

In the Matter Of:

Bowmar Archery LLC v Veterans Innovative

Robert Mizek

January 16, 2025



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1 UNITED STATES PATENT AND TRADEMARK OFFICE
2 BEFORE THE PATIENT TRIAL AND APPEAL BOARD

3 BOWMAR ARCHERY LLC §
4 vs. § Patent No. 8,043,177
§ Filing Date: July 7, 2008
5 VETERAN'S INNOVATIVE § Issue Date: October 25, 2011
6 PRODUCTS, LLC §
7
8

9 REMOTE ORAL DEPOSITION

10 ROBERT MIZEK

11 January 16, 2025

12 (Reported Remotely)
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16 REMOTE ORAL DEPOSITION of ROBERT MIZEK,
17 produced as a witness at the instance of the Respondent
18 and duly sworn, was taken in the above-styled and
19 numbered cause on January 16, 2025, from 10:07 a.m. MST
20 to 11:14 a.m. MST, before Addrina Gutierrez, Texas
21 Certified Shorthand Reporter Number 12536, in and for
22 the State of Texas, reported by oral stenography,
23 reported remotely via Zoom, pursuant to the Texas Rules
24 of Civil Procedure and the provisions stated on the
25 record or attached hereto.

Page 2	Page 3
1 APPEARANCES 2 ATTORNEY FOR PETITIONER: 3 Jason Shull 4 Banner Witcoff 5 71 South Wacker Drive 6 Suite 3600 7 Chicago, IL 60606 8 Telephone: (312) 463-5423 9 E-mail: jshull@bannerwitcoff.com 10 ATTORNEY FOR RESPONDENT: 11 Jason McKinnie 12 McKinnie & Paul, PLLC 13 8610 N. New Braunfels 14 Suite 320 15 San Antonio, Texas 78217 16 Telephone: (210) 247-2220 17 E-mail: jmckinnie@mckinniepaul.com 18 19 20 21 22 23 24 25	1 INDEX 2 WITNESS: PAGE 3 Robert Mizek 4 Examination by Jason McKinnie 4 5 Errata Sheet 38 6 Witness Signature 39 7 Court Reporters Certification 40 8 9 10 EXHIBITS 11 NO. DESCRIPTION PAGE 12 1002 Lint Patent 30 13 1010 Kosbab Patent 20 14 1038 Mizek Patent 27 15 1039 Cartwright Patent 21 16 1047 Declaration 12 17 18 19 REPORTER NOTE: Please note that I was not physically 20 present for said proceedings in making the stenographic 21 record; therefore, due to the poor quality of the zoom 22 videoconference, i.e., audio distortions, Internet 23 connections freezing, extraneous room noises, et cetera, 24 unintelligibles or inaudibles may have created 25 inaccuracies in the reporter's stenographic record.
Page 4	Page 5
1 P-R-O-C-E-E-D-I-N-G-S 2 Whereupon, 3 10:07 a.m. MST 4 5 THE COURT REPORTER: The time is 10:07 6 Mountain time. My name is Addrina Gutierrez, Texas CSR 7 No. 12536. I will be administering the oath and 8 reporting the deposition remotely by oral stenography 9 from Edinburg, Texas. The witness is located in 10 Gilbert, Arizona. 11 Counsel, would you please state your 12 appearances and who you represent, starting with 13 Plaintiff. 14 MR. MCKINNIE: Jason, I assume you're 15 plaintiff or petitioner. 16 MR. SHULL: Yeah. Jason Shull from Banner 17 Witcoff on behalf of the petitioner and the witness 18 Mr. Mizek. 19 MR. MCKINNIE: Jason McKinnie of McKinnie 20 and Paul on behalf of Matt Futtere the respondent. 21 ROBERT MIZEK, 22 having been first duly sworn, testified as follows: 23 EXAMINATION 24 BY MR. MCKINNIE: 25 Q. Mr. Mizek, thank you for attending today on	1 relatively short notice on getting this deposition 2 scheduled so I appreciate that. I haven't met you 3 before. My name is Jason McKinnie, and I'm representing 4 the respondent Matt Futtere, VIP Archery in this matter. 5 Have you ever been deposed before? 6 A. Yes. 7 Q. So you understand sort of the ground rules as 8 far as I will attempt to not talk over you if you can 9 agree to not talk over me. 10 A. Yes. 11 Q. And also while you're nodding your head, if you 12 could give verbal answers so that the court reporter can 13 identify that on the transcript. 14 A. Yes. 15 Q. Are you taking any medications that might 16 impede your ability to testify today? 17 A. No. 18 Q. How did you prepare for today? 19 A. Oh, boy. Great question. I reviewed my 20 declaration, I also reviewed the prior art that I 21 mentioned in the declaration, and that's pretty much the 22 core of it. 23 Q. Did you meet with your -- with the attorney? 24 A. As a matter fact, yes, I did. Sorry I didn't 25 mention that. That's an omission on my part.

