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

APPLE INC.,

Petitioner,

VS.

INGENIOSPEC, LLC,

Patent Owner.

Case No.

IPR2026-00143

U.S. Patent No.

12,001,599

Deposition of DR. JOSHUA R. SMITH, taken remotely
via Zoom, before Rachel F. Gard, CSR, CCR, RPR,
CRR, Notary Public, commencing at the hour of
1:00 p.m. Eastern on Tuesday, August 4, 2026.

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I N D E X

WITNESS

PAGE

DR. JOSHUA R. SMITH

Cross-Examination by Mr. Wilson

4

E X H I B I T S

EXHIBIT

PAGE

Number 1003 Declaration of Dr. Joshua R.
Smith

8

Number 1009 U.S. Provisional Application
60/592,045

20

Number 2030 U.S. Provisional Application
60/583,169

22

Number 1016 Jannard reference

28

Number 1020 Burson reference

32

Number 1018 Zadesky reference

93

Number 1019 Abreu reference

111

1 (Witness sworn.)

2 WHEREUPON:

3 DR. JOSHUA R. SMITH,
4 called as a witness herein, having been first duly
5 sworn, was examined and testified as follows:

6 CROSS-EXAMINATION

7 BY MR. WILSON:

8 Q Good morning, Dr. Smith.

9 A Good morning.

10 Q Where are you located this morning?

11 A Seattle, Washington.

12 Q Okay. And where physically are you
13 located? Are you at the offices of Morrison &
14 Foerster?

15 A Yes.

16 Q Okay. Can you please state your full
17 name.

18 A Joshua R. Smith.

19 Q Okay. Who is in the room with you as you
20 sit here?

21 A We've got attorney Brian Blumenkopf and
22 attorney Mehran Arjomand.

1 Q Okay. So who is sitting to your right?

2 A Bryan.

3 Q Okay. And who was the second?

4 A There was an IT person who came in for a
5 moment and then he left.

6 Q No, who was the second lawyer you
7 mentioned?

8 A The name is on my screen. Can you see it?

9 Q The name is on your screen?

10 A Yeah, I have a Zoom layout showing all the
11 participants in this call.

12 Q So I don't see the name of the person.

13 A Okay. Do you want me to spell it?

14 Q Sure.

15 A Okay. Mehran, M E H R A N. Last name,
16 A R J O M A N D.

17 Q Okay. And is -- and it's pronounced
18 Mehran Arjomand?

19 A Yes.

20 Q Okay. And is that lawyer sitting in the
21 room with you?

22 A Yes.

1 Q Where are they sitting relative to you?

2 A (Pointing.)

3 Q Like across the table?

4 A Yep.

5 Q Okay. Okay. So the two lawyers are the
6 only people in the room with you, correct?

7 A Yes.

8 Q Okay. Do you have any open communication
9 channels on your computer with anyone else other
10 than this deposition?

11 A No.

12 Q Okay. Do you have any notes that you
13 brought with you?

14 A Nope.

15 Q All right. Do you have a copy of the
16 exhibits for your deposition today?

17 A Yes, I do.

18 Q Okay. And do you have a copy of all the
19 exhibits?

20 A I believe so.

21 Q Okay. Do they have notes, highlighting,
22 any sort of markings on them?

1 A No.

2 Q Okay. So have you ever been deposed
3 before?

4 A Yes.

5 Q How many times?

6 A Three to six, somewhere in there.

7 Q Okay. When was the most recent time?

8 A It was a little less than a year ago.
9 About -- it was in September of last year.

10 Q Okay. So was it a remote deposition?

11 A Yeah, similar to this with the same setup.

12 Q Okay. Was it a PTAB proceeding?

13 A I'm just trying to think about it. No, I
14 don't think it was.

15 Q Okay. Have you ever been deposed before
16 in a PTAB proceeding?

17 A Yes.

18 Q Okay. So just a few reminders, if you
19 need a break, we can take a break as long as
20 there's a question not pending. You are not
21 permitted under the rules of the PTAB to discuss
22 your testimony today with the lawyers or anyone

1 else during a break or at any other time until my
2 questioning is finished.

3 Do you understand that?

4 A Yes.

5 Q Okay. Given that you have a lawyer
6 sitting across the table from you facing you,
7 would you agree to let me know if that lawyer
8 tries to signal you in any way or influence your
9 testimony?

10 A Yes, I will.

11 Q Okay. Now, we'll probably try to take a
12 break about every hour. This deposition is not
13 going to be a 7-hour deposition, so I suspect,
14 just guessing, but 3, maybe 4 hours tops, so just
15 for your planning purposes.

16 (Exhibit Number 1003 for
17 identification.)

18 Q All right. Now, you have a copy of
19 Exhibit 1003?

20 A Yes, I do.

21 Q Okay. Exhibit 1003 is a copy of your
22 declaration submitted in this IPR, correct?

1 A Yes.

2 Q And you understand we are here for
3 IPR2026-00143 relating to U.S. Patent No.
4 12,001,559, correct? Or sorry. Let me correct
5 that. U.S. Patent No. 12,001,599, correct?

6 A Yes.

7 Q So if I refer to that as the '599 patent,
8 you will know what I mean?

9 A Yes.

10 Q Okay. Now, in preparing your declaration,
11 Exhibit 1003, you worked with attorneys from
12 Morrison & Foerster, correct?

13 MR. BLUMENKOPF: I caution the witness not
14 to reveal any privileged communication with
15 counsel.

16 A Correct.

17 Q Okay. Who specifically did you work with?

18 A I worked with Bryan Blumenkopf mostly.

19 Q Anyone else?

20 A Virtually all of the work was with Bryan.
21 During some of the preparation for today, I met
22 with Mehran as well.

1 Q Okay. In preparing your declaration,
2 Exhibit 1003, did you talk to anyone at Apple?

3 A No.

4 Q Okay. Do you know whether anyone at Apple
5 reviewed your declaration before it was submitted
6 in this IPR?

7 MR. BLUMENKOPF: Objection. Form.

8 A I don't know.

9 Q Okay. And what did you do to prepare for
10 your deposition this morning?

11 MR. BLUMENKOPF: Again, going to caution
12 the witness not to reveal any privileged
13 communications.

14 A I met yesterday with attorney Blumenkopf
15 and Arjomand and had a couple hours of Zoom calls
16 on the Friday and the Thursday before this with
17 the same people.

18 Q Did you review any documents in preparing
19 for your deposition?

20 A I did.

21 Q And what specific documents did you
22 review?

1 A I believe I reviewed all the documents at
2 issue in the case.

3 Q Okay. All right. Have you ever built a
4 wireless head-worn device?

5 A No.

6 Q Have you ever built a wireless ear-worn
7 device?

8 MR. BLUMENKOPF: Objection. Form.

9 A Nope.

10 Q Okay. Let's take a look at your
11 declaration, Exhibit 1003, and paragraph 19. Now,
12 in paragraph 19, you offer the opinion on what a
13 person of ordinary skill in the art would be for
14 the '599 patent, correct?

15 MR. BLUMENKOPF: Objection. Form.

16 A Yes.

17 Q Okay. And you say that person would have
18 had a bachelor's degree and master's degree in
19 electrical engineering, computer engineering,
20 physics, or a related field as well as one to
21 2 years of academic or industry experience in
22 mobile devices, wireless communications, or audio

1 electronics or comparable industry experience.

2 Correct?

3 A Yes, that's the language.

4 Q Okay. When you say "in a related field,"
5 would you consider material science to be a
6 related field?

7 MR. BLUMENKOPF: Objection. Form.

8 A I think it would really depend on the
9 specifics.

10 Q The specifics of what?

11 A Of the experience of the person being
12 discussed.

13 Q So you're saying experience like academic
14 or industry experience or some other experience?

15 MR. BLUMENKOPF: Objection. Form.

16 A Yes, I think there are a variety of types
17 of experience that could potentially qualify
18 someone.

19 Q So I'm not asking whether someone with a
20 material science degree would be a person of
21 ordinary skill in the art as of October 11th,
22 2005. What I'm asking is whether you would

1 consider a degree in material science to be a
2 related field?

3 MR. BLUMENKOPF: Objection. Form.

4 A Again, I think material science, my
5 understanding is it's quite a broad field and
6 so it would be hard for me to know, you know,
7 a priori whether that is a relevant, you know,
8 whether that's a related field for this purpose.

9 Q Okay. What about industrial engineering?
10 Would that be a related field?

11 MR. BLUMENKOPF: Objection. Form.

12 A Again, I'd say it depends on the
13 specifics. I think it could be.

14 Q Okay. Let's turn to paragraph 26 of your
15 declaration.

16 A Okay.

17 Q Okay. In paragraph 26, you start by
18 saying: In my view, the '599 patent is not
19 entitled to its earliest claimed priority date,
20 correct?

21 A Yes.

22 Q And if we skip -- well, actually, no.

1 Let's read the next sentence. The next sentence
2 says: All challenged claims rely on a claim
3 limitation directed to conductive areas that can
4 removably couple tube and separate from
5 counterpart contacts on an external connector via
6 spring force.

7 Did I read that correctly?

8 A Yes, you did.

9 Q Okay. And you then say: As shown in
10 Exhibits 1005 through 1015, no subject matter that
11 can support this spring force limitation was
12 disclosed in the '599 patent's priority chain
13 until the filing of provisional application
14 No. 60/725,896 on October 11th, 2005.

15 Did I read that correctly?

16 A You did. And in reviewing for this
17 proceeding, I discovered a discrepancy, which is
18 that I believe Exhibit 1015 actually does mention
19 spring force. So there's a slight discrepancy
20 there, which I would like to correct.

21 Q Okay. So what is the priority date of
22 Exhibit 1015?

1 MR. BLUMENKOPF: Objection. Form.

2 A I'm just looking for my material here.

3 It's July 15, 2005.

4 Q Okay. So when you were reviewing
5 Exhibit 1015, did you come to the conclusion that
6 Exhibit 1015 supports the spring force limitation?

7 MR. BLUMENKOPF: Objection. Form.

8 A I wouldn't necessarily agree or I don't
9 recall whether it supports the spring force
10 limitation, but I know it does contain the term
11 "spring force," which is the point that I would
12 like to correct.

13 Q Okay. So are you maintaining your opinion
14 that the '599 patent's claims are not entitled to
15 any priority date earlier than October 11th, 2005?

16 MR. BLUMENKOPF: Objection. Form.

17 A No, I'm maintaining that it's not entitled
18 to a priority date before July 15th, 2005.

19 Q Okay. All right. Now, so your opinion
20 about the priority date of the '599 claims hinges
21 on the spring force limitation, the presence or
22 absence of the spring force limitation in the

1 priority documents, correct?

2 MR. BLUMENKOPF: Objection. Form.

3 A Spring force limitation does come up in
4 the documents, yes.

5 Q Okay. And its absence from any document
6 earlier than July 15th, 2005, is your basis for
7 concluding that the '599 claims are not entitled
8 to a priority date before that date, correct?

9 MR. BLUMENKOPF: Objection. Form.

10 A So as all the challenged claims rely on a
11 claim limitation directed to conductive areas that
12 removably couple to and separate from counterpart
13 contacts on an external contact spring force, and
14 then, you know, because Exhibits 1005
15 through 1014, no subject matter that supported
16 that was disclosed, and that's the basis. That's
17 paragraph 26 in my report.

18 Q Okay. Now, you just said that in
19 Exhibits 1005 through 1014, none of those exhibits
20 support the spring force limitation, correct?

21 MR. BLUMENKOPF: Objection. Form.

22 A I believe so.

1 Q Now --

2 A Oh, sorry, some of them -- some of them do
3 have that limitation, but their dates are later.

4 Q Okay. So let's take a look actually at
5 Exhibit 1005. Now, Exhibit 1005 is provisional
6 application No. 60/725,896.

7 Do you see that? Yeah, you can see it in
8 the file stamps on the top right. On the top
9 right, you can see the file stamp.

10 A Yes.

11 Q Okay. And under that file stamp, you can
12 see the filing date, which is 10/11/05.

13 Do you see that?

14 MR. BLUMENKOPF: Objection. Form.

15 A Okay. Yeah, I didn't recognize that as a
16 filing date, but I do see below on the page it has
17 a date as well.

18 Q Okay. Well, if we look at the bottom of
19 the page, that same page, do you see the date
20 there, October 11th, 2005?

21 A Yes.

22 Q Okay. So Exhibit 1005 is the provisional

1 application you referred to in paragraph 26 as
2 being dated October 11th, 2005, correct?

3 MR. BLUMENKOPF: Objection. Form.

4 A I believe it's one of them. There's also
5 Exhibit 1006 has that same date.

6 Q Well, the third sentence in paragraph 26
7 says: But as shown in Exhibits 1005 through
8 Exhibit 1015, no subject matter that can support
9 this spring force limitation was disclosed in the
10 '599 patent's priority chain until the filing of
11 provisional application No. 60/725,896 on
12 October 11th, 2005.

