41 that we just looked at.

18 Do you see that?

19 A. Yes, I do. Yes.

20 Q. And on the next page, he has an
21 annotated diagram, where he has shown -- Figure 6 in
22 Holmberg doesn't show the cabling, but he has shown

1 or annotated on Figure 6 what he understands the
2 description in Holmberg to show; that is, the
3 stripped portion of the drop cable being stored by
4 those cable management members 260.

5 Do you see the diagram?

6 A. Yes, I have it in front of me now.

7 Yes, I see that. Yeah.

8 Q. Have you seen this diagram before?

9 A. I don't recall. I may have seen
10 something similar. I don't recall that, though.

11 Q. Looking at that diagram with your
12 understanding of Holmberg, is that diagram shown in
13 paragraph 43 of Dr. Eldering's declaration, is that
14 accurate, and if not, why not?

15 MR. HART: Object to form. Object to
16 lack of foundation.

17 THE WITNESS: I can't judge -- you
18 know, I have to study this report to be able
19 to judge the accuracy of it. But the
20 annotations were showing the drop cable with,
21 I guess, a magenta color is correct. And
22 then I presume they added the green line --

1 he added them, because when I compare that
2 to -- let me look at the Holmberg.

3 When I compare that to the Holmberg
4 structure, it looks like he added the cables
5 inside, which are in green. And then he also
6 colored the mechanism 264 around that. Am I
7 correct? And 260.

8 BY MR. SULLIVAN:

9 Q. That's correct. Those are the
10 annotations that were added to Figure 6, and I'm
11 going to be asking you questions about the storage
12 of cables within -- your understanding of how cables
13 are stored within Holmberg, and Holmberg doesn't
14 actually show the cables.

15 So to the extent this is accurate, it
16 would be helpful for the questioning so that -- do
17 you see anything that's inaccurate about this
18 annotated figure, in terms of how Holmberg describes
19 the storage of the drop cable?

20 MR. HART: Same objections.

21 THE WITNESS: I haven't really opined
22 on his declaration in terms of -- so I'd like

1 to -- you know, in order for me to say that
2 that figure is accurate, I'd like to see how
3 he refers to that figure in his -- in his
4 declaration.

5 So if we could focus the discussion on
6 what I have opined and what I have in my
7 declaration, it would be -- it will be
8 helpful.

9 BY MR. SULLIVAN:

10 Q. We just looked at paragraph 68, and
11 paragraph 68 of your declaration talks about how the
12 cable is stripped -- the drop cable is stripped, and
13 we talked about that. And it then it talks about
14 how the stripped portion of the cable is then stored
15 around the cable management members 260. So we
16 pointed to those in your declaration, and you
17 answered some questions on that.

18 And I'm asking you, based on your
19 understanding of Holmberg, is this -- is this
20 annotation correct? And if you're saying you can't
21 answer it, that's okay, but I just want to make sure
22 I'm clear.

1 You're not comfortable answering that
2 question?

3 MR. HART: Same objections.

4 THE WITNESS: I'm really comfortable
5 answering questions on the paragraph 68 of
6 mine, which is what I have pointed out as
7 well as what I say Holmberg teaches. In
8 order for me to answer the annotations and
9 the various diagrams of Dr. Eldering, I need
10 time to study that in order to give you an
11 honest answer. So...

12 BY MR. SULLIVAN:

13 Q. If you could go to Holmberg Figure 6,
14 please. Holmberg is Exhibit 1004.

15 A. Yes, I'm on the Figure 6, yes, sir.

16 Q. Can you explain to me -- and we looked
17 at your paragraph 68 of your declaration. Can you
18 explain to me how the drop cable is routed and
19 stored in the -- in the box shown in Figure 6 in
20 Holmberg?

21 A. Sure. The drop-in cable enters the
22 drop-in box, which is jacketed. Its jacket is

1 removed within the wall box 200. And Holmberg
2 teaches that the cable management 260, which is
3 storing the length of the jacketed cable, which in
4 this case we're talking about with the jacket
5 stripped, is within the wall box of 200, which is
6 wrapped around the -- which is wrapped around the
7 cable management members 260.

8 Q. What Holmberg teaches is that the drop
9 cable -- the portion of the drop cable that's routed
10 around the cable management members 260, that
11 portion of the drop cable, the jacket's removed;
12 correct?

13 A. That is correct, yes.

14 Q. Now, this -- this box in Holmberg --
15 and let me make sure I've got the right terminology.
16 I believe it's referred -- in the title of Holmberg,
17 it's referred to a wall box.

18 Do you understand if I refer to "the
19 wall box of Holmberg," I'm talking about what's
20 shown in Figure 6?

21 A. Yes, it is. It's the wall box 200,
22 which is -- that's correct. I understand what

1 you're saying, yes.

2 Q. Now, the wall box --

3 A. The wall box -- sorry, that's the wall
4 box shown in Figure 3.

5 Q. Now, the wall box in Holmberg, where
6 would -- you know, where would that box be located?
7 Is that -- is that used in residences? Is it used
8 in dwellings? You know, based on your
9 understanding, where would this box be used?

10 MR. HART: Object to form.

11 THE WITNESS: It depends. I don't
12 know what you mean by where is it used.
13 It's -- as the -- as Holmberg discusses it
14 and '483 also discusses it, it's to bring the
15 fiber optics from the network and drop it
16 in -- the community. It could be residential
17 community, et cetera, et cetera. So it
18 depends on the application and depends on
19 where it is.

20 BY MR. SULLIVAN:

21 Q. What is the purpose of the wall box?
22 In other words, is the drop cable coming in and then

1 going out? What is the purpose of the wall box in
2 Holmberg?

3 A. The wall box, as Holmberg also talks
4 about this, one of the objective of it is to store
5 fiber optics cables. And it could -- as Holmberg
6 also discusses, it could be mounted on the wall or
7 on a pole and so on. It could be for indoor or
8 outdoor applications.

9 And the box is -- the drop-in box or
10 the wall box includes an enclosure for connecting
11 the optical fiber feed, which is the optical lines
12 coming in from the service provider, to a
13 distribution point. And the distribution point can
14 be at the customer premises. It could be a
15 dwelling, in a large apartment complex, or a
16 neighborhood and so forth.

17 And, primarily, the drop-in box is --
18 excuse me, for interfacing between the network -- or
19 the service provider to the customer premises, we
20 have the drop-in box.

21 Q. If you could go to paragraph 5 of
22 Holmberg. In paragraph 5, it talks about the

1 network 100, and it talks about a distribution cable
2 having a certain number of fibers. And then it
3 talks about, you know, as many as 432 individual
4 fibers.

5 Do you see that paragraph?

6 A. Yes, sir, I do. Yeah. Paragraph 5 of
7 Holmberg; right? Yes.

8 Q. Yeah. So in these wall box -- the
9 wall box in Holmberg or similar boxes, you have a
10 drop-in cable or a drop cable coming in, and a
11 certain number of fibers within that cable will
12 be -- and we'll look at -- we'll look at these the
13 other disclosures in Holmberg, but a certain number
14 of fibers will simply pass through that box onto the
15 next destination, where other fibers will be spliced
16 to distribution cables or fibers within that box.

17 Is that a correct understanding? And
18 if not, why not?

19 MR. HART: Objection to form.

20 THE WITNESS: Well, it depends on --
21 it depends on the application and depends on
22 what it is. I think in that paragraph 5 of

1 Holmberg, it describes the subject in terms
2 of the network, which is getting the signals
3 from the central office and so on.

4 A distribution cable's coming to the
5 drop-in box, and from there, it gets
6 distributed to end users' locations at the
7 end of it. So in that paragraph it discusses
8 that. So...

9 BY MR. SULLIVAN:

10 Q. Let's go back to your declaration at
11 paragraph 69. In that paragraph, you say,
12 "Regarding terminated fibers, Holmberg teaches the
13 jacketed cable encloses fibers which are cut
14 ('terminated fibers') to be spliced to fibers of a
15 distribution cable that is routed to a premises,
16 such as multi-dwelling unit." And then you cite to
17 Holmberg, paragraph 53.

18 Do you see that?

19 A. Yes, I see that, sir.

20 Q. So is that describing in Holmberg
21 where the drop cable comes in with a certain number
22 of fibers, and then certain selected fibers are then

1 terminated to be spliced to a distribution cable?

