

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

NICHOLSON MANUFACTURING LTD.,
Petitioner,

v.

Case No.

BID GROUP TECHNOLOGIES LTD.,
Patent Owner.

PGR2025-00081

VIDEOTAPED DEPOSITION OF MICHAEL J. PAZZANI, PH.D.

DATE: Thursday, April 23, 2026

TIME: 9:01 a.m.

LOCATION: Veritext

707 Wilshire Boulevard, Suite 3500

Los Angeles, CA 90017

OFFICIATED BY: Natalie Rivas

Job No. CS8020906

A P P E A R A N C E S

ON BEHALF OF PETITIONER NICHOLSON MANUFACTURING LTD.:

JEFFREY DANLEY, ESQUIRE

Seed Intellectual Property Law Group LLP

701 5th Avenue, Suite 5400

Seattle, WA 98104

jeff.danley@seedip.com

(206) 622-4900

ON BEHALF OF PATENT OWNER BID GROUP TECHNOLOGIES LTD.:

R. SCOTT JOHNSON, ESQUIRE

CAROLINE BURKS, ESQUIRE (by videoconference)

Fredrikson & Byron, P.A.

111 East Grand Avenue, Suite 301

Des Moines, IA 50309

rsjohnson@fredlaw.com

cburks@fredlaw.com

(515) 242-8930

ALSO PRESENT:

Quanisha Coleman, Veritext Observer

Leonard Gonzalez, Videographer

I N D E X

EXAMINATION:

PAGE

By Mr. Johnson

6

E X H I B I T S

NO.

DESCRIPTION

PAGE

(None marked.)

P R O C E E D I N G S

THE VIDEOGRAPHER: Good morning. We're going on the record. The time is 9:01 a.m. on April 23, 2026.

Please note that the microphones are sensitive and may pick up whispering and private conversations. Please mute your phones at this time. Audio and video recording will continue to take place unless all parties agree to go off the record.

This is media unit 1 of the videorecorded deposition of Michael Pazzani -- Pazzani taken for counsel for Defendant in the matter of Nicholson Manufacturing, Ltd. vs. Bid Group Technologies Ltd., filed at the United States Patent and Trademark Office, Case Number PGR2025-00081.

The location of the deposition is 707 Wilshire Boulevard, Suite 3500, Los Angeles, California 90017.

My name is Leonard Gonzalez, representing Veritext Legal Solutions, and I am the videographer.

Counsel and all present will now state their appearances and affiliation for the record, beginning with the noticing attorney.

MR. JOHNSON: Good morning. My name is Scott Johnson with Fredrikson & Byron. And I'm here on

1 behalf of the patent owner Bid Group Technologies.

2 MR. DANLEY: And I'm Jeff Danley from
3 Seed IP. And I'm here on behalf of Nicholson
4 Manufacturing.

5 DR. PAZZANI: Hi, I'm Michael Pazzani.
6 I'm retired.

7 THE VIDEOGRAPHER: Will the court
8 reporter please introduce yourself and administer the
9 oath to the witness?

10 And then Counsel may proceed.

11 THE OFFICER: Good morning. My name is
12 Natalie Rivas. I am a notary authorized to take
13 acknowledgements and administer oath in California.

14 Additionally, absent an objection on the
15 record before the witness is sworn, all parties and the
16 witness understand and agree that any certified
17 transcript produced from the recording of this
18 proceeding:

- 19 - is intended for all uses permitted
20 under applicable procedural and
21 evidentiary rules and laws in the same
22 manner as a deposition recorded by
23 stenographic means; and
24 - shall constitute written stipulation
25 of such.

1 At this time, hearing no objections, I'll
2 swear in the witness.

3 If you could please raise your right
4 hand?

5 WHEREUPON,

6 MICHAEL J. PAZZANI, PH.D.,
7 called as a witness and having been first duly sworn to
8 tell the truth, the whole truth, and nothing but the
9 truth, was examined and testified as follows:

10 THE OFFICER: Thank you.

11 We may now begin.

12 EXAMINATION

13 BY MR. JOHNSON:

14 Q Good morning.

15 A Morning.

16 Q Could you please state your name for the
17 record, sir?

18 A Michael Pazzani.

19 Q And you have a PhD. Is that correct?

20 A Yes.

21 Q And can I call you Dr. Pazzani today? Is that
22 all right?

23 A Yes.

24 Q Okay. Dr. Pazzani, have you ever been deposed
25 before?

1 A Yes.

2 Q All right. And how many times have you been
3 deposed before?

4 A Four or five.

5 Q Okay. So you're generally familiar with the
6 rules of a deposition; correct?

7 A Yes.

8 Q Okay. You understand that there's a court
9 reporter here who's taking down everything that you and
10 I say; correct?

11 A Yes.

12 Q And that means that I'm going to do my best
13 not to talk over you, and I would just ask that you do
14 the same. Is that okay?

15 A Yes.

16 Q All right. And I will try to talk slowly and
17 clearly. But if I don't, and if you don't understand my
18 question for some reason, please ask me to rephrase it.
19 Is that all right?

20 A Okay.

21 Q If you don't ask me to rephrase it, I'm going
22 to assume that you understood my question. Is that
23 fair?

24 A Okay.

25 Q All right. If at any time today you need a

1 break, just let myself or your counsel know, and we'll
2 do our best to accommodate that, so long as there isn't
3 a question pending. Is that fair?

4 A Yes.

5 Q All right. Dr. Pazzani, you understand that
6 you've been retained in a matter involving US
7 Patent 12,163,947. Is that correct?

8 A Right.

9 Q Right. When were you retained, sir?

10 A Probably August, perhaps July of last year.

11 Q August or July of 2025. Is that --

12 A Yeah. Might -- might have been June, but
13 about that time.

14 Q That's fine. Sometime in the summer of 2025?

15 A Yeah.

16 Q Is that fair to say?

17 A Yeah.

18 Q Okay. And after you were retained, was the
19 first thing that you did read through the patent at
20 issue?

21 A Yes. I did that -- that before I was
22 retained.

23 Q Okay. So you read through the patent as the
24 very first thing before you even decided to be engaged
25 in this matter. Is that correct?

1 A I skimmed the patent, yes.

2 Q Skimmed the patent. Okay. And after that,
3 did you understand the patent that you read?

4 A Yes.

5 MR. DANLEY: Objection.

6 BY MR. JOHNSON:

7 Q Okay. I should have told you, from time to
8 time, your counsel is going to say, "Objection." And
9 these are Patent Office proceedings, so hopefully those
10 times are few and far between.

11 But if it does happen again, let him state his
12 objection on the record. If we need to address it,
13 we'll address it. But otherwise, unless your counsel
14 tells you not to answer the question, then you can
15 answer the question. Do you understand that?

16 A Yes.

17 Q Okay. So you read through the patent. You
18 understood the patent; correct?

19 A Yes.

20 Q Okay. Did you read the file history?

21 A I -- I looked at the file history, yes. I
22 didn't read the complete thing, but portions of it.

23 Q Did you read the art that was cited in the
24 file history?

25 A I read some of the art that was cited in the

1 file history, yes.

2 Q Okay. And you understand what I mean when I
3 say, "The art"; correct?

4 A We might have a slight disagreement --
5 misunderstanding about what it means. But generally,
6 it's the -- the work that's cited.

7 Q The references that were listed in the patent
8 file history that were written by others and cited by
9 either the examiner or the applicant, do you understand
10 that to generally be what the art is?

11 A Yes.

12 Q Okay. So you read through the patent; you
13 read through the file history; you skimmed over some of
14 the art; correct?

15 A Yes.

16 Q Okay. What were you asked to do in this case?

17 A I was asked to offer an opinion as to whether
18 the claims of the patent were -- there's certain legal
19 terminology which I'll probably be a little fuzzy on.

20 But at first, I'll just use the general term
21 "patentable." But some of that is obvious. Or, you
22 know, there's various sections of patent law, et cetera,
23 you know, 101 and some other sections as well. So in
24 each case, I was asked to offer an opinion as to whether
25 it was patentable under that section.

1 Q Fair to say you were asked generally to
2 determine whether or not the claims of -- I'll shorthand
3 refer to this as the 947 patent today, if that's okay.

4 Fair to say you were asked to evaluate whether
5 the claims in the 947 patent were valid. Is that right?

6 MR. DANLEY: Objection. Vague.

7 THE WITNESS: I think -- excuse me?

8 MR. DANLEY: I'm just stating it for the
9 record. You can go ahead and answer.

10 THE WITNESS: Okay. That -- that
11 might -- if that's a legal term, then I'm not sure. I
12 was offered to give opinions on whether this has been
13 done before, et cetera, whether it meets certain
14 criteria.

15 I wasn't -- if "valid" is a legal term, I
16 certainly wasn't offered -- wasn't giving a legal
17 opinion, which I'm not qualified to do.

18 BY MR. JOHNSON:

19 Q Sure. I understand that. You don't have a
20 law degree; correct?

21 A That's correct.

22 Q Okay. You were asked, in your words, to
23 determine whether or not the invention in the 947 patent
24 was done before. Is that right?

25 A In colloquial terms, yes. I mean, you know,

1 again, he would give me a section of the patent law 101
2 with various things in it. And then I would say whether
3 it met that criteria or not.

4 Q Okay. And you understand that you've
5 submitted a declaration in this matter; correct?

6 A That's correct, yes.

7 Q Okay. And the declaration discusses several
8 pieces of art. You understand that?

9 A Yes.

10 Q Did you discover those, or were those provided
11 to you?

12 A Let's see. The art in the grounds was
13 provided to me. The art in some of the background
14 sections I found.

15 Q I see. So when you say, "Grounds," sir, what
16 do you mean?

17 A I believe there are four or five grounds,
18 different ways of saying this patent is invalid. And so
19 those grounds are based on specific pieces of prior art.

20 But then there's more general things about
21 artificial intelligence, how it works. And those are
22 things that, I think for the -- I think certainly I'll
23 say for the most part I found myself. It's conceivable
24 that they found one of them.

25 Q I see. But the art that was relied upon by

1 you for the grounds was provided to you by counsel. Is
2 that correct?

3 A Yes.

4 Q You did not conduct your own search for art
5 outside of the artificial intelligence background space;
6 correct?

7 A Actually, I -- I did do that at times. But we
8 decided not to use what I discovered.

9 Q Do you recall what you discovered?

10 A Various patents or prior art things, like for
11 instance, ovens that automatically recognize what type
12 of food you put in it and set the parameters of the oven
13 to cook that food. I think it's a perfectly analogous
14 thing.

15 But since this is about debarking, the
16 attorneys suggested we --

17 MR. DANLEY: Just don't go into
18 conversations with attorneys.

19 THE WITNESS: Well, okay.

20 But -- but there was art closer to
21 debarking that was decided upon to use. There's also
22 sprinklers that look at photographs of the lawn and
23 decide what sprinkler parameter settings to do.

24 There's -- I mean, it's a fairly common
25 thing to look at something and decide the parameters.

1 And so I found lots of art like that. But it wasn't --
2 the academic in me would've had 320 citations in the
3 patent. I'm told that patent attorneys prefer to keep
4 it to two or three.

5 BY MR. JOHNSON:

6 Q Understood. Sir, you mentioned there were
7 grounds that you're alleging in your declaration.

8 A Yeah.

9 Q Did you come up with the criteria for those
10 grounds on your own?

11 MR. DANLEY: Objection. Vague.

12 THE WITNESS: Should I then not answer?

13 MR. DANLEY: If you can answer, you can
14 go ahead and answer. And as the opposing attorney said,
15 only time that you should not answer is if I explicitly
16 instruct you not to answer. But if I don't give you
17 those instructions, you can go ahead and answer the
18 question.

19 THE WITNESS: Since -- since the grounds
20 referred to I think specific sections of patent law,
21 they were -- the sections of the patent law were
22 determined by the attorneys.

23 BY MR. JOHNSON:

24 Q So all of the legal criteria that you rely on
25 was given to you. Fair to say; correct?

1 A That's correct. I had no other -- other
2 outside source of legal information.

3 Q Okay. And when you read through the
4 947 patent, what did you understand the invention to be?

5 MR. DANLEY: Objection. Vague.

6 THE WITNESS: I think there were several
7 parts of the invention. And if you like, I'll go into
8 detail on them now. One of them is how to find
9 parameters in a lookup table.

10 A lookup table is also sometimes called
11 an array or a matrix. Something I learned in Computer
12 Science 1 in 1976 is how to put information into an
13 array.

14 At that point, it was probably business
15 stuff about given the -- your income and filing status,
16 what your tax rate is, or given the amount of loan on a
17 house, the terms, your credit rating, how to retrieve
18 what the interest rate would be. But you know, very
19 broad range of work.

20 You could easily write that table on a
21 piece of paper and a person could look through that
22 piece of paper and look it up. But as the tables get
23 longer and longer, you computerize that as we did in the
24 '70s.

25 And again, you know, stuff that I've

1 taught computer science students in the '80s and '90s,
2 et cetera, so very straightforward.

3 The other thing it's about is artificial
4 intelligence and deep learning. Something that -- it
5 makes no novel claims about that. It just uses existing
6 things. Most of what it uses is called these days deep
7 learning for image recognition.

8 This became -- a lot of the research was
9 done in the 2008, 2010 timeframe. Became very popular
10 in 2012. Very straightforward since then.

11 You have a collection of images you --
12 that are labeled. It could be pictures of birds and
13 bird species, pictures of flowers and identification of
14 the flowers, pictures of cars, and the identification of
15 the make and model of the car.

16 You give that to the computer. It gets
17 trained. That training is -- uses some somewhat complex
18 math. But these days, it's pretty straightforward
19 matrix multiplication and things like that, very
20 straightforward algorithms.

21 Once you've done the training, when given
22 a new image, it can tell you things about that image,
23 like this is the make and model of the car. It can
24 actually go a little bit more detail. This is the make
25 and model of the car, and it's dented.

1 Turns out Avis and other things use that
2 now to bill you whether you -- to see if you've dented
3 the car when you -- you've rented it.

4 So to -- it's sort of a combination of
5 these two straightforward things that have been around
6 since 2012 or so, how to create a table with parameters
7 in it and how to use artificial intelligence to decide
8 what row in that table to look up.

9 BY MR. JOHNSON:

10 Q Anything else?

11 A I'm sure there are other things. There are
12 dependent claims. There's, you know, temperature
13 sensors and things like that, but, you know, again,
14 things that are pretty easy to do.

15 Q You understand that the field of this
16 invention is in the debarking industry; correct?

17 MR. DANLEY: Objection. Vague.

18 THE WITNESS: Certainly -- certainly
19 debarking is -- to be honest, I don't know if it's in
20 the title of the patent or not. But certainly debarking
21 is mentioned several times in the patent, yes.

22 BY MR. JOHNSON:

23 Q And, in fact, it's mentioned in the claims;
24 correct?

25 A Let's see. I'd -- I'd want to look at the

1 individual claims. Certainly you send parameters to a
2 debarker. So a debarker is mentioned in the claims. I
3 don't know if the debarking process in general is
4 mentioned in the claims.

5 I should point out that that table that I
6 discussed earlier, it may require knowledge of debarking
7 and wood and debarkers to decide what entries to put in
8 that table.

9 But to decide what to retrieve from that table
10 doesn't require that. It just requires, in the oven's
11 case, knowing what type of meat it is and perhaps how
12 done you'd like the meat. And that's how you should set
13 the temperature of the oven.

14 Or in the debarker's case, knowing the species
15 of the tree and the moisture, how many knots are in the
16 tree. You look that up from the table. So although
17 debarking is in the claims, it doesn't really require
18 expertise in debarking to understand the claims.

19 Q And you have no experience in debarking;
20 correct?

21 A That's correct.

22 Q No expertise in debarking; correct?

23 A Yes, that's correct.

24 Q Fair to say; right?

25 A Yeah. Might've peeled bark off a tree once or

1 twice, but yeah.

2 Q Right. Have you ever been to a sawmill?

3 A No.

4 Q Have you ever been to Nicholson Manufacturing?

5 A No.

6 Q Have you ever been to Bid Group?

7 A No.

8 Q Have you ever seen a debarking machine in
9 person?

10 A No.

11 Q Fair to say your expertise is in artificial
12 intelligence; correct?

13 A Yes. And that's what I believe the field of
14 this patent is, and general computer science.

15 Q You believe that this patent is addressed to
16 the field of computer science; correct?

17 MR. DANLEY: Objection. Misstates
18 testimony.

19 THE WITNESS: I believe the claims can be
20 interpreted by someone with that -- with that knowledge,
21 yes.

22 So going back to the table, someone with
23 industry knowledge needs to put those entries in the
24 table. But to figure out what row and column of the
25 table, that's straightforward artificial intelligence

1 and computer science.

2 BY MR. JOHNSON:

3 Q Your knowledge about the debarking process, is
4 it fair to say that that came from conversations that
5 you had with employees of Nicholson?

6 A Amongst other things, yes.

7 Q What other things?

8 A Looking at the website of Nicholson and Bid.
9 And I think I read an introductory article on debarking
10 as well, just -- you know, just to see what types of
11 debarkers there are and how they operate.

12 Q And when did you do that research into, you
13 know, Nicholson's website, Bid Group's website, or a
14 discussion with Nicholson employees?

15 A Let's see. Well, some of the introductory
16 material and skimming the websites was probably done in,
17 I'll say the, you know, July timeframe as I was, you
18 know, starting to understand the patent deeper. Others
19 was a conversation with Nicholson employees in
20 mid-August.

21 Q So I just want to make sure I have my order
22 clear here. Before you were actually retained, you got
23 a copy of the patent and read the patent; correct?

24 A Skimmed the patent, yes. I generally look at
25 the abstract and claim 1. Yeah.

1 Q Then you were retained in the matter?

2 A Yes.

3 Q And you read through the patent again;
4 correct?

5 A Yes.

6 Q And then you read the file history of the
7 patent; correct?

8 A I looked at portions of the file history, yes.

9 Q Okay.

10 A And the file histories are long. Although
11 this was -- this wasn't that long compared to some.

12 Q Right. Relatively, for patents, it was a
13 rather short file history; correct?

14 A Yeah.

15 Q Yeah. So after you read the patent, skimmed
16 through the file history, you were given art by counsel;
17 correct?

18 A Yes.

19 Q And after you received the art from counsel,
20 you at some point checked out the websites of the two
21 parties involved in this post-grant review process;
22 correct?

23 A Yes.

24 Q And then after you checked out the websites of
25 the parties involved in this process, you talked to a

1 couple of employees of the petitioner, Nicholson, here;
2 correct?

3 A Yes.

4 Q And then you filed a declaration in this
5 matter; correct?

6 A Right.

7 Q Okay. The employees that you talked to at
8 Nicholson, do you recall who they were?

9 A No, I don't.

10 Q Okay. Were --

11 A It was -- I -- I assume that was disclosed
12 in -- somewhere.

13 Q Do you know how many people you talked to?

14 A It was over a Zoom call. May have been, you
15 know, one of Zoom's competitors. Two or three.

16 Q Do you know how long you spoke to them?

17 A It was about two hours or so.

18 Q Do you know their qualifications?

19 A No.

20 Q Do you know if they were computer scientists?

21 A I don't know their qualifications.

22 Q Okay. Do you recall what was discussed during
23 your two-hour call with the two or three employees from
24 Nicholson?

25 A Some of it. Mainly it was to verify my

1 understanding of how debarkers work, as it was important
2 to the patent, certainly not into the detail that I
3 could, you know, design my own debarker, but
4 understanding what the parameters were, how they're
5 determined, oh, the number of wood species, what sorts
6 of things determine what parameters to set.

7 Q Did they tell you whether or not Nicholson had
8 installed artificial intelligence capabilities on its
9 debarking machines?

10 A I don't -- I -- I don't believe we discussed
11 that.

12 Q Did you ever see a Nicholson debarker with
13 scanners that were pre-debarking?

14 A No.

15 Q During your call with the two or three
16 employees, was that in an office setting? Were the
17 employees in an office setting, I should say?

18 A I -- I believe so. I'm not certain.

19 Q I'm just asking because today we can have
20 cameras anywhere.

21 A Sure.

22 Q And I'm curious if the employees had a camera
23 and were walking around a sawmill or a manufacturing
24 plant with you to show you things. Did that happen?

25 A No.

1 Q Okay. Did the employees send you any
2 materials?

3 Oh, sorry. Your microphone fell off, sir.

4 A Oh. Yeah. I think there were -- there were
5 some materials that are referenced in my report. I
6 think they're sort of manuals for debarkers.

7 And I don't recall whether there was a
8 formal -- I don't think there was a formal presentation
9 that they made. If so, it was rather brief. It was
10 mostly a discussion.

11 Q Sir, I'm going to hand you what's been marked
12 and submitted previously as Petitioner's Exhibit 1008.
13 Is this one of the manuals that the individuals that you
14 spoke with at Nicholson sent to you?

15 A Yeah, I mean, it -- it looks like it.
16 Assuming this was the exhibit from the report that I
17 filed, then yeah.

18 Q Yeah. And I can tell you this is what I
19 received as Exhibit 1008.

20 A Yeah.

21 Q So my question for you, though, is, do you
22 know why they only sent you section 1 and not the
23 entirety of the manual?

24 A No.

25 Q Did you ask for the entirety of the manual?

1 A No.

2 Q Did you think it was okay to rely on a portion
3 of the manual without reviewing the entire thing?

4 A Particularly because the claims didn't
5 require -- aren't about how to set the parameters;
6 they're how to find parameters in a table, the minutia
7 of the operations seemed less important. I mean, again,
8 you could send these parameters to a sprinkler
9 controller or a debarker, you know.

10 Q So you didn't feel it was necessary to review
11 the entirety of the Nicholson operation and maintenance
12 manual; correct?

13 A That's correct.

14 Q Is that all you were given by the employees?

15 A I can look at my report and see if there's
16 other things that -- you know, exhibits that they gave
17 me. I -- I'm not sure. To be honest, I thought it
18 was -- I -- I thought I received two things from
19 Nicholson, but it could have been one.

20 Q And I apologize. I was just referring to this
21 Exhibit 1008. I'm just curious if you received the
22 entirety of the manual but only chose to rely on the
23 first section, or if you were just given the first
24 section of the manual. Do you know which one of those
25 it was?

1 A Because it's electronic, I -- I'm not sure.
2 Again, although -- although the word "debarker" occurs
3 in the patent, I think it's -- the patent is much more
4 about these lookup tables and artificial intelligence
5 than -- you know, if you had a different type of -- of
6 debarker with entirely different parameters and a
7 different table, the patent would stay the same.

8 So I don't think there are hydraulic
9 debarkers. There might be. But if there were, you
10 know --

11 Q I understand that's your opinion, sir. My
12 question, though, is about this exhibit. I'm just
13 trying to understand, did you receive a complete copy of
14 the manual and only choose to rely on section 1, or did
15 the Nicholson folks only give you section 1?

16 A I don't recall.

17 Q Is it fair to say that, if you'd been given
18 the entirety of the manual, you would've listed the
19 entirety of the manual in your report, even if you only
20 relied on section 1?

21 A I -- I believe so.

22 Q All right. Let's get into this, I guess.
23 Sir, I'm going to hand you what is marked as
24 Exhibit 1002 in this matter.

25 MR. JOHNSON: I'm sure you wanted an

1 extra copy. No? Come on, Jeff. You're taking away
2 my --

3 MR. DANLEY: I'm sorry about that.

4 MR. JOHNSON: Making me carry it back.

5 That's okay.

6 MR. DANLEY: If it makes you feel better,
7 I'll accept it on the record and give it back to you
8 after the tape is done.

9 MR. JOHNSON: No worries.

10 BY MR. JOHNSON:

11 Q Sir, in front of you is what has been marked
12 by the petitioner in this matter and submitted as
13 Exhibit 1002. Do you see that?

14 A Yes.

15 Q Okay. Fair to say this is a copy of the
16 declaration that you have submitted. Is that right?

17 A Sure.

18 Q Sure. And I'll just represent to you I
19 printed out what was submitted to the Patent Office, so
20 that's what we have.

21 I'd like to confirm that you did sign it. And
22 that is, I believe, on page 164 of Exhibit 1002. Is
23 that your signature, sir?

24 A Yes.

25 Q And it looks like you signed this on August

1 29th of 2025. Is that correct?

2 A That is correct, yes.

3 Q Okay. And right after that is Exhibit A,
4 which appears to be a copy of your CV. Is that correct?

5 A Yes, a copy.

6 Q A copy, yeah. I'd like to take you through
7 your CV a little bit. It's got a lot of experience,
8 honors, education, and your career summary, fair to say,
9 in there; correct?

10 A Yes.

11 Q Okay. And you've got some prior experience as
12 an expert witness. Is that correct?

13 A Yes.

14 Q I'd like to take you through those cases just
15 so I understand what those cases were about and what
16 your role was in those. So forgive the repetition here
17 of all these questions.

18 A Okay.

19 Q But if you'd like to, you can follow along
20 with me on page 168 of Exhibit 1002.

21 A 168. Oh, okay.

22 Q Yeah. It's a thick sucker, and it's double
23 sided, so. The first case there says "Tucker vs.
24 Apple." Do you see that?

25 A Yes.

1 Q And it has a case number after it that starts
2 with a 3, then 25-CV-05197.

3 A Yes.

4 Q Fair to say that was a litigation, not a
5 Patent Office proceeding; correct?

6 A That's correct.

7 Q Okay. Have you been involved in any other
8 Patent Office proceedings other than the current one?

9 A I believe the IPRs are Patent Office
10 proceedings. And I've been through four or five of
11 those.

12 Q Okay. I didn't see those listed here. Do you
13 recall those?

14 A Oh, no. They're -- they're parts of cases.

15 Q Ah, okay.

16 A So --

17 Q You just didn't include them separately. Is
18 that correct?

19 A That's correct. So I would say -- you know
20 what, I mean, to -- to be honest, I think IPRs are
21 somewhat new. I don't think they existed in the first
22 couple of cases that I did way back in the early 2000s.
23 But I -- I would say every case certainly --

24 Q We can just go through them one by one.
25 That's fine.

1 A Yeah, yeah. The second, third, fourth, fifth,
2 and sixth. I'm not sure about the -- one of them was
3 international, so I don't think that was --

4 Q So Tucker vs. Apple, who retained you in that
5 case?

6 A The plaintiff. And I don't recall the
7 plaintiff.

8 Q Fair to say it wasn't Apple. Is that correct?

9 A That's correct.

10 Q Okay. And in that case, were you arguing
11 about a patent?

12 A No.

13 Q What was the case about generally, just
14 subject matter wise, not -- I don't need a lot of
15 detail. Was it a patent case?

16 A No. It was about whether Apple misrepresented
17 its capabilities to the public and to shareholders about
18 artificial intelligence.

19 Q Got it. So fair to say you were not
20 evaluating the validity of a patent in that case?

21 A That's correct.

22 Q What about the next one, FriendliAI vs.
23 Hugging Face, Inc.?

24 A Yes. That's FriendliAI vs. Hugging Face.
25 Yes. That -- that was an IPR.

1 Q An IPR. Okay. And do you recall which party
2 retained you there?

3 A FriendliAI.

4 Q Was FriendliAI the patent owner or the patent
5 challenger?

6 A So I'm just trying to recall and put it in
7 your terms. The -- the -- FriendliAI was the defendant.

8 Q So you were providing a declaration that was
9 challenging whether or not the patent involved a new
10 invention or not. Is that fair to say?

11 A To -- I -- I could say more -- more likely
12 than not FriendliAI was challenging a patent, yes.

13 Q Okay. Do you recall the outcome of that case?

14 A The case settled, and I -- shortly after my
15 report was filed. And I don't know what happened to the
16 IPR.

17 Q Were you deposed in that case?

18 A No.

19 Q Open Text Corporation vs. Hyland Software, do
20 you recall what that case was about, sir?

21 A That was about software for understanding how
22 optical character recognition and other image
23 recognition works in photocopiers and scanners.

