

In the Matter Of:

VF OUTDOOR, LLC

vs

COCONA, INC.

JEFFREY BOWMAN

December 04, 2018

CONFIDENTIAL DESIGNATIONS PENDING



CONFIDENTIAL DESIGNATIONS PENDING
JEFFREY BOWMAN - 12/04/2018

1 UNITED STATES PATENT AND TRADEMARK OFFICE
2
3 BEFORE THE PATENT TRIAL AND APPEAL BOARD COLORADO
4 Case No. IPR2018-00190
5 Patent No: 8,945,287

6 CONFIDENTIAL DESIGNATIONS PENDING
7 DEPOSITION OF: JEFFREY BOWMAN - December 4, 2018
8
9 VF OUTDOOR, LLC,
10 Petitioner,
11 v.
12 COCONA, INC.,
13 Patent Owner.

14 PURSUANT TO NOTICE, the deposition of
15 JEFFREY BOWMAN was taken on behalf of the Petitioner
16 at 1801 California Street, Suite 3300, Denver,
17 Colorado 80202, on December 4, 2018, at 9:17 a.m.,
18 before Sandra L. Bray, Registered Diplomate Reporter,
19 Certified Realtime Reporter, and Notary Public within
20 Colorado.

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26 Job No. MP-200404

CONFIDENTIAL DESIGNATIONS PENDING

JEFFREY BOWMAN - 12/04/2018

Pages 2..5

<p>Page 2</p> <p>1 A P P E A R A N C E S</p> <p>2 For the Petitioner:</p> <p>3 PETER A. GERGELY, ESQ.</p> <p>4 KATHLEEN E. OTT, ESQ.</p> <p>5 Merchant & Gould P.C.</p> <p>6 1801 California Street</p> <p>7 Suite 3300</p> <p>8 Denver, Colorado 80202</p> <p>9</p> <p>10 For the Patent Owner:</p> <p>11 JASON S. JACKSON, ESQ.</p> <p>12 Kutak Rock</p> <p>13 The Omaha Building</p> <p>14 1650 Farnam Street</p> <p>15 Omaha, Nebraska 68102</p> <p>16</p> <p>17 Also Present:</p> <p>18 Gregory Haggquist</p> <p>19 Indhira Lapuma, Esq.</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>Page 4</p> <p>1 WHEREUPON, the following proceedings</p> <p>2 were taken pursuant to the Federal Rules of Civil</p> <p>3 Procedure.</p> <p>4 * * * *</p> <p>5 JEFFREY BOWMAN,</p> <p>6 having been first duly sworn or affirmed to state the</p> <p>7 whole truth, testified as follows:</p> <p>8 (Deponent's reply to oath: "I do. I</p> <p>9 am. Whichever.")</p> <p>10 EXAMINATION</p> <p>11 BY MR. GERGELY:</p> <p>12 Q. Good morning, sir. Please state your</p> <p>13 name for the record.</p> <p>14 A. Jeff Bowman.</p> <p>15 Q. And is it Jeff or Jeffrey?</p> <p>16 A. J-e-f-f-r-e-y, legal name. Jeff is what</p> <p>17 I normally go by.</p> <p>18 Q. And are you employed by Cocona, Inc.?</p> <p>19 A. I am.</p> <p>20 Q. And what's your title?</p> <p>21 A. CEO.</p> <p>22 Q. Do you have any other titles?</p> <p>23 A. I do not.</p> <p>24 Q. Have you always been the CEO?</p> <p>25 A. No.</p>
<p>Page 3</p> <p>1 I N D E X</p> <p>2 EXAMINATION OF JEFFREY BOWMAN: PAGE</p> <p>3 December 4, 2018</p> <p>4 By Mr. Gergely 4</p> <p>5</p> <p>6 DEPOSITION EXHIBITS: INITIAL</p> <p>7 Exhibit 1 Petitioner's Notice of REFERENCE 7</p> <p>8 Deposition of Jeff Bowman</p> <p>9 Exhibit 2 Declaration of Jeff Bowman 8</p> <p>10 Exhibit 3 Cocona Org Chart, 2/29/2017 37</p> <p>11 Exhibit 4 Plaintiff's Responses to 40</p> <p>12 Defendant VF Outdoor, LLC's</p> <p>13 First Set of Interrogatories</p> <p>14 to Cocona, Inc.</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>Page 5</p> <p>1 Q. What was your title before CEO?</p> <p>2 A. I misunderstood the question. So I've</p> <p>3 been CEO since I've been there, but I am not the first</p> <p>4 CEO.</p> <p>5 Q. Understand. So when did you join the</p> <p>6 company?</p> <p>7 A. March 2013.</p> <p>8 Q. And what did you do before then?</p> <p>9 A. Climbed in Spain.</p> <p>10 Q. And was that employment or was that</p> <p>11 recreational?</p> <p>12 A. Retirement.</p> <p>13 Q. Understood. What did you do before you</p> <p>14 retired?</p> <p>15 A. Before that, I was the chief technical,</p> <p>16 chief operating officer at Massif, M-a-s-s-i-f.</p> <p>17 Q. Where was that located?</p> <p>18 MR. JACKSON: One moment. Ma'am, for</p> <p>19 the record, just want to get on the record, Jason</p> <p>20 Jackson, Kutak Rock, counsel for Cocona, is also</p> <p>21 present defending the deposition.</p> <p>22 MR. GERGELY: And Dr. Gregory Haggquist</p> <p>23 as well is present on the Cocona side, and Indhira</p> <p>24 Lapuma from VF Outdoor, LLC, and Kathy Ott from</p> <p>25 Merchant & Gould.</p>

