

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

3D DIAGNOSTIX, INC.,

Petitioner,

vs.

Case No.

PGR2024-00040

WATSON GUIDE IP, LLC,

U.S. Patent No.

11,806,209

Patent Owner.

VIDEOCONFERENCE DEPOSITION OF
EXPERT WITNESS DOUGLAS ERICKSON, DDS, MS. FACP
TUESDAY, AUGUST 12, 2025
11:30 A.M.
DRIGGS, IDAHO

Job #7534589

REPORTED BY: CHRISTINA M. HOLLAND
CSR No. 8193

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Videoconference deposition of EXPERT WITNESS
DOUGLAS ERICKSON, DDS, MS. FACP, taken on behalf of
Patent Owner, at Driggs, Idaho, commencing at
11:30 a.m., Tuesday, August 12, 2025, before Christina
M. Holland, CSR No. 8193.

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ERICKSON, DDS, MS. FACP

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E X H I B I T S
(PREVIOUSLY MARKED
AND ATTACHED HERETO)

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WITNESS INSTRUCTED NOT TO ANSWER

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1 DRIGGS, IDAHO;

2 TUESDAY, AUGUST 12, 2025, 11:30 A.M.

3
4
5 THE REPORTER: My name is Christina M.
6 Holland. I am a California State certified shorthand
7 reporter. My License Number is 8193.

8
9 EXPERT WITNESS DOUGLAS ERICKSON, DDS, MS. FACP,
10 having been first duly sworn, was examined and testified
11 follows:

12
13 EXAMINATION

14
15 BY MR. KARISH:

16 Q. Good afternoon, Dr. Erickson.

17 Can you please do me a favor and state your full
18 name and spell it for the record?

19 A. Yeah. It's Douglas Milton Erickson.
20 D-o-u-g-l-a-s, M-i-l-t-o-n, E-r-i-c-k-s-o-n.

21 Q. And can you also please provide your home address
22 for the record?

23 A. 1983 Oakpointe Drive -- Oakpointe is one word
24 with an "e" at the end -- Waconia, W-a-c-o-n-a [sic]
25 Minnesota. That's our -- we live in two different

1 places. That's where I get all of my -- that's where
2 all the mail goes to.

3 Q. That's great. Thank you.

4 Just a little background. I represent Watson
5 Guide IP, LLC, the patent owner in connection with the
6 post-grant review proceeding in the patent office
7 between 3D Diagnostix, Inc., and Watson Guide LP, LLC.
8 This proceeding involves U.S. Patent Number 11806209.

9 And just for the sake of brevity, is it okay with
10 you if we just refer to that as the 209 patent? Will
11 you know what I'm talking about?

12 A. I do.

13 Q. I'm sorry, did you respond with a "yes"?

14 A. I will, yes. Yes.

15 Q. Thank you.

16 A. Excuse me, Mark. Is there a delay in the sound
17 here?

18 Q. There is a delay, but once you start coming
19 through, you're coming through, so I'll try to pause and
20 we'll try to take it a little slower. In fact, let's go
21 through some of the preliminary stuff.

22 I saw in your CV that you've been
23 in (inaudible) -- before.

24 Have you been deposed before?

25 A. Say that again. I couldn't hear the last part

1 here.

2 MR. KARISH: Tina, am I coming through?

3 THE REPORTER: No, all of a sudden you're
4 extremely fuzzy.

5 MR. KARISH: Off the record.

6 (Discussion off the record)

7 MR. KARISH: Back on the record.

8 Q. Let me just re-ask.

9 Dr. Erickson, have you ever been deposed before?

10 A. Yes.

11 Q. So I'm not going to go through a lot of the
12 preliminary stuff, then, if you've been through this
13 before.

14 Are you represented by counsel here today?

15 A. Yes, I am.

16 Q. And who is that?

17 A. Aaron Feigelson.

18 Q. And have you had a chance to discuss the
19 proceedings today with Mr. Feigelson?

20 A. Yes.

21 Q. And what did you -- when did you talk to
22 Mr. Feigelson about this deposition?

23 A. In regards to what? I mean, we've been talking
24 about writing the declaration and there would be a
25 deposition after that, and we've had conversations since

1 that time.

2 Is there anything specific that you want me to
3 report back?

4 Q. Well, how much time did you spend preparing for
5 this deposition specifically with Mr. Feigelson?

6 A. We spent a few hours yesterday, maybe an hour
7 Sunday morning. That's about it.

8 Q. Is there anything in particular that you
9 discussed?

10 MR. FEIGELSON: Objection. Calls for work
11 product.

12 I'm going to instruct the witness not to
13 answer.

14 Do you want to rephrase your question,
15 Counsel?

16 MR. KARISH: I don't.

17 You're contending that your privilege covers
18 your discussions with your expert?

19 MR. FEIGELSON: It was a very open-ended
20 question, Counsel.

21 MR. KARISH: Mr. Feigelson, are you saying
22 you're not going to allow your expert to testify as to
23 the subject of any conversations he had with you?

24 MR. FEIGELSON: That's not what I'm saying.
25 I'm objecting to your question. If you want to rephrase

1 your question.

2 MR. KARISH: Can you read the question,
3 back, please?

4 (Record read)

5 MR. KARISH: Thank you. I'll re-ask it.

6 Q. Are there any particular documents you discussed
7 with Mr. Feigelson to prepare for this deposition?

8 A. Yes.

9 Q. Can you tell me what they were, please?

10 A. Yep, yes. We've got -- actually, there are a
11 number of attachments that I got from Mr. Feigelson in
12 regard to preparing for this.

13 One would be my declaration, my most recent
14 declaration, my past declaration. I have a copy of the
15 209 patent, this is not the complete list. But then I
16 also have my original -- original declaration, the
17 current declaration, and then the 209, then numerous
18 other attachments that are referred to within the --
19 within my most recent declaration.

20 Q. Were there any documents you reviewed from
21 Mr. Feigelson that were not listed in your declarations,
22 other than the declarations themselves?

23 A. I don't believe so.

24 Q. Let me get back to a couple preliminaries.

25 If you need a break at any point, Dr. Erickson,

1 please let me know. I'm certainly happy to go off the
2 record, as long as there's not a question pending.
3 Like, just let's finish the question and then, of
4 course, you're welcome to take a break.