2 A. I would agree with that in terms of
3 the fibers coming in. The jacketed cable -- I would
4 characterize it as the jacketed cable fibers come
5 in. Some of them may be terminated or cut and are
6 spliced to the distribution cable that is then sent
7 to the customer premise.

8 Q. I want to focus on the fibers that are
9 not cut. So if the drop cable comes in to the wall
10 box and there's going to be some fibers that are
11 terminated and they'll be other fibers that are not
12 terminated, how do the fibers that are not
13 terminated, how do they pass through the wall box in
14 Holmberg?

15 MR. HART: Object to form.

16 BY MR. SULLIVAN:

17 Q. I'll ask it more specifically.

18 The fibers of the drop cable that are
19 not terminated in the Holmberg wall box, do those
20 fibers enter the box, go around, and are stored on
21 the cable management members 260, and then exit the
22 box without being cut?

1 MR. HART: Object to form.

2 THE WITNESS: I guess your question
3 still is not clear to me. Are you asking me
4 that the cables coming in, some of them are
5 not stripped?

6 BY MR. SULLIVAN:

7 Q. Sorry, not -- not stripped. I was
8 using the word "cut" from your paragraph 60 --

9 A. Oh, cut.

10 Q. Yeah. So your paragraph 69 says,
11 jacketed cable encloses fibers which are cut. So
12 I'm trying to focus on the fibers that are not cut
13 for this question, and I want to understand how they
14 pass through the wall box.

15 So my question is: In the Holmberg
16 wall box, the drop cable has fibers that are not
17 terminated, that are not cut, and I'm asking you to
18 describe how they are routed through the wall box.

19 MR. HART: Object to form.

20 THE WITNESS: Well, I want to point
21 you to the paragraph 70 of my declaration,
22 which talks about the -- splicing the

1 terminated fibers to a plurality of fibers in
2 a distribution box.

3 And then in paragraph 71, that's
4 specifically on splicing the fibers which are
5 coming in from the drop-in cable to the
6 distribution. And paragraph 71, I talk about
7 the storing excess distribution cable slack.
8 Those are also done within the box.

9 And then in paragraph 73, I discuss
10 converting or splicing the distribution box
11 and coupling the fibers of the drop box to
12 different subscriber locations.

13 So those are the various different
14 scenarios I've discussed here in my
15 declaration.

16 BY MR. SULLIVAN:

17 Q. If you go back to paragraph 68, which
18 we talked about earlier.

19 A. Right.

20 Q. In that paragraph, you talk about a
21 portion of the jacketed cable having its jacket
22 removed and then a length of the cable, the drop

1 cable, then being -- well, let me take a step back.

2 So you testified earlier that the drop
3 cable, a portion of it has -- a portion of the
4 jacket is removed; correct? A portion of it has
5 it's jacket removed; correct?

6 MR. HART: Object to form.

7 THE WITNESS: Can you please repeat
8 the question or comment you made?

9 BY MR. SULLIVAN:

10 Q. Sure.

11 In Holmberg, it discloses that the
12 drop cable has a portion of its jacket removed;
13 correct?

14 A. In paragraph 68, I say that Holmberg
15 teaches at least a portion of the jacketed cable has
16 its jacket removed, within the wall box. Wall box
17 200, I should say that. It is within the box.

18 Q. And you also say that Holmberg teaches
19 that the cable management members 260 store a length
20 of jacketed cable, for example, with the jacket
21 stripped within the wall box; correct?

22 A. That is correct, yes.

1 Q. And that storage is -- is performed by
2 the cable management members 260; correct?

3 A. The storage of the drop-in cables
4 coming in that goes through the feed, they're stored
5 in 260, yes.

6 Q. When you said "that goes through the
7 feed," what did you mean?

8 A. They're stored in that -- elements 264
9 and 260, that's the -- that's what they're wrapped
10 around in that area.

11 Q. What's wrapped around, the drop cable
12 fibers?

13 A. The -- storing the length of the
14 jacketed cable with the jacket stripped, for
15 example.

16 Q. Do all of the fibers of the drop cable
17 go around the cable management members?

18 MR. HART: Object to form.

19 THE WITNESS: It says a portion, not
20 all. As I talked about above is Holmberg
21 teaches at least a portion of the jacketed
22 cable, has its jacket removed within the wall

1 box 200.

2 BY MR. SULLIVAN:

3 Q. You understand that -- were you
4 referring to a portion as in a portion of the length
5 of cable, or are you talking about a portion as in
6 only a portion of the fibers?

7 I think you're talking about the
8 length. I just want to clarify your previous
9 answer.

10 A. It is about the length. Yes, it is a
11 portion of the jacketed cable, meaning that the
12 portion of the length.

13 Q. What I'm trying to figure out is the
14 next paragraph you start talking about terminated
15 fibers. Those are the fibers that you indicate are
16 cut to be spliced. So certain fibers of the drop
17 cable -- do you understand in Holmberg certain
18 fibers are going to be terminated within the box;
19 correct?

20 A. That is correct, yes.

21 Q. And certain fibers of the drop cable
22 are not going to be terminated; correct?

1 A. Possibly, yes.

2 Q. So in the instance where certain
3 fibers of the drop cable are not terminated within
4 the wall box, are those fibers stored using cable
5 management members 260?

6 MR. HART: Object to form.

7 THE WITNESS: I am reading Holmberg
8 for a second to refresh my mind on the
9 subject. So if you -- I'm looking around the
10 paragraphs 40, 41, and so on.

11 BY MR. SULLIVAN:

12 Q. I'll point you to paragraph 52, which
13 is also cited in your declaration in paragraph 68.

14 A. Thank you. I will look at those,
15 also. Thank you. That's helpful.

16 Did you say paragraph 68 or 58?

17 Q. Sorry, I was saying 68 of your
18 declaration cites to --

19 A. Oh, sorry, yeah. Yeah.

20 Q. -- cites to 52 of Holmberg.

21 A. Right, right, right. Yes.

22 Q. You're still reading; right, Doctor?

1 A. Yes, I am. Yeah. If you'll give me a
2 minute, I'll be -- I'll be able to answer you.

3 I'm reading that. I'm reading
4 paragraph 41 of Holmberg and my paragraph 68. What
5 Holmberg discusses is that the limiters are
6 positioned to define a spool arrangement for
7 allowing excess cable, fiber optics, to be spooled
8 or spooled around.

9 And in the next paragraph, I discuss
10 that these jacketed enclosed fibers are cut to
11 terminated fibers. That goes to the distribution
12 for multi-dwelling, et cetera, et cetera.

13 So my understanding from this would be
14 that the ones that are not used for the -- going to
15 premises of the customer and will be stored around
16 the enclosure 264, et cetera, within the box 200.

17 MR. HART: Denis, could we take a
18 quick break? We've been going a little over
19 an hour.

20 MR. SULLIVAN: Your counsel suggested
21 a break, so, yeah. Can we try and keep the
22 breaks to about ten minutes or so; is that

1 fair? Obviously, lunch longer, but is that

2 fair?

3 MR. HART: That works for me. Is that

4 okay with the witness?

5 THE WITNESS: That's okay with me,

6 too. Thank you.

7 THE REPORTER: Okay. We're off the

8 record.

9 (Recess from the record.)

10 THE REPORTER: We're back on the

11 record.

12 BY MR. SULLIVAN:

13 A. What I'd like to comment on the last

14 question is that on -- I discuss this further also

15 in -- I had a chance to look at my other portions.

16 And, also, in paragraph No. 71, I talk about

17 additional elements in here in terms of storing.

18 And if you look at the last three

19 lines of paragraph 71 of page 49 of my declaration,

20 I talk that, I talk about the Holmberg teaching

21 cable management system that is for storing excess

22 jacketed cable coming from drop box where the jacket

1 is stripped, which is the cable management system
2 260 we were just talking. And then it has this
3 spool structure 298 for storing the slack of
4 terminated fibers.

5 And then has the fiber storage wall,
6 which is for storing excess slack of distribution
7 fibers. It has the terminated -- the stripped --
8 the terminated fibers are stored in the spool
9 structure 298, as I have discussed, and it's
10 discussed in Holmberg.

11 BY MR. SULLIVAN:

12 Q. [Inaudible] statement, did that change
13 any of your testimony from before the break when you
14 testified that the fibers that are not terminated,
15 that those fibers are stored using the cable
16 management members 260? I don't think it did. I'm
17 just clarifying.

