

Transcript of Maureen Reitman, Sc.D.

Date: May 28, 2026
Case: Multi-Color Corporation -v- Brook & Whittle Limited (PTAB)

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Multi-Color 1049

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

MULTI-COLOR CORPORATION,

Petitioner,

vs.

BROOK & WHITTLE LIMITED,

Patent Owner.

_____

Case: PGR2025-00025

U.S. Patent No. 11,961,422

DEPOSITION OF MAUREEN REITMAN, Sc.D.

via videoconference

Thursday, May 28, 2026

Job No.: 634788

Pages: 1 - 121

Stenographically Reported By:

Alison C. Webster, CSR-6266, RPR, RMR, CRR, RDR

Videotaped deposition of Maureen Reitman, Sc.D., produced as a witness at the instance of the Petitioner, and duly sworn, was taken in the above-styled and numbered cause on Thursday, May 28, 2026, from 1:04 p.m. to 4:08 p.m. Eastern Time, before Alison C. Webster, RPR, CRR, RMR, RDR, CSR-6266 (Michigan); License No. 14559 (California); License No. 084.004953 (Illinois); CSR-12432 (Texas), reported by stenographic method, via videoconference, pursuant to the Federal Rules of Civil Procedure and the provisions stated on the record or attached hereto.

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T A B L E O F C O N T E N T S

Witness Page

MAUREEN REITMAN, Sc.D.

EXAMINATION

BY MR. SCHATZ: 6

EXAMINATION

BY MS. STONE: 114

E X H I B I T I N D E X

Exhibit Page

(Exhibits retained by Counsel.)

PREVIOUSLY MARKED EXHIBIT 2012 10

PREVIOUSLY MARKED EXHIBIT 1001 52

PREVIOUSLY MARKED EXHIBIT 2012 73

PREVIOUSLY MARKED EXHIBIT 1014 80

DEPOSITION OF MAUREEN REITMAN, Sc.D.

Thursday, May 28, 2026

STENOGRAPHER: The attorneys participating in this deposition and the witness have verified that she is Maureen Reitman, Sc.D. In lieu of an oath administered in person, the witness will visually affirm her testimony in this matter is under penalty of perjury.

The parties and their counsel consent to this arrangement and waive any objections to this manner of reporting or admissibility of the transcript.

Would counsel please state their appearance and any objections to proceeding in this manner, starting with scheduling counsel. 13:03:55

MR. SCHATZ: Hello. Brett Schatz for the petitioner, Multi-Color Corporation. 13:03:55 13:04:25

MS. STONE: And Tera Stone on behalf of Brook & Whittle and the witness. 13:04:28 13:04:29

STENOGRAPHER: Thank you.

Hearing no objections, Dr. Reitman, would you please raise your right hand.

Do you swear or affirm the testimony you are about to give in this matter will be the truth, the whole truth, and nothing but the truth?

DR. REITMAN: Yes, I do.

STENOGRAPHER: Thank you.

You may proceed.

MR. SCHATZ: Good afternoon, Dr. Reitman. How are you?

THE WITNESS: Good afternoon. I am doing well, thank you. I hope the same for you.

MR. SCHATZ: Thank you.

MAUREEN REITMAN, Sc.D.,

was thereupon called as a witness herein, and after having first been duly sworn to testify to the truth, the whole truth and nothing but the truth, was examined and testified as follows: 13:04:52

1	EXAMINATION	13:04:52
2	BY MR. SCHATZ:	13:04:52
3	Q. I just want to make sure I'm pronouncing your	13:04:52
4	name correctly. Is it Dr. Right-min [ph]?	13:04:55
5	A. Yes.	13:04:58
6	Q. Okay, good. And have you had your deposition	13:04:58
7	taken before?	13:05:02
8	A. Yes.	13:05:05
9	Q. Okay. Especially since we are remote, it will	13:05:06
10	be important to make sure that we don't talk	13:05:13
11	over each other. And so just allow me a	13:05:15
12	little bit of time to finish my question just	13:05:22
13	to make sure it is finished before you provide	13:05:25
14	a response. Okay?	13:05:27
15	A. Yes.	13:05:31
16	Q. And it sounds like you've already been advised	13:05:31
17	of this, but we will need verbal responses as	13:05:35
18	opposed to a shake or a nod of the head.	13:05:39
19	Okay?	13:05:42
20	A. Yes.	13:05:45
21	Q. Very good. Okay.	13:05:45
22	Can you tell me, Dr. Reitman, what	13:05:47

you did to prepare for your deposition? 13:05:49
A. Briefly, I reviewed my declaration and met 13:05:57
with counsel. 13:06:03
Q. And when did you meet with counsel? 13:06:05
A. In advance of today's deposition, I met with 13:06:12
counsel yesterday. 13:06:15
Q. And have you met with counsel at any other 13:06:19
time in preparation for any deposition in this 13:06:23
matter? 13:06:29
A. Yes. 13:06:31
Q. Very good. And when was that? 13:06:32
A. While I don't have a perfect recollection, in 13:06:41
the month of May, I met with counsel to 13:06:44
prepare to be deposed. 13:06:47
Q. And was that in connection with a prior 13:06:49
scheduled date for your deposition? 13:06:52
A. Yes. 13:06:55
Q. So during the deposition today I am going to 13:06:55
be referring to certain exhibits, one of which 13:07:03
is your declaration, Exhibit 2012, and the 13:07:07
technician is gonna bring up on the screen 13:07:15
portions of the declaration when I ask you 13:07:21

those questions. Okay? 13:07:24

A. Yes. 13:07:27

MS. STONE: And, Counsel, sorry to interrupt, but Dr. Reitman has a physical copy of her declaration and accompanying exhibits. It's a clean copy just in case she would like to refer to it throughout the deposition today. 13:07:28 13:07:31 13:07:33 13:07:36 13:07:38 13:07:40

MR. SCHATZ: That's actually perfect because I was just gonna say that if you need to refer to other portions of any exhibits before answering your questions, by all means, ask to do so, and if you have a paper copy in front of you, then feel free to refer as you deem fit. Okay? 13:07:40 13:07:43 13:07:45 13:07:47 13:07:51 13:07:54 13:07:58

A. Yes. 13:07:59

BY MR. SCHATZ: 13:08:03

Q. Great. So I will then ask you to look at Exhibit 2012. 13:08:03 13:08:06

MR. SCHATZ: And I'll ask the technician to bring up that exhibit and scroll to paragraph 43. 13:08:08 13:08:10 13:08:21

ENTERED INTO THE RECORD: 13:08:22

PREVIOUSLY MARKED EXHIBIT 2012 13:08:22

1:08 p.m. 13:08:37

A. I can see that. 13:08:37

BY MR. SCHATZ: 13:08:39

Q. Great. 13:08:39

MR. SCHATZ: And, Ms. Stone, do you need the electronic copy up on the screen? 13:08:45 13:08:48

MS. STONE: I can see what the technician is showing, and I also have a physical copy of her report with me, so I think we're okay for now. But if at any point that changes, I will let you know. 13:08:53 13:08:56 13:08:58 13:09:01 13:09:03

MR. SCHATZ: Fair enough. And the reason I mention it is, as he was scrolling into the next page I saw some highlighting and I have a feeling that a -- an edited or version that has some comments on it might have been uploaded, so I'm going to go ahead and ask the technician to take the exhibit down. 13:09:05 13:09:07 13:09:10 13:09:13 13:09:20 13:09:22 13:09:25 13:09:27

And if we need to upload a clean 13:09:31

version of the exhibit for anybody's purpose, we can go ahead and do that. Okay? 13:09:33 13:09:36

MS. STONE: Okay. 13:09:38

MR. SCHATZ: Sorry about the confusion there. 13:09:39 13:09:40

BY MR. SCHATZ: 13:09:43

Q. But, Dr. Reitman, I did want to draw your attention first to paragraph 43, which is under the subsection Claim Construction, just for your edification. Okay? 13:09:43 13:09:45 13:09:50 13:09:54

A. I am at that paragraph. Thank you. 13:09:57

Q. Very good. And I'll just say generally, in paragraphs 43 through 46 you provide some comments about claim construction, and I'm going to ask you a few questions about that. Okay? 13:09:59 13:10:05 13:10:14 13:10:17 13:10:18

A. Yes. 13:10:20

Q. Great. So, first, in paragraph 43, you state your understanding regarding a decision that the board issued on September 19, 2025. Correct? 13:10:20 13:10:31 13:10:34 13:10:39

A. Yes, that is basically what that paragraph is 13:10:42

about. 13:10:45

Q. Okay. And I assume that while you're acknowledging your understanding of that board decision, you're not offering any opinions regarding that decision. Is that accurate? 13:10:46 13:10:52 13:10:56 13:11:01

A. As I understand your question, basically that is true in that I do not have explicit opinions related to claim construction, but as I have outlined in the report, I am able to understand the claims and have acted on that information. 13:11:07 13:11:10 13:11:15 13:11:18 13:11:20 13:11:23

I am aware, as I outlined in the document, that specifically the board decision was based on preliminary information, so I have considered that for how it's described. 13:11:23 13:11:26 13:11:30 13:11:34 13:11:39

But as I said in, I think, paragraph 46, the constructions laid out here don't -- regardless of which one might be ultimately focused on, there's no difference in terms of my ability or the ability of a person of ordinary skill in the art to assess 13:11:40 13:11:44 13:11:48 13:11:52 13:11:56 13:11:58

the things that I have assessed in the declaration. 13:12:01 13:12:04

Q. Do you have -- and thank you for that. 13:12:05

I assume, then, you're not providing an opinion whether the board's decision mentioned in paragraph 43 is accurate or inaccurate. Is that fair? 13:12:08 13:12:10 13:12:15 13:12:20

MS. STONE: Objection. Form. 13:12:23

A. So, again, my scope and work is outlined here. I'm certainly not providing any kind of a legal analysis. I am aware of the information as one of ordinary skill would be aware of that information. I have considered it in light of the basis available to the board at the time, but I do not have any specific or expert opinion about the board's decision as a decision, per se. At least that's how I'm understanding your question. 13:12:26 13:12:32 13:12:34 13:12:37 13:12:40 13:12:42 13:12:45 13:12:49 13:12:53 13:12:56

BY MR. SCHATZ: 13:12:57

Q. I think so. I just want to confirm that you're not offering an opinion regarding the accuracy of the board's decision mentioned in 13:12:58 13:13:01 13:13:08

paragraph 43. 13:13:10

MS. STONE: Objection. Form. 13:13:13

A. So I don't exactly know what you mean by "accuracy." I do -- I have considered that and have -- have considered the basis information for that decision, the context for the decision, and the information in the decision as it relates to my scope of work. I do not have a separate or overarching opinion along the lines of what I think you might be asking me. 13:13:19 13:13:22 13:13:25 13:13:29 13:13:30 13:13:35 13:13:37 13:13:39 13:13:42

BY MR. SCHATZ: 13:13:43

Q. And that's -- maybe I'm -- that's what I'm trying to get at, is are you offering an opinion that the board's decision is incomplete, for example? 13:13:44 13:13:45 13:13:48 13:13:53

MS. STONE: Objection. Form. 13:13:56

A. Well, I've already told you that it was based on a set of information available at the time of decision, and I believe the board used the language of "preliminary" and speaks to reliance on assertions and other things like 13:13:57 13:14:00 13:14:03 13:14:05 13:14:10

that. 13:14:12

So I am telling you that that is 13:14:12

part of how -- what informed my analysis. 13:14:16

And as a scientist, a person of ordinary 13:14:19

skill, I would recognize that decisions are 13:14:24

tied to basis information. So I think that 13:14:28

answers your question. 13:14:31

BY MR. SCHATZ: 13:14:31

Q. Are you offering an opinion that the board's 13:14:32

decision mentioned in paragraph 43 is wrong in 13:14:38

any way? 13:14:40

MS. STONE: Objection. Form. 13:14:42

A. I think you're asking me something much 13:14:43

broader than my scope of work. I have simply 13:14:46

considered this information, as described 13:14:48

here and in the context that I've just 13:14:53

articulated to you, in terms of assumptions 13:14:55

and limitations, as I've moved forward. 13:14:58

I also articulated in paragraph 46 13:15:01

that all of these things in this section 13:15:04

taken together are -- provide a sufficiently 13:15:06

consistent understanding of what a person of 13:15:11

ordinary skill would need to be able to do, that it kind of doesn't matter from that perspective. 13:15:13 13:15:17 13:15:19

I have, as a person of ordinary skill -- a person of ordinary skill would be able to understand these claims enough to perform the testing that Dr. Deible and I have both performed and draw conclusions based on that data. 13:15:19 13:15:23 13:15:26 13:15:29 13:15:30 13:15:33

BY MR. SCHATZ: 13:15:34

Q. Okay. And then in paragraph 44 of your declaration, you recite -- 13:15:34 13:15:39

A. Sorry. 13:15:46

Q. Go ahead. I'm sorry. 13:15:47

A. All I was going to say is that I see that paragraph. 13:15:48 13:15:50

Q. Very good. 13:15:50

You recite in paragraph 44 that you understand certain things about patent owners proposed construction for, quote, recyclable, closed quote. Do you see that? 13:15:53 13:15:55 13:16:01 13:16:07

A. I see the paragraph and its citations, yes. 13:16:09

Q. Okay. And I assume, from your acknowledgement, that you understand patent owners' proposed construction. You're not offering an opinion whether that proposed construction is right or wrong in this case. Correct? 13:16:11 13:16:17 13:16:20 13:16:23 13:16:25 13:16:30

A. I think it's similar to what I've said to you already, is that as a -- within my scope of work, as a person of ordinary skill, I can act on this description because it is consistent with what one of ordinary skill would understand. 13:16:35 13:16:38 13:16:40 13:16:43 13:16:47 13:16:50

So a person of ordinary skill can understand the patent to perform the testing and draw the conclusions that I did and that Dr. Deible did as well. 13:16:50 13:16:53 13:16:55 13:17:00

So beyond that, I don't think -- if I'm understanding you correctly, right or wrong, is not actually an analysis I've done. The work I'm doing is to assess the patent from the perspective of one of ordinary skill in the art to determine how to proceed and 13:17:03 13:17:06 13:17:08 13:17:12 13:17:15 13:17:19

then draw conclusions based on the testing of the proposed prior art as outlined in my report. 13:17:23 13:17:26 13:17:29

Q. Very good. So as an example, in paragraph 44, you acknowledge that "Patent Owner has proposed a construction for the term 'recyclable' to mean 'capable of being recycled without removing the label from a container before or during the recycling process.'" 13:17:29 13:17:34 13:17:36 13:17:40 13:17:45 13:17:49 13:17:53

