UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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LUXOTTICA OF AMERICA, INC.,

Petitioner,

v.

E-VISION OPTICS, LLC,

Patent Owner.

_____

IPR2024-01071

U.S. Patent No. 8,905,541

_____

REMOTELY CONDUCTED VIDEOTAPED DEPOSITION OF

JAMES OLIVER PHD

FRIDAY, JUNE 13, 2025

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REPORTED BY: KARISA EKENSEAIR, CCR RPR RMR RDR

Luxottica v. e-Vision
IPR2024-01071
Luxottica Ex. 1018

DEPOSITION OF JAMES OLIVER PHD, CONDUCTED VIA ZOOM VIDEOCONFERENCE.

Pursuant to notice, before Karisa J. Ekenseair, Certified Shorthand Reporter in and for the States of Arkansas, Oklahoma, Missouri, Illinois, Tennessee, Georgia, New Mexico, Washington, and California; National Registered Professional Reporter; National Registered Merit Reporter; National Registered Diplomate Reporter; Notary Public.

A P P E A R A N C E S

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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
EXHIBIT 1001	UNITED STATES PATENT NO. 8,905,541	11
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P R O C E E D I N G S

THE REPORTER: We are on the record.

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

MR. PETERSON: I so stipulate.

MR. AISIKU: So stipulated.

JAMES OLIVER, PHD

of lawful age, being first duly sworn, deposes and says in reply to the questions propounded as follows:

EXAMINATION

BY MR. PETERSON:

Q Good afternoon, Dr. Oliver.

A Good afternoon.

Q Thank you, again, for your time to discuss

one of these matters.

We are here now to discuss your testimony in IPR2024-01071.

Is that your understanding?

A Yes.

Q Would it be okay to refer to that IPR by the shorthand "IPR"?

A That's fine.

Q The patent that is at issue in this case is U.S. Patent No. 8,905,541. Would it be all right if I refer to that patent as the '541 patent as a shorthand?

A That's fine.

Q I'm here today representing the petitioner Luxoticca of America, Inc.

Do you understand that?

A Yes.

Q Even though you're testifying virtually today, do you understand that the testimony you give is under oath and subject to the same penalty of perjury as though you were testifying in a courtroom?

A Yes.
Q And is anyone in the room with you there now?
A No.
Q Do you have any materials in the room with you at this time?
A Like the other depos, I have my clean copy that's marked with some tabs to get to a quick reference.
Q And do you have any other windows open on your computer other than the Zoom window?
A No, just this window.
Q As we go through the questions today, I'm going to assume that you understand the question asked unless you tell me otherwise; is that okay?
A That's fine.
Q Is there anything that would prevent you from thinking clearly and testifying truthfully today?
A No.
Q And as with our previous depositions, in terms of cadence, I'll try to go for about an hour

at a time and then takes breaks. But if you'd like to take a break earlier, please just let us know and we'll be happy to accommodate.

A Okay. Thank you.

Q And then as a ground rule, you've been informed that you are not to discuss the content of your testimony with your counsel during breaks of this deposition.

A Understood.

Q And in this proceeding, you submitted a declaration which has been assigned Exhibit 2014. Would it be all right if we use the shorthand "your declaration," to refer to that document today?

A That's just fine.

Q In terms of preparation for your deposition today, what did you do to prepare?

A I reviewed my declaration and the prior art that it references. I also spoke with counsel for -- we had one meeting yesterday regarding this.

Q Did you speak with anyone other than

counsel about this --

A No.

Q -- IPR proceeding?

A No. Sorry to interrupt.

Q Was there anything you came across during your review that you no longer agree with or you've changed your mind on?

A I did identify a couple of typos in my declaration.

Q Okay. Could we take a look at those now?

A Sure. Can you bring it up?

Q Yeah.

MR. PETERSON: Can we please mark for identification Exhibit 2014?

REMOTE TECHNICIAN: Please stand by.

(Exhibit 2014 marked for identification.)

A It was paragraph 55 which actually runs to the following page at page 34. You're close. One -- one more, keep going to the next page.

Okay. Here refers to a device disclosed by Howell '158, right where you are. That should be Howell '596. And a few lines below, it's the

same mistake. In fact, Howell 5 -- '158, that should be Howell '596. And there's another typo very similar on paragraph 75, go down there.

MR. PETERSON: Yeah. Can we turn to 75, please?

A You just went past. There we go, 75. Keep going. Right there. Keep going sorry. 75. It's the same error. Right about where your cursor is, Howell '158 should be '596.

Q Is there anything else that you came across that you no longer agree with or changed your mind in your declaration?

A No.

Q The '541 patent lists five individuals as inventors.

Do you happen to know any of those individuals?

A No.

Q All right. Could we please turn to Exhibit 1001?

MR. PETERSON: And could we please mark 1001 for identification?

REMOTE TECHNICIAN: Please stand by.

(Exhibit 1001 marked for identification.)

Q Do you recognize this exhibit, Dr. Oliver?

A Yes.

Q What is this exhibit?

A This would be the patent at issue, the '541 patent.

