

1 UNITED STATES PATENT AND TRADEMARK OFFICE

2
3 PATENT TRIAL AND APPEAL BOARD

4
5 SHARKNINJA, INC.,
6 SHARKNINJA OPERATING LLC,
7 SHARKNINJA MANAGEMENT LLC, AND
8 SHARKNINJA SALES COMPANY,
9 Petitioners,

10 v.

11 DYSON TECHNOLOGY LIMITED
12 Patent Owner.

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14
15 Case No. IPR2024-00219

16 Patent No. 11,589,660

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18
19 DEPOSITION OF JOEL DELMAN

20 Thursday, October 3, 2024

21
22
23 REPORTED BY: RENEE HARRIS, CSR, CCR, RPR

24 JOB NO. 6937484

25 PAGES: 1 - 122

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18

19 Deposition of JOEL DELMAN the witness herein,
20 appearing remotely from Los Angeles, California at
21 9:02 a.m. Pacific Daylight Time, on Thursday,
22 October 3, 2024, before Renee Harris, California
23 Certified Shorthand Reporter No. 14168, New Jersey
24 Certified Court Reporter No. 30XI00241200, and
25 Registered Professional Reporter.

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EXHIBITS

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Exhibit 2	U.S. Patent 4,943,182 Hoblingre (Exhibit 1004)	34
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LOS ANGELES, CALIFORNIA;
THURSDAY, OCTOBER 3, 2024;
9:02 A.M., PDT;

JOEL DELMAN,
called as a witness and having been first duly sworn
by the Certified Shorthand Reporter, was examined
and testified as follows:

EXAMINATION

BY MS. LU:

Q. Good morning, Mr. Delman.

A. Good morning, Ms. Lu.

MS. LU: I just realized that I'm not
sure if we need to state our names for the
record, as well, or if we just continue.

(Reporter clarifying.)

All right. Sounds good. Just go ahead
and continue.

BY MS. LU:

Q. So Mr. Delman, can you let me know where
you are today?

A. I am in my home in Los Angeles.

Q. Okay. And is anyone else this with you?

A. Well, there are others in the house but

1 I'm secluded in my room, yes.

2 Q. Okay. Sounds good. And have you ever
3 been deposed before?

4 A. Yes, I have.

5 Q. And about how many times would you say?

6 A. I'm going to say approximately somewhere
7 between 17 or 18 times, I think, over the years.

8 Q. Okay. That's a lot.

9 So I'm sure you're pretty familiar with
10 the ground rules but just so that we can go ahead
11 and get them out of the way, since this is for an
12 IPR, there's not going to be a video recording.

13 So let's just make sure that we don't
14 speak over each other, and we'll let each other
15 finish either our question or our answers just so
16 that Renee will be able to get everything on the
17 record clearly.

18 A. Understood. Yes, thank you.

19 Q. Great.

20 And if you don't understand what a
21 question means or what I'm asking for, please just
22 feel free to ask for clarification. Okay?

23 A. I will. Thank you.

24 Q. Okay. And you can ask for a break at any
25 time that you want to. It's early morning your

1 time. So we can take short breaks every hour or
2 so, and we can also take a break for lunch.

3 A. Thank you. I think that would be good.
4 Take -- just plan on a lunch break around 12:00 or
5 12:30.

6 Q. Sounds good.

7 And do you have any applications open on
8 your computer right now besides the Zoom video and
9 the, like, Veritext Exhibit Share?

10 A. No, I don't believe I do.

11 But I had to keep -- so the Exhibit Share
12 is in Chrome, and it has a tab and I have to keep
13 that open, but that's it, yes.

14 Q. Okay. And do you have any documents with
15 you?

16 A. I do.

17 So I have a binder -- I'll hold it up.
18 It is a clean binder which contains some of the
19 various patents that I assume we'll be discussing
20 today, as well as my declaration in -- in this
21 matter.

22 I certainly prefer to refer to the paper
23 while -- you know, here, rather than have to
24 scroll through things on screen if -- I think it
25 will be more efficient for everybody, if that

1 works for you.

2 Q. Sounds great.

3 And do you have any notes or anything
4 like that in any of the papers that you have with
5 you?

6 A. I do not. They are clean, as -- as
7 provided to me as counsel.

8 Q. Great.

9 And do you understand that you are here
10 to testify about the opinions that you've put
11 forth in your declaration in this proceeding?

12 A. Yes, I do.

13 Q. Great.

14 MS. LU: So I'm going to introduce the
15 first exhibit, and give me just a second
16 while I put the stamp on.

17 (Exhibit 1 was received and marked
18 for identification on this date and is
19 attached hereto.)

20 BY MS. LU:

21 Q. Let me know if you see something in your
22 Exhibit Share.

23 A. So I've got to switch out to the Exhibit
24 Share here. So I'm told I need to kind of reload
25 the page every time you put something in, and yes,

1 I do see something there, yes.

2 Q. Okay. So Exhibit No. 1 should be up on
3 your screen.

4 Do you recognize this document?

5 A. Well -- oh, I see. Let me go back to my
6 Zoom here.

7 So you're not sharing it on the Zoom
8 screen; in other words, you want me to open up the
9 document from Exhibit Share?

10 Q. Yes. But I believe that you probably
11 have a printed version from this document?

12 A. I do. Do I need to confirm that it's the
13 same one that you've loaded up to the exhibit?

14 Q. Yes. All right. I was going to ask you,
15 first, if you recognize the document that's up on
16 the screen.

17 A. Okay.

18 Q. I'm sorry, that's --

19 A. I'm opening it myself, yes.

20 So this looks to be my declaration, and
21 as you note, I do have a copy of that here. And
22 I'm going to trust that it's the right document
23 because you're an attorney, and why would you not
24 put the right document there.

25 Q. All right. So we can go to Appendix A of

1 this document.

2 A. Okay. What page is that? Just for ease,
3 if it does have a page number, I don't know, I'll
4 just --

5 Q. 82 --

6 A. I got it.

7 So that looks like you're talking about
8 my C.V.

9 Q. I was going to ask if you know what this
10 is but you've already got it.

11 A. I do.

12 Q. All right. So let's chat a little bit
13 about your background.

14 So it looks like you received your master
15 of industrial design from the Pratt Institute; is
16 that correct?

17 A. Yes, that is -- that is correct.

18 Q. Okay. And what kind of degree is this?
19 What does this degree entail?

20 A. So a degree in industrial design, whether
21 it's a master's or an undergraduate, is a degree
22 in what some people also refer to as product
23 design. It entails everything from consumer
24 and -- consumer research in various forms to
25 understand what the people you're designing for

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1 are looking for in the work that you do to form
2 development, color, materials, finish, ergonomics;
3 a wide range of coursework that provides you with
4 a skill set which, of course, augmented by
5 professional experience, allows you to design a
6 wide range of products for the marketplace.

7 Q. Okay. And it looks like you have some --
8 you have a couple your professional experiences
9 here. So maybe we can go in reverse chronological
10 order.

11 A. Sure.

12 Q. So can you tell me a little bit about
13 what your present day role as design director at
14 Informed Innovation entails?

15 A. Sure. So I'll do that just by slightly
16 touching on the prior entry on my C.V., which is
17 the design consultancy I had been with for many,
18 many years.

19 When Product Development Technologies was
20 sold at the end -- very, very end of 2017,
21 beginning of 2018, I really, you know, gave some
22 thought as to what I wanted to do as my next
23 thing. Wasn't ready to retire. Still not ready
24 to retire.

25 And I decided to start my own consultancy

1 with a focus on what I would refer to as
2 entrepreneurial design, which is design for
3 license to various manufacturers of concepts which
4 I and my colleagues would develop.

5 But in addition to that, I continued
6 standard -- call it standard design consultancy
7 practice as I had at PDT involving everything from
8 front-end consumer research to design for clients
9 of what they, you know, provide me with the design
10 brief for; that they are looking for a design.

11 And in addition to that, I had started to
12 do a bit of expert witness work toward the end of
13 my time at PDT, and I have continued to do so
14 after -- you know, since then, as part of my work
15 with Informed Innovation.

16 Q. Okay. So you said you started doing
17 expert witness work toward the end of your time
18 with PDT?

19 A. Mm-hmm.

20 Q. So when you say that, do you mean that
21 you had previously to that time never been an
22 expert witness before?

23 A. That's correct. I had received many
24 invitations to be an expert witness over the
25 years, but frankly I was too busy doing design

1 work. And I was a bit hesitant to put my foot
2 back in the legal realm, as I -- you'll probably
3 ask it but maybe you won't.

4 I didn't really enjoy my time as an
5 attorney, and I have no offense to either of the
6 attorneys on the phone. It wasn't really for me.

7 But the funny thing was that we got a
8 call at PDT from a company that we had actually
9 been trying to get our foot in the door with to do
10 design work for and had not been lucky to get our
11 foot in that door.

12 They called me to be an expert witness on
13 some litigation that we were involved in, and I
14 sat down with my colleagues and I said, Hey, you
15 know, this is kind of a backdoor way to introduce
16 ourselves to them. And while I'm doing the legal
17 work, I can show them some of our design work on
18 the side, and so maybe this could be a good thing
19 all around.

20 Well, it turned out that I really enjoyed
21 doing that engagement. It was a nice way to tie
22 in what I did as an attorney, or what I enjoyed as
23 an attorney, and all of the design work I've been
24 doing since. Though I have to say, we never got
25 the design work out of the client after that. So,

1 so be it.

2 Q. When you say that it was a nice way to
3 tie in what you did as an attorney, what do you
4 mean by that?

5 A. I probably should have phrased that
6 differently. I should have said, what I enjoyed
7 in the law. What I enjoyed from being a law
8 student and what I enjoyed from being a lawyer;
9 the kind of analysis and strategy that I was able
10 to tie in to my very deep knowledge of design.

11 It just felt like a very nice click when
12 the universe gives you that kind of opportunity
13 with something that you didn't enjoy doing
14 afterwards with something you've been doing for
15 many years and really make that something that you
16 enjoy. I think that's what I meant to say.

17 Q. Okay. So in your design work, is it
18 mostly sort of conceptual design, or would you say
19 that it involves some technical aspects, as well?

20 A. So in general, industrial design and
21 product design is a bit misunderstood by many
22 people. Many people think it's all about taking
23 out your markers and drawing --

24 (Technical pause in proceedings.)

25 THE WITNESS: So I was starting to say in

1 response to your question about do I also --
2 how much technical work is part of my -- my
3 role as a designer, industrial design and
4 product design is often misunderstood by the
5 general public.

6 And many people think of it as a
7 profession where you pick up your magic
8 markers and pens and pencils and spend your
9 day drawing all kinds of sexy cool stuff.
10 Many of us wish that was the case because it
11 is probably among the more fun aspects of the
12 job. But it's hardly the only aspect of the
13 job.

14 And it is a very technical profession,
15 and I often describe it to people as a
16 combination of art and engineering, and I
17 believe I have that definition in my
18 declaration. And the way I describe it in my
19 declaration, there is the fun design part,
20 the artsy part of it, so to speak. But it is
21 constrained by a broad range of technical
22 constraints, engineering constraints, and
23 most importantly, user-defined needs, and --
24 and demands that make designers work toward a
25 particular goal of designing a widget,

1 whatever that widget may be, but having to
2 meet all of those requirements, performance,
3 expectations, and -- and constraints.

4 So a good deal of my work and the work of
5 most designers I would describe as quite
6 technical. Where that technical stops and
7 it's handed off to engineers can vary greatly
8 from project to project.

9 But at a high level, the technical
10 aspects of a designer's work end where the
11 manufacturing, molding, durability-type of
12 things which engineers are better trained for
13 take over, and designers work very closely
14 with engineers to ensure what we have
15 designed, what we have conceived of on the
16 technical side of things, is implemented with
17 as little modification from our vision as
18 possible.

19 Although, in certain instances, engineers
20 do need to revise things appropriately, and,
21 you know, we work with them to do that in the
22 best way possible.

23 BY MS. LU:

24 Q. Okay. Have you frequently worked with
25 engineers to sort of modify or bring to life your

1 industrial designs?

2 A. Oh, yes. I'd say on all but maybe the
3 most simple projects or where we are engaged to
4 merely come up with a concept and an idea, and
5 that idea is then the end of that job, so to
6 speak.

7 But on any engagement where the end
8 result is a product that is going to be
9 manufactured and sold to the public, we work very
10 closely with engineers, yes.

11 Q. Great.

12 And you're also a professor, I believe,
13 at the Art Center College of Design; is that
14 right?

15 A. Yes. I'm not teaching theory but I'm an
16 associate professor at Art Center. And Art Center
17 is one of the more well-known design schools in
18 the world, and it fortunately is based right near
19 me here in Pasadena.

20 Q. And what kind of classes do you teach
21 there?

22 A. So my class has been what I would
23 describe as a professional development class for
24 graduate students. Helping them to target their
25 portfolios and their personal brand as a designer

1 toward their goals for their first employment;
2 what they want to do as a designer and how to turn
3 that into hopefully a paying -- a paying job.

4 Q. So you mention in your declaration that
5 you have worked on projects that include things
6 like hair dryers; is that right?

7 A. I have worked on a broad range of -- of
8 product categories over the past nearly 30 years,
9 and, in fact, a hair dryer project was among them
10 yes.

11 Q. Do you --

12 A. In fact, I think it was more than one
13 hair dryer project for that client.

14 Q. And do you recall what company or client
15 that was?

16 A. Yes. This was when I was at Cousins
17 Design in New York, which is somewhere on my
18 resumé; and they had a long-standing client,
19 Conair, and we worked on a few projects for hair
20 care products which included hair dryers. And
21 Cousins Design notably designed a Conair hair
22 dryer which is in the Cooper Hewitt Museum of
23 Design in New York City recognized for its quality
24 design.