18 A. At this point, no. If I come across
19 in my -- I don't recall, but at this point, no. If
20 I come across something else, I'll let you know.

21 Q. Looking at the paragraph you just
22 pointed to, paragraph 71, it says that "the spool

1 structure 298 for storing slack of terminated
2 fibers."

3 Do you see that?

4 A. That is correct, yes.

5 Q. If we could go in Holmberg to
6 Figure 7.

7 A. Yes.

8 Q. Figure 7 towards the top of the figure
9 it shows that 298.

10 Do you see that?

11 A. That is correct, yes.

12 Q. You referred in paragraph 71 as the
13 spool structure.

14 Do you see that?

15 A. Yes, sir.

16 Q. And I'll point to you your own -- if
17 we can keep that figure on the screen and go to the
18 declaration, paragraph 69, which we looked at
19 earlier. If you take a moment -- paragraph 69, you
20 address that spool structure 298, where you say,
21 "The length of the terminated fiber can be spooled
22 around the spool structure 298 of the spliced tray

1 230" -- and I think you're quoting from Holmberg,
2 paragraph 53.

3 Do you see that?

4 A. That's correct, yes.

5 Q. So when you say the cable -- or,
6 excuse me, the jacketed cable encloses fibers which
7 are cut, explain to me -- so the drop cable enters
8 the wall box, a portion of the cable has its jacket
9 removed, and now some fibers are cut.

10 Do I understand that correctly?

11 A. They're terminated, correct, yes.

12 Q. Take me through, where are they cut?
13 Are they cut where they would have exited the wall
14 box? Where are they cut?

15 I'll point you in paragraph 69, you
16 quote Holmberg, paragraph 53. And it says, Select
17 fibers from the cable can be terminated (i.e., cut)
18 adjacent one of the clamping portions 310 to provide
19 a length of the terminated fiber.

20 Is that accurate?

21 A. That is correct, yes.

22 Q. And that quote from Holmberg,

1 paragraph 53, refers to cutting the selected fiber
2 adjacent the clamping portions 310. So I'd like to
3 go to -- for example, if we go to Figure 5, please.

4 You see Figure 5, top right-hand
5 portion, shows clamping portion 310? Do you see
6 that?

7 A. Yes, I do. Yes.

8 Q. And do you understand that although
9 it's not labeled, the bottom right-hand portion of
10 that figure showing the wall box, that that would
11 also be a clamping portion? There's one on the top
12 and one on the bottom.

13 A. Yes, it is, correct.

14 Q. And one could -- one clamping portion
15 could be for where the cable enters the box, and the
16 other could be for where the cable exits the box;
17 connect?

18 A. That is correct, yes.

19 Q. So in this case, where Holmberg is
20 referring to cutting selected fibers adjacent one of
21 the clamping portions, would you understand that
22 that cutting is taking place where the box -- where

1 the cable enters the box or where it's exiting the
2 box?

3 MR. HART: Object to form.

4 BY MR. SULLIVAN:

5 Q. Do you agree that in Holmberg, when it
6 refers to cutting the selected fibers to terminate
7 the cable adjacent one of the clamping portions,
8 that cutting would take place not in the input of
9 the cable, but where the cable leaves the box?

10 A. I don't quite follow what you mean
11 when the cable leaves the box. You mean at the
12 distribution point?

13 Q. I'll just ask, you have a statement in
14 your declaration that says, "Holmberg teaches the
15 jacketed cable encloses fibers which are cut
16 ('terminated fibers') to be spliced to fibers of a
17 distribution cable."

18 Where are those fibers cut in
19 Holmberg, if you know?

20 A. I discuss this in the paragraph 69 in
21 terms of terminated fibers, and when the jacketed
22 cable enclosed fibers which are cut to be spliced to

1 fibers for distribution to get the right length
2 within the disclosure 202 -- within the enclosure
3 202, sorry.

4 So that's -- it's done with the box.
5 So...

6 Q. Paragraph 69, you quote Holmberg,
7 paragraph 53. And towards the last two lines of
8 your paragraph 69, it says, "The length of
9 terminated fiber can be spooled around the spool
10 structure 298 of the splice tray 230 for storage
11 purposes."

12 Do you see that?

13 A. That is correct, yes.

14 Q. Now, if we go to Figure 7, again.

15 A. Yes, I'm there.

16 Q. That figure shows the 298 spool
17 structure that you're referring to. Now, 298, the
18 spool that's going to be used to store the
19 terminated fibers, that is attached to the -- that
20 is attached to the Item 230.

21 Do you see that?

22 A. Yes, it is. Yes, that is the -- yeah,

1 it is 230 on Figure 6, yes, on the other side of
2 what's shown in Figure 6.

3 Q. Right. So if we go to Figure 6.

4 So the splice tray 230 in Figure 6, we
5 can see the -- we'll call it the front side of it,
6 but on the backside is the spool 298 that's going to
7 store the terminated fiber; correct?

8 A. That's correct. That's correct.

9 Q. If we can go in Holmberg to
10 paragraph 45, where there's a detailed discussion of
11 this spool structure 298?

12 A. Sure. So paragraph 45.

13 Q. Do you have that?

14 A. Almost. Not quite yet.

15 I have several documents open here.
16 So managing to go around them -- oh, I've got the 45
17 open.

18 Q. So paragraph 45 is talking about the
19 Figure 7 that we were just looking at, and it says
20 that the "spool structure 298 projects rearwardly
21 from the back side of the main panel."

22 And then it says, "The spool structure

1 298 includes a cylindrical spool 300 about which
2 excess fiber can be wrapped." And it also includes
3 an annular flange 302 that assists in retaining
4 fibers spooled about the spool 300 from sliding off
5 the end.

6 Do you see that?

7 A. Yes, I do.

8 Q. And then it says, "The annular flange
9 302 is sized to nest inside the bend radius limiters
10 264."

11 Do you see that?

12 A. That is correct, yes.

13 Q. Okay. So if we could go back to
14 Figure 7 for a moment.

15 A. Yes, I'm there.

16 Q. And Figure 7 shows the -- 298, the
17 spool structure. Now, I want to focus on 302, which
18 is referred to as the annular flange that assists in
19 retaining fibers spooled about the spool from
20 sliding off the end of the spool.

21 Do you see that?

22 A. Yes, I do.

1 Q. So 302 that annular flange, that -- in
2 order for that to be -- in order for that to assist
3 in keeping the spooled fibers of the terminated
4 fibers from slipping off. The terminated fibers
5 would have to be wound around that spool?

6 A. That is correct. That is for making
7 sure that they don't slip off that 298 structure.

8 Q. Now, it also -- that paragraph we
9 looked at, paragraph 45, it said that the 302, that
10 annular flange is sized to nest inside the bend
11 radius limiters 264. So if we go back to Figure 6
12 for a moment.

13 A. Yes.

14 Q. In Figure 6, we can't -- we can't see
15 the spool or the annular flange 302, which is on the
16 back of the spliced tray 230; correct?

17 A. Yeah, you cannot see that, correct.

18 Q. But that description -- we can see
19 those -- 264, those bend radius limiters that are on
20 the main body; correct? You can see those in
21 Figure 6?

22 A. Yes, they're there. Yes.

1 Q. So Holmberg describes the fact that
2 the spool structure, the 298, including the annular
3 flange, that's going to fit in that circular area
4 formed by the cable -- bend radius limiters 264;
5 correct?

6 A. That is correct, yes. It is nesting
7 inside of the 264, within the body of the main body
8 216.

9 Q. Now, if we stick with -- if we go back
10 to your paragraph 69. And, specifically, if we go
11 to the top of page 48, which is the end of
12 paragraph 69. You're quoting Holmberg paragraph 53
13 again, and it says, "When it is desired to splice
14 one of the terminated fibers to a distribution
15 cable, terminated fiber can be accessed from the
16 spool structure 298 and routed through one of the
17 openings 296 in the spliced tray 230 to the front
18 side of the spliced tray 230."

19 Do you see that?

20 A. Yes, I do.

21 Q. If we could go back to Figure 6 for a
22 moment.

1 A. Okay.

2 Q. And do you see those -- do you see
3 what's marked as 296, which is referred to as an
4 opening in the splice tray? Do you see that?

