

1 UNITED STATES PATENT AND TRADEMARK OFFICE

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

3 LULULEMON USA INC.,

4 Petitioner,

5 v.

6 NIKE, INC.,

Patent Owner.

7 Case IPR2024-00159

Patent 9,375,046

8 - - - - - X
9

August 8, 2024

10 9:03 a.m.
11

12 VIDEOTAPED DEPOSITION of DR. DAVID S.
13 BROOKSTEIN, in the above-entitled matter,
14 held at Knobbe, Martens, Olson, & Bear
15 LLP, 1155 Avenue of the Americas, New
16 York, New York taken before Dawn Matera,
17 a Certified Shorthand Reporter and Notary
18 Public of the State of New York.
19
20

21 * * *
22
23

24

lululemon v. NIKE, Inc.
IPR2024-00159
Patent No. 9,375,046
Ex. 2007

25

1 APPEARANCES:
2

3 ARNOLD & PORTER KAYE SCHOLER LLP
4 Counsel for Patent Owner, Nike, Inc.
5 601 Massachusetts Avenue, NW
6 Washington, DC 20001-3743
7 Tel: (202) 942-5000

8 BY: LINDSEY C. STAUBACH, ESQ.
9 lindsey.staubach@arnoldporter.com
10 BY: MICHAEL J. HARRIS, ESQ.
11 michael.harris@arnoldporter.com
12 70 West Madison Street
13 Suite 4200
14 Chicago, Illinois 60602
15 Tel: (312) 583-2300

16 KNOBBE, MARTENS, OLSON, & BEAR LLP
17 Attorneys for Petitioner
18 2040 Main Street
19 14th Floor
20 Irvine, California 92614
21 BY: ALI S. RAZAI, ESQ.
22 ali.razai@knobbe.com

23 BY: ETHAN KLUESNER, ESQ.
24 ethan.kluesner@knobbe.com
25 1155 Avenue of the Americas
New York, New York

Also Present:

Carlos King, Videographer

* * *

1 THE VIDEOGRAPHER: Good morning.
2 We are going on the record at 9:03
3 a.m. on August 8th, 2024. Please note
4 that the microphones are sensitive and
5 may pick up whispering and private
6 conversations. Please mute your
7 phones at this time. Audio and video
8 recording will continue to take place
9 unless all parties agree to go off the
10 record.

11 This is media unit one of the
12 video-recorded deposition of Dr. David
13 Brookstein taken by counsel for patent
14 owner in the matter of Lululemon USA,
15 Inc. versus Nike, Inc. filed in the
16 United States Patent and Trademark
17 Office, before the Patent Trial and
18 Appeals Board. Case number IPR
19 202400159. Patent number 9,375,046.

20 The location of this deposition
21 is 1155 Avenue of the Americas, New
22 York, New York.

23 My name is Carlos King
24 representing Veritext and I am the
25 videographer. The court reporter is

1 Dawn Matera also representing
2 Veritext.

3 I am not authorized to
4 administer an oath. I am not related
5 to any party in this action nor am I
6 financially interested in the outcome.

7 If there are any objections to
8 the proceedings please state them at
9 the time of your appearance.

10 Counsel and all present
11 including remotely will now state
12 their appearance and affiliation for
13 the record beginning with the noticing
14 attorney.

15 MS. STAUBACH: My name is
16 Lindsay Staubach of Arnold & Porter.
17 I am here on behalf of patent owner
18 Nike, Inc. and here with me today is
19 Michael Harris also of Arnold &
20 Porter.

21 MR. RAZAI: Ali Razai from
22 Knobbe Martens on behalf of the
23 Petitioner Lululemon and here with me
24 is Ethan Kluesner, also from Knobbe
25 Martens.

1 THE VIDEOGRAPHER: Could the
2 court reporter please swear in or
3 affirm the witness.

4 D A V I D B R O O K S T E I N, the
5 Witness herein, having first been duly
6 sworn by the Notary Public, was examined
7 and testified as follows:

8 EXAMINATION BY MS. STAUBACH:

9 Q. Thank you for joining us here
10 today, Dr. Brookstein. Nice to see you
11 again. I know you have done this before.

12 A. Yes.

13 Q. Many times. But if you will
14 just bear with me for a few ground rules.

15 If you don't hear me, please
16 ask me to repeat myself, I am happy to do
17 so. If you don't understand the question
18 that I ask, let me know and I am happy to
19 repeat it or rephrase it. Or if you do
20 answer I will assume that you heard me
21 and you understood and you gave the
22 answer to the best of your ability; does
23 that sound good?

24 A. Sounds fine.

25 Q. This deposition is being

1 transcribed, so for purposes of a clean
2 record can you please provide verbal
3 answers. No head nodding or uh-huhs.

4 A. I will.

5 Q. And finally we will take breaks
6 about every hour. If you need a break
7 sooner than that, just let me know. I
8 just ask that we don't break while a
9 question is pending.

10 A. That's fine.

11 MS. STAUBACH: We're going to
12 mark this as Brookstein Exhibit 1.
13 It's also paper 1 in the IPR
14 proceeding.

15 (Brookstein Exhibit 1, Notice of
16 Deposition, was so marked for
17 identification, as of this date.)

18 Q. Have you seen this document
19 before?

20 A. I have.

21 Q. What is it?

22 A. It's my Notice of Deposition.

23 Q. And you understand that you're
24 here today testifying under oath?

25 A. I do.

1 Q. And that's the same oath as
2 would be in a courtroom before a judge?

3 A. I understand.

4 Q. Is there any reason today that
5 you can't provide truthful testimony?

6 A. No.

7 Q. Thank you. We can set that
8 aside.

9 MS. STAUBACH: We'll mark this
10 as Brookstein Exhibit 2. This is
11 Exhibit 1003 in the IPR proceeding.

12 (Brookstein Exhibit 2,
13 Declaration, was so marked for
14 identification, as of this date.)

15 Q. Do you recognize this document?

16 A. I do.

17 Q. What is it?

18 A. It's my declaration in support
19 of the petition of the IPR of U.S. Patent
20 9,375,046.

21 Q. Can you turn with me to the
22 last page, page 94.

23 A. I can.

24 Q. Is that your signature?

25 A. It is.

1 Q. And this is dated November 8th,
2 2023?

3 A. That's correct.

4 Q. How long did you spend
5 preparing this declaration?

6 A. I don't remember.

7 Q. Do you have any approximation?

8 A. No, I was working on many other
9 cases at the time. I don't remember.

10 Q. You don't know it was 10 hours
11 versus 50 hours?

12 A. It was probably closer to 50
13 hours.

14 Q. Are you aware of any
15 inaccuracies in this declaration?

16 A. A very small one.

17 Q. And can you point me to that?

18 A. Yes, if you go to my background
19 and qualifications, it says I am
20 currently the dean of -- excuse me, the
21 senior associate dean of engineering at
22 the College of Engineering at Temple
23 University. I retired on July 5th.
24 Today I am professor emeritus and working
25 there part time.

1 Q. So other than that one
2 correction to your background and
3 qualifications, are you aware of any
4 other inaccuracies in your declaration?

5 A. Not that I am aware of.

6 Q. Are you aware of any opinions
7 that have been omitted from your
8 declaration?

9 A. Not that I am aware of.

10 Q. Are there any other changes
11 that you would like to make today?

12 A. Today, no.

13 Q. So you don't have at this point
14 any opinions that are not set forth in
15 your report in this proceeding?

16 A. That is correct.

17 Q. What materials did you rely on
18 in rendering your opinions?

19 MR. RAZAI: Objection to form.

20 A. I considered materials that
21 were listed on page 7 under Description.

22 Q. So you considered Exhibits 1001
23 through 1013?

24 A. That would be correct.

25 Q. Anything else?

1 A. Not that I can recall. You
2 said 1013. It goes to 1014.

3 Q. Thank you for that correction.
4 And have you read the entire
5 '046 patent?

6 A. Yes.

7 Q. How many times did you read the
8 '046 patent?

9 A. The best I can say is many
10 times. I didn't count them.

11 Q. Does many mean 10?

12 A. More than 10.

13 Q. When was the last time you read
14 the '046 patent?

15 A. Yesterday.

16 Q. Have you read the prosecution
17 history for the '046 patent?

18 A. Portions of it, yes.

19 Q. How many times?

20 A. I don't recall. I didn't
21 count.

22 Q. 10?

23 A. I don't recall.

24 Q. When was the last time you
25 reviewed the prosecution history?

1 A. This week some time. Part of
2 it.

3 Q. How did you decide which
4 portions of the prosecution history to
5 review?

6 A. I read the -- I considered the
7 parts that were -- that were used by the
8 patent examiner to originally disallow
9 the patent.

10 Q. So you looked at the examiner's
11 office actions from the prosecution
12 history?

13 A. That part of the office
14 actions, yes.

15 Q. Anything else?

16 A. Not that I recall.

17 Q. And are you familiar with the
18 Good reference?

19 A. Yes, I am.

20 Q. I am going to ask the same
21 questions that I asked for the '046
22 patent about the Good reference and the
23 other references in your declaration.
24 How many times have you read the Good
25 reference?

1 A. I will give the same answer.

2 Many times. I didn't count.

3 Q. Did you also review that this
4 week?

5 A. Yes, I did.

6 Q. And for the Munsing reference,
7 are you familiar with that?

8 A. I am.

9 Q. Have you read that reference in
10 its entirety?

11 A. Yes.

12 Q. How many times?

13 A. Same answer. Many times.
14 Didn't count it.

15 Q. And did you review that this
16 week?

17 A. Yes.

18 Q. Are you familiar with the
19 Minami reference?

20 A. I am.

21 Q. Have you read that reference in
22 its entirety?

23 A. Yes.

24 Q. Many times?

25 A. Many times.

1 Q. And you reviewed that reference
2 this week?

3 A. I did.

4 Q. Did you originally identify any
5 of these references?

6 A. No.

7 Q. How did you prepare for your
8 deposition today?

9 A. I reviewed the materials I told
10 you and I spent some time with Mr. Razai
11 prepping.

12 Q. How many sessions did you have
13 with Mr. Razai?

14 A. We met for three different
15 days, Monday, Tuesday and Wednesday.

16 Q. What's the total amount of time
17 that you spent meeting with Mr. Razai?

18 A. I didn't count the hours.

19 Q. Can you approximate?

20 A. I can approximate, yes. Would
21 you like me to?

22 Q. Please approximate.

23 A. 12 to 14.

24 Q. Was anyone else at these
25 meetings?

1 A. Ethan was at those meetings and
2 yesterday a Brandon Smith was on Zoom in
3 one of the meetings.

4 Q. Is it typical in an IPR case
5 for you to have three days of consecutive
6 meetings for an IPR deposition?

7 MR. RAZAI: Objection to form.

8 A. I never count that. I had one,
9 two, three days. Once I had five days.

10 Q. All right. Would you turn with
11 me to paragraph 23 of your declaration.

12 A. Yes.

13 Q. This is the beginning of the
14 section that says Specification of the
15 '046 Patent; do you see that?

16 A. I do.

17 Q. And this is where you give an
18 overview of that specification?

19 A. Yes.

20 Q. In paragraph 23 you say, "The
21 '046 relates to articles with ribbed
22 knitted components."

23 Do you see that?

24 A. I do.

25 Q. So is a rib knit tubular in

1 form?

2 A. It doesn't have to be.

3 Q. Is a rib knit in the context of
4 the '046 patent tubular in form?

5 MR. RAZAI: Objection to form.

6 A. In the drawing in Figure 1 it
7 is, yes.

8 Q. And how do you know that?

9 A. By looking at it.

10 Q. What about looking at it tells
11 you that it's tubular?

12 A. That I see tubes.

13 Q. So what is a tube?

14 MR. RAZAI: Objection to form.

15 A. A tube is anything that has the
16 shape that is tubular.

17 Q. Can you be any more specific
18 than that?

19 A. No.

20 Q. Would a cylinder be a tube?

21 A. A cylinder would be a tube.

22 Q. And here on Figure 1 this isn't
23 quite a rounded cylinder, right?

24 A. What do you mean by rounded?

25 Q. It doesn't have a circular

1 cross-section?

2 A. It doesn't appear to have a
3 circular cross-section.

4 Q. But it's still a tube?

5 A. I would agree with that.

6 Q. It does have a cross-section
7 that has a 360 degree periphery, correct?

8 MR. RAZAI: Objection to form.

9 A. As an engineer you can't use
10 degrees unless you're talking about
11 something that is a perfect circle.

12 Q. Would you agree that it has a
13 closed periphery?

14 A. I would agree with that.

15 Q. And in paragraph 24 you say,
16 "Figure 1 illustrates a knitted component
17 100 in an unstretched or neutral
18 position."

19 Do you see that?

20 A. I do.

21 Q. So this Figure 1 shows this
22 component in a neutral state; is that
23 right?

24 A. How do you define "neutral"?

25 Q. It doesn't have any outside

1 forces applied.

2 A. I don't see any outside forces
3 applied to it.

4 Q. And at the top of the next page
5 you say, "Figure 2 depicts a different
6 position where knitted component 100 is
7 stretched or extended."

8 Do you see that?

9 A. I do.

10 Q. So what's different about
11 Figure 2 versus Figure 1?

12 A. One is stretched and one is not
13 stretched.

14 Q. So Figure 2 is stretched and
15 Figure 1 is not stretched?

16 A. That's what the black arrows
17 represent.

18 Q. And how can you tell?

19 A. I think it's in the citation
20 5.5, column 5, lines 5 to 20 of the '046
21 patent.

22 Q. So you're saying that citation
23 says that Figure 2 is in a stretched
24 configuration?

25 A. I would like to see that

1 citation, please.

2 Q. Well, let me ask you, visually,
3 what's the difference between Figure 2
4 and Figure 1? How can you tell that
5 Figure 2 is stretched by looking at this
6 figure?

7 MR. RAZAI: Objection to form.

8 A. I go by what's in the citation.

9 Q. So you can't tell by looking at
10 Figure 2 versus looking at Figure 1 that
11 Figure 2 is in a different configuration?

12 A. I haven't held them up side by
13 side, no. I am going by the citation.

14 MS. STAUBACH: Let's mark this
15 as Brookstein Exhibit 3.

16 (Brookstein Exhibit 3, '046
17 patent, was so marked for
18 identification, as of this date.)

19 Q. And this is Exhibit 1001 in the
20 IPR proceeding. Do you recognize this
21 document?

22 A. It says Exhibit 3.

23 Q. It's Exhibit 3 in this
24 deposition and Exhibit 1001 from the IPR
25 proceeding.

1 A. I thought you said Exhibit 1.
2 Got to get it right.

3 Q. Do you recognize this document?

4 A. I do.

5 Q. What is it?

6 A. It's the patent-in-suit, the
7 '046 patent.

8 Q. All right. If you would turn
9 with me to Figure 3?

10 A. Figure 3 in the '046 patent?

11 Q. Yes, please.

12 A. Yes.

13 Q. Have you reviewed this figure?

14 A. Yes.

15 Q. So there are two sections.
16 There is a section designated 300, which
17 shows the left side of this knit element;
18 do you see that?

19 A. It's the right side.

20 Q. Well, depending at how you look
21 at it?

22 A. That's how I am looking at it.

23 Q. It's on the left side of the
24 page; would you agree with that?

25 A. Yes, but that's not how you

1 said it.

2 Q. Do you see what's denoted by
3 element 300?

4 A. I do. It's not an element.
5 It's a distance.

6 Q. Okay. Thank you. But you see
7 the distance 300 identified on this
8 figure?

9 A. I do.

10 Q. And do you see what's indicated
11 in dashed lines on the right side of the
12 page?

13 A. I do.

14 Q. And would you agree that what's
15 indicated by dashed line is in a
16 stretched configuration?

17 A. I need more of an explanation
18 of what you're asking me.

19 Q. So there is an arrow in the
20 middle of the dashed lines that has an
21 arrowhead on either side; do you see
22 that?

23 A. What element are you talking
24 about?

25 Q. It doesn't have an element

1 number. But let me show you, right here?

2 A. That's not a dashed line.

3 Q. I said it's an arrow.

4 A. I thought you said dashed line.

5 Q. It's in the component
6 designated by dashed lines.

7 A. Yes, but that's not what you
8 said. I do see that.

9 Q. Would you agree that arrow
10 indicates application of a stretching
11 force?

12 A. It doesn't have a description
13 of it.

14 Q. All right. Let's turn to
15 column 3, line 23.

16 A. It would be helpful for me when
17 you do this, also, tell me the page
18 number. I can get to it faster.

19 Q. Sure. It's page 31.

20 A. 31, and what are you talking
21 about now?

22 Q. Column 3.

23 A. Yes.

24 Q. Line 23.

25 A. Line 23.

1 Q. It begins with "Figure 3"?

2 A. Yes.

3 Q. "Is a perspective view of an
4 embodiment of the knitted component where
5 the knitted component is shown in the
6 first position with solid lines and the
7 knitted component is shown in the second
8 position with broken lines."

