

1 UNITED STATES PATENT AND TRADEMARK OFFICE

2 -----
3 BEFORE THE PATENT TRIAL AND APPEAL BOARD
4 -----

5 BAZOOKA-FARMSTAR, LLC,

6 Petitioner,

7 v.

8 NUHN INDUSTRIES LTD.,

9 Patent Owner.

10 -----
11 Case IPR2024-00098

12 U.S. Patent No. 11,541,708
13 -----

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17 VIDEO-RECORDED REMOTE ZOOM VIDEOCONFERENCE

18 DEPOSITION OF DOUGLAS S. PRAIRIE

19 Taken on Tuesday, October 29, 2024

20 Scheduled for 8:00 a.m. CDT
21

22
23
24 REPORTED BY: DANA S. ANDERSON-LINNELL

25 Job No.: MW 6960929

1 VIDEO-RECORDED REMOTE ZOOM VIDEOCONFERENCE DEPOSITION
2 OF DOUGLAS S. PRAIRIE taken on Tuesday, October
3 29, 2024, commencing at 8:06 a.m. CDT, via a REMOTE
4 COUNSEL ZOOM PROCEEDING, before Dana S.
5 Anderson-Linnell, a Stenographic Shorthand Reporter
6 and Notary Public of and for the State of Minnesota.

7 *****

8
9 APPEARANCES

10
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18 (Appearances continued on next page.)
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1 APPEARANCES (continued):

2
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10
11 ALSO PRESENT: Robert Buchman, videographer

12
13 NOTE: The original transcript will be filed with the
14 Merchant and Gould Law Firm, pursuant to the
15 applicable Rules of Civil Procedure.

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11	PRODUCTION REQUESTS: (None.)	
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(Original exhibits attached to original transcript;
copies to counsel as requested. Previously marked
exhibits referenced attached.)

REPORTER'S NOTE: All quotations from exhibits are
reflected in the manner in which they were read into
the record and do not necessarily indicate an exact
quote from the document.

1 THE COURT REPORTER: Do all counsel
2 stipulate that I can swear in the witness
3 remotely over the Zoom videoconference?

4 MR. LUCHSINGER: Yes, counsel for
5 patent owner stipulates to that.

6 MR. STEMLER: Yes, counsel for the
7 petitioner does as well.

8 THE VIDEOGRAPHER: Good morning. We
9 are going on the record at 8:06 a.m. on
10 October 29th, 2024. This is Media Unit Number 1
11 of the video-recorded deposition of Douglas S.
12 Prairie being taken by counsel for the petitioner
13 in the matter of Bazooka-Farmstar, LLC versus
14 Nuhn Industries Ltd., filed in the U.S. Patent
15 Trademark Office Patent Trial and Appeal Board,
16 Case Number IPR2024-00098.

17 My name is Robert Buchman from the
18 firm Veritext Legal Solutions, and I'm the
19 videographer. The court reporter is Dana
20 Anderson-Linnell from the firm Veritext Legal
21 Solutions.

22 This deposition is being held remotely
23 via Zoom.

24 Will the attorneys please identify
25 themselves and state whom they represent for the

1 record.

2 MR. STEMLER: Yes. This is Taylor
3 Stemler, counsel for petitioner,
4 Bazooka-Farmstar, LLC, from the law firm
5 Merchant and Gould, P.C.

6 MR. LUCHSINGER: This is James
7 Bradley Luchsinger. I'm an attorney with the
8 Harness IP law firm. We represent the patent
9 owner in this IPO, Nuhn Industries Limited.

10 THE COURT REPORTER: Will the court
11 reporter please swear in the witness.

12 DOUGLAS S. PRAIRIE,
13 called as a witness, being first duly sworn,
14 was examined and testified as follows:

15 EXAMINATION

16 BY MR. STEMLER:

17 Q. Good morning, Mr. Prairie. How are you
18 doing today?

19 A. Morning, Taylor.

20 Q. How are you this morning?

21 A. Doing good. Doing good.

22 Q. Good. Well, thank you for joining us.
23 To start out, I know my colleague, Tom Leach,
24 has deposed you before in one of the related
25 IPR matters. Have you ever been deposed before

1 that?

2 A. Yes, I have.

3 Q. How many times?

4 A. I don't remember the exact count. Maybe
5 three or four.

6 Q. Were they patent cases?

7 A. I think all of them were, yes.

8 Q. Okay. Do you understand that your
9 testimony today is under oath?

10 A. I do.

11 Q. And that that has the same force and
12 effect as if you were in a courtroom in front
13 of a judge or a jury?

14 A. I do.

15 Q. Now, throughout the course of the day
16 I'm going to attempt to make my questions as
17 clear as possible. If you don't understand,
18 please go ahead and ask me to repeat or
19 rephrase the question, and I will do my best to
20 do so.

21 A. Okay.

22 Q. Otherwise, if you answer the question,
23 everyone will assume that you've understood the
24 question, is that clear?

25 A. That is clear.

1 Q. Also, as I'm sure you've noticed, the
2 testimony today is being recorded by a court
3 reporter. Because of that, it's important for
4 the record that you and I speak audibly and,
5 you know, don't communicate via headshakes or
6 uh-huhs or that kind of thing. Does that make
7 sense?

8 A. Yes, it does.

9 Q. Okay. On that same topic, it's also
10 important that you and I take turns and, you
11 know, do our best not to speak over each other,
12 is that clear?

13 A. Yes, it is.

14 Q. Now, Mr. Prairie, is there any reason
15 that you can't give fair and accurate testimony
16 today?

17 A. No, there is not.

18 Q. What did you do to prep for today's
19 deposition?

20 A. Brad and I -- I guess, how far back do
21 you want to go, just, like, in the last week or
22 so, or what do you mean? Like, how far --

23 Q. I guess as far back as there were
24 preparation efforts for it.

25 A. I've worked with Brad, legal firm and

1 Nuhn. Ian Nuhn had some conversations over the
2 last year-plus in regards to Zoom calls,
3 in-person meetings, reading patent documents,
4 reading industry reference documents and
5 ultimately submitting declarations. And then
6 the last week of reviewing those declarations
7 to prep for the discussions today.

8 Q. You mentioned that you met with Brad.
9 Did you meet with any other counsel in
10 preparation for this deposition?

11 A. Yes. There was Scott Yackey. I can't
12 remember his last name. Scott at the time.
13 But yeah, there's another attorney that works
14 with Brad that I met with as well over Zoom.

15 Q. Was Scott the only other attorney?

16 A. No. I think there was a couple other
17 support staff throughout the last year. I
18 don't remember their names. They were -- Brad
19 and Scott were the primary -- my primary
20 contacts. There was a couple other staff that
21 were focused on certain parts that came in
22 conversations throughout at some point in the
23 declarations, but I don't remember their names.

24 Q. Did you travel to Michigan to meet with
25 Brad?

1 A. The only time I traveled to Michigan was
2 during my last deposition. I traveled a day or
3 two beforehand for some discussions and prep
4 prior to the in-person -- I guess it was in
5 person with Brad, but it was remote for
6 everyone else.

7 Q. Where are you located today?

8 A. I am in my residence in Brookings, South
9 Dakota.

10 Q. How long would you say you met with
11 Brad?

12 A. Say that again, Mr. Stemler.

13 Q. How long did you meet with Brad and
14 Mr. Yackey to prepare for today's deposition?

15 A. Like, over the course of the last year,
16 or just in the last couple days?

17 Q. I apologize. Just in the last couple
18 days.

19 A. Last week Brad and I had a couple Zoom
20 calls, and then just some emails back and forth
21 over a few questions.

22 Q. How long were the Zoom calls?

23 A. I don't know. They were in the two to
24 three-hour range each.

25 Q. And were there two or more than that?

1 A. We did one on Thursday of last week and
2 one on Friday.

3 Q. Did you review any documents while you
4 were meeting with counsel?

5 A. Yeah. We reviewed the key documents at
6 hand, declaration, the '708 patent and then
7 Mr. Winkel's declaration as well.

8 THE COURT REPORTER: I'm sorry.
9 Counsel, can we go off the record for
10 30 seconds?

11 MR. STEMLER: We can.

12 MR. LUCHSINGER: Yep.

13 THE VIDEOGRAPHER: We are going off
14 the record.

15 The time now is 8:14 a.m.

16 (Off the record 8:14 to 8:17.)

17 THE VIDEOGRAPHER: We are going back
18 on the record.

19 The time now is 8:17 a.m.

20 BY MR. STEMLER:

21 Q. Welcome back, Mr. Prairie.

22 A. Hello again.

23 Q. Before we broke, you mentioned that you
24 reviewed some of the key documents in
25 preparation for today's deposition. Could you

1 please reiterate what those key documents were?

2 A. Specifically they are my declarations
3 for the '708 patent. And that's the Nuhn
4 '708 patent. Those specifically are
5 Exhibits 2099, Exhibits 2004, and the patent
6 itself is Exhibit 1001. There was a few others
7 that I reviewed, but those are the key ones.

8 Q. Do you remember what those few others
9 that you reviewed were?

10 A. They were references of those doc -- of
11 those exhibits.

12 Q. Documents cited in those exhibits?

13 A. Yes.

14 Q. Do you remember which documents that
15 were cited in those exhibits you reviewed?

16 A. I just want to make sure I -- I tried to
17 look through a lot of them and -- I just looked
18 through the listing. I don't remember
19 specifically. But I just wanted to make sure I
20 was -- kind of refresh myself on the exhibits
21 that were referenced in my declarations that I
22 was familiar with in case they were referenced
23 in today's conversation.

24 Q. You mentioned you reviewed the
25 '708 patent. Have you read the '708 patent?

1 A. Yeah, I've read it multiple times.

2 Q. How many times would you say?

3 A. I cannot tell you, Taylor, how many
4 times I've read it.

5 Q. Do you have an estimate? I mean, is it
6 more than two times?

7 MR. LUCHSINGER: Objection as to
8 form.

9 THE WITNESS: I've read it multiple
10 times over the last year. I cannot honestly
11 tell you as to how many times I've read it.

12 BY MR. STEMLER:

13 Q. But it's more than once?

14 A. As I've said, I've read it multiple
15 times over the last year-plus. I cannot tell
16 you how many times I've read it.

17 Q. When was the last time you read it?

18 A. I just looked at it again last night,
19 read through it.

20 Q. Do you have any materials in front of
21 you there today?

22 A. I do. I have the '708 patent printed
23 out. I have Exhibit Number 2004, which was my
24 early declaration of the 7008 [sic], and then
25 Exhibit 2099, which is the most recent

1 declaration, the 7008.

2 Q. Have you written --

3 A. I'm sorry. '708 patent. Not 7000,
4 '708.

5 Q. Thank you. Have you written any notes
6 on any of those documents?

7 A. I have not. They are clean copies.

8 Q. Do you have any notes there in front of
9 you today?

10 A. I do not.

11 Q. Did you take any notes during your
12 meetings with counsel over the past week?

13 A. Yeah, I've taken some notes for -- just
14 in conversations of areas of discussion that --
15 to kind of read up on and study up on just to
16 refresh myself.

17 Q. What areas of discussion?

18 A. I don't know --

19 MR. LUCHSINGER: I'm just gonna
20 caution the witness not to discuss in great
21 detail, you know, our conversations regarding
22 preparing for the deposition because I would
23 consider that work product. But I'm fine with,
24 you know, testimony discussing just the
25 high-level topics.

1 THE WITNESS: In prep for the
2 deposition today, Brad, we had conversations.
3 We, went through some -- Brad refreshed me on
4 some of the legal standings of the case itself.
5 So he kind of gave me an update on what has
6 transpired since my last deposition, just kind
7 of some notes there. And like I said, I don't
8 remember all the details. It was just some
9 highlights that I had that -- in preparation
10 for today of areas to place some emphasis on
11 reading through and just some legal
12 interpretation, make sure I understood things
13 correctly from a legal standpoint.

14 BY MR. STEMLER:

15 Q. What do you understand has transpired
16 since the last deposition?

17 A. I don't recall the details. Ultimately,
18 the last deposition was on the '425 patent.
19 And this is the '708. So we didn't really go
20 into detail on the '425 side. It was more --
21 kind of more presently where the '708 stands.

22 Q. Have you read the institution decision
23 on the '708 patent?

24 A. I can't recall if I have read some
25 institution. I believe I've read on this one,

1 but honestly can't tell you with certainty if
2 I've -- I don't believe I -- I haven't read it
3 recently here.

4 Q. Other than counsel for Nuhn, you know,
5 Brad and Scott, who you mentioned, did you
6 speak with anybody else about today's
7 deposition?

8 A. No. The -- Brad is my primary contact
9 in regards to the case, and I have not spoken
10 to anyone outside his legal firm in regards to
11 this case.

12 Q. Have you spoken with Ian Nuhn?

13 A. Not recently. There was a conversation
14 earlier this year with Ian at some point just
15 to get background about the equipment and its
16 history and the company itself, but not -- no
17 conversations as of recently.

18 Q. Have you spoken with Dennis Nuhn?

19 A. I don't believe I've ever spoken with
20 Dennis Nuhn.

21 Q. I'm going to introduce an exhibit. It's
22 Exhibit 2099.

23 MR. STEMLER: I see that the host
24 for -- apologies. Can we go off the record
25 briefly?

1 MR. LUCHSINGER: Yes.

2 THE VIDEOGRAPHER: We are going off
3 the record.

4 The time now is 8:26 a.m.

5 (Off the record 8:26 to 8:26.)

6 THE VIDEOGRAPHER: We are going back
7 on the record.

8 The time now is 8:26 a.m.

9 BY MR. STEMLER:

10 Q. Mr. Prairie, I've introduced what has
11 been marked as Exhibit 2099 in this proceeding.
12 All right. This document should also be
13 available on Exhibit Share, but I'm sharing it
14 on my screen here. Do you see this document?

15 A. (Views document.) Yes, I see it in --
16 on the screen and the Marked Exhibits.

17 Q. Do you recognize this document?

18 A. Yes. This is my declaration for the
19 '708 patent.

20 Q. Did you draft this declaration?

21 A. Yes, I did.

22 Q. How much time in total would you say you
23 spent working on this declaration?

24 A. I don't recall the total number of
25 hours.

1 Q. Do you have an estimate?

2 A. No, I don't have an estimate for you at
3 this time.

4 Q. Would you say it was more than 50 hours?

5 MR. LUCHSINGER: Objection as to
6 form.

7 THE WITNESS: As I've stated, I
8 don't know -- I don't have a count on the
9 number of hours that I've worked on this
10 declaration.

11 BY MR. STEMLER:

12 Q. Do you know how much you've billed in
13 this matter?

14 A. I don't recall those hours at this point
15 in time.

16 Q. Do you have an estimate for the number
17 of fees you've billed in this matter?

18 A. No, I cannot provide you a number at
19 this point in time.

20 Q. Have you worked with anyone other than
21 Nuhn's counsel on this report?

22 A. No, I have not.

23 Q. Do you have any staff that helped you
24 prepare it?

25 A. No. I'm an individual, and no staff

1 that work for me in regards to this.

2 Q. Who wrote the first draft of this
3 report?

4 MR. LUCHSINGER: Objection as to
5 form.

6 THE WITNESS: I wrote the first
7 draft. I worked on the draft, edited the
8 draft, approved the draft -- or approved the
9 final version.

10 BY MR. STEMLER:

11 Q. Did you ever send it to Nuhn's counsel
12 before you signed it?

13 A. Nuhn's counsel was heavily involved.
14 There's heavy legal stuff, content in this
15 document. And they provided guidance on the
16 legal terms, conditions. It's a legal case.
17 So the legal firm -- Nuhn's legal case [sic]
18 provided input and feedback in regards to the
19 declaration.

20 Q. Did Nuhn's counsel make any revisions to
21 this document?

22 A. Nuhn's legal firm made markups and edits
23 that I reviewed and ultimately approved.

24 Q. How many rounds of revisions were made
25 during the course of drafting this document?

1 A. I don't recall. At times it was a live
2 working document, so they weren't often. You
3 know, it's -- it was a joint working document.
4 So to say that there was certain revisions, it
5 was a live document at times with live editing
6 and collaboration.

7 Q. When did you begin preparing this
8 document?

9 A. The '708 and '425, they're similar
10 content. I started working on this case
11 sometime last year, mid to late last year, I
12 believe. I can -- I don't remember the exact
13 timing.

14 Q. But you didn't start preparing this
15 document mid to late last year, did you?

16 A. No. There was certain material that was
17 started late last -- mid to late last year that
18 ultimately made its way into here. There's
19 similarities of the '708 and '425 patents. So
20 there's some content from the '425 that was
21 merged over into the '708 declaration.

22 Q. All right. I'm going to introduce
23 another previously marked document. This will
24 be Exhibit 1001. Mr. Prairie, I'm sharing on
25 my screen and I've introduced into Exhibit

1 Share this document that has been marked as
2 Exhibit 1001 in this proceeding.

3 Do you see this document?

4 A. (Views document.) Yes, I see
5 Exhibit 1001, which is the '708 patent, on the
6 screen, and I have it on my end in the document
7 share as well.

8 Q. Great. So you mentioned that you've
9 read this document before?

10 A. Yes, I have read through it multiple
11 times.

12 Q. I'm going to refer to this document as
13 the '708 patent during our discussion today.
14 Does that make sense?

15 A. Yes, it does.

16 Q. I'm scrolling to the end of the document
17 specifically to the page that lists claim 17.
18 Could you please read for me the third element
19 of claim 17 that begins with, "A floatable
20 vehicle body..."?

21 A. So just to confirm, you're referring to
22 claim 17 on column 9?

23 Q. That's correct.

24 A. Starting on line 50?

25 Q. That's correct.

1 A. Okay. "A floatable vehicle body
2 comprising a first buoyant element situated
3 between the first front wheel and the first
4 rear wheel and a second buoyant element between
5 the second front wheel and the second rear
6 wheel."

7 Q. Thank you. Do you have an understanding
8 of what the word "between" means as it's
9 written in that element?

10 A. Yes, I do.

11 Q. What is it?

12 A. It's the space between the first front
13 wheel on the right-hand side of a vehicle as
14 it's going forward and the -- so that space
15 between there and the rear wheel on the very
16 same side, the right side of the vehicle, so
17 that space between the front wheel and the rear
18 wheel on the same side of the vehicle.

19 Q. Can you describe what specifically you
20 understand the word "between" means without
21 using the word "between" in your definition?

22 MR. LUCHSINGER: Objection as to
23 form.

24 THE WITNESS: I guess it's the --
25 I'm trying to think of another word for

1 "between." It's the -- I mean, graphically it
2 would ultimately be the -- it says "between."
3 It's the -- it's a space. It's a gap. I can't
4 think of another word alternate to "between" at
5 this point in time that I would deem as
6 accurate.

7 BY MR. STEMLER:

8 Q. I'm gonna scroll to claim 21. That's on
9 column 10. Could you please read the second
10 element of claim 21 beginning on line 28?

11 A. So line start with, "With a
12 ground-engaging..." is that the line you want
13 me to begin with?

14 Q. That's correct, yes.

15 A. This is from column 10 of the
16 '708 patent and starting about line 27, 28, "A
17 ground-engaging propulsion structure comprising
18 a first front wheel, a second front wheel, a
19 first rear wheel, and a second rear wheel,
20 wherein the first front wheel and the first
21 rear wheel are on the first side of the vehicle
22 body, and the second front wheel and the second
23 rear wheel are on the second side of the
24 vehicle body, and wherein the first buoyant
25 element is between the first front wheel and

1 the first rear wheel, and the second buoyant
2 element is in between the second front wheel
3 and the second rear wheel."

4 Q. Thank you. Is your understanding of the
5 meaning of the term "between" in claim 17 the
6 same as your understanding of the meaning of
7 the term "between" in claim 21 here?

8 A. Yes. It's my understanding that they
9 are referring to the same space.

10 Q. So the term "between" means the same
11 thing in claim 21 as it does in claim 17?

12 A. It's talking about the same vehicle.
13 It's talking about the same wheels, the same
14 size of the vehicle, and hence the same space
15 in between the front and the rear wheel.

16 Q. Does the term "between" mean anything
17 different in claim 21 than it does in claim 17?

18 A. From my interpretation is that the --
19 from my understanding is that it's referring to
20 the same vehicle, the same wheels, the same
21 side of the vehicle, and hence the same space
22 in between the front and the rear wheel.

23 Q. So it doesn't have a different meaning?

24 A. From my understanding -- my
25 interpretation is it's the same space in

1 between the front first -- the first front
2 wheel and the rear wheel.

3 Q. I'm turning back to claim 23. And that
4 is on column 10, line about 64 would be the
5 first element. Begins with, "A floatable
6 vehicle body..." and then it ends on the
7 following page at column 11, line 2. Can you
8 please read that element?

9 A. So claim 23 of the '708 patent starting
10 on column 10 reads, "An amphibious vehicle
11 comprising," the first element being, "A
12 floatable vehicle body comprising buoyant
13 elements having foam-filled buoyant chambers,
14 the buoyant elements comprising the first
15 buoyant element situated between the first
16 front wheel and the first rear wheel, and a
17 second buoyant element between the second front
18 wheel and the second rear wheel." Is that
19 where you want me to stop?

20 Q. Yes, please. Thank you. Is your
21 understanding of the term "between" in claim 23
22 the same as your understanding of the meaning
23 of the term "between" in claim 17 and 21?

24 MR. LUCHSINGER: Objection as to
25 form.

1 THE WITNESS: Please restate your
2 question, Mr. Stemler.

3 BY MR. STEMLER:

4 Q. Yeah. Do you understand "between" as
5 it's written in claim 23 to mean the same thing
6 as the term "between" as it's written in claim
7 17 and 21?

8 MR. LUCHSINGER: Objection as to
9 form.

10 THE WITNESS: It's talking about a
11 space situated -- claim 23 is talking about --
12 more discussion about the buoyant chambers.
13 And they're talking about the first buoyant
14 element. And it is situated between the first
15 front wheel and the first rear wheel. It's
16 talking about a second buoyant element situated
17 between the second front wheel and the second
18 rear wheel.

19 BY MR. STEMLER:

20 Q. Okay.

21 A. It's talking about the space between the
22 front wheel and the rear wheel of Nuhn's
23 vehicle.

24 Q. Okay. I'm asking specifically about the
25 word "between." Does that mean anything

1 different in claim 23 than it does in claim 17
2 or 21?

3 MR. LUCHSINGER: Objection as to
4 form.

5 THE WITNESS: All three of those
6 claims talk about describing the vehicle. And
7 it's describing the location of the wheels,
8 identifying where the wheels are at. And it's
9 discussing the space between those elements as
10 to -- specifically in case 23, that space is --
11 between the front and the rear wheel is where
12 the buoyant elements are situated.

13 BY MR. STEMLER:

14 Q. Turning back to claim 15, column 9,
15 line 32. Can you please read claim 15,
16 Mr. Prairie?

17 A. Sure. On column 9 just to verify?

18 Q. Yes.

19 A. Okay. On column 9 of the '708 patent,
20 specifically claim 15, it states, "The vehicle
21 of claim 14 wherein the buoyant elements
22 comprise a first buoyant element situated
23 between the first front wheel and the first
24 rear wheel and a second buoyant element between
25 the second front wheel and the second rear

1 wheel."

2 Q. And what is your understanding of the
3 meaning of the term "between" in this claim?

4 A. It's specifically identifying the space
5 in between -- aka the space comprised of the
6 area identified by the first front wheel and
7 the first rear wheel. And particularly in
8 claim 15 it's talking about the location of
9 where those buoyant elements are situated, and
10 it's describing in words where those are
11 located at on that vehicle.

12 Q. Can you describe to me your
13 understanding of the meaning of the term
14 "between" without using the word "between"?

15 MR. LUCHSINGER: Objection as to
16 form, and asked and answered.

17 THE WITNESS: I have graphically
18 represented it within the '708 declaration, but
19 it's in between. I mean, it's the -- it's a
20 gap. It's talking about the position of
21 element 1, which would be the first front of
22 the wheel location. So it's looking at that,
23 the wheel locations as identifying where
24 they're at. And it's talking about the area in
25 between on -- it's just the -- it's -- like I

1 said, I can't think of an alternative word
2 that's better suited than "between" at this
3 point in time.

4 BY MR. STEMLER:

5 Q. Is your understanding of the meaning of
6 the word "between" in claim 15 consistent with
7 your understanding of the term "between" in
8 claim 17, 21 and 23?

9 MR. LUCHSINGER: Objection as to
10 form.

11 THE WITNESS: Again, claim 15 is
12 talking about specifically -- 15 is talking
13 about claim 14, defining further definition,
14 talking about the buoyant elements and where
15 the first buoyant element is located and where
16 the second buoyant element is located. And
17 it's in regards to -- it's in between the first
18 front wheel and the first rear wheel, and the
19 second buoyant element is between the second
20 front wheel and the second rear wheel.

21 BY MR. STEMLER:

22 Q. Is the meaning of the term "between" in
23 claim 15 different in claim 15 than it is from
24 claim 17, 21 and 23?

25 MR. LUCHSINGER: Objection as to

1 form.

2 THE WITNESS: Again, it's --
3 "between" is describing location of the buoyant
4 elements. That location of where those buoyant
5 elements is at is consistent throughout the
6 Nuhn patent. They don't describe ultimate
7 locations. There is -- the locations they are,
8 they are located between the first front wheel
9 and the first rear wheel. And they are located
10 between the second front wheel and the second
11 rear wheel. And the claims that you're
12 referring to describe where they are located
13 and the description of the vehicle.

14 BY MR. STEMLER:

15 Q. Mr. Prairie, I'm asking you: Yes or no,
16 does the term "between" in claim 15 have a
17 different meaning than it does in claim 17?

18 MR. LUCHSINGER: Objection as to
19 form.

20 THE WITNESS: The word "between" is
21 used within those claims to describe the
22 location of the elements. It is describing the
23 space in between. Like I said, I don't have an
24 alternate word for "between" for you at this
25 point in time. It's not --

1 BY MR. STEMLER:

2 Q. Not asking for an alternate word
3 "between." I'm just asking: Yes or no, is the
4 meaning of the term "between" in claim 15
5 different than the meaning of the term
6 "between" in claim 17?

7 MR. LUCHSINGER: Objection as to
8 form.

9 THE WITNESS: Those claims are
10 consistent in describing the vehicle described
11 in the '708 patent. They are describing
12 different elements of it, but they are
13 consistent in their description of that
14 vehicle.

15 BY MR. STEMLER:

16 Q. All right. I'm going to share another
17 exhibit. Mr. Prairie, I've pulled up a portion
18 of your declaration, Exhibit 2099,
19 paragraph 107. And I'm sharing it on the
20 screen now. Can you see that?

21 A. (Views document.) Yeah. I just want to
22 make sure it's -- we have that. Refresh this.
23 It's not in the Marked Exhibits yet. Is it in
24 the Marked Exhibits or --

25 Q. It was previously introduced into the

1 Marked Exhibits folder.

2 A. Oh, you're doing 2099. I apologize.

3 All right. I see it now. (Views document.)

4 All right. You're on paragraph 107?

5 Q. Yes. Do you see that paragraph?

6 A. Yeah. I have the hard copy in front of
7 me here as you reference it.

8 Q. Could you please read the last two
9 sentences of that paragraph beginning with, "It
10 is my understanding that..."?