5 A. Yes, I do. Yeah.

6 Q. So Holmberg is teaching that
7 terminated fibers, which are being stored on the
8 back side of the splice tray 230, those terminated
9 fibers can be accessed through opening 296; correct?

10 A. That is correct. It's routed to 296,
11 yes.

12 Q. Now, in paragraph 70 of your
13 declaration, you now talk about the -- "Holmberg
14 teaches splicing terminated fibers to a polarity of
15 fibers to a distribution cable."

16 Do you see that?

17 A. Yes, sir, I'm there. Yep.

18 Q. Now, in that paragraph 70, you once
19 again cite to paragraph 53 of Holmberg. And it
20 says, "At the front side of the splice tray, the
21 terminated optical fiber can be spliced to a
22 corresponding fiber of another cable (for example, a

1 distribution cable) with the splice being mounted at
2 the splice sleeve holder 294 as shown in Figure 12."

3 Do you see that?

4 A. Yes, I do see that. Yes.

5 Q. If we could look at Figure 12 of
6 Holmberg, and specifically the splice sleeve holder
7 294.

8 A. Yes, I'm there.

9 Q. So the splice sleeve holder 294, those
10 are mounted on the -- on one side of the splice --
11 the splice tray 230; correct?

12 A. That's what's shown, yes.

13 Q. And the side that the -- the splice
14 sleeve holder 294, that's on the opposite side to
15 where the spool that's storing the terminated fibers
16 is; correct?

17 A. That is correct. That is opposite to
18 298, which is the spool for the terminated fibers.

19 Q. Now, if we go -- if we go to
20 paragraph 44 of Holmberg, there's a discussion of
21 Figure 12. And in the middle of that paragraph 44,
22 it says, "The splice sleeve holders 294 are adapted

1 for holding splice sleeves used to provide
2 mechanical support to a fusion splice formed between
3 two optical fibers."

4 Do you see that?

5 A. Yes, I do.

6 Q. So these splice sleeve holders 294,
7 their purpose is to take the terminated fibers from
8 the drop cable and splice them to the fibers of the
9 distribution cable; correct?

10 A. On the spool 298 to the distribution
11 cable.

12 Q. If we go to paragraph 71 of your
13 declaration. Paragraph 71, you're talking about
14 storing excess distribution cable slack.

15 Do you see that?

16 A. Yes, I do.

17 Q. And in that paragraph, you say, "a
18 POSITA would have understood that Holmberg teaches
19 storing excess distribution cable fiber slack using
20 fiber storage walls 292 of splice tray 230."

21 Do you see that?

22 A. Yes, I do.

1 Q. So if we could look at Figure 6 of
2 Holmberg. And specifically the splice tray at the
3 front 230.

4 On that front side of the splice tray,
5 you see the fiber storage walls 292 that are used to
6 store the excess distribution cable; correct?

7 A. That is correct, yes.

8 Q. Go to your declaration, paragraph 83.

9 In paragraph 83, I'll read it into the
10 record, you say, "I note that Holmberg teaches
11 splice tray 230 is fastened to main body 216 via
12 threaded fasteners and fastener openings 272 and
13 bosses 274." And then you cite to Holmberg --
14 Holmberg, paragraph 42.

15 Do you see that?

16 A. Yes, I see that. Let me read the
17 paragraph, if you don't mind for a second, to
18 refresh my memory.

19 Q. Sure.

20 A. Thank you.

21 All right. Please go ahead.

22 Q. So in your declaration on the next two

1 pages, on pages 63 and 64, you show Figures 6 and
2 4 from Holmberg; correct?

3 A. Yes, I do.

4 Q. And those figures -- for example,
5 Figure 6, it shows on the -- on the splice tray 230,
6 it shows the openings 272 for the fasteners or the
7 screws that would be used to mount the splice tray
8 230 to the box; correct?

9 A. That is correct, yes.

10 Q. Do you have an understanding, having
11 read Holmberg, of when the splice tray 230 is
12 mounted using the fasteners?

13 MR. HART: Object to form.

14 THE WITNESS: I'm not clear what you
15 mean when it is mounted. Can you be more
16 specific on what you mean by that? When?
17 Specifically, when is --

18 BY MR. SULLIVAN:

19 Q. Sure.

20 If you look at Figure 4 of Holmberg,
21 which is in your declaration on the right-hand side
22 of what's being shown now, that shows the splice

1 tray in its mounted configuration; correct?

2 A. Correct.

3 Q. And in Figure 6, on the left-hand
4 side, the splice tray 230 is not mounted; correct?

5 A. It is correct, yes.

6 Q. So my question about when is it
7 mounted, it's during the -- you know, routing of
8 cables or splicing of cables, would the splice tray
9 230 -- you know, would it be mounted or not mounted
10 during that process?

11 A. Yeah, it depends on the scenario and
12 the technician, and there are many factors,
13 including the length of the distribution cable,
14 what's going to the customer premises, et cetera,
15 et cetera.

16 The details of that really depends on
17 the technician or engineer who's installing it and
18 how they need an access to the interior of 230 or
19 the exterior of 230 and many other factors. So
20 really it depends on the scenario. It needs a lot
21 more -- I need a lot more specifics to be able to
22 answer that.

1 Q. After the terminated fibers have been
2 cut and after the terminated fibers have been
3 spliced to the distribution cables, under what
4 circumstances would splice tray 230 need to be
5 removed or unmounted?

6 A. Again, depends on the circumstance and
7 so forth. Depends on the cable size, the cable
8 length, the customer premise, how much of it was
9 done, you know, et cetera, et cetera. Sometimes it
10 may take multiple different times to open and close
11 that disclosure to be able to -- to get the right
12 lengths and the right cut, et cetera, et cetera. So
13 it's not like a one thing -- so really it depends on
14 the scenario. It depends on what the situation is.
15 So...

16 Q. And one of those possibilities is
17 after the drop cable fibers have been terminated or
18 cut, and after they've been spliced to the
19 distribution cables, there may be a situation where
20 you don't need to remove splice tray 230; correct?

21 A. It's a hypothetical scenario. I think
22 it really depends on the situation here. So

1 that's -- that's, I think, one of the motivations
2 that I had -- I think that the technician would know
3 as having a possible hinge there as I have discussed
4 in Battey teaching.

5 So, you know, I have worked on these
6 different things and something that I thought it may
7 take an hour or two took me sometimes a lot more
8 than that, and we've all seen that, as well, when
9 these cables come to our premises.

10 So it really depends. Depends on many
11 different factors. It's very possible that the
12 adjustments may be needed, further adjustments may
13 be needed. So the technician needs to go back in
14 there and make some changes on their skill level on
15 when they think it's [inaudible] and so they don't
16 have to go inside and outside so much.

17 Q. What circumstance would a technician
18 need to go back in and make some changes?

19 A. It's a hypothetical issue. I mean, it
20 depends on many different issues. Maybe it wasn't
21 spliced properly. Maybe the length wasn't long
22 enough.

1 Maybe there was an issue when, after
2 installment, they measured the signal-to-noise ratio
3 or they look at the optical signal coming out and
4 the bit rate was not there and they have to go back
5 and diagnose, or maybe the distribution cable --
6 cutting was not spliced properly to the elements.
7 So they have to go back in there many times,
8 possibly.

9 So I'm not going to propose which way
10 the technician has to install it. It depends on the
11 skill of the technician, as well. So...

12 And that's why the screws are there,
13 or they maybe suggest having a hinge. And even
14 Holmberg has a hinge on the cover and so forth and
15 the hinge is there to help them go inside back and
16 forth a few times and make changes. So...

17 Q. In Figure 4 of Holmberg, which shows
18 the splice tray 230 fastened to the box.

19 Do you see that?

20 A. Yes, sir, I do.

21 Q. Now, as we discussed, Figure 4 doesn't
22 show the cables or the fibers; correct?

1 A. It does not.

2 Q. But as we discussed and you testified
3 earlier -- and maybe what we'll do is we'll go to
4 the paragraph 71 that you pointed me to, where it
5 talks about -- the last two sentences of
6 paragraph 71, you say, "Holmberg teaches cable
7 management members 260 for storing excess jacketed
8 cable where the jacket is stripped, spool structure
9 298 for storing slack of terminated fibers, and
10 fiber storage walls 292 for storing excess slack of
11 distribution fibers."