9 Did I read that right?

10 A. You read it right. Now can I
11 look at Figure 3?

12 Q. Yes.

13 A. Give me a minute to read it.
14 (Witness reviews document.)

15 A. That doesn't refer to that
16 solid line that you showed me before. It
17 refers to 300 and 302.

18 Q. Okay. So the portion we just
19 read said that the solid lines in Figure
20 3 show a first position, right?

21 A. Right.

22 Q. And the dashed lines show a
23 second position, right?

24 A. The dashed lines show -- don't
25 show a position. They show tubes.

1 Q. Well, let's go back to page 31,
2 column 3.

3 A. Yes.

4 Q. Beginning at line 25. "And the
5 knitted component is shown in the second
6 position with broken lines."

7 So the description for this
8 figure says that the broken lines are
9 indicative of a second position; do you
10 agree with that?

11 A. I agree with what it says.

12 Q. And so what's the differences
13 between the first and second positions?

14 A. That it's longer.

15 Q. And why is it longer?

16 A. I don't recall if it says a
17 force was applied or not.

18 Q. If we go to page 33.

19 A. Okay.

20 Q. Column 8.

21 A. Yes.

22 Q. Line 40.

23 A. Yes.

24 Q. This begins, "As shown in
25 Figure 3"; do you see that?

1 A. I do.

2 Q. It says, "Movement of knitted
3 component 100 from the first position to
4 the second position can cause knitted
5 component 100 to stretch and elongate in
6 lateral direction 104 in some
7 embodiments."

8 A. In some embodiments.

9 Q. Do you see that?

10 A. I do.

11 Q. Would you agree that the broken
12 lines on Figure 3 show a second position
13 which is indicative of a stretched state?

14 A. It is indicative of a stretched
15 state, yes.

16 Q. So looking at Figure 3, you can
17 visually tell that the broken lines are
18 in a different configuration than the
19 solid lines; would you agree with that?

20 MR. RAZAI: Objection to form.

21 A. Which solid lines are you
22 talking about?

23 Q. So anything that's not a broken
24 line in Figure 3.

25 MR. RAZAI: Objection to form.

1 A. There are a lot of things in
2 here that are not broken lines. So could
3 you be more specific, please?

4 Q. Everything that's within the
5 distance indicated by 300.

6 A. Can you repeat the question?

7 Q. Sure. Looking at Figure 3, can
8 you visually tell that the broken lines
9 are in a different configuration than the
10 solid lines?

11 MR. RAZAI: Objection to form.

12 A. Not the way that question was
13 asked.

14 Q. So if I refer to the broken
15 lines as the right side of this page,
16 would you understand that?

17 A. Yes.

18 Q. And if I refer to the solid
19 lines as the left side of this page,
20 would you understand that?

21 A. Which solid lines?

22 Q. Do you see part number 300?

23 A. It's not a part. It's a
24 distance.

25 Q. It's a figure number, do you

1 see Figure number 300?

2 A. I see a Figure number 300.

3 Q. Do you agree that everything
4 that's within the boundaries of distance
5 300 are designated by solid lines?

6 A. I would agree to that.

7 Q. So we're on the same page that
8 within 300, the components shown in that
9 span are designated by solid lines and
10 outside of that span 300 the components
11 are designated by broken lines; do you
12 agree with that?

13 A. I do.

14 Q. And do you agree that you could
15 visually tell by looking at Figure 3 that
16 the broken lines are in a different
17 position than the solid lines?

18 MR. RAZAI: Objection to form.

19 A. I can do that.

20 Q. That was a yes?

21 A. Yes.

22 Q. Let's turn back to your
23 declaration. Paragraph 26, please.

24 A. Page number, please?

25 Q. Page 20.

1 A. Figure 17 are you talking
2 about?

3 Q. So I am talking about your
4 declaration.

5 A. Oh, my declaration. I'm sorry,
6 I'm sorry. Yes.

7 Q. Page 20, paragraph 26.

8 A. Yes.

9 Q. You say, "For reference
10 purposes knitted component 100 is
11 illustrated with respect to a Cartesian
12 coordinate system in at least Figures 1
13 through 5 and 7."

14 Do you see that?

15 A. I do.

16 Q. And then in the second sentence
17 you say, "Specifically, a longitudinal
18 direction 102 corresponding to the wales
19 of lateral direction 104 corresponding to
20 the courses and a thickness direction 106
21 of knitted component are shown in the
22 figures."

23 Did I read that right?

24 A. You read that right.

25 Q. And you cite to columns 6 lines

1 28 through 32 of the '046 patent for
2 support?

3 A. Tell me that again where you're
4 reading that from, what page?

5 Q. Page 32 of the '046 patent,
6 column 6, line 28.

7 A. Yes.

8 Q. Okay. So column 6, line 28 --
9 actually, let's start with line 30. It
10 says, "Specifically, a longitudinal
11 direction 102, a lateral direction 104
12 and a thickness direction 106 of knitted
13 component 100 are shown."

14 Did I read that right?

15 A. You read that right.

16 Q. So we're going to keep the '046
17 patent side by side with your declaration
18 right now if you don't mind?

19 A. Sure. Let me just make it
20 easier for myself. Okay.

21 Q. And you still have paragraph 26
22 of your declaration?

23 A. Of my declaration, yes.

24 Q. So in your declaration you have
25 inserted these parentheticals that says

1 corresponding to the wales and
2 corresponding to the courses in the
3 second sentence of paragraph 26; do you
4 see that?

5 A. In my declaration?

6 Q. Yes.

7 A. I don't see the word
8 "corresponding"? What sentence are you
9 talking about?

10 Q. The second sentence in
11 paragraph 26.

12 A. It says "respective of
13 Cartesian coordinate" -- sentence. I
14 thought you said line. Your question is,
15 please repeat it?

16 Q. Sure, so you have
17 parentheticals in lines 3 and 4 that say
18 "Corresponding to the wales and
19 corresponding to the courses"; do you see
20 that?

21 A. I do.

22 Q. But that is never called out in
23 column 6, lines 28 through 32 of the '046
24 patent; would you agree with that?

25 A. Well, it refers to the citation

1 628 and 632. That's what it says in
2 column 6, lines 28 through 32, yes.

3 Q. So column 6, lines 28 through
4 32 says "corresponding to the wales or
5 corresponding to the courses"?

6 A. No, that is added by me.

7 Q. That was added by you, right?

8 A. Yes. That's based on my
9 knowledge of textile engineering.

10 Q. But it's not written in the
11 '046 patent in column 6, lines 28 through
12 32 that you cited, correct?

13 A. That's correct.

14 Q. All right. And if we look at
15 that same column in the '046 patent,
16 beginning at line 32, it reads, "However,
17 knitted component 100 can be illustrated
18 relative to a radial coordinate system or
19 other coordinate system."

20 Do you see that?

21 A. Yes.

22 Q. Do you have an understanding of
23 what a radial coordinate system is?

24 A. Yes.

25 Q. What's the difference between a

1 radial coordinate system and a Cartesian
2 coordinate system?

3 A. A radial system is used in
4 engineering when you're talking about
5 circular items and you're talking about
6 degrees and things of that nature, decks
7 and radii.

8 Q. So would you agree that in a
9 Cartesian coordinate system, like is
10 described here, that a longitudinal
11 direction is a straight line?

12 A. It depends on what it's
13 referring to.

14 Q. So if we look at Figure 1 in
15 the '046 patent.

16 A. Yes.

17 Q. The Cartesian coordinate system
18 is identified at the upper left-hand side
19 of this figure by elements 102, 104 and
20 106?

21 A. That is correct.

22 Q. And 102 is the longitudinal
23 direction; is that correct?

24 A. As it pertains to that drawing
25 in Figure 1, yes.

1 Q. And is 102 a straight line?

2 A. It's not a straight line, it's
3 a line with arrows.

4 Q. It represents something, right?

5 A. It does represent something.

6 Q. It represents a direction?

7 A. It represents a direction.

8 Q. And that direction is
9 two-dimensional?

10 A. It appears to be, yes.

11 Q. And it's a line, right? A
12 direction is a line?

13 A. It's a line with arrows.

14 Q. If we can turn back to
15 paragraph 26 of your declaration?

16 A. Yes.

17 Q. About halfway down in this
18 paragraph -- well, about a third of the
19 way down in this paragraph you say, "This
20 description and assignment of a
21 coordinate system is contrary to the
22 common nomenclature familiar to a POSA.
23 In the industry a POSA would have
24 understood the longitudinal direction
25 corresponds to the direction the fabric

1 comes off a knitting machine after a row
2 or knitting loops courses are formed."

3 Do you see that?

4 A. I do.

5 Q. You don't cite anything here,
6 right?

7 A. This is knowledge that a
8 textile engineer would have. I say a
9 POSA.

10 Q. This is just based on your
11 understanding of what longitudinal
12 direction means?

13 A. In this context, yes.

14 Q. But you're not applying this
15 understanding to this proceeding; is that
16 right?

17 A. That's correct.

18 Q. Would you turn with me to page
19 28 of your declaration.

20 A. Yes.

21 Q. And this is in the claim
22 construction section; is that right?

23 A. As best as I can recall, yes.

24 Q. Well, if we look at the page
25 before, just for context. So page 27

1 says section VI, Claim Construction; do
2 you see that?

3 A. Roman numeral VI, yes.

4 Q. We can turn back to page 28,
5 please.

6 A. Yes.

7 Q. So you include claim
8 construction opinions for the term
9 "tubular structures"; is that right?

10 A. I provide opinions, yes.

11 Q. And in paragraph 39 you say, "I
12 agree that the term 'tubular structure'
13 should be given its plain and ordinary
14 meaning."

15 Do you see that?

16 A. I do see that.

17 Q. What's your understanding of
18 "plain and ordinary meaning"?

19 A. A meaning that a POSA would
20 understand.

21 Q. Taking what kind of things into
22 consideration?

23 A. What experience and background
24 that a POSA has.

25 Q. Do you have to consider

1 anything in particular to render that
2 opinion?

3 MR. RAZAI: Objection to form.

4 A. Can you ask that question
5 again?

6 Q. Sure. Do you have to consider
7 anything in particular to render an
8 opinion on plain and ordinary meaning?

9 MR. RAZAI: Objection. Calls
10 for a legal conclusion.

11 A. I already said that a POSA
12 would understand that. In other words,
13 someone off the street here might not
14 understand that, okay? But a textile
15 engineer who also is a mechanical
16 engineer, which I say a POSA has to be,
17 would understand that.

18 Q. You read the term "tubular
19 structure" as a claim and you used your
20 knowledge as a POSA?

21 A. A person who is at least a
22 POSA.

23 Q. You use that knowledge to come
24 up with the plain and ordinary meaning?

25 MR. RAZAI: Objection to form.

1 A. That is correct. I don't
2 recall exactly how I came up with that,
3 but the answer is yes.

4 Q. What do you mean you don't
5 recall --

6 A. The answer is yes. Ask me the
7 question again and I'll give you the
8 answer.

9 Q. So you use the knowledge of a
10 POSA to come up with the plain and
11 ordinary meaning?

12 A. Correct.

13 Q. And that's all you need?

14 A. That's all I needed.

15 Q. And what did you mean when you
16 said "I don't recall exactly how I came
17 up with that"?

18 A. It was a mistake to say that.
19 That's why I asked you to repeat the
20 question.

21 Q. Understood. In paragraph 39,
22 you say, the second sentence, you say,
23 "In my opinion a 'tubular structure' must
24 have the shape of a tube and thus the
25 proper plain and ordinary meaning is

1 'elongated hollow structures.'"

2 Do you see that?

3 A. I do.

4 Q. And what did you mean "must
5 have the shape of a tube"?

6 A. I already answered that
7 question.

8 Q. What did you mean in this
9 paragraph when you said a tubular
10 structure must have a shape of a tube?

11 A. Exactly what it says, must have
12 a shape of a tube. And if I recall,
13 earlier you asked me what a tube was.

14 Q. And a tube, in your opinion, is
15 an elongated hollow structure?

16 A. Not necessarily.

17 Q. You say here "The proper plain
18 and ordinary meaning is elongated hollow
19 structures"?

20 A. That would be correct. I agree
21 with that.

22 Q. Does that mean like a cylinder
23 or another closed periphery shape?

24 MR. RAZAI: Objection to form.

25 A. It could mean that.

1 Q. But you don't think it has to
2 mean that?

3 A. No.

4 MS. STAUBACH: Mark this as
5 Brookstein Exhibit 4. This is also
6 paper 7 in the IPR proceeding.

7 (Brookstein Exhibit 4, Decision
8 from the PTAB on the parties' review,
9 was so marked for identification, as
10 of this date.)

11 Q. Have you seen this document
12 before?

13 A. I have.

14 Q. What is it?

15 A. It's a decision from the PTAB
16 on the parties' review.

17 Q. How many times did you read
18 this?

19 A. Many times.

20 Q. Did you read it this week?

21 A. Yes.

22 Q. Are you aware that the board
23 construed tubular structures?

24 A. The board construed tubular
25 structures?

1 Q. Yes.

2 A. Can you show me where it says
3 that?

4 Q. If we can turn to page 8.
5 About halfway down the page, the last
6 sentence of the first paragraph says,
7 "Thus, for purposes of institution and
8 consistent with the parties' positions,
9 we construed the claimed tubular
10 structures as at least having a closed
11 periphery or circumference."

12 Do you see that?

13 A. I do.

14 Q. Do you agree that a tubular
15 structure at least has a closed periphery
16 or circumference?

17 A. Not necessarily. I disagree
18 with this.

19 Q. Can you provide an example of
20 something that would not have a closed
21 periphery or circumstance that would meet
22 the claimed tubular structures?

23 A. A channel.

24 Q. And what does a channel look
25 like?

1 A. Well, in engineering you would
2 know that a channel would have an
3 opening. It would not be completely
4 surrounded. It would still be a tube.

5 Q. In your opinion that would
6 still meet a tubular structure?

7 A. In my opinion as an engineer,
8 yes.

9 Q. Turn to paragraph 40 of your
10 declaration.

11 A. 40 of the declaration.
12 Paragraph 40. Page 29. Okay.

13 Q. The last sentence in paragraph
14 40, the third line from the bottom begins
15 "In Ground 2"?

16 A. Yes.

17 Q. Do you see that?

18 A. Yes.

19 Q. "In Ground 2 I specifically
20 address the invalidity of the claims 1
21 through 3, 7, 17, 18 and 20 under
22 patent's owner proposed construction that
23 a tubular structure is a non-tubular
24 rib."

25 Do you see that?

1 A. Yes.

2 Q. So in this sentence you say
3 that Ground 2 addresses the invalidity of
4 certain claims based on a non-tubular
5 rib; is that right?

6 A. Correct.

7 Q. So you agree that Ground 2,
8 which is based on the Munsing reference,
9 in that Ground Munsing only discloses a
10 non-tubular rib?

11 A. That's what I said.

12 Q. Can we turn to paragraph 46 and
13 I will give you a page number.

14 A. Yes.

15 Q. It's page 31. Does the Good
16 reference disclose tubular structures in
17 your opinion?

18 A. Yes.

19 Q. If we turn to page 32 of your
20 declaration.

21 A. Yes.

22 Q. You reproduced Figure 2 of the
23 Good preference here?

24 A. I have.

25 Q. And it's your opinion that rib

1 portions 22 meet the claimed tubular
2 structures?

3 A. I do.

4 Q. Sorry, that's your opinion?

5 A. Well, you asked me. What was
6 the question?

7 Q. And it's your opinion that rib
8 portions 22 meet the claimed tubular
9 structures?

10 A. I do.

11 Q. If you can turn to page 34.
12 You've reproduced Figure 3 of Good here
13 with some blue annotations; do you see
14 that?

15 A. The blue annotations were put
16 on by counsel. The rest is directly from
17 the patent.

18 Q. They were put on by counsel at
19 your direction?

20 A. Yes.

21 Q. So these show a cross-sectional
22 view of rib portions 22?

23 A. Amongst other things, yes.

24 Q. Do you agree that these rib
25 portions 22 have essentially a backward

1 C-shape cross-section?

2 MR. RAZAI: Objection to form.

3 A. They have a backwards C
4 section, yes.

5 Q. And is this like the channel
6 you were just talking about?

7 A. Yes.

8 MS. STAUBACH: Let's mark this
9 as Brookstein Exhibit 5.

10 (Brookstein Exhibit 5, Good
11 patent/reference, was so marked for
12 identification, as of this date.)

13 Q. This is also Exhibit 1005 in
14 the IPR proceeding.

15 A. Sorry, I was moving around some
16 stuff. What was your question?

17 Q. No question. I was just saying
18 this is Exhibit 1005 in the IPR
19 proceeding?

20 A. You're making a statement.

21 Q. Do you recognize this document?

22 A. I do.

23 Q. Is this the Good reference?

24 A. Yes. Good patent or Good
25 reference?

1 Q. Either one.

2 A. It's a patent and it's a
3 reference.

4 Q. All right. If you would turn
5 with me to Figure 4. And you've reviewed
6 all of the figures and the specification
7 in here, correct?

