UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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NESPRESSO USA, INC.

Petitioner

v.

K-FEE SYSTEM GmbH

Patent Owner

_____

Case No. IPR2022-01574

U.S. Patent No. 11,254,491

_____

DEPOSITION of MICHAEL J. JOBIN

Thursday, June 22, 2023 - 9:05 a.m.

McDermott Will & Emery LLP

200 Clarendon Street

Boston, Massachusetts

Reported by:

Jill K. Ruggieri, RPR, RMR, FCRR, CRR

Job No: 7311

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NESPRESSO USA, INC. v. K-FEE SYSTEM GMBH
IPR2024-00239, U.S. PATENT 11,542,094

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1 I N D E X

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3 WITNESS:

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5 MICHAEL J. JOBIN

6 Examination by Mr. Pleune 5, 204

7 Examination by Mr. McCraw 194

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1 P R O C E E D I N G S

2

3 MICHAEL J. JOBIN, a witness

4 having been duly sworn, on oath deposes and

5 says as follows:

6

7 EXAMINATION

8 BY MR. PLEUNE:

9 Q Good morning, Mr. Jobin.

10 A Good morning.

11 Q Can you state your full name for the

12 record?

13 A My name is Michael J. Jobin. Middle

14 initial, J, stands for Joseph.

15 Q And can you tell me your address,

16 please?

17 A My residence is 2031 Teagarden Lane

18 in Naples, Florida.

19 Q And how many times have you been

20 deposed, Mr. Jobin?

21 A I think this is probably the ninth

22 deposition that I've sat for.

23 Q Okay.

24 And when was the last time?

25 A The last time was probably about two

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1 months ago.
2 Q Okay.
3 Was that with respect to a
4 particular case?
5 A Yes. This is with regard to the
6 Envirotainer case, has to do with refrigerated
7 shipping containers.
8 Q And who are you working for in that
9 case?
10 A I've been retained by the
11 Alston & Bird office down in Atlanta.
12 Q And which party in that case are you
13 retained by?
14 A Envirotainer.
15 Q So it sounds like you're well aware
16 of the rules for a deposition, Mr. Jobin, but I
17 just want to go over a few items.
18 A Okay.
19 Q As usual, we have a court reporter
20 here today. She's going to be recording all of
21 your answers to my questions. I would ask that
22 your answers to my questions be verbal, okay?
23 A Yes.
24 Q And then no nods or shakes of the
25 head.

1 Is that fair?
2 A Understood.
3 Q Please also wait until the question
4 is complete before you give an answer.
5 Fair enough?
6 A Yes.
7 Q Okay.
8 And then counsel may have
9 objections, but unless there's an instruction
10 not to answer, then I will expect an answer to
11 my question, fair?
12 A Yes.
13 Q Okay.
14 I'm going to go ahead and hand
15 you a document, Mr. Jobin. This has previously
16 been marked as Exhibit 1003.
17 Can you identify that for me?
18 MR. PLEUNE: Do you want --
19 MR. McCRAW: Yes, please.
20 A This document appears to be a copy of
21 my declaration in this matter.
22 Q Is that your signature that appears
23 on page 170 of Exhibit 1003?
24 A Yes.
25 Q And your signature is dated

1 October 2, 2022, right?
2 A Correct.
3 Q When did you start working on this
4 report?
5 A Well, this report contains some
6 material that was derived from previous reports
7 and other IPRs. Mainly the background section
8 is some of my own background.
9 Working on this report
10 specifically would have been in the months
11 leading up to that signature, so I'm trying to
12 recall exactly how long, but certainly at least
13 six to eight weeks prior to that I think is
14 when I would have begun working on that, aside
15 from the material that I had previously
16 written, of course.
17 Q And you in your answer reference some
18 previous IPRs, right?
19 MR. McCRAW: Object to form.
20 A I reference some previous IPRs that
21 are related to this matter in that they cover
22 other patents by the same applicant, by K-Fee.
23 Q Were you specifically engaged by
24 Nespresso to work on the IPRs in this matter?
25 MR. McCRAW: Object to form.

1 A In this IPR matter, yes, I was
2 engaged for this IPR.
3 Q And then you were also engaged for
4 other IPRs, right?
5 MR. McCRAW: Object to form.
6 A Some of the previous IPRs in the
7 K-Fee cases, I was engaged for those matters,
8 for those IPR matters, yes.
9 Q Have you been engaged by Nespresso to
10 work on issues beyond the IPRs?
11 MR. McCRAW: I'm going to object
12 to privilege here.
13 I would tell you not to disclose
14 the content of any conversations with counsel.
15 A I was hired in this matter to work on
16 this IPR. I don't recall other matters that I
17 performed any work for related to it.
18 Q With respect to Nespresso, were these
19 IPRs the first work that you were hired to do?
20 MR. McCRAW: Object to form.
21 A I was previously hired by Mayer Brown
22 to work on another matter several years ago,
23 maybe about four or five years ago now.
24 Q And what was that matter?
25 A That had to do with a case called

1 Ethical Coffee. It was a case related to
2 capsules and their use in the Nespresso
3 machines.
4 Q And when was that engagement?
5 A It was a few years ago now. I recall
6 it being about four or five years, in that time
7 frame, and was engaged over the course of a
8 period of time working on a lot of testing of
9 capsules and characterizing the performance in
10 various Nespresso OriginalLine machines, having
11 to do with technical aspects of those capsules
12 and their interface with the machines.
13 Q Okay.
14 So you were doing analysis of
15 capsules made by Ethical Coffee; is that right?
16 MR. McCRAW: Object to form.
17 A Capsules made by Ethical Coffee and
18 other manufacturers as well.
19 Q Okay.
20 What were the other
21 manufacturers?
22 A I certainly don't recall all of them
23 now. There's a range of aftermarket or
24 suppliers of coffee capsules that are intended
25 or designed to be used in Nespresso machines,

1 and so part of my role was to evaluate the
2 performance of those with various features in
3 the Nespresso machines.
4 Q Okay.
5 So Ethical Coffee was one of
6 those. What were the other capsules?
7 MR. McCRAW: Objection to form
8 and relevance.
9 A As I stated, they're all designed for
10 use in the OriginalLine machines, and they
11 were -- just a range of different brands that
12 were selling coffee capsules.
13 It's been a long time. I'd have
14 to refresh my memory on the names of them, but
15 they're companies that market coffee in
16 capsules that are designed for use in the
17 Nespresso machines, but they're not made by
18 Nespresso proper.
19 They're what I would term
20 aftermarket or compatible capsules, if you
21 will.
22 Q Okay.
23 And is it your testimony as you
24 sit here right now you can't recall the names
25 of any of those brands?

1 MR. McCRAW: Object to form.
2 Relevance.
3 A I'm thinking back to them. Again,
4 they were coffee brands. They were smaller
5 companies generally.
6 Ethical Coffee was certainly at
7 the core of the exercise. And looking at other
8 compatibles, I'm thinking of Bouwe, B-O-U-W-E.
9 I'm thinking of --
10 Well, there must have been a
11 dozen of them within that range, different
12 coffee brands that were marketing capsules at
13 that time.
14 Q And why were you doing this analysis?
15 MR. McCRAW: Object to form.
16 Relevance. And I'll object on privilege and
17 instruct you not to disclose the content of any
18 conversations with attorneys.
19 A This -- my role as an expert in this
20 case was to evaluate the performance of these
21 capsules, provide that information to assist
22 with that particular case in helping to
23 understand and resolve the issues related to
24 that case.
25 Q Was there an ongoing litigation that

1 was involved with this engagement?
2 MR. McCRAW: Object to form.
3 Relevance.
4 A There was a lawsuit involved. I'm
5 hired as an engineer, so my job is to evaluate
6 technical issues and to write a report that
7 summarizes my findings.
8 Q Was Nestlé a party to that lawsuit?
9 MR. McCRAW: Object to form and
10 relevance.
11 A Yes. Nespresso USA was, I believe,
12 my client in that case, and Ethical Coffee was
13 the opposing party.
14 Q Okay.
15 Were there any other parties to
16 that case?
17 MR. McCRAW: Object to form and
18 relevance. Objection, foundation.
19 A I'd have to refresh my memory on
20 whether other entities were also involved, but
21 my primary role was I was hired by Mayer Brown
22 on behalf of Nespresso USA, to my recollection.
23 Q Did you draft a report in connection
24 with that case?
25 MR. McCRAW: Objection,

1 relevance.
2 A I drafted a report in that case, yes.
3 Q And what was the substance of that
4 report? What were your conclusions?
5 MR. McCRAW: Object to form.
6 Objection, relevance.
7 A Oh, I don't have that report in front
8 of me today. There was a lot of information in
9 that report. I'd have to refresh my memory on
10 the details.
11 Q Was the conclusion of your report
12 that Ethical Coffee infringed a patent that was
13 owned by Nespresso USA?
14 MR. McCRAW: Object to form.
15 Objection, relevance. Objection, foundation.
16 And object on privilege.
17 I instruct the witness not to
18 disclose the content of any draft reports or
19 conversations with attorneys.
20 A I'm -- again, it's been several
21 years, so I haven't looked at that and I don't
22 have a copy of that. I destroyed the
23 information that I had after that case was
24 resolved.
25 So I don't recall the specifics

1 of it, but certainly Ethical Coffee and
2 Nespresso were engaged in litigation that
3 required my assistance in helping them to
4 resolve technical issues related to the
5 capsules.
6 That's what I recall most
7 specifically.
8 Q And was that patent infringement
9 litigation?
10 MR. McCRAW: Object to form.
11 Objection, foundation. Objection, relevance.
12 A Sorry, it's been a long time on that
13 one. I don't believe it was a patent
14 infringement case. I believe it was related to
15 other issues.
16 Q And you said that you submitted a
17 report in that case, correct?
18 MR. McCRAW: Object to form.
19 Objection, relevance.
20 A I did not submit a report in that
21 case. I drafted a report. I was in process.
22 Q Did you personally draft a -- strike
23 that.
24 Did you personally write the
25 first draft of the report that you submitted in

1 this IPR? And "this" IPR is IPR2022-01574.
2 MR. McCRAW: Object to form.
3 A As I stated earlier, this report is a
4 compilation of other material that I drafted
5 and wrote in earlier matters, and certainly
6 that formed the foundation, the first draft of
7 this report.
8 I certainly contributed
9 significantly and am the primary author of this
10 report. The editing and revision of this
11 report was certainly a collaborative effort
12 with counsel.
13 Q Did anyone help you write the report?
14 MR. McCRAW: Object to form.
15 A As I stated, the revision and editing
16 of the report was a collaborative effort with
17 counsel.
18 Q Did anyone besides counsel assist you
19 in drafting the report?
20 A No.
21 Q Can you tell me, what is Appendix B
22 to your report?
23 A Appendix B is a list of the documents
24 that I relied upon in forming the opinions in
25 my report.

1 Q Does this list all the documents that
2 you considered in drafting your report?
3 MR. McCRAW: Object to form.
4 A This -- this is a list of documents
5 that I've relied upon for my opinions in this
6 report.
7 There may have been other
8 documents that I saw, but I've not formed any
9 opinions based on those.
10 Q Okay.
11 As you sit here right now, can
12 you identify any documents that are not listed
13 in Appendix B that you relied on in drafting
14 your report?
15 MR. McCRAW: Object to form.
16 A Not as I sit here now. This list is
17 the documents that I recall relying upon when I
18 drafted this report.
19 Q What did you do to prepare for your
20 deposition today?
21 MR. McCRAW: I'm just going to
22 advise Mr. Jobin not to disclose the content of
23 any discussions with attorneys. They're
24 privileged.
25 A My preparation for this deposition

1 involved meeting with counsel over the last
2 couple of days.
3 Certainly I reviewed my
4 deposition and the documents that I relied upon
5 in detail over the previous weeks, and then I
6 had periodic phone conferences with counsel
7 over the previous, say, two or three weeks.
8 Q Okay.
9 Did you meet with anyone besides
10 counsel in preparation for your deposition?
11 A No.
12 Q In preparing for your deposition, did
13 you review any documents or other materials
14 that are not listed in Appendix B to your
15 declaration?
16 MR. McCRAW: Object to form.
17 Objection, privilege.
18 I caution the witness not to
19 disclose the content of any conversations with
20 attorneys.
21 A I recall reviewing some of the --
22 like, for example, the petition. I recall
23 reviewing some other materials that may not be
24 listed in here that are not necessarily
25 documents I relied on.

1 There may have been other
2 documents that I saw, but I don't recall
3 specifically what they were.
4 Q Okay.
5 You don't have any recollection
6 of any documents that you reviewed beyond those
7 that are described in Appendix B to your
8 declaration?
9 MR. McCRAW: Object to form.
10 Asked and answered.
11 A Yeah, I'm thinking about -- I'm
12 thinking about the Institution decision, which
13 may not be in here, obviously, because that
14 came after this list was made. That would be
15 an example.
16 Those types of documents I
17 recall reviewing.
18 Q So I believe you said the petition in
19 the Institution decision.
20 Is there anything else that you
21 recall?
22 A There were some documents that went
23 back and forth between the parties -- between
24 those. Patent Owner Preliminary Response may
25 be an example, you know, reply.

1 MR. McCRAW: Just give me time
2 to object.
3 I'm going to object to form.
4 Q Any others that you can recall?
5 MR. McCRAW: Object to form.
6 Asked and answered.
7 A None that I can recall specifically.
8 Q As you sit here today, are you aware
9 of any mistakes in your report?
10 A Yes. I have one figure that appears
11 to have been inserted incorrectly, and I can
12 correct that when we refer to it.
13 Q What figure is that?
14 A See if I can find it real quick.
15 Page 103. It says Exhibit 1006,
16 Jarisch '929 at Figure 2, and the figure that's
17 shown there is Figure 1 from Jarisch '929.
18 So that should be replaced with
19 the figure that is shown on page 93.
20 Q So you're saying that after
21 paragraph 196 at page 103 of your report, you
22 have depicted here Figure 1 of Jarisch '929,
23 but that should be Figure 2 of Jarisch '929,
24 correct?
25 A That summary sounds correct. I have

1 labeled it correctly as Figure 2, and the
2 figure is actually -- you can see it says
3 "Figure 1," and the intention was to have the
4 figure that is depicted on page 93 of my
5 declaration.
6 Q Mr. Jobin, what type of image sensors
7 are used in imager-based barcode readers?
8 MR. McCRAW: Object to form.
9 A It's a pretty broad term. I'm not
10 sure I understand exactly what you're referring
11 to.
12 Q Are lasers used in imager-based
13 barcode readers?
14 MR. McCRAW: Object to form.
15 A It depends upon the nature of the
16 detector, is what I would say.
17 Q What do you mean, "it depends upon
18 the nature of detector"?
19 A There are two primary detector
20 approaches that I have seen in my experience
21 with barcodes. One is a light sensor that
22 detects pulses of -- in response to differences
23 in, say, the value or the color of the bars,
24 and the other is more like a photocell type of
25 a detector.

1 And the other would be a CCD
2 camera device, like a photo image, which would
3 then be processed digitally.
4 Q And what does "CCD" stand for?
5 A Charge-coupled device.
6 Q And what is the difference between a
7 CCD scanner that would be in a barcode as
8 compared to a CCD sensor that would be in, for
9 example, the camera on your mobile phone?
10 MR. McCRAW: Object to form.
11 Objection, relevance.
12 A Well, in recent years, the use of
13 camera sensors such as those found in phones
14 are usable directly for scanning barcodes.
15 They're able to image or take a photograph, if
16 you will, and then digitally process that.
17 And that's a transition from
18 the -- the typical state of the art 10 to 15
19 years ago in which laser-based detector modules
20 were more commonly used.
21 Q So modern barcodes, would you say
22 they use image sensors very similar to what you
23 would find in the camera of your mobile phone,
24 correct?
25 MR. McCRAW: Object to form and

1 objection, relevance.
2 A In my experience, both are still used
3 depending upon the application, but the
4 prevalence of the CCD, or camera-based sensors,
5 has grown over the years.
6 Q Prevalence in barcode-reading
7 applications?
8 MR. McCRAW: Object to form.
9 Objection, relevance.
10 A In my experience, the prevalence of
11 the use -- it's more commonly used than it used
12 to be because of the availability of
13 charge-coupled device or camera-based
14 components.
15 It's cost-driven, and it's just
16 the way that it's evolved over the years, in my
17 experience.
18 Q So I'd like to turn back to
19 Exhibit 1003, which is your declaration, and
20 I'd like to turn to the table of contents and
21 specifically the Technology Background that
22 appears on romanette (i).
23 Do you see that?
24 A I'm sorry, I missed that question.
25 Could you please repeat it?

1 Q Sure.
2 So are you with me on the first
3 page, the table of contents of your
4 declaration, Exhibit 1003?
5 A Yes.
6 Q And do you see a "III. Technology
7 Background"?
8 A Yes.
9 Q And this section includes four
10 subsections, correct?
11 A Correct.
12 Q So we have coffee extraction
13 overview, single-serve coffee system overview,
14 single-serve beverage capsule technology and
15 single-serve beverage identification system
16 overview.
17 Did I describe those correctly?
18 A Yes.
19 Q And then beneath each of those, there
20 are additional subsections, correct?
21 A Correct.
22 Q So, for example, under Single-Serve
23 Beverage Capsule Technology, we see a deep
24 drawing, barrier layers and indentations,
25 right?

1 MR. McCRAW: Object to form.
2 A Generally speaking, that's correct.
3 Q Who chose which subsections to
4 include in this declaration?
5 MR. McCRAW: Object to form and
6 objection, privilege.
7 I caution the witness not to
8 disclose the content of any draft reports or
9 conversations with counsel.
10 A What I would say is it was a
11 collaborative effort. I have certainly
12 provided lots of information and details
13 related to all of these and -- and analyzing
14 the various prior art -- background art
15 references to provide a technology background
16 from my perspective as a person of ordinary
17 skill in the art, but I couldn't say exactly
18 how certain of these were selected.
19 Q Is it fair to say that each of these
20 subsections generally correspond to a
21 limitation in the claim of US Patent
22 11,254,491?
23 MR. McCRAW: Object to form.
24 A The Technology Background and its
25 various subsections is intended to be relevant

1 to the analysis of the '491 patent in terms of
2 informing the reader about what the background
3 art was at the time of the invention, and it
4 gives a good overview that helps to evaluate
5 the information later in the declaration.
6 Q If I say the "'491 patent," will you
7 understand that I'm referring to US Patent
8 11,254,491?
9 A Yes. And, in fact, that's generally
10 how I refer to the patent, is the '491 patent.
11 Q And that's the patent that's at issue
12 in this IPR, IPR2022-01574, correct?
13 A Correct.
14 Q I'm going to go ahead and hand you,
15 Mr. Jobin, a copy of the '491 patent, which is
16 Exhibit 1001 in the current IPR.
17 MR. McCRAW: Thank you.
18 A Okay. Thank you.
19 Q Now, going back to the subsections in
20 the first one, deep drawing, that appears in
21 claim 12 of the '491 patent; is that right?
22 A Claim 12 of the '491 patent states:
23 "The beverage system according to
24 claim 10 wherein the base element is deep
25 drawing."

1 Q So why did you address deep drawing
2 in the subsection of the Background Technology
3 in your declaration?
4 MR. McCRAW: Object to form.
5 Object on privilege.
6 I caution the witness not to
7 disclose the content of any drafts or
8 communications with counsel.
9 A In terms of the technology of
10 manufacturing capsules, the term "deep drawing"
11 may not be one that is readily understood by
12 the reader of this declaration.
13 And so providing some background
14 into what deep drawing is helps to -- helps the
15 reader interpret and understand the subject
16 matter of the declaration end of the patent.
17 Q Do you believe that that limitation
18 is more important than any of the other
19 limitations in the claims of the '491 patent?
20 MR. McCRAW: Object to form.
21 Objection, foundation. Objection, relevance.
22 A I've not formed any opinion about the
23 relative value or importance of this claim
24 compared to the others.
25 Q What about barrier layer? Barrier

1 layer is recited in claim 1 of the '491 patent;
2 is that correct?
3 A One of the limitations of claim 1
4 reads: "A barrier layer to prevent moisture or
5 aroma from escaping out of the single-serve
6 capsule."
7 So the term "barrier layer" and
8 the concept of barrier layer is mentioned in
9 claim 1, among others.
10 Q Why did you address barrier layer in
11 this subsection of your declaration?
12 MR. McCRAW: Object to form.
13 Objection, relevance. Objection, privilege.
14 I caution the witness not to
15 disclose the content of any draft reports or
16 conversations with counsel.
17 A From a technical background
18 perspective, understanding the scope of what a
19 barrier layer would have been at the time of
20 the invention is important in helping to
21 understand and -- and read my declaration and
22 the '491 patent.
23 So I'm providing examples of
24 known technology at the time to help and inform
25 an understanding of that term as it's used in

1 the patent.
2 Q And do you believe that the barrier
3 layer limitation is more important than any of
4 the other limitations in the claims of the '491
5 patent?
6 MR. McCRAW: Object to form.
7 Objection, foundation. Objection, relevance.
8 A I've not formed any opinion about the
9 relative merits of that claim limitation
10 compared to the other patents.
11 Q And then if we look to the
12 indentations subsection, that appears in
13 claim 4 of the '491 patent, right?
14 A Claim 4 reads: "The beverage system
15 according to claim 1 wherein the base element
16 comprises a sidewall that includes a plurality
17 of indentations arranged around the central
18 longitudinal axis."
19 So yes, the term "indentations"
20 and the concept of indentations in the context
21 of beverage capsules is included in claim 4 of
22 the '491 patent.
23 Q And why did you address the
24 indentation limitation in this subsection of
25 your declaration?

