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Conducted on June 12, 2024

2 (5 to 8)

5 1 2 REPORTER'S KEY TO PUNCTUATION: 3 -- At end of question or answer references 4 interruption. 5 ... References a trail-off by the speaker. 6 No testimony omitted. 7 "Uh-huh" "Um-hum" References affirmative sound. 8 "Huh-uh" "Um-um" References negative sound. 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	7 1 GLENN AKHAVEIN, 2 was called as a witness and, having first been duly 3 sworn, was examined and testified as follows: 4 THE WITNESS: I do. 5 CERTIFIED STENOGRAPHER: Thank you. 6 EXAMINATION 7 BY MR. EMERICK: 8 Q Good morning, Mr. Akhavein. You've given 9 some opinions regarding some orientation terms; is 10 that right? 11 A Yes. 12 Q All right. Let's start out with 13 orientation terms. And I'm marking defendant's 14 deposition Exhibit 1. It's a physical exhibit 15 you'll see on camera soon. 16 (Exhibit 1 was marked.) 17 BY MR. EMERICK: 18 Q Do you want to hold that up for the 19 camera, Mr. Akhavein? Thanks. 20 Do you recognize that device? 21 A I think this was -- is a Dyson V8. 22 Q Okay. 23 A Is that... 24 Q Does the V8 handle stand upwardly or
6 1 VIDEOGRAPHER: Here begins media number 2 one in the videotaped deposition of Glenn 3 Akhavein in the matter of SharkNinja Operating, 4 LLC, et al. vs. Dyson, Inc., et al. in the 5 United States District Court for the District 6 of Massachusetts, Case No. 1:23-CV-11277 [sic]. 7 Today's date is June 12th, 2024. The time 8 on the video monitor is 9:04 a.m. Eastern Time. 9 The videographer today is Mike Martinez 10 representing Planet Depos. This video 11 deposition is taking place at 100 North Tampa, 12 Tampa, Florida, 33600 -- 02. Sorry. 13 Will counsel please voice identify 14 themselves and state whom they represent? 15 MR. VINCENT: Robert Vincent from Gibson 16 Dunn on behalf of the plaintiffs and the 17 witness. Also with me is Josh Zhang from 18 Gibson Dunn. 19 MR. EMERICK: Jay Emerick from Kirkland 20 Ellis on behalf of the Dyson defendants. And 21 to correct the case number, it's 23-CV-12372. 22 VIDEOGRAPHER: The court reporter today is 23 Dawn Hillier also represented by Planet Depos. 24 The witness will now be sworn.	8 1 downwardly? 2 MR. VINCENT: Object to form. 3 BY MR. EMERICK: 4 Q Or both? 5 MR. VINCENT: Foundation. 6 MR. EMERICK: I'll ask the clean question. 7 BY MR. EMERICK: 8 Q Does the V8 handle extend upwardly or 9 downwardly or both? 10 MR. VINCENT: Object to form, foundation. 11 THE WITNESS: As I'm holding it, as you're 12 holding the handle here, it extends upwardly 13 and away from me. 14 BY MR. EMERICK: 15 Q Okay. Does it extend downwardly at all? 16 MR. VINCENT: Object to form, foundation, 17 speculation. 18 THE WITNESS: Yeah. It extends downwardly 19 and back towards me, if you're going in that 20 direction. 21 BY MR. EMERICK: 22 Q Okay. So whether the handle extends 23 upwardly or downwardly depends on how the vacuum's 24 oriented at a particular time?

9 1 MR. VINCENT: Object to form, foundation, 2 misstates testimony. 3 THE WITNESS: If you're talking about how 4 it -- it's a function of whether you're talking 5 about a relative term. In three-dimensional 6 space, this is small enough you can sit and 7 turn any way you would like. 8 However, if you're talking about a 9 particular relative direction, so again, this 10 handle, if I'm holding it in what I would 11 consider normal use -- oh, it's on too. 12 All right. So I'll keep that in mind. 13 Then -- then, as I'm holding this, you 14 could make a number of statements. It's 15 extending upward and away from me, if we're 16 going in that direction. Downward and towards 17 me. It's extending away from the motor 18 housing. So there's -- there's -- if you're 19 talking about an orientation that is defined, 20 then you can make very clear statements about 21 the direction that it's going. 22 BY MR. EMERICK: 23 Q So in some orientations, the V8 handle 24 extends upwardly?	11 1 A Relative -- 2 MR. VINCENT: Object -- sorry. Object to 3 form, foundation. 4 THE WITNESS: Relative to what? 5 BY MR. EMERICK: 6 Q Well, if you're not given a reference 7 point, for example, in this -- 8 A Okay. 9 Q -- position, does the handle extend 10 upwardly, downwardly, both, or neither? 11 MR. VINCENT: Object to form. 12 THE WITNESS: You're going to have to ask 13 me that again, the entire question, please. 14 BY MR. EMERICK: 15 Q Yes. In this position, the vacuum, the V8 16 Exhibit 1 sitting in front of you now as shown on 17 camera, does the handle extend upwardly, downwardly, 18 both, or neither? 19 MR. VINCENT: Object to form. 20 THE WITNESS: It extends upwardly, 21 relative to the table. 22 BY MR. EMERICK: 23 Q Does it extend downwardly relative to 24 anything?
10 1 MR. VINCENT: Object to form, foundation, 2 misstates testimony. 3 THE WITNESS: If you're talking -- again, 4 as I said before, if you just want to spin this 5 in three-dimensional space, you can have it 6 point in almost any direction you would like. 7 BY MR. EMERICK: 8 Q Okay. In what orientations does the V8 9 handle extend upwardly? 10 MR. VINCENT: Object to form, foundation. 11 THE WITNESS: As I might normally use it, 12 if the front is facing in a forward direction, 13 then the handle extends upwardly. If I sit it 14 on the table with the bottom of it sitting on 15 the table, then the handle extends upwardly. 16 BY MR. EMERICK: 17 Q Okay. As you've got it -- and if you 18 could hold it to the side in that position on the 19 table. 20 A Like -- oh, okay. 21 Q So the camera can see the handle. 22 A Yes. 23 Q So in this position, does the handle 24 extend upwardly, downwardly, both, neither?	12 1 MR. VINCENT: Object to form. 2 THE WITNESS: You could say that it 3 extends downwardly relative to the table. 4 BY MR. EMERICK: 5 Q Okay. Does it extend forwardly, 6 backwardly, both, or neither? 7 MR. VINCENT: Object to form, foundation. 8 THE WITNESS: As somebody skilled in the 9 art -- okay. First of all, are we talking 10 about sitting right here or -- because -- 11 because, again, in three-dimensional space, 12 you -- there's an orientation because, you 13 know, I could flip it in some -- you know, 14 balance it on the head of a pin somehow, and 15 then we'd be in real trouble. 16 So is it a predefined orientation? Is it 17 how I might normally use it? Is it how it's 18 sitting on the table? You're going to have to 19 specify that. 20 BY MR. EMERICK: 21 Q Why -- why do you -- why does that need to 22 be specified? 23 MR. VINCENT: Object to form. 24 THE WITNESS: Because we live in a

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13 1 three-dimensional world. 2 BY MR. EMERICK: 3 Q Okay. And so if there's not a specified 4 reference point, then you're unable to say whether, 5 for example, a handle extends forwardly or 6 rearwardly? 7 MR. VINCENT: Object to form. 8 THE WITNESS: No. I don't believe that is 9 true. If you choose to specify an orientation, 10 then everything should be consistent from that 11 point. However, somebody skilled in the art is 12 going to pick this up. They're going to hold 13 it. And in the normal use position, they're 14 going to look at this and they're going to say, 15 this is the front. So without any other 16 defined terms, I would start as someone skilled 17 in the art and say, I'm going to hold it in a 18 natural position with the front of the vacuum 19 facing forward, and then go from there. 20 If you didn't give me some anchor point or 21 some orientation, that would be the natural 22 default that somebody skilled in the art would 23 choose. And they would go from there. 24 BY MR. EMERICK:	15 1 given a reference point? 2 MR. VINCENT: Same objections. 3 THE WITNESS: If you're choosing to ask me 4 to put it in a particular position, then you 5 need to choose what the reference point is. 6 BY MR. EMERICK: 7 Q We agreed on a position; okay? It's as 8 shown on the table right there. We understand that; 9 right? 10 MR. VINCENT: Jay, don't cut him off. 11 Don't cut him off. 12 MR. EMERICK: He's -- was -- wasn't 13 talking. 14 MR. VINCENT: He was talking. 15 MR. EMERICK: He was not talking. 16 THE WITNESS: Okay. So, again, you're 17 choosing an arbitrary direction relative to 18 what? To where he's sitting? To where you're 19 sitting? To where I'm sitting? To where 20 somebody a floor above? 21 BY MR. EMERICK: 22 Q So you would agree that as this vacuum is 23 displayed on the table right now on video, that's an 24 arbitrary position to be talking about orientation
14 1 Q So someone first needs to determine a 2 normal use position in order to determine whether 3 the handle extends forwardly or rearwardly in that 4 normal use position? 5 MR. VINCENT: Object to form, misstates 6 testimony. 7 THE WITNESS: And I need to clarify 8 something. Are we talking about use in general 9 or are we talking about anything relative to 10 the patents and the plans? 11 BY MR. EMERICK: 12 Q Why don't you turn that vacuum back to -- 13 A This way? 14 Q Correct. 15 A Okay. 16 Q Thanks. 17 So in this position, with the vacuum 18 sitting on the table in this way as shown on camera, 19 does this handle extend forwardly, rearwardly, both, 20 or neither? 21 MR. VINCENT: Object to form, foundation. 22 THE WITNESS: Relative to what? 23 BY MR. EMERICK: 24 Q Can you answer the question without being	16 1 terms; right? 2 MR. VINCENT: Object to form. 3 THE WITNESS: If you decide to turn it 4 that way, it's as arbitrary as this way or on 5 its side. 6 If you pick this, there -- there is a -- 7 if you want to talk about an orientation, 8 orientation is always relative to something, 9 unless, as I said before, if I'm holding this 10 without any other instructions, without any 11 clarification, or without you trying to give me 12 some point of reference to begin with, then I'm 13 going to naturally hold this with the front of 14 the vacuum facing forward and then go from 15 there. 16 BY MR. EMERICK: 17 Q So you would agree that as the vacuum is 18 displayed on the table right now on video, that's an 19 arbitrary position to be talking about orientation 20 terms; right? 21 MR. VINCENT: Object to form, misstates 22 testimony. 23 THE WITNESS: It's -- it's a -- one of 24 many positions that you chose.

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17 1 BY MR. EMERICK: 2 Q And you'd agree that this is an arbitrary 3 position; right? 4 MR. VINCENT: Object to form. 5 THE WITNESS: I'm not sure what the 6 difference is there. 7 BY MR. EMERICK: 8 Q As the vacuum's oriented on the table in 9 front of you, Exhibit 1, the V8, does the handle 10 extend forwardly, rearwardly, neither, or both? 11 MR. VINCENT: Object to form, foundation. 12 THE WITNESS: I've already answered that 13 question. 14 BY MR. EMERICK: 15 Q I didn't get the answer. Could you repeat 16 it? 17 A Okay. So -- 18 MR. VINCENT: Object to form, foundation, 19 asked and answered. 20 THE WITNESS: Can you repeat the question, 21 please? 22 BY MR. EMERICK: 23 Q As the V8, Exhibit 1, is sitting on the 24 table in front of you, does the handle extend	19 1 MR. VINCENT: Object to form. 2 THE WITNESS: It's -- yes and no. It's 3 random in the grand scheme. It's the one that 4 you asked me to put it in. 5 BY MR. EMERICK: 6 Q Does the V8 handle extend toward the 7 motor, away from the motor, both, or neither? 8 MR. VINCENT: Object to form, calls for 9 speculation. 10 THE WITNESS: So this is the first time -- 11 I mean, well, I saw a picture of one when you 12 guys filed your brief. I've never seen one 13 before. But on first glance, I'm assuming this 14 is both the battery and motor. 15 So the handle is extending. It's 16 connected to the motor. It's extending away 17 from the motor. 18 BY MR. EMERICK: 19 Q So the V8 handle, just so I understand, 20 only extends away from the motor. It doesn't extend 21 toward the motor? 22 MR. VINCENT: Object to form, calls for 23 speculation, misstates testimony. 24 THE WITNESS: Yeah. I'm not exactly sure
18 1 forwardly, rearwardly, both, or neither? 2 MR. VINCENT: Object to form, foundation, 3 asked and answered. 4 THE WITNESS: To answer that, you have to 5 have a point of reference. 6 BY MR. EMERICK: 7 Q And I'm not giving you a point of 8 reference? 9 A Then I can't answer it. 10 Q So you don't have a -- with the vacuum 11 sitting in front of you in this orientation, you 12 don't have a point of reference from which to answer 13 whether the handle extends forwardly, rearwardly, 14 neither, or both; right? 15 MR. VINCENT: Object to form, foundation. 16 THE WITNESS: So to clarify, you're 17 saying, as you randomly chose and asked me to 18 place it, I don't have an opinion. Yes, I do 19 not. 20 BY MR. EMERICK: 21 Q Okay. This is -- you would describe the 22 way that this is -- V8, Exhibit 1 is oriented in 23 the -- on the table in front of you, that's just a 24 random orientation; right?	20 1 what the difference is there. I mean, 2 obviously it extends to the motor because it's 3 attached to it, so it has to -- you know, for 4 something to be attached, if you're saying it 5 extends towards the motor -- oh, wait a minute, 6 actually. That's the battery -- right? -- down 7 here? I think. Okay. 8 So if you're saying that it extends 9 towards the motor from the battery, then, yes. 10 Okay? If you're saying, does it extend towards 11 the motor from the motor, well, that's kind of 12 a weird thing because it's attached. So I'm 13 not exactly sure what sort of difference you're 14 trying to get at. 15 BY MR. EMERICK: 16 Q Yeah. Are you able to answer the question 17 as to whether the V8 handle extends toward or away 18 from the motor if you're not given that starting 19 point? 20 MR. VINCENT: Object to form, foundation, 21 speculation. 22 THE WITNESS: Well, you are able to say 23 that it extends away from it. It's attached to 24 the motor. And then the rest of the handle is

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21 1 moving away from the motor. 2 BY MR. EMERICK: 3 Q And in that description, is the assumption 4 that the starting point is the motor for where the 5 handle extends away from the motor? 6 MR. VINCENT: Objection, vague, 7 speculation. 8 THE WITNESS: Well, yeah, because that's 9 the question you asked me, is it extending away 10 from the motor. So the motor is the starting 11 point. 12 This happens to be attached to the motor 13 so obviously that is the starting point. 14 BY MR. EMERICK: 15 Q Okay. If a starting point isn't 16 specified, does the V8 handle extend toward the 17 motor, away from the motor, neither, or both? 18 MR. VINCENT: Object to form, foundation, 19 speculation. 20 THE WITNESS: Well, based on just the, I 21 guess plain English, it's attached to the motor 22 so it's not extending towards the motor. That 23 just sounds kind of weird to me. So because 24 it's attached to the motor, what I would	23 1 same thing, that it's attached to the battery 2 pack. That's our starting point and it extends 3 away from the battery pack. 4 BY MR. EMERICK: 5 Q Okay. Does the V8 handle extend toward 6 any structure? 7 MR. VINCENT: Object to form, foundation, 8 speculation. 9 THE WITNESS: In this case, again, toward 10 is relative to what? 11 BY MR. EMERICK: 12 Q If I don't give you a starting point or, 13 rather, an ending point when talking about if the 14 handle extends toward, are you able to answer the 15 question? 16 MR. VINCENT: Object to form, foundation, 17 speculation. 18 THE WITNESS: I can answer it -- you know, 19 for example, it's sitting here on the table. 20 It's extending towards the motor, towards the 21 battery, towards the ceiling, towards the 22 table. 23 BY MR. EMERICK: 24 Q And when you say "it," you're referring to
22 1 normally say is it's extending away from the 2 motor. 3 BY MR. EMERICK: 4 Q Okay. Is it also attached to the battery 5 pack, the handle? 6 MR. VINCENT: Object to form, foundation, 7 speculation. 8 THE WITNESS: If that is indeed the -- 9 sorry for -- okay. 10 If that is indeed the battery pack, then 11 yes, it's attached to the battery pack. 12 BY MR. EMERICK: 13 Q Okay. So doesn't it, by the same logic, 14 extend away from the battery pack -- 15 MR. VINCENT: Object to form. 16 BY MR. EMERICK: 17 Q -- because it's attached to the battery 18 pack? 19 MR. VINCENT: Sorry. Object to form, 20 foundation, speculation. 21 THE WITNESS: Yes. That would be -- it's 22 the same scenario. If you ask me -- if the 23 original question had been, does it extend away 24 from the battery pack, I would tell you the	24 1 the V8 handle? 2 A Yes. Sorry. 3 MR. VINCENT: Same objections. 4 BY MR. EMERICK: 5 Q All right. Starting from the battery 6 pack, and moving up the handle, or moving higher 7 towards the ceiling -- 8 A Okay. 9 Q -- are you getting closer to or further 10 from the motor? 11 MR. VINCENT: Object to form, foundation, 12 speculation. 13 THE WITNESS: The handle, if we're -- if 14 our starting point is the battery pack, the 15 handle moves from the battery pack towards the 16 motor. 17 BY MR. EMERICK: 18 Q Okay. Is that an upwardly extending 19 portion of the V8 handle? 20 MR. VINCENT: Object to form, vague, 21 foundation. 22 THE WITNESS: As it's sitting on the 23 table, yes. 24 BY MR. EMERICK:

25 1 Q Okay. Does that upwardly extending 2 portion of the V8 handle extend towards the motor or 3 away from it? 4 MR. VINCENT: Object to form, foundation. 5 THE WITNESS: Is our starting point still 6 the battery pack? 7 BY MR. EMERICK: 8 Q Yes. 9 A Then that handle, as it's sitting on the 10 table, or let's say on the bottom of the vacuum, 11 then you would say that the handle is moving 12 upwardly towards the motor from the battery pack. 13 VIDEOGRAPHER: Excuse me, Counsel, is 14 there a way to close that lid on the table? 15 Thank you. 16 BY MR. EMERICK: 17 Q Is there any portion of the V8 handle that 18 both extends upwardly and away from the motor? 19 MR. VINCENT: Object to form, foundation, 20 calls for speculation. 21 THE WITNESS: Are we still talking about 22 as it's sitting here on the table? 23 BY MR. EMERICK: 24 Q In any orientation.	27 1 downwardly, neither, or both? 2 MR. VINCENT: Objection, form, foundation, 3 vague, calls for speculation. 4 THE WITNESS: Again, you have to ask that 5 relative to what? 6 BY MR. EMERICK: 7 Q And if you're not given a starting point 8 or a frame of reference, you're not able to answer 9 the question? 10 MR. VINCENT: Object to form, foundation, 11 speculation. 12 THE WITNESS: It's not a function of 13 whether I can answer it or not. There is no 14 answer. 15 BY MR. EMERICK: 16 Q Okay. So unless you're given a reference 17 point, you're not able to say whether the V8 handle 18 extends upwardly or downwardly? 19 MR. VINCENT: I'm sorry. Object to form, 20 vague, foundation, calls for speculation. 21 THE WITNESS: Unless you're given a 22 reference point, based on the question you 23 asked. 24 BY MR. EMERICK:
26 1 A Well -- 2 MR. VINCENT: Same objections. 3 THE WITNESS: As it sits on the table, the 4 handle is not moving upwardly, away from the 5 motor. 6 BY MR. EMERICK: 7 Q Is there any orientation in which the V8 8 handle has an upwardly extending portion that also 9 extends away from the motor? 10 MR. VINCENT: Objection, form, foundation, 11 calls for speculation. 12 THE WITNESS: Not really. 13 BY MR. EMERICK: 14 Q Could you actually rotate the vacuum to 15 the orientation you previously had it where the 16 battery pack was facing the ceiling? 17 A Oh. Let me see if I can -- because it's 18 not designed -- there we go. Ta-da. It's okay. 19 Q Does the handle now extend upwardly, 20 forwardly -- I'm sorry. Let me strike that 21 question. 22 In the orientation shown on video right 23 now where the battery pack of the V8 is facing the 24 ceiling, does the handle extend upwardly,	28 1 Q Unless you're given a reference point, 2 you're not able to say whether the V8 handle extends 3 upwardly or downwardly; right? 4 MR. VINCENT: Object to form, foundation. 5 THE WITNESS: Again, I would -- I just 6 answered that. Unless you are given a 7 reference point, yeah. It's not that you 8 can't, but if you're not given a reference 9 point, then those terms, there's not an answer 10 for those terms. 11 BY MR. EMERICK: 12 Q Okay. Here's a reference point that I'm 13 going to give you. 14 A Okay. 15 Q And then I want you to take that reference 16 point and tell me whether the V8 handle is extending 17 upwardly or downwardly or neither or both. 18 So here's the reference point. 19 When the vacuum is on a horizontal 20 surface, okay, so with the reference points, when 21 the vacuum is on a horizontal surface, does the V8 22 handle extend upwardly, downwardly, neither, or 23 both? 24 MR. VINCENT: Object to form, vague,

29 1 foundation. 2 THE WITNESS: Once again, that's not a 3 reference point. 4 BY MR. EMERICK: 5 Q Why not? 6 A Because -- 7 MR. VINCENT: Object to form, foundation. 8 THE WITNESS: Because all you said is when 9 it's on a horizontal surface. I could choose 10 to do lots of different things. So that's not 11 a reference point. 12 BY MR. EMERICK: 13 Q Okay. You said you could do some 14 different things. Could you show me some different 15 ways in which the V8 vacuum can be positioned on a 16 horizontal surface? 17 A All right. 18 MR. VINCENT: Object to form. 19 THE WITNESS: Yeah. You can choose to -- 20 I mean, it's kind of like what I was showing 21 before. If you find some way that it sits, 22 then you can, some ways it won't. It's not 23 going to sit like that, (indicating). 24 You can pick. You know, and there again,	31 1 horizontal surface as shown here? 2 MR. VINCENT: Objection, vague, 3 foundation. 4 THE WITNESS: Yes. The front of the V8 is 5 sitting on a horizontal surface. 6 BY MR. EMERICK: 7 Q Okay. And if you could turn it another 8 90 degrees. 9 A Like this (indicating)? 10 Q Yes. If you're able to balance it that 11 way. 12 A I tried. 13 Q Okay. 14 A It won't sit like that. 15 Q So is -- in this orientation where the 16 motor is on the surface of the table, is the V8 17 positioned on a horizontal surface? 18 MR. VINCENT: Object to form. 19 THE WITNESS: The motor of the V8 is on a 20 horizontal surface as well as, in essence, 21 the -- not technically. The cyclones are a 22 little lower, but the top of the cyclone 23 housing and the motor are on a horizontal 24 surface.
30 1 see, I could be sitting it like this, but then 2 I could turn it 45 degrees from where it was 3 before or I could stand it on end that way. 4 So your question was when it is on 5 horizontal surface. So that "it" has to be 6 defined. 7 BY MR. EMERICK: 8 Q We're talking about the V8. 9 A It's not just the V8. The "it." Is it 10 the bottom? Is it the front? Is it the top? 11 Q Okay. As shown on video right now, where 12 the battery pack, the largest face of the battery 13 pack is flush with the table, is this an instance in 14 which the V8 is positioned on a horizontal surface? 15 MR. VINCENT: Object to form, foundation. 16 THE WITNESS: Yes. 17 BY MR. EMERICK: 18 Q And are you able to balance the V8 on the 19 inlet where the inlet is touching the table? 20 A Do you mean (indicating)? 21 Q Yes. 22 A Ah, there we go. 23 Q So as shown on video here where the inlet 24 is touching the table, is the V8 positioned on a	32 1 BY MR. EMERICK: 2 Q Okay. And then one more. I think you 3 know where we're probably going. 4 A Going that way (indicating)? Okay. 5 Q So where both the battery pack and the 6 motor are touching the table, is this a V8 7 positioned on a horizontal surface? 8 A Yes. 9 MR. VINCENT: Object to form, foundation. 10 THE WITNESS: Yes. 11 BY MR. EMERICK: 12 Q And so if you're told, hey, I want you to 13 determine whether the handle is extending upwardly 14 or downwardly, and the reference point is when the 15 vacuum is placed, positioned on a horizontal 16 surface, you're not able to determine whether the 17 handle is extending upwardly or downwardly based on 18 that frame of reference -- correct? -- because there 19 are multiple potential ways to position it on a 20 horizontal surface? 21 MR. VINCENT: Object to form, vague, 22 speculation. 23 THE WITNESS: Well, if you're talking and 24 that's all there is to it, then, yeah, as I

33 1 said, you need a frame of reference. If you 2 just asked me, as somebody who understands 3 vacuums, to place this on a horizontal surface, 4 it's simple. You put it with the bottom on the 5 horizontal surface. 6 If you had to pick, you just said, show me 7 the right orientation for this, all right, as 8 somebody who understands vacuums, I would pick 9 it up, I'd set it down with the bottom on the 10 table with the front facing the front, like I 11 would normally use it. That would be my 12 default direction. 13 BY MR. EMERICK: 14 Q It's one of many directions that the V8 15 could be placed on a horizontal surface, though; 16 right? 17 A Theoretically, yes. 18 Q Not just theoretically. You just did it; 19 right? It's actual. 20 A Well, physically, yeah. Physically, there 21 are certain other ways that you can place it and it 22 will stay. I mean, the number is, in essence -- I 23 mean, you can pick lots of them. Some won't work. 24 Some do.	35 1 Exhibit 3. 2 (Exhibit 3 was marked.) 3 BY MR. EMERICK: 4 Q So I'll represent to you that Exhibit 2 is 5 a Dyson V10 vacuum. So if I refer to a V10 vacuum, 6 the v10 vacuum, I'm referring to Exhibit 2. 7 A Okay. 8 Q And, yes, it is working. 9 A Yep. 10 Q If you could turn in your declaration to 11 paragraph 73. 12 A Okay. 13 Q You see, you start there and you say "The 14 generally understood or plain and ordinary meaning 15 of side wall is a wall forming the side of 16 something." You see that? 17 A Yes. 18 Q And then skipping past one sentence, you 19 give an example where you say, for example, the '666 20 patent specification describes that the dirt chamber 21 144 "is bounded by a top wall 152, a bottom wall 22 154, and at least one side wall 156." You see that? 23 A Yes. 24 Q Okay. Exhibit 2 in front of you, does it
34 1 VIDEOGRAPHER: Counsel, do you want me to 2 keep the frame fixed on the vacuum this way or 3 put it back on the witness? 4 MR. EMERICK: You can set that aside for 5 now, Mr. Akhavein. 6 THE WITNESS: Okay. 7 BY MR. EMERICK: 8 Q I've got another one for you. 9 THE WITNESS: All right. All right. One 10 more. Whoa. 11 BY MR. EMERICK: 12 Q I'm handing you what's being marked as 13 defendant's deposition Exhibit 2. 14 (Exhibit 2 was marked.) 15 BY MR. EMERICK: 16 Q Do you recognize this vacuum, 17 Mr. Akhavein? 18 A I don't think I've ever seen one of these. 19 It's like the bazooka of vacuums. 20 Q And you've got a copy of your declaration 21 in front of you, but I'm going to hand you another 22 one -- 23 A Okay. 24 Q -- that I'm going to mark as defendant's	36 1 have any top walls? 2 MR. VINCENT: Object to form, foundation, 3 calls for speculation. 4 THE WITNESS: I don't know. I've not 5 looked at this. I'm not familiar with the 6 design. So I'd have to take a good look at it 7 to be able to answer that question. 8 BY MR. EMERICK: 9 Q How much time do you think you need? 10 A I don't know. I've got to look at the 11 design. I mean, you're asking me to make a 12 determination of this on the fly and that's just not 13 something I'm prepared to do. 14 Q Okay. You can't say whether this -- well, 15 let me strike the question. 16 Does this vacuum have a top? 17 MR. VINCENT: Object to form, foundation, 18 calls for speculation. 19 THE WITNESS: Again, not something that I 20 can sit and answer without -- I've got to look 21 at -- I mean, it looks like there's more to it 22 than what's just sitting in front of me, so I'm 23 not sure exactly what this vacuum is. Like I 24 said, I've not seen one before so do you want

37 1 me to talk about things that are not in my 2 report? Then I'm going to need time go through 3 them. 4 BY MR. EMERICK: 5 Q I'm asking you about orientation terms. 6 You've got many, many pages of orientation terms in 7 the report. 8 A Um-hum. 9 Q Are you not able to tell me whether this 10 vacuum, Exhibit 2, sitting in front of you, has a 11 top? 12 MR. VINCENT: Object to form, foundation, 13 speculation. 14 THE WITNESS: It's not that I'm unable. 15 I'm just not going to on the fly. If you want 16 to give me time to properly look at it, 17 properly look at all the design features, then 18 I'd be more than happy to. 19 BY MR. EMERICK: 20 Q You're not able to say whether Exhibit 2, 21 the vacuum in front of you has a bottom? 22 MR. VINCENT: Object to form. 23 THE WITNESS: As it sits right here, I 24 would say that's the bottom (indicating). As	39 1 give me the rest of it, you give me time to 2 look at it, see how it's used, I'll be more 3 than happy to, fully capable, but I'm not going 4 to. 5 BY MR. EMERICK: 6 Q Okay. Here, sitting here in the 7 deposition today with this vacuum, Exhibit 2, in 8 front of you, you're not able to identify a front, 9 sitting here today at the deposition? 10 MR. VINCENT: Object to form, foundation, 11 asked and answered. 12 THE WITNESS: I'll repeat again. If 13 everything was here and I had time to go over 14 it and look at it, I would be more than happy 15 and more than capable but I'm not going to. 16 BY MR. EMERICK: 17 Q You're an expert in vacuum cleaners; is 18 that right? 19 A Yes. 20 Q And as an expert in vacuum cleaners, 21 you're telling me that you are unable to determine, 22 sitting here today at the deposition, whether this 23 V10 vacuum, Exhibit 2, in front of you, has a front 24 or not?
38 1 it sits right here, however, in use, again, I 2 would have to see because, you know, there's 3 other parts. I'm assuming this is like a stick 4 vacuum with a vacuum head on the end of it. Is 5 that what comes out of here? 6 BY MR. EMERICK: 7 Q You're not able to say whether the 8 Exhibit 2 in front of you, the V10, has a bottom or 9 not? 10 MR. VINCENT: Object to form, foundation, 11 asked and answered. 12 THE WITNESS: I've answered the question. 13 I'm more than capable of doing that but I'm not 14 going to on the fly, not on a product that I've 15 never seen before in my life, never used, don't 16 know how it's designed, don't even know what 17 else goes to it. 18 BY MR. EMERICK: 19 Q You're not able to identify a front of the 20 Exhibit 2, the V10, sitting in front of you? 21 MR. VINCENT: Object to form, speculation. 22 THE WITNESS: Once again, first of all, it 23 doesn't appear like the entire vacuum is here. 24 Where's the rest of it? And as I said, you	40 1 MR. VINCENT: Object to form, foundation, 2 vague. 3 THE WITNESS: One of the things you do as 4 an expert is you actually analyze things. And 5 you look at them and you look at them in depth 6 and completely. And before I render an opinion 7 for the record, I will do that. And until that 8 happens, we can do this all day, but it's not 9 going to get -- not going to change anything. 10 I will not be rendering an opinion on this 11 without the proper time to look at it, and even 12 the rest of this. I mean, the -- you can keep 13 asking. 14 BY MR. EMERICK: 15 Q Yeah. 16 A It's not going to change. 17 Q Let me ask this: Are there some vacuums 18 that have no front? 19 MR. VINCENT: Objection, vague, 20 foundation, calls for speculation. 21 THE WITNESS: I don't know. That's -- you 22 know, what exists in the world, couldn't tell 23 you. 24 BY MR. EMERICK:

41 1 Q Yeah. And you don't know if this V10 2 vacuum has a front or not? 3 MR. VINCENT: Objection, misstates 4 testimony, asked and answered. 5 THE WITNESS: I would expect that it has a 6 front. 7 BY MR. EMERICK: 8 Q Okay. And where is the front? 9 MR. VINCENT: Objection, vague, 10 speculation, asked and answered. 11 THE WITNESS: Okay. Again, without having 12 the time to look at it, without the entire 13 vacuum being here and having time to use it, 14 see how it's used... 15 BY MR. EMERICK: 16 Q It's usable. Pull the trigger. 17 MR. VINCENT: Object. Same objections. 18 THE WITNESS: Okay. We can keep doing 19 this all day. It's not going to change. You 20 can keep asking that over and over and over. 21 I've told you, without everything here and 22 without time to analyze it, I will not be 23 rendering an opinion. 24 BY MR. EMERICK:	43 1 (Exhibit 4 was marked.) 2 BY MR. EMERICK: 3 Q All right. Exhibit 4 shows the wand and 4 cleaner head for this vacuum. 5 Do you see that for the V10, Exhibit 2? 6 A Yes. 7 Q Okay. Now, with the ability to see the 8 wand and cleaner head, are you able to identify 9 whether the V10, Exhibit 2, has a front? 10 MR. VINCENT: Object to form, vague, 11 foundation, calls for speculation. 12 THE WITNESS: Is this anything like the 13 Omni in use? Because again, I've not used 14 this, or not seen it. But if it's like the 15 Omni, then, according to Dyson, that's the 16 front, that's the bottom. 17 BY MR. EMERICK: 18 Q Now, for the hand vac, for this -- strike 19 the question. 20 For the portion of Exhibit 4 -- strike the 21 question. 22 For the vacuum, Exhibit 2, with a -- with 23 no wand connected to it, see that, Exhibit 2 has no 24 wand connected to it, whereas Exhibit 4 has a wand
42 1 Q You're unable to. 2 MR. VINCENT: Objection, misstates 3 testimony. 4 THE WITNESS: I'm perfectly able to. 5 Perfectly -- 6 BY MR. EMERICK: 7 Q Do it. 8 A -- comfortable doing it. 9 Okay. 10 MR. VINCENT: Objection, asked and 11 answered, vague. He's told you you don't have 12 the whole vacuum here. He told you -- he's 13 asked you -- he answered the question about a 14 dozen times. 15 THE WITNESS: So we can move on. 16 BY MR. EMERICK: 17 Q You realize, I'm asking the questions here 18 today and you're giving answers; right? 19 A Okay. Then like I said, yes. And I will 20 continue to answer that same answer. Until I have 21 an opportunity to look at this, put the whole thing 22 together and use it, I will not be rendering an 23 opinion. 24 Q Exhibit 4, I'm handing you.	44 1 connected? Do you see that? 2 A Hang on. Wait a minute. Exhibit -- oh, 3 yeah. Sorry. Thought it was a picture. Yes. 4 Q Okay. 5 A This does not have a want connected to it. 6 Q All right. Does Exhibit 2 have a front? 7 MR. VINCENT: Object to form, foundation. 8 THE WITNESS: I think we've been over 9 this. 10 BY MR. EMERICK: 11 Q What's the answer? 12 A The answer is, until I have a chance to 13 look at it and go through it, I don't have an 14 opinion on it and won't be rendering one. 15 Q Okay. And you're not able to render one, 16 sitting here today at the deposition because you 17 need time to analyze, to see if it had a front or 18 not? 19 MR. VINCENT: Object to form, foundation, 20 asked and answered. 21 THE WITNESS: Yeah. That's part of -- 22 part of what you -- part of what makes you an 23 expert is answering the things that you know 24 and not answering things on the fly

