

1 UNITED STATES PATENT AND TRADEMARK OFFICE
2 BEFORE THE PATENT TRIAL AND APPEAL BOARD
3
4

5 FOX FACTORY, INC.,

6 Petitioner,

7 vs.

No. IPR2024-00492

8 SRAM, LLC,

9 Patent Owner.
_____/

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11
12 DEPOSITION OF T. KIM PARNELL, PH.D., PE

13 Remote Zoom Proceedings

14 Sunnyvale, California

15 Friday, December 13, 2024
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23 REPORTED BY:

24 LESLIE ROCKWOOD ROSAS, RPR, CSR 3462

25 Pages 1 - 123

Job No. 7060682

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13 Deposition of T. KIM PARNELL, PH.D., PE, taken
14 on behalf of Petitioner, Remote Zoom Proceedings from
15 Sunnyvale, California, beginning at 9:35 a.m. Pacific
16 Standard Time and ending at 3:32 p.m. Pacific Standard
17 Time, on Friday, December 13, 2024, before Leslie
18 Rockwood Rosas, RPR, Certified Shorthand Reporter No.
19 3462.
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23
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25

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I N D E X

Friday, December 13, 2024

WITNESS

EXAMINATION

T. KIM PARNELL, PH.D., PE

BY MS. BHATTACHARYYA	8
BY MR. HICKEY	105
BY MS. BHATTACHARYYA	113
BY MR. HICKEY	119

QUESTIONS WITNESS INSTRUCTED NOT TO ANSWER:

(None)

DEPOSITION EXHIBITS

T. KIM PARNELL, PH.D., PE

NUMBER	DESCRIPTION	IDENTIFIED
Exhibit 2021	Declaration of T. Kim Parnell, Ph.D., PE, in Support of Plaintiff SRAM, LLC's Opening Claim Construction Brief	104
Exhibit 2022	Court Order by Honorable Steve C. Jones, 11/19/24	105

PREVIOUSLY MARKED EXHIBITS REFERRED TO HEREIN:

EXHIBIT NO.	PAGE
2016	12
1001	40
1003	52
1005	73
1006	96

1 Sunnyvale, California; Friday, December 13, 2024

2 9:35 a.m. Pacific Standard Time

3 PROCEEDINGS

4

5 --oOo--

09:35:42

6 THE REPORTER: We're going on the record at

7 9:35 a.m.

8

9 T. KIM PARNELL, PH.D., PE,

10 having been first duly sworn, was examined

09:35:45

11 and testified as follows:

12

13 THE WITNESS: I do.

14 THE REPORTER: Thank you, sir.

15 You may proceed, Counsel.

09:36:01

16 MS. BHATTACHARYYA: Good morning. My name is

17 Arpita Bhattacharyya from the Finnegan law firm on behalf

18 of Petitioner Fox Factory. I'm joined today by my

19 colleagues, Ms. Xirui Zhang and Mr. Hani Salameh, also

20 from the Finnegan law firm and on behalf of Fox.

09:36:19

21 MR. HICKEY: Good morning. My name is Michael

22 Hickey from the law firm of Lewis Rice on behalf of

23 Patent Owner SRAM, LLC. And I'm joined by my colleague

24 Michael Durbin.

25 THE REPORTER: Thank you, Counsel. You may

09:36:35

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1 proceed.

2

3

EXAMINATION

4

BY MS. BHATTACHARYYA:

5

Q. Good morning, Dr. Parnell.

09:36:43

6

A. Good morning.

7

Q. When was the last time you were deposed,

8

Dr. Parnell?

9

A. I'm sorry, what was the question?

10

Q. When was the last time you had a deposition?

09:36:56

11

A. Ah, that I had a deposition. I believe it was

12

in the spring of this year of 2024.

13

Q. Okay. And before we proceed any further, would

14

you please state and spell your full name for the record.

15

A. My full name is Toby Kim Parnell, first name

09:37:16

16

Toby, T-O-B-Y, middle name Kim, K-I-M, last name Parnell,

17

P-A-R-N-E-L-L.

18

Q. And where are you testifying from today,

19

Dr. Parnell?

20

A. I'm in my home office in Sunnyvale, California.

09:37:41

21

Q. Is there anyone else with you today in your home

22

office?

23

A. My wife is here. Not in my room. I'm in my

24

separate office.

25

Q. Dr. Parnell, since you have been deposed before,

09:38:03

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1 I'll just give a very short set of instructions because
2 you're already familiar with how depositions work.

3 And I'll ask you a set of questions. Your
4 counsel, Mr. Hickey, might object to some of them. If
5 there are -- unless Mr. Hickey instructs you not to 09:38:25
6 answer, you should go ahead and answer my question.

7 Is that clear?

8 A. Yes.

9 Q. Throughout the deposition, we'll take periodic
10 breaks, perhaps one every hour, but if you need a break 09:38:39
11 any time, just let me know.

12 I only ask that if I have a question pending,
13 that you answer my question before we take a break, okay?

14 A. Yes.

15 Q. Do you understand that you are under oath today 09:38:57
16 to answer my questions truthfully and completely?

17 A. Yes, I do.

18 Q. Are you under the influence of alcohol or any
19 substance that would prevent you from answering my
20 questions truthfully and completely today? 09:39:18

21 A. No.

22 Q. Do you have any questions before we proceed?

23 A. No.

24 Q. Dr. Parnell, the primary focus of your
25 consulting company named Parnell Expert Consulting is to 09:39:41

Page 9

1 provide expert consulting services for litigations;

2 correct?

3 A. Yes, that's correct.

4 Q. Roughly how many litigations have you provided

5 consulting services for in your consulting career? 09:39:57

6 A. I don't know the answer to that right off in

7 terms of a count. I believe I've listed all of them on

8 my -- on my CV.

9 Q. If you had to estimate, what would that be?

10 MR. HICKEY: Objection. Calls for speculation. 09:40:24

11 THE WITNESS: I hesitate to try to estimate.

12 It's -- but if I need to give you an estimate, it's

13 probably something like 20. And this also includes my --

14 my prior company name, Parnell Engineering & Consulting.

15 Q. BY MS. BHATTACHARYYA: So both -- so you have 09:41:06

16 two consulting companies; correct?

17 A. At this moment, yes.

18 Q. Parnell Expert Consulting and Parnell

19 Engineering & Consulting; correct?

20 A. And consulting, yes. 09:41:16

21 Q. And do you provide expert consulting services

22 for litigations through both of these consulting

23 companies?

24 A. Parnell Engineering & Consulting was my

25 originally established company, and then I opened Parnell 09:41:36

Page 10

1 Expert Consulting later, then, in 2024, actually.

2 Q. You were providing expert consulting services
3 for litigations through Parnell Engineering & Consulting
4 Company as well; correct?

5 A. Yes. 09:42:00

6 Q. So what was the reason for you opening a
7 separate company and naming it Parnell Expert Consulting?

8 A. It was to establish a separate corporate
9 category.

10 Q. What separate corporate category? 09:42:24

11 A. My first company, sole proprietorship; the
12 second, Parnell Expert Consulting, was an S corp.

13 Q. So is Parnell Engineering & Consulting Company
14 still operative?

15 A. Yes. And my plan is actually to return to that 09:42:53
16 solely. I've only used Parnell Expert Consulting this
17 year, and my plan actually is to close that part down
18 just to simplify.

19 Q. So earlier when you said you provided expert --
20 expert consulting services for roughly about 20 09:43:18
21 litigations, did that include expert consulting services
22 through both your consulting companies?

23 A. Yes. That's an estimate of the total number.

24 Q. And for how long have you been providing expert
25 consulting services for litigations for in your career? 09:43:46

Page 11

1 A. As an independent consultant, since -- since
2 2000.

3 Q. Let's look at your declaration, which was
4 previously marked as Exhibit 2016. And in particular,
5 let's go to your CV, which is at the end of your 09:44:22
6 declaration. And it's marked as Appendix A.

7 Let me know when you're there.

8 A. Yes.

9 Q. So on your CV starting at PDF page 78, you have
10 listed many cases, litigation cases, where you have 09:45:21
11 provided expert services; correct?

12 A. What page are you looking at?

13 Q. Page 78. That's the PDF page at the bottom of
14 the document. It says page 78 of 94.

15 A. Yes. 09:45:50

16 Q. So in your CV, you have listed many litigations
17 and IPRs, spanning about 16 pages, from PDF page 78
18 through 94, for which you have provided expert services;
19 correct?

20 A. Yes. 09:46:14

21 Q. That's a lot more than 20 cases; right?

22 A. I was just trying to estimate for you. I did
23 not come here to make a -- make a count. I think this is
24 a complete listing.

25 Q. Okay. In your CV, you list about three pages of 09:46:39

Page 12

1 select engineering consulting work; correct?

2 A. What are you referring to now? What location?

3 Q. I'm looking at your CV starting at page 74. I
4 see that you have listed about three pages of consulting
5 projects. 09:47:26

6 Do you see that?

7 A. Yes.

8 Q. Would it be fair to say that you provide far
9 more litigation support services than engineering
10 consulting? 09:47:43

11 A. It depends on the timeframe. In recent years,
12 it's certainly been more litigation consulting. But
13 throughout my independent consulting career, there's been
14 a mix of both types of consulting projects.

15 Q. Since which year would you say you started doing 09:48:09
16 more litigation consulting services?

17 A. Maybe roughly around after -- after 2012.
18 Something like that.

19 Q. Was there a reason you started doing more
20 litigation consulting services than engineering 09:48:47
21 consulting starting around 2012?

22 A. It was really the opportunities that were
23 presented, the requests that I received.

24 Q. And the cases for which you have provided
25 litigation consulting services, are they all patent 09:49:16

Page 13

1 cases?

2 A. No.

3 Q. What other type of cases have you worked on?

4 A. Some have been product-related cases as -- as
5 opposed to patents. Failures, accident investigations. 09:49:45
6 There have been a variety of different things.

7 Q. If you had to -- strike that.

8 What percentage of the litigation cases that you
9 worked on are patent-related cases?

10 A. A rough estimate, maybe around 50 percent, with 09:50:37
11 recent years probably being higher than 50 percent.

12 Q. And when you say "recent years," like since when
13 would you say that?

14 A. Roughly over the past five to six years would be
15 an estimate. 09:51:06

16 Q. Do you have an area of expertise or focus for
17 your litigation consulting work?

18 A. My engineering and consulting experience covers
19 a number of different areas, and so my cases also tend
20 to -- tend to cover a range of different types of 09:51:40
21 technologies, different types of applications. I mean,
22 I'm a -- I'm a Ph.D. mechanical engineer, and so that
23 expertise I -- I apply to in different areas and
24 depending on the particular need or particular
25 application. 09:52:02

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1 Q. Can you provide some specifics about the
2 different areas and technologies in which you have
3 provided litigation expert services for?

4 A. Well, it again falls -- falls into a number of
5 different areas, mechanical aspects where there are 09:52:37
6 particular types of aspects that -- that are important.
7 Strength or manufacturing or that kind of thing.

8 I've done quite a bit of medical device related
9 work, covering a range of different types of applications
10 there. So, again, fairly broad associated with the 09:53:04
11 different areas of experience that I've had.

12 Q. And earlier you said that you provide expert
13 consulting services for accidents and vehicle crashes;
14 correct?

15 A. That's one area that I've been retained in the 09:54:03
16 past.

17 Q. Are those product liability cases?

18 A. Yes, those tend to be more in the realm of
19 product liability, yes.

20 Q. Have you provided any consulting services on any 09:54:30
21 bicycle or motorcycle-related technologies prior to
22 working with Lewis Rice on these SRAM cases?

23 A. I have -- I have been involved with different
24 types of vehicle applications, vehicle technology. I've
25 also worked on some cases or some projects in that area, 09:54:58

Page 15

1 some -- some that were non-litigation that were in the
2 area of vehicles, human-powered vehicles and other types
3 of vehicle technology.

4 Some of this was done when I was teaching at
5 Santa Clara University, was associated with student 09:55:23
6 projects and -- and my serving as an advisor on some of
7 those projects.

8 Q. Specifically what type of vehicle technologies
9 have you previously worked in?

10 A. Well, you'll see that several of my cases have 09:55:55
11 involved heavy truck types of technologies, have involved
12 crashworthiness, and have involved different aspects of
13 structural design.

14 So they fall into -- they fall into kind of
15 broad categories like that. Analysis and simulation. 09:56:20
16 Those are areas that I've worked on quite a bit in the
17 past.

18 Q. And you said you have worked on structural
19 designs. Would that be for heavy trucks?

20 A. Some of the applications were in that area. 09:56:41
21 There were others that were more -- more associated with
22 overall structural aspects of -- of the vehicle, of the
23 structure associated with the vehicle.

24 Q. What type of vehicle?

25 A. Again, it varies. Some of the ones, just trying 09:57:06

Page 16

1 to think back to Santa Clara University, when I was
2 teaching there, there was a project that I was advisor
3 for, a formula hybrid project. This was a small -- a
4 small vehicle that was designed under the category of a
5 hybrid analysis vehicle, electrical and internal 09:57:42
6 combustion. So this had a frame structure, for example,
7 tubular frame structure, and had different types of
8 propulsion capability.

9 Q. Dr. Parnell, have you ever previously worked on
10 any bicycle or motorcycle-related technologies? 09:58:08

11 MR. HICKEY: Objection. Asked and answered.

12 THE WITNESS: Just trying to think back across
13 projects that I've had, yes, there are some that I would
14 put into that category.

15 Q. BY MS. BHATTACHARYYA: Can you provide some 09:58:37
16 specifics on what type of bicycle or motorcycle-related
17 technologies that you have worked with?

18 A. One of the projects at Santa Clara University
19 that I can think of was human-powered vehicle, then.
20 That was more bicycle types of structure. 09:58:55

21 There have been ones that have been involved,
22 like ATVs, all-terrain-type vehicle. Those tend to be
23 tubular types of structures. Those are some of the ones
24 I can think of right now.

25 Q. So the human-powered vehicle that you said is 09:59:20

Page 17

1 similar to a bicycle that you worked on at Santa Clara
2 University, what exactly was the technology there that
3 you worked on with respect to that human-powered vehicle?

4 A. Well, I helped as a faculty advisor on some of
5 these. These were student -- what they called capstone 09:59:51
6 design projects, kind of senior -- senior design types of
7 projects. And so I helped as an advisor on several
8 different projects there.

9 Q. Specifically what technology that -- did that
10 human-powered vehicle entail? 10:00:19

11 A. I mean, just trying to think back at this point,
12 there were aspects of the structural components
13 associated with it, looking at different types of design
14 options for those structural components. That's kind of
15 a -- a theme or an application through several of my 10:00:52
16 different project applications there, looking at
17 structural design and helping on structural design
18 aspects.

19 Q. Aside from the structural design aspects of this
20 human-powered vehicle, did -- did you work on any other 10:01:22
21 technology related to that vehicle in that particular
22 project?

23 MR. HICKEY: Objection. Vague. Form.

24 THE WITNESS: I mean, I could generally help
25 revise on issues as they arose during these projects. 10:02:04

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1 That was similar to the formula hybrid as well as others.
2 You know, I was helping students with aspects of
3 finalizing a design.

4 Q. BY MS. BHATTACHARYYA: Dr. Parnell, I'm just
5 trying to understand what technical aspects of this 10:02:26
6 human-powered vehicle did you provide advice on to your
7 capstone students?

8 A. Mine was primarily structural aspects and --and
9 things that I advised on. That was primarily mine,
10 mechanical design and structural aspects. 10:02:56

11 Q. And for that formula hybrid project that you
12 mentioned earlier, specifically what type of technology
13 did you provide advice on to your capstone students?

14 A. One area was utilization of composite materials
15 in terms of designing and fabricating specific types of 10:03:37
16 components. Composite materials was one. And other
17 types of structural aspects. It was primarily in that --
18 in that area, structural related.

19 Q. And earlier you said that you also worked on
20 some technology like ATVs. What technological aspects of 10:04:52
21 ATVs have you worked on previously?

22 A. The ones I'm thinking of were structural aspects
23 response of the tubular frame structures.

24 Q. And was this ATV-related project also for Santa
25 Clara University capstone design project? 10:05:45

Page 19

1 A. Some of the capstone design projects did utilize
2 those types of structures. That's what I was indicating,
3 that I helped -- helped with as a faculty advisor.

4 Q. Outside of your role as a faculty advisor for
5 students in Santa Clara University who were working on 10:06:20
6 capstone projects, have you done any consulting work on
7 bicycle or motorcycle-related technologies?

8 A. I'm just trying to think if there's specific
9 ones that I can mention. Right now, I'm just thinking
10 about things that involved structural design, structural 10:07:14
11 response types of aspects. In some cases, a lot of -- a
12 lot of my consulting has been failure analysis and
13 failures analysis as a response of a structure.

14 Q. And when you say you have done consulting work
15 on failure analysis as a response to structure, what type 10:07:42
16 of vehicles did those analysis involve?