Page 6 1 Q. Do you have anything present with you today, 2 like, on your desk? 3 A. My -- I have a separate computer so I've got 4 my -- the prior art on a separate computer. You happen 5 to be on my iPad, okay. I've also got a bottle of 6 water, a Kleenex, a pen. 7 Q. I'm more referring to notes. 8 A. Oh, no. Oh, sorry, no. 9 Q. And you're not in communication with your 10 attorney on a separate computer or anything like that? 11 A. Oh, no. 12 Q. What did Banner Witcoff ask you to do in this 13 matter? 14 A. Give my opinion on the declaration of, what was 15 his name, Willkomm. 16 Q. Yes, Mr. Willkomm. 17 A. Yes. 18 Q. Did they ask you to limit your opinion to 19 definition of the blade and use of the term barb? 20 A. Can you repeat the question, please? 21 Q. Did they -- did they ask for your entire 22 feedback on Mr. Willkomm's deposition or did they limit 23 it to specific topics? 24 MR. SHULL: Object to the form of the 25 question.	Page 7 1 A. We discussed the whole declaration and I 2 reviewed the whole declaration. 3 Q. And then the declaration you provided in this 4 case is what you decided you wanted to opine about? 5 A. Yes. 6 Q. When did they -- when did Banner Witcoff first 7 contact you? 8 A. With regards to this matter? 9 Q. When did they first contact you? 10 A. Some months ago. I don't remember exactly. 11 Q. Was it the first half of 2024? 12 A. I don't mean to be elusive but I really don't 13 remember. I assume it was the first half of 2024. 14 Q. Did you have any communications with Mr. Todd 15 Kuhn or Dr. Todd Kuhn? 16 A. No, I did not. 17 Q. Have you been retained or contacted by Banner 18 Witcoff for matters other than this inter partes review 19 proceeding? 20 A. No. 21 Q. The first time that you had any discussions 22 with an attorney from Banner Witcoff was for this 23 matter? 24 A. Can you define what you mean by saying this 25 matter?
Page 8 1 Q. The Bowmar Archery's inter partes review that 2 was filed against my client, that's what I'm referring 3 to as this matter. 4 A. Understood. Thank you for clarifying that. 5 Can you repeat the question? I want to 6 answer accurately really. 7 MR. MCKINNIE: Court reporter, could you 8 repeat the question for me, please. 9 (Court reporter read back last question.) 10 A. Yes. 11 Q. (By Mr. McKinnie) Have you ever had any 12 communications with Josh Bowmar? 13 A. I don't recall any. 14 Q. Have you had any communications with anyone 15 that works for Josh Bowmar as in terms of broadheads or 16 archery products? 17 A. Not that I'm aware of. 18 Q. Have you ever had conversations with Dr. Todd 19 Kuhn unrelated to this matter? 20 A. At some point I probably met him. 21 Q. In other words, you don't have a personal or 22 professional relationship with Dr. Kuhn. 23 A. I do not. 24 Q. Do you have a personal or professional 25 relationship outside of this matter with Bowmar Archery?	Page 9 1 A. No. 2 Q. Do you have a personal or professional 3 relationship with Banner Witcoff outside of this matter? 4 A. I do not. 5 Q. How many times prior to today have you been 6 deposed? 7 A. That I can recall, I believe it was three 8 times. 9 Q. Can you briefly explain what those three cases 10 were or three times that you were deposed? 11 A. When I worked for New Archery Products as the 12 director of engineering and product design, we were 13 involved in a lawsuit with another competitor and I was 14 deposed in that matter. I was deposed on another 15 archery matter when I was employed by New Archery 16 Products. I don't remember the case. It's probably a 17 decade or two ago, at least a decade. And thirdly, I 18 was deposed in a case unrelated to archery where I 19 opined as an engineer. 20 Q. In those first two cases did you serve as an 21 expert witness? Let me rephrase that. 22 At least in that second case it sounded 23 like you were being deposed as an employee of the 24 company; is that accurate? 25 A. Yes.