24 Q Did it involve patents at all?

25 A Yes.

1 Q Okay. And did you represent -- or were you
2 retained by the patent owner or the patent challenger?

3 A The challenger.

4 Q And do you recall, was that a court case or a
5 Patent Office proceeding?

6 A Well, there -- it was a Patent Office
7 proceeding in the context of a court case.

8 Q Did you submit a declaration in that matter?

9 A Yes, I did.

10 Q Did you provide testimony in that matter?

11 A I wasn't deposed.

12 Q Case was resolved before you were deposed. Is
13 that correct?

14 A Yes.

15 Q Okay. Do you recall, was the resolution a
16 settlement or was it a summary judgment ruling?

17 A It was a settlement.

18 Q Okay. The next one is MasterObjects Inc. vs.
19 Facebook. You see that, sir?

20 A Yes.

21 Q Okay. Do you recall the nature of that case?

22 A No. I know I was retained by MasterObjects.
23 But the details of that case -- it's five years old.

24 Q Do you recall if it was a patent case?

25 A It was, yes.

1 Q Was MasterObjects the patent owner?

2 A Yes.

3 Q Were you retained to provide testimony about
4 the validity of the patent in that case?

5 A I didn't provide testimony.

6 Q Okay. Did you provide a declaration?

7 A I'm not sure.

8 Q Okay.

9 A So sorry. It was five years ago. I --
10 recollection is that was relatively quick.

11 Q Okay. Do you recall, did the case reach a
12 resolution other than a settlement?

13 A I believe it was settled, but I'm not sure.

14 Q And the next one is another MasterObjects case
15 versus Amazon.

16 A Yes. Same thing.

17 Q Same thing. Okay. Quick resolution. Is that
18 correct?

19 A Yes.

20 Q Okay. Was MasterObjects an entity that
21 practiced the invention in its patents?

22 A Don't recall.

23 Q Do you recall if they were just a patent
24 owner?

25 A No.

1 Q Do you recall the next case, Sisvel
2 International S.A. vs. Rakuten and Spotify, I guess?

3 A Yeah. And Rhapsody and Spotify. Yeah. Yes.

4 Q What was the nature of that case?

5 A That was a patent infringement case.

6 Q And who retained you in that patent
7 infringement case?

8 A I was retained by Sisvel.

9 Q Were they the patent owner?

10 A Yes, at the time.

11 Q What do you mean at the time?

12 A They were the ones who filed the lawsuit, and
13 I assume they owned the patent.

14 Q Okay. And did you provide a declaration in
15 that case?

16 A To -- to be honest, I -- I don't recall. It
17 was quite time consuming because there were several
18 things involved. And again, it wasn't -- these -- this
19 was an international from the UK, I believe. And their
20 patent law is a little bit different. So don't recall
21 some of those details.

22 Q Do you recall, was it a court case or a Patent
23 Office proceeding?

24 A It was -- it was a court case.

25 Q Okay. Did you provide any testimony in that

1 case?

2 A No. There was no deposition.

3 Q Did the case resolve through settlement?

4 A Yeah, I believe it did.

5 Q Do you recall the subject matter of the patent
6 in that case?

7 A Yes. It was basically artificial intelligence
8 for understanding preferences of users, for example for
9 music, what type of music you like and what songs should
10 be recommended to you.

11 Q And I should have asked the same question for
12 the Master Objects cases, sir. Do you recall the nature
13 of the patent involved in that case?

14 A I believe they were also personalization
15 cases, yes.

16 Q So using AI to personalize an outcome. Is
17 that correct generally?

18 A Yeah, or -- or a decision or -- yeah.

19 Q The next one is Looksmart Group vs. Microsoft.

20 A Right.

21 Q Who retained you in that matter, sir?

22 A Looksmart.

23 Q Was that a patent case?

24 A Yes.

25 Q Was Looksmart the patent owner?

1 A Yes.

2 Q Was that a patent proceeding in front of the
3 Patent Office?

4 A I don't recall. It was certainly a
5 litigation. I don't know if -- I don't know if I filed
6 a Patent Office report, but I filed several
7 declarations.

8 Q Were you deposed in that matter?

9 A Yes.

10 Q Did you provide any trial testimony in that
11 matter?

12 A No.

13 Q Did the matter resolve through settlement?

14 A I believe so.

15 Q The nature of the patent that was involved in
16 that, did it also involve artificial intelligence?

17 A Yes, artificial intelligence and search engine
18 technology.

19 Q And Space Data Corporation vs. Alphabet,
20 Google, and Loon, was that a patent case?

21 A Yes.

22 Q And were you retained by the patent owner or
23 the accused?

24 A I was retained by the -- oh, I -- I was
25 retained by Space Data Corporation. The patent was

1 owned by Google at that time.

2 Q So you were retained by the accused infringer.
3 Is that correct? I'm just looking at the sides of the
4 V, and Google is on the other side.

5 A Yeah. Although patents were involved, I
6 believe the case was actually more about whether
7 Google -- I'll use the word "stole," which I'm sure
8 there's better legal term -- stole the IP of Space Data
9 Corporation and implemented a product and found a patent
10 on that product.

11 And I did some of the work for Space Data to
12 understand how Google's system worked.

13 Q And the nature of the subject matter that was
14 involved in that case, fair to say generally that it
15 also involved artificial intelligence?

16 A The subject matter was more on internet
17 balloons. There was actually very little artificial
18 intelligence in that. Deciding what height to put the
19 balloon at.

20 Q Got you. And what is an internet balloon,
21 just out of curiosity?

22 A Well, as you know, like, SpaceX uses
23 satellites to do internet. You can also do internet
24 from high-altitude balloons.

25 You have to decide where to position the

1 balloon so that you can, you know, keep it over the
2 city. There are winds, and apparently winds are at
3 different heights. And so how to choose which height to
4 be at so your balloon blows to where you want it to be?

5 Q And do you recall when that case was?

6 A I'm going to say approximately ten years ago.

7 Q Okay. It's hard to recall things that are
8 older; correct?

9 A Things that I have abandoned. I mean, I -- I
10 mean, I'll just say I remember and use everything from
11 Computer Science 1 in 1976.

12 But you know, you know -- you know, and -- and
13 as we talk about it, I'm sure I can recall much more
14 about balloons and their heights and things like that
15 and why it's important to be at a certain height, et
16 cetera.

17 Q Got you. So let's go to the next one, Rovi
18 Solutions Corporation vs. United Video Properties. What
19 was that case about, sir?

20 A That case was also about internet
21 personalization for selecting TV shows and other things
22 you'd be interested in.

23 Q And who did you represent in that matter?

24 Well, let me ask another question first. Was
25 it a patent infringement case?

1 A Yes.

2 Q And who did you represent or who retained you
3 in that matter?

4 A Rovi Solutions retained me.

5 Q Were they the patent owner?

6 A I believe so.

7 Q Do you recall the nature of the patent
8 involved?

9 A The patents involved, again, personalization
10 for selecting content.

11 Q So did the patents, again, involve AI?

12 A Yeah.

13 Q And Personalized User -- well, sorry. Strike
14 that.

15 Did you give any testimony in that case?

16 A No. It was all reports.

17 Q Did it settle before you were ever called to
18 testify?

19 A Yes.

20 Q Personalized User Model vs. Google, was that a
21 patent infringement case?

22 A Yes.

23 Q Who retained you in that matter?

24 A Personalized User Model.

25 Q Were they the patent owner?

1 A Yes.

2 Q And did you provide any testimony in that
3 case?

4 A Yes.

5 Q Was that testimony at a deposition or at
6 trial?

7 A Both.

8 Q Okay. Do you recall what was the outcome of
9 the trial?

10 A Google won.

11 Q So your testimony trying to uphold the
12 validity of the patent, the jury didn't agree with your
13 testimony. Is that correct?

14 MR. DANLEY: Objection. Vague. Assumes
15 facts.

16 THE WITNESS: What's that?

17 MR. DANLEY: Making objections. You can
18 answer.

19 THE WITNESS: I -- I don't know what the
20 jury did.

21 BY MR. JOHNSON:

22 Q The outcome of the case was that Google won,
23 is what you said, I believe; right?

24 A Yes.

25 Q Was the patent invalidated?

1 A I'm not sure.

2 Q You don't recall. Is that right?

3 A That's right.

4 Q Okay. Is it fair to say that it's easier for
5 you to recall things that are in the core of your field,
6 things that you use every day, your computer 101, versus
7 things that are outside of your field?

8 A Things that I don't do often, you know, I
9 don't recall as much, yes.

10 Q Do you know if that case was appealed?

11 A I believe there were some appeals in the case,
12 yes.

13 Q Is the case still going on?

14 A I doubt it. It's, I mean, 15 years old, so.
15 I don't know how long appeals take. And the appeals, it
16 was another -- it was a case where there was actually a
17 dispute over the ownership of the patent as well.

18 Q Did you give an opinion on the ownership of
19 the patent?

20 A I did. I'm sorry. I gave testimony that the
21 law firm used to give an opinion on the ownership of the
22 patent.

23 Q Got you. Okay. Do you recall if you
24 conducted a prior art search in that case?

25 A Since we were the patent owner, I didn't think

1 prior -- I didn't do a prior art search since I
2 represented the patent.

3 Q The next one is IBM vs. Amazon. Do you see
4 that, sir?

5 A Yes.

6 Q Do you recall the nature of that case?

7 A Yes. That was a lawsuit where I -- I was
8 retained by IBM on personalization technology. IBM was
9 the patent owner, and Amazon was, I guess, the
10 defendant.

11 Q And when you say, "Personalization
12 technology," is that again an AI system?

13 A Yeah.

14 Q Okay. Do you recall the outcome of that case?

15 A That settled rather quickly in IBM's favor.

16 Q Did you have to give testimony in that case?

17 A No.

18 Q Okay. Pinpoint vs. Amazon, the last one on
19 the list there --

20 A Yes.

21 Q Do you recall the nature of that case?

22 A That was similar. Pinpoint was the patent
23 owner, and Amazon was alleged to be infringing their
24 patent on recommendation technology.

25 Q And who retained you in that matter?

1 A Pinpoint.

2 Q Do you recall the outcome of that case?

3 A I believe Pinpoint abandoned the case.

4 Q Do you know why Pinpoint abandoned the case?

5 A I was told that -- let's see. There -- there
6 were several things involved. So first of all, the
7 night before trial, the judge decided that Pinpoint
8 didn't have standing.

9 Then Pinpoint refiled the case because they
10 had standing then. And a different judge made a
11 different finding on claim discovery -- on claim
12 construction that made it not important to go forward --
13 I mean not likely to win if they were to go forward.

14 Q Did you give any testimony in that case?

15 A I was deposed twice.

16 Q But because the case didn't go forward, fair
17 to say you didn't give any trial testimony?

18 A That's correct.

19 Q Okay.

20 A All the prep, though.

21 Q All the prep. Got to love it. Fair to say,
22 sir -- well, let me put a bow on this, I guess. Is this
23 the complete listing of all of the cases that you have
24 been involved in?

25 A I believe so. It's possible there's one or

1 two I've left out, you know, a small one. You know,
2 sometimes this is -- I'm, to be honest, surprised I'm
3 here. It's not usually in my resume. I think it's in
4 the resume I give law firms.

5 There may be one or two other small ones that
6 settled quickly, but certainly nothing that I spent more
7 than ten hours on.

8 Q So fair to say any case in which you gave a
9 declaration or testimony is listed here?

10 A I think so. It -- it's possible I left one
11 out, again. You know, there's -- there's sometimes
12 five-or-six-year gaps in here, and you know, it's
13 reconstructed from old records. So it's -- it's
14 possible.

15 Q And fair to say none of these cases have
16 anything to do with debarking machines?

17 A That's correct.

18 Q None of them have anything to do with the
19 logging industry; correct?

20 A That's correct.

21 Q None of them have anything to do with
22 sawmills; correct?

23 A That's correct.

24 Q You mentioned in the Pinpoint case something
25 about claim construction. Have you ever been involved

1 in claim construction?

2 A I -- I've -- I mean, I believe there are legal
3 documents that law firms file on this. I have provided
4 advice to attorneys who were doing the claim
5 construction or, you know, worked through the patent to
6 find sections related to the terms in the claims.

7 But I -- I mean, I -- I don't think an expert
8 files reports on that as much as it informs the
9 attorneys who file reports.

10 I mean, sometimes, you know, have a bookshelf
11 of dictionary of computer science, and you know, I'll
12 look up the 1978 definition of "lookup table" or
13 something.

14 Q Were you given any claim constructions by
15 counsel in this case?

16 A I think we were told just to -- to use the
17 ordinary -- I mean, I -- I don't think it was a
18 formal claim construction. Used the sort of ordinary
19 meaning of the terms as I understood them.

20 I don't think there's anything extremely
21 difficult. But, you know, I mean, I -- I've seen
22 lawyers spend hours and hours on the word "it," so. You
23 know, so who knows.

24 Q I've spent a lot of time on a lot of words.
25 Sir, I'd like to look at another section of your CV,

1 which is entitled Most Important Publications.

2 A Sure.

3 Q And I think it's on page 170 of Exhibit 1002.

4 A 170. Ooh. Somehow I flipped things. Here we
5 go. We'll get it.

6 Q No worries.

7 A I'm going to put this here. Well, let's --
8 I'll reconstruct that. No, I better reconstruct it now.

9 Q Take your time, sir.

10 A Yeah, sure.

11 Q Okay. My question is, the Most Important
12 Publications, there's a parenthetical after that that
13 says "H-index 70-43,000 citations."

14 A Yes.

15 Q What is the 43,000 citations referring to?

16 A So of my published work, other people have
17 cited it 43,000 times.

18 Q Okay. And the 70 there, what is that
19 referring to?

20 A I have 70 publications that have been cited
21 70 times or more.

22 Q I see. And is that what's listed here?

23 A No, no. That's just the top ten or -- I mean,
24 what could fit on one page. You know, and again, it's
25 my opinion as to what's most important.

1 Again, this is more for an academic audience.
2 If someone who's going to hire me, they'd say, you know,
3 "What did I accomplish?" Those are the most important
4 things.

5 Q And fair to say these deal with artificial
6 intelligence?

7 A All but the bottom one, which was published in
8 the Journal of Experimental Psychology. Let me just
9 make sure of that, though.

10 No. One of them involves databases as well,
11 the one that -- the time series were not really
12 artificial intelligence. So the -- I have several
13 publications in time series.

14 Q The database one existed before artificial
15 intelligence did. Is that fair to say?

16 A No, no. No, not -- not at all.

17 Q Oh, okay.

18 A I received a PhD in artificial intelligence in
19 '88, maybe '87. I forgot.

20 Yeah. So the database one and the psychology
21 one.

22 Q They all deal with computer science somewhere?

23 A Not the psychology one.

24 Q Not the psychology one. The last one there I
25 think you're referring to, "The Influence of Prior

1 Knowledge on Concept Acquisition: Experimental and
2 Computational Results." Is that correct?

3 A Yes. Yeah.

4 Q What's the computational results portion of
5 that?

6 A It was a simulation of how people learn
7 concepts.

8 Q And what was that simulation run on?

9 A A computer.

10 Q Okay. Did it involve a computer programming
11 system running that simulation?

12 A Yes.

13 Q Okay.

14 A But the main contribution was the
15 experimental -- the experiments on human subjects.

16 Q Did you conduct those experiments?

17 A I designed those experiments. They were
18 conducted by graduate students of mine.

19 Q Do you have a degree in psychology?

20 A I have training in psychology. My PhD is in
21 cognitive science and artificial intelligence.

22 Q Because I thought your resume said you had a
23 PhD in computer science.

24 A The degree is in computer science, but I
25 was -- took courses in psychology.

1 Q Two courses in psychology?

2 A No, I probably took five or six.

3 Q But you don't have a degree in psychology;
4 correct?

5 A I was able to publish in psychology journals,
6 experimental psychology journals. I don't -- I have
7 training in psychology, but not a degree.

8 Q Right. You don't have a degree in psychology;
9 correct?

10 A One of the members of my PhD committee was
11 only a psychologist, not a computer scientist.

12 Q I understand that, sir. But my question is,
13 you do not have a degree in psychology; correct?

14 A Right.

15 Q All right. And you don't have a degree in
16 mechanical engineering; correct?

17 A Right.

18 Q The most important publications that you've
19 listed here, those were all published in journals;
20 correct?

21 A I'm sure there's a conference in there
22 somewhere.

23 Q Okay.

24 A Yeah, there are some conferences in there.

25 Q And then your CV goes on to describe various

1 grants that you've obtained or received?

2 A Yes.

3 Q And then you have a complete publication list
4 after that that includes, I believe, 85 different
5 journal articles, an edited book, and another book. Is
6 that correct?

7 A Well, thanks for saying 85.

8 Q Oh, I apologize.

9 A I believe it's 52 journal papers, and maybe --
10 maybe 53 now. You may be counting the conference
11 publications as 83.

12 Q I was counting the conference pages.

13 A Yeah. And I will say, in computer science,
14 unlike some fields, conference publications are as
15 important as general publications.

16 Q Sure. So you have 85 of those conference
17 papers; correct?

18 A You know, to be honest, I probably left one or
19 two out, I would say.

20 Q That's okay. You have conference papers, you
21 have books, you have edited books, you have workshops,
22 you have book chapters, journal articles all listed in
23 here; correct?

24 A Yes. Yes.

25 Q No patents; correct?

1 A That's correct.

2 Q You've never been named as an inventor on any
3 patents; correct?

4 A That's correct.

5 Q Why is that?

6 A Well, most of my employees were universities.
7 It's expensive for a university to file a patent. And
8 unless they think it's going to be commercialized or
9 licensed, they don't file a patent.

10 Q Have you ever invented anything that you
11 thought was patentable?

12 A In retrospect, I certainly wish that four or
13 five of these were -- were patented. Yes. But again,
14 universities tend not to do that.

15 Q And they made the call, not you. Is that
16 correct?

17 A No. No. I think for -- for the most part, we
18 didn't contact the university patent office to decide.

19 Q So you have never pursued patent protection on
20 any of the ideas that you've had. Is that correct?

21 A I have never -- right. Yes, that's correct.

22 Q All right. We've been going for about an
23 hour. Do you want to take a quick five, ten-minute
24 break?

25 A If you'd like, yes.

1 Q Sure. Thanks.

2 MR. DANLEY: Thanks.

3 THE VIDEOGRAPHER: This is the end of
4 media number 1. We're going off the record. The time
5 is 10:03 a.m.

6 (Off the record.)

7 THE VIDEOGRAPHER: We are going back on
8 the record. The time is 10:17 a.m.

9 BY MR. JOHNSON:

10 Q Dr. Pazzani, we just took a break. Did you
11 talk about your testimony at all with Counsel during
12 that break?

13 A In -- in general.

14 Q What'd you talk about?

15 A Asked how I did. He said, "Okay." "Should I
16 have done anything different?" And he said, "No."

17 Oops. I shouldn't be telling you what the
18 attorney said.

19 Q Well, the deposition is ongoing, so I'm
20 entitled to that part, but --

21 A Okay.

22 Q So before the break, we were starting to go
23 through your -- or we'd gone through your CV, which is
24 attached to your declaration which is Exhibit 1002. You
25 understand that that is the declaration that you have

1 submitted as direct testimony in this case; correct?

2 A That's correct, yes.

3 Q And this declaration, sir, it's complete;
4 correct?

5 MR. DANLEY: Objection. Vague.

6 THE WITNESS: I guess I'm going to --
7 since it's vague, I'm going to ask you to elaborate more
8 by what you mean by, "Complete."

9 BY MR. JOHNSON:

10 Q Do you understand what the word "complete"
11 means?

12 A This deposition [sic] does not contain
13 everything I did during the three or four months I was
14 retained or -- or I guess writing the report. Yes.

15 Q What doesn't it contain?

16 A It -- it does not contain a lot of the prior
17 art that I looked at that I believed was relevant but
18 was superfluous or redundant.

19 It doesn't contain, you know, statements like,
20 "This is so obvious to any computer scientist. You
21 don't even need the prior art. This is stuff that's
22 taught in Computer Science 101 and, you know, AI 101."
23 But that's not a legal argument. That's just, you know,
24 straightforward reaction.

25 Q Is it fair to say it does contain the entirety

1 of your opinions that you intend to offer in this
2 matter?

3 A No. I believe there's a part at the end that
4 says I'm happy -- that -- that I can revise it as new
5 material -- as new issues come up or others. So this
6 is, you know, of that date. But you know, if one were
7 to do a claim construction and decide a certain word
8 meant a certain thing, I might have to offer a different
9 opinion.

10 Q As you sit here today, do you have any
11 additional opinions to add?

12 A As I read the -- I forget what it's called.
13 Is it the -- the response, whatever your law firm filed?
14 I've thought a little bit more about some of the issues
15 in the response.

16 So I'm sort of more prepared to discuss what
17 was in your response and perhaps elaborate on the
18 arguments that I am to -- if you were to, you know, pick
19 a random claim that you didn't, you know, discuss, I
20 probably don't have any extra info on that. You know,
21 I've reflected upon what you filed.

22 Q Did the response change your opinions?

23 A No.

24 Q So the opinions that are expressed in your
25 declaration are complete; correct?

1 A I believe the conclusions are complete with
2 the current understanding of -- I'll just say claim
3 construction and other legal issues. If -- you know, if
4 there were other nuances of patent law brought up, I
5 might have to change my opinion based on those nuances
6 which I was unaware of at the time.

7 But I believe the basic argument can be
8 supported by other evidence that's not here if
9 necessary.

10 Q And you were aware of that evidence before you
11 signed your declaration; correct?

12 MR. DANLEY: Objection. Vague.

13 THE WITNESS: Not -- not all of it.

14 BY MR. JOHNSON:

15 Q So have you done additional research since
16 signing the declaration?

17 A I reviewed some of the patents and some of the
18 prior art in more detail or read additional sections of
19 them, yes -- I mean, or studied additional sections and
20 saw the relevance of those sections to the report.

21 Q Has that additional review changed the
22 opinions that are reflected in your declaration?

23 A No.

24 Q Okay. I just want to make sure I'm going
25 through your opinions today with you. And the opinions

1 that you have in this case, are those accurately and
2 completely reflected in this declaration?

3 A They're accurately reflected in the
4 declaration. Again, I -- I think "complete" is a bit
5 vague. They're -- that is, I was of the opinion and
6 still am of the opinion there's 19 other ways to say
7 this -- to -- to buttress the argument.

8 But given that the report was already
9 186 pages, you know, it wasn't -- and people have a
10 limited budget for experts, et cetera. And that's --
11 that's not -- that's not here.

12 Q So do you have any other arguments that you
13 intend to present that are not reflected in your
14 declaration as you sit here today?

15 A Not today.

16 Q And your declaration, sir, you understand that
17 that has several sections to it, of course. It's got a
18 table of contents. It's got, you know, a bit of
19 background on you and a bit of background on your
20 credentials.

21 And then it talks a little bit about the
22 materials considered there on page 11 of your
23 declaration. You see that?

24 A Yes.

25 Q Okay. Those are the materials that you have

1 chosen to rely on for purposes of your opinions
2 expressed in your declaration; correct?

3 A To be honest, last night, I noticed that there
4 was one omission we cite in some of the report, one
5 additional publication by Usama Fayyaj and Padhraic
6 Smyth and some others. It's just in the background
7 section on page 29, I believe.

8 Yeah. I just happened to pull that up. Yes.

9 Q Just in the background section. Is that
10 correct?

11 A Yes. Yeah.

12 Q Okay. These references, we talked about the
13 Nicholson Manufacturing manuals and how you were given
14 section 1 of those manuals, at least, by Nicholson
15 employees; correct?

16 A Yes.

17 Q The other references --

18 A I'm sorry. I believe they were given to me by
19 the attorney, not by Nicholson employees. I assume the
20 employees gave to the attorney.

21 Q I see. Got you.

22 A I'm not -- not positive. But that's -- I
23 don't believe I had any direct correspondence without
24 the attorney present.

25 Q Got it. Of these references that are listed

1 in paragraph 12 under Materials Considered, which of
2 those references did you go out and obtain or find?

3 A I would say the Faust [ph] recommendation on
4 ROC analysis, the Levine recommendation on robot
5 grasping, and the Fayyaj one we just discussed on
6 methodology for machine learning.

7 Q The one that's not in the table but discussed
8 later in the --

9 A Yeah. There -- there's a figure there, for
10 instance. Yeah.

11 Q Were you given a budget for this project?

12 A No.

13 Q Do you know why this post-grant review was
14 filed?

15 MR. DANLEY: I just caution the witness
16 to answer, "Yes," or, "No," to that question.

17 THE WITNESS: No.

18 BY MR. JOHNSON:

19 Q Are you aware if there's pending litigation
20 between the parties?

21 A No. I have no -- no awareness.

22 Q Are you aware of whether Nicholson intends to
23 implement artificial intelligence systems in its
24 debarking machines?

25 A No.

1 Q The references that you found, fair to say
2 that none of those references are used in anything other
3 than the background section; correct?

4 A They're -- I guess I -- I'm not sure the legal
5 term for it. I would guess they're examples of, you
6 know, general computer science knowledge, general
7 knowledge, you know, that any person of ordinary skill
8 would have.

9 Q And "person of ordinary skill," what does that
10 term mean to you?

11 A I believe it's a legal term, so I'm not sure
12 of all the nuances. But basically, your average person
13 who would be working in industry, building products like
14 this, designing products like this.

15 Q What products are you talking about in this
16 case?

17 A In this case, I think it's artificial
18 intelligence, computer vision system that identifies
19 trees or -- or anything and sends parameters to -- or
20 looks up parameters in a table that gets sent to a
21 debarker.

22 Q You don't believe that a person of ordinary
23 skill in the art for this matter has to have any
24 experience in debarking; correct?

25 A I believe to do the inventions in the claims,

1 which refer to identifying tree species, whether there's
2 knots in the trees, et cetera, and looking up
3 information in a table to send that information to a
4 debarker, you know, you don't need to know the contents
5 of the table or be able to put things in the table.

6 You need to know how to find things in the
7 table that someone with computer science and artificial
8 intelligence background can do.

9 Q So again, my question is, you don't believe
10 that a person of ordinary skill in the art in this
11 matter has to have any experience in debarking; correct?

12 A I believe they would have to be part of a team
13 in which there was a -- you know, to build the complete
14 product, you'd have to be part of a team in which there
15 was people with debarking experience. But the computer
16 science portion wouldn't require a depth of experience
17 in debarking.

18 Q So a person of ordinary skill in this art at
19 least has to have some debarking knowledge; correct?

20 MR. DANLEY: Objection. Asked and
21 answered.

22 THE WITNESS: What's that?

23 MR. DANLEY: Stating an objection. You
24 can go ahead and answer.

25 THE WITNESS: Not to implement the

1 claims.

2 BY MR. JOHNSON:

3 Q You don't believe a person of ordinary skill
4 in the art has to have any experience in debarking then;
5 correct?

6 MR. DANLEY: Objection. Asked and
7 answered.

8 THE WITNESS: I believe they need to be
9 able to work with experts in debarking, but I believe
10 they don't need the knowledge of debarking.

11 BY MR. JOHNSON:

12 Q So that's a yes to my question; correct?

13 A I'm sorry. I'm going to ask you to restate
14 the question simply before I answer that.

15 Q And again, my question is simple. You do not
16 believe that a person of ordinary skill in this art has
17 to have any debarking experience; correct?

18 A I think that question is vague. So I'd like
19 to get a little bit more detail on what you mean by,
20 "The art."

21 Q You've been using "person of skill in the
22 art"; correct?

23 A Yes.

24 Q You understand what that is; correct?

25 A I do not know all of the nuances of the legal

1 definition of it.

2 Q So do you know what the art is at issue in
3 this case?

4 A I believe the art is, as I've described
5 earlier in the claims, how to use artificial
6 intelligence to find parameters of anything. In this
7 case, happens to be a debarker. Could be an oven; could
8 be a sprinkler. It wouldn't matter.

9 Q You think AI can do anything; right?

10 A Oh, not anything.

11 MR. DANLEY: Objection. Misstates
12 testimony.

13 THE WITNESS: But I believe the AI tools
14 in here are very general purpose, have been applied to a
15 broad range of things from medicine to bird species
16 recognition, flower recommendation.

17 I arrived today in an autonomous taxi
18 without a driver that had to recognize cars, passengers,
19 et cetera. So yeah. Yeah. It's -- it's quite -- quite
20 general.

21 BY MR. JOHNSON:

22 Q Do you know how many patents are associated
23 with that autonomous taxi that you took this morning?

24 A No. But I believe they invented the
25 artificial intelligence, not, as this patent says, used

1 off-the-shelf artificial intelligence. Any method could
2 be applied.

3 Q And so --

4 A And that's where you would need to have a
5 patent.

6 Q So you think the skill here is just in the
7 artificial intelligence implementation, not in what that
8 artificial intelligence is implemented on. Is that
9 correct?

10 MR. DANLEY: Objection.

11 THE WITNESS: I'm positive that any
12 student that I taught at USC, UCSD, UC Irvine, and
13 Rutgers with a computer science background could easily
14 implement what is in the claims.

15 THE OFFICER: I didn't hear your
16 objection.

17 MR. DANLEY: Misstates his testimony.

18 BY MR. JOHNSON:

19 Q And how long have you been teaching, sir?

20 A Since 1988 and with -- with some breaks.

21 Q And do you know why, since 1988, since you've
22 been teaching those students that could do this, no one
23 has?

24 MR. DANLEY: Objection. Calls for
25 speculation.

1 THE WITNESS: They certainly have done --
2 certainly things have been done similar enough to this
3 in the prior art, Gagnon, et cetera. So yeah.

4 BY MR. JOHNSON:

5 Q Not ever with a debarker; correct?

6 A Certainly one of the patents doesn't -- I
7 mean, of course. I mean, that's a debarker that Gagnon
8 uses. So yeah, it's been done before.

9 Q You understand that you've provided a
10 declaration that addresses five different grounds on
11 which you believe the patents are invalid. Is that
12 correct?

