

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

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4 MULTI-COLOR CORPORATION,

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6 Petitioner,

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8 vs. Case No. PGR2025-00025

9 Patent No. 11,961,422

10 BROOK & WHITTLE LIMITED,

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12 Patent Owner.

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14 Video-Recorded Deposition of

15 CRAIG BUSHMAN, PH.D. - Volume 2

16

July 20, 2026

17 9:09 a.m.

18 Taken at:

19 Wood Herron & Evans, LLP
600 Vine Street, Suite 2800
20 Cincinnati, Ohio

21 Kimberly A. Kaz, RPR, Notary Public

22

23

24

B + W EX2043
Multi-Color v. Brook + Whittle
PGR2025-00025

Multi-Color Corporation vs Brook & Whittle Limited
Craig Bushman, Ph.D. - Vol. 2

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1	APPEARANCES:	1	INDEX OF EXHIBITS
2	On behalf of the Petitioner:	2	NUMBER DESCRIPTION MARKED
3	Wood Herron & Evans, LLP	3	Exhibit A The Multi-Color 38
4	BRETT SCHATZ, ESQ.		Sustainability Roadmap
5	LOUIS SITLER, ESQ.	4	Exhibit B APR Recognition for HDPE 47
6	600 Vine Street, Suite 2800	5	Containers
7	Cincinnati, Ohio 45202	6	Exhibit C PET Flake Clumping 81
8	(513) 241-2324		Evaluation
9	bschatz@whe-law.com	7	Exhibit D February 14, 2020 Letter..... 132
10	lsitler@whe-law.com	8	
11		9	
12	On behalf of the Patent Owner:	10	
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22	ALSO PRESENT:	20	
23	Bruce Sandy, Video Technician	21	
24	~ ~ ~ ~ ~	22	
		23	
		24	
		25	
Page 3		Page 5	
1	TRANSCRIPT INDEX	1	VIDEO TECHNICIAN: Today is
2		2	July 20th, 2026. The time is 9:09 a.m. We're
3	APPEARANCES..... 2	3	on the record for the doc- -- for the
4		4	deposition of Dr. Craig Bushman for a case
5	INDEX OF EXHIBITS 4	5	pending in the United States Patent and
6		6	Trademark Office, before the Patent Trial and
7	EXAMINATION OF CRAIG BUSHMAN, PH.D.	7	Appeal Board, entitled Multi-Color Corporation,
8	By Mr. Baker..... 6	8	petitioner, versus Brook & Whittle Limited,
9		9	patent owner, Case No. PGR2025-00025, Patent
10		10	No. 11,961,422.
11		11	If, at this time, all counsel
12		12	present will introduce themselves for the
13		13	record, then the witness could be sworn.
14		14	MR. BAKER: Good morning. Todd
15		15	Baker and Steven Dirks both of Kirkland &
16		16	Ellis, Washington, D.C. office, on behalf of
17		17	patent owner, Brook & Whittle.
18		18	MR. SCHATZ: Brett Schatz and Lou
19		19	Sitler for the petitioner, Multi-Color
20		20	Corporation and for the witness as well.
21		21	CRAIG BUSHMAN, PH.D., of lawful
22		22	age, called for examination, as provided by the
23		23	Ohio Rules of Civil Procedure, being by me
24		24	first duly sworn, as hereinafter certified,
25			

Page 6 1 deposed and said as follows: 2 EXAMINATION OF CRAIG BUSHMAN, PH.D. 3 BY MR. BAKER: 4 Q. Good morning, Dr. Bushman. 5 A. Good morning. 6 Q. So I understand from my colleague, 7 Steven Dirks, that you prefer "Mr. Bushman," 8 but I noticed your most recent declaration uses 9 "Dr." Do you have a preference for how I refer 10 to you today? 11 A. No. They both are used. 12 Q. For consistency, sir, I'm just 13 going to call you "Mr. Bushman." 14 A. Sure. 15 Q. Okay. Great. 16 So I know this is not your first 17 deposition, so you're aware that I'm going to 18 ask you a series of questions. If any of those 19 questions are unclear to you, if you think that 20 they are vague in some way, please ask me for a 21 better question. Do not ask counsel. Do you 22 agree? 23 A. Yes. 24 Q. Okay.	Page 8 1 primarily the most recent declaration, but 2 we'll also refer to your first declaration. Is 3 it okay if I call that the first and second 4 declaration respectively, somewhat ignoring the 5 supplemental declaration in the middle? 6 A. Yes. 7 Q. Okay. Just want to make sure we're 8 all talking about the same things. And I will 9 try to use exhibit numbers whenever possible to 10 make sure that the record is clear. 11 So you're aware that the matter at 12 issue is a post-grant review filed by 13 Multi-Color Corporation, which I'm going to 14 refer to as "MCC," challenging US Patent No. 15 11,961,422 assigned to Brook & Whittle. Is 16 that your understanding? 17 A. That's my understanding. 18 Q. Okay. Do you have an understanding 19 of what a post-grant review is? 20 A. I -- I couldn't define it 21 specifically, but I understand it's 22 a -- a -- an assessment of the -- whether or 23 not the patent is valid. 24 Q. And do you have an understanding of
Page 7 1 MR. SCHATZ: Todd, before you -- 2 THE WITNESS: I understand. 3 MR. SCHATZ: Before you go any 4 farther, just because Dr. Bushman is entitled 5 to Ph.D. recognition, we'd prefer he be called 6 by "Dr. Bushman." 7 MR. BAKER: That is fair. 8 MR. SCHATZ: Thank you. 9 MR. BAKER: Yes. 10 Q. So per the request of counsel, I'm 11 going to refer to you today as -- 12 A. Sure. 13 Q. -- "Dr. Bushman." I do not have a 14 Ph.D. I recognize the heavy lift that it is 15 and I will honor that request. 16 So Dr. Bushman, you have submitted 17 three declarations in this PGR, one at the 18 outset back in January 2025, another one in 19 June 2025, which I want to refer to as a 20 supplemental declaration, and a last 21 declaration within the last month or so. Does 22 that sound correct to you? 23 A. Yes. 24 Q. Okay. So I want to focus on	Page 9 1 who makes that final assessment in the PGR? 2 A. I believe it's a -- maybe it's a 3 trial in some way, but it -- it's a trial by 4 judges, let's say. 5 Q. Okay. Have you signed a retainer 6 agreement related to this matter? 7 A. I don't know what you mean by 8 "retainer." 9 Q. Have you signed a formal paper 10 indicating that you will be a witness on behalf 11 of MCC related to this matter? 12 A. I'm a consultant for Multi-Color 13 and have a consultant agreement with 14 Multi-Color. 15 Q. Is that consulting agreement only 16 related to this post-grant review or is it 17 broader? 18 A. It's related to this post-grant 19 review, primarily. That was the motivation to 20 implement the consultant agreement. I'm also 21 supporting other questions as part of my 22 transition away from Multi-Color, so if -- if 23 they have questions that are related to 24 management issues that were when I was with the

Page 10 1 company. 2 Q. Are any of those questions related 3 to patent matters? 4 A. Only related to ongoing patent 5 applications that would be in the -- that would 6 be in the -- that are continuing, not -- not 7 specific to this, but other patents. 8 Q. And when did you sign your 9 agreement to be -- to serve as a consultant? 10 A. I don't remember the exact 11 signature date. It was probably late 12 October of 2025. 13 Q. Is that before or after you left 14 MCC? 15 A. Right. My last day was, I think, 16 October 3rd -- October 2nd or October 3rd. I 17 don't remember the exact date. 18 Q. And it's your recollection you 19 signed the agreement relatively soon 20 thereafter? 21 A. Correct. 22 Q. Okay. And I understand you're 23 being paid \$295 an hour for work on this 24 matter?	Page 12 1 did you spend a week? 2 A. I would say more than a week. 3 Q. Multiple hours per day during that 4 week? 5 A. I would say yes. 6 Q. Did you prepare the declaration on 7 your own? 8 A. It's a work product with my 9 counsel, yes. 10 Q. So when you say it's a work 11 product, that means it was a collaborative 12 effort? 13 A. I -- yes. 14 Q. Do you recall how many iterations 15 of the draft you had before it was signed? 16 A. No. 17 Q. And earlier you distinguished 18 between being a consultant and an expert on 19 behalf of MCC, correct? 20 A. I'm not sure I did. 21 MR. SCHATZ: Object to form. 22 Q. Have you signed an agreement to 23 serve as an expert on behalf of MCC in this 24 PGR?
Page 11 1 A. Correct. 2 Q. Do you have any type of special 3 rate to serve as a witness during a deposition? 4 A. No. 5 Q. Do you recall how many hours you've 6 billed in connection with this PGR to date? 7 A. I don't recall. 8 Q. I'm going to hand you what's been 9 previously marked as Exhibit 1047. Sorry about 10 that. 11 Dr. Bushman, are you familiar with 12 this document? 13 A. Yes. 14 Q. And that's your signature on 15 Page 41? And that appears to be an additional 16 ink signature. 17 A. Indeed. Old school. 18 Q. Old school. Exactly. My thought 19 exactly. 20 Do you recall how much time you 21 spent preparing this declaration before you 22 signed it? 23 A. No. 24 Q. If we speak in broad increments,	Page 13 1 MR. SCHATZ: Object to form. 2 THE WITNESS: I've been -- I don't 3 understand your question. Are you suggesting 4 that by being a consultant to Multi-Color, I'm 5 not an expert? 6 Q. Do you think you have to be an 7 expert to serve as a consultant on a matter? 8 A. I -- I was asked to consult for 9 Multi-Color on this and -- and a couple of 10 other related topics. I don't know that that's 11 related to me being an expert or not. 12 Q. Are you holding yourself out as 13 being an expert as it relates to the technology 14 of the '422 patent? 15 A. I would say that I'm an expert in 16 packaging and recycling and that's well 17 documented in my work, in my CV and the work 18 that I've done with Multi-Color for the last 18 19 years when I was employed by Multi-Color. 20 Q. So during those 18 years you were 21 employed with Multi-Color, did you hold any 22 equity interest in MCC? 23 A. I think the answer to that is no. 24 I think during the first deposition, there was

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1 a discussion about some things related to the
2 private equity discussion, but that's -- my --
3 my belief is that that's not really -- that's
4 not -- I wasn't clear about what that was, so
5 no. I would say no. Well, I -- I guess at one
6 point, Multi-Color had stock, and so then stock
7 options and stuff, but then Multi-Color became
8 private.
9 Q. So at some point, you had stock
10 options?
11 A. Back in 2015 and '16 and such when
12 Multi-Color was publicly traded.
13 Q. And then what happened to those
14 stock options when they became private?
15 A. They went to zero.
16 Q. So you're aware that MCC recently
17 completed a bankruptcy proceeding?
18 A. That's my understanding, yes. That
19 was after my time there.
20 Q. But because, if I'm understanding
21 correctly, you have no equity interest in MCC,
22 that bankruptcy did not impact you?
23 A. I -- I don't believe I have
24 anything that's -- correct. Correct.

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1 Q. And other than your hourly rate, do
2 you have any financial interest in the outcome
3 of this proceeding?
4 A. No.
5 Q. Okay. So we're going to turn to
6 the substance of your declaration. Can we go
7 to Paragraph 1 to begin with? Can you go ahead
8 and read to yourself Paragraph 1, but I want to
9 focus on the last sentence when you're done?
10 A. Okay.
11 Q. Do you see where you state that you
12 provide additional information regarding my
13 background, qualifications and the analysis in
14 connection with the disclosure of the '422
15 patent? Do you see that?
16 A. Uh-huh. Yes, I should say.
17 Q. I want to focus on the -- the
18 additional analysis.
19 What additional analysis is
20 provided in this declaration that was not
21 included in your first declaration?
22 MR. SCHATZ: Object to form.
23 THE WITNESS: I think my -- my
24 first declaration was from 2025, late 2025, and

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1 so there was additional time between those two.
2 I think that's what I meant by this.
3 Q. Doesn't this statement indicate
4 that you have provided additional analysis in
5 connection with the disclosures of the '422
6 patent?
7 MR. SCHATZ: Object to form.
8 THE WITNESS: Could you clarify the
9 comment or question?
10 Q. I'll read the sentence to you. If
11 you can tell me if I'm understanding it
12 correctly or, first, if I'm reading it
13 correctly: I provide additional information
14 regarding my background, qualifications and the
15 analysis in connection with the disclosures of
16 the '422 patent as discussed in my previous
17 declaration.
18 Did I read that correctly?
19 A. Yes.
20 Q. And when you say "and the
21 analysis," what -- what are you discussing
22 there?
23 A. I -- I don't -- I don't know what
24 you mean. I guess, are you suggesting that the

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1 rest of the document doesn't provide an answer
2 to that question?
3 Q. So I'm asking you: What did you
4 mean by "and the analysis"? That's
5 your -- that's your language.
6 A. I think that goes back to the whole
7 discussion of the POR, and responding to the
8 POR requires an understanding or an
9 interpretation of what the POR commentary was.
10 And so, for example, I think there were -- the
11 testimony of Dr. Phillips and the POR itself
12 brought forward questions and so I responded to
13 those questions.
14 Q. So you believe any additional
15 analysis is strictly related to responses to
16 Dr. Phillips' testimony?
17 MR. SCHATZ: Object to form.
18 THE WITNESS: Did you want to
19 rephrase that?
20 Q. Did you understand it?
21 A. I did, but you said Dr. Phillips'
22 testimony only and I think I meant that it was
23 in response to the POR, the testimony of
24 Dr. Phillips and, in fact, the testimony of

Page 18 1 Dr. Reitman as well. 2 Q. Okay. 3 A. So -- 4 Q. But it's your position that all of 5 these additional analysis, that they're all 6 responsive to some new development in the 7 record since your first declaration, correct? 8 A. Correct. I was responding to 9 the -- the -- the POR. 10 Q. And evidence cited in the POR, 11 correct? 12 A. I would say yes. 13 Q. All right. 'Cause you said POR, 14 the Phillips testimony. 15 A. Sure. In some cases, the POR may 16 not have cited everything that I speak to 17 because in some cases the POR doesn't speak to 18 the testimony elements of -- 19 Q. Okay. 20 A. -- of each of those. 21 Q. Do you recall, during your first 22 deposition, informing Mr. Dirks that you did 23 not have any opinions that were not set forth 24 in your first declaration regarding the	Page 20 1 that fair? 2 A. You mean to provide a citation? 3 Q. To check a citation to make sure 4 it's accurate, to cite check. Do you 5 understand that concept? 6 A. Not in maybe the legal term, but 7 what do you mean? 8 Q. When you did your dissertation, did 9 you have citations to references and did you, 10 at some point, have to check the accuracy of 11 those citations? 12 MR. SCHATZ: Object to form. 13 THE WITNESS: I -- I had citations 14 as part of my thesis, and I -- I don't know if 15 I can speak to this question of accuracy or 16 not. I don't know if all citations -- maybe 17 I'll -- I'll let you ask the question again. 18 Q. Well, as part of that dissertation 19 preparation process, did you ever go through 20 and confirm the accuracy of your citations to 21 the references discussed in the dissertation? 22 MR. SCHATZ: Objection to form. 23 Objection. Outside the scope. 24 THE WITNESS: I -- I guess I -- I
Page 19 1 indefiniteness issue of the '422 patent? 2 MR. SCHATZ: Objection. Outside 3 the scope. 4 THE WITNESS: I -- I don't recall, 5 and that is related to my first deposition and 6 declaration, and so I understand the scope of 7 this discussion today is related to this 8 declaration. 9 Q. So do the first and second 10 declarations now contain all of your opinions 11 as it relates to the validity of the '422 12 claims? Are they all of record now? 13 A. I -- I think it's fair to say that 14 my declaration today is the -- is consistent 15 with my opinion in the matter. 16 Q. And my question is: We have your 17 full opinion as it relates to the validity of 18 the '422 patent at this point, correct? 19 A. I believe so, unless 20 there's -- unless there's something you raise 21 today. 22 Q. Dr. Bushman, since you hold a 23 Ph.D., I suspect that you understand what it 24 means to cite check a document or paper; is	Page 21 1 don't know where you're going with this 2 question, so... 3 Q. And I don't want to veer too far 4 off the path, but in preparing your 5 dissertation, you wanted it to be as accurate 6 as possible, correct? 7 A. Yes. 8 Q. And to ensure that accuracy, at 9 some point in preparing your dissertation, did 10 you ever check to confirm that citations to 11 outside references were accurate? 12 MR. SCHATZ: Objection. Outside 13 the scope. 14 THE WITNESS: I -- I think you may 15 be asking a -- a legal question. I don't know. 16 Q. No. I'm asking about -- 17 A. In -- in my experience, when I was 18 writing my thesis, I certainly used outside 19 references and evaluated them as part of the 20 documents that I was preparing. 21 Q. And you wanted those references to 22 be cited to accurately, correct? 23 A. I -- I don't know what you mean by 24 "accurately."