Page 10 1 Q. And then in the first case were you also being 2 deposed as an employee in the company? 3 A. Yes. 4 Q. And then in the third case you were deposed as 5 an expert witness; is that accurate? 6 A. Yes. 7 Q. And what was that case about? 8 A. It was a patent infringement case where the -- 9 if you go into a Verizon store or Best Buy or something 10 and you've got a cell phone and it's hooked up to a 11 tether that retracts and is on an alarm system, the 12 company that I represented made those alarms. 13 Q. So the company you were working for or 14 consulting with was involved in the lawsuit? 15 A. Yes. 16 Q. And so were you hired then as an expert witness 17 or were you giving testimony as it pertained to your 18 work as a contractor for that company? 19 A. I believe it was as an expert witness. 20 Q. So you generated an expert report? 21 A. I believe so. 22 Q. Have you ever generated any other expert 23 reports prior to -- other than this declaration in this 24 case and the case we just discussed? 25 A. Yes.	Page 11 1 Q. What were those cases? 2 A. It was -- there was a patent infringement case 3 between, hang on a second here, I think it was PSE 4 Archery and Raven Crossbows, and I was retained I 5 believe as an expert witness for Raven Crossbows. 6 Q. Approximately when was that? 7 A. 2018, I'm guessing. 8 Q. And so you drafted an expert report but were 9 not ultimately deposed? 10 A. Yes, I was not deposed. 11 Q. Have you ever testified at trial? 12 A. Yes. 13 Q. In a capacity as an expert witness? 14 A. No. 15 Q. Is it possible that you were contacted in 2023 16 by Banner Witcoff for this matter? 17 A. Is it possible? Yes. 18 Q. Are you familiar with Matt Futterer? 19 A. I've met Matt. I liked him. 20 Q. Do you still like them? 21 A. I haven't seen him in a long time. I bet you I 22 would. 23 Q. It's my understanding that I guess I don't know 24 if it was NAP or another company you were involved with 25 was interested in purchasing VIP archery or some patents
Page 12 1 from Matt 15, 20 years ago. 2 Does that sound familiar? 3 A. Yes. 4 Q. And ultimately it was never, never consummated. 5 You all never ended up working together. 6 A. That's correct. 7 Q. Okay. I'm going to show you your declaration. 8 A. Okay. 9 (Exhibit marked for identification as 10 Deposition Exhibit Number 1047.) 11 Q. Mr. Mizek, do you see what was labeled as 12 Exhibit 1047 by the attorney in this -- or by Banner 13 Witcoff on behalf of Bowmar Archery? 14 A. Yes. 15 Q. And is this your declaration? I will just 16 scroll through it. Is that your declaration? 17 A. Yes. 18 Q. Is that your signature then on page 17? 19 A. Yes. 20 Q. Okay. I want to -- here on page 6 there is a 21 person of ordinary skill in the art. 22 Was this standard provided to you? 23 A. My recollection is that we arrived at it 24 together so the answer is no. 25 Q. So you arrived at this person of ordinary skill	Page 13 1 in the art between you and the attorneys at Banner 2 Witcoff? 3 A. That's my recollection. 4 Q. And you didn't have any discussions with 5 Dr. Kuhn on that? 6 A. I did not. 7 Q. Had you reviewed Dr. Kuhn's person of ord -- 8 standard for person of ordinal skill in the art before 9 you arrived at your definition? 10 A. I don't recall. That's honest, I don't recall. 11 It wasn't considered in forming the statement and my 12 declaration. 13 Q. Had you reviewed the respondent's response or 14 did you only review Mr. Willkomm's deposition? 15 A. I don't recall reviewing the respondent's 16 response. 17 Q. Do you recall reviewing Mr. Willkomm's 18 declaration? 19 A. Yes. 20 Q. And did you also review Dr. Kuhn's declaration? 21 A. I don't recall but I may have. 22 Q. Were you asked by your attorney to list every 23 item you reviewed and relied on in drafting your expert 24 report? 25 MR. SHULL: Object to the form of the

Page 14 1 question. Calls for attorney-client privilege or 2 product. Instruct the witness not to answer. 3 Q. (By Mr. McKinnie) Are you aware of that 4 requirement to identify the items you relied on in 5 drafting your declaration? 6 THE WITNESS: Will the court reporter 7 please repeat that? My signal got broken up a little 8 and I did not get all that. 9 (Court reporter read back last question.) 10 MR. SHULL: Object to the form of the 11 question. 12 A. Yes. 13 Q. (By Mr. McKinnie) Do you know if those items 14 that you relied on are in your declaration? Let me 15 rephrase that. 16 Did you provide the list of the items that 17 you relied on in your declaration in your declaration? 18 MR. SHULL: Object to the form of the 19 question. 20 A. I provided items on the list. 21 Q. (By Mr. McKinnie) So if you specifically 22 referenced it in your declaration, then you're saying 23 that you relied on it. 24 A. Yes. 25 Q. Is there anything not listed that you did rely	Page 15 1 on? 2 A. No, not that I can recall. 3 Q. Is it your position that a blade has to have an 4 edge? 5 A. Yes. 6 Q. But it's your position then that the edge does 7 not have to be sharp, correct? 8 A. Yes. 9 Q. Is cutting inherent within the definition of 10 the blade? 11 MR. SHULL: Object to the form of the 12 question. 13 A. No. 14 Q. (By Mr. McKinnie) Is cutting an inherent 15 function of a blade? 16 MR. SHULL: Object to the form of the 17 question. 18 A. It can be. 19 Q. (By Mr. McKinnie) That sounds like your 20 qualifying. 21 A. A blade can be configured as not to cut or a 22 blade can be configured as to cut. 23 Q. So then it is not inherent as a function of a 24 blade then if it doesn't always cut; is that accurate? 25 A. A blade may cut or may not cut.
Page 16 1 Q. And it could also be a blunt blade, right? 2 A. It can be blunt as long as it has an edge. 3 Q. And it can be dull and that's your position? 4 A. The edge can be dull. 5 Q. So the edge can be sharp, blunt, or dull; is 6 that a proper characterization? 7 A. I'm reluctant to say yes because I'm not 8 certain -- because I haven't used the word blunt, and I 9 don't believe it's in my declaration. I'm not certain 10 how to answer that because I'm not certain what the 11 definition of blunt is with regards to my declaration. 12 Q. Will you look at paragraph 19, please? 13 A. Sure. Give me one a second, please. 14 MR. SHULL: And, Bob, if it's easier to 15 refer to your computer where you have a -- it's easier 16 to see, you can certainly do that. 17 THE WITNESS: Okay. That's what I'm going 18 to do because for the purpose of the Zoom meeting you're 19 on my iPad. 20 MR. MCKINNIE: I have no objections to 21 that so long as the version you're looking at is not 22 marked up and it is the clean version as to what I'm 23 using on the screen. 24 THE WITNESS: You got it. 25 Q. (By Mr. McKinnie) Paragraph 19.	Page 17 1 A. Yes. Okay, yes. I have it. 2 Q. And do you see where you use that the blade -- 3 you state the blade on broadheads can be sharp, dull, or 4 blunt? 5 A. You are correct. 6 Q. So are you using the term blunt in a different 7 way than what it's normally understood to be meant? 8 THE WITNESS: Can the court reporter 9 please repeat the question? 10 (Court reporter read back last question.) 11 A. I'm using the term blunt as another form of the 12 word dull. 13 Q. (By Mr. McKinnie) Would it be accurate for -- 14 in your position then that a dull or a blunt blade is 15 not intended to cut? 16 MR. SHULL: Object to the form of the 17 question. 18 A. It's -- it may be intended to cut or may not be 19 intended to cut, and that's a function largely of 20 pressure and velocity. 21 Q. (By Mr. McKinnie) When you're reading a patent 22 or patent application and the term blade is used, is it 23 your position that that blade, without any other 24 information, could be sharp, could be dull, or could be 25 blunt?