5 If you don't understand a question, please ask me
6 to rephrase it. If you answer the question, I'm going
7 to assume that you understood it.

8 Does that seem fair?

9 A. It does.

10 Q. Are you taking any medications that would
11 interfere with your ability to testify today?

12 A. No.

13 Q. Is there any other reason that you can't give
14 your best testimony today?

15 A. No.

16 Q. Other than the conversations with Mr. Feigelson
17 that we previously discussed, did you do anything else
18 to prepare for this deposition?

19 A. I reread my declarations, making sure that I had
20 remembered what they were. The first declaration was
21 done some time ago, so I just kind of glanced over that,
22 but mostly spent the time just reading the most current
23 declaration, knowing that the questions you're going to
24 be asking are going to be specific to that.

25 Q. And did you speak with anyone, other than

1 Mr. Feigelson, in preparation for this deposition?

2 A. No.

3 Q. Did you review any documents for this deposition,
4 other than your declarations and any of the documents
5 that were listed in those declarations?

6 A. No.

7 MR. KARISH: Thank you.

8 Let me introduce a document really quick.
9 This was a previously -- hopefully you can see it. It's
10 your CV. It was previously submitted to the patent
11 office by Mr. Feigelson as Exhibit 1004.

12 (Whereupon Patent Owner's Exhibit Number 1004
13 was previously marked for identification by
14 the Court Reporter and is attached hereto)

15 BY MR. KARISH:

16 Q. Can you see it on your screen?

17 A. No.

18 MR. KARISH: Off the record.

19 (Discussion off the record)

20 MR. KARISH: Back on the record.

21 Q. So I'm showing you what's been previously marked
22 as Exhibit 1004. It is -- I represent to you it's
23 entitled "Curriculum Vitae, Dr. Douglas M. Erickson.

24 Do you see that?

25 A. Yes.

1 Q. Did you write this document, Dr. Erickson?

2 A. Yes.

3 Q. Is there anything on this CV that you believe is
4 inaccurate or incomplete?

5 A. I don't believe so.

6 MR. KARISH: So we're done with that one.
7 Off the record.

8 (Discussion off the record)

9 MR. KARISH: Back on the record.

10 So I am now introducing -- and I'm not sure
11 how it will pop up on your screen exactly -- but your
12 Exhibit 1003, it's been previously marked. It's your
13 original declaration.

14 (Whereupon Patent Owner's Exhibit Number 1003
15 was previously marked for identification by
16 the Court Reporter and is attached hereto)

17 BY MR. KARISH:

18 Q. Do you see that, Dr. Erickson?

19 A. Yes. I don't see it on the exhibit -- marked
20 exhibits, but I have it in front of me.

21 MR. KARISH: Do you see it, Aaron?

22 MR. FEIGELSON: I do not.

23 MR. KARISH: Of course not. I see it on my
24 screen. It says "Exhibit viewer submission error."
25 We're just going to keep going with the tech problems.

1 Q. Do you have a copy of Exhibit 1003 in front of
2 you, Dr. Erickson?

3 A. I do.

4 Q. I'm not marching through much of it, so I don't
5 think this is a critical issue. I just wanted to you
6 open it so I can ask you a few questions about your
7 background.

8 Have you seen Exhibit 1003 before?

9 A. Yes.

10 Q. And what is it?

11 A. It's my declaration for --

12 Q. Did you -- go ahead, I'm sorry.

13 A. It was my first declaration.

14 Q. And did you write it?

15 A. Yes. With help from Mr. Feigelson to take care
16 of all the legalese that's necessary putting this all
17 together.

18 MR. KARISH: Can we go off the record for
19 just one more second?

20 (Discussion off the record)

21 MR. KARISH: Back on the record.

22 Q. Turning to paragraph 8 of your -- of
23 Exhibit 1003, you list membership in several --
24 actually, strike that. Let me back up slightly.

25 So in paragraph 3 it says "In 1981, I obtained a

1 Doctor of Dental Surgery degree from the University of
2 Minnesota School of Dentistry."

3 Do you see that?

4 A. Yes.

5 Q. And then in paragraph 4, it says "In 1982, I
6 obtained a certificate for general practice after
7 attending the General Practice Residency Program at the
8 Denver General Hospital."

9 Do you see that?

10 A. Yes.

11 Q. And then the next sentence says, "In 1995, I
12 obtained a Master of Science degree in prosthodontics
13 after receiving graduate-level training through the
14 United States Air Force prosthodontic training program
15 at Wilford Hall Medical Center in the University of
16 Texas Health Sciences Medical Center at San Antonio
17 Texas."

18 Do you see that?

19 A. Yes.

20 Q. And do you have any other dental-related degrees?

21 A. Well, the masters was part of that whole set up,
22 and that's in my CV, dealing with something called bone
23 morphogenetic protein, bone growth chemical.

24 Q. Do you have any training in oral and
25 maxillofacial surgery?

1 A. Yes.

2 Q. And what is that?

3 A. During my first residency at Denver General, we
4 had many months of doing mostly extractions with the
5 oral surgeons that led our program. I had experience
6 doing anesthesia in operating rooms where we would
7 intubate and extubate patients. Those were -- it was
8 very much oral-surgery related.

9 The other experiences I had came from the
10 graduate prosthodontic training program. Ours was a
11 little bit unusual in that most programs don't cover
12 many of the advanced procedures and treatment planning
13 that we did. So in that particular realm, we did a fair
14 amount of oral surgery as well.

15 And then I've had individual CE courses over the
16 years to learn how to do different types of oral
17 surgery.

18 Q. Do you have any certifications in oral and
19 maxillofacial surgery?

20 A. No. I'm not an oral maxillofacial surgeon.

21 Q. So have you ever been a member of any oral and
22 maxillofacial surgeon group?

23 A. Yes. But it's as an associate member at
24 different AAOMS meetings.

25 Q. AAOMS being the American Association of Oral and

1 Maxillofacial Surgeons?

2 A. That is correct.

3 Q. Have you ever had any affiliation with the
4 American Board of Oral and Maxillofacial Surgery?

5 A. No.

6 Q. So returning back to Exhibit 1003. If you could
7 please take a look at paragraph 8.

8 In paragraph 8 it says, "I am" -- "I am also an
9 active member" -- and you list several things. And one
10 of them is the International Academy of Gnathology,
11 G-n-a-t-h-o-l-o-g-y.

