1 UNITED STATES PATENT AND TRADEMARK OFFICE

2 _____

3 BEFORE THE PATENT TRIAL AND APPEAL BOARD

4 _____

5 ENDYMED MEDICAL LTD. and ENDYMED MEDICAL LTD.,

6 Petitioner,

7 v.

8 SERENDIA, LLC,

9 Patent Owner.

10 _____

11 Case Nos. IPR2024-00383, IPR2024-00384,

12 & IPR2024-00463

13 U.S. Patent Nos. 9,775,774, 9,320,536

14 & 10,869,812

15 _____

16 Deposition of JEAN WOLOSZKO, Ph.D.

17 Conducted Virtually

18 Friday, May 16, 2025, 9:30 a.m. EDT

19

20 Job No.: 583985

21 Pages 1 - 106

22 Reported by: Debra A. Whitehead

Serendia, LLC
Exhibit 2157
EndyMed v. Serendia
IPR2024-00384

1 Deposition of JEAN WOLOSZKO, Ph.D., conducted
2 virtually.
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5 Pursuant to notice, before Debra Ann Whitehead,
6 E-Notary Public in and for the Commonwealth of
7 Virginia.
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C O N T E N T S

EXAMINATION OF JEAN WOLOSZKO, Ph.D. PAGE
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EXHIBITS MARKED IN TODAY'S SESSION
(Attached to the Transcript)

WOLOSZKO EXHIBIT PAGE
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Exhibit 2 Notice of Commission Determination to Review in Part a Final Initial Determination Finding a Violation of Section 337; Request For Written Submissions on the Issues Under Review and On Remedy, The Public Interest, and Bonding 98

1 EXHIBITS MARKED IN PRIOR SESSIONS
2 (Not attached)

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1 P R O C E E D I N G S
2 JEAN WOLOSZKO, Ph.D.,
3 having been duly sworn, testified as follows:
4 EXAMINATION BY COUNSEL FOR PATENT OWNER
5 BY MS. PENIZA:
6 Q Good morning, Dr. Woloszko. It's good to
7 see you.
8 A Good to see you, too.
9 Q For the record, this is Cecilia Peniza,
10 with Latham, and I will be taking your deposition
11 today in connection with the IPR for the '774,
12 '536, and '812 patents.
13 I know that you have had your deposition
14 taken before, and virtually as well. So I think
15 it's fair to say that you know the ground rules of
16 a deposition. But please let me know if you
17 disagree.
18 A No; I do.
19 Q Okay. So I won't waste much of your time
20 going over those again. I do want to ask you
21 whether there's any reason today that you're not
22 able to provide accurate and truthful testimony?

A No reason.

Q And then one other question. Other than the Zoom platform that we're using for purposes of this deposition, do you have anything else open in your computer at this time?

A No. Only thing open right now is the Explorer so I can access the downloaded document. But I don't have any document open.

Q Sounds good. Thank you so much, Dr. Woloszko.

If I refer to the '774, the '536, and the '812 patents, do you know what I'm referring to?

A Yes.

Q There's been some IPRs filed on those patents, and you provided opinions in support of those petitions for IPR. Correct?

A Correct.

Q And we can go ahead and get started on marking your latest set of declarations. So let me go ahead and put them in the chat.

THE WITNESS: Okay. Let me see how I get them again. I forgot.

1 (Discussion off the record with the A/V
2 technician.)
3 MS. PENIZA: I'm putting in the chat your
4 three declarations, supplemental declarations in
5 support of the petitioner's replies. So you have
6 the '536 patent IPR declaration, the '774 patent
7 IPR declaration.
8 A Okay. I see here, yes. Okay. Let me
9 see how I download them.
10 Q And the '812 IPR patent declaration.
11 A Hold on a second. Let me put them in the
12 right place here.
13 (Discussion off the record with the A/V
14 technician.)
15 (Exhibit 1030, IPR2024-00463; Exhibit
16 1040, IPR-00384; and Exhibit 1030 IPR2024-00383
17 previously marked, not attached.)
18 A Okay. Which one? Okay, I have them open
19 now.
20 Q If you can open them all, I want to focus
21 your attention starting on your opinions regarding
22 Mehta's disclosures. And I believe in each one of

1 these declarations those discussions start at Page
2 8, but I'll give you a moment to look through
3 them.
4 A Okay. You want to look at the -- okay.
5 On the '812. So make sure we are on -- because I
6 know they are not exactly the same. So on the
7 '812. Okay.
8 Q I'll give you a moment to look through
9 it. I believe your opinions regarding Mehta's
10 anticipatory and obviousness disclosures are the
11 same in all three IPRs.
12 A Okay.
13 Q Please confirm.
14 A Page 8 until --
15 Q Until about Page 11.
16 A It will take a while to compare them word
17 for word, so ...
18 Q And my question is, generally the
19 opinions in your declarations from Page 8 through
20 Page 11 are substantially the same across the
21 '536, '774, and '812 patents. Correct?
22 A Yeah, as you know, it's difficult to

1 compare because I cannot open them all together.
2 But substantially they are, I would say similar,
3 you know, say that they -- they are similar.
4 Q Well, there are no inconsistencies across
5 the opinions that you provided in Pages 8 through
6 11 for each one of your declarations. Correct?
7 A I don't believe so. Yes. Correct.
8 Q Okay. Sounds good. So why don't we
9 focus on the '774 declaration.
10 A Okay. Okay.
11 Q And again, take your time to look through
12 it, but I'm focusing on the opinions that start at
13 Page 8 regarding Mehta's disclosures.
14 A Sure. Okay.
15 Q And is it fair to say that in your
16 opinion, you contend that Mehta discloses the
17 claimed desired distance. Correct?
18 A Yes.
19 Q Is it also fair to say that you rely on
20 various portions of Mehta to support your opinion?
21 A I guess so, yes.
22 Q One of the portions of Mehta that you

1 rely on are related to Mehta's disclosures of a
2 step motor. Correct?
3 A Yes, step motor is not related
4 to design -- I mean, yes. Yes. Correct. To
5 design, yes. I relate to step motor as well.
6 Q Is Mehta's disclosure of a step motor
7 alone, in your opinion, sufficient to disclose the
8 claimed desired distance of the '774, '536, and
9 '812 patents?
10 A No. He mentioned -- he mentioned the
11 word "desired." So that he says "desired
12 location" or "desired depth" several times. And
13 step motor is one way, is one embodiment to
14 precisely control the position of the electrode
15 needles, but it's not sufficient to say, no.
16 Q So I just want to make sure that I
17 understand your opinions. A step motor alone is
18 not enough to meet the desired distance
19 limitation, but the step motor in Mehta, in
20 conjunction with portions in Mehta that refer to
21 desired depth, in your opinion, are sufficient to
22 disclose the desired distance limitation?

1 A No, I don't believe the step motor is
2 necessary to meet the required -- the desired
3 distance limitation. It's one way, but there are
4 other ways. Any other motors described by Mehta
5 can achieve that as well.
6 Q I see. So the motor, whether it's a step
7 motor or some other actuator disclosed in Mehta,
8 in conjunction with Mehta's disclosure of
9 advancing the probes to, for example, a desired
10 depth, would be sufficient to meet the desired
11 distance limitation?
12 A No. When you mean "the desired distance
13 limitation," it's -- that's a word. So the --
14 the -- it's -- you know, you -- you try to take
15 things out of context.
16 So I like to have a full sentence.
17 What -- what do you call "desired distance
18 limitation"? So --
19 Q That's fair. And I don't mean to take
20 things out of context. I think maybe I'm -- I
21 jumped a bit ahead. So when I refer to "the
22 desired distance limitation," I am referring to

1 the limitations in the '774, '812, and '536
2 patents related to the claimed desired distance.
3 If I -- if I say "the claimed desired distance,"
4 do you know what I'm referring to?
5 A The claim -- let's -- let's read the
6 claim. Why don't you take one claim so make sure
7 we -- we agree on the -- what we talk about here.
8 Q Absolutely. Let me go ahead and, since
9 we're on the '774 patent, let me put the '774
10 patent in the chat and we can take a look at that.
11 (Jeisys Exhibit 1001, IPR2024-00383
12 previously marked, not attached.)
13 Q I have placed the '774 patent in the
14 chat.
15 A Yeah.
16 Q Dr. Woloszko, we can -- we can take a
17 look at that one. If you want to take a look at
18 the other patents, the '536 or the '812, let me
19 know, and we can do that as well.
20 A Okay. No. It's fine.
21 Q Okay. So if we go to, for example, Claim
22 13 of the '774 patent, all the way at the end.

1 Last page.
2 A Yes, I also want to mention then in
3 the -- in Claim -- the Claim 1 also I
4 understand -- you know, the Claim 1 also mention
5 desired distance, for an extending needle. And
6 this one doesn't require any motor. So the
7 desired distance limitation does not require any
8 actuator at all. And I understand that you're not
9 asserting Claim 1 but it's part of the same patent
10 so we need to read the -- I believe the term
11 "desired distance" has the same meaning throughout
12 the whole patent. Actually, I believe throughout
13 the whole patent family.
14 Q Sure.
15 A So I do believe the desired distance
16 require any type of actuator.
17 Q Okay. If we go to Page 31, I want to
18 make sure we're on the same page so that our
19 record is clear, Dr. Woloszko. Or the prior page.
20 And if we look at Claim 11, I want to
21 focus on the claims that are at issue for the
22 '774.

A Sure.

Q If you can go down a little bit more, I want to see Claim 11, 13, and 14. Perfect. Thank you.

So in Claim 11 you write, "The claim requires a device including a plurality of needles, one of extending or extendable a desired distance from a surface."

Do you see where I'm reading?

A Yes. Uh-huh.

Q And then Claim 13 is further limited and says, "Further including a mechanism for causing the plurality of extendable needles to extend a desired distance."

Correct?

A Yes.

Q And Claim 14 requires, "A motor coupled to a plurality of extendable needles that may be directed to cause the plurality of the extendable needles to extend a desired distance from the surface."

Correct?

