IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

_____

FOIL BOARDING COMPANY, INC.
Petitioner,

v.

MHL CUSTOM, INC.
Patent Owner

_____

U.S. Patent No. 9,586,659
IPR Case No.: IPR2024-00085
AND

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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FOIL BOARDING COMPANY, INC.
Petitioner,

v.

MHL CUSTOM, INC.
Patent Owner

_____

U.S. Patent No. 9,359,044
IPR Case No.: IPR2024-00086

* * *

The deposition of LEIF JAKOB THEODOR KUTTENKEULER, taken pursuant to notice by Patent Owner MHL Custom, Inc., on July 24, 2024, via Zoom videoconference.

LAURA J. KOGUT, RMR, CRR, CRC
McLendon-Kogut Reporting Service, LLC
2525 Nelson Miller Parkway, Suite 204
Louisville, Kentucky 40223
(502) 585-5634
lkogut@mclendon-kogut.com

IPR2024-00086
MHL 2040
Foil Boarding Co., Inc. and MHL Custom, Inc.

1 C O N T E N T S

2

	Page
Appearances	3
Examination by Mr. Theuerkauf	7
Examination by Mr. Bridges	68
Notary Certificate	79
Errata	80
Exhibits	
Kuttenkeuler Deposition Exhibit 1	10
Kuttenkeuler Deposition Exhibit 2	14
Kuttenkeuler Deposition Exhibit 3	25
Kuttenkeuler Deposition Exhibit 4	36
Kuttenkeuler Deposition Exhibit 5	37
Kuttenkeuler Deposition Exhibit 6	63

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1 APPEARANCES

2

3 FOR PETITIONER FOIL BOARDING COMPANY, INC.:
Mr. Douglas Bridges
4 AdamsIP LLC
453 Dauphin Street, Second Floor
5 Mobile, Alabama 36602
(251) 533-0461
6 doug@adamsiplaw.com

7 FOR PATENT OWNER MHL CUSTOM, INC.:
Mr. Robert J. Theuerkauf
8 Ms. Megan E. Gibson
Gray Ice Higdon PLLC
9 3939 Shelbyville Road, Suite 201
Louisville, Kentucky 40207
10 (502) 677-4729
rjt@grayice.com
11 mgibson@grayice.com

12 FOR THE WITNESS:
Mr. James R. Klaiber
13 Klaiber IP Law LLC
1185 Avenue of the Americas, Third Floor
14 New York, New York 10036
(917) 536-4144
15 jklaiber@klaiberip.com

16 ALSO PRESENT:
Ms. Nadja Lindberg, Swedish Translator
17

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1 (Deposition commenced at 8:05 a.m. Eastern
2 Time.)
3 THE REPORTER: We are on the record for the
4 deposition of Dr. Jakob Kuttenkeuler.
5 Will counsel please identify themselves, who
6 they represent, and anyone else who may be present
7 with you.
8 MR. THEUERKAUF: Yes. Good morning, or good
9 afternoon. My name is Robert Theuerkauf, and I'm
10 with Gray Ice Higdon, and I represent the patent
11 owner in these IPR matters, MHL Custom, Inc., and
12 with me is my partner, Megan Gibson.
13 MR. BRIDGES: I'm Douglas Bridges with
14 AdamsIP representing the Petitioner Foil
15 Incorporated.
16 MR. KLAIBER: My name is James R. Klaiber,
17 K-L-A-I-B-E-R, my firm is Klaiber IP Law LLC, and I
18 represent Professor Jakob Kuttenkeuler in this
19 deposition.
20 THE REPORTER: All right. If I could see our
21 translator, please.
22 MR. THEUERKAUF: Did she drop off? Looks
23 like we may have lost her.
24 THE REPORTER: Would you like to proceed
25 without or --

1 MR. THEUERKAUF: No.
2 MR. KLAIBER: No.
3 MR. THEUERKAUF: No, let's see if we can get
4 her back on. See if you can --
5 MS. GIBSON: Yeah.
6 MR. KLAIBER: Well, we were doing so well
7 there for a few minutes.
8 MR. THEUERKAUF: We were.
9 MR. KLAIBER: Yeah, you can't have one of
10 these, you know, Zoom calls without a technical
11 problem.
12 MR. THEUERKAUF: Isn't that the truth? And I
13 don't think -- I mean, you-all aren't seeing her,
14 correct? I just didn't know if maybe my --
15 MR. KLAIBER: No. I'm not either. No. I
16 did see another name up there when I logged on.
17 MR. THEUERKAUF: Yeah, she was here earlier.
18 See if we can --
19 MR. KLAIBER: Yeah, Nadja was her name. And
20 actually, it's funny because in the chat it says
21 Nadja left, so --
22 (Mr. Theuerkauf and Ms. Gibson conferred out
23 of the hearing of the reporter.)
24 MR. KLAIBER: You know, I think you could
25 probably swear in Dr. Kuttenkeuler while we're

1 waiting.
2 THE REPORTER: Here she is.
3 MR. KLAIBER: I think that -- is she back?
4 Well, all right. Here we go.
5 MR. THEUERKAUF: Did you say you saw her
6 logging back in, Laura?
7 THE REPORTER: I admitted her.
8 MR. THEUERKAUF: Okay.
9 MR. KLAIBER: All right. Good.
10 MR. THEUERKAUF: There she is.
11 THE REPORTER: Welcome back. Ms. Lindberg,
12 can you hear us?
13 THE TRANSLATOR: I can hear you. I lost my
14 internet connection. I am so sorry. Did I miss
15 something that I had to translate?
16 THE REPORTER: No, we are just getting
17 started and I will an administer an oath to you now.
18 REPORTER'S NOTE: Answers are as spoken in
19 English by the witness. Translations by Ms. Lindberg
20 appear in the transcript as THE TRANSLATOR:
21 NADJA LINDBERG, Swedish Translator, was first
22 duly sworn to accurately translate questions from
23 English to Swedish and answers from Swedish to
24 English.
25 * * *

1 LEIF JAKOB THEODOR KUTTENKEULER, called by
2 Patent Owner MHL Custom, Inc., having been first
3 duly sworn, testified as follows:
4 EXAMINATION
5 By Mr. Theuerkauf:
6 Q. All right. Good afternoon, Professor
7 Kuttenkeuler.
8 **A. Good afternoon.**
9 Q. So, as I mentioned earlier, my name is Robert
10 Theuerkauf, and I'm an attorney with Gray Ice Higdon
11 and I represent the Patent Owner in these IPR
12 matters that you're here for today, MHL Custom, Inc.
13 And can you just give us your full name for
14 the record, please?
15 **A. Jakob Kuttenkeuler. If you want all my**
16 **middle names, they are Leif and Theodor also. It's**
17 **Leif Jakob Theodor Kuttenkeuler.**
18 Q. Okay. Thank you.
19 Professor, have you ever been involved in a
20 proceeding like this before?
21 **A. No.**
22 Q. Okay. And I assume, then, you've never given
23 a deposition like you're here for today?
24 **A. I have not.**
25 Q. Okay. So, just to go over a couple, I guess,

1 housekeeping matters. So, one, Ms. Kogut is here
2 today, and she is the court reporter, and she is
3 taking down everything that we say, right? And
4 she's going to prepare a transcript of our
5 discussion today. So one of the things that's
6 important, and it's easily overlooked, but because
7 she's recording and typing everything that we say,
8 if you could allow me to finish, you know, asking my
9 question before you give your answer, and I will
10 allow you to give -- complete your answer before I
11 ask my next question, that way it'll make her job a
12 little bit easier and it'll make the transcript a
13 little bit cleaner. Is that okay with you?
14 **A. That's okay with me.**
15 Q. Okay. Great. So -- and I was just going to
16 go ahead and -- well, the other -- one other
17 housekeeping matter is we're going to have some
18 exhibits today, some documents for you to look at,
19 and my partner here, I think what we're planning to
20 do is we will upload these exhibits through Zoom,
21 and so you'll be able to open the documents as we're
22 talking about them, but if -- obviously if there's
23 any trouble with, you know, upload -- or downloading
24 those documents or opening those documents, please
25 just let us know and we'll work through those

1 issues, but hopefully that will be fairly seamless,
2 I hope, but, you know, there's always quirks in
3 Zoom, right?
4 And then obviously, as we have mentioned
5 earlier, there is an interpreter here so that if at
6 any time, you know, you don't understand my
7 question, whether it's because it's been asked in
8 English or my question just wasn't clear, please let
9 us know and we can either have the interpreter
10 interpret it for you or, you know, I will do my best
11 maybe to ask a better question. Does that work for
12 you?
13 **A. Agreed.**
14 Q. Okay. And then the one -- one last important
15 thing, and I don't think you will do this, but, you
16 know, oftentimes when it's a yes or no question, you
17 may just nod your head, you know, either
18 affirmatively or negatively, but because Ms. Kogut
19 is taking -- transcribing this, we just need to be
20 sure that all answers are spoken orally. Okay?
21 **A. Yes.**
22 Q. Thank you.
23 All right. And just for the record, we are
24 here today in two IPR matters, the first one being
25 IPR2024-00085, which pertains to U.S. Patent Number

1 9,586,659, and also IPR2024-00086, which -- that
2 would have been right. So now -- yeah, that's
3 right. Sorry.
4 It's the 044 patent, but I was going to get
5 the full patent number here.
6 MS. GIBSON: All right. That's -- the IPR
7 2024-00086 is representing U.S. Patent Number
8 9,359,044.
9 Q. All right. So we're going to go ahead and
10 maybe test this out and upload the first exhibit
11 here, which is paper number 21 in both IPRs, and
12 it's the deposition notice. So if you'd please let
13 us know if you get that document and you're able to
14 open it.
15 (Kuttenkeuler Deposition Exhibit 1 was marked
16 for identification and is filed with this
17 transcript.)
18 MS. GIBSON: It should also be on the screen.
19 **A. I did manage to open it, yes.**
20 Q. Okay. All right. Professor, have you seen
21 this document before?
22 **A. I think I have.**
23 Q. Okay. And you understand, correct, that
24 you're here to give testimony in the two IPR matters
25 involving Foil Boarding versus MHL Custom? And if

1 you don't mind, I'll just refer to the last three
2 numbers, or the last two numbers, the 85 IPR and the
3 86 IPR.
4 **A. I understand that, yes.**
5 Q. Okay. Professor, who are you currently
6 employed by?
7 **A. I'm employed by the Royal Institute of**
8 **Technology in Stockholm, which is a technical**
9 **university abbreviated KTH normally.**
10 Q. And if it's okay with you, I'll refer to the
11 university as KTH today. Is that okay?
12 **A. Absolutely.**
13 Q. And what is your business address?
14 **A. My business address? I'm not sure what you**
15 **mean by that.**
16 Q. Okay. Do you have -- do you have an address,
17 an office address at the university?
18 **A. Yeah, I do.**
19 Q. And can you tell us what that address is?
20 **A. If you would send a package to me at KTH, you**
21 **would sent it to KTH Jakob Kuttenkeuler,**
22 **Tekniaringen 8. Do you want me to spell that out?**
23 Q. Please.
24 **A. T-E-K-N-I-A-R-I-N-G-E-N, Number 8. And**
25 **the -- the postal code is 10044, Stockholm.**

1 Q. Thank you. And what is your title with KTH?
2 **A. Professor, or full professor, I think you**
3 **call it.**
4 Q. And how long have you been employed by KTH?
5 **A. Since 1998 when I was employed as an**
6 **assistant professor.**
7 Q. And when did you become a full professor?
8 **A. 2012.**
9 Q. And can you describe for us your educational
10 background?
11 **A. I started as a student at KTH studying**
12 **aeronautics in 1998, took my degree in 1993 in -- I**
13 **think it was called applied mechanics. I then**
14 **pursued a PhD education, also at KTH, between 1993**
15 **and 1998, where I became a doctor in the field of**
16 **aeronautics, aerospace engineering. Yeah, that's my**
17 **education.**
18 Q. Now, let me ask you before I go any further.
19 The other thing, housekeeping matter that I meant to
20 tell you earlier too is if at any point during this
21 you need a break, you know, for the restroom or
22 anything else, just let us know. The only thing
23 that I would ask is that if there's a pending
24 question, you go ahead and answer the question, then
25 we can take a break. Is that okay with you?

1 **A. That's okay with me.**
2 Q. Thank you.
3 So what is your -- I guess currently what is
4 your area of research with KTH?
5 **A. My area of research at KTH is naval**
6 **architecture, so I am currently employed as a -- as**
7 **a full professor in the topic of naval architecture,**
8 **and we perform -- my group, me and my group perform**
9 **research on various kinds of sea vessels ranging**
10 **from sailing, large commercial ships, to surface**
11 **vessels, down to underwater vehicles, unmanned**
12 **underwater vehicles. And, of course, in between**
13 **there there are some foiling applications as well.**
14 Q. Since you -- since you've been employed by
15 KTH, has that always been your areas of research, as
16 you just described them?
17 **A. Pretty much, yes.**
18 Q. Did it change in some way, that area of
19 research, during your time?
20 **A. Well, as a professor at a Swedish university,**
21 **you have to be opportunist, so we perform research**
22 **where we can find money. We are externally funded**
23 **to a large extent. So, you know, sometimes, some**
24 **years it's more of this and some years it's more of**
25 **that, but since -- basically since 19 -- yeah, when**

1 **I think about it, 1998 I think I was -- I was**
2 **employed in the -- in the group of aerospace**
3 **engineering at the university, and one or two years**
4 **later I swapped to naval architecture, if that's**
5 **what you're referring to or --**
6 Q. Yeah. That's helpful. Thank you.
7 **A. So I did some -- in the beginning there, I**
8 **did a lot of work in the -- in the wind tunnel, for**
9 **instance, at KTH, but -- with aeronautics**
10 **applications.**
11 Q. All right. So we're going to upload the next
12 exhibit here, which is going to be -- in the 85 IPR
13 it's going to be Exhibit 1018. And actually, it's
14 the same exhibit number for both IPRs, both the 85
15 IPR and the 86 IPR, and it will be your -- a
16 declaration by you, Professor.
17 (Kuttenkeuler Deposition Exhibit 2 was marked
18 for identification and is filed with this
19 transcript.)
20 Q. And I think we'll, you know, allow you to
21 upload that so you can, you know, control it
22 yourself. It might be easier that way than just
23 trying to just show it up on the screen here, but --
24 so when you have that downloaded, just let us know,
25 please.

1 MS. GIBSON: And as a matter of housekeeping,
2 we are only uploading the -- one of the exhibits.
3 It's the same exhibit that's in both -- both of the
4 IPRs.
5 **A. I have it downloaded and I have it in front**
6 **of me.**
7 Q. All right. Great. Thank you.
8 So, Professor Kuttenkeuler --
9 MR. KLAIBER: Before you -- before you
10 continue, you just said you're only uploading one of
11 the exhibits. I see two exhibits attached to this
12 that are --
13 MS. GIBSON: We --
14 MR. KLAIBER: -- that are part of the -- of
15 the main document. There's not anything other than
16 the two exhibits that are -- I think it's -- what is
17 this? It's A and D, is that -- am I reading this
18 correctly?
19 MR. THEUERKAUF: Well, the two --
20 MR. KLAIBER: A and C. A and C are the
21 only -- are you referring to the exhibits to the
22 declaration that you're uploading?
23 MR. THEUERKAUF: No. So what we uploaded is
24 his declaration that was submitted by Foil, and it's
25 Exhibit Foil 1018.