12 Do you see that?

13 A. Yes. That's gnathology.

14 Q. Can you tell me what that organization does?

15 A. It's a continuing education series. It's a
16 membership to a group of doctors of like-minded concepts
17 in regard to how to develop occlusion for larger
18 reconstructions in people's mouths.

19 Q. And I also see in that paragraph that you appear
20 to be a member of the Minnesota Academy of Gnathologic
21 Research.

22 Do you see that?

23 A. Yes.

24 Q. And does that basically do the same thing as the
25 International Academy of Gnathology?

1 A. Similar. Different priorities for both. But
2 gnathology is the science of the bite. So when you see
3 the word gnathology, that's talking more about the
4 restorative aspects of dentistry, which helps a great
5 deal when it comes to doing larger implant restorations.
6 There's a great deal more detail that we are aware of
7 than many others are when it comes to planning the full
8 mouth reconstructions with implants or with just natural
9 teeth.

10 Q. Is the subapical osteotomy, does that fall within
11 gnathologic research?

12 A. No. But it's a procedure that I've assisted in
13 many times throughout my career.

14 When I was in the Air Force for 10 years, we
15 would be the surgeon's first assistant. And so I
16 assisted in a number of subapical osteotomies of various
17 types.

18 Q. Have you ever used a GuidedSMILE product?

19 A. No.

20 Q. Have you ever used a 3D Diagnostix product?

21 A. No.

22 Although you have -- my background is such that I
23 also helped develop those original technologies that
24 allowed for those surgical guides to be made back in the
25 mid 1990s. We were, at that time, the people that first

1 brought it to the United States. There was a period of
2 about three years when these guides were not even
3 invented yet, where I was the only doctor in the
4 United States for about three years that was actually
5 using the guided surgery techniques that are now
6 ubiquitous. So I go back and a lot of the stuff that we
7 did was on the bleeding cutting edge at that time, are
8 incorporated into both GuidedSMILE and into the
9 3D Diagnostix family.

10 Q. Just to expand on that.

11 Is there any particular feature that you think
12 you worked on in the mid 1990s that's incorporated in
13 the 209 patent?

14 A. Well, the basic foundation of 209 is based on the
15 work that we did early on. I mean, they came from -- we
16 first -- again, I was one of the very first in the
17 United States to be using these technologies and
18 developing them with a company called Materialise.
19 Materialise was bought out by a company called Simplant.
20 Simplant was the first company that actually -- where
21 you could actually take the planning on the computer
22 using the CT data and planning on the computer, and
23 physically make a very accurate model on a
24 stereotactic machine on implant placement was quite a
25 bit more accurate than if we were just free forming it

1 or using some of the handmade surgical guides in the
2 past where you had to kind of guess if the hole that
3 you're making in the guide actually represented what you
4 saw in the plan. So the basis of 209 and most of the
5 technology after that came from that basic work that we
6 did with the Materialise Simplant, and especially with
7 10 years in the Air Force. We were the only company --
8 the only medical center in the world at that time that
9 had an actual stereotactic machine to produce these
10 guides. I was the project manager for that. I'm the
11 one that put the lab in. I'm the one that developed the
12 techniques and brought all those technologies together
13 with the folks in Belgium and Materialise to develop
14 these concepts and now everybody considers for all the
15 larger cases.

16 Q. And these guides that you were working on, were
17 they stackable guides or sequential guides?

18 A. All. I mean, we were doing all sorts of stuff.
19 We had reduction guides, we had surgical guides that fit
20 on just bone, which is the way it started at the very
21 beginning in the early 1990s. We had -- we did use some
22 stacked guides, we developed some stacked guides on our
23 own back then just to try and find ways around some of
24 these initial problems we developed as the technologies
25 were coming along. But I did not use the guides -- the

1 guided small guides.

2 Q. Let me switch gears and see if I can actually
3 share a document here. This will be your supplemental
4 declaration. We'll see if we can get this one to work.

5 THE REPORTER: Doctor, remember with the
6 longer answers, please remember to slow down.

7 (Whereupon Patent Owner's Exhibit Number 1050
8 was previously marked for identification by
9 the Court Reporter and is attached hereto)

10 BY MR. KARISH:

11 Q. So I've now introduced what's been previously
12 marked as Exhibit 1050. Hopefully you can see it on
13 your screen. The title is "Supplemental Declaration of
14 Douglas Erickson, DDS, MS, in Support of Petitioner's
15 Reply Brief."

16 Do you see that, Dr. Erickson?

17 A. I do.

18 Q. Have you seen this document before?

19 A. Well, I helped write it, and I've reviewed it
20 many, many times, yes.

21 Q. So let me turn to paragraph 6 of Exhibit 1050.

22 In that -- sorry.

23 A. I'm going by paper copy. It's fine to see, but
24 it's easier to read on paper.

25 Q. Great. That's fine with me, obviously.

1 In paragraph 6 it says "I may also consider
2 adding additional documents and information in forming
3 any necessary opinions -- including documents I may not
4 yet have reviewed and documents that have not yet been
5 provided to me."

6 Do you see that?

7 A. I do.

8 Q. Since you signed Exhibit 150 -- sorry 1050, have
9 you considered any additional documents or information?

10 A. I have not.

11 Q. It's going to be a little repetitive, I'm sorry.
12 I'm just making sure.

13 Since you signed Exhibit 1050, have you reviewed
14 any additional documents or information?

15 A. Again, the information I have that
16 Dr. Feigelson -- you're now a doctor, by the way, Aaron.

17 MR. KARISH: I think he is.

18 MR. FEIGELSON: I have a Ph.D.

19 THE WITNESS: That's right. That's right.

20 The information I reviewed were the exhibits
21 that Aaron had supplied to me, and anything that's
22 quoted within or referred to within the 1050 document.

23 BY MR. KARISH:

24 Q. Since you signed Exhibit 1050, have any
25 additional documents been provided to you for this case?

1 A. Not that I had not been previously exposed to
2 when we were originally working with writing this
3 declaration.

4 Q. So turning to paragraph 7 of Exhibit 1050. It
5 states in that paragraph "My analysis of the materiality
6 relating to this proceeding is ongoing, and I will
7 continue to review any new material as it is provided. "

8 And then let me just clarify. Have you reviewed
9 any new material since you signed Exhibit 1050?

10 A. No. But as a codicil to that, I have seen a page
11 for GuidedSMILE, the web page for GuidedSMILE, so I'm
12 aware of those materials. That's probably -- I'm kind
13 of backtracking a little bit. That's maybe some of
14 those materials that we have looked at since the writing
15 of 50 -- 1050.