1 MR. McCRAW: Object to form.
2 Objection, relevance. Objection, privilege.
3 I caution the witness not to
4 disclose the content of any draft reports or
5 conversations with counsel.
6 A The title of this section is
7 "Indentations on single-serve capsules were
8 known," and what I've identified in the
9 background art are examples of capsules and
10 other devices which indicate that these types
11 of features were known and used prior, and it
12 helps to inform an understanding when reading
13 my declaration and the '491 patent.
14 Q And do you believe that this
15 indentation limitation is more important than
16 any other limitations recited in the claims of
17 the '491 patent?
18 MR. McCRAW: Object to form.
19 Objection, foundation. Objection, relevance.
20 A I've not formed any opinion about
21 whether this particular claim limitation is
22 more or less important than others.
23 Q These background sections don't cover
24 every limitation for the capsule described in
25 the claims of the '491 patent, does it?

1 MR. McCRAW: Object to form.
2 A I haven't actually mapped precisely
3 the sections to the claims as you -- in order
4 to be able to answer that.
5 But I would say that overall,
6 generally, I've addressed the issues related to
7 single-serve coffee machines and capsules in
8 the background art to help to form an
9 understanding of what was known at the time and
10 what one of ordinary skill would understand.
11 But as to specific mapping, I
12 haven't done that.
13 Q How did you determine which issues to
14 address in your -- the Background Technology
15 section of your declaration?
16 MR. McCRAW: Object to form.
17 Objection, relevance. Objection, privilege.
18 I caution the witness not to
19 disclose the contents of any draft reports or
20 conversations with counsel.
21 A When I read the '491 patent
22 specification and the claims, I observe that
23 certain issues are discussed and are relevant
24 to the conversation. And so forming an
25 understanding and helping to inform the reader

1 of the report as to the background material
2 that would -- that would be known to a person
3 of ordinary skill is part of my exercise. It's
4 part of what I do.
5 Q So you said that "when I read the
6 '491 patent specification in the claims, I
7 observed that certain issues are discussed and
8 are relevant to the conversation."
9 So those subsections in your
10 Technology Background section, would you say
11 that those are the most relevant to the '491
12 patent?
13 MR. McCRAW: Object to form.
14 Objection, relevance.
15 A I have not ranked in any way or made
16 any analysis as to which are more or less
17 important.
18 What I've done is provided a
19 range of information that I found to be
20 relevant to helping understand and to informing
21 opinions based on the information there and in
22 the '491 patent, and I've summarized my
23 findings and my opinions in my declaration.
24 Q And to the extent that you didn't
25 address a limitation, would you believe that

1 limitation to be less relevant?
2 MR. McCRAW: Object to form.
3 Objection, foundation. Objection, relevance.
4 A Once again, the overall name of the
5 section is "Technology Background."
6 This is a general discussion of
7 the types of issues which were known at the
8 time. I have not performed any relevance
9 analysis or assigned any particular merits to
10 the individual sections.
11 There may be other issues that
12 are discussed individually within the
13 declaration that may not be covered in this
14 background, but that doesn't necessarily mean
15 that they're less important.
16 Q In claim 1 of the '491 patent,
17 there's a limitation, "a groove that is
18 laterally offset from the chamfered mandrel."
19 Are you familiar with that
20 limitation?
21 MR. McCRAW: Object to form.
22 A In claim 1, one of the limitations
23 states: "A groove that is laterally offset
24 from the chamfered mandrel."
25 Yes, I'm familiar with this

1 limitation.
2 Q And why didn't you address that
3 limitation in your Technology Background
4 section of your declaration?
5 MR. McCRAW: Object to form.
6 Objection, relevance. Objection, privilege.
7 I caution the witness not to
8 disclose the content of any draft reports or
9 conversations with counsel.
10 MR. PLEUNE: And I just want to
11 say for the record, I appreciate, Mr. McCraw,
12 that you would like to protect the
13 attorney-client privilege, but I'm not asking
14 any questions that are even remotely getting to
15 privileged information.
16 MR. McCRAW: I'm just making
17 sure. You're asking him questions about why
18 he's doing things, and obviously there are a
19 series of drafts, so I'm just reiterating that.
20 That's all.
21 MR. PLEUNE: Okay.
22 And I'm asking him why he
23 included or did not address certain aspects of
24 the report. I'm not asking anything about
25 privileged communications.

1 MR. McCRAW: Thank you.
2 A Could you repeat the question,
3 please?
4 MR. PLEUNE: Could the reporter
5 please read back the question?
6 (Record read as requested.)
7 MR. McCRAW: Same objections.
8 A When I look at the term "a groove
9 that is laterally offset," that's a concept
10 that is readily understandable without a
11 technology background.
12 It's -- in most cases, it's a
13 groove that an O-ring or other seal would be
14 placed in. It's something that you can see and
15 understand based on the specification in the
16 '491 patent and readily identify in the prior
17 art.
18 Q And you believe that indentations
19 would not be readily understandable?
20 MR. McCRAW: Object to form.
21 Objection, relevance.
22 A Indentations have different potential
23 functions based on the specification in the
24 '491 patent.
25 My understanding of what an

1 indentation in the context of a thin-walled
2 container, such as a coffee capsule, could mean
3 structurally is something that I felt was
4 important to convey in terms of understanding
5 what an indentation is.
6 Q What does the term "laterally" mean,
7 Mr. Jobin?
8 A Well, it's not a term that I've
9 construed for this case. It is a term that is
10 in the limitation.
11 Generally speaking, "laterally
12 offset" would mean off to the side, for
13 example, of a central axis.
14 So not on that axis but offset
15 from that axis to the side of the axis.
16 Q So, Mr. Jobin, I'd like to turn to
17 page 2 of your declaration. This is in the
18 Background and Qualifications section.
19 A Okay, page 2.
20 Q And in paragraph 7, you reference
21 some work that you did for Design 4 Plastics;
22 is that correct?
23 A Correct.
24 Q What is Design 4 Plastics?
25 A Design 4 Plastics at that time was a

1 product design firm that focused a lot on
2 products that involved plastics, as you might
3 ascertain from the name.
4 It's a consulting firm that
5 would do work for outside clients, many of
6 which were in the Chicago area. This company
7 was based in the Chicago suburbs.
8 And it was my first full-time
9 job out of college.
10 Q Did your work at Design 4 Plastics
11 involve any work on coffee machines?
12 A My work at Design 4 Plastics covered
13 a wide range of components and systems that are
14 relevant in things like fluid dispensing and
15 pumps, barcode scanners and plastic part
16 design, material selection, thermoforming,
17 metal forming, a wide range of those types of
18 tasks, none of which were directed at the time
19 towards coffee machines.
20 Q All right.
21 Did your work at
22 Design 4 Plastics involve any work on home
23 appliances?
24 A It's a long time ago. I'm just
25 thinking.

1 Q Sure.
2 A I think the closest would have been
3 microphone systems for Shure, S-H-U-R-E. That
4 was for home use in some of the instances.
5 That's not really appliance-based.
6 Other products -- other
7 products, there were rotationally molded toys
8 and other products, but not appliances at that
9 engagement.
10 Q And you state that while you were at
11 Design 4 Plastics, you worked on fluid pumps
12 for laboratory and industrial fluid dispensing
13 applications.
14 Was that work directed to a
15 specific product?
16 A The company mostly sold pumps to the
17 laboratory market. These are diaphragm and
18 peristaltic pumps that are designed to transfer
19 fluids from reservoirs in various applications.
20 I don't recall if they had any
21 specific consumer-oriented customers, but it's
22 certainly possible that they did.
23 Q So if I understand your testimony,
24 you're saying that you worked on pumps
25 generally, but you can't recall if those were

1 ever incorporated into any particular product;
2 is that right?
3 MR. McCRAW: Object to form.
4 A In this particular case, the pumps
5 that I worked on were design and engineering of
6 the pump itself as opposed to an application in
7 which I was integrating the pump.
8 So we're talking about a
9 foundational understanding of the design
10 features of these pumps, and they were used in
11 a variety of applications, is what I
12 understand.
13 Q Did you recall any of those
14 applications as you sit here right now?
15 A Generally speaking, they're used for
16 transferring fluids ranging from water to
17 slurries to chemicals. They could be in
18 small-scale applications or large-scale.
19 The line of pumps that I worked
20 on went from the very small to the, I would
21 say, bench-top size, sort of the size of a
22 toaster, let's say.
23 So different scales of
24 components, different motors, different
25 interfaces, all kinds of different aspects to

1 those pumps.
2 So I certainly formed a good
3 understanding, a foundational knowledge of how
4 to transfer fluid of using -- using pumps.
5 Q And do you recall any applications
6 for those pumps as you sit here right now?
7 A Well, I --
8 MR. McCRAW: Object to form.
9 A As I was describing the applications
10 generally, they would be used in everything
11 from benchtop laboratory applications would be
12 common in chemistry labs or in commercial
13 applications such as factories where they're
14 transferring fluid from one vessel to the end
15 use perhaps for --
16 I mean, I remember one
17 application where it was applied to a spray
18 head, so transferring fluid and spraying it for
19 application of pesticides, for example, that
20 type of a thing.
21 Q Now, if we go to paragraph 8 of your
22 declaration, you next address the work that you
23 did at Proteus; is that right?
24 A Chapter 8 is a brief summary of my
25 time at Proteus, Incorporated, yes.

1 Q And in paragraph 8, you address the
2 development of a disposable cartridge for
3 laboratory analysis of blood samples.
4 Do you see that?
5 A Yes.
6 Q How did that disposable cartridge
7 work?
8 A This disposable cartridge was small
9 in scale, a couple of inches cubed, roughly.
10 It had various injection-molded components. It
11 had precision tubing. It had -- and its
12 function was to aspirate blood samples and to
13 measure their coagulation characteristics.
14 So it was a disposable capsule
15 or cartridge, rather, that would be used to
16 measure the properties of blood for a patient
17 prior to surgery, for example.
18 Q And that cartridge was intended to be
19 used in a machine?
20 A The cartridge was inserted into a --
21 into an instrument or machine. Small benchtop
22 device, roughly the size of a toaster oven, I
23 would say, kind of maybe no more than two feet
24 square or cubed, and it's designed to be
25 single-use.

1 It's plugged into the cartridge.
2 The fluid sample is injected and processed, and
3 then it's disposed.
4 Q And did your work at Proteus involve
5 any work on coffee machines?
6 A My work at Proteus involved a variety
7 of consumer products related to things like --
8 I mentioned water filtration for Pure in which
9 you've got the water filter cartridges which
10 are inserted into both dispensing model --
11 bottles and also into faucet devices, and then
12 a fair number of electric fans and other
13 related, I would say, electric -- home electric
14 products.
15 Q But no coffee machines, right?
16 A My time at Proteus, I did not work on
17 coffee machines specifically, but I worked on a
18 lot of other components, subsystems and -- and
19 products of comparable complexity and covering
20 similar issues that form the basis of my
21 knowledge at the time.
22 Q In paragraph 10 of your declaration
23 at page 3, you talk about the work that you did
24 at Arthur D. Little; is that right?
25 A Chapter -- I'm sorry, paragraph 10 is

1 related to the work that I did while at Arthur
2 D. Little.
3 Q And what is Arthur D. Little?
4 A Arthur D. Little was, at the time,
5 one of the largest engineering consulting firms
6 in the country. They had a wide reach of
7 different customers and clients.
8 I was working with them on a
9 specific computer product that involved -- a
10 network storage product that involved a lot of
11 mechanical, electrical, cooling, electrical
12 safety types of issues.
13 Q So no coffee machine products while
14 you were at Arthur D. Little, right?
15 A The closest I got to coffee machine
16 stuff is they had a testing lab where they --
17 where they -- like a sensory lab, but I wasn't
18 involved in that department.
19 Q And no work on any consumer
20 appliances while you were at Arthur D. Little?
21 A My work at Arthur D. Little was
22 focused on that next-generation network storage
23 product and not on any of the coffee maker or
24 consumer products at the time.
25 Q Paragraph 11, you describe your work

1 at MicroBioSciences.
2 What is MicroBioSciences?
3 A MicroBioSciences is a firm that I
4 started in that time frame. I was developing
5 cassette and cartridges for laboratory analysis
6 and storage of various samples and chemicals.
7 It was intended for microscale
8 or small-scale assays in which fluid would be
9 stored in disposable cassettes and would be
10 accessed and processed by instruments that
11 those cassettes would be inserted into.
12 Q And so no coffee machine products
13 while you were at MicroBioSciences?
14 A A lot of the work at MicroBioSciences
15 was focused on these disposable cassettes of
16 various sizes with a lot of comparable
17 materials and technology to coffee capsules in
18 terms of the way that they were manufactured
19 and sealed and penetrated and fluid injection,
20 that type of thing.
21 But the focus of the company was
22 not on coffee makers.
23 Q And what about consumer appliances?
24 You didn't focus on consumer
25 appliances or otherwise work on any consumer

1 appliances while you were at MicroBioSciences,
2 right?
3 A My work at MicroBioSciences was
4 focused more on these laboratory cartridges and
5 instruments than it was -- and it was not
6 focused on consumer appliances.
7 Q Paragraph 12, you discuss the work
8 you did at Altitude; is that right?
9 A Altitude, Incorporated, was a firm
10 that I joined in 2001, and their focus as a
11 product development firm was heavily in the
12 consumer products category.
13 Similar to Proteus,
14 Incorporated, they are a consulting firm that
15 worked for a wide rage of clients developing
16 products of various types, including coffee
17 makers and products that have comparable
18 complexity to coffee makers.
19 Q Okay.
20 Did you work on any coffee
21 machines while you were at Altitude?
22 A Yes, I designed two different coffee
23 machines while I was at Altitude.
24 Q Okay.
25 Tell me about the first coffee

1 machine that you designed while you were at
2 Altitude.
3 MR. McCRAW: Object to form.
4 A When I was at Altitude, one of my
5 clients was Sunbeam.
6 Sunbeam made a range of coffee
7 makers, and I was the engineering lead on the
8 development of a new automatic-drip coffee
9 maker for Sunbeam.
10 Q How did that automatic-drip coffee
11 maker work?
12 MR. McCRAW: Object to form.
13 A The focus of the automatic-drip
14 coffee maker was on leveraging the in-line
15 heater technology and finding ways to produce
16 its coffee makers at a particular price point,
17 so lots of cost-reduction exercises and
18 understanding of component selection, obviously
19 a lot of safety issues associated with coffee
20 machines in general.
21 So this machine worked by
22 heating water that came from the reservoir into
23 a tube. The in-line heater would then vaporize
24 and push hot water into the brewing chamber,
25 and it would filter through the coffee grounds

1 into the vessel.
2 So that's the general principle
3 for that machine.
4 Q Was this the first automatic-drip
5 coffee maker?
6 A No, I --
7 MR. McCRAW: Object to form.
8 A No, certainly not the first
9 automatic-drip coffee maker.
10 The focus of the exercise was on
11 optimization and cost reduction and enhancement
12 of the product for a particular price point,
13 and selecting components and enhancing the
14 performance while meeting a particular price
15 point is a significant exercise.
16 Q Was there a pump in that coffee
17 maker?
18 MR. McCRAW: Object to form.
19 A This particular coffee maker used the
20 in-line heater to drive fluid from the
21 reservoir into the brew basket, so no pump, to
22 the extent that that would be called a pump.
23 It's not a traditional pump. It
24 pushes the fluid out and based on the
25 different -- the expansion of steam.

1 Q Would you characterize that as a
2 pump?
3 A I don't characterize that as a pump,
4 no.
5 Q I believe that you said that you
6 worked on two coffee machines while you worked
7 at Altitude; is that right?
8 A Correct.
9 Q And what was the second coffee
10 machine that you worked on while you were at
11 Altitude?
12 A One of the other clients that I
13 worked with was Mr. Coffee, and Mr. Coffee is
14 obviously a well-known brand for a long time in
15 the coffee category.
16 This project involves the
17 development -- well, there are two aspects to
18 the project.
19 The first was a focus on
20 improving the -- the carafe to mitigate against
21 unwanted drips, which was a huge problem, and
22 managed to find a way to help them enhance the
23 performance of and the pouring of the coffee
24 from the carafe.
25 But the main exercise for that

1 project was the brewer itself. This was a
2 special new design which was intended to be
3 attractive to a new generation of consumers.
4 It had an integrated warming
5 tray on the top for coffee mugs. It had the
6 in-line heater in this case as well with a
7 reservoir and brew basket.
8 It was sort of a nontraditional
9 architecture in that it was sort of
10 gantry-based and was obviously designed for
11 countertop use and for use in the home.
12 Q What do you mean when you say
13 "gantry-based"?
14 A Instead of it being sort of a -- a
15 tower form, it was more of a -- of an
16 overhanging gantry with a rectilinear column
17 behind, rather than -- so that it was more
18 rectangular-box-shaped than it was sculpted,
19 like others at the time.
20 Q And was that part of the work that
21 you did, the design of the look and feel of the
22 coffee machine?
23 MR. McCRAW: Object to form.
24 A Altitude, Incorporated, is a product
25 development firm that specializes in both

1 mechanical engineering and in industrial
2 design.
3 I have backgrounds in both in my
4 education and spent time in both disciplines
5 primarily as a mechanical engineer, and I -- in
6 this particular project interfaced with the
7 design team to create the overall look and feel
8 of the product while integrating the technology
9 and enhancing and improving and developing all
10 of the parts and pieces that were required to
11 build the machine.
12 Q Was there a pump in the coffee maker
13 that you worked on for Mr. Coffee while you
14 were at Altitude?
15 MR. McCRAW: Object to form.
16 A At my time at Altitude, I was
17 involved in many other products that had pumps
18 and related technology.
19 This particular machine used an
20 in-line heater technology to move fluid from
21 the reservoir to the brew basket.
22 Q So it didn't include a pump, right?
23 MR. McCRAW: Object to form.
24 A This machine moved forward using a
25 vaporization principle, not a pump.

1 Q If we go to paragraph 14 of your
2 declaration, you reference work that you did
3 for Honeywell while you were at Altitude,
4 correct?
5 A Yes. Honeywell is a consumer
6 products brand, although they're also known for
7 other categories.
8 They developed and Altitude
9 worked with Honeywell to deliver a wide range
10 of different consumer electrical products
11 ranging from fans, tower fans, filters, air
12 filters, heater fans.
13 And in particular, various -- a
14 wide range of humidifiers in which water would
15 be -- would be dispensed in vapor form from the
16 reservoir.
17 And these are typically
18 countertop or floor-mounted products with a lot
19 of similar safety and user interface issues to
20 coffee makers.
21 Q So when you said -- strike that.
22 So in this paragraph, you say:
23 "I designed an electric heater fan that
24 included a quartz heating element, fan and
25 electronic controls similar to the complexity

1 found in single-serve coffee and espresso
2 machines."
3 Is that right?
4 A That's what I say in paragraph 14.
5 That particular product involved
6 a heating element. It involved various means
7 of protecting the user from the heating
8 element.
9 It involved temperature control
10 means, other electrical safety means. A lot
11 goes in to ensuring that the customer is using
12 a portable electric heater, a lot of safety
13 issues involved.
14 And so those types of
15 interactions with compliance/safety documents
16 and the process for getting those approved is
17 familiar ground for me.
18 Q So you're talking about an electric
19 space heater, right?
20 A In this case, it's a portable
21 electric space heater, correct.
22 Q And it's your testimony that that's
23 similar to single-serve coffee and espresso
24 machines?
25 MR. McCRAW: Object to form.

1 A What I've just described is some of
2 the components and safety issues and the
3 control means related to heating elements is
4 certainly relevant. The user interface issues
5 and customer safety issues are also relevant.
6 The complexity of this and other
7 products in particular, the humidifiers
8 developed for Honeywell, also cover very
9 similar ground.
10 MR. McCRAW: Ben, if you're
11 changing topics, can we take a quick break? I
12 think we've been going a little over an hour.
13 MR. PLEUNE: Let me ask one more
14 question, and then we'll take the break.
15 MR. McCRAW: Sure.
16 BY MR. PLEUNE:
17 Q What was the user interface on that
18 space heater that you worked on for Honeywell?
19 MR. McCRAW: Object to form.
20 Objection, relevance.
21 A In that particular case, there -- to
22 my recollection, there would have been an
23 on/off switch. There would have been an
24 indicator that the heater element was active,
25 there would have been a control knob to set the

1 temperature, and there probably would have been
2 a breaker reset for -- if the circuit breaker
3 were to trip.
4 Q Excuse me.
5 A A tip sensor. This particular model
6 used a -- an analog temperature indicator
7 rather than a digital one.
8 Q But with respect to the user
9 interface, it would be the on/off switch and
10 then the temperature indicator; is that right?
11 MR. McCRAW: Object to form.
12 Objection, relevance.
13 A The user interface is focused on how
14 the product is picked up and moved and then how
15 they turn the product on and adjust the
16 temperature and then reset the product if the
17 circuit breaker were to -- were to trip.
18 Those are the three primary
19 interfaces on a product like that.
20 Q Okay. Why don't we go ahead and take
21 a break.
22 MR. McCRAW: Thanks.
23 (Recess.)
24 BY MR. PLEUNE:
25 Q So just a few more questions,

1 Mr. Jobin, from your background and
2 qualifications, and I want to talk about
3 paragraph 18 of your declaration and your work
4 for SkyBar.
5 What was the product that you
6 developed for SkyBar?
7 A SkyBar was a system of
8 different-sized wine refrigerators,
9 preservation systems and dispensers.
10 So the general premise is that
11 the wine bottle is mounted on the dispensing
12 head and stored in a temperature-controlled
13 chamber.
14 There are dispensing valves and
15 pressure-monitoring systems and the gas flush
16 system, the vacuum system as well in different
17 versions of product. And ultimately, it was
18 designed to preserve wine at a particular
19 temperature and atmospheric condition for
20 dispensing by the customer.
21 Q Did the wine-dispensing system use a
22 pump?
23 A Yes. The wine-dispensing system did
24 use a pump, and there was various tubing and
25 connections and control valves as well.