1 MR. KLAIBER: Right. Right.
2 MS. GIBSON: To both IPRs.
3 MR. THEUERKAUF: Yeah.
4 MR. KLAIBER: I see.
5 MR. THEUERKAUF: It's the same exhibit to
6 both the 85 IPR and the 86 IPR.
7 MR. KLAIBER: All right.
8 MR. THEUERKAUF: Does that make sense?
9 MR. KLAIBER: Yeah, it makes sense, it's just
10 when you have exhibits -- two exhibits, you know,
11 you got --
12 MR. THEUERKAUF: Well, his -- yeah, his
13 declaration has exhibits attached to it. Does that
14 make sense?
15 MR. KLAIBER: Yes. Yes. I just want the
16 record to be clear.
17 Q. And so, Professor, do you recognize this
18 declaration?
19 **A. I do.**
20 Q. Okay. And on page 6 of that declaration, is
21 that your signature?
22 **A. It is.**
23 Q. And that was dated December 4th, 2021,
24 correct?
25 **A. Correct.**

1 Q. And on the front page of this declaration, do
2 you see, at the top there, it's in the United States
3 District Court for the District of Delaware, and it
4 says MHL Custom, Inc. versus Waydoo USA and Shenzhen
5 Waydoo Intelligence Technology. Do you see that?
6 **A. Yes.**
7 Q. Okay. And do you recall preparing this
8 declaration for that litigation that was in
9 Delaware?
10 **A. Yes.**
11 Q. Professor, did you write this declaration?
12 **A. I wrote -- I wrote most of it, and then I**
13 **think, as I recall, that I got some help with it**
14 **from the Waydoo lawyers.**
15 Q. And do you recall who the Waydoo lawyers were
16 that helped you with this?
17 **A. Who they were?**
18 Q. Yes.
19 **A. By name or by firm?**
20 Q. Do you -- well, firm first. Let's start
21 there.
22 **A. I don't seem to be able -- I don't seem to be**
23 **able to recall it by heart. If you would read back**
24 **to me what you think, I would say yes or no.**
25 Q. Sure. Sure. Was it -- was the law firm Haug

1 Partners?
2 **A. Yes.**
3 Q. Okay. And do you recall the individual
4 attorney names that helped you with this declaration?
5 **A. Same there. If you would read me the names,**
6 **I would -- I would recognize them.**
7 Q. Okay. It may have been a Rob Colletti.
8 **A. Yes.**
9 Q. Okay. Was there more than one that helped --
10 that helped you with this declaration?
11 **A. There were mainly two involved in my relation**
12 **to that firm. Who exactly, of the two, that helped**
13 **me with the declaration, I don't remember.**
14 Q. Okay. Was the other attorney's name by
15 chance, last name Basanta?
16 **A. Mark.**
17 Q. Yes.
18 **A. Mark Basanta, yes.**
19 Q. Okay. So what was the nature of their help
20 that they provided you in writing this declaration?
21 MR. KLAIBER: Yeah, I'm going to object and
22 maybe even instruct the witness not to answer
23 because you are inquiring into communications
24 between a counterparty of your clients in another
25 case. So I think actually, yeah, I'm going to

1 instruct the witness not to answer. I think this is
2 outside the scope and I think inquires and requests
3 potentially privileged information of another party.
4 Q. Let me ask you this, Professor: Were there
5 prior versions of this declaration?
6 **A. There might have been. I don't remember.**
7 Q. So was there a reason that you didn't prepare
8 a new declaration for the IPRs that were filed by
9 Foil?
10 MR. BRIDGES: Object --
11 MR. KLAIBER: I think I'm going to --
12 MR. BRIDGES: -- to form.
13 MR. KLAIBER: I'm sorry.
14 MR. BRIDGES: Yeah, I'm objecting to that
15 question first as to form.
16 MR. KLAIBER: You beat me to it.
17 Q. So were you asked, Dr. Kuttenkeuler, to
18 prepare a declaration for the IPRs that we're here
19 for today?
20 **A. No.**
21 Q. Were you contacted by Foil's counsel in
22 connection with the submission of your declaration
23 with these IPRs?
24 **A. No.**
25 Q. Have you had contact previously with Foil's

1 counsel?
2 MR. KLAIBER: Yeah. Objection to form.
3 Q. Has Foil's counsel, or did Foil's counsel
4 contact you prior to this declaration being
5 submitted in the IPRs?
6 **A. I don't know when it was submitted, so I**
7 **could not answer that.**
8 Q. So these IPRs were filed in October of 2023.
9 Did you have contact with Foil's counsel prior to?
10 And specifically it was October 26th, 2023.
11 **A. I remember a call with people from Foil. I**
12 **don't know the date of that call, but I would not be**
13 **surprised if a lawyer were there in that call.**
14 Q. And --
15 **A. Phone call.**
16 Q. -- do you recall if that phone call happened
17 last year, in 2023?
18 **A. Possibly. Possibly.**
19 Q. Do you recall if you were made aware that
20 Foil was going to use your declaration from the
21 Waydoo case in the IPRs?
22 MR. KLAIBER: Yeah, objection to form.
23 You can answer.
24 THE WITNESS: Sorry, Jim. I can answer or I
25 cannot answer?

1 MR. KLAIBER: No, go ahead. Go ahead. You
2 can answer. I'm just objecting to the form.
3 **A. Can you ask the question again, please?**
4 Q. Yes. Do you recall whether or not you were
5 made aware that your declaration from the Waydoo
6 case was going to be used in the IPRs that Foil
7 filed?
8 MR. KLAIBER: Yeah, objection to form.
9 THE WITNESS: I -- can I answer?
10 MR. KLAIBER: Yeah. Go ahead.
11 **A. I think yes. I think I was made aware that**
12 **they would potentially use my declaration.**
13 Q. Do you have any agreements or contracts with
14 Foil or its counsel?
15 **A. No.**
16 Q. And stepping back for a moment. Did you have
17 any agreements or contracts with Waydoo or Waydoo's
18 counsel?
19 **A. Yes, I did. Yes.**
20 Q. And did you have some sort of engagement
21 letter with Waydoo or its counsel?
22 MR. KLAIBER: Yeah, objection to form.
23 You can answer.
24 **A. I do not remember what that agreement was**
25 **labeled, but I got compensated for travel and a**

1 **little bit of my time.**
2 Q. And was that agreement and that compensation
3 that you received in connection with the litigation
4 that was between MHL Custom and Waydoo?
5 MR. KLAIBER: Yeah, objection to form, but
6 you can answer.
7 **A. Yes.**
8 Q. Do you recall -- so you said you had been
9 compensated for travel. Did you travel to the
10 United States to meet with Waydoo and/or its
11 counsel?
12 MR. KLAIBER: Yeah, objection to form, but
13 you can answer.
14 **A. I traveled to New York.**
15 Q. Did --
16 **A. Sorry?**
17 Q. That's okay. You're okay.
18 **A. I traveled to New York to meet the counselors,**
19 **Basanta and the other one, and I did not meet anyone**
20 **from Waydoo.**
21 Q. Do you recall when you traveled to the United
22 States to meet with Waydoo's counsel?
23 **A. If you're asking me about dates, I don't.**
24 Q. Do you recall or remember what year it was
25 that you traveled to the United States to meet with

1 Waydoo's counsel?
2 **A. No. I would guess 2021, maybe, but I'm not**
3 **sure.**
4 Q. Did you only have one meeting with Waydoo's
5 counsel?
6 **A. I spent two days there one time, or two half**
7 **days in their office.**
8 Q. Were you asked to testify at the trial that
9 was between MHL and Waydoo?
10 MR. KLAIBER: I'm going to object to the form
11 of that question.
12 MR. THEUERKAUF: Let me -- and I guess I just
13 want to be clear on the objection. What's the
14 objection?
15 MR. KLAIBER: There's a -- that's a compound
16 question.
17 Q. So, Professor, were you asked to testify at
18 the trial between MHL Custom and Waydoo?
19 **A. No.**
20 Q. Do you know why you weren't asked to testify
21 at the trial between MHL Custom and Waydoo?
22 MR. BRIDGES: Object as to form.
23 MR. THEUERKAUF: And what's wrong with the
24 question?
25 MR. BRIDGES: Number one, you're asking him

1 for hearsay information and, two, it seems like this
2 is outside the scope of your -- what you asked for,
3 you were going to give the deposition about --
4 MR. KLAIBER: Yeah. I -- I --
5 MR. BRIDGES: -- you were taking the
6 deposition on. I don't see where this falls within
7 a category of the scope that you were given by the
8 PTAB.
9 MR. KLAIBER: Yeah, I'm going to -- I'm going
10 to join in that objection and I'm going to say that
11 I've given you quite wide latitude on these
12 background questions regarding the prepertation --
13 preparation of this declaration, but this is way
14 outside the scope, I would say. There's nothing in
15 here about publication or any of the statements in
16 the declaration that you were permitted by the board
17 to ask questions. So, Counsel, I'd like to ask you
18 to move on and move away from all of these
19 background questions about who he met with when and
20 why. The declaration as it stands is what we're
21 here to talk about today, and that's where I'd like
22 your questions to continue.
23 MR. THEUERKAUF: It was a declaration that
24 was submitted in that litigation for one, and, two,
25 it goes to, you know, the credibility and

1 understanding of, you know, how this declaration was
2 formed and submitted.
3 MR. KLAIBER: I don't see how it --
4 MR. BRIDGES: And it -- hold --
5 MR. KLAIBER: -- how the question -- excuse
6 me, Counsel. I don't see how a question as to
7 whether or not he was asked to testify at trial has
8 anything to do with the subject matter that you were
9 permitted to ask him about today. I simply do not
10 see any relevance there. It's way outside the scope.
11 Q. All right. So let's go to -- we're going to
12 upload another exhibit here, and it will be -- the
13 first we're going to upload is what I'll refer to as
14 the course website. It is MHL 2031 in the 85 IPR
15 and 2030 in the 86 IPR.
16 (Kuttenkeuler Deposition Exhibit 3 was marked
17 for identification and is filed with this
18 transcript.)
19 Q. And, Professor, if you could let us know when
20 you have that document downloaded.
21 **A. I saw one document appear and I downloaded**
22 **it. It's named EX 2031.**
23 Q. Okay. Great. Yeah, and the -- it's the
24 same -- the other exhibit I referenced, it's the
25 same document, it's just got a different number in

1 the other IPR.
2 So, Professor, do you recognize this?
3 MR. KLAIBER: Counsel, do you have the
4 Swedish original of this document?
5 MR. THEUERKAUF: I believe that's what was
6 uploaded, correct?
7 I believe that's what was uploaded.
8 MR. KLAIBER: Well, I think you're incorrect.
9 I don't see the Swedish document. I see a -- I see
10 an English -- what appears to be an English
11 translation of a Swedish document.
12 MR. THEUERKAUF: Okay. Give us just one
13 minute.
14 MR. KLAIBER: Thank you.
15 Q. So what you have there, Professor, did you
16 say it was labeled MHL 2031?
17 MR. THEUERKAUF: Or let me ask you, Jim. In
18 the bottom right-hand corner, or, Doug, what is --
19 what does -- the document that was uploaded, what do
20 you see?
21 MR. KLAIBER: Yeah, yeah, you've got MHL
22 2031, I just think that you might be missing a page,
23 because this is a certified translation without the
24 original translated document. Usually the
25 translated document is stapled onto it or attached

1 to it, or maybe that's a separate exhibit, I don't
2 know. It's your -- you guys are the parties, you
3 know your documents better than I do.
4 MR. THEUERKAUF: Well, and I'm -- okay.
5 Doug, I just want to be sure we're looking at the
6 same document here. What is -- on the actual
7 document itself, in the bottom right-hand corner,
8 what do you see?
9 MR. BRIDGES: Yeah, it's the 2031 exhibit
10 for -- in the 85 IPR, and that has -- the first page
11 is the certification of translation accuracy, which
12 says it's a translation of Cdio [Kth] from Swedish
13 to English, and then the second page is -- appears
14 to be an English translation, because the words
15 appear all to be in English.
16 MR. KLAIBER: Yeah, I would -- I would agree
17 with that characterization.
18 MR. THEUERKAUF: And is it for the 86 IPR?
19 MR. BRIDGES: The 85 IPR. 2031 of the 85
20 IPR.
21 MR. KLAIBER: Counsel, this appears to be the
22 translation of a webpage, right?
23 MR. THEUERKAUF: Yes.
24 MR. KLAIBER: In the interest --
25 MR. THEUERKAUF: We've got the document.

1 MR. KLAIBER: In the interest of time, if you
2 want to bring up that webpage with that address, I
3 wouldn't object to you bringing up that webpage from
4 the address from the internet, if you want to do
5 that, and bring it up so that Professor Kuttenkeuler
6 can take a look at it.
7 MS. GIBSON: I'll share my screen. I'll get
8 it into the chat here in a second, but you guys can
9 just --
10 MR. KLAIBER: I should give Mr. Bridges an
11 opportunity to object to that if he wants to, but
12 I'm just trying to move this along.
13 MR. THEUERKAUF: Yeah.
14 Q. All right. So we're showing you a document
15 here, Professor.
16 MR. THEUERKAUF: And if you can scroll down
17 to the bottom.
18 Q. I just want to clarify for the record here
19 that we're looking at a document that's been labeled
20 for the 86 IPR, and it's labeled MHL 2030. Do you
21 see that, Professor?
22 **A. I see that in the Zoom window, yes.**
23 Q. Okay.
24 MR. KLAIBER: Yeah, if you could put that in
25 the chat, I think then we've got everything.

1 MS. GIBSON: I'll put that in the chat, I'm
2 just having some technical difficulties getting it
3 there at the moment.
4 MR. KLAIBER: Okay. No problem.
5 MR. THEUERKAUF: Okay. And this would be for
6 the 85 -- scroll down.
7 MS. GIBSON: Oop. Sorry.
8 MR. THEUERKAUF: For the 85 IPR, this same
9 document is 2031, MHL 2031.
10 Q. So, Professor, do you recognize this?
11 MR. KLAIBER: Objection to form.
12 Q. Professor, do you recognize this exhibit that
13 we've put up on the screen?
14 **A. Yes, I do.**
15 Q. Okay. Can you tell us what it is?
16 **A. It is the webpage that I -- that I set --**
17 **designed, uploaded, and administrate for the courses**
18 **in which Evolo was happening in 2008.**
19 **Does that answer your question?**
20 Q. I believe so. And so -- let me make sure I
21 understand. So this was -- or this is a website
22 that was created for your courses; is that correct?
23 **A. That is correct.**
24 Q. And, Professor, did you actually -- well, let
25 me scroll down to the bottom here real quick,

1 because we've got the URL or web address. And do
2 you see in the bottom left-hand corner the web
3 address there?
4 **A. I do.**
5 Q. Okay. And is that the web address for your
6 course website, or course's website?
7 **A. It is the web address that I recognize and**
8 **administrate. It's not the formal web address for**
9 **the formal part of the course. It is the address of**
10 **this page where I, at the time, wanted to make a**
11 **little -- I wanted to make the projects visible for**
12 **the public. So it's not the formal course webpage.**
13 Q. And did you yourself create this website?
14 **A. I did.**
15 Q. And so, if you still have your declaration
16 there, and specifically paragraph eight of your
17 declaration. If you're there, you say, "I
18 maintained and maintain a website."
19 Do you see that first sentence?
20 **A. I do.**
21 Q. And the last sentence in that same paragraph,
22 it says, "The course website is hosted on the kth.se
23 domain here," and then it includes a web address or
24 URL.
25 Do you see that?

1 **A. I see that.**
2 Q. And that is the same website that we are
3 looking at in this exhibit on the screen?
4 **A. Yes.**
5 Q. Okay. And so in that paragraph, when you
6 say, (Reading) I maintained and maintain this
7 website, what do you mean by that?
8 MR. KLAIBER: Objection to form.
9 You can answer.
10 **A. I mean that I set up this webpage a long time**
11 **ago, probably around 1998 or 1999, and I don't -- I**
12 **don't put more content there nowadays. It feels a**
13 **little bit outdated. As you can tell, there is --**
14 **there are no modern projects uploaded there.**
15 **But no one else maintains this. The**
16 **university gave me that address, the flygmac7. It**
17 **is a computer. It's a physical computer in my**
18 **office, in my office at K -- office room at KTH.**
19 **That's -- I hope I answered the question.**
20 Q. And when you say it's at a physical computer
21 in your office, I'm not sure I understood what you
22 meant by that.
23 MR. KLAIBER: Yeah. Objection to form, but
24 you can answer.
25 **A. It is a physical computer. I can -- I can**

1 **walk into my room and touch it. I am in -- in**
2 **control of that computer. That's what I meant. I**
3 **don't know if that's relevant, but --**
4 Q. And is it -- that computer that you're
5 referencing, is that what is hosting this website?
6 I guess I'm confused by --
7 **A. Yes. Yes.**
8 Q. Okay.
9 **A. That's what I mean, yes.**
10 Q. And so I guess my next question -- maybe this
11 will help clarify. So is this website hosted on a
12 KTH server?
13 MR. BRIDGES: Object as to form, but you can
14 go ahead and answer.
15 **A. Yeah. I mean, it's a KTH server in the sense**
16 **that KTH owns that machine, and since I have a**
17 **webpage on it, you can -- you can refer to it as a**
18 **server. There's nothing else going on on that**
19 **computer than -- than -- the meaning of having that**
20 **computer is to host this, this website.**
21 **Did that answer the question?**
22 Q. Yes. Thank you.
23 Do you recall the last time that you updated
24 this website?
25 **A. I recall a few years ago. Maybe four years**

1 **ago, if I correctly remember this, I needed to**
2 **change the hardware, so I got help from someone**
3 **moving all the content from an old computer to a**
4 **modern computer. I did not change any contact --**
5 **content deliberately. There might be stuff that,**
6 **you know, fell off or something, I don't know. But**
7 **the objective of that computer switch was just to**
8 **switch into something more modern that would survive**
9 **a few more years.**
10 Q. So is it --
11 **A. I don't remember -- I -- sorry.**
12 Q. No, go ahead.
13 **A. I do not remember changing the content.**
14 **Probably, you know, I haven't done it for a decade**
15 **or so.**
16 Q. And so the computer that was hosting this
17 website was changed to a new computer; is that
18 correct?
19 **A. Yeah, some -- some four years ago or so.**
20 **Three or four years ago.**
21 Q. So has the web address or the URL that we're
22 looking at at the bottom left-hand corner of this
23 exhibit, has that always been the same?
24 MR. KLAIBER: Yeah. Objection to form, but --
25 **A. Yes.**

1 MR. KLAIBER: -- you can answer.
2 **A. Yes. Yes, it has.**
3 Q. Prior to creating this website, had you had
4 any other experience in the creation of websites?
5 MR. KLAIBER: Yeah. Objection to form.
6 You can answer.
7 **A. As I recall it, yes. I did design websites**
8 **for a few other courses at KTH.**
9 Q. So in your experience with the creation of
10 those other websites, and this one that we're
11 looking at in particular, do you have an
12 understanding of the ability to make websites
13 private so their access is restricted?
14 MR. KLAIBER: Yeah. Objection to form, but
15 you can answer.
16 MR. THEUERKAUF: And what's wrong with the
17 question?
18 MR. KLAIBER: That's compound in like three
19 different ways.
20 Q. So let me --
21 **A. Should I answer?**
22 Q. Let me reask the question.
23 MR. KLAIBER: Well, and you can answer if you
24 want, or he can rephrase the question. I mean, it's
25 up to him.

