UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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PENUMBRA, INC.,

Petitioner,

v.

RAPIDPULSE, INC.,

Patent Owner.

_____

Case IPR2024-01261

Patent 11,406,402

_____

DEPOSITION OF BRIAN J. BROWN

Conducted virtually via Zoom

Friday, October 24, 2025

10:56 a.m.

Job No.: 602613

Pages: 1 - 91

REPORTED BY: KIARA MILLER

RapidPulse, Inc.
Exhibit 2044
Penumbra v. RapidPulse
IPR2024-01261
Ex. 2044-001

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Case IPR2024-01261

Patent 11,406,402

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Deposition of BRIAN J. BROWN, taken on behalf of Respondent, at a Remote Location, New York, New York, commencing at 10:55, Conducted virtually via Zoom Friday, October 24, 2025, before Kiara Miller.

A P P E A R A N C E S:

ON BEHALF OF PETITIONER:

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BY: CHARLES SANDERS, ESQ.
WILLIAM YAO, ESQ.

ALSO PRESENT:

ZOOM TECH, ISAIAH SHERIDAN

PENUMBRA, WILLIAM YEE

TECH SHERIDAN: Thank you to everyone for attending this proceeding remotely, which we anticipate will run smoothly. Please remember to speak slowly and do your best not to talk over one another. Please be aware that we're recording this proceeding for backup purposes. Any off-the-record discussions should be had away from the computer. Please remember to mute your mic for those conversations. Please have your video enabled to help the reporter identify who is speaking.
If you're unable to connect with video and are connecting via phone, please identify yourself each time before speaking. We will provide a complimentary and unedited recording of this deposition with the purchase of a transcript.
I apologize in advance for any technical-related interruptions.

Thank you.

B R I A N J. B R O W N, after having first been duly sworn by a Notary Public of the State of New York, was examined and testified as follows:

COURT REPORTER: Please state your name and address for the record.

THE WITNESS: Brian Brown. Address 178 Jandal J-A-N-D-A-L Avenue Northeast Hanover, Minnesota 55341.

EXAMINATION BY

MR. SANDERS:

BY MR. SANDERS:

Q Mr. Brown, it's great to see you again.

A Yeah, good morning, Charles.

Q Is there any reason you cannot testify truthfully today?

A Not that I'm aware of.

Q Are you communicating with anyone in any other way than through this Zoom?

A I am not.

Q Have you spoken with Penumbra's expert Dr. Ross since your last deposition in

May of this year?
A I have not.
Q What, if any, materials related to this investigation, I should say related to this proceeding, do you have available to you?
A I have available my supplemental declaration. I have my original declaration, and I believe I have the majority of the exhibits.
Q Great. That should help us go more smoothly. Let me just start by asking you a few questions about the '402 Patent itself, which is Exhibit 1001. Feel free to take a look at it, if you'd like.
(Whereupon, U.S. Patent 11,406, 402 was marked as Exhibit 1001 for identification as of this date.)
A I do have it in front of me.

Q The '402 Patent discloses having intentional flow out of the distal end, right?
MR. ODA: Objection. Form.
A The '402 Patent does teach having forward flow out of the distal end sometimes.
Q I'd like to direct you in the '402 Patent to Column 36 at the very bottom?
A Here I am at Column 36, please state where you are.
Q Sure. It's the last sentence that begins on Line 67 and carries over to the top of Column 37, ending at Line 2.
Do you see that sentence?
A I do. Would you like me to read it?
Q No need to read it. Read it to yourself, no need to read it out loud.
A Okay. That is what I meant.
Q Okay.
A Yeah, I've read it.
Q Do you agree that statement discloses

having intentional flow out of the distal end?
MR. ODA: Objection. Form.
A I do agree that in that sentence the embodiment does have intentional flow of fluid forward.
Q I'd like to direct you to Claim 1 of the '402 Patent, which is on -- starts the second to last page and it's at Column 61.
A Yeah, I'm in that Column 61.
Q Great.
You see Claim 1 recites a predetermined cycle, right?
A It does speak of a predetermined cycle.
Q Do you agree that the claim term "predetermined cycle" in Claim 1, has its plain and ordinary meaning?
A That is the approach I believe I have taken to predetermined cycle.
Q Claim 1 in the last clause, that starts with a "controller configured."

Do you see that?
A I do.
Q At the end of that clause it states, "To control fluid flow in and out from the distal end of the catheter"?
A Please re-ask the question.
Q Do you see at the end of Claim 1, it recites "to control fluid flow in and out from the distal end of the catheter"?
A I do see that.
Q Do you agree that the control in Claim 1 is applied to fluid flow in and out?
A I do not.
Q Just to be clear, you do not agree that the control as recited at the end of Claim 1, is applied to fluid flow in and out?
A Well, there's more to that claim. It talks above talking of a controller, so the control is of the valves. So the valve to open and close the valves. The

controlling of the valves then will control the flow of fluid in and out.

Q Do you agree that the controller configured to open and close the vacuum valve and the vent valve in a predetermined cycle to change a level of vacuum at the distal end of the catheter, is also configured to control fluid flow in and out from the distal end of the catheter?

A Yes. That is the purpose of opening and closing the valves.

Q What is flow in from the distal end of the catheter?

A Flow in, in my understanding, is and if we're talking an arterial aspiration catheter, flow in would be blood from the artery flowing from the artery into the catheter.

Q What is flow out from the distal end of the catheter?

A Flow out of the distal end would be

anything contained within the catheter, lumen, flowing out of the distal end.

Q I'd like to direct your attention to Claims 3 and 4. I'll give you a minute to review them for yourself and let me know when you're ready.

A Okay, I'm ready.

Q Claims 3 and 4 recite that the movement of the fluid column at the distal end of the catheter is limited to a positive amount of exit flow, right?

A Correct.

Q Do you agree that the ordinary and customary meaning of positive is greater than zero?

A I do.

Q Do you agree that positive as it appears in the claims has its ordinary and customary meaning?

MR. ODA: Objection. Form.

A I do.

Q Now, Claims 3 and 4 expressly exclude

having zero exit flow, right?
MR. ODA: Objection. Form.
A I do not agree with that.
Q Let me make sure I understand.
Is it your opinion that Claims 3 and 4 can be met where there is zero exit flow?
A Yes. That is correct.
Q Claims 3 and 4 recite ranges of exit flow, right?
MR. ODA: Objection. Form.
A They recite ranges of limits to exit flow.
Q Claims 3 and 4 recite both lower and upper limits for the amount of exit flow, right?
MR. ODA: Objection. Form.
A They recite a lower and an upper value for the limits of exit flow.
Q The lower limit on the amount of exit flows that is recited in each of Claims 3 and 4 is above zero, correct?