13 A I believe there's three sections of law, and
14 one of those sections of law has three grounds. Yeah.

15 Q Okay. So if we look at page 19 of your
16 report, sir -- your declaration. I apologize. Do you
17 see the Summary of Grounds section that's listed there?

18 A Yeah.

19 Q And you see ground 1, prior art argument. And
20 it cites Gagnon, Kambla, knowledge of one of ordinary
21 skill under section 103. Do you see that?

22 A That's correct, yes.

23 Q Do you know what section 103 is?

24 A I'd have to refresh my memory by looking at
25 the legal --

1 Q Sure. I'll just tell you, that's the
2 obviousness section.

3 A Yeah. I mean, I'm sure that's the obvious
4 section. But the exact definition of "obviousness" has
5 been explained to me by the attorney. It stays in my
6 head for a couple hours while I'm doing the work and --
7 yeah.

8 Q Yeah. Do you know the difference between
9 obviousness and anticipation?

10 A I'd have to refer back to the report in
11 particular to --

12 Q You're welcome to. I didn't see anything in
13 the report about anticipation. Anticipation, as I
14 understand it, generally requires that all elements of a
15 claim be found in a single prior art reference.

16 And you have no grounds for anticipation
17 referenced in your declaration. Is that correct?

18 A I believe so.

19 Q So you would agree with me that there is not a
20 single reference in your declaration that shows the
21 entirety of the claimed invention here; correct?

22 A I'll actually be honest; and, you know, again,
23 it's not my -- it's not a legal argument. I believe
24 knowledge of ordinary skill covers everything.

25 However, that's, you know -- but, you know,

1 but -- but there's no single publication cited that --
2 that has every element of every claim.

3 Q And so your declaration, despite your belief,
4 does not take a position that these claims are
5 anticipated; correct?

6 A I believe so. But I'm trusting you on the
7 definition of "anticipation" because I've not gone
8 through the --

9 Q If I got that one wrong, I missed out on
10 Patent 101, so.

11 A Okay. Well --

12 Q That's my version of Computer 101, so --

13 A I promise not to mistakes on Computer 101 if
14 you promise not to make them on Patent 101.

15 Q I will definitely do my best, sir.

16 A Okay.

17 Q So I appreciate that. The grounds that you
18 went through, you mention one reference throughout all
19 of these grounds, which is Gagnon.

20 A Right.

21 Q Okay. Who provided the Gagnon reference to
22 you?

23 A It was provided to me by the law firm.

24 Q Okay. The Gagnon reference, sir, do you
25 understand that its purpose was to evaluate the quality

1 of the debarking process?

2 A Amongst other things, yes.

3 Q What other things?

4 A It's a -- it's a fairly long patent. I guess
5 I -- I don't want to restrict myself to what's in it
6 without reviewing it in its entirety.

7 Q Sure. You would agree that that was the
8 primary focus of Gagnon, was to address the quality of
9 the debarking that had already been done; correct?

10 A Let me just refresh myself.

11 Q Sure.

12 A Certainly, as I reread the abstract, it -- it
13 focuses on the quality of the debarking, yes.

14 Q Yes. Kambla is a patent that takes a picture
15 of a pile of wood and tries to tell you what species are
16 in that pile of wood. Isn't that right?

17 A Amongst other things, yes.

18 Q Okay. Is Kambla useful at all if the pile of
19 wood is a consistent species of wood?

20 A Yeah, well, first of all, you might want to
21 verify that it's consistent, so it -- it would be --
22 Kambla does some other things as well. Yes.

23 Q So Kambla, basically, is trying to tell you
24 what types of wood are in a giant pile; correct?

25 A That is one of the things that Kambla does,

1 yes.

2 Q Okay. It also does a volume estimation;
3 correct?

4 A Yes.

5 Q Okay. Ido, another reference that you rely
6 on, is mainly used in taxonomy; correct?

7 A I don't know what you mean by, "Mainly used in
8 taxonomy." It's a contribution to computer science
9 showing that you could deal with imperfect data on tree
10 species to identify the species of the tree.

11 Q And Ido takes pictures of trees that are
12 standing up; correct?

13 A That's right.

14 Q And those trees are still in the ground, and
15 they're standing up because they're alive; right?

16 A I -- I don't know. There may be a dead tree
17 standing up. I've certainly seen that.

18 Q I understand that point.

19 A But I think they're in the ground, yeah.

20 Q My back yard appreciates that distinction, so.

21 A Okay.

22 Q So Ido is dealing with trees that are in the
23 ground; correct?

24 A Yes.

25 Q Okay. I'm going to mispronounce this,

1 Petruzella. Petruzella?

2 A I don't know.

3 Q Okay. That's the other reference that you've
4 relied on here. Petruzella in ground 3, that doesn't
5 have anything to do with debarking; correct?

6 A It's a more general computer science
7 publication. And to the extent that debarkers use
8 computers, it does.

9 Q It's more just about generic automation of
10 things; correct?

11 A Yeah, I'd say that.

12 Q Okay. It doesn't talk about implementing
13 automation on debarking machines at all; correct?

14 A I haven't read the complete thing of
15 Petruzella and every reference in there. But certainly
16 I would -- I would concur that debarking is not a focus
17 of the introductory textbook on programming logic
18 controllers. Yeah.

19 Q Right. And not only is it not a focus.
20 "Debarking," the word, is not mentioned in Petruzella;
21 correct?

22 A I'm not sure. I didn't search for it.

23 Q You didn't search for it. Okay. Kambla
24 doesn't talk about a debarking process either; does it?

25 A I'd have to look more closely. It's -- I

1 mean, it's certainly part of the wood harvesting.

2 I'd -- I'd have to look at it more closely to see if
3 it -- it mentions debarking at all.

4 The part that I relied on didn't really
5 mention debarking other than it was looking at logs with
6 bark on them, which, I guess, is part of the debarking
7 process.

8 Q But it doesn't mention actually using this
9 system in a debarking process; right? You added that
10 last part?

11 A I do not recall a section -- I'm sorry? I --

12 Q You added that you considered it part of a
13 debarking process. That's not actually discussed in
14 Kambla; correct?

15 A I don't believe I considered -- said it was
16 part of the debarking process. I think I said the wood
17 harvesting process.

18 Q I see. It's part of the wood --

19 A The lumbering process, whatever. Yeah,
20 whatever.

21 Q Okay. Do you know the difference between wood
22 harvesting and wood processing?

23 A Oh, well, in which case I guess one is putting
24 the stuff on the truck; the other is what you do after
25 you take it off the truck, perhaps. But no -- no, I

1 don't.

2 Q Do you know the important parameters in
3 debarking?

4 A They are -- were within the patent. And also,
5 Nicholson discussed them with me as well. So I am aware
6 of them, yes.

7 Q Okay. What are those?

8 A Well, some of them are things like the amount
9 of pressure that a knife has, the speed of rotation, the
10 speed in which a log is flowed through the debarker, I
11 think the -- did I mention angle?

12 So those are some of the parameters that
13 are -- are set. And I assume, you know, different
14 debarkers have slightly different parameters based on
15 how they operate.

16 Q Do you know the benefits of optimization of a
17 debarking machine?

18 A In -- in general, yes.

19 Q What are those benefits?

20 A I think you want to get all of the bark off
21 or, you know, most of the bark out. I'm sure there's
22 standards if you're doing lumber. I've unfortunately
23 bought a piece of lumber with some bark on it.

24 And then -- but also, you don't want to throw
25 too much of the good wood away. So it's that -- that

1 trade-off between how much bark you take off and how
2 much wood you leave behind.

3 Q And you discuss a little bit of that on
4 page 20 of your declaration here, sir, when you're
5 talking about the background of debarking machines. Do
6 you see that, sir?

7 A Yeah.

8 Q And here, it says that you had a conversation
9 with employees at Nicholson, Mike Mason and James
10 Bowden. Do those names ring a bell?

11 A No.

12 Q Okay. Do you know --

13 A So -- sorry.

14 Q No, that's --

15 A I mean, I'm sure -- I'm sure that's accurate.
16 But no, they don't ring a bell.

17 Q That's okay. Do you know who Mike Mason is?

18 A No.

19 Q Do you know who James Bowden is?

20 A Other -- other than, at that time, they were
21 employee -- represented as employees of Nicholson.

22 Q Okay. Do you know if either of them are
23 computer scientists?

24 A I don't, no.

25 Q Okay. Do you know if any of them have

1 designed debarking machines?

2 A No.

3 Q Did they talk to you at all about the
4 implementation of artificial intelligence on a debarking
5 machine?

6 A No.

7 Q Did they talk about the benefits of artificial
8 intelligence being implemented on a debarking machine?

9 A No.

10 Q Did they talk about the difficulties of
11 implementing artificial intelligence on a debarking
12 machine?

13 A No.

14 Q So paragraph 30 of your declaration, sir, you
15 say "My understanding is that the industry typically
16 looks for wood chips containing less than 1 percent
17 bark." And that's --

18 A I'm sorry. What page are you on?

19 Q I'm on page 20.

20 A Oh, that can explain. I'm on page 30. I'm
21 sorry.

22 Q Oh, no. That's okay.

23 A I think --

24 Q I'm on paragraph 30.

25 A Ah, got it.

1 Q In paragraph 30, again, my question is, you
2 say "My understanding is that the industry typically
3 looks for wood chips containing less than 1 percent
4 bark." Do you see that?

5 A Yes.

6 A Where did you get that statistic from?

7 A From Mike Mason and Bowden.

8 Q Okay. Do you know how the implementation of
9 artificial intelligence on debarking machines affects
10 the ability of those machines to produce wood chips
11 containing less than 1 percent bark?

12 MR. DANLEY: Objection. Vague.

13 THE WITNESS: Can you restate the
14 question?

15 BY MR. JOHNSON:

16 Q What didn't you understand in the question,
17 sir?

18 A I guess, since my attorney objected, I trailed
19 off and was wondering -- my mind has gone to, what's the
20 objection, et cetera.

21 Q Sure.

22 MR. JOHNSON: Can we have the question
23 read back, please?

24 THE OFFICER: Yes, of course. One
25 moment.

1 (The officer repeated the record as
2 requested.)

3 THE WITNESS: No. The discussion was on
4 how the parameters affect the amount of bark, but not on
5 how artificial intelligence affects the bark.

6 BY MR. JOHNSON:

7 Q Okay. So you did not consider any evidence of
8 improvement to the debarking process that were obtained
9 by implementing artificial intelligence in the debarking
10 process. Is that correct?

11 A I believe the Gagnon patent talks about using
12 techniques for improving the debarking process, et
13 cetera. So certainly to the extent that Gagnon is
14 there, yeah.

15 Q Gagnon talks about it in the context of
16 evaluating the success of the debarking process;
17 correct? I think we talked about that already.

18 A Well, and amongst other things, there's
19 actually two things in Gagnon that -- that are probably
20 worth mentioning. One is the downstream analysis after
21 the debarking and how that affects what parameters you
22 want to set in a feedback loop.

23 But Gagnon also talks about how the tree
24 species and other characteristics of the tree upstream
25 from the debarker affect that as well.

1 Q And Gagnon talks about using a computerized
2 feedback loop, right, where it's looking at what
3 happened to the first log and telling the user, "Hey,
4 you can maybe set these parameters for the incoming
5 log." Is that correct?

6 A That is not all that Gagnon discusses. As I
7 mentioned, Gagnon also discusses how information
8 upstream affects the parameters that you can be set in
9 that feedback loop.

10 Q Information, but it doesn't actually use
11 artificial intelligence to set those upstream
12 parameters; correct?

13 A It discusses how tree species and a couple
14 other things --

15 Q Right. I understand the parameters argument,
16 but not the artificial intelligence use. That's used
17 downstream, not upstream; correct?

18 A Let's see. Furthermore, knowing or measuring
19 upstream the intrinsic characteristics each log entering
20 the debarker such as the diameter and wood species is
21 environmentally -- and points -- and environmental
22 influences such as temperature and moisture affects
23 that.

24 So it talks about knowing it. You could know
25 it in a variety of ways or measuring it, including

1 artificial intelligence.

2 Q It doesn't mention that though; correct?
3 You're supposing that; right?

4 MR. DANLEY: Objection. Vague.

5 THE WITNESS: Can you make it less vague?

6 BY MR. JOHNSON:

7 Q What about that is vague, other than your
8 counsel making an objection to its vagueness?

9 A Can you repeat the question?

10 THE OFFICER: Yes. One moment.

11 (The officer repeated the record as
12 requested.)

13 MR. JOHNSON: Read the question before
14 that, or the answer before that, I guess. That might
15 help.

16 THE OFFICER: One moment.

17 (The officer repeated the record as
18 requested.)

19 THE WITNESS: I don't mean to be critical
20 of the court reporter since my wife was a court
21 reporter. But that was read in a monotone voice,
22 pausing at the wrong times. And I don't understand what
23 you said.

24 THE OFFICER: I'm employing the audio --

25 MR. JOHNSON: That's okay. I'll re-ask

1 the question. Let's just move on from that.

2 MR. JOHNSON: And I -- I do apologize.

3 THE OFFICER: No worries.

4 MR. JOHNSON: We'll just move on.

5 THE WITNESS: I would have to review all
6 of Gagnon. Certainly, I quoted something from page --
7 from paragraph 6. I'd have to review the rest of Gagnon
8 to see if information in paragraph 6 has been discussed
9 or could be done by the -- the artificial intelligence
10 mentioned in Gagnon.

11 BY MR. JOHNSON:

12 Q You understand that the artificial
13 intelligence or the sensor analysis in Gagnon is done
14 post-processing; correct?

15 MR. DANLEY: Objection. Form.

16 THE WITNESS: I -- the claims of Gagnon
17 focus on post-processing. The specification clearly
18 mentions upstream processing of information such as tree
19 species, moisture, diameter, et cetera.

20 BY MR. JOHNSON:

21 Q Upstream processing in Gagnon is done by a
22 user, not an automated system; correct?

23 A Oh, no. I don't believe that at all. At
24 least Gagnon --

25 Q You don't? Well --

1 A Well, not if you read paragraph 6.

2 Q You don't support element 1(b) of the claims
3 identifying characteristics of un-debarked logs based on
4 the characterization of the un-debarked log using a
5 trained deep learning model with Gagnon in your report
6 or your declaration. You only rely on Kambla; correct?
7 Not shown --

8 A I -- I'm sorry. I rely on Ido or Kambla.

9 Q But not Gagnon; correct?

10 A But you've asked me whether it's possible to
11 do Gagnon alone and it was convenient to use Ido, much
12 more direct, convenient -- much more specific. I --
13 it's possible one could read Gagnon paragraph 6 and
14 something in paragraph 30 and put them together to do
15 this, yeah.

16 And I just made up paragraph 30. I'd have to
17 look for it.

18 Q Right. But Gagnon doesn't actually do that.
19 You are relying on a person of ordinary skill in the art
20 to do that on their own; correct?

21 A The claims of Gagnon did not do that. I --
22 I'll agree with you on that.

23 Q You do not cite the specification of Gagnon
24 for doing that element in your declaration; correct?

25 A There's a large number of things I don't cite

1 that do that. Yes.

2 Q Okay. So I'm correct that you don't cite
3 Gagnon for that purpose; correct?

4 A Certainly that paragraph of Gagnon is cited.
5 I'd have to -- I'd have to go into more detail as to
6 where it's cited, under what -- and what purpose, but
7 yeah.

8 Q That's fine. We can go through all of these
9 claim elements and the grounds and things. And I guess
10 we'll do that.

11 The Ido reference, let's talk about that for a
12 second.

13 A Sure.

14 Q Ido reference discloses tree species
15 identification using a bark image; correct?

16 A Yes.

17 Q Okay. And I believe Ido, on page 45 in
18 paragraph 73 of your declaration, you note that it has
19 an accuracy of only 74.7 percent. Is that right?

20 A Yeah, if that's -- if that's in the report.
21 I'd have to check. I mean, you may have misread it.
22 But yeah.

23 Q I'm reading page 45. You're welcome to look
24 at it. And it's based off of a training using data from
25 19,995 images, meaning that, with about 5,000 images,

1 Ido gets it wrong. Is that right?

2 MR. DANLEY: Objection. Form.

3 THE WITNESS: Ido meets the criteria
4 for -- well, certainly the criteria for publishing a
5 paper. If you get it wrong, you can't publish a paper
6 in, you know, peer-reviewed publications.

7 BY MR. JOHNSON:

8 Q Do you consider 74.7 percent correct
9 identification to be a successful implementation?

10 MR. DANLEY: Objection. Form.

11 THE WITNESS: It can be.

12 BY MR. JOHNSON:

13 Q Is it here for tree bark identification? Do
14 you believe that's successful?

15 A I believe it can be.

16 Q Based on what?

17 A You would have to -- I'm going to say at -- at
18 this point, based on the fact that it's been published
19 in a peer-reviewed journal, it -- it certainly is doing
20 better than chance, which would probably be 20 percent.
21 And so that's certainly, you know --

22 Q You have no idea how getting it wrong more
23 than 25 percent of the time would affect a debarker's
24 ability to keep bark out of more than 1 percent of the
25 wood chips; correct?

1 A That's correct.

2 Q You provide a detailed explanation of your
3 unpatentability grounds beginning on page 58 of your
4 declaration. And I'd like to go through those grounds
5 with you, sir, and what your declaration says.

6 Again, you have three grounds under
7 section 103. Ground 4 is under Section 101. And
8 ground 5 is Indefiniteness under section 112. Do you
9 see that, sir?

10 A Yes.

11 Q Okay. Going through ground 1, you go through
12 each claim element as you've broken them apart. And
13 that starts on page 59. And I just want to understand
14 the structure of your declaration a little bit here,
15 sir.

16 You've listed out the claim elements. You've
17 broken them up. And then underneath it, you've said
18 what reference you believe discloses that element and
19 why. Is that correct?

20 A Yes.

21 Q Okay. And so if we look at claim element B,
22 claim 1 -- and I take that back. I'm sorry. It's
23 paragraph -- or section B on page 61.

24 A Page --

25 Q And it's element 1(a).

1 A 1(a), yes.

2 Q Yeah, as you've called them out. Performing a
3 contactless characterization of the un-debarked log, you
4 say you're using the plain and ordinary meaning of
5 "characterization." And you cite a Merriam-Webster
6 dictionary from 2025. Is that right?

7 A Yes.

8 Q Why did you feel the need to define
9 "characterization"?

10 A I don't recall.

11 Q Were you told to do that?

12 A It was done in collaboration with the
13 attorneys.

14 Q Did you look up the definition yourself?

15 A Yeah. I looked it up in several dictionaries.
16 I was trying to find it in computer science
17 dictionaries, but it really wasn't -- wasn't in computer
18 science dictionaries. So ordinary meaning.

19 Q And who provided the Merriam-Webster
20 definition?

21 A I don't recall. Certainly I access
22 Merriam-Webster online all the time, so.

23 Q So you applied the plain and ordinary meaning
24 of all of these terms throughout your declaration. Is
25 that right?

1 A Again, you're asking me about something I
2 wrote six months ago. And I did most preparation for
3 this with respect to the response that your firm filed.
4 I don't think it filed anything about the word
5 "characterization." So -- or -- or claim construction,
6 et cetera. So I -- I don't recall.

7 Q How long did it take you to put this
8 declaration together?

9 A I don't recall the exact thing. Somewhere
10 between 20 and 40 hours, I think. So I mean, I'm not --
11 not sure.

12 Q Okay. And I know you talked to two folks at
13 Nicholson Manufacturing. It looks like you talked to
14 them on August 21st of 2025; correct?

15 A Right.

16 Q Was that the first time that you'd ever talked
17 to anyone at Nicholson?

18 A Yes, I think so.

19 Q First and only; right?

20 A Yeah. Yeah.

21 Q Okay. And then eight days later, you signed
22 your declaration; right?

23 A Correct.

24 Q Okay. So you learned all you needed to know
25 about debarking machines from the Nicholson folks in

1 eight days?

2 MR. DANLEY: Objection. Misstates his
3 testimony.

4 BY MR. JOHNSON:

5 Q Right?

6 A Not at all. I verified that the aspects of
7 barking -- debarking machines that I cited within the
8 report were -- I -- I just wanted to gain verification
9 of what was in the report.

10 Q Okay. Going back to your report, you say
11 that -- in paragraph 104 on page 64, you're talking
12 about the motivation to combine?

13 A Sure. Do you know what "the motivation to
14 combine" means?

15 A I'd have to read the exact legal standard.
16 But I'll -- I'll just say there has to be some reason
17 that someone would combine the two things.

18 Q And when you were doing your declaration,
19 you'd already read the patent, read the claims, knew
20 what you were trying to put together; correct?

21 MR. DANLEY: Objection. Vague.

22 THE WITNESS: Certainly it -- it's an
23 iterative process.

24 MR. JOHNSON: Right.

25 THE WITNESS: So you read it; you think

1 about it; you go back; you read some more. So -- so it
2 wasn't as though, you know, you read, then you write.

3 BY MR. JOHNSON:

4 Q Well, you did. You read the patent, then you
5 wrote your declaration; correct?

6 A Ooh. You -- you read; you outline; you ask
7 yourself, "Is this enough evidence? Is there additional
8 evidence?" et cetera.

9 Q Right. But you had already read the patent
10 before you ever started writing your declaration;
11 correct?

12 A Certainly.

13 Q Right. So you had that hindsight benefit of
14 the patent knowledge before you went in to write your
15 declaration; correct?

16 MR. DANLEY: Objection. Form.

17 THE WITNESS: I'm not quite sure what you
18 mean by, "Hindsight knowledge." I read the
19 specification to understand what the claims were about.

20 BY MR. JOHNSON:

21 Q And you had all of that before you wrote your
22 declaration, right, all of that hindsight benefit?

23 MR. DANLEY: Same objection.

24 THE WITNESS: I had the information, yes.

25 //

1 BY MR. JOHNSON:

2 Q Yes. You were aware of what you were writing
3 your declaration for; correct?

4 A Certainly. I mean, when -- when -- yes, when
5 you're -- when you're writing it about obviousness, you
6 understand why you're writing it about obviousness.
7 Yeah.

8 Q Yeah. In the context of building something,
9 you knew what you were supposed to build and were
10 looking for the parts; correct?

11 A I wasn't trying to build anything.

12 Q I understand.

13 A I was --

14 Q I was using an analogy.

15 A Yeah.

16 Q Right. I'm using an analogy. You were trying
17 to -- you know, you knew the claims. You knew what
18 those claims required. And you were looking for how the
19 prior art fit those claims; correct?

20 A Whether. You said, "How." I was looking at
21 whether the prior art -- the claims.

22 Q And your motivation to combine references
23 here -- you say "Moreover, both Kambla and Gagnon are in
24 the same field of logging operations."

25 Why did you mention the field of logging

1 operations when you've testified previously that the
2 field of the invention is artificial intelligence?

3 A I -- I don't recall my rationale behind every
4 sentence here.

5 Q Did you write your declaration entirely, or
6 did counsel help?

7 A I -- it was collaborative with counsel.

8 Q So the field of logging operations, do you
9 know what that field is?

10 A In general, yes.

11 Q And where does that knowledge come from?

12 A General understanding, background that you
13 gain over 66 years or so of the world, you know, where
14 paper comes from, where logs come from, you know.

15 Q But your experience in this case with logging
16 operations came entirely from looking at websites and
17 talking to two people on one day eight days before you
18 filed your declaration; correct?

19 A On debarking, the experience came -- again,
20 some -- some of the manuals and other things and looking
21 at websites was a month or two before the report was
22 done. Again, the conversation was --

23 Q That's where it came from; correct?

24 A Yeah. I mean, so basically, to be honest, the
25 conversation was more my asking them questions than them

1 providing me information.

2 Q Eight days before you signed your declaration;
3 right? That's when those asks and answers happened;
4 correct?

5 A Yes.

6 Q And prior to that, you'd never been to a
7 sawmill; correct?

8 A I believe so.

9 Q And I think we talked about it earlier; you'd
10 never seen logging operations in person; correct?

11 A I believe so.

12 Q Okay. So the field of logging operations, and
13 more specifically, processing logs into lumber, you've
14 never processed a log into lumber; have you?

15 A No.

16 Q You've never even seen that done in person;
17 correct?

18 A No. I've just seen the results.

19 Q Correct. And then you say "A person of
20 ordinary skill would look to the tree measuring and
21 characterization features of Kambla to incorporate and
22 improve upon the system described in Gagnon."

23 The person of ordinary skill there, would that
24 still be someone who's just a -- I don't want to say,
25 "Just," because it's a very sophisticated field. But

1 would that be an artificial intelligence person, not a
2 logging person?

3 A I believe you can -- a person with artificial
4 intelligence can gain the basic knowledge of debarking
5 necessary for this easily. A person with an advanced
6 degree in mechanical can probably pick up the computer
7 science as well.

8 Q Why would a person who has no experience in
9 the logging field ever look to Kambla to solve a problem
10 dealing with artificial intelligence?

11 A I don't think any of this is solving a problem
12 in artificial intelligence. I think this is applying
13 well-known artificial intelligence techniques to -- to
14 the debarking, logging industry. I guess you look
15 closer to home.

16 Q Where's home? I thought you said earlier that
17 home was artificial intelligence, not logging. Is that
18 right, or is home logging?

19 A I believe actually home is artificial
20 intelligence. But when I wanted to bring in more basic
21 artificial intelligence things, I was advised by the
22 attorneys that that's too long a thing. Can we find
23 something closer to -- with logging?

24 And so we found things closer in the logging
25 industry that showed how obvious applying artificial

1 intelligence to anything. Yes.

2 Q And you believe it would've been obvious to
3 apply artificial intelligence to anything; right?

4 A If you have an image recognition problem in
5 2019 -- I'll say this. I know that priority date is
6 2020. There were so many publications.

7 I -- I work in the medical field. Every
8 medical journal had "Here's how you take images of eyes
9 and do ophthalmology. Here's how you take X-rays and do
10 radiology."

11 So for any field in medicine, that was true.
12 Those publications are out there throughout every field,
13 how to apply artificial intelligence to that. Yeah.

14 Q And so the attorneys focused you on the
15 logging field; correct?

16 A Yes.

17 Q I'd like to talk to you a little bit about
18 footnote 3 on page 65, where you say "As noted above,
19 there is nothing within Kambla indicating that the
20 method cannot be formed on a pile consisting of one
21 log." Do you see that, sir?

22 A Yes.

23 Q Does Kambla actually say to use its method on
24 a single log?

25 A Kambla's tree -- tree species identification

1 is done on a single log on paragraph 89 of Kambla.

2 Q But that's a single log within a pile;
3 correct?

4 A Half of Kambla is about how you ignore the
5 rest of the pile and find a single log.

6 Q It's about sorting; right?

7 A Oh, I don't think it's about sorting.

8 MR. DANLEY: Can we let the witness
9 answer.

10 BY MR. JOHNSON:

11 Q Sorry. I didn't mean to interrupt you.

12 A Yeah.

13 Q Is Kambla about sorting the logs in the pile?

14 A Not at all. I -- I -- well, I'm sorry. "Not
15 at all," is not correct.

16 Kambla's focus is on counting the number of
17 logs, volume estimation. And part of that is to find an
18 individual log, what species it is and what its diameter
19 is. But it does that one log at a time.

20 Q Within a pile; correct?

21 A Again, one portion of Kambla is called object
22 identification. I'm not relying on that here. But
23 object identification picks things out of a pile.
24 Another part is the characterization or categorization
25 or classification. And that's -- that's done on a

1 single log.

2 Q If we look at page 66, your section C,
3 element 1(b) "Identifying --

4 A Sixty-six?

5 Q I'm sorry. Yes. It's the next page after
6 that, footnote 3, sir. Do you see it?

7 A Yes.

8 Q Okay. Section C, element 1(b), it says
9 "Identifying characteristics of the un-debarked log
10 based on the characterization of the un-debarked log
11 using a trained deep learning model."

12 A Yes.

13 Q Okay. And the reference that you believe
14 discloses element 1(b), the only reference you mentioned
15 is Kambla in 106; correct?

16 A Right.

17 Q All right.

18 A But Kambla cites a paper in there. I think
19 there's a URL in paragraph 89, if I'm not mistaken. And
20 that URL is on a system called Caffe developed at
21 Berkeley that I -- I've used and visited Berkeley and
22 worked with the people there who developed that. And
23 that is a trained neural network system, yeah.

24 Q Kambla doesn't cite Gagnon. Fair to say;
25 correct?

1 A I don't believe Kambla cites Gagnon. Kambla
2 cites the -- amongst other things, the Caffé system.
3 Yeah.

4 Q And you don't cite Gagnon in paragraph 106;
5 correct?

6 A In paragraph 107, I cite Gagnon. In
7 paragraph 106, I don't. Yeah. But for claim 1(b),
8 they're both cited. Yes.

9 Q Paragraph 106 is about whether or not
10 element 1(b) is provided in another reference. In
11 paragraph 107, you're discussing the motivation to
12 combine 106 with the rest of the disclosure in Gagnon;
13 correct?