17 A. One that I can recall was small ATV type of --
18 of vehicle and the structural configuration.

19 Q. ATVs are not two-wheeled vehicles like bicycles
20 or motorcycles; correct? 10:08:27

21 A. That's correct. They're generally four-wheeled
22 vehicles.

23 Q. Would it be fair to say that you have not worked
24 on any bicycle or motorcycle suspension technology prior
25 to working on the SRAM cases? 10:08:54

Page 20

1 A. Many -- many of the aspects are the same,
2 structurally related types of things. So I -- I can't
3 think of a specific one to give you, but they are -- they
4 utilize similar technologies in many areas.

5 Q. Can you provide some specifics on what are the 10:09:49
6 similar technologies in many areas?

7 A. Well, things like selection of materials,
8 materials that are utilized, things like fabrication
9 technologies, aspects of manufacturing, composite
10 materials. Those come into play in a number of different 10:10:19
11 components, especially where there's weight -- weight
12 considerations being done.

13 Q. Aside from the structural aspects, have you
14 worked you -- strike that.

15 Aside from some structural aspects that may 10:10:43
16 be -- strike that.

17 Have you worked on any bicycle or motorcycle
18 suspension technology prior to working on the SRAM cases?

19 MR. HICKEY: Objection. Asked and answered.

20 THE WITNESS: I've worked on vehicle-related 10:11:22
21 technologies. I'm not sure specifically in bicycle or
22 motorcycle, but I've worked on things that have
23 similar -- similar technology aspects, similar
24 considerations in terms of their -- of their structure,
25 their suspension and -- and characteristics associated 10:11:43

Page 21

1 with how they respond to -- to loads and such.

2 Q. BY MS. BHATTACHARYYA: Have you worked on a
3 suspension technology for any vehicles?

4 A. Yes.

5 Q. What type of vehicles? 10:12:09

6 A. I believe I've already tried to describe some of
7 the types of vehicles that I've been involved with.

8 Q. I'll ask my question again.

9 What type of suspension technology have you
10 worked on previously? 10:12:31

11 A. Well, going back even to my -- my undergraduate
12 work and time at Georgia Tech, I was involved with
13 vehicle technology, vehicle manufacturing sorts of
14 technology. That includes suspension. It includes
15 overall frame structural aspects. 10:13:08

16 And then throughout my career, I mean, I've had
17 different types of issues, different types of
18 applications that have come forward that, you know,
19 consider some of those different types of things.

20 So it's really been a range of things throughout 10:13:30
21 my consulting career. And again, structural aspects of
22 vehicles' suspension aspects of vehicles, analysis,
23 response analysis. A lot of my work has been structural
24 analysis related.

25 Those typically include some considerations of 10:13:57

Page 22

1 suspension technology -- suspension technology,
2 suspension components, as well as other types of
3 components.

4 Q. Can you give me an example of what type of
5 suspension technology did you work on during your 10:14:16
6 undergraduate time at Georgia Tech?

7 A. I worked at General Motors in terms of a
8 manufacturing facility.

9 Q. Uh-huh.

10 A. And during that time -- that was a summer 10:14:34
11 position associated with a scholarship from General
12 Motors that I received.

13 So in terms of manufacturing components, that
14 included suspension, it included frame structure,
15 et cetera, and their assembly, then, into final 10:14:55
16 subassemblies and -- and ultimately final vehicles. That
17 was one area that I was involved with there.

18 Q. So in your project for General Motors, you were
19 working on suspension technology for four-wheeled
20 vehicles; correct? 10:15:26

21 A. That -- yes. Those were -- those were
22 four-wheeled vehicles, automotive vehicles.

23 Q. Let me narrow my question down to two-wheeled
24 vehicles like bicycle and motorcycle.

25 Have you worked on any suspension technology for 10:15:42

Page 23

1 two-wheeled vehicles like bicycles and motorcycles?

2 MR. HICKEY: Objection. Asked and answered.

3 THE WITNESS: I've had component considerations

4 that are associated really with both -- with both

5 two-wheeled vehicles as well as other types of 10:16:25

6 four-wheeled vehicles, suspension and response associated

7 with those. Those have been things that I've done.

8 Some of that has not been specifically to

9 two-wheeled vehicles, but the technologies are -- are

10 applicable. They have similar considerations, similar 10:16:47

11 sorts of aspects to them.

12 Q. BY MS. BHATTACHARYYA: Would it be fair to say

13 that you have worked on some technologies that relate to

14 bicycle and motorcycle suspensions, but you have not

15 directly worked on bicycle or motorcycle suspension 10:17:28

16 technologies?

17 A. Yes. I've tried to describe some of the types

18 of applications, and some of those are similar. I don't

19 recall if they're specifically bicycle-related project

20 considerations, but the technology considerations, those 10:18:09

21 are where my experience is -- is broad, and I apply it in

22 different areas into different sorts of applications,

23 then.

24 Q. When you say that you have worked on technology

25 considerations that relate to bicycle or motorcycle 10:19:18

Page 24

1 suspensions, what -- what are some of those technology
2 considerations for the suspension technology?

3 MR. HICKEY: Objection. Asked and answered.

4 MS. BHATTACHARYYA: Strike that. I'll ask a
5 better question. 10:19:41

6 Q. Specifically what are some of the technology
7 considerations for vehicle suspensions that you have
8 worked on?

9 MR. HICKEY: Objection. Form.

10 THE WITNESS: Can you repeat that, please. 10:20:11

11 Q. BY MS. BHATTACHARYYA: What are some of the
12 technology considerations related to vehicle suspensions
13 that you have worked on?

14 MR. HICKEY: Objection. Form. Asked and
15 answered. 10:20:29

16 THE WITNESS: Structural -- structural response
17 types of aspects. Design types of aspects. Vibration
18 and response. Damping response types of -- of components
19 and how they provide damping.

20 That's really what we're looking at here, 10:21:10
21 primarily in terms of the damper types of device
22 associated with these patents.

23 Q. BY MS. BHATTACHARYYA: Can you give me an
24 example of -- of a project in which you worked on damping
25 related to a shock absorber? 10:21:40

Page 25

1 A. I'm really just trying to indicate the -- kind
2 of the technology or considerations that are associated
3 there as opposed to necessarily a specific application,
4 but it's the types of technologies, the types of response
5 considerations that are important with -- with vibration 10:22:12
6 and -- and damping types of systems in general. These
7 come across many different types of applications, then.

8 Q. Would it be fair to say that you have not worked
9 on a -- strike that.

10 Would it be fair to say that you have not worked 10:22:43
11 on any technology related to a bicycle or motorcycle
12 shock absorber prior to working with SRAM on these cases?

13 MR. HICKEY: Objection. Form. Asked and
14 answered.

15 THE WITNESS: I think the specific application 10:23:20
16 to bicycle-related components is here. The technologies,
17 though, the -- the technical considerations, those are
18 areas where I've had quite a bit of experience across
19 different types of product components and applications,
20 and this is one specifically in the -- more in the 10:23:43
21 bicycle field.

22 Q. BY MS. BHATTACHARYYA: Dr. Parnell, I understand
23 that you have general technical experience in related
24 areas. I'll ask my question again.

25 You have not worked on any technology related to 10:24:08

Page 26

1 bicycle or motorcycle shock absorbers prior to work with
2 SRAM on these cases; correct?

3 MR. HICKEY: Objection. Form. Asked and
4 answered. Misstates testimony.

5 THE WITNESS: This case has been particularly 10:24:44
6 focused on those types of product applications. Before
7 this, my technology or technical types of applications
8 have included the types of -- the types of considerations
9 that are useful here in this. So here, yeah, here is a
10 specific application to these types of vehicles. 10:25:13

11 Prior to this, I've had both experience through
12 education and a variety of projects in terms of the
13 technologies that are applicable here.

14 Q. BY MS. BHATTACHARYYA: Dr. Parnell, that does
15 not answer my question. I'll repeat my question again. 10:25:36

16 Prior to working with SRAM on this case, have
17 you ever worked in your career on shock absorbers for
18 bicycles or motorcycles?

19 MR. HICKEY: Objection. Form. Asked and
20 answered. 10:26:15

21 THE WITNESS: I don't recall specific
22 applications in -- in that area. I've tried to describe
23 some of the ways that I've had the technologies that are
24 relevant here and some of the types of projects where
25 those have come about. I don't know that they're 10:26:31

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1 specific to this type -- this same type of application,
2 but where I come in with my consulting oftentimes is
3 having the technical background and technical experience
4 to be able to apply to it.

5 So that's -- that's where my work and experience 10:26:59
6 comes in, to allow me to look at products like this and
7 understand the technologies associated with it.

8 Q. Let's go to your CV, which is Appendix A to your
9 declaration.

10 Are you there? 10:27:39

11 A. Yes.

12 Q. On the first page of your CV, you provide a list
13 of expertise highlights.

14 Do you see that?

15 A. Yes. 10:27:58

16 Q. Bicycle or motorcycle shock absorber or any
17 other vehicle suspension technology is not highlighted as
18 your expertise in your CV; correct?

19 A. What I do list are some of the, again,
20 underlying technologies that are there. Some specifics 10:28:32
21 that I showed here, "Shock & Vibration Sensitivity,"
22 that's an aspect that's relevant here. Different types
23 of vehicle crashworthiness considerations. ATV vehicle
24 design. Those are some of the areas that are relevant,
25 that are similar. 10:28:58

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1 Use of finite element analysis to analyze
2 structures, analyze response of components. Structural
3 mechanics types of applications.

4 These are areas that are relevant. They're --
5 they're -- they're not specific to a given product, but 10:29:20
6 my intent here was to try to show more broadly
7 technologies that are utilized in different areas.
8 Materials selection. Composite materials I mentioned
9 before.

10 Q. The second page of your CV, you provide a list 10:30:39
11 of 23 high-technology applications for which you provide
12 engineering consulting and expert witness services;
13 correct?

14 A. Yes, that's correct.

15 Q. Bicycle or motorcycle shocks or any vehicle 10:31:06
16 suspension technology is not listed as a technology for
17 which you provide consulting or expert witness services;
18 correct?

19 A. That's correct. I listed -- I tried to list
20 technologies and applications that -- that come into 10:31:34
21 different types of product-related applications. But no,
22 I don't try to list every potential application of the
23 technologies here.

24 Q. Dr. Parnell, you are not currently teaching
25 anywhere; correct? 10:32:03

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1 A. That's correct.

2 Q. And consulting services is your only employment
3 presently; correct?

4 A. Yes, that's correct.

5 Q. When were you retained by Lewis Rice on behalf 10:32:38
6 of SRAM to work on this IPR?

7 A. I believe my retention started in late spring of
8 2024.

9 Q. Roughly, how much have you invoiced SRAM or the
10 Lewis Rice law firm for your work on this IPR so far? 10:33:12

11 A. I think I have billed approximately a hundred
12 hours thus far.

13 Q. Just on this IPR or all related cases?

14 A. Involved with my retention by the firm.

15 Q. How many cases are you currently working on with 10:33:50
16 the Lewis Rice law firm?

17 A. I have been involved with two specific types of
18 patent areas or technology areas, this one associated
19 with suspension damping control types of technologies and
20 also associated with the patent associated with steerer 10:34:33
21 tubes.

22 Q. And you have worked with Lewis Rice on the
23 District Court case in Georgia that involves those two
24 patents; correct?

25 A. Yes, that's correct. 10:35:11

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1 Q. So when you said earlier that you have billed
2 approximately a hundred hours thus far to SRAM or Lewis
3 Rice, does that involve all your work for all of those
4 three cases, the two IPRs and the Georgia District Court
5 case? 10:35:41

6 A. Yes. Thus far, it includes both of those.

7 Q. When you say "both of those," what does that
8 mean?

9 A. The -- the two -- the two patents and my
10 declarations associated with those two patents. 10:36:11

11 Q. Did you provide a declaration in support of any
12 proceedings in the Georgia District Court case?

13 A. I did associated with claim construction.

14 Q. How much time did you spend preparing your
15 declaration for this IPR proceeding? 10:36:59

16 A. I think through the time of my declarations was
17 the estimate that I gave you of approximately a hundred
18 hours. There's been additional work that I have done
19 associated with preparing for deposition in this case.

20 Q. Dr. Parnell, my question was about the 10:37:39
21 declaration for this IPR which is currently marked as
22 Exhibit 2016. Can you give me an estimate of how much
23 time did you spend preparing this particular declaration?

24 A. I didn't break it out in terms of one versus the
25 other. My estimate of a hundred hours was associated 10:38:10

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1 with through the declarations for both of the two IPRs,
2 but then I've had additional time that's not yet billed.

3 Q. Who did you talk to at Lewis Rice with regard to
4 preparing your declaration for this IPR?

5 A. I'm sorry, could you repeat that? 10:38:42

6 Q. Who did you talk to at Lewis Rice with regard to
7 preparing your declaration for this IPR?

8 A. I've talked primarily with Mr. Michael Hickey
9 and Mr. Michael Durbin.

10 Q. Did you talk to anyone at SRAM during the course 10:39:09
11 of the preparation of your declaration?

12 A. I don't believe so.

13 Q. Who wrote your declaration?

14 A. I wrote my declaration. It has my opinions. I
15 worked with counsel to iterate on and refine it for a 10:39:46
16 final product.

17 Q. Did you type all the words in, in your
18 declaration yourself?

19 A. No.

20 Q. Who did that for you? 10:40:02

21 A. Working with counsel, we iterated on the
22 declaration drafts. So each of us. I -- I worked on --
23 worked on some areas, typed some areas. Counsel
24 certainly produced some of the text associated with
25 particularly legal considerations and others. We worked 10:40:31

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1 together to produce a final declaration.

2 Q. Who prepared a first draft of your declaration?

3 A. Parts of it -- parts of first draft came from
4 counsel. I worked on some -- some specific components,
5 and then we worked together to iterate on it to come to a 10:40:58
6 final declaration.

7 Q. When you say that the first draft came from
8 counsel, was it Mr. Hickey or Mr. Durbin who sent you the
9 first draft?

10 MR. HICKEY: Objection. Form. And also 10:42:01
11 mischaracterizes testimony.

12 THE WITNESS: I primarily worked with Mr. Durbin
13 on the declaration.

14 Q. BY MS. BHATTACHARYYA: And Mr. Durbin sent to
15 you a first draft of the declaration that, as I 10:42:27
16 understand, you revised?

17 MR. HICKEY: Objection. Form. Mischaracterizes
18 testimony.

19 THE WITNESS: A draft, an outline, and that's
20 where we started working together to complete the 10:42:56
21 sections of the declaration.

22 Q. BY MS. BHATTACHARYYA: So Mr. Durbin sent you a
23 draft outline or did you prepare a draft outline?

24 A. Mr. Durbin prepared an outline in an initial
25 draft, and that's where we each had areas to work on. 10:43:53

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1 And in the end, you know, I'm going through all of the
2 portions of the declaration, and I make sure that I'm in
3 full agreement with the declaration. That's why I said
4 it represents my opinions in this matter.

5 Q. What percentage of your declaration was drafted 10:44:33
6 by Mr. Durbin?

7 A. In terms of some of the specific -- specific
8 sections or components, my -- my part was, as I said,
9 going through the entire declaration. I've gone through
10 all of it multiple times, and that's how I worked on the 10:45:31
11 declaration to finalize it, then.

12 In terms of how much each of us typed or
13 something, probably more from Mr. Durbin in terms of the
14 specific inputs, but I've gone through all of the
15 declaration multiple times. I've got input in all of the 10:45:59
16 sections of the declaration.

17 Q. How many litigations and IPRs are you presently
18 providing expert services for, including the SRAM cases
19 that you're working on?

20 MR. HICKEY: Arpita, I'm sorry, I didn't hear 10:46:28
21 all that. Could you repeat that.

22 Q. BY MS. BHATTACHARYYA: How many litigations and
23 IPRs are you presently providing expert services for,
24 including the SRAM cases that you're working on?

25 MR. HICKEY: Thank you. 10:46:42

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1 THE WITNESS: I believe I have three -- three
2 different matters that include IPRs that include patents
3 at least.

4 Q. BY MS. BHATTACHARYYA: So you said three
5 different matters that include IPRs. So are you working 10:47:13
6 on three different litigations presently as an expert?

7 A. Yes, that are -- that are patent-related
8 matters, intellectual-property-related matters.

9 Q. What are those three patent-related matters that
10 you're currently working on? 10:47:49

11 A. I believe they are listed here in the litigation
12 section of my CV. Yeah, it's really the first three that
13 are listed under litigation support work. One's an IPR,
14 one involving patents is a District Court case, and then
15 this one involves IPR in a District Court case. 10:48:56

16 Q. So aside from the SRAM cases, you are presently
17 working on a case Bote v. Twitch, which relates to
18 inflatable stand-up paddle boards; correct?

19 A. Yes.

20 Q. And you are also currently working on another 10:49:37
21 litigation in New Jersey that relates to dispensing
22 system for wheeled device; correct?

23 A. Yes. Small, small carts.

24 Q. In addition to those patent cases, are you
25 presently working on any other litigations? 10:50:13

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1 A. No, not at this time.

2 Q. Have the personal injury type cases that are
3 listed in your CV as '23 to present, have they all
4 concluded?

5 A. Either concluded or been inactive. 10:51:01

6 Q. Would it be fair to say that from 2023 to
7 present, you have worked on three patent-related cases
8 that includes the SRAM cases and personal injury product
9 liability type cases?