16 Q. Looking at paragraph 7. In the last sentence of
17 it, it states "I reserve the right to revise,
18 supplement, and/or amend my opinions based on new
19 information and on my continuing analysis of the
20 materials referred to herein and in my earlier
21 declaration."

22 Do you see that?

23 A. I do.

24 Q. So since you signed Exhibit 1050, have you
25 revised any of your opinions based on new information?

1 A. No.

2 Q. And since you signed Exhibit 1050, have you
3 revised any of your opinions based on your continuing
4 analysis of the material referred to in Exhibit 1050 and
5 in your earlier declaration Exhibit 1003?

6 A. No.

7 Q. Do you have any changes to any of the opinions
8 you provided in your original declaration or your
9 supplemental declaration?

10 A. No.

11 Q. Do you have any additional opinions beyond those
12 provided in your original declaration or your
13 supplemental declaration?

14 A. No.

15 Q. Thank you.

16 So turning to paragraph 10 of your declaration
17 you state, "For example, Henry Schein" -- S-c-h-e-i-n --
18 "a well-known reseller of dental and medical equipment,
19 lists 59 different items in its online catalog with the
20 keyword 'mouthpiece,' Exhibit 138."

21 Do you see that?

22 A. Yes. Exhibit 1038, yes.

23 MR. KARISH: Yes. Thank you.

24 So I'm going to try to introduce
25 Exhibit 1038. This is excitingly uncertain.

1 (Whereupon Patent Owner's Exhibit Number 1038
2 was previously marked for identification by
3 the Court Reporter and is attached hereto)

4 THE WITNESS: Those are going to be very
5 small photos in 1038. When it comes up, maybe you want
6 to expand it or magnify it some.

7 BY MR. KARISH:

8 Q. So I introduced it. It looks like it works.
9 Hopefully you can access it, and you should be able to
10 zoom and scroll.

11 A. Very good. Yes.

12 Q. So have you seen Exhibit 1038 before,
13 Dr. Erickson?

14 A. Yes.

15 Q. Did you download this document, or was it
16 provided to you?

17 MR. FEIGELSON: Objection --

18 THE WITNESS: I saw the document and found
19 the document and let Mr. Feigelson know that it existed.
20 He downloaded it from there, and it showed up as an
21 exhibit here.

22 THE REPORTER: I missed the objection.

23 MR. FEIGELSON: Objection to form.

24 ///

25 BY MR. KARISH:

1 Q. So looking at Exhibit 1038. If you scroll
2 through it, it appears that 6 of those 29 products are
3 Isolite posterior mouthpieces of different sizes.

4 Do you see them in there?

5 A. Yes.

6 Q. Have you used those products before?

7 A. At one time I did, some of them. Variations on
8 that, yes.

9 Q. And paragraph 10 of your supplemental
10 declaration, Exhibit 1050 -- let me clarify.

11 You stated "None of the Henry Schein items appear
12 to be worn over the teeth of a patient."

13 Do you see that?

14 A. Yes.

15 Q. So is it your position that those Isolite
16 posterior mouthpieces are not worn over the teeth of a
17 patient?

18 A. Yes.

19 Q. And looking at Exhibit 1038 on page 3, two of the
20 products are GLO Science Pro Power+ autoclavable
21 mouthpieces.

22 Do you see that?

23 A. I do.

24 Q. Have you used those before?

25 A. No.

1 Q. Is it your position that the -- that those
2 mouthpieces are not worn over the teeth of a patient?

3 MR. FEIGELSON: Objection. Misstates the
4 witness's testimony.

5 You can answer.

6 THE WITNESS: I can answer?

7 MR. FEIGELSON: You can answer.

8 THE WITNESS: Again, repeat the question,
9 Mark.

10 MR. KARISH: Can you please read it back?

11 (Record read)

12 THE WITNESS: Not having used that
13 particular mouthpiece, I can't be 100 percent sure that
14 it was not. I'm not -- until I would see how it's used,
15 I can't give an answer to that, one way or the other.

16 BY MR. KARISH:

17 Q. But in paragraph 10 of your supplemental
18 declaration, Exhibit 1050, you stated "None of these
19 items appear to be worn over the teeth of a patient," is
20 that correct?

21 A. Yes.

22 Q. So do you still believe that statement to be
23 correct?

24 A. As I've mentioned, I have not used that device.
25 I can't believe 100 percent sure one way or the another.

1 The object of this whole idea in the Henry Schein
2 catalog is to show that there are many types of
3 mouthpieces on the market. And this one, if it is or is
4 not, that's fine. The suctions generally do not. There
5 may be one that somebody's invented where there are some
6 tooth indentations on those suction devices, but not
7 having seen all these and used all these, I can't answer
8 that.

9 The main point of this whole thing is that
10 mouthpiece is a very, very generic term that applies to
11 many, many different products out there. Mouthpiece is
12 not a defined, the way 209 mentions it, is not -- it is
13 not that narrowly defined, mouthpiece, the word
14 mouthpiece.

15 Q. To be clear, so you don't know if the GLO Science
16 Pro Power+ autoclavable mouthpieces are worn over the
17 teeth of a patient, is that correct?

18 A. I already answered that, and I said I don't know
19 100 percent, one way or the other. It's the third time
20 I've answered that question.

21 Q. So looking at page 5 to 7 in Exhibit 1038, seven
22 of those products are "Dry shield disposable
23 mouthpieces."

24 Do you see those?

25 A. I do.

1 Q. And have you used those products before?

2 A. Some of those, I have.

3 Q. Is it your position that those mouthpieces are
4 not worn over the teeth of a patient?

5 A. Without actually -- every one of those boxes -- I
6 can't see the shape and the design of those within the
7 box. I have used some of these. But the same
8 manufacturer can make several different versions of it.
9 I can't say if that particular manufacturer has
10 something that goes over the teeth or not. This is --
11 really the idea is to show that mouthpieces are used as
12 a generic term throughout dentistry.