14 A Yes.

15 Q Sorry. Correct? I just wanted to make sure
16 we weren't talking over each other there. So that's
17 correct; right?

18 A Yes. Again, this wasn't in your response or
19 reply. I forget exactly what it's called. So I've -- I
20 mean, as -- as I read these today, yes, that's correct.
21 I'm sorry I didn't prepare specifically for that
22 question.

23 Q You're fine. I just wanted to make sure we
24 had a clear record.

25 A Okay.

1 Q Thank you, sir. We've been going for another
2 hour. Do you want to take a break, or do you want to
3 keep going? We can power through until lunch if you
4 want.

5 A I -- I don't need lunch even.

6 Q Okay. It's up to you, sir.

7 A Do you have a flight to catch?

8 Q I do not.

9 A Okay.

10 Q So I get to sleep in my own bed without kids
11 tonight, so it'll be great.

12 A Oh, let's see. My wife was a court reporter.
13 I -- I think it would be nice to give the court reporter
14 a break.

15 Q That's fine. We can take -- let's take
16 another ten minutes.

17 THE VIDEOGRAPHER: This is the end of
18 media number 2. We're going off the record. The time
19 is 11:17 a.m.

20 (Off the record.)

21 THE VIDEOGRAPHER: We're going back on
22 the record. The time is 11:31 a.m.

23 BY MR. JOHNSON:

24 Q Sir, I'd like to flip to another paragraph in
25 your declaration. It's on page 70, paragraph 111.

1 A Seventy, one-eleven.

2 Q Yeah. And there, you say "Finally, it is my
3 understanding based on my discussion with employees at
4 Nicholson." Is that referencing back to that discussion
5 that we talked about earlier with the two employees?

6 A Yeah, that's -- yes.

7 Q That's the only discussion that you had with
8 employees at Nicholson; correct?

9 A I only -- I only had one discussion;
10 99.9 percent positive, yeah.

11 Q Okay. Did you have any notes from that
12 discussion that you relied on for this declaration that
13 you submitted?

14 A Let's see. I had a bunch of questions that I
15 wrote before that. I don't believe I -- I don't believe
16 I wrote notes during -- during that, though.

17 Q You didn't write down the answers to your
18 questions. Is that right?

19 A No. I mean, they were pretty straightforward,
20 more, you know --

21 Q Okay. And again, did you obtain a declaration
22 that you can rely on from those folks at Nicholson?

23 A I -- I don't believe there's a -- I -- I have
24 not seen the declaration from Nicholson.

25 Q Okay. And that's referenced kind of

1 throughout your declaration. And I just don't want to
2 go through and ask you about when you talk about a
3 discussion with employees at Nicholson every time.

4 But is it fair to say that every time you
5 mention a discussion with employees at Nicholson, that's
6 the discussion you're talking about, that one with those
7 two folks on August 21st?

8 A Yes. Yeah. Again, don't recall the date, but
9 if that's -- that's what was written.

10 Q Yeah. I'm not trying to misrepresent the date
11 in any way, shape, or form, sir. I'm just trying to
12 make sure I have things correct. So let's double check
13 it here.

14 Yeah. On page 20, you say "My conversation
15 with the Nicholson employees occurred on August 21,
16 2025." That's the only time you spoke to them?

17 A Right.

18 Q Okay. Good, good. Then going on, on page 73
19 and onto page 74 with paragraph 116, you provide an
20 image.

21 I'm sorry. It's on page 73 and 74.

22 A Yes.

23 Q There's a sentence on page 74 there that says
24 "Accordingly, it is my opinion that one of ordinary
25 skill in the art would know that the PLC selects the

1 debarker operating parameters based on the input data
2 related to the intrinsic characteristics of the log,
3 e.g. tree species." Is that right?

4 A I'm sorry. I'm going to have to go back and
5 look at -- so I -- I'm sorry. I -- I want to look at
6 the complete element 1(e).

7 So for instance -- I'm sorry. I didn't recall
8 whether this was from Gagnon or -- or not.

9 Q My question, just so you know, is the person
10 of ordinary -- one of ordinary skill in the art that you
11 reference here is, again, just a person -- and I
12 apologize for that. Let me rephrase.

13 Your sentence says "It's my opinion that one
14 of ordinary skill in the art." And my question is that
15 one of ordinary skill in the art that you reference here
16 is the individual who has AI training but no logging
17 training; correct?

18 A I -- I believe I said something like, you
19 know, master's degree in -- in computer science or
20 mechanical or other engineering was the person of
21 ordinary skill in the art. So that would include AI,
22 but again, could be someone with mechanical engineering
23 skill as well.

24 Q You don't mention any logging or debarking
25 experience being required, though; correct?

1 A In order to read from a table which parameters
2 are appropriate for which tree, you don't need to have
3 that knowledge. In order to put the data in a table,
4 you would of course need that knowledge.

5 Q My question is, though, when you're
6 referencing the one of ordinary skill in the art in
7 paragraph 116, you are referring to someone who has no
8 knowledge of logging or debarking; correct?

9 A I believe in order to retrieve operating
10 parameters associated with identified characteristics,
11 you do not need debarking knowledge. You need the
12 ability to scan the table to -- indexed by
13 characteristics to find the entry in the table.

14 This could be done on paper. This could be
15 done with a computer. I guess since it's -- the word
16 "computation" is in there, I guess we're referring to
17 being done on a computer. So 1(e) does not, in my
18 opinion, require knowledge of logging or debarkers.

19 Q So your definition of "one of ordinary skill
20 in the art," as mentioned in paragraph 116, again, is
21 someone who does not need to have any knowledge of
22 debarking; correct?

23 MR. DANLEY: Objection. Form.

24 THE WITNESS: I guess I'll -- I'll just
25 stand by what's -- what's in the report, you know,

1 masters in the engineering fields that we've discussed,
2 not necessarily the specifics of debarking.

3 BY MR. JOHNSON:

4 Q Right. And what you've mentioned in your
5 report is certain educational requirements. But you
6 don't mention any knowledge requirement in the debarking
7 or logging field; correct?

8 A As we are -- I mean, so is this question now
9 focused specifically on element 1(e)?

10 Yes, so to look at characteristics and
11 retrieve parameters based on those characteristics.
12 These could be characteristics of trees sent to a
13 debarker, characteristics of a landscape sent to a
14 sprinkler controller, characteristics of my meal sent to
15 the oven. You need to follow a recipe, basically.

16 Q Yeah. And it's not just paragraph 116. It's
17 throughout your entire declaration that you believe the
18 level of ordinary skill in the art is someone who has
19 certain educational experience but has no requirement to
20 have any debarking or logging experience; correct?

21 A Again, to -- I guess I'd rather do this on a
22 claim-by-claim basics than every claim, but --

23 Q Well, and that's what I'm really trying to get
24 at, is, does the level of ordinary skill that you
25 reference in your declaration vary, or is it consistent?

1 Because you define it in paragraph 26, and I want to
2 know if that's the definition that you are using
3 consistently throughout your declaration or if you're
4 changing it.

5 A I -- I'm not changing it. It's consistent
6 with, again, general engineering degree that we've
7 discussed, whether it's computer science or mechanical.

8 Q And there is no debarking experience required
9 in your definition of "the level of ordinary skill in
10 the art"; correct?

11 A Not to identify a tree species or humidity or
12 dryness of logs and not to -- based on the tree species
13 and moisture content of a log to find things in a table.

14 Q So that's correct. There's no debarking or
15 logging experience required when you say "Level of
16 ordinary skill," throughout your declaration. That's
17 consistent; correct?

18 A Yes.

19 Q Okay. If we look at page 76, paragraph 119 --

20 A Page 76.

21 Q You talk about claim 2 being rendered obvious.
22 And here you're using Gagnon in view of Kambla as you
23 discuss with regard to claim 1. And then you say
24 "Kambla discloses the additional limitations of
25 claim 2"; correct?

1 A Yeah.

2 Q And you would agree that your discussion of
3 claim 2 with regard to ground 1 in paragraphs 120, 121,
4 122, you don't rely on a disclosure from Gagnon at all
5 to disclose the element of claim 2; correct?

6 A To the extent that claim 2 relies on claim 1
7 and claim 1 requires Gagnon, yes.

8 Q Correct. But not for the additional elements
9 provided by claim 2. You don't rely on Gagnon at all
10 for that additional element provided by claim 2;
11 correct?

12 A That's correct.

13 Q Okay. Claim 123, you're talking about the
14 motivation to combine. I just want to know, is
15 claim 123 a complete statement of your opinions with
16 regard to the motivation combine there?

17 MR. DANLEY: Counsel, you said,
18 "Claim 123."

19 MR. JOHNSON: I'm sorry.

20 BY MR. JOHNSON:

21 Q I want to know if paragraph 123 is a complete
22 statement of your reasons regarding a motivation to
23 combine. Is that correct?

24 A I believe it is sufficient but not complete.
25 That is, I -- one could find other evidence in other

1 parts of each of the patents.

2 Q But all you've stated, everything you're going
3 to state in this case is at least contained in
4 paragraph 123; correct?

5 A I -- I believe I reserve the right to revise
6 my report, as -- as it said. I -- again, I believe that
7 is sufficient. But if I stated everything that was
8 sufficient, this would be 1,000 pages.

9 Q And you're not aware of any need to amend
10 paragraph 123 as you sit here today. Is that correct?

11 A I can elaborate it on or simplify it. Or
12 "simplify" is -- I could certainly elaborate on it, but
13 that elaboration might not be necessary.

14 Q You don't believe it's necessary today; do
15 you? Do you believe paragraph 123 is sufficient?

16 A 122?

17 Q 123. I think I said, "123," that time.

18 MR. JOHNSON: And thanks for the
19 clarification. Appreciate it.

20 THE WITNESS: Yes.

21 BY MR. JOHNSON:

22 Q If we look at claim 3, which you start to
23 discuss on page 78 of your report here, claim 3 says
24 "The method of claim 1, the characterization of the
25 un-debarked log using one or more sensors." There, you

1 say -- apologies.

2 In paragraph 126, you are again relying on the
3 disclosure in Kambla alone for that additional element
4 of claim 3; correct?

5 A Again, because this was not in the response, I
6 have not studied this section. I focused on the
7 sections in the response. Please give me a minute to --
8 to look at it.

9 Q Take all the time you need. You're fine, sir.
10 Let me know.

11 A Okay. I've read paragraphs 125 and 126. Can
12 you repeat the question?

13 Q Sure. Paragraph 126, you are relying
14 exclusively on Kambla to disclose the elements added by
15 claim 3; correct?

16 A I believe the discussions in Kambla are
17 sufficient, yes.

18 Q And Kambla is the only reference that you
19 discuss as providing those elements in paragraph 126;
20 correct?

21 A I guess I'm also kind of relying on the
22 general common knowledge of how cameras operate with
23 digital -- with digital images, cameras or sensors. I
24 don't know if Kambla explicitly says that. But I'm a
25 pretty advanced photographer, and I know what sensors

1 are.

2 Q Is that just based on your inclusion of the
3 definition of "sensor" from Merriam-Webster?

4 A "Sensor" and, I mean, Kambla has cameras. I
5 mean, that's -- Kambla certainly discloses cameras. I
6 don't know whether Kambla explicitly mentions whether
7 there's sensors. But there's sensors.

8 Q Does your digital camera that you have
9 experience with characterize logs for you when you take
10 a picture?

11 A No.

12 Q Is there a specific digital camera that you
13 have in mind that you can take a picture with that will
14 characterize an un-debarked log?

15 A Oh, I -- I'm sorry. I -- in some ways, my
16 camera characterizes anything. It -- it gives the light
17 intensity, et cetera. Those are the characteristics.

18 Q That's the characteristics of the image, not
19 necessarily the log that may be captured in that image;
20 correct?

21 A I'd have to look at paragraphs 44, 51, and 58
22 of Kambla to -- to fully answer that question.

23 Q Well, you're looking at Kambla, though.
24 You're not looking at a digital camera manual or
25 anything else. You're just looking at the Kambla

1 reference; correct?

2 A Yes.

3 Q Okay. That's what I want to make sure that I
4 just know, what are you are relying on to disclose the
5 elements that are in claim 3? And you're telling me
6 it's those paragraphs of Kambla; correct?

7 A Those are the -- those are sufficient to -- to
8 establish those, yeah.

9 Q Yeah. And you're not looking at anything else
10 in your declaration; correct?

11 A It requires certain knowledge to read Kambla,
12 and that may -- to interpret Kambla.

13 Q I understand that. I'm just trying to
14 get it -- I'm trying to make sure --

15 A I'm not citing a camera manual.

16 Q You're not citing a camera manual. You're
17 citing Kambla. That's what you're citing in
18 paragraph 126 for these elements; correct?

19 A Yes.

20 Q Okay. And in paragraph 127, you talk about
21 your opinion being that a person of ordinary skill would
22 expect to successfully make such a combination for the
23 same reasons previously discussed.

24 Have you ever talked to anyone who has made
25 the combination of Kambla and Gagnon and whether or not

1 it was successful?

2 A No.

3 MR. DANLEY: Objection. Vague.

4 BY MR. JOHNSON:

5 Q In claim -- that was 3. Okay. So claim 4 is
6 discussed on page 80. And again, I'm just trying to
7 understand the structure of your report here -- or your
8 declaration. I'm sorry.

9 A Okay.

10 Q So you said claim 4 is rendered obvious. And
11 then in paragraph 129, you have section A, claim 4, the
12 method of claim 1. And you talk about what claim 4
13 requires. And then you say "Kambla discloses this
14 limitation, in my opinion."

15 Kambla is the only reference that you are
16 listing in your declaration for disclosing the
17 limitations of claim 4 with regard to ground 1; correct?

18 A With regard to ground 1, Kambla is the only
19 reference cited, yes.

20 Q Okay. Good, good. And paragraph 130 talks
21 about, again, the motivation to combine. And you say "A
22 person of ordinary skill would be highly motivated to
23 incorporate Kambla's deep learning model into the
24 Debarking system disclosed by Gagnon."

25 But you've never talked to a person of

1 ordinary skill in the art about doing that combination;
2 correct?

3 A Not that specific combination, but have a
4 large amount of experience of characterizing any type of
5 image, trees just being one. Nothing special about
6 trees.

7 Q And when you say, "Highly motivated," that's
8 your opinion, not based on any study or analysis that
9 you've done of people who have implemented AI systems in
10 debarking systems; correct?

11 A No. It's based on the fact that Gagnon
12 suggests using the tree species upstream and Kambla
13 talks about how -- identifying the tree species from
14 images.

15 Q That's it; right? You didn't conduct a survey
16 of individuals in the industry; correct?

17 A Correct.

18 Q Okay. You're not relying on any extrinsic
19 evidence other than those two references, what's in
20 Gagnon and Kambla themselves; correct?

21 A The "highly motivated" part and the
22 "motivated" part I think comes from the -- also just
23 from the general experience at how well deep learning
24 does at image recognition and classification in general,
25 whether it's classifying birds, trees, flowers, X-rays,

1 whatever.

2 Q And that's based on your understanding of what
3 you define as a person of ordinary skill, not based on
4 some additional evidence to show that that person of
5 ordinary skill would be motivated to combine these two
6 references in the debarking area; correct?

7 A It -- it's my opinion based on the fact that
8 Gagnon suggests having a camera upstream to identify the
9 species and Kambla talks about how to identify the
10 species.

11 Q That -- that's it, though; correct?

12 A For ground 1, that's it, yes.

13 Q Yeah. Okay. And then you jump to claim 7;
14 correct?

15 A Ooh, okay.

16 Q Page 81.

17 A Yes.

18 Q Okay. So you do not reference claims 5 or 6
19 in ground 1; correct?

20 A They're not present here, right.

21 Q Okay. So claim 7, again, it's the method of
22 claim 1, the trained deep learning model being trained
23 comprising the steps of. And in paragraph 132, the
24 reference you rely on there is again Kambla?

25 A Right.

1 Q Right. And going on with claim 7, in 7(b),
2 again, it's Kambla; correct?

3 A Yes. But I mean, you have to recall that
4 Kambla also cites that Berkeley paper as well. So
5 it's -- I don't know if it incorporates it. I don't
6 know what the legal standard is. But Kambla mentions
7 it.

8 Q Well, you're relying on the disclosure in
9 Kambla, though; correct?

10 A Kambla mentions that you can easily do this
11 using Caffé. So yeah.

12 Q You're not --

13 A Kambla mentions that you do this using Caffé.
14 It doesn't.

15 Q You're not relying on the Berkeley disclosure
16 for disclosure of any of the elements in your
17 declaration; correct?

18 A The Berkeley disclosure illustrates the
19 generality of the computer vision identification
20 algorithms that Kambla indicates works on tree -- tree
21 species.

22 Q Right. But I mean, I understand that's your
23 position here. But paragraph 144, you don't mention the
24 Berkeley study at all. You're just mentioning Kambla;
25 correct?

1 A Yes. Kambla shows that it can be done. Yes.

2 Q Okay. And same with paragraph 135; you're
3 just relying on Kambla for that element, that additional
4 element; correct?

5 A Yes.

6 Q And I'm just going through all of these to
7 make sure that, when I read your declaration and you
8 reference a piece of art in a paragraph, that that
9 paragraph is limited to that piece of prior art that
10 you're discussing and there isn't anything else that I
11 should be looking at to understand that paragraph.

12 Is that true with your declaration?

13 A Yes. I mean, claim 1 also discusses -- I
14 think it's called general knowledge of computer science
15 or something like that. I'm not sure if it's
16 highlighted.

17 But certainly in order to interpret --
18 interpret things like what a deep learner is, I'm
19 relying on my -- you know, the background of what deep
20 learners do. So Kambla doesn't explain how deep
21 learners work.

22 Q But where you only reference Kambla and you're
23 not talking about the knowledge or skill of a person of
24 skill in the art, or you're not talking about another
25 reference, I'm okay relying on just what you say with

1 regard to Kambla to disclose that element. That's what
2 you are representing to us; correct?

3 A Yes.

4 Q Okay.

5 A With, of course, my -- to provide additional
6 findings.

7 Q But you believe you've provided the findings
8 you need to provide in your declaration as we sit here
9 today; correct?

10 A I believe they're sufficient, yes.

11 Q I'm just trying to simplify this for all of us
12 here.

13 If we look at ground 2 where you're now not
14 referring to Kambla, but you're referring to Gagnon in
15 light of Ido and Petruzella --

16 A That's correct.

17 Q And you say that "Gagnon, in light of Ido and
18 Petruzella, renders obvious claims 1 through 18."
19 That's your opinions with regard to ground 2; correct?

20 A Yes, yes.

21 Q Okay. And you start to go through all of the
22 claims, 1 through 18, element by element, beginning on
23 page 89; correct?

24 A Yes.

25 Q Okay. Is it fair to say that there's no

1 suggestion in Ido to combine it with a debarker?

2 MR. DANLEY: Objection. Form.

3 THE WITNESS: I don't have the complete
4 Ido here. But I believe Gagnon suggests to combine it
5 with a species classification system, and Ido is that
6 species classification system, is an example of that.

7 BY MR. JOHNSON:

8 Q So let's look at paragraph 159 on page 92.
9 And there, you talk about Ido disclosing a deep learning
10 model that can be used to accurately identify tree
11 species in the first sentence.

12 A Yes.

13 Q And you say "Accuracy of up to 74.7 percent";
14 correct?

15 A Yes.

16 Q And then there's a footnote there that says
17 "It is my understanding in talking to employees at
18 Nicholson that the accuracy rate for a typical human
19 operator of a debarking machine may vary widely, where
20 some operators may not be able to accurately identify
21 any tree species being debarked." Do you see that?

22 A Yes.

23 Q Does that show you the importance of having --
24 or taking the humans out of the tree species
25 identification process?

1 MR. DANLEY: Objection. Form.

2 THE WITNESS: The utility. I'm not sure
3 what you mean by, "Importance."

4 BY MR. JOHNSON:

5 Q What do you mean by, "Utility"?

6 A That you can remove the -- the people.

7 Q And you agree that would be useful because,
8 according to the employees at Nicholson, human operators
9 may not be able to accurately identify any tree species
10 being debarked; correct?

11 A Yes.

12 Q And Ido has an accuracy of up to 74.7 percent.
13 Did the employees at Nicholson tell you anything with
14 regard to whether or not 74.70 percent identification
15 accuracy was sufficient?

16 MR. DANLEY: Objection. Form.

17 THE WITNESS: Again, because they said
18 that some employees can't do the task at all, they --
19 they said -- implied it was useful.

20 BY MR. JOHNSON:

21 Q Something is better than nothing, I guess;
22 right?

23 A Yeah.

24 Q Yeah. And then you talk about, I believe, in
25 paragraph 160, how one of skill in the art would combine

1 Ido and Gagnon.

2 And you say "Accordingly, in my opinion, a
3 person of ordinary skill would be able to take the
4 cameras used in Ido or any other type of camera capable
5 of capturing suitable images, mount those cameras to
6 capture images on the input side of the debarking
7 machines, and couple the output of those cameras to the
8 controller assembly" -- I'm sorry --

9 "controller/computer already disclosed in Gagnon and
10 expect such an implementation to be successful and
11 operate correctly." Is that right?

12 A Yes.

13 Q And then you say that "In fact, such cameras
14 would not be subject to the same variability as
15 described in Ido." Why do you say that?

16 A Well, if you read Ido, part of it is, when
17 you're taking a picture of a tree in a forest, well, the
18 rest of the forest gets in the way. There's things
19 behind it and that sort of stuff. So part of Ido is
20 about ignoring things.

21 If you've got a tree on a conveyor belt, it's
22 a little bit easier. You don't have to ignore the other
23 things. So -- so I think that's, you know, one of the
24 reasons. Ido also has tags on these trees. And -- and
25 I don't think the -- the debarker is unlikely to have

1 tags on the trees that need to be removed.

2 Q And your position is that someone who has no
3 debarking experience would know how to do all of that.
4 And why?

5 MR. DANLEY: Objection. Form.

6 THE WITNESS: In my opinion, someone with
7 no debarking experience but computer science experience
8 could take images of seven different tree species and
9 identify what type of tree species it is, or seven bird
10 species or seven flower species, seven diseases of the
11 lung.

12 But if you wanted to do 70 bird species,
13 what you'd have to do is collect more bird images. If
14 you wanted to do 100 car makes and models, you just
15 collect the more models and use a general purpose deep
16 learning system to classify them.

17 BY MR. JOHNSON:

18 Q And is that what you believe is disclosed in
19 Ido?

20 A Ido discloses using a general purpose thing.
21 And most of Ido is about the challenges of when you
22 don't have such clean data, how to remove the tags, how
23 to remove some of the background information.

24 In my own work on bird species identification,
25 I'll tell you that it's easier when you have a closeup

1 of a bird than when you have a distant picture of a bird
2 with lots of other things in it.

3 Q Does Ido talk about ignoring the leaves and
4 the stray bark and the wood chips and things that
5 commonly appear on conveyors of debarking machines?

6 MR. DANLEY: Objection. Form.

7 THE WITNESS: Ido talks about removing
8 the background information in the forest. But could be
9 removed from, you know, a conveyor belt as well.

10 BY MR. JOHNSON:

11 Q It doesn't talk about conveyor belts or
12 removing any of those background images associated with
13 processing; correct?

14 A I don't believe any of the claims talk about
15 that. And Ido also does not talk about that. Yes.

16 Q Does Ido talk about addressing the variations
17 in barks, such as the striations, the knots, how to
18 eliminate those things?

19 MR. DANLEY: Objection. Form.

20 THE WITNESS: I -- I don't recall. I'd
21 have to have a full copy of Ido. I've only got just one
22 page to remind me who Ido is. You know, it's been a
23 long time, and there's lots of names.

24 BY MR. JOHNSON:

25 Q I'll admit I don't have the references

1 memorized quite yet too. So let's see if I can find
2 Ido.

3 I'll show you what has been marked as
4 Exhibit 1005 in this matter, which I believe is the Ido
5 or Ido reference that you're mentioning. Is there
6 anything in there that discloses dealing with the
7 striations and knots on logs to remove them in the
8 debarking process?

9 MR. DANLEY: Same objection.

10 THE WITNESS: I -- so I do not see those
11 terms specifically in Ido. Ido talks in some places
12 about collecting a wide variety of information, a
13 variety of images, and also talks about modifying those
14 images to simulate different defects in cameras or
15 different ways you take photos.

16 So it talks about how variation is
17 important. Striations and knots are examples of
18 variation.

19 BY MR. JOHNSON:

20 Q And Ido is doing that for taxonomy purposes;
21 correct?

22 A Yes. Ido's main goal is to do tree species
23 identification.

24 Q Yeah. It's not doing it for a debarking
25 process; correct?

1 A Right.

2 Q Right. Would Ido be useful if you're using a
3 consistent species of wood in a debarking process?

4 MR. DANLEY: Objection. Form.

5 THE WITNESS: If you're consistently
6 using -- in -- in a certain context. So it's my
7 understanding that, although there's many different
8 varieties of trees, a debarker in a specific location
9 doesn't deal with every variety in the world.

10 You know, when you're on Australia,
11 you're not dealing with other trees. So I think Ido
12 would be useful in a variety of locations around the
13 world, yeah.

14 BY MR. JOHNSON:

15 Q Based on what?

16 A Based on its using general purpose deep
17 learning algorithms, which, across a wide variety of
18 examples, have proven useful.

19 Q Did you talk to the employees at Nicholson
20 about the frequency with which their debarking machines
21 encounter a wide variety of wood species at the same
22 location?

23 A We did discuss a little bit how many species
24 are in particular areas. Yeah.

25 Q And what was the discussion?

1 A Well, that they sell them all around the
2 world, and that, you know, obviously, in some areas of
3 the world, certain trees are more common than in other
4 areas of the world or present at all or used in the
5 logging industry.

6 Q Did they mention any location where there
7 would be a variety of trees in the pile?

8 A We -- we did -- we did discuss that, yeah.

9 Q You did discuss that?

10 A Again, a pile -- I don't know -- I don't know
11 what you mean by, "Pile," since the machines don't
12 operate on piles. A variety of machine -- a variety of
13 trees encountered in one day. Yeah.

14 Q Where did they say that that would happen?

15 A I -- I don't recall the specifics. I mean, we
16 just discussed, in general, you know, Northwest versus
17 Virginia versus Australia. I think something came up
18 about Europe as well.

19 Q Do you recall what they said about those
20 locations?

21 A Different species are more common, predominant
22 in some locations than others.

23 Q Anything else?

24 A That one -- that basically, sometimes there
25 was also different skill levels of debarkers in certain

1 location -- the debarker operators at certain locations.
2 Yeah.

3 Q Different skill levels of the humans operating
4 the machine?

5 A Yeah.

6 Q Some aren't capable of telling you what
7 species of wood they're using. Some can tell you, you
8 know, what species of wood is being used. Is that
9 right?

10 A Yeah. Some -- some produce better results
11 than others, take off more bark, leave more wood behind.

12 Q Did you ever get any statistics on that?

13 A No, just general variations.

14 Q Just comments from them. Is that right?

15 A Yeah.

16 Q Petruzella doesn't have anything to do with
17 logging; correct? That's just for background
18 information on how a PLC works; correct?

19 MR. DANLEY: Objection. Form.

20 THE WITNESS: More than that, Petruzella
21 talks about lookup tables. It's my understanding that
22 lookup tables were considered important during the
23 patenting. And I think, you know, the tables, matrices,
24 arrays, it's all -- it's all the same thing.

25 And you'll see that I focused in on that

1 part of Petruzella as -- as well.

2 BY MR. JOHNSON:

3 Q Right. But Petruzella doesn't talk about any
4 of the information that goes into those tables as coming
5 from the logging industry; correct?

6 A Petruzella contains as much information as the
7 patent about what to put into those tables.

8 Q That's not my question, sir. My question is,
9 does Petruzella actually mention the logging industry in
10 any way, shape, or form?

11 A Neither the patent nor Petruzella indicate
12 what to put in those tables.

13 Q Again, my question is about Petruzella. Fair
14 to say --

15 A Petruzella doesn't indicate what's in those
16 tables.

17 Q And doesn't discuss the logging industry at
18 all; correct?

19 A I'd have to look carefully. It's a 500-page
20 textbook. Sometimes you mention fruit sorting and other
21 things. So I mean --

22 Q You didn't --

23 A It's -- it's certainly not a focus of it.

24 Q Right. And you didn't cite anywhere in
25 Petruzella where it mentions logging? I think that

1 probably would've stood out to you, and you would've
2 included it in your declaration; right?

3 A I didn't read all of Petruzella. I focused in
4 on certain parts of it that -- the tables, because
5 tables were part of the patent.

6 Q Right. And so you're not relying on
7 Petruzella for discussing about -- teaching anything
8 about how the logging industry or debarking industry
9 works?

10 A That's -- that's correct. I -- I'm not --
11 right.

12 MR. DANLEY: Mike, if you just let him
13 finish this question before you answer, that'd be better
14 for the record and better for the court reporter.

