

1 UNITED STATES PATENT AND TRADEMARK OFFICE

2
3 BEFORE THE PATENT TRIAL AND APPEAL BOARD

4
5 TOMMY JOHN, INC.,

6 Petitioner,

7 v.

8 PACKAGE APPAREL, INC.,

9 Patent Owner.

10
11 Case No. IPR2024-01163

12 Patent 10,834,974

13
14
15 VIDEOTAPED DEPOSITION OF BERNARD KAHN

16 Conducted Virtually

17 Wednesday, July 9, 2025

18 10:10 a.m. EDT

19
20 Job No.: 591083

21 Pages: 1 - 163

22 Reported by: Monique Vouthouris, CCR, RPR, CRR

1
2
3
4
5
6 VIDEOTAPED DEPOSITION OF BERNARD KAHN pursuant
7 to notice, conducted virtually via Zoom
8 Videoconference, before Monique Vouthouris,
9 Certified Court Reporter, Registered Professional
10 Reporter, Certified Realtime Reporter, and Notary
11 Public in and for the States of New Jersey and
12 New York.
13
14
15
16
17
18
19
20
21
22

A P P E A R A N C E S

ON BEHALF OF TOMMY JOHN, INC.:

SCOTT A. HUGHES, ESQ.

YI (SALLY) ZHANG, ESQ.

HOGAN LOVELLS US LLP

Columbia Square

555 Thirteenth Street, NW

Washington, D.C. 20004

202.637.5600

ON BEHALF OF PAKAGE APPAREL, INC.,

AND THE WITNESS BERNARD KAHN:

JOHN F. LUMAN, III, ESQ.

HEATH A. NOVOSAD, ESQ.

DANIELS & TREDENNICK PLLC

6363 Woodway Drive, Suite 700

Houston, Texas 77057

713.917.0024

ALSO PRESENT:

BRENDON CUENCA, Planet Depos Videographer

ADAM NUDELMAN, Planet Depos Technician

PLANET DEPOS

888.433.3767 | WWW.PLANETDEPOS.COM

Tommy John EX1011
Tommy John v. Package Apparel
IPR2024-01163

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22

C O N T E N T S

EXAMINATION OF BERNARD KAHN	PAGE
By Mr. Hughes	6
By Mr. Luman	160

E X H I B I T S

(All exhibits were previously marked.)

DEPOSITION EXHIBIT	PAGE
Exhibit 1001 U.S. Patent No. 10,834,974 B2.	7
Exhibit 2013 Declaration of Bernard Kahn, AAS, BS, MOAM in Support of Patent Owner's Response, April 16, 2025.	12
Exhibit 2014 Curriculum Vitae of Bernard N. Kahn.	69
Exhibit 1007 U.S. Patent Pub. No.: 2008/0178369, Underwear Garment for a Male.	89
Exhibit 1010 WO 01/37687 A1, Carrillo.	101
Exhibit 1008 U.S. Patent No. 5,461,729, Men's Underwear Brief, William Brocks.	101

Transcript of Bernard Kahn
Conducted on July 9, 2025

5

1	P R O C E E D I N G S	10:09:28
2		10:09:28
3	THE VIDEOGRAPHER: Here begins Media	10:10:24
4	Number 1 in the videotaped deposition of Dr. Bernard	10:10:33
5	Kahn in the matter of Tommy John, Inc. versus Pakage	10:10:36
6	Apparel, Inc. in the United States Patent and	10:10:40
7	Trademark Office, before the Patent Trial and Appeal	10:10:41
8	Board, Case Number IPR2024-01163.	10:10:45
9	Today's date is Wednesday, July 9th, 2025.	10:10:51
10	The time on the video monitor is 10:11 a.m. The	10:10:54
11	remote videographer today is Brendon Cuenca	10:10:59
12	representing Planet Depos.	10:11:03
13	All parties of this video deposition are	10:11:03
14	attending remotely. Would counsel please	10:11:06
15	voice-identify themselves and state who they	10:11:08
16	represent.	10:11:10
17	MR. HUGHES: This is Scott Hughes from	10:11:12
18	Hogan Lovells on behalf of petitioner Tommy John,	10:11:16
19	and with me I have my colleague Sally Zhang.	10:11:18
20	MR. LUMAN: This is John Luman on behalf	10:11:22
21	of Pakage Apparel, the patent owner, and I am in the	10:11:25
22	offices of Bracewell & Giuliani in New York along	10:11:28

PLANET DEPOS

888.433.3767 | WWW.PLANETDEPOS.COM

Tommy John EX1011
Tommy John v. Pakage Apparel
IPR2024-01163

Transcript of Bernard Kahn
Conducted on July 9, 2025

6

1	with the witness.	10:11:32
2	MR. NOVOSAD: Heath Novosad, also Daniels	10:11:35
3	& Tredennick, on behalf of Pakage Apparel.	10:11:41
4	THE VIDEOGRAPHER: Thank you. The court	10:11:41
5	reporter today is Monique Vouthouris representing	10:11:43
6	Planet Depos.	10:11:46
7	Will the reporter please swear in the	10:11:46
8	witness.	10:11:48
9	MR. KAHN: First, for the record, can I	10:11:56
10	make a correction, it's either Mr. or Deacon as a	10:11:59
11	prefix.	10:12:02
12	BERNARD KAHN,	10:12:21
13	being first duly sworn or affirmed by the Notary,	10:12:21
14	testifies as follows:	10:12:44
15	EXAMINATION	10:12:44
16	BY MR. HUGHES:	10:12:45
17	Q Good morning, Mr. Kahn. You understand	10:12:46
18	that you're being deposed today in connection with a	10:12:49
19	declaration you submitted in an IPR proceeding,	10:12:52
20	correct?	10:12:56
21	A That's correct.	10:12:56
22	Q And that proceeding is IPR2024-01163?	10:12:57

PLANET DEPOS

888.433.3767 | WWW.PLANETDEPOS.COM

Tommy John EX1011
Tommy John v. Pakage Apparel
IPR2024-01163

Transcript of Bernard Kahn
Conducted on July 9, 2025

7

1	A	Yes.	10:13:03
2	Q	Okay. And the patent at issue in that is	10:13:06
3		10,834,974. Is that right?	10:13:10
4	A	Correct.	10:13:13
5	Q	If I refer to that as the '974 patent	10:13:15
6		during this deposition, will you understand that?	10:13:19
7	A	Yes.	10:13:21
8		MR. HUGHES: Okay. I'd like to bring up	10:13:23
9		Exhibit 1001, which is the '974 patent. And that's	10:13:25
10		actually good just like it is, if you can zoom back	10:13:37
11		in like it was there.	10:13:41
12		MR. LUMAN: Scott, do you mind if I give	10:13:42
13		him a hard copy of that as well? I've got a clean	10:13:44
14		copy.	10:13:47
15		MR. HUGHES: That's fine, yeah. If you	10:13:47
16		have clean copies of any exhibit that I show, going	10:13:49
17		forward on this, if you would like to hand the	10:13:52
18		witness a clean copy, that's fine with me.	10:13:55
19		MR. LUMAN: Yeah, he's got a clean copy of	10:13:57
20		that.	10:13:59
21		MR. HUGHES: Okay.	10:14:00
22		BY MR. HUGHES:	10:14:01

PLANET DEPOS

888.433.3767 | WWW.PLANETDEPOS.COM

Tommy John EX1011
Tommy John v. Pakage Apparel
IPR2024-01163

1 Q So do you recognize this, if you can take 10:14:02
2 a look through it, as the '974 patent that you 10:14:04
3 reviewed for this proceeding? 10:14:07

4 A Yes, it is. 10:14:08

5 Q And if you go back to the first page 10:14:10
6 there, and we have it up on the screen, but for 10:14:14
7 yours right under the title do you see where there's 10:14:17
8 some inventors listed? 10:14:20

9 A Underneath "United States Patent Bigney et 10:14:24
10 al."? 10:14:30

11 Q Yes. And then down below there's a 10:14:30
12 section that says "Inventors" and it lists Dustin 10:14:33
13 Douglas Bigney and Shawn Robert Ellis? 10:14:36

14 A Correct. 10:14:36

15 (Simultaneous speaking.) 10:14:39

16 MR. LUMAN: Hold on one second. Before 10:14:39
17 you ask your question, I just want you also to know 10:14:41
18 that they're highlighting it for you as well, so you 10:14:42
19 don't have to look down if you don't want to, if you 10:14:44
20 can see it up there, however you want to do it. 10:14:47

21 And sorry to interrupt you, Scott. It's 10:14:50
22 new to him, so we're just getting some of the 10:14:52

Transcript of Bernard Kahn
Conducted on July 9, 2025

9

1	parameters down, sorry.	10:14:55
2	MR. HUGHES: That's fine.	10:14:57
3	BY MR. HUGHES:	10:14:58
4	Q So do you know Dustin Bigney?	10:15:00
5	A No, I don't.	10:15:03
6	Q Have you ever met him?	10:15:05
7	A No.	10:15:07
8	Q Have you ever communicated with him?	10:15:08
9	A No.	10:15:10
10	Q And the other inventor is Shawn Robert	10:15:11
11	Ellis. Do you know him?	10:15:15
12	A No, I do not.	10:15:17
13	Q Have you ever communicated with him?	10:15:18
14	A No.	10:15:20
15	Q Okay. For this --	10:15:20
16	MR. HUGHES: We can take down Exhibit 1001	10:15:25
17	-- actually, just leave it up for now, but I'll get	10:15:29
18	back to it in a second.	10:15:31
19	Q You understand that Tommy John, Inc. is	10:15:32
20	the petitioner in this IPR proceeding, correct?	10:15:34
21	A Yes.	10:15:36
22	Q And you provided a declaration on behalf	10:15:36

PLANET DEPOS

888.433.3767 | WWW.PLANETDEPOS.COM

Tommy John EX1011
Tommy John v. Pakage Apparel
IPR2024-01163

1	of the patent owner. Is that right?	10:15:38
2	A Yes.	10:15:40
3	Q And the patent owner is 0192139 [sic] B.C.	10:15:41
4	LTD. Is that correct?	10:15:50
5	MR. LUMAN: Let me object to form.	10:15:52
6	Do you know the answer?	10:15:57
7	A I'm not -- I wouldn't know how to answer	10:15:59
8	that.	10:16:02
9	Q If we -- so you provided a declaration on	10:16:04
10	behalf of the patent owner. Is that correct?	10:16:06
11	A Yes.	10:16:09
12	Q Now, if we look at the patent here, we can	10:16:10
13	see that the applicant and the assignee are 0192139	10:16:14
14	B.C. LTD. Do you see that?	10:16:23
15	A Yes.	10:16:24
16	Q Is it your understanding that that's the	10:16:24
17	patent owner here?	10:16:26
18	MR. LUMAN: Objection to form. Scott,	10:16:27
19	you're asking him legal conclusions and --	10:16:31
20	MR. HUGHES: Counsel, this is not a legal	10:16:34
21	conclusion. I'm asking him what he understands.	10:16:36
22	It's not a legal --	10:16:39

Transcript of Bernard Kahn
Conducted on July 9, 2025

11

1	(Simultaneous speaking.)	10:16:39
2	MR. LUMAN: You're asking him --	10:16:40
3	(Simultaneous speaking.)	10:16:40
4	MR. HUGHES: And I would appreciate if you	10:16:42
5	could let the witness answer these questions.	10:16:43
6	MR. LUMAN: Scott, you're asking him a	10:16:45
7	legal conclusion if the assignee or the owner of the	10:16:46
8	patent is somebody that is right there on the face	10:16:51
9	of the patent.	10:16:53
10	MR. HUGHES: I'm just asking his	10:16:54
11	understanding, so if --	10:16:56
12	MR. LUMAN: Okay. Objection to form. So	10:16:57
13	ask your question again.	10:17:01
14	BY MR. HUGHES:	10:17:04
15	Q Do you understand that 0192139 B.C. LTD.	10:17:04
16	is the owner of the patent?	10:17:10
17	MR. LUMAN: Objection to form.	10:17:11
18	A I understand that is the applicant and the	10:17:14
19	assignee.	10:17:17
20	Q Were you retained by 0192139 B.C. LTD.?	10:17:18
21	A No.	10:17:22
22	Q Who were you retained by?	10:17:22

PLANET DEPOS

888.433.3767 | WWW.PLANETDEPOS.COM

Tommy John EX1011
Tommy John v. Pakage Apparel
IPR2024-01163

Transcript of Bernard Kahn
Conducted on July 9, 2025

12

1	A	I was retained by the law offices of	10:17:25
2		Daniels & Tredennick.	10:17:37
3	MR. HUGHES:	Well, can we bring up Exhibit	10:17:42
4		2013.	10:17:43
5	MR. LUMAN:	That is your declaration.	10:17:55
6	Q	And if you take a look at this, do you	10:17:56
7		recognize this as the declaration that you gave in	10:17:59
8		support of patent owner's response?	10:18:00
9	A	That's correct.	10:18:04
10	Q	Can you go to page 5 and paragraph 16 of	10:18:04
11		this declaration?	10:18:07
12	A	Mm-hmm.	10:18:14
13	Q	Now, you just said you were retained by	10:18:15
14		Daniels & Tredennick, but in your declaration here	10:18:18
15		don't you state, "I have been retained by Package	10:18:20
16		Apparel, Inc."	10:18:25
17	A	Well, I was retained by Daniels &	10:18:25
18		Tredennick on behalf of Package Apparel.	10:18:27
19	Q	And what's your understanding of who	10:18:29
20		Package Apparel is?	10:18:33
21	A	Package Apparel, as I understand it, is the	10:18:33
22		entity that is -- that embodies the inventors of the	10:18:38

PLANET DEPOS

888.433.3767 | WWW.PLANETDEPOS.COM

Tommy John EX1011
Tommy John v. Package Apparel
IPR2024-01163

1	product.	10:18:43
2	Q What do you mean by embodies the inventors	10:18:45
3	of the product?	10:18:48
4	A It's my understanding that Dustin Douglas	10:18:49
5	Bigney and Shawn Robert Ellis are principals or	10:18:54
6	owners of Pakage Apparel, Inc.	10:18:57
7	Q And what relation does Pakage Apparel,	10:18:59
8	Inc. have to this patent?	10:19:02
9	A I would assume, since Pakage Apparel, Inc.	10:19:11
10	represents these two inventors, that there's a	10:19:16
11	relationship between them.	10:19:19
12	Q Have you talked to anyone at Pakage	10:19:23
13	Apparel, Inc.?	10:19:27
14	A No.	10:19:27
15	Q So do you know who 0192139 B.C. LTD. is?	10:19:27
16	A No. I understand from the patent itself	10:19:35
17	that they're the inventors and the assignees.	10:19:41
18	Q Were you giving testimony on behalf of	10:19:44
19	0192139 B.C. LTD. in your declaration?	10:19:50
20	MR. LUMAN: You're welcome to look at your	10:19:53
21	declaration.	10:19:55
22	A So it's listed as the Pakage Apparel	10:20:24

1	exhibit on my declaration, which identifies a	10:20:27
2	relationship between the patent owners and Pakage	10:20:30
3	Apparel.	10:20:35
4	Q And where does it identify a relationship	10:20:35
5	between the patent owners and Pakage Apparel?	10:20:38
6	A Pakage Apparel is the -- what do you call	10:20:41
7	it? -- the what you refer to at the bottom of the	10:20:51
8	page. Pakage Apparel is referenced on every page of	10:20:57
9	the document and the reference is --	10:21:03
10	Q Is it your understanding that exhibit --	10:21:08
11	(Simultaneous speaking.)	10:21:08
12	A I'm sorry. It's Pakage Apparel Exhibit	10:21:10
13	2013 IPR2024-01163.	10:21:15
14	Q So are you giving -- or in your	10:21:20
15	declaration were you giving testimony on behalf of	10:21:23
16	Package Apparel, is that your understanding?	10:21:25
17	A That's correct.	10:21:26
18	Q Okay. So just if I refer to Pakage	10:21:28
19	Apparel as Pakage or patent owner today, will you	10:21:37
20	understand that?	10:21:43
21	A Yes.	10:21:44
22	Q And if I refer to Tommy John, Inc. as	10:21:44

1	Tommy John or petitioner today, will you understand	10:21:46
2	-- will you understand that?	10:21:49
3	A Yes.	10:21:50
4	Q Okay. Do you know if Pakage Apparel is	10:21:50
5	the owner of this patent?	10:21:54
6	A In the patent it lists the inventors, the	10:22:06
7	applicant and the assignee, and from the patents	10:22:09
8	that's all I can presume.	10:22:12
9	Q Okay. So you're not aware if Pakage	10:22:14
10	Apparel is the owner of this patent or not?	10:22:16
11	A I have to assume they are because they	10:22:20
12	presented the patent to us.	10:22:22
13	Q What do you mean by they presented the	10:22:27
14	patent to you?	10:22:30
15	A Well, Pakage, Pakage Apparel is the	10:22:31
16	company that secured services, so I would have to	10:22:36
17	make an assumption that there's some relationship	10:22:39
18	between Pakage Apparel and the patent.	10:22:41
19	Q Did you do anything to ask whether they're	10:22:45
20	the owner of the patent?	10:22:49
21	A I think when the case was presented to me	10:22:54
22	it was presented that way.	10:22:56

Transcript of Bernard Kahn
Conducted on July 9, 2025

16

1	Q	Okay. Mr. Kahn, have you been deposed	10:22:58
2		before?	10:23:06
3	A	A number of years ago, yeah, 2019.	10:23:06
4	Q	How many times have you been deposed?	10:23:15
5	A	I presented -- I prepared several cases,	10:23:18
6		but that was the previous experience.	10:23:20
7	Q	What do you mean by prepared several	10:23:23
8		cases?	10:23:25
9	A	Well, there were several declarations I	10:23:26
10		prepared for cases that never went further than	10:23:29
11		requesting the declarations.	10:23:32
12	Q	And you were deposed in that --	10:23:36
13	A	The one in 2019 actually never went to	10:23:38
14		court.	10:23:40
15	Q	My question was if you have been deposed	10:23:41
16		before and you said the last time was in 2019. Is	10:23:44
17		that accurate?	10:23:48
18	A	That is correct.	10:23:50
19	Q	And what was the matter that you were	10:23:51
20		deposed in in 2019?	10:23:53
21	A	It was a case between a company called	10:23:55
22		Kiini and a company by the name of Ferrarini.	10:24:01

PLANET DEPOS

888.433.3767 | WWW.PLANETDEPOS.COM

Tommy John EX1011
Tommy John v. Pakage Apparel
IPR2024-01163

Transcript of Bernard Kahn
Conducted on July 9, 2025

17

1	(Court Reporter clarification.)	10:24:01
2	A Ferrarini and the company called Kiini.	10:24:14
3	Q And is that the only time you have been	10:24:18
4	deposed?	10:24:24
5	A Yes.	10:24:26
6	Q Okay. And was that case related to a	10:24:26
7	patent matter?	10:24:41
8	A Yes.	10:24:42
9	Q And what -- what was the patent in that	10:24:43
10	case, do you recall?	10:24:47
11	A The patent was a patent owned by Ferrarini	10:24:49
12	and it was for a -- basically a crocheted bikini	10:24:53
13	garment.	10:25:04
14	Q And what type of proceeding was it?	10:25:04
15	A It was just a deposition.	10:25:07
16	Q What do you mean by it was just a	10:25:13
17	deposition?	10:25:15
18	A Oh, well, in the case Ferrarini was	10:25:15
19	accusing Kiini of copying their patent without --	10:25:19
20	without the rights to.	10:25:23
21	Q Was it before a district court?	10:25:28
22	A I think District Court of New York. I	10:25:36

PLANET DEPOS

888.433.3767 | WWW.PLANETDEPOS.COM

Tommy John EX1011
Tommy John v. Pakage Apparel
IPR2024-01163

1	would have to look back.	10:25:40
2	Q Okay. And who -- who were you giving	10:25:41
3	testimony on behalf of in that case?	10:25:46
4	A On behalf of Ferrarini -- Ferrarini.	10:25:48
5	Q And were they the patent owner or the	10:25:52
6	defendant?	10:25:54
7	A The patent owner.	10:25:55
8	Q And what was your testimony about in that	10:25:58
9	case?	10:26:00
10	A Just as to whether or not the bikini	10:26:01
11	garment was in fact a duplication of the patent	10:26:06
12	garment.	10:26:09
13	Q And did you give an expert report in that	10:26:10
14	case as well?	10:26:12
15	A I did.	10:26:13
16	Q Okay. Have you acted as an expert in any	10:26:14
17	other patent matters?	10:26:27
18	A Just in preparing declarations, but the	10:26:28
19	two others that I was involved in didn't even go to	10:26:32
20	deposition.	10:26:35
21	Q Okay. Now, you understand that you're	10:26:37
22	under oath today. Is that correct?	10:26:43

Transcript of Bernard Kahn
Conducted on July 9, 2025

19

1	A	Yes.	10:26:44
2	Q	Is there anything that will prevent you	10:26:45
3		from testifying truthfully and accurately today?	10:26:48
4	A	Nothing at all.	10:26:51
5	Q	Okay. No medications or anything this	10:26:53
6		morning?	10:26:55
7	A	No.	10:26:56
8	Q	I just have to check. I understand.	10:26:57
9		So first I'd just like to go over some	10:27:00
10		ground rules on this. You know, if you do not	10:27:04
11		understand a question that I ask, please ask me for	10:27:07
12		clarification. Your counsel may object from time to	10:27:10
13		time, but you still need to answer the questions	10:27:12
14		unless you're specifically instructed not to.	10:27:16
15		We should avoid talking over each other.	10:27:19
16		I'll do my best to let you finish an answer before	10:27:21
17		asking my next question, and I would ask that you	10:27:25
18		let me finish my questions before starting to	10:27:27
19		answer. That will just help the court reporter and	10:27:30
20		get a good record. Is that fair?	10:27:33
21	A	Oh, sure.	10:27:35
22	Q	Okay. And similarly, please don't nod or	10:27:36

PLANET DEPOS

888.433.3767 | WWW.PLANETDEPOS.COM

Tommy John EX1011
Tommy John v. Pakage Apparel
IPR2024-01163

Transcript of Bernard Kahn
Conducted on July 9, 2025

20

1	use hand gestures when giving an answer. We're	10:27:40
2	going to need an audible answer so that the court	10:27:42
3	reporter can transcribe the response.	10:27:46
4	A Okay.	10:27:49
5	Q Where are you right now?	10:27:50
6	A Offices of Bracewell.	10:27:53
7	Q And where is that?	10:27:57
8	A That is 51 West 52nd Street, New York, New	10:27:59
9	York.	10:28:08
10	Q And is anyone in the room with you?	10:28:08
11	A Yes, I have John Luman here in the room.	10:28:11
12	Q Okay. And what about Mr. Novosad, is he	10:28:19
13	in the room with you as well?	10:28:21
14	A He's on Zoom.	10:28:23
15	Q Okay. So Mr. Luman is the only other	10:28:26
16	person in the room with you?	10:28:30
17	A That's correct.	10:28:31
18	Q Okay. And I understand the way you have	10:28:31
19	your setup, you don't have a computer in front of	10:28:33
20	you, but you're looking at screens that are showing	10:28:35
21	the Zoom meeting. Is that correct?	10:28:38
22	A Yes.	10:28:40

PLANET DEPOS

888.433.3767 | WWW.PLANETDEPOS.COM

Tommy John EX1011
Tommy John v. Pakage Apparel
IPR2024-01163

Transcript of Bernard Kahn
Conducted on July 9, 2025

21

1	Q	And I understand you have at least your	10:28:41
2		declaration in front of you. Is there any other	10:28:43
3		written materials that you have in front of you?	10:28:46
4	A	At this point in time I have the original	10:28:49
5		'974 patent and my resumé in front of me.	10:28:51
6	Q	Okay. Do they have any markings or	10:28:55
7		notations on them?	10:28:58
8	A	No, other than tabs on my declaration to	10:28:59
9		help me reference where things are in the	10:29:02
10		declaration, no other markings.	10:29:04
11	Q	Okay. And do you have any other papers in	10:29:07
12		front of you?	10:29:08
13	A	Just my notes.	10:29:10
14	Q	And are you taking notes during this	10:29:12
15		deposition?	10:29:14
16	A	When I'm asked a question -- I'm a visual	10:29:15
17		learner, so to speak, so when the question is asked,	10:29:18
18		I may take a -- make a couple of notes about the	10:29:21
19		question so that I can properly answer it.	10:29:25
20	Q	Okay. And we may, just for the record	10:29:27
21		here, we may ask for a copy of those notes at the	10:29:29
22		end of this deposition, so please don't --	10:29:32

PLANET DEPOS

888.433.3767 | WWW.PLANETDEPOS.COM

Tommy John EX1011
Tommy John v. Pakage Apparel
IPR2024-01163

Transcript of Bernard Kahn
Conducted on July 9, 2025

22

1	A	I don't know that that's necessary. Every	10:29:34
2		question you're going to ask which I make a note of	10:29:36
3		is on the record.	10:29:40
4	Q	That's fine. We still may ask for a copy	10:29:41
5		of those notes.	10:29:43
6		Okay. How did you first become involved	10:29:46
7		in this matter?	10:29:49
8	A	I was contacted by John Luman and Heath	10:29:50
9		Novosad.	10:29:56
10	Q	So you were first approached by counsel to	10:29:57
11		be an expert or to be a witness in this matter?	10:30:00
12	A	That's correct.	10:30:03
13	Q	And have you worked with Daniels &	10:30:04
14		Tredennick before?	10:30:11
15	A	No.	10:30:11
16	Q	Have you worked with Pakage before?	10:30:12
17	A	No.	10:30:16
18	Q	Have you ever been adverse to Tommy John	10:30:16
19		before?	10:30:19
20	A	Other than knowing of the name, I've never	10:30:20
21		had any dealings with Tommy John.	10:30:25
22	Q	Okay. When were you retained?	10:30:27

PLANET DEPOS

888.433.3767 | WWW.PLANETDEPOS.COM

Tommy John EX1011
Tommy John v. Pakage Apparel
IPR2024-01163

Transcript of Bernard Kahn
Conducted on July 9, 2025

23

1	A	I'd have to look back at my records, but	10:30:33
2		it was in mid-spring.	10:30:41
3	Q	2025?	10:30:42
4	A	2025, yes, I believe so. I'd have to look	10:30:43
5		back to be sure.	10:30:46
6	Q	Okay. Now, you're being compensated for	10:30:47
7		your work in this case. Is that correct?	10:30:49
8	A	Yes.	10:30:51
9	Q	And what's your compensation?	10:30:52
10	A	\$200 an hour.	10:30:55
11	Q	Is that the same compensation work -- or	10:30:58
12		rate for all work?	10:31:01
13	A	No. It varies depending upon what kind of	10:31:03
14		consulting work I might be doing.	10:31:06
15	Q	Is it \$200 an hour for all work in this	10:31:08
16		matter?	10:31:11
17	A	Yes.	10:31:13
18	Q	So \$200 for all the work in drafting your	10:31:14
19		declaration?	10:31:18
20	A	Correct.	10:31:19
21	Q	And the same \$200 an hour for giving	10:31:20
22		testimony here today?	10:31:24

PLANET DEPOS

888.433.3767 | WWW.PLANETDEPOS.COM

Tommy John EX1011
Tommy John v. Pakage Apparel
IPR2024-01163

1	A	That's correct.	10:31:25
2	Q	Would you have done this work if you were	10:31:26
3		not being compensated?	10:31:29
4	A	It's not likely, no.	10:31:32
5	Q	What did you do to prepare for your	10:31:39
6		deposition today?	10:31:43
7	A	Reviewed the patents involved. I reviewed	10:31:44
8		my declaration.	10:31:47
9	Q	Did you meet with anyone?	10:31:49
10	A	I met with John Luman yesterday, and, of	10:31:51
11		course, I met with John and Heath on the video Zoom	10:31:56
12		I think three times prior --	10:32:01
13		(Simultaneous speaking.)	10:32:04
14	Q	And when were those times? When were	10:32:04
15		those times?	10:32:08
16	A	Once in May, once in June, and once a	10:32:08
17		couple days ago before the preparation here.	10:32:11
18	Q	How long did you meet with them for?	10:32:14
19	A	The video, the Zoom meetings were about	10:32:17
20		half an hour each. Yesterday I think we spent about	10:32:21
21		three hours.	10:32:24
22	Q	And have you discussed the subject matter	10:32:30

1	of this proceeding or your declaration with anyone	10:32:32
2	other than Pakage's counsel in preparation for your	10:32:36
3	deposition?	10:32:40
4	A Other than sharing just bits of it with my	10:32:40
5	wife, no.	10:32:44
6	Q What do you mean sharing bits of it with	10:32:45
7	your wife?	10:32:48
8	A When she said what are you doing, I said	10:32:48
9	this is a case, and I explained basics of the case.	10:32:51
10	Q Okay. So you mentioned you reviewed -- I	10:32:55
11	think you said you reviewed your declaration in	10:32:59
12	preparation for this. Is that right?	10:33:01
13	A Correct.	10:33:03
14	Q Did you review any other materials in	10:33:05
15	preparation for your deposition?	10:33:07
16	A You asked me that question, I said I had	10:33:09
17	already reviewed the other patents, the basic	10:33:12
18	patents and as well as the '974.	10:33:15
19	Q What do you mean by the other patents?	10:33:18
20	A The cited references in '974.	10:33:19
21	Q And when you say the cited references, do	10:33:24
22	you mean the references that were used in the	10:33:27

1	petition?	10:33:32
2	A Correct. That would be the Carrillo	10:33:33
3	patent, the Kitsch patent, and the Brocks patent,	10:33:35
4	yeah.	10:33:45
5	Q How did you select which materials you	10:33:46
6	reviewed?	10:33:48
7	A Those were the ones I wanted to be most	10:33:49
8	familiar with.	10:33:54
9	Q Did you review any materials that are not	10:34:09
10	discussed in your declaration?	10:34:12
11	A No.	10:34:15
12	Q And did you do anything else to prepare	10:34:17
13	for your deposition today?	10:34:21
14	A No, that's it.	10:34:22
15	Q Okay. When you were first approached	10:34:25
16	about this matter, what was your understanding of	10:34:32
17	your assignment?	10:34:33
18	A My assignment was to, of course, become	10:34:37
19	familiar with the '974 patent and the reference	10:34:40
20	cited previous artworks, to also review a	10:34:44
21	declaration by Wagner, and then provide analysis of	10:34:50
22	the I would say validity of the '974 patent as it's	10:34:56

1	cited and in the reference -- in its reference in	10:35:04
2	Wagner's deposition -- Wagner's declaration.	10:35:07
3	Q Are there any documents -- sorry, scratch	10:35:18
4	that.	10:35:23
5	Now, you provided a declaration in support	10:35:28
6	of patent owner's response to the petition, correct?	10:35:30
7	A Yes, correct.	10:35:39
8	Q Are you aware the patent owner also filed	10:35:43
9	a preliminary response in this proceeding?	10:35:46
10	A Yes.	10:35:49
11	Q Were you asked to provide a declaration in	10:35:51
12	support of the preliminary response?	10:35:56
13	A No.	10:36:01
14	Q Why not?	10:36:01
15	A That occurred prior to my being secured --	10:36:02
16	my services being secured.	10:36:05
17	Q Okay. So you didn't consult on the	10:36:09
18	preliminary response that was -- that was submitted	10:36:10
19	in this proceeding?	10:36:12
20	A No.	10:36:14
21	Q Now, are there any documents or other	10:36:14
22	materials that you relied upon to form your opinions	10:36:22

1	that are not identified in your declaration?	10:36:26
2	A I'm sorry, would you ask that question	10:36:28
3	again?	10:36:32
4	Q Are there any documents or materials that	10:36:33
5	are not identified in your declaration that you	10:36:35
6	relied on to form your opinions?	10:36:38
7	A No documents, no.	10:36:41
8	Q Okay. If we can go back to Exhibit 2013,	10:36:46
9	which is a copy of your declaration, you still have	10:36:54
10	that in front of you, correct?	10:36:59
11	A I do, yeah.	10:37:00
12	Q Okay. Did you draft your declaration?	10:37:01
13	A I drafted the first draft of it and then	10:37:07
14	reviewed the final draft.	10:37:11
15	Q Did anyone help you to draft it?	10:37:16
16	A Only in inserting images that were	10:37:19
17	referenced from the other previous patents and the	10:37:24
18	'974.	10:37:27
19	Q Now, you said you did the first draft but	10:37:29
20	then reviewed a final draft. Did someone else make	10:37:32
21	edits between your first draft and that final draft?	10:37:35
22	A Only essentially in inserting the image	10:37:38

1	references that were in the other patents and the	10:37:41
2	'974.	10:37:44
3	Q And who did that?	10:37:46
4	A Daniels & Tredennick.	10:37:48
5	Q And otherwise you wrote every word in your	10:37:51
6	declaration?	10:37:55
7	A With rare exception except for maybe	10:37:57
8	grammatical errors.	10:38:00
9	Q When did you begin working on your	10:38:03
10	declaration?	10:38:05
11	A I would have to look back. It's been a	10:38:08
12	few months.	10:38:11
13	Q You don't recall when you started working	10:38:12
14	on it?	10:38:15
15	A I didn't try to memorize the date, no.	10:38:16
16	Q Would it have been soon after you were	10:38:18
17	retained?	10:38:22
18	A Within about anywhere from two to four	10:38:22
19	weeks, yeah.	10:38:28
20	Q And how did you go about drafting your	10:38:29
21	declaration?	10:38:31
22	A I began first by familiarizing myself with	10:38:32

1 the patents involved, I then reviewed the Wagner 10:38:42
2 declaration, and then started making an analysis 10:38:45
3 basically point by point. 10:38:55

4 Q What do you mean by "point by point"? 10:38:56

5 A Using the Wagner declaration as a starting 10:38:59
6 point, I went through each of the issues that were 10:39:05
7 brought up in the Wagner declaration and verified 10:39:09
8 and/or addressed them. 10:39:12

9 Q How long did you spend drafting your 10:39:19
10 report? 10:39:21

11 A Probably I would say I've spent about 50 10:39:22
12 hours on this project. 10:39:27

13 Q What about just drafting the declaration? 10:39:30

14 A Maybe 40, 45. 10:39:33

15 Q And over how long did you draft the 10:39:39
16 declaration? 10:39:43

17 A Probably about two months. 10:39:44

18 Q Did Pakage's counsel provide you with any 10:39:49
19 facts that you considered in forming the opinions in 10:39:54
20 your declaration? 10:39:56

21 A No, no. The only information I used was 10:40:01
22 the information in the three patents that were 10:40:03

1 cited, the '974 patent and the Wagner declaration.

10:40:06

2 Q Did Pakage's counsel provide you with any
3 assumptions you relied on in forming the opinions in
4 your declaration?

10:40:10

10:40:15

10:40:18

5 A No.

10:40:19

6 Q They didn't provide you with an assumption
7 that, for example, the claims are not obvious?

10:40:19

10:40:22

8 A No. The obviousness I analyzed myself.

10:40:24

9 Q When you were retained, did you understand
10 you were being retained on behalf of patent owner to
11 say that the claims are not obvious?

