Exhibit #
Crosby 06
04/01/25 - PA
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EXHIBIT 2

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[redacted]

Transcript of Peter Crosby

Date: September 4, 2023
Case: Certain Dermatological Treatment Devices and Components Thereof (337-TA-1356)

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WORLDWIDE COURT REPORTING & LITIGATION TECHNOLOGY

Transcript of Peter Crosby

Conducted on September 4, 2023

2 Q And let me -- let me go ahead and hand you
3 a document I have marked as Crosby Deposition
4 Exhibit 26.
5 - - -
6 (Crosby Exhibit 26 was marked for
7 identification.)
8 - - -
9 THE WITNESS: Thank you.
10 MS. SANABRIA: Thanks.
11 MR. SHEEHAN: There you go.
12 BY MR. SHEEHAN:
13 Q And I'll represent to you that this is a
14 copy of Exhibit 6 to your opening expert report.
15 **A I think you meant Appendix 6, but yes.**
16 Q Appendix 6. Yes. I'm sorry. You're
17 right.
18 **A No problem.**
19 Q Appendix 6 to your opening expert report.
20 And let me ask: Did you prepare Appendix
21 6?
22 **A Yes, I did.**

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1 [redacted]
13 Q Okay. And you just testified in your sense
14 that's what it is.
15 Is it your position that the ordinary
16 meaning of motor includes a solenoid?
17 A Yes -- excuse me. Ordinary meaning of
18 electric motor. A car motor doesn't include a
19 solenoid.
20 THE COURT REPORTER: A what? I'm sorry.
21 THE WITNESS: An automobile. A car motor
22 does not -- that term did not include solenoid. A

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1 solenoid is a type of electric motor.
2 BY MR. SHEEHAN:
3 Q Okay. Turning to paragraph 49 of Appendix
4 6, which is Crosby Exhibit 26, you opine, in that
5 paragraph, that the Pixel8 products extend the
6 needles the desired distance in substantially the
7 same way as the claim feature energizing a motor
8 coupled to a plurality of extendable needles to
9 cause a plurality of extendable needles to extend
10 the desired distance from the needle assembly and
11 surface.
12 Do you see that?
13 A Yes, I do.
14 Q What element recited in claim 1 of the '536
15 patent is causing the needles to extend the desired
16 distance?
17 MS. SANABRIA: Objection. Form.
18 THE WITNESS: Your -- let me check the '536
19 patent again.
20 BY MR. SHEEHAN:
21 Q And for reference, that is Crosby Exhibit
22 6.

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1 A Now I've got to find it.
2 There we go.
3 Okay. I've read it again. Could you ask
4 your question again, please.
5 Q What element recited in claim 1 of the '536
6 patent is causing the needles to extend a desired
7 distance?
8 MS. SANABRIA: Same objection.
9 THE WITNESS: In the Rohrer device, there
10 is a mechanical dial on the handpiece --
11 BY MR. SHEEHAN:
12 Q Let me stop you there because I think
13 you're going -- you're answering the wrong question.
14 What element recited in claim 1 of the '536
15 patent is causing the needles to extend the desired
16 distance? I'm asking you about claim 1 of the
17 patent.
18 A Well, claim 1 says: "Energizing a motor
19 coupled to a plurality of extended needles to cause
20 a plurality of the extendable needles to extend a
21 desired distance from the needle assembly end
22 surface..."

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1 So the -- it doesn't specify which element,
2 and the element in the Rohrer device that enables
3 that cause a plural -- plurality of the extendable
4 needles to extend a desired distance is that
5 mechanical element in the Rohrer handpiece.
6 Q So are you saying there's no element in
7 claim 1 of the '536 patent that's causing the
8 needles to extend the desired distance?
9 MS. SANABRIA: Same objections.
10 Mischaracterizes testimony.
11 THE WITNESS: Are you asking for a legal
12 opinion on that?
13 BY MR. SHEEHAN:
14 Q I'm asking you, as an expert who's been put
15 forward to opine on this patent, opine on
16 infringement of the claims of this patent, what
17 element is it in that claim that's causing the
18 needles to extend the desired distance.
19 A Well, the claim says, "energizing a motor,"
20 which we talked about before in the Rohrer device is
21 a solenoid, "coupled to a plurality of extendable
22 needles," -- which it is because -- through the