<p style="text-align: right;">Page 6</p> <p>1 A. What was the question again, Peter?</p> <p>2 Q. (BY MR. GERGELY) So we were talking</p> <p>3 about Massive.</p> <p>4 A. Massif.</p> <p>5 Q. Massif. And where is Massif located?</p> <p>6 A. Ashland, Oregon.</p> <p>7 Q. How long were you with them?</p> <p>8 A. Five years.</p> <p>9 Q. What was their line of business?</p> <p>10 A. They did make clothing for the military.</p> <p>11 They did and currently supply all the combat shirts</p> <p>12 for the U.S. Army and a number of the other branches</p> <p>13 and the DOD, as well as other types of apparel,</p> <p>14 including flame-resistant outerwear.</p> <p>15 Q. Did any of those materials have any</p> <p>16 other properties besides flame resistance?</p> <p>17 A. Yeah. You know, we were trying to</p> <p>18 supply the Army with products that were comfortable to</p> <p>19 wear, particularly in hot environments and that</p> <p>20 provided protection. So all the garments were quite</p> <p>21 specialized.</p> <p>22 Q. Did they have any active materials in</p> <p>23 them?</p> <p>24 A. Define "active materials."</p> <p>25 Q. Well, there's a term that's been used in</p>	<p style="text-align: right;">Page 8</p> <p>1 notice of deposition for you in this case. Did you</p> <p>2 review this prior to today?</p> <p>3 A. Did I review this document right here?</p> <p>4 Q. Correct.</p> <p>5 A. No. Let's see. I don't remember doing</p> <p>6 so, no.</p> <p>7 Q. But you're here to give a deposition on</p> <p>8 behalf of Cocona, correct?</p> <p>9 A. That's right.</p> <p>10 Q. And you gave a declaration in this case;</p> <p>11 is that right?</p> <p>12 A. I did.</p> <p>13 MR. GERGELY: Can you mark that as</p> <p>14 Bowman 2?</p> <p>15 (Deposition Exhibit 2 was marked.)</p> <p>16 Q. (BY MR. GERGELY) Sir, is this your</p> <p>17 declaration?</p> <p>18 A. It is.</p> <p>19 Q. And who asked you to give the</p> <p>20 declaration?</p> <p>21 A. My legal counsel.</p> <p>22 Q. And that was Mr. Jackson?</p> <p>23 A. No, that was Blair Kanis.</p> <p>24 Q. And did you draft this?</p> <p>25 A. I did.</p>
<p style="text-align: right;">Page 7</p> <p>1 this case "active particles."</p> <p>2 A. We did not use active particles along</p> <p>3 the lines of how we would describe an active particle</p> <p>4 at Cocona.</p> <p>5 Q. And how do you describe active particle</p> <p>6 at Cocona?</p> <p>7 A. As a particle that adsorbs and desorbs</p> <p>8 water on the surface.</p> <p>9 Q. And there's been some confusion about</p> <p>10 absorb versus adsorb in this case. So just to be</p> <p>11 clear, you were using adsorb with a D, correct?</p> <p>12 MR. JACKSON: Objection to form,</p> <p>13 foundation.</p> <p>14 A. Yes, I was using adsorb with a D.</p> <p>15 Q. (BY MR. GERGELY) And you said it's a</p> <p>16 particle that adsorbs and desorbs water on the</p> <p>17 surface; is that right?</p> <p>18 A. Yes.</p> <p>19 Q. On the surface of the particle?</p> <p>20 A. Yes.</p> <p>21 MR. GERGELY: We'll just mark this for</p> <p>22 the record. Could you mark that as Bowman 1?</p> <p>23 (Deposition Exhibit 1 was marked.)</p> <p>24 Q. (BY MR. GERGELY) Sir, I've handed you</p> <p>25 what's been marked as Bowman Exhibit 1, which is the</p>	<p style="text-align: right;">Page 9</p> <p>1 Q. Did you do the first draft?</p> <p>2 A. I did.</p> <p>3 MR. JACKSON: Objection. Call for the</p> <p>4 witness not to reveal any attorney-client</p> <p>5 communications. You can answer the question.</p> <p>6 Q. (BY MR. GERGELY) Can you tell me how it</p> <p>7 was prepared, the process?</p> <p>8 A. Talked to my attorney. She told me what</p> <p>9 the situation was, asked me if I'd be willing to make</p> <p>10 a declaration, defined the broad scope of what she was</p> <p>11 interested in. I drafted a document, sent that around</p> <p>12 to a couple folks, including my attorney, for edits,</p> <p>13 and then ultimately, once I was comfortable with it,</p> <p>14 finalized the declaration.</p> <p>15 Q. And you said you sent it to a couple</p> <p>16 folks. Who were those other people?</p> <p>17 A. Blair would be one. Greg would be the</p> <p>18 other, Dr. Haggquist.</p> <p>19 Q. And did Dr. Haggquist make some changes</p> <p>20 to the declaration?</p> <p>21 MR. JACKSON: I'm going to object. I'm</p> <p>22 going to object to privilege. Don't answer the</p> <p>23 question. Work product.</p> <p>24 MR. GERGELY: Well, if the non-attorney</p> <p>25 is making changes, that's not privileged.</p>

