

1 UNITED STATES PATENT AND TRADEMARK OFFICE

2
3 BEFORE THE PATENT TRIAL AND APPEAL BOARD

4
5 LUXOTTICA OF AMERICA, INC.,

6 Petitioner,

7 v.

8 E-VISION OPTICS, LLC,

9 Patent Owner.

10
11 IPR2024-01070

12 U.S. Patent No. 8,801,174

13
14
15 REMOTELY CONDUCTED VIDEOTAPED DEPOSITION OF

16 JAMES OLIVER PHD

17 FRIDAY, JUNE 13, 2025

18 10:04 A.M. CDT

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21 PAGES: 1 - 56

22 REPORTED BY: KARISA EKENSEAIR, CCR RPR RMR RDR

1 DEPOSITION OF JAMES OLIVER PHD, CONDUCTED VIA
2 ZOOM VIDEOCONFERENCE.

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10 Pursuant to notice, before Karisa J.
11 Ekenseair, Certified Shorthand Reporter in and for
12 the States of Arkansas, Oklahoma, Missouri,
13 Illinois, Tennessee, Georgia, New Mexico,
14 Washington, and California; National Registered
15 Professional Reporter; National Registered Merit
16 Reporter; National Registered Diplomat Reporter;
17 Notary Public.

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T A B L E O F C O N T E N T S

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EXHIBITS

(RETAINED BY COUNSEL)

NUMBER	DESCRIPTION	PAGE
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EXHIBIT 1001	UNITED STATES PATENT NO.	
	8,801,174.....	15

EXHIBIT 2016	CORRECTED DECLARATION OF	
	PROFESSOR JAMES H. OLIVER,	
	PH.D. IN SUPPORT OF PATENT	
	OWNER'S RESPONSE.....	9

1 P R O C E E D I N G S

2 THE REPORTER: We are on the record.

3 Will counsel please stipulate that in lieu
4 of formally swearing in the witness, the reporter
5 will instead ask the witness to acknowledge that
6 their testimony will be true under penalties of
7 perjury, that counsel will not object to the
8 admissibility of the transcript based on
9 proceeding in this way and that the witness has
10 verified that they are, in fact, Dr. James Oliver,
11 beginning with the noticing attorney, please?

12 MR. MESSICK: Petitioner agrees.

13 MR. AISIKU: So stipulated. This is Oje
14 Aisiku speaking.

15 JAMES OLIVER, PHD
16 of lawful age, being first duly sworn, deposes and
17 says in reply to the questions propounded as
18 follows:

19 EXAMINATION

20 BY MR. MESSICK:

21 Q Good morning, Dr. Oliver.

22 A Hello.

1 Q Is it okay if I refer to you as Dr. Oliver
2 during today's deposition?

3 A That's fine.

4 Q Great. You understand that this
5 deposition is for IPR2024-01070, correct?

6 A Correct.

7 Q Is it okay if I refer to the 2024-1 --
8 sorry, 01070 proceedings as "the IPR" today?

9 A That would be okay.

10 Q The patent at issue in the IPR is U.S.
11 Patent No. 8,801,174, correct?

12 A Yes.

13 Q It's okay if I refer to the 8,801,174
14 patent simply as the '174 patent during today's
15 deposition?

16 A That's fine with me.

17 Q You understand that even though you're
18 testifying virtually today, that you're under oath
19 just as if you were in person or in court,
20 correct?

21 A I do.

22 Q Great. Do you understand that your

1 testimony is subject to the same penalty of
2 perjury as if you were testifying in a courtroom,
3 correct?

4 A That's my understanding.

5 Q You also understand that if you don't
6 understand a question that I ask, that you can ask
7 for a clarification, right?

8 A Right.

9 Q If you don't ask for clarification, I'm
10 going to assume you understood the question; is
11 that fair?

12 A That's fair.

13 Q Is there anything that would prevent you
14 from testifying accurately and truthfully today?

15 A No.

16 Q Any drugs or medications that would impair
17 your ability to give true and accurate testimony
18 today?

19 A No.

20 Q Where are you testifying from today, Dr.
21 Oliver?

22 A Ames, Iowa.

1 Q You just in your office?

2 A Yeah. My door is closed. No one is here.

3 Q Do you have any materials or devices in
4 the room with you?

5 A I have a printout, clean printout of my
6 declaration that I've earmarked with some tabs
7 just for quick reference, but that's it.

8 Q No other materials other than that
9 earmark-tabbed version of your declaration?

10 A Nothing else. My desktop is clear.

11 Q Are there any notes on those tabs for your
12 declaration?

13 A Just little indicators of what section
14 they are, so...

15 Q Did you prepare for today's deposition?

16 A I did.

17 Q What did you do to prepare?

18 A I reviewed my declaration and the prior
19 art that it references, as well as I spoke with
20 counsel.

21 Q Did you review anything other than your
22 declaration and the prior art that it references?

1 A No.

2 Q Did you speak with anyone other than
3 counsel?

4 A No.

5 Q How long did you review those materials in
6 preparation for today's deposition?

7 A Meeting with counsel was about, I'd say,
8 maybe 60 to 70 minutes, and my review was probably
9 two hours worth, my personal review.

10 Q Again, your personal review just involved
11 reviewing your declaration and reviewing those
12 cited prior art references, correct?

13 A Correct.

14 MR. MESSICK: Can we please pull up
15 Exhibit 2016 from the IPR?

16 REMOTE TECHNICIAN: Please stand by.

17 (Exhibit 2016 marked for identification.)