1 Q Okay.
2 What kind of pump did that
3 system use?
4 MR. McCRAW: Objection to form.
5 A In this case, the bottle was
6 pressurized by a diaphragm pump to displace
7 liquid through the dispensing tube, and then it
8 was followed by a valve reversal in order to --
9 for most of the products, to place the -- to
10 remove the air from the bottle and to -- and to
11 preserve the beverage.
12 So the general principle is a
13 pneumatic pump that displaces the liquid
14 according to a timed dispense.
15 Q So is the pump actually moving the
16 liquid or was it pressurizing the bottles so
17 then the liquid could be removed?
18 MR. McCRAW: Object to form.
19 A You know, in a wine-dispenser system,
20 it's important to -- and food safety issues
21 related to wine which is dispensed at lower
22 temperatures, typically the food contact path
23 was short and replaceable.
24 So you had a dip tube and a
25 dispenser nozzle, and the displacement method

1 used a pneumatic displacement means to
2 pressurize the bottle and push fluids through
3 the dispenser nozzle.
4 Q What do you mean when you say
5 "pneumatic" means?
6 A Pneumatic means -- it means air, in
7 this case, in which air is pumped into the
8 bottle for dispensing and then removed from the
9 bottle for vacuum preservation.
10 We also looked at other versions
11 and implemented one that used a nitrogen
12 cartridge for preservation. This is a more
13 expensive way to do it that involves flushing
14 the bottle with nitrogen and requires a
15 high-pressure nitrogen canister, a regulator
16 system and valve system regulated to handle
17 those pressures and a metering valve to ensure
18 that it was dispensed reliably.
19 Q Just so I'm clear, was the wine --
20 did that actually travel through the parts of
21 the pump?
22 MR. McCRAW: Object to form.
23 A As I indicated, this dispensing
24 method used a pneumatic diaphragm pump to
25 dispense the wine according to a particular or

1 for a particular time at a particular flow
2 rate. And the fluid doesn't travel through the
3 valve, because that presents cleanability
4 issues in this case.
5 Q Right.
6 A I mean, that's not the case in other
7 products, but in this particular case, it was a
8 factor.
9 Q Okay.
10 I want to turn to paragraph 24
11 of your declaration on page 5. And this
12 describes some work that you did for what you
13 call a major beer company; is that right?
14 A Yes.
15 Q Okay.
16 When did you do this work?
17 A This work was after my time at
18 Altitude when I was an independent consultant
19 and involved a beer-dispensing system for home
20 use.
21 It was a mini keg setup intended
22 for mounting in the refrigerator. Although
23 other versions were anticipated, this one was
24 refrigerator-mounted.
25 Q And when did you do this work?

1 A This would have been in the time
2 after I left Altitude, so in the 2008-2009 time
3 frame is what I recall.
4 Q And you said that you performed this
5 work as an independent consultant; is that
6 correct?
7 A Yes. I was hired to consult on a
8 range of aspects related to a home-based
9 beer-dispenser system, including integration of
10 the -- of the -- and redesign of the capsule
11 with a focus on these identification
12 technologies that I mentioned.
13 Q Did you have a corporate entity that
14 you formed in order to do this consulting work?
15 A Well, I mention in paragraph 21 Aston
16 Technology Advisors was my independent
17 consulting firm.
18 Q So it was Aston Technology Advisors
19 that technically was retained by this major
20 beer company that is described in paragraph 24
21 of your declaration?
22 MR. McCRAW: Object to form.
23 Objection, relevance.
24 A Right. I had previous -- I should
25 mention it's in collaboration with a -- another

1 individual who is familiar with my background
2 with these types of technologies and my general
3 experience with beverage-dispensing. So the --
4 I'm trying to remember the contract
5 arrangement.
6 It would have been as a
7 consultant to -- I'm just remembering the --
8 trying to remember the name of the firm, but it
9 was a consultant to another small consulting
10 firm.
11 I was brought in specifically
12 for my background in this area on this project.
13 Q Were you the only employee of Aston
14 Technology Advisors?
15 MR. McCRAW: Object to form.
16 Objection, relevance.
17 A As I mentioned, that was -- Aston
18 Technology Advisors, it was a sole
19 proprietorship. Basically, it was me under the
20 Aston Technology name, yeah.
21 Q Did this major beer company seek
22 patent protection in connection with this work?
23 MR. McCRAW: Object to form.
24 Objection, foundation. Objection, relevance.
25 A There's much I can't discuss about

1 this particular project, including the name of
2 the company.
3 To my understanding, these
4 exercises are related to determining the
5 feasibility of incorporating these types of
6 solutions.
7 I'm not clear on what the
8 customer ultimately did with my deliverables.
9 Q Are you aware of any patents that
10 exist with respect to the product that you
11 worked on?
12 MR. McCRAW: Object to form.
13 Objection, foundation. Objection, relevance.
14 A I'm not aware of any patents that
15 have -- that are related to this work. It
16 doesn't mean they don't exist. I just am not
17 aware of it.
18 Q And you're not aware of any patent
19 applications associated with this work where
20 you're listed as an inventor?
21 MR. McCRAW: Object to form.
22 Objection, foundation. Objection, relevance.
23 A I'm not aware of any patent
24 applications that would have listed me as an
25 inventor, no.

K-FEE SYSTEM GMBH, EX2016, page 61
NESPRESSO USA, INC. v. K-FEE SYSTEM GMBH
IPR2024-00239, U.S. PATENT 11,542,094

1 Q You said that this is a capsule-based
2 system; is that right?
3 MR. McCRAW: Object to form.
4 A I think I would characterize it more
5 as a -- as a -- well, it's a little bit larger
6 than a capsule. It's a -- it's a vessel. It's
7 a keg bottle. It's a blow-molded form with
8 a -- with a neck finish that allows it to be
9 installed robustly under -- it's a pressurized
10 fluid, obviously, inside the vessel.
11 And so work was -- my work
12 involved that interface and then features of
13 the vessel, of the cartridge, if you will, that
14 could have been used for the purposes described
15 in paragraph 24, these types of identification
16 means, if you will, to -- to assist them with
17 problems with counterfeits.
18 Q And is that why your -- strike that.
19 Is that why you were focused on
20 identification technologies, to assist with the
21 issue of counterfeits?
22 MR. McCRAW: Object to form.
23 A I think that's probably a motivation.
24 Another motivation may have been -- I'm just
25 trying to remember exactly what --

1 It's mostly to do with
2 counterfeit or unlicensed beer cartridges being
3 sold and to -- because of potential problems
4 associated with them. The quality of them was
5 suspect, for example, and the performance of
6 the product overall would be -- would be
7 potentially impaired.
8 So the focus here was to try to
9 find ways to identify and verify that the
10 correct cartridge was being used.
11 Q And what would be the result if an
12 incorrect cartridge was being used?
13 MR. McCRAW: Object to form.
14 A There were different versions that
15 were evaluated and tested related to exclusion,
16 physical exclusion, related to deactivation of
17 the valve to prevent dispensing.
18 Those are the two that come to
19 mind.
20 Q Okay.
21 What do you mean by "physical"
22 exclusion?
23 A This would be the shape of the
24 capsule, ribs or features which would mean that
25 it wouldn't fit properly.

1 Q And is that what you mean when you
2 say -- when -- strike that.
3 Is that what you mean when you
4 refer "cartridge shapes" in paragraph 24 of
5 your declaration?
6 A I think a variety of these features
7 could be used to the physical exclusion ends,
8 cartridge shapes or ribs, grooves, bosses. You
9 know, all of those features of a cartridge have
10 that in mind, I think.
11 Q How does a cartridge shape act as an
12 identification system?
13 MR. McCRAW: Object to form.
14 A It -- it -- if a cartridge doesn't
15 fit, it's obviously not designed to be used
16 with the system, is how I would put it.
17 Q Okay.
18 What about ribs? How do ribs
19 act as an identification system?
20 MR. McCRAW: Object to form.
21 A In my experience, you know, thinking
22 back to another product that used ribs for this
23 purpose was the faucet-mounted water filter
24 while at Proteus had replacement filters,
25 which -- filter cartridges which were inserted

1 into that, and it has to fit within a
2 particular rib pattern in order to close the
3 door on the cartridge to seal it into position.
4 So those are exclusionary
5 features or fit -- you know, fit features that
6 would be utilized.
7 Q And so that's an example of a fit
8 feature that could be utilized with that water
9 purification system, right?
10 MR. McCRAW: Object to form.
11 A Which water purification system are
12 you referring to?
13 Q I thought that you were referring
14 back to -- yeah, the water -- the
15 faucet-mounted water filter.
16 And you described a rib pattern
17 that would be used as an identification system,
18 correct?
19 A I described developing rib patterns
20 that would be used for ensuring that the
21 specific type of cartridge was used, correct.
22 Q And then later when working on the
23 project for the major beer company, you turned
24 to ribs again, correct?
25 A As --

1 MR. McCRAW: Object. Object to
2 form.
3 A Ribs and other features were
4 presented and evaluated in the context of this
5 particular system to -- to add this
6 functionality and to enhance its performance.
7 So ribs and grooves and other
8 shape elements are amongst the solutions that
9 would be involved there.
10 Q And so what did you mean when you
11 said "ribs" with respect to the beer company
12 work?
13 MR. McCRAW: Objection.
14 Relevance.
15 A Generally speaking as an engineer,
16 ribs and grooves are -- ribs are something that
17 projects from the nominal form. Grooves are
18 something that are sub-flush from the nominal
19 form.
20 So ribs project outwardly and
21 grooves project inwardly. And often ribs and
22 grooves could be interfacing each other or
23 complementary, if you're looking at the
24 features that are located on the cartridge as
25 opposed to the features that are located on the

1 receiver for the cartridge.
2 Q Got it.
3 And then what did you mean by
4 "bosses"?
5 MR. McCRAW: Object to form.
6 Objection, relevance.
7 A In this context, a boss is a
8 cylindrical projection from a surface, most
9 typically. Sometimes it's used for mounting
10 purposes. A screw would be threaded into a
11 boss, commonly.
12 Sometimes it's used with fitment
13 purposes, by which the boss would be inserted
14 into a complementary cylindrical receptacle.
15 Q Got it.
16 And then another identification
17 technology that you reference was barcodes.
18 How would that have worked with
19 the beer company work that you did in
20 describing paragraph 24 of your declaration?
21 MR. McCRAW: Object to form.
22 A A barcode in this context would be
23 scanned by the customer or scanned once the
24 cartridge was installed in order to ensure --
25 to activate the machine or allow it to be used.

1 There's different ways that one
2 would implement a scanner, depending on how
3 automated you would want the system to be.
4 Q And what are the different ways that
5 you can implement a scanner?
6 MR. McCRAW: Object to form.
7 Objection, relevance.
8 A Two come to mind. One would be a
9 scanner that was mounted perhaps on the front
10 of the machine in which you would present the
11 cartridge for authentication and then insert
12 it.
13 Another would be that you would
14 insert the cartridge, and the barcode would
15 align with a scanner in the correct orientation
16 and do it automatically.
17 So one requires more user
18 interaction than the other.
19 Q And is it fair to say that both of
20 those options would have been considered in
21 connection with the work that you did for the
22 major beer company?
23 MR. McCRAW: Object to form.
24 Objection, relevance.
25 A I can't get into the specifics of

1 what details were considered, but it's fair to
2 say that those two that come to mind are two
3 reasonable options that would be considered
4 with barcodes.
5 Q Got it.
6 So understanding the
7 confidentiality, is it fair to say that a
8 person of ordinary skill in the art would know
9 that that is two options that would work with a
10 system like the one described in paragraph 24?
11 MR. McCRAW: Object to form.
12 A Well, it's certainly something I
13 would have known at the time. And to the
14 extent that I'm a person of ordinary skill in
15 the art in this case, I think it's something
16 that I would have known.
17 I think it's reasonable to
18 assume that people dealing with barcode
19 scanners would be able to deduce or figure out
20 other options, especially since those types of
21 solutions were present in the prior art at the
22 time, or background art.
23 Q And a person of ordinary skill in the
24 art would understand that all of these options
25 were available, right? Shapes, ribs, screws,

1 bosses, receptacles, barcodes and RFID tags?
2 MR. McCRAW: Object to form.
3 A RFID tags are certainly something I
4 had used prior on another product. While at
5 Altitude, I designed a tag and sensor system
6 with a gate for providing access to ski slopes.
7 So this would involve some type
8 of a panel and a structure and an antenna array
9 which would interact with a badge that one
10 would be wearing.
11 So those types of solutions were
12 well known/characterized at the time. All of
13 the other associated technology for interfacing
14 with those, like RFID antennas or sensors or
15 switches to interact with ribs and grooves, for
16 example, were known.
17 And I was able to leverage that
18 understanding in applying those types of
19 solutions to this project.
20 Q And just to confirm, it sounds like
21 that is a "yes," the solutions described in
22 paragraph 24 would have been options known to a
23 person of ordinary skill in the art, correct?
24 MR. McCRAW: Object to form.
25 Objection, relevance.

1 A You know, in the 2008 to 2009 time
2 frame, those types of features were known based
3 on the prior art examples that I've cited and
4 based on what I recall from that time frame.
5 Q So a person of ordinary skill in the
6 art would know that those different options
7 were available, correct?
8 MR. McCRAW: Object to form.
9 A I think that aligns pretty well with
10 my opinion in my -- my opinions in my
11 declaration, or at least my observations when
12 I'm describing background art, so yes.
13 Q I'd like to turn now to paragraph 28
14 of your declaration.
15 A Paragraph 28.
16 Q And you've worked as an expert for
17 the Patent Office, correct, Mr. Jobin?
18 A Correct.
19 In this instance, I was hired in
20 the matter of Keurig, Incorporated v. Kappos,
21 which was essentially Keurig suing the Patent
22 Office, trying to reverse a patent that wasn't
23 issued.
24 And so I was hired on behalf of
25 the US PTO to guide counsel on technical issues

1 associated with coffee cartridges or
2 capsules -- this would have been Keurig
3 capsules at the time -- and helping them
4 understand the issues related to the patent
5 claims.
6 Q And if I understand the description
7 in paragraph 28, you were supporting an
8 examiner's rejection of a claim, correct?
9 MR. McCRAW: Object to form.
10 A My interaction was with counsel that
11 was defending this case for US PTO. It was
12 in-house counsel. And I don't recall if the
13 examiner was directly interfacing with me. I
14 don't think so.
15 It was -- it was -- generally
16 speaking, I was answering questions and -- and
17 providing technical guidance to counsel to help
18 them understand the scope of the patent and
19 technology issues.
20 Q Thank you for that explanation, but
21 what I'm trying to get at is, your opinion was
22 directed to -- strike that.
23 Your opinion was that it was
24 correct that the examiner rejected the claim in
25 light of the prior art, right?

1 MR. McCRAW: Object to form.
2 A I don't recall that I -- in this
3 case, I did not prepare a report, an expert
4 report. I provided technical guidance and
5 consulting to the attorneys in the matter.
6 Obviously their perspective was
7 to -- was to -- I guess they were basically
8 relitigating the matter, but the rejection was
9 ultimately affirmed on appeal, that --
10 I didn't take any legal
11 positions on it, obviously, and I wasn't
12 evaluating the claims, per se, in that case.
13 I was related to -- my focus was
14 on the technical concepts related to the claims
15 to help them understand the scope of the
16 claims, if that makes sense.
17 Q It does, thank you.
18 And you are a named inventor on
19 several US patents, correct, Mr. Jobin?
20 A Correct. In my CV, I list 19 utility
21 patents and six design patents. Twenty-five in
22 total.
23 Q Do you believe that your patents are
24 valid?
25 A Well, I've had --

1 MR. McCRAW: Objection,
2 foundation. Objection, relevance.
3 A Some of them are certainly expired at
4 this point because I've had them for so long.
5 The question of validity, I don't have an
6 opinion on whether they're valid.
7 I know that I have been named as
8 the inventor in 25 patents. That's -- that's
9 what I understand.
10 Q Would you agree that examiners at the
11 US PTO take their job seriously?
12 MR. McCRAW: Objection,
13 foundation. Objection, relevance. Object to
14 form.
15 A I can't comment generally on the
16 motivations of examiners at the US PTO. I
17 don't know any personally.
18 Q You can't comment one way or the
19 other; is that right?
20 MR. McCRAW: Same objections.
21 A I don't have any basis to state one
22 way or another.
23 Q Now I'd like to turn to paragraph 30
24 of your declaration.
25 And that paragraph begins by

1 stating: "I have also conducted extensive
2 analysis of the operation and performance of
3 various single-serve coffee systems and
4 capsules developed between roughly 2004 to 2015
5 through other expert and consulting
6 engagements."
7 And so what expert consulting
8 engagements are you referencing there?
9 A Previously I described my engagement
10 in the Ethical Coffee matter with Mayer Brown
11 on behalf of Nestlé -- or Nespresso USA.
12 And in this case, I'm also
13 referring to work that I did involved in the
14 Keurig v. Sturm Foods case, which is mentioned
15 in the previous paragraph.
16 Those are the two that are
17 connected to that sentence that you just read
18 me.
19 Q Okay.
20 It goes on to say: "For
21 example, I evaluated the technical design of
22 the brewing unit, capsule cage, piercing blades
23 and water pump in connection with single-serve
24 coffee and espresso machines manufactured by
25 Nestlé and Nespresso SA."

1 Now, is that referring to the
2 work that you did in the Nespresso v. Ethical
3 Coffee case?
4 A Yes.
5 Q What brewing unit was this directed
6 to?
7 (Telephone interruption.)
8 MR. McCRAW: Excuse me, sorry
9 about that. Didn't think I was connected to
10 the Internet. Apologies.
11 Could you repeat the question,
12 please?
13 MR. PLEUNE: Could the court
14 reporter please read back the question?
15 (Record read as requested.)
16 MR. McCRAW: Object to form.
17 A The 2004 through 2015 time frame
18 that's mentioned is the time frame of the
19 various -- well, various Nespresso machines
20 that I evaluated and the general similarity
21 between them is that they're all OriginalLine
22 machines.
23 So the classic Nespresso
24 frustoconical capsules would have been used in
25 these machines, and there were a variety of

1 machines that were released over that time
2 frame that -- that were -- that I examined.
3 Q So did you examine a -- did you
4 examine any brewing units for the Vertuo
5 capsules?
6 A No. This engagement was focused on
7 the OriginalLine.
8 Q And what were you evaluating with
9 respect to the Nespresso coffee machine?
10 MR. McCRAW: Object to form.
11 And I would just like to caution
12 the witness on privilege not to disclose the
13 content of draft reports or communications with
14 counsel.
15 A What I have stated here is that the
16 brewing unit issues that I was focusing on
17 include the capsule cage, the piercing blades
18 and the water pump.
19 In particular, it's related to
20 how the capsule is handled by the machine, how
21 reliably it's pierced, how reliably it's
22 functioning in the machines.
23 The Ethical Coffee capsules were
24 reported to be compatible with the machines,
25 and I was evaluating that compatibility.

1 Q And then what did you find with
2 respect to the compatibility of the Ethical
3 Coffee capsules?
4 MR. McCRAW: Object to form.
5 Objection, privilege.
6 I caution the witness not to
7 disclose the content of draft reports or
8 communications with counsel.
9 A What I state here is that I tested
10 those capsules. The results of that testing is
11 not something I can discuss.
12 Q Why can't you discuss that?
13 A That work is the subject of some
14 confidentiality agreements that I've signed,
15 and the contents of my draft report are -- are
16 covered by privilege, as I understand it.
17 Q What privileges?
18 MR. McCRAW: I'm sorry. I'm
19 instructing the witness not to answer. It is
20 draft reports, privileged work product.
21 You don't have to answer.
22 Q So at paragraph 30, your declaration
23 states: "I also tested the performance of
24 compatible capsules from around the world,
25 including the materials, specifications and

1 manufacturing techniques."
2 Do you see that?
3 A I see that sentence.
4 Q Yes.
5 And then after that, it says:
6 "For example, I determined material failure
7 modes and reliability issues with a particular
8 series of compatible capsules, including flow
9 rates, piercing inconsistencies and structural
10 failures under heat and pressure during the
11 brewing cycle in single-serve coffee systems."
12 Do you see that?
13 A I see that.
14 Q And then finally, you say: "In
15 total, I have spent over 500 hours analyzing
16 single-serve coffee systems and capsules for
17 various expert witnesses, witness and
18 consulting engagements."
19 A I see --
20 Q And in this section of paragraph 30
21 of your declaration, you're talking about the
22 work that you did with respect to the Ethical
23 Coffee capsules, correct?
24 MR. McCRAW: Object to form.
25 Asked and answered.

1 A In this case, I'm -- I'm talking
2 about work that was done in two different
3 cases, including the Keurig v. Sturm Foods case
4 mentioned in paragraph 29.
5 Q And also, as you testified, the
6 Ethical Coffee matter, right?
7 A That was implied, but yes. And also
8 the Ethical Coffee matter.
9 Q And you're relying on the work that
10 you did with respect to Ethical Coffee to
11 credential yourself in this case, correct?
12 MR. McCRAW: Object to form.
13 A I have provided this paragraph to --
14 to demonstrate the types of work I have done in
15 relation to capsules and brewing machines.
16 It's -- this type of work is
17 relevant to my expertise in this area.
18 Q And yet you can't tell me the outcome
19 of the testing that you did with respect to the
20 Ethical Coffee matter; is that right?
21 MR. McCRAW: Object to form.
22 A What I've stated is that the details
23 of the testing and the outcome is not something
24 that I'm able to share.
25 I've been able to share the type

1 of work that I was conducting.
2 Q But you can't share the outcome?
3 A I haven't shared --
4 MR. McCRAW: Yeah, object to
5 form.
6 I think it's clear. There's a
7 draft report and there wasn't a final report.
8 So we're talking about draft reports.
9 You have already established
10 there was not a final report submitted in the
11 matter.
12 MR. PLEUNE: But he's already
13 testified there were conclusions from his
14 analysis, except that he's not willing to share
15 those because of the attorney-client privilege.
16 I believe that that's improper.
17 I believe this is improperly being used as a
18 sword and a shield in this declaration.
19 To the extent that there was any
20 privilege, I believe it's been waived.
21 MR. McCRAW: The privilege has
22 not been waived.
23 MR. PLEUNE: And I believe that
24 the witness should testify about his
25 conclusions from this testing that he relies on

1 and discusses at least at paragraph 30 and in
2 other places in his declaration.
3 MR. McCRAW: You can go on.
4 MR. PLEUNE: I'm asking the
5 witness for those conclusions.
6 MR. McCRAW: I'm objecting on
7 privilege. Instruct the witness not to answer.
8 A Well, what I've stated here is that I
9 spent over 500 hours analyzing these types of
10 systems and capsules, so I'm well experienced
11 in these types of issues.
12 I'm not at liberty to discuss
13 the results of the testing or any of the
14 conclusions that came from that due to the fact
15 that it was part of the draft report.
16 That's what I'm saying.
17 MR. McCRAW: Counsel, you can
18 ask him what he did. You're presupposing from
19 a draft report that ultimate conclusions were
20 reached or established or served.
21 So you can ask what work he did.
22 No one is shielding that from you.
23 MR. PLEUNE: That is an improper
24 speaking objection. There is no question, and
25 the transcript is very clear.