MR. ODA: Objection. Form.
A The lower limit value in each of claims is above zero.
Q I'd like to direct to Claims 13 and 15. I'll give you a minute to review those.
A I'm sorry, you said 13 and 15.
Q I did.
A Okay. Okay. I've read both of them.
Q Claims 13 and 15 recite limiting movement of a fluid column in the catheter lumen at the distal end of the catheter to a positive amount of exit flow?
A Yes, I do see that.
Q In these claims like in Claims 3 and 4, there is a limit that is applied to a positive amount of exit flow, right?
MR. ODA: Objection. Form.
A There are limits to the movement of the fluid column in the catheter lumen.
Q And those claims specify that those limits the movement of the fluid column

involve a positive amount of exit flow, right?
MR. ODA: Objection. Form.
A The limits are two positive amounts of exit flow.
Q Now, I'd like to focus on Claims 14, 16, and 17. I'll give you a minute to take a look at those.
A Okay, I've read that.
Q Would you agree that Claims 14, 16 and 17, cannot be met by only having zero exit flow?
MR. ODA: Objection. Form.
A I do not agree with that.
Q In your view, can Claims 14, 16 and 17, be met by having zero exit flow?
A They can be met by having zero exit flow.
Q Do you agree that Claims 14, 16 and 17, recite lower limits on the positive amount of exit flow?
MR. ODA: Objection. Form.

A They provide lower values to a range of limits.
Q Those lower values in the range of limits for the positive amount of exit flow in Claims 14, 16 and 17 are above zero, correct?
MR. ODA: Objection. Form.
A Those values are above zero.
Q Now come back to Claim 1.
In your opinion, control of flow out from the distal end can be achieved by preventing flow out from the distal end, right?
A That is correct.
Q In your view, can control of flow in from the distal end be achieved by preventing flow in from the distal end?
A It can be.
Q In your opinion, would a system that both prevents flow in and prevents flow out from the distal end control fluid flow in and out?

A It would.
Q Would you agree that a system that prevents flow in and prevents flow out has no flow at the distal end?
A That seems to be reasonable.
Q In your view, can the requirement control fluid flow in and out being that where there is no flow in or out?
A If there is a controller that is doing that, then yes.
Q Addressing now then the dependent claims that refer to limiting to a positive amount of exit flow.

You believe that the dependent claims that recite limiting to a positive amount of exit flow properly construed sets a maximum permitted limit of exit flow that includes zero, correct?
A That is incorrect.
Q Do you agree that the dependent claims that recite limiting to a positive

amount of exit flow properly construed set a maximum permitted limit of exit flow that excludes zero?

MR. ODA: Objection. Form.

A The dependent claims recite maximum -- a range for the maximum limit because those ranges are above zero. So I may not be understanding your question properly, but those ranges do not include the value of zero.

Q Let's take a look at your reply declaration, which is Exhibit 1035 at Page 26. And by Page 26, I mean the Bates 26 in the middle of the page at the bottom.

(Whereupon, Supplemental Declaration of Brian Brown for Inter Parties Review of U.S. Patent 11,406, 402 was marked as Exhibit 1035 for identification as of this date.)

A Yes. I'm on Page 26, is there a specific paragraph that you're looking at.
Q Yes, Paragraph 49, at the bottom.
A Yes, I am there.
Q My question is: Do you believe that the dependent claims recite limiting to a positive amount of exit flow properly construed set a maximum permitted limit of distal flow out that includes zero?
A I do agree with what is written there.
Q Let's go back in your reply declaration to Page 18. Again, I'm referring to the big page number in the middle at the bottom.
A I am there.
Q And you have a table at the top of that page, right?
A That is correct.
Q Did you create this table?
A I worked with the attorneys to create it.

Q Was this tabulation of distal flow based on the verb used in Rapid Pulse's claims, was that your idea?

MR. ODA: Objection. Form.

A I do not recall if it was my idea or if it came up as part of our discussion on how to approach this.

Q But you agree with characterizing whether distal flow is permitted, capped or required based on the verb that's used in the Rapid Pulse patent claims, right?

MR. ODA: Objection. Form.

A I agree with what is being presented in this table.

Q And in this table, you list verbs from Rapid Pulse patent claims in the left-hand column, right?

A That is correct.

Q And in the column all the way on the right, you identify claim limitations from various Rapid Pulse patents that

use the verb you identified in the left-hand column, correct?
MR. ODA: Objection. Form.
A That appears to be correct.
Q For each of the verbs that you have in the left-hand column, you identify based on the use of those verbs whether distal flow is permitted, capped or required, correct?
A That is correct, it's what's in this table.
Q So for example, for the verb "prevent," in the left-hand column, you state that distal flow is not permitted, right?
MR. ODA: Objection. Form.
A When it says permitted, I say no.
Q By no, for permitted, you mean not permitted; is that correct?
A That would be my understanding.
Q For the verb "limit," you state that distal flow is permitted and capped but not required, correct?

A Correct.
Q Is it your view, that claims using the term "limit," in connection with distal flow, do not require any positive amount of exit flow?
MR. ODA: Objection. Form.
A Please reread the question.
Q Sure. Is it your view, that claims using the term limit in connection with distal flow, do not require any positive amount of exit flow?
MR. ODA: Objection. To form.
A That is correct.
Q Focusing on the row that you have for limit, on the right-hand side you have three sub rows for claim language from Rapid Pulse patents, right?
A Yes. I have three examples over on the right-hand side.
Q I'd like to focus on the middle sub row in the row for limit, where you identify RP-6, Claim 4.

Do you see that?
A I do.
Q You copied in a claim limitation that states "Limited to a positive amount of exit flow of approximately .1 ml to approximately .5 ml."
Correct?
A Correct.
Q And is it your opinion that this claim limitation does not require any distal flow?
A That is what I have stated here in the table, yes.
Q Now RP-6 refers to the '402 Patent, right?
A Based on the table in Appendix A, that appears to be correct.
Q I'm going to shift to asking some questions about the references on which you've opined in this proceeding, starting with the Yang reference. You're welcome to look at Yang, but your

declarations about Yang, whatever may be helpful for you to answer the question. Just let me know if something is helpful to put up on the screen and I'll do it.

You've offered opinions about the Yang reference that's Exhibit 1012, right?

A I have.

Q That's on US 2017, 023, 953, correct?

A It is US 2017, 023, 8953A1.

Q Thanks for correcting my mistake.

Do you agree that a person of ordinary skill in the art would appreciate that the teaching of Yang is to prevent forward flow?

MR. ODA: Objection. Form.

A I would say that the teaching of Yang includes the embodiment of preventing forward flow.

