

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

3 -----
4 SPECTRUM SOLUTIONS LLC,

5 Petitioner,

6 v.

7 DNA GENOTEK INC.

8 Patent Owner.
9 -----

10 Case No. IPR2022-01347

U.S. Patent 11,002,646
11 -----

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14 REMOTE VIDEOTAPED DEPOSITION OF KARL LEINSING

15 Tuesday, October 29, 2024
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24 Reported By: Lynne M. Ledanois, CSR 6811

25 Job No. 6990102

Page 1

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14 Videotaped deposition of KARL LEINSING,
15 taken in Dover, New Hampshire, commencing at
16 11:02 a.m., on Tuesday, October 29, 2024 before
17 Lynne Ledanois, Certified Shorthand Reporter
18 No. 6811
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Page 2

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

Counsel for the Petitioner:

KNOBBE, MARTENS, OLSON & BEAR, LLP:

BY: BENJAMIN ANGER

Attorney at Law

3579 Valley Centre Drive

Suite 300

San Deigo, California 92130

ben.anger@knobb.com

Counsel for the Patent Owner:

MORRISON & FOERSTER LLP

BY: MEHRAN ARJOMAND

MARLEY MACAREWICH

STEVEN SUNDBERG

Attorneys at Law

12531 High Bluff Drive

Suite 100

San Diego, California 92130

marjoman@mofo.com

Also Present: Cassia Leet, Videographer

Steven Sandberg

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Page 3

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I N D E X O F E X A M I N A T I O N

Examination by:	Page
Mr. Arjomand	7

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I N D E X O F E X H I B I T S

Deposition	Description	Page
Exhibit 1	Declaration of Karl L. Leinsing (Referenced as Exhibit 1002)	26
Exhibit 2	Declaration of Karl L. Leinsing (Referenced as Exhibit 1027)	30
Exhibit 3	United States Patent No. 11,536,632 B2 (Referenced as Exhibit 1001)	32
Exhibit 4	Injection Molding Handbook (Referenced as Exhibit 1014)	87
Exhibit 5	Cho Reference (Referenced as Exhibit 1004)	107

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Tuesday, October 29, 2024

11:02 a.m. Eastern

THE VIDEOGRAPHER: Good morning. We're
going on the record at 11:02 a.m. on October 29th, 11:02
2024.

Please note that this deposition is being
conducted virtually. Audio and video recording will
continue to take place unless all parties agree to
go off the record. 11:03

This is Media Unit 1 of the video-recorded
deposition of Karl R. Leinsing, MSM PE, taken by
counsel for patent owner in the matter of Spectrum
Solutions LLC versus DNA Genotek Inc., filed in the
United States Patent and Trademark Office before the 11:03
Patent Trial and Appeal Board.

Inter Partes Review Number IPR 202301424.

My name is Cassia Leet from Veritext Legal
Solutions and I'm the videographer. The court
reporter is Lynne Ledanois of Veritext Legal 11:04
Solutions.

I'm not related to any party in this
action, nor am I financially interested in the
outcome.

Would counsel and everyone attending 11:04

Page 6

Veritext Legal Solutions
Calendar-CA@veritext.com 866-299-5127

1 remotely please state your appearances and 11:04
2 affiliations for the record beginning with the
3 noticing attorney.

4 MR. ARJOMAND: Good morning. This is
5 Mehran Arjomand of Morrison Foerster for patent 11:04
6 owner DNA Genotek. With me are Steve Sundberg and
7 Marley Macarewich, also of Morrison & Foerster.

8 MR. ANGER: This is Ben Anger. I'm
9 representing the petitioner Spectrum Solutions as
10 well as the witness Karl Leinsing. I'm with the law 11:04
11 firm Knobbe Martens.

12 THE VIDEOGRAPHER: Would the court
13 reporter please swear in the witness and counsel may
14 proceed.

15 KARL LEINSING, 11:04
16 having been duly sworn, testified as follows:

17 EXAMINATION

18 BY MR. ARJOMAND:

19 Q Good morning. Please state and spell your
20 name for the record. 11:05

21 A Good morning. My name is Karl, K-A-R-L,
22 middle name Robert, R-O-B-E-R-T, last name Leinsing,
23 L-E-I-N-S-I-N-G.

24 Q Sir, do you understand you've taken an
25 oath to tell the truth today? 11:05

Page 7

1	A	Yes.	11:05
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2 Q Is there any reason that you cannot give
3 complete and accurate testimony today?

4	A	No.
---	---	-----

5 Q Sir, we're taking this deposition 11:05
6 virtually. Is there anyone in the room with you?

7	A	No.
---	---	-----

8 Q Also, we're communicating via a network
9 connection through computers at each end.

10 Do you have any other communication 11:06
11 devices that are turned on in your vicinity?

12 A My phone is on, but it's in silent.

13 Q Would it be possible if you could turn off
14 your phone for this deposition, sir?

15	A	Sure.	Okay.	11:06
----	---	-------	-------	-------

16 Q Are there any other communication devices
17 that are turned on in your vicinity, sir?

18	A	No.
----	---	-----

19 Q So we're communicating via computers with
20 computer monitors. Do you have any windows that are 11:06
21 open other than the Zoom window on your monitor,
22 sir?

23 A I have and Adobe Acrobat open with my
24 declaration and the two pieces of art, Cho and Plante,
25 and the patent itself, the '632 patent. 11:07

Page 8

1 Q And are there any notes or annotations on 11:07
2 the declaration that's open on your computer
3 monitor?

4 A No.

5 Q Sir, what is the -- strike that. 11:07
6 Sir, which declaration is currently open
7 on your computer monitor?

8 A The declaration that I was asked to attend
9 this deposition for. It's the deposition that -- I'm
10 sorry, the declaration that's titled "Declaration of 11:08
11 Karl R. Leinsing In Support of Petitioner's Opposition
12 to Patent Owner's Noncontingent Motion to Amend."
13 It's dated September 24th, 2024.

14 Q Thank you.
15 You indicated that also on your computer 11:08
16 monitor is the Cho reference. Did I hear you
17 clearly?

18 A Yes.

19 Q And is that Cho reference international
20 publication number WO 2005/051775? 11:08

21 A Yes, that's correct.

22 Q And in the version that's currently open
23 on your computer monitor, are there any annotations
24 or markings or notes on the Cho reference?

25 A No, there are not. 11:09

Page 9

1 Q Okay. Thank you. 11:09

2 You also indicated that the Plante
3 reference is open on your computer monitor?

4 A Yes.

5 Q And is that U.S. Patent Publication Number 11:09
6 U.S. 2012/0325721?

7 A That's correct.

8 Q Are there any annotations or notes on the
9 version of Plante that's currently being displayed
10 on your computer monitor? 11:09

11 A No.

12 Q Finally, you mentioned that the '632
13 patent is currently being displayed on your computer
14 monitor; is that correct?

15 A That's correct. 11:10

16 Q And just for the record, that's U.S.
17 Patent Number U.S. 11,536,632?

18 A That's correct.

19 Q And are there any annotations or notes on
20 the '632 patent that's currently being displayed on 11:10
21 your monitor?

22 A No.

23 Q Okay. Great. Thank you.

24 Sir, you don't have any other types of
25 windows open on your computer monitor that would 11:11

Page 10

1 allow you to communicate with counsel during today's 11:11
2 deposition; is that correct?

3 A That's correct, no other means of
4 communication.

5 Q So currently the only two windows that are 11:11
6 open on your computer monitor are the Zoom link for
7 which we can communicate together and your Adobe
8 Acrobat file; is that correct?

9 A That's correct.

10 Q Okay. Thank you. 11:11

11 Sir, have you served as an expert on any
12 prior patent cases?

13 A Yes.

14 Q How many?

15 A I don't recall the exact number. I would 11:11
16 say somewhere around 75 cases.

17 Q To your knowledge, has a court or decision
18 maker ever excluded an opinion that you offered in
19 those 75 or so cases?

20 A Only for legal reasons, nothing on any 11:12
21 technical basis.

22 Q Do you know the name or names of the cases
23 in which a court or decision maker excluded your
24 opinion in a patent case?

25 A So just to be clear, I don't agree with the 11:12

Page 11

1 phrasing of your question. They were not excluding my 11:12
2 opinions for any technical reason. It was because the
3 report had been outside the bounds of the contentions.
4 I believe it's a legal matter that's either strict or
5 not so strict in different districts. 11:13

6 And because it was -- I had produced
7 additional opinions that I found through that
8 particular case that were relevant, because the law
9 firm in that particular case did not include them in
10 their contentions, I was not allowed to include them 11:13
11 at trial.

12 I do not recall the name of the specific
13 trial. I just recall that particular instance.

14 Q Do you recall the name or names of the
15 parties involved in that case? 11:13

16 A I'm not sure, no.

17 Q Do you recall who -- strike that.

18 Do you recall for which party you were
19 providing opinions for in that case?

20 A I'm not sure, no. 11:13

21 Q Do you recall when that opinion was
22 provided?

23 A It was awhile ago, that's why it's hard for
24 me to recall which one. I've done a few cases and I
25 don't recall exactly. I don't want to try to guess. 11:14

Page 12

1 Q Well, was it in the past five years, sir? 11:14

2 A I would say it's approximately probably four
3 or five years ago.

4 MR. ANGER: I'm going to lodge an
5 objection to the questioning that it's outside the 11:14
6 scope of the witness's declaration.

7 BY MR. ARJOMAND:

8 Q So we've been speaking about one case. Do
9 you recall any other cases in which your opinion has
10 been excluded by a court or a decision maker? 11:15

11 A I don't recall here at this time. I'm often
12 also not sometimes visible to certain exclusions. If
13 they relate to a technical legal matter, I don't get
14 exposed to those.

15 Q With respect to the one case in which you 11:16
16 discussed the exclusion of your opinion, do you
17 recall what jurisdiction the case was in?

18 MR. ANGER: Objection, outside the scope.

19 THE WITNESS: Again, I don't agree with
20 the phrasing of your question, but my opinion was 11:16
21 not necessarily excluded.

22 I was -- I don't know the legal terms for
23 it, but I was not allowed to discuss a certain part
24 of my report at trial because it was outside the
25 scope of the contentions in that case. 11:16

Page 13

1 I do not know the jurisdiction or the 11:16
2 court and, again, none of my opinions as it regards
3 to a technical nature or anything related to my
4 experience or education or technical facts or
5 scientific facts have ever been excluded in my 11:17
6 testimony, nor have I ever been found non-credible.

7 In fact, it's been the opposite, the
8 patent office has actually found me credible and has
9 listed me by name as an expert in the field of
10 medical devices. 11:17

11 BY MR. ARJOMAND:

12 Q As you sit here today, you don't recall --
13 regarding the case that we've been discussing about
14 your testimony being excluded in the way that you
15 understand exclusion, you don't recall the parties, 11:17
16 the jurisdiction, the decision maker, none of that;
17 is that correct, sir?

18 MR. ANGER: Objection, form.

19 THE WITNESS: That was a long question. I
20 don't know what you mean by decision maker and I 11:18
21 think -- I think I've answered your question.

22 I only recall that a single time. There
23 may have been others and I'm not exposed to those.
24 I don't recall those sitting here.

25 I would need to look up other documents 11:18

Page 14

1 that -- to find out what that is, what case that 11:18
2 was.

3 BY MR. ARJOMAND:

4	Q	would those other documents include your	
5	C.V.?		11:18

6 MR. ANGER: Objection, form.

7 THE WITNESS: I list some of the cases,
8 but my C.V. only lists cases over the last four
9 years.

10 BY MR. ARJOMAND: 11:18

11 Q So if I were to show you your C.V., would
12 you be able to identify potentially the case that
13 we've been discussing?

14	A	No.
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15	Q	Why is that?	11:19
----	---	--------------	-------

16 A Because I would need to look at the
17 particular case and the filings of the court to make
18 sure I identify the correct case and it's likely a
19 case that's been ended and terminated and I've likely
20 destroyed the folder as required by my protective 11:19
21 order.

22 Q Okay. So just to try to close the loop
23 here regarding this case that we've been discussing,
24 you don't recall the parties involved in that case;
25 correct? 11:20

Page 15

1 MR. ANGER: Objection, asked and answered. 11:20

2 THE WITNESS: That's correct, I don't
3 recall the parties. Again, it was just a matter of
4 a legal technicality regarding what can be discussed
5 at trial that was in my report that was outside the 11:20
6 bounds of the contentions.

7 BY MR. ARJOMAND:

8 Q You don't recall the jurisdiction in which
9 that case appeared; is that correct?

10 A That's correct, I don't recall that sitting 11:20
11 here.

12 I don't want to guess. I want to give you
13 accurate answers and I don't recall that without
14 doing some research.

15 Q I appreciate that. 11:20

16 And you don't recall whether the
17 jurisdiction -- strike that.

18 You don't recall whether the decision
19 maker was a judge or an administrative legal judge;
20 is that correct? 11:21

21 MR. ANGER: Objection, form.

22 THE WITNESS: You're asking me legal
23 things and how things are decided. I can't answer
24 that. I don't know.

25

Page 16

1 BY MR. ARJOMAND: 11:21

2 Q Okay. Sir, you are an expert that's been

3 hired by petitioner Spectrum; correct?

4 A That's correct.

5 Q And how many times have you represented 11:21

6 petitioner Spectrum?

7 A How do you mean "represented"? By

8 declaration or report or I don't understand your

9 question.

10 Q Well, let me ask you in this way: You're 11:21

11 currently representing petitioner Spectrum in this

12 proceeding, which is IPR 2023-041424; is that

13 correct?

14 A That's correct.

15 Q And you represented petitioner Spectrum in 11:22

16 an earlier IPR proceeding between the parties and

17 I'll just state that that IPR bore IPR

18 Number 2022-01347; is that correct?

19 A I would need to check my C.V. for the

20 number. I don't know if that number is correct. But 11:22

21 I did represent Spectrum on another IPR petition.

22 Q With respect to patent owner DNA Genotek;

23 is that correct?

24 MR. ANGER: Objection, form.

25 THE WITNESS: I represented Spectrum and 11:23

Page 17

1 the patent owner was Genotek, correct. 11:23

2 BY MR. ARJOMAND:

3 Q So putting aside those two proceedings
4 that we've just discussed, are there any other
5 proceedings in which you've represented Spectrum? 11:23

6 A I'm not sure what you mean by "proceedings,"
7 but I did write some reports that were submitted on
8 the other patent in the district court case.

9 Q Any other court or PTAB proceeding that
10 you can recall where you provided an opinion for 11:23
11 Spectrum?

12 A Well, there's two declarations for this
13 particular patent that were submitted by myself. So
14 I'm not sure if those are considered two separate
15 proceedings, with this one being the motion to amend 11:24
16 proceeding and the other one was for the '632 patent
17 as it originally was allowed by the patent office.

18 Q So putting aside the litigation proceeding
19 between Spectrum and DNA Genotek and IPR proceedings
20 between the same parties that we've been discussing, 11:24
21 are there any other legal proceedings in which you
22 have represented Spectrum?

23 A Not that I can recall.

24 Q Sir, how many times have you worked with
25 the law firm Knobbe Martens Olson & Bear -- strike 11:25

Page 18

1	that.	11:25
---	-------	-------

2 How many times have you worked with the
3 law firm Knobbe Martens Olson & Bear?

4 MR. ANGER: Objection, form, outside the
5 scope. 11:25

6 THE WITNESS: I think just the few cases.
7 I don't know the exact number.

8 BY MR. ARJOMAND:

9	Q	When you say "the few cases," does that	
10		include any cases beyond the court and PTAB	11:25
11		proceedings that we've been discussing where you've	
12		provided opinions?	

13 MR. ANGER: I'll just interject here and
14 instruct the witness not to reveal any confidential
15 information. 11:26

16 BY MR. ARJOMAND:

17 Q You may answer, Mr. Leinsing.

18 A I think there may be two other cases. I
19 can't say what the other cases are, but there hasn't
20 been that many cases. 11:26

21	Q	Thank you.
----	---	------------

22 In those two other cases, have you
23 provided any opinions that have been submitted in a
24 court or an administrative agency?

25	A	I don't know. I cannot answer that.	11:26
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Page 19

1 Q Because you cannot recall those cases; is 11:26
2 that correct?

3 A I cannot recall the cases. One was
4 transferred to Knobbe Martens or transferred the other
5 way. 11:27

6 I did not prepare for that kind of
7 questioning for this deposition. I don't recall the
8 other cases.

9 Q Do you recall the timing -- strike that.
10 Do you recall when you worked on those 11:27
11 other cases with Knobbe Martens?

12 MR. ANGER: Objection, form, outside the
13 scope.

14 THE WITNESS: I don't know when. One that
15 I am thinking of is older that I believe is closed 11:27
16 and then there is a new case that I can't discuss
17 and I don't think -- we haven't gotten to any type
18 of court filings, but I'm not a legal patent -- I'm
19 not a legal attorney, so I don't know what's been
20 filed or what hasn't been filed. 11:27

21 I can't answer those questions. It's
22 really outside the scope of my declaration.

23 BY MR. ARJOMAND:

24 Q So we had been discussing this -- strike
25 that. 11:28

Page 20

1 So this deposition relates to an IPR 11:28
2 proceeding that bears IPR Number 2023-01424 relating
3 to U.S. Patent Number 11,536,632.

4 Is that your understanding, sir?

5 A That's correct, and in particular, the 11:28
6 declaration that I submitted in support of the
7 petitioner's opposition to the motion to amend.

8 Q Sometimes just as a shorthand, I might be
9 referring to this proceeding as the '632 IPR or the
10 '632 IPR proceeding. 11:29

11 If I use that shorthand, will you
12 understand that this refers to this proceeding, that
13 shorthand refers to this proceeding?

14 A That's fine, yes.

15 Q Okay. So what did you do to prepare for 11:29
16 your deposition today?

17 A I reviewed my declaration. I reviewed the
18 '632 patent, reviewed the prior art. I reviewed the
19 patent office's preliminary guidance to the patent
20 owner's motion to amend. 11:30

21 I reviewed the exhibits that are mentioned
22 in my declaration.

23 Q Now, you mentioned that you reviewed your
24 declaration.

25 Is that the declaration that you mentioned 11:30

Page 21

1 earlier in your testimony that's entitled 11:30
2 "Declaration of Karl R. Leinsing in Support of
3 Petitioner's Opposition to Patent Owner's
4 Noncontingent Motion to Amend"?

5 A That's correct. 11:30

6 Q And just to make it easier in terms of
7 discussing that declaration, that's been previously
8 marked as Exhibit 1027; is that correct?

9 A I don't know the exhibit number. But if you
10 want to stipulate it's Exhibit 1027, that's fine. 11:31

11 Q And in this '632 IPR proceeding, you had
12 previously submitted a declaration entitled
13 "Declaration of Karl Leinsing in Support of Petition
14 for Inter Partes Review of U.S. Patent
15 Number 11,536,632"; is that correct? 11:31

16 A That's correct.

17 Q And let me just stipulate that that
18 declaration was marked as Exhibit 1002.

19 A That's correct, yes.

20 Q Okay. Did you review Exhibit 1002 in 11:32
21 preparation for your deposition today?

22 A Yes.

23 Q Okay. And you mentioned that you reviewed
24 prior art. Earlier in today's deposition, you
25 mentioned the references Plante and Cho. 11:32

Page 22

1 Did you review any other prior art 11:32
2 references?
3 A Yes.
4 Q Which ones?
5 A All the ones mentioned in my declaration. 11:32
6 Q Okay. Did you review any documents that
7 were not cited in your declaration in preparation
8 for today's deposition?
9 A Not that I can recall.
10 Q And did you review any dictionary 11:33
11 definitions that were not cited in your declaration
12 in preparation for today's deposition?
13 A Not that I can recall right now, no.
14 Q And did you meet with anyone to prepare
15 for today's deposition? 11:33
16 A Yes, I did.
17 Q Who did you meet with?
18 A I met with Mr. Ben Anger and Mr. Joe
19 Jennings.
20 Q Anyone else? 11:34
21 A No.
22 Q And when did you meet them?
23 A Yesterday.
24 Q And for how many hours did you meet with
25 them yesterday? 11:34

Page 23

1	A	Approximately a couple hours.	11:34
---	---	-------------------------------	-------

2 Q Did you meet with them at any time other
3 than yesterday in preparation for today's
4 deposition?

5 A Yes, I just had a short call with Mr. Ben 11:34
6 Anger this morning.

7 Q Okay. And roughly how long was that call?

8 A Short, maybe 20 minutes or so. Twenty-five,
9 30 minutes.

10 Q So would it be fair to say that in total, 11:35
11 you met about three to five hours with counsel in
12 preparation for today's deposition?

13 MR. ANGER: Objection to the extent it
14 mischaracterizes the witness's testimony.

15 THE WITNESS: I think if you do the math 11:35
16 on my testimony, it would be about 2.5 hours.

17 MR. ARJOMAND: Ben, just so that the
18 record is clear, I think many of your objections are
19 not appropriate for PTAB proceeding. They are
20 talking objections, particularly that last objection 11:35
21 and other objections that you made earlier today.

22 I don't think that's the right way to
23 proceed. If you continue to do so, we may have to
24 reach out to the board.

25	MR. ANGER: Okay. Noted. Thank you.	11:36
----	------------------------------------	-------

Page 24

1 BY MR. ARJOMAND: 11:36

2 Q Mr. Leinsing, when did you begin working
3 on the '632 IPR proceeding?

4 A I don't recall.

5 Q Do you recall if it was this year? 11:36

6 A I don't recall. We've been -- seems like
7 we've been working on it for a little while. So --
8 and there were two declarations. And I know there
9 were two patents, so they've kinds of combined in my
10 head, so I can't recall and I don't want to guess. 11:36

11 Q Okay. And do you have a sense of how many
12 hours you've worked on the '632 IPR proceeding from
13 the moment that you were engaged to your preparation
14 for today's deposition?

15 MR. ANGER: Objection, form. 11:37

16 THE WITNESS: I don't recall the amount of
17 time, no.

18 BY MR. ARJOMAND:

19 Q Was it over 100 hours, sir?

20 A Again, you're asking me to guess. It's my 11:37
21 understanding in a deposition you want me to give you
22 my best accurate answer and I don't want to make any
23 estimations or guesses.

24 Q So as you sit here today, you cannot even
25 give a sense of the order of magnitude of the hours 11:37

Page 25

1 | that you've worked? 11:37

2 A I have a lot of different projects. I'm
3 working on developing some pretty important medical
4 devices. It's gone on for a long period of time. I
5 did not add up those hours in coming to this 11:38
6 deposition. Sorry.

7 Q Sir, I've shared with you through Exhibit
8 Share Exhibit 1002 that we previously discussed.

9	(Whereupon, Exhibit 1 was marked for	
10	identification.)	11:39

11 BY MR. ARJOMAND:

12	Q	Do you see that?
----	---	------------------

13 A How are you doing Exhibit Share?

14 Q Is there some tab or some window that
15 allows you to take a look at exhibits that have been 11:39
16 shared?

17 A Give me one second, I have to -- I think
18 there was a link sent to me that I did not open maybe.

19 THE VIDEOGRAPHER: Did you want to go off
20 the record while he gets Exhibit Share set up? 11:40

21 MR. ARJOMAND: Sure, let's do that. Is
22 that okay, Ben?

23 MR. ANGER: That's fine, we can go off the
24 record.

25	THE VIDEOGRAPHER: Going off the record.	11:40
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Page 26

1 The time is 11:24 a.m. 11:40
2 (Recess taken.)
3 THE VIDEOGRAPHER: Back on the record.
4 The time is 11:49 a.m.
5 BY MR. ARJOMAND: 11:49
6 Q So, Mr. Leinsing, do you see Exhibit 1002
7 via Exhibit Share on your computer monitor?
8 A Yes.
9 Q Let me direct you to native Page 164 of
10 Exhibit 1002. Let me know when you're there. 11:49
11 A Give me a second. Something -- it's busy
12 doing something. I cannot stop it.
13 Okay. Could you please repeat the page
14 number or paragraph number?
15 Q Yes, of course. It's Page 164 of 11:50
16 Exhibit 1002. That's original or native Page 164.
17 A Okay. I'm there.
18 Q And on Page 164 of Exhibit 1002 is your
19 declaration signature; is that correct?
20 A That's correct. 11:51
21 Q And, sir, did you draft Exhibit 1002?
22 A Yes.
23 Q Can you explain the process in which you
24 prepared Exhibit 1002?
25 MR. ANGER: I'll caution the witness not 11:51

Page 27

1 to reveal any confidential or privileged information 11:51
2 associated with the declaration to the extent
3 there's any.

4 THE WITNESS: So I first reviewed the
5 patent, 11,536,632. Then I looked for some prior 11:51
6 art and some thoughts of prior art that I already
7 had in my head and then presented those ideas to
8 counsel and then started to draft the declaration.

9 BY MR. ARJOMAND:

10 Q Do you recall how many hours you worked on 11:52
11 in preparing Exhibit 1002?

12 A This declaration is even older, so I would
13 not recall that time either.

14 Q With whom did you work on in preparing
15 Exhibit 1002? 11:53

16 MR. ANGER: Objection, form.

17 THE WITNESS: It was myself and counsel.
18 I don't recall the attorney I worked on this one
19 with.

20 BY MR. ARJOMAND: 11:53

21 Q So you just worked with one counsel in
22 preparing Exhibit 1002?

23 MR. ANGER: Objection, form and
24 foundation, objection relevance.

25 THE WITNESS: I think it was only one. I 11:53

Page 28

1 don't recall if there were others or not. There may 11:53
2 be.

