

1 UNITED STATES PATENT AND TRADEMARK OFFICE

2
3 BEFORE THE PATENT TRIAL AND APPEAL BOARD

4
5 TOUGHBUILT INDUSTRIES, INC.,

6 Petitioner,

7 v.

8 MERIDIAN INTERNATIONAL CO., LTD.,

9 Patent Owner.

10
11 Case IPR2025-01462

12 U.S. Patent No. 11,192,689

13
14 Deposition of GLENN VALLEE, PH.D.

15 Conducted Virtually

16 Tuesday, July,14, 2026

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21 Stenographically reported by: Judith E. Bellinger,

22 RPR, CRR, CSR-TX CCR-WA, CCR-NM

1 Deposition of GLENN VALLEE, PH.D., conducted
2 virtually.

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11 Pursuant to notice, before Judith E.

12 Bellinger, Registered Professional Reporter,

13 Certified Realtime Reporter, and Notary Public in

14 and for the State of Maryland.

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A P P E A R A N C E S

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CONTAINS POSSIBLE CONFIDENTIAL INFORMATION

Transcript of Glenn Vallee, Ph.D.

Conducted on July 14, 2026

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

2

3 GLENN VALLEE, PH.D.,

4 being first duly sworn, was examined
5 and testified as follows:

6 EXAMINATION BY COUNSEL FOR THE PETITIONER

7 BY MS. HAAPALA:

8 Q Good morning, Dr. Vallee.

9 A Good morning.

10 Q Please state your full name for the
11 record.

12 A Glenn Vallee.

13 Q Great. And you understand you're under
14 oath today, correct?

15 A Correct.

16 Q Are you on any medication that would
17 impair your ability to testify truthfully?

18 A No, I'm not.

19 Q Okay. Is there any other reason why
20 you can't give truthful testimony today?

21 A No.

22 Q I looked at your CV. I understand

1 you've been deposed before, correct?

2 A That is correct.

3 Q Okay. So given your previous
4 deposition experience, you're familiar with the
5 deposition process, right?

6 A Correct.

7 Q Okay. Great. So just so we're on the
8 same page, I'll go over a few guidelines I like to
9 follow.

10 First, when I ask a question, please,
11 make sure that you answer verbally. Don't nod
12 your head or shake your head. Just answer
13 verbally so that we can capture on the transcript,
14 okay?

15 A Okay.

16 Q I know it's hard, when we're in the
17 remote environment, not to speak over each other
18 sometimes. I'll do my best not to speak over you,
19 and if we could both do our best not to speak over
20 each other and pause as needed.

21 Can we agree to do that?

22 A Agreed.

1 Q Great. If you don't understand a
2 question that I ask, I may not ask everything
3 perfectly, just, please, ask me to clarify, okay?

4 A Agreed.

5 Q And if you answer, I'm going to assume
6 that you understood the question.

7 Is that fair?

8 A Understood.

9 Q So, your counsel, she may object if --
10 but unless she instructs you not to answer a
11 question, please, go ahead and answer the
12 question, okay?

13 A Okay.

14 Q Okay. For breaks, I'll plan to take a
15 break, a short break every hour or so.

16 Does that work for you?

17 A That's fine.

18 Q Great. And if you need a break sooner
19 than that, just let me know and I'll find a good
20 stopping place for the questions.

21 A That's fine.

22 Q Great. Okay. So, Dr. Vallee, you

1 understand that you're here to testify regarding
2 your declaration in IPR 2015-01462 [sic],
3 regarding U.S. Patent 11,192,689, correct?

4 A That is correct.

5 Q For ease of the discussion, I'll refer
6 to the patent as the '689 patent, okay?

7 A Thank you.

8 MS. HALSEY: I'd just like to correct
9 for a second. I think the number is
10 IPR 2025-1462.

11 MS. HAAPALA: Yes, that's right. Did I
12 misspeak?

13 MS. HALSEY: I think you said 2015.

14 MS. HAAPALA: Yes, I did. You're right.
15 Thank you. It is 2025. Thank you.

16 BY MS. HAAPALA:

17 Q Dr. Vallee, where are you today?

18 A I'm in Atlanta in the offices of
19 Eversheds.

20 Q Great. And who's with you?

21 A Attorney Halsey and Lindsay Kriz. And
22 that's it.

1 Q Great. And do you have any materials
2 with you today?

3 A I do.

4 Q Okay. Well, what do you have with you?

5 A Oh, I have all the exhibits to my
6 declaration, my declaration, prior art references,
7 my CV, and everything listed in my declaration as
8 reference materials.

9 And there were, also, some exhibits,
10 other exhibits related to Dr. McCarthy's report,
11 and if there's anything else, I believe that's
12 just about it.

13 Q Those documents you referred to, are
14 they clean documents?

15 A They are clean documents.

16 Q So no markings on them?

17 A Correct.

18 Q I see you also have a notepad. Do you
19 have notes on that notepad?

20 A No, this is actually my declaration. I
21 don't have a notepad in front of me. I know it's
22 difficult to see from this angle. It looks just

1 like white paper from your end. But, no, I have
2 no notepads.

3 Q Okay. And there are no notes on your
4 declaration, right?

5 A That is correct.

6 Q Okay. And so, you don't have a
7 computer screen or anything open, right?

8 A I do not.

9 Q Okay. Is there anything else that you
10 have with you?

11 A Nope. That's all I have.

12 Q Perfect, thank you.

13 Let's talk about your prior experience
14 with PTAB proceedings. So how many PTAB matters,
15 and by "PTAB matters," I mean inter partes review
16 and post-grant review, IPRs and PGRs, how many
17 have you been involved in?

18 A I would say, just IPRs and PGRs, it
19 was, approximately, 20, I believe.

20 Q That's --

21 A It's all spelled out in my CV.

22 Q Sure. Dr. Vallee, I see that you're

1 looking at your declaration. So let's just go
2 ahead and get that in the record.

3 A Oh, sure.

4 Q I would like to introduce Exhibit 2012,
5 which is previously marked as 2012, it's a
6 Declaration of Glenn E. Vallee in Support of
7 Patent Owner's Response to Petition for Inter
8 Partes Review of U.S. Patent Number 11,192,689.

9 So, Dr. Vallee, if there's anything
10 else you want to refer to and I haven't put it in
11 the record yet, just let me know, I'll be glad to
12 do that.

13 A In fact, I think I'll start with my CV,
14 since that's where we're going to begin.

15 Q Actually, we're not. I don't plan to
16 start with your CV, I plan to start with your
17 declaration. But if you want to look at it, we
18 can mark that as well.

19 A I apologize. You asked how many IPRs I
20 was in. I keep all that -- I've been around a
21 long time now, so I keep that in my CV.

22 Q No problem. Let's go ahead and

1 introduce that, then, too. That is Exhibit 2013.
2 And it is Dr. Vallee's CV, it's previously marked
3 as Exhibit 2013.

4 A Correct.

5 Q So, Dr. Vallee, I'm going to go back to
6 my question and ask how many PTAB matters, PGRs
7 and IPRs, have you been involved with?

8 A I believe it's, approximately, 20.

9 Q Okay. And when did you first serve as
10 an expert in an IPR or PGR proceeding?

11 A Oh, that was around the time frame of
12 2015.

13 Q So pretty much from the beginning,
14 then, soon after?

15 A I'm sorry, yes. As far as patent
16 litigation goes, yes, just about the beginning.

17 Q Great. Have you ever served as an
18 expert for a petitioner?

19 A I have.

20 Q How many times?

21 A Oh, I don't recall exactly. I would
22 have to go through my complete case list. But

1 it's, approximately, half the time.

2 Q Okay. That's fine. I don't need an
3 exact number. So half the time as petitioner,
4 correct?

5 A About, yes. About.

6 Q And then the other half time would be
7 for patent owner, yes?

8 A Correct. Something like that, yes.

9 Q Okay. And I think you served as an
10 expert in patent litigation in U.S. District
11 Court, right?

12 A Correct.

13 Q How many times have you done that?

14 A Oh, approximately, I think my total
15 number of cases is around 40 to 45 now. So the
16 balance would be, with the exception of two ITC
17 cases, the balance would have been those other
18 proceedings.

19 Q And for those other proceedings, how
20 many times have you represented the plaintiff, the
21 patent holder?

22 A I believe, again, it's, approximately,

1 half or so. Again, I'd have to go through the
2 details to recall exactly how many times. And
3 many of these things, you know, they've taken
4 place in different venues over the years, so I
5 would have to go through the records.

6 But I think it's about half.

7 Q Okay. Great. And I think I just heard
8 you say that you've also been involved in ITC
9 proceedings; is that right?

10 A Correct.

11 Q And how many ITC proceedings?

12 A It was two.

13 Q Two, okay. And who did you represent?
14 Which side did you represent in the ITC
15 proceedings?

16 A I believe one was a defendant and the
17 other one was a plaintiff. 50 percent.

18 Q Okay. And how long ago were you
19 involved in the ITC proceedings?

20 A Two years ago for one. And, again, I
21 can go back and look to see when the other one
22 was, but I think it was in the five or six-year

1 time frame. And, I'm sorry, there was a third --
2 no, that wasn't ITC. Okay. I'm sorry.

3 I can go back and look where it was. I
4 believe it was six, seven, eight years ago,
5 somewhere in there.

6 Q Okay. Great. Thank you.

7 Do you know whether a judge or a court
8 has ever found your testimony to be not credible?

9 A To my knowledge, no judge ruled my
10 testimony was not credible.

11 Q And were there any proceedings in which
12 a judge decided you were not qualified to testify?

13 A My testimony was only limited once
14 regarding an ITC case, where my opinions, they
15 weren't excluded, they were simply to be aimed at
16 technical matters as opposed to what a company may
17 have -- what may have caused the adversary, the
18 company, in that case, to infringe on a patent.
19 So he didn't want me opining as far as what they
20 may have been -- what their motivations may have
21 been.

22 But other than that, all the years I've

1 been testifying, that's the only instance.

2 Q And which case was it?

3 A That was, I believe -- pardon me for a
4 second while I try to find which one that was. I
5 believe that was -- I'm in my CV. I believe that
6 was the Fuma case. I believe -- again, I would
7 have to check to see, but I believe it was Fuma
8 International. I'm on page 2 of my CV.

9 Q Okay. Great.

10 A It was Fuma International v. R.J.
11 Reynolds Company. I believe that's the one.

12 Q Okay. So let me just share my screen,
13 just for a moment, just to confirm I have the
14 right one.

15 Dr. Vallee, I think you -- are you
16 referring to this Fuma International proceeding?

17 A If you could magnify that, please,
18 because -- I'm about 15 feet from the screen.

19 Q Certainly. So this one right here, is
20 that the right proceeding?

21 A I believe it was. I think it was an
22 e-cigarette case. If it wasn't that one -- again,

1 without my records in front of me, I can't say for
2 sure.

3 Q Okay. That looks like that's a
4 District Court case in North Carolina. Was there
5 another proceeding? You said it was an ITC
6 proceeding.

7 A No, I'm sorry. The other -- if you go
8 to page 1 at the bottom, it says Altria Group and
9 NJOY.

10 Q Yes.

11 A It may have been that one. I believe
12 it was one of the two e-cigarette cases. But,
13 again, I'm not absolutely sure. Sitting here, I'm
14 not sure without going back to my records.

15 Q But you recall it was an ITC
16 proceeding, correct?

17 A I simply -- I recall that it was an
18 e-cigarette case. I'm not sure whether it was the
19 District Court case or the ITC case.

20 Q Okay. So it was either this Altria
21 case and the ITC or the -- on page 1 of your CV,
22 or the Fuma case in the middle district of

1 North Carolina, correct?

2 A Correct. To the best of my
3 recollection, sitting here, I believe it was one
4 of those two.

5 Q Okay. Great.

6 And so, in those cases, the judge
7 excluded part of your testimony but not the whole
8 testimony, correct?

9 A I believe it was technically -- my
10 testimony was limited. So I wasn't allowed to
11 opine on that.

12 Q Are there any other proceedings in
13 which a judge or a court has excluded your
14 testimony?

15 A No.

16 Q Great. I'll stop sharing for a moment.
17 So, Dr. Vallee, when was the first time
18 you heard of ToughBuilt?

19 A Well, I do a lot of construction
20 projects myself. It's been a long -- you know,
21 over ten years, maybe even 20. I've heard of
22 ToughBuilt, you know, by working with people in

1 the trade. It's a common name in construction.

2 Q So ToughBuilt, you had heard of
3 ToughBuilt before this matter, correct?

4 A That is correct. I don't recall
5 exactly when the first time I heard it was, but
6 I've certainly heard of ToughBuilt before this
7 matter.

8 Q And have you ever used any of their
9 products?

10 A Oh, I believe I have. And I believe
11 they were storage containers. I can't remember
12 exactly when because I've used so many tools over
13 the years. But I am familiar with ToughBuilt. I
14 believe I have used their products.

15 Q Have you used them yourself as, like, a
16 homeowner or in a different capacity?

17 A You know, I know I've used them in my
18 industrial career, when I was in industry, when I
19 went to the field to work with tradespeople. And
20 if I were to search my home, I may even have
21 ToughBuilt there, you know. I have a lot of tools
22 and equipment, and I'm not only super familiar

1 with the manufacturer, but ToughBuilt is kind of a
2 unique looking logo. So I believe I do have
3 ToughBuilt at home, too.

4 Q Great. Thank you.

5 And when was the first time you heard
6 of Meridian?

7 A I believe it was when I got involved
8 with this matter.

9 Q So you hadn't heard of Meridian before
10 this matter; is that right?

11 A Correct. I'd not heard of them before.

12 Q Can you tell me what you know about
13 Meridian?

14 A They are, you know, a manufacturer of a
15 number of different industrial and DIY products,
16 mostly related to storage, which is where my focus
17 was.

18 Q And do you know Meridian is a privately
19 held Chinese company, right?

20 A I do recall, yeah, seeing that in the
21 documentation. Because I believe the -- some of
22 the inventors were from China, on the '689 patent.

1 Q And you're aware that Meridian's
2 Chinese company has an opaque ownership structure?

3 A That, I don't believe I'm aware of, the
4 corporate structure of the company.

5 Q And do you know whether Meridian has
6 ties to the Chinese government?

7 MS. HALSEY: Object to form.

8 A I have no idea.

9 Q Would you be comfortable providing
10 opinions in this case if it turned out Meridian
11 was associated with the Chinese government?

12 MS. HALSEY: Object to form.

13 A Well, that -- that wouldn't alter my
14 analysis at all.

15 Q Okay. And how did you become involved
16 with the IPR?

17 A Ms. Halsey, I think, was the first
18 person that I spoke with regarding this case.
19 There was a recruiting firm called IMS Legal, was
20 contacted, I believe, by Eversheds, and they
21 proposed me as an expert. And after, you know,
22 going over my credentials, they decided to retain

1 me in this matter.

2 Q And do you have an engagement letter?

3 A I'm sure I do somewhere. There's
4 always an engagement letter when it goes through a
5 recruiter. Actually, there's always an engagement
6 letter in any patent case. So I would have an
7 engagement letter.

8 Q And who are the parties to the
9 engagement letter?

10 MS. HALSEY: Object to form.

11 A There were -- I'm sorry, so you mean
12 who are actually -- there would be two engagement
13 letters. There would be one between myself and
14 IMS Legal, and then another one that involved
15 Eversheds on this matter.

16 Q And then the one with Eversheds, who
17 are the parties to that agreement?

18 A I would have to go back and look at
19 that. It's probably between IMS and Eversheds.
20 But sometimes, it depends on the firm, they would
21 like it between me and the firm. It depends on
22 the case. I'd have to go back to my documents.

1 I'm not sure, as I sit here, who those parties
2 are.

3 Q And does that engagement letter name
4 the client?

5 MS. HALSEY: Object to form.

6 A Again, I have to -- I don't have the
7 engagement letter in front of me. I'd have to --
8 I'd be speculating. I don't recall who,
9 specifically, the letter would name in that. It's
10 generally, you know, an agreement with me about
11 the terms, what I am to do, the fee schedule,
12 those kinds of things.

13 Q And do you have a copy of the
14 engagement letter?

15 A I do not here, no.

16 Q But you have a copy?

17 A Somewhere, yes, I'm sure I do.

18 Q Are you able to provide us with a copy
19 of the letter?

20 A That would be up to Ms. Halsey, if she
21 wants me to submit that.

22 MS. HAAPALA: Ms. Halsey, are you able

1 to provide a copy, at least to who the parties of
2 the engagement letter are?

3 MS. HALSEY: I think we're kind of
4 treading a good way into potential, you know,
5 attorney-client/work product information at this
6 point. We'll have to take a look and we'll
7 consider your request.

8 MS. HAAPALA: Okay. Great. Thanks.

9 We're happy to talk offline about that.

10 BY MS. HAAPALA:

11 Q Dr. Vallee, are you involved in
12 Meridian's District Court case?

13 A No, I am not.

14 Q Okay. Let's just talk about your
15 preposition [sic] for the deposition today.

16 Did you prepare for this deposition?

17 A I did.

18 Q And what did you do to prepare?

19 A I reviewed my declaration in this
20 matter. All the exhibits related to the
21 declaration. And document -- and the exhibits
22 related to Dr. McCarthy's deposition. And met

1 with some of the counsel in this case, just to
2 meet and go over those documents with counsel as
3 well.

4 Q And during the course of preparing your
5 deposition -- excuse me, your declaration for this
6 proceeding, did you meet with anybody directly
7 from Meridian?

8 A Meridian? No, I did not.

9 Q Did you ever interact with anyone from
10 Meridian?

11 A I'm sorry. No, I did not.

12 Q And so, you said you met with
13 Ms. Halsey, counsel.

14 Did you meet with anybody else?

15 A Yeah. Ms. Kriz as well.

16 Q Anyone else?

17 A There may have been one other attorney
18 that I can't -- I can't recall her name. I'm
19 sorry. Who was in the room.

20 But my interactions were with Ms. Kriz
21 and Ms. Halsey.

22 Q And other than reviewing the documents

1 in the record, did you review anything else?

2 A I do not believe so, no.

3 Q Did you do anything else to prepare,
4 other than reviewing the documents and your
5 declaration?

6 A And the meeting with Meridian counsel.
7 That was it.

8 Q I think we already have your
9 declaration in record. And, Dr. Vallee, I know
10 you have a copy in front of you, correct?

11 A Correct.

12 Q And let me share my screen. So,
13 Dr. Vallee, this is your declaration, correct?

14 A So far it is, yep.

15 Q Would you like me to zoom in further?
16 I'll zoom in.

17 A Yes, please. My old eyes are --

18 Q And feel free to also look at the copy
19 in front of you.

20 But is this better?

21 A Yes. And I will because it's right in
22 front of me. I will -- when I see something on

1 the screen, I'll directly refer to my copy.

2 But I'll tell you where I am in my
3 document so we're both on the same page.

4 Q That's perfect.

5 A I see where you are, and that's what I
6 have in front of me. And, yes, that is my
7 declaration.

8 Q Okay. I'm just going to go to your
9 signature page, which is the last page.

10 Dr. Vallee, is that your signature on
11 the declaration?

12 A Now, if you could scroll down, that is
13 page 66, correct?

14 Q Yes.

15 A Yes, that is my signature.

16 Q Okay. Great.

17 And did you prepare this declaration?

18 A I did.

19 Q Could you, please, describe the process
20 you used to prepare your declaration.

21 A Process involves my -- first, my review
22 of all the prior art and all the related

1 documents. They're cited in the declaration.

2 Then I review the asserted patent here
3 and the claims. And I discuss the matter with
4 counsel, as far as legal, you know, statutes and
5 things like that, that are involved. And take my
6 opinions and draft a -- you know, my declaration.
7 I ask -- the firm has -- I'm a one-person, so,
8 generally, the firm inserts citations and things
9 at my direction, annotations, and helps me
10 organize my declaration in the proper format. The
11 firm helps me with the citations to all the legal
12 principles. And the declaration's written.

13 Q And did you write, you said that -- let
14 me rephrase that.

15 Did you write, yourself, any parts of
16 the declaration?

17 A Yes, there are a number of parts I did.
18 I mean, it's scattered throughout. Again, for
19 expediency and efficiency, I asked the firm to
20 help me put together a template for what the order
21 should be. And it's far more efficient, it's the
22 way I always work. And I insert my parts and I

1 edit and modify and request things to be changed.
2 But it's my report. Nothing goes in it without my
3 approval or without my direction, as far as how my
4 opinions are to be formulated and documented.

5 Q Okay. Can you give me an example of
6 the type of material that you drafted?

7 A Oh. You would like a specific
8 example --

9 Q Yes.

10 A -- or just in general?

11 Q Well, you mentioned that counsel
12 inserted legal citations and other things for you.
13 So if you can point me to a specific section that
14 you drafted, as an example, that would be helpful.

15 A Sure. We can start on page 1,
16 Qualifications and Experience. There we go. That
17 section.

18 Q Okay.

19 A In general, the materials considered,
20 but we waited until it was done and the exhibit
21 numbers were in place.

22 Q How about any of the body of the

1 opinion, in regards to your opinion on the
2 grounds, the petition grounds?

3 A Oh, you would like me to jump to there?

4 Q I'm just curious if you drafted any of
5 these portions of the declaration.

6 So, for example, let's look at the
7 opinion that the prior art is not analogous.

8 Did you draft, yourself, any of this
9 section?

10 A I'm sorry. Which page are we on now?

11 Q We're on page 15.

12 A Oh, okay. Thank you. Yeah.

13 Yes, when we discussed this, I took a
14 look at these references and determined that I did
15 not feel that they were analogous art. So I made
16 sure that that was included in the declaration. I
17 don't remember if -- see, when I put my opinions
18 forward, it's a collaborative effort, as far as
19 the form it's documented in. But this is all --
20 for example, I can say I inserted, on page 16, I
21 believe it's around paragraph 37, about the
22 strength of it, and paragraph 38, my opinion as

1 far as how that feels with heavy storage
2 containers. Probably 39.

3 So there are a number of places. See,
4 I'm in here everywhere, with the exception of,
5 maybe, the legal portion, which is -- oh, that
6 would be Section 5, which begins on page 6, okay?