1 Q. Well, go ahead and answer, Professor, if you
2 don't mind.
3 **A. I would not know how to make a webpage**
4 **private in the meaning that it's not accessible by**
5 **anyone on the web. The whole purpose of me**
6 **designing these webpage was to kind of make a reklam**
7 **ad.**
8 THE WITNESS: Nadja, reklam. To make --
9 THE TRANSLATOR: Marketing.
10 **A. Marketing.**
11 THE TRANSLATOR: Marketing.
12 **A. Market. To market my course.**
13 Q. All right. I'm going to show you another
14 exhibit here. When you get that exhibit downloaded,
15 please let us know.
16 **A. Okay.**
17 THE REPORTER: Is the webpage that was shown
18 in Swedish an exhibit?
19 MS. GIBSON: Yes.
20 MR. KLAIBER: For the record, this exhibit is
21 in English and Swedish.
22 MR. THEUERKAUF: This is how it was
23 originally.
24 **A. I have it downloaded. I have it in front of**
25 **me.**

1 Q. So let's clarify for the record, though. The
2 previous website that we were looking at, the
3 exhibit number for that?
4 THE REPORTER: I show 4, is that correct, the
5 Swedish website.
6 MS. GIBSON: It's EX 2030 to the 86 IPR.
7 (Kuttenkeuler Deposition Exhibit 4 was marked
8 for identification and is filed with this
9 transcript.)
10 Q. Professor --
11 MR. BRIDGES: Hold on just one second. And
12 just to clarify, the 2030 was the one that was
13 displayed but not distributed, correct?
14 MS. GIBSON: Yes, and I will distribute it in
15 a moment.
16 MR. BRIDGES: No, that's fine. And the one
17 that was currently sent is 2033 for the 85, which is
18 entirely in Swedish; is that correct?
19 MS. GIBSON: It's as it appeared, and it has
20 Swedish and English on it, but it's as it appeared
21 on the website.
22 MR. BRIDGES: I'm sorry. Thank you.
23 MR. THEUERKAUF: Yeah.
24 Q. This one that you just downloaded is Exhibit
25 2032 in the 86 IPR, just so we have that for the

1 record.
2 MR. KLAIBER: Wait. So the one --
3 Q. So --
4 MR. KLAIBER: The one you just downloaded is
5 2033?
6 MR. THEUERKAUF: Correct.
7 MR. KLAIBER: Okay.
8 MR. THEUERKAUF: For the 8 -- for the 85 IPR
9 it's 2033, but what I'm saying is for the 86 IPR --
10 MR. KLAIBER: Oh.
11 MR. THEUERKAUF: -- it is 2032.
12 MR. KLAIBER: Okay.
13 (Kuttenkeuler Deposition Exhibit 5 was marked
14 for identification and is filed with this
15 transcript.)
16 MR. BRIDGES: Just for clarity of record,
17 if -- when we're moving into an exhibit, if you can
18 give the exhibit number for both IPRs sort of
19 together so that we can make sure that we have it --
20 we can have both exhibit numbers along with the IPR
21 numbers, that would be helpful.
22 MR. THEUERKAUF: Yeah. Yeah. That's what
23 I'm trying to remember to do. Okay.
24 MR. BRIDGES: Oh, I understand. Thank you.
25 MR. THEUERKAUF: Yeah. All right.

1 Q. Professor, if you could look at this exhibit
2 that was just -- or that you just downloaded, and
3 could you let us know if you recognize the document?
4 **A. Yes, it -- I recognize it. It appears to be**
5 **one of the pages on my -- on my website, on flygmac7.**
6 Q. Okay. And did you create this page?
7 **A. Most likely. I can't say definitely that I**
8 **remember writing this text, but it is a likely**
9 **possibility.**
10 Q. And is this the website or webpage that you
11 are referring to in paragraph nine of your
12 declaration?
13 **A. It appears so, yes. Yes.**
14 Q. And was -- or is this page hosted on that
15 same computer that you have in your office that you
16 testified to earlier?
17 **A. Yes.**
18 Q. And I'm sorry if you're repeating here, but
19 did you testify just a minute ago that you weren't
20 certain whether you wrote the text on this webpage
21 or not?
22 **A. What I meant by that was that someone might**
23 **have helped me with the text, but I definitely put**
24 **the text on the server, but I'm not sure these are**
25 **my words. That's what I meant.**

1 Q. Okay.
2 **A. I meant that maybe I copied some of the text**
3 **from their final report, the students' final report**
4 **and, you know, pasted in here. I don't -- I don't**
5 **remember. But I definitely put it on the server,**
6 **absolutely.**
7 Q. And has anybody else had access to the server
8 that hosts the two webpages that we've looked at?
9 MR. KLAIBER: Objection to form, but you can
10 continue.
11 **A. No. Apart -- apart from -- we talked about**
12 **me changing the hardware a few years ago, and during**
13 **that switch of hardware computer, I let one of my**
14 **colleagues help me with that, and then he had the**
15 **password for a period of time, yeah.**
16 Q. In page [sic] 8 of your declaration you
17 mention a Professor Hallström. Who is Mr. -- or,
18 I'm sorry, who is Professor Hallström?
19 **A. He is -- he is a professor at the same**
20 **university as me and active in the field of**
21 **lightweight structures, lightweight design, and we**
22 **run these projects together since the start in 1998**
23 **or something like that.**
24 Q. Has Professor Hallström ever aided in
25 maintaining or creating either of the websites that

1 we have looked at?
2 MR. KLAIBER: Objection to form, but you can
3 answer.
4 **A. No, he hasn't. It's not his thing.**
5 Q. Has Professor Hallström -- or did Professor
6 Hallström help create any of the text that you see
7 in the current website that we're looking at, which
8 is Exhibit 20 -- or 2033?
9 MR. KLAIBER: Objection to form.
10 THE WITNESS: Answer? Not answer?
11 MR. KLAIBER: No, no. Go ahead. You can
12 answer. Just objection to form.
13 **A. Yeah, so I definitely put it on the server,**
14 **because he -- I don't -- I don't think he had**
15 **password, but, again, this text, I might have**
16 **iterated it with him. I don't remember, but that's**
17 **a possibility.**
18 Q. By your comment just now, I assume that --
19 that there is a password to get into the server that
20 is hosting this website that is Exhibit 2033?
21 **A. Yes.**
22 Q. Has that always been the case?
23 **A. Yes.**
24 Q. And --
25 **A. There -- there --**

1 Q. Go ahead.
2 **A. There is an account on that computer, an**
3 **account with a password, and to my knowledge, only**
4 **me -- I have it.**
5 Q. And on the exhibit that we're currently
6 looking at, which is 2033 in the 85 IPR, do you see
7 the URL or the web address at the bottom left-hand
8 corner?
9 **A. Yes.**
10 Q. Has that web address or URL there, has that
11 ever -- for this website, has that -- or webpage,
12 has that ever changed?
13 MR. KLAIBER: Yeah. Objection to form, but
14 you can answer.
15 **A. No, it hasn't changed.**
16 Q. And so let me just -- let me clarify it. So
17 the URL that is at the bottom of MHL 2033, it has
18 never changed; is that correct?
19 MR. KLAIBER: No objection.
20 **A. To my knowledge, no.**
21 Q. And do you recall when this webpage that is
22 Exhibit 2033 was created?
23 **A. No, I don't, but it has -- you know, it's**
24 **been -- it's my feeling that it has been up there**
25 **since we started with the course in 1998 or 1999.**

1 Q. So the webpage that we're looking at that is
2 Exhibit 2033, you believe it's been there since 1998
3 or 1999?
4 **A. The website has. I mean, this project was**
5 **not done in '99, so this text wouldn't be there.**
6 **Right?**
7 Q. So --
8 **A. But the flygmac7 computer with the Cdio and**
9 **the projects that we had ran, they were there at the**
10 **time, yeah.**
11 Q. And I'm specifically referring to the webpage
12 that we're looking at that's Exhibit 2033.
13 **A. Okay. So that would have probably been up --**
14 **been uploaded in the -- in the -- in the spring of**
15 **2009, that specific page with that text, because**
16 **that's when the final report of the project Evolo**
17 **was finalized, and then I kind of immediately, for**
18 **marketing reasons, put it on the server so that the**
19 **next year's students would see what we have done the**
20 **year before. That was the reason for putting the**
21 **text there.**
22 Q. And do you actually recall that you did it at
23 that time?
24 MR. KLAIBER: Objection to form, but go
25 ahead.

1 **A. To me that's -- that's a difficult question**
2 **to answer for the reason that I know that at the**
3 **time I was very proud of this project, as with other**
4 **projects. I was eager to put them up there for**
5 **marketing reasons, so I did do this as fast as**
6 **possible, but if you ask me, you know, "What week,**
7 **what day did you put it up there, Jakob," I couldn't**
8 **tell you. Maybe that's -- that's hidden in the --**
9 **in the log files of that webpage. Maybe someone**
10 **could -- could help us dig that out, but I don't**
11 **have a recollection of which day I put it there, no.**
12 **But, yeah -- well, hold on. Since the final**
13 **report is linked from the YouTube film that I**
14 **uploaded, since this report is linked from that,**
15 **that's kind of, in my mind, proof that also this**
16 **document and the final report was on the server in**
17 **the spring of 2009, if that makes sense to you.**
18 Q. So I guess my next question is, then: Why --
19 in the URL that we're looking at there in
20 Exhibit 2033, do you see the words "old projects"?
21 **A. Yeah.**
22 Q. So why would it have been described as "old
23 projects"?
24 **A. Because they were. I mean, as soon as they**
25 **were done, they were old. It's not an ongoing**

1 **project. That was the way I hierarchically designed**
2 **the webpage. Early in the spring of 2009 it became**
3 **an old project.**
4 Q. So in paragraph --
5 MR. KLAIBER: I'm sorry. Counsel, we've been
6 going over -- a little over an hour and I need to
7 take a bio break. Would it be okay if we took a
8 short break right now?
9 MR. THEUERKAUF: Yeah, absolutely.
10 MR. KLAIBER: All right. Before you start --
11 I know you're about to ask a question, I just wanted
12 to catch you, yeah.
13 MR. THEUERKAUF: And I appreciate that.
14 Thank you.
15 MR. KLAIBER: All right. All right. So is
16 there a particular time you want to get back on the
17 record?
18 MR. THEUERKAUF: Let's see. Maybe ten
19 minutes?
20 MR. KLAIBER: Sure. That's fine for me.
21 MR. THEUERKAUF: All right.
22 THE WITNESS: Two minutes. Two minutes?
23 (Balloons in witness' Zoom window.)
24 THE WITNESS: Sorry. Sorry. That wasn't on
25 purpose.

1 MR. THEUERKAUF: I like the balloons, though.
2 All right.
3 THE WITNESS: Did you say two minutes?
4 MR. THEUERKAUF: Ten.
5 THE WITNESS: Ten. Ten.
6 MR. KLAIBER: Ten minutes.
7 THE WITNESS: Ten minutes.
8 MR. THEUERKAUF: Thank you. See you back
9 here.
10 MR. KLAIBER: All right.
11 (Recess from 9:17 a.m. to 9:29 a.m. Eastern
12 Time.)
13 MR. THEUERKAUF: Are we back on, Laura?
14 THE REPORTER: Yes, we're back on the record.
15 MR. THEUERKAUF: All right. Thank you.
16 Q. All right. Professor, if you wouldn't mind
17 referring to paragraph 18 of your declaration.
18 **A. I have it here.**
19 Q. Okay. Great. Thank you. In the first
20 sentence you state, In 2009, shortly after receiving
21 the final report, I published a PDF of it on the
22 website for the Marine Design and Lightweight Design
23 courses," correct?
24 **A. Correct.**
25 Q. Okay. And in the website for the Marine

1 Design and Lightweight Design courses, is that the
2 same website that you referenced in paragraph eight
3 of your declaration?
4 MR. KLAIBER: No -- no objection.
5 **A. Yeah. Yes, it is.**
6 Q. And still in that same paragraph, in the
7 second sentence, you provide a web address there.
8 Do you see that?
9 **A. I do.**
10 Q. Is -- has that web address ever changed?
11 MR. KLAIBER: No objection.
12 **A. Not to my knowledge, no.**
13 Q. And is this web address or webpage also
14 hosted on that same computer in your office that you
15 testified to earlier?
16 **A. Yes, it is.**
17 Q. So in the previous paragraph, paragraph 17 to
18 your declaration, you say, "At the end of the
19 semester (in or around June 2009), the Evolo team
20 finalized a written report and submitted a copy to
21 me."
22 Do you see that?
23 **A. Yes, I do.**
24 Q. Okay. And so in the next paragraph,
25 paragraph 18, when you say you published it on the

1 website in 2009, was it, obviously -- it was
2 obviously after you received it. Do you know
3 whether it was in -- what month you published it to
4 the website?
5 MR. KLAIBER: Yeah. Objection to form, but
6 you can answer.
7 **A. I can't say I remember what month. If you**
8 **asked me to guess, I would say June or July.**
9 **Probably still in June.**
10 Q. So let me be sure I'm clear. So in
11 paragraph 18, when you say in 2009 that you
12 published the PDF, you believe that it was either in
13 June or July of 2009?
14 **A. Yes.**
15 MR. KLAIBER: Yeah. Objection to form. You
16 can answer.
17 **A. Yes.**
18 Q. I want to be sure I'm asking a good question
19 here without objection, so let me ask it this way:
20 In what month of 2009 did you publish a PDF of the
21 report on the Marine Design and Lightweight Design
22 courses' website?
23 MR. KLAIBER: No objection.
24 MR. THEUERKAUF: Thank you.
25 **A. I don't specifically remember when I uploaded**

1 **it, other than that it was in the spring, before the**
2 **vacation of 2009, which would put it in June or**
3 **probably early July of 2009. I don't remember the**
4 **occasion. I don't remember sitting there and**
5 **uploading it. That's probably why I phrased -- in**
6 **this declaration I phrased it "shortly after**
7 **receiving the report."**
8 Q. And do you recall when the Evolo team
9 finalized the report?
10 **A. I don't, but it's probably -- the report**
11 **itself is probably dated.**
12 Q. Do you recall --
13 **A. But here's the thing: The course ends in**
14 **June, they go on -- I mean, they leave the course.**
15 **The course is formally over sometime in June, so the**
16 **final report needs to be done for them to get their**
17 **grades. That's why I know it's in June.**
18 Q. So you believe that they finalized the report
19 in June of 2009?
20 **A. Yes, I do.**
21 MR. BRIDGES: Object as to form.
22 You can answer the question.
23 MR. THEUERKAUF: I'm sorry?
24 MR. BRIDGES: I just -- I want to get my
25 objection in, and -- before the professor gave his

1 answer.
2 Q. Okay. Let me -- I can ask you again here.
3 So, Professor, is it your belief that the students
4 finalized the Evolo report in June of 2009?
5 **A. It is. And the reason I say that is because**
6 **they tend to do things at the last minute, and the**
7 **course ends in June -- ended in June, so they**
8 **probably didn't do it in May, but in June.**
9 Q. In paragraph 20 of your declaration you state
10 that the publicly available metadata for both the
11 Evolo website, you give the URL there, and the final
12 Evolo report, and you give the URL there, state that
13 they have not been modified since 2009, correct?
14 **A. Sorry. Can you reread the question again? I**
15 **did not catch which part of my declaration you are**
16 **referring to.**
17 Q. Yeah. I'm sorry. I'm looking at paragraph 20
18 of your declaration.
19 **A. 20?**
20 Q. Correct. You know what, hold on just one
21 second. Sorry. We had the AC kick on here and I
22 think it was interfering with the mic. Can you hear
23 me better now?
24 **A. I do.**
25 Q. Okay. So I'm looking at paragraph 20 of your

1 declaration, and you state that the publicly
2 available metadata for both the Evolo project
3 website, and you give the URL, and the final Evolo
4 report, with its URL, state that they have not been
5 modified since 2009, correct?
6 **A. I can read that here, yeah.**
7 MR. KLAIBER: Object to the form.
8 Q. And did I read that correctly, Professor?
9 MR. KLAIBER: No objection.
10 **A. I think you did.**
11 Q. And so then there's an Exhibit C that you
12 cite to in that paragraph. Do you see that?
13 **A. I do.**
14 Q. Okay. And can you look at Exhibit C to your
15 declaration for me, please?
16 **A. And you asked me to scroll down or look at**
17 **paragraph 21?**
18 Q. I'm sorry.
19 **A. I don't --**
20 Q. Yeah. Exhibit C to your declaration. If you
21 could scroll, you've got exhibits attached to your
22 declaration.
23 **A. All right. Found it.**
24 Q. And so are you looking at Exhibit C to your
25 declaration?