1 A Correct, yes.
2 Q So in the context of the claims that are
3 at issue of the '774 patent, Claims 13 and 14, you
4 do have to have a motor or some mechanism for
5 causing the extendable needles to extend a desired
6 distance. Correct?
7 A That's correct, for Claim 13 and 14 you
8 need -- you need mechanism of any kind and a motor
9 Claim 14 -- I mean including a motor. So you need
10 a mechanism apparatus to basically extend the
11 needle to a desired distance.
12 Q So when I refer to the term "desired
13 distance," I'm referring to the claimed desired
14 distance in the context of the claims of the '774,
15 '536, and '812 patents. If I do that, do you
16 understand what I -- what I mean?
17 A The distance, yes. Yes. And, but if you
18 mention desired distance, desired distance doesn't
19 require any activator. For the -- for the -- for
20 the Claim 14, yes, there is -- there is a
21 requirement for an actuator.
22 Q And for Claim 13 there's also a

1 requirement of a mechanism?
2 A A mechanism, yes.
3 Q Okay. I'm not trying to take the term
4 out of context. I'm trying to understand the
5 portions of Mehta that you contend, when you look
6 at them, those portions in Mehta are sufficient,
7 in your opinion, to meet the claimed desired
8 distance.
9 So just for context, when I say "the step
10 motor," I understand that your opinion is that it
11 doesn't have to be a step motor.
12 My question is -- this is my question:
13 In Mehta, the disclosure of a step motor and the
14 disclosure of advancing the probes to a desired
15 depth, is that sufficient to meet the claimed
16 desired distance limitation, in your opinion?
17 A Yeah. He has many mention of advancing
18 the needle to a desired location, to a specific
19 location. And he has used terminology to say this
20 is way we want to treat the -- you know, and he
21 talks about whether you want to various portion of
22 the dermis us so you can go more deeper or

1 shallower, depending on when you want to achieve.
2 And he describes means to place a needle at this
3 location. So which is a desired location, the
4 desired distance.
5 Q Okay. So I just want to make sure I
6 understand your opinion. The portions of Mehta
7 regarding advancing the needles to a desired depth
8 of the tissue along with the disclosure of a step
9 motor in your opinion are sufficient to disclose
10 the claimed desired distance. Correct?
11 A We don't use step motor. Step motor is
12 not required at all for that.
13 Q That's not my question.
14 A Yes.
15 Q I understand -- I want to --
16 A Yes.
17 Q Let me -- let's not interrupt each other,
18 because I think then the record is not going to
19 come out clear.
20 My question is not whether the step motor
21 is required. My question is, in your opinion, the
22 disclosure of a step motor and the disclosure in

1 Mehta regarding needles advancing to a desired
2 depth, in your opinion, that is sufficient to
3 disclose the claim desired distance. Correct?
4 A The -- yes, I would agree.
5 Q Okay. Thank you.
6 I want to go back to the '774 IPR
7 declaration?
8 A Yes.
9 Q If we go to Paragraph 15.
10 A Yes.
11 Q You also rely on Mehta's disclosure of
12 over-inserting and partially retracting the
13 electrodes or needles to support your opinion that
14 Mehta discloses the claimed desired distance of
15 the '774, '536, and '812. Correct?
16 A No. This paragraph is because I -- I
17 understand you want to make the claim construction
18 such that desired distance mean that it's user
19 programmable, which I don't agree.
20 But to the extent you would -- you would
21 require that this is a user programmable, that --
22 so that the motor is programmed to achieve this

1 distance, then I -- I show that the motor, one of
2 the embodiment described by Mehta with this motor
3 allows a three size advancement and which allows
4 the needle to be advanced at a specific location,
5 more than one specific location.
6 Q Okay. So let me make sure I understand.
7 If desired distance is construed to require some
8 kind of user programming, is it fair to say that
9 in your opinion Mehta's disclosures of
10 over-inserting and partially retracting the
11 electrodes are sufficient to disclose the claimed
12 desired distance under that construction?
13 A I misspoke. This doesn't require -- this
14 isn't the user program. This is the -- the part
15 where the motor is programmed to achieve specific
16 distance. But yes, my answer to the question
17 would be yes.
18 Q If we go then to Paragraph 16. I'll give
19 you a moment to get there.
20 A Yes.
21 Q Is it fair to say that you also rely on
22 Mehta's disclosures of selecting or replacing

1 different cartridges with different needle
2 configurations to support your opinion that the
3 claim that Mehta discloses the claimed desired
4 distance of the '774, '536, and '812 patents?
5 A So once again, this is -- this is to show
6 that if desired distance means that the user can
7 select, that the user is the select the distance,
8 then Paragraph 16 show that the user has the
9 ability to select the desired distance, and
10 therefore program the system to get to this
11 desired distance by using such cartridge.
12 Q Okay. So again, just to make sure I
13 understand. If the claimed desired distance is
14 construed to require user selection, is it fair to
15 say that, in your opinion, Mehta discloses the
16 claimed desired distance based on the description
17 of selecting different carriages with different
18 needle configurations?
19 A Yes.
20 Q I want to go back up to Paragraph 14.
21 And I want to make sure that I see the portions of
22 Mehta that you're relying on.

1 So let me put Mehta in the chat and we
2 can -- we can both ensure that we're looking at
3 the same thing.
4 (Jeisys Exhibit 1004, IRP2024-00384,
5 previously marked, not attached.)
6 Q Dr. Woloszko, I put in the chat Exhibit
7 1004 from the '774 patent IPR, which is the Mehta
8 reference.
9 A I don't see it. Oh, okay.
10 Q I will give you a moment to look through
11 it, but I just want to confirm that this is the
12 same Mehta reference that you are relying in the
13 '774, '536, and '812 patent IPRs?
14 A Let me open it.
15 Yes. It is.
16 Q So if we look at -- and we should -- we
17 should leave Mehta up, probably. And then in the
18 screen that may be easier for you, Dr. Woloszko,
19 you tell me. But I'm going to look at portions of
20 your '774 patent declaration --
21 A Uh-huh.
22 Q -- and then also Mehta.

1 And so however is easiest for you to be
2 able to take a look at both, let me know. We can
3 keep Mehta on the screen, on the shared screen.
4 A Okay. I can switch between them. Okay.
5 Yes.
6 Q Okay. Perfect.
7 Okay. So if I look at Paragraph 14 of
8 your declaration, you opine that Mehta discloses a
9 step motor to move the electrode assembly to
10 various stepping distances.
11 Do you see where I'm reading?
12 A Motor -- various stepping. Yes.
13 Q And then you -- you cite to Column 15,
14 Line 34 through 40 of Mehta, which you actually
15 have on the next page. Right?
16 A Thirty-four through 40. Okay. Yes.
17 Q Okay. Is this portion of Mehta, Column
18 15, Lines 34 through 40, in your mind the
19 disclosure of a step motor that you're relying on
20 to support your opinion that Mehta discloses the
21 claimed desired distance?
22 A That is a reference, I think he mentions

1 that the motor in other place in the -- in the
2 document. But this is one, this is the part which
3 is referenced in this, in my declaration, yes.
4 Q So this is the portion of Mehta that
5 you're relying on. Correct?
6 A Yes.
7 Q Then if we go to the next sentence in
8 your declaration, you opine that Mehta's motor-
9 driven system is adjusted to guide probe placement
10 to the user's desired depth.
11 Do you see that?
12 A Yes.
13 Q And then you quote two different
14 portions.
15 A Yes.
16 Q Column 21, Lines 8 through 10 is the
17 first portion.
18 Can we go to that in Mehta?
19 A Yes.
20 Q And that portion in Mehta states that the
21 tissue-engagement surface 106 allows a user to
22 place a device on the surface of tissue and

1 advance the probes to the desired depth of tissue.
2 Correct?
3 A Yes. Uh-huh.
4 Q Fair to say that you're relying on that
5 portion of Mehta to argue that Mehta discloses the
6 claimed desired distance?
7 A Yeah. This -- this part is basically --
8 okay. We have eight. So there was -- this part
9 explains why the desired distance, you have to
10 measure basically from a -- from a consistent
11 point, a consistent departure point. And he talks
12 about the -- the engagements, tissue-engagement
13 surface basically that provide the consistent
14 placement of the apparatus to precisely advance
15 the needle to the desired distance, to prevent the
16 skin to bunch up or basically to get a consistent
17 results with the same input to prevent the skin to
18 bunch up. And he has -- he mention this
19 consistency in several places in the document.
20 Q Is it fair to say that in your opinion
21 the disclosures of Mehta 15 Lines 34 through 40,
22 and 21 Lines 8 through 10, would be sufficient to

1 describe and disclose the claimed desired
2 distance?
3 A No, not sufficient. No.
4 Q What else do you need?
5 A Tissue-engagement surface -- surface
6 tissue -- and advance the probe -- basically
7 the -- this -- this paragraph doesn't mention the
8 motor or any of that. It just say that basically
9 the tissue-engagement surface is -- is required to
10 have a consistent desired distance.
11 Q Sure. I apologize, Dr. Woloszko. I
12 think maybe my question was not very clear.
13 I'm referring to the portion at -- let me
14 reask the question.
15 Is it fair to say that, in your opinion,
16 Mehta's disclosure of the stepping motor at
17 Columns 15, Lines 34 through 40, along with the
18 disclosures of the tissue-engagement surface and
19 the desired depth of tissue in Columns 21, Lines 8
20 through 10, sufficient to disclose the claimed
21 desired distance?
22 A If you read between the lines, yes.

1 Q What do you mean by that?
2 A Because it say, okay, the step motor is a
3 way to -- is one mean to advance the needle. And
4 then on the -- on the Column 21, he mention that
5 basically allows the user to place the device on
6 the surface tissue and advance the probe to the
7 desired depth of tissue.
8 So he -- he basically the -- it mention
9 that advancing the needle to the -- actually to
10 the desired depth of tissue.
11 Q Is that a yes?
12 A Yes. And step motor, so both of those
13 together would be one -- one mean, one embodiment,
14 sufficient to meet the desired distance
15 limitation, yes.
16 Q If we go to the other portion of Mehta
17 that you cite in your declaration, Column 32, Line
18 46 through Column 33, Line 34.
19 A Okay. Thirty-two. Yeah.
20 Q I'll give you a moment to read through
21 that. But is it fair to say that this portion of
22 Mehta discloses the embodiment that has the

1 virtual depth location depiction feature?
2 A It's a long -- it's a long paragraph so I
3 will say virtual. But yes, he -- yeah, the
4 virtual. This is where he describes the feedback,
5 the feedback system, to confirm that you are
6 actually at a desired location. The only -- it
7 only to have the -- it only to use a virtual
8 location because the impedance he mention various
9 embodiment in which you can have this feedback,
10 one can be the virtual location, the other one can
11 be the impedance location or sound or other
12 things. But he describes the mean used to get the
13 feedback to inform the user that he or she is --
14 the needles are placed at the desired location.
15 Q Yeah. I don't think that testimony came
16 out very clear, so I just want to make sure I
17 understand your opinion.
18 Is it fair to say that the portion of
19 Mehta at 32, Line 46 through 33, Line 34,
20 discloses one of the ways, an optional way, to
21 obtain information regarding the actual distance
22 of the probes?

