

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

PROVISUR TECHNOLOGIES, INC.,

Petitioner,

v.

TEXTOR MASCHINENBAU GMBH,

Patent Owner.

Case IPR2024-00224

U.S. Patent No. 9,457,487 B2

REMOTE DEPOSITION OF

JARROD MCCARROLL

Zoom Videoconference

09/18/2024

10:03 a.m. (EDT)

REPORTED BY: AMANDA GORRONO, CLR

CLR NO. 052005-01

DIGITAL EVIDENCE GROUP

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Provisur EX1054

U.S. Patent No. 9,457,487

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09/18/2024

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10:03 a.m. (EDT)

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REMOTE DEPOSITION OF JARROD

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McCARROLL, held virtually via Zoom

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Videoconferencing, before Amanda Gorrone,

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Certified Live Note Reporter, and Notary

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Public of the State of New York.

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I N D E X

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WITNESS

EXAMINATION BY

PAGE

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JARROD MCCARROLL

MR. BABBITT

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E X H I B I T S

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EXHIBIT

DESCRIPTION

PAGE

8

Exhibit

20

9

2009

Global sales spreadsheet.....

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Exhibit

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2023

Declaration Bates No. IPR2024-00224.....

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1 JARROD MCCARROLL, called as a witness, having
2 been first duly sworn by a Notary Public of the
3 State of New York, was examined and testified as
4 follows:

5 THE WITNESS: I do.

6 THE COURT REPORTER: Thank you.

7 Can you state your name and address
8 for the record?

9 THE WITNESS: Jarrod McCarroll.
10 20214 West 89th Terrace Lenexa, Kansas 66220.
11 Home address.

12 MR. BABBITT: My name is Mike
13 Babbitt from Willkie Farr. I represent the
14 Petitioner, Provisur, in this proceeding.
15 With me is Mitch Feldhake and Keaton
16 Sheeler.

17 MR. SEITZ: Adam Seitz and Christina
18 Canino on behalf of Patent Owner, Weber or
19 Textor. My apologies, Mike. I'm not certain
20 which one we have in this one.

21 MR. BABBITT: I'll clear that up on
22 the record in a couple seconds.

1 MR. SEITZ: Thank you.

2 EXAMINATION

3 BY MR. BABBITT:

4 Q. Mr. McCarroll, could you just state
5 your full name and your job title for the record,
6 please?

7 A. Yes. Jarrod McCarroll, CEO of
8 Weber, Inc.

9 Q. And where are you located today?

10 A. I'm at my house today in Lenexa,
11 Kansas.

12 Q. And you've testified under oath
13 several times before today; is that right?

14 A. Yes, sir.

15 Q. So you, for better or worse,
16 understand how the deposition process worked; is
17 that right?

18 A. I do. Yes, sir.

19 Q. So I wouldn't belabor, you know,
20 those kind of the ground rules that we do, but,
21 suffice to say, if you have a question or you
22 think something is unclear that I said, just let

1 me know. I can try to clarify.

2 Can you do that?

3 A. You bet.

4 Q. And you also understand that by the
5 agreement of the lawyers for the parties, this
6 deposition is going to be limited to two hours of
7 record time. So want to just try -- I'll do my
8 best to ask clear questions and hopefully you can
9 do your best to give clear answers and we'll try
10 to be efficient about it.

11 Okay?

12 A. Yes, sir.

13 Q. Do you have any corrections or
14 clarifications to your previous testimony?

15 A. No, sir.

16 Q. And you understand you're under oath
17 today?

18 A. I do, yes.

19 Q. Is there any reason you won't be
20 able to give full and accurate testimony today?

21 A. No, sir.

22 Q. Did you tell the truth in your

1 previous testimony?

2 A. Yes, sir.

3 Q. And what did you do to prepare for
4 today?

5 A. I reviewed the documents that are
6 being provided during this deposition with my
7 attorney.

8 Q. Do you recall how many documents you
9 reviewed about?

10 A. Two.

11 Q. Two.

12 And how long did you meet with your
13 attorney?

14 A. I don't know. A couple of hours --
15 an hour prior than 15 minutes or so, just couple
16 of clarifying questions.

17 Q. Besides your attorneys, have you
18 discussed this case or this deposition with
19 anyone?

20 A. I've discussed this case with folks
21 that have helped me collect and prepare the
22 information that's been requested.

1 Q. Besides your attorneys, who did you
2 discuss this deposition with?

3 A. Well, I'm not sure, this deposition.
4 But the material that we provided -- all the
5 SalesForce information on the global sales with
6 our -- Kirill from our IT group and Kyle Vipond,
7 our -- my CFO.

8 Q. Is it right that you worked with
9 Kirill and Kyle to collect the sales data that
10 we'll be talking about today?

11 A. Yes, sir.

12 Q. Have you discussed the case with any
13 of Weber's expert consultants?

14 A. I have had conversations with
15 experts in the past, yes, sir.

16 Q. And who do you recall speaking to
17 about this case, that are experts for Weber?

18 A. Well, I'd have to go back and look
19 at -- sometimes there's been five or six people
20 on a call. I can't recall which one was the
21 expert, which one was an attorney. There is a
22 lot of them. I know Lauren has been on there, I

1 believe Mr. -- is it Mr. Leathers?

2 THE WITNESS: Adam?

3 MR. SEITZ: You can't ask me
4 questions.

5 A. Yeah, I believe that's right. David
6 Leathers I believe and maybe one of his
7 colleagues or associates.

8 BY MR. BABBITT:

9 Q. And to help you out here, I think
10 I've seen whatever it was in this case with
11 different documents reflecting that.

12 I believe you've spoken with Weber's
13 damages expert, Ms. Lauren Kindler?

14 A. Yes, sir.

15 Q. The trade secret expert, Mr. David
16 Leathers --

17 A. There we go.

18 Q. Is that right?

19 A. Yeah, that's right.

20 Q. I believe you've spoken with
21 Dr. Meyer who is a technical expert for Weber.

22 Does that sound right?

1 A. That sounds right.

2 Q. What about -- do you recall about
3 your call with Ms. Kindler?

4 MR. SEITZ: Objection. Scope.

5 You can go ahead, Jarrod.

6 THE WITNESS: Okay.

7 A. Mike, it's been several weeks or
8 months since I had those meetings. They all kind
9 of blur together. I think we were just reviewing
10 the case. She was asking questions that were
11 relative to her area of expertise and I was doing
12 my best to answer. This all kind of blurs
13 together for me so I'm not sure exactly what I
14 was talking to each one of those folks about.
15 Pretty much recounting anything that they were
16 asking me about the business.

17 BY MR. BABBITT:

18 Q. Is it correct you don't remember
19 specifically what you discussed with Ms. Kindler,
20 Mr. Leathers, or Dr. Meyer?

21 A. If you could provide me the
22 document, I could surely clear that up. I just

1 don't have that immediate recall in front of me.

2 Q. Do you recall talking to Ms. Kindler
3 about whether the TS Textor products were
4 commercially successful?

5 MR. SEITZ: Objection. Scope.

6 A. I would have to go back and read
7 her -- whatever documents that she's provided to
8 be able to say if it was -- if she was the one I
9 was speaking with about that or Mr. Leathers or
10 the other expert you referred to.

11 I just -- I just don't have those
12 documents in front of me. I'm sure if you put
13 them on the screen, I can confirm that. I just
14 don't want to say anything I'm not certain of.

15 BY MR. BABBITT:

16 Q. And what documents are you referring
17 to?

18 A. I would -- I would assume it's
19 whatever her -- whatever she's provided to you
20 guys or whatever deposition or testimony she's
21 given, I could -- I believe under oath, she's
22 probably telling the truth as well. Not

1 "probably," but she is. I just don't have the
2 specifics in front of me. I apologize.

3 Q. So I think what you're perhaps
4 trying to explain is that if you had
5 Ms. Kindler's or Mr. Leathers's or Dr. Myers'
6 reports that they provided in this case, that
7 might help refresh your recollection?

8 A. Yes, sir. Sorry. I'm not clear on
9 that. Thanks for clearing that up.

10 Q. All right. Let's look at that
11 Exhibit 2023, which is your declaration.

12 (Whereupon, McCarroll Exhibit 2023,
13 Declaration Bates No. IPR2024-00224 was
14 marked for identification.)

15 A. Okay.

16 BY MR. BABBITT:

17 Q. Do you have that with you now?

18 A. Yes, sir.

19 Q. And I'm going to refer to this as
20 Exhibit 2023, which is in the bottom right corner
21 of the cover page and it's dated July 23, 2024.

22 Do you see that?

1 A. Exhibit 2023, Page 1, IPR 2024-0224?

2 This is the declaration?

3 Q. Yes, sir.

4 A. Yeah, I believe I have it in front
5 of me.

6 Q. And do you see that you signed this
7 document on July 23rd of 2024?

8 A. I do. Yes, sir.

9 Q. Do you also see that the document
10 lists Provisur as the Petition and Textor
11 Maschinenbau GMBH as the Patent Owner?