Page 22 1 Q. Proper page and line number, if you 2 provide a quote, making sure the quote was 3 accurate, that there wasn't a 4 mischaracterization, things of that nature. 5 A. Yes. 6 Q. In your final review before signing 7 your second declaration, did you confirm the 8 accuracy of the citations provided in your 9 second declaration? 10 A. I reviewed the details of the 11 citations, yes. 12 Q. What do you mean by "reviewed the 13 details of the citations"? 14 A. Are -- are you suggesting that 15 there's something inaccurate with the 16 citations? 17 Q. Right now, I'm just asking about 18 the process. 19 A. I would say I made sure that as I 20 was working through this, that the references 21 were correct as I understood them. 22 Q. So for example, if you had a 23 citation to the PET critical guidance, would 24 you pull that document up to make sure that	Page 24 1 What paragraph? 2 Q. Sixty- -- 66. 3 A. I'm sorry. I read 67. 4 Q. If I misspoke, I apologize. 5 A. I thought you said 67. 6 Q. Please read 66. 7 A. I misunderstood. Forgive me. 8 Yes, you may ask a question. 9 Q. So in that paragraph, you testified 10 that meeting the APR guideline is a subjective 11 determination made by a panel of three members; 12 is that correct? 13 A. Yes. 14 Q. Did you provide that opinion in 15 your first declaration, Exhibit 1013? 16 A. This was a response to the POR and 17 specifically is directed to the questions that 18 were raised in the POR. 19 Q. Be more precise. Which questions 20 raised in the POR is that responsive to? 21 MR. SCHATZ: Object to form. 22 THE WITNESS: What specific 23 questions? 24 Q. You indicated that it was
Page 23 1 your discussion in your declaration accurately 2 represented what the PET critical guidance 3 indicates? 4 A. I would say yes, generally. That 5 the -- the -- my understanding of the -- where 6 the citation was was correct and consistent 7 with the document as I understood it, yes. 8 Q. Would you go through the process of 9 confirming quotations or I should say quotes 10 from references? 11 A. I would say yes. I think 12 within -- within the quotes that I've seen in 13 this declaration, I think they're consistent 14 with -- they're correctly quoted. 15 Q. Can you turn to Paragraph 66 of 16 your declaration, please? You can read that to 17 yourself and then tell me when you're done, 18 please. 19 A. Yes. Sure. 20 Q. So in that paragraph, you testified 21 that meeting the APR guidelines is a subjective 22 determination made by a panel of three members, 23 correct? 24 A. Did I read the right paragraph?	Page 25 1 responsive to the POR, correct? 2 A. Correct. 3 Q. Can you identify what in the POR 4 it's responsive to? 5 A. I think my whole declaration is in 6 response to the POR and so -- 7 Q. Well, we want to drill down on this 8 topic. 9 A. Sure. 10 Q. And your opinion in Paragraph 66, 11 and I'm asking what in the POR is that 12 paragraph responsive to? 13 A. I -- I don't know that I could 14 point today to a specific paragraph in the POR. 15 I'd have to spend more time to look to where 16 that is exactly in the POR, but the POR as a 17 whole is what I'm responding to. 18 Q. Do you recall what subject matter 19 in the POR that this Paragraph 66 is responsive 20 to? 21 MR. SCHATZ: Object to form. 22 THE WITNESS: Could you ask that 23 question again? 24 Q. Do you recall the POR discussing

Page 26 1 the makeup of the panel which decides or 2 applies the APR guidelines? 3 A. I don't recall. 4 Q. I'm going to hand you what was 5 previously marked as Exhibit 1013. 6 A. I haven't reviewed my previous 7 declaration. I'm not prepared to speak to 8 that. 9 Q. I apologize. You indicated that 10 you have not reviewed your first declaration 11 and you're not prepared to speak to that; is 12 that correct? 13 A. Not -- not -- not for this 14 discussion today. 15 Q. So in -- did you prepare for 16 today's deposition? 17 A. Yes. 18 Q. How many days or hours did you 19 spend preparing for today's deposition? 20 A. My understanding is that the 21 deposition today would be specific to the 22 second declaration. 23 Q. Do you believe your first 24 declaration and second declaration are related?	Page 28 1 Q. Did you review the previous 2 declaration when preparing the current 3 declaration, Exhibit 1047? 4 A. Yes. 5 Q. But you stand here today indicating 6 that you're not in a position to discuss the 7 first declaration; is that correct? 8 A. This was written some time ago and 9 I -- I think you had ample opportunity in the 10 first deposition to ask questions of that 11 declaration and I -- I don't want to conflate 12 those two potentially. 13 Q. So to the extent as counsel for 14 Brook & Whittle, if I see any inconsistencies 15 between the first declaration and the second 16 declaration, you think it's improper for me to 17 ask you questions with regard to the first 18 declaration? 19 MR. SCHATZ: Object to form. 20 Counsel, come on. 21 MR. BAKER: I've never been in a 22 dec- -- in a deposition where the witness 23 refused to discuss his first declaration. It's 24 a new one for me, and I've been doing this over
Page 27 1 MR. SCHATZ: Object to form. And 2 object, outside the scope. 3 Q. Do you reference your first 4 declaration in your second declaration? 5 A. Yes. 6 Q. Do you indicate, for example, in 7 Paragraph 16 that: As I explained in my 8 previous declaration, Exhibit 1013, the claim 9 language has multiple possible meetings. 10 Do you remember providing that 11 opinion? 12 A. But I -- in preparation for this 13 deposition, I didn't review my previous 14 declaration, so I'm not prepared to speak to 15 it. 16 Q. So how do you know if it was 17 explained previously in Exhibit 1013 if you 18 didn't review Exhibit 1013? 19 A. I -- 20 MR. SCHATZ: Object to form. 21 THE WITNESS: I didn't say that I 22 didn't review the previous declaration, but 23 I -- I'm not prepared to speak to that 24 declaration.	Page 29 1 25 years. I may look a little young, but I'm 2 actually within two years of your age. I 3 looked at your bio. 4 THE WITNESS: How old do you know I 5 am? 6 MR. BAKER: I looked at your bio. 7 We overlapped in undergrad. 8 So I've just never been in this 9 situation where the witness said I'm not 10 prepared to discuss your first declaration. 11 THE WITNESS: I wasn't asked to 12 look my first declaration -- 13 Q. You weren't asked by whom? 14 A. -- for this deposition. 15 Q. You weren't asked by whom? 16 MR. SCHATZ: Instruct the witness 17 not to answer to the extent it involves 18 attorney-client relations and communications. 19 Don't answer that question. 20 THE WITNESS: Understood. 21 MR. BAKER: He can answer who told 22 him that. You can ask -- answer who gave that 23 instruction without revealing the substance of 24 the discussion, so my question is: Who gave

Page 30 1 you that instruction? 2 MR. SCHATZ: Instruct the witness 3 not to answer. Don't answer that question. 4 MR. BAKER: At a break, we will 5 call the judges if that's the position we're 6 going to take. 7 So let me understand, you're not in 8 a condi- -- position to answer any questions 9 regarding the first declaration, you were 10 instructed by someone that you didn't have to 11 review or have -- receive questions about the 12 first declaration, and you're instructing him 13 not to answer who provided that instruction; is 14 that accurate? 15 MR. SCHATZ: Object to form. And 16 instruct the witness not to reveal any 17 attorney-client communications and work product 18 communications. 19 MR. BAKER: Is he allowed to answer 20 who gives him instructions, the identity of the 21 person? 22 MR. SCHATZ: Sure. He can answer 23 that question. 24 MR. BAKER: Thank you.	Page 32 1 MR. SCHATZ: Instruct the witness 2 not to answer. Work product. 3 Q. So I just want to confirm. As we 4 stand here today, any questions I ask you about 5 the first declaration, you will say, "I've not 6 reviewed it and I'm not prepared to answer"? 7 A. Correct. 8 Q. Okay. And to the extent you're 9 second declaration refers to your first 10 declaration, that's not a cause to ask you 11 about the first declaration? 12 MR. SCHATZ: Object to form. 13 THE WITNESS: I think this document 14 is what I have been focused on in terms of the 15 preparation for this deposition, so this is 16 where I've prepared to respond to your 17 questions (indicating). 18 Q. All right. Let's turn to 19 Paragraph 32 of your second declaration since 20 that's a live area for questioning. Let me 21 know when you're done reading Paragraph 32, 22 please. 23 A. Yes. Ready. 24 Q. So you testify in that paragraph
Page 31 1 Q. Who gave you the instruction? 2 MR. BAKER: I just said who. 3 MR. SCHATZ: If -- if -- if you 4 want to have this dialog, he can answer who he 5 communicated with, but he's not going to answer 6 what he was instructed about. 7 MR. BAKER: Agreed. I'm asking 8 who, who gave the instruction. 9 MR. SCHATZ: When you say "the 10 instruction," what are you referring to? 11 MR. BAKER: I wish I had my -- it's 12 okay. 13 Q. You have not reviewed, in 14 preparation for this deposition, your first 15 declaration, Exhibit 1013, correct? 16 A. Correct. 17 Q. Did you not review Exhibit 1013 in 18 response to an instruction from counsel? 19 MR. SCHATZ: Instruct the witness 20 not to answer. Work product. Don't answer. 21 THE WITNESS: I'm not going to 22 answer. 23 Q. Did you receive an instruction from 24 someone, and if so, who was that?	Page 33 1 that the APR PET critical guidance document 2 number two is a guideline for evaluating 3 materials and is not a standard; is that 4 correct? 5 A. Correct. 6 Q. What is the basis of that opinion? 7 A. When -- when you look to the APR 8 critical guidance document, that document was 9 prepared as an industry recommendation from the 10 Association of Plastics Recyclers, and so I 11 would not suggest that that falls under the 12 specifics of a standard, per se. I think of a 13 standard as the ASTM method, which is -- which 14 is detailed under clear, you know, discussion. 15 This one, this document is a recommendation and 16 is a guideline to the industry. 17 Q. Is there any value in a 18 recommendation? 19 MR. SCHATZ: Object to form. 20 Q. Any commercial value in a 21 recommendation? 22 MR. SCHATZ: Object to form. 23 THE WITNESS: I don't know what you 24 mean by "commercial value."

Page 34 1 Q. Is MCC a member of the trade 2 association? 3 A. Yes. 4 Q. Do you have an understanding why 5 they are a member? 6 A. We joined the Association of 7 Plastics Recycling, gosh, 15 years ago in order 8 to understand the framework and requirements 9 for what was recycling at a time when packaging 10 and labels on packaging weren't effectively 11 recycled and we didn't understand the 12 ramifications of all different types of 13 materials as they might relate to recycling, 14 and so we were trying to get a better 15 understanding of the market needs as well as 16 the technology that they are interested in. So 17 the reason for joining the APR was because of 18 our interest to get a better understanding 19 of -- of how recycling actually took place. 20 Q. Are there some other companies that 21 are members of the APR? 22 A. Oh, certainly. 23 Q. Can you identify a few? 24 A. Label companies?	Page 36 1 MR. SCHATZ: Object to form. 2 THE WITNESS: I don't know what you 3 mean by "isolated," but I served on -- 4 Q. Did you serve -- 5 A. -- I served on one panel as part of 6 the APR. 7 Q. Have you served on more than one 8 panel as part of the APR? 9 A. I don't believe so, no. I remember 10 one. 11 Q. Does the technical committee set 12 the standard for determining recyclability? 13 MR. SCHATZ: Object to form. 14 THE WITNESS: That's -- that's a 15 good question. I -- I think you'd have to ask 16 the APR as to how they set the guidelines. And 17 you used the word "standard" and I -- I don't 18 think I would use that word. 19 Q. Do I recall from your first 20 deposition, did you serve as a liaison in -- in 21 some form? 22 A. I -- I may have said the word 23 "liaison," I don't recall, but yeah, liaison to 24 the APR would have been the same. I meant that
Page 35 1 Q. Let's stick with label companies. 2 A. Sure. I -- I think most of the 3 major label manufacturers are members of the 4 APR; CCL, Brook & Whittle, Fortis, others. I 5 think if you just look at the top -- top ten. 6 There's a cost to participate in the APR, so 7 it's probably those companies that have the 8 resources to participate and join the meetings. 9 Q. Does Multi-Color play an active 10 role at APR? 11 A. I would say yes. 12 Q. What's the nature of that role? 13 A. When I was with Multi-Color and 14 certainly up until 2021, I was -- participated 15 in the APR technical committees, whether it was 16 for PET or high density polyethylene, and as 17 part of the technical committee, I was asked to 18 participate in discussions related to 19 recycling, and in one example, I was asked to 20 participate in a three-panel membership or 21 review of the critical guidance results that 22 were provided from a -- another company. 23 Q. Was that an isolated event when you 24 served as a panel member?	Page 37 1 I was participating in technical discussions 2 and participating in meetings at the APR. The 3 APR held three or four conference meetings 4 during the year. 5 Q. In your opinion, is it a 6 competitive commercial advantage for MCC to 7 serve on a technical committee for the APR? 8 MR. SCHATZ: Object to form. 9 Object. Outside the scope. 10 THE WITNESS: I think you'd have to 11 ask the Multi-Color folks about their opinion 12 of whether or not they see value in it. 13 Q. When you were vice president, did 14 you see value? 15 MR. SCHATZ: Object to form. 16 Objection, outside the scope. 17 THE WITNESS: I think 18 that -- I -- I don't know about -- can -- can 19 you ask that question again? 20 MR. BAKER: Madam court reporter, 21 could you repeat the question, please? 22 (Question read back as requested.) 23 THE WITNESS: Oh, sorry. 24 MR. SCHATZ: Object to form.