But you're not offering an opinion whether that is the proper proposed construction. Correct? 13:17:56 13:17:59 13:18:02

A. As I understand your question, I am not offering explicit claim construction opinions, I am instead looking at the proposed constructions recognizing that, for at least the issues I'm addressing, there is no important difference that prevents me from analyzing the art that has been put forward as proposed prior art. 13:18:05 13:18:09 13:18:12 13:18:14 13:18:18 13:18:21 13:18:24 13:18:27

Q. Very good. And then in paragraph 45, a 13:18:28

similar question regarding your understanding about a pending litigation in the District Court for the Eastern District of Texas. You acknowledge an understanding that in December of 2025, the District Court issued a claim construction order. Correct? 13:18:34 13:18:40 13:18:44 13:18:50 13:18:55 13:18:59

A. Yes. In paragraph 45, I cite a reference that explains my understanding of the -- of there being a December 2025 claim construction order. 13:19:05 13:19:07 13:19:10 13:19:12

Q. Okay. And have you offered an opinion whether the claim construction order is correct in terms of the proper claim construction of the terms recited in paragraph 45? 13:19:13 13:19:19 13:19:26 13:19:30

MS. STONE: Objection. Form. 13:19:32

A. So, again, I'm struggling with your term "correct," and what I'm trying to convey is that my scope of work was to look to the patent and the asserted claims and apply -- and evaluate the proposed prior art in light of that. That is something that a person of ordinary skill could do, and I have done, and 13:19:33 13:19:36 13:19:38 13:19:40 13:19:48 13:19:50 13:19:54

1	the opinions that I have put in that	13:20:01
2	declaration based on that work are the same	13:20:05
3	regardless of which claim construction is	13:20:08
4	applied.	13:20:09
5	BY MR. SCHATZ:	13:20:09
6	Q. Okay.	13:20:10
7	A. So I do have an opinion about -- but I	13:20:10
8	clearly am aware of all three; I have	13:20:16
9	considered all three; I have done the	13:20:17
10	analysis as outlined in the report. I can do	13:20:20
11	that because the information in the patent	13:20:24
12	and related materials is sufficient for a	13:20:27
13	person of ordinary skill to be able to	13:20:29
14	understand the requirements and compare the	13:20:34
15	asserted prior art to those requirements.	13:20:36
16	Q. Okay. Did you evaluate whether the District	13:20:39
17	Court was correct in its claim construction	13:20:44
18	order that you recite in paragraph 45?	13:20:47
19	A. I think you are asking me some combination of	13:20:52
20	a legal conclusion and something broader than	13:20:55
21	what I've done. I don't think that what	13:20:58
22	you're asking me specifically is what I've	13:21:03

done, but I have considered the relevance and appropriateness and technical correctness, for example, that a person of ordinary skill would understand in order to execute the analysis that I did. 13:21:06 13:21:11 13:21:13 13:21:17 13:21:19

Q. Okay. Are you offering an opinion what is the proper claim construction for the claim term, quote, "wherein the recyclable shrink label is recyclable with a PET container," closed quote? 13:21:20 13:21:25 13:21:30 13:21:35 13:21:39

A. As I understand your question and for all the reasons I've already said, no, I don't think I am. 13:21:40 13:21:42 13:21:46

Q. And you're not offering -- I understand that you've analyzed and done some testing regarding the Gatorade Label. Correct? 13:21:46 13:21:52 13:21:55

A. Yes. As outlined in the report, I have tested, analyzed information related to what we will conveniently call the Gatorade Label. 13:22:02 13:22:04 13:22:09

Q. Okay. And you have not, however, compared your results to the claim term, quote, "wherein the recyclable shrink label is 13:22:12 13:22:17 13:22:24

recyclable with a PET container," closed quote, and offered an opinion whether the Gatorade Label meets that limitation. Correct? 13:22:27 13:22:32 13:22:35 13:22:37

MS. STONE: Objection. Form. 13:22:42

A. So I have performed the analysis here and demonstrated the attributes associated with recyclability. So to the extent we're talking about comparison to elements in that claim element, then, yes, I have looked into that and provided the analysis and opinions in the report. 13:22:42 13:22:47 13:22:53 13:22:55 13:22:57 13:23:01 13:23:03

My scope is not a comprehensive analysis of all elements of all asserted claims, however. I believe that is addressed by a different individual. 13:23:03 13:23:08 13:23:11 13:23:13

BY MR. SCHATZ: 13:23:14

Q. I believe by Dr. Phillips. Correct? 13:23:15

A. That is my understanding. 13:23:19

Q. Okay. Well, in Exhibit 2012 in its entirety, can you show me where you offer an opinion that the Gatorade Label does not meet the 13:23:20 13:23:26 13:23:31

claim term, quote, "wherein the recyclable shrink label is recyclable with a PET container," closed quote? 13:23:33 13:23:38 13:23:41

A. I don't have a full-on photographic memory of my report, but I do know that an important aspect of the recyclability required by the patent is addressed through the work that's done here and probably best summarized, I think, in paragraph 70 in terms of for the caustic wash, regardless of shrink method, the label retained significant amounts of ink. 13:23:49 13:23:53 13:23:56 13:24:00 13:24:06 13:24:09 13:24:14 13:24:20 13:24:23

So in the recyclability analysis for the larger claim related to "recyclable" with the PET container, of course there is that the label should be based on PET, and that is analyzed in the report as well. 13:24:23 13:24:28 13:24:31 13:24:37 13:24:41

But the next step or next consideration in that process includes removing the ink such that the label that -- can be recycled with the rest of the container is free of or substantially free of 13:24:42 13:24:43 13:24:49 13:24:53 13:24:58

ink. That's the assessment that is summed up, I believe, in paragraph 70. 13:25:02 13:25:04

Q. Okay. Where in paragraph 70 do you state your opinion that the Gatorade Label does not meet a particular claim limitation of the '422 patent? 13:25:06 13:25:08 13:25:15 13:25:17

A. The way that my declaration is structured is to show the work and the conclusions based on the work. And, again, my scope is not to do a complete element-by-element analysis, but for the -- the opinion is that these labels retain ink, making them not recyclable under that claim. So that is the -- that is the associated implication. 13:25:24 13:25:30 13:25:32 13:25:35 13:25:41 13:25:47 13:25:50 13:25:55

There may be other statements related to this in the report. I really don't have full recollection of every paragraph and every statement. But to the extent that you are assessing that claim element it requires that, after a caustic wash of this type, that the ink is removed, and that is not the case, as evidenced by my 13:25:58 13:26:00 13:26:02 13:26:04 13:26:09 13:26:11 13:26:15 13:26:18

testing but also as evidenced by Dr. Deible's testing, which was the assertion that led to this testing. 13:26:23 13:26:26 13:26:30

Q. So in paragraph 70 you state, quote, "All flakes of the Gatorade Label that went into the caustic wash retained significant amounts of ink, irrespective of the preshrinking method," closed quote. 13:26:31 13:26:36 13:26:41 13:26:44 13:26:48

Do you see that? 13:26:50

A. Yes. 13:26:50

Q. Okay. And are you offering an opinion that because the Gatorade Label went into the caustic wash and retained significant amounts of ink, it does not meet the claim limitation, quote, "wherein the recyclable shrink label is recyclable with a PET container," closed quote? 13:26:51 13:26:56 13:27:00 13:27:04 13:27:18 13:27:20 13:27:20

A. I don't know that I followed the full question. Would you please restate that for me? 13:27:25 13:27:26 13:27:28

Q. Sure. No problem at all. 13:27:29

Are you offering the opinion that 13:27:31

because the Gatorade Label went into the caustic wash and retained significant amounts of ink, irrespective of the preshrinking label, then the Gatorade Label, for that reason, does not satisfy the claim limitation, quote, "wherein the recyclable shrink label is recyclable with a PET container," closed quote? 13:27:37 13:27:41 13:27:46 13:27:54 13:27:56 13:28:08 13:28:12 13:28:12

A. While my analysis is broader than that and I have considered additional information, this particular observation is enough to say that the label is not recyclable with a PET container in the manner described for the patent. 13:28:12 13:28:15 13:28:18 13:28:22 13:28:30 13:28:34

Q. Okay. How much ink was retained on the Gatorade Label? 13:28:36 13:28:45

A. Above paragraph 70 there is an image intended to guide the reader to the basic situation. So the right-hand side of the two images are the label flakes after the caustic wash, warm water rinse, float test, and drying. And visually the -- all of them contain ink. 13:28:46 13:28:53 13:28:58 13:29:01 13:29:08 13:29:12

Relative to the original amount, all of them contain a significant amount of ink and qualitatively much more ink than would be allowable under what the patent -- it has described for being free or substantially free of ink, and similarly consistent with the guidelines that are available and also disclosed in the patent. 13:29:18 13:29:20 13:29:28 13:29:35 13:29:40 13:29:42 13:29:47 13:29:50

Q. How much ink would not need to be retained for the label to meet the limitation, quote, "wherein the recyclable shrink label is recyclable with a PET container," closed quote? 13:29:53 13:30:01 13:30:01 13:30:12 13:30:12

MS. STONE: Objection. Form. 13:30:13

A. So your question is, how much not needed to be -- could you rephrase that portion for me? 13:30:17 13:30:21

BY MR. SCHATZ: 13:30:25

Q. Sure, I'll rephrase. Let me start out by saying this: You are of the opinion that the Gatorade Label, after the caustic wash, retained significant amounts of ink. How much is a significant amount of ink that was 13:30:26 13:30:28 13:30:31 13:30:35 13:30:40

retained on the Gatorade Label? 13:30:43

A. So the ink is notably and visibly present on the flakes, as exhibited in the photographs. The ink has not been removed, or essentially removed completely; it is still quite visibly present. And that is part of why I chose the term "significantly." 13:30:46 13:30:52 13:30:57 13:31:03 13:31:06 13:31:09

I am also aware that in the patent there is a description of levels of removal, and recyclability can include a requirement for complete removal, as well as essentially complete removal, where that substantially -- substantial removal or complete removal is much closer to a hundred percent than what is depicted here in these images. 13:31:10 13:31:13 13:31:18 13:31:22 13:31:26 13:31:29 13:31:35 13:31:37

Q. What do you -- 13:31:39

A. I do have a copy of the patent available to me and I think I'm going to pull that because I know there are definitions in the patent that can guide some of the conversation. 13:31:40 13:31:43 13:31:45 13:31:47

Q. Okay, we can do that, but I'm going to ask you a question about what you just said, which is, 13:31:48 13:31:50

you mentioned that there is a mention in the patent about "essentially complete removal," and you also mention "complete removal." How much is "essentially complete removal" compared to "complete removal"? 13:31:58 13:32:00 13:32:03 13:32:07 13:32:09

MS. STONE: Objection. Form. 13:32:15

A. So I think in that answer I was using more generalized language. The -- that's intended to connect to the specific language of the patent. 13:32:16 13:32:18 13:32:22 13:32:24

The patent, in column 3, for example, talks about terms such as "substantially" and "nearly completely" and gives threshold levels of 90, 95, and 98 percent. So this is the range in which I am thinking of "nearly," "completely," or "substantially," and I have considered that in light of the visual information for the flakes after washing. 13:32:25 13:32:30 13:32:33 13:32:39 13:32:43 13:32:47 13:32:53 13:32:56 13:33:00

BY MR. SCHATZ: 13:33:03

Q. In terms of the Gatorade Label, your visual inspection allows you to conclude that there 13:33:03 13:33:08

is not essentially complete removal. Is that your opinion? 13:33:12 13:33:16

A. I think it's described more fully in the report, but essentially yes. I can see in these flakes -- I think most people can see in these flakes, and that there is ink present on each of the flakes, and the coverage for these particular flakes is similar to the initial coverage for the flakes. A similar outcome is demonstrated in Dr. Deible's testing. 13:33:19 13:33:21 13:33:26 13:33:28 13:33:33 13:33:37 13:33:43 13:33:47 13:33:53

Q. So you indicated that the inks retained on the Gatorade Label are similar to the inks before the caustic wash. Right? 13:33:57 13:34:02 13:34:06

MS. STONE: Objection. Form. 13:34:10

A. The -- what I had said was related to coverage because I am primarily looking at coverage as an indication of presence, and from the direct inspection -- certainly more comprehensive than just looking at a photograph -- the inks are not substantially removed as would be -- as a person of 13:34:17 13:34:19 13:34:28 13:34:40 13:34:42 13:34:44 13:34:51

ordinary skill would understand them to need to be in order to be recyclable under the claims. 13:34:55 13:34:57 13:35:02

BY MR. SCHATZ: 13:35:03

Q. Okay. You mentioned that the Gatorade Label depicts a similar coverage after caustic washing than before caustic washing. How similar does the coverage have to be for a label to no longer meet the claim limitation, quote, "wherein the recyclable shrink label is recyclable with a PET container," closed quote? 13:35:03 13:35:07 13:35:14 13:35:19 13:35:24 13:35:26 13:35:32 13:35:33

A. I think this is described in the declaration in terms of removal expectations. It's also described in some of the reference documents. 13:35:34 13:35:40 13:35:43

The threshold for removal is much higher than has been achieved here. 13:35:49 13:35:53

Q. What is that threshold of removal? 13:35:56

A. So the threshold is linked to the recyclability, which is linked to having the recycled component not interfere with the rest of the recycling and resin downstream. 13:36:03 13:36:06 13:36:10 13:36:13

And that's outlined, for example, in the various documents. 13:36:17 13:36:20

So, here, the label flakes would be contaminating the PET because of the amount of ink that has not been removed. I have not done a further quantification of that because the visual assessment is sufficient to observe that ink will contaminate the stream further down when present in this manner. 13:36:20 13:36:30 13:36:31 13:36:36 13:36:37 13:36:40 13:36:47

Q. I'm sorry, you said that the ink will contaminate the resin in the recycling process? 13:36:51 13:36:56 13:37:02

A. Broadly, the concept behind removal of the ink is so that the label resin can be -- can be recycled with the container resin. The recyclability calls for contaminants, such as the inks, to be removed. And in this case, we can see that the inks have not been removed and, therefore, would be contaminating the stream. 13:37:04 13:37:09 13:37:14 13:37:19 13:37:24 13:37:28 13:37:31 13:37:34

Q. Some inks have been removed. Correct? 13:37:35

A. Based on the observed wash waters there is 13:37:39

some amount of ink that has been removed, but the amount of coverage and ink that is present is visually inconsistent with the -- what would be expected for recyclability. 13:37:43 13:37:46 13:37:47 13:37:53