12 A. Yes.

13 Q. What is your role at Textor?

14 A. I have no role at Textor GMBH.

15 Q. And what is your role at Weber Food
16 Technology GMBH?

17 A. We are -- Weber Inc. is a wholly
18 owned subsidiary underneath the parent company of
19 Weber Food Technology.

20 Q. And so I guess throughout the day I
21 might -- I'll try to use the word "Textor" to
22 refer to the party here. I might split up and

1 refer to it as "Weber," to generally refer to the
2 companies together. I don't think there is a
3 distinction that needs to be made for today, but
4 if there is, you know far more about that than I
5 do so please let me know.

6 A. Okay.

7 Q. Okay?

8 A. Yes, sir.

9 Q. What's your understanding of why you
10 signed this declaration?

11 A. To -- my understanding of signing
12 this declaration is confirming that the
13 information that we provided in the next
14 document, the global sales of the machines that
15 have the removable cassette are accurate.

16 Q. Did you provide this declaration to
17 support Textor's arguments that its invention was
18 commercially successful?

19 A. I signed this document that said
20 that all the information provided in that
21 spreadsheet is accurate.

22 Q. Do you believe that your declaration

1 supports Textor's arguments that its invention
2 was commercially successful?

3 MR. SEITZ: Objection to form.

4 Go ahead, Jarrod.

5 THE WITNESS: Okay.

6 A. Again the declaration that I signed
7 was confirming and verifying that the information
8 we provided was the requested document or the
9 data information for the machines in question in
10 this particular case.

11 BY MR. BABBITT:

12 Q. So would your answer be that no, you
13 don't believe that your declaration supports
14 Textor's arguments that the invention was
15 commercially successful?

16 MR. SEITZ: Objection. Form. Asked
17 and answered.

18 A. Yeah, again I think it's -- when I
19 signed this declaration saying that the
20 information that we provided that was requested
21 is accurate and represents the request. So I
22 think what you're asking is that's what the

1 declaration, as I understood, what I was signing.

2 Q. Is it fair to say that you don't
3 know whether the sales information you provided
4 supports Weber's arguments that its inventions
5 were commercially successful?

6 A. Would you repeat that, please?

7 Q. Sure.

8 Is it fair to say that you don't
9 know whether the sales information you provided
10 supports Weber's arguments that its inventions
11 were commercially successful?

12 MR. SEITZ: Objection to form.

13 A. The information that my declaration
14 supports that we provided shows the worldwide
15 sales of the machines that have the removable
16 cassette, and that's what about the document was
17 supposed to show.

18 I think the rest of that -- what
19 you're asking is part of the -- the lawsuit as it
20 stands, but that's not -- we didn't put together
21 any additional information that showed future
22 benefits or anything like that. It was just

1 purely sales of machines that had the cassette on
2 it.

3 BY MR. BABBITT:

4 Q. Is it fair to say then that you
5 provided the information that you believe is
6 accurate and you will basically leave it to the
7 lawyers to fight out about whether it means the
8 inventions are commercially successful?

9 A. The information that's there is -- I
10 think supports the fact that we sold multiple
11 machines. I forget the exact count. We could go
12 look at the spreadsheet. That show the success
13 of the Textor slicers that had these removable
14 cassettes and other machines that had the
15 removable cassettes.

16 So I think it's up to interpretation
17 how you define success of those solutions, but
18 that's what is in the spreadsheet.

19 Q. You referred to the removable
20 cassette a few times now. Could you please
21 explain what you mean by that?

22 A. Yes, sir. On the execution of these

1 machines in the other document is a list of all
2 of the sales that we have had of -- of those
3 machines that have a removable cassette. The
4 removable cassette is a device that allows for
5 our customers to quickly change out the -- it's a
6 conveyor, so to speak, quickly change that out
7 and put another cassette on to help with
8 changeover during operation, help with
9 sanitation.

10 It's a tool-less device that adds
11 basically production capability and easier
12 sanitation for our customers. It's a processing
13 aid, if you would. It is a production
14 enhancement, and it's a better design for
15 sanitation.

16 Q. And how did you come to know what
17 you just explained about removable cassettes?

18 A. Well, I've been in the business for
19 a little over ten years, and I've seen the
20 evolution from previous generations of machines
21 that did not have this to this design. When
22 Textor came out with this design, this was one of

1 the -- the big selling points, and, honestly, one
2 of the big, big, big value points for our
3 customers.

4 And so, you know, just by seeing and
5 selling these pieces of equipment, I got familiar
6 with how it works and what the benefits are to
7 the customers.

8 Q. Let's look at that Exhibit 2009 I
9 think you called it the global sales spreadsheet.

10 (Whereupon, Exhibit 2009, Global
11 sales spreadsheet, was marked for
12 identification.)

13 A. Yes, sir.

14 BY MR. BABBITT:

15 Q. And how do you know that that
16 spreadsheet has accurate sales information?

17 A. I reviewed it with my team. We
18 pulled this out of Salesforce, and we did the
19 proper research to make sure it captures all of
20 those machines that we had sold.

21 Q. Now your declaration refers to "our
22 Salesforce database."

1 Who are you referring to there?

2 A. This is the Weber global Salesforce,
3 so the entire company.

4 Q. Does Weber share Salesforce database
5 with Textor or vice versa?

6 A. It's really -- the company is really
7 one in the same. Yeah, it's the same CRM for
8 everybody.

9 Q. So does Textor have access to
10 Weber's Salesforce database and vice versa?

11 A. Maybe if we looked at the corporate
12 hierarchy of how Weber works. Weber Food
13 Technology is the overall company. When Textor
14 first started out, it was a stand-alone company.
15 But over the years that has been -- Textor has
16 really become more of a product line than a
17 stand-alone company. And so it's more like a
18 model in our portfolio, so it's really all one
19 company.

20 So the Textor team, the Weber team,
21 the daughter companies, have access to all of
22 this information. That said, there are certain

1 rights for users that have access to either more
2 or less of the entire database. So depending on
3 what, like Kirill, as a system administrator, has
4 access to the whole database. He's the one who
5 pulled all of this information from the global
6 CRM.

7 Q. In your daily job responsibilities,
8 how often do you use Salesforce or Salesforce
9 data?

10 A. Every day.

11 Q. And can you explain just some
12 general categories of types of information that
13 are in the Salesforce database and how you use
14 it?

15 A. Sure. It has a list of all of our
16 customers. It has a list of our prospects. We
17 use it for tracking opportunities. We use it for
18 tracking sales activity. We use it for service
19 activity, for opening and closing cases and work
20 orders. We use it for managing our stock
21 equipment. It's also tied to our quote
22 configuration tool. It's pretty much the central

1 hub for everything related to business with our
2 customers.

3 Q. Let's look at that Exhibit 2009, the
4 global sales spreadsheet.

5 A. Okay.

6 Q. I'll just note this is Bates labeled
7 Weber 3A-00203735, and as I mentioned, had been
8 marked in this proceeding as Exhibit 2009.

9 Do you have that document
10 Mr. McCarroll?

11 A. Yes, sir.

12 Q. And I want you to just tell me what
13 information is in the document.

14 A. Okay. If you, if you look at it by
15 column, this Column A is a list of all the
16 accounts or customers that have purchased one of
17 these machines that is -- that has the removable
18 cassette.

19 I guess maybe we should start off by
20 the filter up top. This shows all the
21 opportunities that were won globally. It shows
22 the opportunity name that contains from our

1 naming convention the models that are in
2 question. It shows also a filter on the models,
3 and the slicer model.

4 So this was a holistic approach to
5 make sure we captured as much information or all
6 the information on the machines that had the
7 removable cassette. So that's how the filter is
8 set up.

9 Column A shows all the customers.

10 Column -- I guess this is Column D
11 shows the "Opportunity Name," basically how we
12 named each opportunity at this customer location.

13 Column E is the "Stage," meaning
14 these were the ones that were won that were sold.

15 The "Record Type" is Column F. This
16 is just a function of really what type of record
17 it is in our system.

18 Column G is the "Slicer Model."

19 Column H is a legacy field that we
20 had prior to having the slicer field where it
21 just said "Model." Some of that is incomplete,
22 and that's just from over the course of time we

1 migrated to using slicer model.

2 Column I is the "Amount" in euros.

3 The Column J is the "Amount
4 (converted)," and that is another field. They
5 should pretty much be the same in this
6 spreadsheet. Sometimes when we move from euros
7 to USD, that's where we have the conversion
8 numbers in there.

9 Column K is the "Actual Close Date"
10 when we received the PO.

11 Column L is the "Created Date."
12 That's when the opportunity was created.

13 And Column M is the "Opportunity
14 Owner" or the salesman or responsible party for
15 managing that opportunity.

16 Q. Great, thank you, Mr. McCarroll.

17 A. Yes, sir.

18 Q. Do you know what time frame this
19 sales data covers?

20 A. I believe if we look at -- it says
21 territories -- in the filter -- Territories:
22 All. All opportunities. Closed Won.

1 Probability: All.

2 So this would be of all time of
3 information that is in Salesforce.

4 Q. When I was looking at the data it
5 looked to me the earliest sale that was listed
6 was in 2015. Does that make sense to you?

7 A. Yes, sir. That could be either from
8 the earliest sale that we have, or from the
9 timeline that this -- this case is applicable.