3 BY MR. ARJOMAND:

4 Q And you don't recall any of their names;
5 is that correct, Mr. Leinsing? 11:54

6 A I'm not sure. It would be -- you know,
7 which ones it would be. I'm not very good with names
8 and --

9 Q Okay. Let me direct you to Paragraph 52
10 of Exhibit 1002. That's on native Page 28. Let me 11:54
11 know when you're at that paragraph.

12 A Okay. I'm there.

13 Q Can you take a moment to read
14 Paragraph 52?

15 A Okay. 11:56

16 Q So this paragraph sets forth your
17 definition of what a -- strike that.

18 This Paragraph 52 of Exhibit 1002 sets
19 forth a definition of a person of ordinary skill in
20 the art in your opinion; is that correct? 11:56

21 A Yes, that's correct.

22 Q Did you utilize this definition in
23 preparing your opinions for -- or that are reflected
24 in Exhibit 1002?

25 MR. ANGER: Objection, form. 11:57

Page 29

1 THE WITNESS: I used this definition and 11:57
2 the definition of the opposing experts and under
3 either definition, my opinions would not change in
4 either declaration.
5 BY MR. ARJOMAND: 11:57
6 Q Okay. Thank you.
7 And did you use this definition and the
8 definition of the opposing expert in preparing your
9 opinions in Exhibit 1027, your other declaration in
10 this proceeding? 11:57
11 MR. ANGER: Objection, form.
12 THE WITNESS: Yes, I considered both
13 definitions and my opinions would be the same for
14 both declarations.
15 MR. ARJOMAND: Mr. Leinsing, I shared via 11:58
16 Exhibit Share Exhibit 1027.
17 (Whereupon, Exhibit 2 was marked for
18 identification.)
19 BY MR. ARJOMAND:
20 Q Do you see that on your computer monitor? 11:58
21 A I see it, I downloaded it.
22 Q And then do you see previously marked
23 Exhibit 1027 on your Exhibit Share?
24 A I do, yes.
25 Q Mr. Leinsing, let me direct you to 11:59

Page 30

1 Page 20, that's originally native Page 20 of 11:59
2 Exhibit 1027.
3 A Did you say Page 20?
4 Q Yes.
5 Is that your signature on Page 20 of 12:00
6 Exhibit 1027?
7 A Yes, it is.
8 Q Did you draft Exhibit 1027, Mr. Leinsing?
9 A Yes, I did.
10 Q Can you explain the process in which you 12:00
11 prepared Exhibit 1027?
12 A I reviewed the '632 patent again and then
13 the motion to amend with the new amended claims,
14 reviewed those amended claims with the specification
15 of the '632 patent and reviewed against some prior art 12:01
16 and I reviewed my previous declaration and proceeded
17 to right this declaration.
18 Q Do you recall how many hours you worked to
19 prepare Exhibit 1027?
20 MR. ANGER: Objection, relevance. 12:01
21 THE WITNESS: I don't recall the time I
22 spent on it.
23 BY MR. ARJOMAND:
24 Q Do you recall if you worked with counsel
25 in preparing Exhibit 1027? 12:02

Page 31

1 MR. ANGER: Objection, form. Objection, 12:02
2 relevance.

3 THE WITNESS: I'm sorry, can you repeat
4 that question?

5 BY MR. ARJOMAND: 12:02

6 Q Did you work with counsel in preparing
7 Exhibit 1027?

8 A Yes. Yes, I worked with counsel.

9 Q Who was that?

10 A Mr. Ben Anger. 12:02

11 Q Anybody else?

12 A Might have worked with Mr. Joe Jennings a
13 little bit.

14 Q Anybody else?

15 A Not that I can recall. 12:03

16 Q Mr. Leinsing, I'm sharing with you via
17 Exhibit Share previously marked Exhibit 1001. This
18 is U.S. Patent 11,536,632. Please let me know once
19 you've received it.

20 (Whereupon, Exhibit 3 was marked for 12:03
21 identification.)

22 THE WITNESS: Okay. Received and
23 downloaded.

24 BY MR. ARJOMAND:

25 Q Great. Do you recognize Exhibit 1001? 12:04

Page 32

1	A	Yes.	12:05
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2	Q	What is it?
---	---	-------------

3	A	It's the U.S. Patent 11,536,632.
---	---	----------------------------------

4 Q And you've reviewed Exhibit 1001

5 | previously? 12:05

6	A	Yes.
---	---	------

7 Q Would it be fair to say that you're

8 familiar with the contents of Exhibit 1001?

9 A Yes, I'm familiar, but I've not memorized
10 it. 12:05

11 Q All right. Let me turn your attention to
12 Figures 3A and 3B. Let me know when you're there.

13	A	Okay.
----	---	-------

14 Q It's on stamped Page 29 of Exhibit 1001.

15	A	Okay.	12:06
----	---	-------	-------

16	Q	Are you there?
----	---	----------------

17	A	Yes.
----	---	------

18	Q	Great.
----	---	--------

19	What do these figures show on Page 29 of	
20	Exhibit 1001 in your opinion, Mr. Leinsing?	12:06

21 MR. ANGER: Objection, form.

22 MR. ARJOMAND: Let me ask the question
23 more specifically.

24	Q Mr. Leinsing, what does Figure 3A on	
25	Page 29 of Exhibit 1001 show?	12:06

Page 33

1 MR. ANGER: Objection, form. 12:06

2 THE WITNESS: I can direct you to what the
3 patent says Figure 3A shows on Column 8, Line 49 of
4 the patent.

5 It says, "Figure 3A shows an embodiment of 12:07
6 the cap of the sample collection device in which the
7 cap contains an inner chamber with a movable annular
8 member that can cover an aperture in the inner wall
9 according to some embodiments of the present
10 disclosure." 12:07

11 BY MR. ARJOMAND:

12 Q And in your opinion, what does Figure 3B
13 on Page 29 of Exhibit 1001 show?

14 A Again, I can tell you what the patent tells
15 you that it shows, shown in Column 8, Line 54 of the 12:08
16 '632 patent.

17 It says, "Figure 3B shows an embodiment of
18 the sample collection device in which the cap is
19 coupled to the tube and the movable annular member
20 is moved to a position where it does not cover an 12:08
21 aperture in the inner wall according to some
22 embodiments of the present disclosure."

23 Q So you directed me to a passage in the
24 '632 patent describing Figure 3B.

25 In your opinion, does Figure 3B show 12:08

Page 34

1 anything beyond that passage that you've read to me? 12:08

2 MR. ANGER: Objection, form.

3 THE WITNESS: Well, the specification in
4 Column 14, starting at Line 15 discusses what is
5 shown or what is alleged to be shown in Figures 3A 12:09
6 and 3C and that starts at Column 14, Line 15 and
7 ends approximately Column 15, Lines -- Line 13.

8 BY MR. ARJOMAND:

9 Q Let me direct your attention to both
10 Figures 3A and 3B on Page 29 of Exhibit 1001. 12:10

11 A Okay.

12 Q Would you agree that a person of ordinary
13 skill in the art as you defined it would understand
14 Figures 3A and 3B as showing a sample collection
15 tube 14? 12:10

16 MR. ANGER: Objection, form.

17 THE WITNESS: A person of skill in the art
18 reading the specification would understand 14 to be
19 a tube as described by the '632 patent.

20 BY MR. ARJOMAND: 12:11

21 Q Okay. And would a person of ordinary
22 skill in the art understand Figure 3A as showing a
23 cap 12?

24 A 3A would be showing what the patent
25 describes as cap 12 and then as I mentioned in my 12:11

Page 35

1 declaration, it shows an inconsistent or slightly 12:12
2 different cap in 3B.

3 Q Would a person of ordinary skill in the
4 art understand that Figures 3A and 3B show interior
5 space 20? 12:12

6 A You can see where 20 is pointing to an
7 interior space in those figures.

8 Q So is that a yes to my question?

9 MR. ANGER: Objection, form.

10 THE WITNESS: The specification says that 12:13
11 20 is an interior space and it's identified in
12 Figures 3A and 3B.

13 BY MR. ARJOMAND:

14 Q Would a person of ordinary skill in the
15 art understand from reading the '646 patent 12:13
16 specification and viewing Figures 3A and 3B --

17 A I think you misspoke. Did you say the '646
18 specification?

19 Q Yes, I misspoke. I just realized that
20 myself. Sorry about that. 12:14

21 Would a person of ordinary skill in the
22 art reading the '632 patent and taking a look at
23 Figures 3A and 3B understand that interior space 20
24 holds a reagent?

25 MR. ANGER: Objection, form, foundation. 12:14

Page 36

1 THE WITNESS: I believe the specification 12:14
2 talks about 20 being a reagent and some other
3 possible solutions that could be held in that
4 interior space 20.

5 BY MR. ARJOMAND: 12:14

6 Q Would a person of ordinary skill in the
7 art reading the '632 specification and considering
8 Figures 3A and 3B understand that that reagent or
9 other possible solutions can be released through an
10 aperture 22? 12:15

11 MR. ANGER: Objection, form, foundation.

12 THE WITNESS: It would depend on the
13 configuration of the valve as taught by the '632
14 patent.

15 BY MR. ARJOMAND: 12:15

16 Q What do you mean by that, Mr. Leinsing?

17 A Well, the solution that would be inside the
18 interior space 20 would not be released if the -- if
19 an annular valve was covering it. And then there's
20 other issues with what is taught in 3A and 3B, namely 12:16
21 the threads.

22 So depending on the configuration, it
23 would either flow out of 22 more freely or if the
24 annular ring was covering Item 22, it would restrict
25 the flow to potentially leak, although the patent 12:16

Page 37

1 teaches that it would be closed in the next 12:16
2 configuration, but as I've mentioned in my previous
3 declarations that that would not be enabled.

4 Q So in your previous answer, you mentioned
5 an annular ring. Do you recall that? 12:17

6 A Yes.

7 Q When you mentioned an annular ring, were
8 you referring to annular blocking member 62 as shown
9 in Figures 3A and 3B of Exhibit 1001?

10 A Yes. 12:17

11 Q Would a person of ordinary skill in the
12 art understand that annular blocking member 62 is a
13 cylindrical component?

14 MR. ANGER: Objection, form.

15 THE WITNESS: The specification doesn't 12:18
16 expressly say that it's cylindrical. But with the
17 identification of threads, you would understand it
18 to be generally cylindrical.

19 BY MR. ARJOMAND:

20 Q Do you see an element in Figures 3A and 3B 12:19
21 that is labeled with reference number 18,
22 Mr. Leinsing?

23 A Yes.

24 Q Would a person of ordinary skill in the
25 art understand that element or component that's been 12:19

Page 38

1 labeled with reference number 18 to be a cylindrical 12:19
2 element or component?

3 MR. ANGER: Objection, form, foundation.

4 THE WITNESS: A person with skill in the
5 art would understand that to be generally 12:20
6 cylindrical with closed end caps and other features
7 as described by the patent.

8 BY MR. ARJOMAND:

9 Q Mr. Leinsing, what do you mean by "closed
10 end caps"? 12:20

11 A Meaning that it's not an open cylinder
12 opened on both ends.

13 Q Would a person of ordinary skill in the
14 art understand the component that's referenced by
15 reference number 18 in Figures 3A and 3B as a 12:21
16 unitary member?

17 MR. ANGER: Objection, form, foundation.

18 THE WITNESS: I would need to review the
19 specification again to answer that. I believe it
20 talks about potentially 18 being partially made 12:21
21 together with Items 24 or could be made separate,
22 but I would need to read the specification to verify
23 that.

24 BY MR. ARJOMAND:

25 Q Do you want to take a few minutes to take 12:21

Page 39

1 a look at the specification of the '632 patent to 12:21
2 confirm your understanding in your previous answer?

3 A I can if you would like.

4 Q Please.

5 A I don't see where the patent uses the word 12:33
6 "unitary." I think it's silent on whether or not it
7 would be a unitary structure.

8 But I don't understand how you would
9 manufacture, as a person of skill in the art, the
10 enclosed space as formed by 18 shown in Figures 3A 12:33
11 and 3B without there being multiple parts or it
12 being bonded to the other cap part or -- but it does
13 not use the word "unitary." I'll let the
14 specification speak for itself.

15 Q Thank you, Mr. Leinsing. 12:34

16 So based on my clock, you had about --
17 strike that.

18 So based on my clock, you spent about ten
19 minutes taking a look at the '632 specification to
20 provide your previous answer. Is that about right? 12:34

21 A I did not time myself and there is more of
22 the specification that I would want to read to fully
23 and accurately answer your question. So I'll let the
24 specification speak for itself.

25 Q But in the time that you did take to 12:35

Page 40

1 review the '632 specification, did you find the 12:35
2 passage or passages that you thought would answer
3 the question that I had raised regarding whether the
4 component referenced as -- or referenced with
5 reference number 18 to be unitary? 12:35

6 MR. ANGER: Objection to form. Objection,
7 foundation.

8 THE WITNESS: I did not find the specific
9 passage that I remembered reading. But I also did
10 not read the entire patent again to find that. 12:35

11 I only searched for the word "unitary" and
12 did not find that word in my search, but the
13 searches are not always accurate.

14 BY MR. ARJOMAND:

15 Q So when you said you searched for the word 12:36
16 "unitary," were you doing some sort of find option
17 on your computer?

18 A Correct.

19 Q And were you using Exhibit 1001 via
20 Exhibit Share to do that search or were you using 12:36
21 the Exhibit 1001 that was in your Adobe Acrobat file
22 that we discussed at the start of the deposition?

23 A I'm using the one in my -- that I had up
24 before the deposition started.

25 Q Okay. So just going forward, 12:36

Page 41

1 Mr. Leinsing, I would prefer that we focus on the 12:36
2 exhibits that we are sharing with you since that's
3 the official record of this proceeding.

4 If you intend to look at any other
5 documents to respond to one of my questions, I would 12:37
6 appreciate you letting me know that.

7 And we would then have to talk to counsel
8 about what you're relying upon in answering those
9 questions. Does that make sense?

10 A Yes. 12:37

11 Q Let me turn you back to Figures 3A and 3B
12 of Exhibit 1001 of the '632 patent.

13 A Okay.

14 Q And what is your understanding of
15 element 12 in those two figures? 12:37

16 MR. ANGER: Objection, form.

17 BY MR. ARJOMAND:

18 Q Let me ask that question in a different
19 way.

20 Turning to Figures 3A and 3B of the '632 12:37
21 patent, Mr. Leinsing, do you see cap 12 in
22 Figures 3A and 3B?

23 A I see what the patent describes as a cap and
24 identifies it as Item 12.

25 Q Okay. And do you see that Figures 3A and 12:38

Page 42

1 3B reference an outer wall 24? 12:38

2 A I see what the patent describes as outer
3 wall 24 in Figure 3A and 3B, yes.

4 Q Okay. Great.

5 And would you understand that cap 12 -- 12:38
6 strike that.

7 Would a person of ordinary skill in the
8 art understand that Figures 3A and 3B show cap 12 as
9 being a cylindrical component?

10 MR. ANGER: Objection, form. 12:39

11 THE WITNESS: It would be generally we --
12 understood as a generally cylindrical component with
13 one capped end and one opened end.

14 BY MR. ARJOMAND:

15 Q Great. And would a person of ordinary 12:39
16 skill in the art understand that the capped end
17 would be shown in Figures 3A and 3B at the top of
18 the cylinder?

19 MR. ANGER: Objection, form.

20 THE WITNESS: The cap 12 would be -- would 12:40
21 have a cover or a top as shown in the Figures 3A and
22 3B on the top side of those figures.

23 BY MR. ARJOMAND:

24 Q And a person of ordinary skill in the art
25 would understand that cap 12's open end would be at 12:40

Page 43

1 the bottom side as shown in those figures; is that 12:40
2 correct?

3 A That's correct.

4 Q Okay. So, Mr. Leinsing, I would like you
5 to imagine a volume that's defined by the opened and 12:41
6 closed end of cap 12 and the outer wall 24. Can you
7 envision that volume?

8 MR. ANGER: Objection, form, foundation.

9 THE WITNESS: Well, that volume would be
10 different in both as far as depicted in Figures 3A 12:41
11 and 3B.

12 BY MR. ARJOMAND:

13 Q Let's start with Figure 3A. Can you --
14 strike that.

15 Would a person of ordinary skill in the 12:41
16 art understand that the capped and open end of
17 cap 12 -- strike that.

18 Would a person of ordinary skill in the
19 art understand that cap 12 has a volume defined by
20 the open and closed ends and outer wall 24? 12:42

21 MR. ANGER: Objection to form.

22 THE WITNESS: It would not -- a person of
23 skill in the art would not understand it as an
24 enclosed volume. It would be an open volume with
25 other components inside of it like a couple shape. 12:42

Page 44

1 Is it okay if we take a break? 12:43

2 MR. ARJOMAND: Absolutely. We've been
3 going a bit of time. I understand that you are a
4 couple of hours ahead of us on the West Coast here.
5 And I want to know if you want to have lunch or take 12:43
6 a longer break or do you want to take a shorter
7 break?

8 THE WITNESS: Yes, this is probably a good
9 time to take a longer break for lunch if that's
10 okay. I can say -- what time is it now, 12:43, so 12:43
11 come back at 1:15 or half hour?

12 MR. ARJOMAND: Yes. 1:15 your time works
13 for me. Does that work for you, Ben?

14 MR. ANGER: That sounds great.

15 THE VIDEOGRAPHER: This marks the end of 12:43
16 Media Unit 1 of the deposition of Karl R. Leinsing.
17 The time is 12:43 p.m. We're off the record.

18 (Recess taken.)

19 THE VIDEOGRAPHER: We are back on the
20 record at 1:17 p.m. This marks the beginning of 01:17
21 Media Unit 2 of the deposition of Karl R. Leinsing.
22 Please continue.

23 BY MR. ARJOMAND:

24 Q During your lunch break, did you confer
25 with counsel on the subject matter of your 01:17

1 testimony? 01:17

2 A No, I did not.

3 Q Before the lunch break, Mr. Leinsing, we

4 were discussing Figures 3A and 3B of Exhibit 1001.

5 Do you recall that? 01:18

6 A Yes.

7 Q And may I direct your attention to

8 Figure 3A of Exhibit 1001?

9 A Okay.

10 Q So in discussing Figure 3A, we were 01:18

11 focused on cap 12 in Figure 3A.

12 Do you see that?

13 A Yes.

14 Q And I believe your testimony was that a

15 person of ordinary skill in the art would understand 01:19

16 cap 12 to be cylindrical or generally cylindrical

17 with a closed end at the top and open end at the

18 bottom and outer wall 24 defining its side; is that

19 correct?

20 MR. ANGER: Objection, form, foundation. 01:19

21 THE WITNESS: I would say that it was 12

22 as an outer cylinder with a top and open on the

23 bottom and contains or has other features or parts

24 as described by the patent.

25

1 BY MR. ARJOMAND: 01:20

2 Q Okay. So I want to try to, for the next
3 series of questions, define the interior volume of
4 cap 12. I think it will make the questioning a lot
5 easier. So do you see at the -- strike that. 01:20

6 Do you see outer wall 24 in Figure 3A?

7 A I see where 24 points in Figure 3A, yes. I
8 don't agree that there's -- the a patent would define
9 an inner boundary as you're trying to do. I don't
10 think the specification speaks about that. 01:20

11 Q Okay. I understand what your position may
12 or may not be regarding an inner volume, but I'm
13 just trying to for the purposes of defining your --
14 defining the questioning to try to -- strike that.

15 I'm trying to, for the purposes of making 01:21
16 the questioning easier, define an inner volume so
17 that we can -- so I can ask questions easier and you
18 can hopefully answer them easier.

19 MR. ANGER: Objection, form.

20 THE WITNESS: I was not asked to define an 01:21
21 inner volume because the patent does not define an
22 inner volume.

23 BY MR. ARJOMAND:

24 Q Understood, Mr. Leinsing.

25 So going back to Figure 3A, outer wall 24, 01:21

Page 47

1 do you see that it has a bottom edge near annular 01:21
2 blocking member 62?

3 A I don't know which edge you're talking
4 about.

5 Q Well, I'm referring to the reference 01:22
6 number 62 in Figure 3A.

7 Do you see that?

8 A I see where 62 is pointing in Figure 3A,
9 yes.

10 Q And then right to the left of that is 01:22
11 outer wall 24.

12 Do you see that?

13 A Yes.

14 Q And do you see that there is a bottom
15 surface of outer wall 24 right between reference 01:22
16 number 24 and reference number 62?

17 A Again, I don't see a bottom surface.

18 Q You don't see a bottom surface of the
19 outer wall 24 in Figure 3A?

20 MR. ANGER: Objection, form. 01:23

21 THE WITNESS: Where are you pointing that
22 there is a bottom surface? It's open on the bottom
23 end of the cap shown in 3A.

24 BY MR. ARJOMAND:

25 Q I understand that, but I'm specifically 01:23

1 referring to outer wall 24, Mr. Leinsing. 01:23

2 Do you see that it ends at -- near
3 reference numeral 62?

4 A I don't understand what you mean it ends.
5 It's open, the edges of it end on the bottom but forms 01:23
6 an open end to the cap 12.

7 Q Okay. So would it be fair to say that
8 Figure 3A, specifically outer wall 24, has a bottom
9 edge?

10 A The patent does not describe or discuss any 01:24
11 bottom edge for Figure 3A or 3B.

12 Q Would a person of ordinary skill in the
13 art, Mr. Leinsing, in looking at Figure 3A,
14 specifically outer wall 24, understand that it has a
15 bottom edge? 01:24

16 A There would be a bottom edge to the cap.
17 Again, the patent does not talk about that particular
18 edge or having any significance.

19 Q Okay. So if you can imagine a horizontal
20 plane from the bottom edge of outer wall 24 in 01:25
21 Figure 3A on the left extending all the way to the
22 other bottom edge of outer wall 24 on the right.

23 Do you see that or can you imagine that
24 imaginary plane?

25 MR. ANGER: Objection, form, foundation. 01:25

Page 49

1 THE WITNESS: I can see where an imaginary 01:25
2 plane could be formed from that bottom edge of 24,
3 but that is not defined or specified in the patent
4 and it changes in the view 3B, so it's --

5 BY MR. ARJOMAND: 01:26

6 Q Mr. Leinsing I'm not talking about
7 Figure 3B, I'm talking about Figure 3A.

8 So I'm trying to make this deposition go
9 as quick as possible for everyone's benefit. So I
10 just ask you to focus on what I'm asking you. 01:26

11 I'm talking about Figure 3A and I'm just
12 trying to help us define an interior volume so we
13 can be able to ask and answer questions efficiently.

14 So I'm directing you again to Figure 3A.
15 Would a person of ordinary skill in the art 01:26
16 understand an imaginary horizontal plane extending
17 from bottom edge of outer wall 24 in Figure 3A on
18 the left all the way to outer wall 24 bottom edge on
19 the right?

20 A So again, to respond to your narrative, I 01:27
21 don't agree because the patent does not define an
22 interior volume in the cap 12. But you're trying to
23 create or define something that's not defined in
24 patent '632.

25 But to the extent that 24, although 01:27

Page 50

1 variable and inconsistent in the patent, has a 01:27
2 continuous flat ring edge, it could form an
3 imaginary plane, but which was not defined or
4 discussed by the patent.

5 Q Okay. So I want to define the interior 01:27
6 volume of cap 12 as being based on that imaginary
7 plane that we just discussed, the side outer wall 24
8 and the top of cap 12.

9 Do you understand what I mean by "inner
10 volume" if I mention that going forward? 01:28

11 MR. ANGER: Objection to form and
12 foundation.

13 THE WITNESS: Again, it's improper to
14 define a volume of space that was not discussed or
15 defined by the patent. 01:28

16 But I understand that you're trying to
17 create something that the patent does not discuss in
18 such a volume of space that would be open with other
19 features as discussed by the patent.

20 BY MR. ARJOMAND: 01:28

21 Q Mr. Leinsing, does a cup have a volume?

22 A It would have a volume with an opening at
23 the top of the cup. I described I think cap 12 as
24 being cup like.

25 Q Okay. Going back to what I had defined as 01:29

Page 51

1 the interior volume of cap 12, would a person of 01:29
2 ordinary skill in the art in looking at Figure 3A
3 understand that annular blocking member 62 and the
4 component that's referenced by reference numeral 18
5 to be entirely within that inner volume? 01:29

6 A No.

7 Q Why is that, Mr. Leinsing?

8 A Because the 18 would lie on the imaginary
9 plane that you created that is not discussed in the
10 patent and in order for it to be entirely within, it 01:30
11 would need to be inside, not on the boundary defined
12 by your imaginary plane.

13 Q Turning to Figure 3B, do you see cap 12
14 shown in Figure 3B?

15 A Yes, which is not the same cap or is 01:30
16 identified as the same cap but is shown and drawn
17 differently and inconsistently to the cap in 3A.

18 Q So if we were to define the interior
19 volume in -- strike that.

20 If we were to define the interior volume 01:31
21 of cap 12 in Figure 3B in the same manner based on
22 that imaginary plane extending from one edge of the
23 outer wall 24 to the other edge, the side walls of
24 cap 12 and the top end of cap 12, would the annular
25 blocking member 62 and the component that is 01:31

Page 52

1 referenced numeral 18 be entirely within that 01:31
2 volume?