13 Did I read that correctly?

14 A You did. And I'm now proposing to amend
15 or modify this testimony, yes.

16 Q Okay. But the application that you're
17 referring to there is Exhibit 1005, correct?

18 A Yes.

19 Q Okay. All right. Now, let's look at
20 page 13 of Exhibit 1005, paragraph 68. And I want
21 to look at the part that runs over to the next
22 page, but you should look at the whole paragraph,

1 familiarize yourself with the whole paragraph.

2 A Okay.

3 Q Okay. If you look at the last sentence of
4 paragraph 68, it says: When the temple, i.e.,
5 male connector 300, is inserted into the female
6 plug, the soft PVC material stretches slightly,
7 providing a spring force to keep the contacts
8 connected.

9 Did I read that correctly?

10 A Yes.

11 Q That was your basis for concluding the
12 Exhibit 1005 supported the spring force limitation
13 in the '599 claims as of October 11th, 2005,
14 correct?

15 MR. BLUMENKOPF: Objection. Form.

16 A I didn't -- yeah, I didn't say that. All
17 I said was that no subject matter that can support
18 the spring force limitation was disclosed in the
19 priority chain previous to that. I'm not
20 acknowledging that this supports the spring force
21 limitation.

22 Q Okay. Well, this was at least the reason

1 that you concluded that there was some question as
2 of October 11th, 2005, as to whether the spring
3 force limitation was supported, correct?

4 MR. BLUMENKOPF: Objection to form.

5 A This text does contain the word "spring
6 force."

7 (Exhibit Number 1009 for
8 identification.)

9 Q Okay. All right. Now, let's take a look
10 at Exhibit 1009. Now, just before we go on, you
11 reviewed all of these exhibits, 1005 to 1015, in
12 preparing your declaration, correct?

13 A Yes.

14 Q Okay. So let's look at Exhibit 1009. You
15 can see at the top, again, the file stamp on the
16 right. This is U.S. Provisional Application
17 60/592,045.

18 Do you see that?

19 A No. Hold on. And the exhibit number
20 again?

21 Q 1009.

22 A Okay. Yes. I see it.

1 Q Okay. And you can see the filing date
2 there is July 28th, 2004.

3 Do you see that?

4 MR. BLUMENKOPF: Objection. Form.

5 A Yes.

6 Q Okay. Now, let's look at page 3. At the
7 top of the page, do you see the cross-reference to
8 related applications?

9 A Yes.

10 Q Okay. And you see in paragraph 1 there,
11 it says: This application is related to, little
12 (i), U.S. Provisional Patent Application
13 No. 60/583,169 filed June 26th, 2004, entitled
14 electrical components for use with eyewear and
15 methods therefor and which is hereby incorporated
16 herein by reference.

17 Did I read that correctly?

18 A Yes, I see that text.

19 Q Okay. Do you know what it means to
20 incorporate a document by reference?

21 MR. BLUMENKOPF: Objection. Form.

22 A Well, I'm not an expert on patent law. I

1 have some idea of what it means.

2 Q Okay. Do you understand it to mean that
3 the contents of U.S. provisional patent
4 application No. 60/583,169 are incorporated into
5 this document, Exhibit 1009?

6 MR. BLUMENKOPF: Objection. Form.

7 A Again, I'm not a patent attorney.
8 Something like that sounds consistent with what
9 I've heard.

10 Q Okay. So -- and I'm going to call that
11 Provisional Application 60/583,169, the '169
12 application. If I call it the '169 application,
13 will you understand what I mean?

14 A Yeah. Let me just write down the number.
15 I'm just jotting down the number. Okay.

16 Q Okay. So have you ever seen the '169
17 application before?

18 MR. BLUMENKOPF: Objection. Form.

19 A I'm not sure.

20 (Exhibit Number 2030 for
21 identification.)

22 Q Okay. All right. Okay. So let's jump to

1 Exhibit 2030.

2 A 2030?

3 Q Yes. Well, you're not going to have this
4 one, so I will provide it to you. So I'm not sure
5 whether you want -- we have a copy here that you
6 can download or we can pass it to you via the
7 chat. Whatever works for you.

8 A I'm going to ask my attorneys here.
9 There's -- it looks like there's a link in the
10 chat.

11 MR. BLUMENKOPF: Are you able to access
12 the document at this point?

13 A Exhibit 2030?

14 Q Yes.

15 A All right. It looks like I have it.

16 Q Yeah. If you look at the bottom of the
17 first page, you should see a marking that says
18 Exhibit 2030, Ingeniospec Exhibit 2030.

19 A Okay. I see it.

20 Q Okay. And if you look at the top right,
21 do you see the file stamp --

22 A Yes.

1 Q -- showing that this is, in fact, the '169
2 application?

3 A Okay.

4 Q All right. And you can see the filing
5 date there, June 26th, 2004.

6 Do you see that?

7 A Yes.

8 Q All right. Now let's take a look at
9 page 13 of the '169 application. And I want to
10 look at paragraph 61. Whoops. Sorry. Actually,
11 I want to look at page 11, PDF page 13. Okay.
12 You see paragraph 61? Take a minute there, review
13 it, and let me know when you've reviewed it.

14 A Okay. I've reviewed it.

15 Q Okay. You can see that paragraph 61
16 references Figure 6A and 6B to illustrate a
17 process to make the nonstandard female plug 310,
18 correct?

19 MR. BLUMENKOPF: Objection. Form.

20 A I don't think that's exactly the language
21 I see here.

22 Q Okay. Yeah, sorry, I'm not reading it.

1 I'll read it. Figures 6A to 6B illustrate a
2 process to make the nonstandard female plug 310.

3 Did I read that correctly?

4 A Yes, that's the first sentence of the
5 paragraph.

6 Q Okay. If we look down at the last
7 sentence of the paragraph, it says: When the
8 temple, i.e., male connector 300, is inserted into
9 the female plug, the soft PVC material stretches
10 slightly providing a spring force to keep the
11 contacts connected.

12 Did I read that correctly?

13 A Yes.

14 Q That's the same sentence from
15 Exhibit 1005, correct?

16 MR. BLUMENKOPF: Objection. Form.

17 A I'm not looking at what those provide
18 right now, but it sounds similar.

19 Q So do you now have reason to question your
20 belief that the '599 claims are not entitled to a
21 priority date earlier than July 15th, 2005?

22 MR. BLUMENKOPF: Objection. Form.

1 A Well, I didn't review this patent and, you
2 know, I haven't reviewed the whole thing. It's
3 got an exhibit number that's, you know, nothing
4 I've looked at. The highest I looked at was
5 1016 -- well, 1021, I guess. So I haven't
6 reviewed this whole thing, and I don't know if
7 there's other context that might change that, so
8 no.

9 Q Okay. Well, your -- the basis for your
10 opinion, your original opinion and your revised
11 opinion that the '599 claims were not entitled to
12 a priority date earlier originally than
13 October 11th, 2005, and then subsequently July
14 15th, 2005, was the presence of this language
15 describing a spring force to keep the contacts
16 connected in Exhibit 1005 and then in
17 Exhibit 1015, correct?

18 MR. BLUMENKOPF: Objection. Form.

19 A So the term "spring force" was the term I
20 was discussing there in paragraph 26. You know,
21 to give an opinion about this, I'd really need to
22 review it.

1 Q Right. But you can understand as you sit
2 here now that using a spring force to keep the
3 contacts connected was disclosed as of the filing
4 date of Exhibit 1009, which incorporated the '169
5 application by reference, correct?

6 MR. BLUMENKOPF: Objection. Form.

7 A I see that this does include the term
8 "spring force," but, you know, that wasn't the
9 entire basis of my opinion. I was just trying to
10 say that, you know, documents before this certain
11 date didn't have the term, therefore didn't need
12 to be considered.

13 Q Okay. You say that wasn't the entire
14 basis of your opinion. But in paragraph 26, the
15 spring force limitation was the entire basis for
16 your priority date opinion, wasn't it?

17 MR. BLUMENKOPF: Objection. Form.

18 A The spring force limitation was the thing
19 I discussed in paragraph 26, yes.

20 Q Okay. And that's the thing that you now
21 understand is present as of the filing date of
22 Exhibit 1009 on July 28th, 2004, correct?

1 MR. BLUMENKOPF: Objection. Form.

2 A I do see that the term "spring force"
3 shows up in this paragraph, the paragraph 61 of
4 Exhibit 2030.

5 Q Okay. Let's take a look at -- let's go
6 back to your declaration. Let's take a look at
7 paragraph 42. Actually, let's go back to
8 paragraph 32.

9 So in paragraph 32, you refer to Jannard.
10 Are you familiar with Jannard?

11 A Yes.

12 Q And Jannard is Exhibit 1016, correct?

13 A Yes, it's Exhibit 1016.

14 (Exhibit Number 1016 for
15 identification.)

16 Q Okay. Now, in paragraph 32 you say
17 Jannard is a U.S. Patent that was filed on July
18 5th, 2013 as a continuation of Application
19 No. 11/022,367, which was filed on December 22nd,
20 2004. I understand Jannard is thus prior art to
21 the '599 patent under at least 35 USC Sections
22 102(a) and (e).

1 Did I read that correctly?

2 A Yes.

3 Q Okay. So you understand that if the '599
4 patent claims are entitled to a priority date to
5 July 28th, 2004, Jannard would not be prior art,
6 correct?

7 MR. BLUMENKOPF: Objection. Form.

8 A I haven't specifically analyzed that
9 issue.

10 Q Okay. You don't have any opinion on that
11 issue?

12 MR. BLUMENKOPF: Objection. Form.

13 A I haven't reviewed it, you know.

14 Q Well, your basis for concluding that
15 Jannard was prior art was its December 22nd, 2004,
16 filing date, correct?

17 MR. BLUMENKOPF: Objection. Form.

18 A The December 22nd, 2004, filing date was
19 the date that I used for Jannard, yes.

20 Q Okay. If Exhibit 1009 supports the '599
21 claims, then they're entitled to a filing date of
22 July 28, 2004, which is several months earlier

1 than Jannard, correct?

2 MR. BLUMENKOPF: Objection. Form.

3 A I'm actually confused now because I'm not
4 sure which exhibit you're talking about, and also
5 the filing date that you just mentioned is I don't
6 believe the filing date that we're talking about
7 here.

8 Q Okay. So let me clarify.

9 Exhibit 1009 was filed July 28th, 2004.
10 Do you see that?

11 A Yes.

12 Q Okay.

13 A Okay. Yep.

14 Q If you look at page 3 of Exhibit 1009, it
15 incorporates the '169 application, which is
16 Exhibit 2030, by reference.

17 Do you see that?

18 MR. BLUMENKOPF: Objection. Form.

19 A Yes.

20 Q Okay. So the filing date here for the
21 '599 claims would be that of Exhibit 1009.

22 Do you understand that?

1 MR. BLUMENKOPF: Objection. Form.

2 A Can you repeat the last -- that last
3 question?

4 Q Sure. So Exhibit 1009 incorporates the
5 '169 application by reference, which is
6 Exhibit 2030.

7 A Okay.

8 Q So as of July 28th, 2004, the Exhibit 1009
9 would have disclosed the subject matter that's
10 contained in the '169 application.

11 Does that make sense?

12 MR. BLUMENKOPF: Objection. Form.

13 A Yes.

14 Q Okay. All right. It's a little
15 complicated, but okay.

16 Let's jump to paragraph 42 of your
17 declaration. And, actually, that's just the page.
18 I'm not focused on paragraph 42. What I want to
19 look at is the claim 1 preamble here. Actually,
20 no, let's back up. Let's back up to paragraph 36.

21 Okay. Paragraph 36 is referring to
22 Burson. Are you familiar with Burson?

1 A Yes.

2 (Exhibit Number 1020 for
3 identification.)

4 Q Burson is Exhibit 1020, correct?

5 A Yes.

6 Q Okay. And here on -- in paragraph 36 of
7 your declaration, you have reproduced Figure 5
8 from Burson, correct?

9 A Yes.

10 Q Okay. Now, what is depicted in Figure 5
11 there is a headset 500, correct?

12 MR. BLUMENKOPF: Objection. Form.

13 A I believe Burson used the term, as I wrote
14 here in paragraph 36, Figure 5 illustrates and
15 exemplifies 500 that includes charging interface
16 100 for insertion into a docking cradle.

17 Q Okay. How would the headset 500 shown
18 there in Figure 5 be used?

19 MR. BLUMENKOPF: Objection. Form.

20 A I didn't analyze that issue.

21 Q So you don't have any opinion as you sit
22 here today of how you could actually use headset

1 500?