45 1 willy-nilly. So as I've said, until I go 2 through this, I can tell you what is in my 3 declaration. I can tell you what -- where 4 Dyson's position is, because it's very clear -- 5 okay? -- and I can tell you what my position is 6 on the things that I have had a chance to 7 analyze. 8 BY MR. EMERICK: 9 Q Does Exhibit 2, the V10, have a rear? 10 MR. VINCENT: Object to form, foundation, 11 speculation. 12 THE WITNESS: It'd be the same answer. 13 BY MR. EMERICK: 14 Q You're not able to tell me, sitting here 15 today, whether the V10 has a rear? 16 MR. VINCENT: Same objections. 17 THE WITNESS: Without going through it, as 18 I've said before, I will not be telling you 19 where the rear is. 20 BY MR. EMERICK: 21 Q You're not able to tell me where the top 22 of the V10 is? 23 MR. VINCENT: Same objections. 24 THE WITNESS: If this is used in the same	47 1 THE WITNESS: I'd need the rest of the 2 vacuum and I need a chance to play with it a 3 little bit. 4 BY MR. EMERICK: 5 Q If you just have an image of the wand and 6 floor tool but not the wand and floor tool itself, 7 you're not able to -- you wouldn't be able to render 8 an opinion as to what the front or rear of Exhibit 2 9 is? 10 MR. VINCENT: Objection, vague, misstates 11 testimony. 12 THE WITNESS: So when I look at this 13 vacuum here -- okay? -- as somebody skilled in 14 the art, they're holding it in that position. 15 If you wanted a default, then that's the 16 position. Again, I'm not certain exactly if 17 there's other ways of using it. I've seen what 18 Dyson says about it. Dyson makes it very 19 clear, that's the bottom of the vacuum, 20 (indicating), that's the bottom of the wand. 21 So that's the orientation that they've chosen. 22 BY MR. EMERICK: 23 Q And do you agree with that orientation 24 that Dyson has chosen?
46 1 way that the Omni is used, I can tell you what 2 Dyson's position is, what they've made clear as 3 to what the top is. 4 BY MR. EMERICK: 5 Q You're not able to tell me where the top 6 of the V10 is, sitting here today in this 7 deposition? 8 MR. VINCENT: Same objections, asked and 9 answered. 10 THE WITNESS: Yeah. I just answered that 11 question. 12 BY MR. EMERICK: 13 Q Yes -- so yes or no? 14 MR. VINCENT: Same objections. 15 THE WITNESS: I've gone through and looked 16 at what Dyson puts in their manuals so I can 17 tell you what Dyson's position is. I can tell 18 you what my position is on the things that I 19 have had a chance to look at and analyze. 20 BY MR. EMERICK: 21 Q How much time do you think it would take 22 you to figure out or give an opinion as to what the 23 front or rear of Exhibit 2, the V10, is? 24 MR. VINCENT: Objection, vague.	48 1 MR. VINCENT: Objection, vague. 2 THE WITNESS: The orientation that Dyson 3 chose is based upon what a layperson would 4 think. It's really easy. I mean, you don't 5 have to be an expert. 6 Dyson sells these vacuums to people that 7 may be buying the first vacuum ever. And they 8 still use bottom and front in a way to describe 9 it to a layperson. So their description is 10 fairly simple. And it's consistent with what 11 somebody who is an expert would choose to pick. 12 BY MR. EMERICK: 13 Q Does that include you? 14 A As I said, for Dyson's products that I 15 have looked at and had a chance to go over, and 16 looking at their manuals, it's consistent. 17 Q What's consistent? 18 A What Dyson says is the bottom of the 19 vacuum. So -- and let's just assume that this is 20 similar to the Omni, which is one that I have looked 21 at Dyson's manuals, they say that the cleaning head, 22 the thing that runs on the floor, the bottom of that 23 is the bottom. And that's always the bottom. 24 Doesn't matter if you turn it up as they show in

49 1 their instruction manual and you look to see if 2 there's something stuck in it, it's still the 3 bottom. 4 The bottom of the wand is always the 5 bottom. In their manual that they give to people 6 who are not experts, they show that wand laying 7 sideways. They don't refer to that wand, the right 8 side of that wand as the right side as shown. They 9 refer to it as the bottom because it is the bottom 10 under normal use. That's consistent with what 11 Dyson's opinions are. It's consistent with the 12 declaration and the opinions that I've had in this 13 report. 14 Q Is the wand -- so the wand is the bottom 15 of the vacuum shown in Exhibit 4? 16 MR. VINCENT: Objection, vague, misstates 17 testimony. 18 THE WITNESS: No. The wand is not the 19 bottom. But the bottom portion of the wand is 20 described by Dyson as the bottom. Regardless 21 of the fact that they describe it as the bottom 22 while they're currently showing it laying it on 23 its side, it's still understood to be the 24 bottom.	51 1 MR. VINCENT: Objection, vague. 2 THE WITNESS: It's like everything else. 3 I need the whole vacuum. I need to use it. I 4 need to play with it for a little bit. Then I 5 could render an opinion. 6 BY MR. EMERICK: 7 Q What would the use tell you about what the 8 bottom of the vacuum is? 9 MR. VINCENT: Objection, form, vague, 10 speculation. 11 THE WITNESS: Because using it and how 12 it's used -- and, again, we're talking about a 13 product -- right? -- not the patents; is that 14 correct? 15 BY MR. EMERICK: 16 Q We're talking about the V10 product -- 17 A Okay. 18 Q -- Exhibit 2 that's sitting in front of 19 you right now. 20 A Okay. And as the product, you would take 21 it and you would use it. And there would be a 22 general use or a normal use. I mean, you see this 23 person here vacuuming, yes, you -- you could choose 24 to pick it up and hold it backwards and shoot it
50 1 BY MR. EMERICK: 2 Q Okay. Is the inlet of Exhibit 2 where air 3 comes in, is that the bottom of Exhibit 2? 4 MR. VINCENT: Objection, form, vague, 5 speculation. 6 THE WITNESS: It lines up with the bottom 7 of the -- it's in the same orientation as the 8 bottom of the wand, so you could say that. But 9 again, I've got to go through and -- if I'm 10 going to do anything that's on my own, if I'm 11 going to do anything that's other than 12 repeating what Dyson has said, then I'm going 13 to need time to look at it. 14 BY MR. EMERICK: 15 Q Do you have any reason to disagree that 16 the inlet of Exhibit 2 is on the bottom, sitting 17 here today? 18 MR. VINCENT: Objection, form, vague, 19 calls for speculation. 20 THE WITNESS: I have no reason to agree or 21 disagree. 22 BY MR. EMERICK: 23 Q How much time do you think it would take 24 you to determine what the bottom of the V10 is?	52 1 that way (indicating), but that's not normal use, so 2 at least as far as I understand, it's ergonomically 3 designed to be held like this (indicating), be done 4 in a number of ways, but with the wand on it and the 5 cleaning head. And it's generally going to be 6 pointing downward, away from you, maybe going under 7 a sofa. So I guess I'd have to play with it for a 8 little while. 9 Q Okay. If you just have images of a vacuum 10 and you're not able to play with it, are you able to 11 render an opinion as to what the front is, for 12 example? 13 MR. VINCENT: Objection, vague, 14 foundation. 15 THE WITNESS: I don't know. I'd have to 16 think about that for a while. Depends on the 17 images. 18 BY MR. EMERICK: 19 Q How does it depend on the images? 20 MR. VINCENT: Same objections. 21 THE WITNESS: Like I said, all I can 22 answer is it depends on the images. 23 BY MR. EMERICK: 24 Q Okay. So Exhibit 4 is an image of the --

53 1 A Yes. 2 Q -- Dyson vacuum. You see that? 3 A Yes. 4 Q What is it about that image that makes you 5 unable to render an opinion as to what the front of 6 the Dyson V10 is? 7 MR. VINCENT: Objection, form, vague, 8 misstates testimony. 9 THE WITNESS: There's nothing about the 10 image that makes me unable. What I'm saying is 11 until I have a chance to properly use this, I'm 12 not going to. 13 BY MR. EMERICK: 14 Q Okay. And so if you're just given images 15 of a vacuum, you're not able to render an opinion as 16 to what the front or the rear 17 is -- right? -- because you haven't had a chance to 18 use them? 19 MR. VINCENT: Objection, vague, misstates 20 testimony. 21 THE WITNESS: I said, it depends on the 22 images. 23 Here, we have a single image of somebody 24 holding this.	55 1 MR. VINCENT: Objection, form. 2 THE WITNESS: -- if that's what you say, 3 then, yes. 4 BY MR. EMERICK: 5 Q Okay. And so what information do you need 6 to be able -- so let me step back and say, do you 7 understand that this vacuum, Exhibit 2 in front of 8 you, is a fully functioning vacuum as is? 9 MR. VINCENT: Objection. 10 BY MR. EMERICK: 11 Q Do you understand that? 12 MR. VINCENT: Objection, vague, 13 foundation. 14 THE WITNESS: This portion appears to be. 15 BY MR. EMERICK: 16 Q Okay. And so setting aside the fact that 17 you can also attach various attachments to this, are 18 you able to make a determination as to what the 19 front of this vacuum is? 20 MR. VINCENT: Objection, vague. 21 THE WITNESS: Are we talking about the 22 vacuum? Are we talking about the handheld 23 piece? 24 BY MR. EMERICK:
54 1 BY MR. EMERICK: 2 Q What is -- what do the images need to show 3 for you to be able to render an opinion as to what 4 the front of a vacuum is? 5 MR. VINCENT: Objection, vague, 6 speculation. 7 THE WITNESS: I'd want to look at quite a 8 number of images of how it's used, what's going 9 on, are there any -- you know, any other 10 options, the whole thing. 11 BY MR. EMERICK: 12 Q Isn't the physical vacuum in front of you 13 nothing more than an infinite number of images? 14 MR. VINCENT: Objection, form, vague, 15 foundation. 16 THE WITNESS: Is that vacuum? 17 BY MR. EMERICK: 18 Q Yeah. 19 A Is that the vacuum? 20 Q Correct. 21 A Where's the rest of it? 22 Q It's got a wand and a floor tool that are 23 shown in Exhibit 4. You understand that? 24 A I'm quite aware --	56 1 Q I'm talking about the physical Exhibit 2, 2 in front of you. It's a -- it's a physical vacuum. 3 Do you see that? Do you understand that? 4 A Um-hum. 5 MR. VINCENT: Objection, form. 6 BY MR. EMERICK: 7 Q Okay. Does Exhibit 2, sitting in front of 8 you, have a front? 9 MR. VINCENT: Objection, vague. 10 THE WITNESS: Are you talking about the 11 head unit? 12 BY MR. EMERICK: 13 Q I'm talking about the whole exhibit. Do 14 you understand the question that I'm asking? 15 MR. VINCENT: Jay, you don't -- you don't 16 need to take that tone. So please just keep 17 that in mind. 18 BY MR. EMERICK: 19 Q And do you -- let me strike the question. 20 Do you understand that you have an 21 obligation to provide responsive answers to my 22 question? 23 MR. EMERICK: And I don't think there was 24 any tone and I think the video will reflect

57 1 that. 2 MR. VINCENT: Okay. 3 THE WITNESS: Yes. 4 MR. VINCENT: Object to form of that 5 question. 6 THE WITNESS: So because -- because we're 7 talking about -- so I can give you a -- we're 8 talking about just the head unit; correct? 9 Just this? 10 BY MR. EMERICK: 11 Q Incorrect. Incorrect. 12 A Oh. 13 Q Exhibit 2. Do you understand Exhibit 2 is 14 a physical device? You are holding it in your hand. 15 MR. VINCENT: Objection, form. 16 THE WITNESS: Yeah. But isn't this the 17 head unit of the vacuum? 18 BY MR. EMERICK: 19 Q We already established that Exhibit 2 was 20 a complete functional vacuum. You agree? 21 MR. VINCENT: Objection, form, foundation. 22 THE WITNESS: I thought we were talking 23 about the V10. 24 BY MR. EMERICK:	59 1 MR. VINCENT: Objection, vague. 2 THE WITNESS: So, as somebody skilled in 3 the art, again, given no other frame of 4 reference, okay, I would take this and I would 5 hold it in a way that is what I would consider 6 normal use. And I would hold it with the front 7 facing forward, and given no other frame of 8 reference, I would say that this is the front 9 of the head unit. 10 BY MR. EMERICK: 11 Q Okay. Does Exhibit 2 have a top? 12 MR. VINCENT: Object to form, vague, 13 speculation. 14 THE WITNESS: Are you talking about an 15 individual feature or in general? 16 BY MR. EMERICK: 17 Q Are you able to answer the question? Does 18 Exhibit 2 -- and I'm talking about, again, the 19 entirety of Exhibit 2 when I say Exhibit 2, does 20 Exhibit 2 have a top? 21 MR. VINCENT: Same objections. 22 THE WITNESS: When you look at this 23 design, there is no individual feature that 24 sticks out as the top. But given that that is
58 1 Q We are talking about Exhibit 2. Do you 2 understand that? 3 MR. VINCENT: Objection, form. 4 THE WITNESS: Okay. This is the head unit 5 of a vacuum. There is a wand portion. There 6 is a floor cleaning head. 7 BY MR. EMERICK: 8 Q Do you understand that Exhibit 2 does not 9 require any additional tools or accessories in order 10 to suck things up, separate dust from air, et 11 cetera? Do you understand that? 12 A Yes, I do. 13 Q Is Exhibit 2 a vacuum? 14 MR. VINCENT: Objection, vague. 15 THE WITNESS: Yeah. It's the head unit of 16 a V10, from what you're saying. 17 BY MR. EMERICK: 18 Q Okay. So you're using the term "head 19 unit" to describe the entirety of Exhibit 2 in front 20 of you; correct? 21 MR. VINCENT: Objection, vague. 22 THE WITNESS: Yes. 23 BY MR. EMERICK: 24 Q Okay. Does Exhibit 2 have a front?	60 1 the front, (indicating), which would -- I would 2 say for the head unit, and that would be the 3 bottom of the head unit, then this would 4 generally be the top. 5 BY MR. EMERICK: 6 Q Okay. And for reference, for the 7 transcript, the top, are you referring to the 8 surface that has -- that is currently as shown on 9 video closest to the ceiling? 10 MR. VINCENT: Objection, vague. 11 THE WITNESS: That's kind of my point, is 12 there isn't a singular surface that is -- which 13 is the reason we couldn't -- well, actually, I 14 don't know if this -- oh, that one does a 15 little better. So you're hitting on two 16 cyclones in the vacuum chamber here. 17 So there's no individual feature that I 18 would say is the top, you know, unlike the 19 bottom of the battery pack, which is fairly 20 straightforward that's the bottom. 21 BY MR. EMERICK: 22 Q Does Exhibit 2 have a top or not? 23 MR. VINCENT: Objection, vague, asked and 24 answered.

61 1 THE WITNESS: You're asking about a 2 singular. You're saying a top. 3 BY MR. EMERICK: 4 Q Does it have multiple tops? 5 MR. VINCENT: Objection, vague. 6 THE WITNESS: Not sure how to answer that, 7 actually. Again, it's -- the front of this is 8 fairly clear. The bottom of this. So this 9 area up here, (indicating), you could say would 10 generally be the top. 11 BY MR. EMERICK: 12 Q Does it have a rear? 13 MR. VINCENT: Objection, vague. 14 MR. EMERICK: Strike the question. 15 BY MR. EMERICK: 16 Q Does Exhibit 2 have a rear? 17 MR. VINCENT: Objection, vague. 18 THE WITNESS: Well, kind of in space, if 19 that's the bottom, (indicating), and that's the 20 front, then this area back here would be the 21 rear. 22 BY MR. EMERICK: 23 Q And you're saying this conditioned on a 24 hypothetical. Is the battery pack portion that has	63 1 specification describes that the dirt chamber 144 2 "is bounded by a top wall, 152, a bottom wall, 154, 3 and at least one side wall, 156". You see that? 4 A Yes. 5 Q Does the V10 have any top walls? 6 MR. VINCENT: Objection, form, vague, 7 calls for speculation. 8 THE WITNESS: So this is where, again, 9 things are -- are not just simple top, front, 10 and side. 11 The surface -- the Figure 5C and what I'm 12 referencing in my declaration is fairly 13 straightforward. You have a flat surface, 14 which is the bottom; a flat surface which is 15 the top; and then you have flat surfaces which 16 make up the side, 156. 17 So there is nice and straightforward. 18 And as I said about this head unit, this 19 head unit has a fairly clearly defined bottom 20 made up as the bottom of the battery pack. It 21 has what I would consider a front of the head 22 unit, based upon how you would normally hold it 23 with the front facing away from you. How you'd 24 hold it in general use. Whether that's
62 1 the sticker on it, as you've indicated many times, 2 is that the bottom of Exhibit 2? 3 MR. VINCENT: Objection, vague, asked and 4 answered. 5 THE WITNESS: This, given no other frame 6 in reference, as an expert, you would say that 7 that is the bottom of the head unit. 8 BY MR. EMERICK: 9 Q So where we started with all this was 10 you -- I brought your attention to paragraph 73 of 11 your declaration. And we talked about your opinions 12 on side wall. And we're still on this topic. 13 A Okay. 14 Q Okay? So if you could refresh yourself by 15 turning to paragraph 73. 16 A I am there. 17 Q Okay. And you had an opinion that 18 generally understood plain and ordinary meaning of 19 side wall is a wall forming the side of something, 20 and that's the first sentence of paragraph 73. You 21 see that? 22 A Oh. Seventy-three. 23 Yes. 24 Q And you go on to say that the '666 patent	64 1 straight away or kind of down and away, which 2 is how it would normally be used, which then 3 establishes that this area is the back 4 (indicating). 5 But there is no flatout -- you know, these 6 are apples and oranges. There's no flatout 7 surface that says this is the top. And as you 8 can see, that geometry carries around to the 9 side. There is no singular surface that says 10 this is the side wall, unlike the example that 11 I was talking about in my declaration. 12 BY MR. EMERICK: 13 Q Okay. So the V10 doesn't have a side wall 14 then? 15 MR. VINCENT: Objection, form, vague, 16 misstates testimony, calls for speculation. 17 THE WITNESS: There's no clearly defined 18 side wall, as I sit here today. Who knows, if 19 I went back and looked at it some more, maybe I 20 could figure out something that you could call 21 a side wall, but I'm not getting that or the 22 top. 23 BY MR. EMERICK: 24 Q And is that because the V10 uses curved

65 1 geometry? It doesn't have a side wall? 2 MR. VINCENT: Objection, form, 3 speculation, misstates testimony. 4 THE WITNESS: So in the technical world, 5 when you look at a curved feature, there are 6 tangency points that you could establish a 7 horizontal plane or tangency points you could 8 establish a vertical plane. And, yeah, you can 9 say maybe that's the side but it's not just 10 that simple and straightforward because this 11 is -- that's curved surface, this is convoluted 12 geometry. 13 So it's not as clear as the bottom. 14 Nowhere near as clear as the front, which then, 15 by definition, makes the rear this stuff. 16 BY MR. EMERICK: 17 Q You see where the vacuum says "max" on the 18 bin? 19 A Oh. Yeah. 20 Q On Exhibit 2? Let me strike the question. 21 You see where Exhibit 2 says the word 22 "max" on the bin? 23 A Yes. 24 Q Is that a top wall --	67 1 calls for speculation. 2 THE WITNESS: So, again, sitting here with 3 a quick look, then I would say that -- kind of 4 like what I said, there's no real back, but 5 this is the rear. So then, yes, where "max" is 6 would generally be considered in the area of 7 the top. 8 BY MR. EMERICK: 9 Q And so where the word "max" is, would 10 that -- would that be a top wall or would that be 11 not a top wall? 12 MR. VINCENT: Objection, vague, 13 foundation, calls for speculation. 14 THE WITNESS: That, again, I really can't 15 answer that right now. This is -- this is 16 not -- you know, if we had nice blocky shapes, 17 then I could, kind of like what's -- what's in 18 my declaration, I could say, yep, that's the 19 top. You know, I'm -- I'm comfortable saying 20 that this is the bottom. All right? I'm 21 comfortable saying that. 22 I'm not comfortable saying that this exact 23 surface, (indicating), is the top. 24 BY MR. EMERICK:
66 1 MR. VINCENT: Objection. 2 BY MR. EMERICK: 3 Q -- where it says "max"? 4 MR. VINCENT: Sorry. Objection, form, 5 vague, calls for speculation. 6 THE WITNESS: So, again, this is what I 7 was getting at. If you were to look at a 8 tangency point across there -- all 9 right? -- then that's a horizontal surface that 10 is relatively parallel to the bottom. Not 11 exactly. 12 I mean, it looks like it's very close. So 13 you could say that that might be the top part 14 of the dust collection chamber. That doesn't 15 necessarily mean that it is the "top of the 16 vacuum." I don't really know what you would 17 exactly call the top of the vacuum, so... 18 BY MR. EMERICK: 19 Q Is it in the general area of the top of 20 the vacuum -- 21 MR. VINCENT: Objection. Sorry. 22 BY MR. EMERICK: 23 Q -- the word "max"? 24 MR. VINCENT: Objection, form, vague,	68 1 Q So my question's a little bit different. 2 A Okay. 3 Q Is -- is where it says "max," is that a -- 4 a top wall? 5 MR. VINCENT: Objection, form, vague, and 6 calls for speculation, asked and answered. 7 THE WITNESS: I wouldn't use that specific 8 term. 9 BY MR. EMERICK: 10 Q Why not? 11 MR. VINCENT: Objection, form, vague, 12 calls for speculation. 13 THE WITNESS: Because there's a difference 14 between an upper portion and a top. Okay? 15 The tangency line across here would 16 theoretically be the very top of this chamber. 17 Okay? 18 BY MR. EMERICK: 19 Q Would a tangency line running through the 20 word "max," would that be a top surface? 21 MR. VINCENT: Objection, form, vague, 22 foundation, calls for speculation. 23 THE WITNESS: Again, it's not a top 24 surface because we're talking about something

69 1 round. You could call it the upper portion of 2 the vacuum chamber. But the word "top" is not 3 one that I would, at this time, say, yep, 4 that's the top. 5 BY MR. EMERICK: 6 Q And so it's not a top wall? 7 MR. VINCENT: Objection, misstates 8 testimony, vague, calls for speculation. 9 THE WITNESS: That's not what I said. 10 I've said I'm not in a position, because it's 11 not cut and dry, it's not clear as is what I 12 describe in paragraph 73, the top. So I'm not 13 prepared to say it is a top. I'm not prepared 14 to say it isn't a top. I am prepared to say 15 that it is the -- where "max" is, is the upper 16 portion of the vacuum chamber of the cleaning 17 head on the V10. 18 BY MR. EMERICK: 19 Q And there is a power button. You see -- 20 yeah. 21 A The one that says "boost"? 22 Q It says "boost." 23 A Okay. 24 Q That's not on a top wall of the vacuum	71 1 portion of the motor housing. 2 BY MR. EMERICK: 3 Q What's causing the lack of clarity? 4 MR. VINCENT: Objection, vague, 5 speculation. 6 THE WITNESS: Because something saying 7 that it is the top, that terminology just 8 doesn't fit the geometry. 9 BY MR. EMERICK: 10 Q The geometry being the curved geometry of 11 the V10? 12 MR. VINCENT: Objection, misstates 13 testimony, vague. 14 THE WITNESS: Yeah. It's -- it's -- the 15 terminology just doesn't fit. 16 BY MR. EMERICK: 17 Q So because of the V10's curved geometry, 18 it doesn't have a top wall, a bottom wall, or a side 19 wall? 20 MR. VINCENT: Objection, vague, misstates 21 testimony, calls for speculation. 22 THE WITNESS: No. That isn't what I've 23 said. What I've said if it was cut and dry, 24 like the bottom, then I would be comfortable
70 1 either? 2 MR. VINCENT: Objection, form, vague, 3 calls for speculation. 4 THE WITNESS: Again, it would be a similar 5 answer in that it is on the upper portion of 6 the motor housing but, you know, if -- if this 7 were perfectly flat, I could say it's the top 8 wall of the motor housing. But that doesn't 9 necessarily make it the top wall of the head 10 unit. 11 BY MR. EMERICK: 12 Q Okay. But because it's -- because it's 13 round, it's not necessarily a top wall of the motor 14 housing? 15 MR. VINCENT: Objection, misstates 16 testimony, vague, speculation. 17 THE WITNESS: I'm just saying, I wouldn't 18 describe it that way. 19 BY MR. EMERICK: 20 Q Why not? 21 MR. VINCENT: Objection, vague, 22 speculation. 23 THE WITNESS: Because, again, it's not a 24 cut and dry, clear top wall. It is the upper	72 1 going on the record and saying, hey, that's the 2 top. Okay? But it isn't cut and dry. It 3 isn't that simple. Okay? And that's not 4 necessarily the terminology that I would use. 5 BY MR. EMERICK: 6 Q And the difference between the cut and dry 7 nature of the battery pack and the V10 body, as 8 you've shown, is that the V10 body has these 9 cylindrical elements, whereas the battery pack has a 10 flat surface; right? 11 MR. VINCENT: Objection, vague. 12 THE WITNESS: No. There's more to it than 13 that. It's not just that it's flat. This is a 14 singular surface. 15 BY MR. EMERICK: 16 Q Okay. 17 A Here, you have curved motor housing. 18 You've got all the convoluted portions of the 19 cyclones. You've got a curved dust chamber. So 20 there's more to it than just the shape. 21 Q Understood. So let's -- let's focus, 22 then, on just the dust bin, the clear part. 23 A Yep. 24 Q So Exhibit 2, the V10, is there a top wall

73 1 of the clear bin portion? 2 MR. VINCENT: Objection, vague, 3 foundation, calls for speculation. 4 THE WITNESS: So as I was saying before, 5 the fact that it is a curved surface makes that 6 just simple terminology "top" not really what I 7 would use. Okay? I would say that that is the 8 upper portion. Okay. 9 If you wanted to get into, you know, hey, 10 would a tangent plane be the top surface? 11 Well, yeah, we're talking about a tangent plane 12 that runs through "max," then yes, but, again, 13 it's just -- it's not as straightforward. 14 BY MR. EMERICK: 15 Q Does the clear chamber of the V10 have a 16 bottom wall? 17 MR. VINCENT: Objection, calls for 18 speculation, vague. 19 THE WITNESS: You need a lockout button or 20 something. 21 No. For the -- for the same reason, you 22 know, it's also curved. And it's -- and 23 there's -- not only that, there's a -- does 24 this whole bin pop out if I -- see, because	75 1 would like for me to talk about? 2 BY MR. EMERICK: 3 Q Well, let's -- let's start with the bin. 4 So for the bin, you wouldn't -- you wouldn't use the 5 term "side wall" to describe any portion of the bin? 6 MR. VINCENT: Objection, calls for 7 speculation, vague, foundation. 8 THE WITNESS: So the same holds true. 9 You've got a curved surface. So I would say 10 that this -- like here, on the mold, you have 11 what's known as a parting line where the mold 12 splits apart. 13 I don't know if you can see that in the 14 camera, but there's a little line there. 15 So I would say that line is towards the 16 side of the bin but I wouldn't say that that's 17 the side wall. 18 BY MR. EMERICK: 19 Q Why not? 20 MR. VINCENT: Objection, vague, 21 speculation. 22 THE WITNESS: Because for the same 23 reasoning. There's no cut and dry side to 24 this. So, you know, again, as I sit here
74 1 here, we've got -- we've got the dust bin that 2 goes around and it's actually seated in a 3 curved frame. So if you're talking about the 4 dust bin itself, well, it shares similar 5 geometry on the lower part as the upper part. 6 So all of that -- all those answers you could 7 apply to the bottom. 8 BY MR. EMERICK: 9 Q And what is the answer? 10 MR. VINCENT: Same objections. 11 THE WITNESS: That because it's curved, 12 there's no singular flat surface, unlike what I 13 talk about in paragraph 73. You know, I 14 wouldn't use the terminology that there is a 15 bottom wall. 16 BY MR. EMERICK: 17 Q And I take it you wouldn't use the 18 terminology "side wall" to describe any portion of 19 the V10? 20 MR. VINCENT: Objection, misstates 21 testimony, vague, foundation, calls for 22 speculation. 23 THE WITNESS: Are you talking about any 24 portion or is there a specific portion you	76 1 today, it's not as simple. I mean, you look 2 down here, you look at paragraph 73, you've got 3 three perpendicular planes, which is just like 4 three-dimensional space. So it's very simple. 5 You've got a bottom, you've got a top, you've 6 got a side. Okay? 7 So if it was that simple and cut and dry, 8 then I would be comfortable saying, that's the 9 side. 10 MR. VINCENT: We've been going a little 11 more than about an hour and 20 minutes. 12 MR. EMERICK: I think I've got just a 13 couple more on this. It's been a little bit 14 longer of a module than I originally 15 anticipated but I think we can wrap up soon. 16 THE WITNESS: Okay. 17 BY MR. EMERICK: 18 Q Are you able to identify any side walls on 19 the V10? 20 MR. VINCENT: Objection, calls for 21 speculation, vague, foundation. 22 BY MR. EMERICK: 23 Q Before you answer that, is "side wall" a 24 vague term?