10:40:34

10:40:36

10:40:40

12 A Yeah, I guess the answer there would be
13 yes.

10:40:53

10:40:58

14 Q Okay. Does your declaration contain all
15 of your opinions in this matter?

10:40:58

10:41:04

16 A Yes.

10:41:07

17 Q Is your declaration complete and accurate
18 in all respects?

10:41:08

10:41:14

19 A Yes.

10:41:17

20 Q And I know you briefly looked through it,
21 but you also reviewed your declaration in
22 preparation for this. Are there any errors in your

10:41:17

10:41:22

10:41:24

1	declaration?	10:41:27
2	A I think there was a typo in one of the	10:41:29
3	first few pages.	10:41:31
4	Q Is there anything --	10:41:33
5	(Simultaneous speaking.)	10:41:33
6	A Page 1, actually.	10:41:39
7	Q I'm sorry, I apologize talking over you,	10:41:40
8	so I didn't quite catch the end of your answer.	10:41:42
9	A Just page 1 had a typo.	10:41:45
10	Q Okay. And is there anything in your	10:41:48
11	declaration that you wish to change or correct?	10:41:49
12	A Other than the typo, no.	10:41:52
13	Q Okay. If we can go to page 7 of your	10:41:59
14	declaration, let me know when you get there.	10:42:02
15	A Mm-hmm.	10:42:08
16	Q And do you see you have a section here	10:42:09
17	that you've labeled as "Legal Standards of	10:42:13
18	Nonobviousness," do you see that?	10:42:17
19	A Mm-hmm.	10:42:19
20	Q And this is a discussion of your	10:42:21
21	understanding of what the legal standards for	10:42:24
22	nonobviousness are. Is that correct?	10:42:28

1	A	Yes.	10:42:30
2	Q	Now, in paragraph 22 you admit you're not	10:42:31
3		a legal expert, right?	10:42:35
4	A	Correct.	10:42:37
5	Q	And you're not an expert in patent law.	10:42:37
6		Is that correct?	10:42:43
7	A	Correct.	10:42:44
8	Q	And about how many times would you say	10:42:46
9		you've worked on patent matters before?	10:42:51
10	A	Of any kind, four.	10:42:54
11	Q	Four times, okay. Now, here you say	10:43:00
12		"Counsel for" -- we're still in paragraph 22,	10:43:06
13		"Counsel for Pakage Apparel has informed me of the	10:43:09
14		law and asked me to apply the legal principles	10:43:13
15		summarized below in my analysis." Do you see that?	10:43:16
16	A	Yes.	10:43:21
17	Q	So is it your understanding --	10:43:21
18		MR. LUMAN: He's highlighting it up there	10:43:24
19		as well.	10:43:25
20		THE WITNESS: Oh, okay.	10:43:26
21		MR. LUMAN: Sorry, didn't mean to	10:43:27
22		interrupt you in your questioning.	10:43:29

1	MR. HUGHES: It's all right.	10:43:30
2	BY MR. HUGHES:	10:43:32
3	Q Is your understanding of patent law based	10:43:33
4	solely on what Pakage's counsel informed you?	10:43:35
5	A In relation to this declaration, yes.	10:43:39
6	Q Did their counsel provide you with any	10:43:43
7	materials explaining obviousness?	10:43:47
8	A No.	10:43:51
9	Q Did -- so did they just provide this	10:43:53
10	information orally?	10:43:59
11	A Yes.	10:44:03
12	Q And was that in one of your phone calls	10:44:05
13	with them or a meeting?	10:44:08
14	A Yes.	10:44:09
15	Q Did they provide you any of this	10:44:10
16	information in writing?	10:44:13
17	A Not specifically, no, no.	10:44:15
18	Q Did you write the first draft of this	10:44:24
19	section of your declaration?	10:44:28
20	A I wrote a general reference here and,	10:44:29
21	again, during my edits I added to it.	10:44:39
22	Q What do you mean by a general reference?	10:44:43

1	A	It was the first statement, "I'm not a	10:44:45
2		legal expert. I've not been asked to offer an	10:44:48
3		opinion on law, but I understand I'm obliged to	10:44:51
4		follow existing law." And then after our discussion	10:44:56
5		I added the section after that.	10:44:58
6	Q	So you wrote this section yourself based	10:45:00
7		on your discussion with Pakage's counsel?	10:45:02
8	A	Yes.	10:45:06
9	Q	Okay. Did you do any research on patents	10:45:10
10		on your own?	10:45:13
11	A	I'm sorry, please explain that question.	10:45:14
12	Q	So in coming to an understanding of the	10:45:22
13		legal standards for nonobviousness, let's say, did	10:45:26
14		you do any research on nonobviousness on your own?	10:45:31
15	A	No.	10:45:40
16	Q	Okay. So you didn't do any research on	10:45:40
17		any previous decisions in IPR proceedings either?	10:45:42
18	A	No, not on my own.	10:45:46
19	Q	What about with Pakage's counsel?	10:45:48
20	A	We had conversation about it.	10:45:54
21	Q	Did you look at any particular prior IPR	10:45:57
22		proceedings?	10:46:01

1	A	No.	10:46:02
2	Q	Did you read any decisions in any patent	10:46:03
3		matters?	10:46:09
4	A	Other than this, no.	10:46:10
5	Q	What do you mean by "other than this"?	10:46:12
6	A	I concentrated my attention to this case.	10:46:15
7	Q	Now, you understand there's not a decision	10:46:20
8		in this case, correct, not yet?	10:46:22
9	A	Yes, correct.	10:46:25
10	Q	So have you looked at any decisions by the	10:46:26
11		PTAB in any prior IPR proceedings?	10:46:29
12	A	No.	10:46:34
13	Q	And when I say "PTAB," do you understand	10:46:34
14		what that means?	10:46:36
15	A	In reference, yeah.	10:46:38
16	Q	That would be the Patent Trial and Appeal	10:46:40
17		Board?	10:46:43
18	A	Right, yeah, mm-hmm.	10:46:43
19	Q	Okay. Did you read any USPTO guidance or	10:46:45
20		manuals?	10:46:54
21	A	No.	10:46:54
22	Q	So you didn't look at any materials on	10:46:54

1	your own regarding any legal standards for	10:46:56
2	nonobviousness. Is that right?	10:47:00
3	A Correct.	10:47:02
4	Q And you didn't look at any decisions	10:47:03
5	addressing nonobviousness. Is that correct?	10:47:06
6	A Correct.	10:47:10
7	Q If we can go down to paragraph 25 of your	10:47:20
8	declaration. Let me know when you're there.	10:47:23
9	A Mm-hmm.	10:47:38
10	Q It's up on the screen as well. So the	10:47:40
11	first sentence here you say, "I understand that a	10:47:43
12	claim composed of several elements is not	10:47:46
13	necessarily proved obvious merely by demonstrating	10:47:48
14	that each of its elements was independently known in	10:47:51
15	the prior art." Do you see that?	10:47:54
16	A Yup.	10:47:57
17	Q What do you mean by "a claim composed of	10:47:59
18	several elements"?	10:48:02
19	A Well, a claim that references more than	10:48:14
20	one characteristic is a claim composed of several	10:48:17
21	elements.	10:48:22
22	Q What do you mean by a characteristic?	10:48:26

1	A	A claim may address more than one aspect	10:48:28
2		of a particular item or concept.	10:48:35
3	Q	Can claims relate to multiple concepts?	10:48:49
4		MR. LUMAN: Objection to form.	10:48:54
5	A	Could you state that a different way or	10:49:01
6		ask that question a different way?	10:49:03
7	Q	Yeah. You said when we were talking about	10:49:05
8		being composed of -- a claim being composed of	10:49:07
9		several elements, you said there could be different	10:49:10
10		aspects of a concept. Is that right?	10:49:12
11	A	Mm-hmm, correct.	10:49:14
12	Q	I asked can a claim also be composed of	10:49:15
13		different concepts.	10:49:18
14		MR. LUMAN: Objection to form.	10:49:24
15	A	Yeah, I would need an example to	10:49:25
16		understand your question.	10:49:27
17	Q	I'm just trying to get an understanding	10:49:28
18		here of what you mean by "several elements" here.	10:49:30
19		So is it your understanding that each word in a	10:49:35
20		claim is a different element?	10:49:38
21	A	A claim may have more than one thing it's	10:49:44
22		describing.	10:49:47

1	Q	So if there's different sections in a	10:50:10
2		claim, would each of those be a different element?	10:50:13
3	MR. LUMAN:	Objection to form.	10:50:18
4	A	It may or may not. Different sections in	10:50:22
5		a claim may be referring to the same element and	10:50:54
6		they may be referring to different elements.	10:50:57
7	Q	Okay. If we go on to the next sentence	10:50:59
8		here in paragraph 25, it says, "I also understand	10:51:02
9		that obviousness should not be analyzed using the	10:51:07
10		benefit of hindsight." Do you see that?	10:51:12
11	A	Yes.	10:51:15
12	Q	What is hindsight?	10:51:16
13	A	Hindsight is using something that's	10:51:17
14		presently known to have a better understanding of	10:51:27
15		something previously understood or previously	10:51:30
16		expressed.	10:51:36
17	Q	And what is the standard for hindsight?	10:51:57
18	MR. LUMAN:	Objection to form.	10:52:03
19	A	If you're asking a legal definition, I'm	10:52:05
20		not going to be able to give that to you.	10:52:07
21	Q	I'm just asking your understanding of it.	10:52:09
22	A	And the question again is?	10:52:16

Transcript of Bernard Kahn
Conducted on July 9, 2025

40

1	Q	I'll rephrase.	10:52:18
2		What is your understanding of when	10:52:20
3		something is hindsight?	10:52:24
4	MR. LUMAN:	Objection to form. Scott, my	10:52:30
5		objection is he's answered what he thought is	10:52:43
6		hindsight. Are you asking that question again?	10:52:45
7		That's my objection, clarity.	10:52:49
8	Q	So his answer to when something is	10:52:55
9		hindsight was that it's using something -- I believe	10:52:57
10		you said using something that's currently known to	10:53:01
11		analyze something that was previously known. And so	10:53:05
12		I guess my question, Mr. Kahn, is what is -- so what	10:53:12
13		is hindsight a reference to?	10:53:19
14	A	Something that's previously known and to	10:53:25
15		analyze something -- something that's presently	10:53:31
16		known to analyze something previously known.	10:53:33
17	Q	And presently known from what?	10:53:36
18	MR. LUMAN:	Objection to form.	10:53:41
19	A	That's too vague a question to answer.	10:53:42
20	Q	So where you say here "obviousness should	10:53:46
21		not be analyzed using the benefit of hindsight," are	10:53:52
22		you saying that you shouldn't -- when looking at	10:53:55

PLANET DEPOS

888.433.3767 | WWW.PLANETDEPOS.COM

Tommy John EX1011
Tommy John v. Pakage Apparel
IPR2024-01163

Transcript of Bernard Kahn
Conducted on July 9, 2025

41

1	obviousness you shouldn't use anything that you	10:53:56
2	presently know?	10:54:00
3	MR. LUMAN: Objection to form.	10:54:02
4	A Repeat the question.	10:54:04
5	Q So your answer, if I understand correctly,	10:54:13
6	is that hindsight is using something presently known	10:54:17
7	to analyze something previously known. Is that --	10:54:21
8	is that fair?	10:54:24
9	A Yeah.	10:54:25
10	Q What -- so are you saying that you	10:54:26
11	shouldn't use anything that you presently know when	10:54:29
12	doing an obviousness analysis?	10:54:33
13	MR. LUMAN: Objection to form.	10:54:38
14	A Yes.	10:54:44
15	Q And when you say presently, what do you	10:54:50
16	mean by that? I'm trying to get an understanding of	10:55:16
17	the time frame here. You're comparing presently to	10:55:19
18	previously. I'm trying to understand what the	10:55:22
19	difference is or what the dividing line between the	10:55:24
20	two would be.	10:55:27
21	MR. LUMAN: Objection to form.	10:55:31
22	A Presently is at the moment. Previously is	10:55:33

PLANET DEPOS

888.433.3767 | WWW.PLANETDEPOS.COM

Tommy John EX1011
Tommy John v. Pakage Apparel
IPR2024-01163

1	any time prior.	10:55:36
2	Q So if you knew something a month ago, you	10:55:37
3	could use that in the obviousness analysis that	10:55:40
4	you're doing today. But if you just learned	10:55:43
5	something today you wouldn't use it?	10:55:46
6	A I could use something a month ago to	10:55:48
7	analyze something that was known a month ago.	10:55:51
8	Q I see. So as long as what's out there is	10:55:58
9	known before you do the analysis, you're saying	10:56:01
10	that's fair to use it?	10:56:04
11	MR. LUMAN: Objection to form.	10:56:13
12	A Could you repeat that question again?	10:56:13
13	Q So you're saying if anything was known	10:56:16
14	before you start an analysis, that's fair to use?	10:56:19
15	A I'm sorry, that wasn't the same question	10:56:22
16	you just asked. Do that one more time.	10:56:28
17	Q Are you saying that anything that was	10:56:34
18	known before you started an analysis is fair game to	10:56:36
19	use?	10:56:40
20	A No, I'm actually not saying that.	10:56:41
21	Q So can you clarify what it is that you	10:56:58
22	mean by using the benefit of hindsight?	10:57:01

1	MR. LUMAN: Objection to form.	10:57:09
2	(Court Reporter clarification.)	10:57:22
3	A So what I said about hindsight was that	10:57:25
4	it's using something that's presently understood for	10:57:27
5	the purpose of analyzing something that was	10:57:31
6	previously known.	10:57:33
7	Q And how does hindsight relate to analyzing	10:57:37
8	a particular claim?	10:57:41
9	MR. LUMAN: You're welcome to look at the	10:57:44
10	rest of your -- they've got your report there.	10:57:47
11	They've only highlighted one sentence. You're	10:57:51
12	welcome to read the rest.	10:57:51
13	A So as I stated, it must be something --	10:57:57
14	"Instead, it must be analyzed from the standpoint of	10:58:00
15	what was known and understood by a person of	10:58:03
16	ordinary skill in the art at the time of the claimed	10:58:06
17	invention."	10:58:10
18	Q So, for example, things that are in a	10:58:10
19	prior art reference, if you're looking at those,	10:58:14
20	that would not be hindsight. Is that right?	10:58:17
21	MR. LUMAN: Objection to form.	10:58:18
22	A It would mean that when the prior art was	10:58:21

1	created, if someone looked at it, it would be	10:58:24
2	whatever was understood about that prior art at the	10:58:27
3	time it was created.	10:58:31
4	Q What if you're looking at prior art in	10:58:38
5	view of -- you know, for example, here we're looking	10:58:41
6	at prior art with respect to the '974 patent.	10:58:44
7	Anything that's in that prior art was previously	10:58:47
8	known, correct?	10:58:50
9	MR. LUMAN: Objection to form.	10:58:58
10	A Make that one question at a time, please.	10:59:00
11	Q So, for example, here we're looking at	10:59:06
12	prior art with respect to the '974 patent, so	10:59:11
13	anything that's in that prior art was previously	10:59:13
14	known, correct?	10:59:16
15	A In respect to the prior art, whatever was	10:59:17
16	known at the time the prior art was created would be	10:59:51
17	current knowledge at the time that the prior art was	10:59:57
18	created.	10:59:59
19	Q And that would have been current knowledge	11:00:04
20	at the time the '974 patent was filed as well,	11:00:07
21	right?	11:00:10
22	A Yes.	11:00:27

1	Q	So anything that was in the prior art, if	11:00:27
2		we're -- strike that.	11:00:36
3		So if we're using disclosures from that	11:00:38
4		prior art, that wouldn't be hindsight, correct?	11:00:42
5	A	Finish the sentence. Using disclosures	11:00:45
6		from prior art is not hindsight for what purpose?	11:01:00
7	Q	For -- well, like here for comparing to	11:01:03
8		the claims of the '974 patent.	11:01:11
9		MR. LUMAN: Objection to form.	11:01:22
10		Scott, my objection is more like there's a	11:01:23
11		whole bunch of stuff floating around here. I'm not	11:01:26
12		sure what question you're actually asking.	11:01:29
13		MR. HUGHES: Counsel, I would like the	11:01:31
14		witness to answer these --	11:01:32
15		MR. LUMAN: I would too.	11:01:33
16		MR. HUGHES: If he's understanding these	11:01:34
17		questions, he can -- he can give an answer. If he	11:01:35
18		doesn't understand, he can ask for clarification --	11:01:38
19		(Simultaneous speaking.)	11:01:40
20	A	I'm having a hard time understanding	11:01:40
21		exactly what you're asking me here.	11:01:43
22	Q	So your -- you state in your declaration	11:01:45

1	that obviousness should not be analyzed using the	11:01:47
2	benefit of hindsight, correct?	11:01:51
3	A Yes.	11:01:53
4	Q And we just established or, you know, you	11:01:53
5	agreed that disclosures in a prior art reference	11:01:57
6	were known before the '974 patent was filed,	11:02:00
7	correct?	11:02:05
8	A Yes.	11:02:06
9	Q So if you used those disclosures, my	11:02:07
10	question is that would not be using hindsight if	11:02:13
11	we're using disclosures from prior art references,	11:02:19
12	correct?	11:02:22
13	A For what purpose? If we're reviewing	11:02:32
14	prior art for the purpose of analyzing prior art,	11:02:37
15	it's not an issue of hindsight. If we're reviewing	11:02:43
16	present art for the purpose of analyzing present	11:02:48
17	art, it's not hindsight.	11:02:51
18	Q What if we're reviewing prior art for the	11:02:55
19	purposes of determining whether a limitation in a	11:02:59
20	claim of the '974 patent is obvious or not?	11:03:05
21	A Repeat that question.	11:03:14
22	Q What if we're reviewing prior art for the	11:03:17

1	purpose of determining whether a limitation in a	11:03:21
2	claim of the '974 patent is obvious or not?	11:03:23
3	A That would be hindsight.	11:03:27
4	Q So any time you look at prior art to	11:04:00
5	determine whether a limitation in a claim of a later	11:04:03
6	patent may be obvious, that's hindsight?	11:04:06
7	A Yeah.	11:04:10
8	Q So in your view, you can't use prior art	11:04:13
9	to make an obviousness determination?	11:04:16
10	A I'm sorry, I'm getting confused.	11:04:20
11	MR. LUMAN: I'm not sure if you heard what	11:04:45
12	the witness just said.	11:04:52
13	MR. HUGHES: I did not hear his last	11:04:57
14	answer. I'll ask the question again.	11:04:59
15	MR. LUMAN: Yeah.	11:05:01
16	BY MR. HUGHES:	11:05:02
17	Q So I previously asked you and I said any	11:05:02
18	time you look at prior art to determine whether a	11:05:05
19	limitation in a claim of a later patent may be	11:05:08
20	obvious, that's hindsight, and you replied "Yeah."	11:05:12
21	And I then asked, and this is my question, "So in	11:05:17
22	your view, you can't use prior art to make an	11:05:21

1	obviousness determination?"	11:05:24
2	A Of what?	11:05:31
3	Q Of whether a limitation in a later patent	11:05:33
4	is obvious.	11:05:38
5	A Sorry, give me a moment.	11:06:18
6	Can you give me an example of the	11:06:42
7	question?	11:06:44
8	Q Well, what I'm trying to understand you	11:06:53
9	said that any time you look at prior art to	11:06:56
10	determine whether a limitation in a patent is	11:07:00
11	obvious, that's using hindsight. Do you agree with	11:07:02
12	that now or do you want to change your answer there?	11:07:07
13	MR. LUMAN: Objection to form.	11:07:11
14	A Okay. I stated that obviousness should	11:07:26
15	not be analyzed using the benefit of hindsight.	11:07:30
16	Q And if I look at prior art references, so	11:07:37
17	references that are -- you know, come before the	11:07:41
18	filing date of a patent, in determining whether a	11:07:43
19	claim of that patent may be obvious, is that	11:07:48
20	hindsight?	11:07:51
21	A Well, we shouldn't be using prior	11:07:58
22	claims -- we shouldn't be using prior claims to	11:08:02

1	determine -- repeat the question one more time.	11:08:05
2	Q Okay. If we're looking at prior art	11:09:05
3	references in determining whether a claim of a	11:09:12
4	patent may be obvious, is that hindsight?	11:09:15
5	A Yes.	11:09:35
6	Q And in your view, that's improper,	11:09:37
7	correct?	11:09:39
8	A Correct.	11:09:40
9	Q Have you reviewed any decisions where the	11:09:41
10	PTAB addressed hindsight?	11:10:43
11	A No.	11:10:46
12	Q What about any district court or other	11:10:46
13	decisions where hindsight was addressed?	11:10:52
14	A No.	11:10:54
15	Q Now, you do understand that claims can be	11:10:55
16	found obvious over combinations of prior art	11:11:26
17	references, correct?	11:11:29
18	A Want to repeat that, please?	11:11:40
19	Q I said you do understand that claims of a	11:11:43
20	patent may be found obvious over combinations of	11:11:46
21	prior art references, correct?	11:11:50
22	A Not necessarily, no.	11:12:35

1	Q	So can claims of a patent be found obvious	11:12:37
2		over a combination of prior art references?	11:12:45
3	MR. LUMAN:	Objection to form.	11:12:55
4	A	Repeat the question.	11:12:59
5	Q	Can claims of a patent be found obvious	11:13:01
6		over a combination of prior art references?	11:13:04
7	A	How does that differ from the previous	11:13:19
8		question?	11:13:22
9	Q	Which question -- so your answer to one	11:13:30
10		question was "Not necessarily, no."	11:13:32
11	A	It's the same question, isn't it?	11:13:36
12	Q	So is your answer, then, claims of a	11:13:39
13		patent cannot be found obvious over a combination of	11:13:42
14		prior art references?	11:13:46
15	MR. LUMAN:	Objection to form.	11:13:47
16	A	Same answer, no.	11:14:01
17	Q	No, they cannot be found obvious over a	11:14:06
18		combination of prior art references?	11:14:09
19	A	It depends on the -- I guess the answer I	11:14:13
20		have to give you is no at the present time,	11:14:17
21		depending upon the situation.	11:14:19
22	Q	What do you mean depending upon the	11:14:24

Transcript of Bernard Kahn
Conducted on July 9, 2025

51

1	situation?	11:14:25
2	A The answer is no.	11:14:26
3	Q Okay. Can we go to paragraph 24 of your	11:14:31
4	declaration, and in the third sentence there do you	11:14:35
5	see where you mention some things --	11:14:45
6	MR. LUMAN: Sorry to interrupt -- sorry to	11:14:47
7	interrupt, but you're welcome to read all of	11:14:49
8	paragraph 24, 25, but he's going to direct you to a	11:14:53
9	particular sentence.	11:14:56
10	THE WITNESS: Mm-hmm.	11:14:58
11	MR. LUMAN: Go ahead, Scott. Sorry.	11:15:02
12	Q Yeah. Let me know when you've read	11:15:05
13	paragraph 24.	11:15:08
14	A Okay.	11:15:12
15	Q Have you read it?	11:15:44
16	A One moment.	11:15:45
17	Q Okay.	11:15:47
18	A Okay. What's your question?	11:16:52
19	Q Okay. Do you see in towards the middle of	11:16:54
20	that, I think it's the third sentence, you stated	11:16:57
21	that your -- "In considering whether a claim is	11:17:01
22	obvious, I have been asked to consider," and then it	11:17:06

PLANET DEPOS

888.433.3767 | WWW.PLANETDEPOS.COM

Tommy John EX1011
Tommy John v. Pakage Apparel
IPR2024-01163

1	lists out A, B, C and D. Do you see that?	11:17:09
2	A Yeah, mm-hmm, yes.	11:17:13
3	Q And D is secondary factors related to	11:17:15
4	obviousness, correct?	11:17:19
5	A Yes.	11:17:21
6	Q And you list some examples here?	11:17:21
7	A Correct.	11:17:26
8	Q And those include "commercial success,	11:17:27
9	long-felt but unresolved need, failure of others,	11:17:32
10	copying, praise by others, unexpected results, and	11:17:38
11	simultaneous invention by others." Is that right?	11:17:43
12	A Yeah.	11:17:47
13	Q And so are there any other secondary	11:17:47
14	factors that are related to obviousness?	11:17:51
15	A It doesn't come to my mind.	11:17:53
16	Q And in your declaration you did not opine	11:17:56
17	on any secondary factors, did you?	11:17:59
18	A Say that again.	11:18:05
19	Q In your declaration you did not opine on	11:18:06
20	any secondary factors, did you?	11:18:10
21	A Define "secondary factors."	11:18:13
22	Q I believe you defined it right here in	11:18:20

1	your declaration.	11:18:23
2	A No.	11:18:31
3	Q Okay. So to be clear, you did not offer	11:18:32
4	an opinion on any secondary factors in your	11:18:39
5	declaration, correct?	11:18:44
6	A I would have to double-check on that. In	11:18:46
7	other words, in my declaration there are references	11:19:00
8	to things that are not in the patent, if that's the	11:19:04
9	question you're asking me.	11:19:07
10	Q No. So you've offered a definition of	11:19:10
11	secondary factors here and you gave some examples.	11:19:13
12	I'm asking whether you've opined on any of those in	11:19:17
13	your declaration. Let's start with, you know, do	11:19:19
14	you discuss commercial success in your declaration?	11:19:24
15	A No.	11:19:27
16	Q And you don't offer an opinion on long	11:19:27
17	felt but unresolved need, correct?	11:19:30
18	A In reference to what?	11:19:35
19	Q In your declaration anywhere.	11:19:54
20	A I believe in my overview there may be.	11:20:10
21	Q Overview of what?	11:20:13
22	A In my overview of '974.	11:20:16

1	Q	And can you show me or point to anything	11:20:21
2	--	you can take your time and read your declaration.	11:20:31
3		Can you show me where in your overview of the '974	11:20:33
4		you discuss any of these factors?	11:20:38
5	A	Aside from a reference to the comfort of	11:21:47
6		the '974 patent, I think that's it, page 13,	11:21:50
7		paragraph 34.	11:21:57
8	Q	And what factor would comfort apply to?	11:22:07
9	A	Actually, no, I guess not. It's an	11:22:36
10		expected result, not an unexpected result, so the	11:22:39
11		answer is no.	11:22:43
12	MR. LUMAN:	Counsel, when you find a good	11:22:50
13		breaking point, we have been going for about an hour	11:22:53
14		and 15.	11:22:56
15	MR. HUGHES:	Yeah, we can break now if	11:22:57
16		you'd like.	11:22:59
17	MR. LUMAN:	Okay.	11:22:59
18	THE VIDEOGRAPHER:	Stand by. We're going	11:23:00
19		off the record. The time on the video monitor is	11:23:01
20		11:23 a.m.	11:23:04
21		(Recess 11:23 a.m. - 11:40 a.m.)	11:23:06
22	THE VIDEOGRAPHER:	We're back on the	11:40:54

Transcript of Bernard Kahn
Conducted on July 9, 2025

55

1	record. The time on the video monitor is 11:41 a.m.	11:40:55
2	BY MR. HUGHES:	11:41:10
3	Q Mr. Kahn, on the break did you discuss	11:41:10
4	anything with your counsel?	11:41:15
5	A Yes, we did.	11:41:16
6	Q Anything about this matter?	11:41:17
7	MR. LUMAN: Counsel, I'm going to instruct	11:41:18
8	him not to answer.	11:41:20
9	Q If you discussed -- Mr. Kahn, did you	11:41:23
10	discuss the substance of your testimony today with	11:41:26
11	counsel on the break?	11:41:29
12	MR. LUMAN: I'm going to instruct him not	11:41:35
13	to answer on that as well.	11:41:37
14	Q Mr. Kahn, did you discuss any of your	11:41:39
15	answers that you've given during today with counsel	11:41:42
16	during the break?	11:41:46
17	MR. LUMAN: Again, I'm going to instruct	11:41:47
18	him not to answer any questions regarding what was	11:41:50
19	discussed on the break.	11:41:56
20	MR. HUGHES: Well, so, counsel, we're	11:41:58
21	entitled to know if you've discussed his testimony	11:42:00
22	or the substance of his testimony or coached him in	11:42:05

PLANET DEPOS

888.433.3767 | WWW.PLANETDEPOS.COM

Tommy John EX1011
Tommy John v. Pakage Apparel
IPR2024-01163

1	any way for this deposition --	11:42:08
2	MR. LUMAN: I did not coach him in any way	11:42:10
3	whatsoever, and you're not allowed -- actually,	11:42:12
4	you're not allowed to have that.	11:42:13
5	MR. HUGHES: All right. Well --	11:42:16
6	MR. LUMAN: Counsel, you didn't get it --	11:42:17
7	I didn't get it in your depo; you're not getting it	11:42:19
8	in mine.	11:42:22
9	BY MR. HUGHES:	11:42:26
10	Q So I'll ask one more time. Did you	11:42:26
11	discuss the substance of your testimony that you've	11:42:29
12	given today with counsel during the break?	11:42:31
13	MR. LUMAN: And I'll instruct the witness	11:42:33
14	not to answer.	11:42:35
15	Q Are you going to follow your counsel's	11:42:37
16	advice?	11:42:39
17	A Yes.	11:42:40
18	Q Okay. So let's go back -- you still have	11:42:41
19	your declaration in front of you, correct, Mr. Kahn?	11:42:56
20	A Yes, I do.	11:42:59
21	Q Okay. Can we go back to paragraph 25, and	11:43:01
22	I think let's -- let's turn the page and go to the	11:43:06

1	part of paragraph 25 on page 9. Let me know when	11:43:11
2	you're there.	11:43:20
3	A Okay.	11:43:22
4	Q Okay. And the first full sentence on that	11:43:23
5	page, it starts with "I understand that"?	11:43:28
6	A There are several sentences that begin	11:43:34
7	that way --	11:43:36
8	Q The first full sentence. I think it's	11:43:37
9	being highlighted on the screen for you, if that	11:43:39
10	helps. And you say, "I can consider whether market	11:43:42
11	forces or other design incentives might have	11:43:45
12	prompted the particular combination claimed in the	11:43:49
13	patent." Do you see that?	11:43:51
14	A Okay. Yes.	11:43:53
15	Q What do you mean by "the particular	11:43:54
16	combination claimed in the patent"?	11:43:56
17	A Market forces or other design incentives	11:44:41
18	are just outside influences.	11:44:46
19	Q My question was what do you mean by "the	11:44:47
20	particular combination claimed in the patent"?	11:44:51
21	A What's defined in claim 1.	11:45:01
22	Q So, okay, so the combination claimed in	11:45:05

1	the patent is all of the elements of the claim?	11:45:08
2	A Yes.	11:45:12
3	Q Okay. And what market forces did you	11:45:13
4	consider here?	11:45:17
5	A The statement is "I can consider whether	11:45:32
6	market forces or other design incentives might have	11:45:35
7	prompted the particular combination claimed in the	11:45:38
8	patent." I didn't specify what market forces.	11:45:42
9	Q Did you consider any market forces?	11:45:44
10	A If you read the rest of my declaration,	11:45:46
11	there weren't any stated.	11:45:55
12	Q Okay. And if we go to the next sentence,	11:45:59
13	you say, "I understand that I may also consider	11:46:18
14	whether the combination simply achieved a	11:46:22
15	predictable result by using prior art elements	11:46:25
16	according to their known functions." Do you see	11:46:29
17	that?	11:46:34
18	A Yes.	11:46:34
19	Q And is the combination you're referring to	11:46:34
20	there again the elements of the claim?	11:46:41
21	A That's referring to the -- yes.	11:46:48
22	Q Okay. If a combination achieved a	11:46:53

1	predictable result using prior art elements	11:47:05
2	according to their known functions, does that weigh	11:47:08
3	against finding that challenged claim obvious?	11:47:12
4	A It doesn't reference prior art -- I mean,	11:47:50
5	it doesn't reference obviousness here.	11:47:53
6	Q This section is about things you can	11:47:59
7	consider in your obviousness determinations, isn't	11:48:02
8	it?	11:48:05
9	A So ask me the question.	11:48:06
10	Q Well, it -- just to make sure we're all on	11:48:16
11	the same page, this -- this section of your	11:48:19
12	declaration is about things you can consider when	11:48:21
13	making your determinations with respect to	11:48:24
14	obviousness, correct?	11:48:27
15	A Correct.	11:48:29
16	Q And here you say you can consider whether	11:48:31
17	the combination simply achieved a predictable result	11:48:34
18	by using prior art elements according to their known	11:48:40
19	functions, right?	11:48:43
20	A I said, "I understand I may also consider	11:48:46
21	whether the combination simply achieved a	11:48:48
22	predictable result by using prior art elements	11:48:51

1 according to the known functions," yes.

11:48:54

2 Q So if a combination simply achieved a
3 predictable result by using prior art elements
4 according to their known functions, would that weigh
5 for or against a finding of obviousness?

11:48:57

11:49:00

11:49:03

11:49:06

6 A The question you're asking is whether a
7 current -- the current design has to rely on prior
8 art in order to achieve its results. It's not
9 the -- it's not the statement here.

11:49:38

11:49:42

11:49:49

11:49:54

10 Q No. So I read -- I'll ask the question
11 again. And I'm reading the statement exactly from
12 your declaration. Okay? If the combination simply
13 achieved a predictable result by using prior art
14 elements according to their known functions, does
15 that weigh for or against a finding of obviousness?

11:49:59

11:50:04

11:50:07

11:50:12

11:50:16

11:50:20

16 A The combination doesn't rely on prior art
17 elements in order to achieve their known function.

11:51:06

11:51:10

18 Q Which combination are you referring to?

11:51:23

19 A The combination of elements in the '974
20 patent.

11:51:27

11:51:35

21 Q So when you wrote your -- when you say the
22 combination here in this paragraph, are you

11:51:35

11:51:37

1	referring specifically to the '974 patent?	11:51:40
2	A Yeah, and I'm stating that I would	11:51:48
3	consider it. I didn't necessarily make a	11:51:55
4	determination one way or the other at this point.	11:51:57
5	MR. LUMAN: Are you all still there?	11:53:03
6	MR. HUGHES: What was that?	11:53:08
7	MR. LUMAN: Have you all asked a question	11:53:08
8	in the last two minutes? I haven't heard anything.	11:53:10
9	MR. HUGHES: There's no question pending	11:53:13
10	right now. I'm reviewing something.	11:53:15
11	BY MR. HUGHES:	11:53:22
12	Q So in this section that you wrote on the	11:53:23
13	legal standards of nonobviousness, you're saying	11:53:25
14	that where you refer to a combination, you had in	11:53:30
15	mind the particular combination of elements in the	11:53:34
16	claims of the '974 patent?	11:53:39
17	MR. LUMAN: Objection to form.	11:53:42
18	A I'm sorry, say that as a question.	11:53:44
19	Q I'm trying to understand your legal	11:53:47
20	section here, because I think you just answered that	11:53:50
21	where you said "combination" in the sentence we were	11:53:53
22	talking about, you specifically meant the	11:53:56

1	combination of elements in the claims of the '974	11:53:58
2	patent. Is that -- is that correct? Or did I	11:54:03
3	misunderstand you?	11:54:06
4	A Frankly, it's in addressing obviousness	11:54:07
5	that I can consider whether any combination achieved	11:54:19
6	predictable results.	11:54:23
7	Q And when you say combination, do you mean,	11:54:26
8	you know, is this general for any patent? So, for	11:54:30
9	example, is this section relating to just	11:54:33
10	obviousness in general and not specific to just one	11:54:35
11	patent?	11:54:39
12	A Correct.	11:54:39
13	Q So, again, let me -- let me go back and	11:54:41
14	ask my question again.	11:54:45
15	You say that you can consider whether the	11:54:46
16	combination simply achieved a predictable result by	11:54:52
17	using prior art elements according to their known	11:54:56
18	functions, correct?	11:54:58
19	A That's something I could consider, yes.	11:55:00
20	Q And if something -- a combination, so if	11:55:04
21	claim elements did just use prior art elements	11:55:08
22	according to their known functions to achieve a	11:55:13

1	predictable result, would that weigh in favor of	11:55:16
2	finding the claim obvious?	11:55:21
3	A That's making a presumption that I haven't	11:55:24
4	made here.	11:55:27
5	Q So this is just something you would	11:55:30
6	consider. But if it did that, if the prior art	11:55:33
7	combination did that, you're not sure if that would	11:55:36
8	weigh for or against a finding of obviousness?	11:55:40
9	A I haven't made that determination in this	11:55:44
10	statement, no.	11:55:46
11	Q Okay. Let's go to paragraph 26, and if	11:55:59
12	you want to go ahead and take a minute to read that	11:56:26
13	paragraph.	11:56:28
14	A Now, what's the question?	11:57:15
15	Q Let's take a look at the first sentence	11:57:17
16	there. It says, "Also, I understand that I should	11:57:20
17	consider whether the claimed combination applies a	11:57:24
18	known technique that had been used to improve	11:57:27
19	similar devices in a similar way." Do you see that?	11:57:30
20	A Mm-hmm, yes.	11:57:34
21	Q Can you explain what this means?	11:57:36
22	A Exactly what it states, I understand I	11:57:43

1	should consider whether the claimed combination	11:57:46
2	applies a known technique that's been used to	11:57:48
3	improve similar devices in a similar way.	11:57:52
4	Q And the claims --	11:57:57
5	(Simultaneous speaking.)	11:57:57
6	A I'm sorry?	11:57:57
7	Q And the claimed combination is, again, the	11:57:58
8	elements of the claim in a patent being challenged?	11:58:01
9	A Correct.	11:58:04
10	Q So if something -- if the claim elements	11:58:06
11	or the claimed combination applies a known technique	11:58:10
12	that have been known to improve similar devices in a	11:58:14
13	similar way, does that mean that the claim is not	11:58:19
14	obvious?	11:58:21
15	A I'm just stating here what I would use as	11:58:23
16	a consideration about obviousness, not drawing any	11:58:27
17	conclusion.	11:58:30
18	Q So you're considering these things, but if	11:58:31
19	something were to apply a known technique used to	11:58:34
20	improve similar devices in a similar way, you don't	11:58:38
21	know whether that would mean the claim limitation is	11:58:42
22	obvious or not?	11:58:45

1	A	I wouldn't make that determination based	11:58:46
2		on the statement.	11:58:50
3	Q	Would it influence your determination in	11:58:53
4		any way?	11:58:56
5	A	I would consider it.	11:58:56
6	Q	And how would you consider it?	11:59:03
7	A	I would need to evaluate the information	11:59:06
8		related to the claim and the claim combination and	11:59:11
9		determine whether or not it's bearing here.	11:59:15
10	Q	Okay. Also, let's stay in the same	11:59:34
11		paragraph here, I would like to understand what you	11:59:42
12		mean by the next sentence as well. That says, "I	11:59:45
13		understand that I may also consider whether the	11:59:48
14		claimed invention would have been obvious to try,	11:59:50
15		meaning that the claimed invention was one of a	11:59:53
16		relatively small number of possible approaches to	11:59:55
17		the problem with a reasonable expectation of success	11:59:59
18		by those of ordinary skill in the art." Do you see	12:00:02
19		that?	12:00:08
20	A	Mm-hmm, yup.	12:00:08
21	Q	And what does it mean for a claim element	12:00:11
22		to be directed to what is just one of a small number	12:00:15

1	of possible approaches?	12:00:19
2	A It's self-explanatory. If a claim	12:00:40
3	innovation was one of a relatively small number of	12:00:44
4	possible approaches to the problem with a reasonable	12:00:46
5	expectation of success by those of ordinary skill, I	12:00:48
6	would consider it.	12:00:52
7	Q Okay. So if a claim let's say recited one	12:00:55
8	of three possible approaches to a problem, would	12:01:01
9	that then be obvious?	12:01:04
10	A I wouldn't make that determination at this	12:01:07
11	point. I would have to evaluate it. I'm saying	12:01:09
12	here it's something I would consider.	12:01:16
13	Q What does it mean to be obvious to try?	12:01:21
14	A In terms of obvious to try, it would have	12:01:58
15	to mean that it would be clear in understanding.	12:02:01
16	Q What would have to be clear?	12:02:19
17	A Whatever the point is.	12:02:22
18	Q So if there's just a couple, two to three	12:02:30
19	known approaches to a problem, it would be obvious	12:02:36
20	to try each of those known approaches, right?	12:02:41
21	A It's something I would consider.	12:02:46
22	Q So if there's just two well-known	12:02:59

1	approaches to something, and the claim recites one	12:03:02
2	of them, would it be obvious to try the other?	12:03:07
3	A That's something I would have to consider.	12:03:10
4	Q Okay. And can you turn -- I'd like to go	12:03:24
5	over the materials you considered in forming your	12:03:35
6	declaration. I believe that's at the very back of	12:03:38
7	it on pages 59 and 60.	12:03:40
8	A Mm-hmm.	12:03:44
9	Q This is a listing of those materials you	12:03:45
10	considered before giving or providing your	12:03:55
11	declaration, correct?	12:03:58
12	A Yeah.	12:03:59
13	Q I'd like to -- do you see Exhibit 2011 is	12:04:04
14	mentioned there, the last one?	12:04:09
15	A Yeah.	12:04:35
16	Q So what is that exhibit?	12:04:38
17	A Hammond Development International, Inc.	12:04:43
18	versus Amazon.com, Inc., et al.	12:04:46
19	Q And do you recall what that exhibit is?	12:04:49
20	A It's one I chose not to actually dive	12:04:52
21	into.	12:04:56
22	Q Did you consider that exhibit, though?	12:04:57

Transcript of Bernard Kahn
Conducted on July 9, 2025

68

1	A	I knew it was available.	12:04:59
2	Q	Did you review it?	12:05:01
3	A	No.	12:05:03
4	Q	Do you know what it is?	12:05:04
5	A	I didn't review it.	12:05:08
6	Q	Okay. And you also list here Exhibit	12:05:11
7		2003, U.S. Pub. Number 2009/0106874. That's	12:05:19
8		something else you considered?	12:05:29
9	A	That was also something available that I	12:05:30
10		didn't dive into.	12:05:37
11	Q	So when you say -- did you ever look at	12:05:39
12		it?	12:05:42
13	A	No. I knew it was available.	12:05:46
14	Q	But you've never -- you've never seen that	12:05:48
15		before?	12:05:52
16	A	It wasn't necessary, no.	12:05:52
17	Q	But your declaration here states that you	12:05:55
18		considered it.	12:05:58
19	A	I considered that --	12:05:59
20		(Simultaneous speaking.)	12:05:59
21	Q	Was that incorrect?	12:06:01
22	A	I considered that it was available.	12:06:02