15 THE WITNESS: Okay.

16 You could've said that, you know.

17 BY MR. JOHNSON:

18 Q Let's look at ground 3, which starts on
19 page 132. And now you're talking about Gagnon in light
20 of Kambla and Petruzella.

21 A I'm sorry. We're on page what?

22 Q 132, ground 3.

23 A Jumping ahead. 133?

24 Q Thirty-two.

25 A Thirty-two. Okay. And this is ground 3 now?

1 Q Correct. And this is ground 3.

2 A Okay.

3 Q Yeah.

4 A Would you mind refreshing my memory on what --
5 what -- it's Kambla and -- Gagnon in light of Kambla and
6 Petruzella. Okay. Thank you.

7 Q Yes. That's what it says right at the top
8 of --

9 A Yeah. No, I understand.

10 Q -- 132.

11 A Yeah.

12 Q Yeah. Just trying to focus on that one. So
13 your opinion here is that claims 1 through 18 are
14 unpatentable under the obviousness statute,
15 35 U.S.C. 103, based on Gagnon in light of Kambla and
16 Petruzella; correct?

17 A Right.

18 Q All right. And again, you go through, and you
19 talk about the elements of the claims, and you cite
20 references that you believe disclose those elements.

21 And so for example, in paragraph 263, you
22 believe that Kambla is one of the three references you
23 list that discloses identifying characteristics of
24 un-debarked logs based on the characterization of the
25 un-debarked log using a trained deep learning model;

1 correct?

2 A Yeah. Isn't this the same as ground 2?

3 Q Yeah, exactly right. And I just want to make
4 sure that you're doing this consistently throughout your
5 declaration.

6 A Yeah.

7 Q When you rely on Kambla there, you are not
8 relying on Gagnon; you're not relying on Petruzella;
9 correct?

10 A Not relying on Petruzella to the extent
11 that -- let's see. Claim 1 is rendered obvious. For
12 claim -- for -- for that -- that's correct, yes. Yeah,
13 for 263, I -- I agree that Kambla is sufficient.

14 Q And that's true, again, with regard to how you
15 structured your report and the paragraphs that you've
16 written where you mention a reference. And that's the
17 reference you are relying on for that element of that
18 ground; correct?

19 A Yes.

20 Q Okay. Let's go onto ground 4 then with regard
21 to claims 1 through 18. It starts on page 150. Do you
22 believe there's any practical application for the
23 invention as claimed in claims 1 through 18?

24 MR. DANLEY: Objection. Form.

25 THE WITNESS: You're obviously not

1 talking about claim 4 now?

2 BY MR. JOHNSON:

3 Q Ground 4, sir.

4 A Ground -- ground? I'm sorry.

5 Q Yeah, ground 4, which is on page 150, where
6 you talk about --

7 A I -- I'm sorry. We -- We switched to
8 ground 4?

9 Q Yeah.

10 A You earlier -- thought -- I thought you
11 earlier said, "Claim 4." So I'm on claim 4 here.

12 Q Sorry. I thought I transitioned you over to
13 ground 4 and moved you over to page 150.

14 A Okay. So ground 4 is Section 101; is it?

15 Q It is Section 101.

16 A And you're on page?

17 Q 150.

18 A 150. Okay. Can you ask the question again?

19 Q Yeah. When you reviewed the claims in the
20 947 patent, did you believe there was any practical
21 application for the inventions claimed?

22 MR. DANLEY: Same objection.

23 THE WITNESS: Can you clarify the
24 objection for me?

25 MR. DANLEY: The objection is not for

1 you; it's for the record. So if you can answer the
2 question, please go ahead and do so.

3 THE WITNESS: I'd have to look to see if
4 the word "practical application" occurs. I believe the
5 opinion that I offered was that they cover an abstract
6 idea -- idea and don't -- don't transform that into
7 something significantly more.

8 To the extent that's a legal term, I'd
9 need to understand the definition of it.

10 BY MR. JOHNSON:

11 Q Well, of course you're free to review your
12 declaration as much as you'd like, sir.

13 A Yes.

14 Q My question stands, though, is do you believe
15 that there is a practical application for the inventions
16 as claimed in claims 1 through 18?

17 MR. DANLEY: Same objection.

18 THE WITNESS: I'd have to review the
19 legal definition of Section 101 to see if "practical
20 application" is part of that. So certainly --

21 BY MR. JOHNSON:

22 Q Take all the time you need, sir.

23 A Okay. We'll leave this here.

24 Having read the standards as I've been told
25 about unpatentable subject matter under Section 101, I

1 don't believe I offered opinion about a practical
2 application, and I'm not prepared to make that opinion
3 today.

4 Q You have no idea if there's a practical
5 application for the inventions as claimed as you sit
6 here today; correct?

7 A I'm not prepared to offer an opinion on that.

8 Q Right. And so as we sit here, you have no
9 opinion on that; correct?

10 A I'm not prepared to offer that, yes, because I
11 don't -- I don't know what the legal standard for
12 "practical application" means. I know what a colloquial
13 means, but --

14 Q Answer it with a colloquial understanding,
15 sir. Do you know if there's a practical application for
16 the invention as claimed in claims 1 through 18?

17 A I'm not sure.

18 Q Okay. You haven't formed an opinion on that.
19 Is that correct?

20 A That's correct. My opinion, again, is based
21 on what I was told that Section 102 requires, which is
22 these other -- you know, the two-step thing of, is it --

23 Q I think you said, "102," but you meant 101;
24 correct?

25 A Alice, yeah. Is that 101?

1 Q 101.

2 A Yeah. Again, it -- it -- my -- my opinion is
3 based on this, which doesn't include practical
4 application. It may be a different way of getting at
5 the same thing.

6 Q On page 158 of your opinion in paragraph 341,
7 do you see that, sir?

8 A Yes.

9 Q Okay. Paragraph 341 there towards the end of
10 that page, at least, you say "Stripped of its
11 debarker-centric terminology, however, this claim
12 recites no more than a system that includes generic
13 sensors that feed data into a generic deep learning
14 module implemented on a generic computer to discern
15 characteristics of a log.

16 "Those characteristics then being used by the
17 computer to determine operating parameters that are sent
18 to control the debarker."

19 A Yes.

20 Q Why did you strip the claim of its
21 debarker-centric terminology?

22 A Can I read all of claim 11?

23 Q You're free to do so. Absolutely, sir.

24 A Do you have the patent handy? I don't think
25 you ever handed me --

1 Q I think I --

2 A -- the patent itself, which is an easier place
3 to find it than --

4 Q You bet. I think --

5 A -- my report.

6 Q -- I can get that for you here, sir. Just a
7 sec.

8 Make sure you don't have to read my scribbles.
9 But here's Exhibit 1001.

10 A Thank you.

11 MR. JOHNSON: Want a copy? Have a few of
12 those; do you?

13 THE WITNESS: Yeah, that's the claim I
14 thought it was. Just making sure.

15 BY MR. JOHNSON:

16 Q And again, my question is, why did you strip
17 claim 11 of its debarker-centric terminology?

18 A I believe it's because all of this can be done
19 with a general purpose computer, a general optimizer, a
20 general controller. There's nothing specific about
21 debarking here. It's just the -- again, any -- any
22 optimizer, any controller, these are all general purpose
23 things.

24 Q So you had to strip out the debarker-centric
25 terminology in order to reach your opinion here;

1 correct?

2 A Yes, in part because, getting back to the
3 legal standard, I don't think the debarker -- I'm going
4 to have to read the legal standard again, which is on
5 page -- oh, now I've got this in the wrong order.
6 Sorry. It's going to take me a while to find page 12
7 now that I've messed this up.

8 Q That's okay, sir.

9 A Or section 12. I'll do it on this one which
10 is in order still.

11 I -- I guess I'd get to the part of this
12 where -- analyze whether the claims provide an inventive
13 concept. And again, because this could be done with any
14 debarking -- with any controller, any optimizer, there's
15 nothing special with respect to this claim about whether
16 it's a debarker or water -- a sprinkler, an oven.

17 All -- all this can be done on general purpose
18 computers, optimizers, controllers.

19 Q Right. And you're stripping out all of the
20 debarking and log language in there because you think
21 this could be implemented on basically anything; right?

22 MR. DANLEY: Objection. Form.

23 THE WITNESS: That might be a bit --
24 "anything" too strong. You couldn't implement this on a
25 bicycle. But again, on a general purpose computer, a

1 general optimizer, general controller, yeah.

2 BY MR. JOHNSON:

3 Q Sir, I'm just kind of going through some
4 things here, trying to wrap up. But you have manuals on
5 a couple of Nicholson machines that were for an A8 or an
6 A5B. Do you know the difference between those machines?

7 A No. No.

8 Q Okay. Do you know what the A8 signifies?

9 A No.

10 Q Do you know what the A5B signifies?

11 A I -- I can speculate, but I shouldn't.

12 Q Yeah. I'm just trying to understand if you
13 have that knowledge of these machines. Do you know
14 whether the A8 machine included any sensors on it?

15 MR. DANLEY: Objection. Form.

16 THE WITNESS: At this time, I -- I don't.
17 I'm sure I'd have to review it again if you want.

18 BY MR. JOHNSON:

19 Q And again, I have --

20 A I -- I didn't rely on whether it has sensors
21 or not.

22 Q Right. Okay. Same with the A5B machine;
23 correct? You didn't rely on whether it had sensors on
24 it or not?

25 A I don't think I cited any Nicholson things in

1 any -- in any of the claims.

2 Q Correct. You didn't cite anything with regard
3 to those two manuals in here. And to be fair, we only
4 had section 1 of those manuals. We didn't have the
5 complete manuals; correct?

6 A Right.

7 Q Do you -- well, why don't you give me five
8 minutes, and we can see if we can wrap this up. Let me
9 go through my notes.

10 A That sounds great. Thanks.

11 Q Yeah. Don't forget the mic.

12 THE VIDEOGRAPHER: This is the end of
13 media number 3. We're going off the record. The time
14 is 12:34 p.m.

15 (Off the record.)

16 THE VIDEOGRAPHER: We are going back on
17 the record. The time is 12:45 p.m.

18 BY MR. JOHNSON:

19 Q Sir, did you consider any evidence of
20 secondary indicia of non-obviousness in this matter?

21 A I don't understand what the term means.

22 Q Okay. Did you consider any evidence of the
23 commercial success of the invention here?

24 A No.

25 Q Did you consider any evidence of copying that

1 may have occurred with regard to the patent?

2 A No.

3 Q Did you consider any failed attempts by
4 others?

5 A No.

6 Q Did you consider any praise that the invention
7 received in the industry?

8 A No.

9 Q Did you consider any unexpected results that
10 were obtained by implementing the invention?

11 A I did not see any unexpected results in the
12 patent, just a vague statement about this might work or
13 might not.

14 Q You didn't consider any statistical data about
15 how effective the invention is?

16 A There was no information in the -- the patent,
17 so I did not consider it.

18 Q Outside of the patent context, did you
19 consider any other evidence --

20 A No.

21 Q -- about success?

22 A No.

23 Q Okay. Do you know what International Forest
24 Magazine is?

25 A No.

1 Q Okay. Are you aware that they've praised the
2 invention?

3 A No.

4 Q You didn't look at any articles in
5 International Forest; correct?

6 A I didn't know it existed until 20 seconds ago.

7 Q Okay. All right. When they say that -- well,
8 you didn't look at it; you didn't review it, so fair to
9 say you didn't consider it for purposes of your
10 declaration?

11 A I certainly didn't consider whether other
12 people said this is patentable or not. Yes.

13 Q Well, you didn't consider whether anyone said
14 that the invention made a big difference in the
15 industry; did you?

16 MR. DANLEY: Objection. Form.

17 THE WITNESS: No.

18 BY MR. JOHNSON:

19 Q Did the employees at Nicholson tell you about
20 the impact that Bid Group's technology was having on
21 them?

22 A No.

23 Q Did they tell you anything about Bid Group's
24 impact on the industry?

25 A No.

1 Q Do you know if it was hurting Nicholson's
2 sales?

3 MR. DANLEY: Objection. Form.

4 THE WITNESS: No.

5 BY MR. JOHNSON:

6 Q Do you know if Nicholson had reviewed the
7 patent and decided to copy the patent?

8 A No. No.

9 Q Do you know if Nicholson had tried to
10 implement the invention and been unsuccessful?

11 A It would shock me if anyone were unsuccessful
12 who tried to copy -- who tried to copy this. But I have
13 no knowledge of Nicholson.

14 Q That's my question. I appreciate the
15 commentary. But you're not aware of anyone at
16 Nicholson --

17 A No.

18 Q -- trying to implement this invention;
19 correct?

20 A No. Any master's student I've ever worked
21 with can implement this in a couple hours.

22 Q Are you aware of whether Bid Group has a
23 product which embodies the claims of the patent?

24 A No, I'm not.

25 Q Okay. You've never gone out to try and find

1 that product; correct?

2 A Right.

3 Q You've never asked anyone to see that product;
4 correct?

5 A Right.

6 Q Okay. Are you aware of the impact that this
7 invention has had on the wood chip production?

8 MR. DANLEY: Objection. Form.

9 THE WITNESS: No.

10 BY MR. JOHNSON:

11 Q Are you aware of the rate of bark in wood
12 chips going down because of the use of this invention?

13 MR. DANLEY: Objection. Form.

14 THE WITNESS: No.

15 BY MR. JOHNSON:

16 Q And you didn't consider any of that type of
17 data in performing your analysis that's in your
18 declaration; correct?

19 A That's correct.

20 MR. JOHNSON: Okay. I have nothing else
21 for you right now, sir. We of course reserve the right
22 to --

23 THE WITNESS: Sure.

24 MR. JOHNSON: -- depose you again if you
25 have new opinions and another declaration. But I

1 appreciate your time today.

2 THE WITNESS: Thank you.

3 MR. DANLEY: And I have no questions.

4 MR. JOHNSON: Okay.

5 THE WITNESS: Okay.

6 THE OFFICER: Really quickly, Mr. Danley,
7 did you want to purchase a copy of today's transcript?

8 MR. DANLEY: Yes.

9 THE OFFICER: Yes, okay. And then is it
10 okay if I send you the read and sign?

11 MR. DANLEY: Yes.

12 THE OFFICER: Okay, great. Thank you.

13 MR. DANLEY: Oh, and we would reserve the
14 right to review the transcript and make corrections.

15 MR. JOHNSON: Read and sign, yeah.

16 MR. DANLEY: Yeah.

17 THE VIDEOGRAPHER: Okay. We're off the
18 record. The time is 12:50 p.m. And this concludes
19 today's testimony given by Michael Pazzani. The total
20 number of media used was four and will be retained by
21 Veritext Legal Solutions.

22 (Signature reserved.)

23 (Whereupon, at 12:50 p.m., the proceeding
24 was concluded.)

CERTIFICATE OF DEPOSITION OFFICER

I, NATALIE RIVAS, the officer before whom the foregoing proceedings were taken, do hereby certify that any witness(es) in the foregoing proceedings, prior to testifying, were duly sworn; that the proceedings were recorded by me and thereafter reduced to typewriting by a qualified transcriptionist; that said digital audio recording of said proceedings are a true and accurate record to the best of my knowledge, skills, and ability; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this was taken; and, further, that I am not a relative or employee of any counsel or attorney employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.



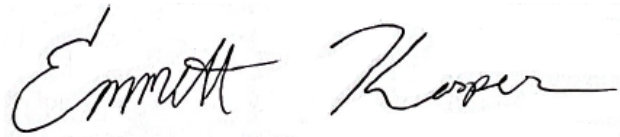
NATALIE RIVAS

Notary Public in and for the
State of California

☒ [X] Review of the transcript was requested.

CERTIFICATE OF TRANSCRIBER

I, EMMETT KASPER, do hereby certify that this transcript was prepared from the digital audio recording of the foregoing proceeding, that said transcript is a true and accurate record of the proceedings to the best of my knowledge, skills, and ability; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this was taken; and, further, that I am not a relative or employee of any counsel or attorney employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

A handwritten signature in black ink, appearing to read "Emmett Kasper", is written over a light gray rectangular background.

EMMETT KASPER

1 JEFFREY DANLEY, ESQUIRE

2 jeff.danley@seedip.com

3 May 11, 2026

4 RE: Nicholson Manufacturing LTD v. Bid Group Technologies LTD

5 4/23/2026, Michael J. Pazzani , PhD (#8020906)

6 The above-referenced transcript is available for
7 review.

8 Within the applicable timeframe, the witness should
9 read the testimony to verify its accuracy. If there are
10 any changes, the witness should note those with the
11 reason, on the attached Errata Sheet.

12 The witness should sign the Acknowledgment of
13 Deponent and Errata and return to the deposing attorney.
14 Copies should be sent to all counsel, and to Veritext at
15 erratas-cs@veritext.com

16 Return completed errata within 30 days from
17 receipt of testimony.

18 If the witness fails to do so within the time
19 allotted, the transcript may be used as if signed.

20
21
22 Yours,

23 Veritext Legal Solutions
24
25

Nicholson Manufacturing LTD v. Bid Group Technologies LTD

Michael J. Pazzani , PhD (#8020906)

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Michael J. Pazzani , PhD

Date

Nicholson Manufacturing LTD v. Bid Group Technologies LTD
Michael J. Pazzani , PhD (#8020906)

ACKNOWLEDGEMENT OF DEPONENT

I, Michael J. Pazzani , PhD, do hereby declare that I
have read the foregoing transcript, I have made any
corrections, additions, or changes I deemed necessary as
noted above to be appended hereto, and that the same is
a true, correct and complete transcript of the testimony
given by me.

Michael J. Pazzani , PhD

Date

*If notary is required

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&	1005 118:4	122 102:4	128:16
& 2:13 4:25	1008 24:12,19	103:16	186 56:9
0	25:21	123 102:13,15	19 56:6 64:15
05197 29:2	101 10:23 12:1	102:18,21	19,995 80:25
1	41:6 53:22,22	103:4,10,15,17	1976 15:12
1 4:10 15:12	66:10,12,13,14	103:17	38:11
20:25 24:22	82:7 126:14,15	125 104:11	1978 45:12
26:14,15,20	127:19,25	126 104:2,11,13	1988 63:20,21
38:11 52:4	128:23,25	104:19 106:18	2
57:14 64:19	129:1	127 106:20	2 95:18 101:21
73:16 74:3,11	102 128:21,23	129 107:11	101:25 102:3,5
79:2 81:24	103 64:21,23	12:34 133:14	102:6,9,10
82:11,22,25	82:7 124:15	12:45 133:17	112:13,19
83:1 93:3,8,14	104 85:11	12:50 138:18	125:2
94:7,10 98:6	106 93:15 94:4	138:23	20 72:4 73:19
99:17 100:9	94:7,9,12	130 107:20	81:20 84:10
101:23 102:3,6	107 94:6,11	132 109:23	97:14 135:6
102:7 103:24	10:03 52:5	123:19,22	143:15
107:12,17,18	10:17 52:8	124:10	2000s 29:22
109:12,19,22	11 56:22	133 123:23	2008 16:9
111:13 112:18	129:22 130:17	135 111:2	2010 16:9
112:22 124:13	141:3	144 110:23	2012 16:10
125:11,21,23	111 2:14 95:25	15 41:14	17:6
127:16 128:16	112 82:8	150 125:21	2019 91:5
133:4	116 97:19 99:7	126:5,13,17,18	2020 91:6
1,000 103:8	99:20 100:16	158 129:6	2025 8:11,14
100 116:14	119 101:19	159 113:8	28:1 83:6
1001 130:9	11:17 95:19	160 114:25	84:14 97:16
1002 26:24	11:31 95:22	164 27:22	2026 1:11 4:4
27:13,22 28:20	12 58:1 131:6,9	168 28:20,21	141:3
46:3 52:24	12,163,947 8:7	170 46:3,4	206 2:8
	120 102:3	18 112:18,22	21 97:15
	121 102:3	124:13 125:21	
		125:23 127:16	

21st 84:14 97:7 23 1:11 4:3 242-8930 2:18 25 29:2 81:23 26 101:1 263 124:21 125:13 26929 139:16 28537 140:14 29 57:7 29th 28:1	4/23/2026 141:5 40 84:10 43,000 46:15,17 44 105:21 45 80:17,23	70-43,000 46:13 701 2:5 707 1:14 4:16 70s 15:24 73 80:18 97:18 97:21 74 97:19,21,23 74.7 80:19 81:8 113:13 114:12 74.70 114:14 76 101:19,20 78 103:23	98104 2:6 99.9 96:10 9:01 1:12 4:3
	5		a
	5 82:8 109:18 5,000 80:25 500 122:19 50309 2:15 51 105:21 515 2:18 52 50:9 53 50:10 5400 2:5 58 82:3 105:21 59 82:13 5th 2:5		a.m. 1:12 4:3 52:5,8 95:19 95:22 a5b 132:6,10 132:22 a8 132:5,8,14 abandoned 38:9 43:3,4 ability 74:10 81:24 99:12 139:9 140:6 able 49:5 60:5 61:9 113:20 114:9 115:3 above 91:18 141:6 143:7 absent 5:14 absolutely 129:23 abstract 20:25 67:12 127:5 academic 14:2 47:1 accept 27:7 access 83:21 accommodate 8:2 accomplish 47:3
3			
3 29:2 69:4 91:18 93:6 103:22,23 104:4,15 106:5 107:5 123:18 123:22,25 124:1 133:13 30 73:14,20,24 74:1 79:14,16 141:16 301 2:14 320 14:2 341 129:6,9 35 124:15 3500 1:14 4:17		8	
	6		
	6 3:3 78:7,8 79:1,13 109:18 61 82:23 622-4900 2:8 64 85:11 65 91:18 66 88:13 93:2	80 107:6 8020906 141:5 142:2 143:2 80s 16:1 81 109:16 83 50:11 85 50:4,7,16 87 47:19 88 47:19 89 92:1 93:19 112:23	
		9	
4	7		
4 82:7 107:5,10 107:11,12,17 125:20 126:1,3 126:5,8,11,11 126:13,14	7 109:13,21 110:1,1 70 46:18,20,21 95:25 116:12	90017 1:15 4:18 90s 16:1 92 113:8 947 11:3,5,23 15:4 126:20	

accuracy 80:19 113:13,18 114:12,15 141:9	55:19,21 57:5 86:7 101:24 102:8,10 104:3 109:4 111:3 112:5	102:2 114:7 125:13	analyze 131:12
accurate 72:15 139:8 140:5	additionally 5:14	ah 29:15 73:25	angeles 1:15 4:17
accurately 56:1 56:3 113:10,20 114:9	additions 143:6	ahead 11:9 14:14,17 60:24 123:23 127:2	angle 71:11
accused 36:23 37:2	address 9:12,13 67:8	ai 35:16 39:11 42:12 53:22 62:9,13 98:16 98:21 108:9	answer 9:14,15 11:9 14:12,13 14:14,15,16,17 40:18 58:16 60:24 61:14 77:14 92:9 105:22 123:13 127:1 128:14
acknowledge... 143:3	addressed 19:15	algorithms 16:20 110:20 119:17	answered 60:21 61:7
acknowledge... 5:13	addresses 64:10	alice 128:25	answers 89:3 96:17
acknowledg... 141:12	addressing 117:16	alive 68:15	anticipated 66:5
acquisition 48:1	administer 5:8 5:13	alleged 42:23	anticipation 65:9,13,13,16 66:7
action 139:11 139:15 140:8 140:12	admit 117:25	alleging 14:7	apart 82:12
actually 13:7 16:24 20:22 37:6,17 41:16 65:22 70:8,13 75:19 76:10 79:18 90:19 91:23 122:9	advanced 90:5 104:25	allotted 141:19	apologies 104:1
add 54:11	advice 45:4	alphabet 36:19	apologize 25:20 50:8 64:16 78:2 98:12
added 70:9,12 104:14	advised 90:21	altitude 37:24	apparently 38:2
additional 54:11 55:15,18	affect 75:4,25 81:23	amazon 33:15 42:3,9,18,23	appeal 1:2
	affects 74:9 75:5,21 76:8 76:22	amend 103:9	appealed 41:10
	affiliation 4:22	amount 15:16 71:8 75:4 108:4	appeals 41:11 41:15,15
	ago 33:9 38:6 84:2 135:6	analogous 13:13	appear 117:5
	agree 4:9 5:16 40:12 65:19 67:7 79:22	analogy 87:14 87:16	
		analysis 58:4 75:20 78:13 108:8 137:17	

appearances 4:22	arguing 30:10	26:4 30:18	attached 52:24
appears 28:4	argument 53:23 55:7	35:7 36:16,17	141:11
appended 143:7	56:7 64:19	37:15,17 47:5	attempts 134:3
apple 28:24	65:23 76:15	47:12,14,18	attorney 4:23
30:4,8,16	arguments 54:18 56:12	48:21 58:23	14:14 52:18
applicable 5:20	array 15:11,13	59:17 60:7	57:19,20,24
141:8	arrays 121:24	62:5,25 63:1,7	65:5 74:18
applicant 10:9	arrived 62:17	63:8 73:4,7,11	139:13 140:10
application 125:22 126:21	art 9:23,25	74:9 75:5,9	141:13
127:4,15,20	10:3,10,14	76:11,16 77:1	attorneys 13:16
128:2,5,12,15	12:8,12,13,19	78:9,12 88:2	13:18 14:3,22
129:4	12:25 13:4,10	90:1,3,10,12,13	45:4,9 83:13
applied 62:14	13:20 14:1	90:17,19,21,25	90:22 91:14
63:2 83:23	21:16,19 41:24	91:3,13	audience 47:1
apply 91:3,13	42:1 53:17,21	asked 10:16,17	audio 4:8 77:24
applying 90:12	55:18 59:23	10:24 11:1,4	139:7 140:3
90:25	60:10,18 61:4	11:22 35:11	august 8:10,11
appreciate 66:17 103:19	61:16,20,22	52:15 60:20	20:20 27:25
136:14 138:1	62:2,4 64:3,19	61:6 79:10	84:14 97:7,15
appreciates 68:20	65:15 79:19	137:3	australia 119:10 120:17
appropriate 99:2	87:19,21 97:25	asking 23:19	authorized 5:12
approximately 38:6	98:10,14,15,21	84:1 88:25	automated 78:22
april 1:11 4:3	99:6,20 100:18	asks 89:3	automatically 13:11
area 109:6	101:10 108:1	aspects 85:6	automation 69:9,13
areas 119:24	111:8,9,24	assembly 115:8	autonomous 62:17,23
120:2,4	114:25	associated 62:22 99:10	available 141:6
	article 20:9	117:12	avenue 2:5,14
	articles 50:5,22	assume 7:22	
	135:4	22:11 34:13	
	artificial 12:21	57:19 71:13	
	13:5 16:3 17:7	assumes 40:14	
	19:11,25 23:8	assuming 24:16	

average 59:12 avis 17:1 aware 55:10 58:19,22 71:5 87:2 103:9 135:1 136:15 136:22 137:6 137:11 awareness 58:21	balloons 37:17 37:24 38:14 bark 18:25 70:6 71:20,21 71:23 72:1 73:17 74:4,11 75:4,5 80:15 81:13,24 117:4 121:11 137:11 barking 85:7 barks 117:17 based 12:19 55:5 71:14 79:3 80:24 81:16,18 93:10 96:3 98:1 100:11 101:12 105:2 108:8,11 109:2,3,7 119:15,16 124:15,24 128:20 129:3 basic 55:7 90:4 90:20 basically 35:7 59:12 67:23 88:24 100:15 120:24 131:21 basics 100:22 bed 95:10 beginning 4:23 82:3 112:22 behalf 2:2,10 5:1,3	belief 66:3 believe 12:17 19:13,15,19 23:10,18 26:21 27:22 29:9 33:13 34:19 35:4,14 36:14 37:6 39:6 40:23 41:11 43:3,25 45:2 50:4,9 54:3 55:1,7 57:7,18 57:23 59:11,22 59:25 60:9,12 61:3,8,9,16 62:4,13,24 64:11,13 65:18 65:23 66:6 70:15 75:11 78:23 80:17 81:14,15 82:18 89:8,11 90:3 90:19 91:2 93:13 94:1 96:15,15,23 98:18 99:9 100:17 102:24 103:5,6,14,15 104:16 112:7 112:10 113:4 114:24 116:18 117:14 118:4 124:20,22 125:22 126:20	127:4,14 128:1 130:18 believed 53:17 bell 72:10,16 belt 115:21 117:9 belts 117:11 benefit 86:13 86:22 benefits 71:16 71:19 73:7 berkeley 93:21 93:21 110:4,15 110:18,24 best 7:12 8:2 66:15 139:9 140:5 bet 130:4 better 27:6 37:8 46:8 81:20 114:21 121:10 123:13 123:14 bicycle 131:25 bid 1:7 2:10 4:13 5:1 19:6 20:8,13 135:20 135:23 136:22 141:4 142:1 143:1 big 135:14 bill 17:2 bird 16:13 62:15 116:9,12
--	--	--	---