Page 38 1 Objection. Outside the scope. 2 THE WITNESS: Could you -- could 3 you ask the question before that, the preamble? 4 I didn't -- I want to understand what the word 5 "value" means. 6 MR. BAKER: It's the question with 7 the word "competitive." 8 (Question read back as requested.) 9 MR. SCHATZ: Object to form. 10 Objection. Outside the scope. Objection. 11 Asked and answered. 12 THE WITNESS: Yeah. There's a lot 13 to unpack there. I think there is an advantage 14 to participate in the APR because you 15 understand what the requirements are for 16 recycling. Whether or not it provides some 17 benefit commercially or not, I think that's for 18 others to answer. 19 - - - - - 20 (Thereupon, Deposition Exhibit A, 21 The Multi-Color Sustainability 22 Roadmap, was marked for purposes of 23 identification.) 24 - - - - -	Page 40 1 document? 2 A. No. 3 Q. Were you vice president of MCC when 4 that document was published? 5 A. I believe, yes. 6 MR. BAKER: You know what? This 7 would be a good time for us to take our first 8 ten-minute break. 9 MR. SCHATZ: Thank you. 10 THE WITNESS: All right. 11 VIDEO TECHNICIAN: The time is 12 10:00 a.m. We're going off the record. 13 (Recess taken.) 14 VIDEO TECHNICIAN: The time is 15 10:16 a.m. We're back on the record. 16 Q. Thank you, Dr. Bushman. 17 Can we turn to Page 9 of Exhibit A? 18 The pages are on the lower alternating left and 19 right corners of the pages and I'm looking for 20 Page 9. 21 A. I'm there. 22 Q. Do you see the section entitled: 23 Recycling coalitions? 24 A. Yes.
Page 39 1 MR. BAKER: This is one big one? 2 MR. DIRKS: Yes. 3 MR. BAKER: Counsel, this 4 is -- court reporter -- madam court reporter, 5 this is a newly marked Exhibit A for the 6 deposition. 7 THE WITNESS: Thank you. 8 MR. SCHATZ: I'm sorry. Mr. Baker, 9 did you identify it as an exhibit number? 10 MR. BAKER: Exhibit A. 11 MR. SCHATZ: Okay. And this has 12 not been entered into the record? 13 MR. BAKER: It has not. 14 MR. SCHATZ: Okay. 15 Q. Dr. Bushman, would you take your 16 time, if you need, flip through that document 17 and tell me if you're familiar with it? 18 MR. SCHATZ: I'm going to object to 19 form. And objection, outside the scope. 20 THE WITNESS: I haven't seen this 21 document in quite some time. 22 Q. So you have seen it in the past? 23 A. It's been years, yes. 24 Q. Do you recall the date of that	Page 41 1 Q. Will you take a minute and read 2 that to yourself, please? 3 A. All right. 4 Q. All right. That passage reads, in 5 part: Luckily, regionally focused recycling 6 coalitions exist to help us understand the 7 current industry standards for recycling. 8 APR is identified as one of the 9 regionally focused recycling coalitions, 10 correct? 11 A. Yes. 12 Q. And APR is identified as helping 13 understand the current industry standards, 14 correct? 15 A. Are -- are -- are we reviewing this 16 document in detail? Is that the question? 17 Q. I'm asking you a question about 18 this particular passage. If you need to review 19 other parts of the document to answer my 20 question, I will offer you that time to do so. 21 A. I would need quite some time to 22 review this. 23 Q. In order to answer the question 24 about the current industry standards, you would

Page 42 1 need time to do so? 2 MR. SCHATZ: Object to form. 3 THE WITNESS: I think you're trying 4 to use the word "standard" and you're trying to 5 use this to bolster your statement. I didn't 6 prepare this document, I don't have any 7 documents to -- 8 Q. Was -- I'm sorry. Please finish 9 your answer. 10 A. So I -- I don't have an answer to 11 your question at this time. 12 Q. Was this document prepared by MCC? 13 A. I believe so. 14 Q. Do you have any reason to believe 15 not? 16 A. No. 17 Q. And did you testify earlier before 18 the break that you believe you were vice 19 president at the time that this document was 20 produced? 21 A. Perhaps, yes. I don't know -- I 22 don't know the date of this document. 23 Q. Do you recall if you are discussed 24 in this document personally?	Page 44 1 A. This was prepared by the marketing 2 portion of our business. 3 Q. So it's like a public-facing 4 document? Is that a fair way to characterize 5 it? 6 A. Yeah. I mean, I wouldn't -- I 7 wouldn't necessarily look here for my opinions 8 and specifics regarding this matter. 9 Q. But publicly, MCC was 10 characterizing the APR as providing standards, 11 correct? 12 MR. SCHATZ: Object to form. 13 THE WITNESS: I'm not prepared to 14 answer a question of whether they were 15 suggesting standards. 16 Q. Who is "they"? I'll strike the 17 question and I'll be very precise. 18 In your last answer, you indicated, 19 "I'm not prepared to answer a question of 20 whether they were suggesting standards." My 21 question is: When you say "they," who are you 22 referring to? 23 A. I was referring to Multi-Color in 24 terms of this document and -- and the marketing
Page 43 1 A. I don't know. 2 Q. Can you turn to Page 7 of 3 Exhibit A? 4 A. I'm there. 5 Q. Are you there? 6 Do you see your picture and the 7 indication that you are vice president research 8 and development? 9 A. Yes. 10 Q. In the second column, there are two 11 questions. Do you see both of those? 12 A. Yes. 13 Q. And do you see the question: What 14 do you think MCC has to offer the personal care 15 and beauty market in terms of sustainability? 16 Do you see that question? 17 A. Yes. 18 Q. And there's an answer by CB. Is 19 "CB," is that Craig Bushman? 20 A. So this is a marketing document. 21 I -- I don't know that this necessarily 22 represents my opinions. 23 Q. So what do you mean by "a marketing 24 document"?	Page 45 1 team that put this document together. 2 Q. But you agree that the marketing 3 brochure that this represents uses the term 4 "standards"? 5 A. It was -- it was in the earlier 6 page that you showed. 7 Q. So that's a "yes"? 8 A. Again, it -- it wasn't my writing. 9 Q. But the document does describe the 10 APR as providing standards, correct? 11 A. You're as equipped to answer that 12 question as I am. 13 Q. But I'm asking you. I'm not being 14 deposed today. 15 A. So I think anyone could read this 16 document and make a determination from what it 17 says, but I don't know why you want to put me 18 in a position to make that statement for you. 19 Q. You're the most important person 20 here today as a witness for MCC. 21 A. Right. 22 Q. And I'm asking you questions. And 23 my question is: With regard to Exhibit A, an 24 MCC document, does that document indicate that

Page 46 1 APR provides standards? 2 A. I -- I think it's unfair for me to 3 characterize this document. 4 Q. I'm asking what the -- 5 A. In terms of its -- 6 Q. -- document says. 7 A. Oh, I understand what you're 8 asking. 9 Q. Are you refusing to answer what the 10 document says? 11 A. No. I think it's unfair for me to 12 characterize what the document says. 13 Q. I'm not even asking you to 14 characterize. I'm asking you to tell me what 15 it states. 16 A. I -- I don't know that that's 17 consistent with what I was expecting to provide 18 a response to today. 19 Q. Does MCC generally provide 20 marketing materials that are inaccurate? 21 MR. SCHATZ: Object to form. 22 Objection. Outside the scope. 23 THE WITNESS: I can't answer that 24 question.	Page 48 1 Q. Do you have any reason to believe 2 it's not from MCC? 3 A. I have -- I believe it. 4 Q. In the bottom paragraph on Page 1 5 of Exhibit B, do you see the statement: Being 6 part of these committees helps us understand 7 the current industry standards of recycling? 8 Do you see that? 9 A. Yes. 10 Q. Do you agree with the statement 11 that being part of the committees helps MCC 12 understand the current industry standards for 13 recycling? 14 A. I'm not prepared to offer an 15 opinion on that statement. 16 Q. Why not? 17 A. Because it's outside the scope of 18 what I understood we were here today to 19 discuss. 20 Q. Didn't you testify in your second 21 declaration precisely to this issue? Didn't 22 you say that APR provides guidelines, not 23 standards? 24 A. I did.
Page 47 1 - - - - - 2 (Thereupon, Deposition Exhibit B, 3 APR Recognition for HDPE Containers, 4 was marked for purposes of 5 identification.) 6 - - - - - 7 MR. BAKER: Madam court reporter, 8 that is Exhibit B. 9 Counsel. 10 MR. SCHATZ: Thank you. 11 Q. Dr. Bushman, are you familiar with 12 Exhibit B? 13 A. No. I'd have to review this. I 14 don't recall seeing this. 15 Q. This one's pretty short. Please 16 take a moment and review it. 17 A. Okay. 18 Q. Do you recall seeing this document 19 in the past? 20 A. No. 21 Q. Do you recognize this document as 22 being from MCC? 23 A. It says so on the document that 24 it's from MCC.	Page 49 1 Q. So isn't this pertinent to that 2 opinion? 3 MR. SCHATZ: Object to form. And 4 objection, outside the scope. 5 THE WITNESS: This isn't something 6 that I prepared. Again, this comes from a 7 marketing side of Multi-Color. 8 Q. So it's a commercially 9 public-facing document? 10 A. Perhaps, yes. 11 Q. You did testify earlier that you 12 agree that MCC being part of APR's technical 13 committee for PET is beneficial as it helps MCC 14 understand the recycling industry, correct? Do 15 you agree with that? 16 MR. SCHATZ: Object to form. 17 MR. BAKER: I did not use the word 18 "standard." 19 THE WITNESS: I recall, yeah, my 20 answer to some extent, yes. What was your 21 question? 22 Q. So to the extent that Exhibit B 23 states that being part of the committees helps 24 MCC understand recycling, do you agree with

Page 50 1 Exhibit B? 2 MR. SCHATZ: Object to form. 3 THE WITNESS: Yeah. I -- I'm not 4 going to speak to Exhibit B and whether or not 5 I agree with Exhibit B. 6 Q. Okay. I'll ask in a vacuum. MCC 7 being part of the technical committees of APR 8 helps MCC understand the recycling industry, 9 correct? 10 A. Yes. 11 Q. So I see a challenge here. From 12 your perspective and as you testified in this 13 PGR, the APRs are guidelines, not standards, 14 and you have that position in a PTAB trial 15 where you're trying to invalidate a 16 competitor's patent. On the other hand, a 17 publicly-facing commercial literature, MCC 18 takes the position that APR has standards or 19 set standards. Do you see the conflict in 20 those two positions? 21 MR. SCHATZ: Object to form. 22 Objection. Outside the scope. 23 THE WITNESS: You're asking me to 24 discuss what is a standard versus a guideline,	Page 52 1 question, have you? 2 MR. SCHATZ: Objection. 3 Q. I'm asking do you see the conflict 4 between the two positions, the position MCC 5 takes in the PGR and the publicly, 6 commercially-facing position MCC takes in its 7 brochures? Do you see that conflict? 8 MR. SCHATZ: Object to form. 9 THE WITNESS: So could you ask that 10 question again? 11 MR. BAKER: Madam court reporter, 12 please. 13 (Question read back as requested.) 14 MR. SCHATZ: Object to form. 15 THE WITNESS: Again, I -- I don't 16 know if there's a conflict necessarily to the 17 position that they took for the response to the 18 PGR and the public facing. I don't know that 19 there's a conflict. 20 Q. So you agree with the marketing's 21 position that the APR provides standards? 22 MR. SCHATZ: Object to form. 23 THE WITNESS: I -- I think I 24 responded to this already that I -- I'm -- I
Page 51 1 and I -- 2 Q. I'm asking you: Do you see the 3 conflict in MCC taking one position in the PGR 4 that the APR critical guidance is merely 5 guidelines and in public-facing documents, MCC, 6 on the other hand, indicating that the APR set 7 standards? Do you see that conflict? 8 A. I'm not prepared to respond to 9 whether or not there's a conflict and whether 10 or not that's appropriate or not. 11 Q. You're a smart man. You have a 12 Ph.D. I believe you're capable of recognizing 13 whether or not there's a conflict between those 14 two positions, are you not? 15 MR. SCHATZ: Object to form. 16 Objection. Asked and answered. 17 THE WITNESS: So I believe I gave 18 an answer. 19 Q. What was your answer? 20 A. I don't know. 21 THE WITNESS: Could you read back 22 my comment from the last question? 23 (Answer read back as requested.) 24 Q. So you haven't answered the	Page 53 1 can't speak to the marketing position. 2 Q. Okay. Let's -- I need to give you 3 the patent. I'm going to hand you 4 Exhibit 1001. 5 MR. SCHATZ: Thank you. 6 Q. So this is the '422 patent, 7 correct? 8 A. Yes. 9 Q. And you did review this patent in 10 preparation for today's deposition, correct? 11 A. I've seen this in the past, yes. 12 Q. Did you review it in preparation 13 for this deposition? 14 MR. SCHATZ: Instruct the witness 15 not to answer. Work product. 16 MR. BAKER: What he reviewed? 17 MR. SCHATZ: Yeah. 18 Q. Did you review any documents in 19 preparation for this deposition? 20 A. I -- I focused primarily on the 21 declaration. 22 Q. Did you review any exhibited cited 23 in the declaration? 24 MR. SCHATZ: Instruct the witness

Page 54 1 not to answer. Work product. 2 Q. Let's turn to Column 6, Lines 61 to 3 65. Do you see the statement that begins with: 4 Generally clear crystallizable heat shrink 5 films? 6 Do you see that? 7 A. Yes. 8 Q. If you would like, would you read 9 that whole paragraph and tell me when you're 10 finished? 11 A. All right. 12 Q. All right. So, again, we're going 13 to focus on the generally clear crystallizable 14 heat shrink film sentence. The subject of that 15 sentence is films, correct? 16 A. Clear crystallizable heat shrink 17 films, yes. 18 Q. Okay. And those films are 19 considered recyclable, correct? 20 A. That's what it says. 21 Q. And he used the term "generally," 22 correct? 23 A. Yes. 24 Q. Yeah. So there are sometimes where	Page 56 1 the scope. 2 THE WITNESS: I -- I know a bit 3 about the Gatorade label. Could you ask that 4 question again? 5 Q. Does it have a light blocking 6 layer, in your opinion? 7 MR. SCHATZ: Objection. Outside 8 the scope. You can answer generally. 9 THE WITNESS: Yeah. I would say 10 generally, yes. I think we provided that as 11 part of the other documents that were prepared. 12 Q. Okay. And does that purported 13 light blocking layer contain aluminum flakes? 14 MR. SCHATZ: Objection. Outside 15 the scope. You can answer generally. 16 THE WITNESS: I would say 17 generally, yes. 18 Q. And those aluminum flakes are a 19 metal of particulates; is that correct? 20 MR. SCHATZ: Objection. Outside 21 the scope. 22 THE WITNESS: I think this has been 23 addressed in earlier documents that, yes. 24 Q. So when the '422 specifications, in
Page 55 1 I ask a "yes" or "no" question and you nod, 2 but, of course, we need to have the -- 3 A. I understand. Sure. 4 Q. -- the -- the verbal response. So 5 I got the eye contact, I understood what you 6 were saying, but we need it for the record. 7 A. Yeah. I apologize. Yes. 8 Q. Okay. Let's now turn to the 9 preamble, Claim 1 of the '422 patent. 10 A. The preamble of Claim 1. Okay. 11 Q. Have you read it? 12 A. Yes. 13 Q. Okay. The preamble recites a 14 recyclable shrink label, correct? 15 A. Yes. 16 Q. So Claim 1 is directed to a 17 recyclable shrink label comprising a heat 18 shrink film and a light blocking layer; is that 19 correct? 20 A. Yes. 21 Q. Do you agree that the light 22 blocking layer in the Gatorade label contains 23 aluminum flakes? 24 MR. SCHATZ: Objection. Outside	Page 57 1 particular Column 6, Lines 61 to 65, says the 2 film is generally considered recyclable if no 3 inks are retained on the film, that passage is 4 telling you something about the PET substrate 5 alone, not the entire multicomponent label, 6 correct? 7 MR. SCHATZ: Objection. Outside 8 the scope. 9 THE WITNESS: So could you ask your 10 question again? I'm so sorry. 11 MR. BAKER: I'm so sorry, madam 12 court reporter, please. 13 (Question read back as requested.) 14 MR. SCHATZ: Object to form. 15 Objection. Outside the scope. 16 THE WITNESS: Yeah. I think that 17 the -- again, I don't know that it speaks to 18 the film alone, but I think what you said in 19 your question was the film alone, so I -- I 20 don't know that I agree with your question as 21 asked. 22 Q. What do you disagree with? 23 A. I think I -- I think I answered the 24 question.

Page 58 1 Q. Well, you indicated you think you 2 disagree. I'm asking what part do you think 3 you disagree with? 4 A. You said the film alone. 5 Q. Uh-huh. Can we agree that the 6 passage at Column 6, Lines 61 to 65 is 7 discussing the film? 8 MR. SCHATZ: Objection. Asked and 9 answered. 10 THE WITNESS: I think I answered 11 your question. 12 Q. I think your answer was you agreed 13 that it's directed to the film, correct? 14 A. You said the film alone. 15 Q. Okay. And I then pointed you to 16 Claim 1. Claim 1 is directed to a label, 17 including both a film and a light blocking 18 layer, correct? 19 A. So now you're asking a broader 20 question? 21 Q. I'm asking you about Claim 1 and 22 what it's directed to. 23 MR. SCHATZ: Objection. Outside 24 the scope.	Page 60 1 the scope. 2 THE WITNESS: I accept your 3 statement that it's related to a film and a 4 light blocking layer, yes. 5 Q. Okay. To determine whether a label 6 as recited by Claim 1 including a light 7 blocking layer and a film is recyclable with a 8 PET container, a POSITA would need to evaluate 9 how all of the label's components behave 10 throughout the recycling process, correct? 11 A. That's a lot to unpack. I -- could 12 you repeat that question? 13 Q. I'll break it up in parts. 14 So we agree that Claim 1 is 15 directed to a label having at least two 16 components, a film and a light blocking layer, 17 correct? 18 A. Yes. 19 Q. The claim also says that the 20 label -- strike that. 21 The claim also says, quote, 22 wherein, the recyclable shrink label is 23 recyclable with a PET container, correct? 24 A. I can read that, yes.
Page 59 1 MR. BAKER: I'm pretty certain the 2 claims are within the scope. 3 Q. So my question is: Is Claim 1 4 directed to a label including both a light 5 blocking layer and a film? 6 A. I haven't had a chance to review 7 the specifics of Claim 1 the way you're asking. 8 Q. Take your time and look at Claim 1 9 now. 10 A. I think the entirety of the 11 proceedings is related to Claim 1 and the 12 interpretation of Claim 1 and in particular the 13 question of indefiniteness, not the term 14 "recyclable." 15 Q. That's your answer? Is that your 16 full answer? 17 A. That's the answer I'm providing at 18 the moment. 19 MR. BAKER: Objection. 20 Nonresponsive. 21 Q. The question I asked is whether or 22 not Claim 1 is directed to a label including a 23 film and a light blocking layer. 24 MR. SCHATZ: Objection. Outside	Page 61 1 Q. To determine whether the recyclable 2 shrink label is recyclable with the PE 3 container, a POSITA would need to evaluate how 4 each of the claimed components of the label 5 would behave throughout the recycling process, 6 correct? 7 A. Yes. And I think my -- the 8 entirety of my declaration is related to the 9 challenges related to that term "recyclable." 10 Q. Do you have your declaration in 11 front of you still -- 12 A. Yes. 13 Q. -- Exhibit 1047, Paragraph 18? 14 A. Eighteen, you said? 15 Q. Yes. 16 A. Yes. Oh, I believe -- hold on 17 here. Lost my lapel mic. Okay. Go ahead. 18 Q. So with regard to the last sentence 19 in 18 where you state: If no inks are 20 retained, the label is recyclable. 21 A. According to the patent, yes. 22 That's the statement. 23 Q. Isn't the statement if no inks are 24 retained, the film is recyclable?

