

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SIMPSON STRONG-TIE COMPANY, INC.
Petitioner.

vs.

COLUMBIA INSURANCE COMPANY.
Patent Owner.

Case PGR2024-00050.
Patent No. 11,920,399

DEPOSITION OF MICHAEL ALLEY

TAKEN ON BEHALF OF THE PETITIONER

JULY 23rd, 2025

(Starting time of the deposition: 9:04 a.m.)

Simpson Strong-Tie Company EX1051
Simpson v. Columbia
PGR2024-00050

I N D E X

QUESTIONS BY:

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E X H I B I T S

Exhibit 2054 referenced..... 8

(Exhibit retained by Michelle K. Holoubek, Esq.)

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5 SIMPSON STRONG-TIE COMPANY, INC.
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8 COLUMBIA INSURANCE COMPANY.
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11 Case PGR2024-00050.
12 Patent No. 11,920,399

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14
15 DEPOSITION OF MICHAEL ALLEY produced, sworn and
16 examined on JULY 23rd, 2025, between the hours of nine o'clock
17 in the forenoon and six o'clock in the evening of that day, at
18 the offices of Stinson, LLP, 7700 Forsyth Boulevard, Suite 1100,
19 St. Louis, Missouri 63105 on behalf of the Petitioner, before
20 Paula D. Hefner, a Certified Shorthand Reporter, Certified Court
21 Reporter, Registered Merit Reporter, Certified Real-Time
22 Reporter, and a Notary Public within and for the State of
23 Missouri, and the following proceedings were held:

A P P E A R A N C E S

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1 IT IS HEREBY STIPULATED AND AGREED by and between
2 counsel for the Petitioner and counsel for the Patent Owner that
3 this deposition may be taken in shorthand by PAULA D. HEFNER, a
4 Certified Shorthand Reporter, Certified Court Reporter,
5 Registered Merit Reporter, Certified Real-Time Reporter, and a
6 Notary Public, and afterwards transcribed into typewriting; and
7 the signature of the witness is expressly reserved.

8
9 * * * * *

10
11 (Starting time of the deposition: 9:04 a.m.)
12

13 COURT REPORTER: Would you raise your
14 right hand, please?

15 Do you swear that the testimony you give will be the
16 truth, the whole truth, and nothing but the truth so help you
17 God?

18 THE WITNESS: Yes.

19 COURT REPORTER: Thank you.
20

21 EXAMINATION

22 QUESTIONS BY MS. HOLOUBEK:

23 (Deposition began at 9:04 a.m.)

24 Q. Good morning, Mr. Alley. My name is Michelle
25 Holoubeck and I will be taking your deposition today.

1 Can you state your full name and address for the
2 record?

3 A. Michael Alley, M-i-c-h-a-e-l, A-l-l-e-y, 2131
4 Woodhaven Court, Villa Hills, Kentucky 41017.

5 Q. Thank you. And you understand you are here today to
6 have your deposition taken in connection with testimony you
7 provided in Post-Grant Review Proceeding at the patent office
8 challenging U. S. Patent No. 11,920,339.

9 Is that correct?

10 A. I do.

11 Q. Great. And I'm going to refer to the challenge patent
12 by using the last three digits, so I'll refer to it as the 339
13 patent.

14 Is that okay?

15 A. Understood, yes.

16 Q. And to help our Court reporter just a couple of ground
17 rules. Please let's not speak over each other. So if you can
18 wait until I finish asking the question to answer that would be
19 helpful. Also, all of your answers must be verbal because she
20 cannot record head nods or hand motions.

21 A. Understood, agreed.

22 Q. Okay. And will you tell me if you do not understand
23 my question?

24 A. I will.

25 Q. Okay. And if you don't ask for clarification I will

1 assume that you understood my question. Okay?

2 A. Understood.

3 Q. Okay. Is there any reason you cannot testify
4 truthfully today?

5 A. No.

6 Q. Are you under any medication that may impair your
7 testimony in any way today?

8 A. No.

9 Q. We'll take periodic breaks -- and certainly let me
10 know if you need one -- but, we cannot break while a question is
11 pending.

12 Do you understand?

13 A. Understood.

14 Q. Okay. And you understand that you are under oath and
15 that means that you're required to tell the whole truth today.

16 Is that correct?

17 A. Understood.

18 Q. Okay. Have you been deposed before?

19 A. I have not.

20 Q. Okay. First time.

21 A. First time.

22 Q. What did you do to prepare for today's deposition?

23 A. To prepare for today's deposition I read my report, I
24 read the report of Dwight Duncan yesterday, I read the
25 declaration of Ryan Howard -- or Holmes, Ryan Holmes. And then

1 yesterday I met with counsel.

2 Q. And which counsel did you meet with?

3 A. I met primarily with Scott and Julie, and then also
4 with John and Tim for moments of time.

5 Q. Okay. And about how long did you meet yesterday?

6 A. I believe I got here at ten-thirty and left around
7 three, so four and a half hours; not all of that time was used.

