

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE PATENT TRIAL AND APPEAL BOARD

SOLVENTUM CORPORATION

Petitioner,

v.

WOULD HEALING TECHNOLOGIES, CORP.

Patent Owner.

IPR2025-01042

U.S. Patent No. 10,639,404

ORAL DEPOSITION OF
MORTEN OLGAARD JENSEN, PhD, DrMed, FAHA
FEBRUARY 5, 2026

ORAL DEPOSITION of MORTEN OLGAARD JENSEN, PhD, DrMed, FAHA, produced as a witness at the instance of the Patent Owner, and duly sworn, was taken in the above-styled and numbered cause on the 5th day of February, 2026, from 9:04 a.m. to 1:23 p.m., before Natanya Riddle, CCR in and for the State of Arkansas, reported by machine shorthand method at the law offices of Kutak Rock, LLP, 1277 East Joyce Boulevard, Suite 300, Fayetteville, Arkansas 72703, pursuant to 37 C.F.R., Section 42.53 and provisions stated on the record.

A P P E A R A N C E S

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I N D E X

	PAGE
Appearances.....	2
MORTEN OLGAARD JENSEN, PhD, DrMed, FAHA	
Examination by Mr. Weiss.....	5
Examination by Mr. Moffett.....	88
Reporter's Certification.....	92
Changes and Signature.....	93

E X H I B I T S

NO.	DESCRIPTION	PAGE
Exhibit 1.....		5
	Declaration of Dr. Morten O. Jensen; Solventum Corp. EX1002	
Exhibit 2.....		5
	United States Patent Lichtenstein, Patent Number 10,639,404; Solventum Corp. EX1001	
Exhibit 3.....		5
	Petition for Inter Partes Review	
Exhibit 4.....		5
	United States Patent Publication Number US 2008/0208147; Argenta et al.; Solventum Corp. EX1004	
Exhibit 5.....		5
	United States Patent Publication Number US 2010/0121229; Argenta et al.	
Exhibit 6.....		5
	United States Patent Argenta et al, Patent Number 5,636,643	
Exhibit 7.....		5
	United States Patent Argenta et al, Patent Number 7,216,651	
Exhibit 8.....		5
	United States Patent Argenta et al, Patent Number 5,645,081	

E X H I B I T S (Continued)		
NO.	DESCRIPTION	PAGE
Exhibit 9.....	United States Patent Publication Number US 2010/0042021; HU et al; Solventum Corp. EX1005	5
Exhibit 10.....	United States Patent Biggie et al, Patent Number US 7,520,872	5
Exhibit 11.....	Decision on Appeal; Solventum Corp. EX1006	5
Exhibit 12.....	Excerpt of Solventum Corp. EX1006	13
Exhibit 13.....	Curriculum Vitae of Morten Jensen; Dated 04/15/2025	44
Exhibit 14.....	Patent Owner's Preliminary Response	79
Exhibit 15.....	Summary of Case Appearances in Court and/or Depositions and/or Hearings and/or Submitted Reports within the last 10 years	83
Exhibit 16.....	United States Patent Publication Number US 2005/0131327; Solventum Corp. EX1009	

1 (Exhibit Numbers 1 through 12 were
2 marked.)

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

4 MORTEN OLGAARD JENSEN, PhD, DrMed, FAHA,
5 having been first duly sworn, testified as follows:

6 EXAMINATION

7 BY MR. WEISS:

8 Q. Good morning, Dr. Jensen.

9 A. **Good morning.**

10 Q. Have you ever been deposed before?

11 A. **Yes.**

12 Q. About how many times?

13 A. **Between 10 and 15 times.**

14 Q. Have you ever gone -- have you ever been an expert
15 witness at a trial?

16 A. **Yes.**

17 Q. Where was the trial?

18 A. **It was one at the ITC and there was a trial on a**
19 **medical case for a hospital, I believe it was, and that**
09:05 20 **was in Missouri.**

21 Q. Was that the same set of circumstances, or was it a
22 different case?

23 A. **Those were two different cases. And then I have**
24 **been at trial a couple of other times, where I was ready**
09:06 25 **to be called to the stand and I was not called to the**



09:06 1 stand.

2 Q. Okay. So even though you've been deposed before,
3 you've been to trial, I just want to go over the basic
4 rules for the deposition.

09:06 5 You must answer the question, even if
6 your lawyer objects, unless -- unless your lawyer
7 instructs you not to answer on the basis of privilege.

8 A. Yes.

9 Q. You understand that?

09:06 10 A. Yes.

11 Q. All of your answers need to be verbal so that the
12 court reporter can accurately transcribe today's
13 deposition. So no "huh-uhs," no "uh-huhs," or any nods
14 of the head. Understood?

09:06 15 A. Yes.

16 Q. If you don't understand any of my questions, I ask
17 you to ask for clarification, because if you do not
18 raise the issue, I will assume and the record will
19 reflect that you did understand the question as asked.

09:07 20 Okay?

21 A. Yes.

22 Q. Are there any circumstances which could affect your
23 ability to give truthful testimony today?

24 A. No.

09:07 25 Q. So you're -- just to go over, you're not -- you're



09:07 1 not -- thank God, no illness?

2 A. No.

3 Q. Nor any -- taking any medications or drugs?

4 A. No.

09:07 5 Q. Or anything that might prevent you from being able
6 to -- you're not aware of anything that might prevent
7 you from being able to provide truthful answers to my
8 questions?

9 A. No.

09:07 10 Q. Meaning, you're not aware of any --

11 A. Sorry.

12 Q. So just to get the record straight, you're not
13 aware of anything that might prevent you from giving
14 truthful testimony, correct?

09:07 15 A. Correct, I'm not aware.

16 Q. Who prepared your declaration -- excuse me. I'm
17 going to put something in the record now.

18 MR. WEISS: This is a binder -- these are
19 two binders -- let the record show that these
09:08 20 are two binders that include some but not all
21 of the exhibits that we're going to have in
22 today's deposition.

23 The first exhibit, which is at Tab
24 Exhibit 1, is the declaration of

09:08 25 Morten O. Jensen, PhD, DrMed, that corresponds

09:08 1 to -- that corresponds to -- that corresponds
2 to Exhibit 1002 in the IPR2025-01042 currently
3 before the Patent Trial and Appeal Board.

4 MR. MOFFETT: Mr. Weiss, just for
09:08 5 simplicity --

6 MR. WEISS: Uh-huh.

7 MR. MOFFETT: Well, just clarification.
8 Do you want to just use -- I mean, these are
9 already marked as exhibits. So you said, "Tab
09:08 10 1," but --

11 MR. WEISS: Yeah, I --

12 MR. MOFFETT: -- you just mean Exhibit --

13 MR. WEISS: Correct --

14 MR. MOFFETT: We'll just use the PTAB
09:09 15 exhibits?

16 MR. WEISS: Perfect.

17 MR. MOFFETT: Okay.

18 MR. WEISS: I'm just -- that's what I --

19 MR. MOFFETT: Okay.

09:09 20 MR. WEISS: So we're just going to call
21 this "Tab 2," "Tab 3."

22 MR. MOFFETT: For his benefit?

23 MR. WEISS: Yeah.

24 MR. MOFFETT: But they're still -- we
09:09 25 still need to refer to them by the premarked

09:09 1 exhibits --

2 MR. WEISS: PTAB exhibits, yeah, which we
3 all agree on.

4 For the second -- the second exhibit,
09:09 5 which is going to correspond to Exhibit 1001,
6 is what's known as the Lichtenstein Patent,
7 United States Patent Number 10,639,404.

8 The third exhibit is the IPR petition for
9 inter partes review. It does not have a
09:09 10 corresponding exhibit number in the IPR.

11 The next exhibit is -- corresponds to
12 Exhibit 1004 in the IPR, Argenta United States
13 Patent Publication Number 2008/0208147.

14 The next exhibit corresponds to Argenta
09:10 15 2008, which is Exhibit 1004 in the IPR;
16 Argenta United States Patent Publication
17 Number 2010/0121229.

18 The next exhibit corresponds to United
19 States Patent Number 5,636,643 -- Argenta
09:10 20 United States Patent Number 5,636,643; and
21 that corresponds to Exhibit 2011 in the IPR.

22 The next exhibit is Argenta United States
23 Patent 7,216,651; and that corresponds to
24 Exhibit 2013 in the IPR.

09:11 25 The next exhibit is Argenta 5,645,081;

09:11 1 and that corresponds to Exhibit Number 2012 in
2 the IPR.

3 The next exhibit is HU United States
4 Patent Number 2010/0042021; and that
09:11 5 corresponds to Exhibit 1005 in the IPR.

6 The next exhibit is Biggie United States
7 Patent Number 7,520,872; and that corresponds
8 to Exhibit 1008 in the IPR.

9 Let the record show that these two
09:12 10 binders were given to the court reporter to
11 mark as well as to the witness.

12 MR. MOFFETT: And do you have a copy for
13 me, Mr. Weiss?

14 MR. WEISS: I do.

09:12 15 MR. MOFFETT: Wonderful. Thank you.

16 Mr. Weiss, just for the record, I'm --
17 I'm assuming that these are complete and
18 unaltered versions of the exhibits that were
19 already in the papers that were submitted to
09:14 20 the patent office. I don't need to go through
21 these --

22 MR. WEISS: Yes.

23 MR. MOFFETT: Okay. Thank you.

24 MR. WEISS: They are correct, to the best
09:14 25 of my knowledge.

09:14 1 MR. MOFFETT: Understood. Thank you.

2 MR. WEISS: So what exhibit are we up to

3 now on your count? Are you counting the

4 exhibits?

09:15 5 THE STENOGRAPHER: Are you wanting me to

6 mark them all individually?

7 MR. WEISS: Yeah, if you don't -- let's

8 count them off again. One, two, three, four,

9 five, six, seven, eight, nine, ten -- and

09:15 10 marked at the bottom, eleven and twelve.

11 There were two more. Let's go -- so let's

12 mark those off as well.

13 MR. MOFFETT: So are we marking them as

14 something different?

09:15 15 MR. WEISS: They're all from -- they're

16 all from the IPR. These are all exhibits --

17 MR. MOFFETT: So some of these are -- for

18 example -- and not to get off track --

19 THE STENOGRAPHER: Do you want to stay on

09:15 20 the record to discuss all this, or do we want

21 to figure it out off the record?

22 MR. MOFFETT: Let's go off the record,

23 just so --

24 MR. WEISS: Okay.

09:15 25 MR. MOFFETT: -- she doesn't have to type

09:15 1 all of this.
2 (Discussion off the record.)
3 MR. WEISS: Back on the record.
4 Let the record show that we are -- the
09:18 5 reference to the exhibits will be according to
6 the tabs that were given out during the
7 deposition; and there will also be in the
8 record, wherever appropriate, we'll talk about
9 the corresponding that corresponds to a
09:18 10 certain exhibit in the IPR.
11 So we have for the next Exhibit 11, which
12 is the ex parte appeal decision from United
13 States Patent 10,639,404, which corresponds to
14 an excerpt from pages 55 to 60 of Exhibit 1006
09:18 15 in the IPR.
16 Exhibit 12 is also a portion of
17 Exhibit 1006 in the IPR; and that's from
18 page 347 in the file wrapper of the United
19 States Patent 10,639,404; and that's
09:19 20 Exhibit -- just for the record, Exhibit 1006
21 in the IPR is the file wrapper for United
22 States Patent Number 10,639,404.
23 And, finally, Exhibit 13, which I'll be
24 handing out now, is the -- a copy of the CV
09:19 25 for Dr. Morten Olgaard Jensen.

09:19 1 And please mark it as such.
2 (Exhibit Number 13 was marked.)
3 MR. WEISS: Let the record show that I'm
4 also handing one to Dr. Jensen as well as to
09:20 5 Mr. Moffett.
6 MR. MOFFETT: And, for the record --
7 MR. MORRIS: Shouldn't he get the one
8 with the sticker?
9 MR. MOFFETT: -- what's been marked as
09:20 10 Depo Exhibit 13 is IPR Exhibit 1003.
11 MR. WEISS: Thank you.
12 Q. (BY MR. WEISS) Okay. Now that we've got that taken
13 care of, Dr. Jensen, what materials did you review for
14 the deposition?
09:20 15 A. For the deposition, I reviewed my declaration and
16 some of the exhibits.
17 Q. Which of the exhibits did you review for the
18 deposition?
19 A. I don't recall on top of my head, but some I looked
09:21 20 at a bit more than others. But, obviously, before
21 submitting the declaration, I had carefully looked
22 through all of them. But I did lay my eyes on
23 everything that's relevant to my declaration in
24 preparation for the deposition.
09:21 25 Q. To the best of your recollection, could you go

09:21 1 through what the -- what you did look at? I'm asking
2 you to please look at Exhibit 1, which corresponds to
3 Exhibit 1002 in the -- in the IPR. If you'll turn to
4 page 92.