Q. What amount of coverage of the Gatorade Label leads you to conclude that it would interfere with the recycling process? 13:37:57 13:38:04 13:38:11

MS. STONE: Objection. Form. 13:38:14

A. So, again, I am looking to the claims and teachings of the patent and the associated underlying information, and all of those teachings point to the intent to remove the inks so that they are not present to be a contaminant. 13:38:15 13:38:25 13:38:26 13:38:29 13:38:35 13:38:38

The -- when the ink is fully there, you can see it. When the ink is there after -- for these labels, you can continue to see it. There is a higher level than that than would be required as outlined in the patent and the disclosures. And based on the observations directly and memorialized in the photographs, we are not near that threshold. 13:38:40 13:38:46 13:38:50 13:38:51 13:38:59 13:39:00 13:39:05 13:39:09

So I believe that discussion in the documents and in the claims is related to "substantially" or "nearly completely" -- there's a couple terms in here -- and I look to, for example, column 6, the -- again, once it's the right kind of film, it's recyclable if no inks are retained on the film after a caustic wash that is typically used in the process. 13:39:12 13:39:17 13:39:20 13:39:26 13:39:32 13:39:39 13:39:42 13:39:50 13:39:52

So, again, the threshold we're looking for is basically free of inks that will be a contaminant. Here, you can see inks readily present at visually detectable levels across the surface area of essentially all of the flakes. 13:39:52 13:39:55 13:39:57 13:40:00 13:40:06 13:40:07

BY MR. SCHATZ: 13:40:08

Q. You were referring to column 6 of Exhibit 1001; is that right? 13:40:08 13:40:12

A. Yes, I was. 13:40:15

Q. And that informed -- in specifically column 6, line 62 through 65. Correct? 13:40:19 13:40:30

A. Yes, I believe that is correct. 13:40:34

Q. Okay. So to be recyclable, there can be no inks retained on the film after a caustic wash cycle. Correct? 13:40:35 13:40:40 13:40:44

MS. STONE: Objection. Form. 13:40:45

A. This is the Illustration section and provides some guidance as to the general intent. There's a broader description throughout the patent and the associated documents that have been disclosed in the history, but all of them point towards the removal of inks to avoid contamination of the resin stream and enable reuse. 13:40:47 13:40:53 13:40:57 13:40:59 13:41:02 13:41:04 13:41:07 13:41:11

And at the levels that are present in these images, the results of my testing have shown that that -- the inks for this label are not removed in a manner consistent with the requirements for recycling. 13:41:12 13:41:15 13:41:17 13:41:20 13:41:23

BY MR. SCHATZ: 13:41:26

Q. How much is "nearly completely removed" of inks? 13:41:26 13:41:30

MS. STONE: Objection. Form. 13:41:32

A. What do you mean? 13:41:33

BY MR. SCHATZ: 13:41:35

Q. Well, you stated that the intent of the patent is that inks be -- you first said "substantially removed," and then you added the comment, "or nearly completely removed," and I want to know what your opinion is regarding how much is "nearly completely removed." 13:41:35 13:41:41 13:41:45 13:41:49 13:41:54 13:41:56 13:41:58

A. I would refer you back, for purposes of this patent, to column 3, in which the terms "substantially" and "nearly completely" are described and associated with a range of removal that is 90, 95, or 98 percent. So, again, a significant amount of removal. 13:41:59 13:42:03 13:42:08 13:42:10 13:42:15 13:42:23

My language may not be completely precise or consistent, but a person of ordinary skill would understand that the recyclability is associated with getting to a resin that doesn't have contaminating inks in a way that interferes with the use of that resin downstream. 13:42:25 13:42:28 13:42:33 13:42:34 13:42:39 13:42:42 13:42:44

The way that that gets tested or 13:42:45

evaluated is through the caustic wash process. That is something that's been executed here and executed by others, and I am not aware of any inconsistent results in terms of there being ink remaining. The ink is not removable. That would be an important factor in considering the recyclability of the label as has been proposed. 13:42:47 13:42:49 13:42:51 13:42:54 13:42:57 13:43:01 13:43:03 13:43:05

Q. You mentioned that one aspect of whether a label is recyclable is if the remaining contaminants interfere with use downstream. Are you referring to use of the reclaimed resin? 13:43:09 13:43:12 13:43:17 13:43:24 13:43:30

A. In the most general sense, my response was directed towards that. I am not providing specific opinions about all of the fully downstream aspects of recycling. I am certainly considering the recycling process, and the measurements and techniques that go into controlling and providing a reliable stream of resin from the recycling process. 13:43:35 13:43:39 13:43:42 13:43:46 13:43:51 13:43:54 13:43:58 13:44:01

Again, the process is geared towards 13:44:07

getting back to the usable resin, and in particular, the guidance speaks to the desire for substantial removal or near complete removal. In the context of this patent, there is specific guidance in column 3 about that. 13:44:11 13:44:15 13:44:17 13:44:22 13:44:25 13:44:27

The testing that I've done is not approaching that threshold. You can see that the inks are still present as a contaminant even after the washing process. 13:44:29 13:44:31 13:44:33 13:44:36

Q. When you -- you referred to the phrase "substantially" and "nearly completely," you're referring to the removal of inks after the caustic wash. Correct? 13:44:38 13:44:43 13:44:46 13:44:51

A. Does your question imply to as opposed to some other step that I've also described in the declaration or to something else? 13:44:57 13:45:00 13:45:02

Q. I don't understand your question so I'll try to rephrase for you. 13:45:08 13:45:10

A. Okay. 13:45:13

Q. You mentioned that an important thing to consider to determine whether a label is 13:45:14 13:45:20

recyclable, as that term is used in the claims of the '422 patent, is whether the ink is substantially removed. Correct? 13:45:24 13:45:26 13:45:31

A. Yes. 13:45:34

Q. Okay. And are you referring to the removal of ink during the caustic wash process? 13:45:34 13:45:44

A. As opposed to something else? 13:45:51

Q. I'm asking you what you were referring to. 13:45:55

A. I am referring to the testing and information described in my declaration. There is a caustic wash that is -- that is chemically set up in order to remove the inks, but the work and the -- the overall evaluation also includes, then, a rinse and a separation and a float test and other things like that, as described in the declaration. 13:45:58 13:46:03 13:46:07 13:46:14 13:46:18 13:46:23 13:46:26 13:46:29

So I think that might be where I'm unclear as to your question. 13:46:30 13:46:33

Q. Okay. Fair enough. 13:46:34

So one factor to evaluate to determine whether a label is recyclable pursuant to the terms of the '422 patent is 13:46:35 13:46:39 13:46:45

whether there is substantial removal of the ink during a hot caustic wash bath. Correct? 13:46:47 13:46:50

A. That is one thing to consider. Again, the image in Figure 3 is after the wash, the warm water rinse, the float test, and the drying, as outlined in the declaration, so there's actually several steps that are all directed at removing the inks, and this evaluation is done after all of those steps. 13:46:56 13:47:00 13:47:06 13:47:10 13:47:12 13:47:15 13:47:18

Q. Okay. Are there any other factors that need to be evaluated at -- other than the amount of ink that is removed during a caustic wash when determining whether a label is recyclable, as that term is used in the claims of the '422 patent? 13:47:20 13:47:23 13:47:28 13:47:34 13:47:38 13:47:40

A. I think this is more than sufficient to answer the question for this label, but as I understand your question, and as I have described in the declaration, the claims are directed at labels that are recyclable with the container, so that would be connected to the float test, as well as to the general 13:47:46 13:47:47 13:47:52 13:47:55 13:48:00 13:48:03 13:48:08

composition of the resin of the label. That is something that has been considered as well. 13:48:10 13:48:14 13:48:16

But for this patent and these claims being recyclable with the container and recyclable such that, for example, you actually are getting to the recyclable resin rather than a contaminated stream, is far enough for this label to determine -- to draw the conclusion that this Gatorade Label is not recyclable consistent with the claims. 13:48:20 13:48:22 13:48:27 13:48:29 13:48:31 13:48:35 13:48:38 13:48:44

Q. You mentioned that in addition to the removal of the ink, the float test needs to be evaluated to determine whether a label is recyclable. How does the float test need to be evaluated for evaluating whether a label is recyclable? 13:48:49 13:48:53 13:48:57 13:49:02 13:49:07 13:49:09

A. So I think all of this works together, as described in my declaration. The float test is also called for in the guidances associated with the disclosures of the specification and the history. 13:49:14 13:49:16 13:49:22 13:49:25 13:49:27

The float test is, broadly, one way to understand if a label is something that will separate based on specific gravity from a container. If you are recycling with the container, one thing to consider is how the label is settling in a water bath compared to the resin itself. 13:49:30 13:49:34 13:49:38 13:49:43 13:49:52 13:49:56 13:50:04

I don't know that that answers all the things that you're talking about, I think it's more broadly described in the report and the supporting documents, but it is something that I considered because the teaching is for a label that is recyclable with the container resin, and the float test also provides increased opportunity for ink removal consistent with what is done in a recycling process, again, looking to see if there would be the claimed ink removal from this label which, as we've already discussed, there was not. 13:50:05 13:50:06 13:50:08 13:50:10 13:50:12 13:50:15 13:50:18 13:50:24 13:50:28 13:50:33 13:50:36 13:50:40 13:50:43

Q. And then, finally, you mentioned the general composition of the label is to be considered 13:50:43 13:50:47

when determining whether a label is recyclable, as that term is used in the claims of the '422 patent. 13:50:52 13:50:54 13:50:58

How is -- explain how the general composition of the label impacts whether a label is recyclable. 13:51:00 13:51:05 13:51:08

A. Broadly speaking -- and I think this is called out more explicitly in the underlying documents -- the category of recyclable label that is being addressed by the '422 is one where the label is recyclable with the PET container, so that puts requirements on the composition of the label resin. 13:51:09 13:51:17 13:51:21 13:51:25 13:51:29 13:51:36 13:51:39

Q. And what requirements are those on the label resin to determine whether the label is recyclable, as that term is used in the claims of the '422 patent? 13:51:43 13:51:46 13:51:51 13:51:54

A. Broadly speaking, that it should be a polyester label. And I think that is, again, described in the claims and in the body of the patent. 13:51:57 13:52:02 13:52:06 13:52:10

Q. Referring to Figure 3 in your declaration that 13:52:11

is Exhibit 2012 -- and it's just above paragraph 70 -- 13:52:48 13:52:57

A. Yes, I am at that figure. 13:52:58

Q. In Figure 3b, you'll see in the lower right-hand corner of the image there is a PET flake that used to have ink on it. Correct? And I'll just describe it. It look like there's maybe three small squares of ink remaining. 13:53:00 13:53:05 13:53:14 13:53:21 13:53:23 13:53:26

MS. STONE: Counsel, I'm so sorry. I'm actually not seeing where you're going. Could you try to point us just one more time so we're all looking at the same thing? 13:53:31 13:53:32 13:53:34 13:53:36

MR. SCHATZ: Sure. Yeah. And that's all I'm trying to do. Thank you, Tera. I appreciate that. 13:53:37 13:53:39 13:53:42

BY MR. SCHATZ: 13:53:44

Q. So you see Figures A and B that are a part of Figure 3. Correct? 13:53:44 13:53:51

A. Yes. 13:53:56

Q. Okay. And first of all, I'm only looking at image B as in boy. 13:53:56 13:54:00

A. Okay. 13:54:05
Q. Okay? And you see off to the right-hand side of image B there are some PET flake that appear to have some ink retained on it. Correct? 13:54:06 13:54:10 13:54:19 13:54:22
A. To the right-hand side there are six flakes of the label that were placed in, and those six flakes continue to have ink on them, but they are -- 13:54:22 13:54:28 13:54:30 13:54:35
Q. Very good. 13:54:35
A. -- separated to the right-hand side to help focus the attention. 13:54:36 13:54:37
Q. Very good. And do you see the -- one of the six flakes that is lower than the others? 13:54:41 13:54:45
A. Lower down on the page, yes, I do. 13:54:53
Q. Okay. And you see that there appear to be maybe three squares of small ink left, but the remainder is clear. Correct? 13:54:55 13:55:00 13:55:03
A. There are four black -- clearly black -- I'm not using the right term. 13:55:09 13:55:15
There are areas on that piece that are obviously black and visually covered in 13:55:16 13:55:21

dark ink. There are other areas that are clear because they started to clear, and there are other areas that are harder to visualize because of the lighting in this photo. 13:55:27 13:55:35 13:55:40 13:55:42 13:55:45

But, yes, I do see the square that has at least three discrete black areas on it. 13:55:45 13:55:51 13:55:57

Q. Okay. The areas that don't have those black areas, did those areas have ink originally before the caustic wash? 13:55:57 13:56:00 13:56:05

A. Some of the area of that square did not have ink coverage prior to the wash. 13:56:10 13:56:16

Q. Some of the areas that no longer have ink did, in fact, have ink before the caustic wash? 13:56:18 13:56:24

A. The other areas, I do not recall the -- whether there is ink remaining that is not the dark black, but there are areas that were not initially clear or light-colored. 13:56:31 13:56:39 13:56:43 13:56:48

Q. Would the inks in that one flake that we are referring to that remain, would that interfere with the reclaiming of resin from that flake? 13:56:56 13:57:03 13:57:08

A. What do you mean? 13:57:16

Q. Could a recycler reclaim that PET flake? 13:57:22

MS. STONE: Objection. Form. 13:57:29

A. The overall flake, which is what the test calls for, clearly retains significant amounts of ink, and this individual flake also contains ink, the dark ink, at a level that I believe still falls below what has been described as the near complete removal. 13:57:40 13:57:47 13:57:52 13:57:55 13:58:02 13:58:07

Having said that, the assessment for recyclability, as a person of ordinary skill would approach that, would not be to cherry-pick out individual flakes because the point of the recycling process is to be able to have a reliable bulk system in which the label is recyclable with -- the full label is recyclable with the container. 13:58:15 13:58:19 13:58:23 13:58:27 13:58:29 13:58:31 13:58:35 13:58:40

BY MR. SCHATZ: 13:58:43

Q. How did you conclude that the individual flake that we are referring to falls below nearly complete removal? Did you just look at it visually? 13:58:43 13:58:46 13:58:50 13:58:56

A. So my primary assessment is qualitative and visual, yes. And there's some scale information here, and there's other work that can be done, and it's an easy -- it's a more reliable assessment when looking at the actual object compared to the photograph, all of which I have considered in performing my analysis. 13:58:58 13:59:01 13:59:03 13:59:05 13:59:08 13:59:11 13:59:14 13:59:17