116:13,24 117:1,1 birds 16:12 108:25 bit 16:24 28:7 34:20 54:14 56:4,18,19,21 61:19 72:3 82:14 91:17 115:22 119:23 131:23 blows 38:4 board 1:2 book 50:5,5,22 books 50:21,21 bookshelf 45:10 bottom 47:7 bought 71:23 boulevard 1:14 4:17 bow 43:22 bowden 72:10 72:19 74:7 break 8:1 51:24 52:10,12,22 95:2,14 breaks 63:20 brief 24:9 bring 90:20 broad 15:19 62:15 broken 82:12 82:17	brought 55:4 budget 56:10 58:11 build 60:13 87:9,11 building 59:13 87:8 bunch 96:14 burks 2:12 business 15:14 buttness 56:7 byron 2:13 4:25 c c 2:1 4:1 93:2,8 ca 1:15 caffe 93:20 94:2 110:11,13 california 4:17 5:13 139:19 call 6:21 22:14 22:23 23:15 51:15 called 6:7 15:10 16:6 39:17 54:12 83:2 92:21 93:20 94:19 111:14 calls 63:24 camera 23:22 105:8,12,16,24 106:15,16 109:8 115:4	cameras 23:20 104:22,23 105:4,5 115:4 115:5,7,13 118:14 capabilities 23:8 30:17 capable 115:4 121:6 capture 115:6 captured 105:19 capturing 115:5 car 16:15,23,25 17:3 116:14 career 28:8 carefully 122:19 caroline 2:12 carry 27:4 cars 16:14 62:18 case 1:6 4:15 10:16,24 18:11 18:14 28:23 29:1,23 30:5 30:10,13,15,20 31:13,14,17,20 32:4,7,12,21,23 32:24 33:4,11 33:14 34:1,4,5 34:7,15,22,24 35:1,3,6,13,23	36:20 37:6,14 38:5,19,20,25 39:15,21 40:3 40:22 41:10,11 41:13,16,24 42:6,14,16,21 43:2,3,4,9,14 43:16 44:8,24 45:15 53:1 56:1 59:16,17 62:3,7 70:23 88:15 103:3 cases 28:14,15 29:14,22 35:12 35:15 43:23 44:15 catch 95:7 categorization 92:24 caution 58:15 cburks 2:17 centric 129:11 129:21 130:17 130:24 certain 10:18 11:13 23:18 38:15 54:7,8 100:5,19 106:11 119:6 120:3,25 121:1 123:4 certainly 11:16 12:22 17:18,18 17:20 18:1
---	---	--	---

23:2 29:23 36:4 44:6 51:12 64:1,2,6 67:12 68:17 69:15 70:1 75:13 78:6 80:4 81:4,19 81:21 83:21 85:22 86:12 87:4 103:12 105:5 111:17 122:23 127:20 135:11 certificate 139:1 140:1 certified 5:16 certify 139:3 140:2 cetera 10:22 11:13 16:2 38:16 56:10 60:2 62:19 64:3 74:20 75:13 78:19 84:6 86:8 105:17 challenger 31:5 32:2,3 challenges 116:21 challenging 31:9,12 chance 81:20	change 54:22 55:5 142:4,7 142:10,13,16 142:19 changed 55:21 changes 141:10 143:6 changing 101:4 101:5 chapters 50:22 character 31:22 characteristics 75:24 76:19 79:3 93:9 98:2 99:10,13 100:10,11,12 100:13,14 105:17,18 124:23 129:15 129:16 characterizati... 79:4 83:3,5,9 84:5 89:21 92:24 93:10 103:24 124:24 characterize 105:9,14 characterizes 105:16 characterizing 108:4 check 80:21 97:12	checked 21:20 21:24 chip 137:7 chips 73:16 74:3,10 81:25 117:4 137:12 choose 26:14 38:3 chose 25:22 chosen 57:1 citations 14:2 46:13,15 cite 57:4 79:23 79:25 80:2 83:5 93:24 94:4,6 122:24 124:19 133:2 cited 9:23,25 10:6,8 46:17 46:20 66:1 80:4,6 85:7 94:8 107:19 132:25 cites 64:20 93:18 94:1,2 110:4 citing 106:15 106:16,17,17 city 38:2 claim 20:25 43:11,11 44:25 45:1,4,14,18 54:7,19 55:2 65:15 66:2	80:9 82:12,16 82:21,22 84:5 94:7 100:22,22 100:22 101:21 101:23,25 102:3,5,6,6,7,9 102:10,13,15 102:18 103:22 103:23,24 104:4,15 106:5 107:5,5,10,11 107:12,12,17 109:13,21,22 110:1 111:13 125:11,12 126:1,11,11 129:11,20,22 130:13,17 131:15 claimed 65:21 125:23 126:21 127:16 128:5 128:16 claims 10:18 11:2,5 16:5 17:12,23 18:1 18:2,4,17,18 19:19 25:4 45:6 59:25 61:1 62:5 63:14 66:4 78:16 79:2,21 85:19 86:19 87:17,18,19,21
--	--	---	--

109:18 112:18 112:22 117:14 124:13,19 125:21,23 126:19 127:16 128:16 131:12 133:1 136:23 clarification 103:19 clarify 126:23 classification 92:25 108:24 113:5,6 classify 116:16 classifying 108:25 clean 116:22 clear 20:22 94:24 clearly 7:17 78:17 closely 69:25 70:2 closer 13:20 90:15,23,24 closeup 116:25 cognitive 48:21 coleman 2:21 collaboration 83:12 collaborative 88:7 collect 116:13 116:15	collecting 118:12 collection 16:11 colloquial 11:25 128:12 128:14 column 19:24 combination 17:4 106:22,25 108:1,3 combine 85:12 85:14,17 87:22 94:12 102:14 102:16,23 107:21 109:5 113:1,4 114:25 come 14:9 27:1 54:5 88:11,14 comes 88:14 108:22 coming 122:4 commentary 136:15 comments 121:14 commercial 133:23 commercializ... 51:8 committee 49:10 common 13:24 104:22 120:3	120:21 commonly 117:5 compared 21:11 competitors 22:15 complete 9:22 26:13 43:23 50:3 53:3,8,10 54:25 55:1 56:4 60:13 69:14 98:6 102:15,21,24 113:3 133:5 143:8 completed 141:16 completely 56:2 complex 16:17 comprising 109:23 computation 99:16 computational 48:2,4 computer 15:11 16:1,16 19:14,16 20:1 22:20 38:11 41:6 45:11 47:22 48:9,10 48:23,24 49:11	50:13 53:20,22 59:6,18 60:7 60:15 63:13 66:12,13 68:8 69:6 72:23 83:16,17 90:6 98:19 99:15,17 101:7 110:19 111:14 115:9 116:7 129:14 129:17 130:19 131:25 computerize 15:23 computerized 76:1 computers 69:8 131:18 conceivable 12:23 concept 48:1 131:13 concepts 48:7 concluded 138:24 concludes 138:18 conclusions 55:1 concur 69:16 conduct 13:4 48:16 108:15 conducted 41:24 48:18
---	---	--	--

conference 49:21 50:10,12 50:14,16,20	contact 51:18 contactless 83:3	conveyor 115:21 117:9 117:11	37:3 38:8 40:13 43:18 44:17,19,20,22 44:23 48:2 49:4,9,13,16,20 50:6,17,23,25 51:1,3,4,16,20 51:21 53:1,2,4 54:25 55:11 57:2,10,15 59:3,24 60:11 60:19 61:5,12 61:17,22,24 63:9 64:5,12 64:22 65:17,21 66:5 67:9,24 68:3,6,12,23 69:5,10,13,21 70:14 75:10,17 76:5,12,17 77:2 78:14,22 79:6,9,20,24 80:2,3,15 81:8 81:25 82:1,19 84:14,23 85:20 86:5,11,15 87:3,10,19 88:18,23 89:4 89:7,10,17,19 91:15 92:3,15 92:20 93:15,25 94:5,13,15,17 94:20 96:8 97:12 98:17,25
conferences 49:24	contain 53:12 53:15,16,19,25	conveyors 117:5	
confirm 27:21	contained 103:3	cook 13:13	
consider 75:7 81:8 133:19,22 133:25 134:3,6 134:9,14,17,19 135:9,11,13 137:16	containing 73:16 74:3,11 contains 122:6 content 39:10 101:13	copies 141:14 copy 20:23 26:13 27:1,15 28:4,5,6 117:21 130:11 136:7,12,12 138:7	
considered 56:22 58:1 70:12,15 121:22	contents 56:18 60:4	copying 133:25	
consistent 67:19,21 100:25 101:5 101:17 119:3	context 32:7 75:15 87:8 119:6 134:18	core 41:5	
consistently 101:3 119:5 125:4	continue 4:8	corporation 31:19 36:19,25 37:9 38:18	
consisting 91:20	contribution 48:14 68:8	correct 6:19 7:6,10 8:7,25 9:18 10:3,14 11:20,21 12:5 12:6 13:2,6 14:25 15:1 17:16,24 18:20 18:21,22,23 19:12,16 20:23 21:4,7,13,17,22 22:2,5 25:12 25:13 28:1,2,4 28:9,12 29:5,6 29:18,19 30:8 30:9,21 32:13 33:18 35:17	
constitute 5:24	control 129:18		
construction 43:12 44:25 45:1,5,18 54:7 55:3 84:5	controller 25:9 100:14 115:8,9 130:20,22 131:14 132:1		
constructions 45:14	controllers 69:18 131:18		
consuming 34:17	convenient 79:11,12 conversation 20:19 72:8 88:22,25 97:14 conversations 4:7 13:18 20:4		

99:8,22 100:7 100:20 101:10 101:14,17,25 102:5,8,11,12 102:23 103:4 103:10 104:4 104:15,20 105:20 106:1,6 106:10,18 107:17 108:2 108:10,16,17 108:20 109:6 109:11,14,19 110:2,9,17,25 111:4 112:2,9 112:16,19,23 113:14 114:10 117:13 118:21 118:25 121:17 121:18 122:5 122:18 123:10 124:1,16 125:1 125:9,12,18 128:6,9,19,20 128:24 131:1 132:23 133:2,5 135:5 136:19 137:1,4,18,19 143:8 corrections 138:14 143:6 correctly 115:11	correspondeen... 57:23 could've 123:16 counsel 4:12,21 5:10 8:1 9:8,13 13:1 21:16,19 45:15 52:11 77:8 88:6,7 102:17 139:10 139:13 140:7 140:10 141:14 counting 50:10 50:12 92:16 couple 22:1 29:22 65:6 76:13 115:7 132:5 136:21 course 56:17 64:7 74:24 99:4 112:5 127:11 137:21 courses 48:25 49:1 court 5:7 7:8 32:4,7 34:22 34:24 77:20,20 95:12,13 123:14 cover 127:5 covers 65:24 create 17:6 credentials 56:20	credit 15:17 criteria 11:14 12:3 14:9,24 81:3,4 critical 77:19 cs 141:15 cs8020906 1:24 curiosity 37:21 curious 23:22 25:21 current 29:8 55:2 cv 28:4,7 29:2 45:25 49:25 52:23 d d 3:1 4:1 danley 2:3 5:2 5:2 9:5 11:6,8 13:17 14:11,13 15:5 17:17 19:17 27:3,6 40:14,17 52:2 53:5 55:12 58:15 60:20,23 61:6 62:11 63:10,17,24 74:12 77:4 78:15 81:2,10 85:2,21 86:16 86:23 92:8 99:23 102:17 107:3 113:2	114:1,16 116:5 117:6,19 118:9 119:4 121:19 123:12 125:24 126:22,25 127:17 131:22 132:15 135:16 136:3 137:8,13 138:3,6,8,11,13 138:16 141:1 data 36:19,25 37:8,11 68:9 80:24 98:1 99:3 116:22 129:13 134:14 137:17 database 47:14 47:20 databases 47:10 date 1:11 54:6 91:5 97:8,10 142:24 143:12 day 41:6 88:17 120:13 143:15 days 16:6,18 84:21 85:1 88:17 89:2 141:16 dead 68:16 deal 47:5,22 68:9 119:9 dealing 68:22 90:10 118:6
---	--	---	--

119:11 debarked 79:3 79:4 83:3 93:9 93:10 103:25 105:14 113:21 114:10 124:24 124:25 debarker 18:2 18:2 23:3,12 25:9 26:2,6 59:21 60:4 62:7 64:5,7 71:10 75:25 76:20 98:1 100:13 113:1 115:25 119:8 121:1 129:11 129:18,21 130:17,24 131:3,16 debarker's 18:14 81:23 debarkers 18:7 20:11 23:1 24:6 26:9 69:7 71:14 99:18 120:25 debarking 13:15,21 17:16 17:19,20 18:3 18:6,17,18,19 18:22 19:8 20:3,9 23:9,13 44:16 58:24	59:24 60:11,15 60:17,19 61:4 61:9,10,17 67:1,9,13 69:5 69:13,16,20,24 70:3,5,6,9,13 70:16 71:3,17 72:5 73:1,4,8 73:11 74:9 75:8,9,12,16,21 84:25 85:7 88:19 90:4,14 98:24 99:8,11 99:22 100:2,6 100:20 101:8 101:14 107:24 108:10 109:6 113:19 115:6 116:3,7 117:5 118:8,24 119:3 119:20 123:8 130:21 131:14 131:20 decide 13:23,25 17:7 18:7,9 37:25 51:18 54:7 decided 8:24 13:8,21 43:7 136:7 deciding 37:18 decision 35:18 declaration 12:5,7 14:7	22:4 27:16 31:8 32:8 33:6 34:14 44:9 52:24,25 53:3 54:25 55:11,16 55:22 56:2,4 56:14,16,23 57:2 64:10,16 65:17,20 66:3 72:4 73:14 79:6,24 80:18 82:4,5,14 83:24 84:8,22 85:18 86:5,10 86:15,22 87:3 88:5,18 89:2 95:25 96:12,21 96:24 97:1 100:17,25 101:3,16 106:10 107:8 107:16 110:17 111:7,12 112:8 123:2 125:5 127:12 135:10 137:18,25 declarations 36:7 declare 143:4 deemed 143:6 deep 16:4,6 79:5 93:11 107:23 108:23 109:22 111:18	111:19,20 113:9 116:15 119:16 124:25 129:13 deeper 20:18 defects 118:14 defendant 4:12 31:7 42:10 define 83:8 101:1 109:3 definitely 66:15 definition 45:12 62:1 65:4 66:7 83:14,20 99:19 101:2,9 105:3 127:9,19 degree 11:20 48:19,24 49:3 49:7,8,13,15 90:6 98:19 101:6 dented 16:25 17:2 dependent 17:12 deponent 141:13 143:3 depose 137:24 deposed 6:24 7:3 31:17 32:11,12 36:8 43:15
--	--	--	--

deposing 141:13 deposition 1:10 4:11,16 5:22 7:6 35:2 40:5 52:19 53:12 139:1 depth 60:16 des 2:15 describe 49:25 described 62:4 89:22 115:15 description 3:6 design 23:3 designed 48:17 73:1 designing 59:14 despite 66:3 detail 15:8 16:24 23:2 30:15 55:18 61:19 80:5 detailed 82:2 details 32:23 34:21 determine 11:2 11:23 23:6 129:17 determined 14:22 23:5 developed 93:20,22	diameter 76:20 78:19 92:18 dictionaries 83:15,17,18 dictionary 45:11 83:6 difference 65:8 70:21 132:6 135:14 different 12:18 26:5,6,7 34:20 38:3 43:10,11 50:4 52:16 54:8 64:10 71:13,14 116:8 118:14,15 119:7 120:21 120:25 121:3 129:4 difficult 45:21 difficulties 73:10 digital 104:23 104:23 105:8 105:12,24 139:7 140:3 direct 53:1 57:23 79:12 disagreement 10:4 discern 129:14 disclose 102:5 104:14 106:4 112:1 124:20	disclosed 22:11 107:24 115:9 116:18 discloses 80:14 82:18 93:14 101:24 105:5 107:13 116:20 118:6 124:23 disclosing 107:16 113:9 disclosure 94:12 102:4 104:3 110:8,15 110:16,18 discover 12:10 discovered 13:8,9 discovery 43:11 discuss 54:16 54:19 72:3 101:23 103:23 104:19 119:23 120:8,9 122:17 discussed 18:6 22:22 23:10 58:5,7 70:13 71:5 78:8 100:1 101:7 106:23 107:6 120:16 discusses 12:7 76:6,7,13 111:13	discussing 94:11 111:10 123:7 discussion 20:14 24:10 75:3 96:3,4,7,9 96:12 97:3,5,6 102:2 119:25 discussions 104:16 diseases 116:10 dispute 41:17 distant 117:1 distinction 68:20 documents 45:3 doing 45:4 65:6 71:22 79:24 81:19 85:18 108:1 118:20 118:24 125:4 double 28:22 97:12 doubt 41:14 downstream 75:20 76:17 dr 5:5 6:21,24 8:5 52:10 driver 62:18 dryness 101:12 duly 6:7 139:5
--	--	---	---

e	elaboration	25:14 51:6	environmental
e 2:1,1 3:1,5 4:1	103:13	57:15,19,20	76:21
4:1 98:6 99:17	electronic 26:1	72:9,21 96:3,5	environment...
100:9 142:3,3	element 66:2	96:8 97:3,5,15	76:21
142:3	79:2,24 82:12	113:17 114:8	errata 141:11
e.g. 98:3	82:18,21,25	114:13,18	141:13,16
earlier 18:6	93:3,8,14	119:19 135:19	erratas 141:15
62:5 89:9	94:10 98:6	employing	es 139:4
90:16 96:5	100:9 102:5,10	77:24	esquire 2:3,11
126:10,11	104:3 111:3,4	encounter	2:12 141:1
early 29:22	112:1,22,22	119:21	establish 106:8
easier 41:4	125:17	encountered	estimation 68:2
115:22 116:25	elements 65:14	120:13	92:17
130:2	80:9 82:16	engaged 8:24	et 10:22 11:13
easily 15:20	102:8 104:14	engine 36:17	16:2 38:15
63:13 90:5	104:19 106:5	engineering	56:10 60:2
110:10	106:18 110:16	49:16 98:20,22	62:19 64:3
east 2:14	124:19,20	100:1 101:6	74:20 75:12
easy 17:14	eleven 96:1	entering 76:19	78:19 84:6
edited 50:5,21	eliminate	entire 25:3	86:8 105:17
education 28:8	117:18	100:17	europe 120:18
educational	embodies	entirely 26:6	evaluate 11:4
100:5,19	136:23	88:5,16	66:25
effective	emmett 140:2	entirety 24:23	evaluating
134:15	140:15	24:25 25:11,22	30:20 75:16
eight 84:21	employed	26:18,19 53:25	evidence 55:8
85:1 88:17	139:10,13	65:21 67:6	55:10 75:7
89:2	140:7,10	entitled 46:1	86:7,8 102:25
either 10:9	employee 72:21	52:20	108:19 109:4
69:24 72:22	139:13 140:9	entity 33:20	133:19,22,25
elaborate 53:7	employees 20:5	entries 18:7	134:19
54:17 103:11	20:14,19 22:1	19:23	evidentiary
103:12	22:7,23 23:16	entry 99:13	5:21
	23:17,22 24:1		

exact 65:4 84:9 85:15 exactly 94:19 125:3 examination 3:2 6:12 examined 6:9 examiner 10:9 example 35:8 113:6 124:21 examples 59:5 118:17 119:18 exclusively 104:14 excuse 11:7 exhibit 24:12 24:16,19 25:21 26:12,24 27:13 27:22 28:3,20 46:3 52:24 118:4 130:9 exhibits 25:16 existed 29:21 47:14 135:6 existing 16:5 expect 106:22 115:10 expensive 51:7 experience 18:19 28:7,11 59:24 60:11,15 60:16 61:4,17 88:15,19 90:8 98:25 100:19	100:20 101:8 101:15 105:9 108:4,23 116:3 116:7,7 experimental 47:8 48:1,15 49:6 experiments 48:15,16,17 expert 28:12 45:7 expertise 18:18 18:22 19:11 experts 56:10 61:9 explain 73:20 111:20 explained 65:5 explanation 82:2 explicitly 14:15 104:24 105:6 expressed 54:24 57:2 extent 69:7 75:13 102:6 125:10 127:8 extra 27:1 54:20 extremely 45:20 extrinsic 108:18	eyes 91:8 f face 30:23,24 facebook 32:19 fact 17:23 81:18 108:11 109:7 115:13 facts 40:15 failed 134:3 fails 141:18 fair 7:23 8:3,16 11:1,4 14:25 18:24 19:11 20:4 26:17 27:15 28:8 29:4 30:8,19 31:10 37:14 41:4 43:16,21 44:8,15 47:5 47:15 53:25 59:1 93:24 97:4 112:25 122:13 133:3 135:8 fairly 13:24 67:4 familiar 7:5 far 9:10 faust 58:3 favor 42:15 fayyaj 57:5 58:5	features 89:21 feed 129:13 feedback 75:22 76:2,9 feel 25:10 27:6 83:8 fell 24:3 field 17:15 19:13,16 41:5 41:7 87:24,25 88:2,8,9 89:12 89:25 90:9 91:7,11,12,15 100:7 fields 50:14 100:1 fifth 30:1 figure 19:24 58:9 file 9:20,21,24 10:1,8,13 21:6 21:8,10,13,16 45:3,9 51:7,9 filed 4:14 22:4 24:17 31:15 34:12 36:5,6 54:13,21 58:14 84:3,4 88:18 files 45:8 filing 15:15 finally 96:2 financially 139:14 140:11
--	---	---	---

find 15:8 25:6 45:6 58:2 60:6 62:6 83:16 90:22 92:5,17 99:13 101:13 102:25 118:1 130:3 131:6 136:25 finding 43:11 findings 112:6 112:7 fine 8:14 29:25 80:8 94:23 95:15 104:9 finish 123:13 firm 41:21 54:13 66:23 84:3 firms 44:4 45:3 first 6:7 8:19 8:24 10:20 25:23,23 28:23 29:21 38:24 43:6 67:20 76:3 84:16,19 113:11 fit 46:24 87:19 five 7:4 12:17 29:10 32:23 33:9 44:12 49:2 51:13,23 64:10 133:7 flight 95:7	flip 95:24 flipped 46:4 flowed 71:10 flower 62:16 116:10 flowers 16:13 16:14 108:25 focus 67:8 69:16,19 78:17 92:16 122:23 124:12 focused 91:14 100:9 104:6 121:25 123:3 focuses 67:13 folks 26:15 84:12,25 96:22 97:7 follow 28:19 100:15 follows 6:9 food 13:12,13 footnote 91:18 93:6 113:16 foregoing 139:3,4 140:4 143:5 forest 115:17 115:18 117:8 134:23 135:5 forget 54:12 94:19 133:11 forgive 28:16	forgot 47:19 form 78:15 81:2,10 86:16 97:11 99:23 113:2 114:1,16 116:5 117:6,19 119:4 121:19 122:10 125:24 131:22 132:15 135:16 136:3 137:8,13 formal 24:8,8 45:18 formed 91:20 128:18 forward 43:12 43:13,16 found 12:14,23 12:24 14:1 37:9 59:1 65:15 90:24 four 7:4 12:17 29:10 51:12 53:13 138:20 fourth 30:1 fredlaw.com 2:16,17 fredrikson 2:13 4:25 free 127:11 129:23 frequency 119:20	friendliai 30:22 30:24 31:3,4,7 31:12 front 27:11 36:2 fruit 122:20 full 117:21 fully 105:22 further 139:12 140:9 furthermore 76:18 fuzzy 10:19
			g
			g 4:1 gagnon 64:3,7 64:20 66:19,21 66:24 67:8 75:11,13,15,19 75:23 76:1,6,7 78:6,7,10,13,16 78:21,24 79:5 79:9,11,13,18 79:21,23 80:3 80:4 87:23 89:22 93:24 94:1,4,6,12 98:8 101:22 102:4,7,9 106:25 107:24 108:11,20 109:8 112:14 112:17 113:4

115:1,9 123:19 124:5,15 125:8 gain 85:8 88:13 90:4 gaps 44:12 general 10:20 12:20 18:3 19:14 50:15 52:13 59:6,6 62:14,20 69:6 71:18 88:10,12 101:6 104:22 108:23,24 111:14 116:15 116:20 119:16 120:16 121:13 130:19,19,20 130:22 131:17 131:25 132:1,1 generality 110:19 generally 7:5 10:5,10 11:1 20:24 30:13 35:17 37:14 65:14 generic 69:9 129:12,13,14 getting 81:22 129:4 131:2 giant 67:24 give 11:12 12:1 14:16 16:16 26:15 27:7	39:15 41:18,21 42:16 43:14,17 44:4 95:13 104:7 133:7 given 14:25 15:15,16 16:21 21:16 25:14,23 26:17 45:14 56:8 57:13,18 58:11 138:19 143:9 gives 105:16 giving 11:16 go 4:9 11:9 13:17 14:14,17 15:7 16:24 29:24 38:17 43:12,13,16 46:5 52:22 58:2 60:24 80:5,8 82:4,11 86:1 97:2 98:4 112:21 124:18 125:20 127:2 133:9 goal 118:22 goes 49:25 122:4 going 4:3 7:12 7:21 9:8 19:22 24:11 26:23 38:6 41:13 46:7 47:2 51:8 51:22 52:4,7	53:6,7 55:24 61:13 68:25 81:17 82:11 85:10 95:1,3 95:18,21 97:18 98:4 103:2 110:1 111:6 131:3,6 132:3 133:13,16 137:12 gonzalez 2:22 4:19 good 4:2,24 5:11 6:14 71:25 97:18,18 107:20,20 google 36:20 37:1,4,7 39:20 40:10,22 google's 37:12 graduate 48:18 grand 2:14 grant 21:21 58:13 grants 50:1 grasping 58:5 great 95:11 133:10 138:12 ground 64:19 68:14,19,23 69:4 82:7,8,11 102:3 107:17 107:18 109:12 109:19 112:13	112:19 123:18 123:22,25 124:1 125:2,18 125:20 126:3,4 126:4,5,8,13,14 grounds 12:12 12:15,17,19 13:1 14:7,10 14:19 64:10,14 64:17 65:16 66:17,19 80:9 82:3,4,6 group 1:7 2:4 2:10 4:13 5:1 19:6 35:19 136:22 141:4 142:1 143:1 group's 20:13 135:20,23 guess 26:22 34:2 42:9 43:22 53:6,14 59:4,5 67:4 70:6,23 74:18 77:14 80:9 90:14 99:15,16 99:24 100:21 104:21 114:21 131:11
h			
h 3:5 46:13 142:3			

half 92:4 hand 6:4 24:11 26:23 handed 129:25 handy 129:24 happen 9:11 23:24 120:14 happened 31:15 57:8 76:3 89:3 happens 62:7 happy 54:4 hard 38:7 harvesting 70:1 70:17,22 head 65:6 hear 63:15 hearing 6:1 height 37:18 38:3,15 heights 38:3,14 help 77:15 88:6 hereto 139:14 140:10 143:7 hey 76:3 hi 5:5 high 37:24 highlighted 111:16 highly 107:22 108:7,21 hindsight 86:13 86:18,22	hire 47:2 histories 21:10 history 9:20,21 9:24 10:1,8,13 21:6,8,13,16 home 90:15,16 90:17,18,19 honest 17:19 25:17 29:20 34:16 44:2 50:18 57:3 65:22 88:24 honors 28:8 hopefully 9:9 hour 22:23 51:23 95:2 hours 22:17 44:7 45:22,22 65:6 84:10 136:21 house 15:17 hugging 30:23 30:24 human 48:15 113:18 114:8 humans 113:24 121:3 humidity 101:11 hurting 136:1 hydraulic 26:8 hyland 31:19	i ia 2:15 ibm 42:3,8,8 ibm's 42:15 idea 81:22 127:6,6 128:4 ideas 51:20 identification 16:13,14 80:15 81:9,13 91:25 92:22,23 110:19 113:25 114:14 116:24 118:23 identified 99:10 identifies 59:18 identify 68:10 101:11 109:8,9 113:10,20 114:9 116:9 identifying 60:1 79:3 93:3 93:9 108:13 124:23 ido 68:5,11,22 79:8,11 80:11 80:14,17 81:1 81:3 112:15,17 113:1,4,5,9 114:12 115:1,4 115:15,16,19 115:24 116:19	116:20,21 117:3,7,15,16 117:21,22 118:2,4,5,11,11 118:20 119:2 119:11 ido's 118:22 ignore 92:4 115:22 ignoring 115:20 117:3 illustrates 110:18 image 16:7,22 16:22 31:22 80:15 91:4 97:20 105:18 105:19 108:5 108:24 images 16:11 80:25,25 91:8 104:23 108:14 115:5,6 116:8 116:13 117:12 118:13,14 impact 135:20 135:24 137:6 imperfect 68:9 implement 58:23 60:25 63:14 131:24 136:10,18,21 implementati... 63:7 73:4 74:8
---	---	---	---