09:21 5 **A. Yes.**

6 Q. Just to go over -- as the record shows, I asked you
7 what did you -- what did you look at before the
8 deposition.

9 So here's a list of what you reviewed for
09:22 10 the declaration.

11 **A. Yes.**

12 Q. I would just like to concentrate for a moment on
13 what you looked at for the declaration -- excuse me --
14 for the deposition. You said you looked at some, you
09:22 15 looked at others, you looked at more, you looked at
16 less.

17 If you could tell me one thing that you
18 looked at on one -- one document that you reviewed for
19 your deposition today, other than your declaration, what
09:22 20 would it be?

21 **A. Are you asking for just one document?**

22 Q. I'm starting there and hopefully we can get through
23 the list, but let's start with one.

24 **A. Well, I have had access and have laid my eyes on**
09:22 25 **all of these documents. One, obviously, that I've**

09:22 1 looked at the most would be the 404 patent.

2 Q. Okay.

3 A. And I would also say I've probably relatively spent

4 more time on the references that are listed in the

09:23 5 grounds, the three grounds.

6 Q. Uh-huh.

7 A. And everything else I have likewise reviewed. I

8 can't recall how much time I've spent on each of the

9 exhibits.

09:23 10 Q. So you didn't look at anything other than the

11 exhibits listed on page 92 and 93 in preparation for

12 this deposition, correct?

13 There was nothing outside the list of

14 references listed on page 92 and 93 that you reviewed

09:23 15 prior to this deposition; is that correct?

16 MR. MOFFETT: Objection; form.

17 A. No, that's not correct.

18 Q. (BY MR. WEISS) Okay. Tell me what else you looked

19 at outside the references listed on page 92 and 93.

09:23 20 A. I was provided the patent owner's preliminary

21 response and the declaration of Dr. Morgera.

22 Q. What areas did you focus on in the patent owner's

23 preliminary response?

24 MR. MOFFETT: Objection; form.

09:24 25 Q. (BY MR. WEISS) Let me restate the question.

09:24 1 What portions of the patent owner's
2 preliminary response did you spend the most time on?

3 **A. The portions that were relevant to my declaration**
4 **and that I thought might be relevant to my testimony**
09:24 5 **today.**

6 Q. And what were those portions?

7 **A. I don't have the document in front of me, as far as**
8 **I'm aware; so I would like to have the document in front**
9 **of me before answering questions on it.**

09:24 10 Q. Well, we don't have the document before us. So to
11 the best of your ability, if you could tell me what the
12 portions of the document that you focused on were, that
13 would be an appropriate question to answer.

14 MR. MOFFETT: Objection; form.

09:25 15 **A. Since I don't have the document in front of me, all**
16 **I can say is that I focused on the areas that I thought**
17 **might be relevant to my work in this case, but I don't**
18 **recall all content of the document. So I wouldn't be**
19 **able to answer that question fully.**

09:25 20 Q. (BY MR. WEISS) I understand you can't answer it
21 fully, but even if you can answer it partially, that
22 would also be an answer. So I instruct you again -- or
23 I ask you again if you could just answer the areas that
24 you focused on when you reviewed the patent owner's
09:25 25 preliminary response.

09:25 1 MR. MOFFETT: Objection; form.

2 A. Again, without having the document in front of me,
3 all I can say is that I looked at the areas that I
4 thought might be relevant to my work in this case.

09:25 5 Q. (BY MR. WEISS) Can you recall one sitting here
6 today, one of those areas you focused on?

7 A. Without the document in front of me --

8 Q. Yes, without the document in front of you, can you
9 recall any of those areas that you focused on today?

09:26 10 A. Without the document in front of me, I do not
11 recall on top of my head.

12 Q. Can you think about it for a minute?

13 MR. MOFFETT: Is that a question?

14 Objection; form.

09:26 15 A. What do you mean by, if I can think about it for a
16 minute?

17 Q. (BY MR. WEISS) You said you can't recall off the
18 top of your head. So I'm asking you -- take a minute.

19 A. So you think the longer time I sit here, the more
09:26 20 chance of me remembering without the document in front
21 of me?

22 Q. Yes, definitely. There will definitely be a better
23 chance of you remembering. If you remember something
24 right now -- can you remember anything from the document
09:26 25 you looked at, the patent owners's preliminary response?

09:26 1 A. Well, I remember there were things that I did not
2 agree with, but without having the document in front of
3 me, I -- I don't recall the -- the exact topics.

4 Q. Without recalling exact topics, can you tell me one
09:27 5 thing you didn't agree with in the patent owner's
6 preliminary response?

7 A. I do -- did not agree with the fact that the
8 404 patent is valid. That's the big picture. And all
9 of the arguments that I outlined in my declaration
09:27 10 support that. And that's the big picture. Again,
11 without having the document in front of me, that's what
12 I recall from the patent owner's preliminary response
13 that I disagreed with.

14 Q. Do you remember any particular argument, sitting
09:28 15 here today, that you disagreed with?

16 A. Again, without having the document in front of me,
17 I don't recall the specifics of the document.

18 Q. Without recalling the specifics, do you remember
19 any generally -- do you remember generally any argument
09:28 20 that you disagreed with that you saw in the patent
21 owner's preliminary response?

22 A. Yes.

23 Q. Could you please share with us?

24 A. That the patent is valid, I do not agree with that.
09:28 25 But, again, without having the document in front of me,

09:28 1 I would not feel comfortable answering that question.

2 Q. With all due respect, Dr. Jensen, that's a
3 conclusion that you just said, that you -- that you -- I
4 didn't ask for a -- I didn't ask for your opinion. I
09:28 5 asked for, is there any arguments made in the patent
6 owner's preliminary response -- I'm going to ask it
7 again now.

8 Are there any particular arguments --
9 without full specificity, even in general, were there
09:29 10 any particular arguments made in the patent owner's
11 preliminary response that, sitting here today, you
12 disagreed with?

13 A. Yes.

14 Q. What is -- what is that particular response? What
09:29 15 is that particular argument that you disagree with?

16 A. Without the document in front of me, I can answer
17 that I disagree with the argument that the 404 patent is
18 valid.

19 MR. WEISS: Can we go off the record for
09:29 20 a second?

21 MR. MOFFETT: What are you looking at me
22 for, Mr. Weiss?

23 MR. WEISS: We're off the record right
24 now.

09:29 25 MR. MOFFETT: I don't agree that we're

09:29 1 off the record.

2 MR. WEISS: Okay. So we're on the
3 record.

4 MR. MOFFETT: Ask your questions.

09:29 5 MR. WEISS: Your -- your witness is not
6 answering the question. I'm asking for one
7 thing, and he's answering something else. I'm
8 asking if you could please instruct him that
9 he's got to answer the question.

09:29 10 MR. MOFFETT: Mr. Weiss, I would suggest
11 you ask better questions. He's asked for the
12 document multiple times. You've asked him
13 some open-ended memory test of -- of what
14 specific arguments. Why don't you list some
09:30 15 arguments? Why don't you put something in
16 front of him? Why don't you ask him a
17 question that he can answer?

18 MR. WEISS: I think he can answer the
19 question. I think the questions I've asked
09:30 20 are answerable. I don't think -- and if
21 he's -- he hasn't ever said he doesn't
22 remember the arguments. All he said is, "I
23 remember in specificity. I don't remember
24 them like this. I don't remember them like
09:30 25 that." That's not appropriate -- that's not

09:30 1 an appropriate answer. If you remember, I
2 asked him, "Do you remember generally," and
3 then he didn't answer the question.

4 MR. MOFFETT: I disagree. I think your
09:30 5 questions are objectionable, and I think he's
6 answering to the best of his abilities, based
7 on the questions you are asking.

8 MR. WEISS: I disagree.

9 And let the record state that I believe
09:30 10 the witness is not answering the questions;
11 and if we have to go to the referee, we can go
12 to the referee.

13 MR. MOFFETT: It's your deposition,
14 Mr. Weiss.

09:31 15 Q. (BY MR. WEISS) Again, I'm going to ask you again
16 the same question. And I say to you, again, the answer
17 to the question, if I ask you for a particular argument,
18 is not, "I don't remember anything specific." The
19 answer is -- do you remember the content of any
09:31 20 arguments that you disagreed with?

21 MR. MOFFETT: I object to the speech and
22 the instructions.

23 Q. (BY MR. WEISS) You are required to answer the
24 question.

09:31 25 A. Yes, I'm also allowed to think before I answer the

09:31 1 question, correct?

2 Q. Most certainly, yes.

3 A. Thank you.

4 I do not have the document in front of me,
09:31 5 and I do not feel comfortable trying to remember the
6 specific arguments. I do recall that some of the
7 arguments that I outline in my declaration were
8 disagreed with in the patent owner's preliminary
9 response. Overall, I can say that I disagree with the
09:32 10 arguments that the 404 patent is valid. That, I do not
11 believe is the case, based on what I've written in my
12 declaration.

13 Q. I understand. Thank you.

14 Now, you mentioned that there were
09:32 15 certain arguments that you made -- and I don't want to
16 mischaracterize what you said. There's certain
17 arguments that you made in your declaration that the
18 patent owner's preliminary response -- quote, unquote --
19 disagreed with. And, those, you disagree with sitting
09:32 20 here today, much to what you wrote in your declaration,
21 correct?

22 A. Can you repeat that question, please?

23 Q. What you just said --

24 MR. WEISS: Why don't you read back the
09:32 25 record from -- from Dr. Jensen's -- the

09:33 1 last -- the last answer that he just gave.

2 THE STENOGRAPHER: "ANSWER: I do not

3 have the document in front of me, and I do not

4 feel comfortable trying to remember the

09:33 5 specific arguments. I do recall that some of

6 the arguments that I outline in my declaration

7 were disagreed with in the patent owner's

8 preliminary response."

9 MR. WEISS: Stop. Thank you.

09:33 10 Q. (BY MR. WEISS) Those arguments, can you please tell

11 us those arguments now that you do recall that were

12 disagreed with in the patent owner's preliminary

13 response?

14 A. I don't remember them on top of my head. I don't

09:33 15 have the document in front of me.

16 MR. WEISS: You -- can you read that back

17 one more time, the piece -- the last sentence

18 that you just read?

19 THE STENOGRAPHER: "ANSWER: I do recall

09:33 20 that some of the arguments that I outline in

21 my declaration were disagreed with in the

22 patent owner's preliminary response."

23 Q. (BY MR. WEISS) Which arguments -- you said --

24 testified already that you recall certain arguments in

09:34 25 your declaration.

09:34 1 A. Yes, that answer is general in the sense that I
2 recall -- I did not list which arguments in my answer.
3 I said some of the arguments. Some of the topics that I
4 discuss in my declaration were disagreed with in the
09:34 5 patent owner's preliminary response. I don't have the
6 document in front of me, so I cannot answer your
7 specific questions on that document on what I disagree
8 with.

9 Q. But you do have your declaration in front of you,
09:34 10 correct?

11 A. That is correct, and we can go over that.

12 Q. So which -- point to one argument that you made
13 here that you -- that you -- was -- that you recall from
14 the patent owner's preliminary response.

09:34 15 A. Again, I don't have the patent owner's preliminary
16 response in front of me, so I don't feel comfortable
17 trying to remember which of my arguments were discussed
18 in the patent owner's preliminary response that I
19 disagree with.

09:35 20 Q. Uh-huh.

21 MR. WEISS: I'm turning to the
22 declaration of Dr. Jensen, and that's at
23 Exhibit 1 in the book and corresponds to
24 Exhibit 1002.

09:35 25 Q. (BY MR. WEISS) Dr. Jensen, did you prepare this

09:35 1 declaration?

2 **A. Yes, along with the attorneys, yes.**

3 Q. Could you explain to me the process of how you
4 collaborated with the attorneys?

09:35 5 MR. MOFFETT: Dr. Jensen, I'd instruct
6 you not to answer to the extent it involves
7 disclosing any discussions with the attorneys.
8 That's privileged. But you can answer just
9 generally your involvement without disclosing
09:36 10 any conversations with attorneys.

11 **THE WITNESS: Yes.**

12 **A. Of course we started the discussions without having**
13 **anything written down on paper and I started looking at**
14 **references that are in the declaration and we worked**
09:36 15 **together on putting the document together.**

16 Q. (BY MR. WEISS) When you say, "putting the document
17 together," did you prepare the first draft of the
18 document, or did the attorneys prepare the first draft
19 of the document?