8 Q. Okay. And had you met with them before yesterday to
9 prepare for today's deposition?

10 A. No.

11 Q. Did you review any documents to prepare for today's
12 deposition?

13 A. Just what was stated earlier.

14 Q. Okay. In your expert report -- and I'll go ahead and
15 hand you a copy.

16 A. Thank you.

17 Q. So this is what has been marked as Exhibit 2054.

18 A. Thank you.

19 Q. You mentioned that you reviewed the report of Dwight
20 Duncan.

21 Is that correct?

22 A. That's correct.

23 Q. Does your expert report refer to any of Mr. Duncan's
24 testimony?

25 A. It does not. I only reviewed the report yesterday.

1 Q. Okay. And you mentioned you also read the report of
2 Mr. Ryan Holmes.

3 Is that correct?

4 A. Uh-huh, yes.

5 Q. Is Mr. Holmes' testimony referred to in your report
6 that you submitted, Exhibit 2054?

7 A. No. It is not.

8 Q. Okay. When you were preparing your actual report what
9 documents did you review to prepare your report?

10 A. None that I can think of. It was just a survey.

11 I looked through some past survey books, but nothing
12 other than that.

13 Q. Okay. And did you meet with counsel before preparing
14 your report?

15 A. We met when we discussed the engagement, yes.

16 Q. Okay. And did you prepare the first draft of your
17 report?

18 A. Yes.

19 Q. Is the report as it was filed your version or had it
20 been edited from your first draft?

21 A. It is my version.

22 Q. Okay. And if you turn to Page 36 of your report.

23 A. We'll get there. Yes.

24 Q. Can you confirm that is your signature on this report?

25 A. Confirmed.

1 Q. And you executed your signature on this report on May
2 16th, 2025.

3 Is that correct?

4 A. That is correct.

5 Q. So the last time you reviewed this report was
6 yesterday.

7 Is that correct?

8 A. Yes.

9 Q. Okay. Before preparing your report here did you
10 review the 339 patent?

11 A. I spoke to counsel about it. I did not --

12 MR. EIDSON: Wait. Hold on. Just yes or no.
13 I'm sorry.

14 Objection; privilege. Just a brief --

15 A. No.

16 MR. EIDSON: Don't reveal the substance of our
17 communications. If you can answer the question without doing
18 that I would appreciate it, and instruct you to do so.

19 THE WITNESS: Thank you.

20 A. No. I did not review the patent.

21 Q. (By Ms. Holoubek) Okay. Have you ever read the 339
22 patent?

23 A. I have not.

24 Q. So is it fair to say that you have not read the 339
25 patent claims?

1 A. That is correct.

2 Q. So your understanding of what the 339 patent covers
3 comes from what you were told by counsel.

4 Is that correct?

5 A. Yes.

6 Q. Okay. Did you speak with anyone else other than
7 counsel regarding the preparation of your declaration?

8 A. No.

9 Q. Okay. At this time do you have any corrections or
10 changes to be made to your declaration?

11 A. No.

12 Q. About how much time did you spend on this declaration?

13 A. It's tough to say. I would estimate twenty-five to
14 thirty-five hours.

15 Q. So you are currently employed at Halsted Strategy
16 Group.

17 Is that correct?

18 A. That is correct.

19 Q. Am I pronouncing that correct?

20 A. You are.

21 Q. What is your role at Halsted Strategy Group?

22 A. I am the founder.

23 Q. Okay. And when did you found the Halsted Strategy
24 Group?

25 A. 2017.

1 Q. So as founder I imagine you wear a lot of hats.
2 Is that correct?

3 A. That is correct.

4 Q. What are some of the roles that you play as founder of
5 the company?

6 A. It's a multitude of roles. So I come from a
7 background of survey design. And so I generate new business. I
8 talk to potential clients about problems that they would like to
9 solve with surveys. And then I create methodologies, collect
10 respondents, analyze data, write reports, and present those
11 results in order to drive business strategy and in certain cases
12 litigation strategy.

13 Q. Okay. Did any other employees at Halsted assist you
14 in preparing this report?

15 A. No.

16 Q. Okay. And then prior to being retained for the survey
17 that's in this report did you have any research projects
18 involving construction?

19 MR. EIDSON: Object to the form of the question.

20 A. Could you rephrase?

21 Q. (By Ms. Holoubek) Have you been involved in any
22 research projects involving construction other than this report?

23 A. Not construction specifically.

24 I did work for Lowe's as a contractor to understand
25 different brand positionings within the market. So it's not

1 construction, but it's tangential.

2 Q. Okay. Did any of those products when you worked for
3 Lowe's involve structural connectors such as those we're talking
4 about today?