77 1 MR. VINCENT: Objection. 2 BY MR. EMERICK: 3 Q Do you agree with your counsel's 4 objection? Do you think -- let me -- let me -- I'll 5 ask a new question. 6 Is side wall a vague term to you? 7 MR. VINCENT: Objection, vague. You're 8 asking a legal question. You haven't put any 9 patents in front of him to determine what side 10 wall means in terms of any of the asserted 11 patents here. 12 MR. EMERICK: So improper speaking 13 objection, coaching the witness. 14 MR. VINCENT: You're asking him to take 15 positions on my objections, my legal 16 objections. 17 MR. EMERICK: Let me ask you this. 18 MR. VINCENT: So I'm going to make my 19 objections. You have not put any of the 20 patents in front of him to do any analysis to 21 determine how any of these terms appear. So 22 I'm going to make my objection again. The 23 objection is vague. The question lacks 24 foundation, and the question calls for	79 1 Q So is a side wall something that is on a 2 bottom of a surface? 3 MR. VINCENT: Objection, vague, 4 speculation. 5 THE WITNESS: No. Again, side wall has to 6 have a origin. Okay? They could have chosen 7 to take side wall 156. And if they had started 8 out and said -- I don't really have anything 9 around here. If they had started out and said 10 156 is my bottom, then they could have called 11 152 a side wall. 12 So side wall is a side of some thing 13 you've already established. 14 BY MR. EMERICK: 15 Q The portion -- on Exhibit 2, the portion 16 of the battery pack that's on the table right now 17 has a sticker on it. 18 A Yes. 19 Q And it's the sticker's touching the table. 20 You want to pick that up for the camera? 21 A Oh. 22 Q Thank you. 23 A Oh, yeah. You're talking about this? 24 Q Yeah.
78 1 speculation. 2 BY MR. EMERICK: 3 Q Is the term "side wall" a vague term to 4 you? 5 MR. VINCENT: Objection, form, vague, 6 lacks foundation. 7 THE WITNESS: So, again, side wall is 8 straightforward. Trying to apply that to 9 something that it doesn't really fit, that's 10 the issue. 11 BY MR. EMERICK: 12 Q What -- what is a side wall? 13 MR. VINCENT: Objection, vague, calls for 14 speculation. 15 THE WITNESS: So in general terms, once 16 you've established something, like here in 17 paragraph 73, you may be decided, because of 18 the way this is oriented, to call out 154 as a 19 bottom, which then, by definition, would make 20 152 the top. 21 And then it's very clear that then you can 22 call 156 a side wall. So there, it's real 23 simple, real straightforward. 24 BY MR. EMERICK:	80 1 A Not this one. You're talking about the 2 instructions? 3 Q Yeah. Not the -- not the exhibit -- not 4 the exhibit sticker. 5 A Okay. 6 Q But the Dyson sticker. 7 A Yes. 8 Q Is that a side wall? 9 MR. VINCENT: Objection, vague, 10 foundation, speculation. 11 THE WITNESS: No. As I said -- that is a 12 cool sound. 13 I would call -- you know, as I said, I see 14 that as the bottom of the head unit. It's also 15 the bottom of the battery pack. 16 BY MR. EMERICK: 17 Q The exhibit sticker -- 18 A Yes. 19 Q -- Exhibit 2, is that on a side wall of 20 the battery pack? 21 MR. VINCENT: Objection, vague, 22 foundation, calls for speculation. 23 THE WITNESS: So as I said, somebody 24 skilled in the art, and I also think a

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Conducted on June 12, 2024

21 (81 to 84)

81 1 layperson would agree with this, that when 2 you're holding this and using this, that with 3 regards to the head unit, that's the bottom, I 4 said this portion up here where the suction 5 inlet is, would be the front. 6 And in this case, that where the -- where 7 the sticker is, the blue sticker here, I would 8 be comfortable saying that that's the side wall 9 of the battery pack. 10 BY MR. EMERICK: 11 Q Is the V10 handle in Exhibit 2 attached to 12 any side walls? 13 MR. VINCENT: Objection, vague, calls for 14 speculation. 15 THE WITNESS: As I sit here today, I would 16 say I'm not seeing anything cut and dry that I 17 could go on the record and say it's attached to 18 a side wall or abuts against a side wall. 19 MR. EMERICK: All right. Let's take a 20 break. 21 VIDEOGRAPHER: We are going off the 22 record. The time is 10:30 a.m. 23 (A brief recess is had from 10:30 a.m. to 24 10:45 a.m.)	83 1 THE WITNESS: Okay. 2 BY MR. EMERICK: 3 Q But I want -- I put them in front of you 4 so you can vacuum them up with Exhibit 2, the V10. 5 A Okay. 6 Q And so what I'd like you to do is vacuum 7 them up. And when you do, I'd like you to watch how 8 they're moving within the -- 9 A Chamber. 10 Q -- V10. 11 A Okay. 12 Q Okay? 13 A So are we ready? 14 Q Ready when you are. Go ahead. 15 A All right, (indicating). 16 Oh. After I get them. So you're asking 17 me to kind of keep it running to see if they spin 18 around, that kind of stuff? 19 Q So -- so first, you can just vacuum them 20 up. 21 A Okay. 22 Q And then we can press the button more 23 after that. 24 A Got them.
82 1 VIDEOGRAPHER: We are back on the record. 2 The time is 10:45 a.m. 3 BY MR. EMERICK: 4 Q Welcome back, Mr. Akhavein. During the 5 break, did you have any discussions with counsel 6 regarding the substance of your testimony? 7 A No. 8 Q Did you have any -- were you present 9 during any discussions regarding the substance of 10 your testimony? 11 A You talking about between counsel? 12 Q Between anyone. 13 A Oh. No. 14 Q Okay. 15 A There was none. 16 Q So I want to switch gears. And I have put 17 some scraps of paper in front of you. And they 18 don't -- 19 A Can you -- can you see the scraps of paper 20 on the video or is this thing in the way? 21 Q And it's all right if they're not on the 22 video. 23 A Oh, okay. 24 VIDEOGRAPHER: Yeah. It's showing.	84 1 Q All right. Did you see the scraps of 2 paper spin around at all? 3 A Yes. 4 Q Do you know why that's happening? 5 MR. VINCENT: Objection, vague, calls for 6 speculation. 7 THE WITNESS: Yeah. There's a -- there's 8 a vortex that is going on inside of there. 9 It's -- creates a spinning motion in this 10 chamber. 11 BY MR. EMERICK: 12 Q Is that vortex sometimes called a cyclone? 13 MR. VINCENT: Objection, vague. 14 THE WITNESS: You can call it that. 15 It's -- 16 MR. VINCENT: Sorry. Hold on. 17 THE WITNESS: Oh, I'm sorry. Yes. 18 MR. VINCENT: Objection, vague, calls for 19 speculation. 20 THE WITNESS: Yes. Yeah. That's -- in 21 the vacuum world, yeah, you would cyclon, 22 cyclone -- cyclonic action, that's probably a 23 better term for -- for the space that we're in. 24 BY MR. EMERICK:

85 1 Q Where did the scraps of paper collect in 2 the V10 that you just vacuumed up? 3 A In the dust bin. 4 Q Okay. And where's the dust bin? 5 MR. VINCENT: Objection, vague. 6 THE WITNESS: It's this clear housing, the 7 one that we were talking about with the max on 8 it and all of that. 9 BY MR. EMERICK: 10 Q Okay. In the V10, did the scraps of paper 11 collect in the same chamber that you observed the 12 vortex? 13 MR. VINCENT: Objection, vague, 14 speculation. Sorry. Calls for speculation. 15 THE WITNESS: So, yeah. They've ended up 16 primarily in this -- this portion. Well, can 17 you see that on the video? So they ended up 18 primarily in this portion of the dust bin, 19 (indicating). 20 BY MR. EMERICK: 21 Q And the portion where the scraps of paper 22 ended up, did you also observe cyclonic flow in that 23 portion? 24 MR. VINCENT: Objection, vague, as to	87 1 chamber that's exterior to a cyclone chamber? Or 2 was it all the same chamber? 3 MR. VINCENT: Objection, vague, calls for 4 speculation. 5 THE WITNESS: What I have observed is the 6 paper remained on the inside of the dust 7 collection chamber. 8 BY MR. EMERICK: 9 Q Okay. Did you observe any of the paper 10 going into any exterior dirt-collection chamber? 11 MR. VINCENT: Objection, vague, calls for 12 speculation. 13 THE WITNESS: So you're going to have 14 to -- just for clarification, external to what? 15 BY MR. EMERICK: 16 Q Exterior to a cyclone chamber. 17 A Oh, okay. So -- so when you -- 18 MR. VINCENT: Hold on. 19 THE WITNESS: I'm sorry. Yep. 20 MR. VINCENT: Object. Every time he asks 21 a question -- 22 THE WITNESS: Yes. 23 MR. VINCENT: -- I have to jump in with my 24 objections.
86 1 cyclonic flow, calls for speculation. 2 THE WITNESS: So are you talking about 3 them spinning? Yes. 4 BY MR. EMERICK: 5 Q The V10 doesn't have a dirt-collecting 6 chamber that's exterior to the cyclone chamber; 7 right? 8 MR. VINCENT: Objection, vague, calls for 9 speculation. 10 THE WITNESS: So can you ask that again? 11 BY MR. EMERICK: 12 Q Yeah. Does the V10 have a dirt-collection 13 chamber that's exterior to the cyclone chamber or is 14 it all the same chamber? 15 MR. VINCENT: Objection, vague, calls for 16 speculation. 17 THE WITNESS: That, I can't answer. I can 18 tell you what I'm seeing and where they're 19 ending up but I can't tell you if there is some 20 other internal filter that's going to catch 21 stuff that's smaller than the paper, so... 22 BY MR. EMERICK: 23 Q Okay. So let me ask with respect to the 24 paper. Did the paper collect in a dirt-collection	88 1 THE WITNESS: Okay. 2 MR. VINCENT: Objection, vague, calls for 3 speculation. 4 THE WITNESS: So if you're asking, if I 5 understand this correctly, when you ask 6 exterior, you mean exterior to the actual 7 cyclone portion of the air moving? 8 BY MR. EMERICK: 9 Q I'll ask a clean question. 10 A Okay. 11 Q So the paper scraps that you just vacuumed 12 up with the V10, were any of those deposited in a 13 dirt-collection chamber that is exterior to a 14 cyclone chamber? 15 MR. VINCENT: Objection, vague, calls for 16 speculation. 17 THE WITNESS: I'm not sure I can fully 18 answer that. What I can tell you is what I 19 observed is that the paper remained inside of 20 the dust bin, trapped in the cyclonic motion, 21 or the air that was in the cyclonic motion. 22 BY MR. EMERICK: 23 Q Okay. And so for the scraps of paper that 24 you observed, you didn't see any that went into a

89 1 dirt-collection chamber that was exterior to a 2 cyclone chamber? 3 MR. VINCENT: Objection, vague, calls for 4 speculation, asked and answered. 5 THE WITNESS: I've not observed anything 6 other than what I just said, and that is the 7 paper seems to remain in the cyclonic air 8 portion of the dust bin. 9 BY MR. EMERICK: 10 Q If you could turn the vacuum a little 11 bit -- sorry, the other way for the camera. 12 A Um-hum. 13 Q Thanks. 14 Do you see sort of midway through the 15 clear bin, there's a structure that looks like -- I 16 might describe it as a rubber gasket. Can you point 17 your finger to that area? 18 A Yeah. This -- this conical shaped gasket? 19 Q Yeah. Do you know what that is? 20 A So -- 21 MR. VINCENT: Objection to the extent it 22 calls for speculation. 23 THE WITNESS: In looking at this, it's 24 similar to what's been used in industry for	91 1 whole bunch, that's what I -- sitting here 2 today, that's what I would say that that is 3 doing. 4 BY MR. EMERICK: 5 Q You mentioned the term "baffle." Is that 6 a word you would use to describe this structure? 7 And by "this structure," the structure right 8 below -- right by the word "max." Yep. 9 A Yes. Yeah. That's -- 10 MR. VINCENT: Objection. Sorry. 11 Objection, vague, foundation, calls for 12 speculation. 13 THE WITNESS: Yes. So that -- baffle is, 14 in the technical world, when we're talking 15 about air movement here. There's lots of other 16 terms. But when you're talking about air 17 movement, it's something that adjusts the 18 direction of the air without actually stopping 19 it. It may make it change directions. For 20 example, in speaker design, you have baffles 21 that allow the air to go back and forth but it 22 changes the direction. 23 In a industrial filter, it's a baffle. It 24 does the same thing. It's allowing air to pass
90 1 literally a hundred years for separating 2 heavier particles from air. 3 BY MR. EMERICK: 4 Q Okay. And what is that that's been used 5 in industry for hundreds of years that you're 6 referring to? 7 A Well, it's -- 8 MR. VINCENT: Sorry. Objection, vague, to 9 the extent it calls for speculation. 10 THE WITNESS: It can be a few different 11 names. It can be a baffle. I'm trying to 12 remember in the -- in the FRL, filter regulator 13 lubricator in the industry that when I first 14 start using these, in the pneumatic division at 15 Parker, this is the most common thing that you 16 will find in air filtration in the industry. 17 And it's -- it's similar. 18 They -- they use a baffle. They create 19 centrifugal air movement, or cyclonic air 20 movement. It slings the heavy particles to the 21 outside. Then the air runs through a filter of 22 different types and sometimes even a coalescent 23 filter that pulls the water out. So it's, you 24 know, again, without having studied this a	92 1 but it's altering the straight flow of air. 2 That would be much more likely to happen if 3 that wasn't there. 4 BY MR. EMERICK: 5 Q What's the purpose of altering the air 6 flow? 7 MR. VINCENT: Objection, vague, calls for 8 speculation as it applies to this vacuum. 9 THE WITNESS: So in your classic vacuum, 10 you're simply pulling air through a filter and 11 the size of the membrane of the filter 12 determines what level of, you know -- I don't 13 know what -- what micron level this would be. 14 There's probably a secondary filter in there, I 15 would imagine, of some kind. But that was the 16 old style. 17 The reason that you put something like 18 that in there is that what you're trying to do, 19 the whole purpose -- if you just pull the air 20 through and you didn't have that, the air's 21 just going to do like any other vacuum. It's 22 going to run in and your filter's going to get 23 clogged eventually, even if you have 24 multi-stage filters.

93 1 What that does is if you get the air to 2 spin, the centrifugal force of that throws the 3 particles outwards so that the heavier 4 particles then can travel to the filter. So 5 this filter, instead of getting quickly clogged 6 with big crap and medium crap, all it has to 7 deal with is the fine particles that aren't 8 heavy enough to get thrown to the outer wall of 9 the dust bin. 10 BY MR. EMERICK: 11 Q So I used the word "rubber gasket." And 12 candidly, I don't even know if it's made of rubber 13 or not. But is the word -- would you agree with 14 using the word "gasket" to describe? I'm trying to 15 just decide on some of the common terminology. 16 THE WITNESS: So... 17 MR. VINCENT: All right. Objection -- 18 THE WITNESS: Yes. 19 MR. VINCENT: -- vague, as it applies to 20 this vacuum. 21 THE WITNESS: Generally speaking, a gasket 22 is something that you use when you're trying 23 to -- when you bring two surfaces together. 24 Surfaces are never perfectly -- so you take two	95 1 as a baffle. And this particular one 2 creates -- you know, helps induce the cyclonic 3 motion. 4 BY MR. EMERICK: 5 Q If Dyson described that as a plate, would 6 you agree with that characterization? 7 MR. VINCENT: Objection, vague, calls for 8 speculation, as to this -- vague as to context 9 and calls for speculation as to this product. 10 THE WITNESS: I wouldn't disagree with it. 11 BY MR. EMERICK: 12 Q Okay. Why not? 13 MR. VINCENT: Same objections. 14 THE WITNESS: Maybe if you turn it like 15 that, it's kind of shaped like a dinner plate. 16 It's -- I don't know. If they're happy 17 with that term, as long as they're using it 18 consistently, I don't have any issues with it. 19 BY MR. EMERICK: 20 Q Okay. If Dyson didn't describe it as a 21 plate, would you ever describe it as a plate? 22 MR. VINCENT: Objection, vague as to the 23 term, context, calls for speculation as to this 24 product.
94 1 hard surfaces. You put a gasket between them 2 to soak up the differences to seal air. 3 So, for example, now technically, that's 4 an O-ring that's sealing the bust bin. But 5 that's acting like a gasket. They call it an 6 O-ring, but it's kind of like a gasket that's 7 in a circle. So a gasket is generally used 8 more when you're actually sealing something. 9 When you're allowing air to flow by -- I mean, 10 that's the word I use is -- and some of that's 11 just because of the industry, it's a baffle. 12 Okay. So I understand. If you want to 13 call it a gasket, I understand exactly what 14 you're talking about. 15 BY MR. EMERICK: 16 Q I'll use -- I'll use your terminology, 17 baffle. 18 A Okay. 19 Q So for this baffle, in the V10 bin, are 20 there any other words you'd use to describe this 21 structure? 22 MR. VINCENT: Objection, vague. 23 THE WITNESS: I don't know. Maybe you 24 could find some, but to me, it's -- it's acting	96 1 THE WITNESS: You know, I go back to the 2 days when I was designing this sort of 3 equipment in industry. We just called it a 4 baffle so that's kind of what I continue to 5 use. 6 BY MR. EMERICK: 7 Q So would you agree or disagree with 8 characterizing the baffle as a plate? 9 MR. VINCENT: Objection, vague as to 10 context, speculation as to this product, asked 11 and answered. 12 THE WITNESS: I'm comfortable if they want 13 to call it that. 14 BY MR. EMERICK: 15 Q Do you have any basis to describe it as a 16 plate? 17 MR. VINCENT: Objection, vague, 18 speculation, asked and answered. 19 THE WITNESS: Again, it wouldn't be what I 20 would choose. 21 BY MR. EMERICK: 22 Q Why not? 23 MR. VINCENT: Objection, vague as to 24 context, calls for speculation as to this

97 1 product, asked and answered. 2 THE WITNESS: Again, that was a 3 terminology used in the pneumatic industry when 4 you're designing a filter that's used -- that 5 uses cyclonic motion. Okay. It's also what's 6 designed -- I've done a lot of speaker design 7 and there's an actual type of speaker called an 8 infinite baffle. And all it is is a whole 9 bunch of plates that -- see, there you go. 10 It's actually -- and it's pieces that stick out 11 and it allows the air to flow. 12 And what it does is it creates a much 13 longer air spring so that helps you when you're 14 designing the base portion. And those are also 15 known as baffles. 16 Baffles are used in HVAC systems, if 17 you're trying to knock noise out. That's the 18 other big thing that's really important when 19 air -- you know, sound travels at the -- I 20 don't know, 1100 feet per second. And it 21 travels through air conditioning systems. So a 22 lot of times, what they'll do, sound doesn't 23 bounce very well. So what you do is you put 24 baffles in your airstream. And they allow the	99 1 MR. VINCENT: Objection, vague as to 2 context, and calls for speculation as to this 3 product. 4 THE WITNESS: That, I don't think I would 5 refer to as a plate. 6 BY MR. EMERICK: 7 Q Why not? 8 MR. VINCENT: Same objections. 9 THE WITNESS: Because it's a -- it's an 10 O-ring. I mean, an O-ring is a fairly, clearly 11 defined item. 12 BY MR. EMERICK: 13 Q And so does the same logic apply to the 14 baffle? I know we're just talking about a flexible 15 ring. And so would that be a plate? 16 MR. VINCENT: Objection, asked and 17 answered, vague as to context, calls for 18 speculation as to this product. 19 THE WITNESS: O-rings have national DIN 20 ISO standards. They're an absolute standard 21 defined thing. There are formulas that I can 22 tell you that if I have an O-ring that's a 23 static seal or reciprocating or rotating seal, 24 how much compression I need. So there's this
98 1 air to continue to flow through, but it stops 2 the sound from traveling downstream. 3 So because of all of those applications 4 that I'm familiar with, I refer to it as a 5 baffle. 6 BY MR. EMERICK: 7 Q You mentioned an O-ring earlier. 8 A Yes. 9 Q Could you point to what you're referring 10 to? 11 A Well, I'm not certain it's an O-ring. It 12 could be a quad ring. It could be a square ring. 13 It could actually be a flat surface. But what it 14 appears, when you look at the fact that you see this 15 black ring around here, it appears to be what is 16 creating the seal between this cyclonic portion and 17 motor housing to the dust bin. 18 So it's that fine -- and that's what you 19 see when you -- when you take a round O-ring and you 20 seal it on something clear, you see this little 21 narrow band where you've actually compressed the 22 O-ring to create your seal. 23 Q And would you refer to that O-ring as a 24 plate?	100 1 entire science behind O-rings. It's a really, 2 really well-defined item. 3 Baffles, on the other hand, come in all 4 shapes and sizes, and there is no fixed baffle 5 design. There's no baffle standard out there. 6 BY MR. EMERICK: 7 Q And how about the baffle within the Dyson 8 product? Would that be a plate? 9 MR. VINCENT: Objection, asked and 10 answered, vague as to context, speculation as 11 to this product. 12 THE WITNESS: Again, it's -- it's not the 13 terminology that I would use. If Dyson 14 wants -- you know, plate and O-ring are two 15 completely different worlds. This, like I 16 said, stand that up and look at it, that could 17 be a dinner plate. So if they want to call it 18 a plate, they can call it a plate. 19 BY MR. EMERICK: 20 Q Now, you mentioned the word "dinner 21 plate." Just so -- just so we're clear, I'm only 22 talking about the actual rubber or other flexible 23 material here. 24 A Okay.

101 1 Q Do you see that? 2 A Yes. 3 Q You see that it doesn't have a rubber or 4 flexible material in the center? 5 MR. VINCENT: Objection, foundation. 6 THE WITNESS: I can't see anything other 7 than what's showing. 8 BY MR. EMERICK: 9 Q Okay. So just -- 10 A So just to be clear, when you said you're 11 talking about just the conical portion that's 12 visible; is that correct? 13 Q Correct. 14 A Okay. 15 Q So for that conical portion of the baffle 16 that's visible, is that a plate? 17 MR. VINCENT: Objection, asked and 18 answered, vague as to context, calls for 19 speculation as to this product? 20 THE WITNESS: Again, you introduced it 21 with the overarching statement, if Dyson called 22 it a plate, would I have a problem with it. 23 And as I've said, not the terminology I would 24 use. If Dyson chooses to do -- if Dyson chose	103 1 Q And I want you to watch the baffle as you 2 do this. 3 A Okay. 4 Q And I want you to tell me -- in 5 particular, what I'd like you to look for and what 6 I'm going to ask for as a follow-up, is whether the 7 baffle moves; okay? So you can go ahead with a -- 8 and so, just so -- just so we understand. It's the 9 red tab. And then -- actually, you don't have to 10 hold it. That will actually block the door from 11 opening, the way you're holding it. 12 A Oh, okay. 13 Q So you'll have to take the -- take this 14 off, the surface. 15 A And I just keep pulling? 16 Q So you're blocking, right now, the -- 17 here. I'll -- just one second. 18 A Can I do it this way? 19 Q Yes. 20 A Okay. Ahh. Oh, okay. That's what you 21 were -- I thought this whole thing came off. 22 Q Yeah. 23 A I see. So it's designed. So if I 24 understand this correctly, it's designed, in
102 1 to call the O-ring a plate, I would have 2 issues. With them calling the baffle -- or the 3 conical portion a plate, I don't really have an 4 argument with that. 5 BY MR. EMERICK: 6 Q Now, you mentioned earlier that plate and 7 O-ring are two completely different worlds. Why is 8 that? 9 MR. VINCENT: Objection, vague, 10 speculation. 11 THE WITNESS: A plate, in general, tends 12 to be something that is flat, generally 13 expected to be rigid. Maybe you could have 14 some flexibility, but you wouldn't describe a 15 round O-ring as a plate ever. Under no 16 circumstance does it act like a plate. 17 BY MR. EMERICK: 18 Q So I'd like you to now, hopefully without 19 making too much of a mess, perform the bin-emptying 20 mechanism. And if you hold the red -- 21 A So let me -- let me just do this and get 22 those back. Okay. 23 Q Yeah. 24 A All right.	104 1 essence, you hold her over the trash can and it 2 makes it simple and then you just close it up. 3 Q And if you want to vacuum those scraps up 4 again -- 5 A Yep. 6 Q -- and try it. Now you've got it. 7 A All right. Now that I -- now that I have 8 the secret to this. Okay. So I'll do this again. 9 Q And then if you watch for the baffle, what 10 I'd like -- what I'm going to ask as follow-up is if 11 the baffle moves during the bin emptying. 12 MR. VINCENT: You want to -- before you 13 answer it, I'm going to object to vague as to 14 context, speculation as to this operation of 15 this product. 16 THE WITNESS: Yes. What it appears to 17 happen -- and I'm going to push this back. Can 18 you see on film how the baffle is collapsed? 19 Okay. So what happens is this -- there's 20 a ring that runs down this -- I don't know if 21 this is like a second-stage filter. 22 Is there an additional filter on the 23 inside of this, you know, one that you remove 24 or is this pretty much...

105 1 Okay. Anyway, this appears to be 2 something like a second-stage filter. But 3 there's this red sleeve that slides down and it 4 hits the top of the baffle. And then it 5 collapses at the baffle partially in, and the 6 door pops open, and out comes your garbage. 7 BY MR. EMERICK: 8 Q All right. Other than the collapse, the 9 baffle, did you observe any other movement of the 10 baffle? 11 MR. VINCENT: Objection, vague. 12 THE WITNESS: No. It's simply a -- oops. 13 I hope I didn't break anything. 14 All right. 15 BY MR. EMERICK: 16 Q I can give you a hand if it's -- here. 17 I'll take it. 18 A Here. 19 So what -- what I saw, and I'm just using 20 my hands -- oh, yeah, I broke it. 21 Q I've gotcha. 22 A So, and I'm just -- I'm putting my 23 hands -- imagine that my hands represent the 24 three-dimensional baffle but we're just showing two	107 1 about pistol-grip style handles of vacuum cleaner? 2 Q Correct. 3 A Then, yes. 4 Q And you pulled up the V8. I take it is 5 that a pistol-grip style handle, in your opinion? 6 A Yes. 7 Q Okay. Why would you describe that as a 8 pistol-grip style handle? 9 A It's described because, you know, if we 10 were making a sci-fi movie, you could almost say 11 that this is a gun. And that's what it comes from. 12 Most handguns have a grip because it's -- it's 13 ergonomic to where the grip, you -- even going back 14 to old revolver days, the grip tends to be slanted 15 towards the front. 16 And then the other reason is that it has a 17 trigger. If this was just a handle, they may not 18 have called it a pistol grip. But because it's 19 gripping, it's held very similar to a pistol and it 20 has a trigger, it seemed like a really good word. 21 Q I'm handing you what's being marked as 22 Exhibit 5. 23 (Exhibit 5 was marked.) 24 BY MR. EMERICK:
106 1 sides of it. 2 When that sleeve ran down, the red sleeve 3 and it hit the baffle, the baffle did two things. 4 One, is it caved in. But it also, to allow that to 5 happen, it's designed to be convoluted so it can 6 collapse on itself in a predetermined or a 7 predesigned manner. And I think that's probably 8 what those ridges are on the outside, but I'm not 9 sure. So that's what I observed. 10 Q All right. If you'd like, one more time, 11 just for clean-up purposes -- 12 A Yes. 13 Q -- because I'm going to move on. If you'd 14 like to suck up the scraps. 15 A Am I ready to set this on the floor or is 16 there more? 17 Q I think, yeah, for now we can. 18 A Okay. 19 Q And if we need it, I can come grab it from 20 you. 21 A Okay. 22 Q Are you familiar with pistol-grip style 23 handles? 24 A If, just to be clear, if you're talking	108 1 Q And Exhibit 5 is U.S. Patent 1,908,834. 2 Do you see that at the top? 3 A Yes. 4 Q And you see the Figure 1 shows a vacuum 5 cleaner? 6 A Yes. 7 Q Would you describe the Figure 1 vacuum as 8 having a pistol-grip handle? 9 MR. VINCENT: Objection, outside the scope 10 of his declaration, calls for speculation, 11 vague, foundation. 12 THE WITNESS: Well, in this case, I would 13 defer to the patent itself. And the patent 14 only refers to 17 as a portion 19 of handle 17. 15 So I see a handle. Just on a cursory look. I 16 don't necessarily see a trigger. So I would 17 defer to the patent and just refer to it as a 18 handle. 19 BY MR. EMERICK: 20 Q Okay. And if the patent described handle 21 17 as being a pistol-grip handle, you would defer to 22 that, I would take it? 23 MR. VINCENT: Objection, outside the scope 24 of his declaration, vague, calls for

109 1 speculation. 2 THE WITNESS: Again, I'm not an attorney. 3 Whoops. 4 I'm not an attorney, but my general 5 understanding is that if a patent chooses -- 6 patentee chooses to use a particular word, as 7 long as it's fairly defined and as long as it's 8 used consistently, then that's what you refer 9 to it as when you're dealing with the patent. 10 BY MR. EMERICK: 11 Q Would a person of skill in the art 12 understand Figure 1 to include a pistol-grip handle? 13 MR. VINCENT: Objection, outside the scope 14 of his declaration, vague, calls for 15 speculation. 16 THE WITNESS: I think somebody skilled in 17 the art would do exactly what I did and first 18 take a look at the specification and then make 19 a determination based on that. 20 BY MR. EMERICK: 21 Q Okay. And so if a person of skill in the 22 art were to go to -- and this is neither paginated 23 or -- oh, it is paginated. If a person of skill in 24 the art goes to page one, although it doesn't have a	111 1 would a person of skill in the art say that's -- you 2 know, that's not a pistol-grip handle? 3 MR. VINCENT: Objection, outside the scope 4 of his declaration, vague, calls for 5 speculation. 6 THE WITNESS: I don't know that I can 7 really answer that. Again, in my mind, a 8 pistol grip is called a pistol grip because 9 it's like a pistol grip. It's got a handle. 10 Ergonomically, it's similar, it has a trigger. 11 Where you stop calling it a pistol grip, I 12 can't tell you. 13 BY MR. EMERICK: 14 Q If Dyson removed the trigger from the V8, 15 for example, would that still be a pistol grip? 16 MR. VINCENT: Objection, outside the scope 17 of his declaration, calls for speculation, 18 vague. 19 THE WITNESS: At that point, I would just 20 call it a handle. 21 BY MR. EMERICK: 22 Q You wouldn't call it a pistol-grip handle? 23 MR. VINCENT: Objection, vague as to 24 context, outside the scope of his declaration,
110 1 page one number, column two, and then starting at 2 the third line of column two, which is technically 3 line 52, you see that? Starting with "handle 17"? 4 A Yes. 5 Q Okay. Can you read that sentence? 6 A "Handle 17 has the general form of a 7 pistol-grip." Ahh. That's -- okay. 8 Q And so would a -- would a person of skill 9 in the art understand that the handle in Figure 1 10 labeled 17 is a pistol-grip style handle? 11 MR. VINCENT: Objection, outside the scope 12 of his declaration, calls for speculation. 13 THE WITNESS: So, yeah. I looked down at 14 what is 81 on this and saw just handle. 15 So they have described that as a handle 16 that has a general form of a pistol grip. 17 Again, I don't know where that line is defined. 18 In my mind, my understanding of what is used 19 today to talk about a pistol grip includes a 20 grip that is in the general form of a pistol 21 but includes a trigger. 22 BY MR. EMERICK: 23 Q So would a person of skill in the art, 24 because Exhibit 5's handle doesn't have a trigger,	112 1 calls for speculation. 2 THE WITNESS: I would not refer to it as a 3 pistol-grip handle. 4 BY MR. EMERICK: 5 Q Okay. You can set aside Exhibit 5. 6 MR. VINCENT: I'm not sure how -- if we 7 can break sometime for my -- my purposes. 8 MR. EMERICK: Yeah. We can take a -- I'm 9 changing exhibits, so we can take one. 10 MR. VINCENT: Okay. Thank you. 11 VIDEOGRAPHER: We're going off now? We're 12 taking a break now? 13 MR. VINCENT: Yes. 14 VIDEOGRAPHER: We're going off the record. 15 The time is 10:24 a.m. 16 MR. EMERICK: 11:24 a.m.? 17 VIDEOGRAPHER: 11:24, sorry. Yes. 18 (A brief recess is had from 11:24 a.m. to 19 11:35 a.m.) 20 VIDEOGRAPHER: I would like to make a 21 correction for the record. The last off the 22 record time was 11:21 a.m. We are back on the 23 record at 11:37 a.m. 24 BY MR. EMERICK:

113 1 Q Mr. Akhavein, if you could turn to page 13 2 of your declaration, which is Exhibit 3. 3 A Yes. 4 Q Here, you've got an image of a vacuum with 5 a handle. You see that? 6 A Yes. 7 Q Does this vacuum have a trigger? 8 MR. VINCENT: Objection, form. 9 THE WITNESS: Yes. 10 BY MR. EMERICK: 11 Q Where is the trigger? 12 A Not a really good picture. Let me find a 13 better picture of that. 14 So on page 15, it still really doesn't 15 show it from the top, but you can see the -- what, 16 you know, kind of looks like -- you can see the 17 trigger assembly is up there. So, you know, when 18 you grab it, you're -- while you're holding it, you 19 just flip it on and off. I don't remember if this 20 has other settings other than just on or off. 21 Q Okay. So you're referring to something 22 operated by the thumb. You made a gesture. You're 23 referring to something operated by the thumb as a 24 trigger?	115 1 BY MR. EMERICK: 2 Q How about a button that you slide forward, 3 like the -- if you could pull up Exhibit 2, or 4 rather -- 5 A Hang on. 6 Q Yeah. 7 A This one? 8 Q Yeah. 9 A Okay. 10 Q And there's a button on the top. You see 11 that? 12 A The boost button? Yeah. 13 Q Is that a trigger? 14 MR. VINCENT: Objection, outside the scope 15 of his opinions, vague, calls for speculation 16 as to this product. 17 THE WITNESS: Well, you can't access it 18 with the same hand that's holding. So I 19 think -- I think calling that a trigger would 20 be a stretch (indicating). 21 BY MR. EMERICK: 22 Q So if Dyson removed the red button or 23 trigger from its vacuum, would it no longer have a 24 pistol-grip handle?
114 1 A Yes. 2 Q Okay. If this vacuum on page 15 that 3 you've pointed me to didn't have what you call a 4 trigger, would this still be a pistol-grip handle? 5 MR. VINCENT: Objection, outside the scope 6 of his opinions, calls for speculation, vague. 7 THE WITNESS: I've always referred to a 8 pistol-grip handle, if you can -- if you're 9 holding it and you can operate it. Okay? 10 So I'm going through -- I think I'm pretty 11 consistent in that. Yeah. I think I'm pretty 12 consistent. I mean, a lot of times in my 13 declaration I just refer to it as a handle. I 14 don't add the pistol-grip portion because for 15 the matter at hand, I don't know that that 16 definition, pistol-grip, comes in for what I've 17 worked on. 18 BY MR. EMERICK: 19 Q Is there a difference between a trigger 20 and a button? 21 MR. VINCENT: Objection, outside the scope 22 of his opinions, vague. 23 THE WITNESS: I don't know. I haven't 24 really thought about it.	116 1 MR. VINCENT: Objection, outside the scope 2 of his opinions, calls for speculation, vague 3 as to this product and the term "trigger." 4 THE WITNESS: Again, you know, this is 5 stuff that I haven't written about. It's stuff 6 that seems to be outside of what I've studied. 7 So I probably have to think about it some more. 8 BY MR. EMERICK: 9 Q If you want to turn to paragraph 32 of 10 your declaration. And it's talking about the '407 11 patent. You see that? 12 A Yes. 13 Q And it says "The '407 patent is generally 14 directed to a hand vacuum cleaner comprising of at 15 least one cyclone and at least one dirt-collection 16 chamber where the dirt-collection chamber has an 17 openable door positioned at the front end of the 18 vacuum cleaner." 19 Do you see that? 20 A Yes. 21 Q Are there different ways to attach an 22 openable door to the front of a vacuum cleaner? 23 MR. VINCENT: Objection, outside the scope 24 of his opinions, vague, calls for speculation.