<p style="text-align: right;">Page 10</p> <p>1 MR. JACKSON: If it is at the direction 2 of counsel, yes. 3 Q. (BY MR. GERGELY) Do you know if 4 Dr. Haggquist was making changes at the direction of 5 counsel or was he acting on his own? 6 A. So far as I know, he was acting on his 7 own. Typically any correspondence that I work on, 8 I'll send out to edits through a number of people. 9 Q. Do you recall what changes Dr. Haggquist 10 made? 11 A. I don't. They would be minor, if any. 12 Q. Now, Paragraph 1, you say that you're 13 the chief executive officer at Cocona, right? 14 A. That's right. 15 Q. And you started in that position in 16 March of 2013? 17 A. That's right. 18 Q. And you said at Massif, you were chief 19 technical officer. Do you have any technical 20 background? 21 A. I have a number of patents. I studied 22 physics, math, chemistry, biology as an undergrad. 23 Q. Where did you go undergrad? 24 A. Washington State University. And then I 25 have a business degree from the University of</p>	<p style="text-align: right;">Page 12</p> <p>1 A. I played what would be called Cape Cod 2 League-type baseball. 3 Q. So you're a good player? 4 A. Depends how you define "good," I'm sure. 5 Q. Which team were you playing for? 6 A. San Francisco was the parent team. 7 Q. What was the Cape team you were playing 8 for? 9 A. I didn't play for the Cape team. I 10 played in a similar league on the Arizona border. 11 Q. Oh, I understand what you're saying. 12 Okay. So it was the Arizona version of the Cape 13 league? 14 A. Right. 15 Q. Got it. 16 A. Yes. It was back in the '70s. Very 17 different times. 18 Q. So after baseball, what did you do? 19 A. I worked for W. L. Gore & Associates for 20 17 1/2 years. 21 Q. In Delaware or Arizona? 22 A. Arizona and Maryland. 23 Q. And so you were in Flagstaff; is that 24 right? 25 A. Flagstaff and Elkton.</p>
<p style="text-align: right;">Page 11</p> <p>1 Pennsylvania. 2 Q. And what -- I'm sorry. What was your -- 3 what did you say your major was in at Washington 4 State? 5 A. General studies with emphasis on the 6 sciences. 7 Q. And that was a B.S. or a B.A.? 8 A. Neither. Never got an undergraduate 9 degree. 10 Q. Okay. Did you leave school early? 11 A. No. Bored. 12 Q. Decided to do something different? 13 (The deponent nodded head up and down.) 14 Q. What did you do afterwards? 15 A. I ended up work -- actually, went to 16 play baseball at a professional level and then ended 17 up working at Gore-Tex. 18 Q. And did you ever make it to the big 19 leagues? 20 A. No. 21 Q. Minors? 22 A. No. 23 Q. Position? 24 A. Second base, shortstop. 25 Q. How far did you get?</p>	<p style="text-align: right;">Page 13</p> <p>1 Q. Elkton, Arizona or -- 2 A. Flagstaff, Arizona; Elkton, Maryland. 3 Q. Got it. And Gore headquarters was in 4 Elkton, correct? 5 A. No, Gore headquarters is in Newark, 6 Delaware, right across the border. 7 Q. Right. Elkton was what, a factory? 8 A. Well, Gore has got factories all over 9 the world. Gore's primary apparel factories are in 10 Maryland. At least they were. 11 Q. And what was your role there? Were you 12 in a business role or engineering? 13 A. Several roles throughout the course of 14 my career. Started off doing R&D. Ended up getting 15 involved in the manufacturing of implantable medical 16 devices. A number of patents in that field. Then I 17 was asked by the Gore family to take over the Gore-Tex 18 footwear business. So I moved from there to Maryland. 19 Q. Were you working on stent grafts or 20 vascular grafts? 21 A. Vascular grafts primarily at the time 22 and then a number of other medical products too; 23 sutures, patch materials. 24 Q. And these are all ePTFE-based? 25 A. They were.</p>