But my recollection is that all of the assessments were consistent, and I think that you can also draw that conclusion based on doing some of the math. 13:59:17 13:59:20 13:59:22 13:59:24

Q. Paragraph 51 of your declaration, please. 13:59:25

A. I am at paragraph 51, which is broadly in the section of an Overview of the Prior Art. 13:59:45 13:59:50

Q. Correct. And, here, you acknowledge your understanding about petitioner's contentions regarding the Gatorade Label; is that correct? 13:59:53 14:00:00 14:00:04

A. Yes. The intent here is to provide what I understand to be those contentions as it relates to my scope of work. 14:00:09 14:00:15 14:00:17

Q. Okay. And where do you offer your opinion, if 14:00:19

you do, whether petitioner's contention is not correct? Where in your declaration? 14:00:25 14:00:29

A. The focus of my work was on the assessment of the articles in light of what a person of ordinary skill would be able to understand and assess, rather than the comprehensive, full, element-by-element claim analysis. 14:00:38 14:00:45 14:00:51 14:00:55 14:01:00

Having said that, for the same reasons I've already explained, I can conclude -- and I think paragraph 70 is one of the parts of that -- that the label, the Gatorade Label, is not recyclable with a PET container in the manner called for by the patent for the reasons that we've just described, include that -- including that the ink is not removable through the caustic wash process. 14:01:04 14:01:06 14:01:07 14:01:12 14:01:19 14:01:23 14:01:26 14:01:28 14:01:31 14:01:37

And, again, I mean removable as is explained by the patent specification and underlying documents. 14:01:47 14:01:50 14:01:58

Q. What underlying documents are you referring to that inform whether inks are removable? 14:02:00 14:02:03

A. I've used that term here to capture, basically, file history information or referenced documents that are called out in the specification or, as I said, in the file history. So I have considered, for example, the guidance documents related to recycling in the context of my scope of work. 14:02:13 14:02:17 14:02:21 14:02:23 14:02:26 14:02:33 14:02:36

I've also, of course, looked to -- and much of this is driven by what did Dr. Deible actually do to provide a basis for the assertions, and so it -- attempting to repeat or actually repeating the work that he did based on the disclosures that he made. 14:02:39 14:02:43 14:02:48 14:02:51 14:02:54 14:02:56

So those are the sorts of things that I have considered. 14:03:01 14:03:02

Q. Okay, I'm sorry. You stated that your opinion is the Gatorade Label doesn't include ink that is removable, and then you cited several documents. 14:03:05 14:03:09 14:03:15 14:03:19

You said the patent, the specification. I understand what those are. And then you said, quote, "underlying 14:03:23 14:03:26 14:03:30

documents." What underlying documents were you referring to? 14:03:34 14:03:37

A. As I thought I just said, I was attempting to basically capture information from the prosecution history or the reference documents put forward during prosecution. 14:03:40 14:03:44 14:03:47 14:03:50

And I do want to make sure that I'm clear, in the way that you set that up, an ink's independent capability or a label's independent capability is not necessarily the same thing as whether or not the recyclable behavior will be exhibited by the combination. 14:03:53 14:03:56 14:04:04 14:04:07 14:04:09 14:04:12 14:04:15

So in this case, I've actually tested this specific combination. This specific combination is not recyclable for at least the reason that the inks are retained after the process that a person of ordinary skill would look to to understand the recyclability and removal of inks for that purpose. 14:04:15 14:04:17 14:04:19 14:04:23 14:04:25 14:04:29 14:04:33 14:04:36

Q. Okay. And what process are you referring to 14:04:36

when you say that? 14:04:39

A. In that answer, I was focused on the testing 14:04:41
that was performed and outlined here. The 14:04:44
testing that I did, which is similar to the 14:04:47
testing that Dr. Deible did, demonstrates 14:04:49
that the inks are retained on the label 14:04:54
despite having gone through the process 14:04:59
intended to demonstrate that the inks will 14:05:01
not still be present on the label in order to 14:05:03
allow further recycling of the label with the 14:05:09
container. 14:05:13

Q. Okay. And after you mentioned the file 14:05:13
history or the prosecution history, you 14:05:17
mentioned "guidance documents." What guidance 14:05:20
documents are evaluated by a person of skill 14:05:24
in the art to determine whether a label is 14:05:31
recyclable as that term is used in the claims 14:05:34
of the '422 patent? 14:05:37

MS. STONE: Counsel, for the record, 14:05:46
the witness is looking at Exhibit 1001. 14:05:47

ENTERED INTO THE RECORD: 14:05:47

PREVIOUSLY MARKED EXHIBIT 1001 14:05:47

1	2:05 p.m.	14:05:55
2	A. So, for example, under Other Publications in	14:05:55
3	the patent, there's reference to guidance	14:05:58
4	documents from the Association of Plastics	14:06:02
5	Recyclers. There's reference to that in	14:06:08
6	various documents. And in my declaration I	14:06:10
7	provide a list of some of those guidance	14:06:14
8	documents from two different points in time	14:06:18
9	that I have considered as part of this.	14:06:22
10	BY MR. SCHATZ:	14:06:26
11	Q. So, for example, looking at Exhibit 1001, the	14:06:27
12	Other Publications that you referred to, there	14:06:30
13	is a reference to "shrink sleeve labels on PET	14:06:35
14	containers, APR resource document, the	14:06:46
15	Association of Plastic Recyclers, January 4,	14:06:48
16	2021."	14:06:53
17	Do you see that?	14:06:55
18	A. Yes.	14:06:55
19	Q. So a person of skill in the art needs to	14:06:56
20	evaluate that document to determine whether a	14:07:00
21	label is recyclable, as that term is used in	14:07:05
22	the claims of the '422 patent?	14:07:09

MS. STONE: Objection. Form. 14:07:11

A. I think it would be more accurate to say that a person of ordinary skill in the art overall would have an awareness of these types of documents and would be considering the guidance information from APR as it relates to the claims, and I think that that's been laid out in certain ways in the specification and so on. 14:07:18 14:07:20 14:07:23 14:07:25 14:07:29 14:07:36 14:07:38 14:07:41

So I did also review those documents and how they were described and assessed by Dr. Deible as well in his declaration, and execution of the testing to evaluate this feature of recyclability of labels. 14:07:43 14:07:48 14:07:53 14:07:58 14:08:03

BY MR. SCHATZ: 14:08:03

Q. You mentioned that the -- a person of skill in the art would consider the guidance provided by the APR resource document, "as it relates to the claims"; that's the phrase you used. 14:08:07 14:08:14 14:08:17 14:08:20

Isn't it true that a person of skill in the art would consider the APR resource document as it relates to whether a label is 14:08:22 14:08:27 14:08:29

recyclable, as that particular term is used in the claims of the '422 patent? 14:08:33 14:08:39

MS. STONE: Objection. Form. 14:08:40

A. I'm not sure I followed your question. Could you rephrase it for me, please? 14:08:42 14:08:46

BY MR. SCHATZ: 14:08:47

Q. Sure. I'll try. Again, I'm referring to the APR resource document that's listed under the Other Publications in Exhibit 1001. 14:08:48 14:08:51 14:08:55

A. There are several, yes. 14:09:00

Q. Well, there's only one APR resource document. 14:09:02

A. I don't have those documents in front of me, but, yes, that term "resource document" is in one of the titles. These documents are actually connected and they refer to each other, which is something that I have considered in the analysis as well. But please go ahead with your question and I will do the best I can to answer. 14:09:27 14:09:28 14:09:33 14:09:35 14:09:38 14:09:40 14:09:44 14:09:46

Q. An example of the APR guidance documents, referred to in the Other Publications section, is shrink sleeve labels on PET containers, APR 14:09:48 14:09:59 14:10:03

resource document. Correct? 14:10:10
A. Yes. 14:10:11
Q. Okay. Would a person of skill in the art consider that document when determining whether a label meets the "recyclable" claim term used in the '422 patent? 14:10:12 14:10:17 14:10:19 14:10:26
MS. STONE: Objection. Form. 14:10:31
A. Broadly, this, and related documents, would be considered within the context of the '422 which is specific to a type of recyclable label, which I think is called out -- I can't remember if it's that one or a different one. 14:10:33 14:10:39 14:10:43 14:10:48 14:10:51
So, again, this is the type of label that is recyclable with the container as opposed to separable from the container, and then, of course, there's additional information about the recyclability steps and test methods and so on. 14:10:53 14:10:55 14:10:59 14:11:03 14:11:05 14:11:10
BY MR. SCHATZ: 14:11:11
Q. Okay. 14:11:12
MS. STONE: Counsel -- 14:11:14
BY MR. SCHATZ: 14:11:15

Q. What additional information are you referring to? 14:11:15 14:11:17

A. Each document has information in it. I know that when I read that, I saw the interconnection between the documents, I considered parts as being relevant to my scope of work, and I did not particularly dive deeper into other parts of it. I don't have the documents in front of me. 14:11:22 14:11:25 14:11:26 14:11:29 14:11:31 14:11:33 14:11:36

But, again, a person would consider broadly those guidances, as well as the teachings of the patent, when looking to evaluate the label. I think I've probably laid that out most clearly in my declaration. 14:11:38 14:11:40 14:11:43 14:11:47 14:11:51

BY MR. SCHATZ: 14:11:54

Q. And just to clarify -- and I think this will hopefully streamline our conversation -- but in the Other Publications section, there are several APR guidance documents. Correct? 14:11:55 14:11:57 14:12:00 14:12:05

A. Yes. 14:12:12

Q. Okay. And when evaluating whether a label is recyclable, as that term is used in the '422 14:12:13 14:12:20

patent, a person of skill in the art would consider each of those APR documents. Correct? 14:12:25 14:12:29 14:12:32

MS. STONE: Objection. Form. 14:12:32

A. Broadly, the body of information connected to those documents would be considered. Some aspects are more relevant than others to the specific question here and -- yeah. And so I think that's probably the best answer to your question as I understand it. 14:12:35 14:12:41 14:12:44 14:12:47 14:12:54 14:12:57

THE WITNESS: Are we coming to a time -- 14:12:58 14:13:00

MS. STONE: Yeah. -- 14:13:00

THE WITNESS: -- to take a break? 14:13:02

MS. STONE: Counsel, let's jump off the record to take a break. 14:13:02 14:13:04

MR. SCHATZ: Yeah, I think that's a perfect opportunity. Thank you. 14:13:05 14:13:06

(Off the record at 2:13 p.m.) 14:13:27

(Back on the record at 2:25 p.m.) 14:25:32

BY MR. SCHATZ: 14:25:33

Q. Dr. Reitman, earlier we had discussed a 14:25:34

portion of the '422 patent, which is Exhibit 1001, specifically column 6, lines 62 to 65, if I could direct your attention to that. 14:25:39 14:25:47 14:25:56 14:25:58

A. I'm at that location. 14:26:04

Q. Do you see that there is a reference to "a caustic wash cycle typically used in PET reclaiming processes"? 14:26:06 14:26:14 14:26:21

A. Yes. 14:26:24

Q. Are you familiar with PET reclaiming processes? 14:26:25 14:26:29

A. Broadly. 14:26:32

Q. When you say "broadly," what's your experience in PET reclaiming processes? 14:26:34 14:26:38

A. I have a general awareness of the process -- the processes that are used, the intention of the processes, the materials that are -- processes also more broadly associated with polymer recycling. 14:26:41 14:26:46 14:26:49 14:26:56 14:26:59

I have developed this understanding through the course of my career working as a polymer materials scientist involved in 14:27:05 14:27:07 14:27:10

material selection, product development, and lifecycle analysis broadly. So I have the general familiarity. 14:27:15 14:27:19 14:27:24

I think that in the context of this project, the primary analysis related to recycling, overall, is addressed by Dr. Phillips, but I do bring my education, training, and experience to my assessment of the information. And, of course, I consider the perspective of a person of ordinary skill in the art, for this art, and what we've talked about already today. 14:27:25 14:27:28 14:27:34 14:27:37 14:27:41 14:27:47 14:27:50 14:27:54 14:27:57

Q. Prior to this project; that is, your engagement in this post-grant review matter, what experience have you had where you have evaluated a caustic wash cycle typically used in PET reclaiming processes? 14:27:59 14:28:02 14:28:09 14:28:13 14:28:18

A. For that specific set and for the purposes of this patent, I think this is the most specific work. But in terms of caustic wash for separation and cleaning and for evaluation of materials, polymeric materials 14:28:27 14:28:32 14:28:34 14:28:39 14:28:43

for recyclability including polyester materials, I have worked as a polymer material scientist for decades, and this is broadly a topic. 14:28:49 14:28:52 14:28:56 14:28:59

But, again, I think for specifically executing the bath testing, this is probably the first time I've done it for such a narrow scope. 14:29:05 14:29:07 14:29:11 14:29:13

Q. Have you ever -- prior to this engagement, ever reviewed a caustic wash cycle typically used in PET reclaiming processes? 14:29:15 14:29:21 14:29:23

MS. STONE: Objection. Form. 14:29:27

A. What do you mean by "review"? 14:29:28

BY MR. SCHATZ: 14:29:31

Q. Have you ever considered a caustic wash cycle typically used in PET reclaiming processes prior to this project? 14:29:32 14:29:36 14:29:41

A. Yes, because you would be thinking about the caustic wash as part of the recycling process when evaluating resin choices and recyclability and different options for products, if I'm understanding your question 14:29:45 14:29:49 14:29:52 14:29:55 14:30:03

correctly. 14:30:05
Q. I don't think you are, so I'll reask it. 14:30:06
Give me a specific project where you, 14:30:09
prior to this engagement, analyzed a caustic 14:30:13
wash cycle typically used in PET reclaiming 14:30:18
processes. 14:30:21
A. What do you mean by "analyzed a cycle"? 14:30:21
Q. Have you ever reviewed a caustic wash cycle 14:30:28
typically used in PET reclaiming processes 14:30:32
before this project? This engagement? 14:30:35
MS. STONE: Objection. Form. 14:30:38
A. I have been involved in various projects 14:30:39
which incorporated the consideration of the 14:30:49
conditions associated with recycling from a 14:30:55
polymers and formulated system perspective 14:30:59
probably in a bunch of different projects at 14:31:05
different points in time, typically related 14:31:07
to selection of multicomponent materials in 14:31:11
which a polyester is one of the components, 14:31:15
but -- 14:31:18
BY MR. SCHATZ: 14:31:19
Q. Did you design the caustic -- 14:31:19