18 Q Do you recognize this document, Dr.
19 Oliver?

20 A I do.

21 Q What is it?

22 A It's a copy of my declaration.

1 Q Exhibit 2016 is a copy of your corrected
2 declaration in support of e-Vision patent owner's
3 response in the IPR, correct?

4 A That's correct.

5 Q I understand that you, I guess, provided
6 an initial version of your declaration and then
7 provided a corrected version of your declaration,
8 right?

9 A That's true. And by the way, I found
10 another typo if you want to get that out of the
11 way first.

12 Q Sure. What typo is that?

13 A It's in paragraph 57.

14 Q What page of the document is that on?

15 A Gosh, I thought you'd ask me that. Would
16 be page -- let me say --

17 Q Looks like it's page 35 of the PDF --

18 A I'm sorry --

19 Q -- which is probably page 30 of the
20 declaration.

21 Does that sound right?

22 A 57, I'm getting there. Just a moment.

1 Q Take your time.

2 A Yes. Next page, 31 -- no, it's the very
3 top. Paragraph 57, it's Hattori-913, it says it's
4 entitled eyeglass frames with hearing aid. That
5 title is incorrect. It should be eyeglass frame
6 with display device.

7 Q Okay. So you're just referring to that
8 first sentence of paragraph 57 and saying --

9 A Yep, exactly. Yep. That right there
10 should be "with display device."

11 Q Just as a general instruction, please be
12 careful about talking over me just so the court
13 reporter can get a clear record.

14 A Okay. Thank you.

15 Q Thank you.

16 You said before you had a copy of your
17 declaration in front of you. Just to clarify, do
18 you have a copy of the corrected declaration or
19 the original version?

20 A It's the corrected version.

21 MR. MESSICK: Can you please scroll down
22 to the last page, Daniel?

1 Q Is this your signature on page 77 of
2 Exhibit 2016, Dr. Oliver?

3 A Yes.

4 Q You signed the corrected version of your
5 declaration on April 10th, 2025, correct?

6 A Yes.

7 Q Is there anything in your declaration that
8 you changed your mind on since April 10th, 2025?

9 A No.

10 Q Sitting here today, is there anything in
11 your declaration that you no longer agree with?

12 A Just that typo.

13 Q Can you please go back up to page 46
14 or -- 46 of the PDF, Daniel, which is page 41, 42
15 of the exhibit in paragraph 74? Sorry, up a page.
16 Yeah.

17 The paragraph 74 of your declaration lists
18 the different elements of claims -- claim 1 of the
19 '174 patent, correct?

20 A Yes.

21 MR. MESSICK: If you could just scroll
22 down to the next page, Daniel? Can you please

1 scroll down to the next page? Thank you.

2 Q Limitation 1[i] of claim 1 recites,
3 "...wherein the first and second electrical
4 conductors are configured to couple the
5 electronics module to the first temple to
6 constrain the electronics module."

7 Did I read that correctly, Dr. Oliver?

8 A Yes.

9 Q In your declaration, you refer to
10 limitation 1[i], the limitation I just read, as
11 the constrained limitation, correct?

12 A I believe so. Yes.

13 Q Can you scroll down just a little bit to
14 paragraph 76, please? In that second sentence
15 beginning on line 3 of paragraph 76, it reads,
16 "Petitioner and Dr. Feland failed to demonstrate
17 that Brunton anticipates or renders obvious
18 claim 1 at least because Brunton does not disclose
19 or suggest limitation 1[i] and the constrained
20 limitations." And then it recites again
21 limitations 1[i].

22 So you'd agree that you refer to

1 limitations 1[i] as the constrained limitation in
2 your declaration?

3 A I agree.

4 Q Is it okay if I refer to limitations 1[i]
5 as the constrained limitation during today's
6 deposition?

7 A That's fair.

8 Q Is it your opinion the inventors defined
9 for constrained in the '174 patent specification?

10 A Did they define it?

11 Q Yes, sir.

12 A Yes.

13 Q What is that definition?

14 A I prefer to go to the patent and -- and
15 refer to their definition.

16 Q Okay.

17 MR. MESSICK: Can you please pull up
18 Exhibit 101 -- Exhibit 1001, apologies.

19 REMOTE TECHNICIAN: Yeah, understood. I
20 have two sets of that same one. Would it be the
21 patent?

22 MR. MESSICK: It should be Exhibit -- it

1 should be labeled Exhibit 1001, and then it has
2 8,801,174.

3 REMOTE TECHNICIAN: Understood. Please
4 stand by.

5 (Exhibit 1001 marked for identification.)

6 MR. MESSICK: Thank you.

7 Q Do you recognize this document, Dr.
8 Oliver?

9 A Yeah. That's the '174 patent.

10 Q And before -- strike that.

11 Is it your opinion that the inventors
12 defined "constrained" in the '174 patent
13 specification, correct?

14 A That's my recollection, yes.

15 Q Do you recall where in the specification
16 the inventors defined "constrained"?

17 A No.

18 Q Can you please scroll down to column 11?
19 Be on page -- page 38. Yeah. And then just
20 scroll down to the second column, beginning on
21 line, like, 50ish.

22 So beginning on line 50, Dr. Oliver, it

1 reads, "In some embodiments, the first electrical
2 conductor may be configured to constrain or
3 substantially constrain the electronics module.
4 As used in this context, 'constrain' may refer to
5 when the first electrical conductor is configured
6 to provide support (i.e., a restraining force) for
7 the electronics module to retain the module in a
8 fixed position within the temple."