<p style="text-align: right;">Page 14</p> <p>1 Q. Okay. And so did you know any of the</p> <p>2 prior art inventors, like Dr. Dutta or Dr. Halley?</p> <p>3 MR. JACKSON: Object to scope.</p> <p>4 A. I don't know either one of those</p> <p>5 gentlemen.</p> <p>6 Q. (BY MR. GERGELY) Okay. Had you heard</p> <p>7 of them, but you just didn't meet them?</p> <p>8 A. That's right.</p> <p>9 Q. Was Dutta based in the U.S.?</p> <p>10 MR. JACKSON: Object to scope,</p> <p>11 foundation.</p> <p>12 A. I've never met Dutta. I don't know.</p> <p>13 From my perspective, Bob Gore was the inventor of</p> <p>14 ePTFE, and he was based in Delaware. I knew Bob quite</p> <p>15 well.</p> <p>16 Q. (BY MR. GERGELY) All right. So where</p> <p>17 did we leave off? We were talking about your</p> <p>18 declaration. In your declaration, Paragraph 3, you</p> <p>19 refer to Cocona's 2.5-layer or quote-unquote 2.5L</p> <p>20 material. Do you see that?</p> <p>21 A. I do.</p> <p>22 Q. Now, prior to Cocona's work on 2.5-layer</p> <p>23 materials, there existed in the industry a 2.5-layer</p> <p>24 of material, correct?</p> <p>25 MR. JACKSON: Objection to form and</p>	<p style="text-align: right;">Page 16</p> <p>1 under license by a large number of well-known brands</p> <p>2 including Adidas, Eddie Bauer, Harley Davidson, and</p> <p>3 Trek, among many others." Do you see that?</p> <p>4 A. I do.</p> <p>5 Q. What do you mean, "used under license"?</p> <p>6 What does that mean?</p> <p>7 A. Our business model is that we license</p> <p>8 our technology so --</p> <p>9 Q. To -- I'm sorry. I interrupted you.</p> <p>10 A. So two kind of aspects of that. We</p> <p>11 license certain manufacturers to manufacture, and then</p> <p>12 we license brands to purchase the technology from a</p> <p>13 licensed manufacturer. So we have trademark licenses</p> <p>14 that go to the brands, like The North Face, and we</p> <p>15 have manufacturing licenses that go to</p> <p>16 manufacturers -- oftentimes they'd be in Asia -- that</p> <p>17 actually make the material.</p> <p>18 Q. So to be clear, there's two types of</p> <p>19 licenses. There's a license that's extended to</p> <p>20 manufacturers of the material who are sometimes</p> <p>21 located overseas, correct?</p> <p>22 A. That's right.</p> <p>23 Q. And there's a separate license to the</p> <p>24 brands that's -- you called it a trademark license?</p> <p>25 A. I did.</p>
<p style="text-align: right;">Page 15</p> <p>1 foundation. It's outside the scope of his testimony.</p> <p>2 Q. (BY MR. GERGELY) Well, let me ask you</p> <p>3 more directly. Cocona didn't invent the 2.5-layer</p> <p>4 technology, correct?</p> <p>5 MR. JACKSON: Objection; form,</p> <p>6 foundation, scope.</p> <p>7 A. Certainly we injected this, which is the</p> <p>8 scope of our patent.</p> <p>9 Q. (BY MR. GERGELY) But Gore was in the</p> <p>10 market prior to Cocona with a 2.5-layer material,</p> <p>11 correct?</p> <p>12 MR. JACKSON: Objection to form,</p> <p>13 foundation, scope.</p> <p>14 A. If they were, I never used it, so I'm</p> <p>15 unfamiliar with it.</p> <p>16 Q. (BY MR. GERGELY) But you were aware</p> <p>17 that there were other manufacturers and sellers of 2.5</p> <p>18 layer material before Cocona, correct?</p> <p>19 MR. JACKSON: Objection to form,</p> <p>20 foundation, scope.</p> <p>21 A. I'd heard of 2.5 layer. I'd never tried</p> <p>22 them, so I'm not sure what was in the market or what</p> <p>23 was not in the market, either way.</p> <p>24 Q. (BY MR. GERGELY) And then you say that</p> <p>25 this 2.5-layer "material or technology has been used</p>	<p style="text-align: right;">Page 17</p> <p>1 Q. Okay. And so what trademarks are</p> <p>2 licensed?</p> <p>3 A. 37.5 is the one we most often license.</p> <p>4 We have some other trademarks that we license outside</p> <p>5 of the apparel industry and bedding industry.</p> <p>6 Q. And did those trademark licenses --</p> <p>7 they're limited to trademarks?</p> <p>8 A. Mostly. Generally they -- the elements</p> <p>9 are that they agree to use the trademark, they agree</p> <p>10 to use the language in our marketing guidelines, they</p> <p>11 agree to only buy product from licensed manufacturers,</p> <p>12 and depending on the -- and they agree to pay us.</p> <p>13 Q. All right. So the -- in Paragraph --</p> <p>14 well, first of all, in Paragraph 3, you call out a</p> <p>15 specific number of brand licensees, correct?</p> <p>16 A. I reference one, two, three, four of</p> <p>17 them, that's right.</p> <p>18 Q. And Adidas, as I understand, is no</p> <p>19 longer a licensee?</p> <p>20 A. Adidas still makes product with our</p> <p>21 technology.</p> <p>22 Q. Okay. I ask the question because over</p> <p>23 on Paragraph 6, Adidas and Adidas EU are listed as</p> <p>24 past.</p> <p>25 A. They are with respect to this particular</p>