81:9 115:10 implemented 37:9 63:8 73:8 108:9 129:14 131:21 implementing 69:12 73:11 75:9 134:10 implied 114:19 importance 113:23 114:3 important 23:1 25:7 38:15 43:12 46:1,11 46:25 47:3 49:18 50:15 71:2 118:17 121:22 improve 89:22 improvement 75:8 improving 75:12 include 29:17 98:21 129:3 included 123:2 132:14 includes 50:4 129:12 including 76:25 inclusion 105:2 income 15:15 incoming 76:4	incorporate 89:21 107:23 incorporates 110:5 indefiniteness 82:8 index 46:13 indexed 99:12 indicate 122:11 122:15 indicates 110:20 indicating 91:19 indicia 133:20 individual 18:1 92:18 98:16 individuals 24:13 108:16 industry 17:16 19:23 44:19 59:13 73:15 74:2 90:14,25 108:16 120:5 122:5,9,17 123:8,8 134:7 135:15,24 influence 47:25 influences 76:22 info 54:20 information 15:2,12 60:3,3 76:7,10 78:8	78:18 86:24 89:1 116:23 117:8 118:12 121:18 122:4,6 134:16 informs 45:8 infringement 34:5,7 38:25 39:21 infringer 37:2 infringing 42:23 input 98:1 115:6 installed 23:8 instance 13:11 58:10 98:7 instruct 14:16 instructions 14:17 intellectual 2:4 intelligence 12:21 13:5 16:4 17:7 19:12,25 23:8 26:4 30:18 35:7 36:16,17 37:15,18 47:6 47:12,15,18 48:21 58:23 59:18 60:8 62:6,25 63:1,7 63:8 73:4,8,11 74:9 75:5,9	76:11,16 77:1 78:9,13 88:2 90:1,4,10,12,13 90:17,20,21 91:1,3,13 intend 54:1 56:13 intended 5:19 intends 58:22 intensity 105:17 interest 15:18 interested 38:22 139:14 140:11 international 30:3 34:2,19 134:23 135:5 internet 37:16 37:20,23,23 38:20 interpret 106:12 111:17 111:18 interpreted 19:20 interrupt 92:11 intrinsic 76:19 98:2 introduce 5:8 introductory 20:9,15 69:17 invalid 12:18 64:11
--	--	--	---

invalidated 40:25 invented 51:10 62:24 invention 11:23 15:4,7 17:16 31:10 33:21 65:21 88:2 125:23 128:16 133:23 134:6 134:10,15 135:2,14 136:10,18 137:7,12 inventions 59:25 126:21 127:15 128:5 inventive 131:12 inventor 51:2 involve 31:24 36:16 39:11 48:10 involved 21:21 21:25 29:7 31:9 34:18 35:13 36:15 37:5,14,15 39:8,9 43:6,24 44:25 involves 47:10 involving 8:6 ip 5:3 37:8	ipr 30:25 31:1 31:16 iprs 29:9,20 irvine 63:12 issue 8:20 62:2 issues 54:5,14 55:3 it'll 95:11 iterative 85:23	78:2,4,11,20 81:7,12 85:4 85:24 86:3,20 87:1 92:10 95:23 100:3 102:19,20 103:18,21 107:4 113:7 114:4,20 116:17 117:10 117:24 118:19 119:14 122:2 123:17 126:2 127:10,21 130:11,15 132:2,18 133:18 135:18 136:5 137:10 137:15,20,24 138:4,15 journal 47:8 50:5,9,22 81:19 91:8 journals 49:5,6 49:19 judge 43:7,10 judgment 32:16 july 8:10,11 20:17 jump 109:13 jumping 123:23	june 8:12 jury 40:12,20 k kambla 64:20 67:14,18,22,23 67:25 69:23 70:14 79:6,8 87:23 89:21 90:9 91:19,23 92:1,4,13,21 93:15,18,24 94:1,1 101:22 101:24 104:3 104:14,16,18 104:24 105:4,5 105:6,22,23,25 106:6,11,12,17 106:25 107:13 107:15,18 108:12,20 109:9,24 110:2 110:4,6,9,10,13 110:20,24 111:1,3,20,22 112:1,14 123:20 124:5,5 124:15,22 125:7,13 kambla's 91:25 92:16 107:23 kasper 140:2 140:15
	j j 1:10 6:6 141:5 142:2,24 143:2 143:4,12 james 72:9,19 jeff 5:2 27:1 jeff.danley 2:7 141:2 jeffrey 2:3 141:1 job 1:24 johnson 2:11 3:3 4:24,25 6:13 9:6 11:18 14:5,23 17:9 17:22 20:2 26:25 27:4,9 27:10 40:21 52:9 53:9 55:14 58:18 61:2,11 62:21 63:18 64:4 74:15,22 75:6 77:6,13,25		

keep 14:3 38:1 81:24 95:3 kids 95:10 kind 96:25 104:21 132:3 knew 85:19 87:9,17,17 knife 71:9 knots 18:15 60:2 117:17 118:7,17 know 8:1 10:22 10:23 11:25 15:18,25 17:12 17:13,19 18:3 20:10,13,17,18 22:13,15,16,18 22:20,21 23:3 24:22 25:9,16 25:24 26:5,10 29:19 31:15 32:22 36:5,5 37:22 38:1,12 38:12,12 40:19 41:8,10,15 43:4 44:1,1,11 44:12 45:5,10 45:11,21,23 46:24 47:2 50:18 53:19,22 53:23 54:6,6 54:18,19,20 55:3 56:9,18 58:13 59:6,7	60:4,4,6,13 61:25 62:2,22 63:21 64:23 65:8,22,25,25 68:7,16 69:2 70:21 71:2,13 71:16,21 72:12 72:17,19,22,25 74:8 76:24 81:6,21 84:12 84:24 85:13 86:2 87:17 88:9,13,14 91:5 96:20 97:25 98:9,19 99:25 101:2 102:14,21 104:10,24,25 105:6 106:4 110:5,6 111:19 115:23 116:3 117:9,22 119:10 120:2 120:10,10,16 121:8,23 123:16 128:11 128:12,15,22 132:6,8,10,13 134:23 135:6 136:1,6,9 knowing 18:11 18:14 76:18,24 knowledge 18:6 19:20,23	20:3 48:1 59:6 59:7 60:19 61:10 64:20 65:24 86:14,18 88:11 90:4 99:3,4,8,11,18 99:21 100:6 104:22 106:11 111:14,23 132:13 136:13 139:9 140:6 known 90:13 knows 45:23	lawyers 45:22 learn 48:6 learned 15:11 84:24 learner 111:18 learners 111:20 111:21 learning 16:4,7 58:6 79:5 93:11 107:23 108:23 109:22 113:9 116:16 119:17 124:25 129:13 leave 72:2 121:11 127:23 leaves 117:3 left 44:1,10 50:18 legal 4:20 10:18 11:11,15 11:16 14:24 15:2 37:8 45:2 53:23 55:3 59:4,11 61:25 64:25 65:23 85:15 110:6 127:8,19 128:11 131:3,4 138:21 141:23 leonard 2:22 4:19 level 100:18,24 101:9,15
		I	
		labeled 16:12 landscape 100:13 language 131:20 large 79:25 108:4 law 2:4 10:22 11:20 12:1 14:20,21 34:20 41:21 44:4 45:3 54:13 55:4 64:13,14 66:23 lawn 13:22 laws 5:21 lawsuit 34:12 42:7	

levels 120:25 121:3 levine 58:4 licensed 51:9 light 105:16 112:15,17 123:19 124:5 124:15 likely 31:11 43:13 limitation 107:14 limitations 101:24 107:17 limited 56:10 111:9 line 142:4,7,10 142:13,16,19 list 42:19 50:3 124:23 listed 10:7 26:18 29:12 44:9 46:22 49:19 50:22 57:25 64:17 82:16 listing 43:23 107:16 litigation 29:4 36:5 58:19 little 10:19 16:24 28:7 34:20 37:17 54:14 56:21	61:19 72:3 82:14 91:17 115:22 119:23 llp 2:4 loan 15:16 location 1:13 4:16 119:8,22 120:6 121:1 locations 119:12 120:20 120:22 121:1 log 71:10 76:3 76:5,19 79:4 83:3 89:14 91:21,24 92:1 92:2,5,18,19 93:1,9,10 98:2 101:13 103:25 105:14,19 124:25 129:15 131:20 logging 44:19 87:24,25 88:8 88:15 89:10,12 90:2,9,14,17,18 90:23,24 91:15 98:16,24 99:8 99:18 100:7,20 101:15 120:5 121:17 122:5,9 122:17,25 123:8 logic 69:17	logs 70:5 79:3 88:14 89:13 92:13,17 101:12 105:9 118:7 124:24 long 8:2 21:10 21:11 22:16 41:15 63:19 67:4 84:7 90:22 117:23 longer 15:23,23 look 13:22,25 15:21,22 17:8 17:25 18:16 20:24 25:15 45:12,25 64:15 69:25 70:2 79:17 80:23 82:21 83:14 89:20 90:9,14 93:2 98:5,5 100:10 101:19 103:22 104:8 105:21 112:13 113:8 122:19 123:18 127:3 135:4,8 looked 9:21 21:8 53:17 83:15 looking 20:8 37:3 60:2 64:24 70:5 76:2 87:10,18	87:20 88:16,20 105:23,24,25 106:9 111:11 looks 24:15 27:25 59:20 73:16 74:3 84:13 looksmart 35:19,22,25 lookup 15:9,10 26:4 45:12 121:21,22 loon 36:20 loop 75:22 76:2 76:9 los 1:15 4:17 lot 16:8 28:7 30:14 45:24,24 53:16 lots 14:1 117:2 117:23 love 43:21 lumber 71:22 71:23 89:13,14 lumbering 70:19 lunch 95:3,5 lung 116:11
			m
			machine 19:8 58:6 71:17 73:5,8,12 113:19 120:12

121:4 132:14 132:22 machines 23:9 44:16 58:24 69:13 72:5 73:1 74:9,10 84:25 85:7 115:7 117:5 119:20 120:11 132:5,6,13 made 24:9 43:10,12 51:15 79:16 106:24 135:14 143:5 magazine 134:24 main 48:14 118:22 maintenance 25:11 make 16:15,23 16:24 20:21 47:9 55:24 66:14 77:5 94:15,23 97:12 106:3,14,22 111:7 125:3 128:2 130:8 138:14 makes 16:5 27:6 116:14 making 27:4 40:17 77:8 130:14	manner 5:22 manual 24:23 24:25 25:3,12 25:22,24 26:14 26:18,19 105:24 106:15 106:16 manuals 24:6 24:13 57:13,14 88:20 132:4 133:3,4,5 manufacturing 1:4 2:2 4:13 5:4 19:4 23:23 57:13 84:13 141:4 142:1 143:1 marked 3:7 24:11 26:23 27:11 118:3 mason 72:9,17 74:7 master 35:12 master's 98:19 136:20 masterobjects 32:18,22 33:1 33:14,20 masters 100:1 material 20:16 54:5 materials 24:2 24:5 56:22,25 58:1	math 16:18 matrices 121:23 matrix 15:11 16:19 matter 4:12 8:6 8:25 12:5 21:1 22:5 26:24 27:12 30:14 32:8,10 35:5 35:21 36:8,11 36:13 37:13,16 38:23 39:3,23 42:25 54:2 59:23 60:11 62:8 118:4 127:25 133:20 meal 100:14 mean 10:2 11:25 12:16 13:24 24:15 25:7 29:20 34:11 38:9,10 41:14 43:13 45:2,7,10,17,21 46:23 53:8 55:19 59:10 61:19 64:7,7 65:3 68:7 70:1 72:15 77:19 80:21 84:10 86:18 87:4 88:24 92:11 94:20 96:19	100:8 105:4,5 110:3,22 111:13 114:3,5 120:11,15 122:21 meaning 45:19 80:25 83:4,18 83:23 means 5:23 7:12 10:5 53:11 85:14 128:12,13 133:21 meant 54:8 128:23 measuring 76:18,25 89:20 meat 18:11,12 mechanical 49:16 90:6 98:20,22 101:7 media 4:10 52:4 95:18 133:13 138:20 medical 91:7,8 medicine 62:15 91:11 meets 11:13 81:3 members 49:10 memorized 118:1 memory 64:24 124:4
--	--	---	--

mention 66:18 70:5,8 71:11 77:2 87:25 97:5 98:24 100:6 110:23 120:6 122:9,20 125:16 mentioned 14:6 17:21,23 18:2 18:4 44:24 69:20 76:7 78:10 93:14 99:20 100:4 mentioning 75:20 110:24 118:5 mentions 70:3 78:18 105:6 110:6,10,13 122:25 merriam 83:5 83:19,22 105:3 messed 131:7 met 12:3 method 63:1 91:20,23 103:24 107:12 109:21 methodology 58:6 mic 133:11 michael 1:10 4:11 5:5 6:6,18 138:19 141:5	142:2,24 143:2 143:4,12 microphone 24:3 microphones 4:5 microsoft 35:19 mid 20:20 might've 18:25 mike 72:9,17 74:7 123:12 mind 74:19 105:13 124:4 mine 48:18 minute 51:23 104:7 minutes 95:16 133:8 minutia 25:6 mispronounce 68:25 misread 80:21 misrepresent 97:10 misrepresented 30:16 missed 66:9 misstates 19:17 62:11 63:17 85:2 mistaken 93:19 mistakes 66:13	misunderstan... 10:5 model 16:15,23 16:25 39:20,24 79:5 93:11 107:23 109:22 113:10 124:25 models 116:14 116:15 modifying 118:13 module 129:14 moines 2:15 moisture 18:15 76:22 78:19 101:13 moment 74:25 77:10,16 monotone 77:21 month 88:21 months 53:13 84:2 morning 4:2,24 5:11 6:14,15 62:23 motivated 107:22 108:7 108:21,22 109:5 motivation 85:12,13 87:22 94:11 102:14 102:16,22	107:21 mount 115:5 move 78:1,4 moved 126:13 multiplication 16:19 music 35:9,9 mute 4:7
n			
n 2:1 3:1 4:1 name 4:19,24 5:11 6:16 named 51:2 names 72:10 117:23 natalie 1:16 5:12 139:2,17 nature 32:21 34:4 35:12 36:15 37:13 39:7 42:6,21 necessarily 100:2 105:19 necessary 25:10 55:9 90:5 103:13,14 143:6 need 7:25 9:12 30:14 53:21 60:4,6 61:8,10 63:4 83:8 95:5 99:2,4,11,11,21 100:15 103:9			

104:9 112:8 116:1 127:9,22 needed 84:24 needs 19:23 neither 122:11 139:10 140:6 network 93:23 neural 93:23 never 51:2,19 51:21 89:6,10 89:14,16 107:25 136:25 137:3 new 16:22 29:21 31:9 54:4,5 137:25 nice 95:13 nicholson 1:4 2:2 4:12 5:3 19:4 20:5,8,14 20:19 22:1,8 22:24 23:7,12 24:14 25:11,19 26:15 57:13,14 57:19 58:22 71:5 72:9,21 84:13,17,25 96:4,8,22,24 97:3,5,15 113:18 114:8 114:13 119:19 132:5,25 135:19 136:6,9 136:13,16	141:4 142:1 143:1 nicholson's 20:13 136:1 night 43:7 57:3 non 133:20 northwest 120:16 notary 5:12 139:18 143:13 143:19 note 4:5 80:18 141:10 noted 91:18 143:7 notes 96:11,16 133:9 noticed 57:3 noticing 4:23 novel 16:5 nuances 55:4,5 59:12 61:25 number 4:15 23:5 29:1 52:4 79:25 92:16 95:18 133:13 138:20	objection 5:14 9:5,8,12 11:6 14:11 15:5 17:17 19:17 40:14 53:5 55:12 60:20,23 61:6 62:11 63:10,16,24 74:12,20 77:4 77:8 78:15 81:2,10 85:2 85:21 86:16,23 99:23 107:3 113:2 114:1,16 116:5 117:6,19 118:9 119:4 121:19 125:24 126:22,24,25 127:17 131:22 132:15 135:16 136:3 137:8,13 objections 6:1 40:17 objects 35:12 observer 2:21 obtain 58:2 96:21 obtained 50:1 75:8 134:10 obvious 10:21 53:20 65:3 90:25 91:2 101:21 107:10 112:18 125:11	obviously 120:2 125:25 obviousness 65:2,4,9 87:5,6 124:14 133:20 occurred 97:15 134:1 occurs 26:2 127:4 offer 10:17,24 54:1,8 128:7 128:10 offered 11:12 11:16 127:5 128:1 office 1:1 4:14 9:9 23:16,17 27:19 29:5,8,9 32:5,6 34:23 36:3,6 51:18 officer 5:11 6:10 63:15 74:24 75:1 77:10,11,16,17 77:24 78:3 138:6,9,12 139:1,2 officiated 1:16 oh 23:5 24:3,4 28:21 29:14 36:24 47:17 50:8 62:10 70:23 73:20,22 78:23 92:7
	o		
	o 4:1 oath 5:9,13 object 92:21,23 objected 74:18		

95:12 105:15 131:5 138:13 okay 6:24 7:5,8 7:14,20,24 8:18,23 9:2,7 9:17,20 10:2 10:12,16 11:3 11:10,22 12:4 12:7 13:19 15:3 21:9 22:7 22:10,22 24:1 25:2 27:5,15 28:3,11,18,21 29:7,12,15 30:10 31:1,13 32:1,15,18,21 33:6,8,11,17,20 34:14,25 38:7 40:8 41:4,23 42:14,18 43:19 46:11,18 47:17 48:10,13 49:23 50:20 52:15,21 55:24 56:25 57:12 64:15 66:11,16,21,24 67:18 68:2,5 68:21,25 69:3 69:12,23 70:21 71:7 72:12,17 72:22,25 73:22 74:8 75:7 77:25 80:2,17 82:11,21 84:12	84:21,24 85:10 89:12 93:8,13 94:25 95:6,9 96:11,21,25 97:18 101:19 102:13 104:11 106:3,20 107:5 107:9,20 108:18 109:13 109:15,18,21 111:2,25 112:4 112:21,25 123:15,25 124:2,6 125:20 126:14,18 127:23 128:18 129:9 131:8 132:8,22 133:22 134:23 135:1,7 136:25 137:6,20 138:4 138:5,9,10,12 138:17 old 32:23 41:14 44:13 older 38:8 omission 57:4 once 16:21 18:25 ones 34:12 44:5 ongoing 52:19 online 83:22 ooh 46:4 86:6 109:15	oops 52:17 open 31:19 operate 20:11 71:15 104:22 115:11 120:12 operating 98:1 99:9 121:3 129:17 operation 25:11 operations 25:7 87:24 88:1,8 88:16 89:10,12 operator 113:19 operators 113:20 114:8 121:1 ophthalmology 91:9 opinion 10:17 10:24 11:17 26:11 41:18,21 46:25 54:9 55:5 56:5,6 97:24 98:13 99:18 106:21 107:14 108:8 109:7 115:2 116:6 124:13 127:5 128:1,2 128:7,9,18,20 129:2,6 130:25	opinions 11:12 54:1,11,22,24 55:22,25,25 57:1 102:15 112:19 137:25 opposing 14:14 optical 31:22 optimization 71:16 optimizer 130:19,22 131:14 132:1 optimizers 131:18 order 20:21 99:1,3,9 111:17 130:25 131:5,10 ordinary 45:17 45:18 59:7,9 59:22 60:10,18 61:3,16 64:20 65:24 79:19 83:4,18,23 89:20,23 97:24 98:10,10,14,15 98:21 99:6,19 100:18,24 101:9,16 106:21 107:22 108:1 109:3,5 115:3 outcome 31:13 35:16 40:8,22
---	--	---	--

42:14 43:2 139:15 140:11 outline 86:6 output 115:7 outside 13:5 15:2 41:7 134:18 oven 13:12 18:13 62:7 100:15 131:16 oven's 18:10 ovens 13:11 own 13:4 14:10 23:3 79:20 95:10 116:24 owned 34:13 37:1 owner 1:8 2:10 5:1 31:4 32:2 33:1,24 34:9 35:25 36:22 39:5,25 41:25 42:9,23 ownership 41:17,18,21	46:3,24 56:22 57:7 64:15 72:4 73:18,19 73:20 78:6 80:17,23 82:3 82:13,23,24 85:11 91:18 93:2,5 95:25 97:14,18,19,21 97:23 101:19 101:20 103:23 107:6 109:16 112:23 113:8 117:22 122:19 123:19,21 125:21 126:5 126:13,16 129:6,10 131:5 131:6 142:4,7 142:10,13,16 142:19 pages 50:12 56:9 103:8 paper 15:21,22 81:5,5 88:14 93:18 99:14 110:4 papers 50:9,17 50:20 paragraph 58:1 73:14,24 74:1 78:7,8 79:1,13,14,16 80:4,18 82:23	85:11 92:1 93:19 94:4,6,7 94:9,11 95:24 95:25 97:19 99:7,20 100:16 101:1,19 102:21 103:4 103:10,15 104:2,13,19 106:18,20 107:11,20 109:23 110:23 111:2,8,9,11 113:8 114:25 124:21 129:6,9 paragraphs 102:3 104:11 105:21 106:6 125:15 parameter 13:23 parameters 13:12,25 15:9 17:6 18:1 23:4 23:6 25:5,6,8 26:6 59:19,20 62:6 71:2,12 71:14 75:4,21 76:4,8,12,15 98:1 99:1,10 100:11 129:17 parenthetical 46:12	part 12:23 51:17 52:20 54:3 60:12,14 70:1,4,6,10,12 70:16,18 92:17 92:24 108:21 108:22 115:16 115:19 122:1 123:5 127:20 131:2,11 particular 65:11 119:24 particularly 25:4 parties 4:9 5:15 21:21,25 58:20 139:11,14 140:8,10 parts 15:7 29:14 87:10 103:1 123:4 party 31:1 passengers 62:18 patent 1:1,2,8 2:10 4:14 5:1 8:7,19,23 9:1,2 9:3,9,17,18 10:7,12,18,22 11:3,5,23 12:1 12:18 14:3,3 14:20,21 15:4 17:20,21 19:14 19:15 20:18,23
p			
p 2:1,1 4:1 p.a. 2:13 p.m. 133:14,17 138:18,23 padhraic 57:5 page 3:2,6 27:22 28:20			

20:23,24 21:3 21:7,15 23:2 26:3,3,7 27:19 29:5,8,9 30:11 30:15,20 31:4 31:4,9,12 32:2 32:2,5,6,24 33:1,4,23 34:5 34:6,9,13,20,22 35:5,13,23,25 36:2,3,6,15,20 36:22,25 37:9 38:25 39:5,7 39:21,25 40:12 40:25 41:17,19 41:22,25 42:2 42:9,22,24 45:5 51:7,9,18 51:19 55:4 62:25 63:5 66:10,14 67:4 67:14 71:4 75:11 85:19 86:4,9,14 122:7,11 123:5 126:20 129:24 130:2 134:1,12 134:16,18 136:7,7,23 patentable 10:21,25 51:11 135:12 patented 51:13	patenting 121:23 patents 13:10 21:12 31:24 33:21 37:5 39:9,11 50:25 51:3 55:17 62:22 64:6,11 103:1 pausing 77:22 pazzani 1:10 4:11,11 5:5,5 6:6,18,21,24 8:5 52:10 138:19 141:5 142:2,24 143:2 143:4,12 peeled 18:25 peer 81:6,19 pending 8:3 58:19 people 22:13 46:16 48:6 56:9 60:15 88:17 93:22 108:9 114:6 135:12 percent 73:16 74:3,11 80:19 81:8,20,23,24 96:10 113:13 114:12,14 perfectly 13:13	performing 83:2 137:17 permitted 5:19 person 15:21 19:9 59:7,9,12 59:22 60:10,18 61:3,16,21 79:19 89:10,16 89:19,23 90:1 90:2,3,5,8 98:9 98:11,20 106:21 107:22 107:25 109:3,4 111:23 115:3 personalization 35:14 38:21 39:9 42:8,11 personalize 35:16 personalized 39:13,20,24 petitioner 1:5 2:2 22:1 27:12 petitioner's 24:12 petruzella 69:1 69:1,4,15,20 112:15,18 121:16,20 122:1,3,6,9,11 122:13,15,25 123:3,7,20 124:6,16 125:8 125:10	pgr2025-00081 1:7 4:15 ph 58:3 ph.d. 1:10 6:6 phd 6:19 47:18 48:20,23 49:10 141:5 142:2,24 143:2,4,12 phones 4:7 photocopiers 31:23 photographer 104:25 photographs 13:22 photos 118:15 pick 4:6 54:18 90:6 picks 92:23 picture 67:14 105:10,13 115:17 117:1 pictures 16:12 16:13,14 68:11 piece 15:21,22 71:23 111:8,9 pieces 12:8,19 pile 67:15,16 67:18,24 91:20 92:2,5,13,20,23 120:7,10,11 piles 120:12 pinpoint 42:18 42:22 43:1,3,4
--	--	--	---

43:7,9 44:24 place 4:8 130:2 places 118:11 plain 83:4,23 plaintiff 30:6,7 plant 23:24 plc 97:25 121:18 please 4:5,7 5:8 6:3,16 7:18 74:23 104:7 127:2 point 15:14 18:5 21:20 68:18 81:18 points 76:21 popular 16:9 portion 25:2 48:4 60:16 92:21 portions 9:22 21:8 position 37:25 66:4 110:23 116:2 positive 57:22 63:11 96:10 possible 43:25 44:10,14 79:10 79:13 post 21:21 58:13 78:14,17 power 95:3	practical 125:22 126:20 127:4,15,19 128:1,4,12,15 129:3 practiced 33:21 praise 134:6 praised 135:1 pre 23:13 predominant 120:21 prefer 14:3 preferences 35:8 prep 43:20,21 preparation 84:2 prepare 94:21 prepared 54:16 128:2,7,10 140:3 present 2:20 4:21 56:13 57:24 109:20 120:4 presentation 24:8 pressure 71:9 pretty 16:18 17:14 96:19 104:25 previously 24:12 88:1 106:23	primary 67:8 printed 27:19 prior 12:19 13:10 28:11 41:24 42:1,1 47:25 53:16,21 55:18 64:3,19 65:15 87:19,21 89:6 111:9 139:4 priority 91:5 private 4:6 probably 8:10 10:19 15:14 20:16 49:2 50:18 54:20 75:19 81:20 90:6 123:1 problem 90:9 90:11 91:4 procedural 5:20 proceed 5:10 proceeding 5:18 29:5 32:5 32:7 34:23 36:2 138:23 140:4 proceedings 9:9 29:8,10 139:3,4,5,8 140:5 process 18:3 20:3 21:21,25	67:1 69:24 70:7,9,13,16,17 70:19 75:8,10 75:12,16 85:23 113:25 118:8 118:25 119:3 processed 89:14 processing 70:22 78:14,17 78:18,21 89:13 117:13 produce 74:10 121:10 produced 5:17 product 37:9 37:10 60:14 136:23 137:1,3 production 137:7 products 59:13 59:14,15 programming 48:10 69:17 project 58:11 promise 66:13 66:14 properties 38:18 property 2:4 protection 51:19 proven 119:18
---	---	--	--

provide 32:10 33:3,5,6 34:14 34:25 36:10 40:2 82:2 97:19 112:5,8 131:12 provided 12:10 12:13 13:1 45:3 64:9 66:21,23 83:19 94:10 102:9,10 112:7 providing 31:8 89:1 104:19 psychologist 49:11 psychology 47:8,20,23,24 48:19,20,25 49:1,3,5,6,7,8 49:13 public 30:17 139:18 143:19 publication 50:3 57:5 66:1 69:7 publications 46:1,12,20 47:13 49:18 50:11,14,15 81:6 91:6,12 publish 49:5 81:5	published 46:16 47:7 49:19 81:18 publishing 81:4 pull 57:8 purchase 138:7 purpose 62:14 66:25 80:3,6 116:15,20 119:16 130:19 130:22 131:17 131:25 purposes 57:1 118:20 135:9 pursued 51:19 put 13:12 15:12 18:7 19:23 31:6 37:18 43:22 46:7 60:5 79:14 84:7 85:20 99:3 122:7,12 putting 70:23	9:15 14:18 24:21 26:12 35:11 38:24 46:11 49:12 58:16 60:9 61:12,14,15,18 74:1,14,16,22 77:9,13 78:1 94:22 98:9,14 99:5 100:8 104:12 105:22 122:8,8,13 123:13 126:18 127:2,14 130:16 136:14 questions 28:17 88:25 96:14,18 138:3 quick 33:10,17 51:23 quickly 42:15 44:6 138:6 quite 34:17 62:19,19 86:17 118:1 quoted 78:6	rakuten 34:2 random 54:19 range 15:19 62:15 rate 15:16,18 113:18 137:11 rather 21:13 24:9 42:15 100:21 rating 15:17 rationale 88:3 rays 91:9 108:25 reach 33:11 130:25 reaction 53:24 read 8:19,23 9:3,17,20,22,23 9:25 10:12,13 15:3 20:9,23 21:3,6,15 54:12 55:18 69:14 74:23 77:13,21 79:1 79:13 85:15,19 85:19,25 86:1 86:2,4,6,9,18 94:20 99:1 104:11 106:11 111:7 115:16 123:3 127:24 129:22 130:8 131:4 138:10 138:15 141:9
	q		
	qualifications 22:18,21 qualified 11:17 139:7 quality 66:25 67:8,13 quanisha 2:21 question 7:18 7:22 8:3 9:14	r	
		r 2:1,11 4:1 142:3,3 radiology 91:10 raise 6:3	