9 Did I read all that correctly?

10 A Yes.

11 Q Is this the definition you were referring
12 to?

13 A Yes.

14 Q So it's your opinion that the inventors of
15 the '174 patent define the word "constrain" in
16 column 11 lines 50 to 55; is that correct?

17 A I'd say the definition of "constrain" is
18 line 52 or 53 down to 55.

19 Q It's your opinion that the inventors of
20 the '174 patent define the word "constrain" in
21 columns -- column 11 lines 52 to 55; is that
22 correct?

1 A That's correct.

2 Q Does the definition of "constrain" offered
3 by the inventors of the '174 patent differ from
4 the plain and ordinary meaning of the word
5 "constrain"?

6 A No.

7 Q It's your opinion that the definition of
8 "constrain" offered by the inventors of the '174
9 patent does not differ from the plain and ordinary
10 meaning of the word "constrain," correct?

11 A Correct. That's what I just said.

12 Q It's your opinion that the description of
13 the word "constrain" in column 11, 52 to 55 of the
14 '174 patent is consistent with the plain and
15 ordinary meaning of the word "constrain," correct?

16 MR. AISIKU: Objection, form.

17 A Yeah. A POSITA would understand
18 "constrain" in that context.

19 Q It's your opinion that a POSITA -- well,
20 sorry, strike that.

21 When you say POSITA, in referring to a
22 person of ordinary skill in the art?

1 A Yes.

2 Q So a POSITA would understand that the
3 definition "constrain" offered in column 11 lines
4 52 to 55 of the '174 patent to be consistent with
5 the plain and ordinary meaning of the word
6 "constrain," correct?

7 MR. AISIKU: Objection, asked and
8 answered.

9 A Yeah. I'll -- I'll add a POSITA reading
10 this patent would understand that the definition
11 proffered by the inventors of "constrain" is well
12 understood. I suppose if you looked up the
13 dictionary definition, it may have several other
14 flavors regarding constrain, but...

15 Q When you say "several other flavors," what
16 do you mean?

17 A Well, a dictionary definition has
18 different -- different definitions, so I
19 don't -- we can look up the dictionary if you like
20 and see if it's different.

21 Q Is it your opinion that those dictionary
22 definitions would be more or less consistent with

1 the definition offered by the inventors of the
2 '174 patent?

3 MR. AISIKU: Objection, form.

4 A Again, I would say a POSITA reading this
5 patent would understand the definition of
6 "constrained" to be consistent with the definition
7 the inventors offered.

8 Q Right. The definition the inventors
9 offered is found in lines 52 to 55 of column 11 of
10 the '174 patent, correct?

11 A Yes.

12 Q Did "constrain" have an ordinary meaning
13 at the time of the invention?

14 MR. AISIKU: Objection, asked and
15 answered.

16 A Can you repeat the question?

17 Q Sure. Did "constrain" have an ordinary
18 meaning at the time of the invention?

19 A Yes.

20 Q What is that -- what's the ordinary
21 meaning of "constrain" at the time of the
22 invention?

1 MR. AISIKU: Objection, asked and
2 answered.

3 A Constrain -- the ordinary meaning of
4 "constrain" is to hold something constant, in a
5 constant position; or you could constrain time.
6 It's an understood term.

7 Q Is your opinion that at the time of the
8 invention, "constrain," a plain and ordinary
9 meaning, to hold something constant in a constant
10 position, correct?

11 A I'd say in the context of this patent,
12 "constrain" as defined by the inventors, holds
13 something in a fixed position. It's quite clear.

14 Q Did the ordinary meaning of "constrain"
15 change since the invention?

16 A The ordinary meaning, I don't think it has
17 changed.

18 Q Is it your opinion that the ordinary
19 meaning of "constrain" has not changed between the
20 time of the invention and the present, correct?

21 MR. AISIKU: Objection, asked and
22 answered; relevance.

1 A Correct.

2 Q Is "retain a synonym of "constrained"?

3 A I'm sorry, can you repeat, please?

4 Q Is "retain," R-E-T-A-I-N, a synonym of
5 "constrain"?

6 A I don't know.

7 Q Is "hold" a synonym of "constrain"?

8 A I don't know. I'm not an English major.

9 MR. MESSICK: Can you please scroll -- or
10 go back to Exhibit 2016, Daniel, and scroll down
11 just one paragraph to paragraph 77?

12 Q This is a -- at the top of paragraph 77,
13 it reads, "First, the constrain limitation as
14 defined in 1[i] requires that the electrical
15 conductors physically hold or secure the
16 electronics module in place via a physical
17 insertion and restrain the electronics module by
18 applying a force to a surface or component."

19 Did I read that correctly, Dr. Oliver?

20 A No, you did not.

21 Q What did I get wrong?

22 A I believe you said "if the limitation is

1 defined in 1[i], "and it says "as claimed in
2 1[i]."

3 Q So paragraph 77 reads, "...the constrained
4 limitation as claimed in 1[i] requires that the
5 electrical conductors physically hold or secure
6 the electronics module in place via a physical
7 insertion and restrain the electronics module by
8 applying a force to a surface or component."

9 Did I read it correctly that time?

10 A Yes.

11 Q Is it your opinion that the constrained
12 limitation requires that the electrical conductors
13 physically hold or secure the electronics module
14 in place via a physical insertion and restrain the
15 electronics module by applying a force to a
16 surface or component?