1 **A. I have the white page with the text Exhibit C**
2 **in front of me.**
3 Q. Okay. And if you go to the very next page,
4 do you see the two boxes?
5 **A. Yeah.**
6 Q. Okay. And is this the metadata that you are
7 referring to in paragraph 20 of your declaration?
8 **A. I would believe so, yes. Yes.**
9 Q. And if you look at the box on the bottom, the
10 address listed there, is that the address for the
11 Evolo report?
12 **A. The second row, address colon, yeah, it**
13 **looks -- it seemed to be that address, yes.**
14 Q. And then a little bit farther down it says,
15 "Modified: Thursday, May 14, 2009."
16 Do you see that?
17 **A. Yes.**
18 Q. Okay. So was that the last date that that
19 web address or the content at that web address was
20 modified?
21 **A. It appears so. So when I said June earlier,**
22 **it might have been May here, yeah. I'm not -- I'm**
23 **not the computer forensics expert, so I -- but I**
24 **think you're correct.**
25 Q. Yeah, because earlier you were believing that

1 you had uploaded the report in June, but the
2 metadata that you provided here says that web
3 address was last modified in May of that same year,
4 correct?
5 **A. It appears so, yes.**
6 Q. So is that modified date that we're looking
7 at there, which is May 14th of 2009, is that prior
8 to you having received the final report?
9 MR. KLAIBER: Yeah. Objection to form, but
10 you can answer.
11 **A. No. I mean, I'm referring to the final**
12 **report. I have the name of the final report here,**
13 **so I must have had the report in my possession at**
14 **this time and put it on the server. It's just that**
15 **the course ends in June, so that's why I assumed**
16 **that I didn't get the report until June, but it**
17 **appears -- I mean, the evidence we have in front of**
18 **us appears to be pointing at the fact that -- that I**
19 **had the report already in May, which -- which makes**
20 **me glad. These students were good.**
21 Q. Did you receive -- throughout that course,
22 did you receive different versions of the Evolo
23 report?
24 **A. Not the final, no.**
25 Q. Did you receive multiple versions -- during

1 the course that we're referring to, did you receive
2 multiple versions of the Evolo report?
3 MR. KLAIBER: Objection to form, but you can
4 answer.
5 **A. No.**
6 Q. So you -- and I just want to be sure I'm
7 clear. You only received from your students the
8 final version of the Evolo report?
9 MR. BRIDGES: Object as to form.
10 THE WITNESS: Answer or no answer?
11 MR. KLAIBER: No, go ahead.
12 MR. BRIDGES: Please answer.
13 **A. No, I always only want one version of the**
14 **report, otherwise I would die. As you have probably**
15 **seen, this report is long. I don't want the burden**
16 **of having to proofread it for the students. That's**
17 **one of the -- you might have seen the word Cdio here**
18 **in the link, etcetera, and that's kind of a strategy**
19 **of pedagogics that we follow in this course. And**
20 **one of the things that we are trying to do is not to**
21 **do the work for the students, so that's why I ask**
22 **for a final report, and that report is final. I**
23 **only get one copy of it. Or one version of it.**
24 **Sorry. It's very unlikely that I ever saw anything**
25 **but the final version of the final report.**

1 **Now, that final report consists of different**
2 **parts, different sections, different subreports, if**
3 **you will, and those I have seen before. That is**
4 **during the course. But then at the end of the**
5 **course I ask them to kind of staple everything**
6 **together in one final report, and that's the only**
7 **final report that they kind of are allowed to**
8 **submit.**
9 **Did I answer your question?**
10 Q. I believe so, but let me just maybe ask a
11 question to clarify. So you may -- so do you recall
12 having received parts of the Evolo report prior to
13 the students' submission of the final report?
14 **A. No, but I remember discussing the topics in**
15 **the report, and during those discussions with the**
16 **students, I probably sat next to them and looked at**
17 **their computer when they were writing the reports**
18 **and doing the work, so in that sense I was familiar**
19 **with the content.**
20 Q. So is it your testimony that the only Evolo
21 report that you uploaded with respect to this web
22 address that we've been referring to was the final
23 report from the students?
24 **A. That is my absolute recollection, yes. I**
25 **do -- it's very unlikely that there would have been**

1 **other versions of this report. Maybe within the**
2 **student group, when they iterated it, but not with**
3 **me. Very unlikely.**
4 Q. So this -- let me ask you this: Were the
5 students aware that you were uploading the final
6 Evolo report to this web address when you did it?
7 MR. KLAIBER: Yeah. Objection to form.
8 You can answer.
9 **A. Yeah. Yeah. I -- again referring to the**
10 **pedagogics -- pedagogic principles that we use in**
11 **this course, we tend to be very open with what we do**
12 **to the students, so I most likely told the students**
13 **that this report is going to be put on the website.**
14 **I don't remember saying it, but I most likely did.**
15 **Now, we also put it -- put the film clip that**
16 **we're probably going to talk about here on YouTube,**
17 **and there I refer to the report as well. And that**
18 **movie, they most likely, most of them, looked at**
19 **that clip on YouTube, and there they could see the**
20 **report.**
21 **So most of the students were probably aware**
22 **of that the final report was on this server, on this**
23 **webpage, if they were interested in knowing it, if**
24 **they listened.**
25 Q. Do you recall what the final Evolo report was

1 dated?
2 **A. I do not recall. I would have to look inside**
3 **it. I don't even recall that it is dated.**
4 Q. So if you look at paragraph 19 of your
5 declaration.
6 **A. Okay. I need to find it again. Paragraph 19**
7 **or page?**
8 Q. Page 4.
9 **A. Paragraph 19, page 4. All right. Got it.**
10 Q. You state there, "To the best of my
11 knowledge, the final Evolo report has been available
12 for download by people in the United States since I
13 added it to the Marine Design and Lightweight Design
14 course website in 2009, just as it has been
15 available to people in Sweden (and elsewhere in the
16 world) since 2009."
17 Do you see that?
18 **A. I do see that.**
19 Q. Do you have actual knowledge of that?
20 MR. KLAIBER: Objection to form, but you can
21 answer.
22 **A. I'm not sure I understand the question. It**
23 **says -- it says there, it starts with, "To the best**
24 **of my knowledge." I already in the text, written**
25 **text, I prove to everyone that I am not a computer**

1 **forensic technical expert, you know, but to the best**
2 **of my knowledge, it was.**
3 Q. Okay. So it's accurate, then, that you don't
4 have actual knowledge that the final Evolo report
5 has been available for download by people in the
6 United States since you added it to the course
7 website in 2009?
8 MR. BRIDGES: Object as to form.
9 **A. Well --**
10 THE WITNESS: Answer or no answer?
11 MR. KLAIBER: No, go ahead.
12 MR. BRIDGES: Yes.
13 MR. KLAIBER: You can answer.
14 MR. BRIDGES: Please answer.
15 **A. Well, I have web logs showing that American**
16 **computers accessed my website, so I -- in a way I do**
17 **know. I think I know that U.S. computers seen it,**
18 **and I have spoken to people in the U.S. that says --**
19 **says -- that says that they have -- had at the time**
20 **accessed the report.**
21 Q. Who did you speak to?
22 **A. So I -- I --**
23 MR. KLAIBER: Go ahead.
24 **A. One of them is -- is Don -- sorry?**
25 MR. KLAIBER: I'm sorry. Jakob, I wasn't

1 sure whether you were finished or not, so I was
2 trying to --
3 THE WITNESS: I was not.
4 MR. KLAIBER: -- ask Rob to stop asking a new
5 question because it sounded like you were about to
6 keep talking. So if you're not finished, please
7 continue.
8 **A. No, I can answer that. I talked to Don**
9 **Montague, who lives and operates in the U.S., that**
10 **says that he -- at the time he saw it and he -- he**
11 **saw the report and he saw the movie.**
12 Q. Professor, are you familiar with the Wayback
13 Machine?
14 MR. KLAIBER: Yeah. Objection to form.
15 **A. No.**
16 MR. KLAIBER: You can answer.
17 **A. I am aware of its existence. I don't know**
18 **how to operate it. I -- did that answer your**
19 **question?**
20 Q. Yeah. So let me ask you again. So are --
21 yeah. Are you familiar with the internet archive
22 service called the Wayback Machine?
23 **A. I've heard the name. I don't know what it**
24 **can do for me or anyone else.**
25 Q. Have you ever used the Wayback Machine?

1 **A. Actually, a few days ago I went to that**
2 **webpage, and I didn't understand what it could do,**
3 **so I left. I didn't get anything out of it, no. So**
4 **I guess that's a no.**
5 Q. Out of curiosity, why did you go to the
6 Wayback Machine a few days ago?
7 **A. Because I was -- I knew that this --**
8 MR. KLAIBER: I'm sorry. I'm going to
9 instruct the witness not to answer.
10 MR. THEUERKAUF: Why is that?
11 MR. KLAIBER: Because it relates to my
12 preparation of the witness for this deposition.
13 Q. So other than your preparation with counsel,
14 had you ever gone to the Wayback Machine?
15 **A. No.**
16 Q. Then is it accurate to say that you don't
17 have any understanding why the Wayback Machine would
18 show your course website as being first archived in
19 the year 2020?
20 MR. BRIDGES: Object as to form.
21 MR. KLAIBER: Yeah. Same.
22 THE WITNESS: Can I answer?
23 MR. THEUERKAUF: Yes.
24 MR. KLAIBER: Yeah, go ahead.
25 **A. Can I ask you to repeat the question, please?**

1 Q. Yeah. Do you have -- based on your testimony
2 so far, do you have any understanding why the
3 Wayback Machine would not have archived your course
4 website until the year 2020?
5 MR. BRIDGES: Same objection.
6 MR. KLAIBER: Yep, same.
7 MR. BRIDGES: You can answer.
8 **A. I don't have any knowledge, as you know, but**
9 **if I was to speculate, I would -- I would say that**
10 **it is because we changed the hardware, the computer,**
11 **so maybe that made the website pop up in another way**
12 **than it did before. I don't know. That's my**
13 **speculation. I have no idea. I don't know how they**
14 **operate the Wayback Machine, I don't know what it**
15 **does. But I have access logs showing that, that**
16 **people accessed this -- accessed the site already in**
17 **2009.**
18 MR. THEUERKAUF: I know we just took a break
19 just a few minutes ago, but if you don't mind, we'll
20 take another quick break. We're going to grab
21 something real quick. And honestly, I don't think
22 we're going to have much longer in the deposition
23 anyway, if you-all don't mind.
24 MR. BRIDGES: That's fine.
25 MR. KLAIBER: That's fine with me.

1 MR. THEUERKAUF: Ten minutes?
2 MR. KLAIBER: Sure.
3 MR. BRIDGES: Sure.
4 MR. THEUERKAUF: Thanks.
5 (Recess from 9:59 a.m. to 10:14 a.m. Eastern
6 Time.)
7 THE REPORTER: We're back on the record.
8 Q. Professor, in your declaration, and it's
9 page 5, and specifically looking at paragraphs 29
10 through 31, and I don't know if I'm pronouncing this
11 correctly, but you have some information there
12 regarding the -- is it Båtnytt? Båtnytt?
13 **A. Very good. Båtnytt.**
14 Q. Båtnytt?
15 **A. Correct.**
16 Q. Okay. All right. So were you -- in
17 paragraph 29 you discuss a reporter from the
18 magazine -- I'm sorry. I'm sorry. Paragraph 30,
19 you discuss a reporter from the magazine
20 interviewing you and the students, correct?
21 **A. Yes.**
22 Q. Okay. Were you familiar with the Båtnytt
23 article -- or magazine prior to that reporter
24 interviewing you and the students?
25 **A. Yes. That magazine was very well spread in**

1 **Sweden and I had a subscription.**
2 Q. And is it a month -- or was it -- because I
3 understand it's no longer in circulation; is that
4 correct?
5 MR. KLAIBER: Objection to form.
6 Q. Yeah.
7 **A. Can I have the question again?**
8 Q. Yeah. Let me ask you, Professor: Do you
9 know whether the Båtnytt magazine is still in
10 circulation?
11 **A. I think it has ceased to exist or merged with**
12 **some other magazine and is now a part of an online,**
13 **you know, version, but the name -- I don't think the**
14 **name exists anymore. I'm guessing here.**
15 Q. And was it a -- or do you know, Professor,
16 whether the Båtnytt magazine was a monthly
17 publication?
18 **A. It was a monthly publication, yes.**
19 Q. So in paragraph 31 of your declaration you
20 say, "In the fall and winter of 2009, I saw the
21 August 2009 issue of Båtnytt available for sale in
22 Stockholm at public newsstands," correct?
23 **A. Yes.**
24 Q. Professor, why would there be an August 2009
25 issue of Båtnytt on the newsstands in the fall or

1 winter of 2009 if it was a monthly publication?
2 MR. KLAIBER: Yeah. Objection to form.
3 You can answer.
4 **A. I wouldn't know, but I -- my parents live in**
5 **the countryside, and sometimes I saw that there were**
6 **old magazines in the -- in the stands, and maybe**
7 **there was an issue there because they saw my name in**
8 **it, I don't know, but I saw one, and other -- in**
9 **that newsstand, I saw the latest issue and older**
10 **issues in the same newsstand. I do not know if that**
11 **was the case in other parts of Sweden, but I saw it.**
12 **Did I manage to explain that?**
13 Q. Sure. Yes. And I'm going to show you
14 another exhibit. Let's see. This one has been
15 labeled 2042 in the 85 IPR and 2041 in the 86 IPR,
16 and we'll upload that so you can take a look. Let
17 us know when you've downloaded that.
18 **A. I have it in front of me, yes.**
19 (Kuttenkeuler Deposition Exhibit 6 was marked
20 for identification and is filed with this
21 transcript.)
22 Q. Okay. And is this the -- if you'll notice
23 there -- well, let me ask you this: Do you
24 recognize this webpage?
25 **A. I can't say I do. It says there Wayback**

1 **Machine. No, I don't -- I don't recognize this. I**
2 **do recognize some of the text. "Evolo is a**
3 **demonstrator vehicle," you know, invented, bah, bah,**
4 **bah. That sounds like text I recognize, but**
5 **otherwise I don't know what this is.**
6 Q. And do you see the URL or the web address at
7 the very top there?
8 **A. Ending with FI18?**
9 Q. Yes.
10 **A. Yeah, I see it.**
11 Q. Is that the same web address or URL that you
12 referenced in paragraph 25 of your declaration?
13 **A. I don't know. I don't memorize web addresses**
14 **like that.**
15 MR. THEUERKAUF: Well, maybe let's -- let's
16 pull up -- let's pull up the web address that the
17 professor has in paragraph 25.
18 MS. GIBSON: Do you want to see the report or
19 the actual web address?
20 MR. THEUERKAUF: Let's just go to the
21 internet and pull it up.
22 MS. GIBSON: Oh, that was the question.
23 Q. All right. Give us just a second here,
24 Professor, we'll pull up this web address.
25 **A. Sure. It seems like that web address goes to**

1 **my movie on YouTube, my clip, Evolo clip on YouTube.**
2 Q. Okay.
3 **A. I do see it now, yeah.**
4 Q. Okay. So this web -- okay. So the exhibit
5 we were looking at is the URL that is in your --
6 paragraph 25 of your declaration; is that correct?
7 **A. It is, yes.**
8 Q. Okay. And so the text --
9 MR. KLAIBER: I'm sorry. Counsel, just for
10 the record, I'm not sure that you stated that you
11 brought up the page directly from YouTube and that's
12 what you're displaying on the screen.
13 MR. THEUERKAUF: Yeah. And that -- well, and
14 let's take that off now because I think the
15 professor had, in the meantime, recognized --
16 MR. KLAIBER: Right. I just want --
17 MR. THEUERKAUF: -- the URL, yeah.
18 MR. KLAIBER: I just want to make sure
19 there's a clean record.
20 MR. THEUERKAUF: Yeah. And so we're
21 referring to the Exhibit 2042.
22 Q. And so -- and, Professor, just so we're clear
23 here, that web address URL of 2042 is the one
24 referenced in your paragraph 25 of the declaration?
25 **A. That's correct.**

1 Q. Okay. And so do you -- did you write the
2 text that is on that webpage?
3 MR. KLAIBER: I'm going to object as to "that
4 webpage."
5 Q. Okay. Did you write the text on the webpage
6 that is Exhibit 2042?
7 **A. I absolutely think I did, yes. I don't**
8 **remember typing it, but it feels like my text and I**
9 **probably wrote it, yes.**
10 Q. In paragraph seven of your declaration --
11 **A. Seven. Yes.**
12 Q. -- the last sentence of paragraph seven says,
13 "A commercial version of Evolo has not yet been
14 built."
15 Do you see that?
16 MR. KLAIBER: No objection.
17 **A. I see that, yes. I see that, yes.**
18 Q. And does that remain true today?
19 **A. Yeah, maybe -- it's maybe not my most elegant**
20 **sentence, but -- but I -- what I meant is that we**
21 **did not -- that -- yeah. Yeah, it is correct.**
22 Q. So as of today, no commercial version of
23 Evolo has been built; is that correct?
24 MR. KLAIBER: No objection.
25 **A. Yeah, I did not -- it's difficult for me to**

1 **answer that question. I mean, I have not, or**
2 **neither -- to my knowledge, neither -- no student in**
3 **the group did try -- even try to commercialize**
4 **Evolo, but others have commercialized the same**
5 **concept, not under the name Evolo, but the same kind**
6 **of thing. I don't know if I managed to answer your**
7 **question. I tried to.**
8 Q. Yeah. That's fine, Professor.
9 MR. THEUERKAUF: I want to take another short
10 break, but I -- but I think I'm finished, and so
11 hopefully this will be to the benefit of all of us,
12 just take another short break, but I think we're --
13 I think we're done for the day.
14 MR. BRIDGES: All right. We'll let you-all
15 go over your notes and see if there's anything else
16 you want to ask.
17 MR. THEUERKAUF: All right. Thank you.
18 (Recess from 10:27 a.m. to 10:34 a.m. Eastern
19 Time.)
20 MR. THEUERKAUF: All right. Are we back on?
21 THE REPORTER: Yes, we're back on.
22 MR. THEUERKAUF: All right. Appreciate it.
23 Appreciate your time, Professor Kuttenkeuler, but I
24 have no more questions today. Thank you.
25 MR. KLAIBER: Okay.