09:36 20 MR. MOFFETT: Objection.

21 And I actually instruct you not to
22 answer. The process of assembling the
23 expert's declaration is work product and is
24 privileged.

09:37 25 MR. WEISS: I'll ask the question

09:37 1 differently.

2 Q. (BY MR. WEISS) Did you prepare the first draft of
3 the -- of the declaration?

4 MR. MOFFETT: I, again, instruct you not
09:37 5 to answer.

6 MR. WEISS: That has nothing to do with
7 attorneys. I just asked him a question. I
8 said, "Did you prepare the first draft of the
9 declaration?" He can answer it as a "yes" or
09:37 10 "no."

11 MR. MOFFETT: I instruct him not to
12 answer.

13 If you want to ask him whether these are
14 his opinions, that's fair, but the process of
09:37 15 preparing the declaration with attorneys is --
16 is a step too far.

17 MR. WEISS: I didn't mention any word
18 about attorneys. I just asked him if he
19 prepared the first draft of the declaration.
09:37 20 I'm not sure why that --

21 MR. MOFFETT: Or -- or who.

22 MR. WEISS: I'm not asking who. I'm
23 saying, did Dr. Jensen -- let me ask the
24 question again.

09:37 25 Q. (BY MR. WEISS) Did you prepare the first draft of

09:37 1 the declaration?

2 MR. MOFFETT: I instruct you not to
3 answer.

4 MR. WEISS: Based on?

09:37 5 MR. MOFFETT: It's -- it's work product
6 and privileged. It's in -- it's the Federal
7 Rules of Civil Procedure.

8 MR. WEISS: I understand, and I fully
9 respect that --

09:38 10 MR. MOFFETT: Drafts are protected
11 specifically from discovery.

12 MR. WEISS: What does it say in the Rules
13 of Civil Procedure?

14 MR. MOFFETT: Drafts.

09:38 15 MR. WEISS: I didn't ask -- I didn't
16 ask --

17 MR. MOFFETT: You said, "the first
18 draft." Mr. Weiss, we are really off the
19 reservation as far as relevance as to the
09:38 20 merits of this.

21 MR. WEISS: I disagree.

22 MR. MOFFETT: Well, I know. We've
23 disagreed a lot already.

24 Q. (BY MR. WEISS) Did you review anything other --
09:38 25 outside of what we discussed before, any other documents

09:38 1 prior -- let me ask the question again.
2 I'm pointing now back to Appendix A that
3 runs from page 92 and 93 on Exhibit 1.
4 In preparation for your declaration, did
09:39 5 you review anything else, other than that list?
6 **A. Yes.**
7 Q. What else did you review that doesn't appear on
8 that list?
9 **A. The patent owner's preliminary response and the**
09:39 10 **declaration from Dr. Morgera.**
11 Q. Did you -- in preparation for your declaration, did
12 you review anything else or just what appears on this
13 list?
14 **A. Besides those two documents that I just mentioned?**
09:39 15 Q. Yes.
16 **A. In preparation of this deposition -- I guess on**
17 **this list, the declaration itself is -- is not -- but**
18 **that was -- so my answer to that question is "no."**
19 Q. I asked you to turn to Exhibit -- what's listed as
09:40 20 Exhibit 5. It corresponds to Exhibit 2007 in the IPR.
21 I'm going to refer to it as Argenta 210.
22 MR. MOFFETT: I'm sorry. What IPR
23 exhibit was it? I apologize.
24 MR. WEISS: It's 2010 -- excuse me --
09:40 25 2007.

09:40 1 MR. MOFFETT: Thank you.

2 MR. WEISS: Exhibit 2007 in the IPR.

3 **A. Okay.**

4 Q. (BY MR. WEISS) Have you ever seen that document
09:41 5 before?

6 **A. It's not on the list of exhibits, so I -- I don't**
7 **recall if I've seen this document before.**

8 Q. So in answer to the question, "Have you ever seen
9 the document before," your answer is, "I don't recall"?

09:41 10 **A. Well, it's -- as far as I can tell, it's not on the**
11 **exhibit list as an appendix. I might have seen it**
12 **before, but I just don't recall on top of my head right**
13 **now.**

14 Q. Can you take a few minutes to review it?

09:42 15 THE STENOGRAPHER: Say that again.

16 Q. (BY MR. WEISS) Can you take a few minutes to review
17 the document?

18 **A. You want me to read this document?**

19 Q. No, not read it. Just to try to awaken your memory
09:42 20 as to whether you've seen it before.

21 **A. Again, as I stated earlier, I -- I don't recall if**
22 **I've seen this document before.**

23 Q. Understood. So you wouldn't -- nothing in your
24 declaration is based on review of that document,
09:43 25 correct?

09:43 1 (Mr. Morris exits the room.)

2 **A. It's not listed as an appendix.**

3 Q. (BY MR. WEISS) So you can confirm that at the time

4 you wrote this declaration, nothing in there was based

09:43 5 on your review of that document?

6 **A. Again, I don't recall on top of my head right now**

7 **if this document is mentioned in -- in the declaration.**

8 **It might be, but I don't recall all words and sentences**

9 **in the declaration.**

09:44 10 Q. Understood.

11 **A. I can see it's not on the appendix list --**

12 Q. But if we're --

13 **A. -- and Argenta has published several papers and**

14 **patents and other documents. And so I just don't know**

09:44 15 **if this specific document was part of it.**

16 Q. So to your -- to your knowledge, sitting here

17 today, you don't recall having used that document in

18 preparation of the declaration, correct?

19 (Mr. Morris enters the room.)

09:44 20 **A. I don't recall on top of my head, no.**

21 Q. (BY MR. WEISS) Just to get -- just to get a clear

22 record. So as far -- you're confirming that you didn't

23 use -- you don't recall using that document to form

24 opinions in your declaration, correct?

09:45 25 **A. I don't recall. I did use documents from Argenta,**

09:45 1 but I just don't recall if I used this particular one.
2 And, again, Argenta has published numerous papers and
3 patents and documents and I know that from the same
4 author there would be crossover between statements and
09:45 5 opinions and thoughts. So there may be -- even if I
6 didn't use this document, there may be some -- some
7 pieces in here that are relevant to my declaration, but,
8 again, I have a limited list of references that I use in
9 the declaration that I've listed on pages 92 and 93.

09:45 10 Q. Understood.

11 So you're confirming that, as you sit
12 here today, you didn't use anything outside the list on
13 92 and 93, correct?

14 A. Well, I used that and my multiple decades-long
09:46 15 experience in this field.

16 Q. Understood.

17 But you didn't use any other documents
18 outside the list of documents listed here as well as
19 your -- your extensive experience in the field of
09:46 20 medical and biomedical engineering, correct?

21 A. Argenta published this document in 2010. That's
22 16 years ago. I have about three decades of experience
23 in this -- in this field, and I cannot -- even if it's
24 not -- that document is not listed in the list of
09:46 25 exhibits, I cannot tell you or guarantee you that I've

09:46 1 never come across this document before.

2 Q. Understood.

3 But as far as your specific preparation
4 for this declaration, you don't recall, sitting here
09:46 5 today, using anything other than what's listed in that
6 Appendix A, correct?

7 A. And my --

8 Q. And your long experience as a biomedical engineer
9 and teacher and professor in various universities,
09:47 10 correct?

11 A. Correct.

12 Q. At the time you signed the declaration, had you
13 reviewed every word of your declaration?

14 A. Of course.

09:47 15 Q. Did you discard or delete anything during the
16 preparation of your expert report?

17 MR. MOFFETT: Objection. Again --

18 MR. WEISS: You -- with all due respect,
19 you're not allowed speaking objections.

09:48 20 Just -- and that's the rules --

21 MR. MOFFETT: I understand.

22 MR. WEISS: -- in the IPR. So then I'd
23 ask you not to speak. You can object. You
24 can say, "Form," but you know the rules.

09:48 25 You're a -- you're a renowned attorney and you

09:48 1 know these rules and I'd ask you not to break
2 them in this deposition.

3 MR. MOFFETT: Understood.

4 MR. WEISS: Thank you.

09:48 5 MR. MOFFETT: However, I instruct the
6 witness not to answer because, again, we are
7 now in the drafting process.

8 MR. WEISS: Can you read back the
9 question that I just asked?

09:48 10 THE STENOGRAPHER: "QUESTION: Did you
11 discard or delete anything during the
12 preparation of your expert report?"

13 MR. MOFFETT: Instruct the witness not to
14 answer that question because it goes to the
09:48 15 drafting of his declaration.

16 Q. (BY MR. WEISS) Have you ever had any of your
17 opinions excluded from a judicial proceeding or an
18 administrative proceeding?

19 A. Not that I recall.

09:49 20 Q. Okay. You have Exhibit 13.

21 MR. WEISS: We're looking at Exhibit 13
22 now, which corresponds to 003 in the IPR.

23 MR. MOFFETT: 1003.

24 MR. WEISS: 1003. Thank you.

09:49 25 Q. (BY MR. WEISS) Correct me if I'm wrong, but this is

09:50 1 your curriculum vitae, Dr. Jensen?

2 A. Oh, is that what we're looking at?

3 Q. Yes. I'm sorry.

4 A. This is my curriculum vitae at the time that the
09:50 5 declaration was submitted. There's a few updates on
6 that document today.

7 Q. Understood.

8 If we look -- now if we turn to the
9 declaration, I'm going to ask -- turn to paragraph 4 of
09:50 10 the declaration.

11 A. Okay.

12 Q. Can you just review paragraph 4?

13 A. Yes.

14 Q. And what does it list that your CV includes?

09:51 15 A. My full qualifications, credentials.

16 Q. And the last?

17 A. It says "testimony history." That is not listed on
18 this CV.

19 Q. Did you prepare these words? Did you write those
09:51 20 words, "testimony history," or did someone else write
21 those words?

22 A. I don't recall, but there is a couple of things --
23 and this is one of them -- that I will point out that --
24 that is needing clarification in the declaration.

09:52 25 So "testimony history" should be deleted

09:52 1 from paragraph 4.

2 Q. Uh-huh.

3 A. In paragraph 3, the rates are \$100 more than what
4 they listed in paragraph 3. And, also, in paragraph 10,
09:52 5 instead of "Prior to joining," it should state, "While
6 at."

7 Q. Uh-huh. You testified before that you had reviewed
8 every word of this declaration. So I guess these words
9 you hadn't reviewed?

09:52 10 MR. MOFFETT: Objection; form.

11 Q. (BY MR. WEISS) Is that correct?

12 A. That's not correct.

13 Q. So you had reviewed these words?

14 A. Correct.

09:53 15 Q. And so just explain to me how, if you would, it
16 says here, "testimony history," and that was included in
17 the CV and you knew immediately that was not included in
18 the CV. So how did -- how did that mistake come to
19 happen?

09:53 20 A. Because I missed it in my review.

21 Q. Oh, so you didn't write these words?

22 MR. MOFFETT: Objection; form.

23 A. That's not -- I don't recall who had pen to paper
24 on those three words, "and testimony history," but in my
09:53 25 review before putting my signature on it, I may have

09:53 1 just missed that part and, obviously, that should have
2 been deleted before --
3 Q. (BY MR. WEISS) Uh-huh.
4 A. -- putting my signature on the document, because my
09:54 5 testimony history is not in the -- this version of my CV
6 that was submitted.
7 Q. Understood.
8 Is there anything else in this document
9 that -- any other mistakes in the document that you can
09:54 10 point to that were made?
11 A. Other than this one mistake that we talked about in
12 paragraph 4?
13 Q. Right, and the one you mentioned in paragraph 10
14 and the one you mentioned in paragraph 3.
09:54 15 A. Well, the -- the change in paragraph 3 is not a
16 mistake.
17 Q. Correct. Update.
18 A. Besides that change in paragraph 3, the small
19 correction in paragraphs 4 and 10, no, I don't -- I'm
09:55 20 not aware of any other things that should be corrected
21 or changed in the declaration.
22 Q. So you weren't pen to paper, as you put it, on this
23 entire declaration, correct?
24 A. Can you repeat that question, please?
09:55 25 Q. You were not the -- quote, unquote -- actual pen to

09:55 1 paper on this entire declaration; is that correct?

2 MR. MOFFETT: Objection; form.

3 A. I was pen to paper on the declaration.

4 Q. (BY MR. WEISS) Not on the entire declaration?

09:55 5 A. As I answered before, and I'm not sure if that was
6 covered under the instruct not to answer, but it was a
7 collaboration.