1 I asked for what the conclusions
2 were, and the witness said that he was not
3 going to answer based on your instruction with
4 respect to privilege.
5 BY MR. PLEUNE:
6 Q Is this engagement for Nestlé
7 complete, Mr. Jobin?
8 MR. McCRAW: Object to form.
9 A It's my understanding that the matter
10 was resolved and is no longer active.
11 Q Are you currently engaged by Nestlé
12 or Nespresso in any analysis or assessment of
13 their coffee capsule machines?
14 MR. McCRAW: Object to form.
15 Objection, relevance.
16 A Could you be more specific? I'm
17 trying to understand if that question is
18 related to this matter or to other pending
19 matters.
20 Q That's fair. So separate and apart
21 from this matter.
22 MR. McCRAW: Same objections.
23 A And just trying to remember the
24 question accurately, you were asking if I was
25 currently involved in testing of systems for

1 cartridges? Is that a fair summary?
2 Q That's a fair summary.
3 A I mean, at this moment, there's a few
4 pending matters -- IPR matters that I've
5 submitted declarations for. I'm not actively
6 conducting anything at this moment, but that
7 could change going forward.
8 Q What do you mean, "that could change
9 going forward"?
10 MR. McCRAW: Object to form.
11 A Well, I can't predict the future, but
12 at this time, I am engaged in this matter, and
13 there are other pending matters that are, I
14 guess, dormant for the time being, if that
15 makes sense.
16 Q Have you been engaged by Nespresso
17 with respect to any District Court matters?
18 MR. McCRAW: Object to form.
19 Objection, relevance.
20 A Well, this matter is an IPR, and
21 previous IPR matters are not District Court
22 matters.
23 The Ethical Coffee case, I can't
24 remember the exact venue, but it was not an IPR
25 matter.

1 Q Okay.
2 About how long did the
3 engagement with respect to Ethical Coffee last?
4 MR. McCRAW: Object to form.
5 A It's hard to say exactly because it
6 wasn't continuous.
7 I think from start to finish, it
8 probably would have been under 18 months.
9 Q Can you generally give me the start
10 and end dates of that engagement?
11 MR. McCRAW: Object to form.
12 Objection, relevance.
13 A My relevance was that it was in
14 the -- about five years ago, five -- yeah, five
15 years, plus or minus, is the time frame that I
16 was working on that case.
17 Q So 2018 to 2019 time frame, generally
18 speaking?
19 MR. McCRAW: Object to form.
20 Objection, relevance.
21 A It's in that time frame, around that
22 2018 time frame, yes.
23 Q Have you ever been engaged by
24 Nespresso for any consulting work that is not
25 associated with some type of litigation matter?

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NESPRESSO USA, INC. v. K-FEE SYSTEM GMBH
IPR2024-00239, U.S. PATENT 11,542,094

1 MR. McCRAW: Object to form.
2 Objection, relevance.
3 A No.
4 MR. PLEUNE: We spoke previously
5 about maybe taking a break in an hour, if you
6 guys just want to let me know whenever that is,
7 we can pause.
8 MR. McCRAW: Take a --
9 MS. BONNER: Maybe an hour. I
10 can go a little longer.
11 MR. McCRAW: Let's go now.
12 MR. PLEUNE: Okay.
13 (Recess.)
14 BY MR. PLEUNE:
15 Q So, Mr. Jobin, I'm going to hand you
16 a document that has been previously marked as
17 Exhibit 1036.
18 Can you identify that for me?
19 A This document appears to be
20 Exhibit 1036, the Bentley patent.
21 Q And this is one of the references
22 that you discuss in your report, correct?
23 A Yes, I recall Bentley.
24 Q And it's your opinion that Bentley
25 discloses a device -- discloses a capsule for

1 the preparation of a beverage, right?
2 MR. McCRAW: Object to form.
3 A I recall discussing Bentley and
4 recall that it is a capsule -- right,
5 capsule -- well, it's a capsule that's used in
6 a single-serve beverage machine, is what I
7 wrote here.
8 Q I'd like to go to column 4, starting
9 at line 41 of the Bentley reference.
10 Starting there, the Bentley
11 reference states: "The package used in the
12 present invention are preferably provided with
13 a recognition means whereby in use the package
14 is identified by the machine into which it is
15 placed for treatment, and the identification of
16 the package thereby causes it to be subjected
17 to the correct treatment steps, including the
18 introduction of a liquid medium into the
19 package."
20 Do you see that?
21 A Yes.
22 Q Okay.
23 And then further down, starting
24 around line 51, it states that: "The
25 recognition means may comprise one or more

1 specific features formed in the body of the
2 beverage package. For example, the package
3 body may be provided with one or more indents,
4 cutouts, protrusions or holes which can be
5 identified by a mechanical sensor in the
6 beverage preparation machine. The mechanical
7 sensor registering the presence or absence of
8 the indents, cutouts protrusions or holes."
9 Do you see that?
10 A Yes.
11 Q Okay.
12 And these are examples of
13 identifiers described in the Bentley reference,
14 correct?
15 MR. McCRAW: Object to form.
16 A The Bentley reference describes these
17 as recognition means. I would characterize
18 them in this context as identifiers which
19 visualize the capsule and allow the machine to
20 know what capsule is inserted.
21 Q Okay.
22 And then if we turn to the next
23 page, and at the top of column 5, Bentley
24 states that: "The recognition means may,
25 alternatively, comprise a system which can be

1 sensed by a simple optical device, for example
2 a barcode printed onto the body of the package,
3 a pattern of through holes in the package, a
4 pattern of contrasting tones or colours printed
5 onto the package or packages containing
6 different comestibles being of different
7 colours."
8 A I see that.
9 Q Okay.
10 Now, this passage is citing
11 alternative identifiers to the previously
12 described surface features forming the body of
13 the package, right?
14 MR. McCRAW: Object to form.
15 A What it states here is that the
16 recognition means may alternately comprise a
17 system which may be sensed by, and then a list
18 of other examples.
19 So I could characterize that as
20 alternate identifier means.
21 Q And alternates to those that we
22 previously described starting around line 51 of
23 column 4 of Bentley, right?
24 MR. McCRAW: Object to form.
25 A This paragraph describing alternates

1 at the top of column 5 follows on the previous
2 paragraphs that described the -- the other
3 recognition means.
4 And so it is, I think, referring
5 to these being alternatives in the context of
6 the Bentley invention.
7 Q And then starting at line 9 of
8 column 5, Bentley states that: "The
9 recognition means may also comprise one or more
10 strips of a magnetic material applied to the
11 body of the package which can be read by an
12 appropriate magnetic sensor; one or more shaped
13 or divided areas of metal foil applied to the
14 package body which cause an inductive effect on
15 movement of the package in the machine, which
16 inductive effect can be sensed; or one or more
17 electrically conductive areas formed on the
18 body of the package which can be sensed
19 electrically."
20 Now, you would agree that each
21 of these identifiers can also be used with the
22 beverage cartridge claimed in the Bentley
23 patent, correct?
24 MR. McCRAW: Object to form.
25 Objection, foundation. Objection, relevance.

1 A This paragraph describes what I would
2 characterize as magnetic or electric or I guess
3 I would say inductive means for identifying
4 what it calls the body of the patent -- could
5 be applied to the body of the package and read
6 by an appropriate sensor.
7 So these are magnetic or
8 inductive alternatives to the previous
9 recognition means that were discussed.
10 Q And would you agree that each of
11 these identifiers disclosed in the Bentley
12 reference could be used with the capsule that's
13 described in the Bentley reference?
14 MR. McCRAW: Object to form.
15 Objection, foundation. Objection, relevance.
16 A It's my understanding that the body
17 of the package that they're referring to in the
18 second paragraph of column 5 of Bentley is
19 referring to the invention in Bentley, which is
20 the cartridge or capsule that they describe.
21 Q And these identifiers are all
22 alternatives that can be used with that capsule
23 that's described, right?
24 MR. McCRAW: Object to form.
25 Objection, foundation. Objection, relevance.

1 A "Alternative recognition" means to --
2 what's described in paragraph 4, line 41,
3 states: "The packages used in the present
4 invention are preferably provided with a
5 recognition means."
6 So the introduction to that
7 section is referencing the packages that are
8 part of the invention of this patent, and
9 they're describing in the following paragraphs
10 different recognition means which may apply to
11 that invention.
12 Q And you would agree that a person of
13 ordinary skill in the art would understand that
14 each of these identifiers could be used as
15 alternatives in the capsule described in the
16 Bentley reference, correct?
17 MR. McCRAW: Object to form.
18 Asked and answered. Foundation, relevance.
19 A As I recall mentioning before, it's
20 my view in the reading of these paragraphs that
21 the recognition means and the alternatives
22 discussed apply to the capsule or package that
23 is the subject of this invention.
24 So I -- that's what I get from
25 this section of the disclosure.

1 Q And a person of ordinary skill in the
2 art would get that from the disclosure,
3 correct?
4 MR. McCRAW: Object to form.
5 Asked and answered. Foundation. Relevance.
6 A If I refer to my declaration,
7 paragraph 98, which discusses this reference, I
8 state that the systems -- that such as what's
9 described in Bentley were known.
10 And it would be my opinion that
11 one of ordinary skill in the art would know
12 about these types of identifier or recognition
13 means in the context of the Bentley capsule,
14 for example.
15 Q You can put that document aside,
16 Mr. Jobin.
17 Mr. Jobin, I'm handing you a
18 document that has been previously marked as
19 Exhibit 1006.
20 Can you identify that document
21 for me?
22 A Exhibit 1006 -- just check that it's
23 complete -- is what I refer to as the Jarisch
24 '929 application.
25 It's a -- one of the patents

1 that I cite in my grounds in this case.
2 Q Okay.
3 And for the record, this is
4 Publication No. US 2013/0064929 A1, with a
5 publication date of March 14, 2013.
6 Mr. Jobin, I'm going to do my
7 best to refer to this as Jarisch '929. And
8 when I do, you'll understand I'm referring to
9 Exhibit 1006, correct?
10 A I understand, and I will do the same.
11 Q If you could turn to paragraph 50 of
12 Exhibit 1006?
13 A Okay.
14 Q And the last sentence of paragraph 50
15 states: "The lid may be impervious to liquid
16 before insertion in the device or it may be
17 pervious to liquid by means of small openings
18 or pores provided in the center and/or
19 periphery of the lid."
20 And so my first question is, do
21 you understand that the lid that's being
22 described here is the lid of the capsule that's
23 described in Jarisch '929?
24 MR. McCRAW: Object to form.
25 A Reading paragraph 50, which is in the

1 detailed description section of the Jarisch
2 '929 reference, the last sentence of
3 paragraph 50 states that: "The lid may be
4 impervious to liquid before insertion in the
5 device or it may be pervious to liquid by means
6 of small openings or pores provided in the
7 center and/or periphery of the lid."
8 I understand the "lid" in this
9 context to be the membrane which is attached to
10 the flange of the capsule.
11 Q And what does it mean to be
12 "pervious" to liquid?
13 A In my experience, that material can
14 resist the penetration of liquid, such as
15 water, or it may be -- it may have perforations
16 or holes or features which allow water to pass.
17 Q And would you agree if something is
18 pervious to liquid, it would also be pervious
19 to gas?
20 MR. McCRAW: Object to form.
21 A In my experience, a gas is more
22 likely to permeate than a liquid, depending on
23 the properties of the material.
24 But generally speaking, water
25 molecules, for example, or liquid molecules are

1 less likely to pass through a membrane than a
2 gas.
3 Q So it sounds like that's a "yes"? If
4 something is pervious to liquid, it would
5 generally be pervious to gas, right?
6 MR. McCRAW: Object to form.
7 A Just thinking back to all of the
8 various materials that I've been involved with
9 in this context -- and I would say that,
10 generally speaking, a material that allows
11 water to pass or liquid to pass would, in most
12 cases, as far as I'm aware, allow gas to pass
13 as well.
14 Q Can you please turn to Figure 5 of
15 Jarisch '929, Exhibit 1006?
16 And what is No. 60 in Figure 5
17 of Jarisch '929?
18 (The deponent read the
19 document.)
20 A Paragraph 70 of the Jarisch '929
21 reference describes "a light beam is projected
22 onto the capsule's lid, for example, membrane
23 or foil 60, as illustrated in Figure 3."
24 And it is my understanding that
25 60 refers to the same membrane or foil in

1 Figure 5.
2 Q Now, the written description of
3 Jarisch '929 does not describe this arched
4 shape that we see at the top of Figure 5, does
5 it?
6 MR. McCRAW: Object to form.
7 A To the extent that the figures are
8 part of written description in '929, it does
9 describe it. I see it in Figure 5. I'm not
10 recalling any other description of that arched
11 feature.
12 Q And I understand from your
13 declaration that this arched feature in
14 Figure 5 is what you believe satisfies the
15 limitation of the '491 patent that the cover is
16 bowed outwardly in a cylindrical form, right?
17 MR. McCRAW: Object to form.
18 A In my analysis of the cover bowed
19 outwardly limitation, I have pointed to, for
20 example, Figure 5 to disclose that in the prior
21 art.
22 Q Okay.
23 And that's because of this
24 arched shape that we see in Figure 5, right?
25 MR. McCRAW: Object to form.

1 A Figure 5 forms the basis of my
2 understanding that the foil or membrane in this
3 capsule is -- is depicted here, and the -- the
4 foil or membrane or cover in this instance is
5 bowed outwardly in a central region.
6 Q Jarisch '929 describes that there can
7 be an identifier on the capsule, correct?
8 MR. McCRAW: Object to form.
9 (Cell phone alert.)
10 A We're okay?
11 Q Amber Alert.
12 A Okay.
13 Jarisch '929 is directed towards
14 an identifier that may be located on the
15 membrane or may be located on the flange of the
16 capsule, as I recall this disclosure.
17 Q And Jarisch '929 also explains why
18 identifiers are desirable, correct?
19 MR. McCRAW: Object to form.
20 A There's a lot of disclosure in
21 Jarisch '929, which is -- which is directed
22 towards that question. I can provide you with
23 an example.
24 In paragraph 4, it states:
25 "Identifying a capsule may be desirable, for

1 instance, to control parameters in beverage
2 preparation."
3 So they identify at least that,
4 generally speaking, it's desirable to have an
5 identification means on the capsule.
6 And then furthermore, in the
7 brief description of the invention,
8 paragraph 12, it states: "An object of the
9 invention is to provide means for storing,
10 reading and processing information related to
11 the capsule, more particularly information for
12 identifying said capsule within a production
13 machine."
14 So, generally speaking, this
15 patent is directed towards a support 20 -- this
16 is in the abstract -- adapted to be associated
17 with or part of a capsule for preparation of a
18 beverage.
19 So, generally speaking, this
20 specification is directed towards the use of
21 identifiers on the capsule or the membrane.
22 Q And so that identifier is identifying
23 the capsule, and then it's also used for
24 control parameters in the beverage preparation,
25 correct?

1 MR. McCRAW: Objection. Object
2 to form.
3 A There's a variety of information that
4 could be delivered and received in the
5 specification.
6 It says in paragraph 20, for
7 example: "The set of information of at least
8 one of the sequences may comprise information
9 for recognizing a type of capsule" -- or "a
10 type associated to the capsule."
11 So that tells me that it's
12 identifying a capsule as one of a group that
13 would be recognized.
14 Q Where is that disclosed in Jarisch
15 '929?
16 A As I stated, in paragraph 20.
17 Q You see that it's -- you believe that
18 this discloses that it's identifying one of a
19 group?
20 MR. McCRAW: Object to form.
21 Asked and answered.
22 A It says here that it may comprise
23 information for recognizing a type associated
24 to the capsule.
25 In the context of the previous

1 disclosure, it has to do with knowing, for
2 example, what type of coffee or what type of
3 capsule is -- is present or whether, you know,
4 that is -- it's basically recognizing what type
5 of capsule is being inserted.
6 Q Right.
7 And as disclosed in Jarisch
8 '929, the purpose of that is for controlling
9 the parameters of beverage preparation,
10 correct?
11 MR. McCRAW: Object to form and
12 asked and answered.
13 A Well, the way that I read
14 paragraph 20 is it's first recognizing the type
15 of capsule, and then it says "and/or one or a
16 combination of items from the following list."
17 Q Mm-hmm.
18 A So information related to the
19 manufacturing of the capsule, such as batch or
20 production date. Information related to
21 recognition of the capsule and the preparation
22 parameters.
23 There's different information
24 that could be contained within the optical code
25 that they discuss on the capsule.

1 Q Right.
2 So it says: "One or more or a
3 combination of items from the following list,"
4 right? That's what it says in paragraph 20?
5 MR. McCRAW: Object to form.
6 A Right. The first thing is
7 paragraph 20 is recognizing the type of
8 capsule, and then it goes on to say "and/or one
9 of a combination of the items in the following
10 list," paragraph 21 to 24.
11 So it appears to be that it
12 could just be type or it could be a combination
13 of type and the other types of information, or
14 it could just be the information, based on how
15 I read these paragraphs.
16 Q And how does Jarisch '929 disclose
17 that that information is then used?
18 MR. McCRAW: Object to form.
19 A Well, I recall a lot of discussion
20 about different -- we've just discussed the
21 types of information. And then, generally
22 speaking, it talks about using that information
23 in the context of the brewer that's associated
24 with it to control the delivery of liquid, for
25 example, for controlling other factors that it

1 mentions, such as flow rate, temperatures,
2 rotational speeds.
3 There's a variety of types of --
4 of brewing system parameters that could be
5 controlled based on the retrieval of this
6 information from the capsule.
7 Q Right.
8 And we see that those control
9 parameters are directed to preparing a
10 beverage, right?
11 Do you see that in the beginning
12 of paragraph 21?
13 MR. McCRAW: Object to form.
14 A The parameters that I discussed are
15 related to paragraph 21. There's other
16 parameters that are -- are mentioned as well,
17 which imply other potential actions.
18 Date of production, information
19 related to the manufacturing. Expiration date
20 would imply that something could happen if it
21 were expired.
22 I don't recall that it goes on
23 to say anything in specific about that, but it
24 does mention those types of parameters as a
25 possible piece of information.

1 Q Does Jarisch '929 describe what would
2 happen if it received information that the
3 capsule was expired?
4 MR. McCRAW: Object to form.
5 Objection, relevance. Objection. Foundation.
6 A Jarisch '929 is intended to be used
7 in a system which controls fluid delivery in a
8 pump, for example. It doesn't state
9 specifically beyond the examples given here
10 what else might be done.
11 But the notion of controlling
12 the operation of the machine is the intended
13 use of this invention. That's what I gathered
14 from Jarisch '929 and the disclosure within.
15 Q Jarisch '929 is a patent that is
16 assigned to Nespresso, correct?
17 MR. McCRAW: Object to form.
18 Objection, foundation. Objection, relevance.
19 A According to the cover sheet, the
20 assignee is Nestec SA.
21 Q Are you aware that Nestec SA is
22 related to Nestlé and related to Nespresso?
23 MR. McCRAW: Object to form.
24 Objection, foundation. Objection, relevance.
25 A It's my understanding that this

1 publication, generally speaking, is associated
2 with Nespresso and that Nestec is the assignee.
3 But what the relationships
4 between Nestec and Nespresso may be exactly, I
5 don't have that information.
6 Q Have you ever done any analysis of
7 Nespresso coffee machines that are covered by
8 Jarisch '929?
9 MR. McCRAW: Object to form.
10 Objection, relevance.
11 A I don't have information which tells
12 me which machines may be covered by this
13 publication or any resulting patent, so I can't
14 answer that question.
15 Q Okay.
16 This patent was filed on
17 May 12th of 2011, correct?
18 MR. McCRAW: Object to form.
19 Objection, foundation.
20 A It states on the cover sheet that the
21 PCT file date was May 12, 2011.
22 Q What's a PCT file date?
23 MR. McCRAW: Object to form.
24 Objection, foundation. Objection, relevance.
25 A Patent Cooperation Treaty. A PCT

1 filing would be the initial -- I mean, this is
2 a publication. This is like an initial filing
3 which, eventually, if prosecuted, results in a
4 patent if it's approved.
5 So this is the date that that
6 was filed, and it published a while later so
7 that it was available to be read by others
8 outside.
9 And then I don't know exactly
10 what the next steps were for this document.
11 Q This patent predates the work that
12 you did for Nespresso with respect to Ethical
13 Coffee, correct?
14 MR. McCRAW: Object to form.
15 Objection, relevance. Objection, foundation.
16 A The publication date of this document
17 is prior to my engagement on the Ethical Coffee
18 matter.
19 Q And does this patent describe
20 features that were included in the machine that
21 you analyzed with respect to the work that you
22 did on the Ethical Coffee matter?
23 MR. McCRAW: Objection to form.
24 Objection, relevance. Objection, foundation.
25 A Well, it's a very broad statement.

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1 There's a lot of disclosure in Jarisch '929
2 related to brewing systems, brewing system
3 components, like heaters and pumps and control
4 systems.
5 You know, but as to the
6 specifics, I -- I'm sure there's certain
7 material in here that potentially could be
8 covered by that, but I don't know that I could
9 answer that. I don't know that to be true.
10 Q Jarisch '929 identifies a number of
11 different identifiers, right?
12 MR. McCRAW: Object to form.
13 A Jarisch '929 is primarily focused on
14 an optical code, which is imprinted on the --
15 either the top surface of the flange or the
16 bottom surface of the flange.
17 If one reviews the samples given
18 and the specification, it's talking a lot about
19 its particular optical codes. So that's the --
20 that's the -- I would say the main focus of
21 Jarisch '929.
22 That said, there are other
23 examples of inductive codes, which are
24 mentioned, for example, in paragraph 117.
25 Q What are inductive codes?

