UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

TROVE BRANDS, LLC, PETITIONER,	)	CASE NO: IPR2024-01137
VS.	)	
CAMELBAK PRODUCTS, LLC, PATENT OWNER.	)	U.S. PATENT NO: 10,676,255 C1

REMOTE VIDEOTAPED DEPOSITION

MICHAEL JOBIN

THURSDAY, JULY 10, 2025

LOS ANGELES, CALIFORNIA

PAGES 1 - 53
REPORTED BY MICHAEL CAGLIATA
CSR #14491, RPR

Trove Brands v. CamelBak
IPR2025-00140
Trove Ex. 1019

Videoconference Deposition of

MICHAEL JOBIN, held remotely:

Witness Location:

(NOT STATED ON THE RECORD.)

Pursuant to Notice, before Michael Cagliata, Registered Professional Reporter, and Certified Shorthand Reporter No. 14491 in and for the State of California.

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INDEX

WITNESS NAME PAGE

MICHAEL JOBIN, SWORN

EXAMINATION BY MR. PETERSON 7

EXHIBIT INDEX

EXHIBIT NUMBER		PAGE
2016	DOCUMENT	11
1002	REEXAMINATION CERTIFICATE	17
1001	DOCUMENT	45

P R O C E E D I N G S

* * * *

REMOTE TECH: 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 are recording this proceeding for backup purposes. Any off the record discussion 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 are unable to connect with video and are connecting via phone, please identify yourself each time before speaking. I apologize in advance for any technical related interruptions. Thank you. 08:03:19 08:03:23 08:03:27 08:03:29 08:03:32 08:03:35 08:03:38 08:03:39 08:03:41 08:03:43 08:03:47 08:03:48 08:03:51 08:03:54

VIDEOGRAPHER: Here begins media number one in the videotaped deposition of Michael Jobin in the matter of Trove Brands, LLC, V CamelBak Products, LLC, (PTAB), in the United States patent and trademark office, case number IPR 2024-01137. Today's date is July 10th, 2025, and the time on the video monitor is 8:04 A.M., Pacific time. The remote videographer today is Cole Kirkendall, representing Planet Depos, and all parties of this video 08:03:58 08:04:01 08:04:04 08:04:12 08:04:17 08:04:25 08:04:29 08:04:36 08:04:38

deposition are attending remotely. Would counsel please voice identify themselves and state whom they represent? 08:04:40 08:04:43 08:04:45

MR. PETERSON: Jacob Peterson from the law firm Morgan, Lewis & Bockius, here on behalf of petitioner Trove Brands. Here with me is Zachary Messick, also from Morgan Lewis. 08:04:50 08:04:52 08:04:56 08:05:00

MR. MUDD: This is Jason Mudd from the firm of Shook, Hardy & Bacon, appearing on behalf of the patent owner, CamelBak. 08:05:02 08:05:05 08:05:06

VIDEOGRAPHER: The court reporter today is Michael Cagliata, representing Planet Depos. Would the reporter please swear in the witness? 08:05:08 08:05:10 08:05:14

(Oath given.) 08:05:17

DIRECT EXAMINATION BY MR. PETERSON 08:05:36

Q. Good morning, Mr. Jobin. How are you today? 08:05:36 08:05:39

A. I'm fine, thanks. Good morning. 08:05:39

Q. For my sake, could you please let me know how you prefer I call you during the deposition today? Would Mr. Jobin be all right? 08:05:41 08:05:49 08:05:51

A. That would be fine. 08:05:53

Q. And just so we're on the same page, we're here to discuss your testimony in IPR 2024-00 -- let me rephrase that. We're here to discuss your 08:05:54 08:06:02 08:06:10

testimony in IPR 2024-01137. Is that your understanding? 08:06:12 08:06:18

A. Yes. 08:06:19

Q. And to make things easier on myself as we were discussing, and easier for you as well, would it be all right if we refer to this particular IPR by the shorthand, IPR? 08:06:19 08:06:32 08:06:35 08:06:38

A. Yes. I sometimes refer to the patent as the '255 patent as well. But IPR is fine. 08:06:43 08:06:44

Q. The patent that's at issue in this case is U.S. patent number 10,676,255. Consistent with what you just mentioned, would it be all right if I also used the shorthand '255 patent to refer to the specific patent? 08:06:48 08:06:56 08:07:05 08:07:07 08:07:10

A. Yes. 08:07:11

Q. I'm here today representing the petitioner, Trove Brands, as we said at the beginning. Do you understand that? 08:07:12 08:07:21 08:07:23

A. Yes. 08:07:24

Q. And even though you're testifying virtually today, do you understand that the testimony you give is under oath and subject to the same penalty of perjury as though you were testifying in a courtroom? 08:07:24 08:07:30 08:07:32 08:07:34

A. Yes. 08:07:37

Q. And where are you located today? 08:07:43

A. I'm at my home in Boston, Massachusetts. 08:07:45
Q. Is there anyone -- excuse me. Is there anyone in the home with you today? 08:07:48 08:07:51
A. Nobody in the room with me. My wife is in her office elsewhere in the house. 08:07:53 08:07:58
Q. Do you have any materials with you in the room today? 08:08:03 08:08:05
A. Just my laptop computer on which I'm obviously engaged in this Zoom call. There are two documents that I have available for reference at the moment, and that would be a copy of my declaration as filed and a copy of the '255 patent. Both are un-annotated and in the as filed condition. 08:08:07 08:08:10 08:08:17 08:08:21 08:08:24 08:08:32
Q. And just to confirm, you don't have any other windows open other than the Zoom window on your computer? 08:08:35 08:08:41 08:08:44
A. Let me check real quick. No. Just the Zoom window and then the declaration and the copy of the patent, which are available for reference. 08:08:44 08:08:48 08:08:52
Q. As we go through the questions today, I'm going to assume that you understand the question asked unless you tell me otherwise. Is that okay? 08:09:02 08:09:04 08:09:07
A. Understood. 08:09:09
Q. Is there anything that would prevent you from thinking clearly and testifying truthfully 08:09:10 08:09:17

today? 08:09:20
A. No. 08:09:20
Q. In terms of cadence today, I will try to go 08:09:21
for about an hour at a time and then take breaks, but 08:09:30
if you would like to take a break earlier, please 08:09:33
just let me know and I'd be happy to accommodate 08:09:35
that. 08:09:38
A. Sounds good. 08:09:39
Q. As an initial ground rule, have you been 08:09:40
informed that you are not to discuss the content of 08:09:50
your testimony with your counsel during the breaks? 08:09:54
A. That is my understanding. 08:10:00
Q. In this proceeding you have submitted a 08:10:01
declaration which has been identified as 08:10:18
Exhibit 2016. As we go, would it be all right if I 08:10:22
used the shorthand, your declaration, to refer to 08:10:28
that specific declaration? 08:10:31
A. Yes. 08:10:32
Q. In terms of preparation for your deposition 08:10:35
today, what did you do to prepare? 08:10:46
A. Well, I read through my declaration in 08:10:50
detail. I read through the '255 patent again. I 08:10:53
read through the prior art references and I read Dr. 08:10:57
Vallee's declaration, the petition. I read the 08:11:04
board's institution decision. That type of material. 08:11:13

In addition, I met with counsel yesterday for several hours. 08:11:20 08:11:24

Q. Was there anything you came across during your review that you no longer agree with or changed your mind on? 08:11:24 08:11:29 08:11:32

A. No. 08:11:35

Q. It looks like there are three individuals named as inventors on the '255 patent. Do you happen to know any of those individuals? 08:11:35 08:12:07 08:12:11

A. Well, certainly the primary individual, Choi comes to mind. I would have to check the top of the patent again to remember the other two individuals. 08:12:14 08:12:16 08:12:19 08:12:21

Q. And in what -- how do you know Mr. Choi? 08:12:23

A. Only as the named inventor, or the first named inventor on this patent. I've never met Mr. Choi. 08:12:31 08:12:35 08:12:40

Q. You have not personally met? 08:12:40

A. I have not, no. I've not met Choi, no. 08:12:43

Q. All right. Can we please mark Exhibit 2016 for identification and bring it up on the screen? 08:12:46 08:13:04

(Exhibit 2016 marked for identification.) 08:13:08

REMOTE TECH: Yes, sir. Marking it now and bringing it up. Give me one second. Here is Exhibit 2016 now. 08:13:10 08:13:12 08:13:22

Q. Can we turn to paragraph 40, which is on page 17 of 80 of Exhibit 2016? All right. I would like to ask you some questions about these figures here near the top of page 16, at the end of paragraph 40, let's say. Could you please describe how a user would add liquid to the drink container shown in figures 1 and 2 at the end of paragraph 40? 08:13:36 08:13:41 08:13:52 08:13:55 08:14:02 08:14:07 08:14:11

A. Well, the patent specification discloses that the cap assembly is removable from the vessel. So the user can, in this case, unscrew the cap, fill the vessel, and screw the cap back on. 08:14:17 08:14:22 08:14:26 08:14:31

Q. Could you please describe how a user would transition the mouthpiece from the stowed position shown in Figure 1 to the dispensing position shown in Figure 2? 08:14:35 08:14:39 08:14:43 08:14:47

A. The user would grasp the little portion of the pink part and just simply move it from the position shown in Figure 1 to the position shown in Figure 2. When that pivot mount is rotated about its axis, the mouthpiece that is attached to it comes with it. 08:14:48 08:14:55 08:15:00 08:15:04 08:15:12 08:15:15

Q. Could you please describe how a user would drink from the mouthpiece shown in Figure 2 when the mouthpiece is in the dispensing configuration? 08:15:20 08:15:23 08:15:27

A. Well, in this embodiment, the mouthpiece is 08:15:31

presented in a convenient location for the person to engage their mouth with the mouthpiece. This particular embodiment has a mouthpiece that is intended to be bite actuated. So when the user bites the mouthpiece, the mouthpiece deforms, because it's made of a resilient material, it deforms to open the passageway through which the user can suck the liquid through. 08:15:35 08:15:36 08:15:41 08:15:46 08:15:50 08:15:56 08:16:00 08:16:03

Q. Could you please describe how a user would transition the mouthpiece from the dispensing position shown in Figure 2 to the stowed position shown in Figure 1? 08:16:06 08:16:08 08:16:11 08:16:15

A. Once again, it's quite straightforward. In this embodiment, the person would simply push on the mouthpiece and pivot mount assembly to rotate it back in the stowed position. 08:16:16 08:16:21 08:16:24 08:16:31

Q. You said a person would push on the mouthpiece and the pivot mount assembly -- 08:16:33 08:16:35

A. Well, the mouthpiece and the pivot mount are an assembly. They're engaged with one another in such a way that they rotate together. Although the mouthpiece is resilient, you could push on it because it's supported by the rigid pink pivot mount inside of it. So it's sort of enveloping over the outside in the way that it's illustrated in another figure 08:16:39 08:16:42 08:16:46 08:16:51 08:16:55 08:17:01 08:17:05

within the '255 specification. 08:17:11

So that assembly of mouthpiece and pivot 08:17:14
mount assemble together as shown here are a rigid 08:17:17
body that can rotate together. So you can push on 08:17:23
either the mouthpiece or the pivot mount in order to 08:17:25
put it into the stowed position. You can see, 08:17:30
though, that the pink part has a little finger tab on 08:17:33
it. It would be logical to be able to lift that 08:17:37
finger tab to rotate it if you didn't want to 08:17:42
contaminate the mouthpiece with your finger. 08:17:45

Q. When the mouthpiece is in the dispensing 08:17:56
position shown in Figure 2, what would happen if the 08:17:58
user pushed the mouthpiece away from the handle 08:18:02
rather than towards the handle? 08:18:04

A. Well, the pivot mount in this particular 08:18:08
embodiment is restricted in the number of degrees 08:18:12
that it can rotate. Here, it's rotating 08:18:18
approximately 90 degrees from the stowed to the 08:18:21
dispensing positions. Other embodiments may allow 08:18:24
for a different amount of rotation, but in this 08:18:27
particular embodiment the pivot mount comes up 08:18:31
against the stop which prevents it from rotating 08:18:37
further. So nothing particular would happen if you 08:18:41
were to push it further in that direction. 08:18:43

Q. So would it be correct to say that a user 08:18:46

would be unable to push the mouthpiece away from the handle rather than towards the handle when it's in the dispensing position shown in Figure 2? 08:19:01 08:19:06 08:19:09

A. Well, you would have to look at the cross-sectional view to get a clearer picture. Remember that this particular embodiment shows a mouthpiece that is bite actuated. It's made of a resilient material. So it is logical that that mouthpiece, at least the tip of it near the distal end, which is marked in dark green, could flex a bit under the force of a person's thumb if you pushed on it with enough force to deform the material, but the natural state as it's engaged with the pivot mount is as shown in these figures. 08:19:12 08:19:15 08:19:19 08:19:22 08:19:26 08:19:32 08:19:32 08:19:36 08:19:39 08:19:43 08:19:48

Q. When the mouthpiece is in the dispensing position shown in Figure 2, what would happen if a user held a pivot mount in place with one finger and pushed the mouthpiece towards the handle with another finger? 08:19:57 08:20:01 08:20:04 08:20:06 08:20:10

A. Well, as I stated earlier, if you look at the section review of this embodiment, it helps to inform how supported the green mouthpiece part is by the pivot mount in this case. So it's mostly surrounding and engaged with the pivot mount in a way that those portions don't move. The very tip, again, 08:20:10 08:20:14 08:20:19 08:20:22 08:20:28 08:20:31

is a resilient material that is designed to deform under the force of bite pressure. So if a comparable pressure were applied to that mouthpiece while the pivot mount was held stationary, some deformation might be expected. But if the mouthpiece is not held stationary I would expect it just to rotate together with the pivot mount. 08:20:36 08:20:40 08:20:44 08:20:49 08:21:03 08:21:04 08:21:05

Q. Let's turn to paragraph 112, please. Is that large enough on the screen? 08:21:12 08:21:46

A. Yes, I can see it. 08:21:47

Q. Okay. So referring to paragraph 112, what does the phrase, "compressive forces" mean? 08:21:48 08:21:58

A. Well, this is citing to a particular -- particular paragraphs within the '255 patent. What they're communicating here is how the mouthpiece is adapted to compress when the user bites the outer perimeter of the mouthpiece in a particular location. That compressive forces would be applied by the teeth as the jaw is closing in order to push inwardly and, in doing so, you would distort the shape of the slit to form an opening through which the fluid can flow. 08:22:09 08:22:18 08:22:21 08:22:27 08:22:35 08:22:42 08:22:45 08:22:50 08:22:55

Q. The phrase, "compressive forces", is plural; correct? 08:23:00 08:23:05

A. Yes, it's plural because teeth are applying force from two different directions at the same time 08:23:06 08:23:10

in this instance. 08:23:13

Q. Does claim 1 require teeth to be applying forces from two different directions at the same time? 08:23:28 08:23:32 08:23:37

A. Well, I'm going to look at claim 1 just to see what the language says again. 08:23:39 08:23:43

Q. Could you please mark for identification Exhibit 1002? 08:23:55 08:23:59

(Exhibit 1002 marked for identification.) 08:24:02

REMOTE TECH: Yes, sir. Give me one second and I'll pull it right up. Here's 1002. 08:24:05 08:24:07