1 A Regarding the -- what is the probe, the
2 actual --
3 Q Actual distance, actual depth of the
4 probes.
5 A The actual location? Yes.
6 Q So you don't need to have the virtual
7 location feature described in Column 32, Line 46
8 through 33, Line 34 in Mehta for Mehta to disclose
9 the claimed desired distance. Correct?
10 A That's correct.
11 Q Okay. If we keep going down your
12 declaration, the next portion of Mehta you rely on
13 is Column 13, Line 58 through 65. Correct?
14 A Hold on. Where are you in my declaration
15 here?
16 Q I am still on Paragraph 14.
17 A Yeah. Thirteen, 58 through 65, you
18 mentioned?
19 Q Yes. I will give you a moment to look
20 through that.
21 A Thirteen, 58 through 65.
22 Q And my question is, is it fair to say

1 that you are relying on Columns 13, Lines 58
2 through 65, regarding Mehta's disclosure of an
3 actuator to support your opinion that Mehta
4 discloses the claimed desired distance?
5 A In this case he mentions the actuator, so
6 this is the -- in the claim was it 14, the
7 actuator or the motor to reach the desired
8 distance.
9 Q In your opinion, is the disclosure of an
10 actuator at Columns 13, 58 through 65, along with
11 the portions of Mehta regarding advancing the
12 probes to the desired depth of tissue sufficient
13 to meet the claimed desired distance?
14 A I believe so, yes.
15 Q The next portion of your declaration
16 cites to Column 15, Lines 34 through 40 of Mehta.
17 Do you see where I'm reading?
18 A Yeah.
19 Q I'll give you a moment to read through
20 that portion of Mehta.
21 A Okay. Uh-huh.
22 Q And my question is, is it your opinion

1 that Column 15, Line 34 through 40, along with the
2 discussion of Mehta regarding advancing the probes
3 to the desired depth that you cite previously,
4 sufficient to meet the claimed desired distance?
5 A Yeah, he mention the increment --
6 incremental indexing. So shows that the motor can
7 be programmed to reach a specific distance, and
8 the desired distance he described on the -- on the
9 previous section. Yes.
10 Q I want to move to Paragraph 15 of your
11 declaration, where you discuss the over-inserting
12 and partially retracting language of Mehta.
13 A Uh-huh.
14 Q And you cite to Column 16, Lines 39
15 through 41 of Mehta. Correct?
16 A Sixteen, 39 through 41, yes.
17 Q I'll give you a moment to read through
18 that.
19 A Thirty-nine through 41. Yes. Uh-huh.
20 Q And those portions state that
21 over-inserting, and then partially retracting the
22 electrodes compensates for the movement and laxity

1 of the skin, resulting in a more reliable
2 insertion. Correct?
3 A Yes.
4 Q And you're relying on that portion of
5 Mehta to support your opinion that Mehta discloses
6 the claimed desired distance. Correct?
7 A What I rely on here is I explain that
8 this shows that Mehta describes that the system
9 has a control system able to precisely program the
10 motor to a specific distance, and thus -- and that
11 doesn't have to rely only on a mechanical stop
12 from the cartridge end of travel.
13 Q So is it then fair to say that in your
14 opinion, Column 16, Line 39 to 41 of Mehta,
15 discloses that the motor can be programmed to
16 extend the needles the claimed desired distance?
17 A I would agree with that, yes.
18 Q The next portion of Mehta that you cite
19 in this paragraph is Column 16, Lines 34 through
20 36. I'll give you a moment to get there. But
21 that portion of Mehta states, "In certain
22 variations of the device the electrodes can be

1 designed to intentionally over-insert and then
2 slightly retract prior to initiating the
3 treatment."
4 A Uh-huh.
5 Q Again, fair to say that you are relying
6 on Column 16, Line 34 through 36 of Mehta, to
7 support your opinion that Mehta discloses the
8 claimed desired distance, the desired distance is
9 construed as requiring programming of a motor.
10 Correct?
11 A Hold on. So desired distance is --
12 desired distance is construed to programming of
13 motor. So you don't need to program the motor to
14 reach the desired distance. There are many --
15 there are other ways to get there. But again, we
16 talked about, you know, if -- if you have a -- if
17 you use a motor to achieve the desired distance,
18 you need one way -- you need one way to program
19 the motor. And in this paragraph it is -- he
20 describes one way that the motor can be programmed
21 to achieve a distance.
22 Q Okay. And one followup there. Is that

1 limited to a motor, or can it be any mechanism?
2 A In this -- if you just take this
3 sentence, in this sentence it doesn't -- the motor
4 is not mentioned. So it can be any other
5 mechanism here. Because it is variation of the
6 device, electrode can be designed to intentionally
7 over-insert and then slightly retract. So it's
8 not limited to the motor here.
9 Q If we continue on Paragraph 15 of your
10 declaration, towards the bottom now on Page -- the
11 top of Page 10, you opine, "Mehta's control system
12 controls the motor's extension and retraction of
13 the needles," and then you cite to specific
14 portions of Mehta.
15 Do you see where I'm reading?
16 A Yes.
17 Q Specifically you rely on Column 10, Lines
18 38 through 39 of Mehta. I'll give you a moment to
19 read, to get there. And that portion of Mehta
20 states, "Alternative variations of the system 200
21 include actuators driven by the control
22 system/energy supply unit 90."

1 Correct?
2 A Correct.
3 Q So you're relying on that portion of
4 Mehta to support your opinion that Mehta's control
5 system controls the motor, the motor's ability to
6 extend and retract the needles. Correct?
7 A This part shows that the motor is -- that
8 there is a motor controller to -- basically to
9 control the motor. I think we need the other
10 content to complete that. Controller extension
11 retraction. But Column 10, 38 to 39, is about
12 the --
13 Q Let me ask a specific question. You're
14 relying on Column 10, Lines 38 through 39 of
15 Mehta, to support your opinion that the actuator,
16 the motor, whatever the mechanism in Mehta has a
17 control system to control the extension and
18 retraction of the needles. Correct?
19 A It was -- it shows there was a control
20 system to control the actuation extension of the
21 system, correct, yes.
22 Q And in your opinion, that supports your

1 that Mehta discloses the claimed desired distance.
2 Correct?
3 A It supports it, yes. Correct. Yeah.
4 Q The next portion of Mehta that you cite
5 in this paragraph of your declaration is Column
6 13, Lines 58 through 65. I'll give you a moment
7 to read through that.
8 And for the record, that portion states,
9 "Figure 3A illustrates a sectional view of a
10 device body 210 to illustrate placement of an
11 actuator 250 and a cooling device 234 within the
12 device body 210."
13 Correct?
14 A Correct, yes. Uh-huh.
15 Q And fair to say that you rely on that
16 portion of Mehta to support your opinion that
17 Mehta discloses an actuator. Right?
18 A Yes.
19 Q And in your view that's sufficient, along
20 with the prior portion that we discussed, to show
21 that Mehta discloses the claimed desired distance.
22 Correct?

1 A I don't think it's sufficient.
2 Q What else do you need?
3 A Because those don't mention -- sorry
4 about this. Those don't mention desired distance
5 per se. So this is just the part where there was
6 an actuator and a control system to drive the
7 needles. Those two paragraphs do not mention
8 desired distance or desired location per se.
9 Q If I take a look at only the portions
10 that you're citing in Paragraph 15 of Mehta
11 relating to overinsertion, partially retracting,
12 and the disclosure of an actuator, in your opinion
13 are those portions of Mehta sufficient to disclose
14 the claimed desired distance?
15 A We had -- which one we had? So partially
16 retracting the electrode -- program distance.
17 No, not sufficient, because none of them
18 mention desired distance. All of this, this what
19 the Paragraph 15 explains is that Mehta describes
20 a system that can precisely control the
21 positioning of the needle with -- by inserting,
22 retracting, reinserting the needles at the

1 specific location.
2 Q Is it fair to say that the portions of
3 Mehta that you cite in Paragraph 15 relate to
4 controlling the insertion point of the probe --
5 A Yes.
6 Q -- in Mehta?
7 A Yes.
8 Q If we go to Paragraph 16, here you rely
9 on the disclosures of Mehta regarding selecting or
10 replacing the cartridge with different needle
11 configurations to support your opinions that Mehta
12 discloses the desired distance. Correct?
13 A Correct.
14 Q If we go to the first portion of Mehta
15 that you cite at Column 8, Lines 13 through 18.
16 A Eight, 13 to 18.
17 Q That portion of Mehta reads, "In addition
18 to therapeutic surface treatments of the skin, the
19 current invention can be targeted to the
20 underlying layer of adipose tissue or fat for
21 lipolysis or the breakdown of fat cells.
22 Selecting probes having different lengths to reach

1 the subcutaneous fat layer allows for such probes
2 to apply energy in the subcutaneous fat layer."
3 Correct?
4 A Correct, yeah.
5 Q In your view, is this sufficient to show
6 that Mehta discloses the claimed desired distance?
7 A It's not sufficient, because in this it
8 doesn't describe the means. He just says that --
9 he mentions there are the various desired distance
10 that -- some example of desired distance, and then
11 you need to have needle long enough. But this
12 does not describe how to achieve that.
13 Q The next portion of Mehta that you cite
14 is Column 10, Lines 17 through 25. I'll give you
15 a moment to get there.
16 But that portion states, "Furthermore,
17 the array 108 defined by the individual probes 104
18 can have any number of shapes or profiles
19 depending on the particular application. As
20 described in additional detail herein, in those
21 variations of the system 200 intended for skin
22 resurfacing, the length of the probes 104 is

1 generally selected so that the energy delivery
2 occurs in the dermis layer of the skin 10 while
3 the spacing of probes 104 may be selected to
4 minimize delivery of energy between adjacent pairs
5 of probes or to minimize energy to certain areas
6 of tissue."
7 Do you see where I'm reading?
8 A Yes.
9 Q Is that disclosure in Mehta sufficient to
10 disclose the claimed desired distance?
11 A I would think so, that, yes. Yes.
12 Because he -- he describes that you have a
13 cartridge which is designed to treat to specific
14 location under the skin specific distance.
15 Absolutely.
16 Q The next portion of Mehta you cite is
17 Column 12, Lines 31 through 46.
18 A Twelve. Sorry. What number?
19 Q Column 12, Line 31 through 46.
20 A Thirty-one to 46. 12, 31 through 46.
21 Q And this is a bit long, but I'll read it
22 for the record. That portion of Mehta states,

1 "The illustrated figure also demonstrates another
2 feature of the system where the system 200
3 includes a tissue-engaging surface 106 in this
4 variation on a cartridge 100 having a plane that
5 forms an angle A with a plane of the array of
6 probes 108. As described below, this
7 configuration permits a larger treatment area as
8 well as direct cooling of the tissue surface. The
9 devices of the present invention may have an angle
10 A of 25 degrees. However, the angle can range
11 anywhere from between perpendicular, 90 degrees,
12 to quasi-parallel, nearly zero degrees, but still
13 able to penetrate tissue with respect to the
14 tissue surface. The angle A is typically chosen
15 to increase the likelihood that the active portion
16 of the probe will be inserted to the desired
17 location in tissue. Accordingly, the depth of the
18 target tissue, design of the handpiece, as well as
19 a number of additional factors, may require that
20 the angle vary between nearly 0 and 90 degrees."
21 Do you see where I'm reading?
22 A Yes.