10 Q. Did Textor sell, for example, TS700
11 products before 2015?

12 A. I believe so.

13 Q. Do you know when Textor started
14 selling TS700 products?

15 A. I believe Textor started in 2011 or
16 '12 selling equipment. I believe it came into
17 existence in 2011 and incorporated, I believe,
18 maybe, around that time. And so shortly
19 thereafter it would have started producing or at
20 least quoting and having the opportunities to
21 sell equipment.

22 Q. And do you believe at the time that

1 Textor started, that it was starting to sell the
2 TS700?

3 A. I believe so. Yes, sir.

4 Q. Before 2015 did Textor and Weber
5 keep separate sales data?

6 A. I could not tell you that. I'm
7 responsible for Weber Inc., and I don't know how
8 Textor and Weber at that point in time handled
9 their sales data.

10 Q. I guess I'm wondering why there's
11 not TS700 data in the spreadsheet from before
12 2015. And I'm not sure if you know the answer to
13 that. I want to clarify.

14 A. I'm not for sure. It could also be
15 that 2015 is when we launched Salesforce. So
16 that would probably be an -- I could obviously go
17 research that and find out. But that feels about
18 right that maybe that's when that started to
19 exist there. But I don't want to guess.

20 Q. Is it your understanding that the
21 sales spreadsheet has all global sales since 2015
22 of the TS products?

1 A. Yes, sir.

2 Q. And how are you involved in global
3 sales?

4 A. I'm responsible for the US and
5 Canada market. So those are the opportunities
6 and sales and scope that I really focus on.

7 Q. But this spreadsheet includes all
8 the global sales, if that's correct?

9 A. Yes. Yes, sir.

10 Q. And so how would you describe your
11 role, if at all, with foreign sales?

12 A. Well, if you consider Canada
13 foreign, I'm responsible for all the sales to
14 Canada. But anything outside of the US and
15 Canada, I'm not responsible for.

16 Q. Are you involved at all in foreign
17 sales?

18 A. My real only involvement in foreign
19 sales is when we have a machine that is either
20 sold in a foreign country coming to the United
21 States or sold in the United States going to a
22 foreign country. It doesn't happen very often.

1 Q. So I believe from the spreadsheet we
2 can tell that it includes data for the TS700, the
3 TS700 Flex, the TS750, the TS500 and the ASD 460;
4 is that correct?

5 A. Yes, sir. Those are the filters it
6 was sorted by.

7 Q. And how did Weber decide what
8 products to include in the spreadsheet?

9 A. I believe those -- in this
10 spreadsheet, the ASD 460 I believe is related to
11 a different claim.

12 But the -- all the ones that we
13 selected here have a removable cassette for the
14 Textor side.

15 Q. Is it your understanding that the
16 TS700, the TS700 Flex, the TS750, and the TS500
17 have the removable cassette that embodies the
18 '487 patent?

19 A. Yes, sir.

20 Q. Is it your understanding that the
21 weSLICE 9500 also has a removable cassette that
22 embodies the '487 patent?

1 A. Yes, sir.

2 Q. Why is the weSLICE 9500 not included
3 in this spreadsheet?

4 A. I believe that is in a different
5 spreadsheet that was produced. And I believe we
6 have another colleague that's representing that
7 part of the case.

8 Q. Just so I can, I guess, put a bow on
9 that, is it your understanding that a complete
10 list of the Weber products that have the
11 removable conveyor of the '487 patent would be
12 the TS700 products, the TS700 Flex, the TS750,
13 the TS500, and the weSLICE 9500?

14 A. Yes, sir.

15 Q. And there's no other products that
16 have removable conveyors; is that your
17 understanding?

18 MR. SEITZ: Objection to form.

19 Sorry, Jarrod. Go ahead.

20 A. I believe the S6 has a removable
21 cassette.

22 BY MR. BABBITT:

1 Q. Do you know if Weber claims the S6
2 embodies the '487 patent?

3 A. I'm not sure.

4 Q. I also see in the filter section it
5 says "Opportunity record type not equal to
6 Equipment Modification, Guardian, Modification,
7 Weber Aftermarket Sales Opportunity."

8 Can you explain what that means,
9 please?

10 A. Yes, sir. So equipment modification
11 is a different record type. That would be
12 something like someone buying grippers or a
13 different down holder or a sheer bar. Something
14 that is not a base machine, but something that
15 you could add to it.

16 So the reason it's not considered
17 for equipment modification on the -- on the
18 removable cassette, is that's part of the base
19 unit.

20 Guardian is our after our training
21 program, and our preventative maintenance
22 program. That's really service related, not

1 machine related.

2 Modification. Again, the same thing
3 is equipment modification. It's just a legacy
4 naming convention.

5 And Weber Aftermarket Sales
6 Opportunities are not machine sales. They are
7 basically parts and like modifications we
8 discussed. So they are not -- you wouldn't have
9 a removable cassette as part of a modification to
10 a machine. They would come with the base machine
11 already. They would already have to have that
12 to -- if they wanted to buy another cassette,
13 they could do that through the aftermarket team.
14 You'd already have to have a cassette on the base
15 unit. You couldn't just buy one and add it to
16 something.

17 Q. Could you please give me a general
18 description of the TS700 product that's listed in
19 your spreadsheet?

20 A. The TS700 is a server driven --
21 actually, it's a belt drive server drive gripper
22 slicing solution that's used for slicing meats

1 and cheeses.

2 Q. And I'm going to basically go
3 through each of the products if that helps you
4 define your answers.

5 But can you give a general
6 description of the TS700 Flex product, please?

7 A. Yes, sir. It's basically a takeoff
8 on the TS700 with less capabilities. So it might
9 not have a lower bed. It might have dimpled
10 sheet metal bed that doesn't have an advancing
11 conveyor on it. It's a simpler, scaled-down
12 version of the TS700.

13 Q. Does the TS700 Flex include a
14 removable cassette?

15 A. Yes.

16 Q. And where is that located in the
17 TS700 Flex?

18 [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

■ [REDACTED]

■ [REDACTED]

3 Q. I've heard and seen different
4 documents describing the [REDACTED] and the
5 [REDACTED]. And of course we're talking
6 about the removable conveyor. Would you be able
7 to describe it in those terms?

8 A. Boy, it would be easier if we had a
9 picture or video to point to. Then I could show
10 you where those are.

11 Those removable cassettes are in
12 that area of the slicer. And you're able to take
13 those off quickly with just -- there is a latch
14 and a single drive belt, timing belt that you're
15 able to basically remove the tension on and
16 you're able to remove that whole cassette.

17 Basically you have little belts or
18 spaghetti belts that go over those conveyors that
19 help advance product down the line.

20 Q. What's the first conveyor after the
21 slicer?

22 A. [REDACTED]

1 Q. And what would the next conveyor be
2 after that?

3 A. [REDACTED].

4 Q. I see.

5 Is the [REDACTED] or the CCU
6 [REDACTED] a removable cassette?

7 A. I believe the [REDACTED] is.
8 I have to -- I don't want to misstep here. I'm
9 not the super technical expert, but yes, I
10 believe at least the [REDACTED] is. I'm
11 not 100 percent sure if the [REDACTED] is.

12 Q. When we talk about the removable
13 cassette or the removable conveyor, in your
14 understanding that would be the same thing as the
15 [REDACTED]?

16 A. I'd need to go look at it
17 specifically. My apologies. I can point to it
18 when we're on the slicer, but from calling it out
19 specifically, I just want to make sure I'm right
20 on that.

21 Q. Why would a customer be interested
22 in the TS700 versus the TS700 Flex?

1 A. Sometimes customers don't need all
2 of the functionality of the TS700. A Flex if
3 they are doing a simple application like a bulk
4 slicing application, and they don't need a lot of
5 portion control or they are making portions they
6 just need to slice things out, they can use a
7 TS700 Flex. It basically just takes a lot of
8 the -- some of the functions away. If you don't
9 need those in your operation.

10 Q. Why would a customer be interested
11 in a TS500 versus a TS700?

12 A. The difference between those two
13 models is one is a round blade machine and one is
14 involute blade machine.

15 A round blade machine has a round
16 blade. It doesn't spin as fast as the involute
17 blade. It has been in the past the blade -- the
18 round blade machine has been used primarily in
19 very high quality, thin slice applications like
20 dry sausage, prosciuttos, and things like that.

21 A round blade has kind of a dual
22 cutting design to it where the blade rotates.

1 But it's also an orbital blade, so it kind of --
2 if you see my finger, it kind of rotates around
3 as it's cutting through. And so you get a very
4 precise cut because it's not only moving
5 vertically through the product, it also has a
6 circular slicing to it. So it's able to slice
7 really thin product.

8 The involute blade's typically a
9 higher speed blade. You're slicing a little bit
10 thicker. So it still gives a very nice slice,
11 but for the really thin dry, hard products, a
12 circular blade traditionally has proven to be
13 more successful from a quality standpoint.

14 Q. To round this out, tell me why you
15 think a customer would be interested in a TS700
16 versus a TS750.

17 A. The TS750 is really designed for a
18 bacon solution, a European Bacon solution. With
19 the way that the [REDACTED] and the [REDACTED]
20 [REDACTED] work and the dual drive system for two
21 up bacon slicing. It's really a European bacon
22 or a European whole muscle or bacon design

1 slicer.

2 We don't sell those in the United
3 States. It doesn't work for us. We use belly
4 bacon, and Europeans use back bacon. So our
5 bellies are wider, and you can't go two across on
6 a 750 in the US.