12 Do you see that?

13 A. Yes, I see that. Yeah.

14 Q. So after the drop cable has been --
15 the jacket has been stripped from a portion of it
16 and the certain fibers have been terminated and
17 those terminated fibers have been spliced to the
18 distribution fibers and the excess slack of
19 distribution fibers have been stored on the storage
20 walls 292, at that point -- did you understand that
21 point that I'm talking about?

22 A. Yes, I do. Yes, I do.

1 Q. Okay. At that point, if you -- if a
2 technician wanted to remove the splice tray 230 by
3 removing the fasteners -- are you with me?

4 A. Yes, I am. Yes, sir.

5 Q. -- how would a technician be able to
6 do that?

7 MR. HART: Object to form.

8 THE WITNESS: Yeah, I guess I'm not
9 clear what you mean by that. Where are you
10 pointing at, in terms of how the screws are
11 loosened, how -- what are you pointing at?

12 BY MR. SULLIVAN:

13 Q. I'm asking you a question. First
14 thing you said was the screws need to be loosened.
15 So I understand that. So when the screws are
16 loosened, do you just pull off the splice curve 230
17 at that point?

18 MR. HART: Object to form.

19 THE WITNESS: Depends on what -- if
20 the technician is trying to access the back
21 of the panel 230? Is that what your question
22 is about?

1 BY MR. SULLIVAN:

2 Q. My question is, if the technician
3 wanted to remove the splice tray 230 after the cable
4 were -- the fibers were terminated and spliced, and
5 he wanted to -- he or she wanted to remove the
6 splice tray 230 in addition to unscrewing the screws
7 or the fasteners, would he have to do anything else
8 other than just pull off the splice tray?

9 A. I'd say -- again, it's a hypothetical
10 question, or it depends on the scenario. It really
11 depends on, you know, how the spooling was done at
12 298 and the routing of the back to the front and how
13 the spooling was done in the front and so forth.

14 So really depends on those specific
15 scenarios, if they're probably going to be able to
16 access that. So -- it depends on the scenario. It
17 depends on whether -- you know, how the spooling is
18 done and how they could easily open and access the
19 back of it.

20 Q. So when you say they could open and
21 access, what did you mean by that?

22 A. And I meant exactly the question you

1 asked, in terms of when you unscrew that and you
2 want to access the back of that for a reason or
3 another, which I don't -- it's, again, a
4 hypothetical question. It depends on the scenario.
5 It depends on the cables. It depends on the
6 distribution cable. It depends on the spool and
7 what's in the back and -- in order to open it.

8 Q. Is it your testimony that it would be
9 easy see or you don't know because of the
10 hypothetical?

11 MR. HART: Object to form.

12 THE WITNESS: I'm not saying anything
13 about easiness or hardness of it. It
14 really -- it depends, number one, on the
15 technician's skills and who did the work and
16 what -- if they allowed certain aspects of
17 this to be able to make them to open it up.
18 I don't see the easiness or hardness of that.
19 So...

20 BY MR. SULLIVAN:

21 Q. If we can go in your declaration to
22 paragraph 92.

1 A. I am at 92.

2 Q. In that paragraph, you say, "A POSITA
3 would have been motivated to modify Holmberg to
4 utilize a hinged connection such as taught by Battey
5 to advantageously provide easier access to
6 Holmberg's splice tray (including the rear side) and
7 because using a hinged connection was a known
8 solution for attaching a splice tray in a wall box
9 (or connection closure, as taught by Battey)."

10 Do you see that?

11 A. Yes, sir, I do. Yeah.

12 Q. So in that statement, you're talking
13 about being motivated -- or a POSITA being motivated
14 to modify Holmberg to utilize a hinged connection.

15 Do you see that?

16 A. Yes, I do. Yes, sir.

17 Q. If we go back to Holmberg, and
18 specifically Figure 4, which shows the splice tray
19 230 fastened to the box using the screws.

20 A. Yes, I see that, yes.

21 Q. How would Holmberg be modified to use
22 a hinged connection for splice tray 230?

1 A. Did you say, how would it be modified
2 to allow a hinged connection from 230 to the main
3 body; correct?

4 Q. Yes.

5 A. Okay.

6 Q. Well, to be clear -- to be clear, your
7 paragraph 92 says, "A POSITA would have been
8 motivated to modify Holmberg to utilize a hinged
9 connection such as taught by Battey."

10 So I want to know, do you have an
11 opinion on how Holmberg would be modified to utilize
12 a hinged connection?

13 A. Sure. Sure. As I also discuss in my
14 declaration, Holmberg, by using the Battey's hinge
15 discussions, which talks about the hinge discussion
16 on the opposite side of Battey, which is on
17 figure -- I have to find it. Where is Battey --
18 here we go.

19 Figure 3 of Battey on page 68 of my
20 declaration, which is the opposite side shown in the
21 blue, the same thing can be done on Holmberg. And,
22 actually, Holmberg does use a hinge for the main

1 cover attached to the body using a hinged
2 connection.

3 But using Battey, the structure 230
4 the tray can be connected on Figure 4, for example,
5 opposite to the opening, which is the cover on the
6 right side. It would be connected opposite to that.
7 The hinge would be on the left side, as shown in
8 Figure 4 of the Holmberg. Yes, so that's it.

9 Q. So the modification of Holmberg, based
10 on Battey, would be instead of using the four
11 fasteners to mount the splice tray 230 to the wall
12 box, you would use a hinged connection on the side
13 of the splice tray that's opposite the hinge of the
14 cover to the box; correct?

15 A. Not to the box. It's a hinge
16 connection to the base unit on the left. Not to the
17 cover, I meant. You said to the cover. That is
18 incorrect. It is to the hinge connection that's
19 going to be to the left side. So it's going to
20 be -- if you're looking at Figure 4, it's going to
21 be around that site 216 connected to the main body
22 of the drop-in box.

1 MR. SULLIVAN: We've been going a
2 little less than an hour, and it's 1 o'clock
3 here. And I realize we're dealing with a
4 three-hour time difference, but I'm hungry.

5 Can we take a short, let's call it a
6 20-minute break where I'll just take care of
7 lunch and then we'll jump back? Is that
8 okay?

9 MR. HART: Certainly works for me.

10 THE WITNESS: Me, too.

11 So 10:20, which is 1:20 your time;
12 right?

13 MR. SULLIVAN: Yeah, why don't we just
14 say -- why don't we just say 10:25 your time
15 to be safer.

16 THE WITNESS: Okay. All right. Thank
17 you.

18 MR. SULLIVAN: Thank you.

19 THE REPORTER: We're off the record.

20 (Recess from the record.)

21 THE REPORTER: Okay. We're back on
22 the record.

1 BY MR. SULLIVAN:

2 Q. I'd like to turn in your declaration
3 to page 65, starting with paragraph 85, where you
4 start -- at least that portion talks about Battey.

5 Do you have that?

6 A. Yes, give me a second, if you don't
7 mind.

8 Q. Sure.

9 A. Page 65, starting with Battey, okay.

10 MR. SULLIVAN: And, Mr. Marte, if you
11 could call up Exhibit 1005, just the cover
12 page, which is the Battey publication.

13 (Exhibit 1005, Previously marked.)

14 MR. SULLIVAN: Okay.

15 BY MR. SULLIVAN:

16 Q. Now, in your declaration -- and,
17 actually, we were looking at -- you know what, let's
18 go to -- sorry, let's go to your declaration,
19 paragraph 92, which was -- we had looked just before
20 the break.

21 And in that paragraph you talk about
22 that a POSA -- a POSITA would have been motivated to

1 modify Holmberg. Then you say, using a hinged
2 connection -- using a hinged connection closure --
3 let me try that again, sorry.

4 In paragraph 92, you say, "A POSITA
5 would have been motivated to modify Holmberg," and
6 then because "a hinged connection was a known
7 solution for attaching a splice tray in a wall box,"
8 which we talked about in your earlier testimony, and
9 then you say, "(or connection closure, as taught by
10 Battey)."

11 Do you see that?

12 Do you see that?

13 A. Can you point out exactly on the
14 screen where --

15 Q. Paragraph 92 --

16 A. I'm on 92, yeah. The fourth --

17 Q. The fourth and the fifth line --

18 A. Yeah, yeah, I see that now, sorry.

19 Okay. Yeah, I'm there.

20 Sounds good. Yes, I'm there.

21 Q. Okay. And so you say, "a wall box (or
22 connection closure, as taught by Battey)"; right?

1 And then if we go back to 85, the
2 second sentence, and this is on page 65, the second
3 sentence, you refer to "Battey's connection closure
4 20."