PLANET DEPOS

888.433.3767 | WWW.PLANETDEPOS.COM

Tommy John EX1011
Tommy John v. Pakage Apparel
IPR2024-01163

1	Q	Okay. So where you say "Materials	12:06:13
2		Considered," that doesn't mean you've actually	12:06:16
3		looked at and reviewed all of these exhibits. Is	12:06:19
4		that correct?	12:06:24
5	A	That's correct.	12:06:24
6	Q	So some of these, in fact, you didn't	12:06:24
7		consider. You just knew that they were available if	12:06:27
8		you wanted them?	12:06:29
9	A	Yeah, decided that they weren't necessary	12:06:30
10		for my analysis.	12:06:33
11	Q	And how did you decide that? For example,	12:06:35
12		this exhibit, which is in parentheses here called	12:06:37
13		"Shlush," how did you determine that this was not	12:06:46
14		necessary for your analysis?	12:06:50
15	A	Because I analyzed all of the documents	12:06:51
16		that I needed to.	12:06:54
17	Q	And without even looking at this, you were	12:06:55
18		able to determine you don't need to look at it?	12:06:59
19	A	There was nothing in my analysis that	12:07:01
20		required it.	12:07:03
21	Q	Okay. I would like to now introduce	12:07:04
22		Exhibit 2014, which is a copy of your CV.	12:07:17

1	MR. HUGHES: And, again, Mr. Luman, if you	12:07:22
2	have a copy of that and the witness doesn't have it,	12:07:24
3	feel free to give it to him.	12:07:27
4	MR. LUMAN: Yeah, he's got it.	12:07:29
5	Q Okay. And can you review that and make	12:07:31
6	sure that it's a complete and accurate copy of your	12:07:43
7	CV that you submitted with your declaration?	12:07:46
8	A Okay.	12:08:18
9	Q And is this a complete and accurate copy	12:08:19
10	of your CV?	12:08:21
11	A It is.	12:08:23
12	Q Did you prepare this CV for this	12:08:26
13	proceeding?	12:08:29
14	A No. This is one of my general CVs.	12:08:31
15	Q Okay. And so you provide this CV for	12:08:35
16	other of your consulting work as well?	12:08:40
17	A That's correct.	12:08:42
18	Q Now, where do you currently work,	12:08:44
19	Mr. Kahn?	12:08:51
20	A Well, full-time employment is the Fashion	12:08:51
21	Institute of Technology. I'm also an adjunct	12:08:57
22	instructor at the Fashion Institute of Technology	12:09:00

1	and an adjunct instructor at Parsons.	12:09:01
2	Q And what is Parsons?	12:09:07
3	A Parsons is a fashion college in The New	12:09:10
4	School.	12:09:15
5	Q And is that The New School for design?	12:09:17
6	A It is.	12:09:21
7	Q Okay. And that's in New York City?	12:09:23
8	A Correct.	12:09:24
9	Q On the -- if we can go back to the first	12:09:30
10	page of your CV, you've got -- and we can kind of	12:09:33
11	look through a couple pages here, you've got kind of	12:09:38
12	some bold I guess headings to sections like	12:09:41
13	Production Management, Garment Engineering.	12:09:44
14	A Mm-hmm.	12:09:47
15	Q These aren't particular positions you've	12:09:47
16	held, correct?	12:09:50
17	A Correct. This -- this CV is written from	12:09:51
18	a skills and talents point of view rather than from	12:09:55
19	an individual employment point of view. The	12:10:00
20	employments are listed at the back, I believe.	12:10:03
21	Q So these are kind of overviews of your	12:10:05
22	experience for different consulting work?	12:10:09

1	A	That's correct, and employment.	12:10:11
2	Q	Okay. If we look at the first one,	12:10:15
3		Production Management, what is production	12:10:18
4		management?	12:10:21
5	A	Production management is just what it says	12:10:21
6		in terms of managing the operations of	12:10:27
7		manufacturing.	12:10:30
8	Q	Okay. And under the first bullet point	12:10:34
9		there you mention -- I may get the name incorrect --	12:10:36
10		but Marico Enterprises?	12:10:42
11	A	Correct.	12:10:45
12	Q	Or Marico Enterprises. Who are they?	12:10:45
13	A	They were a bedding company.	12:10:50
14	Q	I'm sorry, did you say a "bedding" or --	12:10:56
15	A	Bedding, you know, in other words, sheets,	12:10:58
16		mattress pads, comforters --	12:11:00
17	Q	Okay.	12:11:00
18	A	-- and manufactured them in Nanuet, New	12:11:01
19		York.	12:11:06
20	Q	And when did you do that work for them?	12:11:06
21	A	That was 1983.	12:11:23
22	Q	Okay. And the next bullet is Feldman	12:11:28

1	Manufacturing?	12:11:32
2	A Mm-hmm.	12:11:33
3	Q What did they do?	12:11:34
4	A They manufacture swimwear.	12:11:36
5	Q And you assisted them on -- on what?	12:11:41
6	A Improving their manufacturing techniques	12:11:46
7	and did workforce development.	12:11:49
8	Q Were you designing any swimsuits for them?	12:11:54
9	A No. Just engineering.	12:11:58
10	Q Engineering the production equipment?	12:12:03
11	A Engineering the production equipment, no.	12:12:06
12	Engineering the processes and the techniques.	12:12:08
13	Q Okay. If we go to, let's see, let's go to	12:12:15
14	the next page, there's another heading here	12:12:25
15	Management Information Systems. Do you see that?	12:12:33
16	A Yup.	12:12:35
17	Q Does that involve the design of garments?	12:12:37
18	A Management information systems is digital	12:12:42
19	systems that are used to manage the data involved in	12:12:48
20	the manufacturing process.	12:12:51
21	Q So it's not actually designing or	12:12:53
22	manufacturing garments themselves. Is that fair?	12:12:56

1	A	Correct.	12:12:59
2	Q	And then let's just go through these, you	12:13:00
3		know. The next one is Resource Management?	12:13:05
4	A	Mm-hmm.	12:13:09
5	Q	Can you explain what that is?	12:13:10
6	A	Helping companies find ways to improve	12:13:11
7		their sourcing processes and/or finding new sources.	12:13:15
8	Q	Okay. And does that involve the design or	12:13:21
9		manufacturing of any garments?	12:13:26
10	A	That was support to the design and	12:13:31
11		manufacturing, yes. Feldman was a swimwear company.	12:13:33
12		Burney was home furnishings.	12:13:36
13	Q	And they would be the ones actually	12:13:41
14		designing the garments that they're making, correct?	12:13:44
15	A	Correct.	12:13:46
16	Q	So you were assisting them on getting the	12:13:48
17		resources they would need to do that?	12:13:51
18	A	Correct. And also -- in some cases also	12:13:53
19		overseeing the manufacturing.	12:14:00
20	Q	And next one is Cost Management, can you	12:14:06
21		explain what that is?	12:14:11
22	A	Developing techniques for the company to	12:14:13

1	reduce costs.	12:14:18
2	Q And this was also part of your consulting	12:14:20
3	work or was this part of your work as a professor?	12:14:22
4	A Consulting work.	12:14:26
5	Q And do you remember the time period that	12:14:28
6	you did this?	12:14:31
7	A This is in the early 1980s.	12:14:33
8	Q Did you do any consulting work in the	12:15:20
9	2000s?	12:15:24
10	A I did less consulting work in the 2000s,	12:15:28
11	so I was directly employed for more of that time.	12:15:38
12	My clients were smaller companies.	12:15:42
13	Q And where were you directly employed?	12:15:45
14	A Fashion Institute of Technology, that was	12:15:49
15	starting 2000 -- well, it was 13 years spanning	12:15:54
16	across the '90s and then continuously starting 2004.	12:15:59
17	Q So since 2004 you have not done any	12:16:04
18	consulting work. Is that correct?	12:16:08
19	A I've done some.	12:16:10
20	Q And is any of that listed here?	12:16:16
21	A Oh, of course, a lot of small companies,	12:16:24
22	so just small start-ups. But there was one large	12:17:11

1	project for a company from 2007 to 2010.	12:17:15
2	Q Okay.	12:17:23
3	A And since then it's been for small	12:17:30
4	start-ups.	12:17:33
5	Q Okay. Does any of the consulting you've	12:17:36
6	listed here relate to patent matters?	12:17:56
7	A Aside from the previously mentioned patent	12:17:59
8	analysis for Ferrarini and Kiini, no.	12:18:10
9	Q Is that analysis listed in your CV	12:18:14
10	anywhere?	12:18:17
11	A It should be here somewhere. It might be.	12:18:17
12	Maybe not. This particular CV is aimed at industry,	12:18:24
13	so it may not be in here. Yeah, I don't think so.	12:18:32
14	Q Do you have a different CV that's aimed at	12:18:40
15	work you've done on patent matters?	12:18:45
16	A I do that little amount of work on patent	12:18:48
17	matters that I don't seek work in that area. People	12:18:52
18	seek me.	12:18:57
19	Q Okay. Is any of this consulting related	12:18:58
20	to any litigations in general?	12:19:06
21	A Other than what we've mentioned, no.	12:19:14
22	Q So you've never been retained as, for	12:19:17

1 example, an expert witness in any other litigation 12:19:21
2 besides the one -- the patent matter you mentioned? 12:19:24

3 A No, as I mentioned, there were several 12:19:27
4 companies that asked for analyses in support of 12:19:30
5 their legal work, but that's all. 12:19:33

6 Q And those were all patent matters? 12:19:36

7 A I believe they were, yeah. 12:19:39

8 Q Okay. If we can go now to -- back to your 12:19:43
9 declaration, please, Exhibit 2013. And if you can 12:19:52
10 turn to page 10 of your declaration, Exhibit -- 12:20:02
11 which was Exhibit 2013. 12:20:08

12 A Okay. 12:20:17

13 Q And do you see in the middle here you have 12:20:19
14 a section called "Person of Ordinary Skill in the 12:20:24
15 Art and Claim Construction"? 12:20:29

16 A Yes. 12:20:30

17 Q And paragraph 28, and it's up on the 12:20:31
18 screen in larger text as well. 12:20:39

19 MR. HUGHES: I don't know if we can move 12:20:40
20 it so he can see the whole paragraph, please. Thank 12:20:42
21 you. 12:20:52

22 Q You state here, "In my opinion, the claim 12:20:53

1	terms of Claims 1 to 13 and 15 to 16 of the '974	12:20:56
2	patent do not require any claim construction." Is	12:21:02
3	that right?	12:21:06
4	A Mm-hmm.	12:21:06
5	Q And you state, "My analyses use the plain	12:21:07
6	and ordinary meaning of the claim terms," correct?	12:21:12
7	A Correct.	12:21:16
8	Q Now, right after that, if we stay on page	12:21:18
9	10, you have a section that gives an overview of the	12:21:21
10	'974 patent, right?	12:21:24
11	A Yes.	12:21:29
12	Q And I'd like to talk about that a little	12:21:30
13	bit, the '974. So the first sentence of this	12:21:35
14	section says, "The '974 patent is for a form of	12:21:41
15	men's undergarment," right?	12:21:45
16	A Yeah.	12:21:48
17	Q You agree with that, that the '974 is	12:21:48
18	directed to men's underwear. Is that fair?	12:21:52
19	A Yeah.	12:21:57
20	Q And paragraphs, just if we look a little	12:21:57
21	bit, 31 and 33, for example, you can take a quick	12:22:00
22	look at those, you know, they refer to undershorts.	12:22:05

1	A	Mm-hmm.	12:22:10
2	Q	And paragraph 35, I believe, also mentions	12:22:11
3		undershorts, correct?	12:22:18
4	A	Yeah.	12:22:19
5	Q	So in your opinion, the '974 patent is	12:22:20
6		generally directed to undergarments or undershorts.	12:22:30
7		Is that correct?	12:22:33
8	A	That is correct.	12:22:34
9	Q	Okay. Now, when we were talking about	12:22:38
10		claim construction here, you stated that you use the	12:22:43
11		plain and ordinary meaning of the claim terms.	12:22:46
12		If we can bring up Exhibit 1001, the '974	12:22:49
13		patent. And do you have a copy of that in front of	12:22:56
14		you, Mr. Kahn?	12:23:08
15	A	Yes, I do.	12:23:09
16	Q	And let's go to claim 1 of the '974	12:23:10
17		patent, and this is in column 8 towards the end.	12:23:17
18		Let me know when you're there.	12:23:31
19	A	I am.	12:23:34
20	Q	So do you see the claim starts by stating	12:23:34
21		"A male garment comprising"?	12:23:40
22	A	Yeah.	12:23:43

1	Q	What is the plain and ordinary meaning	12:23:44
2		that you gave to the term "male garment"?	12:23:48
3	MR. LUMAN:	Objection to form.	12:23:54
4		To the extent you need to read the patent	12:23:57
5		to answer any of his subsequent questions, read the	12:23:59
6		patent.	12:24:02
7	A	Yeah, I understand that in my section	12:24:03
8		called Overview of the '974 Patent, I am expressing	12:24:12
9		a clear understanding of what the '974 patent is.	12:24:15
10		I'm not quoting it directly in the entirety.	12:24:19
11	Q	I understand that on the overview. I was	12:24:25
12		asking, you know, you stated in the claim	12:24:29
13		construction section that you gave -- that your	12:24:32
14		analyses used the plain and ordinary meaning of the	12:24:36
15		claim terms.	12:24:39
16	A	Yeah, I'm not understanding the question	12:24:42
17		here.	12:24:44
18	Q	What plain and ordinary meaning did you	12:24:45
19		give to the term "male garment"?	12:24:48
20	A	In the context of the rest of the	12:24:55
21		description of the claim, the understanding is that	12:24:59
22		this would be an undergarment, but may not actually	12:25:05

1	necessarily be. If you want to wear your underwear	12:25:09
2	on the outside, I guess you probably could.	12:25:13
3	Q Okay. So the claim "male garment" here	12:25:15
4	wouldn't have to be limited to undergarments. Is	12:25:18
5	that fair?	12:25:22
6	A In the context of the rest of the claim,	12:25:23
7	it's an understanding.	12:25:29
8	Q Could it be regular shorts worn over	12:25:32
9	underwear?	12:25:36
10	MR. LUMAN: Objection to form.	12:25:39
11	A Why would you ask that question?	12:25:45
12	Q Do you have an answer for it?	12:25:47
13	A In the context of the claim, the	12:25:54
14	understanding would be that it would be undershorts,	12:25:58
15	but it's not -- it's not a requirement to be	12:26:00
16	undershorts.	12:26:04
17	Q Okay.	12:26:04
18	A It's an understanding.	12:26:04
19	Q Okay. And let's look at the next claim	12:26:09
20	term, "a body including a front portion and having	12:26:13
21	leg openings for a wearer's legs." Do you see that?	12:26:20
22	A Yes.	12:26:25

1	Q	What is the plain and ordinary meaning	12:26:25
2		that you gave to the claim element of a "front	12:26:29
3		portion"?	12:26:32
4	A	Well, this is a partial description, so	12:26:39
5		it's the front portion of the garment that's being	12:26:43
6		described.	12:26:46
7	Q	And what delineates maybe the front	12:26:48
8		portion from a side portion?	12:26:51
9		MR. LUMAN: Objection to form. And if you	12:26:55
10		need to like look at the patent in order to answer	12:26:57
11		these questions, you can.	12:27:02
12	A	Front portion here is described in context	12:27:06
13		with the rest of the description of the garment.	12:27:08
14	Q	What do you mean by in context with the	12:27:20
15		rest of the description of the garment?	12:27:22
16	A	Well, the phrase "front portion" in this	12:27:24
17		first sentence is only in context with the rest of	12:27:28
18		the description of the garment.	12:27:32
19	Q	So what would be the front portion of the	12:27:37
20		garment? Is it the whole front? Is it just part of	12:27:40
21		the front?	12:27:47
22		MR. LUMAN: To the extent you need to look	12:27:47

1	at the patent before you answer questions about the	12:27:48
2	patent, look at the patent.	12:27:53
3	A You want to repeat that question? It's --	12:28:34
4	please repeat the question.	12:28:39
5	Q Yeah. In the claim here, what would be	12:28:41
6	the front portion of the garment? Is it the whole	12:28:44
7	front or just part of the front?	12:28:47
8	A The statement says, "a body including a	12:28:53
9	front portion." There's no further definition in	12:28:56
10	the sentence. You have to read on.	12:28:59
11	Q So if we read on, does that tell us	12:29:02
12	anything about what the front portion is?	12:29:04
13	A It says, "a stretch panel attached to the	12:29:08
14	body inside the front portion, the stretch panel	12:29:11
15	comprising a sheet of elastically resilient four-way	12:29:14
16	stretch material having a top edge attached to the	12:29:19
17	body at the top location, a bottom edge attached to	12:29:22
18	the body at the bottom location." So just read it,	12:29:24
19	it's in front of you there.	12:29:28
20	Q So what I'm asking is, what is the front	12:29:28
21	portion, though, what's the plain and ordinary	12:29:31
22	meaning of "front portion"?	12:29:34

1	A	The front portion is a portion of the	12:29:41
2		garment in the front of the body.	12:29:44
3	Q	Okay. And if we can go down in the claim	12:29:47
4		language towards the end, I'd like to just talk	12:29:53
5		about, you know, just get the understanding of what	12:29:57
6		your plain and ordinary meaning was used on one more	12:29:59
7		term here.	12:30:03
8		And on the screen if we can scroll down,	12:30:05
9		and for reference to, if helpful, what I'm going to	12:30:11
10		be asking about is at the top of page 15 of your	12:30:15
11		declaration as well, what was referred to as 1[g].	12:30:18
12		Sorry, being shared on the screen the end of claim	12:30:29
13		1, not the end of the claims all together.	12:30:33
14	MR. LUMAN:	So, counsel, are you saying	12:30:39
15		look at page 15 at the top or are you looking at the	12:30:40
16		claim? You lost me --	12:30:43
17	MR. HUGHES:	I'm looking at the claim. I	12:30:46
18		was just letting the witness know that he has the	12:30:48
19		same language in his declaration if he wanted to be	12:30:50
20		just looking in one place.	12:30:53
21	MR. LUMAN:	Okay.	12:30:54
22	BY MR. HUGHES:		12:30:54

1	Q	There's a limitation that starts with "a	12:31:03
2		length when unstretched smaller than a length	12:31:06
3		measured along the front portion." Do you see that?	12:31:12
4	A	Yeah.	12:31:14
5	MR. HUGHES:	I think we still need to	12:31:16
6		scroll up on what's being shared on the screen. I	12:31:17
7		think if you zoom in on the last paragraph of claim	12:31:25
8		1, that will give us what we need.	12:31:29
9	MR. LUMAN:	Are you talking about 1[g][i]	12:31:33
10		on page 15?	12:31:35
11	MR. HUGHES:	That's correct. And it's	12:31:37
12		1[g][ii] is where I'm going to go. So if we're all	12:31:39
13		looking at that, that's fine. I was going to have	12:31:45
14		the claim up on the screen in case he needed, you	12:31:47
15		know, if he was looking in both places.	12:31:52
16	THE TECHNICIAN:	I'm sorry. I'm on the	12:31:55
17		right page?	12:31:57
18	MR. HUGHES:	You are. So claim 1 there's,	12:31:57
19		you know, a couple different indents or paragraphs	12:32:02
20		to it, if you can zoom in on the last one.	12:32:05
21	THE TECHNICIAN:	Right.	12:32:13
22	MR. LUMAN:	To the extent you want to read	12:32:13

1	it in your report --	12:32:14
2	THE TECHNICIAN: This one?	12:32:14
3	MR. HUGHES: No. I think we'll look at it	12:32:18
4	in the declaration. I think that may be easier.	12:32:21
5	BY MR. HUGHES:	12:32:24
6	Q Do you have that, Mr. Kahn, just to make	12:32:24
7	sure --	12:32:27
8	A Yes, I do. I do.	12:32:27
9	Q And do you see 1[g][iii] there in your	12:32:30
10	declaration?	12:32:37
11	A Yeah.	12:32:38
12	Q And that says, "the front portion is	12:32:39
13	gathered from side to side and top to bottom by the	12:32:44
14	stretch panel." Do you see that?	12:32:50
15	A Yup.	12:32:54
16	Q Let's -- so I'm going to read starting at	12:32:55
17	1[g][ii], okay. The claim says that the stretch	12:33:21
18	panel has "a width when unstretched smaller than a	12:33:27
19	width measured along the front portion between the	12:33:29
20	side seams such that the front portion is gathered	12:33:33
21	from side to side and top to bottom by the stretch	12:33:36
22	panel and defines a three-dimensional pouch between	12:33:40

1 the stretch panel and the front portion." Is that 12:33:45
2 right? 12:33:49

3 A Correct. 12:33:49

4 Q What does it mean for the front portion to 12:33:50
5 be gathered from side to side and top to bottom by 12:33:53
6 the stretch panel? 12:33:57

7 A So when we talk about gathering using 12:33:59
8 elastic or stretch fabrics, if the front panel was 12:34:02
9 sewn under no tension whatsoever, it would match the 12:34:10
10 dimensions from side to side and top to bottom. But 12:34:20
11 the implication here is that the panel is sewn under 12:34:25
12 tension from side to side and top to bottom, and so 12:34:28
13 that stretch panel actually gathers the body fabric 12:34:32
14 vertically and horizontally to create a 12:34:37
15 three-dimensional pouch between the stretch panel 12:34:41
16 and the front portion for receiving the wearer's 12:34:45
17 genitals and holding the wearer's genitals while the 12:34:51
18 garment is being worn. 12:34:55

19 Q So the stretch panel gathers the body 12:35:15
20 fabric because it was sewn under tension, and when 12:35:18
21 that's released, that's when it gathers the fabric? 12:35:22

22 A That's correct. 12:35:25

Transcript of Bernard Kahn
Conducted on July 9, 2025

88

1	MR. HUGHES: Counsel, I see we're a little	12:35:28
2	over an hour again, but we're also around lunchtime.	12:35:30
3	I think I may be at a better place to take a longer	12:35:35
4	break now. Just wanted to see what your plans were	12:35:38
5	for lunch. If maybe we can just go off the record.	12:35:43
6	MR. LUMAN: Yeah, go off the record.	12:35:47
7	THE VIDEOGRAPHER: Stand by. We're going	12:35:49
8	off the record. The time is 12:35 p.m.	12:35:52
9	(Recess 12:35 p.m. - 1:08 p.m.)	12:35:55
10	THE VIDEOGRAPHER: We're back on the	13:08:06
11	record. The time on the video monitor is 1:08 p.m.	13:08:08
12	BY MR. HUGHES:	13:08:13
13	Q Okay. Welcome back, Mr. Kahn.	13:08:14
14	A Thank you.	13:08:17
15	Q Do you still have your declaration in	13:08:18
16	front of you, Exhibit 2013?	13:08:20
17	A I do.	13:08:24
18	Q Can we turn to page 13, I think we may	13:08:25
19	have been there, and now I want to go down to	13:08:28
20	paragraph 38, and this is now you're discussing the	13:08:31
21	prior art. Is that correct?	13:08:41
22	A That's correct.	13:08:43

PLANET DEPOS

888.433.3767 | WWW.PLANETDEPOS.COM

Tommy John EX1011
Tommy John v. Pakage Apparel
IPR2024-01163

1	Q	And the first one is U.S. Patent	13:08:44
2		Application Publication 2008-0178369, correct?	13:08:47
3	A	That's correct.	13:08:55
4	Q	And there was a parenthetical there	13:08:56
5		"Kitsch." That's the named inventor of that patent.	13:09:01
6		Is that right?	13:09:04
7	A	That's correct.	13:09:04
8	Q	If I refer to this as Kitsch in my	13:09:04
9		questions, will you understand what I'm talking	13:09:09
10		about?	13:09:11
11	A	Yes.	13:09:11
12	Q	And you reviewed Kitsch in connection with	13:09:11
13		your declaration. Is that right?	13:09:14
14	A	Yes, I did.	13:09:16
15	Q	And for the record, Kitsch is Exhibit 1007	13:09:17
16		to the IPR proceeding. And if you have a copy of	13:09:23
17		that, feel free to put it in front of you as well.	13:09:29
18	A	One moment. Thank you.	13:09:32
19	Q	Okay. In paragraph 38 you start out by	13:09:42
20		discussing Kitsch, and you state, "It is not obvious	13:09:52
21		for a POSITA in viewing Kitsch's design to presume	13:09:56
22		the design and function of the '974 patent based on	13:10:00

1	the functional objectives and design features of	13:10:00
2	Kitsch." What do you mean --	13:10:04
3	A Correct.	13:10:05
4	Q -- by "design and function of the '974	13:10:06
5	patent"?	13:10:12
6	A Well, the Kitsch states a functional	13:10:12
7	objective that is in difference to the functional	13:10:15
8	objective of the '974. As far as design features,	13:10:19
9	the technical features of Kitsch also vary.	13:10:23
10	Q What is the functional objective of	13:10:27
11	Kitsch?	13:10:31
12	A One moment. So this is in Kitsch's patent	13:10:42
13	0006, "The present invention provides a solution to	13:13:42
14	the above by addressing the issues of scrotum	13:13:46
15	independence from inner legs and improved comfort	13:13:48
16	and support. The underwear garment is designed	13:13:51
17	using specifically-shaped breathable pouch which	13:13:54
18	includes elasticized breathable wicking mesh	13:13:58
19	material side panels to isolate the scrotum and	13:14:01
20	phallus from the legs and which wick away moisture	13:14:04
21	and provide superior comfort," that is the purpose.	13:14:10
22	Q Okay.	13:14:12

1	A	Or I should say functional objective.	13:14:13
2	Q	Okay. And if we go on to page 16 of your	13:14:17
3		declarations, do you see the sentence where you say,	13:14:24
4		"Although the panels are constructed of a mesh	13:14:28
5		fabric, in practice, these panels are compressed	13:14:33
6		between the front of the garment and the wearer's	13:14:37
7		bodied providing little ventilation as claimed"?	13:14:40
8	A	Mm-hmm.	13:14:43
9	Q	Is this something that distinguishes, in	13:14:44
10		your opinion, Kitsch from the '974 patent?	13:14:48
11	A	No. I'm just identifying the features of	13:14:50
12		the -- of the Kitsch design.	13:14:54
13	Q	Okay. And here you state "providing	13:14:58
14		little ventilation as claimed." What do you mean by	13:15:02
15		"as claimed"?	13:15:07
16	A	Well, in the -- in the Kitsch patent it	13:15:09
17		describes those panels as providing ventilation,	13:15:13
18		which they don't in actuality.	13:15:18
19	Q	And how -- so you're saying that even	13:15:23
20		though Kitsch itself says that these panels are	13:15:28
21		constructed in a way that provides ventilation, they	13:15:31
22		do not?	13:15:34

1	A	That's correct.	13:15:34
2	Q	And what's your basis for -- for stating	13:15:35
3		that?	13:15:38
4	A	In analyzing the way those panels are	13:15:39
5		designed and worn anatomically, the panels are	13:15:44
6		compressed against the body by the garment so they	13:15:48
7		don't provide ventilation.	13:15:51
8	Q	When you say you analyzed the panels, do	13:15:56
9		you mean you analyzed the description of the panels	13:16:00
10		or did you analyze an actual product?	13:16:02
11	A	I analyzed first the description of the	13:16:05
12		panels and then I also analyzed the product.	13:16:08
13	Q	And which product is it that you analyzed?	13:16:11
14	A	I don't have that reference in front of	13:16:14
15		me.	13:16:15
16	Q	Was it represented to you that the product	13:16:18
17		that you analyzed was related to the Kitsch	13:16:21
18		reference?	13:16:26
19	A	Yes.	13:16:27
20	Q	What was your understanding of the product	13:16:28
21		you analyzed?	13:16:31
22	A	That it was a garment made according to	13:16:33

1 the patent.

13:16:36

2 Q Okay. And so you analyzed that garment in
3 forming your opinions with respect to the Kitsch
4 reference. Is that fair?

13:16:38

13:16:42

13:16:46

5 MR. LUMAN: Objection.

13:16:47

6 A My analysis of the garment was secondary
7 to my analysis of the description in the patent.

13:16:49

13:16:52

8 Q Okay. But at least, like you stated, at
9 least part of the basis for your stating that these
10 panels do not provide or provide little
11 ventilation -- sorry. Strike that.

13:16:55

13:16:57

13:17:00

13:17:04

12 At least part of the basis for your
13 statement that "although the panels are constructed
14 of a mesh fabric in practice these panels are
15 compressed between the front of the garment and the
16 wearer's body providing little ventilation as
17 claimed," at least part of that came from your
18 review of the product. Is that fair?

13:17:06

13:17:09

13:17:11

13:17:14

13:17:16

13:17:19

13:17:21

19 A Actually, my statement there came from the
20 analysis of the design as described in the patent
21 and my review of the actual garment was just
22 confirmation.

13:17:23

13:17:27

13:17:30

13:17:33

1	Q	Now, the patent itself, though, states	13:17:36
2		that the panels do provide ventilation, the Kitsch	13:17:38
3		reference does state that it provides ventilation.	13:17:43
4		Isn't that correct?	13:17:46
5	A	That is correct.	13:17:46
6	Q	So what is it about Kitsch's disclosure	13:17:49
7		that would lead you to believe that even though	13:17:53
8		Kitsch states that, it actually is the opposite?	13:17:56
9	A	Well, based on my knowledge of clothing	13:18:00
10		and garments, when you look at the design, it's --	13:18:04
11		it's a clear understanding that when that garment as	13:18:09
12		designed according to the patent is put on the body,	13:18:17
13		that those panels would compress.	13:18:20
14	Q	Does the patent -- does the Kitsch	13:18:29
15		reference say that the panels compress when you put	13:18:34
16		them on the body?	13:18:37
17	A	No, it does not, based on my expert	13:18:38
18		understanding.	13:18:43
19	Q	And can we -- you have Kitsch in front of	13:18:47
20		you, correct, which is Exhibit 1007?	13:18:50
21	A	Yes, I do.	13:18:53
22	Q	Can we look at -- I think you may have	13:18:55

1	referenced this, too -- paragraph 6 of Kitsch, the	13:18:57
2	second sentence specifically states that "The	13:19:02
3	underwear garment is designed using a specifically	13:19:05
4	shaped breathable pouch which includes elasticized	13:19:08
5	breathable wicking mesh material side panels."	13:19:12
6	Isn't that correct?	13:19:15
7	A It does say that, yes.	13:19:15
8	Q Okay. Let's go to the next sentence. If	13:19:18
9	we can go back to paragraph 38 of your declaration,	13:19:41
10	and if we can go on to page 16, the last sentence of	13:20:03
11	paragraph 38, "The '974 patent's functional	13:20:11
12	objection" -- "functional objective is to surround	13:20:15
13	all the genitals (phallus and scrotum) with a soft,	13:20:19
14	flexible 360-degree encasing pouch that separates	13:20:23
15	the genitals from the body, keeping them separated	13:20:26
16	in the front center area of the body for comfort	13:20:28
17	during rest or activity." Do you see that?	13:20:31
18	A Yes.	13:20:34
19	Q Now, you don't provide any citations to	13:20:35
20	the '974 patent here, do you?	13:20:40
21	A Not in this particular location.	13:20:43
22	Q Where in -- go ahead.	13:20:46

1	A	I was just going to say this is just an	13:20:49
2		overview.	13:20:52
3	Q	Where in the '974 patent does it say that	13:20:53
4		the pouch separates the genitals from the body?	13:20:57
5	A	The first part is identified in the	13:21:00
6		abstract in its entirety. And...	13:21:15
7	Q	Where does the abstract say that it's a	13:21:38
8		360-degree encasing pouch?	13:21:42
9	A	Not using those words.	13:21:44
10	Q	So those words are not actually in the	13:21:46
11		'974 patent, correct?	13:21:48
12	A	No. To start with, the abstract is a	13:21:50
13		three-dimensional pouch, and three-dimensional must	13:21:56
14		mean that encases 360. And if we go to -- one	13:22:01
15		moment. That same reference is in -- in claim 1	13:22:06
16		towards the bottom and it's expanded upon.	13:22:38
17	Q	Are you saying claim 1 indicates that or	13:22:57
18		states that there's a pouch that separates the	13:23:00
19		genitals from the body?	13:23:02
20	A	Towards the bottom it's -- again, repeats,	13:23:05
21		defines a three-dimensional pouch between the	13:23:08
22		stretch panel and the front portion for receiving	13:23:13

1 the wearer's genitals and holding the wearer's
2 genitals while the garment is being worn.

3 Q That doesn't use the word "separate"
4 anywhere, does it?

5 A One moment. So dependent claim 1 states
6 as follows: "A male garment according to claim 1
7 wherein the opening has a U-shape when the stretch
8 panel is in a relaxed state. 14. A male garment
9 according to claim 1 wherein the stretch panel is
10 formed from a single unitary piece of woven fabric.
11 15. A male garment according to claim 1 wherein the
12 pouch comprises a dart seam stitched along a bottom
13 portion of the pouch and centrally to provide extra
14 volume in front of and underneath the genitals of
15 the wearer. 16. A male garment according to claim
16 1 wherein the stretch panel is rectangular and the
17 opening has a rounded bottom edge" --

18 (Court Reporter clarification.)

19 MR. LUMAN: She's typing it as you go.

20 A I'm sorry -- "spaced apart from one
21 another on either side of the opening." And [as
22 read], "17. A male garment according to claim 1

1	wherein the body includes a crotch panel extending	13:24:59
2	between the leg openings and joined to the front	13:25:01
3	portion along the front seam."	13:25:03
4	So the only way that that description can	13:25:05
5	be satisfied is with the design where the stretch	13:25:10
6	panel between the stretch panel and the front panel	13:25:16
7	of the garment is where the genitals are enclosed.	13:25:20
8	Q But it never -- nothing you just read in	13:25:25
9	the claims specifically recites that the genitals	13:25:28
10	have to be kept separate from the body, right?	13:25:32
11	A No, what I'm explaining in my deposition	13:25:35
12	is what the language in the -- in the patent is	13:25:38
13	describing.	13:25:42
14	Q The language in -- so when you say the	13:25:45
15	patent, what are you referring to? Are you	13:25:47
16	referring to the entirety of the patent or the	13:25:50
17	claims?	13:25:52
18	A The portions that I read to you.	13:25:52
19	Q Okay. Let's -- let's focus on the claim	13:25:56
20	language. The claims never specifically state that	13:26:00
21	the genitals have to be kept separate from the body,	13:26:04
22	do they?	13:26:07

1	A	That's the functional objective of the	13:26:10
2		garment.	13:26:13
3	Q	But the claims never specifically state	13:26:19
4		that the genitals have to be kept separate from the	13:26:25
5		body, do they?	13:26:28
6	MR. LUMAN:	Objection to form.	13:26:29
7	A	The patent states what it does. It	13:26:30
8		doesn't state what it has to do, and what it states	13:26:53
9		that it does is what we just described.	13:26:57
10	Q	When you say what it does, what are you	13:27:04
11		referring to? What's the "it" there?	13:27:06
12	A	The '974 patent garment.	13:27:09
13	Q	So if we look at the claims, though,	13:27:21
14		correct, you know, in your declaration you were	13:27:25
15		analyzing the claim limitations. Is that right?	13:27:28
16	A	Mm-hmm.	13:27:31
17	Q	Do the claims use the word "separate"	13:27:33
18		anywhere?	13:27:38
19	A	No, but it describes a separation. To be	13:27:39
20		more specific, if you turn to column 3 in the '974	13:28:20
21		patent, middle of the paragraph, it reads,	13:28:25
22		"Regardless of the particular shape of opening 30	13:28:28

1	stretch panel 22 is configured to define opening 30	13:28:31
2	and to provide support around and underneath the	13:28:36
3	scrotum of the wearer in order to comfortably	13:28:40
4	position the wearer's genitals forward into pouch."	13:28:44
5	Q And that's in -- that was column 3 of the	13:28:52
6	specification, correct?	13:28:56
7	A Correct.	13:28:56
8	Q Can we go to -- let's go to page 20 of	13:30:02
9	your declaration.	13:30:07
10	A Mm-hmm.	13:30:15
11	Q And this is where you're discussing a	13:30:16
12	reference WO2001037687. Is that correct?	13:30:29
13	A Correct, yup.	13:30:37
14	Q And I think we've been pronouncing this as	13:30:39
15	Carrillo. I don't know if you have a different	13:30:44
16	pronunciation you have been using for it. But if I	13:30:46
17	refer to this as Carrillo, will you understand what	13:30:49
18	I mean?	13:30:51
19	A Yes.	13:30:52
20	Q Okay.	13:30:53
21	A May I --	13:30:54
22	MR. LUMAN: Scott, may I interject here.	13:30:56

1	I can tell you what I'm going to do, I'm going to	13:30:58
2	give him the English version, which is Exhibit	13:31:01
3	1010 --	13:31:04
4	MR. HUGHES: I was just getting there,	13:31:05
5	counsel, so we can put it up, we'll put it on the	13:31:07
6	record.	13:31:08
7	MR. LUMAN: Also I'm going to give him	13:31:08
8	Exhibit 1008, which is Brocks, so he'll have them	13:31:11
9	both in front of him as well.	13:31:15
10	MR. HUGHES: Okay. That's fair.	13:31:17
11	BY MR. HUGHES:	13:31:19
12	Q Now, with Carrillo, Mr. Kahn, you	13:31:20
13	understand that there was both a non-English version	13:31:22
14	original and then an English translation, correct?	13:31:26
15	A Yes, correct.	13:31:30
16	Q And you understand that in the -- in the	13:31:31
17	IPR petition the English translation was referred to	13:31:36
18	and quoted from, correct?	13:31:40
19	A Correct.	13:31:42
20	Q And in your analysis were you focused on	13:31:43
21	that English translation as well?	13:31:46
22	A Yes.	13:31:49

1	Q	And that English translation was Exhibit	13:31:51
2		1010 in the IPR proceeding? If you have it in front	13:31:56
3		of you, it should be at the bottom in the --	13:32:01
4	A	Yes, Exhibit 1010.	13:32:05
5	Q	Okay. So for the purposes of this	13:32:06
6		deposition, I'll be referring to that Exhibit 1010,	13:32:09
7		which you have in front of you, and if I refer to	13:32:14
8		that as Carrillo, you'll understand that I'm talking	13:32:17
9		about the English translation that you have in front	13:32:20
10		of you?	13:32:23
11	A	Yes.	13:32:24
12	Q	Okay. If we look at Carrillo, you state	13:32:25
13		in the first couple sentences in paragraph 47, and	13:32:30
14		we're still in your declaration, you state, "It is	13:32:35
15		not obvious for a POSITA in viewing Carrillo to	13:32:40
16		presume the design and function of the '974 patent	13:32:44
17		based on the functional objective and the design	13:32:46
18		features of Carrillo's elastic accessory.	13:32:49
19		Carrillo's functional objective is to pull the	13:32:53
20		wearer's testicles away from the groin area." Do	13:32:55
21		you see that?	13:33:00
22	A	Yes.	13:33:00

1	Q	So by pulling the wearer's testicles away	13:33:01
2		from the groin area, it's separating them from the	13:33:05
3		groin area, correct?	13:33:08
4	A	Correct.	13:33:09
5	Q	And if you can go to paragraph 48 of your	13:33:11
6		declaration.	13:33:18
7	A	Yes.	13:33:23
8	Q	You state, "Carrillo is a hygienic elastic	13:33:24
9		garment for men's underwear, which forms part and is	13:33:27
10		sewn to classic underpants," and then you show a	13:33:32
11		figure of Carrillo. Is that right?	13:33:37
12	A	That's correct.	13:33:38
13	Q	And the elastic garment in Carrillo is	13:33:39
14		what's shown by reference numeral 1 in that figure.	13:33:41
15		Is that right?	13:33:48
16	A	Reference numeral 1. Oh, yes.	13:33:48
17	Q	And if we go on, now you state even here	13:33:58
18		in this paragraph it's an elastic garment, correct?	13:34:05
19	A	As defined in the patent, yes.	13:34:08
20	Q	And then your last sentence of paragraph	13:34:12
21		49 you state, "Other than calling it an elastic	13:34:15
22		garment, Carrillo does not disclose what material	13:34:19

1	the elastic garment is made of." Is that right?	13:34:21
2	A That is correct.	13:34:26
3	Q Now, elastic material stretches, doesn't	13:34:26
4	it?	13:34:30
5	A Yes, it does.	13:34:30
6	Q So it's fair to say that this elastic	13:34:31
7	garment in Carrillo is something that can stretch,	13:34:35
8	correct?	13:34:38
9	A Ask the question again.	13:34:42
10	Q I said, so it's fair to say that this	13:34:43
11	elastic garment in Carrillo is something that can	13:34:48
12	stretch, correct?	13:34:51
13	A Correct.	13:34:52
14	Q And when you stated that Carrillo does not	13:35:09
15	disclose what material the elastic garment is made	13:35:11
16	of, do you just mean that Carrillo doesn't specify,	13:35:14
17	for example, what type of fabric or combination of	13:35:20
18	materials make up the elastic garment?	13:35:24
19	A Now, where did you find that?	13:35:30
20	Q It's the last sentence at the very top of	13:35:32
21	page 22. And it's up on the screen in your room, I	13:35:36
22	believe.	13:35:40

1	A	Yes, that's correct.	13:35:40
2	Q	Okay. Does claim 1 of the '974 patent	13:35:42
3		require any particular material?	13:35:45
4	A	Yes, it does.	13:36:10
5	Q	What does claim 1 require?	13:36:12
6	A	It identifies a stretch panel attached to	13:36:16
7		the body inside the front portion, the stretch panel	13:36:20
8		comprising a sheet of elastically resilient four-way	13:36:23
9		stretch material, and again, having a top edge	13:36:27
10		attached to the body of the top location, bottom	13:36:30
11		edge attached to the body of the bottom location,	13:36:33
12		side edges attached to the body at side seams	13:36:37
13		extending substantially continuously along either	13:36:40
14		side of the front portion, and an opening for	13:36:44
15		receiving wearer's genitals, the stretch panel being	13:36:48
16		resiliently elastic in both direction -- in a	13:36:51
17		direction between the top edge and the bottom edge	13:36:54
18		and in a direction between the side edges, the	13:36:56
19		stretch panel having a length when unstretched	13:36:58
20		smaller than the length measured along the front	13:37:01
21		portion between the top and bottom locations, and	13:37:04
22		the width when unstretched similar to the width	13:37:06

1 measured along the front portion between the side
2 seams such that the front portion is gathered from
3 side to side and top to bottom by the stretch panel
4 and defines the three-dimensional pouch between the
5 stretch panel and the front portion receiving
6 wearer's genitals and holding wearer's genitals
7 while the garment is on.