1 Q In your opinion, is that portion of Mehta
2 alone sufficient to disclose the claimed desired
3 distance?
4 A Is it sufficient? I would not say
5 sufficient. Let me think carefully here, because
6 it's sufficient to describe.
7 It describes -- you know, so I'm
8 thinking, like, you describe an embodiment that
9 increases the likelihood of reaching the desired
10 distance. So is it sufficient? What is missing?
11 Obviously he doesn't mention the actuator here,
12 but he mention the desired distance. He mentions
13 treating a desired distance.
14 So if you exclude the actuator, he
15 clearly state that the intent is to treat the
16 desired location, the desired distance, or desired
17 depth. And so if you exclude the actuator which
18 is not described here, this would be sufficient
19 for that.
20 Q Okay. So I just want to make sure I
21 understand. Mehta's disclosure at Column 17, Line
22 66 -- excuse me. Let me start over. Mehta's

1 disclosure at Column 12, Lines 31 through 46,
2 along with, for example, the prior disclosure --
3 strike that. Let me start again.
4 Mehta's disclosures at Column 12, Lines
5 31 through 46, along with Mehta's disclosures of
6 an actuator like the ones we went over previously,
7 together would be sufficient, in your opinion, to
8 disclose the claimed desired distance. Correct?
9 A We -- the claims, you know, we have
10 several claims. So you talk about Claim 14 here
11 with the actuator. The claim, as we know -- as
12 you remember, we -- Claim 11 doesn't require an
13 actuator. So the claim desired distance is broad.
14 So we need to see which claim you talk about here,
15 the Claim 11, 12, 13, 14.
16 Q That's fair. So I believe Claim 13
17 regards a mechanism. Claim 14 requires and
18 actuator. And then in the other patents a motor
19 is part of the claim. Correct?
20 A Yes.
21 Q So -- go ahead.
22 A So basically this Column 12 would meet

1 the requirement for I think Claim 11 that requires
2 a desired distance. And if you want the actuator
3 for the other claim, then you need to add another
4 portion of Mehta.
5 Q Okay. I get it. I just want to make
6 sure I follow. So for the claims of the '774,
7 '536, and '812 patent which require either a
8 mechanism or a motor to extend the needles a
9 desired distance, is it fair to say that in your
10 opinion Column 12, 31 through 46 of Mehta, along
11 with the disclosures of Mehta of an actuator or a
12 stepping motor, would be sufficient to disclose
13 the claimed desired distance?
14 A I believe so, yes.
15 Q Okay. Next portion of Mehta that you
16 cite is Column 17 Line 66, through Column 18 Line
17 3. I'll give you a moment to get there.
18 But that portion of Mehta reads, "In
19 additional variations, the system can be provided
20 with a number of electrode cartridges, where the
21 spacing or offset of the electrodes varies and
22 allows for the physician to control treatment of

1 placement of the electrodes by exchanging
2 cartridges."
3 Do you see where I'm reading?
4 A Yes.
5 Q Is this portion of Mehta sufficient to
6 disclose the claimed desired distance?
7 A It's not sufficient, but this -- this --
8 to the extent you believe the desired distance
9 would require user selection, then it would
10 provide the -- it would support that the user or
11 the physician, you know, it doesn't have to be a
12 physician, but that the user is selecting the --
13 is selecting the distance.
14 Q What else would you need in addition to
15 Column 17, Line 66 to Column 18, Line 3, from
16 Mehta to support your opinion that Mehta discloses
17 the claimed desired distance?
18 A Basically for Claim -- again, '774 to for
19 Claim 12, 13, and 14, you need the -- you need the
20 actuator or the motor.
21 Q Then the next portion of Mehta that you
22 cite is at Column 12, Lines 23 through 58.

1 Do you see where I'm reading?
2 A So 12. Sorry.
3 Q Lines 23 through 58.
4 A Okay. Let me see. 12.
5 Q This is kind of a portion of this we
6 already went over. But here you have a larger
7 portion of Column 12, so I want to give you a
8 moment to read through that.
9 A Yeah. Yeah. So hold on. This is in
10 the -- I've lost my track. Which -- in which
11 paragraph am I -- in my report are you relating to
12 here?
13 Q I'm still at Paragraph 16. I'm in the
14 very first sentence.
15 A Okay. And we are at Column 12, 23-58.
16 Correct?
17 Q Correct.
18 A Yeah.
19 Q Again we covered some of this previously,
20 Column 12 --
21 A I understand. I know. I want to make
22 sure. I put things back into context because, you

1 know ...
2 Okay. So yes. So what's your question?
3 Sorry.
4 Q So my question is, in your opinion, is
5 the portion of Column 12, Lines 23 through 58 in
6 Mehta, sufficient to disclose the claimed desired
7 distance?
8 A Yeah, we mentioned that increase the
9 likelihood of -- probe desired location. Together
10 with the -- my answer the same as before, you
11 know, for Claim 11, yes. And for the other claim,
12 you need to add the -- any portion mention the
13 actuator motor.
14 Q So Column 12, Lines 23 through 58 of
15 Mehta, along with the disclosures in Mehta of an
16 actuator or motor would be sufficient to disclose
17 the claimed desired distance of the claims at
18 issue in the IPRs?
19 A Yes.
20 Q Okay. Then the next portion of Mehta
21 that you cite is Column 20, Lines 56 through
22 Column 21 through Line 13. I will give you a

1 moment to read through that.
2 A Twenty, 56. Twenty, 56. Yes. Okay.
3 Q Okay. The question is, in your opinion,
4 do the portions of Mehta at Column 20, Lines 56
5 through Column 21, Line 13, sufficient to disclose
6 the claimed desired distance of the claims at
7 issue in the IPRs?
8 A Yes. And, actually, this one is, because
9 it says -- I mean, although it doesn't mention the
10 actuator and motor, but if you look at the -- on
11 Column 21, Line 8, allows a user to place the
12 device on the surface of tissue and advance the
13 probe to a desired depth of tissue. Absolutely.
14 So to advance them. So this doesn't mention the
15 actuator, but it mentions advancing the needle.
16 And then you rely on other portion to mention the
17 actuator or the motor. And it says you advance to
18 a desired location, desired distance.
19 Q So I just want to make sure the answer is
20 yes, in your opinion --
21 A Yes.
22 Q -- Column 20 Line 56 through Column 21

1 Line 13 of Mehta, is sufficient to disclose the
2 claimed desired distance of the claims at issue in
3 the IPRs?
4 A Together with the actuator and the motor,
5 again if you want to talk about Claim 13, 14.
6 Q I want to make sure that we're not
7 limited to claims of the '774 patent. I'm talking
8 also about the claims of the '536 and '812.
9 A You know, it's a broad thing. Because
10 it's a location. You know, if it is a location
11 per se, it is a desired distance or the actuator.
12 Because if you only want to talk about the desired
13 distance, yes, it is desired distance. If you --
14 if you want to try to do is placing the needle at
15 the desired distance, yes.
16 If it's how to get there, then, you know,
17 some of the claim mention a motor, actuator, and
18 then those -- this portion of Mehta doesn't
19 mention the actuator or the motor.
20 Q So then let me make sure that I -- that
21 we clean this up a little bit.
22 Do you agree with me that for the claims

1 at issue in the IPRs of the '536, '774, and '812,
2 there has to be a motor or some mechanism that
3 causes the needles to extend the desired distance.
4 Right?
5 A Yes.
6 Q And so then my question is, in your view
7 would Column 20, Line 56 through Column 21, Line
8 13 of Mehta, be sufficient to disclose the claimed
9 desired distance for the claims at issue in the
10 IPR?
11 A Yes.
12 Q If we keep reading through Paragraph 16
13 of your declaration you state, "Because Mehta
14 mentions various cartridges have different
15 configurations/lengths/angles cited above, various
16 cartridges will program the motor to stop at those
17 different distances/depths. At least a first
18 cartridge having a first needle length sufficient
19 to reach a first depth, selected and attached to
20 the handpiece, will program the motor to extend
21 the needles a first distance, and a second
22 cartridge having a second needle length sufficient

1 to reach another depth, selected and attached to
2 the handpiece, will program the motor to extend
3 the needles to a second distance than if the first
4 cartridge was attached to Mehta's handpiece.
5 Do you see where I'm reading?
6 A Yes.
7 Q And then you cite to all the various
8 portions that we've already gone over. Right?
9 A Yes.
10 Q In your view, the different cartridges in
11 Mehta program the motor to extend needles
12 different depths. Correct?
13 A Yes.
14 Q And in each instance, the needles in any
15 one cartridge extend only fully. Correct?
16 A No.
17 Q Why not?
18 A As you -- as you read before, it talks
19 the needle can over-extend and retract. So for
20 it -- for a cartridge it describes several
21 extension length of the needles.
22 So, and I forgot which portion we said

1 selecting the needle lengths sufficient to reach
2 certain distance. So longer -- longer needle
3 allowed to go deeper, doesn't mean that don't
4 allow you to go shallow as well. As he mentioned,
5 the needle can over-extend and retract, so he can
6 adjust the depth or distance at which a needle
7 extend for a given cartridge at well.
8 Q Putting aside the over-extending and
9 partially retracting to have the consistent needle
10 insertion point, in each cartridge the needles
11 would extend to one specific depth to deliver
12 treatment in that depth. Correct?
13 A No. Why would it describe indexing,
14 ratchet or step motor to get to a specific step,
15 if you only want to get -- then you use a
16 solenoid, you know, one point to another one. So
17 he describes system to precisely locate the needle
18 without relying only on the end of travel of the
19 cartridge.
20 Q Why would you need different cartridges
21 with different needle lengths, then?
22 A Once again, so he can go deeper. If you

1 go deeper you need bigger needle, a thicker
2 needle, a larger perforation. So you use as small
3 a needle as possible. If you go shallower you use
4 smaller needles, mechanically less robust. There
5 are many reason for that, engineering reason for
6 that.
7 Q Is it your opinion that in Mehta you can
8 select a single cartridge and have the needles
9 extend multiple different depths?
10 A Although it is not verbatim specified, he
11 describes all the systems in place to do that.
12 Q And in your view, those systems would be
13 over inserting and partially retracting, for
14 example. Correct?
15 A That's -- that's an example. He shows
16 that he had the step motor, that he can index the
17 location of the needle, that he has the control
18 system to retract, to advance needle. So he has
19 that here.
20 Q I want to understand all of your opinions
21 regarding -- let me back up.
22 I want to understand all of the portions

of Mehta that you contend support that a single cartridge can have needles that extend multiple depths. So I will list them out, and you tell me if I miss anything. Okay?