1 MR. McCRAW: Object to form.
2 Objection, relevance.
3 A According to this, and based on my
4 understanding, an inductive code could be a
5 metallic surface of the support sensed using an
6 inductive sensor.
7 Q And Jarisch '929 describes that as an
8 identifier that could be used with the capsule
9 of Jarisch '929?
10 MR. McCRAW: Object to form.
11 Objection, relevance. Objection, foundation.
12 A Paragraph 117 is entitled "Inductive
13 Sequence Readings," and it says: "In another
14 embodiment, the symbols are provided on a
15 metallic surface and sensed using an inductive
16 sensor."
17 So what that tells me is that
18 that's another way of doing the code that they
19 applied to the -- to the rim of the capsule,
20 either the top or the bottom.
21 Q So that -- those would be
22 alternatives, right? You could have an optical
23 code or, in the alternative, you could have an
24 inductive code, correct?
25 MR. McCRAW: Object to form.

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IPR2024-00239, U.S. PATENT 11,542,094

1 Objection, relevance. Objection, foundation.
2 A What I see here is a primary focus on
3 optical reading of optical codes and then a
4 whole other embodiment described, which is
5 entitled "inductive" or "inductive sensor."
6 So that's the two general
7 categories that I see in Jarisch '929.
8 Q Okay.
9 And a person of ordinary skill
10 in the art would understand both of those could
11 be used as identifiers with respect to the
12 capsule that's described in Jarisch '929,
13 right?
14 MR. McCRAW: Object to form.
15 Objection, relevance. Objection, foundation.
16 A Jarisch '929 was, I think, explicit
17 in its disclosure that the support is their
18 term for this type of identifier, is -- that
19 would be used, and that both of those examples
20 would be considered supports.
21 Q And both of those supports could be
22 used as identifiers with respect to the capsule
23 described in Jarisch '929, right?
24 MR. McCRAW: Object to form.
25 Asked and answered. Objection, foundation.

1 Objection, relevance.
2 A Both of these embodiments, in my
3 view, are identifiers which enable the device
4 to individualize the capsule and take actions
5 based on that knowledge.
6 Q Can you turn to Figure 2 of Jarisch?
7 A Figure 2 of the Jarisch '929
8 publication?
9 Q Yes, please. Thank you.
10 A Okay.
11 Q And I'm really focusing on the circle
12 at the top of the page.
13 Can you describe that for me?
14 MR. McCRAW: Object to form.
15 A What I've described when I view
16 Figure 2 is that it discloses repeating the
17 optical code around the circumference of the
18 bottom of the flange. That's what Jarisch '929
19 discloses about this figure.
20 If I look directly at
21 paragraph 68, it talks about the sequence that
22 is repeated along the circumference in order to
23 ensure reliable reading, and the sequence is
24 repeated at least twice.
25 Repetition of the sequence,

1 which means that it's duplicated, and then
2 successive sequences are positioned in a series
3 along the circumference so that upon a full
4 rotation, the same sequence can be detected or
5 read more than one time.
6 And so this is, I guess, an
7 example of what they're describing. It's a
8 sequence that is fully repeated on the bottom
9 surface of the flange.
10 Q Would you characterize the code
11 depicted in Figure 2, that circle at the top of
12 page 3 of Exhibit 1006, as a bit code?
13 MR. McCRAW: Object to form.
14 Objection, relevance. Objection, foundation.
15 A Based on the way that this code is
16 described within the specification and the
17 particulars of what's both illustrated and
18 described, each of the small arch-shaped
19 segments, both black and white, are individual
20 bits.
21 And I characterize this as a bit
22 code, because there are individual bits of the
23 same size all the way around, and sometimes
24 they're next to each other. Sometimes they're
25 separated by a white gap.

1 But there's two values. There's
2 a light and a dark symbol or feature which is
3 representative of a bit. That's how I
4 understand it based on the disclosure in
5 Jarisch '929.
6 Q I think you just touched on it there,
7 but what is a bit code?
8 MR. McCRAW: Object to form.
9 Objection, relevance. Objection, foundation.
10 A Jarisch '929 describes an optical
11 code that is an example of that which is
12 provided here in which binary or bits are
13 represented by those symbols.
14 And as the capsule is rotated,
15 the sensor detects those in sequence, and a
16 stream of binary information is received and
17 interpreted by the machine.
18 So this is an example of a bit
19 code, as I understand it.
20 Q And so just -- I'm interested in your
21 general knowledge.
22 So apart from Jarisch '929, I'm
23 just trying to understand, what is a bit code?
24 MR. McCRAW: Object to form.
25 Objection, relevance. Objection, foundation.

1 A The term "bit code" is differentiated
2 from -- from other optical codes in that
3 it's -- the symbols or the information that is
4 obtained is directly associated with the value
5 of the symbol.
6 So a bit is an information -- is
7 basis of information that is, for example, a 0
8 or a 1.
9 It's either present or not
10 present or it's either a dark value or a light
11 value, and that directly translates into the
12 code as it's read.
13 That's a bit code, in my
14 understanding.
15 Q And how is that different from other
16 optical codes?
17 MR. McCRAW: Object to form.
18 Objection, relevance. Objection, foundation.
19 A Do you have an example to compare it
20 to?
21 Q Barcode, UPC symbol.
22 MR. McCRAW: Object to form.
23 Objection, relevance. Objection, foundation.
24 A Well, a UPC symbol is a particular
25 type of barcode, according to my understanding,

1 and what one of ordinary skill in the art would
2 understand.
3 Generally speaking, a barcode is
4 a collection of bars, light and dark in color,
5 that are of varying widths. They're arranged
6 in patterns to convey alphanumeric information.
7 Some complex information can be
8 conveyed by the way that the bars are
9 structured and the width and spacing of bars.
10 That's a barcode, and it's encoding or
11 embedding complex information, whereas a bit
12 code is a serial communication scheme where
13 it's sending a stream of zeros and ones
14 directly.
15 That's how I compare them.
16 Q Have you ever used a bit code in your
17 work?
18 MR. McCRAW: Object to form.
19 Objection, relevance.
20 A My experience has been with barcodes
21 and barcode sensors. To my recollection, none
22 of them would have had the characteristics of a
23 bit code.
24 Q Are you familiar with any examples of
25 the uses of bit codes other than Jarisch '929?

1 MR. McCRAW: Object to form.
2 Objection, relevance. Objection, foundation.
3 A There's other technologies out there
4 that employ similar approaches to data. A
5 compact disk, for example, encodes binary
6 information in serial form as it goes around
7 the disk. That's a digital form of data
8 storage.
9 But as to optical codes, I'm
10 aware of its use in Jarisch '929, and I have
11 evaluated in the context of this matter, but I
12 don't know of any others at this time.
13 Q What does Jarisch disclose about the
14 instance where a capsule does not have a
15 support?
16 MR. McCRAW: Object to form.
17 Objection, relevance.
18 A Jarisch '929 discloses an embodiment
19 that envisions a removable or separate support
20 that can be put into the holder, and then the
21 capsule dropped into that.
22 So a separable means. But I'm
23 not aware of it discussing a capsule in the
24 context of not having a code.
25 If there's somewhere in

1 particular you could point me to, I'd be happy
2 to discuss it.
3 Q Right.
4 So I think that we're on the
5 same page. If we look at paragraph 65, about
6 halfway down, it says: "Consequently, a
7 capsule without embedded means for storing
8 information can be modified by mounting such a
9 support so as to add such information," right?
10 MR. McCRAW: Object to form.
11 A That's the example of the embodiment
12 that I was referring to.
13 Q And so Jarisch is saying if there's
14 not a support associated with the capsule, you
15 can just add it, right?
16 MR. McCRAW: Object to form.
17 Objection, foundation. Objection, relevance.
18 A Well, I haven't formed an opinion on
19 that matter in my declaration, but what I do
20 read here is it says: "A capsule without
21 embedded means for storing information can be
22 modified by mounting such a support."
23 Could be -- it could be added to
24 a capsule, is what it's saying. It could be
25 manufactured separately and fixedly attached,

1 for example, at the end of paragraph 65.
2 Q Right.
3 It could be attached with glue
4 or mechanical means, right?
5 MR. McCRAW: Object to form.
6 Objection, foundation. Objection, relevance.
7 A That's what it says here. It says:
8 "The support may comprise fixing means, like
9 glue or mechanical means, to help the support
10 staying fixed relatively to the capsule once
11 mounted."
12 Q So to be clear, Jarisch '929 says
13 that if there's not a support, that support can
14 be added to the capsule, right?
15 MR. McCRAW: Object to form.
16 Objection, asked and answered. Foundation,
17 relevance.
18 A And as I stated, it states here in
19 paragraph 65: "A capsule without embedded
20 means for storing information can be modified
21 by mounting such a support."
22 Q So that's a "yes," Jarisch '929 says
23 if there's not a support, it can be added,
24 right?
25 MR. McCRAW: Object to form.

1 Asked and answered. Foundation. Relevance.
2 A I'm reading to you what Jarisch says
3 rather than attempting to paraphrase Jarisch.
4 That sentence that I -- that I
5 read in the previous answer is directed towards
6 answering your question.
7 Q Right.
8 And Jarisch '929 is a reference
9 that you rely on in the grounds of your
10 declaration, right?
11 MR. McCRAW: Object to form.
12 A Jarisch '929 is one of the prior art
13 references that I cite in both of my grounds.
14 Q And you describe it at length in your
15 declaration, correct?
16 MR. McCRAW: Object to form.
17 A I describe Jarisch '929 at some
18 length in my declaration, yes.
19 Q So what I'm asking you is with
20 respect to the disclosure in paragraph 65,
21 Jarisch is saying that if there's not a
22 support, you can add it, right?
23 MR. McCRAW: Object to form.
24 Foundation, relevance, and asked and answered.
25 A A capsule with -- this is quoting

1 from Jarisch.
2 "Consequently, a capsule without
3 embedded means for storing information can be
4 modified by mounting such a support so as to
5 add such information."
6 I think that's as clear as day
7 what it -- what it says.
8 Q And that's the extent to which you
9 can address that section of paragraph 65,
10 correct?
11 MR. McCRAW: Object to form.
12 Argumentative.
13 A Are you asking me to paraphrase or to
14 reword that in my own words?
15 Q If what you're saying to me is that
16 yes, I'm correct, that if there's not a
17 support, that it can be added and that that is
18 supported by what you just read, then that is
19 sufficient.
20 If you are trying to avoid my
21 question so that you can later have a different
22 opinion, then I have a concern.
23 A I'm not attempt- --
24 MR. McCRAW: Object to form.
25 Asked and answered. Argumentative.

1 Foundation. Relevance.
2 A What I see here in 65, and what I've
3 stated previously, is that a capsule without a
4 support can be modified to add support and can
5 be attached by a fixing means, like glue or
6 mechanical means.
7 So what I take that -- what I
8 understand that to mean is that it may not
9 necessarily be part of the capsule itself. It
10 may be added to the capsule as a separate part
11 or feature.
12 That's what I read here.
13 Q And that's what's disclosed in
14 paragraph 65 of Jarisch '929, correct?
15 MR. McCRAW: Object to form.
16 Objection, foundation. Objection, relevance.
17 A What I have just stated is that my
18 understanding of paragraph 65 is that a capsule
19 that does not have embedded means for storing
20 information can be modified by mounting a
21 separate part to it that would have an optical
22 code, for example, and it could be glued on or
23 fixed by mechanical means.
24 That's what I gain from reading
25 65.

1 Q Okay.
2 What is the optical code sensor
3 62 in Jarisch '929?
4 A Well, 62 is referred to as a sensor.
5 And if we go to my declaration where I discuss
6 Figure 5, if you look at Figure 5 as annotated
7 on page 92 of my declaration, the sensor sends
8 a light -- it's a light source.
9 It sends a beam out to a mirror,
10 bounces that up to travel through the
11 transparent capsule holder. It reads the
12 information on the bottom of the flange, and
13 that is reflected back through the transparent
14 capsule on the mirror and into the detector of
15 the sensor.
16 In my experience, this type of
17 sensor would have some type of light source,
18 like an infrared LED or some other light
19 source, and it would have some other type of
20 photodetector cell for detecting the pulses
21 that would result from reading the code.
22 This is further clarified by
23 other figures in Jarisch where they describe a
24 laser source, for example, and a detector or a
25 photocell.

1 Q Could that also be a camera?
2 MR. McCRAW: Object to form.
3 Objection, foundation.
4 A Jarisch '929 is directed towards
5 reading one bit at a time as the capsules
6 rotated. It's particularly well suited to a
7 photocell type of detector with a laser or
8 other light source.
9 I don't recall a camera being
10 mentioned in Jarisch '929, but, generally
11 speaking, some type of -- a camera is a photo
12 sensor. It's got many more pixels, of course,
13 than a photocell, but it -- it's gen- --
14 A camera is generally used to
15 image a larger region, whereas the photocell is
16 looking at a spot and the values that it
17 receives as that spot is illuminated.
18 Q But it sounds like what you're
19 saying, to the extent that a camera is a
20 photocell, that it could be used, right?
21 MR. McCRAW: Objection to form.
22 Objection, asked and answered.
23 A I haven't formed an opinion on
24 whether a camera could be used in place of the
25 sensor 62.

1 Q If you turn to paragraph 88 and 89 of
2 Jarisch '929?
3 MR. McCRAW: Sorry, what
4 paragraph, Ben?
5 MR. PLEUNE: 88 and 89.
6 BY MR. PLEUNE:
7 Q Starting at paragraph 88, it says:
8 "As illustrated in Figure 3, when the light
9 beam 63, sent by the light source of the sensor
10 62, touches one of the symbols 65 it reflects
11 in a reflective beam 64 which is not received
12 by the sensor."
13 And so here what it's talking
14 about is reading symbols, not individual bits,
15 right?
16 MR. McCRAW: Object to form.
17 Objection, foundation. Objection, relevance.
18 A In paragraph 74, just above this, it
19 describes mirroring or and absorbing surfaces,
20 coating a binary valve or diffusing reflective
21 services for coating a binary value of 0 or 1.
22 And so the reflection happens or
23 doesn't happen depending on the properties of
24 the two symbols. You've got one that's
25 reflective and one that's absorbing, is kind of

1 how it's describing it.
2 Q How many symbols are disclosed in the
3 circle in Figure 2 at the top of page 3 of
4 Exhibit 1006?
5 MR. McCRAW: Object to form.
6 Objection, foundation. Objection, relevance.
7 A Are you talking about Figure 6 or
8 Figure 5?
9 Q I'm talking about Figure 2, so the
10 circle at the top of page 3 of Exhibit 1006.
11 MR. McCRAW: Could you repeat
12 the question?
13 MR. PLEUNE: Can the court
14 reporter please read back the question?
15 Actually, let me just reask it.
16 Q So if you can turn to Figure 2 of
17 Jarisch '929? Do you see that?
18 A I see that.
19 Q Okay.
20 And you see that there's a
21 circle at the top of page 3 of Exhibit 1006?
22 A Yes.
23 Q And to be clear, I'm referring to --
24 and have been referring to throughout the
25 day -- the branded page numbers in the lower

1 right-hand corner of the exhibit, and, in this
2 case, Exhibit 1006. So I think we're on the
3 same page.
4 So my question is, how many
5 symbols are there in that circle at the top of
6 Figure 2?
7 MR. McCRAW: Object to form.
8 Objection, foundation. Objection, relevance.
9 A What I was looking for is a
10 description of that particular embodiment to
11 see if they disclose that in this, and I don't
12 recall that they specifically state.
13 But what they're explaining in
14 the paragraphs is that there's symbols that are
15 arch-shaped segments that are meant to encode
16 binary information.
17 So you have a symbol that's
18 disclosing -- let's say black. That could be a
19 0. And white, it could be a 1. It could be
20 inverted depending on how you wish to encode.
21 And that each of the small bars -- they're not
22 really bars. They're more like arch-shaped
23 segments, is what they described them as.
24 Each of those symbols is the
25 same dimensions all the way around. I don't

1 know what the exact number is. I frankly
2 haven't counted them. But you can see, for
3 example, where the number S1 is pointing to one
4 of these segments, that's one bit.
5 And that all of the segments
6 surrounding the capsule are the same dimension,
7 and they are either black or white.
8 And so where you see what appear
9 to be larger symbols, that's actually, based on
10 the way it's described, two or more segments
11 that are next to each other.
12 Q Understood.
13 And if we turn to page 57 of
14 Jarisch '929?
15 A Paragraph 57.
16 Q And this further describes those
17 symbols that you were just talking about,
18 right?
19 MR. McCRAW: Object to form.
20 Q And in particular, it says: "The
21 symbols arranged in sequences are used to
22 represent data conveying the set of information
23 related to the capsule," right?
24 MR. McCRAW: Object to form.
25 A The first sentence of 57 reads: "The

K-FEE SYSTEM GMBH, EX2016, page 126
NESPRESSO USA, INC. v. K-FEE SYSTEM GMBH
IPR2024-00239, U.S. PATENT 11,542,094

1 symbols arranged in sequences are used to
2 represent data conveying the set of information
3 related to the capsule."
4 I think you read that correctly.
5 Q Okay.
6 And then it says: "For
7 instance, each sequence may represent an
8 integer number of bits."
9 Do you see that?
10 A I see that sentence.
11 Q And then it goes on to say: "Each
12 symbol may encode one or several binary bits,"
13 correct?
14 A I see that.
15 Q And therefore, Jarisch '929 is clear
16 that that sequence of symbols that you
17 identified in Figure 2 may encode one or
18 several binary bits, correct?
19 MR. McCRAW: Object to form.
20 Objection, relevance. Objection, foundation.
21 A There are a number of embodiments of
22 this optical code that are described verbally.
23 They talk, for example, in paragraph 58 about
24 symbols that can represent information.
25 I'm focused on the particular

1 embodiment in Figure 2 in which each bit is
2 represented by the single symbol. That's --
3 that's what I'm relying on in Jarisch '929.
4 Q But you would agree with me that
5 there is an embodiment described in
6 paragraph 57 where each symbol may encode one
7 or several binary bits, correct?
8 MR. McCRAW: Object to form.
9 Objection, relevance. Objection, foundation.
10 A Yeah, looking at the other
11 embodiments, there are different embodiments
12 that are described.
13 The embodiment I'm relying upon,
14 each symbol encodes one binary bit.
15 Q Right.
16 And what I am confirming with
17 you is that there is another embodiment
18 described at paragraph 57 of Jarisch '929 where
19 each symbol may encode one or several binary
20 bits, correct?
21 MR. McCRAW: Object to form.
22 Asked and answered. Foundation, relevance.
23 A What I see here is it says in
24 paragraph 57 of Jarisch '929: "Each symbol may
25 encode one or several binary bits."

1 So there are two different
2 options that are presented here.
3 Q Okay.
4 Does the term "bit code" appear
5 anywhere in Jarisch '929?
6 A Jarisch '929 uses the term "support"
7 to talk about the identifier in general. It
8 uses the term "bit" in describing the code of
9 construction.
10 But the term "bit code" as we've
11 been discussing it here today, to my
12 recollection, does not appear literally in this
13 specification.
14 Q Okay.
15 MR. McCRAW: We can break for
16 lunch whenever you're ready, Ben.
17 MR. PLEUNE: Yeah, why don't we
18 do that.
19 (Lunch recess.)
20 BY MR. PLEUNE:
21 Q Welcome back, Mr. Jobin.
22 A Thank you.
23 Q I'm handing you what has been marked
24 previously as Exhibit 1004.
25 Can you identify that document

1 for me?
2 A This is labeled as Exhibit 1004 in
3 the current IPR matter. It appears to be the
4 reference that I use in grounds 1 and 2, the
5 Yoakim reference.
6 Q Would you agree with me that the lid
7 of the capsule depicted in the Yoakim records
8 is flat?
9 MR. McCRAW: Object to form.
10 A There's a lot of different capsules
11 represented in there. Is there any particular
12 you wish to discuss or --
13 Q Are you able to identify any capsules
14 depicted in Yoakim that are not flat on the
15 top?
16 MR. McCRAW: Object to form.
17 (The deponent read the
18 document.)
19 A Sorry. There's a lot of figures in
20 this reference. Just taking a moment to make
21 sure.
22 Q Sure.
23 A My recollection, and what I confirmed
24 by reviewing the figures, is that they're all
25 depicted with a flat membrane surface.