13:37:10
13:37:12
13:37:15
13:37:21
13:37:22
13:37:24
13:37:26

8 And then claim 2 is a male garment
9 according to claim 1 wherein the stretch panel has
10 asymmetrical stretch characteristics such that the
11 stretch panel stretches more easily in a direction
12 parallel to the waistband and less easily in a
13 direction at right angles to the waistband.

13:37:32
13:37:35
13:37:40
13:37:41
13:37:44
13:37:48

14 Q Now, none of that, though -- for example,
15 claim 10 specifies that the material is comprised of
16 a Spandex blend. There's nothing similar in claim
17 1, like requiring specifically Spandex, right?

13:37:50
13:37:55
13:37:59
13:38:04

18 A Not in claim 1. I believe it's in one of
19 the dependent claims, yeah.

13:38:08
13:38:12

20 Q Okay. If we can go to paragraph 50 --
21 let's go to paragraph 50 of your declaration, and
22 this is page 22. Let me know when you're there.

13:38:15
13:38:22
13:38:25

1	A	I am.	13:38:29
2	Q	And this is now a section on page 22 that	13:38:30
3		you -- has a heading "Claims 1 to 13 and 15 to 16	13:38:36
4		Are Not Obvious," right?	13:38:40
5	A	Yup.	13:38:42
6	Q	And then this section sub-bullet, or I	13:38:45
7		guess subpoint 1 here is a statement that "Kitsch	13:38:48
8		Does Not Disclose 1[c]." Is that right?	13:38:52
9	A	Correct.	13:38:55
10	Q	And that's referring to claim element 1[c]	13:38:55
11		as it was defined in the petition and Ms. Wagner's	13:38:59
12		declaration, correct?	13:39:03
13	A	Correct.	13:39:03
14		MR. LUMAN: Objection to form. Counsel, I	13:39:07
15		just -- my objection here is it's defined in his	13:39:10
16		report, and I know there's a conflict between some	13:39:13
17		language that was in your expert's report, some	13:39:17
18		language was in, some language was out. So I know	13:39:23
19		that these 1[c]s and all these sort of things refer	13:39:25
20		to his declaration, I don't know, page 14 or 15,	13:39:29
21		wherever that claim language is broken out. So that	13:39:34
22		it's more of a clarity thing here. I'm not trying	13:39:38

1	to get in anybody's --	13:39:41
2	MR. HUGHES: No, that's -- I just want to	13:39:44
3	make sure we understand the limitation that we're	13:39:45
4	talking about and so --	13:39:47
5	MR. LUMAN: Yeah --	13:39:47
6	(Simultaneous speaking.)	13:39:47
7	Q This is if I refer to 1[c] as how you	13:39:49
8	defined it in -- on page 14 of your declaration,	13:39:53
9	Mr. Kahn, is that fair?	13:39:57
10	A That's correct, yeah.	13:39:59
11	Q And that limitation is a stretch panel	13:40:00
12	attached to the body inside the front portion,	13:40:03
13	correct?	13:40:05
14	A Mm-hmm.	13:40:06
15	Q Okay.	13:40:08
16	MR. LUMAN: It's a yes or no.	13:40:08
17	A Yes.	13:40:10
18	Q And you state, if we go to paragraph 51,	13:40:15
19	you say, "By contrast, Kitsch does not disclose a	13:40:21
20	stretch panel," right?	13:40:26
21	A Yes.	13:40:28
22	Q And then you state, "In fact, Kitsch does	13:40:29

1	not use the term 'stretch panel' anywhere in the	13:40:35
2	disclosure," right?	13:40:37
3	A Yes.	13:40:38
4	Q Is it your opinion that a prior art	13:40:40
5	reference has to use the same term as the claim to	13:40:46
6	disclose it?	13:40:49
7	A Yes.	13:40:50
8	Q So if a reference does not use the term,	13:40:51
9	the exact words "stretch panel," in your opinion,	13:40:55
10	that reference cannot disclose a stretch panel?	13:40:59
11	MR. LUMAN: Objection to form.	13:41:05
12	A Say the question again.	13:41:10
13	Q So right here you state, "In fact, Kitsch	13:41:11
14	does not use the term 'stretch panel' anywhere in	13:41:14
15	the disclosure," right?	13:41:18
16	A Yup.	13:41:19
17	Q Is it your opinion that for a reference to	13:41:20
18	disclose the stretch panel of claim 1[c], it would	13:41:24
19	have to use the term "stretch panel" itself?	13:41:28
20	A Yes.	13:41:32
21	Q Okay. Now, going on, you do state that	13:41:46
22	"The only instance of the word 'stretch' in Kitsch	13:41:53

1	is found in describing a material," and you point to	13:41:56
2	paragraph 30. Is that quote following from Kitsch	13:42:00
3	then, "a so-called four-by-four stretch weave"?	13:42:02
4	A Yes. And it's not actually the only one,	13:42:06
5	but that is characterizing one.	13:42:09
6	Q Okay. Now, you don't dispute that the	13:42:13
7	side panels in Kitsch stretch. Is that right?	13:42:17
8	A Correct.	13:42:20
9	Q Okay. Let's pull up Kitsch if we can,	13:42:21
10	Exhibit 1007. And do you have that?	13:42:30
11	A Yes, I do.	13:42:50
12	Q Now, this says that the side panels are	13:42:51
13	preferably constructed of an elasticized breathable	13:42:54
14	mesh fabric, right?	13:42:58
15	A Where are you reading from?	13:43:00
16	Q This is in paragraph 26 of Kitsch. If we	13:43:02
17	read this starting from the beginning, "With	13:43:16
18	reference to the accompanying drawings wherein	13:43:18
19	similar characters of reference denote corresponding	13:43:21
20	parts in each view, a conventional pair of so-called	13:43:21
21	boxer style briefs 10 are modified in the present	13:43:25
22	invention by adding interior side panels 12,	13:43:28

1	preferably constructed of an elasticized breathable	13:43:30
2	mesh fabric." Do you see that?	13:43:35
3	MR. LUMAN: Counsel, can you finish that	13:43:37
4	sentence, please?	13:43:39
5	Q Can the witness answer?	13:43:42
6	MR. LUMAN: Finish the sentence that you	13:43:49
7	were reading.	13:43:51
8	Q Mr. Kahn, can you answer my question?	13:43:53
9	MR. LUMAN: Counsel, I'm going to ask for	13:43:56
10	optional completeness here.	13:43:59
11	Q Mr. Kahn, can you answer the question?	13:44:21
12	A Well, you made a partial quotation from	13:44:25
13	Kitsch.	13:44:28
14	Q Right. My question was if you saw that.	13:44:29
15	You're free to read the rest of the paragraph as	13:44:31
16	well. But my question was do you see where it	13:44:33
17	indicates that the side panels are constructed of an	13:44:36
18	elasticized breathable mesh fabric?	13:44:39
19	A Yes, I do see that.	13:44:42
20	Q Okay.	13:44:45
21	A Except for the fact that you are	13:44:49
22	misquoting, because it says there are "so-called	13:44:51

1	boxer style briefs are modified in the present	13:45:03
2	invention by adding interior side panels, preferably	13:45:06
3	constructive an elasticized breathable mesh fabric."	13:45:12
4	Q Yes, that's what I read --	13:45:17
5	A That's the quote. That's the quote.	13:45:22
6	Q Correct. And so my question is, you don't	13:45:23
7	dispute that the side panels are made of an	13:45:27
8	elasticized breathable mesh fabric, right?	13:45:29
9	A Correct.	13:45:33
10	Q Okay. And if we go to paragraph 30 of	13:45:33
11	Kitsch, let me know when you're there.	13:45:39
12	A I am.	13:45:45
13	Q Okay. And this says that "The performance	13:45:46
14	material used advantageously in the side panels of	13:45:52
15	the present invention is a soft elasticized	13:45:56
16	breathable mesh knit weave (in a so-called	13:45:59
17	four-by-four stretch weave) containing 80 percent	13:46:04
18	Nylon and 20 percent Spandex." Do you see that?	13:46:08
19	A I do see it.	13:46:11
20	Q So as you pointed out in your declaration,	13:46:14
21	this paragraph in Kitsch uses the word "stretch",	13:46:18
22	correct?	13:46:22

1	A	Yes, it does.	13:46:22
2	Q	And so -- and we may have already	13:46:26
3		discussed this, but you agree, then, that these	13:46:30
4		panels in Kitsch can stretch, correct?	13:46:33
5	A	As defined, yes.	13:46:37
6	Q	And that's because in part they're made of	13:46:40
7		an elasticized material?	13:46:43
8	A	Well, here you're characterizing what is	13:46:45
9		written, and what is written is actually technically	13:46:51
10		incorrect.	13:46:54
11	Q	And what do you mean by it's technically	13:46:59
12		incorrect?	13:47:01
13	A	Well, the fabric can be knit or a fabric	13:47:02
14		can be woven. There's no such thing as a knit woven	13:47:06
15		fabric.	13:47:10
16	Q	Okay.	13:47:12
17	A	So if we go to the parentheses where it	13:47:13
18		says "in a so-called four-by-four stretch weave,"	13:47:16
19		what it's defining here specifically is a woven	13:47:19
20		fabric.	13:47:23
21	Q	Okay. And in your opinion, can a woven	13:47:25
22		fabric stretch?	13:47:31

1	A	Only if it contains Spandex.	13:47:33
2	Q	Is that different than the claims?	13:47:38
3	A	No.	13:47:43
4	Q	Okay. Can we turn to paragraph 55 of your	13:47:45
5		declaration, and let me know when you're there.	13:48:00
6	A	Mm-hmm.	13:48:14
7	Q	Now, in this paragraph you're discussing	13:48:15
8		Ms. Wagner's declaration, correct?	13:48:18
9	A	Yes.	13:48:20
10	Q	And I think we were looking at previously	13:48:23
11		this same paragraph 26 in Kitsch, and this was the	13:48:31
12		quote we were talking about earlier, right?	13:48:35
13	A	I'm not sure where you are.	13:48:38
14	Q	So let's -- let's go through paragraph 55	13:48:41
15		here. You say "Ms. Wagner's" --	13:48:44
16	A	Paragraph 55, what? Where are you?	13:48:50
17		MR. LUMAN: Page 25 of your report going	13:48:52
18		over to 26, paragraph 55, if you want to read	13:48:54
19		through that you can.	13:49:00
20	A	Okay. Yup. Give me a moment.	13:49:01
21	Q	Okay.	13:49:03
22	A	Okay.	13:49:40

1	Q	Okay. Now, here you say that Ms. Wagner	13:49:42
2		"quoted only a portion of Kitsch, and by omitting	13:49:48
3		the remainder of the quote left the wrong impression	13:49:50
4		that the side panels 12 of Kitsch perform the same	13:49:53
5		function as the stretch panel 22 of the '974	13:49:56
6		patent." Is that right?	13:50:01
7	A	Yes.	13:50:02
8	Q	What do you mean by "perform the same	13:50:03
9		function as the stretch panel 22 of the '974	13:50:07
10		patent"?	13:50:12
11	A	Well, in Kitsch the function of the side	13:50:12
12		panels is to prevent the genitalia from coming in	13:50:16
13		contact with the leg and thigh.	13:50:20
14	Q	Okay. And if -- well, let's just read on	13:50:25
15		a little bit. You then state, "Specifically,	13:50:28
16		Ms. Wagner provided the shortened quote from Kitsch:	13:50:33
17		'constructed,'" and this is the quote, "'constructed	13:50:36
18		of an elasticized breathable mesh fabric, for the	13:50:38
19		purpose of isolating the genitalia...into the pouch	13:50:42
20		compartment,'" right?	13:50:47
21	A	Mm-hmm.	13:50:48
22	Q	And then you state, "This" -- "This leaves	13:50:49

1	the impression that the side panels isolate the	13:50:52
2	genitalia into a pouch." Is that -- do you see that	13:50:56
3	there?	13:51:01
4	A Yup.	13:51:02
5	Q So is it your view that the side panels in	13:51:03
6	Kitsch do not isolate the genitalia into a pouch?	13:51:06
7	A That's correct.	13:51:13
8	Q So let's read the full quote then, I think	13:51:15
9	you have it right after, and it says, "interior side	13:51:18
10	panels 12, preferably constructed of an elasticized	13:51:22
11	breathable mesh fabric, for the purpose of isolating	13:51:25
12	the genitalia, in particular scrotum 14 and phallus	13:51:28
13	16 (shown diagrammatically in dotted outline in	13:51:33
14	Figure 7), into the pouch compartment 18, thereby	13:51:39
15	isolating the genitalia from contacting the inner	13:51:42
16	thighs and legs of the user 8 wearing the briefs."	13:51:45
17	Did I read that correctly?	13:51:49
18	A Yes.	13:51:52
19	Q Doesn't this expressly state that the side	13:51:52
20	panels are for the purpose of isolating the	13:51:56
21	genitalia and in particular the scrotum and phallus	13:52:00
22	into the pouch compartment?	13:52:04

1 A Well, it defines pouch compartment -- I 13:52:08
2 should say it cites pouch compartment, when in fact 13:52:13
3 the pouch compartment is an ease area in the front 13:52:18
4 of the garment. The word "pouch" is used liberally 13:52:23
5 throughout many -- I mean, through several of these 13:52:26
6 patents, so... 13:52:32

7 Q This quote here specifically states that 13:52:36
8 the side panels are for the purpose of isolating the 13:52:39
9 genitalia and in particular the scrotum and phallus, 13:52:43
10 into the pouch compartment, right? 13:52:46

11 A Yes, it does. 13:52:50

12 Q Okay. 13:52:53

13 A That is what it says. And it's not 13:52:54
14 necessarily what it does in practice or what the 13:52:58
15 rest of the definition of the side panels do. 13:53:00

16 Q What do you mean by what it does in 13:53:04
17 practice? 13:53:07

18 A Well, in practice, the intention of the 13:53:09
19 side panels is to prevent the phallus and scrotum 13:53:12
20 from coming in contact with the leg and thigh, that 13:53:16
21 is the purpose of the side panels. 13:53:19

22 Q And it can do that by isolating them into 13:53:22

1	the pouch compartment, correct?	13:53:26
2	A Yeah, but it doesn't really.	13:53:27
3	Q I mean, that's what the reference itself	13:53:30
4	says.	13:53:33
5	A It does say that, yes, but that's not what	13:53:34
6	really -- really happens in this design.	13:53:36
7	Q When you say "it," again, are you	13:53:39
8	referring to the product, the Kitsch product?	13:53:41
9	A No. The actual design.	13:53:44
10	Q The design that's discussed right here in	13:53:50
11	the patent?	13:53:52
12	A Yeah. What Kitsch defines as a pouch is	13:53:54
13	fullness, not an actual pouch. Uses the word	13:54:00
14	"pouch," but by definition isn't completely a pouch.	13:54:08
15	Q Let's go on to page 27 of your declaration	13:55:11
16	and you have a heading here for 1[d]. Let me know	13:55:14
17	when you're there.	13:55:20
18	A Yeah.	13:55:21
19	Q Okay. Now, in this paragraph, let's go	13:55:22
20	through it a little bit, you state, "The '974 patent	13:55:25
21	claims 'the stretch panel comprising a sheet of	13:55:31
22	elastically resilient four-way stretch material,'"	13:55:34

1	correct?	13:55:38
2	A Yes.	13:55:39
3	Q Now, a little bit further down you state,	13:55:40
4	"Kitsch does not disclose a four-way stretch	13:55:45
5	material. Kitsch calls for its side panels to be	13:55:49
6	made of a mesh knit weave in a four-by-four (box	13:55:52
7	weave) woven fabric with a limited amount of stretch	13:55:56
8	in the length and width." Do you see that?	13:56:00
9	A Yup.	13:56:02
10	Q Now, if something has -- let's first start	13:56:03
11	with you say that this is a box weave. Does Kitsch	13:56:08
12	use the word "box weave"?	13:56:13
13	A When you talk about a four-by-four woven	13:56:16
14	material, that's all it can be.	13:56:19
15	Q Okay. Now, you go on to state that,	13:56:20
16	"whereas the '974 patent's stretch panel is	13:56:33
17	constructed of four-way stretch knit fabric which,	13:56:36
18	due to its construction (tricot construction),	13:56:40
19	stretches in the length and width equally." Do you	13:56:43
20	see that?	13:56:48
21	A Yes.	13:56:48
22	Q So let me go back a little bit. I think	13:56:48

1	you said earlier that a knit fabric cannot also be	13:56:56
2	woven. Is that right?	13:57:00
3	A That's correct.	13:57:01
4	Q Okay. And you say that the '974 patent	13:57:02
5	stretch panel is constructed of a knit fabric,	13:57:09
6	right?	13:57:12
7	A Yes.	13:57:14
8	Q Where does the '974 patent state that its	13:57:15
9	stretch panel is a knit fabric?	13:57:21
10	A Give me a moment.	13:57:24
11	So the idea that the fabric was knit is	14:03:33
12	based on the explanation under number 5, "In some	14:03:37
13	embodiments, the material of stretch panel has an	14:03:42
14	asymmetrical stretch (i.e. the coefficient of	14:03:46
15	elasticity of the material has a first value in the	14:03:49
16	first direction in the plane of the material and a	14:03:52
17	second value different from the first value in a	14:03:54
18	second direction at right angles to the first	14:03:57
19	direction in the plane of the material.) The	14:04:00
20	material may be oriented that it is easier to	14:04:02
21	stretch the material of stretch panel in a direction	14:04:04
22	parallel to waistband than it is to stretch the	14:04:07

1	material in a direction perpendicular to waistband."	14:04:12
2	Then it goes on to talk about the various	14:04:16
3	fiber contents, "22 may comprise an elasticized	14:04:18
4	fabric. In one example embodiment the fabric	14:04:22
5	comprises a cotton-Spandex blend. In one example	14:04:26
6	embodiment of the fabric comprises a woven blend of	14:04:29
7	Modal and Spandex" --	14:04:29
8	Q For the record there, where are you	14:04:37
9	reading from? I don't want to interrupt, but I just	14:04:38
10	want --	14:04:40
11	A This is under 5, column 5.	14:04:40
12	Q Column 5, okay.	14:04:42
13	A So although it's referring to other	14:04:45
14	embodiments, a fabric that's going to be	14:04:48
15	asymmetrically stretchable in almost all cases is a	14:04:52
16	knit fabric.	14:05:04
17	Q No, but the reference doesn't say it's	14:05:05
18	knitted, correct?	14:05:08
19	A No. It does say four-way stretch.	14:05:08
20	Q Right. But it doesn't say that that's	14:05:10
21	knit, correct?	14:05:12
22	A Correct.	14:05:14

1	Q	And in fact, if we go to -- let's go to --	14:05:15
2		stay in column 5, lines 20 to 28, and if we read	14:05:21
3		there, do you see there's a statement right in the	14:05:29
4		middle, "In one example" -- "In one example	14:05:33
5		embodiment the fabric comprises a woven blend of	14:05:37
6		Modal and Spandex." So isn't the patent itself	14:05:41
7		actually saying that the stretch panel can be woven?	14:05:45
8	A	As an alternate, yes.	14:05:49
9	Q	Where does it say alternate? It doesn't	14:05:51
10		say alternate, does it?	14:05:57
11		(Simultaneous speaking.)	14:05:59
12	A	In says in one example embodiment.	14:05:59
13	Q	It doesn't say that's an alternate to	14:06:01
14		something else, does it?	14:06:04
15		MR. LUMAN: Objection to form. And my	14:06:05
16		objection is you all were talking over one another,	14:06:07
17		so if you could just start that series over again.	14:06:09
18		I don't know if the court reporter got it or not.	14:06:13
19	A	It says, "In one example embodiment of the	14:06:17
20		fabric," when it's referring to one example	14:06:20
21		embodiment, it's not saying the only required	14:06:25
22		embodiment.	14:06:29

1	Q	Okay. So we agree that the '974 patent	14:06:30
2		specifies that one embodiment can use a woven blend	14:06:37
3		for the stretch panel, right?	14:06:41
4	A	Correct.	14:06:43
5	Q	Now, the '974 does not have another	14:06:43
6		specific statement saying there could be a knit	14:06:46
7		fabric, correct?	14:06:50
8	A	That's a -- it's describing in the	14:06:52
9		description of the amount of stretch and the type of	14:06:56
10		stretch, it's describing knit fabric.	14:06:59
11	Q	It doesn't use the word "knit," though,	14:07:07
12		correct?	14:07:12
13	A	Correct.	14:07:12
14	Q	And you can have sufficient amount of	14:07:13
15		stretch in a woven fabric depending on the materials	14:07:16
16		you use, for example, and how tightly you weave	14:07:19
17		them, couldn't you?	14:07:23
18	A	Actually, no. A knit will always stretch	14:07:23
19		more than a woven.	14:07:29
20	Q	My question wasn't whether knit would	14:07:30
21		stretch more than a woven. It was with a woven,	14:07:33
22		though, you can use materials and weave it in such a	14:07:35

1	way that that's going to have a significant amount	14:07:40
2	of stretch, can't you?	14:07:43
3	A Define significant.	14:07:45
4	Q Let's say a stretch of if we've got five	14:07:48
5	inches of fabric, it could stretch two inches.	14:07:54
6	A Even -- even in the high Spandex fabric	14:08:02
7	woven you're not going to get that.	14:08:04
8	Q And what's your basis for saying that you	14:08:09
9	won't be able to get that in a woven fabric?	14:08:11
10	A Based on my years of knowledge of fabric	14:08:15
11	construction.	14:08:19
12	Q Can you get a stretch of let's say 10	14:08:27
13	percent using a woven fabric?	14:08:30
14	A Even if you had 5 percent of Spandex in a	14:08:38
15	woven fabric, you might get two inches in 10, you	14:08:43
16	know -- no, I'm sorry, two inches in 20. So, yeah,	14:08:51
17	you could get close to 10 percent. It's difficult.	14:08:54
18	Q Let's go back to paragraph 57 of your	14:09:18
19	declaration. And in that same sentence that we were	14:09:21
20	talking about with the knit fabric, you state here	14:09:29
21	"due to its construction (tricot construction)" --	14:09:33
22	A I'm sorry, where are you?	14:09:36

1	Q	In paragraph 57 of your declaration	14:09:38
2		towards the bottom on page 27.	14:09:42
3	A	Okay.	14:09:45
4	Q	Now, I didn't see the word "tricot	14:09:46
5		construction" used in the '974 patent --	14:09:50
6		(Simultaneous speaking.)	14:09:50
7	A	No. That was my identification.	14:09:54
8		MR. LUMAN: Again, you all spoke over one	14:09:58
9		another. You might want to ask that --	14:10:01
10	Q	Yes, if you can let me finish my questions	14:10:02
11		before answering --	14:10:04
12	A	Sorry.	14:10:05
13	Q	-- that would be helpful.	14:10:06
14	A	Sorry.	14:10:08
15	Q	It's all right.	14:10:08
16		So my question was, what was your basis	14:10:10
17		for indicating that the '974 patent stretch panel	14:10:13
18		has a tricot construction?	14:10:17
19	A	It's based on the amount and type of	14:10:20
20		stretch that was identified.	14:10:23
21	Q	It doesn't use the term "tricot," though,	14:10:25
22		correct?	14:10:29

1	A	Correct.	14:10:29
2	Q	I'd like to go back to just a previous	14:10:30
3		statement you made in that same -- in that same	14:11:04
4		paragraph. Do you see after your citation, I guess	14:11:08
5		your first citation to Exhibit 1007 at 30, kind of	14:11:11
6		in the middle you say, "Kitsch does not disclose a	14:11:16
7		four-way stretch material," do you see that?	14:11:20
8	A	Yes.	14:11:24
9	Q	In your next sentence, though, you admit	14:11:24
10		that Kitsch -- Kitsch's panels are made of a fabric,	14:11:27
11		quote, "with a limited amount of stretch in the	14:11:32
12		length and width." Do you see that?	14:11:35
13	A	Mm-hmm.	14:11:37
14	Q	So if something stretches in length and	14:11:38
15		width even a little bit, isn't that four-way	14:11:41
16		stretch?	14:11:45
17	A	No. Four-way stretch can only achieved by	14:11:45
18		a knit fabric.	14:11:48
19	Q	What does -- doesn't four-way stretch mean	14:11:54
20		it can stretch kind of up and down and side to side?	14:11:58
21	A	Four-way stretch specifically identifies	14:12:02
22		how a knit stretches. It's an industry standard.	14:12:05

1	Q	So where Kitsch says that its stretch	14:12:21
2		panel can be a woven blend of Modal and Spandex, can	14:12:24
3		that have four-way stretch?	14:12:34
4	A	Again, the industry term "four-way stretch	14:12:36
5		material" identifies a knit fabric that stretches in	14:12:40
6		its length and width but is a knit fabric.	14:12:44
7	Q	So can the woven blend of Modal and	14:12:55
8		Spandex have four-way stretch?	14:12:59
9	A	No. It can stretch in its length and	14:13:05
10		width.	14:13:08
11	Q	Have you ever heard the term "two-way	14:13:09
12		stretch"?	14:13:11
13	A	Yes.	14:13:11
14	Q	What does "two-way stretch" mean?	14:13:13
15	A	Two-way stretch is often a misnomer that	14:13:16
16		people use to identify a four-way stretch material.	14:13:21
17	Q	What do you mean by a misnomer?	14:13:28
18	A	In the vernacular there is no such thing	14:13:30
19		as a two-way stretch. A knit fabric will either	14:13:38
20		just stretch -- a fabric will either just stretch in	14:13:42
21		its length if it's knit or may just stretch in its	14:13:46
22		width. But if it stretches in both length and	14:13:49

1	width, if it's a knit fabric, it's a four-way	14:13:52
2	stretch. It's an industry term.	14:13:55
3	Q Okay. Now, let's go on, let's go back to	14:14:14
4	something else you mentioned here, and we're still	14:14:19
5	in paragraph 57 of your declaration here, and you	14:14:21
6	say, we looked at the sentence before, "whereas the	14:14:26
7	'974 patent's stretch panel is constructed of	14:14:32
8	four-way stretch knit fabric which, due to its	14:14:35
9	construction (tricot construction), stretches in the	14:14:39
10	length and width equally." Do you see that?	14:14:42
11	A Mm-hmm.	14:14:45
12	Q That's saying it stretches the same in the	14:14:47
13	length and the width?	14:14:50
14	A Yes, and different --	14:14:52
15	(Simultaneous speaking.)	14:14:52
16	A -- stretch differently.	14:14:57
17	Q Is that also referred to as symmetric	14:14:58
18	stretch?	14:15:02
19	A Not as an industry term.	14:15:03
20	Q So when you say stretches in the length	14:15:05
21	and width equally, that means that there's the same	14:15:08
22	amount of stretch in the length direction as the	14:15:12

1	width direction?	14:15:16
2	A Correct. And some may stretch more than	14:15:17
3	the other.	14:15:20
4	Q And your statement here is that the '974	14:15:21
5	stretch panel stretches the same in length and	14:15:25
6	width. Is that correct?	14:15:28
7	A In one embodiment, yes.	14:15:28
8	Q Okay. I'd like to go on, I think the next	14:16:14
9	sentence here, and this is where you're discussing	14:16:19
10	what you identify as different purposes between the	14:16:21
11	'974 and Kitsch. You say, "The two serve very	14:16:24
12	different purposes: Where Kitsch focuses on the	14:16:31
13	fabric's breathability, the '974 patent calls for	14:16:33
14	elasticity and comfort." Do you see that?	14:16:37
15	A Yes.	14:16:40
16	Q If we can go to Kitsch, please, and let's	14:16:44
17	look at start with paragraph 6, for example. And	14:16:50
18	about midway down, I'll read one of the sentences,	14:17:05
19	"The underwear garment is designed usually a	14:17:08
20	specifically shaped breathable pouch which includes	14:17:11
21	elasticized breathable wicking mesh material side	14:17:13
22	panel" --	14:17:17

1	MR. LUMAN: Sorry, I don't see where you	14:17:18
2	are --	14:17:19
3	Q Paragraph 6 of Kitsch, it's the second	14:17:20
4	sentence.	14:17:23
5	A Mm-hmm, okay.	14:17:24
6	Q "The underwear garment is designed using a	14:17:25
7	specifically shaped breathable pouch which includes	14:17:28
8	elasticized breathable wicking mesh material side	14:17:31
9	panels to isolate the scrotum and phallus from the	14:17:34
10	legs and wick away moisture and provide superior	14:17:38
11	comfort." Do you see that?	14:17:44
12	A Yup.	14:17:45
13	Q So Kitsch also is discussing elasticity.	14:17:46
14	Isn't that correct?	14:17:52
15	A Yup.	14:17:56
16	Q And Kitsch also is discussing comfort,	14:17:56
17	isn't it?	14:17:59
18	A It's a marketing claim here.	14:18:01
19	Q Kitsch discusses comfort --	14:18:07
20	(Simultaneous speaking.)	14:18:08
21	A So the answer is yes. The answer is yes.	14:18:08
22	Q Okay. And it, in fact, discusses	14:18:11

1	elasticity and comfort in some other places, for	14:18:14
2	example, if we look at paragraph 30. And you can	14:18:19
3	read that, and, again, let me know if you disagree	14:18:25
4	that paragraph 30 is also indicating that the side	14:18:30
5	panels in Kitsch are elasticized and that it	14:18:33
6	provides comfort.	14:18:36
7	A Okay. Yes.	14:18:58
8	Q And then am I right, going back to your	14:19:00
9	declaration, another distinction that you were	14:19:04
10	saying is Kitsch focuses on the fabric's	14:19:07
11	breathability, correct?	14:19:11
12	A Yes.	14:19:12
13	Q Now, if you can -- if you can go to	14:19:14
14	Exhibit 1001 again, which is the '974 patent, and if	14:19:18
15	you can look at column 4, lines 2 to 3, doesn't the	14:19:32
16	'974 patent state that "Stretch panel 22 is	14:19:39
17	preferably made of a breathable fabric"?	14:19:43
18	A It does.	14:19:47
19	Q So isn't it true that both Kitsch and the	14:19:48
20	'974 patent talk about elasticity, comfort and	14:19:51
21	breathability?	14:19:56
22	A They both do talk about it.	14:19:58

Transcript of Bernard Kahn
Conducted on July 9, 2025

132

1	MR. HUGHES: Okay. Counsel, we have been	14:20:27
2	going for over an hour, just let me know whenever	14:20:28
3	you're ready for your next break.	14:20:32
4	MR. LUMAN: Yeah, I have been snacking on	14:20:34
5	camera, so my apologies for that. But it might be a	14:20:35
6	good time to take one whenever you find a good	14:20:38
7	breaking spot.	14:20:41
8	THE WITNESS: This is good.	14:20:41
9	MR. LUMAN: The witness just said it will	14:20:43
10	be a good time.	14:20:46
11	MR. HUGHES: Okay. We'll go off the	14:20:47
12	record.	14:20:49
13	THE VIDEOGRAPHER: Okay. Stand by. We	14:20:49
14	are going off the record. The time on the video	14:20:53
15	monitor is 2:20 p.m.	14:20:55
16	(Recess 2:21 p.m. - 2:31 p.m.)	14:21:00
17	THE VIDEOGRAPHER: We're back on the	14:32:02
18	record. The time on the video monitor is 2:32 p.m.	14:32:06
19	BY MR. HUGHES:	14:32:12
20	Q Mr. Kahn, welcome back again.	14:32:25
21	A Thank you.	14:32:27
22	Q Can we turn to I'd like to go now to page	14:32:29

PLANET DEPOS

888.433.3767 | WWW.PLANETDEPOS.COM

Tommy John EX1011
Tommy John v. Pakage Apparel
IPR2024-01163

1	34 of your declaration, which is Exhibit 2013.	14:32:33
2	MR. LUMAN: What paragraph? Sorry.	14:32:44
3	THE WITNESS: 34.	14:32:47
4	MR. HUGHES: Page 34.	14:32:48
5	MR. LUMAN: Before we get started,	14:32:49
6	obviously, I have no idea what you're going to be	14:32:51
7	talking about. Do you mind, it might save time only	14:32:54
8	flipping back and forth, if I put -- I don't know if	14:32:58
9	you can see this or not, page 14 and 15 of his	14:33:01
10	report, I had an extra copy of his report, just next	14:33:05
11	to him so he doesn't have to go back and forth. I	14:33:06
12	mean, I don't -- I'm just trying to be helpful.	14:33:08
13	MR. HUGHES: That's fine with me. If you	14:33:10
14	would like to have that quotes of the claim language	14:33:12
15	in front him --	14:33:15
16	(Simultaneous speaking.)	14:33:15
17	MR. LUMAN: That way you can see the one	14:33:15
18	instead of --	14:33:15
19	(Simultaneous speaking.)	14:33:15
20	THE WITNESS: Yeah, thank you.	14:33:18
21	MR. LUMAN: So he's just looking at page	14:33:19
22	14 and page 15, there's the second part of that	14:33:21

1	claim --	14:33:25
2	THE WITNESS: Right. Thank you.	14:33:25
3	MR. LUMAN: -- and then we don't have to	14:33:25
4	go back and forth.	14:33:27
5	MR. HUGHES: Is that a clean -- are there	14:33:28
6	any markings on that? Is that a clean copy?	14:33:29
7	MR. LUMAN: None whatsoever. You're	14:33:32
8	welcome to mark it as an exhibit if you want to --	14:33:33
9	MR. HUGHES: That's -- that's totally	14:33:37
10	fine, that's -- yeah, I agree, if he wants to have	14:33:38
11	that in front of him to reference, that's fine with	14:33:40
12	us.	14:33:43
13	BY MR. HUGHES:	14:33:46
14	Q Okay, Mr. Kahn --	14:33:47
15	(Simultaneous speaking.)	14:33:47
16	MR. LUMAN: Where were we?	14:33:49
17	Q Page 34 and --	14:33:51
18	MR. LUMAN: Gotcha, okay.	14:33:52
19	Q -- and do you see a section that starts	14:33:53
20	with "Kitsch Does Not Disclose 1[g]"?	14:33:55
21	A Yes.	14:34:01
22	Q Okay. So I would like to go on a little	14:34:02

1	bit. And page 35 then you've got a statement number	14:34:05
2	6, "Combining Kitsch with Brocks does not Render the	14:34:10
3	'974 Patent Obvious." Do you see that?	14:34:15
4	A Yes.	14:34:17
5	Q And I'd like to talk about the Brocks	14:34:19
6	reference for a little bit. That's Exhibit 1008, if	14:34:24
7	we can bring that up. And if we can go to -- just	14:34:28
8	give me one second. Can we go to the last page of	14:34:54
9	Brocks.	14:35:01
10	A Okay.	14:35:11
11	Q Okay. And just generally, before I start	14:35:12
12	asking specific questions about that, you know, you	14:35:15
13	would agree Brocks is also directed to men's	14:35:18
14	underwear, correct?	14:35:21
15	A Correct.	14:35:22
16	Q And in Brocks there's also a pouch that's	14:35:22
17	formed for the genitals. Is that right?	14:35:25
18	A It's described, yes.	14:35:28
19	Q Okay. And if we look at column 3, and if	14:35:30
20	we go down the last paragraph in column 3 it starts	14:35:38
21	with Figure 8. Do you see that?	14:35:42
22	A Yeah, let me -- okay. Yup.	14:35:48