3 MR. ANGER: Objection, form, foundation.

4 THE WITNESS: The patent does not discuss
5 that particular volume or any importance to that 01:32
6 annular valve.

7 And based on the fact that it's
8 inconsistent with 3A, a person of skill in the art
9 would not be able to identify any particular
10 location of the components in that manner. 01:32

11 BY MR. ARJOMAND:

12 Q So your position is that a person of
13 ordinary skill in the art looking at Figure 3B and
14 considering what we've defined as the inner volume
15 of the cap would not understand annular blocking 01:33
16 member 62 and the component that's referenced by
17 reference numeral 18 to be entirely within that
18 block?

19 MR. ANGER: Objection to form.

20 THE WITNESS: The way you describe it, 01:33
21 that would be the case, it would be inside but the
22 specification does not talk about any significance
23 of that.

24 And knowing that are the two figures there
25 side by side are quite different, it would not teach 01:33

Page 53

1 to a person of skill in the art any significance or 01:33
2 be able to determine any particular position or
3 requirement of position or written specification,
4 knowledge of an invention identifying the position
5 of such a valve on an interior space. 01:34
6 BY MR. ARJOMAND:
7 Q So you mentioned in your previous answer
8 the word "inside." Do you understand "inside" and
9 "entirely within" to be synonyms?
10 MR. ANGER: Objection to form and 01:34
11 foundation.
12 THE WITNESS: I was not asked to identify
13 those two terms. I would have to think about that.
14 BY MR. ARJOMAND:
15 Q What is your understanding, Mr. Leinsing, 01:34
16 as you sit here today of the term "entirely within"?
17 A If something is entirely within, then it
18 would be completely within a defined boundaries of a
19 device.
20 And in the '632 patent, there were no 01:35
21 defined boundaries for the annular valve or any
22 significance to it being either within such
23 boundaries.
24 BY MR. ARJOMAND:
25 Q Mr. Leinsing, taking a look at Figure 3A, 01:36

Page 54

1 specifically cap 12, how would a person of ordinary 01:36
2 skill in the art understand its defined boundaries
3 to be?

4 MR. ANGER: Objection to form.

5 THE WITNESS: A person of skill in the art 01:36
6 wouldn't look at or need to determine any
7 boundaries, it's not important to what I understand
8 the '632 invention to be. It's talking about a cap
9 with an annular valve on the inside that could be
10 shaped of different sizes and volume as the 01:36
11 specification discusses.

12 It actually talks about quite large
13 volumes, in fact. I believe it's in a range of 3 to
14 10 milliliters. So a person of skill in the art
15 would not understand any requirement or significance 01:36
16 to any boundaries.

17 BY MR. ARJOMAND:

18 Q So, Mr. Leinsing, as you sit here today,
19 what would you say are the defined boundaries of
20 Figure 3A, specifically the cap -- let me ask you 01:37
21 that again. Let me ask you differently.

22 As you sit here today, Mr. Leinsing, if
23 you were to define the boundaries of cap 12 in
24 Figure 3A, what would they be?

25 MR. ANGER: Objection, form. 01:37

Page 55

1 THE WITNESS: It would be unknown. The 01:37
2 patent does not define any boundaries or talk about
3 boundaries for the cap, because it's not important
4 to what the invention is claiming or specifying.

5 BY MR. ARJOMAND: 01:37

6 Q So is it your position, Mr. Leinsing, that
7 a person of ordinary skill in the art looking at
8 Figure 3A would not be able to identify the
9 boundaries of cap 12?

10 MR. ANGER: Objection, form. 01:38

11 THE WITNESS: I don't see why a person of
12 skill in the art would need to, nor do I see the
13 specification discussing boundaries or any
14 importance of the boundaries particularly for the
15 reasons I mention in my declaration with the 01:38
16 inconsistencies in Figure 3A to 3B along with the
17 inconsistencies to the figures' hand sketches in the
18 provisional.

19 BY MR. ARJOMAND:

20 Q Let me ask the question again because I 01:38
21 don't think I got your answer, Mr. Leinsing.

22 Is it your position, Mr. Leinsing, that a
23 person of ordinary skill in the art looking at
24 Figure 3A would not be able to identify the
25 boundaries of cap 12? 01:39

1 MR. ANGER: Objection, form. 01:39

2 THE WITNESS: I don't understand, again,
3 why a person would need to define the boundaries,
4 nor does the specification talk about the
5 boundaries. And I don't think they could, outside 01:39
6 the scope of the '632 patent, define those
7 boundaries since the drawings are inconsistent.

8 Looking at 3A and 3B next to each other,
9 the cap is drawn differently. How do you define
10 boundaries on something that are not the same? 01:39

11 BY MR. ARJOMAND:

12 Q So, Mr. Leinsing, I was directing your
13 attention to Figure 3A and I'm asking you a specific
14 question. I'll ask you one more time and I would
15 appreciate an answer to my question. 01:39

16 So would a person of ordinary skill in the
17 art looking at Figure 3A be able to define the
18 boundaries of cap 12?

19 MR. ANGER: Objection.

20 THE WITNESS: So a person of skill in the 01:40
21 art reviewing a patent figure would look at the
22 patent figure in view of the specification,
23 including the claims and other figures.

24 And my answer stands that, first of all, a
25 person of skill in the art would not need to define 01:40

Page 57

1 boundaries. It doesn't have any dimensions, it's 01:40
2 different from the other figures, so I wouldn't look
3 at it in a vacuum especially since it's called
4 Figure 3A, 3A means there might be at least a B and
5 possibly a C. 01:40

6 You look to the other figures and it would
7 be inconsistent and you would not able to determine
8 any specific boundaries that would matter or be
9 relevant to the invention.

10 BY MR. ARJOMAND: 01:40

11 Q So a person of ordinary skill in the art
12 looking at Figure 3A would not be able to identify
13 that cap 12 has a top boundary; is that correct?

14 MR. ANGER: Objection, form, foundation.

15 THE WITNESS: If you look at 3A in a 01:41
16 vacuum or you wouldn't see that it has the top
17 surface and you could call that a boundary, but the
18 patent is not specifically defining boundaries or
19 what the significance of those boundaries would be.

20 BY MR. ARJOMAND: 01:41

21 Q So is it your understanding that a person
22 of ordinary skill in the art looking at Figure 3A
23 would not be able to identify the top surface of
24 cap 12 being a boundary?

25 A Again, in a vacuum you can see the top 01:41

1 closed surface or the top portion of the cap 12, but 01:41
2 there would be -- there is no discussion of that
3 boundary or any other boundary having any significance
4 to the invention.

5 Q Mr. Leinsing, I'm not asking about 01:42
6 significant.

7 I'm asking about whether a person of
8 ordinary skill in the art picking up Figure 3A and
9 Figure 3B in the '632 patent and looking at those
10 two figures, would they be able to identify that 01:42
11 cap 12 has a top boundary or not?

12 A Again, you're asking a question beyond what
13 the specification teaches. So the figures in the
14 patent give you a general idea or proportions of a
15 single embodiment, you know. 01:42

16 If you look at 3A, you can see a
17 particular boundary, but that invention -- that
18 particular surface could take different shapes
19 according to the invention.

20 And then we can see that the whole 01:43
21 boundaries to that volume you're trying to identify
22 is different in the different figures. So it would
23 be improper to try to determine boundaries to
24 something that's not specified or isn't consistent.

25 Q So, Mr. Leinsing, I'm not talking about 01:43

1 proportions. I'm just talking about boundaries. 01:43

2 And I'm asking you one more time.

3 Would a person of ordinary skill in the
4 art taking a look at Figures 3 and 3B of the '632
5 patent be able to identify that cap 12 has a top 01:43
6 boundary?

7 MR. ANGER: Objection, form. Objection,
8 foundation.

9 THE WITNESS: I think I've answered your
10 question. 01:43

11 BY MR. ARJOMAND:

12 Q Mr. Leinsing, earlier today you testified
13 that cap 12 has a cup shape. Do you recall that
14 testimony?

15 A Yes. 01:44

16 Q So let me ask you a hypothetical.

17 If you were to fill a cup with liquid such
18 that the liquid goes all the way to the lip of the
19 cup, would you say the liquid is entirely within the
20 volume of the cup? 01:45

21 MR. ANGER: Objection, form.

22 THE WITNESS: I was not asked to analyze
23 that. I would have to look at that. There would be
24 surface tension of the liquid on the edges.

25 It's not -- I think that is outside the 01:46

Page 60

1 scope of the '632 patent. 01:46

2 BY MR. ARJOMAND:

3 Q What is your answer, Mr. Leinsing, to my
4 question?

5 A I just gave you my answer. 01:46

6 Q Is it that you don't know?

7 MR. ANGER: Objection to form.

8 THE WITNESS: I would have to think about
9 that and how the liquid would form in the cup and
10 what the surface tension was of the edges and look 01:46
11 at whether or not any sort of meniscus effect would
12 have on that. I was not asked to consider that.

13 BY MR. ARJOMAND:

14 Q Mr. Leinsing, I'm not asking you about
15 meniscus effects in my hypothetical. 01:47

16 I'm just asking you about a cup that's
17 filled with liquid all the way to its top lip, in
18 that situation would the liquid be entirely within
19 the cup or the volume of the cup?

20 MR. ANGER: Objection to form, lacks 01:47
21 foundation, incomplete hypothetical.

22 THE WITNESS: I have not done that test.
23 I don't know whether or not you could even do that.

24 BY MR. ARJOMAND:

25 Q Okay. Mr. Leinsing, that's fine. 01:47

Page 61

1 lip, would that liquid be entirely within the volume 01:49
2 of the cup?

3 MR. ANGER: Objection to form. Objection,
4 foundation. Objection, incomplete hypothetical.

5 THE WITNESS: Again, I did not do that 01:49
6 test, I don't want to speculate what that would be.

7 I answered the question on what I think
8 would entirely be within as a person of ordinary
9 skill would understand it.

10 And as I explain it in Figures 3A and 3B, 01:50
11 I would need to test it for a cup, I would need to
12 know the liquid, I would need to know the surface
13 tension of the cup.

14 But to try and answer your question
15 better, you would need to be within all of the 01:50
16 boundaries without being on the boundaries to be
17 entirely within the boundaries.

18 But the '632 patent does not discuss any
19 kind of boundaries nor any significance to them and
20 draws them inconsistently. 01:50

21 BY MR. ARJOMAND:

22 Q So continuing with my hypothetical,
23 Mr. Leinsing, with the cup.

24 Let's put aside a liquid. Let's imagine
25 you filled the cup with sand. If you filled that 01:50

Page 63

1 cup all the way to the top with sand such that it's 01:50
2 right at the lip of the cup, would you understand
3 the sand to be entirely within the cup?

4 MR. ANGER: Objection to form.

5 THE WITNESS: I would say that it would be 01:51
6 in the cup with exposure and presence on the open --
7 on the opening of the cup.

8 BY MR. ARJOMAND:

9 Q Would the sand be entirely within the cup,
10 Mr. Leinsing? 01:51

11 MR. ANGER: Objection to form.

12 THE WITNESS: I would not say it would be
13 entirely within the way we -- or the way the patent
14 owner is trying to define entirely within. Because
15 you would have a surface of the sand that would be 01:52
16 exposed to the atmosphere or to the outer
17 boundaries. So you wouldn't -- I don't think you
18 would say that.

19 But again, you're asking me something that
20 I wasn't asked to analyze, and I would need to think 01:52
21 about my answer more.

22 BY MR. ARJOMAND:

23 Q I guess I'm not sure I follow your answer,
24 Mr. Leinsing.

25 What does being exposed to the atmosphere 01:52

Page 64

1 have to do with whether the sand is either within or 01:52
2 outside of the volume of the cup?

3 A Because when I look at something that's
4 being entirely within something, it's inside or
5 enclosed within a defined boundary. 01:53

6 And the '632 patent did not define such a
7 boundary, nor does your example have a complete
8 boundary.

9 There is an opening at one end.

10 Q So you would understand, Mr. Leinsing, 01:53
11 that a cup has a volume; right?

12 A Yes.

13 Q And you would understand that that cup has
14 a volume; is that correct?

15 A Yes. 01:53

16 Q And you would understand that that volume
17 to be open -- strike that.

18 You would understand that cup to be open
19 at one end; is that correct?

20 A That's correct, it would be open with no 01:54
21 boundary at one end.

22 Q Right. So if you were to fill that cup
23 with sand all the way up to that open end, would you
24 understand that that sand would be entirely within
25 the volume of the cup? 01:54

Page 65

1 A It would not be within a bounded -- a 01:54
2 defined bounded area of the cup because there is no
3 boundary on one opening of the cup.

4 Q You don't believe a cup has a defined
5 boundary, Mr. Leinsing? 01:54

6 A Well, I mean, that's the whole point here,
7 right, the '632 does not define a boundary.

8 Q I'm asking you, Mr. Leinsing, do you
9 believe a cup has a defined boundary or not?

10 A I think it depends on the cup. It would 01:55
11 have a defined volume that it would hold something,
12 but it would have an open end to the cup. So it would
13 not have a boundary to one surface of the cup.

14 Q Okay. I'm going to give you one more
15 opportunity to answer my hypothetical question 01:56
16 before I move on. I feel like in the back and
17 forth, you have not answered my question. I'm going
18 to ask it to you one more time.

19 If you were to take a cup and fill it with
20 sand all the way to its top lip, would that sand be 01:56
21 entirely within the volume of the cup?

22 MR. ANGER: Objection to form.

23 THE WITNESS: You could say it was in the
24 entirety of the volume of the cup and not entirely
25 within a defined boundary of the cup. 01:57

1 And the cup is a singular thing that 01:57
2 you're discussing. The patent does not define any
3 kind of volume or define any kind of boundaries to
4 then try to make claim to other features in relation
5 to those boundaries. 01:57
6 BY MR. ARJOMAND:
7 Q All right. Let me turn you back to the
8 '632 patent, Mr. Leinsing.
9 A Okay.
10 Q Let me direct your attention to Figures 3A 01:57
11 and 3B.
12 A Okay.
13 Q Putting aside the specification of the
14 '632 patent, do you think a person of ordinary skill
15 in the art would be able to -- strike that. 01:58
16 MR. ARJOMAND: Can we take a quick
17 five-minute break?
18 MR. ANGER: That's fine by me. Karl, are
19 you okay?
20 THE WITNESS: Yes. 01:59
21 THE VIDEOGRAPHER: Going off the record.
22 The time is 1:59 p.m.
23 (Recess taken.)
24 THE VIDEOGRAPHER: Back on the record.
25 The time is 2:07 p.m. 02:07

Page 67

1 BY MR. ARJOMAND: 02:07

2 Q Mr. Leinsing, during the break did you
3 discuss the subject matter of your testimony with
4 Mr. Anger?

5 A No, I did not. I went to the bathroom. 02:07

6 Q Okay. So, Mr. Leinsing, taking a look
7 again at Figures 3A and 3B of Exhibit 1001 of the
8 '632 patent, do you have those in front of you?

9 A Yes.

10 Q Okay. Great. And putting aside the 02:08
11 specification of the '632 patent, do you think that
12 Figures 3A and 3B would provide a description of the
13 invention to a person of ordinary skill in the art?

14 MR. ANGER: Objection to form, foundation.

15 THE WITNESS: No. 02:08

16 BY MR. ARJOMAND:

17 Q Let me ask you this question,
18 Mr. Leinsing: Do you believe a figure of a patent
19 on its own can provide a description of an invention
20 to a person of ordinary skill in the art? 02:09

21 MR. ANGER: Objection to form and
22 foundation.

23 THE WITNESS: I think it can sometimes,
24 but I have particular experience with the types of
25 valves discussed in the '632 and I don't think 02:09

Page 68

1 Figure 3A or 3B depict an invention to me alone. 02:09

2 BY MR. ARJOMAND:

3 Q Just taking a look at Figures 3A and 3B,
4 do you think that person of ordinary skill in the
5 art would understand that they disclose a valve? 02:09

6 MR. ANGER: Objection to form.

7 THE WITNESS: No, they don't. I think
8 I've mentioned those reasons before. Particularly
9 the threads between the Item 62 and 18 would be
10 difficult to impossible to form a seal, so I would 02:10
11 want to read further how they achieve that.

12 BY MR. ARJOMAND:

13 Q Would you say a person of ordinary skill
14 in the art looking at Figures 3A and 3B would say
15 that they disclose a cap encompassing a valve? 02:10

16 MR. ANGER: Objection to form.

17 THE WITNESS: No, I would not say that
18 either for the reasons I mentioned.

19 BY MR. ARJOMAND:

20 Q Would you say a person of ordinary skill 02:10
21 in the art looking at Figures 3A and 3B would say
22 that they disclose a cap?

23 A I think it would depend on how you define
24 cap.

25 Q Would you say a person of ordinary skill 02:11

Page 69

1 in the art looking at Figures 3A and 3B understand 02:11
2 that they disclose an annular blocking member?

3 MR. ANGER: Objection to form, lacks
4 foundation.

5 THE WITNESS: I don't think a blocking 02:12
6 member would be a term of art. And again, in
7 looking at it alone, a person of skill in the art
8 wouldn't understand any kind of blocking member to
9 the aperture 22 or the vent 22.

10 I'm not even sure -- I think it talks 02:12
11 about aperture 22, because it would not block that
12 aperture due to the threads around it. It would not
13 be fully understood alone just looking at the
14 figures.

15 BY MR. ARJOMAND: 02:12

16 Q Do you think a person of ordinary skill in
17 the art looking at Figures 3A and 3B of Exhibit 1001
18 understand they disclose two cylinders, one being
19 labeled with reference number 62 and the other being
20 labeled with reference number 18? 02:13

21 MR. ANGER: Objection to form, foundation
22 and incomplete hypothetical.

23 THE WITNESS: No, I don't look at either
24 of them as a cylinder. I look at 62 as some kind of
25 ring that I am not fully enabled or able to 02:13

Page 70

1 understand without looking at the specification. 02:13

2 And then I would understand 18 as being a
3 some kind of cylinder with end -- with end caps and
4 then I wouldn't understand how you would make that
5 enclosed feature as one part. 02:14

6 BY MR. ARJOMAND:

7 Q So you don't understand, Mr. Leinsing, a
8 ring to be a cylinder?

9 MR. ANGER: Objection, lacks foundation.

10 THE WITNESS: Well, do you ever call the 02:14
11 ring on your finger a wedding cylinder?

12 BY MR. ARJOMAND:

13 Q I'm asking the questions here,
14 Mr. Leinsing.

15 A That's my answer. I mean, to a person of 02:14
16 skill in the art, when you have a certain length to
17 it, you consider it a ring and a person of skill in
18 the art would understand that to be a ring, which is
19 why I think some art that's similar to the '632 patent
20 are called ring valves. 02:15

21 Q So you don't understand that -- strike
22 that.

23 Do you believe a ring would be encompassed
24 within the definition of cylinder?

25 A I think you could say a ring is a short 02:15

Page 71

1 cylinder, but as a person of ordinary skill in the 02:15
2 art, we understand what a ring is without saying short
3 cylinder.

4 Q Turning back to Figures 3A and 3B of
5 Exhibit 1001, would they show to a person of 02:15
6 ordinary skill in the art a vent?

7 A No, without reading the specification, you
8 would not understand that this would even have a vent.
9 You wouldn't know what that rectangular shape 22 is
10 without reading it. 02:16

11 Q You would not understand that in
12 relationship to Figure 3A and 3B, that the material
13 in chamber 20 is being discharged through vent 22?

14 MR. ANGER: Objection to form.

15 THE WITNESS: No. First of all, this line 02:16
16 of questioning is improper because a person of skill
17 in art would not look at figures in a vacuum absent
18 the claims and specification of the patent,
19 including the file history.

20 But regardless, the little speckles in 02:17
21 Figure 3B do not depict themselves from emanating
22 from 22, they show themselves going through a bottom
23 wall.

24 BY MR. ARJOMAND:

25 Q Just so that I have it correct, 02:17

1 Mr. Leinsing, you believe that a person of ordinary 02:17
2 skill in the art would have at least bachelor's
3 degree in mechanical engineering, biomedical
4 engineering or similar technical degree and at least
5 three years of experience in the medical device 02:18
6 industry, including experience with containers and
7 valves used in disposable medical devices?

8 A Can you tell me where you're reading? I
9 assume you're reading my definition of a person of
10 ordinary skill in the art? 02:18

11 Q Yes, I can stipulate that I just read a
12 portion of that in Paragraph 52 of your
13 Exhibit 1002.

14 That's how you're defining a person of
15 ordinary skill in the art; is that correct, 02:18
16 Mr. Leinsing?

17 A You said a portion, so it would be all of
18 what I said in Paragraph 52 of my declaration or
19 Exhibit 1002.

20 Q Okay. Great. 02:18

21 A But again, my opinions do not differ
22 regardless of either definition, the opposing expert's
23 or mine.

24 Q Okay. Understood. So, Mr. Leinsing, you
25 have had experience with injection molding 02:19

Page 73

1 techniques; is that correct? 02:19

2 A That's correct.

3 Q Can you briefly describe what your
4 experience with injection molding techniques is?

5 A I have experience with injection molding 02:19
6 going all the way back to 1992 of medical devices
7 going from single-cavity tools to multi-cavity tools
8 up to 64 cavities of all different types of polymers
9 and elastomers.

10 Q That experience with injection molding 02:20
11 techniques continues to this day; is that right,
12 Mr. Leinsing?

13 A Yes, that's correct.

14 Q And I don't think we discussed the
15 priority date that you utilized for your analysis in 02:20
16 this proceeding.

17 Do you recall what date you utilized to
18 conclude that the claims or the substantive claims
19 are unpatentable in view of the prior art?

20 Are you looking at your previous 02:21
21 declarations in this proceeding, Mr. Leinsing?

22 A Yes, I'm looking at both.

23 Q Okay.

24 A I believe the priority date is June 19th,
25 2011. 02:22

Page 74

1 Q Okay. Is that the date you used in your 02:22
2 analysis in your two declarations, Exhibit 1001 and
3 Exhibit 1027 -- strike that, Exhibit 1002 and
4 Exhibit 1027?

5 A Yes, that's the date I used for my analysis. 02:23
6 I don't know whether there's any other legal disputes
7 on that, on that priority date.

8 Q Okay. Now, would it be fair to say,
9 Mr. Leinsing, that you had knowledge of injection
10 molding techniques as of the priority date of 02:23
11 January -- strike that, of June 2011?

12 A Yes, that's correct. I think I mentioned in
13 my answer I have experience since 1992.

14 Q Okay. So, Mr. Leinsing, would it be fair
15 to say that as of the priority date, the cost of 02:24
16 injection molding apart increases as the number of
17 parts increases?

18 MR. ANGER: Objection form, foundation.

19 THE WITNESS: So can you repeat that
20 question, please? 02:24

21 BY MR. ARJOMAND:

22 Q Sure. Would it be fair to say that as of
23 the priority date, the cost of injection molding a
24 part increases as the number of parts increases?

25 MR. ANGER: Same objections. 02:24

Page 75

1 BY MR. ARJOMAND: 02:24

2 Q Let me ask it a little different way.

3 A Yes.

4 Q Would it be fair to say as of the priority
5 date, the cost of injection molding a part as part 02:24
6 of an assembly increases as the number of parts
7 increases in the assembly?

8 A I don't understand your question because
9 you're saying singular part and then you're saying
10 parts plural in an assembly, so I'm confused by your 02:25
11 question.

12 Q Okay. Yes, let me try to ask the question
13 in yet another way to help you out.

14 Does the cost of injection molding
15 increase as the number of parts in a given assembly 02:25
16 increases?

17 MR. ANGER: Objection, form, foundation.

18 THE WITNESS: I think that would depend.
19 You could do a family mold and just add another
20 part, even a different part within the same mold. 02:25

21 So it would be -- yes, it all depends.

22 BY MR. ARJOMAND:

23 Q So what would be the factors in
24 determining whether the cost of injection molding
25 would increase based on the number of parts in a 02:26

Page 76

1 given assembly? 02:26

2 MR. ANGER: Objection, form.

3 THE WITNESS: Well, it would be the volume
4 of parts, how fast you can mold the parts, whether
5 you use my process called decoupled or FACT molding, 02:26
6 it's capital FACT for fast, accurate, consistent,
7 tight-tolerance molding.

8 Whether or not those parts could be molded
9 together as a unitary structure, whether you use two
10 different mold, a singular mold, what the materials 02:26
11 are for each part, do the materials differ, it
12 depends.

13 BY MR. ARJOMAND:

14 Q Anything else that you can think of as you
15 sit here today? 02:27

16 A I mean, there is a lot of different factors.
17 I would have to look at a specific case or assembly to
18 really fully answer that question.

19 Q But as you sit here today, you cannot
20 think of any other factors that would impact the 02:28
21 cost of injection molding a part?

22 A I can think of a lot of factors sitting here
23 today, but it would be very general. I mean, the
24 molder you choose, the material of the mold, how long
25 you want the mold to last, the cavitation of the mold, 02:28

Page 77

1 the types of materials you choose, can they be medical 02:28
2 grade or not medical grade. Are they going to be
3 sterilized, which kind of sterilization, E-beam,
4 radiation sterilization. Is the material sensitive to
5 drying, do I need to do a hot runner mold, can I do a 02:28
6 cold runner mold? What is the capital expenditure
7 before to reduce the cost of the mold, the processing
8 involved.

9 Again, what materials are being used, what
10 is the constituents of drugs to be exposed to that 02:28
11 chooses that dictates the material you use.

12 There's all kinds of factors that go into
13 parts and components and you try to make that easier
14 for manufacturing and often you can combine multiple
15 parts into a single part. And it's the general 02:29
16 concept of design.