25 Q. That's very neat.

1 A. Yes. There's a museum right -- right in
2 your hometown. Cooper Hewitt Museum is on Fifth
3 Avenue, beautiful building, and they maintain a
4 collection of great design for the public to see
5 and appreciate and have exhibits, etc.

6 Q. And what aspect of the hair dryer did you
7 work on when you were working with Conair?

8 A. To the best of my recollection, my role
9 on the Conair projects was predominately
10 aesthetics and ergonomic innovation.

11 Q. Can you expand on what "ergonomic
12 innovation" means?

13 A. Yes. In the realm of a hair dryer, it
14 would be how to make it comfortable to hold for
15 like some length of time; and how to design a hair
16 dryer form and a grip and a handle, if you will,
17 which allows the user to do what they want or need
18 to do with a hair dryer with the least physical
19 strain on their hand, wrist, arm to do so.

20 Q. And did this hair dryer product involve
21 any sort of attachments or anything like that?

22 A. Yes. There was a diffuse- -- at least, I
23 recall one diffuser-type of attachment, which at
24 that time at least, and I think even today, they
25 use a similar type of diffuser. It's kind of a

1 big, circular piece which expands the diameter of
2 the hair dryer and incorporates a great many small
3 apertures so that the high pressure, which the
4 hair dryer normally shoots the air out with, is
5 diffused over a larger surface area. So it
6 doesn't so much blow your hair as it does put hot
7 air out in a very soft, gentle manner.

8 And there was also a focus attachment
9 which kind of does the opposite. It takes the
10 circular or generally, a circular exit at the time
11 was very common in hair dryers, of -- of air, and
12 focuses it into a more narrow horizontal slit or
13 slot, if you will.

14 So I do recall that those were at least
15 two attachments on -- on one of those projects.

16 Q. Do you recall how the attachments were
17 attached to the hair dryer?

18 A. So I know that the diffuser, in
19 particular, we worked on a few different, or
20 suggested, I should say, a few different options
21 for the attachment.

22 Because the diffuser, in particular,
23 given its large size, is very prone to being
24 knocked off if you just sort of stick it on the
25 end. And I know that at least one of those

1 attachment suggestions to the client was what we
2 often call as industrial designers, a "twist
3 lock."

4 So you have slots on the body of the hair
5 dryer generally, and some type of posts or
6 protrusions on the inner side of the attachment,
7 which you push on and twist to -- to lock it into
8 place. Certain similarities to at least one of
9 the patents which we might discuss today.

10 Q. And would you say that a twist-lock
11 attachment is a kind of bayonet-style attachment?

12 A. I haven't really thought about the
13 terminology to be honest. I'd have to really
14 think about it and really take a look at a variety
15 of bayonet attachments.

16 I'm not sure how you -- if you would
17 categorize it as such. It certainly shares
18 similarities. I think that's one of the reasons
19 why we have a twist-lock attachment in at least
20 one of our -- you know, the patents that we're
21 discussing today.

22 There are certainly similarities in the
23 sense that there are posts or protrusions and
24 slot-like features involved. Whether you'd
25 consider it as part of the same terminology, I --

1 I don't know. Engineers might call it one thing
2 and designers might call it another thing, and we
3 are all talking about a very similar thing but
4 just have a different name for it. I don't -- I
5 don't know.

6 Q. Okay. And what is your understanding of
7 what a bayonet-type neck is?

8 A. Well, I think it's not just -- from my
9 knowledge, it's not just one type of solution.

10 So for example, you can have a
11 bayonet-type catch, which is kind of a hook
12 that -- that slides over a protrusion and slides
13 down into place and locks it into place.

14 You can also have, such as in -- let's
15 take the Hoblingre patent, protrusions that are
16 held in place in a different fashion from -- from
17 a hook which snaps over and holds it into place,
18 but holds it into place in the way that Hoblingre
19 does with these offset slot systems.

20 I do recall, just out of curiosity,
21 looking in some of my old textbooks and such to
22 see if it was ever defined as such, and I don't --
23 I've never seen a bayonet attachment defined in
24 any single way. It's one of those things, which
25 as a designer, at least, you look at and say, that

1 could be a bit -- considered a bayonet-type of
2 attachment. But I do think that the patents here
3 alone show a broad variety of ways that
4 protrusions can be captured or held in place.

5 I wouldn't say it's any one particular
6 type of solution, at least not as the word is used
7 in the professional community that I'm aware of.

8 Q. Okay. Would you say that the general
9 category of bayonet-style mechanisms might imply
10 that there's some sort of protrusion being
11 retained somehow in some sort of slot?

12 A. I don't know that it's always a slot. As
13 I said, you know, this is -- it's hard to talk
14 about features like this without drawing them, or
15 at least for a designer, sometimes.

16 So what I described to you, and I know
17 we're not on video for this proceeding, but you
18 can see what I'm talking about.

19 So let's say this is -- my fist is a
20 protrusion. We're looking at it in elevation or
21 side view, okay, and here you have a hook catch.

22 So as the protrusion is pushed in, the
23 hook lifts up and snaps back over and holds it
24 into place. I think many people would consider
25 that a type of bayonet attachment, and I think

1 that it may even be referred to in one of the
2 patents as such or something similar to that.

3 I don't -- so I don't know that it's
4 always held in place in a slot, per se.

5 So I don't know, again, what breath of
6 capturing a protrusion might be considered part of
7 a bayonet solution by some people who would call
8 it that.

9 Q. Okay. Would you say that a bayonet-type
10 mechanism would include some sort of protrusion
11 being retained in some way?

12 A. I would say, at least my interpretation
13 of that, would involve some sort of a protrusion
14 being retained, yes, in some way. I think that's
15 probably the broadest way to describe it.

16 I do think that that's how I would
17 understand at the highest level. There again,
18 there may be other professionals who would
19 consider it otherwise or use the term in a
20 different way.

21 Q. And earlier you had mentioned that the
22 hair dryer product that you had worked on that
23 includes a twist-lock style attachment mechanism,
24 was something that you had worked on while you
25 were at Cousins Design; is that right?

1 A. Yes, that's right. Conair was a -- was a
2 long-standing client of -- of Cousins Design,
3 that's correct.

4 Q. And is this would have been -- and I'm
5 looking at page 88 of Exhibit 1 to this
6 deposition, which is part of your.

7 C.V. It looks like you were at Cousins
8 Design between 1993 and 1995?

9 A. That's correct, at a minimum. I
10 continued after moving to Chicago. You could see
11 the move that took place there, and in -- at the
12 end of 1995.

13 I continued to work remotely as a
14 freelance designer for Cousins for some time after
15 that, and, indeed, I'm still good friends with
16 Michael Cousins to this day but he's long since
17 retired.

18 Q. Okay. Have you worked on any other sort
19 of hairstyling or hair care appliances other than
20 the one that we're discussing?

21 A. Yes. So one of PDT's clients, or
22 product, which is I believe the second entry on my
23 professional experience from 1999 to 2018, was
24 Goody, g-o-o-d-y, and you may be familiar with
25 them. They are a very well-known name in

1 hairbrushes and combs and things like that. To my
2 knowledge, at least, at the time, they did not
3 make hair dryers. And we did a series of projects
4 involving hairstyling brushes of different types
5 and combs for Goody.

6 Q. Okay. So you mentioned in your
7 declaration that you've been involved in product
8 design and development of an assortment of
9 products and devices that have bayonet-type
10 attachment mechanisms.

11 Which products, if you can recall, are
12 you referring to?

13 A. So one in particular, which utilized a
14 bayonet or a twist-lock type of attachment, was a
15 series of -- they were called paint pens for a
16 company called Sanford, S-a-n-f-o-r-d, which is a
17 pretty well-known company in markers and pens and
18 things.

19 And they had at the time, and probably
20 still do, a division of children's products and
21 craft-oriented products. I was engaged to design
22 these paint pens for them, which have a bunch of
23 different innovations in their design.

24 But one of the problems that we realized
25 early on when we did our research as to what kids

1 and parents would be looking for in such a product
2 was they needed to have a cap that sealed very
3 well, and most importantly a cap that kids could
4 be counted on to put onto the pen when they
5 weren't using it so that it wouldn't dry out.

6 So we explored a few different options,
7 and the one that went out at the end of the day
8 was a twist-lock type of a cap where the child
9 would push the cap on and give it a twist.

10 It was an intuitive and -- and easy thing
11 for kids to do. A full screw-on cap would have
12 been optimal from a sealing standpoint, but we
13 realized we couldn't count on children to actually
14 screw it on tightly, and that this was the best
15 alternative. So that's one example.

16 Also implemented a similar type of
17 attachment in some work I did for Medela, which is
18 a well-known brand in the world of breast pumps
19 and milk storage systems for new -- new moms. So
20 that the means of milk collection, its attachment
21 and detachment system to the pump itself, was a
22 form of a twist-lock, a very quick and easy
23 attachment to detachment system for moms. They
24 don't want to spill the milk while their hands are
25 pretty busy in -- in this operation.

1 Another type -- another one that comes to
2 mind are a variety of cell phone, and I'll call
3 them walkie-talkies, but they are really called
4 land mobile radios that we've done over the years.

5 The belt clips which these radios and
6 cell phones -- today it's not a very popular
7 solution, but back in the day it was, would clip
8 into these plastic belt clips, and there were a
9 variety of ways of doing that. But many of them
10 involved some sort of a slot or groove on the side
11 of the phone or walkie-talkie and some sort of
12 inward protrusion on the clip itself, and the way
13 that they engaged is -- is very much, you know,
14 analogous to some of the -- the types of things
15 we've been talking about this morning.

16 So it's a very common type of attachment
17 mechanism that's -- that's utilized in -- in any
18 number of product categories that -- you know,
19 that I've been personally familiar with as a
20 designer, as well as an observer of design over
21 the years.

22 Q. Okay. And would you say that a lot of
23 the products that you just mentioned were projects
24 that you might have worked on in recent years?
25 Were they in the past 20 years or so? What might

1 be the time frame that you were working on these
2 products?

3 A. Medela products were the time range I'm
4 going to say of -- to the best of my recollection,
5 2006, 2007 to 20-- somewhere between 2014 and
6 2016, a range of Medela products.

7 The paint pens I mentioned, 2008,
8 perhaps, 2009.

9 The cell phones, gosh, we've done so many
10 cell phones and clips and charging bases and such
11 over the years. You know, those, up until fairly
12 recently.

13 Q. Okay. Thank you.

14 So let's turn to page 93 of Exhibit 1 to
15 this depo. It's Appendix C. So it's just a
16 couple pages past where we were.

17 A. Yes, I'm there. I believe it's the U.S.
18 Patents and Applications page.

19 Q. Yeah, that's right.

20 So in this list of utility and design
21 patents that on which you are named an inventor,
22 are any of these directed to hair care appliances?

23 A. I'll be very frank. I would not know,
24 unless you showed me the patents, or at least the
25 patent titles to go along with the numbers. I

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1 just don't recall.

2 As a design consultant, we assign all of
3 our trade secrets and intellectual property that
4 we develop to our clients. That's pretty standard
5 in the profession, and they proceed with patenting
6 or not patenting, naming inventors or not naming
7 inventors as they decide to.

8 So my involvement with most of these
9 patents is such that I -- I wouldn't know the
10 patent numbers and the tit- -- without the titles
11 or vice versa.

12 Q. Okay. Do you recall whether Conair had
13 ever filed any applications on the attachment
14 mechanism for that hair dryer that we were talking
15 about just prior to now?

16 A. I don't recall any of these -- in any
17 of -- what IP, intellectual property, decisions
18 Conair may have made with respect to the work that
19 I participated in.

20 Q. Okay. And earlier you had mentioned that
21 this sort of bayonet-type of mechanism, or as you
22 called it, twist-lock mechanism, is pretty widely
23 used in different, you know, settings, products,
24 fields; is that right?

25 A. Yes. And I was referring to some of the

1 different product categories that I myself have,
2 you know, implemented it on or suggested
3 implementation on.

4 Q. And would you say that they are pretty
5 common in -- as an attachment mechanism in a lot
6 of products for home and consumer use?

7 A. Well, again, as I said, the term "bayonet
8 attachment" is one that may be applied across a
9 broad range of solutions as we see in the patents
10 we have before us today.

11 I would say, I -- I can say with
12 personal -- from personal experience that a
13 twist-lock type of attachment is, indeed, a very
14 common type of attachment in a variety of consumer
15 and other products.

16 Whether bayonet-type attachments, such as
17 shown in certain of the patents that we have --
18 that we have before us today are as common, I
19 wouldn't know that whether or not. They might be
20 but I just don't know.

21 Q. Sure.

22 And just to clarify, so you gave a number
23 of examples of different types of twist-lock
24 mechanisms previously, and you had done this in
25 response to a question that I had asked about your

1 statement that you had worked on devices with
2 bayonet-type attachment mechanisms; is that
3 correct?

4 A. I believe my responses were in response
5 to a question, such as you -- you know, in a
6 general sense, as you've just summarized, yes.

7 Q. Okay. Great.

8 So you are a named inventor, according to
9 the page that we're still on, on a number of both
10 what's called utility patents and design patents;
11 is that correct?