8 A. Correct.

9 Q. Many times?

10 A. Many times.

11 Q. So are you familiar with what
12 Figure 4 is showing?

13 A. Yes.

14 Q. What is Figure 4 showing?

15 A. I would like to go back and see
16 what it says in the description so I get
17 it right.

18 I am reading from column 3,
19 lines 19 to 21. "Figure 4 is a schematic
20 vertical cross-sectional view of the
21 elongated cuff member of Figure 2 taken
22 along the line 4.4 thereof."

23 Q. So this is showing an elongated
24 cuff member?

25 A. A portion of an elongated cuff

1 member.

2 Q. It's a cross-sectional view
3 like Figure 3; is that right?

4 A. Well, it's not like Figure 3.

5 Q. It's like Figure 3 in that it's
6 a cross-sectional view of the rib
7 portions 22? I am happy to rephrase.

8 Is Figure 4 a cross-sectional
9 view of rib portions 22?

10 A. What was the last couple of
11 words.

12 Q. "Rib portions 22"?

13 A. It includes portions of rib 22,
14 yes.

15 Q. It also includes portions 24;
16 is that right?

17 A. Yes.

18 Q. But in your opinion do the rib
19 portions 22 in Figure 4 still look
20 tubular in shape?

21 A. Yes.

22 Q. Why do these look tubular in
23 shape?

24 A. Well, they represent channels.

25 Q. Do you agree that rib portions

1 22 in Figure 4 essentially have a
2 vertical line configuration for the
3 majority of rib portion 22?

4 A. Where is the ribbed line? Can
5 you be more specific, please?

6 Q. I was asking if you agree that
7 rib portions 22 in Figure 4 have a
8 vertical line configuration for a
9 majority of rib portions 22?

10 A. In the top section, yes. Not
11 in the bottom section.

12 Q. What do you mean by top and
13 bottom section?

14 A. Well, there are two sections
15 here. The first one would be the top and
16 22 is pointing to the middle. And on the
17 bottom section 22 is pointing to a loop.

18 Q. So you're saying there are two
19 ripped portions 22 shown on Figure 4, a
20 top rib portion 22 and a bottom rib
21 portion 22?

22 A. I am.

23 Q. And the top rip portion, the
24 arrow with part number 22 is pointing to
25 a vertical line portion of rib portion

1 22?

2 A. Not a vertical line.

3 Q. How would you describe it?

4 A. A dotted vertical line.

5 Q. Would you agree that the rib
6 portions of Figure 4 are substantially
7 more opened than the rib portions of
8 Figure 3?

9 MR. RAZAI: Objection to form.

10 A. I need you to tell me what you
11 mean by "substantially more open."

12 Q. Well, let's take out that word.
13 Are the rib portions 22 of Figure 4 more
14 open than the rib portions 22 of Figure
15 3?

16 MR. RAZAI: Objection to form.

17 A. You have to ask that again,
18 please.

19 Q. Are the rib portions 22 shown
20 in Figure 4 more open than the rib
21 portions 22 shown in Figure 3?

22 A. You can't tell. It's only
23 pointing to dotted lines. It's not the
24 complete drawing.

25 Q. Do you agree that each of

1 Figures 3 and Figure 4 show two rib
2 portions?

3 A. You have to be more specific
4 than that.

5 Q. Let's look at Figure 3.

6 A. Yes.

7 Q. You testified earlier that rib
8 portions 22 in Figure 3 have a backwards
9 C shape; do you remember that?

10 A. I do.

11 Q. How many of those C shapes do
12 you see in Figure 3?

13 A. Two.

14 Q. There are two rib portions
15 shown in Figure 3; do you agree with
16 that?

17 A. I agree.

18 Q. Let's turn to Figure 4.

19 A. Yes.

20 Q. Would you agree that the rib
21 portions 22 shown in Figure 4 also have a
22 backwards C shape, albeit the C is
23 distorted?

24 MR. RAZAI: Objection to form.

25 A. I need you to tell me what you

1 mean by "distorted."

2 Q. The C is longer vertically than
3 in Figure 3?

4 A. I haven't measured it, but it
5 appears it's longer.

6 Q. But you would agree there are
7 two rib portions 22 shown in Figure 4?

8 A. I would agree to that.

9 THE WITNESS: Excuse me, we are
10 coming up on the hour.

11 MS. STAUBACH: That's fine.
12 Let's go ahead and take a break.

13 THE VIDEOGRAPHER: The time is
14 9:58 a.m. and this marks the end of
15 media number one.

16 (Off the record.)

17 THE VIDEOGRAPHER: The time is
18 10:10 a.m. and this begins media unit
19 number two.

20 MS. STAUBACH: All right.
21 Welcome back, Dr. Brookstein.

22 THE WITNESS: Thank you for
23 welcoming me back.

24 BY MS. STAUBACH:

25 Q. If you can turn to page 46 of

1 your declaration.

2 A. Yes.

3 Q. Paragraph 64?

4 A. Yes.

5 Q. This is in the section about
6 anticipation of Claim 2 by Good. Do you
7 see that?

8 A. Yes.

9 Q. Let's actually turn to page 47,
10 which is paragraph 65.

11 A. Yes.

12 Q. You say, "According to the '046
13 patent, the longitudinal direction 102
14 can be a direction parallel to the axes
15 of the tubular structures."

16 Do you see that?

17 A. With the parentheses blue, yes.

18 Q. That means you colored the
19 tubular structures blue in the figure
20 that's shown on page 47?

21 A. Counsel did at my direction.

22 Q. So when you say the
23 longitudinal direction can be a direction
24 parallel to the axes of the tubular
25 structures, is that the same application

1 that you used with the Good reference?

2 A. With the Good reference?

3 Q. Uh-huh. Sorry, yes, with the
4 Good reference?

5 A. Where did I talk about the Good
6 reference about longitudinal and lateral?

7 Q. Let's turn to page 48.

8 A. Okay. Oh, I see.

9 Q. Paragraph 66.

10 A. Yes.

11 Q. You say, "Good discloses the
12 limitation of Claim 2"; do you see that?

13 A. Yes, I do.

14 Q. And then on the next page, page
15 49, you've included an annotated version
16 of Good's Figure 2 here?

17 A. Yes.

18 Q. So when you said the
19 longitudinal direction can be a direction
20 parallel to the axes of the tubular
21 structures, is that the understanding
22 you've applied to Good?

23 A. Yes. Which is contrary to what
24 a textile engineer would do, but it's my
25 understanding that the patentee is a rule

1 lexicographer so that's what they called
2 it in the original patent '046.

3 Q. What does "parallel" mean?

4 A. In what context?

5 Q. In the everyday usage of the
6 word "parallel," how do you understand
7 that word?

8 A. Parallel is when you're talking
9 about two lines and they are equidistance
10 from each other.

11 Q. So it has to be in the context
12 of lines; is that right?

13 A. Yes, but in this case I was
14 using it to show the direction.

15 Q. Do you agree that Good teaches
16 a sock?

17 A. Amongst other things, yes.

18 Q. What's shown in Figure 2 here
19 is a sock?

20 A. Yes.

21 Q. And part number 10 points to
22 the cuff of Good's sock?

23 A. That's my understanding.

24 Q. And is that cuff tubular in
25 shape?

1 A. Yes.

2 Q. So it has got a circumference;
3 is that right?

4 A. Well, circumference, again, the
5 only thing that can have a circumference
6 is a perfect circle, so I would like you
7 to ask that question a little bit more
8 specifically.

9 Q. Good's cuff is designed to go
10 around a wearer's ankle and lower leg; is
11 that right?

12 A. I would agree to that.

13 Q. So it's not a straight line?

14 A. What's not a straight line?

15 Q. Thank you. I will rephrase.

16 So you have on page 49, you
17 have a red arrow that says "longitudinal
18 direction"?

19 A. Yes.

20 Q. And it points horizontally
21 across Good's cuff 10; do you see that?

22 A. Yes, I do.

23 Q. And but Good's cuff is not a
24 two-dimensional item; is that right?

25 A. That's correct.

1 Q. And as shown in Figure 2,
2 Good's rib portions 22 extend around the
3 periphery of Good's cuff; do you agree
4 with that?

5 A. I agree with that.

6 Q. So when you say the
7 longitudinal direction can be a direction
8 parallel to the axes of the tubular
9 structures, the tubular portions shown in
10 Figure 2 aren't lines that can have a
11 parallel direction shown by what you've
12 identified as longitudinal direction
13 here?

14 MR. RAZAI: Objection.

15 A. No, it's a longitudinal
16 direction.

17 Q. You just testified the term
18 "parallel" can only be used in the
19 context of lines; is that right?

20 A. In that context, that's
21 correct.

22 Q. So what you've identified as
23 longitudinal direction here is not
24 parallel to Good's rib portions 22
25 because Good's rib portions 22 aren't

1 linear?

2 A. I am pointing to the picture.
3 In the picture the web areas are linear.

4 Q. So you're pointing to the
5 picture but the picture is of a sock and
6 you agreed that the sock would have a
7 cuff that has a periphery that would
8 extend around a wearer's leg?

9 A. But I am pointing to the
10 picture which doesn't show a three-
11 dimensional view of the sock. And it is
12 parallel because it's parallel to the
13 courses in the sock.

14 Q. So your application of
15 longitudinal direction to Good only makes
16 sense in the context of the two-
17 dimensional image of Figure 2?

18 MR. RAZAI: Objection to form.

19 A. In this particular picture I am
20 trying to show the longitudinal direction
21 is parallel to the direction of the
22 courses in the, either the rib or the
23 web. And again, a POSA would understand
24 when I say courses what I am talking
25 about.

1 Q. But even the courses of the rib
2 portions 22 also extend around the
3 periphery of Good's cuff, right?

4 A. If it's a sock, yes. But
5 that's not what the drawing shows. The
6 drawing is just a two-dimensional
7 picture.

8 Q. So the drawing doesn't show a
9 sock?

10 A. It is described -- what does
11 Figure 2 say? Let me see what Figure 2
12 says. I am looking at 91, the Good
13 patent.

14 It says it's another side
15 elevational view. An elevational view,
16 an engineer would understand that that is
17 a two-dimensional view. So I am
18 comparing it to the elevation view. I am
19 not comparing it to the sock. I am
20 comparing it to the elevation view. An
21 engineer would understand that.

22 Q. But you agree that in reality a
23 sock like that shown in Figure 2, the rib
24 portions would not be extending linearly
25 as you depicted longitudinal direction

1 here?

2 MR. RAZAI: Objection to form.

3 A. You're saying Figure 2 shows a
4 sock. It shows the elevation view of the
5 sock. There is a difference there. And
6 again, an engineer would understand that.

7 Q. So your identification of a
8 longitudinal direction is specific to the
9 elevation view shown in Figure 2; is that
10 right?

11 A. That is correct.

12 Q. Thank you. All right. Let's
13 change gears a little bit and turn to
14 paragraph 127 on page 78.

15 A. Of my declaration?

16 Q. Of your declaration.

17 A. Yes.

18 Q. And this is in a heading B that
19 says "Minami anticipates Claim 8"; do you
20 see that?

21 A. I do.

22 Q. So in paragraph 127 on page 79
23 you reproduce Minami's Figure 7A here
24 with annotations?

25 A. That would be correct.

1 Q. And in your opinion, protruding
2 areas 133 are the claimed tubular rib
3 structures?

4 A. 133?

5 Q. Yes.

6 A. I have to look and see -- I
7 have to see what it says in the patent.
8 Can I have the patent, please?

9 Q. You have the patent?

10 A. Oh, right.

11 Q. It is Exhibit 3.

12 A. I don't have Minami.

13 Q. Oh, sorry. The Minami
14 reference.

15 A. Yeah, yeah, the specific.

16 MS. STAUBACH: Let's mark this
17 as Exhibit 6 and this is also 1007 in
18 the IPR proceeding.

19 (Brookstein Exhibit 6, Minami
20 patent application, was so marked for
21 identification, as of this date.)

22 A. Can you ask me that question
23 again, please.

24 Q. First of all, do you recognize
25 this document?

1 A. I do.

2 Q. Is this the Minami patent?

3 A. It's not a patent.

4 Q. Thank you. Is this the Minami
5 patent application publication?

6 A. It is.

7 Q. I will reask that question.

8 In your opinion, are protruding
9 areas 133 the claimed tubular rib
10 structures?

11 A. I want to see how they are
12 described in the patent, what they say
13 about 133. I would be happy to read the
14 whole publication. Can you point me to
15 where they have a description of 133? In
16 paragraph 62 it says "protruding areas
17 133." So can you ask the question again,
18 please.

19 Q. Sure. Is it your opinion that
20 protruding areas 133 are the claimed
21 tubular rib structures?

22 A. The claimed tubular rib
23 structures, claimed where, in the
24 publication or in the '046 patent?

25 Q. In your declaration, you're

1 offering opinions about how this Minami
2 reference meets the claims, certain
3 claims of the '046 patent, right?

4 A. Yes, but the paragraph, if I
5 recall, the paragraph 127 hasn't even
6 mentioned the patent yet. It's really
7 just giving an overview of Minami.

8 Q. Let's turn back to page 78 of
9 your declaration.

10 A. Okay.

11 Q. And there is a heading here
12 that says "2. Limitation 8[a]: 'A
13 plurality of webbed areas and a plurality
14 of tubular rib structures.'"

15 What's your understanding of
16 where limitation 8[a] comes from?

17 A. It comes from the '046 patent.

18 Q. So in this section are you
19 offering an opinions on how Minami meets
20 that claim limitation?

21 A. In paragraph 127 I am only
22 talking about Minami.

23 MR. RAZAI: Just take a second
24 to read the paragraph.

25 THE WITNESS: Yes, thank you.

1 (Witness reviews document.)

2 A. I see the last sentence there,
3 yes. Ask me the question again and then
4 I will answer it.

5 Q. In paragraph 127 is it your
6 opinion that protruding portions 133 of
7 Minami meet the claimed tubular rib
8 structures?

9 A. Yes.

10 Q. And is it your opinion that the
11 portions of knit element 131 that lie in
12 between protruding portions 133 are the
13 claimed webbed areas?

14 A. Yes.

15 Q. You sounded a little hesitant
16 about that; did I say something wrong?

17 A. No, I just said yes. Don't
18 read into that. It was a one-word
19 answer, yes.

20 Q. And in paragraph 127, about
21 halfway down on page 79, you say, "A POSA
22 would have understood that because the
23 protruding areas 133 are knitted as 'two
24 separate and spaced textile layers,' they
25 may be produced on a V-bed flat knitting

1 machine."

2 Do you see that?

3 A. Yes.

4 Q. So in your opinion, protruding
5 areas 133 are knitted as two separate and
6 spaced textile layers?

7 A. No, they are described as two
8 separate textile layers. It's in the
9 publication.

10 Q. And those two layers have a --
11 they define a channel in between them?

12 A. They can.

13 Q. They can or they do?

14 A. Oh, in this particular case
15 they do.

16 Q. Let's turn to paragraph 131 on
17 page 81.

18 A. Yes, ma'am.

19 Q. In here you are providing
20 opinions about limitation 8[d]; do you
21 see that?

22 A. 8[d] of the '046, yes.

23 Q. And limitation 8[d] says, "the
24 tubular rib structures having a first
25 curve portion with a first curved length

1 extending from the front side of the
2 webbed areas, and a second curve portion
3 with a second curve length extending from
4 the back side of the webbed areas, the
5 first curve length being greater than the
6 seconds curve length."

7 Do you see that?

8 A. I do.

9 Q. And in paragraph 131, you
10 discuss Figure 4 of the '046 patent.

11 A. Correct.

12 Q. And you reproduced that figure
13 at the top of page 82?

14 A. With one minor problem. When
15 the second box that says "second curved
16 portion," it covers up 418, I think this
17 is the one where something was covered up
18 and essentially it's Figure 4 of the
19 patent.

20 Q. So it's got some annotations
21 added, but other than that it's Figure 4?

22 A. It's Figure 4.

23 Q. And in Figure 4 you have text
24 boxes all out the first curved portion
25 and the second curved portion; do you see

1 that?

2 A. I do.

3 Q. And is it your opinion that the
4 first curved portion is longer than the
5 second curved portion?

6 A. It appears that way.

7 Q. Would you say that the relative
8 difference between those lengths in
9 Figure 4 is large?

10 MR. RAZAI: Objection to form.

11 A. As I tell my students, you
12 can't use the word "large." You have to
13 say large compared to something else.

14 Q. How many times greater in
15 length would you estimate the red portion
16 is than the green portion?

17 MR. RAZAI: Objection to form.

18 A. I am not going to make that
19 kind of estimation.

20 Q. Sitting here today, you can't
21 say whether the red portion is three
22 times greater, four times greater,
23 approximately?

