Transcript of Grant Delgatty

Date: May 13, 2025
Case: Under Armour, Inc. -v- Athalonz, LLC (PTAB)

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WORLDWIDE COURT REPORTING & LITIGATION TECHNOLOGY

1 UNITED STATES PATENT AND TRADEMARK OFFICE

2 BEFORE THE PATENT TRIAL AND APPEAL BOARD

3 - - - - - - - - - - - - - - x

4 UNDER ARMOUR, INC., :

5 Petitioner, :

6 v. :

7 ATHALONZ, LLC, :

8 Patent Owner. :

9 - - - - - - - - - - - - - - X

10 IPR2024-00636 (Patent 10,674,786 B2)

11 IPR2024-00637 (Patent 11,013,291 B2)

12 IPR2024-00638 (Patent 11,064,760 B2)

13 IPR2024-00639 (Patent 11,375,768 B2)

14 IPR2024-00640 (Patent 11,510,456 B2)

15

16 Deposition of GRANT DELGATTY

17 Conducted Virtually

18 Tuesday, May 13, 2025

19 12 p.m. EDT

20 Job No.: 582159

21 Pages 1 - 66

22 Reported by: Debra A. Whitehead

1 Deposition of GRANT DELGATTY, conducted
2 virtually.
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5 Pursuant to notice, before Debra Ann Whitehead,
6 E-Notary Public in and for the Commonwealth of
7 Virginia.
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1 A P P E A R A N C E S
2 ON BEHALF OF PETITIONER:
3 ROBERT E. BUGG, ESQUIRE
4 VENABLE LLP
5 151 West 42nd Street
6 New York, New York 10036
7 (212) 370-6241
8
9 ON BEHALF OF PATENT OWNER:
10 STEPHEN P. BOSCO, ESQUIRE
11 STEPHEN P. BOSCO LAW
12 100 Orchard Park Drive
13 Unit 25621
14 Greenville, South Carolina 29616
15 (202) 250-1960
16 - and -
17 CONNOR HOUGHTON, ESQUIRE
18 REICHMAN JORGENSEN LEHMAN & FELDBERG
19 1909 K Street NW, Suite 800
20 Washington, DC 20006
21 (202) 894-7315
22

1 C O N T E N T S

2 EXAMINATION OF GRANT DELGATTY PAGE
3 By Mr. Bosco 5
4 By Mr. Bugg 56

5

6 EXHIBITS MARKED IN TODAY'S SESSION
7 (None Marked)

8

9 EXHIBITS MARKED IN PRIOR SESSIONS
10 (Not Attached)

11 EXHIBIT PAGE
12 Exhibit 1001 (IPR2024-00637) 38
13 Exhibit 1002 16
14 Exhibit 1005 (IRP2024-00639) 50
15 Exhibit 1006 (IPR2024-00639) 44
16 Exhibit 1022 (IPR2024-00636, 637, 638, 639, 10
17 649)

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19
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22

1 P R O C E E D I N G S
2 GRANT DELGATTY,
3 having been duly sworn, testified as follows:
4 EXAMINATION BY COUNSEL FOR PATENT OWNER
5 BY MR. BOSCO:
6 Q Good morning.
7 A Good morning.
8 Q Mr. Delgatty, so my name is Stephen
9 Bosco. I'm one of the attorneys representing the
10 patent owner Athalonz in these IPR proceedings. I
11 know you're familiar with the process, so I'll
12 keep the preliminaries to a minimum.
13 But first, do you understand you're
14 testifying under oath today?
15 A I do.
16 Q And do you understand you're testifying
17 as part of five different IPR proceedings?
18 A I do.
19 Q And those proceedings, just for the
20 record, are IPR2024-636, 637, 638, 639, and 640.
21 Right?
22 A Yes.

1 Q You've been deposed previously in these
2 proceedings. Correct?
3 A I have.
4 Q Do you recall that during those -- during
5 that deposition counsel referred to one group of
6 patents as the slope patents and another group as
7 the density patents?
8 A I believe there were slope patents and
9 compression patents, but, yes.
10 Q Okay. Well, so if I use the term "slope
11 patents," will you understand those to be the
12 patents at issue in the 636, 637, and 638 IPRs?
13 A I will.
14 Q And if I use density or compression, will
15 you understand that those are the ones at issue
16 the 639 and 640 proceedings?
17 A Yes.
18 Q Great. Is there any reason you cannot
19 testify truthfully today?
20 A No.
21 Q And just for the record, where are you
22 located?

1 A I am in La Crescenta, in California.
2 Q Okay. So it is morning for you, then.
3 A Yeah.
4 Q Got it. Is anyone in the room with you
5 right now?
6 A No.
7 Q And do you have any electronic devices
8 other than your computer accessible?
9 A My phone is -- is next to me, just in
10 case I get a call. My wife is with her father in
11 the hospital right now, so ...
12 Q Oh, goodness. Well, I hope everything is
13 okay. And totally understand.
14 I understand you won't be looking at your
15 phone while you're testifying. Right?
16 A That's correct.
17 Q Okay. So you prepared original
18 declarations in each of these proceedings.
19 Correct?
20 A Yes.
21 Q And then you subsequently submitted
22 supplemental declarations in each of these

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1 proceedings. Correct?
2 A I did.
3 Q Can you estimate to the best of your
4 ability how much time you spent working on the
5 supplemental declarations?
6 A I don't have a clear account. I would
7 say probably somewhere between 50 to 100 hours,
8 maybe?
9 Q And that's 50 to 100 total across all
10 five supplemental --
11 A Yeah.
12 Q -- declarations?
13 A Yeah.
14 Q And can you remind me what your hourly
15 rate is in this proceeding?
16 A 400.
17 Q 400.
18 So to date how much compensation have you
19 received from Under Armour from these proceedings?
20 A I haven't looked at that. I wouldn't
21 know. I'd have to go back and look at my
22 invoices.

1 Q I mean, just based on what you know that
2 you billed, how much do you expect to receive?
3 MR. BUGG: Objection. Vague.
4 You can answer, if you can.
5 A Whatever my rate times the amount of time
6 I've spent on it, I guess. I don't know what that
7 would work out to. You know, 30, 40, 50 thousand,
8 something like that, maybe.
9 Q Okay. Do you have any documents with you
10 right now?
11 A I have my declaration responses in a
12 printed -- printed copy.
13 Q Okay. So you have printed copies of each
14 of your supplemental declarations?
15 A That's right.
16 Q Do you have printed copies of your
17 original declarations?
18 A I do not.
19 Q And just for the record, so your
20 supplemental declarations are Exhibit Number 1022
21 in each of the proceedings. Right?
22 A I believe that's correct, yes.