Q Do you agree that a person of ordinary skill in the art would appreciate that the teaching of the Yang reference as a

whole is to prevent forward flow?
MR. ODA: Objection. Form.
A There are many things taught within the Yang reference. One of the items taught is the prevention of forward flow.
Q Do you agree that operating in arrangement as described by Yang would naturally result in a prevention of forward flow?
MR. ODA: Objection. Form.
A In some of his embodiments.
Q Do you agree that the arrangement of Yang does not allow the clot to exit the distal end of the catheter, i.e. forward flow is prevented?
MR. ODA: Objection. Form.
A Without going into Yang and reading the areas that you are referencing, I do not recall whether he has any limitations that would not allow forward flow.
Q For purposes of your opinions in this proceeding, did you reach a view as to

whether the arrangement of Yang does not allow the clot to exit the distal end of the catheter, i.e. forward flow is prevented?

MR. ODA: Objection. Form.

A I believe for this proceeding I have come to the conclusion that Yang discloses the controlling of the flow on the distal end.

Q And we discussed earlier that you believe controlling flow at the distal end as required by the claims, can include not having any flow of the distal end, right?

A We discussed earlier, yes, that having control of the flow at the distal end would include controlling flow to having zero flow of both entering or exiting the end.

Q For purposes of your opinions in this proceeding, did you reach a conclusion as to whether the arrangement of Yang

allows the clot to exit the distal end of the catheter, i.e. there is flow out from the distal end of the catheter?

MR. ODA: Objection. Form.

A I believe I included references of there being pressure waves that could create flow out of the distal end of the catheter. My preference would be if you've got specific questions on Yang, that we either go to those sections in Yang or go to those sections in my declaration.

Q My questions are about Yang as a whole, so certainly if you need to take a look at Yang, you're welcome to do it, but I'm going to be asking about the references as a whole. Let's move onto Ofek, which is Exhibit 1007.

(Whereupon, U.S. Patent 10,322, 230 (Ofek) was marked as Exhibit 1007 for identification as of this

date.)
A I have it opened in front of me.
Q And you've offered opinions about this Ofek reference, right?
A I have.
Q Do you agree that the system of Ofek is operated so as to prevent forward flow of the fluid out of the distal end of the catheter?
MR. ODA: Objection. Form.
A I believe the system of Ofek operates to control forward flow of fluid out of the distal end of the catheter.
Q And I want to clarify what you mean by control.
Do you mean that the system in Ofek is operated to control fluid flow out of the distal end of the catheter in the sense that Ofek prevents that from occurring?
MR. ODA: Objection. Form.
A That can be one embodiment.

Q Do you believe that Ofek controls fluid flow out of the distal end of the catheter in the sense that Ofek is operated so that there is forward flow of fluid out of the distal end?
MR. ODA: Objection. Form.
A You're asking me to go by memory here.
Q To be clear, I don't want you to go by memory, if you need to look at Ofek, if you need to look at your declaration, that's fine. I just want your best answer about Ofek.
A I believe Ofek discloses the control of fluid in and out of the distal end. I believe that his embodiments do allow for flow to occur out or for flow to be limited out or to not have flow out, but I am going off of memory right now.
Q To be fair, Mr. Brown, I want your best answers to this deposition, we're going to rely on these answers. We're entitled to rely on these answers. So

if there's anything you need to do to give me your best answer, you ought to do it.

A And that's why I've asked, if you've got specific questions about things that are in my declaration or items that are in these patents, that you refer me to these sections and we can discuss them.

Q You're aware, Mr. Brown, that for purposes of obviousness, one needs to consider references as a whole, right?

MR. ODA: Objection. Form.

A I believe that for obviousness, yes, we must review the references and have an understanding of them.

Q And in this proceeding you endeavored to address the references based on the entirety of their disclosures, right?

MR. ODA: Objection. Form.

A I believe I have reviewed them in their entirety, yes.

Q Do you agree that in Ofek the dislodged

occlusion is required not -- let me rephrase. I'll start again.

Do you agree that in Ofek, the dislodged occlusion is required to not enter the bloodstream?

MR. ODA: Objection. Form.

A I do not recall if that is a requirement.

Q Let's take a look at Ofek at Column 3.

A I'm there.

Q And do you see there is a paragraph that starts at Line 43 that begins Figure 2?

A I do.

Q I'd like to direct your attention down in that paragraph to the sentence that starts at Line 51. It starts just at the end of Line 51, the right-hand side.

A I'm there.

Q The base lines.

Do you see that?

A I do.

Q Okay. And why don't you read that to

yourself and then I'll ask my question.
A Okay. I've read that sentence to the end.
Q Do you agree that in Ofek, the dislodged occlusion is required to not enter the blood stream?
MR. ODA: Objection. Form.
A I believe in the embodiment that is spoken to in this sentence that that is true. That it is prevented from going into the blood stream.
Q Do you believe there is some embodiment in Ofek, where the dislodged occlusion is allowed to enter the blood stream.
MR. ODA: Objection. Form.
A I do not recall if he has embodiments that do allow the clot or the dislodgement to enter the blood stream.
Q Did you rely on any such embodiments in your opinions in this case?
MR. ODA: Objection. Form.
A I may have.

Q Is it correct, Mr. Brown, that you do not know whether there's an embodiment in Ofek where the dislodged occlusion is allowed to enter the blood stream?
MR. ODA: Objection. Form.
A Not off of memory right now.
Q I instructed you that you're free to review Ofek, you're free to review either of your declarations about Ofek; if you choose not to do that and that's your best testimony, that's fine, we're going to rely on it.
A I understand that and that's why I've asked that rather than you just asking these high level questions without any reference to my declaration or to patents, that we avoid doing that.
Q Well, Mr. Brown, I don't believe there's any disclosure in Ofek where a dislodged occlusion is allowed to enter the blood stream. I can't therefore point you to it. So I need to ask you: Do you

believe that there is any disclosure in Ofek where an embodiment where the dislodged occlusion is allowed to enter the blood stream?

MR. ODA: Objection. Form.

A After quick review, I am not finding any embodiments where the material that is dislodged exits the catheter, but there are a number of embodiments where the flow is moving distally, but it is reversed before the material that is dislodged enters the blood stream.

Q Just to clarify, when you say that there is flow moving distally, are you referring to flow moving distally within the catheter.

MR. ODA: Objection. Form.

A I am.

Which could include flow coming out of the distal end of the catheter.

Q Do you agree that the level of pressure at the distal end of the catheter must

always be less than the physiological pressure since if that were not the case then the arrangement would risk the occlusion entering the blood stream.

MR. ODA: Objection. Form.

A I do not agree with that.

Q I'd like to turn to Mullins, which is Exhibit 1008.

(Whereupon, U.S. Patent 11, 197, 977 (Mullins) was marked as Exhibit 1008 for identification as of this date.)

A Yeah, I have it in front of me.

Q Do you agree that Mullins explicitly teaches changing a vacuum level at the distal end of the catheter to prevent clogging and preventing forward flow to reduce the risk of distal embolization?