Page 18 1 MR. SHULL: Object to the form of the 2 question. 3 A. Yes. 4 Q. (By Mr. McKinnie) Is it your position that a 5 person of ordinary skill in the art would have that same 6 opinion? 7 A. Yes. 8 Q. Now, would a person of ordinary skill in the 9 art use the context of that patent with a patent 10 application to determine if the blade would be sharp, 11 dull, or blunt? 12 MR. SHULL: Object to the form of the 13 question. 14 THE WITNESS: Can the court reporter 15 please repeat the question? 16 (Court reporter read back last question.) 17 A. I don't think that they would be limited by 18 what's in the patent if they're a person of ordinary 19 skill in the art because they have ordinary skill and 20 have seen -- may have seen other configurations that are 21 not disclosed in the -- in the patent application. 22 Q. (By Mr. McKinnie) You would agree with me that 23 there's a difference between a sharp blade and a dull 24 blade, right? 25 A. Yes.	Page 19 1 Q. And you'd agree that the function of a sharp 2 blade may be different from the function of a dull 3 blade, right? 4 A. It may be. 5 Q. Would you agree that typically a practice blade 6 in the archery context refers to a dull blade? 7 MR. SHULL: Object to the form of the 8 question. 9 A. A practice blade may be on a scale of sharpness 10 with dull at one end and razor-sharp at the other so it 11 may be somewhere in between and, in certain 12 circumstances, may perform a cutting function. 13 Q. (By Mr. McKinnie) And you'd have to use context 14 clues in an archery context to determine if it should be 15 cutting or a not-cutting function, correct? 16 MR. SHULL: Object to the form of the 17 question. 18 THE WITNESS: So I answer accurately, may 19 the court reporter repeat the question, please. 20 (Court reporter read back last question.) 21 A. Whether -- with regards to a patent 22 application, it may not disclose fully all the ways that 23 the blade may be used for cutting or not cutting. 24 Q. (By Mr. McKinnie) Do you agree, though, that a 25 person of ordinary skill in the art reading a patent
Page 20 1 application in the archery context or reading a patent 2 in the archery context would understand what the 3 function of the blade is? 4 A. A person of ordinary skill in the art should 5 probably understand what the inventor's intention was, 6 whether it is cutting or not cutting, but that may not 7 be fully limiting because it may be suitable for other 8 purposes that the inventor did not disclose. 9 (Exhibit marked for identification as 10 Deposition Exhibit Number 1010.) 11 Q. I am going to show you Exhibit 1010. It is the 12 Kosbab patent. You referenced this patent in paragraph 13 20 of your declaration. 14 Do you recognize this patent? 15 A. Yes. 16 Q. Now, in Kosbab there is an embodiment of a 17 blunt blade that is intended to stun a small animal; is 18 that correct? We go to column 5, lines 50 through 58? 19 A. May I open that on my screen, please? 20 Q. Sure. 21 A. Okay, thank you. Hold on, please. Bear with 22 me one second. I'm looking. 23 May I have the line numbers again, please? 24 Q. Yeah, it's line 50, it's column 5, line 50 to I 25 guess 58.	Page 21 1 A. Thank you. I missed column 5. Thank you. 2 I'm familiar with those lines now. May 3 someone please repeat the question? 4 Q. I'll just strike whatever question I had and 5 ask you the question now? 6 A. Okay. 7 Q. You would agree with me then that Kosbab in 8 describing the blunt blade is intended to stun rather 9 then cut, correct? 10 A. That's what the inventor discloses. 11 Q. Would you agree with me that the term blunt is 12 important in understanding the function of the blade in 13 the Kosbab patent at least in reference to this 14 paragraph? 15 A. I would agree inasmuch as Kosbab discloses in 16 his application what he considers a blunt edge to be for 17 the purpose of stunning a game animal. 18 (Exhibit marked for identification as 19 Deposition Exhibit Number 1039.) 20 Q. And I'm also going to refer you to what was 21 listed as Exhibit 1039. It is the Cartwright or 22 Cartwright patent. 23 Are you familiar with this one? 24 A. Yes. May I open that on my screen, please? 25 Q. Sure.