MS. STONE: Counsel, please let -- 14:31:20
please let her finish her answer. 14:31:22
BY MR. SCHATZ: 14:31:22
Q. Sorry. I'm sorry, Dr. Reitman. You can 14:31:25
finish. I thought you were finished. 14:31:27
A. What I was going to say is the attention 14:31:28
would have been more on the materials and the 14:31:30
behavior of the system rather than a focus on 14:31:33
the process specifically because the 14:31:37
processes are generally described and -- and 14:31:40
so the focus is -- for my work is basically 14:31:44
on the materials side. 14:31:50
BY MR. SCHATZ: 14:31:52
Q. Have you ever designed a material and 14:31:52
evaluated as it goes through a caustic wash 14:31:58
cycle typically used in reclaiming PET 14:32:03
processes before this engagement? 14:32:06
A. So there's a couple parts to that, but 14:32:11
typically, again, my focus is on the 14:32:14
selection and the device, so I'm usually 14:32:17
looking at whether or not we want to combine 14:32:20
different materials that are similar or 14:32:22

different, knowing what the wash or separation conditions will be downstream. 14:32:23 14:32:28

My focus is typically not on the actual operation or the control of the -- the wash process, per se, but really on the decisions that would go into, is this likely to succeed or not in this type of environment. 14:32:30 14:32:33 14:32:42 14:32:44 14:32:47 14:32:49

BY MR. SCHATZ: 14:32:51

Q. Okay. So, again, for the -- you mentioned systems and devices that you've worked on. Have you ever personally evaluated such a system or a device go through a caustic wash cycle typically used in PET reclaiming processes? 14:32:51 14:32:53 14:32:58 14:33:05 14:33:08 14:33:11

A. Well, while I've looked at materials before and after caustic washes for various purposes, I'm not -- no example of something specific to this label activity comes to mind before this project. 14:33:16 14:33:18 14:33:26 14:33:27 14:33:31

Q. You inserted a caveat about "label activity." I have no idea what that means, so I'm gonna 14:33:32 14:33:38

ask my question again, which is, in the systems and devices that you have been involved in, have you ever evaluated the actual system or device go through the caustic wash cycle typically used in PET reclaiming processes? 14:33:42 14:33:49 14:33:51 14:33:57 14:33:59 14:34:02

MS. STONE: Objection. Form. 14:34:06

A. So the wash cycles are similar in other industries as well, and I have, on occasion, considered the direct results of those -- of caustic washing on systems. But more typically, I am look at information further upstream, in light of the material behavior, to decide whether or not I want to proceed with doing the experiments. 14:34:06 14:34:14 14:34:21 14:34:26 14:34:31 14:34:33 14:34:36 14:34:38

So in the examples that I'm thinking of, I -- there may have been an example related to these types of labels, but I don't have a clear recollection of that. Typically it's much broader work based on the same fundamental principles and the same kinds of guidance, but the work I've done here is 14:34:41 14:34:46 14:34:54 14:35:01 14:35:03 14:35:06 14:35:10

specific to the proposed prior art and the teachings specific to this patent. 14:35:12 14:35:18

Q. I'm not asking about this project; I'm asking about prior projects before this engagement. Have you ever personally viewed a caustic wash cycle typically used in PET reclaiming processes? 14:35:21 14:35:23 14:35:28 14:35:33 14:35:36

MS. STONE: Objection. Form. 14:35:38

A. I have seen examples of recycling processes including caustic washes. I have seen prototypes of caustic washes and I have used caustic washes to evaluate the behavior of multicompartment polymeric systems before. 14:35:41 14:35:45 14:35:51 14:35:55 14:35:58

BY MR. SCHATZ: 14:36:03

Q. Okay, tell me about each of those examples. 14:36:04

A. Broadly speaking, there's quite a bit of information publicly available related to recycling processes, how they're -- you know, can be visualized, where the baths are, and, you know, setup -- various setups for that purpose. 14:36:08 14:36:10 14:36:15 14:36:19 14:36:26 14:36:29

I have been involved in laboratory 14:36:33

settings where we used a caustic wash to clean or separate materials. 14:36:36 14:36:41

Q. Tell me about each of those laboratory settings. 14:36:44 14:36:46

A. I mean, they would be laboratories with hoods and where we're doing various experiments at various points in time. 14:36:48 14:36:51 14:36:55

Q. Can you give me one specific fact about any of these laboratory settings or the projects involved? 14:36:58 14:37:02 14:37:05

A. Sure. The equipment chosen to handle the caustic is appropriate for the concentration, and the work is done in a hood. The experiments are typically using about a 1 percent solution, and the caustic nature is relevant because it can help with removal, for example, of adhesives or other assemblies for separating out materials for recovery. 14:37:11 14:37:16 14:37:18 14:37:22 14:37:25 14:37:30 14:37:33 14:37:38

Q. I'm asking for specific projects that you were involved in. Identify each of those projects that -- that included your evaluation, your personal evaluation of a caustic wash cycle 14:37:42 14:37:46 14:37:50 14:37:56

typically used in PET reclaiming processes. 14:37:58

MS. STONE: Objection. Form. 14:38:04

A. So, again, to the extent that we're talking about something specific to this label claim, then I've told you that the work here is probably the most specific and relevant to it. Broadly, I've told you that I do lab work in which we will occasionally use caustic baths in order to separate things. 14:38:05 14:38:07 14:38:09 14:38:14 14:38:16 14:38:18 14:38:20

As someone working in the field, I'm aware of recycling processes including the use of caustic bath and wash systems for separating out certain components in plastics recycling. 14:38:25 14:38:26 14:38:29 14:38:33 14:38:36

And to the extent that you're asking me about a specific project, first of all, I don't know that I could necessarily pull up specific memories for explicit details beyond what I've told you, but even if I could, it is likely I would be bound by confidentiality requirements. I am not at liberty to disclose the specific name or nature of a 14:38:36 14:38:38 14:38:42 14:38:43 14:38:46 14:38:51 14:38:54 14:38:56

vast majority of the work that I do without prior consent from that client, and in this case I would not be prepared to go further for at least those reasons. 14:38:58 14:39:00 14:39:04 14:39:09

Q. Your testimony is that you have, in your laboratory work, personally reviewed a caustic wash cycle typically used in PET reclaiming processes. Is that your testimony? 14:39:10 14:39:24 14:39:29 14:39:32

MS. STONE: Objection to form. 14:39:37

A. Yes, I have reviewed caustic wash -- caustic wash processes. To the extent that you're talking about specific to the recycling for here, then I've done it at least in the context of this project. 14:39:38 14:39:43 14:39:48 14:39:51 14:39:52

Prior to this, the same basic procedures and the same basic factors have been utilized in experiments that I've either performed or directed or evaluated the materials after the exposure. 14:39:55 14:39:57 14:40:00 14:40:04 14:40:08

BY MR. SCHATZ: 14:40:12

Q. Tell me about those experiments. 14:40:12

A. I have already conveyed to you what I am 14:40:15

comfortable conveying under the existing confidentiality rules. Basically, you create a wash; typically it's a hot wash -- 14:40:17 14:40:20 14:40:23

Q. I'm not asking for details; I'm asking about how you went about doing it. I'm asking about the names of the projects. 14:40:28 14:40:30 14:40:33

A. That is a -- 14:40:35

MS. STONE: Counsel -- sorry, Maureen. 14:40:36 14:40:39

Counsel, please don't interrupt the witness. You asked a question, she was in the process of responding. If you would like to ask a more specific question, feel free to do so. 14:40:39 14:40:41 14:40:42 14:40:45 14:40:47

With that in mind, I would also ask that you just watch your tone. I understand you're not getting the answer that you want and you may want to rephrase the question, but please just keep in mind that the witness is trying to answer your question. 14:40:48 14:40:50 14:40:54 14:40:55 14:40:58 14:41:00

So, with that, can you please reask your question so that the witness may answer 14:41:01 14:41:02

it. 14:41:04

MR. SCHATZ: Yeah, and I appreciate 14:41:05

that. It's just the witness is not answering 14:41:05

the question I'm asking. 14:41:07

BY MR. SCHATZ: 14:41:09

Q. You have indicated, under oath, that you have 14:41:10

personally evaluated a caustic wash cycle 14:41:15

typically used in PET reclaiming processes. I 14:41:19

want to know what those projects are. 14:41:24

A. I have already done what I can to answer you, 14:41:27

and I want to be cautious to make sure that 14:41:30

you understand that at least part of my 14:41:33

answer is that the processes I have used are 14:41:34

consistent with those typically used because 14:41:40

the purpose of my work was not necessarily 14:41:42

for the purpose of commercial recycling even 14:41:46

though the conditions were quite similar. 14:41:50

I also have explicitly told you that 14:41:53

I cannot disclose the names of projects or 14:41:56

clients or scopes for at least the reasons 14:41:59

that there are confidentiality agreements in 14:42:01

place that I cannot evaluate on the fly. 14:42:03

My purpose here is not to tell you that I have done exactly this work in exactly this way prior to this project, but instead to convey to you that in the normal course of my work as a polymer materials scientist, the caustic wash procedure is one that I am broadly familiar with and have either directly used or had my team execute on my behalf so that I may evaluate the outcome of the exposure and what that means for the materials. 14:42:06 14:42:09 14:42:14 14:42:16 14:42:19 14:42:23 14:42:26 14:42:27 14:42:31 14:42:37 14:42:40

I have also considered those, running those experiments, for systems that we are considering. Many times I make selections such that I do not need to run those experiments. I make different choices. 14:42:41 14:42:43 14:42:46 14:42:50 14:42:57

Q. So the examples you've provided are not caustic wash cycles relating to PET reclaiming processes. Correct? 14:43:00 14:43:02 14:43:08

A. At this time, no specific example related to reclaiming activities come to mind. The wash conditions that would be similar to those 14:43:09 14:43:11 14:43:20

four reclaiming activities and, for example, consistent with the guidance here, are conditions I have used for the purpose of removing or separating polymeric materials. 14:43:22 14:43:26 14:43:27 14:43:29

But I have not done it for the commercial recycling operations, as I understand your question to be asking. 14:43:34 14:43:36 14:43:40

Q. Thank you. 14:43:41

I'm going to direct your attention to paragraph 60 of your declaration, Exhibit 2012. 14:43:43 14:43:46 14:43:50

MARKED FOR IDENTIFICATION: 14:43:50

PREVIOUSLY MARKED EXHIBIT 2012 14:43:50

2:43 p.m. 14:43:57

A. I am at paragraph 60. 14:43:57

BY MR. SCHATZ: 14:44:03

Q. You, in paragraph 60, describe your review of Dr. Deible's caustic wash testing. Correct? 14:44:03 14:44:12

A. I think my review of his testing might expand beyond paragraph 60, but I do start here by saying that I've been asked to comment on that testing in addition to performing 14:44:21 14:44:24 14:44:27 14:44:29

testing. 14:44:31

Q. Okay. Did you analyze -- well, let me -- let me say it this way. 14:44:32 14:44:38

If you did, where in your declaration do you offer an opinion that Dr. Deible's laboratory testing is one, quote, typically used in PET reclaiming processes, closed quote? 14:44:39 14:44:43 14:44:56 14:44:58 14:45:02

A. I think the focus for Dr. Deible's testing is simply to identify what he did and he has asserted is a basis for determining recyclability under the claims, and to point to the additional documents that he looked to for that guidance. 14:45:07 14:45:11 14:45:17 14:45:21 14:45:26 14:45:30

Q. Okay. So did you -- yes or no -- determine whether Dr. Deible's laboratory testing is a caustic wash cycle typically used in the PET reclaiming processes? 14:45:33 14:45:38 14:45:48 14:45:52

A. I looked to his wash cycle and descriptions of what he was doing, and I looked to the other information and determined that, to the extent that Dr. Deible was using this as a 14:45:58 14:46:04 14:46:06 14:46:09

basis to affirm the Gatorade Label would be prior art, then that would be consistent or that that would be something I could replicate to further analyze. 14:46:13 14:46:17 14:46:24 14:46:28

Q. Okay. Did you determine whether or not Dr. Deible's laboratory testing is or constitutes a caustic wash cycle typically used in PET reclaiming processes? 14:46:29 14:46:34 14:46:37 14:46:41

MS. STONE: Objection. Form. 14:46:46

A. So my purpose was to adopt that as the -- as the basis being used for the recyclability analysis and to replicate and to comment on it. The process that is disclosed was consistent with the other information that I was looking to for an understanding of the recyclability information, and I am aware that a broader opinion related to recyclability in the context of commercial operations is within the scope of Dr. Phillips. 14:46:48 14:46:57 14:47:03 14:47:08 14:47:18 14:47:20 14:47:24 14:47:27 14:47:32 14:47:35 14:47:39

So my work is as I have outlined it here. To the extent that Dr. Deible's work 14:47:39 14:47:42

is not considered representative of what is necessary to show prior art in the claims, then that would mean that there's no basis in the case for that from the petitioner's point of view. 14:47:47 14:47:51 14:47:53 14:47:56 14:48:00

I have assumed that the petitioner's position is one to evaluate credibly, and that is what I have done in my work. 14:48:01 14:48:03 14:48:06

BY MR. SCHATZ: 14:48:09

Q. Okay. You analyzed Dr. Deible's laboratory testing. Correct? 14:48:09 14:48:13

A. That is one of the things that I did, yes. 14:48:15

Q. Okay. And then you have this comment in Exhibit 1001 which refers to, quote, "a caustic wash cycle typically used in PET reclaiming processes." Correct? That's what we just got done looking at in the patent. 14:48:17 14:48:21 14:48:25 14:48:29 14:48:34

A. Column 6 says that. There is a -- paragraph 58, for example, of my report sets up the discussion of ink retention after caustic washing, and that also refers back to, I believe, that column and set of lines. 14:48:38 14:48:41 14:48:43 14:48:46 14:48:50

Q. Yeah, that's completely irrelevant to what I'm asking. I don't know why you're injecting that into the commentary. 14:48:52 14:48:55 14:48:58

But my question is, you have two things; Dr. Deible's laboratory testing, and then you have a caustic wash cycle typically used in PET reclaiming processes. Did you ever compare the two? 14:48:59 14:49:02 14:49:06 14:49:09 14:49:13

A. Broadly, and as outlined in the report, I have considered what Dr. Deible disclosed and referenced, what is disclosed and referenced in these, and what a person of ordinary skill would understand, and incorporated all of that into both my analysis and commentary. 14:49:19 14:49:22 14:49:27 14:49:30 14:49:32 14:49:36