Q. And the second page, please. Would it be helpful if I repeated my question, Mr. Jobin? 08:24:24 08:24:41

A. Yes, it certainly would. This is not a copy of the '255 patent, however. It is a reexamination certificate. So I'm looking at this as a document which shows certain modifications that were made to the claims during the examination process. 08:24:46 08:24:49 08:24:53 08:24:57 08:25:00 08:25:02

Q. So do the claims in the reexamination certificate reflect the issued claims at this time, in your understanding? 08:25:08 08:25:10 08:25:16

A. My presumption is that they do, but I have not independently confirmed that recently. If I'm responding to your question, I understood it to be 08:25:16 08:25:20 08:25:23

directed towards the language of claim 1 of the '255 patent. So that's where I would normally go to look at that language. 08:25:26 08:25:29 08:25:32

Q. Is this the language of claim 1 that we would look to that's shown in the reexamination certificate? 08:25:35 08:25:37 08:25:40

A. Well, I can only see a part of the language here, so I would have to compare it to be certain. If you can ask your question, I'll do my best to answer it. 08:25:41 08:25:43 08:25:46 08:25:50

Q. My question was, does claim 1 require teeth to be applying forces from two different directions at the same time? 08:25:52 08:25:59 08:26:04

A. Well, what I note when I'm looking at independent claim 1 is that towards the bottom of independent claim 1, maybe about two thirds of the way down, there's a limitation which states, "wherein the resilient mouthpiece is adapted to resiliently compress responsive to compressive forces", that's forces plural, "applied to the resilient mouthpiece by a user's teeth." Teeth is also plural. 08:26:07 08:26:11 08:26:14 08:26:18 08:26:22 08:26:27 08:26:30 08:26:34

So based on an understanding of anatomy and based on what a person of ordinary skill would understand from this disclosure in the '255, yes. Compressive forces are being applied on both sides by 08:26:36 08:26:41 08:26:43 08:26:47

the user's teeth as one bites. 08:26:50

Q. Would that limitation have a different 08:27:11
meaning if the phrase read, compressive force, rather 08:27:13
than, compressive forces? 08:27:17

A. Well, it says compressive forces. They're 08:27:20
applied by the teeth. It's not talking about a 08:27:32
scenario where a force is applied in one direction. 08:27:35
It's a biting action that's intended to deform and 08:27:37
operate the valve. I haven't really considered that 08:27:42
question. It seems that it would be different, but 08:27:46
forces is plural and force is singular. 08:27:49

Q. Do the independent claims of the '255 08:28:02
patent encompass a drink container where the 08:28:05
resilient mouthpiece is adapted to simultaneously 08:28:09
experience compressive forces from both the user's 08:28:14
teeth and from another source? 08:28:18

A. Well, the point of the limitation is that 08:28:26
it's directed towards a bite valve and a resilient 08:28:32
mouthpiece that responds to and functions under 08:28:37
compressive forces applied by the teeth. The 08:28:40
specification makes that clear. The specification 08:28:46
does not lead me or a person of ordinary skill, I 08:28:49
don't think in this case, to understand that 08:28:56
additional forces, I mean, outside of gravity, I 08:28:57
suppose, that other forces are being applied to the 08:29:03

mouthpiece. Remember, the mouthpiece is engaged with the pivot mount. There's some type of -- typically some type of a friction fit or interference fit, according to most of the embodiments that are shown. So there's a certain amount of tension in the material that's inherent in that type of assembly, but I wouldn't characterize that necessarily as an external force outside of a force applied by the teeth. 08:29:05 08:29:09 08:29:15 08:29:18 08:29:22 08:29:24 08:29:28 08:29:31 08:29:35

Q. Do the independent claims of the '255 patent preclude the drink container from having a resilient mouthpiece that is adapted to simultaneously experience compressive forces from both a user's teeth and from another source? 08:29:42 08:29:44 08:29:58 08:29:58 08:30:00

A. Well, the claims are directed toward that specific scenario where the user's teeth -- or where at least the mouthpiece is adapted to respond to forces by a user's teeth. It's not covering -- it's not directed towards a situation while it's being bit, if that's what you're getting towards. It's describing a configuration or a structure that is adapted to allow a user to bite the valve in order to -- it's adapted to and configured to allow the user to bite it to use it, but it's not describing anywhere here that I can see other forces that are 08:30:05 08:30:09 08:30:14 08:30:19 08:30:27 08:30:34 08:30:39 08:30:45 08:30:57 08:31:02 08:31:07

applied at the same time. I don't know that that's something that's within the scope of this particular independent claim. 08:31:12 08:31:16 08:31:20

Q. Are those other forces precluded by the language of the independent claims? 08:31:24 08:31:29

A. Well, again, I think I already stated that other forces exist in its system such as this. I mean, we have gravity that's acting upon the pivot and acting upon the mouthpiece. I'm not aware of any other forces acting upon the mouthpiece. I think I talked about some type of stress that might be present in the material from being united with the pivot mount, but that's not a force that's being applied -- I don't think that that situation is one that is discussed or part of the limitation or part of the independent claim. Whether or not it precludes that, I haven't considered. What I have considered is the forces that are, at least the mouthpiece, the resilient mouthpiece, is adapted to respond to. 08:31:30 08:31:33 08:31:37 08:31:41 08:31:44 08:31:49 08:31:52 08:31:59 08:32:03 08:32:09 08:32:14 08:32:20 08:32:23 08:32:32 08:32:37

Q. Could we please turn back to paragraph 112 of the declaration? In this paragraph you discuss the phrase, "resiliently compress". What does the phrase "resiliently compress" mean? 08:32:38 08:32:41 08:32:52 08:32:56

A. Well, once again, if you look at the 08:33:00

specification and understand the various embodiments that are shown, they describe a bite valve. A bite valve is one that is adapted or configured to fit a user's mouth in such a way that when -- it resiliently compresses in a way that causes a slit to deform in a way that the fluid can flow. When you release those compressive forces, the valve, the resilient mouthpiece closes the valve and prevents fluid from passing. So there's a benefit that it closes off the passage way to prevent fluid from flowing when it's not desired. 08:33:02 08:33:06 08:33:09 08:33:15 08:33:23 08:33:28 08:33:32 08:33:34 08:33:40 08:33:43 08:33:46

Here, it says, the resilient mouthpiece quote, "adapted to resiliently compress responsive to compressive forces applied by a user's teeth." 08:33:48 08:33:50 08:33:55

That means that it is configured or adapted to fit the mouth so that when you bite on it and your teeth compress the material, it's designed to resiliently compress in order to function. That's what that disclosure from the '255 is about. 08:33:57 08:34:01 08:34:05 08:34:07 08:34:11

Q. How is a resilient mouthpiece different from a non-resilient mouthpiece? 08:34:18 08:34:22

A. Well, if you design a mouthpiece from a rigid material, for example, such as a tip of a cigar or cigarillo would be hard plastic, it's designed to fit the mouth. So it's a mouthpiece, but it's not 08:34:31 08:34:33 08:34:37 08:34:42

designed to compress when the teeth bite it. It's designed to resist deformation. So the difference between a resilient mouthpiece that's designed to compress is very distinct from a structure which is made from a rigid material that is designed to resist deformation. 08:34:45 08:34:48 08:34:54 08:34:54 08:34:57 08:35:00

Q. Could we please next turn to paragraph 160. Sentence 2 of paragraph 116 you use the term, "surrounded". What does the term, "surrounded", mean? 08:35:06 08:35:20 08:35:26 08:35:28

A. Well, it's evident when you look at the section view that the resilient mouthpiece, which is identified in green as element 2 of the flexible tube part is inserted into the pivotal mount, which is shown in pink in this figure, in such a way that the pivotal mount entirely surrounds the perimeter of the so identified mouthpiece. In other words, the mouthpiece is not accessible to the piece that's rounded by the rigid material of the pivotal mount which protects it. 08:35:29 08:35:36 08:35:39 08:35:43 08:35:50 08:35:55 08:36:02 08:36:04 08:36:13 08:36:16

Q. In your last answer, and also in paragraph 116 you used phrase, "entirely surrounded". What does the phrase, "entirely surrounded", mean? 08:36:20 08:36:23 08:36:29

A. Well, here you can see, and it's not as evident in this figure, but it is evident in section 08:36:32 08:36:36

view elsewhere in Ribarits, the green portion of the mouthpiece, the perimeter of it, the portion that if it were configured would have to be exposed in order to be configured to be bit, is surrounded by the plastic material of the pivotal mount. In other words, the mouthpiece is not exposed. It doesn't extend beyond the pivotal mount. It's entirely surrounded by it. 08:36:40 08:36:43 08:36:45 08:36:52 08:36:57 08:37:00 08:37:03 08:37:05

Q. Could we scroll down to the top of the next page, which is also part of the paragraph 116? These might be the figures that you're referring to. 08:37:10 08:37:13 08:37:17

A. Yes. Here you can see the green portion is entirely within the cross hatched section of element 3, and it's clear that when you see the assembled view that the flexible tube and the identified portion of the flexible tube in green is not exposed. It's not extending beyond this pink part. 08:37:19 08:37:22 08:37:27 08:37:32 08:37:38 08:37:44

Q. In your last answer you used a slightly different phrase. You said, "entirely within", rather than, "entirely surrounded". Do you agree that the alleged mouthpiece is not entirely surrounded by drinking spout 3? 08:37:49 08:37:51 08:37:56 08:38:04 08:38:07

A. Well, that's not what I said. What I said is that I -- what I stated above in this paragraph 116 is that it is surrounded by. Around 08:38:12 08:38:14 08:38:17

the perimeter of is surrounded by, it does not extend beyond the portion in pink, which is identified as a pivot mount. The pivoting portion is understood by a person of ordinary skill to be protecting the flexible tube, because it is encasing it. It's surrounding it. I think I also said the term "protecting it". It's designed, as I understand it, and as one of ordinary skill would understand it, to be the mouthpiece, this pink portion. That's what is engaging with the lips of the user as they're sucking fluid out of this vessel. 08:38:20 08:38:26 08:38:30 08:38:36 08:38:41 08:38:46 08:38:49 08:38:51 08:38:56 08:39:01 08:39:05

Q. So my question is more specifically about the phrase, "entirely surrounded". You say, entirely surrounded. So you assert that the alleged mouthpiece is entirely surrounded by drink spout 3? 08:39:13 08:39:15 08:39:20 08:39:23

A. Well, there is a portion of that mouthpiece that is visible from the top view. That's, for example, in the lower left view that's present on the page now. You can see the face, which is illustrated in dark green. It's a different color. I guess you would call it the distal face or the exit of the mouthpiece, but the mouthpiece itself, the portion that has been identified, rather, as the mouthpiece by petitioner here is all surrounded by the pink part, which is identified in Ribarits as a 08:39:26 08:39:33 08:39:37 08:39:40 08:39:45 08:39:51 08:39:54 08:39:57 08:40:00 08:40:09

mouthpiece. 08:40:12

Q. Do you agree now that the alleged mouthpiece is not entirely surrounded by the drinking spout 3? 08:40:16 08:40:18 08:40:21

MR. MUDD: Object to the form. 08:40:23

THE WITNESS: Well, that's not what I said. What I said was that the distal end of the mouthpiece -- it's identified in a different color. It's in dark green because it's a different feature of the mouthpiece. It's not the portion that one would engage with. I don't agree with petitioner's opinion that a mouthpiece is present here because a mouthpiece, by definition, has to engage with the mouth. Here, it doesn't. There's another part that engages with the mouth in this assembly, and that's identified as the pink part. That's designed to engage the lips. 08:40:24 08:40:28 08:40:32 08:40:35 08:40:38 08:40:41 08:40:47 08:40:49 08:40:53 08:40:56 08:40:59 08:41:02

The portion that's designed to engage the lips in Ribarits is the pink part. That's a rigid material that surrounds the portion of the flexible tube that has been identified by the petitioner as the mouthpiece. I was saying earlier that I don't agree that that is a mouthpiece because it doesn't engage the mouth. It's surrounded by, especially as seen in section view, around the perimeter. The 08:41:03 08:41:39 08:41:43 08:41:46 08:41:49 08:41:52 08:41:54 08:41:58

distal face, as I discussed earlier, is visible, but it's not something that one could engage with the mouth. 08:42:04 08:42:07 08:42:10

Q. What material is drinking spout 3 made of? 08:42:10

A. Well, drinking spout 3 is not identified as a particular material, to my recollection. One of ordinary skill would understand that to be of a material that is suitable, a suitable, rigid material. In order to function as it's described, I would view that as possibly polypropylene. It could be possibly made out of another material such as polycarbonate. It's distinct from the flexible tube, which is described as a flexible material that can form a seal. I would view that part to be made out of a silicon rubber or other suitable flexible material. 08:42:20 08:42:24 08:42:27 08:42:30 08:42:38 08:42:41 08:42:45 08:42:46 08:42:51 08:42:54 08:43:01 08:43:07

Q. What would happen if a user bit down on the section of drinking spout 3 located on opposite sides of the green colored portion of tubular element 2? 08:43:07 08:43:10 08:43:13

A. Well, it's a rigid part. It's not designed or configured to resiliently deform. It's designed to maintain its shape. Nothing in particular would happen if you were to bite down on it. 08:43:23 08:43:26 08:43:30 08:43:35

Q. It's your position that nothing in particular would happen to drinking spout 3 if it was 08:43:49 08:43:51

bitten by a user on the section of drinking spout 3 located on opposite sides of the green colored portion of tubular element 2? 08:43:57 08:44:01 08:44:04

A. Well, one of ordinary skill would not understand that drinking spout to be resiliently deformable. That's not how it's described. That's not how one would understand this construction. That's not how one would understand this assembly. When the material needs to have flexible characteristics such as the flexible tube, Ribarits states that. But the portion of the drinking spout that engages the flexible tube in order to bend it and to compress it and seal it as shown in the upper right view on this page, there's necessarily a rigid material. It's not flexible. 08:44:07 08:44:09 08:44:12 08:44:15 08:44:17 08:44:21 08:44:25 08:44:32 08:44:36 08:44:44 08:44:47 08:44:52

So my opinion is based on what one of ordinary skill would understand in light of the specification. That's a rigid part that would not deform if it were bit by the user. 08:44:53 08:44:57 08:45:00 08:45:03

Q. If a user bit down on the section of drinking spout 3 located on opposite sides of the green colored portion of tubular element 2, where would the compressive forces from a user's teeth dissipate if not in the form of deformation? 08:45:06 08:45:43 08:45:46 08:45:52 08:45:57

A. Well, once again, this is a rigid material. 08:46:04

The forces that one would apply are not high. The flexible or resilient mouthpiece material that's described in the '255 patent is of a material that's configured to deform. It's soft. It's got a durometer which is flexible and allows it to deform easily under the relatively low forces applied by the teeth. Here with this rigid material, you can bite down on it and it's going to resist deformation. It's going to prevent you from inadvertently closing the tube, in my view. 08:46:10 08:46:16 08:46:20 08:46:23 08:46:28 08:46:31 08:46:34 08:46:39 08:46:43 08:46:46