A Yeah. Okay.

Q Is it fair to say that in your opinion Mehta -- a single cartridge in Mehta can have needles that extend multiple depths because Mehta discloses partially retracting and over-inserting the needles and because Mehta discloses a step motor with a control system. Correct?

A He also describe ratchet, indexing.

Q That's part of the step motor. Correct?

A Yeah, it's part. I mean, no. This is not part. This is different than a step motor.

Q Okay. So --

A You can have -- you can have a servo motor that also can have indexing without using step motor. Step motor is one way, it's an easy way to do that. But --

Q Other than ratchet and indexing, what else am I missing?

1 A I think he also mention some way or a way
2 to -- there are buttons, I think it's on Figure
3 12A he has buttons on the handle to various --
4 various control that can be used to actually
5 control the distance over-inserting or retracting
6 a needle, for instance.
7 Q Can you point me to where in Mehta you're
8 referring to?
9 A Figure 12A and this is reference on --
10 let's see. At the end of Mehta. Talk about
11 actuator. So look at Figure 12A, 12B. And this
12 is at the end. Get there. 12A. So it is Column
13 35. And he show the actuator 612. So Column 35,
14 Line 11. Those -- those two button. Basically
15 those actuator 612 and 614 actuators that can be
16 used for various functions. And this would
17 include basically, you know, changing needle
18 location in function of the feedback providing on
19 the screen, whether the needle is at a desired
20 location.
21 Q So in your opinion, Column 35, Line 11,
22 the description of the actuator 612 and 614, would

1 also be sufficient to --
2 A Not sufficient, no. Would be --
3 Q Let me finish my question.
4 -- to disclose that in a single cartridge
5 needles extend different distances?
6 A No, not sufficient.
7 Q Okay. What else would you need?
8 A Not sufficient. Because we need to talk
9 about the -- then we talk about the feedback
10 system, you know. This -- this -- this portion
11 does not -- does not require -- so we need the
12 step motor or the index motor or the servo motor,
13 a motor that can control the position, Number 1.
14 Number 2, you know, you -- it shows that
15 the system can advance or retract the needles,
16 that's the other portion.
17 And then if you want the physician to
18 control that distance, which is not required by
19 any claim, in my view, then you -- the physician
20 has access to those buttons to potentially move
21 the needles.
22 Q The buttons that you're referring to are

1 actuators 612 and 614?
2 A Yes, the buttons. Yeah, actuator. Yeah.
3 We call them buttons. Yeah, he call them
4 actuators. But you can see on Figure 12A they are
5 buttons.
6 Q Dr. Woloszko, you also provided opinions
7 related to the '774, '536, and the '812 patent in
8 the ITC investigation where those patents were at
9 issue. Correct?
10 A Yes.
11 Q Is it fair to say that the opinions that
12 you provided in the ITC and the opinions that
13 you're providing here, in your view, are
14 consistent?
15 A They are consistent. But I think there
16 is a change in Serendia's view of this desired
17 distance where at that time during the ITC the
18 desired distance was a desired distance, and there
19 was a question asked me about the step motor is
20 sufficient to reach the desired distance. And I
21 said, Yes, as long as it's programmed, it can
22 being programmed to do so.

1 And then from there, there was -- it was
2 at least my understanding that Serendia made the
3 changes in my understanding of the claim
4 construction, then they -- they want to assert
5 that desired distance mean that the user is able
6 to program the distance, which is not my
7 understanding of the claim.
8 Q So --
9 A So -- so then I have added those, those
10 comment on, basically if the extent that you want
11 to go there, then basically Mehta discloses also
12 way for the user to select the desired distance.
13 Q Sure. But my question is specific to
14 your opinions.
15 A Yes.
16 Q Is it fair to say that the opinions that
17 you provided in the ITC in your view are
18 consistent with the opinions that you are
19 providing here?
20 A I believe so, yes.
21 Q Okay. Are you aware that the
22 administrative law judge in the ITC disagreed with

1 your opinions regarding the '774, '536, and the
2 '812 patents?
3 A I don't know what the judge has said, so
4 I am not aware what she said about it.
5 Q I want to put another exhibit on the
6 screen.
7 A Can I ask for a two-minute break? I want
8 to make myself a cup of coffee.
9 MS. PENIZA: Of course. Of course. My
10 apologies. Let's go off the record and take a
11 break.
12 (A recess was taken.)
13 BY MS. PENIZA:
14 Q Actually, Dr. Woloszko, before I move on,
15 all the portions of Mehta that we discussed, in
16 your view they also would be sufficient to support
17 that Mehta discloses the claimed desired distance
18 limitation under your proposed construction.
19 Right?
20 A Yeah.
21 Q Okay.
22 A Which is much more restrictive than

1 the -- yes.
2 Q Okay.
3 A I don't think it's my proposed
4 construction. I think it was the -- it was the
5 construction that was agreed upon during the ITC
6 trial.
7 Q Well, let me clean this up a little bit.
8 Because I think that now we're -- I'm not getting
9 an answer to my question.
10 My question is specific to this IPR. So
11 I just want to make sure that in your view the
12 portions of Mehta that we discussed are sufficient
13 to support your opinion that Mehta discloses the
14 claimed desired distance under the construction
15 that petitioner has proposed in the IPRs.
16 Correct?
17 A That's correct, yes.
18 Q Now, talking about the ITC case, the term
19 "desired distance" was never proposed for
20 construction. Right?
21 A I -- I don't remember. We -- there was a
22 list -- if you showed me the list of agreed

1 claim -- claim construction, it's possible. It's
2 been a while. So it's possible. I don't -- if
3 you want to confirm that, we have to look at the
4 claim construction document and then confirm that.
5 Q We don't have to do that. You can take
6 my word for it, it was not.
7 A Okay.
8 Q But that's not really what I'm here to
9 talk about today.
10 A Okay.
11 Q Going back to the ITC. So my question
12 before we went on a break was whether you were
13 aware that the administrative law judge at the ITC
14 disagreed with your opinions regarding the '774,
15 '536, and the '812 patents. And you responded
16 that you did not know what the judge had done or
17 said about it. Correct?
18 A That's correct, yes.
19 Q So I am going to put in the chat an
20 exhibit that has not been previously marked.
21 MR. AUTERI: I would just like it on the
22 record I object to this exhibit as not being

1 previously submitted, and the other papers to the
2 extent that you intended to file this.
3 MS. PENIZA: We can mark this as Exhibit
4 1 of the Woloszko deposition.
5 (Woloszko Deposition Exhibit 1 marked for
6 identification and is attached to the transcript.)
7 Q But I'll give you a moment to open it,
8 Dr. Woloszko.
9 A All right.
10 Q This is a public version of the Initial
11 Determination on Violation of Section 337 and
12 Recommended Determination on Remedy and Bond.
13 Do you see that?
14 A Yeah. I can't open the document, yeah.
15 Q You cannot?
16 A No. It's PDF.
17 (Discussion off the record; technical
18 difficulty.)
19 Q So this document is entitled Initial
20 Determination on Violation of Section 337 and
21 Recommended Determination on Remedy and Bond.
22 Do you see that?

1 A Yes. I have never seen this document
2 before, but yes.
3 Q You have never seen this document before?
4 A Yes.
5 Q Yes, you have, no --
6 A Yes, I mean, I agree that, no, I have
7 never seen this document before.
8 Q So is it fair to say then that you have
9 not considered the Initial Determination on
10 Violation of Section 337 and Recommended
11 Determination on Remedy and Bond from the
12 administrative law judge at the ITC in forming
13 your opinions for these IPRs?
14 MR. AUTERI: Objection. To the extent
15 that this is outside the scope of Dr. Woloszko's
16 declaration.
17 A As I've never seen this document,
18 obviously I couldn't consider it, yes.
19 Q Feel free to flip through it, but I want
20 to point you to Page 196.
21 A Yeah, I don't have much time to read it
22 through. We will spend all day. But okay. Page

1 196.
2 Q And you can look through the table of
3 contents if you wish. But I can represent to you
4 this is the portion of the opinion where the judge
5 provides her opinion regarding invalidity starting
6 with the '536 patent. And if we go to Page 197,
7 this is where her discussion of the Mehta
8 reference begins.
9 A Yes.
10 Q Just so the record is clear, this, the
11 reference, the Mehta reference at issue in the
12 ITC, is the same Mehta reference that we're --
13 that you're relying on here in the IPRs. Correct?
14 A I -- what did it say? I don't know where
15 the Mehta is. I mean, the one discussed at trial,
16 yes, I'm not sure. I would -- I would take your
17 word. Okay. The '705? This is '705. They
18 mention '705. This is not the '705 patent. This
19 is another patent. So once again, PTO considered
20 Mehta patent, the '705 Mehta patent is not the
21 same ones here.
22 Q Let me make sure because I think you're

1 right, there's two Mehta references. I want to
2 make sure that we are on the same page about what
3 we're talking about. If you go to Page 197.
4 A Yeah.
5 Q PDF Page 219.
6 A Oh, okay. So it's Page 97.
7 Q Hold on. What we have on the screen is
8 not matching this. We're in Exhibit 1.
9 A Okay. Yeah. Yeah. No. Okay.
10 Q Stop. Dr. Woloszko, please, we're
11 talking over each other. I want to make sure I
12 have a clean record, and we're going back and
13 forth a lot. So I want to make sure we're looking
14 at the same thing on the screen so we're on the
15 same page. I'm on Exhibit 1 of your deposition.
16 And I am on Page 197, which is PDF Page 219.
17 A Okay. You talking about deposition or
18 you said my -- okay. You talk about my deposition
19 here, and then you talk about the -- what -- the
20 document you send me.
21 Q When I refer to Exhibit 1 of your
22 deposition, I'm referring to the judge's opinion

1 from the ITC.
2 A Okay. Now we on the same page. Okay.
3 Q Perfect. Thank you.
4 So here the judge refers to U.S. Patent
5 Number 8,608,737, which is RX 307 Mehta.
6 Do you see where I'm reading?
7 A Yes.
8 Q That is the same Mehta reference that you
9 rely on in the -- in your opinions for the IPR
10 here. Correct?
11 A Correct.
12 Q Okay. So we're on the same page.
13 If we go to the next page of Exhibit 1,
14 which is the judge's opinion, the judge begins
15 with, "Respondents relied on Mehta for all their
16 anticipation and obviousness arguments for the
17 Family Two Patents."
18 Do you see where I'm reading?
19 A So we -- where are you reading here?
20 Sorry. No. I -- I miss -- I lost you a second.
21 So ...
22 Yes. So what part are you reading here?