Page 62 1 A. I think that -- are your -- your 2 question then is -- or is your statement that 3 that Paragraph 16 or -- is specific to the 4 label or to the film? I'm sorry. To the film? 5 Q. Yes. My question is that the 6 statement at Column 6, Lines -- 7 A. 61 through 65. 8 Q. -- 61 through 65 regard the film, 9 and in your testimony, you conflate "film" with 10 "label"; isn't that correct? 11 MR. SCHATZ: Object to form. 12 THE WITNESS: Sorry. Are 13 you -- are you saying that I need to -- can you 14 ask the question specific to film or label? 15 Q. I'm asking throughout your 16 declaration, and in particular, Paragraph 18, 17 do you use the term "label" in lieu of the term 18 "film"? Do you treat them as interchangeable? 19 A. I don't know that I can answer that 20 question. This paragraph is specific to the 21 specifics of how one would read that portion of 22 the '422 patent. 23 Q. What is that portion? 24 A. Paragraph 6 -- or Column 6, 61	Page 64 1 during a hot caustic wash, that is not 2 sufficient for a label to meet the requirements 3 of Claim 1. Is that what you're saying? 4 A. Yes. 5 Q. Isn't that statement accurate? 6 MR. SCHATZ: Object to form. 7 THE WITNESS: It's -- again, it 8 speaks to this question of the term 9 "recyclable" and the -- that's all. 10 Q. Well, isn't Dr. Phillips saying 11 just because the film has no ink after the 12 caustic wash is not sufficient to deem the 13 whole label, which also includes a light 14 blocking layer, as recyclable? Isn't that his 15 testimony? 16 A. I'm sorry. Could you -- could you 17 back that up a -- a bit? You're asking me to 18 characterize his full testimony, so could you 19 repeat what he just said? 20 MR. BAKER: Yes, please do. 21 (Question read back as requested.) 22 MR. SCHATZ: Object to form. 23 THE WITNESS: I think Dr. Phillips 24 consistently was indicating in his testimony
Page 63 1 through 65. 2 Q. And it's your understanding that a 3 POSITA would read that passage as meaning that 4 if no inks are retained on the label, the label 5 is recyclable? Is that how you think a POSITA 6 would read that passage? 7 A. I don't think I would interchange 8 the term "label" and "film." 9 Q. Okay. Do you think you did so in 10 your declaration? 11 A. I don't know. 12 Q. Let's turn to Paragraph 54 of your 13 second declaration. Can you read the first 14 four lines to yourself in Paragraph 54? Those 15 lines end with the citation to Dr. Phillips' 16 deposition transcript, Exhibit 1048. 17 A. Yes. 18 Q. Are you, in those sentences, and 19 I -- I do not want to put words in your mouth, 20 I'm trying to get an understanding for what is 21 trying to be accomplished there, are you saying 22 that it's Dr. Phillips' testimony that if the 23 inks completely wash off the film and those 24 inks do not contaminate or disclose PET flake	Page 65 1 that there was an inconsistency to whether or 2 not the inks washed off was sufficient or not. 3 That's -- that's how I read that. He indicated 4 that there would be additional tests required, 5 not just whether or not the inks washed off. 6 Q. Do you agree with that? 7 A. I think there's some great 8 questions about what does the term "recyclable" 9 mean and whether or not it's simply no ink 10 remaining or any of another -- a number of test 11 results. 12 Q. For example, for a label including 13 a light blocking layer, wouldn't you have to 14 determine whether or not metal particulates 15 interfere with the near-infrared sorting in 16 order to determine that the label is 17 recyclable? 18 A. That's a great question for the 19 term "recyclable" and the meaning within this 20 patent. 21 Q. Do you have an answer? 22 A. I think that one evaluating a 23 label, that would be certainly part of what you 24 would look to to try to understand.

Page 66 1 Q. So in addition to the caustic wash 2 test, you would also conduct a near-infrared 3 sorting test, correct? 4 MR. SCHATZ: Object to form. 5 THE WITNESS: One might consider 6 that test. 7 Q. Under the APR, when might a POSITA 8 consider that test? 9 A. I -- I don't know what you mean 10 under the APR. 11 Q. According to the APR critical 12 guidelines, PET-CG-02 document. 13 MR. SCHATZ: Object to form. 14 THE WITNESS: So CG-02, I don't 15 believe, has any discussion about sortation. 16 Q. I'm handing you what's been 17 previously marked as MCC Exhibit 1027. 18 MR. SCHATZ: Thank you. 19 Q. Dr. Bushman, when was the last time 20 you reviewed Exhibit 1027? 21 A. I don't know about this specific 22 exhibit, but I'm familiar with the critical 23 guidance from my past. 24 Q. But you don't recall the last time	Page 68 1 correct? 2 MR. SCHATZ: Again, objection. 3 Outside the scope. You can answer. 4 THE WITNESS: Generally, yes. 5 Q. Do you agree that those metallic 6 particulates could interfere with the near-IR 7 sorting? 8 MR. SCHATZ: Objection. Outside 9 the scope. 10 THE WITNESS: I haven't evaluated 11 the Gatorade label in some time, so I don't 12 have an answer to that. 13 Q. Do you believe any label that has 14 metallic particulates, if tested, may interfere 15 with the near-IR sorting testing? 16 MR. SCHATZ: Objection. Outside 17 the scope. Objection. Improper, incomplete 18 hypothetical. 19 THE WITNESS: Yeah. I -- you're 20 asking me to speculate and I'm not prepared to 21 do that. 22 Q. So a label that has a light 23 blocking layer as claimed, do you think a 24 recycling protocol would include near-infrared
Page 67 1 you reviewed it? 2 A. No. I don't recall. 3 Q. Can you turn to Page 3 of 8 of 4 Exhibit 1027? Do you see the discussion 5 regarding the sortation qualification? 6 A. I see it. 7 MR. SCHATZ: Object to form. 8 Q. Do you see that? 9 A. I see -- I see the paragraph. 10 Q. So a POSITA applying the APR would 11 understand that the NIR sorting test should be 12 conducted? 13 A. Oh, I don't -- I don't know that. 14 Q. You don't know if it's true or you 15 don't know -- 16 A. I don't know if that's true. 17 Q. Can you point to something today 18 that's not true or confirm that it is true? 19 A. I think that one might consider the 20 near-IR sortation as part of this, but it's not 21 clear that that's a requirement. 22 Q. Let's take a step back. 23 We agree that the Gatorade label 24 has some form of metallic particulates; is that	Page 69 1 sorting? 2 MR. SCHATZ: Objection to form. 3 Objection. Outside the scope. 4 THE WITNESS: I -- I don't know the 5 answer. 6 Q. You don't know or don't have an 7 opinion or -- 8 A. I -- I -- I need to hear the 9 question again. You said -- 10 Q. I'll ask this question: So a label 11 that has a light blocking label as claimed in 12 Claim 1, do you think a recycling protocol 13 would include near-infrared sorting? 14 MR. SCHATZ: Object to form. 15 THE WITNESS: I -- I don't know the 16 answer to that question because it's not clear 17 what recyclable is in Claim 1. 18 Q. I didn't say "recyclable," I said 19 recycling testing protocol. 20 MR. SCHATZ: Then object to form. 21 THE WITNESS: I'm not sure what you 22 mean. 23 Q. Are there testing protocols known 24 to a POSITA, it could be more than one, for

Page 70 1 determining whether or not a label is 2 recyclable with a PET container? 3 A. So there are guidelines related to 4 recyclability, and this is one of those 5 guidelines known to a POSITA. 6 Q. And under the APR guideline, if a 7 label being tested includes a light blocking 8 layer, would there be a near-IR sorting test? 9 MR. SCHATZ: Object to form. And 10 objection, incomplete hypothetical. 11 THE WITNESS: I -- I'm not sure 12 that this specifically has any discussion about 13 a light blocking layer, so I don't know. 14 Q. Claim 1 is directed to a label 15 including a light blocking layer? 16 A. Well, you said this APR, so... 17 Q. I'm applying -- 18 A. I was -- you were suggesting CG-02, 19 so I -- 20 Q. I'm applying the APR to the claimed 21 label, and I'm asking if you were testing the 22 claimed label pursuant to the APR critical 23 guidance, would a POSITA conduct a 24 near-infrared test, sorting test?	Page 72 1 Q. In Exhibit 1027, back to Page 3 of 2 8. 3 A. Are we on this document still 4 (indicating)? 5 MR. SCHATZ: Yes. 6 Q. Yes. 1027, PET critical guidance 7 2, Page 3. Let me know when you're there. 8 A. Yes. 9 Q. The sortation qualification section 10 indicates that specific factors to consider are 11 small size, more two-dimensional than 12 three-dimensional, containing metal or 13 metallized inks and material components that 14 could influence NIR sortation. Do you see 15 that? 16 A. Uh-huh. 17 Q. So that explains that if a label 18 being tested contains metal or metallized inks, 19 sortation testing should be conducted, correct? 20 MR. SCHATZ: Object to form. 21 Misstates the document. 22 THE WITNESS: Was there a question? 23 You read me and you said -- 24 Q. If a label being tested contains
Page 71 1 MR. SCHATZ: Object to form. 2 Objection. Asked and answered. You can 3 answer. 4 THE WITNESS: You know, one -- one 5 might look to a near-IR, but I -- I don't know. 6 I would have to look to the specific label. 7 Q. To the specific? 8 A. To the specific label in your 9 hypothetical. 10 Q. What would you need to know about 11 the label to make your determination whether or 12 not to conduct the near-IR testing? 13 A. I -- I don't know. I'd have to 14 think about it. 15 Q. How much time would you need to 16 think about it? 17 A. I -- you're asking a very general 18 question. I don't have an answer for that. 19 You mean how long would I need to think about 20 it? 21 Q. Uh-huh. 22 A. I don't know. It would depend. 23 Q. Is five minutes enough? 24 A. I -- I don't know.	Page 73 1 metal or metallized inks, does the PET critical 2 guidance two indicate that sortation testing 3 should be conducted? 4 MR. SCHATZ: Object to form. 5 THE WITNESS: Yeah, I'm not sure 6 that it makes a specific comment to a label, so 7 I don't know how to answer your question. 8 Q. If an article being tested includes 9 metal or metallized inks, does the PET critical 10 guidance number two indicate that sortation 11 testing should be conducted? 12 A. I think it says that if there's any 13 concern that it would not sort properly, then 14 it should be conducted. 15 Q. Does it indicate when there may be 16 concern? 17 A. No. 18 Q. What are the specific factors? 19 What's the point of identifying the specific 20 factors in that section? 21 A. I -- I don't understand your -- I 22 don't know. 23 Q. The sortation qualification section 24 indicates in a sentence that says: Specific

Page 74 1 factors to consider. 2 What do you understand that to 3 mean? 4 A. It's a variety of potential factors 5 that might impact sortation. 6 Q. And one of those factors is if the 7 article contains metal or metallized inks, 8 correct? 9 A. But it's specific to whether or not 10 is -- there is a concern that it will or will 11 not sort properly. 12 Q. Uh-huh. And if it doesn't sort 13 properly, is the article recyclable? 14 A. Yeah. So I -- I guess the question 15 you're asking is what? Should we test -- 16 Q. The inability to sorting, is that 17 part of the recyclability determination? 18 MR. SCHATZ: I'm going to object to 19 the extent it's been asked and answered. 20 THE WITNESS: Yeah, I think that 21 the APR is interested in sortation as a part of 22 the recycle test and so that's -- or I'll say 23 part of the recycle process, so it's -- that's 24 a question about the overall recyclability,	Page 76 1 Q. What's incorrect? 2 A. I'd have to break down what you 3 just said. 4 Q. I'll repeat the question. 5 So if an article is being tested, 6 according to the PET critical guidance, if that 7 article contains metal or metallized inks, it's 8 not enough to just test whether or not the 9 article passes the caustic wash test, correct? 10 MR. SCHATZ: Object to form. 11 THE WITNESS: And what I would say 12 is you -- you were very specific to the caustic 13 wash test and not the entirety of the test 14 methods, and so I think that not just CG-02, 15 but other test methods are consistent. 16 Q. So you agree that the caustic wash 17 test alone is not sufficient to determine 18 recyclability of an article according to the 19 PET critical guidance? 20 MR. SCHATZ: Object to form. 21 THE WITNESS: I'm not sure what you 22 mean by the specifics of the caustic wash test. 23 Are you -- are you -- I -- I -- I think I see 24 where you're going, but...
Page 75 1 yes. 2 Q. What do you mean by "interested"? 3 A. I'm sorry? You said -- 4 Q. What do you mean by "interested"? 5 You used the term "interested." I'm asking 6 what do you mean by "interested," yeah, I think 7 that the APR is interested? 8 A. When I say the APR is interested, 9 yes, sure, the -- the objective for the APR is 10 to try to provide guidelines for ensuring 11 a -- a complete recycle system because their 12 goal is to recover the PET. 13 Q. And what do you mean by "complete 14 recycle system"? 15 A. The -- the process by which 16 containers are recycled. 17 Q. So if an article is being tested, 18 according to the PET critical guidance and that 19 article contains metal or metallized inks, it's 20 not enough to just test whether or not the 21 article passes the caustic wash test, correct? 22 MR. SCHATZ: Object to form. 23 THE WITNESS: I wouldn't say 24 correct, no.	Page 77 1 Q. So you indicated no inks. If 2 there's no inks after the caustic wash test, 3 you're saying that Dr. Phillips' opinion is 4 that's enough? Strike that. 5 A. I -- 6 Q. There's no pending question. And 7 after this line of questions, we will 8 definitely take a break. 9 A. All right. 10 Q. If an article being tested 11 according to the APR's PET critical guidance 12 includes metals or metallized inks, it is 13 insufficient to test just recyclability based 14 on a caustic wash test; is that correct? 15 MR. SCHATZ: Object to form. 16 THE WITNESS: I -- I can't speak to 17 the specifics of your question because I think 18 that the way you're asking it is whether or not 19 one would use only the caustic wash test in 20 evaluating recyclability. Is that what you're 21 saying? 22 Q. Yes. I think that's a fair 23 characterization of my question. 24 A. I -- what I would say is that

Page 78 1 recyclability is -- includes many tests that 2 would be evaluated in order to understand 3 whether or not something is recyclable. 4 MR. BAKER: All right. Let's take 5 a ten-minute break. I would love to know 6 the -- whatever you think about lunch. 7 VIDEO TECHNICIAN: The time is 8 11:21 a.m. We're going off the record. 9 (Recess taken.) 10 VIDEO TECHNICIAN: The time is 11 11:48 a.m. We're back on the record. 12 Q. Thank you, Dr. Bushman. 13 We're going to turn back to your 14 second declaration, Exhibit 1047. Do you have 15 that in front of you? 16 A. 10- -- my declaration, sure. 17 Q. Yes. 18 All right. Is it fair to say that 19 your second declaration cites Dr. Phillips' 20 testimony extensively? 21 A. Yes. I was responding to 22 the -- his deposition. 23 Q. And when you prepared your second 24 declaration, Exhibit 1047, what role did you	Page 80 1 Q. Can we turn to Paragraph 35 in your 2 second declaration? 3 A. Par- -- Paragraph 35? 4 Q. Thirty-five, yes. 5 A. All right. 6 Q. You can go ahead and read that to 7 yourself and let me know when you're done. 8 A. Sure. Go ahead. 9 Q. And do you see the sentence on 10 Page 14 that reads: Dr. Phillips agrees that a 11 POSITA does not know whether the clumping test 12 with flake sample B via PET-S-08 is required to 13 meet PET critical guidance number two? 14 A. I see that. 15 Q. Do you think that's an accurate 16 characterization of what Dr. Phillips testified 17 to? 18 A. Yes. 19 Q. So PET-S-08 is the APR guidance for 20 the clumping test, correct? 21 A. I'd have to look at that 22 specifically. 23 MR. BAKER: All right. Madam court 24 reporter, I'm handing you what's been marked
Page 79 1 play in selecting which Phillips testimony to 2 discuss in your declaration? 3 MR. SCHATZ: Instruct the witness 4 not to answer. Work product. 5 THE WITNESS: Yeah. I don't think 6 it's appropriate for me to respond. 7 Q. Did you read the Phillips 8 deposition transcript in -- before preparing 9 your -- I'm sorry. Strike that. 10 Did you read the Phillips testimony 11 provided in Exhibit 1048 as part of the process 12 of preparing your second declaration, 13 Exhibit 1047? 14 A. Yes. 15 Q. Did you read it in its entirety or 16 just certain passages? 17 A. It was quite lengthy, so I -- I 18 believe I read every part of it, but if you 19 have something specific, feel free to bring it 20 forward. 21 Q. When you say you read every part of 22 it, that means you read it from beginning to 23 end? 24 A. I believe so, yes.	Page 81 1 Exhibit C. 2 - - - - - 3 (Thereupon, Deposition Exhibit C, 4 PET Flake Clumping Evaluation, was 5 marked for purposes of 6 identification.) 7 - - - - - 8 MR. SCHATZ: Thank you. 9 Q. So Dr. Bushman, I'll repeat the 10 question. PET-S-08 is the APR guidance for the 11 clumping test, correct? And you can review it 12 and let me know your answer. 13 MR. SCHATZ: Object to form. 14 THE WITNESS: Yes. It's been some 15 time since I've reviewed this document, 16 but -- but, yes, this appears to be coming from 17 the APR and -- and is the PET flake clumping 18 evaluation. 19 Q. All right. I'm going to give you 20 what's been previously marked as MCC 21 Exhibit 1048. And that's the transcript from 22 Dr. Phillips' May 21st, 2026 deposition, 23 correct? 24 A. Yes.