Q Could we please turn to column 1 lines 36 to 44?

REMOTE TECHNICIAN: I'm sorry, what was the column number again?

MR. PETERSON: It's column 1 line 36.

Q Under the Background of the Invention, they're these two paragraphs and the sentence I'm hoping to discuss is in the middle of the second paragraph. It begins with, "Some of the challenges may be to not...".

Do you see that sentence?

A Yes.

Q Okay. I'll -- so that sentence says, in part, "Some of the challenges may be to not limit the fashion design of the eyeglass frame or limit

the materials which the glasses -- ", misspoke. Let me try one more time.

All right. So column 1, lines 36 to 44, in part, say that, "Some of the challenges may be to not limit the fashion design of the eyeglass frame or limit the materials which the eyeglass frame can be made of...".

What does it mean that some of the challenges may be to not limit the fashion design of the eyeglass frame or limit the materials which the eyeglass frame can be made of?

MR. AISIKU: Objection, vague.

A It seems clear in context. It's enumerating challenges of contemporary eyewear, electronic eyewear.

Q And did those challenges include a desire not to limit the materials which the eyeglass frames can be made of?

A That's one of --

MR. AISIKU: Objection, vague; calls for speculation.

A That's enumerated as one of the

challenges.

Q Could we next turn to the declaration again, please, Exhibit 2014? And could we please turn to the last page? I see a signature on this last page.

Is that your signature, Dr. Oliver?

A Yes.

Q And did you execute this page on March 31st, 2025?

A Yes.

Q Let's next turn to paragraph 30, please.

Looking at this very first sentence of paragraph 30, you say, "While it was not unknown in the art to incorporate insulation into an electrical circuit...".

What does it mean that it was not unknown in the art to incorporate insulation into an electrical circuit?

A Again, clear for context. I guess, I didn't need to use a double negative, but it was known in the art to incorporate insulation into an electrical circuit.

Q It was known in the art prior to the time of invention of the '541 patent?
A Yes.
Q What is insulation?
MR. AISIKU: Objection, vague.
A In the electrical context, it's a material to prevent the issues listed in that sentence.
Q And what are the issues?
MR. AISIKU: Objection, form.
A Short circuits, leakage current. I'm sure there are others.
Q Would it be accurate to describe insulation as having a high resistance to flow of electrical current?
MR. AISIKU: Objection, vague; calls for speculation.
A Insulation could also protect from other issues, chemical, water. But in general, insulation in electronic's point of view is related to the electrical properties. So an insulated wire is a typical wire you see with plastic around it.

Q Prior to the time of the invention of the '541 patent, what would a POSITA have understood insulation to be useful for in electrical circuits?

MR. AISIKU: Objection, vague; calls for speculation.

A A POSITA would understand that insulation is beneficial to prevent short circuits, leakage circuits, and electrical circuits being in close proximity to one other which, as you miniaturize, becomes larger challenges.

Q Let's next turn to paragraph 29, please.

In the last sentence of paragraph 29, you discuss the frame includes a conductive material.

A Can we scroll down to that sentence? I see it.

Q What do you mean by "the frame includes a conductive material"?

A Again, in the context, a POSITA would understand a conductive material conducts electricity.

Q And what does it mean for the frame to

include a conductive material?

MR. AISIKU: Objection, vague.

A A frame in this context is referring to the eyeglass frame.

Q So would it be accurate to say that "the frame includes a conductive material," refers to the frame being composed of conductive material?

MR. AISIKU: Objection, vague.

A Can you repeat that? "Composed of," is that what you said?

Q Yes.

A Maybe not --

THE WITNESS: Go ahead, Oje.

Q I can repeat, if that would be helpful to you.

A Sure.

Q Would it be accurate to say that the phrase "the frame includes a conductive material" refers to the frame being composed of a conductive material?

MR. AISIKU: Objection, vague.

A No, not necessarily. It says "includes."

It doesn't say "composed of."

Q Could you please explain what you understand exclude -- sorry.

Could you please explain what you understand "includes" to mean in this context?

A So a frame could be composed of multiple materials and if one of those is a conductive material, the frame would include conductive material.

Q Prior to the time of the invention of the '541 patent, would a POSITA have been aware of any benefits of the frame including a conductive material?

MR. AISIKU: Objection, vague.

A Yeah. Can you repeat that? Because it's a strange question.

Q Prior to the time of the invention of the '541 patent, would a POSITA have been aware of any benefits of the frame including a conductive material?

MR. AISIKU: Same objection.

A Yeah. It's a hypothetical. It depends on

the application, I suppose. If it was beneficial to include a conductive material, a POSITA may have considered it.

Q Are there any specific benefits you could name?

MR. AISIKU: Same objection.

A Again, depends on what we're trying to accomplish. Metals that are conductive are generally heavier than plastics. They have different mechanical properties, different heat conductance, different -- many differences between those materials. So it's a design consideration that a POSITA would be looking at to determine if it's beneficial or not.

Q Let's next turn to page -- sorry, to paragraph 56, please. I believe it might be on the next page, the portion I'm hoping to discuss, if you could scroll down, please.