MR. ODA: Objection. Form.

A I believe that Mullins teaches controlling the pressure at the distal

end of the catheter to control fluid flow in and out of the distal end.

Q Do you agree that Mullins teaches preventing forward flow?

MR. ODA: Objection. Form.

A I believe that is one of the embodiments of Mullins.

Q Do you agree that the person skilled in the field would be motivated to operate a clot removal system with no forward flow in the manner described in Mullins?

MR. ODA: Objection. Form.

A I believe a person skilled in the art would be motivated to use the teachings of Mullins to create a system that has no forward flow.

Q Do you agree that Mullins teaches the retention of a level of pressure at the distal end, which is less than physiological pressure?

MR. ODA: Objection. Form.

A Please re-ask the question.

Q Sure. Do you agree that Mullins teaches retention of a level of pressure at the distal end which is less than physiological pressure.

MR. ODA: Objection. Form.

A I believe he does. He teaches that in one embodiment, the high limit is a negative pressure, therefore, it would be below physiological pressure.

Q Now, I'm going to ask a few questions that relate to your analysis of motivation to combine references in the manner that you have. Yang and Mullins and Ofek with Mullins.

MR. ODA: Charles, before you get started on this line, perhaps a short break, it's been about an hour.

MR. SANDERS: That would be fine.

MR. ODA: Maybe five or 10 minutes.

MR. SANDERS: Just let me know which.

MR. ODA: Let's go five since it feels like we're on a roll.

MR. SANDERS: That works.

(Whereupon, a recess was taken from 11:58 AM until 12:06 PM.)

Med.

COURT REPORTER: Back on.

Q Just to orient again, Mr. Brown, I wanted to ask a few questions about what a person of ordinary skill in the art would be motivated to do in the context of the combinations that you've made, for example, Yang and Mullins, Ofek and Mullins.

Do you agree that it would be obvious to a skilled person that it should be ensured that forward flow is prevented?

MR. ODA: Objection. Form.

A I'm not quite understanding your question. It's a very broad question.

Q Sure. My question goes to what a person of ordinary skill in the art would have been motivated to do at the time of the

invention based on the prior art, including the references that you've identified?
MR. ODA: Objection. Form.
Q Let's preface.
Do you agree that it would be obvious to a skilled person that it should be ensured that forward flow is prevented?
MR. ODA: Objection. Form.
A I think it would be obvious in some situations to ensure that forward flow is prevented. It's not always the case.
Q In what situations did you have in mind where that would not be the case?
MR. ODA: Objection. Form.
A It would depend upon the intent of what's being treated. The mechanism of action that was intended within the design of the catheter. Some catheter designs may be designed in such a way that they have optimal performance with

some distal exit flow, others may not, depending upon the parameters in which they operate it.

Q Do you agree that the skilled person would seek to preserve an overall negative pressure in the catheter?

MR. ODA: Objection. Form.

A A person that is skilled in the art may do that depending upon the intent of what they're designing.

Q I want to shift gears and focus on credibility. You have some strong statements about patent owners and its expert, Mr. Culbert's credibility, in your reply declaration, agree?

MR. ODA: Objection. Form.

A I do not recall if I have made statements to the level that you are saying I have.

Q All right. Let's take a look back at your reply declaration, Exhibit 1035. I'd like to direct your attention to

Page, the first Page 1 to Page 2, Paragraph 4.

A Okay. I am on Page 1, Paragraph 4.

Q You state that you've concluded that patent owner's arguments rest on a series of unfounded assumptions, technical mischaracterization and flawed reasoning, right?

A That's correct, I do state that.

Q And the next sentence you stated, "The record demonstrates that Mr. Culbert makes a number of inaccurate technical assessments, misreads prior art references in ways that are inconsistent with their actual disclosures, makes admissions and exceptions that directly undermine his conclusions and fails to understand the analysis and reasoning articulated by petitioner, and agreed with by the board and its institution decision."

Right?

A That is correct.
Q In fact, you accuse the patent owner and Mr. Culbert of engaging in a disingenuous tactic, don't you?
MR. ODA: Objection. Form.
A I don't believe that I have said that. What I have accused the patent owner and Mr. Culbert of is what I have written here.
Q Well, let's take a look at Page 21 of your reply declaration.
And specifically Paragraph 39.
A I'm there.
Q Paragraph 39, it begins, "this tactic."
Do you see that?
A I do.
Q And in the prior paragraph, Paragraph 38, you discuss patent owner's and Mr. Culbert's statements, right?
A I do.
Q And in the first sentence of Paragraph 39 you state "this tactic is

also disingenuous in view of the prior art references themselves."

Do you see that?

A I do see that.

Q So you do accuse patent owner and Mr. Culbert, in engaging in a disingenuous tactic, right?

MR. ODA: Objection. Form.

A In this particular case, yes.

Q Mr. Brown, would you agree that parties taking contradictory positions about the teachings of a prior art reference would bear on that party's credibility?

MR. ODA: Objection. Form. Scope.

A Please, reread the question.

Q Sure. Would you agree that parties taking contradictory positions about the teachings of a prior art reference would bear on that party's credibility?

MR. ODA: Objection. Form. And scope.

A I believe that it is acceptable to take contradictory positions, that doesn't

necessarily mean that the tactics are disingenuous.

Q Let's take a look at the European opposition that Penumbra submitted. It's Exhibit 2035.

A You'll need to give me a minute, it's in one of the binders.

Q Certainly.

(Whereupon, Kilburn & Strode Letter, Dated 29 July 2025 was marked as Exhibit 2035 for identification as of this date.)

A I have it in front of me.

Q Have you seen this before?

A Yes. I saw it during the writing of my supplemental declaration.

Q Did you review it?

A I have reviewed portions of it.

Q And you agree with the statements that Penumbra made in the portions of the European opposition that you reviewed,

right?
MR. ODA: Objection. Scope and form.
A The portions of this document that I have reviewed are related to the replies from Rapid Pulse. I have not reviewed this document in its entirety.
Q Oh. You agree with the portions of the European opposition that you reviewed, right?
MR. ODA: Objection. Form.
A I don't recall of anything that I did not agree with.
Q In what you reviewed of the European opposition, you did not see any statements where you believed Penumbra mischaracterized Yang, Mullins or Ofek, right?
MR. ODA: Objection. Form and scope.
A That is a correct statement. I was not associated with the writing in this document.
Q All right. Did you have any involvement

in the European opposition?
A I did not.
Q I'd like to direct your attention to the second page of Exhibit 1035, where there's a heading for evidence and then a list of documents below that.
MR. ODA: Sorry, Charles, where are we?
MR. SANDERS: It is Page 2 of Exhibit 2035, the Europe European opposition.
A I am there.
Q Do you see under the heading Evidence, on the left-hand side there is a letter followed by a number that is then described to the right as a particular document?
A I believe I do, if you're referring to for instance P1, P2 P3.
Q Exactly. I'd like to focus on document O2.
Do you see that?
A I do.