Page 82 1 Q. And your opinion in Paragraph 35 is 2 that Dr. Phillips testified that a POSITA would 3 not know whether the clumping test is required 4 under the PET critical guidance; is that 5 correct? 6 A. Yes. 7 Q. Is that an accurate representation 8 of what Dr. Phillips testified to? 9 A. I'd have to review this again. 10 Q. Okay. So your declaration cites 11 Pages 159 through 161, roughly. Do you want to 12 take a minute to review that? 13 A. Yeah, I need to. 14 Okay. I've reviewed this. 15 Q. As part of your review, did you 16 consider Page 160, Lines 9 through 18? 17 A. Did you say 160? 18 Q. 160. That would be in the middle 19 of those two passages. I don't know if you 20 read from the beginning of the first passage to 21 the end of the other. 22 A. No, I didn't. 23 Q. Can you also -- before I ask the 24 question, can you also take a look at	Page 84 1 whether the clumping test is necessary as 2 suggested in your declaration, correct? 3 A. I think what he said was that I 4 would do as a person of ordinary skill in the 5 art and gather all the information that I could 6 gather. That's what he says. 7 Q. And doesn't he also say that if the 8 prior tests fail, this test is not necessary, 9 referring to the clumping test? Isn't that 10 very different than not knowing whether the 11 clumping test is necessary? 12 A. Yeah. That's -- that's one way to 13 read it. 14 Q. Do you agree with my reading? 15 MR. SCHATZ: Object to form. 16 THE WITNESS: I think that he -- he 17 said that he would test -- he said that he 18 hated "yes" or "no" answers, and so he wasn't 19 prepared to answer with a "yes" or "no" answer. 20 He himself would not be able to answer "yes" or 21 "no." 22 Q. But you agree that Dr. Phillips' 23 ultimate conclusion is if the prior tests fail, 24 the clumping test is not necessary?
Page 83 1 Page 6- -- 160, Lines 9 through 18 and if you 2 need to lea- -- read a little before and a 3 little after, please do so. 4 A. Okay. Now I understand. 5 Q. So isn't Dr. Phillips testifying on 6 Page 160, Lines 9 through 18, that a POSITA 7 would understand that if a prior test fails, a 8 clumping test would not be necessary? 9 A. Yeah. It may not be necessary is 10 what he says, that if the prior test failed, 11 this test is not necessary. 12 Q. You see that passage? 13 A. I do. 14 Q. So he's not testifying that a 15 POSITA does not know whether the clumping test 16 is necessary, correct? 17 MR. SCHATZ: Object to form. 18 THE WITNESS: I -- I'm just 19 rereading to get the scope. 20 Q. Understood. 21 A. I'm sorry. So let's go back to the 22 question. 23 Q. So the question is: Dr. Phillips 24 is not testifying that a POSITA does not know	Page 85 1 MR. SCHATZ: Objection. 2 Q. That's his testimony, correct? 3 MR. SCHATZ: Object to form. 4 THE WITNESS: I -- I can't speak 5 for Dr. Phillips. I think he says quite 6 clearly he hates "yes" or "no" answers and that 7 his response is that the claims aren't limited 8 to any particular embodiment, and that he would 9 do as a person of skill in the art, which is 10 gather all the information I could gather. 11 It's not clear if he would do the clumping test 12 or not. 13 Q. So do you want to read the further 14 passage in Lines 16 through 18? What does he 15 say there? 16 A. I'm sorry. Is there an answer you 17 don't know? 18 Q. I'm asking you what Dr. Phillips 19 testified to at Page 160. 20 A. Oh, you're on Page 160? 21 Q. Yes. I'm asking about this 22 testimony where he indicates that if the prior 23 tests fail, the clumping test is not necessary. 24 A. So I -- I understand that, but he

Page 86 1 also says here, so I don't know what to 2 believe. It's not clear to me that he would 3 know what to do. In one -- in one sentence, he 4 says that if the prior tests fail, this test is 5 not necessary, and then he says I would do as a 6 person of ordinary skill in the art, which is 7 that I would gather all the information I can 8 gather, so I don't -- I don't know that he is 9 clear. 10 Q. Do you think it's clear from his 11 testimony that he believes a POSITA does not 12 know whether the clumping test was necessary? 13 A. Yes. That's what I said in my 14 declaration. 15 Q. So which -- what are you pointing 16 to in his testimony to reach that conclusion? 17 A. I -- I don't know that I can speak 18 to a specific element. You're -- it's listed 19 in the cited reference. Is that sufficient for 20 you? 21 Q. I want you to tell me the basis of 22 your conclusion. 23 A. When asked specifically for whether 24 or not a person of skill in the art understands	Page 88 1 THE WITNESS: Yeah. I -- I don't 2 know that it colors my opinion. I guess it's 3 not clear what the prior tests are that he is 4 speaking about. 5 Q. All right. Let's turn to -- this 6 is in Dr. Phillips' deposition transcript. 7 Let's turn to Page 160, Line 20 through 161, 8 Line 3. 9 A. Page 160. 10 Q. Yes, Line 20. 11 A. Okay. 12 Q. And read through Page 161, Line 3. 13 A. Okay. Okay. 14 Q. So do you understand Dr. Phillips 15 to be referring to PET critical guidance when 16 he says, quote/unquote, this document? 17 A. I believe so. I don't know in that 18 case if he had that document in front of him, 19 but perhaps, yes. 20 Q. And the clumping test is included 21 in the PET critical guidance, correct? 22 MR. SCHATZ: Object to form. 23 THE WITNESS: The clumping test is 24 referred to, yes.
Page 87 1 that the test is required, PET-S-08 is a 2 required test that has to be undertaken, he 3 said: 4 I hate "yes" or "no" answers. I 5 guess the answer or my response to 6 that is that the claims aren't 7 limited to any particular 8 embodiment and then I could answer 9 it in what I would do as a person 10 of ordinary skill in the art, which 11 is that I would gather all the 12 information I would gather. 13 So I -- that's where this is coming 14 from. 15 Q. And does his testimony and the 16 passage you do not cite where he indicates that 17 I guess: 18 I guess can answer it in a 19 different way in that if the prior 20 tests fail, this test is not 21 necessary. 22 Does that color your answer in any 23 way? 24 MR. SCHATZ: Object to form.	Page 89 1 Q. So isn't it fair to conclude that 2 Dr. Phillips is testifying that if the prior 3 tests are passed, then the clumping test is 4 necessary? 5 MR. SCHATZ: Objection. Asked and 6 answered. 7 THE WITNESS: Yeah, but I -- I 8 guess I said that it wasn't clear what the 9 prior tests were that he was discussing. 10 MR. SCHATZ: Hey, Todd. Just the 11 lunch is very close to being delivered, so if 12 you want to go for another 15 minutes or so and 13 then, yeah. Good. 14 Q. Looking at Page 60, Lines 1 through 15 8, isn't it understood that Dr. Phillips is 16 referring to the protocol of the test disclosed 17 in the PET critical guidance? 18 A. I -- I've read those lines. What's 19 your question? 20 Q. Are the prior tests the tests 21 discussed in the PET critical guidance? 22 A. Well, I think, as I said in my 23 declaration, he -- maybe we disagree about 24 whether or not he agrees that a POSITA does not

Page 90 1 know whether or not that is required. Is that 2 where our disagreement is? 3 Q. Yes, sir. 4 A. I guess we can agree to disagree. 5 Q. So what -- what is your 6 understanding of his testimony, his being 7 Dr. Phillips' testimony, on Page 160, Line 20 8 through Page 161, Line 3, when he, again, 9 responds that: 10 My interpretation, again, is 11 that following the procedures 12 within this document, it's the 13 types of tests that are necessary. 14 Isn't he indicating that if the 15 tests which are referred to in the PET critical 16 guidance are passed, then the clumping test is 17 not necessary? Do you not understand that 18 passage to mean that? 19 MR. SCHATZ: Object to form. 20 THE WITNESS: Yeah. I -- I -- I 21 don't know. I mean, I -- the -- that might be 22 one perspective. 23 Q. Do you have a personal 24 understanding of when the PET clumping test is	Page 92 1 some cases, it says that -- it says that 2 clumping may be required as part of the -- it 3 appears to be part of the elutriation stuff and 4 in some instances, it says that there is a 5 preferred -- and it's under a table where it 6 says required. So it's not clear to me when 7 clumping is conducted. 8 Q. So you're saying it's not clear 9 from the PET critical guidance when clumping is 10 conducted, correct? That's your opinion? 11 A. I think that clumping is one of 12 the -- the tests that may be conducted and 13 there is a guidance in terms of the preferred 14 values, but it's not clear that clumping is 15 required. Looks like it -- it -- it may 16 be -- it may be required and -- and it's not 17 clear to me when it's not required. 18 MR. BAKER: One more line of 19 questioning then lunch? 20 MR. SCHATZ: Sure. Thanks, Todd. 21 Q. All right. Dr. Bushman, let's go 22 to Paragraph 59 in your declaration. Go ahead 23 and read that to yourself, please. And do you 24 see the sentence: Dr. Phillips opined that a
Page 91 1 necessary? 2 A. I don't think it's my -- I'm not 3 here to suggest when it's necessary and when 4 it's not necessary. I think the APR guidelines 5 are guidelines and there are times when one 6 would conduct that test and -- and not. 7 Q. And what is your understanding of 8 when they might and when they might not as an 9 expert in the field? 10 A. I -- I'm not prepared to answer 11 that. 12 Q. What would you need to be prepared 13 to answer that question? 14 A. I need time to understand what the 15 specifics were. 16 Q. Are there some scenarios where the 17 clumping test is necessary and other scenarios 18 where it's not necessary? Is that clear from 19 the PET critical guidance? 20 A. I think the -- if you don't mind if 21 I look at the -- 22 Q. Please do. 23 A. -- prior. 24 Yeah. In -- in this document, in	Page 93 1 label can still be deemed recyclable by 2 benchmarks set by the FDA? 3 Do you see that sentence? 4 A. Yes. 5 Q. So are you representing to the 6 board that Dr. Phillips testified that a label 7 can be deemed recyclable under the disclosures 8 of the '422 patent using the benchmark set by 9 the FDA? 10 MR. SCHATZ: Object to form. 11 THE WITNESS: I -- I think he 12 states that it's not clear whether or not 13 recyclable is based on the benchmarks of the 14 FDA or the benchmarks of -- I'll say 15 benchmarks -- or the guidance of CG-02 or the 16 guidance of the '422 patent, which is that no 17 inks remain -- generally no inks remain. So 18 he -- he offered up the FDA as one benchmark 19 for recyclability and it's not clear to me if 20 that is the benchmark that I should use based 21 on the word used in the '422 patent or if -- if 22 I should choose some other reference. He 23 offers another set of potential criteria. 24 Q. For recyclability?

Page 94	Page 96
1 A. Yes. 2 Q. What testimony are you looking at? 3 A. The end of Paragraph 59. This 4 testimony destin- -- demonstrates that the 5 numerous and unclear criteria recited in the 6 '422 patent for whether a label meets the 7 requirement wherein the recyclable -- the label 8 is recyclable are not known to be the only 9 criteria. He clearly has other criteria. 10 Q. And what passage from Dr. Phillips 11 are you pointing to? 12 A. So from the paragraph or Pages 45 13 to 46, he talks generally about the purity 14 of -- the purity of recyclable for FDA-related 15 applications. 16 Q. How far on Page 46 are you reading? 17 A. A person of skill in the art would 18 be aware of those benchmarks. 19 Q. What line is that? 20 A. Well, I -- maybe I'll back up here. 21 He said from Paragraph 45: The EPA 22 also has test measures that are 23 typically for higher 24 quality -- sorry. FDA, not EPA.	1 having sufficient purity, correct? 2 MR. SCHATZ: Object to form. 3 THE WITNESS: I think we're talking 4 about can a label be deemed recyclable by 5 benchmarks set by the FDA, and maybe that 6 speaks to the broader question of what is the 7 use of the recycled material. So, again, it's 8 not clear. 9 Q. Did Dr. Phillips place caveats on 10 his answer? 11 MR. SCHATZ: Object to form. 12 THE WITNESS: I don't know. 13 Q. Do you see Lines 9- -- I'm sorry, 14 20 to 22? 15 A. I -- I see those lines, but I don't 16 know that that necessarily limits his 17 statements. The '422 patent is -- in one case, 18 it states the CG-02 certifies that the film is 19 fully recyclability, and separately, 20 Dr. Phillips said that one could consider 21 something recyclable by the benchmark set by 22 the FDA. But what am I supposed to do to 23 determine if it's recyclable? 24 Q. Does the '422 suggest that the FDA
Page 95	Page 97
1 Those are his words. 2 Q. Okay. And what's the next question 3 and answer? 4 A. Any others? 5 None that come to mind at this 6 moment. 7 Is that the part you mean? 8 Q. And then the next Q&A. 9 A. Okay. So the FDA also has other 10 benchmark requirements for a label 11 to be deemed recyclable as that 12 term is useful the '422 patent? 13 There's an objection. 14 To have a foreign material to have 15 sufficient purity for FDA-related 16 applications. 17 Q. So his answer is directed to 18 FDA-related applications, correct? 19 A. Perhaps. Sure. I would agree. 20 But I don't know that -- I don't know that 21 that's necessarily germane to the discussion. 22 Q. He's testifying that for 23 FDA-related applications, that there are 24 requirements relating to foreign materials	1 sets the standard for recyclability? 2 A. The '422 says that the CG-02 3 certifies that a film was -- 4 Q. It doesn't mention the FDA, 5 correct? 6 A. Dr. Phillips does. 7 Q. I asked about the '422 8 specification. Does it mention the FDA? 9 A. I -- I don't know. 10 Q. When's the last time you reviewed 11 the '422 specification? 12 A. I -- I don't recall if the '422 13 mentions the FDA. I don't know if the '422 14 doesn't include what's relevant to the FDA. 15 Q. Do you know what the '422 includes 16 and does not include in its disclosure? 17 MR. SCHATZ: Object to form. 18 THE WITNESS: I'd have to look at 19 the '422. I -- I don't know what the -- if 20 there are limitations to the scope of the '422 21 in terms of the types of containers that might 22 be referring to. 23 MR. BAKER: Let's take a lunch 24 break.