13 Q. So let me draw your attention back to your
14 supplemental declaration, Exhibit 1050.

15 Please turn to Paragraph 11.

16 Looking at Paragraph 11 at the end, you
17 say "Dr. Elo also does not cite any dental or medical
18 dictionaries."

19 Do you see that?

20 A. I do.

21 Q. Did you cite any medical or dental dictionaries
22 for the definition of the term "mouthpiece"?

23 A. No. Well, actually, I did look, and there was no
24 such thing as a definition for mouthpiece that I found
25 in either one of those types of dictionaries.

1 Q. Turning to paragraph 12 of Exhibit 1050. You
2 state "Dr. Elo also does not cite the file history of
3 the 209 patent, including U.S. Provisional Patent
4 Application Number 62/508, 377, which includes different
5 types of 'mouthpieces,' including one that is
6 a 'tooth-borne guide' that goes over the teeth and one
7 that is a 'tissue-borne guide' or a 'dental clone' that
8 is used with edentulous patients."

9 Do you see that?

10 A. Yes, I do.

11 Q. Then it appears that you cite to Exhibit 1005, 4,
12 6, 22, 24, 28.

13 Do you see that?

14 A. I do.

15 MR. KARISH: So now let me try to introduce
16 Exhibit 1005 so that we can talk about it. It seems to
17 have worked.

18 (Whereupon Patent Owner's Exhibit Number 1005
19 was previously marked for identification by
20 the Court Reporter and is attached hereto)

21 BY MR. KARISH:

22 Q. Can you please see if you can see it,
23 Dr. Erickson?

24 A. I'm bringing it up now.

25 I see it.

1 Q. Have you seen Exhibit 1005 before, Dr. Erickson?

2 A. Yes.

3 Q. And what is your understanding of what
4 Exhibit 1005 is?

5 A. My understanding it was the original patent. I
6 don't know the phrase for it, this part of the file
7 history. It was the original application for this
8 particular surgical guide that ended up being, in the
9 end, Patent 209.

10 Q. So is it your opinion that U.S. Provisional
11 Patent Application Number 62508377, includes different
12 types of mouthpieces?

13 A. Yes.

14 Q. And is it your opinion that one of those types of
15 mouthpieces is a tooth-borne guide?

16 A. Yes.

17 Q. And is it your opinion that one of those types of
18 mouthpieces is a, quote, "denture clone," end quote,
19 that is used with edentulous patient?

20 A. Yes. Mouthpieces were used in both
21 circumstances.

22 Q. So turning to page 22 of Exhibit 105, please.
23 The page numbers are in the bottom right in a little
24 footer.

25 A. I see them. Okay, page 22.

1 Q. And there is a line on that page that says,
2 quote, "This invention uses the patient's existing teeth
3 (partially edentulous) or denture teeth for a fully
4 edentulous to set the fixation base."

5 Do you see that?

6 A. Yes.

7 Q. That language about denture teeth for a fully
8 edentulous patient is not found in the 209 patent,
9 though, is it?

10 MR. FEIGELSON: Objection to the --
11 objection to the form.

12 THE WITNESS: No.

13 BY MR. KARISH:

14 Q. Is there any mention in the 209 patent of
15 edentulous patient?

16 A. No.

17 Q. Is there any mention of dentures in the 209
18 patent?

19 A. No.

20 However, the fact that in the patent 209 states
21 that both 377 should be considered in its full -- as
22 it's fully read into the 209 patent. So even though
23 those are not mentioned within 209, by this -- it says
24 here "This is" -- at the very top of page -- this is
25 Exhibit 1001, page 22 of 27 at the very top. "This is a

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1 continuing application of application Serial Number
2 15/984309, which has filing date of May 18th, 2018, and
3 claims priority to application Serial Number 62/508377,
4 filed on May 18th, 2017. The contents of both
5 applications are incorporated wherein by this
6 reference."

7 And nowhere in application -- patent 209 does it
8 say that these are not -- these edentulous cases are not
9 included in the overall scheme of these patents.

10 MR. KARISH: So just to make the record
11 clearer, because Dr. Erickson was reading off of an
12 exhibit I haven't yet introduced, let me introduce that
13 Exhibit 1001 into the record just so we have it as part
14 of this.

15 MR. FEIGELSON: So you were just asking him
16 questions about an exhibit that hasn't been introduced?

17 MR. KARISH: Well, I didn't ask him
18 specifically about the exhibit. I asked him about the
19 patent that was the subject of his declarations.

20 But regardless, now I've tried -- hopefully
21 you guys can see it -- to introduce Exhibit 1001.

22 (Whereupon Patent Owner's Exhibit Number 1001
23 was previously marked for identification by
24 the Court Reporter and is attached hereto)

25 BY MR. KARISH:

1 Q. Do you see that document, Dr. Erickson?

2 A. Let me go back and look for it.

3 Q. It should be in that folder of exhibits.

4 A. Right. I have it here. It's probably in it's
5 paper form. Oh, yes.

6 Q. And can you just please confirm that the
7 Exhibit 1001 that I've introduced is the exhibit that
8 you were just reading the text from?

9 A. Yes.

10 MR. KARISH: Thank you.

11 So returning to my -- I'm sorry, Tina, can
12 you please read back my last question to him before he
13 read the big page?

14 (Record read)

15 MR. KARISH: Thank you.

16 Q. Is there any mention of the phrase "denture
17 clone" in the 209 patent?

18 A. No.

19 Q. So turning back to Exhibit 1005, page 24.

20 A. Let me go back to that 1004, my CV.

21 Q. So 1005, paragraph 24. Sorry if I misspoke.

22 A. Where do you want me to go now?

23 Q. Page 24 of Exhibit 1005.

24 A. Okay, page 24.

25 Q. About halfway down the page, there's a line that

1 says, quote, "Figure 2 illustrates the tooth-borne or
2 denture clone guide detached from the fixation base."

3 Do you see that?

4 A. I do.

5 Q. Is that language in the 209 patent?

6 A. No.

7 Q. So, I'm sorry to keep jumping around, given the
8 way that we have to do this. But if you could please
9 look back at paragraph 12 of Exhibit 1050, your
10 supplemental declaration, I'd appreciate it.