24 MR. RAZAI: Objection to form.

25 A. I can just say it's longer.

1 Q. Is it a lot longer?

2 MR. RAZAI: Objection to form.

3 A. That doesn't mean anything, a
4 lot longer.

5 Q. Sitting here today, you have no
6 way to approximate how much longer that
7 red section is than the green section?

8 MR. RAZAI: Objection to form.
9 Misstates his testimony.

10 A. I already said it's longer. I
11 can't estimate it, but it's longer than
12 the other one.

13 Remember, you always -- if
14 you're going to use words like "longer"
15 or "larger," you have to say compared to
16 what.

17 Q. Can we tell from this figure
18 whether the red portion has more knitted
19 material than the green portion?

20 MR. RAZAI: Objection to form.
21 Is that green?

22 A. If that red line is larger, it
23 has more knitted material, yes, than the
24 lower portion.

25 Q. Just to clarify, when I say

1 green, I think this could be interpreted
2 as green or yellow.

3 MR. RAZAI: Okay.

4 Q. But in contrast to the red
5 annotations.

6 A. I do understand what you mean.

7 Q. Do you see the squiggly lines
8 inside of the first curved portion and
9 second curved portion that you
10 identified?

11 A. What do you mean squiggly
12 lines?

13 Q. So the first curved portion you
14 have drawn a red line around; do you see
15 that?

16 A. Yes.

17 Q. There is also an interior
18 portion of that first curved portion; do
19 you see that?

20 A. Are you talking about 112?
21 That's interior.

22 Q. 112 is the center of the
23 tubular rib structure, right?

24 A. Well, again, you can't have a
25 center unless it's a perfect circle.

1 You're using the wrong term.

2 Q. Can you have a middle?

3 A. A middle, that's fair.

4 Q. So 112 points to the middle of
5 the tubular rib structure?

6 A. I haven't measured it, but it's
7 in the area of the middle.

8 Q. And there is a portion of the
9 tubular ribbed structure that there is a
10 face that abuts the middle portion; do
11 you agree with that?

12 MR. RAZAI: Objection to form.

13 A. There is a face; what do you
14 mean by a face?

15 Q. So each tubular rib structure
16 has an exterior surface and an interior
17 surface; would you agree with that?

18 A. Yes.

19 Q. I am talking about the interior
20 surface; do you understand?

21 A. The interior surface of?

22 Q. Of the tubular ribbed
23 structure.

24 A. Correct.

25 Q. And I am talking about the

1 interior surface that is opposite from
2 the first curved portion you identified
3 here?

4 A. Yes, and what's my question?

5 Q. So my question is, in between
6 that interior surface and the first
7 curved portion you have identified, there
8 are wavy lines, do you see those lines?

9 A. You used the word "squiggly,"
10 is that the same thing?

11 Q. Squiggly and wavy, I am
12 equating those.

13 A. I would agree wavy, yes.

14 Q. Do those indicate knitted loops
15 in your opinion?

16 A. Yes.

17 Q. So would you then agree that
18 there are more knitted loops
19 corresponding to the first curved portion
20 than the second curved portion?

21 A. Yes.

22 Q. All right. We can go to
23 paragraph 132, which starts on this same
24 page, page 82.

25 A. Yes.

1 Q. Just at the very bottom of this
2 page there is the sentence that starts,
3 "I show below a magnified annotated
4 excerpt of Minami's Figure 7A which
5 depicts a close-up of one representative
6 tubular rib structure."

7 Do you see that?

8 A. I see that.

9 Q. Why do you include what you
10 call "A magnified annotated excerpt of
11 Minami's Figure 7A" here?

12 A. So I could make a visual
13 observation of it.

14 Q. Is that a visual observation
15 that you couldn't make from just using
16 the full Figure 7A?

17 A. I could make it from there,
18 too.

19 Q. So there was no reason to
20 include this magnified version?

21 MR. RAZAI: Objection to form.

22 A. I magnified it so that the PTAB
23 could see it.

24 Q. Because it's easier to see
25 what's going on in protruding area 133 if

1 it's enlarged?

2 A. Is there a question there?

3 Q. Yeah. Is it easier to see
4 what's going on in protruding area 133
5 when it's enlarged?

6 A. I think so.

7 Q. Below this image on page 83,
8 you cite to paragraph 61 of the Minami
9 reference.

10 A. Yes.

11 Q. Would you turn with me there to
12 Minami.

13 A. Yes. Paragraph 61?

14 Q. Yes. And that's on page 39.

15 A. Okay. Why don't you ask me the
16 question and then I want to read this.

17 Q. Does paragraph 61 of Minami
18 mention the lengths of any curved
19 portions of protruding area 133.

20 A. Can I read paragraph 61?

21 Q. Go ahead, sure.

22 (Witness reviews document.)

23 A. They don't actually give
24 numbers, no. They give references.

25 Q. Does paragraph 61 say anything

1 about the length of curved portions of
2 protruding area 133?

3 A. What do you mean by anything?

4 Q. Does it mention length?

5 A. It doesn't mention length but
6 it mentions bulges, protrusions, bumps,
7 or other outwardly extending portions in
8 knit components 130.

9 Q. So do you agree that paragraph
10 61 doesn't mention length?

11 A. Length being an actual number?

12 Q. The word "length."

13 A. The word "length" is not in
14 there that I can see.

15 Q. And it doesn't have any numbers
16 about length either; is that right?

17 A. It refers to lengths but it
18 doesn't have specific numbers of lengths.

19 Q. And where does it refer to
20 lengths?

21 A. I just answered that question;
22 it says it has bulges, protrusions, bumps
23 or other outwardly extending components
24 in knitted components.

25 Q. Is it your understanding that

1 any reference to a component would
2 inherently refer to length?

3 MR. RAZAI: Objection to form.

4 A. If you compare it to something
5 else. He's comparing it to the lower
6 portion.

7 Q. But when paragraph 61 says
8 "bulge," that refers to length?

9 A. That refers to the outward
10 parts of the tubular section, yes.

11 Q. But it never uses the word
12 "length"?

13 A. I answered that question.

14 Q. Is that a yes?

15 A. If it was yes then, it's yes
16 now. You keep asking me the same
17 question over and over.

18 Q. All right. In your section --
19 in your declaration addressing limitation
20 8[d], which begins on page 81, paragraph
21 131?

22 A. Yes.

23 Q. And extend to the top of page
24 84.

25 A. Yes.

1 Q. Do you cite anything in Minami
2 other than Figure 7A or paragraph 61?

3 A. I don't understand your
4 question.

5 Q. Do you understand that your
6 opinions for limitation 8[d] in Ground 3
7 which relates to the Minami reference
8 extend from paragraph 131 to paragraph
9 133 in your declaration?

10 A. Yes.

11 Q. In paragraphs 131 through 133,
12 do you cite to any other portions of
13 Minami other than Figure 7A and paragraph
14 61?

15 A. Can you ask me that question
16 again?

17 Q. Sure. In paragraphs 131
18 through 133 of your declaration, do you
19 cite to anything else in Minami other
20 than Figure 7A or paragraph 61?

21 A. No.

22 Q. Sitting here today, you're not
23 aware of anywhere else in Minami that
24 discloses the relative lengths of the
25 first and second curved portions of

1 protruding area 133 that you identified?

2 A. I have read Minami many times,
3 but I have not memorized it. To answer
4 your question precisely, I would have to
5 sit and reread Minami to answer your
6 question.

7 Q. So my question was, sitting
8 here today, so the knowledge that you
9 have right now, you're not aware of any
10 other disclosure in Minami in which
11 Minami discloses that protruding areas
12 133 have two curved lengths with one
13 length being longer than the other?

14 A. I answered that unless I reread
15 Minami I can't answer that question. I
16 didn't memorize Minami.

17 Q. But you're not aware of any
18 other portions of Minami sitting here
19 right now?

20 A. Not unless I read it.

21 Q. Do you know if Minami ever
22 discloses that its drawings are to scale?

23 A. I don't recall.

24 Q. Do you recall Minami disclosing
25 that its drawings are not to scale?

1 A. I don't recall.

2 Q. Would you turn with me to
3 paragraph 10 of Minami.

4 A. Yes.

5 Q. Paragraph 10 says, "The
6 invention can be better understood with
7 reference to the following drawings and
8 description, the components and the
9 figures are not necessarily to scale.
10 Emphasis instead being placed upon
11 illustrating the principles of the
12 invention."

13 A. Yes.

14 Q. In your opinion, what does it
15 mean if something is not drawn to scale?

16 A. It means that it does not have
17 the specific quantitative numbers that
18 would relate to the device that you were
19 talking about.

20 Q. So it might not be a precise --
21 precisely proportioned representation of
22 what you're actually talking about?

23 MR. RAZAI: Objection to form.

24 A. That's not how I answered that.
25 In engineering we say, when I would teach

1 mechanical drawing we would say if you're
2 making a drawing, let's say of a
3 building, and you want to make it to
4 scale, then it has to be the same
5 proportions. And I've taught mechanical
6 drawing.

7 Q. So if it's not to scale, if the
8 drawing is not to scale, then it doesn't
9 have the same proportions?

10 MR. RAZAI: Objection to form.

11 A. I don't think I said that.

12 Q. What's wrong with what I said?

13 A. Repeat my answer.

14 Q. I'll repeat my question.

15 So if it's not to scale -- let
16 me rephrase.

17 If a drawing is not to scale,
18 then it doesn't have the same proportions
19 as what it's representing?

20 A. If it's not to scale it doesn't
21 have the same proportion.

22 MR. RAZAI: Can we take a two-
23 minute break?

24 MS. STAUBACH: Sure.

25 THE VIDEOGRAPHER: The time is

1 10:45 a.m. and we are off the record.

2 (Off the record.)

3 THE VIDEOGRAPHER: The time is
4 10:51 a.m. and we are back on the
5 record.

6 MS. STAUBACH: Welcome back
7 again.

8 THE WITNESS: Pleasure to be
9 here.

10 BY MS. STAUBACH:

11 Q. Did you have any discussions
12 with Mr. Razai during the break?

13 A. Just about that I might have to
14 go to the bathroom later.

15 Q. You didn't discuss anything
16 about your testimony here?

17 A. Absolutely not.

18 Q. I would like to turn to page 84
19 of your declaration.

20 A. Yes.

21 Q. Which has the heading
22 Limitation 8E.

23 A. Yes.

24 Q. And limitation 8E is "The
25 webbed areas configured to move between a

1 neutral position and an extended
2 position. The webbed area being biased
3 to move toward the neutral position."

4 Do you see that?

5 A. I do.

6 Q. And in paragraph 134, beginning
7 in the first line, you say, "Minami's
8 knit element 131 stretches and can
9 include different types of yarn that
10 allow for stretching."

11 Do you see that?

12 A. I do.

13 Q. So in your opinion, because
14 knit element 131 is formed from yarn, it
15 has some ability to stretch; is that
16 accurate?

17 MR. RAZAI: Objection to form.

18 A. No, not specifically. Has to
19 be a type of yarn. It says physical
20 properties of the yarn.

21 Q. But because knit element,
22 depending on what type of yarn knit
23 element is made from, that yarn could
24 allow some degree of stretch?

25 A. Could you repeat what you just

1 said?

2 Q. Sure, or I could rephrase.

3 Because knit element 131 is
4 comprised of yarn and specifically what
5 type of yarn it's comprised of, that
6 could allow some degree of stretch; is
7 that right?

8 A. Correct.

9 Q. And when you refer to knit
10 element 131, are you talking about knit
11 element 131 that's shown in Figure 7A of
12 Minami?

13 A. 131 is two separate layers of
14 knit elements, yes.

15 Q. What are those separate layers?

16 A. It just says they are two
17 separate layers.

18 Q. Where does it say that?

19 A. I have to go back and look.

20 Q. Were you looking at something
21 just now when you said two separate
22 layers?

23 A. No, I remembered it.

24 Q. Okay. Well, let's look at your
25 declaration, page 85. You reproduced

1 Figure 7A here.

2 A. Yes.

3 Q. Are the two layers you're
4 talking about labeled 130 and 140 in
5 Figure 7A?

6 A. No.

7 Q. But you don't remember what the
8 two layers are?

9 A. I have to read Minami, but
10 there is a part that says that 131 is two
11 separate layers. It doesn't mention 140.

12 Q. All right. In paragraph 134
13 you cite to paragraphs 48, 49 and 52 of
14 Minami.

15 A. Yes.

16 Q. Do you see that?

17 A. I do.

18 Q. Let's take those in turn.

19 A. Okay.

20 Q. Can you please go to paragraph
21 48 of Minami, which is on page 38.

22 A. Yes.

23 Q. So paragraph 48 says about
24 halfway down, "inlaid strand 132 assists
25 with securing upper 120 around the foot."

1 A. Wait, I got to look at that.

2 Say this again?

3 Q. So about halfway down.

4 A. Yes.

5 Q. In paragraph 48?

6 A. Yes.

7 Q. There is a sentence that begins

8 "For example"?

9 A. I see it.

10 Q. So "For example, inlaid strand
11 132 assists with securing 120 around the
12 foot limits deformation in areas upper
13 120 (e.g. imparts stretch resistance)."

14 Do you see that?

15 A. Yes.

16 Q. And is that why you cited to
17 paragraph 48, that sentence?

18 A. I was just -- if I recall, I
19 was citing to 48 just to show what the
20 different elements are. I wasn't talking
21 about in particular any properties. I
22 didn't get to the properties in 49.

23 Q. So paragraph 48 doesn't support
24 your opinion that element 131 is
25 configured to stretch?

1 A. Well, if you look at -- back to
2 my declaration, where are you referring
3 to?

4 Q. Okay. So limitation 8[e], as
5 we discussed talks about the webbed
6 areas?

7 A. Yes.

8 Q. Being configured to move
9 between a neutral position and an
10 extended position?

11 A. Yes. I cited three paragraphs
12 there, not just one.

13 Q. Right. And we are going to
14 take each one of those paragraphs in
15 turn. But for now talking about
16 paragraph 48.

17 A. Yes.

18 Q. Does paragraph 48 support your
19 opinion that the webbed areas move
20 between a neutral position and an
21 extended position?

22 MR. RAZAI: Objection to form.

23 A. Let me read it again.

24 (Witness reviews document.)

25 A. Not in and of itself. You have

1 to look at 49. And they were all cited
2 at the same time.

3 Q. Paragraph 48, as we just read,
4 says that "inlaid strand 132 assists with
5 securing upper 120 around the foot,
6 limits deformation in areas of upper 120
7 (e.g. imparts stretch resistance),"
8 right?

9 A. Yes.

10 Q. So the inlaid strands 132
11 actually inhibit stretch of the knit
12 element 131?

13 A. That's not what it says. It
14 limits. That's a big difference. Limits
15 means it still can stretch, it just
16 limits how much it can stretch. You need
17 to say these words precisely the way an
18 engineer would do it.

19 Q. But it limits the degree --

20 A. But it doesn't say it can't.

21 Q. For purposes of a clear record
22 I am going to ask that again.

23 A. Okay. Paragraph 48 says inlaid
24 strands 132, in your opinion, limit the
25 degree of stretch of knit element of 131.

1 MR. RAZAI: Objection to form.

2 Q. Is that accurate?

3 MR. RAZAI: Objection to form.

4 A. If I recall, it says limit,
5 yes.

6 Q. We can turn to paragraph 49
7 now.

8 A. Yes.

9 Q. In paragraph 49, about a third
10 of the way down says, "The different
11 types of stitches may affect the physical
12 properties of knit element 131 including
13 aesthetics, stretch, thickness, air
14 permeability and abrasion resistance of
15 knit element 131."

16 Do you see that?

17 A. I do.

18 Q. And later on in paragraph 49,
19 about two-thirds of the way down there is
20 a sentence that says, "The different
21 types of yarns may affect the physical
22 properties of knit element 131 including
23 aesthetics, stretch, thickness, air
24 permeability and abrasion resistance of
25 element 131."

1 Do you see that?

2 A. No, can you say that again?

3 Q. Sure. Let's see. Seven lines
4 up from the bottom?

5 A. Seven lines up. Starting with
6 what word?

7 Q. "The"?

8 A. Yes.

9 Q. So you can read that sentence
10 to yourself.

11 A. I can.

12 (Witness reviews document.)

13 A. So I would read that sentence
14 all the way down to the number 130.

15 Q. So for these two sentences that
16 we just looked at, the reason why you
17 cite paragraph 49?

18 A. No.

19 Q. Why do you cite paragraph 49?

20 A. Because the sentence before,
21 depending upon various design criteria,
22 knit element may incorporate yarns with
23 different deniers, materials, for
24 example, cotton, elastane, polyester,
25 rayon, wool and nylon, and a POA would

1 easily understand that elastane is the
2 generic name for Lycra or spandex which
3 is known for its elasticity and
4 stretchiness. The word "elastane" tells
5 me it stretches.