Q O2 is the Yang reference that you reviewed in this proceeding, Exhibit 1012, right?
MR. ODA: Objection. Scope.
A Is appears to be the same document.
Q Then you see right below that document O3 is identified as an Ofek reference?
MR. ODA: Objection. Scope.
A I do see that.
THE COURT: And that Ofek reference, O3, is W0 2017/214573. Published December 14, 2017.
Do you see that?
MR. ODA: Objection.
A I do.
Q Let's take a look at that document. I don't know if you have with you the references from the European proceeding, but we can put it on in the screen and drop it in the chat.
MR. ODA: You'll have to provide that to us.

MR. SANDERS: Okay. Can we pull up PDF file that's named W0 2017/214573, please.

TECH SHERIDAN: Is this one also premarked?

MR. SANDERS: No, it's not. It's going to be Exhibit 2036.

(Whereupon, International Application - WO 2017/214573 was marked as Exhibit 2037 for identification as of this date.)

TECH SHERIDAN: Should be displaying on the screen now.

Q Mr. Brown, I'm only going to ask you about the cover page. But let me know when either have the document available on the screen to review or downloaded it so we can talk about the cover page.

A I do have the document in front of me on the screen, is there any way of making it larger.

Q Yeah, can we blow up the top part.
Can you read it now, Mr. Brown, or do you need it larger?
A Yes, it is adequate now.
Q Do you see that this is WO 2017/214573, identifying Ofek as the first inventor?
A I do see that.
Q And you see it identifies that it was published on December 14, 2017?
A Yes, I do.
Q If you take a look now at the Ofek reference that is in this proceeding, Exhibit 1007.
A I have it in front of me.
Q Do you see that under prior publication data it identifies the same publication date, December 14, 2017?
A I do see that date under the prior publication data.
Q And then if we go back now to W0 2017/214573, do you see that it identifies the filing date as

June 9, 2017, which is the same filing date identified in Ofek Exhibit 1007?

A I do see that they both have the same filing date.

Q Do you see that both WO 2017/214573 and Exhibit 1007, claim provisional application filed on June 6th, 2016?

A In the information on the screen, I am not finding provisional application.

Q Sure. Let me help.

Looking at the document on the screen, which is the WO document, do you see on the left-hand side there's a paren 30 prior data that identifies an application number with a date June 9th, 2016?

A Yes, I do see that.

Q Do you see in Exhibit 1007 under related US application data, the same provisional application number is identified with the same filing date of June 9th, 2016?

A I do see that.
Q Now, I'd like to go back to the European opposition on Exhibit 2035 on Page 2.
A Yeah, I'm there.
Q Go down to page to 010.
Do you see that?
A I am at 010.
Q And you see 010 is a Mullins reference, right?
A Correct.
Q It's -- 010 is WO 2019/115809 published June 20, 2019, right?
A Correct.
Q Let's now take a look at that document, which we will put on the screen and in the chat, which will become Exhibit 2037.

(Whereupon, International Application - WO 2019/115809 was marked as Exhibit 2038 for identification as of this date.)

A I am there.
Q I have been informed I made a mistake on exhibit numbering because I forgot about our pro hac motion. So I will clean this up, first apologies, Mr. Brown.

So this document that we've just pulled up W0 2019/115809 will actually be Exhibit 2038. And the prior document WO 2017/214573 will be Exhibit 2037 .

Mr. Brown, are you able to see the WO 2019/115809 document?
A I am able to see the top portion of the front page.
Q Do you see on the left-hand side below paren 21, international application number, it identifies PC TEP 2018/085064?
A I do see that.
Q Now, take a look at Mullins Exhibit 1008, do you see it identifies that same international patent number under related US application data?

A I do see that.
Q And you see the filing date, December 14, 2018, that's identified for that application matches between Exhibit 1008 and the WO document that we have on the screen?
A That appears to be correct.
Q That does it for these exhibits.
A couple of general questions about the '402 Patent claims. Feel free to look back to '402 Patent back in your declaration.
Let me know when you're ready.
A I am ready.
Q Do you agree that the claims in the '402 Patent involve varying suction pressure?
MR. ODA: Objection. Form.
A Is there a specific claim you'd like me to review?
Q Oh, we can focus on Claim 1.
A Please re-ask your question.
Q I'll focus on Claim 1.

Let me start again.

Do you agree that Claim 1 of the '402 Patent involves varying suction pressure?

MR. ODA: Objection. Form.

A I believe Claim 1 includes changing the level of vacuum at the distal end catheter, which can include suction pressure.

Q Do you agree that Claim 1 of the '402 Patent refers to cyclical aspiration?

A I believe it includes cyclical control of the fluid in and out. Now whether it's aspirating or not, we discussed that previously.

Q In your reply declaration you address objective consideration of non-obviousness, right?

A Correct.

Q Do you agree that in 2018, there was an unmet need for variable or cyclical suction in aspiration thrombectomy

devices?
MR. ODA: Objection. Form.
A Please re-ask the question.
Q Do you agree that in 2018, there was an unmet need for variable or cyclical suction in aspiration thrombectomy devices?
MR. ODA: Objection. Form.
A I would say there's always an unmet need for devices, that's why things are always being evolved and improved upon.
Q In 2018, were there any cyclical aspiration thrombectomy devices on the market?
MR. ODA: Objection. Form. Scope.
A I don't recall the exact date that Penumbra launched a number of their products. I believe that it was roughly in that time frame.
Q I'd like to direct your attention back to the European opposition Exhibit 2035.
A I have it in front of me.

Q And again, on Page 2.
A I am there.
Q You see there are reference O6?
A I do see O6.
Q You see this is a YouTube video entitled Future Stroke Thrombectomy Devices - Promise of Cyclical Aspiration?
A I do see that.
Q You understand that Penumbra submitted this YouTube video to the European patent office with it opposition?
MR. ODA: Objection. Scope.
A I am unaware of what they have submitted other than what's written in this document.
Q Did you review the references that are listed here for Penumbra's European opposition?
A I did not.
MR. ODA: Objection. Form.
Q Did you view the video O6?
A I did not.

Q I'd like to go forward in the European opposition to Page 13.

Do you see there's a paragraph that begins about half way down O5?

A I do see that.

Q And you see Penumbra stated "O5 in related presentations, O6 and O7, provide a helpful snapshot of the state of play of innovation in November 2018."

A I do see that.

Q And do you see in the following two sentences that Penumbra identified these videos as presentations from the Society of Vascular and Interventional Neurology annual meeting of 2018?

MR. ODA: Objection. Scope.

A I do see that.

Q Are you familiar with that meeting?

A I am not.