17 Often engineers will design something and
18 then the molder will then redesign it so that it
19 becomes moldable, as we discussed even with the
20 '632, the reagent chamber would not be moldable. 02:29

21 Q So let me ask you to consider a given part
22 that has a number of features.

23 So would you understand that the cost of
24 injection molding would increase as the number of
25 features for that part increases? 02:30

1 MR. ANGER: Objection to form, foundation, 02:30
2 relevance.

3 THE WITNESS: I would need to look at a
4 particular case. You could add lots of different
5 features and not impact the cost of injection 02:30
6 molding.

7 You can add textures or surface finishes,
8 make a -- put a little boss on one side, put a rib
9 on the other or not put a rib. You could put a hole
10 in it and it wouldn't impact the cost of injection 02:30
11 molding. In some cases it can increase the cost of
12 molding. If you make a difficult section of the
13 cost like a sharp edge or sharp point that can't be
14 molded, it increases the cost of processing.

15 Things like that are all factors that you 02:31
16 would need to consider.

17 BY MR. ARJOMAND:

18 Q So as of the priority date in 2011, in
19 your opinion, what would increase the costs for
20 injection molding parts? 02:31

21 MR. ANGER: Objection, relevance.

22 Sorry, Karl, go ahead.

23 THE WITNESS: It would be the size of the
24 part, how much plastic it would use, the processing
25 time, things like filling small cannulas or sharp 02:31

Page 79

1 edges take longer to fill, which it's all about 02:31
2 cycle time when you're making molded parts.

3 The amount of time it takes to close the
4 mold, inject the plastic, cool the plastic, open the
5 mold, you check the parts and then how much waste 02:31
6 there is involved with the runners.

7 It really depends, but the processing or
8 difficult features of a part will really increase
9 cycle time and cycle time is a very big factor in
10 the molding cost. 02:32

11 BY MR. ARJOMAND:

12 Q So you mentioned the size of the part. Is
13 it the case that the bigger the part is, the more
14 expensive the injection molding will be?

15 A Only for the material cost because you have 02:32
16 to pay for the material and the bigger the part, the
17 longer the cycle time, but there's other factors that
18 I would need to look at and I would need to look at a
19 particular part to be able to answer that question.

20 You can't really make a general statement 02:32
21 like that. There's some parts that can be made that
22 are quite large and you can make them out of
23 recycled plastic, for example, and it would be very
24 inexpensive or it could be made very thin walled and
25 be made inexpensive. So it really depends. 02:33

Page 80

1 Q So I believe you previously testified that 02:33
2 it would be difficult to injection mold in sharp
3 features; is that correct?

4 A That's correct. One of my best inventions
5 I'm the most proud of was the result of a plastic 02:33
6 engineer saying, you need to come up with something
7 that doesn't mold a sharp cannula or a long cannula.

8 So I went home and thought of how I can do
9 that. Took a shower the next morning and in the
10 shower, I created a billion-dollar invention by 02:34
11 eliminating a cannula or a sharp feature within the
12 device.

13 Q I appreciate all of these homey stories,
14 Mr. Leinsing.

15 Let me just ask you: Are there any other 02:34
16 features that you think would be difficult to
17 injection mold as of the priority date, 2011?

18 MR. ANGER: Objection, form, lacks
19 foundation, incomplete hypothetical, relevance.

20 THE WITNESS: Yes, I think that's very 02:34
21 part specific. It depends on the materials, the
22 parts, the design, medical device.

23 I assume you're asking medical device.
24 That's just a very general question.

25 Over molding can be difficult, sharp 02:34

1 features, long, thin features, features that go 02:34
2 thick to thin or variable wall thickness can be
3 difficult.

4 I would need to see a specific device to
5 answer that question. 02:35

6 BY MR. ARJOMAND:

7 Q So you state that it's very part specific.
8 So would it be your testimony that in certain
9 situations, a sharp feature might not be difficult
10 to injection mold? 02:35

11 A I cannot think of an instance where a sharp
12 feature would not be difficult to mold.

13 Q That's what I was trying to get at with my
14 last question.

15 Are there any -- 02:35

16 A You were? That was not what your question
17 was at all.

18 Q Okay. I appreciate that. I was trying to
19 make sure that --

20 A If that was, I did not understand the 02:35
21 question to be that way at all. So if you want to
22 repeat that and strike my answer.

23 Q There is no need to strike your answer.
24 We'll try to make the record clear, Mr. Leinsing.

25 So it sounds like from your testimony 02:36

Page 82

1 sharp features are difficult to injection mold sort 02:36
2 of regardless of context; is that fair?

3 MR. ANGER: Objection, form, lacks
4 foundation.

5 THE WITNESS: I don't think that's fair 02:36
6 because it would depend on context. It depends
7 on -- you can have a sharp -- like a corner on
8 something, but not a sharp spike as, say, for
9 example, the Plante reference is talking about as
10 something long and sharp. I would need to see the 02:36
11 particular application.

12 BY MR. ARJOMAND:

13 Q So I guess I am a little confused,
14 Mr. Leinsing.

15 Are sharp features difficult to injection 02:36
16 mold, full stop?

17 MR. ANGER: Same objections.

18 THE WITNESS: So you can have a sharp
19 corner -- the reason your question is not phrased
20 properly is because you can have a sharp corner to a 02:37
21 very thick piece of plastic, but to have a sharp,
22 long, thin feature as required to make a sharp as
23 disclosed by, for example, the Plante reference,
24 those and just about every context I can think of
25 would be difficult to mold. 02:37

Page 83

1 BY MR. ARJOMAND: 02:37

2 Q Okay.

3 A Sometimes impossible. You just can't fill
4 them either at all or they are very difficult to fill.

5 Q So is there any other feature that you can 02:37
6 think of that would be difficult to injection mold
7 regardless of context?

8 MR. ANGER: Objection to form.

9 THE WITNESS: Can you say that again?

10 BY MR. ARJOMAND: 02:38

11 Q Yes. Is there any other feature that you
12 can think of that would be difficult to injection
13 mold regardless of context?

14 A No, I cannot answer that question. That's
15 way too broad and -- sorry, I can't answer that. 02:38

16 I mean, if you want to talk about over
17 molding something, that can be difficult or costly
18 to add, that would always or more likely would
19 always be more money than not over molding
20 something. 02:39

21 That would probably be the closest, but
22 again, I would need to see a specific application
23 part or patent to analyze it. I'm sure there's
24 others.

25 Q Yes, I guess that's what I was trying to 02:39

Page 84

1 get at, Mr. Leinsing. You've identified that sharp 02:39
2 features, maybe except for the example you gave
3 about a sharp corner, are in your opinion difficult
4 to injection mold.

5 I'm just wondering if there are any other 02:39
6 features that would fall into the same category of
7 sharp features that you've testified about?

8 A Well, you're putting them in the same
9 category, sharp features are sharp features and as I
10 mentioned in the literature I presented in my 02:39
11 exhibits, those present their own unique problems.

12 There are other features that are also
13 listed in that literature that I have included in my
14 declaration that are difficult to mold and that's
15 going from thick to thin to thick again on parts. 02:40
16 That's a common no-no with plastic molding.

17 Molding inside sharp corners can be
18 problematic and cause stress or cracking.

19 They are all different categories of
20 difficulties that are all -- or many are described 02:40
21 within that literature I've presented.

22 Q Okay. As you sit here today, can you
23 think of any other, quote/unquote, no-nos?

24 A I mentioned a few and the rest would speak
25 for themselves in that literature I presented. And 02:40

1 I -- 02:40

2 Q But you cannot think of any other,

3 quote/unquote, no-nos as you sit here today?

4 A Well, I could think of maybe a few more, but

5 they would be likely out of context. 02:40

6 Q Maybe you could just edify us briefly.

7 MR. ANGER: Objection to form.

8 THE WITNESS: Well, it depends on where

9 you put a gate and a part. You can't put a gate

10 like in the middle of a living hinge, you would need 02:41

11 to make sure the flow, the plastic living flow in

12 the living hinge goes in line with the hinge so that

13 the living hinge doesn't crack or fracture after

14 you've opened up the cover multiple times.

15 You can't do undercuts of more than 02:41

16 three-thousandths of an inch. That's kind of a

17 no-no, but that exception can be -- there's probably

18 exceptions to that rule, but as the general rule,

19 undercuts are not favorable in molding and the list

20 goes on and on. 02:42

21 There is a whole book of I think 400, 500

22 pages of plastic mold design.

23 And we work hard to eliminate those to

24 improve the cost and processability. In medical

25 devices, you can't have a single failure. A lot of 02:42

Page 86

1 people just don't realize like one of my parts has 02:42
2 been made nearly a billion times and if a single one
3 leaks, a person dies.
4 So you do everything you can to make sure
5 that every part is made at the highest quality 02:42
6 possible.
7 MR. ARJOMAND: Let me introduce what's
8 been previously marked as Exhibit 1014.
9 (Whereupon, Exhibit 4 was marked for
10 identification.) 04:20
11 BY MR. ARJOMAND:
12 Q Let me know when you see Exhibit 1014 in
13 Exhibit Share as displayed on your computer monitor.
14 A Okay.
15 Q You mentioned in your previous testimony 02:44
16 Injection Molding textbook or Handbook.
17 Do you recall that?
18 A Yes.
19 Q And were you referring to Exhibit 1014,
20 Mr. Leinsing? 02:44
21 A This is one textbook. I think there might
22 have been another one that I mentioned.
23 Q Okay. So do you recognize Exhibit 1014?
24 A Yes.
25 Q What is it? 02:44

Page 87

1 A It's titled "Injection Molding Handbook 02:44
2 Third Edition," then by three people. I think they
3 are all related.

4 Q I believe Exhibit 1014 is an excerpted
5 version of the Injection Molding Handbook, 02:45
6 specifically it has Chapter 8.

7 Do you agree?

8 A Yes. I believe the part that I included was
9 Chapter 8 because it's quite a lengthy book.

10 Q You're familiar with the entire book, 02:45
11 specifically the Injection Molding Handbook?

12 A I'm familiar with the book. I didn't
13 memorize the book or don't necessarily agree with
14 everything in the book, but I -- I included the book
15 to support my opinions on molding. 02:46

16 Q Would it be fair to say that you're
17 familiar with Chapter 8 of the Injection Molding
18 Handbook, Exhibit 1014?

19 A I'm familiar with the parts I included to
20 support my opinions in my declaration. 02:46

21 Q Did you read the entirety of Chapter 8 of
22 the Injection Molding Handbook before providing your
23 testimony regarding this exhibit?

24 MR. ANGER: Objection, form.

25 THE WITNESS: I don't recall reading the 02:46

Page 88

1 entire parts of it, but I read most of it, at least 02:46
2 the parts that were particularly pertaining to the
3 areas I was opining on in my declaration.

4 BY MR. ARJOMAND:

5 Q Let me turn you to Page 728 of the 02:47
6 Injection Molding Handbook. That's the page number
7 at the top right, it's the original page number.
8 The stamp number is Page 38.

9 A Okay.

10 Q Are you there? 02:47

11 A Yes.

12 Q Can you take a moment to read the
13 paragraph that begins with the word "Thus" on the
14 left column. And it loops to the right column and
15 ends with "creep or fatigue over long-time stress 02:48
16 (extremely important)."

17 A Okay.

18 Okay.

19 Q You previously mentioned that there may be
20 portions of the Injection Molding Handbook that you 02:49
21 may not agree with. Taking a look at this passage
22 that I've directed your attention to, do you agree
23 with it?

24 MR. ANGER: Objection, form, lacks
25 foundation, relevance. 02:49

Page 89

1 THE WITNESS: I would say generally I 02:49
2 agree with it. There is not a lot of specifics and
3 there will be some exceptions.

4 BY MR. ARJOMAND:

5 Q As you sit here today, can you testify as 02:49
6 to what those exceptions may be?

7 MR. ANGER: Objection.

8 THE WITNESS: Did you finish your
9 objection?

10 MR. ANGER: Yes, I apologize. Go ahead, 02:50
11 Karl.

12 THE WITNESS: So there's ways to make
13 threads such that they don't become a problem that I
14 put in some of my inventions.

15 That's the only thing I can think of right 02:50
16 now looking at it. I would need to look at a
17 specific case or something to be able to answer that
18 question. But it talks about everything we talked
19 about in the previous question. I answered actually
20 most of these things. 02:51

21 BY MR. ARJOMAND:

22 Q So would it be fair to say that a person
23 of ordinary skill in the art in 2007 would consider
24 these to be design -- mold design errors -- strike
25 that. 02:51

Page 90

1 So taking a look at the passage that we've 02:51
2 been discussing at Page 728 of Exhibit 1014, would a
3 person of ordinary skill in the art understand that
4 these are common mold design errors?

5 MR. ANGER: Objection to form, foundation, 02:51
6 relevance.

7 THE WITNESS: In general, these are the
8 general errors. I would say there are exceptions,
9 but it does mention the part I was mentioning about
10 trying to mold a sharp where it says, "Parts too 02:52
11 thin to mold properly."

12 So when you're doing thin or sharp
13 features, that is -- that would be either difficult
14 or an error in molding that you would want to avoid.

15 BY MR. ARJOMAND: 02:52

16 Q So you mentioned parts too thin. Would
17 you agree with parts too thick as being a common
18 mold design error?

19 A It would be an error. I'm not sure it's
20 common because people know not to do it. So I don't 02:52
21 think it's common.

22 But, I mean, I work with pretty
23 experienced people, so I wouldn't say it's common.
24 I think an inexperienced person does commonly make
25 parts thick or go thick to thin and they don't 02:53

1 understand that you need to use a uniform wall 02:53
2 thickness which is, again, why I said that there is
3 a lot of motivation to eliminate sharp features such
4 as in Plante.

5 Q Okay. So let me direct your attention to 02:53
6 "Plastic flow path too long and tortuous."

7 Can you explain your understanding of that
8 mold design error?

9 A That's what I've mentioned in my
10 declaration, that a sharp -- long sharp features are 02:53
11 an error or difficult to impossible to do. And then
12 especially if you make them more tortuous or longer or
13 making them take left and right corners or -- in very
14 thin features.

15 Q Would it be fair to say that a part that 02:54
16 is complex would be difficult to injection mold?

17 MR. ANGER: Objection to form, foundation,
18 incomplete hypothetical.

19 THE WITNESS: I don't know what you mean
20 by complex -- I mean, it... 02:54

21 BY MR. ARJOMAND:

22 Q For example, a part that has a lot of
23 subparts?

24 A I don't think it would be necessarily
25 difficult to mold. I have some parts that have a lot 02:54

1 of intricate features, very important features and 02:55
2 they are very easy to mold.

3 Q Let me direct your attention to thread
4 inserts that's in the right column of Page 728 of
5 Exhibit 1014. 02:55

6 What is your understanding of that being a
7 mold design error?

8 A Can you point me to the page again?

9 Q It's the same page that we're looking at,
10 page 728 of Exhibit 1014. It's on the right column 02:55
11 at the top. It says, "Thread inserts."

12 A Okay. What about the thread inserts?

13 Q Yes. Can you explain your understanding
14 of whether that's a mold design error or not?

15 A Yes, I wouldn't call it an error. That's 02:55
16 why I mentioned that in my previous question of parts
17 I don't necessarily agree with.

18 And I'm not even sure exactly what they
19 mean by "thread inserts," if they are talking about
20 a threaded insert on the tool meaning an unwinder 02:56
21 portion that would be needed to mold threads.

22 It's not an error, but it can be more
23 costly in the tooling and create areas of flash and
24 things like that, which is why I said I designed
25 threads that don't require an unwinder. So if they 02:56

Page 93

1 mean by threads on the actual parts inserted or -- 02:56

2 I'm not exactly sure but...

3 Q Okay.

4 A Threads can be molded like segmented so that
5 they are not either undercuts or they can be molded at 02:56
6 the like 3000ths level or -- and not necessarily be,
7 you know, complex to molding or difficult to mold. It
8 depends.

9 Q Let me now direct your attention to
10 original Page 766 of Exhibit 1014 that is on stamped 02:57
11 Page 76.

12 A Okay.

13 Q Let me direct you to the paragraph that's
14 under the heading "Mold Action." Can you take a
15 minute to read that paragraph? It starts on the 02:58
16 left column and then proceeds to the right column on
17 Page 766.

18 A Okay. Doesn't it go on to the next page
19 after that?

20 Q For now, let's just focus on that. But if 02:58
21 you want to take a look at the next page, that's
22 fine with me.

23 A Okay.

24 Q So we previously discussed about the
25 problems with injection molding associated with 03:00

Page 94

1 complex parts or complex shapes. 03:00

2 Do you recall that?

3 A Yes.

4 Q So would you agree that this paragraph on
5 Page 766 of Exhibit 1014 supports the proposition 03:00
6 that complex shapes are difficult to injection mold?

7 MR. ANGER: Objection to form, lacks
8 foundation, relevance.

9 THE WITNESS: I don't agree with the
10 general statement of saying complex or difficult to 03:00
11 mold. You can have a lot of features that look
12 complicated but if -- what is important is if you
13 look at the last sentence of that section, it says,
14 "First, the part should have no undercuts" -- I'm
15 sorry, one more. 03:01

16 The sentence that starts, quote, "In a
17 simple mold design, which is defined as when the
18 mold separates into two or more sections, the part
19 can be removed."

20 So if you can put in all of the features 03:01
21 you want such that the mold can separate into two or
22 more sections, then those features are not complex
23 to the extent that it made the molding complex or
24 more expensive.

25

Page 95

1 BY MR. ARJOMAND: 03:01

2 Q Okay.

3 A It would be more in the context that the
4 proposition of what I propose with Cho is something
5 that would not be more complex to mold than Plante. 03:01

6 Q So turning to the sentence on that page
7 right before the sentence that you read, it says,
8 quote, "The complex shapes can include practically
9 all those actions reviewed in this section that have
10 been classified as being poor or difficult to mold," 03:02
11 unquote.

12 Do you see that?

13 A Yes, I see that.

14 Q Do you agree with that sentence,
15 Mr. Leinsing? 03:02

16 A I don't know how far does the section go
17 that they are talking about? All of Section 8.5?

18 Q I don't know, Mr. Leinsing. You're the
19 one that submitted this chapter in support of your
20 testimony. 03:02

21 A I would need to read this entire section to
22 answer that question. I think that's a general
23 statement that wouldn't always be correct.

24 And the important thing is what it says in
25 the next sentence is regardless of what the features 03:03

Page 96

1 are that you're adding, if you can mold the part 03:03
2 into two or more sections or be able to open the
3 mold up as two halves, we call it a clam shell mold,
4 then it doesn't matter how many features, lines,
5 ribs, bosses and everything you add as long as it 03:03
6 doesn't create any increased cycle time or
7 additional tool actions, then it would not increase
8 the cost or complexity of the mold.

9 Q As you sit here today, that's your
10 understanding of the sentence that begins "In a 03:03
11 simple mold design"?

12 MR. ANGER: Objection to form.

13 THE WITNESS: That's what this section
14 says, but in the general molding sense, it says in a
15 simple mold design, which is defined as when a mold 03:04
16 separates into two or more sections, the part can be
17 removed.

18 So I don't really -- I mean, it should
19 really say separates into two. I'm not sure why it
20 says more sections because the more sections you 03:04
21 add, the more complexity it adds.

22 But if you can simplify by just having two
23 halves of the mold, then that becomes simple as long
24 as those features can be added in a two-part mold,
25 then that's the most simplest mold you can possibly 03:04

1 make. 03:04

2 BY MR. ARJOMAND:

3 Q Okay. I understand that, Mr. Leinsing.

4 But let me direct you again to the previous sentence
5 that begins with "The complex shapes." And I want 03:04
6 to give you the opportunity one more time to answer
7 my question.

8 Do you agree with the sentence on Page 766
9 of Exhibit 1014 that begins with the phrase "The
10 complex shapes"? 03:05

11 MR. ANGER: Objection to form.

12 THE WITNESS: It's difficult to answer
13 that question because I'm not sure what they mean by
14 this section in the sentence.

15 Regardless, as I said, the important thing 03:06
16 is what the end tool is. So regardless of what
17 those features are, if you can make them in a tool
18 that's very simple, then that feature would not add
19 any complexity and there has not been any -- I would
20 need to look at something in particular to really 03:06
21 answer that shape of what that particular feature
22 would be.

23 And your expert has not put forward any
24 particular feature that would teach away from
25 combining Cho with the prior art that I am showing, 03:07

Page 98

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1 |         there would be no more added complexity.                                03:07
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2 BY MR. ARJOMAND:

3 Q Mr. Leinsing, I appreciate your desire to
4 testify about issues that you would like to testify,
5 but I would like to focus you on my question and 03:07
6 give you one more opportunity.

7 I'm not asking about Cho. I'm not asking
8 about patent owners' expert. I'm not even asking
9 about the following sentence that you have been
10 focused on on Page 766 of Exhibit 1014. 03:07

11 I'm just asking you about the sentence
12 that begins with "The complex shape" phrase on
13 Page 766.

14 I want to ask you, since you're the one
15 that submitted this exhibit, or at least petitioner 03:08
16 submitted this exhibit and you relied upon it, do
17 you agree with that sentence or not?

18 MR. ANGER: Objection to form, lacks
19 foundation, incomplete hypothetical, relevance.

20 THE WITNESS: And asked and answered. I 03:08
21 mean, I've answered it twice. I would just refer
22 you back to my previous answers.

23 BY MR. ARJOMAND:

24 Q Okay. That's fine. That's fine,
25 Mr. Leinsing. I just want to give you the 03:08

Page 99

1 opportunity to answer the question. I don't think 03:08
2 you answered the questions, but that's fine.

3 Let me now direct you to --

4 A I disagree. If that's a question, I
5 disagree. I've answered -- 03:08

6 Q It's not a question, sir. It's not a
7 question.

8 A You can make statements but I can't?

9 Q You've been making statements throughout
10 the day, Mr. Leinsing, that are not relevant to the 03:08
11 questions but that's --

12 A I disagree with that, too. I've been
13 answering --

14 Q That's for another day. I don't want to
15 engage in back and forth colloquy with you, 03:09
16 Mr. Leinsing. I just want to get this deposition
17 completed in an efficient manner.

18 A Well, you're asking questions outside the
19 scope of my declaration. That was a previous
20 declaration and you keep going outside the scope of 03:09
21 the '632 patent and the prior art and asking questions
22 that you want to later try to connect to the prior art
23 or something in the '632.

24 So that's improper. Ask questions related
25 to the scope of my two declarations. 03:09

Page 100

1 I did not cite the section -- in my report 03:09
2 this sentence. I've clearly said to you that the
3 section here, this sentence is using words like
4 "complex shapes that can include practically all
5 those actions." 03:09

6 What does "practically all those" mean?
7 It's not a sentence that I would agree with. It's a
8 generalized sentence with no specific feature to be
9 able to answer your question.

10 So, no, I don't agree with that sentence 03:10
11 and how it's said. I answered it the best way I can
12 and in the context as best as I can to the patents
13 in the prior art.

14 Q Thank you, Mr. Leinsing. I disagree very
15 much with your characterizations of my questions 03:10
16 today.

17 And I just ask that you try to cool down a
18 little bit and focus on the questions that I am
19 asking. That way we can complete this deposition.

20 MR. ANGER: I'm sorry, I need to interject 03:10
21 quickly. You said you were going to move on and
22 continue to ask questions and then continued to
23 engage in this debate with Mr. Leinsing. Please
24 carry on to your next question.

25 MR. ARJOMAND: Mr. Anger, I think the 03:10

Page 101

1 record will show that I was trying to actually move 03:11
2 on and it was Mr. Leinsing that engaged in a lengthy
3 discussion of the questions today.

4 So I'm trying to move on.

5 Q I want to direct your attention, 03:11
6 Mr. Leinsing, to Page 726 of Exhibit 1014. That's
7 stamped Page 36.

8 A First of all, I don't appreciate your
9 characterization. I'm perfectly cool here and happy
10 to answer any questions. Your characterization of my 03:11
11 demeanor is improper and inaccurate.

12 I'm happy to answer any questions as to
13 the two declarations that I wrote and any exhibits
14 or things that I wrote that are relevant to this
15 deposition. 03:11

16 Q Mr. Leinsing, you continue to want to
17 engage in colloquy when there is no question that's
18 pending. This is improper.

19 A You're making statements of my demeanor.

20 Q I think the record will show your 03:12
21 demeanor, Mr. Leinsing.

22 So I want to direct your attention one
23 more time to Page 726. This is the third time that
24 I have asked you to turn your attention to that
25 page. Let me know when you're there. 03:12

Page 102

1	A	Yes, I'm here.	03:12
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2 Can we take a break?

3 MR. ANGER: Let's take a break.

4 THE WITNESS: Thank you.

5 MR. ARJOMAND: Five minutes? 03:12

6 THE WITNESS: Ten.

7 THE VIDEOGRAPHER: This marks the end of

8 Media Unit 2 of the deposition of Karl Leinsing.

9 The time is 3:12 p.m. We're off the record.

10	(Recess taken.)	03:12
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11 THE VIDEOGRAPHER: We are back on the
12 record at 3:29 p.m. This marks the beginning of
13 Media Unit 3 of the deposition of Karl R. Leinsing.

14	Please continue.
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15	BY MR. ARJOMAND:	03:30
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16 Q Mr. Leinsing, did you speak to counsel
17 during the break on the subject matter of your
18 testimony today?