Q. You're not answering my question, Dr. Reitman, to be perfectly blunt. I asked you, you understand that Dr. Deible performed laboratory testing. Correct? 14:49:40 14:49:42 14:49:46 14:49:49

A. Yes. 14:49:51

Q. And that included a caustic wash. Correct? 14:49:51

A. Yes. 14:49:57

Q. Okay. Separately, in the patent there is a 14:49:57

reference to, quote, "a caustic wash cycle typically used in PET reclaiming processes." 14:50:03 14:50:07

My question is, did you ever compare Dr. Deible's laboratory testing with a caustic wash cycle typically used in PET reclaiming processes to determine if they're the same? 14:50:10 14:50:16 14:50:21 14:50:24

MS. STONE: Objection. Form. 14:50:31

A. So I considered that Dr. Deible's process is a laboratory process; that commercial recycling is typically a larger scale process; and that there's a connection between the two that is reflected in various documents and procedures. And so I have no reason to discount Dr. Deible's approach to this evaluation beyond anything that I've said in the declaration. 14:50:31 14:50:34 14:50:37 14:50:40 14:50:42 14:50:46 14:50:48 14:50:55 14:50:57

I adopted that approach, as he has asserted it was the method for evaluation, and performed my analysis as outlined in documents. 14:51:01 14:51:05 14:51:09 14:51:12

BY MR. SCHATZ: 14:51:12

Q. Is the caustic wash that you performed a 14:51:13

caustic wash cycle typically used in PET reclaiming processes? 14:51:17 14:51:20

A. Inherently, the -- what I did was laboratory scale, but it is consistent with the processes in a manner that is evaluated and described, for example, through guidances and my understanding broadly of the work. 14:51:24 14:51:30 14:51:33 14:51:38 14:51:41

So the work reasonably represents those processes in a way that one of ordinary skill in the art would consider when preparing to perform tests to determine if a label met the requirements under the patent claims. 14:51:46 14:51:50 14:51:56 14:52:00 14:52:03 14:52:09

Q. Okay. And you evaluated Dr. Deible's declaration. Correct? 14:52:10 14:52:26

A. Yes. 14:52:28

Q. Exhibit 1014, do you by any chance have that -- a copy of that in front of you? 14:52:28 14:52:37

A. I do not have a copy of Dr. Deible's declaration in front of me. 14:52:39 14:52:41

Q. Okay. 14:52:43

MR. SCHATZ: If we could have Stas 14:52:44

bring up Exhibit 1014, please. 14:52:47

ENTERED INTO THE RECORD: 14:52:49

PREVIOUSLY MARKED EXHIBIT 1014 14:52:49

2:52 p.m. 14:52:52

PLANET DEPOS TECH: Counsel, is -- 14:52:52

what is it listed as in our -- in the ones 14:52:53

that were uploaded? Would that be Deposition 14:52:55

Exhibit 2 or... 14:53:00

MR. SCHATZ: There's -- I'm not sure 14:53:01

the names of the exhibits. Were names given 14:53:04

to the exhibits, or is it just a number? 14:53:11

PLANET DEPOS TECH: No. It was -- it 14:53:13

was a number -- yeah, basically there's MUCC 14:53:16

265PGR, that is Exhibit 2. That's the 14:53:22

United States patent. Let me look at 3. MCC 14:53:25

premium, purpose, test methods. This would be 14:53:32

Multi-Color 1012, starts with that page 14:53:39

number. 14:53:41

MR. SCHATZ: It would probably be 14:53:41

Exhibit 4, then. 14:53:43

PLANET DEPOS TECH: Okay. One 14:53:44

second, please. 14:53:45

MR. SCHATZ: Thank you. 14:53:47

PLANET DEPOS TECH: May I drop this 14:53:55

in the Chat? 14:53:58

MR. SCHATZ: That is just fine, thank 14:54:02

you. 14:54:04

PLANET DEPOS TECH: Okay. I have 14:54:04

just dropped that in the Chat, and now I will 14:54:22

share it on the screen. 14:54:23

MS. STONE: Maureen, you can go ahead 14:54:30

and download that document from the Chat. Can 14:54:31

you let us know when you have it up? 14:54:33

PLANET DEPOS TECH: It is on the 14:54:37

screen. 14:54:38

MR. SCHATZ: Tera, is this going to 14:54:44

be acceptable to review it on the screen? 14:54:45

MS. STONE: It looks like Maureen is 14:54:48

downloading the document, so if we can just 14:54:50

give her one second to see if she can open the 14:54:52

exhibit as well on her own computer. 14:54:55

MR. SCHATZ: Great. We'll just wait 14:54:58

until that process is done. 14:54:59

MS. STONE: Thank you. 14:55:01

PLANET DEPOS TECH: Would you like to continue to share, Counsel, on the screen? 14:55:08 14:55:09

MR. SCHATZ: Yeah, you can continue to share. 14:55:11 14:55:12

MS. STONE: I think it would be helpful for us to all be able -- to make sure we're all looking at the same thing. 14:55:13 14:55:14 14:55:15

THE WITNESS: I have been able to download the document and open it. And, yes, I would prefer to keep it shared on the screen as well to guide the conversation. 14:55:17 14:55:18 14:55:23 14:55:24

PLANET DEPOS TECH: Okay. 14:55:38

MS. STONE: Counsel, I think we're ready when you are. 14:55:38 14:55:39

MR. SCHATZ: Thank you. 14:55:40

Stas, I'm going to have you scroll nearly all the way to the end of the exhibit, and then maybe go 14 pages from the last page. 14:55:57 14:56:05 14:56:30

Scroll up. A few more. And right there. Go down one. Great. 14:56:43 14:56:50

BY MR. SCHATZ: 14:56:54

Q. Dr. Reitman, I'm going to ask you a few 14:56:55

questions about Figures 11b, 11c, and 11d of Dr. Deible's declaration. Okay? 14:56:56 14:57:05

A. Okay. 14:57:09

Q. And if it helps, in paragraph 61 of your declaration, you confirmed that you reviewed Dr. Deible's testing results. Correct? 14:57:14 14:57:19 14:57:25

A. I did. 14:57:31

And can I ask, the exhibit that you sent me, is that in a searchable form? 14:57:32 14:57:42

Q. That is Exhibit 1014? Mr. Deible's declaration? 14:57:44 14:57:51

A. Yes. 14:57:52

Q. I doubt it. 14:57:53

A. Okay. 14:57:55

Q. So I want to ask you a few questions about these figures. 14:57:58 14:58:03

A. Okay. 14:58:04

Q. Okay? You will agree with me that there are flakes in exhibit -- I'm sorry, Figure 11b, that don't reflect any discoloration due to ink removal. Correct? 14:58:05 14:58:22 14:58:34 14:58:38

MS. STONE: Objection. Form. 14:58:40

A. Can you say that again, please? 14:58:49
BY MR. SCHATZ: 14:58:50
Q. Sure. You see that there are several 14:58:51
different PET flakes in Figure 11b. Correct? 14:58:55
A. Yes. There appear to be both container 14:59:04
and -- primarily container -- well, there 14:59:10
are -- yes, there are multiple flakes, and at 14:59:14
least one of them is -- appears to be a label 14:59:16
flake. 14:59:21
Q. Okay. And you'll agree with me that the -- 14:59:21
there's one flake that has some ink remaining 14:59:25
on it. Correct? 14:59:30
MS. STONE: Objection. Form. 14:59:35
A. I see at least one flake in this image that 14:59:38
has ink on it, yes. 14:59:44
BY MR. SCHATZ: 14:59:46
Q. Okay. And the flakes that do not have any ink 14:59:47
on it, you'll agree with me that those flakes 14:59:49
are not discolored by any ink that has been 14:59:54
removed. Correct? 14:59:57
MS. STONE: Objection. Form. 15:00:01
A. To the extent that other flakes are visible, 15:00:05

it is difficult to assess color based on resolution and color balance in this image. 15:00:13 15:00:16

BY MR. SCHATZ: 15:00:24

Q. Okay. So you're not willing to concede that the flakes that are not the one in the lower center of the image don't reflect any discoloration due to ink removal? 15:00:24 15:00:26 15:00:31 15:00:33

MS. STONE: Objection. Form. 15:00:36

A. For the basis that is solely this image and recognizing the limitations of this image, I would hesitate to provide an expert opinion at this time. 15:00:43 15:00:46 15:00:48 15:00:51

For a color assessment, typically a color reference or a color balance and an appropriate level of resolution for a representation of an object would be more appropriate for the basis. 15:01:00 15:01:02 15:01:04 15:01:06 15:01:09

BY MR. SCHATZ: 15:01:11

Q. Okay. Then we'll scroll to Figure 11c, which was just the following page. 15:01:11 15:01:21

A. I am at that page. 15:01:24

Q. Okay. And then go to 11d, please. 15:01:28

A. I am at 11d. 15:01:37
Q. Very good. And you can see in Figure 11d that there are several different flakes in the image. Correct? 15:01:39 15:01:44 15:01:49
A. Yes. There's assembly of materials, some of which are recognizable as individual flakes. 15:01:53 15:01:55
Q. Okay. And can you -- are you willing to concede that some of the flakes in image Figure 11d do not reflect any discoloration based on ink removal? 15:01:58 15:02:00 15:02:06 15:02:10
MS. STONE: Objection. Form. 15:02:11
A. So, again, for a specific color shift or color balance measurement, an image without -- an image, as I'm interpreting this one, is difficult to be a basis. There are clearly flakes here that have ink on them. There are other flakes that are more consistent with container flakes rather than label flakes, and there is a range of coloration within the image, at least some of which is likely to be an artifact of the image. 15:02:16 15:02:19 15:02:23 15:02:25 15:02:29 15:02:32 15:02:36 15:02:38 15:02:45 15:02:49 15:02:51

So a more explicit analysis would typically require access to the objects or the appropriate color reference and resolution. 15:02:52 15:02:57 15:03:04 15:03:06

BY MR. SCHATZ: 15:03:09

Q. Does a person of skill in the art have to even consider whether flake is discolored by ink removal in order to determine whether a label is recyclable, as that term is used in the '422 patent? 15:03:09 15:03:13 15:03:18 15:03:21 15:03:27

MS. STONE: Objection. Form. 15:03:27

A. Broadly, discoloration is a factor to consider for -- as part of the overall analysis, but it would not be necessary to specifically evaluate that if another factor contrary to the recyclability were already in place. 15:03:30 15:03:36 15:03:40 15:03:46 15:03:50 15:03:53

The guidance provides some understanding related to color measurements and color shifts. In this case the ink is still present, so whether or not the label -- or the container flakes were also discolored 15:03:55 15:03:56 15:04:02 15:04:07 15:04:13

would not undue that. 15:04:17

BY MR. SCHATZ: 15:04:19

Q. In a situation where ink has been removed, at least to a certain extent, does the amount of discoloration of a flake by ink removal need to be considered by a person of skill in the art in order to determine if a label is recyclable, as that term is used in the claims of the '422 patent? 15:04:19 15:04:30 15:04:37 15:04:44 15:04:47 15:04:52 15:04:55

MS. STONE: Objection. Form. 15:04:57

A. I am not sure I'm understanding you correctly, but to the extent that the combination of the ink and the label resin have been shown -- to the extent that the label -- that inks are no longer present on the label flakes but you're doing the caustic wash, you would still then look to the full set of flakes for color and color shift. This is broadly outlined in the APRs. 15:04:58 15:05:07 15:05:10 15:05:17 15:05:23 15:05:29 15:05:31 15:05:40 15:05:44

But to the extent that you still have inks present, there's no driver to do the additional color analysis because you 15:05:49 15:05:51 15:05:57

would already have not met the basic requirements for the recyclability that we've been talking about. 15:06:00 15:06:11 15:06:15

BY MR. SCHATZ: 15:06:16

Q. I think I understand your comment about not meeting the basic requirements for recyclability, but in the situation where you have met the basic requirements for recyclability, must a person of skill in the art consider both the amount of ink removal and the extent of discoloration of PET flake by that ink removal in order to determine whether a label is recyclable as that term is used in the claims of the '422 patent? 15:06:16 15:06:22 15:06:23 15:06:26 15:06:29 15:06:32 15:06:37 15:06:44 15:06:48 15:06:51

MS. STONE: Objection. Form. 15:06:54

A. To the extent that we're talking about, basically, knockout criteria related to recyclability, discoloration is such a factor as well, and so that would also be something to consider if there were not other factors that indicated that the label was not recyclable. 15:07:07 15:07:08 15:07:10 15:07:14 15:07:17 15:07:20 15:07:28

I think that answers your question. 15:07:31

BY MR. SCHATZ: 15:07:33

Q. It does. Thank you very much. 15:07:33

Can we move to -- back to your declaration, paragraph 76. 15:07:39 15:07:40

PLANET DEPOS TECH: Are you finished with this one, Counsel, or do we leave it up? 15:07:49 15:07:50

MR. SCHATZ: Thank you. I am finished. You can take it down. 15:07:53 15:07:54

A. You said paragraph 76 of my declaration? 15:08:10

BY MR. SCHATZ: 15:08:13

Q. That's right, Dr. Reitman. 15:08:13

A. This is in the Light Blocking Portion section? 15:08:14 15:08:16

Q. It is. That's right. 15:08:17

A. I am at that paragraph. 15:08:19

Q. Generally, you critique Dr. Deible's analysis on several different bases, one of which is that he compared a portion of the label that includes a light blocking portion, but not relative to the entire label. Correct? 15:08:30 15:08:35 15:08:38 15:08:59 15:09:07

MS. STONE: Objection. Form. 15:09:15

A. The critiques are outlined in the report. Broadly speaking, one consideration is how he has used a local sample to represent the entire label when, in fact, the local sample is compositionally and -- compositionally different and with different attributes than the entire label, which is relevant to this analysis. 15:09:16 15:09:20 15:09:25 15:09:35 15:09:38 15:09:43 15:09:45 15:09:49

BY MR. SCHATZ: 15:09:49

Q. Okay. And your opinion is that to undertake this analysis properly relative to Claim 12 of the '422 patent, the light blocking component needs to be compared to the entire label. Correct? 15:09:49 15:09:55 15:10:02 15:10:10 15:10:14

A. So Claim 12 does require a comparison of the light blocking layer to the recyclable shrink label, and that is basically what I address in the declaration. 15:10:27 15:10:39 15:10:47 15:10:51

Q. And when you refer to the "recyclable shrink label," you mean the entire recyclable shrink label. Correct? 15:10:52 15:10:55 15:11:01