7 Q Great. So --

8 A I'm sorry. I'm sorry. I paused and
9 let you believe that I was done. I'm sorry.

10 But throughout this, this document, you
11 know, I've drafted all kinds of different sections
12 and pieces of this. And, basically, when it's all
13 put together and organized in the right format,
14 that's the document you see before me.

15 Q Thank you for clarifying that.

16 A Okay. I'm done. I'm sorry. I'm done.

17 Q No, thank you for clarifying.

18 Actually, let me go back. We're going
19 to talk -- I have a few questions about your
20 background and experience.

21 A Sure.

22 Q So let's go to paragraph 2, which is on

1 page 1.

2 A Paragraph 2. Got it.

3 Q Okay. So, actually, I'm going to,
4 first, talk about the portion of paragraph 2 that
5 starts on page 2. So I'm here.

6 A Okay.

7 Q So here, you mentioned that there have
8 been six utility patents issued for student
9 inventions developed in your course, correct?

10 A Correct.

11 Q And I'm curious about, what were those
12 inventions?

13 A Oh. If we refer to my CV, which is
14 Exhibit 2013, and on the last page, which is
15 page 11, okay? Let's see, the first two patents
16 had to do with the latching triggers I developed
17 with Stanley. The portable drill bit sharpener is
18 one.

19 Q Dr. Vallee, I apologize for
20 interrupting you, but, actually, the question I
21 asked you about is the student inventions, not
22 your inventions.

1 A Oh, I'm sorry. Let me clarify. The
2 way the course works is a device, a commercially
3 viable device is developed to solve some kind of
4 problem. Sometimes the problem is given to me by
5 a company. Sometimes the problem is something
6 where I or the students bring forward and decide
7 there could be a product, a commercially viable
8 product that could be sold.

9 So I guide the -- the idea is for me,
10 using my years of experience in product
11 development, to guide the students through the
12 whole process on how to develop a product and have
13 a patent issued.

14 So I'm always listed as an inventor,
15 okay? But for the sake of the students, since
16 they have input as well, they are also listed as
17 coinventors on these products.

18 So when you asked me which are my
19 patents, these are my patents, but they're also
20 student inventions. That's why I call it a
21 student invention.

22 For example, we developed a device that

1 could transport storage containers. It was a
2 project by -- that project, I believe, was the
3 Irwin Company, at that time, where they -- you
4 know, they wanted a system to efficiently
5 transport storage containers.

6 So I would guide the students through
7 consumer interviews, the process of collecting
8 data, (indiscernible) modeling design on how to
9 actually put on paper what the design was,
10 developing a prototype, bringing it out to the
11 field to test, et cetera.

12 So it was a collaborative effort led by
13 myself.

14 So they are student inventions, but I
15 am typically the lead inventor on those.

16 Did that clarify it? I'm sorry for the
17 confusion.

18 Q That was very helpful. Actually, you
19 anticipated a few of my questions, so I just want
20 to go back through and just make sure I got
21 everything correctly.

22 You mentioned that one of the

1 inventions was for a stackable transportation
2 system for tool storage containers, correct?

3 A Correct.

4 Q Okay. And what was the patent number?

5 A I'm sorry. That one, because it was a
6 corporate project, the university could not -- I
7 couldn't be issued a patent. The deal was to
8 have -- the company would own the rights to that.

9 So if there is -- if they went on and
10 patented that, I'm not aware of it. But I don't
11 believe they did. So there's no patent for that
12 particular product.

13 But I give that as an example on how we
14 invent things. You know, the majority -- we
15 select a chosen few every year that we may want to
16 file a patent for. And because of the corporate
17 relationship, we decided we weren't going to do
18 that for that product. So there is no patent for
19 that, that I'm aware of.

20 Q Thank you. That helps clarify because
21 I wasn't sure, reading this sentence, I misread it
22 to be that the six utility patents had been

1 issued, that the patents included a stackable
2 transportation system for tool storage containers.
3 I understand, now, that the stackable
4 transportation system for tool storage containers
5 is an example of a product developed; is that
6 correct?

7 A That is correct.

8 Q Okay. Thank you.

9 So the six utility patents that were
10 filed, I think you said they're on your CV,
11 correct?

12 A Correct.

13 Q So let's take a look at that. So
14 turning back to Exhibit 2013. And I think this is
15 where you were referring me to.

16 Can you refer me to the page that lists
17 those patents?

18 A Yes, that would be page 11. The last
19 page. There we go.

20 Q Great. And I see here nine patents; is
21 that correct?

22 A I believe so. One, two, three, four,

1 five, six, seven, eight, nine. Yes.

2 Q Okay. And which of these patents was
3 developed as -- in collaboration with the
4 students?

5 A There was the third one, portable drill
6 bit sharpener.

7 Q Okay.

8 A There was the biopsy spacer device and
9 method of operation. The water purification
10 system. A modified version of the biopsy spacer
11 device. The flexible electrical power strip and
12 the combination tool.

13 The others are my -- we're not done
14 with students. They were my inventions through
15 the companies I worked with or for.

16 Q Great. Thanks. We'll have a few
17 questions about those, but let's just keep to
18 paragraph 2 of your declaration for right now.

19 A Okay.

20 Q Okay. So you stated one of the
21 examples of a product developed by students from
22 your -- in your course is this stackable

1 transportation system for tool storage containers.

2 Could you, please, describe a little
3 bit more about that product?

4 A Sure. Excuse me. The Irwin Company or
5 Lenox, I forget, Irwin bought Lenox, but I believe
6 it was Irwin. They came to us and they said, we
7 need a system that will help us to transport
8 multiple storage containers on a worksite
9 efficiently so work people don't have to simply
10 keep carrying heavy tool cases around.

11 So the students and I developed a
12 transportation, a wheeled transportation system
13 where the containers can be stacked, they had
14 features on the top and bottom of the container so
15 they could be interlocked so they don't move. And
16 they were all latched together with a system that
17 basically wrapped around them and tightened them.
18 And then locked them onto the wheel system so they
19 could be moved around the worksite without
20 flipping over.

21 That was, basically, the design.

22 Q And when was this product designed?

1 A Bear with me for one second. Without
2 looking at the actual product documentation, I'm
3 going to estimate it was around 2015-ish,
4 something like that. Again, I'd have to go back.
5 We did many projects. So to find the exact date,
6 I would have to go back and look. But it was
7 around ten years ago, something like that.

8 Q Thanks. So that was before the
9 priority date of the '689 patent, then, correct?

10 A Yes. I believe we said the priority
11 date here -- I want to make sure I'm sure. Just
12 bear with me for one second. I don't want to get
13 the priority date wrong.

14 Q Dr. Vallee, I'll direct your attention
15 to the paragraph 8 of your declaration.

16 Is that the date you were looking for?

17 A Oh.

18 Q Page 5.

19 The very end of paragraph 8 states a
20 time of the invention for the '689 patent is
21 November 27, 2019.

22 A Thank you. Yes.

1 Q So the --

2 A Right there.

3 Q So the tool transportation, stackable
4 tool transportation system you described was prior
5 to that date, correct?

6 A Correct. 2019 sticks out because it
7 was COVID and there were fewer projects that
8 happened.

9 Q I think that sticks out for all of us.

10 A Oh, my goodness, it was terrible. Yes,
11 thank you. Thank you for guiding me there.

12 Q Thank you. And then, you described
13 that the containers were latched together. Could
14 you describe how the containers were latched
15 together?

16 A There were female and male detents in
17 the tops and bottoms. So if there were, I seem to
18 recall, I don't remember if the positive, the male
19 detents were in the lower tool case or the upper.
20 But where there was a male detent, there was a
21 female on the other side. I believe the male was
22 at the bottom.

1 So we'll call it a second container,
2 since, you know, that agrees with the subject
3 matter here. The second container would have a
4 positive and the first container would sit on top
5 of it.

6 So there would be a pattern that would
7 allow you to interlock them. So you'd put one on
8 the other, and then you'd -- and you could have
9 two, you could have three, you know, as many as
10 you could stack on the transportation device. And
11 then there would be a strap that would go around,
12 and it was adjustable, so you could latch two
13 together, three together, four together,
14 et cetera. It also enabled you, as I recall, to
15 lift multiple, you could lift two at a time while
16 they were strapped together.

17 Q Great. Thanks.

18 And do you recall, as you were working
19 with the students on the design, how the
20 students -- how you settled on the mechanism to
21 latch the containers together?

22 A I teach most of the mechanical

1 engineers -- see, the teams of students are
2 composed of business students and, primarily,
3 mechanical engineers, to teach them how to work
4 together, understand each other's language. You
5 know, the business world is different than the
6 engineering world.

7 So the -- I teach -- the mechanical
8 engineers all had me for a machine design course.
9 So I teach about holding assemblies together and
10 latching and things like that.

11 So we discussed what we talked about in
12 the course and brainstorm different ways to, in an
13 inexpensive fashion, develop a rugged and durable
14 latch that would hold these things together.

15 So we brainstormed, we modified, we did
16 some preliminary testing on different ideas. And
17 then finally developed what we came up with in the
18 final design.

19 Q Thanks. And was this product sold?

20 A Again, after we presented it to the
21 company, I don't know if they ever took the idea
22 and ran with it. Because I think the company may

1 have been sold again afterwards. I'm not sure,
2 but I do know they were very impressed with the
3 design and they informed us that they were going
4 to move forward with it.

5 So I don't know if they ever did or
6 not.

7 Q Thank you. Would you remind me, I know
8 you said the name of the company, but I didn't
9 quite catch it. Which company was this?

10 A Again it was -- I think, at the time
11 they approached us, it was the Irwin Company who
12 bought Lenox. Lenox was the company that was
13 located in Springfield, Massachusetts, which was
14 the same city the university is in. And then
15 Irwin later sold it to Stanley Black & Decker.
16 So, again, that's why I'm -- I'd have to go back
17 to those records and see exactly who owned it.
18 But for all intents and purposes, it was Lenox,
19 Lenox saw company, and Irwin, who bought them.

20 Q Okay. Thank you.

21 So, I'm going to stick with paragraph 2
22 for just a couple more minutes.

1 Let's see. So I think that the course
2 that we're talking about is -- so I'm on page 1.
3 The course that we've been talking about is this
4 product development and innovation PDI course; is
5 that right?

6 A Correct. Correct.

7 Q Okay. And in your testimony, you state
8 it involves the design of locking and latching
9 mechanisms, correct?

10 MS. HALSEY: Object to form.

11 A I believe I said -- I'm on top of
12 page 2. The end of paragraph 2, after 20 years of
13 teaching machine and product design at Western New
14 England University, which involves the design of a
15 wide range of locking and latching mechanisms.

16 So I'm sorry. What's -- maybe I
17 misunderstood. Your question was, again, what
18 exactly?

19 Q I was asking that -- if the course
20 involved the design of locking and latching
21 mechanisms? And I think you just answered that
22 yes, it does, correct?

1 A That is correct. Right. In fact,
2 in -- the example of the transportation system is
3 a good one.

4 Q So in that -- for that example, you
5 described that you presented the product to the
6 company. Is there any documentation that you
7 keep -- you've kept for that presentation?

8 A Oh, again, I'd have to go back and look
9 in the files. Most of this is kept on a
10 university database, which I think they -- they
11 just changed it. I'd have to look. I'm not
12 exactly sure if it still exists, and I'd have to
13 look in my records to see what I may still have.

14 Q Would you be able to look for those
15 documents?

16 A Again, I'll defer to Ms. Halsey here on
17 this, for now.

18 MS. HAAPALA: Ms. Halsey, we would be
19 interested in seeing a copy of editing papers or
20 publications about this product, if Dr. Vallee
21 still has that.

22 MS. HALSEY: This seems a bit beyond

1 the scope of what normally occurs in an IPR, since
2 you're seeking discovery, essentially, at this
3 point. So we'll take -- we'll consider it, but it
4 seems a bit problematic.

5 MS. HAAPALA: We can ask the board for
6 the discovery, if we need to, if you would agree
7 to it, that would be helpful.

8 We think it's relevant to -- you know,
9 Dr. Vallee testified about this product, so we
10 would like to get some more details about it.

11 MS. HALSEY: We will consider your
12 request.

13 MS. HAAPALA: Great. Thank you.

14 BY MS. HAAPALA:

15 Q Okay. So, Dr. Vallee, could you
16 describe the type of latch mechanisms you taught
17 in this course?

18 A All right. We discussed the one on the
19 transport system. I've taught latches for
20 pneumatic nailers in the course. There are a
21 number of -- because I worked for Stanley Works
22 and I designed pneumatic nailers. There were a

1 number of magazine latches that we -- that I
2 taught, where a magazine -- let me give you a
3 little background, I'm sorry. You're not familiar
4 with nailers.

5 A magazine holds a group of nails that
6 are welded together, and there were latches
7 involved with holding different components
8 together to allow space for you to put the nails
9 in, and then you release the latch, so it's closed
10 off and you can't enter any more nails.

11 There were also latches that were
12 involved with how the feed system of the nailer
13 works, okay, where you have to open and close
14 certain doors to access components. And they have
15 to be spring-loaded latches that hold it shut and
16 then you release the latch and it opens the door.
17 That was another one.

18 There were latches and battery
19 compartments on a lot of the products where the
20 students have to -- we rapid prototype a lot of
21 things. They'd have to design little doors, like
22 battery access doors, things like that. There

1 were those kinds of latches.

2 There were, I don't know if you're
3 familiar with the toggle clamp, there were toggle
4 clamp kind of latches, where to hold two things
5 together, you simply have these one or more levers
6 that close a latch to attach something, and then
7 you release the lever so that it separates the
8 two.

9 Those are just a few that come to mind.
10 I'm sure there are more because we've done over a
11 hundred products. Many of which are battery
12 operated, many of which need latches.

13 Q The students in these courses -- in
14 this course, do they have a prior course where
15 they were taught basic mechanical designs of
16 latches or do you cover that in this course?

17 A No. As I said earlier, I teach the
18 machine design course, which introduces the
19 students to how you would actually determine the
20 motion, the stresses, the forces involved with
21 latching. And then they take what they learn and,
22 just like they would in a real world, they take a

1 specific product and they apply what they learned
2 in the machine design course to a specific
3 latching problem that they would have to solve.

4 So it's really in two courses, the
5 fundamentals are in machine design and the
6 application is in the, I'll call it, the PDI
7 course, product development innovation.

8 Q Do you teach the students, in either of
9 these courses, about basic latch designs that
10 exist?

11 A Yes, I do. In fact, every -- the way
12 the course is structured is, the beginning of the
13 machine design course, we talk about how to
14 predict strength. The second half is
15 applications. So in the applications portion, we
16 introduce, you know, how they would analyze
17 latches and examples of those kinds of things.
18 We'd also do examples of cams and many other
19 mechanical design. So that would be in the second
20 half of the course.

21 Q Could you provide me some examples of
22 the types of latches that you teach your students

1 about?

2 A I'm sorry. In the machine design
3 course or in the PDI, or both?

4 Q In both courses.

5 A Yes. Well, I just went through a
6 number of them. It would be the nailer ones, the
7 battery compartment ones, the transport system
8 case. Again, I'd have to go through all the
9 products to get a comprehensive list. But those
10 types of things, where we design latches. There
11 were spring-loaded latches, tension latches, quick
12 release kinds of latches. We discuss all those
13 things.

14 Q And these types of latches that connect
15 to components, they existed prior to
16 November 2019, correct?

17 A I'm sorry. Do you mean the ones that I
18 teach in my course?

19 Q Yes.

20 A The fundamental concepts, I believe,
21 did. But I think we may have developed some novel
22 ones, along the way, that were different than

1 anything else. I can't recall, again, I'd have to
2 go through the comprehensive list of the products.
3 But the fundamental technology, I think, did exist
4 before then, and we may have come up with some new
5 ideas.

6 Q Can we agree that latching two
7 components together has been known for a long
8 time, different latches to do that?

9 MS. HALSEY: Object to form.

10 A The -- there were certainly latches
11 known before, but, you know, for example, in the
12 '689 patent, those features are very new. So I'm
13 sure my students had some novel ideas for latching
14 as we came up with some of these products we
15 developed. Not all latching systems were known
16 before.

17 Q Sure. I understand that there were
18 some modification made by your students, correct,
19 for the products?

20 A That is correct.

21 Q And you said, though, that not all of
22 these were before the November 2019 date. So let

1 me say this -- let me rephrase. Thank you.

2 How long have you been teaching this
3 course?

4 A I think the first run was somewhere
5 around 2009. I received a grant to help start the
6 course. I believe it's around the 2009 time
7 frame.

8 Q So the designs of -- your student
9 designs that occurred between 2009 and 2019, can
10 we agree those were before the '689 patent
11 priority date?

12 MS. HALSEY: Object to form.

13 A If the priority date is as we stated,
14 2019, then some of those inventions -- or some of
15 those projects were before then.

16 Q So some of those new novel latch
17 designs that you discussed were before 2019,
18 correct?

19 MS. HALSEY: Object to form.

20 A Well, again, I'd have to go through the
21 list of products we developed and try to recall
22 which latches were involved in which products.

1 Sitting here, I can't say for certain that that is
2 true. It's just been -- you know, 2019 is going
3 on -- 2009's going on almost 20 years now. I'd
4 have to go through those cases to see if that is
5 actually true.

6 Sitting here, I just can't recall all
7 those projects with latches.

8 Q Do your students consider prior latch
9 designs when they're working on their product?

10 A I'm sure they do, yes.

11 Q And latches can be used on different
12 types of products, right?

13 A Yes, for example, the products I just
14 mentioned. That is true.

15 Q So I'm going to give a very simple
16 example. For example, you're familiar,
17 Dr. Vallee, I'm sure, with the hook-and-eye latch
18 to attach two components, just a basic
19 hook-and-eye design, yes?

20 A Well, I'm -- let me make sure I
21 understand. So you're talking about, like, a gate
22 latch, for example, where you have an eye bolt

1 with a hole and then you have another member that
2 kind of hooks into it? Is that what you're
3 talking about, that kind of hook and eye?

4 Q Yes, that's right.

5 A Okay.

6 Q So that kind of latch can be used, as
7 you just described, to keep a gate shut, correct?

8 A That is used to keep a gate shut many
9 times. Not the only way you can keep a gate shut,
10 but that is -- in fact, I have one on my tool shed
11 door. I use it to keep it open, actually.

12 Q So the similar latch can also be used,
13 as you just described, to keep a door shut?

14 A I used it to --

15 Q -- or open?

16 A Again, it depends on the door. It
17 depends on the application. I couldn't keep this
18 conference room door open with one of those, most
19 likely. The door is too heavy and probably
20 spring-loaded. But for that simple case, yes,
21 I've used the hook and latch on a barn door --
22 well, it's a tool shed door.

1 Q And a similar mechanism, slightly
2 modified, but a similar mechanism could be used to
3 latch clothing garment -- excuse me. Let me
4 rephrase.

5 A A similar hook and eye can be used to
6 hold garments together --

7 MS. HALSEY: Object to form.

8 Q -- where you have a hook into an eye?

9 MS. HALSEY: Object to form.

10 A I don't think I've seen one of those.
11 You'd have to -- if you gave me a sketch or
12 something, or a product, I might be able to
13 comment. But I can't picture hook and eye in
14 garments. Maybe my wife could, but I can't.

15 Q All right. So my question is more the
16 concept of a hook that connects to a hole, let's
17 call it a hole, can be used in other applications,
18 correct?

19 A It could be. It depends on the
20 application. For example, in transporting
21 different tool storage systems, something like
22 that probably wouldn't work. Because it's -- the

1 way a hook and an eye works is you have to have,
2 you know, the hook generally flops down and is
3 loose. You'd have to position it. So something
4 like that wouldn't work, for example, in the
5 subject related to the '689 patent. It would work
6 for a barn door. But, again, it's
7 application-specific.

8 Q I understand. But would you agree that
9 the hook-and-eye latch can be used in different
10 types of applications?

11 A There are certain applications, I would
12 say a limited number of applications, where that
13 could work. My point is, it wouldn't necessarily
14 work for every application.

15 Q Thank you. So the purpose of a latch
16 is, generally, to secure two components together,
17 right?

18 MS. HALSEY: Object to form.

19 A The -- again, my focus is on latches
20 related to the patent. So certainly, the latch in
21 the patent is aimed at keeping two things secured
22 together.

1 Q And, Dr. Vallee, I understand we're
2 here to talk about the patent, but I'm, right now,
3 just talking about your experience and your
4 teaching. And you talked about teaching your
5 students about latch design. So I'm just curious,
6 in general, about the purpose of a latch.

7 What is the purpose of a latch, in your
8 opinion?

9 A In the broadest sense, the purpose of a
10 latch would be to constrain the positioning of two
11 different bodies.

12 Q And that basic principle, that you just
13 described, it's the same regardless of what the
14 product is, the principle, high-level principle
15 that you described to secure two bodies remains
16 the same, correct?

17 MS. HALSEY: Object to form.

18 A Well, again, I think it's definitely
19 application-specific, because the design of what
20 you're using the latch for may secure something
21 maybe in one degree of freedom. It may, for
22 example, constrain separation, but allow sliding.

1 I mean, that's such a broad question. It's really
2 application-specific.

3 I can't really answer that for
4 everything. It depends on how the latch is
5 applied and what the application is.

6 Q Yes. Right now, I am deliberately
7 asking about the broad application of a latch
8 that, in general, as you just said, the latch
9 constrains -- I don't want to put words in your
10 mouth, I think you said it constrains different
11 bodies; is that right?

12 A I think it's more accurate to say it
13 limits the relative motion of two bodies in
14 particular degrees of freedom. That's probably
15 more accurate.

16 Q Okay. So that very high level, basic
17 principle is the same for all latching mechanisms,
18 correct?

19 A Well, to call it a latch, I think, in
20 the broadest possible sense, that a latch will
21 restrain that motion. I think that is correct.

22 Q And so, you talked about factors that

1 may vary from product to product. Is one factor
2 that might vary the size of the latch?

3 A Well, I think the size of the body
4 you're trying to constrain would certainly be
5 application-specific. And that could have an
6 effect on the size of the latch.

7 Q For example, we were talking about a
8 hook-and-eye latch. If you're securing your
9 backyard gate, would it be fair to say that that
10 latch might be larger than a latch used to -- the
11 similar latch used to secure a screen door?