12 A. Yes.

13 Q. Do you have an understanding of what the
14 difference is between the utility patents and the
15 design patents?

16 A. In a general sense, I do, yes.

17 Q. Can you please tell me what it is?

18 A. So I would just preface this by saying
19 I'm not an attorney, and I don't give legal
20 advice.

21 But as a designer and as someone who
22 served as an expert witness on -- in patent
23 litigation, my understanding of design patents is
24 that they protect only the ornamental aspects of
25 what is claimed in the patent. Whereas, a utility

1 patent does quite the opposite; it protects the
2 functional innovation that's claimed in the patent
3 but not anything ornamental about it.

4 Q. Okay. Great.

5 So if you'll go maybe three pages later
6 on page 96. So now we're looking at your -- I
7 believe this is your list of expert witness
8 testimony.

9 A. Yes. Mm-hmm.

10 Q. Okay. Did any of these cases, if you can
11 tell me without wandering into privileged
12 information, involve any sort of hair care
13 devices?

14 A. Let me take a quick review to refresh
15 myself, and I will let you know.

16 Q. Okay.

17 A. No, they didn't.

18 Q. Okay. And if we turn to page, again,
19 if -- you did it double-sided, on page 99, I think
20 this is Appendix E, and it's a list of your
21 articles and publications; is that right?

22 A. Yes, that's correct.

23 Q. Do any of these publications, articles,
24 and then on the next two pages or so, speaking
25 engagements, interviews, have to do with any hair

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1 care devices?

2 A. To the best of my recollection in
3 reviewing this list, I don't believe anything
4 specifically refers to "hair care product."

5 MS. LU: Okay. Okay. If you'll give me
6 a second, I'm going to introduce another
7 exhibit.

8 (Exhibit 2 was received and marked
9 for identification on this date and is
10 attached hereto.)

11 BY MS. LU:

12 Q. I think it should be available as
13 Exhibit 2 now.

14 A. Okay. So I need to reload this page.
15 Okay. I do see this. And I'm --

16 Q. This -- I'm sorry.

17 A. That's okay. So I do have it open now,
18 yes.

19 Q. And what is this document?

20 A. This is the '182 patent, or the
21 Hoblingre, as I pronounce it, patent.

22 Q. Okay. I would say Hoblingre, but I don't
23 think that that's right.

24 A. You may be right. Don't give you any
25 pronunciation guidance.

1 Q. We'll each say it our own way and know
2 what we're talking about; how about that.

3 All right. So this reference generally
4 talks about a sort of bayonet-style attachment
5 mechanism; is that correct?

6 A. That correct.

7 Q. Okay. And then I'm going to introduce
8 another exhibit, and that way we can just flip
9 through them when we're wanting to talk about
10 them.

11 Oh, I'm sorry. Do you have a copy of the
12 Hoblingre reference with you printed out?

13 A. I do.

14 And I'm going to guess you have a copy of
15 most or all of the patents that you might put on,
16 or you might present me with other ones I'm not
17 aware of. But at least the ones that were
18 discussed in my declaration, I do have paper
19 copies of.

20 Q. Okay. Great. And you can just look at
21 the paper copies if you want.

22 A. Thank you.

23 (Exhibit 3 was received and marked
24 for identification on this date and is
25 attached hereto.)

1 BY MS. LU:

2 Q. Okay. So for -- could. So for
3 Exhibit 3, I think it's just been made available
4 now.

5 A. Hold up. So I'm trying to scroll to the
6 first page here, yeah.

7 Q. And what is this?

8 A. This is a European patent application
9 which maybe goes by the term the '758. Or which I
10 pronounce the Mouhot patent.

11 Q. Me, too. Let's see, I have one more that
12 I want to put up real quick.

13 And Mr. Delman, do you have a copy of
14 Mouhot with you, as well?

15 A. Yes, I do.

16 (Exhibit 4 was received and marked
17 for identification on this date and is
18 attached hereto.)

19 BY MS. LU:

20 Q. Okay. Great.

21 And then I have just introduced Exhibit 4
22 if it's available on Exhibit Share.

23 A. Yes, I do have that on my screen.

24 Q. What is this Exhibit 4?

25 A. This is the '660 patent, or the Dyson

1 patent, as I might refer to it.

2 Q. Okay. And do you have a copy of this
3 with you, as well?

4 A. Yes, I do.

5 Q. Okay. Perfect. And now I am going to
6 ask if we can take a bio break, please.

7 A. That works for me. Ten minutes, or what
8 do you want?

9 MS. LU: Yeah, sounds good.

10 THE REPORTER: Off the record.

11 (Short break taken.)

12 THE REPORTER: Back on the record.

13 BY MS. LU:

14 Q. Okay. Welcome back, Mr. Delman.

15 Did you talk to anybody during the break?

16 A. No, I didn't.

17 Q. Okay. And how did you prepare for your
18 deposition today?

19 A. I reviewed my declaration and some of the
20 patents that I discuss in my declaration, and I
21 had some conversations with counsel.

22 Q. Okay. About how many conversations would
23 you say you had?

24 A. I believe two separate -- two separate
25 conversations.

1 Q. Okay. And about how long would you say
2 that you spent preparing for the deposition today?

3 A. You mean in total, including my review of
4 my declaration and conversations with counsel?

5 Q. Yes.

6 A. I'm just going to have to give you a very
7 rough estimate. I've never been good at kind of
8 guessing a time like that. Unless you want me to
9 review my records; that would give you a more
10 accurate response.

11 Q. Estimate is good.

12 A. Okay. I'm going to estimate between
13 probably about 12 hours total. Ten to 12 hours is
14 my guess.

15 Q. Okay. And about how long would you say
16 that you spent preparing your declaration?

17 A. That would just be a guess, really,
18 without looking at my records. I really just
19 don't know what amount of hours to put on it
20 without checking my file.

21 Q. Would you say that it's more than 20?

22 A. I'm going to say 20 is probably somewhere
23 around the midpoint. But again, I'm going to
24 qualify it that. I'm just really bad at
25 estimating that kind of stuff.

1 And again, happy to check my -- my actual
2 file if you would like me to.

3 But I'm guessing it is somewhere around
4 20 to 25 hours, without looking at my -- at my
5 file.

6 Q. Okay. No worries. I don't need a solid
7 number, you know.

8 Okay. So if we look at Exhibit 1 to your
9 deposition, which is your declaration. If we turn
10 to -- okay.

11 So the stamp at the bottom says page 70,
12 but I think it's 66 of the document.

13 A. Okay. Is there a paragraph number we're
14 aiming for?

15 Q. 129.

16 A. Okay. That's -- that's probably the
17 easiest way to get me where you'd like me to be.

18 Okay.

19 Q. Okay. So this section, the header right
20 above paragraph 129 is talking about "Opinions
21 Related to Motion to Amend"; is that right?

22 A. Yes, that is what it says.

23 Q. Okay. So in this section of your
24 declaration, you're talking about your opinions
25 related to Patent Owner's motion to amend in this

1 proceeding; is that right?

2 A. I think that's a good general
3 description, yes.

4 Q. Okay. So if we go to, let's say,
5 paragraph 137.

6 A. Okay. I'm there.

7 Q. Okay. So here, you're talking about your
8 opinions regarding Hoblingre, and the substitute
9 Claims 40 through 56; is that right?

10 A. Yes, I think that is an accurate
11 description.

12 Q. Okay.

13 So you say that in your opinion,
14 Hoblingre "does not disclose 'wherein the
15 actuator interacts with only one of the first
16 and second protrusions' of the substitute
17 claims."

18 And for example, in paragraph 141 --

19 A. Yes, I'm there.

20 Q. -- you talk about "ring 18 interacts with
21 both pins 6."

22 A. Is that an -- are you reading, you know,
23 word-for-word, or are you paraphrasing 141?

24 Q. I am -- I am reading word-for-word.

25 A. Okay. I'm looking for those -- that's

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1 why I asked. Because I'm looking for those words
2 just to find them here.

3 How many sentences into 141 was that?

4 Q. If it helps, I printed it out, also, and
5 it's on page 72.

6 A. Oh, you're on 72?

7 Q. On the top of the page.

8 A. Okay.

9 Okay. Yes, I do see that language,
10 uh-huh.

11 Q. So when you're talking about ring 18 here
12 in this sentence that we're looking at, and how it
13 interacts with both pins 6, is this in reference
14 to the language of substitute claims the actuator
15 interacting with the first and second protrusions?

16 A. Well, I believe that paragraph 141 is
17 responsive, if you will, to paragraph 140, which
18 immediately precedes it.

19 140 reads on page 71, "Finally,
20 Petitioners and Dr. Nosenchuck assert that
21 Hoblingre's guiding and locking means
22 compromising ring 18 and coil spring 24
23 corresponds to the claimed 'actuator.'"

24 And then 141 continues.

25 [As read], "However, as explained in

1 Hoblingre, ring 18 includes two slots that
2 are each disposed on top of the slots 12."

3 So I'm not -- I'm not sure if that's
4 responsive to your question, or perhaps I didn't
5 understand your question, and maybe you can
6 rephrase it.

7 Q. Can you explain to me what you are trying
8 to say in paragraph 141 of your declaration?

9 A. Well, I don't think there's any better
10 way to explain it than the words I used in
11 paragraph 141.

12 So I don't believe I've used any excess
13 words or any unnecessary words there that I would
14 want to paraphrase 141, but if you want me to
15 reread 141, I'm happy to do so.

16 Q. That's okay. You don't need to do that.

17 So here in 141 where we're discussing --
18 or you are discussing in your declaration the
19 disclosure of Hoblingre, when you say that "ring
20 18 interacts" with both pins, what specifically
21 are you pointing to with respect to the word
22 "interacts"?

23 A. Let me read 141 and refresh my memory on
24 everything I've said here, and then I will -- I
25 will respond to your question.

1 Q. Okay.

2 A. So -- so again, I think my words are very
3 accurate here, and -- and the best summation of
4 what you mean when you ask me how the ring
5 interacts, as I describe, and I believe I've
6 discussed this elsewhere in the declaration, as
7 well, in -- in a few different places. It's been
8 a topic that I've covered.

9 The slots 28 each have sufficient width
10 to permit the entry of the pin 6, and are
11 laterally offset relative to the entrance 14 of
12 the slot 12; so that the end edge of the 30 of
13 ring 18 partly closes this entrance of slot 12.

14 And it goes on to state that the [as
15 read], "...force of the coil spring" and
16 "'the inclination of the lower edge of the
17 portion'" -- "'portion 16 of slot 12, the
18 pins are progressively laterally urged back
19 by the edge of the slots 28' such that the
20 slots 28 of ring 18 provide that pin 6 are
21 'angularly displaced relative to the entrance
22 of slots 12' and approach the 'inner end' of
23 slot 28."

24 That's what I mean by "interact." And I
25 believe your question was: What do you mean

1 by how the ring interacts with the pins and
2 the slots?

3 I believe that description is -- is an
4 accurate one, and that is what I mean by
5 "interacts with."

6 Q. Okay. So just so that we are on the same
7 page, you are referring to the "pin 6 are
8 progressively laterally urged back by the edge of
9 the slots 28" when you're talking about an
10 "interaction between the ring 18 and both pin 6"?

11 A. Well, I believe that you've only read a
12 portion of this description that I did just read
13 to you, and I'm guessing you don't want me to read
14 it again.

15 But the description end of -- of this
16 interaction ends on the top of page 72, and you've
17 only read a portion of -- of this paragraph
18 from -- from page 71.

19 And it is the summation of this
20 description that is what I summarize as saying
21 that a POSITA would have found that ring 18
22 interacts with both pin 6.

23 So it's not just the sentence that you
24 just read to me. It's the entirety of the section
25 that I -- that I was reading, and again, which

1 ends on top of page 72 is -- is the described
2 interaction.

3 Q. Well, I suppose my question is some
4 portion of your paragraph 141 in your declaration
5 is descriptive and doesn't necessarily discuss --
6 well, anyway.

7 Let me rephrase that question.

8 Does [as read] "...the slots 28 each has
9 sufficient width to permit the entry of pin 6
10 and is laterally offset to the entrance of
11 the slot 12 so that the end edge 30 of the
12 ring 18 partly closes this entrance of slot
13 12" describe an interaction between the ring
14 18 and the pins 6?

15 A. I think it is an introduction to that
16 interaction which describes the physical
17 relationship among these components. On its own,
18 it does not describe the interaction, no.

19 It describes a certain physical
20 relationship among the components that introduces
21 the next sentence and the sentences to follow.

22 On its own, that does not describe an
23 interaction. It describes a particular width and
24 the relationship, a laterally offset relationship,
25 but it doesn't necessarily describe the

1 interaction, per se, as I understand your
2 question.

3 Q. So which portion of paragraph 141
4 describes the interaction?

5 A. As I've said, I believe that the entirety
6 of the paragraph is required to understand
7 interaction.

8 You can't understand an interaction of
9 components when it's described in words. I mean,
10 if something is described in pictures, that could
11 be a different situation.

12 But when you're trying to describe an
13 interaction of components in words, perhaps the
14 first thing that one would normally -- a POSITA
15 would normally do is describe the physical
16 relationship of those components in -- as they
17 reside in space, as they reside in
18 three-dimensional matter, and then go on to
19 describe how that physical relationship works.
20 And that's what I've done here.

21 So I'm -- if you're asking me to extract
22 a portion of paragraph 141 and tell you that
23 that's the portion that describes the interaction,
24 I -- I like paragraph 141 as I've written it, and
25 everything it says there, I believe is necessary

1 for someone to understand that interaction.
2 Particularly if -- if you're understanding it
3 without diagrammatical pictures or a video to
4 explain how these things work together.