8 Q. Uh-huh. So, collaboration, you're defining it now
9 as meaning you did some pen to paper and attorneys did
09:55 10 some pen to paper, correct?

11 MR. MOFFETT: Objection; form.

12 A. All of the opinions and all of the content in this
13 declaration I stand behind and I put my signature on it.
14 When this document was written, I do not recall all the
09:56 15 contents of drafts and so I don't recall who did what in
16 the declaration, but it's my declaration and I stand
17 behind everything that's written in here, including the
18 couple of corrections that we just discussed.

19 Q. (BY MR. WEISS) Understood.

09:56 20 So it's possible that attorneys prepared
21 the arguments here, correct?

22 MR. MOFFETT: Objection; form.

23 A. What do you mean by "it's possible"?

24 MR. WEISS: Could you read back the
09:57 25 record from the last back-and-forth?

09:57 1 THE STENOGRAPHER: Where do you want me
2 to start?

3 MR. WEISS: You can start just with the
4 last response, the last sentence --
09:57 5 Dr. Jensen's response, the long -- the long
6 response.

7 THE STENOGRAPHER: "ANSWER: All of the
8 opinions and all of the content in this
9 declaration I stand behind and I put my
09:57 10 signature on it. When this document was
11 written, I do not recall all the contents of
12 drafts and so I don't recall who did what in
13 the declaration, but it's my declaration and I
14 stand behind everything that's written in
09:57 15 here, including the couple of corrections that
16 we just discussed.

17 "QUESTION: Understood. So it's possible
18 that attorneys prepared the arguments here,
19 correct?

09:57 20 "Objection.

21 "ANSWER: What do you mean by 'it's
22 possible'?"

23 Q. (BY MR. WEISS) What I mean by "it's possible" is if
24 you don't recall, you don't recall, but it's a -- it's a
09:58 25 possibility that the attorneys prepared the arguments,

09:58 1 correct?

2 MR. MOFFETT: Objection; form.

3 A. No, I wouldn't say that. I answered earlier that
4 we discussed the arguments before and during the writing
09:58 5 of the declaration, and that's how the declaration was
6 written.

7 Q. (BY MR. WEISS) But when it came time to put the
8 words to paper as far as the declaration's concerned,
9 even the arguments in some instances were prepared by
09:59 10 attorneys, correct?

11 MR. MOFFETT: Objection; form.

12 Counsel, this is not speaking. I'm --
13 for -- so I know whether to instruct him not
14 to answer, I don't know what you mean by
09:59 15 "prepared arguments." Do you mean as a scribe
16 or do you mean actually formed the arguments?
17 I don't -- your question is too vague for me
18 to know whether I'm objecting and --

19 MR. WEISS: So then you can't object.

09:59 20 Q. (BY MR. WEISS) So please answer.

21 MR. MOFFETT: No, I need to know if I'm
22 to instruct him not to answer.

23 MR. WEISS: You can't ask me to clarify
24 my questions. If you don't -- if you want to
09:59 25 object, then object.

09:59 1 MR. MOFFETT: Okay.

2 MR. WEISS: If you don't want to object,
3 then don't object, but don't ask me to clarify
4 questions.

09:59 5 MR. MOFFETT: To the extent my
6 interpretation of that question goes to the
7 communications with attorneys in the
8 preparation of your declaration, because
9 that's my interpretation and I'm not allowed
09:59 10 to ask for clarification, I instruct you not
11 to answer it, Dr. Jensen.

12 MR. WEISS: Can you read back my
13 question?

14 You can stop. You don't have to read it
10:00 15 back.

16 Your witness has already testified that
17 the arguments in his declaration --

18 And please feel free to contradict me if
19 you think I'm wrong.

10:00 20 -- were prepared as a collaboration
21 between Dr. Jensen and his attorneys.

22 MR. MOFFETT: That is not what he
23 testified.

24 MR. WEISS: Okay.

10:00 25 So why don't you read back what he

10:00 1 testified? Dr. Jensen's last statement.

2 THE STENOGRAPHER: "ANSWER: No, I

3 wouldn't say that. I answered earlier that we

4 discussed the arguments before and during the

10:00 5 writing of the declaration, and that's how the

6 declaration was written."

7 MR. WEISS: Thank you. So --

8 MR. MOFFETT: No.

9 MR. WEISS: -- it's on the record that he

10:00 10 said, "We discussed them before and during."

11 I'm just reading from the record right now.

12 And you can, you know --

13 MR. MOFFETT: Yes, and I disagree --

14 MR. WEISS: -- with all due respect --

10:01 15 MR. MOFFETT: -- with your interpretation

16 of the way --

17 MR. WEISS: Okay.

18 MR. MOFFETT: -- he testified.

19 MR. WEISS: So let's leave that as a --

10:01 20 let's leave that on the floor.

21 MR. MOFFETT: So my -- my instruction not

22 to answer your question stands.

23 **A. And hearing this, I would -- I would say discussing**

24 **doesn't clarify any of who came up with what. I**

10:01 25 **wasn't...**

10:01 1 MR. MOFFETT: There's no question
2 pending.

3 MR. WEISS: Excuse me.

4 **THE WITNESS: Right.**

10:01 5 MR. MOFFETT: There's no question
6 pending.

7 MR. WEISS: He's in the middle of
8 speaking. You cannot interrupt your witness
9 from giving testimony.

10:01 10 MR. MOFFETT: What was the question?

11 MR. WEISS: He was in the middle of
12 speaking. That's first and foremost.

13 MR. MOFFETT: He is to answer your
14 questions.

10:01 15 MR. WEISS: Mr. Moffett, you are a
16 seriously renowned attorney. To be breaking
17 the Rules like this is absolutely
18 unacceptable.

19 MR. MOFFETT: That is not a rule. There
10:01 20 was no question pending.

21 MR. WEISS: He was talking. You can't
22 stop your -- he was -- you were talking and
23 you cannot stop your witness from speaking.
24 Is that correct or no, according to the Rules?

10:02 25 MR. MOFFETT: I cannot stop --

10:02 1 MR. WEISS: Yes or no?

2 MR. MOFFETT: I cannot stop him

3 mid-answer to your question.

4 MR. WEISS: But you did stop him. But

10:02 5 you did stop him.

6 MR. MOFFETT: What was the question?

7 There was no question pending.

8 MR. WEISS: Can you please allow

9 Dr. Jensen to finish, please? And I'd ask you

10:02 10 again, please do not interrupt your witness

11 when he's speaking.

12 MR. MOFFETT: Tell me what the question

13 was --

14 MR. WEISS: I'm not -- I'm not asking you

10:02 15 a question. I'm just telling you -- I'm

16 asking you --

17 MR. MOFFETT: All right. If he knows --

18 MR. WEISS: I'm trying to be as --

19 MR. MOFFETT: -- what the question was --

10:02 20 MR. WEISS: -- civil as possible, but if

21 you're going to break into your witness giving

22 testimony, then I will call the referee and

23 then you're going to -- you're going to take

24 it -- you're going to take the sanctions

10:02 25 because it's very strict rules we're under,

10:02 1 and you know it.

2 MR. MOFFETT: If you can tell me what the

3 question is --

4 MR. WEISS: Please --

10:02 5 MR. MOFFETT: -- then he can testify in

6 response --

7 MR. WEISS: -- let Dr. Jensen complete

8 his testimony.

9 MR. MOFFETT: I don't know what that

10:02 10 means.

11 If you -- if you understood and know what

12 the question is, Dr. Jensen, you can respond.

13 MR. WEISS: Why don't you read back where

14 Dr. Jensen left off and let him complete his

10:02 15 statement.

16 THE STENOGRAPHER: "ANSWER: And hearing

17 this, I would say discussing doesn't clarify

18 any of who came up with what."

19 MR. WEISS: Please mark this as

10:03 20 Exhibit Number 14.

21 (Exhibit Number 14 was marked.)

22 MR. WEISS: Let the record show that

23 Exhibit Number 14 is the patent owner's

24 preliminary response. In the IPR, it is

10:03 25 Exhibit Number --

10:04 1 MR. MORRIS: Paper Number 10 in the IPR.
2 MR. WEISS: Paper Number 10 in the IPR.
3 Yeah, Paper Number 10 in the IPR.
4 MR. MORRIS: Take a break. We've been
10:04 5 going for an hour.
6 MR. WEISS: Going for an hour?
7 MR. MORRIS: Yeah.
8 MR. WEISS: Before we do that, I think
9 we're going to go off the record and take a
10:04 10 break now.
11 (Recess from 10:04 a.m. to 10:22 a.m.)
12 MR. MOFFETT: Just real quick. On the
13 break, since it came up -- do with it what you
14 will --
10:22 15 MR. WEISS: Uh-huh.
16 MR. MOFFETT: -- Dr. Jensen printed a
17 summary of court appearances and depositions
18 and hearings. If you don't introduce it, I
19 will, but...
10:23 20 MR. WEISS: I think --
21 MR. MOFFETT: Yeah, we can do it later.
22 I just wanted to make sure you had it.
23 MR. WEISS: Yeah. Okay.
24 Q. (BY MR. WEISS) Just before the break we handed out
10:23 25 the patent owner's preliminary response.

10:23 1 A. Okay.

2 Q. Dr. Jensen, take a couple minutes to look at it and

3 refresh your memory.

4 A. Yes.

10:23 5 Q. Okay. You mentioned before that there were certain

6 issues in preparing for this deposition that you

7 disagreed with in your preparation as you reviewed the

8 patent owner's preliminary response, correct?

9 A. Correct.

10:24 10 Q. Why don't you step through and point out to us

11 those issues that you disagreed with.

12 A. Well, we can -- we can start in the back. On

13 page 33, at the very bottom, it says: "The Claimed

14 'Placement' refers to Pre-deployment Placement." I do

10:24 15 not agree with that.

16 Q. Sorry. That's where? Where on page 33 are we

17 referring to?

18 A. At the bottom, "The Claimed 'Placement' refers to

19 Pre-deployment Placement." I disagree with that, also

10:24 20 as outlined in my declaration.

21 Q. What other?

22 A. Well, I can go through the --

23 Q. Please.

24 A. -- document.

10:25 25 I disagree with the second paragraph on

10:25 1 page 1: "Petitioner falls far short of showing it is
2 reasonably likely to prevail with respect to the claims
3 challenged in the Petition."

4 Q. Okay.

10:25 5 A. I disagree with that.

6 I also disagree with the next sentence:
7 "As shown below, the Petitioner ignores claim terms,
8 relies upon redundant references, mischaracterizes the
9 relevant technology, and fails to meet its burden under
10 37 CFR, paragraph 42.018."

11 I also disagree with the next sentence:
12 "Because the Petition does not show that at least one
13 claim is reasonably likely to be invalid," and so forth
14 in that sentence. That, I disagree with.

10:26 15 Q. What -- I'm sorry -- do you disagree with about
16 that sentence?

17 A. I disagree with that the -- well, so my declaration
18 is supporting the petition. And the petition, to my
19 understanding, with my declaration supporting it, is
20 showing that at least one claim is reasonably likely to
21 be invalid. And -- and what's stated here, that that is
22 not the case; and I disagree with that.

23 Q. Okay.

24 A. Should I continue?

10:26 25 Q. Please.

10:26 1 A. The next sentence, also as outlined in part in my
2 declaration; and the file history is part of my
3 declaration. It states here that "Petitioner relied on
4 art and arguments that were already considered during
10:27 5 examination but fails to show any material error in the
6 PTAB's prior conclusion." I disagree with that.

7 Q. What -- what about that sentence do you disagree
8 with?

9 A. All of it.

10:27 10 Should I continue?

11 Q. Just pause for a second.

12 So you disagree with the fact that the
13 petitioner -- that as stated in the POPR, the patent --
14 "Petitioner relies on art and arguments that were
10:27 15 already considered during examination"?

16 A. I'm sorry. Can you repeat that question?

17 Q. It says here: "Petitioner relies on art and
18 arguments that were already considered during the
19 examination but fails to show any material error in the
10:28 20 PTAB's prior conclusion."

21 So you believe there was an error in the
22 PTAB's prior conclusion?

23 A. I believe that the patent should not have been
24 issued. So, yes, something did not go right in the
10:28 25 examination and prosecution of the patent.

10:28 1 Q. Are you aware -- did you review the file wrapper of
2 the 404 patent?

3 A. I believe it's listed as an exhibit in my --
4 Exhibit Number 1006 on page 92 is the 404 patent file
10:28 5 history.