11 A. Can I start with, "It is my
12 understanding..." do you want the last two
13 sentences or last two lines? Where did you
14 want -- where is your request from?

15 Q. The last two sentences beginning with,
16 "It is my understanding that..."

17 A. "It is my understanding that the Board
18 has preliminarily construed 'between' to mean
19 'in the space that separates.' Paper 10 at 15.
20 The Board's preliminary construction is in line
21 with my understanding with how a POSITA would
22 understand this claim language."

23 Q. Is "in the space that separates" the
24 same as the meaning you just described to me in
25 relation to claim 17, 23, 21 and 15 of the

1 '708 patent?

2 A. If you read up farther, I have my
3 definition there. This is the board's, their
4 construed definition. So further up in 107 I
5 state, "Therefore, it is my opinion that a
6 POSITA would understand the claim language
7 reciting a 'first buoyant element [situated/is]
8 between the first front wheel and the first
9 rear wheel' and a 'second buoyant element
10 [situated/is] between the second front wheel
11 and the second rear wheel' to mean 'a buoyant
12 element is positioned in the space between the
13 front wheel and the rear wheel on each of the
14 right side and left sides of the vehicle
15 body.'"

16 THE COURT REPORTER: Can we go off
17 the record for a quick moment, Taylor?

18 MR. STEMLER: That's fine, Dana.

19 THE VIDEOGRAPHER: We are going off
20 the record.

21 The time now is 8:54 a.m.

22 (Off the record 8:54 to 8:55.)

23 THE VIDEOGRAPHER: We are going back
24 on the record.

25 The time now is 8:55 a.m.

1 BY MR. STEMLER:

2 Q. Thanks, Doug. I understand that
3 paragraph 107 of your declaration says what you
4 just read; however, my question is different.

5 MR. STEMLER: Dana, would you mind
6 reading back the question that I just asked?

7 (Whereupon, the court reporter read
8 back the previous question.)

9 THE WITNESS: I didn't fully
10 comprehend that question. I think it was
11 blurred together from a couple questions.

12 BY MR. STEMLER:

13 Q. Yeah. Let me restate it for clarity.
14 Is "in the space that separates" the same as
15 the meaning that you just relayed to me with --
16 of the term "between" with relation to claim
17 17, 21, 23 and 15 of the '708 patent?

18 MR. LUCHSINGER: Objection as to
19 form.

20 THE WITNESS: I think it's just best
21 to restate what I have in paragraph 107 for the
22 record.

23 BY MR. STEMLER:

24 Q. Mr. Prairie, that's okay. I don't need
25 you to restate it.

1 A. Okay.

2 Q. And I don't want you to restate it. I'm
3 just asking -- I'd like an answer to that
4 question. Is -- that definition applied by the
5 board, "in the space that separates," is that
6 consistent with your understanding of the term
7 "between" as you just described to me with
8 respect to claim 21, 23, 15 and 17 of the
9 '708 patent?

10 MR. LUCHSINGER: Objection as to
11 form.

12 THE WITNESS: What I would just
13 restate is that that paragraph in regards to --
14 I've stated that it is my -- and I'll quote
15 here, "It is my understanding that the Board
16 has preliminarily construed 'between' to mean
17 'in the space that separates.' Paper 10 at
18 15." And I've stated that, "The Board's
19 preliminary construction is in line with my
20 understanding with how a POSITA would
21 understand this claim language." So what I'm
22 stating in this paragraph here is that -- how
23 the board has construed "between" is that that
24 is in line with my understanding of how they
25 construed the word "between."

1 BY MR. STEMLER:

2 Q. That is in line with your understanding
3 of how a POSITA would construe the term
4 "between"?

5 A. Yes. That is what that paragraph -- the
6 board's preliminary construction is in line
7 with my understanding with how a POSITA would
8 understand this claim language.

9 Q. Okay. If I were to say that a first
10 object is between a second object and a third
11 object, can you describe in your own words what
12 that would mean?

13 MR. LUCHSINGER: Objection as to
14 form, incomplete hypothetical.

15 THE WITNESS: Could you provide
16 further definition to your hypothetical
17 situation?

18 BY MR. STEMLER:

19 Q. No. I'm just saying: Generally, if a
20 first object is between a second object and a
21 third object, what is your understanding of
22 what that means?

23 MR. LUCHSINGER: Objection as to
24 form, incomplete hypothetical, asked and
25 answered.

1 THE WITNESS: Again, you have a very
2 vague hypothetical question there, so...

3 BY MR. STEMLER:

4 Q. Will you answer the question?

5 A. Can you provide --

6 MR. LUCHSINGER: Objection as to
7 form.

8 THE WITNESS: Can you provide
9 further definition to your scenario?

10 BY MR. STEMLER:

11 Q. Does the first object need to be on the
12 same plane as the second object and the third
13 object in order to be between the second object
14 and the third object?

15 MR. LUCHSINGER: Same objections.

16 THE WITNESS: Well, objects can
17 be -- that's why I need further definition. Is
18 the object a microfine point? Is the object a
19 huge planet? I mean, it's --

20 BY MR. STEMLER:

21 Q. Sure. If the object is a huge planet.
22 If I have three planets and the first planet is
23 between the second planet and the third planet,
24 can you describe how those are arranged in
25 relation to each other?

1 MR. LUCHSINGER: Same objections.

2 THE WITNESS: No, I cannot from your
3 definition describe how they are arranged to
4 each other, if that's your question.

5 BY MR. STEMLER:

6 Q. Why?

7 MR. LUCHSINGER: Same objections.

8 THE WITNESS: Because you have a
9 vague description of what you stated.

10 BY MR. STEMLER:

11 Q. What additional detail do you need?

12 A. Could you sketch out two objects, and
13 then we can define what you mean?

14 Q. No.

15 A. Then I'm unable to answer your question
16 at this point in time.

17 Q. Does a first object need to be on the
18 same axis to be between the second object and
19 the third object?

20 MR. LUCHSINGER: Objection as to
21 form, incomplete hypothetical, vague.

22 THE WITNESS: Again, if you want to
23 provide a more detailed description of what
24 your situation is, we can have a further
25 discussion. But your question is very vague

1 and it's very vague in description. It is left
2 off for interpretation.

3 BY MR. STEMLER:

4 Q. Can you please answer the question?

5 MR. LUCHSINGER: Same objections.

6 THE WITNESS: I'm asking you to
7 provide further definition so that I can answer
8 your question, Taylor.

9 BY MR. STEMLER:

10 Q. What further definition would you like?

11 A. You're providing just some random
12 objects in space and asking me to, in my own
13 mind, construe that, which may be different
14 than what's in your mind, maybe in someone
15 else's mind. So I feel that there's vagueness
16 there that would be up for the interpretation
17 of the beholder. And so therefore to be more
18 concise I would like you to spell out in
19 more -- sketch out geographic detail, whatever
20 you want to define -- better define your
21 question.

22 Q. I don't need you to be concise. I'd
23 just like you to answer whether a first object
24 needs to be between -- to be on the same axis
25 as a second object and a third object in order

1 for it to be between.

2 MR. LUCHSINGER: Same objections.

3 THE WITNESS: Again, axes usually
4 refer to objects of rotation. So are you
5 referring to, like, a drive shaft or something,
6 if you're referring to an axis?

7 BY MR. STEMLER:

8 Q. Sure. You have a first drive shaft.
9 Does it have to be on the same axis as a second
10 drive shaft and a third drive shaft in order
11 for it to be between the second drive shaft and
12 the third drive shaft?

13 THE WITNESS: I have no idea what
14 you just described, Taylor.

15 MR. LUCHSINGER: Same objections as
16 before.

17 THE WITNESS: You're talking about
18 drive shafts overlaying drive shafts. You have
19 a -- are you talking a transmission now,
20 Taylor? Do you have, like, gears and
21 transmissions, or what are you referring to?

22 BY MR. STEMLER:

23 Q. I'm just referring to drive shafts in
24 space.

25 MR. LUCHSINGER: Same objections.

1 THE WITNESS: If you want to lay out
2 gears in a drive shaft, we can talk about space
3 in between gears if you want.

4 BY MR. STEMLER:

5 Q. I don't want that. I'd like you to
6 answer whether -- say, for example, a ball, you
7 have a first ball floating in space, does that
8 first ball have to be on the same plane as a
9 second ball and a third ball in order for it to
10 be between the second ball and the third ball?

11 MR. LUCHSINGER: Objection as to
12 form, incomplete hypothetical, vague.

13 THE WITNESS: You're just talking
14 balls randomly floating in the air?

15 BY MR. STEMLER:

16 Q. I am.

17 MR. LUCHSINGER: Same objections.
18 Also, objection to form.

19 THE WITNESS: Again, Taylor, if you
20 want to sketch something out and ask me a
21 specific question about balls in space, shafts
22 in space, axes in space, I'm happy to answer
23 your question for you, but I don't have a good
24 visual as to exactly what you're describing.

25 BY MR. STEMLER:

1 Q. I'm describing three balls and
2 three-dimensional space, and I'm asking whether
3 they need to be on the same plane in order for
4 a first ball to be positioned between the
5 second ball and the third ball?

6 MR. LUCHSINGER: Objection as to
7 form, incomplete hypothetical, vague.

8 MR. STEMLER: Brad, the consolidated
9 trial practice rules do require that objections
10 be limited to one-word objections.

11 MR. LUCHSINGER: They are. Vague --

12 MR. STEMLER: It's listed in there
13 as --

14 MR. LUCHSINGER: -- incomplete --
15 vague, incomplete hypothetical and to form.
16 So, you know, I'm entitled to state on the
17 record the basis for my objections so that when
18 we go back later, it's clear, you know, what it
19 was that was the problem or deficiency with
20 your question. That's what I'm doing. I'm
21 not, you know, using unnecessary words.

22 MR. STEMLER: "Objection, vague" is
23 specifically listed as an example of an
24 objection that would not be proper. I would
25 think that "improper hypothetical" would fall

1 under the same category.

2 MR. LUCHSINGER: Taylor, you're
3 allowed to ask your questions. I'm allowed to
4 make my objections in a way that's intelligible
5 to me so that when we go back through the
6 transcript, I understand the basis for my
7 objection. That's what I'm doing. You know,
8 I'm not doing it in a manner that's
9 interrupting the flow of the deposition. So,
10 you know, I disagree with your position.

11 MR. STEMLER: I understand. I think
12 that the rules are concerned with coaching the
13 witness. And specifically after you asked --
14 or you objected on the basis that it was an
15 incomplete hypothetical the witness started
16 taking that same train of response. So for
17 the -- in the future I'd like you to limit the
18 objection to just "form" or "calls for hearsay"
19 or one of the proper listed objections in the
20 trial practice [unintelligible].

21 MR. LUCHSINGER: Well, what my
22 concern is is that, you know, you're requiring
23 me to object in a way that makes it difficult
24 to understand what the objection is later on.

25 MR. STEMLER: I'm not requiring you

1 to do anything [unintelligible].

2 MR. LUCHSINGER: And I disagree with
3 your characterization that I'm coaching the
4 witness.

5 MR. STEMLER: Okay.

6 BY MR. STEMLER:

7 Q. Mr. Prairie, if I'm standing with my
8 arms at my side, would you consider my hand to
9 be between my head and my feet?

10 MR. LUCHSINGER: Objection as to
11 form.

12 THE WITNESS: So say that again,
13 question again, Taylor.

14 BY MR. STEMLER:

15 Q. If I'm standing straight up with my arms
16 at my side, would you consider my hand to be
17 between my head and my feet?

18 MR. LUCHSINGER: Objection as to
19 form.

20 THE WITNESS: I guess that would be
21 up for interpretation on, I guess, your -- I
22 think you could look at it either way to be
23 honest.

24 BY MR. STEMLER:

25 Q. What way would you look at it?

1 MR. LUCHSINGER: Objection as to
2 form.

3 THE WITNESS: I don't know. There's
4 probably an argument for either way. I don't
5 know. I'd have to think about it more in
6 depth.

7 BY MR. STEMLER:

8 Q. Would you consider my hand to be on the
9 same axis as my head and my feet?

10 MR. LUCHSINGER: Objection as to
11 form.

12 THE WITNESS: From my understanding,
13 an axis is the connection of two points. So,
14 you know, it's a -- an axis connects two
15 points, my geographic definition.

16 BY MR. STEMLER:

17 Q. Okay. Is my hand on the same axis as my
18 head and my feet?

19 MR. LUCHSINGER: Objection as to
20 form.

21 THE WITNESS: Well, your head's not
22 a point. Your head's an object of multiple --
23 of a larger size. So if you want to maybe
24 further define, you know, a point on your face
25 and a specific point on the rest of your body

1 so we can define an axis properly.

2 BY MR. STEMLER:

3 Q. Is my hand in the space that separates
4 my head and my feet?

5 MR. LUCHSINGER: Objection as to
6 form.

7 THE WITNESS: Are we off the axis
8 comment now, Taylor, or you talking now the
9 term what "space" means?

10 BY MR. STEMLER:

11 Q. Sure. We can move off the axis comment.

12 A. So now you're trying to define the
13 term -- the word "space"? Is that what you're
14 trying to define now?

15 Q. I'm not trying to do anything. I'm
16 asking you the question. Is my hand in the
17 space that separates my head and my feet when
18 I'm standing straight up with my arms at my
19 sides?

20 MR. LUCHSINGER: Objection as to
21 form.

22 THE WITNESS: Again, I don't -- so
23 you're trying to define an element that says
24 what the term "space" means? Is that what
25 you're trying to do? Is that what you're

1 looking for?

2 BY MR. STEMLER:

3 Q. I'm not trying to do anything. I'd like
4 you to answer the question.

5 MR. LUCHSINGER: Objection as to
6 form.

7 THE WITNESS: Ask your question
8 again, Taylor. I'm just not quite following
9 where you're going here.

10 BY MR. STEMLER:

11 Q. Okay. That doesn't matter. I'm just --
12 I'm asking you the question: Is my hand in the
13 space that separates my head and my feet when
14 I'm standing straight up with my arms at my
15 sides? I'd like an answer to that question,
16 please.

17 MR. LUCHSINGER: Objection as to
18 form.

19 THE WITNESS: Again, it's how you
20 define, I guess, the word "space," I guess, as
21 to, you know, is your body the space or your
22 shirt. I guess it's kind of a little bit -- if
23 your body's the space, then your body would be
24 attached -- your hand is attached to your body.

25 BY MR. STEMLER:

1 Q. So in that scenario you would consider
2 my hand to be in the space that separates my
3 feet and my head?

4 A. Yeah, your hands --

5 MR. LUCHSINGER: Objection as to
6 form, misstates prior testimony.

7 THE WITNESS: No. I think it --
8 that would need further definition as to
9 which -- that element of what the "space"
10 means. So are you specifically -- is your --
11 are your feet widespread? Is your feet narrow?
12 So you have to have some further definition to
13 your leg stance. It's potential that if your
14 legs were spread out, maybe it would be. It
15 depends on how you construe that from how
16 you're standing.

17 BY MR. STEMLER:

18 Q. My legs are not spread out. They're
19 planted -- my feet are right next to each
20 other. My arms are at my sides.

21 MR. LUCHSINGER: Objection as to
22 form.

23 THE WITNESS: Again, it may be how
24 you look at it.

25 BY MR. STEMLER:

1 Q. You'd agree that there would be a way to
2 look at it in which your hand would be in the
3 space that separates your head and your feet?

4 MR. LUCHSINGER: Objection as to
5 form.

6 THE WITNESS: I guess I'm not
7 quite -- in terms of -- for an answer to that
8 I'd have to do a -- if you want to sketch it
9 out, we could have a -- sketch it out and look
10 at it. From what perspective are you looking
11 at it from?

12 BY MR. STEMLER:

13 Q. Are you familiar with the look and shape
14 of a human, Mr. Prairie?

15 A. Yes. But humans are not stick figures.
16 We have three-dimensional depth. And so if you
17 would like, you could sketch a view of what
18 you're looking at and we could have a
19 discussion around that.

20 Q. Can you imagine the front view of a
21 human?

22 A. So please describe what you would view
23 as your front view of a human?

24 Q. The side of my body with my face.

25 A. Okay. Are you looking straight on?

1 Q. Yes.

2 A. And fully describe your stance.

3 Q. I believe I have. But my stance is with
4 my feet together. I'm standing straight up and
5 down. My hands are at my sides. My arms are
6 straight at my sides.

7 MR. LUCHSINGER: Objection as to
8 form.

9 THE WITNESS: You just said two
10 positions for your, I think -- for your arms, I
11 think.

12 BY MR. STEMLER:

13 Q. My arms are at my sides.

14 A. Okay. So your arms are straight down?

15 Q. Yes.

16 A. Okay. That's different than what you
17 were saying before.

18 Q. How?

19 A. Well, I'm just stating that how you
20 described that situation is different than how
21 you described your previous situation.

22 Q. How is it different?

23 A. Well, you said your arms were straight
24 out before, so I'm just clarifying that.

25 Q. I said my arms were straight at my

1 sides.

2 A. Okay. I had it if you picture it --
3 with your arms straight out is what I thought
4 you had said.

5 Q. Do your answers to my questions change
6 if my arms are at my sides?

7 MR. LUCHSINGER: Objection as to
8 form.

9 THE WITNESS: I'm just visualizing
10 the situation. Since you are unable to sketch
11 it for me, I want to make sure I fully
12 understand. Since we can't see each other
13 fully, full body, you're unwilling to sketch
14 it, I just want a full clarity of what you're
15 referring to.

16 BY MR. STEMLER:

17 Q. Okay. If I'm standing straight up and
18 down, my feet are together, my arms are at my
19 sides, is my hand in the space that separates
20 my feet and my head?

21 MR. LUCHSINGER: Objection as to
22 form.

23 THE WITNESS: Your hands are
24 definitely attached to your body. Your body
25 is -- your core of your body is in between your

1 head and your feet.

2 BY MR. STEMLER:

3 Q. How about my hands?

4 A. Your hands are attached to your body.

5 MR. LUCHSINGER: Objection as to
6 form.

7 THE WITNESS: Your hands are
8 attached to your body.

9 BY MR. STEMLER:

10 Q. Are they in between -- are they in the
11 space that separates my head and my feet?

12 MR. LUCHSINGER: Objection as to
13 form.

14 THE WITNESS: Well, I would say that
15 your body is definitely in between your head
16 and your feet.

17 BY MR. STEMLER:

18 Q. Okay. I'm asking about my hands.

19 MR. LUCHSINGER: Objection as to
20 form.

21 THE WITNESS: I guess my statement
22 being is that your body is in between your head
23 and your feet.

24 BY MR. STEMLER:

25 Q. I understand that is your statement, but

1 I'm asking: Are my hands in the space that
2 separates my head and my feet?

3 MR. LUCHSINGER: Objection as to
4 form, asked and answered.

5 THE WITNESS: Hands are part of the
6 body. Your body is in between your head and
7 your feet.

8 BY MR. STEMLER:

9 Q. Am I understanding then that you would
10 consider my hands to be in between my head and
11 my feet then?

12 MR. LUCHSINGER: Objection as to
13 form, misstates prior testimony.

14 THE WITNESS: I'm stating that my
15 feet are down on the ground. And right now my
16 head is here. And if I'm standing up, my body
17 is in between my head and my feet.

18 MR. LUCHSINGER: Is now an okay time
19 for a break?

20 MR. STEMLER: Sure.

21 MR. LUCHSINGER: Go off the record.

22 THE VIDEOGRAPHER: We are going off
23 the record.

24 The time now is 9:20 a.m.

25 (Off the record 9:20 to 9:26.)

1 THE VIDEOGRAPHER: We are going back
2 on the record for the beginning of Media Unit
3 Number 2.

4 The time now is 9:26 a.m.

5 BY MR. STEMLER:

6 Q. Again, Mr. Prairie, over the course of
7 the break we just took, did you speak with
8 anybody?

9 A. I did not.

10 Q. Did you in any way communicate with
11 anybody?

12 A. I did not.

13 Q. Did you communicate with counsel for
14 Nuhn?

15 A. I did not.

16 Q. Before we broke, we were speaking about
17 whether you would consider my hand to be
18 between or in the space that separates my head
19 and my feet. I'd like to ask that question one
20 more time. If I'm standing straight up and
21 down, hands at the side of my body, arms at the
22 side of my body, are my hands in the space that
23 separates my head and my feet?

24 MR. LUCHSINGER: Objection as to
25 form, asked and answered.

1 THE WITNESS: I'll restate my
2 answer. Your hands are part of your body.
3 Your body is in the space between your head and
4 your feet, as you described, standing vertical.

5 BY MR. STEMLER:

6 Q. In that case, I understand you'd
7 consider my hands to be in the space that
8 separates my head and my feet?

9 MR. LUCHSINGER: Objection as to
10 form, misstates testimony.

11 THE WITNESS: What I did state was
12 that your hands are part of your body, your
13 arms are -- or your hands are part of your
14 arms, your arms are part of your body, your
15 body is attached to your head and to your feet,
16 as you're standing vertical, your body is in
17 between your head and your feet.

18 BY MR. STEMLER:

19 Q. Without regard for other parts of my
20 body, just speaking specifically about my head,
21 my feet and my hands, would you consider my
22 hands to be in the space that separates my head
23 and my feet?

24 MR. LUCHSINGER: Objection as to
25 form.

1 THE WITNESS: What I can say with
2 clarity is that your body is definitely between
3 your -- the space between your head and your
4 feet. That I can say with clarity. With your
5 situation, I'd have to further think about it
6 and looking at dictionary definitions to think
7 of that more in depth. But I can say with
8 clarity that your body is definitely in between
9 your head and your feet.

10 BY MR. STEMLER:

11 Q. Do you understand the meaning of "in the
12 space that separates"?

13 A. In the description that you described
14 there is a space between your head and your
15 feet, and your body is what connects your head
16 and your feet, and in that particular scenario,
17 that space is filled by your body.

18 Q. Do you understand the meaning of "in the
19 space that separates"?

20 MR. LUCHSINGER: Objection as to
21 form, asked and answered.

22 THE WITNESS: In the context of
23 Exhibit 2099, the '708 patent, we have -- I
24 have defined what that term means in regards to
25 Nuhn's '708 patent, and it is the space between

1 the front and the rear wheel. So it describes
2 that buoyant element. In that particular case,
3 the context of that patent, the buoyant
4 elements fulfill that space in between the
5 front and the rear wheel on the right side.
6 And then ultimately on the left side there's a
7 space between the front and the rear wheel, and
8 the second buoyant element fulfills that space.

9 BY MR. STEMLER:

10 Q. Is that the meaning of "in the space
11 that separates"?

12 MR. LUCHSINGER: Objection as to
13 form.

14 THE WITNESS: I'm putting it into
15 the context of the '708 patent particularly
16 because that's what we're here discussing
17 today. And "in the space that separates" is
18 multiple words that come together, and so they
19 need context. In the context of the
20 '708 patent, the patent language describes the
21 location of the front wheels, the rear wheels,
22 on which side that they're on, and therefore
23 describes the space between them or, as the
24 board construed, the space that separates.

25 BY MR. STEMLER:

1 Q. Considering the meaning of the term
2 "between" in the context of the '708 patent,
3 would my hand be considered in the space
4 that -- would my hand be considered between my
5 head and my feet if I'm standing with my arms
6 at my sides?

7 MR. LUCHSINGER: Objection as to
8 form.

9 THE WITNESS: I don't recall any
10 context of human bodies in regards to the
11 '708 patent.

12 BY MR. STEMLER:

13 Q. Okay. But I'm talking about the word
14 "between," as you've described in the context
15 of the '708 patent. Would a person of ordinary
16 skill in the art looking at the word "between"
17 understand my hands to be between my head and
18 my feet when I'm standing with my arms at my
19 sides?

20 MR. LUCHSINGER: Objection as to
21 form.

22 THE WITNESS: I'm having a hard time
23 visualizing. Are you saying that you are the
24 buoyant element and that you're in between the
25 front and the rear wheel, Taylor?

1 BY MR. STEMLER:

2 Q. I am not.

3 A. Okay. Then I'm having a hard time
4 visualizing your hands and your feet in regards
5 to Nuhn's vehicle.

6 Q. Do you understand "between" to mean "in
7 the space that separates" in the context of the
8 '708 patent?

9 MR. LUCHSINGER: Objection as to
10 form, asked and answered.

11 THE WITNESS: The '708 patent talks
12 about a front -- describes the layout of the
13 vehicle. It describes a front wheel and a rear
14 wheel. It describes what side they're on. And
15 it describes a buoyant element. And it says --
16 describes that that buoyant element fulfills
17 the space between that front and rear wheel on
18 the particular side of the vehicle that they're
19 referring to.

20 BY MR. STEMLER:

21 Q. What is your understanding of the
22 meaning of the term "between" as you just used
23 it?

24 MR. LUCHSINGER: Objection as to
25 form, asked and answered.

1 THE WITNESS: As the Nuhn patent
2 states, it states that there is a front wheel
3 and a rear wheel on both sides of the vehicle.
4 So it talks about the two sides of the vehicle.
5 And it talks about a buoyant element that fills
6 the gap between those two elements. So you
7 have a front wheel, a rear wheel. There is a
8 space between or a space that separates that
9 front and that rear wheel, and the buoyant
10 element is occupied in that space.

11 BY MR. STEMLER:

12 Q. Would you consider your nose to be
13 between ears?

14 MR. LUCHSINGER: Objection as to
15 form.

16 THE WITNESS: I would say that my
17 head is between my ears.

18 BY MR. STEMLER:

19 Q. Would you say that your nose is between
20 your ears?

21 MR. LUCHSINGER: Objection as to
22 form, asked and answered.

23 THE WITNESS: My nose is attached to
24 my head. My head -- my whole head is -- here's
25 my ears (indicating), my nose (indicating). I

1 have -- my head is between my ears, the space
2 between my ears.

3 BY MR. STEMLER:

4 Q. Without referring to your head, would
5 you consider your nose to be between your ears?

6 MR. LUCHSINGER: Objection as to
7 form.

8 THE WITNESS: I would say that my
9 head is between my ears, my nose is attached to
10 my head, my head is -- and brain and brain
11 matter is between my ears.

12 BY MR. STEMLER:

13 Q. Is your nose in the space that separates
14 your ears?

15 A. My nose is attached to my head. My
16 whole head is in between my ears or the body.

17 Q. But is your nose specifically in between
18 your ears?

19 MR. LUCHSINGER: Objection as to
20 form, asked and answered.

21 THE WITNESS: As I stated, my nose
22 is attached to my head. My head is in between
23 my ears.

24 BY MR. STEMLER:

25 Q. I'm not asking about what your nose is

1 attached to or where your head is. I'm asking
2 about where your nose is. Is your nose between
3 your ears?

4 MR. LUCHSINGER: Objection as to
5 form, asked and answered.

6 THE WITNESS: I guess with clarity I
7 would say that my head is between my ears. My
8 nose and eyes and lips and, you know, where
9 they end are all part of my head. So are you
10 talking interior features, exterior features?
11 I guess, you know, it's all -- I'm gonna refer
12 to as your head is all one body and attached to
13 that is the ears.