<p style="text-align: right;">Page 18</p> <p>1 technology. Virtually everything I'm wearing today</p> <p>2 other than the tie is made with 37.5 technology. So</p> <p>3 we license the technology and the brand across a wide</p> <p>4 range of technology. Adidas still uses our 37.5</p> <p>5 licensed technology in products other than laminates.</p> <p>6 Q. Oh, okay. I'm not sure I follow that.</p> <p>7 What does that mean, "other than laminates"? Like</p> <p>8 woven?</p> <p>9 A. This shirt here is a woven, contains</p> <p>10 37.5 technology. Pants are a woven. They contain</p> <p>11 37.5 technology. These boots are lined with a woven</p> <p>12 material, 37.5 technology. My socks and underwear are</p> <p>13 knits that contain 37.5 technology.</p> <p>14 Q. So when you say Adidas and Adidas EU are</p> <p>15 past with respect to licensing status, what does that</p> <p>16 mean?</p> <p>17 A. It means that with respect to using the</p> <p>18 27 -- '287 patent, they're no longer -- at least</p> <p>19 today -- they could change tomorrow -- they're not</p> <p>20 currently using it to manufacture goods or have goods</p> <p>21 manufactured for them.</p> <p>22 Q. And do you know why they stopped?</p> <p>23 A. You know, brands change all the time.</p> <p>24 They go in and out of products all the time.</p> <p>25 Q. And in Paragraph 4 of your declaration,</p>	<p style="text-align: right;">Page 20</p> <p>1 licensed brands, so we provide them with a list of</p> <p>2 licensed brands. They agree to submit to us a sample</p> <p>3 of every new product that they would like to sell. We</p> <p>4 certify that fabric. They agree to let us audit their</p> <p>5 manufacturing whenever we want to. We do audit. And</p> <p>6 they agree to pay us.</p> <p>7 Q. And so does that -- do those licenses,</p> <p>8 do they have a term for licensing of patents?</p> <p>9 A. They do; they do.</p> <p>10 Q. Okay. So what patents are licensed?</p> <p>11 A. Depends on the manufacturer, obviously.</p> <p>12 This would be one of the patents that these guys would</p> <p>13 license.</p> <p>14 Q. So there's an actual license of the '287</p> <p>15 patent?</p> <p>16 A. There is.</p> <p>17 Q. And that's to the manufacturers</p> <p>18 overseas, correct?</p> <p>19 A. It is.</p> <p>20 Q. Okay. And then what is done with</p> <p>21 respect to certifying the sample? What does that</p> <p>22 involve?</p> <p>23 A. They send us a piece of the fabric.</p> <p>24 They tell us how it's made. Depending on the type of</p> <p>25 fabric that they're sending us, we will -- we actually</p>
<p style="text-align: right;">Page 19</p> <p>1 you say, "Cocona licenses the 2.5 technology to</p> <p>2 certified manufacturers who make 2.5 material for use</p> <p>3 by other companies." Do you see that?</p> <p>4 A. I do.</p> <p>5 Q. And then you call out three</p> <p>6 manufacturers: Raco Textile, Kolon Global, and</p> <p>7 Harmony. Do you see that?</p> <p>8 A. I do.</p> <p>9 Q. And are those the current three</p> <p>10 certified manufacturers?</p> <p>11 A. They are the current three certified</p> <p>12 manufacturers, yes. Harmony has not made product for</p> <p>13 a while, but they are still certified.</p> <p>14 Q. And so what -- so are they licensed,</p> <p>15 these manufacturers? When you say they're certified,</p> <p>16 is that pursuant to a contract or how is that done?</p> <p>17 A. It is. We have a contract they sign.</p> <p>18 Some have a trademark license, called a manufacturing</p> <p>19 license, and that manufacturing license contains a</p> <p>20 number of elements. They agree that they're going to</p> <p>21 make the product according to our quality guidelines.</p> <p>22 They agree that they're not going to disclose any</p> <p>23 trade secret information that we reveal to them, and</p> <p>24 we do reveal quite a bit of information to them. They</p> <p>25 agree that they're only going to sell products to</p>	<p style="text-align: right;">Page 21</p> <p>1 also certify yarns, so yarns that go into it. We will</p> <p>2 do physical testing on it. Oftentimes we'll destroy</p> <p>3 the fabric as well and make sure that it's got the</p> <p>4 minimum number of particles necessary to achieve the</p> <p>5 brand promise.</p> <p>6 Q. And do you test it for compliance with</p> <p>7 the '287 patent?</p> <p>8 A. It's a -- so the short answer is yes,</p> <p>9 and we do that using a couple of different criteria.</p> <p>10 Number one, we look at their manufacturing process to</p> <p>11 make sure that it's compliant with the one that we've</p> <p>12 set them up with. So, you know, there's the old</p> <p>13 saying that you can't inspect quality and you have to</p> <p>14 build it in. So most important for us is to make sure</p> <p>15 that their -- that the way that they manufacture it is</p> <p>16 consistent with the guidelines that we've given them.</p> <p>17 So we do do that on a regular basis. We have people</p> <p>18 located in China that work for us that go to the</p> <p>19 factories to ensure that.</p> <p>20 When the fabrics do come in, we will</p> <p>21 test them. We have one test that we particularly use,</p> <p>22 an AATCC 201, that we'll use to evaluate whether the</p> <p>23 fabric meets our breathability requirements. We'll</p> <p>24 inspect it visually to make sure that they've used the</p> <p>25 right gravure roll. G-r-a-u-v-e-r-e, I believe.</p>

Page 22

1 **Q. What does that mean?**
2 A. When you print this liner, which is our
3 37.5 lining, the .5 layer, when you print that 2.5
4 layer on the substrate, laydown is determined by a
5 roll that has holes in it of a certain configuration
6 and depth, et cetera. And the slurry with our
7 particles is going through that roll, and it's laid
8 down according to the print pattern determined by the
9 gravure. The gravure determines the print pattern and
10 the mass of products that are laid down. So
11 essentially, if you designed your gravure roll
12 properly, it ensures that whatever is laid down is --
13 has the right particle density, the right particle
14 amount, et cetera. So it's the primary mechanism
15 really for us to evaluate whether anybody -- whether
16 people have made the product properly. So first thing
17 we do is a visual inspection of the fabric that comes
18 in.
19 **Q. So in Paragraph 5 of your declaration,**
20 **you say, "While I am not an attorney, I understand**
21 **that the 2.5 technology licensed by Cocona to**
22 **Certified Manufacturers corresponds to the novel**
23 **features of the '287 Patent." And do you have**
24 **personal knowledge of that or were you told by others?**
25 A. Oh, I definitely have personal knowledge

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1 of it, yeah, absolutely.
2 **Q. Okay. And what's your personal**
3 **knowledge based on?**
4 A. Well, number one, you know, I have a
5 number of patents at Gore, so I'm fairly versed in
6 patent lamination technology. After Gore, I went to
7 Malden Mills Polartec, where my first job was to bring
8 laminate technology to Polartec. Much of what we made
9 at Massif encompassed laminates as well. So I've got
10 a fairly strong background in laminates in general.
11 I've visited all of these manufacturers.
12 I was visiting two weeks ago with Raco, actually, in
13 Taiwan, so I have a fairly robust and ongoing
14 discussion with the owners and the technical people
15 managing those plants. I've personally inspected the
16 manufacturing of all of the people making our product.
17 **Q. And so you say "The novel features**
18 **include a layer of active particles, such as activated**
19 **carbon." Do you see that?**
20 A. I do.
21 **Q. And when you say "such as," does that**
22 **mean sometimes something other than activated carbon**
23 **is used?**
24 A. That's right.
25 **Q. And what else might be used?**

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1 A. This is a trade secret as far as I'm
2 concerned, just to be clear, but we do use --
3 MR. JACKSON: Hold on. Can he answer
4 under the protective order?
5 MR. GERGELY: Yes.
6 MR. JACKSON: So, Madam Court Reporter,
7 if you'll just designate this portion as confidential,
8 and then when he's done answering, we'll hop out of
9 the confidential designation. Thank you.
10 Go ahead, Jeff.
[REDACTED]