12 A Again, it depends on the application.
13 If the screen door is in a high wind zone, you
14 could actually -- it's so -- it's
15 application-specific. It really -- like, if you
16 give me a certain application, I think I'd be in a
17 much better position to answer that question.
18 It's so broad.

19 Q Yeah, broadly, what I'm asking, is one
20 of the factors that you can use to vary a latch
21 design the size of the latch?

22 A You can vary the size of the latch,

1 depending on the application.

2 Q And another factor that might vary is
3 the material used, correct?

4 MS. HALSEY: Object to form.

5 A Again, broadly, the material can vary
6 dependent on the application. There may be
7 situations where there's no need to vary the
8 material, other than the least expensive material.
9 It's all application-dependent. So depending on
10 the application, yes, you can vary the materials.

11 Q Okay. So if you change just the
12 dimensions of the material, you don't change the
13 basic latch mechanical principle; is that right?

14 MS. HALSEY: Object as to form.

15 A No, that is not correct. Because if
16 you vary the dimensions, for example, thickness,
17 you'll vary the flexure in the different
18 components, so the latch would not work in the
19 same way.

20 The geometry, materials, load all have
21 to work together, be considered when you design a
22 latch.

1 Q So I think I'm asking the question in
2 the wrong way. Let me try it again.

3 Let's talk about the hook-and-eye
4 example. The basic mechanical principle of
5 hooking -- I'm sorry, Dr. Vallee, what would you
6 call the component that hooks into the other --
7 into the eye?

8 A The hook.

9 Q The hook. Great. Okay. Thank you.

10 So if you have a hook in the eye and we
11 decided that we can vary the size of that,
12 correct, depending upon the application?

13 MS. HALSEY: Object to form.

14 A Depending on the application, you could
15 require a different size, yes.

16 Q And depending on the application, you
17 could require a different material, correct?

18 A You could require a different material,
19 but that could automatically change the size of it
20 and the geometry. I just don't want to give the
21 impression that you could take that hook-and-eye
22 design on my tool shed and simply replace it with

1 another material. Again, it's
2 application-specific, so the loads, the stresses,
3 the geometry, all have to be done together. You
4 don't simply change the material. You don't
5 simply change the size.

6 You have to do them all concurrently.

7 Q Yes. Thank you. I do understand that.
8 I think I'm at a higher level than that.

9 If you vary the size, the basic
10 mechanical principle, the hook is inserted into
11 the eye doesn't vary; is that correct?

12 A Well, it could. It could. It depends
13 on the application.

14 Q But it also could not, right? It may
15 be the same?

16 MS. HALSEY: Object to form.

17 A Again, it's the kind of thing where
18 you'd have to have a specific example that I could
19 analyze to see whether that could be or not be.
20 There are certain applications where that could
21 not be. There may be applications where they are.
22 Just without a specific example, it's kind of hard

1 to -- hard to nail down.

2 Q So if you have a hook and an eye that's
3 used -- let's assume it's not a high wind, it's my
4 grandma's backyard door, a hook and an eye, very
5 simple, the hook goes into the eye in the screen
6 door, correct?

7 A So a hook goes into the eye in the
8 screen door, correct.

9 Q And then, in a gate, it may be a larger
10 hook that goes into the eye, but the same latching
11 principle applies, correct?

12 MS. HALSEY: Object to form.

13 A Again, we're straying really far from
14 transport systems here, where my focus was really
15 on the latches in the '689 patent. But, I mean,
16 it's such a high level, again, I'd have to really
17 analyze a design and an application to answer such
18 broad questions. Like, even though on a screen
19 door, what you're saying could apply, in the '689
20 patent, it may not.

21 So it's -- you know, I know I keep
22 harping on this, but my training's in design and

1 development, and we're always giving ourselves
2 constraints, and we have to nail down the
3 constraints and the application, the environment,
4 everything, to answer questions like could the
5 latch be bigger or smaller. That's where I'm
6 going. That's why my answers are kind of like
7 this. Because without these -- I'm an engineer,
8 without these specifics, those broad statements
9 just make me uncomfortable.

10 Q And, Dr. Vallee, I understand. I have
11 an engineering background, and I'm doing my best
12 to be precise. I'm not asking you to opine always
13 that something is always the case. I'm just
14 asking you, is it possible that the latch
15 mechanism, to latch a big gate, a hook and eye
16 that we just talked about, may be the same
17 mechanical principle as a latch used to latch a
18 screen door in a house environment?

19 A I see. For a gate, it could be the
20 same. I'm not sure it would be the same for, you
21 know, a storage transportation system, like the
22 '689 patent. But it could be the same in a gate,

1 perhaps.

2 Q And, Dr. Vallee, I know you're anxious
3 to get to the '689 patent. If you could just stay
4 with me for just a couple more minutes here.

5 A Sure.

6 Q I'm asking if you have a latch that's
7 latching a screen door, the hook and eye example,
8 and then you have a latch that's latching a big
9 gate, same hook-and-eye principle, you talked
10 about the stressors. So the gate may use a
11 different-sized dimension, correct, potentially?

12 A I'm sorry --

13 MS. HALSEY: Object to form.

14 Q The gate -- yeah, let me rephrase.
15 The gate latch may be larger,
16 potentially, than the screen door latch?

17 A Do you mean larger in length or larger
18 in height? Or what exactly do you mean larger?

19 Q In any capacity. Any dimension of the
20 latch used to secure the gate may be larger than
21 the latch used to secure a simple screen door?

22 A Okay. I see. So we're not talking

1 about a storage system, simply a screen door.

2 That could be the case.

3 Q And would it be fair to say that the
4 latch used to secure the gate may be a different
5 material than the latch used to secure a door, a
6 screen door?

7 A Again, I don't want to seem obstinate,
8 I really don't, it's just, you know, could the
9 latch -- could you change the material? Just
10 about every latch with that kind of screen door is
11 made of the same material, right? Could it be?
12 Maybe. Would it be? Probably not. Because it's
13 so simple and so cost effective to bend a piece
14 of, you know, zinc-plated steel wire to make the
15 components.

16 Q Would the latch that's used to secure a
17 big backyard gate be a different -- could that
18 latch be a different material than the material
19 used to secure a screen door?

20 A I mean, in the course of my work on
21 this case, I haven't really considered would there
22 be different latches for gates or not. Just about

1 every one is a steel.

2 You know, I'd have to give that some
3 thought. Could it be? Because if it could be a
4 different material but the price is so high, it
5 wouldn't be; therefore, no one's going to
6 manufacture it, then it couldn't be that less
7 expensive material because it's cost-prohibitive.

8 That's the problem I'm having here with
9 these hypotheticals. Without the details, it's
10 really hard to answer that question. Could it be?
11 Maybe. Would it be? I don't know. It depends on
12 the design.

13 Q Let me ask you this: If a basic
14 design -- you talked before that the students are
15 taught to consider a variety of factors.

16 A Correct.

17 Q Okay. So the material of a latch can
18 be varied based on the expected load; is that
19 right?

20 A The material and geometry and all those
21 factors could be changed with -- as a function of
22 the load, correct.

1 Q Right. But one factor is simply the
2 material, correct?

3 A In conjunction with other changes to
4 the geometry, correct. Just changing -- the
5 materials aren't -- I mean, you just don't change
6 a material, you would change material and
7 geometry. So I don't want to give you -- I'm
8 sorry. My fault again. I made it sounds like I
9 was done.

10 Yeah, for every application, you -- you
11 constrain yourself to a small group of materials
12 that are applicable, and you design the geometry
13 around the material, or vice versa.

14 So it's really not correct to say that
15 you could take a latch and simply change the
16 material. You typically change material,
17 geometry, manufacturing, there are a number of
18 things. So it could be a different material, but
19 most likely a different geometry.

20 Q Could you explain what you mean by "a
21 different geometry"?

22 A Well, for example, if I were to take a

1 design for a latch that is traditionally made of a
2 polymer, perhaps because of weight considerations,
3 and I decided that I was going to make it out of a
4 metal, for some reason, I wouldn't need the same
5 cross-section mass volume of the -- of a latch
6 component if I made it out of steel, because the
7 steel is much stronger than your typical polymer;
8 therefore, I would have to, to get the weight
9 down, change the cross-section of the components.
10 And then the manufacturing would be completely
11 different. A polymeric component could be
12 injection molded. A steel piece could be
13 investment cast, it could be machined from
14 scratch, it could be stamped. So there are a lot
15 of things to consider.

16 So that's why the geometry, in that
17 example, would have to change between the two
18 materials. And those are just a few of the things
19 to consider.

20 Q Could you let me know what other
21 factors you would consider when selecting a latch
22 design?

1 A Oh, my goodness. Well, the application
2 of exactly what you're trying to latch together.
3 The environmental factors. The loads that are
4 applied to the two bodies you're trying to latch,
5 two or more bodies. Again, the material strength,
6 corrosive issues. If there is -- if it's a
7 corrosive environment, like if you're in a
8 mechanic shop or something, you may have different
9 kinds of gasoline. There's also esthetics, very
10 important, particularly in DIY and consumer
11 products. There would be fatigue factors. Is
12 this going to be something that's going to be
13 latched and unlatched repeatedly? If so, how
14 often?

15 I'm sure if I sat here, I could come up
16 with quite a few more. Every design, you
17 typically consider those types of things.

18 Q Great. Thanks. That's helpful to us.
19 Thank you.

20 So I just want to summarize. The size
21 and material are routine engineering
22 considerations; would that be fair to say?

1 MS. HALSEY: Object to the form.

2 A The design and materials are always
3 considered but on a case-by-case basis. It's very
4 difficult to simply say, oh, I'll take this, and
5 it's a simple design choice, I'll make it out of
6 the different material. There are very few really
7 simple design choices, I've learned over the
8 years.

9 You have to analyze the whole -- a
10 simple material change can change the entire
11 design. So I wouldn't call that routine. I would
12 say the material has to be selected, but how it's
13 incorporated in design is typically very complex.

14 Q Dr. Vallee, I do have a few more
15 questions about your background, but we can take a
16 break right now, if you'd like.

17 Do you want to take a short ten-minute
18 break?

19 A Sure. Let's take a break.

20 Q Great. Thanks.

21 THE WITNESS: So we'll be back at
22 10:30?

1 MS. HAAPALA: Yes.

2 THE WITNESS: Eastern?

3 MS. HAAPALA: Yes.

4 THE WITNESS: Okay. Thank you.

5 (Recess taken from 10:20 a.m. to
6 10:33 a.m.)

7 MS. HALSEY: So before we go back on, I
8 want to touch base briefly. We talked, during the
9 break, a little bit about the testimony regarding
10 Irwin. And Dr. Vallee doesn't know if there's any
11 sort of confidentiality agreement in place related
12 to those materials.

13 Out of an abundance of caution, I would
14 like for us to treat that portion of the
15 transcript as confidential while we investigate
16 that.

17 MS. HAAPALA: That's fine. Ms. Halsey,
18 how long do you think it will take? Because I
19 imagine it will take us some time to get the
20 transcript and the record anyway.

21 MS. HALSEY: That's a good question.
22 Dr. Vallee is here, you know, through the week.

1 So it will probably take a bit of time once he's
2 able to dig into it.

3 We'll obviously do everything we can to
4 look into it as quickly as we can.

5 But, I don't know, probably two
6 weeks-ish, maybe.

7 THE WITNESS: Because I'm in Chicago
8 all of next week on a different matter. So at
9 least, at least two weeks.

10 MS. HALSEY: So it'll take at least
11 two weeks. We'll see. We'll try to get back to
12 you as quickly as we can and escalate it. It's
13 obviously not anything we were expecting and it's
14 subject to everybody's schedules.

15 MS. HAAPALA: So I think -- because we
16 have -- our motion to amend opposition is due
17 before two weeks from now. And so, are you asking
18 that we put in a protective order?

19 MS. HALSEY: We may need to. Let's see
20 what our timing looks like, and if we need to,
21 then, yeah, we may -- if we don't have an answer,
22 yeah, we may need to cover that portion of the

1 transcript.

2 MS. HAAPALA: Okay. Well, we can talk,
3 then, after about that. Thank you.

4 MS. HALSEY: Perfect. Thank you so
5 much.

6 BY MS. HAAPALA:

7 Q So, Dr. Vallee, we're going to go to --
8 I promise it will move faster in a bit, but I
9 wanted to ask you a little bit more about your own
10 consulting experience. So I'm on paragraph 3 of
11 your declaration. And I will share my screen
12 again.

13 All right. So you own your own
14 consulting company, correct?

15 A Correct.

16 Q Can you describe your work in your
17 capacity of your consulting company?

18 A All right. When I retired from Western
19 New England University and I was promoted
20 professor emeritus, basically, I decided that was
21 a time to form an LLC, primarily for tax purpose.
22 My company, as it were, is my consulting I've done

1 ever since 1997, I think.

2 So the formal creation of an LLC was
3 actually done the beginning of this year. And
4 that's the reason why.

5 But I considered all my company, over
6 the last 30 years, because that was, you know,
7 what I did in addition to teaching.

8 So I'm a mechanical engineering
9 consultant. I consult with different companies,
10 or individuals, related to product development,
11 product design, excuse me, including numerical
12 stress analysis, manufacturing processes. And I
13 did a lot of work in testing because I was the
14 manager of the test labs at the Stanley Works for
15 quite a while. And basically -- and I also do,
16 obviously, this kind of works that involves either
17 products liability or patent litigation.

18 So that's, basically, what I do in my
19 company.

20 Q Thank you. That's quite a breadth of
21 things. I have a few questions because here, in
22 this paragraph, if you can look here, about -- I

1 don't know if you can see my cursor, but it is the
2 portion where it says "I have provided testimony
3 related to a wide variety of products."

4 A Correct.

5 Q And you list a number of examples of
6 products where you provided testimony, correct?

7 A Correct.

8 Q And you say some of them utilize
9 latching mechanisms, right?

10 A That's right.

11 Q And one example that you provide is a
12 reusable beverage bottle, correct?

13 A That's right.

14 Q Could you describe how that product
15 uses a latching mechanism?

16 A Sure. I'll have to -- if you bear with
17 me, please, see if I can -- I believe that case is
18 in my list here. I remember, yes, it was a --
19 it's in here someplace. Have to do with the water
20 bottles with flip lids. Ah. I am on page 3 of my
21 CV. In the table that lists my IPR/PGR work since
22 2019. And that was the Trove Brands LLC v.

1 CamelBak.

2 Q Thank you.

3 A That was --

4 Q Thank you, Dr. Vallee. My question
5 was, how does that product use a latching
6 mechanism?

7 A It's a flip-top spout, as I recall, and
8 you -- as I recall, you pushed a lever, or a
9 button or something, and it released the latch to
10 let the spout flip up. I believe that was the
11 design. I don't have it in front of me anymore.
12 That one was -- yeah, there were three IPRs. But
13 that was the product that used -- oh, yes, yes,
14 yes. So you hit a button and the latch releases,
15 it flips the top up, then you snap it down and it
16 grasps the spout.

17 Q And, Dr. Vallee, why is that type of
18 latch relevant to this case?

19 A Because it connects two devices -- two
20 components firmly together so if you drop the
21 water bottle or, you know, most of these water
22 bottles are used in sports environments, it

1 doesn't release. So it had to be rugged, it had
2 to be convenient. So that when the latch is
3 engaged, there's nothing that protrudes out for --
4 that could be caught on, you know, a basketball
5 player's uniform or anything like that.

6 It's polymetric, just like almost all
7 mouthpieces on water bottles are.

8 So the same concepts of moving
9 something in and out to grasp something else so it
10 does not move was involved in that case.

11 Q Thank you. You reminded me. My boys
12 all play basketball and, as you said, it needed to
13 be able to withstand the stress. I remember them
14 flinging their water bottles before they go on the
15 court. I understand.

16 A Especially if the team loses.

17 Q Did that water bottle, do you recall,
18 did it have a lid that separated from the bottle?

19 A Oh, I don't recall offhand. There were
20 a few different embodiments of it, but I don't
21 recall offhand.

22 Q Are you familiar with water bottles

1 that have a screw-top lid, basically, where you
2 screw the lid on to the water -- a threaded lid?

3 A I see. Yes, I am. And yes, those
4 water bottle did have a screw off top. That's how
5 you filled it. You had to unscrew it to fill it.

6 Q And that type of threaded connection,
7 is it used in other applications?

8 A The threaded connection itself?

9 Q Yes.

10 A I mean, there are all kinds of threaded
11 connections that are used for different
12 applications.

13 Q Yes, thank you.

14 A I'm sorry. Just to finish. That's why
15 they have, in that case, there were standards for
16 such things, right? So a threaded connection has
17 a standard so you could interchange tops and
18 things. Unlike a latch, which really has no
19 standards. So they're really two different
20 things. But the thread, yes.

21 I'm sure there were those types of
22 threads on other products.

1 Q So in the definition of a latch, you
2 describe that it would be used to secure two
3 bodies together; is that what you said? I don't
4 want to put words in your mouth.

5 What did you say for the broad latch
6 concept?

7 A We could go back to the record and find
8 exactly what I said, but I don't recall exactly
9 what I said.

10 Q Would you mind reminding me, in
11 general, what your opinion is of -- broadly, how
12 you would define a latch?

13 A I think it was a device that can
14 constrain motion in at least one degree of
15 freedom. Very application-dependent.

16 Q Is a threaded connection one type of
17 latch because it constrains a lid to the body?

18 A No, in particular, because, if for
19 nothing else, that's a two-degree-of-freedom
20 system. So you turn and that adjusts the vertical
21 position. So it does not constrain it
22 rotationally. Once it's tight, it constrains it

1 in a separate direction.

2 Q So you wouldn't consider a thread a
3 connection or latch?

4 MS. HALSEY: Object to form.

5 A As I sit here, I cannot think of any
6 product with a threaded connection where I would
7 call that threaded connection a latch.

8 Q Another example of a product where you
9 provided testimony is a vacuum cleaner; is that
10 right?

11 A That's correct.

12 Q How does that product use a latching
13 mechanism?

14 A That product was a Shark case, and that
15 used latches -- Shark and Dyson vacuums, which
16 were involved in that case, are very interesting
17 devices. They have many components, like the dust
18 bin, that you have to take off, and then you have
19 to snap it back on and there's a latch that holds
20 it in place. It keeps it from moving downward and
21 then you have to be able to release the latch to
22 get the dust bin out.

1 That's the main example what you see.
2 There are also latches that attach the myriad of
3 different components on a vacuum, like the vacuum
4 heads and the beater bars, the edging tools and
5 things like that. They also have push-button
6 latches that allow you to release it and then they
7 snap back in so you can attach it.

8 Q And you just described a push-button
9 latch. And can you describe some applications of
10 a push-button latch?

11 A You mean besides in a vacuum cleaner?

12 Q Yes.

13 A Let's see. Oh, in my patent for the
14 triggering system, it's a push-button latch. What
15 it does is that that design -- there's a
16 component, a triggering component that moves back
17 and forth and triggers that design. You push the
18 button and you hold the trigger up, and it
19 actually latches the interior component of the
20 triggering system. It flops up and down in one
21 position. Then when you release it, a spring
22 returns the latch. So that's a push button type

1 of latch.

2 Q Thank you. Does a push-button latch,
3 in your triggering system, use the same material
4 as a vacuum cleaner?

5 MS. HALSEY: Object to form.

6 A There are many different components in
7 that system. There's metal, there's plastic,
8 there's spring wire. So the button, itself, was a
9 polymer, like in the vacuum cleaner. But the
10 majority of it was metal.

11 Q Thank you. Another example that you
12 give is pneumatic and electric nailers; is that
13 right?

14 A Correct.

15 Q Yeah, my question is about products you
16 provided testimony, that have latching mechanisms.
17 An example you give is pneumatic and electric
18 nailers?

19 A Correct.

20 Q Can you describe how those products use
21 a latch?

22 A We'll start with the nailers. There

1 are latches in the magazine, which we discussed
2 earlier, to insert the nails. There are latches
3 that open -- that give you access to the area
4 where the nail is driven, in case you have a jam.
5 The electric nailers also have batteries,
6 lithium-ion batteries that slide on and off.
7 There's a latch system that snaps that in place,
8 and then you push a lever to release it. Very
9 common.

10 Q What would you -- Dr. Vallee, I'm
11 sorry, I'm going to interrupt you, I apologize.
12 But what would you call that? You just said it
13 was very common, it's a latch that snaps in place
14 and you push a lever to release it.

15 Is there a name for that type of latch?

16 A Maybe I'll call it -- I don't think
17 there's a standard name. I call it a battery
18 latch.

19 Q Thank you.

20 A So I have many power tools that latch
21 in that way. It's a snap latch. You push a
22 lever, or slide it and it releases it. But I

1 don't think there's a standard name for it.

2 Q Okay. Thank you.

3 And how is that type of snap latch
4 relevant to the '689 patent?

5 A Because it concerns -- it has to be a
6 durable latch, because people, myself included,
7 drop their cordless drills and things all the
8 time. And the latch has to withstand the impact
9 without snapping. It has to do -- you know, has
10 the tool -- do with transporting something around.
11 People walk around with their cordless drills
12 everywhere because the idea of the cordless drill
13 is you don't have a cord, it makes it much more
14 mobile.

15 So it's a mobile, industrial-type
16 device which has to withstand the stresses that
17 are in the typical construction or DIY
18 environment. And it also has to be very simple so
19 that you don't have to move various components to
20 take your battery off. Just like in the transport
21 system, the '689 patent, it's very simple. You
22 move the latch to one position, it decouples. You

1 move it to the other, it couples. So those are
2 some of the similarities between the two.

3 Q Thank you. And for the vacuum cleaner,
4 I forgot to ask you, why is the vacuum cleaner
5 latch relevant to this case?

6 A Well, in particular, on those
7 cannisters, it has a flexing engagement member
8 that fits into a groove that's on the inside of,
9 I'll call it, the housing of the vacuum, and you
10 have to -- in that case, you squeeze it to get the
11 engagement tab, I'll call it, in and out.