17 A Can you read that again, that question?
18 Confused.

19 Q Sure. I'm just asking if it's your
20 opinion based on what you have here in
21 paragraph 77 that the constrained limitation
22 requires that the electrical conductors physically

1 hold or secure the electrical module in place via
2 a physical insertion and restrain the electronics
3 module by applying a force to a surface or a
4 component.

5 A That's my opinion. Yeah.

6 Q Is it your opinion that the constrained
7 limitation requires a physical insertion of the
8 electrical conductors?

9 MR. AISIKU: Object to form.

10 A It's -- the -- well, it's -- physical
11 insertion, that's part of the definition. The key
12 part is applying a force to a surface or
13 component.

14 Q Part of your opinion of what the
15 constrained limitation requires is a physical
16 insertion of the electrical conductors, correct?

17 A That's what it says, yeah.

18 Q So it's your opinion that the constrained
19 limitation requires physical insertion of the
20 electrical conductors?

21 MR. AISIKU: Object to form; asked and
22 answered.

1 A A force to the surface is the key
2 component. You can't have the constrained
3 limitation without the force.

4 Q It says "physical insertion." What
5 physical -- what are the electrical conductors
6 being inserted into?

7 A The physical insertion is what you're
8 constraining. It's just defining what is being
9 constrained. You can't constrain it if it hasn't
10 been inserted.

11 Q Using a lot of pronouns there with "its"
12 and everything.

13 Can you rephrase your answer maybe using
14 the terms of the claim, like "electrical
15 conductors" and "electronics module," "temple,"
16 etcetera?

17 MR. AISIKU: Object to form; asked and
18 answered; vague.

19 A Yeah. What -- what's the question again?

20 Q I'll read back your answer and maybe you
21 can provide some clarity because it used a lot of
22 "its," and I'm just trying to understand what

1 you're referring to so there's no, you know,
2 confusion in the transcript.

3 I asked, "What are the electrical
4 conductors being inserted into?" And you
5 answered, "The physical insertion is what you're
6 constraining. It's just defining what is being
7 constrained. You can't constrain it if it hasn't
8 been inserted."

9 So I'm just asking you to clarify the
10 "its" in that answer.

11 MR. AISIKU: Objection, vague; asked and
12 answered.

13 A The original question, though, is what I
14 was after, not my response.

15 Q Yeah. I'm just asking you what the
16 electrical conductors are being inserted into.
17 You didn't give me an answer besides an "it."
18 Just not very clear.

19 MR. AISIKU: Same objections.

20 A And same request to repeat the original
21 question, not my -- not repeat my answer, I guess.

22 Q What are the electrical conductors being

1 inserted into?

2 A The electrical conductors are part of the
3 electronics module which needs to be inserted
4 before it can be held in place by the force.

5 Q You say it needs to be inserted before it
6 can be held in place by the force.

7 Are you referring to the insertion of the
8 electronics module into the temple of the eyewear
9 or are you referring to the insertion of the
10 electronics -- sorry, the electrical conductors
11 into the electronics module?

12 MR. AISIKU: Objection, compound question;
13 vague.

14 A The -- as I said before, the electrical
15 conductors are part of the electronics module and
16 that needs to be put in place before it can be
17 constrained by force.

18 Q What do you mean when you say "that needs
19 to be put in place"?

20 A The electronics module, of which the
21 conductors are part of, must be inserted before it
22 can be constrained by force.

1 MR. AISIKU: Sorry, I just ask that the
2 witness just give me a moment to provide my
3 objections after a question.

4 THE WITNESS: Sorry.

5 MR. MESSICK: Do you have an objection you
6 wanted to assert to that question?

7 MR. AISIKU: Yes. I just wanted to object
8 that that question was vague; and also asked and
9 answered.

10 Q When you say "the electronics module of
11 which the conductors are a part must be inserted
12 before it can be constrained by a force," are you
13 referring in that answer to the insertion of the
14 electronics module into the temple of the eyewear?

15 A It's not referring to where it's inserted.

16 Q What insertion are you referring to?

17 A I'm -- it's a general statement. It's not
18 focused on any particular embodiment.

19 Q (Technical disruption) the components of
20 the electronics module may be inserted into?

21 A I didn't hear the -- your question, the
22 first part.

1 Q There are multiple components that the
2 electronics module may be inserted into?

3 MR. AISIKU: Objection, vague.

4 A Yeah. Again, it's a general statement.
5 It just refers to insertion. Doesn't refer to
6 what it's being inserted into, so...

7 Q Does the term "constrained" in claims 1
8 and 15 of the '174 patent require that the
9 electronics module be retained in a fixed
10 position?

11 A I'd need to look at claim 15 to answer
12 that question.

13 MR. MESSICK: Please scroll down to
14 page 68 of the document, or page 72 of the PDF to
15 paragraph 116, Daniel.

16 Q This is claim 15 as you recall, Dr.
17 Oliver?

18 A Yes, I see it.

19 Q You see limitation 15[c], it says,
20 "Coupling the capacitive touch switch to a partial
21 enclosure to constrain the capacitive touch
22 switch."

1 Did I read that correctly?

2 A Yes.

3 Q So I'll ask again, and if you need to look
4 at claim 1 as well we can scroll back up to that.

5 Does the term "constrained" in claims 1
6 and 15 of the '174 patent require that the
7 electronics module be retained in a fixed
8 position?

9 A Well, claim 15 is referring to the
10 capacitive touch switch, not the electronics
11 module.

12 Q Does the term "constrained" in claim 1 of
13 the '174 patent require that the electronics
14 module be retained in a fixed position?