1 Q I'm reading the first full sentence on
2 Page 198 of the judge's opinion. "Respondents
3 relied on Mehta for all of their anticipation and
4 obviousness arguments for the Family Two Patents."
5 A Yes.
6 Q The Family Two Patents are the '774,
7 '536, and '812. Correct?
8 A Yes.
9 Q Okay. If we go --
10 A Okay. I will say a thing here, I was
11 tricked during my first deposition, I was not
12 aware there was two Mehta patents. And -- and
13 during my deposition I was asked if this is Mehta
14 patent I considered. Or I forgot the question.
15 And I said yes. Are they the same disclosure?
16 And I said yes. And I didn't read them in detail.
17 And I realized later on I was tricked because they
18 are two different -- they are not the same
19 disclosure, there are a lot of differences.
20 Q Dr. Woloszko, I don't know what you're
21 referring to about being tricked. I am not
22 talking about the --

1 A Yeah, I know. But it says on the
2 document here, basically it mentioned basically --
3 look at second -- end of second paragraph.
4 Additionally, it was uncontested during the
5 hearing and both Mehta references have the same
6 relevant disclosure.
7 Q Doctor, I'm going to ask you to focus on
8 the questions I am posing.
9 A Yes.
10 Q Because I am not asking a question at
11 all --
12 A Ask a question.
13 Q -- on this portion of the exhibit.
14 So if we can focus, please, I would
15 appreciate it.
16 A Okay.
17 Q If we go to Page 201 of the judge's
18 opinion, which is PDF Page 223. The judge opines,
19 "The prior art reference does not anticipate the
20 asserted claims of the '536 patent."
21 Correct? That's Heading Number 3.
22 MR. AUTERI: Objection. Outside the

1 scope of Dr. Woloszko's declaration.
2 Q Do you see where I'm reading? That's
3 just my question, do you see where I'm reading?
4 A I see what you're reading, yes.
5 Q If we go to Page 203, which is two pages
6 down, now we are in the subsection where the judge
7 opined that Mehta does not disclose the desired
8 distance limitation.
9 Do you see where I'm reading?
10 A I see where you're reading.
11 Q So the judge states, "In the Family Two
12 Patents, the desired distance the needles extend,
13 is determined based on the depth a user selects
14 for the needle insertion, an algorithm; i.e.,
15 software executed by the CPU controls the needle
16 deployment accordingly."
17 Do you see where I'm reading?
18 A I see what you're reading, yes.
19 Q So do you disagree with the judge's
20 opinion regarding the meaning of desired distance?
21 MR. AUTERI: Objection.
22 A Yes. I -- I don't agree with that. And

1 I don't believe I'm the only one to disagree with
2 that. And I -- from what I read from the PTAB
3 opinion, they disagree as well. But, yes.
4 MR. AUTERI: I just want to be sure my
5 objection gets in. Objection, to the extent that
6 the question was asking something outside the
7 scope of Dr. Woloszko's declaration.
8 MS. PENIZA: If you want, you can have a
9 standing objection for all my questions regarding
10 this document.
11 MR. AUTERI: That would be -- that will
12 work, then I'll stop interrupting. Thank you.
13 MS. PENIZA: Sounds good. Thank you.
14 Q If we go to the bottom of Page 204.
15 A Bottom of 204, yes.
16 Q Very bottom where it states, "Contrary to
17 their own expert analysis and opinion,
18 respondents' attorneys then contended the desired
19 distance need not be selected/programmed, but
20 rather is met by selection of an appropriate
21 cartridge or selection of an appropriate insertion
22 angle where the needles extend their full length."

1 Do you see where I'm reading?
2 A Yeah. And I strongly disagree with this
3 statement.
4 Q Okay. So that's my question. You
5 disagree with --
6 A Very strongly, yes.
7 Q Okay. The next sentence reads -- and I
8 just want to make sure.
9 A And I tell you why I disagree because --
10 Q We're talking past each other again.
11 A Yes. You don't let me --
12 Q The court reporter cannot take both of
13 us, our statements down. Please let me ask
14 question, and then you can provide your answer.
15 And if there is more that you need to provide,
16 your counsel I'm sure will do redirect. So let's
17 just focus on the questions that I'm posing. I
18 understand you disagree with the judge's opinion.
19 My next question states, "Respondents'
20 newly proposed construction of the desired
21 distance is unsupported by any intrinsic or
22 extrinsic evidence, and it is deemed waived for

1 failure to request it during claim construction."
2 Do you see where I'm reading?
3 A Yes.
4 Q Is it fair to say that you disagree with
5 the judge's opinion that respondents, being
6 EndyMed, who are the petitioners in this case,
7 proposed construction is unsupported by the
8 intrinsic or extrinsic evidence?
9 A I don't know what this means, desired
10 distance --
11 Q Let me make sure. I will give you a
12 moment to read through this. But the judge has
13 opined that the respondents in the ITC, which is
14 EndyMed, the same petitioner at issue here,
15 contends that the desired distance need not be
16 selected or programmed.
17 Do you see where I'm reading?
18 A Yes.
19 Q And EndyMed contends that, rather, the
20 desired distance can be met by the selection of an
21 appropriate cartridge or selection of an
22 appropriate insertion angle.

1 Do you see where I'm reading?
2 A Yes.
3 Q And then the judge states that that
4 proposed construction of "desired distance" is
5 unsupported by intrinsic or extrinsic evidence.
6 Do you see where I'm reading?
7 A Yes.
8 Q Do you agree with the judge's opinions or
9 you disagree with it?
10 A I disagree.
11 Q Okay. If we go to Page 207 of the
12 opinion, which is PDF Page 229, here the judge
13 begins, "Respondents identified four disclosures
14 in Mehta that purportedly teach needles extending
15 a desired distance from a surface."
16 Do you see where I am reading?
17 A Yes.
18 Q And then the judge continues, "For the
19 following reasons they do not."
20 Do you see where I'm reading?
21 A Yes.
22 Q The first one that the judge relies --

1 excuse me, the first portion of Mehta that the
2 judge addresses is the virtual depth/location
3 depiction system. Correct?
4 A Yes.
5 Q I'll give you a moment to read through
6 that paragraph. But fair to say that the judge,
7 as she states in her last sentence, opined that
8 there is not a disclosure in Mehta which describes
9 that the needle already inserted into the skin
10 would be further extended a desired distance
11 automatically? That's her opinion?
12 A Yeah, I don't agree with that. Yes.
13 Q The second portion of Mehta that
14 respondents relied on which petitioners also
15 relied on here is in the next paragraph, the
16 disclosure regarding using a step motor 250 to
17 advance the needles. Correct?
18 A Yes.
19 Q I'll give you a moment to read through
20 this whole paragraph which spans through the next
21 page. But she concludes, the judge, that neither
22 Dr. Woloszko, that's you, nor respondents

1 identified any disclosures in Mehta of how the
2 step motor would implement -- excuse me, would be
3 implemented to extend needles at desired distance.
4 Correct?
5 A Sorry, repeat your question again? I was
6 reading the document. Repeat your question?
7 Q The judge at the ITC found that neither
8 you nor respondents EndyMed identified any of
9 these disclosures in Mehta regarding how the step
10 motor would be implemented to extend needles the
11 desired distance?
12 A No, it's -- that's basic engineering. So
13 this is -- this is like, you know -- yes, it's so
14 basic that it doesn't have to be disclosed.
15 Q That's fine. That's your opinion.
16 A Yes, that's my opinion. Yes.
17 Q Sure. You relied on certain portions of
18 Mehta at the ITC that you rely on here. And at
19 the ITC the judge disagreed that those disclosures
20 were sufficient to show how Mehta, the motor Mehta
21 would extend needles a desired distance. Correct?
22 That's her opinion?

1 A Yeah, that's her opinion that she has the
2 right to have her opinion I guess.
3 Q If we go to the very bottom of 208,
4 beginning of 209, the third portion of Mehta that
5 she addresses is the portion of Mehta regarding
6 intentionally over-inserting and slightly
7 retracting prior to initiating treatment.
8 Do you see that?
9 A Yes.
10 Q And she found -- relied on Mr. Crosby's
11 opinion that that procedure doesn't control the
12 motor to enable precise needle deployment to
13 extend needles a desired distance as the claims
14 require. Correct? That's what she's saying?
15 A Yeah. I've designed step motors, motors,
16 you know, for the past 20 years, so I know what
17 these are. And I respect Mr. Crosby. I respect
18 the judge. But I respectfully disagree.
19 Q I understand. And then the last, the
20 fourth portion of Mehta is this idea of using
21 different cartridges that have different probe
22 configurations.

1 And the judge explains again that having
2 different cartridges with various probe
3 configurations is distinct from probes in a
4 particular cartridge extending a desired distance.
5 Do you see that? That's her opinion.
6 Correct?
7 A That's her opinion, yeah.
8 Q And you disagree with the judge's
9 opinion?
10 A I do.
11 Q Okay. These are the same portions of
12 Mehta that you relied on to support your opinions
13 here in the IPRs. Correct?
14 A I didn't check, but we can cross-check.
15 If you -- if you've done -- but they are probably
16 similar. I guess I -- if you want to check them
17 one by one we can, but they are probably -- most
18 likely reference to a similar part of Mehta.
19 Q Sure. Generally the disclosures that
20 she's addressing in this portion of her opinion
21 are generally the same disclosures that you rely
22 on?

1 A I -- I haven't checked the disclosures
2 she mentions here, and I don't -- I don't want to
3 spend the time to do that. We can if you want to.
4 But I would assume, but I have no idea what --
5 which disclosures she is reference to here.
6 Q If we go to PDF Page 232, which is Page
7 210 of the judge's opinion, and you can look a
8 little bit before as well. But here she's
9 addressing the obviousness arguments that
10 respondents presented. And specifically the lack
11 of motivation to combine or modify Mehta.
12 You can take a look at the opinion, the
13 prior page if you like. Actually, why don't we do
14 that. If we go to Page 209, which is PDF Page
15 231.
16 Here you can see in Heading 4 she states
17 "The prior art reference does not render obvious
18 the asserted claims of the '536 patent."
19 Do you see where I'm reading?
20 A Yes, I -- yeah. So it is so.
21 Q So in the ITC you and respondents
22 presented arguments that Mehta, in view of the

1 knowledge of a person of ordinary skill in the
2 art, would render certain claims obvious. Right?
3 A Yes.
4 Q So then if we go to the next page, here
5 is where the judge addresses any kind of
6 motivation to combine or modify Mehta --
7 A Yes.
8 Q -- of Heading 3.
9 Do you see where I am?
10 A Yes.
11 Q So the judge opines, "One of ordinary
12 skill in the art would not be motivated with a
13 reasonable expectation of success to modify Mehta
14 or combine its various embodiments to arrive at
15 the claimed invention."
16 Do you see where I'm reading?
17 A Yes.
18 Q You disagree with the judge's opinion?
19 A Yeah.
20 Q And you provided opinions at the ITC to
21 support your contention that a person of ordinary
22 skill in the art would be motivated to modify

1 Mehta to arrive at the claimed invention. Right?
2 A I don't remember what I said exactly at
3 that time. This was a long, you know -- long
4 testimony. But I see she mentions some things I
5 said here.
6 Q So why don't we look at that. So at the
7 bottom of that paragraph of Page 210 the judge
8 states, "Respondents' only support is Dr.
9 Woloszko's testimony. However, his testimony is
10 also conclusory and divorced from the requirements
11 of the claims."
12 Do you see that?
13 A I see that, yes.
14 Q So, and then she actually goes on to
15 quote testimony that you provided at the ITC
16 hearing, where you note that a person of ordinary
17 skill in the art would be motivated to modify
18 Mehta because doing so was essentially basic
19 mechanical design. Correct?
20 A Yes.
21 Q And if you keep going through her opinion
22 at the next page, Page 211, she states that "Dr.