19	A	No.
----	---	-----

20 Q Mr. Leinsing, you would agree you relied 03:30
21 on Exhibit 1014 in your initial declaration,
22 Exhibit 1002?

23 A Yes, particular sections of Exhibit 1014 as
24 described by my declarations.

25	Q	You would agree that you relied on	03:30
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Page 103

1 Exhibit 1014 in your second declaration in this 03:30
2 proceeding, Exhibit 1027?

3 MR. ANGER: Objection, form and
4 foundation.

5 THE WITNESS: Can you point me to the 03:30
6 paragraph you were looking at?

7 BY MR. ARJOMAND:

8 Q I'm just asking you: Do you recall
9 relying upon Exhibit 1014 in your declaration,
10 Exhibit 1027? 03:31

11 A I don't recall pointing to this reference in
12 my declaration regarding the amendments of the claim.
13 That's why I'm asking you to point me to where you're
14 looking because I don't recall pointing to it again.

15 Q Let me direct you to Paragraph 26 of 03:31
16 Exhibit 1027.

17 A Okay.

18 Q Does reviewing Paragraph 26 refresh your
19 recollection on whether you relied upon Exhibit 1014
20 in Exhibit 1027? 03:32

21 A I guess I indirectly rely on it because I
22 rely on my original declaration, Exhibit 1002, which
23 relies on 1014, so -- but thanks for pointing that
24 out. Thank you for allowing me to clarify that.

25 Q So it would be fair to say that you relied 03:32

Page 104

1 on Exhibit 1014 both for your initial declaration, 03:32
2 Exhibit 1002, and your follow-on declaration,
3 Exhibit 1027, in this IPR proceeding?

4 A I don't think that's a correct
5 characterization of my reliance on 1014. 03:33

6 I relied on 1014 and Exhibit 1002, that
7 one declaration where I talked about the specific
8 motivations for combining Cho with Plante. I don't
9 specifically bring up that Exhibit 1014 again. I
10 only reference 1002 again as generally inclusive in 03:33
11 this declaration.

12 Q So would it be fair to say that you're not
13 relying on Exhibit 1014 in your testimony in
14 Exhibit 1027?

15 MR. ANGER: Objection to form. 03:33

16 THE WITNESS: I'm indirectly relying on it
17 through the exhibit reference in Paragraph 26.

18 BY MR. ARJOMAND:

19 Q Mr. Leinsing, how did you become aware of
20 Exhibit 1014? 03:34

21 A I don't recall exactly. I believe I did a
22 search in that time frame for textbooks and supporting
23 information to my declaration 1002.

24 Q Would you say that the Injection Molding
25 Handbook is a standard textbook on injection molding 03:35

Page 105

1 as of 2011? 03:35

2 MR. ANGER: Objection, form, foundation.

3 THE WITNESS: I would not say it's a
4 standard or a particular authoritative document.

5 It's just one of many that supported my opinions 03:35
6 regarding the motivations to look to Cho.

7 BY MR. ARJOMAND:

8 Q Let me direct your attention to Page 726
9 of Exhibit 1014. It's stamped Page 36.

10 A Okay. I'm on Page 36. 03:36

11 Q Let me direct your attention to the right
12 column under the heading "Stress Concentration" and
13 specifically the first sentence under that heading
14 it provides, quote, "Sharp corners should always be
15 avoided in designing, particularly when working with 03:36
16 TP injection-molded parts," unquote.

17 Do you see that?

18 A Yes.

19 Q What is TP in that sentence?

20 A Thermal plastic. 03:37

21 Q And, Mr. Leinsing, as you sit here today,
22 do you agree with the sentence that I just read into
23 the record from Exhibit 1014?

24 MR. ANGER: Objection, lacks foundation,
25 form. 03:37

Page 106

1 THE WITNESS: I think particularly, yes. 03:37

2 Or generally, yes. But often they are okay if they
3 are within the parting line of a part and sometimes
4 you just get them and they're not an issue.

5 But that wouldn't apply to the sharp that 03:38
6 we're talking about in Plante because that would not
7 be within a parting line. And it's not what they
8 are talking about here.

9 But it is a sharp edge or a sharp that you
10 would want to avoid for all of the other reasons 03:38
11 that we read about earlier and difficult to fill.

12 BY MR. ARJOMAND:

13 Q What is a parting line, Mr. Leinsing, that
14 you referenced in your previous testimony?

15 A It's where two halves of the mold come 03:39
16 together.

17 Q Okay. Mr. Leinsing, I have shared with
18 you previously marked Exhibit 1004 in this
19 proceeding. I believe we've been referencing it as
20 the Cho reference. 03:40

21 (Whereupon, Exhibit 5 was marked for
22 identification.)

23 BY MR. ARJOMAND:

24 Q Let me know when it's displayed on your
25 computer monitor. 03:40

Page 107

1	A	Okay.	03:41
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2 Q Do you see the Cho reference,

3 | Mr. Leinsing?

4	A	Yes.
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5	Q	Have you read the Cho reference,	03:42
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6 Exhibit 1004, from start to finish?

7	A	Yes.
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8 Q And in preparing your declarations,

9 Exhibit 1002 and 1027, did you have a chance to

10	review the Cho reference?	03:42
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11	A	Yes.
----	---	------

12 Q And do you recall how much time you spent

13 in total reviewing the Cho reference in preparing

14 | your two declarations?

15	A	I do not recall.	03:42
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16	Q	Was it more than five hours?
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17	A	I do not recall.
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18	Q	Ten hours?
----	---	------------

19 A I do not recall.

20	Q	Fifty hours?	03:43
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21 MR. ANGER: Objection, form. Foundation.

22 THE WITNESS: I do not recall and I do not

23	want to guess.
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24 BY MR. ARJOMAND:

25	Q	Okay.	03:43
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Page 108

1 A I think my declaration makes it clear that I 03:43
2 have reviewed it pretty carefully.

3 Q Okay. Let me direct you to Page 48 of the
4 Cho reference. That's original Page 48, but I think
5 it's stamped Page 50. 03:43

6 A Original Page 50, which page do you want?

7 Q Original Page 48.

8 A Okay.

9 Q Okay. And do you see how on original
10 Page 48 at Line 15, it refers to the 21st 03:44
11 embodiment?

12 A I see where it says that.

13 Q Would it be fair to say, Mr. Leinsing,
14 that you relied on the 21st embodiment of the Cho
15 reference in reaching your opinions in Exhibits 1002 03:44
16 and 1027?

17 MR. ANGER: Objection to form, foundation.

18 THE WITNESS: I referred to the
19 specification in addition to Figures 43, 44 and 45.

20 BY MR. ARJOMAND: 03:45

21 Q Okay. If you could take a few minutes to
22 review that discussion of the 21st embodiment of
23 Cho. I believe it starts on original Page 48,
24 Line 15 and continues to original Page 50, Line 27.
25 You can refer to Figures 43, 44 and 45 when you 03:45

Page 109

1 review that portion of the Cho reference. 03:46

2 A I'm going to print those papers while I'm
3 reading so I don't have to go back and forth.

4 Q That's fine.

5 A Actually, I think I have a screen version of 03:46
6 it somewhere.

7 Also, while I'm doing that, if you don't
8 mind, I have to tell some colleagues that I will
9 miss my 4:00 meeting.

10 Q Okay. 03:46

11 A How far down did you want me to read?

12 Q Until Line 27 of original Page 50 of
13 Exhibit 1004.

14 A Okay. A couple more paragraphs.

15 Okay. 03:56

16 Q So you've had an opportunity now to review
17 the discussion in the Cho reference, Exhibit 1004,
18 from Line 15 of original Page 48 all the way through
19 Line 27 of original Page 50. Is that correct,
20 Mr. Leinsing? 03:57

21 A Yes.

22 Q And have you had a chance to look at the
23 Figures 43 through 45A that are referenced in that
24 portion of the Cho reference?

25 A Yes. 03:57

Page 110

1 Q So let me direct you to the figures, 03:57
2 specifically Figures 43, 44 and 45A. And could you
3 just explain how you understand the Cho reference in
4 this -- in these figures dispensing the additive
5 into the bottle body? 03:57

6 A I think the best way to explain it is to
7 refer you to the specification that I just read
8 starting on Page 48, Line 15.

9 Q So you would just read the portions that
10 we've been referring to into the record if I asked 03:58
11 you the question again; is that what you're trying
12 to say?

13 A Yes, with the correction of Page 50, Line 26
14 where it says "Figure 49B," that should say
15 Figure 45B. There is a typo in the patent. 03:58

16 Q Okay. Let me direct your attention to
17 Figure 44 and Figure 45A.

18 A Okay.

19 Q Are you there?

20 A Yes. 03:59

21 Q Do you see the two reference numerals 636B
22 and C?

23 A Yes.

24 Q What are those reference numerals
25 referring to, Mr. Leinsing? 03:59

Page 111

1	A	Those are ring type seal protrusions.	03:59
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2 Q And based on your review of the Cho
3 reference, what are the -- what is or what are the
4 purposes of the ring type seal protrusion 63 --
5 strike that. 04:00

6 Based on your review of the Cho reference,
7 specifically the portions that we've been focusing
8 on today, what is your understanding of the ring
9 type seal protrusions 636B and 636C?

10 MR. ANGER: Objection to form. 04:00

11 THE WITNESS: Those intrusions are
12 intended to be ring type seals to prevent the fluid
13 within that chamber from leaking until the two
14 cylinders move when commanded.

15	BY MR. ARJOMAND:	04:01
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16 Q How do representing type seals work,
17 Mr. Leinsing?

18	A	This is a common way of creating a seal	
19		between two plastic cylinders. It allows for	
20		variability and tolerance.	04:01

21 And as I mentioned earlier, you can mold
22 up to 3,000th of an undercut and then it creates a
23 force concentration above and below the opening such
24 that a fluid will not be able to get past them.

25	Q	So why are there two ring type seal	04:02
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Page 112

1 protrusions in Figures 44 and 45A of the Cho 04:02
2 reference?

3 A There is a need to prevent fluid from
4 leaking in the downward direction as viewed in the
5 figure and in the upward direction. 04:02

6 Q Why would Cho be concerned about a leak in
7 the upward direction as discussed with respect to
8 Figures 44 and 45A of Cho?

9 MR. ANGER: Objection, form, foundation.

10 THE WITNESS: Because you would not get 04:03
11 potentially a sufficient enough seal around the
12 threads as I've discussed with the '632 patent. So
13 they've formed the ring type seal to create that
14 seal.

15 It's a very effective way to create a seal 04:03
16 without adding an additional part.

17 BY MR. ARJOMAND:

18 Q Okay. Still focusing on Figures 44 and
19 45A, what is your understanding of the element
20 that's referred to by reference numeral 640? 04:03

21 A What is your question about 640?

22 Q What is your understanding of element 640
23 in Figures 44 and 45A of Cho?

24 A I don't think -- the patent is silent as to
25 its significance. To a person of skill in the art, it 04:04

Page 113

1 would not be required. 04:04

2 Q Let me direct your attention to original
3 Page 49 of the Cho reference, specifically Line 24
4 through Line 27.

5 A Okay. 04:05

6 Q So what is your understanding of
7 element 640 in Figures 44 and 45A of Cho in view of
8 the passage that I just directed you?

9 A Again, it's really silent as to its purpose.
10 It just says, "Furthermore, a bursting film 640 that 04:05
11 closes the lower ends of both the inner cap 624 and
12 the slider 636 is provided."

13 So it just says that it closes that end.
14 It does not say for what purpose. And it does not
15 say for sealing purposes. 04:05

16 I would only be speculating as to what its
17 purpose is for maybe a tamper-evident type purpose.
18 But it would not be for sealing and it would not be
19 required for sealing because of features 636B and
20 636C are for sealing purposes. 04:06

21 Q Let me direct you back to original Page 49
22 of the Cho reference.

23 A Okay.

24 Q And let me direct you to the paragraph
25 beginning on Line 5. Can you just take a moment to 04:07

Page 114

1 read that paragraph? 04:07
2 Let me know when you're finished reading
3 that paragraph, Mr. Leinsing.
4 A Okay. I will.
5 Okay. I'm finished. 04:10
6 Q Do you see in that paragraph a reference
7 to external thread 622B?
8 A Yes.
9 Q And do you see a reference to external
10 thread 612? 04:10
11 A Yes.
12 Q And would you agree that external is being
13 used in those two instances as an adjective?
14 MR. ANGER: Objection, form.
15 THE WITNESS: I don't understand your 04:12
16 question by adjective, meaning that it's an
17 additional descriptor? I don't understand your
18 question.
19 BY MR. ARJOMAND:
20 Q Do you know what an adjective is, 04:12
21 Mr. Leinsing?
22 A I think so. I'm not sure we're on the same
23 page, though.
24 Q So let me ask you: How do you understand
25 the term "external thread 622B" and "external thread 04:12

Page 115

1 612" on Page 49 of the Cho reference? 04:12

2 A So it would be on the exterior or external
3 surface of those particular features.

4	So the converse would be in Line 8 of	
5	Page 49, it says "internal thread 634A," so that	04:13
6	would be on the internal cylindrical surface where	
7	the others would be on the external portion or the	
8	outer cylindrical surface.	

9 MR. ARJOMAND: Okay. Let's take a
10 five-minute break. 04:13

11	THE WITNESS: Okay.
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12 THE VIDEOGRAPHER: Going off the record.

13 The time is 4:13 p.m.

14	(Recess taken.)
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15	THE VIDEOGRAPHER: Back on the record.	04:21
16	The time is 4:21 p.m.	

17 MR. ARJOMAND: Ben, we'll pass the witness
18 subject to any redirect that you may have.

19 MR. ANGER: Okay. I was not prepared for
20 that quite yet. Let's go off the record. I'll take 04:21
21 a five-minute break and we can jump back on.

22 MR. ARJOMAND: Sounds good.

23 THE VIDEOGRAPHER: Going off the record.

24 The time is 4:21 p.m.

25	(Recess taken.)	04:21
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Page 116

1 THE VIDEOGRAPHER: Back on the record. 04:28

2 The time is 4:28 p.m.

3 MR. ANGER: Petitioner has no further
4 questions either. We do reserve the right to read
5 and sign. 04:28

6 THE VIDEOGRAPHER: This concludes today's
7 deposition of Karl R. Leinsing.

8 The number of media used was three and
9 will be retained by Veritext Legal Solutions.

10 The time is 4:28 p.m. We're off the 04:28
11 record.

12 (Proceedings concluded at 4:28 p.m.
13 Eastern.)

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Page 117

1 I, LYNNE M. LEDANOIS, a Certified
2 Shorthand Reporter of the State of California, do
3 hereby certify:

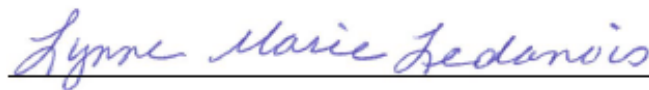
4 That the foregoing proceedings were taken
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10 Further, that if the foregoing pertains to
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12 Case, before completion of the proceedings, review
13 of the transcript [] was [x] wasn't requested.

14 I further certify I am neither financially
15 interested in the action nor a relative or employee
16 of any attorney or party to this action.

17 IN WITNESS WHEREOF, I have this date
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20 Dated: OCTOBER 29, 2024
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Page 119

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MEHRAN ARJOMAND, ESQ.

marjoman@mofo.com

OCTOBER 29, 2024

RE: Spectrum Solutions v. DNA Genotek, Inc.

10/29/2024, Karl R. Leinsing, MSM, PE, (#6990102).

The above-referenced transcript has been completed by Veritext Legal Solutions and review of the transcript is being handled as follows:

___ Per CA State Code (CCP 2025.520 (a)-(e)) - Contact Veritext to schedule a time to review the original transcript at a Veritext office.

___ Per CA State Code (CCP 2025.520 (a)-(e)) - Locked .PDF Transcript - The witness should review the transcript and make any necessary corrections on the errata pages included below, notating the page and line number of the corrections. The witness should then sign and date the errata and penalty of perjury pages and return the completed pages to all appearing counsel within the period of time determined at the deposition or provided by the Code of Civil Procedure. Contact Veritext when the sealed original is required.

___ Waiving the CA Code of Civil Procedure per Stipulation of Counsel - Original transcript to be released for signature as determined at the deposition.

___ Signature Waived - Reading & Signature was waived at the time of the deposition.

Page 120

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2 Transcript - The witness should review the transcript and
3 make any necessary corrections on the errata pages included
4 below, notating the page and line number of the corrections.
5 The witness should then sign and date the errata and penalty
6 of perjury pages and return the completed pages to all
7 appearing counsel within the period of time determined at
8 the deposition or provided by the Federal Rules.
9 _X_ Federal R&S Not Requested - Reading & Signature was not
10 requested before the completion of the deposition.

Page 121

&	93:5,10 94:10	12's 43:25	2022-01347
& 3:4,13 7:7	95:5 98:9	12531 3:18	17:18
18:25 19:3	99:10 102:6	13 35:7	2023-01424
120:24 121:9	103:21,23	14 35:4,6,15,18	21:2
1	104:1,9,19,23	15 35:4,6,7	2023-041424
1 5:3 6:11 26:9	105:1,5,6,9,13	109:10,24	17:12
45:16 121:1	105:20 106:9	110:18 111:8	202301424 6:17
10 55:14	106:23	164 27:9,15,16	2024 1:15 2:16
10/29/2024	1027 5:6 22:8	27:18	6:1,6 9:13
120:5	22:10 30:9,16	18 38:21 39:1	118:20 120:3
100 3:19 25:19	30:23 31:2,6,8	39:15,20 40:10	2025.520 120:9
1001 5:9 32:17	31:11,19,25	41:5 52:4,8	120:12
32:25 33:4,8	32:7 75:3,4	53:1,17 69:9	21st 109:10,14
33:14,20,25	104:2,10,16,20	70:20 71:2	109:22
34:13 35:10	105:3,14 108:9	1992 74:6	22 37:10,23,24
38:9 41:19,21	109:16	75:13	70:9,9,11 72:9
42:12 46:4,8	107 5:12	19th 74:24	72:13,22
68:7 70:17	11,002,646 1:10	1:15 45:11,12	24 39:21 43:1,3
72:5 75:2	2:10	1:59 67:22	44:6,20 46:18
1002 5:4 22:18	11,536,632 5:8	2	47:6,7,25
22:20 26:8	10:17 21:3	2 5:5 30:17	48:11,15,16,19
27:6,10,16,18	22:15 28:5	45:21 103:8	49:1,8,14,20,22
27:21,24 28:11	32:18 33:3	2.5 24:16	50:2,17,18,25
28:15,22 29:10	12 35:23,25	20 24:8 31:1,1	51:7 52:23
29:18,24 73:13	42:15,21,24	31:3,5 36:5,6	114:3
73:19 75:3	43:5,8,20 44:6	36:11,23 37:2	24th 9:13
103:22 104:22	44:17,19 46:11	37:4,18 72:13	26 5:3 104:15
105:2,6,10,23	46:16,21 47:4	2005/051775	104:18 105:17
108:9 109:15	49:6 50:22	9:20	111:13
1004 5:13	51:6,8,23 52:1	2007 90:23	27 109:24
107:18 108:6	52:13,21,24,24	2011 74:25	110:12,19
110:13,17	55:1,23 56:9	75:11 79:18	114:4
1014 5:11 87:8	56:25 57:18	81:17 106:1	28 29:10
87:12,19,23	58:13,24 59:1	2012/0325721	29 1:15 2:16
88:4,18 91:2	59:11 60:5,13	10:6	6:1 33:14,19

33:25 34:13 35:10 118:20 120:3 29th 6:5	52:2,17 53:8 54:25 55:20,24 56:8,16,24 57:8,13,17 58:4,4,12,15,22 59:8,16 63:10 67:10 68:7,12 69:1,3,14,21 70:1,17 72:4 72:12	44 109:19,25 111:2,17 113:1 113:8,18,23 114:7 45 109:19,25 45a 110:23 111:2,17 113:1 113:8,19,23 114:7 45b 111:15 48 109:3,4,7,10 109:23 110:18 111:8 49 34:3 114:3 114:21 116:1,5 49b 111:14 4:00 110:9 4:13 116:13 4:21 116:16,24	52:3,25 53:16 69:9 70:19,24 622b 115:7,25 624 114:11 63 112:4 632 8:25 10:12 10:20 18:16 21:9,10,18 22:11 25:3,12 31:12,15 34:16 34:24 35:19 36:22 37:7,13 40:1,19 41:1 42:12,20 50:24 54:20 55:8 57:6 59:9 60:4 61:1 63:18 65:6 66:7 67:8 67:14 68:8,11 68:25 71:19 78:20 100:21 100:23 113:12
3			
3 5:7 32:20 55:13 60:4 103:13 3,000th 112:22 30 5:5 24:9 121:1 300 3:8 3000ths 94:6 32 5:7 3579 3:7 36 102:7 106:9 106:10 38 89:8 3:12 103:9 3:29 103:12 3a 33:12,24 34:3,5 35:5,10 35:14,22,24 36:4,12,16,23 37:8,20 38:9 38:20 39:15 40:10 42:11,20 42:22,25 43:3 43:8,17,21 44:10,13 46:4 46:8,10,11 47:6,7,25 48:6 48:8,19,23 49:8,11,13,21 50:7,11,14,17	3b 33:12 34:12 34:17,24,25 35:10,14 36:2 36:4,12,16,23 37:8,20 38:9 38:20 39:15 40:11 42:11,20 42:22 43:1,3,8 43:17,22 44:11 46:4 49:11 50:4,7 52:13 52:14,21 53:13 56:16 57:8 59:9 60:4 63:10 67:11 68:7,12 69:1,3 69:14,21 70:1 70:17 72:4,12 72:21 3c 35:6	5 5 5:12 107:21 114:25 50 109:5,6,24 110:12,19 111:13 500 86:21 52 29:9,14,18 73:12,18 54 34:15	634a 116:5 636 114:12 636b 111:21 112:9 114:19 636c 112:9 114:20 64 74:8 640 113:20,21 113:22 114:7 114:10 646 36:15,17 6811 1:24 2:18 118:25
	4	6	
	4 5:10 87:9 400 86:21 43 109:19,25 110:23 111:2	612 115:10 116:1 62 38:8,12 48:2 48:6,8,16 49:3	

[6954 - anger]

6954 118:24 6990102 1:25 120:5	above 112:23 120:6 absent 72:17 absolutely 45:2 accurate 8:3 16:13 25:22 41:13 77:6 accurately 40:23 achieve 69:11 acrobat 8:23 11:8 41:21 action 6:23 94:14 118:15 118:16 actions 96:9 97:7 101:5 actual 94:1 actually 14:8 55:12 90:19 102:1 110:5 add 26:5 76:19 79:4,7 84:18 97:5,21 98:18 added 97:24 99:1 adding 97:1 113:16 addition 109:19 additional 12:7 97:7 113:16 115:17 additive 111:4	adds 97:21 adhesions 62:10 adjective 115:13,16,20 administrative 16:19 19:24 adobe 8:23 11:7 41:21 affiliations 7:2 agency 19:24 ago 12:23 13:3 agree 6:9 11:25 13:19 35:12 47:8 50:21 88:7,13 89:21 89:22 90:2 91:17 93:17 95:4,9 96:14 98:8 99:17 101:7,10 103:20,25 106:22 115:12 ahead 45:4 79:22 90:10 alleged 35:5 allow 11:1 allowed 12:10 13:23 18:17 allowing 104:24 allows 26:15 112:19 amend 9:12 18:15 21:7,20	22:4 31:13 amended 31:13 31:14 amendments 104:12 amount 25:16 80:3 analysis 74:15 75:2,5 analyze 60:22 64:20 84:23 anger 3:5 7:8,8 13:4,18 14:18 15:6 16:1,21 17:24 19:4,13 20:12 23:18 24:6,13,25 25:15 26:23 27:25 28:16,23 29:25 30:11 31:20 32:1,10 33:21 34:1 35:2,16 36:9 36:25 37:11 38:14 39:3,17 41:6 42:16 43:10,19 44:8 44:21 45:14 46:20 47:19 48:20 49:25 51:11 53:3,19 54:10 55:4,25 56:10 57:1,19 58:14 60:7,21 61:7,20 62:6
7			
7 4:3 726 102:6,23 106:8 728 89:5 91:2 93:4,10 75 11:16,19 76 94:11 766 94:10,17 95:5 98:8 99:10,13			
8			
8 34:3,15 88:6 88:9,17,21 116:4 8.5 96:17 87 5:10			
9			
92130 3:9,20			
a			
a.m. 2:16 6:2,5 27:1,4 able 15:12 50:13 53:9 54:2 56:8,24 57:17 58:7,12 58:23 59:10 60:5 67:15 70:25 80:19 90:17 97:2 101:9 112:24			

[anger - art]