1 THE WITNESS: Thank you.
2 MR. BRIDGES: Doctor, I don't know --
3 MR. KLAIBER: Are you going -- are you
4 going -- I'm sorry. Yeah. I mean, I'm more than
5 happy to leave, but if -- Doug, if you have
6 questions, this is the time to ask them, I guess.
7 MR. BRIDGES: Yeah, let me -- I have just a
8 few questions on cross.
9 EXAMINATION
10 By Mr. Bridges:
11 Q. Professor, during your testimony you
12 mentioned that you spoke with someone in the United
13 States regarding the Evolo project. Can you
14 remember who you stated you spoke with?
15 MR. THEUERKAUF: Object to form.
16 **A. Can -- can I ask you to -- to phrase the**
17 **question again?**
18 Q. Absolutely. During your testimony you stated
19 that someone from the United States spoke with you
20 about the Evolo project after the report was put up
21 on your website. Do you remember who that was who
22 spoke with you?
23 MR. THEUERKAUF: Object to form.
24 Q. You can go ahead and answer.
25 **A. Okay. Yeah, I do remember. What I asked you**

1 **to rephrase the question for -- and ask me it again**
2 **is I wonder, when answering this, is it important**
3 **that when -- when I had the communication with this**
4 **person or what that communication refers to?**
5 Q. Okay. First, who did you have the
6 communication with after -- and we'll go into --
7 **A. Okay.**
8 Q. -- when communications occurred and the
9 content of those conversations, but I believe you --
10 **A. Okay.**
11 Q. -- stated that you spoke with a Don Montague
12 regarding --
13 **A. Yeah.**
14 Q. -- your report; is that correct?
15 MR. THEUERKAUF: Object to form.
16 **A. That is correct. I'll try to answer and you**
17 **can stop me if I -- I go too far. I -- yeah, I have**
18 **several times talked to Don Montague, who claims**
19 **that he saw this. He is very -- he's a --**
20 MR. THEUERKAUF: Object to form.
21 **A. -- web scanning person.**
22 MR. THEUERKAUF: Sorry, but I'm going to
23 object to this being hearsay as well, but you can go
24 ahead.
25 Q. When did you first speak with Don Montague

1 regarding the Evolo project, to the best of your
2 memory?
3 **A. I think it was 2000 -- I don't know, '17,**
4 **'18, maybe.**
5 Q. And --
6 **A. That's a guess.**
7 Q. To the best of your memory, what was the
8 content of that conversation?
9 MR. THEUERKAUF: Object to form. Hearsay.
10 MR. KLAIBER: You can answer.
11 **A. Okay. So -- so he -- he works at -- or he's**
12 **the CEO of Kai Concept, and they build eFoilers.**
13 **They design and build eFoilers. And he thought -- I**
14 **remember specifically that he thought it was kind of**
15 **interesting and -- and fun to have a contact -- to**
16 **have a personal relationship to me, being one of the**
17 **early inventors of this technique, so he reached out**
18 **to me, he and his team.**
19 Q. And did he mention anything about the Evolo
20 report or Evolo project to you --
21 MR. THEUERKAUF: Object to form.
22 Q. -- in the first conversation?
23 MR. THEUERKAUF: Object to form and hearsay.
24 THE WITNESS: Do I answer or no?
25 MR. KLAIBER: Yeah, go ahead, answer.

1 **A. Yeah, he referred to -- he has said to me**
2 **several times that he saw my work very early. I**
3 **probably cannot say, you know, how -- what he means**
4 **by "very early," but he saw the movie clip on**
5 **YouTube and he saw the report.**
6 Q. In his conversation with you, did he give any
7 indication as to when he saw the movie on YouTube
8 and/or the -- or at least when he saw the movie?
9 MR. THEUERKAUF: Object to form.
10 **A. Yeah.**
11 MR. THEUERKAUF: Hearsay.
12 Q. You can go ahead and answer.
13 MR. KLAIBER: Go ahead.
14 **A. Yeah, he said that he saw it -- I -- no, I**
15 **don't dare to say when he saw it. That would be --**
16 **I agree, that would be hearsay. You need to ask**
17 **him. But -- but very early. Around the time --**
18 **around the time -- he has -- I do specifically**
19 **remember that he said around the time of the patent,**
20 **etcetera.**
21 Q. When you say "around the time" --
22 **A. I couldn't say exactly.**
23 Q. -- "of the patent," what do you -- what do
24 you mean?
25 MR. THEUERKAUF: Object to form.

1 **A. I mean 2000 --**
2 MR. THEUERKAUF: Hearsay.
3 **A. -- 2000 -- I don't know, '11, '12, somewhere.**
4 **'10, '11, '12.**
5 Q. And do you recall whether or not he stated
6 whether he had seen the report, or when he said he
7 had seen the report?
8 MR. THEUERKAUF: Object to form and hearsay.
9 **A. At that time he saw the report, that I do**
10 **remember, but I can't say if he saw it in 2010, '11,**
11 **or '12. I can't say.**
12 Q. All right.
13 **A. I also know another --**
14 Q. Yeah. Sorry.
15 MR. KLAIBER: Wait a second. Hang on.
16 Q. Did you have --
17 MR. KLAIBER: Excuse me. Excuse me. I don't
18 think he finished his answer there. He was --
19 Q. Sorry. Go ahead.
20 MR. KLAIBER: -- saying "I also know," and
21 then he stopped, so --
22 MR. BRIDGES: Right.
23 MR. KLAIBER: -- you know, let him answer.
24 Let him answer the question.
25 **A. Yeah, I'm referring to the original question**

1 **of the number of people that I had conversations**
2 **with, and I had conversations with others than Don**
3 **Montague, so if you want to return to that question**
4 **later on, but I wasn't done answering that.**
5 Q. Well, that was actually what I was about to
6 ask you a question regarding. So other than Don
7 Montague, did you speak with anyone else outside of
8 the B article and the -- your -- your class
9 regarding the Evolo project?
10 MR. THEUERKAUF: Object to form.
11 Q. In the time frame between 2009 and 2013.
12 MR. THEUERKAUF: Object to form.
13 **A. In -- in 2009 I talked to reporters or**
14 **journalists at the Canadian Discovery Channel. They**
15 **had a show called Daily Planet, and one day one of**
16 **them called me and said that they have discovered**
17 **our project and that they wanted to do a little -- a**
18 **little -- a little something within their show, one-**
19 **or two-minute thing, as I recall it, within their**
20 **show, the Daily Planet, about our project, and they**
21 **did. So I had communications with them at the time,**
22 **and that was 2009.**
23 MR. THEUERKAUF: I'm going to object to --
24 Q. Did they --
25 MR. THEUERKAUF: -- hearsay.

1 Q. Did these Canadian reporters who reached out
2 to you state how they had found out about your
3 project?
4 MR. THEUERKAUF: Object to form and hearsay.
5 **A. I can't -- I can't be certain of that.**
6 Q. Other than these Canadian reporters and Don
7 Montague, did you have discussions about your
8 project with anybody else outside of KTH and those
9 we have previously spoken with -- spoken about in
10 the 2009 to 2013 time frame?
11 MR. THEUERKAUF: Object to form.
12 **A. Yeah, the -- there was a Canadian again.**
13 **Unrelated, but -- but there was a Canadian student**
14 **that sent the team, my team, an email in 2011 saying**
15 **that he saw the project and was interested in more**
16 **information. And I even have the --**
17 MR. THEUERKAUF: Hearsay.
18 **A. -- I have the name.**
19 Q. Please continue to answer.
20 **A. Okay. I got -- I got my -- I got a mail in**
21 **my inbox from the student -- my student that got the**
22 **mail from -- from this guy, Canadian guy, in 2011.**
23 Q. Do you remember the name of the Canadian
24 student who reached out to you?
25 **A. Owen Riley.**

1 Q. And to the best of your memory, do you recall
2 if he stated how he had heard about the Evolo
3 project or found out about it?
4 MR. THEUERKAUF: Object to form. Hearsay.
5 **A. I don't remember he saying how he found out**
6 **about it, but he was an engineering student at a**
7 **university in U -- in Canada or the U.S., I don't**
8 **remember which. Yeah, Canada. Sorry. Yeah,**
9 **Canada. So I guess the answer is no.**
10 Q. Okay. Beyond the Canadian publication, Don
11 Montague, the Canadian student, are you aware of
12 anyone else who reached out to you regarding the
13 Evolo project --
14 **A. Yes.**
15 Q. -- and the Evolo report prior to this?
16 MR. THEUERKAUF: Object to form.
17 **A. Well, I don't know if I am answering your**
18 **question here, but recently I've gotten to know**
19 **people at the Swedish board manufacturer Awake, and**
20 **there is one of the founders there, Philip Werner,**
21 **told me that at the time he knew about the --**
22 MR. THEUERKAUF: Objection. Hearsay.
23 **A. -- project.**
24 MR. KLAIBER: Sorry. Let him answer the
25 question.

1 Q. Sorry. But you -- well, go ahead and answer.
2 MR. KLAIBER: I'm going to -- that objection
3 is poorly timed, plus there's also already an
4 objection pending, so please let him answer the
5 question.
6 **A. He learned about the project online from the**
7 **Evolo website. That is the website that the**
8 **students put up. And he communicated this with his**
9 **friend when they were -- when they were starting**
10 **their -- their journey into this eFoiling business.**
11 Q. All right. So outside of those you have
12 mentioned so far, is -- do you recall anyone else
13 who has mentioned seeing the Evolo report or the
14 Evolo project prior to 2013, or do you recall having
15 conversations with anybody about the project prior
16 to that date?
17 MR. THEUERKAUF: Objection. Form.
18 Q. All right. You can go ahead and answer.
19 **A. Yeah.**
20 Q. Oh, sorry.
21 **A. It's difficult to answer because there are a**
22 **lot of people at the university knew about the**
23 **project, and we were -- we were displaying the**
24 **project in -- at the university, at fairs, etcetera,**
25 **so there were a lot of people talking about it, but**

1 **no one reached -- I don't remember anyone reaching**
2 **out to me specifically about this, no. I think**
3 **those four that I mentioned is -- is -- are the**
4 **ones.**
5 **Did I answer your question?**
6 Q. Yes. The -- in looking at your declaration
7 that was filed, which is Exhibit Number 1018, Foil
8 1018, is there anything in your declaration that you
9 now disagree with or think is incorrect?
10 MR. THEUERKAUF: Objection. Form. It's
11 beyond the scope of the cross, my cross.
12 **A. I have read my declaration and I stand by it.**
13 **There is nothing I -- some phrasings are -- I am not**
14 **proud of, like I mentioned before, but otherwise**
15 **that's my testimony.**
16 MR. BRIDGES: All right. Give me one moment.
17 That might be all the questions I have, just --
18 MR. KLAIBER: Do you want to go off the
19 record or --
20 MR. BRIDGES: Well, yeah, if we can go off
21 the record for just a moment, let me just
22 double-check my notes.
23 MR. KLAIBER: All right.
24 (Recess from 10:48 a.m. to 10:50 a.m. Eastern
25 Time.)

1 THE REPORTER: We're on the record.
2 MR. BRIDGES: All right. I don't have any
3 further questions of the professor.
4 MR. THEUERKAUF: No further questions for me
5 at the moment today. Thank you.
6 MR. KLAIBER: All right. Thank you,
7 gentlemen, and thank you, Professor Kuttenkeuler. I
8 think we're done.
9 MR. THEUERKAUF: Appreciate your time,
10 Professor.
11 MR. BRIDGES: Thank you.
12 THE WITNESS: Thank you.
13 (Deposition concluded at 10:51 a.m. Eastern
14 Time.)
15 * * *
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1 STATE OF KENTUCKY)
)
2) SS.
)
3 COUNTY OF JEFFERSON)
4
5 I, Laura J. Kogut, a Notary Public within and
6 for the State at Large, my commission as such
7 expiring 25 July 2027, do hereby certify that the
8 foregoing deposition of LEIF JAKOB THEODOR
9 KUTTENKEULER was taken by me via Zoom
10 videoconference for the purpose in the caption
11 stated; that said witness was first duly sworn to
12 tell the truth, the whole truth, and nothing but the
13 truth; that the deposition was reduced by me to
14 shorthand writing; that the foregoing is a full,
15 true, and correct transcript of the deposition to
16 the best of my ability; that the appearances were as
17 stated in the caption.
18 WITNESS my hand this 31st day of July 2024.
19
20
21 Registered Merit Reporter
Certified Realtime Reporter
22 KY CCR 20042BF060
Commission Number KYNP76069
23 State of Kentucky at Large
24
25

1 ERRATA

2 Please do not write on the transcript. Enter any changes in form or substance on this sheet.

3 PAGE LINE CHANGE

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17 I have read the entire transcript of my deposition taken on the day of , 20 , or the same has been read to me, and I

18 have noted all changes in the form or substance on this sheet for the reasons indicated.

19

20 LEIF JAKOB THEODOR KUTTENKEULER

21 Subscribed and sworn to before me this day

22 of , 20 .

23

24 Notary Public
State of

25 My commission expires

A
a.m 4:1 45:11,11 61:5,5 67:18,18 77:24,24 78:13
abbreviated 11:9
ability 34:12 79:16
able 8:21 10:13 17:22,23
absolute 54:24
absolutely 11:12 39:6 44:9 66:7 68:18
AC 49:21
access 34:13 39:7 60:15
accessed 57:16 57:20 60:16,16
accessible 35:4
account 41:2,3
accuracy 27:11
accurate 57:3 59:16
accurately 6:22
active 39:20
actual 27:6 56:19 57:4 64:19
ad 35:7
AdamsIP 3:4 4:14
added 56:13 57:6
address 11:13,14 11:16,17,19 28:2,4 30:1,3,5 30:7,8,9,23 31:16 33:21 41:7,10 46:7,10 46:13 51:10,10 51:12,13,19,19 52:3 54:22 55:6 64:6,11,16,19 64:24,25 65:23
addresses 64:13
administer 6:17
administrate 29:17 30:8
admitted 6:7
aeronautics 12:12,16 14:9
aerospace 12:16 14:2
affirmatively 9:18
afternoon 4:9 7:6 7:8
ago 31:11 32:25 33:1,19,20 38:19 39:12 59:1,6 60:19
agree 27:16 71:16
Agreed 9:13
agreement 21:24 22:2
agreements 21:13,17
ahead 8:16 10:9 12:24 21:1,1,10 32:14 33:12 35:1 40:11 41:1 42:25 53:11 57:11,23 59:24 68:24 69:24 70:25 71:12,13 72:19 76:1,18
aided 39:24
Alabama 3:5
allow 8:8,10 14:20
allowed 54:7
American 57:15
Americas 3:13
and/or 22:10 71:8
answer 8:9,10 12:24 18:22 19:1 20:7,23,24 20:25 21:2,9,23 22:6,13 29:19 31:9,24 32:14 32:21 34:1,6,15 34:21,23 35:1 40:3,10,10,12 41:14 43:2 47:6 47:16 48:22 49:1 52:10 53:4 53:10,10,12 54:9 55:8 56:21 57:10,10,13,14 58:8,16,18 59:9 59:22 60:7 63:3 67:1,6 68:24 69:16 70:10,24 70:25 71:12 72:18,23,24 74:19 75:9,24 76:1,4,18,21 77:5
answered 31:19
answering 69:2 73:4 75:17
answers 6:18,23 9:20
anybody 39:7 74:8 76:15
anymore 62:14
anyway 60:23
apart 39:11,11
APPEAL 1:2,12
appear 6:20 25:21 27:15
appearances 2:3 3:1 79:16
appeared 36:19 36:20
appears 26:10 27:13,21 38:4 38:13 51:21 52:5,17,18
applications 13:13 14:10
applied 12:13
appreciate 44:13 67:22,23 78:9
architecture 13:6 13:7 14:4
archive 58:21
archived 59:18 60:3
area 13:4,5,18
areas 13:15
article 61:23 73:8
asked 9:7 19:17 23:8,17,20 24:2 25:7 47:8 50:16 68:25
asking 8:8 22:23 23:25 47:18 58:4
assistant 12:6
assume 7:22 40:18
assumed 52:15
attached 15:11 16:13 26:25 50:21
attorney 7:10 18:4
attorney's 18:14
August 62:21,24
available 49:10 50:2 56:11,15 57:5 62:21
Avenue 3:13
Awake 75:19
aware 20:19 21:5 21:11 55:5,21 58:17 75:11