Page 22 1 A. Thank you. I have it. I do recall it. 2 Q. Now, would -- this is sort of a general 3 question but one of the reasons why you would use a 4 practice broadhead with a practice blade on it is to not 5 destroy the target in which you're practicing on; is 6 that accurate? 7 MR. SHULL: Object to the form of the 8 question. 9 A. That is one use of a blunt blade on a 10 broadhead. 11 Q. (By Mr. McKinnie) For example you don't -- at 12 least in this -- let me just show you the page there. 13 Figure 4, I'll represent to you this is 14 showing a -- I believe it is a bale of hay and it is 15 showing the broadhead and it is showing it as stopping 16 before the blades get into the hay. 17 Would you agree with that description of 18 the figure? 19 A. Bear with me one moment and I'll answer the 20 question. Now that I'm familiar with having read the 21 spec, may you or the court reporter please repeat the 22 question. 23 MR. MCKINNIE: Can you repeat the 24 question, please? 25 (Court reporter read back last question.)	Page 23 1 A. That's my understanding of the figure, yes. 2 Q. If the blade wasn't blunt, would it make a 3 larger impact in the practice target in your experience? 4 A. If that blade wasn't blunt it would probably -- 5 depending on the length of the hay bale, it may shoot 6 all the way through the hay bale so I don't know if 7 that... 8 Q. That's fine. That answers the question. 9 A. Okay. Yeah. 10 Q. And in reference to the abstract, I'm going 11 back to the first page and on line 4 -- line 3 to 4 it's 12 saying it provides -- it says "without the drawbacks of 13 hunting heads which include chewing up practice 14 targets". 15 How would you understand the term chewing 16 up practice targets to mean? 17 A. My interpretation of that would be a target 18 that has been cut with the blades and severed in some 19 fashion, providing a cutting channel within the target. 20 That would be my definition of chewed up. At least 21 that's my understanding of what I think Cartwright was 22 going after. That would be my understanding. 23 Q. As far as a person of ordinary skill in the 24 art, is it better to practice on a chewed up target or a 25 non-chewed-up target?
Page 24 1 MR. SHULL: Object to the form of the 2 question. 3 A. It may be better under certain circumstances 4 and may be more beneficial -- it may be more beneficial 5 in some cases to shoot into a target that has been shot 6 before with a broadhead, and in other cases it may be 7 more beneficial to shoot into a target that's what's 8 called a virgin, meaning it has not been shot into 9 before. 10 Q. (By Mr. McKinnie) Or not chewed up, would that 11 be accurate? 12 A. Sure. 13 Q. In the terms of Cartwright? 14 A. Yes. 15 Q. Is it accurate to say if you have a chewed-up 16 target you may need to replace it and get a new target 17 to practice on? Let me rephrase. 18 A. Okay. Sure. 19 Q. Is using a dull blade for practice, does that 20 typically extend the life of the target when you're 21 doing practice shooting? 22 MR. SHULL: Object to the form of the 23 question. 24 A. It may but that's not guaranteed because of the 25 function of velocity and pressure from the implement	Page 25 1 that's shooting the arrow. 2 Q. (By Mr. McKinnie) Would you agree you have a 3 better chance of not chewing up the target if you're 4 using a dull blade? 5 A. No. 6 Q. No? 7 A. No. 8 Q. So you don't see any difference between using a 9 dull blade and using a sharp blade as far as trying to 10 maintain the integrity of the target you're shooting at? 11 A. From my experience, both dull blades and sharp 12 blades can chew up a target. 13 Q. What's more often, the sharp blade or the dull 14 blade? 15 A. It depends on the target because some targets 16 are configured so that an archer, a bow hunter, whatever 17 you want to call that person, can use broadheads that 18 are sharpened blades and others are configured so that 19 you want to use field points, that is a tip that has no 20 blades, or dull/practice blades. 21 Q. So why would a person of ordinary skill in the 22 art use a practice blade, a dull practice blade? 23 A. For one thing it's safer to handle. When you 24 pull it out of the target, a lot of times it's stuck and 25 you're pulling with both hands and finally it breaks