117 1 THE WITNESS: I'm certain that if you 2 spend time thinking, you could come up with a 3 number of ways to open a door. 4 BY MR. EMERICK: 5 Q How does Dyson attach its door to the V10 6 you have in front of you? 7 MR. VINCENT: Objection, vague, 8 speculation as to this product. 9 THE WITNESS: I'd have to spend -- are you 10 looking for a general answer? Because that's 11 all I can give you, in just what I observe. 12 BY MR. EMERICK: 13 Q Yeah. What do you observe? 14 A Okay. 15 MR. VINCENT: Same objections, calls for 16 speculation, outside the scope of his opinions. 17 THE WITNESS: And are you asking -- I'm 18 sorry. Was that the dirt chamber, the front 19 door? What is it you're asking? Is what 20 attached to what? Or how do they attach what 21 to what? 22 BY MR. EMERICK: 23 Q Well, let me ask this. 24 A Okay.	119 1 of his opinions. 2 THE WITNESS: Again, I would -- I'm 3 certain that there probably are but -- and 4 there's lots of ways to do lots of things, 5 so... 6 BY MR. EMERICK: 7 Q Any you can think of? 8 MR. VINCENT: Same objections. 9 THE WITNESS: Well, it depends on how 10 technical you want to get. I mean, generally, 11 doors have hinges. Kind of why you call it a 12 door. 13 So you're asking about a whole lot of 14 possibilities. And, you know, then you've got 15 to get into what is or isn't considered a door, 16 is it a rotating hinge. That would be slots, 17 not really hinges. Anyway, it's a whole big 18 world that we'd have to get into, but... 19 BY MR. EMERICK: 20 Q Yeah. Could you give me some -- some 21 broad categories of doors that don't have a hinge, 22 if those exist? 23 MR. VINCENT: Objection, outside the scope 24 of his opinions, speculation.
118 1 Q Does the Dyson V10 have a door? 2 MR. VINCENT: Objection, vague, outside 3 the scope of his opinions, calls for 4 speculation as to this product. 5 THE WITNESS: And are you asking about a 6 door to the dirt-collection chamber? 7 BY MR. EMERICK: 8 Q We can start there. 9 MR. VINCENT: Same objections. 10 THE WITNESS: See, I don't remember how 11 that -- oh, you have to run it all the way up. 12 Oh, that's kind of cool. 13 So Dyson has a door on their 14 dirt-collection chamber, the V10. 15 BY MR. EMERICK: 16 Q And is that attached with a hinge? 17 MR. VINCENT: Objection, vague, outside 18 the scope of his opinions. 19 THE WITNESS: Appears to be. 20 BY MR. EMERICK: 21 Q Are there any other ways to attach a door 22 to the front end of a vacuum cleaner other than a 23 hinge? 24 MR. VINCENT: Objection, outside the scope	120 1 THE WITNESS: If it's attached with a 2 hinge, you could call it a door. If it's 3 something that you twist on, I don't know that 4 I would call it a door. It would probably -- 5 cover cap, something like that. So again, 6 we're talking about how broadly do you want to 7 define door as opposed to cover or cap, you 8 know. 9 BY MR. EMERICK: 10 Q Well, I'm asking what a person of skill in 11 the art would. 12 A That's -- that's why -- 13 MR. VINCENT: Hold on. 14 THE WITNESS: Oh, sorry. 15 MR. VINCENT: Objection, outside the scope 16 of his opinion in his declaration, calls for 17 speculation, vague as to context. 18 THE WITNESS: That's -- that's kind of the 19 point, is that those terms have definitions. 20 And when you really look at them, it needs more 21 defining before I could say that's a door, or I 22 would call that a door. Like, you know, 23 looking at what I see in front of me here, I 24 would call that a door, (indicating). I would

121 1 call that a hinge, (indicating). 2 Where you go from there is -- needs to be 3 much better defined. And the more you know 4 about these terms, the more definition you need 5 to be able to say, you know, a layperson might 6 call anything on the end of this a door. That 7 doesn't mean it's so. 8 BY MR. EMERICK: 9 Q Yeah. And so I'm asking for the 10 perspective of a person of skill in the art. So let 11 me give an example. 12 If, for example, the V10 -- if Dyson 13 wanted to do an alternative design -- right? -- and 14 instead of using a hinge they used a mechanism like 15 this water bottle cap where you unscrew a water 16 bottle cap and take off the cap that way, would 17 that -- would that still be a door, in your opinion? 18 MR. VINCENT: Objection, outside the scope 19 of his opinions, outside the scope of his 20 declaration, incomplete hypothetical, vague as 21 to context as to what you mean by "door." 22 THE WITNESS: To me, that's a cap and 23 that's a door, (indicating). 24 So, again, you're asking what is possible	123 1 answered, vague as to door and hinge, outside 2 the scope of his opinions and his declaration, 3 calls for speculation. 4 THE WITNESS: I'm not saying it's not a 5 door because it doesn't have a hinge. I'm 6 saying it's a cap because it's a cap. 7 BY MR. EMERICK: 8 Q "Door" is a vague term; right? 9 MR. VINCENT: Objection, vague as to 10 context, if you're speaking -- you know, what 11 context you're speaking in, outside the scope 12 of his declaration. 13 THE WITNESS: Door can be many things. 14 BY MR. EMERICK: 15 Q What can it be? 16 MR. VINCENT: Same objections. 17 THE WITNESS: Generally, a door is 18 something that opens to let you go from one 19 place or another, or an openable item that 20 separates two spaces. I mean, if you want a 21 general term, that's about all I can give you. 22 BY MR. EMERICK: 23 Q Yeah. How about in the context of vacuum 24 cleaners? What's a door?
122 1 under the sun. I really can't answer that. 2 BY MR. EMERICK: 3 Q And so if Dyson moved to a screw cap for 4 its products, it wouldn't infringe the '407 patent? 5 MR. VINCENT: Objection, outside the scope 6 of his opinions and his declaration, calls for 7 speculation as to what would or would not 8 infringe any unspecified patent. 9 THE WITNESS: Yeah. 10 MR. VINCENT: And vague as to this product 11 he's not analyzed. 12 THE WITNESS: I have not done any 13 infringement analysis. And I am not prepared 14 to talk about what is or is not infringing on 15 the '407 patent. Okay? 16 If you want to talk about terms, I'm more 17 than happy to do that. But you were getting 18 into the world of infringement and I've done no 19 analysis on that at all. 20 BY MR. EMERICK: 21 Q Okay. So this cap on the water bottle, 22 that's not -- that's not a door because it doesn't 23 have a hinge; right? 24 MR. VINCENT: Objection, asked and	124 1 MR. VINCENT: Same objections, outside the 2 scope of his declaration, asked and answered, 3 vague. 4 THE WITNESS: I don't think that answer 5 changes. 6 BY MR. EMERICK: 7 Q So in the context of vacuum cleaners, a 8 door is an openable item that separates two spaces? 9 MR. VINCENT: Objection, misstates 10 testimony, outside the scope of his 11 declaration. 12 THE WITNESS: You're going to have to give 13 me something much more than -- again, this 14 is -- this is just a wide open space and 15 questions that -- you know, if you -- like 16 here, this is a concrete example that I can 17 look at and I can say, yep, I would say that 18 this feature out here -- and even there, that's 19 kind of pushing it. It's got a big opening in 20 it. 21 So, you know, I've -- it kind of acts like 22 a door, but generally speaking, you know, 23 again, it's -- it's -- if you give me something 24 specific and an opportunity to look at it in

125 1 context, I can give you an answer. 2 BY MR. EMERICK: 3 Q Yeah. So in the context of vacuum 4 cleaners and what a person of ordinary skill would 5 understand in that field, does the V10 not have a 6 door because it's got that big opening in the 7 center? 8 MR. VINCENT: Objection, asked and 9 answered, outside the scope of his declaration, 10 calls for speculation as to this product. 11 THE WITNESS: I'm not saying it is or it 12 isn't. What I'm saying is, you know, again, 13 look at this. It's got features of a door and 14 it's got things that you wouldn't necessarily 15 say are features of a door. 16 BY MR. EMERICK: 17 Q What are the things you would say are not 18 necessarily features of a door on the Dyson V10? 19 MR. VINCENT: Objection. 20 THE WITNESS: Okay. We're -- 21 MR. VINCENT: Hold on. 22 THE WITNESS: Oh, I'm sorry. 23 MR. VINCENT: Objection, calls for 24 testimony outside the scope of his opinions,	127 1 to look at it in light of the specifications 2 and the claims. You don't even need to 3 necessarily get into prosecution history, so... 4 I can look at the '407. 5 BY MR. EMERICK: 6 Q All right. I'm a handing you Exhibit 6 7 which is the '407 patent. 8 (Exhibit 6 was marked.) 9 BY MR. EMERICK: 10 Q This is the patent you were summarizing in 11 paragraph 32 of your declaration? 12 MR. VINCENT: Objection to the extent it 13 misstates the declaration. 14 THE WITNESS: So, again, I missed the 15 question. What was the -- 16 BY MR. EMERICK: 17 Q Yeah. This is the patent you're referring 18 to in paragraph 32 of your declaration; right? 19 A Yes. The '407. 20 Q Okay. And this '407 patent, would you 21 agree it uses a hinge for the openable door? 22 MR. VINCENT: Objection, vague, 23 foundation. 24 THE WITNESS: Yeah. So they -- if you
126 1 vague as to context, and calls for speculation 2 as to the operation of this product. 3 THE WITNESS: Yeah. So -- so, you know, 4 again, this -- this whole thing, I -- this is 5 not stuff I've looked at, not stuff I've 6 thought about, not stuff I have done any work 7 on. And frankly, it's nothing that I've 8 rendered an opinion on. 9 So any more than what I've told you, I'm 10 not prepared to say. Just if there is 11 something in my declaration that you would like 12 to ask about, something that I've worked on, 13 then we can talk about doors. 14 BY MR. EMERICK: 15 Q Yeah. So I pointed you to paragraph 32. 16 You give a summary of the '407 patent and you talk 17 about how it has an openable door position at the 18 front end. And so I want to understand what the 19 term "door" means to a person of skill in the art. 20 MR. VINCENT: Objection, outside the scope 21 of his opinions -- 22 THE WITNESS: So -- 23 MR. VINCENT: -- vague as to context. 24 THE WITNESS: As with anything, you need	128 1 look at Figure 5B, when they refer to what they 2 call pivots 177, those are -- let's see. So 3 front wall 158 is pivotally mounted to the 4 cyclone unit wall 115 at pivots 177 and serves 5 as an openable door 158 of the dirt chamber. 6 BY MR. EMERICK: 7 Q And so is a pivot the only way of 8 attaching a door to a vacuum or could you do it in 9 other ways? 10 MR. VINCENT: Objection, asked and 11 answered, outside the scope of the declaration. 12 THE WITNESS: Yeah. This is -- this is no 13 different than what we were talking about 14 earlier. I'm -- I'm sure there's all sorts of 15 other things you could possibly figure out. 16 But, you know, I'm not here to talk about what 17 is available. You know, in this case, I 18 mention that it's part of what I covered so I'm 19 perfectly comfortable talking about it and the 20 way the door works here. And the door works -- 21 you know, there's an openable door 158, what 22 they refer to pivots acts like a hinge, behaves 23 like a hinge. 24 And so, again, I'm very comfortable with

129 1 their description of an openable door. 2 BY MR. EMERICK: 3 Q Okay. And I'm just trying to understand 4 what a door is. So a screwable cap, a screwable cap 5 is a door or no? 6 MR. VINCENT: Objection, vague as to 7 context, outside the scope of his opinions. 8 THE WITNESS: That screwable cap on your 9 water bottle is a cap. 10 BY MR. EMERICK: 11 Q It's not a door -- 12 MR. VINCENT: Objection. 13 BY MR. EMERICK: 14 Q -- if you put it on a vacuum cleaner? 15 MR. VINCENT: Sorry. Objection, vague as 16 to context, outside the scope of his opinions, 17 calls for speculation as to applying to any 18 particular product. 19 THE WITNESS: Yeah. So, again, it looks 20 like a cap, acts like a cap. If the particular 21 patent referred to it as a door and that was 22 their choice of language and they were 23 consistent, well, then, for that particular 24 application, then I would say it's a door.	131 1 It's just they've chosen to call 158 the 2 openable door to the -- I think the 3 dirt-collection chamber is technically what 4 they... 5 BY MR. EMERICK: 6 Q So the term "door" as used in the '407 7 patent is not limited to a hinged structure; 8 correct? 9 MR. VINCENT: Objection, calls for a legal 10 conclusion, outside the scope of his opinions. 11 THE WITNESS: I don't know that it's -- 12 when you say "limited to," all I'm telling you 13 is that -- is that this door in the patent, 14 they have what they refer to as a door, an 15 openable door. This particular situation has 16 what they call pivots, 157, which act as hinges 17 so there's no reason to think them anything 18 other than the contrary. They call them 19 pivots. 20 So if I was talking about the door, I 21 would not say in the '407 that the door has a 22 hinge. I would say that the door has pivots 23 because that's what they've chosen to call it. 24 And unless there's -- you know, I don't
130 1 BY MR. EMERICK: 2 Q Okay. So a screwable cap could be a door? 3 MR. VINCENT: Objection, vague as to 4 context, outside the scope of his opinions. 5 THE WITNESS: Yeah. And that's -- that's 6 not what I said. What I said is if within a 7 patent specification the patentee decided to 8 call -- let's say they were patenting a new 9 water bottle and they had some other feature, 10 but it's got a screw-on cap and they wanted to 11 call it a door, then in that patent, as long 12 as -- as long as they called it a door and they 13 were consistent in calling it a door, then in 14 that application, in that patent, it would be a 15 door and we would be sitting here talking about 16 the door. 17 BY MR. EMERICK: 18 Q So in the '407 patent, then, if the only 19 description of a door attachment is via a hinge, is 20 the term "door" limited to a hinged structure? 21 MR. VINCENT: Objection, calls for a legal 22 conclusion, outside the scope of his 23 declaration. 24 THE WITNESS: It's not that it's limited.	132 1 know for a fact that they don't refer to it as 2 a hinge somewhere else but unless they did, 3 then the '407 patent has an openable door with 4 pivots that is attached to the dirt chamber. 5 BY MR. EMERICK: 6 Q And is the four -- is the term "door," as 7 used in the '407 patent, limited to a structure with 8 pivots? 9 MR. VINCENT: Objection, outside the scope 10 of his declaration, calls for a legal 11 conclusion, speculation. 12 THE WITNESS: I don't know that they say 13 that anywhere in here. 14 BY MR. EMERICK: 15 Q And I'm asking what a person of skill in 16 the art would understand, reading the claims of the 17 '407 patent, which refer to a door. Would a person 18 of skill in the art understand that the term "door" 19 in the '407 patent claims is limited to a structure 20 that pivots? 21 MR. VINCENT: Objection, outside the scope 22 of his opinions, calls for speculation, calls 23 for a legal conclusion. 24 THE WITNESS: Yeah. To me, that really

133 1 sounds like you're asking for some legal 2 opinion when you say "it is limited to." So 3 I -- I don't understand what the -- what the 4 connotations are that come along with the 5 question asked the way you're asking it. 6 BY MR. EMERICK: 7 Q I'm understanding -- I'm asking how a 8 person of skill would understand the term. 9 Do you understand the question? 10 A No. That's the whole point. I don't 11 understand the ramifications. What I'm telling you 12 is a person of skill in the art would look at this, 13 they would look at the specification, and they would 14 say 158 is an openable door. Pivots are pivots. 15 They act like hinges. So you put those two 16 together, it all makes sense. There's nothing out 17 of the ordinary here that I see would need to be -- 18 that you would need to add a whole bunch of extra 19 description to tell somebody what you're talking 20 about. It's absolutely clear. 21 Whether that limits or not is the part 22 that I don't -- I don't know what that portion 23 means. I don't know legally what that entails when 24 you say it "limits it."	135 1 BY MR. EMERICK: 2 Q I'm not asking -- I'm not asking about 3 application; okay? 4 A Okay. 5 Q You understand you're here today to 6 testify about the scope of claim terms? That's the 7 purpose -- that's the entire purpose of your 8 declaration; right? 9 MR. VINCENT: Object to form. That's not 10 what his -- don't -- don't tell him what he's 11 here to testify. He's here to testify about 12 his opinions in the declaration, so don't -- 13 MR. EMERICK: Inappropriate coaching of 14 the witness. Complete coaching of the witness. 15 THE WITNESS: Okay. I'm here, from my 16 understanding, to tell you what a person 17 skilled in the art would interpret the '407, on 18 its own, to be; not how it applies to some 19 other scenario, not how it applies -- you know, 20 again, we're not -- I've not done any 21 invalidity analysis. I've not done any 22 infringement analysis. Whether this is limited 23 to something or it expands on something, I've 24 not done any of that analysis.
134 1 Q Okay. Would -- would a person of skill in 2 the art reading the claims of the '407 patent which 3 refer to a door understand that the term "door" is 4 broader than a structure that attaches via a pivot, 5 or alternatively, that it is limited to a structure 6 that has a pivot? 7 MR. VINCENT: Objection, outside the scope 8 of his opinions in his declaration, calls for 9 speculation. 10 THE WITNESS: I don't think they would go 11 either way. They would read this and go, 12 that's a door, it's got hinges, called pivots, 13 end of story. I don't think that they would be 14 attempting to apply it more broadly or limit it 15 any more. 16 If you wanted to try to apply this 17 somewhere else, well, then, you have to make 18 those -- what I think would be legal decisions 19 or connotations. But within the '407, it's 20 really clear. It's very obvious. And I 21 don't -- I don't see -- it's the part where 22 you're talking about applying it more broadly 23 or more -- or limiting it that I don't quite 24 get.	136 1 So I understand. I'm here to tell you 2 what my opinions are on claim construction, not 3 limiting or broadening the terms that are used 4 within the patent. 5 BY MR. EMERICK: 6 Q Do you have any opinion on the scope of 7 the term "door," as used in the '407 patent? 8 A When you say "scope," it's 158. It's a 9 door on the dirt chamber. 10 Q The scope of -- 11 A That's openable. 12 Q The scope of the term "door" is claimed in 13 the '407 patent is limited to structure 158? 14 MR. VINCENT: Objection, misstates 15 testimony, calls for a legal conclusion, 16 outside the scope of his opinions. 17 THE WITNESS: Yeah. If we're talking 18 about the openable door, 158 of the dirt 19 chamber, then I think that's all they're 20 talking about, is this door that has pivots 21 177. 22 BY MR. EMERICK: 23 Q Why don't you go ahead and go to the 24 claims of the '407 patent.

137 1 A Okay. 2 Q Why don't you turn to claim 24. 3 A Got it. 4 Q Do you see element D, it says the 5 dirt-collection chamber having an openable door? 6 A Yes. 7 Q Okay. Is that -- is the term "openable 8 door," as understood by a person of skill in the art 9 referring only to the door shown at 158 that you 10 just pointed out or does it have any broader meaning 11 than that? 12 MR. VINCENT: Objection, outside the scope 13 of his opinions, vague, calls for a legal 14 conclusion. 15 THE WITNESS: So I believe that D, in 16 claim 24, the dirt-collection chamber having an 17 openable door, the front wall comprising the 18 openable door. When you look at this patent, 19 the front wall -- let me check. Oh. The front 20 end is 108. I'll have to find what they 21 specify the number as the front wall. 22 BY MR. EMERICK: 23 Q So just to shortcut this. 24 A Yeah.	139 1 calls for speculation and a legal conclusion. 2 THE WITNESS: I don't know if it's 3 calling -- again, that's -- that's outside of 4 what I'm doing. Whether it's broader or more 5 limited, I'm taking the claim in light of the 6 specifications and saying 158's an openable 7 door. And there's nothing in the specification 8 or the claim that is ambiguous about that. 9 BY MR. EMERICK: 10 Q I'm not asking you whether 158 is an 11 openable door. Do you understand that? 12 A Not exactly. That's -- that's the part -- 13 when you -- 14 Q Yeah. 15 A -- add in whether it is limiting or 16 whether it's broader, that's the part that I'm -- 17 I'm not sure what that means. 18 Q Yeah. Do you understand the term "door" 19 to have some scope to it? In other words, multiple 20 structures that operate in maybe different ways are 21 all doors. For example, you could have a glass door 22 or a wooden door. Do you understand that, that 23 there's some scope here? 24 MR. VINCENT: Objection to form, outside
138 1 Q Yes, the term "door" is limited to the 2 structures disclosed in the specification? 3 MR. VINCENT: Objection, misstates 4 testimony, outside the scope of his 5 declaration. 6 THE WITNESS: Can you repeat that 7 question? 8 MR. VINCENT: Calls for a legal 9 conclusion. 10 THE WITNESS: Yeah. Sorry. 11 BY MR. EMERICK: 12 Q The term "door," as used in the '407 13 patent, is limited to the structures disclosed in 14 the specification? Yes or no? 15 MR. VINCENT: Objection, misstates 16 testimony, outside the scope of his opinions, 17 calls for a legal conclusion. 18 THE WITNESS: I believe the term "openable 19 door" in the claims is talking about, yes, the 20 specification of the '407. 21 BY MR. EMERICK: 22 Q And nothing broader? 23 MR. VINCENT: Objection, misstates 24 testimony, outside the scope of his opinions,	140 1 the scope of his opinions. 2 THE WITNESS: If you're asking could there 3 be a door to the dirt chamber and a door that 4 opens to, like, take the battery out, then, 5 yes, those -- they're both doors. Is that -- 6 is that what you're asking? 7 BY MR. EMERICK: 8 Q Not whatsoever. 9 A Okay. I'm really trying to follow this. 10 Q Yeah. So let me get at this a different 11 way. 12 A Okay. 13 Q If Dyson wanted to change the design of 14 its product; right? 15 A Yeah. 16 Q Right now, it's got a hinge. Okay? You 17 see that? 18 A You're talking about the V10? 19 Q Yeah. Yeah. 20 A Okay. Yes, it has a hinge. 21 Q If Dyson wanted to change the design of 22 its product so that you could still access the 23 interior and empty the dirt, is there any way it 24 could do that without using a door?

141 1 MR. VINCENT: Objection, outside the scope 2 of his opinions, calls for speculation, 3 incomplete hypothetical, vague. 4 THE WITNESS: You could take the whole 5 thing off and dump it. 6 BY MR. EMERICK: 7 Q What do you mean by "the whole thing"? 8 A I mean, you could -- if you literally 9 remove -- let's say you pull the whole dirt chamber 10 off and dump it, you could do that. 11 Q Could Dyson use a screw cap instead of a 12 hinge? Like, we talked about the water bottle 13 earlier. If they put a water bottle cap equivalent 14 on to the V10, would that still be a door, if you 15 screwed it and it came off instead of a hinge? 16 MR. VINCENT: Objection, outside the scope 17 of his opinions in his declaration, vague, 18 speculation. 19 THE WITNESS: So you're saying, take that 20 screw cap, make it big, put a hole in it, and 21 stick it on the end? 22 BY MR. EMERICK: 23 Q Exactly. 24 MR. VINCENT: Same objections, outside the	143 1 A Is that -- 2 Q Just out of reach, I think. 3 A Yeah. Okay. 4 Q You see how Exhibit 5 in Figure 1 has -- I 5 don't know if you'd describe -- describe it as a 6 cap. But the area between 33 and 11, do you see 7 that? 8 A Yes. 9 Q Would you describe this as a door? 10 MR. VINCENT: Objection, outside the scope 11 of his declaration, foundation, calls for 12 speculation. 13 THE WITNESS: It can't be answered. I 14 don't know how that -- what that is. I don't 15 know how it operates. I don't know what you'd 16 do with it. 17 BY MR. EMERICK: 18 Q Does Dyson have any options for 19 redesigning its product so as not to have a door? 20 MR. VINCENT: Objection, outside the scope 21 of his declaration, calls for speculation. 22 THE WITNESS: Again, you know, there's 23 a -- there's a whole world of options out 24 there.
142 1 scope of his opinions in his declaration, 2 vague. 3 THE WITNESS: All right. I don't know 4 what you'd call it because it's no longer 5 really a cap because it's got a big hole in it. 6 Caps don't generally tend to have holes in 7 them. 8 Screw-on ring. I don't know what you'd 9 call it. 10 BY MR. EMERICK: 11 Q Would a person of skill in the art 12 consider it to be a door? 13 MR. VINCENT: Objection, outside the scope 14 of his declaration, calls for speculation, 15 vague as to the meaning of "door." 16 THE WITNESS: I'd call it a screw-on ring. 17 I don't know if I'd call it a door. But, 18 again, it's -- it's, you know, these are all 19 things I haven't sat and thought about. As I 20 sit here today, hey, it's a screw-on ring. 21 Okay. 22 BY MR. EMERICK: 23 Q Take a look at Exhibit 5, which -- here, 24 I'll help you out with it.	144 1 BY MR. EMERICK: 2 Q Can you name a few? 3 MR. VINCENT: Same objections. Outside 4 the scope of his declaration, calls for 5 speculation. 6 THE WITNESS: I said, you can pull the 7 whole end off, or pull the whole dirt chamber 8 off, I mean, and dump it. 9 BY MR. EMERICK: 10 Q Okay. But if Dyson were to leave the dirt 11 chamber on, is there any way to access the area by 12 the inlet without using a door? Or is it 13 necessarily going to be a door no matter what Dyson 14 does there? 15 MR. VINCENT: Objection, outside the scope 16 of his declaration, calls for speculation, 17 incomplete hypothetical. 18 THE WITNESS: Yeah. That's something I 19 can't answer. 20 BY MR. EMERICK: 21 Q All right. Exhibit 7. 22 (Exhibit 7 was marked.) 23 BY MR. EMERICK: 24 Q And I'm going to give you this pen because

145 1 I'm going to have you do some -- 2 A Oh, okay. 3 Q -- writing. 4 A All right. 5 Q If you turn to the second page of 6 Exhibit 7. 7 A Okay. 8 Q Are you able to identify the front of this 9 vacuum? 10 MR. VINCENT: Objection, foundation, calls 11 for speculation, outside the scope of his 12 opinions in his declaration. 13 THE WITNESS: I have no idea what the 14 front is. 15 BY MR. EMERICK: 16 Q Why not? 17 MR. VINCENT: Objection, foundation, 18 outside the scope of his opinions, speculation. 19 THE WITNESS: I don't know how it's held. 20 I don't know what it does. I don't know 21 anything about it. 22 BY MR. EMERICK: 23 Q So the front isn't necessarily where the 24 air's coming into the vacuum?	147 1 MR. VINCENT: Objection, foundation, 2 speculation, vague as to what "cyclone" means, 3 outside the scope of his declaration. 4 THE WITNESS: So I don't know if it does. 5 What I do know is it appears they're drawing 6 arrows that look like that. 7 BY MR. EMERICK: 8 Q Well, let me just ask you from an 9 engineering perspective, separate and apart from 10 this reference. 11 A Um-hum. 12 Q If you've got a curved inlet going into a 13 chamber, is that something that can be used to 14 create cyclonic air flow? 15 MR. VINCENT: Objection, outside the scope 16 of his declaration, calls for speculation. 17 THE WITNESS: Looking at this, I would 18 think so. 19 BY MR. EMERICK: 20 Q And in your own knowledge of engineering 21 and air flow principles and the cyclone work that 22 you've done, a curved pipe, as shown in Exhibit 7, 23 that's something that can create cyclonic flow; 24 right?
146 1 MR. VINCENT: Objection, foundation, 2 vague, outside the scope of his opinions. 3 THE WITNESS: No. I don't think that just 4 air coming in defines the front. 5 BY MR. EMERICK: 6 Q And air going out the back doesn't define 7 the rear? 8 MR. VINCENT: Objection, outside the scope 9 of his opinions, foundation, vague. 10 THE WITNESS: So that's the reason that 11 quite often, when you're discussing this, you 12 talk about instead of front and rear, you talk 13 about inlet and outlet. That's -- because 14 those -- those are definable. 15 BY MR. EMERICK: 16 Q Do you see how air comes in a pipe and 17 then the pipe turns? 18 A Yes. 19 Q And then there's some air going in circles 20 here. 21 Do you see that? 22 A Yes. 23 Q Does this -- does this curved pipe create 24 a cyclone?	148 1 MR. VINCENT: Objection, speculation as to 2 this patent, vague as to cyclonic flow, calls 3 for speculation. 4 THE WITNESS: So, you know, I'm not sure 5 what some of this structure is. What I'm 6 telling you is that there's nothing in this 7 particular design that would say to me this 8 can't happen. And it appears that the way that 9 they have shown the arrows spinning and other 10 arrows going out, that they're trying to 11 describe what I talked about earlier in 12 cyclonic action where you throw heavy particles 13 to the outer walls and the air -- well, you 14 know, you do that by making the air spin. And 15 then the air continues to go through to what in 16 the picture is above -- is that -- I don't know 17 what that letter is. But the air flow in the 18 picture goes from the inlet to the outlet. And 19 again, there's nothing about this bent tube 20 that would make me think that that can't help 21 induce cyclonic flow. 22 BY MR. EMERICK: 23 Q All right. If you turn to the first page 24 of the patent.

149 1 A Okay. 2 Q Second -- second column, first full 3 paragraph. 4 A Okay. 5 Q It says "By application of the 'whirlwind 6 principle,' device used in milling or silos, that is 7 to say arrival of the air sucked tangentially to the 8 interior wall of the transparent container, the 9 materials are deposited in the bottom of the 10 container after having separated from the air." And 11 then it goes on. 12 A Right. 13 Q Would you understand this to be describing 14 cyclonic separation? 15 MR. VINCENT: Objection, speculation as to 16 what this document means, foundation, vague, 17 outside the scope of his opinions that he's 18 here to testify about. 19 THE WITNESS: Okay. There's nothing in 20 this description that would make me think that 21 they're not trying to describe that. 22 BY MR. EMERICK: 23 Q This is a patent that says it's from 1953; 24 right?	151 1 MR. VINCENT: Objection, foundation as to 2 this document, calls for speculation as to the 3 meaning of this document, vague as to cyclonic 4 flow, and outside the scope of his opinions 5 that he's provided in his declaration. 6 THE WITNESS: So curved pipe, there's 7 nothing about a curved pipe that would make me 8 think that you're not going to get that. I'm 9 not familiar with that because it's generally 10 not used, in my -- in my experience. Okay? 11 As you can see in the Dyson, the baffle, 12 or if they call that a plate, I don't know, but 13 what I refer to as a baffle, you know, there's 14 no bent tubing that's going on. 15 In industry, when it's done, they don't 16 use bent tubes to -- to necessarily get that 17 flow started. So -- so there's a few ways you 18 can do it. 19 At the end of the day, you have to have 20 enough air velocity to throw the particles 21 outward. And the higher your velocity, that 22 tangential speed that you're running around, 23 the finer particles you can throw out to the 24 outer wall, which means that your filter, your
150 1 A Yes. 2 Q On the cover? Cyclonic separation has 3 been known for decades -- right? -- in vacuum 4 cleaners? 5 MR. VINCENT: Objection, vague. 6 Sorry. Objection, vague, outside the 7 scope of his declaration. 8 THE WITNESS: I don't know how long it's 9 been known in vacuum cleaners. I know that the 10 principle has been around since the 1890s 11 for -- the bulk of the applications were for 12 compressed air. When that moved over to 13 negative pressure, or in essence, vacuums, I 14 don't know. But obviously, 1953, there was 15 someone who was attempting, it appears, to 16 describe that action. 17 BY MR. EMERICK: 18 Q And this is a patent for a "improved dust 19 vacuums"; is that right? That's what the title 20 says? 21 A Yes. 22 Q Is all that it takes to create cyclonic 23 flow just a curve in the pipe as is shown in the 24 figure in Exhibit 7?	152 1 downstream filter doesn't get clogged as soon. 2 So there's -- there's more than just a 3 bent pipe. 4 BY MR. EMERICK: 5 Q Are there any benefits of using a cyclone 6 over a dust bag? 7 MR. VINCENT: Objection, vague, outside 8 the scope of his opinions. 9 THE WITNESS: So the primary benefit -- 10 and this is vacuum, and again, from the 11 industries that I've worked with, at the end of 12 the day, Dyson is going to make a decision on 13 what is the finest particle they're going to 14 filter; okay? And it's why sometimes you see 15 vacuums that have multiple filters. And at the 16 end, they advertise they have a HEPA filter 17 because that gets down to very fine particles. 18 If you're in industry, you size your 19 filter just like same with water but you size 20 it by the micron level and whether it's 21 coalescing, which means it takes water out, 22 which doesn't apply to vacuums. It does apply 23 to compressed air. So there is an inherent 24 problem, the finer your filter is at the end,

153 1 the more quickly it's going clog. 2 So -- so the general principle is we're 3 going to take as much as we can out of that air 4 and throw it in the bin before it gets to that 5 filter that's just a passing -- pass-through 6 membrane so that that membrane doesn't get 7 clogged as fast. 8 You know, I would imagine with the Dyson, 9 like so many of these, you could probably get 10 away from -- with emptying the dust bin a few 11 times before you really have to clean the other 12 filter. Maybe not. It depends on what you're 13 picking up. But that's -- that's the main 14 advantage. 15 BY MR. EMERICK: 16 Q So I think I'm a little unclear. 17 A Okay. 18 Q What's the main advantage of a cyclone 19 compared to a dust bag? 20 MR. VINCENT: Objection, vague, calls for 21 testimony outside the scope of his opinions. 22 THE WITNESS: So think about it like this: 23 Imagine we're looking at this V10. And you see 24 back here all these little holes? Imagine if	155 1 much, much longer. And as in this vacuum, they 2 can just walk over and go, pow, dump the big 3 stuff, close it up, and get going. 4 At some point, maybe they can do that, 5 depending on what they're picking up, they can 6 do it two times, five times, maybe 10 times 7 before they have to actually clean, in essence, 8 in your example, the bag, or throw the bag 9 away. 10 BY MR. EMERICK: 11 Q Got it. 12 So to maybe sum that up. One of the 13 advantages of a cyclone versus a bag is the 14 frequency with which you have to change filters is 15 better for -- with cyclones than with bags? 16 MR. VINCENT: Objection, vague, outside 17 the scope of his opinions. 18 THE WITNESS: Yes. And, in fact, I 19 think -- and this is from memory. I think that 20 was a big selling point when Dyson first 21 started advertising, is that you didn't lose -- 22 oh, and by the way, that's the other part of 23 it. You lose suction as that bag starts to 24 fill. Okay?
154 1 that's -- that's no different than -- than, as 2 I'm talking about a filter, is a membrane that 3 has lots of little holes. Okay? 4 And it won't let anything bigger than the 5 holes pass through. 6 Now, relatively speaking, if you're 7 talking about a 5-micron filter or even a 8 10-micron filter, those are really small 9 particles compared to those pieces of paper. 10 So if you sucked up a bunch of dust and 11 hair into this vacuum and you were only relying 12 on this -- these little holes here to stop it, 13 those big particles are very quickly going to 14 cover up all your holes. I mean, just like 15 that. Same thing that happens with the bag. 16 The bag is no different. It's got little 17 holes. It has a fixed surface area. If, on 18 the other hand, you can take all of that really 19 big crap out of the air before it gets to that 20 membrane, then it takes a lot longer to fill up 21 that -- all those little holes with tiny 22 pieces. And you can -- and then if you can 23 empty the big chunks out without having to take 24 apart the fine filter, then somebody can go	156 1 So your actual vacuuming power drops. 2 If you -- and that's true for all vacuums. 3 Okay. Even -- even with cyclones. But the 4 longer you can keep your small filter or your 5 last filter from getting clogged, the less 6 frequently you have to do it and the higher 7 pressure differ -- vacuum, we'll just call it 8 that, the higher vacuum you maintain during 9 that process. 10 And I think that was a big thing that 11 Dyson really talked about early on is you 12 didn't lose vacuum as you kept going. 13 MR. VINCENT: Sorry. Go ahead. 14 BY MR. EMERICK: 15 Q Yeah. So an advantage of cyclonic versus 16 bagged is less loss of suction over time? 17 A Yes. That also. 18 Q What about the -- and I'm dating myself 19 because when I was a kid, most of these vacuums had 20 bags. And that's actually all I remember. 21 A Yep. 22 Q But I take it one benefit of a cyclonic 23 vacuum is you don't have to buy replacement bags? 24 MR. VINCENT: Objection, vague, outside

157 1 the scope of his opinions. 2 THE WITNESS: It can be. And what I mean 3 by that is the cyclonic action doesn't change 4 what the manufacturer does after that. 5 So, for example, you could have a filter 6 after that, a post filter that can be -- you 7 know, like this one. It's metal film with 8 holes. So you could brush it out, shake it 9 out, do all kinds of things to clean it. 10 However, if this was a model that was 11 designed for hospitals, you might have a third 12 stage, which is an actual HEPA filter. And 13 those particles are so fine you probably can't 14 clean it. You're probably going to have to 15 throw that away. That's a design choice that 16 the manufacturer makes. So -- so, yes, you 17 know, for your average consumer, we've reached 18 a point where you can design it to where you 19 don't have to throw it -- you don't have 20 consumables. Okay? But that's not necessarily 21 the fact. 22 BY MR. EMERICK: 23 Q So but at least in some settings, the lack 24 of having to do a replacement bag is an advantage	159 1 elsewhere. And it appears that these products 2 fulfill what the consumer is wanting, that 3 balance. 4 MR. EMERICK: Okay. So, Rob, I've got 5 exhibit -- oh, go ahead. 6 MR. VINCENT: I was going to say. We've 7 been going an hour. It's a good time for 8 lunch. 9 MR. EMERICK: We're thinking the exact 10 same thing. I was going to change exhibits 11 so... 12 VIDEOGRAPHER: We are going off the 13 record. The time is 12:38 p.m. 14 (A luncheon recess is had from 12:38 p.m. 15 to 1:34 p.m.) 16 VIDEOGRAPHER: We are back on the record. 17 The time is 1:35 p.m. 18 BY MR. EMERICK: 19 Q Welcome back. If you want to pull out 20 Exhibit 4 from your stack. 21 A That it? 22 Q Okay. You've got the pen there next to 23 you as well? 24 A Yeah. Yeah.
158 1 over -- 2 A A big advantage. Yes. A big advantage. 3 Q Now, I mentioned when I was a kid every 4 vacuum I saw was bagged and now it seems like the 5 industry is vast majority cyclonic, certainly Dyson 6 and Shark. 7 Do you have any idea why it's moved that 8 direction over time? 9 MR. VINCENT: Objection, foundation, 10 speculation, outside the scope of his opinions. 11 THE WITNESS: It's like almost anything 12 else. You do stuff, you design it, you get it 13 out there and you see what the consumers are 14 happy with. And the consumer tends to think 15 that the vacuum level here and the ability to 16 not have to buy new bags -- because that's one 17 of the other big problems. You run out of 18 bags, there's no vacuuming. Okay? 19 So -- so the reason is simply that is what 20 the consumer has decided those advantages 21 are -- you know, it's like anything else. It 22 gathers a certain amount of advertising, but at 23 the end of the day if you don't deliver a 24 product the consumer wants, they'll go	160 1 Q All right. There was terminology that you 2 used to describe Exhibit 2, the V10, sitting in 3 front of you. What was the terminology used to 4 distinguish Exhibit 2, which doesn't have the tube 5 on it, from the image shown in Exhibit 4 where it's 6 got the tube? 7 MR. VINCENT: Objection, form, vague. 8 THE WITNESS: You're asking about what I 9 said earlier? 10 BY MR. EMERICK: 11 Q Yeah. I'm just -- I just want to use your 12 terminology for this so that we have a common 13 reference. 14 A I just called it a head unit. 15 Q Head unit. That was the word. Gotcha. 16 So in Exhibit 4, can you annotate with a 17 pen what the front of the head unit is? 18 MR. VINCENT: Objection, vague, outside 19 the scope of his opinions, calls for 20 speculation. 21 THE WITNESS: Well, earlier, I said that 22 this was -- whoops -- that that would be 23 considered the front of the head unit. 24 BY MR. EMERICK:

161 1 Q All right. And so in Exhibit 4, can you 2 label the front of what you call the head unit of 3 this vacuum? 4 MR. VINCENT: Objection, outside the scope 5 of his opinions, vague. 6 BY MR. EMERICK: 7 Q And then can you also label the rear of 8 what you're calling the head unit in Exhibit 4? 9 A (Complying.) 10 MR. VINCENT: Objection, vague, outside 11 the scope of his opinions. 12 THE WITNESS: (Complying). 13 BY MR. EMERICK: 14 Q And then do you mind if I just take a look 15 at that? Thanks. 16 Why did you select the location you did as 17 the front of the head unit in your Exhibit 4 label? 18 MR. VINCENT: Objection, vague, outside 19 the scope of his opinions. 20 THE WITNESS: The -- when you're using 21 this, and without any other point of reference, 22 then if you are holding this, then the front is 23 in line with the front of how you would -- when 24 you're holding it in this manner, normal use.	163 1 THE WITNESS: As far as use, could be. 2 BY MR. EMERICK: 3 Q Are there multiple normal uses of this V10 4 vacuum shown in Exhibit 2 and 4? 5 A You're going to have to define a little 6 bit better what you mean by multiple normal uses. 7 Q Well, why don't we take a look at your 8 declaration on this because you've got a section. 9 Why don't you turn to paragraph 42. 10 A Okay. 11 Q You see it says "Generally, as a POSITA 12 would have understood, in product design, a front 13 direction of a product or component is the direction 14 where a user would face while normally using a 15 product, the direction where the product is moving 16 forwards while being used." You see that? 17 A Yes. 18 Q Okay. So is there only one way that a 19 user would normally use a hand vacuum cleaner such 20 as the V10 or are there multiple normal uses? 21 A So what I'm getting at in here and what is 22 important in all of this is I'm talking about normal 23 use. Okay? But normal use is still -- always has 24 to be taken in light of the claims, the
162 1 BY MR. EMERICK: 2 Q Okay. Is the way you're holding it right 3 now, that's the normal-use position? 4 MR. VINCENT: Objection, vague. 5 THE WITNESS: This can be used in all 6 sorts of different directions. But, again, 7 under a normal use, when you pick it up -- all 8 right? -- what is the front, as you're carrying 9 it -- and this is what I would call carrying 10 it, in my mind, in normal use -- that as you 11 pick it up and as you're carrying it, the front 12 is the front that is facing forward, in 13 essence, my front, its front. 14 BY MR. EMERICK: 15 Q Is the use shown in Exhibit 4 an abnormal 16 use? 17 MR. VINCENT: Objection, vague, outside 18 the scope of his opinions. 19 THE WITNESS: It's a picture of somebody 20 using it so I wouldn't say it's abnormal. 21 BY MR. EMERICK: 22 Q So would you agree that the use shown in 23 Exhibit 4 is a normal use? 24 MR. VINCENT: Objection, vague.	164 1 specifications, the prosecution history. So I'm 2 talking about, in here -- and this is part of what 3 is consistent in all of these patents -- is what I 4 consider and talk about normal use is consistent 5 with what they've chosen to be their language. 6 And, again, if the patents had chosen to 7 be written in a different manner, then there 8 wouldn't be a section talking about normal use. And 9 I would specifically use the language. I happen to 10 agree because that's -- my opinion, the writers of 11 the patent, Dyson's opinion, they all pretty much 12 agree on the terminology. 13 Q So that was non-responsive to my question, 14 which was "Is there only one way that a user would 15 normally use a hand vacuum cleaner such as the V10 16 or are there multiple or a range of normal uses?" 17 MR. VINCENT: Objection, form. 18 THE WITNESS: When you ask about normal 19 uses, do you mean other than being a vacuum 20 cleaner? That's a little broad. You're going 21 to have to define a little bit better. 22 BY MR. EMERICK: 23 Q So you wrote a declaration in this case; 24 right?