5 Q. So on the bottom of page 71, there is a
6 sentence that begins:

7 "Based on ring 18 closing the entrances
8 to both slots and interacting with both pins
9 in order to allow pin 6 to enter and incline
10 along slots 12, a POSITA would have found
11 that ring 18 interacts with both pins."

12 Do you see that sentence?

13 A. Yes, I do. And it continues to the top
14 of 72, mm-hmm.

15 Q. So is this sentence that's summarizing
16 interacting with both pins describing what the
17 interaction is?

18 A. It is part of the description of the
19 interaction. But again, I don't believe that you
20 can extract that one sentence or this -- any one
21 sentence for it; or for that matter, the sentences
22 to follow which read accordingly, ring 18 of
23 Hoblingre's guiding and locking means interacts
24 with both pin 6, which Petitioners and
25 Dr. Nosenchuck assert corresponds to the claimed

1 first and second protrusions.

2 I can't extract a sentence from a
3 paragraph which literally takes up the better --
4 you know, if you were to put the contents of that
5 paragraph on page 71 and the contents of that
6 paragraph on page 72, it's the entirety of a page,
7 and you're asking me if one sentence summarizes
8 what you want to know.

9 I wouldn't have written a page of text
10 if -- if one sentence could have done it. It's
11 the entirety of that paragraph that describes to a
12 POSITA or to someone who is unfamiliar with --
13 with the physical workings of this or partially,
14 you know, familiar with them, it describes in --
15 in clarity how this interaction takes place.

16 And I don't believe that can be
17 summarized by any, you know, eight or ten words
18 from that.

19 Q. I think my question was: Would a
20 sentence that uses the term that you're trying to
21 define, be defining the term, as you're -- let me
22 rephrase that.

23 So the sentence that we were just looking
24 at, [as read], "Based on ring 18 closing the
25 entrances to both slots 12 and interacting

1 with both pins, in order to allow pin 6 to
2 enter and incline along slots 12, a POSITA
3 would have found that ring 18 interacts with
4 both pins 6."

5 Does that sentence tell us what the
6 interaction is?

7 MR. BRUENJES: Objection. He's answered
8 this question.

9 BY MS. LU:

10 Q. Okay.

11 A. As I said without the sentences that come
12 before the one you just read, Ms. Lu, I don't
13 believe that you would understand that interaction
14 fully or accurately.

15 I believe that those sentences precede
16 what you just read are integral to understanding
17 the interaction that is summarized by the sentence
18 that you just read.

19 All that sentence that you've just read
20 does is summarize the interaction. But again, it
21 is -- the sentences that precede it are integral
22 to understanding the interaction.

23 So again, you can't just read that
24 sentence on its own and say, Oh, I get what's
25 happening there. You need to understand what's

1 happening there based on what I'm telling you the
2 relationship is.

3 Q. I'm not sure that you quite understood my
4 question. But I think I will ask a different one.

5 A. Okay. And again, please understand, I'm
6 not trying to be difficult. I just want to give
7 you an accurate and honest answer.

8 But I'm just not sure I can do so in the
9 manner that you're asking me to.

10 Q. Does an interaction, as used in the claim
11 language that we're discussing, require physical
12 contact?

13 A. I believe that the interaction that I'm
14 describing includes certain elements of physical
15 contact between components that I describe, yes.

16 Q. My question was a little different.

17 In the claim language in substitute
18 claims that we're discussing, "wherein the
19 actuator interacts with only one of the first
20 and section protrusions," does the word
21 "interacts" require physical contact?

22 A. So now you're asking me, or at least as I
23 understand it, you are asking me about the
24 substitute claim language, does the substitute
25 claim language require physical contact to take

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1 place between components in the invention?

2 Q. Does the word "interacts," as it's used
3 in the substitute claim language, require physical
4 contact?

5 A. I would really need -- I have not
6 provided an opinion on that. And I would really
7 need to go and look very carefully at the
8 substitute claim language and the related claim
9 language in the patent for context, and then
10 analyze whether or not it requires physical
11 contact.

12 I have not provided an opinion on that,
13 and I would not be able to do so just off the cuff
14 here. I'd need to give it the same sort of time
15 and consideration I've given to -- to the analysis
16 in my declaration.

17 Q. And how did you understand the word
18 "interacts" as it's used in the substitute claim
19 language when you were comparing the substitute
20 claim language to the prior art reference that you
21 discuss in your declaration?

22 A. I don't -- I did not consider, in
23 particular, that word "interact."

24 So you're asking me how I considered it.
25 As I sit here today, I don't recall how I did

1 consider it, and I would need to go and
2 particularly review that -- that term in the
3 context of both the '660 patent and the substitute
4 claim language in order to -- to respond to your
5 question.

6 I don't recall how I considered that term
7 in particular.

8 Q. How did you arrive at your opinion that
9 Hoblingre does not disclose, "Wherein the actuator
10 interacts with only one of the first and second
11 protrusions," of the substitute claims if you
12 didn't have an understanding of some of the
13 language of that substitute claim.

14 A. I think you have grossly, if perhaps not
15 intentionally, taken my words and twisted them a
16 bit.

17 I never said I did not have an
18 understanding of the language of that substitute
19 claim. And if you heard that, you -- you misheard
20 it.

21 You have -- you asked me a question about
22 how I understood a particular word, the word
23 "interact," when I was analyzing this substitute
24 claim.

25 My response to you is: As I sit here

1 today, I don't recall how, in particular, I
2 understood that particular word, and would prefer
3 to go back to examine how that -- since you're
4 asking me about a particular word, I would need to
5 go back and review the patent and that substitute
6 language with a focus on that particular word to
7 tell you how I understand that particular word,
8 "interacts."

9 But I've explained to you in great detail
10 and clarity, I believe, why my opinion as to the
11 substitute claim language is as it is, and that's
12 the opinion that I -- that I have rendered here.

13 I have not rendered an opinion about the
14 word "interact," in particular; that taken out of
15 the context of -- or that entirety of -- of the
16 claim.

17 Q. What is your understanding of the claim
18 language:

19 "Wherein the actuator interacts with only
20 one of the first and second protrusions"?

21 A. That -- to put it in a very high-level
22 response to your question, my understanding that
23 the actuator -- that the substitute claim language
24 that "the actuator interacts with only one of the
25 first and second protrusions."

1 So I have described in detail with
2 respect to Hoblingre the interaction that
3 interaction takes place, and why that interaction
4 takes place with respect to both to pins 6 in
5 Hoblingre. And we've discussed, I believe, the
6 entirety of paragraph 141 provides that
7 description.

8 So when you asked me, what is my
9 understanding of "wherein the actuator
10 interacts with only one of the first and
11 second protrusions," it is that that
12 interaction, that guidance of the protrusion,
13 that influence that the actuator has on that
14 protrusion, is only taking place with respect
15 to one of two protrusions, as opposed to both
16 protrusions or pins.

17 Q. So you said:

18 "...that interaction, that guidance of
19 the protrusion that influence that the
20 actuator has on that protrusion is only
21 taking place with respect to one of two
22 protrusions."

23 Was that with respect to the substitute
24 claim language or particularly in the context
25 of the Hoblingre reference?

1 A. No.

2 I think I make it clear that Hoblingre
3 does not disclose the limitation of "wherein
4 the actuator interacts with only one of the
5 first and second protrusions." That is the
6 summary of paragraph 141 in the last sentence
7 on page 72.

8 The substitute claim language is not
9 referring to what Hoblingre does. It is referring
10 to what Hoblingre does not. I make it clear that
11 Hoblingre the interaction takes place with both of
12 the pin 6.

13 Q. Okay. My previous question and my
14 question before that was directed to what your
15 understanding was of the claim language itself of
16 the substitute claims, and not what your
17 understanding of the claim language in comparison
18 to a prior art reference is.

19 And so I will ask again.

20 What is your understanding of the claim
21 language, "Wherein the actuator interacts
22 with only one of the first and second
23 protrusions".

24 A. I believe I did respond to that question,
25 and to restate that response, when you -- when I

1 state that the substitute claim language of the
2 "actuator interacts with only one of the first and
3 second protrusions," is that influence that
4 actuator has is only exerted upon one of two
5 protrusions, not both protrusions.

6 That's my -- I mean, at a high level,
7 that's my understanding of that substitute claim
8 language.

9 Q. Okay. What do you mean when you say
10 "influence"?

11 A. So in the Hoblingre patent, there is, as
12 I describe in my declaration, a guidance provided
13 to the protrusions by the -- what is claimed to be
14 the actuator of Hoblingre, that guidance
15 influencing the motion of those protrusions.

16 And when I state that the substitute
17 claim language is not met by Hoblingre, it is
18 because that guidance, that influence of motion
19 provided by the actuator on those pins is
20 exerted -- that influence takes place on both of
21 those pins, such that the substitute claim
22 language, to the extent that the actuator in the
23 '660 patent influences the movement or prevents
24 the movement of those pins.

25 So influencing the movement is a very

1 broad description of what's happening, and I'll
2 just keep it at that broad description.

3 But in the '660 patent, the influence of
4 movement is actually in maintaining those pins'
5 positions, and the substitute claim language
6 serves to do that, to provide that result, by only
7 act -- interacting with one of two protrusions,
8 not both protrusions.

9 Q. Earlier you said, and this is a quote.
10 I'm reading to you from the transcript.

11 "When I state that the substitute claim
12 language of the actuator interacts with only
13 one of the first and second protrusions, is
14 that influence that actuator has is only
15 exerted upon one of two protrusions, not both
16 protrusions. That's my -- I mean, at a high
17 level, that's my understanding of that
18 substitute language."

19 When -- that's the end of the quote.

20 When you are referring to your
21 "high-level understanding" of the substitute
22 claim language, and you say that "there is an
23 influence that the actuator has exerted,"
24 what do you mean when you say the word
25 "influence" in this context of your

1 "high-level understanding of the substitute
2 claim language"?

3 A. Okay. So let me make sure I'm clear
4 about the context you're asking about.

5 You're asking about what influence the
6 actuator has in the context of the -- of the
7 substitute claim language with respect to the '660
8 patent, or the Dyson patent; is that correct?

9 Q. No.

10 A. Okay. Then I would not have understood
11 that from your question. I apologize.

12 So I'm not sure what you're asking.
13 Because you're asking about substitute claim
14 language; that substitute claim language is
15 applied to the '660 patent, not to the Hoblingre
16 patent.

17 So I'm not sure if you're asking me to
18 apply the substitute claim language to the
19 Hoblingre patent? I don't understand.

20 Q. What do you mean when you say the word
21 "influence"?

22 You are the one who used that word. So
23 I'm trying to understand what you mean by that.

24 A. What context was I using the word
25 "influence" in that response?

1 Was I referring to the influence of the
2 actuator in the '660 patent, or was I referring to
3 the actuators in the Hoblingre patent?

4 Because we have been discussing, and
5 perhaps too loosely, switching between both
6 patents, and I want to be sure I'm giving you an
7 answer that is related to the correct patent
8 you're asking about.

9 Q. I have been asking you questions in the
10 context of the claim language, not as applied to
11 Hoblingre.

12 I believe you may have mistakenly thought
13 that the questions should be interpreted with
14 respect to Hoblingre. But I did not ask questions
15 directed to that reference.

16 A. Okay. Then you are asking me, as I just
17 asked for clarification on, but then you -- you
18 said, No, that's not what I'm asking.

19 You are asking me to tell you what I mean
20 by the word "influence" when I discuss it in the
21 context of the substitute claim language. And the
22 substitute claim language, the only place I'm
23 discussing that in the context of is substituting
24 claim language in the '660 patent.

25 So I asked you to just clarify, okay, so

1 you want me to describe to you what I mean by
2 "influence" in the context of the '660 patent.

3 And then you said "No, that's not what I
4 mean."

5 So I am trying to follow you here, but I
6 confess I'm not.

7 Q. Does the word "influence" appear in the
8 substitute claim language?

9 A. I don't believe that the word "influence"
10 was used. But let me just go back and review just
11 to be sure.

12 The word "influence" is not used in that
13 substitute claim language. I utilized that term
14 in response to you earlier on, but it isn't used
15 in the substitute claim language, no.

16 Q. What did you mean when you used the word
17 "influence"?

18 A. In the context of an actuator, what I
19 mean by the word "influence" is that the actuator
20 gets the protrusion to -- it influences the
21 movement of that protrusion in some manner.
22 That's what I believe I meant it as and -- when I
23 first used it.

24 Q. You said in response to me asking you
25 what you meant when you use the word "influence"

1 that you meant that it "influences."

2 What meaning does the word "influence"
3 have to you when you're using it in that sentence?

4 A. In the -- sure. And I didn't mean to
5 define the word by using the word again.

6 So thank you for pointing that out to me.
7 It certainly wasn't my intention.

8 When you say that something "influences"
9 in the context of this substitute claim language,
10 what I mean is that it has an impact on the
11 movement of the protrusion.

12 It has -- I think that's probably the
13 best way to tell you -- say what "influence"
14 means. It has an impact on the ability of that
15 protrusion to move, or the movement that that
16 protrusion makes or does not make.

17 Q. How about we take a five-minute break?

18 A. Of course.

19 THE REPORTER: Off the record.

20 (Short break taken.)

21 THE REPORTER: Back on the record.

22 BY MS. LU:

23 Q. Okay. Welcome back. Did you talk to
24 anyone, Mr. Delman?

25 A. I didn't.

1 Q. Okay. Did you spill any coffee?

2 A. No, not a drop.

3 Q. All right. So before the break, we were
4 talking about actuators.

5 What is an actuator?

6 A. Well, are you asking me in the general
7 sense of that word, how it might be used over a
8 cup of coffee or design discussion at my office?