1	MR. LUMAN: It's up on the screen, too.	14:35:52
2	THE WITNESS: Okay. I'm on the actual	14:35:56
3	figure.	14:35:58
4	MR. HUGHES: Yeah, I think he's -- he's	14:35:58
5	looking at Figure 8.	14:35:59
6	Q Just let me know when you've reviewed it.	14:36:01
7	A Yup. Yes.	14:36:03
8	Q Okay. Now, this description of Figure 8	14:36:05
9	in column 3, that's showing a panel 12 that's formed	14:36:08
10	when one section 14 is superimposed over 16 and then	14:36:12
11	those are stitched together. Do you see that?	14:36:17
12	A Yes.	14:36:20
13	Q Those portions 14 and 16 just make up part	14:36:21
14	of the front of the underwear. Is that right?	14:36:25
15	A Yes.	14:36:29
16	Q And then this says that, going on a little	14:36:29
17	bit, it says, "In Figure 8 elastic strip 76 and 78	14:36:35
18	are indicated with the arrows showing the direction	14:36:40
19	of their stretch." Do you see that?	14:36:43
20	A Yes.	14:36:45
21	Q And if we go to Figure 8, those arrows are	14:36:46
22	kind of showing the stretch being upwards and	14:36:55

1	outwards kind of around a curve, correct?	14:36:59
2	A They're showing stretch in the length of	14:37:02
3	the elastic.	14:37:06
4	Q And it's -- it's shown the arrows are not	14:37:07
5	going in a straight line, correct? It's being	14:37:12
6	stretched kind of upwards and outwards?	14:37:15
7	A Sorry. When you take a piece of elastic	14:37:18
8	and stretch it in its length, you can bend elastic	14:37:23
9	in any direction you want.	14:37:28
10	Q Okay. And here they're showing it going	14:37:29
11	in a direction upwards and outwards, kind of	14:37:32
12	following that curve of the front portion of the	14:37:35
13	underwear, right?	14:37:39
14	A Yes.	14:37:41
15	Q And if we go back to column 3 now, I want	14:37:46
16	to talk a little bit more about what Brocks	14:37:49
17	describes this elastic doing, it's the next sentence	14:37:53
18	after the first one there that we just read, "The	14:37:57
19	elastic 78 in its non-stretched condition is	14:37:59
20	approximately two-thirds of the length of the leg	14:38:02
21	opening arches running between a point 56 of the	14:38:05
22	underlying panel 16 and point 34 of the overlying	14:38:09

1	panel 14, along the right leg opening," and then,	14:38:15
2	similarly, there's one for the left leg. Is that --	14:38:19
3	do you see that?	14:38:23
4	A Yup.	14:38:24
5	Q Now, going on in column -- so let me go	14:38:25
6	back a second. So that's indicating here that this	14:38:32
7	elastic has both a non-stretched condition and then	14:38:38
8	it would also have a stretched condition, right?	14:38:41
9	A Yes.	14:38:44
10	Q Okay. And going on to column 4 in Brocks,	14:38:45
11	in discussing Figure 9, it states that this shows	14:38:50
12	the panel with the elastic gathered into shirring	14:38:55
13	form as indicating at 76E and 78E. Do you see that?	14:38:59
14	A Yes.	14:39:05
15	Q And where it says it's gathered, that's	14:39:06
16	because the elastic was stretched before. Is that	14:39:15
17	correct?	14:39:18
18	A When the elastic was stretched when it was	14:39:18
19	attached and then allowed to relax, yes.	14:39:21
20	Q Okay. And I think that's what comes after	14:39:24
21	this, once the finished panel is assembled, the	14:39:27
22	elastic is re-stretched and the panel stitched	14:39:30

1	together with the rear section. Is that right?	14:39:34
2	That's indicating that the -- that this elastic is	14:39:38
3	attached or stitched when it's stretched. Isn't	14:39:43
4	that right?	14:39:47
5	A To the front panel, yes.	14:39:47
6	Q Okay. And then it says now the cotton	14:39:49
7	material, that's the cotton material of the	14:39:55
8	underwear itself, right?	14:39:59
9	A Yes.	14:40:01
10	Q And then it says, "After sections 4 and 12	14:40:03
11	are stitched together, waistband is stitched over	14:40:06
12	the assembled section as shown in Figure 2." And	14:40:09
13	then it ends by saying, "The elastic strips create a	14:40:13
14	gathering and shirring forming a secure enclosure	14:40:16
15	pouch for the male genitals as generally indicated	14:40:20
16	in Figs. 1 and 3." Do you see that?	14:40:23
17	A Yes.	14:40:26
18	Q So this is indicating that because you	14:40:27
19	stretched the elastic material before it was	14:40:31
20	stitched, that created the gathering in the pouch.	14:40:34
21	Isn't that right?	14:40:38
22	A It did create the gathering, yes.	14:40:38

1	Q	And so Brocks is teaching that by	14:40:41
2		stretching elastic and attaching it to another	14:40:47
3		fabric, you can create gathering of that fabric,	14:40:49
4		isn't it?	14:40:52
5	A	Yes.	14:40:53
6		MR. LUMAN: Objection to form. And he	14:40:53
7		said whatever he said.	14:40:57
8	A	Yes.	14:40:59
9	Q	I'd now like to turn to some of the	14:41:59
10		dependent claims, if you remember also giving	14:42:03
11		opinions not only on claim 1, but some of the	14:42:06
12		dependent claims in this patent. Do you recall	14:42:09
13		that?	14:42:16
14	A	Yes.	14:42:17
15	Q	Okay. And if we can go to page 40 of your	14:42:18
16		declaration, you discuss claims 3 and 4 here --	14:42:28
17		sorry, claims 4 and 5, I'm sorry.	14:42:34
18		MR. LUMAN: Did you say page 40 or	14:42:40
19		paragraph 40?	14:42:43
20	Q	Page 40, and it's discussing claims 4 and	14:42:44
21		5 at paragraphs 84 and 85, if you want to take a	14:42:46
22		minute or two to read those.	14:42:50

1	A	Mm-hmm, please.	14:42:51
2		Okay.	14:43:28
3	Q	So I'd like to focus on paragraph 85 here.	14:43:29
4		And you say, "As mentioned above, Kitsch does not	14:43:34
5		disclose stretch characteristics of the side panels.	14:43:37
6		Petitioner urges a theory of stretch for the elastic	14:43:41
7		strips in Brooks, but other than using the claim	14:43:46
8		language of 30 percent stretch, there is no	14:43:48
9		disclosure in Brocks indicating to a POSITA that a	14:43:51
10		fabric should have at least 30 percent stretch." Do	14:43:56
11		you see that?	14:44:02
12	A	Yeah.	14:44:02
13	Q	What do you mean by "but other than using	14:44:03
14		the claim language of 30 percent stretch, there is	14:44:06
15		no disclosure in Brocks indicating to a POSITA that	14:44:10
16		a fabric should have at least 30 percent stretch"?	14:44:13
17	A	There's nowhere in Brocks, I believe --	14:44:17
18		I'd have to look back again -- actually, let me look	14:44:21
19		back again.	14:44:25
20		So there's no place in Brocks where Brocks	14:45:18
21		indicates the 30 percent stretch in the cotton	14:45:22
22		fabric.	14:45:25

1	Q	Which -- which fabric are you talking	14:45:32
2		about?	14:45:34
3	A	The cotton fabric.	14:45:35
4	Q	Of the underwear itself?	14:45:36
5	A	As defined in Brocks, yes.	14:45:38
6	Q	So the claim limitation here, and we can	14:45:43
7		pull up just so we can look at it --	14:45:49
8		MR. LUMAN: He's talking about paragraph	14:45:54
9		84 or 85 --	14:45:55
10	A	85.	14:45:57
11	Q	85.	14:45:58
12		MR. LUMAN: Talking about paragraph 85 in	14:45:59
13		your report. He's got a lot of documents open.	14:46:01
14	Q	I understand. Maybe let's just look at	14:46:06
15		claim 4 here. Do you have that in front of you?	14:46:10
16		And if not, we can bring it up on the screen.	14:46:14
17	A	Claim 4 in '974?	14:46:17
18	Q	In the '974 patent.	14:46:20
19	A	Yes, okay.	14:46:22
20		MR. LUMAN: Yeah, why don't you bring it	14:46:23
21		up so the record reflects what he's looking at.	14:46:25
22		MR. HUGHES: Yeah, if we can show that on	14:46:29

1	the screen, please.	14:46:31
2	MR. LUMAN: It's column 8.	14:46:42
3	MR. HUGHES: Claim 4, not column 4, sorry.	14:46:51
4	Claim 4 is in column 8 towards the bottom. Can we	14:47:11
5	get that put up on the screen? Thank you. And	14:47:18
6	maybe zoom in on claim 4.	14:47:21
7	Q Okay. So Mr. Kahn, do you see claim 4	14:47:28
8	states, "A male garment according to claim 3 wherein	14:47:31
9	the stretch panel comprises a fabric having a	14:47:34
10	stretch of at least 30 percent"?	14:47:37
11	A Yes.	14:47:39
12	Q So this is referring to the stretch of the	14:47:39
13	stretch panel, not the underwear, correct?	14:47:42
14	A Correct.	14:47:46
15	Q So in Brocks when you were referencing the	14:47:47
16	cotton, that would have been the underwear, not the	14:47:50
17	elastic, right?	14:47:54
18	A Well, in Brocks the front panel that	14:47:56
19	Brocks describes is part of the underwear and that's	14:47:59
20	the cotton material referenced.	14:48:03
21	Q Now, in Brocks there is also the elastic	14:48:06
22	strips, correct?	14:48:09

1	A	Yes, but that's not fabric.	14:48:10
2	Q	Well, let's talk about those elastic	14:48:14
3		strips, right. Is it your statement or your	14:48:17
4		understanding that those elastic strips can't	14:48:27
5		stretch by at least 30 percent?	14:48:32
6	A	Where would you get that from?	14:48:39
7	Q	I'm just asking if that's your opinion.	14:48:41
8	A	I haven't expressed that in my	14:48:45
9		declaration.	14:48:48
10	Q	Do you agree that the elastic strips in	14:48:48
11		Brocks have a stretch of at least 30 percent?	14:48:52
12		MR. LUMAN: Objection to form.	14:48:56
13	A	I wouldn't even know where to find out.	14:48:58
14	Q	So let's -- let's go back to Brocks then.	14:49:01
15		And if we can pull up Brocks, and we can go back to	14:49:08
16		columns 3 and 4 again. One second, I'm just	14:49:15
17		bringing it up. Sorry, I'm just -- my copy is	14:50:06
18		taking a little bit to load, just give me one	14:50:37
19		second.	14:50:40
20		Okay. Let's look at the bottom of column	14:50:47
21		3 here, and do you see the last full paragraph here?	14:50:53
22	A	Mm-hmm.	14:51:00

1	Q	And it says the elastic in its	14:51:01
2		non-stretched condition is approximately two-thirds	14:51:05
3		of the length of the leg opening arches running	14:51:08
4		between the point 56 and point 34. Do you see that?	14:51:11
5	A	Yup, I do.	14:51:16
6	Q	And then it follows that in its stretched	14:51:17
7		condition, it's attached between those two points,	14:51:21
8		correct?	14:51:25
9	A	Correct.	14:51:26
10	Q	So if it's two-thirds of the length	14:51:27
11		between those two points when it's unstretched and	14:51:31
12		then it's attached to them, doesn't that mean it has	14:51:34
13		to stretch more than 30 percent to be able to do	14:51:36
14		that?	14:51:41
15	A	Correct.	14:51:41
16	Q	Okay. You can put away Brocks for now.	14:51:42
17		And I'd actually like to go now and	14:52:33
18		discuss the Carrillo reference, if you recall that	14:52:41
19		one. And for reference, we can go to page 44 of	14:52:44
20		Exhibit 2013, your declaration. Let me know when	14:52:50
21		you're -- when you're there.	14:53:20
22	A	Ready.	14:53:24

Transcript of Bernard Kahn
Conducted on July 9, 2025

146

1	MR. HUGHES: I'm sorry, was there another	14:53:29
2	comment or an objection?	14:53:30
3	MR. LUMAN: No. I was asking him where we	14:53:32
4	were. I couldn't see.	14:53:36
5	THE WITNESS: Page 44.	14:53:38
6	MR. LUMAN: Page 44.	14:53:39
7	MR. HUGHES: Sometimes it's difficult to	14:53:41
8	hear if you're making an objection or just a	14:53:42
9	comment.	14:53:45
10	MR. LUMAN: Yeah, but there was no	14:53:45
11	question pending, so I didn't object. Unless you	14:53:47
12	want me to object when there's no question pending,	14:53:50
13	I can do that, too. That would seem odd.	14:53:53
14	MR. HUGHES: If you can think of	14:53:56
15	something.	14:53:57
16	BY MR. HUGHES:	14:53:58
17	Q All right. So if we look at page 44, this	14:53:58
18	is now discussing the Carrillo reference, correct?	14:54:01
19	A Yes.	14:54:04
20	Q Okay. And at paragraph 97 here you talk	14:54:06
21	about a statement by Ms. Wagner that a POSITA would	14:54:12
22	choose a Nylon -- she mentions that a POSITA would	14:54:16

PLANET DEPOS

888.433.3767 | WWW.PLANETDEPOS.COM

Tommy John EX1011
Tommy John v. Package Apparel
IPR2024-01163

1	choose a Nylon Spandex blend for -- and saying that	14:54:21
2	choosing those "for their moisture wicking	14:54:25
3	abilities, breathability and comfort is not	14:54:29
4	accurate." Do you see that?	14:54:32
5	A Yes.	14:54:34
6	Q Now, you state here that "Nylon-Spandex	14:54:34
7	and polyester-Spandex blends of percentages are	14:54:38
8	entirely hydrophobic fiber fabrics." Do you see	14:54:42
9	that?	14:54:48
10	A Correct.	14:54:48
11	Q And hydrophobic means that they are	14:54:48
12	moisture repelling, not moisture attracting?	14:54:51
13	A Correct.	14:54:56
14	Q Now, a fabric -- so you say they don't	14:54:56
15	absorb moisture and so they don't have wicking	14:54:59
16	characteristics and are not breathable. Do you see	14:55:03
17	that?	14:55:06
18	A That's correct.	14:55:06
19	Q Is cotton a hydrophobic fabric or a	14:55:07
20	hydrophilic fabric?	14:55:13
21	A It's a hydrophilic fabric.	14:55:15
22	Q And cotton absorbs moisture, correct?	14:55:18

1	A	It does, yes.	14:55:22
2	Q	Now, for comfort, cotton, in fact, absorbs	14:55:24
3		and holds onto moisture, doesn't it?	14:55:29
4	A	It does.	14:55:31
5	Q	So if you were going for comfort, cotton	14:55:32
6		is not a fabric, even though it's hydrophilic, that	14:55:35
7		you would use if you were worried about moisture,	14:55:40
8		right?	14:55:42
9	A	Correct.	14:55:42
10	Q	And I'd like to go back, let's talk about	14:55:46
11		Nylon. Is Nylon hydrophobic or hydrophilic?	14:55:49
12	A	Hydrophobic.	14:55:55
13	Q	But aren't Nylon fabrics sometimes used in	14:55:57
14		moisture wicking clothing?	14:56:02
15	A	Nylon by its nature is not moisture	14:56:04
16		wicking. It's hydrophobic.	14:56:09
17	Q	Are you aware of any moisture wicking	14:56:13
18		clothing that uses, for example, a Nylon-Spandex	14:56:18
19		blend?	14:56:22
20	A	What kind of garments?	14:56:25
21	Q	Moisture wicking.	14:56:26
22	A	No, they couldn't.	14:56:31

1	Q	Can you treat Nylon and Spandex with	14:56:33
2		something to help them with moisture wicking	14:56:36
3		characteristics?	14:56:39
4	A	They're not -- that's not generally done.	14:56:40
5	Q	Can it be done?	14:56:48
6	A	Technically you could. As to whether it's	14:56:50
7		successful or not, I cannot venture.	14:56:55
8	Q	Okay. And now here we were talking about	14:56:58
9		using a Nylon-Spandex blend, and if you recall	14:57:02
10		earlier we were talking about the Kitsch reference,	14:57:07
11		correct?	14:57:10
12	A	Yes.	14:57:10
13	Q	And Kitsch, in fact, states that it uses a	14:57:13
14		Nylon-Spandex blend of elastic fabric for moisture	14:57:18
15		wicking breathability and comfort, doesn't it?	14:57:25
16	A	It does say that, yes.	14:57:28
17	Q	Okay. I'd like to go to paragraph 98 of	14:57:30
18		your declaration, yes, and we have it up here. Here	14:58:03
19		you state that Carrillo does not describe the	14:58:09
20		material and that petitioner hypothesizes that the	14:58:12
21		elastic material must be four-way stretch material.	14:58:15
22		Do you see that?	14:58:20

1	A	Yes.	14:58:21
2	Q	Now, for an elastic material, four-way	14:58:22
3		stretch would indicate that it stretches, as talked	14:58:29
4		about in the '974 patent, that it can stretch, let's	14:58:33
5		say, vertically and laterally, correct?	14:58:37
6	A	In both directions each, yes.	14:58:41
7	Q	And the alternative to that would be	14:58:44
8		something that stretches in only one of those	14:58:47
9		directions, correct?	14:58:50
10	A	In either the length -- in both directions	14:58:52
11		in the length or in both directions in the width.	14:58:55
12	Q	And those are the only two alternatives,	14:58:59
13		right, something can either stretch in both	14:59:02
14		directions in the length or both directions in	14:59:05
15		length and width or only one direction in length or	14:59:09
16		width, right?	14:59:13
17	A	Well, if you want to get technical, you	14:59:13
18		could also stretch in the bias.	14:59:16
19	Q	When you say in the bias, do you mean	14:59:18
20		diagonally?	14:59:21
21	A	Diagonally, yeah, which is not mentioned	14:59:23
22		anywhere in any of these patents --	14:59:26

1	Q	Okay.	14:59:26
2	A	-- directly.	14:59:28
3	Q	So those would be your three options for	14:59:30
4		stretch, though, right?	14:59:33
5	A	That's correct.	14:59:35
6	Q	Okay. Let's go to page 46 of your	14:59:37
7		declaration, and let me know when you're there. I'm	15:00:28
8		going to be asking about 1[g] again, so you can just	15:00:32
9		let me know when you're there, and if you want to	15:00:37
10		take a minute to look through that section.	15:00:39
11		MR. LUMAN: Counsel, in fairness to you, I	15:00:42
12		just pointed to his 14 and 15 so he could look at	15:00:43
13		1[g] if he needed to.	15:00:48
14	A	I have it, thank you.	15:00:50
15		MR. HUGHES: Yeah, I think he still has	15:00:52
16		that in front of him, right?	15:00:54
17		MR. LUMAN: Yeah.	15:00:55
18		MR. HUGHES: Yes.	15:00:58
19	A	Okay.	15:01:03
20	Q	Okay. And I'd like to start with	15:01:04
21		paragraph 102.	15:01:26
22	A	Okay.	15:01:28

1	Q	Here you say, "Carrillo discloses a men's	15:01:28
2		garment that is sewn to the inner part of underwear	15:01:32
3		and once sewn, create a vertical hole through which	15:01:36
4		male genitalia can be passed." Do you see that?	15:01:41
5	A	Yes.	15:01:43
6	Q	The garment you're referring to, is that	15:01:43
7		elastic insert designated with reference numeral 1	15:01:47
8		that we talked about earlier, correct? And you can	15:01:50
9		look back at the reference.	15:01:58
10		(Simultaneous speaking.)	15:01:58
11	A	I have Carrillo in front of me, yeah.	15:02:02
12	MR. LUMAN:	So that's what he was	15:02:04
13		referring to, so the picture in Carrillo -- I'm just	15:02:05
14		pointing him to the picture in Carrillo or the	15:02:09
15		figure in Carrillo --	15:02:11
16		(Simultaneous speaking.)	15:02:13
17	MR. HUGHES:	Yeah, I just mentioned he can	15:02:13
18		-- he can look at Carrillo if he would like.	15:02:16
19	A	Okay. And where did you reference to in	15:02:18
20		Carrillo?	15:02:20
21	Q	So in paragraph 102 of your declaration	15:02:21
22		you say, "Carrillo discloses a men's garment that is	15:02:24

1	sewn to the inner part of underwear," and I'm just	15:02:27
2	asking that garment you're referring to is the	15:02:31
3	elastic insert designated as reference numeral 1,	15:02:35
4	correct?	15:02:39
5	A Yes.	15:02:39
6	Q In paragraph 102 you then say, "The	15:02:41
7	Carrillo garment and the inside of the underwear are	15:02:44
8	'essentially congruent', and the Carrillo garment is	15:02:47
9	stitched to the underwear around the garment's	15:02:49
10	edges, thereby creating an internal 'pocket' between	15:02:52
11	them that may receive the wearer's testicles." Do	15:02:56
12	you see that?	15:03:01
13	A Yes.	15:03:01
14	Q What do you mean by "pocket"?	15:03:02
15	A Well, pocket has three-dimensional	15:03:06
16	shape -- I'm sorry. I'm already going ahead of	15:03:10
17	myself, I apologize. A pocket is a space between	15:03:14
18	two surfaces.	15:03:17
19	Q Okay. And this pocket is going to receive	15:03:21
20	the wearer's testicles, correct?	15:03:23
21	A Correct.	15:03:26
22	Q So there has to be some volume to what	15:03:26

1	you're referring to as a pocket?	15:03:30
2	A No.	15:03:34
3	Q If there's no volume, how could it receive	15:03:34
4	the wearer's testicles?	15:03:36
5	A That's up to Carrillo to figure out.	15:03:38
6	There's no definition in Carrillo for that.	15:03:48
7	Q Now, Carrillo doesn't actually use the	15:03:50
8	word "pocket," does it, though?	15:03:54
9	A Correct.	15:03:57
10	Q So that was your term, which is why I'm	15:03:58
11	asking, you know, where you're understanding that	15:04:01
12	there's a pocket or what the pocket would be.	15:04:05
13	A Mm-hmm, yes.	15:04:08
14	Q So in Carrillo, if we look at it, and	15:04:10
15	let's go to Exhibit 1010 here and let's go to page	15:04:16
16	2, if we can get that up on the screen. Carrillo is	15:04:32
17	Exhibit 1010, and page -- page 4 of the PDF, which	15:04:34
18	will be page 2 of the document. And for the	15:04:40
19	witness, if you can check against the screen, I know	15:04:45
20	that there's -- what I'm looking for is the page	15:04:47
21	that's "Description of the Invention" and it has a	15:04:51
22	page number 2 at the top of it.	15:04:53

1	A	Yes, I have it.	15:04:55
2	Q	If we look at the third paragraph there,	15:04:56
3		it says, "The brief is worn as it normally is, but	15:05:00
4		after introducing the intimate parts through the	15:05:04
5		opening. Since the base of the opening is located	15:05:07
6		between the testicles and the groin, the normal	15:05:10
7		tendency of the elastic garment, when sewn to the	15:05:12
8		inner front part of the underwear, is to gently pull	15:05:16
9		them forward, achieving, with this garment, a	15:05:21
10		sufficient separation to reduce continuous direct	15:05:24
11		contact and friction between both parts." Do you	15:05:28
12		see that?	15:05:31
13	A	Yes.	15:05:31
14	Q	So that's indicating that this elastic	15:05:31
15		garment is going to pull the genitals forward,	15:05:39
16		correct?	15:05:41
17	A	Correct.	15:05:41
18	Q	And it's going to pull them forward into	15:05:42
19		what's in front of that, in front of that elastic	15:05:45
20		garment, correct?	15:05:48
21	A	Correct.	15:05:49
22	Q	And that would be the fabric of the front	15:05:50

1	portion of the underwear in Carrillo?	15:05:54
2	A And the -- and the Carrillo garment	15:05:57
3	itself, yes.	15:06:01
4	Q So the elastic garment in Carrillo is	15:06:02
5	pulling the genitals forward and into a space in the	15:06:06
6	front of the underwear. Is that right?	15:06:09
7	A Pulling the testicles forward, yes.	15:06:11
8	Q Now I'd like to go to paragraph 107 of	15:06:16
9	your declaration. Let me know when you're there.	15:07:19
10	A Yes.	15:07:28
11	MR. LUMAN: So read through it.	15:07:29
12	Q And if you want to take a minute, you can	15:07:34
13	read that.	15:07:37
14	A Please do. Give me a moment.	15:07:37
15	Okay. Go ahead.	15:08:01
16	Q Okay.	15:08:08
17	A Yes.	15:08:10
18	Q In this paragraph you state that what you	15:08:11
19	refer to as the pocket of Carrillo "is at best baggy	15:08:15
20	when sewn to the underpants." Do you see that?	15:08:20
21	A Yes. It refers to the softness of the	15:08:23
22	fabric.	15:08:26

1	Q	And what's your basis in Carrillo for	15:08:27
2		stating that it's baggy?	15:08:31
3	A	The fact that the fabrics are elastic in	15:08:33
4		terms of the Carrillo garment is defined as elastic	15:08:39
5		and that the garment is possibly elastic.	15:08:43
6	Q	Is all elastic baggy?	15:08:50
7	A	Not really, no. That's why I say "at	15:08:53
8		best."	15:09:00
9	Q	Does Carrillo say that the elastic garment	15:09:08
10		is loose when it's sewn to the underpants?	15:09:11
11	A	It doesn't define the nature of it when	15:09:15
12		it's sewn in.	15:09:17
13	Q	So it could be loose or it could be, in	15:09:19
14		fact, stretched out a little bit, right?	15:09:23
15	A	It's undefined.	15:09:25
16	Q	Would the elastic be able to pull the	15:09:35
17		testicles forward if it was loose and baggy?	15:09:40
18	A	Again, that's undefined.	15:09:45
19	Q	What do you mean by it's undefined?	15:09:53
20	A	It doesn't specifically describe in the	15:09:56
21		Carrillo how that would occur.	15:09:58
22	Q	My question to you, though, is if you had	15:10:04

1	just baggy or loose fabric there, would it be able	15:10:08
2	to pull something forward?	15:10:13
3	A Again, it's not defined in the patent.	15:10:15
4	Q What about in your experience, if you just	15:10:30
5	had baggy fabric, could that be used to pull, like	15:10:33
6	here, pull the testicles through or pull them	15:10:38
7	forward?	15:10:40
8	A I can't even answer that question.	15:10:41
9	MR. HUGHES: All right. Let's go off the	15:11:42
10	record.	15:11:45
11	THE VIDEOGRAPHER: Stand by. We're going	15:11:47
12	off the record. The time on the video monitor is	15:11:49
13	3:11 p.m.	15:11:53
14	(Recess 3:11 p.m. - 3:23 p.m.)	15:11:54
15	THE VIDEOGRAPHER: We're back on the	15:23:12
16	record. The time on the video monitor is 3:23 p.m.	15:23:14
17	BY MR. HUGHES:	15:23:20
18	Q Okay. Mr. Kahn, did you receive any	15:23:20
19	Package underwear to analyze when preparing your	15:23:26
20	declaration?	15:23:30
21	A I did receive underwear. I don't believe	15:23:31
22	it was actually Package. It may have been a license	15:23:33

1	maker or something.	15:23:38
2	Q What do you mean by a "license maker"?	15:23:42
3	A I believe the -- I don't have it in front	15:23:44
4	of me. I can't tell you what the brand was, but I	15:23:46
5	believe that the company that made that made it	15:23:49
6	according to the patent that they had licensed the	15:23:54
7	use of. Again, I don't know for sure.	15:23:56
8	Q Was it your understanding that that	15:23:59
9	underwear that you reviewed related to the patent?	15:24:03
10	A Yes.	15:24:06
11	Q And did you analyze that in preparing or	15:24:06
12	in drafting your declaration?	15:24:11
13	A Well, the reality is I received it towards	15:24:14
14	the end of my analysis, so it allowed me to see	15:24:17
15	physically what was being described in the patent.	15:24:20
16	Q Did anything about that underwear inform	15:24:24
17	your opinions that you put in your declaration?	15:24:26
18	A Not really, no. I had already drafted my	15:24:28
19	declaration.	15:24:31
20	Q What about anything like the knit or	15:24:32
21	tricot construction of the stretch panel?	15:24:34
22	A Well, this garment clearly was made that	15:24:38

1	way. But, you know, again, we had that conversation	15:24:40
2	about what was in the patent.	15:24:44
3	Q Okay. And then, Mr. Kahn, I see you still	15:24:48
4	have your notes in front of you, and as we talked	15:24:53
5	about earlier, we just ask, and counsel, too, we	15:24:56
6	just ask that you keep a copy of those notes as we	15:24:59
7	may be asking for it in discovery.	15:25:02
8	MR. LUMAN: We'll keep a copy of the	15:25:04
9	notes.	15:25:07
10	MR. HUGHES: Okay. And we have no further	15:25:08
11	questions for the witness.	15:25:10
12	MR. LUMAN: Okay. I just have a couple	15:25:12
13	questions from this morning.	15:25:15
14	EXAMINATION	15:25:17
15	BY MR. LUMAN:	15:25:17
16	Q You've been asked a lot of questions	15:25:22
17	today, Mr. Kahn. Have any of your opinions changed	15:25:24
18	today from what you wrote in your report?	15:25:27
19	A No.	15:25:29
20	Q And to the extent you were nervous this	15:25:29
21	morning and you were being asked about the legal	15:25:32
22	section in your declaration, the written declaration	15:25:34

Transcript of Bernard Kahn
Conducted on July 9, 2025

161

1 is what you relied upon in forming your opinions, 15:25:37
2 correct? 15:25:41

3 A Yes. 15:25:42

4 MR. LUMAN: I have no further questions. 15:25:42

5 MR. HUGHES: Okay. We have nothing else. 15:25:47

6 Thank you, Mr. Kahn. 15:25:49

7 THE VIDEOGRAPHER: Stand by. This marks 15:25:51

8 the end of the deposition of Bernard Kahn. We're 15:25:53

9 going off the record at 3:25. 15:25:57

10 (Time noted: 3:26 p.m.) 15:26:02

11

12 *****

13

14

15

16

17

18

19

20

21

22

PLANET DEPOS

888.433.3767 | WWW.PLANETDEPOS.COM

Tommy John EX1011
Tommy John v. Pakage Apparel
IPR2024-01163

1 CERTIFICATE OF CERTIFIED SHORTHAND REPORTER

2 NOTARY PUBLIC

3 I, MONIQUE VOUTHOURIS, Certified Court Reporter
4 and Notary Public within and for the State of New
5 York, do hereby certify:

6 That BERNARD KAHN, the witness whose deposition
7 is hereinbefore set forth, was duly sworn by me
8 before the commencement of such deposition, and that
9 such deposition was taken before me and is a true
10 record of the testimony given by such witness.

11 I further certify that the adverse party,
12 PAKAGE APPAREL, INC., was represented by counsel at
13 the deposition.

14 I further certify that the deposition of
15 BERNARD KAHN occurred remotely, on Wednesday, July
16 9, 2025 commencing at 10:10 a.m. to 3:26 p.m.

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

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

3
4
5 
6

7 Monique Vouthouris, CCR, RPR, CRR

8 Notary Public of the State of New York

9 My commission expires: December 1, 2027
10
11
12
13
14
15
16
17
18
19
20
21
22

Transcript of Bernard Kahn
Conducted on July 9, 2025

164

A			
al	absorb	actual	35:5, 78:8,
4:19	147:15	92:10, 93:21,	116:9, 126:4,
aas	absorbs	118:9, 118:13,	137:18, 138:20,
4:11	147:22, 148:2	136:2	139:10, 155:4
abilities	abstract	actuality	again
147:3	96:6, 96:7,	91:18	11:13, 28:3,
able	96:12	actually	34:21, 39:22,
39:20, 69:18,	accessory	7:10, 9:17,	40:6, 42:12,
124:9, 145:13,	102:18	16:13, 32:6,	47:14, 52:18,
157:16, 158:1	accompanying	42:20, 45:12,	55:17, 58:20,
about	110:18	54:9, 56:3,	60:11, 62:13,
18:8, 20:12,	according	67:20, 69:2,	62:14, 64:7,
21:18, 24:19,	58:16, 59:2,	73:21, 74:13,	70:1, 88:2,
24:20, 26:16,	59:18, 60:1,	80:22, 87:13,	96:20, 104:9,
29:18, 29:20,	60:4, 60:14,	93:19, 94:8,	105:9, 109:12,
30:11, 30:13,	62:17, 62:22,	96:10, 110:4,	118:7, 122:17,
30:17, 33:8,	92:22, 94:12,	113:9, 122:7,	125:8, 127:4,
35:19, 35:20,	97:6, 97:9,	123:18, 141:18,	131:3, 131:14,
38:7, 43:3,	97:11, 97:15,	145:17, 154:7,	132:20, 141:18,
44:2, 49:12,	97:22, 106:9,	158:22	141:19, 144:16,
54:13, 55:6,	143:8, 159:6	adam	151:8, 157:18,
59:6, 59:12,	accurate	3:22	158:3, 159:7,
61:22, 64:16,	16:17, 31:17,	added	160:1
78:12, 79:9,	70:6, 70:9,	34:21, 35:5	against
83:1, 83:12,	147:4	adding	59:3, 60:5,
84:5, 84:10,	accurately	110:22, 112:2	60:15, 63:8,
85:9, 87:7,	19:3	address	92:6, 154:19
89:10, 94:6,	accusing	38:1	ago
102:9, 108:4,	17:19	addressed	16:3, 24:17,
114:12, 119:13,	achieve	30:8, 49:10,	42:2, 42:6, 42:7
121:2, 124:20,	60:8, 60:17,	49:13	agree
129:18, 131:20,	62:22	addressing	48:11, 78:17,
131:22, 133:7,	achieved	37:5, 62:4,	113:3, 123:1,
135:5, 135:12,	58:14, 58:22,	90:14	134:10, 135:13,
137:16, 142:2,	59:17, 59:21,	adjunct	144:10
142:8, 142:12,	60:2, 60:13,	70:21, 71:1	agreed
144:2, 146:21,	62:5, 62:16,	admit	46:5
148:7, 148:10,	126:17	33:2, 126:9	ahead
149:8, 149:10,	achieving	advantageously	51:11, 63:12,
150:4, 151:8,	155:9	112:14	95:22, 153:16,
152:8, 158:4,	across	adverse	156:15
159:16, 159:20,	75:16	22:18, 162:11	aimed
160:2, 160:5,	acted	advice	76:12, 76:14
160:21	18:16	56:16	al
above	action	affirmed	8:10, 67:18
90:14, 141:4	162:18, 162:20	6:13	all
	activity	after	4:7, 5:13,
	95:17	29:16, 35:4,	15:8, 19:4,

Transcript of Bernard Kahn
Conducted on July 9, 2025

165

23:12, 23:15, 23:18, 31:14, 31:18, 34:1, 51:7, 56:5, 58:1, 59:10, 61:5, 61:7, 69:3, 69:15, 77:5, 77:6, 84:13, 85:12, 95:13, 107:19, 119:14, 121:15, 122:16, 125:8, 125:15, 146:17, 157:6, 158:9 allowed 56:3, 56:4, 138:19, 159:14 almost 121:15 along 5:22, 85:3, 86:19, 97:12, 98:3, 105:13, 105:20, 106:1, 138:1 already 25:17, 113:2, 153:16, 159:18 also 3:20, 6:2, 8:17, 26:20, 27:8, 31:21, 38:12, 39:8, 58:13, 59:20, 63:16, 65:10, 65:13, 68:6, 68:9, 70:21, 74:18, 75:2, 79:2, 88:2, 90:9, 92:12, 101:7, 120:1, 128:17, 130:13, 130:16, 131:4, 135:13, 135:16, 138:8, 140:10, 143:21, 150:18 alternate 122:8, 122:9,	122:10, 122:13 alternative 150:7 alternatives 150:12 although 91:4, 93:13, 121:13 always 123:18 amazon 67:18 amount 76:16, 119:7, 123:9, 123:14, 124:1, 125:19, 126:11, 128:22 analyses 77:4, 78:5, 80:14 analysis 26:21, 30:2, 33:15, 41:12, 42:3, 42:9, 42:14, 42:18, 69:10, 69:14, 69:19, 76:8, 76:9, 93:6, 93:7, 93:20, 101:20, 159:14 analyze 40:11, 40:15, 40:16, 41:7, 42:7, 92:10, 158:19, 159:11 analyzed 31:8, 39:9, 40:21, 43:14, 46:1, 48:15, 69:15, 92:8, 92:9, 92:11, 92:12, 92:13, 92:17, 92:21, 93:2 analyzing 43:5, 43:7, 46:14, 46:16, 92:4, 99:15	anatomically 92:5 angles 106:13, 120:18 another 73:14, 97:21, 122:16, 123:5, 125:9, 131:9, 140:2, 146:1 answer 10:6, 10:7, 11:5, 19:13, 19:16, 19:19, 20:1, 20:2, 21:19, 31:12, 32:8, 40:8, 40:19, 41:5, 45:14, 45:17, 47:14, 48:12, 50:9, 50:12, 50:16, 50:19, 51:2, 54:11, 55:8, 55:13, 55:18, 56:14, 80:5, 81:12, 82:10, 83:1, 111:5, 111:8, 111:11, 130:21, 158:8 answered 40:5, 61:20 answering 125:11 answers 55:15 any 7:16, 18:16, 21:2, 21:6, 21:11, 22:21, 25:14, 26:9, 27:3, 27:21, 28:4, 30:18, 31:2, 31:22, 33:10, 34:6, 34:15, 35:9, 35:14, 35:16, 35:17, 35:21, 36:2, 36:10,	36:11, 36:19, 36:22, 37:1, 37:4, 42:1, 47:4, 47:17, 48:9, 49:9, 49:12, 52:13, 52:17, 52:20, 53:4, 53:12, 54:4, 55:14, 55:18, 56:1, 56:2, 58:9, 58:11, 62:5, 62:8, 64:16, 65:4, 73:8, 74:9, 75:8, 75:17, 75:20, 76:5, 76:19, 76:20, 77:1, 78:2, 80:5, 95:19, 105:3, 134:6, 137:9, 148:17, 150:22, 158:18, 160:17, 162:17, 162:19 anybody's 108:1 anyone 13:12, 20:10, 24:9, 25:1, 28:15 anything 15:19, 19:2, 19:5, 26:12, 32:4, 32:10, 41:1, 41:11, 42:13, 42:17, 44:7, 44:13, 45:1, 54:1, 55:4, 55:6, 61:8, 83:12, 159:16, 159:20 anywhere 29:18, 53:19, 76:10, 97:4, 99:18, 109:1, 109:14, 150:22 apart 97:20
---	--	--	---