5 Do you see that term "connection
6 closure" again?

7 A. Yes. Yes.

8 Q. And now we can go Exhibit 1005, which
9 is the Battey reference. We were just looking at
10 the cover.

11 Can you tell me what is a connection
12 closure, as you reference it in your declaration and
13 as described in Battey?

14 A. Sure. Let me bring up the -- well, if
15 you look at Figure 3 of Battey, that's the entire
16 disclosure of Battey, which is pointing out on the
17 left side -- here we go. On the top, there's a
18 number 20, which is the overall disclosure that
19 Battey has.

20 Q. Now, this connection closure 20 in
21 Battey is not a wall box; correct?

22 MR. HART: Object to form.

1 THE WITNESS: Let me look at Battey's
2 corresponding paragraph.

3 So looking at the Battey's,
4 paragraph 30, it's talking about the optical
5 connection closure 20. And it's also -- in
6 the abstract, it's talking about the optical
7 connection closure has at least one
8 connection port within the -- that's within
9 the wall, et cetera, et cetera.

10 So what was your question specifically
11 for Battey?

12 BY MR. SULLIVAN:

13 Q. If you'd look at your paragraph 92,
14 where you said wall box or connection closure. So
15 the wall box was for Holmberg, and the connection
16 closure was for Battey.

17 Are those different things, a wall box
18 versus a connection closure? I assume so.

19 A. Let me look at Battey for a second to
20 answer you.

21 Q. And I can point you to paragraph 31 of
22 Battey.

1 A. Sure.

2 Q. You -- it refers to connection closure
3 20 as shown in Figures 1 through 6 is typically
4 installed in an aerial location, however, the
5 closure may be installed below grade within a
6 handhole or vault, or above ground within a larger
7 enclosure, such as a cabinet, network or pedestal.

8 A. That's correct. I don't see that
9 contradicting that it is a wall or a drop-in box. I
10 don't see that there. Any of these could be, it
11 says external vault. It talks about the cabinets
12 and network terminal or pedestal, et cetera, so on.
13 I don't see a --

14 Q. The next sentence --

15 A. Sorry, I don't see a contradiction
16 here. So...

17 Q. The next sentence says, "As shown, the
18 connection closure 20," which is what you looked at
19 in Figure 3, "is secured in an aerial location and
20 mounted to the distribution cable 25."

21 Do you see that?

22 A. Yes, I do.

1 Q. So the particular example that's shown
2 in the figures of Battey, that is installed in an
3 aerial location; right?

4 MR. HART: Object to form.

5 THE WITNESS: It's not limited to
6 that. It's really -- the key thing is that
7 it is a -- as it says in here, each cable
8 opening and so on is adapted for receiving
9 and routing distribution cable to the
10 connection 20. So the person skilled in the
11 art would understand that that could be done
12 on a wall unit or on a wall. So...

13 BY MR. SULLIVAN:

14 Q. I'm looking at paragraph 31, and it
15 says -- and are you disagreeing with paragraph 31?
16 It says, "As shown, the connection closure 20 is
17 secured in an aerial location."

18 Are you disagreeing with that?

19 A. I don't disagree with that. But,
20 also, it talks about the fact that mounted to the
21 distribution cable with one or more cables,
22 et cetera. And it talks about -- above that it

1 talks about the closure 20 may be installed in a
2 variety of different locations.

3 So depending on the scenario and what
4 it is, the person skilled in the art will know where
5 to install it. Aerial is one of them. I'm not
6 disagreeing to that.

7 Q. If we go back to Figure 3 of Battey.
8 And you have access to your
9 declaration; correct?

10 A. Yes, I do.

11 Q. Yeah, in your declaration, you're
12 relying -- and feel free to look at your
13 declaration, but we're going to focus on the
14 shelf 54.

15 Do you see that in Figure 3?

16 A. Yes, I do. Yes.

17 Q. And 54, the shelf 54, that's a hinged
18 shelf; correct?

19 A. Yes, it is.

20 Q. Go to paragraph 87 of your
21 declaration.

22 A. Yes, sir.

1 Q. Towards the bottom of paragraph 87, it
2 says, "I also note that Battey teaches said splice
3 tray, which is a 'conventional splice organizer or
4 splice tray' is mounted to a work shelf 54,
5 preferably on the side of the shelf 54 facing the
6 base 26."

7 Do you see that?

8 A. Yes, I do. Yes.

9 Q. So I want to focus on the splice tray
10 that you're referring to in your declaration, the
11 splice tray of Battey. And in that paragraph, your
12 paragraph 87, you're citing to Battey, paragraph 38.

13 Do you see that?

14 A. Yes, I do.

15 Q. Let's go to Battey, paragraph 38.

16 A. Okay.

17 Q. My question to you, and you can look
18 at any paragraph in Battey, what is being spliced in
19 Battey in the splice tray that is mounted to the
20 work shelf 54? What fibers are being spliced?

21 A. It talks about that the splice tray is
22 adaptive to receive any number of the splices. So

1 it's not limiting it -- it's not limiting. It's
2 talking about, you know, different types of -- any
3 numbers of splices received.

4 Q. In the example shown in Figure 3 and
5 described in Battey, what fibers, whether it's
6 distribution cables, drop cables, fibers, what is
7 being spliced in the example shown in Battey
8 Figure 3?

9 MR. HART: Object to form. Objection,
10 lack of relevance. Objection, foundation.

11 THE WITNESS: The key here is that
12 where I use Battey for combination is the
13 fact that Battey is giving a similar optical
14 connection, as well as Battey hinge, which
15 was also -- I have other references like
16 Castonguay -- I don't know exactly how to say
17 the name -- as another example I use.

18 So Battey is not limiting. It's how
19 the spice tray -- splice tray -- splice tray,
20 where they used -- it talks about this,
21 actually, in paragraph 36 of Battey.

22 Seven or eight line from the

1 paragraph 37, it says that, Alternatively,
2 the strain relief bracket 52 may be provided
3 as part of the splice tray or other
4 communication hardware. The strain relief
5 basket [sic] provides the strain relief for
6 the optical fibers exiting, for example,
7 splice tray, et cetera, et cetera.

8 So it is talk about exiting. That's
9 one option it's talking about. When
10 terminated or preterminated optical fibers
11 are spliced in the field, such as which one
12 or more optical fibers of the distribution
13 cable are accessed in the field to create
14 mid-span access to location and spliced into
15 the interconnect -- and spliced to
16 interconnect the distribution cable to one or
17 more drop cables 21.

18 So it's clearly saying here that the
19 splicing is done to connect -- it could be
20 any number of different optical fibers, but
21 it's talking about when one or more optical
22 fibers of the distribution cable 25 are

1 accessed in the field to create a mid-span
2 access location and spliced to interconnect
3 the distribution cable with one or two drop
4 cables 21. So it's not only connecting the
5 drop cables to the distribution cables.

6 BY MR. SULLIVAN:

7 Q. Oh, Battey is disclosing that
8 paragraph -- in paragraph 36, it's disclosing where
9 one or more optical fibers of the distribution cable
10 25 are spliced to interconnect the distribution
11 cable with one or more drop cables 21; correct?

12 A. That's one example, yes.

13 Q. And then continuing in that
14 paragraph 36, it says, "As shown," and it's
15 referring specifically to Figure 3, "a plurality of
16 optical fibers of the distribution cable 25 are
17 spliced to optical fibers having an optical
18 connector 29 mounted thereon (i.e., a pigtail) to
19 produce a corresponding plurality of connectorized
20 optical fibers 23."

21 Do you see that?

22 A. Yes, I do. Yeah.

1 Q. Do you know what a pigtail is?

2 A. Yeah. Yeah, it talks about it there.

3 So...

4 Q. What's a pigtail, as discussed in
5 Battey?

6 A. Let me look at the exact definition
7 that Battey uses. But -- well, I'll answer your
8 question in a second. Can I answer your question
9 about that paragraph? I'll answer the pigtail first
10 so that way you're -- the pigtail is -- it's a
11 connectorized optical fiber.