12 It's also -- the strength of that
13 connection's important. Because when I'm
14 vacuuming, and my wife would argue it's not a lot,
15 but when I vacuum and you bump into things, if the
16 dust bin, if you hit the side of your vacuum and
17 it hits the dust bin and it comes off, I don't
18 want that to happen. So it's a latch that has to
19 be sturdy in that given environment.

20 Q That's a mess. I've had that happen
21 before, it's not good.

22 The snap latch you just described, can

1 you give me some examples of products that use a
2 snap latch?

3 A I believe I called it a snap latch, it
4 was for the battery products, I believe.

5 Q Yes. That's right.

6 A Oh. A Remington product. We used it
7 for battery-operated electric shavers for the
8 battery compartment. All my cordless power tools
9 have some kind of snap latch where you snap it in
10 and it latches. You hit a lever or button and it
11 unsnaps. I would say many, many, just
12 battery-operated power tools and DIY tools would
13 have that kind of thing.

14 Q Thank you.

15 A I'm sure there are others too.

16 Q Do you have any other examples in mind,
17 beyond tools and the razors?

18 A Not at the moment. I'm sure you could
19 come up with others, but sitting here, those pop
20 out.

21 Q Is it similar, the snap latch that
22 you're describing, is that used in some toys?

1 A Yes, it is. Yes, it is. Because it
2 fits that application very well.

3 Q Okay. Thank you.

4 So let's also talk about -- you know,
5 we talked about your inventions, correct, that
6 you've worked with patent attorneys to file your
7 inventions?

8 A Correct.

9 Q And you're familiar with the duty of
10 disclosure during prosecution?

11 A Correct.

12 Q And that duty requires vendors to
13 disclose all known information that's material or
14 patentability to the USPTO; is that right?

15 A That is correct.

16 Q Have you ever filed a patent
17 application outside the United States?

18 A I don't believe so, no. I think --
19 because some of these, for example, the last
20 patent on my list, which was the hammer tacker for
21 the polymeric staples, I'm not sure if they filed
22 anything outside the United States. Because I

1 assigned my rights to the utility composites
2 company. But I don't recall being involved in any
3 patents outside the United States, to my
4 knowledge.

5 Q I know you were describing a little bit
6 about your -- in this paragraph, paragraph 3, you
7 talk about a novel hammer tack utilizing polymeric
8 staples with embedded wires as one of the products
9 that you designed; is that right?

10 A That's right. Hammer tacker is one of
11 the inventions.

12 Is that the -- no, it's in the -- in
13 the paragraph 3?

14 Q Yes. Dr. Vallee, it's right here
15 (indicating), about one, two, three, four -- fifth
16 line down -- fourth line down. At the end, it
17 says I designed a novel hammer --

18 A Oh, yes.

19 Q -- tacker.

20 Do you see that sentence?

21 A Yep, I got it. You said hammer tack, I
22 think.

1 Q I apologize. I may well have done
2 that.

3 A I may have heard it wrong. Yes, okay,
4 I'm with you. Yes, that's the device that I was
5 talking about.

6 Q And when did you design this?

7 A Oh, boy. Going to my CV, on the last
8 page, 11 -- that patent was issued in 2020. So I
9 believe the work started, probably, in 2018,
10 somewhere -- 2018, earlier 2019.

11 Q Could you describe the device a little
12 bit more?

13 A Sure. If you're familiar with -- I
14 don't know if you have any familiarity with hammer
15 tackers. Basically, what they do is they use the
16 momentum of the tacker itself. They're on the
17 heavier side, not like a staple gun, and it uses
18 the momentum to drive the staple. So there's a
19 mechanism inside that uses that momentum to rotate
20 a driver that moves down to drive the staple into
21 a work piece.

22 So you load staples in a magazine, same

1 idea as the nailers we discussed earlier, and you
2 swing the stapler into whatever you're going to
3 staple to, and it drives -- in this case, there
4 were these plastic staples with little wires used
5 for inventory control. So you could put a staple
6 in a pallet and they attached some electronics to
7 it, and they could actually do inventory
8 monitoring. That's what that device was.

9 Q And you said this product utilizes a
10 latching mechanism and a staple magazine, right?

11 A Correct.

12 Q And could you describe that latching
13 mechanism?

14 A Yes. That one has a sheet metal part
15 with a little tab on it. And when you position
16 and then along -- the sheet metal part is
17 connected to a long rod with a string. So you
18 push the tab in, position the tab under a slot,
19 and release it, and the spring tension locks the
20 end of that magazine into the magazine itself,
21 effectively latching the two together.

22 Q And why is that type of latch relevant

1 to this case?

2 A Well, again, that has to do with the
3 DIY industrial tool because they use these in
4 warehouses.

5 So the latch has to be easy to apply,
6 easy to latch, it has to be made of
7 environmentally sound materials. By that, I mean
8 that could withstand the environments of people
9 swinging hammer jackers near fork trucks and
10 things like that. And it's got to be a positive
11 latch that when you drop the tool, which you will,
12 the latch doesn't disengage. Those are at least
13 some of the reasons why.

14 Q Do you have a name for that type of
15 latch that this product used?

16 A I called it a magazine latch, I think.

17 Q Okay.

18 A I don't think there's a standard name
19 for that.

20 Q Okay. Does a magazine latch, is it
21 used in other applications?

22 A That particular latch design? I can't

1 think of one offhand. It may be, but I can't
2 think of one offhand.

3 Again, these kinds of latches on tools
4 are very application-specific. I can't think of
5 one offhand. There could be.

6 Q What do you mean by "a magazine latch"?
7 Could you describe that a little bit
8 more?

9 A Well, I believe I -- sure. It's
10 something that latches inside the magazine, in
11 this case, to keep the magazine shut. The idea
12 is, on that hammer tacker, you delatch, a slider
13 comes out, and then you can put the polymer
14 staples in the top of the magazine, reengage the
15 latch, and that keeps the spring force on it.

16 The magazine latch in the nailer, that
17 I discussed before, I do believe that I call it a
18 magazine latch, is used to decouple what's called
19 a pusher so you can -- well, it kind of does the
20 same thing, it's a different design. So you can
21 pull the pusher back, latch it, put the nails in,
22 and deactivate the latch, the latch, and it pushes

1 the fasteners forward.

2 Q Thank you. And do you recall just that
3 general type of mechanical principle you just
4 described, is that type of latch used in other
5 applications?

6 MS. HALSEY: Object to form.

7 A I know it's in nailer magazines. I
8 don't -- I would have to give a lot of thought to
9 see if I could think of any other applications
10 that do that. Sitting here right now, I can't
11 think of any, but there are a lot of products out
12 there.

13 Q Okay. And let's look at paragraph 4.
14 You say that you worked for Remington Products; is
15 that right?

16 A That is correct.

17 Q And I think that you describe one of
18 your responsibilities was to focus on consumer
19 product design and development; is that right?

20 A Correct.

21 Q Okay. And what types of products were
22 those, Dr. Vallee?

1 A Oh, Remington made many, many consumer
2 products. The main thrust of the product line was
3 electric shavers and beard trimmers. They also
4 did other grooming, electric grooming devices,
5 battery-operated or cordless, as we called them,
6 so you could run it off an electrical cord or not.
7 They also did, I don't know if you remember hair
8 setters.

9 Q Yes.

10 A They manufactured those. They sold
11 hairdryers. They sold a wide variety of grooming
12 and personal care products.

13 Q Do you recall, were any of those, for
14 example, the hairdryer or a hair setter, were any
15 of those battery-operated?

16 A No. Hairdryers, any time you generate
17 heat, like in a hair dryer or hair setter, you
18 typically need a lot of power. Back then, in the
19 early 2000s, I don't recall one being battery
20 operated.

21 Q And how about the beard trimmer?

22 A Yes, there were battery operated beard

1 trimmers back then.

2 Q And did the beard trimmer have a latch
3 for the battery compartment?

4 A No. Because they were rechargeable
5 batteries. You typically don't have a latch with
6 a rechargeable battery system. You typically have
7 a screw, if it's serviceable. You would have to
8 unscrew it because you don't typically take them
9 out. They're designed to last the life of the
10 product. It's like your cell phone.

11 Q The electric shaver, do you recall, did
12 those have a battery compartment -- excuse me, let
13 me rephrase that.

14 Did that electric shaver have a battery
15 compartment?

16 A There was a lady shaver, that was
17 designed to use in the bathtub, that had a
18 battery. I believe -- it's been over 20 years
19 ago, I believe there was a version of one of those
20 shavers that used AA batteries that would have a
21 battery compartment. Sitting here, I'm not sure.
22 That's my recollection now, but it's been so long.

1 Q I understand you don't recall exactly,
2 but to the best of your recollection, did that
3 battery compartment have a latch similar to the
4 battery latch of the tool products we were talking
5 about earlier?

6 A I'm not sure. It's been so long. It
7 may have.

8 Q Great. Thanks.

9 And then, in paragraph 5, you said you
10 worked for Stanley, how do you say that, Bostitch?

11 A Bostitch.

12 Q Bostitch.

13 Is that correct?

14 A Correct. Stanley-Bostitch.

15 Q Stanley-Bostitch. Could you describe
16 your experience at Stanley-Bostitch?

17 A Oh, as I say in paragraph 5, I started
18 there as a lab technician, where I was in charge
19 of performing testing on just about all the
20 products that Bostitch made, which were,
21 basically, fastening tools. I was promoted to
22 test engineer, where I designed the test

1 methodologies and also did some testing myself.
2 That's when I get into instrumentation, you know,
3 and how to monitor results of, you know, physical
4 characteristics you're testing for.

5 I became a product design and
6 development engineer, where I actually designed
7 fastening tools, and then was promoted to the
8 manager of the engineering laboratories.

9 So I ran the labs. The Bostitch
10 division had the largest lab in the Stanley Works
11 at the time. I believe it was about 18 employees.
12 I had senior technicians and, you know, all kinds
13 of people working for me in the labs. And my job
14 was to coordinate all testing of Bostitch
15 products, with other divisions and other
16 departments in the company.

17 Q Dr. Vallee, I see here where you're
18 describing your product design development
19 engineering experience, and you state that most of
20 the products required the design of fluid
21 containment systems and methods of sealing; is
22 that right?

1 A That's correct.

2 Q And you also stated that you designed
3 latching mechanisms for nailers -- nail magazines
4 and feed systems, right?

5 A Correct.

6 Q And why did you -- why did you include
7 a nail or nail magazine as an example of a device
8 that uses a latching mechanism?

9 A Because it does. It did. Still does.

10 Q And this is the device that we're
11 talking about that uses the latching mechanism to
12 feed the nails; is that right?

13 A Correct. To feed the nails and, also,
14 to open that door I spoke of, to give you access
15 to where the nails are actually driven.

16 Q Okay. Thank you. And why is that
17 relevant to this case?

18 A I thought we touched on this before,
19 but in case I am incorrect, they're industrial
20 tools. The same process is used for designing the
21 latch, as one would do for designing a latch in a
22 transport system. You have to assess the

1 environment, you have to talk to the consumers.
2 You have to determine the required strength and
3 industrial environment. What's it going to have
4 to endure on day-to-day use? You have to look at
5 manufacturability and ease of operation of
6 engaging and disengaging latches. In the nailer,
7 I described, are both on/off type of latches. So
8 you engage it or you disengage it, either in the
9 magazine or in the door, which the nailer that
10 gives you access, which is similar to the '689
11 patent, for example, where it's engaged or it's
12 disengaged.

13 So, I mean, those are some of the
14 reasons why I think it's a perfectly relevant
15 experience, when looking at the '689 patent.

16 Q Thank you. I don't think we talked yet
17 about the feed systems. Could you describe the
18 feed system?

19 A In the nailer?

20 Q Excuse me. Is it a separate device? I
21 believe, in your testimony here, a design latching
22 mechanisms for nail or nailer magazines and feed

1 systems.

2 Is the feed system the nail feeder or
3 is it a different device?

4 A Yeah, the feed system, I spoke about
5 that is not in the magazine, is when the nailer
6 exits the magazine and enters, what I'll call, the
7 nose of the tool. That's where -- it's a steel
8 piece where the nails are ejected. And when a
9 nail is driven, you have to grab the next nail and
10 put it into the area where it will be driven, the
11 feed channel is what we call it. And there's a
12 pawl that reaches back and grabs the nails and
13 pulls them forward, okay?

14 So there are two different kinds of
15 nailers. The nailers that have a linear magazine
16 use the spring that I discussed before, where the
17 latch on the back of the magazine allows you to
18 put nails in. Then you release what's called a
19 pusher, and that pushes the nails forward. That's
20 used in what's called a stick nailer. In other
21 words, the nails are all very close together.
22 Welded close together.

1 The coil nailer has a coil of nails, so
2 there is no spring trying to feed the nail
3 forward. So it uses this pawl and it pushes it
4 forward. So you have to be able to open the door
5 so you can set the nails up and -- in a position
6 that engages this feed pawl, then close to door.

7 So there are two different feed
8 systems.

9 Q Does the door use a latching mechanism?

10 A It does. A very heavy --

11 Q What type --

12 A I'm sorry. Very heavy-duty mechanism.
13 It's, basically, a cylindrical device that moves
14 vertically. And it's spring-loaded so that when
15 you -- there's a lever attached to it so when you
16 push the lever down and resist the spring, the
17 cylinder comes out of a cylindrical hole and
18 allows you to swing the door open so you can have
19 access to the feed channel.

20 Then when you close it, you simply --
21 you can either snap it shut, because there are
22 bevels, similar to some of the bevels on the

1 slider in the '689 patent, or you can simply
2 recompress the spring and slide it in. When you
3 release the spring, it engages the hole again and
4 keeps it shut. It has to be very durable because
5 the impact of the nail, when it's driven, is quite
6 severe and the vibration is very severe.

7 My Ph.D. dissertation focused on that
8 kind of vibration and what happens during impact.

9 So that latch is heavy-duty and
10 designed for that rugged application.

11 Q Does that type of latch have a name,
12 the spring-loaded latch? Let's see, how did you
13 say it? You basically said it's a lever that you
14 push the lever down to resist the spring.

15 A I mean, every manufacturer -- there's
16 not a standard name. At Bostitch, we called it
17 the door latch, I believe. At (indiscernible)
18 they may call it something else because they use
19 some kind of latching mechanism.

20 Those kinds of names are generally
21 manufacturer driven, based on what they put on the
22 parts list. So you can order the part if

1 something goes wrong.

2 Q Are there any other applications for
3 that type of latch?

4 A Again, sitting here, I'd have to give
5 it a lot of thought there. I'm not exactly -- I'm
6 not sure if I've seen another latch like that
7 anywhere. I don't know is the answer to your
8 question. Sitting here, I don't know.

9 Q Okay. And then you also state you're
10 an inventor on two patents related to fastening
11 tools, right?

12 A Correct.

13 Q And those tools use a latching
14 mechanism, correct?

15 A Correct.

16 Q Okay. So let's start with the first
17 patent, I think, here in paragraph -- let me make
18 sure we're still in paragraph 5. In paragraph 5,
19 you state one of the patents is U.S.
20 Patent 5,551,620; is that right?

21 A That's right.

22 Q Could you describe the device?

1 A Sure. I discussed a little of this
2 earlier. On a pneumatic nailer, there are two
3 ways you can actuate the nailer. You can,
4 basically, initiate what's called bump fire, so
5 you pull the trigger and there's a, what's called
6 a contact trip, it's like a sliding lever that
7 slides up and down the nose of the tool, that we
8 discussed earlier. So that the nose of the tool
9 has to be contact in with a work piece and the
10 triggering has to be pulled for it to actuate.

11 In the contact trip mode, it doesn't
12 matter what the sequence is. You can pull the
13 trigger, tap the nose and get a nail, or you can
14 put the nose down first and pull the trigger.
15 That's a very fast means of operation because you
16 can pull the trigger and just use the momentum of
17 the tool to bounce along the work piece. Nailers
18 will drive 10-plus nails per second, large
19 three-pin nails. They're very fast, very
20 powerful.

21 There are certain situations where you
22 want to protect the operator from pulling the

1 trigger and inadvertently contacting themselves.
2 That's called a sequential trigger. So what has
3 to happen is the nose of the tool has to be
4 against the work piece first, then you have to
5 pull the trigger. It's slower, it's more
6 cumbersome, but it also allows you -- not only
7 prevents you, in many instances, from accidentally
8 bumping yourself with it, but it also allows more
9 accurate fastener placement because you're not
10 bouncing the tool, you position and pull the
11 trigger.

12 So my device was designed to have both
13 features in one trigger. So my device, as it came
14 out of the box, it was in the sequential mode of
15 operation. Where you had to push the nose down
16 and pull the trigger to get a nail.

17 If you held the trigger and pushed the
18 button on the back, the latch engaged this, I
19 called it a -- excuse me, I called it a flipper.
20 It basically rotates up and down. So when the
21 contact trip hits the wood, the flipper's in one
22 position, allows you to actuate the tool. Move

1 that such that it would allow the positioning such
2 that you could initiate the contact trip mode of
3 operation. So you could pull the trigger, tap the
4 nose, or vice versa, and you could get the nail.
5 When you let it go, it reverted back to the
6 sequential. That's basically how it worked.

7 Q Thank you. You also anticipated a
8 number of my questions. I was going to ask you
9 how it worked.

10 And I think you just -- you said, in
11 your testimony, it utilizes a latching mechanism
12 in a novel combination triggering system, which
13 you just described.

14 Can you say again -- just for clarity,
15 would you explain to me again how it uses a
16 latching mechanism?

17 A Yes. There is a leaf spring with a --
18 inside that has -- the end of it is bent up at,
19 roughly, a 90-degree angle. So you have a leaf
20 spring that has, I'll call it a catch, and when
21 you push the button to reposition that flipper, it
22 deflects the catch, and when the catch comes back

1 up to its normal position, the flipper can't move
2 backwards. So it fixes that linear motion between
3 the flipper and the trigger, so it enables the
4 contact trip mode. When you release the trigger,
5 the leaf spring is moved out of position, allows
6 the flipper to flip or assembly with the button to
7 move back to the original position, then you're
8 back where you started.

9 Q Is that -- or, actually, why is that
10 type of latching mechanism relevant to this case?

11 A That is a critical component because if
12 the latch doesn't work, like in the '689, for
13 example, if the latches don't positively engage
14 and you have your fingers in the slot to lift the
15 tool until it detaches, you could drop it -- you
16 could drop the first container on yourself or
17 somebody else. So there's an element of safety in
18 there.

19 So it has positive locking, like is
20 described in the '689. And it's an industrial
21 environment, and it's a two-position on/off latch,
22 either it's latched or it's not. You know, it's a

1 device used in industrial or DIY environment.

2 Q Thank you. Is this type of latching
3 mechanism, does it have other type of
4 applications?

5 A Not to my knowledge. I think, when I
6 received that patent, I don't recall seeing
7 anything like that before. But, again, to my
8 knowledge, no. Sitting here, I can't say if there
9 is anything else from that.

10 Q Okay. You also have a second patent,
11 U.S. 551 -- 5,551,621; is that right?

12 A Correct.

13 Q And can you describe the device for
14 this patent?

15 A It's based on the earlier patent. What
16 we found, in certain manufacturing situations, in
17 worst-case, tolerance situations, you could
18 actually get a contact trip fire if the button was
19 pushed in. If I -- they did a worst-case
20 tolerance stack up, I'm sure you're familiar with
21 it, it was possible, likely possible. So I added
22 a structure in the device that, basically,

1 corrected that problem. So under no
2 circumstances, ever, would you be able to actuate
3 in contact trip mode if the button was engaged.

4 Q Does the 5,551,621 product use a
5 latching mechanism in the same way that we talked
6 about for the '620 patent?

7 A Correct.

8 Q Okay. Thanks. So, Dr. Vallee, let's
9 go to paragraph 13, which is on -- starts on
10 page 8.

11 A Got it.

12 Q So this section is titled
13 "Non-Analogous Art," correct?

14 A Correct.

15 Q And in this section, paragraph 13
16 through 24, I'll let you take a look. But if you
17 could look through these patents, you can see
18 there's a number of cases that are cited in these
19 paragraphs, right?

20 A Just take a second, please. If I could
21 just take a second to refresh my memory. You said
22 starting with paragraph 13, right?

1 Q Yes.

2 A Okay. Then Section D, at the bottom,
3 goes into anticipation.

4 Okay. And then the section you wanted
5 to end at -- start at 13, and what's the paragraph
6 you said was the end of the section you wanted to
7 discuss?

8 Q Through paragraph 24.

9 A Oh, okay. Great.

10 Q My question is, have you read any of
11 the cases that you cited in these paragraphs?

12 A The cases specifically? Let's see
13 here. No, these cases were referred to me by
14 counsel. I didn't study exactly what these cases
15 were.

16 This is, like, background to my
17 description of obviousness. So I didn't study or
18 I wasn't asked to study those particular cases.

19 Q Do you know if any of these cases have
20 been overruled?

21 A Again, I wouldn't be familiar with
22 that, the history of these cases, no, because I

1 wasn't asked to dive into each one of these.

2 Q Dr. Vallee, you've written technical
3 papers, correct?

4 A Correct.

5 Q And in those technical papers, do you
6 cite to other documents?

7 A I do.

8 Q And are you generally familiar with the
9 documents that you cite in your technical papers?

10 A In my technical papers, I typically
11 write them myself, where I use my expertise and
12 mine alone. Most of my publications are myself.
13 If not, they're with a colleague.

14 So, in this case, these -- when we
15 talked about the legal standards and things like
16 that, as I said before, counsel helped me with
17 those sections of the report. So it's not
18 unusual, in all my cases, where I defer to them
19 for their legal expertise. You know, I never make
20 a legal conclusion, at least I try not to. And
21 so, with situations like that, for example, I
22 published a paper where I wrote it with a dentist.

1 I don't know anything about teeth. But the device
2 I used, my focus was on and my references were
3 focused on my area of expertise, and the dentist I
4 worked with also cited some of his materials, as I
5 recall.

6 So I didn't become familiar -- I mean,
7 I trusted his expertise as my co-author, to go in
8 and do the research on that. My job wasn't to
9 look into or fact-check his work, because he's the
10 dentist. Mine was to make sure that the things I
11 was responsible for I had thoroughly reviewed.