6 Q. So did you agree -- excuse me.

7 Did you review the decision on appeal
8 that appears in that file wrapper?

9 A. If it appears in the file wrapper, then, yes, I --
10:29 10 I reviewed it.

11 Q. Okay. And that -- are you aware that that decision
12 on appeal came to the conclusion that the 404 patent was
13 valid? Are you -- correct?

14 Let me say the question again to make it
10:29 15 easy for you to answer.

16 Are you aware that this -- that the PTAB
17 ruled in its decision on appeal in the file wrapper of
18 the 404 patent that the 404 patent is valid -- or excuse
19 me -- that the examiner's rejections of the 404 patent
10:29 20 should be reversed?

21 A. All I can say is that I disagree with the sentence
22 on the preliminary response that the patent should not
23 have been issued.

24 Q. So you --

10:30 25 A. And that's including base -- of anything that's in

10:30 1 the file wrapper and file history of the 404 patent.

2 Q. Okay. Okay. Please continue in what you disagree

3 with in the POPR.

4 A. You mean the patent owner's preliminary response?

10:30 5 Q. Yeah. We refer to it commonly as the "POPR," but,

6 yes, the patent owner's preliminary response.

7 A. Okay. I am looking at the conclusion that's

8 referred -- and, again, I did not discuss this document

9 in my declaration, so I'm not -- just because I'm not

10:33 10 mentioning something in here that I disagree with

11 doesn't mean that I agree with it, but another thing

12 that I can point out is on page 7 --

13 Q. Uh-huh.

14 A. -- the conclusion that's listed here with

10:33 15 highlights added, it's listing that U.S. Patent 872,

16 880, and the Patent Publication 306 teach of a similar

17 all-in-one wound dressing for use in negative pressure

18 therapy.

19 First of all, it's just using -- it's --

10:34 20 it's only one of those three documents that are

21 highlighted. So I don't agree with the sentence written

22 here. Notably, the examiner characterizes Biggie as a

23 similar to the all-in-one. It's character -- it's

24 listing three documents, not just Biggie.

10:34 25 Q. Uh-huh.

10:34 1 A. Second of all, Biggie is not describing a unitary
2 device, a device that's a unitary device before
3 placement; and so the whole premise of this argument is
4 flawed.

10:35 5 Q. Just to review what you said -- and I want to go
6 over the patent numbers. I just want to get them
7 straight first -- which is the statement here, the first
8 United States Patent Number 7,520,872, 4,969,880, and
9 U.S. Patent Publication 2009/0234306, correct? I just
10:35 10 read back the numbers here.

11 A. Those are the numbers listed, yes.

12 Q. Okay. And this -- what's said in the conclusion
13 here is all of these three teach of a similar all-in-one
14 wound dressing for use in negative pressure therapy,
10:35 15 correct?

16 A. I'm sorry. Can you repeat that?

17 Q. This conclusion says that all of these three teach
18 of a similar all-in-one wound dressing for use in
19 negative pressure therapy, correct?

10:36 20 A. Exactly, that all these three teach, not just
21 Biggie.

22 Q. Correct.

23 A. So that's listed. But, again, as I -- as I argued,
24 the whole premise is -- is incorrect because Biggie is
10:36 25 not teaching a unitary device. So you can turn it

10:36 1 around and say if -- if patent owner is -- is arguing
2 that the 404 patent is a unitary device, then this is
3 wrong. And we can look at Biggie to emphasize that
4 point.

10:36 5 Q. Sure.

6 A. I'm trying to figure out what -- I mean, this --
7 this is quite confusing.

8 What deposition exhibit number is Biggie?

9 Q. Ten, if you look at the Tab 10.

10:36 10 A. Okay. There's a loose page here.

11 Q. Is it extra or is it just loose?

12 A. No, it's just loose. It's falling out.

13 MR. MOFFETT: Try to keep it together.

14 THE WITNESS: Yeah. I mean...

10:37 15 Q. (BY MR. WEISS) It didn't get bound properly.

16 A. Okay. So, in Biggie, if you, for example, look at
17 Figures 3, 4, and 5, none of these are preassembled
18 unitary devices. If you start at Figure 3, that's one
19 step. Figure 4 is another step. Figure 5 is another
10:38 20 step. And one -- this -- this whole thing is coming
21 apart.

22 Q. Let me give you my binder.

23 A. It's okay. I can -- I can talk with this.

24 But Biggie is not an all-in-one wound

10:38 25 dressing delivered as a unitary device based on these --

10:38 1 the description of these figures. That's the next thing
2 I can point out that I disagree with.

3 Q. Uh-huh.

4 A. Do you want me to continue?

10:39 5 Q. Please. So you're -- so you're disagreeing with
6 that conclusion, that -- that paragraph listed as a
7 conclusion?

8 A. Well, I disagree with the fact that Biggie is
9 showing an all-in-one wound dressing to be delivered as
10:39 10 a unitary device because that's clearly what patent
11 owner is trying to get to.

12 And I also disagree with the fact that
13 listing just Biggie in this sentence of -- of the
14 conclusion, listing just Biggie to say that that -- that
10:39 15 just Biggie teaches a similar all-in-one wound dressing,
16 without taking the other documents into account, is
17 wrong.

18 Q. Okay.

19 A. I'm not going to argue whether I agree or disagree
10:40 20 with any of the legal sentences. That would be up to
21 the attorneys because I'm not an attorney.

22 Q. Fair enough.

23 A. But I will disagree with everything in Section 5,
24 "The Petition Should Be Denied."

10:40 25 Q. Starting on page what?

10:40 1 A. Page 13. And it states on, again, page 13 that the
2 petition, and also my declaration, in the grounds for
3 rejection it's principally relied on Argenta 2008.

4 Q. You disagree with that?

10:42 5 A. No, I don't disagree with that. I'm just trying to
6 state what I'm disagreeing with here. It -- it
7 continues: "Though this reference was not explicitly
8 considered during the prosecution, as shown below,
9 several other related Argenta references were
10:42 10 considered."

11 Again, just because Argenta 2008 was not
12 considered explicitly, that doesn't make it irrelevant.
13 So I think it's implied in this sentence that
14 Argenta 2008 is irrelevant because it was not
10:43 15 considered. I disagree with that.

16 Q. Is it possible that Argenta 2008 was cumulative to
17 the Argenta references cited in the file wrapper of the
18 404 patent?

19 MR. MOFFETT: Objection; form.

10:43 20 Objection; relevance.

21 A. I have not analyzed that, so I don't know the
22 answer to that question.

23 I've also not analyzed if Hu is, as argued
24 here, is cumulative of the disclosure in Biggie. We can
10:45 25 get into that if we need to, but I have not analyzed

10:45 1 that and so, again, just because I'm not bringing it up
2 here doesn't mean that I agree with it.

3 Q. (BY MR. WEISS) Can you -- I would appreciate it if
4 you would get into it just to give us your analysis.

10:46 5 A. No, I won't, because I haven't analyzed it.

6 Q. Understood.

7 A. But, again, as I mentioned earlier, the figures of
8 Biggie 4 and 5, along with Figure 3, as they are
9 described in Biggie, are steps in a process. They're
10:46 10 not single, standalone unitary devices; and to view them
11 as such is incorrect and I disagree with that.

12 And I also disagree with the last
13 paragraph on page 23, that substantially the same art
14 and arguments as presented in the Petition were cited
10:47 15 and considered during prosecution of the 404 patent,
16 which obviously is not correct because, if it was, the
17 patent would not have been issued.

18 Q. All right. Sorry. If you could just repeat your
19 last comment. I don't think I understood it fully.

10:47 20 A. Can the court reporter read it back?

21 MR. WEISS: Please.

22 THE STENOGRAPHER: "And I also disagree
23 with the last paragraph on page 23, that
24 substantially the same art and arguments as
10:47 25 presented in the Petition were cited and

10:47 1 considered during prosecution of the 404
2 patent, which obviously is not correct
3 because, if it was, the patent would not have
4 been issued."

10:48 5 **A. And part of my reason for saying that is that when**
6 **I read this -- this "substantially the same art," I -- I**
7 **don't know what that specifically means.**

8 **Q. (BY MR. WEISS) Okay. I just want to get clarity,**
9 **Dr. Jensen. Before, you testified -- when I asked you**
10:49 10 **about the Argenta references, you said with -- was 2008**
11 **cumulative in the previously cited Argenta references,**
12 **you said, "I didn't analyze that. I don't have an**
13 **opinion on that. I didn't look at that issue," correct?**

14 **A. Again, it's -- it's something that's written here**
10:49 15 **in the preliminary response that I have not discussed in**
16 **my declaration; and so I don't think it's appropriate**
17 **for me to discuss all details in this preliminary**
18 **response. I'm just pointing out a few things where I,**
19 **sitting here today, without having analyzed this**
10:49 20 **document fully, know that I disagree.**

21 **Q. Understood.**

22 So you don't -- would that be also true
23 for the last sentence on page 23, which does refer to
24 Tables 1 and 2? Would it be fair to say, sitting here
10:50 25 today, you haven't made that analysis; therefore, at

10:50 1 least with respect to the cumulative aspect shown in
2 Tables 1 and 2, you haven't drawn a conclusion as to
3 that as well?

4 A. No. All I'm saying is, is that I just don't know
10:50 5 what "substantially the same art" means in this
6 sentence. So...

7 Q. So you don't disagree with the sentence that you
8 just read, correct? You just don't understand it,
9 correct?

10:51 10 A. I guess my -- my comment related to the fact that
11 it states here that it was considered during the
12 prosecution of the 404 patent. Does that mean that it
13 was considered in the same way that I described that it
14 should have been considered in my declaration? No. So
10:51 15 that's what I disagree with here. It was not -- it was
16 not considered in the way that I think that it should
17 have been considered.

18 Q. Thank you.

19 A. And now on page 24, the middle of page 24, it says,
10:52 20 "Petitioner" -- and, again, this is addressing the
21 petition. My declaration is supporting the petition,
22 but it states here: "Petitioner" -- understood, along
23 with the declaration -- "does not present any new,
24 noncumulative, references, or why/how the Examiner erred
10:52 25 when considering the references." I disagree with that.

10:52 1 Q. On that point, can you point me to a part in your
2 declaration -- can you -- strike the question. Let me
3 try again.

4 You disagree with the fact that the
10:52 5 examiner -- strike it again.

6 Does the declaration or the petition
7 present why or how the examiner erred in considering the
8 references?

9 MR. MOFFETT: Objection; form.

10:53 10 Q. (BY MR. WEISS) Let me ask the question one more
11 time.

12 Does the petition present how the
13 examiner erred when considering the references?

14 **A. Which references are you referring to?**

10:53 15 Q. The references considered in the 404 patent.

16 **A. Are you asking in relation to what I just mentioned**
17 **that I disagree with this sentence here, that**
18 **petitioner -- again, understood, along with the**
19 **declaration -- does not present any new references or**
10:54 20 **why/how the examiner erred when considering the**
21 **references?**

22 Q. I'm asking relative to what you just said.

23 **A. Oh.**

24 Q. Let me ask the question one more time.

10:54 25 Does the petitioner present how the

10:54 1 examiner erred when considering the references, or
2 does -- I should say -- let me try one more time, and
3 you can answer this question.

4 Does the petition present how the
10:54 5 examiner erred when considering the references?

6 MR. MOFFETT: Objection; foundation.

7 **A. One example of that -- and it's listed in my**
8 **declaration, if we can go ahead and go to the**
9 **declaration.**

10:56 10 So in my declaration on page 47,
11 paragraph 102, I list the steps of Biggie, Exhibit 1008.
12 And this is one example where the -- if the examiner
13 thought of Biggie as presenting a unitary device and not
14 a series of steps, that was incorrect.

10:56 15 Q. (BY MR. WEISS) Uh-huh.

16 **A. And that's one example of that.**

17 Q. Thank you.

18 Are there any other examples of errors
19 made by the US PTO that were pointed out?

10:57 20 Strike the question.

21 At the time this petition was filed,
22 together with your declaration and the patent office, is
23 there anywhere that the petition or your declaration
24 pointed out that the examiner had made a mistake?

10:58 25 MR. MOFFETT: Objection; foundation and

10:58 1 relevance.

2 A. Yes.

3 Q. (BY MR. WEISS) Could you please point that -- point

4 out where that is?

10:59 5 A. On page 2 of the petition.

6 Q. Page 2 of the petition, which is...

7 A. That's, in my binder, Exhibit 3.

8 So in the middle of that page 2, it

9 states: "The Board should institute review and cancel

10:59 10 the Challenged Claims."

11 Q. But that's -- please correct me if I'm wrong.

12 That's not a mistake, per se, in their examination, is

13 it?

14 A. Of course it is. The result of the examination was

10:59 15 that the patent was allowed. And so that mistake is

16 challenged in both the petition and the declaration.