B
B 73:8
back 5:4 6:3,6,11 17:23 21:16 44:16 45:8,13 45:14 61:7 67:20,21
background 12:10 24:12,19
bah 64:3,3,4
balloons 44:23 45:1
Basanta 18:15,18 22:19
based 60:1
basically 13:25
Båtnytt 61:12,12 61:13,14,22 62:9,16,21,25
beat 19:16
beginning 14:7
belief 49:3
believe 26:5,7 29:20 42:2 47:12 48:18 51:8 54:10 69:9
believing 51:25
benefit 67:11
best 9:10 56:10 56:23 57:1 70:1 70:7 75:1 79:16
better 9:11 27:3 49:23
beyond 75:10 77:11
bio 44:7
bit 8:12,13 22:1 31:13 51:14
board 1:2,12 24:16 75:19
Boarding 1:4,14 3:3 10:25
bottom 26:18 27:7 28:17 29:25 30:2 33:22 41:7,17 51:9
box 51:9
boxes 51:4
break 12:21,25 44:7,8 60:18,20 67:10,12
Bridges 2:5 3:3 4:13,13 19:10 19:12,14 23:22 23:25 24:5 25:4 27:9,19 28:10 32:13 36:11,16 36:22 37:16,24 48:21,24 53:9 53:12 57:8,12

57:14 59:20 60:5,7,24 61:3 67:14 68:2,7,10 72:22 77:16,20 78:2,11
bring 28:2,5
bringing 28:3
brought 65:11
build 70:12,13
built 66:14,23
burden 53:15
business 11:13 11:14 76:10

C

C 2:1 15:20,20 50:11,14,20,24 51:1
call 12:3 20:11,12 20:13,15,16
called 7:1 12:13 58:22 73:15,16
calls 5:10
Canada 75:7,8,9
Canadian 73:14 74:1,6,12,13,22 74:23 75:10,11
caption 79:10,17
case 1:9,19 18:25 20:21 21:6 40:22 63:11
catch 44:12 49:15
category 24:7
CCR 79:22
Cdio 27:12 42:8 53:17
ceased 62:11
CEO 70:12
certain 38:20 74:5
Certificate 2:6
certification 27:11
certified 26:23 79:21
certify 79:7
chance 18:15
change 13:18 33:2,4 80:3
changed 33:17 41:12,15,18 46:10 60:10
changes 80:2,18
changing 33:13 39:12
Channel 73:14
characterization 27:17
chat 5:20 28:8,25 29:1
circulation 62:3 62:10
cite 50:12
claims 69:18
clarify 28:18 32:11 36:1,12 41:16 54:11
clarity 37:16
class 73:8
clean 65:19
cleaner 8:13
clear 9:8 16:16 23:13 47:10 53:7 65:22
clients 18:24
clip 55:15,19 65:1,1 71:4
code 11:25
colleagues 39:14
Colletti 18:7
colon 51:12
commenced 4:1
comment 40:18
commercial 13:10 66:13,22
commercialize 67:3
commercialized 67:4
commission 79:6 79:22 80:25
communicated 76:8
communication 69:3,4,6
communications 18:23 69:8 73:21
COMPANY 1:4 1:14 3:3
compensated 21:25 22:9
compensation 22:2
complete 8:10
compound 23:15 34:18
computer 31:17 31:17,20,25 32:2,4,19,20 33:3,4,7,16,17 38:15 39:13 41:2 42:8 46:14 51:23 54:17 56:25 60:10
computers 57:16 57:17
concept 67:5 70:12
concluded 78:13
conferred 5:22
confused 32:6
connection 6:14 19:22 22:3
consists 54:1
contact 19:25 20:4,9 33:4 70:15
contacted 19:21
content 31:12 33:3,5,13 51:19 54:19 69:9 70:8
continue 15:10 24:22 39:10 58:7 74:19
contracts 21:13 21:17
control 14:21 32:2
conversation 70:8,22 71:6
conversations 69:9 73:1,2 76:15
copied 39:2
copy 46:20 53:23
corner 26:18 27:7 30:2 33:22 41:8
correct 5:14 10:23 16:24,25 26:6 29:22,23 33:18 36:4,13 36:18 37:6 41:18 45:23,24 49:13,20 50:5 51:24 52:4 61:15,20 62:4 62:22 65:6,25 66:21,23 69:14 69:16 79:15
correctly 15:18 33:1 50:8 61:11
counsel 4:5 19:21 20:1,3,3,9 21:14,18,21 22:11,22 23:1,5 24:17 25:6 26:3 27:21 44:5 59:13 65:9
counselors 22:18
counterparty 18:24
countryside 63:5
COUNTY 79:3
couple 7:25
course 13:12 25:14 30:6,9,12 30:22 35:12 41:25 48:13,14 48:15 49:7 52:15,21 53:1 53:19 54:4,5 55:11 56:14 57:6 59:18 60:3
course's 30:6
courses 29:17,22 34:8 45:23 46:1
courses' 47:22
court 8:2 17:3
CRC 1:22
create 30:13 38:6 40:6
created 29:22 41:22
creating 34:3 39:25
creation 34:4,9
credibility 24:25
cross 68:8 77:11 77:11
CRR 1:22
curiosity 59:5
current 40:7
currently 11:5 13:3,6 36:17 41:5
Custom 1:6,16 1:21 3:7 4:11 7:2,12 10:25 17:4 22:4 23:18 23:21

D

D 15:17
Daily 73:15,20
dare 71:15
date 20:12 51:18 52:6 76:16
dated 16:23 48:11 56:1,3
dates 22:23
Dauphin 3:4
day 43:7,11 67:13 73:15 79:18 80:17,21
days 23:6,7 59:1 59:6
decade 33:14
December 16:23

declaration 14:16 15:22,24 16:13,18,20 17:1,8,11 18:4 18:10,13,20 19:5,8,18,22 20:4,20 21:5,12 24:13,16,20,23 25:1 30:15,17 38:12 39:16 45:17 46:3,18 48:6 49:9,15,18 50:1,15,20,22 50:25 51:7 56:5 61:8 62:19 64:12 65:6,24 66:10 77:6,8,12
definitely 38:7,23 39:5 40:13
degree 12:12
Delaware 17:3,9
deliberately 33:5
demonstrator 64:3
deposition 1:20 2:8,8,9,9,10,10 4:1,4,19 7:23 10:12,15 14:17 24:3,6 25:16 36:7 37:13 59:12 60:22 63:19 78:13 79:8,13,15 80:17
describe 12:9
described 13:16 43:22
design 34:7 39:21 45:22,22 46:1,1 47:21,21 56:13 56:13 70:13
designed 29:17 44:1
designing 35:6
die 53:14
different 25:25 34:19 52:22 54:1,2,2
difficult 43:1 66:25 76:21
difficulties 29:2
dig 43:10
directly 65:11
disagree 77:9
discovered 73:16
Discovery 73:14
discuss 61:17,19
discussing 54:14
discussion 8:5
discussions 54:15 74:7
displayed 36:13
displaying 65:12 76:23
distribute 36:14
distributed 36:13
District 17:3,3
doctor 12:15 68:2
document 10:13 10:21 15:15 25:20,21,25 26:4,9,11,19,24 26:25 27:6,7,25 28:14,19 29:9 38:3 43:16
documents 8:18 8:21,24,24 27:3
doing 5:6 54:18
domain 30:23
Don 57:24 58:8 69:11,18,25 73:2,6 74:6 75:10
double-check 77:22
Doug 26:18 27:5 68:5
doug@adamsi... 3:6
Douglas 3:3 4:13
download 56:12 57:5
downloaded 14:24 15:5 25:20,21 35:14 35:24 36:24 37:4 38:2 63:17
downloading 8:23
Dr 4:4 5:25 19:17
drop 4:22
duly 6:22 7:3 79:11

E

E 2:1 3:8
eager 43:4
earlier 5:17 7:9 9:5 12:20 38:16 46:15 51:21,25
early 44:2 48:3 70:17 71:2,4,17
easier 8:12 14:22
easily 8:6
Eastern 4:1 45:11 61:5 67:18 77:24 78:13
education 12:14 12:17
educational 12:9
eFoilers 70:12,13
eFoiling 76:10
eight 30:16 46:2
either 5:15 9:9,17 39:25 47:12
elegant 66:19
email 74:14
employed 11:6,7 12:4,5 13:6,14 14:2
ended 49:7
ends 48:13 49:7 52:15
engagement 21:20
engineering 12:16 14:3 75:6
English 6:19,23 6:24 9:8 26:10 26:10 27:13,14 27:15 35:21 36:20
Enter 80:2
entire 80:16
entirely 36:18
Errata 2:6 80:1
etcetera 53:18 71:20 76:24
evidence 52:17
Evolo 29:18 42:16 46:19 48:8 49:4,11,12 50:2,3 51:11 52:22 53:2,8 54:12,20 55:6 55:25 56:11 57:4 64:2 65:1 66:13,23 67:4,5 68:13,20 70:1 70:19,20 73:9 75:2,13,15 76:7 76:13,14
EX 25:22 36:6
exactly 18:12 71:22
Examination 2:4 2:5 7:4 68:9
excuse 25:5 72:17 72:17
exhibit 2:8,8,9,9 2:10,10 10:10 10:15 14:12,13 14:14,17 15:3 15:25 16:5 25:12,16,24 27:1,9 29:12 31:3 33:23 35:14,14,18,20 36:3,7,24 37:13 37:17,18,20 38:1 40:8,20 41:5,22 42:2,12 43:20 50:11,14 50:20,24 51:1 63:14,19 65:4 65:21 66:6 77:7
exhibits 2:7 8:18 8:20 15:2,11,11 15:16,21 16:10 16:10,13 50:21
exist 62:11
existence 58:17
exists 62:14
experience 34:4,9
expert 51:23 57:1
expires 80:25
expiring 79:7
explain 63:12
extent 13:23
externally 13:22

F

fact 52:18
fairly 9:1
fairs 76:24
fall 62:20,25
falls 24:6
familiar 54:18 58:12,21 61:22
far 60:2 69:17 76:12
farther 51:14
fast 43:5
feeling 41:24
feels 31:12 66:8
fell 33:6
FI18 64:8
field 12:15 39:20
filed 10:16 14:18 19:8 20:8 21:7 25:17 36:8 37:14 63:20 77:7
files 43:9
film 43:13 55:15
final 39:3,3 42:16 43:12,16 45:21 48:16 49:11 50:3 52:8,11,12

52:24 53:8,22 53:22,25,25 54:1,6,7,13,22 55:5,22,25 56:11 57:4
finalized 42:17 46:20 48:9,18 49:4
find 13:22 56:6
fine 36:16 44:20 60:24,25 67:8
finish 8:8
finished 58:1,6 67:10 72:18
firm 4:17 17:19 17:20,25 18:12
first 6:21 7:2 9:24 10:10 17:20 19:15 25:13 27:10 30:19 45:19 59:18 69:5,25 70:22 79:11
Floor 3:4,13
flygmac7 31:16 38:5 42:8
Foil 1:4,14 3:3 4:14 10:25 15:24,25 19:9 20:11,20 21:6 21:14 77:7
Foil's 19:21,25 20:3,3,9
foiling 13:13
follow 53:19
follows 7:3
foregoing 79:8 79:14
forensic 57:1
forensics 51:23
form 19:12,15 20:2,22 21:2,8 21:22 22:5,12 23:10,22 29:11 31:8,23 32:13 33:24 34:5,14 39:9 40:2,9,12 41:13 42:24 47:5,15 48:21 50:7 52:9 53:3 53:9 55:7 56:20 57:8 58:14 59:20 62:5 63:2 68:15,23 69:15 69:20 70:9,21 70:23 71:9,25 72:8 73:10,12 74:4,11 75:4,16 76:17 77:10 80:2,18
formal 30:8,9,12
formally 48:15
formed 25:2
found 50:23 74:2 75:3,5
founders 75:20
four 32:25 33:19 33:20 77:3
frame 73:11 74:10
friend 76:9
front 15:5 17:1 35:24 51:2 52:17 63:18
full 7:13 10:5 12:2,7 13:7 79:14
fun 70:15
funded 13:22
funny 5:20
further 12:18 78:3,4

G

gentlemen 78:7
getting 6:16 29:2
Gibson 3:8 4:12 5:5,22 10:6,18 15:1,13 16:2 28:7 29:1,7 35:19 36:6,14 36:19 64:18,22
give 7:13 8:9,10 10:24 24:3 26:12 28:10 37:18 49:11,12 50:3 64:23 71:6 77:16
given 7:22 24:7 24:11
glad 52:20
go 6:4 7:25 8:16 10:9 12:18,24 21:1,1,10 25:11 32:14 33:12 35:1 40:11 41:1 42:24 48:14 51:3 53:11 57:11,23 59:5 59:24 64:20 67:15 68:24 69:6,17,23 70:25 71:12,13 72:19 76:1,18 77:18,20
goes 24:25 64:25
going 8:4,15,17 10:4,9 14:11,12 14:13 18:21,25 19:11 20:20 21:6 23:10 24:3 24:9,9,10 25:11 25:13 32:18 35:13 44:6 55:13,16 59:8 60:20,22 63:13 66:3 68:3,4 69:22 73:23 76:2
good 4:8,8 6:9 7:6,8 47:18 52:20 61:13
gotten 75:18
grab 60:20
grades 48:17
Gray 3:8 4:10 7:10
Great 8:15 15:7 25:23 45:19
group 13:8,8 14:2 55:2 67:3
guess 7:25 13:3 23:2,12 32:6,10 43:18 47:8 59:4 68:6 70:6 75:9
guessing 62:14
guy 74:22,22
guys 27:2 28:8

H

half 23:6
Hallström 39:17 39:18,24 40:5,6
hand 79:18
Hang 72:15
happened 20:16
happening 29:18
happy 68:5
hardware 33:2 39:12,13 60:10
Haug 17:25
head 9:17
hear 6:12,13 49:22
heard 58:23 75:2
hearing 5:23
hearsay 24:1 69:23 70:9,23 71:11,16 72:2,8 73:25 74:4,17 75:4,22
heart 17:23
help 17:13 18:19 32:11 33:2 39:14 40:6 43:10
helped 17:16 18:4,9,10,12 38:23
helpful 14:6 37:21
hidden 43:8
hierarchically 44:1
Higdon 3:8 4:10 7:10
hold 25:4 36:11 43:12 49:20
honestly 60:21
hope 9:2 31:19
hopefully 9:1 67:11
host 32:20
hosted 30:22 32:11 38:14 46:14
hosting 32:5 33:16 40:20
hosts 39:8
hour 44:6
housekeeping 8:1 8:17 12:19 15:1

I

Ice 3:8 4:10 7:10
idea 60:13
identification 10:16 14:18 25:17 36:8 37:14 63:20
identify 4:5
immediately 42:17
important 8:6 9:14 69:2
inbox 74:21
includes 30:23
Incorporated 4:15
incorrect 26:8 77:9
indicated 80:18
indication 71:7
individual 18:3
information 19:3 24:1 61:11 74:16
inquires 19:2
inquiring 18:23
inside 56:2

instance 14:9
Institute 11:7
instruct 18:22 19:1 59:9
Intelligence 17:5
interest 27:24 28:1
interested 55:23 74:15
interesting 70:15
interfering 49:22
internet 6:14 28:4 58:21 64:21
interpret 9:10
interpreter 9:5,9
interviewing 61:20,24
invented 64:3
inventors 70:17
involved 7:19 18:11
involving 10:25
IP 3:13 4:17
IPR 1:9,19 4:11 7:11 9:24 10:6 10:24 11:2,3 14:12,15,15 16:6,6 25:14,15 26:1 27:10,18 27:19,20 28:20 29:8 36:6,25 37:8,9,20 41:6 63:15,15
IPR2024-00085 1:9 9:25
IPR2024-00086 1:19 10:1
IPRs 10:11 14:14 15:4 16:2 19:8 19:18,23 20:5,8 20:21 21:6 37:18
issue 62:21,25 63:7,9
issues 9:1 63:10
it'll 8:11,12
iterated 40:16 55:2

J

J 1:22 3:7 79:5
Jakob 1:20 4:4 4:18 7:1,15,17 11:21 43:7 57:25 79:8 80:20
James 3:12 4:16
JEFFERSON 79:3
Jim 20:24 26:17
jklaiber@klaib... 3:15
job 8:11
join 24:10
journalists 73:14
journey 76:10
July 1:21 47:8,13 48:3 79:7,18
June 46:19 47:8 47:9,13 48:2,14 48:15,17,19 49:4,7,7,8 51:21 52:1,15 52:16