1 Woloszko failed to identify specific similarities
2 or provide a basis or explanation for this
3 opinion, other than to say it was basic mechanical
4 design."
5 Do you see where I'm reading?
6 A Yes.
7 Q And she states, "Dr. Woloszko did not
8 provide an explanation other than a generic
9 recitation of alleged predictability of the art,
10 routine optimization, and basic design
11 implementation that allegedly lacks patentable
12 significance," which she found not to be
13 persuasive.
14 Do you see where I'm reading?
15 A Yeah. But she mention a desired distance
16 control. She already, you know, changes the claim
17 construction here. So I don't agree with that.
18 I'm sorry.
19 Q What do you mean "she changes the claim
20 construction"?
21 A You see at the bottom patent, even though
22 they include this first limitation, like an LED or

1 desired distance control. There was no desired
2 distance control in any claim of the patent.
3 There was a desired distance.
4 Q What's the difference between desired
5 distance and desired distance control, in your
6 opinion?
7 A Control. We don't talk about control.
8 Q But you have to control the desired
9 distance that the needles extend in the Family Two
10 Patents?
11 A Who has to control it?
12 Q You tell me.
13 A Me? No, not me. It can be done again by
14 the designer, by the user, by the software, by the
15 hardware control. So it doesn't mean it's
16 controlled by the user.
17 Q But it has to be controlled. Right?
18 A Yeah.
19 Q Okay.
20 A And control can be mechanical control,
21 can be a ratchet, can be many ways to do control.
22 I have my Ph.D. in control system, so I understand

1 control. But control doesn't mean you -- doesn't
2 mean the user interface to change the -- to change
3 the distance.
4 Q This portion of the opinion doesn't refer
5 to a user or a designer. It just says --
6 A Yeah. Desired distance control.
7 Q Okay.
8 A Yeah. I think, I think we provide the --
9 provided a lot of evidence about control of the
10 deployment distance.
11 Q If we go to Page 216 of the opinion,
12 which is PDF Page 238.
13 A That's fine. Yeah. Uh-huh.
14 Q I just want to let you know where we are
15 of the opinions. So next she addresses -- the
16 judge addresses the '774 patent.
17 Do you see that?
18 A Yes.
19 Q And if we go to Page 230 of the opinion,
20 which is PDF Page 252, here is where the judge
21 addresses the invalidity portion of -- let me back
22 up.

1 Page 230 of the opinion is where the
2 judge --
3 A Yeah.
4 Q -- addresses the arguments regarding
5 validity of the '774 patent.
6 Do you see where I am?
7 A Yes.
8 Q Okay. So then, again, next page, Page
9 231 of the opinion, which is PDF Page 253.
10 A Yes.
11 Q The judge provides her opinion again that
12 Mehta does not disclose the desired distance
13 limitation.
14 Do you see where I am?
15 A Yeah.
16 Q And she states, "Additionally, the '774
17 patent requires that needles extend a desired
18 distance from a surface, Claim 11, and an end
19 surface, Claim 12, and as discussed above, Mehta
20 does not disclose needles extending a desired
21 distance from any surface."
22 Do you see that?

1 A Yeah, I see that. Yes. That's --
2 Q And you disagree with her opinions?
3 A Oh, yes.
4 Q And if we go to the next subsection in
5 this portion of her opinion, again the judge finds
6 that a person of ordinary skill in the art would
7 not have been motivated to modify Mehta to arrive
8 at the claimed invention, for the same reasons she
9 explained previously. Correct?
10 A Yeah.
11 Q You disagree with that opinion?
12 A I mean, no, that's what -- that's what
13 she -- yeah, I disagree with that. Yes.
14 Q If we go to the next page, Page 232,
15 which is PDF Page 254 of the judge's opinion, now
16 we are on the section related to the '812 patent.
17 A Yes.
18 Q I just want to guide you to where I am.
19 And if we keep going to Page 257, which
20 is PDF Page 279, here is where the judge begins
21 her analysis regarding the invalidity of the '812
22 patent.

1 Do you see that?
2 A Yes.
3 Q Now, for the '812 patent at the ITC,
4 respondents and you relied on Mehta and on Na
5 '848.
6 Do you recall that?
7 A Yes.
8 Q Okay. Reading that first paragraph, the
9 judge opines that Mehta and Na '848 do not render
10 obvious Claims 5, 13, and 18 of the '812 patent.
11 Do you see where I'm reading?
12 A I see what you're reading, yes.
13 Q Do you disagree with that opinion?
14 A Yes, I do. Yeah. I haven't read the
15 opinion in detail. Yes.
16 Q So you disagree with the judge's opinion.
17 Correct?
18 A I do, yes.
19 Q If we keep going down the opinion, now
20 I'm on Page 259, which is PDF Page 281. And here,
21 again, the judge provides her analysis regarding
22 why Mehta and Na '848 doesn't -- actually, let me

1 back up. Here the judge provides her analysis
2 regarding why Mehta doesn't disclose the
3 limitations of the claims at issue of the '812 in
4 the ITC. Correct?
5 A Yes.
6 Q And again, the judge's opinion is that
7 Mehta, for the reasons she identified previously,
8 doesn't disclose the desired distance limitation
9 of the claims in the '812 patent. Correct?
10 A Yeah. Same thing as before. Yeah.
11 Q Then if we keep going down the page, the
12 judge provides her opinions regarding the fact
13 that Mehta doesn't disclose the embedded LED
14 limitation.
15 Do you see where I am?
16 A I see where you are, yes.
17 Q And you disagree with her opinion that
18 Mehta doesn't disclose the embedded LED
19 limitation?
20 A Let me -- let me read what she wrote here
21 first.
22 Yes. Yeah, I disagree.

1 Q To support her opinions, for example, at
2 Page, you know, 260, the bottom of 260, which is
3 the next page on the screen, the ALJ states, "As
4 Mr. Crosby explained credibly, Mehta does not
5 describe the electrode assembly 102 or any portion
6 of the removal cartridge 100, as transparent or
7 translucent."
8 Correct?
9 A Yes.
10 Q So fair to say that the judge relied on
11 Mr. Crosby's opinion to support --
12 A Yes.
13 Q And if we keep going down the page on the
14 next page, at the bottom of Page 261 she opines
15 that "Respondents contend that the LED in Mehta
16 would be around the portion of the device body
17 near feature 216," and cites your testimony.
18 Correct?
19 A This was during my deposition, yes. That
20 was my testimony, yes.
21 Q And then she goes on to say that "Mr.
22 Crosby provided persuasive credible testimony that

1 the LED in that location would not illuminate the
2 plurality of needles via the electrode"?
3 A Yeah. It's --
4 Q Correct?
5 A Right. That's what he says, but that's
6 incorrect. Yes.
7 Q But she's relying on Mr. Crosby's
8 opinion. Correct?
9 A Yeah. I don't agree with any of that.
10 And I -- and I explain I think I already I wasn't
11 clear enough in my explanation. But that's --
12 that's obvious.
13 Q If we go to Page 264, which is PDF Page
14 286.
15 A 264, 286. Okay. Yes.
16 Q Here the judge provides her opinions
17 regarding the lack of motivation to modify Mehta
18 to arrive at the claimed invention of the '812
19 patent. Correct?
20 A Yes, that's -- yeah.
21 Q And you disagree with the judge's
22 opinion?

1 A Yeah. Once again, yes. I mean, I am
2 reading it. Yes. From what I can read here.
3 But, you know, I haven't, you know -- first time I
4 see the document, so I don't have time to go
5 in-depth in it. But from what I read, I don't --
6 I don't agree with much of this, of the content of
7 this document.
8 Q Well, you also don't agree with her
9 result, because she found that Mehta doesn't
10 anticipate or render obvious the limitations of
11 the Family Two Patent claims. Correct?
12 A Sorry, say it again? Sorry.
13 Q You also disagree with her ultimate
14 result that Mehta doesn't anticipate or render
15 obvious the limitations of the claims.
16 A Yeah, I disagree with her. Yeah.
17 Q If we go to PDF Page 287, which is Page
18 265 of the opinion. Here the judge addresses the
19 arguments regarding obviousness of the claims in
20 view of Mehta in combination with Na '848.
21 Correct?
22 A Yes, that's -- yes. Uh-huh.

1 Q Now, Na '848 is the same reference that
2 you rely on in some of these IPRs. Correct?
3 A Yeah. Uh-huh. Correct.
4 Q If we go to the next page, there's her
5 opinions on the lack of motivation to combine
6 Mehta and Na '848. Correct?
7 A Combine -- yes. Uh-huh.
8 Q So she opines, "One of ordinary skill in
9 the art would not have had a reasonable
10 expectation of success or been motivated to modify
11 Mehta or to combine Mehta with Na '848 to arrive
12 at the claimed invention."
13 Do you see that?
14 A Yes.
15 Q If we go to the next page, she states,
16 "For the same reasons discussed above,
17 Dr. Woloszko's opinions are conclusory and bear no
18 explicit or specific relationship to the claimed
19 inventions, conclusory statements are insufficient
20 for respondents to meet her burden by clear and
21 convincing evidence."
22 Do you see where I'm reading?

1 A Yes.
2 Q Again, you disagree with the judge's
3 opinion. Correct?
4 A You know the -- yes. Yes, I do. The
5 thing is, I did not properly address the
6 motivation to combine in my -- in my expert
7 report, and I was told then I was limited to what
8 I could say during direct testimony. So there was
9 argument I could not advance at that time because
10 I could not go advance new argument from my
11 report.
12 So, obviously, this limited what I could
13 say during the trial, and probably was not -- it
14 was not sufficiently convincing. So --
15 Q If we go to the next paragraph, she
16 opines, among kind of the four or five lines,
17 saying, Na '848 does not disclose an LED in the
18 handpiece, in parentheses, proximal end or
19 annealed assembly which further removes a
20 motivation to modify Mehta to include such
21 features.
22 Do you see that?