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1 plunger as we talked about before -- "to cause the
2 plurality of extendable needles to extend the
3 desired distance. The desired distance is sent by
4 the mechanical adjustment on the handpiece."
5 Q Okay. And you've read the '536 patent?
6 A Many times.
7 Q Okay. And that's -- and just for the
8 record, that's Crosby Exhibit 6, correct?
9 Okay. So in the specification now of the
10 '536 patent, it discloses a stepping motor as a way
11 to precisely control the extension of the needles,
12 correct?
13 A That's -- that is one embodiment, yes.
14 Q Okay. Is there any mechanical adjustment
15 of the user holdable device in claim 1 of the '536
16 patent that's used for adjusting the needle depth?
17 MS. SANABRIA: Objection. Form.
18 THE WITNESS: Not for that embodiment, but
19 that's -- the patent is not limited to that one
20 embodiment as I understand it.
21 BY MR. SHEEHAN:
22 Q Is there any description in the

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1 specification of the '536 patent of a mechanical
2 adjustment of the user holdable device for adjusting
3 the needle depth?
4 MS. SANABRIA: Same objection.
5 THE WITNESS: Not in that embodiment that's
6 described in the description, no, but the patent's
7 not limited to that embodiment.
8 BY MR. SHEEHAN:
9 Q I just want to make sure we're on the same
10 page.
11 Are you referring there to the
12 specification when you say, "not that embodiment,"
13 or you're referring to the claim?
14 A The specification describes an
15 embodiment -- well, actually several embodiments,
16 but the embodiments that are described in the
17 specification, in my understanding, are not limiting
18 on the claims.
19 Q Okay. And let me just ask a follow-up
20 question just to make sure we're on the same page.
21 Are there any embodiments in the
22 specification that -- that describe a mechanical

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1 adjustment of the user holdable device for adjusting
2 the needle depth?
3 MS. SANABRIA: Same objection.
4 THE WITNESS: Let me think about that for a
5 moment because the words are important here.
6 Okay. So if you look in column 4 of the
7 '536 description, from about line 35 onwards, it
8 talks about in an embodiment, and then at the end of
9 that: "...may include elastomers to include at
10 least partial deformation of the pin section...about
11 the pins."
12 That is a mechanical device that can be
13 used for allowing at least partial insertion of the
14 pins. So I think your question is, is there
15 anything in the '536 description that talks about a
16 mechanical device for adjusting pin depth, yes,
17 there is. There's --
18 BY MR. SHEEHAN:
19 Q Okay. Are those elastomers mechanically
20 adjustable?
21 A I think what it says is, it suggests --
22 they're not mechanically adjustable, no.

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1 Q Okay. Let's switch over now to talking
2 about the Pixel8 product.
3 Does the plunger of the solenoid of the
4 Pixel8 product move different distances based on a
5 signal supplied to the plunger --
6 MS. SANABRIA: Objection. Form.
7 BY MR. SHEEHAN:
8 Q -- or to the solenoid? Let me restate.
9 Let me start over again.
10 Does the plunger of the solenoid of the
11 Pixel8 product move different distances based on the
12 signal supplied to the solenoid?
13 A Distances from where?
14 Q Are there more than two -- two positions
15 that the plunger -- plunger of the Pixel8 product
16 resides in?
17 MS. SANABRIA: Objection. Form.
18 THE WITNESS: I think that's a better --
19 that's a better question.
20 The plunger of the solenoid is either in or
21 out. It's one of two positions.
22 BY MR. SHEEHAN:

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Q Okay. If you'd turn to paragraph 79 of Appendix 6, which is Crosby Exhibit 26, and that's on page 24.

A I see that.

Q Okay. And in that paragraph, you opine that there's a particular signal that energizes the solenoid.

Do you see that?

A Let me read it.

Well, not in that paragraph, but if you take the whole context from the heading labeled 5.5 and under --

Q Maybe I'll help you out here.

Paragraph 79, right at the end, it says: "In response to a particular signal."