12 Q Okay. Just so I have that straight.
13 The dentist, in your example, was a co-author of
14 that article, correct?

15 A Correct.

16 Q Dr. Vallee, you also, in these
17 passages, you cite the MPEP. Are you familiar
18 with the MPEP?

19 MS. HALSEY: Object to form.

20 A Can you direct me where I have that in
21 here?

22 Q Sure. Let's look at paragraph 13, and

1 it describes the standard for a reference as
2 analogous art to claimed invention. At the very
3 end of that paragraph it cites MPEP
4 Section 2,141.01(a)(I).

5 A Okay. I see it so the question is?

6 Q Do you know what the MPEP is?

7 A When I first saw this, I did. I don't
8 recall -- I don't recall, sitting here, what it
9 is. There are so many acronym-isms in law. It's
10 hard to keep track of it. But again, this is a
11 situation where, you know, this was included for
12 the completeness of my report, and it further
13 explains, in this case, what non-analogous and
14 analogous art is, from a legal -- I'm sorry, I did
15 it to you again. I'm so sorry. I paused and
16 didn't finish.

17 From a legal perspective, when I looked
18 at the non-analogous art, itself, in those
19 patents, from an engineering perspective, it was
20 clear to me why I didn't consider them analogous.
21 And that's what I referred to in the -- I believe
22 it's the next section, where I talk about each of

1 them individually.

2 So this is kind of a legal section
3 where I rely on counsel to help me with all these
4 citations and references. But the latter section
5 had more of my attention.

6 Q Great. So I just have one more
7 question about the MPEP.

8 Do you know if it's controlling law?

9 A Again, that's kind of a legal
10 conclusion that I'm not really prepared to make.

11 Q Let's go to paragraph 30. It is on
12 page 13 of your declaration.

13 A Got it.

14 Q So paragraph 30 states your opinion of
15 a person of ordinary skill in the art, correct?

16 A Correct. I'm sorry. I was just going
17 to summarize. At least the equivalent of
18 undergrad degree and ME, or closely related field,
19 two years in industrial or academic experience
20 with connecting technologies or similar
21 mechanisms, or equivalent combination of education
22 experience. Okay. I'm with you now.

1 Q Does this definition require experience
2 with storage containers?

3 A Well, like it says, it means experience
4 with connecting technologies, applied to storage
5 containers, in this case.

6 Q Does the definition state that it has
7 to be applied to -- the experience has to be
8 applied to storage containers?

9 A It says connecting -- should be
10 experienced with connecting technologies or
11 similar mechanisms.

12 So it does not say storage containers,
13 per se.

14 Q And does this --

15 A But that -- oh, I'm sorry. I'm sorry.
16 Just to finish. Additional relevant industry
17 experience may compensate for lack of formal
18 education.

19 So that relevant industrial experience,
20 I think, would involve storage containers, in this
21 case.

22 Q Does this definition require -- the

1 specific language of this definition, does it
2 require a storage container experience?

3 A Well, the relative -- relevant
4 industrial experience, I believe, does.

5 Q Dr. Vallee, does it say storage
6 container experience?

7 A It says relevant industry experience.
8 And these are -- this is a storage container
9 patent. So, I mean, to me, that relevancy means
10 relevant to storage containers.

11 Q And the definition that specifically
12 states that additional relevant experience may
13 compensate for lack of formal education, correct?

14 A That's what it says, yes.

15 Q So that additional relevant experience
16 is not required, correct?

17 A It's not required unless it has to
18 compensate for formal education or vice versa.

19 Q And we agree that the first part of the
20 definition does not mention storage containers,
21 correct?

22 A Well, I said the relevant industry is

1 the storage container. It did not use the word
2 storage container, but I read this as, you know,
3 relevant experience with storage containers, is
4 what that last sentence means.

5 Q Yes, Dr. Vallee, I'm focused on the
6 first sentence.

7 Does that sentence mention storage
8 containers?

9 A The first sentence of paragraph 30?

10 Q Yes.

11 A No, the word "storage container" isn't
12 in that first sentence.

13 Q So storage containers is not an
14 industry, correct?

15 A I'm sorry. Could you repeat that
16 question? I don't think I heard you.

17 Q Yes. Is storage containers, by
18 themselves, an industry?

19 MS. HALSEY: Object to form.

20 A The storage container industry, yeah.
21 There's a whole group of companies that focus on
22 storage containers that is an industry. In this

1 case, it's a relevant industry.

2 Q Okay. Does this definition require
3 experience designing consumer products?

4 A Well, again, this is a consumer
5 product -- again, the relevant industry
6 experience, in this case, is related to storage
7 containers, which are consumer products, at least
8 the ones akin to the '689 patent. Those are
9 consumer products. I can go to the store, a
10 consumer can go to a store and purchase them.

11 Q So, Dr. Vallee, focusing on just the
12 first sentence, which states a POSA would have had
13 at least the equivalent of an undergraduate degree
14 in mechanical engineering or a closely related
15 field and two years of industry or academic
16 experience with connecting technologies or similar
17 mechanisms, or an equivalent combination of
18 education and experience.

19 Does any part of that definition
20 mention consumer products?

21 A That sentence, no. That's why the
22 second sentence was added to the definition.

1 Q And that second sentence --

2 A Along with the experience, so the
3 sec -- that's the relevancy. I'm sorry, I didn't
4 mean to cut you off. That's the relevancy, right?
5 Additional relevance. In other words, additional
6 to that first sentence in paragraph 30, additional
7 should be relevant industry experience to
8 compensate if you don't have what's in sentence
9 30.

10 Q Correct. So if you have what's in the
11 first part of the sentence, you don't need to have
12 the additional relevant experience that
13 compensates for a lack; is that right?

14 A So, again, we'll go through the --
15 we'll parse this sentence out.

16 So you need an ME, or close in field,
17 two years industrial experience with connecting
18 technologies. So you'll need -- so it's ME and
19 industrial or academic experience with connecting
20 technologies. So you have to have that. Or
21 similar mechanisms, similar to connecting
22 technologies, like we're discussing here.

1 So that's what that first sentence says
2 you need.

3 So, I'm sorry, your specific question,
4 then, was what, exactly?

5 Q If you have the experience in the first
6 sentence, the second additional relevant industry
7 experience is not needed, correct?

8 A If you have the connecting --
9 experience with connecting technologies and
10 mechanisms, then you wouldn't -- no, you don't
11 need the additional to compensate for lack.

12 Q Thank you.

13 A When I talk about sentence -- paragraph
14 31, my opinion was that Dr. McCarthy did not
15 experience --

16 Q Dr. Vallee, I'm going to cut you off
17 because I didn't ask for your opinion on paragraph
18 31. I just wanted to talk about 30.

19 A So you don't want me to talk about 31,
20 which I wrote 30 so that I could go into 31?

21 Okay. I was going to say why I thought
22 he wasn't a POSA because he didn't have the

1 technology experience.

2 Okay. We can move on.

3 Q Dr. Vallee, are you aware that it's
4 required to define a person of ordinary skill in
5 the art to consider obviousness?

6 A Correct.

7 Q So you had to define the definition of
8 what a POSA was independently of Dr. McCarthy; is
9 that right?

10 A That is correct.

11 Q Okay. Thank you.

12 A And I determined he was not a POSA.
13 That was my opinion.

14 Q Is that POSA used -- did you only use
15 the POSA to determine Dr. McCarthy's experience?

16 A No. I was a -- POSA was defined, then
17 I looked at Dr. McCarthy's CV, and in my opinion,
18 I didn't consider him to be a POSA.

19 Q And did you use that POSA definition
20 anywhere else in your analysis of the '689 patent
21 and this IPR, did you use that definition of POSA?

22 A I used the definition of POSA

1 throughout my analysis, everywhere in my report,
2 where I say a person of ordinary skill in the art
3 would understand, or something like that, this is
4 the definition I was using, paragraph 30.

5 Q So you had -- so that definition was
6 relevant, independent of Dr. McCarthy's
7 experience, correct?

8 A That is correct. I just didn't -- my
9 opinion was he wasn't a POSA, that's all.

10 Q Okay. So let's go back to the
11 materials you considered, which is paragraph 8.

12 A I got excited. We got up to paragraph
13 30. Okay. Paragraph 8.

14 Q So paragraph 8 is on page 5.

15 A Got it. Okay. Thank you.

16 Q Okay. This is the list of materials
17 you considered in preparing the declaration,
18 correct?

19 A Correct.

20 Q And one of those materials that you
21 considered included the patent owner's preliminary
22 response, paper 12; is that right?

1 A That is correct.

2 Q Did you -- did you review the
3 Patent Owner preliminary response?

4 A I did. That was one of the first
5 things I think I did when I got involved here,
6 before drafting my declaration.

7 Q So are you aware that the Patent Owner
8 preliminary response contains many of the same
9 arguments made in the Patent Owner Reply Response?

10 A I am. I mean, I didn't draft the
11 preliminary response, but I did review it, and I
12 agreed with most of it. And what I agreed with, I
13 mean, fit in my declaration, I thought.

14 Q Okay. And are you aware that the
15 director of the US Patent and Trademark Office
16 considered the Patent Owner preliminary response
17 prior to making his decision to institute this
18 proceeding?

19 A I guess I believe that's the way the
20 IPR system works.

21 Q So, for example, the director already
22 considered whether the -- the argument that the

1 references are not analogous, right?

2 A Well, again, that was a preliminary --
3 my understanding -- I'm not a patent attorney, but
4 my understanding is that's a preliminary step,
5 where they're just trying to determine, I believe,
6 if the IPR goes forward. So that's just a broad,
7 is it worth pursuing or not?

8 Once it is pursued, then you focus on
9 the details I was involved with.

10 I mean, I'm not a patent attorney, I'm
11 not exactly sure what the board considers and how
12 the preliminary response fits into all the
13 logistics, but I know what I was asked to do, and
14 drafting this report is where I basically started.
15 After all, I did review that preliminary
16 opinion -- not opinion, the preliminary report.

17 Q So you know that the director, when
18 making the determination on whether there's a
19 reasonable likelihood to proceed, that the
20 director disagreed with the arguments in the
21 Patent Owner Preliminary Response, correct?

22 MS. HALSEY: Object to form.

1 A Again, my understanding is that the
2 director felt that based on that report, that it
3 was worth instituting the IPR. But the reason he
4 just doesn't make a decision and throw it all out
5 is because he wants more information, he wants to
6 move forward, is my understanding, which are why I
7 write this report and why I'm being deposed today.
8 So we can drill down deeper and, you know, give
9 the board more information on this case.

10 So many of the IPRs I go through, I
11 mean, they're, you know, I'm often involved after
12 it's instituted. But in many of those IPRs, you
13 know, the sides I've represented have been
14 successful.

15 So it's a process, and this is just
16 part of the process, that's my understanding.

17 Q Okay. Thank you. I think we can keep
18 going because I don't think it will take too long
19 to go through the next exhibit, and then maybe we
20 can take a lunch break.

21 A Okay.

22 MS. HAAPALA: I would like to introduce

1 Exhibit 1003, previously marked as 1003, it is the
2 clarification of Dr. J. Michael McCarthy in
3 Support on the Inter Partes Review of U.S.
4 Patent Number 11,192,689.

5 A Yes, we have that someplace, I believe.
6 I'm just requesting the hard copy.

7 (Exhibit 1003 previously marked for
8 identification and attached to the transcript.)

9 A Thank you. Exhibit 1003, correct.

10 Q Yes, that's right.

11 A Okay. I have it in front of me.

12 Q Okay. You're familiar with
13 Dr. McCarthy's declaration, correct?

14 A Correct.

15 Q And, Dr. Vallee, I apologize, if you
16 need to look at this again, feel free. But in
17 your declaration, in paragraph 31, one of the
18 things you said is you state that Dr. McCarthy's
19 academic record is impeccable, correct?

20 A That is correct.

21 Q And then, Dr. McCarthy, in his
22 declaration, he provided a section on the

1 background of the technology. It starts on
2 page 12, Dr. Vallee, which if you'd turn to that.

3 A Okay. Starting at page 12. Okay.

4 Q Do you see that section, Section 6,
5 Background of the Technology?

6 A I do.

7 Q And you reviewed this section, correct?

8 A I did, yes.

9 Q Okay. So in paragraph 36, which is on
10 page 13.

11 A Okay. We're still in Exhibit 1003,
12 right?

13 Q That's right.

14 A Not my report, his. Okay.

15 Q In paragraph 36, Dr. Vallee [sic] says
16 that storage containers designed to be stacked or
17 connected together are widely known and commonly
18 used.

19 Do you agree with that?

20 A There were stacked storage containers
21 before. So I don't have an argument with that.

22 Q So, for example, Dr. McCarthy provides

1 an example, in paragraph 37, of Loeffler as one
2 example of a stackable storage container.

3 Do you agree with that's an example?

4 A Could we pull Exhibit 1022, please,
5 just so I can look at Loeffler again?

6 Q Actually, Dr. Vallee, I'm happy to do
7 that, but if you want, you can also see there's a
8 Figure 10 from Loeffler, but I'm happy to pull it
9 up.

10 A Yeah, I'd rather see. Yeah, if that's
11 okay, I would just rather see that reference.
12 1022.

13 Q 1022. So let's enter into the record
14 1022. Give me one second.

15 Exhibit 1022 previously marked
16 U.S. Patent 5,934,466 to Loeffler, correct?

17 A Correct.

18 Q And if we turn to Figure 10.

19 A Figure 10. Okay. That's what you have
20 on the screen.

21 Q Yes.

22 A Gotcha.

1 Q Do you agree with Dr. McCarthy that
2 this describes the stackable storage container?

3 A Yep. That is stacked. It's nothing
4 like the '289, which has handles and, you know,
5 has the sliding mechanism discussed in the patent.
6 It seems -- as I recall, this is -- I believe this
7 one is it slides together, the pieces slide
8 together so that the -- if I look at figure --
9 Figure 10, those interlock, so they must be slid
10 together someplace, which is not the case with the
11 '289. And -- oh, yes, yes, yes.

12 Q And, Dr. Vallee [sic], though, states
13 that this is an example of the stackable toolbox,
14 and you agree with that, correct?

15 A It's not a stackable toolbox like
16 defined in the '689 patent, but it is a stackable
17 toolbox.

18 Q Thank you.
19 Let's go to paragraph 52.

20 A Of his report?

21 Q Of Dr. McCarthy's report, yes.

22 Page 24.

1 A Okay.

2 Q Okay. Paragraph 52, Dr. McCarthy
3 testifies that latching mechanisms for connecting
4 storage containers were widely known and commonly
5 used in modular storage systems.

6 Do you agree with that?

7 A Not latching mechanisms, like defined
8 in the '689. I mean, that's kind of like saying
9 nails were widely known or screws were widely
10 known. Just because it's used in something
11 doesn't mean it's, you know, it reflects the
12 patented invention. But there were latching
13 mechanisms before, and I discussed them in my
14 report with some of the other references that I
15 call analogous art. So I'm not arguing it's not
16 latching mechanisms. My point is, but it's not a
17 latching mechanism anything like in the '689
18 patent.

19 Q Dr. Vallee, please, if you could focus
20 just on the question I'm asking you. Do you agree
21 with Dr. Vallee -- excuse me, Dr. Vallee, do you
22 agree with Dr. McCarthy that latching mechanisms

1 for connecting storage containers were widely
2 known?

3 A Not ones like the '689 patent. But
4 others, yes.

5 Q Let's go to paragraph 82.

6 A 82.

7 Q Which is on page 41.

8 A Got it. I'm there.

9 Q And here, Dr. McCarthy testifies that
10 before the '689 patent, it was well-known in the
11 art that modular latching mechanisms often
12 incorporated various components that selectively
13 constrict the movement of a sliding mechanism to
14 control latch movement and ensure reliable
15 engagement and disengagement. These components
16 are typically used to temporarily hold a latch in
17 an open or disengaged position during unstacking
18 operations and prevent a sliding component from
19 fully disengaging from a supporting structure.
20 Common configurations are discussed below.

21 So, Dr. Vallee, do you agree with
22 Dr. McCarthy that engagement structures that

1 releasably hold a sliding component in particular
2 positions were well-known?

3 And let me point you to paragraph 83
4 for that testimony of Dr. McCarthy.

5 MS. HALSEY: Object to form.

6 Q Sorry. Let me rephrase. Let's go to
7 paragraph 83.

8 A Okay.

9 Q That's one of the examples of
10 Dr. McCarthy we just read.

11 So I want to ask just about this one
12 piece. Dr. McCarthy says releasable engagement
13 structures were well-known and commonly used in
14 sliding latch systems for storage containers.

15 Do you agree with that?

16 A Okay. The ones he cites as commonly
17 used, that are in these figures, none of them are
18 like that in the '689 patent.

19 So I disagree with his statement that,
20 you know -- I'll agree with these latches, that he
21 cites in his report, were out there before. And
22 they may have been commonly used. I'd have to

1 canvass all the transportation storage systems to
2 see. But not one of them is like the '689 patent.

3 So latches unlike the '689 patent
4 describes may have been commonly used. So I will
5 not argue with him there.

6 Q And you agree, then, that these
7 latches -- let me rephrase that.

8 You agree that these structures were
9 releasable engagement structures to temporarily
10 hold a latch in an open position after
11 disengagement or in a closed position?

12 MS. HALSEY: Object to form.

13 Counsel, would it be possible for you
14 to indicate which latches you're referring to when
15 you say "these latches"?

16 MS. HAAPALA: Sure. I am referring to
17 Dr. McCarthy's testimony on -- in paragraph 83,
18 where Dr. McCarthy states that these structures,
19 releasable engagement structures, were often
20 integrated to temporarily hold a latch in an open
21 position after disengagement or in a closed
22 position when the containers were stacked and

1 latched together.

2 And I'm asking Dr. Vallee if he agrees
3 with Dr. McCarthy's testimony.

4 A And I believe he's referring to some of
5 the latches in the figures before, if I'm correct.

6 And my problem is, that as I look at
7 those figures, I don't see anything that I can say
8 for sure or actually used in containers.

9 Q Dr. Vallee, actually, he's referring to
10 the paragraphs following, so paragraphs -- the
11 examples he gives for those are paragraph 84
12 through 88.

13 A Okay. Thank you. Thank you for that.
14 So I can take them one at a time.

15 So if we call what's in paragraph 84 a
16 latch, that was taken from -- I believe, Baruch,
17 okay. So that's a latch used in storage
18 containers, but it's not like the '689. So that
19 latch is storage containers.

20 Then he has -- oh, let's see. So I
21 believe his Figure 21 and 22 are for the same
22 device, as I recall. Okay.

1 So Baruch is used on a storage
2 container, but it's nothing like the '689.
3 Then -- okay. And then he goes on to different
4 stop mechanisms, all right?

5 So I'm not arguing that those devices
6 were not used on stackable systems. I'm just
7 saying, they may be, but they're not the device or
8 the type that's used in the '689 patent, which is
9 what I studied. They're completely different
10 latching mechanisms, even though they may be used
11 on a storage container.

12 Q Okay. Thank you.

13 MS. HAAPALA: Actually, I think we might
14 be at a good stopping point for a break. Would
15 you like to take a -- maybe a little bit longer
16 break to get some lunch? I don't know if
17 30 minutes is convenient.

18 THE WITNESS: When do we feel we want
19 to come back? I mean, maybe -- want to just
20 reconvene at 1? I don't know, that's, like, an
21 hour and ten minutes.

22 MS. HAAPALA: I would prefer not to take

1 such a long break.

2 THE WITNESS: Want to do 45 minutes?

3 MS. HAAPALA: Sure. How about -- can we
4 say that would put us back at like 12:35; is that
5 right?

6 THE WITNESS: Perfect. 12:35 it is.

7 MS. HAAPALA: Have a nice lunch, thank
8 you.

9 THE WITNESS: Yeah, you too, thank you.

10 (Recess taken from 11:50 a.m. to
11 12:38 p.m.)

12 BY MS. HAAPALA:

13 Q So in paragraph 33 of your declaration,
14 which is page -- page 15.

15 A I'm there.

16 Q Okay. You state it's your opinion that
17 Niles Morel, Weng, or Heinrichs, none of those
18 reference are analogous art; is that right?

19 A Correct.

20 Q And you understand that a reference may
21 be analogous art if it's either in the same field
22 of the endeavor or reasonably pertinent to the

1 problem faced by the inventor, correct?

2 A Correct.

3 Q And so, your non-analogous art opinion
4 addresses both prongs of that test, correct?

5 A Yes, it does.

6 Q So, Dr. Vallee, what do you define to
7 be the field of the invention of the '689 patent?

8 A It's a mechanism for attaching one
9 stack container to another.

10 Q So under your approach, if a reference
11 discloses the same exact sliding latch but it
12 wasn't used for storage containers, it would be
13 outside the field of the invention.

14 Do I have that right?

15 A Well, if it was -- it wouldn't probably
16 be the exact same storing latch -- storage latch,
17 if it wasn't part of a container, if it wasn't
18 used in that application.

19 Q If it wasn't --

20 A You would have to -- I'm sorry. If you
21 show me an example, for example -- you know, it's
22 unlikely the latching mechanism in the '689 patent

1 would use -- would be used in something other than
2 a storage container.

3 Q If that mechanism, that same type of
4 mechanical sliding latch mechanism, was used in a
5 different product, would it be outside the field
6 of invention?

7 A Again, you would have to show me an
8 example of that. You know, I would have to look
9 at the design and say how the latch is used. Is
10 it used for -- you know, this latch design, this
11 latching mechanism has a spot so you can lift the
12 storage containers. It has positive stops. There
13 are a lot of detail to it.

14 So if it's not a storage container, my
15 point is, it's unlikely that it would be exactly
16 like that.

17 But if you gave me an example, you
18 know, I could take a look at it to see if I
19 thought that might be so.

20 Q If that sliding latch used -- was the
21 sliding latch used to secure two components
22 together and had -- was able to be locked into a

1 locked position and an unlocked position, but not
2 used in a storage container, I'll give you that
3 example, would that be outside the field of the
4 invention?

5 A Again, you'd have to show me those two
6 components they're trying to latch. Like, this
7 field of this invention is for a storage container
8 that you can lift under the latch. It has a
9 support arm and T tracks and everything. Without
10 seeing what the other two components are, it's
11 hard for me to say that -- in fact, it's hard for
12 me to believe that would be like that, in
13 something that wasn't a storage container.