10 A. Yes. And also a case associated with -- more of 10:52:34
11 an antitrust type of case associated with surgical
12 instruments.

13 Q. Is that antitrust case with surgical instruments
14 listed in your CV?

15 A. Yes, it is. 10:52:54

16 Q. Which one is that?

17 A. On the second page, page 13.

18 Q. Are you currently working on this antitrust case
19 that relates to the EndoWrist devices?

20 A. Yes. 10:53:32

21 Q. So from 2023 to present, you have worked on
22 three patent-related cases that includes the SRAM cases,
23 four personal injury and product liability type cases,
24 and one antitrust case related to surgical devices;
25 correct? 10:54:10

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1 A. Yes, that's correct, associated with cases
2 listed here on my CV.

3 Q. Do you have any personal experience with
4 mountain biking?

5 A. No, not in mountain biking. I've certainly been 10:55:36
6 involved with road bikes and ridden them extensively.

7 Q. What materials have you considered prior to the
8 preparation of your declaration?

9 A. Considered all of the materials that have been
10 produced in this case. I think there's a listing here, 10:56:09
11 but it's basically a listing of all the production
12 materials associated with this case.

13 Q. Did you provide a Materials Considered list with
14 your declaration, Dr. Parnell?

15 A. I believe there is a listing of materials 10:56:58
16 produced in this matter.

17 Q. Are you aware of where that listing is? Because
18 I'm not seeing one.

19 MR. HICKEY: Arpita, I don't know if you mind me
20 jumping in to move it along or... 10:57:22

21 MS. BHATTACHARYYA: No, my question is for
22 Dr. Parnell. Did he provide a Materials Considered list
23 with his declaration?

24 THE WITNESS: I believe there is a listing of
25 production documents in this case. Those are all that I 10:58:05

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1 had access to and utilized in terms of preparation of my
2 declaration.

3 Q. BY MS. BHATTACHARYYA: That listing of documents
4 that you have reviewed is not provided along with your
5 declaration; right? 10:58:27

6 MR. HICKEY: Objection. Mischaracterizes
7 testimony.

8 THE WITNESS: I'm -- I'm looking for a reference
9 to the listing. I obtained and utilized a listing of all
10 the documents produced during this case, reference 10:59:52
11 documents that kind of thing. Those are all the things
12 that I had access to.

13 Q. BY MS. BHATTACHARYYA: Did you review the
14 petition that was filed by Fox Factory?

15 A. Yes, I did. 11:00:15

16 Q. Did you review the declaration that was
17 submitted by Fox Factory's expert Dr. Slocum?

18 A. Yes.

19 Q. Did you review the prior art references that
20 were submitted along with the petition by Fox? 11:00:43

21 A. Yes.

22 Q. Did you review anything -- strike that.

23 What documents did you review in preparation for
24 your deposition today?

25 A. I primarily focused on my declaration, the 11:01:34

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1 patents, the prior art patents and the SRAM patent at
2 issue, the '207 one. Declaration of Dr. Slocum, also
3 associated with the deposition of Dr. Slocum. Others as
4 -- as they came about or were cited. I tried to really
5 focus on the -- my declaration and -- and specific 11:02:18
6 referenced documents associated with it.

7 Q. What else did you do to prepare for your
8 deposition today?

9 A. I reviewed personally things that I was just
10 describing, primarily mine. Some discussions with 11:02:45
11 counsel also in terms of preparing.

12 Would it be possible to take a break here?

13 Q. Yes, just two minutes. I'm just going to finish
14 this line of question and then we can take a break.

15 You don't have to give me any specifics of your 11:03:16
16 conversation with counsel, but generally who did you meet
17 with to prepare for your deposition today?

18 A. I've already described my work with Mr. Hickey
19 and with Mr. Durbin. They were counsel that I have met
20 with. 11:03:54

21 Q. And when did you meet with Mr. Hickey and
22 Mr. Durbin to prepare for your deposition?

23 A. Several times over recent -- I don't know, one
24 to two weeks.

25 Q. And roughly how much time did you spend talking 11:04:11

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1 to Mr. Hickey and Mr. Durbin over the last week?

2 A. Between -- well, really in terms of meeting with
3 counsel and discussions with counsel, maybe -- roughly
4 speaking, maybe something like 10 to 12 hours.

5 Q. Have you talked to anyone at SRAM to prepare for 11:05:20
6 your deposition today?

7 A. No.

8 MS. BHATTACHARYYA: We can take a break now.

9 THE REPORTER: We're off the record at
10 11:05 a.m. 11:05:40

11 (Recess.)

12 THE REPORTER: Back on the record at 11:19 a.m.

13 Q. BY MS. BHATTACHARYYA: Dr. Parnell, during the
14 break that we just took, did you have any conversations
15 with counsel about the testimony you have given or the 11:19:29
16 testimony you are about to give?

17 A. No.

18 Q. Dr. Parnell, let's turn to the '207 patent, and
19 I -- it was previously marked as Exhibit 1001. And it's
20 in the Marked Exhibits folder. 11:19:58

21 A. I don't see it yet. I only see my declaration
22 there.

23 MS. BHATTACHARYYA: You may have to refresh it.

24 THE WITNESS: Oh, okay. I think I got it now.

25 1001, yes. 11:20:13

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1 Q. BY MS. BHATTACHARYYA: And when was the last
2 time you reviewed the '207 patent?

3 A. Yesterday, today. A number of times.

4 Q. And each embodiment described in the '207
5 patent, there are three positions of the valve activating 11:20:52
6 assembly: Open, lockout, and adjustable; correct?

7 A. Well, looking at the abstract, it's a valve
8 actuating assembly operatively connected to the valve
9 mechanism operable between at least two rider-selectable
10 positions to adjust the valve mechanism between various 11:21:35
11 suspension settings.

12 Q. My question to you is about the embodiments
13 described in the '207 patent. In the embodiments that
14 are described in the specification of the '207 patent,
15 there are three positions of the valve actuating 11:21:55
16 assembly: Open, lockout, and adjustable; correct?

17 A. Yes, there are -- there are four different
18 embodiments shown, and they each have at least a -- a
19 fixed position and a user-selectable adjustable --
20 user-adjustable position. 11:22:27

21 Q. In each of the embodiments that are described in
22 the '207 patent, there are three positions disclosed;
23 correct?

24 A. Yes, with one being a user-adjustable position.

25 Q. And what are the other two positions of the 11:23:11

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1 valve actuating assembly in the embodiments described in
2 the '207 patent?

3 A. They are fixed positions, not user adjustable.

4 Q. And what are the two fixed positions of the
5 valve actuating assembly that are described in the 11:23:41
6 embodiments of the '207 patent?

7 A. I'm not sure that they're necessarily listed as
8 open and lockout. They're listed as fixed positions.

9 Q. Do you agree that in each embodiment described
10 in the '207 patent, there are three positions of the 11:25:02
11 valve actuating assembly, and one of those positions is
12 user adjustable; correct?

13 A. Yes, one is user adjustable.

14 Q. And in each of the embodiments described in the
15 '207 patent, if you changed the damping characteristics 11:25:43
16 of the adjustable position, the damping characteristics
17 of each of the other two positions remain unchanged;
18 correct?

19 A. Yes, that's correct.

20 Q. So according to the embodiments of the '207 11:26:11
21 patent disclosure, if there are three positions of the
22 valve actuating assembly and you adjusted one of the
23 positions, both of the other two positions remain
24 unaffected; correct?

25 A. Yes, that's correct. 11:26:33

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1 Q. Does the '207 patent contemplate any embodiment
2 or situation where if you changed the damping
3 characteristics of the adjustable position, the damping
4 characteristics of either of the other two fixed
5 positions changes? 11:26:56

6 MR. HICKEY: Objection. Calls for a legal
7 conclusion.

8 THE WITNESS: The concept is that the adjustable
9 position is able to be adjusted independent of other
10 positions and that they're not affected by that 11:27:23
11 adjustment.

12 Q. BY MS. BHATTACHARYYA: So when you adjust the
13 damping characteristics of the adjustable position, the
14 damping characteristics of all of the other positions of
15 the valve actuating assembly remain unaffected; correct? 11:27:40

16 MR. HICKEY: Objection. Calls for a legal
17 conclusion. Also mischaracterizes the patent.

18 Q. BY MS. BHATTACHARYYA: Do you need me to repeat
19 the question, Dr. Parnell?

20 A. Yes, please. 11:28:41

21 Q. According to the '207 patent, when you adjust
22 the damping characteristics of the adjustable position,
23 the damping characteristics of all of the other positions
24 of the valve actuating assembly remain unaffected;
25 correct? 11:29:07

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1 MR. HICKEY: Objection. Calls for a legal
2 conclusion. Mischaracterizes the patent.

3 THE WITNESS: The adjustable position can be
4 adjusted independently without changing the other
5 positions. 11:29:27

6 Q. BY MS. BHATTACHARYYA: When you adjust the
7 adjustable position, none of the other positions of the
8 valve actuating assembly changes; correct?

9 MR. HICKEY: Objection. Calls for a legal
10 conclusion. Mischaracterizes the patent claims. 11:29:52

11 THE WITNESS: Yes, the adjustable position is
12 independent of the other positions in the patent -- in
13 the device in the embodiment.

14 Q. BY MS. BHATTACHARYYA: Adjustable position is
15 independent of all of the other positions of the valve 11:30:25
16 actuating assembly; correct?

17 MR. HICKEY: Objection. Calls for a legal
18 conclusion. Not limited to the embodiments.
19 Mischaracterizes the claims.

20 MS. BHATTACHARYYA: Mr. Hickey, that was a 11:30:43
21 speaking objection. You suggested an answer in your
22 question. Please refrain from doing that.

23 MR. HICKEY: Well, please refrain from
24 mischaracterizing the patent.

25 MS. BHATTACHARYYA: I disagree, but if you think 11:30:56

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1 I'm mischaracterizing, then you can just put in your
2 objection as mischaracterizing. You don't have to
3 suggest an answer. That's a speaking objection.

4 Q. Dr. Parnell, do you need me to repeat the
5 question? 11:31:10

6 A. Yes, please.

7 Q. The adjustable position is independent of all of
8 the other positions of the valve actuating assembly;
9 correct?

10 MR. HICKEY: Objection. Calls for a legal 11:31:20
11 conclusion. Mischaracterizes the patent.

12 THE WITNESS: The adjustable position is
13 independent of the other positions in the -- in the
14 embodiment.

15 Q. BY MS. BHATTACHARYYA: Adjustable position is 11:31:48
16 independent of all of the other positions of the valve
17 actuating assembly; correct?

18 MR. HICKEY: Objection. Calls for a legal
19 conclusion. Mischaracterizes the patent. Asked and
20 answered. 11:32:11

21 THE WITNESS: I believe I have answered that in
22 terms of the adjustable position.

23 Q. BY MS. BHATTACHARYYA: Can you repeat your
24 answer again?

25 A. That the adjustable position can be adjusted 11:32:25

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1 independently of other positions of the embodiment.

2 Q. According to the '207 patent, if there are three
3 positions of the valve actuating assembly and you
4 adjusted the damping characteristics of a first
5 adjustable position, both the second and the third 11:33:12
6 position will remain unaffected; correct?

7 MR. HICKEY: Objection. Calls for a legal
8 conclusion. Mischaracterizes the patent. Asked and
9 answered.

10 THE WITNESS: I've answered that the adjustable 11:33:44
11 position is independent -- independently changed,
12 independently adjusted, without affecting other
13 positions.

14 Q. BY MS. BHATTACHARYYA: When you adjust the
15 damping characteristics of the adjustable position, the 11:34:43
16 damping characteristics of all of the other positions
17 remain unchanged; correct?

18 MR. HICKEY: Objection. Calls for a legal
19 conclusion. Not limited to the patent, but
20 mischaracterizes the patent. Asked and answered. 11:35:07

21 THE WITNESS: I mean, specifically from the
22 abstract, the adjuster assembly is operatively connected
23 to the valve actuating assembly for adjusting the damping
24 characteristics corresponding to at least one of the
25 positions of the valve actuating assembly independently 11:35:36

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1 of the damping characteristics corresponding to another
2 position of the valve actuating assembly.

3 Q. BY MS. BHATTACHARYYA: Dr. Parnell, that does
4 not answer my question. Let me repeat my question.

5 When you adjust the damping characteristics of 11:36:01
6 the adjustable position, the damping characteristics of
7 all other positions of the valve actuating assembly
8 remain unaffected; correct?

9 MR. HICKEY: Objection. Calls for a legal
10 conclusion. Mischaracterizes the patent. 11:36:16
11 Mischaracterizes the witness' testimony. Asked and
12 answered.

13 THE WITNESS: Again, from the abstract that I
14 read there, that adjusting the damping characteristics
15 corresponding to at least one of the positions of the 11:36:52
16 valve actuating assembly independently of the damping
17 characteristics corresponding to another position of the
18 valve actuating assembly.

19 Q. BY MS. BHATTACHARYYA: And when you say "another
20 position of the valve actuating assembly," what do you 11:37:07
21 mean in a -- in a device that has three positions of the
22 valve actuating assembly?

23 A. If you're -- if you're looking at three
24 positions, the adjustable position is independent of the
25 others. 11:37:39

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1 Q. So if we are looking at three positions of the
2 valve actuating assembly and you adjust the adjustable
3 position, both of the other two positions remain
4 unaffected; correct?

5 A. The adjustable position only affects that one. 11:38:00
6 It's -- it's independent of the other fixed positions.

7 Q. There is nothing in the '207 patent
8 specification that suggests that when you adjust the
9 adjustable position, the damping characteristics of one
10 of the other two positions would change; correct? 11:38:54

11 MR. HICKEY: Objection. Calls for a legal
12 conclusion. Mischaracterizes the patent.

13 THE WITNESS: In the valve or the adjuster
14 assembly, it provides a means of adjusting one position,
15 and that adjustment is done independently of the other 11:39:28
16 positions.

17 Q. BY MS. BHATTACHARYYA: You said independently of
18 the other position. I'm talking about a valve actuating
19 assembly that has three positions, one of them being an
20 adjustable position. 11:39:52

21 Now if you adjusted the damping characteristics
22 of the adjustable position, the damping characteristics
23 of the other two positions would remain unaffected;
24 correct?

25 MR. HICKEY: Objection. Calls for a legal 11:40:11

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1 conclusion. Mischaracterizes the patent.

2 THE WITNESS: Only the adjustable position is
3 changed. The other positions are not changed by that
4 adjustment. It's independent.

5 Q. BY MS. BHATTACHARYYA: Dr. Parnell, does the 11:40:51
6 '207 patent refer to the prior art Fox reference?

7 A. The Fox reference being what has been termed as
8 like a lever and adjuster rod type of device was
9 considered during prosecution of the '207 patent. It was
10 considered as prior art. 11:41:40

11 Q. Does the '207 patent specifically refer to that,
12 that the Fox reference that has been asserted as prior
13 art in this IPR proceeding?

14 A. Yes, it was referenced during prosecution of the
15 '207. 11:42:23

16 Q. I'm not talking about prosecution.

17 Does the text of the '207 patent refer to the
18 prior art Fox reference?

19 A. It describes it and the prior art as a lever
20 adjustable -- adjustment rod type of configuration. 11:42:54

21 Q. You said it describes it, the prior art as a
22 lever, an adjustable rod type configuration -- strike
23 that.

24 My question is specifically about the Fox prior
25 art reference. Does the '207 patent disclosure anywhere 11:43:25

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1 mention the prior art Fox reference by its number or name
2 or any other identification?

3 A. It was considered during prosecution of the '207
4 patent.

5 Q. I don't understand. 11:44:01

6 My question is: Does the '207 patent disclosure
7 anywhere mention the prior art Fox reference?

8 A. It was -- it was referred to in terms of the --
9 the technology or the types of adjustment apparatus that
10 was utilized in the Fox reference. 11:45:07

11 Q. But the Fox reference itself was not mentioned
12 in the '207 patent disclosure; correct?

13 MR. HICKEY: Objection. Mischaracterizes the
14 patent.

15 THE WITNESS: For example, in the background of 11:45:50
16 the invention, that type of technology is described.

17 "A typical design for a damping adjuster uses an
18 adjuster rod that extends down the center of the piston
19 shaft and engages the valve mechanism or performs the
20 function of the valve mechanism. Adjustment is commonly 11:46:06
21 made in either of two ways, the adjuster rod is moved
22 axially (up or down) to alter damping or the adjuster rod
23 is rotated to alter damping."

24 "For example, a cam attached to a lever may be
25 engageable with the adjuster rod to vary the axial 11:46:25

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1 position of the rod." And "one problem associated with
2 this configuration is that any given angular position of
3 the lever/cam corresponds to exactly one position of the
4 adjuster rod. This limits the ability of the rider to
5 customize the damping characteristics of the suspension 11:46:45
6 system to suit the terrain or the rider's particular
7 riding style."

8 This is the technology of the Fox patent. This
9 is the mechanism for changing damping.

10 Q. BY MS. BHATTACHARYYA: The paragraph that you 11:47:10
11 just read from the background of the '207 patent does not
12 mention the Fox reference specifically; correct?