14 BY MR. STEMLER:

15 Q. I'm speaking just about your nose, not
16 about your head. Is your nose between your
17 ears?

18 MR. LUCHSINGER: Objection as to
19 form, asked and answered.

20 THE WITNESS: I guess I wasn't
21 prepared to discuss anatomy, body anatomy
22 today. So my nose is attached to my head. My
23 head, it has ears attached to it.

24 BY MR. STEMLER:

25 Q. Were you here today to discuss the

1 meaning of the term -- strike that.

2 Were you here today prepared to discuss
3 the meaning of the term "between"?

4 A. I'm here to discuss the '708 patent and
5 the context of what "between" means in regards
6 to the claims and the construction of the
7 '708 patent, not to discuss what "between"
8 means in regards to the human anatomy.

9 Q. Would you consider my nose to be on the
10 same axis as my head as -- would you consider
11 my nose to be on the same axis as my ears?

12 MR. LUCHSINGER: Objection as to
13 form, vague.

14 THE WITNESS: Just draw a line
15 between your head and your ears, I guess. I
16 guess I'm -- you're describing -- an axis is
17 between two points.

18 BY MR. STEMLER:

19 Q. Would my nose be on that line drawn
20 between my ears?

21 MR. LUCHSINGER: Objection as to
22 form.

23 THE WITNESS: So if you want to try
24 to sketch and define a set point -- again, an
25 axis is between two points.

1 BY MR. STEMLER:

2 Q. Would my nose be on any theoretical axis
3 between my ears?

4 MR. LUCHSINGER: Objection as to
5 form, vague.

6 THE WITNESS: Again, I am not a
7 human anatomy expert. I'd have to think about
8 the different perspectives of that. And if you
9 wanted to sketch something out and just let me
10 define, you know, is it an axis or not, I guess
11 that would be your discretion. But an axis is
12 between two points.

13 BY MR. STEMLER:

14 Q. Would you consider my nose to be on the
15 same plane as my ears?

16 MR. LUCHSINGER: Objection as to
17 form, vague.

18 THE WITNESS: I don't know. I'd
19 have to think of it from multiple perspectives,
20 I guess.

21 BY MR. STEMLER:

22 Q. Okay. I'm gonna pull up another
23 exhibit.

24 MR. STEMLER: Before I do so, Brad,
25 I'll just flag again that that vagueness

1 objection is specifically listed in the list of
2 improper objections in the Trial Practice
3 Guide.

4 MR. LUCHSINGER: I disagree with
5 your characterization of me coaching the
6 witness whole-heartedly, so -- and in good
7 faith. I'll also just state here while we're,
8 you know, paused for a second that -- I mean, I
9 think that line of questioning took over an
10 hour. So you're aware, Taylor, you know, once
11 the seven hours on-the-record time is up, we're
12 done. I think that last line of questioning
13 was a massive waste of time and was outside the
14 context of the declaration, this IPR and the
15 '708 patent. So, you know, you can use your
16 time as you'd like, but, you know, I'm not
17 giving you extra time at the end, especially in
18 view of how you've been using it so far.

19 MR. STEMLER: Thanks, Brad.

20 (Exhibit Number 1086 marked for
21 identification.)

22 BY MR. STEMLER:

23 Q. Mr. Prairie, I'm sharing a document
24 that's been marked as Exhibit 1086.

25 Do you see that document?

1 A. Yes. I'm pulling it up.

2 MR. LUCHSINGER: Is this -- it looks
3 like a patent. Is this a patent that is an
4 exhibit in the '708 IPR?

5 MR. STEMLER: Not currently. I'm
6 introducing it.

7 BY MR. STEMLER:

8 Q. Do you see this document, Mr. Prairie?

9 A. I see Exhibit 1086 on the screen.

10 Q. Have you seen this document before?

11 A. (Views document.) The image isn't
12 sparking an interest or sparking a memory. Can
13 you flip through it a little bit? Or I guess I
14 can. Yeah, I'm just confirming. I don't see
15 it listed. I don't -- I don't recall seeing
16 this exhibit before.

17 Q. Okay. Looking at this document, I'm
18 showing you Figure 7, I'd like to ask you about
19 these features that are marked here with
20 reference number 36b and 36a. Do you see those
21 features?

22 A. I see the identifiers.

23 Q. I'm going to refer to those features as
24 the cross members. That's what those are
25 referred to in the specification of the patent.

1 Does that make sense to you?

2 A. Not fully yet, no.

3 Q. Will you understand what I'm talking
4 about if I refer to those features as the cross
5 members?

6 A. Possibly. As I said, this is a new
7 document, and I don't know the full context or
8 what this is about yet, so...

9 Q. Okay. Do you see the feature that's
10 identified with reference number 34?

11 A. I see the item listing 34.

12 Q. Okay.

13 MR. LUCHSINGER: So, Taylor, it
14 looks like you're -- for at least 36 -- you
15 said 36a and b. It looks like you're using
16 terminology that's different from that, which
17 is used in the spec for those reference
18 numbers. So I think that doing so is going to
19 cause confusion.

20 MR. STEMLER: Sorry about that.

21 BY MR. STEMLER:

22 Q. I'll refer to those as the brace,
23 braces. Does that make sense then,
24 Mr. Prairie?

25 A. So you're now calling 36a and 36b

1 braces?

2 Q. That's correct.

3 A. Okay.

4 Q. And I'm calling 34 the upright member.
5 Do you understand that?

6 A. Is that what the terminology is used in
7 the patent for 34 and 36?

8 Q. I believe it interchangeably refers to
9 it as the upright member or the structural
10 member. And I'll be referring to reference
11 number 34 as the center member. Does that make
12 sense?

13 MR. LUCHSINGER: Objection as to
14 form.

15 THE WITNESS: I will attempt to keep
16 track of those.

17 BY MR. STEMLER:

18 Q. Okay.

19 MR. LUCHSINGER: Looks like the spec
20 uses center beam for 24.

21 MR. STEMLER: Okay.

22 MR. LUCHSINGER: I'm just -- you
23 know, I'm gonna object to form to the extent
24 that you're using terminology that's
25 inconsistent with the specification.

1 MR. STEMLER: I'll try to use
2 reference numbers where appropriate to help
3 resolve any ambiguity.

4 BY MR. STEMLER:

5 Q. Looking at this figure, Mr. Prairie,
6 would you consider the braces, 36a and 36b, to
7 be in the space that separates the center beam,
8 24, and the upright member, 34?

9 MR. LUCHSINGER: Objection as to
10 form.

11 THE WITNESS: Can you give me some
12 time to review this patent? Like I said, I
13 don't know -- you're taking something that Ive
14 never seen before, a single image out of
15 context of the whole patent. So would you give
16 me some time to read the patent, or are you
17 just going to throw stuff at me here and...

18 BY MR. STEMLER:

19 Q. Sure. I mean, I can give you some time
20 to review it. I'm asking specifically just
21 looking at this picture of Figure 7, though.

22 MR. LUCHSINGER: Objection to form.

23 THE WITNESS: I guess if you're
24 throwing a new reference at me and you're
25 asking me to make a statement about this

1 particular patent, I would do like I do
2 everything, and I would have to read through
3 and the understand the context of the verbiage
4 in regards to this patent itself and look at
5 the different images. If you would like me to
6 take the time to do so, I can do that. I just
7 want to make sure you're aware that I am not
8 willing to answer your question without a
9 review of the full patent.

10 BY MR. STEMLER:

11 Q. Well, you --

12 MR. LUCHSINGER: [Unintelligible] --

13 MR. STEMLER: Yes, Brad?

14 MR. LUCHSINGER: Yeah, I was going
15 to say I have a running objection to -- for
16 questions related to Exhibit 1086 on the
17 grounds that it's not a reference that's been
18 asserted in the '708 IPR in any of the grounds
19 of invalidity, it's not a reference that's been
20 cited in the '708 IPR by either party, and it's
21 not a reference that Mr. Prairie previously
22 offered any opinions on in his expert
23 declarations.

24 MR. STEMLER: Okay.

25 BY MR. STEMLER:

1 Q. This is a reference that is cited on the
2 face of the '708 patent. Have you reviewed
3 references that are cited on the face of the
4 '708 patent, Mr. Prairie?

5 A. Some of them. And like I said, the
6 references that I specifically studied in
7 regards to my declaration are listed in the
8 front of my declaration, and this is not one of
9 them. And so even though it may have some
10 context in '708, I have not specifically
11 reviewed it and cannot offer an opinion to you
12 at this time without taking the time to review
13 and refresh myself of the terminology and the
14 context used within this particular document.

15 Q. Are you aware that references that are
16 cited on the face of the '708 patent are
17 considered intrinsic evidence when construing
18 the claims of the '708 patent?

19 MR. LUCHSINGER: Objection as to
20 form to the extent it calls for a legal
21 conclusion.

22 THE WITNESS: What I'm saying to you
23 is that I am willing to answer your question,
24 Taylor. I just want you to know that to do so
25 I will need to do a review of the document. If

1 you would like to allocate time during this
2 deposition for me to review the document such
3 that I can follow along with your questioning,
4 I'd be happy to do so. I just know that it's
5 going to take more than one -- 30 seconds or a
6 minute to review this. It's going to take some
7 substantial minutes to review it. I am under
8 oath. And therefore to give you an answer that
9 I feel is worthy of under oath I would have to
10 do what I do elsewhere and review this
11 document. And if you would like me to take
12 that time, I am happy to do so on the clock
13 here.

14 BY MR. STEMLER:

15 Q. Are you unwilling to answer questions
16 about this picture shown in Figure 7 without
17 reading the entire patent?

18 MR. LUCHSINGER: Objection as to
19 form.

20 THE WITNESS: Patents are all about
21 context. And to understand a picture and
22 numbers is you have to read the patent and
23 understand the context that the words are used
24 in. And so if all you do is you take a couple
25 words, a couple lines out of context, you can

1 misconstrue what the intent of the words mean.
2 And so I am happy to give you a formal
3 response. I am not saying I won't give you an
4 answer. I'm just saying that because I've not
5 reviewed this document and you want my
6 assessment of that under oath, I would have to
7 review it. If you will allow me time to review
8 the document, I will go along with your line of
9 questioning.

10 BY MR. STEMLER:

11 Q. Okay.

12 MR. STEMLER: Why don't we take a
13 five-minute break.

14 MR. LUCHSINGER: Okay.

15 THE VIDEOGRAPHER: We are going off
16 the record.

17 The time now is 9:53 a.m.

18 (Off the record 9:53 to 10:01.)

19 THE VIDEOGRAPHER: We are going back
20 on the record.

21 The time now is 10:01 a.m.

22 BY MR. STEMLER:

23 Q. Hello, Mr. Prairie.

24 A. Hello, Taylor.

25 Q. Did you communicate with anybody during

1 the course of this break we just took?

2 A. I did not.

3 Q. Before we broke, I was attempting to ask
4 you a couple questions about the picture shown
5 here in Figure 7 of Exhibit 1086. Will you
6 describe to me whether you understand this
7 brace that's labeled as 36b is in between the
8 center member 24, the center beam 24 and the
9 structural member 34?

10 MR. LUCHSINGER: Objection as to
11 form and foundation.

12 THE WITNESS: As I stated, Taylor,
13 if you would like to give me some time on the
14 clock to review this, the context of the other
15 images and the verbiage in the document, I'd be
16 happy to go along with your -- answer your
17 questions for you.

18 BY MR. STEMLER:

19 Q. How much time do you need?

20 A. I don't know. I don't even know how
21 long this patent is or how involved it is, how
22 many claims, so I can't give you an estimate.
23 I can tell you I can start reading and read
24 through the claims.

25 Q. The patent is eight columns long, 17

1 claims, looks like 12 figures. How much time
2 do you think you need to read that?

3 A. I'm not giving you give you a bid,
4 Taylor. I'm gonna start reading and understand
5 what the patent is. So I'm not going to give
6 you a bid. If you would like me to start
7 reading, I'd be happy to do so. I'm telling
8 you what I'm willing to do. I'm going along
9 with you telling you I will answer your
10 questions. But throwing a random image from a
11 new document I've never seen, asking me a
12 question under oath, you owe it to me to give
13 me some time to review the context of your
14 questioning.

15 Q. Are you aware that intrinsic evidence is
16 considered to be the most important evidence
17 when construing claims of a patent?

18 MR. LUCHSINGER: Objection as to
19 form to the extent it calls for a legal
20 conclusion.

21 THE WITNESS: Taylor, I'm telling
22 you what I will do. I'm happy to review the
23 document. If you want to give me some time
24 here, I'll review it, and we can resume back on
25 your questioning. If you keep asking me

1 questions, I don't have the time, I will not be
2 able to read and absorb what the context is
3 that you're referring to.

4 BY MR. STEMLER:

5 Q. Have you considered this reference while
6 developing your claim construction opinion on
7 the term "between" as used in the '708 patent?

8 A. Reference 1086 is not listed in my
9 declaration. It was not -- I have not provided
10 opinion about this particular patent.

11 Q. So your opinion does not consider
12 Exhibit 1086, is that correct?

13 A. Exhibit 1086 is not listed in my
14 declaration. It was not used in developing my
15 declaration, my opinion.

16 Q. Looking at this figure, can you tell me
17 whether this beam, this brace 36b is connected
18 to this upright structural member 34?

19 MR. LUCHSINGER: Objection to form,
20 foundation.

21 THE WITNESS: You want to keep
22 asking questions, Taylor, or would you like me
23 to spend some time reviewing it so I can
24 legitimately answer your questions as
25 requested?

1 BY MR. STEMLER:

2 Q. Can you tell me whether this beam 36b is
3 connected to the upright member 34 without
4 reading the patent?

5 MR. LUCHSINGER: Objection to form
6 and foundation.

7 THE WITNESS: I'm seeing one line or
8 image out of context. I would have to read
9 through and look at the other images,
10 understand the other elements, what they're
11 used for and what they are. It's tough to do.
12 There's some lines there. I cannot tell you
13 with certainty based on this image with your
14 questions. So if you give me some time, I can
15 read through it and look at the other images
16 and try to develop some context in my mind as
17 to the structure I'm looking at.

18 BY MR. STEMLER:

19 Q. Mr. Prairie, earlier you explained to me
20 that you would need to look at a diagram to
21 tell me whether an object is located between
22 two other objects. Is this diagram sufficient
23 for you to do that?

24 A. I cannot tell you at this time, because
25 I need to understand the context of the other

1 elements and how they're put together. So,
2 again, if you'd like to give me some time to
3 read through it and understand the context of
4 the various elements, what they're described
5 and what they do, we can continue this line of
6 questioning.

7 Q. Mr. Prairie, looking at this
8 [unintelligible] on Figure 7 --

9 MR. LUCHSINGER: Well, hold on,
10 Taylor. Let me just, I guess, make something
11 clear for the record. Are you refusing to give
12 Mr. Prairie time to read through a new patent
13 that wasn't, you know, cited in his
14 declarations and hasn't been cited in the '708
15 IPR before? Are you refusing to give him time
16 to read this reference before asking questions
17 about it?

18 MR. STEMLER: I'm asking Mr. Prairie
19 whether he can identify basic --

20 MR. LUCHSINGER: That's -- you're
21 not answering my question. Are you going to
22 allow our expert witness time to review a
23 patent that he hasn't seen before before
24 answering questions on it?

25 MR. STEMLER: I'm asking -- no, I'm

1 not gonna give him seven hours to review a
2 patent. He's given himself an unlimited amount
3 of time to review this. I think we have -- I
4 don't think he needs seven hours to review a
5 patent in order to tell me --

6 MR. LUCHSINGER: Where are you
7 getting the seven hours from?

8 MR. STEMLER: I don't think that
9 Mr. Prairie needs to review an entire patent to
10 tell me whether the beam 36b is where he
11 considers to be between the center member 24
12 and the upright structural member 34.

13 MR. LUCHSINGER: All right. So am I
14 hearing that you're saying: Yes, I am not
15 going to give the patent owner's expert witness
16 an opportunity to read through a patent that
17 hasn't been cited in this IPR and he hasn't
18 seen before before asking questions on it, is
19 that right? I just want to make sure --

20 MR. STEMLER: Brad, this patent is
21 cited on the face of the '708 patent. This
22 is --

23 MR. LUCHSINGER: That's not what I
24 said. Look, it's not cited in the materials
25 considered in his declarations.

1 MR. STEMLER: Okay.

2 MR. LUCHSINGER: It hasn't been
3 cited in the IPRs. He testified that he hasn't
4 seen it before. So what I'm asking is: Are
5 you refusing to give the witness an opportunity
6 to review this patent that he's never seen
7 before before asking questions about it?

8 MR. STEMLER: Brad, this is not your
9 deposition. Mr. Prairie is the one being
10 deposed here.

11 MR. LUCHSINGER: I understand. But
12 I think it's important for the record to bear
13 out what it is that you're asking. I mean,
14 he's saying that he'll answer questions on this
15 if you give him time to review it. And I think
16 that's fair given that he hasn't seen this
17 document before.

18 MR. STEMLER: I'm asking --

19 MR. LUCHSINGER: And I'm trying to
20 understand. Are you refusing that request, the
21 witness' request for time to review this
22 document?

23 MR. STEMLER: Brad, I'm asking
24 Mr. Prairie, as an expert witness in this case,
25 what he sees looking at the picture in

1 Figure 7. That's all.

2 MR. LUCHSINGER: Did you listen to
3 my question?

4 MR. STEMLER: I did.

5 MR. LUCHSINGER: It's simple. Are
6 you refusing to give the witness time to review
7 Exhibit 1086, which he's never seen before,
8 before answering questions on this document?

9 MR. STEMLER: Brad, we can move on
10 and go through the rest of my questions. If we
11 have time, then sure, Mr. Prairie can chew up
12 deposition time by purporting to review through
13 this entire document before he answers my
14 questions. That's fine. That's how you guys
15 want to handle this.

16 MR. LUCHSINGER: I think it's a
17 great idea to move on. And then if you want to
18 come back to it at the end, let's do that.

19 MR. STEMLER: Okay.

20 BY MR. STEMLER:

21 Q. Before we move on, I have one question
22 about this figure. Mr. Prairie, can you tell
23 me whether this feature that's identified here
24 (indicating) with reference number 30 and this
25 feature that's -- looking at this feature

1 identified by reference number 30 and looking
2 at this feature identified by reference
3 number 32, is this -- is the beam that's
4 connecting those two located between reference
5 number 30 and reference number 32?

6 MR. LUCHSINGER: Objection as to
7 form and foundation.

8 THE WITNESS: My same answer,
9 Taylor. I would need to look at the other
10 images and understand this -- the structure I'm
11 looking at.

12 Q. Okay. I'm introducing another exhibit.

13 (Exhibit Number 1087 marked for
14 identification.)

15 BY MR. STEMLER:

16 Q. Mr. Prairie, I'm sharing a document
17 that's been marked as Exhibit 1087.

18 Do you see this document?

19 A. I see what you have on the screen. I
20 just have to hit refresh here so I have it
21 locally. Okay. I have it locally as well.

22 Q. Okay. Do you see the document that I'm
23 sharing?

24 A. (Views document.) Yes. I see it on the
25 screen here, yes.

1 Q. Have you seen this document before?

2 A. It is not ringing a bell right now by
3 looking at it.

4 MR. LUCHSINGER: Is this an exhibit
5 that's been filed in the '708 IPR?

6 MR. STEMLER: It's not an exhibit
7 that's been filed. It's been an exhibit that's
8 been referenced in the institution decision and
9 then the parties' briefing.

10 MR. LUCHSINGER: Of the '708 IPR?

11 MR. STEMLER: That's correct.

12 BY MR. STEMLER:

13 Q. Have you seen this exhibit before,
14 Mr. Prairie?

15 A. I don't recall seeing it at this point
16 in time. And just looking at it, it's not --
17 1087 is not listed as a reference on my
18 declaration.

19 MR. LUCHSINGER: So just to -- in an
20 effort maybe to simplify things here, Taylor, I
21 was confused by saying that -- you know, you
22 were saying that this is a reference that was
23 cited in briefing but hasn't been an exhibit in
24 this IPR. Isn't this Exhibit 2084?

25 MR. STEMLER: Yes. That's my

1 mistake, Brad. I just saw that now.

2 Petitioner didn't file this exhibit, but I
3 didn't realize the patent owner had filed it.

4 BY MR. STEMLER:

5 Q. Does that help, Mr. Prairie? Have you
6 reviewed this document as it's been identified
7 as Exhibit 2084 before?

8 A. I see that 2084 is listed in my
9 declaration. I may have looked at it one time,
10 but I'm not proficient in it.

11 Q. Okay. Maybe for simplicity's sake I'll
12 bring up Exhibit 2084. Do you see Exhibit 2084
13 on my screen, Mr. Prairie?

14 A. (Views document.) Yes. Can you share
15 that as well?

16 MR. LUCHSINGER: Yeah. I was going
17 to say, we should include it in the Exhibit
18 Share.

19 MR. STEMLER: Sure. Exhibit 2084
20 has been introduced into Exhibit Share. I'll
21 pull it up on my screen.

22 BY MR. STEMLER:

23 Q. Do you see this document, Mr. Prairie?

24 A. Yes, I see that document you have on
25 your screen.

1 Q. And you said you've reviewed and
2 considered this document?

3 A. 2084 is listed on -- within my
4 declaration.

5 Q. Okay. Can you read the first four
6 sentences of paragraph 32?

7 A. What column? You say you're on page 7?

8 Q. Page 7, paragraph 32.

9 MR. LUCHSINGER: Just a reminder,
10 say "quote" and "end quote" if we're reading a
11 document, make life for the court reporter
12 easier.

13 THE WITNESS: Okay. Okay. So
14 page 7, this doesn't have individual columns,
15 does it?

16 BY MR. STEMLER:

17 Q. It does not.

18 A. Okay. There are no row markings either,
19 so -- okay. All right, Taylor. Point out
20 where you would like -- where are you starting
21 from again?

22 Q. Start on paragraph 32 and read the first
23 four sentences.

24 A. Paragraph -- okay. 32 there. All
25 right. From the Exhibit 2084 starting with

1 paragraph 32, "Figure 6 shows a second
2 embodiment of amphibious vehicle 110. The
3 vehicle 110 is provided with a hull 111 having
4 a front (bow) 113 and a rear (stern) 119. The
5 vehicle 110 has a front pair of wheels 124 and
6 a rear pair of wheels 126 (all shown
7 retracted). Two pairs of intermediate axles
8 supporting wheels 128 are located between the
9 front and rear wheels 124, 126, each pair of
10 wheels 128 on either side of the vehicle 110
11 (all show [sic] protracted)."

12 Q. That's fine. Thank you, Mr. Prairie.
13 If I bring up Figure 6 here of Exhibit 2084,
14 can you identify for me on this document where
15 you would understand the axles that support the
16 wheels 128 would be located?

17 A. Just give me a quick couple minutes to
18 refresh myself on this document. I don't need
19 a lot of minutes, but I need to at least do a
20 quick refresh on it of the figures. (Views
21 document.)

22 Q. Mr. Prairie, are you reviewing any
23 documents besides Exhibit 2084 right now?

24 A. No. I just have 2084 on my screen that
25 I'm scrolling through. So same document you

1 have on your screen, I'm just scrolling through
2 it.

3 Q. Okay.

4 A. (Views document.) Okay. Please restate
5 your question, Taylor.

6 MR. STEMLER: Dana, can you please
7 read the question back?

8 (Whereupon, the court reporter read
9 back the previous question.)

10 THE WITNESS: From my understanding
11 of this vehicle, is that it has wheels that
12 are -- if I'm understanding the document
13 correctly, can telescope and/or -- I'd have to
14 read through the whole thing to refresh myself.
15 It's either retracted -- definitely retracted.
16 So retracted, looks like it can mean either
17 telescopically retracted or folded out
18 retracted potentially. From what I understand,
19 there's a couple different configurations. And
20 so you're asking specifically the drive axles
21 for the wheels 128?

22 BY MR. STEMLER:

23 Q. Yes.

24 A. I'd have to read further on the context
25 of the patent as to their drive mechanism. I

1 mean, ultimately, a wheel is driven by the
2 centerline axis of the wheel. How it's
3 powered, I don't know. I'd have to read
4 through -- further read through and understand
5 the different options potentially that could
6 power this certain vehicle.

7 Q. Where would you understand the axles to
8 be located?

9 A. An axle for a wheel is typically at the
10 centerline of the wheel.

11 Q. Would you understand the axles for those
12 wheels 128 to be located in between the wheels
13 126 and 124?

14 MR. LUCHSINGER: Objection as to
15 form.

16 THE WITNESS: So 124 -- so 124 is a
17 wheel. 126 is a wheel. In this image it's
18 shown retracted. There's -- looks like there's
19 potential for axles on 128 as well. The patent
20 states they're in between the front and the
21 rear wheels 124. So as I stated, "Two pairs of
22 intermediate axles supporting wheels 128..."
23 which are shown extended in Figure 6 "...are
24 located between the front and rear wheels 124,
25 126..." and then "...each pair of wheels 128 on

1 either side of the vehicle (all shown
2 protracted)." So 124 and 126 define the points
3 and that 128 are a separate set of wheels that
4 are in between 124 and 126.

5 BY MR. STEMLER:

6 Q. Are the axles for wheels 128 in between
7 the wheels 124 and 126?

8 MR. LUCHSINGER: Objection as to
9 form.

10 THE WITNESS: I'm gonna read through
11 this a little bit more and figure out the
12 number -- refresh myself on the different
13 configurations of the figures here. (Views
14 document.) They said there's axles on the
15 wheels. Like I said, I'm not an expert on this
16 particular document and vehicle design. There
17 are axles on the wheels. They can telescope.
18 And it looks like there's a configuration that
19 can fold out. I don't know. I'd have to read
20 more in depth to identify the exact drive
21 mechanism and -- but the axles would be, you
22 know, attached to the wheels -- the drive axles
23 would be attached to the wheels somehow.

24 BY MR. STEMLER:

25 Q. Do you need to understand the exact

1 drive mechanism in order to have a general idea
2 of where the axles that support the wheels 128
3 would be located?

4 MR. LUCHSINGER: Objection as to
5 form.

6 THE WITNESS: Sometimes there's
7 secondary mechanisms that an axle can also be a
8 drive axle, could have supplemental drive
9 mechanisms. That's the reason I would state
10 that -- make that statement.

11 BY MR. STEMLER:

12 Q. Looking at Figure 6, where would you
13 understand the axles supporting the wheels
14 128 -- strike that.

15 Looking at Figure 6, I understand that
16 you described that the axles supporting the
17 wheels 128 would be located typically in the
18 center of the wheel. If that were the case,
19 would those axles be located in between wheels
20 126 and 124?

21 MR. LUCHSINGER: Objection as to
22 form.

23 THE WITNESS: Well, the concern I
24 have, Taylor, is that it talks about axles, but
25 I'm not seeing specifically them called out.

1 And so that's what I'm trying to understand,
2 exactly what they mean by axles in the context
3 of Exhibit 2084 versus my guess of what they
4 mean.