12 So going back to that, that does not
13 negate the previous paragraph. It simply brings in
14 another example. The previous paragraph clearly
15 says that they -- they're spliced in the field, such
16 as when one or more optical fibers of the
17 distribution cable 25 are accessed in the field to
18 create a mid-span access location and spliced to
19 interconnect the distribution cable with one or more
20 drop cables 21. That's a clear sentence.

21 The next one doesn't negate that. It
22 has possible different applications or -- et cetera,

1 which is also saying that in the paragraph we talked
2 earlier in terms of the splice -- in paragraph 38,
3 it talks about the splice tray is adapted to receive
4 any number of splices. So clearly it's not limiting
5 that to any specifics and is allowing that to be
6 broader. So...

7 Q. Back to paragraph 38.

8 Once again, paragraph 38 is talking
9 about pigtails. And if you go to the beginning of
10 paragraph 38 of Battey, it says, "In applications in
11 which optical fibers of the distribution cable 25
12 are spliced to pigtails in the field, a conventional
13 splice organizer or splice tray (obscured) is
14 mounted to a work shelf 54, preferably on the side
15 of the shelf 54 facing the base 26."

16 Do you see that?

17 A. Yes, I do.

18 Q. And then it says, "It will be readily
19 apparently and well understood by one of ordinary
20 skill in the art that inside the splice tray, each
21 optical fiber of the distribution cable 25 is
22 spliced to a pigtail (i.e., connectorized optical

1 fiber 23) in any known manner, such as by fusion or
2 mechanical splicing."

3 Do you see that?

4 A. Yes, I do. Yes.

5 Q. So in the example shown in Figure 3,
6 the splicing that's taking place in the splice tray
7 is the splicing of a pigtail to an optical fiber of
8 the distribution cable 25; correct?

9 MR. HART: Object to form.

10 THE WITNESS: No, not necessarily. I
11 disagree with that.

12 BY MR. SULLIVAN:

13 Q. Then what -- what splices are being
14 made in the splice tray disclosed in Battey --

15 MR. HART: Objection.

16 BY MR. SULLIVAN:

17 Q. -- since you disagreed with that? So
18 tell me what's being spliced.

19 MR. HART: Same objection.

20 THE WITNESS: I showed you a couple of
21 examples already. I mean, one is the
22 splicing between the distribution and the

1 drop-in box. The other one that you brought
2 up is at the end of paragraph 36, which is
3 splicing through pigtail to have a
4 connectorized optical fiber.

5 And, you know, I don't -- I can read
6 the rest of Battey, if you'd like, to see if
7 there are any other scenarios it's
8 discussing. But my opinion about Battey was
9 the fact that it teaches -- I use it in a
10 combination that it teaches the hinged
11 connection, and that was one of the examples
12 I used. So...

13 I did not opine in my report about the
14 splicing actions and what it does in Battey.
15 But if you would like me to sit down and read
16 the patent of Battey one more time, I'll be
17 happy to spend time and look at it and see if
18 it talks about other applications.

19 But I think these two examples I
20 showed you -- one of them I showed you, and
21 one of them you brought up -- are clear that
22 a person of ordinary skill in the art would

1 understand that, as Battey says, the splicing
2 can happen between different cables within
3 the drop-in box.

4 BY MR. SULLIVAN:

5 Q. Your testimony seems to refer to --
6 you seem to think you identified two different
7 examples of splicing, and the first one you said was
8 the splicing of the distribution cable to the drop
9 cable.

10 Are you suggesting that that's not
11 done with pigtails in Battey?

12 A. I'm saying these are different
13 examples of it. And I'm saying that these are
14 different scenarios Battey's discussing. And I'm
15 also telling you that I used Battey and opined on it
16 in my report that Battey is primarily used in my
17 declaration in terms of plurality -- connecting a
18 plurality of different cables together, et cetera.
19 But, primarily, I'm using Battey in terms of the
20 hinges that it has in there.

21 And I discuss what Battey teaches
22 in -- Battey's teaching. In page 64 of my

1 declaration, it starts there, and I talk about the
2 fact that Battey is -- optical connection disclosure
3 20, which is connecting a drop cable and optical
4 fibers of a distribution cable in an optical
5 communication network. And there are multiple
6 numbers of paragraphs I point in there which Battey
7 discusses it and so forth.

8 Q. Is it fair to say when you prepared
9 your opinion concerning Battey, you were focusing on
10 the fact that Battey had a hinged shelf and splice
11 tray and you were not focusing on what was actually
12 being spliced in Battey?

13 MR. HART: Object to form.

14 THE WITNESS: I disagree with that,
15 because in order to -- for me to talk about
16 Battey's teaching and the motivation to
17 combine, I discuss that Battey is in the same
18 field, discussing an optical connection
19 closure.

20 In paragraph 85 and paragraph 86, I
21 talk about the different components of Battey
22 and what it is.

1 In paragraph 87, I talk about Battey's
2 splice tray -- splice -- sorry, splice tray.
3 And then I also discuss that Battey teaches
4 that such a splicing may be done in any known
5 manner, such as by fusing, mechanical
6 splicing, et cetera, et cetera.

7 I discuss this. I spend at least a
8 half -- four, five, six pages on Battey --
9 four or five pages on Battey and how it is a
10 prior art to the '483 patent. So I don't
11 agree with you on that.

12 But it's a similar area, and a person
13 of ordinary skill in the art would have been
14 motivated to modify Holmberg to use Battey's
15 hinge connection. But that was not the only
16 one I brought up. There was a number of
17 other things I discussed in here, as well.

18 So...

19 BY MR. SULLIVAN:

20 Q. I want to go back to paragraph --
21 well, let me say this.

22 So your answer is that in preparing

1 your opinion, you did focus in Battey on what was
2 being spliced; is that correct? That's your
3 testimony?

4 MR. HART: Object to form.

5 THE WITNESS: That's not what I said.

6 I think you mis- --

7 BY MR. SULLIVAN:

8 Q. Well -- well, I --

9 A. -- mis- --

10 Q. I said --

11 A. -- if you don't mind -- I mean, you
12 misrepresented what I said. I said that --

13 Q. Well, I don't think -- I don't think
14 so. You disagreed with me, and I listened to your
15 long answer. And that's fine. So I will ask the
16 question again.

17 Is it fair to say that when you
18 prepared your opinion concerning Battey, you were
19 focusing on the fact that Battey had a hinged shelf
20 and splice tray, and you were not focusing on what
21 was actually being spliced in Battey?

22 You said I disagree.

1 So is it fair to say that when you did
2 prepare your opinion, you focused on what was
3 actually being spliced in Battey?

4 MR. HART: Object to form.

5 THE WITNESS: I've already answered
6 you that that's not the case, I think. We
7 can go back and look at my statement above,
8 and the reason that I read the different
9 paragraphs is because it's not a binary
10 answer.

11 I did look at the Battey as a prior
12 art. I talk about the motivation why Battey
13 is in the same field, and it does -- and I
14 discuss splicing of Battey, as well, in
15 pages 64 to page -- to page 73.

16 So six and three -- seven. So I have
17 seven pages of different paragraphs I discuss
18 this. So I don't think it's fair to say that
19 I only focused to the hinge issue. So...

20 BY MR. SULLIVAN:

21 Q. If you'd go to paragraph 36, the
22 latter part of the paragraph.

1 A. Of Battey or mine?

2 Q. Battey.

3 A. Oh, okay. Sure.

4 Q. And I'm going to go back to what you
5 read into the record, and then I'd like to ask you
6 some questions about that.

7 Towards the end of the paragraph, it
8 says, "Splice trays are used when terminated or
9 preterminated optical fibers are spliced in the
10 field, such as when one or more optical fibers of
11 the distribution cable 25 are accessed in the field
12 to create a mid span access location and spliced to
13 interconnect the distribution cable with one or more
14 drop cables 21."

15 Do you see that?

16 A. Yes, sir.

17 Q. So distribution cable is 25, and the
18 drop cable is 21.

19 Do you see that?

20 A. Yes, sir.

21 Q. So Battey discloses that the
22 connection closure 20 can be used to splice fibers

1 from the distribution cable 25 to the drop cables
2 21; correct?

3 A. That's one example, that's correct.

4 Q. So if we look at Figure 2 in Battey --
5 so on Figure 2, on the right-hand side, is marked
6 25.

7 Do you understand that to be the
8 distribution cable?

9 A. Yes.

10 Q. And on the lower part of Battey,
11 Figure 2 is marked 21.

12 Do you understand that to be the drop
13 cables?

14 A. I believe so, yes. That's correct,
15 yeah.

16 Q. Now, if we turn to Figure 3, which you
17 rely upon in your declaration, 54, which is right in
18 the middle of Figure 3, that is the work shelf 54 to
19 which the splice tray is mounted; correct?