9 Or are you asking me in the context of
10 the way it has been -- the way that term is used
11 in one of the patents that we're discussing?

12 Q. Let's start with what would your
13 understanding, just as a person with a design
14 background, be of an actuator?

15 A. If I were talking with other POSITAs
16 about an actuator, I would probably say that my
17 intention would be, it is some means, sometimes
18 physical -- in today's world, it could be
19 electronic, to make something do something, to
20 make something happen.

21 And that -- that is probably a good -- so
22 you may have actuators that actuate the power on a
23 device, turns it on and off. That's an actuator.

24 You may have an actuator which releases
25 something or opens something which is otherwise

1 held closed; that is an actuator.

2 So I think the term is at the highest
3 level something that through an interaction with
4 that something, whether it's a button, a screen,
5 etc.; and by "screen," I mean a touchscreen user
6 interface, makes something happen when you -- when
7 you interact with it.

8 Q. Okay. And what is your understanding of
9 what an actuator as recited in the claims of the
10 '660 patent means?

11 A. Well, a POSITA would understand the
12 actuator in the '660 patent, I'm just turning to
13 that now for reference.

14 Q. Okay. So Mr. Delman is probably looking
15 at Exhibit No. 4 to his deposition.

16 A. That is the '660 patent.

17 Q. Yeah.

18 A. Okay. So in the context of the '660
19 patent, the actuator is described as a slidable
20 element which interacts with protrusions as
21 described in the patent, and in -- in engaging
22 with those protrusions, limits or influences the
23 movement of those protrusions within certain slots
24 that are provided for or described in the patent.

25 Q. Is it your understanding that actuator,

1 as it's used in the claims of the '660 patent, has
2 to be exactly as it's described in the
3 specification of the '660 patent?

4 A. What I've just described to you is the
5 teachings of the '660 patent as the POSITA would
6 read that patent and understand the figures of
7 that patent.

8 I would have to review the patent to see
9 whether there is language here providing for the
10 possibility of other embodiments which may operate
11 in a different fashion, etc.

12 If you'd like me to do so, I would be
13 happy to. Without reviewing the patent, I
14 couldn't say whether the patent allows for other
15 means of -- of actuation.

16 Offhand, I don't recall whether or not it
17 does. I just described to you the means that it
18 does teach one; particular means that it does
19 teach in its figures and specification.

20 Q. What is your understanding of what the
21 scope of the word "actuator" is as it's used in
22 the claims of the '660 patent?

23 A. My understanding is that it's to be
24 understood as a POSITA would read the '660 patent
25 and understand the figures accompanying the '660

1 patent. I don't know what you mean by -- by
2 scope, exactly.

3 But the way a term is used in a patent,
4 whether that term is actuator or some other term
5 is -- is how a POSITA -- unless it's been
6 constructed otherwise by -- by the court, which to
7 my knowledge it has not been in this matter; that
8 term is to be understood as in the ordinary
9 meaning as a POSITA would understand it from the
10 teachings of the patent.

11 Q. Okay. So just to clarify, in your
12 opinion in the context of the '660 patent, the
13 actuator is a slidable element which interacts
14 with protrusions as described in the patent, and
15 in engaging with those protrusions limits or
16 influences the movement of those protrusions
17 within certain slots.

18 Is that right?

19 A. I believe that's at least one embodiment
20 described in the patent, yes.

21 And you asked me, are there other ways it
22 might -- I think you asked me, if there are
23 other -- other ways the patent describes it, and I
24 don't recall; or could it be different or is it
25 limited to that. And I don't recall without

1 reviewing the patent in -- again, to understand
2 whether embodiments or other suggested means of
3 actuating are -- are also taught by the patent.

4 But I do know that is at least a good,
5 high-level description of one means.

6 Q. Okay. If we look at Exhibit 4 to your
7 deposition, which is the '660 patent.

8 If we go to Column 6 --

9 A. Okay.

10 Q. -- and then we go, I don't know, halfway
11 down the page, starting at line 41.

12 So it --

13 A. Okay.

14 Q. -- says -- I'm sorry?

15 A. I said. Okay. Yes. I'm there.

16 Q. It says, [as read]:

17 "Due to the action of the spring 214, the
18 actuator is biased into a first position
19 shown in Figure 1a, where the end wall 64 of
20 the second part of the actuator 50 is
21 adjacent the attachment collar 230 and the
22 first part 52 of the actuator obscures the
23 slot 232a."

24 Do you see that?

25 A. Yes, I do.

1 Q. So then if we go a little bit farther
2 down the page. Let's start at maybe 63 --
3 Column 6.

4 A. Okay.

5 Q. Starting with, "In the first position."
6 So can you read that sentence to me,
7 please?

8 A. Of course.

9 "In the first position, the actuator 50
10 prevents the protrusion 30 from being removed
11 from the slot 232a as the second region 152
12 of the actuator 50, and in particular, the
13 one side 152a which is angled pushes the
14 protrusion 30 towards the end 238 and into
15 the recess 240."

16 Q. Okay.

17 A. There isn't a question -- I just want to
18 be sure there isn't a question on the table that
19 you're waiting for me on, is there?

20 Q. No.

21 A. Okay.

22 Q. At paragraph 52 of your declaration,
23 which is Exhibit 1 --

24 A. Yes.

25 Q. -- you say that:

1 "To 'obscure the first slot' as claimed,
2 some portion of the actuator must tangibly
3 fill or otherwise fall within the confines of
4 the first slot, otherwise the first slot
5 remains unobscured because there is nothing
6 within the slot."

7 Is that right?

8 A. That is an accurate read of that sentence
9 in paragraph 52, yes.

10 Q. So is it your understanding that based on
11 the two portions of the specification of the '660
12 that we just looked at, the word "obscures" must
13 mean that some portion of the actuator is inside
14 of the slot?

15 A. No. Not -- I don't think that's
16 accurate.

17 As I describe in great detail in my
18 declaration, I think the entirety of the teaching
19 of the '660 patent, not the two sentences that we
20 just read, the entirety of the teaching of the
21 specifications, the figures that accompany the
22 text in the patent, makes it very clear that the
23 actuator described in the '660 patent is one which
24 requires that it takes -- it takes up physical
25 space within that slot; that it is obstructing

1 that slot in a physical way, yes.

2 But again, your question makes it seem as
3 if those two sentences alone are what teaches
4 this, and I've never stated that in my opinion.

5 It's entirety the teaching of the patent
6 for all of the reasons that I describe in my
7 declaration why that is the case.

8 Q. Would you say that your understanding of
9 "obscure" as used in Claim 2 is the ordinary
10 meaning of "obscure"?

11 A. Can you describe to me what you mean by
12 the "ordinary meaning"?

13 We have been discussing the meaning as a
14 POSITA would understand it in the context of the
15 patent we're discussing.

16 What do you mean by "ordinary meaning"?

17 Q. Yes.

18 In the context of the patent, you believe
19 that the word "obscure" requires that some
20 portion of "the actuator must tangibly fill
21 or otherwise fall within the confines of the
22 first slot. "

23 Is that accurate?

24 A. Yes, I believe that that's a fair
25 statement.

1 But again, I don't know what you mean by
2 "ordinary meaning," and whether that corresponds
3 to the ordinary meaning of "obscure."

4 So I asked you to clarify what you mean
5 by "ordinary meaning" -- and -- and you did not
6 follow up on that, just to make the record clear.

7 Q. Okay. You asked me a question, and then
8 I answered it. So that's fine --

9 A. Well --

10 Q. -- I asked you --

11 A. Just to make the record clear.

12 Q. That's fine -- I'm sorry --

13 A. I asked you what you meant by "ordinary
14 meaning," and I don't believe that your response
15 covered that -- covered my question at all.

16 But that's fine.

17 Q. That's fine.

18 Okay. So if we go to Exhibit 4, which is
19 the '660 patent, if we go to Column 3, starting
20 around line 16 or so.

21 A. Okay.

22 Q. It says that:

23 "In a preferred embodiment, each of the
24 protrusion, second protrusion, third
25 protrusion and fourth protrusion are radially

1 spaced around the attachment."

2 Do you see that?

3 A. Yes, I do.

4 Q. Okay. So what does it mean when it says
5 "radially spaced"?

6 A. So "radially spaced" I would describe in
7 layman's terms that if you have a central axis at
8 the center point of a diameter, that they are
9 spaced around that diameter in equidistant -- at
10 equidistant points from that central axis point.

11 And so if you have a circular form or a
12 cylindrical form, these protrusions would be
13 spaced around that circular form equidistant from
14 the center point of that cylindrical form.

15 Again, would have taken ten seconds to
16 draw it in a picture, but harder to put into
17 words, perhaps.

18 Q. Okay. And so in the context of the '660
19 patent, what does it mean to be "radially
20 extending"?

21 A. Can you show me where that phrase is
22 used? Because I don't see that word "extending"
23 in the sentence that we just read.

24 Q. If you go to Claim 1, it says that
25 "...the first slot extends both radially

1 around and axially along the body."

2 Do you see that?

3 A. First protrusion -- body -- (sotto voce).

4 Okay. So we are in Claim 1. I

5 apologize. (Sotto voce).

6 Yes, I apologize.

7 In the last sentence: And "the first

8 slot extends both radially around and axially

9 along the body." Okay.

10 Q. So if something "extends," using your
11 language from earlier, around a circular form
12 equidistant from the center point of a cylindrical
13 form, would it extend radially around?

14 A. Well, let's be clear. You asked me about
15 a sentence earlier that was specifically
16 describing the placement, the location of
17 protrusions, and that that sentence specified that
18 those protrusions are radially spaced around the
19 attachment, and I responded to your question about
20 that.

21 You're now asking me about not
22 protrusions, but you're asking me about a slot
23 which extends. It's described as extending in
24 certain directions, and it is described as
25 extending in one direction along the longitudinal

1 axis -- excuse me. "Extending around a radial" --
2 "radially around and axially along the body."

3 So you're not asking me about the same
4 thing at all. So I don't understand how your
5 question relates to what we read previously.

6 If you'd like to ask me about what it
7 means to extend radially around and axially along,
8 I'm happy to respond to that.

9 But I just want to be clear, you're
10 trying to tie your question to the language you
11 spoke of in Column 3 just before, and that was
12 describing a very different element of -- of this
13 patent.

14 And so the two, they both use the word
15 "radially"; I do grant you that. But it's an
16 entirely separate question.

17 Q. Do you think that the word "radially" as
18 it's used in Claim 1 has a different meaning than
19 the word "radially" as it's used in the
20 specification?

21 A. The specification was referring to the
22 radial placement of protrusions. As it's used in
23 Claim 1, it's describing the way a slot extends
24 along the body.

25 It's -- it is a different context of the

1 word "radially," and it needs to be understood in
2 the specific context that it's used in the claim,
3 just as it needed to be understood in the specific
4 context of the specification that we read from
5 earlier.

6 And again, I'm happy to describe to you
7 what it means in this context. But I am not
8 agreeing that there's any relationship between the
9 context of the protrusion placement and the
10 context of -- of this, other than the way the word
11 "radially" may have a similar application to a
12 cylindrical orientation.

13 Q. So are you testifying that you believe
14 that the context of the claims is different from
15 the context of the specification?

16 A. The claims are within the context of the
17 '660 patent. You need to read the claims as they
18 are written and a POSITA would understand the
19 claims based both upon the claims, as well as how
20 those claims are supported or further described in
21 the specification and the figures.

22 And, again, I'm happy to describe to you
23 and explain what that claim means and what
24 "radially" extending slots mean.

25 But all I'm saying is, I'm not carrying

1 the response that I gave you from Column 3 about
2 the radial placement of slot -- of protrusions
3 over to summarize a response about what the word
4 "radially" means in claim 1.

5 Claim 1 needs to be read as Claim 1 is
6 written and described in the patent.

7 Q. Let me ask my question again because I'm
8 not sure that you answered it.

9 Are you saying that you believe that the
10 word "radially," as it's used in Claim 1, is a
11 different meaning or a different context than the
12 word "radially" as it's used in the specification?

13 A. I believe the word "radially" itself, the
14 way it is described -- excuse me.

15 The way "radially" describes a
16 relationship between a center point within a
17 cylinder is the same in both contexts.

18 But what "radially" describes as doing in
19 Claim 1 is not locating protrusions. It's
20 describing the way a slot extends around that
21 cylindrical form.

22 So in other words, my previous response
23 spoke to the way protrusions are located around
24 that cylindrical form, and that's what the Column
25 3 sentence that we read discussed.

1 If you want me to discuss what radially
2 describes in the context of Claim 1, it doesn't
3 have anything to do with the radial location of
4 protrusions. It has to do with the way a slot
5 moves or extends around a cylindrical form; and
6 there is a commonality with respect to that
7 cylindrical form surface that the slot is on and
8 the center point of that slot, yes.

9 But there -- we're describing the impact
10 of the word "radially" on two entirely different
11 things.

12 Q. Let me ask my question again because I
13 don't believe that you actually answered it.

14 Is the word "radially," as it's used in
15 Claim 1, being used in a different context than
16 the word "radially" as it's used in the
17 specification of the '660 patent?

18 MR. BRUENJES: Objection.

19 THE WITNESS: The context of -- of the
20 claim language is in reference to slots. The
21 context of the specification language that we
22 read earlier is with respect to the placement
23 of protrusions.

24 So if by context, you mean is that word
25 describing something different the way it --

1 the way "radially" impacts what -- what it's
2 describing or -- or what is radial, yes, it's
3 a different -- the context of what we read
4 earlier is the context of locating
5 protrusions.