1 Q I'm going to put them just electronically
2 into the chat. I know you've got them there. But
3 just for everybody's benefit. Hopefully those
4 will go through.
5 (Exhibit 1022, in IPR2024-00636, 637,
6 638, 639, and 649 previously marked, not
7 attached.)
8 Q Could you open up your supplemental
9 declaration that you submitted in the 639
10 proceeding?
11 A You want me to do this digitally?
12 Q You can do it however you want, however
13 you feel more comfortable. I'm just putting them
14 electronically so you have it if you want to.
15 A Okay. I'll probably look at it in the
16 book here.
17 Sorry, which?
18 Q The 639 declaration. 639 proceeding.
19 A All right.
20 Q And just for the record, so this
21 proceeding pertains to Patent Number 11,375,768.
22 Right?

1 A Correct.
2 Q So if you flip to -- starting on what's
3 listed as Page 3 of your declaration, you have a
4 section titled Conventional Shoes. Right?
5 A Yes.
6 Q And you had a Conventional Shoe section
7 in your original declaration as well. Right?
8 A I did.
9 Q But that Conventional Shoe section only
10 had pictures of the outside of shoes. Right?
11 A I believe it was -- yeah, well, it would
12 be the outside -- I can't remember if I did any
13 front, front or back views. But, yeah, it would
14 be the outside.
15 Q But there were no pictures of cutouts of
16 shoes. Right?
17 A I don't believe so, no.
18 Q So why did you include cutouts in this
19 declaration but not in your original one?
20 A I included the cutouts in this one
21 because Mr. Markison had suggested that --
22 actually, let me just -- let me just read really

1 quick. I just want to make sure I'm ...
2 Q Just for the record, what are you reading
3 from?
4 A I'm reading the Conventional Shoes.
5 Would it be helpful if I turned my blur
6 off?
7 Q Yeah, I can't see it, but it's okay, you
8 can tell me.
9 A Okay.
10 I can tell you that Mr. Markison had
11 claimed that I wasn't showing enough information,
12 I believe, with the photos of the shoes that I had
13 originally put in my declaration; and was claiming
14 that it didn't communicate clearly the points that
15 I was making that the shoes that I was showing
16 represented a conventional heel where the heel was
17 uniformly the same height across both lateral and
18 medial side and front to back.
19 And so to address his comments, I took
20 the shoes that I had originally put in my
21 declaration and cut them into sections so that I
22 could clearly state what it was that I was trying

1 to describe in my original declaration.
2 Q So looking at these pictures -- and here
3 I'm just referring generally to the pictures that
4 appear starting on Page 4 and continue to Page 12
5 of this declaration -- you didn't include any
6 measurements. Right?
7 A I did not.
8 Q And there's no information in your
9 declaration that tells you how far away the camera
10 was when the picture was taken. Right?
11 A Well, I took the photos myself, so I know
12 how far the camera was.
13 Q Right. But the question was, what was --
14 there's nothing in your declaration that says
15 that. Right?
16 A A measurement, no.
17 Q There's nothing in your declaration that
18 says what angle the camera was at when the picture
19 was taken. Right?
20 A Well, you can tell by the photos what
21 angle the camera was at. It's pretty --
22 Q The actual angle information is not in

1 your declaration. Correct?
2 A Did I talk about the angle of the --
3 where the camera lens was, no, I did not, in my
4 declaration.
5 Q So if you look now on Page 4, which is --
6 Page 4 and 5 are cutouts of Van shoes. Correct?
7 A That's correct.
8 Q So I'm looking at the center set of
9 pictures. There's one row on the top, a center
10 row, and a bottom row.
11 The center row, there's a cutout that
12 shows the front -- looking from the perspective of
13 the front of the shoe, a cutout version. Correct?
14 A Yes.
15 Q And I'm, just to be specific -- that was
16 a little vague -- I'm talking about the one in the
17 center row, second from the left.
18 A That's correct, yes.
19 Q But there's no corresponding picture of
20 that portion of the show from the other side.
21 Correct?
22 A There isn't that -- okay. So that

1 perspective that we're looking at, where we're
2 looking longitudinally at the shoe?
3 Q Right.
4 A I don't have a -- I don't have a photo
5 looking at the back part of that shoe directly --
6 you know, directly perpendicular to it.
7 Q Okay. And that's also true for the set
8 of pictures on Page 5. Right?
9 A Yes.
10 Q And just for the record, that's also true
11 for the pictures on Page 6. Correct?
12 A Yes.
13 Q And also true for Page 7?
14 A Correct.
15 Q And Page 8 as well?
16 A Yes.
17 Q And Page 9?
18 A Yes.
19 Q And while I'm here on Page 8 and 9, I see
20 it looks like this shoe's got a tag on it. I
21 think it's from eBay.
22 When did you purchase that shoe?

1 MR. BUGG: Objection. Vague.
2 You can answer, if you know.
3 A I mean, I think this shoe was
4 purchased -- well, it was prior to my original
5 declaration. I can't remember when that was, so I
6 think it was probably around the end of last year?
7 Q So you said prior to your original
8 declaration. Now, in your original declaration,
9 correct me if I'm wrong, but I don't believe you
10 had any pictures of this shoe, the Nike Air Force
11 1?
12 A I don't remember. I don't have my
13 declaration in front of me. I believe I did.
14 Q Okay. Let me put it in the chat and
15 we'll -- we can just make sure.
16 (Exhibit 1002, previously marked, not
17 attached.)
18 Q Did that come through, the document
19 that's previously been marked as Exhibit 1002?
20 A Yes.
21 Q And just in case it helps, you know, jog
22 your recollection, I point you to Paragraph 66.