17 Q. But there's no particular step -- strike the last

18 question. Let's go on.

19 Are there any other mistakes that either

11:00 20 the petition or the declaration points out in the

21 examination of the 404 patent?

22 A. Yes. Every single argument made in the declaration

23 and also the petition would either directly or

24 indirectly point out mistakes made in the prosecution.

11:01 25 Q. Thank you.

11:01 1 Okay. Let's keep going through the POPR,
2 if you don't mind. We were up to page 24 where we left
3 off.

4 **A. On what?**

11:01 5 **Q.** In the POPR, which was the --
6 **MR. MOFFETT:** Exhibit 14.
7 **MR. WEISS:** Thank you.

8 **THE WITNESS:** There's no exhibit sticker
9 on my document here.

11:01 10 **A. You said page 24?**

11 **Q.** (BY MR. WEISS) Yeah, that's where we left off.

12 **A. What was the question?**

13 **Q.** We were just -- please, if you would please
14 continue. You had been going through and pointing out
11:01 15 areas that you disagreed with the POPR.

16 **MR. MOFFETT:** Objection to the form of
17 this line of questioning.

18 **A. Again, just because I don't bring something up**
19 **while going through this document does not mean that I**
11:02 20 **agree with it.**

21 **Q.** (BY MR. WEISS) Understood.

22 **A. For example, on page 25 --**

23 **Q.** Uh-huh.

24 **A. -- the middle of page 25 it states: "With respect**
11:02 25 **to step (d), the arguments made by the Examiner during**

11:02 1 Prosecution and on Appeal are identical to the arguments
2 made by the Petition." I disagree with that. Again, if
3 they were, the patent would not have been issued.

4 Q. Okay.

11:02 5 A. I also disagree with the first sentence in the next
6 paragraph: "The Petition has failed to point out any
7 meaningful differences between Argenta 2010 and 2008."

8 Q. You disagree with that?

9 A. Actually, I take that back. I don't know yet if I
11:03 10 disagree with that. Again, this is one of those things
11 where I have not analyzed this document fully. I'm just
12 trying to point to things, and I may have made a mistake
13 pointing out this particular sentence. So we can strike
14 that. I do not know -- I have not analyzed. So I guess
11:04 15 the mistake was that I said that I disagree, because I
16 don't know yet if I do or not.

17 On top of page 26 it states: "The '404
18 Patent previously overcame the same rejection as
19 advanced by the Petition, institution should be denied."

11:04 20 I disagree with that. And I guess the board also did
21 disagree because institution was not denied. But that's
22 another piece.

23 I disagree with the title of Chapter 6,
24 "Petitioner is unlikely to prevail in challenging the
11:05 25 independent claims." I disagree with that.

11:05 1 So basically everything in Chapter 6, I
2 disagree with. And those are the things, sitting here
3 today, I can point out. But, again, it doesn't mean
4 that I agree with everything else in the document, just
11:05 5 because I haven't pointed it out.

6 Q. Okay. Thank you.

7 MR. WEISS: Go off the record for a
8 second.

9 MR. MOFFETT: That's fine.

11:06 10 (Discussion off the record.)

11 MR. WEISS: Let's go back on the record.

12 Q. (BY MR. WEISS) Dr. Jensen, can I ask you to open
13 the declaration to page 49?

14 A. You said 49?

11:07 15 Q. Forty-nine, page 49.

16 A. Yeah.

17 Q. Yeah. Can you walk us through the "Basis of
18 Unpatentability Obviousness Analysis" at the bottom,
19 that grid at the bottom?

11:08 20 A. The grounds?

21 Q. Yes, please.

22 A. So that table is a repeat of the table that is
23 listed on page 9, which is a summary of opinions; and it
24 basically outlines the basis of why these claims -- some
11:08 25 of them are independent, some of them are dependent --

11:08 1 why they should be considered unpatentable, based on an
2 obviousness analysis.

3 Q. Okay. If you turn the page.

4 A. Are you talking about turn the page 9 or 49?

11:09 5 Q. To 50.

6 A. Okay. Fifty.

7 Q. On page 50, at the top it lists, as part of
8 Claim 1, "A wound dressing comprising"?

9 A. Yes.

11:09 10 Q. Can you -- about halfway down that paragraph --

11 A. Yes.

12 Q. -- the sentence reads: "As detailed fully below,
13 both Argenta and Hu include the same components used for
14 the same purposes as the 'wound dressings' described in
11:09 15 Figures 1 to 1 and 7 to 14 of the Challenged Patent."

16 Can I ask you to show me where in Argenta
17 it shows the same components used for the same purposes
18 as the wound dressings described in Figures 1 to 6 and 7
19 to 14 of the challenged patent?

11:10 20 A. So as I list in the beginning of that paragraph --

21 Q. Uh-huh.

22 A. -- the patent -- the 404 patent uses that term
23 broadly to describe an apparatus that is used to treat a
24 wound, and I mentioned then that as detailed fully

11:10 25 below, Argenta and Hu both include the same components

11:10 1 used for the same purpose as the wound dressings
2 described in Figures 1 to 14 of the 404 patent. And so
3 those details are listed on the following pages.

4 Q. Understood. But Argenta and Hu do not show wound
11:11 5 dressings, per se.

6 MR. MOFFETT: Objection; form.

7 Q. (BY MR. WEISS) Correct?

8 Let me restate the question.

9 Argenta and Hu do not show wound
11:11 10 dressings, per se, correct?

11 MR. MOFFETT: Objection; form.

12 A. As I state here, Argenta and Hu include the same
13 components used for the same purposes as the wound
14 dressings described in these figures of the 404 patent.
11:11 15 That's the test that I need to apply.

16 Q. (BY MR. WEISS) Understood.

17 To your knowledge, do Argenta and Hu ever
18 use the term "wound dressings"?

19 A. I don't know, but it -- yeah, I don't know.

11:12 20 Q. Okay. If you could just take the first element, "a
21 wound-fluid drain for use in negative pressure wound
22 treatment ('NPT drain')."

23 If you would explain where the basis --
24 where that's found in Argenta. I'm just going to
11:12 25 read -- read it one more time. I'm sorry.

11:12 1 A wound dressing for use in negative
2 pressure wound treatment, "NPT drain," you state in your
3 declaration Argenta discloses the claimed NPT drain.

4 Where does Argenta disclose that?

11:12 5 A. Well, as I write here, Argenta is stating that the
6 vacuum tube can be embedded into the screen 20
7 underneath the cover; and that is disclosing the NPT
8 drain.

9 And it also -- that -- well, so -- so
11:13 10 that's -- that's what I would say for Argenta on that
11 question.

12 The next paragraph, I guess, continuing
13 that Argenta is disclosing a tube that may be
14 fenestrated, or, you know, having holes in it, in the
11:13 15 portion that goes under the cover 10. Again, which is
16 why Argenta discloses the claimed negative pressure
17 treatment drain.

18 Q. Okay. Step to three at the bottom of 51. Could I
19 ask you to make that same analysis?

11:14 20 A. So the claim reads: "A vacuum/drainage tube
21 comprising a terminus associated with the NPT drain,
22 said NPT drain being configured to non-simultaneously
23 withdraw fluid from a wound and deliver fluid to the
24 wound."

11:14 25 So then I write that Argenta is disclosing

11:15 1 a tube, which is labeled Number 30; and it's using that
2 to provide negative pressure to a wound. Further
3 details can be seen at paragraph 20, Argenta. And
4 Argenta also states that negative pressure is provided
11:15 5 by a suction source 50 attached to the tube. That's in
6 the next paragraph of Argenta, labeled Number 21.

7 And since you asked on your Argenta, then,
8 I won't go into discussions of other prior arts that
9 have been discussed earlier in this declaration, but I
11:16 10 do state that, as discussed extensively in the prior
11 art, early in the declaration, a tube used in a dressing
12 that is used to deliver negative pressure is a
13 vacuum/drainage tube.

14 Argenta is describing that tube to have a
11:16 15 distal end, labeled Number 32, which is the same as the
16 terminus, as claimed.

17 The rest of that paragraph, 110, goes into
18 a bit more detail. But then in paragraph 111, I start
19 discussing the nonsimultaneous withdraw of fluid, that
11:17 20 Argenta is also configured to do that, to
21 nonsimultaneously withdraw fluid and deliver fluid to
22 the wound. The tube only has a single lumen, and that
23 means that physically it's impossible to deliver and
24 withdraw fluid simultaneously because fluid -- as I
11:17 25 state here in paragraph 111, fluid cannot travel in both

11:17 1 directions with a single lumen under normal
2 circumstances.

3 And I also mention in the next paragraph
4 that techniques described in the prior art includes
11:18 5 simultaneous irrigation and withdrawing fluid, which
6 requires the use of multiple tubes. And so I'm just
7 making a reference there, and that reference is using an
8 inflow line and an outflow line, which is a drainage
9 tube.

11:18 10 Also, prior art techniques that involve
11 the nonsimultaneous delivery of fluid and withdrawal of
12 fluid through the same lumen could be controlled by a
13 switch; and you can toggle with that switch between
14 irrigation and suction. Lockwood -- the Lockwood
11:19 15 reference is one of such simple mechanisms, and there's
16 a figure from Lockwood shown in the middle of page 53 of
17 my declaration.

18 I then go on to describe how the
19 installation therapy, or irrigating and pushing fluid to
11:19 20 a wound site, that fluid could be medication, was a very
21 well-known technique to a POSITA by 2010. I'm listing
22 some examples of that. One of those examples is -- as I
23 describe later on in paragraph 114, one of those
24 examples is describing medication being delivered with
11:20 25 the addition of a delay before it was then again

11:20 1 withdrawn, which allows the medicine to have time to
2 perform its treatment before it was removed.

3 And in light of -- as I conclude in
4 paragraph 115, in light of the literature above
11:21 5 described and citing common practice of using negative
6 pressure treatment devices to deliver and, at a
7 different time, withdrawing fluids, it is my opinion
8 that Argenta would certainly disclose a drain configured
9 to do that, as outlined in the claim language.

11:21 10 Q. Page 55, at Romanette iv, if you could just explain
11 where -- I'm not going to read it, but the claim set
12 forth at 1[d] -- the portion of claims set forth in 1[d]
13 is shown as you -- I'm just going to read back to you
14 paragraph 116: "Argenta discloses a component,
11:22 15 screen 20, that serves as the claimed
16 fluid-absorbing/transferring layer."

17 Where does that appear in Argenta?

18 A. So, first of all, these NPT dressings are routinely
19 used to pack a wound with a vacuum tube or drain
11:22 20 inserted into that. And Argenta, then in the next
21 paragraph, 118, is disclosing that a tube can be
22 embedded in Argenta's screen 20; and that screen is made
23 up of foam or gauze. And that's listed in Exhibit 1004
24 at paragraph 18.

11:23 25 And then accordingly, Argenta is

11:23 1 disclosing "a fluid-absorbing/transferring layer for
2 distributing negative pressure from the NPT drain, said
3 fluid-absorbing/transferring material being in contact
4 with the NPT drain."

11:23 5 Q. Romanette v appears at the top of page 56. If you
6 would show us, please, where that appears -- I'm going
7 to read the first paragraph of paragraph 119. "Argenta
8 discloses a vapor sealant sheet that overlies the
9 fluid-absorbing/transferring layer."

11:23 10 Why don't you tell us where that appears
11 in Argenta.

12 A. In the 404 patent, it's explained that the claimed
13 vapor sealant sheet lies over top of the other dressing
14 component and seals in an airtight configuration to
11:25 15 allow the application of negative pressure.

16 The next paragraph, I state that Argenta
17 states that its cover can be comprised of a film drape;
18 and some examples that are well-known are listed here.

19 Argenta is not expressly disclosing that
11:25 20 the cover 10 can be made of a hydrocolloid material, but
21 for reasons outlined below paragraph 120 and also in
22 Sections VIII.A.1.a and VIII.A.2, using a hydrocolloid
23 material as the cover of a negative pressure treatment
24 wound was well within the knowledge of a POSITA; and it
11:26 25 would have been the obvious design choice. Maybe that's

11:26 1 why Argenta didn't even think that it was necessary to
2 mention it.

3 But the next couple of paragraphs, I
4 outline why it would be so obvious for a POSITA to use
11:26 5 hydrocolloid to protect the skin and promote wound
6 healing, with references listed, case studies, medical
7 professionals, writing these documents.