14 Q So your nailer system is outside the
15 field of the invention, correct?

16 A Well, the similar -- my invention and
17 my latches were industrial products. I think that
18 the questioning that alluded to it before was it
19 wasn't would I use my latch on a storage
20 container? It was, how is the design of the
21 latches I've designed relevant?

22 So they're relevant because of the

1 things I listed this morning, before lunch.

2 But your question was, would it be
3 analogous art if this were used in something else,
4 right?

5 So I'm not saying that they would use
6 my invention on a storage system. I'm saying the
7 aspects of my invention are relevant to this.
8 That is different from the question of, well, is
9 it analogous art? Now we're in a patent world of
10 analogous art. And you'd have to show me what the
11 components are that are being coupled before I can
12 say, yes, that would be analogous if it's not a
13 storage container.

14 I find it hard to believe that I would
15 find anything like what's in Figure 2 of the '689
16 patent in anything other than stacked storage
17 containers.

18 Q So the field of the invention, in your
19 opinion, is only stacked storage containers; is
20 that right?

21 A It's exactly what I said in paragraph
22 33, right? It has to be a mechanism for attaching

1 one stacking container to another.

2 Q And we talked that there is two prongs
3 of the analogous art test, correct? One is the
4 field of invention?

5 A Right.

6 Q And the other part of the test is
7 whether it's reasonably pertinent to the problems
8 faced by the inventor, correct?

9 A Correct.

10 Q And what problems do you think the
11 inventors of the '689 patent were trying to solve?

12 A They were trying to have a robust,
13 straightforward, linear attachment/detachment
14 method that would have positive stops when engaged
15 and disengaged using a support arm. Very
16 important because they wanted you to get your
17 hands under it to have a place to grasp the
18 storage container. And in a condition where the
19 sliding -- the slider is flush with the outside
20 surface of the container, when engaged, so that
21 when you're trying to carry this thing, you're not
22 scraping your hands on a latch that may be

1 sticking out a certain amount.

2 Those are, you know, the major issues
3 that the patent is trying to address.

4 And you can stack multiple containers,
5 is another thing. If you look at the embodiments,
6 this is designed so you can just keep stacking
7 these things. Unstacking them and lifting, maybe
8 you want to lift just the top two, maybe you want
9 three of them, maybe you want one. It allows you
10 to do all of that. And this analogous art doesn't
11 do that.

12 This non-analogous art, I'm sorry.
13 Non-analogous.

14 Q So one of the problems you said was
15 that the latch would have positive stops when
16 engaged and disengaged; is that right?

17 A Correct.

18 Q And are there any other problems that
19 the inventor to -- inventors had to solve?

20 A Well, I think it's the list that I just
21 gave you. It has to be, you know, flush when
22 engaged, it has to have a slot underneath so you

1 can carry it, it has to have guides that allow it
2 to go in and out straight, you don't have guides
3 that they can cock and get stuck, those kind of
4 things. And it has to be robust so that it can
5 deal with them. You have, potentially, three or
6 more stacked containers that are being moved
7 around that can be tipped over, for example, full
8 of tools, and it has to stay connected and closed.

9 Q So another problem you just mentioned
10 was that it has to be flush, it has to be
11 co-planar when it's engaged; that's one of the
12 problems they had to solve?

13 MS. HALSEY: Object to form.

14 A That's one of the problems they were
15 addressing, along with the other -- what the
16 patent uses, deficiencies, and other designs. By
17 that I mean, there may have been one design that
18 may have had something flush, right, it may have
19 had an engagement member that was flushed but
20 didn't have everything else.

21 So the problem to solve is to take all
22 these deficiencies in one design and try to remove

1 those deficiencies.

2 Q And one of those, just to make sure I
3 get this correct, one of the problems is to also
4 make sure that the slider has lateral guidance; is
5 that right?

6 A Yes. So it doesn't cock, for example,
7 when you're pulling it in or out.

8 For example, in my report, I talk about
9 Niles is the first thing. It may have
10 two-position stop, but that doesn't mean I would
11 use that as analogous art because in the Niles
12 design that I show on page 16 at the top, it's not
13 robust. It's for -- I think that was a media
14 case, if I recall correctly. It's not going to
15 hold tools. So the notion of pushing in one tab
16 to release isn't going to work.

17 So there are a number of issues why I
18 wouldn't go there and even look for it.

19 Q So one of the other problems I think
20 you mentioned is the slide -- well, maybe you
21 didn't mention. Let me rephrase that. Is one of
22 the problems the inventors addressed how to

1 prevent this slider from detaching from the
2 storage container?

3 A That is true. The slider that is
4 linear and is flush, and all those other things we
5 just discussed.

6 Q So each of those things was a problem
7 that the inventors were trying to solve, correct?

8 A I think it's more accurate to say that
9 those are characteristics that the new design had
10 to have. Like I said, maybe there's an existing
11 design that did have an engagement member that was
12 flush but didn't have the slots underneath to
13 carry, that didn't have all these other things.
14 So the problem is to -- maybe this is the way I
15 should put it: The problem trying to be solved is
16 to have a simple, robust latching mechanism that
17 has a slot underneath for carrying, that will not
18 detach, you know, under the severe environmental
19 conditions, that has positive stops, that has to
20 have all of those things, not just one or two of
21 those things, all those things. That's what they
22 were trying to do with this design.

1 Q And all of those things includes the
2 positive stops?

3 A Right. It needs to have that, correct.

4 Q And the lateral guidance is another
5 thing it has to have?

6 A Along with it, yes.

7 Q And another problem is to keep sure --
8 make sure the slider doesn't detach from the
9 storage container; is that right?

10 A Correct. When it's -- when the locking
11 mechanism is disengaged, yes.

12 Q Okay. Each of these problems, would it
13 be fair to say they're mechanical design problems?

14 A As opposed to? I'm not sure exactly
15 what you mean.

16 Q It's problems that can be solved by the
17 mechanical design of the latch?

18 A As opposed to electrical. Oh, I see
19 what you mean. Yes, they would be problems
20 that -- well, got to back up a little. They are
21 mechanical and I'll include materials, material
22 sites on that, too.

1 So mechanical, material, because the
2 wear and things like that, and strength have to be
3 incorporated.

4 Q The problem of holding a latch in the
5 locked position, is that problem unique to storage
6 containers?

7 A Depends on the type of latch. For
8 example, in my magazine example, in my -- the
9 things that I've designed, that latch was to keep
10 a pusher and a nail gun magazine, for example, in
11 one position. So latches can be used for many
12 different applications, but it's
13 application-dependent. I couldn't use the '689
14 patent in my nail gun, or vice versa. They both
15 have latches, but it's design-specific.

16 Q I want to talk about the references
17 that you testify is not analogous art, so I'm
18 going to introduce all of them.

19 A Okay.

20 Q First, I would like to introduce
21 Exhibit 1012, which is Niles,
22 U.S. Patent 4,974,740?

1 A Got it.

2 Q Exhibit 1006, which is
3 U.S. Patent application 2007/0215015.

4 A Got it.

5 Q Exhibit 1008, which is Morel, U.S.
6 Patent application 2015/0151661.

7 A Got it.

8 Q And Exhibit 1009, which is Weng, U.S.
9 Patent 6,238,031.

10 A Got it.

11 Q So let's start with Niles, which is
12 Exhibit 1012.

13 A Okay.

14 Q And you're familiar with Niles,
15 correct?

16 A Correct.

17 Q And you read Niles when you were
18 preparing your declaration, right?

19 A That's right.

20 Q So what does Niles describe?

21 A It's right in the abstract. Latch
22 assembly for a shipping case, basically, is what

1 it is, for having a first and second housing
2 members.

3 So it's basically a case that opens up,
4 there's a top and there's a bottom, and it latches
5 them together.

6 Q Okay. And so, Niles discloses a latch
7 assembly, correct?

8 A Well, shipping container latch
9 assembly.

10 Q And that latch assembly connects two
11 separate wall components, housing members 14 and
12 18, correct?

13 A In the abstract, shipping containers
14 with first and second housing members. So, yeah,
15 exactly in the abstract is what it decides, as
16 opposed to shipping containers, for example, in
17 the '689.

18 Q Just to confirm, Niles discloses a
19 latch assembly that connects housing members, two
20 housing members of the case, correct?

21 A Two housing members that are not in
22 part of a shipping container, correct.

1 Q Okay. And Niles discloses structures
2 that retain the sliding latch in selected
3 positions, correct?

4 A Again, unlike the '689, he does talk
5 about positioning the latch in selective
6 positions. It's just done differently than the
7 '689, much differently.

8 Q So looking at -- I might have to
9 rotate. Looking at Figures 3 and 5 of Niles.

10 A Got it.

11 Q So Figure 3 shows the latch in a locked
12 position; is that right?

13 A Let's check. Yes, the media case latch
14 is in a locked position.

15 Q Okay. And this latch bar, do you see
16 Dr. Vallee, the latch bar 94?

17 A Yes, I do.

18 Q So that beam 94 of the latch bar is
19 dropped into the first cavity 100.

20 A That is correct.

21 Q And that secures the slide against
22 movement; is that correct?

1 A In that position, yes, it won't slide.

2 Q And Figure 5 shows the latch in the
3 unlocked position, correct?

4 A That is correct.

5 Q Okay. And then, here, the latch bar,
6 the beam 94, is in cavity 102, correct?

7 A Correct.

8 Q And that -- that holds the slider in
9 the open position, correct?

10 A Correct. I'm sorry, maybe I
11 misunderstood the question. I'm sorry. It holds
12 the -- I mean, it holds the case in the open
13 position, I guess.

14 Q Okay. Thank you.

15 A Maybe it's semantics. I mean, it's
16 really holding the case in the open position so
17 you can open it.

18 Q Thank you.

19 A Okay.

20 Q Let's go to Heinrichs, which is
21 Exhibit 1006.

22 (Exhibit 1006 previously marked for

1 identification and attached to the transcript.)

2 Q You know, I realize I thought I was
3 showing you my screen showing you things, and I
4 haven't been the whole time.

5 Let me show you my screen and then we
6 can make sure we're on the same page.

7 A That's why I love hard copies.

8 Q That's great.

9 A Old-school.

10 Q I also like hard copies, Dr. Vallee, I
11 understand that.

12 All right. So, in Heinrichs, you're
13 familiar with Heinrichs, right?

14 A I am.

15 Q And you read Heinrichs prior to
16 preparing your declaration, correct?

17 A Correct.

18 Q What does Heinrichs describe?

19 A It's, basically, a device for
20 pallet-sized storage containers that allows you to
21 stack them and lock them together using,
22 basically, forklift tines. The very large -- you

1 know, mechanism to hold those very large, I'll
2 call them pallet containers, is what we used to
3 call them, stacked on top of each other.

4 Q And Heinrichs discloses a locking
5 mechanism, correct?

6 A Yes. A very complicated locking
7 mechanism. That's in the figures. It's a
8 complicated locking mechanism.

9 Q And let's look at Figure 6.

10 A Okay.

11 Q So does this figure -- this figure
12 shows a container latched to a pallet; is that
13 right?

14 A Actually, it's in the unlocked
15 position, so I think it's just sitting on a -- a
16 container sitting on a pallet.

17 Q And if that locking mechanism was in
18 the locked position, would it be locked to the
19 pallet?

20 A Yeah, that -- that little button there,
21 if it were in the locked position, it should lock
22 the container to the base. I'll just call it the

1 base. Maybe think that's base 50.

2 Q Okay.

3 A Or actually it's 150. The whole base
4 assembly is 150, I think.

5 Q I'm not sure I see a 150 on this.

6 Did you mean 50?

7 A I'm sorry. I looked -- see, I have --
8 because I have a paper copy, I'm looking at
9 Figure 7 at the same time. So if you go to
10 Figure 7, see how it calls that one 150 as the
11 whole? I think that's the whole base, the base
12 assembly.

13 Q Yes. I think that's a different
14 attachment. I'm looking at Figure 6. So Figure
15 6 --

16 A Right. But whatever we call the base
17 of that. That has all the tine openings.

18 Q And if you can turn to paragraph 51 of
19 Heinrichs.

20 A Okay. I'm there.

21 Q I'm sorry. I apologize. Paragraph 56.

22 A So it's in the claims of Heinrichs?

1 Q Paragraph 56, Dr. Vallee, on the same
2 page, it's page 4, paragraph 56.

3 A Oh. I was looking at claim 56. I'm
4 sorry. All right. I'm with you. Okay.

5 Q Here, Niles describes that its pallet
6 may be stacked on a structure, for example,
7 another pallet container, rack system, et cetera;
8 is that right?

9 A Yes, that's what it says.

10 Q So Niles describes that its pallets can
11 be locked to a container, correct?

12 MS. HALSEY: Object to form.

13 A Yeah, it's a pallet. I mean, unlike
14 the invention of the '689, it's a big pallet where
15 you stick the fork tines in. But that is what it
16 says.

17 Q Dr. Vallee, it says a pallet can be
18 stacked on, for example, a container. E.g., it
19 says e.g.

20 A Right.

21 Q So the pallet can be stacked on a
22 container, correct?

1 A Yeah, the pallet 50. So we're back --
2 I'm going to flip just to Figure 6, again, really
3 quick. A lot of figures.

4 Pallet 50 is the bottom. Okay. So it
5 says it can be rested or stacked on a structure.
6 With interface fitting substantially identical to
7 interface fitting 66.

8 Okay. I'm sorry. So your question is?

9 Q My question is, Niles discloses a
10 container stacked on top of a pallet that is
11 secured with its latching mechanism; is that
12 right?

13 MS. HALSEY: Object to form.

14 A It says just what it says in the
15 sentence. Except it's a drastically different
16 latching mechanism. But it does say what you
17 read, yes.

18 Q Thank you. And let's turn to Morel,
19 which is Exhibit 1008.

20 (Exhibit 1008 previously marked for
21 identification and attached to the transcript.)

22 A I have it.

1 Q And you read Morel, right?

2 A I did.

3 Q And you're familiar -- you read it when
4 preparing your declaration?

5 A Correct.

6 Q Okay. What does Morel describe?

7 A It's a locating device for a partition
8 used in, like, an automobile, like, you know,
9 where you can hold soda or things like that. You
10 push down and you slide it over, or you can
11 probably even just drag it because it has this
12 triangular teeth. It's a positioning -- partition
13 positioning device for an automobile, I guess.

14 Q And the partitioning -- and Morel
15 describes that its partitioning member can be held
16 in selected positions, correct?

17 A Yes, it does.

18 Q So if we look at Figure 1B, I think
19 that's what you were referring to as the teeth,
20 correct? So Figure 1B shows --

21 A Yeah.

22 Q -- these teeth that are positioned in

1 the grooves, correct?

2 A Correct.

3 Q And that would hold the sliding
4 partition in place, right?

5 A It would keep it located in the
6 position you selected.

7 Q Thank you. Then let's turn to Weng,
8 which is Exhibit 1009.

9 (Exhibit 1009 previously marked for
10 identification and attached to the transcript.)

11 Q You're familiar with Weng, correct?

12 A I am.

13 Q And you read it when preparing your
14 declaration, right?

15 A Correct.

16 Q So what does Weng describe?

17 A Weng describes the sliding mechanism
18 for, basically, drawers, commonly used on drawers.

19 Q Okay. And does Weng describe that its
20 assembly can stop the drawer from being drawn out?

21 A It says -- Weng describes simple drawer
22 stops, basically. Which are protrusions that

1 engage with, you know, with the drawer slides on
2 a -- well, the drawer slides on a drawer. Again,
3 like the previous three we discussed, I mean,
4 really, nothing like the application of the
5 storage containers we were addressing in the '689
6 patent. In fact, I count in my report. I don't
7 even know why anyone would look at these to try to
8 incorporate them in a stack container system.

9 But anyway, to answer your question, it
10 does say there's some kind of stop, yes.

11 Q And that stop keeps the drawer from
12 being pulled out, correct?

13 A Yes, on a chest of drawers, for
14 example, that stop would -- well, you would have
15 to have two -- but, yeah, it would make it
16 difficult to remove the drawer.

17 Q Thank you. Let's turn to -- I would
18 like to introduce the '689 patent, which is
19 Exhibit 1001, U.S. Patent 11,192,689, which is the
20 '689 patent that we have been talking about all --
21 since this morning.

22 THE WITNESS: Do you have the patent

1 here? I thought I had it. Oh, there it is.

2 Sorry.

3 (Exhibit 1001 previously marked for
4 identification and attached to the transcript.)

5 A Okay. I have the patent.

6 Q And you read the patent, correct?

7 A I did.

8 Q And let's start on the first page.

9 Dr. Vallee, are you familiar with the patent
10 classification system?

11 A I'm not sure. You mean there's a
12 continuation in part, and those kinds of things?

13 Q Let's look at 51 and 52. There's an
14 international classification and a U.S.
15 classification. Are you familiar with the U.S.
16 classification system?

17 A Not being a patent attorney, I have a
18 general idea of what it is.

19 Q And what's your understanding of the
20 classification system?

21 A Again, they give certain dates as to
22 when things are -- are you talking about the U.S.

1 classification system?

2 Q Yes. 52. Right. On the first page,
3 it is close to the bottom of that first column, 52
4 says US.CL.

5 A Yeah, I believe it's the different
6 dates that different related documents to the
7 issued patent are introduced. But, again, I'm
8 not -- not being a patent attorney, I'm not
9 intimate with, you know, the classification system
10 for patents.

11 Q Okay. So you don't know what this
12 classification -- let me see. B65D21/0223, do you
13 know what that classification is?

14 A Again, I'm not -- not being a patent
15 attorney, I'm not well versed in what the U.S.
16 classification system -- what the details of it
17 are. I know it's related to -- I'm sorry, I know
18 it's related to dates and when certain things are
19 filed. But, you know, I wasn't asked, really, to
20 become familiar with the U.S. classification
21 system. My job was to take a look at the asserted
22 patent in the claims and opine on, you know,

1 whether they were obvious, and things like that.

2 Q Are you familiar with the international
3 classification system that's number 51?

4 A The same answer. Again, not being a
5 patent attorney, I wasn't asked to dive into the
6 meaning of the classification system for patents.

7 Q So when you were analyzing whether a
8 reference is analogous art, did you consider the
9 '689 patent's classification?

10 A I only considered the priority date of
11 the patent and the dates of the prior art. That's
12 what I was asked to do. I wasn't asked to see how
13 the classification system, per se, related to it.

14 Q So the answer's no, correct?

15 A I was not asked to, so -- and I told
16 you what my -- what I was asked to do. So I
17 wasn't asked to do that.

18 Q But, Dr. Vallee, I understand you were
19 not asked to. Did you consider it? Did you
20 consider the U.S. classification when you -- when
21 determining whether the reference is analogous
22 art?

1 A Again, I explained what I used to see
2 if things were analogous art. I did not use the
3 classification system, per se.

4 Q And so, Dr. Vallee when you say you
5 didn't use it per se, does that mean you didn't
6 use it in any capacity?

7 A No, as I said, I didn't consider the
8 classification system when I was looking at
9 analogous art. I looked at, you know, the art
10 that I set out in my report and Niles, and I
11 explained, in depth, I don't think that's
12 analogous, and the ones we went over, Morel, Weng.
13 I was looking as a mechanical engineer, not a
14 patent attorney, to see if I believed it was
15 analogous or not.

16 Q So, let's look at the claims of the
17 '689 patent.

18 A Okay.

19 Q Let's start with claim 1. Have you
20 read all the claims of the '689 patent?

21 A I did.

22 Q And so, let's start looking at claim 1.

1 Claim 1 resites that a portion of the sliding
2 mechanism extends laterally away from a side
3 surface of the second container, correct?

4 A Well, we have to consider the whole
5 claim as a whole, right? That portion of it says
6 a portion of the sliding mechanism, okay? Extends
7 laterally away from the side surface. That same
8 mechanism has to be applied to -- the beginning of
9 the claim says the first storage container to be
10 connected to a second, and the specification
11 defines first and second, and then a first storage
12 container has to have a locking groove, and a
13 second container has a sliding mechanism, which is
14 for engaging and disengaging, then a portion of
15 that sliding mechanism you defined above, in the
16 upper claim element, extends laterally away from
17 the side surface.

18 So, yes, it does say that, but you have
19 to read the whole claim. The claim as a whole,
20 not just, you know, pieces of it.

21 Q Dr. Vallee, you just said that a first
22 storage container and a second storage container,

1 you said the '689 patent defines those terms; is
2 that correct?

3 A I said you get --

4 MS. HALSEY: Object to form.

5 A Yeah, there's clarification in the
6 specification as to what the storage containers
7 are; that's what I meant by that.

8 Q So is there a specific definition of
9 what those terms mean in the specification?

10 A The storage containers typically have
11 four sides and a bottom and are open to the top,
12 and the cavity is covered by, in this case, the
13 lid.

14 Q Thank you. Let's go back to that
15 feature we were just talking about, where I
16 understand there's other features in this claim,
17 Dr. Vallee, I just want to talk about this one
18 feature. The portion of the sliding mechanism
19 extends laterally away from the side surface of
20 the second container.

21 Does this feature recite the side
22 surface is a body of the storage container?

1 A The side surface, right, consider the
2 patent as a whole, right? It's something where it
3 has a sliding mechanism that's going to be flush,
4 so you don't get your hands caught. So the side
5 surface has to be the side of the container
6 because that's what you would pick it up with.

7 So it's the side surface of the
8 container.

9 Q Dr. Vallee, if you could, please,
10 answer my question. I'm asking, does the claim
11 recite the side surface as a body of the storage
12 container?

13 MS. HALSEY: Object to form.

14 A I mean, it says what it says. The
15 side -- laterally from the side surface of the
16 second container. And I read this as one in the
17 art, so I know what the side surface of the
18 container is, okay? When the sliding mechanism is
19 disengaged. I mean, I don't think -- I think the
20 claim speaks for itself, I mean, anyone in the art
21 would know what a storage container is and what
22 the side surface is. It's not the top, it's not

1 the bottom, it's not the inside. It's the side.