5 BY MR. STEMLER:

6 Q. Yeah.

7 A. This document is more of a cartoon-ish
8 style patent versus a detailed patent that was,
9 you know, true machine design documents. And
10 so it's hard to -- with these type of patent
11 and exhibits and figures is that you have to
12 really read through them in quite detail to
13 kind of try to maybe make a position on that.
14 So it's not fully clear as to what they mean on
15 that. There's an estimation what they could
16 be, but I can't say with certainty.

17 Q. Okay. We were -- you asked earlier to
18 see a diagram when we were talking about, you
19 know, whether certain components would be
20 between other components. Do you remember
21 that?

22 A. I asked for a document. You were
23 talking about the human anatomy. And so I was
24 asking you on that. I think you had balloons
25 too.

1 Q. Right. The planets or the balls, when
2 we were talking about that. So here I have a
3 diagram in front of you. Say, for example, the
4 axles were these center circles (indicating) in
5 the cartoon wheels 128. Would you consider
6 those center circles to be between the wheels
7 126 and 124?

8 MR. LUCHSINGER: Objection as to
9 form.

10 THE WITNESS: So you are for sure --
11 so just for the record, is that -- you are
12 stating, for clarity, that the axles referenced
13 in Exhibit 2084 are for sure at the center of
14 128, the centerline circle? Is that what
15 you're stating, Taylor?

16 BY MR. STEMLER:

17 Q. I'm saying you can assume that for now.

18 A. Okay. So for this assumption that I
19 could say that the axles are on the centerline
20 of 128, are they at the centerline of 124 as
21 well?

22 Q. I would consider that to be irrelevant
23 to my question. I'm asking -- I'm saying the
24 axles are the center circles for the wheels
25 identified as 128. And I'm asking if those --

1 center circles, which I've represented to you
2 are the axles, are those in between the wheels
3 126, 124?

4 MR. LUCHSINGER: Objection as to
5 form.

6 THE WITNESS: Well, one thing that's
7 throwing me off in this document is it's
8 talking about protracted and extended wheels.
9 And so I'm trying to fully understand when they
10 talk about "in between" in the context of this
11 patent, if they're talking about wheels
12 extended or retracted, they're kind of trying
13 to show both configurations at the same time.

14 BY MR. STEMLER:

15 Q. And, Mr. Prairie, I'm not asking about
16 anything that the patent says. I'm merely
17 asking about the picture shown in Figure 6.
18 When you're looking at that picture by itself
19 as, you know, a high-level schematic diagram of
20 a vehicle with wheels, do you consider -- those
21 axles, which I've represented to you are the
22 center circles shown in wheels 128, are those
23 axles in between the wheels 124, 126 on
24 Figure 6?

25 MR. LUCHSINGER: Objection as to

1 form.

2 THE WITNESS: There is a
3 configuration where the wheels 128 could be
4 between -- the way -- I'm just looking through
5 the other diagrams here because there's other
6 wheel configurations here too. So Figure 5 has
7 wheel 14. Figure 6 has wheel 128. I'm just
8 trying to identify with the different wheels
9 and the different states that they're in.

10 BY MR. STEMLER:

11 Q. Mr. Prairie, with all due respect, I
12 don't care about any of the other figures. All
13 I would like you to do is to look at Figure 6
14 by itself.

15 MR. LUCHSINGER: Objection as to
16 form.

17 THE WITNESS: Well, Figure 6 alone I
18 can't fully identify depth. And so I'm trying
19 to piece together from a planar view, just look
20 at -- make sure I understand how this vehicle
21 is configured. And from my understanding is
22 that there could be a configuration where that
23 120 -- wheels 128 and the axles associated to
24 128 could be between 124 and 126.

25 BY MR. STEMLER:

1 Q. I'm asking about the configuration shown
2 in Figure 6. In that case, would you consider
3 the axles, which I've identified as the center
4 circles of wheels 128, to be between the wheels
5 124, 126?

6 MR. LUCHSINGER: Objection as to
7 form.

8 THE WITNESS: Figure 6 in the
9 paragraph 32 that you talked about references
10 multiple configurations, so retracted and
11 extended. And so what I'm telling you is that
12 there could be -- in this vehicle there
13 definitely could be a configuration or a
14 situation where the wheels 128 and the axles
15 associated with those wheels are in between the
16 space of 124 wheels -- are they referred to as
17 wheels? Yep. Wheels 124 and wheels 126.

18 BY MR. STEMLER:

19 Q. Mr. Prairie, I'm not asking about what
20 the specification says or what the other
21 figures show. I'm asking: In the diagram that
22 I presented you here, which is Figure 6 of
23 Exhibit 2084, can you tell me whether -- the
24 axles, which I've represented to you are the
25 center circles of wheels 128, are those axles

1 in between wheels 126, 124?

2 MR. LUCHSINGER: Objection as to
3 form.

4 THE WITNESS: What I'm saying is in
5 the context of reading through Exhibit 2084 and
6 how this vehicle is configured, wheels 128 --
7 the axles associated with 128 could be between
8 wheel 124 and wheel 126.

9 BY MR. STEMLER:

10 Q. Are they shown between wheels 124, 126
11 in Figure 6?

12 MR. LUCHSINGER: Objection as to
13 form.

14 THE WITNESS: I'll just reiterate
15 that based on the claim construction, looking
16 at the diagram, there is definitely a
17 configuration and an operation there that could
18 exist within this vehicle.

19 BY MR. STEMLER:

20 Q. Is Figure 6 showing one of those
21 configurations where that exists?

22 MR. LUCHSINGER: Objection as to
23 form.

24 THE WITNESS: Figure 6 talks about
25 126 and 124 could be extended, could be

1 retracted, 128 could be extended, could be
2 retracted. As to the extent of their extension
3 or retraction, I do not know. It doesn't
4 really state that in the diagram or into the --
5 in the specifications.

6 BY MR. STEMLER:

7 Q. I'm asking you to put aside the
8 specification completely, pretend that that is
9 not a part of this document and look only at
10 Figure 6 that I'm showing you here of
11 Exhibit 2084. Would you consider -- those two
12 center circles in the space within the wheels
13 identified as 128, would those two center
14 circles be located in between the two outer
15 circles identified with reference number 124,
16 126?

17 MR. LUCHSINGER: Objection as to
18 form.

19 THE WITNESS: Looking at 124, 126,
20 you could say that the inner circles could be
21 between that space. It's hard to define an
22 exact line there. That definitely looks like
23 it's possible in that configuration.

24 BY MR. STEMLER:

25 Q. All right. I'm gonna ask you a few

1 questions about your declaration again. Do you
2 see the document that I've shared here?

3 A. I see Exhibit 2099, which is my
4 declaration of the '708 patent.

5 Q. Okay. I'm showing you here a figure
6 that's included within paragraph 105 of your
7 declaration.

8 Do you see that figure?

9 A. Yeah. I'm gonna -- yeah. Thank you for
10 zooming in. (Views document.) Okay. I see
11 the figure you're referring to.

12 Q. Do you recognize this figure?

13 A. Yes. This is a figure of the Nuhn
14 amphibious vehicle.

15 Q. From the '708 patent?

16 A. Yeah. This is Figure 3 of the
17 '708 patent.

18 Q. Did you annotate this figure?

19 A. I can't remember if I personally
20 annotated it or not, but it's definitely part
21 of my declaration, and it shows my
22 interpretation of reading through the claims
23 and the location of the wheels and the buoyant
24 element.

25 Q. If I use the references front of the

1 vehicle, left side of the vehicle, right side
2 of the vehicle and rear of the vehicle, as
3 you've annotated it, will that make sense to
4 you?

5 A. Yes, it will.

6 Q. Can you identify for me on this figure
7 where the pump housing is?

8 A. This figure doesn't fully show the pump
9 housing, but it is located in the center of the
10 vehicle up underneath some of the other
11 components. So you can see the -- let me
12 clarify. Have to refresh myself on the exact
13 numbering of each element. Yeah. So pump
14 housing is 18 there. So fluid pump is 9, as
15 shown in Figure 3. A pump housing 18, which is
16 shown there, and then tangential outlets 19.

17 Q. Could you identify for me where the
18 impeller is?

19 A. I don't believe the impeller is fully
20 identified within this figure.

21 Q. Looking at this figure, do you know
22 where the impeller would be?

23 A. Yes. It's inside of the pump housing.
24 You can see a component of it just not -- it's
25 not identified. So I'm just looking at the --

1 which figure that is called out in.

2 Q. Could you describe where the impeller is
3 shown in Figure 3?

4 MR. LUCHSINGER: Objection as to
5 form, asked and answered. I think you also cut
6 the witness off.

7 MR. STEMLER: Oh.

8 BY MR. STEMLER:

9 Q. Sorry, Mr. Prairie. Did I cut you off?

10 A. No. I was just looking through the --

11 so your question is -- state your question

12 again. I know it's in regard to the pump

13 impeller, but what was your specific question?

14 Q. Yeah. Could you just describe where the
15 pump impeller is on the vehicle of Figure 3 and
16 where it's shown?

17 MR. LUCHSINGER: Objection as to
18 form, asked and answered.

19 THE WITNESS: The impeller is part
20 of the overall pump assembly. The centerline
21 of the impeller is the centerline of the pump
22 housing. The centerline is -- you see an
23 opening there. That opening is the centerline
24 of the pump housing and the pump impeller. And
25 I'd have to zoom in. I think you can see part

1 of the impeller in there. I can't say with
2 certainty, but I believe part of that impeller
3 is shown.

4 BY MR. STEMLER:

5 Q. Would you agree that that impeller
6 appears to be the component located within the
7 opening of the pump housing?

8 MR. LUCHSINGER: Objection as to
9 form.

10 THE WITNESS: If you go to
11 Figure 8 -- let me just check. Yeah. So
12 Figure 8 of the '708 patent does a better job
13 of identifying where the pump impeller is, and
14 it's 37 -- it's item 37 of the '708 patent.

15 BY MR. STEMLER:

16 Q. I've pulled up Figure 8 here next to
17 your annotated Figure 3. Could you identify
18 for me again which component is the impeller on
19 Figure 8?

20 A. So item number 37 is the pump impeller
21 in Figure 8.

22 Q. And can you see that -- can you see that
23 component on Figure 3?

24 A. Yeah, you can see -- it's not as clear.
25 But yes, you can see where that would be at

1 relative to the pump there.

2 Q. In that Figure 3 is the impeller between
3 the wheels?

4 MR. LUCHSINGER: Objection as to
5 form.

6 THE WITNESS: The -- it is not
7 between the front and rear wheel on each side
8 of the vehicle as described in the context of
9 the '708 patent.

10 BY MR. STEMLER:

11 Q. Is it between any wheels?

12 MR. LUCHSINGER: Objection as to
13 form.

14 THE WITNESS: The context of the
15 '708 patent, it talks about the front wheel and
16 the rear wheel on each side and the space in
17 between that on each side. So the space in
18 between the front and the rear wheel is the one
19 on each side on the right side and there's just
20 space in between on the left side.

21 BY MR. STEMLER:

22 Q. I understand that that's where the
23 '708 patent describes that the buoyant elements
24 are. I'm asking whether the impeller that you
25 identified on Figure 3 is between any of the

1 wheels shown in Figure 3?

2 MR. LUCHSINGER: Objection as to
3 form.

4 THE WITNESS: The impeller is in the
5 center of the vehicle and can be raised and
6 lowered, immersed into the liquid manure. As
7 shown in this figure, it's not in between the
8 front and rear wheel as identified on this
9 diagram.

10 BY MR. STEMLER:

11 Q. Is it between any of the wheels?

12 MR. LUCHSINGER: Objection as to
13 form.

14 THE WITNESS: It's not in between
15 the front and the rear wheel on either side of
16 the vehicle.

17 BY MR. STEMLER:

18 Q. Is it between any of the wheels on the
19 vehicle?

20 MR. LUCHSINGER: Objection as to
21 form, asked and answered.

22 THE WITNESS: It is not -- as shown
23 in this diagram, it's not in between the front
24 right wheel and the front rear wheel. It is
25 not in between the front left wheel and the

1 rear left wheel. It is not in between there.

2 BY MR. STEMLER:

3 Q. Which wheels is the impeller in between?

4 MR. LUCHSINGER: Objection as to
5 form.

6 THE WITNESS: I don't know that it's
7 in between any of the wheels. What I can tell
8 you is that it's not in between the front right
9 wheel and the front -- the rear right wheel,
10 and it's not in between the front left wheel,
11 and it's -- and the rear left wheel.

12 BY MR. STEMLER:

13 Q. Can you identify on this figure for me
14 where you would understand the spindles
15 supporting the wheels to be?

16 A. The spindles are axles of the wheels
17 with the centerline of the wheels.

18 Q. On each of the four wheels?

19 A. Each of the four wheels is a spindle or
20 an axle and a drive motor that drives it.

21 Q. Is the impeller located between any of
22 the spindles?

23 MR. LUCHSINGER: Objection as to
24 form.

25 THE WITNESS: There is a spindle on

1 the front right wheel, a spindle or axle on the
2 rear right wheel. It is not in between that
3 space. There is a spindle on the front left
4 wheel and the rear left wheel. The pump is not
5 in between that space. That is occupied by the
6 buoyant element.

7 BY MR. STEMLER:

8 Q. Which spindles is the impeller located
9 between?

10 MR. LUCHSINGER: Objection as to
11 form.

12 THE WITNESS: It's not in between
13 what I just described. I can't say with
14 certainty what it would be in between. The
15 patent doesn't really talk about that. It
16 talks about the space in between the front and
17 the rear wheels and a space between the left
18 side of the vehicle.

19 BY MR. STEMLER:

20 Q. Looking at the figures of the
21 '708 patent, can you understand what
22 spindles -- I'm sorry. Strike that.

23 Looking at the figures of the
24 '708 patent, can you understand whether the
25 impeller is between any of the spindles of the

1 vehicle?

2 MR. LUCHSINGER: Objection as to
3 form.

4 THE WITNESS: As I've stated, it is
5 not -- I can say with clarity it is not in
6 between the front right wheel and rear right
7 wheel, and it is not in between the left front
8 wheel and the left rear wheel.

9 BY MR. STEMLER:

10 Q. Can you say with clarity whether it is
11 between any of the spindles on the wheels?

12 MR. LUCHSINGER: Objection as to
13 form, asked and answered.

14 THE WITNESS: The patent describes
15 the pump impeller and housing as to be in the
16 centerline of the vehicle. The wheels are on
17 the far right side. There's a right-side set
18 of wheels. There's a left-side set of wheels.
19 I know for -- it's not in between the front and
20 the rear wheel on the right side, and it's not
21 in between the front and the rear wheel on the
22 left side.

23 BY MR. STEMLER:

24 Q. Which spindles is the pump impeller in
25 between?

1 MR. LUCHSINGER: Objection as to
2 form, asked and answered. It's sort of getting
3 to the point of harassing the witness by just
4 asking the same question over and over again
5 hoping for a different response.

6 THE WITNESS: There is a front right
7 wheel, a rear right wheel. There's a front
8 left wheel, a rear left wheel. And there's a
9 space in between each of those wheels from
10 front to back on each side. And the pump
11 impeller and housing is not in between those
12 spaces.

13 BY MR. STEMLER:

14 Q. Is the impeller located between the
15 front left spindle and the rear right spindle?

16 A. Say that again, Mr. Stemler.

17 Q. Is the pump impeller located in between
18 the front right spindle and the rear left
19 spindle?

20 A. I can't tell with certainty in this
21 particular figure. These objects telescope up
22 and down.

23 Q. Can you tell with certainty looking at
24 any of the figures in the '708 patent?

25 MR. LUCHSINGER: Objection as to

1 form.

2 THE WITNESS: Well, the figures are
3 supplemented by the context. And that's why I
4 keep referring to what I do know is that in the
5 context of the '708 patent it talks about the
6 space in between the front vehicle -- the front
7 right wheel and the rear left wheel, and it
8 talks about the buoyant element confining that
9 space in between there. That's written and the
10 figures support that written language.

11 BY MR. STEMLER:

12 Q. You mentioned that the wheels of the
13 vehicle in the '708 patent raise up and down,
14 right?

15 A. Yes. They do have ability to adjust
16 their height.

17 Q. At any point between when the wheels are
18 raised into a fully raised position and lowered
19 into a fully lowered position, would the pump
20 impeller be located between the spindle of the
21 front right wheel and the spindle of the rear
22 left wheel?

23 MR. LUCHSINGER: Objection as to
24 form.

25 THE WITNESS: The context of the

1 '708 patent does not give a sufficient
2 definition around that to answer that question.

3 BY MR. STEMLER:

4 Q. Okay.

5 MR. STEMLER: I'd like to take a
6 five-minute break.

7 MR. LUCHSINGER: Okay.

8 THE VIDEOGRAPHER: We are going off
9 the record.

10 The time now is 10:57 a.m.

11 (Off the record 10:57 to 11:07.)

12 THE VIDEOGRAPHER: We are going back
13 on the record.

14 The time now is 11:07 a.m.

15 And this is the beginning of Media
16 Unit Number 3.

17 (Exhibit Number 1088 marked for
18 identification.)

19 BY MR. STEMLER:

20 Q. Hi, Mr. Prairie.

21 A. Hello again.

22 Q. During our break did you communicate
23 with anybody?

24 A. I did not.

25 Q. Over a break I marked and introduced an

1 exhibit, Exhibit 1088, which should be
2 available in Exhibit Share and which I'll share
3 on my screen here for you.

4 Do you see that exhibit?

5 A. It is pulling up. Yep, I see on the
6 right side of your screen. I have it up on
7 mine as well.

8 Q. And on the --

9 MR. LUCHSINGER: Is this exhibit in
10 the '708 IPR?

11 MR. STEMLER: It is not.

12 BY MR. STEMLER:

13 Q. On the left side of my screen is
14 Exhibit 2099, your declaration, pulled up again
15 at paragraph 105 to your annotated Figure 3.
16 Have you seen Exhibit 1088 before, Mr. Prairie?

17 A. (Views document.) I have not. This
18 isn't an exhibit --

19 MR. LUCHSINGER: Hold on a second.
20 So this is an incomplete document because it
21 starts on page 2.

22 MR. STEMLER: Okay.

23 MR. LUCHSINGER: So can you
24 introduce the entire document as an exhibit
25 instead of a portion of it?

1 MR. STEMLER: This is a preliminary
2 amendment, and this is the claims portion of
3 the preliminary amendment available on Patent
4 Center. So --

5 MR. LUCHSINGER: Yeah. But you're
6 showing him just a portion of a document. He's
7 entitled to see the entire document as an
8 exhibit. You're only showing pages 2
9 through 15 of 19. So --

10 MR. STEMLER: This was filed by Nuhn
11 Industries as a separate document.

12 MR. LUCHSINGER: I understand. But
13 what I'm saying --

14 MR. STEMLER: So this is its own
15 document, Brad.

16 MR. LUCHSINGER: No, it's not its
17 own document. It is a subset of pages from a
18 complete document. And so what I'm asking is
19 for you to introduce as an exhibit the entire
20 document, which is 19 pages, not pages 2
21 through 15, because, you know, this isn't an
22 exhibit in the IPR and you're asking the
23 witness to identify something that's
24 incomplete, including a lack of the first page.

25 MR. STEMLER: This has been broken

1 out by the patent owner and filed as a separate
2 document with the United States Patent and
3 Trademark Office. I've downloaded that
4 separate document that Nuhn filed. And that is
5 what I'm referring to and introducing here as
6 an exhibit.

7 MR. LUCHSINGER: So let me get this
8 straight. You're saying that Nuhn Industries
9 only filed pages 2 through 15 of a 19-page
10 document.

11 MR. STEMLER: That's not correct.
12 They also filed --

13 MR. LUCHSINGER: Exactly. We
14 filed -- Nuhn filed all 19 pages. So I'm
15 asking you to introduce the complete exhibit so
16 that the witness can review it, and then you
17 can ask questions about it. But it's not
18 sufficient to just show pages 2 through 15 and
19 ask him to identify something that's an
20 incomplete --

21 MR. STEMLER: Okay. Let's go off
22 the record again.

23 MR. LUCHSINGER: Yep.

24 THE VIDEOGRAPHER: We are going off
25 the record.

1 The time now is 11:11 a.m.

2 (Off the record 11:11 to 11:15.)

3 THE VIDEOGRAPHER: We are going back
4 on the record.

5 The time now is 11:15 a.m.

6 (Exhibit Number 1089 marked for
7 identification.)

8 BY MR. STEMLER:

9 Q. Hi, Mr. Prairie.

10 A. Hello again.

11 Q. I've introduced a document labeled
12 Exhibit 1089 into Exhibit Share, and I'm
13 showing it here on the screen.

14 Do you see that document?

15 A. Yeah. Just give me a second. Let me
16 pull it up on my end. Okay. I have the
17 document here.

18 Q. Have you seen this document before?

19 A. (Views document.) I do not recall
20 seeing this document before. What is it of?

21 Q. I'll represent to you that these are
22 pending claims filed by Nuhn Industries in a
23 continuation application to the '708 patent.
24 I'd like to ask you about claims 50 to 52 in
25 this document. Can you read claim 50 for me?

1 A. Give me a little bit just to refresh
2 myself with the full document so I know what
3 the whole document's -- kind of in here.

4 MR. LUCHSINGER: I'll try and make
5 objections per question, but I have a running
6 objection with respect to Exhibit 1089 to form
7 and foundation via the fact that the witness
8 said he's never seen this document before,
9 Exhibit 1089.

10 THE WITNESS: What do the
11 highlighted terms mean? I mean, there's no
12 color. Is there supposed to be some color in
13 here? Is there different -- what is the -- so
14 stuff is marked out, currently amended.
15 There's a lot of markups in here. So I'm just
16 trying to understand what the markups mean.

17 BY MR. STEMLER:

18 Q. Those are amendments that are made to
19 the other claims; however, I'm asking
20 specifically about claims 50 to 52.

21 A. So the solid text is what's in --
22 presently in the '708 patent?

23 Q. Nope. This is a continuation of the
24 '708 patent. And these claims --

25 A. Okay.

1 Q. -- are pending in that continuation
2 application.

3 A. But I'm trying to understand from a
4 basis of what is the same as the '708 that I
5 have in front of me of Exhibit 1001 and what is
6 different here.

7 Q. The claims are different.

8 A. So what do the underlying -- what does
9 the underlying text mean?

10 Q. Those are changes that are made to the
11 pending claims.

12 A. So what's black is what's in the present
13 '708 and what's underlined is what's proposed
14 to be different?

15 Q. None of the claims here are in the
16 '708 patent. These are continuation claims in
17 a continuation patent, and they're --

18 A. Okay.

19 Q. -- considered intrinsic evidence to
20 construing claim terms in the '708 patent.

21 A. Okay. So this is for a continuation, a
22 new patent number potentially, not --

23 Q. Correct.

24 A. -- additional changes to the current
25 one?

1 Q. Have you considered this document in
2 developing your opinion of the meaning of the
3 word "between" in the '708 patent claims?

4 A. As I said, it's a new exhibit --

5 MR. LUCHSINGER: Objection as to
6 form, foundation and scope.

7 THE WITNESS: This is the very first
8 time I have seen it, so that's why I'm asking
9 questions about what it is. I'm not an
10 attorney, so I just want to understand the
11 legal context and legal description. Since you
12 are the attorney who presented it, I'm asking
13 you legal questions as to what this document is
14 so I can properly assess your questions.

15 BY MR. STEMLER:

16 Q. I understand. But just to be clear, you
17 have not considered this document in forming
18 your opinions on the meaning of the term
19 "between" as used in the claims of the
20 '708 patent?

21 A. As of right now, this is the first time
22 I have seen this particular document, so -- and
23 it is not referenced within the 2099 exhibit
24 that's my declaration, '708 -- the declaration
25 '708.

1 Q. Okay. Can you read claim 50 to me?

2 A. On page 14? Is that -- just making
3 sure.

4 Q. Yep.

5 A. Claim 50, "(New) The amphibious manure
6 lagoon vehicle according to claim 48, wherein
7 the pump housing and the impeller of the liquid
8 manure pump are positioned between the
9 transverse centerline and the spindles
10 supporting the front set of wheels."

11 Q. Thank you. And can you read claim 48
12 for me, please?

13 A. Claim 48, "(New) The amphibious manure
14 lagoon vehicle according to claim 47, wherein
15 the floatable vehicle body has a transverse
16 centerline and wherein each of the wheels are
17 rotatably attached to the spindle."

18 Q. Looking at the figure annotated in the
19 document on the left, can you describe to me
20 where you would understand the transverse
21 centerline of the vehicle to be located?

22 MR. LUCHSINGER: Objection as to
23 form, foundation and scope.

24 THE WITNESS: As I said, this is a
25 new document to me. I'd have to do some

1 further investigation to understand from that
2 term what "transverse centerline" would mean in
3 the context of this situation.

4 BY MR. STEMLER:

5 Q. What do you understand "transverse
6 centerline" to mean?

7 A. I don't. At this point, I don't have an
8 opinion on that term. "Transverse" is not a
9 term I consistently use, so I'd have to have a
10 definition on it to understand in the context
11 to form a professional opinion.

12 Q. Can you describe to me where the
13 spindles on the wheels are located?

14 MR. LUCHSINGER: Objection as to
15 form, asked and answered.

16 THE WITNESS: Typically, spindles
17 for wheels are located at the centerline of the
18 wheels.

19 BY MR. STEMLER:

20 Q. Is that where they're located in the
21 '708 patent?

22 A. I'm going to clarify just to make sure
23 that -- if the term "spindle" is specifically
24 called out. I can't recall. Within the
25 '708 patent spindle is referred to as item 23.

1 It's specifically called out in Figure 3 -- no.
2 Let's see. Figure 4. Figure 4 calls out the
3 spindle, and it's at the centerline of the
4 wheel, each wheel.

5 Q. Is it your understanding that the
6 spindles on the vehicle would be located at the
7 center of the wheel when the wheels are raised
8 as they're shown in the Figure 3 of the
9 '708 patent?

10 A. Spindles 23 as called out in the
11 '708 patent are in the centerline of the
12 wheels, and they move with the wheel.

13 Q. Okay. Where would your understanding of
14 the region between the transverse centerline
15 and the spindles supporting the front set of
16 wheels be in Figure 3 of the '708 patent?

17 MR. LUCHSINGER: Objection as to
18 form, foundation and scope.

19 THE WITNESS: As I mentioned, I'm
20 not fully versed on the term "transverse" from
21 a dictionary definition combined with
22 centerline and in the context of this new
23 reference. I've not formed an opinion on that.
24 And I would have to do a little bit of
25 investigation to give you a -- to feel

1 comfortable with what the term "transverse
2 centerline" meant in the context of this
3 Exhibit 1089.

4 BY MR. STEMLER:

5 Q. Do you know what the word "transverse"
6 means?

7 A. No, I do not, actually. I mean, I kind
8 of -- I might have -- I have a rough idea, but
9 not one I feel like going on the record for
10 without looking it up.

11 Q. I'll represent to you that
12 Merriam-Webster dictionary defines the term
13 transverse as, "Acting, lying, or being across:
14 Set crosswise." An alternative definition
15 provided by Merriam-Webster reads, "Made at
16 right angles to the long axis of the body."
17 Does that make sense to you?