5 A. No.

6 Q. Prior to this report did you have any research
7 projects that involved joist hangers?

8 A. No.

9 Q. So if we turn to Paragraph 2 of your report the two
10 hangers you refer to are the MiTech FWH hanger and the Simpson
11 DGT hanger.

12 Is that correct?

13 A. That is correct.

14 Q. Is the FWH hanger the only firewall that MiTech
15 provides?

16 A. I believe that it is one of many firewall hangers they
17 provide.

18 And my understanding is based on -- there's different
19 nominal joist lengths and different sizes per se.

20 Q. The hangers with different joist lengths and different
21 sizes, are those all within the FWH series or are there a
22 different series of hangers at MiTech?

23 MR. EIDSON: Object to the form of the question.

24 A. I believe them to be. They may offer additional
25 firewall joist hangers.

1 Q. (By Ms. Holoubek) Okay. And is the DGT hanger the
2 only firewall hanger that Simpson provides?

3 A. I do not know.

4 Q. Okay. Did you look at any other Simpson joist hangers
5 for purposes of this report?

6 A. No. I looked at the FWH and the DGT.

7 Q. Okay. Why did you select the FWH and the DGT for this
8 report?

9 A. Because it is my understanding that those are the
10 products that are at the center of this patent case with the 339
11 patent.

12 Q. Okay. And in Paragraph 5 you mention that you were
13 retained to assess the extent the installation process has on
14 the purchase decision for firewall hangers.

15 Is that correct?

16 A. That is correct.

17 Q. Who retained you?

18 A. Stinson.

19 Q. Okay. And you were retained on behalf of MiTech.

20 Is that correct?

21 A. I believe so.

22 Q. Okay. In Paragraph 7 of your report you use the
23 phrase the patented feature.

24 Is that correct?

25 A. That is correct.

1 Q. What is your understanding of the patented feature?

2 A. It deals with the installation process.

3 So in my understanding -- I'm not a construction
4 professional -- but, it provides the installer the ability to
5 install the joist hanger directly to the firewall and then
6 subsequently put drywall on top of that. So it's an ordering
7 perspective.

8 Whereas, with other joist hangers it required the
9 installation of the drywall prior to the installation of the
10 firewall joist hanger.

11 Q. Okay. And do you know what about the FWH hanger
12 allows it to be installed before the drywall?

13 A. I believe it's -- it's in the design. I think there
14 might be a notch or a spacing. I don't know exactly.

15 Q. Let's move forward. We talked about your
16 qualifications here.

17 If we move forward to Paragraph 16 you mentioned using
18 an online survey to conduct your search results.

19 Is that correct?

20 A. That is correct.

21 Q. How did you initially identify participants for the
22 survey?

23 A. Sure. I used an online survey panel. And I had
24 people prescreened. So when somebody signs up to take a survey
25 they provide information about themselves. And I prescreened on a

1 couple of different construction jobs, titles.

2 And then I asked the survey company to get me a sample
3 for those that meet that qualification. And then they come in,
4 they take the survey. And then they have to pass the screening
5 criteria to ultimately qualify for the survey.

6 Q. Okay. Is there anything different about the process
7 you just described as compared to previous surveys that you've
8 conducted?

9 A. No.

10 Q. Okay. You mentioned you prescreened on a couple of
11 different construction job titles. What were the construction
12 job titles you prescreened based on?

13 A. Home builder, general contractor, framer, or
14 remodeler.

15 Q. Okay. And why did you select those particular job
16 titles?

17 A. I felt that they would be the ones that were most
18 qualified to provide an opinion about firewall hangers.

19 Q. Okay. And once you selected the participants to take
20 your survey how did you initiate communication to those
21 participants regarding the survey?

22 A. I did not directly initiate communication with them.

23 Q. Did you have any direct communication with the
24 participants?

25 A. No.

1 Q. So all communication with the survey participants came
2 through this third party company.

3 Is that correct?

4 A. That is correct.

5 Q. And the name of that company?

6 A. CINT.

7 Q. And that's --

8 A. C-I-N-T.

9 Q. Great. Thank you. When did you begin your screening
10 process for the survey?

11 A. April thirtieth.

12 Q. And so the survey took place from April 30th to May
13 1st, 2025.

14 Is that correct?

15 A. That is correct.

16 Q. When you say you started your screening process were
17 all participants identified and then immediately put into the
18 actual survey questions if they passed prescreening?

19 A. I do not -- I believe that the way the process works
20 if you sign up for a survey and you're identified as a home
21 builder per se you would receive a blinded link that says we
22 want you to take this survey. And I don't know if they sent
23 that to everybody or a portion. But, you would say -- they said
24 hey, we want you to take this survey. You click on the survey
25 link. They do not provide a rationale for the survey. And then

1 you see the survey as it's presented online and within the
2 appendix.