It's designed to put one's lips around. There's a little bit of an arched shape to it, and that's the shape that's presented. It does not have a particular location such as the mouthpiece that's described in the '255 spec for one's teeth. In other words, there's a bit of a recurve shape to the mouthpiece in some embodiments which give the teeth somewhere to go when you are engaging with the mouthpiece. In this case, it's just sort of an oval shape that fits your mouth as you're sucking liquid out of the bottle. 08:46:48 08:46:54 08:46:58 08:47:04 08:47:08 08:47:14 08:47:17 08:47:23 08:47:26 08:47:29 08:47:33

Q. If a user bites down on the section of the drinking spout 3 located on opposite sides of the green colored portion of tubular element 2, wouldn't that be some of the resulting stress being 08:47:34 08:47:40 08:47:44 08:47:48

transferred to the green colored portion of tubular element 2? 08:47:54

A. Well, I don't think so. This is a pretty robust part. I mean, the wall sections are here robust. There's ribbing here internally. It's got an arched shape to it. It's got quite a bit of structure. Again, one of ordinary skill would understand this to be a mouthpiece that does not configure to deform when compressive forces are applied by the teeth. It's really more configured, in my view, for the lips than the teeth, the way that it's shaped. 08:47:55 08:47:57 08:48:01 08:48:06 08:48:09 08:48:13 08:48:15 08:48:21 08:48:24 08:48:28

Q. Is it your position that the material used and structure used for drinking spout 3 is entirely rigid and incapable of transmitting any force to adjacent or embedded structures? 08:48:43 08:48:47 08:48:51 08:48:56

A. Again, I'm thinking about what forces one can apply with the teeth. It's a couple of pounds. It's not a significant -- I don't have the exact numbers, but just thinking about it logically, how much force one can apply with the teeth? It's not a lot. You don't want to damage your teeth, for one thing. This is a convex shape. The wall thicknesses are robust, especially in the corners. There's ribbing. It's a shape that looks like it's very 08:48:58 08:49:10 08:49:13 08:49:16 08:49:20 08:49:22 08:49:26 08:49:29 08:49:31

resistant to deformation. If one applies tens or hundreds of pounds of force, could it deform under that force and transmit some force to a tube inside? I don't know. I would have to do some testing to know, but what I understand and what a person of ordinary skill understands is that this drinking spout has a tube within it but that the spout protects the tube from damage during use. 08:49:35 08:49:39 08:49:42 08:49:50 08:49:52 08:49:55 08:49:58 08:50:01

Q. Would you agree that some plastics when bitten deform under the pressure of the bite and transmit at least some force to adjoining components? 08:50:06 08:50:13 08:50:16

A. That's a broad statement. Any particular materials or any particular configurations, I would have to evaluate those individually. 08:50:24 08:50:29 08:50:33

Q. In your experience, have you ever encountered a real world scenario where compressive forces applied to one part of a physically connected plastic structure resulted in absolutely zero force transfer to an adjoining part? 08:50:36 08:50:50 08:50:54 08:50:57 08:51:02

MR. MUDD: Object to the form. 08:51:05

THE WITNESS: Well, certainly that is different from what you asked me earlier. Absolutely zero force? I mean, again, I've stated that under the scenario that's presented here, which is to say, the pink portion of this bottle assembly engaging the 08:51:06 08:51:12 08:51:15 08:51:18 08:51:27

lips of the user, if one were to bite on it would it deform? My opinion is that it's designed not to deform. Are we talking about if there's microscopic, some type of -- again, the type of deformation that is described within the '255 spec that frames this conversation is about a deformation that's significant enough to alter the flow characteristics going through the tube. In other words, to open the valve. 08:51:31 08:51:35 08:51:38 08:51:44 08:51:49 08:51:55 08:51:59 08:52:03 08:52:07

This is not the case in this configuration. This is a tube that's open, especially when the spout is in the open state. It of course is closed by the spout because it's rigid enough to impart those forces to that portion, that's what it's configured to do. But the portion in green doesn't change. If one were to bite on it, it's not going to close the green portion. It's not going to fundamentally change the characteristics of flow, not the way that it's configured. 08:52:08 08:52:11 08:52:14 08:52:18 08:52:24 08:52:25 08:52:27 08:52:30 08:52:33 08:52:36

Q. In your last answer you spoke about "designed to deform". My question is a little bit different than that. It's have you encountered a real world scenario where compressive forces applied to one part of a physically connected plastic structure resulted in absolutely zero force transfer 08:52:41 08:53:08 08:53:12 08:53:18 08:53:23 08:53:26

to an adjoining part? 08:53:29

MR. MUDD: Objection to form. 08:53:32

THE WITNESS: Well, it's pretty broad and hypothetical but, yes. It all comes down to the magnitude of forces, the strength of the materials, and the nature of the design of the part as to whether force is transmitted to an adjacent or adjoined part. Here we're talking about a tube that's just inserted into this plastic structure. Whether any force would be transferred to it, in my view based on the scenario of bite forces, I don't see that happening. 08:53:33 08:53:36 08:53:40 08:53:43 08:53:48 08:53:53 08:53:56 08:53:59 08:54:02 08:54:06

In the broader sense of whether I've ever seen something where no force was transmitted? Sure. But again, it's about the magnitude of the forces. 08:54:08 08:54:11 08:54:15

Q. So your answer is, yes. You've seen a scenario in the real world where compressive forces applied to one part of a physically connected plastic structure resulted in absolutely zero force transfer to an adjoining part? 08:54:26 08:54:30 08:54:33 08:54:36 08:54:40

MR. MUDD: Same objection. 08:54:43

THE WITNESS: Sure. If you've got a protective sleeve and that's protecting a material that's inside of it and you apply a force to the protective sleeve and it doesn't deflect, it doesn't 08:54:47 08:54:49 08:54:54 08:54:57

transfer any force to the part that's on the inside. I mean, that's logical. Again, it's a very broad sort of hypothetical situation. I think each -- if you wanted to evaluate, you would have to look at those cases individually in order to be able to assess them. I'm directing my comments to what's shown here in Ribarits in the context of what we know from the '255. 08:55:00 08:55:03 08:55:09 08:55:15 08:55:17 08:55:21 08:55:24 08:55:28

Again, if you're applying tons of force to a plastic structure, it's going to yield. That's the nature of plastic materials, of course. In the real world and in this particular application, the range of the forces is much more limited. 08:55:30 08:55:34 08:55:37 08:55:40 08:55:44

Q. Let's turn to paragraph 119 if we could, please. In particular, the second and third sentences read, "the drink spout 3 completely surrounds the tubular element 2, indicating that it is meant to protect the tubular element from any deformation caused by the user's teeth. A POSITA would have made this design choice so that a user could drink from the bottle without unintentionally cutting off the liquid supply when biting down." 08:55:46 08:55:52 08:56:07 08:56:11 08:56:14 08:56:17 08:56:22 08:56:25 08:56:29

Is it your understanding that a user would need to bite drinking spout 3 to drink from it? 08:56:39 08:56:41

A. No, but the drinking spout is engaged by 08:56:47

both the teeth and the lips. I mean, they come together as a package. So when you are using this drinking spout, it's certainly conceivable that one would bite it, but nothing would happen. That's the point. The drinking spout prevents the tube from being inadvertently closed during the drinking process. I think that's what a POSITA would understand this structure to do. 08:56:51 08:56:54 08:56:59 08:57:04 08:57:07 08:57:10 08:57:13 08:57:16

Q. Do you agree that if drink spout 3 protected the tubular element 2 from only some deformation that -- do you agree that if drink spout 3 protected tubular element 2 from only some deformation that Ribarits drink bottle could still continue to function effectively and be drunk from by a user? 08:57:21 08:57:27 08:57:30 08:57:47 08:57:50 08:57:57 08:58:01

MR. MUDD: Object to the form. 08:58:02

THE WITNESS: Well, I hadn't considered that scenario because that's not what Ribarits presented to me. What's presented to me is a structure which does protect the tube from compression during the drinking process. So I don't know. It depends on how it's configured. 08:58:06 08:58:08 08:58:15 08:58:17 08:58:17 08:58:19

Q. All right. I was planning to change topics, subject matter, next. Would now be a good time for a break? 08:58:48 08:58:50 08:58:53

A. Sure. 08:58:55

MR. MUDD: Works for me. 08:58:56

VIDEOGRAPHER: I will read us off the record, then. We are going off the record at 8:59 A.M., Pacific time. 08:59:00 08:59:01 08:59:04

(Recess taken.) 08:59:05

REMOTE TECH: Okay. We are back on the record at 9:12 A.M., Pacific time. 09:12:55 09:12:56

Q. Mr. Jobin, did you speak with anyone during the break? 09:13:01 09:13:06

A. No. 09:13:07

Q. Could we please turn to paragraph 56 of the declaration? That would be Exhibit 2016. In the second to last sentence of paragraph 56 of your declaration you say, "as a matter of physics, rotational motion about the axis of rotation requires maintaining a constant radius or distance between the mouthpiece and the axis of rotation defined by the lateral projections." 09:13:08 09:13:15 09:13:47 09:13:51 09:13:56 09:14:01 09:14:04 09:14:07

A. You're in paragraph 56? 09:14:10

Q. Yes, correct. The second to last sentence. 09:14:12

A. Okay. Sorry. I was in the wrong portion of that paragraph. Go ahead. 09:14:19 09:14:21

Q. I'll just repeat that. So in this paragraph 56 you say, "as a matter of physics, 09:14:23 09:14:26

rotational motion about the axis of rotation requires maintaining a constant radius or distance between the mouthpiece and the axis of rotation defined by the lateral projections." 09:14:30 09:14:35 09:14:37 09:14:41

My question is, what does it mean to maintain a constant radius or distance between the mouthpiece and the axis of rotation defined by the lateral projections? 09:14:44 09:14:49 09:14:52 09:14:56

A. Well, here we're in the claim construction portion of my declaration, which I am shedding light on what I understand these limitations to mean. When I look at this limitation where it talks about an axis that's defined bilateral projections, I understand that to be an axis about which the mouthpiece is intended to pivot. Now, it's assisted by the pivot mount, which is engaged with cylindrical receptacles in the cap so that the pivot mount itself pivots about those lateral projections, and the way this is worded, it's my understanding that the mouthpiece moves with the pivot mount in what I understand to be rotational motion about that axis. 09:15:00 09:15:03 09:15:11 09:15:14 09:15:17 09:15:21 09:15:24 09:15:29 09:15:39 09:15:45 09:15:49 09:15:52 09:15:58

Q. Could we please turn to paragraph 42? Could you please explain what it means to maintain a constant radius or distance between the mouthpiece and the axis of rotation defined by the lateral 09:16:04 09:16:27 09:16:31 09:16:33

projections in the context of figures 28 and 29 shown at the end of paragraph 42? 09:16:36 09:16:40

A. Well, in certainly other figures I've illustrated an axis of rotation and I've illustrated a radius to some feature on the mouthpiece, for example, which indicates that the mouthpiece is engaged in rotational motion about that axis. Looking at this figure, I have not annotated it in such a way. The pivot is not clearly identified in it sectional view. My understanding is that it would be located through the section view, basically in front of and back of the screen. Perpendicular to the screen would be the axis. So this section view is cut through the center of the cap assembly and through the mouthpiece and the pivot mount assembly, and it rotates in the plane of the screen, in the plane of the page if you're looking at this document. 09:16:43 09:16:48 09:16:54 09:17:02 09:17:04 09:17:08 09:17:11 09:17:15 09:17:21 09:17:32 09:17:36 09:17:39 09:17:42 09:17:48 09:17:54

If I had it on paper, I could put a pencil mark on where that axis is, but you can see that the pivot mount in pink and the assembled mouthpiece in green rotate about a particular axis in order to go from the stowed position to the open position. So what it means is that the position of the mouthpiece in this view is controlled by the pivot mount. It's engaged to the pivot mount in a way that when the 09:17:58 09:18:03 09:18:08 09:18:16 09:18:22 09:18:28 09:18:33 09:18:38

pivot mount rotates, it rotates with the pivot mount the same number of degrees, and they rotate together. That's what the claim language is intended to convey, and that's what's actually happening in this embodiment. 09:18:41 09:18:47 09:18:52 09:18:55 09:19:01

Q. If a person of ordinary skill in the art wanted to confirm for themselves that figures 28 and 29 shown at the end of paragraph 42 maintain a constant radius or distance between the mouthpiece and the axis of rotation defined by the lateral projections, what steps would a person of ordinary skill in the art take to obtain that confirmation? 09:19:03 09:19:06 09:19:10 09:19:17 09:19:19 09:19:22 09:19:26

A. Well, there's a number of ways. One of ordinary skill in the art could look at the section view and understand that to be true, first of all because they understand how this assembly is put together. In the context especially of the other disclosure within the '255 patent. Another way that one could do it if one were only looking at this particular section view and perhaps didn't have much other context, you could print these out at scale and simply cut out with scissors, the pivot mount and the mouthpiece. So you have a little assembly that is paper, but it's representing the motion in 2D like it's illustrated here, and then you would move it to 09:19:31 09:19:34 09:19:36 09:19:39 09:19:42 09:19:44 09:19:50 09:19:54 09:19:56 09:20:01 09:20:07 09:20:11 09:20:15

another view, put a pin on the pivot point, and then rotate it, the piece of paper. That alone is what one is doing in their mind when one is understanding these two states, the as stowed state and the in use state. 09:20:18 09:20:22 09:20:25 09:20:29 09:20:36

Then, you could see every position in between that this assembled mouthpiece and pivot mount move together about the axis that's defined by the lateral projections of the pivot mount. 09:20:37 09:20:40 09:20:44 09:20:50

Q. Could a person of ordinary skill in the art take measurements throughout the range of motion to obtain that confirmation? 09:20:58 09:21:01 09:21:06

A. Well, if one in ordinary skill of the art wanted to confirm the assumption, I mean, if you look at the descriptions of Figure 28 and 29 it talks about what's happening as well. So you use that context to give you guidance, but one understands that the confirmation between the mouthpiece and the pivot mount isn't changing between figures 28 and 29. The relationship between those two components is fixed in such a way that when that assembly rotates from stowed to use position, they rotate together. That's the intention that's being communicated by these two figures. 09:21:12 09:21:15 09:21:18 09:21:21 09:21:25 09:21:28 09:21:31 09:21:37 09:21:40 09:21:45 09:21:49 09:21:54

Q. If we were to imagine a physical 09:22:00

implementation of a water bottle shown in figures 28 and 29, could a person of ordinary skill in the art use measurements throughout the ranges of motion from the stowed position to the dispensing position to confirm that the physical implementation maintains a constant radius or distance between the mouthpiece and the axis of rotation defined by the letter of projections? 09:22:04 09:22:08 09:22:14 09:22:22 09:22:26 09:22:31 09:22:34 09:22:38