Transcript of Bernard Kahn
Conducted on July 9, 2025

166

apologies 132:5 apologize 32:7, 153:17 apparel 1:8, 3:11, 5:6, 5:21, 6:3, 12:16, 12:18, 12:20, 12:21, 13:6, 13:7, 13:9, 13:13, 13:22, 14:3, 14:5, 14:6, 14:8, 14:12, 14:16, 14:19, 15:4, 15:10, 15:15, 15:18, 33:13, 162:12 appeal 1:3, 5:7, 36:16 applicant 10:13, 11:18, 15:7 application 89:2 applies 63:17, 64:2, 64:11 apply 33:14, 54:8, 64:19 appreciate 11:4 approached 22:10, 26:15 approaches 65:16, 66:1, 66:4, 66:8, 66:19, 66:20, 67:1 approximately 137:20, 145:2 april 4:12 arches 137:21, 145:3 area 76:17, 95:16,	102:20, 103:2, 103:3, 117:3 aren't 71:15, 148:13 around 45:11, 88:2, 100:2, 137:1, 153:9 arrows 136:18, 136:21, 137:4 art 37:15, 43:16, 43:19, 43:22, 44:2, 44:4, 44:6, 44:7, 44:12, 44:13, 44:15, 44:16, 44:17, 45:1, 45:4, 45:6, 46:5, 46:11, 46:14, 46:16, 46:17, 46:18, 46:22, 47:4, 47:8, 47:18, 47:22, 48:9, 48:16, 49:2, 49:16, 49:21, 50:2, 50:6, 50:14, 50:18, 58:15, 59:1, 59:4, 59:18, 59:22, 60:3, 60:8, 60:13, 60:16, 62:17, 62:21, 63:6, 65:18, 77:15, 88:21, 109:4 artworks 26:20 aside 54:5, 76:7 asked 21:16, 21:17, 25:16, 27:11, 33:14, 35:2, 38:12, 42:16, 47:17, 47:21,	51:22, 61:7, 77:4, 160:16, 160:21 asking 10:19, 10:21, 11:2, 11:6, 11:10, 19:17, 39:19, 39:21, 40:6, 45:12, 45:21, 53:9, 53:12, 60:6, 80:12, 83:20, 84:10, 135:12, 144:7, 146:3, 151:8, 153:2, 154:11, 160:7 aspect 38:1 aspects 38:10 assembled 138:21, 139:12 assignee 10:13, 11:7, 11:19, 15:7 assignees 13:17 assignment 26:17, 26:18 assisted 73:5 assisting 74:16 assume 13:9, 15:11 assumption 15:17, 31:6 assumptions 31:3 asymmetrical 106:10, 120:14 asymmetrically 121:15 attached 83:13, 83:16, 83:17, 105:6, 105:10, 105:11, 105:12, 108:12,	138:19, 139:3, 145:7, 145:12 attaching 140:2 attending 5:14 attention 36:6 attorney 162:19 attracting 147:12 audible 20:2 available 68:1, 68:9, 68:13, 68:22, 69:7 avoid 19:15 aware 15:9, 27:8, 148:17 away 90:20, 102:20, 103:1, 130:10, 145:16 B b2 4:9 back 7:10, 8:5, 9:18, 18:1, 23:1, 23:5, 28:8, 29:11, 54:22, 56:18, 56:21, 62:13, 67:6, 71:9, 71:20, 77:8, 88:10, 88:13, 95:9, 119:22, 124:18, 126:2, 128:3, 131:8, 132:17, 132:20, 133:8, 133:11, 134:4, 137:15, 138:6, 141:18,
--	---	--	---

Transcript of Bernard Kahn
Conducted on July 9, 2025

167

141:19, 144:14, 144:15, 148:10, 152:9, 158:15 baggy 156:19, 157:2, 157:6, 157:17, 158:1, 158:5 base 155:5 based 34:3, 35:6, 65:1, 89:22, 94:9, 94:17, 102:17, 120:12, 124:10, 125:19 basic 25:17 basically 17:12, 30:3 basics 25:9 basis 92:2, 93:9, 93:12, 124:8, 125:16, 157:1 bearing 65:9 because 15:11, 61:20, 69:15, 87:20, 111:22, 113:6, 138:16, 139:18 become 22:6, 26:18 bedding 72:13, 72:14, 72:15 been 12:15, 16:1, 16:4, 16:15, 17:3, 22:18, 29:11, 29:16, 35:2, 44:19, 51:22, 54:13, 63:18, 64:2, 64:12, 65:14, 76:3, 76:22, 88:19, 100:14,	100:16, 132:1, 132:4, 143:16, 158:22, 160:16 before 1:3, 2:8, 5:7, 8:16, 16:2, 16:16, 17:21, 19:16, 19:18, 22:14, 22:16, 22:19, 24:17, 33:9, 42:9, 42:14, 42:18, 46:6, 48:17, 67:10, 68:15, 83:1, 125:11, 128:6, 133:5, 135:11, 138:16, 139:19, 162:8, 162:9 began 29:22 begin 29:9, 57:6 beginning 110:17 begins 5:3 behalf 3:2, 3:11, 5:18, 5:20, 6:3, 9:22, 10:10, 12:18, 13:18, 14:15, 18:3, 18:4, 31:10 being 6:13, 6:18, 23:6, 24:3, 27:15, 27:16, 31:10, 38:8, 57:9, 64:8, 82:5, 84:12, 85:6, 87:18, 97:2, 105:15, 136:22, 137:5, 159:15, 160:21 believe 23:4, 40:9, 52:22, 53:20,	67:6, 71:20, 77:7, 79:2, 94:7, 104:22, 106:18, 141:17, 158:21, 159:3, 159:5 below 8:11, 33:15 bend 137:8 benefit 39:10, 40:21, 42:22, 46:2, 48:15 bernard 1:15, 2:6, 3:12, 4:2, 4:10, 4:15, 5:4, 6:12, 161:8, 162:6, 162:15 besides 77:2 best 19:16, 156:19, 157:8 better 39:14, 88:3 between 13:11, 14:2, 14:5, 15:18, 16:21, 28:21, 41:19, 86:19, 86:22, 87:15, 91:6, 93:15, 96:21, 98:2, 98:6, 105:17, 105:18, 105:21, 106:1, 106:4, 107:16, 129:10, 137:21, 145:4, 145:7, 145:11, 153:10, 153:17, 155:6, 155:11 bias 150:18, 150:19 bigney 8:9, 8:13, 9:4, 13:5	bikini 17:12, 18:10 bit 78:13, 78:21, 115:15, 118:20, 119:3, 119:22, 126:15, 135:1, 135:6, 136:17, 137:16, 144:18, 157:14 bits 25:4, 25:6 blend 106:16, 121:5, 121:6, 122:5, 123:2, 127:2, 127:7, 147:1, 148:19, 149:9, 149:14 blends 147:7 blood 162:18 board 1:3, 5:8, 36:17 bodied 91:7 body 81:20, 83:8, 83:14, 83:17, 83:18, 84:2, 87:13, 87:19, 92:6, 93:16, 94:12, 94:16, 95:15, 95:16, 96:4, 96:19, 98:1, 98:10, 98:21, 99:5, 105:7, 105:10, 105:11, 105:12, 108:12 bold 71:12 both 85:15, 101:9, 101:13, 105:16, 127:22, 131:19, 131:22, 138:7,
---	--	--	--

150:6, 150:10, 150:11, 150:13, 150:14, 155:11 bottom 14:7, 83:17, 83:18, 86:13, 86:21, 87:5, 87:10, 87:12, 96:16, 96:20, 97:12, 97:17, 102:3, 105:10, 105:11, 105:17, 105:21, 106:3, 125:2, 143:4, 144:20 box 119:6, 119:11, 119:12 boxer 110:21, 112:1 bracewell 5:22, 20:6 brand 159:4 break 54:15, 55:3, 55:11, 55:16, 55:19, 56:12, 88:4, 132:3 breaking 54:13, 132:7 breathability 129:13, 131:11, 131:21, 147:3, 149:15 breathable 90:17, 90:18, 95:4, 95:5, 110:13, 111:1, 111:18, 112:3, 112:8, 112:16, 115:18, 116:11, 129:20, 129:21, 130:7, 130:8, 131:17, 147:16 brendon 3:21, 5:11 brief 4:21, 155:3	briefly 31:20 briefs 110:21, 112:1, 116:16 bring 7:8, 12:3, 79:12, 135:7, 142:16, 142:20 bringing 144:17 brocks 4:22, 26:3, 101:8, 135:2, 135:5, 135:9, 135:13, 135:16, 137:16, 138:10, 140:1, 141:9, 141:15, 141:17, 141:20, 142:5, 143:15, 143:18, 143:19, 143:21, 144:11, 144:14, 144:15, 145:16 broken 107:21 brooks 141:7 brought 30:7 bs 4:11 bullet 72:8, 72:22 bunch 45:11 burney 74:12 C call 14:6 called 16:21, 17:2, 69:12, 77:14, 80:8 calling 103:21	calls 34:12, 119:5, 129:13 came 93:17, 93:19 camera 132:5 can't 47:8, 47:22, 124:2, 144:4, 158:8, 159:4 cannot 50:13, 50:17, 109:10, 120:1, 149:7 carrillo 4:19, 26:2, 100:15, 100:17, 101:12, 102:8, 102:12, 102:15, 103:8, 103:11, 103:13, 103:22, 104:7, 104:11, 104:14, 104:16, 145:18, 146:18, 149:19, 152:1, 152:11, 152:13, 152:14, 152:15, 152:18, 152:20, 152:22, 153:7, 153:8, 154:5, 154:6, 154:7, 154:14, 154:16, 156:1, 156:2, 156:4, 156:19, 157:1, 157:4, 157:9, 157:21 carrillo's 102:18, 102:19 case 1:11, 5:8, 15:21, 16:21, 17:6, 17:10, 17:18, 18:3, 18:9, 18:14, 23:7, 25:9, 36:6, 36:8, 85:14	cases 16:5, 16:8, 16:10, 74:18, 121:15 catch 32:8 ccr 1:22, 163:7 center 95:16 centrally 97:13 certificate 162:1 certified 2:9, 2:10, 162:1, 162:3 certify 162:5, 162:11, 162:14, 162:17 challenged 59:3, 64:8 change 32:11, 48:12 changed 160:17 characteristic 37:20, 37:22 characteristics 106:10, 141:5, 147:16, 149:3 characterizing 110:5, 113:8 characters 110:19 check 19:8, 154:19 choose 146:22, 147:1 choosing 147:2 chose 67:20 citation 126:4, 126:5 citations 95:19 cited 25:20, 25:21,
---	--	--	--

Transcript of Bernard Kahn
Conducted on July 9, 2025

169

26:20, 27:1, 31:1 cites 117:2 city 71:7 claim 37:12, 37:17, 37:19, 37:20, 38:1, 38:8, 38:12, 38:20, 38:21, 39:2, 39:5, 43:8, 46:20, 47:2, 47:5, 47:19, 48:19, 49:3, 51:21, 57:21, 58:1, 58:20, 59:3, 62:21, 63:2, 64:8, 64:10, 64:13, 64:21, 65:8, 65:21, 66:2, 66:7, 67:1, 77:15, 77:22, 78:2, 78:6, 79:10, 79:11, 79:16, 79:20, 80:12, 80:15, 80:21, 81:3, 81:6, 81:13, 81:19, 82:2, 83:5, 84:3, 84:12, 84:16, 84:17, 85:7, 85:14, 85:18, 86:17, 96:15, 96:17, 97:5, 97:6, 97:9, 97:11, 97:15, 97:22, 98:19, 99:15, 105:2, 105:5, 106:8, 106:9, 106:15, 106:16, 106:18, 107:10, 107:21, 109:5, 109:18, 130:18, 133:14,	134:1, 140:11, 141:7, 141:14, 142:6, 142:15, 142:17, 143:3, 143:4, 143:6, 143:7, 143:8 claimed 43:16, 57:12, 57:16, 57:20, 57:22, 58:7, 63:17, 64:1, 64:7, 64:11, 65:14, 65:15, 91:7, 91:14, 91:15, 93:17 claims 31:7, 31:11, 38:3, 45:8, 48:22, 49:15, 49:19, 50:1, 50:5, 50:12, 61:16, 62:1, 64:4, 78:1, 84:13, 98:9, 98:17, 98:20, 99:3, 99:13, 99:17, 106:19, 107:3, 114:2, 118:21, 140:10, 140:12, 140:16, 140:17, 140:20 clarification 17:1, 19:12, 43:2, 45:18, 97:18 clarify 42:21 clarity 40:7, 107:22 classic 103:10 clean 7:13, 7:16, 7:18, 7:19, 134:5, 134:6 clear 53:3, 66:15, 66:16, 80:9,	94:11 clearly 159:22 clients 75:12 close 124:17 clothing 94:9, 148:14, 148:18 coach 56:2 coached 55:22 coefficient 120:14 colleague 5:19 college 71:3 columbia 3:6 column 79:17, 99:20, 100:5, 121:11, 121:12, 122:2, 131:15, 135:19, 135:20, 136:9, 137:15, 138:5, 138:10, 143:2, 143:3, 143:4, 144:20 columns 144:16 com 67:18 combination 50:2, 50:6, 50:13, 50:18, 57:12, 57:16, 57:20, 57:22, 58:7, 58:14, 58:19, 58:22, 59:17, 59:21, 60:2, 60:12, 60:16, 60:18, 60:19, 60:22, 61:14, 61:15,	61:21, 62:1, 62:5, 62:7, 62:16, 62:20, 63:7, 63:17, 64:1, 64:7, 64:11, 65:8, 104:17 combinations 49:16, 49:20 combining 135:2 come 48:17, 52:15 comes 138:20 comfort 54:5, 54:8, 90:15, 90:21, 95:16, 129:14, 130:11, 130:16, 130:19, 131:1, 131:6, 131:20, 147:3, 148:2, 148:5, 149:15 comfortably 100:3 comforters 72:16 coming 35:12, 115:12, 117:20 commencement 162:8 commencing 162:16 comment 146:2, 146:9 commercial 52:8, 53:14 commission 163:9 communicated 9:8, 9:13 companies 74:6, 75:12, 75:21, 77:4 company 15:16, 16:21,
--	--	---	--

Transcript of Bernard Kahn
Conducted on July 9, 2025

170

16:22, 17:2, 72:13, 74:11, 74:22, 76:1, 159:5 comparing 41:17, 45:7 compartment 115:20, 116:14, 116:22, 117:1, 117:2, 117:3, 117:10, 118:1 compensated 23:6, 24:3 compensation 23:9, 23:11 complete 31:17, 70:6, 70:9 completely 118:14 completeness 111:10 composed 37:12, 37:17, 37:20, 38:8, 38:12 compress 94:13, 94:15 compressed 91:5, 92:6, 93:15 comprise 121:3 comprised 106:15 comprises 97:12, 121:5, 121:6, 122:5, 143:9 comprising 79:21, 83:15, 105:8, 118:21 computer 20:19 concentrated 36:6 concept 38:2, 38:10	concepts 38:3, 38:13 conclusion 10:21, 11:7, 64:17 conclusions 10:19 condition 137:19, 138:7, 138:8, 145:2, 145:7 conducted 1:16, 2:7 configured 100:1 confirmation 93:22 conflict 107:16 confused 47:10 congruent 153:8 connection 6:18, 89:12 consider 51:22, 57:10, 58:4, 58:5, 58:9, 58:13, 59:7, 59:12, 59:16, 59:20, 61:3, 62:5, 62:15, 62:19, 63:6, 63:17, 64:1, 65:5, 65:6, 65:13, 66:6, 66:12, 66:21, 67:3, 67:22, 69:7 consideration 64:16 considered 30:19, 67:5, 67:10, 68:8, 68:18, 68:19, 68:22, 69:2 considering 51:21, 64:18	constructed 91:4, 91:21, 93:13, 110:13, 111:1, 111:17, 115:17, 116:10, 119:17, 120:5, 128:7 construction 77:15, 78:2, 79:10, 80:13, 119:18, 124:11, 124:21, 125:5, 125:18, 128:9, 159:21 constructive 112:3 consult 27:17 consulting 23:14, 70:16, 71:22, 75:2, 75:4, 75:8, 75:10, 75:18, 76:5, 76:19 contact 115:13, 117:20, 155:11 contacted 22:8 contacting 116:15 contain 31:14 containing 112:17 contains 114:1 contents 121:3 context 80:20, 81:6, 81:13, 82:12, 82:14, 82:17 continuous 155:10 continuously 75:16, 105:13 contrast 108:19	conventional 110:20 conversation 35:20, 160:1 copies 7:16 copy 7:13, 7:14, 7:18, 7:19, 21:21, 22:4, 28:9, 69:22, 70:2, 70:6, 70:9, 79:13, 89:16, 133:10, 134:6, 144:17, 160:6, 160:8 copying 17:19, 52:10 correction 6:10 correctly 41:5, 116:17 corresponding 110:19 cost 74:20 costs 75:1 cotton 139:6, 139:7, 141:21, 142:3, 143:16, 143:20, 147:19, 147:22, 148:2, 148:5 cotton-spandex 121:5 could 11:5, 38:5, 38:9, 42:3, 42:6, 42:12, 62:19, 81:2, 81:8, 122:17, 123:6, 124:5, 124:17, 149:6, 150:18, 151:12, 154:3, 157:13, 158:5 couldn't 123:17, 146:4,
--	--	--	---

148:22 counsel 5:14, 10:20, 19:12, 22:10, 25:2, 30:18, 31:2, 33:12, 33:13, 34:4, 34:6, 35:7, 35:19, 45:13, 54:12, 55:4, 55:7, 55:11, 55:15, 55:20, 56:6, 56:12, 84:14, 88:1, 101:5, 107:14, 111:3, 111:9, 132:1, 151:11, 160:5, 162:12 counsel's 56:15 couple 21:18, 24:17, 66:18, 71:11, 85:19, 102:13, 160:12 course 24:11, 26:18, 75:21 court 2:9, 6:4, 16:14, 17:1, 17:21, 17:22, 19:19, 20:2, 43:2, 49:12, 97:18, 122:18, 162:3 create 87:14, 139:13, 139:22, 140:3, 152:3 created 44:1, 44:3, 44:16, 44:18, 139:20 creating 153:10 crocheted 17:12	crotch 98:1 crr 1:22, 163:7 cuenca 3:21, 5:11 current 44:17, 44:19, 60:7 currently 40:10, 70:18 curriculum 4:14 curve 137:1, 137:12 cv 69:22, 70:7, 70:10, 70:12, 70:15, 71:10, 71:17, 76:9, 76:12, 76:14 cvs 70:14 D daniels 3:15, 6:2, 12:2, 12:14, 12:17, 22:13, 29:4 dart 97:12 data 73:19 date 5:9, 29:15, 48:18 day 163:2 days 24:17 deacon 6:10 dealings 22:21 december 163:9 decide 69:11	decided 69:9 decision 36:7 decisions 35:17, 36:2, 36:10, 37:4, 49:9, 49:13 declarations 16:9, 16:11, 18:18, 91:3 defendant 18:6 define 52:21, 100:1, 124:3, 157:11 defined 52:22, 57:21, 103:19, 107:11, 107:15, 108:8, 113:5, 142:5, 157:4, 158:3 defines 86:22, 96:21, 106:4, 117:1, 118:12 defining 113:19 definition 39:19, 53:10, 83:9, 117:15, 118:14, 154:6 degree 95:14, 96:8 delineates 82:7 demonstrating 37:13 denote 110:19 dependent 97:5, 106:19, 140:10, 140:12 depending 23:13, 50:21, 50:22, 123:15 depends 50:19	depo 56:7 depos 3:21, 3:22, 5:12, 6:6 deposed 6:18, 16:1, 16:4, 16:12, 16:15, 16:20, 17:4 deposition 1:15, 2:6, 4:8, 5:4, 5:13, 7:6, 17:15, 17:17, 18:20, 21:15, 21:22, 24:6, 25:3, 25:15, 26:13, 27:2, 56:1, 98:11, 102:6, 161:8, 162:6, 162:8, 162:9, 162:13, 162:14 describe 149:19, 157:20 described 82:6, 82:12, 93:20, 99:9, 135:18, 159:15 describes 91:17, 99:19, 137:17, 143:19 describing 38:22, 98:13, 110:1, 123:8, 123:10 description 80:21, 82:4, 82:13, 82:15, 82:18, 92:9, 92:11, 93:7, 98:4, 123:9, 136:8, 154:21 design 57:11, 57:17, 58:6, 60:7, 71:5, 73:17, 74:8, 74:10,
--	---	--	--

Transcript of Bernard Kahn
Conducted on July 9, 2025

172

89:21, 89:22, 90:1, 90:4, 90:8, 91:12, 93:20, 94:10, 98:5, 102:16, 102:17, 118:6, 118:9, 118:10 designated 152:7, 153:3 designed 90:16, 92:5, 94:12, 95:3, 129:19, 130:6 designing 73:8, 73:21, 74:14 determination 47:9, 48:1, 61:4, 63:9, 65:1, 65:3, 66:10 determinations 59:7, 59:13 determine 47:5, 47:18, 48:10, 49:1, 65:9, 69:13, 69:18 determining 46:19, 47:1, 48:18, 49:3 developing 74:22 development 67:17, 73:7 devices 63:19, 64:3, 64:12, 64:20 diagonally 150:20, 150:21 diagrammatically 116:13 differ 50:7 difference 41:19, 90:7 different 38:5, 38:6,	38:9, 38:13, 38:20, 39:1, 39:2, 39:4, 39:6, 71:22, 76:14, 85:19, 100:15, 114:2, 120:17, 128:14, 129:10, 129:12 differently 128:16 difficult 124:17, 146:7 digital 73:18 dimensions 87:10 direct 51:8, 155:10 directed 65:22, 78:18, 79:6, 135:13 direction 105:16, 105:17, 105:18, 106:11, 106:13, 120:16, 120:18, 120:19, 120:21, 121:1, 128:22, 129:1, 136:18, 137:9, 137:11, 150:15 directions 150:6, 150:9, 150:10, 150:11, 150:14 directly 75:11, 75:13, 80:10, 151:2 disagree 131:3 disclose 103:22, 104:15, 107:8, 108:19, 109:6, 109:10, 109:18, 119:4, 126:6, 134:20, 141:5 discloses 152:1, 152:22	disclosure 94:6, 109:2, 109:15, 141:9, 141:15 disclosures 45:3, 45:5, 46:5, 46:9, 46:11 discovery 160:7 discuss 53:14, 54:4, 55:3, 55:10, 55:14, 56:11, 140:16, 145:18 discussed 24:22, 26:10, 55:9, 55:19, 55:21, 113:3, 118:10 discusses 130:19, 130:22 discussing 88:20, 89:20, 100:11, 114:7, 129:9, 130:13, 130:16, 138:11, 140:20, 146:18 discussion 32:20, 35:4, 35:7 dispute 110:6, 112:7 distinction 131:9 distinguishes 91:9 district 17:21, 17:22, 49:12 dive 67:20, 68:10 dividing 41:19 document 14:9, 154:18 documents 27:3, 27:21,	28:4, 28:7, 69:15, 142:13 doing 23:14, 25:8, 41:12, 42:4, 137:17 done 24:2, 75:17, 75:19, 76:15, 149:4, 149:5 dotted 116:13 double-check 53:6 douglas 8:13, 13:4 down 8:11, 8:19, 9:1, 9:16, 37:7, 84:3, 84:8, 88:19, 119:3, 126:20, 129:18, 135:20 dr 5:4 draft 28:12, 28:13, 28:14, 28:15, 28:19, 28:20, 28:21, 30:15, 34:18 drafted 28:13, 159:18 drafting 23:18, 29:20, 30:9, 30:13, 159:12 drawing 64:16 drawings 110:18 drive 3:16 due 119:18, 124:21, 128:8 duly 6:13, 162:7
--	---	--	---

Transcript of Bernard Kahn
Conducted on July 9, 2025

173

duplication 18:11 during 7:6, 21:14, 34:21, 55:15, 55:16, 56:12, 95:17 dustin 8:12, 9:4, 13:4 E each 19:15, 24:20, 30:6, 37:14, 38:19, 39:2, 66:20, 110:20, 150:6 earlier 114:12, 120:1, 149:10, 152:8, 160:5 early 75:7 ease 117:3 easier 86:4, 120:20 easily 106:11, 106:12 edge 83:16, 83:17, 97:17, 105:9, 105:11, 105:17 edges 105:12, 105:18, 153:10 edits 28:21, 34:21 edt 1:18 either 6:10, 35:17, 97:21, 105:13, 127:19, 127:20, 150:10, 150:13 elastic 87:8, 102:18, 103:8, 103:13,	103:18, 103:21, 104:1, 104:3, 104:6, 104:11, 104:15, 104:18, 105:16, 136:17, 137:3, 137:7, 137:8, 137:17, 137:19, 138:7, 138:12, 138:16, 138:18, 138:22, 139:2, 139:13, 139:19, 140:2, 141:6, 143:17, 143:21, 144:2, 144:4, 144:10, 145:1, 149:14, 149:21, 150:2, 152:7, 153:3, 155:7, 155:14, 155:19, 156:4, 157:3, 157:4, 157:5, 157:6, 157:9, 157:16 elastically 83:15, 105:8, 118:22 elasticity 120:15, 129:14, 130:13, 131:1, 131:20 elasticized 90:18, 95:4, 110:13, 111:1, 111:18, 112:3, 112:8, 112:15, 113:7, 115:18, 116:10, 121:3, 129:21, 130:8, 131:5 element 38:20, 39:2, 39:5, 65:21, 82:2, 107:10 elements 37:12, 37:14, 37:18, 37:21, 38:9, 38:18, 39:6, 58:1,	58:15, 58:20, 59:1, 59:18, 59:22, 60:3, 60:14, 60:17, 60:19, 61:15, 62:1, 62:17, 62:21, 64:8, 64:10 ellis 8:13, 9:11, 13:5 else 26:12, 28:20, 68:8, 122:14, 128:4, 161:5 embodies 12:22, 13:2 embodiment 121:4, 121:6, 122:5, 122:12, 122:19, 122:21, 122:22, 123:2, 129:7 embodiments 120:13, 121:14 employed 75:11, 75:13, 162:19 employment 70:20, 71:19, 72:1 employments 71:20 encases 96:14 encasing 95:14, 96:8 enclosed 98:7 enclosure 139:14 end 21:22, 32:8, 79:17, 84:4, 84:12, 84:13, 159:14, 161:8 ends 139:13	engineering 71:13, 73:9, 73:10, 73:11, 73:12 english 101:2, 101:14, 101:17, 101:21, 102:1, 102:9 enterprises 72:10, 72:12 entirely 147:8 entirety 80:10, 96:6, 98:16 entitled 55:21 entity 12:22 equally 119:19, 128:10, 128:21 equipment 73:10, 73:11 errors 29:8, 31:22 esq 3:3, 3:4, 3:13, 3:14 essentially 28:22, 153:8 established 46:4 et 8:9, 67:18 evaluate 65:7, 66:11 even 18:19, 69:17, 91:19, 94:7, 103:17, 124:6, 124:14, 126:15, 144:13, 148:6, 158:8 ever 9:6, 9:8, 9:13, 22:18, 68:11, 127:11
---	--	--	---

Transcript of Bernard Kahn
Conducted on July 9, 2025

174

every 14:8, 22:1, 29:5 exact 109:9 exactly 45:21, 60:11, 63:22 examination 4:2, 6:15, 160:14 example 31:7, 38:15, 43:18, 44:5, 44:11, 48:6, 62:9, 69:11, 77:1, 78:21, 104:17, 106:14, 121:4, 121:5, 122:4, 122:12, 122:19, 122:20, 123:16, 129:17, 131:2, 148:18 examples 52:6, 53:11 except 29:7, 111:21 exception 29:7 exhibit 4:8, 4:9, 4:10, 4:14, 4:16, 4:19, 4:20, 7:9, 7:16, 9:16, 12:3, 14:1, 14:10, 14:12, 28:8, 67:13, 67:16, 67:19, 67:22, 68:6, 69:12, 69:22, 77:9, 77:10, 77:11, 79:12, 88:16, 89:15, 94:20, 101:2, 101:8, 102:1, 102:4, 102:6, 110:10, 126:5, 131:14, 133:1,	134:8, 135:6, 145:20, 154:15, 154:17 exhibits 4:7, 69:3 existing 35:4 expanded 96:16 expectation 65:17, 66:5 expected 54:10 experience 16:6, 71:22, 158:4 expert 18:13, 18:16, 22:11, 33:3, 33:5, 35:2, 77:1, 94:17 expert's 107:17 expires 163:9 explain 35:11, 63:21, 74:5, 74:21 explained 25:9 explaining 34:7, 98:11 explanation 120:12 expressed 39:16, 144:8 expressing 80:8 expressly 116:19 extending 98:1, 105:13 extent 80:4, 82:22, 85:22, 160:20 extra 97:13, 133:10	87:21, 91:5, 93:14, 97:10, 104:17, 110:14, 111:2, 111:18, 112:3, 112:8, 113:13, 113:15, 113:20, 113:22, 115:18, 116:11, 119:7, 119:17, 120:1, 120:5, 120:9, 120:11, 121:4, 121:6, 121:14, 121:16, 122:5, 122:20, 123:7, 123:10, 123:15, 124:5, 124:6, 124:9, 124:10, 124:13, 124:15, 124:20, 126:10, 126:18, 127:5, 127:6, 127:19, 127:20, 128:1, 128:8, 131:17, 140:3, 141:10, 141:16, 141:22, 142:1, 142:3, 143:9, 144:1, 147:14, 147:19, 147:20, 147:21, 148:6, 149:14, 155:22, 156:22, 158:1, 158:5 fabric's 129:13, 131:10 fabrics 87:8, 147:8, 148:13, 157:3 face 11:8 fact 18:11, 69:6, 108:22, 109:13, 111:21, 117:2, 122:1, 130:22, 148:2, 149:13, 157:3, 157:14 factor 54:8	factors 52:3, 52:14, 52:17, 52:20, 52:21, 53:4, 53:11, 54:4 facts 30:19 failure 52:9 fair 19:20, 41:8, 42:10, 42:14, 42:18, 73:22, 78:18, 81:5, 93:4, 93:18, 101:10, 104:6, 104:10, 108:9 fairness 151:11 familiar 26:8, 26:19 familiarizing 29:22 far 90:8 fashion 70:20, 70:22, 71:3, 75:14 favor 63:1 features 90:1, 90:8, 90:9, 91:11, 102:18 feel 70:3, 89:17 feldman 72:22, 74:11 felt 53:17 ferrarini 16:22, 17:2, 17:11, 17:18, 18:4, 76:8 few 29:12, 32:3 fiber 121:3, 147:8
	F fabric 87:13, 87:20,		

Transcript of Bernard Kahn
Conducted on July 9, 2025

175

figs 139:16 figure 103:11, 103:14, 116:14, 135:21, 136:3, 136:5, 136:8, 136:17, 136:21, 138:11, 139:12, 152:15, 154:5 filed 27:8, 44:20, 46:6 filing 48:18 final 28:14, 28:20, 28:21 financially 162:21 find 54:12, 74:6, 104:19, 132:6, 144:13 finding 59:3, 60:5, 60:15, 63:2, 63:8, 74:7 fine 7:15, 7:18, 9:2, 22:4, 85:13, 133:13, 134:10, 134:11 finish 19:16, 19:18, 45:5, 111:3, 111:6, 125:10 finished 138:21 first 6:9, 6:13, 8:5, 19:9, 22:6, 22:10, 26:15, 28:13, 28:19, 28:21, 29:22, 32:3, 34:18, 35:1, 37:11, 57:4, 57:8,	63:15, 71:9, 72:2, 72:8, 78:13, 82:17, 89:1, 92:11, 96:5, 102:13, 119:10, 120:15, 120:16, 120:17, 120:18, 126:5, 137:18 five 124:4 flexible 95:14 flipping 133:8 floating 45:11 focus 98:19, 141:3 focused 101:20 focuses 129:12, 131:10 follow 35:4, 56:15 following 110:2, 137:12 follows 6:14, 97:6, 145:6 forces 57:11, 57:17, 58:3, 58:6, 58:8, 58:9 form 10:5, 10:18, 11:12, 11:17, 27:22, 28:6, 38:4, 38:14, 39:3, 39:18, 40:4, 40:18, 41:3, 41:13, 41:21, 42:11, 43:1, 43:21, 44:9, 45:9, 48:13, 50:3, 50:15, 61:17, 78:14, 80:3,	81:10, 82:9, 99:6, 107:14, 109:11, 122:15, 138:13, 140:6, 144:12 formed 97:10, 135:17, 136:9 forming 30:19, 31:3, 67:5, 93:3, 139:14, 161:1 forms 103:9 forth 133:8, 133:11, 134:4, 162:7 forward 7:17, 100:4, 155:9, 155:15, 155:18, 156:5, 156:7, 157:17, 158:2, 158:7 found 49:16, 49:20, 50:1, 50:5, 50:13, 50:17, 110:1 four 29:18, 33:10, 33:11 four-by-four 110:3, 112:17, 113:18, 119:6, 119:13 four-way 83:15, 105:8, 118:22, 119:4, 119:17, 121:19, 126:7, 126:15, 126:17, 126:19, 126:21, 127:3, 127:4, 127:8, 127:16, 128:1, 128:8, 149:21, 150:2 frame 41:17	frankly 62:4 free 70:3, 89:17, 111:15 friction 155:11 front 20:19, 21:2, 21:3, 21:5, 21:12, 28:10, 56:19, 79:13, 81:20, 82:2, 82:5, 82:7, 82:12, 82:16, 82:19, 82:20, 82:21, 83:6, 83:7, 83:9, 83:12, 83:14, 83:19, 83:20, 83:22, 84:1, 84:2, 85:3, 86:12, 86:19, 86:20, 87:1, 87:4, 87:8, 87:16, 88:16, 89:17, 91:6, 92:14, 93:15, 94:19, 95:16, 96:22, 97:14, 98:2, 98:3, 98:6, 101:9, 102:2, 102:7, 102:9, 105:7, 105:14, 105:20, 106:1, 106:2, 106:5, 108:12, 117:3, 133:15, 134:11, 136:14, 137:12, 139:5, 142:15, 143:18, 151:16, 152:11, 155:8, 155:19, 155:22, 156:6, 159:3, 160:4 full 57:4, 57:8, 116:8, 144:21
---	--	--	---

Transcript of Bernard Kahn
Conducted on July 9, 2025

176

full-time 70:20 fullness 118:13 function 60:17, 89:22, 90:4, 102:16, 115:5, 115:9, 115:11 functional 90:1, 90:6, 90:7, 90:10, 91:1, 95:11, 95:12, 99:1, 102:17, 102:19 functions 58:16, 59:2, 59:19, 60:1, 60:4, 60:14, 62:18, 62:22 furnishings 74:12 further 16:10, 83:9, 119:3, 160:10, 161:4, 162:11, 162:14, 162:17	97:22, 98:7, 99:2, 99:12, 103:9, 103:13, 103:18, 103:22, 104:1, 104:7, 104:11, 104:15, 104:18, 106:7, 106:8, 117:4, 129:19, 130:6, 143:8, 152:2, 152:6, 152:22, 153:2, 153:7, 153:8, 155:7, 155:9, 155:15, 155:20, 156:2, 156:4, 157:4, 157:5, 157:9, 159:22 garment's 153:9 garments 73:17, 73:22, 74:9, 74:14, 94:10, 148:20 gathered 86:13, 86:20, 87:5, 106:2, 138:12, 138:15 gathering 87:7, 139:14, 139:20, 139:22, 140:3 gathers 87:13, 87:19, 87:21 gave 12:7, 53:11, 80:2, 80:13, 82:2 general 34:20, 34:22, 62:8, 62:10, 70:14, 76:20 generally 79:6, 135:11, 139:15, 149:4 genitalia 115:12, 115:19,	116:2, 116:6, 116:12, 116:15, 116:21, 117:9, 152:4 genitals 87:17, 95:13, 95:15, 96:4, 96:19, 97:1, 97:2, 97:14, 98:7, 98:9, 98:21, 99:4, 100:4, 105:15, 106:6, 135:17, 139:15, 155:15, 156:5 gently 155:8 gestures 20:1 getting 8:22, 47:10, 56:7, 74:16, 101:4 giuliani 5:22 give 7:12, 18:13, 39:20, 45:17, 48:5, 48:6, 50:20, 70:3, 80:19, 85:8, 101:2, 101:7, 114:20, 120:10, 135:8, 144:18, 156:14 given 55:15, 56:12, 162:10 gives 78:9 giving 13:18, 14:14, 14:15, 18:2, 20:1, 23:21, 67:10, 140:10 go 8:5, 12:10, 18:19, 19:9,	28:8, 29:20, 32:13, 37:7, 39:7, 51:3, 51:11, 56:18, 56:21, 56:22, 58:12, 62:13, 63:11, 63:12, 67:4, 71:9, 73:13, 74:2, 77:8, 79:16, 84:3, 85:12, 88:5, 88:6, 88:19, 91:2, 95:8, 95:9, 95:10, 95:22, 96:14, 97:19, 100:8, 103:5, 103:17, 106:20, 106:21, 108:18, 112:10, 113:17, 114:14, 118:15, 118:19, 119:15, 119:22, 122:1, 124:18, 126:2, 128:3, 129:8, 129:16, 131:13, 132:11, 132:22, 133:11, 134:4, 134:22, 135:7, 135:8, 135:20, 136:21, 137:15, 138:5, 140:15, 144:14, 144:15, 145:17, 145:19, 148:10, 149:17, 151:6, 154:15, 156:8, 156:15, 158:9 goes 121:2 going 7:16, 20:2, 22:2, 39:20, 51:8, 54:13, 54:18, 55:7, 55:12, 55:17, 56:15, 84:9, 85:12, 85:13,
---	---	--	---

Transcript of Bernard Kahn
Conducted on July 9, 2025

177

86:16, 88:7, 96:1, 101:1, 101:7, 109:21, 111:9, 114:17, 121:14, 124:1, 124:7, 131:8, 132:2, 132:14, 133:6, 136:16, 137:5, 137:10, 138:5, 138:10, 148:5, 151:8, 153:16, 153:19, 155:15, 155:18, 158:11, 161:9 good 6:17, 7:10, 19:20, 54:12, 132:6, 132:8, 132:10 gotcha 134:18 grammatical 29:8 groin 102:20, 103:2, 103:3, 155:6 ground 19:10 guess 31:12, 40:12, 50:19, 54:9, 71:12, 81:2, 107:7, 126:4 guidance 36:19	he'll 101:8 heading 73:14, 107:3, 118:16 headings 71:12 hear 47:13, 146:8 heard 47:11, 61:8, 127:11 heath 3:14, 6:2, 22:8, 24:11 held 71:16 help 19:19, 21:9, 28:15, 149:2 helpful 84:9, 125:13, 133:12 helping 74:6 helps 57:10 here 5:3, 10:12, 10:17, 12:14, 20:11, 21:21, 23:22, 24:17, 32:16, 33:11, 34:20, 37:11, 38:18, 39:8, 40:20, 41:17, 44:5, 44:11, 45:7, 45:11, 45:21, 52:6, 52:22, 53:11, 58:4, 59:5, 59:16, 60:9, 60:22, 61:20, 63:4, 64:15, 65:9, 65:11, 66:12, 68:6, 68:17, 69:12, 71:11, 73:14,	75:20, 76:6, 76:11, 76:13, 77:13, 77:22, 79:10, 80:17, 81:3, 82:12, 83:5, 84:7, 87:11, 91:13, 95:20, 100:22, 103:17, 107:7, 107:15, 107:22, 109:13, 111:10, 113:8, 113:19, 114:15, 115:1, 117:7, 118:10, 118:16, 124:20, 128:4, 128:5, 129:4, 129:9, 130:18, 137:10, 138:6, 140:16, 141:3, 142:6, 142:15, 144:21, 146:20, 147:6, 149:8, 149:18, 152:1, 154:15, 158:6 hereby 162:5 hereinbefore 162:7 hereunto 163:1 high 124:6 highlighted 43:11, 57:9 highlighting 8:18, 33:18 hindsight 39:10, 39:12, 39:13, 39:17, 40:3, 40:6, 40:9, 40:13, 40:21, 41:6, 42:22, 43:3, 43:7, 43:20, 45:4, 45:6, 46:2, 46:10, 46:15, 46:17,	47:3, 47:6, 47:20, 48:11, 48:15, 48:20, 49:4, 49:10, 49:13 hogan 3:5, 5:18 hold 8:16 holding 87:17, 97:1, 106:6 holds 148:3 hole 152:3 home 74:12 horizontally 87:14 hour 23:10, 23:15, 23:21, 24:20, 54:13, 88:2, 132:2 hours 24:21, 30:12 houston 3:17 however 8:20 hughes 3:3, 4:3, 5:17, 6:16, 7:8, 7:15, 7:21, 7:22, 9:2, 9:3, 9:16, 10:20, 11:4, 11:10, 11:14, 12:3, 34:1, 34:2, 45:13, 45:16, 47:13, 47:16, 54:15, 55:2, 55:20, 56:5, 56:9, 61:6, 61:9, 61:11, 70:1, 77:19, 84:17, 84:22, 85:5,
H			
half 24:20 hammond 67:17 hand 7:17, 20:1, 163:1 happens 118:6 hard 7:13, 45:20			