Page 98 1 VIDEO TECHNICIAN: The time is 2 12:33 p.m. We're going off the record. 3 (Luncheon Recess taken.) 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	Page 100 1 used the guidance internally at MCC? 2 A. I can give maybe a -- maybe the 3 obvious example is the -- the labels that we 4 produced where we had APR recognition. 5 Q. So would you test those labels 6 first and then send that data to the APR for 7 evaluation? Is that the process? 8 A. Yes. The -- in -- in some ways, 9 yes. 10 Q. And which ways are those? 11 A. The testing that we would do 12 to -- in order -- before you would go to the 13 point of doing APR recognition, you 14 would -- you would evaluate the performance of 15 the particular label. Usually, we would do a 16 variety of tests, but... 17 Q. And that variety of tests would be 18 based on the APR critical guidance? 19 A. In parts. APR had, I would say, a 20 simplified set of tests that might suggest 21 whether or not you would pass the critical 22 guidance testing, so the example might be a 23 bench -- a bench work test that you would do 24 that would give you some perspective that you
Page 99 1 AFTERNOON SESSION 2 VIDEO TECHNICIAN: The time is 3 1:14 p.m. We're back on the record. 4 BY MR. BAKER: 5 Q. Welcome back, Dr. Bushman. 6 I have some questions about your 7 use of the APR's PET critical guidance while 8 you were working at MCC. It's accurate to say 9 that you used that document to form your own 10 testing of potentially recyclable products; is 11 that fair to say? 12 MR. SCHATZ: Object to form. 13 THE WITNESS: Yeah. I mean, I was 14 an ex- -- you know, as part of my time with 15 Multi-Color, of course, we were participating 16 in the APR. So, yes, we had knowledge of the 17 critical guidance and have done critical 18 guidance testing. 19 Q. So not only were you on the 20 technical committees, you used that knowledge 21 internally at MCC is what I'm asking; is that 22 fair to say? 23 A. Yes. 24 Q. Can you give me examples of how you	Page 101 1 should pass the critical guidance. You don't 2 know until you do it. The critical guidance 3 testing was quite expensive to conduct. 4 Q. The critical guidance testing that 5 would be used to apply for recognition? 6 A. Correct. 7 Q. And that testing would be done by a 8 third party? 9 A. Typically, yes. 10 The -- the -- having all of the equipment to 11 complete that testing was something that 12 Multi-Color didn't have that capability 13 in-house. 14 Q. What type of equipment? 15 A. Probably the -- the single, I'd 16 say, biggest piece of equipment that was needed 17 was to do an extrusion of the plaques after you 18 went through the -- all of the material to 19 produce the plaques. To produce those plaques 20 required injection molding and we didn't have 21 that capability. 22 Q. What other equipment did you need 23 for the testing? 24 A. I -- I think there was -- there was

1 a lot of things. I don't know specifically,
2 like, the -- everything that we would have
3 needed, but, certainly, we didn't have the
4 ability to produce the plaques themselves and
5 so a third-party test lab was -- was the way
6 that we would do it.

7 Q. What would the test lab give back
8 to you, just test results?

9 A. Yes, and -- and a -- a report that
10 would say how they conducted the tests and then
11 where they see the potential for whether or not
12 you -- you would be expected to pass APR
13 recognition.

14 Q. So you had the pleasure of serving
15 on one panel determining whether or not an
16 article should receive APR recognition,
17 correct?

18 A. Yes.

19 Q. And how many panel members were on
20 that panel? Were they always three?

21 A. There were three -- my
22 understanding at -- at that time, this goes
23 back six or seven years, there were three
24 people chosen from the APR, you know, ranks of

1 people at the APR and that I was -- I was asked
2 to participate.

3 Q. Was there anything special about
4 your panel or were you just a traditional
5 exemplary panel?

6 A. I don't even -- I don't even
7 remember what the specific test -- you know, I
8 don't remember anything about the -- the
9 testing that was done, even, it was so long
10 ago, but it was -- it was someone who had filed
11 for APR recognition and so they -- they asked
12 for me to participate.

13 Q. And it's the role of the panel
14 members to apply the objective test outlined in
15 the PET critical guidance or are you saying
16 that the panel members used their subjective
17 judgment to evaluate recyclability?

18 MR. SCHATZ: Object to form.

19 THE WITNESS: Maybe we can turn
20 to -- can you point to the portion of my
21 declaration where I mention the --

22 Q. I think you may have discussed on
23 your panel experience in Paragraph 39.

24 A. Paragraph 39.

1 Yeah. And so I -- I think the
2 point I was making was that -- that the members
3 of the panel change and sometimes that panel
4 member could be a -- a reclamer or sometimes
5 it could be a label producer, and how they
6 approach and interpret the results of testing
7 that's provided to them is subjective.

8 Q. So you're saying they use their
9 subjective judgment? Is that what you're
10 saying?

11 A. Yes.

12 Q. Do you know why you were selected
13 to be on the panel?

14 A. Probably because I had a
15 relationship with John Standish, who was the
16 PET technical director, and so he knew of me
17 during attendance at meetings and knew that I
18 had some experience with -- with the APR.

19 Q. Is there a reason why you didn't do
20 or serve on the panel additional times?

21 A. I -- I don't know how that panel
22 gets chosen. My understanding was that they
23 pick three APR members during every APR
24 recognition process and so maybe it was just a,

1 you know, getting you -- like getting picked
2 for a jury, you know, randomly.

3 Q. Is it your understanding that they
4 were seeking a diversity of professional
5 experience in picking panel members?

6 A. Like I said, I don't know how they
7 picked panel members. I think they -- they
8 chose them from the ranks of the APR, and in
9 some ways, I think it may be a function of
10 whether or not you have -- you know, if you
11 were known to people in the leadership, then
12 you're at least available.

13 Q. In your opinion, would having the
14 panel members each having diverse expertise,
15 would that strengthen the evaluation under the
16 APR?

17 MR. SCHATZ: Object to form.

18 Q. Strictly an opinion question.

19 A. I don't know.

20 Q. Can we go to Paragraph 34 of your
21 declaration? Let me know when you're done
22 reading it.

23 A. Okay.

24 Q. So in 34, you were discussing the

Page 106 1 wash water evaluation report; is that correct? 2 A. Yes. And -- yep. Yes. Yes. 3 Q. And you note in that paragraph that 4 PET-S-01 instructs, quote, observe and report 5 only, no guidance values, correct? 6 A. Yes. 7 Q. Does that indicate to you that 8 there's no objective standard applied for the 9 wash water evaluation? 10 A. Yes. 11 Q. Do you have 1027 in front of you? 12 A. It's the critical guidance. 13 Q. I'm sorry. I'm looking for the 14 wa- -- wash water evaluation, PET-S-01, and I 15 don't think you have that one in front of you 16 yet, correct? 17 A. I don't think so, no. 18 Q. I'm handing you what's been 19 previously marked as Exhibit 1030. 20 A. I have it. 21 Q. Are you familiar with Exhibit 1030? 22 A. I've seen it in the past, not 23 recently. 24 Q. How far in the past are we talking?	Page 108 1 values associated with this test. It's to 2 highlight the importance of this industry 3 impact area and gain experience than can move 4 the industry forward. 5 Q. I would prefer to look at the 6 Annex 1 report form. Doesn't that indicate or 7 provide pre-defined categories for evaluating 8 the presence of ink and wash water? 9 A. It provides a variety of -- of 10 measurements and observations. 11 Q. The middle column says report 12 values, correct? 13 A. Okay. 14 Q. Is that true, the middle column 15 says report value? 16 A. Yes. It says report value. 17 Q. And for the visual evaluation of 18 whether there's presence of ink in wash water, 19 there are three defined categories of report 20 values, correct? 21 A. Okay. 22 Q. Do you agree? 23 A. Correct. 24 Q. First category is no ink in wash
Page 107 1 A. Oh, back when I was preparing the 2 declaration, but also in the past as a -- as 3 a -- as a member of Multi-Color. 4 Q. Do you agree that the -- let's 5 refer to it as "the wash water evaluation." 6 Do you agree that the wash water 7 evaluation described a detailed step-by-step 8 methodology? 9 A. It provides some guidelines. 10 Q. Can you look at the Annex 1 report 11 form? 12 A. Annex -- 13 Q. Annex 1, last page. 14 A. Okay. 15 Q. So a POSITA would understand from 16 the report form that they are visually 17 evaluating the wash water and attempting to 18 observe the presence of ink and free adhesive; 19 is that correct? 20 MR. SCHATZ: Object to form. 21 THE WITNESS: I think I would 22 prefer to look to the introduction where it 23 says that this evaluation is for measuring and 24 reporting only. There are no APR guidance	Page 109 1 water with incidental ink acceptable. Do you 2 see that? 3 A. Yes. 4 Q. Category 2 is bleeding ink, 5 discoloring wash water as a solution or a fine 6 dispersion. Do you see that? 7 A. Yes. 8 Q. And Category 3, thermostat -- I'm 9 sorry, thermoset ink in wash water as discrete 10 particles. Do you see those three categories? 11 A. Yes. 12 Q. And for the evaluation of the 13 presence of free adhesives in the wash water, 14 there are two categories that report values, 15 correct? 16 A. Yes. 17 Q. The first is no adhesive in the 18 wash water, correct? 19 A. Yes. 20 Q. And the second was visible -- I'm 21 sorry, adhesive visible in wash water, correct? 22 A. Yes. 23 Q. And the wash water evaluation 24 prescribes a procedure for conducting the test,

Page 110 1 correct? 2 MR. SCHATZ: Object to form. 3 Q. I'm looking at Page 4 of 6. 4 A. Yeah. It looks like there's a 5 variety of -- of recommendations for a test 6 method. I haven't looked at this specifically 7 recently. 8 Q. So, for example, on Page 4, it 9 indicates for the settling evaluation, place a 10 well mixed sample into a 500 milliliter 11 graduated cylinder. Let it stand for 30 12 minutes and then assign one of three predefined 13 rankings. Is that accurate? 14 A. Yes, but it's not clear about how 15 much settling is some settling and it says 16 sol- -- solids in sample have substantially 17 settled. So I think they recognize that this 18 is not a quantitative test, it's a -- it's a 19 subjective test. 20 Q. So there, the tester is required to 21 use their subjective judgment? 22 A. It's qualitative test, yes. 23 Q. But it's -- it's -- it's still a 24 subjective judgment which is being applied,	Page 112 1 where there has been a disagreement over a 2 ranking such as during a settling evaluation? 3 A. I -- I don't know. 4 Q. So the -- the judgment used by the 5 panel members in the wash water evaluation is 6 not deciding what to observe, that's defined, 7 correct? 8 A. Could you say that again? Just 9 repeat the question. 10 Q. The judgment used by the panel 11 members in the wash water evaluation is not 12 deciding what to observe, that's defined by the 13 guidance, correct? 14 MR. SCHATZ: Object to form. 15 THE WITNESS: I don't understand 16 that question. I don't understand what you 17 just said. Forgive me, but you're talking 18 about -- 19 Q. That's fine. I understand. 20 A. -- what the panel would say and -- 21 and I'm not sure. 22 Q. So it's a good question. So I 23 don't know if the panel is the right -- they 24 observe the data. Who would be conducting the
Page 111 1 right? 2 A. All right. 3 Q. Do you agree? 4 A. But it's not clear about what 5 differentiates within the three ranking 6 categories. 7 Q. Would a professional on the panel, 8 using their experience, know how to use their 9 subjective judgment to -- 10 A. I think -- I think you're 11 highlighting the key point, which is that some 12 members of the panel would disagree as to how 13 to rank a sample's wash water performance. 14 Q. So the -- I'm sorry. Continue. 15 A. They're not consistent. 16 Q. So the panel members using their 17 professional judgment may disagree on the 18 rankings? Is that what you're saying? 19 A. I would expect, yes, possibly. 20 Q. Why do you qualify your answer with 21 "possibly"? 22 A. Well, maybe I shouldn't qualify 23 with "possibly." 24 Q. Are you aware of any scenarios	Page 113 1 settling evaluation? Who would we -- how would 2 we identify that person? Is it the tester? 3 A. My understanding is that what is 4 commonly done for a recognition proceeding, 5 let's say, is that they would have pictures of 6 wash water settling, wash water, and those 7 pictures are part of maybe what is presented to 8 the panel in terms of the APR recognition. 9 Q. And when those pictures are 10 evaluated, the elevators are using their 11 judgment on how to rank the wash water, 12 correct? 13 A. I -- I think that there's no 14 criteria, according to Dr. Phillips, and I -- I 15 think I agree, there's no criteria for how much 16 inks and pigments remove by washing. If some 17 inks wash off versus not enough inks washes 18 off, that's -- that's not clear. That's why 19 they -- they say very -- they say that it's a 20 qualitative result. 21 MR. BAKER: Objection. 22 Nonresponsive. 23 Q. I was asking about the settling 24 evaluation and whether the evaluator uses their

Page 114 1 professional judgment to determine what ranking 2 to provide the wash water. 3 A. And I guess my answer to you would 4 be that one person's judgment may be different 5 than another person's judgment based on their 6 experience. 7 Q. But each person making the 8 evaluation uses their professional judgment, 9 correct? 10 A. I don't know how they judge it, 11 actually. 12 Q. Doesn't the wash water evaluation 13 identify three rankings for them to judge upon? 14 A. I'll say this: On the panel of APR 15 recognition, the individual on that panel, 16 depending on their background, may have no 17 experience with settling, so I don't know 18 if -- what their judgment would be. 19 Q. But other members on the panel 20 would have the requisite -- 21 A. Again, I don't know how -- 22 Q. -- experience? 23 A. I don't know. Depends on the 24 panel.	Page 116 1 have the requisite experience to make the 2 professional judgment? 3 MR. SCHATZ: Object to form. 4 THE WITNESS: I -- I don't know. 5 Multi-Color would -- would certainly look to 6 use somebody that they've used in the past. 7 Q. That had the requisite professional 8 judgment? 9 MR. SCHATZ: Object to form. 10 THE WITNESS: Again, this is a 11 qualitative test, so it wasn't commonly -- it 12 wasn't a critical test for us. It was 13 something that was provided as a subjective 14 result and guidance only. 15 Q. So we agree that the wash water 16 evaluation includes qualitative testing where 17 the tester uses subjective judgment to 18 categorize the wash water, correct? 19 A. I would agree with that. 20 Q. Can we turn to Paragraph 37 of your 21 declaration? Go ahead and read that to 22 yourself and let me know when you're finished, 23 please. 24 A. Okay.
Page 115 1 Q. So you anticipate that there could 2 be a panel where no one has the -- the 3 requisite experience to make that evaluation? 4 In your opinion, that would be the type of 5 panel that would be put together? 6 A. I don't know about that. 7 Q. In your work at MCC, you submitted 8 data for APR recognition and you followed this 9 wash water evaluation procedure and reported 10 those results, correct? 11 MR. SCHATZ: Object to form. 12 THE WITNESS: I don't know that we 13 did specific wash water testing at Multi-Color. 14 We did it as part of the APR recognition and 15 that was a third-party test and those results 16 were provided from that third-party lab. 17 Q. And I assume that MCC used a 18 third-party lab where the testers had 19 professional judgment to make the evaluation? 20 MR. SCHATZ: Objection to form. 21 Objection. Calls for speculation. 22 THE WITNESS: I -- I can't speak to 23 how -- how -- 24 Q. Would MCC pick a lab that didn't	Page 117 1 Q. So in the last sentence of 2 Paragraph 37, you indicate that it, and I'll 3 let you tell me what "it" is, merely suggests 4 that other assessments and other testing can be 5 undertaken without any objective criteria. 6 A. I think "it" in this case is the 7 flowchart. 8 Q. Okay. Are you familiar with the 9 PET critical guidance flowchart? 10 A. Are we talking about Page 7 11 of 1037? I think we are. 12 Q. What page? I'm sorry. 13 A. I think it's Page 7. 14 Q. Yes. And that flowchart identifies 15 specific tests to be performed in a specific 16 sequence, correct? 17 MR. SCHATZ: Todd, just to confirm, 18 we're referring to Exhibit 1027, correct? 19 THE WITNESS: Oh, I misspoke. Did 20 I say 1037? 21 MR. BAKER: There are two of them, 22 right? 1027 is what I had on my end. 23 THE WITNESS: I apologize. 24 MR. SCHATZ: It's just wasn't -- I