Right around the middle of what's on the screen now, the statement, "Howell describes placing its electrical components in fixed positions," I'm just going to read part of that

sentence now.

A Okay.

Q You say in paragraph 56 that "Howell described placing its electrical components in fixed positions minimizing the risk of conductive portions colliding during use in a way that would cause those conductive portions to short circuit one another."

What does it mean to "minimize the risk" in this context?

A The risk of those electrical faults shorting and leakage.

Q What does it mean to "minimize those risks"?

MR. AISIKU: Objection, vague; calls for speculation.

A As I recall, Howell '596 recommends, teaches all the components to be in the same location ideally on a printed circuit board.

Q My question is just a bit more specific.

This statement in your declaration that we looked at refers to minimizing the risk. I'm

hoping to better understand what's meant by the phrase "minimizing the risk."

MR. AISIKU: Objection, vague.

A By putting components fixed on a printed circuit board, they're less likely to contact one another and cause those electrical problems that we discussed previously.

Q Would it be accurate to say that the phrase "minimizing the risk" refers to reducing the chances of the issue occurring?

MR. AISIKU: Objection, vague; calls for speculation.

A Well, the phrase is clear. Minimizing risk is desirable in any design application, so I'm unclear on your -- what you're after here.

Q Does the phrase "minimizing the risk" mean that the risk still exists?

MR. AISIKU: Objection, vague; calls for speculation.

A Yeah, I suppose it does.

Q Could we next turn to claim 1, please? Actually, my notes are mismarked. Could we please

turn to paragraph 49?

In paragraph 49, you reproduce the language of claim 1 and the first few words of claim 1 recite "A first device comprising."

Is the first device of claim 1 of the '541 patent required to be eyewear?

MR. AISIKU: Objection, calls for legal conclusion.

A Can you scroll down? Is your question again -- repeat that.

Q Is the first device of claim 1 of the '541 patent required to be eyewear?

MR. AISIKU: Same objection.

A It's clear in the context of -- of the clauses below something with lenses and a frame first and second is implied that it's for eyewear.

Q Could we scroll up just a bit on to page 28? There's a limitation here that says "a frame comprising a first temple and a second temple."

What is meant by "a first temple and a second temple"?

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

A I believe the terminology "temple" is defined in the specification section.

Q Would you like to turn to that specification to review that?

A Okay. Sure. So the brief summary of the invention, it's most likely in that section. We could search for it. The last paragraph on that first column says, "The frame also comprises a housing coupled to a structural member -- ", well, it says, "The first -- the device includes a frame having a first temple and a second temple."

And if we're talking about eyeglasses, those would be the pieces that attach to the front piece and go over your ears. It's -- any POSITA looking at this in terms of eyewear would understand those terms.

Q Let's turn back to the declaration, if we could, please, and back to paragraph 49. And then could we scroll down just a bit?

A Okay.

Q All right. There's a claim limitation at the end that you have bold and italicized.

A Okay.

Q What does the term "layer" mean in the phrase "insulating layer" of claim 1?

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

A It's an insulating material and it indicates the location that should be applied.

Q Does the term "layer" tell you anything else about the structural characteristics of the insulating layer?

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

A "Layer" is a common -- commonly understood terminology. So it doesn't -- you know, it's a layer between those two components. I don't -- it's obvious. Not obvious, it just is what it is.

Q What would a POSITA -- sorry, I didn't mean to cut you off, Dr. Oliver.

A No, it's okay. I'm done. Go ahead.

Q What would a POSITA at the time of the

invention of the '541 patent have understood the term "layer" to mean?

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

A He would have understood it in the context as a material that is in between these two components that's intended to insulate them electrically. There's no other way to say it.

Q Could you please provide a few examples of layers that are within the scope of the insulating layer of claim 1?

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

A Yeah. I don't -- you can look up the dictionary definition or think of a layer cake that you had for your birthday. A layer is obvious.

Q My question was a bit more specific.

A Okay.

Q Could you please provide an example or two of layers that are within the scope of the insulating layer of claim 1?

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

A No. I mean, it's -- again, it's a common English term. In the context of this patent, it's related to electronics, so the layer is insulating and that's -- insulating is a modifier to a very common word. It's -- obviously, it's not limiting the type of material other than it's an insulating material. Doesn't limit the shape. Doesn't limit size. It's -- it comprises a general material between two electronic components.

Q Could a foam disposed between a memory chip and another component in a printed circuit board assembly in electronic eyewear be the insulating layer of claim 1?

MR. AISIKU: Same objection --

A I'm sorry --

MR. AISIKU: Same objection; vague; calls for legal conclusion; and calls for speculation.

Q I'll repeat the question. Sounds like a --

A Yeah.

Q Could a foam disposed between a memory chip and another component in a print circuit board assembly in electronic eyewear be the insulating layer of claim 1?

MR. AISIKU: Same objection.

A I'm sorry, I thought you said "phone," like telephone and that was --

Q Oh, sure. Foam, F-O-A-M?