7 Q. Has Weber sold any TS750s in the US?

8 A. No, sir.

9 Q. In your experience, why do you think
10 customers buy the TS700, the TS750, and the
11 TS500?

12 A. Well, I think it's -- it's -- a lot
13 of it is application based. You know, I'd have
14 to say that there's -- you know, it's obviously
15 the sanitation, the hygienic design, the
16 simplicity of the machine, the performance of the
17 machine, the tool-less design of the machine, all
18 come into play when customers are looking at this
19 compared to other solutions out there.

20 Q. In your experience, do different
21 customers have different reasons based on the
22 application to buy the TS700, the TS700 Flex, the

1 TS750, or the TS500?

2 A. Yes, sir.

3 Q. Do you know when Weber first sold a
4 TS700 Flex in the US?

5 A. I could go back and look. It might
6 be in the spreadsheet. I don't know off the top
7 of my head. It should be in there.

8 Q. That actually raises a good point.
9 Are you able to tell from the spreadsheet the
10 difference between a TS700 and a TS700 Flex sale?

11 A. If it's called out in the
12 opportunity name, that would be a way to discern
13 that. But the -- probably the best way to do
14 that would be to go look at the actual BOM of
15 the -- of the sale and you could tell it that
16 way.

17 Q. I think when I looked I wasn't quite
18 able to tell the difference. If you have it in
19 front of you, is there any way you're able to
20 tell from the spreadsheet what the difference is
21 between a sale on a TS700 and a TS700 Flex?

22 A. Yeah, give me a second. Bear with

1 me. I'm trying to -- what I'm looking at
2 doing -- I've got a new laptop, so I'm trying to
3 figure out where my buttons are here.

4 I would just do a search in this
5 spreadsheet and hit a find and type in "Flex."

6 Q. Is it your understanding that all of
7 the sales of TS Flex would say "Flex" in the
8 opportunity name?

9 A. I couldn't say that all of them
10 would because I don't know how anyone outside the
11 United States is using their nomenclature, if
12 they are putting that in or not. And I couldn't
13 also confirm that all of the ones that just say
14 TS700 aren't Flex.

15 Q. Do you know about how many sales of
16 TS700 Flex there have been?

17 A. I don't. No, sir.

18 Q. I'm just doing a quick Ctrl-F on the
19 spreadsheet, and I saw maybe five or six.

20 Does that seem in the ballpark?

21 A. For the US, I would say that seems
22 in the ballpark.

1 Q. Do you believe the TS700 Flex was a
2 successful product?

3 A. Where it's applicable, yes, sir.

4 Q. And why do you say that?

5 A. Again, it goes to customers. Some
6 customers don't need the full capability of the
7 Textor. They don't need the lower product bed.
8 They might just need to load product on that
9 sheet metal and let it slide down because you're
10 not building portions. You're just doing bulk or
11 something like that. So it's really application
12 driven.

13 Q. You said a couple times that Weber's
14 sales are often application driven.

15 Can you explain what you mean by
16 that?

17 A. Yes, sir. So you asked the question
18 a minute ago about the TS500 verse the TS700, if
19 a customer's slicing prosciutto or a really hard,
20 dry sausage, a lot of times that round blade
21 solution is the best fit for them. And so they
22 would buy a round blade machine, which would be

1 the 500.

2 If they are slicing bulk, they might
3 not need all the bells and whistles of the
4 grip-and-go technology or, like I said, the lower
5 conveyor bed. They just need a simple solution
6 because they are not making portions so they
7 would go with a Flex.

8 There's different configurations of
9 the Textor based on the customer's need.
10 Sometimes we need a dual drive machine if we're
11 doing a variable application and sometimes we
12 don't. And so that depends on just how we
13 configure each of those machines.

14 Q. Is it fair to say in your work then
15 that different customers have different needs?

16 A. Yes, sir.

17 Q. Do you think the TS700 was a
18 successful product?

19 A. Absolutely.

20 Q. And why do you say that?

21 A. Well, I think I guess it's how --
22 how I define success versus how others define

1 success. But when I look at the number of TS700s
2 that we've sold versus other models that we have
3 in our portfolio, it's -- it's by far the most
4 popular model.

5 We have other models, for instance,
6 an 804 in our portfolio that basically could --
7 the Weber 804 that has similar capabilities, but
8 we don't sell very many of those at all in
9 comparison to the Textor.

10 Q. What do you think drives the success
11 of the TS700?

12 A. I think the hygienic design. I think
13 the tool-free design of the machine for taking
14 parts off, such as the removable cassette. I
15 think the slice quality. I think the footprint.
16 I think those are all features that customers
17 appreciate about the solution.

18 Q. Do you recall having any discussions
19 with Weber or Textor customers about why they
20 purchased the TS700?

21 A. After they purchased it?

22 Q. At any time.

1 A. Well, during the process of defining
2 their needs and putting together a value
3 proposition for them, obviously we talk about the
4 features and benefits of the TS700 and how that
5 relates to their business and how that relates to
6 their -- ultimately to their ROI.

7 Q. Did you deal with customers
8 firsthand these days?

9 A. I'm sorry. Repeat that.

10 Q. Do you personally deal with
11 customers firsthand in your role as CEO today?

12 A. Yeah, occasionally.

13 Q. The good ones?

14 A. Yeah. No, I deal with them all. I
15 deal with them all.

16 MR. SEITZ: I was waiting for a
17 catch up on that one.

18 THE WITNESS: Yeah.

19 BY MR. BABBITT:

20 Q. Do you recall having any
21 conversations with customers after they purchased
22 a TS700 with them telling you why they purchased

1 the TS700?

2 A. I think just in general speak when I
3 visit with customers, I always ask them, you
4 know, how is the line performing; how are things
5 going; you know, any concerns; what do you like;
6 what don't you like.

7 We're always trying to understand
8 how we can improve. And I get feedback from them
9 on those types of conversations.

10 Q. And do you in your mind right now
11 have any specific conversations that you're
12 recalling about the TS700 with a customer?

13 A. I mean, specifically related to what
14 they really like or dislike about it? I -- you
15 know, I couldn't tell you a specific customer on
16 a conversation that I've had that says, oh, we
17 really like this or that.

18 It's usually we really like the --
19 the functionality of it. We really like the
20 ability to -- how hygienic it is, how easy it is
21 to take apart, how quickly to make transitions
22 from one product to another, and the speed of the

1 reload. Those are typically the comments that I
2 get back when I hear -- when I ask a customer or
3 talk to them.

4 Q. But sitting here today, you can't
5 remember the name of any customer that you've had
6 a conversation about their reasons for buying the
7 TS700; is that correct?

8 A. Oh, I've talked to a ton of them on
9 this list. But specifically to go back and
10 recall the exact conversation, no.

11 Q. So you don't recall having a
12 conversation with any specific customer
13 explaining that sanitation or hygenic design was
14 the reason for the customer to buy the TS700?

15 MR. SEITZ: Objection. Form.

16 A. Yeah, I haven't recorded those
17 notes. You know, part of the conversation
18 upfront is obviously we're talking about those
19 things. So I would assume them buying that would
20 be an affirmation that they also subscribed to
21 that notion.

22 But I don't have any -- any detailed

1 specific conversation that says with [REDACTED]

2 [REDACTED]

3 [REDACTED], that this was something that they
4 really liked.

5 Q. And you don't recall having a
6 conversation with any specific customer
7 explaining that the removable cassette was the
8 reason for the customer to buy the TS700, do you?

9 A. When we are talking to the customer
10 before and developing the opportunity in the
11 opportunity, we were absolutely talking about
12 removable cassettes. We are talking also about
13 the other functionality of the slicer, the
14 hygienic design and those types of things. That
15 is part of every conversation we have with a
16 customer because it is a differentiator in our
17 product offering.

18 Q. The question I asked was whether you
19 recall a specific conversation with a specific
20 customer where the customer explained the reason
21 they purchased the TS700 was because of the
22 removable cassette feature?

1 A. I don't recall a conversation
2 specifically that that's the reason that they
3 said. It's part of the reasons that they like
4 the machine. For me to say that that was the one
5 single reason that they bought the machine, I
6 don't recall having a conversation that they said
7 that was the only reason.

8 Q. Now the spreadsheet also refers to
9 the ASD 460?

10 A. Yes, sir.

11 Q. What is that product?

12 A. That is a skinner, de-rinder. But I
13 believe that is part of another claim or case. I
14 don't believe it's relevant to the removable
15 cassette.

16 Q. Is a skinner the same as a
17 de-rinder?

18 A. Kind of.

19 Q. And is that like a de-fatter?

20 A. It removes fat or membrane from a
21 loin or a belly.

22 Q. Do you know if the ASD 460 has a

1 removable cassette?

2 A. I'm not familiar with the skinner
3 de-rinder. Like I said, I believe it's part of a
4 different claim.

5 Q. I believe you've also said today
6 that you're aware that the patent at issue here
7 is that '487 patent.

8 Do you recognize that name?

9 A. Yes, sir.

10 Q. Are you familiar with the '487
11 patent?

12 A. Generally. I understand it's
13 regarding a removable cassette.

14 Q. Have you read the '487 patent?

15 A. I don't believe I've read it in full
16 detail.

17 Q. How would you describe the '487
18 patent invention as the --

19 MR. SEITZ: Objection.

20 BY MR. BABBITT:

21 Q. -- Weber?

22 MR. SEITZ: Sorry, Mike. Objection.

1 Form. Scope.

2 A. That's -- my understanding is it's
3 related to the removable cassette. That's about
4 the extent of my detailed knowledge of the '487
5 patent.