63:3 64:4,11 66:22 67:18 68:4,14,21 69:6,16 70:3 70:21 71:9 72:14 75:18,25 76:17 77:2 79:1,21 81:18 83:3,17 84:8 86:7 88:24 89:24 90:7,10 91:5 92:17 95:7 97:12 98:11 99:18 101:20,25 103:3 104:3 105:15 106:2 106:24 108:21 109:17 112:10 113:9 115:14 116:19 117:3 annotations 9:1 9:23 10:8,19 annular 34:7 34:19 37:19,24 38:5,7,8,12 48:1 52:3,24 53:6,15 54:21 55:9 70:2 answer 16:23 19:17,25 20:21 25:22 38:4 39:19 40:2,20 40:23 41:2 47:18 50:13	54:7 56:21 57:15,24 61:3 61:5 62:8,24 63:14 64:21,23 66:15 71:15 75:13 77:18 80:19 82:5,22 82:23 84:14,15 90:17 96:22 98:6,12,21 100:1 101:9 102:10,12 answered 14:21 16:1 60:9 63:7 66:17 90:19 99:20,21 100:2 100:5 101:11 answering 42:8 100:13 answers 16:13 99:22 anybody 32:11 32:14 apart 75:16 aperture 34:8 34:21 37:10 70:9,11,12 apologize 90:10 appeal 1:2 2:2 6:16 appearances 7:1 appeared 16:9	appearing 120:18 121:7 application 83:11 84:22 apply 107:5 appreciate 16:15 42:6 57:15 62:19 81:13 82:18 99:3 102:8 appropriate 24:19 approximately 13:2 24:1 35:7 area 66:2 areas 89:3 93:23 arjomand 3:14 4:3 7:4,5,18 13:7 14:11 15:3,10 16:7 17:1 18:2 19:8 19:16 20:23 24:17 25:1,18 26:11,21 27:5 28:9,20 29:3 30:5,15,19 31:23 32:5,24 33:22 34:11 35:8,20 36:13 37:5,15 38:19 39:8,24 41:14 42:17 43:14,23 44:12 45:2,12 45:23 47:1,23	48:24 50:5 51:20 53:11 54:6,14,24 55:17 56:5,19 57:11 58:10,20 60:11 61:2,13 61:24 62:18 63:21 64:8,22 67:6,16 68:1 68:16 69:2,12 69:19 70:15 71:6,12 72:24 75:21 76:1,22 77:13 79:17 80:11 82:6 83:12 84:1,10 87:7,11 89:4 90:4,21 91:15 92:21 96:1 98:2 99:2,23 101:25 103:5 103:15 104:7 105:18 106:7 107:12,23 108:24 109:20 112:15 113:17 115:19 116:9 116:17,22 120:1 art 8:24 21:18 22:24 23:1 28:6,6 29:20 31:15 35:13,17 35:22 36:4,15 36:22 37:7
---	--	---	---

[art - bluff]

38:12,25 39:5 39:14 40:9 43:8,16,24 44:16,19,23 46:15 49:13 50:15 52:2 53:8,13 54:1 55:2,5,14 56:7 56:12,23 57:17 57:21,25 58:11 58:22 59:8 60:4 67:15 68:13,20 69:5 69:14,21 70:1 70:6,7,17 71:16,18,19 72:2,6,17 73:2 73:10,15 74:19 90:23 91:3 98:25 100:21 100:22 101:13 113:25 aside 18:3,18 63:24 67:13 68:10 asked 9:8 16:1 47:20 54:12 60:22 61:12 64:20 99:20 102:24 111:10 asking 16:22 25:20 50:10 57:13 59:5,7 59:12 60:2 61:14,16 64:19	66:8 71:13 81:23 99:7,7,8 99:11 100:18 100:21 101:19 104:8,13 assembly 76:6 76:7,10,15 77:1,17 associated 28:2 94:25 assume 73:9 81:23 atmosphere 64:16,25 attend 9:8 attending 6:25 attention 33:11 35:9 46:7 57:13 67:10 89:22 92:5 93:3 94:9 102:5,22,24 106:8,11 111:16 114:2 attorney 3:6 7:3 20:19 28:18 118:16 attorneys 3:17 audio 6:8 authoritative 106:4 avoid 91:14 107:10 avoided 106:15	aware 105:19 awhile 12:23 b b 5:1 7:22 58:4 121:1 b2 5:8 bachelor's 73:2 back 27:3 42:11 45:11,19 47:25 51:25 66:16 67:7,24 72:4 74:6 99:22 100:15 103:11 110:3 114:21 116:15 116:21 117:1 based 40:16,18 51:6 52:21 53:7 76:25 112:2,6 basis 11:21 bathroom 68:5 beam 78:3 bear 3:4 18:25 19:3 bears 21:2 beginning 7:2 45:20 103:12 114:25 begins 89:13 97:10 98:5,9 99:12 believe 12:4 20:15 37:1 39:19 46:14	55:13 66:4,9 68:18 71:23 73:1 74:24 81:1 88:4,8 105:21 107:19 109:23 ben 7:8 23:18 24:5,17 26:22 32:10 45:13 116:17 ben.anger 3:10 benefit 50:9 benjamin 3:5 best 25:22 81:4 101:11,12 111:6 better 63:15 beyond 19:10 35:1 59:12 big 80:9 bigger 80:13,16 billion 81:10 87:2 biomedical 73:3 bit 32:13 45:3 101:18 block 53:18 70:11 blocking 38:8 38:12 48:2 52:3,25 53:15 70:2,5,8 bluff 3:18
---	--	--	--

[board - characterization]

board 1:2 2:2 6:16 24:24 body 111:5 bonded 40:12 book 86:21 88:9,10,12,13 88:14,14 bore 17:17 boss 79:8 bosses 97:5 bottle 111:5 bottom 44:1 46:18,23 48:1 48:14,17,18,22 48:22 49:5,8 49:11,15,16,20 49:22 50:2,17 50:18 72:22 boundaries 54:18,21,23 55:2,7,16,19,23 56:2,3,9,13,14 56:25 57:3,5,7 57:10,18 58:1 58:8,18,19 59:21,23 60:1 63:16,16,17,19 64:17 67:3,5 boundary 47:9 52:11 58:13,17 58:24 59:3,3 59:11,17 60:6 65:5,7,8,21 66:3,5,7,9,13 66:25	bounded 66:1,2 bounds 12:3 16:6 break 45:1,6,7 45:9,24 46:3 67:17 68:2 103:2,3,17 116:10,21 briefly 74:3 86:6 bring 105:9 broad 84:15 bubble 62:10 bursting 114:10 busy 27:11	43:5,8,20,25 44:6,17,19 46:11,16 47:4 48:23 49:6,16 50:22 51:6,8 51:23 52:1,13 52:15,16,17,21 52:24,24 53:15 55:1,8,20,23 56:3,9,25 57:9 57:18 58:13,24 59:1,11 60:5 60:13 69:15,22 69:24 114:11 capital 77:6 78:6 capped 43:13 43:16 44:16 caps 39:6,10 71:3 carefully 109:2 carry 101:24 case 1:10 2:10 11:24 12:8,9 12:15,19 13:8 13:15,17,25 14:13 15:1,12 15:17,18,19,23 15:24 16:9 18:8 20:16 53:21 77:17 79:4 80:13 90:17 118:12 cases 11:12,16 11:19,22 12:24	13:9 15:7,8 19:6,9,10,18,19 19:20,22 20:1 20:3,8,11 79:11 cassia 3:23 6:18 categories 85:19 category 85:6,9 cause 85:18 caution 27:25 cavitation 77:25 cavities 74:8 cavity 74:7,7 ccp 120:9,12 centre 3:7 certain 13:12 13:23 71:16 82:8 certified 2:17 118:1 certify 118:3,14 chamber 34:7 72:13 78:20 112:13 chance 108:9 110:22 change 30:3 changes 50:4 chapter 88:6,9 88:17,21 96:19 characterizati... 102:9,10 105:5
	c		
	c 3:1 58:5 111:22 c.v. 15:5,8,11 17:19 ca 120:9,12,21 california 3:9 3:20 118:2 call 24:5,7 58:17 71:10 93:15 97:3 called 58:3 71:20 77:5 cannula 81:7,7 81:11 cannulas 79:25 cap 34:6,7,18 35:23,25 36:2 40:12 42:21,23		

[characterizations - configuration]

characterizati... 101:15 check 17:19 80:5 cho 5:12 8:24 9:16,19,24 22:25 96:4 98:25 99:7 105:8 106:6 107:20 108:2,5 108:10,13 109:4,14,23 110:1,17,24 111:3 112:2,6 113:1,6,8,23 114:3,7,22 116:1 choose 77:24 78:1 chooses 78:11 cite 101:1 cited 23:7,11 civil 120:19,21 claim 67:4 104:12 claiming 56:4 claims 31:13,14 57:23 72:18 74:18,18 clam 97:3 clarify 104:24 classified 96:10 clear 11:25 24:18 82:24 109:1	clearly 9:17 101:2 clock 40:16,18 close 15:22 62:13 80:3 closed 20:15 38:1 39:6,9 44:6,20 46:17 59:1 closes 114:11 114:13 closest 84:21 coast 45:4 code 120:9,12 120:19,21 coffee 62:16 cold 78:6 colleagues 110:8 collection 34:6 34:18 35:14 colloquy 100:15 102:17 column 34:3,15 35:4,6,7 89:14 89:14 93:4,10 94:16,16 106:12 combine 78:14 combined 25:9 combining 98:25 105:8 come 45:11 81:6 107:15	coming 26:5 commanded 112:14 commencing 2:15 common 85:16 91:4,17,20,21 91:23 112:18 commonly 91:24 communicate 11:1,7 communicating 8:8,19 communication 8:10,16 11:4 complete 8:3 65:7 101:19 completed 100:17 120:7 120:17 121:6 completely 54:18 completion 118:12 121:10 complex 92:16 92:20 94:7 95:1,1,6,10,22 95:23 96:5,8 98:5,10 99:12 101:4 complexity 97:8,21 98:19 99:1	complicated 95:12 component 38:13,25 39:2 39:14 41:4 43:9,12 52:4 52:25 53:16 components 44:25 53:10 78:13 computer 8:20 9:2,7,15,23 10:3,10,13,25 11:6 27:7 30:20 41:17 87:13 107:25 computers 8:9 8:19 concentration 106:12 112:23 concept 78:16 concerned 113:6 conclude 74:18 concluded 117:12 concludes 117:6 conducted 6:8 confer 45:24 confidential 19:14 28:1 configuration 37:13,22 38:2
--	---	---	---

[confirm - cylinder]

confirm 40:2 confused 76:10 83:13 connect 100:22 connection 8:9 consider 61:12 71:17 78:21 79:16 90:23 considered 18:14 30:12 considering 37:7 53:14 consistent 59:24 77:6 constituents 78:10 contact 120:9 120:20 containers 73:6 contains 34:7 46:23 contentions 12:3,10 13:25 16:6 contents 33:8 context 83:2,6 83:24 84:7,13 86:5 96:3 101:12 continue 6:9 24:23 45:22 101:22 102:16 103:14 continued 101:22	continues 74:11 109:24 continuing 63:22 continuous 51:2 converse 116:4 cool 80:4 101:17 102:9 corner 83:7,19 83:20 85:3 corners 85:17 92:13 106:14 correct 9:21 10:7,14,15,18 11:2,3,8,9 14:17 15:18,25 16:2,9,10,20 17:3,4,13,14,18 17:20,23 18:1 20:2 21:5 22:5 22:8,15,16,19 27:19,20 29:5 29:20,21 41:18 44:2,3 46:19 58:13 65:14,19 65:20 72:25 73:15 74:1,2 74:13 75:12 81:3,4 96:23 105:4 110:19 correction 111:13 corrections 120:14,15	121:3,4 cost 75:15,23 76:5,14,24 77:21 78:7,23 79:5,10,11,13 79:14 80:10,15 86:24 97:8 costly 84:17 93:23 costs 79:19 counsel 3:3,12 6:13,25 7:13 11:1 24:11 28:8,17,21 31:24 32:6,8 42:7 45:25 103:16 120:18 120:22 121:7 couple 24:1 44:25 45:4 110:14 coupled 34:19 course 27:15 court 6:19 7:12 11:17,23 13:10 14:2 15:17 18:8,9 19:10 19:24 20:18 cover 34:8,20 43:21 86:14 covering 37:19 37:24 crack 86:13 cracking 85:18	create 50:23 51:17 93:23 97:6 113:13,15 created 52:9 81:10 creates 62:11 112:22 creating 112:18 credible 14:6,8 creep 89:15 csr 1:24 118:25 cup 51:21,23 51:24 60:13,17 60:19,20 61:9 61:16,19,19 62:2,12,13,16 62:25 63:2,11 63:13,23,25 64:1,2,3,6,7,9 65:2,11,13,18 65:22,25 66:2 66:3,4,9,10,12 66:13,19,21,24 66:25 67:1 currently 9:6 9:22 10:9,13 10:20 11:5 17:11 cycle 80:2,9,9 80:17 97:6 cylinder 39:11 43:18 46:22 70:24 71:3,8 71:11,24 72:1 72:3
---	---	---	---

[cylinders - determined]

cylinders 70:18 112:14,19 cylindrical 38:13,16,18 39:1,6 43:9,12 46:16,16 116:6 116:8	56:15 73:18 85:14 88:20 89:3 92:10 100:19,20 103:21 104:1,9 104:12,22 105:1,2,7,11,23 109:1 declarations 18:12 25:8 30:14 38:3 74:21 75:2 100:25 102:13 103:24 108:8 108:14 decoupled 77:5 define 47:3,8 47:16,20,21 50:12,21,23 51:5,14 52:18 52:20 55:23 56:2 57:3,6,9 57:17,25 64:14 65:6 66:7 67:2 67:3 69:23 defined 35:13 44:5,19 50:3 50:23 51:3,15 51:25 52:11 53:14 54:18,21 55:2,19 65:5 66:2,4,9,11,25 95:17 97:15 defining 46:18 47:13,14 58:18	73:14 definition 29:17,19,22 30:1,2,3,7,8 71:24 73:9,22 definitions 23:11 30:13 degree 73:3,4 deigo 3:9 demeanor 102:11,19,21 depend 37:12 69:23 76:18 83:6 depending 37:22 62:9 depends 66:10 76:21 77:12 80:7,25 81:21 83:6 86:8 94:8 depict 69:1 72:21 depicted 44:10 deposition 1:14 2:14 5:2 6:7,12 8:5,14 9:9,9 11:2 20:7 21:1 21:16 22:21,24 23:8,12,15 24:4,12 25:14 25:21 26:6 41:22,24 45:16 45:21 50:8 100:16 101:19 102:15 103:8	103:13 117:7 118:11 120:19 120:23,25 121:8,10 describe 49:10 53:20 74:3 described 35:19 39:7 46:24 51:23 85:20 103:24 describes 35:25 42:23 43:2 describing 34:24 description 5:2 68:12,19 descriptor 115:17 design 78:16,17 81:22 86:22 90:24,24 91:4 91:18 92:8 93:7,14 95:17 97:11,15 designed 93:24 designing 106:15 desire 99:3 destroyed 15:20 determine 54:2 55:6 58:7 59:23 determined 120:18,23
d			
d 4:1 5:1 date 74:15,17 74:24 75:1,5,7 75:10,15,23 76:5 79:18 81:17 118:17 120:16 121:5 dated 9:13 118:20 day 74:11 100:10,14 debate 101:23 decided 16:23 decision 11:17 11:23 13:10 14:16,20 16:18 declaration 5:3 5:5 8:24 9:2,6 9:8,10,10 13:6 17:8 20:22 21:6,17,22,24 21:25 22:2,7 22:12,13,18 23:5,7,11 27:19 28:2,8 28:12 30:4,9 31:16,17 36:1			

[determined - e]

121:7 determining 76:24 developing 26:3 device 34:6,18 54:19 73:5 81:12,22,23 82:4 devices 8:11,16 14:10 26:4 73:7 74:6 86:25 dictates 78:11 dictionary 23:10 diego 3:20 dies 87:3 differ 73:21 77:11 different 12:5 26:2 36:2 42:18 44:10 53:25 55:10 58:2 59:18,22 59:22 74:8 76:2,20 77:10 77:16 79:4 85:19 differently 52:17 55:21 57:9 difficult 69:10 79:12 80:8 81:2,16,25	82:3,9,12 83:1 83:15,25 84:4 84:6,12,17 85:3,14 91:13 92:11,16,25 94:7 95:6,10 96:10 98:12 107:11 difficulties 85:20 dimensions 58:1 direct 27:9 29:9 30:25 34:2 35:9 46:7 67:10 92:5 93:3 94:9,13 98:4 100:3 102:5,22 104:15 106:8 106:11 109:3 111:1,16 114:2 114:21,24 directed 34:23 89:22 114:8 directing 50:14 57:12 direction 113:4 113:5,7 118:8 disagree 100:4 100:5,12 101:14 discharged 72:13	disclose 69:5,15 69:22 70:2,18 disclosed 83:23 disclosure 34:10,22 discuss 13:23 20:16 49:10 51:17 53:4 63:18 68:3 discussed 13:16 16:4 18:4 26:8 41:22 51:4,7 51:14,19 52:9 68:25 74:14 78:19 94:24 113:7,12 discusses 35:4 55:11 discussing 14:13 15:13,23 18:20 19:11 20:24 22:7 46:4,10 56:13 67:2 91:2 discussion 59:2 102:3 109:22 110:17 dispensing 111:4 displayed 10:9 10:13,20 87:13 107:24 disposable 73:7 disputes 75:6	district 18:8 districts 12:5 dna 1:7 2:7 6:14 7:6 17:22 18:19 120:4 document 106:4 documents 14:25 15:4 23:6 42:5 doing 16:14 26:13 27:12 41:16 91:12 110:7 dollar 81:10 dover 2:15 downloaded 30:21 32:23 downward 113:4 draft 27:21 28:8 31:8 drawings 57:7 drawn 52:16 57:9 draws 63:20 drive 3:7,18 drugs 78:10 drying 78:5 due 70:12 duly 7:16 <tr> <td colspan="4">e</td></tr> <tr> <td colspan="4"> e 3:1,1 4:1,1 5:1 5:1 7:22,23 78:3 120:9,12 </td></tr>	e				e 3:1,1 4:1,1 5:1 5:1 7:22,23 78:3 120:9,12			
e											
e 3:1,1 4:1,1 5:1 5:1 7:22,23 78:3 120:9,12											

121:1 earlier 17:16 22:1,24 24:21 60:12 107:11 112:21 easier 22:6 47:5 47:16,17,18 78:13 eastern 6:2 117:13 easy 93:2 edge 48:1,3 49:9,11,15,16 49:18,20,22 50:2,17,18 51:2 52:22,23 62:13,17 79:13 107:9 edges 49:5 60:24 61:10 62:10,12 80:1 edify 86:6 edition 88:2 education 14:4 effect 61:11 62:11 effective 113:15 effects 61:15 efficient 100:17 efficiently 50:13 either 12:4 28:13 30:3,4 37:23 54:22	62:10 65:1 69:18 70:23 73:22 84:4 91:13 94:5 117:4 elastomers 74:9 element 38:20 38:25 39:2 42:15 113:19 113:22 114:7 eliminate 86:23 92:3 eliminating 81:11 emanating 72:21 embodiment 34:5,17 59:15 109:11,14,22 embodiments 34:9,22 employee 118:15 enabled 38:3 70:25 enclosed 40:10 44:24 65:5 71:5 encompassed 71:23 encompassing 69:15 ended 15:19 ends 35:7 39:12 44:20 49:2,4	89:15 114:11 engage 100:15 101:23 102:17 engaged 25:13 102:2 engineer 81:6 engineering 73:3,4 engineers 78:17 entire 41:10 88:10 89:1 96:21 entirely 52:5,10 53:1,17 54:9 54:16,17 60:19 61:18 62:22 63:1,8,17 64:3 64:9,13,14 65:4,24 66:21 66:24 entirety 66:24 88:21 entitled 22:1,12 envision 44:7 errata 120:14 120:16 121:3,5 error 91:14,18 91:19 92:8,11 93:7,14,15,22 errors 90:24 91:4,8 especially 58:3 92:12	esq 120:1 estimations 25:23 everyone's 50:9 evident 114:17 exact 11:15 19:7 exactly 12:25 93:18 94:2 105:21 examination 4:2 7:17 example 65:7 80:23 83:9,23 85:2 92:22 except 85:2 exception 86:17 exceptions 86:18 90:3,6 91:8 excerpted 88:4 excluded 11:18 11:23 13:10,21 14:5,14 excluding 12:1 exclusion 13:16 14:15 exclusions 13:12 exhibit 5:3,4,5 5:6,7,9,10,11 5:12,13 22:8,9 22:10,18,20 26:7,8,9,13,20
---	---	--	--

[exhibit - figure]

27:6,7,10,16,18 27:21,24 28:11 28:15,22 29:10 29:18,24 30:9 30:16,16,17,23 30:23 31:2,6,8 31:11,19,25 32:7,17,17,20 32:25 33:4,8 33:14,20,25 34:13 35:10 38:9 41:19,20 41:21 42:12 46:4,8 68:7 70:17 72:5 73:13,19 75:2 75:3,3,4 87:8,9 87:12,13,19,23 88:4,18,23 91:2 93:5,10 94:10 95:5 98:9 99:10,15 99:16 102:6 103:21,22,23 104:1,2,9,10,16 104:19,20,22 105:1,2,3,6,9 105:13,14,17 105:20 106:9 106:23 107:18 107:21 108:6,9 110:13,17 exhibits 21:21 26:15 42:2 85:11 102:13	109:15 expenditure 78:6 expensive 80:14 95:24 experience 14:4 62:1 68:24 73:5,6,25 74:4 74:5,10 75:13 experienced 91:23 expert 11:11 14:9 17:2 30:8 98:23 99:8 expert's 73:22 experts 30:2 explain 27:23 31:10 63:10 92:7 93:13 111:3,6 exposed 13:14 14:23 64:16,25 78:10 exposure 64:6 expressly 38:16 extending 49:21 50:16 52:22 extent 24:13 28:2 50:25 95:23 exterior 116:2 external 115:7 115:9,12,25,25 116:2,7	extremely 89:16 f f 4:1 5:1 fact 14:7 53:7 55:13 77:5,6 factor 80:9 factors 76:23 77:16,20,22 78:12 79:15 80:17 facts 14:4,5 failure 86:25 fair 24:10 33:7 49:7 75:8,14 75:22 76:4 83:2,5 88:16 90:22 92:15 104:25 105:12 109:13 fall 85:6 familiar 33:8,9 88:10,12,17,19 family 76:19 far 44:10 96:16 110:11 fast 77:4,6 fatigue 89:15 favorable 86:19 feature 71:5 81:11 82:9,12 83:22 84:5,11 98:18,21,24 101:8	features 39:6 46:23 51:19 67:4 78:22,25 79:5 80:8 81:3 81:16 82:1,1,1 83:1,15 85:2,6 85:7,9,9,12 91:13 92:3,10 92:14 93:1,1 95:11,20,22 96:25 97:4,24 98:17 114:19 116:3 federal 118:11 121:1,8,9 feel 66:16 field 14:9 fifty 108:20 figure 33:24 34:3,5,12,17,24 34:25 35:22 43:3 44:13 46:8,10,11 47:6,7,25 48:6 48:8,19 49:8 49:11,13,21 50:7,7,11,14,17 52:2,13,14,21 53:13 54:25 55:20,24 56:8 56:16,24 57:13 57:17,21,22 58:4,12,22 59:8,9 68:18 69:1 72:12,21
--	--	---	--

[figure - foundation]

111:14,15,17 111:17 113:5 figures 33:12 33:19 35:5,10 35:14 36:4,7 36:12,16,23 37:8 38:9,20 39:15 40:10 42:11,15,20,22 42:25 43:8,17 43:21,22 44:1 44:10 46:4 53:24 56:17 57:23 58:2,6 59:10,13,22 60:4 63:10 67:10 68:7,12 69:3,14,21 70:1,14,17 72:4,17 109:19 109:25 110:23 111:1,2,4 113:1,8,18,23 114:7 file 11:8 41:21 72:19 filed 6:14 20:20 20:20 filings 15:17 20:18 fill 60:17 62:13 65:22 66:19 80:1 84:3,4 107:11	filled 61:17 62:1,16,25 63:25,25 filling 79:25 film 114:10 finally 10:12 financially 6:23 118:14 find 15:1 41:1,8 41:10,12,16 fine 21:14 22:10 26:23 61:25 67:18 94:22 99:24,24 100:2 110:4 finger 71:11 finish 90:8 108:6 finished 115:2 115:5 finishes 79:7 firm 7:11 12:9 18:25 19:3 first 28:4 57:24 72:15 95:14 102:8 106:13 five 13:1,3 24:8 24:11 67:17 103:5 108:16 116:10,21 flash 93:23 flat 51:2 flow 37:23,25 86:11,11 92:6	fluid 112:12,24 113:3 focus 42:1 50:10 94:20 99:5 101:18 focused 46:11 99:10 focusing 112:7 113:18 foerster 3:13 7:5,7 folder 15:20 follow 64:23 105:2 following 99:9 follows 7:16 120:8 force 112:23 foregoing 118:4,8,10 form 14:18 15:6 16:21 17:24 19:4 20:12 25:15 28:16,23 29:25 30:11 32:1 33:21 34:1 35:2,16 36:9 36:25 37:11 38:14 39:3,17 41:6 42:16 43:10,19 44:8 44:21 46:20 47:19 48:20 49:25 51:2,11	53:3,19 54:10 55:4,25 56:10 57:1 58:14 60:7,21 61:7,9 61:20 63:3 64:4,11 66:22 68:14,21 69:6 69:10,16 70:3 70:21 72:14 75:18 76:17 77:2 79:1 81:18 83:3 84:8 86:7 88:24 89:24 91:5 92:17 95:7 97:12 98:11 99:18 104:3 105:15 106:2,25 108:21 109:17 112:10 113:9 115:14 formed 40:10 50:2 113:13 forms 49:5 forth 29:16,19 66:17 100:15 110:3 118:5 forward 41:25 51:10 98:23 found 12:7 14:6,8 foundation 28:24 36:25 37:11 39:3,17
---	---	--	--