2 MR. BLUMENKOPF: Objection. Form.

3 A No, I don't.

4 Q Okay. Let's move to paragraph 39, and I
5 want to focus on Figure 8 there, which you've
6 reproduced. It actually is on the next page.
7 There you go, yeah. Okay. And what you've got --
8 I'm going to refer to the page number now. On
9 page 19 is a reproduction of Figure 8 from Burson,
10 correct?

11 A Yes.

12 Q Okay. And you reviewed Burson in
13 preparing your declaration, correct?

14 A Yes.

15 Q So you're familiar with Figure 8, correct?

16 A Yes, I am.

17 Q So do you see the spring 812 in Figure 8?

18 MR. BLUMENKOPF: Objection. Form.

19 A Yes, I see the spring 812.

20 Q Okay. Do you also see the actuator 808?

21 MR. BLUMENKOPF: Objection. Form.

22 A Yes, I see actuator 808.

1 Q Okay. Where is the spring in relation to
2 the actuator 808 in Figure 8?

3 MR. BLUMENKOPF: Objection. Form.

4 A I mean, it's shown there in the figure.

5 Q Yes, I'm asking you to describe where it
6 is in relation to -- where is the spring 812 in
7 relation to the actuator 808 in Figure 8?

8 MR. BLUMENKOPF: Objection. Form.

9 A It's to the right.

10 Q So if you think about the Z direction
11 going into the page, right, and coming out of the
12 page, where is the spring 812 in relation to the
13 actuator 808 in Figure 8?

14 MR. BLUMENKOPF: Objection. Form.

15 Q Is it in the same plane?

16 A I didn't get into that issue, so I'm not
17 sure.

18 Q So you don't know where the spring 812 is
19 in relation to the actuator 808 in Figure 8 of
20 Burson?

21 MR. BLUMENKOPF: Objection. Form.

22 A I wouldn't agree with that. You know, I

1 see the spring. I see a component labeled
2 actuator. I didn't try to analyze the answer to
3 that question because it wasn't relevant to my
4 analysis, so I don't know.

5 Q Okay. How many springs 812 are there in
6 the actual device that's depicted here in
7 Figure 8?

8 MR. BLUMENKOPF: Objection. Form.

9 A In this figure, I believe there's one
10 spring.

11 Q So there's one depicted in Figure 8. But
12 how many are there in the actual device?

13 MR. BLUMENKOPF: Objection. Form.

14 A That would depend on the -- actually, let
15 me look at this a little bit. I don't think this
16 figure answers that question, so you'd have to
17 look at other things too to determine the answer
18 to that.

19 Q Right. And my question is: Do you know
20 the answer to that?

21 MR. BLUMENKOPF: Objection. Form.

22 A As I'm sitting here right now, I don't

1 know the answer. But I think, you know, it may be
2 that Burson actually has different -- may discuss
3 different examples at different points throughout
4 the document.

5 Q Okay. Do you understand how the device
6 depicted in Figure 8 works?

7 MR. BLUMENKOPF: Objection. Form.

8 A I believe I understand what the arrows
9 indicating motion are saying in Figure 8.

10 Q And which arrows indicating motion are you
11 talking about?

12 MR. BLUMENKOPF: Objection. Form.

13 A Well, there's 804 and 806 showing kind of
14 an up-down motion and 807 showing a side-to-side
15 motion.

16 Q Okay. And so explain to me how you think
17 this device in Figure 8 of Burson works?

18 MR. BLUMENKOPF: Objection. Form.

19 A So as I said in paragraph 39, the base's
20 spring-loaded charging contacts are shown in
21 detail here. A headset charging contact 802
22 couples with the spring-loaded charging base

1 charging contact 800 causing a pair of springs of
2 the spring apparatus 812 to retract as the headset
3 is inserted into the dock. Okay. So it's
4 described as a pair of springs even though you
5 can't necessarily see that.

6 Q Okay. Where would the other spring be?

7 MR. BLUMENKOPF: Objection. Form.

8 A Yeah, I'm not completely sure where in the
9 figure it is. It could be in the same plane.
10 That issue wasn't relevant to my analysis, so I
11 didn't consider it.

12 Q Okay. Now, do you see the headset contact
13 apparatus 802 in Figure 8?

14 MR. BLUMENKOPF: Objection. Form.

15 A So in my paragraph 39, I describe it as a
16 headset charging contact 802.

17 Q Okay. But you see the -- okay. Let me
18 strike that.

19 I'll refer to it with your language. Do
20 you see the headset charging contact 802 in
21 Figure 8?

22 A Yes, I see the arrow pointing to it, yeah.

1 Q Okay. What is in headset charging
2 apparatus 802?

3 MR. BLUMENKOPF: Objection. Form.

4 A Yeah, I don't know exactly what is in it.
5 That wasn't relevant to my analysis.

6 Q Okay. Let's pull up Burson for a second,
7 which is Exhibit 1020. And I want to look at
8 Figure 1. So my question is: Do you have any
9 opinion as to whether the headset charging contact
10 802 is the same structure depicted in Figure 1?

11 MR. BLUMENKOPF: Objection. Form.

12 A I don't have an opinion as to whether the
13 headset charging contact 802 is the same as
14 Figure 1.

15 Q Okay. So if we look at Figure 8 in
16 Burson, Exhibit 1020, you don't have any opinion
17 as to whether the structures shown in headset
18 charging contact 802 there in the middle are the
19 same as the structures shown in Figure 1, correct?

20 MR. BLUMENKOPF: Objection. Form.

21 A Correct. I didn't rely on Figure 1 in my
22 analysis.

1 Q Okay. And as you sit here today, you
2 don't know what the structures shown internal to
3 headset charging contact 802 are in Figure 8?

4 MR. BLUMENKOPF: Objection. Form.

5 A So I do see that Figure 500, which I
6 quote, which I reproduced, had 100 labeled, which
7 is Figure 1. So that is the same as 500.

8 And can you repeat the question?

9 Q Yes. As you sit here today, you don't
10 know what the structures shown internal to headset
11 charging contact 802 are in Figure 8, correct?

12 A I do know that positive and negative
13 surface charging contacts are -- are presumably
14 part of -- part of that structure.

15 Q Okay. My question pertains to what are
16 the internal structures that you see depicted
17 there in Figure 8?

18 MR. BLUMENKOPF: Objection. Form.

19 A Yeah, I didn't analyze it further than --
20 than was required to discuss the claims here.

21 Q Okay. Let's go back to your declaration,
22 Exhibit 1003, and I want to look at paragraph 44.

1 Okay. The first sentence in paragraph 44 says:

2 The audio device is configured to be worn in the
3 user's ear.

4 Did I read that correctly?

5 A Yes, I see that in paragraph 44.

6 Q Now, if you go back up to paragraph 43
7 there on the same page, in the second sentence,
8 you say: For example, Jannard discloses an audio
9 device 304 adapted to be worn on the head of a
10 user as a pair of eyeglasses.

11 Did I read that correctly?

12 A I see the language there, yes.

13 Q Eyeglasses are not worn in the ear,
14 correct?

15 MR. BLUMENKOPF: Objection. Form.

16 A So Jannard, I know, describes eyeglasses
17 that, you know, have components that go in the
18 ear.

19 Q Okay. So is that what you are referring
20 to in paragraph 44?

21 MR. BLUMENKOPF: Objection. Form.

22 A So in paragraph 44, I refer to the audio

1 device 3- -- that's referring to audio device 304,
2 and Jannard actually explains, if you look at
3 Jannard, paragraph 41 -- column 41, lines 22
4 onward, it says: The audio device 304 may be any
5 of the audio devices described above with respect
6 to Figures 1 through 19 or may include any of the
7 audio devices described below, many other things
8 described below. In one embodiment, audio device
9 304 is electronically enabled eyewear as discussed
10 herein.

11 Q So we're talking about paragraphs 43 and
12 44 of your declaration, correct?

13 A Yes. That's your question, yeah.

14 Q Can you point me in those paragraphs to
15 where you cited column 41, line 22, that passage?

16 MR. BLUMENKOPF: Objection. Form.

17 A I'm not sure whether I cited that passage
18 explicitly in the report, but I relied on Jannard
19 for my understanding of 304.

20 Q Okay. So my question, let me get back to
21 my original question, which is in paragraph 44,
22 you say: The audio device is configured to be

1 worn in the user's ear, correct?

2 A In paragraph 44, it says: The audio
3 device is configured to be worn in the user's ear,
4 yes.

5 Q And you understand that a pair of
6 eyeglasses are not configured to be worn in a
7 user's ear, correct?

8 MR. BLUMENKOPF: Objection. Form.

9 A I don't agree with that, no.

10 Q Okay. So how are eyeglasses worn in a
11 user's ear?

12 MR. BLUMENKOPF: Objection. Form.

13 A I think Jannard actually explains that in
14 numerous places, has all kinds of figures showing
15 that sort of thing. For example, Figure 3G of
16 Jannard would be one example.

17 Q All right. Let's pull up Jannard, which
18 is Exhibit 1016.

19 A To give you a better example, I mean,
20 there are several of them, 3E.

21 Q You've reviewed Jannard, correct?

22 A Yes.

1 Q Okay. And so you're familiar with what it
2 discloses, correct?

3 A I've reviewed it, yes.

4 Q Okay. Do you understand the embodiment
5 depicted in Figure 3E to involve wearing any
6 component in a user's ear?

7 MR. BLUMENKOPF: Objection. Form.

8 A I didn't look at the question of exactly
9 whether it's worn specifically. But, you know,
10 it's some sort of audio device.

11 Q Does Jannard disclose earbuds?

12 MR. BLUMENKOPF: Objection.

13 A Sitting here right now, I don't recall
14 whether he used the term "earbuds," but I
15 could ...

16 MR. BLUMENKOPF: Counsel, it's been about
17 an hour. Would this be a good time for a break?

18 MR. WILSON: Sure. As soon as we're done
19 with this line of questioning.

20 Q So, Dr. Smith, take a look back at
21 Exhibit 1003, your declaration back at
22 paragraph 44. And do you see there where you have

1 depicted Figure 31?

2 A Yes.

3 Q Is what's depicted in Figure 31 an earbud?

4 MR. BLUMENKOPF: Objection. Form.

5 A Well, as I say in paragraph 43, the audio
6 device 304 further includes audio components, such
7 as speakers and speaker drivers, so that's how I'd
8 characterize it, speakers and speaker drivers.

9 Q Okay. So you don't know whether the
10 device shown in Figure 31 is an earbud or not?

11 MR. BLUMENKOPF: Objection. Form.

12 A Correct.

13 MR. WILSON: Okay. Sure. We can take a
14 break now.

15 (A short break was taken.)

16 Q Okay. Dr. Smith, during the break, did
17 you discuss your testimony with anyone?

18 A No, I didn't.

19 Q Okay. I want to look at paragraph 53 of
20 your declaration, Exhibit 1003.

21 A Okay.

22 Q Okay. And I want to focus on the second

1 sentence. That sentence says: The inclusion of
2 the spring-loaded contacts would simplify charging
3 by allowing a user to simply drop the headset into
4 the cradle without funneling with the plug.

5 Did I read that correctly?

6 A Yes, I see that language.

7 Q And that's a partial quotation of Burson
8 at 1:43 through 59, correct?

9 A I believe so.

10 Q Okay. What plug is Burson referring to
11 there?

12 MR. BLUMENKOPF: Objection. Form.

13 A I'm not sure he's referring to a specific
14 plug. It's ...

15 Q So what plug is he referring to even if
16 it's not specific?

17 MR. BLUMENKOPF: Objection. Form.

18 A Let me look at Burson there. So I didn't
19 get into the question of what that plug that he's
20 referring to there is. It wasn't relevant to me.

21 Q Okay. So when you say that the inclusion
22 of the spring-loaded contacts would simplify

1 charging, allowing a user to simply drop the
2 headset into the cradle without funneling with the
3 plug, you are not sure what plug is being referred
4 to there, correct?

5 MR. BLUMENKOPF: Objection. Form.

6 A Correct. I didn't consider particularly
7 the meaning of that term "plug."

8 Q Okay. Let's take a look at paragraph 56
9 of your declaration. In paragraph 56, you state
10 or you start by stating Burson provides
11 implementation detail not specified in Jannard,
12 correct?

13 A I see the first paragraph of -- the first
14 line of paragraph 56 is Burson supplies
15 implementation detail not specified in Jannard.

16 Q Okay. Now, I want to focus on the last
17 sentence of paragraph 56. You say: The
18 spring-loaded contacts enable that approach
19 because their additional compliance makes the
20 contacts more tolerant of headset cradle
21 misalignment by electrically engaging over a wider
22 range of positions.