85:11, 85:18, 86:3, 86:5, 88:1, 88:12, 101:4, 101:10, 101:11, 108:2, 132:1, 132:11, 132:19, 133:4, 133:13, 134:5, 134:9, 134:13, 136:4, 142:22, 143:3, 146:1, 146:7, 146:14, 146:16, 151:15, 151:18, 152:17, 158:9, 158:17, 160:10, 161:5 hydrophilic 147:20, 147:21, 148:6, 148:11 hydrophobic 147:8, 147:11, 147:19, 148:11, 148:12, 148:16 hygienic 103:8 hypothesizes 149:20	image 28:22 images 28:16 implication 87:11 impression 115:3, 116:1 improper 49:6 improve 63:18, 64:3, 64:12, 64:20, 74:6 improved 90:15 improving 73:6 inc 1:5, 1:8, 3:2, 3:11, 5:5, 5:6, 9:19, 12:16, 13:6, 13:8, 13:9, 13:13, 14:22, 67:17, 67:18, 162:12 incentives 57:11, 57:17, 58:6 inches 124:5, 124:15, 124:16 include 52:8 includes 90:18, 95:4, 98:1, 129:20, 130:7 including 81:20, 83:8 incorrect 68:21, 72:9, 113:10, 113:12 indents 85:19 independence 90:15 independently 37:14	indicate 150:3 indicated 136:18, 139:15 indicates 96:17, 111:17, 141:21 indicating 125:17, 131:4, 138:6, 138:13, 139:2, 139:18, 141:9, 141:15, 155:14 individual 71:19 industry 76:12, 126:22, 127:4, 128:2, 128:19 influence 65:3 influences 57:18 inform 159:16 information 30:21, 30:22, 34:10, 34:16, 65:7, 73:15, 73:18 informed 33:13, 34:4 inner 90:15, 116:15, 152:2, 153:1, 155:8 innovation 66:3 insert 152:7, 153:3 inserting 28:16, 28:22 inside 83:14, 105:7, 108:12, 153:7 instance 109:22 instead 43:14, 133:18	institute 70:21, 70:22, 75:14 instruct 55:7, 55:12, 55:17, 56:13 instructed 19:14 instructor 70:22, 71:1 intention 117:18 interested 162:21 interior 110:22, 112:2, 116:9 interject 100:22 internal 153:10 international 67:17 interrupt 8:21, 33:22, 51:6, 51:7, 121:9 intimate 155:4 introduce 69:21 introducing 155:4 invention 43:17, 52:11, 65:14, 65:15, 90:13, 110:22, 112:2, 112:15, 154:21 inventor 9:10, 89:5 inventors 8:8, 8:12, 12:22, 13:2, 13:10, 13:17, 15:6 involve 73:17, 74:8
I			
idea 120:11, 133:6 identification 125:7 identified 28:1, 28:5, 96:5, 125:20 identifies 14:1, 105:6, 126:21, 127:5 identify 14:4, 127:16, 129:10 identifying 91:11 ii 85:12, 86:17 iii 3:13, 86:9			

Transcript of Bernard Kahn
Conducted on July 9, 2025

179

involved 18:19, 22:6, 24:7, 30:1, 73:19 ipr 1:11, 5:8, 6:19, 6:22, 9:20, 14:13, 35:17, 35:21, 36:11, 89:16, 101:17, 102:2 isolate 90:19, 116:1, 116:6, 130:9 isolating 115:19, 116:11, 116:15, 116:20, 117:8, 117:22 issue 7:2, 46:15 issues 30:6, 90:14 item 38:2 itself 13:16, 91:20, 94:1, 109:19, 118:3, 122:6, 139:8, 142:4, 156:3	162:15, 163:2 june 24:16 K kahn 1:15, 2:6, 3:12, 4:2, 4:10, 4:15, 5:5, 6:9, 6:12, 6:17, 16:1, 40:12, 55:3, 55:9, 55:14, 56:19, 70:19, 79:14, 86:6, 88:13, 101:12, 108:9, 111:8, 111:11, 132:20, 134:14, 143:7, 158:18, 160:3, 160:17, 161:6, 161:8, 162:6, 162:15 keep 160:6, 160:8 keeping 95:15 kept 98:10, 98:21, 99:4 kiini 16:22, 17:2, 17:19, 76:8 kind 23:13, 33:10, 71:10, 71:11, 71:21, 126:5, 126:20, 136:22, 137:1, 137:6, 137:11, 148:20 kitsch 26:3, 89:5, 89:8, 89:12, 89:15, 89:20, 90:2, 90:6, 90:9, 90:11, 91:10, 91:12, 91:16, 91:20, 92:17, 93:3,	94:2, 94:8, 94:14, 94:19, 95:1, 107:7, 108:19, 108:22, 109:13, 109:22, 110:2, 110:7, 110:9, 110:16, 111:13, 112:11, 112:21, 113:4, 114:11, 115:2, 115:4, 115:11, 115:16, 116:6, 118:8, 118:12, 119:4, 119:5, 119:11, 126:6, 126:10, 127:1, 129:11, 129:12, 129:16, 130:3, 130:13, 130:16, 130:19, 131:5, 131:10, 131:19, 134:20, 135:2, 141:4, 149:10, 149:13 kitsch's 89:21, 90:12, 94:6, 126:10 knew 42:2, 68:1, 68:13, 69:7 knit 112:16, 113:13, 113:14, 119:6, 119:17, 120:1, 120:5, 120:9, 120:11, 121:16, 121:21, 123:6, 123:10, 123:11, 123:18, 123:20, 124:20, 126:18, 126:22, 127:5, 127:6, 127:19, 127:21, 128:1, 128:8, 159:20 knitted 121:18 know 8:17, 9:4,	9:11, 10:6, 10:7, 13:15, 15:4, 19:10, 22:1, 31:20, 32:14, 37:8, 41:2, 41:11, 44:5, 46:4, 48:17, 51:12, 53:13, 55:21, 57:1, 62:8, 64:21, 68:4, 72:15, 74:3, 77:19, 78:22, 79:18, 80:12, 84:5, 84:18, 85:15, 85:19, 99:14, 100:15, 106:22, 107:16, 107:18, 107:20, 112:11, 114:5, 118:16, 122:18, 124:16, 131:3, 132:2, 133:8, 135:12, 136:6, 144:13, 145:20, 151:7, 151:9, 154:11, 154:19, 156:9, 159:7, 160:1 knowing 22:20 knowledge 44:17, 44:19, 94:9, 124:10 known 37:14, 39:14, 40:10, 40:11, 40:14, 40:16, 40:17, 41:6, 41:7, 42:7, 42:9, 42:13, 42:18, 43:6, 43:15, 44:8, 44:14, 44:16, 46:6, 58:16, 59:2, 59:18, 60:1, 60:4, 60:14, 60:17,
J jersey 2:11 job 1:20 john 1:5, 3:2, 3:13, 5:5, 5:18, 5:20, 9:19, 14:22, 15:1, 20:11, 22:8, 22:18, 22:21, 24:10, 24:11 joined 98:2 july 1:17, 5:9,			

Transcript of Bernard Kahn
Conducted on July 9, 2025

180

62:17, 62:22, 63:18, 64:2, 64:11, 64:12, 64:19, 66:19, 66:20	leave 9:17 leaves 115:22 left 115:3, 138:2 leg 81:21, 98:2, 115:13, 117:20, 137:20, 138:1, 138:2, 145:3 legal 10:19, 10:20, 10:22, 11:7, 32:17, 32:21, 33:3, 33:14, 35:2, 35:13, 37:1, 39:19, 61:13, 61:19, 77:5, 160:21 legs 81:21, 90:15, 90:20, 116:16, 130:10 length 85:2, 105:19, 105:20, 119:8, 119:19, 126:12, 126:14, 127:6, 127:9, 127:21, 127:22, 128:10, 128:13, 128:20, 128:22, 129:5, 137:2, 137:8, 137:20, 145:3, 145:10, 150:10, 150:11, 150:14, 150:15 less 75:10, 106:12 let's 35:13, 53:13, 56:18, 56:22, 63:11, 63:15, 65:10, 66:7, 73:13, 74:2, 79:16, 81:19, 86:16, 95:8,	98:19, 100:8, 106:21, 110:9, 114:14, 115:14, 116:8, 118:15, 118:19, 119:10, 122:1, 124:4, 124:12, 124:18, 128:3, 129:16, 142:14, 144:2, 144:14, 144:20, 148:10, 150:4, 151:6, 154:15, 158:9 letting 84:18 liberally 117:4 license 158:22, 159:2 licensed 159:6 likely 24:4 limitation 46:19, 47:1, 47:5, 47:19, 48:3, 48:10, 64:21, 85:1, 108:3, 108:11, 142:6 limitations 99:15 limited 81:4, 119:7, 126:11 line 41:19, 137:5 lines 122:2, 131:15 list 52:6, 68:6 listed 8:8, 13:22, 71:20, 75:20, 76:6, 76:9 listing 67:9 lists 8:12, 15:6,	52:1 litigation 77:1 litigations 76:20 little 76:16, 78:12, 78:20, 88:1, 91:7, 91:14, 93:10, 93:16, 115:15, 118:20, 119:3, 119:22, 126:15, 134:22, 135:6, 136:16, 137:16, 144:18, 157:14 llp 3:5 load 144:18 located 155:5 location 83:17, 83:18, 95:21, 105:10, 105:11 locations 105:21 long 24:18, 30:9, 30:15, 42:8, 53:16 long-felt 52:9 longer 88:3 look 8:2, 8:19, 10:12, 12:6, 13:20, 18:1, 23:1, 23:4, 29:11, 35:21, 36:22, 37:4, 43:9, 47:4, 47:18, 48:9, 48:16, 63:15, 68:11, 69:18, 71:11, 72:2,
L labeled 32:17 language 84:4, 84:19, 98:12, 98:14, 98:20, 107:17, 107:18, 107:21, 133:14, 141:8, 141:14 large 75:22 larger 77:18 last 16:16, 47:13, 61:8, 67:14, 85:7, 85:20, 95:10, 103:20, 104:20, 135:8, 135:20, 144:21 later 47:5, 47:19, 48:3 laterally 150:5 law 12:1, 33:5, 33:14, 34:3, 35:3, 35:4 lead 94:7 learned 42:4 learner 21:17 least 21:1, 93:8, 93:9, 93:12, 93:17, 141:10, 141:16, 143:10, 144:5, 144:11			

Transcript of Bernard Kahn
Conducted on July 9, 2025

181

78:20, 78:22, 81:19, 82:10, 82:22, 83:2, 84:15, 86:3, 94:10, 94:22, 99:13, 102:12, 129:17, 131:2, 131:15, 135:19, 141:18, 142:7, 142:14, 144:20, 146:17, 151:10, 151:12, 152:9, 152:18, 154:14, 155:2 looked 31:20, 36:10, 44:1, 69:3, 128:6 looking 20:20, 40:22, 43:19, 44:4, 44:5, 44:11, 49:2, 69:17, 84:15, 84:17, 84:20, 85:13, 85:15, 114:10, 133:21, 136:5, 142:21, 154:20 loose 157:10, 157:13, 157:17, 158:1 lost 84:16 lot 75:21, 142:13, 160:16 lovells 3:5, 5:18 lunch 88:5 lunchtime 88:2	112:7, 113:6, 119:6, 126:3, 126:10, 131:17, 159:5, 159:22 make 6:10, 15:17, 21:18, 22:2, 28:20, 44:10, 47:9, 47:22, 59:10, 61:3, 65:1, 66:10, 70:5, 86:6, 104:18, 108:3, 136:13 maker 159:1, 159:2 making 30:2, 59:13, 63:3, 74:14, 146:8 male 4:18, 79:21, 80:2, 80:19, 81:3, 97:6, 97:8, 97:11, 97:15, 97:22, 106:8, 139:15, 143:8, 152:4 manage 73:19 management 71:13, 72:3, 72:4, 72:5, 73:15, 73:18, 74:3, 74:20 managing 72:6 manuals 36:20 manufacture 73:4 manufactured 72:18 manufacturing 72:7, 73:1, 73:6, 73:20, 73:22, 74:9, 74:11, 74:19	many 16:4, 33:8, 117:5 marico 72:10, 72:12 mark 134:8 marked 4:7 market 57:10, 57:17, 58:3, 58:6, 58:8, 58:9 marketing 130:18 markings 21:6, 21:10, 134:6 marks 161:7 marriage 162:18 match 87:9 material 83:16, 90:19, 95:5, 103:22, 104:3, 104:15, 105:3, 105:9, 106:15, 110:1, 112:14, 113:7, 118:22, 119:5, 119:14, 120:13, 120:15, 120:16, 120:19, 120:20, 120:21, 121:1, 126:7, 127:5, 127:16, 129:21, 130:8, 139:7, 139:19, 143:20, 149:20, 149:21, 150:2 materials 21:3, 25:14, 26:5, 26:9, 27:22, 28:4, 34:7, 36:22, 67:5, 67:9,	69:1, 104:18, 123:15, 123:22 matter 5:5, 16:19, 17:7, 22:7, 22:11, 23:16, 24:22, 26:16, 31:15, 55:6, 77:2, 162:22 matters 18:17, 33:9, 36:3, 76:6, 76:15, 76:17, 77:6 mattress 72:16 maybe 29:7, 30:14, 76:12, 82:7, 88:5, 142:14, 143:6 mean 13:2, 15:13, 16:7, 17:16, 25:6, 25:19, 25:22, 30:4, 33:21, 34:22, 36:5, 37:17, 37:22, 38:18, 41:16, 42:22, 43:22, 50:22, 57:15, 57:19, 59:4, 62:7, 64:13, 64:21, 65:12, 65:21, 66:13, 66:15, 69:2, 82:14, 87:4, 90:2, 91:14, 92:9, 96:14, 100:18, 104:16, 113:11, 115:8, 117:5, 117:16, 118:3, 126:19, 127:14, 127:17, 133:12, 141:13, 145:12, 150:19, 153:14, 157:19, 159:2
M			
made 63:4, 63:9, 92:22, 104:1, 104:15, 111:12,			

Transcript of Bernard Kahn
Conducted on July 9, 2025

182

meaning 65:15, 78:6, 79:11, 80:1, 80:14, 80:18, 82:1, 83:22, 84:6 means 36:14, 63:21, 128:21, 147:11 meant 61:22 measured 85:3, 86:19, 105:20, 106:1 media 5:3 medications 19:5 meet 24:9, 24:18 meeting 20:21, 34:13 meetings 24:19 memorize 29:15 men's 4:21, 78:15, 78:18, 103:9, 135:13, 152:1, 152:22 mention 51:5, 72:9 mentioned 25:10, 67:14, 76:7, 76:21, 77:2, 77:3, 128:4, 141:4, 150:21, 152:17 mentions 79:2, 146:22 merely 37:13 mesh 90:18, 91:4, 93:14, 95:5, 110:14, 111:2, 111:18, 112:3,	112:8, 112:16, 115:18, 116:11, 119:6, 129:21, 130:8 met 9:6, 24:10, 24:11 mid-spring 23:2 middle 51:19, 77:13, 99:21, 122:4, 126:6 midway 129:18 might 23:14, 57:11, 58:6, 76:11, 124:15, 125:9, 132:5, 133:7 mind 7:12, 52:15, 61:15, 133:7 mine 56:8 minute 63:12, 140:22, 151:10, 156:12 minutes 61:8 misnomer 127:15, 127:17 misquoting 111:22 misunderstand 62:3 mm-hmm 12:12, 32:15, 32:19, 36:18, 37:9, 38:11, 51:10, 52:2, 63:20, 65:20, 67:8, 71:14, 73:2, 74:4, 78:4, 79:1, 91:8, 99:16, 100:10, 108:14, 114:6, 115:21,	126:13, 128:11, 130:5, 141:1, 144:22, 154:13 moam 4:11 modal 121:7, 122:6, 127:2, 127:7 modified 110:21, 112:1 moisture 90:20, 130:10, 147:2, 147:12, 147:15, 147:22, 148:3, 148:7, 148:14, 148:15, 148:17, 148:21, 149:2, 149:14 moment 41:22, 48:5, 51:16, 89:18, 90:12, 96:15, 97:5, 114:20, 120:10, 156:14 monique 1:22, 2:8, 6:5, 162:3, 163:7 monitor 5:10, 54:19, 55:1, 88:11, 132:15, 132:18, 158:12, 158:16 month 42:2, 42:6, 42:7 months 29:12, 30:17 more 37:19, 38:1, 38:21, 42:16, 45:10, 49:1, 56:10, 75:11, 84:6, 99:20, 106:11, 107:22, 123:19, 123:21, 129:2, 137:16, 145:13 morning 6:17, 19:6,	160:13, 160:21 most 26:7 move 77:19 multiple 38:3 must 43:13, 43:14, 96:13, 149:21 myself 29:22, 31:8, 153:17 N name 16:22, 22:20, 72:9 named 89:5 nanuet 72:18 nature 148:15, 157:11 nd 20:8 necessarily 37:13, 49:22, 50:10, 61:3, 81:1, 117:14 necessary 22:1, 68:16, 69:9, 69:14 need 19:13, 20:2, 38:15, 52:9, 53:17, 65:7, 69:18, 74:17, 80:4, 82:10, 82:22, 85:5, 85:8 needed 69:16, 85:14, 151:13 nervous 160:20 never 16:10, 16:13,
--	---	--	---

Transcript of Bernard Kahn
Conducted on July 9, 2025

183

22:20, 68:14, 76:22, 98:8, 98:20, 99:3 new 2:11, 2:12, 5:22, 8:22, 17:22, 20:8, 71:3, 71:5, 71:7, 72:18, 74:7, 162:4, 163:8 next 19:17, 39:7, 58:12, 65:12, 72:22, 73:14, 74:3, 74:20, 81:19, 95:8, 126:9, 129:8, 132:3, 133:10, 137:17 nod 19:22 non-english 101:13 non-stretched 137:19, 138:7, 145:2 none 106:14, 134:7 nonobviousness 32:18, 32:22, 35:13, 35:14, 37:2, 37:5, 61:13 normal 155:6 normally 155:3 notary 2:10, 6:13, 162:2, 162:4, 163:8 notations 21:7 note 22:2 noted 161:10	notes 21:13, 21:14, 21:18, 21:21, 22:5, 160:4, 160:6, 160:9 nothing 19:4, 69:19, 98:8, 106:16, 161:5 notice 2:7 novosad 3:14, 6:2, 20:12, 22:9 nowhere 141:17 nudelman 3:22 number 5:4, 5:8, 16:3, 65:16, 65:22, 66:3, 68:7, 120:12, 135:1, 154:22 numeral 103:14, 103:16, 152:7, 153:3 nw 3:7 nylon 112:18, 146:22, 147:1, 148:11, 148:13, 148:15, 149:1 nylon-spandex 147:6, 148:18, 149:9, 149:14 O oath 18:22 object 10:5, 19:12, 146:11, 146:12 objection 10:18, 11:12, 11:17, 38:4, 38:14, 39:3,	39:18, 40:4, 40:5, 40:7, 40:18, 41:3, 41:13, 41:21, 42:11, 43:1, 43:21, 44:9, 45:9, 45:10, 48:13, 50:3, 50:15, 61:17, 80:3, 81:10, 82:9, 93:5, 95:12, 99:6, 107:14, 107:15, 109:11, 122:15, 122:16, 140:6, 144:12, 146:2, 146:8 objective 90:7, 90:8, 90:10, 91:1, 95:12, 99:1, 102:17, 102:19 objectives 90:1 obliged 35:3 obvious 31:7, 31:11, 37:13, 46:20, 47:2, 47:6, 47:20, 48:4, 48:11, 48:19, 49:4, 49:16, 49:20, 50:1, 50:5, 50:13, 50:17, 51:22, 59:3, 63:2, 64:14, 64:22, 65:14, 66:9, 66:13, 66:14, 66:19, 67:2, 89:20, 102:15, 107:4, 135:3 obviously 133:6 obviousness 31:8, 34:7, 39:9, 40:20,	41:1, 41:12, 42:3, 46:1, 47:9, 48:1, 48:14, 52:4, 52:14, 59:5, 59:7, 59:14, 60:5, 60:15, 62:4, 62:10, 63:8, 64:16 occur 157:21 occurred 27:15, 162:15 odd 146:13 offer 35:2, 53:3, 53:16 offered 53:10 office 1:1, 5:7 offices 5:22, 12:1, 20:6 often 127:15 oh 17:18, 19:21, 33:20, 75:21, 103:16 omitting 115:2 once 24:16, 138:21, 152:3 one 8:16, 16:13, 32:2, 34:12, 37:20, 38:1, 38:21, 42:16, 43:11, 44:10, 49:1, 50:9, 51:16, 56:10, 61:4, 62:10, 65:15, 65:22, 66:3, 66:7, 67:1, 67:14,
--	--	--	---

Transcript of Bernard Kahn
Conducted on July 9, 2025

184

67:20, 70:14, 72:2, 74:3, 74:20, 75:22, 77:2, 84:6, 84:20, 85:20, 86:2, 89:1, 89:18, 90:12, 96:14, 97:5, 97:20, 106:18, 110:4, 110:5, 121:4, 121:5, 122:4, 122:12, 122:16, 122:19, 122:20, 123:2, 125:8, 129:7, 129:18, 132:6, 133:17, 135:8, 136:10, 137:18, 138:2, 144:16, 144:18, 145:19, 150:8, 150:15 ones 26:7, 74:13 only 17:3, 20:15, 28:16, 28:22, 30:21, 43:11, 82:17, 98:4, 109:22, 110:4, 114:1, 115:2, 122:21, 126:17, 133:7, 140:11, 150:8, 150:12, 150:15 open 142:13 opening 97:7, 97:17, 97:21, 99:22, 100:1, 105:14, 137:21, 138:1, 145:3, 155:5 openings 81:21, 98:2 operations 72:6 opine 52:16, 52:19	opined 53:12 opinion 35:3, 53:4, 53:16, 77:22, 79:5, 91:10, 109:4, 109:9, 109:17, 113:21, 144:7 opinions 27:22, 28:6, 30:19, 31:3, 31:15, 93:3, 140:11, 159:17, 160:17, 161:1 opposite 94:8 optional 111:10 options 151:3 orally 34:10 order 60:8, 60:17, 82:10, 100:3 ordinary 43:16, 65:18, 66:5, 77:14, 78:6, 79:11, 80:1, 80:14, 80:18, 82:1, 83:21, 84:6 oriented 120:20 original 21:4, 101:14 other 9:10, 18:17, 19:15, 20:15, 21:2, 21:8, 21:10, 21:11, 22:20, 25:2, 25:4, 25:14, 25:17, 25:19, 27:21, 28:17, 29:1, 32:12, 36:4, 36:5,	49:12, 52:13, 53:7, 57:11, 57:17, 58:6, 61:4, 67:2, 70:16, 72:15, 76:21, 77:1, 103:21, 121:13, 129:3, 131:1, 141:7, 141:13 others 18:19, 52:9, 52:10, 52:11 otherwise 29:5, 162:21 out 42:8, 52:1, 89:19, 107:18, 107:21, 112:20, 144:13, 154:5, 157:14 outcome 162:21 outline 116:13 outside 57:18, 81:2 outwards 137:1, 137:6, 137:11 over 19:9, 19:15, 30:15, 32:7, 49:16, 49:20, 50:2, 50:6, 50:13, 50:17, 67:5, 81:8, 88:2, 114:18, 122:16, 122:17, 125:8, 132:2, 136:10, 139:11 overlying 137:22 overseeing 74:19 overview 53:20, 53:21, 53:22, 54:3, 78:9, 80:8,	80:11, 96:2 overviews 71:21 own 35:10, 35:14, 35:18, 37:1 owned 17:11 owner 1:9, 5:21, 10:1, 10:3, 10:10, 10:17, 11:7, 11:16, 14:19, 15:5, 15:10, 15:20, 18:5, 18:7, 27:8, 31:10 owner's 4:12, 12:8, 27:6 owners 13:6, 14:2, 14:5 P pads 72:16 page 4:2, 4:8, 8:5, 12:10, 14:8, 32:6, 32:9, 32:13, 54:6, 56:22, 57:1, 57:5, 59:11, 71:10, 73:14, 77:10, 78:8, 84:10, 84:15, 85:10, 85:17, 88:18, 91:2, 95:10, 100:8, 104:21, 106:22, 107:2, 107:20, 108:8, 114:17, 118:15, 125:2, 132:22, 133:4, 133:9, 133:21, 133:22, 134:17, 135:1, 135:8,
--	--	---	---

Transcript of Bernard Kahn
Conducted on July 9, 2025

185

140:15, 140:18, 140:20, 145:19, 146:5, 146:6, 146:17, 151:6, 154:15, 154:17, 154:18, 154:20, 154:22 pages 1:21, 32:3, 67:7, 71:11 pair 110:20 package 1:8, 3:11, 5:5, 5:21, 6:3, 12:15, 12:18, 12:20, 12:21, 13:6, 13:7, 13:9, 13:12, 13:22, 14:2, 14:5, 14:6, 14:8, 14:12, 14:16, 14:18, 14:19, 15:4, 15:9, 15:15, 15:18, 22:16, 33:13, 158:19, 158:22, 162:12 package's 25:2, 30:18, 31:2, 34:4, 35:7, 35:19 panel 83:13, 83:14, 86:14, 86:18, 86:22, 87:1, 87:6, 87:8, 87:11, 87:13, 87:15, 87:19, 96:22, 97:8, 97:9, 97:16, 98:1, 98:6, 100:1, 105:6, 105:7, 105:15, 105:19, 106:3, 106:5, 106:9, 106:11, 108:11, 108:20, 109:1,	109:9, 109:10, 109:14, 109:18, 109:19, 115:5, 115:9, 118:21, 119:16, 120:5, 120:9, 120:13, 120:21, 122:7, 123:3, 125:17, 127:2, 128:7, 129:5, 129:22, 131:16, 136:9, 137:22, 138:1, 138:12, 138:21, 138:22, 139:5, 143:9, 143:13, 143:18, 159:21 panels 90:19, 91:4, 91:5, 91:17, 91:20, 92:4, 92:5, 92:8, 92:9, 92:12, 93:10, 93:13, 93:14, 94:2, 94:13, 94:15, 95:5, 110:7, 110:12, 110:22, 111:17, 112:2, 112:7, 112:14, 113:4, 115:4, 115:12, 116:1, 116:5, 116:10, 116:20, 117:8, 117:15, 117:19, 117:21, 119:5, 126:10, 130:9, 131:5, 141:5 papers 21:11 paragraph 12:10, 33:2, 33:12, 37:7, 39:8, 51:3, 51:8, 51:13, 54:7, 56:21, 57:1, 60:22, 63:11, 63:13, 65:11, 77:17,	77:20, 79:2, 85:7, 88:20, 89:19, 95:1, 95:9, 95:11, 99:21, 102:13, 103:5, 103:18, 103:20, 106:20, 106:21, 108:18, 110:2, 110:16, 111:15, 112:10, 112:21, 114:4, 114:7, 114:11, 114:14, 114:16, 114:18, 118:19, 124:18, 125:1, 126:4, 128:5, 129:17, 130:3, 131:2, 131:4, 133:2, 135:20, 140:19, 141:3, 142:8, 142:12, 144:21, 146:20, 149:17, 151:21, 152:21, 153:6, 155:2, 156:8, 156:18 paragraphs 78:20, 85:19, 140:21 parallel 106:12, 120:22 parameters 9:1 parentheses 69:12, 113:17 parenthetical 89:4 parsons 71:1, 71:2, 71:3 part 57:1, 75:2, 75:3, 82:20, 83:7, 93:9, 93:12, 93:17, 96:5, 103:9, 113:6, 133:22, 136:13, 143:19,	152:2, 153:1, 155:8 partial 82:4, 111:12 particular 35:21, 38:2, 43:8, 51:9, 57:12, 57:15, 57:20, 58:7, 61:15, 71:15, 76:12, 95:21, 99:22, 105:3, 116:12, 116:21, 117:9 parties 5:13, 162:18, 162:20 parts 110:20, 155:4, 155:11 party 162:11 passed 152:4 patent's 95:11, 119:16, 128:7 patents 15:7, 24:7, 25:17, 25:18, 25:19, 28:17, 29:1, 30:1, 30:22, 35:9, 117:6, 150:22 pdf 154:17 pending 61:9, 146:11, 146:12 people 76:17, 127:16 percent 112:17, 112:18, 124:13, 124:14, 124:17, 141:8, 141:10, 141:14, 141:16, 141:21, 143:10, 144:5,
---	--	---	---

144:11, 145:13 percentages 147:7 perform 115:4, 115:8 performance 112:13 period 75:5 perpendicular 121:1 person 20:16, 43:15, 77:14 petition 26:1, 27:6, 101:17, 107:11 petitioner 1:6, 5:18, 9:20, 15:1, 141:6, 149:20 phallus 90:20, 95:13, 116:12, 116:21, 117:9, 117:19, 130:9 phone 34:12 phrase 82:16 physically 159:15 picture 152:13, 152:14 piece 97:10, 137:7 place 84:20, 88:3, 141:20 places 85:15, 131:1 plain 78:5, 79:11, 80:1, 80:14, 80:18, 82:1, 83:21, 84:6 plane 120:16, 120:19	planet 3:21, 3:22, 5:12, 6:6 plans 88:4 please 5:14, 6:7, 19:11, 19:22, 21:22, 35:11, 44:10, 49:18, 77:9, 77:20, 83:4, 111:4, 129:16, 141:1, 143:1, 156:14 pllc 3:15 pocket 153:10, 153:14, 153:15, 153:17, 153:19, 154:1, 154:8, 154:12, 156:19 point 21:4, 30:3, 30:4, 30:6, 54:1, 54:13, 61:4, 66:11, 66:17, 71:18, 71:19, 72:8, 110:1, 137:21, 137:22, 145:4 pointed 112:20, 151:12 pointing 152:14 points 145:7, 145:11 polyester-spandex 147:7 portion 81:20, 82:3, 82:5, 82:8, 82:12, 82:16, 82:19, 83:6, 83:9, 83:12, 83:14, 83:21, 83:22, 84:1, 85:3, 86:12,	86:19, 86:20, 87:1, 87:4, 87:16, 96:22, 97:13, 98:3, 105:7, 105:14, 105:21, 106:1, 106:2, 106:5, 108:12, 115:2, 137:12, 156:1 portions 98:18, 136:13 posita 89:21, 102:15, 141:9, 141:15, 146:21, 146:22 position 100:4 positions 71:15 possible 65:16, 66:1, 66:4, 66:8 possibly 157:5 pouch 86:22, 87:15, 90:17, 95:4, 95:14, 96:4, 96:8, 96:13, 96:18, 96:21, 97:12, 97:13, 100:4, 106:4, 115:19, 116:2, 116:6, 116:14, 116:22, 117:1, 117:2, 117:3, 117:4, 117:10, 118:1, 118:12, 118:13, 118:14, 129:20, 130:7, 135:16, 139:15, 139:20 practice 91:5, 93:14, 117:14, 117:17, 117:18 praise 52:10	predictable 58:15, 59:1, 59:17, 59:22, 60:3, 60:13, 62:6, 62:16, 63:1 preferably 110:13, 111:1, 112:2, 116:10, 131:17 prefix 6:11 preliminary 27:9, 27:12, 27:18 preparation 24:17, 25:2, 25:12, 25:15, 31:22 prepare 24:5, 26:12, 70:12 prepared 16:5, 16:7, 16:10 preparing 18:18, 158:19, 159:11 present 3:20, 46:16, 50:20, 90:13, 110:21, 112:1, 112:15 presented 15:12, 15:13, 15:21, 15:22, 16:5 presently 39:14, 40:15, 40:17, 41:2, 41:6, 41:11, 41:15, 41:17, 41:22, 43:4 presume 15:8, 89:21, 102:16 presumption 63:3
--	---	---	--

Transcript of Bernard Kahn
Conducted on July 9, 2025

187

prevent 19:2, 115:12, 117:19 previous 16:6, 26:20, 28:17, 35:17, 50:7, 126:2 previously 4:7, 39:15, 40:11, 40:14, 40:16, 41:7, 41:18, 41:22, 43:6, 44:7, 44:13, 47:17, 76:7, 114:10 principals 13:5 principles 33:14 prior 24:12, 27:15, 35:21, 36:11, 37:15, 42:1, 43:19, 43:22, 44:2, 44:4, 44:6, 44:7, 44:12, 44:13, 44:15, 44:16, 44:17, 45:1, 45:4, 45:6, 46:5, 46:11, 46:14, 46:18, 46:22, 47:4, 47:8, 47:18, 47:22, 48:9, 48:16, 48:21, 48:22, 49:2, 49:16, 49:21, 50:2, 50:6, 50:14, 50:18, 58:15, 59:1, 59:4, 59:18, 59:22, 60:3, 60:7, 60:13, 60:16, 62:17, 62:21, 63:6, 88:21, 109:4 probably 30:11, 30:17,	81:2 problem 65:17, 66:4, 66:8, 66:19 proceeding 6:19, 6:22, 8:3, 9:20, 17:14, 25:1, 27:9, 27:19, 70:13, 89:16, 102:2 proceedings 35:17, 35:22, 36:11 process 73:20 processes 73:12, 74:7 product 13:1, 13:3, 92:10, 92:12, 92:13, 92:16, 92:20, 93:18, 118:8 production 71:13, 72:3, 72:5, 73:10, 73:11 professional 2:9 professor 75:3 project 30:12, 76:1 prompted 57:12, 58:7 pronouncing 100:14 pronunciation 100:16 properly 21:19 proved 37:13 provide 26:21, 27:11, 30:18, 31:2, 31:6, 34:6,	34:9, 34:15, 70:15, 90:21, 92:7, 93:10, 94:2, 95:19, 97:13, 100:2, 130:10 provided 9:22, 10:9, 27:5, 115:16 provides 90:13, 91:21, 94:3, 131:6 providing 67:10, 91:7, 91:13, 91:17, 93:16 ptab 36:11, 36:13, 49:10 pub 4:16, 68:7 public 2:11, 162:2, 162:4, 163:8 publication 89:2 pull 102:19, 110:9, 142:7, 144:15, 155:8, 155:15, 155:18, 157:16, 158:2, 158:5, 158:6 pulling 103:1, 156:5, 156:7 purpose 43:5, 45:6, 46:13, 46:14, 46:16, 47:1, 90:21, 115:19, 116:11, 116:20, 117:8, 117:21 purposes 46:19, 102:5, 129:10, 129:12 pursuant 2:6	put 89:17, 94:12, 94:15, 101:5, 133:8, 143:5, 145:16, 159:17 Q question 8:17, 11:13, 16:15, 19:11, 19:17, 21:16, 21:17, 21:19, 22:2, 25:16, 28:2, 35:11, 38:6, 38:16, 39:22, 40:6, 40:12, 40:19, 41:4, 42:12, 42:15, 44:10, 45:12, 46:10, 46:21, 47:14, 47:21, 48:7, 49:1, 50:4, 50:8, 50:9, 50:10, 50:11, 51:18, 53:9, 57:19, 59:9, 60:6, 60:10, 61:7, 61:9, 61:18, 62:14, 63:14, 80:16, 81:11, 83:3, 83:4, 104:9, 109:12, 111:8, 111:11, 111:14, 111:16, 112:6, 123:20, 125:16, 146:11, 146:12, 157:22, 158:8 questioning 33:22 questions 11:5, 19:13, 19:18, 45:17, 55:18, 80:5, 82:11, 83:1, 89:9, 125:10, 135:12, 160:11,
--	---	---	---

Transcript of Bernard Kahn
Conducted on July 9, 2025

188

160:13, 160:16, 161:4 quick 78:21 quite 32:8 quotation 111:12 quote 110:2, 112:5, 114:12, 115:3, 115:16, 115:17, 116:8, 117:7, 126:11 quoted 101:18, 115:2 quotes 133:14 quoting 80:10	reading 60:11, 110:15, 111:7, 121:9 reads 99:21 ready 132:3, 145:22 reality 159:13 really 118:2, 118:6, 157:7, 159:18 realtime 2:10 rear 139:1 reasonable 65:17, 66:4 recall 17:10, 29:13, 67:19, 140:12, 145:18, 149:9 receive 153:11, 153:19, 154:3, 158:18, 158:21 received 159:13 receiving 87:16, 96:22, 105:15, 106:5 recess 54:21, 88:9, 132:16, 158:14 recited 66:7 recites 67:1, 98:9 recognize 8:1, 12:7 record 6:9, 19:20, 21:20, 22:3, 54:19, 55:1, 88:5, 88:6, 88:8, 88:11, 89:15, 101:6, 121:8, 132:12,	132:14, 132:18, 142:21, 158:10, 158:12, 158:16, 161:9, 162:10 records 23:1 rectangular 97:16 reduce 75:1, 155:10 refer 7:5, 14:7, 14:18, 14:22, 61:14, 78:22, 89:8, 100:17, 102:7, 107:19, 108:7, 156:19 reference 14:9, 21:9, 26:19, 27:1, 34:20, 34:22, 36:15, 40:13, 43:19, 46:5, 53:18, 54:5, 59:4, 59:5, 84:9, 92:14, 92:18, 93:4, 94:3, 94:15, 96:15, 100:12, 103:14, 103:16, 109:5, 109:8, 109:10, 109:17, 110:18, 110:19, 118:3, 121:17, 134:11, 135:6, 145:18, 145:19, 146:18, 149:10, 152:7, 152:9, 152:19, 153:3 referenced 14:8, 28:17, 95:1, 143:20 references 25:20, 25:21, 25:22, 29:1, 37:19, 46:11, 48:16, 48:17, 49:3, 49:17,	49:21, 50:2, 50:6, 50:14, 50:18, 53:7 referencing 143:15 referred 84:11, 101:17, 128:17 referring 39:5, 39:6, 58:19, 58:21, 60:18, 61:1, 98:15, 98:16, 99:11, 102:6, 107:10, 118:8, 121:13, 122:20, 143:12, 152:6, 152:13, 153:2, 154:1 refers 156:21 reflects 142:21 regarding 37:1, 55:18 regardless 99:22 registered 2:9 regular 81:8 relate 38:3, 43:7, 76:6 related 17:6, 52:3, 52:14, 65:8, 76:19, 92:17, 159:9, 162:17 relating 62:9 relation 13:7, 34:5 relationship 13:11, 14:2, 14:4, 15:17 relatively 65:16, 66:3
R			
rare 29:7 rate 23:12 rather 71:18 re-stretched 138:22 read 36:2, 36:19, 43:12, 51:7, 51:12, 51:15, 54:2, 58:10, 60:10, 63:12, 80:4, 80:5, 83:10, 83:11, 83:18, 85:22, 86:16, 97:22, 98:8, 98:18, 110:17, 111:15, 112:4, 114:18, 115:14, 116:8, 116:17, 122:2, 129:18, 131:3, 137:18, 140:22, 156:11, 156:13			