A Yes. I direct your attention to paragraph 78: "I understand that the parties agree that the term 'particular signal' means 'Plain and ordinary meaning: an electrical motor control signal.'"

So there's an electrical motor control signal that activates the solenoid. That's by definition a particular signal. A solenoid's a type

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of electric motor. That's what it's doing.

Q Okay. Would you agree that the plain and ordinary meaning of the word "signal" is something that carries information?

A It can be.

Q Are you -- are you saying that there's a plain and ordinary meaning of the word "signal" that does not include carrying information?

A It can be. The noise from this air-conditioning is white noise. That is a signal that carries no information.

Q Okay. Let's talk -- let's limit the universe to electrical signals now.

So is the plain and ordinary meaning of an electrical signal something that carries information?

A It can be.

Q Okay. And you're aware of an ordinary meaning of an electrical signal that does not carry information?

A Yes.

Q And can you give me an example of that?

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A Electrical current that comes out of the power outlet. It doesn't carry any particular information. The electrical signal that's applied to the motor in the Rohrer device, which we've agreed is a solenoid, carries the information of extend or not extend. It's a binary signal, so it does carry that information.

Q And in your -- I'm sorry. I didn't mean to talk over you there.

And in your opinion, the -- the power that comes out of the outlet in the wall is a signal?

A It can be.

Q In what context can that be a signal?

A Back to the definition of signal. You've defined a signal as something that carries information. So if the power that comes out of the wall is on or off, that is also a binary signal, on or off. You mentioned the computer earlier. You power your computer on or off. That's the signal that's supplied to the computer to determine the state of that computer.

Q Okay. And I think you already answered

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this question, but does the current supplied to the solenoid of the Pixel8 product carry any information?

A Yes.

Q What information does it carry?

A To activate or not activate the solenoid. It's a binary signal, one or zero.

Q On or off?

A On or off. That's a signal.

Q It has power or doesn't have power?

A Extend or not extend, yes.

Q Okay. And on or off is -- is the information that's on the signal, on that -- on that current?

A It's the -- I didn't hear you. Sorry.

Q I said on or off is the information you're saying that's on that current?

A That's correct. It's a binary signal. Exactly the same way all your computers work.

[redacted]

14 Q It's Appendix 6 -- Appendix 6 to the
15 opening expert report. Crosby Exhibit 26, paragraph
16 123.
17 Do you have that in front of you now?
18 A Yes, I have it in front of me.
19 Q Okay. And here you express the opinion
20 that the Pixel8 products have a motor controller or
21 its equivalent?
22 A Yes. That's correct.

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8 Q Do any commands from the front panel
9 touchscreen display of the Pixel8 product change the
10 needle depth?
11 MS. SANABRIA: Objection. Form.
12 THE WITNESS: No, they don't change the
13 needle depth.
14 BY MR. SHEEHAN:
15 Q And just to be clear on this, can a user of
16 the Pixel8 product dial up a needle depth on the
17 front panel touchscreen display and that will change
18 the distance the needles extend out of the needle
19 tip?
20 MS. SANABRIA: Objection. Form.
21 THE WITNESS: No.
22 BY MR. SHEEHAN:

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1 Q Go now to paragraph 124.
2 A 124?
3 Q Yes, in that same document, Crosby Exhibit
4 26.
5 A Yes.
6 Q And that's -- in that paragraph, you state
7 that the: "Pixel8 Operator's Manual shows the
8 Accused Pixel8 Products include a motor for causing
9 the plurality of extendable needles to extend."
10 Do you see that?
11 A Yes, I see that.

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CERTIFICATE OF SHORTHAND REPORTER - NOTARY PUBLIC

I, Joan V. Cain, the officer before whom the foregoing proceedings were taken, do hereby certify that the foregoing transcript is a true and correct record of the proceedings; that said proceedings were taken by me stenographically and thereafter reduced to typewriting under my supervision; and that I am neither counsel for, related to, nor employed by any of the parties to this case and have no interest, financial or otherwise, in its outcome.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal this 5th day of September 2023.

My commission expires:
July 31, 2024

Joan V. Cain

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DISTRICT OF COLUMBIA