Page 26 1 loose. And if you've got a sharpened blade on there 2 it's -- one thing that can happen is it's more easy, for 3 lack of a better term, for -- to hurt oneself with a 4 sharp blade than a dull blade. 5 Q. Okay. Is there any other reason? 6 A. Depending how the blade is configured and how 7 the target is configured, a dull blade may be less 8 likely to shoot all the way through the targets than a 9 sharpened blade. 10 Q. If you look at column 3, lines 12 through 15 on 11 Cartwright. 12 A. Okay. Column 3, 12 through 15? 13 Q. Correct. 14 A. Yes, I have it. 15 Q. And you would agree that under -- in 16 Cartwright's disclosure they're stating that the blades 17 are preferably dull, not sharp, correct? 18 A. That's what's in the specification. 19 Q. Is it your understanding or would a person of 20 ordinary skill in the art reading Cartwright -- let me 21 strike that. 22 A. As a person of ordinary skill in the art 23 reading Cartwright, would the preference for the dull 24 blade help achieve the stated purpose of Cartwright to 25 not chew up the target?	Page 27 1 A. I would not agree. 2 (Exhibit marked for identification as 3 Deposition Exhibit Number 1038.) 4 Q. I am going to show you Exhibit 1038. I presume 5 you are familiar with this patent. 6 A. Yes. May I pull it open on my computer, 7 please? 8 Q. Sure. 9 A. Thank you. I have it. 10 Q. Now, in this patent you do reference using -- 11 you do reference dull practice blades, correct? 12 A. Yes. 13 Q. And you state that it may be blunt so that it 14 could be used as a target or a practice blade. I'm 15 reading from your declaration but it's reference column 16 12, line 64 through 67. 17 A. Yes, bear with me one moment please. Yes. 18 Q. Now, this patent is dealing with changing out 19 blades, correct, from a broadhead? 20 A. It is dealing with giving the archer/bow hunter 21 the opportunity to use different configuration blades, 22 one of which being -- one of the configurations being a 23 blade suitable for practice with a dull edge. 24 Q. Now, have you reviewed the Flanagan patent? 25 A. Yes.
Page 28 1 Q. You acknowledge that -- or would you 2 acknowledge that the blade in Flanagan is intended to 3 cut flesh? 4 MR. SHULL: Object to the form of the 5 question. 6 Q. (By Mr. McKinnie) I can show it to you. 7 There's no -- I'm not trying to be gotcha or anything 8 with you. 9 A. No, no. It's okay. 10 Q. I'll just reference you to column 1, lines 5 11 through ten. 12 A. The specification reads that it is configured 13 to be collapsible to allow the arrow to pass through 14 bone and increase the amount of flesh cut by the blade 15 member. 16 Q. So would you agree though that the blade member 17 is intended to cut flesh? 18 MR. SHULL: Object to the form of the 19 question. 20 A. That may have been Mr. Flanagan's desire but 21 may not be limited to that. 22 Q. (By Mr. McKinnie) As a person of ordinary skill 23 in the art reading the Flanagan disclosure -- 24 A. Yes. 25 Q. -- would you agree that a person of ordinary	Page 29 1 skill in the art would understand the blade member is 2 intended to cut flesh? 3 MR. SHULL: Object to the form of the 4 question. 5 A. I don't see a reason why the blade members 6 could not be used in a practice -- for the purposes of 7 practicing. 8 MR. MCKINNIE: Objection, nonresponsive. 9 Q. (By Mr. McKinnie) I'll ask again. 10 A. Okay. 11 Q. Is a person of ordinary skill in the art -- 12 A. Yes. 13 Q. -- reading lines 5 through 10, would they 14 understand the blade is intended to cut flesh? 15 MR. SHULL: Object to the form of the 16 question. It's been asked and answered. 17 MR. MCKINNIE: Jason, your audio is pretty 18 low for some reason. 19 A. Reading it it's clear that Flanagan's intent 20 was to cut flesh. 21 Q. (By Mr. McKinnie) Now, it doesn't -- Flanagan 22 never uses the term practice in the patent 23 specification, does he? 24 A. It would be obvious to someone of ordinary 25 skill in the art that it could be used for practice.

Page 30 1 Q. But it doesn't expressly use the term practice 2 blade, does it? 3 A. I don't recall having seen the word practice 4 blade in Flanagan. 5 Q. Do you recall ever it saying the word sharp? 6 A. At the moment I don't recall that but I would 7 have to refer to my declaration. There's a lot in my 8 declaration to unpack. 9 Q. Do you recall Flanagan using any qualifier to 10 describe the blade member, such as dull or blunt? 11 A. I don't recall Flanagan making any statements 12 with regards to the sharpness or dullness of the blade. 13 (Exhibit marked for identification as 14 Deposition Exhibit Number 1002.) 15 Q. I'm going to show you exhibit 1002. This is 16 referred to as the Lint patent. 17 Do you recognize this? 18 A. Yes, sir. 19 Q. Do you agree with me that Lint in his 20 specification never uses the term blade? 21 A. May I pull that up in front of me, please? 22 Q. Sure. 23 A. Thank you. I do not recall the inventor 24 using -- Lint using the term blade. 25 Q. Did you ever recall Lint using the term cut?	Page 31 1 A. I don't recall the term cut being used, but I 2 believe it's obvious to one of ordinary skill in the art 3 that whatever it's called, it could be suitable for -- 4 to function as a blade. 5 Q. Now, is it your position that Lint discloses a 6 blade because it has an edge? 7 A. Yes. 8 Q. Do you agree with me that that would be a blunt 9 or a dull edge based on the figure? 10 MR. SHULL: Object to the form of the 11 question. 12 A. Bear with me one moment, please. I wouldn't 13 want to assume that it was dull. Figure 4 has elements 14 that led to me to believe that, you know, it would not 15 be exclusively dull. 16 Q. (By Mr. McKinnie) In your opinion, does the -- 17 I'll reference the rearward -- if you look on, like, 18 figure 2, like, reference numeral 21, you have sort of 19 an outward face and an inward face on item 21. 20 Do you see sort of what I'm referencing 21 there? 22 A. I believe so, yes. 23 Q. Do you have any reason to believe that the 24 inward face and outward face differ in there bluntness, 25 edges, or sharpness, however you would want to define
Page 32 1 that? 2 MR. SHULL: Object to the form of the 3 question. 4 A. I wouldn't want to assume just looking at the 5 figures that both faces are dull or blunt. 6 Q. (By Mr. McKinnie) But you don't know and, 7 looking at it, you can't make that determination. 8 A. I can't make that determination from looking at 9 it but I -- it's obvious that those, whatever you want 10 to call them, could be sharpened and configured to cut 11 and cut nicely too. 12 Q. Okay. You said could be sharpened. Are you 13 saying that's what the figure shows or are you saying 14 somebody could modify Lint to make that a sharpened 15 edge? 16 MR. SHULL: Object to the form of the 17 question. 18 A. As is, as shown there, and reduced to practice, 19 those arms, with enough velocity and pressure, would cut 20 and thereby, in my mind, meet the definition of what a 21 blade is with having an edge. 22 Q. (By Mr. McKinnie) That's under the assumption 23 that they are deployed as they pass through the target 24 or tissue. 25 A. Yes, correct.	Page 33 1 Q. Now, I just want to clarify your position on 2 the term barb versus the term blade. You're not saying 3 all blades are barbs, right? 4 A. I am not saying all blades are barbs. 5 Q. And you're not saying all barbs are blades, 6 correct? 7 A. Yes. 8 Q. So, again, as a person of ordinary skill in the 9 art, you're having to use -- I'm just -- in your 10 opinion, as a person of ordinary skill in the art, are 11 you having to use the context clues of a patent or 12 patent application to determine if a structural 13 component is a barb or a blade? 14 A. The specifications indicate what the inventor's 15 purpose was, but as a person of ordinary skill in the 16 art, it should be obvious that a barb can function as a 17 blade and a blade can function as a barb. 18 Q. What is the function of the blade? 19 MR. SHULL: Object to the form of the 20 question. 21 A. A blade is configured to have an edge and, 22 given enough velocity and pressure, will act to cut 23 target material, flesh, organs, whatever. 24 Q. (By Mr. McKinnie) Okay. And then the function 25 of a barb is to retain, correct?