2 Q And it's correct that that does not say
3 the side surface of the body of the storage
4 container?

5 A It does not have to say that because --
6 you know, I don't need every word defined as one
7 in the art; I know what it means. I'm not
8 surprised it doesn't say that, because I know it
9 doesn't have to describe what a side surface of a
10 container is. I just know what that is. As one
11 in the art, I know it.

12 Q And does it recite that the side
13 surface is one of the 4 side walls of the
14 container?

15 A Well, again, this whole patent is
16 related to rectangular, and it could be square but
17 not circular container, right? I mean, if I went
18 to my students and I said, here's a container, do
19 you know what the side surface is? Every one of
20 them would say, well, yeah. They'd know what it
21 is. So it doesn't have to say that.

22 Q So it doesn't say that, correct?

1 A There's no need for it to say it
2 because one in the art understands what the side
3 surface of a container is.

4 Q Dr. Vallee, does it say it, yes or no?

5 A It doesn't have to. No, it doesn't
6 have to.

7 Q Thank you.

8 So you just said that they have to have
9 four side walls, so the container has to be square
10 or rectangular?

11 A Well, this whole patent's related to
12 containers that are either square or rectangular.
13 It couldn't have -- I don't see how it could have
14 five because it will have one on each side and you
15 need to carry it. So I'm going to have -- I mean,
16 I haven't considered that, but you look at the
17 patent, it's related to square or rectangular
18 containers.

19 Q For claim 1, does claim 1 specify any
20 dimensions for the first container?

21 A No. It simply says the first container
22 has to be arranged to be connected to the second.

1 Q And does it specify the dimensions for
2 the second container?

3 A There were no dimensions in any of the
4 claims, I don't believe.

5 Q Does claim 1 --

6 A Because they don't need to be -- I'm
7 sorry. Because there don't need to be dimensions
8 in the claims. This will work on different-sized
9 containers.

10 Q Does claim 1 specify what's carried in
11 the containers?

12 A It just says that it's a storage
13 container.

14 Q You just said that it would work on
15 different-sized containers.

16 Does it specify how much weight the
17 container must be able to hold?

18 A Well, the whole patent is aimed at, you
19 know, storage containers. I mean, if you read the
20 background and what the problems are, and the
21 images, I mean, those are storage containers that
22 are used to transport, you know, tools and rugged

1 things and your heavier devices. So I look at the
2 patents. So, no, the claim wouldn't have to say
3 that. You know, you read the claims, but the body
4 and the essence of the patent is addressing that
5 problem. We go to -- bear with me for a moment.

6 Well, it's going to be something that
7 can be carried. All the embodiments have ribs,
8 which means it's going to be -- you know, it's
9 going to have to resist deflection.

10 I'm sorry, one thing I'm looking for
11 here in the patent. And you can stack more than
12 two.

13 I mean, I read this -- I read this
14 patent and it's -- and I look at -- you know, I
15 look at the embodiments and, to me, when I read
16 this claim, I have in my mind that I'm looking at
17 those -- those kind of storage containers where
18 you put tools and saws, and things like that, of
19 various sizes. But nothing the size of a jewelry
20 case and nothing the size of a pallet.

21 Q Oh, you're reading the description from
22 the specification into the claims, correct?

1 A No, I'm looking at the patent, okay?
2 And the area of the art and the problem it says
3 it's trying to solve, and I simply -- when I do
4 that, I understand this claim. That's what I'm
5 saying. I'm not reading anything into the claim.
6 I mean, the patent, there's an entire patent here.
7 You know, there is a specification that helps
8 clarify what the claims mean.

9 I'm not reading the specification into
10 the claims, I'm saying, here are the claims in the
11 specification. Help me understand what the claims
12 mean.

13 So when I read claim 1, you know, I
14 think I have a good handle on, you know, what kind
15 of storage containers these are and how they're
16 used.

17 Q So, in your opinion, what -- well, you
18 stated that the claim doesn't recite how much
19 weight the container must carry, correct?

20 A Correct. It does not say that. Again,
21 I'm not surprised.

22 Q And, yet, you said that it can't be a

1 jewelry container, for example?

2 A Yeah. I'm looking at the entire
3 patent. No one's going to look at this and leave
4 these claims and understand what the sliding
5 mechanism is and have any idea why it would need
6 such a thing on something as small as a jewelry
7 chest. You're going to have two sliding
8 mechanisms with a slot underneath so you can lift.
9 That's going to be something that's going to be
10 used, as I said before, on a worksite or
11 something. It's not going to be used for a
12 jewelry box.

13 Q Okay. Let's just look at claim 4.

14 A Okay.

15 Q Okay. Claim 4 requires a support arm,
16 correct?

17 A Let's see. A stacking system. There's
18 a slot, then across the slot is a support arm.

19 That is correct.

20 Q Claim 4 says the support -- a support
21 arm extending across the slot, correct?

22 A It does.

1 Q Does this claim state what direction
2 the support arm extends across the slot?

3 A Well, let's see. Claim 4 is on claim
4 3. And 3's based on 2.

5 So it says stackable system, there's a
6 slot in the side surface of the container. If the
7 slot is in the side surface, it has to be accessed
8 from the side. If the slot were in any other
9 direction, there would be no meaning to the slot.
10 It would be some kind of anterior component.

11 I read that claims and that tells me,
12 one in the art -- the slot's on the side. You
13 tell me slot on the side, it comes from the
14 outside in. So it tells me the direction is from
15 the outside in. So the claim does say that.

16 Q Dr. Vallee, I'm asking you, does the
17 claim recite what direction the support arm
18 extends across the slot?

19 A Just the fact that the claim tells me
20 that the slot is in the side surface tells me that
21 it comes from the side. So, yes, it does. It
22 tells me that.

1 Q So the claim recites that the support
2 arm extends a specific direction?

3 A It tells me just -- well, since it
4 tells me that the slot is in the side surface,
5 therefore, the slot must be protruding from the
6 side surface, right? It's in the side surface,
7 okay?

8 And then it tells me the support arm
9 extends across the slot. So that tells me that if
10 there's an opening on the side, and the slot is in
11 the side, across the slot means it goes across the
12 void. So it has to go across the two side
13 surfaces.

14 To me, that's very plain from reading
15 this claim.

16 Q So does the claim specifically state
17 that the support arm extends back to front, for
18 example?

19 A The way the claim's written, it tells
20 me and, therefore, explains to me what the
21 direction of that arm is. It doesn't have to --
22 because one in the art is interpreting every one

1 of these claims, okay? And the way this claim's
2 written makes it very clear to me what the
3 direction of the slot is and how the support arm
4 has to go across it, has to go across that void.

5 Q And, in your opinion, the claim
6 specifically sets forth a specific direction for
7 the support arm?

8 A I'm telling you, the claim tells me
9 that the -- the orientation of the slot and the
10 support arm. It tells me that.

11 Q Where does it tell that?

12 A I'm sorry. I thought I just explained.
13 The claim, reading it as one in the art, tells me
14 there's a slot in the side surface, so it has to
15 come from the outside. The support arm extends
16 across, so it has to go across the void.

17 Q So -- okay. Let's move on to claim 12.

18 A Okay.

19 Q So claim 12 recites where the support
20 arm is located across the slots, between the two
21 laterally spaced-apart side surfaces, correct?

22 A Let's just see here. Okay. That's

1 what it says.

2 Q Okay. It doesn't recite the support
3 arm extends across, correct?

4 A Well, it's the stackable system
5 of claim 4. And I just explained why claim 4
6 tells me what the direction of the support arm is.

7 So it's based on claim 4. So claim 4
8 already told me.

9 Q Okay. So -- and then, let's look at
10 claim 13.

11 A Okay.

12 Q Claim 13 recites the stackable storage
13 system of claim 12 and says where the slot is in a
14 lid of the second storage container, correct?

15 A Correct.

16 Q How would a person of ordinary skill in
17 the art understand the phrase "the lid is of the
18 second container"?

19 A I'm sorry. It says the slot in a lid
20 of the second container. So it's the lid of the
21 second container.

22 I'm not sure I understand your

1 question.

2 Q What does it mean to be a lid of the
3 second storage container?

4 A So, the storage container has, in this
5 case, four sides and a bottom and is covered --
6 the opening is covered directly with the lid. So
7 the lid is hinged to the storage container, but
8 that lid is what covers it. It's not, like, a
9 removable tray or something that covers it, it's
10 just the lid so that the container has the four
11 sides, the bottom, and the lid, and that's it.
12 That's what that means to me, when I read this.

13 Q And the lid is part --

14 A The container -- I'm sorry. It's the
15 lid of the container, I mean, it's hinged to it,
16 in this case, but that's the lid of the second
17 storage container, the one that would be on the
18 bottom.

19 Q And the lid of the storage container is
20 part of the second storage container?

21 A No. The -- the storage -- the
22 container is the four sides and a bottom void.

1 And the lid of tells me it's the lid,
2 like, it's on the storage container. I think
3 there's a little more detail. Bear with me again
4 for a moment. Okay. I'm on column 2, down at the
5 bottom, line 59. Storage container 10, referring
6 to Figure 4, may comprise a container portion. So
7 when I'm saying container, I'm talking about this
8 opposite side walls and a bottom, defining an
9 interior space, then the pivotally attached lid is
10 provided for ease of selective access.

11 So the -- you have the container,
12 itself, is the four sides and a bottom. The lid
13 goes on the container.

14 So I think that when the claim says the
15 lid of the container, that's what they're talking
16 about. The lid that covers the container.

17 Q And so, the lid is removable, correct?

18 A It's openable. I believe the lids are
19 all hinged.

20 Q Does claim 13 require the lid to be
21 hinged?

22 A It does not say hinged. It just says

1 there's a lid to the second storage container, so
2 it doesn't discuss hinging.

3 Q Is the second storage container limited
4 to a hinged lid?

5 A Although I think all the embodiments
6 are, I don't believe it's -- it's not in the
7 claims, but it's defined specification as an
8 example of one.

9 Q So the lid of the second storage
10 container could be removable, correct?

11 A Well, it's certainly openable. It
12 doesn't really address that. But if it -- but I
13 don't see, reading the claim, it doesn't address
14 whether it's completely detachable or not. What
15 is detachable, the first part, you can detach the
16 first storage container from the second one. It
17 doesn't really go into removable or not.

18 Q How would a person of ordinary skill in
19 the art understand a lid -- the function of a lid?

20 A The lid of a storage container would be
21 something that covers the container, itself, so
22 that things don't -- so when the lid is closed,

1 you cannot access them. So they don't -- if
2 you're carrying them, they don't fall out. You
3 don't drop them.

4 Q And the lid could be removed, correct?

5 A Again, there are certainly storage
6 containers that have lids that are completely
7 detachable. I'm just saying that in the claims,
8 it's just covering lids. So it doesn't say hinged
9 or removable, it just says it's the lid of the
10 same container. And, of course, this lid has to
11 specifically have the sliding mechanism, for
12 example, like goes on in claim 14, et cetera. I
13 mean, it's not just any lid, it's the lid in this
14 patent that has the sliding mechanism and all the
15 features of the sliding mechanism. Right in
16 Figure 2, like you're showing on the screen right
17 there.

18 Q If you could look at Figure 1 with me.

19 A Let me get there.

20 Okay. I'm at Figure 1.

21 Q What does this figure show?

22 A This shows the first and second storage

1 containers and the sliding mechanism that's
2 detail A, which is shown in Figure 2. And it
3 shows -- it shows the two storage containers
4 stacked on top of each other.

5 Q And let's look at the side walls of the
6 container.

7 A Okay.

8 Q Does the side wall -- let's pick the
9 side wall right underneath the latch.

10 Does that show a uniform flat surface?

11 A The side wall -- I'm sorry. You're
12 talking about the lid or -- where, exactly?

13 Q I'm looking at Figure 1. And I'm
14 looking at the side wall of the bottom container
15 that's underneath the sliding latch.

16 A Okay.

17 Q Is that side wall a uniform, flat
18 surface?

19 A No. It doesn't have to be. It's not.

20 Q So there are recesses, correct?

21 A Well, again, the whole idea of flat
22 surface goes into the coplanar argument, right?

1 So there are a number of flat surfaces, but the
2 claims, when they talk about the coplanar -- the
3 coplanar perpendicular surface of the latch, that
4 claim is telling me it has to be flushed with the
5 flat surface of the container that surrounds the
6 latch. And that goes to my explanation earlier in
7 the day, where when you're picking it up in the
8 slots, you don't scrape your hands because they're
9 not flush.

10 So the body of the container is the
11 bottom piece. The lid of the container is 20.
12 And the flat surface around the slider is shown
13 more clearly, I think, in Figure 2.

14 Q But you agree with me that the side
15 wall has multiple planes, correct. By the side
16 wall, I mean the side wall of the container that's
17 underneath the latch.

18 MS. HALSEY: Object to form.

19 A I'm going to go back here. Just bear
20 with me, please. Okay. In claim 1, for example,
21 the claim we were discussing before talks about
22 wherein, and I'm on column 6, line 14, wherein a

1 portion of the sliding mechanism is coplanar with
2 the side surface of the second container when the
3 mechanism is engaged. So that's talking about, in
4 Figure 1, again, or clearly in Figure 2, that
5 they're talking about the surrounding surface,
6 right around where the latch is.

7 Q So the side surface is the surface
8 surrounding the latch?

9 A It also goes in a few different
10 directions, but that side surface is coplanar so
11 they stay flush. And in that embodiment, in that
12 figure, it's the surface that is around the latch.

13 Q Okay. Thank you. Let's look at one
14 more thing in the '689 patent before we move on.

15 Let's turn to column 3. I'm going to
16 look at lines 26 through 30.

17 A Okay. I'm with you.

18 Q All right. So this describes that
19 there are two space-locking grooves 12 at the
20 lower end of the outer side of the first storage
21 container 10 to each receive an insertion portion
22 32 on slide 30.

1 Is that right?

2 A That's right.

3 Q And can you describe how that works?

4 A Well, you have the grooves are in the
5 top container, and those grooves are used to lock
6 the two together when the sliding mechanism is
7 engaged. And so, there are two grooves at the
8 lower end. Again, we're in Figure 5. Okay. So
9 that's the detail of the grooves. So you have the
10 two grooves 12, okay? Excuse me. At the lower
11 end of the outer, the side of the first container,
12 to receive and insertion point at 32. So that
13 would be the -- I'll call them the little
14 protrusions, I think is what they call them,
15 right? The insertion portion on slide 30 shown at
16 Figure 10. And that's right. So there are those
17 protrusions, we'll call them, and we're attaching
18 the first storage container to the second one.
19 And then they talk about Figure 3 and 9, the
20 second storage container is provided with a slot
21 located near the junction of the top surface and
22 the side surface.

1 Okay. So the way it works is, when you
2 move the slider inward, those two protrusions lock
3 in the locking grooves 12. And when you pull it
4 apart, it disengages, so you can lift the first
5 container off the second.

6 Q So let's make sure I understand. So
7 there are two separate locking grooves, labeled 12
8 in Figure 5, and each insertion point would go
9 into each separate locking groove, correct?

10 A They would go into respective locking
11 grooves. Keeping in mind that the patent tells me
12 there's a mirror image of that on the other side.
13 So you've got another slider and set of locking
14 grooves.

15 But, yes, the two insertions go into
16 the two locking grooves.

17 Q Thank you. I would like to next
18 introduce Exhibit 1007, which is U.S. Patent
19 Publication 2007/0012694 Duvigneau.

20 (Exhibit 1007 previously marked for
21 identification and attached to the transcript.)

22 A I have it.

1 Q Dr. Vallee, you're familiar with
2 Duvigneau, correct?

3 A I am.

4 Q Let's start and look at Figure 4A.

5 A Okay. I'm there.

6 Q So this figure illustrates a storage
7 container, that carrying bag 230, correct?

8 A Correct.

9 Q And it's attached to base cabinet 152,
10 correct?

11 A That is. I was looking for 152.

12 Q You're looking at Figure 4A, it's on
13 the bottom left side.

14 A Oh, I see it. Yep. Thank you. Okay.
15 I see it.

16 Q So this figure illustrates that
17 carrying bag 230 is attached to base cabinet 152,
18 correct?

19 A Base -- okay. The top bag is attached
20 to the lower assembly of 152.

21 Q Okay. And Duvigneau describes that
22 these containers are connected with sliding latch

1 246, correct?

2 A Well, the -- in Duvigneau, the
3 analogous lid portion to '289 is not that 180.
4 It's really 170. So it's really -- it's really
5 connecting the top bag 232, a third component that
6 he calls -- I think it was a cover or lid 180. So
7 it really fastens it, it fastens it to 180, but
8 you have the tray there as well. And of course
9 you said a sliding mechanism. Well, it has what's
10 called a slider, but there's no explanation of
11 what a sliding mechanism is. So it just has
12 something that slides that connects, somehow, the
13 base of the bag to the cover of the whole thing.
14 But it's not the same sliding mechanism or akin to
15 the sliding mechanism that's in the '289.

16 Q Dr. Vallee, could you look at paragraph
17 57 with me. It's on the very last page.

18 A Of Duvigneau?

19 Q Yes.

20 A Got it.

21 Q That very last sentence states
22 "disengagement of the carrying bag 230 from the

1 base cabinet 152 is facilitated by slightly
2 displacing the latch 256 away from the base member
3 234 so as to disengage from the depressions 240."

4 Is that --

5 A I see that.

6 Q -- correct?

7 A I see that.

8 Q Okay.

9 So, in other words, the sliding latch
10 246, to disengage the carrying bags, is displaced
11 away from the base member to disengage the bags;
12 that's what Duvigneau states, right?

13 A Well, Duvigneau states his latch, which
14 is nothing like the latch in the '689 patent.
15 That latch moves away and disengages it, but that
16 latch appears to be, from the very brief
17 description he gives of it, and the few images in
18 Figure 4 that he gives, it looks like just a flat
19 piece of plastic. There's no description of
20 stops, there's no description of, you know, guide
21 members or T rails, or there's certainly no
22 support arm. His latch is disengaged -- his latch

1 is slid to disengage his design, that is true.
2 But it's a completely different latch. It's not
3 the same thing.

4 Q Duvigneau also describes here that
5 depression 240 is for arresting via sliding latch
6 246, correct?

7 A That's my same comment. The latch 246,
8 which is just a component, is not the latch in the
9 '689, it's just a component that, as he says,
10 engages with the base.

11 Q But it does state that the sliding
12 latch engages with different -- well, it doesn't
13 say that. Let me rephrase that. Duvigneau
14 describes that the depression 240 is for arresting
15 the sliding latch 246, correct?

16 A Duvigneau's latch and sliding member,
17 right? I mean, the -- let's see. So the
18 depressions and slider, he calls them depression
19 and slider, are completely different than the
20 depressions and slider in the '689.

21 So he's saying that his depressions and
22 his sliders work that way to disengage, which I --

1 it says what it says, okay, that's what it says in
2 that paragraph 57. What's important to note, but
3 it's completely different than the '689 slider.
4 So his slider may do that, but, again, I listed
5 why his slider is just some of the reasons why
6 it's so different than the '689 slider.

7 Q And his slider does do that, correct,
8 his slider does arrest with -- his sliding latch
9 does arrest with the depression 240 for attaching
10 the bags, correct?

11 A His slider, which is nothing like the
12 '689 slider, does engage with his depressions to
13 lock the two together.

14 Q Thank you. And Duvigneau also
15 discloses that the sliding -- by displacing the
16 latch away from the base member to disengage the
17 depression, that that disengages the bag, correct?

18 A I'm sorry, reading from the patent or
19 you're just paraphrasing?

20 Q I'm reading from here. It says -- the
21 last sentence. Disengagement of the carrying bag
22 230 from the base cabinet 152 is facilitated by

1 slightly displacing the latch 246 away from the
2 base member 234, correct?

3 A That's what it says, yes.

4 Q And so, what does it mean to displace a
5 latch away from the base member?

6 A Well, he says he's sliding his latch
7 outward to disengage the grooves. But his latch,
8 as I keep saying, is so much different than the
9 one on the '689. Doesn't have, you know, side
10 surfaces that are coplanar with the side of the
11 cabinet, et cetera, et cetera.

12 His latch means that what it says about
13 his latch, but it's a different latch.

14 Q Dr. Vallee, I understand you want to
15 talk about differences. If you could, please,
16 just answer the question that I'm asking you, that
17 would be really helpful. Thank you.

18 A I'm sorry. I thought I did answer that
19 question. His latch, which is different than the
20 other one, does move in that way.

21 Q Thank you. And Duvigneau discloses
22 that its carrying bag includes depression 240 at

1 each of the two side edges, right?

2 A Yeah. That's in figure --

3 MS. HALSEY: Object to form.

4 Q You can look at paragraph 57, if you
5 don't recall.

6 A Yeah, I'm sorry. I'm looking for
7 the -- I see depressions 104.

8 Q Duvigneau describes that the bottom
9 portion 234 comprises, at each of its two side
10 edges, a depression 240 fitted for arresting via
11 sliding latch 246, correct?

12 A I'm just looking for the figure that
13 has the 240. I know it's right here someplace.

14 Q Dr. Vallee, let's focus -- I think we
15 can find a figure in just a second. Let's focus
16 just on paragraph 57 for right now.

17 A Oh, okay. So I see -- I found it.
18 It's figure 4B in the second embodiment. He says,
19 "Okay."

20 So let's focus on the paragraph, I'm
21 sorry.

22 Q Here in this paragraph, Duvigneau

1 discloses that there's a depression 240 at each of
2 the side -- two side edges, correct?

3 A Correct. It's a single depression, not
4 the double one we were talking about when we
5 discussed the '289 patent. So it's one
6 depression, 240.

7 Q At each of the two side edges, correct?

8 A There would be one on the left and
9 right side, if I'm looking at it, as it is in
10 Figure 4B.

11 Q Okay. Thank you. All right.

12 So Duvigneau discloses its slider
13 arrests with the groove to attach the bags, right?
14 We already said that. I don't want to make you
15 answer that question again.

16 Would you agree that there would need
17 to be a mechanism to retain that slider in the --
18 in that locked position?

19 MS. HALSEY: Object to form.

20 A Well, in the Duvigneau invention, this
21 invention, this patent is basically a way to mount
22 a tool bag, for lack of a better word, to a chest.