165 1 A Yes. 2 Q You are defining the front as the 3 direction where a user would face while normally 4 using a product. Those are your words -- 5 A Yes. 6 Q -- Mr. Akhavein; correct? 7 A Yes. Those are my words. 8 Q This is your opinion and that's how you 9 define what a front is. 10 A But that's not how you asked the question. 11 I'm trying to clarify your question, not what I 12 wrote. 13 Q I'm asking about what you wrote. 14 A Yes. 15 Q Do you understand that? 16 A Yes, I do. 17 Q Okay. 18 MR. VINCENT: Object to form. 19 BY MR. EMERICK: 20 Q And my question is: You are the one who 21 is defining "front" based upon this idea of normal 22 use; right? 23 MR. VINCENT: Object to -- 24 BY MR. EMERICK:	167 1 A Oh, okay. 2 Q I need you to listen extremely carefully 3 to my question. 4 A All right. Yeah. I'm trying. 5 Q I'm not -- 6 A I'm not quite following the distinction. 7 Q You understand that you're here, I ask 8 questions and you provide answers. You understand 9 that's the format for this deposition? 10 A Yeah. Yeah. 11 MR. VINCENT: He's answering your question 12 so don't even -- 13 MR. EMERICK: He's not answering the 14 question. 15 THE WITNESS: I'm -- I'm trying to answer 16 your question. I'm just not -- 17 MR. VINCENT: Hold on. Hold on. Hold on. 18 THE WITNESS: I'm sorry. 19 MR. VINCENT: He's answering your 20 questions. 21 MR. EMERICK: He's not answering the 22 questions and the record will reflect that. 23 MR. VINCENT: Okay. There's no need for 24 that exchange.
166 1 Q Do you see that? 2 A In light of the spec -- 3 MR. VINCENT: Objection, misstates -- hold 4 on. Hold on. 5 THE WITNESS: Oh, I'm sorry. 6 MR. VINCENT: Objection, misstates the 7 document. 8 THE WITNESS: In light of the 9 specifications and the claims, yes. 10 BY MR. EMERICK: 11 Q Okay. And so however you are defining 12 normal use is what I need to know about today. Do 13 you understand that? 14 A Yes. 15 Q Okay. And so whatever you consider normal 16 use to be -- you understand this? These are your 17 words. 18 A Yes. 19 Q Whatever you consider normal use to be, is 20 there only one normal use or are there multiple? 21 A If you're asking if this -- well, or the 22 vacuum cleaners could be used on a wall, on a 23 ceiling, if that's what you're getting at, then yes. 24 Q No.	168 1 BY MR. EMERICK: 2 Q Mr. Akhavein, you wrote in your 3 declaration that the front direction of a product or 4 component is the direction where a user would face 5 while normally using a product. 6 Do you see that? 7 A Yes. 8 Q You're defining "front" using what you 9 call normal use as a reference point. You agree 10 with that? 11 A Yes. In light of -- because this is 12 carried through universally. In light of the 13 claims, the specifications. 14 Q I'm not asking how you came to decide -- 15 A Okay. 16 Q -- what normal use is. 17 A Okay. 18 Q We can talk about that later. 19 A All right. 20 Q Set that aside. 21 A All right. 22 Q Understood? 23 A Got it. 24 Q I'm just asking, under your definition of

169 1 normal use, whatever you consider that to be, or 2 however it was derived, that's irrelevant to the 3 answer to this question. 4 A Okay. 5 Q Which is: Is there only one way in which 6 a user would normally use a hand vacuum cleaner such 7 as the V10 or are there multiple normal uses? 8 MR. VINCENT: Object to form. 9 THE WITNESS: In my mind -- let's just 10 pretend this is the vacuum that I was talking 11 about, you grab it with your hand, you squeeze 12 the trigger, and you go about vacuuming. 13 That's -- that's how you do it. Whether you're 14 doing the floor or a wall or a ceiling, you 15 don't pick it up this way, (indicating), you 16 don't hold it backwards. This is normal use, 17 (indicating). 18 BY MR. EMERICK: 19 Q Is pointing the vacuum at the ceiling, if 20 you could do that for the camera right now -- 21 A (Complying.) 22 Q -- is this a normal use to clean the 23 ceiling? 24 A If I'm holding --	171 1 Q "A front direction of a product or 2 component is the direction where a user would face 3 while normally using a product." You see that in 4 42? 5 A Yes. 6 Q Now, for each of the three normal-use 7 cases you just showed, ceiling, floor, and towards 8 the camera, you were, in each case, facing the 9 camera; correct? 10 A I was facing -- 11 MR. VINCENT: Objection, vague. 12 THE WITNESS: I was facing the camera? 13 Yes. I continued to face the camera. 14 BY MR. EMERICK: 15 Q However, the portion of the vacuum that 16 faced the camera changed each time; is that right? 17 MR. VINCENT: Objection, vague, misstates 18 the testimony. 19 THE WITNESS: Yes. 20 BY MR. EMERICK: 21 Q Okay. And so the front of the vacuum 22 changed each time; right? 23 MR. VINCENT: Objection, misstates 24 testimony, vague.
170 1 MR. VINCENT: Object. 2 THE WITNESS: I'm sorry. 3 MR. VINCENT: Object to form. 4 THE WITNESS: If I'm holding it like this, 5 I would consider that normal use. 6 BY MR. EMERICK: 7 Q And if you pointed to the floor. And if 8 you could -- and I appreciate that for the camera. 9 A Yeah. 10 Q Is this a normal use of the V10 vacuum? 11 A As I'm holding it -- 12 MR. VINCENT: Object to form. 13 THE WITNESS: I'm sorry. 14 -- in my hand, yes. 15 BY MR. EMERICK: 16 Q And then if you point it towards the 17 camera, is this also a normal use? 18 A Yes. 19 Q There's nothing like that trigger to give 20 us some levity for this deposition. 21 I think we'll be out of battery at the end 22 of the day at this rate. 23 Now, staying on paragraph 42. 24 A Okay.	172 1 THE WITNESS: That's -- no. That's -- 2 that's -- it's just silly. 3 BY MR. EMERICK: 4 Q Why is that silly? 5 A It's like saying that the front of a car 6 changes if you decide to stand in front of it. The 7 front of the car's always the front of the car. 8 Okay? 9 It's no different -- same -- take a simple 10 analogy as putting a bicycle on a car. You've got 11 roof racks, you've got racks in the back. If you 12 put a bicycle on the rack on the roof and it's 13 facing forward, the front tire is facing the front 14 of the car. If you mounted that on the roof 15 pointing the other direction, the front tire is 16 facing the rear of the car but it's still the front 17 tire. If you put it on the back of a bike -- I 18 mean, on the back of the car, sideways, the front 19 tire may be facing the driver's side. 20 It never stops being the front tire. And 21 to consider it anything else is silly. It's my 22 opinion, it's also Dyson's opinion. And they 23 clearly state that in their manuals. 24 The wand, for example, very good

173 1 illustration, they say, just like in this case, when 2 I pointed it to the ceiling, if you took the stick 3 vacuum for the Dyson, what Dyson considers the 4 bottom of the floor unit, when you point it up in 5 the air, Dyson still calls it the bottom. So to 6 think that it changes goes against what a POSITA 7 would think, goes against what's in the patents, and 8 goes against what Dyson actually considers. 9 Q If holding the vacuum pointed towards the 10 ceiling is a normal use, and pointing it to the 11 floor is a normal use, and pointing it towards the 12 camera here is a normal use, how did you decide 13 which of those three normal uses to select when 14 deciding what the front of the vacuum is? 15 MR. VINCENT: Objection, vague. 16 THE WITNESS: Two things: One, first and 17 foremost, the specifications in the claims. My 18 opinion is when you're carrying this -- and I 19 still consider the way I'm holding it right 20 now, if somebody said, how would you carry 21 this, this would be it, (indicating). 22 Okay. So if -- so if I was given nothing 23 else, somebody just walked into the room, no 24 patents, no claims, no nothings, and they said,	175 1 sure that they don't say F is something weird other 2 than the floor. 3 Q Is there anything that jumps out as 4 abnormal looking about that? 5 MR. VINCENT: Objection, vague. 6 THE WITNESS: There is nothing that jumps 7 out abnormal about that. 8 If you happen to see where they mention 9 what F is... 10 How about this: Assuming that F is a 11 surface, like a floor, tabletop, instead of 12 trying to hunt for it all day, with that 13 assumption, then this is a normal use. 14 BY MR. EMERICK: 15 Q Are you familiar with any of Shark's hand 16 or stick products? 17 MR. VINCENT: Objection, to the extent 18 outside the scope of his opinion. 19 THE WITNESS: I'm familiar with what is in 20 the patents that I have reviewed. Their actual 21 products, like the Dyson products, I haven't -- 22 I don't own. I haven't been given any, so 23 other than general knowledge, no. 24 BY MR. EMERICK:
174 1 what would you do, I would say, well, this is 2 how you normally hold it, by this grip, this is 3 the way I'm facing, so that makes that the 4 front. 5 In this case, I have that opinion and that 6 opinion is in line with the specifications in 7 the claims. 8 If the specifications in the claims in 9 these patents actually referred to this as -- 10 let's just say they called this the rear, 11 (indicating), and they called this the front, 12 (indicating) -- all right? -- then with the 13 matter at hand, I would need to be referring to 14 things in the same way that the specifications 15 do. 16 BY MR. EMERICK: 17 Q If you could turn to Exhibit 6, Figure 6. 18 A Okay. 19 Q And this is the '407 patent. 20 A Yes. All right. I am looking at 21 Figure 6. 22 Q Is this an orientation of the vacuum of 23 the '407 patent in a normal or abnormal use case? 24 A I'm just going to double-check to make	176 1 Q Is there anything you can point me to in 2 your report about how a person could go about 3 determining whether a use is normal versus abnormal? 4 A I don't believe that I have anything in my 5 report that defines the parameters of normal, 6 abnormal. I think it's fairly straightforward. 7 This product, much like many others, is designed 8 with a place that you grab when you're using it. I 9 know some uprights -- and I don't know if it's 10 applicable. There are some uprights that have a 11 place that you grab when you use it. And if you're 12 just transporting it, they may have another place 13 that you grab. But generally speaking, outside of 14 this is how I grab it when I'm using it, I don't -- 15 I don't have definitions in the report that say, you 16 know -- there's no place where I go in there and 17 say, if you hold it like this, (indicating), it's 18 abnormal or try to define all the possible 19 abnormalities you could toss into the mix. 20 Q The report doesn't cite anything from any 21 of the patent specifications that says, hey, this is 22 a normal use versus a abnormal one? 23 MR. VINCENT: Object to form. 24 THE WITNESS: No. To the best that I

177 1 recall, there's -- I don't remember seeing 2 anything in the patents that talks about 3 abnormal use or -- or tries to make that -- 4 that distinction. 5 BY MR. EMERICK: 6 Q How do you determine or how does a person 7 of skill in the art determine what a normal versus 8 abnormal use is? 9 A Well, you look at -- if you're talking 10 about the product -- so, because, again, there's -- 11 there could be two different things. If we're 12 talking about just the product, well, I would 13 believe that Dyson has put a tremendous amount of 14 effort into the design of this handle. How long is 15 it, how wide is it, how much gap is there here, how 16 does it feel, and the actual angle. You know, you 17 could be vertical and verticals, probably, if you 18 think about how the hand is shaped -- I mean, 19 there's a reason that grips tend to lean forward. 20 So a lot of work has gone into that so 21 that when a person comes over, it's just instinctual 22 and it's comfortable. You're going to be going back 23 and forth for a while. The same kind of work goes 24 into an upright. If you just had an upright vacuum	179 1 BY MR. EMERICK: 2 Q Are there any reliable principles or 3 methods someone can use to determine whether a use 4 is normal versus abnormal? 5 MR. VINCENT: Objection, calls for a legal 6 conclusion, vague. 7 THE WITNESS: I really don't have an 8 opinion on that. 9 BY MR. EMERICK: 10 Q Are there any repeatable methods that a 11 person of skill in the art could perform -- strike 12 the question. 13 Are there any repeatable methods for 14 determining whether a use is abnormal versus normal? 15 MR. VINCENT: Objection, form, vague. 16 THE WITNESS: And I really don't have an 17 opinion on that. 18 BY MR. EMERICK: 19 Q Are there any features that determine 20 where the front of a vacuum is? 21 MR. VINCENT: Objection, form. 22 THE WITNESS: You're -- it's going to have 23 to be a little more specific. 24 BY MR. EMERICK:
178 1 and you didn't have, let's say, a head unit that 2 attached to a stick, that same effort's going to go 3 in there. 4 So grabbing it by that portion where all 5 the work has been done to make it ergonomically 6 correct, that would be my starting point for normal 7 use, just as I stated with this. 8 Q You haven't done any study to determine 9 how users use hand vacuums; right? 10 A I have not conducted any independent 11 studies. 12 Q You haven't done any survey of how users 13 use hand vacuums? 14 A I have not done any surveys. 15 Q You're not basing your opinion on what 16 constitutes a normal versus abnormal use on any 17 facts or data; right? 18 MR. VINCENT: Objection, misstates the 19 testimony. 20 THE WITNESS: Other than all of the 21 pictures that are shown, the instruction 22 manuals that I've looked at, it's all pretty 23 consistent. There's nothing that jumps out as 24 odd.	180 1 Q Sure. So for example, you're pointing to 2 the area around the suction inlet, I think, as 3 the -- what you're calling the front of the V10; is 4 that right? Exhibit 2. 5 A A couple of things. Yes. I pointed to 6 that as the front of the head unit of the V2. Okay? 7 Q Okay. And so is -- for example, does the 8 suction inlet determine where the front of a vacuum 9 is? 10 MR. VINCENT: Objection, vague. 11 BY MR. EMERICK: 12 Q You're shaking your head, but we'll need 13 verbal answers. 14 A Yeah. I know. Yeah. I was going to get 15 to the verbal part. 16 No. It does not. 17 Q So just because of my interruption, I'll 18 ask the question and answer again. Does the suction 19 inlet location determine where the front of a hand 20 vacuum cleaner is? 21 MR. VINCENT: Objection, vague. 22 THE WITNESS: No. 23 BY MR. EMERICK: 24 Q Why not?

181 1 MR. VINCENT: Same objection. 2 THE WITNESS: You know, you can -- you can 3 look -- a perfect example is Dyson. 4 BY MR. EMERICK: 5 Q Why is Dyson a perfect example? 6 A Well, because Dyson, on page 29, if you 7 look at -- and it's actually, I think, paragraph 70, 8 page 28. In their instructions, they talk about 9 looking at the bottom of the floor unit. And 10 they're showing it with the bottom turned upside 11 down and pointing upwards. Now, that's the air 12 inlet for that vacuum. Okay? 13 Q Sorry. You said page 28, but I'm not -- 14 A It's -- yeah. It's paragraph 70. Starts 15 on page 28, but the picture is on page 29. 16 So in their manual, they talk about where 17 the floor unit. And, you know, this -- this shows 18 two things. One is they're showing the floor unit 19 flipped upside down with glasses illustrating you 20 should be looking at this if you think there's an 21 obstruction. One, even though it's flipped upside 22 down, they still refer to it as the bottom because 23 that's the bottom in normal use. And that bottom 24 doesn't change. If you're vacuuming a wall or a	183 1 opinion on what is possible in the world. 2 BY MR. EMERICK: 3 Q Is there any objective criteria you can 4 identify for determining what the front of the 5 vacuum is? 6 MR. VINCENT: Objection, vague. 7 THE WITNESS: Can you repeat that 8 question? 9 BY MR. EMERICK: 10 Q Yeah. Are there any objective criteria 11 you can identify for determining what the front of a 12 vacuum is? 13 MR. VINCENT: Object to form. 14 THE WITNESS: I've said earlier, and I 15 think there may be something in my declaration, 16 that without -- when you're not given some 17 pre-defined orientation, that when you -- if 18 you pick it up the way you would normally carry 19 it -- and this is -- this is a handheld vac. 20 Okay? Because uprights generally are not 21 carried and used. You just -- you know, you've 22 got a carrying handle. 23 That the front would be what is in the 24 same direction that you're facing if I'm
182 1 ceiling, or you flipped it upside down to look for 2 obstructions, it doesn't change that that's the 3 bottom. 4 It also, towards your question, happens to 5 be the air inlet. And Dyson says, in this case, the 6 air inlet is the bottom of the floor unit. 7 Q So a suction inlet can be on the front. A 8 suction inlet could be on the bottom. The location 9 of the suction inlet doesn't determine what the 10 front of the vacuum is? 11 A Correct. It could be on the bottom of the 12 vacuum. It could be on the front of the vacuum. 13 Q Could be on any part of the vacuum; right? 14 A That's -- that's a -- yeah. I really 15 don't have an opinion on what could possibly be. 16 Q If you were tasked, I mean, as an expert 17 in vacuum design, of designing a vacuum, a hand 18 vacuum with a suction inlet on the top, is that 19 something you could do? 20 MR. VINCENT: Objection, vague, calls for 21 speculation, outside the scope of his opinions. 22 THE WITNESS: I'm sure you could. I'm 23 sure somewhere in the universe there's a 24 option. But, again, I really don't have an	184 1 carrying it, if I was given nothing else. 2 BY MR. EMERICK: 3 Q Okay. If, for example, others or even 4 consumers carried the vacuum differently, for 5 example, if they just let their arm hang down to 6 where the suction inlet of Exhibit 2 was closest to 7 the floor, would that be an objective criteria for 8 determining what the front of the vacuum is? 9 MR. VINCENT: Objection, vague. 10 THE WITNESS: You're going to have to be 11 more specific about that. 12 BY MR. EMERICK: 13 Q Yeah. So your -- you have defined "front" 14 as being the direction of the vacuum that faces the 15 same direction the front of your body is facing. 16 Agreed? 17 A I said that in reference to holding a head 18 unit. 19 Q Yes. 20 A This is not some universal reference. 21 Q Okay. So with respect to the head unit of 22 the V10, for determining what the front is, the 23 question is, how does -- first, we've got to 24 determine how the user carries it. And next, we

185 1 say, okay, however the user carries it, the face of 2 the vacuum that is facing the same way as the face 3 of my body, that's the front. That's the task; 4 right? 5 MR. VINCENT: Objection, misstates 6 testimony. 7 BY MR. EMERICK: 8 Q Do I have that right? 9 MR. VINCENT: Sorry. 10 Objection, misstates testimony. Vague. 11 THE WITNESS: Only if there's no claims 12 specifications. If -- again, if you just 13 walked into a room with this on the table and 14 you asked me that, then that would be my 15 answer. But, you know, you have to -- I guess 16 underlying into all of these answers is, in 17 light of the claims in the specifications -- 18 okay? -- because that's -- is what matters 19 here. 20 BY MR. EMERICK: 21 Q And you don't cite to any claims that say, 22 here is the way in which the hand vacuum is normally 23 carried. You don't cite to anything like that in 24 your report; right?	187 1 A -- if I don't. Because most of what's in 2 my report is citing to specifications which support 3 the claims because the specifications are where the 4 pictures are. 5 Q We'll get to the specification next. 6 A Um-hum. 7 Q I want to focus now on the claims. And so 8 I'll re-ask the question, which is "You don't cite 9 to any claims that say, here is the way in which the 10 hand vacuum is normally carried" to orient the 11 reader. 12 MR. VINCENT: Object. Object to form. 13 THE WITNESS: I'm not sure that that 14 language, as we talked about earlier, is 15 actually in any of the claims. 16 BY MR. EMERICK: 17 Q Okay. And so for the specification, you 18 don't cite to any statements in the specification 19 that say, hey, this is a normal way of using the 20 vacuum, that is a abnormal way of using the vacuum; 21 right? 22 MR. VINCENT: Objection, vague. 23 THE WITNESS: So I don't cite any place 24 where I say that there's some abnormal use.
186 1 MR. VINCENT: Objection, vague. 2 THE WITNESS: Yeah. I am -- there's 3 page 11, page 12. 4 BY MR. EMERICK: 5 Q What are you pointing to on page 11? 6 A Oh, okay. So Figure 22 from -- 7 Q Is that a claim? We're talking about 8 claims here. 9 A Oh, I can go to and find the claim that 10 talks about that. I'm talking about the 11 specification. 12 Q The question was different. 13 A Okay. 14 Q The question was "You don't cite to any 15 claims that say, here is the way in which the hand 16 vacuum is normally carried" to orient you, the 17 reader, to what follows in the rest of the claim 18 language. You don't cite to any claims that say 19 anything to that effect; right? 20 MR. VINCENT: Objection, vague. 21 THE WITNESS: I'd have to go through my 22 report to see -- 23 BY MR. EMERICK: 24 Q Go ahead.	188 1 But when you talk about front, if we talk 2 about -- you know, if you look at paragraph 41, 3 when we talk about front, forward, forwardly, 4 rear, rearward, rearwardly -- okay? -- the 5 third sentence, This grouping of terms is 6 relevant to asserted Claim 2 of the '477, the 7 asserted claims, on and on, of the '472, 8 asserted claims of the '407, the '607, the 9 '038. 10 So those terms, forward, forwardly, rear, 11 and rearwardly, I do reference where they show 12 up in claims. 13 BY MR. EMERICK: 14 Q Is there anything that you've cited to 15 from any of the specifications of any of the patents 16 in your report that talks about a normal versus 17 abnormal use of the products? 18 MR. VINCENT: Objection, vague. 19 THE WITNESS: Again, the specifications 20 don't get into use and abnormal use. 21 BY MR. EMERICK: 22 Q So the next part of paragraph 42 in your 23 report that I'd like to turn your attention to is in 24 the third line of paragraph 42. It says, and this

189 1 is after the comma, "The direction where the product 2 is moving forwards while being used." You see that 3 clause? 4 A Yes. 5 Q And then the next sentence says "In the 6 context of vacuum cleaners, both definitions may 7 apply and are generally consistent with each other." 8 You see that? 9 A Yes. 10 Q So there's two definitions that you're 11 referring to here in this paragraph 42. 12 A It's not two definitions. It's saying 13 that it would -- which way it would face, normally 14 used. And with most of these vacuums, there is a 15 front to back. Yes, you can go sideways if you 16 want, but it's a very -- this is a very large 17 generality, that you vacuum, this is kind of the 18 motion. That's the reason they're designed that 19 way. That's the reason the floor units have rollers 20 that are facing in the direction that they're 21 facing, because most of the motion is back and forth 22 and back and forth. 23 Q So you started your answer by saying "it's 24 not two definitions." And your expert report,	191 1 Q From in front of -- yeah. Yeah. 2 A Okay. 3 Q Is this -- is what you've labeled the 4 front of Exhibit 4, is that facing towards the 5 floor? 6 A Well, first of all, I labeled it as front 7 of the head unit. 8 Q Yeah. But I'll -- I'll ask the new 9 question. 10 A Okay. 11 Q In Exhibit 4, what you've labeled the 12 front of the head unit, is that facing the floor? 13 A In this picture, generally speaking, it's 14 facing down, yes. 15 Q Is the user in this picture, Exhibit 4, 16 facing down? 17 MR. VINCENT: Objection, speculation. 18 THE WITNESS: The user is facing -- we'll 19 say in this picture, somewhat right to left. 20 It's a bit of a ISO. 21 The -- I'm not sure how you want to 22 describe. She's not facing down. Well, I 23 think it's a she. She's facing forward. 24 BY MR. EMERICK:
190 1 paragraph 42 says both definitions. So I'm trying 2 to understand. Are there two definitions for 3 determining what a front is or not? I'm just 4 confused on that based on that inconsistency. 5 MR. VINCENT: Object to form. 6 THE WITNESS: Well, there -- again, 7 it's -- you know, I don't see that as two 8 distinct, one-or-the-other definitions. You're 9 holding it in front of you. This is the way it 10 faces, (indicating), and you're moving forward 11 and backward. Okay? And I'm just saying both 12 definitions may apply and are generally 13 consistent with each other. 14 BY MR. EMERICK: 15 Q How do you determine whether you're moving 16 forwards or backwards? Is that, again, relative to 17 the front of your body? 18 A If I'm talking about moving forwards and 19 backwards, then it's relative to the direction I'm 20 facing. And, again, you know, this paragraph here 21 is talking about a very big generality, as I see 22 vacuums normally being used. 23 Q If you could grab Exhibit 4 again. 24 A Which one?	192 1 Q And so under the definition that you've 2 given in paragraph 42, wouldn't the front of the 3 head unit be, for example, where the V10, Exhibit 2, 4 is marked "max" because that is the direction of the 5 product that's the same as the direction the user's 6 facing; right? 7 MR. VINCENT: Objection, vague. 8 THE WITNESS: No. That's not at all what 9 I've said. In fact, I've said the opposite. 10 Okay? Is -- what I've said is this, if this 11 was a stand-alone item and there was no point 12 of reference, this is how I would carry it, 13 (indicating). So I would call that the front 14 of the head unit. 15 And when you place this into the -- into 16 the wand, this doesn't stop being the front of 17 the head unit. No more -- it's -- I mean, it's 18 like saying that, again, I'm driving down the 19 street in a car and if I start suddenly going 20 downhill, the front of my car now becomes the 21 bottom of my car. I mean, it's -- that's how 22 silly that -- that sounds. 23 The front of your car, if you're going up 24 a hill or down a hill, is still the front of

193 1 your car. The front of a bicycle on the roof 2 of your car, the front wheel doesn't change if 3 you change to mount it facing forward or 4 backward. 5 BY MR. EMERICK: 6 Q I promise we'll get into car talk later in 7 the afternoon and we can go through all these 8 because I've got some car questions for you. 9 A Okay. 10 Q But sticking with the task at hand. 11 A All right. 12 Q So does the area that says "max" on 13 Exhibit 2, the V10, you see that? 14 A Yes. 15 Q In Exhibit 4, is the max label facing the 16 same direction as the user? 17 MR. VINCENT: Objection, vague, 18 foundation, speculation. 19 THE WITNESS: In this picture, the max is 20 facing generally in the same direction as the 21 user. 22 MR. EMERICK: Okay. I've got another 23 exhibit. I think we can do some more before 24 another break.	195 1 MR. VINCENT: Figure 1B? 2 MR. EMERICK: Figure 1B. Thank you, Rob. 3 THE WITNESS: Yep. Okay. 4 BY MR. EMERICK: 5 Q Are you able to determine what the front 6 or back of this vacuum is in 1B? 7 MR. VINCENT: Objection, foundation, 8 vague, speculation, outside the scope of his 9 opinions. 10 THE WITNESS: I'm not able to give you an 11 opinion and tell you what I think what the 12 front or the back is. I don't know what this 13 is, how it works. Haven't had a chance to look 14 at it. 15 That's weird. 16 BY MR. EMERICK: 17 Q The label 110, you see that on Figure 1B? 18 A Yes. 19 Q That could be the back; right? 20 MR. VINCENT: Objection, vague, 21 speculation, foundation, outside the scope of 22 his opinions. 23 THE WITNESS: I -- I don't know how 110 is 24 labeled. I'd have to go through the
194 1 MR. VINCENT: Okay. 2 BY MR. EMERICK: 3 Q I'm handing you what will be marked as 4 Exhibit 8. 5 (Exhibit 8 was marked.) 6 MR. VINCENT: Thank you. 7 BY MR. EMERICK: 8 Q All right. If you want to turn to 9 paragraph 102, and about midway through the 10 paragraph, a little past midway, there's a sentence 11 that starts with "If such a port 110 is -- 1010 is 12 provided" -- 13 A Oh, hang on. Hang on. I'm sorry. 14 Q Oh, that's -- all right. Yeah. So 15 Exhibit 8. 16 A Exhibit 8. 17 Q Actually, why don't we stay on the front 18 of -- or the cover of Exhibit 8. 19 A Okay. I went to paragraph 102 of my 20 report. 21 Q Sure. 22 A All right. So... 23 Q Are you able to label the -- and actually, 24 why don't you turn to Exhibit 1B on the next page.	196 1 specifications and see what they call 110. And 2 then that would be what 110 would be. 3 BY MR. EMERICK: 4 Q Are you able to determine, just looking at 5 Figures 1A and 1B, how a user would normally use 6 this vacuum? 7 MR. VINCENT: Objection, foundation, 8 vague, outside the scope of his opinions. 9 THE WITNESS: Again, this is -- I can go 10 through the specifications and see what they 11 say those parts are that you're talking about. 12 But, you know, I'm -- this, at least, I have 13 something I can hold and I can play with and I 14 can see. And it's relatively similar to much 15 of what we're talking about that's in these 16 patents. 17 This doesn't look like a pistol-grip head 18 unit. It doesn't look like a stick vacuum. So 19 at this point, I'm not ready to give you an 20 opinion on what I think normal use is for this. 21 BY MR. EMERICK: 22 Q In Figure 1B, 114 could be the back of the 23 vacuum; right? 24 MR. VINCENT: Objection, foundation,