Page 118 1 don't think he spoke correctly. 2 THE WITNESS: I said 1037. 3 MR. BAKER: Appreciate you 4 clarifying the record. 5 THE WITNESS: I meant to say 1027. 6 Thank you. 7 Q. So in Exhibit 1027, we're on Page 7 8 of 8. That flowchart identifies specific tests 9 to be performed in a specific sequence, 10 correct? 11 A. Yes. It illustrates some of the 12 testing steps, yes. 13 Q. And the order in which they should 14 be conducted? 15 A. Yes. It's consistent with -- I'll 16 say yes. 17 Q. And in the -- you have color, 18 correct? Yes. So in the left green box, the 19 flowchart indicates that a plaque color haze 20 and inclusion test should be conducted, 21 correct? 22 A. Yes. 23 Q. Are you familiar with that test? 24 A. S-09 you're talking about?	Page 120 1 Q. Is that an objective criterion? 2 MR. SCHATZ: Object to form. 3 THE WITNESS: It's a -- it's a 4 recommendation, yes. 5 Q. A recommendation of a quantitative 6 threshold? 7 A. I don't know that it provides a 8 threshold for specks, it's a measure of whether 9 or not a speck is larger than a particular 10 size. 11 Q. Is it a quantitative measurement? 12 A. I would say yes. 13 Q. Can we go back to Exhibit 1027? 14 A. Where specifically? 15 Q. Page 6. 16 A. Six. Okay. 17 Q. Do you see the evaluation of molded 18 plaques table? 19 A. Yes. 20 Q. Doesn't that table provide 21 numerical thresholds in the third column? 22 A. Yes. 23 Q. Can you put your second 24 declaration, Exhibit 1047, in front of you,
Page 119 1 Q. Yes. 2 A. Yes. Not recently. Haven't looked 3 at it recently, but -- but in general, yes. 4 Q. I'm handing the witness what's been 5 previously marked as Exhibit 2026. Take a 6 moment to review. 7 A. Okay. Quickly scanned it. 8 Q. Are you familiar with this testing? 9 A. Not as well as -- as some of the 10 other testing, but yes. 11 Q. Does this testing provide numerical 12 thresholds? 13 MR. SCHATZ: Object to form. 14 THE WITNESS: I don't know that it 15 provides a threshold. It provides a -- a way 16 to measure something. I don't know if it 17 provides a threshold. 18 Q. Does it provide a quantitative 19 threshold? 20 A. I don't know. 21 Q. Have you take a look at Page 3 of 22 4, the evaluation steps, Step B. 23 A. Yes. I see that. That's for 24 the -- what might be the black speck reporting.	Page 121 1 please? 2 A. Okay. 3 Q. I'm going to turn our attention to 4 Paragraph 13. You testified there that: My 5 understanding is that a claim is indefinite if 6 it has several meanings and a POSITA would not 7 be able to make a confident choice as 8 to which meaning is appropriate. 9 Did I read that accurately? 10 A. Yes. 11 Q. Is that's the only definition of 12 indefiniteness you're applying, correct? 13 MR. SCHATZ: Object to form. 14 THE WITNESS: That's my 15 understanding. 16 Q. You say several meanings in 17 Paragraph 13. What -- what are you referring 18 to there? 19 A. So I think it's throughout the 20 course of my declaration is the inconsistency 21 for how to interpret the word "recyclable" 22 among other questions. Not just recyclable, 23 but what's the difference between recyclable 24 and fully recyclable.

Page 122 1 Q. Is it your understanding that 2 unless a POSITA can identify a single test that 3 must be met, the claim is indefinite? And I 4 would point you to Paragraph 57, if you would 5 like to go there, where you use the "must be 6 met" language. 7 A. I -- I -- I don't know that that by 8 itself is what I was thinking of as I was going 9 to answer your question. You were asking, I 10 think, to repeat my understanding of your 11 question was is the term -- does the term 12 "indefinite" mean that it has only a single 13 meaning or does -- must it have only a single 14 meaning, I think, is what I heard you say. 15 Q. For the term "recyclable" to be 16 definite, is it your opinion that there is a 17 single test which is identified that must be 18 met? 19 MR. SCHATZ: Object to form. 20 THE WITNESS: I -- I don't know 21 that I would say that. I think what I would 22 say that in the '422 patent, there is a 23 definition of recyclable where the CG-02 24 certifies that it is recyclable, and	Page 124 1 A. I think I'm referring to the sort 2 B-01 where results are either described as good 3 or poor and the -- it's not clear what 4 differentiates between good and poor. 5 Q. Are you saying there must be a 6 definitive answer between what's good or poor 7 in order to be determinable? 8 MR. SCHATZ: Object to form. 9 THE WITNESS: I -- I think the 10 question would be does that provide some 11 insight as to what is recyclable in terms of 12 the claims of the '422 patent. 13 Q. When you say "does that," what are 14 you referring to? 15 A. Does the -- 16 THE WITNESS: I'm sorry. Could you 17 repeat back my answer and help me understand 18 what I meant by that? 19 (Answer read back as requested.) 20 THE WITNESS: I'm sorry. Where did 21 I use the word "that"? 22 (Answer read back as requested.) 23 THE WITNESS: Oh, okay. I think I 24 said that, but I may have meant what is good
Page 123 1 separately, it says that no inks retained means 2 recyclable and it says many other things about 3 what the term means. So I -- I think that it's 4 not clear in the '422 patent what the term 5 means. I don't know that I would hold myself 6 to say that it must be a single test. I would 7 say that it is not clear about what tests are 8 the ones that define that term. 9 Q. Along those same lines, let's turn 10 to Paragraph 40 of your declaration, please. 11 MR. SCHATZ: And then, Todd, soon, 12 can we take a break? Thank you. 13 MR. BAKER: Yes. 14 THE WITNESS: All right. I need 15 to -- I need to read it. 16 Q. Read the whole thing. 17 A. Yep. 18 Q. And I'm just going to give you a 19 heads up, we're just going to focus on the last 20 sentence. 21 A. Okay. 22 Q. What do you mean by: A POSITA does 23 not understand any objective criteria by which 24 a label can be measured?	Page 125 1 and what is poor. 2 MR. BAKER: Let's go ahead and take 3 a -- a break. 4 MR. SCHATZ: Thanks. 5 VIDEO TECHNICIAN: The time is 6 2:14 p.m. We're going off the record. 7 (Recess taken.) 8 VIDEO TECHNICIAN: The time is 9 2:32 p.m. We're back on the record. 10 Q. Dr. Bushman, I just want to briefly 11 return to Exhibit 1026 -- 1027, the PET 12 critical guidance. 13 A. Okay. 14 Q. And let's return our attention to 15 the flowchart on Page 8. 16 A. Seven. 17 Q. Page 7. Thank you. 18 And do you see the lower green box 19 in that right corner there, required 20 evaluations? 21 A. Yes. 22 Q. That refers to the screen pack 23 pressure build and cites to ASTM D4603 or 24 ASTM D1238-13. Do you see that?

Page 126 1 A. Yes. 2 Q. So the -- those two ASTM reports 3 are based on standards as you see them, 4 correct? 5 MR. SCHATZ: Object to form. 6 THE WITNESS: I haven't looked at 7 the specifics of this extruding test. That's 8 not something that Multi-Color has the 9 capability to do, so I don't have experience 10 with that. 11 Q. So those two ASTMs refer to IV 12 loss; is that correct? 13 A. Again, I don't know. 14 Q. Okay. So you don't have experience 15 with IV loss? 16 A. No. 17 Q. Do you know what IV loss stands 18 for, just for the record? 19 A. No. 20 Q. Okay. Again, returning to 21 Paragraph 57 of your second declaration, 22 Exhibit 1047. What is meant again by "must be 23 met"? What is the standard your applying? 24 MR. SCHATZ: Object to form.	Page 128 1 declaration? 2 A. I think there's I'm -- I recall 3 that there is a specific definition for the 4 POSITA, but I don't -- I don't have it listed 5 in this declaration. 6 Q. Is it possibly in your first 7 declaration? 8 A. It -- it may be. I don't recall. 9 Q. But you didn't review your first 10 declaration before this deposition, so you're 11 unsure, correct? 12 A. I don't -- I don't recall. 13 Q. If you don't recall the definition 14 of POSITA, how are you able to offer opinions 15 on what a POSITA would know in your second 16 declaration? 17 MR. SCHATZ: Object to form. 18 THE WITNESS: Could you provide me 19 the definition of a POSITA? 20 Q. That's my question to you. I don't 21 know what definition you're applying. 22 A. I -- I think it's -- it -- it 23 certainly is described in one of the prior 24 documents, although I don't know which one.
Page 127 1 THE WITNESS: I think the point 2 here is the -- it's not clear if CG-02 is 3 sufficient based on the '422 patent or if, as 4 Dr. Phillips suggests, that's not sufficient by 5 itself. 6 Q. Does the '422 describe CG-02 as a 7 required embodiment for testing? 8 MR. SCHATZ: Object to form. 9 THE WITNESS: I -- I don't know 10 what you mean by "required embodiment." 11 Q. Is it identified as the sole 12 standard for testing? 13 A. I think there are numerous 14 standards or suggested elements of how you 15 would test under the '422 patent and the CG-02 16 patent is, at least in some -- some portion of 17 the '422, it says that it certifies that it is 18 recyclable. It's -- it's within a paragraph 19 that there's a lot of things discussed in that 20 paragraph, not just CG-02. 21 Q. All right. Turning to Paragraph 12 22 of your declaration, Exhibit 1047. That's a 23 short paragraph, so I'll get to the question. 24 What definition of POSITA do you apply in this	Page 129 1 Q. If I give you your first 2 declaration, would that help? 3 A. In terms of maybe I'll -- I'll give 4 a general -- my general understanding of POSITA 5 in this case. It's someone who has a 6 Bachelor's degree and more than five years of 7 experience in the field. What's how I would 8 view a POSITA in a general way. 9 Q. What's the field? 10 A. Labels and recycling. 11 Q. Does that include designing of 12 labels? 13 A. I don't know. It -- the word 14 "designing labels" might not be -- you know, 15 even -- even I don't have a whole lot of 16 experience with label design, per se, in the 17 term of designing a label. 18 Q. When you say the field include 19 recycling, what do you mean by "recycling" in 20 that context? 21 A. The packaging, providing labels to 22 the market, packaging labels to the packaging 23 market where recycling is a -- is a -- is 24 a -- a part of the design performance

Page 130 1 requirement. 2 Q. Do you recall that Dr. Deible 3 provided a definition of a POSITA in his first 4 declaration? 5 A. I -- I don't. 6 Q. Do you have knowledge of 7 Dr. Deible's background, technical background? 8 A. I recall that he's an analytical 9 expert. 10 Q. Does Dr. Deible have any experience 11 in the field of recycling? 12 A. I don't. 13 Q. You don't what? The question was 14 does Dr. Deible have any experience in the 15 field of recycling. You're saying you don't 16 know or you think he does? 17 A. I think you said -- 18 Q. Well, let's strike it and start 19 over, and if you want to change your answer or 20 keep the same answer, please let me know. 21 Does Dr. Deible have any experience 22 in the field of recycling? 23 A. I -- I don't know. 24 Q. Is it your understanding that	Page 132 1 use that terminology, certainly, so I -- I 2 guess I wouldn't be surprised. 3 Q. Any other companies? Any other 4 competitors you're aware of? 5 A. I -- I don't recall. 6 - - - - - 7 (Thereupon, Deposition Exhibit D, 8 February 14, 2020 Letter, was marked 9 for purposes of identification.) 10 - - - - - 11 Q. Were currently marking Exhibit D. 12 Dr. Bushman, take a moment and read this 13 exhibit and tell me if you are familiar with 14 it. 15 A. Yes. 16 Q. And this letter is addressed to 17 you, correct? 18 A. Yes. 19 Q. And do you know what the subject of 20 this e-mail -- I'm sorry, this letter is? 21 A. In general terms, yes. 22 Q. And what was that subject? 23 A. It was some testing that was 24 completed to show APR recognition for testing
Page 131 1 recyclability is a strategic priority for MCC? 2 MR. SCHATZ: Object to form. And 3 I'll object as outside the scope. 4 THE WITNESS: I think 5 the -- Multi-Color seeks to provide recyclable 6 labels to the market and perhaps that makes it 7 a strategic priority. I -- I don't know. 8 Q. Do you recall if your LinkedIn bio 9 reflects that recyclability is a strategic 10 priority at MCC? 11 A. Are you saying did I use those 12 words in my LinkedIn bio? I don't recall. 13 Q. Do you know if other companies 14 besides MCC refer to the APR as a standard in 15 public documents? 16 MR. SCHATZ: Objection. Calls for 17 speculation. 18 THE WITNESS: Yeah, I don't -- 19 Q. Personal knowledge. 20 A. I don't know. 21 Q. Would you be surprised if other 22 companies besides MCC refer to the APR as a 23 standard in public documents? 24 A. I -- I think Brook & Whittle may	Page 133 1 of a particular material, which was the Bonset 2 film printed with a washable ink system that 3 was called the Multi-Color washable ink system. 4 Q. So the article seeking recognition 5 was a shrink film? 6 A. I believe so, yes. Yes. 7 Q. And MCC was seeking recognition 8 under the PET critical guidance two; is that 9 correct? 10 MR. SCHATZ: Object to form. Calls 11 for speculation. 12 THE WITNESS: Yeah. I think this 13 is -- this is a recognition letter related to 14 that testing, yes. 15 Q. And do you understand this letter 16 to be certifying that MCC's washable ink system 17 on Bonset America's Bonpet Renew shrink film 18 was recyclable with a PET bottle? 19 MR. SCHATZ: Object to form. 20 Objection. Vague. 21 THE WITNESS: Yeah. I think 22 it -- it says that the testing was completed, 23 met or exceeded the critical guidance. 24 Q. The most strict requirements of the

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1 critical guidance, correct?

2 A. Yeah. We -- we were awarded APR

3 recognition.

4 Q. What does it mean to meet or exceed

5 the critical guidance?

6 A. That's a good question. I can't

7 speak to the specifics of that.

8 Q. Do you see the third paragraph, it

9 reads: The critical guidance protocol.

10 Do you see that?

11 A. Uh-huh. I do.

12 Q. What would a POSITA understand that

13 paragraph to mean? Actually, let's do it

14 sentence-by-sentence.

15 What does -- what would a POSITA

16 understand the first sentence of that paragraph

17 to mean?

18 MR. SCHATZ: Objection. Outside

19 the scope.

20 THE WITNESS: Yeah.

21 I'm -- I'm -- this is the first time I've seen

22 this document in a long time, so I -- I -- I

23 think it's not appropriate for me to

24 characterize the way they are describing their

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1 testing.

2 Q. So as you sit here today, you don't

3 understand what this letter means to you as the

4 recipient?

5 MR. SCHATZ: Object to form.

6 Misstates the testimony provided.

7 THE WITNESS: Yeah. I don't know

8 that I would say that.

9 Q. Is that the end of your answer?

10 A. Yeah. I'm not -- I'm not sure

11 where the question was again, so if you

12 wouldn't mind taking us back to the question.

13 I'm just reviewing this again in detail.

14 Q. I was asking: As the recipient of

15 this February 14, 2020 recognition letter, do

16 you have an understanding of what the first

17 sentence in the third paragraph means, the

18 sentence that begins with: The critical

19 guidance protocol?

20 MR. SCHATZ: Objection. Outside

21 the scope.

22 THE WITNESS: Yeah. I -- I don't

23 know. It's a -- it's a broad statement

24 that -- that, honestly, when we received the

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1 letter, I don't know that I paid too much

2 attention to the specifics of that statement.

3 Q. How about the next sentence, do you

4 understand -- do you have an understanding of

5 what that means?

6 A. Do you have a question?

7 Q. Do you understand what this

8 sentence means? Well, I'll break it down.

9 What are the established testing

10 procedures?

11 A. So I think that the -- that,

12 as -- as it says, the protocol provides

13 guidance to interpret the result, but it

14 doesn't -- it does -- it -- just to be clear,

15 it doesn't provide hard-and-fast criteria for

16 when something passes. This goes back to the

17 idea that the recognition testing includes a

18 panel that reviews the data and that that data

19 is subject to the interpretation of who's on

20 the panel.

21 Q. And the testing is based on

22 established testing procedures, correct?

23 A. Testing is based on CG-02. Which

24 parts of CG-02, I -- I couldn't speak to.

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1 Q. Did you understand CG-02 to present

2 established testing procedures?

3 A. It is a guideline for testing, yes.

4 Q. Testing using established

5 procedures?