1 This doesn't look like a, you know, the '689,
2 where that could be multiple stacked. You know,
3 this design and this embodiment has so little
4 description. He doesn't state it's a problem. I
5 mean, I can see the '289 where it's a problem. If
6 you have, you know, the heavy equipment where
7 you're going to have a robust slider, like the
8 '289 describes, it's robust because it needs it.

9 This -- I mean -- I'm not sure you need
10 it. Probably works fine the way it is. In this,
11 what I'll call a lighter duty application, he
12 doesn't really describe that problem, and he
13 doesn't describe that there's a need to keep it
14 from coming out.

15 Maybe his idea was to have, you know,
16 friction keep it together. I don't know. He
17 really doesn't -- he's silent on that.

18 Q He doesn't describe it, correct?
19 Duvigneau doesn't describe it, correct?

20 A He does not describe the need for
21 retaining it, if that's your question, if I
22 understood correctly.

1 Q So if the latch wasn't held in place,
2 would it hold the containers together? If the
3 latch was free -- let me just ask this: If you
4 could just push the latch in and it wasn't
5 retained in any way, would that hold the bags
6 together?

7 A Depends on how it's designed. I mean,
8 now when you ask will it hold them together, that
9 depends on the material, the fits, how everything
10 is put together, what loading characteristics are
11 on the products. So you need to give me that kind
12 of detail to answer, equivocally, that would hold
13 it together. Sitting here reading this patent, it
14 doesn't say whether it would or not. It says it
15 attaches them, but that's not necessarily holding
16 them together in use.

17 Q Dr. Vallee, this carrying tool bag,
18 230, in your opinion, is that a storage container?

19 A Well, again, the storage container, in
20 my mind, is the four sides and a bottom, plus a
21 lid that sits on top. In the context of the
22 patents, 230 is more of a storage bag, I think. I

1 mean, it really doesn't have a lid, and the
2 containers we're talking about, in this patent,
3 has a lid. The sliding mechanism is on a lid.

4 So I don't think you can say the bag
5 230 is the storage container in the same context
6 as, you know, storage containers, the first and
7 second storage containers in the '689. It's the
8 bag.

9 Q Okay. Thank you. Let's look at
10 Figure 6.

11 A Okay.

12 Q So in this figure, 246 is a sliding
13 latch, correct?

14 A 246 is what he calls a sliding latch.
15 It's his sliding latch, yes.

16 Q And does Duvigneau describe what
17 prevents a user from fully pulling out the sliding
18 latch?

19 A I don't believe he does. Again, it's
20 solely -- I think it's column 3. I think that
21 paragraph 57 we just went over. It's the only way
22 he describes that embodiment. And I don't see him

1 describe it there.

2 Q So, does this lack of -- you just said
3 there's a few things that Duvigneau doesn't
4 describe. It doesn't describe what prevents a
5 user from pulling the latch out, correct, that's
6 one thing that it doesn't describe?

7 A Well, that's not in the description he
8 gives, correct.

9 Q And then, also -- sorry, I'm going to
10 go back to Figure 5.

11 So this figure shows without the
12 storage bag, correct?

13 A Let me flip to it, please. Correct.

14 Q And does Duvigneau show, when the
15 storage bag isn't there, does Duvigneau describe
16 what keeps the user from pushing the slider all
17 the way into the middle of 180?

18 A He doesn't describe it, but it looks
19 like there's a portion of the slider at the end,
20 his slider that faces downward that may prevent
21 that. Again, there's so little detail in here.

22 Without more detail, I really can't

1 answer it equivocally or unequivocally.

2 Q Dr. Vallee, does this lack of detail in
3 Duvigneau, does that mean that there's something
4 wrong with Duvigneau's design?

5 A No. No. It's just his focus was not
6 on the -- clearly, his focus wasn't on the details
7 of how you might latch in the second embodiment.
8 His focus was how you can take this container,
9 affix a bag to it, not another storage container,
10 a bag, on a wheeled device that can help you move
11 things around. His container was basically that
12 tray, plus the four sides and a bottom in 156.
13 And then he tacks on an additional cover and uses
14 that in this embodiment to connect the two. In
15 fact, most of his embodiments, as I recall, use,
16 you know, a different kind of latch to do it.

17 I think it's, like, a rotating latch to
18 do that same thing. So that wasn't -- his focus
19 really wasn't on the latch. I think his focus was
20 on those other things.

21 So based on that, I mean, I -- on the
22 limited description, I don't see anything wrong

1 with it, per se.

2 Q Thank you. I think we can move on to
3 Exhibit 1011, which is U.S. Patent 4,576,307,
4 Frydenberg.

5 A Okay.

6 (Exhibit 1011 previously marked for
7 identification and attached to the transcript.)

8 Maybe after this might be a good time
9 to break.

10 Q Dr. Vallee, I think if you can bear
11 with me, I think we may be done in about
12 ten minutes.

13 A You mean done with the whole
14 deposition.

15 Q Yes.

16 A Woo-hoo, let's go.

17 Q Like I say 10 or 15 minutes, I think.

18 Would you like to proceed or would you
19 like a break?

20 A Let's do it. I'm ready to go.

21 Q Okay. So looking at Frydenberg, you
22 read this as part of your deposition preparation,

1 correct?

2 A Correct.

3 Q Okay. Let's look at -- let's go right
4 to the chase. Let's look at Figures 3 and 6.

5 A Okay. I see Figure 3 and I see
6 Figure 6.

7 Q Okay. And these figures, what do they
8 show?

9 A Figure 3 shows -- and I forget the
10 nomenclature, for lack of a better word -- well,
11 let's find the right word. 30 is what he's
12 calling --

13 Q I think if you look at --

14 A -- slide. Yeah, it's a slide. He
15 calls that a slide. So it shows a cross-section,
16 it doesn't really show exactly -- oh, Figure 3,
17 okay. So it's a cross-section through one of
18 the -- oh, I'll call them protrusions, that shows
19 how the slider fits over that protrusion. The
20 section is for the protrusion. And it also shows
21 14, where that's one side of what's being
22 disconnected and 12, which is the other side.

1 So that protrusion is on item 12.

2 So it shows that slide on protrusion
3 18.

4 Q If you look at column 4, lines 58
5 through 60.

6 A Okay. I'm there.

7 Q Actually, let's start -- maybe look at
8 line 55.

9 A Okay.

10 Q So this describes that Slide 30 -- no,
11 back to line 58. Slide 30 is positioned so that
12 one end of the longitudinal cavity 36 is aligned
13 with the head of the T rail 18 and involves a
14 short length of the rail.

15 A That's right.

16 Q So you have the slider that's
17 positioned on the end of the longitudinal cavity
18 36, and then there's a T rail 18, correct?

19 A Correct.

20 Q And so, going back to Figure 6, I think
21 you can see the longitudinal cavity and the rail
22 18, right?

1 A Right.

2 Q So the slider slides along this rail
3 18, looking at Figure 3?

4 A His slide 30 slides along the rail 18,
5 correct.

6 Q Okay. And as the slider is sliding
7 along the rail, would this provide some degree of
8 lateral guidance?

9 A Well, it would -- again, it depends on
10 how it's designed. I mean, if we're defining, in
11 this picture, longitudinal is along the sliding
12 direction and lateral would be in the other
13 direction, then it could prevent it from coming
14 out of plane, depending on how it's designed.

15 Q Okay.

16 A But this, I mean, his T rail is -- I
17 think I understand the split. Well, no, that's
18 not true. I'm sorry. But looking at Figure 3, it
19 could prevent motion of that case from the lid
20 from -- never mind. I'll stay with the answer I
21 had. I won't --

22 Q Which is -- your answer was?

1 A It could provide -- my answer was,
2 depending on the tolerances, it could provide some
3 resistance to lateral motion.

4 Q Thank you. Let's introduce
5 Exhibit 1005, which is Brocket EP3492226.

6 (Exhibit 1005 previously marked for
7 identification and attached to the transcript.)

8 A Okay. I have it here.

9 Q Okay. And you did read Brocket,
10 correct?

11 A Correct.

12 Q And you're aware that Brocket was cited
13 by the European examiner during prosecution of the
14 related European application?

15 A I see it is a European application.
16 I'm sorry, what was the rest of that, the
17 beginning of that question?

18 Q Are you aware that Brocket was --

19 A Cited?

20 Q Yes, by the European examiner?

21 A Okay.

22 Q Were you aware of that, Dr. Vallee?

1 A I think I recall that, but as I sit
2 here, I don't recall exactly. But, yes, I do
3 believe, yeah, I think it was.

4 Q We have an exhibit with the European
5 Office Action. Would you like to look at that?

6 A Sure.

7 Q Okay. It's Exhibit 1014, which is the
8 European search report and opinion.

9 (Exhibit 1014 previously marked for
10 identification and attached to the transcript.)

11 Q Have you seen this before, Dr. Vallee?

12 A I do recall I've seen this. With some
13 other -- with some other attachments.

14 So this is European?

15 Q Yes.

16 A Not related to the U.S. Patent, it's a
17 European. Okay.

18 Q Dr. Vallee, this is related to the '689
19 patent.

20 Are you aware of that?

21 A I'm sorry, it related earlier to, but I
22 don't -- my point was, I don't think it was cited

1 in -- I'm looking at the reference and cited
2 section in foreign documents. I was just
3 confirming this document isn't cited in the U.S.
4 application.

5 Q Dr. Vallee, this is the corresponding
6 European application to the '689 patent.

7 A Right. I understand that. I just --
8 this is the European patent application versus the
9 '289. Okay. I'm with you.

10 Q Do you see on page -- what page are we
11 at? Page 3 of the document.

12 A Okay.

13 Q There's a reference, EP3492226.

14 Do you see that reference?

15 A Right. EP349 -- okay. Got it.

16 Q And that's Bocket, correct?

17 A Sure.

18 Q Okay.

19 A Yeah, that would be Bocket.

20 Q Okay. So you see that that reference
21 is labeled -- on page 5, that reference is labeled
22 D2, correct?

1 A Correct. Stanley Black & Decker.

2 Q Okay. And then on page 6, do you see
3 where the European examiner said that D2 is
4 regarded as being the prior art closest to the
5 subject matter of the present claim?

6 A Page 6. Which paragraph?

7 Q 3.2.1.

8 A Okay. So they believe D2 is the
9 closest. Okay. It's not very close, but, okay,
10 it's the closest.

11 Q You see that that European examiner
12 said that it was the closest prior art, correct?

13 A The European examiner said this was, in
14 his opinion, the closest. That's what that says.

15 Q And are you aware that Bocket was not
16 cited in the '689 patent? If you want, you can go
17 back to Exhibit 1001, and that has --

18 A That's where?

19 Q That has a section of patent document.
20 So the first is --

21 A Right where -- okay. So, no, I don't
22 see it listed there.

1 Q Okay. Thank you.

2 A Just because it's the closest, doesn't
3 mean it's close.

4 Q The European examiner said it was the
5 closest prior art, correct?

6 A He said so, but I don't think it's very
7 close. But, okay, it is what it is.

8 Q Thank you. Let's go back to Brocket.
9 Brocket discloses stacked storage
10 containers, correct?

11 A Hold on. We're still on exhibit --
12 which is that?

13 Q Exhibit 1005.

14 A 5, got it. Okay. So, yes, I'm with
15 you now. Stacked storage containers.

16 Q Brocket discloses stacked storage
17 containers?

18 A Yes. I'm just trying to catch up here
19 a little bit. Okay. I discuss that in my report.
20 All right.

21 So Brocket -- I'm on my report,
22 paragraph 59, page 24. A tool container with a

1 locking mechanism, but the locking mechanism
2 taught by Brocket doesn't include the elements in
3 the '689.

4 So Brocket says it basically applies to
5 tool containers.

6 Q Okay.

7 A A container system for holding tools.

8 Q And Brocket discloses a mechanism for
9 connecting these containers, correct?

10 A Right. There was a -- right, correct.

11 Q Okay. And just in regards to your
12 testimony about the Brocket-Heinrichs combination,
13 since you're looking at your declaration, if you
14 go to --

15 A Yes.

16 Q -- paragraph 99, which is --

17 A Page 36.

18 Q Yes. Here, you have the testimony that
19 a person would not have reason to modify Brocket
20 to replace its locking mechanism with a locking
21 mechanism taught by Heinrichs, correct?

22 A That's what that says, yes.

1 Q Okay. Are you aware that the European
2 examiner found that there was no particular
3 technical effect from the difference in locking
4 mechanisms?

5 A What do you mean by "technical effect"?

6 Q That's the European patent examiner's
7 term for whether there's a patentable invention.
8 You can look on page 6 of Exhibit 2014.

9 A Page 6. I'm sorry, which one? 2014?

10 Q It's Exhibit 1004. I apologize if I
11 said 2014. It's 1014.

12 A I'm with you. What paragraph is that?

13 Q It is paragraph 3.2.3.

14 A 3.2.3. No, okay. So it says no
15 particular technical effect can be derived from
16 this difference, and that's a difference
17 between -- I'm sorry, Brocket and --

18 Q If you look at 3.2.2, that describes
19 the difference. The difference is this -- the
20 European examiner states Brocket D2 discloses a
21 locking mechanism for connecting the two
22 containers, but that the locking means of D2 -- it

1 cannot be considered that the locking means of D2
2 is a sliding mechanism. And then, the examiner
3 states, "No particular technical effect can be
4 derived from this difference."

5 So do you see that?

6 A I do. I'm just -- late in the day, and
7 I want to make sure I'm not confused.

8 So we're talking about this
9 communication, from the European Patent Office,
10 related to the 226 European patent, correct?

11 I have Exhibit 1005. And Exhibit 1014
12 is a discussion of this patent, the Brocket one,
13 correct?

14 Q Yes.

15 A Okay. So he's saying this claim,
16 stackable storage system, locking grooves. Seems
17 to me that he is saying that because it rotates
18 away, it doesn't affect the locking of the two
19 containers.

20 Q Dr. Vallee, I'll just ask you just a
21 simple question. Does the European examiner say
22 no particular technical effect can be derived from

1 this difference, and by "this difference,"
2 referring back to 3.2.2, the difference is that
3 the locking means of Brocket is not a sliding
4 mechanism?

5 A Well, I think that's what I said --

6 Q Okay.

7 A -- that one slides, one rotates. And
8 he's saying the technical effect is no different.

9 Q That's right. And are you aware that
10 after the examiner issued this rejection, that
11 Meridian amended the claims?

12 A I don't recall that because it's the
13 European patent. But, okay. But that's -- this
14 examiner is entitled to his opinion, and my
15 opinion is a significant difference between the
16 two different kinds of latching for a number of
17 reasons.

18 Q Okay. Thank you.

19 A Fewer components. There are a number
20 of reasons why. But he certainly has his opinion,
21 which I may not agree with.

22 Q Okay. Dr. Vallee, just a last few

1 questions I have before we conclude.

2 We're going to go back to
3 Dr. McCarthy's declaration, which is Exhibit 1003.

4 A Okay. Exhibit 1003, please.

5 Q Yes.

6 A I think I have it. I have it.

7 Q Okay. So we're going to go to
8 paragraph 201, which is on page 109.

9 A I am there.

10 Q So I'm going to read, first, from
11 paragraph 2001. And in that paragraph,
12 Dr. McCarthy states, "In my opinion, because
13 Duvigneau does not explicitly disclose how its
14 sliding mechanism remains locked in place, a POSA
15 would have been motivated to look for a mechanism
16 to provide a solution to this problem. This is
17 because it would have been evident to a POSA that
18 without such a locking mechanism, Duvigneau's
19 sliding latch 246 would not stay engaged with the
20 depression 240 if base cabinet 152 is jostled or
21 tilted, which would result in the unintentional
22 detachment of carrying bag 230 from the base

1 cabinet."

2 A I see that.

3 Q "A POSA would have recognized Niles
4 suggests the well-known solution of using grooves
5 through its description" of a simple -- through
6 its description. We won't read the whole rest of
7 that.

8 Do you see that, Dr. Vallee?

9 A I do.

10 Q Okay. And in this paragraph,
11 Dr. McCarthy provides a reason, in his opinion,
12 why a person of ordinary skills would look to
13 Niles, correct?

14 A Yeah, that confused me because in his
15 deposition, he indicated there wasn't anything
16 wrong with Duvigneau, so I wasn't sure which one
17 was really his position. But to answer your
18 question, in this report, that's what it says.

19 Q Okay. So whether you agree with it or
20 not, here, Dr. McCarthy explains why a POSA would
21 have combined Duvigneau and Niles, correct?

22 A This is his explanation, though I

1 really don't agree with it.

2 Q But he provides an explanation,
3 correct?

4 A It is reported he gives an explanation,
5 but it is contrary to what his deposition
6 testimony said.

7 Q Okay. But here you see that he does
8 provide a reason, correct?

9 A He provides a reason here, which,
10 again, I said is contrary to his deposition
11 testimony.

12 Q Okay.

13 MS. HAAPALA: That is all the questions
14 I have for you, Dr. Vallee. Thank you very much.

15 THE WITNESS: Thank you so much.

16 MS. HALSEY: I think we're going to
17 have a short redirect, but let's take a short
18 break first so that everybody can have restroom
19 breaks and take a moment.

20 MS. HAAPALA: How long do you want?

21 MS. HALSEY: Why don't we come back at
22 2:35.

1 MS. HAAPALA: So 20 minutes?

2 MS. HALSEY: Yeah.

3 MS. HAAPALA: Okay.

4 THE WITNESS: All righty.

5 (Recess taken from 2:16 p.m. to
6 2:38 p.m.)

7 EXAMINATION BY COUNSEL FOR THE RESPONDENT
8 BY MS. HALSEY:

9 Q All right. We're going to try to keep
10 this quick.

11 Dr. Vallee, you're an expert in
12 mechanical engineering, correct?

13 A Correct.

14 Q Are you an expert on the process for
15 obtaining a patent?

16 A No. Not an expert. I've been involved
17 in the process, but I'm not an expert in doing
18 that.

19 Q Is your testimony earlier today
20 regarding the duty of candor based on your
21 personal experience only?

22 A My testimony on the duty of candor?

1 Q Yes.

2 A Earlier in the day?

3 Q Yeah.

4 A Oh, just personal experience.

5 Q Okay. Earlier in the day, Counsel
6 asked you about -- a number of questions about
7 other latches that you have designed or worked
8 with, correct?

9 A Correct.

10 Q And Counsel asked you if those latches
11 were relevant to this case, correct?

12 A Correct.

13 Q Would you consider those latches to be
14 relevant to this case, in terms of your
15 understanding of the design process for latches
16 generally?

17 A Yes. I listed a lot of the things, as
18 I recall, of why I thought they were applicable to
19 this case in particular.

20 Q Would you consider those latches to be
21 relevant to this case in terms of design
22 considerations that one might want to keep in mind

1 for a latch that was going to be used in a
2 consumer product?

3 A Yes, I would.

4 Q Would you consider any of those latches
5 to be a relevant prior art to the patent in this
6 case?

7 A No.

8 Q You testified earlier about the
9 definition of a POSA, correct?

10 A Correct.

11 Q And part of that definition is that the
12 POSA would have two years of industry experience
13 with connecting technologies or similar
14 mechanisms, correct?

15 A That's right.

16 Q Would you understand the term
17 "industry" to relate to working with consumer
18 products?

19 A I would guess.

20 Q Do you personally know the director of
21 the USPTO?

22 A Nope.

1 Q Do you have any idea what the direct
2 responses were in reviewing the petition and
3 preliminary response in this matter?

4 A No idea.

5 Q We talked about Heinrichs' patent
6 earlier. Could someone who does not have access
7 to a forklift use the invention of Heinrichs?

8 A No.

9 MS. HAAPALA: Objection. Form.

10 MS. HALSEY: That's all I have.

11 MS. HAAPALA: Could we take five minutes
12 and reconvene at, let's say, let's call it 2:47?

13 MS. HALSEY: Sounds good.

14 MS. HAAPALA: Great. Thank you.

15 (Recess taken from 2:41 p.m. to
16 2:48 p.m.)

17 EXAMINATION BY COUNSEL FOR THE PETITIONER

18 BY MS. HAAPALA:

19 Q I just have one question. Did you
20 prepare your redirect testimony with counsel?

21 A No, absolutely not.

22 MS. HAAPALA: That's all I have, then.

1 Thank you.

2 THE WITNESS: Thank you.

3 MS. HAAPALA: And safe travels home.

4 MS. HALSEY: Ms. Bellinger, do you have
5 any questions?

6 THE STENOGRAPHER: No, I just need your
7 orders.

8 MS. HALSEY: Ms. Bellinger, for us, we
9 can just do standard delivery.

10 (Off the record at 2:48 p.m.)

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1 CERTIFICATE OF REPORTER - NOTARY PUBLIC

2 I, JUDITH E. BELLINGER, Certified Reporter and
3 Notary Public within and for the Commonwealth of
4 Virginia do hereby certify:

5
6 That GLENN VALLEE, PH.D., the witness whose
7 deposition is hereinbefore set forth, was duly sworn
8 by me before the commencement of such deposition and
9 that such deposition was taken before me and is a true
10 record of the testimony given by such witness.

11
12 I further certify that the adverse party,
13 Patent Owner, was represented by counsel at the deposition.

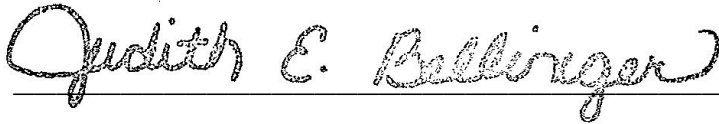
14
15 I further certify that the deposition of
16 GLENN VALLEE, PH.D., occurred virtually, via Zoom
17 videoconference on Tuesday, July 14, 2026, commencing
18 at 9:06 a.m. to 2:48 p.m.

19
20 I further certify that I am not related to
21 any of the parties to this action by blood or
22 marriage, I am not employed by or an attorney to any

1 of the parties to this action, and that I am in no way
2 interested, financially or otherwise, in the outcome
3 of this matter.

4
5 IN WITNESS WHEREOF, I have hereunto set
6 my hand and affixed my notarial seal this 23rd day
7 of July, 2026.

8 My Commission Expires: September 30, 2028
9
10

11 
12 _____

13 NOTARY PUBLIC IN AND FOR

14 THE COMMONWEALTH OF VIRGINIA
15
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