197 1 speculation, outside the scope of his opinions. 2 THE WITNESS: I don't know what -- I don't 3 know what one -- or 114 is. 4 BY MR. EMERICK: 5 Q Do you see -- if you go to Figure 1B -- 6 A I mean, I -- 7 Q -- there's a label, 114. You see that? 8 A Yes. Yeah. 9 Q 114, that could be referring to the back 10 portion of that vacuum; right? 11 MR. VINCENT: Objection, vague, 12 foundation, outside the scope of his opinions. 13 THE WITNESS: Again, I'd have to look at 14 the specifications to see what it is referring 15 to. 16 BY MR. EMERICK: 17 Q You're not able to rule out that 114, you 18 know, could be the back of this vacuum? 19 MR. VINCENT: Sorry. Objection, vague, 20 speculation, outside the scope of his opinions, 21 foundation. 22 THE WITNESS: As I sit here right now, I 23 can't rule out if it's the back, the top, the 24 front, the bottom, any of that.	199 1 talks about abnormal use. But I think you 2 would have to specify in clear terms how it's 3 used and what these components do and how they 4 function. 5 BY MR. EMERICK: 6 Q If you were hired to do some engineering 7 work on a vacuum or some design work on a vacuum and 8 a client sent you a diagram as shown in Figure 1B 9 and they said, Mr. Akhavein, can you give us some -- 10 your thoughts, comments, on how we've designed the 11 front of this vacuum, would you have any idea what 12 portion they would be referring to? 13 MR. VINCENT: Objection, foundation, 14 vague, calls for speculation, incomplete 15 hypothetical, outside the scope of his 16 opinions. 17 THE WITNESS: Without having and in-depth 18 discussion -- again, like I've said, they 19 have -- well, let's get back to the plate and 20 the diaphragm. Okay? Unless I sat down and 21 had an in-depth discussion with what this is, 22 how it's used, what they want to get out of it, 23 because that's a big part also, then I wouldn't 24 be able to help them with whatever they want me
198 1 BY MR. EMERICK: 2 Q You would need the actual device to make 3 that determination? 4 MR. VINCENT: Objection, misstates 5 testimony, vague. 6 THE WITNESS: No. If I had time to go 7 through the patent, then I would be comfortable 8 giving an opinion on that. 9 BY MR. EMERICK: 10 Q What if a patent just has a figure like 1B 11 and doesn't have any descriptions about normal 12 versus abnormal uses? Would you have any opinion 13 then or could you form an opinion as to what the 14 front of Figure 1B is? 15 MR. VINCENT: Objection, foundation, 16 incomplete hypothetical, vague, outside the 17 scope of his opinions. 18 THE WITNESS: Well, I -- you know, again, 19 not being a lawyer, I -- I think you'd have to 20 have something in your specifications that says 21 how it's used or you wouldn't be -- you 22 wouldn't actually get a patent. 23 I don't think you would have to have, as 24 is the case with these patents, anything that	200 1 to help them with with the vacuum. 2 BY MR. EMERICK: 3 Q Yeah. If you were -- so just to -- 4 understood. 5 Strike that. 6 If you were just given Figure 1B, you 7 wouldn't know where the front of this is? 8 MR. VINCENT: Objection, foundation, 9 vague, outside the scope of his opinions. 10 THE WITNESS: If -- if somebody just 11 showed me the front of that, I mean, showed me 12 1B, I wouldn't know where to start. Again, 13 it's -- it needs a lot of clarification. 14 BY MR. EMERICK: 15 Q All right. You can set Exhibit 8 aside. 16 All right. Next up is Exhibit 9. 17 (Exhibit 9 was marked.) 18 BY MR. EMERICK: 19 Q And if you could turn to the figures on 20 the last page before the translation certification. 21 And we might be able to go through these quickly, 22 based on the last patent. But are you able to 23 identify a front of this vacuum shown in Exhibit 9? 24 MR. VINCENT: Object to the foundation,

201 1 vague, it's outside the scope of his opinions. 2 THE WITNESS: I'm -- I don't -- I'm not 3 able to render an opinion on what the front of 4 this vacuum is. 5 BY MR. EMERICK: 6 Q Do you know how a -- how a person would 7 normally use this vacuum? 8 MR. VINCENT: Same objections. 9 THE WITNESS: I don't know how -- again, I 10 really can't give you an opinion on how that 11 would be used. 12 BY MR. EMERICK: 13 Q All right. We can set aside Exhibit 9. 14 Number 10, Exhibit 10. 15 (Exhibit 10 was marked.) 16 THE WITNESS: Okay. 17 You spent time in, like, the Wayback 18 Machine or something. 19 BY MR. EMERICK: 20 Q And then if you turn to -- there are 21 multiple figures labeled Figure 1. And the 22 pagination is not great. 23 A Okay. 24 Q And so I'll just hold -- hold this up so	203 1 an opinion on what the front or the back or the 2 bottom, top, any of that. 3 BY MR. EMERICK: 4 Q All right. You can set aside Exhibit 10. 5 Exhibit 11. 6 (Exhibit 11 was marked.) 7 BY MR. EMERICK: 8 Q Are you able to determine what the front, 9 rear, top, or bottom of the vacuum shown in 10 Exhibit 11 is? 11 MR. VINCENT: Objection, foundation, 12 vague, outside the scope of his opinions. 13 THE WITNESS: No. I don't have an opinion 14 on -- at this time on what any of those would 15 be. 16 BY MR. EMERICK: 17 Q If you look at the front page of 18 Exhibit 11, on the second column, line 55 -- 19 A Okay. 20 Q -- it says a dust bag, five. You see 21 that? 22 A Yes. 23 Q And then if you turn to Figure 1 -- 24 A Yes.
202 1 you can see. But there's -- there's other figures 2 as well, but I want to show you this one because -- 3 A Is this Figure 2, up in the upper right 4 corner? 5 Q So it has -- there's a page -- and I 6 apologize that these aren't paginated. That's -- 7 A It's okay. 8 Q They weren't thinking of that in the 1930s 9 or whenever this is from. 10 A Is there a -- is there a figure number on 11 that? 12 Q Yeah. So it's -- it's the page that has 13 Figure 1, Figure 5, and Figure 6. It also has a 14 Figure 2 on the page. 15 A Yeah. Yeah. Okay. All right. So this 16 one, (indicating)? 17 Q Correct. And thank you for that. 18 So for -- for this vacuum, which is shown 19 in Figures 1, 5, and 6 of Exhibit 10, are you able 20 to determine what the front, rear, top, or bottom of 21 this is? 22 MR. VINCENT: Objection, foundation, 23 vague, outside the scope of his opinions. 24 THE WITNESS: No. I'm not able to render	204 1 Q -- which is on the last page. 2 A Yep. 3 Q You see that same five in there? 4 A I see that, five, kind of at the lower 5 portion of the unit, yes. 6 Q Okay. Now, at the same time, if I could 7 get you to look at Exhibit 7 and hold tight on 8 that -- 9 A Okay. 10 Q -- Exhibit 11. And then if you could go 11 to the figure on Exhibit 7. 12 A Okay. Yep. I'm looking 13 at -- right? -- this from -- so I should be looking 14 at this from there and Figure 1 on 11? 15 Q Correct. 16 A Okay. 17 Q Do these have generally similar layouts? 18 MR. VINCENT: Objection, vague, 19 foundation, outside the scope of his opinions. 20 THE WITNESS: I -- I can't tell from that. 21 I can't tell from what I'm looking at. 22 BY MR. EMERICK: 23 Q Okay. As of 2006 -- strike the question. 24 You talk a lot about a person of ordinary

205 1 skill in your declaration. You recall that? 2 A Yes. 3 Q As of 2006, would a person of ordinary 4 skill have had the capability to take the curved 5 pipe from Exhibit 7 and put a curved pipe into the 6 same location on the vacuum in Exhibit 11? 7 MR. VINCENT: Objection, foundation, 8 vague, calls for speculation, outside the scope 9 of his opinions. 10 THE WITNESS: I -- again, I really 11 don't -- can't give you an opinion whether it 12 was 2006, 2005. I -- I see a curved pipe here. 13 I don't know what any of this stuff is going on 14 over here so it's not a question I can really 15 answer. 16 BY MR. EMERICK: 17 Q Yeah. So as -- how about -- we can talk 18 about you personally, then. 19 So as of 2006, would you have had 20 sufficient skill in vacuum cleaner design to 21 incorporate the curved pipe from Exhibit 7 into the 22 same location on Exhibit 11? 23 MR. VINCENT: Objection -- sorry. 24 Objection, vague, foundation, speculation,	207 1 A Because -- 2 MR. VINCENT: Same objections. 3 THE WITNESS: -- I don't know what it is. 4 I don't know how it operates. I don't know 5 what the suction level is. I don't know if 6 there's -- I don't know enough about it. 7 MR. EMERICK: All right. We're going to 8 go on to Exhibit 12. 9 MR. VINCENT: We've been going a little 10 more than an hour. Is now a good time for a 11 break? 12 MR. EMERICK: Yeah. We can do a break. 13 VIDEOGRAPHER: We are going off the 14 record. The time is 2:42 p.m. 15 (A brief recess is had from 2:42 p.m. to 16 2:53 p.m.) 17 VIDEOGRAPHER: We are back on the record. 18 The time is 2:53 p.m. 19 BY MR. EMERICK: 20 Q Exhibit 12. 21 (Exhibit 12 was marked.) 22 THE WITNESS: Whoa. It's like the Jetson 23 mobile. 24 BY MR. EMERICK:
206 1 outside the scope of his opinions. 2 THE WITNESS: I don't know what either one 3 of these are. I mean, yes, I understand I see 4 a curved pipe in Exhibit 7. But putting a 5 curved pipe into this other thing, which I have 6 no idea what it is, is not something that, you 7 know -- it's not something that I would go on 8 the record and say, yeah, 2006, 2007, today, I 9 could do that. I don't know enough about these 10 things. 11 BY MR. EMERICK: 12 Q Would you have had the skill to take the 13 vacuum in Exhibit 11 and replace the dust bag that 14 we talked about, number five, with a cyclone? 15 MR. VINCENT: Objection, foundation, 16 vague, speculation, outside the scope of his 17 opinions. 18 THE WITNESS: There's -- again, what's in 19 11? 20 BY MR. EMERICK: 21 Q It's a vacuum cleaner. 22 A Yeah. The vacuum cleaner in 11, there's 23 no way I can answer that. 24 Q Why not?	208 1 Q For Exhibit 12, are you able to identify 2 the front, rear, top, bottom of the vacuum shown in 3 Exhibit 12? 4 MR. VINCENT: Objection, foundation, 5 vague, outside the scope of his opinions. 6 THE WITNESS: No. I can't give you an 7 opinion on what is the front or the top or any 8 of that. 9 BY MR. EMERICK: 10 Q So hold on to Exhibit 12. But I'm going 11 to turn to your declaration. 12 A All right. 13 Q It's paragraph 30. So on paragraph 30, 14 the second sentence says "Handheld vacuums are small 15 portable vacuum cleaners that are designed for 16 low-duty applications." 17 Do you see that? 18 A Yes. 19 Q So turning back to Exhibit 12, I'm going 20 to point you to some information about the size of 21 the vacuum in here. 22 A Okay. 23 Q So if you go to page 15 of Exhibit 12. 24 A That's where it says, like, 15 of 32?

209 1 Q So the bottom of -- the pagination for 2 Exhibit 12 will be on the bottom. 3 A Oh, oh, oh. That part, page 15. Okay. 4 I'm on page 15. 5 Q And then if you go to, starting in line 6 five, it says "Considering the general build of many 7 users, in one embodiment, the distance between the 8 grips is about six to 30 inches in a more preferred 9 embodiment, the forward grip 130 is spaced from the 10 most distant graspable portion of the rear grip 106 11 by about eight to 24 inches." 12 Do you see that? 13 A Yes. 14 Q Now, if you can hold 15 in one of your 15 fingers and turn to Figure 1, which is on page 47, 16 that's going to have the corresponding numbers that 17 I just read. 18 A Okay. 19 Q All right. So do you see forward grip -- 20 do you see number 130 on Figure 1? 21 A That looks like the round thing that goes 22 around the middle of it. 23 Q And then do you see rear grip 106 in 24 Figure 1?	211 1 rear grip on 106 on Figure 1 makes this a handheld 2 vacuum or not? 3 MR. VINCENT: Objection, foundation, 4 vague, outside the scope of his opinions. 5 THE WITNESS: Well, you're picking out a 6 single line. And you're talking about a vacuum 7 that's held by two hands. So unless there's 8 some other stuff to clarify, again, I'd have to 9 go through it. I really can't give you an 10 opinion on this. 11 BY MR. EMERICK: 12 Q Okay. Got it. You can set aside 13 Exhibit 12. 14 Exhibit 13. 15 (Exhibit 13 was marked.) 16 BY MR. EMERICK: 17 Q So on the front of Exhibit 13, do you see 18 it says Owners Manual? 19 A Yes. 20 Q It says "Please read this guide carefully 21 before using your DC14"? 22 A Yes. 23 Q Okay. Was there something that was funny 24 about it? I'm just curious.
210 1 A Yes. 2 Q Okay. So in the passage that I just read, 3 Exhibit 12 said that the distance between the grips 4 is about six to 30 inches and then it goes on to say 5 "In a more preferred embodiment, the forward grip 6 130 is based from the most distant graspable portion 7 of the rear grip 106 by about eight to 24 inches." 8 So looking at Figure 1, if you've got a distance of 9 8 inches between forward grip 130 and rear grip 106, 10 is that a size at which you consider this to be a 11 handheld vacuum, as you've described it in paragraph 12 30 of your declaration? 13 MR. VINCENT: Objection, foundation, 14 vague, outside the scope of his opinions. 15 THE WITNESS: I'm not familiar with this 16 vacuum at all. You know. If we were -- so, I 17 couldn't tell you. I mean, they refer to 130 18 and 106 as grips. I still don't exactly 19 understand what's going on. I'm sure that if I 20 went through this enough, I could answer that 21 question. But... 22 BY MR. EMERICK: 23 Q So you're not able to say whether an 24 eight-inch distance between the forward grip 130 and	212 1 A Oh, I've -- I've written so many manuals 2 and it's -- it's just funny because the very first 3 thing is please, please, please read this before you 4 operate. It's -- having done that and written 5 things that you give out to the general public, it 6 just is funny all the things you have to put on 7 there, but... 8 Q If you could turn to -- and here, the 9 pagination -- and I know orientation terms have been 10 controversial, but I'm going to say, it's at the 11 top. 12 A Yeah. Page four and five and six at the 13 top? 14 Q Great. 15 A Nice. I was able to follow that. 16 Q So if you turn to page five -- 17 A Okay. 18 Q -- and if you see on the figure on the far 19 right side, there is a vacuum and then a person's 20 hand and body and hand grasping the vacuum. You see 21 that? 22 A Yes. 23 Q Okay. And then below that it says, "Use 24 the carry handle to lift the machine."

213 1 Do you see that? 2 A Yes. 3 Q Would you understand that this Dyson 4 product is hand carryable? 5 MR. VINCENT: Objection, vague, 6 foundation, speculation, outside the scope of 7 his opinions. 8 THE WITNESS: Are you asking, is it 9 capable of being carried, the machine? I 10 mean... 11 BY MR. EMERICK: 12 Q By hand. 13 A Yeah. 14 MR. VINCENT: Same objections. 15 THE WITNESS: Yeah. I mean, it looks like 16 it's capable of being carried. 17 BY MR. EMERICK: 18 Q And so is it hand carryable? 19 MR. VINCENT: Objection, vague, 20 foundation, speculation as to this product, and 21 outside the scope of his opinions. 22 THE WITNESS: That part, I really don't 23 have an opinion on, if it's hand carryable. 24 BY MR. EMERICK:	215 1 MR. VINCENT: Objection, vague, 2 foundation, misstates testimony, outside the 3 scope of his opinion. 4 THE WITNESS: They -- because, again, 5 we're talking about the far right picture on 6 page five; correct? 7 BY MR. EMERICK: 8 Q Yes. 9 A Okay. So they -- they have highlighted 10 what's in yellow that they're showing, but then 11 there's other parts of this that are yellow. So, 12 you know, I don't know how this functions. So I see 13 them picking a piece of this up but I don't know if 14 that's the vacuum as a whole, if that's just a motor 15 and dust bin assembly. I don't know what that is. 16 Q All right. You can set aside Exhibit 13. 17 Is a handle the only way to carry a vacuum 18 cleaner? 19 MR. VINCENT: Objection, vague, outside 20 the scope of his opinions. 21 THE WITNESS: No. You just pick the whole 22 thing up, you know, you know, grab the whole 23 thing and wander around. 24 MR. EMERICK: Can we go off the record for
214 1 Q And as an expert in vacuum cleaners, 2 you're not able to look at this image, see the text 3 that says "use the carry handle to lift the machine" 4 and make a determination, sitting here in the 5 deposition, as to whether this is hand carryable or 6 not? 7 MR. VINCENT: Objection, vague, outside 8 the scope of his opinions, foundation. 9 THE WITNESS: Again, looking at this, 10 there's a piece of the machine that they're 11 showing you picking it up but I don't see where 12 that's even the entire vacuum. So they'd have 13 to have a picture, when you talk about hand 14 carryable, what -- what they're showing. 15 I mean, this -- this looks like you're 16 just picking up what would be the dust bin or 17 something. So, again, I really can't -- 18 without looking into this a whole lot more, I 19 can't say, oh, yeah, that's a hand carryable 20 vacuum. 21 BY MR. EMERICK: 22 Q So when it says "use the carry handle to 23 lift the machine," you think it's referring just to 24 the dust bin?	216 1 a little bit? I've got to get organized. It 2 should only be five minutes. I'm just looking 3 for some exhibits. 4 MR. VINCENT: No problem. 5 VIDEOGRAPHER: We are going off the 6 record. The time is 3:06 p.m. 7 (A brief recess is had from 3:06 p.m. to 8 3:11 p.m.) 9 VIDEOGRAPHER: We are back on the record. 10 The time is 3:11 p.m. 11 BY MR. EMERICK: 12 Q All right. Exhibit 14. 13 (Exhibit 14 was marked.) 14 BY MR. EMERICK: 15 Q Is Exhibit 14 a normal use of a Dyson 16 handheld vacuum? 17 MR. VINCENT: Objection, vague. 18 THE WITNESS: So in looking at this, what 19 I see is the user. And it's not this but I'm 20 assuming this is similar. It's a head unit 21 with a stick and attachments and all of that. 22 And what I see is this user holding it and then 23 using the vacuum. I would consider this normal 24 use.

217 1 BY MR. EMERICK: 2 Q All right. 15 will be next. 3 (Exhibit 15 was marked.) 4 BY MR. EMERICK: 5 Q Is Exhibit 15 a normal use of a Dyson 6 vacuum? 7 MR. VINCENT: Objection, vague. 8 THE WITNESS: So as I said before, or, you 9 know, similar answer, this looks like they have 10 the head unit with the little -- I don't know 11 if it's bristle brush. Or, anyway, it's some 12 nozzle stuck on the end of it. But they are 13 holding it in the normal manner of holding and 14 pointing it in the air. I would consider this 15 normal use. 16 BY MR. EMERICK: 17 Q Exhibit 16. Is this a normal use of a 18 Dyson vacuum? 19 (Exhibit 16 was marked.) 20 MR. VINCENT: Objection, vague, outside 21 the scope of his opinions. 22 THE WITNESS: It looks like they're 23 holding it by the handle and operating it and 24 they're just pointing the suction nozzle	219 1 THE WITNESS: I -- I will take your word 2 for it that it's a vacuum. Appears to be a 3 keyboard vacuum, if you say so, but I have -- I 4 have no opinion on and can't determine -- I 5 shouldn't say can't. Given what I see here, 6 there's no way for me to determine what I would 7 call the top or the bottom, or... 8 BY MR. EMERICK: 9 Q I'm handing you Exhibit 19, which is a 10 physical exhibit. 11 (Exhibit 19 was marked.) 12 BY MR. EMERICK: 13 Q Are you able to determine what the front, 14 rear, top, or bottom of Exhibit 19 is? 15 MR. VINCENT: Objection, vague, 16 foundation, outside the scope of his opinions. 17 THE WITNESS: Oh. Yeah, again, this is -- 18 this is not something I've dealt with, looked 19 at, used. 20 BY MR. EMERICK: 21 Q All right. If you could hand me 22 Exhibit 19 back. 23 A Yeah. 24 Q I'll put some batteries in and you can
218 1 downward, so I would say yes. 2 MR. EMERICK: Next up, Exhibit 17. 3 (Exhibit 17 was marked.) 4 BY MR. EMERICK: 5 Q Are you able to determine what the front, 6 rear, top, or bottom of this vacuum is? 7 MR. VINCENT: Objection, vague, 8 foundation, outside the scope of his opinions. 9 THE WITNESS: I have no opinion on what 10 this thing is other than it says Hoover. 11 BY MR. EMERICK: 12 Q Is Hoover a vacuum brand? 13 A Are they still around? 14 Q I don't think this is a recent vacuum. 15 A Okay. I know. It looks like something 16 out of Lost in Space era. Or -- but anyway, I -- 17 no, I don't -- I don't know what that is. 18 Q 18. 19 (Exhibit 18 was marked.) 20 BY MR. EMERICK: 21 Q Are you able to determine the front, rear, 22 top, or bottom of this vacuum in Exhibit 18? 23 MR. VINCENT: Objection, foundation, 24 vague, outside the scope of his opinions.	220 1 fire it up. 2 A Okay. 3 Q All right. You want to try that out? 4 A Okay. 5 Q All right. Now that you've had a chance 6 to play with Exhibit 19 in operation, are you able 7 to determine what the front, rear, top, or bottom of 8 it is? 9 MR. VINCENT: Objection, form, foundation, 10 vague, and outside the scope of his opinions. 11 THE WITNESS: Yeah. This is -- you know, 12 I don't know what this is. It has nothing to 13 do with anything in my declaration. So at this 14 point, I'm not -- I'm not ready to render an 15 opinion on -- I mean, I understand how it's 16 used, but as far as top, bottom, all of that, 17 it is not even remotely close to anything that 18 I've actually provided an opinion on and put in 19 my declaration. 20 BY MR. EMERICK: 21 Q In paragraph 30 of your declaration, you 22 state that "Handheld vacuums are small, portable 23 vacuum cleaners" -- 24 A Right.

221 1 Q -- "that are designed for low-duty 2 applications." 3 A Yes. 4 Q Is Exhibit 19 a small, portable vacuum 5 cleaner designed for a low-duty application? 6 MR. VINCENT: Objection, foundation, 7 speculation, vague, outside the scope of his 8 opinions. 9 THE WITNESS: Yeah. I would say that it 10 meets that -- those criteria. 11 BY MR. EMERICK: 12 Q Is it a handheld vacuum cleaner, then? 13 MR. VINCENT: Excuse me. Objection, 14 vague, outside the scope of his opinions. 15 THE WITNESS: Without testing it -- I 16 mean, like I said, if everything you say is 17 correct, then that's about as far as I could go 18 on this, that it's small. And if it does 19 actually vacuum, then you could call it a small 20 vacuum cleaner. 21 MR. VINCENT: I knew -- I knew as soon as 22 he said that where you were going there. More, 23 more paper scraps. 24 THE WITNESS: More confetti.	223 1 speculation, outside the scope of his opinions. 2 THE WITNESS: Again, one of the things 3 that I have said is, you know, I don't know 4 anything about the claims or specifications. 5 How it sits on the table -- you know, again, 6 I'm trying to render an opinion on what the 7 bottom is. If I just walked into a room and 8 you asked me, then I think I'd be comfortable 9 saying that's the bottom. 10 BY MR. EMERICK: 11 Q And so when the bottom's on the table, as 12 you've got it positioned right now, the top is where 13 I've put the exhibit sticker; right? 14 MR. VINCENT: Objection, vague, 15 foundation, speculation, outside the scope of 16 his opinions. 17 THE WITNESS: So, again, I'm, you know, 18 doing this on the fly with the -- I guess I'm 19 going to say the right to revise this. I would 20 say that if that appears to be the bottom, then 21 you could probably say that's the top. 22 BY MR. EMERICK: 23 Q And when you say "that's the top," you 24 were pointing to --
222 1 BY MR. EMERICK: 2 Q All right. I'm putting some paper scraps 3 in front of you. 4 A That may be why you don't see these on the 5 market. 6 Q So thank you for that. 7 A For the record, I don't think they're 8 putting you out of business anytime soon. 9 Q Yeah. I think neither of our clients are 10 worried about this particular brand. 11 A Okay. 12 Q So you've done some testing now. You've 13 vacuumed up some paper scraps. Are you able to make 14 any determination as to any of the front, rear, top, 15 or bottom terms as it applies to Exhibit 19? 16 MR. VINCENT: Objection, vague, 17 foundation, outside the -- outside the scope of 18 his opinions. 19 THE WITNESS: Regarding top, front, all of 20 that stuff, no. 21 BY MR. EMERICK: 22 Q Isn't the bottom of the Exhibit 19 vacuum 23 the part that's closest to the floor? 24 MR. VINCENT: Objection, vague,	224 1 A Where the sticker is. 2 Q -- the portion with the exhibit -- the 3 face of the exhibit sticker? 4 A Yes. 5 Q Now, having established where the bottom 6 and the top are, where's the front? 7 MR. VINCENT: Objection, vague, 8 speculation, foundation, outside the scope of 9 his opinions. 10 THE WITNESS: Past that, I have no 11 opinions. 12 BY MR. EMERICK: 13 Q Why not? 14 MR. VINCENT: Same objections. 15 THE WITNESS: Because there's nothing 16 about this that, as we sit here -- as we sit 17 here today, that gives me some indication of 18 what the front, the left, the right, the rear, 19 any of that would be. 20 BY MR. EMERICK: 21 Q What about the test that you have in your 22 report that says -- and I may be summarizing, but 23 it's essentially the face of the vacuum that's 24 facing the same direction as the user's front face

225 1 for the front. 2 MR. VINCENT: Objection, vague, misstates 3 the document, speculation, outside the scope of 4 his opinions. 5 THE WITNESS: So here's where -- here's 6 where the issue is. This is clear. As I said, 7 tremendous amount of effort went into making 8 this absolutely natural, how to grab it. I 9 don't think you'd have to explain to anybody 10 the correct way to hold it. 11 But this, we see a picture with somebody's 12 hand on the side. 13 I'd be probably more than likely to grab 14 it and hold it like this, (indicating). 15 There's no -- there's nothing other than it's 16 sitting on a table that gives any indication on 17 how I should hold it, how I should orient it. 18 Okay? 19 If I'm left-handed, all the things I said 20 about this being the front doesn't change. 21 If I'm left-handed, even if I hold it on 22 the side, switch hands, it changes position. 23 Grab it on the top, I could grab it and flip it 24 with these fingers. It's a little more	227 1 Q So does your test for determining what the 2 front is, is that a test that's workable for 3 Exhibit 19, for example? 4 MR. VINCENT: Exhibit -- or sorry, 5 objection, vague, outside the scope of his 6 opinions, foundation. 7 THE WITNESS: What I have said is that in 8 normal use -- okay? -- and I always have to 9 come back to, in light of the claims and 10 specifications. If they said -- let's say 11 there was patent on this and they said that the 12 on-and-off button is in the front. Well, then, 13 we'd be sitting here today and I'd be telling 14 you how this is the front, (indicating), which 15 makes that the rear, and that the left side, 16 and this the right side. 17 BY MR. EMERICK: 18 Q So you would just go with whatever 19 description the product manufacturer uses? 20 MR. VINCENT: Objection, misstates 21 testimony, vague, outside the scope of his 22 opinions. 23 THE WITNESS: No. Because if, for 24 example, we were looking at the Dyson Omni,
226 1 awkward, probably a little more uncomfortable. 2 So there's nothing about this that helps 3 me other than what I said before. 4 In this moment, without a lot of extra 5 thought, I would be comfortable saying that 6 this suction inlet is the bottom, which then -- 7 because this is a nice, flat surface, I could 8 say that's the top. Okay? That's as far as I 9 can go with this one. 10 BY MR. EMERICK: 11 Q And you could hold it on any part of the 12 sides; right? 13 A Well, that -- that's what I mean, is that 14 if you're -- if you're right-handed and you're using 15 your thumb, you're going to hold it with my hand 16 over the sticker. If you're left-handed and you use 17 your thumb, you're grabbing it in a different place. 18 If you're just doing it from the top, palming it... 19 So there's nothing intuitive. There's 20 nothing that specifically, as I see it, designed 21 that says this is how you grab it. 22 If you grab this and somebody held it like 23 this, I would say you're not using it correctly. 24 All right?	228 1 which I have in here, and we were having a 2 discussion about the claims of the -- of -- is 3 the Omni -- does it have some patents? Do you 4 know? 5 Well, let's just pretend it does -- 6 okay? -- so because I have this picture here. 7 Their manual says that the wand, this part 8 over here, is the bottom. And that would be 9 fine. It's -- they state that for the user 10 because it's somewhat intuitive. But if in 11 their patent they referred to that as by some 12 other name, if they referred to it -- well, 13 let's say the way it's shown here, or is if you 14 were vacuuming under a sofa and they said, 15 well, this is the right end and this is the 16 left end, then that's what I'd be calling it, 17 for our discussion. 18 BY MR. EMERICK: 19 Q Okay. I want to focus you on paragraph 42 20 of your declaration. 21 A Okay. 22 Q And we've gone over this before, but 23 you've got what you call definitions for determining 24 what the front of the product is. How do your

229 1 definitions in paragraph 42 apply to Exhibit 19 so 2 that we can determine what the front of Exhibit 19 3 is? 4 MR. VINCENT: Objection, misstates the 5 document, vague, outside the scope of his 6 opinions. 7 THE WITNESS: As I said before, I don't 8 see how that this has -- other than it's 9 sitting on this face, I don't see how this has 10 an inherent normal use. It's -- these are 11 apples and oranges kind of comparisons you make 12 so I really don't have an opinion on that. 13 BY MR. EMERICK: 14 Q Is your test in paragraph 42 workable as 15 it applies to Exhibit 19? 16 MR. VINCENT: Objection, asked and 17 answered, vague, outside the scope of his 18 opinions. 19 THE WITNESS: Yeah. I don't have an 20 opinion on that. 21 BY MR. EMERICK: 22 Q You're not able to apply your test in 23 paragraph 42 to Exhibit 19 to determine what the 24 front is?	231 1 Q Okay. It doesn't work. It's okay if it 2 doesn't work. 3 MR. VINCENT: I'm sorry. Objection, 4 vague, misstates testimony, asked and answered, 5 outside the scope of his opinions. 6 THE WITNESS: Yeah. And I don't know that 7 it doesn't work. Okay? I'm just saying, 8 sitting here today, without doing anything 9 other than turning on and sucking up some 10 paper, you know, if I looked at the manual and 11 I had claims and they had stuff, maybe there is 12 some specific way that this should be used so 13 that you hold it and you don't cover up the air 14 holes and all this stuff. I don't know. I 15 just don't know enough about this to apply 16 anything other than, hey, I know where the 17 inlet is and it -- and it appears that that's 18 how you should use it. So that would be the 19 bottom. 20 BY MR. EMERICK: 21 Q You can hold Exhibit 19 anywhere on that 22 black strip around the side; right? 23 A Are you asking if I can kind of grab it 24 anywhere --
230 1 MR. VINCENT: Objection, outside the scope 2 of his opinions, vague, misstates testimony. 3 THE WITNESS: Like I said, I -- I don't -- 4 these are two completely different situations 5 that we're talking about. So in normal use, if 6 you apply what I have in paragraph 42, as I sit 7 here today, I can say with some comfort that I 8 can identify the bottom, which then by some 9 default, because that's flat, says that's the 10 top, as far as I can tell. 11 BY MR. EMERICK: 12 Q Okay. But the test in 42 is how a POSITA 13 would have understood what the front of a device is. 14 Do you see that? That's the first 15 sentence in paragraph 42. 16 A Um-hum. Yes. 17 Q So how do you apply your test as to what 18 the front is in paragraph 42 to Exhibit 19? 19 MR. VINCENT: Asked and answered, 20 objection, vague, outside the scope of his 21 opinions. 22 THE WITNESS: I -- I just don't have an 23 opinion on that. 24 BY MR. EMERICK:	232 1 Q Yeah. And you could vacuum -- 2 A -- around -- 3 Q You could vacuum with it in any rotation 4 from zero to 360 degrees; right? 5 A With the clarification that if you're 6 willing to turn it on separately, then, yes. Once 7 you've done that, you could hold it anywhere around. 8 What you -- why you can't do is grab it, 9 turn it on and off anywhere. There are some 10 limitations simply because, you know, it's where my 11 thumb is. Or if I held it over here, I can possibly 12 use another finger even though it's kind of awkward. 13 Q And all of those positions from zero to 14 360 degrees where you're holding your -- holding the 15 black ring with your fingers, all those would be 16 normal uses; right? 17 MR. VINCENT: Objection, foundation, 18 vague, outside the scope of his opinions. 19 THE WITNESS: Again, I don't have an 20 opinion on that. 21 BY MR. EMERICK: 22 Q Are you able to identify why any of those 23 positions would be an abnormal use? 24 MR. VINCENT: Same objections.