1 A Yeah, I'm -- I'm seeing the images now.
2 And now I recollect that, yes, we -- I don't
3 believe we had the photo of that shoe. I believe
4 we purchased that shoe to -- to further validate
5 the -- what I had declared about the patent, the
6 design patent drawings that were being questioned
7 by Mr. Markison.
8 Q Now, were there other shoes that, like
9 that, you purchased after submitting your original
10 declaration?
11 A I believe -- I'm not sure if we purchased
12 the -- the Nike Cortez shoe after. I -- in my
13 original declaration I referred to a -- what
14 appears to be a printed document of that shoe. So
15 I would maybe guess that that version of that shoe
16 was purchased after this point, but I don't
17 know --
18 Q Okay. And looking, going back to your
19 supplemental one. If you look at the Paragraph 6
20 and the picture right underneath it, that Nike
21 Cortez shoe also shows a tag on it that's not
22 present in the one pictured in your original

1 declaration. Right?
2 A Yes, I see that.
3 Q Okay. So, I mean, just based on that, is
4 it -- do you think it's likely that you purchased
5 that one after submitting your original
6 declaration?
7 A I can't be sure. I don't know.
8 Q So sitting here today, you actually don't
9 know when you purchased the shoe that's the
10 subject of your supplemental declaration Paragraph
11 6?
12 MR. BUGG: Objection.
13 You can answer, if you can.
14 A Yeah, I do not actually know when the
15 shoe was purchased.
16 Q Did you purchase these shoes, the shoes
17 that you used in your supplemental declaration?
18 A I, personally, did not purchase them.
19 Q So they were provided to you?
20 A Yes.
21 Q Did you, personally, cut them apart?
22 A I did, personally, cut them apart. I

1 happen to have a very powerful band saw in my
2 garage.
3 Q Nice. Okay. So now if you can flip to
4 Page 10 of your supplemental declaration. Really,
5 Pages 9 and 10, the part dealing with the FootJoy
6 shoe?
7 A Okay.
8 Q So do I understand correctly that the
9 shoe that's pictured on Page 10 is the 1970
10 FootJoy Style 51409. Right?
11 A I believe that is correct.
12 Q And I was just reading from Paragraph 8
13 of your supplemental declaration.
14 A Yes.
15 Q So looking at Paragraph 8, you say that,
16 The images of this shoe are further evidence of a
17 sole that is thicker at a position proximal to the
18 front edge of the heel platform than at the toe
19 portion.
20 Correct?
21 A Yes.
22 Q As you said before, there are no

1 measurements here. Right?
2 A No, there are no measurements pictured
3 here.
4 Q So the only basis somebody looking at
5 these pictures has to evaluate the thickness of
6 the forefoot proximal to the toe versus proximal
7 to the heel is just visually looking at what you
8 pictured here. Right?
9 MR. BUGG: Objection to form.
10 You can answer, if you can.
11 A I would be able to tell what the heights
12 would be from a photo.
13 Q So the question was a little different,
14 though. The question is from a perspective of
15 somebody else looking at this declaration --
16 A Yes.
17 Q -- their only way of evaluating the
18 relative heights is just by estimating from the
19 pictures. Right?
20 A I would say that you would have to look
21 at the pictures in order to understand the
22 heights, yes.

1 Q And if somebody looking at this were to
2 say that the forefoot platform proximal to the
3 heel and the forefoot platform near the toe looked
4 the same, there is no data in here that rebuts
5 that, is there?
6 MR. BUGG: Objection to form.
7 You can answer, if you can.
8 A Well, you would have to understand that
9 the photos are of a shoe that have been cut into
10 sections. And you could also come to the
11 conclusion that the part of the -- so when you --
12 I'm guessing that you're looking at the bottom
13 left photo here where we are looking at the back
14 side of the middle section. And the -- that the
15 height of the back and the front at that -- the
16 way that it looks in the photos, is that maybe --
17 I kind of know you're going with this -- but maybe
18 those look like they're the same height.
19 However, if you look at the heel section,
20 which is the middle row on the right side in the
21 photo, you would understand that the shoe is cut
22 at that position. So if you were to look at the

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1 middle row right photo, the cutaway of the heel,
2 and the photo directly below it, you could
3 understand that the height of the midsole and the
4 insole are substantially different heights.
5 Q Okay. But just to -- so this is clear,
6 the picture in the middle row to the right is a
7 cutaway of the heel. Right?
8 A It's a -- it's the exact same cut as the
9 bottom left photo. That's --
10 Q Just the question is, the image, the
11 middle row on the right, is of the heel. Correct?
12 A It's looking at the heel part of the
13 shoe, yes.
14 Q Okay. Stepping back a little bit.
15 This 1970 FootJoy golf shoe, is this a
16 conventional golf shoe?
17 MR. BUGG: Objection. Vague.
18 Answer, if you can.
19 A I mean, I wasn't designing golf shoes in
20 1970. I was, in fact, born in 1970.
21 I would guess that most golf shoes were
22 probably being made around the same way that this

1 is.
2 So it probably would constitute as being
3 conventional.
4 Q Okay. And that's true as of the priority
5 date of the patents at issue in this, these
6 proceedings as well?
7 MR. BUGG: Objection. Vague. Calls for
8 speculation.
9 A I'm not sure if I totally understand your
10 question.
11 Q Do you under -- do you have an
12 understanding of the effective filing date of the
13 patents at issue in this proceeding -- these
14 proceedings, I should say?
15 A Yes, I do.
16 Q And what is that effective filing date,
17 or priority date, if you want to refer to it that
18 way?
19 A Let me look at my declaration.
20 I believe it was March 8, 2011.
21 Q So was this FootJoy golf shoe that you've
22 put forward as evidence of the nature of

1 conventional shoes, was that a conventional shoe
2 as of March 8, 2011?
3 MR. BUGG: Objection. Vague. Calls for
4 speculation.
5 You can answer, if you can.
6 A For that style of golf shoe, I believe it
7 was fairly conventional.
8 Q Now, I mean, just stepping back again,
9 looking at this shoe. To me this looks like a
10 dress shoe.
11 Would you agree that it looks like a
12 dress shoe?
13 MR. BUGG: Objection. Calls for
14 speculation.
15 A To be honest, I've played golf in a pair
16 of shoes that were very similar to this, in my
17 lifetime.
18 Q And but I guess my question is, I mean,
19 wouldn't you agree that this is essentially like
20 an Oxford style shoe?
21 MR. BUGG: Same objection.
22 A I think it looks like a golf shoe.