143:5 reading 80:23 really 18:17 47:11 70:4 83:17 100:23 138:6 reason 7:18 85:16 141:11 142:6,9,12,15 142:18,21 reasons 102:22 106:23 115:24 recall 13:9 22:8 22:22 24:7 26:16 29:13 30:6 31:1,6,13 31:20 32:4,15 32:21,24 33:11 33:22,23 34:1 34:16,20,22 35:5,12 36:4 38:5,7,13 39:7 40:8 41:2,5,9 41:23 42:6,14 42:21 43:2 70:11 83:10,21 84:6,9 88:3 97:8 98:7 110:3 117:20 120:15,19 receipt 141:17 receive 26:13 received 21:19 24:19 25:18,21	47:18 50:1 134:7 recipe 100:15 recites 129:12 recognition 16:7 31:22,23 62:16 91:4 108:24 recognize 13:11 62:18 recollection 33:10 recommendat... 42:24 58:3,4 62:16 recommended 35:10 reconstruct 46:8,8 reconstructed 44:13 record 4:3,9,22 5:15 6:17 9:12 11:9 27:7 52:4 52:6,8 75:1 77:11,17 94:24 95:18,20,22 123:14 127:1 133:13,15,17 138:18 139:9 140:5 recorded 5:22 139:6	recording 4:8 5:17 139:8 140:3 records 44:13 reduced 139:6 redundant 53:18 refer 11:3 60:1 65:10 reference 65:15 65:20 66:18,21 66:24 68:5 69:3,15 80:11 80:14 82:18 93:13,14 94:10 98:11,15 100:25 104:18 106:1 107:15 107:19 109:18 109:24 111:8 111:22,25 118:5 125:16 125:17 referenced 24:5 65:17 96:25 141:6 references 10:7 57:12,17,25 58:2 59:1,2 87:22 108:19 109:6 117:25 124:20,22 referencing 96:4 99:6	referred 14:20 referring 25:20 46:15,19 47:25 99:7,16 112:14 112:14 refiled 43:9 reflected 54:21 55:22 56:2,3 56:13 refresh 64:24 67:10 refreshing 124:4 regard 101:23 102:3,16 107:17,18 112:1,19 114:14 125:14 125:20 133:2 134:1 regarding 102:22 related 45:6 98:2 139:10 140:7 relative 139:12 140:9 relatively 21:12 33:10 relevance 55:20 relevant 53:17 relied 12:25 26:20 69:4
---	--	--	--

70:4 96:12 relies 102:6 rely 14:24 25:2 25:22 26:14 57:1 68:5 79:6 79:8 96:22 102:4,9 109:24 125:7 132:20 132:23 relying 79:19 92:22 104:2,13 104:21 106:4 108:18 110:8 110:15 111:3 111:19,25 123:6 125:8,8 125:10,17 remember 38:10 remind 117:22 remove 114:6 116:22,23 118:7 removed 116:1 117:9 removing 117:7,12 rendered 101:21 107:10 125:11 renders 112:18 rented 17:3 repeat 77:9 104:12	repeated 75:1 77:11,17 repetition 28:16 rephrase 7:18 7:21 98:12 reply 94:19 report 24:5,16 25:15 26:19 31:15 36:6 53:14 55:20 56:8 57:4 64:16 65:10,13 79:5 80:20 85:8,9,10 88:21 99:25 100:5 103:6,23 107:7 125:15 130:5 reporter 5:8 7:9 77:20,21 95:12,13 123:14 reports 39:16 45:8,9 represent 27:18 32:1 38:23 39:2 represented 42:2 72:21 representing 4:19 112:2 requested 75:2 77:12,18	139:21 require 18:6,10 18:17 25:5 60:16 99:18 required 87:18 98:25 101:8,15 143:13 requirement 100:6,19 requirements 100:5 requires 18:10 65:14 102:7 106:11 107:13 128:21 reread 67:12 research 16:8 20:12 55:15 reserve 103:5 137:21 138:13 reserved 138:22 resolution 32:15 33:12,17 resolve 35:3 36:13 resolved 32:12 respect 84:3 131:15 response 54:13 54:15,17,22 84:3 94:18 104:5,7	rest 78:7 92:5 94:12 115:18 restate 61:13 74:13 restrict 67:5 results 48:2,4 89:18 121:10 134:9,11 resume 44:3,4 48:22 retained 8:6,9 8:18,22 20:22 21:1 30:4 31:2 32:2,22 33:3 34:6,8 35:21 36:22,24,25 37:2 39:2,4,23 42:8,25 53:14 138:20 retired 5:6 retrieve 15:17 18:9 99:9 100:11 retrospect 51:12 return 141:13 141:16 review 21:21 25:10 55:21 58:13 78:5,7 127:11,18 132:17 135:8 138:14 139:21 141:7
---	--	---	---

reviewed 55:17 81:6,19 126:19 136:6 reviewing 25:3 67:6 revise 54:4 103:5 rhapsody 34:3 right 6:3,22 7:2 7:16,19,25 8:5 8:8,9 11:5,24 18:24 19:2 21:12 22:6 26:22 27:16 28:3 35:20 40:23 41:2,3 49:8,14,15,17 51:21,22 62:9 66:20 67:16 68:13,15 69:19 70:9 76:2,15 77:3 79:18 80:19 81:1 83:6,25 84:15 84:19,22 85:5 85:24 86:9,13 86:22 87:16 89:3 90:18 91:3 92:6 93:16,17 94:17 96:18 97:17 98:3 100:4 103:5 108:15 109:20,25	110:1,22 114:22 115:11 119:1,2 121:9 121:14 122:3 122:24 123:2,6 123:11 124:7 124:17,18 125:3 128:8 131:19,21 132:22 133:6 135:7 137:2,5 137:21,21 138:14 ring 72:10,16 rivas 1:16 5:12 139:2,17 robot 58:4 roc 58:4 role 28:16 rotation 71:9 rovi 38:17 39:4 row 17:8 19:24 rsjohnson 2:16 rules 5:21 7:6 ruling 32:16 run 48:8 running 48:11 rutgers 63:13	sales 136:2 satellites 37:23 saw 55:20 sawmill 19:2 23:23 89:7 sawmills 44:22 saying 12:18 50:7 says 28:23 46:13 54:4 62:25 72:8 82:5 93:8 97:23 98:13 103:23 104:24 113:16 124:7 scan 99:12 scanners 23:13 31:23 science 15:12 16:1 19:14,16 20:1 38:11 45:11 47:22 48:21,23,24 50:13 53:22 59:6 60:7,16 63:13 68:8 69:6 83:16,18 90:7 98:19 101:7 111:14 116:7 scientist 49:11 53:20 scientists 22:20 72:23	scott 2:11 4:25 scribbles 130:8 search 13:4 36:17 41:24 42:1 69:22,23 seattle 2:6 sec 130:7 second 30:1 80:12 secondary 133:20 seconds 135:6 section 10:25 12:1 24:22 25:23,24 26:14 26:15,20 45:25 57:7,9,14 59:3 64:17,21,23 65:2,4 70:11 82:7,7,8,23 93:2,8 104:6 107:11 126:14 126:15 127:19 127:25 128:21 131:9 133:4 sections 10:22 10:23 12:14 14:20,21 45:6 55:18,19,20 56:17 64:13,14 104:7 see 12:12,15,25 17:2,25 20:10 20:15 23:12
	s		
	s 2:1 3:5 4:1 142:3 s.a. 34:2		

25:15 27:13 28:24 29:12 32:19 42:3 43:5 46:22 56:23 57:21 64:17,19,21 65:12 70:2,18 72:6 74:4 76:18 78:8 82:9 91:21 93:6 95:12 96:14 113:21 118:1,10 121:25 125:11 127:3,19 129:7 133:8 134:11 137:3 seed 2:4 5:3 seedip.com 2:7 141:2 seemed 25:7 seen 19:8 45:21 68:17 89:10,16 89:18 96:24 selecting 38:21 39:10 selects 97:25 sell 120:1 send 18:1 24:1 25:8 60:3 138:10 sends 59:19 sensitive 4:6	sensor 78:13 105:3,4 sensors 17:13 103:25 104:23 104:25 105:7,7 129:13 132:14 132:20,23 sent 24:14,22 59:20 100:12 100:13,14 129:17 141:14 sentence 88:4 97:23 98:13 113:11 separately 29:17 series 47:11,13 set 13:12 18:12 23:6 25:5 71:13 75:22 76:4,8,11 setting 23:16 23:17 settings 13:23 settle 39:17 settled 31:14 33:13 42:15 44:6 settlement 32:16,17 33:12 35:3 36:13 seven 116:8,9 116:10,10	seventy 96:1 several 12:7 15:6 17:21 34:17 36:6 43:6 47:12 56:17 83:15 shape 97:11 122:10 shareholders 30:17 sheet 141:11 shelf 63:1 shock 136:11 short 21:13 shorthand 11:2 shortly 31:14 show 23:24 109:4 113:23 118:3 showed 90:25 showing 68:9 shown 79:7 shows 38:21 65:20 111:1 sic 53:12 side 37:4 115:6 sided 28:23 sides 37:3 sign 27:21 138:10,15 141:12 signature 27:23 138:22 139:16 140:14	signed 27:25 55:11 84:21 89:2 141:19 significantly 127:7 signifies 132:8 132:10 signing 55:16 similar 42:22 64:2 simple 61:15 simplify 103:11 103:12 112:11 simply 61:14 simulate 118:14 simulation 48:6 48:8,11 single 65:15,20 66:1 91:24 92:1,2,5 93:1 sir 6:17 8:9 12:15 14:6 24:3,11 26:11 26:23 27:11,23 31:20 32:19 35:12,21 38:19 42:4 43:22 45:25 46:9 49:12 53:3 56:16 63:19 64:16 66:15,24 72:4,6 73:14 74:17 82:5,9
--	---	---	--

82:15 91:21 93:6 95:1,6,24 97:11 104:9 122:8 126:3 127:12,22 128:15 129:7 129:23 130:6 131:8 132:3 133:19 137:21 sisvel 34:1,8 sit 54:10 56:14 103:10 112:8 128:5,8 six 44:12 49:2 84:2 93:4 sixth 30:2 sixty 93:4 skill 59:7,9,23 60:10,18 61:3 61:16,21 63:6 64:21 65:24 79:19 89:20,23 97:25 98:10,14 98:15,21,23 99:6,19 100:18 100:24 101:9 101:16 106:21 107:22 108:1 109:3,5 111:23 111:24 114:25 115:3 120:25 121:3 skills 139:9 140:6	skimmed 9:1,2 10:13 20:24 21:15 skimming 20:16 sleep 95:10 slight 10:4 slightly 71:14 slowly 7:16 small 44:1,5 smyth 57:6 software 31:19 31:21 solutions 4:20 38:18 39:4 138:21 141:23 solve 90:9 solving 90:11 somewhat 16:17 29:21 songs 35:9 sophisticated 89:25 sorry 24:3 27:3 33:9 39:13 41:20 57:18 61:13 70:11 72:13 73:18,21 79:8 82:22 92:11,14 93:5 94:15,21 97:21 98:4,5,7 102:19 105:15 107:8 115:8	123:21 126:4,7 126:12 131:6 sort 17:4 24:6 45:18 54:16 115:19 sorting 92:6,7 92:13 122:20 sorts 23:5 sounds 133:10 source 15:2 space 13:5 36:19,25 37:8 37:11 spacex 37:22 special 108:5 131:15 species 16:13 18:14 23:5 60:1 62:15 67:15,19 68:10 68:10 75:24 76:13,20 78:19 80:14 91:25 92:18 98:3 101:11,12 108:12,13 109:9,10 110:21 113:5,6 113:11,21,24 114:9 116:8,9 116:10,10,12 116:24 118:22 119:3,21,23 120:21 121:7,8	specific 12:19 14:20 79:12 105:12 108:3 119:8 130:20 specifically 89:13 94:21 100:9 118:11 specification 78:17 79:23 86:19 specifics 100:2 120:15 speculate 132:11 speculation 63:25 speed 71:9,10 spend 45:22 spent 44:6 45:24 spoke 22:16 24:14 97:16 spotify 34:2,3 sprinkler 13:23 25:8 62:8 100:14 131:16 sprinklers 13:22 stand 99:25 standard 85:15 110:6 128:11 131:3,4 standards 71:22 127:24
--	---	---	---

standing 43:8 43:10 68:12,15 68:17 stands 127:14 start 103:22 112:21 started 86:10 starting 20:18 52:22 starts 29:1 82:13 123:18 125:21 state 4:21 6:16 9:11 103:3 139:19 stated 103:2,7 statement 102:15,22 134:12 statements 53:19 states 1:1 4:14 stating 11:8 60:23 statistic 74:6 statistical 134:14 statistics 121:12 status 15:15 statute 124:14 stay 26:7 stays 65:5	stenographic 5:23 step 128:22 steps 109:23 stipulation 5:24 stole 37:7,8 stood 123:1 straightforward 16:2,10,18,20 17:5 19:25 53:24 96:19 stray 117:4 striations 117:17 118:7 118:17 strike 39:13 strip 129:20 130:16,24 stripped 129:10 stripping 131:19 strong 131:24 structure 82:14 107:7 structured 125:15 student 63:12 136:20 students 16:1 48:18 63:22 studied 55:19 104:6	study 108:8 110:24 stuff 15:15,25 53:21 70:24 115:19 subject 30:14 35:5 37:13,16 115:14 127:25 subjects 48:15 submit 32:8 submitted 12:5 24:12 27:12,16 27:19 53:1 96:13 subscribed 143:14 success 75:16 133:23 134:21 successful 81:9 81:14 107:1 115:10 successfully 106:22 sucker 28:22 sufficient 102:24 103:7,8 103:15 104:17 106:7 112:10 114:15 125:13 suggested 13:16 suggestion 113:1	suggests 108:12 109:8 113:4 suitable 115:5 suite 1:14 2:5 2:14 4:17 summary 28:8 32:16 64:17 summer 8:14 superfluous 53:18 support 79:2 supported 55:8 supposed 87:9 supposing 77:3 sure 11:11,19 17:11 20:21 23:21 25:17 26:1,25 27:17 27:18 30:2 33:7,13 37:7 38:13 41:1 46:2,10 47:9 49:21 50:16 52:1 55:24 59:4,11 65:1,3 67:7,11 69:22 71:21 72:15,15 74:21 80:13 84:11 85:13 86:17 94:15,23 97:12 104:13 106:3,14 111:7 111:15 114:2 125:4 128:17
---	--	--	---

130:8,14 132:17 137:23 surprised 44:2 survey 108:15 swear 6:2 switched 126:7 sworn 5:15 6:7 139:5 143:14 system 37:12 42:12 48:11 59:18 70:9 78:22 89:22 93:20,23 94:2 107:24 113:5,6 116:16 129:12 systems 58:23 108:9,10	123:4,5 tags 115:24 116:1,22 take 4:8 5:12 28:6,14 41:15 46:9 51:23 66:4 70:25 72:1 82:22 84:7 91:8,9 95:2,15,15 104:9 105:9,13 115:3 116:8 118:15 121:11 127:22 131:6 taken 4:11 139:3,12 140:8 takes 67:14 68:11 talk 7:13,16 38:13 52:11,14 69:12,24 73:3 73:7,10 80:11 91:17 97:2 101:21 106:20 107:12 113:9 114:24 117:3 117:11,14,15 117:16 119:19 122:3 124:19 126:6 talked 21:25 22:7,13 57:12 75:17 84:12,13 84:16 89:9	96:5 106:24 107:25 talking 59:15 72:5 85:11 88:17 94:16 97:6 102:13 111:23,24 113:17 123:19 126:1 talks 56:21 75:11,15,23 76:1,24 107:20 108:13 109:9 117:7 118:11 118:13,16 121:21 tape 27:8 task 114:18 taught 16:1 53:22 63:12 tax 15:16 taxi 62:17,23 taxonomy 68:6 68:8 118:20 teaching 63:19 63:22 123:7 team 60:12,14 techniques 75:12 90:13 technologies 1:7 2:10 4:13 5:1 141:4 142:1 143:1	technology 36:18 42:8,12 42:24 135:20 tell 6:8 16:22 23:7 24:18 65:1 67:15,23 114:13 116:25 121:7 135:19 135:23 telling 52:17 76:3 106:5 121:6 tells 9:14 temperature 17:12 18:13 76:22 ten 38:6 44:7 46:23 51:23 95:16 tend 51:14 term 10:20 11:11,15 37:8 59:5,10,11 127:8 133:21 terminology 10:19 129:11 129:21 130:17 130:25 terms 11:25 15:17 31:7 45:6,19 83:24 118:11 testified 6:9 88:1
t			
t 3:5 142:3,3 table 15:9,10 15:20 17:6,8 18:5,8,9,16 19:22,24,25 25:6 26:7 45:12 56:18 58:7 59:20 60:3,5,5,7 99:1 99:3,12,13 101:13 tables 15:22 26:4 121:21,22 121:23 122:4,7 122:12,16			

testify 39:18	16:6,19,22	71:11,20 73:23	52:4,8 55:6
testifying 139:5	17:1,5,11,13,14	75:17 84:4,10	72:20 81:23
testimony	20:6,7 23:6,24	84:18 85:25	83:22 84:16
19:18 32:10	25:16,18 34:18	89:9 90:11,12	92:19 95:18,22
33:3,5 34:25	38:7,9,14,21	92:7 93:18	97:3,4,16
36:10 39:15	41:5,6,7,8 43:6	95:13 103:17	103:17 104:9
40:2,5,11,13	46:4 47:4 60:5	108:22 111:14	117:23 127:22
41:20 42:16	60:6 62:15	115:23,25	132:16 133:13
43:14,17 44:9	64:2 67:2,3,17	119:11 120:17	133:17 138:1
52:11 53:1	67:22,25 69:10	121:23 122:25	138:18 141:18
62:12 63:17	71:8 75:18,19	128:23 129:24	timeframe 16:9
85:3 138:19	76:14 79:25	130:1,4 131:3	20:17 141:8
141:9,17 143:8	80:9 85:17	131:20 132:25	times 7:2 9:10
text 31:19	88:20 90:21,24	third 30:1	13:7 17:21
textbook 69:17	92:23 94:2	thirty 123:24	46:17,21 77:22
122:20	97:12 101:13	123:25	title 17:20
thank 6:10 95:1	111:18 115:18	thought 25:17	today 6:21 7:25
124:6 130:10	115:20,23	25:18 48:22	11:3 23:19
138:2,12	117:2,4,18	51:11 54:14	54:10 55:25
thanks 50:7	122:21 130:23	90:16 126:10	56:14,15 62:17
52:1,2 103:18	132:4,25	126:10,12	94:20 103:10
133:10	think 11:7	130:14	103:14 112:9
that'd 123:13	12:22,22 13:13	three 14:4	128:3,6 138:1
thick 28:22	14:20 15:6	22:15,23 23:15	today's 138:7
thing 8:19,24	20:9 24:4,6,8	53:13 64:13,14	138:19
9:22 13:14,25	25:2 26:3,8	82:6 124:22	together 79:14
16:3 25:3	29:20,21 30:3	throw 71:24	84:8 85:20
33:16,17 54:8	41:25 44:3,10	thursday 1:11	told 9:7 14:3
69:14 84:9	45:7,16,17,20	time 1:12 4:3,7	43:5 45:16
90:22 116:20	46:3 47:25	6:1 7:25 8:13	83:11 127:24
121:24 128:22	51:8,17 56:4	9:7,8 14:15	128:21
129:5	59:17 61:18	34:10,11,17	tonight 95:11
things 12:2,20	62:9 63:6	37:1 45:24	took 48:25 49:2
12:22 13:10	68:19 70:16	46:9 47:11,13	52:10 62:23

tools 62:13 top 46:23 124:7 total 138:19 towards 129:9 trade 72:1 trademark 1:1 4:14 trailed 74:18 trained 16:17 79:5 93:11,23 109:22,22 124:25 training 16:17 16:21 48:20 49:7 80:24 98:16,17 transcriber 140:1 transcript 5:17 138:7,14 139:21 140:3,4 141:6,19 143:5 143:8 transcriptionist 139:7 transform 127:6 transitioned 126:12 tree 18:15,16 18:25 60:1 68:9,10,16 75:23,24 76:13 78:18 80:14	81:13 89:20 91:25,25 98:3 99:2 101:11,12 108:12,13 110:20,20 113:10,21,24 114:9 115:17 115:21 116:8,9 118:22 trees 59:19 60:2 68:11,14 68:22 100:12 108:5,6,25 115:24 116:1 119:8,11 120:3 120:7,13 trial 1:2 36:10 40:6,9 43:7,17 tried 136:9,12 136:12 tries 67:15 truck 70:24,25 true 91:11 111:12 125:14 139:8 140:5 143:8 trusting 66:6 truth 6:8,8,9 try 7:16 136:25 trying 26:13 31:6 40:11 67:23 83:16 85:20 87:11,16 97:10,11	100:23 106:13 106:14 107:6 112:11 124:12 132:4,12 136:18 tucker 28:23 30:4 turns 17:1 tv 38:21 twice 19:1 43:15 two 14:4 17:5 21:20 22:15,17 22:23,23 23:15 25:18 44:1,5 49:1 50:19 75:19 84:12 85:17 88:17,21 96:5 97:7 108:19 109:5 123:24,25 128:22 133:3 type 13:11 18:11 26:5 35:9 108:4 115:4 116:9 137:16 types 20:10 67:24 typewriting 139:6 typical 113:18 typically 73:15 74:2	u u.s.c. 124:15 uc 63:12 ucsd 63:12 uk 34:19 un 79:3,4 83:3 93:9,10 103:25 105:14 124:24 124:25 unaware 55:6 under 5:20 10:25 58:1 64:21 80:6 82:6,7,8 124:14 127:25 underneath 82:17 understand 5:16 7:8,17 8:5 9:3,15 10:2,9 11:19 12:4,8 15:4 17:15 18:18 20:18 26:11,13 28:15 37:12 49:12 52:25 53:10 56:16 61:24 64:9 65:14 66:25 68:18 74:16 76:15 77:22 78:12 82:13 86:19 87:6,12 106:13
---	---	---	---

107:7 110:22 111:11 124:9 127:9 132:12 133:21 understanding 23:1,4 31:21 35:8 55:2 73:15 74:2 88:12 96:3 109:2 113:17 119:7 121:21 128:14 understood 7:22 9:18 14:6 45:19 unexpected 134:9,11 unfortunately 71:22 unit 4:10 united 1:1 4:14 38:18 universities 51:6,14 university 51:7 51:18 unpatentability 82:3 unpatentable 124:14 127:25 unsuccessful 136:10,11 uphold 40:11	upstream 75:24 76:8,11 76:17,19 78:18 78:21 108:12 109:8 url 93:19,20 usama 57:5 usc 63:12 use 10:20 13:8 13:21 17:1,7 37:7 38:10 41:6 45:16 62:5 69:7 76:10,16 79:11 91:23 116:15 137:12 used 41:21 45:18 59:2 62:25 68:6,7 76:16 93:21 113:10 115:4 120:4 121:8 129:16 138:20 141:19 useful 67:18 114:7,19 119:2 119:12,18 user 39:13,20 39:24 76:3 78:22 users 35:8 uses 5:19 16:5 16:6,17 37:22 64:8	using 35:16 61:21 70:8 75:11 76:1 79:4 80:15,24 83:4 87:14,16 93:11 101:2,22 103:25 108:12 110:11,13 116:20 119:2,6 119:16 121:7 124:25 usually 44:3 utility 114:2,5 v v 1:6 37:4 141:4 142:1 143:1 vague 11:6 14:11 15:5 17:17 40:14 53:5,7 55:12 56:5 61:18 74:12 77:4,5,7 85:21 107:3 134:12 vagueness 77:8 valid 11:5,15 validity 30:20 33:4 40:12 variability 115:14 variation 118:16,18	variations 117:16 121:13 varieties 119:8 variety 76:25 118:12,13 119:9,12,17,21 120:7,12,12 various 10:22 12:2 13:10 49:25 vary 100:25 113:19 verification 85:8 verified 85:6 verify 22:25 67:21 141:9 veritext 1:13 2:21 4:20 138:21 141:14 141:23 veritext.com 141:15 version 66:12 versus 33:15 41:6 120:16,17 video 4:8 38:18 videoconfere... 2:12 videographer 2:22 4:2,20 5:7 52:3,7 95:17 95:21 133:12 133:16 138:17
--	---	--	---

videorecorded 4:10 videotaped 1:10 view 101:22 virginia 120:17 vision 59:18 110:19 visited 93:21 voice 77:21 volume 68:2 92:17 vs 4:13 28:23 30:4,22,24 31:19 32:18 34:2 35:19 36:19 38:18 39:20 42:3,18	wanted 26:25 85:8 90:20 94:15,23 116:12,14 water 131:16 way 29:22 97:11 115:18 122:10 129:4 ways 12:18 56:6 76:25 105:15 118:15 we've 51:22 95:1 100:1 101:6 website 20:8,13 20:13 websites 20:16 21:20,24 88:16 88:21 webster 83:5 83:19,22 105:3 welcome 65:12 80:23 went 66:18 86:14 what'd 52:14 whispering 4:6 wide 118:12 119:17,21 widely 113:19 wife 77:20 95:12 wilshire 1:14 4:17	win 43:13 winds 38:2,2 wise 30:14 wish 51:12 witness 5:9,15 5:16 6:2,7 11:7 11:10 13:19 14:12,19 15:6 17:18 19:19 28:12 40:16,19 53:6 55:13 58:15,17 60:22 60:25 61:8 62:13 63:11 64:1 74:13 75:3 77:5,19 78:5,16 81:3 81:11 85:22,25 86:17,24 92:8 99:24 103:20 113:3 114:2,17 116:6 117:7,20 118:10 119:5 121:20 123:15 125:25 126:23 127:3,18 130:13 131:23 132:16 135:17 136:4 137:9,14 137:23 138:2,5 139:4 141:8,10 141:12,18 won 40:10,22	wondering 74:19 wood 18:7 23:5 67:15,16,19,19 67:24 70:1,16 70:18,21,22 71:25 72:2 73:16 74:3,10 76:20 81:25 117:4 119:3,21 121:7,8,11 137:7,11 word 26:2 37:7 45:22 53:10 54:7 69:20 84:4 99:15 127:4 words 11:22 45:24 work 10:6 15:19 23:1 37:11 46:16 61:9 65:6 91:7 111:21 116:24 134:12 worked 37:12 45:5 93:22 136:20 working 59:13 works 12:21 31:23 110:20 121:18 123:9 workshops 50:21
w			
wa 2:6 walking 23:23 want 17:25 20:21 38:4 51:23 55:24 67:5,20 71:20 71:24 75:22 82:13 89:24 95:2,2,4 97:1 98:5 101:1 102:14,21 106:3 125:3 130:11 132:17 138:7			

world 88:13 119:9,13 120:2 120:3,4 worries 27:9 46:6 78:3 worth 75:20 would've 14:2 26:18 91:2 123:1,1 wrap 132:4 133:8 write 15:20 86:2,14 88:5 96:17 writing 53:14 86:10 87:2,5,6 written 5:24 10:8 97:9 125:16 wrong 66:9 77:22 81:1,5 81:22 131:5 wrote 84:2 86:5 86:21 96:15,16	24:15,17,18,20 28:6,22 30:1,1 34:3,3 35:4,18 35:18 37:5 39:12 42:13 46:10 47:20 48:3 49:24 50:13 57:8,11 58:9,10 62:19 62:19 64:3,8 64:14,18 65:3 65:7,8 67:20 68:19 69:11,18 70:19 72:7 75:14 79:15 80:7,20,22 83:2,15 84:20 84:20 87:7,8 87:15 88:24 91:13 92:12 93:23 94:3,7 96:2,6,10 97:8 97:10,14 100:16 102:1 106:8,9 109:13 110:11 114:23 114:24 118:24 119:13,24 120:8,13 121:2 121:5,10,15 124:3,9,11,12 125:2,3,6,12 126:5,9,19 128:25 129:2	130:13 132:1 132:12 133:11 138:15,16 year 8:10 44:12 years 32:23 33:9 38:6 41:14 88:13
		z
		zoom 22:14 zoom's 22:15
x		
x 3:1,5 91:9 108:25 139:21		
y		
yard 68:20 yeah 8:12,15,17 14:8 18:25 19:1 20:25 21:14,15 24:4		

Federal Rules of Civil Procedure

Rule 30

(e) Review By the Witness; Changes.

(1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and

(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) Changes Indicated in the Officer's Certificate. The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

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Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

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