6 Q. Do you know if there are any other
7 ways of implementing a removable conveyor or
8 cassette besides what's described in the '487
9 patent.

10 MR. SEITZ: Objection. Form.

11 Scope.

12 Just a second, Jarrod, so I can get
13 my objections in.

14 A. That's not my purview. That's our
15 engineers and designers and that's -- that's in
16 their wheelhouse.

17 BY MR. BABBITT:

18 Q. Sir, are you not comfortable talking
19 about the technical details of the TS700
20 products?

21 A. I'm comfortable talking about the
22 features and benefits of the TS700. But as far

1 as the detailed explanation of the technical
2 execution of them, I would defer to another
3 colleague that can give you the information you
4 want that would be more accurate.

5 Q. Are you comfortable talking about
6 the technical details of the '487 patent?

7 A. I would not be comfortable talking
8 about the technical details of the '487 patent.

9 I would defer, again, to a technical
10 expert on our team to be the voice of reason for
11 that.

12 Q. Let's get back to that Exhibit 2009,
13 the sales spreadsheet.

14 A. Okay.

15 Q. I'm going to ask you a couple of
16 specific questions about what's in the different
17 columns to make sure I understand.

18 For example, you talked about the
19 "Opportunity Record Type"?

20 A. Yes, sir.

21 Q. In that column and -- for example, I
22 see one of the record types appears to be

1 slicer/automation/packaging?

2 A. Yes, sir.

3 Q. What does that mean?

4 A. This is -- today that's tied to the
5 way we open an opportunity when we are going to
6 get a -- when we're going to get a quote or we
7 have to configure the solution. And so this is a
8 selection that's made in our quote configurator
9 that explains the type of product that you're
10 going to be configuring.

11 So that's the record type. And it's
12 an automatic selection that's made when you start
13 the process of creating a quote.

14 Q. I also see that it looks like one of
15 the opportunity record types is the Weber Inc.
16 Sales type?

17 A. Yes, sir.

18 Q. What is that?

19 A. That was the precursor. It's a
20 legacy field, or a legacy record type that we
21 don't use anymore. I believe we stopped using
22 that in 2020 in Salesforce when we implemented

1 the -- the -- our quote configurator is called
2 WBS. It stands for Weber Best Solutions.

3 When we implemented and nested that
4 process inside our CRM, that record type became
5 no longer used.

6 So before that, it was just Weber
7 Inc. Sales was a record type. Basically this is
8 where the opportunity was generated is what that
9 meant.

10 Q. So would Weber Inc. Sales type show
11 that it was a US sale?

12 A. That's just a record type for the
13 opportunity before 2020. We would have -- an
14 opportunity would have that type of record type,
15 whether it was won or lost or still open. It's
16 just a record type.

17 Q. Let me direct you to the "Amount"
18 column in the Weber global sales spreadsheet.

19 Is it your understanding that the
20 "Amount" column is the total price of the full
21 slicing line?

22 MR. SEITZ: Objection. Form.

1 Go ahead, Jarrod.

2 THE WITNESS: Okay, yeah.

3 A. The "Amount" and "Amount
4 (converted)" as I said, depending on how the --
5 at the point in time, how it was -- how it was
6 input and where it came from. I don't know if
7 Europe is using the "Amount (converted)." It's
8 really from a euro to dollar. But it should be
9 representative of what every opportunity was sold
10 for.

11 So if it was a stand-alone slicer,
12 it would represent that number.

13 If it had a slicer and a conveyor or
14 a buffer in that opportunity, it would represent
15 that whole sale, that whole solution. It's not
16 just a slicer. It could be whatever else was
17 sold along with it, maybe a packaging machine.
18 So that could be represented in that number as
19 well.

20 Q. Do you know if any of the sales on
21 the Exhibit 2009 global sales spreadsheet were
22 for a stand-alone slicer?

1 A. Yes, sir.

2 Q. You do know?

3 A. Yeah.

4 Q. Okay.

5 A. I know. I could -- you're asking me
6 which ones I'm aware of. I would say the I know
7 of a few of these that I've been close to that
8 would be a stand-alone slicer. But we'd have to
9 go back and look at it, you know, the build-out
10 of each one of these to get the exact.

11 But, generally, you can look at the
12 dollar value and tell if there was additional
13 products sold along with that. And sometimes in
14 the opportunity name it will also explain if
15 there was additional products sold with that.

16 Q. Could you give me some examples of
17 opportunities that you think may be for
18 stand-alone slicers in the global sales
19 spreadsheet?

20 A. Sure.

21 If you look at Line 26, [REDACTED]

[REDACTED] It says TS700 CCL. [REDACTED]

1 ■ [REDACTED] for [REDACTED]. That's a stand-alone
2 slicer.

3 And if you look below it and you see
4 [REDACTED] MCS. That MCS has an
5 autoloader on it. So it's a slicer with an
6 autoloader. That vernacular, "MCS," is a
7 descriptor of slicer plus autoloader.

8 RCS has a robot. So if you look
9 down at Line 31 for [REDACTED],
10 you see TS700 RCS, that has a slicer and a robot
11 associated with that sale. And it's [REDACTED].

12 So you can see a stand-alone slicer
13 they are typically less dollars and when there's
14 more dollars, it typically means there's
15 something else that has been sold along with it.

16 Q. But for the lines that include a
17 component besides the slicer in the Weber global
18 sales spreadsheet, does the amount of the sale
19 reflect the full line sale revenue?

20 A. The amount would reflect whatever
21 the opportunity was designed to sell. So the
22 amount would represent a slicer plus whatever

1 else was in the opportunity.

2 Q. I also want to get your explanation
3 of the difference between the actual close date
4 and the created date, could you explain that to
5 me?

6 A. Okay. Yes, sir. Create date is
7 when the opportunity was created, meaning when it
8 was put in SalesForce, and created as we have a
9 potential opportunity to sell a product to a
10 customer.

11 The actual close date is when the
12 stage of the opportunity moved from discovery or
13 development, or whatever it was, to closed. And
14 so whether it was closed won or closed lost, that
15 would be the actual close date. This report
16 happens to just be closed/won.

17 Q. And does closed mean sold?

18 A. Closed means -- closed/won means
19 sold.

20 Q. Closed/won means sold.

21 So is it right that it could take
22 many months to close a slicing sale opportunity?

1 A. I think you could make the
2 determination from create date to actual close
3 date and determine what many months is.

4 Q. Are you aware of slicer sales
5 opportunities that took over a year to close?

6 A. Sure.

7 Q. Why does it take so long to close a
8 sales opportunity on a slicer. In your view?

9 MR. SEITZ: Objection. Sorry, Mike
10 objection. Form.

11 A. Yeah, I can give you some examples
12 of why, but it's different for every customer.
13 Sometimes they are budgeting for their next year
14 capital spend, and they have to get proposals
15 in -- it could be five or six months in advance
16 to put it in their capital budget for the
17 following year. And then capital budgets gets
18 approved, and then they need to work through some
19 of the finer details and try to tighten up
20 whatever the initial quote was for.

21 Maybe their products have changed.
22 Maybe their contract with their final customers

1 changed. That could take a couple of months.

2 Yeah, it could be -- it could be
3 that long. It could be that they say, hey, we're
4 building a new plant and we need to, you know,
5 kind of have an understanding of what our total
6 investment is going to be and we need to get a
7 quote. And so we'll create an opportunity and
8 we'll get them a quote and it might take two
9 years for them to execute that because by the
10 time they get through all their bidding process
11 and general contractors and land grants and
12 approval from states and all of that stuff, it
13 could take a long time.

14 There is a litany of reasons why
15 these things could take a couple of days to a
16 couple of years.

17 Q. Is it right that the circumstances
18 of the sale and the opportunity is different for
19 every slicing customer, in your experience?

20 A. I think there's some similarities of
21 when they make decisions from a timing
22 standpoint, but it's all unique to their

1 business.

2 Q. Let's look at a couple of these
3 specific sales then. And the first one I'll just
4 be that first row which is [REDACTED].

5 A. Uh-huh.

6 Q. Do you see that sale from [REDACTED]
[REDACTED] of a TS700 [REDACTED]
[REDACTED]?

9 A. Yes, sir.

10 Q. Are you familiar with that sale?

11 A. I am not.

12 Q. Do you know the reasons why [REDACTED]
[REDACTED] bought a TS700?

14 A. I do not. That's out of my purview,
15 US and Canada.

16 Q. So would it be right that for all of
17 the sales outside of US and Canada, you would not
18 be familiar with the sales and you would not know
19 the reasons why the customer bought the slicing
20 or slicing line?

21 A. My familiarity with those sales is
22 based on this spreadsheet, on when the

1 transaction took place and who the customer was
2 and who the salesman was that executed the sale.
3 But the terms of it and the reasons, I'm not
4 familiar with.