1 Did I read that correctly?

2 A Yes.

3 Q And what did you mean by this statement?

4 Can you elaborate on it?

5 A This is the complete statement. It says:

6 The spring-loaded contacts enable that approach

7 because their additional compliance makes the

8 contacts more tolerant of headset cradle

9 misalignment by electrically engaging over a wider
10 range of positions.

11 Q So how do spring-loaded contacts make the
12 contacts more tolerant of headset cradle
13 misalignment?

14 MR. BLUMENKOPF: Objection to form.

15 A So as I say in paragraph 53, as described
16 above from Burson, the spring-loaded contacts of
17 the docking cradle would utilize spring force to
18 enable the docking cradle's contacts to
19 electrically connect to the corresponding power
20 contacts 164, which Jannard headset has asserted
21 is the charging cradle.

22 Q Okay. Again, my question is how? How

1 does that happen?

2 MR. BLUMENKOPF: Objection. Form.

3 A Well, it teaches utilizing spring force to
4 enable the dock cradle contacts to electrically
5 connect to the corresponding electrical contacts.

6 Q Okay. Let's look at paragraph 57. In
7 paragraph 57, you state: Burson discloses that
8 spring-loaded contacts can provide additional
9 benefits in aligning and securing the headset with
10 a cradle. For example, springs can be used to
11 retract the cradle's charging contacts from the
12 headset as the headset is inserted to the cradle,
13 thus minimizing friction between the cradle's
14 contacts and the headset housing and protecting
15 the headset from damage and wear.

16 Did I read that correctly?

17 A I see that language, yeah, at 57.

18 Q Okay. Now, let's go back up to the
19 figures that you've reproduced here. So, for
20 example, back up in paragraphs 39 and 40, you have
21 the misaligned contacts and then the aligned
22 contacts from Burson.

1 Do you see that?

2 A Yeah, I found that.

3 Q Okay. Can you explain to me with
4 reference to those figures how the springs can be
5 used to retract the cradle's charging contacts
6 from the headset as the headset is inserted to the
7 cradle, thus minimizing friction between the
8 cradle's contacts and the headset housing and
9 protecting the headset from damage and wear?

10 MR. BLUMENKOPF: Objection. Form.

11 A So as I say in paragraph 57, for example,
12 springs could be used to retract the cradle's
13 charging contacts from the headset as the headset
14 is inserted to the cradle, thus minimizing
15 friction between the cradle's contacts the headset
16 housing and protecting the headset from damage and
17 wear.

18 Q Okay. And I'm asking you how that
19 happens.

20 MR. BLUMENKOPF: Objection. Form.

21 A Well, I think that's as deep as my
22 analysis went.

1 Q Okay. So you can't explain how that
2 happens with reference to Figures 8 and 9 in
3 Burson, correct?

4 MR. BLUMENKOPF: Objection. Form.

5 A Yeah, my understanding is that springs can
6 be used to retract the cradle's charging contacts
7 from the headset as the headset is inserted into
8 the cradle, thus minimizing friction between the
9 cradle's contacts and the headset housing and
10 protecting the headset from damage and wear.

11 Q Okay. Let's take a look at Burson, and
12 let's look at column 8. And let's look at
13 line 65. All right. Do you see the passage that
14 begins "During coupling"?

15 A Yes.

16 Q Now, I want to walk through this
17 description while you have the Figures 8 and 9 in
18 front of you also, so if you could get to where
19 you can see those figures as well, especially
20 Figure 8, let's start with Figure 8. Burson
21 discloses that during coupling, the headset
22 contact apparatus 802 is moved in a downward

1 coupling direction 804 while in contact with
2 actuator 808 of the base charging contact
3 apparatus 800, resulting in actuator 808
4 retracting along longitudinal axis 807.

5 Did I read that correctly?

6 A Yes.

7 Q Okay. So in Figure 8, actuator 808 is
8 riding on the surface of headset contact apparatus
9 802 until it moves into the detent position,
10 correct?

11 MR. BLUMENKOPF: Objection. Form.

12 A So as I said in paragraph 39, Figure 8
13 illustrates the base's spring-loaded charging
14 contacts in more detail. As shown, a charging --
15 a headset charging contact 802 couples with the
16 spring-loaded charging base charging contact 800,
17 causing a pair of the springs apparatus 812 which
18 is attached to actuator 808 to retract as the
19 headset is inserted into the dock.

20 Q Okay. So in Figure 8, actuator 808 is
21 riding on the surface of headset contact apparatus
22 802 until it moves into the detent position,

1 correct?

2 MR. BLUMENKOPF: Objection. Form.

3 A I didn't use that language. What I said
4 was the headset charging contact 802 couples with
5 the spring-loaded charging base contact 800
6 causing a pair of springs of the spring apparatus
7 812, which is attached to actuator 808 to retract
8 as the headset is inserted into the dock.

9 Q Dr. Smith, you're here offering opinions
10 on Burson and what Burson discloses, correct?

11 MR. BLUMENKOPF: Objection. Form.

12 A Burson is one of the references I
13 consulted, yes.

14 Q Okay. Are you prepared to say anything
15 beyond what is written in your declaration today?

16 MR. BLUMENKOPF: Objection. Form.

17 A Well, the declaration is the testimony
18 that I'm giving.

19 Q And I'm asking you if you're prepared to
20 testify beyond the words that are written in your
21 declaration as you sit here today?

22 MR. BLUMENKOPF: Objection. Form.

1 A If I agree with the words, I will testify
2 to them. But you were using terms that I didn't
3 use and I don't agree with.

4 Q So okay. What specifically did I say that
5 you don't agree with?

6 MR. BLUMENKOPF: Objection. Form.

7 A Well, the way I described it, headset
8 charging contact 802 couples with the
9 spring-loaded charging base contact 800 causing a
10 pair of springs in the spring apparatus 812 which
11 is attached to actuator 808 to retract as the
12 headset is inserted into the dock.

13 Q Okay. I'm not asking you about what you
14 wrote in paragraph 39. I'm asking you about what
15 Burson says at column 8, line 65. Can we look at
16 Burson column 8, line 65?

17 A Okay.

18 Q It says: During coupling, the headset
19 contact apparatus 802 is moved in a downward
20 coupling direction 804 while in contact with
21 actuator 808 of the base charging contact
22 apparatus 800 resulting in actuator 808 retracting

1 along longitudinal axis 807.

2 Did I read that correctly?

3 A Yes, you did.

4 Q So you understand that actuator 808 is
5 what makes contact with headset contact apparatus
6 802 when the two are being coupled, correct?

7 MR. BLUMENKOPF: Objection. Form.

8 A I agree with the language that's here in
9 Burson: During coupling, the headset contact
10 apparatus 802 is moved in a downward coupling
11 direction 804 while in contact with actuator 808
12 of the base charging contact apparatus 800
13 resulting in actuator 808 retracting along
14 longitudinal axis 807.

15 Q Okay. Now, if we go down to -- well,
16 actually, let's start at column 9, line 2 there.
17 Burson says: Retraction of actuator 808 results
18 in retraction of spring contact apparatus 812
19 within outer housing 852, thereby lifting away the
20 spring conductive contacts 854 from the headset
21 charging contact 802 and headset during headset
22 docking.

1 Did I read that correctly?

2 A Yes, that's fine, which they're in person,
3 yes.

4 Q Okay. So the retraction of actuator 808
5 is what results in the retraction of the spring
6 contact apparatus 812, correct?

7 MR. BLUMENKOPF: Objection. Form.

8 A Burson column 9 line 2 says retraction of
9 actuator 808 results in retraction of spring
10 contact apparatus 812 within outer housing 852,
11 thereby lifting away the spring conductive
12 contacts 854.

13 Q Okay. Now, let's look at line 7 of
14 column 9. Okay. It says: Referring to Figure 9
15 a base charging contact apparatus 900 of the
16 present invention is shown in detent with an
17 example headset contact apparatus 902.

18 Did I read that correctly?

19 A Yes.

20 Q So Figure 9 depicts the detent position,
21 correct?

22 MR. BLUMENKOPF: Objection to form.

1 A Yes, that's what it says. It says that

2 Figure 9 is shown in the detent position.

3 Q Okay.

4 A The present invention is shown in detent.

5 Q All right. So the next sentence, column 9
6 says: During a state of detent, the base charging
7 contact apparatus 900 is in an extended state with
8 actuator 908 and spring contact apparatus 912
9 returned to their resting extended state following
10 retraction during the coupling process described
11 in reference to Figure 8.

12 Did I read that correctly?

13 A I see the language there, yes.

14 Q Okay. So the detent position is the
15 resting position when contact is made, correct?

16 MR. BLUMENKOPF: Objection. Form.

17 A So I see that at this point, it says
18 during a state of detent, the base charging
19 contact apparatus 900 is in an extended state with
20 actuator 908 -- let me actually just ... can you
21 ask the question again?

22 Q Sure. The detent position is the resting

1 position when contact is made, correct?

2 MR. BLUMENKOPF: Objection. Form.

3 A So I'm not going to agree to the use of
4 the term "resting position." I'm not really sure
5 what that means. You know, what do you consider
6 resting. Is that when it's present? When it's
7 absent? I'm not sure.

8 Q So Burson says: During a state of detent,
9 the base charging contact apparatus 900 is in an
10 extended state with actuator 908 and spring
11 contact apparatus 912 returned to their resting
12 extended state following retraction during the
13 coupling process described in reference to
14 Figure 8.

15 Do you still agree with my statement that
16 the detent position is the resting position when
17 contact is made?

18 MR. BLUMENKOPF: Objection. Form.

19 A See, I don't see the term "resting
20 position" here. It seems to me you could use that
21 term in a couple different ways.

22 Q Okay. The detent position is the resting

1 extended state when contact is made, correct?

2 MR. BLUMENKOPF: Objection. Form.

3 A I don't see the word "resting" here.

4 Q You don't see the word "resting"?

5 A Is it here?

6 Q Okay.

7 A No, I'm serious.

8 Q Column 9. Column 9, line 12. You do not
9 see the phrase "resting extended state"?

10 A Okay. Now I see it. All right.

11 Q Okay. So you would agree that the detent
12 position is the resting extended state when
13 contact is made, correct?

14 MR. BLUMENKOPF: Objection. Form.

15 A Let me just read this again.

16 Yeah, I don't know if I agree with your
17 reading there.

18 Q Okay. Why do you disagree with it?

19 MR. BLUMENKOPF: Objection. Form.

20 A So it says "returned to their resting
21 extended state," so that could be after this is
22 happening. And, you know, this issue wasn't

1 important to my analysis, so I didn't get into it.

2 But your characterization so far, I'm not going to
3 agree with.

4 Q Okay. So exactly how the contact is made
5 in Figures 8 and 9 of Burson was not relevant to
6 your analysis in your declaration, correct?

7 MR. BLUMENKOPF: Objection. Form.

8 A There were aspects that were relevant.
9 But whether something is a resting, extended state
10 wasn't an issue that I considered.

11 Q Okay. All right. Looking at column 9,
12 line 13, Burson says: In an embodiment of the
13 invention, actuator outer member 910 extends into
14 a well disposed within the headset contact
15 apparatus 902 allowing contacts of the spring
16 contact apparatus 912 to couple in a detent
17 position with associated contacts of the headset
18 contact apparatus.

19 Did I read that correctly?

20 A Yes.

21 Q Okay. So, again, Burson discloses that
22 actuator outer member 910 extends into a well

1 disposed within the headset contact apparatus 902

2 in the detent position, correct?

3 MR. BLUMENKOPF: Objection. Form.

4 A Yes, I see that it says: Actuator outer
5 member 910 extends into a well disposed within the
6 headset contact apparatus 902, allowing contacts
7 of the spring contact apparatus 912 to couple in a
8 detent position with associated contacts with
9 headset contact apparatus.

10 Q Okay. Now, next sentence, Burson says:
11 The actuator outer member 910 slips into the well
12 disposed within the headset contact apparatus 902
13 allowing the spring-loaded contacts to couple with
14 the corresponding contacts on the headset contact
15 apparatus 902 to complete the charging loop. The
16 pressure of the actuator member against the
17 aperture leading to the well provides a means of
18 detenting the headset in place.

19 Did I read that correctly?

20 A Yes.

21 Q So the actuator member -- sorry. Let me
22 strike that.

1 The actuator outer member 910 going into
2 the well is what creates the detent position,
3 correct?

4 MR. BLUMENKOPF: Objection. Form.

5 A So it says: The actuator outer member 910
6 slips into the well disposed within the headset
7 contact apparatus 902 allowing the spring-loaded
8 contacts to couple with the corresponding contacts
9 on the headset contact apparatus 902 to complete
10 the charging loop.

11 Q Okay. So you would agree, then, that the
12 actuator outer member 910 going into the well is
13 what creates the detent position, correct?