A. Well, again, that understanding is defined by the figures, the rest of the spec, and by the texts that supports these figures. Yes. You could take a ruler and measure the mouthpiece and measure the pivot mount components and verify that they're the same in both figures, and you could measure the distance from the identified pivot point, and that pivot point would be a point that could be identified relative to some datums on the cap, for example, so that it's consistent between figures 28 and 29. It's at a particular distance from the bottom of the cap and it's located a certain distance off the center line of the cap, for example. Mark that in both figures and then measure from that pivot axis to any portion of the mouthpiece that you would like. Let's just say the very distal end of it. Then, confirm in both of these figures that it's the same. 09:22:39 09:22:42 09:22:45 09:22:48 09:22:53 09:22:57 09:23:02 09:23:06 09:23:09 09:23:15 09:23:18 09:23:20 09:23:23 09:23:26 09:23:31 09:23:33 09:23:37

If that pivot point is present in the physical object, it's going to be true throughout that range of motion. 09:23:40 09:23:45 09:23:49

Q. And if it were not true through part of the range of motion that a constant radius or distance between the mouthpiece and axis of rotation defined by the lateral projections was maintained, then would the claim limitation not be satisfied? 09:24:05 09:24:08 09:24:13 09:24:17 09:24:24

A. Well, that hypothetical situation doesn't exist in this embodiment. That is not what one of ordinary skill would understand from this embodiment. The relationship between the pivot mount and the mouthpiece and the axis through which they both rotate is the same throughout the range of motion. One of ordinary skill would understand that just based on the way it's configured. You could confirm it with the paper exercise I discussed previously. You could confirm it with a 2D CAD model where you could rotate it throughout the range of motion. You could construct a physical model based on this information and confirm that. 09:24:32 09:24:35 09:24:42 09:24:45 09:24:48 09:24:52 09:24:56 09:24:58 09:25:01 09:25:04 09:25:10 09:25:11 09:25:13

But one of ordinary skill can tell by these figures alone that that's going to be true. 09:25:14 09:25:18

Q. Let's next turn to paragraph 104, please. In this paragraph you discuss the earth, the moon, 09:25:53 09:26:24

and the sun, and looking specifically at the second sentence you say that "a POSITA would understand that the moon does not satisfy the requirements of the definition for rotational motion about the sun." 09:26:26 09:26:32 09:26:37 09:26:42

I would like to ask you about the earth. Would a POSITA have understood that the earth does not satisfy the requirements of the definition for rotational motion about the sun? 09:26:48 09:26:51 09:26:55 09:26:58

A. Well, at a high level I disagree that this analogy is applicable. That's because the distance between earth and the sun is not fixed. The orbit is elliptical and, therefore, not rotational motion in the classical sense. So this system is being put forth by petitioner, Dr. Vallee, to illustrate a two axis system in which the moon is purportedly rotating about the earth. So the center of the earth is the axis of rotation, or the moon, and that the earth is rotating about the sun in which the center of the sun is reportedly the axis of rotation for it. 09:27:04 09:27:07 09:27:12 09:27:15 09:27:21 09:27:25 09:27:32 09:27:38 09:27:42 09:27:46 09:27:49

What I've observed, again, ignoring the fact that I don't believe that's rotational motion in the classical sense because it's orbital mechanics and it's a different motion, but simplifying it to a mechanical system, the analogy -- in this case, the earth, which is I guess you could say the analogy for 09:27:53 09:27:57 09:28:01 09:28:04 09:28:08 09:28:18

the pivot mount is rotating about an axis, but something that rotates about the pivot mount is rotating about a different axis entirely. It doesn't make any sense to me and I've disagreed with petitioner's view on this. 09:28:21 09:28:27 09:28:30 09:28:34 09:28:39

Q. Could we please turn to paragraph 56? In the header above paragraph 56 you discussed the term, "pivotal". Does the '255 patent define the term "pivotal"? 09:28:43 09:29:06 09:29:09 09:29:14

A. The '255 patent uses the term pivotal in the context of different embodiments and different functions of this device so that one of ordinary skill in the art would understand what pivotal means. Pivotal as a word also has meaning to a person of ordinary skill. One of ordinary skill in the art would understand that term to mean rotation about an axis. Dr. Vallee doesn't disagree with that. He agrees with that definition as far as I understood it based on his testimony. 09:29:18 09:29:22 09:29:27 09:29:29 09:29:34 09:29:37 09:29:39 09:29:43 09:29:49 09:29:51

So pivotal is not a term that has been defined, and I think that's because it's a term that a reader or person of ordinary skill in the art in this case would know and understand the scope of based on the knowledge of a person of ordinary skill and based on the disclosure within the '255 patent. 09:29:53 09:29:56 09:30:00 09:30:06 09:30:07 09:30:10

Q. Could we next turn to paragraph 59, please? 09:30:18
In the very first sentence of paragraph 59 you say, 09:30:36
"a POSITA looking at the '255 specification would 09:30:40
find further support for this construction", and then 09:30:46
you identify three different citations. I would like 09:30:49
to briefly look at each of those three citations with 09:30:54
you, if we could. Could we please mark for 09:31:00
identification Exhibit 1001? 09:31:04
(Exhibit 1001 marked for identification.) 09:31:06
REMOTE TECH: Yes, sir. Please stand by. 09:31:09
Pulling it up now. 1001 is on the screen now. 09:31:12
Q. All right. Could we turn back to 09:31:36
paragraph 59 for a moment? We'll note the first 09:31:39
cite. So it's column 5, lines 16 to 23. So the 09:31:42
statement here, column 5, lines 16 to 23, recites 09:32:11
that, "for example, selectively shaping the 09:32:19
cross-sectional configuration or perimeter of at 09:32:22
least the central region may permit the drink bottle 09:32:26
to be rotationally oriented by a user for drinking of 09:32:29
the sequentially -- from the sequentially discussed 09:32:32
valve actuated valve assembly without requiring the 09:32:39
user to look at the rotational position of the valve 09:32:40
assembly relative to the user's hands that is holding 09:32:43
the central region of the food container's wall 09:32:47
structure." 09:32:50

What I would specifically like to note here is that this sentence begins with the statement, for example. With the phrase, for example. Could we turn to the next cite? So turn back to paragraph 59 briefly and look at the next cite. So it's column 7, lines 54 to 60. So here at column 7, lines 54 to 60 it says, "as illustrative examples mouthpiece and the distal portion of the mount may be coupled to the base of a trap assembly by a joint and/or valve 108, such as may take the form of a pivotal joint, a ball joint, or other suitable structure that provides for adjusting the angular and/or rotational orientation of the mount relative to the base of the cap assembly." 09:32:51 09:32:54 09:32:56 09:33:02 09:33:06 09:33:12 09:33:30 09:33:36 09:33:38 09:33:41 09:33:45 09:33:48 09:33:49 09:33:54

I would like to note here again that the sentence begins with a phrase that includes the word example and, in particular here, it includes the phrase, "as illustrative examples". 09:33:55 09:33:57 09:34:02 09:34:06

Can we turn back to paragraph 59 again and look at the last cite number? So it's column 12, lines 20 to 28. I'll refrain from reading this one in full. We would just like to note that the fourth word in this sentence is again the word, "example". It begins with the phrase, "yet another illustrative example." 09:34:11 09:34:14 09:34:19 09:34:38 09:34:43 09:34:46 09:34:50

If the '255 patent describes these statements as examples and doesn't state that the term "pivotal" is defined by these examples, what basis is there to treat these examples as evidence of how the term must be construed? 09:34:56 09:34:59 09:35:05 09:35:08 09:35:11

A. One of ordinary skill in the art learns from these examples and other embodiments from within the '255 specification what a pivot mount does and how it moves. All of these examples use the word rotate or rotational in context of the pivot mount. It's tying the word pivot to the word rotational to help inform the viewer that that's how that word is intended to be used. It's not being used inconsistently. It's being used consistently throughout these two examples and other embodiments within the '255 specification. That's what's informing my understanding of what a pivot mount is and how it engages in rotational motion about the axis defined by the projections. 09:35:17 09:35:19 09:35:23 09:35:30 09:35:37 09:35:40 09:35:45 09:35:49 09:35:57 09:36:00 09:36:04 09:36:06 09:36:10 09:36:16

Q. Could we next please turn to paragraph 71? In the first sentence of paragraph 71. You say that a POSITA would understand the word "pivot" to itself mean something which rotates or turns. Does the term "rotates" have a different meaning from the term "turns"? 09:36:23 09:36:37 09:36:41 09:36:45 09:36:52 09:36:54

A. What I am saying is a person of ordinary skill would understand the word pivot to mean either of those, rotates or turns. They're the same. I mean, it's something that moves about a particular axis of rotation. It's describing a particular type of motion. 09:37:01 09:37:03 09:37:06 09:37:08 09:37:11 09:37:14

Q. You assert that the term "rotate" has the same meaning as the term "turn"? 09:37:19 09:37:22

A. In this context, I'm tying the understanding of pivot to rotates. It could also be described as turns, but rotates in particular to me is the -- I guess I would say the scientific term for this type of motion. Rotational motion is the term that would be used in the physics textbook. 09:37:27 09:37:33 09:37:39 09:37:47 09:37:50 09:37:53

Q. So my question, then, is a bit more specific. Does the term "rotates" have a different meaning from the term "turns"? 09:37:59 09:38:03 09:38:05

A. I mean, generally speaking I suppose it depends on the context. What I have observed here and what I've put forth in my opinion is that rotational motion is analogous to pivotal motion as it's used in the '255 spec. I've not put forth an opinion that turns is the correct definition. I haven't evaluated that term in detail but it's, again, looking -- this particular example is what a 09:38:09 09:38:13 09:38:16 09:38:20 09:38:25 09:38:28 09:38:35 09:38:38

lay person would understand, turning about an axis, rotating about an axis to a lay person would mean the same thing. I prefer to use the term rotational motion as the scientific definition, and that's what I've put forth in my opinions. 09:38:41 09:38:47 09:38:48 09:38:51 09:38:54

Q. Could we please next turn to paragraph 77? In paragraph 77 you say that the claim language requires pivotal movement with rather than away from the pivotal mount. Does the claim language permit pivotal movement away from the pivotal mount? 09:38:56 09:39:18 09:39:20 09:39:28 09:39:31

A. Well, we're not evaluating the term pivotal movement alone. The limitation is more specific than that. If I scroll up to just above 76, the section that we're talking about, the limitation states, "a resilient mouthpiece engaged with the mount outlet and removably coupled to the pivotal mount for pivotal movement with the pivotal mount." 09:39:38 09:39:41 09:39:44 09:39:50 09:39:54 09:39:58 09:40:05

That's a lot of words. What it's communicating is that the mouthpiece is engaged with the mouth outlet in the way that the two move together. They move with each other about the axis defined by the projections on the pivotal mount, which are described in an earlier limitation. 09:40:06 09:40:08 09:40:11 09:40:13 09:40:16 09:40:22

So it's with -- it means to turn, or rotate in this case, about that axis in the same direction 09:40:25 09:40:31

and at the same rotational velocity, because those pieces are engaged. They're coupled. It does not mean that the resilient mouthpiece would move in a different direction from the mount outlet, because that would not be congruent with the limitation's language about it being engaged with the mouth outlet. 09:40:34 09:40:39 09:40:43 09:40:43 09:40:46 09:40:52 09:40:54

Q. Does the language of claim 1 permit pivotal movement away from the pivotal mount? 09:40:54 09:41:22

MR. MUDD: Object to the form. 09:41:28

THE WITNESS: I think that the language that I've just described in this particular limitation is quite clear about how the mouthpiece in the pivotal mount are moving together. They're moving with each other and they're engaged with each other. That would preclude, just as a -- you can't be engaged with and moving with something and have the mouthpiece moving off in a different direction and not coupled to the pivotal mount. It doesn't make sense. The definition of the word "with" means combined or coupled to, not independent of. 09:41:36 09:41:37 09:41:39 09:41:42 09:41:46 09:41:48 09:41:51 09:41:55 09:41:59 09:42:04 09:42:12

MR. PETERSON: Okay. No further questions at this time. We'll pass it to you, Jason, if you have any questions. 09:44:07 09:44:08 09:44:11

MR. MUDD: Can we take maybe a five minute 09:44:14

break real quick and come back? 09:44:18

MR. PETERSON: Sure. 09:44:21

VIDEOGRAPHER: I will read us off. We are going off the record at 9:44 A.M., Pacific time. 09:44:23 09:44:25

(Recess taken.) 09:44:31

VIDEOGRAPHER: We are back on the record at 9:48 A.M., Pacific. 09:48:07 09:48:11

MR. MUDD: No questions from patent owner, and we'll read and sign. 09:48:14 09:48:16

VIDEOGRAPHER: Okay. If there's no follow-up questions from counsel, this concludes the videotaped deposition of Michael Jobin. We are going off the record at 9:48 A.M., Pacific time. 09:48:22 09:48:24 09:48:27 09:48:30

(Proceedings concluded at 9:48 A.M.)

DECLARATION UNDER PENALTY OF PERJURY

I, MICHAEL JOBIN, do hereby certify under penalty of perjury that I have read the foregoing transcript of my deposition taken July 10, 2025; that I have made such corrections as appear noted on the Deposition Errata Page attached hereto and signed by me; that my testimony as contained herein, as corrected, is true and correct.

Dated this _____ day of _____,
2025, at _____,
California.

_____
MICHAEL JOBIN

STATE OF CALIFORNIA)
)
COUNTY OF LOS ANGELES)

I, Michael Cagliata, Certified Shorthand Reporter No. 14491, do hereby Certify:

That MICHAEL JOBIN, 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, TROVE BRANDS, LLC, was represented by counsel at the deposition.

I further certify that the deposition of MICHAEL JOBIN, occurred virtually on Thursday, July 10, 2025, commencing at 8:04 a.m. to 9:48 a.m.

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.

Witness my hand this 15th day of July, 2025.