5 Q. Let's look at that next row, Row 2
6 where it says [REDACTED] --

7 A. Uh-huh.

8 Q. -- [REDACTED]
[REDACTED] on a TS700.

10 A. Okay.

11 Q. Are you familiar with that sale?

12 A. I am not.

13 Q. I see on this sale, as well as
14 several of the other ones, it refers to
15 [REDACTED].

16 What does that mean?

17 A. I would refer you to -- to that
18 entity to clear that up. You know, I don't want
19 to make an assumption on what this means, but it
20 would appear that, you know, [REDACTED]

[REDACTED]

[REDACTED]

1 And whether -- I don't know what the
2 end customer there is or not, so I'm not familiar
3 with that. We'd have to ask the person of record
4 there.

5 Q. Okay. And if we go down a couple
6 more rows, there is a few entries where I see the
7 slicer model is weSLICE 4500 and the model is
8 TS700?

9 A. Yes, sir.

10 Q. Can you explain that?

11 A. Yeah. So as we collected this
12 information, we wanted to make sure we provided a
13 holistic list and didn't miss anything. So if
14 you go back to the filter that we used, we
15 filtered on slicer model and also on model. As I
16 said, this was a legacy field, and these are
17 manual entry fields.

18 At the time, when we were creating
19 this, there either -- there could have been -- so
20 this particular one for [REDACTED] that we're looking
21 at here, do you see that?

22 Q. Yes.

1 A. This particular one, this customer
2 has TS700s in their facilities already. And this
3 particular opportunity started off as a TS700.
4 And so our sales admin in the model, which,
5 again, is not used that much anymore, probably
6 selected TS700. Then as this opportunity
7 continued to evolve and our work with the
8 customer, we identified that the 4500 was the
9 more appropriate slicer for the application and
10 we changed the quote to a 4500.

11 This was probably overlooked from a
12 model standpoint. So TS700 was still flagged on
13 that, and that's why it's on this report. But
14 the model that was sold here to these three
15 ██████ are this one plant, these three slicers,
16 was a 4500, not a TS700.

17 Q. So it looks like in the spreadsheet,
18 there's a handful of entries that might have
19 started as a TS700 and then ultimately resulted
20 in something else?

21 A. Correct, correct.

22 Q. So when I'm looking at the

1 spreadsheet to figure out what was, I guess, the
2 end product that was sold in the end, would I
3 look at the "Slicer Model" column?

4 A. I would look at the slicer model.

5 Q. So for the entries that have the
6 weSLICE 4500 as the slicer model, is it correct
7 that Weber did not sell a TS700 product to that
8 customer?

9 A. That's correct.

10 Q. And I think likewise there may be a
11 few entries where there's a 702 that's listed as
12 the slicer model?

13 A. Right.

14 Q. In those instances would the
15 customer have ultimately purchased a 702 slicer
16 rather than a TS700?

17 A. That's correct. I believe that's
18 because we -- probably in the filter we also
19 looked at series or something like that and a 7
20 series could be a TS700 or a 702.

21 So we tried to have a holistic look
22 at everything so we didn't miss anything for you

1 guys, and it probably just came out. We need to
2 clean this up a little bit.

3 Q. Sure. Thank you for clarifying.

4 A. Sure.

5 Q. Can I also just note, it sounded
6 like you might have been personally involved in
7 the sales to [REDACTED] that resulted in the weSLICE
8 4500; is that right?

9 A. At some point. I wasn't the person
10 talking with them. But in our CRM, I'm able to
11 look into the opportunities and see the notes and
12 stay up to speed with where things are. When I
13 see things changing or I'm talking with the
14 salesperson or our sales manager, I'm able to
15 understand where we're headed with things. So I
16 just had some familiarity with it, but wasn't
17 directly involved with this one.

18 Q. Do you know how many sales of TS700
19 there have been worldwide?

20 A. You know, I think this report here
21 if we filtered out the 4500s and the 702s would
22 give a clear indication since 2015 of how many

1 have been sold. I think it would be an accurate
2 representation of that.

3 Q. You think it would be about 200?

4 A. Well, let's just take a look. How
5 many rows do we have here?

6 It looks like 555 rows. Take out
7 some of the 4500 and 702s, so yeah, several
8 hundred.

9 Q. You've got the TS500 and 750s in
10 there too, right?

11 A. We have to take those out, sure,
12 filter those out.

13 Q. Could you tell me why you think a
14 customer would purchase the weSLICE 4500 instead
15 of the TS700?

16 A. If they are -- it's product
17 specific, application specific. It could be room
18 specific. If they need a side load application,
19 if they have a limited floor space as an example,
20 and we need to side load a product in to slice
21 it, that's a good reason for the 4500. It's a --
22 has side load capability and the Textor does not.

1 The Textor is a rear load machine.

2 Q. You'll have to bear with me on this
3 one because I'm not as familiar with the new
4 weSLICE nomenclature.

5 A. Yes, sir.

6 Q. I remember more about the 300
7 series, 400, 500, 600.

8 Is the weSLICE 4500 an older series
9 of a slicer you could remind me about?

10 A. It's like the 405.

11 Q. Okay. Thank you.

12 A. You can call it 400 series. The
13 402, 404, 405 were the legacy models. The 4500
14 and the 4000, the weSLICE 4500 and 4000 are the
15 next gen slicers that would replace the 405 and
16 404.

17 Q. Okay.

18 Go to the second page of the
19 spreadsheet. And I'm not sure if you're looking
20 at a native version or PDF of it.

21 A. I've got the native spreadsheet.

22 Q. If you go down to the [REDACTED]

1 ■ [REDACTED] opportunities. I have one --

2 A. Okay.

3 Q. The first one is [REDACTED].

4 Do you see that?

5 A. Bear with me. Can you give me a
6 line number?

7 Q. Sure. Just give me a second. It's
8 Row 123 in the native.

9 A. Got it.

10 Q. There's maybe [REDACTED] sales to
11 [REDACTED] there.

12 A. Yes, sir.

13 Q. Are you familiar with any of those
14 opportunities?

15 A. I'm not familiar with any of those
16 opportunities. No, sir. That's [REDACTED].

17 Q. Let's go down then -- I'm on Page 4.
18 And I'll try to give you a line number. I'm
19 going to direct you to some of the opportunities
20 for [REDACTED].

21 A. Okay.

22 Q. Specifically I'm looking at Row 349

1 [REDACTED].

2 A. Okay.

3 Q. Are you familiar with those
4 opportunities?

5 A. Yes, sir.

6 Q. And what do you recall about that
7 opportunities with [REDACTED]?

8 A. They were expanding their slicing
9 capabilities. They had more business. And they
10 needed some additional slicing capacity.

11 I think this is a good one -- I
12 think this is a good one to really kind of
13 explain a little bit about the Textor itself.

14 [REDACTED] has, oh, I'm just
15 going to guess 12, 13, 14 slicers. And they've
16 got some 900 series slicers from us. Some 903s
17 and 904s. And they migrated to the Textors. And
18 for the reasons we've explained, they really like
19 the removable cassette. They like the hygenic
20 design of it. They like the simplicity of the
21 slicer. They like the speed of it.

22 They easily could have bought

1 another 804 or 904 or 906 slicer, but they have
2 moved all of their slicing to the Textor platform
3 because of the technological improvements that
4 the Textor has.

5 Q. Do you recall if [REDACTED] was
6 interested in any other features of the TS700?

7 A. I mean, obviously, needs to fit
8 their products, right. If they are slicing four
9 log or three log or loin or whole muscle or blood
10 and boil. We configure it for that. But they --
11 you know, our customers -- time is -- time is
12 critical for our customers. And reliability, the
13 speed at which you're able to get product down
14 the line and the speed at which you're able to
15 convert that and change products is important.
16 They only have so many hours to get processing
17 time. They have to clean these machines every
18 night. They want to maximize their throughput
19 every day they can.

20 And [REDACTED] is unique
21 because [REDACTED]

[REDACTED] During the day they

1 might change over two or three times on a slicer
2 to different products.

3 And so the speed at which they can
4 do that is important because it gets them back
5 into producing.

6 And the removable cassette allows
7 them to do that.

8 The tool is removable of belts and
9 things like that allow them to do that.

10 Q. Do you recall having any specific
11 conversations with anybody at [REDACTED]
12 about the tool-less removable conveyer?

13 A. Sure. I talked with [REDACTED]
14 [REDACTED] a lot about it prior to them
15 purchasing it. I showed him that, showing them
16 how it worked. I remember showing him at a trade
17 show years ago before they bought and walking him
18 through the machine and showing him that. He
19 really liked the removable cassette, specifically
20 he called that out.

21 I've known these guys for a long
22 time. So I walked them through these machines.

1 Q. What time period was that?

2 A. Pardon?

3 Q. What time period was that?

4 A. Oh my gosh, it would have -- it
5 would have been at one of our trade shows in
6 Chicago. Obviously before they bought the
7 machines. We had machines on exhibit there. For
8 a long time. And they would attend these shows.
9 I know I spent time showing him that at the
10 shows.

11 Q. Why do you think [REDACTED]
12 bought a TS700 instead of a weSLICE 9500?

13 A. Because the 700 fits their needs.
14 The 9500 is a different execution of slicing. In
15 the United States we see the majority of that
16 model going into the cheese space. Where we're
17 using four-lane Vario drive and four-lane Vario
18 interleaving for the cheese.