18 MR. LUCHSINGER: Objection as to
19 form, foundation and scope.

20 THE WITNESS: No. I'm just kind of
21 looking. Where else is "transverse" used in
22 1089? Because it's just kind of thrown out
23 there. So I want to see if -- in the context
24 of 1089, if they define specifically the term
25 "transverse" in its context.

1 BY MR. STEMLER:

2 Q. "Transverse centerline" is a term that's
3 introduced here in claim 48. It introduces the
4 term using the word "a." And then it refers
5 back to that transverse centerline in claim 50
6 with "the transverse centerline." So I'll
7 represent to you there's no definition of the
8 term "transverse centerline" in this document.

9 MR. LUCHSINGER: Objection as to
10 form, foundation and scope, if that's a
11 question.

12 BY MR. STEMLER:

13 Q. Mr. --

14 A. Well, I didn't -- like I said, I didn't
15 I didn't write this document, and it's not
16 official -- I mean, it's not an official
17 patent, so it doesn't really have -- I guess I
18 don't have an official opinion of what the
19 transverse centerline is. If you want to --
20 could you pull up your definition so I could
21 read it through versus just hearing you?

22 Q. Sure.

23 A. Can you submit that as an exhibit?

24 Q. I can pull it up for you here.

25 A. Can you submit that as an exhibit as

1 well for today?

2 Q. Perhaps I can. Yeah, I think we can --
3 I can introduce this as an exhibit right now if
4 you'd like.

5 (Exhibit Number 1090 marked for
6 identification.)

7 BY MR. STEMLER:

8 Q. All right. Transverse has been
9 introduced as an Exhibit 1090. I'll pull it up
10 again here so it's right side up for you. Can
11 you see this?

12 A. Not yet, no.

13 Q. How's that, Mr. Prairie?

14 A. Yeah, I can read that. (Views
15 document.)

16 Q. Okay. Have you read this definition,
17 Mr. Prairie?

18 A. Yeah. I'm just forming -- you're asking
19 me to form an opinion. So I'm reading and over
20 and over in the context of the '708 patent from
21 what I know and these claims of trying to
22 answer your question.

23 Q. Okay. In your opinion, where would the
24 transverse centerline of the vehicle of
25 Figure 3 be located?

1 MR. LUCHSINGER: Objection as to
2 form, foundation and scope.

3 THE WITNESS: I can't say with
4 definity [sic]. I mean, it's -- transverse is,
5 "Made at right angles to the long axis of the
6 body." So that's probably the one that makes
7 the most sense in context. So you'd have to
8 define what the long axis of the body would be.

9 BY MR. STEMLER:

10 Q. Do you have an understanding of what the
11 term "transverse centerline" would be referring
12 to in relation to the vehicle described in the
13 '708 patent?

14 A. And it's not fully clear, no. I mean,
15 it's not --

16 MR. LUCHSINGER: Objection -- hold
17 on, hold on, hold on. Objection as to form,
18 foundation and scope.

19 THE WITNESS: I do not have a full
20 context, no, Taylor. I mean, I -- it's a
21 line -- I'm reading your definition. It's a
22 line at a right angle. So I'm reading
23 everything here and forming in my mind what a
24 transverse centerline means in the context of
25 this vehicle.

1 BY MR. STEMLER:

2 Q. Are you able to form in your mind an
3 understanding of what it means in the context
4 of this vehicle?

5 A. Yes, at some point. I just don't have
6 it right at this very second. So it's
7 generally --

8 Q. How long would it take you?

9 MR. LUCHSINGER: Hold on. Same
10 objections. And just -- you know, Taylor and
11 Doug, just if you could pause a second, you
12 know, after a question is asked and after the
13 answer is given just so that I, you know, have
14 the opportunity to make objections here because
15 I think it's -- there will probably be a lot of
16 them given the fact that Doug hasn't advanced
17 opinions on, you know, these particular claims
18 since they're not part of the '708 patent and
19 they're still pending.

20 BY MR. STEMLER:

21 Q. How long would it take you to develop an
22 understanding of what the term "transverse
23 centerline" would mean in the context of the
24 '708 patent?

25 MR. LUCHSINGER: Objection as to

1 form, foundation, scope.

2 THE WITNESS: I can't give you an
3 estimate right now. I mean, I'm actively
4 working with your question here. I am actively
5 reading through Exhibit 1089. I am in my
6 mind -- I do understand what the term
7 "transverse" means. Now I'm trying to apply
8 that directly to the new exhibit that you
9 provided, 1089, so that I can in my mind answer
10 your question.

11 BY MR. STEMLER:

12 Q. Could you describe to me where at this
13 point in time you would understand the
14 transverse centerline to be on the vehicle
15 shown in Figure 3?

16 A. I don't know. I don't have --

17 MR. LUCHSINGER: Hold on.

18 THE WITNESS: -- definitive
19 answer --

20 MR. LUCHSINGER: Hold on. Objection
21 as to form, foundation and scope.

22 THE WITNESS: I don't have a
23 definitive answer for you, Taylor. You keep --
24 I mean, if you want to give me a little time
25 here -- you keep hammering me with questions,

1 and I'm trying to form in my mind. So we
2 can -- you can keep asking them, and I'll give
3 you the response that I'm working towards my
4 answer, but you keep throwing me off in my
5 thought process.

6 BY MR. STEMLER:

7 Q. Okay.

8 A. Can you pull your definition up again so
9 I can look at it as I'm reading through
10 Exhibit 1089?

11 Q. Sure.

12 A. So my interpretation is going to be that
13 the long axis of the body is the centerline of
14 the vehicle and that's -- from front to back is
15 where that axis would be. Please put your
16 definition back up again so I can have them
17 both up.

18 Q. Okay.

19 A. So I'm using the Merriam-Webster, your
20 reference. What is that, 1090?

21 Q. Exhibit 1090.

22 A. So citing 1090, it says, "Made at right
23 angles to the long axis of the body." It says
24 or "acting, lying, or being across: Set
25 crosswise." So if we take the, "Made at right

1 angles to the long axis of the body," so a
2 transverse centerline would be a right angle to
3 that. So similar, I guess, the long axis of
4 the body would be -- like I said, I don't have
5 a definitive answer. It's looking like it
6 might be -- it could be a line that's parallel
7 to the spindles. I can't say with certainty,
8 though.

9 Q. Moving on from that claim, I'd like you
10 to look at claim 52. Could you read that
11 claim?

12 A. Claim 52 of Exhibit 1089 says, "(New)
13 The amphibious manure lagoon vehicle according
14 to claim 48, wherein the pump housing and the
15 impeller of the liquid pump [sic] are
16 positioned between the spindles supporting the
17 front set of wheels and the spindles supporting
18 the rear set of wheels."

19 Q. Where would you understand to be the
20 space between the spindles supporting the front
21 set of wheels and the spindles supporting the
22 rear set of wheels on Figure 3 of the
23 '708 patent?

24 MR. LUCHSINGER: Objection as to
25 form, foundation and scope.

1 THE WITNESS: Well, there are no --
2 are there any figures of Exhibit 1089? Are
3 they referencing the same figures as
4 Exhibit 2099?

5 BY MR. STEMLER:

6 Q. Yeah. I'll represent to you that this
7 is filed in connection with the continuation
8 application of the '708 patent, and therefore
9 that continuation application includes the same
10 specification other than the claims as the
11 '708 patent.

12 A. Okay. What's your question again,
13 Mr. Stemler?

14 MR. STEMLER: Dana, could you please
15 repeat the question back?

16 (Whereupon, the court reporter read
17 back the previous question.)

18 MR. LUCHSINGER: Objection as to
19 form, foundation and scope.

20 THE WITNESS: Well, the spindles
21 have a centerline access, so it's somewhere, I
22 guess, between the front and the rear wheels,
23 as it's stated.

24 BY MR. STEMLER:

25 Q. Do you have an understanding of the

1 bounds of that space?

2 MR. LUCHSINGER: Same objections.

3 THE WITNESS: It says the --
4 between -- basically just reading the context
5 of it, it talks about the spindles that support
6 the front wheels and the spindles supporting
7 the rear wheels.

8 BY MR. STEMLER:

9 Q. Would that space positioned between the
10 spindles supporting the front set of wheels and
11 the spindles supporting the rear set of wheels
12 include any location between the axis
13 supporting the front set of wheels and the axis
14 of the spindles supporting the front set of
15 wheels and the axis of the spindles supporting
16 the rear set of wheels?

17 MR. LUCHSINGER: Objection as to
18 form, foundation and scope.

19 THE WITNESS: I can just tell you
20 what I'm reading here since it's the first time
21 through and basically quote. "The amphibious
22 manure lagoon vehicle according to claim 48,
23 wherein the pump housing and the impeller of
24 the liquid manure pump are positioned between
25 the spindles supporting the front set of wheels

1 and the spindles supporting the rear set of
2 wheels."

3 BY MR. STEMLER:

4 Q. Where is the space between the spindles
5 supporting the front set of wheels?

6 MR. LUCHSINGER: Objection as to
7 form, foundation and scope.

8 THE WITNESS: It would be in between
9 the front of the vehicle, the centerline axis
10 of the spindles. So it would be the spindles
11 themselves and the rear spindles. So somewhere
12 between the front and the rear wheels.

13 BY MR. STEMLER:

14 Q. That would be the space between the
15 spindles supporting the front set of wheels?

16 MR. LUCHSINGER: Same objections.

17 THE WITNESS: It says between the
18 spindles supporting the front set of wheels, so
19 my interpretation would be is that there's --
20 it's treated that as a line across and
21 basically that space back to the rear -- to the
22 rear wheels. So somewhere in that space is
23 where the pump housing would be between the
24 front and the rear wheels, not outside of the
25 wheels on the front or the rear.

1 BY MR. STEMLER:

2 Q. Looking at Exhibit 2099, your
3 declaration, at paragraph 105 at annotated
4 Figure 3. Do you see that annotation "buoyant
5 element" in blue above the figure?

6 A. Yes, I see the reference "buoyant
7 element" as you pointed out.

8 Q. Do you see the capital B in Buoyant
9 there?

10 A. Yes, I see the capital B.

11 Q. Would -- that location where the capital
12 B is, would that be positioned between the
13 spindles supporting the front set of wheels and
14 the spindles supporting the rear set of wheels?

15 MR. LUCHSINGER: Objection as to
16 form.

17 THE WITNESS: So you're physically
18 saying would the letter B be there, is what
19 you're saying, or the buoyant element itself?

20 BY MR. STEMLER:

21 Q. Would the location of the letter B be in
22 that space?

23 A. I can tell you the --

24 MR. LUCHSINGER: Same objection.

25 THE WITNESS: I can tell you the

1 buoyant element is because the claims
2 construction of that patent says that it is.
3 It doesn't talk about the word "buoyant," where
4 that is on a theoretical image -- on an image.

5 BY MR. STEMLER:

6 Q. Okay. I'm talking about the space to
7 the right of the buoyant element where the
8 letter B is in your annotation "Buoyant
9 element." Would that space be positioned
10 between the spindles supporting the front set
11 of wheels and the spindles supporting the rear
12 set of wheels?

13 MR. LUCHSINGER: Objection as to
14 form, vague.

15 THE WITNESS: You're picking a
16 theoretical -- a letter on an image and there's
17 no context in the 1089 or my declaration or
18 talking about the word on random words placed
19 and where there they would be and if that's in
20 between. I mean, the '708 patent talks about
21 the space in between for the buoyant element.
22 It just -- Exhibit 1089 that you reference to
23 talks about the pump and there's some
24 documentation there, but it has nothing in
25 reference to your B in your buoyant element

1 term or that space out there.

2 BY MR. STEMLER:

3 Q. I understand that. I'm asking if
4 they're referring to the space to the right
5 side of the buoyant element that you've labeled
6 in this figure -- of the right-side buoyant
7 element that you've labeled in this figure.
8 Would that space be positioned between the
9 spindles supporting the front set of wheels and
10 the spindles supporting the rear set of wheels?

11 MR. LUCHSINGER: Objection as to
12 form, asked and answered.

13 THE WITNESS: I said what I can
14 definitively tell you is that the buoyant
15 element, as shown in Figure 3, is in between
16 because the '708 patent describes that. I
17 cannot tell you with certainty about the letter
18 B in "Buoyant element."

19 BY MR. STEMLER:

20 Q. I'm no longer asking about the letter B
21 in "Buoyant element." I'm asking about the
22 space to the right of the right side of the --
23 I'm asking about the space to the right of the
24 right-side buoyant element. Would that space
25 be located between the spindles supporting the

1 front set of wheels and the spindles supporting
2 the rear set of wheels?

3 MR. LUCHSINGER: Objection as to
4 form, vague.

5 THE WITNESS: So you're talking
6 about an infinite area of space to the right of
7 the vehicle? Is that what you're saying?

8 BY MR. STEMLER:

9 Q. I attempted to bound that space by
10 referring to an annotation that you made, but
11 yes. Sure. I'm asking about the general area
12 immediately adjacent to the buoyant element on
13 the right side of the right buoyant element.

14 A. So immediately adjacent or infinite?

15 MR. LUCHSINGER: Objection as to
16 form.

17 BY MR. STEMLER:

18 Q. Not infinite. I suppose immediately
19 adjacent.

20 MR. LUCHSINGER: Objection as to
21 form, vague.

22 THE WITNESS: The '708 patent
23 doesn't -- it talks about the buoyant element.
24 I can't say with certainty the space
25 immediately adjacent to it. There's no

1 discussion of the term "immediately adjacent"
2 to the buoyant element.

3 BY MR. STEMLER:

4 Q. Is there any discussion in the '708
5 patent about the buoyant element being
6 positioned between the front right-side wheel
7 and the rear right-side wheel?

8 MR. LUCHSINGER: Objection as to
9 form.

10 THE WITNESS: I didn't catch all
11 your -- you had a bunch of terms there. So
12 restate -- go through your question again.

13 MR. STEMLER: Dana, would you mind?
14 Thank you.

15 (Whereupon, the court reporter read
16 back the previous question.)

17 MR. LUCHSINGER: Objection as to
18 form.

19 THE WITNESS: Yes. Just let me --
20 I'm just looking at the specific -- where
21 that's called out at. Just give me a second
22 here. It shows the buoyant element, talks
23 about the front wheels and the rear wheels, and
24 describes where they're located at relative to
25 the front and the rear wheels.

1 BY MR. STEMLER:

2 Q. Where are you reading that?

3 A. Give me a second. I thought I had it,
4 but I was looking the context of my declaration
5 and where I discussed it. I guess it's in
6 context of the figures and of the description
7 of "the space between" there is where I'm at
8 right now.

9 Q. What description of "the space between"
10 are you reading?

11 A. It's talking about the space between the
12 front right wheel, the space between the right
13 rear wheel, the space between the front left
14 wheel and the front rear wheel, and the buoyant
15 element is placed in between that space.

16 Q. Where are you seeing that?

17 A. That's correct. It's in combination of
18 the figure description 3, Figure 3 description.

19 Q. Where are you seeing the text
20 description of the buoyant element being
21 located in the space in the '708 patent?

22 A. The text I was referring to is just
23 calling out the buoyant element at this point
24 in time.

25 Q. Okay. Do you see any description in the

1 specification describing the buoyant element
2 being positioned between the front wheel and
3 the rear wheel of the vehicle?

4 MR. LUCHSINGER: Objection as to
5 form.

6 THE WITNESS: At this point, it's
7 just the Figure 3 as it's laid out in the
8 figure itself.

9 BY MR. STEMLER:

10 Q. Okay. So in the context of Figure 3 of
11 the '708 patent, would you understand the space
12 to the right of the right-side buoyant element
13 on the vehicle to be between the spindles
14 supporting the front set of wheels and the
15 spindles supporting the rear set of wheels?

16 MR. LUCHSINGER: Just so the record
17 is clear, it looks like you're sharing your
18 screen again, and you have Exhibit 2099 up and
19 Exhibit 1089 up, so --

20 THE WITNESS: Mr. Stemler, is your
21 question related to Exhibit 1089 or
22 Exhibit 2099?

23 BY MR. STEMLER:

24 Q. I suppose both. I'm asking about the
25 language that's used in Exhibit 1089, and I'm

1 asking you to identify whether the region shown
2 in -- annotated Figure 3, Exhibit 2099,
3 paragraph 105, I'm asking you to identify
4 places on that figure that would align with the
5 language used in claim 52 of Exhibit 1089.

6 A. 52, again, is what? That is the --

7 Q. Claim 52 of Exhibit 1089. The language
8 in particular that I am concerned with is
9 "...positioned between the spindles supporting
10 the front set of wheels and the spindles
11 supporting the rear set of wheels."

12 MR. LUCHSINGER: Objection as to
13 form, foundation and scope.

14 THE WITNESS: So 52 is talking about
15 the pump impeller. There is nothing in there
16 talking about the buoyant element.

17 BY MR. STEMLER:

18 Q. Right. I'm asking about the space
19 immediately to the right side of the right
20 buoyant element. Would you consider that space
21 to be positioned between the spindles
22 supporting the front set of wheels and the
23 spindles supporting the rear set of wheels on
24 the vehicle?

25 MR. LUCHSINGER: Objection as to

1 form, foundation and scope.

2 THE WITNESS: I don't have a concise
3 opinion at this time.

4 BY MR. STEMLER:

5 Q. Do you have an elaborate opinion?

6 MR. LUCHSINGER: Objection as to
7 form, foundation and scope, asked and answered.

8 THE WITNESS: I don't have an
9 opinion on that particular situation at this
10 time.

11 BY MR. STEMLER:

12 Q. Do you understand where the space
13 between the spindles supporting the front set
14 of wheels and the spindles supporting the rear
15 set of wheels is?

16 MR. LUCHSINGER: Objection as to
17 form, foundation and scope.

18 THE WITNESS: In the time I've been
19 allotted to look at Exhibit 1089 and understand
20 the context of it, I don't have a full
21 definition as to what that space means. I can
22 only take into context that if the exhibits are
23 the same that it's referring to as in Figure 3,
24 that it's showing that the impeller is in
25 between the front set of wheels and the rear

1 set of wheels, as I've said. Because the one
2 thing that's different is that in 52 it's
3 talking about a set of wheels instead of -- and
4 spindles versus individual wheels on right and
5 left side of vehicle. That's a difference that
6 we're -- in terms of the buoyant element, is
7 that in the -- using -- in Exhibit 2099 and
8 patent '708 it talks about individually the
9 tires and the wheels, whereas 52 and
10 Exhibit 1089 is talking about a set of wheels.
11 So it's individual versus a set, which makes it
12 different.

13 BY MR. STEMLER:

14 Q. Looking at claim 52, would you
15 understand that the pump impeller would have to
16 be on the same plane as the spindles of the
17 wheels in order to be positioned between the
18 spindles supporting the front set of wheels and
19 the spindles supporting the rear set of wheels?

20 MR. LUCHSINGER: Objection as to
21 form, foundation and scope.

22 THE WITNESS: From my limited read
23 of 52, I don't see any restriction around a
24 certain -- from what I've read so far, I don't
25 see anything in regards to planar orientation.

1 BY MR. STEMLER:

2 Q. If the liquid manure pump impeller were
3 positioned below the spindles supporting the
4 front set of wheels and the spindles supporting
5 the rear set of wheels, would you consider the
6 impeller to still be between the spindles
7 supporting the front set of wheels and the
8 spindles supporting the rear set of wheels?

9 MR. LUCHSINGER: Objection as to
10 form, foundation and scope.

11 THE WITNESS: If we're talking about
12 the same vehicle, the impeller can raise up and
13 down, the wheels can raise up and down. The
14 language does not -- from what I can see, does
15 not talk about the relative difference between
16 those. So I don't have a -- really a firm
17 answer to your question.

18 BY MR. STEMLER:

19 Q. And if the wheels were lowered into
20 their fully lowered position and the pump was
21 raised into the fully raised position such that
22 the impeller of the pump were positioned above
23 the plane of the spindles of the wheels, would
24 that impeller be positioned between the
25 spindles supporting the front set of wheels and

1 the spindles supporting the rear set of wheels?

2 MR. LUCHSINGER: Objection as to
3 form, foundation and scope.

4 THE WITNESS: That's a lot of
5 geometry to take in, Mr. Stemler. Can you
6 sketch out what you're talking about? You had
7 a lot of dynamics there, a lot of elements that
8 are in motion.

9 BY MR. STEMLER:

10 Q. I don't have anything to sketch out. I
11 have a picture of the vehicle in front of you
12 on Exhibit 2099. You're a master's -- you have
13 a master's in mechanical engineering, right,
14 Mr. Prairie?

15 A. Yes, I do.

16 Q. Did that involve some geometry courses?

17 A. Yeah. I'm just -- you said a lot of
18 motion there, so this is under deposition, so I
19 want to make sure I'm fully understanding from
20 a planar view which view you're looking at,
21 wheels positions, pump location, make sure I
22 understood what you said. You want to ride it
23 out, that's fine, so I can read it. But you
24 had a lot of dynamics going on there, that I
25 want to fully understand what your question is.

1 Q. Okay. I'll break it down for you. I'm
2 going to raise the wheels of the vehicle down
3 to their fully lowered position. Does that
4 make sense?

5 MR. LUCHSINGER: Objection as to
6 form.

7 THE WITNESS: So we're looking at --
8 what orientation are we looking at the vehicle?

9 BY MR. STEMLER:

10 Q. How about we look at it in the
11 orientation of Figure 1 of the '708 patent? Do
12 you see in Figure 1 how the wheels are lowered
13 into their fully lowered position?

14 MR. LUCHSINGER: Objection as to
15 form.

16 THE WITNESS: Okay. Continuing on
17 with your question.

18 BY MR. STEMLER:

19 Q. Okay. So looking back at Figure 3, say,
20 for example, the wheels were lowered into their
21 fully lowered position as described with
22 reference to Figure 1. Okay?

23 MR. LUCHSINGER: Objection as to
24 form.

25 BY MR. STEMLER:

1 Q. Mr. Prairie?

2 A. Yeah, I'm absorbing and reading claim 52
3 at the same time. Okay. Continue on.

4 Q. So in the view of Figure 3, if those
5 wheels were lowered to their fully lowered
6 position and the pump housing was raised to the
7 fully upward position, as it's shown here in
8 Figure 3, such that the impeller of the pump
9 was positioned above the spindles connected to
10 the wheels, in that scenario would you consider
11 the impeller of the liquid manure pump to be
12 positioned between the spindles supporting the
13 front set of wheels and the spindles supporting
14 the rear set of wheels?

15 MR. LUCHSINGER: Objection as to
16 form, foundation and scope.

17 THE WITNESS: Well, knowing the
18 context of this -- these -- Exhibit 1089, the
19 context of Exhibit 1001 and the variations of
20 the vehicle that I've seen, it is my
21 understanding that the pump, when it's raised
22 or lowered, is in between the front and the
23 rear wheels, which part of the front in a rear
24 wheel assembly set is the spindle, those set of
25 the wheels, and it's located in between the

1 front and the rear wheels. I have not seen any
2 configuration. I have not -- any written
3 configuration where the pump raised or lowered
4 is not in between the front wheels and -- the
5 front set of wheels. So this is a set, not
6 individually. So the front set of wheels and
7 the rear set of wheels is somewhere in between
8 that space.

9 BY MR. STEMLER:

10 Q. I'm asking specifically about the pump
11 impeller and the spindles connected to the
12 wheels. When those wheels are fully lowered
13 and the pump is fully raised such that the
14 impeller is located above the spindles
15 supporting the wheels, is the impeller of the
16 liquid manure pump positioned between the
17 spindles supporting the front set of wheels and
18 the spindles supporting the rear set of wheels
19 in that configuration?

20 MR. LUCHSINGER: Objection as to
21 form, foundation and scope, asked and answered.

22 THE WITNESS: One thing, it's an
23 amphibious vehicle, and therefore it goes into
24 an amphibious or liquid manure application. In
25 that particular case, the -- how the buoyancy

1 of the vehicle drives its location of relative
2 to the fluid, not the bottom of the wheels or
3 the spindles themselves. And so therefore in
4 terms of position up and down, it's where the
5 pump is immersed into the fluid, the wheels are
6 independent of that. This is talking about the
7 set of spindles, set of wheels in that the
8 pump, up or down, is in between the front set
9 of wheels and the rear set of wheels in ground
10 or in operation in an amphibious manure lagoon
11 application.

12 BY MR. STEMLER:

13 Q. Okay. That does not answer my question.
14 I'm asking about the impeller of the liquid
15 manure pump and the spindles of the wheels,
16 those components specifically and which
17 configurations of those components meet the
18 language of this claim. If that pump were
19 raised to its fully raised position so that the
20 impeller of the pump was above the spindles of
21 the wheels, is the impeller of the liquid
22 manure pump positioned between the spindles
23 supporting the front set of wheels and the
24 spindles supporting the rear set of wheels?

25 MR. LUCHSINGER: Objection as to

1 form, foundation, scope, and asked and
2 answered. It seems like you're asking the same
3 question over and over again hoping to get a
4 different response.

5 THE WITNESS: As stated in 52, "The
6 pump housing and the impeller of the liquid
7 manure pump are positioned between the spindles
8 supporting the front set..." key word is "set"
9 there "...of wheels and the spindles supporting
10 the rear set..." "set of wheels." And so it's
11 the space in between those wheels. The intent
12 is to have that space in between. It doesn't
13 talk about raised or lowered. It does not give
14 those various configurations. So my
15 interpretation is unless there's further
16 language there, it covers all configurations of
17 that vehicle.

18 Q. Okay.

19 MR. STEMLER: I'd like to take a
20 lunch break now if that's okay with everybody.

21 MR. LUCHSINGER: Sure. Let's go off
22 the record and we can talk about it.

23 THE VIDEOGRAPHER: We're going off
24 the record.

25 The time now is 12:09 p.m.

1 (Off the record 12:09 to 1:02.)

2 THE VIDEOGRAPHER: We are going back
3 on the record.

4 The time now is 1:02 p.m.

5 This is the beginning of Media Unit
6 Number 4.

7 BY MR. STEMLER:

8 Q. Hi, Mr. Prairie.

9 A. Good afternoon.

10 Q. I just introduced another exhibit. It's
11 Exhibit -- I'm sorry. I guess before we get
12 into that. Mr. Prairie, did you communicate
13 with anybody during our lunch break?

14 A. I did not, no.

15 Q. Okay.

16 (Exhibit Number 1091 marked for
17 identification.)

18 BY MR. STEMLER:

19 Q. I just introduced Exhibit 1091. It
20 should be available on Exhibit Share now. I'll
21 pull it up on my screen as well. Do you see
22 Exhibit 1091 here on the right side of my
23 screen?

24 A. Yes, I see it on your shared screen, and
25 I've got it up on my side as well.

1 Q. Have you seen this document before?

2 A. (Views document.) This is not the same
3 one that we were looking at earlier? It's got
4 a similar format?

5 Q. Right. It's a similar document, but a
6 different format.

7 A. No, I don't believe I've seen this
8 document before.

9 Q. Okay. I'll represent to you that this
10 is another amendment made in connection with
11 another continuation patent of Nuhn's
12 '708 patent. So like with the other
13 application that we were discussing, this
14 patent application also includes all of the
15 same figures and the same specification as the
16 '708 patent. Does that make sense?