3 Q. Okay. So how many people participated in this survey?

4 A. 127.

5 Q. And in Paragraph 27 you mentioned that it was 127
6 qualified construction professionals.

7 Is that correct?

8 A. That's right.

9 Q. What do you mean by the term qualified?

10 A. It means that they passed -- successfully passed the
11 screening criteria as well as the trap questions and caption and
12 things like that.

13 Q. Do you know how many people did not pass the screening
14 criteria?

15 A. Off the top of my head no.

16 Q. Okay. Do you know whether all of these 127
17 construction professionals were involved in actually installing
18 fire resistant wall assemblies?

19 A. I do not.

20 Q. Did any of your survey questions ask specifically
21 about the respondents' experience with firewalls?

22 A. As it pertains to purchase yes. As it pertains to
23 installation no.

24 Q. Okay. And then in Paragraph 42 on Page 15 of your
25 report the relevant universe for the survey was limited to

1 people working in the construction industry over the past twelve
2 months.

3 Is that correct?

4 A. That is correct.

5 Q. Why was the twelve month time frame chosen?

6 A. In order to ensure that they could respond to the
7 question with relevance. So if somebody took the survey ten
8 years ago -- or if they were employed in construction ten years
9 ago their view could be pertinent, but they may not be the best
10 respondent for that.

11 Q. And why wouldn't they be the best respondent for
12 something ten years ago?

13 A. Because -- for example, if I was in music and had a
14 Grammy but I'm no longer in the field my opinion would not be as
15 relevant because I'm not making those day to day decisions
16 around music business.

17 Q. Okay. And then in Paragraph 55 on Page 18 of your
18 report you indicate that respondents must have purchased a joist
19 hanger within the past twelve months or intended to purchase a
20 joist hanger in the next twelve months to further participate in
21 the survey.

22 Is that correct?

23 A. That is correct.

24 Q. So, again, why did you limit the participants to
25 purchases within a twelve month span?

1 A. To ensure that the questions asked were pertinent to
2 them.

3 Q. And so your survey results did not include respondents
4 who purchased joist hangers from 2014 to 2023.

5 Is that correct?

6 A. Not necessarily. If you purchased within the -- in
7 2014 and two months ago yes, you would be included.

8 If you only purchased in 2014 or 2023 then no.

9 Q. Okay. Do you have any record of respondents who
10 purchased joist hangers prior to the twelve month window you
11 looked at?

12 A. I do not.

13 Q. Okay. Let's turn back to Paragraph 21 of your
14 declaration.

15 In Paragraph 21 you reference a willingness or
16 unwillingness to pay more. What is that compared to? Pay more
17 than what?

18 MR. EIDSON: Object to the form of the question.

19 A. It's not -- so let me come back to that.

20 As the question was stated 87% said they are willing
21 to pay more for firewall hangers which can be installed prior to
22 drywall installation.

23 Q. (By Ms. Holoubek) What is that compared to? So
24 they're paying more for firewall hangers -- let me...

25 The question asks whether they were paying more for

1 firewall hangers which can be installed prior to drywall
2 installation. What is that being compared to?

3 A. It's -- I don't know that it's a direct comparison.

4 It is -- it expresses their willingness to pay more
5 for firewall hangers.

6 Q. Okay. Would it be in comparison to non-firewall
7 hangers?

8 A. It could be.

9 Q. Okay. Are you familiar with what hangers could not be
10 installed prior to drywall installation?

11 A. I believe it to be -- as a lay person it's anything
12 that doesn't have the patented feature.

13 Q. You had indicated before that the patented feature was
14 the ability to be installed after drywall due to the notch.

15 Is that correct?

16 A. That is correct.

17 Q. Okay. So --

18 MR. EIDSON: Object to the form of the question.

19 Q. (By Ms. Holoubek) So what hangers, if you're aware of
20 any, could not be installed prior to drywall installation?

21 A. Which hangers could not be installed?

22 MR. EIDSON: Objection, form.

23 A. I'm not certain.

24 Q. (By Ms. Holoubek) Okay. On Page -- I'm sorry.

25 In Paragraph 28 on Page 6 of your report; I'll wait

1 for you to get there.

2 A. Okay.

3 Q. You mentioned that the respondents were asked if they
4 had purchased the FWH and DGT products.

5 Is that correct?

6 A. That is correct.

7 Q. Are you aware of any other comparable products on the
8 market?

9 A. I am not.

10 Q. Okay. And then turning to Page 25 of your report
11 there is a table labeled Table 1 on Page 25 of your report.

12 Is that correct?

13 A. That is correct.

14 Q. So this Table 1 shows the percentage of participants
15 who had purchased, requested to purchase, or specified one or
16 both of the FWH and DGT hangers.

17 Is that correct?

18 A. That is correct.

19 Q. Okay. So about 92% of participants had purchased,
20 requested to purchase, or specified one or both of the FWH and
21 DGT hangers.

22 Is that correct?

23 A. That is correct.

24 Q. And if we had 127 participants that means about 118
25 participants purchased, requested to purchase, or specified one

1 or both of the FWH or DGT hangers.