13 A. That's correct. It's talking about the type of
14 technology, the type of device characteristics.

15 Q. It is your interpretation that the background 11:47:42
16 technology referred to in the '207 patent relates to the
17 Fox reference; correct?

18 A. Well, in that it was considered during
19 prosecution.

20 Q. During the prosecution of the '207 patent, the 11:48:13
21 examiner did not apply the Fox reference in any of the
22 Office Action Response -- sorry, strike that.

23 During the prosecution of the '207 patent, did
24 the examiner apply the Fox reference in any of its Office
25 Actions? 11:48:45

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1 A. It was considered during prosecution of the
2 '207.

3 Q. And because the Fox reference was considered
4 during prosecution, you are interpreting the background
5 section of the '207 patent as referring to the Fox 11:49:29
6 reference; is that correct?

7 A. Referring to the Fox reference and referring to
8 the type of technology that's utilized there.

9 Q. But the background of the '207 patent does not
10 specifically refer to the Fox reference; correct? 11:50:00

11 A. Well, I mean, the background here I don't think
12 references anything specifically. It references the type
13 of technology.

14 Q. You studied Petitioner Fox's expert Dr. Slocum's
15 declaration prior to preparing your declaration; correct? 11:50:59

16 A. Yes.

17 MS. BHATTACHARYYA: I moved Dr. Slocum's
18 declaration, which was marked as Exhibit 1003, to the
19 Exhibit Share folder. Would you please open that let me
20 know when you're there. 11:52:09

21 THE WITNESS: Oh, I have it open. Yes.

22 Q. BY MS. BHATTACHARYYA: Let's go to paragraph 49
23 of Fox's expert Dr. Slocum's declaration, which is
24 Exhibit 1003.

25 Let me know when you're there. 11:52:42

Page 52

1 A. 49?

2 Q. Yes.

3 A. Yes.

4 Q. With reference to the Fox prior art reference,

5 Dr. Slocum said that: Fox's 'actuator apparatus' 11:52:53

6 includes a valve actuating assembly comprising actuator

7 arrangement 54 and shaft 34."

8 Do you see that?

9 A. Yes.

10 Q. In the next sentence, Dr. Slocum says that the 11:53:17

11 actuator arrangement 54 comprises camshaft 58 and lever

12 60.

13 Do you see that?

14 A. Yes.

15 Q. So according to Fox's expert, Dr. Slocum, the 11:53:43

16 prior art Fox reference has a valve actuating assembly

17 comprising a camshaft 58, a lever 60, and a shaft 34;

18 correct?

19 A. In terms of the valve actuating assembly.

20 Q. So you agree that in terms of the valve 11:54:19

21 actuating assembly of the Fox prior art reference, there

22 are three components: Camshaft 58, lever 60, and shaft

23 34; correct?

24 A. Yes, in terms of the valve actuating assembly.

25 Q. Now let's go to paragraph 53 of Fox's expert, 11:54:59

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1 Dr. Slocum's declaration, Exhibit 1003.

2 A. Yes.

3 Q. Fox's expert Dr. Slocum says, with reference to
4 the Fox prior art reference, that the adjuster assembly
5 that is operatively connected to Fox's valve actuating 11:55:51
6 assembly includes -- strike that.

7 What is your understanding of what constitutes
8 the adjuster assembly of the Fox prior art reference?

9 MR. HICKEY: Objection. Form.

10 THE WITNESS: Well, in terms of this claim term 11:57:05
11 1.2, this is a separately identified component, and so
12 there needs to be additional structure associated with an
13 adjuster assembly. It can't be just the same actuator
14 arrangement. It needs to be operatively connected to the
15 actuator arrangement. 11:57:35

16 Q. BY MS. BHATTACHARYYA: So according to
17 Dr. Slocum, in the Fox prior art reference, the actuator
18 arrangement 54, which includes the camshaft 58 and lever
19 60, is the adjuster assembly; correct?

20 A. That's what he's stating here. 11:58:11

21 Q. So in the Fox prior art reference, there is no
22 complete structural overlap between the valve actuating
23 assembly and the adjuster assembly; correct?

24 MR. HICKEY: Objection. Form.

25 THE WITNESS: So repeat your question, please. 11:58:52

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1 Q. BY MS. BHATTACHARYYA: In the Fox prior art
2 reference, the valve actuating assembly and the adjuster
3 assembly do not completely overlap structurally; correct?

4 A. I think in the Fox reference, what he's
5 describing is that they do overlap, but that separate 11:59:19
6 claim term, claim limitation needs additional structure
7 more than just the valve actuating assembly, and it needs
8 to be operatively connected.

9 Q. We've already established that in the Fox prior
10 art reference the valve actuating assembly is the 11:59:43
11 actuator arrangement 54 plus the shaft 34; correct?

12 A. Yes.

13 Q. And you've previously agreed that the adjuster
14 assembly of the Fox prior art reference is the actuator
15 arrangement 54; right? 12:00:07

16 MR. HICKEY: Objection. Mischaracterizes
17 testimony.

18 THE WITNESS: No, I did not agree with that.

19 Q. BY MS. BHATTACHARYYA: I can read you back your
20 prior testimony. 12:00:20

21 My question to you was: "So according to
22 Dr. Slocum in the Fox prior art reference the actuator
23 arrangement 54, which includes the camshaft 58 and lever
24 60, is the adjuster assembly; correct?"

25 And you answered, "That's what he's stating 12:00:52

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1 here."

2 A. Yes. That's what Dr. Slocum is stating here,
3 but as I said, my point is that that's a separate claim
4 element for the adjuster assembly, and a separate claim
5 element needs some additional structure, and it needs to 12:01:17
6 be operatively connected to the valve actuating assembly.
7 And that's -- I believe that's not present here. There's
8 not separate structure.

9 Q. I understand that's your opinion. I'm just
10 talking about what the petition and what Dr. Slocum's 12:01:38
11 declaration states.

12 So according to Fox's expert Dr. Slocum's
13 declaration, the valve actuating assembly is the actuator
14 arrangement 54, which has the camshaft 58 and lever 60
15 plus the shaft 34; correct? 12:02:09

16 A. I believe he's just specifically calling out
17 what's the valve actuating assembly.

18 Q. In the Fox prior art reference, the valve
19 actuating assembly is the actuator arrangement plus the
20 shaft 34; correct? 12:02:52

21 MR. HICKEY: Objection. Mischar- --
22 mischaracterizes testimony.

23 THE WITNESS: That shaft 34 is the driver
24 component. So that's a part of the valve actuator
25 arrangement. 12:03:44

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1 Q. BY MS. BHATTACHARYYA: Shaft 34 is part of the
2 valve actuating assembly along with the actuator
3 arrangement 54; correct?

4 A. Yes.

5 Q. And according to Dr. Slocum, the adjuster 12:04:03
6 assembly of the Fox prior art reference is the actuator
7 arrangement 54 alone; correct?

8 A. I mean, the shaft 34 is also part of the valve
9 actuating arrangement.

10 Q. I understand shaft 34 is part of the valve 12:04:51
11 actuating assembly. I'm not talking about valve
12 actuating assembly. I'm now talking about the adjuster
13 assembly element.

14 According to Dr. Slocum, the adjuster assembly
15 of the Fox prior art reference is only the actuator 12:05:07
16 arrangement 54; correct?

17 MR. HICKEY: Objection. Asked and answered.

18 THE WITNESS: Can you repeat that, please.

19 Q. BY MS. BHATTACHARYYA: According to Dr. Slocum,
20 the adjuster assembly of the Fox prior art reference is 12:05:48
21 only the actuator arrangement 54; correct?

22 MR. HICKEY: Objection. Asked and answered.

23 THE WITNESS: But it doesn't provide a mechanism
24 of being able to adjust one position independently of
25 another position. There's no independent adjustment. 12:06:22

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1 There's no ability to operatively connect what he's
2 describing as the adjuster assembly to the actuator.

3 Q. BY MS. BHATTACHARYYA: That does not answer my
4 question, Dr. Parnell.

5 My question was: According to Dr. Slocum, the 12:06:40
6 adjuster assembly of the Fox prior art reference is only
7 the actuator arrangement 54; correct?

8 MR. HICKEY: Objection. Asked and answered.

9 THE WITNESS: Shaft 34.

10 Yeah, so paragraph 49, Dr. Slocum is stating 12:07:32
11 that Fox's actuator apparatus includes a valve actuating
12 assembly comprising actuator arrangement 54 and shaft 34.
13 Actuator arrangement 54 comprises camshaft 58 and lever
14 60.

15 And then he's stating here shaft 34 functions as 12:08:04
16 a damping adjuster, and actuator arrangement 54 functions
17 as a damping adjuster driver.

18 My point is that there is not separate structure
19 here associated with the adjuster assembly. That's
20 what's coming down later here and starting in paragraph 12:08:32
21 53, and there's not an ability to adjust independently of
22 one position relative to another.

23 Q. BY MS. BHATTACHARYYA: Dr. Parnell, let me refer
24 you to the figure that is on page 34 of Dr. Slocum's
25 declaration which is marked as Exhibit 1003. 12:08:58

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1 Do you see the annotations on the figure on page
2 34?
3 A. Yes. Yes.
4 Q. Dr. Slocum is referring to lever 60 and camshaft
5 58 as the adjuster assembly; correct? 12:09:19
6 A. Yes, in this figure.
7 Q. And he is referring to the valve actuating
8 assembly as comprising a lever 60, camshaft 50, and shaft
9 34; correct?
10 A. Yes, that's what he's identifying here. 12:09:49
11 Q. Dr. Slocum has not included shaft 34 as part of
12 the adjuster assembly; correct?
13 A. Slocum has not included shaft 34 in this
14 annotated drawing as part of the adjuster.
15 Q. Dr. Slocum has not included shaft 34 as part of 12:10:22
16 the adjuster assembly anywhere in his declaration;
17 correct?
18 A. I'm not sure about anywhere, but there is not a
19 separate structure associated with the adjuster assembly.
20 There's no means to operatively connect this adjuster 12:10:46
21 assembly. It's just the same -- the same components.
22 And there's no ability to adjust one position
23 independently of another.
24 Q. But according to Dr. Slocum, the valve actuating
25 assembly includes the shaft 34, which is not part of the 12:11:06

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1 adjuster assembly; correct?

2 A. That's how he's labeled it, but there's no
3 separate structure. They're the same -- part of the
4 valve actuating assembly is what he is identifying then
5 as the adjuster assembly. There's no separate structure 12:11:26
6 associated.

7 Q. So let's go to paragraph 51 of your declaration.

8 In the third sentence of paragraph 51 in your
9 declaration, you say, "Petitioner does not even allege
10 that Fox includes an adjuster assembly." 12:12:03

11 Do you see that?

12 A. Yes.

13 Q. That statement is incorrect; right?

14 A. There is not separate structure associated with
15 the adjuster assembly that he's indicating that we were 12:12:33
16 just looking at.

17 Q. I understand, but when you -- but Petitioner Fox
18 and Dr. Slocum have asserted that the lever 60 in
19 camshaft 58 of the Fox prior art reference functions as
20 an adjuster assembly; correct? 12:12:57

21 A. That's what we were looking at, but they're
22 not -- Petitioner and Fox and Slocum are not showing some
23 separate structure associated with an adjuster. They're
24 breaking out part of the valve actuating assembly.
25 Nothing is separate. No ability to connect these 12:13:28

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1 overlapping structures.

2 Q. In the next sentence in paragraph 51 of your
3 declaration, you state, "Instead, Petitioner relies on
4 the entirety of Fox's purported valve actuating
5 assembly." 12:13:51

6 Do you see that?

7 A. Yes.

8 Q. That assertion is also a misstatement; correct?

9 A. What was being labeled there as an adjuster
10 assembly that we were looking at was a portion of the 12:14:26
11 actuator assembly. There is no -- and this reliance is
12 without any additions. There was no additional structure
13 that was shown or defined.

14 Q. But your assertion that Petitioner relies on the
15 entirety of the Fox's purported valve actuating assembly 12:14:46
16 is incorrect; right?

17 A. They're breaking out a piece with no additional
18 structure defined there.

19 Q. Only a portion of Fox's valve actuating assembly
20 functions as the adjuster assembly; correct? 12:15:23

21 A. That was shown in the figure, but there's not
22 any additional structure defined there.

23 Q. I understand.

24 Only a portion of Fox's valve actuator assembly
25 is the adjuster assembly; correct? 12:15:59

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1 A. In terms of that figure, that's how it was
2 labeled. That's how it was indicated. No additional
3 structure. No -- no ability to adjust one location
4 independently of another.

5 I mean, going on to read here in my paragraph 12:16:27
6 51, this is -- this mechanism is exactly what the '207
7 patent describes in its background of the invention
8 section.

9 Accordingly, based on, again, my understanding
10 there, there is no adjuster assembly in Fox. It's just 12:16:45
11 being labeled as a portion of the valve actuating
12 assembly.

13 "In fact, the '207 patent requires more than a
14 mere valve actuating assembly, and further rejects
15 treating Fox as having one based on the statements made 12:17:02
16 in the specification and the prosecution history."

17 Q. Dr. Parnell, I know what you stated in your
18 declaration. My question to you is about your assertion
19 that Petitioner relies on the entirety of Fox's purported
20 valve actuating assembly as the adjuster assembly. 12:17:23

21 That assertion in your declaration is incorrect;
22 right?

23 MR. HICKEY: Objection. Mischaracterizes the
24 document. Asked and answered.

25 THE WITNESS: I was trying to show that there's 12:17:47

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1 no additional structure that's being defined. It's just
2 got -- he's just defined it as a part of the valve
3 actuating assembly.

4 Q. BY MS. BHATTACHARYYA: Let's look at the
5 embodiment of the '207 patent that is shown in Figures 7a 12:18:38
6 to 7c.

7 A. So a part of my declaration or going directly to
8 the patent?

9 Q. Look at the '207 patent or your declaration,
10 whichever you would prefer. 12:19:01

11 A. All right. Figure 7a and 7b. Yes, I have them.

12 Q. In the embodiment shown in Figures 7a, 7b, and
13 7c of the '207 patent, what is the valve actuating
14 assembly?

15 A. It's the camshaft and lever here, and then 12:20:39
16 the -- the -- the driver rod 66.

17 Q. Driver rod is not part of 66; correct?

18 A. Oh, 22, I guess, then, for the driver rod.

19 Q. So in the embodiment that is shown in Figure 7a
20 to 7c, the valve actuating assembly is the lever 54, the 12:21:37
21 camshaft 56, and the driver 22; correct?

22 A. Yes.

23 Q. And what is the adjuster assembly in the
24 embodiment shown in Figure 7a, 7b, and 7c of the '207
25 patent? 12:22:16

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1 A. The adjuster assembly adds the threaded portion
2 there that allows for adjusting of -- of a position
3 independent of the others. The threaded portion is the
4 additional structure. It overlaps, but it's additional
5 structure here. 12:22:40

6 Q. So in the embodiment shown in Figures 7a, 7b,
7 and 7c of the '207 patent, the adjuster assembly is all
8 of the valve actuating assembly plus some threads.

9 Is that your testimony?

10 A. That the adjuster assembly includes the threaded 12:23:19
11 portion, which provides a means of -- of adjusting or
12 moving the camshaft to have independent adjustment
13 settings in this -- in this particular orientation or
14 configuration without changing other settings, without
15 changing the fixed ampere setting. 12:23:48

16 Q. Can you explain to me what are the different
17 components of the adjuster assembly in the embodiment
18 shown in Figures 7a, 7b, and 7c of the '207 patent?

19 A. It's adding the threaded portion to provide a
20 means for advancing axially, moving axially camshaft to 12:24:24
21 provide the adjustable section in -- in this position.
22 This shows moving -- moving -- every -- every turn of the
23 camshaft moves one -- one thread spacing axially of the
24 camshaft. Every rotation of the camshaft through the
25 lever advances the camshaft axially. That's where you 12:24:56

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1 get the adjustment portion.

2 Q. You're saying that it's -- it is adding the
3 threaded portion -- it is adding -- what do you mean by
4 that? Adding the threaded portion to what?

5 A. To -- to make the adjuster assembly. I mean, 12:25:29
6 maybe I should go to my report, also.

7 Q. Sure. But you have the '207 patent in front of
8 you. You have studied the '207 patent.

9 Can you list out the different parts or
10 components of the adjuster assembly of the embodiment 12:25:54
11 that is shown in Figures 7a, 7b, and 7c of the '207
12 patent?

13 MR. HICKEY: The witness just said he wanted to
14 look at his report so I want to give him time that he can
15 do that. 12:26:15

16 Dr. Parnell, you take all the time you need to
17 reference your report.

18 MS. BHATTACHARYYA: Mr. Hickey, again, stop
19 instructing the -- the witness on what he should do.

20 MR. HICKEY: I'm not instructing. He -- he said 12:26:32
21 that that's what he wanted to do, and I just want to make
22 sure that he has time to do it.