233 1 THE WITNESS: No, for the same -- same 2 reason. I -- I don't know that there's an 3 abnormal use. I don't know that -- I don't 4 have an opinion on whether there is a normal 5 use. 6 BY MR. EMERICK: 7 Q Exhibit 20 is next. 8 (Exhibit 20 was marked.) 9 BY MR. EMERICK: 10 Q Just the top one for you. 11 A Okay. 12 Q So Exhibit 20 shows a similar Tihoo vacuum 13 to Exhibit 18; right? 14 A Yeah. I guess it looks somewhat similar. 15 Q And I'm -- when I mentioned 18, I'm 16 talking about the paper Exhibit 18. 17 A Oh. Oh. Oh. Oh, okay. Right. Not the 18 one -- not 19, but yes. So -- so, yes, it appears 19 other than color, these very well could be the same. 20 And if they're not the same, they appear to be 21 similar. 22 Q So in Exhibit 18, the user's vacuuming 23 with the logo Tihoo facing towards them; is that 24 right?	235 1 BY MR. EMERICK: 2 Q Exhibit 21. 3 (Exhibit 21 was marked.) 4 BY MR. EMERICK: 5 Q Are you able to identify the front, rear, 6 top, or bottom of Exhibit 21? 7 MR. VINCENT: Objection, vague, outside 8 the scope of his opinions, foundation. 9 THE WITNESS: No. I don't -- I don't have 10 an opinion on what is top, bottom, front, back, 11 any of that. 12 BY MR. EMERICK: 13 Q The part that is touching the floor, 14 that's not a bottom? 15 MR. VINCENT: Objection, vague, 16 foundation, outside the scope of his opinions. 17 THE WITNESS: Well, you have what looks 18 like a canister portion touching the floor. 19 You look like what is a vacuum head touching 20 the floor. I don't know if this is -- so, 21 again, I don't know what the orientation of any 22 of this is so I really can't give you an 23 opinion on this. 24 BY MR. EMERICK:
234 1 MR. VINCENT: Objection, foundation. 2 THE WITNESS: Roughly, yes. 3 BY MR. EMERICK: 4 Q And then in Exhibit 20, the word Tihoo is 5 roughly facing the opposite direction away from 6 them; is that right? 7 A Yeah. It's away from his palm. 8 Q Okay. And so does this indicate to you 9 that this vacuum can be used, held in pretty much 10 any position? 11 MR. VINCENT: Objection, foundation, 12 vague, outside the scope of his opinions. 13 THE WITNESS: It doesn't really suggest 14 anything. 15 I mean, it suggests the label, you know. 16 If they maintain clocking -- clocking and 17 manufacturing would be the orientation of the 18 label so that, for example, in this scenario, 19 that the words are always relative to the 20 on/off switch in the same way. 21 If they maintain clocking, if they don't 22 maintain clocking, I don't know. I don't know 23 enough about this product to be able to give 24 you an opinion on that.	236 1 Q Okay. The -- such an inlet that is going 2 into what you call the canister portion, that's not 3 a front? 4 MR. VINCENT: Objection, vague, calls for 5 speculation, outside the scope of his opinions, 6 foundation. 7 THE WITNESS: I can't say if it is or is 8 not a front. 9 BY MR. EMERICK: 10 Q Why not? You've got a test in your report 11 for this. 12 MR. VINCENT: Same. Same objections and 13 misstates the document. 14 THE WITNESS: I -- I don't know how this 15 is held. I don't know how it's used. I don't 16 know if there is a -- like, with this product, 17 if there is a method of grabbing it. You know, 18 here, as soon as you grab it and try to operate 19 it with your thumb, you completely change 20 positions. 21 Here, you grab it left-handed or 22 right-handed. It doesn't change what I have 23 stated already as to be the, what I call the 24 front of the head unit. I know nothing about

237 1 this product, how it's used, how it's held, how 2 it operates. So I can't sit here today and 3 make those determinations. 4 BY MR. EMERICK: 5 Q All right. Exhibit 22. 6 (Exhibit 22 was marked.) 7 BY MR. EMERICK: 8 Q Are you able to determine the front, rear, 9 top, or bottom of Exhibit 22? 10 MR. VINCENT: Objection, vague, 11 foundation, outside the scope of his opinions. 12 THE WITNESS: Nope. 13 BY MR. EMERICK: 14 Q Is this a normal use of the vacuum shown 15 in Exhibit 22? 16 MR. VINCENT: Objection, foundation, 17 vague, outside the scope of his opinions. 18 THE WITNESS: This is from their manual. 19 I would assume so but I can't tell you because 20 not knowing anything about it, I can't say 21 that -- I would say it's a normal use. I just 22 don't know enough about what this is I'm 23 looking at. 24 MR. EMERICK: Why don't we take a break	239 1 rear, top, or bottom? 2 MR. VINCENT: Objection, form, foundation, 3 outside the scope of his opinions. 4 THE WITNESS: No. I -- I can't tell you 5 what -- oh. Cool. 6 No. 7 BY MR. EMERICK: 8 Q Why not? 9 A I can't. 10 MR. VINCENT: Objection, form, outside the 11 scope of his opinions. 12 THE WITNESS: First of all, I haven't 13 taken a look at it. I don't know much, if 14 anything, about this. And much like 15 Exhibit 19, and unlike this Dyson and the 16 products that we're talking about or many of 17 the other products that we're talking about, 18 again, there's nothing that is just -- you 19 know, if I'm right-handed or I'm left-handed, 20 it changes the orientation. If I'm -- so 21 there's -- again, there's -- there's nothing 22 that stands out that I would say jumps out and 23 says we've kind of locked it in. 24 BY MR. EMERICK:
238 1 and I can get organized. 2 Rob, I think I might have maybe another 3 hour. I mean, I can't make promises. 4 MR. VINCENT: Sure. 5 MR. EMERICK: But I'm getting towards the 6 end. 7 VIDEOGRAPHER: We are going off the 8 record. We are going off the record. The time 9 is 3:40 p.m. 10 (A brief recess is had from 3:40 p.m. to 11 3:51 p.m.) 12 VIDEOGRAPHER: We are back on the record. 13 The time is 3:51 p.m. 14 BY MR. EMERICK: 15 Q All right. I've got a physical exhibit, 16 deposition Exhibit 23. 17 (Exhibit 23 was marked.) 18 THE WITNESS: Okay. 19 BY MR. EMERICK: 20 Q This one, I unfortunately do not have a 21 battery for so we won't be doing any more cleanup. 22 A Okay. Now, I understand why you brought a 23 big box. 24 Q Does Exhibit 23, can you identify a front,	240 1 Q All right. You can set Exhibit 23 aside. 2 So one of the things that we touched on 3 earlier was this question of how a user would carry 4 a hand vacuum by the handle. Do you recall that? 5 A Yes. 6 Q Okay. And is one -- I think you mentioned 7 what your carry method would be. Could you show 8 that again? 9 A Yes. So -- and let me just step back and 10 say what I had mentioned before is -- 11 VIDEOGRAPHER: Can you take out that 12 bottle? 13 THE WITNESS: Oh. 14 VIDEOGRAPHER: Thank you. 15 THE WITNESS: There we go. All right. 16 So what I had mentioned before is if 17 you've not been given a frame of reference -- 18 okay? -- so if -- if I were looking at a patent 19 on this and they said this was the bottom, this 20 was the front, this was the back, then that's 21 what I would take. 22 Barring that, if there was none of that, 23 this product is designed in a manner to where 24 it's -- you know, it's -- there's nothing

Transcript of Glenn Akhavein
Conducted on June 12, 2024

61 (241 to 244)

241 1 ambiguous about how to hold it. You know, you 2 don't operate it like that, you don't hold it 3 like this, none of that. Left-handed or 4 right-handed, it doesn't change. 5 So if I'm holding this and I'm carrying 6 it, that is, looks like the bottom, I'm 7 carrying it, I'm holding it. And I said 8 because of all of that, then I would consider 9 this to be the front because it's pointing 10 towards the front of me as I'm carrying it. 11 BY MR. EMERICK: 12 Q Now, let's say you're carrying it from 13 cleaning job to cleaning job. Are you going to hold 14 it as you're holding it now, between jobs? Let's 15 say you're going to a totally different room to 16 clean. Are you going to keep holding it that way, 17 carrying it that way? 18 A I'm going to back up just a little. 19 Q Sure. Just be careful. 20 A I'm going to do this under the table. 21 Q Just be careful with the microphone. 22 A Yeah. I'm going to do this under the 23 table, but then I'm going to show you where I did -- 24 MR. VINCENT: Hold on. Objection, vague,	243 1 that, (indicating). 2 BY MR. EMERICK: 3 Q Is -- is your expectation that, for 4 example, when a user is going from room to room 5 between jobs, that they're going to keep their arm 6 at a 90-degree angle in the way that you were just 7 showing the camera or would they just let their arm 8 hang down with the vacuum as they carry it from room 9 to room? 10 MR. VINCENT: Objection, vague, 11 foundation, outside the scope of his 12 declaration. 13 THE WITNESS: I don't have an opinion on 14 how they're going to carry it. Okay? And how 15 they're going to carry it room to room or how 16 they're just going to grab it and hold it. I 17 don't have -- as I said before, it's perfectly 18 capable of hanging it down, holding it here, or 19 carrying it like you might a rifle because it 20 puts the weight down your forearm. So those 21 are -- those are all comfortable positions to 22 be in. 23 BY MR. EMERICK: 24 Q Those three you mentioned, straight up,
242 1 outside the scope of his opinions. 2 THE WITNESS: You can walk with it like 3 this, (indicating). You could -- like you see 4 people holding a rifle sometimes, holding it 5 like this. Those things are possible. 6 Oh, and when I went below the table, I 7 was -- had my arm hanging down with it pointing 8 in this manner. 9 So those are -- those are possible. Okay? 10 But when I grab it -- see, you can't -- you 11 can't just flop it down on the nose. Okay? 12 It's not -- what is intuitive is you grab it 13 and you set it down. 14 Guarantee there's a lot of work that went 15 into this. Looking at the battery, looking at 16 the center of gravity. All of these decisions 17 are made as a designer because they don't want 18 it necessarily plopping forward. All right? 19 This is -- now, I can't say that for a 20 fact, but that's normally part of what you do 21 when you're designing these products. So you 22 grab it, boom, this is how I'm walking, or this 23 is how I'm going to carry it. Doesn't mean 24 that you can't carry it in other ways, like	244 1 straight down, and then even with your arm at a 2 90-degree angle, those are all normal carry 3 positions? 4 MR. VINCENT: Objection, form, vague, 5 outside the scope of his opinions. 6 THE WITNESS: I -- I would say those are 7 all possible carry positions. And normal -- 8 I'm not sure exactly how you would define that, 9 but they're all -- they're all positions that 10 you might walk around with it. 11 BY MR. EMERICK: 12 Q Are any of them more likely than others or 13 is there any reason to believe any are more likely 14 than others? 15 MR. VINCENT: Objection, form, vague, 16 outside the scope of his opinions. 17 THE WITNESS: I really don't have an 18 opinion because -- because -- see, you've got 19 to keep in mind that right now we're talking 20 about head unit. So all of that can change 21 dramatically as soon as you put the stick and 22 the other piece on it. 23 You're not going to -- you're not going to 24 walk around -- well, walking around like this,

245 1 you could possibly do, be a little cumbersome. 2 Walking like this would be hard on your arm and 3 you're not going to walk around carrying it 4 down to your side because there's a wand down 5 there. 6 You might walk around with it sideways 7 like you see somebody walking with a rifle. 8 As soon as you put that on there, it -- it 9 changes things. 10 What I was talking about before when I 11 talked about carrying was just the head unit. 12 Okay? 13 BY MR. EMERICK: 14 Q So it sounds like there could be a lot of 15 different user preferences as to how they carry 16 Dyson's vacuums. 17 MR. VINCENT: Objection, misstates 18 testimony, vague, outside the scope of his 19 opinions. 20 THE WITNESS: Again, aside from -- you 21 know, your original question had to do with 22 what I thought the front was or the bottom. 23 And as I said, based on not having any 24 pre-defined unit, I would pick it up in the way	247 1 BY MR. EMERICK: 2 Q I promised you we'd talk about cars and 3 we're there. 4 A Excellent. Car talk. 5 Q If you put a car into drive, it goes 6 forward; right? 7 A Yes. 8 MR. VINCENT: Objection, vague. 9 THE WITNESS: Oh, sorry. 10 MR. VINCENT: Outside the scope of his 11 opinions. 12 Go ahead. 13 BY MR. EMERICK: 14 Q It doesn't go backward? 15 A Correct. 16 Q That forward direction when the car's in 17 drive, the front of the car is the point on the car 18 that's -- I'm trying to think of a good way to say 19 this. 20 When you're moving forward in a car, when 21 you've got it in drive, the front is the first part 22 of the car to reach your destination; right? Is 23 that a good way of putting it? 24 MR. VINCENT: Objection, vague, outside
246 1 that it is natural, the way that it naturally 2 is designed to sit on the table, and the way 3 that I would naturally carry it. 4 I really don't have opinions and can't 5 speak to all the other possible scenarios that 6 are out there. 7 BY MR. EMERICK: 8 Q There's nothing abnormal about letting 9 your arm hang down on your side when you're carrying 10 Exhibit 2; right? 11 MR. VINCENT: Objection, form, vague, 12 outside the scope of his opinions. 13 THE WITNESS: Clarify, we're talking as it 14 sits here? 15 BY MR. EMERICK: 16 Q Correct. 17 A The head unit? 18 I wouldn't consider that abnormal. 19 Q There's nothing abnormal about carrying 20 Exhibit 2, as you said, like a rifle, as you've got 21 it oriented right now? 22 MR. VINCENT: Same objections. 23 THE WITNESS: I would not consider that 24 abnormal.	248 1 the scope. 2 THE WITNESS: I would agree. 3 BY MR. EMERICK: 4 Q Okay. In a car, the steering wheel is 5 always going to be located between the front of the 6 car and the driver; right? 7 MR. VINCENT: Objection, vague, outside 8 the scope. 9 THE WITNESS: Oh. Oh. The steering wheel 10 between the front of the car and the driver. 11 MR. VINCENT: Same objections. 12 THE WITNESS: I won't agree with always. 13 I will say that I've not seen an instance where 14 that is not true. 15 BY MR. EMERICK: 16 Q So, yeah. In every car you've ever seen, 17 the steering wheel is located between the driver and 18 the front of the car? 19 A Yes. 20 Q If you put a car into the reverse gear, 21 it's going to go backwards; right? 22 A Yes. 23 Q The driver seat always faces the front of 24 the car; right?

249 1 A I've not -- I'm not familiar with an 2 instance where that is not true. 3 Q The driver is always going to face the 4 front of the car -- correct? -- 5 MR. VINCENT: Objection. 6 BY MR. EMERICK: 7 Q -- when they're driving? 8 MR. VINCENT: Sorry. Objection, vague, 9 foundation, outside the scope. 10 THE WITNESS: In what is considered normal 11 use, the driver sits facing the front of the 12 car. 13 BY MR. EMERICK: 14 Q When they're driving? 15 A Yes. When they're driving. Okay. 16 Q So what we've just gone over are what I 17 might call some objective anchors for determining 18 what the front or rear of the car is. 19 And would you -- so strike the question. 20 Would you agree that there are objective 21 anchors, like the steering wheel location as it 22 relates to the driver in the front, that allow you 23 to say, hey, this is the front of the car because, 24 for example, this is an area that's -- I can tell	251 1 or the same objective criteria as a car? 2 MR. VINCENT: Objection. Objection, 3 vague, and outside the scope. 4 THE WITNESS: Okay. So I will go back to 5 what I've said before because we were talking 6 about cars. Now we're talking about products 7 that have patents and claims and 8 specifications. 9 So the first thing you would have to do is 10 look at the specification to see if they 11 provide that. Because if they provide it, you 12 might not agree with it but for that patent and 13 specification and claims, those become your 14 points of reference. 15 If it is not provided and somebody that is 16 skilled in the art can look at it, and unlike 17 19, which is hard to figure out. Which one was 18 this? 2. If we look at this product and many 19 of the ones that are similar to that, there's a 20 difference. 21 So, again, let me go back. 22 Assuming that I had no point of reference 23 that was provided and I was just asked, this is 24 completely intuitive as to where to grab it,
250 1 from where this -- strike the question. 2 Would you agree there are objective 3 anchors for what makes the front of the car the 4 front? For example, the steering wheel position. 5 MR. VINCENT: Objection, vague, outside 6 the scope. 7 THE WITNESS: Okay. I don't -- I don't 8 disagree with the gist of your statement or the 9 question. It's just the term "objective 10 anchors" is not one that I've ever used. It 11 would be -- if I were to state that, I would 12 say there might be a point of reference or a 13 feature or a component that helps set the 14 orientation. 15 BY MR. EMERICK: 16 Q So cars have features like steering wheels 17 and seats and a gear labeled "drive" that provide an 18 objective criteria for determining what the front of 19 the car is; right? 20 MR. VINCENT: Objection, vague. Excuse 21 me. Objection, vague, outside the scope. 22 THE WITNESS: I would agree with that. 23 BY MR. EMERICK: 24 Q Do handheld vacuum cleaners have a similar	252 1 how to hold it, it's designed to be set down on 2 a table on the base or the bottom. It doesn't 3 change when you grab it with your left hand or 4 your right hand. You still have what I call 5 the front, facing forward, as you're carrying 6 it. 7 So in that particular situation, then I 8 would say that this has the features that allow 9 me to make that determination. 10 BY MR. EMERICK: 11 Q But vacuums don't have something like a 12 steering wheel that provides an objective point of 13 reference for where the front or the rear is; right? 14 MR. VINCENT: Objection, vague, outside 15 the scope. 16 THE WITNESS: To some extent, they do. 17 BY MR. EMERICK: 18 Q What is it? 19 A Well, if you look at this handle. Okay? 20 You're not going to do this, (indicating). Okay? 21 Just like the steering wheel sits between you and 22 the front of the car -- okay? -- you're probably not 23 going to try to hold this behind you. 24 In this instance, I grab it. I hold it.

253 1 It's very clear. Just like in a car. You sit 2 down -- if you know anything about driving, you know 3 that if you want to put it in forward and you want 4 to drive, you got to be sitting behind the wheel. I 5 mean, that -- you know, that's kind of -- that's why 6 that's such a common term, they're behind the wheel. 7 So if you were to apply that, hey, I'm -- 8 I'm behind the handle. So in this instance, it's 9 very clear. That is not to say that it always is. 10 And, it also, regardless of what I might think, if I 11 were given specifications in a claim, then I would 12 use those. 13 Q So if there is vacuum structure that is 14 more distant from your body than the handle is, is 15 that structure the front? 16 MR. VINCENT: Objection, vague, 17 foundation, outside the scope, incomplete 18 hypothetical. 19 THE WITNESS: I can't answer that 20 question. 21 BY MR. EMERICK: 22 Q How does the handle -- and maybe you could 23 use Exhibit -- 24 A 19.	255 1 have to go back through and look a whole bunch to 2 make sure. 3 Q Yeah. You don't have any opinions in your 4 declaration that say the front of a handle gear is 5 defined by a particular structural feature; correct? 6 A I -- I think it's very clear in my 7 declaration in a number of places where I talk about 8 how in the specification, for example, when we look 9 at paragraph 46, and we're talking about the '550 10 patent, that it's very clear that they have defined 11 what they call the front -- okay? -- or forward 12 direction. 13 Q How is it defined? 14 A Well, I'll have to go and pull out the 15 patent and go through it to define the actual 16 language. 17 But and I believe in the claims, they talk 18 about how the dirt chamber -- I think they say the 19 dirt chamber door opens rearwardly. I don't 20 remember exactly. But it's very, very clear. Okay? 21 Same thing on page -- 22 Q How does -- how is the front defined in 23 the patents that you opined on in your declaration? 24 MR. VINCENT: Objection, vague.
254 1 Q -- 19 as an example. How does the handle 2 of a vacuum cleaner provide an objective anchor for 3 what the front of a vacuum is? 4 MR. VINCENT: Objection, vague, outside 5 the scope. 6 THE WITNESS: Well, I can't turn it on, 7 can't turn it off. And if I didn't have a real 8 good grip, I couldn't even hold it. Same thing 9 if I grab it here or here or here. It -- 10 whoops. If I grab it here, well, you know 11 what, the way our hands are built, I mean, they 12 call it a pistol-grip and they design guns in a 13 certain way because that's the angle that our 14 hands work. 15 So -- so pointing it backwards, there's -- 16 there's nothing intuitive, natural, or normal. 17 However, that is so simple, so straightforward, 18 and feels good. 19 BY MR. EMERICK: 20 Q You don't have any opinions in your 21 declaration that say the front is defined by a 22 particular structural feature; right? 23 A Right now, I'm not -- can you repeat that 24 question because I think that's really broad and I'd	256 1 THE WITNESS: Well, we can go and look at 2 specific patents. But I think the patents 3 are -- are -- many of them are very, very clear 4 on what they say is they either actually call 5 out a front end or they call out a rear end or 6 they call out a bottom. 7 BY MR. EMERICK: 8 Q So I don't -- I don't disagree that some 9 of these patents put labels on some of the products. 10 So we don't need to -- 11 A Okay. 12 Q -- repeat that. 13 The question that's at issue here and the 14 point of your declaration is how do we determine, 15 then, what these terms in the claim actually mean? 16 And so if -- if you want to say, well, it's just 17 limited in the specification as shown, then we can 18 move on from this. 19 MR. VINCENT: Is that a question? I'm 20 sorry. If it's a question, then objection, 21 vague, misstates his testimony, his 22 declaration. 23 BY MR. EMERICK: 24 Q How do the patents define the word

257 1 "front"? 2 MR. VINCENT: Objection, vague. 3 THE WITNESS: Which patent in particular 4 are we talking about? 5 BY MR. EMERICK: 6 Q You mentioned the '550. And you said the 7 '550 defined the term "front" and so I want to know 8 what that definition is. 9 MR. VINCENT: Objection, vague. 10 THE WITNESS: Do you have the '550? 11 BY MR. EMERICK: 12 Q I don't. You told me it defined the word 13 "front." And so I just want to know what that 14 definition is. 15 MR. VINCENT: Same objection. 16 THE WITNESS: I'm going to need to go look 17 at the patent. 18 BY MR. EMERICK: 19 Q So you don't have -- you don't have 20 anything in your declaration giving any definition 21 of the word "front" from the '550 or any other 22 patent; right? 23 MR. VINCENT: Objection, vague, misleads 24 this document.	259 1 A In the '550, '030, and '038 it is because 2 that's how it's defined in the specification. 3 Q Okay. So what I'm asking is, you realize 4 these claims in these patents then get applied to 5 prior art and to Dyson's products and to other 6 potential companies' products. You understand that, 7 that that's what a patent is? 8 A Okay. Can you repeat that? 9 Q Yeah. 10 A I just want to make sure. 11 Q So do you understand that there are claims 12 at the end of the patent? 13 A Yes. 14 Q Okay. And those claims in a patent case 15 are then compared to the prior art and then also 16 accused products. You understand that? 17 A Right. So my -- 18 Q And so they're not -- go ahead. 19 A Well, I was just going to say yes. You -- 20 you look at the claims, in essence, when you're 21 doing invalidity issues, and you see if that claim 22 has already been taught. At the same time, you look 23 at that claim and you say, hey, these people that 24 came after me are copying what I've taught. Is
258 1 THE WITNESS: So in paragraph 45, it's on 2 page 11. For example, in the specification of 3 the '550, '030, '038 with respect to the 4 Figure 22, door 228 may extend forwardly from 5 rear end 240 to front end 244. 6 That's pretty clear. 7 BY MR. EMERICK: 8 Q And so based on what you read, what is the 9 definition of the word "front" from the '550 patent? 10 MR. VINCENT: Objection, vague, outside 11 the scope of his declaration. 12 THE WITNESS: So if you look at Figure 22, 13 you can see door 228. 14 You can see rear end 240 and you can see 15 244. So they have defined 240 in this being 16 closer to the motor housing. They've defined 17 244 being closer to the nozzle. And they've 18 defined that door 228 extends forwardly from 19 the rear. That's very, very clear. 20 BY MR. EMERICK: 21 Q So is the -- does the nozzle location then 22 determine what the front is versus the rear? In 23 other words, the location closer to the nozzle is 24 the front?	260 1 that -- that's basically what you were getting at; 2 right? 3 Q And so -- 4 A Okay. 5 Q -- the question will be, what does the 6 term "front" mean when it's being applied to prior 7 art or to Dyson's products? You understand that 8 that will be a question in the litigation? 9 A I understand that will be but I've not 10 done either infringement or invalidity analysis. So 11 I can't speak at all to how that will be applied. 12 Q Okay. And so when determining what the 13 front is, what is the definition of the word 14 "front"? 15 MR. VINCENT: Objection, vague, and 16 outside the scope of his declaration. 17 THE WITNESS: So in the case of the three 18 patents that we're talking about in the -- in 19 paragraph 45, the front is defined by what they 20 have decided to say. So the specification is 21 very clear on giving you the orientation in 22 space. So you said the nozzle is towards the 23 front. The rear end -- and this is talking 24 about the door rear end, not the rear end of

261 1 the whole thing, but the rear end is 240. 2 BY MR. EMERICK: 3 Q So then the term "front" means the nozzle 4 location; right? 5 MR. VINCENT: Objection, misstates 6 testimony. 7 THE WITNESS: Once again, in these three 8 patents, they have chosen to define it that 9 way. There is no universal standard that says 10 that for a particular vacuum, the nozzle is 11 always the front. 12 BY MR. EMERICK: 13 Q Okay. So then the patents don't define 14 the nozzle as being the front? They just have some 15 examples where the nozzle is in the front; right? 16 MR. VINCENT: Objection, vague, misstates 17 testimony. 18 THE WITNESS: These three patents define 19 the front of the -- again, this is -- this is a 20 head unit. But they define the front of the 21 head unit in a direction that corresponds with 22 the nozzle. 23 BY MR. EMERICK: 24 Q And do these patents ever say, hey, the	263 1 the front end. Okay? And then if you look at 2 Figure 8, you will see that you get a 3 general -- those dark arrows give you a general 4 idea of -- of the air flow. And you'll see 5 that the air inlet in this particular patent is 6 near the -- is -- would be considered in or 7 near the front of that vacuum. 8 BY MR. EMERICK: 9 Q So why don't you turn to Claim 24. 10 A Okay. 11 Q And you see it says "A hand vacuum cleaner 12 comprising"? 13 A Yes. 14 Q And then it says "A front end having a 15 front wall and a rear end." 16 Do you see that? 17 A Yes. 18 Q So if you take the keyboard vac that you 19 have -- and I think that's Exhibit 19 -- where's the 20 inlet on the keyboard vac? 21 MR. VINCENT: Objection, vague, 22 speculation, outside the scope of his opinions. 23 THE WITNESS: The inlet is this hole, 24 (indicating).
262 1 front is where the nozzle is? 2 MR. VINCENT: Objection, vague. 3 BY MR. EMERICK: 4 Q Is that what the claims say? 5 MR. VINCENT: Same objections. 6 THE WITNESS: I -- I don't know that that 7 language is in the claims. And, again, I don't 8 think that they say, hey, the nozzle is the 9 front. What they do is they very clearly give 10 you the orientation of what is front or 11 forward, what is rear or backwards. 12 BY MR. EMERICK: 13 Q Take a look at Exhibit 6. This is the 14 '407 patent you opined on. 15 A Yep. Let me... 16 Q Is the nozzle at the front of the '407 17 patent vacuum? 18 MR. VINCENT: Objection, vague. 19 THE WITNESS: Give me a minute to get... 20 So if you look at Figure 8 -- well, 21 let's -- let's step back and let's look at 22 Figure 1. And I will double-check my numbers. 23 But you will see in Figure 1, they define 108, 24 which is towards the left as we look at it as	264 1 BY MR. EMERICK: 2 Q And that's the front; right? Right? 3 MR. VINCENT: Objection, vague, outside 4 the scope of his opinions. 5 THE WITNESS: No, it's not the front. 6 BY MR. EMERICK: 7 Q I thought you just said that the patents 8 defined the front as the location of the inlet. 9 MR. VINCENT: Objection, misstates 10 testimony, vague, outside the scope of his 11 opinions. 12 THE WITNESS: I never said anything like 13 that. 14 BY MR. EMERICK: 15 Q So the inlet location is irrelevant to 16 where the front is? 17 MR. VINCENT: Objection, misstates his 18 testimony, outside the scope of his opinions. 19 THE WITNESS: So, and I think we touched 20 on this earlier. If you look at Dyson's -- I 21 think it's the Omni, where they talk about the 22 floor unit, that has the inlet coming in. And 23 they refer to it as the bottom. 24 MR. EMERICK: I'll mark this so you have

265 1 it. 2 BY MR. EMERICK: 3 Q I'm handing you Exhibit 24. 4 (Exhibit 24 was marked.) 5 THE WITNESS: Okay. 6 BY MR. EMERICK: 7 Q All right. So can you identify the bottom 8 on this? 9 MR. VINCENT: Objection, vague, 10 foundation, speculation, outside the scope of 11 his opinions. 12 THE WITNESS: I don't know what this is. 13 BY MR. EMERICK: 14 Q So this is the Omni-Glide you were 15 mentioning. And I -- I think when you said Omni, 16 you were referring to this Omni-Glide; right? 17 A What I'm referring to is in paragraph 70 18 when we were talking about the floor unit. 19 Q Okay. So Exhibit 24 is the Omni-Glide. 20 A Okay. 21 Q Are you able to identify a bottom of the 22 Omni-Glide? 23 MR. VINCENT: Objection, form, outside the 24 scope of his opinions.	267 1 long in any given direction, or in two opposite 2 directions. 3 What's done in the engineering world is 4 when you're creating drawings, you need to show -- 5 quite often, you need to show an axis. And what is 6 normally done, to differentiate an axis from a 7 inline, is axes are always run slightly off the 8 part, unless for some reason it causes to be some 9 confusion in the drawing. 10 But what you don't do is you don't show 11 that axis going off the page. However, it's 12 understood that that axis goes continually in 13 whatever direction there is. 14 So what's common in engineering is you 15 have what's known as projection lines where you talk 16 about the projection of an axis. There is no real 17 difference between a projection of an axis and an 18 axis. It's just -- it's usually just a function of 19 what's being shown. 20 They were much more common in the old days 21 when you did hand drawings. You'd actually use 22 projection lines to connect views so you could more 23 easily see. Once we got into the late '70s, early 24 '80s, we started really getting into CAD. Now when
266 1 THE WITNESS: I -- again, I have not done 2 an analysis on this. The only thing that I did 3 is I -- is I looked at Dyson's manual and 4 looked at what they said and what Dyson's 5 opinion is that they -- whoops -- that the 6 floor unit, the bottom of the floor unit, the 7 part that's in contact with the -- with the 8 floor when you would be vacuuming on the floor, 9 that they consider that to be the bottom. 10 BY MR. EMERICK: 11 Q Okay. 12 A Outside of that, I don't have an opinion 13 on this product. 14 Q Okay. You can set that aside. 15 A Okay. 16 Q I just wanted you to have it since you 17 mentioned it. 18 A Got it. Yep. 19 Q Is there any difference between the term 20 "axis" and "projection of an axis"? 21 A So this is -- this is a term that is very, 22 very common in the engineering world, especially 23 when you get into drafting. So an axis is a 24 straight line. By definition, it goes infinitely	268 1 you see drawings, you'll never see projection lines. 2 Those are -- those went away with drafting boards. 3 Q So that was a pretty long answer. And 4 I'll ask the question again. 5 A Okay. 6 Q Is there a difference between the term 7 "axis" and "projection of the axis"? 8 MR. VINCENT: Objection, vague, asked and 9 answered. 10 THE WITNESS: Not as far as the axis is 11 concerned. 12 BY MR. EMERICK: 13 Q What does that mean? 14 A Well, again, you know, it -- I think the 15 closest thing that we might have in my declaration 16 would be on page -- on page 49. So there's a handle 17 axis and a nozzle axis. 18 Now, those axes technically go off 19 infinitely along both directions. But what's common 20 is to not actually show that all the way across your 21 drawing. Because all they do is clutter up stuff 22 and they don't add anything. 23 Anyone looking at this, any person skilled 24 in the art understands that that nozzle axis

269 1 intersects that handle axis. 2 Anyone looking at this understands that 3 both the nozzle axis and the handle axis eventually 4 run into -- we'll just call it the surface 876. 5 Okay? So if you're looking at this, you might talk 6 about the axis. But if you say, hey, if you project 7 the nozzle axis, it will run into the handle axis at 8 some point. 9 And when you're designing, that's really 10 important because that plays a lot into ergonomics. 11 The other thing that's important is when 12 you look at the nozzle axis and how that intersects 13 with -- I guess it's -- it's 876. We'll just call 14 that a plane because that is the angle in which 15 you're sitting on the surface. So those things are 16 all defined. 17 If this was an engineering drawing, you'd 18 see angles on those. 19 So -- 20 Q Engineering -- go ahead. 21 A Well, I was just saying, so -- so the 22 nozzle axis, if you were just talking about it, you 23 would -- you would talk about that part that's being 24 shown. But it's -- there's no ambiguity when you	271 1 BY MR. EMERICK: 2 Q Next up is Exhibit 25. 3 (Exhibit 25 was marked.) 4 BY MR. EMERICK: 5 Q So there's a similar term that I want to 6 direct your attention to, column 14 of Exhibit 25, 7 which is the '472 patent. 8 A Okay. 9 Q And if you get to column -- let me know 10 when you're at column 14. 11 A I'm there. 12 Q And then if you go down to element H, 13 which is around 40 -- 14 A Yep. 15 Q -- 41. 16 A Yep. 17 Q If you go down to 45, it says wherein a 18 projection of the first handle portion extends 19 through the suction motor. 20 Do you see that? 21 A Yes. 22 Q What is a projection of a handle portion? 23 What does that mean? 24 MR. VINCENT: Objection, vague, outside
270 1 talk about a projected axis. 2 That means that, hey, just keep following 3 it until it gets to whatever it is we're talking 4 about. 5 Q Isn't it possible for a infinitely long 6 imaginary line like an axis to project any further 7 than it's already projecting? 8 MR. VINCENT: Objection, vague. 9 THE WITNESS: You're going to have to -- 10 I'm not -- if it's infinitely long, it's 11 infinitely long. 12 BY MR. EMERICK: 13 Q It can't project any further at that 14 point? 15 A Yeah. Because infinity plus infinity -- 16 MR. VINCENT: Objection, vague. Hold on. 17 Hold on. 18 THE WITNESS: Oh, I'm sorry. I'm sorry. 19 MR. VINCENT: Objection, vague. 20 THE WITNESS: Okay. Yeah. In the 21 engineering world, in math, infinity plus 22 infinity is still infinity. So if it's 23 infinitely long and you made it longer, it's 24 still infinitely long.	272 1 the scope of his opinions. 2 THE WITNESS: I'm going to have to find 3 where they're talking about it. 4 Okay. 5 BY MR. EMERICK: 6 Q Well, we just talked about a projection of 7 an axis; correct? 8 A Yes. 9 Q So what's a projection of a handle? 10 MR. VINCENT: Objection, vague, outside 11 the scope of his opinions. 12 THE WITNESS: Well, I have to make sure we 13 have the same context here and they're not 14 using projection in some other manner. So let 15 me see if I can find where I have that or if 16 I've spoken to it. 17 (Pause.) 18 Sorry. I'm trying to find certain 19 elements. 20 Sorry it's taking so long, I don't have a 21 searchable... 22 BY MR. EMERICK: 23 Q Well, let me ask this. 24 A Okay.