A You threw me for a minute. Foam, well, what type of foam? If it's an insulating foam, it's possible.

Q Does the language of claim 1 permit the insulating layer to be a portion of the electronics module?

MR. AISIKU: Same objections.

A To be a portion? Is that what you asked?

Q Yes.

MR. AISIKU: Same objections.

A Well, it's clear from the language that the insulating layer is included, necessarily included.

Q Does the language of claim 1 permit the

insulating layer to be a portion of the electronics module?

MR. AISIKU: Same objections; calls for legal conclusion.

A Let me read. And the question is, is the layer a portion of the module?

Q Yeah. Does the language of claim 1 permit the insulating layer to be a portion of the electronics module?

MR. AISIKU: Same objection.

A Oh, I see where you're going with that.

The claim language is very specific. The insulator is disposed between one or more electronic components within the module and the frame of the first device. So it is both within the module and between the frame and the module.

Q So does the language of claim 1 permit the insulating layer to be a portion of the electronics module?

MR. AISIKU: Same objection.

A A portion of the electronics module, yes, but it doesn't limit it to that.

Q Could we please scroll up just a little bit on the screen? Perfect.

Does claim 1 permit the claimed frame to be made entirely of metal?

MR. AISIKU: Objection, calls for legal conclusion.

A Does it call for it being entirely metal? Repeat --

Q Does the language of claim 1 permit the frame to be made entirely of metal?

MR. AISIKU: Same objection.

A Can we scroll down a little bit?

Claim 1 does not preclude metal frames.

Q Does claim 1 permit the frame to be made partially from metal?

MR. AISIKU: Same objection.

A Does it -- repeat again, please. I want to be careful.

Q Does the language of claim 1 permit the frame to be made partially from metal?

MR. AISIKU: Same objection.

A There's -- it doesn't preclude metal so,

therefore, partial would be possible.

Q Does the language of claim 1 permit the frame to be made entirely from plastic?

MR. AISIKU: Same objection.

A Say again.

Q Does the language of claim 1 permit the frame to be made entirely from plastic?

MR. AISIKU: Same objection.

A Claim 1 does not preclude any material.

Q Let's turn back to the patent, if we could, please, Exhibit 2001. And I believe it will be the very last page. Turn to claim 19. The first few words of claim 19 recite a method of fabricating a device.

Is the device of claim 19 of the '541 patent required to be eyewear?

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

A Let me look at my declaration in that section.

Yeah. I -- I was not asked to provide an opinion on claim 19 so I don't have an opinion on

it.

Q Could we please turn back to the declaration, paragraph 72?

The very first sentence of paragraph 72 you say that the applicant for the '541 patent disclaimed this embodiment.

What does it mean for the applicant for the '541 patent to disclaim this embodiment?

A I need to look at the previous paragraph to see which embodiment we're referring to. Previous paragraph, please. Wait. Go up to the previous paragraph, or I can look at my copy.

Okay. So we're talking about the metal frame.

Q I'll repeat my question.

What does it mean for the applicant for the '541 patent to disclaim this embodiment?

A During prosecution history, the examiner questioned whether an embodiment was covered within the claims. And during that negotiation, the applicant removed that embodiment.

Q Does disclaim mean that the embodiment you

referenced is outside the scope of the claims of the '541 patent?

MR. AISIKU: Objection, calls for legal conclusion.

A So the prosecution history indicated that during that negotiation between the examiner and the patent applicant, the patent applicant removed that embodiment of metal frames. That's all I'm saying there.

Q Would it be correct to say that the disclaimer here means that the embodiment you referenced is outside the scope of the claims of the '541 patent?

MR. AISIKU: Same objection.

A Yeah. I -- I don't know the legal terminology. My understanding is it was removed. I don't know what the reason that the examiner used because I'm not a patent attorney, but it was removed.

Q Removed from the scope of the claims?

A Removed --

MR. AISIKU: Same objection.

A Thank you. Removed from the patent application.

Q Your understanding the disclaimer is that it was removed or deleted from the '541 patent specification?

A Can we scroll down --

MR. AISIKU: Same objection.

A Can we scroll down to 72 again or --

Q I can rephrase the question too.

A Okay.

Q Actually, let me do that.

A 75 was it? Yeah, disclaimed. Okay.

Q Is it your understanding that the disclaimer means that the embodiment is deleted from disclosure of the '541 patent?

MR. AISIKU: Same objection; also vague.

A I want to read this paragraph first and then you can ask it again. Can we scroll down? This is an actual quote from the -- yeah.

Yep. So Kokonaski does not disclose each and every feature recited by claim 48. The Office attempts to rely on the theory that features are

implicitly disclosed suggesting that wires can have insulation materials. That's what the Office says. So the Office acknowledges this is merely one possibility which is insufficient to satisfy the standard quoted above. The Office does not know that the missing feature is necessarily present as required. There are other ways in which Kokonaski could prevent short circuit, for example, if the frame is not electrically conductive. The components of electronics module would contact the frame without creating a short circuit. So Kokonaski does not require the claimed elements.