23 THE WITNESS: So this is --

24 MS. BHATTACHARYYA: Dr. Parnell, let me know if
25 you want me to repeat my question. 12:28:28

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1 THE WITNESS: Well, let me just include from my
2 report here, in the areas where I discuss this -- this
3 portion. So starting with paragraph 52, it says,
4 "Petitioner's position that the claim valve actuating
5 assembly and adjuster assembly may be the same structure 12:28:58
6 is contrary to the presumption that distinct claim
7 elements are distinct components and the teachings of the
8 specification and the express wording."

9 Paragraph 53, "I've been advised by counsel for
10 SRAM that there is a presumption" -- 12:29:14

11 Q. BY MS. BHATTACHARYYA: Mr. Parnell, you do not
12 need to read -- you do not need to read to me your entire
13 declaration. If you want me to repeat my question, I'll
14 repeat my question.

15 I've asked you a question about embodiments -- 12:29:24
16 the embodiments shown in Figure 7a, 7b, and 7c. If
17 you -- if you want to refer to that in your declaration,
18 please do that. But you don't have to read to me your
19 entire declaration now.

20 MR. HICKEY: Counsel, he's providing his answer. 12:29:38
21 Please let him finish.

22 MS. BHATTACHARYYA: Mr. Hickey, this is my
23 deposition and -- and I will instruct Mr. Parnell on how
24 to answer my question. He cannot spend -- he cannot
25 spend my time reading his entire declaration. 12:29:53

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1 MR. HICKEY: I don't think he was reading his
2 entire declaration. What he was doing was he was trying
3 to answer your question. And he -- he was -- if you're
4 going to let him answer the question, if you are
5 instructing him not to answer the question, that's fine. 12:30:06

6 MS. BHATTACHARYYA: I am asking a question.

7 Q. Dr. Parnell, let's just go back to the '207
8 patent which you have said you have studied.

9 A. Yes.

10 Q. Referring to the '207 patent and the embodiment 12:30:27
11 that is shown in Figures 7a, 7b, and 7c of the '207
12 patent, what is the adjuster assembly in that embodiment?

13 MR. HICKEY: Objection. Asked and answered.

14 THE WITNESS: So it's a -- it's a part of my
15 paragraph 55 from my declaration. 12:31:00

16 "For the embodiment disclosed in Figure 7a
17 through 7c, the '207 patent explains that the adjuster
18 assembly 18 in -- in Figures 1 through 6c 'is replaced
19 with threads on the camshaft 56 that engaged threads 86
20 on the first cylinder 24.'" 12:31:22

21 So this embodiment in Figure 7a through 7c, the
22 additional structure is the threads that are added here.
23 And this provides the mechanism for adjusting of one --
24 of one position relative to the others.

25 Q. BY MS. BHATTACHARYYA: So in the embodiment that 12:31:53

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1 is shown in Figure 7a, 7b, and 7c of the '207 patent, are
2 the threads the adjuster assembly?

3 A. They are additional structure that's a part of
4 the adjuster assembly.

5 Q. You say they're additional structures. Then 12:32:15
6 what are the other structures of the -- of the adjuster
7 assembly in that embodiment?

8 A. It includes the -- the cam with the adjustable
9 portion that we're seeing, with the adjustable area that
10 we're seeing in the 7a, 7b, 7c figures, and the threads 12:32:44
11 that allows it to be advanced.

12 I was looking for another portion here. Well, I
13 think that covers it, then.

14 Q. Is the lever 54 part of the adjuster assembly?

15 A. I mean, the threaded structure is the primary 12:33:56
16 additional element that allows for user adjustability,
17 then.

18 Q. Dr. Parnell, I'm trying to understand what are
19 the different components of the adjuster assembly in the
20 embodiment that is shown in Figures 7a, 7b, and 7c of the 12:34:18
21 '207 patent. Can you list out those components of the
22 adjuster assembly to me?

23 A. The adjuster assembly is adding those threaded
24 portions. So you have the actuating assembly, but you
25 have the additional threaded structure, and that threaded 12:34:58

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1 structure is what allows for the adjustment of one
2 specific orientation relative to the others. It allows
3 for the axial movement of the camshaft.

4 Q. Is it your opinion that in the embodiment shown
5 in Figure 7a, 7b, and 7c of the '207 patent, the valve 12:35:20
6 actuating assembly plus the threaded structure
7 constitutes the adjuster assembly?

8 A. The threaded portion is additional structure,
9 and that's -- has to be connected to the valve actuating
10 assembly. 12:35:54

11 Q. But the valve actuating assembly plus the
12 threads forms the adjuster assembly of the embodiment
13 that is shown in Figures 7a, 7b, and 7c of the '207
14 patent; correct?

15 MR. HICKEY: Objection. Form. 12:36:37

16 THE WITNESS: Part -- part of paragraph 56
17 addresses that. So the valve actuating assembly and
18 adjuster assembly may be integrally formed as alleged by
19 Petitioner, but here that means that some portions of the
20 combined device remain specific to the adjuster assembly. 12:37:06

21 In the example discussed above, for Figures 7a through 7c
22 of the '207 patent, the threads on the camshaft are at
23 least some of the portions of the combined device that
24 are specific to the adjuster assembly."

25 That's -- that's -- that's part of the 12:37:23

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1 additional structure that we have here to allow for
2 adjustment.

3 Q. BY MS. BHATTACHARYYA: So you agree, then, that
4 the valve actuating assembly plus the threads on the
5 camshaft form the adjuster assembly of the embodiment 12:37:45
6 that is shown in Figures 7a, 7b, and 7c of the '207
7 patent; right?

8 MR. HICKEY: Objection. Form.

9 THE WITNESS: Yes. It's additional structure
10 that allows for the adjustment in -- in this position, in 12:38:05
11 this orientation. It allows for movement, axial
12 movement of the camshaft. With each rotation, there's a
13 threaded -- one thread pitch advance.

14 Q. BY MS. BHATTACHARYYA: So the adjuster assembly
15 of the embodiment that is shown in Figure 7a, 7b, and 7c 12:38:31
16 of the '207 patent is the valve actuating assembly plus
17 the threads that are on the camshaft, which is also part
18 of the valve actuating assembly; correct?

19 MR. HICKEY: Objection. Form. Mischaracterizes
20 prior testimony. 12:39:07

21 THE WITNESS: It's the additional structure that
22 is a part of the adjuster assembly. It is -- it's what
23 allows it to -- to provide adjustment that you don't have
24 otherwise.

25 Q. BY MS. BHATTACHARYYA: But the threads are on 12:39:29

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1 the -- on the -- on the camshaft 56; correct?

2 A. They're on the camshaft, and they're on the
3 valve body, but they're -- they're the part that is
4 specific to the adjuster assembly to allow for adjustment
5 for axial movement of the camshaft. 12:39:54

6 Q. And that -- the camshaft that has the threads is
7 also part of the valve actuating assembly; correct?

8 A. So a -- a part of my paragraph 56: "Although
9 the valve actuating assembly and adjuster assembly may be
10 integrally formed, as alleged by Petitioner, 'integrally 12:40:35
11 formed' here means that some portion of the combined
12 device remains specific to the adjuster assembly. In the
13 example discussed above for Figures 7a through 7c of the
14 '207 patent, the threads on the camshaft 56 are at least
15 some of the portions of the combined device that are 12:40:55
16 specific to the adjuster assembly."

17 MR. HICKEY: Counsel, we've been going for about
18 another hour 20. You know, we can take a break when you
19 get a chance.

20 MS. BHATTACHARYYA: Sure. Let me finish with 12:41:14
21 this line of questions.

22 Q. Dr. Parnell, the camshaft 56 that has the
23 threads is also part of the valve actuating assembly in
24 the embodiment shown in Figure 7a, 7b, and 7c of the '207
25 patent; correct? 12:41:32

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1 A. Yes, but with the threads being -- being
2 specific to the adjuster assembly.

3 MS. BHATTACHARYYA: We can take a break now.

4 THE REPORTER: Off the record at 12:42.

5 (Recess.) 13:12:23

6 THE REPORTER: Back on the record. The time is
7 1:12 p.m.

8 Q. BY MS. BHATTACHARYYA: Welcome back,
9 Dr. Parnell.

10 During the last break that we took, did you have 13:12:47
11 any conversations with counsel about the testimony you
12 have given or the testimony you are about to give in this
13 deposition?

14 A. No.

15 Q. Dr. Parnell, do you have any printed copies of 13:13:10
16 any documents with you in your home office?

17 A. Yes.

18 Q. What do you have with you?

19 A. I have a printed copy of the '207 patent, and I
20 have a printed copy of my declaration. 13:13:28

21 Q. Are those clean copies or do they have any
22 writings or annotations on them?

23 A. No, they're clean copies.

24 Q. Dr. Parnell, I'm fine with you having those
25 copies, but if you're referring to -- if you're looking 13:13:46

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1 at them, just let me know what you're looking at when
2 you're answering my questions.

3 Earlier I noticed you were looking down reading
4 from some document, and I wasn't sure what you're exactly
5 looking at. 13:14:04

6 A. Yes. It was my declaration.

7 Q. Let's go back to the Fox prior art reference.

8 In Fox, when the shaft 34 engages the rotary cam
9 surface 56 in the open setting, the axial position of
10 shaft 34 can be varied by rotating the cam surface 56 13:14:46
11 using the lever, which then varies the damping
12 characteristics of the open setting; correct?

13 A. I'm sorry, I haven't gotten to -- I don't think
14 you produced the Fox reference, did you?

15 Q. If you need me to, I'm happy to, but... 13:15:14

16 A. Or were you looking --

17 Q. Do you need the Fox reference to answer my
18 question?

19 A. Were you -- were you looking at figures in
20 Slocum's declaration or something else? 13:15:32

21 Q. Yes.

22 In your declaration and Dr. Slocum's
23 declaration, you have included the figures from Fox, but
24 I'm happy to put the Fox reference, which is marked as
25 Exhibit 1005, into the Marked Exhibit folder. 13:15:49

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1 A. Yeah. Or if it's a part of what's in my
2 declaration, that's probably fine.

3 Q. I moved all of the references into the Marked
4 Exhibits folder so you can refer to any of them whenever
5 you want. 13:16:17

6 You're familiar with how the device discussed in
7 the Fox reference operates; right?

8 A. Yes. I'm just looking for the section.

9 Q. What are you looking at, Dr. Parnell?

10 A. I'm trying to find the best section for the 13:17:55
11 figure you were describing.

12 Q. I can refer you to Figure 5 of Fox.

13 A. Just a moment.

14 Okay. Let me go there.

15 Q. Do you want me to repeat the question again, 13:20:33
16 Dr. Parnell?

17 A. Yes.

18 Q. In the Fox reference, when shaft 34 engages
19 rotary cam surface 56 in the open setting, the axial
20 position of shaft 34 can be varied by rotating cam 13:20:57
21 surface 56 using the lever, which then varies the damping
22 characteristics of the open setting; correct?

23 MR. HICKEY: Objection. Form.

24 THE WITNESS: I'm sorry, I'm getting the
25 wrong -- wrong document up here (reading). 13:21:33

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1 Okay. I think I see.

2 Q. BY MS. BHATTACHARYYA: I can repeat the question
3 again. I can break it down if you want me to.

4 A. Just give me a moment. I thought I was
5 advancing pages, but I'm jumping through -- through 13:22:09
6 different documents, which is not what I wanted.

7 All right. Here.

8 All right. And, yes, please repeat. And you
9 were referencing a figure, I believe?

10 Q. Figure 5. 13:22:34

11 A. Okay.

12 Q. I'll repeat my question.

13 In the Fox prior art reference, when shaft 34
14 engages the rotary cam surface 56 in the open setting,
15 the axial position of shaft 34 can be varied by rotating 13:23:10
16 cam surface 56 using the lever 60; correct?

17 MR. HICKEY: Objection. Form. Vague.

18 THE WITNESS: Yes. Rotation of the cam moves
19 the adjuster rod 34.

20 Q. BY MS. BHATTACHARYYA: And when the axial 13:24:06
21 position of shaft 34 is varied, the damping
22 characteristics of the open setting changes; correct?

23 MR. HICKEY: Objection. Form. Vague.

24 Mischaracterizes the reference.

25 THE WITNESS: Yes. It adjusts the damper 13:24:33

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1 settings with rotation of the cam.

2 Q. BY MS. BHATTACHARYYA: Earlier we discussed that
3 in the Fox prior art reference, the valve actuating
4 assembly comprises actuator arrangement 54 and shaft 34.

5 Do you recall that? 13:25:39

6 A. Yes. I'm looking for component 54 here.

7 All right. And just repeat, please.

8 Q. In the Fox prior art reference, the valve
9 actuating assembly comprises actuator arrangement 54 and
10 shaft 34; correct? 13:26:36

11 A. I see -- I see 56. I see 34. 54 doesn't seem
12 to be a specific component here.

13 Q. What do you mean it isn't a specific component
14 here?

15 A. Figure 5, the arrow I see from 54 seems to just 13:27:39
16 point to the -- to the device overall. I guess --

17 Q. In the Fox reference, 54 is the actuator
18 arrangement; right?

19 A. Yes, if that's defined to be the overall
20 arrangement. 13:28:20

21 Q. And in the Fox reference, the actuator
22 arrangement 54 and the shaft 34 form the valve actuating
23 assembly; right?

24 A. Yes.

25 Q. Let's go to paragraph 92 of Dr. Slocum's 13:28:54

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1 declaration, which is Exhibit 1003.

2 A. Which paragraph?

3 Q. 92.

4 A. 92. Okay. Paragraph 92.

5 Q. The combination of the Fox reference with the 13:30:02
6 JP'279 Nagai references.

7 "The 'adjuster assembly' of JP'279 includes a
8 slider 43 with tapered surface 44 and a mechanism for
9 axially displacing slider 43 using gear 49 and feed axle
10 50." 13:30:35

11 Correct?

12 MR. HICKEY: Are you asking is that what that
13 says, Counsel? What's the question?

14 MS. BHATTACHARYYA: I can repeat my question,
15 but that is the question. 13:30:47

16 MR. HICKEY: I'll object to the form.

17 THE WITNESS: JP'279 is showing a slider type
18 arrangement on an inclined plane.

19 Q. BY MS. BHATTACHARYYA: JP'279 shows a slider
20 type arrangement 43 plus a mechanism for axially moving 13:31:17
21 the slider using gear 49 and axle feed 50; correct?

22 MR. HICKEY: Objection. Form.

23 THE WITNESS: Yes.

24 Q. BY MS. BHATTACHARYYA: And according to
25 Dr. Slocum in his declaration marked 1003, he has said 13:31:45

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1 that the adjuster assembly includes the slider 43 with
2 tapered surface 44 and a mechanism for axially displacing
3 slider 43 using gear 49 and feed axle 50.

4 Do you see that?

5 A. Yes. 13:32:20

6 Q. So the adjuster assembly in the Fox plus JP'279
7 combination is the slider 43 plus a mechanism for axially
8 moving the slider; correct?

9 MR. HICKEY: Objection. Form.

10 THE WITNESS: That's what he's indicating here. 13:33:01

11 Q. BY MS. BHATTACHARYYA: Go to your declaration,
12 paragraph 77.

13 A. All right. Just so I can keep the Slocum
14 reference up, I'll open my hard copy to paragraph 77.

15 Q. Okay. Uh-huh. 13:34:24

16 Are you at your paragraph 77 in your
17 declaration?

18 A. Yes.

19 Q. In the second sentence in paragraph 77, you say,
20 "However, Petitioner's proposed combination continues to 13:35:02
21 fail to include the claimed 'adjuster assembly' because,
22 like Wicker, the resulting combination would not include
23 a means of independent adjustment of the damping
24 characteristics for one position."

25 Do you see that? 13:35:17

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1 A. Yes.

2 Q. And as we just established in the Fox plus
3 JP'279 plus Nagai combination, the adjuster assembly
4 includes the tapered surface plus a means for axially
5 displacing the tapered surface; correct? 13:35:41

6 MR. HICKEY: Objection. Form. Mischaracterizes
7 testimony.

8 THE WITNESS: I address that later in paragraph
9 78 and 79 and showed one of the illustrations from
10 Dr. Slocum. The key is that this is providing this 13:36:15
11 inclined surface over the entire device, not limited to
12 one position. And so this would provide a change of
13 damping characteristics in all positions of Fox's
14 purported valve actuating assembly whenever the axial
15 position of Fox's camshaft is changed by any purported 13:36:39
16 adjuster assembly.

17 This is part of my paragraph 78 of my
18 declaration.

19 And then this goes into, immediately after, one
20 of the illustrations that Dr. Slocum created and included 13:36:53
21 in his declaration of solid model.

22 Q. BY MS. BHATTACHARYYA: Dr. Parnell, I'll get to
23 that, but my question to you right now is that the
24 adjuster assembly in the Fox plus JP'279 plus Nagai
25 combination is the tapered surface plus a means for 13:37:12

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1 axially displacing the tapered surface; correct?