6 Q. Do you discuss that in your
7 declaration?

8 A. I think I do. I don't recall.
9 I just say I am counting on paragraphs
10 48, 49 and 52 and that elastane is in
11 paragraph 49, so yes.

12 Q. Does paragraph 49 discuss the
13 degree to which knit element 131 may
14 stretch?

15 A. The specific degree like a
16 number?

17 Q. Or a qualitative discussion.

18 A. Once it says elastane, that's
19 qualitative. Elastane would tell a POSA
20 that it's an elastic material that's used
21 for stretchy fabrics.

22 Q. So you're inferring from a list
23 of materials in paragraph 49?

24 A. That is correct.

25 Q. A degree of stretch?

1 A. That is correct. Not a degree.
2 I am saying when you use the word
3 "elastane," you're telling a POA that
4 you can put in a stretchy material.

5 Q. But you don't discuss that in
6 your declaration?

7 MR. RAZAI: Objection to form.

8 A. I do when I say I am using 48,
9 49, 52 and the sentence before that,
10 Minami's knit elements stretches and can
11 include different types of yarn that
12 allow for stretching, and then I cite
13 paragraph 49 among the other two
14 citations.

15 Q. Okay. Let's look at paragraph
16 52.

17 A. Okay.

18 Q. What in paragraph 52 supports
19 your opinion?

20 A. Let me read 52 again.

21 (Witness reviews document.)

22 A. It says about in the middle, in
23 comparison with the knit element 131,
24 inlaid strand may exhibit greater stretch
25 resistance, but it doesn't say it

1 prevents stretch resistance. It says it
2 exhibits greater stretch resistance.

3 Q. Inlaid strand exhibits greater
4 stretch resistance?

5 A. Yes. But it doesn't say that
6 it is stretch resistant.

7 Q. Would that mean that knit
8 element 131 exhibits stretch resistance?

9 MR. RAZAI: Objection to form.

10 A. I am going back to 49. When
11 you have elastane in there, it's a
12 stretchy fabric.

13 Q. I am asking about paragraph 52,
14 because you cite it for support. And my
15 question is, does paragraph 52 mean that
16 knit element 131 exhibits stretch
17 resistance?

18 A. No, it does not exhibit -- I
19 say it stretches -- the first sentence
20 says it stretches, in 134, it stretches
21 knit element 131 and I cite three
22 paragraphs. I also cite the claim. So
23 you have to look at them as a package.

24 Q. We'll get to the claim in a
25 minute. But I just want to look at this

1 sentence one more time from paragraph 52.

2 It says, "In comparison with
3 knit element 131, inlaid strand 132 may
4 exhibit greater stretch resistance."

5 Does that mean that knit
6 element 131 exhibits some stretch
7 resistance?

8 A. No, it means it's greater
9 stretch resistance.

10 Q. Doesn't it say that inlaid
11 strands 132 have greater stretch
12 resistance?

13 A. They can. Uses the word "may."
14 It doesn't say they do.

15 Q. But it can?

16 A. It can. But it doesn't say
17 they have to. It says "may."

18 Q. So you mentioned that you also
19 cite Claim 1 of Minami.

20 A. Uh-huh.

21 Q. So let's turn there. So what
22 in Claim 1 supports your opinion there?

23 A. Let me read Claim 1.

24 (Witness reviews document.)

25 A. The word "stretch" is there.

1 It doesn't have degrees of stretch. It's
2 mentioning that it stretches.

3 Q. Can you point me to particular
4 language that supports your opinion?

5 A. Let me read it again. The way
6 I read Claim 1 it talks about a foot
7 region and it talks about an ankle
8 region, okay?

9 And it says the foot region
10 having a first degree of stretch, so it
11 mentions it stretches. And then it talks
12 about the ankle region, which we are not
13 talking about here, which has a second
14 degree of stretch. But it does say
15 stretch.

16 Q. Do you know what Minami says
17 about the degrees of stretch in the foot
18 region and the ankle region?

19 A. At the last part of the claim
20 element, it says the foot part of the
21 knitted component and the ankle part of
22 the knitted component being formed from a
23 unitary knit construction and the first
24 degree of stretch being less than the
25 second degree of stretch, which the way I

1 read it says that the foot region still
2 stretches but it's less than the second
3 degree of stretch in the ankle region,
4 but it stretches.

5 Q. So the foot region is designed
6 to stretch less than the ankle region;
7 would you agree with that?

8 MR. RAZAI: Objection to form.

9 A. What I would agree with is that
10 it stretches.

11 Q. But you can't tell me based on
12 this claim if it stretches less than the
13 ankle portion?

14 A. It says it here. It says it
15 does. Again, I am referring to 48, 49,
16 52 and Claim 1.

17 Q. Let's look back at page 85 of
18 your declaration.

19 A. Sure.

20 Q. At this Figure 7A?

21 A. Yes.

22 Q. Do you know what element 140
23 is?

24 A. I do.

25 Q. What is it?

1 A. A skin layer.

2 Q. Do you know what the purpose of
3 the skin layer is?

4 A. It has many purposes, but it
5 doesn't -- the patent -- the patent
6 publication specifically says it may have
7 a skin layer. It doesn't have to have a
8 skin layer. But if it does have a skin
9 layer, it's to do further protection when
10 the user is wearing the shoe.

11 Q. Does Figure 7A have a skin
12 layer?

13 A. It does.

14 Q. All right. So you said the
15 skin layer has many purposes. What are
16 those purposes in your opinion?

17 A. I thought I just told you
18 those.

19 Q. I don't think you did. I will
20 ask again.

21 You said the skin layer has
22 many purposes; what are those purposes,
23 in your opinion?

24 A. It's not my opinion, it's what
25 the patent says, the patent publication

1 says. It says to prevent abrasion, okay?
2 To prevent abrasion. That's one. I
3 don't remember the others. I would have
4 to read it again.

5 Q. So you don't have any
6 independent opinions about why the skin
7 layer may be useful. It's just got to be
8 what Minami actually says in text?

9 A. That's all I can refer to is
10 what Minami says.

11 Q. Let's turn to paragraph 44,
12 page 37 of Minami.

13 A. Yes.

14 Q. This says, "The combination of
15 knitted component 130 and skin layer 140
16 provides various advantage to footwear
17 100."

18 A. I see it.

19 Q. And "As an example, knitted
20 component 130 and skin layer 140 impart a
21 relatively tight and a glove-like fit to
22 upper 120 that secures the foot within
23 footwear 100 during walking, running and
24 other ambulatory activities."

25 Do you see that?

1 A. I do.

2 Q. I am going to skip a sentence
3 and then start, "Skin layer 140 may also
4 be utilized to reinforce areas of upper
5 120. For example, skin layer 140 may
6 inhibit stretch in knitted component 130
7 and may enhance the wear-resistance or
8 abrasion-resistance of upper 120."

9 Do you see that?

10 A. Yes.

11 Q. So skin layer, when a skin
12 layer 140 is applied to knitted component
13 130, that skin layer inhibits the stretch
14 of knitted component 130; is that right?

15 A. That's what it says but it
16 doesn't mean it prevents stretch.

17 Q. What do you mean when you say
18 inhibit doesn't mean it prevents stretch?

19 A. It might not stretch as much if
20 it weren't there. It could still
21 stretch.

22 Also the patent talks about how
23 the skin layer can be made from
24 polyurethane, which is a stretching
25 material. Further, there is many places,

1 including in the beginning of this
2 publication, that's an optional thing to
3 put a skin layer on. You don't have to
4 have a skin layer on this.

5 Q. But if a skin layer is applied,
6 reading paragraph 44 here, it says "skin
7 layer may impart a relatively tight and
8 glove-like fit"; in your opinion, would
9 that mean that it's designed to stretch
10 much less?

11 A. Maybe.

12 Q. What is your understanding?

13 A. Don't ask the question yet.

14 Now I need the break.

15 THE VIDEOGRAPHER: The time is
16 11:15 a.m., and this marks the end of
17 media unit number two.

18 (Off the record.)

19 THE VIDEOGRAPHER: The time is
20 11:24 a.m. and this begins media unit
21 number three.

22 BY MS. STAUBACH:

23 Q. All right. We were discussing
24 your opinions for claim limitation 8[e].

25 A. Yes.

1 Q. And we walked through Minami's
2 paragraphs 48, 49, 52 and Claim 1, right?

3 A. Hold on one second. 48, 49 and
4 52, yes.

5 Q. And Claim 1?

6 A. And Claim 1, yes.

7 Q. And also in this section of
8 your declaration you cite to Figure 7A of
9 Minami; is that right?

10 A. Yes.

11 Q. Do you cite to anything else in
12 Minami in this section?

13 A. With regard to Claim 8E?

14 Q. Right.

15 A. Let me look and make sure.

16 (Witness reviews document.)

17 A. 48, 47 -- I am looking at the
18 wrong. 48, 49, 52, Claim 1. No.

19 Q. Sitting here today, are you
20 aware of any other disclosures in Minami
21 that support your opinion for limitation
22 8E?

23 A. I would have to read, but I
24 know in one place it talks about -- at
25 least one place it talks a skin layer

1 being made from polyurethane, which is
2 stretchy.

3 Q. But you don't cite that in your
4 opinions in your declaration for
5 limitation 8E; is that right?

6 A. No, because it says a skin
7 layer may be, you don't have to have a
8 skin layer, so I didn't mention it.

9 Q. Other than paragraphs 48, 49,
10 52 and Claim 1 and what you suspect is
11 one place where Minami talks about a skin
12 layer being made from polyurethane,
13 you're not aware of anything else in
14 Minami that supports your opinion for
15 limitation 8E?

16 A. The place where it also says
17 you don't have to have a skin layer, but
18 I don't remember where that is.

19 Q. Nothing else?

20 A. As I sit here, I can't recall.
21 I would be happy to read Minami again if
22 you would like me to.

23 Q. That's okay.

24 MS. STAUBACH: No more
25 questions.

1 MR. RAZAI: I don't have any
2 questions.

3 THE VIDEOGRAPHER: We are going
4 off the record at 11:27 a.m. and this
5 concludes today's testimony given by
6 Dr. David Brookstein. The total
7 number of media units used was three
8 and will be retained by Veritext.

9 (Time noted: 11:27 a.m.)

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

ACKNOWLEDGMENT OF DEPONENT

I have read the foregoing
transcript of my deposition and except
for any corrections or changes noted on
the errata sheet, I hereby subscribe to
the transcript as an accurate record of
the statements made by me.

DAVID BROOKSTEIN

SUBSCRIBED AND SWORN before
and to me this ____ day of _____,
2024.

NOTARY PUBLIC

My Commission Expires:

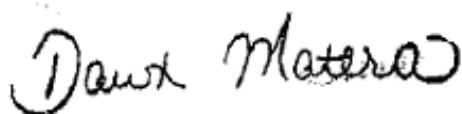
CERTIFICATION

I, DAWN MATERA, a Notary Public for
and within the State of New York, do
hereby certify:

That the witness whose testimony as
herein set forth, was duly sworn by me;
and that the within transcript is a true
record of the testimony given by said
witness.

I further certify that I am not
related to any of the parties to this
action by blood or marriage, and that I
am in no way interested in the outcome of
this matter.

IN WITNESS WHEREOF, I have hereunto
set my hand this 12th day of August,
2024.



DAWN MATERA

* * *

I N D E X

Witness		Page
---------	--	------

DR. DAVID BROOKSTEIN

EXAMINATION BY MS. STAUBACH		5
-----------------------------	--	---

E X H I B I T S

Brookstein		Page
------------	--	------

Exhibit 1 Notice of Deposition		6
--------------------------------	--	---

Exhibit 2 Declaration		7
-----------------------	--	---

Exhibit 3 '046 patent		18
-----------------------	--	----

Exhibit 4 Decision from the PTAB on the parties' review		38
--	--	----

Exhibit 5 Good patent/reference		43
---------------------------------	--	----

Exhibit 6 Minami patent application		58
-------------------------------------	--	----

- 000 -

CASE NAME: Lululemon v. Nike
DATE OF DEPOSITION: August 8, 2024
WITNESS'S NAME: David Brookstein

[illegible]

DAVID BROOKSTEIN

Subscribed and Sworn To
Before Me This_____Day
of_____, 2024.

Notary Public
My Commission Expires_____

&	1001 9:22	94:6,13,14	2
& 1:14 2:2,12 4:16,19	18:19,24 1003 7:11	131 61:11 62:16 63:9	2 7:10,12 17:5 17:11,14,23
0	1005 43:13,18	72:21 73:8,11	18:3,5,10,11
046 10:5,8,14 10:17 11:21 14:15,21 15:4 17:20 18:16 19:7,10 28:1,5 28:16 29:23 30:11,15 31:15 50:12 52:2 59:24 60:3,17 62:22 63:10 101:10	1007 58:17 1013 9:23 10:2 1014 10:2 102 27:18 28:11 31:19,22 32:1 50:13 104 24:6 27:19 28:11 31:19 106 27:20 28:12 31:20 10:10 49:18 10:45 77:1 10:51 77:4 112 66:20,22 67:4 1155 1:15 2:17 3:21 11:15 95:16 11:24 95:20 11:27 98:4,9 12 13:23 120 80:25 81:11,13 83:5 83:6 93:22 94:5,8 127 57:14,22 60:5,21 61:5 61:20 12th 100:17 130 71:8 80:4 85:14 93:15,20	73:17 78:8,14 79:3,10,11,13 80:10 81:24 83:12,25 84:12 84:15,22,25 86:13 87:23 88:8,16,21 89:3,6 132 68:23 80:24 81:11 83:4,10,24 89:3,11 133 58:2,4 59:9 59:13,15,17,20 61:6,12,23 62:5 69:25 70:4,19 71:2 73:9,11,18 74:1,12 134 78:6 80:12 88:20 14 13:23 140 80:4,11 91:22 93:15,20 94:3,5,12 14th 2:13 17 27:1 40:21 18 40:21 101:10 19 44:19	40:15,19 41:3 41:7,22 44:21 50:6 51:12,16 52:18 54:1,10 55:17 56:11,11 56:23 57:3,9 60:12 101:9 20 17:20 26:25 27:7 40:21 20001-3743 2:4 202 2:4 2023 8:2 2024 1:9 3:3 99:16 100:18 102:4,22 202400159 3:19 2040 2:13 21 44:19 22 42:1,8,22,25 45:7,9,12,13,19 46:1,3,7,9,16 46:17,19,20,21 46:24 47:1,13 47:14,19,21 48:8,21 49:7 54:2,24,25 56:2
1			
1 6:12,13,15 15:6,22 16:16 16:21 17:11,15 18:4,10 19:1 27:12 31:14,25 40:20 89:19,22 89:23 90:6 91:16 96:2,5,6 96:18 97:10 101:8 10 8:10 10:11 10:12,22 52:21 53:21 75:3,5 100 16:17 17:6 24:3,5 27:10 28:13 30:17 93:17,23			23 14:11,20 21:15,24,25 24 16:15 45:15

25 23:4	41:19	96:2,3,17,18	72:7 73:2,14
26 26:23 27:7	33 23:18	97:9	73:20
28:21 29:3,11	34 42:11	49 51:15 53:16	62 59:16
32:15	360 16:7	80:13 81:22	628 30:1
27 33:25	37 93:12	83:1 84:6,9,18	632 30:1
28 28:1,6,8	38 80:21	85:17,19 86:10	64 50:3
29:23 30:2,3	101:11	86:11,12,23	65 50:10
30:11 33:19	39 34:11 36:21	87:9,13 88:10	66 51:9
34:4	70:14	91:15 96:2,3	7
29 40:12	4	96:18 97:9	7 9:21 27:13
3	4 29:17 38:5,7	5	38:6 40:21
3 18:15,16,22	44:5,12,14,19	5 17:20,20	101:9
18:23 19:9,10	45:8,19 46:1,7	27:13 43:9,10	70 2:8
21:15,22 22:1	46:19 47:6,13	101:4,12	78 57:14 60:8
22:11,20 23:2	47:20 48:1,18	5.5 17:20	79 57:22 61:21
23:25 24:12,16	48:21 49:7	50 8:11,12	7a 57:23 69:4
24:24 25:7	63:10,18,21,22	52 80:13 86:10	69:11,16 73:2
26:15 29:17	63:23 64:9	87:9,16,18,20	73:13,20 79:11
40:21 42:12	101:11	88:13,15 89:1	80:1,5 91:20
44:18 45:3,4,5	4.4 44:22	91:16 96:2,4	92:11 96:8
47:8,15,21	40 23:22 40:9	96:18 97:10	8
48:1,5,8,12,15	40:11,12,14	5777 100:20	8 1:9 23:20
49:3 58:11	418 63:16	58 101:13	39:4 57:19
73:6 101:10	4200 2:8	583-2300 2:9	60:12,16 62:20
30 28:9	43 101:12	5th 8:23	62:22,23 72:20
300 19:16 20:3	44 93:11 95:6	6	73:6 82:4
20:7 22:17	46 41:12 49:25	6 27:25 28:6,8	95:24 102:4
25:5,22 26:1,2	47 50:9,20	29:23 30:2,3	81 62:17 72:20
26:5,8,10	96:17	30:11 58:17,19	82 63:13 68:24
302 22:17	48 51:7 80:13	101:8,13	83 70:7
31 21:19,20	80:21,23 81:5	601 2:3	84 72:24 77:18
23:1 41:15	81:17,19,23	60602 2:9	85 79:25 91:17
312 2:9	82:16,18 83:3	61 70:8,13,17	8e 77:22,24
32 28:1,5 29:23	83:23 86:10	70:20,25 71:10	96:13,22 97:5
30:2,4,12,16	87:8 91:15		