14 MR. BLUMENKOPF: Objection. Form.

15 A This sentence doesn't say anything about
16 detent. It says the actuator outer member 910
17 slips into the well disposed within the headset
18 contact apparatus 902 allowing the spring-loaded
19 contacts to couple with the corresponding contacts
20 on the headset contact apparatus 902 to complete
21 the charging loop.

22 Q Dr. Smith, are you able to keep more than

1 one sentence in your mind at a moment?

2 MR. BLUMENKOPF: Objection. Form.

3 A I believe I am.

4 Q Okay. Well, then look at the next
5 sentence, which we read earlier. It says: The
6 pressure of the actuator member against the
7 aperture leading to the well provides a means of
8 detenting the headset in place.

9 Did you forget that sentence?

10 MR. BLUMENKOPF: Objection. Form.

11 A So it is slightly different in that above,
12 it's talking about the actuator outer member 910.
13 And in this sentence it says: The pressure of the
14 actuator member, probably the outer member but it
15 doesn't say, against the aperture leading to the
16 well provides a means of detenting the headset in
17 place.

18 Q Okay. In column 9, line 23, where it
19 refers to the pressure of the actuator member,
20 what else could it be other than actuator outer
21 member 910?

22 MR. BLUMENKOPF: Objection. Form.

1 A Well, you know, this -- I didn't get into
2 this issue particularly. But if there's an outer
3 member, maybe it suggests there's other members.
4 Inner members, I don't know.

5 Q So do you believe that Burson is unclear
6 as to what causes the means of detenting in
7 Figures 8 and 9?

8 MR. BLUMENKOPF: Objection. Form.

9 A No, I just didn't drill into the details
10 of the detenting.

11 Q Okay. No question, you testified about
12 Figures 8 and 9 and how they worked and why they
13 were beneficial, correct?

14 MR. BLUMENKOPF: Objection. Form.

15 A I do discuss Figures 8 and 9, yes.

16 Q And also why their mechanism is
17 beneficial, correct?

18 MR. BLUMENKOPF: Objection. Form.

19 A Yes.

20 Q And I'm asking you what is the means of
21 detenting the headset in place in Figures 8 and 9?
22 Do you know or not?

1 MR. BLUMENKOPF: Objection. Form.

2 A So I think I did explain it at
3 paragraph 39. I say that Figure 8 illustrates
4 that the base is spring-loaded charging contacts
5 in more detail. As shown, the charging contact
6 802 couples with the spring-loaded charging base
7 contact 800 causing a pair of springs or the
8 spring apparatus 812, which is attached to
9 actuator 808, to retract as it is inserted into
10 the dock.

11 Q Okay. Did the passage you just read say
12 anything about detent?

13 MR. BLUMENKOPF: Objection. Form.

14 A No, the detent wasn't in that section.

15 Q Okay. Dr. Smith, you understand I'm
16 asking you what is the means of detenting Burson's
17 headset in Figures 8 and 9? Do you understand
18 that?

19 MR. BLUMENKOPF: Objection. Form.

20 A I understand the question, yes.

21 Q Can you answer it?

22 MR. BLUMENKOPF: Objection.

1 A So I think that Burson has language
2 describing that, so we just read -- read some of
3 that. But, you know, I didn't rely on these
4 particular sentences of Burson in my analysis.

5 Q You would agree that these particular
6 sentences are describing how Figures 8 and 9 work,
7 correct?

8 MR. BLUMENKOPF: Objection. Form.

9 A So column 9, lines 7 through 26 are
10 discussing Figure 9, yes.

11 Q Okay. So whether you relied on them or
12 not, they are relevant to how Figure 9 of Burson
13 works, correct?

14 MR. BLUMENKOPF: Objection. Form.

15 A Yes, these lines discuss how Figure 9
16 works.

17 Q Okay. So can you tell me how the
18 detenting process in Figure 9 works?

19 MR. BLUMENKOPF: Objection. Form.

20 A So in my paragraph 40, I said Figure 9
21 shows that when the headset contact is aligned
22 with the base contact, the spring-loaded base

1 contact 900 enters a detent position in which the
2 spring 912 applies pressure to the actuator 910 to
3 complete the charging loop.

4 Q Dr. Smith, can you tell me what part of
5 the spring-loaded base contact 900 enters the well
6 in the headset charging contact 902 or 802 to
7 create the detent position?

8 MR. BLUMENKOPF: Objection. Form.

9 A I mean, I captured my understanding here.
10 Figure 9 shows that when the headset contact is
11 aligned with the base contact, the spring-loaded
12 base contact 900 enters a detent position in which
13 the spring 912 applies pressure to the actuator
14 910 to complete the charging loop with headset
15 contact 902.

16 Q So the answer is no, you can't tell me?

17 MR. BLUMENKOPF: Objection. Form.

18 A I just read my understanding of it to you.

19 Q And you understand that Burson discloses
20 more than you put in paragraph 40, correct?

21 MR. BLUMENKOPF: Objection. Form.

22 A Certainly 40 is -- yeah, my understanding

1 of this relevant section, yes.

2 MR. WILSON: I'm going to object to your
3 answer as nonresponsive.

4 Q You understand that Burson discloses more
5 about Figure 9 than you put in paragraph 40,
6 correct?

7 MR. BLUMENKOPF: Objection. Form.

8 A Well, we just looked at column 9, lines 6
9 through 26 of Burson, which discusses Figure 9,
10 yes.

11 Q And, in fact, Burson discloses at
12 column 9, line 22, the pressure of the actuator
13 member against the aperture leading to the well
14 provides a means of detenting the headset in
15 place.

16 You agree that language is there, correct?

17 A Yes. And it says "a means," yes.

18 Q Okay. But you are unwilling to agree that
19 the actuator member acting against the aperture is
20 what provides a means of detenting the headset in
21 place, correct?

22 MR. BLUMENKOPF: Objection. Form.

1 A I definitely -- I agree that as Burson
2 says, the pressure of the actuator member against
3 the aperture leading to the well provides a means
4 of detenting the headset in place.

5 Q Okay. So the actuator member is actuator
6 outer member 910, correct?

7 MR. BLUMENKOPF: Objection. Form.

8 A I'm not a hundred percent sure if the
9 actuator member is the same as actuator outer
10 member.

11 Q Okay. So as you sit here today, you do
12 not know what actuator member provides the means
13 of detenting in Burson's Figure 9, correct?

14 MR. BLUMENKOPF: Objection. Form.

15 A I don't agree with that.

16 Q Okay. What is it?

17 A Well, I just -- what I said was that I'm
18 not a hundred percent sure that the actuator
19 member is the same thing as the actuator outer
20 member. And, you know, what Burson says here is
21 the pressure of the actuator member against the
22 aperture leading to the well provides a means of

1 detenting the headset in place.

2 Q Okay. And if we look at Figure 9, what is
3 the numeric label of the portion of charging --
4 sorry. Let me strike that.

5 If we look at Figure 9, what is the
6 portion of base charging contact apparatus 900
7 that extends into the aperture of the headset
8 contact apparatus 902?

9 MR. BLUMENKOPF: Objection. Form.

10 A You could see that 910 extends into 902.

11 Q And that is actuator outer member 910,
12 correct?

13 A Yes.

14 MR. BLUMENKOPF: Objection to form.

15 A It's labeled actuator outer member 910 by
16 Burson.

17 Q Okay. Now, let's go back to your
18 declaration, Exhibit 1003. And in paragraph 57,
19 last sentence, you say: And once the headset is
20 properly guided to its location in the charging
21 base, the spring-loaded contacts enable secure
22 contact between the headset's contacts and their

1 corresponding cradle contacts, thus helping to
2 retain proper alignment of the contacts.

3 Did I read that correctly?

4 A Yes.

5 Q It is the detent mechanism in Burson that
6 helps to retain proper alignment of the contacts,
7 correct?

8 MR. BLUMENKOPF: Objection. Form.

9 A So what it says here is once the headset
10 is properly guided to its location in the charging
11 base, the spring-loaded contacts enable secure
12 contact between the headset's contacts and their
13 corresponding cradle contacts, thus helping to
14 retain proper alignment of the contacts.

15 MR. WILSON: Objection. Nonresponsive.

16 Q It is the detent mechanism in Burson that
17 helps attain proper alignment of the contacts,
18 correct?

19 MR. BLUMENKOPF: Objection. Form.

20 A The sentence I just read doesn't contain
21 the word "detent," and you're putting words in my
22 mouth.

1 Q I'm not asking you whether that sentence
2 contains the word "detent." I'm asking you
3 whether the benefit you're describing here, which
4 is helping to retain proper alignment of the
5 contacts, is actually due to the detent mechanism
6 in Burson?

7 MR. BLUMENKOPF: Objection to form.

8 A I didn't dig deeply into the question of
9 what is and is not detent in my analysis.

10 Q So you don't have any opinion on that as
11 you sit here today?

12 MR. BLUMENKOPF: Objection. Form.

13 A Correct. My opinion is what's said here,
14 which is once the headset is properly guided to
15 its location in the charging base, the
16 spring-loaded contact enables secure contact
17 between the headset's contacts and their
18 corresponding cradle contacts, thus helping to
19 retain proper alignment of the contacts.

20 Q Okay. Let's look at paragraph 58. Second
21 sentence, starting on the third line, you say:
22 For example, the POSITA would understand that

1 without a securing mechanism, such as Burson's
2 spring force, the power contacts of Jannard's
3 wearable device would be susceptible to
4 dimensional and positional variation in the
5 charger such that an electrical connection may be
6 lost between the device and the charger's power's
7 contacts.

8 Did I read that correctly?

9 A Yes.

10 Q Okay. What secures Burson's contacts
11 against positional variation is the detent
12 mechanism, correct?

13 MR. BLUMENKOPF: Objection. Form.

14 A I'm not going to agree with that. You
15 know, this sentence doesn't bring up the term
16 "detent."

17 MR. WILSON: Okay. Again, I'm going to
18 object to your answer as nonresponsive.

19 Q You understand that I am not asking you
20 what this sentence says. My question is different
21 from what does this sentence say. Do you
22 understand that?

1 MR. BLUMENKOPF: Objection. Form.

2 A I understand that.

3 Q Okay. So let me ask my question again.

4 What secures Burson's contacts against positional
5 variation is the detent mechanism, correct?

6 MR. BLUMENKOPF: Objection. Form.

7 A Again, I'm not going to agree with that
8 characterization. You know, I didn't use -- you
9 know, I didn't analyze the question of what is and
10 is not detent. Particularly whether something
11 relies on a detent, that wasn't the focus of my
12 analysis.

13 Q Okay. You didn't pay any attention to
14 Burson's description of its detent mechanism when
15 you relied on Burson, correct?

16 MR. BLUMENKOPF: Objection. Form.

17 A Well, I discussed the mechanism. I
18 described it, quoting him. But, you know, it
19 seems to me you're trying to characterize my
20 testimony using words that are not mine, and I'm
21 not agreeing to it.

22 Q I'm not trying to characterize your

1 testimony at all. I'm asking you questions about
2 Burson.

3 Do you understand that?

4 MR. BLUMENKOPF: Objection. Form.

5 Q You're claiming a benefit based on
6 restricting positional variation, and I'm asking
7 you whether Burson discloses that that benefit is
8 attributable to the detent mechanism. That's my
9 question. Can you answer that question?

10 MR. BLUMENKOPF: Objection. Form.

11 A Burson describes, you know, the way these
12 things connect, and we've gone through Burson's
13 language.

14 Q So the answer is no, you can't answer that
15 question?

16 MR. BLUMENKOPF: Objection. Form.

17 A Can you repeat the question, please?

18 Q You're claiming a benefit based on
19 restricting positional variation, and I'm asking
20 you whether Burson discloses that that benefit is
21 attributable to the detent mechanism?

22 MR. BLUMENKOPF: Objection. Form.

1 A Yeah, I didn't see Burson explicitly make
2 that statement, no.

3 Q Okay. All right. Let's look at
4 paragraph 81 of your declaration. Okay. Second
5 sentence, you say: For example, Jannard describes
6 that user controls 322 can include a touchpad,
7 i.e., a touch-sensitive input surface that may be
8 used to control the audio device 304.

9 Did I read that correctly?

10 A Yes.

11 Q Okay. Does a touch-sensitive input
12 surface have to be a touchpad?

13 MR. BLUMENKOPF: Objection. Form.

14 A I don't believe a touch-sensitive input
15 surface has to be a touchpad specifically.

16 Q Okay. What is a touchpad?

17 MR. BLUMENKOPF: Objection. Form.

18 A So as I say in my paragraph 18, you know,
19 I applied the ordinary and customary meaning of
20 the claim terms so, you know, as of the earliest
21 possible priority date, so a touchpad would be
22 understood according to the ordinary and customary

1 meaning. So I don't necessarily have a definition
2 to give you, but I know what a touchpad is, and I
3 think a person of skill in the art would know.