1 Q Okay.
2 What materials was this 1970 FootJoy
3 Style 51049 made of?
4 A I believe that the upper is leather. I
5 didn't do a full analysis as to exactly what the
6 materials were on the bottom. And I do not have
7 the shoe in front of me right now or I could
8 probably be able to tell you exactly.
9 But as I sit here today, I wouldn't feel
10 comfortable telling you what I think it is, based
11 on the photos.
12 Q So getting back to this issue of the
13 forefoot and its thickness proximal to the heel
14 versus the toe.
15 Would you agree that there were shoes,
16 sports shoes as of 2011 where the thickness of the
17 forefoot proximal to the heel was the same as the
18 thickness of the forefoot proximal to the toe?
19 MR. BUGG: Objection. Calls for
20 speculation. Vague.
21 You can answer, if you can.
22 A I don't personally know of any shoes that

1 I've come across where the thickness of the toe
2 area was the same as the thickness as the heel --
3 of the heel area.
4 Q Right. So the question wasn't about
5 comparing the thickness of the toe versus the heel
6 but about the thickness of the forefoot near the
7 toe versus the thickness of the forefoot near the
8 heel but not at the heel.
9 A Okay. I believe I understand what you're
10 saying. But when you -- you're saying the
11 thickness if -- are we -- are we talking about
12 the -- the actual height of the insole or the
13 midsole compared to the ground surface, or the
14 thickness?
15 Q Well, when you were providing your
16 opinions on the '768 patent and the relevant claim
17 limitation, how were you measuring it?
18 MR. BUGG: Objection. Vague.
19 A Well, my understanding of the way that
20 the patents are written is heights and slopes.
21 And so with regard to that, the applicable
22 measurement would be from the ground surface to

1 the top of the midsole or insole of the shoe, not
2 necessarily the actual thickness of the material.
3 Some shoes have a heel portion and a
4 raised arch for maybe aesthetic purposes. It
5 doesn't necessarily need to be flat on the bottom
6 all the way across from the toe to the heel.
7 But as it applies to the patents, it
8 would be where the top surfaces would be.
9 Q I'm going to share my screen.
10 Okay. So I should be sharing Exhibit
11 1002, your original declaration in the 639
12 proceeding.
13 A I do not see your screen.
14 Q Yeah, I haven't done it yet. I'm
15 prepping everybody. Okay.
16 Can you see my screen now?
17 A I can.
18 Q Can you see my cursor here?
19 A Yes. Yeah.
20 Q Okay. So if I understood what -- your
21 prior testimony, you were saying it may be that
22 the thickness here where my cursor is, is the same

1 as the thickness in an area like over here by the
2 toe where my cursor is now, but that's a different
3 question from the height?
4 MR. BUGG: Objection. Vague.
5 A Is that a question?
6 Q Yeah. Well, that was a question. I can
7 rephrase it and ask a better question.
8 Here. So just also for the record, so
9 we're looking at a picture of the 1970 FootJoy
10 Style 51409. Correct?
11 A Yes.
12 Q And just for the record, this is a
13 picture that appears below Paragraph 67 of your
14 original declaration?
15 A Yes.
16 Q Now, would you agree that visually at
17 least in this image, the thickness of the sole
18 material here where my cursor is, which is just
19 adjacent to the heel section, is equivalent to the
20 thickness here in the forefoot section closer to
21 the toe?
22 MR. BUGG: Objection. Vague. Calls for

1 speculation.
2 A I would say that the -- where you are
3 pointing to on the cursor with the section that's
4 closest to the heel and the section in the front
5 where it's closest to the toe, that the sole
6 material thickness looks relatively similar, but
7 the heights are significantly different.
8 Q And there you're saying the height is
9 different because you're measuring height relative
10 to the ground. Correct?
11 A Correct.
12 Q Since we're on that topic, we may come
13 back to this one, but I do have some questions
14 about that whole idea of measuring height relative
15 to the ground.
16 So for this, it would be good if you
17 could pull out your 636 supplemental declaration.
18 And I guess just stepping back, this isn't
19 pertaining to a particular part of the
20 supplemental declaration, but in your original
21 declaration in the 636 proceeding you didn't have
22 any opinions on the -- on how the height should be

1 measured relative to the ground or not. Correct?
2 MR. BUGG: Objection. Vague.
3 A I don't know. I would have to spend some
4 time reading through my original declaration to
5 determine whether or not that's true.
6 Q We may do that, but I'll move on for now.
7 I want to direct you to Paragraph 15 and
8 16 of your 636 declaration.
9 A Okay, I'm there.
10 Q Can you, just for the record, can you
11 read the first sentence of Paragraph 15.
12 A "It is also my opinion that the
13 dictionary definition for height that Mr. Markison
14 relies on in the related IPR on the '291 patent
15 (IPR2024-00637, Exhibit 2008, 181) in fact
16 supports that the claimed slopes should be
17 measured with respect to heights that are
18 themselves measured with respect to the ground."
19 Q And sitting here now, do you know one way
20 or the other whether you expressed any opinion in
21 your original declaration about whether the
22 claimed slope should be measured with respect to

1 heights that are measured with respect to the
2 ground?
3 MR. BUGG: Objection. Vague. Asked and
4 answered.
5 A I would say that the heights are measured
6 with respect to the ground surface, so yes.
7 Q I mean, so one threshold question for me
8 there is, what happens when the ground is uneven;
9 does the height as claimed change?
10 MR. BUGG: Objection. Vague.
11 A If the ground is uneven, I would say that
12 the height could still be measured with wherever
13 you're measuring the height, as long as it's in
14 contact with the ground surface.
15 Q So if I understand correctly, your
16 opinion then is with respect to the claims of the
17 '786 patent, which is the one at issue in this
18 proceeding, the height measurement is made with
19 respect to the ground regardless of whether the
20 ground is sloped or flat. So whatever the ground
21 terrain is, that's what you measured the height
22 with respect to?

1 MR. BUGG: Objection. Vague.
2 A I would say as long as the -- the surface
3 of the outsole of the shoe is in contact with the
4 ground, at that point even though it's uneven, you
5 could probably measure the height.
6 Q And if the ground sloped, you'd be
7 measuring the height with respect to that sloped
8 ground. Correct?
9 MR. BUGG: Objection. Vague.
10 A The height would be measured at that one
11 particular spot.
12 Q Now, you mentioned a couple of times the
13 sole being in contact with the ground.
14 What did you mean by that?
15 A Wherever the sole surface is in touch --
16 is touching the ground would be where the height
17 would be measured.
18 Is that --
19 Q Okay. So if you've got a pair of golf
20 shoes that has cleats, and the shoes and cleats
21 are on a hard surface, then you're going to be
22 measuring with respect to the bottom of the

1 cleats, right, because it's a hard surface?
2 MR. BUGG: Objection. Vague.
3 A My understanding is that the -- what the
4 patent is teaching is that wherever the sole is
5 being supported on the ground surface is where you
6 would measure the height in that -- in that
7 scenario. Right?
8 So in the scenario where a cleat surface
9 is on hard ground and the cleats are not
10 penetrating the ground, then I suppose that the
11 surface of where the top of the midsole is in that
12 scenario would be measured from the ground to
13 where that top of the midsole, the outsole would
14 be.
15 So that in that scenario you could
16 probably say that the height is measured at that
17 point.
18 Q And so in that scenario, if you have
19 cleats that are, say, different lengths, that's
20 going to affect the height. Right?
21 MR. BUGG: Objection. Vague.
22 A Well, there are a few patents that we are

1 referring to -- that I'm referring to in my
2 declaration, where there are cleats that are
3 designed in such a way that they have different
4 heights. And there's a reason that that has been
5 done, so that the foot sits a certain way on hard
6 surfaces.
7 Q And you're referring there to the Kim and
8 DuFour references?
9 A Yes.
10 Q And those are two of the prior art
11 references you rely on. Right?
12 A Yes.
13 Q So just to kind of tie it, a bow on it,
14 if you agree then that in the hard surface
15 scenario where the cleats are different lengths,
16 that's going to affect the placement of the
17 foot -- placement of the sole and the foot?
18 MR. BUGG: Objection. Vague.
19 A I believe that those patents teach that
20 the hard surface would -- would have an effect on
21 where the foot sits on the insole and midsole,
22 yes.