97:15 8th 3:3 8:1	actual 71:11 actually 28:9 50:9 70:23 75:22 83:11 93:8 added 30:6,7 63:21 address 40:20 addresses 41:3 addressing 72:19 administer 4:4 advantage 93:16 aesthetics 84:13,23 affect 84:11,21 affiliation 4:12 affirm 5:3 agree 3:9 16:5 16:12,14 19:24 20:14 21:9 23:10,11 24:11 24:19 26:3,6 26:12,14 29:24 31:8 34:12 37:20 39:14 41:7 42:24 45:25 46:6 47:5,25 48:15 48:17,20 49:6 49:8 52:15 53:12 54:3,5 56:22 67:11,17 68:13,17 71:9	91:7,9 agreed 55:6 ahead 49:12 70:21 air 84:13,23 albeit 48:22 ali 2:15 4:21 ali.razai 2:15 allow 78:10,24 79:6 87:12 ambulatory 93:24 americas 1:15 2:17 3:21 amount 13:16 ankle 53:10 90:7,12,18,21 91:3,6,13 annotated 51:15 69:3,10 annotations 42:13,15 57:24 63:20 66:5 answer 5:20,22 12:1,13 36:3,6 36:8 61:4,19 74:3,5,15 76:13 answered 37:6 71:21 72:13 74:14 75:24 answers 6:3 anticipates 57:19	anticipation 50:6 appeal 1:2 appeals 3:18 appear 16:2 appearance 4:9 4:12 appearances 2:1 appears 32:10 49:5 64:6 application 21:10 50:25 55:14 58:20 59:5 101:13 applied 17:1,3 23:17 51:22 94:12 95:5 applying 33:14 approximate 13:19,20,22 65:6 approximately 64:23 approximation 8:7 area 67:7 69:25 70:4,19 71:2 74:1 78:2 areas 55:3 58:2 59:9,16,20 60:13 61:13,23 62:5 63:2,4 74:11 77:25 81:12 82:6,19
9 9,375,046 1:7 3:19 7:20 91 56:12 92614 2:14 94 7:22 942-5000 2:4 9:58 49:14			
a			
a.m. 1:10 3:3 49:14,18 77:1 77:4 95:16,20 98:4,9 ability 5:22 78:15 above 1:13 abrasion 84:14 84:24 93:1,2 94:8 absolutely 77:17 abuts 67:10 accurate 78:16 84:2 99:7 acknowledg... 99:1 action 4:5 100:13 actions 11:11 11:14 activities 93:24			

83:6 94:4 arnold 2:2 4:16 4:19 arnoldporter.... 2:6,7 arrow 20:19 21:3,9 46:24 53:17 arrowhead 20:21 arrows 17:16 32:3,13 articles 14:21 aside 7:8 asked 11:21 25:13 36:19 37:13 42:5 asking 20:18 46:6 72:16 88:13 assignment 32:20 assists 80:24 81:11 83:4 associate 8:21 assume 5:20 attorney 4:14 attorneys 2:12 audio 3:7 august 1:9 3:3 100:17 102:4 authorized 4:3 avenue 1:15 2:3 2:17 3:21	aware 8:14 9:3 9:5,6,9 38:22 73:23 74:9,17 96:20 97:13 axes 50:14,24 51:20 54:8 b b 5:4 57:18 101:6 back 23:1 26:22 32:14 34:4 44:15 49:21,23 60:8 63:4 77:4,6 79:19 82:1 88:10 91:17 background 8:18 9:2 34:23 backward 42:25 backwards 43:3 48:8,22 based 30:8 33:10 41:4,8 91:11 bathroom 77:14 bear 1:14 2:12 5:14 bed 61:25 beginning 4:13 14:13 23:4 30:16 78:6 95:1	begins 22:1 23:24 40:14 49:18 72:20 81:7 95:20 behalf 4:17,22 best 5:22 10:9 33:23 better 75:6 biased 78:2 big 83:14 bit 53:7 57:13 black 17:16 blood 100:13 blue 42:13,15 50:17,19 board 1:2 3:18 38:22,24 bottom 40:14 46:11,13,17,20 69:1 85:4 boundaries 26:4 box 63:15 boxes 63:24 brandon 14:2 break 6:6,8 49:12 76:23 77:12 95:14 breaks 6:5 broken 22:8 23:6,8 24:11 24:17,23 25:2 25:8,14 26:11 26:16	brookstein 1:13 3:13 5:10 6:12,15 7:10 7:12 18:15,16 38:5,7 43:9,10 49:21 58:19 98:6 99:11 101:3,7 102:4 102:20 building 76:3 bulge 72:8 bulges 71:6,22 bumps 71:6,22 c c 2:5 43:1,3 48:9,11,22,22 49:2 california 2:14 call 69:10 called 29:22 52:1 calls 35:9 carlos 2:21 3:23 cartesian 27:11 29:13 31:1,9 31:17 case 1:7 3:18 14:4 52:13 62:14 102:3 cases 8:9 cause 24:4 center 66:22,25 certain 41:4 60:2
--	--	--	---

certification 100:1 certified 1:17 certify 100:5,11 change 57:13 102:5 changes 9:10 99:5 channel 39:23 39:24 40:2 43:5 62:11 channels 45:24 chicago 2:9 circle 16:11 53:6 66:25 circular 15:25 16:3 31:5 circumference 39:11,16 53:2 53:4,5 circumstance 39:21 citation 17:19 17:22 18:1,8 18:13 29:25 citations 87:14 cite 27:25 33:5 70:8 73:1,12 73:19 80:13 85:17,19 87:12 88:14,21,22 89:19 96:8,11 97:3 cited 30:12 81:16 82:11	83:1 citing 81:19 claim 33:21 34:1,7 35:19 50:6 51:12 57:19 60:20 88:22,24 89:19 89:22,23 90:6 90:19 91:12,16 95:24 96:2,5,6 96:13,18 97:10 claimed 39:9 39:22 42:1,8 58:2 59:9,20 59:22,23 61:7 61:13 claims 40:20 41:4 60:2,3 clarify 65:25 clean 6:1 clear 83:21 close 69:5 closed 16:13 37:23 39:10,15 39:20 closer 8:12 college 8:22 colored 50:18 column 17:20 21:15,22 23:2 23:20 28:6,8 29:23 30:2,3 30:11,15 44:18 columns 27:25	combination 93:14 come 35:23 36:10 comes 33:1 60:16,17 coming 49:10 commission 99:21 102:25 common 32:22 compare 72:4 compared 64:13 65:15 comparing 56:18,19,20 72:5 comparison 87:23 89:2 complete 47:24 completely 40:3 component 16:16,22 17:6 21:5 22:4,5,7 23:5 24:3,5 27:10,21 28:13 30:17 72:1 90:21,22 93:15 93:20 94:6,12 94:14 components 14:22 26:8,10 71:8,23,24 75:8	comprised 79:4 79:5 concludes 98:5 conclusion 35:10 configuration 17:24 18:11 20:16 24:18 25:9 46:2,8 configured 77:25 81:25 82:8 consecutive 14:5 consider 34:25 35:6 consideration 34:22 considered 9:20,22 11:6 consistent 39:8 construction 33:22 34:1,8 40:22 90:23 construed 38:23,24 39:9 context 15:3 33:13,25 52:4 52:11 54:19,20 55:16 continue 3:8 contrary 32:21 51:23 contrast 66:4
---	--	---	---

conversations 3:6 coordinate 27:12 29:13 30:18,19,23 31:1,2,9,17 32:21 correct 8:3 9:16,24 16:7 30:12,13 31:21 31:23 33:17 36:1,12 37:20 41:6 44:7,8 53:25 54:21 57:11,25 63:11 67:24 79:8 86:24 87:1 correction 9:2 10:3 corrections 99:5 corresponding 27:18,19 29:1 29:2,8,18,19 30:4,5 68:19 corresponds 32:25 cotton 85:24 counsel 2:3 3:13 4:10 42:16,18 50:21 count 10:10,21 12:2,14 13:18 14:8	counting 86:9 couple 45:10 courses 27:20 29:2,19 30:5 33:2 55:13,22 55:24 56:1 court 3:25 5:2 courtroom 7:2 covered 63:17 covers 63:16 criteria 85:21 cross 16:1,3,6 42:21 43:1 44:20 45:2,6,8 cuff 44:21,24 44:25 52:22,24 53:9,21,23 54:3 55:7 56:3 currently 8:20 curve 62:25 63:2,3,5,6 curved 62:25 63:15,24,25 64:4,5 66:8,9 66:13,18 68:2 68:7,19,20 70:18 71:1 73:25 74:12 cylinder 15:20 15:21,23 37:22	dashed 20:11 20:15,20 21:2 21:4,6 22:22 22:24 date 6:17 7:14 18:18 38:10 43:12 58:21 102:4 dated 8:1 david 1:12 3:12 98:6 99:11 101:3 102:4,20 dawn 1:16 4:1 100:3,21 day 99:15 100:17 102:22 days 13:15 14:5 14:9,9 dc 2:4 dean 8:20,21 decide 11:3 decision 38:7 38:15 101:11 decks 31:6 declaration 7:13,18 8:5,15 9:4,8 11:23 14:11 26:23 27:4,5 28:17 28:22,23,24 29:5 32:15 33:19 40:10,11 41:20 50:1 57:15,16 59:25 60:9 72:19	73:9,18 77:19 79:25 82:2 86:7 87:6 91:18 96:8 97:4 101:9 define 16:24 62:11 deformation 81:12 83:6 degree 16:7 78:24 79:6 83:19,25 86:13 86:15,25 87:1 90:10,14,24,25 91:3 degrees 16:10 31:6 90:1,17 deniers 85:23 denoted 20:2 depending 19:20 78:22 85:21 depends 31:12 depicted 56:25 depicts 17:5 69:5 deponent 99:1 deposition 1:12 3:12,20 5:25 6:16,22 13:8 14:6 18:24 99:4 101:8 102:4 describe 47:3
---	---	--	---

described 31:10 56:10 59:12 62:7 description 9:21 21:12 23:7 32:20 44:16 59:15 75:8 design 85:21 designated 19:16 21:6 26:5,9,11 designed 53:9 91:5 95:9 device 75:18 difference 18:3 30:25 57:5 64:8 83:14 differences 23:12 different 13:14 17:5,10 18:11 24:18 25:9 26:16 78:9 81:20 84:10,20 85:23 87:11 dimensional 32:9 53:24 55:11,17 56:6 56:17 direction 24:6 27:18,19,20 28:11,11,12 31:11,23 32:6 32:7,8,12,24,25	33:12 42:19 50:13,14,21,23 50:23 51:19,19 52:14 53:18 54:7,7,11,12,16 54:23 55:15,20 55:21 56:25 57:8 directly 42:16 disagree 39:17 disallow 11:8 disclose 41:16 discloses 41:9 51:11 73:24 74:11,22 disclosing 74:24 disclosure 74:10 disclosures 96:20 discuss 63:10 77:15 86:6,12 87:5 discussed 82:5 discussing 95:23 discussion 86:17 discussions 77:11 distance 20:5,7 25:5,24 26:4 distorted 48:23 49:1	document 6:18 7:15 18:21 19:3 22:14 38:11 43:21 58:25 61:1 70:22 82:24 85:12 87:21 89:24 96:16 dotted 47:4,23 dr 1:12 3:12 5:10 49:21 98:6 101:3 drawing 15:6 31:24 47:24 56:5,6,8 76:1,2 76:6,8,17 drawings 74:22 74:25 75:7 drawn 66:14 75:15 duly 5:5 100:7 e e 5:4 82:4 95:24 101:2,6 e.g. 81:13 83:7 earlier 37:13 48:7 easier 28:20 69:24 70:3 easily 86:1 either 20:21 44:1 55:22 71:16 elastane 85:24 86:1,4,10,18,19	87:3 88:11 elastic 86:20 elasticity 86:3 element 19:17 20:3,4,23,25 61:11 78:8,14 78:21,23 79:3 79:10,11 81:24 83:12,25 84:12 84:15,22,25 85:22 86:13 87:23 88:8,16 88:21 89:3,6 90:20 91:22 elements 31:19 79:14 81:20 87:10 elevation 56:18 56:20 57:4,9 elevational 56:15,15 elongate 24:5 elongated 37:1 37:15,18 44:21 44:23,25 embodiment 22:4 embodiments 24:7,8 emeritus 8:24 emphasis 75:10 engineer 16:9 33:8 35:15,16 40:7 51:24 56:16,21 57:6
---	---	--	--

83:18 engineering 8:21,22 30:9 31:4 40:1 75:25 enhance 94:7 enlarged 70:1,5 entire 10:4 entirety 12:10 12:22 entitled 1:13 equating 68:12 equidistance 52:9 errata 99:6 102:2 esq 2:5,7,15,16 essentially 42:25 46:1 63:18 estimate 64:15 65:11 estimation 64:19 ethan 2:16 4:24 14:1 ethan.kluesner 2:17 everyday 52:5 exactly 36:2,16 37:11 examination 5:8 101:4 examined 5:6	examiner 11:8 examiner's 11:10 example 39:19 81:8,10 85:24 93:19 94:5 except 99:4 excerpt 69:4,10 excuse 8:20 49:9 exhibit 6:12,15 7:10,11,12 18:15,16,19,22 18:23,24 19:1 38:5,7 43:9,10 43:13,18 58:11 58:17,19 87:24 88:18 89:4 101:8,9,10,11 101:12,13 exhibits 9:22 88:2,3,8,16 89:6 experience 34:23 expires 99:21 102:25 explanation 20:17 extend 54:2 55:8 56:2 72:23 73:8 extended 17:7 78:1 82:10,21	extending 56:24 63:1,3 71:7,23 exterior 67:16 f fabric 32:25 88:12 fabrics 86:21 face 67:10,13 67:14 fair 67:3 familiar 11:17 12:7,18 32:22 44:11 faster 21:18 figure 15:6,22 16:16,21 17:5 17:11,11,14,15 17:23 18:3,4,5 18:6,10,10,11 19:9,10,13 20:8 22:1,11 22:19 23:8,25 24:12,16,24 25:7,25 26:1,2 26:15 27:1 31:14,19,25 41:22 42:12 44:5,12,14,19 44:21 45:3,4,5 45:8,19 46:1,7 46:19 47:6,8 47:13,14,20,21 48:1,5,8,12,15 48:18,21 49:3	49:7 50:19 51:16 52:18 54:1,10 55:17 56:11,11,23 57:3,9,23 63:10,12,18,21 63:22,23 64:9 65:17 69:4,11 69:16 73:2,13 73:20 79:11 80:1,5 91:20 92:11 96:8 figures 27:12 27:22 44:6 48:1 75:9 filed 3:15 finally 6:5 financially 4:6 fine 5:24 6:10 49:11 first 5:5 22:6 22:20 23:13 24:3 39:6 46:15 58:24 62:24,25 63:5 63:24 64:4 66:8,13,18 68:2,6,19 73:25 78:7 88:19 90:10,23 fit 93:21 95:8 five 14:9 flat 61:25 floor 2:13
--	--	--	---