Q Did you attend?

MR. ODA: Objection. Scope.

A I did not.

MR. ODA: Just to clarify, those last two objections were to scope, not form.

Q Let's take a look at the video O6, that would be Exhibit 2039.

(Whereupon, YouTube video entitled Future Stroke Thrombectomy Devices - Promise of Cyclical Aspiration was marked as Exhibit 2039 for identification as of this date.)

TECH SHERIDAN: Counsel, what's the name of the video.

MR. ODA: Sure. The video is entitled Future of Stroke Thrombectomy Devices - Promise of Cyclical Aspiration.

TECH SHERIDAN: All right. Standby.

MR. SANDERS: Can you stop it please.

Q Do you see the video here, titled "Future Stroke of Thrombectomy Devices - Promise of Cyclical Aspiration"?

MR. ODA: Objection. Scope.

A I see that, yes.
Q Do you see at the bottom of this cover slide is November 15, 2018 and identifies being from the Future of Interventional Neurology session of the SVIN 2018 annual meeting?
A I do see that.
MR. SANDERS: Is the technician able to take a screenshot of this?
TECH SHERIDAN: Yes, I am.
MR. SANDERS: Great, would you please do so and that will be Exhibit 2040.
TECH SHERIDAN: 2040, okay.
MR. SANDERS: Thank you.
(Whereupon, Cover Slide, Future of Interventional Neurology, SVIN 2018 Annual Meeting, 11.15.18 was marked as Exhibit 2040 for identification as of this date.)
Q Let's go forward in the video to the

4:49 mark.

(Plays video.)

TECH SHERIDAN: You said 4:49, counsel?

MR. SANDERS: I did.

Can you stop it again, so we don't hear any noise.

Q Do you see the slide identifies in the middle variable or cyclical suction as an unmet need?

MR. ODA: Objection. Scope.

A I see that on this slide, yes.

MR. SANDERS: Can the technician please stake a screenshot of this and this will be Exhibit 2041.

(Whereupon, Screenshot 4:49 of Future of Stroke Thrombectomy Devices - Promise of Cyclical Aspiration Youtube Video was marked as Exhibit 2041 for identification as of this date.)

Q Mr. Brown, do you agree that variable or

cyclical suction was an unmet need in aspiration Thrombectomy as of December 2014?

MR. ODA: Objection. Form and scope.

A I agree that there is always evolution in these technologies. What this particular slide is trying to communicate is very difficult for me to know. I will agree that that's what it says on this slide, but I do not understand or am not familiar with the information leading up this particular statement.

MR. SANDERS: Let's go forward now to the 10:28 mark in the video and when you get there, I would appreciate it if the technician could stop it again, so we don't hear the sound.

Q And Mr. Brown, I'd like to direct your attention to the second main bullet, and then the second sub bullet under.

Do you see it states need to vary

suction pressures, however, current aspiration systems only provide uniform suction pressure?

MR. ODA: Objection. Scope.

A I see that.

Q Do you agree with that description of the state of the art in 2018?

MR. ODA: Objection. Scope and form.

A I agree that that statement is being made in 2018.

The comment may be related to what's commercially available, we know that based on the art that there are numerous inventions in this time period of devices that provide cyclical aspiration or cyclical pressures.

Q Do you agree that as of November 2018, commercially available devices only provided uniform pressures.

MR. ODA: Objection. Form and scope.

A I have no way of knowing right now whether that statement is true of all

commercial devices.
Q In the third bullet, third main bullet, identifies cyclical aspiration as a breakthrough technology that could usher in a new era of stroke thrombectomy.
Do you see that?
MR. ODA: Objection. Scope.
A I do see that.
Q Can we capture the screenshot here please, and that will be Exhibit 2042.
(Whereupon, Screenshot 10:28 of Future of Stroke Thrombectomy Devices - Promise of Cyclical Aspiration Youtube Video was marked as Exhibit 2042 for identification as of this date.)
THE COURT: Okay.
Q Mr. Brown, I'd like to go back to your reply declaration, Exhibit 1035. Specifically Page 50, 50 in the middle at the bottom, Paragraph 90.

A I am there.
Q You have a statement six lines down in the paragraph.
"This is direct evidence that Ofek's system can alternate between positive and negative pressures to successfully ingest clots and prevent clogging."
Do you see that?
A I do.
Q And you quoted some language from Ofek in the prior statement, right?
A Please reread the question.
Q Sure. In the statement before the one I just read, immediately before it, you quoted language from Ofek, right?
A Yes.
Q The language that you quoted from Ofek, does not refer to ingest or ingestion, right?
MR. ODA: Objection. Form.
A The quote appears to be referring to

providing impulses to dislodge an occlusion.

Q Do you agree that dislodging an occlusion is different from ingesting an occlusion?

MR. ODA: Objection. Form.

A In this particular case, the dislodging is happening due to the use of high pressure, which would be the opposite to ingestion which typically occurs with low pressure.

Q Would you agree that "ingestion," refers to sucking in?

A At a high level, yes.

Q Would you agree that "dislodging," refers to moving something from where it's located?

A I do agree with that and it can occur during ingestion.

Q You did not include a citation to Ofek where Ofek refers to ingestion, right?

MR. ODA: Objection. Form.

A Not that I recall.
MR. SANDERS: Just to confirm here, we may be finished.
MR. ODA: What's that?
MR. SANDERS: Thank you, Mr. Brown, we can wrap it up.
MR. ODA: Okay. Let's take about a 30-minute break, does that work?
MR. SANDERS: No.
The deposition has only been about an hour and a half.
MR. ODA: Okay, 20 minutes, does that work.
MR. SANDERS: How about we come back in five.
MR. ODA: Am I getting you right that you're done with your questioning?
MR. SANDERS: Correct.
MR. ODA: No, five minutes is definitely not going to work. We are permitted to take a break between direct and redirect, so. I'm going say at least

20 minutes.
MR. SANDERS: Take your time.
(Whereupon, a recess was taken from 12:56 PM until 1:08 PM.)
MR. ODA: Go back on the record.
EXAMINATION BY
MR. ODA:
Q Mr. Brown, a few questions for you. First, in preparing for this deposition, reviewing your supplemental declaration, did you see any typos or any corrections that needed to be made?
A I did.
Q What were they?
A Paragraph 86, contains multiple examples that are numbered.
Q Okay.
A Give me a minute to get to 86. So in Paragraph 86, example No. 3, reads "the preliminary cycle issues discussed above, in relation to Claim 1." That example was inadvertently added to these

examples, it should not be there. It was meant to say the same thing as example No. 6 which is the predetermined cycle issues discussed above in relation to Claim 1. So remove example No. 3.

Q All right.

A Then there was one other small typo here on Paragraph 52.