6 The context of Claim 1 is using the term
7 radially in the way the slot moves on that
8 cylinder shape.

9 So I -- perhaps I don't understand what
10 you mean by "context" or you mean it in a --
11 in a way that I'm not under -- understanding
12 it.

13 I'm not saying that "radially" means
14 something different in both places. Don't
15 mis- -- please don't take that out of
16 context. Sorry to use that word again.

17 But I'm saying that the word is being
18 used to describe two completely different
19 things.

20 So when you say, is it a "different
21 context," well, one is describing a slot and
22 one is describing protrusions. To me, as I
23 understand the word "context," it is -- it is
24 in a different context, even though some of
25 the meaning may -- may well carry over.

1 It impacts the protrusions one way, and
2 it impacts the slots the way it would impact
3 the slots.

4 BY MS. LU:

5 Q. You just said:

6 "I'm not saying that radially means
7 something different in both places."

8 Is that correct?

9 A. That is correct. I am not saying that it
10 has a different meaning.

11 But I am saying that the way "radially"
12 is used to describe the placement of slots is a
13 different context than the way radially is used to
14 describe the extension of a slot on that outer --
15 on that surface.

16 So -- but the word "radially" is
17 understood by a POSITA in the same way, but the
18 way it impacts the extension of a slot is one
19 thing, and the way it impacts the location of
20 protrusions as described in the specification is
21 another thing.

22 Q. Does the word "radially as it's used in
23 Claim 1 have the same meaning of the word
24 "radially" as it's used in the specification?

25 MR. BRUENJES: Objection. He's already

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1 answered that.

2 THE WITNESS: You can't -- "radially"
3 describes a relationship between a center
4 point in this -- in the context of the '660
5 patent in both places we're talking about,
6 both in the specification we discussed and in
7 Claim 1.

8 Radially describes a relationship between
9 the center point of this cylindrical shape
10 and the particular features that are being
11 discussed at each point in the patent.

12 Those particular features are protrusions
13 in the area -- in the specification that we
14 read, and they are slots in the claim that we
15 are now reading.

16 A POSITA does not understand "radially"
17 as something entirely different in both of
18 those contexts.

19 But a POSITA would understand that the
20 extension of a slot in a radial fashion
21 describes something that is not the same as
22 the placement of protrusions in a radial
23 fashion.

24 It's describing the impact of the word
25 "radially" on two entirely different features

1 that this patent discusses, and a POSITA
2 needs to understand the way it impacts each
3 of those features in -- in -- within the
4 context of those features.

5 So you know, it's not that the word
6 "radially" says one thing in the -- if the
7 specification and another thing entirely in
8 the claim.

9 But how that impacts the feature, the
10 radial placement or radial extension that's
11 being discussed, is -- is something
12 different.

13 BY MS. LU:

14 Q. I'm going to ask you a question, and I
15 would really appreciate it if you tried to just
16 answer the question that I ask and not add
17 additional things, if you could, please.

18 What does "The first slot extends
19 radially around" mean in the context of
20 Claim 1 of the '660?

21 A. That the first slot extend radially
22 around describes a slot, which is its direction is
23 described as both axially extending and radially
24 extending. So that its direction goes both along
25 the center axis length wise longitudinally, and

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1 around the cylindrical surface radially.

2 So -- so it extends in both a
3 longitudinal way along the center axis
4 length-wise, and in the direction around the
5 cylindrical surface and equidistant to that center
6 point that we discussed earlier.

7 You're asking me to -- to describe
8 directions in words that, again, the patent
9 figures make very clear how -- how the slot moves
10 in a direction around the surface.

11 There's no way to answer it in a two-word
12 answer because there's -- there's just no way to
13 describe complex shapes like that in a two-word
14 answer.

15 Perhaps -- let me just continue that.

16 The word -- and I'm doing so to just
17 perhaps make it more layman terms.

18 The slot curves. So that slot doesn't
19 just extend along -- in the direction of the
20 length of the body.

21 But it takes a curve, as is shown in the
22 figures in the patent, and when it takes that
23 curve, it then extends around the body in a radial
24 fashion; that curve is the layman 's term for when
25 the slot becomes radial. It then become -- it

1 starts to go around the surface equidistant to the
2 center point of -- of that cylinder when it takes
3 that curve.

4 Q. So your understanding of the word
5 "radially" as it's used in Claim 1 requires a
6 curve?

7 MR. BRUENJES: Objection.

8 THE WITNESS: No. I didn't say that.
9 Because I can imagine, and I can draw for you
10 if there was some means of doing so, a way
11 for a slot to extend radially that would not
12 have a curve because a slot could be radial
13 and not axial.

14 The reason there's a curve is because it
15 is both axial and radial, and there is a
16 curve that takes place as it transitions from
17 axial to radial.

18 You could have a lot that is merely
19 radial, and it would be a straight slot. It
20 would just be going around radially that --
21 that surface. So it doesn't require a curve
22 to be radial, no.

23 The curve comes in, and I use that term,
24 again, as a layman's term to describe how it
25 moves between an axial direction, extension

1 and a radial extension; that in this case, in
2 this particular case, that is a curve.

3 BY MS. LU:

4 Q. So it's your understanding of the claim
5 language, the first slot extends both radially
6 around and axially along the body; that it has to
7 simultaneously be extending radially around and
8 axially along the body?

9 MR. BRUENJES: Objection.

10 THE WITNESS: I haven't opined on that,
11 and I would need to consider that question in
12 greater -- with greater time and analysis. I
13 haven't provided that opinion.

14 I couldn't say whether or not that's the
15 case without -- without further analyzing the
16 patent to see if it -- if it requires what
17 you just described, or if it -- or if the
18 slot could be oriented in a way that did not.

19 I don't know, and I'm not opining on it
20 today.

21 BY MS. LU:

22 Q. Would a slot that extends radially around
23 and then extends axially along satisfy the claim
24 language of claim 1?

25 A. Same answer.

1 I would need to provide the same kind of
2 analysis and the same diligence and consideration
3 to that question as I have for -- for what I have
4 opined on in this declaration.

5 And I have not provided an opinion on
6 that, and wouldn't do so as I sit here today
7 without providing that -- according that time.

8 Q. So your testimony is that you have not
9 provided an opinion about whether a slot that
10 extends radially and also extends axially along
11 would satisfy the claim language of claim 1?

12 A. No. You asked me a different question,
13 as I heard it.

14 You asked me a question, if it starts
15 radially and then goes axially, would that be
16 also -- would that also satisfy the claim
17 language.

18 It says in Claim 1 that it extends -- and
19 the first slot extends both radially around and
20 axially along the body. I don't see that Claim 1
21 requires that does one before the other in Claim
22 1.

23 But you asked me, does it matter whether
24 it extends first axially and then radially, or
25 whether it extended radially and then axially.

1 That's a different question. I would have to
2 examine the patent more carefully to see whether
3 there was any requirement that it went one
4 direction or extended in one direction before the
5 other to respond to your question.

6 I do know that the first slot must --
7 excuse me. That the first slot must extend both
8 radially around and axially along. I just don't
9 know whether or not there is a requirement that it
10 does one before the other, and whether that is
11 something that I would prefer to -- to opine upon
12 after consideration of that particular question.

13 Q. I don't believe that you correctly heard
14 my question as I'm looking at the transcript. But
15 let --

16 A. Please -- please read my response back.
17 I apologize.

18 Q. Your response or my question?

19 A. Both would be helpful. Thank you.

20 Q. Would a slot that extends radially
21 around, and then extends axially along, satisfy
22 the claim language of Claim 1?

23 A. Okay. Then I did mishear your question.
24 I thought the word "first" was in there.

25 So your question is: Would a slot that

1 extends radially and axially along the body
2 satisfy Claim 1?

3 Well, it would satisfy that particular
4 aspect of Claim 1 because you've essentially just
5 read Claim 1 back to me; that particular sentence
6 in Claim 1:

7 "Wherein the body extends along a
8 longitudinal axis and the slot extends both
9 radially around and axially along the body."

10 So with respect to the issue of extending
11 radially around and axially -- axially along, it
12 would, indeed, satisfy because that's the language
13 you've just read to me.

14 Q. If a slot extends radially around and --
15 let me start that over.

16 Would a slot that has a component that
17 extend radially around and a component that
18 extends axially along, satisfy the language in
19 claim 1 that says "...the first slot extends both
20 radially around and axially along"?

21 A. What do you mean by "component"? You've
22 added a word in your question. But I don't
23 understand what that word means in the context
24 of -- of the slot.

25 Q. Do you have an understanding of what a

1 "vector" is?

2 A. Yes, in a general sense.

3 Q. Okay. So if the slot had some component
4 that extended radially around, and also some
5 component in the vector sense of the word that
6 extends axially along, would it satisfy the claim
7 language that we've been discussing that says the
8 first slot extends both radially around and
9 axially along?

10 A. Counsel, I appreciate the question.

11 I know we're dealing with a video
12 situation. But this is -- you're asking me about
13 the shape of a slot, and you're trying to describe
14 it in are words.

15 I think we've done our best together to
16 discuss the complexities of shapes and directions
17 and words today, and I think we've done a good
18 job.

19 But this is a question that if I were
20 sitting across a table from you, I would say,
21 Could you draw me what you're talking about.

22 And in past depositions I've done on
23 video, that capability has been available, or you
24 could -- or you could just sketch it out on a
25 piece of paper and hold it up to the camera for me

1 perhaps.

2 But I don't want to risk the confusion of
3 not understanding what you're talking about in
4 terms of the shape of this slot as you describe it
5 in words.

6 If you were to draw it for me in a
7 picture, that would provide the clarity I need, I
8 think to respond to your question and make sure
9 I'm responding to the question you're asking
10 about.

11 MS. LU: Can we go off the record for a
12 second so I can ask about the logistics of
13 this?

14 THE REPORTER: Off the record.

15 (Discussion off the record.)

16 THE REPORTER: Back on the record.

17 BY MS. LU:

18 Q. Mr. Delman, are you familiar with the
19 cylindrical coordinate system?

20 A. Not in a way that I would -- no. I mean,
21 I've heard the term, but designers don't -- don't
22 generally talk that way, so to speak.

23 Again, you've asked me a question about a
24 potentially complex shape. It could be a very
25 simple shape. I don't know.

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1 Based on the way you're describing it,
2 before I answer the question, I would need to see
3 what you mean just as there are figures in the
4 patent that describe what is, you know, that
5 support the patent text, etc.

6 So if you -- if you can draw it, great.
7 I don't want to answer that question -- by the
8 way, are we back on the record?

9 Q. Yes.

10 A. Okay. I don't feel comfortable providing
11 an accurate answer to any question that I don't
12 understand. And you're asking me a question about
13 a shape, and I don't understand the shape you're
14 asking about based on the words alone.

15 Q. Mr. Delman, I didn't ask you about a
16 shape yet. I just asked if you were familiar with
17 the coordinate system to see whether I could ask
18 you a follow-up question. You don't need to...
19 what if we look at Figure 7 of the '660 patent.

20 A. Okay. All right. I believe that's on
21 page 7 of 14 -- yes. Okay. I am there.

22 Q. So you see the label 210 that's pointing
23 at this object in Figure 7?

24 A. Yes, I do. Mm-hmm.

25 Q. Okay. Inside of Figure 2. -- I'm sorry,

1 inside of component 210, there is some sort of
2 scare -- or, I'm sorry, a rectangle.

3 Do you see the rectangle?

4 A. I see at least three or four rectangles.
5 I'm not sure which one you mean. If you want to
6 call it up on screen or circle it or point to it
7 somehow?

8 I see a rectangle on the right-hand side,
9 which there appears to be a springlike object
10 within. And then I see a rectangle to the left of
11 that where there's kind of a horizontal dashed
12 line going through the axis line, and then I see
13 the rectangle surrounding both of them, I suppose.

14 So I'm not sure which rectangle you mean.

15 Q. Okay. Let's talk about the rectangle
16 that is around the springlike object.

17 A. Okay. The one on the right-hand side
18 there?

19 Q. Yes.

20 Does this rectangle extend radially
21 around?

22 A. I would describe that rectangle as
23 extending -- I believe a POSITA would describe
24 that rectangle as extending axially along the
25 center axis, which I believe is delineated by that

1 long dash or dash line that goes through Figure 7
2 from left to right. I believe that's how a POSITA
3 would understand that rectangle as extending
4 axially along.

5 Q. So you don't think that this rectangle
6 that we're looking at has a radial component?

7 A. I don't see a radial component in this
8 rectangle. We're looking at an axis extending
9 left-to-right from -- along these bodies. This
10 body and attachment and this rectangle, although
11 it's not right on the axis itself, is extending
12 along the same direction as that longitudinal
13 axis.

14 So I would describe that as being -- as
15 extending axially along that axis.

16 Q. If the rectangle was a cube, such that
17 all of its dimensions were equal, would you say
18 that it was extending axially along?

19 A. I'm not sure how I would describe it.

20 But I wouldn't -- I guess I'm not sure
21 how I would describe a square in that -- in the
22 context of this question. I'd need to give it
23 some consideration.

24 I certainly wouldn't describe it as
25 extending radially along anything, but whether I

1 would still describe a square as extending
2 axially, I'm not sure how I would describe a
3 square in this context. I'd need to give it some
4 thought.

5 Q. What is your understanding of the word
6 "extends" as it's used in Claim 1 when describing
7 the slot?

8 A. To describe that in plain English, I
9 would say, how does that slot move in
10 three-dimensional space.

11 I think that's how I would describe the
12 way "extend" is used; how does that slot move in
13 three-dimensional space as described by the
14 teachings of the patent.