20 A. That is correct, yes.

21 Q. So in the example that you read about
22 the connection closure 20 being used to splice

1 fibers from the drop cable 21 to the distribution
2 cable 25, looking at Figure 3, can you tell me how
3 that splicing is accomplished in Battey?

4 MR. HART: Object to form.

5 THE WITNESS: It talks about the
6 splicing being mechanical or fusion of other
7 areas in there. It doesn't show something
8 inside of a -- below the box before. So I
9 don't know what your question is.

10 BY MR. SULLIVAN:

11 Q. Well, how does the fiber from the drop
12 cable 21 that we looked at in Figure 2, how does
13 that fiber get to the splicing tray that's under 54,
14 do you know?

15 A. I don't recall the details of it. As
16 I said, I'll be happy to sit down and look at the
17 patent and give you an answer, but right now --

18 Q. Sure, you can do that. I want to know
19 how --

20 A. All right.

21 Q. -- the drop cable fiber is spliced to
22 the distribution cable fiber in Battey, Figure 3.

1 MR. HART: Object to form.

2 THE WITNESS: Again, I'm not going to
3 focus only on Figure 3, but any other figures
4 in there. So --

5 BY MR. SULLIVAN:

6 Q. You can do that. You can do that.

7 A. All right. No problem.

8 Q. So -- but to be clear, the question
9 is, I want to know how the fiber in drop-in cable 21
10 in Battey is spliced to the fiber in distribution
11 cable 25.

12 MR. HART: Object to form.

13 (Pause.)

14 THE WITNESS: I'm going to close my
15 door for one second. If you don't mind, I'm
16 going to get up for a second and come back.

17 (Pause.)

18 THE WITNESS: If we can take a
19 five-minute bathroom break, then I can come
20 back and we can go over that after the break.
21 Is that good?

22

1 BY MR. SULLIVAN:

2 Q. I don't want to be difficult, but I
3 just waited 40 minutes for an answer, and I want an
4 answer.

5 A. It's going to take me a while to
6 explain what's going on here, and I don't think
7 that -- I'm just going to the bathroom and come
8 back. I don't think that's going to change
9 anything. I -- that's --

10 MR. HART: Can we keep the record
11 open, everybody else stays on camera, and he
12 can go to the bathroom. I mean, I'm not sure
13 what the concern --

14 MR. SULLIVAN: Sure. Let's do that.

15 MR. HART: All right.

16 THE WITNESS: Okay.

17 (Pause.)

18 THE WITNESS: Thank you for the break.

19 So I'd like to bring your attention to
20 paragraph 30 of Exhibit 1005, which is
21 Battey, where it talks about the connection
22 between the distribution cable and the drop

1 box.

2 And, specifically, it says that the --
3 within the connection closure 20 permits an
4 optical fiber of one or more
5 pre-connectorized fiber optic cable drops
6 [sic] for drop cables 21 to be readily
7 interconnected with a field terminated or
8 factory preterminated and connectorized
9 optical fiber 23 of a fiber optic
10 distribution cable 25.

11 So this is one place that it shows
12 that and discusses that the drop cable 21 is
13 connected to the distribution cable.

14 Now, my understanding also is that --
15 I read the institutional decision, as I
16 mentioned earlier -- that the patent owner
17 has decided that the cables cannot be -- the
18 characteristics of the cables and what they
19 are is not limiting.

20 So based on that, this explicitly
21 shows -- directly shows, sorry, I should say,
22 that as shown in Figure 2, the optical

1 cable -- the drop-in box cable 21 is
2 connected to the distribution cable 25.

3 Then, again, in paragraph 34, it talks
4 about Figures 1, 2, 3. And it says that the
5 exemplary embodiment illustrated in Figures 1
6 through 3 comprises eight connector ports 34
7 for connecting between one and eight
8 pre-connectorized drop cables, which is the
9 drop cables, to connectorized optical fiber
10 23 of the distribution cable 25. So it's
11 connecting the drop cables to that.

12 And then it continues on a few lines
13 down, which says that, Thus, it is
14 conceivable that the connection disclosure 20
15 may accommodate any number of
16 pre-connectorized cable 21, which is two --
17 for example, one, two, three, four, six,
18 eight, twelve, et cetera. As used herein,
19 the term "connector port" is intended to
20 include an opening, et cetera, et cetera.

21 And it talks about -- later on that it
22 includes -- which a connector of a

1 connectorized optical fiber 23 of a
2 distribution cable 25 is optically connected
3 to the connector of a pre-connectorized drop
4 cable.

5 It talks about this in multiple
6 different places again, that the
7 pre-connectorized cable 21, which is coming
8 in as a drop cable, is interconnected to the
9 distribution cable 25.

10 So I have many more examples of that,
11 but I think those two or three should be
12 sufficient for my answer.

13 Again, I want to point out that in
14 the -- from what I read in the institutional
15 decision was that specifically the patent
16 owner has discussed that physical
17 characteristics of the cable is not limited.
18 So this -- and based on that fact that it's
19 not limited, this is definitely showing the
20 connection of drop box to the distribution
21 cables.

22

1 BY MR. SULLIVAN:

2 Q. Can you show me in paragraphs 30 and
3 34, which you just read, where there's any
4 discussion of splicing?

5 A. It doesn't have to be. The person
6 who's skilled in the art would understand that, that
7 there is a -- the connection between these terminals
8 are done via splicing in there. So I don't see that
9 an issue.

10 Q. So the question that I waited
11 40 minutes for an answer to was how they are
12 spliced; that is, how the drop cable 25 fibers are
13 spliced to the distribution cable 25 fibers. And
14 you read 30 and 34.

15 That's your answer?

16 A. That is my answer, yes.

17 Q. Did you -- is it your testimony that
18 you reviewed the institution decision in this case?

19 A. If I did not say it earlier, it was a
20 mistake on my part. Yes, I did. I looked at it
21 yesterday. Yes, I have reviewed the institutional
22 decision.

1 Q. Do you understand anything else from
2 the institution decision, based on your review?

3 MR. HART: Objection to form.

4 THE WITNESS: That's the one that --
5 what do you mean "anything else"? Can you --
6 that's one of them that I reviewed and -- in
7 terms of the patent owner, in terms of claim
8 construction, that they have said that
9 physical characteristics of the cable are not
10 limited.

11 BY MR. SULLIVAN:

12 Q. You believe that's what the patent
13 owner's position is; is that correct?

14 A. From what I recall, I don't remember
15 the exact sentence, that they said that neither of
16 the party has disputed and the physical
17 characteristics of the cable is not limited.
18 Apparently, that was in the claim construction, but
19 that's what I have.

20 Q. You reviewed the institution decision,
21 but you did not review the Eldering declaration?

22 A. No, I did not.

1 Q. Just to make sure we don't have a
2 double negative, it's your sworn testimony that you
3 reviewed the institution decision?

4 A. That is correct, I did.

5 Q. And it's your sworn testimony that you
6 did not review the Eldering declaration?

7 A. That is correct, I did not.

8 MR. SULLIVAN: We've been going for an
9 hour and a half. So let's take a break.

10 THE WITNESS: Thank you.

11 THE REPORTER: We're off the record.

12 (Recess from the record.)

13 THE REPORTER: Okay. We're back on
14 the record.

15 MR. SULLIVAN: I have no further
16 questions.

17 MR. HART: No redirect from Amphenol.

18 THE REPORTER: Okay. The examination
19 concluded. Thank you, guys.

20 (The time is 3:05 p.m.)

21

22

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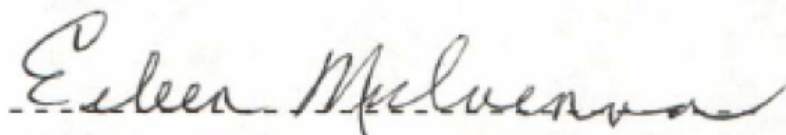
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20

21

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EILEEN MULVENNA, CSR/RMR/CRR/RDR

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1 Dr. Sayfe Kiaei, c/o

Erise LLP

2 717 17th Street, Suite 1400

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