In Paragraph 52, the third line, starts "it could be understood or obvious, as the controlling flow distal flow out." I believe that first flow does not belong there. So it should read, "that could be understood or obvious as controlling distal flow out."

Those are the only two things I noticed.

Q Okay.

Mr. Brown, can you turn to starting at Paragraph 10, of your supplemental declaration.

A I am there.

Q Can you review Paragraphs 10 through, 10 through 13. I'm sorry, 6 through 13.
A Okay.
Q So within the portions you just reviewed, you discussed the claim terms, claim limitations for control fluid flow in and out and limiting to a positive amount of exit flow, correct?
A Correct.
Q And you discuss what your positions for these claim limitations are and/or patent owners' and Mr. Culbert's positions are for these limitations, right?
A Correct.
Q Can you characterize what your positions are and what their positions are and the difference between them?
A Yes.
The patent owner and Mr. Culbert take and just focus on the action, excuse me, the noun portion of the

claim, and so, for instance, they talk about flow out or the positive exit flow. And they are focusing on these as being the requirements of the claim, but they're ignoring the verb that is the action in front of these.

And our position is that we believed that the verb needs to be included within the claim and the meaning of the claim.

So for instance, talking about flow out, their position is the fact it talks about flow out that there must be flow out.

Our position is the verb being "controlling" flow out, that the verb controlling must be included, therefore, when you're controlling flow out that can include both flow occurring and flow not occurring.

The same way with positive exit flow. Their position is since it says

positive exit flow, there must be positive exit flow. My position is that the positive exit flow is limited, therefore, it is a maximum value or a threshold. And that values less than that can exist.

Q And in all of that, the only specifically proposed construction is the construction for the limiting limitation, correct?

MR. SANDERS: Objection to form.

A That is correct. In short, I believe we talked earlier about the construction of terms, so for control, control is a plain and and ordinary meaning of control, and there comes to the term limited or limiting, you know, my construction is limiting it to the maximum permitted about a positive exit flow in the distal direction including no exit flow.

Q Okay. With that in mind let's turn to

paragraphs -- starting at 41.
A I am at 41.
Q Can you please review that section which is Paragraphs 41 through 48.
A I completed the reading.
Q Great.
So Paragraph 41, the final sentence is "that premise is incorrect under both the claim language and the prior" and then the continuing Paragraphs 42 and 43 to discuss -- to discuss why and in 43 you state for all the reasons discussed in my initial declaration and in this declaration and the prior excludes the independent claim limitation of control fluid flow in and out.
It is -- whose claim instruction or understanding of the claim terms, do those paragraphs refer to?
MR. SANDERS: Objection. Form.
Q I'll rephrase.
In Paragraph 43, are you referring

to the prior art references disclosing independent claim limitation of control fluid flow in and out based on your understanding of the claim limitation meaning or under patent owners'?

MR. ODA: Objection. Form.

A I am making this the statement based on my understanding of the term "control," which is if I remember right, is the plain and ordinary meaning of the term control.

Q Okay. And then you continue in Paragraphs 44 through 48, do I understand correctly that it is applied to the extent where appropriate, patent owner and Mr. Culbert's interpretation of the claim limitations?

MR. SANDERS: Objection. Form.

A Correct, those paragraphs are addressing their interpretation of the term "control."

Q So then would it be accurate to say that

based on Paragraph 43, and your discussion in your initial declaration, that those prior art references disclose the claim limitation of control fluid flow in and out based on your interpretation or based on your own understanding of the ordinary meaning of that claim limitation. Whereas, in Paragraphs 44 through 47, you are discussing whether the reference is still disclosed or rendered obvious depending on the reference, the claim limitation under patent owner and Mr. Culbert's interpretation of that claim limitation; is that accurate?

MR. SANDERS: Objection. Form.

A That is accurate.

Q Okay. And specifically in Paragraph 47, you are explaining that Mullins still discloses the claim limitation control fluid flow in and out under patent owner and Mr. Culbert's interpretation,

correct?
MR. SANDERS: Objection. Form.
A Correct.
Q And does Paragraphs 45 and 46, at least stand for the proposition that Yang and Ofek at least render obvious that claim limitations under patent owners' interpretation?
A Yes. It does.
Q And optionally, if you need to review it, in the next section Paragraphs 49 through 60, would you say that same assessment is accurate with regard to application of your proposed claim construction and then analysis under patent owners' interpretation of the claim limiting the positive amount of exit flow?
MR. SANDERS: Objection. Form.
A That is what is contained in the next section.
Q All right. Okay. Moving to

paragraph -- moving up paragraph -- the section starting at Paragraph 31.

A I am there.

Q In Paragraph 32, there's a chart that was discussed earlier in this deposition.

Do you see that?

A I do see it.

Q In the first row, which begins with prevent, there are several rows, sub rows in the right column.

Do you see that?

A I do.

Q The examples are labeled for convenience, as RP-1, RP-2 and RP-EP1.

Do you see that?

A I do.

Q Is it accurate to say that RP-1 and RP-2 are the Rapid Pulse items that were challenged which I believe are referred to elsewhere as IPR-1 and IPR-2?

A Correct. RP-1 appears to be patent

'883. RP-2 is patent '253 and those are the two patents challenged in IPR-1 and IPR-2.

Q Okay. And what is RP-EP1? Let me rephrase.

A Yeah.

Q Is it accurate to say that the RP-EP1 is the European patent challenged in the EP opposition Exhibit 2035?

MR. SANDERS: Objection. Form.

A That is correct. That is the patent that RP-EP1 is referring to.

Q Okay. You've already mentioned earlier in the deposition that you reviewed portions of the EP opposition.

What specifically did you review, I guess -- let me strike that.

Did you review the entire EP opposition?

A I did not.

Q What did you review from the EP opposition?

A I reviewed the claims of the EP opposition patent, and compared those claims to the claims of the corresponding US patents that are included here in this table.
Q Okay. What did that comparison inform you about?
A The claims of the European patent are almost identical to the '883 patent.
Q Okay. And is that in any way reflected in this chart?
A Yes, it is. So RP-1, speaking here to the operative claim language is saying prevent forward flow and we go gown to RP-EP1 and the operative claim language is the same as far as prevent forward flow.
Q And does the specific term prevent forward flow have a particular meaning?
A Yes. It does have a particular meaning. The patent that these are associated with, I believe, put a definition on

forward flow and I believe also the patent office has agreed with that definition.

And if I remember correctly it is less than six microliters. It may include six micro litters, I don't recall. But it's 6 microliters.

Q Is that claim construction equally applicable to this chart?

A Yes. That is what the intent is of the operative claim terms on the left-hand side. So we're over in the left column where it says prevent. Prevent would allow up to 6 microliters or less than whatever the definition is.

Q Okay. And in the next row starting with control, is control fluid flow in and out broader than the prevent forward flow claim limitation in the row above?