4 Q Okay. Can you describe it generally for
5 me?

6 MR. BLUMENKOPF: Objection. Form.

7 A So the way Jannard characterizes it right
8 here where they quote it in paragraph 81 is, you
9 know, I describe it as a touch sensitive input
10 surface that can be used to control the audio
11 device 304. And so it can be used to play audio,
12 fast-forward, turn power on or off, adjust volume,
13 or perform any other function related to an audio
14 file. So the POSITA would understand the touchpad
15 to generate electrical signal to control audio
16 device 304 by these commands upon receiving touch
17 input from the user.

18 Q So a touchpad would be something that
19 generates electrical signals to control audio
20 devices upon touch input by a user?

21 MR. BLUMENKOPF: Objection. Form.

22 A So as I say here in paragraph 81, the

1 POSITA would understand the touchpad to generate
2 an electrical signal, for example to control audio
3 304 by these commands upon receiving touch input
4 from the user.

5 Q Okay. And that's as far as you can go in
6 describing a touchpad?

7 MR. BLUMENKOPF: Objection. Form.

8 A Yes.

9 Q Okay. Let's take a look at paragraph 169
10 of your declaration. Paragraph 169 starts with
11 addressing the claim 1 preamble versus Griffin,
12 correct?

13 A Correct.

14 Q And the preamble recites a wireless
15 wearable device.

16 Do you see that?

17 A Yes.

18 Q And in paragraph 169, you say: The
19 preamble is met by Griffin. For example, Griffin
20 discloses a wireless wearable communication device
21 10 having a first communication module 12, e.g., a
22 mobile communications device such as a cellphone

1 and a detachable second communication module 14
2 that is physically dimensioned so that it may be
3 fitted into or onto an ear of a communication
4 device user.

5 Did I read that correctly?

6 A Yes. I see the language there, yeah.

7 Q So in your declaration, you identify
8 Griffin's communication device 10 as the wireless
9 wearable device of claim 1, correct?

10 MR. BLUMENKOPF: Objection. Form.

11 A Yeah, that's correct.

12 Q And you explained that Griffin's
13 communication device 10 has both a first
14 communication module 12 and a detachable second
15 communication module 14, correct?

16 A Yes.

17 Q So in your opinion, the combination of the
18 first communication module 12 and second
19 communication module 14 constitute Griffin's
20 wireless wearable device, correct?

21 MR. BLUMENKOPF: Objection. Form.

22 A So I agree that Griffin discloses a

1 wireless wearable communication device 10 that has
2 a first communication module 12, as well as a
3 detachable second communication module 14, yes.

4 Q Okay. Now let's look at paragraph 171.
5 And paragraph 171, you're addressing claim
6 limitation 1[B], correct?

7 A Yes.

8 Q Let's skip that. Let's go to 172. Okay.
9 In paragraph 172, you're addressing claim 1
10 limitation 1[C] -- or sorry, claim 1[C] limitation
11 versus Griffin, correct?

12 A Correct.

13 Q Okay. On -- you can see in
14 paragraph 172 -- actually, let's start with
15 limitation [C]. Limitation [C] recites wherein
16 the at least two conductive areas are configured
17 to removably couple two corresponding coupled
18 contacts of a counterpart connector, external to
19 and separate from the wireless wearable device at
20 least via spring force to at least enable the at
21 least two conductive areas to be electrically
22 connected to its corresponding conductive contact.

1 Did I read that correctly?

2 A Yes.

3 Q Okay. So claim 1[C], you would agree,
4 recites both at least two conductive areas and
5 corresponding conductive contacts of a counterpart
6 connector, correct?

7 A Yes, limitation [C] says: The at least
8 two conductive areas are configured to removably
9 couple two corresponding conductive contacts of a
10 counterpart connector.

11 Q Okay. Now, if we go back up to
12 paragraph 171, and limitation [B], limitation [B]
13 recites an electrical connector at least partially
14 in the wireless wearable device wherein the
15 electrical connector includes at least two
16 conductive areas, each area on the surface of the
17 wireless wearable device.

18 Did I read that correctly?

19 A Yes.

20 Q And here in paragraph 171, you identify
21 the charging terminals 56 as the at least two
22 conductive areas, correct?

1 MR. BLUMENKOPF: Objection. Form.

2 A Yes. Here I identify 56, charging
3 terminals 56 as -- or recharging a rechargeable
4 power source.

5 Q Okay. And you say -- I'm looking at the
6 fourth line in paragraph 171: Griffin explains
7 that the charging terminals 56 preferably mate
8 with corresponding charging terminals 46 on the
9 first communication module 12 when the second
10 communication module is mounted in the first
11 communication module. Correct?

12 A Yeah, that's the language from my
13 paragraph, yes.

14 Q So if we go down to paragraph 172, here
15 you are identifying corresponding charging
16 terminals 46 of the first communication module as
17 the corresponding conductive contacts, correct?

18 A Yeah. So in 172, it says where charging
19 terminals 56 of the second communication module
20 preferably mate with, quote, corresponding
21 charging terminals 46, which is shown here in
22 Figure 7 of the first communication module.

1 Q Okay. Let's look at paragraph 173. Okay.

2 In paragraph 173, you offer the opinion for
3 limitation 1[C] that, I'm looking at the last
4 sentence there, the POSITA would understand
5 elastically biased springs to utilize a spring
6 force to couple to and separate from with the
7 retention means.

8 Did I read that correctly?

9 A Yeah, and I may have a typo there. That
10 may be that's supposed to say "separate from the
11 retention means."

12 Q Okay. And you can see that your citation
13 in the sentence prior to this is to Griffin at
14 column 3, lines 51 to 55.

15 Do you see that?

16 A Yeah, I see the citation. I have that.

17 Q You see the quote there that you cited
18 for, you say: For example, springs are otherwise
19 elastically biased protrusions or hooks, may be
20 included on the first or second communication
21 module that cooperate with appropriate mating
22 retention means on the other of the first or

1 second communication module.

2 Did I read that correctly?

3 A Yes. Let me just consult this section.

4 So let me just for the record read what it says
5 here at 3:51 through 55. It says: In addition,
6 the second communication module 14 preferably
7 includes depressions 50 and 52 shown in Figures 4
8 and 5 that enable the communication device to
9 easily grip the module 14 while it is within the
10 cavity.

11 Q So do you think the quotation in
12 paragraph 173 is a mistake?

13 A It may be that that is, yeah, that may be
14 a mistake. Maybe the quote came from somewhere
15 else.

16 Q Like, for example, column 3, lines 38 to
17 43?

18 A Yeah, it looks like that quoted language
19 is column 3, lines 38 to 48. So it says in yet
20 another embodiment, other retention means such as
21 springs or otherwise elastically biased
22 protrusions or hooks may be included on the first

1 or second communication module to cooperate with
2 appropriate beading or retention means on the
3 other first or second communication module. Yeah,
4 so it looks like I just got the wrong line numbers
5 there.

6 MR. WILSON: I'll tell you what. I think
7 we're right at our limit of 12:30. If you're
8 ready for a break, we can go off the record here
9 and come back.

10 THE WITNESS: It's fine with me.

11 MR. BLUMENKOPF: That works for us,
12 Counsel. Thank you.

13 (A lunch break was taken.)

14 MR. WILSON: Let's go back on the record.

15 Q Okay. Dr. Smith, did you discuss your
16 testimony, prospective questions, anything about
17 today's deposition with anyone during your break?

18 A No.

19 Q Okay. Let's take a look at -- before the
20 break, we were talking about Griffin. Let's take
21 a look at Griffin, column 3. And the passage that
22 we were referring to started at line 338, but I

1 want to start at line 328. Essentially the
2 beginning of that paragraph.

3 Do you have that, Dr. Smith?

4 A I have column 3. And what was the line
5 you wanted to start with?

6 Q 28.

7 A Okay. I've got it.

8 Q Okay. And if you look up, actually, at
9 line 12, you can see the discussion here is in the
10 context of Figure 3.

11 Do you see that?

12 A Yeah, I see the reference to Figure 3.
13 Yep.

14 Q Okay. And so the cavity 16 that's being
15 referred to here is the cavity 16 in the housing
16 of the first communication module 12.

17 Do you see that?

18 A Yes.

19 Q Okay. All right. So now let's jump back
20 down to 28, column 3, line 28. And Griffin says:
21 The surfaces of the cavity 16 preferably also
22 provide for retention of the second communication

1 module 14 within the cavity 16. Surfaces 36a and
2 36b and/or surfaces 46a and 46b may, for example,
3 be contoured to engage the sides of the second
4 communication module 16 in order to frictionally
5 hold it within the cavity 16.

6 Did I read that correctly?

7 A Yes, I see the text there.

8 Q Okay. So Griffin discloses a frictional
9 engagement arrangement for second communication
10 module 14 and explains how that would work using
11 contoured engagement surfaces, correct?

12 MR. BLUMENKOPF: Objection. Form.

13 A So I see that Griffin indicates surfaces
14 of the cavity 16 preferably also provide for
15 retention of the second communication module 14
16 within the cavity 16. Surfaces 36a and 36b and/or
17 surfaces 46a and 46b may, for example, be
18 contoured to engage the sides of the second
19 communication module 14 in order to frictionally
20 hold it within the cavity 16, yes.

21 Q Okay. And you did not rely on this first
22 embodiment that Griffin discloses for limitation

1 1[C], correct?

2 MR. BLUMENKOPF: Objection. Form.

3 A So in my discussion of limitation 1[C], I
4 cite as an example communication module 14 shown
5 in Figure 7, and I also cite Figure 8. So I
6 wasn't discussing Figure 3 specifically, but my
7 discussion here, I'm citing these as examples.

8 Q Okay. So you would agree, then, that you
9 did not rely on Griffin's first embodiment here
10 relying on frictional engagement of second
11 communication module 14 in column 3 at lines 28
12 through 33 for limitation 1[C], correct?

13 MR. BLUMENKOPF: Objection. Form.

14 A Limitation 1[C], I didn't discuss
15 frictional engagement.

16 Q Okay. Now, at column 3, line 33, Griffin
17 continues and says: In another embodiment,
18 surfaces in or adjacent to the cavity 16 may
19 include retention means, such as nubs or
20 protrusions, that engage detents in corresponding
21 parts of the second communication module 14 or
22 vice versa to detachably hold the second

1 communication module 14 within the cavity 16.

2 Did I read that correctly?

3 A Yeah, I see that language.

4 Q Okay. So Griffin discloses a second
5 embodiment in which nubs or protrusions might
6 engage detents in the second communication module
7 14 to hold it in place in the first communication
8 module 12, correct?

9 MR. BLUMENKOPF: Objection. Form.

10 A I think you might have stated the wrong
11 number there.

12 Q All right.

13 A Oh, wait a minute. Maybe I'm looking at
14 the wrong place.

15 Q I don't think I did, so let me just ask
16 the question again.

17 A Yeah, thanks, because I think I was
18 looking at the wrong text.

19 Q Okay. So Griffin discloses a second
20 embodiment in which nubs or protrusions might
21 engage detents in the second communication module
22 14 to hold it in place in the first communication

1 module 12, correct?

2 MR. BLUMENKOPF: Objection. Form.

3 A Yeah, I'm not seeing language saying that.

4 Q You understand cavity 16 is in first
5 communication module 12, correct?

6 MR. BLUMENKOPF: Objection. Form.

7 Q Do you see that expressly stated in column
8 3, lines 12 to 13?

9 A So cavity 16 is in communication module
10 12. Yep.

11 Q Okay. So Griffin discloses a second
12 embodiment in which nubs or protrusions might
13 engage detents in second communication module 14
14 to hold it in place in first communication module
15 12, correct?

16 MR. BLUMENKOPF: Objection. Form.

17 A So could you point me to the line that
18 you're citing there?

19 Q I'm citing column 3, lines 33 through 38.

20 A Okay. So I see that it says: In another
21 embodiment, surfaces in or adjacent to the cavity
22 16 may include retention means such as nubs or

1 protrusions that engage detent and corresponding
2 parts of the second communication module 14 or
3 vice versa to detachably hold the second
4 communication module 14 within the cavity 16.

5 Q Okay. You didn't rely on this second
6 embodiment or alternative embodiment for
7 limitation 1[C] in your declaration, correct?

8 MR. BLUMENKOPF: Objection. Form.

9 A Well, I cited as an example Figure 7 and
10 Figure 8 and my discussion of that limitation but
11 not necessarily an exclusive example.

12 Q Okay. You did not cite to this embodiment
13 in column 3, lines 33 through 38 in your
14 declaration for limitation 1[C], correct?