1 Q And that effect is because of the
2 differing lengths of the cleats. Right?
3 A On a hard surface.
4 Q Now, is a golf course -- strike that.
5 Let's look at Paragraph 15 again.
6 Actually, let's look at Paragraph 16.
7 Can you just read the single sentence of
8 Paragraph 16 in your 636 declaration.
9 A "A person of ordinary skill in the art
10 would thus understand that, because the cleat
11 height is irrelevant to forming the claimed angled
12 support platform or athletic positioning sole
13 section, the cleat height would not be included as
14 the reference point for measuring the claimed
15 slopes that define the athletic positioning
16 shape."
17 Q But as you just testified, cleat height
18 is relevant to forming the angled support platform
19 when you're on a hard surface. Right?
20 MR. BUGG: Objection. Vague. Misstates
21 prior testimony.
22 A The whole purpose for the invention of

1 these patents is for the person who is playing
2 golf, and to address the ball in an athletic
3 positioning stance. So I would say that it's
4 irrelevant as to where the foot would be sitting
5 on a hard surface. That's simply to get from your
6 car to the golf course.
7 Q Now, are golf courses always a uniform
8 hardness?
9 MR. BUGG: Objection. Vague. Calls for
10 speculation.
11 A I believe all golf courses are such that
12 cleats would have a tendency to penetrate through
13 the surface of the grass.
14 Q But in order to know that, you'd have to
15 know the penetration resistance of that particular
16 soil. Right?
17 MR. BUGG: Objection. Vague. Calls for
18 speculation.
19 A I don't know if I would need to know the
20 exact measurement of the penetration resistance.
21 I know that golf courses can vary slightly -- you
22 know, vary within the green area, the fairway

1 area. I've played -- I've played golf. I
2 understand that some ground can be softer, some
3 ground can be firmer. But all grass, all soil on
4 golf courses, would be such that cleats would
5 penetrate into it.
6 Q Did you consider the penetration
7 resistance in forming your opinions?
8 MR. BUGG: Objection. Vague.
9 A I just considered the fact that they
10 would penetrate. I didn't -- I didn't feel that
11 it was necessary to do an analysis on how firm or
12 soft the ground surface would be.
13 Q And isn't it true that the extent to
14 which the cleats would penetrate is dependent to
15 some extent on the weight of the golfer?
16 MR. BUGG: Objection. Vague. Calls for
17 speculation.
18 A I would believe that any weight of a
19 human being, no matter if they're heavy or light,
20 would have cleats that would penetrate into a
21 ground surface on a golf course.
22 Q Did you test that assumption?

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1 A I didn't physically go out and have
2 different people of different sizes wearing shoes
3 with cleats to observe whether or not the cleat --
4 the surface of the actual cleat kept them elevated
5 off the ground surface. I don't feel that would
6 be necessary to do.
7 It's a pretty safe assumption that cleats
8 would penetrate the ground no matter how heavy the
9 person would be.
10 MR. BOSCO: It's a little early, but I'm
11 up for a break, if that's okay.
12 THE WITNESS: That's fine.
13 MR. BOSCO: Okay.
14 (A recess was taken.)
15 BY MR. BOSCO:
16 Q Welcome back, Mr. Delgatty.
17 I put another PDF in the chat, which has
18 previously been marked as Exhibit 1001 in the 637
19 IPR.
20 Do you have that document?
21 (Exhibit 1001, IPR2024-00637, previously
22 marked, not attached.)

1 MR. BUGG: I don't see it either. I
2 don't know if it's there.
3 MR. BOSCO: Oh, I'm sorry. I think I
4 didn't link it properly.
5 THE WITNESS: Yeah, every time I clicked
6 on -- yeah, it was just taking me to the same
7 thing that I had already done.
8 MR. BOSCO: Sorry about that. It should
9 be there now.
10 A Okay. Remind me again what this is? I
11 have -- I have opened up what you've sent. What
12 are you saying it is?
13 Q Do you recognize this as the '291 patent?
14 A Yes.
15 Q And this exhibit has previously been
16 marked Exhibit 1001 in the 637 proceeding.
17 Correct?
18 A I believe so, yes.
19 Q Can you go down, scroll down to the
20 claims, Claim 1 of this patent.
21 Just let me know when you're there.
22 A Can you -- are they -- are they after all

1 of these --
2 Q Oh, yeah. So the claims -- the claims
3 are all the way at the bottom.
4 A Oh, okay.
5 Q Yeah.
6 A There's quite a few figures here.
7 Q Yeah. Sorry. I wasn't referring to
8 Figure 1; Claim 1. And I can share my screen,
9 too, if that would help.
10 A Okay, I am there. Yeah.
11 Q So looking at Claim 1, there are three
12 heights that are claimed. Correct?
13 A Yes.
14 Q Okay. A first height, a second height,
15 and a third height. Right?
16 A Yes.
17 Q And you testified earlier this morning
18 about your opinion on how to measure those
19 heights. Correct?
20 A Yes.
21 Q And your testimony was that those heights
22 should be measured with respect to the ground.