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[REDACTED]

<p style="text-align: right;">Page 26</p> <p>1 materials as well.</p> <p>2 Q. And how is the polyurethane made?</p> <p>3 A. I'm not an expert in polyurethane.</p> <p>4 That's outside the scope of my declaration.</p> <p>5 Q. Okay. Do you know if it's -- do you</p> <p>6 know if it's cured or is it extruded?</p> <p>7 A. The base polyurethane?</p> <p>8 Q. Correct.</p> <p>9 A. No, we get it in a slurry form and mix</p> <p>10 it up with our particles.</p> <p>11 Q. But do you know, is the -- so is the</p> <p>12 slurry like a solution?</p> <p>13 A. It is.</p> <p>14 Q. Okay. And then you mix the particles</p> <p>15 into it?</p> <p>16 A. That's right.</p> <p>17 Q. Okay. Or the manufacturer does, to</p> <p>18 emphasize?</p> <p>19 A. That's right.</p> <p>20 Q. And then is that base layer cured and</p> <p>21 then the half layer deposited on top of that or is the</p> <p>22 half layer mixed in into the base?</p> <p>23 A. So I'm not sure I'm understanding your</p> <p>24 question because the 2 1/2 layer comprises first a</p> <p>25 fabric, right?</p>	<p style="text-align: right;">Page 28</p> <p>1 that's manufactured by these manufacturers is in that</p> <p>2 correct ratio?</p> <p>3 A. Well, it's outside the scope of my</p> <p>4 declaration, but typically what we do is we look at</p> <p>5 the pattern, first of all. As I said before, the</p> <p>6 primary mechanism in any manufacturing process is to</p> <p>7 control it during the manufacturing, not to try to</p> <p>8 inspect in. So we make sure they're using the right</p> <p>9 gravure roll for sure. We do look for the presence of</p> <p>10 active particles. So that's our primary mechanism.</p> <p>11 We control the particles that go in. So we do supply</p> <p>12 the particles. So we do in all cases test the</p> <p>13 particles prior to shipping them so we know what the</p> <p>14 distribution of size is.</p> <p>15 Q. The distribution of size of the</p> <p>16 particles?</p> <p>17 A. That's right.</p> <p>18 Q. Do you mean diameter?</p> <p>19 A. I do.</p> <p>20 Q. So are you equating the thickness of the</p> <p>21 particle layer with the diameter?</p> <p>22 A. No, I'm not specifically. For our</p> <p>23 technology to work, it has to have active particles in</p> <p>24 it and it has to have active particles, again, has to</p> <p>25 have a certain quantity of active particles, and it</p>
<p style="text-align: right;">Page 27</p> <p>1 Q. That's the bottom. That's one layer,</p> <p>2 right?</p> <p>3 A. Black.</p> <p>4 Q. Right.</p> <p>5 A. Then it encompasses a membrane, which is</p> <p>6 cured, which could be a number of different materials.</p> <p>7 Could be polyurethane. It could be ePTFE. It could</p> <p>8 be a number of other things. And then there's a 2 1/2</p> <p>9 layer -- or there's a half layer that contains our</p> <p>10 material, which is typically printed on using a</p> <p>11 gravure.</p> <p>12 Q. And what's in that half layer?</p> <p>13 A. That's outside the scope of my</p> <p>14 declaration. It's also trade secret. One of the</p> <p>15 things that's in that half layer is our particles.</p> <p>16 Q. Among other things?</p> <p>17 A. That's right.</p> <p>18 Q. Okay. And you said here that the</p> <p>19 thicknesses of the particle layer and the base layer</p> <p>20 conform to a certain ratio. Do you see that?</p> <p>21 A. I do.</p> <p>22 Q. And when you're performing sample</p> <p>23 testing, do you measure those thicknesses?</p> <p>24 A. We don't, generally.</p> <p>25 Q. How do you confirm that the product</p>	<p style="text-align: right;">Page 29</p> <p>1 has to have a mass per surface area. Otherwise, we</p> <p>2 don't get the effect.</p> <p>3 So what we do is make sure that happens,</p> <p>4 and we're primarily doing that at the manufacturing</p> <p>5 level. So we do that by ensuring that the particles</p> <p>6 that go into the slurry are the right particles.</p> <p>██</p> <p>██</p> <p>██</p> <p>11 Q. Is the diameter?</p> <p>12 A. That's right.</p> <p>13 Q. Of the particles?</p> <p>14 A. That's right.</p> <p>15 Q. Now, back to this ratio of the</p> <p>16 thicknesses, I mean that could be determined by taking</p> <p>17 a cross-section of the material and measuring it,</p> <p>18 correct?</p> <p>19 A. You could measure the thickness of the</p> <p>20 whole laminate that way, that's right.</p> <p>21 Q. But you don't do that at Cocona,</p> <p>22 correct?</p> <p>23 A. Let me think. Do we do that at our lab</p> <p>24 or not on a regular basis? We do do it occasionally.</p> <p>25 I'm not sure, candidly, whether we do that every time</p>