15 A (Technical disruption) read by definition
16 that we just went over.

17 Q Can you repeat your answer? You broke up
18 a little bit.

19 A I'm sorry. Claim 1 -- well, can you
20 repeat your question so I make sure I carefully
21 answer it?

22 Q Absolutely. Does the term "constrained"

1 in claim 1 of the '174 patent require the
2 electronics module to be restrained -- or in a
3 fixed position?

4 A It requires the electronics module to be
5 constrained as defined in the patent definition,
6 patent description specification, sorry.

7 Q Does claim 1 of the '174 patent require
8 that the electronics module be retained in a fixed
9 position?

10 MR. AISIKU: Objection, asked and
11 answered.

12 A Claim 1 requires the electronics module to
13 be constrained as constrained is defined in the
14 patent specification that we just talked about a
15 few minutes ago.

16 Q Does the definition of "constrain" as
17 found in column 11 lines 52 to 55 of the
18 specification and in claim 1 require that the
19 electronics module be retained in a fixed
20 position?

21 MR. AISIKU: Same objection.

22 A Again, the same answer. It's the clear

1 definition. And I go back up to the column 11, 52
2 to 55, and stick with that. That's what
3 "constrain" means.

4 MR. MESSICK: Can you scroll back up to
5 paragraph 77, please, Daniel? Should be on
6 page 46 of the PDF. Sorry, yeah, there you go.
7 Thank you.

8 Q In that line 4 of paragraph 77, Dr.
9 Oliver, do you see the sentence that begins "The
10 '174 patent explains"?

11 A Yes.

12 Q So "The '174 patent explains that
13 "constrained" may refer to when the first
14 electrical conductors is configured to provide
15 support, i.e., a restraining force for the
16 electronics module to retain the module in a fixed
17 position within the temple. That is the
18 electrical conductor may be configured to hold the
19 electronics module in place."

20 It cites the '174 patent, column 11 lines
21 52 to 57.

22 Did I read all that correctly?

1 A Yes.

2 Q What is meant by a fixed position?

3 MR. AISIKU: Object to form.

4 A That the object being constrained is
5 incapable of movement in any direction.

6 Q When you say "incapable of movement," do
7 you mean that the object must be held completely
8 still?

9 A Yes.

10 MR. AISIKU: Object to form.

11 A Sorry, yes.

12 Q It says in that fifth line of
13 paragraph 77, it says "i.e., a restraining force."

14 Do you see that?

15 A Yes.

16 Q What's meant by "restraining force"?

17 A A force that -- a force that is applied
18 that can sustain the constraint requirement.

19 Q That can be any type of force, correct?

20 A What do you mean by "any kind of force"?

21 Q Like, for example, it could include a
22 compressive force or a tension force? It doesn't

1 require -- let me strike that.

2 It could include compressive force or a
3 tension force because the '174 patent
4 specification does not require a particular type
5 of force in order to constrain an object, correct?

6 MR. AISIKU: Objection, vague; compound
7 question.

8 A Well, the compressive or tension is not a
9 different type of force. It's just a different
10 direction. So I'm unclear from your question what
11 you're after. It's still a force, it's just a
12 direction.

13 Excuse me, I'll turn my lights on.

14 Q My lights do that in my office sometimes
15 too.

16 A Yeah.

17 Q Is it your opinion that a restraining
18 force as recited in column 11 lines 52 to 57 of
19 the '174 patent could include any force that is
20 applied that can sustain the constrain
21 requirement, correct?

22 MR. AISIKU: Objection, vague.

1 A Again, I don't know what you mean by "any
2 force."

3 Q I'm just reading back the answer you gave
4 earlier, which was that any force -- restraining
5 force means a force that is applied that can
6 sustain the constrain requirement.

7 MR. AISIKU: Same objection.

8 Q So is it your opinion that the -- a
9 restraining force is recited in the specification
10 of the '174 patent could include any force that is
11 applied that can sustain the restrain -- or
12 constrained requirement?

13 MR. AISIKU: Same objection.

14 A I'd say a force is generally a vector
15 which includes magnitude and direction. And so
16 it's the -- "any force" is a vague term when you
17 talk about that, so I -- I'm -- it's the best I
18 can do.

19 Q Does the term "constrain" in claims 1 and
20 15 of the '174 patent require a retaining force?

21 MR. AISIKU: Objection, vague.

22 THE WITNESS: Go ahead, Oje.

1 MR. AISIKU: Oh, no. I entered my
2 objection. Thank you.

3 A Can you repeat the question?

4 Q Does the term "constrain" in claims 1 and
5 15 of the '174 patent require a restraining force?

6 MR. AISIKU: Same objection.

7 A I believe that is in the specification
8 definition for "constrain" in column 11, 52 to 55
9 that we talked about.

10 Q Is it your opinion that the term
11 "constrain" in claims 1 and 15 of the '174 patent
12 requires a restraining force, correct?

13 A I can go --

14 MR. AISIKU: Same objection.

15 A Let me look at the patent.

16 Q The quote is right there in paragraph 77
17 of your declaration, but we can go to the patent
18 if you'd like.

19 Would you like to look at the patent?

20 A Yes.

21 Q Can you please go back to Exhibit 1001?
22 If you look in line 54, column 11 it says --

1 A Yes, a restraining force. Yes, I agree.

2 Q So it's your opinion that the term
3 "constrain" in column 11 lines 52 to 55 requires a
4 restraining force, correct?

5 A Yes.

6 Q If you go back to Exhibit 2016, does the
7 term "constrain" in claims 1 and 15 of the '174
8 patent require continuous application of the
9 restraining force?