273 1 Q My understanding of your opinion on axis 2 and projection of the axis is that they're 3 essentially no different. Is the same true with the 4 handle? 5 MR. VINCENT: Objection, vague, misstates 6 the document, outside the scope of his 7 opinions. 8 MR. EMERICK: I'll -- I'll re-ask the 9 question. 10 MR. VINCENT: Okay. 11 BY MR. EMERICK: 12 Q Is a handle and a projection of the handle 13 the same thing? 14 MR. VINCENT: Objection, vague, outside 15 the scope of his opinions. 16 THE WITNESS: So the reason that I'm 17 looking for this and the reason that it's 18 important is in the engineering world, 19 projection is used in -- also has another very 20 common term. 21 If you're -- if you're designing a feature 22 and you're then going to bring that feature 23 over to another feature, you do what's known as 24 a projection. And you take this shape. Let me	275 1 end, rear end, and comprising." So we're talking 2 about a physical device, not an engineering drawing 3 or something like that. So in the context of a 4 physical device, what is a projection of the first 5 handle portion on line 45? 6 MR. VINCENT: Objection, vague, outside 7 the scope of his opinions. 8 THE WITNESS: So, and that's -- that's 9 where I was going with this. There -- when 10 we're talking about an axis and a projection of 11 an axis, those are two -- there's absolutely no 12 difference whatsoever. When you're talking 13 about a physical entity, as I was talking about 14 here, what you're saying is a projection means 15 if I were to take that entity, and even though 16 it physically stops at some point, if I were to 17 continue to project it, then this is what I 18 would get. 19 So -- so that's where those two are 20 different. 21 An axis and the projection of an axis are 22 identical. Because that axis literally 23 actually does continue on over what you call 24 the projection.
274 1 see if I've got a good example here. If -- if 2 we had a -- this convoluted shape here, if I 3 was then going to send this shape over to an 4 angled surface in a solid modeling situation, 5 you'd take this shape and you'd do what's known 6 as projecting it on to this plane. Okay? 7 And that would tell you what the shape of 8 this is. Let's say I was cutting a hole out 9 that this had to fit through. Okay? If I was 10 going through a flat plane here, then I would 11 just recreate this shape. But if I was going 12 through an angled plane, I would have to 13 project that so I got the hole correct so this 14 could fit through it. 15 BY MR. EMERICK: 16 Q So let me help with some context. 17 A Okay. 18 Q So column 14 is a patent claim. 19 A Yes. 20 Q So the preamble -- we call it the preamble 21 of the patent claim which starts on line 20 of 22 column 14. 23 A Um-hum. 24 Q Says "a hand vacuum cleaner having a front	276 1 The physical entity does not physically 2 project on to or towards whatever it is you're 3 talking about. 4 BY MR. EMERICK: 5 Q So how do I know when these patents talk 6 about a projection, whether it has meaning or not? 7 Because as I understand it, it's -- in the axis 8 context, has no meaning, it's coextensive with the 9 term axis, but you're telling me in the handle 10 context it is an extension of the handle or some 11 additional portion beyond just the handle. 12 So how do I tell the difference between 13 these two? 14 MR. VINCENT: Objection, vague, misstates 15 the testimony, misstates the patent, outside 16 the scope of his opinions. 17 THE WITNESS: So, again, if we step back. 18 With an axis and a projection, they're 19 identical. You're just choosing not to show 20 the entire axis. 21 When you're talking about physical 22 entities, just as I talked about if I wanted to 23 cut a hole, then this entire vacuum could slide 24 through for some reason, and that was at an

277 1 angle, I would take all of these external 2 features and I would project it onto this plane 3 and make that cutout. 4 These items and these features don't 5 actually and physically extend here. But the 6 projection -- okay? And that's -- that's very 7 common. So if here we're talking about a 8 handle, the handle stops at where the handle 9 ends. When you talk about the projection, if 10 you were to virtually extend that handle in 11 that direction, either towards a thing or on to 12 a thing, that's what that is referring to. 13 BY MR. EMERICK: 14 Q So why, when it says axis and projection, 15 the axis, why can't that be read as an axis has a 16 limited length and a projection is an extension of 17 that length in the same way you're doing for the 18 handle, which is also a virtual projection? 19 A Because an axis doesn't have a limited 20 length, by definition. If you -- if you wanted to 21 have a finite length, then it would be a line. 22 Q If Dyson advertised a vacuum and said it 23 had an extendable wand and you bought it and the 24 wand had a fixed length, would you consider that	279 1 BY MR. EMERICK: 2 Q So if Dyson advertised a vacuum with an 3 extendable wand -- just the sentence could be -- it 4 could just say extendable wand on the box. But the 5 wand had a fixed length, why would you not want to 6 use that terminology? 7 MR. VINCENT: Objection, vague, 8 foundation, calls for speculation, outside the 9 scope of his opinions. 10 THE WITNESS: I don't have an opinion on 11 that. 12 BY MR. EMERICK: 13 Q Would you not want to use that terminology 14 with the public, extendable wand? 15 MR. VINCENT: Objection, vague, 16 speculation, foundation, outside the scope of 17 his opinions. 18 THE WITNESS: Again, I really don't have 19 an opinion on Dyson's advertising and what they 20 should or shouldn't do. 21 BY MR. EMERICK: 22 Q Okay. If you purchased a vacuum and it 23 said it has an extendable wand and what you got was 24 a wand with a fixed length, would you be
278 1 advertising accurate? 2 MR. VINCENT: Objection, vague, 3 foundation, calls for speculation, outside the 4 scope of his opinions. 5 THE WITNESS: So, and I understand where 6 this is going. The root extendable, if you 7 said it had a telescoping wand or a collapsible 8 wand -- okay? -- that is one thing. Right? 9 If you said, we're selling a wand that 10 extends between the head unit and the floor 11 unit, okay, or is extendable between, you might 12 not use that terminology for the general 13 public. All right? 14 BY MR. EMERICK: 15 Q Why not? 16 MR. VINCENT: Objection, vague, calls for 17 speculation, outside the scope of his opinions. 18 THE WITNESS: Because what you would 19 generally do, if you're saying that it's 20 telescoping or collapsible, is you would use 21 that terminology. If you say that we have a 22 wand that extends from the head unit down to 23 the bottom, well, then you've pretty much 24 described it.	280 1 disappointed by that? 2 MR. VINCENT: Objection, vague, 3 foundation, calls for speculation, outside the 4 scope of his opinions. 5 THE WITNESS: I don't know. I haven't 6 thought about it. 7 BY MR. EMERICK: 8 Q Is there a word that could -- that 9 captures the meaning capable of being made longer 10 that you can think of? 11 MR. VINCENT: Objection, vague, 12 speculation, outside the scope of his opinions. 13 THE WITNESS: Generally, if you're talking 14 about something like that, especially if 15 it's -- if we're talking about a conduit, okay, 16 you would use the term "telescoping," or 17 "telescopic." 18 BY MR. EMERICK: 19 Q What if -- what if it's capable of being 20 made longer but not via a telescoping action? 21 MR. VINCENT: Objection, vague, 22 speculation, outside the scope of his opinions. 23 THE WITNESS: I -- I don't know. I'd have 24 to look and see what it is to see if there's

281 1 some -- something that the general public is 2 going to understand in your meaning. 3 BY MR. EMERICK: 4 Q If something's expandable, what does that 5 mean? 6 MR. VINCENT: Objection, vague, outside 7 the scope of his opinions. 8 THE WITNESS: Expandable? 9 BY MR. EMERICK: 10 Q Expandable. Yeah. 11 A I don't know. With -- with no other 12 connotation, it can expand. 13 MR. VINCENT: Hey, Jay, when you get to a 14 stopping point, can we take a break? 15 MR. EMERICK: Okay. I think I'm pretty 16 close. 17 BY MR. EMERICK: 18 Q What about -- what about stretchable? 19 What does stretchable mean? 20 MR. VINCENT: Objection, vague, outside 21 the scope of his opinions. 22 THE WITNESS: Are you asking for the 23 common -- 24 BY MR. EMERICK:	283 1 it's not a bad word to use. 2 BY MR. EMERICK: 3 Q And so something that's extendable is 4 capable of being made longer; right? 5 MR. VINCENT: Objection, vague, outside 6 the scope of his opinions. 7 THE WITNESS: So if it is, as I've talked 8 about -- let me go to that section because 9 there's a difference between just flatout 10 saying it is extendable, which has the root 11 "extend," and what is talked about in these 12 patents which means extends between. 13 BY MR. EMERICK: 14 Q Is that what the claims say, "extends 15 between"? 16 A That's what the specification says. 17 Q That's not what the claims say; right? 18 MR. VINCENT: Objection, misstates the 19 document. 20 THE WITNESS: I think I have the '550 in 21 here; right? 22 BY MR. EMERICK: 23 Q I didn't bring that one because it's a 24 monster size.
282 1 Q Yeah. What does it mean to you? 2 MR. VINCENT: Objection, vague, outside 3 the scope of his opinions. 4 THE WITNESS: An elastic band is 5 stretchable. 6 BY MR. EMERICK: 7 Q And why is it stretchable? 8 MR. VINCENT: Objection, vague, outside 9 the scope of his opinions. 10 THE WITNESS: The entity itself can be 11 stretched. 12 BY MR. EMERICK: 13 Q And something that's stretchable can be 14 made longer? 15 MR. VINCENT: Objection, vague, outside 16 the scope of his opinions. 17 THE WITNESS: I mean, generally that's why 18 you would use that word. 19 BY MR. EMERICK: 20 Q And something that's expandable can be 21 made larger? 22 MR. VINCENT: Same objections. 23 THE WITNESS: If you were talking about 24 something that is -- that's going to expand,	284 1 A Yes, it is. 2 So let me -- let me look through here and 3 see if it... 4 Q So I'll orient you by directing you to 5 paragraph 129. 6 A Yeah. Okay. 7 So a "rigid air flow conduit extendable 8 between cleaning head air outlet and the hand vacuum 9 cleaner air inlet." 10 MR. VINCENT: I would just say the witness 11 can look at the entire section, if you'd like, 12 not so limited to one paragraph. 13 BY MR. EMERICK: 14 Q All right. So the question was: The 15 claims say "extendable", not extends; right? 16 MR. VINCENT: Objection, misstates the 17 patent. 18 THE WITNESS: The claims say "extendable" 19 between. 20 BY MR. EMERICK: 21 Q If the claims didn't say "between," would 22 you understand extendable to mean capable of being 23 made longer, but it's the word "between" here that 24 you think gives it a different meaning?

285 1 MR. VINCENT: Objection, vague, 2 speculation, outside the scope of his opinions. 3 THE WITNESS: So what you would have to 4 look at is the specification because if they 5 have defined it in the specification, that 6 extendable is telescopic, then you would take 7 extendable as it can be lengthened or 8 shortened. 9 If they said that it's point A to point B 10 and they chose to use "extendable," again, I 11 would have to refer back to the specification 12 in a specific instance. 13 BY MR. EMERICK: 14 Q Dyson's tubes are fixed in length; right? 15 MR. VINCENT: Objection, vague, outside 16 the scope of his opinions. 17 THE WITNESS: I don't know that to be 18 true. 19 BY MR. EMERICK: 20 Q Okay. Have you ever designed a vacuum 21 cleaner? 22 A Designed a commercial vacuum? 23 Q The question was a little bit different. 24 A Oh.	287 1 section which then creates a vacuum in the tube 2 that's connected to that section. 3 Q So we can get into some of those specifics 4 on the engineering side in a bit. Just to start 5 out, have you ever designed a vacuum cleaner? 6 A I have not designed a vacuum cleaner. 7 Q Okay. You've never designed a hand vacuum 8 cleaner? 9 A That is correct. 10 Q You're not an expert in vacuum cleaner 11 design? 12 MR. VINCENT: Objection, vague. 13 THE WITNESS: Depends on what part of this 14 we're talking about. I've never designed an 15 entire vacuum, if that's what you're talking 16 about. 17 BY MR. EMERICK: 18 Q Do you consider yourself to be an expert 19 in vacuum cleaner design? 20 A Yeah. I would say, aside from doing the 21 CFD work, computational fluid design, aside from 22 doing the CFD work where you're fine-tuning these 23 small cyclones, then there is nothing here I haven't 24 designed.
286 1 Q Have you ever designed a vacuum cleaner? 2 A Let me see. 3 Hmm. That's -- that's why I'm asking 4 about the specifics, because I've designed 5 venturi-based vacuums. 6 So I've designed components that are 7 designed to create negative pressure or create a 8 vacuum, okay, that are venturi-based. 9 Q What's venturi-based? What does that 10 mean? I don't even know what the spelling is. For 11 the court reporter's benefit. 12 A V-e-n-t-u-r-i, I believe. Venturi. 13 Q Okay. 14 A I'm really bad at spelling, so... 15 Q What does -- what does that mean? 16 A So when -- one of the ways that you can 17 create a vacuum is if I had a rectangular piece of 18 metal and it had a whole in the bottom that came 19 down and it had an air inlet, and then that air 20 inlet narrowed, and where it intersected, so it 21 narrowed down to a point where it intersected with 22 that hole and then it slowly expanded again, if you 23 blow pressurized air through there, because of the 24 venturi effect, you create a pressure drop in that	288 1 Q So the question was a little bit 2 different. 3 A Okay. 4 Q Do you consider yourself to be an expert 5 in vacuum cleaner design? 6 A Yeah. 7 MR. VINCENT: So I don't know -- can we 8 take a real quick break? 9 MR. EMERICK: Like, two more questions. 10 MR. VINCENT: Okay. Great. 11 BY MR. EMERICK: 12 Q During any of the breaks today, did you 13 have any conversations with counsel regarding the 14 substance of your testimony? 15 A I have not. 16 Q During any of the breaks today, were you 17 present during any conversations regarding the 18 substance of your testimony? 19 A I was not. 20 Q Okay. 21 MR. EMERICK: We can take a break and I'll 22 also look over my notes. 23 MR. VINCENT: Okay. 24 VIDEOGRAPHER: We're going off the record.

289 1 The time is 4:58 p.m. 2 (A brief recess is had from 4:58 p.m. to 3 5:09 p.m.) 4 VIDEOGRAPHER: We are back on the record. 5 The time is 5:09 p.m. 6 MR. EMERICK: All right. I pass the 7 witness. 8 EXAMINATION 9 BY MR. VINCENT: 10 Q You recall being asked questions about a 11 car? 12 A Yes. 13 Q You remember asking questions about when 14 you're in the driver's seat and you're driving 15 forward, the driver's generally facing forward; is 16 that correct? 17 A Yes. 18 Q Towards the front of the vehicle? 19 A Yes. 20 Q Have you ever been in a car where you have 21 been driven in reverse or seen someone drive in 22 reverse? 23 A Where they -- 24 Q Put the car in reverse and then drive.	291 1 direction where the product is moving forward while 2 being used." 3 Do you see that? 4 A Yes. 5 Q And if you pull up in your exhibits, 6 Exhibits 14 and 15, that counsel showed you. 7 A Okay. I have 14 and 15. 8 Q Look at Exhibit 14. 9 A Okay. 10 Q What direction is the woman depicted in 11 the -- in the picture, sorry, what direction is she 12 facing? 13 A She's facing towards that brown wall. 14 Q So -- 15 A To what would be our left. 16 Q So is she, in the picture, depicted 17 looking in the direction that the vacuum is pointing 18 to see where she's vacuuming? 19 A Is she looking at what she's vacuuming? 20 Q Is she looking in the direction towards 21 what she is vacuuming? 22 A Yes. 23 Q Is the same true with Exhibit 15, the 24 person, they're looking at what they're vacuuming?
290 1 A Yes. You're talking about a normal car, 2 yes, where someone has been sitting in there, they 3 put it in reverse and they go backwards. 4 Q Have you ever seen -- either driven 5 yourself or been in car with someone driving in 6 reverse and they turn around and look backwards to 7 see where they're going? 8 A Oh, yeah. 9 Q When that person looks backwards to see 10 where they're going when they're driving in reverse, 11 does that change where the front of the car is? 12 A No. 13 Q Does that change where the rear of the car 14 is? 15 A No. 16 Q Do you remember -- and -- you remember 17 being asked questions about paragraph 42 of your 18 report, of your declaration, I mean? 19 A Yes. 20 Q You say, and just to repeat it, paragraph 21 42, generally, "A POSITA would have understood in 22 product design a front direction of a 23 product/component that is in the direction where a 24 user would face while normally using a product, that	292 1 A Yes. 2 Q In your -- in your experience, do you 3 understand if it's typical for a -- we'll look at 4 say Exhibit 14, I think you mention this in your 5 testimony. But you understand a product to be 6 intended for use where the woman is looking behind 7 her as she's vacuuming? 8 A No. 9 Q Would that change where the front of the 10 vacuum was, depending on how you -- depending on -- 11 assuming you were able to define the front of the 12 vacuum, would that change where the front of the 13 vacuum is, depending on what direction the woman 14 happened to be facing at a particular time? 15 A No. 16 Q In your experience with product design and 17 vacuums, is it your experience that vacuums are 18 designed such that the user will generally be facing 19 the direction they're vacuuming in normal operation? 20 MR. EMERICK: Objection, form, leading. 21 THE WITNESS: Yeah. It's my experience. 22 And at the end of the day, you have to, you 23 know -- the most efficient way is you hit a 24 spot, you go to the next spot, you go to the

293 1 next spot, so you have to be looking at where 2 you're vacuuming, where you have been, and 3 where you're going. So they kind of -- by 4 default, you look at where you're vacuuming. 5 BY MR. VINCENT: 6 Q Are your opinions that you've put forth in 7 your declaration as they relate to the claim terms 8 as they appear in the actual asserted patents in 9 this case, are they limited to any -- I guess, are 10 they solely based on your general understanding of 11 how vacuums are designed? 12 MR. EMERICK: Objection, leading, form. 13 THE WITNESS: So can you repeat that? 14 BY MR. VINCENT: 15 Q Sure. The opinions you have rendered in 16 your declaration regarding the actual claim terms 17 and the asserted patents as they appear in the 18 claims, are those opinions based solely on your 19 experience in designing vacuums? 20 MR. EMERICK: Objection, leading, form. 21 THE WITNESS: Well, those opinions are 22 based on my experience. But as always, when 23 you're talking about claims, it's in light 24 of -- or the opinions that I have in my	295 1 the Dyson V8 product on the floor. 2 MR. EMERICK: You want me to help? 3 THE WITNESS: Yeah. The V8 is in here. 4 BY MR. VINCENT: 5 Q And then there's the V10 product on the 6 table there? 7 A Yes. 8 Q Do you recall being asked questions today 9 about features of these -- of these vacuums? 10 A Yes. 11 Q I believe you testified the V10, in 12 particular, you had never studied that before; is 13 that correct? 14 A I've never studied either. The 15 differentiation is I've seen pictures of the V8. 16 Never actually had one or used one. But I don't 17 recall ever even seeing a picture of the V10. 18 Q Okay. So were any -- were any of your 19 answers today intended to render any opinions about 20 how any particular claims of any patent applied or 21 not to the V8 or V10? 22 MR. EMERICK: Objection, leading, form, 23 foundation. 24 THE WITNESS: No.
294 1 declaration are in light of the claims and the 2 specifications for each individual patent. 3 BY MR. VINCENT: 4 Q Okay. Have you been asked -- or were you 5 asked in this case to render any opinions regarding 6 infringement of any -- of any patents? 7 A No. 8 Q Have you been asked to render any opinions 9 regarding invalidity? 10 A No. 11 Q Have you been asked in this litigation to 12 render any opinion -- any opinions applying any 13 patent claim to any particular product? 14 A You're talking -- you mean outside of what 15 that patent is actually looking at? You mean -- 16 Q I'm asking -- 17 A -- applying it to something? 18 Q Let me ask this question. 19 A Okay. 20 Q Were you asked to apply the claims of any 21 patent to a particular product? 22 A Oh. No. 23 Q So you recall being asked questions today 24 regarding -- you have -- if you'll have -- you have	296 1 MR. VINCENT: I'm going to mark -- what 2 exhibit number are we on? 3 CERTIFIED STENOGRAPHER: 26. 4 THE WITNESS: 26. 5 MR. VINCENT: And I don't have any exhibit 6 stickers. Thank you. 26, you said? 7 CERTIFIED STENOGRAPHER: Yes. 8 MR. EMERICK: Rob, how is this at all a 9 redirect? How is this -- how is this within 10 the scope if we're doing new exhibits? 11 MR. VINCENT: Well, because you've asked 12 him questions about supposedly claims scope. 13 You refused to put the patents in front of him. 14 I want to put the patents in front of him so we 15 can actually have clear testimony about what 16 his opinions are, so... 17 Unless you're going to admit on the record 18 that none of the testimony was actually 19 relevant to the asserted patents, then we 20 can -- well then we can maybe talk about that. 21 Are you going to make that representation, 22 Counsel? 23 No? Okay. Let's move on, then. There's 24 your copies.

297 1 (Exhibit 26 was marked.) 2 BY MR. VINCENT: 3 Q Okay. This is Exhibit 26, U.S. Patent No. 4 9,301,666. 5 Do you see that? 6 A Yes. 7 Q Is this one of the patents that you looked 8 at in forming your opinions? 9 A Yes. 10 Q I'd like to show you -- if you look at 11 Claim 1, for example, of the '666 patent. 12 A Okay. 13 Q Let's take a look at -- just take a minute 14 to review Claim 1. And my question's going to be, 15 are there any -- is there anything in Claim 1 that 16 provides any indication of orientation or of a 17 configuration of the hand vacuum cleaner claimed in 18 Claim 1? 19 MR. EMERICK: In case that's a pending 20 question, objection to scope and form and 21 leading. 22 BY MR. VINCENT: 23 Q Just let me know when you're done and I'll 24 withdraw the question and re-ask it. Do you see in	299 1 motor housing and the passage access of the dirty 2 fluid inlet intersects the upwardly extending 3 portion of the handle." 4 Do you see that element? 5 A Yes. 6 MR. EMERICK: Objection, scope, leading. 7 BY MR. VINCENT: 8 Q Based on your understanding of the claims 9 and your study in light of the claims and 10 specification, how would one of ordinary skill 11 understand this element where it says the handle 12 comprises an upwardly extending portion when the 13 hand vacuum cleaner is positioned on the horizontal 14 surface? 15 MR. EMERICK: Objection, scope, leading, 16 form. 17 THE WITNESS: Okay. So -- so the first 18 thing you have to do is you have to understand 19 we're talking about this vacuum sitting on a 20 horizontal surface. So we'll pretend it's the 21 floor or the table, any of those things. 22 And then what you're looking at is the 23 next thing, is you go look at the -- a dirt 24 collection region wherein the dirt collection
298 1 Claim 1? 2 A Yeah. I'm almost done. I missed the 3 wherein part, so... 4 Okay. I've gone through Claim 1. 5 Q You see there's some of these orientation 6 terms that appear in Claim 1, for example, in 7 element B, it talks about an openable bottom. 8 MR. EMERICK: Objection, leading, 9 coaching, scope, form. 10 THE WITNESS: Yes. 11 BY MR. VINCENT: 12 Q You see in element C, it makes reference 13 to, for example, an upper portion? 14 Do you see that? 15 A Yes. 16 MR. EMERICK: Objection, scope, leading. 17 BY MR. VINCENT: 18 Q I want to specifically ask you about the 19 last subclause, the "wherein," element three. 20 A Okay. 21 Q It says "The handle comprises an upwardly 22 extending portion where the hand vacuum cleaner's 23 positioned on a horizontal surface. The upwardly 24 extending portion extends away from the fluid flow	300 1 region has an openable bottom. 2 Let me find. And then there is the 3 central portion of the parallel below the upper 4 portion wherein the air enters the stream. 5 So there are clues within the claim that 6 correspond to the specification -- so you can 7 go and look at those -- that -- that tell you 8 the orientation that you're to start with. 9 Okay? 10 So those clues -- and, you know, for 11 example, if you were to take the -- that last 12 and wherein number three, if you were to just 13 have tossed that out there, you'd be kind of 14 lost. Okay? 15 So what you -- what you have to do is you 16 have to look to the specifications, understand 17 them, and then take clues from what's in the 18 claim before to kind of work your way through, 19 I'm talking about this, I'm talking about this 20 section, which is at the bottom, when it's 21 sitting on a horizontal plane. And that -- 22 that helps you work through the patent, or, I 23 mean, work through the claim. 24 BY MR. VINCENT:

301 1 Q Okay. Do you recall being asked 2 questions -- all right. Strike that. 3 You see where the claim language talks 4 about, in the '666 patent, having this section here, 5 the handle comprising an upwardly extending portion 6 when the hand vacuum cleaner is positioned on the 7 horizontal surface. And then it says the upwardly 8 extending portion extends away from the fluid 9 flow -- fluid flow motor housing. 10 Do you see that? 11 A Yes. 12 MR. EMERICK: Objection, leading, scope. 13 BY MR. VINCENT: 14 Q Do you recall being asked questions today 15 about the V8 and its handle and whether it was 16 extending away or extending upwardly? 17 MR. EMERICK: Objection, scope. 18 THE WITNESS: So, yes, earlier, I remember 19 being asked questions about that. 20 BY MR. VINCENT: 21 Q Were you asked to provide any opinions 22 about applying the '666 patent to the V8 product? 23 MR. EMERICK: Objection, scope, leading. 24 THE WITNESS: I -- and this is two parts.	303 1 extends away from the fluid flow -- the fluid flow 2 motor housing? 3 MR. EMERICK: Objection, leading, scope. 4 THE WITNESS: I don't have any opinions on 5 that. 6 BY MR. VINCENT: 7 Q I'm going to mark the big guy. This will 8 be Exhibit 27. 9 (Exhibit 27 was marked.) 10 BY MR. VINCENT: 11 Q Okay. Is this -- this is U.S. Patent No. 12 10,117,550; is that right? 13 A It appears to be. 14 Q Is this one of the patents that you 15 analyzed to -- for your opinions in this case? 16 A Yes. 17 Q Do you recall being asked questions with 18 regard to the Dyson V10 vacuum that's sitting there 19 about -- that involve the terms "top wall" and 20 "bottom wall" and "side wall"? 21 MR. EMERICK: Objection, leading, scope, 22 form. 23 THE WITNESS: Yeah. I remember being 24 asked questions about that.
302 1 One, I was -- don't believe I was asked to do 2 that today and I was never asked to do that 3 by -- by you guys. 4 BY MR. VINCENT: 5 Q Okay. So do you have any opinions, one 6 way or another, about whether Dyson's V8 product has 7 an upwardly extending portion -- I'm sorry. Let me 8 strike that. 9 Do you have any opinions one way or the 10 other whether the Dyson V8 product meets this sub 11 element three of the '666 patent in Claim 1? 12 MR. EMERICK: Objection, leading, form, 13 scope. 14 THE WITNESS: So I -- I have not been 15 asked to do any analysis. I've not done any 16 analysis. I don't have an opinion on whether 17 the claims of let's say the '666 or any of the 18 others teach on to Dyson's products or anybody 19 else's products. 20 BY MR. VINCENT: 21 Q So you don't have any opinions -- is it 22 true you don't have any opinions one way or the 23 other whether or not the Dyson V8 product has a 24 handle with an upwardly extending portion that	304 1 BY MR. VINCENT: 2 Q Were any of your -- was any of your 3 testimony meant or intended to provide opinions on 4 the claims of any of the asserted patents as applied 5 to the V10 product? 6 MR. EMERICK: Objection, leading, form, 7 scope. 8 THE WITNESS: No. 9 BY MR. VINCENT: 10 Q I want to show you, in the '550 patent, 11 look at column 12. 12 A Okay. 13 Q Do you see in column 12, it makes 14 reference to Figures 21 and -- 21 and 23? 15 A About how -- oh, oh, yeah. Just starting 16 in number six, roughly? 17 Q Yeah. So -- 18 A I think so. Let me get to 21. Twenty-one 19 through 23. Okay. 20 Q Okay. And specifically, talked about -- 21 so keep a finger by Figure 23. 22 A Okay. 23 Q And if you look at column 12, see around 24 line -- it's not a very good copy here, but I think

305 1 that's around line 13. There's a sentence that 2 begins "top wall 212?" 3 A Okay. 4 Q It says "Top wall 212 and interior wall 5 226 may be curved to define a substantially 6 cylindrical or" -- I think -- "frustoconical side 7 wall of cyclone chamber 184." 8 Do you see that? 9 MR. EMERICK: Objection, leading, form, 10 scope. 11 THE WITNESS: Okay. For example, cyclone 12 chamber 184 may be defined by top wall 212, 13 interior wall 226, which extend between end 14 walls 220... 15 So top wall. 16 Extend between end walls 220 and 224. 17 Oh. There's 220. 18 I'm not finding 224 on here. 19 BY MR. VINCENT: 20 Q Okay. But let's -- okay. So I'm just 21 pointing you to column 12. 22 A Okay. Yep. 23 Q If you look at line 13, the sentence 24 begins "top wall 212."	307 1 alternative embodiments, cyclone chamber 184 may 2 have a side wall of any other suitable shape that is 3 concave or conductive to cyclonic flow." 4 Q Okay. So do you understand from those two 5 sentences whether or not the side wall of a cyclone 6 chamber can be substantially cylindrical under these 7 embodiments? 8 MR. EMERICK: Objection, leading, form. 9 THE WITNESS: So -- 10 MR. EMERICK: Scope. 11 THE WITNESS: Yes. Here, the 12 specification, it's a roughly cylindrical wall. 13 And they're saying that this can be -- that 14 we're considering this a top wall. And it 15 could be that -- that cylindrical or, in 16 essence, conical. 17 BY MR. VINCENT: 18 Q I think you said top wall. But it says -- 19 I just want to make sure the record's clear. It 20 says -- it says -- again, on line 16 "Curved to 21 define a substantially cylindrical or frustoconical 22 side wall of cyclone chamber 184." 23 Do you see that? 24 A Yeah.
306 1 Do you see that? 2 A Yes. 3 Q Top wall 212. Why don't -- why don't you 4 read that sentence, just that one sentence. 5 A Okay. 6 Q Okay. Read it out loud, please. 7 A Yes. "Defined by top wall 212." 8 Q I'm sorry. It's a sentence that begins 9 around, again, line -- I think -- well, it begins 10 "Top wall 212 and interior wall 226." 11 Do you see that? 12 A Oh, okay. I see the one you're talking 13 about. 14 Q Okay. 15 A I was in the wrong place. Got it. "Top 16 wall 212 and interior wall 226 may be curved to 17 define a substantially cylindrical or" -- oh, I hate 18 that word -- "frustoconical side wall of cyclone 19 housing 184." 20 Q I believe it said "cyclone chamber 184." 21 A I'm sorry. Yes. Cyclone chamber 184. 22 Yes. 23 Q Can you read the next sentence, please? 24 A Okay. An alternative embodiment -- "in	308 1 MR. EMERICK: Objection, leading, 2 coaching, form, scope. 3 BY MR. VINCENT: 4 Q Yeah. If you could -- 5 A Well, that's what it -- top wall, 212. 6 Q Um-hum. 7 A Okay? And then -- and this is where I was 8 headed, is that top wall 212 has been defined. And 9 in essence, that makes 184 -- let me get back and 10 read this correctly. Interior wall 286 may be 11 curved and defined substantially cylindrical, side 12 wall of chamber 184. 13 Q Okay. So do you understand that that to 14 mean that the -- that in one embodiment here, the 15 side wall 184 can be substantially cylindrical? 16 MR. EMERICK: This is -- this is clear 17 coaching. 18 MR. VINCENT: Just make your objection, 19 Counselor. 20 MR. EMERICK: This is coaching the 21 witness, leading, form. 22 THE WITNESS: Yeah. I mean, it's -- it's 23 clear. I mean, you just -- it says that 226 24 may be curved to define a substantially

309 1 cylindrical or frustoconical side wall of 2 cyclone chamber 184. I mean, it's -- it's not 3 complicated. It says that 184 could be 4 cylindrical or conical. 5 MR. VINCENT: Hang on a second. 6 I don't have any further questions at this 7 time. 8 FURTHER EXAMINATION 9 BY MR. EMERICK: 10 Q All right. Mr. Akhavein, if -- if your 11 car's in reverse, is your whole body facing the back 12 of the car or just -- just turning around your head? 13 A I mean, basically -- 14 Q Strike the question. 15 A Okay. 16 Q You were asked -- you were asked some 17 questions from your counsel about driver's 18 orientation when the car's in reverse. Do you 19 recall that? 20 A Yes. 21 Q When the car is in reverse, the driver's 22 body is still facing the front of the car; right? 23 A If you just put it in reverse and don't 24 turn around, because I was asked both of those. So	311 1 Q Or your mirrors? 2 A Yeah. So -- so you -- 3 Q But otherwise, if you look back, it's -- 4 it's your head and neck. You're not turning your 5 whole body? 6 A Well, it's -- it's -- it depends on where 7 we're talking about. From your waist down, you're 8 not moving. From your waist up, you're twisted to 9 the extent, let's say, between your waist and your 10 head, you're twisted to the extent that you can -- 11 or -- I mean, you know, I took driver's ed a long, 12 long time ago and that's what I was taught. I don't 13 do that anymore because I got mirrors and backup 14 cameras. But if you're talking about that, your 15 legs stay facing forward. And by the time you get 16 to your head, you're looking backwards. 17 Q Is the front of the vacuum the direction a 18 user's looking? 19 MR. VINCENT: Objection, vague. 20 THE WITNESS: We're going to have to go 21 back through because I think we've covered this 22 a whole bunch. So I'm not exactly -- when you 23 say a person is looking... 24 BY MR. EMERICK:
310 1 which -- which one are we talking about? 2 Q Well, let's -- let's start with just put 3 it in reverse. Your body's still facing forward; 4 right? 5 A In that scenario, as you normally would, 6 your body faces forward, you look in the rear-view 7 mirror or your backup camera or whatever, your 8 body's facing forward. 9 Q Yeah. And so you would -- when you 10 actually go to reverse you're maybe tilting your 11 head back or, more likely these days, you're staring 12 forward at a camera; is that right? 13 MR. VINCENT: Objection, vague, outside 14 the scope. 15 THE WITNESS: If you choose to not turn 16 around and look, then you're facing forward. 17 BY MR. EMERICK: 18 Q And that would be because you're looking 19 at a backup camera, I assume? 20 MR. VINCENT: Objection, vague, 21 speculation. 22 THE WITNESS: Or your mirrors. 23 Oh, I'm sorry. 24 BY MR. EMERICK:	312 1 Q Does the front of the vacuum depend at all 2 on where a user's eyes are or is it their body? 3 MR. VINCENT: Objection, vague. 4 THE WITNESS: I -- I've said before, 5 it's -- the front of the vacuum is not 6 dependent on where they're looking. Let's just 7 say that. 8 MR. EMERICK: All right. Nothing further. 9 MR. VINCENT: No questions. 10 VIDEOGRAPHER: This marks the end of the 11 videotaped deposition of Glenn Akhavein -- 12 Akhavein, going off the record at -- we're 13 going off the record at 5:40 p.m. 14 (Off the record.) 15 CERTIFIED STENOGRAPHER: Mr. Vincent, do 16 you need a rough draft? 17 MR. VINCENT: Yes, please. 18 CERTIFIED STENOGRAPHER: Okay. Do you 19 also need an expedited delivery? 20 MR. VINCENT: What's normal delivery? 21 CERTIFIED STENOGRAPHER: Ten business 22 days. 23 MR. VINCENT: Yeah. Let's get it 24 expedited.

Transcript of Glenn Akhavein
Conducted on June 12, 2024

79 (313 to 316)

313 1 (The reading and signing of the deposition 2 is not waived.) 3 (At 5:39 p.m. the deposition was 4 concluded.) 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	315 1 CERTIFICATE 2 3 STATE OF FLORIDA) 4 COUNTY OF HILLSBOROUGH) 5 I, DAWN A. HILLIER, RMR, CRR, CLR certify that 6 I was authorized to and did stenographically report 7 the deposition of GLENN AKHAVEIN; that a review of 8 the transcript was requested; and that the 9 transcript is a true and complete record of my 10 stenographic notes. 11 12 I further certify that I am not a relative, 13 employee, attorney, or counsel of any of the 14 parties, nor am I a relative or employee of any of 15 the parties' attorney or counsel connected with the 16 action, nor am I financially interested in the 17 action. 18 19 DATED this 17th day of June 2024. 20 21  22 DAWN A. HILLIER, RMR, CRR, CLR 23 24
314 1 CERTIFICATE OF OATH 2 3 STATE OF FLORIDA) 4 COUNTY OF HILLSBOROUGH) 5 6 I, the undersigned authority, certify that 7 GLENN AKHAVEIN appeared before me remotely and was 8 duly sworn. 9 WITNESS my hand and official seal this 17th day 10 of June 2024. 11 12  13 DAWN A. HILLIER, RMR, CRR, CLR 14 Notary Public - State of Florida 15 My Commission No.: HH 300744 16 Expires: 12-15-2026 17 18 19 20 21 22 23 24	

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