2 Is that correct?

3 A. That is correct.

4 MR. EIDSON: Object to the form of the question.

5 A. That is correct.

6 Q. (By Ms. Holoubek) Okay. And then looking at just the
7 FWH hanger about 84 of the 127 participants had chosen the FWH
8 hanger.

9 Is that correct?

10 A. If you're taking the sum of 31.5 and 34.6, which is
11 66.1 times 127 then I assume that's correct.

12 Q. Okay. And then about 78 of the 127 participants had
13 chosen the DGT hanger.

14 Is that correct?

15 A. Using the same rationale I agree.

16 Q. Pages 26 through 29 of your report show a Table 2.

17 Is that correct?

18 A. That is correct.

19 Q. Okay. And Table 2 includes selected open-ended
20 responses to the question of what product features influence the
21 participants' decision to choose the FWH and DGT products.

22 Is that correct?

23 A. That is correct.

24 Q. This table includes responses to both Questions Q-102
25 and Q-103.

1 Is that correct?

2 A. That is correct.

3 Q. And following your signature page, Page 6 of your
4 screening questions identifies what questions Q-102 and Q-103
5 are.

6 Is that correct?

7 A. That is correct.

8 Q. So returning to Table 2 would you agree that some of
9 the responses listed in Table 2 provide multiple features as
10 influencing the participants' decision?

11 A. Yes. I would.

12 Q. Okay. So for example, the first entry, Response ID
13 41, lists both the ease of installation and the warranty as
14 factors that influence their decision to purchase.

15 Is that correct?

16 A. That is correct.

17 Q. Okay. A participant who had purchased both the FWH
18 and DGT hangers would have answered both Questions 102 and 103.

19 Is that correct?

20 A. That is correct.

21 Q. Okay. So this table -- Table 2 -- does not list all
22 the responses you received for Questions 102 and 103.

23 Is that correct?

24 A. That is correct.

25 Q. Why were these particular responses selected for

1 highlighting in Table 2?

2 A. Due to their reference of the installation process.

3 Q. Okay. So if a response is not listed in Table 2 does
4 that mean the response did not mention the installation process?

5 A. I believe so, yes.

6 Q. In Table 2 about half of the responses relate to the
7 FWH hanger.

8 Is that correct?

9 A. Assuming, yes. I believe so.

10 Q. Feel free to scan if you like.

11 A. Yeah. I did a cursory check. I'd say it's close to
12 half.

13 Q. Okay. So roughly 22 out of the 84 participants who
14 chose the FWH product identified installation as influencing
15 their decision.

16 Is that correct?

17 A. Yes.

18 Q. In Table 2 would you agree that the large majority of
19 responses mentioning FWH installation also refer to other
20 features of the FWH hanger that aren't related to installation?

21 MR. EIDSON: Objection; form.

22 A. Yes. There are multiple mentions of factors.

23 Q. (By Ms. Holoubek) Okay. Following this table
24 Paragraph 84 says that other open-ended responses that weren't
25 highlighted in this table mentioned durability, price, brand,

1 fire rating, corrosion resistance and material quality.

2 Is that correct?

3 A. That is correct.

4 Q. And in that same paragraph you say that these other
5 open-ended answers are included in Appendix C.

6 Is that correct?

7 A. That is correct.

8 Q. Let's turn to Appendix C. But, as we do that are
9 these appendices labeled in your expert report?

10 A. It was -- it was an Excel. I don't know. It was in
11 the file title. But, I can find it.

12 Q. Okay. Is it fair to say that the pages following Page
13 9 of the screening question constitute Exhibit C?

14 A. Yes.

15 Q. The eleventh page of Exhibit C starts with a column
16 header Q-102.

17 Is that correct?

18 A. Yes.

19 Q. So Q-102 was the question about what product features
20 influenced a participant's decision to specify the FWH product.

21 Is that correct?

22 A. That is correct.

23 Q. Okay. When you look at the answers in column Q-102 in
24 this report the column only shows the first few words of each
25 answer.

1 Is that correct?

2 A. That is correct.

3 Q. So the complete answers are not actually provided in
4 this report.

5 Is that correct?

6 A. Within this written page, no.

7 Q. Okay. Does any other portion of this written report
8 provide the full and complete answers from all participants to
9 Question 102?

10 A. It does not.

11 Q. So as it stands printed here your report doesn't
12 disclose all the underlying data for the opinions in it.

13 Is that correct?

14 MR. EIDSON: Objection; form.

15 A. As printed here no, it does not.

16 Q. (By Ms. Holoubek) Okay. When you signed the expert
17 report did you realize that the full text of this column was not
18 printed?

19 A. Those were provided as an Excel file.

20 Q. Okay. So when you signed your report you had one file
21 that was the report and then another file with the appendices.