10 MR. AISIKU: Object to form.

11 A Well, again, "constrain" as defined as we
12 just clicked over to it does not refer to whether
13 it's sustained or not. It just says "a
14 restraining force."

15 Q So that restraining force recited in
16 column 11 lines 52 to 55 could include sustained
17 or nonsustained forces, correct?

18 A No. If the force is not --

19 MR. AISIKU: Objection --

20 A Sorry. If the force is not sustained,
21 then it wouldn't be necessarily constrained.

22 Q The term "constrained" in claims 1 and 15

1 of the '174 patent encompass embodiments where a
2 force is applied when the electronics module moves
3 in a particular direction?

4 MR. AISIKU: Object to form, vague.

5 A What's the question?

6 Q Does the term "constrain" in claims 1 and
7 15 of the '174 patent require -- or would that
8 include -- sorry, strike that.

9 Would the retaining force recited in
10 column 11 lines 52 to 55 encompass a force that is
11 applied only when the electronics module or other
12 object moves in a particular direction?

13 MR. AISIKU: Objection, vague; compound
14 question.

15 A The point of the restraining force is to
16 constrain the object. So your question was
17 related to movement. I'm unclear what you're
18 after here.

19 Q Could we just go back to the patent,
20 Exhibit 1001, please? We're actually going to
21 look to column 12 -- sorry, column 10, so just up
22 one page at the bottom of the right-hand column,

1 line 61.

2 Line 61 says, "The first electrical
3 conductor need not continually apply a force to
4 the electronics module, the components therein,
5 but could apply a force when the electronics
6 module begins to move in a particular direction,
7 e.g., a restraining force, and thereby restrict
8 the movement of the module and thus couple the
9 module to the temple."

10 Did I read all that correctly, Dr. Oliver?

11 A Well, I got to catch up to you here. Let
12 me read it.

13 Q Yeah.

14 A Where did you start, line --

15 Q I don't know if you can highlight, Daniel,
16 as I read, but line 61 of column 10 just down
17 there, it's the right side of -

18 A There you go --

19 Q Yeah. "So the first electrical conductor
20 need not continually apply a force to the
21 electronics module or the components therein, but
22 could apply a force when the electronics module

1 begins to move in a particular direction, e.g., a
2 restraining force, and thereby restrict the
3 movement of the module and thus couple the module
4 to the temple."

5 Did I read all that correctly?

6 A Apparently. Let me take another look.

7 Q Absolutely.

8 A Okay.

9 Q So does the term "constrain" in claims 1
10 and 15 of the '17 [sic] patent require continuous
11 application of a restraining force?

12 MR. AISIKU: Objection, compound question.

13 A I'm going to go to the top of that
14 paragraph. Let's start at the top to see if
15 there's some context here.

16 This is describing an embodiment that
17 envisions a force being applied upon movement in
18 order to constrain.

19 Q Fair to, I guess, describe that force as
20 reactionary force?

21 MR. AISIKU: Object to form, vague; calls
22 for legal conclusion.

1 A I -- it is a restraining force to restrict
2 the movement and couple, which is within the scope
3 of the -- again, ultimately, the module is
4 constrained by that definition. Doesn't refer to
5 a -- a time or how it's actually implemented. At
6 the end of that sentence, the module is
7 constrained according to the definition.

8 Q When you say the -- at the end of that
9 sentence the module is constrained according to
10 the definition, are you referring to lines 65 to
11 67 of column 10?

12 A Yes.

13 Q So is it your opinion that a force that
14 does not continuously apply and only acts in one
15 direction that restricts the movement of the
16 module and thus couples the module to the temple
17 would satisfy the claim limitation -- sorry, the
18 constrained limitation of claim 1?

19 MR. AISIKU: Objection, calls for legal
20 conclusion; vague.

21 A This section does not refer to any
22 direction of the force.

1 Q The definition of "constrained" provided
2 in column 11 lines 52 to 55 does not
3 require -- strike that.

4 The specification of the '174 patent does
5 not require continuous application -- strike that.

6 The definition of "constrained" in the
7 '174 patent does not require continuous
8 application of a restraining force, correct?

9 MR. AISIKU: Same objection; vague; calls
10 for legal conclusion.

11 A The specification definition of
12 "constrain" is met in this hypothetical or this
13 embodiment that they're describing where there's
14 potential for movement of the electronics module.
15 The goal, obviously, is to constrain the module.
16 And at the end of that process, it meets the
17 definition of "constrain" as we described in the
18 specification.

19 Q But it's your opinion that the embodiment
20 described in column 10 lines 59 to 67 and in that
21 whole paragraph, you know -- I guess column 10
22 line 40 going on to the next page, column 11 line

1 9, meets the definition of "constrained" described
2 in column 11, correct?

3 MR. AISIKU: Objection, vague; calls for a
4 legal conclusion.

5 A This embodiment meets the definition of
6 "constrained" because a restraining force
7 restricts the movement of a module.

8 Q Meaning of the term "constrained" --
9 actually, strike that.

10 How are you doing, Dr. Oliver? Do you
11 need a break? We've been going, I guess, almost
12 an hour.

13 A Yeah. Can go a little longer.

14 Q Okay. Sure.

15 Is the meaning of the term "constrained"
16 in the '174 patent different from the meaning of
17 the term "couple"?

18 MR. AISIKU: Objection, vague; calls for a
19 legal conclusion.

20 A Yeah. It's a -- I don't have an opinion
21 on that.

22 Q Do you have an opinion on what the term

1 "couple" means in claims 1 and 15?