Page 34 1 A. A function of a barb could be to retain. 2 Q. So for Lint, ex -- for example since it's up on 3 the screen, if we were to look at figure 2, you would 4 agree that in the -- or would you agree that in a 5 retaining type application of it, there would be flesh 6 between the inner face of part 21 and the feral body of 7 18 I'm guessing, maybe the feral body. There would be 8 flesh in between that inner face of 21 and the outward 9 side of 18 and that would hold the entire broadhead from 10 going backwards to the animal. 11 Would you agree with that? 12 A. Not exclusively. 13 Q. So what is the other function of the barb? 14 MR. SHULL: Object to the form of the 15 question. 16 A. The barb can't function as a barb if it 17 passes -- if the broadhead tip passes all the way 18 through the animal, the broadhead tip and the arrow. 19 Q. (By Mr. McKinnie) It can't function as a barb 20 if it passes all the way through the animal? 21 A. Uh-huh. Sure. If it passes all the way 22 through, there's nothing to -- for it to be pulled back 23 against the barb. I'm a hunter. Most times when I 24 shoot an animal, my arrow goes all the way through so 25 even if it's barb, the barb doesn't get to function as a	Page 35 1 barb because it's already the full length of the arrow 2 with the broadhead, with the fletching, everything else 3 has passed through the animal. 4 Q. Okay. That makes sense. 5 I don't actually think I have any further 6 questions. Let me go through my notes real quick first. 7 I do have another one. 8 Are you -- are you still receiving 9 royalties for any of your patents? 10 A. I'm not. 11 Q. Did you ever have any ownership interest in any 12 of the companies that you worked for? 13 A. When I owned high-tech sports products I did 14 have an ownership interest, and that was for stabilizer 15 I think patent number 5016602 or something like that. 16 Otherwise, it was simply an employee role. 17 Q. After you sold that company are you still 18 obtaining money from them? 19 A. No. 20 Q. A payoff note? 21 A. No, I do not retain -- I do not -- I don't get 22 paid anything from anyone for what I've done. 23 MR. MCKINNIE: Okay. I have no further 24 questions. 25 THE WITNESS: Thank you for the
Page 36 1 opportunity to speak. 2 MR. MCKINNIE: Anything further? 3 MR. SHULL: No. 4 THE COURT REPORTER: Mr. Shull? I'm 5 sorry, Mr. Shull, was that a no? You cut out. We can't 6 hear you now. 7 MR. SHULL: (Gestures.) 8 MR. MCKINNIE: I believe he's saying no 9 further questions. 10 THE COURT REPORTER: I believe he's saying 11 no further questions. 12 Will this be a read and sign for the 13 witness? 14 MR. SHULL: I -- for some reason you can't 15 hear me, so. 16 THE COURT REPORTER: We can hear you now. 17 MR. SHULL: Oh, you can. Okay, great. I 18 don't know why you couldn't. Sorry about that. 19 Yeah, I have no questions so we're good to 20 go. 21 THE COURT REPORTER: Okay. Will this be a 22 read and sign for the witness? 23 MR. SHULL: Say it one more time. 24 THE COURT REPORTER: Will this be a read 25 and sign for the witness for the transcript?	Page 37 1 MR. SHULL: Yes. Yeah. He'll read and 2 yeah, that's right. 3 THE COURT REPORTER: And, Mr. Shull, will 4 you be ordering a copy of the final transcript? 5 MR. SHULL: Yes, we will. We'll have a 6 copy as well. 7 THE COURT REPORTER: Okay. All right. 8 The time is 11:14 Mountain time. We are off the record. 9 (Signature having been not waived, the 10 deposition was concluded at 11:14 a.m.MST) 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25