Transcript of Bernard Kahn
Conducted on July 9, 2025

189

relax 138:19 relaxed 97:8 released 87:21 relied 27:22, 28:6, 31:3, 161:1 rely 60:7, 60:16 remainder 115:3 remember 75:5, 140:10 remote 5:11 remotely 5:14, 162:15 render 135:2 repeat 41:4, 42:12, 46:21, 49:1, 49:18, 50:4, 83:3, 83:4 repeats 96:20 repelling 147:12 rephrase 40:1 replied 47:20 report 18:13, 30:10, 43:10, 86:1, 107:16, 107:17, 114:17, 133:10, 142:13, 160:18 reported 1:22 reporter 2:9, 2:10, 6:5, 6:7, 17:1, 19:19, 20:3, 43:2, 97:18, 122:18, 162:1,	162:3 represent 5:16 represented 92:16, 162:12 representing 5:12, 6:5 represents 13:10 requesting 16:11 require 78:2, 105:3, 105:5 required 69:20, 122:21 requirement 81:15 requiring 106:17 research 35:9, 35:14, 35:16 resilient 83:15, 105:8, 118:22 resiliently 105:16 resource 74:3 resources 74:17 respect 44:6, 44:12, 44:15, 59:13, 93:3 respects 31:18 response 4:12, 12:8, 20:3, 27:6, 27:9, 27:12, 27:18 rest 43:10, 43:12, 58:10, 80:20, 81:6, 82:13, 82:15, 82:17,	95:17, 111:15, 117:15 result 54:10, 58:15, 59:1, 59:17, 59:22, 60:3, 60:13, 62:16, 63:1 results 52:10, 60:8, 62:6 resumé 21:5 retained 11:20, 11:22, 12:1, 12:13, 12:15, 12:17, 22:22, 29:17, 31:9, 31:10, 76:22 review 25:14, 26:9, 26:20, 68:2, 68:5, 70:5, 93:18, 93:21 reviewed 8:3, 24:7, 25:10, 25:11, 25:17, 26:6, 28:14, 28:20, 30:1, 31:21, 49:9, 69:3, 89:12, 136:6, 159:9 reviewing 46:13, 46:15, 46:18, 46:22, 61:10 right 7:3, 8:7, 10:1, 11:8, 20:5, 25:12, 33:3, 34:1, 36:18, 37:2, 38:10, 43:20, 44:21, 52:11, 52:22, 56:5, 59:19, 61:10, 66:20,	78:3, 78:8, 78:10, 78:15, 85:17, 85:21, 87:2, 89:6, 89:13, 98:10, 99:15, 103:11, 103:15, 104:1, 106:13, 106:17, 107:4, 107:8, 108:20, 109:2, 109:13, 109:15, 110:7, 110:14, 111:14, 112:8, 114:12, 115:6, 115:20, 116:9, 117:10, 118:10, 120:2, 120:6, 120:18, 121:20, 122:3, 123:3, 125:15, 131:8, 134:2, 135:17, 136:14, 137:13, 138:1, 138:8, 139:1, 139:4, 139:8, 139:21, 143:17, 144:3, 146:17, 148:8, 150:13, 150:16, 151:4, 151:16, 156:6, 157:14, 158:9 rights 17:20 robert 8:13, 9:10, 13:5 room 20:10, 20:11, 20:13, 20:16, 104:21 rounded 97:17 rpr 1:22, 163:7 rules 19:10 running 137:21, 145:3
---	--	---	--

Transcript of Bernard Kahn
Conducted on July 9, 2025

190

s			
s 75:16 said 12:13, 16:16, 25:8, 25:11, 25:16, 28:19, 38:7, 38:9, 40:10, 43:3, 47:12, 47:17, 48:9, 49:19, 59:20, 61:21, 104:10, 120:1, 132:9, 140:7 sally 3:4, 5:19 same 23:11, 23:21, 39:5, 42:15, 50:11, 50:16, 59:11, 65:10, 84:19, 96:15, 109:5, 114:11, 115:4, 115:8, 124:19, 126:3, 128:12, 128:21, 129:5 satisfied 98:5 save 133:7 saw 111:14 say 25:21, 26:22, 30:11, 31:11, 33:8, 33:11, 35:13, 36:13, 37:11, 40:20, 41:15, 52:18, 57:10, 58:13, 59:16, 60:21, 61:18, 62:7, 62:15, 66:7, 68:11, 69:1, 72:14, 91:1, 91:3, 92:8,	94:15, 95:7, 96:1, 96:3, 96:7, 98:14, 99:10, 104:6, 104:10, 108:19, 109:12, 114:15, 115:1, 117:2, 118:5, 118:7, 119:11, 120:4, 121:17, 121:19, 121:20, 122:9, 122:10, 122:13, 124:4, 124:12, 126:6, 128:6, 128:20, 129:11, 140:18, 141:4, 147:14, 149:16, 150:5, 150:19, 152:1, 152:22, 153:6, 157:7, 157:9 saying 40:22, 41:10, 42:9, 42:13, 42:17, 42:20, 61:13, 66:11, 84:14, 91:19, 96:17, 122:7, 122:21, 123:6, 124:8, 128:12, 131:10, 139:13, 147:1 says 8:12, 39:8, 63:16, 65:12, 72:5, 78:14, 83:8, 83:13, 86:12, 86:17, 91:20, 110:12, 111:22, 112:13, 113:18, 116:9, 117:13, 118:4, 122:12, 122:19, 127:1, 136:16, 136:17, 138:15, 139:6, 139:10, 145:1, 155:3 school 71:4, 71:5	scott 3:3, 5:17, 7:12, 8:21, 10:18, 11:6, 40:4, 45:10, 51:11, 100:22 scratch 27:3 screen 8:6, 37:10, 57:9, 77:18, 84:8, 84:12, 85:6, 85:14, 104:21, 136:1, 142:16, 143:1, 143:5, 154:16, 154:19 screens 20:20 scroll 84:8, 85:6 scrotum 90:14, 90:19, 95:13, 100:3, 116:12, 116:21, 117:9, 117:19, 130:9 seam 97:12, 98:3 seams 86:20, 105:12, 106:2 second 8:16, 9:18, 95:2, 120:17, 120:18, 130:3, 133:22, 135:8, 138:6, 144:16, 144:19 secondary 52:3, 52:13, 52:17, 52:20, 52:21, 53:4, 53:11, 93:6 section 8:12, 32:16, 34:19, 35:5, 35:6, 59:6,	59:11, 61:12, 61:20, 62:9, 77:14, 78:9, 78:14, 80:7, 80:13, 107:2, 107:6, 134:19, 136:10, 139:1, 139:12, 151:10, 160:22 sections 39:1, 39:4, 71:12, 139:10 secure 139:14 secured 15:16, 27:15, 27:16 see 8:7, 8:20, 10:13, 10:14, 32:16, 32:18, 33:15, 37:15, 39:10, 42:8, 51:5, 51:19, 52:1, 57:13, 58:16, 63:19, 65:18, 67:13, 73:13, 73:15, 77:13, 77:20, 79:20, 81:21, 85:3, 86:9, 86:14, 88:1, 88:4, 91:3, 95:17, 102:21, 111:2, 111:16, 111:19, 112:18, 112:19, 116:2, 119:8, 119:20, 122:3, 125:4, 126:4, 126:7, 126:12, 128:10, 129:14, 130:1, 130:11, 133:9, 133:17, 134:19, 135:3, 135:21, 136:11, 136:19, 138:3, 138:13, 139:16, 141:11,

143:7, 144:21, 145:4, 146:4, 147:4, 147:8, 147:16, 149:22, 152:4, 153:12, 155:12, 156:20, 159:14, 160:3 seek 76:17, 76:18 seem 146:13 seen 68:14 select 26:5 self-explanatory 66:2 sentence 37:11, 39:7, 43:11, 45:5, 51:4, 51:9, 51:20, 57:4, 57:8, 58:12, 61:21, 63:15, 65:12, 78:13, 82:17, 83:10, 91:3, 95:2, 95:8, 95:10, 103:20, 104:20, 111:4, 111:6, 124:19, 126:9, 128:6, 129:9, 130:4, 137:17 sentences 57:6, 102:13, 129:18 separate 97:3, 98:10, 98:21, 99:4, 99:17 separated 95:15 separates 95:14, 96:4, 96:18 separating 103:2 separation 99:19, 155:10	series 122:17 serve 129:11 services 15:16, 27:16 set 162:7, 163:1 setup 20:19 several 16:5, 16:7, 16:9, 37:12, 37:18, 37:20, 38:9, 38:18, 57:6, 77:3, 117:5 sewn 87:9, 87:11, 87:20, 103:10, 152:2, 152:3, 153:1, 155:7, 156:20, 157:10, 157:12 shape 99:22, 153:16 shaped 95:4, 129:20, 130:7 shared 84:12, 85:6 sharing 25:4, 25:6 shawn 8:13, 9:10, 13:5 sheet 83:15, 105:8, 118:21 sheets 72:15 shirring 138:12, 139:14 shlush 69:13 shortened 115:16 shorthand 162:1	shorts 81:8 should 19:15, 39:9, 40:20, 46:1, 48:14, 63:16, 64:1, 76:11, 91:1, 102:3, 117:2, 141:10, 141:16 shouldn't 40:22, 41:1, 41:11, 48:21, 48:22 show 7:16, 54:1, 54:3, 103:10, 142:22 showing 20:20, 136:9, 136:18, 136:22, 137:2, 137:10 shown 103:14, 116:13, 137:4, 139:12 shows 138:11 sic 10:3 side 82:8, 86:13, 86:20, 86:21, 87:5, 87:10, 87:12, 90:19, 95:5, 97:21, 105:12, 105:14, 105:18, 106:1, 106:3, 110:7, 110:12, 110:22, 111:17, 112:2, 112:7, 112:14, 115:4, 115:11, 116:1, 116:5, 116:9, 116:19, 117:8, 117:15, 117:19, 117:21, 119:5, 126:20, 129:21, 130:8,	131:4, 141:5 signature-mig2k 163:4 significant 124:1, 124:3 similar 63:19, 64:3, 64:12, 64:13, 64:20, 105:22, 106:16, 110:19 similarly 19:22, 138:2 simply 58:14, 59:17, 59:21, 60:2, 60:12, 62:16 simultaneous 8:15, 11:1, 11:3, 14:11, 24:13, 32:5, 45:19, 52:11, 64:5, 68:20, 108:6, 122:11, 125:6, 128:15, 130:20, 133:16, 133:19, 134:15, 152:10, 152:16 since 13:9, 75:17, 76:3, 155:5 single 97:10 situation 50:21, 51:1 skill 43:16, 65:18, 66:5, 77:14 skills 71:18 small 65:16, 65:22, 66:3, 75:21, 75:22, 76:3 smaller 75:12, 85:2, 86:18, 105:20 snacking 132:4
---	--	---	--

Transcript of Bernard Kahn
Conducted on July 9, 2025

192

so-called 110:3, 110:20, 111:22, 112:16, 113:18 soft 95:13, 112:15 softness 156:21 solely 34:4 solution 90:13 some 8:8, 8:22, 15:17, 19:9, 51:5, 52:6, 53:11, 69:6, 71:12, 74:18, 75:19, 107:16, 107:17, 107:18, 120:12, 129:2, 131:1, 140:9, 140:11, 153:22 somebody 11:8 someone 28:20, 44:1 something 39:13, 39:15, 40:3, 40:8, 40:9, 40:10, 40:11, 40:14, 40:15, 40:16, 41:6, 41:7, 42:2, 42:5, 42:6, 42:7, 43:4, 43:5, 43:13, 61:10, 62:19, 62:20, 63:5, 64:10, 64:19, 66:12, 66:21, 67:1, 67:3, 68:8, 68:9, 91:9, 104:7, 104:11, 119:10, 122:14, 126:14, 128:4, 146:15, 149:2,	150:8, 150:13, 158:2, 159:1 sometimes 146:7, 148:13 somewhere 76:11 soon 29:16 sorry 8:21, 9:1, 14:12, 27:3, 28:2, 32:7, 33:21, 35:11, 42:15, 47:10, 48:5, 51:6, 51:11, 61:18, 64:6, 72:14, 84:12, 85:16, 93:11, 97:20, 124:16, 124:22, 125:12, 125:14, 130:1, 133:2, 137:7, 140:17, 143:3, 144:17, 146:1, 153:16 sort 107:19 sources 74:7 sourcing 74:7 space 153:17, 156:5 spaced 97:20 spandex 106:16, 106:17, 112:18, 114:1, 121:7, 122:6, 124:6, 124:14, 127:2, 127:8, 147:1, 149:1 spanning 75:15 speak 21:17 speaking 8:15, 11:1,	11:3, 14:11, 24:13, 32:5, 45:19, 64:5, 68:20, 108:6, 122:11, 125:6, 128:15, 130:20, 133:16, 133:19, 134:15, 152:10, 152:16 specific 62:10, 99:20, 123:6, 135:12 specifically 19:14, 34:17, 61:1, 61:22, 95:2, 95:3, 98:9, 98:20, 99:3, 106:17, 113:19, 115:15, 117:7, 126:21, 129:20, 130:7, 157:20 specifically-sha- ped 90:17 specification 100:6 specifies 106:15, 123:2 specify 58:8, 104:16 spend 30:9 spent 24:20, 30:11 spoke 125:8 spot 132:7 square 3:6 stand 54:18, 88:7, 132:13, 158:11, 161:7 standard 39:17, 126:22 standards 32:17, 32:21,	35:13, 37:1, 61:13 standpoint 43:14 start 42:14, 53:13, 89:19, 96:12, 119:10, 122:17, 129:17, 135:11, 151:20 start-ups 75:22, 76:4 started 29:13, 30:2, 42:18, 133:5 starting 19:18, 30:5, 75:15, 75:16, 86:16, 110:17 starts 57:5, 79:20, 85:1, 134:19, 135:20 state 5:15, 12:15, 38:5, 45:22, 77:22, 78:5, 89:20, 91:13, 94:3, 97:8, 98:20, 99:3, 99:8, 102:12, 102:14, 103:8, 103:17, 103:21, 108:18, 108:22, 109:13, 109:21, 115:15, 115:22, 116:19, 118:20, 119:3, 119:15, 120:8, 124:20, 131:16, 147:6, 149:19, 156:18, 162:4, 163:8 stated 43:13, 48:14, 51:20, 58:11, 79:10, 80:12, 93:8, 104:14 statement 35:1, 58:5,
--	--	---	--

60:9, 60:11, 63:10, 65:2, 83:8, 93:13, 93:19, 107:7, 122:3, 123:6, 126:3, 129:4, 135:1, 144:3, 146:21 states 1:1, 2:11, 5:6, 8:9, 63:22, 68:17, 90:6, 94:1, 94:8, 95:2, 96:18, 97:5, 99:7, 99:8, 117:7, 138:11, 143:8, 149:13 stating 61:2, 64:15, 79:20, 92:2, 93:9, 157:2 stay 65:10, 78:8, 122:2 still 19:13, 22:4, 28:9, 33:12, 56:18, 61:5, 85:5, 88:15, 102:14, 128:4, 151:15, 160:3 stitched 97:12, 136:11, 138:22, 139:3, 139:11, 139:20, 153:9 straight 137:5 street 3:7, 20:8 stretchable 121:15 stretched 137:6, 138:8, 138:16, 138:18, 139:3, 139:19, 145:6, 157:14	stretches 104:3, 106:11, 119:19, 126:14, 126:22, 127:5, 127:22, 128:9, 128:12, 128:20, 129:5, 150:3, 150:8 stretching 140:2 strike 45:2, 93:11 strip 136:17 strips 139:13, 141:7, 143:22, 144:3, 144:4, 144:10 stuff 45:11 style 110:21, 112:1 sub-bullet 107:6 subject 24:22 submitted 6:19, 27:18, 70:7 subpoint 107:7 subsequent 80:5 substance 55:10, 55:22, 56:11 substantially 105:13 success 52:8, 53:14, 65:17, 66:5 successful 149:7 sufficient 123:14, 155:10 suite 3:16 summarized 33:15	superimposed 136:10 superior 90:21, 130:10 support 4:11, 12:8, 27:5, 27:12, 74:10, 77:4, 90:16, 100:2 sure 19:21, 23:5, 45:12, 47:11, 59:10, 63:7, 70:6, 86:7, 108:3, 114:13, 159:7 surfaces 153:18 surround 95:12 swear 6:7 swimsuits 73:8 swimwear 73:4, 74:11 sworn 6:13, 162:7 symmetric 128:17 systems 73:15, 73:18, 73:19 T tabs 21:8 take 8:1, 9:16, 12:6, 21:18, 54:2, 63:12, 63:15, 78:21, 88:3, 132:6, 137:7, 140:21, 151:10, 156:12 taken 162:9 taking 21:14, 144:18	talents 71:18 talk 78:12, 84:4, 87:7, 119:13, 121:2, 131:20, 131:22, 135:5, 137:16, 144:2, 146:20, 148:10 talked 13:12, 150:3, 152:8, 160:4 talking 19:15, 32:7, 38:7, 61:22, 79:9, 85:9, 89:9, 102:8, 108:4, 114:12, 122:16, 124:20, 133:7, 142:1, 142:8, 142:12, 149:8, 149:10 teaching 140:1 technical 90:9, 150:17 technically 113:9, 113:11, 149:6 technician 3:22, 85:16, 85:21, 86:2 technique 63:18, 64:2, 64:11, 64:19 techniques 73:6, 73:12, 74:22 technology 70:21, 70:22, 75:14 tell 83:11, 101:1, 159:4 tendency 155:7 tension 87:9, 87:12,
--	---	---	---

Transcript of Bernard Kahn
Conducted on July 9, 2025

194

87:20 term 80:2, 80:19, 81:20, 84:7, 109:1, 109:5, 109:8, 109:14, 109:19, 125:21, 127:4, 127:11, 128:2, 128:19, 154:10 terms 66:14, 72:6, 78:1, 78:6, 79:11, 80:15, 157:4 testicles 102:20, 103:1, 153:11, 153:20, 154:4, 155:6, 156:7, 157:17, 158:6 testifies 6:14 testifying 19:3 testimony 13:18, 14:15, 18:3, 18:8, 23:22, 55:10, 55:21, 55:22, 56:11, 162:10 texas 3:17 text 77:18 th 163:2 thank 6:4, 77:20, 88:14, 89:18, 132:21, 133:20, 134:2, 143:5, 151:14, 161:6 themselves 5:15, 73:22 theory 141:6 thereby 116:14, 153:10	thigh 115:13, 117:20 thighs 116:16 thing 38:21, 107:22, 113:14, 127:18 things 21:9, 43:18, 51:5, 53:8, 59:6, 59:12, 64:18, 107:19 think 15:21, 17:22, 24:12, 24:20, 25:11, 32:2, 51:20, 54:6, 56:22, 57:8, 61:20, 76:13, 85:5, 85:7, 86:3, 86:4, 88:3, 88:18, 94:22, 100:14, 114:10, 116:8, 119:22, 129:8, 136:4, 138:20, 146:14, 151:15 third 51:4, 51:20, 155:2 thirteenth 3:7 thought 40:5 three 24:12, 24:21, 30:22, 66:8, 66:18, 151:3 three-dimensional 86:22, 87:15, 96:13, 96:21, 106:4, 153:15 through 8:2, 30:6, 31:20, 71:11, 74:2, 114:14, 114:19, 117:5, 118:20, 151:10,	152:3, 155:4, 156:11, 158:6 throughout 117:5 tightly 123:16 time 5:10, 16:16, 17:3, 19:12, 19:13, 21:4, 41:17, 42:1, 42:16, 43:16, 44:3, 44:10, 44:16, 44:17, 44:20, 45:20, 47:4, 47:18, 48:9, 49:1, 50:20, 54:2, 54:19, 55:1, 56:10, 75:5, 75:11, 88:8, 88:11, 132:6, 132:10, 132:14, 132:18, 133:7, 158:12, 158:16, 161:10 times 16:4, 24:12, 24:14, 24:15, 33:8, 33:11 title 8:7 today 5:11, 6:5, 6:18, 14:19, 15:1, 18:22, 19:3, 23:22, 24:6, 26:13, 42:4, 42:5, 55:10, 55:15, 56:12, 160:17, 160:18 today's 5:9 together 84:13, 136:11, 139:1, 139:11 tommy 1:5, 3:2, 5:5,	5:18, 9:19, 14:22, 15:1, 22:18, 22:21 top 83:16, 83:17, 84:10, 84:15, 86:13, 86:21, 87:5, 87:10, 87:12, 104:20, 105:9, 105:10, 105:17, 105:21, 106:3, 154:22 totally 134:9 towards 51:19, 79:17, 84:4, 96:16, 96:20, 125:2, 143:4, 159:13 trademark 1:1, 5:7 transcribe 20:3 translation 101:14, 101:17, 101:21, 102:1, 102:9 treat 149:1 tredennick 3:15, 6:3, 12:2, 12:14, 12:18, 22:14, 29:4 trial 1:3, 5:7, 36:16 tricot 119:18, 124:21, 125:4, 125:18, 125:21, 128:9, 159:21 true 131:19, 162:9 truthfully 19:3 try 29:15, 65:14, 66:13, 66:14,
---	---	--	--

Transcript of Bernard Kahn
Conducted on July 9, 2025

195

66:20, 67:2 trying 38:17, 41:16, 41:18, 48:8, 61:19, 107:22, 133:12 turn 56:22, 67:4, 77:10, 88:18, 99:20, 114:4, 132:22, 140:9 two 13:10, 18:19, 29:18, 30:17, 41:20, 61:8, 66:18, 66:22, 124:5, 124:15, 124:16, 129:11, 140:22, 145:7, 145:11, 150:12, 153:18 two-thirds 137:20, 145:2, 145:10 two-way 127:11, 127:14, 127:15, 127:19 type 17:14, 104:17, 123:9, 125:19 typing 97:19 typo 32:2, 32:9, 32:12 U u-shape 97:7 undefined 157:15, 157:18, 157:19 under 8:7, 18:22, 72:8, 87:9, 87:11, 87:20, 120:12, 121:11 undergarment 78:15, 80:22	undergarments 79:6, 81:4 underlying 137:22 underneath 8:9, 97:14, 100:2 underpants 103:10, 156:20, 157:10 undershorts 78:22, 79:3, 79:6, 81:14, 81:16 understand 6:17, 7:6, 9:19, 11:15, 11:18, 12:21, 13:16, 14:20, 15:1, 15:2, 18:21, 19:8, 19:11, 20:18, 21:1, 31:9, 35:3, 36:7, 36:13, 37:11, 38:16, 39:8, 41:5, 41:18, 45:18, 48:8, 49:15, 49:19, 57:5, 58:13, 59:20, 61:19, 63:16, 63:22, 65:11, 65:13, 80:7, 80:11, 89:9, 100:17, 101:13, 101:16, 102:8, 108:3, 142:14 understanding 10:16, 11:11, 12:19, 13:4, 14:10, 14:16, 26:16, 32:21, 33:17, 34:3, 35:12, 38:17, 38:19, 39:14, 39:21, 40:2, 41:16, 45:16,	45:20, 66:15, 80:9, 80:16, 80:21, 81:7, 81:14, 81:18, 84:5, 92:20, 94:11, 94:18, 144:4, 154:11, 159:8 understands 10:21 understood 39:15, 43:4, 43:15, 44:2 underwear 4:17, 4:21, 78:18, 81:1, 81:9, 90:16, 95:3, 103:9, 129:19, 130:6, 135:14, 136:14, 137:13, 139:8, 142:4, 143:13, 143:16, 143:19, 152:2, 153:1, 153:7, 153:9, 155:8, 156:1, 156:6, 158:19, 158:21, 159:9, 159:16 unexpected 52:10, 54:10 unitary 97:10 united 1:1, 5:6, 8:9 unless 19:14, 146:11 unresolved 52:9, 53:17 unstretched 85:2, 86:18, 105:19, 105:22, 145:11 upwards 136:22, 137:6, 137:11 urges 141:6	use 20:1, 41:1, 41:11, 42:3, 42:5, 42:6, 42:10, 42:14, 42:19, 47:8, 47:22, 62:21, 64:15, 78:5, 79:10, 97:3, 99:17, 109:1, 109:5, 109:8, 109:14, 109:19, 119:12, 123:2, 123:11, 123:16, 123:22, 125:21, 127:16, 148:7, 154:7, 159:7 user 116:16 uses 112:21, 118:13, 148:18, 149:13 using 30:5, 39:9, 39:13, 40:9, 40:10, 40:21, 41:6, 42:22, 43:4, 45:3, 45:5, 46:1, 46:10, 46:11, 48:11, 48:15, 48:21, 48:22, 58:15, 59:1, 59:18, 59:22, 60:3, 60:13, 62:17, 87:7, 90:17, 95:3, 96:9, 100:16, 124:13, 130:6, 141:7, 141:13, 149:9 uspto 36:19 usually 129:19 V vague 40:19
--	--	---	--

Transcript of Bernard Kahn
Conducted on July 9, 2025

196

validity 26:22 value 120:15, 120:17 varies 23:13 various 121:2 vary 90:9 ventilation 91:7, 91:14, 91:17, 91:21, 92:7, 93:11, 93:16, 94:2, 94:3 venture 149:7 verified 30:7 vernacular 127:18 version 101:2, 101:13 versus 5:5, 67:18 vertical 152:3 vertically 87:14, 150:5 via 2:7 video 5:10, 5:13, 24:11, 24:19, 54:19, 55:1, 88:11, 132:14, 132:18, 158:12, 158:16 videoconference 2:8 videographer 3:21, 5:3, 5:11, 6:4, 54:18, 54:22, 88:7, 88:10, 132:13, 132:17, 158:11, 158:15,	161:7 videotaped 1:15, 2:6, 5:4 view 44:5, 47:8, 47:22, 49:6, 71:18, 71:19, 110:20, 116:5 viewing 89:21, 102:15 virtually 1:16, 2:7 visual 21:16 vitae 4:14 voice-identify 5:15 volume 97:14, 153:22, 154:3 vouthouris 1:22, 2:8, 6:5, 162:3, 163:7 W wagner 26:21, 30:1, 30:5, 30:7, 31:1, 115:1, 115:16, 146:21 wagner's 27:2, 107:11, 114:8, 114:15 waistband 106:12, 106:13, 120:22, 121:1, 139:11 want 8:17, 8:19, 8:20, 48:12, 49:18, 63:12, 81:1, 83:3, 85:22, 88:19, 108:2, 114:18, 121:9, 121:10, 125:9, 134:8, 137:9, 137:15,	140:21, 146:12, 150:17, 151:9, 156:12 wanted 26:7, 69:8, 84:19, 88:4 wants 134:10 washington 3:8 way 15:22, 20:18, 38:5, 38:6, 56:1, 56:2, 57:7, 61:4, 63:19, 64:3, 64:13, 64:20, 65:4, 91:21, 92:4, 98:4, 124:1, 133:17, 160:1, 162:20 ways 74:6 we'll 86:3, 101:5, 132:11, 160:8 we're 8:22, 20:1, 33:12, 44:5, 44:11, 45:2, 45:3, 46:11, 46:13, 46:15, 46:18, 46:22, 49:2, 54:18, 54:22, 55:20, 59:10, 85:12, 88:1, 88:2, 88:7, 88:10, 102:14, 108:3, 128:4, 132:17, 158:11, 158:15, 161:8 we've 76:21, 100:14, 124:4 wear 81:1 wearer 97:15, 100:3	wearer's 81:21, 87:16, 87:17, 91:6, 93:16, 97:1, 100:4, 102:20, 103:1, 105:15, 106:6, 153:11, 153:20, 154:4 wearing 116:16 weave 110:3, 112:16, 112:17, 113:18, 119:6, 119:7, 119:11, 119:12, 123:16, 123:22 wednesday 1:17, 5:9, 162:15 weeks 29:19 weigh 59:2, 60:4, 60:15, 63:1, 63:8 welcome 13:20, 43:9, 43:12, 51:7, 88:13, 132:20, 134:8 well-known 66:22 went 16:10, 16:13, 30:6 weren't 58:11, 69:9 west 20:8 whatever 44:2, 44:15, 66:17, 140:7 whatsoever 56:3, 87:9, 134:7 whenever 132:2, 132:6 whereas 119:16, 128:6
--	---	--	---

Transcript of Bernard Kahn
Conducted on July 9, 2025

197

wherein 97:7, 97:9, 97:11, 97:16, 98:1, 106:9, 110:18, 143:8 whereof 163:1 wherever 107:21 whether 15:19, 18:10, 46:19, 47:1, 47:5, 47:18, 48:3, 48:10, 48:18, 49:3, 51:21, 53:12, 57:10, 58:5, 58:14, 59:16, 59:21, 60:6, 62:5, 62:15, 63:17, 64:1, 64:21, 65:9, 65:13, 123:20, 149:6 whole 45:11, 77:20, 82:20, 83:6 wick 90:20, 130:10 wicking 90:18, 95:5, 129:21, 130:8, 147:2, 147:15, 148:14, 148:16, 148:17, 148:21, 149:2, 149:15 width 86:18, 86:19, 105:22, 119:8, 119:19, 126:12, 126:15, 127:6, 127:10, 127:22, 128:1, 128:10, 128:13, 128:21, 129:1, 129:6, 150:11, 150:15, 150:16 wife 25:5, 25:7	william 4:22 wish 32:11 within 29:18, 162:4 without 17:19, 17:20, 69:17 witness 3:12, 6:1, 6:8, 7:18, 11:5, 22:11, 33:20, 45:14, 47:12, 51:10, 56:13, 70:2, 77:1, 84:18, 111:5, 132:8, 132:9, 133:3, 133:20, 134:2, 136:2, 146:5, 154:19, 160:11, 162:6, 162:10, 163:1 wo 4:19, 100:12 woodway 3:16 word 29:5, 38:19, 97:3, 99:17, 109:22, 112:21, 117:4, 118:13, 119:12, 123:11, 125:4, 154:8 words 53:7, 72:15, 96:9, 96:10, 109:9 work 23:7, 23:11, 23:12, 23:14, 23:15, 23:18, 24:2, 70:16, 70:18, 71:22, 72:20, 75:3, 75:4, 75:8, 75:10, 75:18, 76:15, 76:16,	76:17, 77:5 worked 22:13, 22:16, 33:9 workforce 73:7 working 29:9, 29:13 worn 81:8, 87:18, 92:5, 97:2, 155:3 worried 148:7 wouldn't 10:7, 42:5, 45:4, 65:1, 66:10, 81:4, 144:13 woven 97:10, 113:14, 113:19, 113:21, 119:7, 119:13, 120:2, 121:6, 122:5, 122:7, 123:2, 123:15, 123:19, 123:21, 124:7, 124:9, 124:13, 124:15, 127:2, 127:7 write 34:18 writing 34:16 written 21:3, 71:17, 113:9, 160:22 wrong 115:3 wrote 29:5, 34:20, 35:6, 60:21, 61:12, 160:18 Y yeah 7:15, 7:19, 16:3, 26:4,	28:11, 29:19, 31:12, 36:15, 36:18, 38:7, 38:15, 41:9, 47:7, 47:15, 47:20, 51:12, 52:2, 52:12, 54:15, 61:2, 67:12, 67:15, 69:9, 70:4, 76:13, 77:7, 78:16, 78:19, 79:4, 79:22, 80:7, 80:16, 83:5, 85:4, 86:11, 88:6, 106:19, 108:5, 108:10, 118:2, 118:12, 118:18, 124:16, 132:4, 133:20, 134:10, 135:22, 136:4, 141:12, 142:20, 142:22, 146:10, 150:21, 151:15, 151:17, 152:11, 152:17 years 16:3, 75:15, 124:10 yesterday 24:10, 24:20 yi 3:4 york 2:12, 5:22, 17:22, 20:8, 20:9, 71:7, 72:19, 162:5, 163:8 yourself 35:6 yup 37:16, 65:20, 73:16, 86:15, 100:13, 107:5, 109:16, 114:20, 116:4, 119:9,
--	---	---	---

Transcript of Bernard Kahn
Conducted on July 9, 2025

198

130:12, 130:15, 135:22, 136:7, 138:4, 145:5	77:10, 78:9, 106:15, 110:21, 124:12, 124:15, 124:17, 162:16	15 54:14, 78:1, 84:10, 84:15, 85:10, 97:11, 107:3, 107:20, 133:9, 133:22, 151:12	2008 4:17, 89:2
z	10,834,974	16 4:13, 12:10, 78:1, 91:2, 95:10, 97:15, 107:3, 116:13, 136:10, 136:13, 137:22	2009 68:7
zhang 3:4, 5:19	1:12, 4:9, 7:3	160 4:4	2010 76:1
zoom 2:7, 7:10, 20:14, 20:21, 24:11, 24:19, 85:7, 85:20, 143:6	1001 4:9, 7:9, 9:16, 79:12, 131:14	163 1:21	2011 67:13
\$	1007 4:16, 89:15, 94:20, 110:10, 126:5	17 97:22	2013 4:10, 12:4, 14:13, 28:8, 77:9, 77:11, 88:16, 133:1, 145:20
\$200 23:10, 23:15, 23:18, 23:21	1008 4:20, 101:8, 135:6	18 116:14	2014 4:14, 69:22
.	101 4:19, 4:20	1980 75:7	2019 16:3, 16:13, 16:16, 16:20
.0024 3:18	1010 4:19, 101:3, 102:2, 102:4, 102:6, 154:15, 154:17	1983 72:21	202.637 3:9
.5600 3:9	102 151:21, 152:21, 153:6	2	2024 1:11, 5:8, 6:22, 14:13
0	107 156:8	20 100:8, 112:18, 122:2, 124:16, 132:15	2025 1:17, 4:13, 5:9, 23:3, 23:4, 162:16, 163:2
0006 90:13	11 5:10, 54:20, 54:21, 55:1, 158:13, 158:14	2000 75:9, 75:10, 75:15	2027 163:9
01 4:19	12 4:10, 88:8, 88:9, 110:22, 115:4, 116:10, 136:9, 139:10	20004 3:8	21 132:16
0106874 68:7	13 54:6, 75:15, 78:1, 88:18, 107:3	2001037687 100:12	22 33:2, 33:12, 100:1, 104:21, 106:22, 107:2, 115:5, 115:9, 121:3, 131:16
01163 1:11, 5:8, 6:22, 14:13	14 97:8, 107:20, 108:8, 116:12, 133:9, 133:22, 136:10, 136:13, 138:1, 151:12, 163:2	2003 68:7	23 54:20, 54:21, 158:14, 158:16
0178369 4:17, 89:2		2004 75:16, 75:17	24 51:3, 51:8, 51:13
0192139 10:3, 10:13, 11:15, 11:20, 13:15, 13:19		2007 76:1	25 37:7, 39:8, 51:8, 56:21, 57:1, 114:17,
08 88:9, 88:11			
1			
1 88:9, 88:11			
10 1:18, 5:10,			

Transcript of Bernard Kahn
Conducted on July 9, 2025

199

161:9 26 63:11, 110:16, 114:11, 114:18, 161:10, 162:16 27 118:15, 125:2 28 77:17, 122:2 3 3 158:13, 158:14, 158:16, 161:9, 161:10, 162:16 30 99:22, 100:1, 110:2, 112:10, 126:5, 131:2, 131:4, 141:8, 141:10, 141:14, 141:16, 141:21, 143:10, 144:5, 144:11, 145:13 31 78:21, 132:16 32 132:18 33 78:21 34 54:7, 133:1, 133:3, 133:4, 134:17, 137:22, 145:4 35 79:2, 88:8, 88:9, 135:1 360 95:14, 96:8, 96:14 37687 4:19 38 88:20, 89:19, 95:9, 95:11 4 40 30:14, 54:21,	140:15, 140:18, 140:19, 140:20 41 55:1 44 145:19, 146:5, 146:6, 146:17 45 30:14 46 151:6 47 102:13 48 103:5 49 103:21 5 5,461,729 4:20 50 30:11, 106:20, 106:21 51 20:8, 108:18 52 20:8 55 114:4, 114:14, 114:16, 114:18 555 3:7 56 137:21, 145:4 57 124:18, 125:1, 128:5 59 67:7 591083 1:20 6 60 67:7 6363 3:16	69 4:14 7 116:14 700 3:16 713.917 3:18 76 136:17, 138:13 77057 3:17 78 136:17, 137:19, 138:13 8 80 112:17 84 140:21, 142:9 85 140:21, 141:3, 142:9, 142:10, 142:11, 142:12 89 4:16 9 90 75:16 97 146:20 974 7:5, 7:9, 8:2, 21:5, 25:18, 25:20, 26:19, 26:22, 28:18, 29:2, 31:1, 44:6, 44:12, 44:20, 45:8, 46:6, 46:20, 47:2, 53:22, 54:3, 54:6, 60:19, 61:1, 61:16, 62:1,	78:1, 78:10, 78:13, 78:14, 78:17, 79:5, 79:12, 79:16, 80:8, 80:9, 89:22, 90:4, 90:8, 91:10, 95:11, 95:20, 96:3, 96:11, 99:12, 99:20, 102:16, 105:2, 115:5, 115:9, 118:20, 119:16, 120:4, 120:8, 123:1, 123:5, 125:5, 125:17, 128:7, 129:4, 129:11, 129:13, 131:14, 131:16, 131:20, 135:3, 142:17, 142:18, 150:4 98 149:17 9th 5:9
---	---	--	--