K

K 31:18
K-L-A-I-B-E-R 4:17
Kai 70:12
keep 58:6
Kentucky 1:24 3:9 79:1,23
kick 49:21
kind 35:6 42:17 43:15 53:18 54:5,7 67:5 70:14
kinds 13:9
Klaiber 3:12,13 4:16,16,17 5:2 5:6,9,15,19,24 6:3,9 15:9,14 15:20 16:1,4,7 16:9,15 18:21 19:11,13,16 20:2,22 21:1,8 21:10,22 22:5 22:12 23:10,15 24:4,9 25:3,5 26:3,8,14,21 27:16,21,24 28:1,10,24 29:4 29:11 31:8,23 33:24 34:1,5,14 34:18,23 35:20 37:2,4,7,10,12 39:9 40:2,9,11 41:13,19 42:24 44:5,10,15,20 45:6,10 46:4,11 47:5,15,23 50:7 50:9 52:9 53:3 53:11 55:7 56:20 57:11,13 57:23,25 58:4 58:14,16 59:8 59:11,21,24 60:6,25 61:2 62:5 63:2 65:9 65:16,18 66:3 66:16,24 67:25 68:3 70:10,25 71:13 72:15,17 72:20,23 75:24 76:2 77:18,23 78:6
knew 59:7 75:21 76:22
know 5:10,14,24 8:8,23,25 9:2,6 9:9,10,16,17 10:13 12:21,22 13:23 14:20,21 14:24 16:10 20:6,12 23:20 24:25 25:1,19 27:2,3 32:3 33:6,6,14 35:3 35:15 38:3 39:4 41:23 43:2,6 44:11 47:2 48:17 49:20 57:1,17,17 58:17,23 60:8 60:12,13,14,18 61:10 62:9,13 62:15 63:4,8,10 63:17 64:3,5,13 67:6 68:2 70:3 71:3 72:3,13,20 72:23 75:17,18
knowing 55:23
knowledge 41:3 41:20 46:12 56:11,19,24 57:2,4 60:8 67:2
Kogut 1:22 8:1 9:18 79:5
Kth 11:9,11,20 11:21 12:1,4,11 12:14 13:4,5,15 14:9 27:12 31:18 32:12,15 32:16 34:8 74:8
kth.se 30:22
Kuttenkeuler 1:20 2:8,8,9,9 2:10,10 4:4,18 5:25 7:1,7,15 7:17 10:15 11:21 14:17 15:8 19:17 25:16 28:5 36:7 37:13 63:19 67:23 78:7 79:9 80:20
KY 79:22
KYNP76069 79:22

L

labeled 21:25 26:16 28:19,20 63:15
large 13:10,23 79:6,23
latest 63:9
latitude 24:11
Laura 1:22 6:6 45:13 79:5
law 3:13 4:17 17:25
lawyer 20:13
lawyers 17:14,15
learned 76:6
leave 48:14 68:5
left 5:21 59:3
left-hand 30:2 33:22 41:7
Leif 1:20 7:1,16 7:17 79:8 80:20
let's 5:3 17:20 25:11 36:1 44:18 63:14 64:15,15,16,20 65:14
letter 21:21
lightweight 39:21 39:21 45:22 46:1 47:21 56:13
Lindberg 3:16 6:11,19,21
LINE 80:3
link 53:18
linked 43:13,14
listed 51:10
listened 55:24
litigation 17:8 22:3 24:24
little 8:12,13 22:1 30:11 31:13 44:6 51:14 73:17,18,18
live 63:4
lives 58:9
lkogut@mclen...

1:25
LLC 1:23 3:4,13 4:17
log 43:9
logged 5:16
logging 6:6
logs 57:15 60:15
long 12:4 31:10 53:15
longer 60:22 62:3
look 8:18 28:6 38:1 50:14,16 51:9 56:2,4 63:16
looked 39:8 40:1 54:16 55:18
looking 27:5 28:19 31:3 33:22 34:11 36:2 40:7 41:6 42:1,12 43:19 49:17,25 50:24 52:6 61:9 65:5 77:6
looks 4:22 51:13
lost 4:23 6:13
lot 14:8 76:22,25
Louisville 1:24 3:9

M

machine 32:16 58:13,22,25 59:6,14,17 60:3 60:14 64:1
magazine 61:18 61:19,23,25 62:9,12,16
magazines 63:6
mail 74:20,22
main 15:15
maintain 30:18 31:6
maintained 30:18 31:6
maintaining 39:25
maintains 31:15
manage 10:19 63:12
managed 67:6
manufacturer 75:19
Marine 45:22,25 47:21 56:13
Mark 18:16,18
marked 10:15 14:17 25:16 36:7 37:13 63:19
market 35:12,12
marketing 35:9 35:10,11 42:18 43:5
matter 8:17 12:19 15:1 25:8
matters 4:11 7:12 8:1 9:24 10:24
McLendon-Ko... 1:23
mean 5:13 11:15 31:7,10 32:9,15 34:24 42:4 43:24 48:14 52:11,17 67:1 68:4 71:24 72:1
meaning 32:19 35:4
means 71:3
meant 12:19 31:22 32:2 38:22,25 39:2 66:20
mechanics 12:13
meet 22:10,18,19 22:22,25
meeting 23:4
Megan 3:8 4:12
memorize 64:13
memory 70:2,7 75:1
mention 39:17 70:19
mentioned 7:9 9:4 68:12 76:12 76:13 77:3,14
merged 62:11
Merit 79:21
met 24:19
metadata 49:10 50:2 51:6 52:2
mgibson@gray... 3:11
MHL 1:6,16,21 3:7 4:11 7:2,12 10:25 17:4 22:4 23:9,18,21 25:14 26:16,21 28:20 29:9 41:17
mic 49:22
middle 7:16
Miller 1:23
mind 11:1 35:2 43:15 45:16 60:19,23
minute 26:13 38:19 49:6
minutes 5:7 44:19,22,22 45:3,6,7 60:19 61:1
missing 26:22
Mobile 3:5
modern 31:14 33:4,8
modified 49:13 50:5 51:15,20 52:3,6
moment 21:16 29:3 36:15 77:16,21 78:5
money 13:22
Montague 58:9 69:11,18,25 73:3,7 74:7 75:11
month 47:3,7,20 62:2
monthly 62:16,18 63:1
morning 4:8
move 24:18,18 28:12
movie 55:18 58:11 65:1 71:4 71:7,8
moving 33:3 37:17
multiple 52:25 53:2

N

N 2:1,1
Nadja 3:16 5:19 5:21 6:21 35:8
name 4:9,16 5:16 5:19 7:9,13 17:19 18:14,15 52:12 58:23 62:13,14 63:7 67:5 74:18,23
named 25:22
names 7:16 18:4 18:5
nature 18:19
naval 13:5,7 14:4
need 9:19 12:21 44:6 56:6 71:16
needed 33:1
needs 48:16
negatively 9:18
neither 67:2,2
Nelson 1:23
never 7:22 41:18
new 3:14,14 19:8 22:14,18 33:17 58:4
newsstand 63:9 63:10
newsstands 62:22,25
nine 38:11
nod 9:17
normally 11:9
Notary 2:6 79:5 80:24
NOTE 6:18
noted 80:18
notes 67:15 77:22
notice 1:21 10:12 63:22
nowadays 31:12
number 9:25 10:5,7,11 11:24 14:14 23:25 25:25 36:3 37:18 73:1 77:7 79:22
numbers 11:2,2 37:20,21

O

O 2:1
oath 6:17
object 18:21 19:10 23:10,22 28:3,11 32:13 48:21 50:7 53:9 57:8 59:20 66:3 68:15,23 69:15 69:20,23 70:9 70:21,23 71:9 71:25 72:8 73:10,12,23 74:4,11 75:4,16
objecting 19:14 21:2
objection 20:2,22 21:8,22 22:5,12 23:13,14 24:10 29:11 31:8,23 33:24 34:5,14 39:9 40:2,9,12 41:13,19 42:24 46:4,11 47:5,15 47:19,23 48:25 50:9 52:9 53:3 55:7 56:20 58:14 60:5 62:5

63:2 66:16,24 75:22 76:2,4,17 77:10
objective 33:7
obviously 8:22 9:4 47:1,2
occasion 48:4
occurred 69:8
October 20:8,10
office 1:1,11 11:17 23:7 31:18,18,18,21 38:15 46:14
oftentimes 9:16
Oh 37:10,24 64:22 76:20
okay 6:8 7:18,22 7:25 8:13,14,15 9:14,20 10:20 10:23 11:5,10 11:11,16 12:25 13:1 16:20 17:7 18:3,7,9,14,19 22:17,17 25:23 26:12 27:4 28:23 29:4,5,15 30:5 31:5 32:8 35:16 37:7,12 37:23 38:6 39:1 42:13 44:7 45:19,25 46:24 49:2,25 50:14 51:3,6,18 56:6 57:3 61:16,22 63:22 65:2,4,4 65:8 66:1,5 67:25 68:25 69:5,7,10 70:11 74:20 75:10
old 33:3 43:20,22 43:25 44:3 63:6
older 63:9
one- 73:18
ones 77:4
ongoing 43:25
online 62:12 76:6
Oop 29:7
open 8:21 10:14 10:19 55:11
opening 8:24
operate 58:18 60:14
operates 58:9
opportunist 13:21
opportunity 28:11
orally 9:20
original 26:4,24 72:25
originally 35:23
outdated 31:13
outside 19:2 24:2 24:14 25:10 73:7 74:8 76:11
overlooked 8:6
Owen 74:25
owner 1:7,17,21 3:7 4:11 7:2,11
owns 32:16

P

package 11:20
page 2:3 16:20 17:1 26:22 27:10,13 30:10 38:6,14 39:16 42:15 51:1,3 56:7,8,9 61:9 65:11 80:3
pages 38:5
paper 10:11
paragraph 30:16 30:21 31:5 38:11 44:4 45:17 46:2,6,17 46:17,24,25 47:11 49:9,17 49:25 50:12,17 51:7 56:4,6,9 61:17,18 62:19 64:12,17 65:6 65:24 66:10,12
paragraphs 61:9
parents 63:4
Parkway 1:23
part 15:14 30:9 49:15 62:12
particular 34:11 44:16
parties 27:2
partner 4:12 8:19
Partners 18:1
parts 54:2,12 63:11
party 19:3
password 39:15 40:15,19 41:3
pasted 39:4
patent 1:1,2,7,8 1:11,12,17,18 1:21 3:7 4:10 7:2,11 9:25 10:4,5,7 71:19 71:23
PDF 45:21 47:12 47:20
pedagogic 55:10
pedagogics 53:19 55:10
pending 12:23 76:4
people 20:11 56:12,15 57:5 57:18 60:16 73:1 75:19 76:22,25
perform 13:8,8 13:21
period 39:15
permitted 24:16 25:9
person 69:4,21
personal 70:16
pertains 9:25
Petitioner 1:4,14 3:3 4:14
PhD 12:14
Philip 75:20
phone 20:15,16
phrase 68:16
phrased 48:5,6
phrasings 77:13
physical 31:17,20 31:25
Planet 73:15,20
planning 8:19
please 4:5,21 7:14 8:24 9:8 10:12 11:23 14:25 21:3 35:15 50:15 53:12 57:14 58:6 59:25 74:19 76:4 80:2
PLLC 3:8
plus 76:3
point 12:20
pointing 52:18
poorly 76:3
pop 60:11
possession 52:13
possibility 38:9 40:17
possible 43:6
Possibly 20:18,18
postal 11:25
potentially 19:3 21:12
preparation 24:13 59:12,13
prepare 8:4 19:7 19:18
preparing 17:7
prepertation 24:12
present 3:16 4:6
Pretty 13:17
previous 36:2 46:17
previously 19:25 74:9
principles 55:10
prior 19:5 20:4,9 34:3 52:7 54:12 61:23 75:15 76:14,15
private 34:13 35:4
privileged 19:3
probably 5:25 31:11 33:14 42:13 47:9 48:3 48:5,10,11 49:8 53:14 54:16 55:16,21 66:9 71:3
problem 5:11 29:4
proceed 4:24
proceeding 7:20
professor 4:18 7:6,19 10:20 11:5 12:2,2,6,7 13:7,20 14:16 15:8 16:17 17:11 19:4 23:17 25:19 26:2,15 28:5,15 28:21 29:10,12 29:24 35:1 36:10 38:1 39:17,18,19,24 40:5,5 45:16 48:25 49:3 50:8 58:12 61:8 62:8 62:15,24 64:17 64:24 65:15,22 67:8,23 68:11 78:3,7,10
project 42:4,16 43:3 44:1,3 50:2 68:13,20 70:1,20 73:9,17 73:20 74:3,8,15 75:3,13,23 76:6 76:14,15,23,24
projects 30:11 31:14 39:22 42:9 43:4,20,23

pronouncing 61:10
proof 43:15
proofread 53:16
proud 43:3 77:14
prove 56:25
provide 46:7
provided 18:20 52:2
PTAB 24:8
public 30:12 62:22 79:5 80:24
publication 24:15 62:17,18 63:1 75:10
publicly 49:10 50:1
publish 47:20
published 45:21 46:25 47:3,12
pull 64:16,16,21 64:24
purpose 35:5 44:25 79:10
pursuant 1:21
pursued 12:14
put 28:24 29:1,13 31:12 38:23 39:5 40:13 42:18 43:4,7,11 48:2 52:14 55:13,15,15 68:20 76:8
putting 42:20

Q

question 8:9,11 9:7,8,11,16 12:24,24 19:15 21:3 23:11,16 23:24 25:5,6 29:19 31:19 32:10,21 34:17 34:22,24 43:1 43:18 44:11 47:18 48:22 49:14 54:9,11 56:22 58:5,19 59:25 62:7 64:22 67:1,7 68:17 69:1 72:24,25 73:3,6 75:18,25 76:5 77:5
questions 6:22 24:12,17,19,22 67:24 68:6,8 77:17 78:3,4
quick 29:25 60:20,21
quirks 9:2
quite 24:11

R

R 3:12 4:16
ran 42:9
ranging 13:9
reached 70:17 74:1,24 75:12 77:1
reaching 77:1
read 17:23 18:5 50:6,8 77:12 80:16,17
reading 15:17 31:6
real 29:25 60:21
Realtime 79:21
reask 34:22
reason 19:7 42:20 43:2 49:5
reasons 42:18 43:5 80:18
recall 17:7,13,15 17:23 18:3 20:16,19 21:4 22:8,21,24 32:23,25 34:7 41:21 42:22 48:8,12 54:11 55:25 56:2,3 72:5 73:19 75:1 76:12,14
receive 52:21,22 52:25 53:1
received 22:3 47:2 52:8 53:7 54:12
receiving 45:20 48:7
Recess 45:11 61:5 67:18 77:24
recognize 16:17 18:6 26:2 29:10 29:12 30:7 38:3 38:4 63:24 64:1 64:2,4
recognized 65:15
recollection 43:11 54:24
record 4:3 7:14 9:23 16:16 28:18 35:20 36:1 37:1,16 44:17 45:14 61:7 65:10,19 77:19,21 78:1
recording 8:7
reduced 79:13
refer 11:1,10 25:13 32:17 55:17
referenced 25:24 46:2 64:12 65:24
referencing 32:5
referred 71:1
referring 14:5 15:21 38:11 42:11 45:17 49:16 51:7 52:11 53:1 54:22 55:9 65:21 72:25
refers 69:4
regarding 24:12 61:12 68:13 69:12 70:1 73:6 73:9 75:12
Registered 79:21
reklam 35:6,8
relates 59:11
relation 18:11
relationship 70:16
relevance 25:10
relevant 32:3
remain 66:18
remember 18:13 19:6 20:11 21:24 22:24 33:1,11,13 37:23 38:8 39:5 40:16 47:7,25 48:3,4 54:14 55:14 66:8 68:14,21,25 70:14 71:19 72:10 74:23 75:5,8 77:1
repeat 59:25
repeating 38:18
rephrase 34:24 69:1
report 39:3,3 42:16 43:13,14 43:16 45:21 46:20 47:21 48:7,9,10,16,18 49:4,12 50:4 51:11 52:1,8,12 52:12,13,16,19 52:23 53:2,8,14 53:15,22,22,25 54:1,6,7,12,13 54:15,21,23 55:1,6,13,17,20 55:22,25 56:11 57:4,20 58:11 64:18 68:20 69:14 70:20 71:5 72:6,7,9 75:15 76:13
reporter 4:3,20 4:24 5:23 6:2,7 6:11,16 8:2 35:17 36:4 45:14 61:7,17 61:19,23 67:21 78:1 79:21,21
REPORTER'S 6:18
reporters 73:13 74:1,6
Reporting 1:23
reports 54:17
represent 4:6,10 4:18 7:11
representing 4:14 10:7
requests 19:2
reread 49:14
research 13:4,5,9 13:15,19,21
respect 54:21
restricted 34:13
restroom 12:21
return 73:3
right 4:20 6:4,9 7:6 8:3 9:3,23 10:2,3,6,9,20 14:11 15:7 16:1 16:1,7 25:11 27:22 28:14 35:13 37:25 42:6 44:8,10,15 44:15,21 45:2 45:10,15,16 50:23 56:9 61:16 64:23 65:16 67:14,17 67:20,22 72:12 72:22 76:11,18 77:16,23 78:2,6
right-hand 26:18 27:7
Riley 74:25
rjt@grayice.com