15 MR. BLUMENKOPF: Objection. Form.

16 A Yeah, limitation 1[C] does not cite this
17 section of the text.

18 Q Okay. Now, in column 3, line 38, Griffin
19 says: In yet another embodiment, other retention
20 means, such as springs or otherwise elastically
21 biased protrusions or hooks, may be included on
22 the first or second communication module that

1 cooperate with appropriate mating retention means
2 on the other or the first or second communication
3 module.

4 Did I read that correctly?

5 A Yes.

6 Q This embodiment is yet another embodiment,
7 and columns 38 through 43 is the embodiment that
8 you rely on from Griffin for limitation 1[C],
9 correct?

10 MR. BLUMENKOPF: Objection. Form.

11 A So I do quote this language in my
12 paragraph 173, springs or otherwise elastically
13 biased protrusions or hooks may be included on the
14 first or second communication module that
15 cooperate with appropriate mating retention means
16 on the other first or second communication module,
17 that's right.

18 Q Okay. And you would agree that the
19 portion that you quoted there in paragraph 173 of
20 your declaration is the entire extent of Griffin's
21 description of this embodiment, correct?

22 MR. BLUMENKOPF: Objection. Form.

1 A I mean, I haven't -- I haven't analyzed
2 that specific question. I could spend some time
3 going through Griffin to try to verify whether
4 that shows up again.

5 Q You don't cite to anything else in Griffin
6 discussing this embodiment, correct?

7 MR. BLUMENKOPF: Objection. Form.

8 A Sitting here right now, I'm not sure
9 whether I cite other embodiments or not.

10 Q Well, you don't cite any for limitation
11 1[C], correct?

12 MR. BLUMENKOPF: Objection. Form.

13 A I mean, for 1[C], you know, I bring up
14 some examples and -- but they're not necessarily
15 exclusive.

16 Q Okay. So the -- for Griffin's yet another
17 embodiment, you cite column 3, lines 38 to 43,
18 although you mistakenly cite it as column 3, lines
19 51 through 55, but you do not cite anything else
20 that addresses this yet another embodiment of
21 Griffin for limitation 1[C], correct?

22 MR. BLUMENKOPF: Objection. Form.

1 A Yeah, my discussion of 1[C], that appears
2 to be the language that I'm citing.

3 Q All right. Now, let's look back at your
4 declaration, and let's look at paragraph 204.
5 Now, 204, you rely on Griffin in view of Zadesky,
6 correct?

7 A Let's see. Correct. Paragraph 204, I
8 say this element is met by Griffin in view of
9 Zadesky.

10 Q Okay. So let's take a look at Zadesky,
11 which is Exhibit 1018.

12 (Exhibit Number 1018 for
13 identification.)

14 Q You're familiar with Zadesky, correct?

15 A Yes.

16 Q You reviewed it before?

17 A Yes.

18 Q Okay. Did you review all of Zadesky or
19 only part of it?

20 A I reviewed all of it.

21 Q Okay. So let's start with the Field of
22 the Invention in column 1, about line 22. Zadesky

1 states: The present invention relates generally
2 to a media player having a touchpad. More
3 particularly, the present invention relates to
4 touchpads having scrolling features.

5 Did I read that correctly?

6 A Yes.

7 Q So Zadesky's invention is about using
8 touchpads for scrolling, correct?

9 MR. BLUMENKOPF: Objection. Form.

10 A Correct.

11 Q Okay. Now, scrolling is moving displayed
12 data or images across a viewing area on a display
13 screen so that a new set of data is brought into
14 view in the viewing area, correct?

15 MR. BLUMENKOPF: Objection. Form.

16 A I'm not sure that's the only definition I
17 would agree with. In particular, that seems very
18 display-oriented. But, you know, scrolling can
19 convert to choosing songs, you know, particularly
20 in Zadesky. It's a music player. So I wouldn't
21 necessarily use that as my only definition.

22 Q Okay. Let's take a look at column 6,

1 line 24.

2 A Okay.

3 Q Zadesky says: The term "scrolling" as
4 used herein generally pertains to moving displayed
5 data or images, e.g., text or graphics, across a
6 viewing area on a display screen 104 so that a new
7 set of data, e.g., line of text or graphics, is
8 brought into view in the viewing area.

9 Did I read that correctly?

10 A Yes.

11 Q That is Zadesky's definition of scrolling,
12 correct?

13 MR. BLUMENKOPF: Objection. Form.

14 A I mean, I agree Zadesky says it's used
15 herein generally. Generally pertains to moving
16 displayed data or images, e.g., text or graphics.
17 But I think a POSITA could understand a broader
18 interpretation of that.

19 Q Okay. Let's take a look at column 1,
20 line 36.

21 A Okay.

22 Q Zadesky says: Buttons and switches are

1 generally mechanical in nature and provide limited
2 control with regards to the movement of a cursor
3 or other selector in making selections.

4 Did I read that correctly?

5 A Yes.

6 Q So Zadesky teaches that buttons and
7 switches have limited usefulness with regard to
8 movement of a cursor in making selections,
9 correct?

10 MR. BLUMENKOPF: Objection. Form.

11 A I agree Zadesky says buttons and switches
12 are generally mechanical in nature and provide
13 limited control with regards to the movement of a
14 cursor or other selector.

15 Q And by "movement of a cursor," Zadesky is
16 referring to a cursor on a display, correct?

17 MR. BLUMENKOPF: Objection. Form.

18 A I don't necessarily think that's the case.
19 He lists that as an example. But you can imagine
20 stepping through songs, and the thing that
21 identifies a song could potentially be a cursor, I
22 would imagine. And I think a person of skill in

1 the art might understand it that way.

2 Q Can you have a cursor without a display?

3 MR. BLUMENKOPF: Objection. Form.

4 A I think potentially you could.

5 Q And can you give me an example of that?

6 MR. BLUMENKOPF: Objection. Form.

7 A I mean, whether it counts as a cursor or
8 not, I need to look more into the specifics. But
9 perhaps -- it says "or other selector." Perhaps a
10 song selector could do that.

11 Q When you say "song selector," you're
12 talking about simply moving between songs without
13 putting anything on a display?

14 MR. ARJOMAND: Objection. Form.

15 A As I said, I'd need to, you know,
16 understand the context more deeply, but -- and I
17 don't believe I discussed cursors in my report, so
18 I'm not sure.

19 Q Okay. But you have read of Zadesky,
20 correct?

21 A Yes, I have.

22 Q Okay. So let's take a look at column 1,

1 line 48.

2 A Okay.

3 Q Now, column 1, line 48 of Zadesky says:
4 With a touchpad, the movement of an input pointer,
5 i.e., cursor, corresponds to the relative
6 movements of the user's finger or stylus as the
7 finger is moved along the surface of the touchpad.

8 Did I read that correctly?

9 A Yes.

10 Q And at column 1, line 66, down at the very
11 bottom of the column, Zadesky says: In addition
12 to allowing input pointer movements and selections
13 with respect to a graphical user interface
14 presented on a display screen, the input devices
15 may also allow a user to scroll across the display
16 screen in the horizontal or vertical directions.

17 Did I read that correctly?

18 A Yes.

19 Q Now, under the -- moving over to column 3,
20 under the Summary of the Invention, do you see
21 that?

22 A I do.

1 Q Okay. Under the Summary of the Invention,
2 Zadesky describes why it would be desirable to
3 provide a media player with a touchpad, correct?

4 A Yeah, I see that section.

5 Q Okay. In the last sentence at that first
6 paragraph, column 3, line 34, Zadesky states: It
7 would be further desirable to transform the
8 angular or radial movements into translational
9 movements in the graphical user interface of the
10 display screen for scrolling and other related
11 linear actions.

12 Did I read that correctly?

13 A Yes. Yes.

14 Q Now, if you scroll down to the third
15 paragraph, column 3, line 47, under the Summary of
16 the Invention, Zadesky says: The invention
17 relates in another embodiment to a pocket-sized
18 handheld computing device. The computing device
19 includes computing hardware for providing at least
20 one application. The computing device also
21 includes a display screen configured to display
22 text and graphics associated with the at least one

1 application.

2 Did I read that correctly?

3 A Yes.

4 Q Now, at the bottom of column 3, starting
5 at line 64, Zadesky says: The invention relates
6 in another embodiment to a user input system
7 having a touchpad, a display, and a controller.

8 Did I read that correctly?

9 A Yes.

10 Q And so it is fair to say that Zadesky is
11 focused on the use of a touchpad for scrolling
12 text or images on a display screen, correct?

13 MR. BLUMENKOPF: Objection. Form.

14 A I would not agree with that
15 characterization. The first embodiment that he
16 cites is a media player for storing and playing
17 media, such as audio. So I wouldn't agree with
18 your characterization.

19 Q Okay. Let's take a look at paragraph 95
20 of your declaration. Okay. Paragraph 95, you're
21 talking about Zadesky, correct?

22 A Correct.

1 Q And there you rely on Figure 3C from
2 Zadesky, correct?

3 A Yes.

4 MR. BLUMENKOPF: Objection. Form.

5 A Yeah, I'm referring to Figure 3.

6 Q You say: The touchpad can control the
7 media player based on a sliding input from the
8 user as shown in Figure 3C, correct?

9 A Yes, that's what I said.

10 Q Okay. Now, let's look back at Zadesky,
11 column 3 -- sorry, not column 3. Column 8,
12 line 52. Okay. The first line says: Figures 3A
13 to 3C show the media player 100 of Figure 2 being
14 used by user 120 in accordance with different
15 embodiments of the invention, correct?

16 A I see that language, yes.

17 Q All right. The next sentence says: In
18 all of these embodiments, the user 120 is linearly
19 scrolling 104 as shown by arrow 124 through a list
20 of songs 122 displayed on the display screen via a
21 slider bar 123.

22 Did I read that correctly?

1 A You did, yep.

2 Q Okay. So in Figure 3C, which you relied
3 on in paragraph 95, the linear finger movement
4 depicted is used for scrolling a list on a
5 display, correct?

6 MR. BLUMENKOPF: Objection. Form.

7 A So I think as you read this, and as a
8 person of skill in the art reads this and
9 understands this, it's about scrolling through a
10 list of songs, which is what it says at line 56,
11 through a list of songs.

12 Q Right. On a display. Correct?

13 MR. BLUMENKOPF: Objection. Form.

14 A So line 56 does say displayed on the
15 display screen, but I think a person of skill in
16 the art, and in fact anybody who's used the iPod,
17 would understand you don't have to look at the
18 display to scroll through the songs.

19 Q Okay. You understand Griffin's second
20 communication module, the earpiece 14, does not
21 have a display, correct?

22 MR. BLUMENKOPF: Objection. Form.

1 A So if you look at Figure 14A of Griffin,
2 which I show, you know, it shows two pieces. And
3 one of them is a phone-like thing which probably
4 does has a display, and the other is another thing
5 that doesn't appear to have a display.

6 Q So in Figure 14A -- well, let me ask it
7 this way: So in your opinion, it makes sense to
8 add a touchpad to the second communication module
9 104 in Figure 14A of Griffin to control the
10 display on first communication module 106?

11 MR. BLUMENKOPF: Objection. Form.

12 A So I don't think I analyzed that question
13 specifically as to whether it makes sense to add a
14 touchpad to control a display there, so I don't
15 think I have an opinion on that specifically.

16 Q Okay. So you are not offering the opinion
17 that it would make sense to add a touchpad to the
18 earpiece 104 in Figure 14A of Griffin to control
19 the display in item 106 in Figure 14A, correct?

20 MR. BLUMENKOPF: Objection. Form.

21 A It might make sense to include a touchpad
22 but not necessarily to control a display. I mean,

1 it could be for that reason, but it could be for
2 other reasons as well.

3 Q Okay. So you think a person of ordinary
4 skill in the art would be motivated to add a
5 touchpad to earpiece 104 in Figure 14A, just not
6 necessarily to control the display in item 106?

7 MR. BLUMENKOPF: Objection. Form.

8 A So as I say in paragraph 202, integrating
9 a touchpad onto the second module would enable
10 users to answer calls, go on mute, add a telephone
11 number, or control execution of other functions by
12 the first module without requiring access to the
13 first module or speaking into a microphone, which
14 may be convenient for certain situations.

15 Q Okay. So let's look back at Zadesky, and
16 we'll look at column 8, line 8. There, Zadesky
17 says: In addition to above, the media player 100
18 may also include one or more buttons 112. The
19 buttons 112 are configured to provide one or more
20 dedicated control functions for making selections
21 or issuing commands associated with operating the
22 media player 100.

1 Did I read that correctly?

2 A Yes. I see the text there, yep.

3 Q So Zadesky discloses using buttons on its
4 media player in addition to the touchpad, correct?

5 MR. BLUMENKOPF: Objection. Form.

6 A Yeah, so I see that Zadesky at line 8 or 9
7 says: Media player may also include one or more
8 buttons 112. They're configured to provide one or
9 more dedicated control functions for making
10 selections or issuing commands associated with
11 operating a media player, yes.