17 A. Yes, it does.

18 MR. LUCHSINGER: So I have a running
19 objection with respect to questions asked in
20 connection with Exhibit 1091 to the deposition
21 because the witness stated that he hasn't seen
22 this document before, and it's not the same
23 application or patent as in the '708 IPR. So
24 the objection -- standing objections are to
25 form, foundation and scope.

1 BY MR. STEMLER:

2 Q. Mr. Prairie, like with that other
3 document we were looking at before, this
4 document provides a list of claims for the
5 pending application that I mentioned. Could
6 you please read claim 58 listed here?

7 A. Why don't you give me just a couple
8 minutes just to review the whole context so I'm
9 not just focusing on one aspect initially.
10 (Views document.) Okay, Taylor. What's your
11 line of questioning?

12 Q. Can you please read claim 58?

13 A. Exhibit 1091, claim 58, "(New) The
14 amphibious manure lagoon agitation vehicle
15 according to claim 55, wherein the pump housing
16 and the impeller of the manure pump are
17 positioned between the spindles supporting the
18 front right and front left wheels and the
19 spindles supporting the rear right and rear
20 left wheels."

21 Q. Thank you. I have up next to
22 Exhibit 1091 Exhibit 2099, which includes your
23 annotations on Figure 3 of the '708 patent.

24 Do you see that, Mr. Prairie?

25 A. Yes, I see both Exhibit 2099 on your

1 screen and Exhibit 1091.

2 Q. Thanks. Can you tell me if the pump
3 housing and the impeller of the manure pump
4 shown in Figure 3 is between the spindles
5 supporting the front right and front left
6 wheels?

7 MR. LUCHSINGER: Objection as to
8 form, foundation and scope.

9 THE WITNESS: I think attached all
10 your wheel positioning there. So restate the
11 question. Dana can read it if you need to.

12 BY MR. STEMLER:

13 Q. Is the pump housing and the impeller of
14 the manure pump shown in Figure 3 positioned
15 between the spindles supporting the front right
16 and front left wheels?

17 MR. LUCHSINGER: Same objections.

18 THE WITNESS: I guess all I know is
19 without doing further analysis is -- all I can
20 do is read -- what paragraph? Is it 58 that
21 you were referencing?

22 BY MR. STEMLER:

23 Q. I was asking if the pump housing and the
24 impeller of the manure pump is positioned
25 between the spindles supporting the front right

1 and front left wheels in Figure 3 of the
2 '708 patent?

3 MR. LUCHSINGER: Objection as to
4 form, foundation and scope.

5 THE WITNESS: So what document are
6 you referring to in this line of questioning
7 then?

8 BY MR. STEMLER:

9 Q. I suppose I'm referring to Exhibit 2099,
10 looking at your annotated picture of Figure 3
11 in paragraph 105.

12 MR. LUCHSINGER: Same objections.

13 THE WITNESS: Yeah, I guess the
14 space between -- I guess I'm a -- reading this
15 document, and I guess you could read that, but
16 I don't know if you're referencing the context
17 of the '708, are you referencing the context of
18 the 1091?

19 BY MR. STEMLER:

20 Q. Either. The context of the '708 patent.

21 MR. LUCHSINGER: Objection as to
22 form, foundation and scope.

23 THE WITNESS: So what part of the
24 wheel are you specifically referring to again?

25 BY MR. STEMLER:

1 Q. I'm referring to the spindles supporting
2 the front right and the front left wheels.

3 MR. LUCHSINGER: Same objections.

4 THE WITNESS: What I do know is that
5 the -- in Exhibit 2099 and the '708 patent is
6 that the pump is located -- shown in that
7 where it's the centerline of the vehicle. I
8 guess, like I said, this new exhibit, I don't
9 know the full context and the intent of these
10 new claims, so I cannot answer the question in
11 regards to Exhibit 1091.

12 BY MR. STEMLER:

13 Q. Without regard to the intent of the
14 claims, can you identify whether the pump
15 housing and the impeller of the manure pump
16 shown here in annotated Figure 3 is positioned
17 between the spindles supporting the front right
18 and the front left wheels?

19 MR. LUCHSINGER: Objection as to
20 form, foundation and scope.

21 THE WITNESS: Well, 58 talks about
22 them in context. So it's not -- it's
23 between -- it's not necessarily -- they're not
24 between the wheels individually. It's all four
25 together define the geographic location. So

1 you have to talk to them as in sets. And
2 you're breaking them apart versus a front and a
3 rear of the vehicle the way your question was,
4 I believe.

5 BY MR. STEMLER:

6 Q. How about without regard for claim 58,
7 is the pump housing an impeller of the manure
8 pump positioned between the spindles supporting
9 the front right and the front left wheels shown
10 in your annotated image of Figure 3?

11 MR. LUCHSINGER: Objection as to
12 form, foundation, scope, asked and answered.

13 THE WITNESS: The way it's depicted
14 in the vehicle in the image there it's in the
15 center of the vehicle, in the centerline of the
16 vehicle.

17 BY MR. STEMLER:

18 Q. Mr. Prairie, this is my opportunity to
19 ask questions about the opinions you've
20 provided in your report. I would appreciate
21 you --

22 MR. LUCHSINGER: So what opinion in
23 the report are you referring to?

24 MR. STEMLER: Brad, I'm referring to
25 his opinion regarding the term "between" as

1 used in claims 17, 21 and 23 of the
2 '708 patent.

3 MR. LUCHSINGER: Right. And those
4 claims don't talk about "between" in relation
5 to the spindles. So I don't see -- that's why
6 I'm objecting to the scope, because it doesn't
7 seem like you're asking for an opinion that
8 he's offered in connection with the
9 '708 patent.

10 MR. STEMLER: Brad, I think you're
11 as aware as I am that terms are supposed to be
12 construed consistently across patents in a
13 patent family and patent applications in a
14 patent family. Here we have the term "between"
15 appearing in both the '708 patent and this
16 application. I'm asking about Mr. Prairie's
17 understanding of the term "between" and how it
18 should be construed across this family of
19 patents.

20 MR. LUCHSINGER: He hasn't offered
21 opinions on the two pending applications that
22 you have offered into evidence as Exhibit -- or
23 as -- offered into deposition exhibits at
24 least, not evidence, Exhibits 1089 and 1091.
25 So I disagree --

1 MR. STEMLER: [Unintelligible].

2 MR. LUCHSINGER: I disagree that
3 it's -- you're asking about opinions that he's
4 actually offered -- that he's actually made in
5 his declarations that are subject to
6 cross-examination. But I understand -- you
7 know, I think we are just going to have to
8 agree to disagree with respect to that.

9 MR. STEMLER: Okay. Can I continue
10 asking Mr. Prairie my questions?

11 MR. LUCHSINGER: Of course.

12 BY MR. STEMLER:

13 Q. Mr. Prairie, as I was saying, this is my
14 opportunity to ask questions about your
15 opinions on claim construction. I'd appreciate
16 if you'd provide an answer to the question that
17 I asked. Does that make sense?

18 A. I am answering your question. Your
19 question is rather confusing.

20 Q. My question is: As shown here in your
21 annotated Figure 3, is the pump housing and the
22 impeller of the manure pump positioned between
23 the spindles supporting the front right and
24 front left wheels?

25 MR. LUCHSINGER: Objection as to

1 form, foundation, scope, asked and answered.

2 THE WITNESS: My declaration talked
3 about the space between the front and the rear
4 wheels where the buoyant element is positioned.
5 I'm not recalling a specific discussion about
6 the pump as in regards to your line of
7 questioning. I would say that based on the
8 depiction, the pump itself is in between the
9 buoyant elements, as shown in Figure 3.

10 BY MR. STEMLER:

11 Q. Okay. My question is whether the pump
12 and the -- specifically whether the pump
13 housing and impeller is positioned between the
14 front right and the front left spindle
15 supporting the wheels?

16 A. As I stated, I've not done a full --

17 MR. LUCHSINGER: Objection, form,
18 foundation and scope.

19 THE WITNESS: I talked about the
20 buoyant element's position relative to the
21 wheels. I need to go through and do a little
22 further assessment of the description of the
23 pump location to give you a little better
24 answer on that one, Taylor.

25 BY MR. STEMLER:

1 Q. Mr. Prairie, do you remember how you and
2 I were just discussing in the specification of
3 the '708 patent how the position of the buoyant
4 element is not specifically discussed in the
5 written text with regards to the front and the
6 rear wheel?

7 A. I don't recall at the time --

8 MR. LUCHSINGER: Objection as to
9 form.

10 Doug, just --

11 THE WITNESS: Yep, will do.

12 MR. LUCHSINGER: -- [unintelligible]
13 for a second.

14 THE WITNESS: There's a break
15 sometimes in the connection, so...

16 MR. STEMLER: Dana, would you mind
17 repeating my question?

18 (Whereupon, the court reporter read
19 back the previous question.)

20 MR. LUCHSINGER: Objection as to
21 form.

22 THE WITNESS: I remember the
23 discussion that we had about location of that,
24 but there's actually -- claim 15 of the
25 '708 patent specifically states, "The vehicle

1 of claim 14 wherein the buoyant elements
2 comprise a first buoyant element situated
3 between the first front wheel and the first
4 rear wheel and second buoyant element between
5 the second front wheel and the second rear
6 wheel." So that's -- claim 15 of the '708
7 patent does state that.

8 BY MR. STEMLER:

9 Q. Other than the claims of the
10 '708 patent, are you aware of any portion of
11 the specification of the '708 patent that
12 discusses the position of the buoyant element
13 with respect to the front and the rear wheels?

14 MR. LUCHSINGER: Objection as to
15 form.

16 THE WITNESS: Well, the Figure 3
17 that we're looking at is definitely part of the
18 patent, and it shows figuratively the location
19 that claim 15 describes.

20 BY MR. STEMLER:

21 Q. And so looking at Figure 3 of the
22 '708 patent, does that help you understand
23 whether the buoyant element is positioned
24 between the front and rear right-side wheels?

25 A. Well, isn't the whole purpose of figures

1 is to help understand the interpretation of the
2 patent?

3 Q. Right. So I'm asking you: Looking at
4 Figure 3, is the pump impeller and the pump
5 housing positioned between the spindles
6 supporting the front right and front left
7 wheels?

8 MR. LUCHSINGER: Objection as to
9 form, foundation and scope.

10 THE WITNESS: Just give me a little
11 bit. I need to reference the '708 patent just
12 to discuss exactly how it describes pump
13 location.

14 BY MR. STEMLER:

15 Q. Okay.

16 A. I guess the best description is the
17 location is shown, as shown in Figure 3.

18 Q. Okay.

19 A. And that it should be immersed
20 basically, that the key in the pump is that
21 it's immersed in a liquid manure while it's
22 floating during operation.

23 Q. Okay. My question is a little bit
24 different. I'm wondering if the pump housing
25 and the impeller of the manure pump shown in

1 Figure 3 are positioned between the spindles
2 supporting the front right and front left
3 wheels?

4 MR. LUCHSINGER: Objection as to
5 form, foundation, scope, asked and answered.

6 THE WITNESS: It's in between the
7 set of left wheels and the set of right wheels,
8 as shown in Figure 3.

9 BY MR. STEMLER:

10 Q. How about the front right and the front
11 left wheel?

12 MR. LUCHSINGER: Objection to form,
13 foundation and scope.

14 THE WITNESS: As shown in Figure 3,
15 it's configured to be between the set of the
16 left front wheels and the front right wheels.
17 That's how it's shown.

18 BY MR. STEMLER:

19 Q. I understand. What I'm asking is
20 whether the pump housing and the impeller are
21 positioned between the front right and the
22 front left wheel, not whether the pump housing
23 and the pump impeller are positioned between
24 the set of left, right and the set of left
25 wheels?

1 MR. LUCHSINGER: Objection to form.

2 THE WITNESS: I've not seen any
3 limitation within the '708 patent that
4 restricts that situation.

5 BY MR. STEMLER:

6 Q. What situation?

7 A. The situation that you just asked.

8 Q. Okay. So would you agree that, as shown
9 in Figure 3, the pump housing and the pump
10 impeller are positioned between the spindles
11 supporting the front right and the front left
12 wheels?

13 MR. LUCHSINGER: Objection as to
14 form, misstates prior testimony.

15 THE WITNESS: I'm saying as shown --
16 as shown -- so you keep referencing Figure 3.
17 And so as it's shown in Figure 3, it's in
18 between the set of wheels. I have not seen
19 anything in the claims that restricts its
20 location other than it must be immersed in
21 liquid manure.

22 BY MR. STEMLER:

23 Q. I'm not asking whether there's anything
24 in the claims that restrict the location of the
25 pump housing or the pump impeller, nor am I

1 asking if the pump housing and the pump
2 impeller are positioned between the right-side
3 wheels and the left-side wheels. I'm simply
4 asking whether the pump housing and the pump
5 impeller are positioned between the spindles
6 supporting the front right and the front left
7 wheels?

8 MR. LUCHSINGER: Objection as to
9 form.

10 BY MR. STEMLER:

11 Q. Can you answer that question, please?

12 MR. LUCHSINGER: Objection as to
13 form.

14 THE WITNESS: I can give you the
15 same answers. As shown in Figure 3, as shown
16 geometrically, as it's shown it's in between
17 the set of wheels that's on -- shown in
18 Figure 3. Now, from my interpretation of the
19 claims in the '708 patent, I'm not seeing a set
20 location exactly fore, aft, where it could or
21 could not be. So I'm answering your question
22 in the form of how it's figuratively shown in
23 Figure 3 because you keep referencing Figure 3.
24 So I'm answering your question in regards to a
25 figure that you're referencing yourself.

1 BY MR. STEMLER:

2 Q. Right. But you're merely stating that
3 the pump housing and the pump impeller are
4 positioned between the set of right wheels and
5 the set of left wheels. I'm not asking that.
6 I'm asking whether the pump housing and the
7 pump impeller are positioned between the
8 spindles supporting the front right and the
9 front left wheels, not the set of wheels on
10 either side?

11 MR. LUCHSINGER: Objection as to
12 form.

13 THE WITNESS: And I'll answer
14 my [sic] question the same. As it's shown in
15 Figure 3, it's in between the set of left
16 wheels and the set of right wheels. But,
17 again, if you wish to relocate it figuratively,
18 you could do so.

19 BY MR. STEMLER:

20 Q. I do not wish to relocate it
21 figuratively. I'm asking: As it's shown here
22 in Figure 3, is it -- is the pump housing and
23 the pump impeller positioned between the
24 spindles supporting the front right wheel and
25 the front left wheel? You're not answering

1 that question. You're merely describing how
2 the pump housing and the pump impeller are
3 positioned with respect to the set of right
4 wheels and the set of left wheels.

5 MR. LUCHSINGER: Objection as to
6 form, asked and answered.

7 THE WITNESS: You keep referencing
8 Figure 3. You are asking me location of that
9 pump. I am describing the pump location
10 relative to the wheels. You choose to have an
11 alternate description of it that you want me to
12 agree to your statement. I am describing what
13 I see on the screen in Figure 3 and referencing
14 the set of wheels that's in between the space
15 of the set of wheels.

16 BY MR. STEMLER:

17 Q. I'm not asking you to agree with my
18 statement. I'm asking you to provide an answer
19 to my question, yes or no. Is the pump housing
20 and the -- is the pump housing and the pump
21 impeller shown here in Figure 3 positioned
22 between the front right wheel and the front --
23 positioned between the spindles supporting the
24 front right wheel and the front left wheel?
25 Please answer my question yes or no.

1 MR. LUCHSINGER: I don't understand
2 your question. You're saying -- you're not
3 asking the witness to agree with your
4 statement, but you're requiring a yes-or-no
5 answer following a statement?

6 MR. STEMLER: That's correct.

7 MR. LUCHSINGER: Okay. Objection to
8 form, asked and answered.

9 THE WITNESS: The Figure 3 is -- as
10 it's shown, it's in the center of the
11 vehicle -- roughly about the centerline of the
12 vehicle is where it's shown in Figure 3.

13 BY MR. STEMLER:

14 Q. That's your final answer to my question?

15 A. Well, there's nothing in the -- from
16 what I can gather, it doesn't restrict location
17 of it, it's just that as it's shown. So it
18 talks about vertical position of the pump, the
19 '708, but I'm just describing the figure that
20 you keep referencing.

21 Q. I'm not asking --

22 A. [Unintelligible].

23 Q. Mr. Prairie, I'm not asking you to
24 describe the figure. I'm asking you to answer
25 my question, please.

1 MR. LUCHSINGER: Objection as to
2 form.

3 THE WITNESS: Well, isn't describing
4 the figure answering your question?

5 BY MR. STEMLER:

6 Q. No. Describing the figure is not
7 answering the question. I'm asking you if it's
8 positioned -- if the pump housing and the pump
9 impeller is positioned between the spindles
10 supporting the front right wheel and the front
11 left wheel? You're merely stating that the
12 pump housing and pump impeller is positioned
13 between the right-side wheels and the left-side
14 wheels.

15 MR. LUCHSINGER: Objection as to
16 form.

17 THE WITNESS: That's how I see it in
18 the image. That's how I would describe its
19 location.

20 BY MR. STEMLER:

21 Q. Would you describe its location as being
22 between the spindles supporting the front right
23 wheel and the front left wheel?

24 MR. LUCHSINGER: Objection as to
25 form, asked and answered.

1 THE WITNESS: I would describe its
2 location as I've already stated to you multiple
3 times. Apparently you choose to describe it
4 elsewhere, a different format. I choose to
5 describe it the way I did. So that's what I'm
6 answering my question as, is its position.
7 On -- within Figure 3, that's how I would
8 describe its position.

9 BY MR. STEMLER:

10 Q. Mr. Prairie, I'm merely asking you
11 whether you'd agree with this description or
12 not. Is the pump housing -- if I were to say
13 the pump housing shown here in Figure 3 and the
14 pump impeller is positioned between the
15 front -- the spindles supporting the front
16 right wheel and the front left wheel, would you
17 agree or disagree with that statement?

18 MR. LUCHSINGER: Objection as to
19 form, foundation and scope.

20 THE WITNESS: You want to keep going
21 at this, Taylor? I'll keep giving you the same
22 answer. You keep asking the same question,
23 I'll give you the same answer.

24 BY MR. STEMLER:

25 Q. I'm asking if you would agree or

1 disagree with that statement?

2 MR. LUCHSINGER: Objection to form,
3 asked and answered.

4 THE WITNESS: You're asking me to
5 describe the pump location different than I
6 described it. I'm describing its pump location
7 relative to the wheels. You choose -- again, I
8 keep telling you you choose to choose an
9 alternate description, and you're trying to put
10 words in my mouth, and I don't appreciate that.
11 I am describing the pump location to you, and
12 you seem to be un-accepting of that
13 description.

14 BY MR. STEMLER:

15 Q. Mr. Prairie, I'm not asking to put words
16 in your mouth. I'm merely asking for a
17 yes-or-no answer to my question. Yes or no --
18 I mean, I guess I'm not going to answer [sic]
19 it again because it doesn't seem like you're
20 going to cooperate and answer the question, so
21 we can move on.

22 (Exhibit Number 1092 marked for
23 identification.)

24 BY MR. STEMLER:

25 Q. Mr. Prairie, I've introduced an exhibit,

1 1092.

2 Do you see that exhibit?

3 A. Hit refresh here.

4 Q. I'm sharing the exhibit on my screen.

5 Do you see that, Mr. Prairie?

6 A. Yes, I see Exhibit 1092 on the screen.

7 Q. Okay. Is it showing up for you in
8 Exhibit Share?

9 A. Yes, I have it there as well.

10 Q. Okay. Have you seen this document
11 before?

12 A. (Views document.) Once again, this
13 looks like another new document that I've not
14 provided an opinion on.

15 Q. Okay. I'll represent to you that this
16 is the patent owner, Nuhn Industries,
17 Conditional Motion to Amend that's been filed
18 in connection with the '835 patent in the '835
19 patent IPR. Have you seen this document
20 before?

21 A. As I stated, no, I've not seen
22 Exhibit 1092.

23 Q. Okay.

24 MR. LUCHSINGER: Well, I mean, look,
25 this was filed in the '835 IPR, so a different

1 one than the IPR, you know, where this
2 deposition's being held on today. You know, I
3 think your question is a bit misleading in the
4 sense that the witness isn't looking at his
5 declarations that were submitted in connection
6 with the '835 IPR and petitioner, you know,
7 waived its right to take his deposition in the
8 '835 IPR. So I think sort of the manner in
9 which this is being presented is misleading.
10 So -- and with that sort of explanation or
11 context, I have a standing objection based on
12 scope. Because like I said, if you wanted to
13 take his deposition in connection with the
14 motion to amend the '835 IPR, you waived the
15 right to do that.

16 MR. STEMLER: Okay.

17 BY MR. STEMLER:

18 Q. Mr. Prairie, I'm going to scroll down to
19 the claims that are included at the end of this
20 document. The first claim I'd like to discuss
21 is on page 28.

22 A. Can you give me a little -- I don't even
23 know what this document is, so -- I mean --

24 Q. Yeah. Mr. Prairie, this document is
25 Nuhn's Conditional Motion to Amend the '835

1 patent claims.

2 A. Okay.

3 Q. I believe you wrote a declaration in
4 which you opined on the validity of these
5 claims in connection with the '835 patent IPR.

6 A. Yeah, I didn't. I saw the '835 after
7 you were talking there. That was not something
8 I prepped for for today.

9 Q. Okay. Do you see substitute claim 43 on
10 the screen here?

11 A. Can you zoom in on that, or I'll take
12 one to mine.

13 Q. Yes. Yeah, I can zoom in.

14 A. Okay. I see claim -- or I see
15 paragraph 43, whatever -- if that's a claim or
16 a paragraph. I'm not sure what that is.

17 Q. It's substitute claim 43.

18 A. Okay.

19 Q. Can you please read claim -- substitute
20 claim 43?

21 A. Yeah. Let me read it on my end just so
22 I understand its context. What page is that
23 on?

24 Q. This is on page 28. And I'm referring
25 to the page number that's included on the

1 document.

2 A. Okay. So you wish me to read paragraph
3 or claim 43 there?

4 Q. I do.

5 A. All right. "(Substitute for claim 3, if
6 found unpatentable) the vehicle according to
7 claim 41, wherein the power source is
8 configured to provide hydraulic fluid power to
9 both the ground engaging propulsion structure
10 and the liquid manure mover and wherein the
11 hydraulic pump is positioned between the power
12 source and the immersible liquid manure pump of
13 the liquid manure mover."

14 Q. Do you understand that the '835 patent
15 has the same patent figures as the '708 patent?

16 A. Possibly. I don't remember every detail
17 and figure, but I know that they were --
18 there's definitely similarities between them.

19 Q. Are you aware that the '708 patent is a
20 continuation of the '835 patent?

21 A. I remember there was a connection. I
22 can't remember the connection, the direct
23 connection, legal connection between '708 and
24 '835 at this point in time.

25 Q. I will represent to you that the

1 '708 patent is a continuation of the '835
2 patent and includes the same figures as the
3 '835 patent. Does that make sense?

4 A. Yes.

5 Q. I'm going to pull up the '708 patent and
6 refer to a couple of figures included there.
7 Do you see my screen? I'm showing Figure 7 of
8 the '708 patent on the left side, which is
9 Exhibit 1001. And I'm showing substitute
10 claim 43 on the right side of Exhibit 1092.

11 A. Okay. Figure 7, and then your right
12 side is 1092?

13 Q. Yep. Do you see that?

14 A. I see Figure 7.

15 Q. Okay. Do you see claim 43?

16 A. Yes, I do.

17 Q. Do you see where claim 43 recites a
18 hydraulic pump?

19 A. Yes. The term "hydraulic pump" or
20 hydraulic -- yeah, the hydraulic pump -- yes,
21 there's a -- the term "hydraulic pump" is
22 utilized in that claim.

23 Q. Can you identify for me on Figure 7
24 where that hydraulic pump is located?

25 A. Figure 7 I don't believe depicts that

1 hydraulic pump that it's referencing there.

2 Q. Okay.

3 A. I don't remember all the -- because
4 there's -- there's for [unintelligible] words,
5 hydraulic pump, I don't remember if hydraulic
6 pump had a specific in that -- this document.
7 Is it identified as a number? There's a
8 slurry.

9 Q. Could you read paragraph -- I'm sorry,
10 column 7, lines 9 through 19 for me, please, of
11 Exhibit 1001?

12 A. Well, Exhibit 1092 is showing an
13 alternate embodiment of it, of what it could
14 be, I believe. I don't remember the details.
15 As I said, I didn't prep on that for today's
16 discussion.

17 Q. Okay. Could you please read for me
18 column 7, lines 9 through 19 of Exhibit 1001?

19 A. So column 7 and where -- which line?

20 Q. Lines 9 through 19.

21 A. All right. In reading of the
22 '708 patent, column 7, starting on line 9,
23 "Referring to Figure 7, the power source 7
24 comprises an internal combustion engine
25 connected to a mechanical drive 8 that delivers

1 power to the pump 9 (not shown in Figure 7) and
2 also to the hydraulic pump 10 that is used to
3 provide hydraulic fluid pressure to the
4 vehicle's hydraulic systems. A transmission is
5 provided within the mechanical drive 8 that
6 allows the rotational speed of the fluid pump 9
7 to be adjusted independently of the rotational
8 speed of the hydraulic pump -- of the
9 hydrostatic [sic] pump 10. The power source 7
10 is thus mechanically connected to both the
11 fluid pump 9 and the hydraulic pump 10."

12 Q. Okay. Referring back to the figures,
13 I'll turn first to -- I'll turn to Figure 7
14 again. Can you identify for me on this figure
15 where the hydraulic pump would be located?

16 MR. LUCHSINGER: Objection as to
17 form.

18 THE WITNESS: Again, what -- the
19 document you're showing me is an alternate
20 embodiment describing how it could be
21 configured.

22 BY MR. STEMLER:

23 Q. I'm referring to Figure 7 of the
24 '708 patent. The passage that you just read
25 describes Figure 7 of the '708 patent. I'm

1 asking you to identify the hydraulic pump in
2 Figure 7, please.

3 MR. LUCHSINGER: Objection as to
4 form.

5 THE WITNESS: In Figure 7, the
6 hydraulic pump there in that particular picture
7 is pictured at the end. It's a small gear --
8 it's a gear pump that's pictured in that
9 depiction, that version of the embodiment.

10 BY MR. STEMLER:

11 Q. Okay. Can you identify for me in
12 Figure 7 where the power source is?

13 A. Item 7 is the power source, as shown in
14 Figure 7 and referenced.

15 Q. Can you identify for me where the
16 immersible liquid manure pump is in Figure 7?

17 MR. LUCHSINGER: Objection as to
18 form.

19 THE WITNESS: It's not depicted in
20 that picture.

21 BY MR. STEMLER:

22 Q. Can you see any portion of it in this
23 picture?

24 A. It's below the -- it's below the housing
25 there. It's shielded.

1 Q. Shielded in this portion that includes
2 this kind of V-shaped bars?

3 MR. LUCHSINGER: Objection as to
4 form.

5 THE WITNESS: As I said, the pump is
6 not depicted in that image.

7 BY MR. STEMLER:

8 Q. Are you able to see any portion of the
9 pump in this image?

10 MR. LUCHSINGER: Objection as to
11 form.

12 THE WITNESS: Figure 8 has the pump
13 depicted.

14 BY MR. STEMLER:

15 Q. Okay. Are you able to see any portion
16 of the pump in Figure 7?

17 MR. LUCHSINGER: Objection as to
18 form.

19 THE WITNESS: It is not specifically
20 called out with an item in Figure 7.

21 BY MR. STEMLER:

22 Q. I understand that. Are you able to see
23 any portion of the liquid manure pump in
24 Figure 7, though?

25 MR. LUCHSINGER: Objection as to

1 form.