A. I do mean the label that would be with the 15:11:03

container, so, yes, the entire label. 15:11:09

Q. Okay. And how did you draw that conclusion; that is, the comparison needs to be between the light blocking layer and the entire shrink label? 15:11:12 15:11:15 15:11:19 15:11:23

A. Because Claim 12 says the light blocking layer being present in amount, range, relative to the recyclable shrink label, and a person of ordinary skill would recognize that the label is for the container, so you would use the label. 15:11:27 15:11:30 15:11:36 15:11:41 15:11:45 15:11:51

You -- there's no subset of the label that would be -- would make sense, especially given the disclosures and teachings of the patent related to the purpose of the light blocking layer. 15:11:55 15:11:57 15:12:01 15:12:04 15:12:07

Q. What is the purpose of the light blocking layer disclosed in the '422 patent? 15:12:09 15:12:24

A. I think it's described at various points throughout the patent, and I'm not sure, as I sit here, I could point you to all of them. But there is a requirement on light blocking, 15:12:35 15:12:38 15:12:41 15:12:43

and there is a description of the light -- 15:12:46
the need for light blocking, I think even in 15:12:58
the abstract, but also in the body. 15:13:01
So in the Background, for example, 15:13:20
the light protective packaging is desirable 15:13:28
for blocking ingredient harmful lightwaves 15:13:31
from impacting the shelf life and performance 15:13:39
of the products. That may be further 15:13:42
expanded on. That was from column 1. 15:13:44
Q. And in particular, if I could refer you to 15:13:48
Claim 1 of the '422 patent. 15:13:50
A. I am at Claim 1. 15:14:05
Q. Great. And part of Claim 1 requires, quote, 15:14:07
"the light blocking layer being constructed 15:14:14
for the recyclable shrink label to block at 15:14:17
least 80 percent of incident light having 15:14:22
wavelengths in a range of 200 nanometers to 15:14:27
900 nanometers." Correct? 15:14:31
A. That is a portion of Claim 1, yes. 15:14:33
Q. And is the 80 percent of the incident light 15:14:35
that needs to be blocked, the amount of light 15:14:46
that is being received by the container? 15:14:50

A. I'm sorry, would you say that again, please? 15:15:07
Q. Sure. The claim calls for blocking "at least 15:15:11
80 percent of incident light" of a particular 15:15:17
wavelength. Right? 15:15:19
A. That's part of it, yes. 15:15:24
Q. Okay. And is it 80 percent of incident light 15:15:25
that is hitting the label or hitting the 15:15:30
entire container? 15:15:35
MS. STONE: Objection. Form. 15:15:39
A. This claim as -- is directed at the label, 15:15:46
and the layer is to be constructed for the 15:15:52
label to block 80 percent of the incident 15:16:00
light. 15:16:06
So focusing on the label in this 15:16:11
particular conversation, the assessments -- 15:16:13
and I believe this is the approach that I 15:16:18
took -- the assessment is the light blocking 15:16:22
of 80 percent in the necessary wavelengths 15:16:25
for the label. To the extent the label 15:16:31
doesn't cover all of the container, that 15:16:33
would be presumably separately assessed 15:16:39
and -- but for my assessment, I focused on 15:16:44

the label itself. I was not provided a container for analysis. 15:16:48 15:16:50

BY MR. SCHATZ: 15:16:55

Q. Well, let me draw your attention to paragraph 79 of your declaration. 15:16:55 15:16:56

A. I am at paragraph 79. 15:17:05

Q. Okay. And first of all, what equipment did you use to undertake the testing described in paragraph 79? 15:17:09 15:17:13 15:17:21

A. A spectrophotometer. 15:17:26

Q. And -- of what make? 15:17:29

A. What do you mean? 15:17:38

Q. Did you use a Shimadzu piece of equipment? 15:17:39

A. No. This was built from optical components. It was not purchased as a bundle from Shimadzu. 15:17:47 15:17:54 15:17:56

Q. And who assembled these components? 15:17:57

A. This custom assembly, as I sit here, I don't know that I recall the specific individuals involved. The qualifications of the individuals are, to the extent that I recall the details, typically a doctoral degree in 15:18:04 15:18:13 15:18:19 15:18:21 15:18:26

physical chemistry, physics, optics, or lasers. 15:18:30 15:18:34

Q. Okay. This was not a Shimadzu model UV-2600i 15:18:34

A. No, it was not that specific model, but it had at least those capabilities. 15:18:52 15:18:54

Q. Dr. Reitman, you're not answering my questions. You're intentionally trying to inject things to kind of cure what you perceive to be a problem with your answers, and your counsel can come back with questions if she would like, but I'm going to ask you to answer my questions. Okay? 15:18:57 15:19:02 15:19:06 15:19:11 15:19:14 15:19:17 15:19:21

MS. STONE: Counsel, I'm going to just say, I think that answer was perfectly responsible to what you've asked. Dr. Reitman is doing the best of her ability to answer the questions as they're being asked. So I think that we can proceed. So you can go ahead and ask your next question. 15:19:23 15:19:25 15:19:27 15:19:31 15:19:33 15:19:35 15:19:38

MR. SCHATZ: Very good. 15:19:40

BY MR. SCHATZ: 15:19:40

Q. Yes or no, Dr. Reitman, did you use a Shimadzu 15:19:42

model UV-2600i as part of your testing in paragraph 79? 15:19:44 15:19:48

A. No, I did not use that brand of system. 15:19:51

Q. Did you use any -- you didn't use a Shimadzu model at all? 15:19:54 15:19:59

A. The spectrophotometer that I used was not manufactured by Shimadzu, if that's what you're asking. 15:20:02 15:20:07 15:20:08

Q. That's what I'm asking. 15:20:09

With regard to paragraph 79, you comment that the light blocking portion of the Gatorade Label is not coextensive with the entire label. Correct? 15:20:14 15:20:29 15:20:43 15:20:48

A. In paragraph 9 -- 79, I don't know that I use the word "coextensive." I speak to portions and the lack of a light blocking portion in several regions. 15:20:58 15:21:02 15:21:07 15:21:13

Q. Okay. So your opinion is, there are portions of the Gatorade Label that do not have a light blocking component associated with it. Correct? 15:21:14 15:21:17 15:21:22 15:21:26

A. For the "light blocking" definition that we 15:21:29

have here, yes, the -- there is an absence of light -- that light blocking material in portions of the label. 15:21:33 15:21:41 15:21:44

Q. I'm sorry, could you say that once again? 15:21:46

A. "Light blocking" has been defined, and I've described that, it's in the patent, for assessing all -- portions -- visually different portions of the label -- when assessing visually different portions of the label, not all of those portions are light blocking as called for by the patent. 15:21:52 15:21:56 15:22:02 15:22:05 15:22:12 15:22:14 15:22:17

Q. And in the context of Claim 1, and specifically the requirement that the light blocking layer be constructed for the recyclable shrink label to block at least 80 percent of incident light, your opinion is that limitation is met if the light received by the label is blocked to the extent of at least 80 percent. Correct? 15:22:21 15:22:49 15:22:56 15:22:59 15:23:03 15:23:11 15:23:18 15:23:26

MS. STONE: Objection to form. 15:23:30

BY MR. SCHATZ: 15:23:32

Q. As opposed to the light received by the entire 15:23:32

container. 15:23:35

MS. STONE: Same objections. 15:23:39

A. So for this claim which is directed at the label, and for reasons that include the fact that I didn't -- wasn't provided a container, I have evaluated the label. The label does not -- this Gatorade Label does not have a light blocking portion that exceeds 80 percent. 15:23:40 15:23:42 15:23:45 15:23:48 15:23:56 15:23:59 15:24:04

In the -- the analysis is in the report. I focused on the label. I did not focus on the combination of a label plus container in this portion of the analysis. 15:24:12 15:24:17 15:24:19 15:24:22

BY MR. SCHATZ: 15:24:24

Q. Okay. I think that gets to where I want to go, is you're not offering an opinion whether Claim 1 requires 80 percent of incident light of certain wavelengths received by the label to have to be blocked, versus the light received by the container to have to be blocked, and meet this limitation? 15:24:25 15:24:27 15:24:32 15:24:41 15:24:50 15:24:54 15:24:58

A. I understand you to be asking a larger claim 15:25:05

construction question. The work that I did was related to the label and the label attributes. I have not performed a larger claim construction analysis in the manner that I understand your question. 15:25:08 15:25:12 15:25:14 15:25:20 15:25:23

Q. Very good. 15:25:26

MR. SCHATZ: Why don't we go ahead and take about a 10- or 15-minute break. Okay? 15:25:31 15:25:33 15:25:36

THE WITNESS: Yeah, that sounds great. Would you prefer 10 or 15? 15:25:36 15:25:37

MR. SCHATZ: Let's do 15. 15:25:40

MS. STONE: Okay. And before you -- let's go off the record real quick. 15:25:41 15:25:42

(Off the record at 3:25 p.m.) 15:25:44

(Back on the record at 3:42 p.m.) 15:42:27

BY MR. SCHATZ: 15:42:29

Q. Thank you, Dr. Reitman. I want to direct your attention to Exhibit 1001, which is the '422 patent. 15:42:30 15:42:32 15:42:39

A. I have that. 15:42:39

Q. And I'm going to ask you a few questions about 15:42:40

column 3, lines 34 through 41. 15:42:47

A. I see that paragraph. 15:42:57

Q. If you could just review that briefly. 15:43:00

A. I see that. 15:43:08

Q. Earlier, you testified that a label is recyclable if substantially all of the ink is removed during the caustic wash. Correct? 15:43:09 15:43:24 15:43:35

A. I have expressed various things, but along those lines, and consistent with my declaration, the recyclability does require that aspect. 15:43:42 15:43:44 15:43:46 15:43:52

Q. Okay. So just to confirm, it is your opinion that, to be recyclable, a label has to have substantially all ink removed as part of a caustic wash. Correct? 15:43:53 15:43:55 15:44:05 15:44:08

A. So we talked about this a little earlier in terms of claim construction. Consistent with that earlier testimony, one aspect of recyclability is substantially removing the inks through the caustic wash process as we discussed. 15:44:14 15:44:16 15:44:18 15:44:21 15:44:28 15:44:32

Q. Okay. And the same is true for the term 15:44:33

"nearly completely;" that is, to be recyclable, as that term is used in the claims of the '422 patent, the ink from the label must be nearly completely removed after a caustic wash. Correct? 15:44:35 15:44:37 15:44:42 15:44:48 15:44:52

MS. STONE: Objection. Form. 15:44:58

A. So the more thoughtful and complete analysis -- I still stand by my declaration and what we've talked about earlier -- but, yes, there is a consideration of nearly complete removal as part of the consider -- the assessment of recyclability. 15:45:03 15:45:06 15:45:09 15:45:11 15:45:13 15:45:16

BY MR. SCHATZ: 15:45:18

Q. Okay. And both the substantial removal of ink and the nearly complete removal of ink is one of the considerations whether a label is recyclable. Correct? 15:45:18 15:45:33 15:45:35 15:45:40

A. Ink removal to avoid contamination is one of the considerations that can be understood in light of the documents and in light of the definitions provided in column 3, which used those terms. 15:45:44 15:45:47 15:45:52 15:45:55 15:45:58

Q. Okay. 15:46:01
A. So that all plays into the analysis. 15:46:01
Q. Okay. And what other factors play into the analysis of whether a label is recyclable as that term is used in the claims of the '422 patent? 15:46:03 15:46:05 15:46:13 15:46:17
A. One of the factors is that we're talking about a label being recyclable with the container, which tells you that the, sort of, assessment path for recyclability is related to cleaning the label of ink so that the label resin can be recycled with the container resin, broadly speaking. 15:46:20 15:46:23 15:46:25 15:46:29 15:46:34 15:46:43 15:46:46
There are other factors related to the recyclability process that can also be considered once that has been met, but those are the two that I have been focused on for the scope of my work. 15:46:50 15:46:55 15:47:00 15:47:01 15:47:04
Q. Okay. And you also mentioned that there are other factors related to the recycling process that can be considered. What are those? 15:47:09 15:47:13 15:47:16
A. Without being particularly specific, the 15:47:25

overall recycling process has a number of steps and considerations as described in the -- in the underlying documents, and I think the specific assessment of that larger picture falls to Dr. Phillips, would not be something that I have analyzed in the way that I understand your question. 15:47:27 15:47:32 15:47:34 15:47:36 15:47:40 15:47:44 15:47:46

But part of being recyclable in accordance with the '422 does include being recyclable -- a label being recyclable with the container, and part of that requires inks to be removed in the ways that we have discussed. 15:47:47 15:47:54 15:47:59 15:48:03 15:48:05 15:48:07

Q. Okay. And what if the ink -- what if 89 percent of the ink is removed from the label? Does that mean -- does that fact by itself mean a label is not recyclable, as that term is used in the '422 patent claims? 15:48:09 15:48:13 15:48:26 15:48:30 15:48:32

MS. STONE: Objection. Form. 15:48:37

A. I think you're actually asking me a question broader than my scope. So I am looking at the proposed prior art in light of the 15:48:37 15:48:39 15:48:42

elements that we've talked about, so I did the testing on that particular label, and that's really not the question that comes up based on the physical data. 15:48:51 15:48:53 15:48:55 15:48:56

Q. Okay. So you don't have an opinion on that question? 15:48:58 15:49:00

A. I understand you to be asking me more of an overall claim analysis opinion, and based on that, no, I don't think that I have an opinion to offer. I've certainly considered that -- what the claims say, and I'm able to and a person of ordinary skill would be able to do testing based on what the claims say and the patent discloses. But my focus has been on the Gatorade Label as the proposed prior art. 15:49:05 15:49:09 15:49:10 15:49:12 15:49:18 15:49:20 15:49:22 15:49:24 15:49:27 15:49:29

Q. Right. So then you also do not have an opinion regarding whether a label that achieves 92 percent ink removal after a caustic wash is sufficient by itself to be deemed recyclable under the '422 patent claims. Correct? 15:49:33 15:49:35 15:49:42 15:49:51 15:49:55 15:49:58

A. Again, I think you're asking me something that's broader than my scope of work. I've analyzed the Gatorade Label and not the claims, you know, more broadly or hypothetically in terms of what I understand you to be asking. 15:50:03 15:50:04 15:50:06 15:50:13 15:50:14 15:50:16

So I think the answer is, no, I'm not providing the opinion for the specific topic that you have asked. 15:50:17 15:50:23 15:50:25