22 Is that correct?

23 A. Yes. There were three PDFs and one Excel file.

24 Q. Okay. And this particular appendix with the answers
25 to the survey questions was in an Excel file.

1 Is that correct?

2 A. That is correct.

3 Q. Okay. But, to your knowledge that Excel file has not
4 been filed in this case.

5 Is that correct?

6 A. To my knowledge -- I do not know.

7 Q. Okay. Are you able -- well, scratch that.

8 Do the rows that are shown in Question 102 correspond
9 to all of the answers you received for Question 102?

10 A. For the qualified respondents, yes. And then what
11 would be the shorter form here -- (indicating) -- which has 17
12 responses, those are for the people that were removed from the
13 survey for a variety of reasons.

14 Q. Okay. So those are for the -- that's the shorter
15 chart that's included on several pages toward the end of
16 Appendix C.

17 Is that right?

18 A. That's right. It's the same exact data, but it's for
19 those respondents who were removed.

20 Q. Okay. And why were those respondents removed?

21 A. For a variety of reasons.

22 When you do quality checks -- I use a median time. So
23 the median -- or the average survey time was seven minutes -- or
24 the median survey time was seven minutes and two seconds. I
25 removed those who took the survey in faster than one-third of

1 the median time or longer than one-third of the median time.

2 And that constituted the bulk of removals.

3 And I believe there may have been several instances of
4 I'll call it gibberish or providing non-intelligible answers
5 during the open end.

6 Q. Okay. Thank you.

7 Returning to the page of Appendix C that lists the
8 full response of the responses that were kept.

9 A. Understood.

10 Q. You would agree that the responses in the column for
11 Question 103 are similarly truncated so that the full response
12 does not appear.

13 Is that correct?

14 A. I would agree to that.

15 Q. Okay. And then for Question 104 you would agree that
16 those responses are similarly truncated.

17 Is that correct?

18 A. I would.

19 Q. So the full identification of responses for Questions
20 103 and 104 does not appear in this report as printed here.

21 Is that correct?

22 A. That is correct.

23 Q. Okay. So turning back to the numbered paragraphs of
24 your expert report. Paragraph 85 -- I'll turn there with you.

25 Paragraph 85 says -- I'll wait until you are there.

1 Okay.

2 Looking at Paragraph 85 of your report you say the
3 majority of construction professionals indicate the website
4 claims regarding the patented feature make them more likely to
5 choose the product.

6 Is that correct?

7 A. That is correct.

8 Q. Okay. And this is with regards to the FWH product.

9 Is that correct?

10 A. That statement is in reference to both the FWH and the
11 DGT.

12 Q. Okay. And the data underlying that statement is shown
13 in Tables 3 and 4 of your report.

14 Is that correct?

15 A. That's correct.

16 Q. So Table 3 shown on Page 30 of your report lists three
17 categories of product features for the FWH hanger.

18 Is that correct?

19 A. That's correct.

20 Q. So the first product feature refers to the
21 installation of the FWH product before drywall is attached and
22 permitting the project to be completely framed up and weather
23 tight before gypsum wall board work starts.

24 Is that correct?

25 A. That is correct.

1 Q. And the second product feature refers to the
2 penetration of the FWH hanger through the drywall not reducing
3 the fire resistant rating of the wall assembly.

4 That is correct?

5 A. That is correct.

6 Q. And then the third product feature refers to the
7 ability to cut a slot in the gypsum board using a template.

8 Is that correct?

9 A. That is correct.

10 Q. Paragraph 88 starts with the phrase when looking at
11 the patented feature data.

12 Is that correct?

13 A. That is correct.

14 Q. When you say patented feature data are you referring
15 to the features identified in the first category of Table 3?

16 A. Yes.

17 Q. Okay. In Paragraph 88 it indicates that 79% of
18 respondents are either likely or much more likely to choose the
19 FWH hanger because of the first feature listed in Table 3.

20 Is that correct?

21 A. That is correct.

22 Q. Okay. Then Paragraph 89 concludes that this 79% value
23 suggests that the majority of respondents view the installation
24 process of the FWH hanger as the reason they would be more
25 likely to choose the FWH hanger.

1 Is that correct?

2 A. More likely to purchase, request, or specify, yes.

3 Q. Looking at the second product feature in Table 3.

4 A. Yes.

5 Q. 82% of respondents indicate that they would be more
6 likely to purchase, request to purchase, or specify the FWH
7 hanger because the penetration through the gypsum wall board
8 will not reduce the fire resistant rating of the two hour wall
9 assembly.

10 Is that correct?

11 A. That is correct.

12 Q. So would you agree that not one particular one out of
13 these three features stood out as being more influential to the
14 respondents than other features?

15 A. From a statistical perspective they are all
16 statistically similar.

17 Q. So does that mean that there were multiple features of
18 the FWH hanger that influenced a participants's decision to
19 choose the FWH hanger?