<p style="text-align: right;">Page 30</p> <p>1 we certify a fabric sample. I don't know.</p> <p>2 Q. Well, of the times that you have done</p> <p>3 it, what were the ratios?</p> <p>4 A. I'm not familiar. I don't have that</p> <p>5 information in front of me. It's actually outside the</p> <p>6 scope of my deposition -- declaration.</p> <p>7 Q. Well, I guess I'm not following. How do</p> <p>8 you confirm that the particle layer and the base layer</p> <p>9 are in the correct ratio?</p> <p>10 A. Again, the first thing that we do is</p> <p>11 make sure that the particle is the right particle.</p> <p>12 Number two, we have criteria that we supply to the</p> <p>13 manufacturer to make sure that they mix it properly.</p> <p>14 We audit their manufacturing occasionally to make sure</p> <p>15 that they're making the product using the right</p> <p>16 mixture of particles to carrier. We are absolutely</p> <p>17 defining the gravure roll, which is the most important</p> <p>18 piece of this, to make sure that it's the right -- it</p> <p>19 has the right characteristics to lay down the material</p> <p>20 to achieve the effect that we're looking for. So most</p> <p>21 of what we do from a quality standpoint happens at the</p> <p>22 manufacturer level. It doesn't happen -- we're not</p> <p>23 trying to test the quality.</p> <p>24 Q. So do you tell the manufacturers that</p> <p>25 they need to make the material in the specific ratio</p>	<p style="text-align: right;">Page 32</p> <p>1 A. Yeah, we -- you know, before we send any</p> <p>2 process out, we vet it internally. So --</p> <p>3 Q. No, I'm not talking about before. I'm</p> <p>4 talking about coming off the line, that what they</p> <p>5 actually made has actually conformed to that 2.5 to 10</p> <p>6 ratio.</p> <p>7 A. We do not measure to see if it's 2.5 to</p> <p>8 10 typically.</p> <p>9 Q. All right. And then in terms of</p> <p>10 improved water vapor transport, is that the MVTR test?</p> <p>11 A. There's multiple MVTR tests, but that</p> <p>12 would be one measure of it for sure.</p> <p>13 Q. And has Cocona ever run tests to</p> <p>14 determine that the materials coming off the line from</p> <p>15 the certified manufacturers actually have an improved</p> <p>16 MVTR over the control?</p> <p>17 A. We do. We run those constantly.</p> <p>18 Actually, on all fabric certification, we do run an</p> <p>19 MVTR test to make sure that fabrics are doing what we</p> <p>20 would expect them to do.</p> <p>21 Q. And tell me what exactly that test is.</p> <p>22 A. AATCC 201.</p> <p>23 Q. So tell me the protocol for that.</p> <p>24 What's being tested there?</p> <p>25 A. We're testing the movement of moisture</p>
<p style="text-align: right;">Page 31</p> <p>1 of greater than 2.5 but less than an order of</p> <p>2 magnitude?</p> <p>3 A. We don't tell them that because that</p> <p>4 would be revealing trade secret information. What we</p> <p>5 do tell them is how many -- is how to blend the</p> <p>6 material. We tell them what gravure roll to use. We</p> <p>7 actually give them very specific information on the</p> <p>8 print pattern. We tell them how -- what temperatures</p> <p>9 to run it at, what lines we use to run it at, what</p> <p>10 temperatures to cure it at, et cetera. So we give</p> <p>11 them the information that will produce the product</p> <p>12 outlined here, but we don't tell them it has to be</p> <p>13 2 1/2 to 10 ratio because that would be a trade secret</p> <p>14 that we don't want to reveal.</p> <p>15 Q. Well, that's not a trade secret. It is</p> <p>16 in the '287 patent, which is public, right?</p> <p>17 A. It is public. You know, just in</p> <p>18 general, we operate on a need-to-know basis, and we</p> <p>19 don't feel the manufacturers need to know that</p> <p>20 particular information, whether it's in the patent or</p> <p>21 not.</p> <p>22 Q. But sitting here today, are you aware of</p> <p>23 any instance where Cocona has confirmed that the</p> <p>24 material that's being produced by the certified</p> <p>25 manufacturers meets that 2.5 to 10 ratio?</p>	<p style="text-align: right;">Page 33</p> <p>1 vapor through the material.</p> <p>2 Q. Through what material?</p> <p>3 A. The laminate material. So in this case,</p> <p>4 it would be this particular fabric right here.</p> <p>5 Q. And when you're saying this particular</p> <p>6 fabric, you're pointing to a jacket with a 2.5 layer</p> <p>7 on it?</p> <p>8 A. Yeah. Actually, we would just be taking</p> <p>9 the fabric before it was made into a jacket. So they</p> <p>10 would usually send us a sample of the fabric, usually</p> <p>11 a square meter.</p> <p>12 Q. And the sample they're sending you for</p> <p>13 testing has the 2.5 layer on it?</p> <p>14 A. It does. It's ready to be made into a</p> <p>15 garment.</p> <p>16 Q. And are you testing that versus a</p> <p>17 control?</p> <p>18 A. No. Typically, we don't test it versus</p> <p>19 a control.</p> <p>20 Q. How do you determine what's coming off</p> <p>21 the line actually has an improved MVTR?</p> <p>22 A. Because we've done -- from a product</p> <p>23 testing standpoint, most of our customers require it.</p> <p>24 They'll send us a control material without our</p> <p>25 technology, and then we'll compare it to our material</p>