11 A. I'm there. I've got the paper copy.

12 Q. So looking at that paragraph, you have reproduced
13 there Figure 2B from Exhibit 1005, is that correct?

14 A. Yes.

15 Q. And is Figure 2B in the 209 patent document
16 itself?

17 A. No.

18 Q. So turning to page 28 now of Exhibit 1005, the
19 provisional. Let me know when you're there.

20 A. I'm there.

21 Q. So there is a line that says "A. (Derived from
22 either tooth or tissue model space) (denture clone) for
23 a tooth/tissue-borne surgical guide to fit on to a
24 patient's oral-dental anatomy."

25 Do you see that?

1 A. I do.

2 Q. But that language about the tissue model is not
3 in the 209 patent, correct?

4 A. That is correct.

5 Q. So do you think that the denture clone version
6 from the provisional application was intentionally
7 omitted from the 209 application?

8 MR. FEIGELSON: Objection. Calls for
9 speculation, calls for a legal conclusion.

10 THE WITNESS: Do you want to rephrase that,
11 or do you want me to answer it the way --

12 MR. FEIGELSON: You can answer.

13 BY MR. KARISH:

14 Q. If you understand it, you can answer it.

15 A. Go ahead and ask the question again, please.

16 MR. KARISH: Can you please just read it
17 back?

18 And you can restate your objection, Aaron.

19 (Record read)

20 MR. FEIGELSON: Same objections.

21 THE WITNESS: And the answer to that is no,
22 because as stated in the 209 patent, that section I
23 wrote -- or read to you states that "Both applications
24 are incorporated herein by this reference." And nowhere
25 in 209 does it say that those particular types of

1 mouthpieces are not allowed or they don't want that to
2 be in there in 209.

3 So basically you have 209, and my
4 understanding of the law when you read that particular
5 section in the 209 patent I just wrote -- read back to
6 you, even though it's not written specifically in the
7 209 patent, all that belongs to the 209 patent under the
8 209 patent, unless there's a section in there that says
9 "We specifically do not want this to be in the 209
10 patent." That's the layman's term, that's the closest
11 way of looking at that. But reading this, I have to
12 believe that even though it's not written in 209, I
13 cannot ignore the fact that it's already in the
14 provisional app, and I have to take that into
15 consideration as well.

16 BY MR. KARISH:

17 Q. Do you think the focus of the 209 patent is,
18 itself, the document is different than the provisional
19 application?

20 A. No.

21 MR. FEIGELSON: Objection. Calls for
22 speculation.

23 THE WITNESS: No. I mean, they're
24 incorporated together. You know the law better than I,
25 but when I read that, it seems to me that both of

1 those -- both documents are combined under one, kind of,
2 tent from which then the patent is evaluated. I mean, I
3 don't know how else I can say it. There's no other way
4 to read that in my mind. Maybe there's some way that
5 you guys can separate them, but I have to go by what I'm
6 reading.

7 BY MR. KARISH:

8 Q. Thank you.

9 Let me return to your supplemental declaration
10 Exhibit 1050. If you can please take a look at
11 paragraph 13.

12 Also, Dr. Erickson, it's been almost an hour. If
13 you want to take a break, let me know.

14 A. I'm fine a little bit longer. Maybe a little
15 later.

16 Q. I don't think it's going to be that long.

17 Turning to paragraph 13 of Exhibit 1050. It
18 says "Accordingly, it is my opinion in a POSA would not
19 agree with patent owners proposed construction of,
20 'mouthpiece,' rather, a POSA might consider any dental
21 device placed in the mouth to be a, quote,
22 'mouthpiece.'"

23 Do you see that?

24 A. I do.

25 Q. So you said a POSA might consider, so I just --

1 I'm going to ask you about a couple of things and see if
2 you consider them a mouthpiece.

3 So is a toothpick a mouthpiece?

4 A. Again, I guess -- most of the time -- you're
5 talking about me as a civilian or me as a POSA?

6 Q. I'm asking you as -- sorry, I didn't mean to cut
7 you off.

8 A. So if you're looking at it from the dental side
9 of things, which I assume we're doing it, most anything
10 that's placed in the mouth, a stent, a suction device, a
11 GuidedSMILE device, can all be considered mouthpieces.
12 A toothpick? If -- yeah, actually, you know, if you
13 were to use a toothpick as a way to clean food from
14 between your teeth, then that would be like taking a
15 toothbrush that has the little rubber thing on the end
16 of the toothbrush from cleaning food from between your
17 teeth; therefore, it would be a mouthpiece. It could be
18 considered, I suppose in a weird way, a mouthpiece.

19 Q. Would you say a toothbrush is also a mouthpiece?

20 A. Anything that can be introduced into the mouth.
21 That's not normally -- when I hear mouthpiece, I don't
22 think of toothpick and toothbrush. But, again, it's
23 such a generic term. You're asking me to draw some
24 limits on that term, and I don't know that I can because
25 it's such a broad term. I don't know that toothpick and

1 toothbrush would not be within those limits.

2 Q. Have you ever heard anyone refer to a toothpick
3 as a mouthpiece?

4 A. No, I don't believe I have. I don't know,
5 though. I mean, you're -- I don't -- it's possible that
6 I have, but I doubt it. I don't know.

7 Q. Have you ever heard anyone refer to a toothbrush
8 as a mouthpiece?

9 A. Probably not.

10 Q. Is a tooth crown a mouthpiece?

11 A. The device for placing the crown would be. It
12 could possibly be a mouthpiece. I haven't heard it
13 referred to that way.

14 But, again, if you're looking -- my contention is
15 that anything that can be introduced into the mouth in
16 the terms of a dental world could be considered a
17 mouthpiece. Whether it be, like, one of your surgical
18 guides from GuidedSMILE, whether it be the duplicate
19 denture that is used in these guides, both in
20 GuidedSMILE and in other types of, you know, guided
21 manufactured devices. It could be a suction piece, it
22 could be -- you know, it's such a generic term. I don't
23 know where you draw the line.

24 You know, the thing is that you could probably
25 find somebody out there that's going to say a toothpick

1 is a mouthpiece, but it would be -- unless it's actually
2 something you're actually using in the mouth, I'm
3 thinking it's maybe a device that you're using in the
4 mouth for some purpose for the most part. That would be
5 the predominantly -- that would be the prominent way
6 that I would look at it, but I can't say that those
7 other items might not be considered by somebody to be a
8 mouthpiece.