2 MR. AISIKU: Objection, calls for a legal
3 conclusion.

4 A Can we go back to claim 1?

5 Q Absolutely. If you want to scroll down
6 actually to the bottom of this, we can just look
7 at it in the patent, if that's okay with you, Dr.
8 Oliver.

9 A Sure. Sure.

10 MR. MESSICK: It should be at the very
11 bottom, second-to-last page, Daniel. Just up one
12 more, column 32.

13 A There you go.

14 Q Yeah. Right there. Perfect. So if you
15 look at this --

16 A The last -- I'm sorry. This configured to
17 couple electronics module to the first temple and
18 constrain the electronics module.

19 So the question again?

20 Q Do you have an opinion on what the term
21 "couple" means in claims 1 and 15?

22 MR. AISIKU: Same objection.

1 A It's essentially the attachment of the
2 electronics module to the temple so it's
3 un -- it's simple. "Couple" is to join.

4 Q When you say "join," what do you mean?

5 MR. AISIKU: Objection, vague; calls for
6 legal conclusion.

7 A That the electronics module is in a fixed
8 position relative to the temple and it's
9 immovable.

10 Q It's your opinion the term "couple"
11 requires that the electronics module -- sorry,
12 strike that.

13 It's your opinion that the term "couple"
14 requires two components to be in a fixed position
15 relative to one another and immovable; is that
16 correct?

17 MR. AISIKU: Objection, vague; calls for
18 legal conclusion; compound question.

19 A The -- it's clear in the context and a
20 POSITA would understand that the electronics
21 module is constrained such that it is coupled with
22 the temple, meaning it's attached to the temple in

1 a fixed position relative to the temple and it is
2 immovable relative to the temple.

3 Q Think about the definition of "couple"
4 independent of constrained limitation, so, like,
5 for example, if you go up two elements in claim 1,
6 it reads, "A second electrical conductor -- ",
7 line 24, "a second electrical conductor coupled to
8 the temple."

9 Do you see that?

10 A Yes.

11 Q Okay. So is it your opinion that the word
12 "couple" in that limitation, I guess that would be
13 limitation 1[g], requires that the second
14 electrical conductor be in a fixed position
15 relative to the first temple and immovable?

16 MR. AISIKU: Objection, vague; calls for
17 legal conclusion; compound question.

18 A One moment.

19 Q If it's easier, we can go back to your
20 report. And that way, it might be easier to refer
21 to the different element limitations of claim 1,
22 but...

1 Are you reviewing your declaration right
2 now?

3 A Yes, I -- no, I'm looking at the patent
4 language here.

5 Q What -- what in the patent are you looking
6 at?

7 A Where line 24, starting at that 1[g], I
8 guess it is.

9 Q You're just looking at claim 1?

10 A Yeah. Claim 1 line 24 on that column,
11 whatever we're on here.

12 And we're talking about electrical
13 conductors here, not the module.

14 Q We're talking about the term "couple" in
15 element 1[g].

16 A Uh-huh. It's an electrical conductor.
17 We're not talking about the module in the last
18 one, whatever it is.

19 So the last clause there, the "wherein"
20 clause, we're talking about the electronics
21 module. And in 1[g], we're talking about
22 electrical conductors which is a different

1 application, so "couple" has different meaning in
2 both of those.

3 Q So it's your opinion that "couple" has a
4 different meaning between element 1[g] and element
5 1[i]?

6 MR. AISIKU: Object to -- asked and
7 answered; calls for legal conclusion; vague.

8 A Yeah. It's not -- 1[g] is not talking
9 about the constraint limitation -- constrained
10 limitation.

11 MR. AISIKU: Zach, if -- we have been
12 going a little over an hour now at this point. If
13 this line of questioning is close to wrapping up,
14 maybe we can take a break shortly after that.

15 MR. MESSICK: We can take a break now.

16 MR. AISIKU: Is that all right with you,
17 Dr. Oliver or --

18 THE WITNESS: That's fine. Yeah.

19 (Whereupon a break was had.)

20 BY MR. MESSICK:

21 Q Did you speak with anybody during the
22 break, Dr. Oliver?

1 A No.

2 Q Did you review any materials during the
3 break, Dr. Oliver?

4 A No.

5 Q Can we please pull Exhibit 2016 back up?
6 I think it's page 6 of the PDF, page 1 of the -- I
7 was wrong. Page 5. There you go. Can you scroll
8 down, just to paragraph 4?

9 Paragraph 4, Dr. Oliver, reads, "All of
10 the opinions in this declaration are based on the
11 documents I reviewed and my knowledge and
12 professional judgment. Forming the opinions
13 expressed in this declaration, I reviewed the
14 petition for inter-partes review of U.S. Patent
15 No. 8,801,174 and supporting exhibits."

16 Did I read all that correctly?

17 A Yes.

18 Q You considered Luxoticca's petition and
19 supporting exhibits in forming the opinions
20 expressed in your declaration, correct?

21 A Yes. I reviewed those.

22 MR. MESSICK: Can you scroll down to the

1 end of paragraph 5, please, Daniel?

2 Q The last sentence of paragraph 5 reads,
3 "...I have considered the '174 patent, its
4 prosecution history, the references cited above
5 and have drawn as appropriate on my own education,
6 training, research, knowledge, and personal and
7 professional experience.

8 Read all that correctly?

9 A Yes.

10 Q I did leave off the first part of that
11 sentence. It says, "In reaching the opinions
12 provided herein, I have considered the '174
13 patent, its prosecution history, and the
14 references cited above and have drawn as
15 appropriate on my own education, training,
16 research, knowledge, and personal and professional
17 experience."