M. Cagliata

_____
Michael Cagliata, CSR #14491, RPR
Certified Shorthand Reporter
In and for the State of California

A
able
14:8, 34:5
about
10:4, 12:3, 12:19, 18:16, 19:6, 21:11, 22:19, 25:12, 30:17, 30:20, 32:3, 32:6, 32:20, 33:8, 33:15, 36:16, 37:1, 37:12, 37:14, 37:18, 37:21, 38:7, 38:21, 40:8, 40:16, 43:4, 43:5, 43:8, 43:16, 43:18, 44:1, 44:2, 44:3, 44:16, 47:18, 48:4, 49:1, 49:2, 49:14, 49:21, 49:25, 50:6, 50:13
above
24:24, 44:7, 49:13
absolutely
31:18, 31:22, 32:25, 33:19
accessible
23:18
accommodate
10:6
according
20:4
across
11:3
acting
21:8, 21:9, 21:10
action
19:8, 53:21, 53:23
actually
39:4
actuated
13:4, 15:7, 45:21
adapted
16:16, 18:18, 19:14, 20:12, 20:17, 20:22, 20:23, 21:19, 22:3, 22:13, 22:15
add
12:6
addition
11:1
additional
19:24
adjacent
30:16, 33:7
adjoined
33:8
adjoining
31:11, 31:19, 33:1, 33:20
adjusting
46:12
advance
6:15
adverse
53:13
again
10:22, 11:12, 13:13, 15:25, 17:6, 21:6, 21:25, 28:25, 30:7, 30:17, 31:23, 32:4, 33:15, 34:2, 34:9, 41:9, 43:20, 46:15, 46:19, 46:23, 48:25
against
14:22
agree
11:4, 24:20, 26:2, 26:11, 26:23, 31:9, 35:9, 35:11
agrees
44:18
ahead
36:23
all
6:25, 7:21, 8:6, 8:12, 10:15, 11:20, 12:2, 25:24, 33:4, 35:23, 39:15, 45:12, 47:9
alleged
24:21, 25:14, 26:2
allow
14:19, 20:22, 20:23
allows
29:5
alone
40:2, 42:23, 49:12
already
21:6
also
7:7, 8:12, 18:21, 23:21, 24:10, 25:6, 44:14, 48:10
alter
32:7
although
13:21
amount
14:20, 20:5
analogous
48:21
analogy
43:10, 43:24, 43:25
anatomy
18:22
angeles
1:22, 53:3
angular
46:12
annotated
38:8
another
6:7, 13:20, 13:25, 15:18, 19:16, 20:14, 26:14, 27:11, 39:18, 40:1, 46:24
answer
18:10, 23:21, 24:18, 32:20, 33:16
anticipate
6:5
anton
3:6
any
6:8, 6:15, 9:6, 9:14, 11:9, 21:9, 30:15, 31:12, 31:13, 33:10, 34:1, 34:18, 41:22, 44:4, 50:24, 53:21, 53:23
anyone
9:2, 9:3, 36:9
anything
9:24, 11:3
anywhere
20:25
apologize
6:15
appeal
1:2
appear
52:6
appearing
7:9
applicable
43:10
application
34:12
applied
16:3, 16:18, 18:20, 18:25, 19:6, 19:7, 19:20, 19:25, 20:8, 21:1,

21:14, 22:14, 29:6, 30:10, 31:17, 32:23, 33:18
applies 31:1
apply 29:1, 30:18, 30:21, 33:24
applying 16:24, 17:2, 18:12, 34:9
approximately 14:18
arched 29:12, 30:6
around 24:25, 26:25, 29:11
art 10:23, 39:6, 39:12, 39:14, 40:10, 40:13, 41:2, 44:13, 44:15, 44:22, 47:6
asked 9:22, 31:22
assemble 14:3
assembled 24:14, 38:20, 40:7
assembly 12:9, 13:15, 13:18, 13:20, 14:2, 20:6, 26:15, 28:8, 31:25, 38:14, 38:15, 39:16, 39:23, 40:21, 45:21, 45:23, 46:9, 46:14
assert 25:14, 48:7
assess 34:6
assisted 37:15
assume 9:21
assumption 40:14
attached 12:20, 52:7
attending 6:4, 7:1
attorney 53:22
available 9:10, 9:19
aware 6:7, 21:9
away 6:9, 14:13, 15:1, 49:8, 49:10, 50:9
axis 12:20, 36:16, 36:18, 37:1, 37:3, 37:7, 37:13, 37:14, 37:21, 37:25, 38:4, 38:7, 38:13, 38:19, 38:21, 39:10, 40:8, 41:7, 41:22, 42:6, 42:13, 43:15, 43:17, 43:19, 44:1, 44:3, 44:17, 47:19, 48:5, 49:1, 49:2, 49:21, 49:25

B

back 12:11, 13:15, 21:21, 36:7, 38:12, 45:12, 46:4, 46:19, 51:1, 51:6
backup 6:8
bacon 3:11, 7:9
ball 46:10
base 46:9, 46:13
based 18:22, 18:23, 28:16, 33:11, 42:16, 42:20, 44:19, 44:24, 44:25
basically 38:11
basis 47:4
because 13:5, 13:22, 16:24, 25:5, 26:9, 26:12, 26:23, 32:13, 35:18, 39:16, 43:10, 43:22, 44:21, 50:1, 50:4
been 10:9, 10:14, 25:23, 26:21, 44:20
before 1:2, 2:14, 6:14, 53:9, 53:11
beginning 8:17
begins 6:17, 46:2, 46:16, 46:24
behalf 7:5, 7:9
being 18:25, 19:25, 20:19, 21:12, 21:13, 29:25, 35:6, 40:23, 43:13, 47:13, 47:14, 50:6
believe 43:21
bend 28:12
benefit 22:9
best 6:6, 18:9
between 23:3, 36:17, 37:2, 37:6, 37:24, 39:9, 40:7, 40:18, 40:19, 40:20, 41:6, 41:18, 42:6, 42:12, 43:11
beyond 24:7, 24:17, 25:2
bilateral 37:13
bit 15:10, 20:20, 24:4, 27:17, 28:19, 28:20, 29:12, 29:16, 30:6, 32:21, 48:15
bite 13:4, 15:7, 16:2, 19:18, 20:22, 20:24, 22:2, 22:16, 23:1, 27:23, 29:7, 31:10, 32:1, 32:16, 33:11, 34:24, 35:4
bites 13:4, 16:16, 19:1, 29:22
biting 19:8, 34:22
bitten 28:1, 31:10
blood 53:21
board 1:2
board's 10:25

bockius
3:4, 7:5
body
14:4
boston
9:1
both
9:12, 18:25, 19:15, 20:14, 35:1, 41:14, 41:21, 41:25, 42:13
bottle
29:21, 31:25, 34:21, 35:13, 41:1, 45:18
bottom
18:15, 41:19
boulevard
3:6, 3:13
brands
1:4, 6:19, 7:6, 8:17, 53:14
break
10:5, 35:25, 36:10, 51:1
breaks
10:4, 10:11
briefly
45:6, 46:5
bring
11:21
bringing
11:24
broad
31:12, 33:3, 34:2
broader
33:13

C

c1
1:11
cad
42:18
cadence
10:3
cagliata
1:29, 2:15, 7:12, 53:4, 53:31
california
1:22, 2:17, 3:7, 52:13, 53:1, 53:33
call
7:20, 9:9, 25:21
came
11:3
camelbak
1:10, 6:19, 7:10
can't
50:16
cap
12:9, 12:10, 12:11, 37:17, 38:14, 41:17, 41:19, 41:21, 46:13
case
1:6, 6:21, 8:10, 12:10, 15:23, 19:23, 29:19, 32:10, 43:24, 44:23, 49:25
cases
34:5
caused
34:19
causes
22:5
center
38:14, 41:20, 43:16, 43:18
central
45:18, 45:24
certain
17:17, 18:8, 20:5, 41:20
certainly
11:10, 17:14, 31:21, 35:3, 38:3
certificate
5:4, 17:16, 17:21, 18:6
certified
2:16, 53:4, 53:32
certify
52:3, 53:6, 53:13, 53:16, 53:20
change
32:15, 32:18, 35:23
changed
11:4
changing
40:19
characteristics
28:10, 32:7, 32:18
characterize
20:7
check
9:17, 11:11
choi
11:11, 11:14, 11:17, 11:19
choice
34:20
cigar
22:23
cigarillo
22:24
citations
45:5, 45:6
cite
45:14, 46:4, 46:5, 46:20
citing
16:13
city
3:14
claim
17:2, 17:5, 18:1, 18:4, 18:11, 18:15, 18:16, 21:3, 21:16, 37:9, 39:3, 42:8, 49:7, 49:9, 50:8
claims
17:18, 17:20, 17:21, 19:12, 20:10, 20:15, 21:5
classical
43:13, 43:22
clear
19:21, 24:14, 50:13
clearer
15:5
clearly
9:25, 38:9
close
32:16
closed
32:12, 35:6
closes
22:8, 22:10
closing
16:19, 29:9
cole
6:24
color
25:20, 26:8
colored
27:19, 28:2, 28:22, 29:24, 30:1
column
45:14, 45:15, 46:5, 46:6, 46:20
combined
50:21
come
35:1, 51:1
comes
11:11, 12:20, 14:21, 33:4
commencement
53:9
commencing
53:18
comments
34:6
communicated
40:23

communicating
16:15, 49:19
comparable
16:2
compare
18:8
completely
34:16
components
31:11, 40:20, 41:13
compress
16:16, 18:19, 21:23, 21:24, 22:13, 22:17, 22:18, 23:1, 23:4, 28:13
compresses
22:5
compression
35:21
compressive
16:12, 16:18, 16:22, 18:19, 18:25, 19:3, 19:4, 19:5, 19:15, 19:20, 20:13, 22:7, 22:14, 28:23, 30:9, 31:16, 32:23, 33:17
computer
6:9, 9:8, 9:16
conceivable
35:3
concluded
51:14
concludes
51:11
condition
9:13
configuration
12:24, 20:21, 32:10, 45:17
configurations
31:13
configure
30:9
configured
20:23, 22:3, 22:15, 24:3, 24:4, 27:21, 29:4, 30:10, 32:14, 32:19, 35:22, 42:16
confirm
9:14, 39:7, 40:14, 41:5, 41:24, 42:16, 42:18, 42:21
confirmation
39:12, 40:12, 40:18
confirmed
17:24
congruent
50:5
connect
6:13
connected
31:17, 32:24, 33:18
connecting
6:13
considered
19:9, 21:17, 21:18, 35:17
consistent
8:11, 41:18
consistently
47:14
constant
36:17, 37:2, 37:6, 37:24, 39:9, 41:6, 42:5
construct
42:20
construction
28:7, 37:9, 45:4
construed
47:5
contained
52:8
container
12:6, 19:13, 20:11
container's
45:24
contaminate
14:10
content
10:10
context
34:7, 38:1, 39:17, 39:21, 40:17, 44:11, 47:10, 48:9, 48:19
continue
35:14
controlled
38:24
convenient
13:1
conversation
32:6
conversations
6:11
convex
30:23
convey
39:3
copy
9:11, 9:12, 9:18, 17:15
corners
30:24
correct
14:25, 16:23, 36:21, 48:23, 52:9
corrected
52:9
corrections
52:6
costa
3:7
could
7:19, 12:5, 12:12, 12:22, 13:9, 13:22, 15:10, 17:7, 21:21, 23:7, 24:9, 27:2, 27:10, 31:2, 34:14, 34:21, 35:13, 36:12, 37:22, 37:23, 38:18, 39:14, 39:19, 39:21, 40:6, 40:10, 41:2, 41:11, 41:14, 41:16, 42:16, 42:18, 42:19, 42:20, 43:25, 44:6, 45:1, 45:7, 45:12, 46:3, 47:20, 48:10, 49:6
counsel
7:1, 10:11, 11:1, 51:11, 53:14
county
53:3
couple
30:18
coupled
46:8, 49:16, 50:2, 50:19, 50:21
course
32:12, 34:11
court
7:11
courtroom
8:23
covering
20:18
cross
24:13
cross-sectional
15:5, 45:17
csr
1:30, 53:31
cut
38:14, 39:22
cutting
34:22
cylindrical
37:16

D
damage
30:22, 31:8
dark
15:10, 25:20, 26:9
date
6:22
dated
52:11
datums
41:17
day
52:11, 53:26
decision
10:25
declaration
9:11, 9:18, 10:14, 10:16, 10:17, 10:21, 10:24, 21:22, 36:13, 36:15, 37:10, 52:1
define
44:8
defined
36:18, 37:3, 37:7, 37:13, 37:25, 39:10, 40:8, 41:7, 41:9, 42:6, 44:21, 47:3, 47:19, 49:22
definition
26:13, 43:4, 43:7, 44:18, 48:23, 49:4, 50:20
deflect
33:25
deform
15:12, 16:1, 19:8, 22:6, 27:21, 28:19, 29:4, 29:5, 30:9, 31:2, 31:10, 32:2, 32:3, 32:21
deformable
28:6
deformation
16:4, 23:2, 23:6, 28:24, 29:8, 31:1, 32:4, 32:6, 34:19, 35:11, 35:13
deforms
13:5, 13:6
degrees
14:16, 14:18, 39:2
depends
35:22, 48:19
depos
6:25, 7:12
deposition
1:19, 2:1, 6:18, 7:1, 7:20, 10:19, 51:12, 52:5, 52:7, 53:8, 53:10, 53:15, 53:16
describe
12:5, 12:12, 12:22, 13:9, 22:2
described
27:9, 27:13, 28:6, 29:3, 29:15, 32:5, 48:11, 49:23, 50:12
describes
47:1
describing
20:21, 20:24, 48:5
descriptions
40:15
design
22:22, 33:6, 34:20
designed
16:1, 22:17, 22:24, 23:1, 23:2, 23:3, 23:5, 25:7, 26:16, 26:18, 27:20, 27:21, 29:11, 32:2, 32:21
desired
22:11
detail
10:22, 48:24
device
44:12
difference
23:2
different
14:20, 16:25, 17:3, 18:12, 19:2, 19:10, 22:20, 24:19, 25:20, 26:8, 26:9, 31:22, 32:22, 43:23, 44:3, 44:11, 45:5, 47:24, 48:16, 50:4, 50:18
direct
7:15
directed
18:1, 19:18, 20:15, 20:19
directing
34:6
direction
14:24, 19:7, 49:25, 50:4, 50:18
directions
16:25, 17:3, 18:12
disagree
43:9, 44:17
disagreed
44:4
discloses
12:8
disclosure
18:24, 22:19, 39:18, 44:25
discuss
7:24, 7:25, 10:10, 21:22, 42:25
discussed
21:15, 27:1, 42:17, 44:7, 45:20
discussing
8:5
discussion
6:9
dispensing
12:14, 12:24, 13:10, 14:11, 14:19, 15:3, 15:15, 41:4
dissipate
28:24
distal
15:9, 25:21, 26:7, 27:1, 41:24, 46:8
distance
36:17, 37:2, 37:6, 37:24, 39:9, 41:6, 41:15, 41:19, 41:20, 42:5, 43:10
distinct
23:4, 27:12
distort
16:20
document
5:3, 5:5, 17:17, 38:17
documents
9:10
doing
16:20, 40:3
down
18:17, 24:9, 27:17, 27:23, 28:20, 29:8, 29:22, 33:4, 34:22

dr
10:23, 43:14, 44:17
drink
12:6, 12:23, 19:13, 20:11, 25:15, 34:16, 34:21, 34:24, 35:9, 35:11, 35:13, 45:18
drinking
24:22, 26:3, 27:4, 27:5, 27:18, 27:25, 28:1, 28:5, 28:11, 28:21, 29:23, 30:14, 31:6, 34:24, 34:25, 35:3, 35:5, 35:6, 35:21, 45:19
drunk
35:14
duly
53:9
during
7:20, 10:11, 11:3, 17:18, 31:8, 35:6, 35:21, 36:9
durometer
29:5