Can we go down a little bit more?

Yeah. So again, putting -- Howell's focus is on this UV detection in self-contained electronics and sensors in a very small and compact package. And using metal frames would, first of all, make it heavier. It would require insulating material between the electronics and the metal frame and just it makes no sense.

So I think it's pretty clear as -- as

written there. But again, now you can ask your question again.

Q Okay. Could we scroll back up to the top of 72, to anchor the question again?

A Yeah.

Q In the first sentence, you discuss that the applicant for the '541 patent disclaimed this disembodiment.

Is it your understanding that the disclaimer you're referencing in paragraph 72 means that the embodiment is deleted from the disclosure from the '541 patent?

MR. AISIKU: Objection, calls for legal conclusion.

A I'm struggling with the meaning of "disclaimed" in this context and how it relates to the rest of your question. Disclosed or require the claims insulating layer -- no, it -- again, this is a -- the examiner looking at prior art and I'm struggling with the -- the legal implication of the word "disclaimed" because it's an enumeration of an argument -- not argument, a

negotiation between the examiner and the patent application related to prior art.

So the petitioner says, let's see -- so that's the examiner saying it could have been done with nonconductive material during prosecution, the pending claims unpatentable -- I'm sorry, I'm confused.

Sealing laying was not taught by Kokonaski -- and I -- again, they're talking about claim 49 and claim 48 which I -- those are from the patent application which I don't have here so it's difficult for me to say what those were at the time other than this quote from the prosecution history. Let me see what page I'm on, 72.

Okay. Oh, yeah, so the -- earlier in the section I say that the petitioner relies on embodiment described in the '541 patent that states that the housing of the electronics module may contain -- may constitute an insulating layer in this one embodiment, consists of insulation and electrical circuits.

So if the housing is -- consists of housing -- that's true. Yeah, the -- the argument the petitioner makes is that it would have been -- that -- deviates from ground one.

THE REPORTER: Dr. Oliver --

THE WITNESS: Go ahead. Yes.

THE REPORTER: I'm having trouble differentiating when you're reading to yourself and when you're answering so I'm afraid the transcript might not be making sense.

THE WITNESS: Okay. Well, yeah I'm mind of mumbling. I'm kind of -- I'll tell you when I'm reading and I won't -- I'll try and keep my thoughts in my head here.

A So paragraph 70 begins, "With respect to ground 3, Petitioner deviates from ground 1 which asserts that Howell '596 would have been obvious by incorporating a metal frame and inserting an insulating of Howell '158." So that's the -- that's what he did in ground 1.

In ground 3, it argues that Howell '596 alone would have rendered the challenged claims

obvious. And that's where I'm going in this argument.

So your question again, counsel?

Q Let me ask a slightly different question about paragraph 72 in connection with that term "disclaimer."

A Yeah.

Q In paragraph 72, is "disclaimer" ever found in the absence of clear and unmistakable language?

MR. AISIKU: Objection, calls for legal conclusion.

A Well, the word is "disclaimed," not "disclaimer," but what's -- what's the question? Is it --

Q Is an embodiment ever found to be disclaimed in the absence of clear and unmistakable language?

MR. AISIKU: Same objection.

A I don't know the answer to that.

Q Let's next turn to paragraph 79, if we could. All right.

There's a sentence about three or four sentences in that begins, "in fact." In your declaration, you say, "Kokonaski 166 teaches that a frame could include portions that are not made of metal which is consistent with an embodiment disclaimed by the applicant during prosecution and expressly outside the scope of the claims."

In light of your statement in paragraph 79 that an embodiment is expressly outside the scope of the claims, what does it mean for the embodiment to be expressly outside the scope of the claims?

MR. AISIKU: Same objection.

A Well, this is the same discussion. So first section that we were talking about in paragraph 72 was related to metal frames, and now we're talking about portions that are not made of metal is also under the same -- the same language regarding the prosecution history -- outside the scope of claims. So with portions that are not made of metal are outside the scope of the claims.

So was that -- that's what it says.

Q So what it says is frames that are including portions that are not made of metal are outside the scope of the claims of the '541 patent?

MR. AISIKU: Objection, calls for legal conclusion.

A Hold on a second.

Q I can restate the question to you when you're ready --

A Just a second.

Yeah, so in other words in paragraph 80, what this entire section is referring to is described there. As such, the mere fact that Kokonaski 166 teaches a frame with metal portions does not mean that 166 teaches a metal frame. And even then, a POSITA would have understood that a short-circuiting or a concern not using metal frames would be preferable. So reliance on 166 as disclosing a silicon insulating layer is not obvious to a POSITA.

Q Going back to our discussion of "disclaimed," is it correct that frames including

portions that are not made of metal are outside the scope of the claims of the '541 patent?

MR. AISIKU: Objection, calls for legal conclusion; calls for speculation.

A Yeah. I'm not confident on the meaning of this language in patent law so I'm not able to answer that question.

MR. PETERSON: I'm about to change gears and talk about a different topic. Would now be a good time for a break.