1 Correct?
2 MR. BUGG: Objection. Vague.
3 A In the scenario where the shoe is on a
4 grass surface versus a concrete surface, the
5 height would be measured on a grass surface at the
6 bottom of the outsole to, you know -- with regard
7 to the top of the midsole or the insole.
8 Q Okay. So with that in mind, then, can
9 you envision a scenario where you're on soft
10 ground, as what you would consider to be soft
11 ground, and the golfer's foot is on an upslope, so
12 the toe is above the heel because of the slope of
13 the ground?
14 A I could envision a scenario where the
15 foot would be inclined on a slope, but the height
16 of the toe would be lower than the height of the
17 heel.
18 Q Okay.
19 A Because it's measured from the ground
20 surface, not from sea level.
21 Q Right. So in that scenario you were just
22 referring to, where the toe is lower than the

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1 heel, is that within the scope of Claim 1?
2 MR. BUGG: Objection. Vague.
3 A Repeat the question, please?
4 Q So in a scenario where the shoe is
5 inclined down a slope so that the toe is lower
6 than the heel, would the heights that are created
7 by that arrangement be within the scope of Claim
8 1?
9 A I don't believe that the claims specify
10 whether or not the ground surface is level or on
11 a -- on a slope downward or upward or whatever.
12 But I would say that the -- the heights proximal
13 to where you're measuring would be within the
14 scope of Claim 1.
15 Q Okay. And just so it's clear, what
16 you're measuring with respect to the ground
17 wherever it may be. Right?
18 A The ground surface.
19 Q And let's take a look at the -- I'm going
20 to put one of the other patents in, if I can find
21 it here. Actually, if you just take a look at
22 your supplemental declaration from the 638

1 proceeding, Exhibit 1022.
2 A I am at that. I'm there. Where do you
3 want me to look?
4 Q Paragraph 20.
5 A Okay, I'm there.
6 Q So can you read the second sentence of
7 Paragraph 20.
8 A "Claim 1 requires that the 4-foot
9 platform of the sole provide the big toe area at a
10 lower position than the heel area and the small
11 toe area."
12 Q So now envision a shoe where it's on an
13 upslope so that the big toe is higher than the
14 heel.
15 Do you understand what I'm saying?
16 A Sure.
17 Q Is that shoe, when it's in that position,
18 within the scope of Claim 1 of the '760 patent?
19 MR. BUGG: Objection. Vague.
20 A I don't believe -- I'm not really sure
21 how to answer that, because I don't believe the
22 patent teaches those different scenarios. I

1 believe that what is claimed applies to something
2 that would be on a flat surface that's horizontal,
3 right, not on an uphill slope.
4 So it -- yeah, I'll leave it at that.
5 Q Okay. You can put that aside for now.
6 So I'm going to shift gears a little bit
7 and want to take a look at the Umezawa reference.
8 And I'll go ahead and put that in the chat. And
9 this time I'll represent to click Send.
10 (Exhibit 1006, IPR2024-00639, previously
11 marked, not attached.)
12 Q Okay. You should have now what's
13 previously been marked as Exhibit 1006 in the 639
14 proceeding.
15 Let me know when you have it open, when
16 you can.
17 A Okay, I have it.
18 Q If you can go to Paragraph 39, which is a
19 little ways down. You have to scroll past the
20 figures.
21 A Okay, I'm there.
22 Q Do you see the second-to-last sentence of

1 Paragraph 39 that begins, "A large amount"?
2 A Yes.
3 Q Can you read that sentence:
4 A A large amount of force is transferred
5 from the foot to the ground through this inner
6 high elastic part."
7 Q And what was the number that comes after
8 part?
9 A Sorry, Part 26.
10 Q So Umezawa right there is saying that
11 force is transferred from the foot to the ground
12 through inner high elastic Part 26. Right?
13 MR. BUGG: Objection. Vague. Misstates
14 the document.
15 You can answer, if you can.
16 A It says what it says. A large amount of
17 force is transferred from the foot to the ground
18 through the -- this inner high elastic Part 26.
19 Q So then this teaches, then, that the foot
20 is in contact with inner high elastic Part 26.
21 Right?
22 A Well, I don't believe it states that it's

1 in contact. It says the force is transferred from
2 the foot to the ground through the inner high
3 elastic part.
4 Q And don't you think it's reasonable to,
5 in view of that teaching, that the foot is in
6 contact with inner high elastic Part 26 --
7 MR. BUGG: Objection. Vague.
8 Q -- in order for the force to be
9 transferred to the ground?
10 MR. BUGG: Objection. Vague. Calls for
11 speculation.
12 A No, I would not say that. I would equate
13 it to maybe the -- what would happen if you were
14 on a trampoline and you jumped onto the mat of the
15 trampoline that's near the frame edge. And as
16 you're pressing down on the mat of the trampoline,
17 there would be a significant amount of force on
18 the frame itself, but the body wouldn't be on the
19 frame.
20 Q Okay. Let's take a look at your 639
21 proceeding declaration and Paragraph 12.
22 A Okay, I'm there.

1 Q And Paragraph 12 is part of the section
2 where you're talking about Umezawa. Correct?
3 A Yes.
4 Q And in this section 3.A from Paragraphs
5 11 to Paragraphs 15, you never referenced the
6 language from Umezawa that you just read.
7 Correct?
8 MR. BUGG: Objection. Vague.
9 A I never -- repeat that again?
10 Q In any of these Paragraphs 11 through 15
11 you never referenced the language from Umezawa
12 that you just previously testified about.
13 Correct?
14 MR. BUGG: Same objection.
15 A Well, let's go ahead and read it, because
16 I believe I do support that. "Mr. Markison
17 suggests that Umezawa fails to disclose a forefoot
18 platform having" -- hold on, this is -- oh, okay.
19 "A gradient compression factor or greater level of
20 compression proximal to the inner edge than the
21 outer edge." I disagree.
22 "In annotated Figure 2 prepared by

1 Mr. Markison, the bones of the big toe and the
2 small toe fall partially or predominantly on low
3 elastic Part 20" -- I'm looking at the figure --
4 "at each of the cross-sections shown in Figures 3
5 through 5.
6 "Mr. Markison's annotated figure is
7 incorrect that the big toe would actually fall
8 squarely upon the low elastic Part 20 as show in
9 superimposed annotated images from the POR below.
10 These teachings suggest to a person of skill in
11 the art that Mr. Markison's conclusion is
12 incorrect. Furthermore, Umezawa expressly
13 describes that Umezawa's sole compresses more on
14 the inside than the outside when the shoe is worn,
15 and that the wearer's foot inclines upward from
16 the inside to the outside of the shoe based on
17 this variance, further confirming the placement of
18 the wearer's foot on low elastic Part 20, Exhibits
19 1005, 38 -- Paragraphs 38 and 43, in Claim 1.
20 "A person of skill in the art would
21 understand that 3 millimeters is near or proximal
22 to the area of the shoe where the edge of the foot