[foundation - hypothetical]

41:7 44:8 46:20 49:25 51:12 53:3 54:11 58:14 60:8 61:21 63:4 68:14,22 70:4,21 71:9 75:18 76:17 79:1 81:19 83:4 89:25 91:5 92:17 95:8 99:19 104:4 106:2,24 108:21 109:17 113:9 four 13:2 15:8 fracture 86:13 frame 105:22 frcp 121:1 freely 37:23 front 68:8 full 83:16 fully 40:22 70:13,25 77:18 further 69:11 117:3 118:10 118:14 furthermore 114:10	86:18 91:7,8 95:10 96:22 97:14 generalized 101:8 generally 38:18 39:5 43:11,12 46:16 90:1 105:10 107:2 genotek 1:7 2:7 6:14 7:6 17:22 18:1,19 120:4 give 8:2 16:12 25:21,25 26:17 27:11 59:14 62:23 66:14 98:6 99:6,25 given 76:15 77:1 78:21 118:9 go 6:10 26:19 26:23 50:8 62:8 78:12 79:22 82:1 90:10 91:25 94:18 96:16 110:3 116:20 goes 60:18 86:12,20 going 6:5 13:4 26:25 41:25 45:3 47:25 51:10,25 66:14 66:17 67:21 72:22 74:6,7	78:2 85:15 100:20 101:21 110:2 116:12 116:23 good 6:4 7:4,19 7:21 29:7 45:8 116:22 gotten 20:17 grade 78:2,2 great 10:23 32:25 33:18 43:4,15 45:14 68:10 73:20 guess 12:25 16:12 25:10,20 64:23 83:13 84:25 104:21 108:23 guesses 25:23 guidance 21:19 h h 5:1 half 45:11 halves 97:3,23 107:15 hampshire 2:15 hand 56:17 handbook 5:10 87:16 88:1,5 88:11,18,22 89:6,20 105:25 handled 120:8 happy 102:9,12	hard 12:23 86:23 head 25:10 28:7 heading 94:14 106:12,13 hear 9:16 held 37:3 help 50:12 76:13 high 3:18 highest 87:5 hinge 86:10,12 86:12,13 hired 17:3 history 72:19 hold 66:11 holds 36:24 hole 79:9 home 81:8 homey 81:13 hopefully 47:18 horizontal 49:19 50:16 hot 78:5 hour 45:11 hours 23:24 24:1,11,16 25:12,19,25 26:5 28:10 31:18 45:4 108:16,18,20 hypothetical 60:16 61:15,21 63:4,22 66:15
g			
g 7:23 gate 86:9,9 general 59:14 77:23 78:15 80:20 81:24			

[hypothetical - interior]

70:22 81:19 92:18 99:19	impossible 69:10 84:3 92:11	97:7 increased 97:6 increases 75:16	105:24,25 106:16
i			inner 34:7,8,21
idea 59:14 ideas 28:7 identification 26:10 30:18 32:21 38:17 87:10 107:22 identified 36:11 52:16 85:1 identifies 42:24 identify 15:12 15:18 53:9 54:12 56:8,24 58:12,23 59:10 59:21 60:5 identifying 54:4 imaginary 49:24 50:1,16 51:3,6 52:8,12 52:22 imagine 44:5 49:19,23 63:24 impact 77:20 79:5,10 importance 53:5 56:14 important 26:3 55:7 56:3 89:16 93:1 95:12 96:24 98:15	improper 51:13 59:23 72:16 100:24 102:11 102:18 improve 86:24 inaccurate 102:11 inch 86:16 include 12:9,10 15:4 19:10 96:8 101:4 included 85:13 88:8,14,19 120:14 121:3 including 57:23 72:19 73:6 inclusive 105:10 incomplete 61:21 63:4 70:22 81:19 92:18 99:19 inconsistencies 56:16,17 inconsistent 36:1 51:1 53:8 57:7 58:7 inconsistently 52:17 63:20 increase 76:15 76:25 78:24 79:11,19 80:8	75:17,24,24 76:6,7,16 78:25 79:14 indicated 9:15 10:2 indirectly 104:21 105:16 industry 73:6 inexpensive 80:24,25 inexperienced 91:24 information 19:15 28:1 105:23 initial 103:21 105:1 inject 80:4 injection 5:10 73:25 74:4,5 74:10 75:9,16 75:23 76:5,14 76:24 77:21 78:24 79:5,10 79:20 80:14 81:2,17 82:10 83:1,15 84:6 84:12 85:4 87:16 88:1,5 88:11,17,22 89:6,20 92:16 94:25 95:6	47:9,12,16,21 47:22 51:9 52:5 53:14 114:11 insert 93:20 inserted 94:1 inserts 93:4,11 93:12,19 inside 37:17 44:25 52:11 53:21 54:8,8 55:9 65:4 85:17 instance 12:13 82:11 instances 115:13 instruct 19:14 intend 42:4 intended 112:12 inter 6:17 22:14 interested 6:23 118:15 interior 36:4,7 36:11,23 37:4 37:18 47:3 50:12,22 51:5 52:1,18,20 54:5

[interject - leinsing]

interject 19:13 101:20 internal 116:5 116:6 international 9:19 intricate 93:1 introduce 87:7 intrusions 112:11 invention 54:4 55:8 56:4 58:9 59:4,17,19 68:13,19 69:1 81:10 inventions 81:4 90:14 involved 12:15 15:24 78:8 80:6 ipr 6:17 17:12 17:16,17,17,21 18:19 21:1,2,9 21:10 22:11 25:3,12 105:3 ipr2022-01347 1:10 2:10 issue 107:4 issues 37:20 99:4 item 37:24 42:24 69:9 items 39:21	j january 75:11 jennings 23:19 32:12 job 1:25 joe 23:18 32:12 judge 16:19,19 jump 116:21 june 74:24 75:11 jurisdiction 13:17 14:1,16 16:8,17	know 11:22 13:22 14:1,20 16:24 17:20 19:7,25 20:14 20:19 22:9 25:8 27:10 29:6,11 32:18 33:12 42:6 45:5 48:3 59:15 61:6,23 63:12,12 72:9 75:6 87:12 91:20 92:19 94:7 96:16,18 102:25 107:24 115:2,20 knowing 53:24 knowledge 11:17 54:4 75:9	leak 37:25 113:6 leaking 112:13 113:4 leaks 87:3 ledanois 1:24 2:17 6:20 118:1,24 leet 3:23 6:18 left 48:10 49:21 50:18 89:14 92:13 94:16 legal 6:18,20 11:20 12:4 13:13,22 16:4 16:19,22 18:21 20:18,19 75:6 117:9 120:7 leinsing 1:14 2:14 5:3,5 6:12 7:10,15,22 9:11 19:17 22:2,13 25:2 27:6 29:5 30:15,25 31:8 32:16 33:20,24 37:16 38:22 39:9 40:15 42:1,21 44:4 45:16,21 46:3 47:24 49:1,13 50:6 51:21 52:7 54:15,25 55:18,22 56:6 56:21,22 57:12
	k k 7:21 karl 1:14 2:14 5:3,5 6:12 7:10 7:15,21 9:11 22:2,13 45:16 45:21 67:18 79:22 90:11 103:8,13 117:7 120:5 keep 100:20 kind 20:6 63:19 67:3,3 70:8,24 71:3 78:3 86:16 kinds 25:9 78:12 knobb.com 3:10 knobbe 3:4 7:11 18:25 19:3 20:4,11	l l 5:3,5 7:21,23 labeled 38:21 39:1 70:19,20 lacks 61:20 70:3 71:9 81:18 83:3 89:24 95:7 99:18 106:24 large 55:12 80:22 law 3:6,17 7:10 12:8 18:25 19:3	

[leinsing - make]

59:5,25 60:12 61:3,14,25 62:5,19 63:23 64:10,24 65:10 66:5,8 67:8 68:2,6,18 71:7 71:14 73:1,16 73:24 74:12,21 75:9,14 81:14 82:24 83:14 85:1 87:20 96:15,18 98:3 99:3,25 100:10 100:16 101:14 101:23 102:2,6 102:16,21 103:8,13,16,20 105:19 106:21 107:13,17 108:3 109:13 110:20 111:25 112:17 115:3 115:21 117:7 120:5 length 71:16 lengthy 88:9 102:2 letting 42:6 level 94:6 lie 52:8 likely 15:18,19 62:14 84:18 86:5 line 34:3,15 35:4,6,7 72:15	86:12 107:3,7 107:13 109:10 109:24,24 110:12,18,19 111:8,13 114:3 114:4,25 116:4 120:15 121:4 lines 35:7 97:4 link 11:6 26:18 lip 60:18 61:17 62:2,4,4,9 63:1 64:2 66:20 liquid 60:17,18 60:19,24 61:9 61:17,18 63:1 63:12,24 list 15:7 86:19 listed 14:9 85:13 lists 15:8 literature 85:10,13,21,25 litigation 18:18 little 25:7 32:13 72:20 76:2 79:8 83:13 101:18 living 86:10,11 86:12,13 llc 1:4 2:4 6:14 llp 3:4,13 location 53:10 locked 120:12 121:1	lodge 13:4 long 14:19 24:7 26:4 77:24 81:7 82:1 83:10,22 89:15 92:6,10 97:5 97:23 longer 45:6,9 80:1,17 92:12 look 14:25 15:16 26:15 36:22 40:1,19 42:4 54:25 55:6 57:21 58:2,6,15 59:16 60:4,23 61:10 65:3 68:6 69:3 70:23,24 72:17 77:17 79:3 80:18,18 89:21 90:16 91:1 94:21 95:11,13 98:20 106:6 110:22 looked 28:5 looking 49:13 52:2 53:13 56:7,23 57:8 57:17 58:12,22 59:9 69:14,21 70:1,7,13,17 71:1 74:20,22 90:16 93:9 104:6,14	loop 15:22 loops 89:14 lot 26:2 47:4 77:16,22 86:25 90:2 92:3,22 92:25 95:11 lots 79:4 lower 114:11 lunch 45:5,9,24 46:3 lynne 1:24 2:17 6:20 118:1,24 m m 1:24 4:1 118:1 macarewich 3:15 7:7 machine 118:7 made 24:21 39:20,21 80:21 80:24,25 87:2 87:5 95:23 118:6 magnitude 25:25 make 15:17 22:6 25:22 42:9 47:4 50:8 67:4 71:4 78:13 79:8,12 80:20,22 82:19 82:24 83:22 86:11 87:4 90:12 91:24 92:12 98:1,17
---	--	---	---

[make - molded]

100:8 120:14 121:3 maker 11:18,23 13:10 14:16,20 16:19 makes 109:1 making 47:15 80:2 92:13 100:9 102:19 manner 52:21 53:10 100:17 manufacture 40:9 manufacturing 78:14 marie 118:24 marjoman 3:21 120:2 marked 22:8 22:18 26:9 30:17,22 32:17 32:20 87:8,9 107:18,21 markings 9:24 marks 45:15,20 103:7,12 marley 3:15 7:7 martens 3:4 7:11 18:25 19:3 20:4,11 material 72:12 77:24 78:4,11 80:15,16 materials 77:10 77:11 78:1,9	81:21 math 24:15 matter 6:13 12:4 13:13 16:3 45:25 58:8 68:3 97:4 103:17 mean 14:20 17:7 18:6 37:16 39:9 49:4 51:9 62:22 66:6 71:15 77:16,23 84:16 91:22 92:19,20 93:19 94:1 97:18 98:13 99:21 101:6 meaning 39:11 93:20 115:16 means 11:3 58:4 mechanical 73:3 media 6:11 45:16,21 103:8 103:13 117:8 medical 14:10 26:3 73:5,7 74:6 78:1,2 81:22,23 86:24 meet 23:14,17 23:22,24 24:2 meeting 110:9	mehran 3:14 7:5 120:1 member 34:8 34:19 38:8,12 39:16 48:2 52:3,25 53:16 70:2,6,8 memorize 88:13 memorized 33:9 meniscus 61:11 61:15 mention 51:10 56:15 91:9 mentioned 10:12 21:21,23 21:25 22:23,25 23:5 35:25 38:2,4,7 54:7 69:8,18 75:12 80:12 85:10,24 87:15,22 89:19 91:16 92:9 93:16 112:21 mentioning 91:9 met 23:18 24:11 middle 7:22 86:10 milliliters 55:14 mind 110:8	mine 73:23 minute 67:17 94:15 116:10 116:21 minutes 24:8,9 39:25 40:19 103:5 109:21 mischaracteri... 24:14 misspoke 36:17 36:19 mofo.com 3:21 120:2 mold 76:19,20 77:4,10,10,24 77:25,25 78:5 78:6,7 80:4,5 81:2,7,17 82:10,12 83:1 83:16,25 84:6 84:13 85:4,14 86:22 90:24 91:4,10,11,18 92:8,16,25 93:2,7,14,21 94:7,14 95:6 95:11,17,18,21 96:5,10 97:1,3 97:3,8,11,15,15 97:23,24,25 107:15 112:21 moldable 78:19 78:20 molded 77:8 79:14 80:2
---	--	--	--

[molded - objection]

94:4,5 106:16 molder 77:24 78:18 molding 5:10 73:25 74:4,5 74:10 75:10,16 75:23 76:5,14 76:24 77:5,7 77:21 78:24 79:6,11,12,20 80:10,14 81:25 84:17,19 85:16 85:17 86:19 87:16 88:1,5 88:11,15,17,22 89:6,20 91:14 94:7,25 95:23 97:14 105:24 105:25 moment 25:13 29:13 89:12 114:25 money 84:19 monitor 8:21 9:3,7,16,23 10:3,10,14,21 10:25 11:6 27:7 30:20 87:13 107:25 monitors 8:20 morning 6:4 7:4,19,21 24:6 62:16 81:9 morrison 3:13 7:5,7	motion 9:12 18:15 21:7,20 22:4 31:13 motivation 92:3 motivations 105:8 106:6 movable 34:7 34:19 move 66:16 101:21 102:1,4 112:14 moved 34:20 msm 6:12 120:5 multi 74:7 multiple 40:11 78:14 86:14	92:24 93:17 94:6 necessary 120:14 121:3 need 14:25 15:16 17:19 39:18,22 52:11 55:6 56:12 57:3,25 63:11 63:11,12,15 64:20 78:5 79:3,16 80:18 80:18 81:6 82:4,23 83:10 84:22 86:10 90:16 92:1 96:21 98:20 101:20 113:3 needed 93:21 neither 118:14 network 8:8 never 62:1 new 2:15 20:16 31:13 non 14:6 noncontingent 9:12 22:4 nos 85:23 86:3 notating 120:15 121:4 note 6:7 62:19 noted 24:25 notes 9:1,24 10:8,19	noticing 7:3 number 6:17 9:20 10:5,17 11:15 17:18,20 17:20 19:7 21:2,3 22:9,15 27:14,14 38:21 39:1,15 41:5 48:6,16,16 70:19,20 75:16 75:24 76:6,15 76:25 78:22,24 89:6,7,8 117:8 120:15 121:4 numeral 49:3 52:4 53:1,17 113:20 numerals 111:21,24
	n		o
	n 3:1 4:1,1,1 5:1 7:23,23 name 6:18 7:20 7:21,22,22 11:22 12:12,14 14:9 118:18 names 11:22 12:14 29:4,7 narrative 50:20 native 27:9,16 29:10 31:1 nature 14:3 near 48:1 49:2 nearly 87:2 necessarily 13:21 88:13		o 4:1,1 5:1 7:22 oath 7:25 objection 13:5 13:18 14:18 15:6 16:1,21 17:24 19:4 20:12 24:13,20 25:15 28:16,23 28:24 29:25 30:11 31:20 32:1,1 33:21 34:1 35:2,16 36:9,25 37:11 38:14 39:3,17 41:6,6 42:16

[objection - ordinary]

43:10,19 44:8 44:21 46:20 47:19 48:20 49:25 51:11 53:3,19 54:10 55:4,25 56:10 57:1,19 58:14 60:7,7,21 61:7 61:20 63:3,3,4 64:4,11 66:22 68:14,21 69:6 69:16 70:3,21 71:9 72:14 75:18 76:17 77:2 79:1,21 81:18 83:3 84:8 86:7 88:24 89:24 90:7,9 91:5 92:17 95:7 97:12 98:11 99:18 104:3 105:15 106:2 106:24 108:21 109:17 112:10 113:9 115:14 objections 24:18,20,21 62:6 75:25 83:17 october 1:15 2:16 6:1,5 118:20 120:3 offered 11:18	office 1:1 2:1 6:15 14:8 18:17 120:11 office's 21:19 official 42:3 okay 8:15 10:1 10:23 11:10 15:22 17:2 21:15 22:20,23 23:6 24:7,25 25:11 26:22 27:13,17 29:9 29:12,15 30:6 32:22 33:13,15 35:11,21 41:25 42:13,25 43:4 44:4 45:1,10 46:9 47:2,11 49:7,19 51:5 51:25 61:25 66:14 67:9,12 67:19 68:6,10 73:20,24 74:23 75:1,8,14 76:12 82:18 84:2 85:22 87:14,23 89:9 89:17,18 92:5 93:12 94:3,12 94:18,23 96:2 98:3 99:24 104:17 106:10 107:2,17 108:1 108:25 109:3,8 109:9,21	110:10,14,15 111:16,18 113:18 114:5 114:23 115:4,5 116:9,11,19 older 20:15 28:12 olson 3:4 18:25 19:3 once 32:18 ones 23:4,5 29:7 open 8:21,23 9:2,6,22 10:3 10:25 11:6 26:18 39:11 43:25 44:16,20 44:24 46:17,22 48:22 49:5,6 51:18 64:6 65:17,18,20,23 66:12 80:4 97:2 opened 39:12 43:13 44:5 86:14 opening 51:22 64:7 65:9 66:3 112:23 opining 89:3 opinion 11:18 11:24 12:21 13:9,16,20 18:10 29:20 33:20 34:12,25	79:19 85:3 opinions 12:2,7 12:19 14:2 19:12,23 29:23 30:3,9,13 73:21 88:15,20 106:5 109:15 opportunity 62:24 66:15 98:6 99:6 100:1 110:16 opposing 30:2 30:8 73:22 opposite 14:7 opposition 9:11 21:7 22:3 option 41:16 order 15:21 25:25 52:10 ordinary 29:19 35:12,21 36:3 36:14,21 37:6 38:11,24 39:13 43:7,15,24 44:15,18 46:15 49:12 50:15 52:2 53:13 55:1 56:7,23 57:16 58:11,22 59:8 60:3 63:8 67:14 68:13,20 69:4,13,20,25 70:16 72:1,6 73:1,10,15 90:23 91:3
--	---	--	---

[original - patent]

original 27:16 89:7 94:10 104:22 109:4,6 109:7,9,23,24 110:12,18,19 114:2,21 118:11 120:10 120:20,22 originally 18:17 31:1 outcome 6:24 outer 43:1,2 44:6,20 46:18 46:22 47:6,25 48:11,15,19 49:1,8,14,20,22 50:17,18 51:7 52:23 64:16 116:8 outside 12:3 13:5,18,24 16:5 19:4 20:12,22 57:5 60:25 65:2 100:18,20 own 68:19 85:11 owner 1:8 2:8 3:12 6:13 7:6 17:22 18:1 64:14 owner's 9:12 21:20 22:3 owners 99:8	p p 3:1,1 p.m. 45:17,20 67:22,25 103:9 103:12 116:13 116:16,24 117:2,10,12 page 4:2 5:2 27:9,13,15,16 27:18 29:10 31:1,1,3,5 33:14,19,25 34:13 35:10 89:5,6,7,8 91:2 93:4,8,9,10 94:10,11,17,18 94:21 95:5 96:6 98:8 99:10,13 102:6 102:7,23,25 106:8,9,10 109:3,4,5,6,6,7 109:10,23,24 110:12,18,19 111:8,13 114:3 114:21 115:23 116:1,5 120:15 121:4 pages 86:22 120:14,17,17 121:3,6,6 papers 110:2 paragraph 27:14 29:9,11 29:14,16,18	73:12,18 89:13 94:13,15 95:4 104:6,15,18 105:17 114:24 115:1,3,6 paragraphs 110:14 part 13:23 40:12 71:5 75:24 76:5,5,9 76:20,20 77:11 77:21 78:15,21 78:25 79:24 80:8,12,13,16 80:19 81:21 82:7 84:23 86:9 87:5 88:8 91:9 92:15,22 95:14,18 97:1 97:16,24 107:3 113:16 partes 6:17 22:14 partially 39:20 particular 12:8 12:9,13 15:17 18:13 21:5 49:17 53:5,9 54:2 59:17,18 68:24 79:4 80:19 83:11 98:20,21,24 103:23 106:4 116:3	particularly 24:20 56:14 69:8 89:2 106:15 107:1 parties 6:9 12:15 14:15 15:24 16:3 17:16 18:20 parting 107:3,7 107:13 parts 40:11 46:23 75:17,24 76:6,10,15,25 77:4,4,8 78:13 78:15 79:20 80:2,5,21 81:22 85:15 87:1 88:19 89:1,2 91:10 91:16,17,25 92:25 93:16 94:1 95:1 106:16 party 6:22 12:18 118:16 pass 116:17 passage 34:23 35:1 41:2,9 89:21 91:1 114:8 passages 41:2 past 13:1 112:24 patent 1:1,2,8 1:10 2:1,2,8,10
--	--	---	--

[patent - potentially]

3:12 5:7 6:13 6:15,16 7:5 8:25,25 9:12 10:5,13,17,20 11:12,24 14:8 17:22 18:1,8 18:13,16,17 20:18 21:3,18 21:19,19 22:3 22:14 28:5 31:12,15 32:18 33:3 34:3,4,14 34:16,24 35:19 35:24 36:15,22 37:14,25 39:7 40:1,5 41:10 42:12,21,23 43:2 46:24 47:8,21 49:10 49:17 50:3,21 50:24 51:1,4 51:15,17,19 52:10 53:4 54:20 56:2 57:6,21,22 58:18 59:9,14 60:5 61:1 63:18 64:13 65:6 67:2,8,14 68:8,11,18 71:19 72:18 84:23 99:8 100:21 111:15 113:12,24	patents 25:9 101:12 path 92:6 pay 80:16 pdf 120:12 121:1 pe 6:12 120:5 penalty 120:16 121:5 pending 102:18 people 87:1 88:2 91:20,23 perfectly 102:9 period 26:4 120:18 121:7 perjury 120:17 121:6 person 29:19 35:12,17,21 36:3,14,21 37:6 38:11,24 39:4,13 40:9 43:7,15,24 44:15,18,22 46:15 49:12 50:15 52:1 53:8,12 54:1 55:1,5,14 56:7 56:11,23 57:3 57:16,20,25 58:11,21 59:7 60:3 63:8 67:14 68:13,20 69:4,13,20,25 70:7,16 71:15	71:17 72:1,5 72:16 73:1,9 73:14 87:3 90:22 91:3,24 113:25 pertaining 89:2 pertains 118:10 petition 17:21 22:13 petitioner 1:5 2:5 3:3 7:9 17:3,6,11,15 99:15 117:3 petitioner's 9:11 21:7 22:3 phone 8:12,14 phrase 98:9 99:12 phrased 83:19 phrasing 12:1 13:20 picking 59:8 piece 83:21 pieces 8:24 place 6:9 118:5 plane 49:20,24 50:2,16 51:3,7 52:9,12,22 plante 8:24 10:2,9 22:25 83:9,23 92:4 96:5 105:8 107:6 plastic 79:24 80:4,4,23 81:5	83:21 85:16 86:11,22 92:6 106:20 112:19 please 6:7 7:1 7:13,19 27:13 32:18 40:4 45:22 75:20 101:23 103:14 plural 76:10 point 66:6 79:13 93:8 104:5,13 pointing 36:6 48:8,21 104:11 104:14,23 points 47:7 polymers 74:8 poor 96:10 portion 59:1 73:12,17 93:21 110:1,24 116:7 portions 89:20 111:9 112:7 position 34:20 47:11 53:12 54:2,3,4 56:6 56:22 possible 8:13 37:3,9 50:9 87:6 possibly 58:5 97:25 potentially 15:12 37:25 39:20 113:11
--	--	--	---

[practically - question]

practically 96:8 101:4,6 prefer 42:1 preliminary 21:19 preparation 22:21 23:7,12 24:3,12 25:13 prepare 20:6 21:15 23:14 31:19 prepared 27:24 31:11 116:19 preparing 28:11,14,22 29:23 30:8 31:25 32:6 108:8,13 presence 64:6 present 3:23 34:9,22 85:11 presented 28:7 85:10,21,25 pretty 26:3 91:22 109:2 prevent 112:12 113:3 previous 31:16 38:2,4 40:2,20 54:7 74:20 87:15 90:19 93:16 98:4 99:22 100:19 107:14	previously 22:7 22:12 26:8 30:22 32:17 33:5 81:1 87:8 89:19 94:24 107:18 print 110:2 prior 11:12 21:18 22:24 23:1 28:5,6 31:15 74:19 98:25 100:21 100:22 101:13 priority 74:15 74:24 75:7,10 75:15,23 76:4 79:18 81:17 privileged 28:1 probably 13:2 45:8 84:21 86:17 problem 90:13 problematic 85:18 problems 85:11 94:25 procedure 120:19,21 proceed 7:14 24:23 proceeded 31:16 proceeding 17:12,16 18:9 18:16,18 21:2	21:9,10,12,13 22:11 24:19 25:3,12 30:10 42:3 74:16,21 104:2 105:3 107:19 proceedings 18:3,5,6,15,19 18:21 19:11 117:12 118:4,6 118:12 proceeds 94:16 process 27:23 31:10 77:5 processability 86:24 processing 78:7 79:14,24 80:7 produced 12:6 projects 26:2 properly 83:20 91:11 proportions 59:14 60:1 propose 96:4 proposition 95:5 96:4 protective 15:20 protrusion 112:4 protrusions 112:1,9 113:1 proud 81:5	provide 40:20 68:12,19 provided 12:22 18:10 19:12,23 114:12 120:19 121:8 provides 106:14 providing 12:19 88:22 provisional 56:18 ptab 18:9 19:10 24:19 publication 9:20 10:5 purpose 114:9 114:14,17,17 purposes 47:13 47:15 112:4 114:15,20 put 63:24 79:8 79:8,9,9 86:9,9 90:14 95:20 98:23 putting 18:3,18 67:13 68:10 85:8
			q
			quality 87:5 question 12:1 13:20 14:19,21 17:9 32:4 33:22 36:8 40:23 41:3