THE WITNESS: Yeah. Sure.

MR. PETERSON: Any duration preference? Five minutes? Ten minutes?

THE WITNESS: Five minutes is good.

(Whereupon a break was had.)

BY MR. PETERSON:

Q Let's turn to paragraph 43 of your declaration, please. After this first sentence, you say "See generally Exhibit 1006."

What does "see generally Exhibit 1006" mean?

A Can you remind me -- is that the -- I need

to know what 1006 is.

Q My -- my records have that as Howell '158. I'm going to ask you to turn to that next.

My question is in more general, what does it mean to say "see generally" --

MR. AISIKU: Objection --

Q -- with respect to an exhibit?

MR. AISIKU: Sorry about that.

A So --

Q I'll restate my first question and then we'll start with that and then give counsel a chance to object.

A Okay.

Q What does "see generally Exhibit 1006" mean?

MR. AISIKU: Same objection, vague.

A It's suggesting that the description of Howell '158 not disclosing a sensor would be described in that exhibit.

Q Does "see generally Exhibit 1006" mean that you reviewed the entire disclosure of Exhibit 1006?

A Yes.

MR. AISIKU: Same objection. Okay.

MR. PETERSON: Could we please mark Exhibit 1006 for identification.

REMOTE TECHNICIAN: Please stand by.

(Exhibit 1006 marked for identification.)

Q Do you recognize this exhibit, Dr. Oliver?

A Yes. That's Howell '158.

Q Could we please turn to paragraph 85 of Howell '158?

So paragraph 85, and could you please take a moment, Dr. Oliver, to read the disclosure of paragraph Howell '158 to yourself? And then once you're finished, I'd like to ask you some questions about this paragraph.

A Okay. One moment. Okay. I've read it.

Q What does paragraph 85 of Howell '158 generally describe?

MR. AISIKU: Objection, vague.

A It's describing embodiments depicted in the gear 8F through 8H, that operation of the

tether to internal device, how it can be configured, different -- different implementations of the connection.

Q Let's turn to Figures 8F to 8H for a moment. You can see the figures that relate to this paragraph.

Can we zoom out just a bit so we can get all three of 8F, 8G -- okay.

Okay. We'll turn back to paragraph 85 in a moment, but I have it in front of me just to identify components.

So in paragraph 85, item 490 is indicated to be temple 490, and removable electronic device is -- so item 496 is indicated to be removable electronic device 496.

A Okay.

Q And reading from paragraph 85, it says, "Figure 8H illustrates the removable electronic device coupled to the temple."

A Okay.

Q Okay. Can we turn back to paragraph 85, please? In paragraph 85 of Howell '158, what does

it mean for the removable electronic device 496 to be coupled to the one side of temple 490?

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

A I'm going to read it out loud, that section: "When the removable electronic device 496 is coupled to the temple 490, a connector 499 and a removable electronic device 496 is inserted into the opening 494 of the connector 492."

What's does it mean when it's connected? Is it coupled? It's clearly a USB thumb drive that's inserted into the temple frame.

Q The last sentence of paragraph 85 talks about physical forces between the connector 499 and the connector 492 operate to secure the removable electronic device to the temple.

A Yeah.

MR. AISIKU: Objection, calls for speculation; and outside the scope of Dr. Oliver's declaration.

Q When it says "physical forces between the connector 499 and the connector 492 operate to

secure the removable electronic device 496 to the temple," would it be accurate to characterize those physical forces as constraining the connector 499 to the connector 492?

MR. AISIKU: Objection, calls for speculation; outside the scope of Dr. Oliver's declaration.

A And I'll go ahead and answer. No, it does not. A USB connector could easily be dislodged by impact on the glasses. There's no -- it's a slight frictional force that's holding that device into the -- into its socket and it's not sufficient to -- to completely constrain that device as defined in the '541 patent.

MR. AISIKU: I'd just like to lodge a larger objection. This is clearly outside the scope of this particular declaration and this IPR. Counsel is asking questions about the meaning of the term "constrained" which was discussed earlier this morning with respect to the '174 patent. If there were questions about the meaning of the term "constrained," that should have been asked during

the prior IPR deposition.

And so this line of questioning is improper and we object to this line of questioning.

MR. PETERSON: I understand your position, counsel. Let's turn back to the declaration briefly, paragraph 43. So in paragraph 43 it says, "Unlike Howell '596, Howell '158 does not disclose a sensor."

So what I would submit, Counsel, is I'm building up to a showing that this is a facially inaccurate statement and I'm showing how such a sensor is coupled to eyewear and that there is disclosure of a sensor in Howell '158.

Can we next turn to paragraph 86?

MR. AISIKU: If I could just make a brief response.

MR. PETERSON: Sure.