8 The last paragraph of that section, with
9 everything that I describe of -- of why it would be
11:27 10 obvious to use Argenta with a hydrocolloid, I bring up
11 the express teachings of Hu, where Hu is disclosing a
12 similar negative pressure treatment dressing and
13 expressly discloses that the cover material, called a
14 sealant layer, in Hu is made of hydrocolloid. And
11:28 15 that's referring to paragraph 59 of Hu.

16 And all of these things, as described,
17 would have made it possible for a POSITA to be motivated
18 to use a hydrocolloid material as described in the
19 claim.

11:29 20 Q. So with respect to this element that you just
21 mentioned, what's the difference -- let me ask the
22 question differently.

23 What's the difference with respect to a
24 hydrocolloid cover material between Hu and Biggie?

11:29 25 MR. MOFFETT: Objection; relevance.

11:29 1 A. Did I mention Biggie in my previous answer?

2 Q. (BY MR. WEISS) I don't recall.

3 A. So you're asking me what the difference is between

4 the hydrocolloid cover in Hu and Biggie?

11:30 5 Q. Correct.

6 A. Hu and Biggie are both describing a hydrocolloid

7 material to cover the wound. I don't believe I've

8 analyzed the difference between Hu and Biggie. I just

9 applied them to my analysis of why the claims of the

11:31 10 404 patent are invalid.

11 Q. You did say before -- correct me if I'm wrong --

12 that Figures 3, 4, and 5 all refer to -- of Biggie all

13 refer to a single set of steps, correct?

14 A. I don't think --

11:32 15 MR. MOFFETT: Objection; form.

16 A. I don't think I said a single set of steps. I just

17 said that those figures refer to different steps in the

18 process of treating a wound.

19 Q. (BY MR. WEISS) So, again, correct me if I'm wrong,

11:32 20 but those are steps -- I believe you referred to it as a

21 process in Biggie.

22 A. A process of treating a wound, that is correct.

23 Q. I ask you to turn to Biggie at Column 2.

24 A. Okay.

11:32 25 Q. That's Exhibit 10.

11:33 1 A. Ten, okay.

2 Q. Stick with the tabs.

3 A. Which number or column?

4 Q. Column 2. See the paragraph at line 26?

11:33 5 A. Yes.

6 Q. "Figure 3" -- I'm going to read it to you.

7 "Figure 3 is a side cutaway view of a

8 preferred embodiment of the pouch which illustrates the

9 pouch inserted within a wound cavity."

11:33 10 Do you see that?

11 A. I see that.

12 Q. Okay. "Figure 4 is a side cutaway view of a

13 preferred embodiment of the pouch secured inside the

14 wound cavity by the flexible gel, and with tubing

11:34 15 extending through the flexible gel."

16 Do you see that?

17 A. I see that.

18 Q. Do you see that there's an implication that these

19 are two different embodiments?

11:34 20 MR. MOFFETT: Objection; form.

21 A. If you look at Column 7, line 37 --

22 Q. (BY MR. WEISS) Uh-huh.

23 A. -- it states: "Figures 3 to 5 together illustrate

24 how the pouch 1 is installed." And I emphasize

11:35 25 "installed" here, because the next sentence says: "The

11:35 1 first step is illustrated in Figure 3." The next
2 sentence says: "The next step of the installation of
3 the gel is illustrated in Figure 4." And the next
4 sentence says -- one of the following sentences says:

11:35 5 "This step is illustrated in Figure 5."

6 So I see those figures as individual
7 steps.

8 Q. I would ask you also now to look at line 45: In
9 regard to Figure 3, a side cutaway of a preferred
11:35 10 embodiment of the pouch is shown which illustrates --
11 this is, a preferred embodiment of the pouch is shown
12 which illustrates the pouch inserted in a wound cavity.

13 Now go to 57. "In Figure 4, a side
14 cutaway of the view of the preferred embodiment of
11:36 15 Figure 3 is shown."

16 Do you see that?

17 A. I see that.

18 Q. So there seems to be a connection between Figure 3
19 and Figure 4, correct?

11:36 20 A. What do you mean by "connection"?

21 Q. That they're two steps of the same process.

22 A. They are steps in treating the wound, Figures 3, 4,
23 and 5, yes.

24 Q. I ask you now to turn to Column 8, line 5.

11:36 25 "Figure 5 shows a side cutaway view of a

11:36 1 preferred embodiment" without a reference to previous
2 embodiments, correct?

3 **A. No, I disagree with that. It's -- it's clearly**
4 **described earlier that Figure 5 is part of the process.**

11:36 5 **Q. Is it possible that this line of Figure 5 is**
6 **somewhat at odds with what was described in respect --**
7 **in the way you interpreted the connection between 3**
8 **and 4?**

9 **MR. MOFFETT: Objection; form and**
11:37 10 **relevance.**

11 **A. Figure 5 is part of the step-wise process of**
12 **treating the wound, as we saw described earlier in**
13 **Biggie --**

14 **Q. (BY MR. WEISS) Uh-huh.**

11:37 15 **A. -- and you could also look at Figure 3. Figure 3**
16 **would never work on its own. And that clearly tells us,**
17 **beyond what is written on Columns 7, lines 37 and**
18 **forward, the fact that Figure 3 is clearly not able to**
19 **function on its own tells us that Biggie is describing**
11:38 20 **Figures 3, 4, and 5 as individual steps in a process of**
21 **treating a wound.**

22 **Q. Figure 4 could operate on its own as an individual**
23 **apparatus, correct?**

24 **MR. MOFFETT: Objection.**

11:38 25 **A. That's not what Biggie is describing.**

11:38 1 Q. (BY MR. WEISS) But it could operate on its own as
2 an individual apparatus, correct?

3 A. I haven't analyzed that.

4 Q. Could you take a minute to analyze it now?

11:38 5 A. No. I would need more time, and that's not how
6 Biggie describes it.

7 Q. Okay. Let's go back to your declaration. We were
8 up to Romanette vi. Sorry. Yeah, I think -- we just
9 completed Romanette v.

11:39 10 Turn your attention to page 58. And
11 there is what's described here on page 58 as
12 Romanette vi, and it's labeled 1[f]. And you state, at
13 the beginning of paragraph 125: "Argenta expressly
14 discloses this limitation."

11:39 15 If you could please walk us through where
16 Argenta expressly discloses this limitation.

17 A. So as I state in the paragraph here, Argenta is
18 disclosing that the cover of the negative pressure
19 treatment dressing may be self-adhesive, which -- and
11:40 20 then I quote -- "may conveniently permit the cover 10 to
21 be attached to and/or immobilize other components of the
22 apparatus 100 which the cover adhesive contacts, such as
23 suction tube 30 or optional screen 20." That's
24 Exhibit 1004 at paragraph 15.

11:41 25 I think it continues saying that Argenta

11:41 1 also states that -- and I quote -- "the screen 20 may be
2 held in place by contacting an adhesive coated under
3 surface 12 of the cover 10 to assist in securing the
4 screen 20 in a fixed position and to assist in the
11:41 5 removal of the screen 20 when the cover 10 is removed."
6 That's paragraph 19 of Exhibit 1004.

7 I describe here that screen 20 is located
8 on the wound-facing side and directly below the central
9 portion of the cover 10, which is listed in Exhibit 1004
11:41 10 at Figures 1 and paragraph 19.

11 The screen 20 underneath cover 10 is
12 located in the central zone of cover 10. And I
13 summarized this by saying that since Argenta is
14 disclosing that the cover, which is a vapor sealant
11:42 15 sheet, has adhesives for immobilizing the screen,
16 Argenta discloses a vapor sealant sheet with adhesive in
17 a central zone. And that's expressly disclosing the
18 limitation in the claim language.

19 Q. Going to read you the last portion of 1[f]. It
11:42 20 says: "Said adhesive that mechanically maintains the
21 placement and orientation of
22 fluid-absorbing/transferring layer relative to the
23 sealant sheet."

24 Where does the term -- where is the term
11:43 25 "mechanically maintains the placement and orientation of

11:43 1 fluid-transferring layer relative to the vapor sealant
2 sheet" expressly disclosed in Argenta?

3 **A. Because Argenta is saying that the cover 10 is to**
4 **be attached and/or immobilize other components of the**
11:43 5 **apparatus. That is, by definition, mechanically a way**
6 **to maintain the placement and orientation of these**
7 **fluid-absorbing and transferring layers. And the rest**
8 **of the paragraph, likewise, argues that point.**

9 Q. So, as we're sitting here today, you maintain that
11:44 10 the word "immobilize" is an expressed disclosure of the
11 term "mechanically maintains placement and orientation,"
12 correct?

13 MR. MOFFETT: Objection; form.

14 **A. I'm saying that everything I write in paragraph 125**
11:44 15 **describes and covers the language in that claim element.**

16 Q. (BY MR. WEISS) But it's not an expressed
17 disclosure, is it?

18 MR. MOFFETT: Objection; form.

19 **A. It is, because, you know, I continue with other**
11:45 20 **comments that -- that Argenta also states -- and, you**
21 **know, I can repeat what I just said, but that the**
22 **screen 20 may be held in place by contacting an adhesive**
23 **coated -- again, that covers expressly the disclosure**
24 **of -- of the limitation of the claim.**

11:45 25 Q. (BY MR. WEISS) You would agree that the words used

11:45 1 in the claim element, "mechanically maintains," are
2 different from the words in Argenta, correct?

3 MR. MOFFETT: Objection; form and
4 relevance.

11:45 5 **A. My analysis is whether Argenta expressly discloses**
6 **the limitation; and it does, regardless of what the**
7 **words are or regardless of if the words are identical or**
8 **not.**

9 MR. WEISS: Off the record.

11:46 10 (Recess from 11:46 a.m. to 12:42 p.m.)

11 (Exhibit Number 15 was marked.)

12 MR. WEISS: We're looking now at
13 Exhibit 15, which is a summary of case
14 appearances in court and/or depositions and/or
12:42 15 hearings and/or submitted reports within the
16 last ten years for Dr. Morten Jensen.

17 Q. (BY MR. WEISS) Dr. Jensen, do any of these -- any
18 of your experience in case appearances in court or
19 depositions or hearings or submitted reports deal with
12:42 20 negative pressure wound technology?

21 **A. The second-to-last on the first page, "Monitoring**
22 **and Treatment of Tissue Systems" --**

23 Q. Uh-huh.

24 **A. -- was a negative pressure treatment of human skin.**

12:43 25 Q. Gotcha.

12:43 1 A. And that also is the same for the top one on
2 page 1, called "Treatment of Tissue Systems and
3 Components Thereof." And the -- on page 2, the top one
4 listed there, "Tissue Manipulation and Feedback
12:44 5 Devices," was with both negative and positive pressure
6 treatment on certain skin and tissues of the human body.
7 Q. Was that a negative pressure treatment?
8 A. Negative and positive.
9 Q. Uh-huh.
12:45 10 A. And many of these cases are with tissue
11 biomechanics, interaction with devices, including
12 healing of tissues. You would see some, for example,
13 surgical instruments, surgical materials listed,
14 implants, devices. Those cases have involved tissue
12:46 15 biomechanics, tissue construct, tissue reactions, of
16 course, being relevant to, also, my educational and
17 professional experience.
18 Q. So, just generally, you would say that anything
19 related to surgical implants, tissue -- tissue-related
12:46 20 types of issues, would be relevant to the experience in
21 this case?
22 A. Can you repeat that question, please?
23 Q. Any -- the last thing you said was a surgical -- a
24 lot of your cases dealt with surgical implants, tissue
12:46 25 repair, tissue issues. Those are all relevant to the

12:46 1 issues at hand in this case?

2 A. Tissue repair --

3 Q. Uh-huh.

4 A. -- obviously, wound healing is tissue repair.

12:47 5 Negative pressures, flow of fluids, control of said
6 flow, the behavior of tissue where skin and subcutaneous
7 tissue are tissues, all of those and more have been part
8 of the -- many of the cases that I've been involved
9 with.

12:47 10 And, again, as I said, that is relevant to
11 my education and professional experience. And I've also
12 published, in skin science and research journals, and
13 I've used wound treatment equipment in my professional
14 life with experiments and development of systems.

12:48 15 Q. You don't treat patients, correct?

16 A. Correct.

17 Q. You've never held yourself out as a doctor that can
18 treat patients, correct?

19 A. No, I've never done that.

12:48 20 Q. Okay.

21 A. I've worked with patients, but not as a medical
22 doctor.

23 Q. Now I'm going to turn your attention back to your
24 CV, which is Exhibit Number 13. Now I'm going to --

12:49 25 excuse me. I want to look at your declaration, Exhibit

12:49 1 Number 1.