1 There is another component that
2 could be referred to as a lid in Figure 39, but
3 it's covered by a membrane that is flat, in my
4 view.
5 Q And Yoakim discloses that it can have
6 a recognition system that uses a code on the
7 capsule that is recognized by the device,
8 right?
9 MR. McCRAW: Object to form.
10 (The deponent read the
11 document.)
12 A Yes. I recall, for example,
13 paragraph 477, which states -- which, in
14 summary, talks about "using a capsule
15 identification system that can recognize a
16 capsule and use a control unit to vary brewing
17 parameters accordingly, including the control
18 of a water pump."
19 Q And if we look at paragraph 192 of
20 Yoakim, and, in particular, the last sentence,
21 it lists a number of identifiers that can be
22 used with the Yoakim reference, correct?
23 MR. McCRAW: Object to form.
24 A Paragraph 192, final sentence reads:
25 "A recognition system uses a code on the

1 capsule and recognized by the device, such as a
2 color, a barcode, an RFID, a magnetic code,
3 ferromagnetic microwires or labels, shapes and
4 combinations thereof."
5 I would characterize those as
6 identifiers on the capsules as disclosed in
7 Yoakim.
8 Q And these are alternative identifiers
9 that can be used with the capsule described in
10 Yoakim; is that right?
11 MR. McCRAW: Object to form.
12 A It states: "The recognition system
13 uses a code," and then it provides a list of
14 examples.
15 So I would characterize these
16 that are provided in paragraph 192 as different
17 examples of codes that could be used and
18 recognized by the device.
19 Q How would a shape-identifier work?
20 MR. McCRAW: Object to form.
21 Objection, foundation. Objection, relevance.
22 A I don't recall a specific mention of
23 how a shape-identifier would work in Yoakim,
24 but my understanding of shape -- printed shape
25 recognition is that it would be like a logo or

1 some type of symbol which was detectable by
2 some optical means, for example.
3 Q Could that also be a physical shape?
4 MR. McCRAW: Object to form.
5 Objection, relevance. Objection, foundation.
6 (The deponent read the
7 document.)
8 A The disclosure, including the
9 illustration, shows the capsules being placed
10 into receptacles in which the shape of the
11 receptacle is complementary to the capsule.
12 It says "shapes" here in the
13 context of other applied symbols. So I don't
14 know that I could state definitively that
15 "shapes" here refers to something that's not
16 applied.
17 MR. McCRAW: Before you ask your
18 next question, our realtime is not working.
19 Can we just get that working?
20 (Recess.)
21 BY MR. PLEUNE:
22 Q So if you could turn to paragraph 524
23 of the Yoakim reference.
24 A Paragraph 524, got it.
25 Q And that paragraph is describing

1 Figures 54 and 55 of the Yoakim reference,
2 correct?
3 A Correct.
4 Q And Figures 54 and 55 are used with
5 the identification means ID1, ID2 and ID3,
6 correct?
7 MR. McCRAW: Object to form.
8 A It states in 524: "As illustrated in
9 Figures 54 and 55, the identification means can
10 be formed as selection means ID1, ID2, ID3 of a
11 user interface 230."
12 Q Right.
13 And so my next question is, the
14 embodiment of Figures 54 and 55, ID1, ID2 and
15 ID3, are selection means on a user interface,
16 right?
17 MR. McCRAW: Object to form.
18 Objection, foundation. Objection, relevance.
19 A What I see and read here is that the
20 selection means of a user interface, so these
21 are switches or button choices on a touchscreen
22 that describes different means by which, in my
23 view, a person could select different styles of
24 coffee, for example.
25 Q And if we turn to paragraph 525, this

1 describes an alternative with respect to
2 Figures 61 and 62, right?
3 (The deponent read the
4 document.)
5 A 525 describes alternative recognition
6 means, such as a barcode, a color code, an RFID
7 tag, magnetically sensitive element or a
8 mechanical key or shape.
9 Q And each of those are options for the
10 identifier of Yoakim, right?
11 MR. McCRAW: Object to form.
12 A Each of those that I've listed would
13 be examples of the recognition means in these
14 embodiments.
15 Q What does it mean that the identifier
16 can be a mechanical key or shape?
17 MR. McCRAW: Object to form.
18 Objection, relevance.
19 A A mechanical key would be, in my
20 view, an instance in which some type of -- of
21 feature on the capsule would be engaging a
22 switch, for example. That would be -- that
23 would be a mechanical key.
24 A key could also denote or the
25 shape could also denote some type of

1 complementary fitment needs, in my estimate
2 based on what I'm reading here.
3 Q And shape could be the actual shape
4 of the capsule, right?
5 MR. McCRAW: Object to form.
6 Objection, relevance.
7 A It just says "shape." I think there
8 would be some -- it's referring to something on
9 the capsule, so some aspect of the capsule
10 shape is what is talked about here in 525.
11 Q Would you agree that these
12 recognition means could be used with each of
13 the embodiments disclosed in Yoakim?
14 MR. McCRAW: Object to form.
15 Objection, foundation. Objection, relevance.
16 A The embodiments that are described
17 are directed towards particular figures. The
18 examples of recognition means are directed
19 towards specific figures.
20 There may be other language
21 which -- which would expand the scope of that.
22 It's a long reference, so I'm not quite sure.
23 Q The recognition means that you
24 discussed with respect to -- strike that.
25 The recognition means that we

1 discussed with respect to 192, was that
2 directed to a particular embodiment of Yoakim?
3 MR. McCRAW: Object to form.
4 A The discussion in paragraph 192 is
5 under the section in which Figure 4 is being
6 discussed, so my understanding is that -- that
7 it's describing how the system or subsystem
8 described in Figure 4 could use a variety of
9 different recognition means.
10 Q So it's your opinion that the
11 recognition means would be limited to the
12 embodiment described in Figure 4, right?
13 MR. McCRAW: Object to form.
14 A I think that when I'm looking at the
15 reference -- I'm looking at Yoakim in the
16 context of an invalidity analysis, I'm looking
17 at all of the teachings of Yoakim to inform my
18 opinions about obviousness, so I wouldn't agree
19 to that.
20 Q Okay.
21 So it's your opinion that the
22 recognition means disclosed in paragraph 192
23 could generally be applied to the embodiments
24 of Yoakim, right?
25 MR. McCRAW: Object to form.

1 A Yoakim describes a variety of
2 capsules. It describes a variety of features
3 of the brewer and the way that those interact
4 with capsules. It describes recognition means
5 that can be used with this system and these
6 capsules.
7 I think that it's generally
8 applicable. And of course there may be
9 examples when it wouldn't be logical, but
10 that's why there's different embodiments
11 illustrated.
12 Q If you can turn to paragraph 205 of
13 Yoakim?
14 A Okay. Paragraph 205.
15 Q And paragraph 205 discusses
16 Figures 12 and 13; is that right?
17 MR. McCRAW: Object to form.
18 (The deponent read the
19 document.)
20 A Figures 12 and 13 are mentioned in
21 paragraph 205, correct.
22 Q And Figures 12 and 13 depict a
23 gripping structure 840, right?
24 A 840 is described as a gripping
25 structure, and it's associated with a capsule

1 holder at the -- they call it the support 451
2 for supporting the capsule.
3 Q That's right.
4 And in particular, the gripping
5 structure forms a lock into which is fitted a
6 complementary engaging structure for 50, i.e.,
7 a key of the capsule for 451, correct?
8 MR. McCRAW: Object to form.
9 A Yes, it says that: "The gripping
10 structure forms a lock into which is fitted a
11 complementary engaging structure 450."
12 Q And paragraph 205 of Yoakim goes on
13 to describe that: "The complementary shapes of
14 the capsule and capsule holder enable to
15 fulfill both the gearing function for driving
16 the capsule at high speeds in rotation and a
17 safety function for ensuring that only capsules
18 adapted to the system can be used and brewed
19 successfully," right?
20 MR. McCRAW: Object to form.
21 A It states that -- that key feature is
22 ensuring that only capsules adapted to the
23 system can be used and brewed successfully.
24 So it's describing the
25 complementary shapes of the capsule holder and

1 its relationship to the capsule.
2 Q And that's described as a safety
3 feature of Yoakim, correct?
4 MR. McCRAW: Object to form.
5 A It -- it states that the
6 complementary shapes both -- fulfill both the
7 gearing function for driving the capsule at
8 high speeds and rotation and a safety function
9 for ensuring that only capsules adapted to the
10 system can be used.
11 That -- that safety function is
12 noted here in paragraph 205.
13 Q And so that would mean that capsules
14 that are not adapted to the system could not be
15 used and brewed successfully, correct?
16 MR. McCRAW: Object to form.
17 Objection, foundation. Objection, relevance.
18 A What I would conclude from reading
19 this is that in this embodiment, capsules that
20 do not have a complementary shape to the
21 capsule holder would not fit properly and
22 therefore would not be able to be used.
23 Q So if you can turn to Figure 61, the
24 Yoakim reference, Exhibit 1004.
25 A Figure 61.

1 Q And I believe you described this as
2 being a particular embodiment of Yoakim; is
3 that correct?
4 MR. McCRAW: Object to form.
5 A We discussed this -- this earlier,
6 Figure 61 and 62.
7 This particular embodiment, to
8 my understanding, shows how a capsule receiver
9 can accommodate capsules of differing sizes or
10 volumes.
11 Q This is also the embodiment that is
12 described as operating with ID4 and, in
13 Figure 62, ID5, correct?
14 A Figure 61 and 62 are associated with
15 the identification means ID4 and ID5, yes.
16 Q Where is the sensor in Figure 61 and
17 62?
18 MR. McCRAW: Object to form.
19 A The sensing device 231 is the sensor
20 that detects the identification means ID4 and
21 ID5.
22 Q And so that sensing device 231 is
23 positioned such that it would read an
24 identifier on the top of the lid of the
25 capsule, correct?

1 MR. McCRAW: Object to form.
2 A In this example -- or in these
3 examples, I should state, the sensor is located
4 on what I would call the top of the membrane of
5 the capsules.
6 Q What is 214, Figure 61 and 62?
7 A 214 is described as -- in
8 paragraph 522, it's described as the capsule
9 holder.
10 Q And in Figure 61, the outermost
11 periphery of the lid sits flush against the
12 capsule holder 214, right?
13 MR. McCRAW: Object to form.
14 A The capsule is -- is sitting in the
15 capsule holder such that the flange is resting
16 on the top flange of the capsule holder.
17 Q And the bottom of the flange is
18 covered by the capsule holder, right?
19 MR. McCRAW: Object to form.
20 A In this particular embodiment, that
21 is true. But in Figure 63 on the following
22 page, the flange extends beyond the capsule
23 holder.
24 Q What is -- in Figures 63 through 66
25 is a circle and a line. There's two circles

1 and a line that kind of correspond to the top
2 of the lid of the capsule.
3 Do you know what that is?
4 A You mentioned Figure 66. I'm not
5 seeing it here.
6 Q I didn't intend to.
7 So let's look at Figure 63, for
8 example. Do you see that?
9 A I do.
10 Q Okay.
11 At the top there, there is -- on
12 the lid of the capsule, there's a line, and
13 there's two circles on either side of that
14 line.
15 Do you see that?
16 MR. McCRAW: Object to form.
17 A I see near the call-out for Item 203,
18 which is referred to as the upper rim, at the
19 outer perimeter of that rim is depicted in this
20 case two circles, which would imply that the
21 rim has a rolled edge, which is something that
22 I've seen before in capsules of this type.
23 Q Then if we go back to Figure 61, and
24 if you look at Figure 61 and, in particular,
25 the upper portion of that figure, to the right

1 where there is the numeral 224; do you see
2 that?
3 A I see the number 224.
4 Q And then there is -- that is in a
5 space, and then to the right of that, there
6 appears to be a chute.
7 What would be in that space?
8 What is that space for?
9 MR. McCRAW: Object to form.
10 A My understanding is that this feature
11 that you're describing would collect coffee
12 that's being brewed and exiting the capsule, as
13 denoted by the arrows that are pointing
14 outward, one on the right and one on the left.
15 And that coffee impacts those
16 walls and then drains through that -- that
17 spout feature into the coffee cup.
18 Q Got it.
19 And so there are -- there are
20 arrows on the right and on the left, and in
21 both of those instances, that's where the
22 coffee would exit from the capsule and then
23 ultimately drain, right?
24 MR. McCRAW: Object to form.
25 A That's my understanding of what's

1 being presented here in Figure 61 and 62.
2 Q And I believe based on your -- well,
3 strike that.
4 So now if we can turn to
5 Figures 35 and 36 of Exhibit 1004, the Yoakim
6 reference.
7 A Okay, Figures 35 and 36.
8 Q And those figures include piercing
9 members 151 to 155, right?
10 MR. McCRAW: Object to form.
11 Q And I believe I misspoke. Just to be
12 clear, it's my understanding that Figures 35
13 and 36 include piercing members 151 to 154.
14 A That clears it up. Thank you.
15 My understanding based on
16 looking at these images is that the -- as
17 described in paragraph 435 of the Yoakim
18 reference: "The engaging part further
19 comprises outlet piercing members 151, 152, 153
20 and 154 protruding from a disk-shaped engaging
21 wall 155 of the part 149."
22 So those are -- outlet-piercing
23 members is how they're described.
24 Q And it's your opinion that those
25 outlet-piercing members are the chamfered

1 mandrel disclosed in the '491 patent?
2 MR. McCRAW: Object to form.
3 A Well, I cited different examples of
4 these in Yoakim. But looking at this in front
5 of me now, those elements that we just
6 described as 152 through 154 would qualify, in
7 my view, as a chamfered mandrel that is
8 configured to pierce the cover at the location
9 offset from the central longitudinal axis.
10 Q Now I'd like to turn to Figures 37
11 and 38 of Yoakim Exhibit 1004.
12 A Okay.
13 Q And so this is a different embodiment
14 as compared to Figures 35 and 36, right?
15 A This embodiment has -- yes, it's
16 different from 35 and 36.
17 Q And there are no piercing members in
18 the embodiment of Figures 37 and 38, right?
19 (The deponent read the
20 document.)
21 A This particular embodiment in
22 Figures 37 and 38 does not appear to have any
23 outlet-piercing members illustrated.
24 That said, this is sort of a
25 detail that is focused upon the sealing means

1 around the perimeter of the capsule, so perhaps
2 the author was emphasizing other features.
3 Q Can you turn to paragraph 447 of
4 Yoakim, Exhibit 1004?
5 A Okay.
6 Q And first sentence of that paragraph
7 says: "In the embodiment shown in mode of
8 Figures 37 and 38, the water injector can be a
9 simple water outlet connectable to an inlet of
10 the capsule with no puncture means."
11 Do you see that?
12 A I see that.
13 Q And that's described in Figures 37
14 and 38?
15 A Right. That sentence is described
16 Figures 37 and 38.
17 Q And saying that there's no puncture
18 means, right?
19 MR. McCRAW: Object to form.
20 A They go on to describe the sealing
21 foil that's removed by peeling, which is a
22 different embodiment from the piecing
23 embodiment.
24 Q All right.
25 Can you turn to paragraph 415 of

1 the Yoakim reference?
2 A Paragraph 415.
3 Q And this is describing the embodiment
4 of Figures 28 to 31 of Yoakim, correct?
5 A Correct.
6 Q Now, paragraph 415 of Yoakim states
7 that: "A lid 108 in body 102 deliver together
8 an internal enclosure 114 for receiving the
9 food substance 122."
10 Do you see that?
11 A I see that sentence, yes.
12 Q Okay.
13 Now, this internal enclosure
14 114, that would be the cavity of the capsule,
15 right?
16 MR. McCRAW: Object to form.
17 A It calls it the internal disclosure,
18 but the cavity inside the capsule is understood
19 by me to be the same thing, I think, here.
20 Q Okay.
21 Now, if you could go to
22 paragraph 420 of Yoakim, and this is also
23 describing Figure 28, correct?
24 MR. McCRAW: Object to form.
25 (The deponent read the

1 document.)
2 A I believe that this paragraph and the
3 three preceding paragraphs are focused on
4 Figure 28.
5 Q Okay.
6 A The four preceding paragraphs. My
7 apologies.
8 Q Now, paragraph 420 describes an
9 "outer peripheral portion 119 forming an edge
10 bearing onto a seat portion 120 of the dish
11 body."
12 Do you see that?
13 A I see it.
14 Q And it goes on to state that: The
15 purpose of the outer peripheral portion 119 is
16 to engage the seat portion 120 and create a
17 tight fit with the lid 108, correct?
18 MR. McCRAW: Object to form.
19 A It says: "The outer portion 119 can
20 be engaged in the seat portion 120 by a more or
21 less tight-fit engagement."
22 That's what it says here.
23 Q And what is your understanding of the
24 purpose of 119?
25 MR. McCRAW: Object to form.

1 Objection, foundation. Objection, relevance.
2 A Well, the part that is inserted into
3 the capsule here encloses the capsule, although
4 it does mention that it is preferably sealed by
5 a membrane on top of it, which is illustrated
6 in Figure 28.
7 It provides what it describes as
8 a collecting recess for the coffee or the fluid
9 to collect prior to exiting the capsule.
10 Q You would agree that 119 is not in
11 the cavity of the capsule, correct?
12 MR. McCRAW: Object to form.
13 Objection, relevance. Objection, foundation.
14 (The deponent read the
15 document.)
16 A Well, what I would -- what I would
17 see is it seems to be characterized such that
18 the -- the enclosure 114 is -- I mean, the
19 enclosure is the area where the coffee grounds
20 are present, is my view.
21 Q Mm-hmm.
22 A This -- this lid closes the capsule
23 in a way, along with the membrane that's used.
24 It's certainly inside the capsule as defined by
25 the membrane.

1 This is a functional cap feature
2 that's designed to allow the coffee to go
3 through the slots and into the collecting
4 recess. I --
5 (The deponent read the
6 document.)
7 A Yeah, I mean, they're talking about
8 this as a lid, and then they're talking about a
9 membrane or a foil that's enclosing it.
10 I think depending on which one
11 you consider the outer portion of the capsule,
12 it could be part of the receptacle, but you
13 could -- you could understand it either way,
14 potentially.
15 Q And in Figure 29, you basically see
16 the capsule with -- without any foil, and in
17 119 is depicted as being on the outside of the
18 capsule, right?
19 MR. McCRAW: Object to form.
20 Objection, relevance. Objection, foundation.
21 (The deponent read the
22 document.)
23 A Yeah. For clarification, in 415, it
24 says: "The lid and the body delimit together
25 an internal disclosure 114 for receiving the

1 food substance."
2 So it's illustrated without a
3 foil so that you can appreciate how it's
4 inserted into the capsule, is my view.
5 Q Right.
6 And 119 is on the outside of the
7 capsule in Figure 29, right?
8 MR. McCRAW: Object to form.
9 Objection, relevance. Objection, foundation.
10 A 119 is the outer peripheral portion
11 of the collecting recess, which is part of that
12 lid.
13 Q Mm-hmm.
14 A And so I view 119 as part of the
15 collect- -- of that -- of that lid feature.
16 Q The upper portion of that lid
17 feature, right?
18 A The outer peripheral portion of it
19 that forms the outer part of the collecting
20 recess.
21 Q Okay.
22 And same for 116, right? That
23 is also on the outside of the capsule, correct?
24 MR. McCRAW: Object to form.
25 Objection, relevance. Objection, foundation.

1 (The deponent read the
2 document.)
3 A I think the answer to that question
4 would depend upon whether the capsule also
5 includes the foil or membrane sealing that lid.
6 And it makes sense that it would, because the
7 coffee grounds would need to be protected, and
8 the lid has openings in it.
9 So I don't think I would agree
10 with that.
11 Q Okay.
12 Would you agree that 116 is
13 outside the internal enclosure 114?
14 MR. McCRAW: Object to form.
15 Objection, relevance. Objection, foundation.
16 A Based on the disclosure in 415 that
17 the lid and the body to limit the enclosure, I
18 view 116 as being on the outside surface of
19 that lid at least in -- within the collecting
20 recess, which is -- which is described.
21 Q So within the collecting recess but
22 outside the internal enclosure, right?
23 MR. McCRAW: Object to form.
24 A Inside the recess, outside of the
25 enclosure, as described in 415. I think that's

1 correct.
2 Q Mr. Jobin, I'm handing you what has
3 been marked as Exhibit 1041.
4 Can you tell me what this
5 document is?
6 A Exhibit 1041 is the Rossi reference.
7 This is one of the references that I rely upon
8 in Ground 1 and Ground 2 of my declaration.
9 Q So Rossi describes an edible
10 product-making machine and a single-use load
11 element, right?
12 MR. McCRAW: Object to form.
13 A The title says "System of
14 edible-product making machine and load element
15 and process for control of machine."
16 They refer to a capsule in this
17 document as a load element, and it is generally
18 directed towards coffee machines, but it uses
19 language that's broader than that.
20 Q And it's specifically directed to a
21 single-use load element, right?
22 A Generally speaking, I agree with
23 that.
24 Q And Rossi discloses an identification
25 element that is used to select the appropriate

1 operating conditions for that load element,
2 right?
3 MR. McCRAW: Object to form.
4 A It -- as I recall, Rossi's system --
5 this is quoting from page 94 of my declaration
6 in paragraph 182.
7 It says: "Rossi's system varies
8 operating conditions such as amount of water,
9 temperature and pressure of the water, and the
10 time required based on the desired product,"
11 and that's quoting pages 1 and 2 of Rossi
12 reference.
13 Q Do you know where that citation would
14 be in Exhibit 1041?
15 A It's internal pages 1 and 2, because
16 those are the pages I used when I made the
17 citations.
18 But in the description, at the
19 bottom of page 1, which is page 3 of 21 in
20 the -- in this exhibit, it states: "The
21 necessary operating conditions of the machine
22 vary depending on the substance within the load
23 element," and it goes on to describe what I
24 cited in my paragraph 182.
25 Q Okay.

1 A At the top of page 2.
2 Q So for the record, I do want to just
3 again point out that the page numbers I have
4 referenced have been the brand numbers at the
5 bottom right-hand corner of the exhibits as
6 filed in the IPR.
7 I just want to make sure that
8 that's clear in case we need to figure
9 something out in the future.
10 My question was specifically
11 about the identification element, Mr. Jobin.
12 So why don't we turn to page 7 of Exhibit 1041.
13 MR. McCRAW: Are you talking
14 about the marked page 7?
15 MR. PLEUNE: Yeah, yeah.
16 MR. McCRAW: Just making sure.
17 That is a little confusing here.
18 A Okay. You're talking about page 7 of
19 21 of the Rossi reference?
20 Q That's correct.
21 And my question was that the
22 identification element is used to select the
23 appropriate operating conditions for the
24 specific load element, correct?
25 MR. McCRAW: Object to form.