MR. AISIKU: So my objection is -- I stand on my objection. However, if this is being used or intends to be used for the -- in any kind of reply brief or filing for the '174 patent IPR, we

maintain our objection.
BY MR. PETERSON:
Q Sorry, paragraph 86 of Exhibit 1006, please. Actually, let's turn to paragraph 88, first.
And Dr. Oliver, could you please read the disclosure of paragraph 88 of Howell to yourself? I'd then like to ask you questions about that paragraph.
A Just one moment. Okay.
Q Paragraph 88 discusses a female connector.
What is a female connector?
MR. AISIKU: Objection, vague.
A Generally, it refers to an opening into which a male orphan would be inserted.
Q Would a POSITA -- and actually, in the event we haven't already added this on the record, the concept of a person of ordinary skill in the art, would it be all right if I refer to that by the shorthand "POSITA"?
A Yes. Yes, of course.
Q Okay. Would a POSITA have considered a

receptacle to be one example of a female connector?

MR. AISIKU: Objection, calls for speculation; vague.

A Potentially, I suppose.

Q Would a POSITA have considered a socket to be one example of a female connector?

MR. AISIKU: Same objection.

A Same answer, potentially.

Q What is a female universal serial bus or USB connector?

MR. AISIKU: Same objection.

A It's a standard junction for computer memory sticks and other peripherals.

Q Would a POSITA have considered a USB -- sorry, let me restate that.

Would a POSITA have considered a female USB connector to be one example of a socket?

MR. AISIKU: Same objection; and maintaining my objection regarding this line of questioning being more directed to the '174 patent IPR.

A A socket is a -- a USB is a very specific type of socket. I mean, if they wanted -- "socket" is a general term. Could be a light socket, an electrical outlet, anything. But a USB connector is a specific male/female design.

Q Would a POSITA have understood a female USB connector to include pre-configured application connection points?

MR. AISIKU: Objection, calls for speculation; outside the scope; and calls for a legal conclusion.

A Can you repeat the question?

Q Would a POSITA have understood a female USB connector to include pre-configured application connection points?

MR. AISIKU: Same objection.

A A USB connector, obviously the name "universal", is designed to support many different applications.

Q And my question is more specifically about connection points.

Would a POSITA have understood a female

USB connector to include pre-configured application connection points?

MR. AISIKU: Same objections. And I'm struggling to see how this relates to a sensor.

A Me too. I don't know what you mean by that, that last term, pre -- what was the -- go ahead and --

Q Pre-configured application points.

A Yeah. That's a very vague term that I don't know what it means, pre-configured.

Q Okay. Let's turn to paragraph 86 then. Could you please read paragraph 86 to yourself? And then I'd like to ask you some questions about paragraph 86.

A Okay. Need to scroll down, I guess. Okay. Scroll up now. Okay.

Q What does paragraph 86 of Howell '158 generally describe?

MR. AISIKU: Objection, vague -- vague; calls for a legal conclusion; and again, outside the scope of Dr. Oliver's declaration for the '541 patent IPR.

A It's describing different peripherals that could be plugged into the eyeglass frames.

Q Paragraph 86 uses the phrase "docking station."

Do you see that?

A Yes.

Q What is meant by the phrase "docking station" in paragraph 86 of Howell '158?

MR. AISIKU: Same objections.

A I don't know what they apply there. Back in the day, we had docking stations for our laptops in order to use monitors so there was some electronics in between. So I don't know what eyeglasses with a docking station would -- would be -- what that would even do. So I don't really have an answer for that.

Q Would the phrase "docking station" refer to the temple of the eyeglasses serving as a platform to which different removable electronic devices could be connected?

MR. AISIKU: Same objections.

A Platform, I mean, the paragraph is

describing different devices that can be connected to the glasses, so I don't know what you mean by "platform."

Q The very last sentence talks about how the eyeglass frame may operate as the camera, data storage device, FM radio, MP3 player, mobile telephone, pedometer, hearing enhancer, sun sensor, timepiece, etcetera.

Is it your understanding that the incorporation of a removable electronic device 496 into the temple 490 is what enables one or more of these functionalities?

MR. AISIKU: Same objections.

A Remind me, 492 and 496 are the female and male pieces of the USB; is that right?

Q Yeah. So I believe 496 is the removable electronic device and then the temple is 490.

A Okay.

Q And I can repeat the question if that would be helpful.

A Yeah. Go ahead.

Q Is it your understanding that the

incorporation of a removable electronic device 496 into the temple 490 is what enables one or more of the functionalities described in the last sentence of Howell's paragraph 86?

MR. AISIKU: Same objections.

A Some of them, I suppose. I don't imagine how you could make a camera work in -- using the glasses. Radio, MP3 player, those kinds of things would be easy to implement. Storage device, obviously. So other ways to provide media into the glasses would be -- POSITA would see that application.

Q Just to clear the record, in my previous question I referred to Howell, and I intended to refer to Howell '158. We're discussing paragraph 86 of Howell '158; is that correct?

A I believe we're still on Howell and '158.

Q All right.

MR. AISIKU: I would just like to lodge another standing objection. Not only are we now going outside of the scope of this deposition in discussing the '174 patent IPR, but we appear to

be going into the 960 patent which discusses docking stations. And it seems like we are going far outside the scope of Dr. Oliver's declaration with respect to the 15 -- '541 patent. And so I'd just like to make that standing objection.