2 MR. HICKEY: Objection. Form.

3 THE WITNESS: Again, that's what is shown in the
4 Slocum declaration, but I was trying to indicate how I
5 responded to that point. 13:37:43

6 Q. BY MS. BHATTACHARYYA: Okay. So you agree with
7 me that Dr. Slocum has testified that in the Fox plus
8 JP'279 plus Nagai combination, the adjuster assembly is
9 the tapered surface plus a means for axially displacing
10 that tapered surface; correct? 13:38:11

11 MR. HICKEY: Objection. Form.

12 THE WITNESS: That is how he's defining -- he's
13 designating it or identifying it here, but I responded in
14 the area in my declaration that I was just talking about
15 that this still doesn't provide a means to independently 13:38:43
16 adjust one position relative to another position. It --
17 it has -- it changes the damping for all locations.

18 Q. BY MS. BHATTACHARYYA: In paragraph 93 of
19 Dr. Slocum's declaration, which is marked as
20 Exhibit 1003, Dr. Slocum says that: "A POSITA would have 13:40:35
21 known they would achieve fine-tuning adjustment by adding
22 the tapered surface 44 of JP'279's 'adjuster assembly' to
23 Fox's cam surface 56, as shown below."

24 Do you see that?

25 A. Yes, I see that. 13:41:01

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1 Q. So Dr. Slocum is saying that a POSITA would have
2 known to add the tapered surface 44 of JP'279 to Fox's
3 rotary cam surface 56; correct?

4 MR. HICKEY: Objection to form.

5 THE WITNESS: That's what Dr. Slocum is stating. 13:41:23
6 As I said, I responded to that in my declaration here
7 and --

8 Q. BY MS. BHATTACHARYYA: In your declaration --
9 sorry. Are you done?

10 A. Yes. 13:41:37

11 Q. In your declaration at paragraph 7 -- 78, you
12 say that: "Petitioner argues that a POSITA would combine
13 Fox and JP'279 to provide a camshaft having an inclined
14 surface over the entire device, and not limited to one
15 position of the valve actuating assembly." 13:42:05

16 Do you see that?

17 A. Yes.

18 Q. That is a misstatement; correct?

19 A. I don't believe so.

20 Q. Dr. Slocum, who is Petitioner's expert, has said 13:42:18
21 that you would add the tapered surface 44 of JP'279 to
22 Fox's rotary cam surface 56; correct?

23 A. Again, that's what he's stating here. In the --
24 in the area of my declaration that we were just looking
25 at, in paragraph 78 and going into 79, he -- he showed -- 13:42:49

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1 Dr. Slocum showed a solid model type of implementation
2 that would provide a sloped surface over the entire
3 camshaft, then, not just one position. But he indicated
4 it would be added to the camshaft.

5 Q. Dr. Parnell, do you understand the difference 13:43:17
6 between a camshaft and a rotary cam surface?

7 A. I'm sorry, can you repeat that?

8 Q. Do you understand the difference between a
9 camshaft and a rotary cam surface?

10 A. If I understand you correctly, a camshaft has a 13:43:49
11 rotary cam surface, then.

12 Q. Have you ever worked with cam -- cams before?

13 A. Yes, associated with engine components, for
14 example, things of that sort, things that have a
15 mechanism that needs to be advanced. 13:44:21

16 Q. And so in paragraph 78 of your declaration, what
17 do you mean by "Petitioner argues that a POSITA would
18 combine Fox and JP'279 to provide a camshaft having an
19 inclined surface over the entire device"?

20 A. I was indicating there that that was the 13:44:58
21 illustration that he provided, and that's part of my --
22 that figure is included in my declaration between
23 paragraphs 78 and 79.

24 Q. What do you mean by "entire device,"
25 Dr. Parnell? 13:45:17

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1 A. That the sloped surface is added over -- is --
2 is added to the cam surface over the full -- over the
3 full surface, basically.

4 Q. Over the full surface of the cam or the
5 camshaft? 13:45:41

6 A. Of the cam.

7 Q. Just the cam; right? Not -- not other parts of
8 the camshaft?

9 A. Well, the illustration is -- is -- is here where
10 the cam is shown with a sloped surface added to it. 13:45:58

11 Q. Just the cam has the sloped surface; correct?

12 A. Yes. Basically -- basically, there's the cam
13 surface, and then there is a sloped surface added --
14 added to it, to extend it, then.

15 Q. Uh-huh. So -- so your statement that POSITA 13:46:30
16 argues that -- your statement that -- in paragraph 78 of
17 your declaration, that Petitioner argues that a POSITA
18 would combine Fox and JP'279 to provide a camshaft having
19 an inclined surface over the entire device is incorrect;
20 right? 13:46:48

21 MR. HICKEY: Objection. Form.

22 THE WITNESS: No. This is what I understood
23 from the illustration and how Dr. Slocum described it.

24 Q. BY MS. BHATTACHARYYA: But Dr. Slocum is very
25 clear in -- in his declaration in paragraph 93 that a 13:47:12

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1 POSITA would have known they would achieve fine-tuning
2 adjustment by adding the tapered surface 44 of JP'279's
3 adjuster assembly to Fox's cam surface 56.

4 Do you see that?

5 A. I see that. And then in his paragraph 94, he 13:47:42
6 says, "Below, I have created solid models illustrating in
7 3d such an exemplary arrangement, where tapered surfaces
8 are added to a cam for fine adjustment of cam action."

9 Q. Yes.

10 He is specifically saying that the tapered 13:48:01
11 surface would be added only to the rotary cam surface 56;
12 correct?

13 MR. HICKEY: Objection. Form.

14 THE WITNESS: Right. He's -- he's illustrating
15 it with the figures that I included in -- from his 13:48:27
16 declaration into my declaration. That's how he's
17 illustrating it.

18 Q. BY MS. BHATTACHARYYA: And he's illustrating
19 that the inclined surface of -- would be added to the
20 rotary cam surface; correct? 13:48:44

21 A. So that it provides a tapered surface or an
22 inclined plane adjacent -- adjacent to the cam surface.

23 Q. He's not illus- -- he said -- and he's
24 illustrating that the tapered surface is added on top of
25 the rotary cam surface; correct? 13:49:14

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1 A. Again, down in his paragraphs 95 and 96, he
2 references this solid model representation.

3 Q. In Slocum's solid model representations, what
4 is -- what is the camshaft?

5 A. The -- well, it -- it -- it comprises these -- 13:50:08
6 these two components, the part that would be rotated or
7 driven, and then the cam surface, the eccentric surface
8 is what's shown with the extension of the sloped plane,
9 of the sloped surface, then.

10 Q. So the camshaft is separate from the eccentric 13:50:47
11 cam; correct?

12 MR. HICKEY: Objection. Form.

13 THE WITNESS: I think he's -- he's created an --
14 an integrated surface that includes the -- the cam
15 surface itself with the extension, the sloped extension 13:51:14
16 on it. That's the illustration that he's showing.

17 Q. BY MS. BHATTACHARYYA: So this -- but the slope
18 is on the cam surface; correct?

19 MR. HICKEY: Objection. Form.

20 THE WITNESS: Yes. What would be the -- without 13:51:40
21 it, it would just be an eccentric cam surface. So this
22 is adding a sloped surface to it.

23 Q. BY MS. BHATTACHARYYA: So the sloped surface is
24 not on the entire device; correct?

25 A. I think in his illustration, it is on the entire 13:51:59

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1 surface, the entire 360 surface.

2 Q. Entire 360 surface of the cam; correct?

3 A. Of -- of the -- of the cam, which would be the
4 part in contact with -- with an adjuster rod for
5 selecting damping. And again, that's shown immediately 13:52:42
6 after paragraph 96.

7 Q. Paragraph 78 of your declaration, when you say
8 that: "Petitioner argues that a POSITA would combine Fox
9 and JP'279 to provide a camshaft having an inclined
10 surface over the entire device," what do you mean by 13:52:59
11 "entire device"?

12 MR. HICKEY: Objection. Form. Asked and
13 answered.

14 THE WITNESS: Over the 360-degree surface as
15 shown like between -- well, Slocum's -- between paragraph 13:53:24
16 95 and 96 and between 96 and -- and 97. And I've
17 excerpted just a portion of that following my paragraph
18 78 and before 79.

19 Q. BY MS. BHATTACHARYYA: When you say "over the
20 360-degree surface," surface -- what do you mean by the 13:53:47
21 "surface"?

22 A. The surface would be the portion of the -- of
23 the cam that would control a driver, control a driver rod
24 for the damping surface.

25 Q. So the incline is only over the surface of the 13:54:28

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1 cam; correct?

2 MR. HICKEY: Objection. Form. Asked and
3 answered.

4 THE WITNESS: I think it's what I've said. It's
5 in the portion that would be in contact with a driver 13:54:49
6 rod. I -- I'm searching for the right -- the right term
7 there, but...

8 Q. BY MS. BHATTACHARYYA: Are you still looking,
9 Dr. Parnell?

10 A. No, I thought I answered. 13:56:42

11 Q. Let's go to page 69 of Dr. Slocum's declaration,
12 which is Exhibit 1003.

13 MR. HICKEY: Arpita, are you talking about
14 what's labeled as page 69 or what's labeled as page 69 of
15 177? 13:57:07

16 MS. BHATTACHARYYA: It's the number that's at
17 the bottom of the page, page 69. It's part of paragraph
18 98.

19 MR. HICKEY: Okay.

20 MS. BHATTACHARYYA: It would be PDF page 78. 13:57:19

21 MR. HICKEY: Got it. Thank you.

22 Q. BY MS. BHATTACHARYYA: Dr. Parnell, are you
23 there?

24 A. So it starts with paragraph 97 at the bottom of
25 that page? 13:57:33

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1 Q. Yes.

2 At the top of the page, as part of paragraph 96
3 in Dr. Slocum's declaration, he says, "I created these
4 cam models as a POSITA would, and they are drawn as
5 continuous curved surfaces, but they could have more 13:57:49
6 pronounced flat regions at specific rotation angles."

7 Do you see that?

8 A. Yes.

9 Q. So Dr. Slocum has said that you don't have to
10 have the cams -- the tapered surface all throughout the 13:58:05
11 cam. The cam can have flat regions at specific rotation
12 angles.

13 Do you see that?

14 A. Yes, I see that statement.

15 Q. Okay. So Dr. Slocum has not said that you would 13:58:29
16 add the tapered surface to the entire 360 degrees of --
17 of the cam surface; correct?

18 A. That's what he stated here. The illustrations
19 show a different. And I guess to me, the key is it still
20 doesn't provide a means of independent adjustment. It's 13:59:20
21 something that would affect all positions and...

22 Q. If you're adjusting the -- if you are -- strike
23 that.

24 What is your basis for saying that when you are
25 adjusting the position of the adjuster rod that is in 14:00:20

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1 contact with the cam surface, all other positions would
2 change?

3 A. Because that's what you would get with a
4 continuous surface, then.

5 Q. The surface is not continuous; correct? 14:01:07

6 A. Again, part of the description, but not -- not
7 the way it was illustrated.

8 Q. So you just ignored the written words of
9 Dr. Slocum's declaration and just focused on the
10 illustrations; is that what you're saying? 14:01:40

11 MR. HICKEY: Objection. Form.

12 THE WITNESS: No, but that's what I would
13 understand from looking at JP'279 type of slider being
14 combined or added to Fox's camshaft, that would seem to
15 be the -- the situation that you would achieve, then. 14:02:14

16 Q. BY MS. BHATTACHARYYA: And did JP'279's tapered
17 surfaces only added to the rotary cam surface, which
18 is -- which is a recessed portion of Fox's camshaft;
19 correct?

20 A. What do you mean by "recessed portion"? 14:02:43

21 Q. Are you not familiar with the -- the Fox
22 reference? Its camshaft and --and the rotary cam surface
23 56 in Fox?

24 A. I believe it shows a continuous surface. We
25 talked about this before, that when you change the 14:03:22

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1 position of one location, you don't change anything
2 independently, then, that each position of the lever
3 results in a specific damping setting.

4 Q. But Fox's cam -- camshaft has a recessed portion
5 that forms the rotary cam surface 56 in a non-recessed 14:03:49
6 portion; correct?

7 A. What do you mean by the "recessed portion"?

8 Q. I'm asking you, Dr. Parnell. You have studied
9 the Fox reference; right?

10 A. Yes. 14:04:14

11 Q. Are you familiar with all the figures in the Fox
12 reference?

13 A. I believe so. I've certainly studied those.

14 Q. Let's go to page 54 of Dr. Slocum's declaration.
15 So that is PDF page 63. 14:05:09

16 A. Yes.

17 Q. In the annotated Figure 5 in Dr. Slocum's
18 declaration on PDF page 63, it shows that JP'279's
19 tapered surface 44 is added to Fox's cam surface 56.

20 Do you see that? 14:06:04

21 A. I see the label, yes.

22 Q. And where the cam surface 56 is pointing to,
23 there is a distinct recess there on the camshaft;
24 correct?

25 A. We're just looking here at one cross-section, 14:06:22

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1 basically.

2 Q. Yes.

3 A. My understanding is that we have a continuous
4 cam surface. You know, we're not -- we're not seeing the
5 entire surface. We're just seeing a particular section. 14:06:35

6 Q. There is no recess shown on the other side of
7 the camshaft; correct?

8 A. Again, it doesn't show the full surface of the
9 camshaft.

10 Q. Below in that same figure, you will see there -- 14:07:03
11 in that same camshaft, there are recesses shown on -- on
12 both sides of the camshaft.

13 Do you see that?

14 A. What are you looking at now?

15 Q. On the camshaft 58, if you look close to the 14:07:23
16 lever 60, there are recesses shown on both sides of the
17 camshaft 58?

18 A. It looked like they're maybe detect positions
19 would click to a certain position.

20 Q. Exactly. So higher up on that same camshaft, 14:07:49
21 the recess is shown on just one side, not on the other
22 side of the camshaft; correct?

23 A. My point is you just don't see the surface of
24 the cam. I mean, we've talked already about the Fox
25 reference providing a way to set damping that's 14:08:13

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1 associated with the position or the rotation of the
2 camshaft with the lever. Not that there's any particular
3 specific location or cut that there's a continuous cam
4 surface then.

5 Q. Where -- where in the Fox reference does it say 14:08:40
6 there's a continuous cam surface?

7 A. I talked about that in terms of discussing
8 the -- the prior art, which included Fox and how the --
9 it's basically a lever/cam type of operation. It's
10 each -- each orientation of the camshaft provides a 14:09:15
11 different level of damping, then.

12 Q. The Fox reference specifically refers to a
13 lookout position; correct?

14 MR. HICKEY: Objection. Form. Mischaracterizes
15 the document. 14:09:47

16 THE WITNESS: Is there something you can point
17 to there?

18 Q. BY MS. BHATTACHARYYA: You have studied the Fox
19 reference, haven't you?

20 A. Yes. I've not memorized it, but I've studied 14:10:02
21 it.

22 Q. I mean, you have said that the Fox reference is
23 the prior art technology that's discussed in the
24 background of the '207 patent; correct?

25 A. That it's the type of technology, yes. 14:10:20

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1 Q. You cannot answer my question about whether the
2 Fox reference has a lockout position without looking at
3 the Fox reference?

4 A. I would want to look at what you're referring to
5 there. 14:10:37

6 Q. So sitting here today, you don't know if the Fox
7 prior art reference talks about a lockout position or
8 not?

9 A. Going out of context, just -- well, I shouldn't
10 say -- I shouldn't say just what I remember, but I think 14:11:04
11 there was a reference to a lockout position, but it
12 didn't -- it didn't have a figure that corresponded to
13 it. You couldn't see how it's set with regard to the
14 lever, then. That's the part I remember.

15 Q. Are you familiar with a cam surface with an 14:11:42
16 inclined -- strike that.

17 Are you familiar with a cam design that has an
18 inclined surface on it?

19 MR. HICKEY: Objection. Form.

20 THE WITNESS: I have not seen one that has an 14:12:27
21 inclined surface over the entire device, over the entire
22 cam surface. That seemed to be what's being proposed in
23 the combinations here Fox and JP'279.

24 Q. BY MS. BHATTACHARYYA: Have you ever -- have you
25 seen a cam that has an inclined surface on it anywhere in 14:12:52

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1 your professional career?

2 MR. HICKEY: Objection to form.

3 THE WITNESS: I'm -- I'm not sure. Nothing
4 comes to mind right now.

5 Q. BY MS. BHATTACHARYYA: Is it difficult to tune 14:14:29
6 damping characteristic using a cam and a lever
7 arrangement?

8 MR. HICKEY: Objection. Form.

9 THE WITNESS: It can certainly be difficult to
10 achieve a given level, a given setting, while -- while 14:14:57
11 riding, while utilizing it. As we've talked about, you
12 just -- you don't have -- you don't have a way to adjust
13 to a particular position. With this lever/cam type of
14 system, any given level of damper setting would be
15 associated with a particular angle or -- or lever 14:15:22
16 position.

17 Q. BY MS. BHATTACHARYYA: So you can certainly tune
18 damping characteristics using a lever and cam
19 arrangement, but it would be difficult to do that.

20 Is that what you're saying? 14:15:43

21 A. Difficult to do consistently or to achieve a
22 particular setting, a particular level of damping. That
23 was the -- the benefit of the '207 patent that allowed
24 for an adjustable portion to -- to be set that would be
25 independent of other positions, fixed positions on the 14:16:11

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1 device.