1 sits when compared to the overall width of the
2 shoe being 100 millimeters as described in
3 Paragraph 78 and shown in Figure 4." So ...
4 Q So my question is, in all of that text
5 that you just read, you never cite Paragraph 39 of
6 Umezawa, do you?
7 A It doesn't appear that I cite Paragraph
8 39 in that section.
9 Q Okay. In this same document, let's look
10 at Paragraph 23. So Paragraph 23 is in a section
11 where you're addressing the Norton reference.
12 Correct?
13 A I'm sorry. Oh, you said Paragraph 23?
14 Q Yes, paragraph. Yeah. It's on Page 15.
15 A Yes, these are speaking of the Norton
16 patent.
17 Q Okay. Can you read the last sentence of
18 Paragraph 23 into the record?
19 A "The only negative comment that Norton
20 provides about Giese's shoe design is its reliance
21 on two different materials of different densities
22 to achieve the desired density variation, nothing

1 relating to its heel design."
2 Q So you agree that Norton criticizes
3 Giese's reliance on two different materials of
4 different densities. Correct?
5 MR. BUGG: Objection. Vague.
6 A I believe Norton references Giese's shoe
7 of having two different materials of two different
8 densities to be something that could be improved
9 on with what Norton is claiming in his patent
10 application.
11 Q And that's true of Talatico '911 as well.
12 Right?
13 MR. BUGG: Objection. Vague.
14 A Can you direct me in my declaration where
15 I speak on that?
16 Q That's okay, we'll move on.
17 I'll go to Page 17. Now shifting gears
18 to the Won reference. And I'll go ahead and put
19 it in the chat in case you need to look at it.
20 (Exhibit 1005, IRP2024-00639, previously
21 marked, not attached.)
22 Q Okay. So Paragraph 28, can you just read

1 that for the record.
2 A "Regardless of whether Won's entire sole,
3 the midsole, or the outsole have the differing
4 materials, Won also teaches that the inside
5 portion of the forefoot region would compress when
6 worn by a golfer."
7 Q So I have put in the chat Exhibit 1005 in
8 the 639 proceeding, which I'll represent is the
9 Won reference.
10 Can you take a look and just confirm it's
11 the Won reference.
12 A Are you talking about the Won patent?
13 Q Yes. Patent Number 6,158,151?
14 A Yes.
15 Q Are you able to identify any part of this
16 patent where the word "compress" or "compression"
17 appears?
18 A I can read through it.
19 Q I guess I'll ask it a different way just
20 to move things along.
21 What part of Won, in your opinion,
22 teaches that the inside portion of the forefoot

1 region would compress when worn by a golfer?
2 A Won teaches that the dual compression
3 forefoot platform can include a longitudinal axis
4 dividing the two elastic materials in either the
5 sole or the midsole, Exhibits 1005, 3:14 through
6 15.
7 Q And what were you just reading from right
8 now?
9 A My supplemental declaration.
10 Q Okay. So that language that you just
11 read was not in the Won reference. Correct?
12 I think it's a straightforward question.
13 The language you just read was not from the Won
14 reference. Correct?
15 A The language -- can you -- I'm sorry, I'm
16 having a difficult time understanding exactly what
17 you're saying. The language what?
18 Q You just read some words in response to
19 my question.
20 A Yes.
21 Q I asked you if they were from the
22 declaration, and you said yes.

1 A Yeah.
2 Q And then I just asked you to confirm that
3 they were not -- those words were not from the Won
4 reference. Right? You were just reading from
5 your declaration. Right?
6 A Yes, I'm reading from the declaration.
7 Q Okay. And that citation that you read
8 from your declaration, Exhibit 1005, Column 3,
9 Lines 14 to 15, that doesn't say anything about
10 compression, does it?
11 A I believe, if I'm reading the patent
12 here, it's talking about Figure 5 being a plan
13 view showing the sole or midsole of the golf shoe
14 according to present invention.
15 Am I reading the right section?
16 Q That's how I read it, too. But it's
17 really -- you know, I mean, that's what you cited
18 in your declaration.
19 Is that what -- the language you cited?
20 A That -- that's in there.
21 Q Do you want to, just so it's clear, why
22 don't you just read from the patent what is at

1 Column 3, Lines 14 to 15.
2 A Yeah. "Figure 5 is a plan view showing
3 the sole or midsole of the golf shoes according to
4 the present invention."
5 Q Okay. That doesn't say compression, does
6 it?
7 A No. So that might be a typo.
8 Q I want to look at Paragraph 29. And
9 sorry to keep making you do this, it's just
10 clearer.
11 Can you just read Paragraph 29, which is
12 one sentence.
13 A "When Won states that the spikes on the
14 inside part of the shoe are pressed down, a person
15 of skill in the art would understand" that to
16 mean -- "that to mean the spikes are pressed into
17 the compressible sole material, whereas the spikes
18 on the outside part of the forefoot remain in the
19 same position."
20 Q So if the spikes are going into the
21 compressible sole material, that's up, isn't it?
22 MR. BUGG: Objection. Vague.

1 A It depends on the orientation of the
2 shoe, I guess.
3 Q What orientation of the shoe would it not
4 be up?
5 A If you're looking at the shoe from the
6 bottom of the shoe, then it would be down.
7 Q So essentially if the shoe is upside
8 down. Right?
9 A If the shoe is upside down, you would
10 then press downward into the sole material.
11 Q Okay.
12 A Which is the view that you see in the --
13 in the patent.
14 MR. BOSCO: Well, I don't have a lot more
15 in my outline. If it's okay I'm going to take
16 another break and chat with my colleague and then
17 see how much more we have.
18 THE WITNESS: Okay.
19 MR. BUGG: Okay.
20 MR. BOSCO: Thank you.
21 (A recess was taken.)
22 MR. BOSCO: Mr. Delgatty, I have no

1 further questions. Thank for your times.
2 EXAMINATION BY COUNSEL FOR PETITIONER
3 BY MR. BUGG:
4 Q Thanks. I just have a few -- really two
5 things I want to address with you, Mr. Delgatty,
6 just to clarify some of the testimony that came
7 out before.
8 So I'll have you look at your '768
9 supplemental clarification, Page 10. It was the
10 images of the FootJoy shoe. Do you remember
11 looking at that?
12 Let me share this on the screen here, but
13 if you want to flip to your page you can as well.
14 Can you see that on the screen,
15 Mr. Delgatty?
16 A Yes.
17 Q Do you recall speaking about the
18 thickness of the forefoot platform last time you
19 were -- or one of the times you were looking at
20 these images?
21 A Yes.
22 Q So opposing counsel was asking you about

1 the thickness of the forefoot platform at a
2 position proximal to the heel platform compared to
3 the thickness of the forefoot platform at a
4 position in the toe portion.
5 Do you recall that?
6 A Yes.
7 Q Looking at the bottom left-hand image, do
8 you believe that this shows the thickness of the
9 forefoot platform at position proximal to the heel
10 platform?
11 MR. BOSCO: Objection. Leading.
12 A That is the cut line from the image in
13 the middle row on the right, so the answer would
14 be yes.
15 Q Do you believe that the thickness of the
16 forefoot platform at the toe section is shown in
17 the bottom right-hand figure?
18 MR. BOSCO: Objection. Leading.
19 A Yes.
20 Q So in each of those images you can see
21 the insole and the outsole. Correct?
22 MR. BOSCO: Objection. Leading.