E

each
6:14, 34:3, 45:6, 49:21, 50:15
earlier
10:5, 15:20, 26:22, 27:1, 31:22, 49:23
earth
42:25, 43:5, 43:6, 43:11, 43:16, 43:17, 43:25
easier
8:4, 8:5
easily
29:6
effectively
35:14
either
14:5, 48:2
element
23:13, 24:13, 27:19, 28:3, 28:22, 29:24, 30:2, 34:17, 34:18, 35:10, 35:12
elliptical
43:12
elsewhere
9:5, 24:1
embedded
30:16
embodiment
12:25, 13:3, 13:14, 14:16, 14:21, 15:6, 15:21, 39:5, 42:10, 42:11
embodiments
14:19, 20:4, 22:1, 29:17, 44:11, 47:7, 47:15
employed
53:22
enabled
6:11
encasing
25:5
encompass
19:13
encountered
31:16, 32:22
end
12:4, 12:7, 15:10, 26:7, 38:2, 39:8, 41:24
engage
13:2, 26:11, 26:13, 26:17, 26:18, 26:24, 27:2
engaged
9:9, 13:20, 15:13, 15:24, 20:1, 34:25, 37:16, 38:7, 38:25, 49:15, 49:19, 50:2, 50:6, 50:15, 50:17
engages
26:15, 28:12, 47:18
engaging
25:10, 29:18, 31:25
enough
15:12, 16:9, 32:7, 32:13
entirely
23:16, 23:22, 23:23, 24:7, 24:13, 24:19, 24:20, 24:21, 25:13, 25:15, 26:3, 30:14, 44:3
enveloping
13:24
errata
52:7
especially
26:24, 30:24, 32:11, 39:17
esq
3:5, 3:12
evaluate
31:14, 34:4
evaluated
48:24
evaluating
49:11
even
8:20
ever
31:15, 33:13
every
40:6
everyone
6:3
evidence
47:4
evident
23:11, 23:25
exact
30:19
examination
4:4, 7:15, 17:18
example
22:23, 25:18, 38:6, 41:17, 41:21, 45:16, 46:3, 46:17, 46:23, 46:25, 48:25
examples
46:7, 46:18, 47:2, 47:3, 47:4, 47:7, 47:9, 47:15
excuse
9:2
exercise
42:17
exhibit
5:1, 5:2, 10:15, 11:20, 11:22, 11:25, 12:2, 17:8, 17:9, 36:13, 45:8, 45:9
exist
21:7, 42:10
exit
25:21
expect
16:6
expected
16:5
experience
19:15, 20:13, 31:15
explain
37:23
exposed
24:3, 24:6,

24:16
extend
24:7, 25:1
extending
24:17
external
20:8

F

face
25:19, 25:21, 27:1
fact
43:21
far
44:18
feature
26:9, 38:5
figure
12:14, 12:15, 12:18, 12:19, 12:23, 13:11, 13:12, 13:25, 14:12, 15:3, 15:16, 23:15, 23:25, 38:8, 40:15
figures
12:3, 12:7, 15:14, 24:11, 38:1, 38:3, 39:7, 40:19, 40:24, 41:1, 41:10, 41:11, 41:14, 41:18, 41:22, 41:25, 42:23
filed
9:12, 9:13
fill
12:10
financially
53:24
find
45:4
fine
7:18, 7:22, 8:9
finger
14:7, 14:9, 14:10, 15:17, 15:19
firm
7:5, 7:8
first
11:15, 39:15, 45:2, 45:13, 47:21
fit
20:3, 22:3, 22:16, 22:25
fits
29:20
five
50:25
fixed
40:21, 43:11
flex
15:10
flexible
23:13, 24:15, 24:16, 25:5, 26:20, 27:12, 27:13, 27:15, 28:9, 28:10, 28:12, 28:15, 29:2, 29:5
flow
16:21, 22:6, 32:7, 32:18
flowing
22:11
fluid
16:21, 22:6, 22:9, 22:10, 25:11
follow-up
51:11
food
45:24
force
15:11, 15:12, 16:2, 16:25, 19:3, 19:7, 19:11, 20:8, 21:13, 30:15, 30:21, 31:2, 31:3, 31:11, 31:18, 31:23, 32:25, 33:7, 33:10, 33:14, 33:19, 33:24, 34:1, 34:9
forces
16:12, 16:18, 16:22, 17:3, 18:12, 18:19, 18:20, 18:25, 19:4, 19:5, 19:11, 19:15, 19:20, 19:24, 19:25, 20:13, 20:18, 20:25, 21:4, 21:7, 21:10, 21:18, 22:7, 22:14, 28:23, 29:1, 29:6, 30:9, 30:17, 31:17, 32:14, 32:23, 33:5, 33:11, 33:15, 33:17, 34:13
foregoing
52:4
form
16:21, 26:5, 27:14, 28:24, 31:20, 33:2, 35:16, 46:10, 50:10
forth
43:14, 48:20, 48:22, 49:5, 53:8
fourth
46:22
frames
32:5
friction
20:3
front
38:12
full
46:22
function
22:18, 27:9, 35:14
functions
19:19, 44:12
fundamentally
32:17
further
14:23, 14:24, 45:4, 50:22, 53:13, 53:16, 53:20

G

generally
48:18
getting
20:20
give
8:21, 11:24, 17:10, 29:17, 40:17
given
7:14, 53:12
go
9:20, 10:3, 10:15, 18:2, 29:18, 36:23, 38:21
going
9:21, 17:5, 29:8, 29:9, 32:8, 32:16, 32:17, 34:10, 36:4, 42:2, 42:23, 51:4, 51:12
good
7:16, 7:18, 10:8, 35:24
grand
3:13
grasp
12:16
gravity
19:24, 21:8
green
15:10, 15:22, 23:13, 24:1, 24:12, 24:16,

25:20, 26:9, 27:19, 28:2, 28:22, 29:24, 30:1, 32:15, 32:17, 38:21
ground 10:9
guess 25:20, 43:25, 48:12
guidance 40:17

H

hand 53:26
handle 14:13, 14:14, 15:2, 15:18
hands 45:23
happen 11:8, 14:12, 14:23, 15:16, 27:17, 27:23, 27:25, 35:4
happening 33:12, 39:4, 40:16
happy 10:6
hard 22:24
hardy 3:11, 7:9
hatched 24:13
header 44:7
held 2:3, 15:17, 16:4, 16:5
help 6:12, 47:12
helpful 17:13
helps 15:21
here 6:17, 7:5, 7:6, 7:24, 7:25, 8:16, 11:24, 12:4, 14:3, 14:17, 16:15, 18:8, 20:25, 22:12, 23:24, 24:12, 25:24, 26:12, 26:14, 29:7, 30:4, 30:5, 31:24, 33:8, 34:7, 37:9, 39:25, 45:15, 46:1, 46:6, 46:15, 46:17, 48:19
here's 17:11
hereby 52:3, 53:5
herein 52:8
hereinbefore 53:8
hereto 52:7
high 29:1, 43:9
holding 45:23
home 9:1, 9:3
hour 10:4
hours 11:2
house 9:5
however 17:15
hundreds 31:2
hypothetical 33:4, 34:3, 42:9

I

identification 11:21, 11:22, 17:7, 17:9, 45:8, 45:9
identified 10:14, 23:13, 23:17, 24:15, 25:2, 25:23, 25:25, 26:8, 26:16, 26:21, 27:5, 38:9, 41:15, 41:16
identify 6:12, 6:14, 7:2, 45:5
ignoring 43:20
illustrate 43:14
illustrated 13:25, 25:19, 38:4, 39:25
illustrative 46:7, 46:18, 46:24
imagine 40:25
impart 32:13
implementation 41:1, 41:5
inadvertently 29:9, 35:6
incapable 30:15
includes 46:16, 46:17
inconsistently 47:14
independent 18:15, 18:16, 19:12, 20:10, 21:3, 21:5, 21:16, 50:21
independently 17:24
index 4:1, 5:1
indicates 38:6
indicating 34:17
individual 11:10
individually 31:14, 34:5
individuals 11:7, 11:9, 11:13
inform 15:22, 47:12
information 42:21
informed 10:10
informing 47:17
inherent 20:6
initial 10:9
inserted 23:14, 33:9
inside 13:23, 31:3, 33:24, 34:1
instance 17:1
institution 10:25
intended 13:4, 19:8, 37:15, 39:3, 47:13
intention 40:23
interested 53:24
interference 20:3
internally 30:5
interruptions 6:16
inventor 11:15, 11:16
inventors 11:8

inwardly
16:19
ipr
1:6, 6:21, 7:24, 8:1, 8:6, 8:7, 8:9
issue
8:10
issued
17:21
itself
25:22, 37:17, 47:22

J

jacob
3:5, 7:4
jason
3:12, 7:8, 50:23
jaw
16:19
jobin
1:20, 2:3, 4:3, 6:18, 7:16, 7:21, 17:13, 36:9, 51:12, 52:3, 52:16, 53:7, 53:17
joint
46:9, 46:10, 46:11
july
1:21, 6:22, 52:5, 53:18, 53:26

K

kansas
3:14
kirkendall
6:24
know
7:19, 10:6, 11:9, 11:14, 21:1, 31:4, 31:5, 34:7, 35:22, 44:23
knowledge
44:24

L

language
17:6, 18:1, 18:3, 18:4, 18:7, 21:5, 39:3, 49:7, 49:9, 50:6, 50:8, 50:11
laptop
9:8
large
16:9
last
23:21, 24:18, 32:20, 36:14, 36:21, 46:20
lateral
36:19, 37:4, 37:8, 37:18, 37:25, 39:10, 40:9, 42:7
law
7:4
lay
49:1, 49:2
lead
19:22
learns
47:6
least
15:9, 20:17, 21:18, 31:11, 45:18
left
25:18
let's
12:5, 16:8, 34:14, 41:23, 42:24
letter
41:7
level
43:9
lewis
3:4, 7:5, 7:7
lift
14:8
light
28:17, 37:10
limitation
18:17, 19:2, 19:17, 21:15, 37:12, 42:8, 49:12, 49:14, 49:23, 50:13
limitation's
50:5
limitations
37:11
limited
34:13
line
41:21
lines
45:14, 45:15, 46:6, 46:21
lips
25:10, 26:17, 26:19, 29:11, 30:11, 32:1, 35:1
liquid
12:6, 13:7, 29:20, 34:22
little
12:16, 14:7, 29:12, 32:21, 39:23
llc
1:4, 1:10, 6:19, 6:20, 53:14
llp
3:4, 3:11
located
8:25, 27:18, 28:2, 28:21, 29:23, 38:11, 41:20
location
2:6, 13:1, 16:17, 29:14
logical
14:8, 15:8, 34:2
logically
30:20
longer
11:4
look
15:4, 15:20, 17:5, 18:2, 18:5, 21:25, 23:11, 34:4, 37:12, 39:14, 40:14, 45:6, 45:22, 46:5, 46:20
looking
17:16, 18:14, 38:8, 38:17, 39:19, 43:1, 45:3, 48:25
looks
11:7, 30:25
los
1:22, 53:3
lot
30:22, 49:18
low
29:6
lower
25:18

M

made
13:6, 15:7, 17:18, 23:5, 27:4, 27:11, 27:14, 34:20, 52:6
magnitude
33:5, 33:15
maintain
27:22, 37:6, 37:23, 39:8
maintained
42:7
maintaining
36:17, 37:2
maintains
41:5

make
8:4, 44:4, 50:20
makes
19:21
mark
11:20, 17:7, 38:19, 41:21, 45:7
marked
11:22, 15:10, 17:9, 45:9
marking
11:23
marriage
53:22
massachusetts
9:1
material
10:25, 13:6, 15:8, 15:12, 16:1, 20:6, 21:12, 22:17, 22:23, 23:5, 23:19, 24:5, 26:20, 27:4, 27:6, 27:8, 27:9, 27:11, 27:13, 27:16, 28:9, 28:15, 28:25, 29:2, 29:3, 29:7, 30:13, 33:23
materials
9:6, 31:13, 33:5, 34:11
matter
6:19, 35:24, 36:15, 36:25, 53:25
maybe
18:16, 50:25
mean
16:12, 19:24, 21:8, 21:24, 23:10, 23:23, 30:4, 31:23, 34:2, 35:1, 37:5, 37:11, 40:14, 44:16, 47:23, 48:2, 48:4, 48:18, 49:2, 50:3
meaning
19:3, 44:14, 47:24, 48:8, 48:17
means
22:15, 37:23, 38:23, 44:13, 49:24, 50:20
meant
34:18
measure
41:12, 41:14, 41:22
measurements
40:11, 41:3
mechanical
43:24
mechanics
43:22
media
6:17
mentioned
8:12
mesa
3:7
messick
7:7
met
11:1, 11:16, 11:18, 11:19
mic
6:10
michael
1:20, 1:29, 2:3, 2:14, 4:3, 6:18, 7:12, 51:12, 52:3, 52:16, 53:4, 53:7, 53:17, 53:31
microscopic
32:3
might
16:5, 21:11, 24:11
mind
11:5, 11:11, 40:3
minute
50:25
missouri
3:14
model
42:18, 42:20
modifications
17:17
moment
9:11, 45:13
monitor
6:23
moon
42:25, 43:3, 43:15, 43:17
more
25:12, 30:10, 34:13, 48:15, 49:12
morgan
3:4, 7:5, 7:7
morning
7:16, 7:18
most
20:4
mostly
15:23
motion
36:16, 37:1, 37:21, 38:7, 39:24, 40:11, 41:3, 42:3, 42:5, 42:14, 42:19, 43:4, 43:8, 43:12, 43:21, 43:23, 47:18, 48:6, 48:13, 48:21, 49:4
mount
12:19, 13:15, 13:18, 13:19, 13:23, 14:3, 14:5, 14:15, 14:21, 15:13, 15:17, 15:23, 15:24, 16:4, 16:7, 20:2, 21:13, 23:14, 23:16, 23:19, 24:5, 24:7, 25:3, 37:16, 37:17, 37:20, 38:15, 38:20, 38:24, 38:25, 39:1, 39:22, 40:8, 40:9, 40:19, 41:13, 42:12, 44:1, 44:2, 46:8, 46:13, 47:8, 47:10, 47:17, 49:9, 49:10, 49:15, 49:16, 49:17, 49:22, 50:4, 50:9, 50:14, 50:19
mouth
13:2, 22:4, 22:16, 22:25, 26:14, 26:15, 26:24, 27:3, 29:20, 49:20, 50:6
mouthpiece
12:13, 12:20, 12:23, 12:24, 12:25, 13:2, 13:3, 13:5, 13:10, 13:15, 13:18, 13:19, 13:22, 14:2, 14:5, 14:10, 14:11, 14:13, 15:1, 15:7, 15:9, 15:15, 15:18, 15:22, 16:3, 16:5, 16:15, 16:17, 18:18, 18:20, 19:14, 19:19, 20:1, 20:12,

20:17, 21:9, 21:10, 21:19, 22:8, 22:12, 22:20, 22:21, 22:22, 22:25, 23:3, 23:12, 23:17, 23:18, 24:2, 24:6, 24:21, 25:9, 25:15, 25:16, 25:22, 25:23, 26:1, 26:3, 26:7, 26:10, 26:12, 26:13, 26:22, 26:23, 29:2, 29:14, 29:17, 29:19, 30:8, 36:18, 37:3, 37:7, 37:15, 37:20, 37:24, 38:5, 38:6, 38:15, 38:20, 38:23, 39:9, 39:23, 40:7, 40:18, 41:6, 41:12, 41:23, 42:6, 42:13, 46:7, 49:15, 49:19, 50:3, 50:13, 50:18
move
12:17, 15:25, 39:25, 40:8, 49:20, 49:21, 50:3
movement
49:8, 49:10, 49:12, 49:17, 50:9
moves
37:20, 47:9, 48:4
moving
50:14, 50:15, 50:17, 50:18
much
30:21, 34:13, 39:20
mudd
3:12, 7:8, 26:5, 31:20, 33:2, 33:21, 35:16, 36:2, 50:10, 50:25, 51:8
must
47:5
mute
6:10
myself
8:4