19 That machine has that capability.

20 For what [REDACTED] needs with
21 the size of slicing logs that they run, the
22 throat width is adequate in the TS700 to

1 accomplish that. And hygenic design, tool-free
2 removable, reload time, all of those things, it
3 fits their applications -- it accomplishes
4 everything they need to do.

5 So they wouldn't spend more for a
6 9500 because it wouldn't improve their
7 performance any. It doesn't give them any
8 benefit.

9 Q. Do you recall the first time that
10 you saw a removable conveyor or removable
11 cassette on a slicer?

12 A. It was the first time I saw a
13 Textor.

14 Q. Do you believe that Textor was the
15 first company to have a removable conveyor
16 removable cassette on a slicer?

17 A. It was the first one I was familiar
18 with and the first one I've ever seen.

19 Q. Do you know what is the GigaSlicer
20 product?

21 A. I do know the GigaSlicer.

22 Q. Do you know if the GigaSlicer had a

1 removable conveyor?

2 MR. SEITZ: Objection. Scope.

3 Objection. Scope on that one. Sorry. Just
4 clarifying for the record.

5 A. No, I do not.

6 BY MR. BABBITT:

7 Q. Are you familiar with the PowerMax
8 products?

9 MR. SEITZ: Same objections.

10 A. Yes.

11 BY MR. BABBITT:

12 Q. When did you become aware of the
13 PowerMax products?

14 A. I had seen them in the field. I
15 can't tell you an exact date. Several years ago.

16 Q. Do you think you're aware of the
17 PowerMax products around the time that you began
18 as CEO at Weber?

19 MR. SEITZ: Jarrod, real quick let
20 me interject an objection here.

21 Mike, we're getting outside the
22 scope of his declaration. I'm going to have

1 a standing objection to the scope. I've been
2 trying to give you leeway here but this is
3 very far afield from his declaration.

4 BY MR. BABBITT:

5 Q. You can answer, Mr. McCarroll.

6 A. Again, I've seen them in the field.
7 I couldn't give you an exact date.

8 MR. BABBITT: All right. And last
9 question to close this line, Adam.

10 BY MR. BABBITT:

11 Q. Do you know if the PowerMax had a
12 removable conveyor?

13 MR. SEITZ: Objection. Scope.

14 A. With 100 percent certainty, I
15 couldn't say.

16 BY MR. BABBITT:

17 Q. Do you think that the PowerMax had a
18 removable conveyor?

19 MR. SEITZ: Objection. Scope.

20 A. I don't personally. I think the
21 first one we've seen is on the Textor. First one
22 I've seen and familiar with is on the Textor.

1 MR. BABBITT: Why don't we take a
2 break right now guys. Ten minutes.

3 THE COURT REPORTER: Off the record.
4 (Recess taken.)

5 THE COURT REPORTER: Back on the
6 record.

7 BY MR. BABBITT:

8 Q. All right. Mr. McCarroll, welcome
9 back.

10 A. Thank you.

11 Q. Do you know if the TS700 is covered
12 by any other patents besides the '487 patent?

13 MR. SEITZ: Objection. Scope.

14 A. I would ask our patent attorneys to
15 give you the information on that one. That
16 would -- they will know better than I would.

17 BY MR. BABBITT:

18 Q. And so then is it true that you
19 don't know whether the TS700 is covered by any
20 other patents besides the '487 patent?

21 A. I'm sure there are other patents on
22 it. I couldn't tell you the exact ones.

1 Q. Do you believe that the '487 patent
2 claims had commercial success over your
3 competitors?

4 A. We were referring to the removable
5 cassette. I do believe that the removable
6 cassette is an advantage to our system over
7 machines that do not have that removable
8 cassette, over our competitors, for sure.

9 I do believe it's an advantage for
10 the customers. I believe they have value. They
11 see value in it. They like it. They have
12 expressed that.

13 It adds speed to their process which
14 ultimately puts dollars in their pocket. So it's
15 a benefit to them. It's on our machines, and I
16 do believe it has an advantage.

17 Q. Do you know whether there's a nexus
18 between the '487 patent claims and Weber's
19 claimed commercial success of the TS products?

20 MR. SEITZ: Objection. Form.

21 A. I don't know what you're asking.
22 I'm sorry.

1 BY MR. BABBITT:

2 Q. Yeah. That's a fun word "nexus"
3 that we have in patent law.

4 Have you ever heard that word
5 before?

6 A. I'm going to an event in Washington,
7 D.C. called NEXUS for the bakery industry, but
8 that's about the extent of my knowledge.

9 Q. And so you don't have a view one way
10 or the other of whether there is a legal nexus
11 between the '487 patent claims and any commercial
12 success?

13 MR. SEITZ: Objection. Form.

14 A. I'm unfamiliar with the term in the
15 legal sense. So I have no -- no comment on that.
16 I don't know how to answer that. I'm sorry.

17 BY MR. BABBITT:

18 Q. That's fair for this one,
19 Mr. McCarroll.

20 A. Okay.

21 Q. Do you think that patent owner's
22 sales of the TS700 are directly attributable to

1 the tool-less removable installation conveyer
2 cassette?

3 A. Could you ask that maybe again?

4 Q. Yeah.

5 MR. BABBITT: Why don't we strike
6 that question.

7 BY MR. BABBITT:

8 Q. Do you have any view as to whether
9 Provisur copied the TS700 products?

10 A. Do I have any view? Did I have an
11 opinion? Do I -- I mean, when I -- when I look
12 at their -- the SX380 model that came out, I
13 think it is very much a look-alike machine to the
14 Textor. I think they copied a lot of what's on
15 the Textor in their design, personally.

16 Q. Do you think that Provisur copied
17 the TS700 removable conveyor in the SX380
18 product?

19 A. I believe that's what this '487 case
20 is about, correct?

21 Q. Well, I don't agree with that. But
22 that might be what other people are saying.

1 A. I -- I believe that the -- Textor
2 has a removable cassette. I believe they had it
3 first. I believe that it was patented. And then
4 I believe the SX line of machines came out that
5 had a removable cassette as well.

6 Q. When did you start to believe that
7 Provisur copied the TS700?

8 A. When they launched it at IPPE.

9 MR. SEITZ: Objection. I was going
10 to object to scope on that. I just wasn't
11 fast enough.

12 THE WITNESS: Sorry, Adam, I need to
13 pause a little bit more.

14 MR. SEITZ: That's okay. The video
15 makes that hard. You're fine.

16 THE WITNESS: Okay.

17 A. First time that I saw it which was
18 at IPPE back in 20- -- oh, boy, I'd have to go
19 back.

20 BY MR. BABBITT:

21 Q. Do you perhaps --

22 A. When it was first launched, the

1 first show that they showed it at in Atlanta.

2 Q. So maybe I could help you out here,
3 Mr. McCarroll.

4 But to the best you can remember
5 right now, did you form the belief that Provisur
6 copied the TS700 product around the introduction
7 of the SX380 product in the IPPE trade show in
8 Atlanta in about January 2017?

9 A. That sounds right, yes, sir.

10 Q. And what evidence do you believe
11 there is that Provisur copied the TS700 removable
12 conveyor?

13 A. I think you could -- I think you can
14 just look at the execution of those. They are
15 very, very similar, if not identical.

16 And I don't -- again, I would defer
17 to our patent team and our design team to explain
18 the exactness or however it infringes on the
19 patent that we have.

20 But the fact we have a removable
21 conveyor and there's also one on the SX380, to me
22 that is a selling feature that the Textor

1 possessed prior to the SX380 that our customers
2 like.

3 Q. You haven't seen anything like
4 Provisur internal documents that indicate to you
5 that Provisur copied the TS700, have you?

6 A. Again, the first time that I saw
7 this was at the trade show. And, you know, when
8 I look at the design of it and I look at the
9 TS700, it's a departure from their previous
10 designs as was the Textor from the Weber. It was
11 a departure from the previous designs of the
12 Weber.

13 But it looked extremely similar to
14 the Textor, and that was the first time that I
15 had seen it and was able to draw a parallel in
16 physical form to say, yeah, that looks like a
17 copy.

18 Q. But, again, you haven't seen any,
19 for example, Provisur product development
20 information that would indicate to you that
21 Provisur copied the TS700, have you?

22 MR. SEITZ: Objection. Form.

1 A. Specifically a design document, a
2 we're going to copy this, we're going to copy
3 that, no, I have not seen any of that.

4 BY MR. BABBITT:

5 Q. In fact, you haven't seen any
6 evidence besides your visual comparing of the
7 products that Provisur copied the TS700; isn't
8 that right?

9 MR. SEITZ: Objection. Form.

10 A. For me, I've seen the slicer. I've
11 seen how it is designed compared to the Textor.
12 It's a -- it's a shot -- in my opinion, it's a
13 shot at a copy. Very closely resembles a Textor.
14 That's what I've seen. That's what I base my
15 knowledge on.

16 BY MR. BABBITT:

17 Q. And so to put a finer point on that,
18 you're not basing your opinion that the SX380 was
19 a copy on anything besides your comparison of the
20 way the products look?