1 A Yes.
2 Q Does one of those images appear to be
3 thicker -- does the sole appear to be thicker in
4 the left image or the right image?
5 MR. BOSCO: Objection. Leading. Calls
6 for speculation.
7 A Let me draw a line here and see if you
8 agree with me. Let me change that subject.
9 Sorry.
10 If you were going to describe the
11 thickness of the sole on the bottom right picture,
12 how would you describe it, Mr. Delgatty?
13 MR. BOSCO: Objection. Vague.
14 A How would I describe the thickness of the
15 sole?
16 Q Yeah. Can you see that, can you see the
17 thickness of the bottom sole in that bottom
18 right-hand image?
19 A I can. So I would say that the thickness
20 of the sole -- well, I can't -- I can't draw. Do
21 you want to move your cursor, I'll tell you where
22 to put the -- so I would say it would go from --

1 just move it up just a little bit, right there,
2 and then go down, and right there.
3 Q So that's the -- looking at the images on
4 Page 10 of your '768 declaration, can you tell if
5 the thickness of the sole is thicker at a portion
6 proximal to the heel platform than the portion --
7 than at the toe portion?
8 A It -- it does appear to be a little
9 thicker at the portion that's proximal to the
10 heel.
11 Q All right. I'll have you go to Paragraph
12 29 -- well, let's go to the -- we'll go to
13 Paragraph 29 of the same document, I'll show it to
14 you here.
15 So opposing counsel was asking you about
16 the Won reference.
17 Do you recall that?
18 A Yes.
19 Q And he was asking you about, do you
20 recall, whether there was any disclosure of
21 compressible in the Won reference.
22 Do you recall that?

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1 A Yes.
2 Q And I think he pointed you to this
3 sentence right here, citing Exhibit 1005, Column
4 3, Lines 14 to 15.
5 Do you recall that?
6 A Yes.
7 Q I'll point you to further down in your
8 declaration, Paragraphs 29 and 30.
9 Can you read those to yourself,
10 Mr. Delgatty?
11 A Read them to myself or for the record?
12 Q No; just to yourself.
13 A Okay.
14 Q So in Paragraph 29 that cites to the Won
15 reference, Exhibit 1005, Column 4, starting Lines
16 46 through 58. Correct?
17 A Yes.
18 Q I'm going to share that with you.
19 Do you see the Won -- here we go.
20 Do you see the Won reference being shared
21 now, Mr. Delgatty?
22 A Yes, I do.

1 Q And just for clarification, to remember
2 here, you cite to Paragraph -- sorry, Column 4,
3 Line 46. Correct, in your declaration, Paragraph
4 29?
5 A Yes.
6 Q Mr. Delgatty, can you read that section
7 to yourself, Column 4, Line 46 to 57, 58.
8 Starting right here. That's this highlighted
9 section.
10 Do you see that?
11 A Yeah. Okay.
12 Q Do you believe that highlighted section
13 of Won describes the compressibility of the sole
14 of the shoe?
15 MR. BOSCO: Objection. Leading.
16 A Well, as it states here, it's talking
17 about the inside surface being soft and the
18 outside being hard, which are both made from
19 elastic material. So I would read this to mean
20 that the materials that are making up the sole are
21 elastic and one is -- one side is soft and one
22 side is hard.

1 So I would equate that to being
2 compressible.
3 Q Do you see the last sentence there, it
4 says, "Therefore, the pair of shoes facing each
5 other can be easily tilted to the inside of the
6 shoes."
7 Do you see that?
8 A I do see that.
9 Q What does that sentence mean to you,
10 Mr. Delgatty?
11 A It means that when the golfer is putting
12 weight on the shoes, because the inside surfaces
13 are softer, the foot would be angled inwards to
14 give more of an athletic positioning stance for
15 the golfer. They would be tilted inwards.
16 Q Referring back to your declaration
17 Paragraph 30.
18 Do you see Paragraph 30?
19 A Yes.
20 Q And can you read that to yourself?
21 MR. BOSCO: I'm going to object as
22 outside the scope of the direct.

1 Q Do you mind reading Paragraph 30 into the
2 record, Mr. Delgatty.
3 A Sure.
4 "Composition of the inside portion of the
5 forefoot is the entire purpose and goal of this
6 embodiment in Won. Won explains that in use, the
7 sole tilts toward" the inside of the shoe -- "the
8 insides of the shoes, which facilitates bending
9 inward the player's legs to attain stability at
10 address and swing as described in Claim 1."
11 Q This is from your supplemental
12 declaration you were just reading from. Correct?
13 A Correct.
14 MR. BOSCO: Object to the form. Outside
15 the scope.
16 MR. BUGG: No further questions.
17 MR. BOSCO: Nothing further from me.
18 MR. BUGG: Great. Thanks, guys.
19 (Off the record at 1:49 p.m. EDT.)
20
21
22

1 ACKNOWLEDGMENT OF DEPONENT
2 I, GRANT DELGATTY, do hereby acknowledge
3 that I have read and examined the foregoing
4 testimony, and the same is a true, correct and
5 complete transcription of the testimony given by
6 me, and any corrections appear on the attached
7 Errata sheet signed by me.
8
9 _____ _____
10 (DATE) (SIGNATURE)
11
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21
22

1 C E R T I F I C A T E
2 I, Debra Ann Whitehead, E-Notary Public in and for
3 the Commonwealth of Virginia, do hereby certify:
4
5 That GRANT DELGATTY, the witness whose
6 deposition is hereinbefore set forth, was duly sworn
7 by me before the commencement of such deposition and
8 that such deposition was taken virtually and is a
9 true record of the testimony given by such witness.
10
11 I further certify that the adverse party,
12 UNDER ARMOUR, INC., was represented by counsel at
13 the deposition.
14
15 I further certify that the deposition of
16 GRANT DELGATTY occurred virtually, on Tuesday, May
17 13th, 2025, from 12 p.m. to 1:49 p.m. EDT.
18
19
20
21
22

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

IN WITNESS WHEREOF, I have hereunto set my hand this 14th day of May, 2025.

My commission expires:
October 31, 2027

E-NOTARY PUBLIC IN AND FOR THE
COMMONWEALTH OF VIRGINIA

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