A Yes. I think it is broader than what prevent is.

Q And what did -- in your opinion would

control flow in and out encompass prevent forward flow?
A Yes. Absolutely.
Q Would the control fluid flow also encompass each of the rows below it which is limiting to a positive amount of forward flow and causing an exit volume forward exit flow?
A Yes. It does.
Q Great. Okay, let's turn to the next section, starting at Paragraph 35.
Can you please review this section?
A The entire section?
Q Yeah, it's only 35 through 40.
A I completed the reading.
Q Earlier you were asked about the first sentence in Paragraph 39, which states this is also disingenuous and specifically asked would you agree that the parties taking contradictory positions about the teachings of the prior art reference would bear on that

party's credibility.

Can you clarify in greater detail your answer to that question?

MR. SANDERS: Objection. Form.

A Yeah, I said it's acceptable to take contradictory positions, which to clarify what I'm referring to there, the -- each party can take opposing positions on something based on different embodiments and that is acceptable, but to take contradictory positions on the same embodiments, you know, that gets more difficult.

Q Okay. What would you characterize as the position that patent owner is taking with regard to contradictory positions, for example, as you described in Paragraph 38?

A Well, I'm saying here that the patent owners position regarding the EP opposition, attempts to now conflate the limitations and create an alleged

contradiction where none exists.

Q Okay.

MR. ODA: I think the only thing I have is there might have been one transcription error earlier, let me double check that's still there.

And this is mostly for the reporter's purposes here, at 11:35, there was a question, the question was: Do you agree that the arrangement of Yang does not allow the clot to exit the distal end of catheter, i.e. forward flow is prevented. And the answer was written as without going into Yang and reading the areas that you are referencing, I do not recall whether he has any limitations that would allow forward flow. And I believe what Mr. Brown said, I do not recall whether he has any limitations that would not allow forward flow.

I just wanted to capture that.

MR. SANDERS: Counsel's aware that this is a rough transcript and the court reporter will go back and make sure that the transcript and the final reflects what was said here.

MR. ODA: I feel like that would be a tough one to catch on without having heard the substance of it. Small errors can be caught later.

MR. SANDERS: Mr. Oda, are you done with your redirect for the questions.

MR. ODA: Yes, I have no further questions.

EXAMINATION BY
MR. SANDERS:

MR. SANDERS: I just have a few, Mr. Brown.

Q Prior to the redirect, did you discuss any of your testimony with counsel?

A I did.

Q What did you discuss?

MR. ODA: Don't answer that. We are

permitted to talk with the witness between direct and redirect.

Q Just to be clear, Mr. Brown, you discussed the substance of your earlier testimony with counsel, right?

MR. ODA: Go ahead.

A I'm just thinking about the question.

MR. ODA: You can answer it.

A Yes. I'm just making sure I answer it correctly. Yes, the answer is yes.

Q What did you discuss with counsel about the substance of your testimony?

MR. ODA: No, don't answer that. That is -- he is again, Charles, you know, this was not during a break during direct testimony. You're asking about what was discussed after direct questioning.

MR. SANDERS: I am. And you're instructing your witness not to answer.

MR. ODA: Don't answer for now, let's take this off the record and discuss.

MR. SANDERS: Let me finish the rest of what I would ask on my questions, then we can go off the record and address this issue. Remaining on the record.

Q You, Mr. Brown, testified that you reviewed the claims of the European opposition patent as part of your review of the European opposition; is that fair?

A That is fair.

Q Is that all you reviewed of the European opposition?

A It is.

Q Why is that all you reviewed of the European opposition?

A I was not asked to review any more of it.

Q You were asked on redirect about the section starting at Paragraph 35 of your reply declaration, do you recall that?

A I do recall that.

Q And you state in Paragraph 35, starting

at the second sentence, "I also understand that patent owner appears to intend to argue that petitioner's positions in the European opposition against RP-EP1 allegedly contradicts its arguments here. I disagree that any such contradiction exists."

That's what you wrote, right?

A That is what I wrote.

Q And all you reviewed of the European opposition to come to that conclusion were the claims for the European patent, right?

A That is correct.

MR. SANDERS: Now, we can go off the record.

(Whereupon, a recess was taken from 1:51 PM until 1:52 PM.)

MR. SANDERS: Back on the record.

Q So Mr. Brown, what did you discuss with counsel about the substance of your testimony during direct before your

redirect examination?
MR. ODA: I'm instructing the witness not to answer the question of what the substance was, that was discussed after direct and before redirect. Other than answering whether there was substance discussed after redirect, before redirect.
MR. SANDERS: We disagree that that's a proper instruction. Reserve our right to raise this with the board and hold the deposition open accordingly. With that we can go off the record and be done.
MR. ODA: Great.
COURT REPORTER: Order rough drafts for today.
MR. SANDERS: We are, yes.
MR. ODA: Sure.
MR. SANDERS: For our transcript order we would like to have it at the latest Wednesday, approximately.

COURT REPORTER: Do you want the same Mr. Oda?

MR. ODA: Sure, yeah, we'll take it.

(Whereupon, this examination was concluded at 1:54 PM.)

_____

BRIAN BROWN

Subscribed and sworn to before me on this ____ day of _____, _____.

_____
Notary Public

I N D E X

WITNESS: BRIAN J. BROWN

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CERTIFICATE OF SHORTHAND REPORTER - NOTARY PUBLIC

I, KIARA MILLER, Certified Reporter and Notary Public within and for the State of Florida do hereby certify:

That BRIAN BROWN, the witness whose deposition is hereinbefore set forth, was duly sworn by me before the commencement of such deposition and that such deposition was taken before me and is a true record of the testimony given by such witness.

I further certify that the adverse party, PENUMBRA, INC., was represented by counsel at the deposition.

I further certify that the deposition of BRIAN BROWN, occurred remotely via Zoom on Friday, October 24, 2025, commencing at 10:55 AM to 1:54 PM.

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

IN WITNESS WHEREOF, I have hereunto set my hand this 24th day of October, 2025.

My commission expires:

June 12, 2029

Kiara Miller

NOTARY PUBLIC IN AND FOR THE STATE OF FLORIDA

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Page	Line	Correction/Change and Reason
5	8	REPLACE JANDAL WITH JANDEL. SPELLING
5	8	REPLACE J-A-N-D-A-L WITH J-A-N-D-E-L. SPELLING
77	14	REPLACE GOWN WITH DOWN. SPELLING

30 Oct 2025
(Date)

(Signature)

No. 602613

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ACKNOWLEDGMENT OF DEPONENT

I, Brian J. Brown, do hereby acknowledge that I have read and examined the foregoing testimony, and the same is a true, correct and complete transcription of the testimony given by me and any corrections appear on the attached Errata sheet signed by me.

30 Oct 2025 _____
(Date) (Signature)