6 A. Yes.

7 Q. And in the last sentence in that

8 paragraph, what is meant about strictest

9 guidance criteria?

10 A. I think this goes back to the idea

11 that in some cases, to meet preferred guidance,

12 that there are recommendations for the

13 performance of a variety of tests and whether

14 or not something is recyclable is related to

15 the APR recognition and that one may seek to

16 meet preferred guidance, but that's not the

17 same as -- you know, there may be

18 other -- there are levels of -- of performance.

19 Q. But this particular recognition

20 indicates that the strictest guidance criteria

21 was met, correct?

22 A. Which in this case, I think, is the

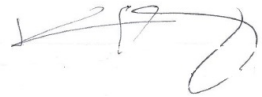
23 preferred guidance category.

24 Q. And the answer to my question is

Page 138 1 "yes," though, correct? 2 A. Yes. 3 THE WITNESS: Bless you. 4 Q. All right. Turning your attention 5 to the next paragraph, second sentence, which 6 reads: The protocol is intended to improve the 7 quality of recycled bottles by helping 8 innovators to make informed decisions about the 9 consequences of PET bottle innovations. 10 Do you see that? 11 A. Yes. 12 Q. As the recipient of this 13 recognition letter, what does that sentence 14 mean to you? 15 MR. SCHATZ: Objection. Outside 16 the scope. 17 THE WITNESS: I think the point of 18 this is that it's encouraging the use of the 19 critical guidance recognition as a process for 20 assessing the performance of the product that 21 you're bringing to market. 22 MR. BAKER: All right. Can we go 23 off the record so I can talk to co-counsel? 24 MR. SCHATZ: Sure.	Page 140 1 exhibit's in front of you. 2 A. No. 3 Q. Okay. In Paragraph 35 of your 4 declaration, you discuss a clumping test, 5 correct? 6 A. Yes. 7 Q. Do you discuss the clumping test in 8 your first declaration, Exhibit 1013? 9 A. I don't recall. 10 Q. In your current declaration, 11 Exhibit 1047, in Paragraphs 51 through 53, you 12 discuss the APR resource document, LBL2, and 13 whether it is consistent with other 14 recyclability criteria. Do you see that 15 testimony? 16 A. Did you say 53? 17 Q. 51 through 53; is that correct? 18 A. Oh, 51 through 53. Okay. And the 19 question? I'm sorry. 20 Q. The discussion in those paragraphs, 21 51 through 53, does not appear in Exhibit 1013, 22 correct? 23 A. I don't recall. 24 Q. In paragraph -- yeah, in
Page 139 1 MR. BAKER: We're at the point 2 where we're trying to decide what to do and not 3 to do. 4 MR. SCHATZ: Yeah. That's -- 5 VIDEO TECHNICIAN: The time is 6 3:05 p.m. we're going off the record. 7 (Recess taken.) 8 VIDEO TECHNICIAN: The time is 9 3:19 p.m. We're back on the record. 10 Q. Thank you, Dr. Bushman. 11 We're going to go back to your 12 declaration, Exhibit 1047, Paragraph 66. 13 A. Okay. 14 Q. So we discussed this earlier. In 15 this paragraph, you testify that meeting the 16 APR guidelines is a subjective determination 17 made by a panel of three members, correct? 18 A. Yes. 19 Q. That opinion doesn't appear 20 anywhere in your first declaration, 21 Exhibit 1013, correct? 22 A. I don't believe that I talked about 23 that, no. 24 Q. Do you want the check? The	Page 141 1 Paragraphs 41 through 43, you offer an opinion 2 that fully recyclable and recyclable are not 3 interchangeable. Do you see that? 4 A. Yes. 5 Q. And that opinion does not appear 6 anywhere in Exhibit 1013, correct? 7 A. I -- I think I would say that all 8 of what you've been talking about has been my 9 response to the POR and specifically responding 10 to the POR. 11 Q. Okay. What -- go ahead. 12 A. It may not appear specifically in 13 1013, but the discussion here is as part of a 14 response to the POR. 15 Q. Okay. And one last one, 16 Paragraph 58. There you discuss downstream 17 manufacturers' subjective criteria and their 18 impact on whether a label is recyclable. Do 19 you see that? 20 A. Yes. 21 Q. And that discussion does not appear 22 anywhere in Exhibit 1013, correct? 23 A. Again, in that case, it's a 24 response to Dr. Phillips' deposition

Page 142 1 commentary, among other things. 2 Q. Can you identify what commentary in 3 particular? 4 A. A label is recyclable, as that term 5 is used, if a manufacturer dictates a benchmark 6 that is lower quality PET because their product 7 does not require a higher PET purity. I could 8 read the rest of this. 9 Q. Can you tell me which passages 10 you're reading, page and line numbers, please? 11 A. I'm on Paragraph 58. Was I on the 12 wrong paragraph? 13 Q. No. I thought you were reading 14 from the Phillips -- no. No. No. Strike 15 that. 16 Yeah. You said: 17 In that case, it's a response to 18 Dr. Phillips' deposition 19 commentary. 20 And I said: Can you identify what 21 commentary in particular? 22 So I was expecting a citation to 23 the Phillips transcript. 24 MR. SCHATZ: Objection. That's	Page 144 1 dictated by manufacturings -- by -- by the 2 manufacturers, and according to Dr. Phillips, a 3 label is recyclable, as that term is used, if a 4 manufacturer dictates a benchmark that is lower 5 quality PET because their particular product 6 does not require a higher PET purity. 7 Q. Can you tell what part you're 8 quoting? 9 A. So I would go back to his 10 commentary on his Page 42, which is also at the 11 top of this -- or upper part of this paragraph: 12 I would say is that the APR methods 13 are one benchmark, one important 14 benchmark that people typically 15 look to to determine whether a 16 material is recyclable, and in this 17 case, a PET label. As I've 18 mentioned already, there are other 19 benchmarks that people can look to 20 and do look to -- and do look at 21 for -- and do look at for a lower 22 quality recyclable material. 23 And then later, he says: So first 24 I can say that I don't know those
Page 143 1 what he provided. 2 MR. BAKER: Is it? I thought he 3 was reading from -- he said a paragraph. 4 THE WITNESS: Yeah. 5 MR. SCHATZ: Well, yeah. That's 6 exactly -- 7 MR. BAKER: So is it a declaration 8 or a transcript? 9 MR. SCHATZ: I think he's quoting 10 the transcript of Dr. Phillips from 11 Paragraph 58. 12 MR. BAKER: From 58 of his 13 declaration (indicating)? 14 MR. SCHATZ: Yeah. 15 MR. BAKER: Okay. Which has the 16 quote to the transcript? 17 MR. SCHATZ: I believe so. 18 MR. BAKER: Okay. 19 MR. SCHATZ: But you can ask the 20 witness about that. 21 Q. So you're quoting a paragraph from 22 your declaration that includes a quote from 23 Dr. Phillips' transcript; is that correct? 24 A. Yeah. Those benchmarks are	Page 145 1 values, I don't know the 2 benchmarks. Those are dictated by 3 the manufacturers. 4 Q. And it's your position that your 5 testimony is responsive to that argument? 6 A. I don't understand the question you 7 just asked. 8 Q. Your argument or answer earlier was 9 that for the question regarding downstream 10 manufacturers' subjective criteria and their 11 impact on whether a label is recyclable, I 12 asked you if that discussion was provided 13 anywhere in Exhibit 1013, and your answer was 14 it's responsive to Dr. Phillips' testimony. Is 15 the testimony you just identified what you were 16 responding to in Paragraph 58? 17 MR. SCHATZ: Object to form. 18 THE WITNESS: Could -- could you 19 ask that question again? I'm -- 20 Q. So I asked you about Paragraph 58 21 of your declaration, correct? 22 A. Correct. 23 Q. And that paragraph regards 24 downstream manufacturers' subjective criteria

Page 146 1 and their impact on whether a label is 2 recyclable, correct? 3 A. Let's go back to what you said. A 4 downstream manufacturer -- could you just 5 repeat it so I can hear it? 6 Q. I was asking you whether your 7 opinion from Paragraph 58 of Exhibit 1047, I'll 8 let you read that and understand what that is 9 on its own, whether that opinion appears 10 anywhere in Exhibit 1013. 11 A. And I would say this was referring 12 to Dr. Phillips' testimony as whether or not 13 they -- whether or not a label meets that 14 requirement of recyclable is unclear and 15 subjective. 16 Q. Okay. Just so the record's clear, 17 where did Dr. Phillips provide that testimony? 18 A. He says that the APR methods are 19 one benchmark and there are other benchmarks 20 that people can look to -- can look at and do 21 look at for lower quality recyclable material, 22 so... 23 Q. And how do you tie that testimony 24 to downstream manufacturers' subjective	Page 148 1 is that they're following. 2 Q. What Dr. Phillips comment do you 3 highlight? 4 MR. SCHATZ: Object to form. 5 THE WITNESS: Well, I think I read 6 this a couple times, but: APR methods are one 7 benchmark. There are other benchmarks that 8 people can look at and do look at for lower 9 quality recyclable material and then those 10 benchmarks are dictated by the 11 manufacturers. 12 Q. Now where are you reading from? 13 A. Those are -- I should say those are 14 dictated by the manufacturers. 15 Q. And where are you reading from? 16 A. I'm reading from Paragraph 58, but 17 part -- part of this quote comes specifically 18 from Page 43. 19 Q. Page 43 of the Phillips 20 deposition -- I'm sorry -- 21 A. Yes. 22 Q. -- transcript? 23 A. Yes. 24 Q. Which lines?
Page 147 1 criteria and their impact on whether a label is 2 recyclable? 3 MR. SCHATZ: Object to form. 4 THE WITNESS: Can you point me 5 where you're mentioning downstream 6 manufacturers? 7 Q. Your Paragraph 58. 8 A. You say downstream manufacturers. 9 Q. Is the word "downstream" not in 10 there? I apologize. 11 A. I don't believe it is. That's why 12 I'm asking. That's what's confusing me. 13 Q. I implied it. It's not explicitly 14 in there. I think it's inferred, but I implied 15 it, so I will take it out. 16 A. So this is where my -- some of my 17 confusion was. Forgive me. 18 Q. Do you, in Paragraph 58, discuss 19 manufacturers' subjective criteria and their 20 impact on whether a label is recyclable? 21 A. I think I highlight that 22 Dr. Phillips' comment is that those benchmarks 23 are dictated by the manufacturers and that they 24 are -- it -- it's not clear what that benchmark	Page 149 1 A. I think 16 through 18. 2 Q. Okay. Let's move on briefly back 3 to your LinkedIn page. 4 Have you looked at it recently? 5 A. No. No, I haven't. I haven't been 6 employed for some time. 7 Q. If I represent to you one of the 8 statements, please tell me if you accept it to 9 be true to your memory. 10 A. Okay. 11 Q. All right. Under key achievements, 12 you indicate that you managed a global IP 13 portfolio with 30-plus granted patents, led 14 successful opposition proceedings to protect 15 right to practice. Is that accurate? 16 A. I don't know. I'd have to see it, 17 but yes, it sounds accurate. 18 Q. Was that a large part of your 19 professional responsibility, leading opposition 20 proceedings? 21 A. No. 22 Q. You say plural, proceedings. Do 23 you know how many successful opposition 24 proceedings you led, roughly? I'll say five or

Page 150 1 more? 2 A. No. No. I can think of two. 3 Q. Including this one? 4 A. No. 5 Q. Would you say you led this 6 proceeding before your retirement? 7 MR. SCHATZ: Object to form and 8 outside the scope. 9 THE WITNESS: Yeah. I -- I don't 10 know if I can suggest that I led the 11 proceeding, no. 12 Q. Did you tell MCC leadership not to 13 license the '422 patent because you thought it 14 could be challenged in PGR? 15 MR. SCHATZ: Instruct the witness 16 not to answer. Privileged communication, and 17 that's just completely inappropriate. Outside 18 the scope of this proceeding. That's not 19 really well done, Mr. Baker. That's not good. 20 MR. BAKER: I am -- we're done on 21 direct. 22 MR. SCHATZ: Great. No redirect. 23 MR. BAKER: I'm sorry, on cross. 24 MR. SCHATZ: Great. No redirect.	Page 152 1 REPORTER'S CERTIFICATE 2 The State of Ohio,) 3 SS: 4 County of Fairfield.) 5 6 I, Kimberly A. Kaz, RPR, a Notary 7 Public within and for the State of Ohio, duly 8 commissioned and qualified, do hereby certify 9 that the within named witness, CRAIG BUSHMAN, 10 PH.D., was by me first duly sworn to testify 11 the truth, the whole truth and nothing but the 12 truth in the cause aforesaid; that the 13 testimony then given by the above-referenced 14 witness was by me reduced to stenotypy in the 15 presence of said witness; afterwards 16 transcribed, and that the foregoing is a true 17 and correct transcription of the testimony so 18 given by the above-referenced witness. 19 I do further certify that this 20 deposition was taken at the time and place in 21 the foregoing caption specified and was 22 completed without adjournment. 23 24
Page 151 1 We're done. 2 VIDEO TECHNICIAN: The time is 3 3:44 p.m. This concludes the deposition. 4 (Thereupon, the video-recorded 5 deposition was concluded at 6 3:44 p.m.) 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	Page 153 1 I do further certify that I am not 2 a relative, counsel or attorney for either 3 party, or otherwise interested in the event of 4 this action. 5 IN WITNESS WHEREOF, I have hereunto 6 set my hand and affixed my seal of office at 7 Cleveland, Ohio, on this 22nd day of 8 July, 2026. 9 10 11  12 13 14 Kimberly A. Kaz, RPR, Notary Public 15 within and for the State of Ohio 16 17 My commission expires March 31, 2028. 18 19 20 21 22 23 24

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1 Case: Multi Color Corp. vs Brook & Whittle Limited 2 Witness Name: Craig Bushman, Ph.D. - Vol. 2 3 Deposition Date: 07/20/2026 4 5 6 Please be advised that the transcript in the above 7 referenced matter is now complete and ready for signature. 8 The deponent may come to this office to sign the transcript, 9 a copy may be purchased for the witness to review and sign, 10 or the deponent and/or counsel may waive the option of 11 signing. Please advise us of the option selected. 12 Please forward the errata sheet and the original signed 13 signature page to counsel noticing the deposition, noting the 14 applicable time period allowed for such by the governing 15 Rules of Procedure. If you have any questions, please do 16 not hesitate to call our office at (202)-232-0646. 17 18 Sincerely, 19 Digital Evidence Group 20 Copyright 2026 Digital Evidence Group 21 Copying is forbidden, including electronically, absent 22 express written consent. 23 24	1 Errata Sheet 2 NAME OF CASE: Multi Color Corp. vs Brook & Whittle Limited 3 DATE OF DEPOSITION: 07/20/2026 4 NAME OF WITNESS: Craig Bushman, Ph.D. - Vol. 2 5 Reason Codes: 1. To clarify the record. 6 2. To conform to the facts. 7 3. To correct transcription errors. 8 Page ____ Line ____ Reason ____ 9 From _____ to _____ 10 Page ____ Line ____ Reason ____ 11 From _____ to _____ 12 Page ____ Line ____ Reason ____ 13 From _____ to _____ 14 Page ____ Line ____ Reason ____ 15 From _____ to _____ 16 Page ____ Line ____ Reason ____ 17 From _____ to _____ 18 Page ____ Line ____ Reason ____ 19 From _____ to _____ 20 Page ____ Line ____ Reason ____ 21 From _____ to _____ 22 Page ____ Line ____ Reason ____ 23 From _____ to _____ 24 CRAIG BUSHMAN, PH.D. - VOL. 2
Page 155 1 Digital Evidence Group, L.L.C. 2 1730 M Street, NW, Suite 812 3 Washington, D.C. 20036 4 (202) 232-0646 5 6 SIGNATURE PAGE 7 Case: Multi Color Corp. vs Brook & Whittle Limited 8 Witness Name: Craig Bushman, Ph.D. - Vol. 2 9 Deposition Date: 07/20/2026 10 I do hereby acknowledge that I have read 11 and examined the foregoing pages 12 of the transcript of my deposition and that: 13 (Check appropriate box): 14 () The same is a true, correct and 15 complete transcription of the answers given by 16 me to the questions therein recorded. 17 () Except for the changes noted in the 18 attached Errata Sheet, the same is a true, 19 correct and complete transcription of the 20 answers given by me to the questions therein 21 recorded. 22 _____ DATE WITNESS SIGNATURE 23 24 _____ DATE NOTARY	

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