1 A Yeah, I see that. Yeah.
2 Q Do you agree that Na '848 doesn't
3 disclose an LED in the handpiece or the claimed
4 needle assembly?
5 A No, he describes a -- he describes an
6 LED. There was no -- there was no needle
7 assembly. Needle assembly and handpiece are all
8 in one in this, in this patent. But he describes
9 in the LED, I remember well. So no, I don't agree
10 with that.
11 Q She goes on to opine, "If the electrode
12 assembly in Mehta were translucent, it is not, a
13 person of ordinary skill in the art would not
14 combine Mehta with Na '848 because the LED is
15 encased within other components, that is the
16 cartridge and the device body."
17 Do you see that?
18 A Yeah.
19 Q You disagree with that opinion. Right?
20 A Yeah. And I explained that the -- I
21 explained that the -- that the transparent and
22 translucent part in Mehta is on the handle, which

1 is reusable, which is an aberration to anybody
2 like me who has experience making medical devices,
3 because this part is patient contact and has to be
4 sterilized.
5 And in this case you would -- it would be
6 obvious for anybody who has done -- who has more
7 than six weeks of experience in designing medical
8 device, to put this part on the disposable part.
9 So yes, it's obvious. But I guess the
10 judge is not experienced in designing medical
11 device. And, you know, that she has a lot of
12 other experience, I'm sure. But it's not her
13 experience, so I respectfully disagree.
14 Q Let me make sure I understand your
15 question. Your opinion is that the Mehta handle
16 would be translucent or transparent?
17 A No. That the translucent part is on
18 the -- no. Right now there was -- there was a
19 translucent part on the handle, particularly on
20 the stabilization plate and window. But this part
21 shouldn't be part of the handle.
22 It should be part of the cartridge, which

1 would be a very basic change to be made on the
2 design. It's very simple. And made the device
3 much more usable.
4 Q I see. So in your opinion, Mehta would
5 have to -- let me make sure I understand. In your
6 opinion, Mehta would have to be further modified
7 to include the stabilization plate or window
8 that's disclosed such that it's not part of the
9 handle, but it would have to be part of the
10 removable cartridge?
11 A Yeah. And it would be obvious for
12 anybody skilled in the art.
13 Q Okay.
14 A And I said that during trial.
15 Q You haven't provided that opinion in this
16 IPR. Correct?
17 A I said something -- I have to read -- I'm
18 not sure I meant -- I said that. But there was
19 something about it somewhere. I have to look at
20 it again. But I'm not sure if I ...
21 I'm not sure what is in the report from
22 Dr. B rub that I accepted as mine. I forgot how

1 it was phrased. And I'm not sure if I said it in
2 this supplemental report. I don't think it was
3 something that I was asked to address, but it's --
4 it's -- it was addressed during the trial for
5 sure, and during my previous deposition as well.
6 Let me look at my --
7 Q Okay. And then if we keep going on the
8 judge's opinion, she concludes, "No light from an
9 LED would travel through a translucent section of
10 the needle assembly to illuminate the needles as
11 the claims require."
12 Do you see that?
13 A Yeah. This is called light path. Been
14 used for the past, you know, 40 years. Basically,
15 light doesn't travel straight. Light follows
16 translucence in any direction following the light
17 path, and this is disclosed. And Na disclosed
18 that. Mehta disclosed that.
19 Na disclosed basically fiberoptic and
20 lenses and the light translucent part. So Na
21 disclosed it very well how to basically move the
22 light around. It doesn't have to be straight. So

1 I don't agree with her, yes.
2 Q My question is, you disagree with the
3 judge's opinion that light from an LED -- excuse
4 me, no light from an LED will travel through a
5 translucent section of the needle assembly to
6 illuminate the needle --
7 A Disagree, yes.
8 Q -- as the claims required.
9 I'm going to reask the question, because
10 I think that transcript is not clear.
11 My question is, you disagree with the
12 judge's opinion that no light would travel from an
13 LED through a translucent section of the needle
14 assembly in Mehta to illuminate the needles.
15 Correct?
16 A Yes.
17 MS. PENIZA: Why don't we go off the
18 record. I'm just going to look through my notes
19 to see if I have anything else to ask you,
20 Dr. Woloszko, but maybe we'll be done.
21 (A recess was taken.)
22 BY MS. PENIZA:

1 Q Dr. Woloszko, I assume then that you're
2 not aware that Petitioners EndyMed, who were the
3 respondents at the ITC, have filed a petition for
4 review of the judge's initial determination.
5 Correct?
6 A No, I am not aware. Correct, yes.
7 Q I will represent to you that they did,
8 and that the commission determined to review in
9 part the final determination.
10 MS. PENIZA: And I am going to put -- I'm
11 going to mark as another exhibit that's going to
12 be Exhibit 2 to your deposition, I've put it in
13 the chat. Let me know when you have it open.
14 MR. AUTERI: Just for the record, I
15 object to the question to the extent it's outside
16 the scope of Dr. Woloszko's declaration. And I
17 object to the introduction of any new evidence at
18 this point.
19 (Woloszko Deposition Exhibit 2 marked for
20 identification and is attached to the transcript.)
21 Q Dr. Woloszko, for the record, Exhibit 2
22 is the Notice of Commission Determination to

1 Review in Part a Final Initial Determination
2 Finding a Violation of Section 337; Request For
3 Written Submissions on the Issues Under Review and
4 On Remedy, The Public Interest, and Bonding.
5 If you go to -- I'll give you a moment to
6 look through the document. But if you go to Page
7 4. The Commission lists issues for review and the
8 questions that it seeks answers to from the
9 parties.
10 I'll give you a moment to read through
11 them. Let me know when you're done.
12 MR. AUTERI: I guess I should go on the
13 record to make sure my objection before is a
14 standing objection so I don't have to keep
15 interrupting.
16 MS. PENIZA: Sure.
17 A Yeah, okay, I see that. Yes.
18 Q So fair to say that none of the issues
19 before the Commission relate to the judge's
20 findings regarding the '774, '536, and '812
21 patents?
22 A This is -- I mean, what I read here, you

1 know, again, I haven't read the document, this is
2 only legal thing that I'm not, you know, expert
3 in. But yes, those Item 1 to 8 -- I don't know
4 what the ...
5 I don't know. Okay. This is the claim,
6 the indefinite claim. Okay. Yeah, they don't
7 relate to the Family Two Patent, yes, those three
8 patent we talk about, yes.
9 MS. PENIZA: Thank, Dr. Woloszko, that's
10 all I have, unless your counsel has any questions
11 that may require followup.
12 EXAMINATION BY COUNSEL FOR PETITIONER
13 BY MR. AUTERI:
14 Q I just have maybe two.
15 Dr. Woloszko, earlier you were asked
16 about ITC case that involved these same Family Two
17 Patents, and in particular about the construction
18 of the desired distance.
19 Am I correct?
20 A Correct, yes.
21 Q Do you remember if during the ITC claim
22 construction briefing and/or during the claim

1 construction hearing, did Serendia ever propose
2 that the desired distance required user
3 programming?
4 A I've never heard about it, so no, I was
5 not aware of that, so --
6 Q And --
7 A -- aware of any of that.
8 Q Do you remember if prior to the ITC
9 trial, did Serendia ever proposed that the desired
10 distance required user programming?
11 A I -- this was not mentioned to me at all.
12 This was news to me recently, so I -- the only
13 time I heard about programming is when the
14 question was asked me by step motor, said can it
15 be programmed, that's the only time programming
16 came. But it was never mentioned anywhere, so I
17 never took this into consideration in any of my
18 expert report or declarations before this last
19 one.
20 Q You were asked about motivations to
21 combine relating to the desired distance, LED and
22 translucent section limitations, that were -- that

1 respondents and you provided during the ITC case?
2 A Yes.
3 Q My question is, based on your memory, do
4 you know if the motivations to combine that were
5 provided by the respondents in the ITC case were
6 exactly the same as the motivations to combine
7 that were provided in the IPR?
8 A I don't believe they are the same, no.
9 Q Is one set more detailed than the other?
10 A Yes, the -- the set in the ITC was very
11 succinct and probably not sufficient, where there
12 was -- although limited in the -- in space by --
13 by how many words, there was much more material in
14 the IPR declaration.
15 MR. AUTERI: That is all the questions
16 for me, unless Ms. Peniza has another round.
17 EXAMINATION BY COUNSEL FOR PATENT OWNER
18 BY MS. PENIZA:
19 Q My only one followup question is
20 regarding the motivations to combine in the ITC
21 versus the IPR.
22 You're not opining that the motivations

1 to combine that you provided at the ITC and on the
2 motivations that you -- to combine that you're
3 providing in the IPRs are inconsistent. Correct?
4 A I don't know that they are inconsistent,
5 no.
6 Q They are not inconsistent?
7 A Not inconsistent. They are consistent.
8 But the motivation provided for the ITC were very
9 succinct, so very, very short.
10 MS. PENIZA: That's all I have.
11 MR. AUTERI: I have nothing further.
12 (Off the record at 12:19 p.m. EDT.)
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1 ACKNOWLEDGMENT OF DEPONENT
2 I, JEAN WOLOSZKO, Ph.D., do hereby
3 acknowledge that I have read and examined the
4 foregoing testimony, and the same is a true,
5 correct and complete transcription of the
6 testimony given by me, and any corrections appear
7 on the attached Errata sheet signed by me.
8
9 _____
10 (DATE) (SIGNATURE)
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1 C E R T I F I C A T E
2 I, Debra Ann Whitehead, E-Notary Public in and for
3 the Commonwealth of Virginia, do hereby certify:
4
5 That JEAN WOLOSZKO, Ph.D., the witness
6 whose deposition is hereinbefore set forth, was duly
7 sworn by me before the commencement of such
8 deposition and that such deposition was taken
9 virtually and is a true record of the testimony
10 given by such witness.
11
12 I further certify that the adverse party,
13 ENDYMED MEDICAL LTD. AND ENDYMED MEDICAL, INC., was
14 represented by counsel at the deposition.
15
16 I further certify that the deposition of
17 JEAN WOLOSZKO, Ph.D., occurred virtually, on Friday,
18 May 16th, 2025, from 9:30 a.m. to 12:19 p.m. EDT.
19
20
21
22

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

IN WITNESS WHEREOF, I have hereunto set my hand this 18th day of May, 2025.

My commission expires: October 31, 2027

E-NOTARY PUBLIC IN AND FOR THE
COMMONWEALTH OF VIRGINIA

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