following 75:7 follows 5:7 foot 80:25 81:12 83:5 90:6,9,17,20 91:1,5 93:22 footwear 93:16 93:23 force 21:11 23:17 forces 17:1,2 foregoing 99:3 form 9:19 14:7 15:1,4,5,14 16:8 18:7 24:20,25 25:11 26:18 35:3,25 37:24 43:2 47:9,16 48:24 55:18 57:2 64:10,17,24 65:2,8,20 67:12 69:21 72:3 75:23 76:10 78:17 82:22 84:1,3 87:7 88:9 91:8 formed 33:2 78:14 90:22 forth 9:14 100:7 four 64:22 front 63:1 full 69:16	further 92:9 94:25 100:11 g gears 57:13 generic 86:2 give 12:1 14:17 22:13 36:7 41:13 70:23,24 given 34:13 98:5 100:9 giving 60:7 glove 93:21 95:8 go 3:9 8:18 18:8 23:1,18 44:15 49:12 53:9 68:22 70:21 77:14 79:19 80:20 goes 10:2 going 3:2 6:11 11:20 18:13 28:16 64:18 65:14 69:25 70:4 82:13 83:22 88:10 94:2 98:3 good 3:1 5:23 11:18,22,24 41:15,23 42:12 43:10,23,24,24 50:6 51:1,2,4,5 51:11,22 52:15 55:15 56:12 101:12	good's 51:16 52:22 53:9,21 53:23 54:2,3 54:24,25 56:3 greater 63:5 64:14,22,22 87:24 88:2,3 89:4,8,11 green 64:16 65:7,19,21 66:1,2 ground 5:14 40:15,19 41:3 41:7,9 73:6 h h 101:6 halfway 32:17 39:5 61:21 80:24 81:3 hand 31:18 100:17 happy 5:16,18 45:7 59:13 97:21 harris 2:7 4:19 head 6:3 heading 57:18 60:11 77:21 hear 5:15 heard 5:20 held 1:14 18:12 helpful 21:16 hereunto 100:16	hesitant 61:15 history 10:17 10:25 11:4,12 hold 96:3 hollow 37:1,15 37:18 horizontally 53:20 hour 6:6 49:10 hours 8:10,11 8:13 13:18 huh 51:3 89:20 huhs 6:3 i identification 6:17 7:14 18:18 38:9 43:12 57:7 58:21 identified 20:7 31:18 54:12,22 66:10 68:2,7 74:1 identify 13:4 illinois 2:9 illustrated 27:11 30:17 illustrates 16:16 illustrating 75:11 image 55:17 70:7 impart 93:20 95:7
---	--	--	--

imparts 81:13 83:7 inaccuracies 8:15 9:4 include 34:7 69:9,20 78:9 87:11 included 51:15 includes 45:13 45:15 including 4:11 84:12,22 95:1 incorporate 85:22 independent 93:6 indicate 68:14 indicated 20:10 20:15 25:5 indicates 21:10 indicative 23:9 24:13,14 industry 32:23 inferring 86:22 inherently 72:2 inhibit 83:11 94:6,18 inhibits 94:13 inlaid 80:24 81:10 83:4,10 83:23 87:24 88:3 89:3,10 inserted 28:25 inside 66:8	institution 39:7 interested 4:6 100:14 interior 66:17 66:21 67:16,19 67:21 68:1,6 interpreted 66:1 invalidity 40:20 41:3 invention 75:6 75:12 ipr 3:18 6:13 7:11,19 14:4,6 18:20,24 38:6 43:14,18 58:18 ipr2024-00159 1:7 irvine 2:14 item 53:24 items 31:5	king 2:21 3:23 kluesner 2:16 4:24 knit 14:25 15:3 19:17 61:11 71:8 78:8,14 78:21,22 79:3 79:9,10,14 83:11,25 84:12 84:15,22 85:22 86:13 87:10,23 88:7,16,21 89:3,5 90:23 knitted 14:22 16:16 17:6 22:4,5,7 23:5 24:2,4 27:10 27:21 28:12 30:17 61:23 62:5 65:18,23 68:14,18 71:24 90:21,22 93:15 93:19 94:6,12 94:14 knitting 33:1,2 61:25 knobbe 1:14 2:12 4:22,24 knobbe.com 2:15,17 know 5:11,18 6:7 8:10 15:8 40:2 74:21 90:16 91:22 92:2 96:24	knowledge 30:9 33:7 35:20,23 36:9 74:8 known 86:3
			l
			labeled 80:4 language 90:4 large 64:9,12 64:13 larger 65:15,22 lateral 24:6 27:19 28:11 51:6 layer 92:1,3,7,8 92:9,12,15,21 93:7,15,20 94:3,5,11,12,13 94:23 95:3,4,5 95:7 96:25 97:7,8,12,17 layers 61:24 62:6,8,10 79:13,15,17,22 80:3,8,11 left 19:17,23 25:19 31:18 leg 53:10 55:8 legal 35:10 length 62:25 63:3,5,6 64:15 71:1,4,5,10,11 71:12,13,16 72:2,8,12 74:13

lengths 64:8 70:18 71:17,18 71:20 73:24 74:12 lexicographer 52:1 lie 61:11 limit 83:24 84:4 limitation 51:12 60:12,16 60:20 62:20,23 72:19 73:6 77:22,24 82:4 95:24 96:21 97:5,15 limits 81:12 83:6,14,14,16 83:19 lindsay 4:16 lindsey 2:5 lindsey.staub... 2:6 line 20:15 21:2 21:4,15,24,25 22:16 23:4,22 24:24 28:6,8,9 29:14 30:16 31:11 32:1,2,3 32:11,12,13 40:14 44:22 46:2,4,8,25 47:2,4 53:13 53:14 65:22 66:14 78:7 102:5	linear 55:1,3 linearly 56:24 lines 17:20 20:11,20 21:6 22:6,8,19,22,24 23:6,8 24:12 24:17,19,21 25:2,8,10,15,19 25:21 26:5,9 26:11,16,17 27:25 29:17,23 30:2,3,11 44:19 47:23 52:9,12 54:10 54:19 66:7,12 68:8,8 85:3,5 list 86:22 listed 9:21 little 53:7 57:13 61:15 llp 1:15 2:2,12 location 3:20 long 8:4 longer 23:14,15 49:2,5 64:4,25 65:1,4,6,10,11 65:14 74:13 longitudinal 27:17 28:10 31:10,22 32:24 33:11 50:13,23 51:6,19 53:17 54:7,12,15,23 55:15,20 56:25 57:8	look 19:20 22:11 30:14 31:14 33:24 39:24 45:19,22 48:5 58:6 79:19,24 81:1 82:1 83:1 87:15 88:23,25 91:17 96:15 looked 11:10 85:16 looking 15:9,10 18:5,9,10 19:22 24:16 25:7 26:15 56:12 79:20 96:17 loop 46:17 loops 33:2 68:14,18 lot 25:1 65:1,4 lower 53:10 65:24 72:5 lululemon 1:3 3:14 4:23 102:3 lycra 86:2 m ma'am 62:18 machine 33:1 62:1 made 78:23 94:23 97:1,12 99:8	madison 2:8 magnified 69:3 69:10,20,22 main 2:13 majority 46:3,9 make 9:11 28:19 64:18 69:12,15,17 76:3 96:15 makes 55:15 making 43:20 76:2 mark 6:12 7:9 18:14 38:4 43:8 58:16 marked 6:16 7:13 18:17 38:9 43:11 58:20 marks 49:14 95:16 marriage 100:13 martens 1:14 2:12 4:22,25 massachusetts 2:3 matera 1:16 4:1 100:3,21 material 65:19 65:23 86:20 87:4 94:25 materials 9:17 9:20 13:9 85:23 86:23
--	---	---	---

matter 1:13 3:14 100:15 mean 10:11 15:24 36:4,15 37:4,8,22,25 38:2 46:12 47:11 49:1 52:3 65:3 66:6 66:11 67:14 71:3 75:15 88:7,15 89:5 94:16,17,18 95:9 meaning 34:14 34:18,19 35:8 35:24 36:11,25 37:18 means 33:12 50:18 75:16 83:15 89:8 measured 49:4 67:6 mechanical 35:15 76:1,5 media 3:11 49:15,18 95:17 95:20 98:7 meet 39:21 40:6 42:1,8 61:7 meeting 13:17 meetings 13:25 14:1,3,6 meets 60:2,19	member 44:21 44:24 45:1 memorize 74:16 memorized 74:3 mention 70:18 71:4,5,10 80:11 97:8 mentioned 60:6 89:18 mentioning 90:2 mentions 71:6 90:11 met 13:14 michael 2:7 4:19 michael.harris 2:7 microphones 3:4 middle 20:20 46:16 67:2,3,4 67:7,10 87:22 minami 12:19 57:19 58:12,13 58:19 59:2,4 60:1,7,19,22 61:7 70:8,12 70:17 73:1,7 73:13,19,23 74:2,5,10,11,15 74:16,18,21,24 75:3 79:12	80:9,14,21 89:19 90:16 93:8,10,12 96:9,12,20 97:11,14,21 101:13 minami's 57:23 69:4,11 78:7 87:10 96:1 mind 28:18 minor 63:14 minute 22:13 76:23 88:25 misstates 65:9 mistake 36:18 monday 13:15 morning 3:1 move 77:25 78:3 82:8,19 movement 24:2 moving 43:15 munsing 12:6 41:8,9 mute 3:6 n n 5:4 101:2 name 3:23 4:15 86:2 102:3,4 nature 31:6 necessarily 37:16 39:17 75:9 need 6:6 20:17 36:13 47:10 48:25 83:16	95:14 needed 36:14 neutral 16:17 16:22,24 78:1 78:3 82:9,20 never 14:8 29:22 72:11 new 1:15,16,18 2:18,18 3:21 3:22 100:4 nice 5:10 nike 1:5 2:3 3:15 4:18 102:3 nodding 6:3 nomenclature 32:22 non 40:23 41:4 41:10 notary 1:17 5:6 99:18 100:3 102:24 note 3:3 noted 98:9 99:5 notice 6:15,22 101:8 noticing 4:13 november 8:1 number 3:18 3:19 21:1,18 25:22,25 26:1 26:2,24 41:13 46:24 49:15,19 52:21 71:11 85:14 86:16
---	--	---	--

95:17,21 98:7 numbers 70:24 71:15,18 75:17 numeral 34:3 nw 2:3 nylon 85:25	oh 27:5 51:8 58:10,13 62:14 okay 20:6 22:18 23:19 28:8,20 35:14 40:12 51:8 60:10 66:3 70:15 79:24 80:19 82:4 83:23 87:15,17 90:8 93:1 97:23 olson 1:14 2:12 omitted 9:7 once 14:9 86:18 open 47:11,14 47:20 opened 47:7 opening 40:3 opinion 35:2,8 36:23 37:14 40:5,7 41:17 41:25 42:4,7 45:18 58:1 59:8,19 61:6 61:10 62:4 64:3 68:15 75:14 78:13 81:24 82:19 83:24 87:19 89:22 90:4 92:16,23,24 95:8 96:21 97:14	opinions 9:6,14 9:18 34:8,10 60:1,19 62:20 73:6 93:6 95:24 97:4 opposite 68:1 optional 95:2 ordinary 34:13 34:18 35:8,24 36:11,25 37:18 original 52:2 originally 11:8 13:4 outcome 4:6 100:14 outside 16:25 17:2 26:10 outward 72:9 outwardly 71:7 71:23 overview 14:18 60:7 owner 1:6 2:3 3:14 4:17 40:22	34:4 39:4,5 40:12 41:13,15 41:19 42:11 49:25 50:9,20 51:7,14,14 53:16 57:14,22 60:8 61:21 62:17 63:13 68:24,24 69:2 70:7,14 72:20 72:23 77:18 79:25 80:21 91:17 93:12 101:2,7 102:5 paper 6:13 38:6 paragraph 14:11,20 16:15 26:23 27:7 28:21 29:3,11 32:15,18,19 34:11 36:21 37:9 39:6 40:9 40:12,13 41:12 50:3,10 51:9 57:14,22 59:16 60:4,5,21,24 61:5,20 62:16 63:9 68:23 70:8,13,17,20 70:25 71:9 72:7,20 73:2,8 73:8,13,20 75:3,5 78:6 80:12,20,23 81:5,17,23
o	o 5:4,4 oo 101:16 oath 4:4 6:24 7:1 objection 9:19 14:7 15:5,14 16:8 18:7 24:20,25 25:11 26:18 35:3,9 35:25 37:24 43:2 47:9,16 48:24 54:14 55:18 57:2 64:10,17,24 65:2,8,20 67:12 69:21 72:3 75:23 76:10 78:17 82:22 84:1,3 87:7 88:9 91:8 objections 4:7 observation 69:13,14 offering 60:1 60:19 office 1:1 3:17 11:11,13	op	op
	package 88:23 page 7:22,22 9:21 17:4 19:24 20:12 21:17,19 23:1 23:18 25:15,19 26:7,24,25 27:7 28:4,5 33:18,24,25		

82:16,18 83:3 83:23 84:6,9 84:18 85:17,19 86:11,12,23 87:13,15,18 88:13,15 89:1 93:11 95:6 paragraphs 73:11,17 80:13 82:11,14 86:9 88:22 96:2 97:9 parallel 50:14 50:24 51:20 52:3,6,8 54:8 54:11,18,24 55:12,12,21 parentheses 50:17 parentheticals 28:25 29:17 part 8:25 11:1 11:13 25:22,23 46:24 52:21 80:10 90:19,20 90:21 particular 35:1 35:7 55:19 62:14 81:21 90:3 parties 3:9 38:8 38:16 39:8 100:12 101:11 parts 11:7 72:10	party 4:5 patent 1:1,2,6,7 2:3 3:13,16,17 3:19 4:17 7:19 10:5,8,14,17 11:8,9,22 14:15 15:4 17:21 18:17 19:6,7,10 28:1 28:5,17 29:24 30:11,15 31:15 42:17 43:11,24 44:2 50:13 52:2 56:13 58:7,8,9,20 59:2,3,5,12,24 60:3,6,17 63:10,19 92:5 92:5,25,25 94:22 101:10 101:12,13 patent's 40:22 patentee 51:25 pending 6:9 perfect 16:11 53:6 66:25 periphery 16:7 16:13 37:23 39:11,15,21 54:3 55:7 56:3 permeability 84:14,24 person 35:21 perspective 22:3	pertains 31:24 petition 7:19 petitioner 1:4 2:12 4:23 phones 3:7 physical 78:19 84:11,21 pick 3:5 picture 55:2,3 55:5,5,10,19 56:7 place 3:8 96:24 96:25 97:11,16 placed 75:10 places 94:25 plain 34:13,18 35:8,24 36:10 36:25 37:17 please 3:3,6 4:8 5:2,15 6:2 13:22 18:1 19:11 25:3 26:23,24 29:15 34:5 46:5 47:18 58:8,23 59:18 80:20 pleasure 77:8 plurality 60:13 60:13 point 8:17 9:13 59:14 90:3 pointing 46:16 46:17,24 47:23 55:2,4,9	points 52:21 53:20 67:4 polyester 85:24 polyurethane 94:24 97:1,12 porter 2:2 4:16 4:20 portion 22:18 44:25 46:3,20 46:21,23,25,25 62:25 63:2,16 63:24,25 64:4 64:5,15,16,21 65:18,19,24 66:8,9,13,18,18 67:8,10 68:2,7 68:19,20 72:6 91:13 portions 10:18 11:4 42:1,8,22 42:25 45:7,9 45:12,13,15,19 45:25 46:7,9 46:19 47:6,7 47:13,14,19,21 48:2,8,14,21 49:7 54:2,9,24 54:25 56:2,24 61:6,11,12 70:19 71:1,7 73:12,25 74:18 posa 32:22,23 33:9 34:19,24 35:11,16,20,22 36:10 55:23
--	---	--	---

61:21 85:25 86:19 87:3 position 16:18 17:6 22:6,8,20 22:23,25 23:6 23:9 24:3,4,12 26:17 78:1,2,3 82:9,10,20,21 positions 23:13 39:8 precise 75:20 precisely 74:4 75:21 83:17 preference 41:23 prepare 13:7 preparing 8:5 prepping 13:11 present 2:20 4:10 prevent 93:1,2 prevents 88:1 94:16,18 principles 75:11 private 3:5 probably 8:12 problem 63:14 proceeding 6:14 7:11 9:15 18:20,25 33:15 38:6 43:14,19 58:18 proceedings 4:8	produced 61:25 professor 8:24 proper 36:25 37:17 properties 78:20 81:21,22 84:12,22 proportion 76:21 proportioned 75:21 proportions 76:5,9,18 proposed 40:22 prosecution 10:16,25 11:4 11:11 protection 92:9 protruding 58:1 59:8,16 59:20 61:6,12 61:23 62:4 69:25 70:4,19 71:2 74:1,11 protrusions 71:6,22 provide 6:2 7:5 34:10 39:19 provides 93:16 providing 62:19 ptab 38:8,15 69:22 101:11	public 1:18 5:6 99:18 100:3 102:24 publication 59:5,14,24 62:9 92:6,25 95:2 purpose 92:2 purposes 6:1 27:10 39:7 83:21 92:4,15 92:16,22,22 put 42:15,18 87:4 95:3	quite 15:23 r r 5:4 radial 30:18,23 31:1,3 radii 31:7 rayon 85:25 razai 2:15 4:21 4:21 9:19 13:10,13,17 14:7 15:5,14 16:8 18:7 24:20,25 25:11 26:18 35:3,9 35:25 37:24 43:2 47:9,16 48:24 54:14 55:18 57:2 60:23 64:10,17 64:24 65:2,8 65:20 66:3 67:12 69:21 72:3 75:23 76:10,22 77:12 78:17 82:22 84:1,3 87:7 88:9 91:8 98:1 read 10:4,7,13 10:16 11:6,24 12:9,21 22:9 22:10,13,19 27:23,24 28:14 28:15 35:18 38:17,20 59:13 60:24 61:18
--	--	---	--