3:10
RMR 1:22
Road 3:9
Rob 18:7 58:4
Robert 3:7 4:9 7:9
room 31:18 32:1
row 51:12
Royal 11:7
run 39:22

S

S 2:1
sailing 13:10
sale 62:21
sat 54:16
saw 6:5 25:21 53:24 58:10,11 58:11 62:20 63:5,7,8,9,11 69:19 71:2,4,5 71:7,8,14,15 72:9,10 74:15
saying 37:9 55:14 72:20 74:14 75:5
says 5:20 17:4 27:12 30:22 51:14 52:2 56:23,23 57:18 57:19,19 58:10 63:25 66:12
scanning 69:21
scope 19:2 24:2,7 24:14 25:10 77:11
screen 10:18 14:23 28:7 29:13 31:3 65:12
scroll 28:16 29:6 29:25 50:16,21
sea 13:9
seamless 9:1
second 3:4 27:13 28:8 36:11 46:7 49:21 51:12 64:23 72:15
sections 54:2
see 4:20 5:3,4,16 5:18 15:11 16:4 17:2,5 24:6 25:3,6,10 26:9 26:9,9,20 27:8 28:21,22 30:2 30:19,25 31:1 40:6 41:6 42:19 43:20 44:18 45:8 46:8,22 50:12 51:4,16 55:19 56:17,18 63:14 64:6,10 64:18 65:3 66:15,17,17 67:15
seeing 5:13 76:13
seen 10:20 53:15 53:17 54:3 57:17 72:6,7
semester 46:19
send 11:20
sense 16:8,9,14 32:15 43:17 54:18
sent 11:21 36:17 74:14
sentence 30:19 30:21 45:20 46:7 66:12,20
separate 27:1
server 32:12,15 32:18 38:24 39:5,7 40:13,19 42:18 43:16 52:14 55:22
service 1:23 58:22
set 29:16 31:10
seven 66:10,11 66:12
share 28:7
sheet 80:2,18
Shelbyville 3:9
Shenzhen 17:4
ships 13:10
short 44:8 67:9 67:12
shorthand 79:14
shortly 45:20 48:6
show 14:23 35:13 36:4 59:18 63:13 73:15,18 73:20
showing 28:14 57:15 60:15
shown 35:17
sic 39:16
signature 16:21
simply 25:9
site 60:16
sitting 48:4
soon 43:24
sorry 6:14 10:3 19:13 20:24 22:16 29:7 33:11 36:22 38:18 39:18 44:5,24,24 48:23 49:14,17 49:21 50:18 53:24 57:24,25 59:8 61:18,18 65:9 68:4 69:22 72:14,19 75:8 75:24 76:1,20
sort 21:20 37:18
sounded 58:5
sounds 64:4
speak 57:21 69:25 73:7
specific 42:15
specifically 20:10 30:16 42:11 47:25 61:9 70:14 71:18 77:2
speculate 60:9
speculation 60:13
spell 11:22
spent 23:6
spoke 68:12,14 68:19,22 69:11
spoken 6:18 9:20 57:18 74:9,9
spread 61:25
spring 42:14 43:17 44:2 48:1
SS 79:2
stand 77:12
stands 24:20 63:6
staple 54:5
stapled 26:25
start 17:20 39:22 44:10
started 6:17 12:11 41:25
starting 76:9
starts 56:23
state 45:20 49:9 49:12 50:1,4 56:10 74:2 79:1 79:6,23 80:24
stated 65:10 68:14,18 69:11 72:5 75:2 79:11 79:17
statements 24:15
States 1:1,11 17:2 22:10,22 22:25 56:12 57:6 68:13,19
stepping 21:16
Stockholm 11:8 11:25 62:22
stop 58:4 69:17
stopped 72:21
strategy 53:18
Street 3:4
structures 39:21
student 12:11 55:2 67:2 74:13 74:21,21,24 75:6,11
students 42:19 49:3 52:20 53:7 53:16,21 54:16 54:23 55:5,12 55:12,21 61:20 61:24 76:8
students' 39:3 54:13
studying 12:11
stuff 33:5
subject 25:8
submission 19:22 54:13
submit 54:8
submitted 15:24 20:5,6 24:24 25:2 46:20
subreports 54:2
Subscribed 80:21
subscription 62:1
substance 80:2 80:18
Suite 1:23 3:9
sure 9:20 11:14 17:25,25 23:3 27:5 29:20 31:21 37:19 38:24 44:20 47:10,18 53:6 56:22 58:1 61:2 61:3 63:13 64:25 65:10,18
surface 13:10
surprised 20:13
survive 33:8
swapped 14:4
swear 5:25
Sweden 56:15 62:1 63:11
Swedish 3:16 6:21,23,23 13:20 26:4,9,11 27:12 35:18,21 36:5,18,20 75:19

switch 33:7,8 39:13
sworn 6:22 7:3 79:11 80:21

T

T 2:1,1
T-E-K-N-I-A-... 11:24
take 12:25 28:6 44:7 60:20 63:16 65:14 67:9,12
taken 1:21 79:9 80:17
talk 24:21 55:16
talked 39:11 58:8 69:18 73:13
talking 8:22 58:6 76:25
team 46:19 48:8 70:18 74:14,14
technical 5:10 11:8 29:2 57:1
technique 70:17
Technology 11:8 17:5
Tekniaringen 11:22
tell 11:19 12:20 29:15 31:13 43:8 79:12
ten 44:18 45:4,5 45:5,6,7 61:1
tend 49:6 55:11
test 10:10
testified 7:3 38:16 46:15
testify 23:8,17,20 25:7 38:19
testimony 10:24 54:20 60:1 68:11,18 77:15
text 38:8,20,23 38:24 39:2 40:6 40:15 42:5,15 42:21 51:1 56:24,25 64:2,4 65:8 66:2,5,8
thank 7:18 9:22 12:1 13:2 14:6 15:7 26:14 32:22 36:22 37:24 44:14 45:8,15,19 47:24 67:17,24 68:1 78:5,6,7 78:11,12
Thanks 61:4
Theodor 1:20 7:1 7:16,17 79:8 80:20
Theuerkauf 2:4 3:7 4:8,9,22 5:1 5:3,8,12,17,22 6:5,8,10 7:5,10 15:19,23 16:3,5 16:8,12 23:12 23:23 24:23 26:5,12,17 27:4 27:18,23,25 28:13,16 29:5,8 34:16 35:22 36:23 37:6,8,11 37:22,25 44:9 44:13,18,21 45:1,4,8,13,15 47:24 48:23 59:10,23 60:18 61:1,4 64:15,20 65:13,17,20 67:9,17,20,22 68:15,23 69:15 69:20,22 70:9 70:21,23 71:9 71:11,25 72:2,8 73:10,12,23,25 74:4,11,17 75:4 75:16,22 76:17 77:10 78:4,9
thing 9:15 12:19 12:22 40:4 48:13 67:6 73:19
things 8:5 49:6 53:20
think 5:13,24 6:3 8:19 9:15 10:22 12:2,13 14:1,1 14:20 15:16 17:13,24 18:25 19:1,2,11 21:11 21:11 26:8,22 28:25 40:14 49:22 50:10 51:24 57:17 60:21 62:11,13 65:14 66:7 67:10,12,13 70:3 72:18 77:2 77:9 78:8
Third 3:13
thought 70:13,14
three 11:1 33:20 34:18
Thursday 51:15
time 4:2 9:6 13:19 22:1 23:6 28:1 30:10 31:10 32:23 39:15 42:10,23 43:3 44:16 45:12 52:14 57:19 58:10 61:6 67:19,23 68:6 71:17,18 71:19,21 72:9 73:11,21 74:10 75:21 77:25 78:9,14
timed 76:3
times 69:18 71:2
title 12:1
today 7:12,23 8:2 8:5,18 9:24 11:11 19:19 24:21 25:9 66:18,22 67:24 78:5
told 55:12 75:21
top 17:2 64:7
topic 13:7
topics 54:14
touch 32:1
TRADEMARK 1:1,11
transcribing 9:19
transcript 6:20 8:4,12 10:17 14:19 25:18 36:9 37:15 63:21 79:15 80:2,16
translate 6:15,22
translated 26:24 26:25
translation 26:11 26:23 27:11,12 27:14,22
Translations 6:19
translator 3:16 4:21 6:13,20,21 35:9,11
travel 21:25 22:9 22:9
traveled 22:14,18 22:21,25
trial 1:2,12 23:8 23:18,21 25:7
tried 67:7
trouble 8:23
true 66:18 79:15
truth 5:12 79:12 79:12,13
try 67:3,3 69:16
trying 14:23 28:12 37:23 53:20 58:2
tunnel 14:8
two 9:24 10:24 11:2 14:3 15:11 15:16,19 16:10 18:11,12 23:6,6 24:1,24 39:8 44:22,22 45:3 51:4
two-minute 73:19
typing 8:7 66:8

U

U 75:7
U.S 1:8,18 9:25 10:7 57:17,18 58:9 75:7
understand 9:6 10:23 11:4 29:21 37:24 56:22 59:2 62:3
understanding 25:1 34:12 59:17 60:2
understood 31:21
underwater 13:11,12
United 1:1,11 17:2 22:10,21 22:25 56:12 57:6 68:12,19
university 11:9 11:11,17 13:20 14:3 31:16 39:20 75:7 76:22,24
unmanned 13:11
Unrelated 74:13
updated 32:23
upload 8:20,23 10:10 14:11,21 25:12,13 63:16
uploaded 15:23 26:6,7,19 29:17 31:14 42:14 43:14 47:25 52:1 54:21
uploading 15:2 15:10,22 48:5 55:5

URL 30:1,24 33:21 41:7,10 41:17 43:19 49:11,12 50:3,4 64:6,11 65:5,17 65:23
USA 17:4
use 20:20 21:12 55:10
Usually 26:24

V

v 1:5,15
vacation 48:2
various 13:9
vehicle 64:3
vehicles 13:11,12
version 53:8,13 53:23,25 62:13 66:13,22
versions 19:5 52:22,25 53:2 55:1
versus 10:25 17:4
vessels 13:9,11
videoconference 1:21 79:10
visible 30:11

W

Wait 37:2 72:15
waiting 6:1
walk 32:1
want 7:15 11:22 16:15 23:13 27:5 28:2,4,18 34:24 44:16 47:18 48:24 53:6,13,15 64:18 65:16,18 67:9,16 73:3 77:18
wanted 30:10,11 44:11 73:17
wants 28:11
wasn't 9:8 44:24 57:25 73:4
way 8:11 13:18 14:22 24:13 25:10 44:1 47:19 57:16 60:11
Wayback 58:12 58:22,25 59:6 59:14,17 60:3 60:14 63:25
Waydoo 17:4,5 17:14,15 20:21 21:5,17,21 22:4 22:10,20 23:9 23:18,21
Waydoo's 21:17 22:22 23:1,4
ways 34:19
we'll 8:25 14:20 60:19 63:16 64:24 67:14 69:6
we're 5:25 8:17 8:19,21 10:9 14:11 19:18 24:20 25:11,13 27:5 28:14,19 33:21 34:10 37:17 40:7 41:5 42:1,12 43:19 45:14 52:6 53:1 55:16 60:20,22 61:7 65:20,22 67:12,13,21 78:1,8
we've 27:25 28:25 29:13 30:1 39:8 44:5 54:22
web 30:1,2,5,7,8 30:23 33:21 35:5 41:7,10 46:7,10,13 51:19,19 52:2 54:21 55:6 57:15 64:6,11 64:13,16,19,24 64:25 65:4,23 69:21
webpage 27:22 28:2,3 29:16 30:12 31:10 32:17 35:3,6,17 38:10,20 41:11 41:21 42:1,11 43:9 44:2 46:13 55:23 59:2 63:24 66:2,4,5
webpages 39:8
website 25:14 29:21 30:6,6,13 30:18,22 31:2,7 32:5,11,20,24 33:17 34:3 36:2 36:5,21 38:5,10 40:7,20 41:11 42:4 45:22,25 46:2 47:1,4,22 49:11 50:3 55:13 56:14 57:7,16 59:18 60:4,11 68:21 76:7,7
websites 34:4,7 34:10,12 39:25
week 43:6
Welcome 6:11
went 59:1
weren't 23:20 38:19
Werner 75:20
white 51:1
wide 24:11
wind 14:8
window 28:22 44:23
winter 62:20 63:1
witness 3:12 6:19 18:22 19:1 20:24 21:9 35:8 40:10 44:22,24 45:3,5,7 53:10 57:10 58:3 59:9 59:12,22 68:1 70:24 78:12 79:11,18
witness' 44:23
wonder 69:2
word 53:17
words 27:14 38:25 43:20
work 8:25 9:11 14:8 53:21 54:18 71:2
works 70:11
world 56:16
wouldn't 28:3 42:5 45:16 63:4
write 17:11 66:1 66:5 80:2
writing 18:20 38:8 54:17 79:14
written 46:20 56:24
wrong 23:23 34:16
wrote 17:12,12 38:20 66:9

X

Y

yeah 5:5,9,17,19 10:2 11:18 12:16 13:25 14:6 16:3,9,12 18:21,25 19:14 20:2,22 21:8,10 21:22 22:5,12 24:4,9 25:23 26:21,21 27:9 27:16 28:13,24 31:23 32:15 33:19,24 34:5 34:14 36:23 37:22,22,25 39:15 40:13 41:13 42:10 43:12,21 44:9 44:12 46:5 47:5 47:15 49:17 50:6,20 51:5,12 51:22,25 52:9 55:7,9,9 58:14 58:20,21 59:21 59:24 60:1 62:6 62:8 63:2 64:10 65:3,13,17,20 66:19,21,21,25 67:8 68:4,7,25 69:13,17 70:25 71:1,10,14 72:14,25 74:12 75:8,8 76:19 77:20
year 20:17 22:24 42:20 52:3 59:19 60:4
year's 42:19
years 13:24,24 14:3 32:25,25 33:9,19,20 39:12
Yep 60:6
York 3:14,14 22:14,18
you-all 5:13 60:23 67:14
YouTube 43:13 55:16,19 65:1,1 65:11 71:5,7

Z

Zoom 1:21 5:10 8:20 9:3 28:22 44:23 79:9

0

044 10:4

1

1 2:8 10:15

10 2:8 72:4
10:14 61:5
10:27 67:18
10:34 67:18
10:48 77:24
10:50 77:24
10:51 78:13
10036 3:14
10044 11:25
1018 14:13 15:25 77:7,8
11 72:3,4,10
1185 3:13
12 72:3,4,11
14 2:8 51:15
14th 52:7
17 46:17 70:3
18 45:17 46:25 47:11 70:4
19 13:25 56:4,6,9
1993 12:12,14
1998 12:5,12,15 14:1 31:11 39:22 41:25 42:2
1999 31:11 41:25 42:3

2

2 2:8 14:17
20 40:8 49:9,17 49:19,25 51:7 80:17,22
2000 70:3 72:1,3
20042BF060 79:22
2008 29:18
2009 42:15 43:17 44:2 45:20 46:19 47:1,11 47:13,20 48:2,3 48:19 49:4,13 50:5 51:15 52:7 56:14,16 57:7 60:17 62:20,21 62:24 63:1 73:11,13,22 74:10
201 3:9
2010 72:10
2011 74:14,22
2012 12:8
2013 73:11 74:10 76:14
2020 59:19 60:4
2021 16:23 23:2
2023 20:8,10,17
2024 1:21 79:18
2024-00086 10:7
2027 79:7
2030 25:15 28:20 36:6,12
2031 25:14,22 26:16,22 27:9 27:19 29:9,9
2032 36:25 37:11
2033 36:17 37:5,9 40:8,20 41:6,17 41:22 42:2,12 43:20
204 1:23
2041 63:15
2042 63:15 65:21 65:23 66:6
21 10:11 50:17
24 1:21
25 2:9 64:12,17 65:6,24 79:7
251 3:5
2525 1:23
26th 20:10
29 61:9,17

3

3 2:3,9 25:16
30 61:18
31 61:10 62:19
31st 79:18
36 2:9
36602 3:5
37 2:10
3939 3:9

4

4 2:9 36:4,7 56:8 56:9
40207 3:9
40223 1:24
453 3:4
4th 16:23

5

5 2:10 37:13 61:9
502 1:24 3:10
533-0461 3:5
536-4144 3:14
585-5634 1:24

6

6 2:10 16:20 63:19
63 2:10
677-4729 3:10
68 2:5

7

7 2:4
79 2:6

8

8 11:22,24 37:8 39:16
8:05 4:1
80 2:6
85 11:2 14:12,14 16:6 25:14 27:10,19,19 29:6,8 36:17 37:8 41:6 63:15
86 11:3 14:15 16:6 25:15 27:18 28:20 36:6,25 37:9 63:15

9

9,359,044 1:18 10:8
9,586,659 1:8 10:1
9:17 45:11
9:29 45:11
9:59 61:5
917 3:14
99 42:5