15 Q. If the slot is equal in all dimensions,
16 such as a cube or a sphere of some sort, would it
17 extend? Would it "extend" as the word is used in
18 Claim 1?

19 A. I haven't opined on any slots like that,
20 and I would need to give due consideration to a
21 slot that you're describing, which is very
22 different from the slot that is taught by the '660
23 patent.

24 Q. Okay. I've just introduced Exhibit
25 No. 5.

1 A. Okay. Let me reload the Veritext thing.
2 Okay. And I'm opening it up. Okay.

3 (Exhibit 5 was received and marked
4 for identification on this date and is
5 attached hereto.)

6 BY MS. LU:

7 Q. Okay. If we can go to page 37 of the
8 document.

9 A. And I don't believe I do have this in my
10 binder.

11 Page 37, you say?

12 Q. Mm-hmm. You know what --

13 A. So page 37, just to be sure we are on the
14 same page, Ms. Lu, it says at the bottom of the
15 page, "Substitute Sheet Rule 26"?

16 Q. Yes.

17 A. Okay.

18 Q. And it says 2/24.

19 A. Yes, that's correct.

20 Q. Okay. So we're looking at Figure 3.

21 A. Okay.

22 Q. Do you see a slot that's labeled 3?

23 A. Well, I'll say, I don't think -- I'm not
24 sure from -- where this patent comes from. I've
25 never seen patent drawings this rough, other than

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1 in a provisional patent, and, I mean, perhaps
2 that's what this is.

3 But I see something that looks kind of
4 like a slot, yeah, that's labeled 3, yes.

5 Q. Would you say that that slot extends
6 radially around and axially along?

7 A. As I am reading this very poorly drawn
8 figure, I see that slot as cutting across a
9 cylindrical form.

10 I believe that the end of this thing that
11 it's showing is cylindrical at the end, or it
12 appears to be. And I read that slot as being
13 carved into the end of that cylindrical form and
14 kind of crossing over the center axis of that
15 circle that's -- that one would see if one was
16 looking end-on at that form.

17 I would not describe that as radial the
18 way I'm understanding this very rough picture.

19 Q. Okay. Just so we have it, I just
20 introduced Exhibit 6.

21 A. Okay. Let me reload here.

22 I do see Exhibit 6. I'm not totally --
23 is this the prosecution -- well, you can tell me
24 what it is. But I do see Exhibit 6 here, yes.

25 (Exhibit 6 was received and marked

1 for identification on this date and is
2 attached hereto.)

3 BY MS. LU:

4 Q. Oh, do you recognize it?

5 A. I'm going to have to scroll through here
6 a bit. Apologies. I'm going to zoom in a little
7 bit, too.

8 I believe this would be the prosecution
9 history of the '660 patent, or the file wrapper,
10 as -- as I've sometimes heard this document
11 called.

12 Q. Yeah, that's what it is.

13 A. Okay.

14 Q. Do you -- do you -- have you looked at
15 this before?

16 A. Yes, I have. I -- but I -- on screen, I
17 did need to zoom in. You know, the numbers are
18 quite small, but zoom in, and I, you know...

19 Q. Okay. Can you go with me to page 194,
20 please.

21 A. Okay. There's probably a faster way to
22 do this, other than scrolling as I'm doing, but
23 I'll do it the old-fashioned way.

24 Okay. I am on page 194, which, just to
25 be sure we are on the same page, says page 2 in

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1 the upper right-hand corner.

2 Q. Yes.

3 A. Okay.

4 Q. It also says page 194 at the bottom.

5 A. Ah. Yes, it does.

6 Q. Yep.

7 Okay. So here it's talking about, the
8 bottom quarter of the page says, "Vasey
9 W095/20339."

10 A. Yes, I see that. Okay. Mm-hmm.

11 Q. Okay. And if we can go to the next page.

12 A. Okay.

13 Q. In the second half of the page, starting
14 with, "With regard to claim 8."

15 Do you see that?

16 A. I do.

17 Q. Okay. Can you tell me what it says
18 there, that sentence -- the two sentences there?

19 A. Sure. I can read that for you.

20 "With regard to claim 8, note that the
21 body 1 extends along a longitudinal axis.
22 Also, note that the first slot 2 extends both
23 radially around (in a vertical direction),
24 and axially along (in a horizontal direction)
25 the body 1."

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1 Q. Okay. So let's go back to exhibit --
2 what number are we on? 5, I think?

3 A. Okay. Exhibit 5.

4 Q. Which is the poorly drawn picture?

5 A. Yes.

6 Q. If you look at the top of the page, do
7 you see where it says, "W0" something?

8 A. Yes, I do. Mm-hmm.

9 Q. It says, "W095/20339."

10 A. That's correct.

11 Q. Okay. This is the Vasey reference that
12 the examiner is referring to.

13 A. Okay.

14 Q. Okay. So do you disagree with the
15 examiner that there is a slot that extends both
16 radially around and axially along?

17 A. Well, I -- I would need to go back to
18 that language that you just asked me to read,
19 first and foremost, to see if -- if the examiner
20 is talking about a slot in the very figure in the
21 very slot that we were talking about.

22 I've never seen this document before. So
23 I'm just familiarizing myself with it.

24 Now, can I go back -- so I believe I can
25 go to Exhibit 6 just by pressing this right arrow

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1 here.

2 Q. Yeah, I think so.

3 A. Yeah. Okay. And that was page 194?

4 Okay. I'm going to do this the smart way
5 and type in 194, and I think it takes me right
6 there. Okay.

7 So you asked me, with regard to claim 8,
8 okay. Well, this -- this is talking about claim
9 8. You were -- you and I were just talking about
10 a figure. And I have no idea without reviewing
11 this patent and -- and reviewing this file history
12 whether the slot that you're now asking me about
13 is even the same one that the -- that is being
14 discussed in this sentence you just asked me to
15 read.

16 I -- I wouldn't know whether that's the
17 same slot or what the context of that slot might
18 be, and then in terms of how it's described in the
19 entirety of the -- of the patent.

20 You're asking me off the cuff to take a
21 look at a really bad picture, take a look at a
22 sentence in the file history, and draw some
23 conclusion. I don't even know if the picture in
24 the sentence are -- are related to each other.

25 Q. So Mr. Delman, have you reviewed the file

1 history before?

2 A. I did, yes. Early in my engagement.

3 Q. Okay.

4 A. And I do -- yes, yes. Mm-hmm.

5 Q. Should we go to paragraph 100 of your
6 declaration?

7 A. If you'd like me to, I'd be happy to.

8 Yes, I'm there. Mm-hmm.

9 Q. Okay. So here, there appears to be a
10 figure.

11 Do you see that?

12 A. I do. And I believe this figure is from
13 the McCarthy patent that I'm discussing in --
14 in -- at this point in my declaration.

15 Q. Where did you find the McCarthy patent?

16 A. I was provided with various documents
17 throughout my engagement by counsel.

18 And to the extent I discussed the
19 McCarthy patent here, I don't recall what the
20 original impetus was for bringing it into the
21 declaration, but -- or whether it was brought to
22 my attention by counsel or whether I caught it in
23 the review of the file history.

24 At this moment, I don't recall.

25 Q. Okay. What if we go back to Exhibit 5,

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1 please.

2 A. Okay. I'm there.

3 Q. If we go to page -- this is hard to
4 see -- 40 of Exhibit 5.

5 A. Okay. This is labeled Figure 11.

6 Q. Yes.

7 A. Okay.

8 Q. Do you see a black line that appears to
9 be labeled 18?

10 A. Yes, I do see that line. Though I don't
11 know without reading the patent whether that line
12 is intended to be the entirety of that line which
13 has a few different segments to it, or just the
14 segment that's being pointed to there.

15 Q. Okay. Well, do you see a dotted line
16 that has the line leader pointing to it that says
17 2?

18 A. I see a dashed line, and that leader
19 you're talking about actually crosses over that
20 vertical dash line.

21 Is that what you mean?

22 Q. Yes. That's what I'm talking about.

23 A. Sure. Mm-hmm.

24 Q. If there is a slot, let's just say that
25 it is a slot; that is in the shape indicated by

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1 the dash line with the leader 2 inside of it, what
2 do you consider that slot to extend radially
3 around and axially along?

4 A. As I see the dashed line, okay.

5 So first, let's just -- let me describe
6 how I understand the shape of this object because
7 I have not looked at this patent previously. And
8 you're asking me to look at a couple of selected,
9 very poorly drawn figures, and draw some
10 conclusions from them.

11 So if body 1 -- okay. You see there's a
12 1 with a leader line pointing to this thing, like
13 a handle of some sort?

14 Q. Okay.

15 A. I'm sorry, I couldn't hear you.

16 Q. I said yes.

17 A. Okay. If that is a cylindrical
18 cross-section, if this is, let's say, shaped like
19 a paintbrush, for example, or a pen. So if you
20 were to slice through that and the cross-section
21 of number -- of the body pointing to number -- of
22 1 -- which number 1 points to is cylindrical; and
23 you are suggesting that the dashed line which is
24 made up of three short dashes identified or
25 crossed by the leader line number 2; and you're

1 suggesting that that dashed line, if I imagine
2 that were a slot that was on the surface of body
3 number 1.

4 Is that a correct understanding of what
5 you're asking and what this picture describes as
6 you see it?

7 Q. No.

8 A. Okay. I'm glad I asked.

9 Q. If there was a slot inside of the solid
10 shape indicated by 1; and the slot had the shape
11 as indicated by the three dotted lines crossed
12 over by the leader line for 2; and that slot was a
13 cylinder, cylindrical in shape such that it goes
14 through the inside of 1, would you consider that
15 slot to extend radially around and axially along?

16 A. So let me take the picture you've just
17 tried to paint, and I appreciate the difficulty of
18 painting a picture with words like that.

19 If this thing is shaped like a
20 paintbrush, big, fat paintbrush, and you went and
21 took your power drill, your Black & Decker
22 rechargeable power drill, with a thin drill bit,
23 very narrow drill bit, and you drilled a
24 cylindrical hole straight through and across the
25 middle of this paintbrush, is that what you're

1 describing to me as the slot and the way it would
2 be placed in the shape -- in the form you're
3 discussing?

4 Q. Not across. Just in.

5 A. Then I don't understand what you mean.

6 Q. I figured it was too difficult to
7 describe this with just words.

8 A. Yeah, I mean, to me, it sounds like
9 you're drilling a hole across a paintbrush, or at
10 least partially through a paintbrush. Maybe it
11 doesn't have to go all the way through. You could
12 drill it halfway through, I suppose.

13 But it's going through the middle of the
14 paintbrush, and across the center axis of the
15 paintbrush from the side surface of the
16 paintbrush; that's how I understand the picture
17 you're trying to paint.

18 It's not following the surface of the
19 paintbrush that your hands would be -- your
20 fingers would be holding if you were painting a
21 picture. It's going through the paintbrush, as I
22 understand your description.

23 Q. I think it's too difficult to describe
24 with words.

25 A. I invite you to take out a pen and draw

1 it for me. I promise I won't judge your drawing
2 skills. But that could solve the problem.

3 Q. Okay. Let's turn back to your
4 declaration, paragraph 100.

5 A. Okay.

6 Q. And we're looking at this figure that
7 says Figure 5.

8 A. Yes.

9 Q. Does the slot 72 as depicted in Figure 5
10 have an axial component?

11 A. So it's my understanding that the slot
12 illustrated in Figure 5 extends radially around
13 the body, but that it has an axial extension prior
14 to entering that radial portion of the slot.

15 That's how that -- that is how the slot
16 in McCarthy is best described, and as I -- as I
17 describe it.

18 Q. I'm asking specifically about slot 72.
19 Does slot 72 extend axially along the body?

20 A. So as I note in paragraph 102, during
21 prosecution of the '660 patent, the examiner found
22 that a disclosure similar to Mouhot did not meet
23 the limitation requiring the first slot extends
24 both radially around and axially along the body.

25 The examiner found that that slot you're

1 talking about does not meet the limitation of
2 extending both radially around and axially --
3 axially along the body. That -- without going
4 back to review the prosecution history in greater
5 detail, from my summary of this issue in my
6 declaration, that's the best answer that I think I
7 can give you on this.

8 Q. Did you review your declaration?

9 A. I'm sorry?

10 Q. Are you sure that's what that paragraph
11 says?

12 A. I'm reading paragraph 102 in my
13 declaration.

14 "During prosecution, the examiner found
15 that a disclosure similar to Mouhot," okay.

16 So similar to Mouhot in discussing the
17 McCarthy patent; that did not read the limitation
18 requiring that the first slot extends both
19 radially around and axially along the body.

20 So this slot that is in -- that is shown
21 in Figure 5 was reviewed by the examiner, this
22 patent was reviewed by -- the McCarthy patent was
23 reviewed by the examiner and the examiners
24 determination in issuing the '660 patent, despite
25 the existence of this slot and this patent; that

1 the -- that this particular slot did not meet that
2 limitation requiring the first slot extends both
3 radially around and axially along the body.

4 It then refers to an exhibit, which I'm
5 not sure if I have that in my folder here. But if
6 I do, in order to best answer your question, I'm
7 going to review Exhibit 1002, and if not, I would
8 ask you to -- to bring that --

9 Q. Is it --

10 A. -- is Exhibit 1002 the file wrapper?

11 Q. Exhibit 6 to this deposition.

12 A. Okay. So let me go and look at the
13 citations in Exhibit 6 that I mention in
14 paragraph 102.

15 Okay. I'm using the wrong page numbers
16 here. Okay. 66. Okay.

17 (Reviewing document.)