1 A I would say that's correct only in
2 part. It also talks about if there's no
3 substance in the load unit for the water to
4 contact, it could create a safety hazard. That
5 would be a case of a reuse, for example, of the
6 capsule.
7 And this reference also speaks
8 to the notion of prohibiting capsules that are
9 not recognized, again, for safety and operating
10 conditions.
11 But they do mention a variety of
12 potential means once recognizing the capsule.
13 Q Okay.
14 I think you're confusing aspects
15 of the reference, Mr. Jobin. Let's start with
16 the identification element, okay?
17 A I see that at the top of page 5.
18 Q Let me ask you a question. Do you
19 understand that there's two elements disclosed
20 in the Jobin reference?
21 MR. McCRAW: Object to form.
22 A The Rossi reference discloses two
23 identification elements. That's -- that's
24 described in some detail in my declaration.
25 Q And now I think we're both mixing our

1 words.
2 So let's -- so the Rossi
3 reference discloses two elements, correct?
4 MR. McCRAW: Object to form.
5 A The Rossi -- as described in my
6 declaration, the Rossi reference -- it
7 describes an identification element and a
8 validation element.
9 Q Okay.
10 And you understand that those
11 are two separate things as disclosed in Rossi,
12 right?
13 MR. McCRAW: Object to form.
14 A I understand that Rossi describes
15 them separately and describes the functions of
16 each of those, and I've summarized my
17 understanding of that in my declaration.
18 Q Okay.
19 And let's start with the
20 identification element. Is that fair?
21 A Yes.
22 Q And then on page 7, branded page 7 of
23 the Rossi reference, the reference states that
24 The identification element is used to select
25 the appropriate operating conditions for that

1 specific load element, right?
2 MR. McCRAW: Object to form.
3 A What I understand from Rossi is that
4 it detects the identification element, which
5 allows it to individualize the capsule, and
6 that recognition allows it to, for example,
7 what it says here, select operating conditions,
8 for example.
9 Q And operating conditions for a
10 specific load element, right?
11 MR. McCRAW: Object to form.
12 A It's identifying the capsule for two
13 reasons. One is to -- if it's the correct
14 capsule to set operating conditions; two, if
15 it's incorrect, they want to prevent the safety
16 hazard associated with the use of the
17 appropriate operating conditions.
18 So it's identifying if the
19 capsule is suitable for use, in my view,
20 according to what I read on page 7 of 21.
21 Q You understand that there's also a
22 validation element on the Rossi reference,
23 right?
24 MR. McCRAW: Object to form.
25 A The validation element is described

1 in the next paragraph. It's also described in
2 my declaration.
3 Q And you understand that the
4 validation element and the identification
5 element are two separate elements, right?
6 MR. McCRAW: Object to form.
7 A I understand that it discloses two.
8 It also states that they may be the same.
9 I've described this in some
10 detail in my declaration.
11 Q Where does it describe that,
12 Mr. Jobin?
13 (The deponent read the
14 document.)
15 A My discussion of this is in the area
16 of paragraphs 257 through -- actually, it's in
17 paragraph 259. And I'm citing to exhibit -- to
18 the Rossi exhibit at page 7, which is internal
19 page 7, so page 9 of 21.
20 And I quote: "The validation
21 element could be identical to the
22 identification element, but it's preferably
23 different thereto and could be either the same
24 or of a different type to the identification
25 element."

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1 So that's my understanding of
2 that disclosure.
3 Q This says not that they're the same.
4 It says that they can be of different type,
5 correct?
6 MR. McCRAW: Object to form.
7 A It says they could be either the same
8 or different. It also says that they could be
9 identical, which I take to mean they could be
10 the same element.
11 Q In the description starting at
12 page 12 of Exhibit 1041, they're described as
13 being two separate elements, right?
14 MR. McCRAW: Object to form.
15 A Where on page 12 are you reading?
16 Q Starting with the description of
17 Figure 1.
18 (The deponent read the
19 document.)
20 A It's describing Figure 1, which
21 illustrates the identifying element and the
22 validation element as separate.
23 Q The validation element prevents the
24 use of an already-used single-use load element
25 in the machine, right?

1 MR. McCRAW: Object to form.
2 A My understanding of the way that you
3 would use a validation element is that upon
4 presenting the capsule or bringing the capsule
5 to the machine, you would destroy the symbol so
6 that it couldn't be read, that particular
7 symbol.
8 That's -- it could be done after
9 brewing as well. The idea is to prevent
10 inadvertent or maybe advertent or intentional
11 reuse of a capsule, because that could create a
12 safety condition that would be potentially
13 harmful to the user, and it could also produce
14 a beverage that was of low quality.
15 Those are the motivations that
16 are described in Rossi for using a validation
17 element.
18 Q And that would be a physical
19 destruction of the validation element, right?
20 A It describes the destroying of the
21 validation barcode 5, for example, by ripping,
22 cutting, scratching or piercing.
23 So that would be some type of
24 physical method or means to render that
25 identification element unreadable.

1 Q If you could turn to paragraph 292 of
2 your declaration?
3 A Paragraph 292.
4 (Pause.)
5 Q We've been going for about an hour,
6 so why don't we take a break.
7 A Okay.
8 MR. McCRAW: Sure.
9 (Recess.)
10 BY MR. PLEUNE:
11 Q So just a couple more on Rossi,
12 Mr. Jobin.
13 Rossi does not disclose a pump,
14 does it?
15 MR. McCRAW: Object to form.
16 A One of ordinary skill, in my view,
17 reading Rossi would understand Rossi to
18 disclose a coffee machine primarily focused on
19 espresso coffee machines, which -- they
20 mentioned high-pressure, high-temperature
21 water.
22 It's implicit -- implied, in my
23 view, that you inherently have a pump in a
24 system such as that.
25 So in my view, Rossi does

1 disclose a pump because it's necessary to
2 operate the product it's intended for.
3 Even if that were not to be the
4 case, it would certainly be obvious to have
5 one.
6 Q And you would agree that capsule
7 machines without a pump were known at the time
8 of Rossi, right?
9 MR. McCRAW: Object to form.
10 A Could you clarify? Are you talking
11 about single-serve capsule machines?
12 Q Yeah, I'm talking about single-serve
13 capsule machines.
14 A Thinking back to some of the -- to
15 some of the background art I recall and some of
16 the more older references that I've reviewed,
17 there's an automatic single-serve drip-brewing
18 system, for example, that's low-pressure. But
19 we're talking about a high-pressure disclosure
20 in Rossi.
21 And so I -- in my view, to
22 achieve high pressure in a system such as
23 anticipated by Rossi, you're talking about a
24 pump.
25 Q Where does Rossi disclose high

1 pressure?
2 A Page 5 of 21, first paragraph.
3 "These types of machines often
4 involve the use of high-pressure,
5 high-temperature water which poses a potential
6 health hazard if the machine is not used
7 correctly."
8 Q So is it your opinion that a
9 single-serve coffee machine that serves hot
10 liquid under pressure cannot be used without a
11 pump?
12 MR. McCRAW: Object to form.
13 A You've said a single-serve coffee
14 machine that serves pressure -- serves coffee
15 under pressure, and what I've stated is that
16 the machines that are anticipated or at least
17 that are discussed or mentioned by Rossi are
18 espresso machines.
19 It's an Italian patent. They're
20 talking about espresso machines that have
21 high-pressure, high-temperature water
22 primarily. That's the focus.
23 And so this solution is directed
24 towards, in part, addressing the safety hazard
25 that could be caused by incorrect use of those

1 machines.
2 I -- a high-pressure machine
3 would require a pump to create that pressure in
4 the sense that it's being discussed by -- by
5 Rossi.
6 Q So it's your opinion that a
7 high-pressure machine requires a pump, correct?
8 MR. McCRAW: Object to form.
9 Asked and answered.
10 A High-pressure, high-temperature water
11 would require a particular type of pump. We're
12 talking about 15 to 18 bars, such as the
13 pressure that would be used in a -- in an
14 espresso single-serve machine.
15 That type of pressure would
16 require a pump to generate to deliver to a
17 capsule.
18 Q So you're saying a machine that uses
19 high pressure and high temperature requires a
20 pump, right?
21 MR. McCRAW: Object to form.
22 Asked and answered.
23 A What I'm -- what I -- the context of
24 this sentence that I've described in Rossi is
25 that it discloses to a person of ordinary skill

1 in the art a machine in which a pump would be
2 present.
3 It talks about the -- it talks
4 about the safety issues associated, the health
5 hazard if the machine is not used correctly or
6 malfunctions, and then it addresses a process
7 by which to address that hazard and through the
8 use of the identifier and the validation code.
9 The reference overall is
10 directed towards machines which were known at
11 the time which delivered high-pressure/
12 high-temperature water to a capsule. And
13 therefore, in my view, inherently a pump is
14 necessary.
15 But to the extent that it's not,
16 it would certainly be obvious to have a pump in
17 such a system.
18 Q But you believe it's obvious, but, to
19 be clear, Rossi has not explicitly disclosed a
20 pump, right?
21 MR. McCRAW: Object to form.
22 Asked and answered.
23 A I think what I stated was that a pump
24 is inherently present because of the way that
25 it's described and the type of machine that is

1 used, and I did not state that it was
2 explicitly stated.
3 I would say that it's -- it's --
4 to a person of ordinary skill in the art, the
5 machine that's disclosed by Rossi includes a
6 pump.
7 Q Mr. Jobin, I'm handing you a document
8 that has been marked as Exhibit 1046.
9 Can you identify that for me?
10 (The deponent read the
11 document.)
12 A I recognize Exhibit 1046 as the --
13 what I refer to as the July 20 -- I'm sorry,
14 the July 2010 application, which is one of
15 three foreign filings that were made by K-Fee
16 in the prosecution of what ultimately resulted
17 in the '491 patent.
18 Q And this is the first of those
19 foreign applications, correct?
20 A July 2010 would be, as I understand
21 it, the first of the three.
22 Q So I'm just going to refer to it as
23 Exhibit 1046 so that we're clear; is that okay?
24 A Yes.
25 Q Okay.

1 So if you could please turn to
2 page 27 of Exhibit 1046. And this is the
3 branded page number on the exhibit.
4 A Page 27.
5 Q And page 27 describes Figure 1 of
6 Exhibit 1046; is that right?
7 A Figure 1 -- the description for
8 Figure 1 begins on page 27, correct.
9 Q And it states: "Figure 1 shows, in
10 the right-hand illustration, a portion
11 capsule 1, which has a basic element 2 with a
12 wall 2.1 and a base region 2.2. The wall 2.1
13 and the base 2.2 define a cavity, in which a
14 raw beverage material and, if appropriate, an
15 insert element may be provided. This cavity,
16 once filled, is closed by a membrane, which is
17 connected preferably to the peripheral region
18 2.4 of the basic element for example by sealing
19 or adhesive bonding."
20 So this peripheral region 2.4 is
21 the flange or rim on the top of the capsule
22 that the membrane or lid attaches to, correct?
23 MR. McCRAW: Object to form.
24 A It has been and continues to be my
25 understanding that the peripheral region 2.4 is

1 the feature of the capsule described
2 generally -- the capsules use that language to
3 describe what I understand to be the flange of
4 the capsule.
5 Q Okay.
6 And then if we turn to the
7 disclosure with respect to Figure 2 that is on
8 page 28 of Exhibit 1046 -- and I'm looking
9 further down this paragraph, Figure 2, that
10 begins: "As an alternative, it is possible as
11 symbolized by the arrow 15 for the barcode to
12 be provided on that side of the peripheral
13 region of the basic element which is directed
14 away from the membrane."
15 Do you see that?
16 A I see that sentence, yes.
17 Q And it's describing the same
18 peripheral region, right?
19 MR. McCRAW: Object to form.
20 A Well, it's describing the peripheral
21 region in Figure 2, which I understand to be,
22 generally speaking, the same feature as was
23 described in Figure 1, this rim or flange on
24 the capsule.
25 Q Okay.

1 Mr. Jobin, I'm handing you a
2 document that was previously marked as
3 Exhibit 1047.
4 Can you identify that document
5 for me?
6 A This document appears to be what I
7 understand to be the so-called September 2010
8 application, which is Exhibit 1047 as
9 referenced in my declaration.
10 Q And this is the second foreign
11 application filed by K-Fee, correct?
12 A In this matter, it's my understanding
13 that the September 2010 foreign application is
14 the second of the three that are discussed in
15 my declaration.
16 Q And if you can turn to page 37 of
17 Exhibit 1047?
18 (The deponent read the
19 document.)
20 Q And at page 37, we see the
21 description of Figure 1, correct?
22 A The description for Figure 1 begins
23 at the top of page 37, correct.
24 Q And the peripheral region 2.4 is
25 described with respect to Figure 1?

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1 A The peripheral region 2.4 is
2 described in Figure 1, correct.
3 Q And this peripheral region 2.4 is the
4 flange or rim on the top of the capsule that
5 the membrane attaches to, right?
6 MR. McCRAW: Object to form.
7 A It is my understanding that this
8 peripheral region is the lid -- I'm sorry, is
9 the rim to which the membrane would be
10 attached.
11 Q And then on the next page, we see the
12 disclosure of Figure 2, page 38 of
13 Exhibit 1047.
14 A I see the description for Figure 2 on
15 page 38.
16 Q And, once again, Figure 2 describes
17 about halfway down that paragraph, "As an
18 alternative, it is possible, as symbolized by
19 the arrow 15, for the barcode to be provided on
20 the side of that peripheral region of the basic
21 element which is directed away from the
22 membrane."
23 And, once again, this is the
24 same peripheral region that was described with
25 respect to Figure 1, right?

1 MR. McCRAW: Object to form.
2 A It is my understanding that
3 "peripheral region" as used in Figure 2 is
4 describing a feature of the capsule to which
5 the membrane is attached.
6 It has -- the membrane has
7 certain similarities to the structure that is
8 in Figure 1. But it's the same feature in my
9 mine. It's called a flange.
10 Q And then if you turn back to page 34
11 of Exhibit 1047?
12 The second full paragraph in the
13 middle of page 34 of Exhibit 1047 states:
14 "According to a further, or a preferred,
15 subject matter of the present invention, the
16 portion capsule has a peripheral region, which
17 is preferably provided on the basic element.
18 The periphery is preferably provided on the
19 region of the basic element which is located
20 opposite the base. For example, a membrane for
21 closing the basic element may be arranged on
22 this peripheral region once the raw material
23 has been introduced into the portion capsule."
24 And this is also referring to
25 the same peripheral region that we saw

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1 described in Figures 1 and 2, right?
2 MR. McCRAW: Object to form.
3 A This paragraph is consistent with my
4 understanding of the description of the
5 peripheral region in the two figures that we've
6 discussed.
7 Q That we've also called the "flange,"
8 right?
9 A That's what I tend to call it, is the
10 "flange."
11 "Peripheral region" is a term
12 that's specific to these K-Fee disclosures, but
13 it -- it's describing the same feature that I
14 would refer to as a "flange."
15 Q So the next paragraph says -- and the
16 next paragraph on page 34 of Exhibit 1047 --
17 "The portion capsule preferably has
18 form-fitting means, friction-fitting means
19 and/or detection means in the peripheral
20 region, in particular in the outer
21 circumference thereof, at least in certain
22 regions."
23 And so this specifies that the
24 peripheral region has a form-fitting means, a
25 friction-fitting means or a detection means,

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1 right?
2 MR. McCRAW: Object to form.
3 (The deponent read the
4 document.)
5 A It is my understanding from this
6 paragraph that they referenced form-fitting
7 means, friction-fitting means and/or detection
8 means are associated with the peripheral region
9 or flange.
10 In particular, "on the outer
11 circumference thereof" is what it states in
12 that same sentence.
13 Q Okay.
14 And then the next sentence
15 states: "These form-fitting and/or
16 friction-fitting means can be used to drive for
17 example complementary means which are located
18 in the region of the coffee machine, in order
19 to make it possible for the portion capsule to
20 be introduced into the coffee machine and/or in
21 order to drive a sensor, for example, a
22 gearwheel, which transmits a signal to a
23 machine-control means depending on whether the
24 portion capsule is the correct or incorrect
25 one."

1 And so this is a further
2 description of how a gearwheel would work with
3 the form-fitting or the friction-fitting means,
4 right?
5 MR. McCRAW: Object to form.
6 A They're describing how that -- the
7 form-fitting, friction-fitting or detection
8 means on the outer portion of the flange could
9 be used to -- could be used as an identifier or
10 in order to -- to, for example, drive the
11 gearwheel.
12 That's one of the examples that
13 they give here to -- to interface with that
14 feature.
15 Q And I want to make sure that we're on
16 the same page, Mr. Jobin, because this sentence
17 says: "These form-fitting and/or
18 friction-fitting means can be used to drive,
19 for example, complementary means."
20 It does not say "detection
21 means," does it?
22 MR. McCRAW: Object to form.
23 (The deponent read the
24 document.)
25 A They're talking about form-fitting

1 and/or friction-fitting means can be used to
2 drive, for example, complementary means, which
3 are located in the region of the coffee
4 machine.
5 It goes on to say:
6 "Form-fitting, friction-fitting and/or
7 detection means to be sensed by a detector."
8 It's not -- it's not exactly
9 clear what the difference between those --
10 those means are, but they are describing them
11 in general terms in this portion of the
12 document.
13 Q Now, I want to just make sure that
14 we're breaking this down correctly.
15 And so the second sentence of
16 the third paragraph on page 34 of Exhibit 1047
17 says: "These form-fitting and/or
18 friction-fitting means can be used to drive,
19 for example, complementary means which are
20 located in the region of the coffee machine."
21 Now, that sentence does not
22 recite detection means, does it?
23 MR. McCRAW: Object to form.
24 A That sentence cites form-fitting
25 and/or friction-fitting means. It does not

1 cite the detection means in that sentence.
2 Q Right.
3 Now, in the third sentence on
4 page 35 of Exhibit 1047, that says: "As an
5 alternative, or in addition, however, it is
6 also possible for these form-fitting,
7 friction-fitting and/or detection means to be
8 sensed by a detector, in order to establish
9 whether the respective portion capsule is
10 suitable for the respective coffee machine."
11 So in this third sentence,
12 again, we do have the detection means, and then
13 this alternative, Exhibit 1047, says that these
14 means can be sensed by a detector, correct?
15 MR. McCRAW: Object to form.
16 A I see what you're describing, and I
17 see further clarification in the next
18 paragraph, which says: "Form-fitting means,
19 friction-fitting means and/or detection means
20 is preferably a toothed ring or toothed-ring
21 segment."
22 So they're providing additional
23 clarification for what -- these means. And
24 detection means could be a toothed-ring
25 statement, according to that description.

1 Q So for example, they could be a
2 toothed-ring statement, correct?
3 MR. McCRAW: Object to form.
4 Asked and answered.
5 A A detection means could be a
6 toothed-ring statement, is what it says.
7 Q That's an example of what a detection
8 means can be, correct, Mr. Jobin?
9 A It's an example --
10 MR. McCRAW: Object to form.
11 Asked and answered.
12 A It's an example, that I can see, of
13 all three of the means: The form-fitting, the
14 friction-fitting and the detection means.
15 It's almost like they're lumping
16 testimony together like it's the same thing, if
17 it's a toothed-ring or toothed-ring segment.
18 It says "and/or." So -- or it could be some of
19 them or all of them.
20 It's providing additional
21 clarification about what it could be, and it's
22 using those three terms together to refer to a
23 feature that is formed in the outer perimeter
24 of the flange.
25 Q Before we get to that paragraph that

1 you're talking about that begins on line 8 of
2 page 35 of Exhibit 1047, it states: "The
3 form-fitting, friction-fitting and/or detection
4 means can be sensed by detector in order to
5 establish whether the respective portion
6 capsule is suitable for the respective coffee
7 machine," correct?
8 MR. McCRAW: Object to form.
9 A What I -- what I read in that section
10 of page 35, it says: "As an alternative, or in
11 addition, however, it's also possible for these
12 form-fitting, friction-fitting and/or detection
13 means" -- again, they're putting them all
14 together as a group -- "to be sensed by
15 detector in order to establish whether the
16 respective portion capsule is suitable for the
17 respective coffee machine."
18 So I think you read that
19 correctly.
20 Q Okay.
21 And then in the next paragraph,
22 that's where it talks about a particular
23 example; is that correct?
24 A In the next paragraph, they talk
25 about an embodiment of the form-fitting,

1 friction-fitting and/or detection means, and
2 they describe a toothed ring or a toothed-ring
3 segment on the outer circumference of the
4 periphery.
5 Q And it describes that these could be
6 in different shapes, right?
7 MR. McCRAW: Object to form.
8 A It says here in the same paragraph:
9 "The teeth of the toothed ring or toothed-ring
10 segment may be of any desired shape which is
11 familiar to the persons skilled in the art --
12 for example, from a construction of gearings
13 and gear mechanisms. However, the teeth are
14 preferably triangular, rectangular, square or
15 undulating."
16 Q You would agree that triangular,
17 rectangular, square or undulating are different
18 shapes, right?
19 MR. McCRAW: Object to form.
20 A It's my understanding that those are
21 different shapes of teeth in this case.
22 Q Would you agree that the second
23 German application identifies several different
24 types of identifiers?
25 MR. McCRAW: Object to form.

1 A The September 2010 Exhibit 1047 has
2 several embodiments, and each of the
3 embodiments -- at least in the first section of
4 the document -- describe different identifier
5 means.
6 Q And one of those are raised areas on
7 the side of the capsule, right?
8 MR. McCRAW: Object to form.
9 A I recall Figure 1 -- let me just see.
10 (The deponent read the
11 document.)
12 A Figure 1, the written description on
13 page 37, it says: "The identifier is
14 constituted by a plurality of raised regions 8
15 which have different reflection properties to
16 the regions located between them."
17 So those are raised features on
18 the body of the capsule.
19 Q The Exhibit 1047 also discusses --
20 Exhibit 1047 also describes a barcode logo or
21 repeat pattern as identifiers, right?
22 MR. McCRAW: Object to form.
23 (The deponent read the
24 document.)
25 A It's my recollection that a barcode

1 is described in one of the embodiments.
2 Q Okay.
3 What about at the top of page 33
4 of Exhibit 1047?
5 A Page 33 of the 1047 states that:
6 "The identifier is further preferably a
7 machine-readable print," and it goes on to
8 clarify that the print is preferably a barcode,
9 a logo or a repeat pattern.
10 Q And those aren't identified with
11 respect to any particular embodiment in
12 Exhibit 1047, are they?
13 A Well, it's referred to in the context
14 of a machine-readable print, something that's
15 printed on the membrane is what I see.
16 (The deponent read the
17 document.)
18 Q Does that complete your answer,
19 Mr. Jobin?
20 A Oh, I'm sorry.
21 MR. McCRAW: I didn't realize
22 there was a question pending.
23 A I'm sorry. I answered. I was
24 waiting for a question. Sorry.
25 Q The identifiers described at the top

1 of page 33 of Exhibit 1047 are not associated
2 with any specific embodiment, are they?
3 MR. McCRAW: Object to form.
4 (The deponent read the
5 document.)
6 A This section of the specification is
7 talking about different identifiers, and it's
8 not referring to the figures at this stage,
9 because those are specific illustrations for
10 further clarification.
11 And what I see here is this
12 identifier is further preferably a
13 machine-readable print. It's modifying what I
14 see in the previous paragraph, which is talking
15 about different types of membrane layers or
16 sub-layers or some type -- you know, it's --
17 There's a series of paragraphs
18 here describing different identifiers.
19 Q Okay.
20 A This particular one is focused on the
21 machine-readable print.
22 Q So there's a series of identifiers
23 disclosed on pages 32 and 33 of Exhibit 1047,
24 and they're not associated with any particular
25 embodiment, correct?