2 THE WITNESS: It's a 3D rendering.
3 There's some shielding there. I can't fully
4 identify what's beyond the shielding.

5 BY MR. STEMLER:

6 Q. Are you able to agree with me that
7 portions of the pump are visible through the
8 shielding in Figure 7?

9 MR. LUCHSINGER: Objection as to
10 form.

11 THE WITNESS: I can see the pump in
12 Figure 8.

13 BY MR. STEMLER:

14 Q. But in Figure 7 can you see any portion
15 of the pump?

16 MR. LUCHSINGER: Objection as to
17 form, asked and answered.

18 THE WITNESS: There's potentially
19 line elements in there. It's not clear. So I
20 cannot say with definity [sic] what I'm -- the
21 line elements that are behind the shielding.
22 But I can say in Figure 8 -- Figure 8 is the
23 depiction that shows -- that talks about the
24 pump and its components.

25 BY MR. STEMLER:

1 Q. If I were to represent to you that those
2 line elements viewable through the shielding
3 are the same line elements depicted in Figure 8
4 and identified with reference number 34 in
5 Figure 8, would you be able to understand that?

6 MR. LUCHSINGER: Objection as to
7 form.

8 THE WITNESS: Like I said -- I mean,
9 Figure 7 is not meant to show the pump.
10 Figure 8 is. If you have specific pump
11 questions, there's items called out in here, we
12 can reference those. But Figure 7 has
13 shielding in it. It does not specifically call
14 the -- call out the pump, the manure pump,
15 liquid manure pump.

16 BY MR. STEMLER:

17 Q. Are you, as an expert, able to look at
18 Figure 7 and identify which portions of
19 Figure 7 depict the liquid manure pump?

20 MR. LUCHSINGER: Objection as to
21 form.

22 THE WITNESS: Like I said,
23 Figure 7's intent is talking about the power
24 unit. Figure 8's intent is to show about the
25 liquid manure pump and its components.

1 BY MR. STEMLER:

2 Q. Without referring to the intent of the
3 figures, are you able to give an opinion on
4 whether any portion of the liquid manure pump
5 is shown in Figure 7?

6 MR. LUCHSINGER: Objection as to
7 form.

8 THE WITNESS: I mean, part of the
9 discharge pipe is. You can see that. So
10 item 20 is all about, I believe -- what's
11 item 20 referred to as? That's part of the
12 fluid conduits. So the single-fluid conduit is
13 20, which is shown. So that's definitely
14 connected to the pump --

15 BY MR. STEMLER:

16 Q. Okay.

17 A. -- liquid manure pump.

18 Q. So understanding that item 20 is
19 connected to the liquid manure pump, would you
20 agree with me that it's reasonable to conclude
21 that the liquid manure pump is this portion --
22 is this component that's shown below item 20
23 that you identified as being partially shielded
24 by the housing?

25 MR. LUCHSINGER: Objection to form.

1 THE WITNESS: Well, what you just
2 pointed to appears to be -- it's the fluid
3 conduits is -- what you're referring to the
4 pump appears to be fluid conduits that you just
5 pointed to.

6 BY MR. STEMLER:

7 Q. The three tangential fluid conduits?

8 MR. LUCHSINGER: Objection as to
9 form.

10 THE WITNESS: No. It says the --
11 all fluid -- so 20 to 22. So it's a
12 continuation of 20. So 20 is pointed in
13 Figure 7. That goes below that surface. And
14 20 is called a single-fluid conduit. It's then
15 split into the left side and right side of 22.
16 So I don't know if -- is that called out in
17 Figure 8? Where is 22 called out at?

18 BY MR. STEMLER:

19 Q. I don't think 22 is called out anywhere.
20 I think 22 refers to the fluid conduits that
21 route fluid to the nozzles.

22 MR. LUCHSINGER: Objection to form,
23 if that's a question.

24 THE WITNESS: I guess I'm answering
25 your question and stating that what I interpret

1 as is 20, as you put on there as what you
2 pointed your cursor to, was as part of --
3 connected to 20.

4 BY MR. STEMLER:

5 Q. Okay. Do you see reference number 20 in
6 Figure 8?

7 A. Yes, in Figure 8 I see reference 20.

8 Q. Okay. Comparing Figure 7 to Figure 8,
9 would you agree with me that the liquid manure
10 pump would be shown in Figure 7 as the
11 partially obstructed component below the
12 conduit labeled 20?

13 MR. LUCHSINGER: Objection as to
14 form.

15 THE WITNESS: Figure 7 is a partial
16 view. It doesn't show you the whole vehicle.
17 So I'm telling you what I'm seeing, and you
18 always seem to be unhappy with what I say. So
19 20 is the conduit that goes below the surface,
20 and that's what I'm seeing.

21 MR. LUCHSINGER: I'm confused. Are
22 you referring -- can we go by the reference
23 numbers here? Are you referring to element 34?

24 BY MR. STEMLER:

25 Q. Mr. Prairie, I'm pointing to reference

1 number 20 in Figure 8.

2 A. Okay.

3 Q. And I'm pointing to number 20 in
4 Figure 7.

5 A. Okay.

6 Q. Would you agree those are the same
7 components?

8 A. Yeah. They're both labeled 20. And the
9 body -- or the patent describes 20 as a single
10 pipe.

11 Q. Okay. And would you agree with me that
12 Figure 7 is a top perspective view of the
13 vehicle?

14 MR. LUCHSINGER: Objection as to
15 form.

16 THE WITNESS: I would refer to it as
17 an isometric view, not a top view.

18 BY MR. STEMLER:

19 Q. Okay. Would it be a top isometric view
20 of the vehicle?

21 MR. LUCHSINGER: Objection as to
22 form.

23 THE WITNESS: It's an isometric
24 view. I did -- sorry, sir. I did graphics for
25 20 years. So you're out of place in your

1 description. So that's an isometric view.

2 BY MR. STEMLER:

3 Q. My apologies. Mr. Prairie, would you
4 agree with me that the pump which is labeled
5 with reference number 9 in Figure 8 would be
6 below that component that's labeled with
7 reference number 20 in Figure 7?

8 A. Which component are you saying is below?

9 Q. The fluid pump, which is identified by
10 reference number 9 in Figure 8.

11 A. Restate your question because you
12 changed up your line of questioning there. You
13 were talking about 20 pipe and now you're
14 introducing item number 9. So please rephrase
15 your question so I can get clear context as to
16 your relative positioning here.

17 Q. Okay. I'm representing to you that the
18 fluid pump is identified with reference
19 number 9 in Figure 8. Do you understand that?

20 A. Yes, the fluid pump is number 9, as
21 depicted in Figure 8.

22 Q. Okay. Do you agree with me that that
23 fluid pump appears to be located below that
24 component that's labeled with reference
25 number 20 in Figure 8?

1 A. Well, 20 is a vertical component, so I
2 don't know if it has a top and a bottom, as
3 you're referencing. So it's part of the pipe
4 system that connects to the pump.

5 Q. Okay. I believe 20 is identified as a
6 single-fluid conduit. So looking at Figure 8,
7 do you agree with me that the fluid pump 9 is
8 below the single-fluid conduit 20?

9 A. 20 looks like it's connected to item 34.
10 And then 33 is -- let's see. Specifically, 33
11 is -- via flexible -- so 33 is flexible pump
12 outlet conduits to a combiner 34. So
13 referencing -- so column 7 of the '708 patent
14 starting on line 20 referencing to Figure 8 the
15 fluid pump "...the fluid pump 9 comprises a
16 pump housing 18 comprising three tangential
17 fluid outlets 19 that are connected via
18 flexible pump outlet conduits 33 to a combiner
19 34 that is used to combine the fluid output of
20 the tangential fluid outlets 19 into the single
21 conduit 20."

22 Q. Is that your answer to my question?

23 A. So the pump and its relative plumbing is
24 below item 20.

25 Q. Okay. So understanding that the pump is

1 below item 20, looking now at Figure 7, I
2 believe we've now identified where each of the
3 components recited in claim 43 of Exhibit 1092
4 are located. Can you describe to me whether
5 the hydraulic pump 10 is located in between the
6 liquid manure pump or fluid pump 9 and the
7 power source 10?

8 MR. LUCHSINGER: Objection as to
9 form, foundation and scope.

10 THE WITNESS: 43 is describing an
11 alternate configuration, whereas in the -- it's
12 not mechanically driven. It's hydraulic. The
13 pump is hydraulically driven by a hydrostatic
14 drivetrain versus a mechanical drivetrain.

15 BY MR. STEMLER:

16 Q. Okay. Would you agree that the
17 hydraulic pump 10 is in between the fluid
18 pump 9 and the power source 7?

19 MR. LUCHSINGER: Objection as to
20 form, foundation and scope.

21 THE WITNESS: So which hydraulic
22 pump are you referring to?

23 BY MR. STEMLER:

24 Q. I'm referring to the only hydraulic pump
25 that appears to be shown in Figure 7.

1 MR. LUCHSINGER: Same objections.

2 THE WITNESS: Hydraulic pump 10 is
3 an auxiliary hydraulic pump in this
4 configuration.

5 BY MR. STEMLER:

6 Q. Why do you say that?

7 A. Well, it doesn't -- so does claim 43
8 identify that same pump? I don't -- like I
9 said, I don't recall the details of
10 Exhibit 1092 on that patent on if they're
11 describing the same pump or a different pump,
12 describe that in an alternate embodiment. Is
13 there additional figures in there or labels?

14 Q. Not that I understand. Are you aware of
15 any additional figures or labels that would
16 describe that alternate embodiment?

17 MR. LUCHSINGER: Objection as to
18 form, foundation and scope.

19 THE WITNESS: As I said, today is
20 about the '708. You're referencing the 40 --
21 claim 403 out of a different -- that's outside
22 of today's scope. So I'm not prepped on all
23 those for today. I don't remember all those
24 details. We can pull up the '835 -- I don't
25 believe we can do that. That's outside the

1 scope of today's stuff, but --

2 BY MR. STEMLER:

3 Q. We can do that. The '835 patent is
4 considered intrinsic evidence to the claims of
5 the '708 patent. Did you consider the
6 substitute claims here in Exhibit 1092 when
7 developing your opinions on the meaning of the
8 claim term "between" as used in claim 17, 21
9 and 23 of the '708 patent?

10 MR. LUCHSINGER: Objection as to
11 form.

12 THE WITNESS: You're switching back
13 and forth between multiple references, Taylor.
14 You need to be more specific on which
15 references you're referring to.

16 BY MR. STEMLER:

17 Q. Did you consider Exhibit 1092, the
18 substitute claims of the '835 patent, when
19 developing your opinions on the meaning of the
20 term "between" as used in the claims of the
21 '708 patent?

22 A. Well, 1092 is not referenced in my '708
23 declaration.

24 Q. So is that a no?

25 A. It's not cited in here. So in

1 particular on the '708, the document that you
2 have there is outside of the scope of what I've
3 discussed in the '708. It's not referenced in
4 here.

5 Q. Okay.

6 MR. STEMLER: I'd like to take a
7 short break. Can we go off the record?

8 MR. LUCHSINGER: Yep.

9 THE VIDEOGRAPHER: We are going off
10 the record the record.

11 The time now is 2:07 p.m.

12 (Off the record 2:07 to 2:16.)

13 THE VIDEOGRAPHER: We are going back
14 on the record.

15 The time now is 2:16 p.m.

16 This is the beginning of Media Unit
17 number 5.

18 BY MR. STEMLER:

19 Q. Mr. Prairie, I'm showing you Figure 2 of
20 Exhibit 1001. Do you see this exhibit on the
21 screen?

22 A. Yes, I do, Taylor.

23 Q. Do you see where the hydraulic pump is
24 identified in this figure?

25 A. Hydraulic pump is labeled as 10.

1 Q. Do you see where the power source is
2 identified in this figure?

3 A. Power source is labeled as item
4 number 7.

5 Q. And I know we just had a rather lengthy
6 exchange about where the liquid manure pump is
7 located. And I believe we ultimately concluded
8 that everybody agreed the liquid manure pump
9 was below the conduit 20 identified here in
10 Figure 2, is that right?

11 A. Yeah. Item 20 protrudes below the
12 surface and ultimately through other conduits
13 connects to the pump below that area.

14 Q. Okay. In your opinion, is the hydraulic
15 pump 10 positioned between the fluid pump and
16 the power source 7, as shown here in Figure 2?

17 MR. LUCHSINGER: Objection as to
18 form, foundation and scope.

19 THE WITNESS: Item number 10 is
20 attached to the overall driveline, which is
21 connect -- the driveline ultimately connects
22 the -- I guess the driveline connects item 7 to
23 the pump ultimately.

24 BY MR. STEMLER:

25 Q. Is that your answer to my question?

1 A. I don't remember exactly position-wise
2 where the pump is below that item number 10. I
3 just know item number 10 is attached to the
4 driveline of the pump drive shaft system.

5 Q. So understanding that the pump is
6 positioned below the conduit 20, not talking
7 about the driveline but talking specifically
8 about the hydraulic pump 10, would you
9 understand that hydraulic pump 10 to be
10 positioned between the fluid pump and the power
11 source 7?

12 MR. LUCHSINGER: Objection as to
13 form, foundation, scope, asked and answered.

14 THE WITNESS: Like I said, that
15 there is a mechanical driveline in this
16 depiction of Figure 2 that connects item 7, the
17 engine, to the pump, and item 10 is connected
18 to that system, and that system is in
19 between -- that overall system is in between
20 the pump and the engine.

21 BY MR. STEMLER:

22 Q. Is the hydraulic pump 10 between the
23 pump and the engine?

24 MR. LUCHSINGER: Same objections.

25 THE WITNESS: Item 10 is part of the

1 driveline subsystem, and it is in between
2 item 7 and the pump.

3 BY MR. STEMLER:

4 Q. Okay. With reference to this figure, is
5 the buoyant element 2 positioned between the
6 wheels 3 and 4?

7 A. So we are on Figure 2 here.

8 Q. Mr. Prairie, would you mind identifying
9 for the record which document you're
10 referencing?

11 A. Yeah. I'm looking at the '708 patent,
12 which is Exhibit 1001, the same one that you
13 have on your screen.

14 Q. Okay.

15 A. And it's easier than scrolling back and
16 forth with yours.

17 Q. Sure.

18 A. So the items -- so vehicle body -- so in
19 Figure 2 the vehicle body is 1. Buoyant
20 element is figure -- is item number 2 in this
21 figure. There is -- 3 and 4 is -- 3 is a
22 wheel. 4 is the wheel. And ultimately -- so
23 quoting claim 15 of the '708 patent, "The
24 vehicle of claim 14 wherein the buoyant
25 elements comprise a first buoyant element

1 situated between the first front wheel and the
2 first rear wheel and a second buoyant element
3 between the second front wheel and the second
4 rear wheel." So in this particular figure as
5 shown, item number 2, which is the buoyant
6 element described in claim 15, is in between
7 wheel 1 and wheel 4. Sorry. Wheel 3 and
8 wheel 4.

9 Q. Okay. Scrolling up to Figure 1. Is the
10 buoyant element 2 -- strike that.

11 Moving to Figure 1. Figure 1 shows the
12 vehicle in what appears to be a raised
13 configuration. Is buoyant element 2 still
14 positioned in between wheels 3 and 4?

15 MR. LUCHSINGER: Objection as to
16 form.

17 THE WITNESS: I am not aware of any
18 construction in the '708 patent that restricts
19 that for that -- what I described from claim 15
20 that restricts it regardless of wheels lowered
21 or raised, that restricts that -- that
22 compromises that statement or restricts that
23 statement.

24 BY MR. STEMLER:

25 Q. And so the embodiments shown in Figure 1

1 would still be consistent with that statement?

2 A. I'm not aware of any restrictions that
3 state that Figure 1 does not -- claim 15 does
4 not apply to both Figure 1 and the other
5 figures.

6 Q. When you look at what's pictured here in
7 Figure 1, do you understand that what's shown
8 here meets the limitations of claim 15?

9 A. Well, claim 15 talks about the buoyant
10 elements comprise -- are situated between the
11 front and the rear wheel on the same side of
12 the vehicle, and buoyant element 2 is situated
13 in between wheels 3 and 4.

14 Q. Is buoyant element 2 situated between
15 wheels 3 and 4 in Figure 1?

16 A. I'm not aware of any restriction within
17 the '708 patent that talks about that space
18 being different between the front and the rear
19 wheel whether it's in a raised or lowered
20 configuration.

21 Q. Okay. If this vehicle were to be
22 configured such that it could be raised even
23 higher above the -- strike that.

24 If the vehicle depicted in Figure 1 were
25 capable of having the floatable vehicle body 1

1 being raised even higher above the wheels 3
2 and 4, would you understand the floatable
3 element 2 to still be situated in the space
4 between wheels 3 and 4?

5 MR. LUCHSINGER: Objection as to
6 form, incomplete hypothetical.

7 THE WITNESS: I don't recall
8 anything in the '708 that talks about
9 restrictions of specific geometry around your
10 question. So in terms of the claim, as I read
11 it, it's that space in between. And to me,
12 that buoyant element 2 as depicted here
13 fulfills that criteria that's described in
14 claim 15.

15 BY MR. STEMLER:

16 Q. Okay. I'm going to pull up another
17 exhibit.

18 MR. STEMLER: Can we go off the
19 record briefly?

20 MR. LUCHSINGER: Yeah.

21 THE VIDEOGRAPHER: We are going off
22 the record.

23 The time now is 2:29 p.m.

24 (Off the record 2:29 to 2:30.)

25 THE VIDEOGRAPHER: We are going back

1 on the record.

2 The time now is 2:30 p.m.

3 BY MR. STEMLER:

4 Q. Dr. Prairie, I've just introduced
5 Exhibit 1012 into Exhibit Share and I'm sharing
6 it now on my screen. Do you see Exhibit 1012
7 here?

8 A. (Views document.) Yes, I see
9 Exhibit 1012 on the screen and the reference.

10 Q. You understand that there is a tracked
11 version and a wheeled version -- I'm sorry.
12 Strike that.

13 Dr. Prairie, have you seen this exhibit
14 before?

15 A. This Exhibit 1012, yes. This is the
16 Senwatec vehicle.

17 Q. Are you aware of a wheeled version of
18 the Senwatec vehicle?

19 A. Yes, I'm aware that there's a wheeled
20 version of that, a multi-wheel version of
21 this -- of that vehicle as is shown on the
22 screen too.

23 Q. How many wheels do you understand that
24 to have?

25 A. As shown in the image, it says six

1 wheels.

2 Q. Can you describe to me where those
3 wheels are located on the vehicle?

4 A. They are located -- they are -- as the
5 vehicle drives forward and reverse, they are on
6 the outward -- I guess, outboard lower side of
7 the vehicle on the left and right side.

8 Q. How many wheels do you understand there
9 to be on each side of the vehicle?

10 A. If I understand if it's six, that
11 usually means that they're typically
12 symmetrical and there'd be three on each side.

13 Q. And would that include a front and back
14 and middle wheel on each side?

15 A. This reference doesn't fully show it. I
16 believe there's another reference that showed
17 an -- I don't know if it's exact in the center.
18 But yeah, there's a front wheel, a rear wheel
19 and at least one wheel in parallel with that
20 set of wheels.

21 Q. Would you understand that that third
22 wheel -- would you understand that third wheel
23 to be in between the front wheel and the back
24 wheel on either side of the vehicle?

25 A. Yeah, I would say that they're in

1 between. It's in line or in between the front
2 and the rear wheel.

3 Q. Okay. I'm going to pull up another
4 exhibit. This one we've already referenced
5 before. It's Exhibit 1086. Do you see this
6 reference?

7 A. (Views document.) Yeah, I see 1086
8 again on the screen.

9 Q. Are you willing to answer questions
10 about the arrangement of components shown here
11 in Figure 7?

12 A. Yes, as long as you give me some time to
13 read through Exhibit 1086 to understand its
14 context.

15 Q. Okay. How much time do you expect
16 you'll need to do that?

17 MR. LUCHSINGER: Objection, form.

18 THE WITNESS: Based on the last
19 times you've asked, I'm not familiar with that.
20 I don't know how long it is. I'll have to look
21 through. I don't know. I don't know the
22 extensive nature of this document.

23 BY MR. STEMLER:

24 Q. Okay. How about you go ahead and review
25 this document and let me know when you think

1 you're comfortable answering whether or not
2 this brace shown here as 36b is positioned in
3 between the central member 34 and the upright
4 structural member 34?

5 A. Okay.

6 MR. STEMLER: And just for the
7 record, I want to note that the time is 2:36
8 here, Central Time.

9 THE WITNESS: Just to note, I'm
10 going to write down your numbers you're
11 referring to. So you're talking about
12 elements. I just want to familiarize myself
13 with elements 36a and b.

14 BY MR. STEMLER:

15 Q. Yep.

16 A. And what other elements?

17 Q. 24.

18 A. 24.

19 Q. And 34.

20 A. And 34. Okay. (Views document.) I'll
21 attempt to answer your question with regards to
22 those elements that you talked about.

23 Q. Okay.

24 MR. STEMLER: And for the record,
25 the time is 2:41.

1 BY MR. STEMLER:

2 Q. Mr. Prairie, do you understand the
3 braces 36a and 36b to be located in the space
4 that separates the structural member 34 and the
5 center member 24?

6 MR. LUCHSINGER: Objection as to
7 form, foundation.

8 THE WITNESS: In reading through the
9 1086 patent [sic] I more focused on those
10 elements, generally what it was. The general
11 structure appears to be a tractor or a
12 three-point-type structure that attaches to a
13 tractor three-point hitch system and has
14 structural elements that ultimately support its
15 hose reel or tool carrier. Now, the figure in
16 Figure 7, it's a little bit tough to identify
17 24, but there's -- you know, what I understand
18 is that I can confirm that item 36 and item
19 number 34 are structural elements. That I did
20 capture.

21 BY MR. STEMLER:

22 Q. Okay. Can you capture from looking at
23 Figure 7 whether the braces 36a and 36b would
24 be located in the space that separates the
25 center beam 24 and the structural member 34,

1 though?

2 MR. LUCHSINGER: Objection as to
3 form and foundation.

4 THE WITNESS: They are described as
5 structural elements. I don't have an
6 engineering drawing, but it appears that
7 there's -- probably welded, for sure to
8 vertical column 34, whatever it's described as.
9 I can't tell 24, what goes on behind the
10 scenes. I see 24 is identified, but it's
11 pretty tough to see exactly what 24 is beyond a
12 couple rough lines.

13 BY MR. STEMLER:

14 Q. Is it your opinion that the braces 36a
15 and 36b are located in between the structural
16 member 34 and the center member 24?

17 MR. LUCHSINGER: Objection as to
18 form, foundation, asked and answered.

19 THE WITNESS: I would describe it as
20 item 36a and 36b are probably most likely
21 welded to the sides of -- looks like a square
22 tube 34. I would say it's -- yeah, there's --
23 36a is attached to one side. 36b is attached
24 to the other side of that square tubing 34 or
25 rectangular tubing at least. I don't know if

1 it's square, but it's for sure rectangular.

2 BY MR. STEMLER:

3 Q. Understanding that they're attached to
4 the sides of 34, the structural member, would
5 it make sense to say that the braces 36a and
6 36b are in the space that separates the
7 structural member 34 and the center beam 24?

8 MR. LUCHSINGER: Objection as to
9 form, foundation.

10 THE WITNESS: I can't comment on 24,
11 because I can't get a good read as to where the
12 braces interact with that. I see 24. I see
13 36a and b labeled. I don't see a good
14 depiction of how those two interact physically.
15 I would never describe a tube as a space
16 between a tube. I mean, it's a single element.
17 A piece of square tubing is a single element,
18 and it's attached to the sidewalls. I would
19 not describe it as you described it.

20 BY MR. STEMLER:

21 Q. If the brace 36b were moved so that
22 rather than being connected to the side of the
23 upright structural member 34 it was connected
24 to the rear face of that upright structural
25 member 34 and at the bottom of it -- the bottom

1 of the brace 36b were connected to the top of
2 the center beam 24, would you understand that
3 brace to be positioned in the space that
4 separates the upright structural member 34 and
5 the center beam 24?

6 MR. LUCHSINGER: Objection as to
7 form, foundation, incomplete hypothetical.

8 THE WITNESS: You're expanding upon
9 a patent I barely understand as it is, and then
10 extending a virtual situation. So if you want
11 to create an engineering side sketch, I would
12 give you an assessment of that. But like I
13 said, this is taking a patent that I've tried
14 to be diligent with and read through, and now
15 you're trying to do an alternate engineering
16 perspective on, design on it, and then asking
17 another opinion on top of another document I've
18 not referenced. So if you want to create a
19 theoretical situation, I would need a sketch to
20 understand what you're talking about because I
21 barely understand the one I'm seeing on the
22 screen.

23 BY MR. STEMLER:

24 Q. Mr. Prairie, you identified that the
25 brace 36b appeared to be welded to the side of

1 the upright structural member 34 shown here on
2 Figure 7, is that right?

3 A. From my professional opinion, yes. I
4 would assess -- I don't see -- I don't see any
5 bolt -- you know, brackets or anything that's
6 bolted on. So since it's labeled a brace, I
7 would make the assessment that it's welded to
8 the side of the rectangular tube 34.

9 Q. If I were to ask you to assume that the
10 brace 36b were connected to the center beam 24
11 at its bottom end in the same way, would you
12 understand what I'm saying?

13 MR. LUCHSINGER: Objection as to
14 form.

15 THE WITNESS: I guess, is there a
16 better picture of how 24 is configured that you
17 want to reference? Because this -- I can tell
18 you 24 is garbage in this figure. So I cannot
19 assess what I'm looking at on Figure 24 and
20 item 24. I mean, it's definitely a structural
21 element. But how it's attached to 36b, 36a, I
22 really can't tell you. I don't even know how
23 it's packaged, orientated.

24 BY MR. STEMLER:

25 Q. If I were to tell you that brace 36b is

1 connected to that center member 24, the center
2 beam 24 in the same way, though, would you
3 understand what I'm saying?

4 MR. LUCHSINGER: Objection as to
5 form.

6 THE WITNESS: Is there another image
7 in here you can maybe rely on to try to convey
8 what you're trying to verbally describe?

9 BY MR. STEMLER:

10 Q. No.

11 A. I mean, I don't know. Because 36, it's
12 hard to tell what's beyond there, if it's
13 angled or what's going on down there. It could
14 be bent or something, could have other brackets
15 welded to it. I don't know. If you want to
16 sketch something or create a structural -- if
17 you want to create a hypothetical structural
18 element, feel free to sketch something and
19 submit it as a reference, an exhibit, and we
20 can have a discussion about that if you wish,
21 Taylor. But I cannot fully visualize what
22 you're verbally trying to describe. If you
23 wish to sketch something of what you're
24 envisioning, then we can have a discussion
25 around that exhibit.