9 Q. So you consider them to be mouthpieces? That's
10 what I'm trying --

11 A. I did not -- I did not -- I did not say that.
12 I'm trying to imagine ways that you could say that those
13 would be mouthpieces.

14 What I'm contending here is that devices like
15 we're talking about here both for a duplicate denture or
16 a pin guide that sits on natural teeth, whether it be a
17 suction device cleaner to isolate the area so you can
18 do the surgery without nicking the tongue and the
19 cheek, anything of those things could be -- in my world,
20 those would be more what I would consider mouthpieces.

21 Q. Let me back up and get clarity again. I'm sorry.

22 Do you or do you not consider a toothpick to be a
23 mouthpiece?

24 A. You know, in the mainstream, probably not.
25 Mainstream of dental thought, I would probably say not.

1 Q. Okay.

2 And how about a toothbrush?

3 A. I've never heard of anybody referring to a
4 toothbrush as a mouthpiece, as I stated earlier.

5 Q. And how about a crown placed on a tooth, is that
6 a mouthpiece?

7 A. Usually they use more precise terms like crown.
8 There would be no reason to call it a mouthpiece. A
9 crown is a more specific term. You couldn't go in and
10 say "I'm going to have a mouthpiece placed today by my
11 dentist." I'd have to say "I'm going to go and have a
12 crown placed by my dentist."

13 Q. Let me switch gears a little bit.

14 If I could please get you to turn back to your
15 original declaration, Exhibit 1003, please. If you
16 could please turn to paragraph 64, I would appreciate
17 it. For some reason, it let me introduce it this time.
18 Hopefully now it's part of the record. Sorry about the
19 tech problems.

20 Are you at paragraph 64, Dr. Erickson?

21 A. I am.

22 Q. Thank you.

23 So paragraph 64 states "The provisional
24 application not only describes the fixation base as
25 being made from metal, but it goes further and explains

1 why traditional plastic is unsuitable for the claimed
2 invention." And there are several bolded paragraphs
3 that you list there.

4 Do you see that?

5 A. Um-hum, bolded lines, yeah, bolded lines.

6 Q. And then after those indented, quoted paragraphs,
7 you say "It would be clear to a POSA reading these
8 passages, that the investor disparaged the use of
9 traditional plastic for fixation bases because it was
10 weaker and would surely fracture during the surgical
11 procedure."

12 Do you see that?

13 A. I do.

14 Q. So those portions of the provisional that you
15 quoted in your paragraph 64 of Exhibit 1003, are not
16 found in the 209 patent document, though, are they?

17 MR. FEIGELSON: Objection. Outside the
18 scope of the deposition.

19 MR. KARISH: Let me just talk to Aaron for a
20 bit about this.

21 So the reason I'm bringing this up, Aaron,
22 is that in his supplemental declaration he cites back to
23 this. In his paragraph 21 of his supplemental
24 declaration, he talks about the materials that he
25 previously testifies about, and he specifically lists

1 this paragraph in that supplemental declaration, so I
2 think it's within the scope.

3 MR. FEIGELSON: I disagree. I'll maintain
4 my objection.

5 MR. KARISH: Okay.

6 Are you going to instruct him not to answer
7 my question?

8 MR. FEIGELSON: No, he can answer, but the
9 objection's on the record.

10 MR. KARISH: So let's proceed.

11 Can you please read back my question to
12 Dr. Erickson?

13 (Record read)

14 MR. FEIGELSON: Same objections.

15 THE WITNESS: That's correct.

16 Now, you know, the reason -- first of all,
17 it's my understanding that the PTAB hasn't actually
18 ruled on this yet. And the reason that I brought up
19 this in my declaration here is to show the
20 overinclusiveness of the 209 patent -- showing that
21 there are other items within the GuidedSMILE family that
22 are -- should not be included in the 209 patent based on
23 the claims as stated in the 209 patent. And -- yeah, I
24 guess I can leave it at that.

25 BY MR. KARISH:

1 Q. But the 209 patent document itself does not
2 mention that, quote, "Traditional methods of 3D printing
3 in plastic materials for dental surgical guides is not
4 ideal," right?

5 A. The provisional part of this did. It made a real
6 big point about how -- how bad they were stating
7 acrylics and photopolymers or any other type of acrylic
8 would function in there. So the 209 patent specifically
9 goes to the metal use -- the use of metal.

10 You know, my understanding is the entire
11 GuidedSMILE line is -- have all been stamped by the 209
12 patent number. Meaning that all these other exclusions,
13 this overextending of products, those products, don't
14 necessarily fall within what's written in the 209
15 patent.

16 Q. So leaving aside the issue of the product market.
17 I just want to get your understanding of what you think
18 the 209 patent document has in it. So that's why I'm
19 asking you does the 209 patent document itself contain
20 that language stating that, quote, "Traditional methods
21 of 3D printing in plastic materials for dental surgical
22 guides is not ideal"?

23 A. Again, it's in the professional part of these two
24 documents that are under the same tent where that is
25 stated that they -- that the acrylics are not -- now if

1 you wanted -- let's say -- my understanding is if the
2 209 patent didn't want that in there, it should have
3 said "We now want to have acrylic resin as well. We
4 think that acrylic resin is strong enough to be able to
5 provide the results," but it does not say that.

6 Whatever's in the supplemental or the provisional, I'm
7 sorry, has to be brought over into the 209. When I'm
8 reading the 209, I keep in mind what's in the
9 provisional application as well.

10 Q. But you'll agree with me that the language from
11 the provisional that you're relying on is not in the 209
12 patent document itself, correct?

13 A. Again, you know, I'm just going by what I read in
14 the 209 patent where it says that "The contents of both
15 applications are incorporated herein by this reference."
16 I'm not sure how else I can read that.

17 Q. Let me try to clarify.

18 Outside of that incorporation by reference, is
19 there any other language in the 209 patent document
20 about -- let me just quote it again. That, quote,
21 "Traditional methods of 3D printing in plastic materials
22 for dental surgical guides is not ideal," end quote?

23 A. That in the 209 part of the -- right, correct,
24 claims -- within the claims.

25 Q. Is it in any other part of the text of the 209

1 patent document --

2 A. I don't recall --

3 Q. -- outside -- sorry, outside of this
4 incorporation by reference that you mentioned? Is this
5 other language in there?