2 A. Okay.

3 Q. Would it be correct to say that the only time in

4 your education that you were -- that your education

12:49 5 related to negative pressure wound treatment was during

6 your time at Georgia Tech in the late Nineties? Is that

7 a correct statement?

8 A. No.

9 Q. What other periods during your education and/or

12:50 10 work experience outside of your cases related to

11 negative pressure wound treatment?

12 A. When I was working in industry, I consulted with

13 companies that developed such technologies. When I was

14 back in Europe from 2006 to 2014, I worked with animal

12:50 15 models of disease, where we did experimental surgeries

16 and I had to work with fluids. And some of those

17 experiments were what's called "chronic disease," where

18 a wound needed to be closed and kept healthy, as healthy

19 as possible; and, since then, I have done, of course,

12:51 20 case work.

21 Most of the animal experiments that I've

22 done here in the U.S. have been what's called "acute,"

23 so that we would still handle fluids and -- and suction

24 of fluids in both positive and negative pressures and

12:51 25 instrumentation of such, but I would not be as involved

12:51 1 with the treatment of wounds within those animals since
2 2015. But, again, that's where I've been involved in
3 case work, since the last seven or so years from today's
4 date.

12:52 5 Q. About what percentage of your income in 2025
6 related to your work as an expert?

7 A. I don't recall on top of my head.

8 Q. Can you give me a ballpark?

9 A. Maybe 50 percent.

12:53 10 Q. Have you ever worked for the firm of Akin Gump
11 before as an expert?

12 A. Sorry. Who?

13 Q. Have you ever worked for the firm of Akin Gump
14 before as an expert?

12:53 15 A. Oh. I don't think I have. I don't recall.

16 MR. MOFFETT: I won't take that
17 personally.

18 (Exhibit Number 16 was marked.)

19 MR. WEISS: We're going to put one more
12:56 20 exhibit on the record. This is Lockwood U.S.
21 Patent Publication Number 2005/0131327. Let
22 the record show that a copy is being given to
23 both opposing counsel as well as the witness.

24 MR. MOFFETT: Are you marking this as a
12:56 25 depo exhibit?

12:56 1 MR. WEISS: Yes. This will be Exhibit
2 Number 16. In the IPR, it's marked as
3 Exhibit Number 1009.

4 Q. (BY MR. WEISS) Dr. Jensen, can I ask you to look at
12:57 5 page 9 for a moment, of your declaration, Exhibit 1002.
6 A. Okay.

7 Q. Okay. Do you see there that Ground Number 3, which
8 was used in rejecting Claims 1, 4 to 7, and 12, is a
9 two -- gives an alternative rejection? Do you see that?

12:57 10 It says Argenta --

11 A. The basis, you mean?

12 Q. Yeah.

13 A. Yeah.

14 Q. So you have Argenta in view of Lockwood or in view
12:58 15 of Lockwood and Hu?

16 A. Yes.

17 Q. Okay. We can -- I'd like to ask you to turn to
18 what we did before. We're going to go through, for
19 Figure 1 -- excuse me.

12:58 20 For Claim 1, in your declaration, you
21 step through the elements of your rejection or where you
22 believe there was obviousness --

23 THE STENOGRAPHER: Say that again, the
24 last part.

12:58 25 Q. (BY MR. WEISS) May I ask you to turn to page 50?

12:58 1 A. Of?

2 Q. Of your declaration.

3 A. Okay.

4 Q. And with the basis that you just described in

12:58 5 mind -- that is, Argenta in view of Lockwood -- you say

6 Claim 1 is obviousness -- obvious, correct?

7 A. On page 50, I --

8 Q. It's based on page 9, but -- but you step through

9 Claim 1 and claim-by-claim analysis.

12:59 10 A. That starts on -- on page 50, correct.

11 Q. Yeah. And where is your Ground 3 analysis?

12 A. It is on page 86.

13 Q. So then I'd ask you, please -- we can go through

14 Claim 1 again; and, if you could, explain to me the

13:00 15 basis for your analysis of Ground 3 and where it appears

16 in Argenta in view of Lockwood.

17 A. Okay. So Claim 1 and Claim 4 to 7 --

18 Q. Uh-huh.

19 A. -- are described in paragraphs 193 and on 194. And

13:00 20 I list here that Independent Claim 1 requires the vacuum

21 tube is configured to non-simultaneously withdraw fluid

22 from a wound and deliver fluid to the wound. And as I'm

23 listing here, in Ground 1, I explained -- and we went

24 through that, I believe, in detail earlier today. I

13:01 25 explained my opinion of why a POSITA would have

13:01 1 understood the tube to be disclosed by Argenta to be
2 configured to non-simultaneously withdraw and deliver
3 fluid to the wound.

4 And, again, if someone needed to modify
13:01 5 that tube in Argenta, it would have been well within
6 their level of skills as a POSITA. I refer to
7 Section VIII.A.1.a.iii. I believe we went through that
8 earlier.

9 And then I add to that in paragraph 94 --

13:02 10 Q. 194?

11 A. Sorry. 194. I need to go back and make sure...

12 So the next paragraph is describing
13 Claim Element 1C that's written, a vacuum drainage tube
14 comprising at terminus associated with NPT drain set,
13:03 15 NPT being configured to non-simultaneously withdraw
16 fluid from a wound and deliver fluid to the wound.

17 The -- paragraph 194 states that to the
18 extent that someone disagrees that this simple
19 modification would have been within the POSITA's set of
13:03 20 skills, the express teachings from Lockwood, combined
21 with Argenta and Hu, would make it obvious to employ a
22 mechanism for nonsimultaneous delivery and withdrawal of
23 fluid. And I continue, then, specifically, a POSITA
24 would or could have incorporated the vacuum and
13:04 25 irrigation sources 12 and 14, and a switch 66 that are

13:04 1 shown in Figure 1 of Lockwood with Argenta's dressing.

2 Q. But you never make a case here that Argenta and
3 Lockwood is a standalone rejection in the absence of Hu,
4 correct?

13:04 5 MR. MOFFETT: Objection; form.

6 A. Hu was used in the case someone disagrees that a
7 hydrocolloid was not obvious with negative pressure
8 treatment; and so that's implied in -- in the first part
9 of this analysis, that Lockwood and Argenta -- or

13:06 10 Argenta in view of Lockwood renders these claims
11 invalid.

12 Hu is -- as -- you know, if we look at the
13 prior parts of the declaration, Hu was brought in only
14 to demonstrate, in case someone disagrees, that Argenta
15 would not be including hydrocolloid. Hu was brought in
16 for that reason.

17 So I do believe that I show both that
18 these claims would have been obvious over Argenta in
19 view of Lockwood or in view of Lockwood and Hu.

13:07 20 Q. (BY MR. WEISS) But you don't actually present that,
21 correct?

22 MR. MOFFETT: Objection; form.

23 A. I do present that. It's in the document.

24 Q. (BY MR. WEISS) But you don't present them on

13:07 25 page -- in paragraph 194. You don't present it in 193

13:07 1 or 194, where you bring up that ground. You're asking
2 the reader to imply it from previous?

3 **A. I refer back to the discussion of Ground 1.**

4 Q. Uh-huh.

13:08 5 **A. And all of that discussion is implied.**

6 Q. Uh-huh.

7 **A. And the inclusion of Hu in Ground 1 was optional,**
8 **if someone had disagreed that a hydrocolloid would not**
9 **be part of the NPT treatment. So, yes, I am describing**
13:08 10 **that in this text.**

11 Q. No further questions.

12 MR. WEISS: Your witness, Counselor.

13 MR. MOFFETT: Off the record.

14 (Recess taken from 1:09 to 1:19 p.m.)

13:19 15 EXAMINATION

16 BY MR. MOFFETT:

17 Q. Dr. Jensen, I just have a couple questions
18 following up on some of the testimony today.

19 Do you recall earlier today there was
13:19 20 some discussion regarding the preparation of your
21 declaration?

22 **A. Yes.**

23 Q. Okay. Now, the same admonishments I gave earlier.

24 I -- I don't want you to provide any information

13:20 25 regarding the communications with attorneys or the

13:20 1 process of drafting. You understand that? We're not
2 looking for that.

3 **A. Yes.**

4 Q. But with that in mind, there was some
13:20 5 back-and-forth regarding your use of the term
6 "collaboration."

7 Again, without getting into specifics of
8 how your declaration was prepared, how did you intend
9 the term "collaboration" to be interpreted? Or how did
13:20 10 you use the word "collaboration"?

11 **A. That we worked together on this, but all the**
12 **opinions in the document or the declaration are mine.**

13 Q. Okay. And then just going to the final discussion,
14 when you were discussing Ground 3 of your -- in your
13:20 15 declaration. Again, that's Depo Exhibit 1, IPR
16 Exhibit 1002. This was at page 86 of your declaration.

17 Do you recall this?

18 **A. Yes.**

19 Q. Okay. First of all, what -- what is your -- what's
13:21 20 the title of Ground 3 in your declaration?

21 **A. The title is listed in the middle of page 86 here,**
22 **"Claims 1, 4 to 7, and 12 Would Have Been Obvious Over**
23 **Argenta in view of Lockwood or in view of Lockwood and**
24 **Hu."**

13:21 25 Q. Okay. And is -- is that your opinion?

13:21 1 A. Yeah.

2 Q. Okay. And there were questions -- Mr. Weiss
3 contended that -- that you never made the case that
4 Argenta and Lockwood are the basis for a standalone
13:21 5 rejection in Ground 3 in the absence of Hu.

6 Do you remember those questions?

7 A. Yes.

8 MR. WEISS: Objection; mischaracterizes
9 the statements on the record.

13:21 10 Q. (BY MR. MOFFETT) Do you -- do you agree with that
11 characterization of your opinion? I can ask it again.

12 A. I agree with your -- the characterization that you
13 just gave, yes.

14 Q. Okay. Let me ask this: Do you agree with
13:22 15 Mr. Weiss' characterization of your opinion as to
16 Ground 3, that you never made the case that Argenta and
17 Lockwood form a standalone rejection in the absence of
18 Hu?

19 MR. MOFFETT: Objection; without
13:22 20 foundation.

21 A. No, I don't agree with that.

22 Q. (BY MR. MOFFETT) Okay. And looking at -- can I
23 direct you to paragraph 194 of your declaration?

24 A. Yes.

13:22 25 Q. Specifically the last sentence, can you -- can you

13:22 1 read the last sentence of -- the last sentence before
2 Figure 1 at the top? Can you read that last sentence
3 out loud?

13:22 4 A. "Specifically, a POSITA could have incorporated the
5 vacuum and irrigation sources 12 and 14, and the switch
6 valve 66 from Lockwood (see Exhibit 1009 Figure 1) with
7 Argenta's dressing."

8 Q. Okay. What does that tell you about your opinion
9 with regard to Ground 3?

13:23 10 MR. WEISS: Objection; form.

11 A. That --

12 MR. WEISS: Objection; form.

13 A. -- the obviousness analysis does not necessarily
14 need to include Hu, because Hu is not mentioned here.

15 MR. MOFFETT: Okay. Pass the witness.

16 MR. WEISS: We're good.

17 (Deposition concluded at 1:23 p.m.)

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COURT REPORTER CERTIFICATION

I, NATANYA RIDDLE, Certified Court Reporter and Notary Public in and for the State of Arkansas, do hereby certify that prior to the commencement of the examination, MORTEN OLGAARD JENSEN, PhD, DrMed, FAHA, was duly sworn by me to testify to the truth, the whole truth, and nothing but the truth.

I DO FURTHER CERTIFY that the foregoing is a verbatim transcript of the testimony as taken stenographically by and before me at the time, place, and on the date hereinbefore set forth, to the best of my ability.

I DO FURTHER CERTIFY that I am neither a relative, nor employee, nor attorney to any of the parties in this action, and that I am neither a relative, nor employee of such attorney or counsel, and that I am not financially interested in the action.

NATANYA RIDDLE, CCR, RPR

LS Certificate #766, State of Arkansas

Notary Public in and for the State of Arkansas

Dated: February 8, 2026



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SIGNATURE OF WITNESS

I, MORTEN OLGAARD JENSEN, PhD, DrMed, FAHA,
hereby certify that the above and foregoing deposition,
is a full, true, correct, and complete transcript of the
proceeding
(Mark the appropriate box):
() had at the time of the taking of my deposition
OR
() subject to the notations on the attached Errata
Sheet made by me or at my direction.

{WITNESS} Date

THE STATE OF _____)
COUNTY OF _____) SS

SUBSCRIBED AND SWORN TO before me this _____
day of _____, 2026.

My commission expires:

(SEAL) Notary Public

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MORTEN OLGAARD JENSEN, PhD, DrMed, FAHA	Date
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