Q And I'm going to read a statement from paragraph 43 of your declaration, Dr. Oliver.

A Okay.

Q It says, "Howell '158 does not disclose a sensor."

A Yes.

Q In light of what we just discussed in paragraph 86, would you agree that it is not correct to assert that Howell does not disclose a sensor?

MR. AISIKU: Same objections.

A The only one that is a sensor in paragraph 86 that's described in this embodiment is a sun sensor, which I don't know if you could find one that would have a USB and then electronics to do something with it in the glasses is -- is unclear. But that's --

Q Would you --

A -- the only reference of a sensor in paragraph 86.

Q Would you agree that it is incorrect to assert that Howell does not disclose a sensor?

MR. AISIKU: Same objections; also calls for legal conclusion.

A I'm going to stand by my -- it's -- it's not the intent. It's mentioned. It's clearly the intent of '158 is to provide very lightweight glasses with all of the complex electronics coming through this USB junction. And in general, it's not intended to meet a sensor application. It's a media application.

Q Would it be accurate to characterize the removable electronic device 496 as an application module?

MR. AISIKU: I repeat my standing objection; also calls for legal conclusion.

And I would just like to reiterate that this is going far into the '960 patent. Counsel, if you can show me where application module is at

issue in the '541 issue, I'd be happy to discuss that but it seems like we're going far outside the scope of this declaration.

MR. PETERSON: Are you instructing the witness not to answer?

MR. AISIKU: I am not instructing the witness not to answer. I'm just stating my objection.

Q Shall I repeat the question, Dr. Oliver?

A Yes, please.

Q Would it be accurate to characterize the removable electronic device 496 as an application module?

MR. AISIKU: Same objections.

A I wouldn't, not necessarily.

Q And why not?

MR. AISIKU: Actually, if we can go off the record, please.

THE REPORTER: Do you agree, Mr. Peterson?

MR. PETERSON: Yes.

(Whereupon a break was had.)

MR. AISIKU: So I would just like to make

a couple more objections.

This line of questioning, especially asking whether or not a removable device is an application module, that entirely seems to be directed to the '960 patent which is supposed to be scheduled for deposition on Tuesday. That is -- this is not the time for this line of questioning.

And I am going to instruct the witness not to answer unless Counsel can explain how the application module and the docking station are relevant to this particular declaration.

MR. PETERSON: Have you finished, Counsel?

MR. AISIKU: Yes.

MR. PETERSON: Just to respond on the record, as we discussed earlier, our position is that Howell '158 does disclose a sensor and that those paragraphs we covered go into great detail about how there's an eyeglass frame with very particular connection points that would then pass the signal from a sensor, like a sun sensor.

And thus, the assertion in paragraph 43 of

the declaration, we would submit, is inaccurate. We understand your position, though, Counsel.

MR. AISIKU: Sorry to -- I wasn't trying to cut you off.

So this is one statement that's in the basically background discussion of the prior art. This doesn't seem to be something that was -- unless Counsel can point to where there was a discussion of the motivation to combine or other elements, this still seems to be irrelevant, especially given the fact that Petitioner relies on Howell '596 for the sensor and this was describing Howell '158.

MR. PETERSON: So I would say, in part, given that the sentence begins, "Unlike Howell '596," I think that sentence is attempting to draw a contrast between Howell '596 and Howell '158, and that that contrast is not warranted and attempting to disparage the merits of the combination of these two references.

MR. AISIKU: Again, I don't see where that is described in Dr. Oliver's motivation to combine

or discussion of what's -- of the actual arguments.

MR. PETERSON: We understand your position.

Did you have any more objections you wanted -- or anything else you wanted to say.

MR. AISIKU: No. Other than I am intending to instruct the witness not to answer to the extent these questions are directed to what appear to be the '960 patent IPR.

MR. PETERSON: Okay. And we have no further questions.

MR. AISIKU: Okay. If we can, I guess, take another break then just to -- for me to collect my things and see if there's any redirect.

(Whereupon a break was had.)

MR. AISIKU: We have no questions, no redirect at this time.

THE REPORTER: Same orders?

MR. AISIKU: Yeah, please.

(Whereupon the proceedings were concluded at 1:51 p.m. CDT)

CERTIFICATE OF SHORTHAND REPORTER - NOTARY PUBLIC

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

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

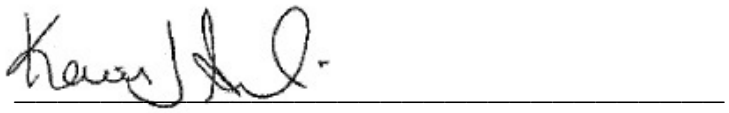
I further certify that the deposition of JAMES OLIVER, PHD, occurred virtually on June 13, 2025, commencing at 12:02 P.M. CDT to 1:41 P.M. CDT.

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

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

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

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal this 18th day of June, 2025.
My commission expires: 6-18-2028



Karisa Ekenseair, CCR RPR RMR RDR
Notary Public in and for
Pulaski County, Arkansas
Commission No. 12704567

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