12 Q Okay. Let's go backwards now in Zadesky
13 to column 1, line 63. There, Zadesky observes
14 both mice and trackballs generally include one or
15 more buttons for making selections on the display
16 screen.

17 Did I read that correctly?

18 A Yeah, Zadesky does -- says in the
19 background section here, says with a trackball,
20 the movement of the input pointer corresponds to
21 the relative movements of a ball. As the user
22 rotates the ball within the housing, both mice and

1 trackballs generally include one or more buttons
2 for making selections on the display screen.

3 Q Now, you would agree that Zadesky does not
4 disclose sensing a user's vital signs, correct?

5 MR. BLUMENKOPF: Objection. Form.

6 A I don't recall Zadesky using the term
7 "vital signs" right now as I'm sitting here.

8 Q Okay. There's a difference between
9 sensing touch and sensing a user's vital signs,
10 correct?

11 MR. BLUMENKOPF: Objection. Form.

12 A It's sort of a complicated relationship
13 between those two things. Certainly there are
14 many different situations and different ways it
15 could go, so there could be cases where sensing a
16 vital sign does allow sensing the touch. Could be
17 cases where sensing the touch is sensing of a
18 vital sign. There also could be cases where they
19 don't overlap, so it kind of depends on the
20 specifics.

21 Q Well, Zadesky chooses to primarily focus
22 on capacitive touch, correct?

1 MR. BLUMENKOPF: Objection. Form.

2 A So I'm not going to agree with you what
3 you just suggested. In paragraph 203 of my
4 report, I point out that, for example, Zadesky
5 describes touchpads with sensors that operate via
6 a variety of sensing techniques, like, quote,
7 resistive sensing, surface acoustic wave sensing,
8 pressure sensing, optical sensing, capacitive
9 sensing, and the like. So capacitive is one of
10 the things that he mentions, but he also mentions
11 switches and these other things, resistive,
12 et cetera.

13 Q Okay. Let's take a look at column 2,
14 line 40 of Zadesky. There, Zadesky says: For
15 brevity sake, the remaining discussion will be
16 held to the discussion of capacitive sensing
17 technologies.

18 Did I read that correctly?

19 A I see the next sentence says: It should
20 be noted, however, the other technologies have
21 similar features, yes.

22 Q Okay. In the context of capacitive

1 sensing, can you determine any vital sign with
2 capacitive sensing?

3 MR. BLUMENKOPF: Objection. Form.

4 A So this is beyond what I was asked to
5 analyze. Certainly if you were logged dead, you
6 would show up differently than if you were alive
7 by capacitive sensing.

8 Q Okay. So you can determine life or death
9 perhaps. Any other vital sign?

10 MR. BLUMENKOPF: Objection. Form.

11 A Yeah. This is definitely getting beyond
12 the realm. I mean, I would love to sit here and
13 invent ideas for what one could do. That would be
14 fun for me, but I'm not going to speculate.

15 Q Okay. Fair to say, as you sit here today,
16 you're not aware of any vital sign that you could
17 sense with capacitive sensing other than life or
18 death?

19 MR. BLUMENKOPF: Objection. Form.

20 A Well, I really haven't been asked to look
21 at that, so I'm not going to give an opinion on
22 that.

1 Q Okay. Now, Zadesky's media player in
2 Exhibit 1018 does not include a speaker, correct?

3 MR. BLUMENKOPF: Objection. Form.

4 A I don't actually remember whether a
5 speaker is included in the media player discussed
6 in Zadesky.

7 Q So as you sit here today, you're not aware
8 of Zadesky describing its media player 100 as
9 including a speaker, correct?

10 MR. BLUMENKOPF: Objection. Form.

11 A Yeah, I don't recall one way or the other
12 whether the media player of Zadesky includes a
13 speaker.

14 Q Okay. If you look at Figure 2 of Zadesky,
15 on page 5, do you see the headphone jack 116?

16 A Yes, I do.

17 Q Okay. So as far as you're aware,
18 Zadesky's media player in the absence of separate
19 headphones is not capable of outputting sound to
20 its user, correct?

21 MR. BLUMENKOPF: Objection. Form.

22 A I don't recall one way or the other.

1 Q All right. Let's jump to your
2 declaration, paragraph 213. Actually, we can jump
3 back up to paragraph 210.

4 So in paragraph 210, you say: It is my
5 view that Griffin in view of Abreu teaches every
6 limitation of claims 9 to 10, 12 to 18, 20, and 25
7 for the reasons set forth below. Correct?

8 A Yes.

9 Q And I have no idea how you to pronounce
10 Abreu, but I'm going to say Abreu.

11 So if we go down to paragraph 213 now, so
12 you're familiar with Abreu, right, Exhibit 1019?

13 A Yes.

14 Q And you've read Abreu, correct?

15 A I have. It's -- yeah, it's a big
16 reference. But yes, I have reviewed it.

17 Q Okay. So I'm looking at paragraph 213,
18 about 6 lines up from the bottom right after the
19 cite 9:44 to 57. Do you see the sentence that
20 starts "Abreu describes"?

21 A Yes.

22 Q Okay. There you state: Abreu describes

1 that the head-mounted device can be integrated
2 with a pressure sensor to measure pulse and can
3 provide monitoring of blood pressure.

4 Did I read that correctly?

5 A Yes.

6 Q Now, are you familiar with how Abreu
7 discloses measuring pulse or blood pressure?

8 MR. BLUMENKOPF: Objection. Form.

9 A Yeah, I'm not remembering specifically
10 right now, but I'd be happy to look at any
11 specific section.

12 (Exhibit Number 1019 for
13 identification.)

14 Q Okay. So let's pull up Abreu,
15 Exhibit 1019. And let's start at column 3.
16 Column 3, I want to start at line 20. So there,
17 Abreu says: The search for a better way to
18 measure biological parameters has resulted in a
19 long and careful research, which included the
20 discovery of a brain temperature tunnel, BTT, and
21 other physiologic tunnels in humans and animals.

22 Did I read that correctly?

1 A Yes, that is the language from Abreu,
2 yeah.

3 Q Okay. Now, if you look at line 25, just a
4 few lines below, it says: The present invention
5 was yet the first to recognize the end of the
6 tunnel on the skin surface in which an optimal
7 signal is acquired and measurements can be done
8 without the presence of interfering constituents
9 and background noise that exceeds the signal being
10 measured.

11 Did I read that correctly?

12 A Yes. There are lots of things in this
13 reference that I don't understand and didn't need
14 to rely on, but the key things I made use of.

15 Q Okay. Do you understand the legal
16 principle that a person of ordinary skill in the
17 art would consider a prior art reference for all
18 that it teaches?

19 MR. BLUMENKOPF: Objection. Form.

20 A Yeah, I'm not an expert on the legal
21 details of exactly what qualifies something as,
22 you know, for a person of skill in the art to

1 consider.

2 Q Okay. Take a look at column 3, now,
3 line 66.

4 A Okay.

5 Q There, Abreu says there are six
6 characteristics needed to define a brain
7 temperature tunnel, correct?

8 A Yeah. I see the line, yeah.

9 Q And then he provides those six
10 characteristics at the top of column 4.

11 Do you see that?

12 A Yes.

13 Q Okay. At line 16 of column 4, Abreu says:
14 All six characteristics are present on the skin on
15 the medial canthal area adjacent to the medial
16 corner of the eye above the medial canthal tendon
17 and in the medial third of the upper eyelid.

18 Did I read that correctly?

19 A Yes.

20 Q So Abreu's brain temperature tunnel at
21 which it recommends measurements is adjacent to
22 the middle corner of the eye and on the middle

1 third of the upper eyelid, correct?

2 MR. BLUMENKOPF: Objection. Form.

3 A That is what the language there says.

4 Q Okay. Now, let's go down to column 13
5 and line 26. And there, Abreu says: Pressure can
6 be applied to a blood vessel through a micro cuff
7 mounted in the medial canthal pads or
8 alternatively by the temples of eyeglasses.

9 Did I read that correctly?

10 A Yes.

11 Q Okay. If we go down to line 38, same
12 column, it says: Motion sensors and/or pressure
13 sensors can be mounted in the medial canthal pad
14 to measure pulse.

15 Did I read that correctly?

16 A Yes.

17 Q What is a medial canthal pad?

18 MR. BLUMENKOPF: Objection. Form.

19 A It's, you know, this part right here where
20 the glasses touch your nose.

21 Q Okay. Is it only where the glasses touch
22 your nose?

1 MR. BLUMENKOPF: Objection. Form.

2 A I'm not sure of the precise boundaries of
3 it, but that's the area.

4 Q Well, we just read it at column 4, lines
5 16 to 19 where it says: The medial canthal area
6 adjacent to the medial corner of the eye above the
7 medial canthal tendon and in the medial third of
8 the upper eyelid.

9 Do you recall that?

10 A Yes.

11 Q Okay. The medial canthal pad is intended
12 to cover that region, correct?

13 MR. BLUMENKOPF: Objection. Form.

14 A I believe it interfaces with that region,
15 yes.

16 Q Okay. Now, let's look at Griffin. Back
17 to Griffin. And let's look at Figures -- Figures
18 4 and 5.

19 A I request a bathroom break when we at
20 least finish this section.

21 Q Well, when we finish this section, we'll
22 be done, so ...

1 Okay. So you see Figures 4 and 5 in
2 Griffin? Those are the second communication
3 module 14, correct?

4 A Yeah, I believe those are -- yep, yeah.

5 Q Okay.

6 A Yeah.

7 Q So Griffin's second communication module
8 14 is simply an earpiece with a boom microphone,
9 correct?

10 MR. BLUMENKOPF: Objection. Form.

11 A Yeah, I mean, I don't know if I would
12 describe it that way. It's what's shown here in
13 the figure, Figure 4, and then all these pieces
14 are listed throughout the text.

15 Q Okay. You do not in your declaration
16 describe how the skilled artisan would add Abreu's
17 pressure sensor for measuring pulse and blood
18 pressure adjacent to the user's eye to Griffin's
19 second communication module 14, correct?

20 MR. BLUMENKOPF: Objection. Form.

21 A I mean, I wasn't discussing things at the
22 level of form factor. It was more you can take

1 this principle, sensing method, put it in this
2 other device.

3 It's not to say that I have to explain
4 specifically the form factor.

5 Q Okay. There's no part of the devices
6 shown in Griffin Figure 4 and 5, the second
7 communication module, that covers a user's medial
8 canthal area, correct?

9 MR. BLUMENKOPF: Objection. Form.

10 A These pieces shown in Figure 4 and 5 of
11 Griffin don't cover the medial canthal pad, but a
12 person skilled in the art would understand that
13 you can take a sensor from one part of the body,
14 move it somewhere else.

15 MR. WILSON: Okay. I don't have any
16 further questions.

17 MR. BLUMENKOPF: Can we take a 10-minute
18 break, Counsel?

19 MR. WILSON: Sure.

20 (A short break was taken.)

21 MR. BLUMENKOPF: Nothing on redirect,
22 Counsel.

1 MR. WILSON: Thank you very much. Thank
2 you, Dr. Smith.

3 THE WITNESS: Thank you.

4 (Witness excused, 5:35 p.m. Eastern.)

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C E R T I F I C A T E

2

I, RACHEL F. GARD, RPR, CCR, CRR, CSR No. 084-3324, No. 9315, No. 1010, a Certified Shorthand Reporter in and for the States of Illinois, Michigan, Nevada at large, do hereby certify that DR. JOSHUA R. SMITH, the deponent herein, was previously duly sworn to tell the truth, the whole truth, and nothing but the truth in the aforementioned matter;

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2 Witness Name: Joshua R. Smith

3 Deposition Date: 08/04/2026

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8 I do hereby acknowledge that I have read
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16 attached Errata Sheet, the same is a true,
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1 Errata Sheet

2 NAME OF CASE: Apple Inc. v Ingeniospec, LLC

3 DATE OF DEPOSITION: 08/04/2026

4 NAME OF WITNESS: Joshua R. Smith

5 Reason Codes: 1. To clarify the record.

6 2. To conform to the facts.

7 3. To correct transcription errors.

8 Page _____ Line _____ Reason _____

9 From _____ to _____

10 Page _____ Line _____ Reason _____

11 From _____ to _____

12 Page _____ Line _____ Reason _____

13 From _____ to _____

14 Page _____ Line _____ Reason _____

15 From _____ to _____

16 Page _____ Line _____ Reason _____

17 From _____ to _____

18 Page _____ Line _____ Reason _____

19 From _____ to _____

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21 _____

22 JOSHUA R. SMITH

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