N

name
4:2
named
11:8, 11:15, 11:16
natural
15:13
nature
33:6, 34:11
near
12:4, 15:9
necessarily
20:7, 28:14
need
34:24
needs
28:9
never
11:16
next
23:7, 24:9, 35:24, 42:24, 45:1, 46:4, 46:5, 47:20, 49:6
nobody
9:4
non-resilient
22:21
normally
18:2
note
18:14, 45:13, 46:1, 46:15, 46:22
noted
52:6
nothing
14:23, 27:22, 27:24, 35:4
notice
2:14
number
5:2, 6:17, 6:21, 8:11, 14:16, 39:2, 39:13, 46:20
numbers
30:20

O

oath
7:14, 8:22
object
26:5, 31:20, 35:16, 42:2, 50:10
objection
33:2, 33:21
observed
43:20, 48:19
obtain
39:12, 40:12
obviously
9:9
occurred
53:17
office
1:1, 6:21, 9:5
okay
9:22, 16:11, 36:7, 36:22, 50:22, 51:10
once
13:13, 21:25, 28:25
one
6:6, 6:17, 11:24, 13:20, 15:17, 17:10, 19:1, 19:7, 21:14, 22:3, 25:8, 26:10, 27:2, 27:6, 28:4, 28:7, 28:8, 28:16, 29:1, 30:7, 30:17, 30:21, 30:22, 31:1, 31:17, 32:1, 32:16, 32:24, 33:18, 35:3, 39:13, 39:19, 40:3, 40:13, 40:17, 42:10, 42:15, 42:22, 44:12, 44:15, 46:21, 47:6
one's
29:11, 29:15
only
11:15, 18:7, 35:10, 35:12, 39:19
open
9:15, 13:6, 32:8, 32:11, 32:12, 38:22
opening
16:21
operate
19:9
opinion
26:11, 28:16, 32:2, 48:20, 48:23
opinions
49:5
opposite
27:18, 28:2, 28:21, 29:23
orbit
43:11
orbital
43:22
order
14:5, 16:19, 20:22, 22:18, 24:3, 27:9,

28:12, 34:5, 38:21
ordinary 18:23, 19:22, 25:4, 25:8, 27:7, 28:4, 28:17, 30:7, 31:6, 39:6, 39:11, 39:14, 40:10, 40:13, 41:2, 42:11, 42:15, 42:22, 44:12, 44:15, 44:22, 44:24, 47:6, 48:1
orientation 46:12
oriented 45:19
other 9:15, 11:12, 14:19, 19:25, 20:25, 21:4, 21:7, 21:10, 23:17, 24:5, 27:15, 29:15, 32:8, 38:3, 39:17, 39:21, 46:11, 47:7, 47:15, 49:21, 50:15, 50:16
otherwise 9:22, 53:24
out 25:11, 27:11, 27:14, 29:21, 39:21, 39:22
outcome 53:25
outer 16:16
outlet 49:15, 49:20, 50:4, 50:7
outside 13:24, 19:24, 20:8
oval 29:19
over 6:6, 13:24
owner 1:12, 3:10, 7:10, 51:8

P

pacific 6:23, 36:5, 36:8, 51:4, 51:7, 51:13
package 35:2
page 4:2, 5:2, 7:23, 12:2, 12:4, 17:12, 24:10, 25:19, 28:14, 38:17, 52:7
pages 1:28
paper 38:18, 39:24, 40:2, 42:17
paragraph 12:1, 12:5, 12:7, 16:8, 16:11, 21:21, 21:22, 23:7, 23:8, 23:22, 24:10, 24:25, 34:14, 36:12, 36:14, 36:20, 36:23, 36:25, 37:22, 38:2, 39:8, 42:24, 42:25, 44:6, 44:7, 45:1, 45:2, 45:13, 46:4, 46:19, 47:20, 47:21, 49:6, 49:7
paragraphs 16:14
part 12:17, 14:7, 15:22, 18:7, 21:15, 23:14, 24:10, 24:17, 25:25, 26:14, 26:16, 26:19, 27:14, 27:20, 28:18, 30:4, 31:17, 31:19, 32:24, 33:1, 33:6, 33:8, 33:18, 33:20, 34:1, 42:4
particular 8:6, 13:3, 14:15, 14:21, 14:23, 15:6, 16:13, 16:14, 16:17, 21:2, 27:6, 27:22, 27:25, 29:14, 31:12, 31:13, 34:12, 34:15, 38:21, 39:20, 41:19, 46:17, 48:4, 48:5, 48:11, 48:25, 50:12
parties 6:25, 53:21, 53:23
party 53:13
pass 50:23
passage 22:10
passageway 13:7
passing 22:9
patent 1:1, 1:2, 1:9, 1:12, 3:10, 6:20, 7:10, 8:8, 8:9, 8:10, 8:11, 8:13, 8:14, 9:12, 9:19, 10:22, 11:8, 11:12, 11:16, 12:8, 16:14, 17:15, 18:2, 19:13, 20:11, 29:3, 39:18, 44:8, 44:10, 44:25, 47:1, 51:8
penalty 8:22, 52:1, 52:4
pencil 38:18
perhaps 39:20
perimeter 16:17, 23:16, 24:2, 25:1, 26:25, 45:17
perjury 8:23, 52:1, 52:4
permit 45:18, 49:9, 50:8
perpendicular 38:12
person 13:1, 13:14, 13:17, 18:23, 19:22, 25:4, 31:5, 39:6, 39:11, 40:10, 41:2, 44:14, 44:22, 44:24, 48:1, 49:1, 49:2
person's 15:11
personally 11:18
peterson 3:5, 4:4, 7:4, 7:15, 50:22, 51:2
petition 10:24
petitioner 1:6, 3:3, 7:6, 8:16, 25:24, 26:21, 43:14

petitioner's
26:11, 44:5
phone
6:14
phrase
16:12, 16:22, 19:3, 21:23, 21:24, 23:22, 23:23, 24:19, 25:13, 46:3, 46:16, 46:18, 46:24
physical
40:25, 41:5, 42:2, 42:20
physically
31:17, 32:24, 33:18
physics
36:15, 36:25, 48:14
picture
15:5
piece
23:18, 40:2
pieces
50:2
pin
40:1
pink
12:17, 13:23, 14:7, 23:15, 24:17, 25:2, 25:9, 25:24, 26:16, 26:19, 31:25, 38:20
pivot
12:19, 13:15, 13:18, 13:19, 13:23, 14:2, 14:5, 14:15, 14:21, 15:13, 15:17, 15:23, 15:24, 16:4, 16:7, 20:2, 21:8, 21:13, 25:3, 37:15, 37:16, 37:17, 37:20, 38:9, 38:15, 38:20, 38:24, 38:25, 39:1, 39:22, 40:1, 40:7, 40:9, 40:19, 41:13, 41:15, 41:16, 41:22, 42:1, 42:12, 44:1, 44:2, 47:8, 47:10, 47:11, 47:17, 47:22, 48:2, 48:10
pivotal
23:14, 23:16, 23:19, 24:5, 24:7, 44:8, 44:9, 44:10, 44:13, 44:14, 44:20, 46:10, 47:3, 48:21, 49:8, 49:9, 49:10, 49:11, 49:16, 49:17, 49:22, 50:8, 50:9, 50:14, 50:19
pivoting
25:3
pivots
37:18
place
15:17
plane
38:16, 38:17
planet
6:25, 7:12
planning
35:23
plastic
22:24, 24:5, 31:18, 32:24, 33:9, 33:18, 34:10, 34:11
plastics
31:9
please
6:5, 6:7, 6:10, 6:11, 6:14, 7:2, 7:13, 7:19, 10:5, 11:20, 12:5, 12:12, 12:22, 13:9, 16:8, 17:7, 17:12, 21:21, 23:7, 34:15, 36:12, 37:22, 37:23, 42:24, 44:6, 45:1, 45:7, 45:10, 47:20, 49:6
plural
16:23, 16:24, 18:20, 18:21, 19:11
point
19:17, 35:5, 40:1, 41:15, 41:16, 42:1
polycarbonate
27:12
polypropylene
27:10
portion
12:16, 24:1, 24:2, 24:12, 24:16, 25:2, 25:3, 25:9, 25:16, 25:22, 26:10, 26:18, 26:20, 27:19, 28:3, 28:11, 28:22, 29:24, 30:1, 31:25, 32:14, 32:15, 32:17, 36:22, 37:10, 41:23, 46:8
portions
15:25
posita
34:19, 35:7, 43:2, 43:6, 45:3, 47:22
position
12:13, 12:14, 12:18, 13:11, 13:16, 14:6, 14:12, 15:3, 15:16, 27:24, 30:13, 38:22, 38:23, 40:6, 40:22, 41:4, 45:22
positions
14:19
possibly
27:10, 27:11
pounds
30:18, 31:2
preclude
20:11, 50:16
precluded
21:4
precludes
21:17
prefer
7:20, 49:3
preparation
10:19
prepare
10:20
present
21:12, 25:18, 26:12, 42:1
presented
13:1, 29:13, 31:24, 35:19
pressure
16:2, 16:3, 31:10
presumption
17:23
pretty
30:3, 33:3
prevent
9:24, 22:10, 29:9
prevents
14:22, 22:8, 35:5
previously
42:17
primary
11:10

print
39:21
prior
10:23
proceeding
6:4, 6:8, 10:13
proceedings
51:14
process
17:19, 35:7, 35:21
products
1:10, 6:19
professional
2:15
projections
36:19, 37:4, 37:8, 37:13, 37:18, 38:1, 39:11, 40:9, 41:8, 42:7, 47:19, 49:22
protect
34:18, 35:20
protected
35:10, 35:12
protecting
25:4, 25:7, 33:23
protective
33:23, 33:25
protects
23:20, 31:8
provides
46:11
ptab
6:20
pull
17:11
pulling
45:11
purportedly
43:15
purposes
6:8
pursuant
2:14
push
13:14, 13:17, 13:22, 14:4, 14:24, 15:1, 16:19
pushed
14:13, 15:11, 15:18
put
14:6, 29:11, 38:18, 39:16, 40:1, 43:13, 48:20, 48:22, 49:5

Q

question
9:21, 17:13, 17:25, 18:9, 18:11, 19:10, 25:12, 32:21, 37:5, 48:15
questions
9:20, 12:3, 50:22, 50:24, 51:8, 51:11
quick
9:17, 51:1
quite
13:13, 30:6, 50:13
quote
22:13

R

radius
36:17, 37:2, 37:6, 37:24, 38:5, 39:9, 41:6, 42:5
range
34:12, 40:11, 42:3, 42:5, 42:14, 42:19
ranges
41:3
rather
14:14, 15:2, 19:3, 24:20, 25:23, 49:8
read
10:21, 10:22, 10:23, 10:24, 19:3, 34:16, 36:3, 51:3, 51:9, 52:4
reader
44:22
reading
46:21
real
9:17, 31:16, 32:23, 33:17, 34:11, 51:1
really
19:9, 30:10
recently
17:24
receptacles
37:17
recess
36:6, 51:5
recites
45:15
recollection
27:6
record
2:8, 6:8, 36:4, 36:8, 51:4, 51:6, 51:13, 53:11
recording
6:7
recurve
29:16
reexamination
5:4, 17:16, 17:20, 18:5
refer
8:6, 8:8, 8:13, 10:16
reference
9:10, 9:19
references
10:23
referring
16:11, 24:11
reflect
17:21
refrain
46:21
region
45:18, 45:24
registered
2:15
related
6:16, 53:20
relationship
40:20, 42:12
relative
41:17, 45:23, 46:13
relatively
29:6
release
22:7
remember
6:5, 6:10, 11:12, 15:6, 20:1
remote
1:19, 6:3, 6:23, 11:23, 17:10, 36:7, 45:10
remotely
2:3, 6:4, 7:1
removable
12:9
removably
49:16
repeat
36:24
repeated
17:13
rephrase
7:25
reported
1:29
reportedly
43:19
reporter
2:15, 2:16, 6:12, 7:11, 7:13, 53:5, 53:32
represent
7:3

represented
53:14
representing
6:24, 7:12,
8:16, 39:24
require
17:2, 18:11
requirements
43:3, 43:7
requires
36:16, 37:1,
49:8
requiring
45:21
resilient
13:6, 13:22,
15:8, 16:1,
18:18, 18:20,
19:14, 19:18,
20:12, 21:19,
22:8, 22:12,
22:20, 23:3,
23:12, 29:2,
49:15, 50:3
resiliently
18:18, 21:23,
21:24, 22:5,
22:13, 22:18,
27:21, 28:5
resist
23:2, 23:5,
29:8
resistant
31:1
respond
20:17, 21:20
responding
17:25
responds
19:19
responsive
18:19, 22:13
rest
41:10
restricted
14:16
resulted
31:18, 32:25,
33:19
resulting
29:25
review
11:4, 15:21
ribarits
24:1, 25:25,
26:19, 28:10,
34:7, 35:13,
35:18
ribbing
30:5, 30:25
right
7:21, 8:6,
8:12, 10:15,
11:20, 12:2,
17:11, 28:14,
35:23, 45:12
rigid
13:23, 14:3,
22:23, 23:5,
23:19, 26:19,
27:8, 27:20,
28:14, 28:18,
28:25, 29:7,
30:15, 32:13
robust
30:4, 30:5,
30:24
room
9:4, 9:7
rotate
13:15, 13:21,
14:4, 14:9,
14:17, 16:6,
38:21, 39:2,
40:2, 40:22,
42:14, 42:19,
47:10, 48:7,
49:24
rotated
12:19
rotates
38:16, 39:1,
40:21, 44:2,
47:23, 47:24,
48:3, 48:10,
48:11, 48:16
rotating
14:17, 14:22,
43:15, 43:18,
44:1, 44:3, 49:2
rotation
14:20, 36:16,
36:18, 37:1,
37:3, 37:7,
37:25, 38:4,
39:10, 41:7,
42:6, 43:17,
43:19, 44:16,
48:5
rotational
36:16, 37:1,
37:21, 38:7,
43:4, 43:8,
43:12, 43:21,
45:22, 46:12,
47:10, 47:11,
47:18, 48:13,
48:21, 49:3,
50:1
rotationally
45:19
rounded
23:19
rpr
1:30, 53:31
rubber
27:15
rule
10:9
ruler
41:12
run
6:5

S

said
8:17, 13:17,
24:19, 24:23,
25:6, 26:6, 26:7
sake
7:19
same
7:23, 8:22,
16:25, 17:3,
18:13, 21:1,
33:21, 39:2,
41:14, 41:25,
42:14, 48:3,
48:8, 49:3,
49:25, 50:1
satisfied
42:8
satisfy
43:3, 43:7
say
12:5, 14:25,
25:13, 31:24,
36:15, 36:25,
41:24, 43:2,
43:25, 45:2,
47:21, 48:12,
49:7
saying
26:22, 48:1
says
17:6, 19:5,
22:12, 46:7
scale
39:21
scenario
19:7, 20:16,
31:16, 31:24,
32:23, 33:11,
33:17, 35:18
scientific
48:12, 49:4
scissors
39:22
scope
21:2, 44:23
screen
11:21, 16:9,
38:12, 38:13,
38:16, 45:11
screw
12:11
scroll
24:9, 49:13
seal
27:14, 28:13
second
11:24, 17:10,