20 A. I believe that broadly yes, there are multiple
21 features that influence your choice.

22 Q. Okay. So in your report then why did you only
23 highlight the first feature as the reason that the majority of
24 the respondents would be more likely to purchase, request, or
25 specify the FWH hanger when, in fact, more participants said

1 that the second feature was more likely to influence their
2 decision?

3 A. Well, simply put because it's the focus of the
4 patented feature.

5 If we know that 79% of respondents are saying that
6 this advanced design makes me more likely to purchase, or much
7 more likely to purchase, that's a good consumer data point.

8 Q. So if 82% of respondents were more likely or much more
9 likely to purchase the FWH because of its penetration and fire
10 resistant feature versus 79% of those who referred to the
11 installation procedure would you agree that more respondents
12 would be more likely to refer to the penetration feature than
13 the installation feature?

14 MR. EIDSON: Object to the form of the question.

15 A. Within the context of statistics there's a margin of
16 error around this.

17 I think from a sheer volume perspective there may have
18 been one or two more. But, they would be statistically similar
19 from an analysis perspective.

20 Q. (By Ms. Holoubek) Okay. Table 4 on Page 32 then
21 lists three different features of the DGT product.

22 Is that correct?

23 A. That is correct.

24 Q. So the first feature is the DGT hanger's ability to be
25 installed with a power nailer.

1 Is that correct?

2 A. That is correct.

3 Q. And the second feature is that the hanger provides
4 space for two layers of drywall to be slipped into place after
5 framing is complete.

6 Is that correct?

7 A. That is correct.

8 Q. And then the third feature is that the hanger is fire
9 rated for use on both sides of the wall.

10 Is that correct?

11 A. That is correct.

12 Q. So in Paragraph 90 you state that a majority of
13 respondents are likely or much more likely to purchase, request
14 to purchase, or specify products with the second feature.
15 Correct?

16 A. Yes. The second feature, which is the top flange
17 hanger providing space for two layers of fire resistant gypsum
18 board.

19 Q. And the percentage for respondents more likely to
20 purchase, request to purchase, or to specify products with the
21 second feature was 70%.

22 Is that correct?

23 A. Yes.

24 Q. Looking at Table 4, 72% of respondents say they were
25 more likely or much more likely to purchase, request to

1 purchase, or specify products that could be installed with a
2 power nailer.

3 Is that correct?

4 A. That is correct.

5 Q. Okay. So would you agree that similarly with the DGT
6 none of these particular features are -- stand out more than
7 others in influencing a respondent's decision to purchase,
8 request to purchase, or specify the DGT hanger?

9 A. They are statistically similar.

10 Q. Okay. Paragraph 91 says that the ability to install
11 joist hangers prior to drywall installation was a primary factor
12 in choosing these joist hangers.

13 Is that correct?

14 A. That is correct.

15 Q. Did your survey ask whether any other features of the
16 hanger were a primary factor in choosing the joist hanger?

17 A. It did not.

18 Q. Since Table 3 indicates that 82% of respondents said
19 that the second feature made them more likely to choose the FWH
20 hanger does that suggest that penetrating the gypsum wall board
21 without reducing the fire rating is another primary factor in
22 choosing these joist hangers?

23 A. It could be.

24 Q. Can you explain?

25 A. There's a multitude of factors and for some people

1 the -- which one did you reference exactly?

2 Q. The second feature in Table 3. This is the
3 penetration without reducing the fire resistant rating.

4 A. Yes.

5 Q. So just to clarify: The penetration without reducing
6 the fire resistant rating feature of the FWH could also be a
7 primary factor why a respondent would choose the FWH hanger.

8 Is that correct?

9 A. It could be.

10 Q. And then according to Paragraph 93 of your report, you
11 asked respondents if they would be willing or not willing to pay
12 more for a firewall hanger that could be installed before the
13 installation of drywall.

14 Is that correct?

15 A. That is correct.

16 Q. Did you ask respondents if they would be willing to
17 pay more for a joist hanger that does not reduce the fire rating
18 when penetrating the wall board?

19 A. I did not.

20 Q. Okay. Did you ask respondents if they would be
21 willing to pay more for a joist hanger that has better fire
22 rated durability?

23 A. I did not.

24 Q. Would you agree that the majority of responses to
25 Question 102 in your survey mentioned durability as a reason

1 that influenced the respondent's decision to choose the FWH
2 hanger?

3 A. I would not agree with that.

4 MR. EIDSON: Object to the form of the question.

5 A. I would not agree to that.

6 Q. (By Ms. Holoubek) Why would you not agree to that?

7 A. I would have to go back and review the specific
8 mentions of durability specifically.

9 Q. Okay. Do you know how many respondents listed
10 durability as a reason for choosing the FWH hanger?

11 A. Not specifically, no.

12 Q. Okay. So the reason you wouldn't agree with my
13 question before is because you have not reviewed the data.

14 Is that correct?

15 MR. EIDSON: Object to the form of the question.

16 A. I would have to go back and look at specific mentions
17 of durability within the open ends.

18 Q. (By Ms. Holoubek) Okay. If we turn to Question 103
19 in Appendix C. Apologies, I don't have any page numbers.

20 A. I'm with you.

21 Q. I'm sorry. To Question 102. So if you look at the
22 column for Question 102 are we able to tell from what's written
23 here the extent of the responses that list durability?