1 Q. I'm merely asking you to visualize 36b
2 with a connection to 24 that mirrors the
3 connection between 36b and 34, as shown here in
4 Figure 7.

5 A. But do you know that's what it's doing
6 or you're just guessing?

7 MR. LUCHSINGER: Objection to form.

8 BY MR. STEMLER:

9 Q. It doesn't matter, Mr. Prairie. I'm
10 asking you to form that assumption and answer
11 questions based on that assumption.

12 A. But then you're going to ask questions
13 based on the context of this patent and what
14 the term "in between" describes. So therefore
15 how can -- you're making the assumption, and
16 then you're going to ask questions based on
17 what I'm seeing here and they're not
18 necessarily connected. So I cannot say that --
19 how that's configured down below as to the
20 verbiage that's used in Exhibit 1096.

21 Q. Okay. Mr. Prairie, I'm going to pull up
22 another exhibit here.

23 (Exhibit Number 1093 marked for
24 identification.)

25 BY MR. STEMLER:

1 Q. Mr. Prairie, I'm about to show
2 Exhibit 1093, which I've introduced into the
3 Exhibit Share folder and I'm now sharing on my
4 screen. Do you see this exhibit?

5 A. (Views document.) Yes, I see
6 Exhibit 1093 on the screen and in the file
7 share here.

8 Q. Have you seen this document before?

9 A. Once again, it appears it's -- this
10 one -- I don't recall this one, of studying
11 this of any extent, for sure not in regards to
12 the '708 declaration. It's not listed in here.

13 Q. Okay. I'm going to ask you questions
14 about the arrangement of the nozzle with
15 respect to the corners at the front of the
16 vehicle shown here in Figure 4. Do you feel
17 comfortable answering questions on that right
18 now?

19 MR. LUCHSINGER: Objection to form,
20 foundation and scope.

21 THE WITNESS: Once again, this is a
22 brand new patent, first time I -- well, if I
23 looked at it, I don't recall seeing it. So --
24 I mean, it's definitely in the similar category
25 of product. But I guess I would have to

1 definitely read through the document,
2 familiarize myself again if you want me to take
3 the time to do so.

4 BY MR. STEMLER:

5 Q. Yes, please.

6 A. And specifically what kind of questions
7 are you going to be focused on?

8 Q. I'm going to be asking you about the
9 position of this nozzle at the front of the
10 vehicle with respect to the corners of the
11 front of the vehicle.

12 A. Okay.

13 MR. STEMLER: I'll note for the
14 record the time is 2:56.

15 THE WITNESS: (Views document.)
16 Okay. Mr. Stemler, you can ask the question.
17 I'll see if I can respond based on the limited
18 read that I did.

19 BY MR. STEMLER:

20 Q. Okay. Mr. Prairie, looking at Figure 4,
21 would you agree with me that this patent
22 describes the rear end of the vehicle as being
23 the end over these wheels and the front end as
24 being the opposite end?

25 A. I don't know. Does it describe about

1 fore and aft in there?

2 Q. Yes, it does. Did you see that during
3 your read?

4 A. No. I tried to be timely. So I
5 didn't -- I was more focused on nozzles versus
6 vehicle direction, orientation.

7 Q. Okay. If I were to represent to you
8 that the end of the vehicle opposite the wheels
9 is the front end of the vehicle, would you
10 understand that?

11 MR. LUCHSINGER: Objection as to
12 form.

13 THE WITNESS: Does it specifically
14 state that in here or -- in the patent, or are
15 you just arbitrarily stating that for
16 discussion purposes today?

17 BY MR. STEMLER:

18 Q. Nope. The patent says that. If you
19 look in column 5, the patent describes how,
20 "The stern nozzles are positioned with one each
21 adjacent each rear corner of the vehicle [sic],
22 with the nozzle at the bow being centrally
23 located between opposing front corners
24 thereof." Do you see where I'm reading from
25 at --

1 A. Yeah, which column are you in again? I
2 just want to read the context of it.

3 Q. Yes.

4 A. Column 5.

5 Q. Column 5, line 52 through --

6 A. Line 52. Okay. Does it describe which
7 is the stern and the bow? It just talks about
8 nozzles and where their position is. Is there
9 like a hitch or something on there or -- I
10 don't know --

11 Q. Yeah.

12 A. -- the structural.

13 Q. Do you see how this passage refers to
14 two nozzles being positioned at the rear and a
15 single nozzle being positioned at the front?

16 A. Okay.

17 Q. Now, turning to Figure 4, which is
18 referenced in that passage. Do you see the two
19 nozzles labeled with 11 positioned at the rear
20 of the vehicle over the wheels of the vehicle?

21 A. Yeah. But it has -- it's using the
22 same -- it's using 11 -- two nozzles positioned
23 on the stern with one additional nozzle 11
24 positioned towards the bow. The stern nozzle
25 is 11. So multiple nozzles are labeled 11 here

1 in this paragraph, both stern and bow.

2 Q. Right. And do you see how there's two
3 nozzles positioned on this end over the wheels
4 and the single nozzle depicted on this end?

5 A. Okay. So you're simply stating that
6 based on the single nozzle is where -- and is
7 that a hitch or something that's going out the
8 front that's cut off? I don't know. It
9 doesn't really depict it.

10 Q. I don't know.

11 A. Well, for discussion purposes, I'm okay
12 with saying that the top side for orientation
13 purposes is the front, and the one with the two
14 nozzles is the back for orientation.

15 Q. Okay. Thank you. Can you describe
16 where you understand the front corners of the
17 vessel would be located in this figure?

18 MR. LUCHSINGER: Objection as to
19 form, foundation.

20 THE WITNESS: Not in that particular
21 orientation. Is there a better top-down view
22 or -- we've got a side view there.

23 BY MR. STEMLER:

24 Q. I mean, here's a -- Figure 3 is a --
25 kind of a stern perspective view.

1 MR. LUCHSINGER: Objection to form.

2 BY MR. STEMLER:

3 Q. Figure 5 is another side -- or Figure 1,
4 I apologize, is another side-view.

5 A. Yeah, we have some side views. I'm okay
6 with the orientation of the front and the back.
7 I don't have a good feel for corners yet. I
8 don't see a good image that kind of looks at it
9 from a top-down view and kind of define what
10 the corners would be. I mean...

11 Q. Mr. Prairie, do you consider yourself to
12 have any experience in marine vehicles?

13 A. My primary expertise is on off-highway
14 vehicles, agricultural and off-highway
15 vehicles, and I've had some work in pumping
16 systems as well.

17 Q. Do you consider yourself to have any
18 educational background that would enable you to
19 testify about marine vehicles?

20 MR. LUCHSINGER: Objection as to
21 form.

22 THE WITNESS: The vehicles we're
23 talking about are amphibious agricultural
24 vehicles. They're not marine vehicles.

25 BY MR. STEMLER:

1 Q. Okay. But do you have any educational
2 background that would enable you to discuss
3 marine vehicles?

4 A. I mean, I understand buoyancy and --
5 MR. LUCHSINGER: Objection as to
6 form.

7 Go ahead and answer.

8 THE WITNESS: I have fundamental
9 fluids background. I have fundamental
10 backgrounds in buoyancy. I've been on boats
11 many times fishing, recreational activities on
12 the water, on ocean -- ocean side. So it's not
13 like I'm not immune to the knowledge of how
14 fundamental boat systems and the mechanical
15 systems of how boats work of engines and
16 propellers and props and basics with buoyancy.
17 So no, I guess my marine -- so my -- so to
18 answer your question, my primary expertise is
19 in agricultural and off-highway agricultural
20 machinery, but I am knowledgeable about the
21 basics of marine applications.

22 BY MR. STEMLER:

23 Q. Okay. Applying that knowledge of the
24 basics of marine applications to this image
25 shown here in Figure 4, where would you

1 understand the corners of the front of the
2 vehicle to be located?

3 MR. LUCHSINGER: Objection as to
4 form.

5 THE WITNESS: Are you talking the --
6 so item number 5 is -- is that the pontoons?
7 Is 5 a pontoon or some kind of floatable
8 flotation device?

9 BY MR. STEMLER:

10 Q. Appears that 5 is designated as a wing.
11 The patent states in column 4, line 40, "As
12 shown, the main body or deck 3 of the vessel is
13 flanked on each side by a large wing 5 which
14 functions to maintain the vessel 1 afloat in
15 the manure pond upon launching the same."

16 A. So is there any further definition of
17 what that wing is? I assume it must be some
18 kind of buoyant element. Is there further
19 description in there about what the 5 is other
20 than saying it's a wing? Because it appears to
21 be a rounded surface. And the reason I'm
22 questioning you is that -- are we talking about
23 the corner of the main vehicle that the
24 structure is attached to? Are you talking the
25 corner of the buoyant element 5 or the wing as

1 is described? So are you at the very outer
2 corner? Is that what you're describing,
3 Mr. Stemler? Or what are you -- what part of
4 the boat or, you know, structure are you
5 specifically referencing? So without a top
6 view of this, I struggle to connect everything.

7 Q. Yeah, I'm talking about the overall
8 corner of the vessel that's referred to in
9 column 5, lines 52 to 55, in which it states
10 "the nozzle at the bow being centrally located
11 between the opposing front corners thereof"
12 when referring to the vessel 1.

13 MR. LUCHSINGER: Objection as to
14 form.

15 THE WITNESS: Which lines were you
16 at? I just finally got down to column 5 again.
17 I was looking at images.

18 BY MR. STEMLER:

19 Q. Okay. I'm referring to lines 52 to 55,
20 column 5.

21 A. All right. So what's your question,
22 Mr. Stemler?

23 Q. Can you identify on Figure 4, based on
24 your background, knowledge of marine vehicles,
25 where the front corners of the vessel 1 would

1 be located?

2 MR. LUCHSINGER: Objection as to
3 form.

4 THE WITNESS: Without a planar view
5 it's more difficult because I can't -- I would
6 assume that buoyant elements 5 on the outer
7 edge. So it would probably be somewhere on the
8 element 5 on the top side --

9 BY MR. STEMLER:

10 Q. Okay.

11 A. -- or the front side, as you've
12 described, depicted the front side.

13 Q. Would you understand the nozzle 11
14 that's shown there towards the front side of
15 the vessel to be located between the front
16 corners of the vessel, as you've described?

17 MR. LUCHSINGER: Objection as to
18 form.

19 THE WITNESS: I mean, I can't tell
20 that from the image, but the patent itself
21 describes that it's centrally located.

22 BY MR. STEMLER:

23 Q. Would you understand the nozzle 11 to be
24 located in the space that separates the front
25 corners of the vessel that you've described?

1 MR. LUCHSINGER: Objection as to
2 form.

3 THE WITNESS: Again, because a
4 rounded surface, it doesn't have a hard-line
5 embodiment. So -- I mean, the outer edge, I
6 would say it's centrally located between the
7 pontoons or the buoyant elements 5. So you
8 could probably say that the full length of the
9 element is positioned to be centrally located
10 between there based on the description of the
11 patent. Corners I'm not sure of because -- but
12 the full element itself, I would say that
13 there -- it would be between those.

14 BY MR. STEMLER:

15 Q. Based on what's shown in Figure 4?

16 MR. LUCHSINGER: Objection as to
17 form.

18 THE WITNESS: Well, no, it's based
19 off describing -- the limited context that I've
20 had with this patent, it's describing a single
21 nozzle that's centrally located on the front
22 side of this boat. We are identifying the top
23 side of Figure 4 as the front side. And there
24 are -- wings or I would call them buoyant
25 elements that are keeping the vehicle afloat

1 are on the outer edge. So from a top-down view
2 the left and right side. I don't know -- what
3 is item 3? Kind of curious what item 3 is now
4 that I look at it. A vessel deck. Okay.
5 That's the vessel deck more towards the center
6 of the vessel 1. So the vessel's in the
7 middle. So you have your main vessel and you
8 have your buoyant elements on the outer side.
9 So I guess I'll agree with you that single
10 nozzle 11 is centrally located on the front
11 side of the vessel.

12 BY MR. STEMLER:

13 Q. Okay. Is the nozzle 11 shown on the
14 front side of the vessel positioned in the
15 space that separates the front corners of the
16 vessel?

17 MR. LUCHSINGER: Objection as to
18 form, asked and answered.

19 THE WITNESS: I wouldn't describe it
20 that way. I would describe it as the center of
21 the front side of the vessel, and the wings
22 happen to be on the outside of the vessel or
23 attached to the vessel and keep it afloat. So
24 I would describe the nozzle location as in the
25 center of the front side, not as you described

1 it.

2 BY MR. STEMLER:

3 Q. Okay. I'd like to go back to the
4 Knowles patent briefly. This is Exhibit 1086.
5 Do you see that again, Mr. Prairie?

6 A. Yeah, I see 1086 here.

7 Q. Okay. You recall we were discussing
8 Figure 7 of this document before, right?

9 A. Yes. That is the one that you had
10 pulled up and were questioning me on.

11 Q. And specifically we were getting hung up
12 on how the braces 36a and 36b connect to the
13 central beam -- the center beam 24. Do you
14 recall that?

15 A. Yes.

16 Q. Do you recall asking me if there were
17 other views of the braces connected to the
18 central beam?

19 A. Yes.

20 Q. Figure 10 illustrates the braces
21 extending down on either side of the central
22 beam.

23 MR. LUCHSINGER: Objection to --

24 BY MR. STEMLER:

25 Q. Do you see that?

1 MR. LUCHSINGER: Objection to form.

2 THE WITNESS: Where is item 24 at?

3 BY MR. STEMLER:

4 Q. Item 24 is not labeled in this figure.

5 A. Well, how does that help me then?

6 Q. Figure 10 illustrates the bottom ends of
7 braces 36a and 36b in another orientation, as
8 you requested.

9 MR. LUCHSINGER: Objection as to
10 form.

11 THE WITNESS: Okay. I mean, all it
12 does is reinforce that it's attached to 34.
13 The question is not -- I'm comfortable with how
14 it's attached to 34. I am not comfortable at
15 how it's attached to 24. I don't see how
16 Figure 10 reinforces what you're referring to
17 at all because I can't -- that other figure
18 does not do a great job of depicting on how
19 it's -- it just -- it's got some lines and it's
20 got a -- it's labeled. But in terms of
21 structural, how it's tied together, I'm not
22 seeing it here either.

23 BY MR. STEMLER:

24 Q. Okay. Looking here, Figure 5 provides
25 another view of the center beam, a top view of

1 the center beam -- I'm sorry. Yes. This --
2 the center beam 24 and braces 36a and 36b. Do
3 you see Figure 5?

4 A. Yes, I do.

5 Q. Do you see the braces 36a and 36b
6 labeled here?

7 A. Yeah, doesn't look like they're attached
8 to 34 at all. Looks like they're attached to
9 20a. There's a gap between 24 and the beam.
10 So I don't see any -- doesn't appear like
11 they're attached.

12 Q. Okay. Do you see the structural member
13 34 listed here?

14 A. Yes, I see item 34 listed.

15 Q. And do you see the center beam 24
16 listed?

17 A. Yes, I see item 24 listed.

18 Q. Okay. After looking at those two
19 alternate views, a top view and another
20 perspective view, of the device shown here in
21 Figure 7, do you think you can describe to me
22 whether you'd understand the brace 36a or brace
23 36b to be in the space that separates the
24 center beam 24 or the structural member 34?

25 MR. LUCHSINGER: Objection to form

1 and foundation.

2 THE WITNESS: Like I said, that -- I
3 wouldn't call -- 34 is a single structural
4 element. I mean, I wouldn't call the space
5 between on the inside the space between. I
6 mean, it's all one structural element. It's a
7 rectangular or box-type structure. 36a is --
8 36b is attached to that. Looks like they're
9 angle braces, they go down and attach to 20a.
10 24 is definitely a structural member. I don't
11 know so much to say as I would call 24 in
12 between 36a and 36b. I would say that it's
13 attached to 34 and looks like it angles down
14 and attaches to 28 in some fashion.

15 BY MR. STEMLER:

16 Q. Mr. Prairie, I believe you may have
17 misunderstood my question. I was not asking if
18 the center beam 24 is between the braces 36a
19 and 36b. I was asking if the braces 36a and
20 36b are located in the space that separates the
21 center beam 24 and the structural member 34?

22 MR. LUCHSINGER: Objection to form,
23 asked and answered.

24 THE WITNESS: Yeah, your space
25 between, I don't understand what you mean by

1 that. What I understand is that 34 is a
2 vertical rectangular beam that 36a and 36b are
3 attached to the exterior walls of.

4 BY MR. STEMLER:

5 Q. Okay. Do you understand whether the
6 braces 36a and 36b would be positioned between
7 the upright structural member 34 and the center
8 beam 24?

9 MR. LUCHSINGER: Objection as to
10 form, asked and answered.

11 THE WITNESS: I mean, 24 is a beam.
12 34 is a beam. 36a is a brace. 36b is a brace.
13 36a and b are welded, appears to be, to
14 structural element 34. I guess that's how I
15 would describe what I'm seeing. I would not
16 describe it as the words that you've used.

17 BY MR. STEMLER:

18 Q. Okay.

19 MR. STEMLER: I'd like to take a
20 ten-minute break.

21 THE VIDEOGRAPHER: We are going off
22 the record.

23 The time now is 3:22 p.m.

24 (Off the record 3:22 to 3:34.)

25 THE VIDEOGRAPHER: We are going back

1 on the record.

2 The time now is 3:34 p.m.

3 MR. STEMLER: All right. Thank you
4 for your time today, Mr. Prairie. I have no
5 further questions.

6 THE WITNESS: Thank you.

7 MR. LUCHSINGER: Mr. Prairie, I do
8 have a few questions.

9 EXAMINATION

10 BY MR. LUCHSINGER:

11 Q. So I'm going to start with Exhibit 1089.
12 And I can share my screen as well. Can you see
13 my screen okay?

14 A. Yeah, just came up there, Brad.

15 Q. All right. So you should see on your
16 screen page 1 of Exhibit 1089 to your
17 deposition.

18 Do you see that?

19 A. Yes, I do, Brad.

20 Q. Before today, had you ever seen
21 Exhibit 1089?

22 A. I don't recall ever seeing this exhibit.

23 Q. And do you see at the top of page 1 of
24 Exhibit 1089 a reference to Application
25 Number 18/073,035?

1 A. Yes, I see that application number.

2 Q. Before today, did you form any opinions
3 with respect to application number 18/073,035?

4 A. I don't believe so. Unless it was part
5 of something else, I do not recall having a
6 dedicated deposition towards that one.

7 Q. Okay. And if you scroll through
8 Exhibit 1089, can you let me know how many
9 claims are listed? And you can just go by
10 claim number. You don't have to tell me --

11 A. Yeah, it looks like -- on page 15, looks
12 like 55 is the last one that I see.

13 Q. Okay. And on page 2 of Exhibit 1089 it
14 starts with claim 1?

15 A. I believe so. Yes, it starts with 1.
16 It looks like it's sequentially up to 55.

17 Q. Before today, have you offered any
18 opinions on claims 1 through 55 of application
19 number 18/073,035?

20 A. No, I have not, not as they're written
21 in this document.

22 Q. All right. Now going to turn to
23 Exhibit 1091. And I'm sharing it now. Do you
24 see page 1 of Exhibit 1091 on your screen?

25 A. Yes, I do, Brad.

1 Q. Okay. Before today, had you ever seen
2 Exhibit 1091?

3 A. Same answer. No, I do not recall seeing
4 that exhibit.

5 Q. At the top of page 1 of Exhibit 1091
6 there's a reference to Application
7 Number 18/428,516.

8 Do you see that?

9 A. Yes, I do.

10 Q. Before today, did you prepare or offer
11 any opinions on application number 18/428,516?

12 A. No, I don't believe I have.

13 Q. Okay. And if you scroll through
14 Exhibit 1091, can you tell me what the first
15 claim is that's listed and what the last claim
16 is that's listed?

17 A. Page 2 starts with 33. And it appears
18 they're all sequential up to claim 62.

19 Q. Before today, did you prepare or offer
20 any opinions on claims 33 through 62 of
21 application number 18/428,516?

22 A. No, not in regards to this application
23 number.

24 Q. Okay. So for Exhibits 1089 and 1091,
25 the testimony you gave today was off the cuff

1 in real time without any opportunity to think
2 about your opinions or review documents
3 beforehand, right?

4 A. Yes, that is correct. That was feedback
5 that was made on the fly based on the context
6 that I was given.

7 Q. Okay. And so any opinions that you
8 provided today in connection with Exhibits 1089
9 or 1091, would you consider them to be
10 preliminary opinions or final opinions?

11 MR. STEMLER: Objection, form.

12 BY MR. LUCHSINGER:

13 Q. You can still answer the question.

14 A. I would consider them preliminary,
15 definitely not final.

16 Q. Okay.

17 MR. LUCHSINGER: Thank you. That's
18 the conclusion of my questioning.

19 Do you have any follow up, Taylor?

20 MR. STEMLER: I do.

21 FURTHER EXAMINATION

22 BY MR. STEMLER:

23 Q. Mr. Prairie, before today, have you
24 offered any opinions on the meaning of claim
25 terms in the '708 patent that use the word

1 "between"?

2 A. What was the time frame? Say the time
3 frame again.

4 Q. Before today, have you offered any
5 opinions on any claim terms in the '708 patent
6 that use the word "between"?

7 A. Yes. We talked about the flotation
8 devices in the '708 patent and how they are
9 between the front and rear wheels.

10 Q. Okay.

11 MR. STEMLER: Thank you. No further
12 questions.

13 MR. LUCHSINGER: All right. I think
14 that concludes today's deposition. The witness
15 will read and sign the transcript. And I don't
16 believe any of the testimony today needs to be
17 treated as confidential under the protective
18 order. But, you know, to the extent that we
19 change our mind with respect to that, we'll
20 make a designation when the witness provides
21 the errata sheet and signature.

22 MR. STEMLER: Okay.

23 THE VIDEOGRAPHER: We are going off
24 the record.

25 The time now is 3:41 p.m.

1 And this concludes today's testimony
2 given by Douglas S. Prairie.

3 (Deposition concluded at 3:41 p.m.)

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REPORTER'S CERTIFICATE

STATE OF MINNESOTA)
) ss.
COUNTY OF HENNEPIN)

I hereby certify that I reported the remote deposition of DOUGLAS S. PRAIRIE on Tuesday, October 29, 2024, from Maple Grove, Minnesota, and that the witness was by me first duly sworn to tell the whole truth;

That the testimony was transcribed by me and is a true record of the testimony of the witness;

That the cost of the original has been charged to the party who noticed the deposition, and that all parties who ordered copies have been charged at the same rate for such copies;

That I am not a relative or employee or attorney or counsel of any of the parties, or a relative or employee of such attorney or counsel;

That I am not financially interested in the action and have no contract with the parties, attorneys, or persons with an interest in the action that affects or has a substantial tendency to affect my impartiality;

That the right to read and sign the deposition transcript by the witness was reserved.

WITNESS MY HAND AND SEAL THIS 1st day of November, 2024.



Dana S. Anderson-Linnell
Notary Public, Hennepin County, MN
My commission expires 1/31/2025

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1100 Superior Ave
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Cleveland, Ohio 44114
Phone: 216-523-1313

November 1, 2024

To: Mr. Luchsinger

Case Name: Bazooka-Farmstar, LLC v. Nuhn Industries, Ltd.

Veritext Reference Number: 6960929

Witness: Douglas S. Prairie Deposition Date: 10/29/2024

Dear Sir/Madam:

Enclosed please find a deposition transcript. Please have the witness review the transcript and note any changes or corrections on the included errata sheet, indicating the page, line number, change, and the reason for the change. Have the witness' signature notarized and forward the completed page(s) back to us at the Production address shown above, or email to production-midwest@veritext.com.

If the errata is not returned within thirty days of your receipt of this letter, the reading and signing will be deemed waived.

Sincerely,
Production Department

NO NOTARY REQUIRED IN CA

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DEPOSITION REVIEW
CERTIFICATION OF WITNESS

ASSIGNMENT REFERENCE NO: 6960929

CASE NAME: Bazooka-Farmstar, LLC v. Nuhn Industries, Ltd.

DATE OF DEPOSITION: 10/29/2024

WITNESS' NAME: Douglas S. Prairie

In accordance with the Rules of Civil
Procedure, I have read the entire transcript of
my testimony or it has been read to me.

I have made no changes to the testimony
as transcribed by the court reporter.

Date Douglas S. Prairie

Sworn to and subscribed before me, a
Notary Public in and for the State and County,
the referenced witness did personally appear
and acknowledge that:

They have read the transcript;
They signed the foregoing Sworn
Statement; and
Their execution of this Statement is of
their free act and deed.

I have affixed my name and official seal
this _____ day of _____, 20____.

Notary Public

Commission Expiration Date

DEPOSITION REVIEW
CERTIFICATION OF WITNESS

ASSIGNMENT REFERENCE NO: 6960929

CASE NAME: Bazooka-Farmstar, LLC v. Nuhn Industries, Ltd.

DATE OF DEPOSITION: 10/29/2024

WITNESS' NAME: Douglas S. Prairie

In accordance with the Rules of Civil Procedure, I have read the entire transcript of my testimony or it has been read to me.

I have listed my changes on the attached Errata Sheet, listing page and line numbers as well as the reason(s) for the change(s).

I request that these changes be entered as part of the record of my testimony.

I have executed the Errata Sheet, as well as this Certificate, and request and authorize that both be appended to the transcript of my testimony and be incorporated therein.

Date

Douglas S. Prairie

Sworn to and subscribed before me, a Notary Public in and for the State and County, the referenced witness did personally appear and acknowledge that:

They have read the transcript;
They have listed all of their corrections
in the appended Errata Sheet;
They signed the foregoing Sworn
Statement; and
Their execution of this Statement is of
their free act and deed.

I have affixed my name and official seal
this _____ day of _____, 20____.

Notary Public

Commission Expiration Date

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ERRATA SHEET
VERITEXT LEGAL SOLUTIONS MIDWEST
ASSIGNMENT NO: 6960929

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Date Douglas S. Prairie
SUBSCRIBED AND SWORN TO BEFORE ME THIS _____
DAY OF _____, 20_____ .

Notary Public

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Federal Rules of Civil Procedure

Rule 30

(e) Review By the Witness; Changes.

(1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and

(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) Changes Indicated in the Officer's Certificate.

The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

DISCLAIMER: THE FOREGOING FEDERAL PROCEDURE RULES ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY.

THE ABOVE RULES ARE CURRENT AS OF APRIL 1, 2019. PLEASE REFER TO THE APPLICABLE FEDERAL RULES OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

VERITEXT LEGAL SOLUTIONS

COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

Veritext Legal Solutions is committed to maintaining the confidentiality of client and witness information, in accordance with the regulations promulgated under the Health Insurance Portability and Accountability Act (HIPAA), as amended with respect to protected health information and the Gramm-Leach-Bliley Act, as amended, with respect to Personally Identifiable Information (PII). Physical transcripts and exhibits are managed under strict facility and personnel access controls. Electronic files of documents are stored in encrypted form and are transmitted in an encrypted

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