2 Q. Compared to a lever and cam arrangement, it
3 would be easier to adjust damping characteristics with
4 the tapered slider arrangement that is shown in JP'279;
5 correct?

14:16:48

6 MR. HICKEY: Objection. Form.

7 THE WITNESS: I don't believe so.

8 Q. BY MS. BHATTACHARYYA: Do you want me to repeat
9 the question again, Dr. Parnell?

10 MR. HICKEY: Is there a question pending?

14:17:28

11 MS. BHATTACHARYYA: I just said why not. I
12 asked him why not.

13 MR. HICKEY: Sorry, Arpita. You didn't come
14 through on that.

15 THE WITNESS: I didn't hear that, either.

14:17:35

16 Q. BY MS. BHATTACHARYYA: Okay. Sorry.

17 Why did you say that compared to a lever and cam
18 arrangement, it would not be easier to adjust damping
19 characteristics with the tapered slider arrangement shown
20 in JP'279?

14:17:54

21 MR. HICKEY: Objection --

22 THE WITNESS: Because they're -- they're both
23 essentially adjustment type of systems. There's not --
24 there's not inherently an advantage of the slider
25 relative to a cam surface, that they're both adjustment

14:18:14

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1 type systems.

2 I mean, there's reference here to fine-tuning or
3 something like that, but that's always relative to what's
4 a course level or a course setting. Either one can
5 provide an adjustment system. 14:18:34

6 Q. BY MS. BHATTACHARYYA: From a user perspective,
7 what would be easier to do: A lever and cam arrangement
8 or a detapered slider arrangement?

9 MR. HICKEY: Objection. Form.

10 THE WITNESS: I think they can both -- they can 14:19:04
11 both basically do something that's equivalent. In terms
12 of whether it would be easier, it would be how it would
13 be implemented, I would think.

14 MS. BHATTACHARYYA: Let's go to the Yi
15 reference, which is also provided in the exhibit folder. 14:20:22

16 MR. HICKEY: Arpita, before we get there, we've
17 been going for about an hour and ten. Is there a good
18 time for a break?

19 MS. BHATTACHARYYA: We can take a break now.

20 MR. HICKEY: Great. Thanks. 14:20:40

21 THE REPORTER: We're off the record at 2:20 p.m.

22 (Recess.)

23 THE REPORTER: We're on the record at 2:33 p.m.

24 Q. BY MS. BHATTACHARYYA: Dr. Parnell, did you have
25 any conversations with counsel during the last break 14:33:32

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1 about any of your testimony so far or the testimony you
2 are about to give?

3 A. No.

4 Q. Dr. Parnell, do you have the Yi reference open?

5 A. Yes. 14:33:50

6 Q. Are you familiar with the Yi reference?

7 A. Yes.

8 Q. And when was the last time you studied it?

9 A. Yesterday as part of my review.

10 Q. The Yi reference discloses a camshaft 2 that has 14:34:08

11 three distinct cam surfaces that correspond to three

12 axial positions of the driver rod; correct?

13 MR. HICKEY: Objection. Form.

14 THE WITNESS: Yeah. I think it's a continuous

15 cam surface, and there are some positions indicated. 14:34:49

16 It's being driven by a servo-type motor.

17 Q. BY MS. BHATTACHARYYA: There are three different

18 cam surfaces on camshaft 2 of Yi; correct?

19 A. Yes, as part of a continuous cam surface and

20 there's areas, the detent positions, to come to those 14:35:27

21 specific locations.

22 Q. In paragraph 139 of Dr. Slocum's -- sorry. In

23 paragraph 134 of Dr. Slocum's declaration, which is

24 marked as Exhibit 1003, Dr. Slocum has said that a POSITA

25 would have added JP'279's tapered surface 44 within the 14:36:02

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1 cam surface of camshaft 2 that corresponds to the second
2 compression setting, i.e., second axial position of rod
3 10."

4 Do you see that?

5 A. What's the location? 14:36:30

6 Q. Paragraph 134 of Dr. Slocum's declaration.

7 A. Yes.

8 Q. So you would agree that Dr. Slocum is saying
9 that a POSITA would have added JP'279's tapered surface
10 within the cam surface of camshaft 2 that corresponds to 14:37:00
11 the second compression setting?

12 MR. HICKEY: Objection. Form.

13 THE WITNESS: I see that statement. I don't
14 necessarily agree with it.

15 Q. BY MS. BHATTACHARYYA: And yet in paragraph 102 14:37:40
16 of your declaration, Exhibit 2016, you say that:
17 "Petitioner's proposed combination of Yi and JP'279 would
18 result in a camshaft having an inclined surface over the
19 entire device."

20 Do you see that? 14:37:59

21 A. Yes.

22 Q. That is a misstatement; correct?

23 A. It is my belief based on the camshaft having a
24 continuous surface and the type of arguments that we were
25 just talking about with Fox that he seemed to be 14:38:24

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1 indicating something that would actually be combined and
2 put over the entire surface.

3 Q. Has Dr. Slocum said anywhere in his declaration
4 with reference to the Yi paragraph that you would add the
5 tapered surface over the entire camshaft? 14:38:43

6 A. I mean, I -- I described it here in my paragraph
7 102. Again, he referred back to solid model images that
8 we've talked about already and how you could implement
9 that combination to achieve a finely tunable cam action.
10 This is quoted from my paragraph 102. 14:39:40

11 And it's discussed in Section 4b of my report.
12 "The entire surface of the camshaft in this proposed
13 combination includes an inclined plane. And this
14 hindsight-based alteration would result in a change of
15 damping characteristics in all positions of use purported 14:40:01
16 valve actuating assembly."

17 Q. Dr. Parnell, can you point to me where in
18 Dr. Slocum's declaration has he said that you would add
19 Yi's tapered surface over the entire camshaft 2 of the Yi
20 prior art reference? 14:40:21

21 MR. HICKEY: Objection. Form. Asked and
22 answered.

23 THE WITNESS: It was really the same argument or
24 the same illustration that we were talking about with
25 Fox, that it was an inclined surface or a ramp that would 14:40:45

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1 be added to that surface of the camshaft.

2 Q. BY MS. BHATTACHARYYA: Dr. Slocum, in paragraph
3 134 of his declaration, which is Exhibit 1003, has
4 specifically said that a POSITA would add JP'279's
5 tapered surface 44 within the cam surface of Yi's 14:41:11
6 camshaft 2 that corresponds to the second compression
7 setting; correct?

8 MR. HICKEY: Objection. Form.

9 THE WITNESS: I see that statement in paragraph
10 134 of Slocum, yes. 14:41:47

11 Q. BY MS. BHATTACHARYYA: But you just completely
12 disregarded that, and you just -- just make up an
13 argument that Dr. Slocum is saying you would add it to
14 the entire camshaft?

15 Is that what -- what you're testifying here 14:41:58
16 today, Dr. Parnell?

17 MR. HICKEY: Objection. Form. Mischaracterizes
18 testimony. Argumentative.

19 THE WITNESS: It's -- it's how I believe that
20 the combination that's being proposed here would be 14:42:25
21 implemented.

22 Q. BY MS. BHATTACHARYYA: Did you even read
23 Dr. Slocum's declaration or the petition when you worked
24 on this declaration, Dr. Parnell?

25 MR. HICKEY: Objection. Form. Argumentative. 14:42:38

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1 THE WITNESS: Yes.

2 Q. BY MS. BHATTACHARYYA: I will ask you again,
3 Dr. Parnell. Who drafted this declaration?

4 MR. HICKEY: Objection. Form. Asked and
5 answered. 14:42:53

6 THE WITNESS: I wrote my declaration, and as
7 I've discussed earlier, I worked on it with counsel to
8 come to a finalized version that we iterated on it many
9 times.

10 Q. BY MS. BHATTACHARYYA: Whose words are these in 14:43:11
11 paragraph 102 of your declaration that: "Petitioner's
12 proposed combination of Yi and JP'279 would result in a
13 camshaft having an inclined surface over the entire
14 device"?

15 MR. HICKEY: Objection. Form. Asked and 14:43:28
16 answered.

17 THE WITNESS: It's how I believe the combination
18 would result. It's those two -- those two prior art
19 references adding a slider or inclined surface to the
20 camshaft of Yi. Yi's basically a continuous surface, and 14:44:04
21 you're adding an inclined plane to it.

22 Q. BY MS. BHATTACHARYYA: Dr. Parnell, you just
23 admitted earlier that the camshaft 2 of Yi has three
24 different cam surfaces on it.

25 Do you recall that? Do you want me to read your 14:44:26

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1 testimony back to you?

2 A. No, I think it's a continuous cam surface. It
3 can have -- and it shows detents -- detent positions
4 basically in the figures. It shows detent to come or
5 stop at specific locations. I think those are the ones 14:44:42
6 that you're referring to.

7 Q. And Dr. Slocum has said that you would add
8 JP'279's tapered surface to only that detent position
9 that corresponds to the second compression setting;
10 correct? 14:45:09

11 A. That's what he's saying here.

12 Q. Uh-huh. So you have -- if the tapered surface
13 is added to only the detent position that corresponds to
14 the second compression setting, you wouldn't have the
15 tapered surface over the entire camshaft 2; correct? 14:45:26

16 MR. HICKEY: Objection. Form.

17 THE WITNESS: Just I think that's what you would
18 achieve if you looked at these two prior art references,
19 if you looked at Yi and you looked at JP'279. I think
20 the implication is that you would get something added 14:46:35
21 over the whole thing, even --

22 Q. BY MS. BHATTACHARYYA: What is your basis for
23 saying that?

24 MR. HICKEY: Counsel, please let the witness
25 finish his answer. 14:46:47

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1 MS. BHATTACHARYYA: Dr. Parnell, were you
2 finished?

3 THE WITNESS: I think that's what you would
4 achieve here. And, you know, you've also -- just trying
5 to -- to identify something like this in order to come to 14:47:11
6 the teaching of the '207 patent. I don't think it's
7 independent. It's a hindsight view.

8 Q. BY MS. BHATTACHARYYA: Dr. Parnell, we can do
9 this all evening long. I have several hours left of the
10 deposition. 14:47:33

11 Please explain to me when you're adding a
12 tapered surface to one detent position of Yi's camshaft
13 2, how does that tapered surface sort of like expand and
14 roll over into the entire camshaft?

15 MR. HICKEY: Objection. Form. Argumentative. 14:47:54
16 Asked and answered.

17 THE WITNESS: I think I explained in my
18 declaration how I think that combination would be
19 implemented.

20 Q. BY MS. BHATTACHARYYA: No, you have not. You 14:48:34
21 have said in your declaration that Petitioner's proposed
22 combination of Yi and JP'279 would result in a camshaft
23 having an inclined surface over the entire device.

24 Do you see that?

25 A. Yes. 14:48:51

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1 Q. But you agree with me that Dr. Slocum has said
2 in his declaration that JP'279's tapered surface 44 would
3 have been added to only a portion of the camshaft that
4 corresponds to the detent that is the second position?

5 MR. HICKEY: Objection. Form. 14:49:32

6 THE WITNESS: Yes, I see that. I just believe
7 that this combination would result in the type of
8 configuration that I described. I mean, to achieve --
9 it's difficult to combine these things, you know, first
10 off, for -- for space, for motivation, for a variety of 14:50:03
11 reasons.

12 MS. BHATTACHARYYA: No further questions for
13 Dr. Parnell.

14 MR. HICKEY: All right. I have some questions
15 for Dr. Parnell. Hold on a second. 14:50:54

16 So I'm trying to upload documents into exhibit
17 share, but I'm being told that I don't have the
18 permission to do so.

19 THE REPORTER: Can we go off the record,
20 Counsel? 14:51:31

21 MR. HICKEY: Yes.

22 THE REPORTER: Off the record at 2:51.

23 (Discussion off the record.)

24 (Exhibit 2021, Declaration of T. Kim Parnell,
25 Ph.D., PE, in Support of Plaintiff SRAM, LLC's

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1 Opening Claim Construction Brief, was marked for
2 identification by counsel electronically.)
3 (Exhibit 2022, Court Order by Honorable Steve C.
4 Jones, 11/19/24, was marked for identification
5 by counsel electronically.) 15:00:03
6 THE REPORTER: Back on the record at 3:01 p.m.
7
8 EXAMINATION
9 BY MR. HICKEY:
10 Q. Dr. Parnell, do you recall having discussions 15:01:07
11 with counsel for Fox about work that you had done with
12 respect to the '207 patent?
13 A. In the deposition today? Yes.
14 Q. Correct. And part of that work related to a
15 declaration that you submitted in the Georgia litigation; 15:01:29
16 is that right?
17 A. Yes.
18 Q. And I'd like you to take a look at what's been
19 marked as SRAM Exhibit 2021.
20 What is that document? 15:01:43
21 A. That's my declaration in terms of the opening
22 claim construction brief.
23 Q. And that's in the Georgia litigation?
24 A. Yes.
25 Q. If you could turn to paragraph 62 of that, of 15:02:11

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1 your declaration.

2 A. Yes.

3 Q. And what is stated in paragraph 62 of your
4 declaration?

5 A. It's my opinion regarding the section "adjusting 15:02:52
6 the damping characteristics corresponding to at least one
7 of the positions of the valve actuating assembly
8 independently of the damping characteristics
9 corresponding to another position of the valve actuating
10 assembly." 15:03:11

11 Q. And what is your opinion in that regard?

12 A. That I believe this term should have plain and
13 ordinary meaning. It should also provide -- I'm sorry --
14 I did also provide a statement if there was going to be
15 some restatement of the claim term. 15:03:40

16 Q. And what was your opinion regarding a
17 restatement of the term?

18 A. Reading here in paragraph 62 that the claim term
19 means, quote: "Adjusting the damping characteristics
20 corresponding to at least a first position of the valve 15:03:58
21 actuating assembly without adjusting the damping
22 characteristics corresponding to a second position of the
23 valve actuating assembly."

24 Q. And turning to paragraph 65 of your declaration,
25 what are the opinions that you set forth in paragraph 65 15:04:37

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1 of your declaration?

2 MS. BHATTACHARYYA: Objection. Outside the
3 scope of cross.

4 MR. HICKEY: You asked about the '207 patent.

5 MS. BHATTACHARYYA: This whole deposition is 15:04:55
6 about the '207 patent, Mr. Hickey. That doesn't mean he
7 can -- I never asked him about the meaning of any claim
8 terms. Because Dr. Parnell has already testified that
9 the terms should give plain and ordinary meaning.

10 MR. HICKEY: You can answer the question, 15:05:18
11 Dr. Parnell.

12 THE WITNESS: From paragraph 65?

13 MR. HICKEY: Yes.

14 THE WITNESS: I understand that due to the
15 open-ended nature of claims that have a preamble that 15:05:29
16 transitions into the claim using the word "comprising,"
17 in quotes, that the claim does not place other
18 constraints on additional features that are not claimed.

19 So in this case, if there's a third position on
20 a product accused of infringement, that third position 15:05:45
21 may or may not be affected by the adjuster assembly. The
22 claim limitations simply do not apply to any potential
23 third position.

24 Q. BY MR. HICKEY: And do you recall having
25 discussions with counsel for Fox earlier today regarding 15:06:01

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1 certain embodiments of the '207 patent?

2 A. Yes.

3 Q. And when you were speaking about the operation
4 of those embodiments, in those embodiments with three
5 positions, there was one position that could be adjusted 15:06:25
6 and two that would not be affected by the adjuster
7 assembly; is that right?

8 A. Yes, that's correct.

9 Q. And what is your view about whether claim 1 of
10 the '207 patent limits to those particular embodiments? 15:06:46

11 MS. BHATTACHARYYA: Objection. Outside the
12 scope of cross.

13 THE WITNESS: Well, that's here, really. If
14 there's a third position on a product accused of
15 infringement, that third position may or may not be 15:07:06
16 affected by the adjuster assembly. The claim limitations
17 simply do not apply to any potential third position.

18 Q. BY MR. HICKEY: And looking at paragraph 69 of
19 your declaration.

20 A. Which number? I'm sorry, 59? 15:07:30

21 Q. 69.

22 A. 69. Got it. Okay.

23 Q. What was your understanding of what Fox proposed
24 claim construction was in the Georgia litigation for this
25 term? 15:07:52

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1 A. Well, I'll read the first sentence, also, but I
2 think it starts with the second.

3 "Fox's present proposed claim construction is
4 overly restrictive to an extent that is beyond the plain
5 and ordinary meaning as well as beyond the disclosure of 15:08:27
6 the '207 patent. Specifically, the Fox construction not
7 only covers the first and second positions actually
8 mentioned by the claim, but also mentions unclaimed
9 additional positions. Fox's proposed construction
10 prohibits adjustment of one position of the valve 15:08:45
11 actuating assembly from impacting the damping
12 characteristics of any other position, regardless of the
13 number of positions that exist in a given example."

14 And finally: "Fox's construction goes against
15 the plain meaning of claims at least because the claims 15:09:05
16 make no mention, nonetheless a restriction, on any
17 positions beyond the claimed two positions."