6 A. No. I'm going by what are written in the claims
7 of the 209 patent with the background information from
8 the provisional app to make my statement.

9 Q. So in paragraph 64 of your original declaration,
10 Exhibit 1003, you highlight language from the
11 provisional that states, "This invention could not use
12 traditional materials such as 3D printed or CNC milled
13 acrylic wildy used to produce full arch implant guides
14 in the dental industry."

15 Do you see that?

16 A. I do.

17 Q. Outside of this incorporation by reference
18 language that you mentioned before, is that statement
19 anywhere else in the 209 patent?

20 A. No.

21 Q. So looking at Paragraph 61 of Exhibit 1003, your
22 original declaration, just a couple paragraphs back.
23 You quote from the 209 patent, and it says, quote,
24 "Fixation base 100 is non-anatomical, being fabricated
25 from a metal, metal alloy, or other strong material,"

1 end quote.

2 Do you see that?

3 A. I do.

4 Q. Do you think that the focus on metal changed from
5 the provisional to the 209 patent document itself?

6 MR. FEIGELSON: Objection. Calls for
7 speculation, calls for a legal conclusion, and outside
8 the scope of the deposition.

9 THE WITNESS: If you want me to answer that,
10 I'd have to sit back and review the documents. I'd have
11 to look at, for instance, fixation-base 100. I'd have
12 to see that diagram. I can expound on this if you want
13 me to review all this back, but I didn't prepare.

14 My understanding was I'm preparing for the
15 deposition on my current declaration, not relitigating
16 something from the past.

17 Give me some time. You know, give me a day
18 or so and I could probably go back and review all this
19 and we can do another deposition.

20 BY MR. KARISH:

21 Q. Just -- let me just try to just get clarity right
22 now.

23 As you sit here today, you don't have an
24 understanding of whether or not the focus on the metal
25 changed from the provisional application to the 209

1 patent itself?

2 MR. FEIGELSON: Objection. Calls for
3 speculation.

4 THE WITNESS: I do know that based on the
5 GuidedSMILE line of products, that they are now
6 incorporating more acrylic resin than they did in the
7 past, but it is not in the claims of the 209 patent or
8 in the provisional application.

9 BY MR. KARISH:

10 Q. So I hate to ask it, but Dr. Erickson, have you
11 ever been convicted of a felony?

12 A. No.

13 MR. KARISH: I have no further questions for
14 Dr. Erickson.

15 MR. FEIGELSON: I have no questions.

16 THE REPORTER: Would you like a copy,
17 Mr. Feigelson?

18 MR. FEIGELSON: When convenient for you.
19 We're not in a rush.

20 (Whereupon the videoconference deposition of
21 EXPERT WITNESS DOUGLAS ERICKSON, DDS, MS. FACP,
22 concluded at 12:45 p.m.)

23 ---000---

24 ///

25

DECLARATION UNDER PENALTY OF PERJURY

I, the undersigned, hereby certify under
penalty of perjury under the laws of the State of
California that the foregoing testimony is true and
correct.

Executed this _____ day of _____,
20__, at _____, California.

EXPERT WITNESS DOUGLAS

ERICKSON, DDS, MS. FACP

1 STATE OF CALIFORNIA)
) ss
2 COUNTY OF LOS ANGELES)
3

4 I, Christina M. Holland, CSR No. 8193, in and for the
5 State of California do hereby certify:

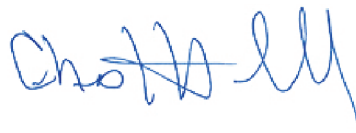
6 That prior to being examined the deponent named in
7 the foregoing deposition was by me duly sworn to testify
8 the truth, the whole truth, and nothing but the truth;

9 That said deposition was taken down by me in
10 shorthand at the time and place therein named, and
11 thereafter reduced to typewriting under my direction,
12 and the same is true, correct, and complete transcript
13 of said proceedings;

14 That if the foregoing pertains to the original
15 transcript of a deposition in a Federal Case, before
16 completion of the proceedings, review of the transcript
17 { } was { } was not required.

18 I further certify that I am not interested in the
19 event of the action.

20 Witness my hand this 19th day of August 2025.
21

22
23 

24 Christina M. Holland, CSR, 8193
Certified Shorthand Reporter
25 For the State of California

Douglas Erickson

DME@Dougerickson.com

August 19, 2025

RE: 3D Diagnostix, Inc. v. Watson Guide IP, LLC

8/12/2025, Douglas Erickson, (#7534589).

The above-referenced transcript has been
completed by Veritext Legal Solutions and
review of the transcript is being handled as follows:

___ Per CA State Code (CCP 2025.520 (a)-(e)) - Contact Veritext
to schedule a time to review the original transcript at
a Veritext office.

___ Per CA State Code (CCP 2025.520 (a)-(e)) - Locked .PDF
Transcript - The witness should review the transcript and
make any necessary corrections on the errata pages included
below, notating the page and line number of the corrections.
The witness should then sign and date the errata and penalty
of perjury pages and return the completed pages to all
appearing counsel within the period of time determined at
the deposition or provided by the Code of Civil Procedure.
Contact Veritext when the sealed original is required.

___ Waiving the CA Code of Civil Procedure per Stipulation of
Counsel - Original transcript to be released for signature
as determined at the deposition.

___ Signature Waived - Reading & Signature was waived at the
time of the deposition.

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1 _x_ Federal R&S Requested (FRCP 30(e)(1)(B)) - Locked .PDF

2 Transcript - The witness should review the transcript and
3 make any necessary corrections on the errata pages included
4 below, notating the page and line number of the corrections.
5 The witness should then sign and date the errata and penalty
6 of perjury pages and return the completed pages to all
7 appearing counsel within the period of time determined at
8 the deposition or provided by the Federal Rules.

9 ___ Federal R&S Not Requested - Reading & Signature was not
10 requested before the completion of the deposition.

1 3D Diagnostix, Inc. v. Watson Guide IP, LLC
2 Douglas Erickson (#7534589)
3 E R R A T A S H E E T
4 PAGE_____ LINE_____ CHANGE_____
5 _____
6 REASON_____
7 PAGE_____ LINE_____ CHANGE_____
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10 PAGE_____ LINE_____ CHANGE_____
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20 _____
21 REASON_____
22 _____
23 _____
24 (Douglas Erickson) Date
25

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