18 So what I'm saying is that the slot
19 disclosed in Figure 5 of the McCarthy patent on
20 page 49 does not extend both radially around and
21 axially along the body. That's the opinion that I
22 rendered.

23 Or I should say, that is actually what
24 the examiner found in reviewing the McCarthy
25 disclosure, and allowing the '660 patent over the

1 McCarthy disclosure.

2 Q. You believe --

3 A. I haven't rendered any other opinion on
4 the slot in Figure 5.

5 And that's really what I was checking to
6 see if I had rendered some -- some opinion other
7 than what I'm rendering here, and that's -- that's
8 the only opinion with respect to Figure 5 I'm
9 rendering here.

10 And I would need to fully analyze the
11 McCarthy patent again in order to opine on
12 anything else with respect to that slot shown in
13 Figure 5.

14 Q. So what you're saying is that your
15 opinion is that you believe that the examiner
16 found that a disclosure similar to Mouhot did not
17 meet the limitation requiring the first slot
18 extends both radially around and axially along the
19 body?

20 A. That is, I believe, an accurate read of
21 my paragraph 102 in my -- in my declaration.

22 Q. Does the examiner discuss Mouhot?

23 A. In any -- any portion of the --

24 Q. The cited portion --

25 A. -- file history --

1 Q. -- that you cite to --

2 A. I'm sorry?

3 Q. In the portions that you cite to in
4 paragraph 102 of your declaration, does the
5 examiner address Mouhot?

6 A. I would need to read through them again
7 in order to determine whether they were
8 specifically cited, or it's possible that there is
9 some error in my citations if they are not. I
10 don't know.

11 Q. How did you arrive at your opinion that
12 the examiner found that a disclosure similar to
13 Mouhot did not meet the limitation?

14 A. McCarthy -- so I read paragraph 100, and
15 again, it has been some time since I reviewed the
16 file history until you've called it up today.

17 But what I discuss in my declaration is
18 that at paragraph 100, the limitation, the
19 first -- and we're talking about the '660 patent
20 of course. The limitation; the first slot extends
21 both radially around and axially along the body
22 was added during prosecution of the '660 patent in
23 order to overcome U.S. Patent -- the '439 patent,
24 McCarthy. And it cites to Exhibit 1002 between
25 pages 100 to 116, "and as illustrated below,

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1 McCarthy discloses a slot 72," and goes on.

2 So that is my basis for the opinion that
3 this language was added to overcome McCarthy; and
4 that in doing so, what is described by the slot in
5 Figure 5 of McCarthy does not meet those
6 limitations. Because those limitations were added
7 to overcome that.

8 Q. Let me ask my question again, maybe in a
9 slightly different way. Because I don't think
10 that you understood it.

11 What is the basis for your opinion that
12 McCarthy is similar to Mouhot?

13 A. As I describe, in paragraph 100, as
14 illustrated below, McCarthy discloses a slot 72
15 that extends radially around the body, as well as
16 towards sidewall portions 62 that create an
17 entrance to the slot 72, such that locking pin 54
18 follows an axial extension until locking pin 54
19 passes sidewall portion 62 and follows the slot 72
20 radially around the body.

21 That -- and then I go on in paragraph
22 100, and Figure 3 from Mouhot which is noted
23 there, I believe.

24 "As illustrated below in a similar
25 manner, slot 7 of Mouhot" -- and I call that

1 out, and I've put little red boxes around the
2 critical numbers.

3 [As read], "Slot 7 of Mouhot extends only
4 axially along the body and not radially
5 around the body, even though lateral
6 protruding part 6 can be pushed into stop
7 means 9 by which it means 14 while passing
8 along slot 7."

9 So I'm showing the direct analogy between
10 the slot shown in Figure 5 of McCarthy and the
11 slot shown in Figure 3 of Mouhot. That's the
12 basis for my opinion. It's in my declaration.

13 Q. So you're saying that a slot that extends
14 radially around the body is similar to a slot that
15 extends axially along the body?

16 A. I'm sorry, Counsel. I have no idea where
17 you drew that conclusion from my response. I
18 don't --

19 Q. Please explain to me what you think is
20 similar between McCarthy and Mouhot.

21 A. Okay. I will read paragraph 100 again
22 because my report is the best.

23 Q. Okay. Sir -- I don't think that is
24 productive. Please do not do that. I will just
25 note that you did not answer the question.

1 A. My report speaks for itself. The -- the
2 text in paragraphs 100 and 101, and the images
3 from Figure 5 of McCarthy and Figure 3 of Mouhot,
4 explain my arguments about this issue.

5 MR. BRUENJES: I do want to point out
6 that it's almost one o'clock Pacific time.

7 MS. LU: Yeah, we can take a lunch break.
8 That's fine.

9 THE WITNESS: Sure.

10 THE REPORTER: Off the record.

11 (Lunch break taken.)

12 THE REPORTER: Back on the record.

13 BY MS. LU:

14 Q. Welcome back.

15 A. Thank you.

16 I was saying that the gardeners next door
17 are making a lot of noise. Let me know if you're
18 hearing it in a -- in a bad way. I can speak up
19 or whatever. But maybe the microphone is good
20 enough to mask it out. So...

21 Q. Yeah. I was going to say, we can't hear
22 anything.

23 A. Okay. Great. That's good.

24 Q. Did you speak to anyone during the break?

25 A. No one but -- but my wife, so...

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1 Q. Sounds good.

2 All right. So at the beginning of the
3 day when we were talking about your experience
4 with designing devices that are keeping in mind
5 the needs of users, I believe that you discussed a
6 little bit about ergonomics and making devices
7 comfortable for people.

8 Have you ever used, like, buttons in any
9 of your devices?

10 A. Yes. I'd say that on quite a few, we've
11 used buttons of various -- various shapes, sizes,
12 forms, etc.

13 Q. Okay. And are they helpful?

14 Do they provide any benefits to users in
15 terms of being user interfaces?

16 A. Well, I think that any control interface
17 and its benefits or lack thereof is entirely
18 dependent on the particular device that it is
19 implemented on, and the way that device is going
20 to be used.

21 I don't think you can make a general
22 statement buttons are good. I mean, in some
23 cases, buttons are really good. In some cases, a
24 button would be a poor solution.

25 Q. What would the situation be in which a

1 button is a poor solution?

2 A. Well, just thinking off the top of my
3 head, and simply because it's a product I
4 mentioned in the course of our conversation
5 earlier.

6 Let's say you had a Black & Decker
7 rechargeable power drill, and I've designed a few
8 of these.

9 Have you ever used a power drill, Ms. Lu?
10 Or seen one, I'm sure, if you haven't used one
11 personally. You know that they are actuated --
12 the power on those -- the power is actuated by a
13 trigger of some sort which moves across a range of
14 motion.

15 And depending on how far you pull that
16 trigger, the drill or screwdriver turns faster,
17 and you can easily control -- the user can easily
18 control that with that sort of an actuator.

19 Now, imagine, if instead of that
20 actuator, you had buttons on a drill, a button to
21 press on and off, a button to go high speed, low
22 speed, medium speed; it's simply nowhere near the
23 same performance or usability.

24 Another good example, which I've
25 implemented and researched, actually. So we've

1 done a lot of electric breast pumps, and manual
2 ones, as well, for a company called Medela, which
3 is the world leader in these -- these products.

4 And on one particular device in which the
5 speed of pumping or the power of the suction
6 was -- was needed to be adjusted, or could be
7 adjusted by the user, and I don't believe that is
8 the case on all such devices.

9 We had many options with respect to how
10 that adjustment could be made. One of them was
11 buttons. You know, could you have high, medium,
12 low, on/off, etc.

13 We also had suggested a slider that would
14 go left-to-right, increase, decrease. We also
15 offered a knob idea to increase or decrease.

16 Obviously the buttons were far inferior
17 to the knob. And I could go on and on. I'm sure
18 you don't want me to.

19 But, you know, the issues of buttons in
20 cars has been written about extensively lately.
21 And switches in cars, and what is most optimal
22 from an ergonomic and safety standpoint.

23 So you just can't make a general
24 statement that some type of -- any type of control
25 like a button is good or bad.

1 Q. Can buttons provide improved grip when
2 you're trying to, say, move something?

3 A. By "button," do you mean like a -- some
4 sort of a switch that you would press to do
5 something? Or do you mean like -- because another
6 word that is sometimes used in design for those
7 little round nubs on a grip, or put buttons on it.
8 So it's covered by little round nubby things.

9 Do you mean the former or the latter?

10 Q. I mean a third thing. So let me ask you
11 again.

12 A. Okay.

13 Q. If you were trying to do something like
14 flip a switch, do you think that it's helpful to
15 have a little bit of the switch stick out from the
16 wall so that you can touch it?

17 A. So, again, it is dependent on -- you're
18 describing some sort of a wall switch, from your
19 question.

20 The answer is, some protrusion in some
21 form can generally be helpful, yes. But there are
22 a dozen different types of wall switches, and
23 there's at least four in my house alone that are
24 all completely different.

25 So the shape and size of those switches,

1 you know, is at least, if not more impactful on
2 their usability than the fact that they stick out
3 from the wall.

4 Q. Let's say that you're trying to slide
5 something, and the surface of the thing you're
6 trying to slide is entirely smooth.

7 Would adding some sort of protrusion
8 improve the ease with which you could slide it?

9 A. I think from what you're describing, you
10 mean to add some sort of texture or ridges, or
11 bumps or as you call it; a protrusion to the
12 sliding switch so that you could have a better --
13 a better friction on that switch. Your finger or
14 thumb wouldn't slip off as easily as it might if
15 it was smooth.

16 And if that is what you mean, the answer
17 is in many cases, yes, adding some form of -- of
18 texture or protrusions can assist you with the use
19 of an otherwise smooth switch.

20 MS. LU: Okay. I'm going to pass the
21 witness. Thank you.

22 THE WITNESS: Thank you.

23 MR. BRUENJES: Okay. Could we have a
24 ten-minute break?

25 MS. LU: Sure.

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THE REPORTER: Off the record.
(Pause in proceedings.)
THE REPORTER: On the record.
MR. BRUENJES: We have no redirect.
(TIME NOTED: 1:58 p.m.)

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DECLARATION UNDER PENALTY OF PERJURY

I, JOEL DELMAN, do hereby certify under penalty of perjury that I have read the foregoing transcript of my deposition taken on October 3, 2024; that I have made such corrections as appear noted herein; that my testimony as contained herein, as corrected, is true and correct.

DATED this day of ,
2024, at .

JOEL DELMAN

JOB NO. 6937484

1 STATE OF CALIFORNIA)
2 (ss.
3 COUNTY OF LOS ANGELES)
4

5 I, RENEE HARRIS, do hereby certify that I
6 am a licensed Certified Shorthand Reporter, duly
7 qualified and certified as such by the State of
8 California;

9 That prior to being examined, the witness named
10 in the foregoing deposition was by me duly sworn
11 to testify to tell the truth, the whole truth, and
12 nothing but the truth;

13 That the said deposition was by me recorded
14 stenographically;

15 And the foregoing pages constitute a full,
16 true, complete and correct record of the testimony
17 given by the said witness;

18 That I am a disinterested person, not
19 being in any way interested in the outcome of said
20 action, or connected with, nor related to any of
21 the parties in said action, or to their respective
22 counsel, in any manner whatsoever.

DATED: October 21, 2024

23 
24

25 Renee Harris, CSR, CCR, RPR
CA CSR No. 14168, NJ CCR No. 30XI00241200

1 CHRISTOPHER BRUENJES

2 christopher.bruenjes@faegredrinker.com

3 October 21, 2024

4 RE: Sharkninja, Inc. v. Dyson Technology Limited - IPR

5 10/3/2024, Joel Delman, (#6937484).

6 The above-referenced transcript has been

7 completed by Veritext Legal Solutions and

8 review of the transcript is being handled as follows:

9 ___ Per CA State Code (CCP 2025.520 (a)-(e)) - Contact Veritext
10 to schedule a time to review the original transcript at
11 a Veritext office.

12 X Per CA State Code (CCP 2025.520 (a)-(e)) - Locked .PDF

13 Transcript - The witness should review the transcript and
14 make any necessary corrections on the errata pages included
15 below, notating the page and line number of the corrections.
16 The witness should then sign and date the errata and penalty
17 of perjury pages and return the completed pages to all
18 appearing counsel within the period of time determined at
19 the deposition or provided by the Code of Civil Procedure.
20 Contact Veritext when the sealed original is required.

21 ___ Waiving the CA Code of Civil Procedure per Stipulation of
22 Counsel - Original transcript to be released for signature
23 as determined at the deposition.

24 ___ Signature Waived - Reading & Signature was waived at the
25 time of the deposition.

Page 120

1 ___ Federal R&S Requested (FRCP 30(e)(1)(B)) - Locked .PDF
2 Transcript - The witness should review the transcript and
3 make any necessary corrections on the errata pages included
4 below, notating the page and line number of the corrections.
5 The witness should then sign and date the errata and penalty
6 of perjury pages and return the completed pages to all
7 appearing counsel within the period of time determined at
8 the deposition or provided by the Federal Rules.
9 ___ Federal R&S Not Requested - Reading & Signature was not
10 requested before the completion of the deposition.

1 Sharkninja, Inc. v. Dyson Technology Limited - IPR
2 Joel Delman (#6937484)

3 E R R A T A S H E E T

4 PAGE_____ LINE_____ CHANGE_____

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6 REASON_____

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21 REASON_____

22 _____

23 _____

24 (Joel Delman) Date

25 _____