1 MR. McCRAW: Object to form.
2 A I view this section as sort of an
3 overview section, and then later specific
4 embodiments are described.
5 Q Okay.
6 Can you describe for me a
7 toothed-ring identifier?
8 A Are you speaking about a particular
9 embodiment in this document?
10 Q How about the embodiment that is
11 described in Figure 17?
12 A Figure 17A, B and C are different
13 embodiments of the means 2.4.2.
14 2.4.2 is described in more
15 detail as a toothed ring in Figure 16, but
16 it's -- under my understanding, they're showing
17 different numbers of teeth on these three
18 examples.
19 And the portion capsule -- what
20 it states is that: "The portion capsule 1 is
21 retained on a part of the brewing chamber 27 by
22 means of two retaining arms 30. These
23 retaining arms 30 interact with the means
24 2.4.2."
25 So somehow they interact with

1 the teeth. And if the teeth were not present,
2 then the retaining arms couldn't retain the
3 capsule, and it would drop through into a waste
4 container instead of being introduced into the
5 brewing chamber.
6 So by having a mechanical
7 interface here, the capsule is identified. And
8 if it doesn't have the identifier, it doesn't
9 function with the brewer.
10 Q Would you agree that Figures 17A, B
11 and C depict the capsule from the bottom?
12 MR. McCRAW: Object to the form.
13 A It's hard to tell from these images,
14 but it is my understanding that we are viewing
15 the capsule from the bottom.
16 Q And in Figure 17C, you can see the
17 tooth ring from that bottom view, correct?
18 MR. McCRAW: Object to form.
19 A I can see the toothed ring except
20 where it is obscured by the holding arm.
21 Q And if instead of a toothed ring that
22 was just a solid flange, that holding arm would
23 still be able to hold that periphery of the
24 capsule, right?
25 MR. McCRAW: Object to form.

1 Objection, foundation. Objection, relevance.
2 A I don't have enough information to
3 answer that question because it's talking about
4 the holding arms interacting with the gear
5 teeth.
6 And in the absence of the
7 identifier, the capsule would fall through and
8 not be introduced into the brewing chamber.
9 It's not clear exactly what the
10 means are for that, because they don't detail
11 the interface.
12 Q Okay.
13 You stated previously that in
14 17C, there are 29 teeth, correct?
15 MR. McCRAW: Object to form.
16 A It says here -- and I recall quoting
17 22 teeth, according to the description for 17A
18 through C. No. That's B, sorry.
19 Twenty-nine teeth being provided
20 in Figure 17C.
21 Q And each of those teeth are repeated
22 about the periphery of the capsule as depicted
23 in Figure 17C, right?
24 MR. McCRAW: Objection to form.
25 A It's not clear how far the teeth are

1 arranged here on this figure.
2 Q Would you agree that the teeth in
3 Figure 17C are of the same size?
4 MR. McCRAW: Objection to form.
5 A I don't have enough information to
6 answer that.
7 Q Let's turn back to Figure 16.
8 A All right. Figure 16.
9 Q And in particular, I'm talking about
10 16A on page 24 of Exhibit 1047.
11 Do you see that?
12 A I have it on page 57 of 61. You
13 might be looking at the German translation or
14 the non-translated German version.
15 Q Sure.
16 Do you believe that the figure
17 depicted on page 24 of Exhibit 1047 is any
18 different than the figure depicted on page 57
19 of 1047?
20 A Well, I've been referencing and
21 relying on the English translation of these
22 documents, which was provided by K-Fee, to
23 the -- to the foreign Patent Office, so I
24 haven't formed an opinion on whether they're
25 the same, but they certainly appear to be the

1 same images.
2 Q Okay. So let's look at Figure 16 on
3 page 57 of Exhibit 1047.
4 Do you see a line there in the
5 figure that arches over the horizontal top of
6 the capsule?
7 A I see an arched line which is above
8 the capsule section view. I'll point to it
9 here for you, but yeah, it's -- it's the arched
10 line that is near the water inlet and the
11 piercing element.
12 Q Mr. Jobin, I'm handing you the Patent
13 Owner's Preliminary Response in this
14 IPR2022-01574.
15 And if you could look at
16 page 49, I just want to confirm that that
17 arched line identified is the arched line over
18 the red line at page 49 of that Patent Owner
19 Preliminary Response.
20 (The deponent read the
21 document.)
22 A The red line of the Patent Owner
23 Preliminary Response, page 49 figure, is going
24 through the area that I see as the flat
25 membrane of the capsule.

1 The arched line is depicted
2 above that red line.
3 Q And how are you interpreting that
4 line above that red line?
5 A Well, when I look at Figure 16A or
6 Figure 16 in this -- in this Exhibit 1047, I
7 see a flat membrane, and I see an arch that's
8 going over that, and I interpret that to be the
9 rim of the capsule receding into the curved
10 surface.
11 The curve is evident in the
12 shading of the capsule on the inside in this
13 figure. And I'm further informed that the
14 membrane is flat here by the water inlet 28,
15 which is shown contacting the top surface of
16 the flat membrane.
17 Q You would agree with me that the line
18 that you're referring to does arch over the red
19 line on page 49 of Patent Owner's Preliminary
20 Response, right?
21 MR. McCRAW: Object to form.
22 A What I observed is that the arched
23 line is, in my view, not the membrane, because
24 it doesn't make sense for the water inlet to be
25 depicted inside of the membrane.

1 The membrane is contacting the
2 flat line, which is the water that's contacting
3 the membrane. That arched surface, in my view,
4 is the depiction of the rim of the capsule
5 receding into the page.
6 Q If you could turn to paragraph 162 of
7 your declaration?
8 A Okay, paragraph 162.
9 Q You say in the second sentence of
10 that paragraph with respect to Figure 16:
11 "This embodiment does not depict or discuss an
12 identifier located on the bottom surface of the
13 capsule flange. It instead discusses an
14 identifier on the outer surface of the flange."
15 What did you mean by that?
16 A What I observed is that the element
17 2.4.2, which is the form-fitting or
18 friction-fitting and/or detection means, is
19 formed into the outer surface of the flange.
20 The outer circumference is where the teeth are
21 formed, and that's what 2.4.2 is referring to.
22 Q If you could turn to paragraph 116 of
23 your declaration, Exhibit 1003?
24 A Paragraph 116.
25 Q And you state in paragraph 116 that:

1 "Due to the messy nature of the liquid and
2 coffee grounds present during extraction
3 process, it was also known that optical codes
4 must be placed in a location away from the
5 liquid injection and piercing site."
6 Do you see that?
7 A I do see that, yes.
8 Q And is your opinion -- it is your
9 opinion that this was known by a person of
10 ordinary skill in the art, correct?
11 A Based on what's in the background
12 art, as cited in my declaration, it's my view
13 that this -- it was known that the liquid and
14 coffee grounds during the extraction process
15 could make it difficult to read an optical
16 code.
17 Q And one of the references that you
18 cite is Panesar, correct?
19 A In the following paragraph, I cite to
20 Panesar, yes.
21 Q That's Exhibit 1010 to your
22 declaration?
23 A I'd have to take your word -- oh,
24 there it is. The cite is to 1010, sorry.
25 Q And Panesar is dated 2005, right?

1 A I don't have the reference in front
2 of me. However, the WO2005 would indicate that
3 it was filed in 2005 or it was dated 2005.
4 Q So is it fair to say that it is your
5 opinion that as of 2005, a person of ordinary
6 skill in the art knew that optical codes must
7 be placed in a location away from the
8 liquid-injection piercing site?
9 MR. McCRAW: Object to form.
10 A What I state is that it was known
11 that applicable codes must be placed away from
12 liquid injections and piercing sites.
13 Based on what would be known and
14 what I read here in the background article,
15 this was a known concept at that time.
16 MR. PLEUNE: Why don't we take a
17 break.
18 (Recess.)
19 MR. McCRAW: Do you want to
20 close out?
21 MR. PLEUNE: No additional
22 questions from patent owner. We'll pass the
23 witness.
24 MR. McCRAW: Great, thank you.
25

1 EXAMINATION

2 BY MR. McCRAW:

3 Q Mr. Jobin, I'd like to ask you a few

4 questions.

5 And before we start, did I speak

6 with you about any of these questions during

7 our break?

8 A No.

9 Q You recall earlier today testifying

10 regarding your background working at Altitude,

11 Inc.; is that correct?

12 A Correct.

13 Q Okay.

14 How many years did you work at

15 Altitude?

16 A I was at Altitude for about eight

17 years, between 2001 and 2008.

18 Q Okay.

19 A Inclusive.

20 Q In your work -- strike that.

21 Did your work at Altitude

22 involve mechanical beverage systems or similar

23 products?

24 A Yes.

25 Q Does that include coffee makers for

1 Mr. Coffee?
2 A Yes.
3 Q Does that include frozen drink
4 machines for Margaritaville?
5 A Yes.
6 Q Does that include wine-dispensing
7 systems for SkyBar?
8 MR. PLEUNE: Objection.
9 Leading.
10 A Yes.
11 Q How many years did you work at
12 Proteus?
13 A I'd have to look at my résumé. It's
14 been a long time. A few years anyway. Let me
15 look real quick.
16 It says 1996 through 1998
17 inclusive, so it was over two years, as I
18 recall.
19 Q And at Proteus, did you develop
20 disposable cartridge systems?
21 MR. PLEUNE: Objection.
22 Leading.
23 A I recall developing the disposable
24 cartridge for the laboratory instrument,
25 amongst other projects.

1 Q Did the cartridge system that you
2 developed have mechanical and electrical
3 components?
4 MR. PLEUNE: Objection, leading.
5 A The system that interfaced the
6 cartridge certainly had mechanical and
7 electrical components, and the capsule itself
8 had a range of precision features and -- and
9 electrical interface to the instrument, as I
10 recall.
11 Q Okay.
12 I'd like to direct you to
13 paragraph 30 of your expert report, which is
14 Exhibit 1003 in this IPR.
15 A Paragraph 30.
16 Q Okay.
17 Do you recall earlier today
18 speaking with counsel about your work on the
19 Ethical Coffee matter?
20 A Yes.
21 Q Without disclosing any of the details
22 of any draft reports, I'd like to discuss the
23 technical work that you performed.
24 What was the time period of the
25 machines for the Nespresso OriginalLine

1 machines that you evaluated?
2 A As I state here in my declaration,
3 the time frame for those machines was roughly
4 between 2004 and 2015. Different models from
5 different time periods throughout that range.
6 Q So is it correct that you evaluated
7 Nespresso OriginalLine machines that were dated
8 prior to 2010?
9 MR. PLEUNE: Objection.
10 Leading.
11 A Yes, some of the machines that I
12 evaluated were older than 2010.
13 Q Did you evaluate the pumps of those
14 machines?
15 A Yes.
16 Q Did you evaluate the brewing chambers
17 of those machines?
18 A Yes.
19 Q Did you evaluate the piercing blades
20 of those machines?
21 A Yes.
22 Q Did you evaluate the geometry of the
23 brewing unit and capsule cage?
24 A Yes.
25 Q Did you evaluate the performance of

1 multiple types of capsules in the brewing unit
2 and capsule cage?
3 MR. PLEUNE: Objection.
4 Leading.
5 A Yes, I evaluated the performance of
6 various capsules in the capsule cage in the
7 various models.
8 Q Without disclosing the contents of
9 any of your draft reports, in terms of the work
10 you were asked to perform, how did you go about
11 testing the performance of multiple types of
12 capsules in the brewing unit and capsule cage?
13 A I identified and purchased a range of
14 available capsules from around the world, and I
15 cataloged them and tested them in various
16 machines and reported the results and, you
17 know, laboratory techniques or gathering data
18 which would indicate various aspects of the
19 performance.
20 Q And what are some types of tests you
21 performed to determine their performance?
22 A Operation tests, which would indicate
23 the amount of fluid that is received in the
24 cup. Piercing tests in which the -- the
25 piercing of the capsules was -- was evaluated

1 under the microscope and quantified, and also
2 various other tests associated with the
3 usability of the capsules in terms of how they
4 survived the brewing process and performed in
5 terms of whether or not they got jammed in the
6 machine or otherwise failed to perform as
7 expected.
8 Q Did you evaluate the performance of
9 water pumps in those machines?
10 A Yes.
11 Q What did you do to evaluate the water
12 pumps in those machines?
13 A The water pumps are an aspect of
14 moving the fluid from the reservoir through the
15 capsules and then ultimately into the cup. And
16 as part of that process of testing the various
17 capsules, I tested the pumps to determine what
18 the range and precision of the volume of
19 dispensing would be.
20 Q Nothing more on that.
21 Let's turn to paragraph 284 of
22 your declaration.
23 A Paragraph 284.
24 Q Actually, if you could turn to the
25 following page, page 153. Or I guess it's 158

1 of 239.
2 Do you recall earlier today when
3 counsel was asking you about Figure 28 of the
4 Yoakim reference?
5 A Yes.
6 Q And in particular, they were asking
7 you about element 119 in the Yoakim reference.
8 Do you recall that?
9 A Yes.
10 Q In paragraph 2 -- strike that.
11 Paragraph 284 states: "Yoakim
12 discloses a cavity that is defined by an inside
13 wall, which includes a ledge in an upper region
14 thereof. The ledge projects from the inside
15 wall towards the central longitudinal axis.
16 Specifically, Yoakim discloses a
17 capsule-collecting recess continuously
18 extending on the rim which extends outward."
19 Do you see that?
20 A Yes.
21 Q And did you annotate that portion on
22 the figure on the following page?
23 MR. PLEUNE: Objection.
24 Leading.
25 A Yes, Figure 28 is annotated in red.

1 Q Is it your opinion that you're
2 depicting here a ledge in red that projects
3 from the inside wall of the cavity?
4 MR. PLEUNE: Objection.
5 Leading.
6 A The -- the ledge that is depicted is
7 extending outward from the inside wall of the
8 cavity, as can be seen where the red begins.
9 Q And is this still your opinion today?
10 MR. PLEUNE: Objection.
11 Leading.
12 A Yes.
13 Q I'd like to direct you to the Jarisch
14 '929 reference, Figure 5.
15 A Okay, Figure 5.
16 Q Do you recall earlier today when
17 counsel asked you if you were relying on
18 Figure 5 of Jarisch '929 to disclose a bowed
19 cover?
20 A Yes.
21 Q I'd like to direct you back to your
22 declaration, paragraph 2019. Strike that.
23 Paragraph 219.
24 And counsel asked you if Yoakim
25 disclosed a capsule with a bowed cover. Do you

1 remember that?
2 A I remember that.
3 Q Could you please review paragraphs
4 221 through 224 and tell me when you're done?
5 (The deponent read the
6 document.)
7 A Okay.
8 Q Are you relying on these paragraphs
9 for the disclosure of a bowed cover in K-Fee's
10 patent claims?
11 MR. PLEUNE: Objection.
12 Leading.
13 A Yes. In these paragraphs I'm
14 describing how the membrane has gas barrier
15 properties and is sealed in a fluid-type
16 manner. And I further go on to describe how
17 that could result in a bowed cover.
18 Q So is it correct that the Image 5 of
19 Jarisch '929 is not the only feature you are
20 relying on for a bowed cover?
21 MR. PLEUNE: Objection.
22 Leading.
23 A That is correct.
24 Q I'd like to direct you back to the
25 Jarisch reference, paragraph 71.

1 Paragraph 71 states: "Directly
2 onto the capsule foil 60, a plurality of
3 symbols performing the sequence of 61 is
4 applied along the circular or arc-shaped path."
5 Do you see that?
6 MR. PLEUNE: Objection, leading.
7 A I see that paragraph.
8 Q Okay.
9 Do you understand the capsule
10 foil 60 -- strike that.
11 Do you understand Item 60 in
12 Figure 5 to be a capsule file?
13 MR. PLEUNE: Objection, leading.
14 A I recall answering and citing capsule
15 foil 60 earlier today, yes.
16 Q Do you understand a capsule foil to
17 also mean a membrane?
18 MR. PLEUNE: Objection, leading.
19 A In the context of this, I understand
20 the capsule file to be a membrane that seals
21 the top of the capsule.
22 Q That's all for that.
23 A Okay.
24 Q That's all.
25 MR. PLEUNE: Why don't we take a

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1 break.
2 (Recess.)
3
4 FURTHER EXAMINATION
5 BY MR. PLEUNE:
6 Q Mr. Jobin, on redirect counsel for
7 petitioner asked you about paragraph 30 of your
8 report, correct?
9 A Correct.
10 Q And you talked about evaluating the
11 performance of capsules and how you went about
12 testing and operation tests and piercing tests,
13 correct?
14 A Correct.
15 Q And what was the outcome and the
16 conclusions of the tests that you performed?
17 A What I do is describe the types of
18 testing that I performed, but I am not
19 comfortable answering about the results of that
20 testing.
21 Q So you're perfectly comfortable
22 answering questions for petitioner but not for
23 counsel for patent owner; is that right?
24 MR. McCRAW: Objection to form.
25 Argumentative. Privileged content being sought

1 in the question.
2 A Once again, I've described the type
3 of testing and the type of work I did as an
4 engineer.
5 The results of that testing, as
6 I understand it, is covered by privilege.
7 MR. PLEUNE: Okay.
8 Our position on this is this is
9 classic sword and shield. He has testified at
10 length about testing on machines from 2014 to
11 2015, absolutely spanning the critical period
12 of time with respect to the invention and the
13 prior art in this case.
14 While on the one hand you're
15 trying to rely on this information to
16 substantiate and arguably credential Mr. Jobin
17 at the same time, you're refusing to provide
18 information about probably the most critical
19 aspect of this, the outcome and the
20 conclusions.
21 That is highly, highly improper,
22 and we are going to take it back and decide how
23 we're going try to bring this up with the
24 board.
25 MR. McCRAW: I don't agree.

1 He's testified about his experience and what he
2 was engaged to do as an expert. You're seeking
3 the content of draft reports and opinions that
4 may or may not have been reached.
5 What is relevant here is the
6 actual work that he did and the work performed,
7 and he has testified to that.
8 MR. PLEUNE: It's even more
9 surprising, Mr. McCraw, that you would delve
10 into that on redirect, provide additional
11 details that we don't have access to and at the
12 same time propound privilege objections,
13 basically blocking us from the most
14 important --
15 MR. McCRAW: Counsel, during the
16 deposition --
17 MR. PLEUNE: I'm still talking,
18 Mr. McCraw. Let's not talk over one another.
19 But, like I said, that is
20 surprising. I'm surprised that that would
21 happen on redirect, more information would be
22 injected into the record, while at the same
23 time blocking us from asking the witness
24 questions about it.
25 I think that that's improper.

1 MR. McCRAW: Counsel, during the
2 deposition I told you you could ask him about
3 the work that he did, and you declined to do
4 so.
5 MR. PLEUNE: That's not true. I
6 asked him both about the work that he did and
7 the most important part of that work, the
8 conclusions that came from it.
9 We're being blocked from that
10 information. It's improper.
11 MR. McCRAW: Not only is it
12 privileged, but there's no relevance to the
13 conclusion.
14 MR. PLEUNE: I highly disagree
15 about that. A, it's paragraph 30 of his
16 report. Mr. Jobin believes that it's relevant.
17 It spans the time frame that we're talking
18 about here, and it's talking about the very
19 same companies involved in the IPR.
20 I disagree.
21 MR. McCRAW: I don't agree with
22 your characterization.
23 MR. PLEUNE: The record is
24 clear.
25 We don't have any further

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1 questions.

2 (Whereupon, the proceedings

3 adjourned at 4:53 p.m.)

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1 C E R T I F I C A T E

2 I, Jill K. Ruggieri, Registered Merit
3 Reporter and Certified Realtime Reporter, do certify
4 that the deposition of MICHAEL J. JOBIN, in
5 the above-captioned matter, on June 22, 2023, was
6 stenographically recorded by me; that the witness
7 provided satisfactory evidence of identification, as
8 prescribed by Executive Order 455 (03-13) issued by
9 the Governor of the Commonwealth of Massachusetts,
10 before being sworn by me, a Notary Public in and for
11 the Commonwealth of Massachusetts; that the
12 transcript produced by me is a true record and
13 accurate record of the proceedings to the best of my
14 ability; that I am neither counsel for, related to,
15 nor employed by any of the parties to the above
16 action; and further that I am not a relative or
17 employee of any attorney or counsel employed by the
18 parties thereto, nor financially or otherwise
19 interested in the outcome of the action.
20
21 _____
22 Jill K. Ruggieri, RPR, RMR, FCRR, CRR
23
24 Transcript review was requested of the reporter.
25

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WITNESS: MICHAEL J. JOBIN

SIGNATURE PAGE/ERRATA SHEET

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22 _____ _____ _____
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23 _____ _____ _____
24 I have read the transcript of my deposition taken on June 22, 2023. Except for any
25 corrections or changes noted above, I hereby

1 of the statements made by me.

2 Signed under the pains and penalties of perjury.
Deponent: _____ ___/___/2023
3 MICHAEL J. JOBIN
On this ___ day of _____, 202__, before me,
4 the undersigned notary public, personally appeared
MICHAEL J. JOBIN, who presented satisfactory
5 evidence of identification, to wit,
_____ , and signed this document in my
6 presence.

7 _____
Notary Public in and for _____
8 My commission expires _____

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