21 MR. SEITZ: Objection. Form.

22 A. I guess I'm trying to understand

1 that a little more clearly. Maybe -- maybe

2 rephrase that again and ask me --

3 BY MR. BABBITT:

4 Q. I mean, I'm really trying to get at
5 the idea that I don't think you've seen any
6 inside information, for example, Provisur's
7 documents or design documents or even deposition
8 testimony that would indicate to you that the
9 TS700 was intended to be copied by Provisur, and
10 I'd like to confirm that.

11 A. Not seen any internal documents from
12 Provisur that would indicate that.

13 Q. Have you seen any evidence that
14 Provisur knew about the TS700 before the TS700
15 was launched?

16 A. Have I seen any evidence that
17 Provisur knew about the TS700 before it was
18 launched? That would have been prior to my time
19 at Weber.

20 They -- they launched that in 2011,
21 I believe, '11 or '12. I didn't start until '13
22 so that would have been prior to my time.

1 Q. Have you seen any evidence that
2 Provisur copied the '487 patent?

3 MR. SEITZ: Hold on a second,
4 Jarrod.

5 Objection. Form.

6 And, again, Mike, I'm going to
7 object on scope. We're getting pretty far
8 outside of the realm of the declaration
9 talking about the sales information.

10 Go ahead, Jarrod.

11 MR. BABBITT: To respond to that,
12 Adam, briefly, I don't think this will be an
13 issue, but you clearly put in evidence and
14 relied on arguments about secondary
15 considerations, commercial successful,
16 long-felt need, and copying. So I'm going to
17 ask these few questions, but, you know, we
18 have limited time here and we can only do so
19 much. So hopefully we can avoid any kind of
20 dispute about that.

21 MR. SEITZ: Yeah, there will be a
22 dispute if you keep going. I'll stop and

1 call the Board. I'm giving you leeway, Mike.
2 Finish these up and let's move back to the
3 substance of what he actually provided in our
4 IPR on the substantive arguments where we
5 used Mr. McCarroll's declaration. Let's
6 finish this up and move back to where we need
7 to be.

8 A. Okay. Would you please restate the
9 question, Mike?

10 BY MR. BABBITT:

11 Q. Yeah.

12 The question was: Have you seen any
13 evidence --

14 MR. BABBITT: Well, strike that
15 question.

16 BY MR. BABBITT:

17 Q. Have you seen any evidence that
18 Provisur knew about the '487 patent before this
19 case?

20 MR. SEITZ: Objection. Scope.

21 A. Other than -- other than our
22 equipment was in the field and being purchased

1 and operated by customers prior to their design
2 of their system, they would have seen firsthand
3 how the machine was designed and the removable
4 cassette operated. So I mean, that's -- that was
5 available in the general public. They could have
6 seen it. I'm sure they did. So that would be my
7 indication that they had seen it.

8 BY MR. BABBITT:

9 Q. I want to go back to the
10 conversation that you said you had with
11 Ms. Kindler about the sales information.

12 Do you remember we were talking
13 about that earlier?

14 A. Okay. Yes, sir.

15 Uh-oh. There we go.

16 Q. Do you remember telling Ms. Kindler
17 that the TS700 was a successful product?

18 A. I would. Again, I'd like to just
19 reread what I said so I don't misstate anything
20 for you during this deposition, being under oath.
21 If it was in her document that I said that, I
22 would have to say I support that. But I'd like

1 to see it before I again confirm that.

2 Q. Do you recall --

3 A. I didn't prepare for that during
4 this depo. I was just looking at the two
5 documents that we have.

6 Q. Do you recall telling Ms. Kindler
7 that Weber did not sell many TS700 Flex products
8 because the product is pretty basic?

9 MR. SEITZ: Objection. Scope.

10 A. I would say the same thing,
11 Mr. Babbitt. I'd like to go back and prepare for
12 that and read that statement again just to
13 familiarize myself with that.

14 Q. Do you recall telling Ms. Kindler
15 that most customers want the ability to run
16 different products and the TS700 Flex is not as
17 good at that as the TS700?

18 MR. SEITZ: Objection. Scope.

19 A. Yeah. I would give you the same
20 answer, Mr. Babbitt, there. I'd like to go back
21 and review what I said to her so I could affirm
22 it with you.

1 Q. Do you recall telling Ms. Kindler
2 that Weber was not successful in selling the
3 TS750s in the US?

4 MR. SEITZ: Sorry, Mike.
5 Objection. Scope.

6 A. Yeah. Same answer, Mr. Babbitt.
7 I'd have to review the document and then I can
8 tell you that I, in fact, did say that.

9 BY MR. BABBITT:

10 Q. Do you recall having a conversation
11 with Weber's trade secret expert, Mr. Leathers?

12 A. Yes, sir.

13 Q. Do you recall discussing with
14 Mr. Leathers that you believed the 380, the SX380
15 from Provisur was a Textor copy in about January
16 of 2017?

17 MR. SEITZ: Objection. Scope.

18 A. I would like to review my testimony
19 to Mr. Leathers -- or the conversation that was
20 recorded, again, to give you the affirming point
21 that you're looking for there.

22 I didn't prepare for -- I'm sorry,

1 Mike. I didn't prepare for that. I didn't
2 review those documents prior to this. I just
3 looked at my declaration and the exhibit
4 regarding the global sales. That's all I'm
5 prepared for for this one.

6 Q. And sitting here today, you don't
7 have any other memory of your conversation with
8 Mr. Leathers?

9 A. I remember having a conversation
10 with him, in fact. But everything that we talked
11 about, I'd just like to go on the record and be
12 accurate. So I'd like to review it then I can
13 speak clearly about what we said or maybe didn't
14 say.

15 Q. You don't have anything to add today
16 to shed any light on what you discussed with
17 Mr. Leathers?

18 A. I wasn't prepared for that
19 conversation. I was prepared to talk on global
20 sales and the document we provided.

21 Q. You don't have anything to add today
22 to shed any light on what you've discussed with

1 Ms. Kindler?

2 A. No, sir. I didn't prepare for that.
3 Again, I just prepared for my declaration and the
4 document that we prepared to show global sales.

5 Q. Do you know Mr. Schmeiser from
6 Weber, of course, right?

7 A. Yes, sir.

8 Q. Do you believe Mr. Schmeiser is
9 knowledgeable about Weber's products?

10 A. Yes, sir.

11 Q. Do you believe Mr. Schmeiser is
12 knowledgeable about the TS700 products?

13 A. Yes, sir.

14 Q. Are you aware that Mr. Schmeiser has
15 testified under oath that the removable conveyor
16 is not a core technology for Weber?

17 MR. SEITZ: Objection. Form.

18 Scope.

19 Go ahead.

20 THE WITNESS: Thank you.

21 A. I'm not aware of Mr. Schmeiser's
22 testimony.

1 BY MR. BABBITT:

2 Q. Do you have any view as to whether
3 the removable conveyor is a core technology for
4 Weber?

5 A. I would defer to the experts on
6 that, the designers, and their design belief
7 about that.

8 Q. Sitting here today, you don't have
9 any view about whether the Weber removable
10 conveyor is a core technology?

11 A. The terminology "core technology" as
12 you're defining it, I'm not sure how that's used
13 in a legal sense or a design sense or any of
14 that. So I don't want to speak to that
15 specifically because that's not my field of
16 expertise.

17 MR. BABBITT: Why don't we take
18 another break, Adam. I'll just go over my
19 notes.

20 MR. SEITZ: That's just fine.

21 MR. BABBITT: Let's go off the
22 record.

1 THE COURT REPORTER: Off the record.

2 (Recess taken.)

3 THE COURT REPORTER: Back on the

4 record.

5 BY MR. BABBITT:

6 Q. Last question, Mr. McCarroll: Did
7 you speak with your attorneys during any of the
8 breaks today?

9 A. No, sir.

10 MR. BABBITT: And then let me just
11 conclude by saying I appreciate your time.
12 Thank you.

13 THE WITNESS: You bet. Thank you,
14 Mr. Babbitt.

15 Thank you, Amanda.

16 MR. SEITZ: No questions for me.

17 Thank you, Jarrod.

18 (Time noted: 11:53 a.m. EST.)

19

20

21

22

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2 I, Amanda Gorrono, the officer
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9 and that I am neither counsel for, related
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11 this case and have no interest, financial or
12 otherwise, in its outcome.

13 IN WITNESS WHEREOF, I have hereunto
14 set my hand this 18th day of September, 2024.

10

11

12

13

14

15

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17 CLR NO: 052005 - 01

18 Notary Public in and for

19 The State of New York

20 County of Suffolk

21 My Commission No. 01G06041701

22 Expires: 01/07/2027

1 Jarrod McCarroll, c/o

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2 7015 College Boulevard - Suite 700

Overland Park, KS 66211

3

Case: Provisur Technologies, Inc. v. Textor Maschinenbau, GmbH

4 Date of deposition: September 18, 2024

Deponent: Jarrod McCarroll

5

6 Please be advised that the transcript in the above
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7 The deponent may come to this office to sign the transcript,

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5 Witness Name: Jarrod McCarroll

Deposition Date: September 18, 2024

6

I do hereby acknowledge that I have read

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6 ERRATA SHEET

7

8 Case: Provisur Technologies, Inc. v. Textor Maschinenbau, GmbH

9 Witness Name: Jarrod McCarroll

10 Deposition Date: September 18, 2024

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