[question - reference]

42:18 56:20 57:14,15 59:12 60:10 61:4 62:24 63:7,14 66:15,17 68:17 75:20 76:8,11 76:12 77:18 80:19 81:24 82:5,14,16,21 83:19 84:14 90:18,19 93:16 96:22 98:7,13 99:5 100:1,4,6 100:7 101:9,24 102:17 111:11 113:21 115:16 115:18 questioning 13:5 20:7 47:4 47:14,16 72:16 questions 20:21 42:5,9 47:3,17 50:13 71:13 100:2,11,18,21 100:24 101:15 101:18,22 102:3,10,12 117:4 quick 50:9 67:16 quickly 101:21 quite 53:25 55:12 80:22 88:9 116:20	quote 85:23 86:3 95:16 96:8 106:14 r r 3:1 6:12 7:21 7:22,22 9:11 22:2 45:16,21 103:13 117:7 120:5 r&s 121:1,9 radiation 78:4 raised 41:3 range 55:13 reach 24:24 reaching 109:15 read 29:13 35:1 39:22 40:22 41:10 69:11 73:11 88:21 89:1,12 94:15 96:7,21 106:22 107:11 108:5 110:11 111:7,9 115:1 117:4 reading 35:18 36:15,22 37:7 41:9 72:7,10 73:8,9 88:25 110:3 115:2 120:24 121:9 reagent 36:24 37:2,8 78:20 realize 87:1	realized 36:19 really 20:22 77:18 80:7,8 80:20,25 97:18 97:19 98:20 114:9 reason 8:2 12:2 83:19 reasons 11:20 56:15 62:7 69:8,18 107:10 recall 11:15 12:12,13,14,17 12:18,21,24,25 13:9,11,17 14:12,15,22,24 15:24 16:3,8 16:10,13,16,18 18:10,23 20:1 20:3,7,9,10 23:9,13 25:4,5 25:6,10,16 28:10,13,18 29:1,4 31:18 31:21,24 32:15 38:5 46:5 60:13 74:17 87:17 88:25 95:2 104:8,11 104:14 105:21 108:12,15,17 108:19,22 received 32:19 32:22	recess 27:2 45:18 67:23 103:10 116:14 116:25 recognize 32:25 87:23 recollection 104:19 record 6:5,10 7:2,20 10:16 24:18 26:20,24 26:25 27:3 42:3 45:17,20 67:21,24 82:24 102:1,20 103:9 103:12 106:23 111:10 116:12 116:15,20,23 117:1,11 118:6 118:9 recorded 6:11 recording 6:8 rectangular 72:9 recycled 80:23 redesign 78:18 redirect 116:18 reduce 78:7 refer 99:21 109:25 111:7 reference 5:12 9:16,19,24 10:3 38:21 39:1,15 41:5 43:1 48:5,15
--	---	---	---

[reference - reviewed]

48:16 49:3 52:4 53:17 70:19,20 83:9 83:23 104:11 105:10,17 107:20 108:2,5 108:10,13 109:4,15 110:1 110:17,24 111:3,21,24 112:3,6 113:2 113:20 114:3 114:22 115:6,9 116:1 referenced 5:4 5:6,9,11,13 39:14 41:4,4 52:4 53:1,16 107:14 110:23 120:6 references 22:25 23:2 referencing 107:19 referred 109:18 113:20 referring 21:9 38:8 48:5 49:1 87:19 111:10 111:25 refers 21:12,13 109:10 reflected 29:23 refresh 104:18	regarding 14:13 15:23 16:4 41:3 47:12 88:23 104:12 106:6 regardless 72:20 73:22 83:2 84:7,13 96:25 98:15,16 regards 14:2 relate 13:13 related 6:22 14:3 88:3 100:24 relates 21:1 relating 21:2 relation 67:4 relationship 72:12 relative 118:15 released 37:9 37:18 120:22 relevance 28:24 31:20 32:2 79:2,21 81:19 89:25 91:6 95:8 99:19 relevant 12:8 58:9 100:10 102:14 reliance 105:5 relied 99:16 103:20,25 104:19,25	105:6 109:14 relies 104:23 rely 104:21,22 relying 42:8 104:9 105:13 105:16 remembered 41:9 remote 1:14 remotely 7:1 removed 95:19 97:17 repeat 27:13 32:3 75:19 82:22 report 12:3 13:24 16:5 17:8 101:1 reported 1:24 reporter 2:17 6:20 7:13 118:2 reports 18:7 represent 17:21 represented 17:5,7,15,25 18:5,22 representing 7:9 17:11 112:16 requested 118:13 121:1,9 121:10	require 93:25 required 15:20 83:22 114:1,19 120:20 requirement 54:3 55:15 research 16:14 reserve 117:4 respect 13:15 17:22 113:7 respond 42:5 50:20 rest 85:24 restrict 37:24 result 81:5 retained 117:9 return 120:17 121:6 reveal 19:14 28:1 review 6:17 22:14,20 23:1 23:6,10 39:18 41:1 108:10 109:22 110:1 110:16 112:2,6 118:12 120:8 120:10,13 121:2 reviewed 21:17 21:17,18,18,21 21:23 22:23 28:4 31:12,14 31:15,16 33:4 96:9 109:2
--	---	--	---

[reviewing - sharing]

reviewing 57:21 104:18 108:13 rib 79:8,9 ribs 97:5 right 23:13 24:22 31:17 33:11 40:20 48:10,15 49:22 50:19 64:2 65:11,22 66:7 67:7 74:11 89:7,14 90:15 92:13 93:4,10 94:16 96:7 106:11 117:4 ring 37:24 38:5 38:7 51:2 70:25 71:8,11 71:17,18,20,23 71:25 72:2 112:1,4,8,12,25 113:13 robert 7:22 room 8:6 roughly 24:7 rule 86:18,18 rules 121:8 runner 78:5,6 runners 80:6	san 3:9,20 sand 63:25 64:1,3,9,15 65:1,23,24 66:20,20 sandberg 3:24 saying 72:2 76:9,9 81:6 95:10 says 34:3,5,17 36:10 91:10 93:11 95:13 96:7,24 97:14 97:14,20 109:12 111:14 114:10,13 116:5 schedule 120:10 scientific 14:5 scope 13:6,18 13:25 19:5 20:13,22 57:6 61:1 100:19,20 100:25 screen 110:5 seal 69:10 112:1,4,9,18,25 113:11,13,14 113:15 sealed 120:20 sealing 114:15 114:18,19,20 seals 112:12,16	search 41:12,20 105:22 searched 41:11 41:15 searches 41:13 second 26:17 27:11 104:1 section 79:12 95:13 96:9,16 96:17,21 97:13 98:14 101:1,3 sections 95:18 95:22 97:2,16 97:20,20 103:23 see 26:12 27:6 30:20,21,22 36:6 38:20 40:5 42:21,23 42:25 43:2 46:12 47:5,6,7 48:1,7,8,12,14 48:17,18 49:2 49:23 50:1 52:13 56:11,12 58:16,25 59:16 59:20 82:4 83:10 84:22 87:12 96:12,13 106:17 108:2 109:9,12 111:21 115:6,9 seems 25:6 segmented 94:4	sense 25:11,25 42:9 97:14 sensitive 78:4 sent 26:18 sentence 95:13 95:16 96:6,7 96:14,25 97:10 98:4,8,14 99:9 99:11,17 101:2 101:3,7,8,10 106:13,19,22 separate 18:14 39:21 95:21 separates 95:18 97:16,19 september 9:13 series 47:3 served 11:11 set 26:20 118:5 sets 29:16,18 shape 44:25 60:13 72:9 98:21 99:12 shaped 55:10 shapes 59:18 95:1,6 96:8 98:5,10 101:4 share 26:8,13 26:20 27:7 30:16,23 32:17 41:20 87:13 shared 26:7,16 30:15 107:17 sharing 32:16 42:2
s			
s 3:1 5:1 7:23 sample 34:6,18 35:14			

[sharp - specifically]

sharp 79:13,13 79:25 81:2,7 81:11,25 82:9 82:11 83:1,7,8 83:10,15,18,20 83:21,22 85:1 85:3,7,9,9,17 91:10,12 92:3 92:10,10 106:14 107:5,9 107:9 shell 97:3 short 24:5,8 71:25 72:2 shorter 45:6 shorthand 2:17 21:8,11,13 118:2,7 show 15:11 33:19,25 34:13 34:25 36:4 43:8 72:5,22 102:1,20 shower 81:9,10 showing 35:14 35:22,24 98:25 shown 34:15 35:5,5 38:8 40:10 43:17,21 44:1 48:23 52:14,16 shows 34:3,5 34:15,17 36:1 side 43:22 44:1 46:18 51:7	52:23 53:25,25 79:8 sign 117:5 120:16 121:5 signature 27:19 31:5 118:24 120:22,24,24 121:9 significance 49:18 53:22 54:1,22 55:15 58:19 59:3 63:19 113:25 significant 59:6 silent 8:12 40:6 113:24 114:9 similar 71:19 73:4 simple 95:17 97:11,15,23 98:18 simplest 97:25 simplify 97:22 single 14:22 59:15 74:7 78:15 86:25 87:2 singular 67:1 76:9 77:10 sir 7:24 8:5,14 8:17,22 9:5,6 10:24 11:11 13:1 14:17 17:2 18:24 21:4 25:19	26:7 27:21 100:6 sit 14:12 25:24 54:16 55:18,22 77:15,19 85:22 86:3 90:5 97:9 106:21 sitting 14:24 16:10 77:22 situation 61:18 situations 82:9 size 79:23 80:12 sizes 55:10 sketches 56:17 skill 29:19 35:13,17,22 36:3,14,21 37:6 38:11,24 39:4,13 40:9 43:7,16,24 44:15,18,23 46:15 49:12 50:15 52:2 53:8,13 54:1 55:2,5,14 56:7 56:12,23 57:16 57:20,25 58:11 58:22 59:8 60:3 63:9 67:14 68:13,20 69:4,13,20,25 70:7,16 71:16 71:17 72:1,6 72:16 73:2,10	73:15 90:23 91:3 113:25 slider 114:12 slightly 36:1 small 79:25 solution 37:17 solutions 1:4 2:4 6:14,19,21 7:9 37:3,9 117:9 120:4,7 sorry 9:10 26:6 32:3 36:20 79:22 84:15 95:15 101:20 sort 41:16 61:11 83:1 sounds 45:14 82:25 116:22 space 36:5,7,11 36:23 37:4,18 40:10 51:14,18 54:5 speak 40:14,24 85:24 103:16 speaking 13:8 speaks 47:10 specific 12:12 41:8 57:13 58:8 77:17 81:21 82:4,7 84:22 90:17 101:8 105:7 specifically 33:23 48:25 49:8,14 55:1
---	--	--	--

[specifically - synonyms]

55:20 58:18 88:6,11 105:9 106:13 111:2 112:7 114:3 specification 31:14 35:3,18 36:10,16,18 37:1,7 38:15 39:19,22 40:1 40:14,19,22,24 41:1 47:10 53:22 54:3 55:11 56:13 57:4,22 59:13 67:13 68:11 71:1 72:7,18 109:19 111:7 specifics 90:2 specified 50:3 59:24 specifying 56:4 speckles 72:20 spectrum 1:4 2:4 6:13 7:9 17:3,6,11,15,21 17:25 18:5,11 18:19,22 120:4 speculate 63:6 speculating 114:16 spell 7:19 spent 31:22 40:18 108:12 spike 83:8	spill 62:3,14 stamp 89:8 stamped 33:14 94:10 102:7 106:9 109:5 standard 105:25 106:4 stands 57:24 start 41:22 44:13 108:6 started 28:8 41:24 starting 35:4 111:8 starts 35:6 94:15 95:16 109:23 state 7:1,19 17:17 82:7 118:2 120:9,12 statement 80:20 95:10 96:23 statements 100:8,9 102:19 states 1:1 2:1 5:7 6:15 sterilization 78:3,4 sterilized 78:3 steve 7:6 steven 3:16,24 stipulate 22:10 22:17 73:11	stipulation 120:21 stop 27:12 83:16 stories 81:13 stress 85:18 89:15 106:12 strict 12:4,5 strike 9:5 12:17 16:17 18:25 20:9,24 29:17 40:17 43:6 44:14,17 47:5 47:14 52:19 65:17 67:15 71:21 75:3,11 82:22,23 90:24 112:5 structure 40:7 77:9 subject 45:25 68:3 103:17 116:18 submitted 18:7 18:13 19:23 21:6 22:12 96:19 99:15,16 subparts 92:23 subscribed 118:18 substantive 74:18 sufficient 113:11	suite 3:8,19 sundberg 3:16 7:6 support 9:11 21:6 22:2,13 88:15,20 96:19 supported 106:5 supporting 105:22 supports 95:5 sure 8:15 12:16 12:20 15:18 18:6,14 26:21 29:6 64:23 70:10 75:22 82:19 84:23 86:11 87:4 91:19 93:18 94:2 97:19 98:13 115:22 surface 48:15 48:17,18,22 58:17,23 59:1 59:18 60:24 61:10 62:9,11 63:12 64:15 66:13 79:7 116:3,6,8 swear 7:13 sworn 7:16 synonyms 54:9
---	---	---	--

[t - third]

t	taught 37:13 37:20	testimony 8:3 14:6,14 22:1 24:14,16 46:1 46:14 60:14 68:3 82:8,25 87:15 88:23 96:20 103:18 105:13 107:14 118:9	things 16:23,23 79:15,25 90:20 93:24 102:14
t 4:1 5:1 7:22	teach 53:25 98:24	textbook 87:16 87:21 105:25	think 14:21,21 19:6,18 20:17 24:15,18,22 26:17 28:25 36:17 40:6 47:4,10 51:23 54:13 56:21 57:5 60:9,25 61:8 63:7 64:17,20 66:10 67:14 68:11,23 68:25 69:4,7 69:23 70:5,10 70:16 71:19,25 74:14 75:12 76:18 77:14,20 77:22 81:16,20 82:11 83:5,24 84:6,12 85:23 86:2,4,21 87:21 88:2 90:15 91:21,24 92:24 96:22 100:1 101:25 102:20 105:4 107:1 109:1,4 110:5 111:6 113:24 115:22
tab 26:14	teaches 38:1 59:13	textbooks 105:22	third 88:2 102:23
take 6:9 26:15 29:13 39:25,25 40:25 45:1,5,6 45:9 59:18 66:19 67:16 80:1 89:12 92:13 94:14,21 103:2,3 109:21 114:25 116:9 116:20	technical 11:21 12:2 13:13 14:3,4 73:4	textures 79:7	
taken 2:15 6:12 7:24 27:2 45:18 67:23 103:10 116:14 116:25 118:4	technicality 16:4	thank 9:14 10:1 10:23 11:10 19:21 24:25 30:6 40:15 101:14 103:4 104:24	
takes 80:3	techniques 74:1,4,11 75:10	thanks 104:23	
talk 42:7 49:17 53:22 56:2 57:4 84:16	tell 7:25 34:14 73:8 110:8	thermal 106:20	
talked 90:18 105:7	tells 34:14	thick 82:2 83:21 85:15,15 91:17,25,25	
talking 24:20 48:3 50:6,7,11 55:8 59:25 60:1 83:9 93:19 96:17 107:6,8	ten 40:18 103:6 108:18	thickness 82:2 92:2	
talks 37:2 39:20 55:12 70:10 90:18	tension 60:24 61:10 62:9,12 63:13	thin 80:24 82:1 82:2 83:22 85:15 91:11,12 91:16,25 92:14	
tamper 114:17	term 54:16 70:6 115:25	thing 67:1 90:15 96:24 98:15	
	terminated 15:19		
	terms 13:22 22:6 54:13		
	test 61:22 63:6 63:11		
	testified 7:16 60:12 81:1 85:7		
	testify 90:5 99:4,4		

[thought - type]

thought 41:2 81:8	120:10,18,25 121:7	58:13,16,23,25 59:1,11 60:5	50:22 51:16 59:21 62:20,21
thoughts 28:6	times 17:5	61:17 64:1	64:14 82:13,18
thousandths 86:16	18:24 19:2 86:14 87:2	66:20 89:7 93:11	84:25 91:10 102:1,4 111:11
thread 93:3,11 93:12,19 115:7 115:10,25,25 116:5	timing 20:9 titled 9:10 88:1	tortuous 92:6 92:12	tube 34:19 35:15,19
threaded 93:20	today 7:25 8:3 14:12 21:16	total 24:10 108:13	tuesday 1:15 2:16 6:1
threads 37:21 38:17 69:9 70:12 90:13 93:21,25 94:1 94:4 113:12	22:21 24:21 25:24 54:16 55:18,22 60:12 77:15,19,23 85:22 86:3 90:5 97:9 101:16 102:3 103:18 106:21 112:8	tp 106:16,19 trademark 1:1 2:1 6:15	turn 8:13 33:11 42:11 67:7 89:5 102:24
three 24:11 73:5 86:16 88:2 117:8	today's 11:1 22:24 23:8,12 23:15 24:3,12 25:14 117:6	transcribed 118:8	turned 8:11,17 turning 42:20 52:13 72:4 96:6
tight 77:7	together 11:7 39:21 77:9 107:16	transcript 118:9,11,13 120:6,8,10,13 120:13,22 121:2,2	twenty 24:8 twice 99:21 two 8:24 11:5 18:3,12,14 19:18,22 25:8 25:9 42:15 53:24 54:13 59:10 70:18 75:2 77:9 95:18,21 97:2 97:3,16,19,22 97:24 100:25 102:13 107:15 108:14 111:21 112:13,19,25 115:13
time 13:11 14:22 24:2 25:17 26:4 27:1,4 28:13 31:21 40:21,25 45:3,9,10,12,17 57:14 60:2 66:18 67:22,25 79:25 80:2,3,9 80:9,17 89:15 97:6 98:6 102:23,23 103:9 105:22 108:12 116:13 116:16,24 117:2,10 118:5	tolerance 77:7 112:20 took 81:9 tool 93:20 97:7 98:16,17 tooling 93:23 tools 74:7,7 top 43:17,21,22 46:17,22 51:8 51:23 52:24	transferred 20:4,4 trial 1:2 2:2 6:16 12:11,13 13:24 16:5 trouble 62:20 true 118:9 truth 7:25 try 12:25 15:22 47:2,14 59:23 62:8 63:14 67:4 76:12 78:13 82:24 100:22 101:17 trying 47:9,13 47:15 50:8,12	type 20:17 112:1,4,9,12,16 112:25 113:13

[type - volume]

114:17 types 10:24 68:24 74:8 78:1 typo 111:15	65:10,13,16,18 65:24 69:5 70:1,8,18 71:1 71:2,4,7,18,21 72:2,8,11 76:8 78:23 82:20 91:3 92:1 98:3 111:3 115:15 115:17,24 understanding 21:4 25:21 40:2 42:14 54:15 58:21 92:7 93:6,13 97:10 112:8 113:19,22 114:6 understood 43:12 47:24 70:13 73:24 unhappy 62:15 uniform 92:1 unique 85:11 unit 6:11 45:16 45:21 103:8,13 unitary 39:16 40:6,7,13 41:5 41:11,16 77:9 united 1:1 2:1 5:7 6:15 unknown 56:1 unpatentable 74:19 unquote 85:23 86:3 96:11	106:16 unwinder 93:20,25 upward 62:11 113:5,7 use 21:11 30:7 40:13 77:5,9 78:11 79:24 92:1 used 30:1 73:7 75:1,5 78:9 115:13 117:8 uses 40:5 using 41:19,20 41:23 101:3 118:7 utilize 29:22 utilized 74:15 74:17	verify 39:22 veritext 6:18,20 117:9 120:7,9 120:11,20 version 9:22 10:9 88:5 110:5 versus 6:14 vicinity 8:11,17 video 6:8,11 videographer 3:23 6:4,19 7:12 26:19,25 27:3 45:15,19 67:21,24 103:7 103:11 116:12 116:15,23 117:1,6 videotaped 1:14 2:14 view 50:4 57:22 74:19 114:7 viewed 113:4 viewing 36:16 virtually 6:8 8:6 visible 13:12 volume 44:5,7 44:9,19,24,24 47:3,12,16,21 47:22 50:12,22 51:6,10,14,18 51:21,22 52:1 52:5,19,20 53:2,5,14
u		v	
u.s. 1:10 2:10 10:5,6,16,17 21:3 22:14 32:18 33:3 under 30:2 94:14 106:12 106:13 118:8 undercut 112:22 undercuts 86:15,19 94:5 95:14 understand 7:24 14:15 17:8 21:12 35:13,18,22 36:4,15,23 37:8 38:12,17 38:25 39:5,14 40:8 43:5,8,16 43:25 44:16,19 44:23 45:3 46:15 47:11 48:25 49:4,14 50:16 51:9,16 52:3 53:15 54:8 55:2,7,15 57:2 62:21 63:9 64:2		v v 1:6 2:6 120:4 vacuum 58:3 58:16,25 72:17 valley 3:7 valve 37:13,19 53:6 54:5,21 55:9 69:5,15 valves 68:25 71:20 73:7 variability 112:20 variable 51:1 82:2 vent 70:9 72:6 72:8,13	

[volume - wrote]

55:10 59:21 60:20 61:19 63:1 65:2,11 65:14,16,25 66:11,21,24 67:3 77:3 volumes 55:13	107:10 108:23 109:6 110:11 waste 80:5 way 14:14 17:10 20:5 24:22 42:19 49:21 50:18 53:20 60:18 61:17 62:2,8 62:17 64:1,13 64:13 65:23 66:20 74:6 76:2,13 82:21 84:15 101:11 101:19 110:18 111:6 112:18 113:15 ways 90:12 we've 13:8 14:13 15:13,23 18:4,20 19:11 25:6,7 45:2 53:14 91:1 107:19 111:10 112:7 wedding 71:11 went 68:5 81:8 west 45:4 whereof 118:17 wife 62:15,20 window 8:21 26:14 windows 8:20 10:25 11:5	witness 7:10,13 13:19 14:19 15:7 16:2,22 17:25 19:6,14 20:14 24:15 25:16 27:25 28:4,17,25 30:1,12 31:21 32:3,22 34:2 35:3,17 36:10 37:1,12 38:15 39:4,18 41:8 43:11,20 44:9 44:22 45:8 46:21 47:20 48:21 50:1 51:13 53:4,20 54:12 55:5 56:1,11 57:2 57:20 58:15 60:9,22 61:8 61:22 62:7 63:5 64:5,12 66:23 67:20 68:15,23 69:7 69:17 70:5,23 71:10 72:15 75:19 76:18 77:3 79:3,23 81:20 83:5,18 84:9 86:8 88:25 90:1,8 90:12 91:7 92:19 95:9 97:13 98:12	99:20 103:4,6 104:5 105:16 106:3 107:1 108:22 109:18 112:11 113:10 115:15 116:11 116:17 118:17 120:13,16 121:2,5 witness's 13:6 24:14 wo 9:20 wondering 85:5 word 40:5,13 41:11,12,15 54:8 89:13 words 101:3 work 28:14 32:6 45:13 86:23 91:22 112:16 worked 18:24 19:2 20:10 25:12 26:1 28:10,18,21 31:18,24 32:8 32:12 working 25:2,7 26:3 106:15 works 45:12 write 18:7 written 54:3 wrote 102:13 102:14
w			
waived 120:24 120:24 waiving 120:21 wall 34:8,21 43:1,3 44:6,20 46:18 47:6,25 48:11,15,19 49:1,8,14,20,22 50:17,18 51:7 52:23 72:23 82:2 92:1 walled 80:24 walls 52:23 want 12:25 16:12,12 22:10 25:10,21,22 26:19 39:25 40:22 45:5,5,6 47:2 51:5 62:23 63:6 69:11 77:25 82:21 84:16 91:14 94:21 95:21 98:5 99:14,25 100:14,16,22 102:5,16,22			

[x - zoom]

x
x 4:1,1 5:1,1 118:13 121:9
y
year 25:5 years 13:1,3 15:9 73:5 yesterday 23:23,25 24:3
z
zoom 8:21 11:6

Federal Rules of Civil Procedure

Rule 30

(e) Review By the Witness; Changes.

(1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and

(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) Changes Indicated in the Officer's Certificate. The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

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THE ABOVE RULES ARE CURRENT AS OF APRIL 1, 2019. PLEASE REFER TO THE APPLICABLE FEDERAL RULES OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

VERITEXT LEGAL SOLUTIONS

COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

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