70:16,20 74:2 74:20 80:9 82:23 83:3 85:9,13 87:20 89:23 90:5,6 91:1 93:4 96:23 97:21 99:3 reading 28:4 44:18 95:6 reads 30:16 reality 56:22 really 60:6 reask 59:7 reason 7:4 69:19 85:16 102:5 recall 10:1,20 10:23 11:16 23:16 33:23 36:2,5,16 37:12 60:5 74:23,24 75:1 81:18 84:4 86:8 97:20 recognize 7:15 18:20 19:3 43:21 58:24 record 3:2,10 4:13 6:2 49:16 77:1,2,5 83:21 95:18 98:4 99:7 100:9 recorded 3:12	recording 3:8 red 53:17 64:15 64:21 65:7,18 65:22 66:4,14 refer 22:15 25:14,18 71:19 72:2 79:9 93:9 reference 11:18 11:22,25 12:6 12:9,19,21 13:1 27:9 41:8 41:16 43:11,23 43:25 44:3 51:1,2,4,6 58:14 60:2 70:9 72:1 73:7 75:7 101:12 references 11:23 13:5 70:24 referring 31:13 82:2 91:15 refers 22:17 29:25 71:17 72:8,9 regard 96:13 region 90:7,8,9 90:12,18,18 91:1,3,5,6 reinforce 94:4 relate 75:18 related 4:4 100:12 relates 14:21 73:7	relative 30:18 64:7 73:24 relatively 93:21 95:7 rely 9:17 remember 8:6 8:9 48:9 65:13 80:7 93:3 97:18 remembered 79:23 remotely 4:11 render 35:1,7 rendering 9:18 repeat 5:16,19 25:6 29:15 36:19 76:13,14 78:25 rephrase 5:19 45:7 53:15 76:16 79:2 report 9:15 reporter 1:17 3:25 5:2 represent 17:17 32:5 45:24 representation 75:21 representative 69:5 representing 3:24 4:1 76:19 represents 32:4 32:6,7	reproduce 57:23 reproduced 41:22 42:12 63:12 79:25 reread 74:5,14 resistance 81:13 83:7 84:14,24 87:25 88:1,2,4,8,17 89:4,7,9,12 94:7,8 resistant 88:6 respect 27:11 respective 29:12 rest 42:16 retained 98:8 retired 8:23 review 11:5 12:3,15 38:8 38:16 101:11 reviewed 10:25 13:1,9 19:13 44:5 reviews 22:14 61:1 70:22 82:24 85:12 87:21 89:24 96:16 rib 14:25 15:3 40:24 41:5,10 41:25 42:7,22 42:24 45:6,9 45:12,13,18,25
--	--	---	--

46:3,7,9,20,20 46:25 47:5,7 47:13,14,19,20 48:1,7,14,20 49:7 54:2,24 54:25 55:22 56:1,23 58:2 59:9,21,22 60:14 61:7 62:24 66:23 67:5,15 69:6 ribbed 14:21 46:4 67:9,22 right 14:10 15:23 16:23 19:2,8,19 20:11 21:1,14 22:9,10,20,21 22:23 25:15 27:23,24 28:14 28:15,18 30:7 30:14 32:4,11 33:6,16,22 34:9 41:5 44:4 44:17 45:3,16 49:20 52:12 53:3,11,24 54:19 56:3 57:10,12 58:10 60:3 66:23 68:22 71:16 72:18 74:9,19 79:7 80:12 82:13 83:8 92:14 94:14	95:23 96:2,9 96:14 97:5 rip 46:23 ripped 46:19 roman 34:3 rounded 15:23 15:24 row 33:1 rule 51:25 rules 5:14 running 93:23 s s 1:12 2:15 5:4 101:6 102:5 saying 17:22 43:17 46:18 57:3 87:2 says 8:19 14:14 17:23 18:22 23:8,11,16 24:2 28:10,25 29:12 30:1,4 34:1 37:11 39:2,6 44:16 53:17 56:12,14 57:19 58:7 59:16 60:12 62:23 63:15 71:22 72:7 75:5 78:19 79:16 80:10,23 83:4,13,23 84:4,10,20 86:18 87:22 88:1,20 89:2	89:17 90:9,16 90:20 91:1,14 91:14 92:6,25 93:1,1,8,10,14 94:15 95:6 97:6,16 scale 74:22,25 75:9,15 76:4,7 76:8,15,17,20 schematic 44:19 scholar 2:2 second 22:7,23 23:5,9,13 24:4 24:12 27:16 29:3,10 36:22 60:23 63:2,3 63:15,15,25 64:5 66:9 68:20 73:25 90:13,25 91:2 96:3 seconds 63:6 section 14:14 16:1,3,6 19:16 33:22 34:1 43:1,4 46:10 46:11,13,17 50:5 60:18 65:7,7 72:10 72:18 96:7,12 sectional 42:21 44:20 45:2,6,8 sections 19:15 46:14	secures 93:22 securing 80:25 81:11 83:5 see 5:10 14:15 14:23 15:12 16:19 17:2,8 17:25 19:18 20:2,6,10,21 21:8 23:25 24:9 25:22 26:1,2 27:14 29:4,7,19 30:20 33:3 34:2,15,16 37:2 39:12 40:17,25 42:13 44:15 48:12 50:7,16 51:8 51:12 53:21 56:11 57:20 58:6,7 59:11 61:2 62:2,21 63:7,25 66:7 66:14,19 68:8 69:7,8,23,24 70:3 71:14 78:4,11 80:16 81:9,14 84:16 85:1,3 93:18 93:25 94:9 seen 6:18 38:11 senior 8:21 sense 55:16 sensitive 3:4
---	---	---	---

sentence 27:16 29:3,8,10,13 36:22 39:6 40:13 41:2 61:2 69:2 81:7 81:17 84:20 85:9,13,20 87:9 88:19 89:1 94:2 sentences 85:15 separate 61:24 62:5,8 79:13 79:15,17,21 80:11 sessions 13:12 set 7:7 9:14 100:7,17 seven 85:3,5 shape 15:16 36:24 37:5,10 37:12,23 43:1 45:20,23 48:9 48:22 52:25 shapes 48:11 sheet 99:6 102:2 shoe 92:10 shorthand 1:17 show 21:1 22:20,22,24,25 22:25 24:12 39:2 42:21 48:1 52:14 55:10,20 56:8 69:3 81:19	showed 22:16 showing 44:12 44:14,23 shown 22:5,7 23:5,24 26:8 27:21 28:13 46:19 47:19,21 48:15,21 49:7 50:20 52:18 54:1,9,11 56:23 57:9 79:11 shows 16:21 19:17 56:5 57:3,4 side 18:12,13 19:17,19,23 20:11,21 25:15 25:19 28:17,17 31:18 56:14 63:1,4 signature 7:24 100:20 sit 74:5 97:20 sitting 64:20 65:5 73:22 74:7,18 96:19 skin 92:1,3,7,8 92:8,11,15,21 93:6,15,20 94:3,5,11,11,13 94:23 95:3,4,5 95:6 96:25 97:6,8,11,17	skip 94:2 small 8:16 smith 14:2 sock 52:16,19 52:22 55:5,6 55:11,13 56:4 56:9,19,23 57:4,5 solid 22:6,16,19 24:19,21 25:10 25:18,21 26:5 26:9,17 sooner 6:7 sorry 27:5,6 42:4 43:15 51:3 58:13 sound 5:23 sounded 61:15 sounds 5:24 spaced 61:24 62:6 span 26:9,10 spandex 86:2 specific 15:17 25:3 46:5 48:3 57:8 58:15 71:18 75:17 86:15 specifically 27:17 28:10 40:19 53:8 78:18 79:4 92:6 specification 14:14,18 44:6	spend 8:4 spent 13:10,17 squiggly 66:7 66:11 68:9,11 start 28:9 94:3 starting 85:5 starts 68:23 69:2 state 1:18 4:8 4:11 16:22 24:13,15 100:4 statement 43:20 statements 99:8 states 1:1 3:16 staubach 2:5 4:15,16 5:8 6:11 7:9 18:14 38:4 43:8 49:11,20,24 58:16 76:24 77:6,10 95:22 97:24 101:4 stitches 84:11 straight 31:11 32:1,2 53:13 53:14 strand 80:24 81:10 83:4 87:24 88:3 89:3 strands 83:10 83:24 89:11
--	--	--	--

street 2:8,13 35:13 stretch 24:5 78:15,24 79:6 81:13,25 83:7 83:11,15,16,25 84:13,23 86:14 86:25 87:24 88:1,2,4,6,8,16 89:4,6,9,11,25 90:1,10,14,15 90:17,24,25 91:3,6 94:6,13 94:16,18,19,21 95:9 stretched 17:7 17:12,13,14,15 17:23 18:5 20:16 24:13,14 stretches 78:8 86:5 87:10 88:19,20,20 90:2,11 91:2,4 91:10,12 stretchiness 86:4 stretching 21:10 78:10 87:12 94:24 stretchy 86:21 87:4 88:12 97:2 structure 34:12 35:19 36:23 37:10,15 39:15	40:6,23 66:23 67:5,9,15,23 69:6 structures 34:9 37:1,19 38:23 38:25 39:10,22 41:16 42:2,9 50:15,19,25 51:21 54:9 58:3 59:10,21 59:23 60:14 61:8 62:24 students 64:11 stuff 43:16 subscribe 99:6 subscribed 99:14 102:21 substantially 47:6,11 suit 19:6 suite 2:8 support 7:18 28:2 81:23 82:18 88:14 96:21 supports 87:18 89:22 90:4 97:14 sure 21:19 25:7 28:19 29:16 35:6 59:19 70:21 73:17 76:24 79:2 85:3 91:19 96:15	surface 67:16 67:17,20,21 68:1,6 surrounded 40:4 suspect 97:10 swear 5:2 sworn 5:6 99:14 100:7 102:21 system 27:12 30:18,19,23 31:1,2,3,9,17 32:21	96:24,25 97:11 taught 76:5 teach 75:25 teaches 52:15 tel 2:4,9 tell 17:18 18:4 18:9 21:17 24:17 25:8 26:15 28:3 47:10,22 48:25 64:11 65:17 86:19 91:11 telling 87:3 tells 15:10 86:4 temple 8:22 term 34:8,12 35:18 54:17 67:1 testified 5:7 48:7 54:17 testifying 6:24 testimony 7:5 65:9 77:16 98:5 100:6,9 text 63:23 93:8 textile 30:9 33:8 35:14 51:24 61:24 62:6,8 thank 5:9 7:7 10:3 20:6 49:22 53:15 57:12 59:4 60:25
		t	
		t 5:4 101:6 take 3:8 6:5 47:12 49:12 60:23 76:22 80:18 82:14 taken 1:16 3:13 44:21 talk 51:5 talking 16:10 20:23 21:20 24:22 27:1,3 29:9 31:4,5 43:6 52:8 55:24 60:22 66:20 67:19,25 75:19,22 79:10 80:4 81:20 82:15 90:13 talks 82:5 90:6 90:7,11 94:22	

thereof 44:22 thickness 27:20 28:12 84:13,23 thing 53:5 68:10 95:2 things 25:1 31:6 34:21 42:23 52:17 think 17:19 38:1 63:16 66:1 70:6 76:11 86:8 92:19 third 32:18 40:14 84:9 thirds 84:19 thought 19:1 21:4 29:14 92:17 three 13:14 14:5,9 55:10 64:21 82:11 88:21 95:21 98:7 tight 93:21 95:7 time 3:7 4:9 8:9 8:25 10:13,24 11:1 13:10,16 49:13,17 76:25 77:3 83:2 89:1 95:15,19 98:9 times 5:13 10:7 10:10,19 11:24 12:2,12,13,24	12:25 38:17,19 44:9,10 64:14 64:22,22 74:2 today 4:18 5:10 6:24 7:4 8:24 9:11,12 13:8 64:20 65:5 73:22 74:8 96:19 today's 98:5 told 13:9 92:17 top 17:4 46:10 46:12,15,20,23 63:13 72:23 total 13:16 98:6 toward 78:3 trademark 1:1 3:16 transcribed 6:1 transcript 99:4 99:7 100:8 trial 1:2 3:17 true 100:8 truthful 7:5 trying 55:20 tube 15:13,15 15:20,21 16:4 36:24 37:5,10 37:12,13,14 40:4 tubes 15:12 22:25 tubular 14:25 15:4,11,16 34:9,12 35:18	36:23 37:9 38:23,24 39:9 39:14,22 40:6 40:23,23 41:4 41:10,16 42:1 42:8 45:20,22 50:15,19,24 51:20 52:24 54:8,9 58:2 59:9,21,22 60:14 61:7 62:24 66:23 67:5,9,15,22 69:6 72:10 tuesday 13:15 turn 7:21 14:10 19:8 21:14 26:22 32:14 33:18 34:4 39:4 40:9 41:12,19 42:11 44:4 48:18 49:25 50:9 51:7 57:13 60:8 62:16 70:11 75:2 77:18 80:18 82:15 84:6 89:21 93:11 two 14:9 19:15 32:9 46:14,18 48:1,13,14 49:7,19 52:9 53:24 55:16 56:6,17 61:23	62:5,7,10 74:12 76:22 79:13,16,21 80:3,8,10 84:19 85:15 87:13 95:17 type 78:19,22 79:5 types 78:9 84:11,21 87:11 typical 14:4
u			
u.s. 7:19 uh 6:3 51:3 89:20 under 6:24 9:21 40:21 understand 5:17 6:23 7:3 25:16,20 34:20 35:12,14,17 52:6 55:23 56:16,21 57:6 66:6 67:20 73:3,5 86:1 understanding 30:22 33:11,15 34:17 51:21,25 52:23 60:15 71:25 95:12 understood 5:21 32:24 36:21 61:22 75:6			

unit 3:11 49:18 95:17,20 unitary 90:23 united 1:1 3:16 units 98:7 university 8:23 unstretched 16:17 upper 31:18 80:25 81:12 83:5,6 93:22 94:4,8 usa 1:3 3:14 usage 52:5 use 16:9 35:23 36:9 64:12 65:14 87:2 used 11:7 31:3 35:19 51:1 54:18 68:9 86:20 98:7 useful 93:7 user 92:10 uses 72:11 89:13 using 52:14 67:1 69:15 87:8 utilized 94:4	verbal 6:2 veritext 3:24 4:2 98:8 102:2 version 51:15 69:20 versus 3:15 8:11 17:11 18:10 vertical 44:20 46:2,8,25 47:2 47:4 vertically 49:2 vi 34:1,3 video 3:7,12 videographer 2:21 3:1,25 5:1 49:13,17 76:25 77:3 95:15,19 98:3 videotaped 1:12 view 22:3 42:22 44:20 45:2,6,9 55:11 56:15,15 56:17,18,20 57:4,9 visual 69:12,14 visually 18:2 24:17 25:8 26:15	walked 96:1 walking 93:23 want 59:11 70:16 76:3 88:25 washington 2:4 wavy 68:8,11 68:13 way 25:12 32:19 64:6 65:6 83:17 84:10,19 85:14 90:5,25 100:14 wear 94:7 wearer's 53:10 55:8 wearing 92:10 web 55:3,23 webbed 60:13 61:13 63:2,4 77:25 78:2 82:5,19 wednesday 13:15 week 11:1 12:4 12:16 13:2 38:20 welcome 49:21 77:6 welcoming 49:23 west 2:8 whereof 100:16 whispering 3:5	witness 5:3,5 22:14 49:9,22 60:25 61:1 70:22 77:8 82:24 85:12 87:21 89:24 96:16 100:6,10 100:16 101:2 witness's 102:4 wool 85:25 word 29:7 47:12 52:6,7 61:18 64:12 68:9 71:12,13 72:11 85:6 86:4 87:2 89:13,25 words 35:12 45:11 65:14 83:17 working 8:8,24 written 30:10 wrong 61:16 67:1 76:12 96:18
v			x
v 1:4 5:4 61:25 102:3 various 85:21 93:16	w		x 1:8 101:2,6
	wait 81:1 wales 27:18 29:1,18 30:4		y
		welcoming 49:23 west 2:8 whereof 100:16 whispering 3:5	yarn 78:9,14,19 78:20,22,23 79:4,5 87:11 yarns 84:21 85:22

yeah 58:15,15 70:3 yellow 66:2 yesterday 10:15 14:2 york 1:16,16,18 2:18,18 3:22 3:22 100:4
z
zoom 14:2

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

fashion to authenticated parties who are permitted to access the material. Our data is hosted in a Tier 4 SSAE 16 certified facility.

Veritext Legal Solutions complies with all federal and State regulations with respect to the provision of court reporting services, and maintains its neutrality and independence regardless of relationship or the financial outcome of any litigation. Veritext requires adherence to the foregoing professional and ethical standards from all of its subcontractors in their independent contractor agreements.

Inquiries about Veritext Legal Solutions' confidentiality and security policies and practices should be directed to Veritext's Client Services Associates indicated on the cover of this document or at www.veritext.com.