Q. Okay. Just a few minutes ago, we were talking about the different factors playing a part in whether a label is or is not recyclable, as that term is used in the claims of the '422 patent. And, again, you mentioned the phrase "underlying documents." What underlying documents were you referring to? 15:50:26 15:50:45 15:50:48 15:50:55 15:50:58 15:50:59 15:51:04

A. I thought we had already addressed this, but when I used that phrase, my recollection is that what I was trying to convey is basically the file history information associated with this patent. The documents I've considered are listed in my declaration. There is 15:51:11 15:51:13 15:51:16 15:51:18 15:51:24 15:51:28

information and guidance related to recycling processes overall that are referenced, as we've discussed directly, in the -- in the patent, but also in the patent file history, so I think that's what I was trying to convey. 15:51:32 15:51:34 15:51:37 15:51:39 15:51:41 15:51:45

Again, keep in mind that my scope of work is not the most expansive range of recyclability considerations but instead the specific ones related to the testing that I have done in light of what has been brought forth by Dr. Deible. 15:51:45 15:51:47 15:51:55 15:51:58 15:52:00 15:52:01

Q. Okay. If I could draw your attention to your declaration, Exhibit 2012. And starting on page 3 and bridging over to page 4, you list the documents that you've considered as part of your declaration. Correct? 15:52:03 15:52:08 15:52:20 15:52:26 15:52:31

A. Yes, there is a table intended to disclose that. 15:52:35 15:52:38

Q. Okay. Which of the documents listed are underlying documents that a person of skill in the art has to consider when evaluating 15:52:38 15:52:47 15:52:53

whether a label is recyclable as that term is used in the claims of the '422 patent? 15:52:55 15:53:00

And you can just list them by exhibit number if you want. 15:53:09 15:53:12

A. Will you ask the question again, please? 15:53:15

Q. Sure. I'm going back to your comment about factors that need to be considered when evaluating whether a label is recyclable as that term is used in the claims of the '422 patent, and I'm trying to identify which of those underlying documents you're referring to that a person of skill in the art needs to consider. 15:53:17 15:53:20 15:53:24 15:53:30 15:53:32 15:53:37 15:53:41 15:53:45

MS. STONE: Objection. Form. 15:53:48

A. So a person of skill in the art would have familiarity with the art that would allow them to assess the claims based on the claims in the specification. There is additional or companion information called out in the front page that relates to the file history. 15:53:48 15:53:56 15:53:58 15:54:00 15:54:05 15:54:09

I have referenced the file history in the declaration. As part of this, either 15:54:17 15:54:20

in the file history or from the front page, we've also talked about some of the guidance documents which are called out as exhibits. I understand that two different date -- dates -- additions have been produced in the matter, and I explained my understanding of that in the declaration. 15:54:26 15:54:28 15:54:33 15:54:37 15:54:43 15:54:46 15:54:49

But a person of ordinary skill in the art would recognize that there is a caustic wash that -- process that is used to evaluate ink removal in the context of other considerations for recyclability and would be able to execute that test, as demonstrated by Dr. Deible doing testing and me also doing testing, as outlined in the declarations. 15:54:51 15:54:53 15:54:59 15:55:03 15:55:08 15:55:12 15:55:15 15:55:18

Q. Okay. So, again, please refer to page 3 and 4 of your declaration and identify which of the exhibits listed are underlying documents that a person of skill in the art would evaluate when considering whether a label is recyclable as that term is used in the claims of the '422 patent. 15:55:21 15:55:26 15:55:33 15:55:37 15:55:41 15:55:46 15:55:49

MS. STONE: Objection. Form. 15:55:49

A. So, again, I -- the -- they could consider information in the prosecution history, which I think is 1026. They could consider the guidance information, which is referenced in the patent and is in operative versions, are 1027 and through, I don't remember, 1030, maybe. 15:55:51 15:55:57 15:56:00 15:56:07 15:56:10 15:56:15 15:56:22

So broadly speaking, there are documents that have been produced specifically as exhibits in this matter that would be related information. 15:56:23 15:56:24 15:56:26 15:56:29

A person of ordinary skill would understand caustic wash to remove inks from PET as the process that both Dr. Deible and I have basically used to observe the continued attachment of the ink to the -- to the PET. 15:56:37 15:56:39 15:56:44 15:56:49 15:56:57

This is also reflected in, I think, other protocols disclosed in this matter, but they would not be necessary for the person of ordinary skill in the art to have seen because they would be consistent with the 15:57:00 15:57:03 15:57:07 15:57:09 15:57:10

expectations and knowledge of a person of ordinary skill. 15:57:13 15:57:16

Q. Okay. So you mentioned the file history as one of the underlying documents that a person of skill in the art would consider in determining whether a label is recyclable as that term is used in the claims of the '422 patent. Correct? 15:57:17 15:57:21 15:57:26 15:57:28 15:57:32 15:57:35

MS. STONE: Objection. Form. 15:57:37

A. That information could be considered. It's actually also been brought forth in the specification. And, again, I want to go back to, the scope of my work is not to do a full patent analysis; the scope of my work is to perform testing as presented by Dr. Deible as a basis for the Gatorade Label to be proposed as prior art. 15:57:38 15:57:44 15:57:46 15:57:48 15:57:54 15:57:59 15:58:05 15:58:10

BY MR. SCHATZ: 15:58:12

Q. Yeah, and I appreciate that that's what you're saying. I'm referring back to your earlier testimony, which was, there are other underlying documents that a person of skill in 15:58:12 15:58:17 15:58:19 15:58:24

the art would consider when determining whether a label is recyclable as that term is used in the '422 patent, and I'm just trying to identify what were you referring to when you mentioned underlying documents. Is it Exhibits 1027 through 1030, that you just mentioned? 15:58:28 15:58:30 15:58:34 15:58:36 15:58:39 15:58:45 15:58:47

A. My recollection of that testimony is I was trying to be inclusive of the work that I've done here and the recognition that there is information that's cascading between different parts of the documents. I was not intending to put specific documents in specific buckets beyond that, and I really haven't done an analysis in that way. 15:58:50 15:58:52 15:58:56 15:58:59 15:59:01 15:59:03 15:59:07 15:59:09

I believe there is sufficient information to do the work that one would do to assess the ink removability and float or non-float aspect of recyclability as outlined in my report, and I didn't assess documents for disclosures beyond that. 15:59:13 15:59:17 15:59:21 15:59:31 15:59:35 15:59:37

So I may have missed -- I may -- in 15:59:43

my answer, you may have interpreted more than I meant. Simply saying, there is information in the file, I've disclosed to you my file, I've disclosed to you through the declaration how I have approached what one would need to know in order to make these decisions. It's probably best laid out in the -- in the report. 15:59:45 15:59:47 15:59:50 15:59:53 15:59:55 15:59:57 16:00:02 16:00:04

Q. Okay. What guidance documents did you need to evaluate as a person of skill in the art when determining whether the Gatorade Label is recyclable as that term is used in the claims of the '422 patent? And you can just identify those from your expert report, pages 3 and 4, if it helps. 16:00:06 16:00:13 16:00:16 16:00:22 16:00:24 16:00:28 16:00:34

A. So my general recollection is that the -- other than the general awareness for the framework for the guidance documents, which is called out and described in the patent, there was not -- there's nothing specific that comes to mind right now as to what was necessary from a particular document. 16:00:35 16:00:46 16:00:48 16:00:55 16:00:57 16:01:00 16:01:03

The -- in my report, there is a setup for the discussion of ink retention and -- after caustic washing, right? So there's the discussion of what we're looking for in terms of ink removal. 16:01:05 16:01:10 16:01:14 16:01:18 16:01:22

In the early discussion of the history there is the clarification related to the APR documents about recyclability and that the label needs to be recyclable with the container. 16:01:27 16:01:33 16:01:36 16:01:44 16:01:47

I don't know that I can answer you any further as I sit here. 16:01:56 16:01:57

Q. Okay. 16:01:58

MR. SCHATZ: Dr. Reitman, I don't have any other questions. Thank you for your time today. 16:02:00 16:02:01 16:02:03

THE WITNESS: Thank you. 16:02:06

MS. STONE: Great. 16:02:06

Dr. Reitman, I just have a couple of follow-up questions for you. 16:02:07 16:02:09

EXAMINATION 16:02:09

BY MS. STONE: 16:02:09

Q. Can you start by pulling up Exhibit 1001, which is the '422 patent, and I'm going to direct your attention to column 3, line 30. 16:02:14 16:02:16 16:02:18

A. I am at that line. 16:02:29

Q. Do you recall counsel asking you about this paragraph, and specifically about the definitions of "substantially" and "nearly completely" earlier today? 16:02:31 16:02:34 16:02:37 16:02:39

A. Yes, broadly. 16:02:41

Q. Do you understand there to be a difference between the term "substantially" and the term "nearly completely" as used within the '422 patent? 16:02:42 16:02:48 16:02:52 16:02:56

A. The disclosure in column 3 is explicitly that the term "substantially," as used here, has the same meaning as "nearly completely." 16:02:59 16:03:04 16:03:06

Q. And can you please turn to column 28, and I would like to direct your attention to Claim 1 of the '422 patent. 16:03:10 16:03:14 16:03:16

A. I am at Claim 1. 16:03:21

Q. Do you recall a discussion earlier today when you were asked about these claim -- Claim 1 16:03:23 16:03:26

and, specifically, the requirement that the recyclable resin contain polyester? 16:03:31 16:03:36

A. I'm sorry, say that again, please. 16:03:44

Q. Sure. Earlier today, do you recall counsel asking you about the claim language of Claim 1, and you explained that one of the requirements of the claim was that the resin needed to contain polyester in order to meet Claim 1? 16:03:46 16:03:51 16:03:54 16:03:57 16:04:01 16:04:05

A. Yes. I mean, I -- I think it was in the context of this claim, but, yes, I have explained that in my testimony today. 16:04:08 16:04:10 16:04:12

Q. All right. Can you look at Claim 1 and identify the claim language that provides that the recyclable shrink label is required to contain a polyester? 16:04:14 16:04:16 16:04:19 16:04:22

A. I see that language. 16:04:25

Q. Can you identify that language by column and line number? 16:04:26 16:04:30

A. So, for example, in column 28, line 22, "heat shrink film comprising polyethylene terephthalate" -- the next line says "(PET)." 16:04:32 16:04:43 16:04:45

That is a polyester. 16:04:48

Q. And I'm now going to turn to Exhibit 1014, which is Dr. Deible's expert report. Do you still have that available to you on your desktop? 16:04:49 16:04:54 16:04:58 16:05:00

A. Yes, I do. 16:05:01

MS. STONE: And just for -- Counsel, I'm going to be going back to Figures 11b and 11d. Do you have that available to you, or do we need to share screens? 16:05:02 16:05:03 16:05:08 16:05:15

MR. SCHATZ: No, it's fine. Thank you. 16:05:16 16:05:18

MS. STONE: Okay. 16:05:18

BY MS. STONE: 16:05:19

Q. Can you please let me know when you're there, Dr. Reitman? 16:05:19 16:05:21

A. I am at Figure 11b. 16:05:21

Q. Great. Do you recall discussing these figures with counsel earlier today? 16:05:24 16:05:29

A. Yes. 16:05:30

Q. In this image, can you determine, based on the image alone, which of these flakes comes from 16:05:31 16:05:38

the label and which of the flakes comes from the PET container? 16:05:42 16:05:46

A. The image resolution makes that difficult. I can tell, based on my analysis and work in this matter, that one of them comes from the label, and the edge characteristics suggest that the two to the left are from the container. 16:05:55 16:05:59 16:06:03 16:06:08 16:06:19 16:06:22

Q. Can I direct your attention to Figure 11d now. 16:06:24

A. I am at Figure 11d. 16:06:27

Q. In Figure 11d, can you determine, based on the image alone, which of these flakes comes from the label and which of these flakes comes from the PET container? 16:06:33 16:06:37 16:06:40 16:06:44

A. A complete assessment is difficult, but three flakes can -- definitely one flake, and likely two more, based on geometry, are associated with the label. The other distinguishable flakes with the thicker edges are likely to be associated with the container, but a further analysis is difficult just from the image. 16:06:48 16:06:54 16:06:58 16:07:01 16:07:10 16:07:22 16:07:25 16:07:27

Q. Counsel asked you earlier about whether or not certain inks were washed off or had stained some of the flakes that didn't have any visual ink on them. 16:07:29 16:07:33 16:07:41 16:07:44

Do flakes that come from the PET container have ink on them prior to the caustic wash? 16:07:45 16:07:51 16:07:53

A. No. The -- my understanding is that the container flakes do not have ink on them prior to the caustic wash. 16:07:55 16:08:00 16:08:04

Q. Okay. 16:08:06

MS. STONE: Thank you, Dr. Reitman. That's all the questions I have for you today. 16:08:06 16:08:08

MR. SCHATZ: Great. No redirect or re-cross, so we're finished. 16:08:10 16:08:12

MS. STONE: Wonderful. Thank you, Counsel. And thanks, all. 16:08:14 16:08:18

(Proceedings concluded at 4:08 p.m.)

CERTIFICATE OF NOTARY

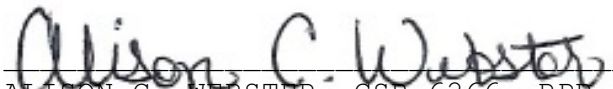
STATE OF MICHIGAN)
) SS
COUNTY OF OAKLAND)

I, ALISON WEBSTER, stenographic reporter and notary public in and for the state of Michigan do hereby certify:

That the deposition of MAUREEN REITMAN, Sc.D. was taken before me via videoconference on the date hereinbefore set forth; that the foregoing questions and answers were recorded by me stenographically and reduced to computer transcription; that this is a true, full, and correct transcript of my stenographic notes so taken; and that I am not related to, nor of counsel to, either party nor interested in the event of this cause.

I further certify that the adverse party was represented by counsel at the deposition.

I further certify that the deposition of MAUREEN REITMAN, Sc.D., occurred via Zoom videoconference on Thursday, May 28, 2026, commencing at 1:04 p.m., and ending at 4:08 p.m.



ALISON C. WEBSTER, CSR-6266, RPR, RMR, CRR, RDR
Notary Public, Oakland County, Michigan
My commission expires: May 1, 2029

ACKNOWLEDGMENT OF DEPONENT

I, MAUREEN REITMAN, Sc.D., do hereby acknowledge that I have read and examined the foregoing testimony and the same is a true, correct, and complete transcription of the testimony given by me and any corrections appear on the attached errata sheet signed by me.

_____
(SIGNATURE) (DATE)

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