24 A. Partially, yes. We talked about the truncation. But,
25 I do see several mentions of it.

1 Q. And there may be mentions of features in response to
2 Question 102 that don't appear on this printed page.

3 Is that correct?

4 A. That is correct. And 103.

5 Q. Okay.

6 MS. HOLOUBEK: Let's go ahead and take a break.

7 MR. EIDSON: Very good.

8 (Discussion was had off the record.)

9 Q. (By Ms. Holoubek) Mr. Alley, during the break did you
10 talk to anyone about the substance of this deposition?

11 A. No.

12 MS. HOLOUBEK: I have no further questions and
13 pass the witness.

14 MR. EIDSON: Very good.

15 Mr. Alley, I don't have any questions. Thank you for
16 your time today. You are free to go -- he'll read and sign.

17 (Witness was excused and signature not waived.)

18 (Deposition concluded at 10:00 a.m.)
19
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CERTIFIED REPORTER'S CERTIFICATE
RSMo 492.010

I, Paula D. Hefner, a Registered Merit Reporter and
Certified Court Reporter, within and for the State of Missouri,
do hereby certify that there came before me on July 23rd, 2025
at the Law Offices of Stinson, LLP, 7700 Forsyth Blvd, Suite
1100, St. Louis, Missouri 63105-1821,

MICHAEL ALLEY,

who was by me first duly sworn to testify to the truth of all
knowledge touching and concerning the matters in controversy in
this cause; that the witness was thereupon carefully examined
under oath, and said examination was reduced to writing by me,
according to my best knowledge and belief; and that this
deposition is a true and correct record of the testimony given
by the witness, and said deposition is herewith returned to
MICHELLE K. HOLOUBEK, ESQ., Sterne Kessler, 1101 K. Street NW,
10th Floor, Washington, DC 20005 for filing with the court.

I further certify that I am neither attorney nor
counsel for, nor related nor employed by any of the parties
hereto, or financially interested in this action.

Paula D. Hefner, Reporter

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SIMPSON STRONG-TIE COMPANY, INC.
Petitioner.

vs.

COLUMBIA INSURANCE COMPANY.
Patent Owner.

Case PGR2024-00050.
Patent No. 11,920,399

CERTIFICATE OF DEPOSITION

Comes now Paula D. Hefner and pursuant to Rule 57.03(g)(2)(a) states as follows:

The deposition of MICHAEL ALLEY was taken on JULY 23rd, 2025. The name and address of person or firm having custody of the original transcript:

MICHELLE K. HOLOUBEK, ESQ.
Sterne Kessler
1101 K. Street NW, 10th Floor
Washington, DC 20005.

At the time of delivery of the transcript the deposition charges had not been paid. Payment status will be updated at the request of the Court pursuant to Section 492.590(2) RSMo.



Paula D. Hefner

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JULY 23rd, 2025

B. SCOTT EIDSON, ESQ.
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7700 Forsyth Blvd, Suite 1100
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DEPOSITION OF: MICHAEL ALLEY

Dear Mr. Eidson:

Please find enclosed your copy of the deposition of MICHAEL ALLEY taken on JULY 23rd, 2025 in the above referenced case. Also enclosed is the original signature page and errata sheet.

Please have the witness read your copy of the transcript, indicate any changes and/or corrections desired on the errata sheet, and sign the signature page before a notary public.

Please return the executed signature page and errata sheet within 30 days after receiving the transcript.

Thank you for your attention to this matter.

Sincerely,

Paula D. Hefner

ERRATA SHEET

Witness: MICHAEL ALLEY

DEPOSITION OF: MICHAEL ALLEY

Date Taken: JULY 23rd, 2025

Page #____ Line #____

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Should read: _____

Reason for change: _____

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Reason for change: _____

Witness Signature: _____

1 STATE OF)
2 COUNTY OF)

3 I, MICHAEL ALLEY, do hereby certify:

4 That I have read the foregoing deposition; that I have
5 made such changes in form and/or substance to the deposition as
6 might be necessary to render the same true and correct; that
7 having made such changes thereon, I hereby subscribe my name to
8 the deposition. I declare, under penalty of perjury, that the
9 foregoing is true and correct.

10 Executed this ____ day of _____, 2025,
11 at _____.

12
13
14
15 _____
16 MICHAEL ALLEY

17
18 Before me this ____ day of _____, 2025
19 personally appeared the above named individual.

20
21
22 _____
23 Notary Public

24 My Commission expires: _____
25

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