Page 38 1 ERRATA SHEET -- CHANGES AND SIGNATURE 2 PAGE LINE CHANGE REASON 3 _____ 4 _____ 5 _____ 6 _____ 7 _____ 8 _____ 9 _____ 10 _____ 11 _____ 12 _____ 13 _____ 14 _____ 15 _____ 16 _____ 17 _____ 18 _____ 19 _____ 20 _____ 21 _____ 22 _____ 23 _____ 24 _____ 25 _____ ROBERT MIZEK	Page 39 1 WITNESS SIGNATURE 2 I, ROBERT MIZEK have read the foregoing 3 deposition and hereby affix my signature that same is 4 true and correct, except as noted above. 5 _____ 6 _____ 7 ROBERT MIZEK 8 THE STATE OF ARIZONA § 9 COUNTY OF MARICOPA § 10 Before me, _____, on this 11 day personally appeared ROBERT MIZEK known to me or 12 proved to me on the oath of _____ or through 13 _____ (description of identity card or 14 other document) to be the person whose name is 15 subscribed to the foregoing instrument and acknowledged 16 to me that he/she executed the same for the purpose and 17 consideration therein expressed. 18 Given under my hand and seal of office on this 19 ____ day of _____, 2025. 20 _____ 21 _____ 22 NOTARY PUBLIC IN AND FOR 23 THE STATE OF TEXAS 24 My Commission Expires: _____ 25 _____
Page 40 1 UNITED STATES PATENT AND TRADEMARK OFFICE 2 BEFORE THE PATIENT TRIAL AND APPEAL BOARD 3 BOWMAR ARCHERY LLC § 4 vs. § Patent No. 8,043,177 5 VETERAN'S INNOVATIVE § Filing Date: July 7, 2008 6 PRODUCTS, LLC § Issue Date: October 25, 2011 7 REPORTERS CERTIFICATION 8 REMOTE ORAL DEPOSITION 9 OF ROBERT MIZEK 10 JANUARY 16, 2025 11 I, Addrina Gutierrez, Certified Shorthand 12 Reporter in and for the State of Texas, hereby certify 13 to the following: 14 That the witness, ROBERT MIZEK was duly sworn 15 by the officer and that the transcript is a true record 16 of the testimony given by the witness; 17 That pursuant to information given to the 18 deposition officer at the time said testimony was taken, 19 the following includes all parties of record and the 20 amount of time used by each party at the time of the 21 deposition: 22 Jason McKinnie (1h7m) 23 Attorney for Respondent 24 Jason Shull (0h0m) 25 Attorney for Petitioner That a copy of this certificate was served on all parties shown herein on _____ and filed with the Clerk.	Page 41 1 I further certify that I am neither counsel 2 for, related to, nor employed by any of the parties in 3 the action in which this proceeding was taken, and 4 further that I am not financially or otherwise 5 interested in the outcome of this action and that I 6 reported the deposition remotely from Edinburg, Hidalgo 7 County, Texas. 8 Further certification requirements pursuant to 9 Rule 203 of the Texas Code of Civil Procedure will be 10 certified to after they have occurred. 11 Certified to by me on this 16 day of January, 12 2025. 13 _____ 14 <i>Addrina Gutierrez</i> 15 ADDRINA GUTIERREZ 16 Texas CSR No. 12536 17 Exp: 06/30/2025 18 _____ 19 _____ 20 _____ 21 _____ 22 _____ 23 _____ 24 _____ 25 _____

Page 42 1 UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE PATIENT TRIAL AND APPEAL BOARD 2 3 BOWMAR ARCHERY LLC § § Patent No. 8,043,177 4 vs. § Filing Date: July 7, 2008 § Issue Date: October 25, 2011 5 VETERAN'S INNOVATIVE § PRODUCTS, LLC § 6 7 FIRM CERTIFICATION UNDER RULE 203 TRCP 8 The deposition transcript of ROBERT MIZEK was 9 submitted on _____, 2025 to the witness and/or 10 attorney for the witness for examination, signature and 11 return to me by _____, 2025. 12 The original deposition or changes and 13 signature page _____ was _____ was not returned to the 14 deposition officer. 15 If returned, date received: 16 _____, 20254; and if returned, the 17 attached changes and signature page contains any changes 18 and the reasons therefor; 19 If returned, the original deposition was 20 delivered in accordance to Rule 203.3 to 21 TAKING ATTY _____, Custodial Attorney; and 22 \$_____ is the deposition officer's charges to 23 TAKING ATTY _____ for preparing the original deposition 24 transcript and any copies of exhibits. 25 A copy of the Reporter's certificate and this	Page 43 1 certificate were served on all parties shown herein and 2 filed with the Clerk. 3 Certified to by me on this _____ day of 4 _____, 5 6 _____ 7 Firm Rep Signature 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25

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