18 Did I read all that correctly?

19 A Yes.

20 Q You considered the '174 patent in forming
21 the opinions expressed in your declaration,
22 correct?

1 A Yes.

2 Q You considered the prosecution history of
3 the '174 patent in forming the opinions expressed
4 in your declaration, correct?

5 A Yes.

6 Q Okay. Where it says "the references cited
7 above," does that refer to the list of exhibits on
8 page 4 of the PDF or the third page of the --
9 this --

10 A Yes.

11 Q -- beginning part of the report?

12 A Yes.

13 Q Can we scroll up two pages, please?

14 So where it says "references cited above"
15 in paragraph 5, it's reference to the exhibit list
16 on the fourth page of your declaration; is that
17 correct?

18 A Yes.

19 Q You considered Exhibits 2018 and 2019 in
20 forming your -- the opinions expressed in your
21 declaration, correct?

22 A Yes.

1 Q Exhibit 2018 is Luxoticca's or
2 Petitioner's opening claim construction brief
3 Docket 76, C.D. Cal. August 30, 2024, which you
4 refer to as Petitioner's claim construction brief?

5 A Yes.

6 Q Is that correct?

7 A Yes.

8 Q You refer -- sorry. Strike that.

9 You reviewed Luxoticca's opening claim
10 construction brief in the district court
11 proceedings in forming your opinions, correct?

12 A Yes.

13 MR. AISIKU: Objection, asked and
14 answered.

15 A Yeah. Yes.

16 Q Were you given a copy of e-Vision's claim
17 construction briefs from the district court
18 proceedings?

19 A I was given a copy of this reference
20 document, if that's what you're referring to.

21 Q I'm not referring to Exhibit 2018.

22 A Oh.

1 Q Are you familiar with the claim
2 construction briefing process in district court,
3 Dr. Oliver, or was it explained to you?

4 A I have general knowledge of claim
5 construction process.

6 Q And what is that?

7 A It's when both parties agree on the
8 meaning of the language in the patent.

9 Q Is it your understanding that both
10 parties -- you know, if they dispute the meaning
11 of a term, will file opposing briefs regarding the
12 meaning of a term?

13 A Yes.

14 Q Okay. So I'm asking, were you given a
15 copy of e-Vision's claim construction briefs from
16 the district court proceedings?

17 A I don't know. I've -- many, many
18 documents, so I may have.

19 Q Well, you didn't list e-Vision's claim
20 construction briefs in the exhibit list or
21 describe it in those paragraphs we were looking at
22 before, correct?

1 MR. AISIKU: Object to form.

2 A Can you repeat that?

3 Q You didn't list e-Vision's claim
4 construction briefs in the exhibit list, this
5 fourth page of the PDF, correct?

6 A That's correct.

7 Q You didn't list e-Vision's claim
8 construction briefs in those paragraphs, 4 and 5,
9 as materials you considered in forming your
10 opinions, correct?

11 A That -- only referring to these documents
12 listed that we're looking at, so correct.

13 Q So you did not consider e-Vision's claim
14 construction briefs for the district court's
15 proceedings when forming your opinions expressed
16 in this declaration, correct?

17 MR. AISIKU: Object, relevance.

18 A Yeah. Apparently correct.

19 MR. MESSICK: That's all I have.

20 MR. AISIKU: I have no questions.

21 THE REPORTER: I believe I have standing
22 orders for you.

1 MR. AISIKU: Yeah. If I have orders
2 already, then I'll accept those.

3 (Off-the-record discussion.)

4 THE REPORTER: Do you know if you want to
5 order?

6 MR. AISIKU: Yeah. We would like a rough
7 of this and I guess standard delivery for the
8 final.

9 (Whereupon the proceedings were concluded at
10 11:23 a.m. CDT)

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1 CERTIFICATE OF SHORTHAND REPORTER - NOTARY PUBLIC

2 I, Karisa Ekenseair, Certified Reporter and
3 Notary Public within and for the State of Arkansas
4 do hereby certify: That JAMES OLIVER, PHD,
5 the witness whose deposition is hereinbefore set
6 forth, was duly sworn by me before the
7 commencement of such deposition and that such
8 deposition was taken before me and is a true
9 record of the testimony given by such witness.

10 I further certify that the adverse party,
11 Patent Owner was represented by counsel at
12 the deposition.

13 I further certify that the deposition of
14 JAMES OLIVER, PHD, occurred virtually on
15 June 11, 2025, commencing at 10:03 A.M. CDT to
16 12:16 p.m. CDT.

17 I further certify the inspection, reading and
18 signing of said deposition was waived.

19 I further certify that I am not related to any
20 of the parties to this action by blood
21 or marriage, I am not employed by or an attorney
22 to any of the parties to this action, and that I

1 am in no way interested, financially or otherwise,
2 in the outcome of this matter.

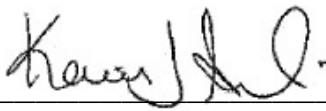
3

4 IN WITNESS WHEREOF, I have hereunto set my hand
5 and affixed my seal this 18th day of June, 2025.

6 My commission expires: 6-18-2028

7

8

A handwritten signature in cursive script, appearing to read "Karisa Ekenseair", is written over a horizontal line.

9

Karisa Ekenseair, CCR RPR RMR RDR

10

Notary Public in and for

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Pulaski County, Arkansas

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Commission No. 12704567

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