17:12, 34:15, 36:14, 36:21, 43:1
section 15:21, 23:12, 23:25, 24:13, 26:25, 27:18, 28:1, 28:20, 29:22, 38:11, 38:13, 39:14, 39:20, 49:13
sectional 38:10
sections 30:4
see 14:6, 16:10, 17:6, 18:7, 20:25, 23:24, 24:12, 24:14, 25:19, 33:12, 38:19, 40:6
seems 19:10
seen 26:25, 33:14, 33:16
selectively 45:16
sense 33:13, 43:13, 43:22, 44:4, 50:20
sentence 23:8, 36:14, 36:21, 43:2, 45:2, 46:2, 46:16, 46:23, 47:21
sentences 34:16
sequentially 45:20
set 53:8
several 11:1
shape 16:20, 27:22, 29:12, 29:13, 29:16, 29:20, 30:6, 30:23, 30:25
shaped 30:12
shaping 45:16
shedding 37:10
shook 3:11, 7:9
shorthand 2:16, 8:7, 8:13, 10:16, 53:5, 53:32
should 6:9
shown 12:7, 12:14, 12:18, 12:23, 13:11, 13:12, 14:3, 14:12, 15:3, 15:14, 15:16, 18:5, 20:4, 22:2, 23:15, 28:13, 34:7, 38:1, 39:8, 41:1
shows 15:6, 17:17
sides 18:25, 27:18, 28:2, 28:21, 29:23
sign 51:9
signature-p1kal 53:29
signed 52:7
significant 30:19, 32:7
silicon 27:15
simplifying 43:23
simply 12:17, 13:14, 39:22
simultaneously 19:14, 20:13
singular 19:11
sir 11:23, 17:10, 45:10
situation 20:19, 21:14, 34:3, 42:9
skill 18:23, 19:22, 25:4, 25:8, 27:7, 28:4, 28:17, 30:7, 31:6, 39:6, 39:12, 39:14, 40:10, 40:13, 41:2, 42:11, 42:15, 42:22, 44:13, 44:15, 44:22, 44:24, 47:6, 48:2
sleeve 33:23, 33:25
slightly 24:18
slit 16:20, 22:5
slowly 6:6
smoothly 6:5
soft 29:4
some 12:3, 16:4, 20:2, 20:3, 21:11, 29:17, 29:25, 31:3, 31:4, 31:9, 31:11, 32:4, 35:10, 35:12, 38:5, 41:17
something 21:2, 27:2, 33:14, 44:2, 47:23, 48:4, 50:17
sometimes 8:8
somewhere 29:18
sorry 36:22
sort 13:24, 29:19, 34:3
sounds 10:8
source 19:16, 20:14
speak 6:6, 36:9
speaking 6:12, 6:15, 48:18
spec 29:15, 32:5, 41:10, 48:22
specific 8:14, 10:17, 20:16, 48:16, 49:12
specifically 25:12, 43:1, 46:1
specification 12:8, 14:1, 19:21, 22:1, 28:18, 45:3, 47:8, 47:16
spoke 32:20
spout 24:22, 25:15, 26:4, 27:4, 27:5, 27:18, 27:25, 28:1, 28:5, 28:11, 28:21, 29:23, 30:14, 31:7, 32:11, 32:13, 34:16, 34:24, 34:25, 35:3,

35:5, 35:9, 35:11
stand 45:10
state 2:17, 7:2, 15:13, 32:12, 40:4, 40:5, 47:2, 53:1, 53:33
stated 2:8, 15:20, 21:6, 24:24, 31:23
statement 31:12, 45:15, 46:2
statements 47:2
states 1:1, 6:20, 18:17, 28:11, 40:4, 49:14
stationary 16:4, 16:6
steps 39:11
still 35:13
stop 14:22
stowed 12:13, 13:11, 13:16, 14:6, 14:18, 38:22, 40:4, 40:22, 41:4
straightforward 13:13
strength 33:5
stress 21:11, 29:25
structure 20:21, 23:4, 30:7, 30:14, 31:18, 32:25, 33:9, 33:19, 34:10, 35:8, 35:20, 45:25, 46:11
structures 30:16
subject 8:22, 35:24
submitted 10:13
suck 13:7
sucking 25:10, 29:20
suitable 27:8, 27:15, 46:11
suite 3:6
sun 43:1, 43:4, 43:8, 43:11, 43:18
supply 34:22
support 45:4
supported 13:23, 15:22
supports 41:11
suppose 19:25, 48:18
sure 33:14, 33:22, 36:1, 51:2
surrounded 23:9, 23:22, 23:23, 24:4, 24:8, 24:20, 24:22, 24:25, 25:1, 25:13, 25:14, 25:15, 25:24, 26:3, 26:24
surrounding 15:24, 25:6
surrounds 23:16, 26:20, 34:17
swear 7:13
sworn 4:3, 53:9
system 21:7, 43:13, 43:15, 43:24

T

tab 14:7, 14:9
take 10:4, 10:5, 39:12, 40:11, 41:12, 46:10, 50:25
taken 36:6, 51:5, 52:5, 53:11
talk 6:6
talked 21:11
talking 19:6, 32:3, 33:8, 49:14
talks 37:12, 40:15
tech 6:3, 11:23, 17:10, 36:7, 45:10
technical 6:15
teeth 16:18, 16:24, 17:2, 18:11, 18:21, 19:1, 19:6, 19:16, 19:20, 20:9, 20:14, 20:16, 20:18, 22:14, 22:17, 23:1, 28:23, 29:7, 29:15, 29:17, 30:10, 30:11, 30:18, 30:21, 30:22, 34:19, 35:1
tell 9:22, 42:22
tens 31:1
tension 20:5
term 23:8, 23:9, 25:6, 44:7, 44:8, 44:10, 44:16, 44:20, 44:21, 47:3, 47:5, 47:23, 47:24, 48:7, 48:8, 48:12, 48:13, 48:16, 48:17, 48:24, 49:3, 49:11
terms 10:3, 10:19
testifying 8:20, 8:23, 9:25
testimony 7:24, 8:1, 8:21, 10:11, 44:19, 52:8, 53:12
testing 31:4
textbook 48:14
texts 41:11
th 6:22, 53:26
thank 6:3, 6:16
thanks 7:18
themselves 7:2, 39:7
therefore 43:12
thicknesses 30:23

thing
30:23, 49:3
things
8:4
think
19:23, 21:6, 21:10, 21:14, 25:6, 30:3, 34:3, 35:7, 44:21, 50:11
thinking
9:25, 30:17, 30:20
third
34:15
thirds
18:16
three
11:7, 45:5, 45:6
through
9:20, 10:21, 10:22, 10:23, 13:7, 13:8, 16:21, 32:8, 38:11, 38:14, 38:15, 42:4, 42:13
throughout
40:11, 41:3, 42:2, 42:14, 42:19, 47:15
thumb
15:11
thursday
1:21, 53:17
time
6:14, 6:22, 6:23, 10:4, 16:25, 17:4, 17:21, 18:13, 21:1, 35:25, 36:5, 36:8, 50:23, 51:4, 51:13
tip
15:9, 15:25, 22:23
today
6:24, 7:11, 7:17, 7:21, 8:16, 8:21, 8:25, 9:3, 9:7, 9:20, 10:1, 10:3, 10:20
today's
6:22
together
13:21, 14:3, 14:4, 16:6, 35:2, 39:2, 39:17, 40:8, 40:22, 49:21, 50:14
tons
34:9
top
11:11, 12:4, 24:9, 25:17
topics
35:24
toward
20:15
towards
14:14, 15:2, 15:18, 18:1, 18:15, 19:18, 20:19, 20:20
trademark
1:1, 6:21
transcript
52:5
transfer
31:19, 32:25, 33:19, 34:1
transferred
30:1, 33:10
transition
12:13, 13:10
transmit
31:3, 31:11
transmitted
33:7, 33:14
transmitting
30:15
trap
46:9
treat
47:4
trial
1:2
trove
1:4, 6:19, 7:6, 8:17, 53:14
true
39:15, 42:2, 42:4, 42:23, 52:9, 53:11
truthfully
9:25
try
10:3
tube
23:13, 24:15, 24:16, 25:5, 26:21, 27:12, 28:10, 28:12, 29:10, 31:3, 31:7, 31:8, 32:8, 32:11, 33:8, 35:5, 35:20
tubular
27:19, 28:3, 28:22, 29:24, 30:1, 34:17, 34:18, 35:10, 35:12
turn
12:1, 16:8, 21:21, 23:7, 34:14, 36:12, 37:22, 42:24, 44:6, 45:1, 45:12, 46:4, 46:19, 47:20, 48:8, 49:6, 49:24
turning
49:1
turns
47:23, 47:25, 48:3, 48:11, 48:17, 48:23
two
9:9, 11:12, 16:25, 17:3, 18:12, 18:16, 40:4, 40:20, 40:24, 43:14, 47:15, 49:20
tying
47:11, 48:9
type
10:25, 20:2, 20:3, 20:6, 21:11, 32:4, 48:5, 48:13
typically
20:2

U

un-annotated
9:13
unable
6:13, 15:1
under
8:22, 15:11, 16:2, 19:19, 29:6, 31:2, 31:10, 31:23, 52:1, 52:3
understand
8:18, 8:21, 9:21, 18:24, 19:23, 22:1, 25:7, 25:8, 27:7, 28:5, 28:7, 28:8, 28:17, 30:8, 31:5, 35:8, 37:11, 37:14, 37:21, 39:15, 39:16, 42:11, 42:15, 43:2, 44:13, 44:16, 44:23, 47:22, 48:2, 49:1
understanding
8:2, 10:12, 17:22, 18:22, 34:23, 37:19, 38:10, 40:3, 41:9, 47:17,

48:10
understands
31:6, 40:17
understood
9:23, 17:25, 25:3, 43:6, 44:18
unintentionally
34:21
united
1:1, 6:20, 21:12
unless
9:22
unscrew
12:10
upper
28:13
use
20:24, 23:8, 31:8, 40:4, 40:16, 40:22, 41:3, 47:9, 49:3
user
12:6, 12:10, 12:12, 12:16, 12:22, 13:4, 13:7, 13:9, 14:13, 14:25, 15:17, 16:16, 20:22, 20:23, 25:10, 27:17, 28:1, 28:19, 28:20, 29:22, 32:1, 34:20, 34:23, 35:15, 45:19, 45:22
user's
18:21, 19:1, 19:15, 20:14, 20:16, 20:18, 22:4, 22:14, 28:23, 34:19, 45:23
uses
44:10
using
35:2

V

vallee
43:14, 44:17
vallee's
10:24
valve
19:9, 19:18, 20:22, 22:2, 22:3, 22:7, 22:8, 32:9, 45:21, 45:22, 46:9
various
22:1
velocity
50:1
verify
41:13
vessel
12:9, 12:11, 25:11
via
6:14
video
6:11, 6:13, 6:23, 6:25
videoconference
2:1
videographer
6:17, 6:24, 7:11, 36:3, 51:3, 51:6, 51:10
videotaped
1:19, 6:18, 51:12
view
15:5, 23:12, 24:1, 24:15, 25:17, 25:18, 26:25, 27:10, 27:14, 28:14, 29:10, 30:11, 33:11, 38:10, 38:11, 38:13, 38:24, 39:15, 39:20, 40:1, 44:5
viewer
47:12
virtually
8:20, 53:17
visible
25:17, 27:1
voice
7:2
vs
1:8

W

wall
30:4, 30:23, 45:24
want
14:9, 30:22
wanted
34:4, 39:7, 40:14
water
41:1
way
13:21, 13:25, 15:24, 18:17, 22:4, 22:5, 22:6, 22:10, 23:15, 30:11, 32:18, 37:18, 38:9, 38:25, 39:18, 40:21, 42:16, 49:20, 53:24
ways
39:13
we'll
45:13, 50:23, 51:9
we're
7:23, 7:25, 33:8, 37:9, 49:11, 49:14
wherein
18:17
whether
21:16, 33:7, 33:10, 33:13
wife
9:4
window
9:15, 9:18
windows
9:15
within
14:1, 16:14, 21:2, 24:13, 24:19, 31:7, 32:5, 39:18, 44:25, 47:7, 47:16
without
34:21, 45:21
witness
2:6, 4:2, 7:13, 26:6, 31:21, 33:3, 33:22, 35:17, 50:11, 53:7, 53:12, 53:26
word
44:14, 46:16, 46:23, 47:9, 47:11, 47:12, 47:22, 48:2, 50:20
worded
37:19
words
23:17, 24:6, 29:16, 32:8, 49:18
works
36:2
world
31:16, 32:23, 33:17, 34:12
wouldn't
20:7, 29:24
wrong
36:22

Y

yesterday
11:1
yield
34:10

yourself
6:14

Z

zachary
7:6
zero
31:18, 31:23, 32:25, 33:19
zoom
9:9, 9:15, 9:18

0

00
7:24
01137
1:7, 6:21, 8:1
04
6:23, 53:18
0600
3:8

1

10
1:21, 6:22, 52:5, 53:18
10,676
1:10
10,676,255
8:11
1001
5:5, 45:8, 45:9, 45:11
1002
5:4, 17:8, 17:9, 17:11
104
42:24
108
46:9
11
5:3
112
16:8, 16:11, 21:21
116
23:8, 23:22, 24:10, 24:25
119
34:14
12
36:8, 46:20
14491
1:30, 2:16, 53:5, 53:31
15
53:26
16
12:4, 45:14, 45:15
160
23:7
17
5:4, 12:2
1800
3:6

2

20
1:6, 46:21
2016
5:3, 10:15, 11:20, 11:22, 11:25, 12:2, 36:13
2024
6:21, 7:24, 8:1
2025
1:21, 6:22, 52:5, 52:12, 53:18, 53:26
23
45:14, 45:15
24
1:7
255
1:11, 8:9, 8:13, 9:12, 10:22, 11:8, 14:1, 16:14, 17:15, 18:1, 18:24, 19:12, 20:10, 22:19, 29:3, 29:15, 32:5, 34:8, 39:18, 44:8, 44:10, 44:25, 45:3, 47:1, 47:8, 47:16, 48:22
2555
3:13
28
38:1, 39:7, 40:15, 40:19, 41:1, 41:18, 46:21
29
38:1, 39:8, 40:15, 40:19, 41:2, 41:18
2d
39:24, 42:18

4

40
12:1, 12:5, 12:7
42
37:22, 38:2, 39:8
44
51:4
45
5:5
474
3:15
48
51:7, 51:13, 51:14, 53:19

5

53
1:28
54
46:6
56
36:12, 36:14, 36:20, 36:25, 44:6, 44:7
59
36:4, 45:1, 45:2, 45:13, 46:4, 46:19

6

60
46:6
600
3:6
64108
3:14
6550
3:15

7

71
47:20, 47:21
714
3:8
76
49:13
77
49:6, 49:7

8

8
6:23, 36:4, 53:18
80
12:2
816
3:15
830
3:8

9

9
36:8, 51:4, 51:7, 51:13, 51:14, 53:19
90
14:18
92626
3:7