18 Q. And with respect to paragraph 70 of your
19 declaration, what are your further opinions regarding
20 claim 1 of the '207 patent? 15:09:29

21 MS. BHATTACHARYYA: Objection. Outside the
22 scope of cross.

23 THE WITNESS: Paragraph 70 is: "Further, the
24 claim term itself excludes such a construction. Namely,
25 the claim term speaks of the adjustability of the first 15:09:48

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1 position acting independently of the damping
2 characteristics corresponding to another position of the
3 valve actuating assembly. There is no requirement that
4 the first position act independently of all other
5 positions."

15:10:07

6 Q. BY MR. HICKEY: And in paragraph 71, what is
7 your opinion about potential embodiments with three
8 positions?

9 A. In paragraph 71: "That some embodiments in the
10 '207 patent include three positions. Two of which are
11 not affected by the adjuster assembly does not change my
12 opinion. Instead, a POSITA would understand that these
13 are exemplary embodiments and that the claimed invention
14 can include them as well as other embodiments that are
15 not specifically described but are within the scope of
16 the '207 patent's overall disclosure."

15:10:36

17 I can continue. "For example, a POSITA would
18 clearly understand that a device having three positions,
19 where two of the positions are adjusted by the adjuster
20 assembly, would be within the scope of the '207 patent
21 and its claims. Such an invention would be trivially
22 easy for a POSITA to make and use. Such a device could
23 be made by changing one of the surfaces 62 and 64 to have
24 a ramp-like structure like that shown on surface 66.
25 This would result in two positions that would have

15:10:55

15:11:22

15:11:46

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1 damping characteristics that are affected by the adjuster
2 assembly."

3 Q. And if you could to a look at what's been marked
4 as SRAM Exhibit 2022.

5 A. All right. 15:12:16

6 Q. And do you recognize this document?

7 A. Yes. This -- this appears to be the Court's
8 claim construction order on this matter.

9 Q. And have you reviewed this document before?

10 A. Yes, I have. 15:12:43

11 Q. And if you turn to page 14 of Exhibit 2022.

12 A. Yes.

13 Q. Do you recognize that this relates to the
14 Court's order regarding the same term that we were just
15 discussing, "adjusting the damping characteristics 15:13:10
16 corresponding to at least one of the positions of the
17 valve actuating assembly independently of the damping
18 characteristics corresponding to another position of the
19 valve actuating assembly"?

20 A. Yes. 15:13:23

21 Q. And do you see that the Court's construction is"
22 "Plain and ordinary meaning; no construction necessary"?

23 A. Yes.

24 Q. And turning to page 16, what does the Court say
25 in the first full paragraph on page 16? 15:13:55

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1 A. "Fox correctly notes that each embodiment
2 disclosed in the '207 patent has three adjustment
3 positions for the valve actuating assembly and further
4 disclosures that when the damping characteristics of one
5 of the positions is adjusted, both of the other positions 15:14:28
6 remain unaffected."

7 | There's a reference to a Document (39), 27.

8 "Based on this, Fox proposes that the Court
9 construe the term to require that when one position is
10 adjusted all other positions remain unaffected. The 15:14:47
11 Court declines to limit the claim based on the disclosed
12 embodiments. Here, "the embodiments are consistent
13 with -- but not required by -- what is identified as the
14 invention." Evolusion Concepts" -- I believe a
15 reference, a case reference -- "22F.4th at 1367. 15:15:10
16 Further, the term has a plain and ordinary meaning
17 rendering construction unnecessary."

18 Q. So the Court agreed with your understanding and
19 opinions with -- relating to claim 1 of the '207 patent;
20 is that right? 15:15:35

21	A. Yes.
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22 MR. HICKEY: I have no further questions at this
23 time.

24 MS. BHATTACHARYYA: Recross.

25 15:15:42

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EXAMINATION

BY MS. BHATTACHARYYA:

Q. The Court's claim construction order on page 16
and the claim construction order has been marked as
Exhibit 2022.

15:16:04

"The Court agrees with Fox that each embodiment
disclosed in the '207 patent has three adjustment
positions for the valve actuating assembly and further
discloses that when the damping characteristics of one of
the positions is adjusted, both of the other positions
remain unaffected."

15:16:22

Do you see that?

A. Yes.

Q. Now let's go to Exhibit 2021, which is your
declaration that you submitted in support of SRAM's claim
construction positions in the Georgia litigation. And
specifically, let's go to paragraph 65 about which
Mr. Hickey asked you about earlier.

15:16:48

A. Paragraph 65?

Q. Uh-huh.

15:17:14

A. Yes.

Q. So in the second sentence in paragraph 65 in
Exhibit 2021, you say that: "So in this case, if there
is a third position on a product accused of infringement,
that third position may or may not be affected by the

15:17:30

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1 adjuster assembly."

2 Do you see that?

3 A. "The third position may or may not be affected
4 by the adjuster assembly. The claim limitations simply
5 do not apply to any potential third position." 15:17:49

6 Q. Is there anything in the specification of the
7 '207 patent that says that if there is a third position
8 on a -- on a product, that third position may or may not
9 be affected by the adjuster assembly?

10 A. Well, for example, in the abstract: "The valve 15:18:47
11 actuating assembly is operatively connected to the valve
12 mechanism, is operable between at least two
13 rider-selectable positions to adjust the valve mechanism
14 between various suspension settings. The adjuster
15 assembly is operatively connected to the valve actuating 15:19:11
16 assembly for adjusting the damping characteristics
17 corresponding to at least one of the positions of the
18 valve actuating assembly independently of the damping
19 characteristics corresponding to another position of the
20 valve actuating assembly." 15:19:29

21 Q. The paragraph that you just read does not say
22 that if there is a third position, that third position
23 may or may not be affected by the adjuster assembly;
24 correct?

25 MR. HICKEY: Objection. Form. 15:19:47

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1 THE WITNESS: I don't think it says, as -- as
2 was noted in the -- in the Court's order.

3 Q. BY MS. BHATTACHARYYA: So nowhere in the '207
4 patent does it say that if there is three positions of
5 the valve actuating assembly, the third position may or 15:20:12
6 may not be affected by the adjuster assembly; correct?

7 MR. HICKEY: Objection. Form.

8 THE WITNESS: Back to the Court's order, the
9 last part of the last paragraph before the conclusion,
10 that the Court declines to limit the claim based on the 15:21:01
11 disclosed embodiments. Here, the embodiments are
12 consistent with but not required by what's identified as
13 the invention.

14 And then: "Further, the term has a plain and
15 ordinary meaning rendering construction unnecessary." 15:21:18

16 Q. BY MS. BHATTACHARYYA: Dr. Parnell, that doesn't
17 answer my question.

18 I asked you is there anything in the patent
19 specification that says that if there are three positions
20 of the valve actuating assembly and you are adjusting the 15:21:42
21 first adjustable position, the third position may or may
22 not be affected by the adjuster assembly?

23 A. I think it's just that in the -- for instance,
24 in -- in the abstract that I read and I think likewise in
25 the claim term, that the reference is to: "The adjuster 15:22:17

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1 assembly operatively connected to the valve actuating
2 assembly for adjusting the damping characteristics
3 corresponding to at least one of the positions of the
4 valve actuating assembly independently of the damping
5 characteristics corresponding to another position." 15:22:36

6 So it provides that that -- that flexibility of
7 the definition.

8 Q. BY MS. BHATTACHARYYA: Dr. Parnell, I'm asking
9 you about a valve actuating assembly having three
10 positions. 15:23:06

11 Is there any discussion in the '207 patent
12 specification saying that if you adjusted one of the
13 positions, the third position may or may not be affected?

14 MR. HICKEY: Objection. Asked and answered.

15 THE WITNESS: Again, the words here are 15:23:28
16 "operatively connected to the valve actuating assembly
17 for adjusting the damping characteristics corresponding
18 to at least one of the positions of the valve actuating
19 assembly and independently of the damping characteristics
20 corresponding to another position of the valve actuating 15:23:45
21 assembly.

22 Q. BY MS. BHATTACHARYYA: Dr. Parnell, I'm not
23 asking you about the claim. I'm talking about the '207
24 patent specification.

25 Do you understand the difference between the 15:23:57

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1 specification and the claims?

2 MR. HICKEY: Objection. Calls for a legal
3 conclusion. The specification actually does include the
4 claims.

5 MS. BHATTACHARYYA: No, it does not, Mr. -- 15:24:08
6 Mr. Hickey.

7 MR. HICKEY: It says the specification shall
8 conclude with the claims.

9 MS. BHATTACHARYYA: It does not. And you can do
10 some legal research in your free time. 15:24:18

11 MR. HICKEY: I'll say objection. Also asked and
12 answered.

13 Q. BY MS. BHATTACHARYYA: Dr. Parnell, do you
14 understand the difference between the claims and
15 specification? 15:24:27

16 A. The claims specifically being the items that are
17 enumerated as the claims here, and the specification
18 being the written description of the patent?

19 Q. Uh-huh.

20 So I'm talking to you about the specification, 15:24:51
21 okay?

22 Does -- is there anything in the specification
23 that says that if the valve actuating position -- sorry.

24 Is there anything in the specification that says
25 that if the valve actuating assembly has three positions 15:25:07

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1 and if you adjusted one of those positions, the third
2 position may or may not be affected?

3 MR. HICKEY: Objection. Asked and answered.

4 THE WITNESS: I would need to try to read it
5 carefully and look at it. I think that it's consistent 15:25:39
6 with the abstract, the portion that I read, and the part
7 that's in the claims themselves in claim 1.

8 Q. BY MS. BHATTACHARYYA: The Court agreed with Fox
9 that in all the embodiments described in the '207 patent,
10 there are three positions described. And if you adjusted 15:26:02
11 one of the positions, both of the other positions will
12 remain unaffected; correct?

13 MR. HICKEY: Objection. Asked and answered.

14 THE WITNESS: That's in terms of the specific
15 embodiments that were described. 15:26:21

16 Q. BY MS. BHATTACHARYYA: Uh-huh.

17 And sitting here today, you cannot identify any
18 disclosure in the '207 patent specification that says
19 that if there are three positions of the valve actuating
20 assembly and you adjusted one of the positions, the third 15:26:40
21 position may or may not be affected; correct?

22 MR. HICKEY: Objection. Form. Asked and
23 answered. Mischaracterizes testimony.

24 THE WITNESS: I don't think it's specified, as
25 they said here that when you're adjusting damping 15:27:03

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1 characteristics corresponding to at least one of the
2 positions of the valve actuating assembly independently
3 of the damping characteristics corresponding to another
4 position of the valve actuating assembly.

5 So it's not -- it's not describing -- it's 15:27:22
6 describing at least two.

7 Q. BY MS. BHATTACHARYYA: But if there were three
8 positions and you were adjusting one of them, both of
9 those other two positions will remain unaffected;
10 correct? 15:27:42

11 MR. HICKEY: Objection. Form. Mischaracterizes
12 the patent. Mischaracterizes testimony.

13 THE WITNESS: I think in the embodiments that
14 are shown here, that's -- that is true. But I don't
15 think it's necessarily everything that's covered by the 15:28:00
16 patent. I mean, I'm not an attorney so it's not a legal
17 opinion, but that's the way I understand it.

18 MS. BHATTACHARYYA: No further questions for
19 Dr. Parnell.

20 MR. HICKEY: Okay. Redirect. 15:28:21

21

22 EXAMINATION

23 BY MR. HICKEY:

24 Q. Dr. Parnell, if you could look at the '207
25 patent which has been labeled as Exhibit 1001. 15:28:30

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1 A. Yes.

2 Q. And in the abstract of the '207 patent, you
3 identified language that: "The adjuster assembly is
4 operatively connected to the valve actuating assembly for
5 adjusting the damping characteristics corresponding to at 15:29:06
6 least one of the positions of the valve actuating
7 assembly independent of the damping characteristics
8 covering to another position of the valve actuating
9 assembly." Correct?

10 A. Yes, that's a part of the abstract. 15:29:17

11 Q. And turning to the specification. Column 1,
12 line 56.

13 A. All right.

14 Q. Can you read into the record column 1, line 56
15 through 62, starting with the words "the adjuster 15:29:48
16 assembly."

17 A. "The adjuster assembly is operatively connected
18 to the valve actuating assembly for adjusting the damping
19 characteristics corresponding to at least one of the
20 positions of the valve actuating assembly independently 15:30:05
21 of the damping characteristics corresponding to another
22 position of the valve actuating assembly."

23 Q. And that's the same language that appears in
24 claim 1 at column 8 of the '207 patent; is that right?

25 A. Yes. 15:30:47

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1 Q. And you understand the language that says
2 "adjusting the damping characteristics corresponding to
3 at least one of the positions of the valve actuating
4 assembly independent of the damping characteristics
5 corresponding to another position of the valve actuating 15:31:00
6 assembly" to mean that you have to have at least one
7 position that has that independent adjustment compared to
8 another position; is that right?

9 A. Yes, that would be my understanding from this
10 language. 15:31:22

11 Q. And so would you also understand that when it
12 says "adjusting the damping characteristics corresponding
13 to at least one of the positions of the valve actuating
14 assembly" means that you could have two positions of the
15 valve actuating assembly that are adjustable, whereas -- 15:31:37
16 but independent of a third position, another position of
17 the valve actuating assembly; is that right?

18 MS. BHATTACHARYYA: Objection. Form.

19 THE WITNESS: Yes, that's what's described here.

20 MR. HICKEY: No further questions. 15:32:04

21 MS. BHATTACHARYYA: Nothing further from me.

22 THE REPORTER: Okay. We're off the record at
23 3:32 p.m.

24 (Time noted: 3:32 p.m. Pacific Standard Time.)

25 --oOo--

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1 I declare under the penalty of perjury under the
2 laws of the State of California that the foregoing is
3 true and correct.

4 Executed on _____, 2024, at

5 _____, _____.

6
7
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9
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11 _____
12 T. KIM PARNELL, PH.D., PE
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1 STATE OF CALIFORNIA) ss:

2 COUNTY OF MARIN)

3
4 I, LESLIE ROCKWOOD ROSAS, RPR, CSR NO. 3452, do
5 hereby certify:

6 That the foregoing deposition testimony was
7 taken before me at the time and place therein set forth
8 and at which time the witness was administered the oath;

9 That testimony of the witness and all objections
10 made by counsel at the time of the examination were
11 recorded stenographically by me, and were thereafter
12 transcribed under my direction and supervision, and that
13 the foregoing pages contain a full, true and accurate
14 record of all proceedings and testimony to the best of my
15 skill and ability.

16 I further certify that I am neither counsel for
17 any party to said action, nor am I related to any party
18 to said action, nor am I in any way interested in the
19 outcome thereof.

20 IN WITNESS WHEREOF, I have subscribed my name
21 this 17th day of December, 2024.

22
23 
24

25 LESLIE ROCKWOOD ROSAS, RPR, CSR NO. 3462

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1 MICHAEL J. HICKEY, ESQ.

2 mhickey@lewisrice.com

3 December 17, 2024

4 RE: Fox Factory, Inc. v. SRAM, LLC

5 12/13/2024, T. Kim Parnell , Ph.D., PE, (#7060682).

6 The above-referenced transcript has been
7 completed by Veritext Legal Solutions and
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13 Transcript - The witness should review the transcript and
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15 below, notating the page and line number of the corrections.
16 The witness should then sign and date the errata and penalty
17 of perjury pages and return the completed pages to all
18 appearing counsel within the period of time determined at
19 the deposition or provided by the Code of Civil Procedure.
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23 as determined at the deposition.

24 ___ Signature Waived - Reading & Signature was waived at the
25 time of the deposition.

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3 make any necessary corrections on the errata pages included
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5 The witness should then sign and date the errata and penalty
6 of perjury pages and return the completed pages to all
7 appearing counsel within the period of time determined at
8 the deposition or provided by the Federal Rules.
9 ___ Federal R&S Not Requested - Reading & Signature was not
10 requested before the completion of the deposition.

1 Fox Factory, Inc. v. SRAM, LLC

2 T. Kim Parnell , Ph.D., PE (#7060682)

3 E R R A T A S H E E T

4 PAGE_____ LINE_____ CHANGE_____

5 _____

6 REASON_____

7 PAGE_____ LINE_____ CHANGE_____

8 _____

9 REASON_____

10 PAGE_____ LINE_____ CHANGE_____

11 _____

12 REASON_____

13 PAGE_____ LINE_____ CHANGE_____

14 _____

15 REASON_____

16 PAGE_____ LINE_____ CHANGE_____

17 _____

18 REASON_____

19 PAGE_____ LINE_____ CHANGE_____

20 _____

21 REASON_____

22 _____

23 _____

24 (T. Kim Parnell , Ph.D., PE)

Date

25

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Federal Rules of Civil Procedure

Rule 30

(e) Review By the Witness; Changes.

(1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and

(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) Changes Indicated in the Officer's Certificate. The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

DISCLAIMER: THE FOREGOING FEDERAL PROCEDURE RULES ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY.

THE ABOVE RULES ARE CURRENT AS OF APRIL 1, 2019. PLEASE REFER TO THE APPLICABLE FEDERAL RULES OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

VERITEXT LEGAL SOLUTIONS

COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

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