<p style="text-align: right;">Page 34</p> <p>1 with the technology. So we do that all the time.</p> <p>2 Q. I'm talking about what the manufacturers</p> <p>3 are actually producing.</p> <p>4 A. Yeah. So that's on a development level</p> <p>5 that we're usually doing a combination of the brand as</p> <p>6 well as the manufacturer. The manufacturers send us</p> <p>7 what comes off the line. And so we'll test that,</p> <p>8 provide a sample, make sure that it's consistent with</p> <p>9 what we expect it to be. And we'll put that in our</p> <p>10 database, and when we audit, we'll also look at that</p> <p>11 to make sure that what they're certifying is</p> <p>12 consistent with what they're actually manufacturing on</p> <p>13 a regular basis.</p> <p>14 Q. What was your reference to the</p> <p>15 customers? You were saying they send you the material</p> <p>16 without the print layer on it?</p> <p>17 A. Well, let's say we're going to start</p> <p>18 doing business with somebody like North Face, case in</p> <p>19 point. North Face would have a baseline material.</p> <p>20 We're trying to convince them our technology will</p> <p>21 enhance the performance of that material. So</p> <p>22 oftentimes in laminates, as well as nonlaminates,</p> <p>23 they'll send us their baseline material. One of their</p> <p>24 manufacturers will produce a material with our</p> <p>25 technology. We'll compare the two. We'll provide</p>	<p style="text-align: right;">Page 36</p> <p>1 sitting here today?</p> <p>2 A. I don't have the test results sitting in</p> <p>3 front of me. I can certainly provide those at some</p> <p>4 point.</p> <p>5 Q. Now, in this case, have you helped any</p> <p>6 of the other declarants prepare their declarations,</p> <p>7 say, for example, Dr. Haggquist or the experts?</p> <p>8 A. No.</p> <p>9 Q. So you haven't reviewed or commented on</p> <p>10 any of Dr. Haggquist's draft declarations?</p> <p>11 A. I have not.</p> <p>12 Q. And that's also true with respect to the</p> <p>13 experts Callan and Daniels?</p> <p>14 A. That's right.</p> <p>15 Q. Have you talked to Callan and Daniels?</p> <p>16 A. I didn't even know their names until you</p> <p>17 mentioned them.</p> <p>18 Q. Okay. Did you review any of the drafts</p> <p>19 before they were completed?</p> <p>20 A. No, I did not.</p> <p>21 Q. How many people are employed at Cocona?</p> <p>22 A. We have about 15 people full time. Not</p> <p>23 all of those are actually employees. Some of them</p> <p>24 live overseas, operate as employees, but they're</p> <p>25 technically not employees.</p>
<p style="text-align: right;">Page 35</p> <p>1 those results to them. We provide lots of different</p> <p>2 types of testing for that. The testing can include</p> <p>3 moisture vapor transmission testing. It'll include</p> <p>4 potentially user testing, wear testing. Sometimes,</p> <p>5 depending on the fabrics, we'll do -- put the garments</p> <p>6 on people in a climate chamber, and they'll measure</p> <p>7 the relative humidity next to their skin after a</p> <p>8 certain activity period with or without our</p> <p>9 technology. So it just depends what the customer's</p> <p>10 interests are.</p> <p>11 Q. I'm asking you for a specific example of</p> <p>12 a product that's come from a certified manufacturer</p> <p>13 where there is evidence of tests that have been done</p> <p>14 measuring a 2.5 layer as against a control. Are you</p> <p>15 aware of such instances?</p> <p>16 A. We have done that type of testing, yes.</p> <p>17 Q. And for which certified manufacturer?</p> <p>18 A. I don't have that information with me.</p> <p>19 It's outside the scope of my declaration.</p> <p>20 Q. Do you recall which customer you did</p> <p>21 that for?</p> <p>22 A. I would be surprised if we haven't done</p> <p>23 it for many customers because they all need proof that</p> <p>24 the technology adds value.</p> <p>25 Q. But you can't recall any instance</p>	<p style="text-align: right;">Page 37</p> <p>1 MR. GERGELY: Can you mark that as</p> <p>2 Bowman 3?</p> <p>3 (Deposition Exhibit 3 was marked.)</p> <p>4 Q. (BY MR. GERGELY) Is this the Cocona org</p> <p>5 chart?</p> <p>6 MR. JACKSON: Hold on. Object. This</p> <p>7 was not mentioned in the deposition notice. It is not</p> <p>8 a record in this case.</p> <p>9 MR. GERGELY: Well, let me ask you this.</p> <p>10 This was produced in the litigation. You know, he did</p> <p>11 talk about his title. So I just wanted to ask him</p> <p>12 about his title and who were his reports at the</p> <p>13 company. Do you have an issue with that?</p> <p>14 MR. JACKSON: No, but just to the</p> <p>15 document itself.</p> <p>16 MR. GERGELY: Okay. I guess also there</p> <p>17 was a protective order in the litigation. This has</p> <p>18 been marked confidential. Do you have an issue with</p> <p>19 me asking questions about it?</p> <p>20 MR. JACKSON: So long as the discussion</p> <p>21 is confidential.</p> <p>22 MR. GERGELY: Okay. I appreciate that.</p> <p>23 I appreciate that.</p> <p>24 Q. (BY MR. GERGELY) Mr. Bowman, is this</p> <p>25 the Cocona org chart as of 2/23/17?</p>

<p style="text-align: right;">Page 38</p> <p>1 MR. JACKSON: Object to scope. You can</p> <p>2 answer.</p> <p>3 A. No, there's some changes for sure.</p> <p>4 Q. (BY MR. GERGELY) You mean since this</p> <p>5 was issued?</p> <p>6 A. That's right.</p> <p>7 Q. Okay. This was produced in the</p> <p>8 litigation. Had you seen this before?</p> <p>9 A. No.</p> <p>10 MR. JACKSON: Object to scope.</p> <p>11 Q. (BY MR. GERGELY) Have you seen company</p> <p>12 org charts with the Kutak Rock firm underneath you?</p> <p>13 MR. JACKSON: Object to scope.</p> <p>14 A. You know, I don't typically look at org</p> <p>15 charts in general, but they would -- I am their -- I</p> <p>16 was their primary contact for a long time. That's not</p> <p>17 necessarily the case anymore.</p> <p>18 Q. (BY MR. GERGELY) Do you know why they</p> <p>19 would be on a company org chart?</p> <p>20 MR. JACKSON: Object to form, scope.</p> <p>21 A. I'm not sure who produced the org chart,</p> <p>22 so I can't answer that question.</p> <p>23 Q. (BY MR. GERGELY) And Greg H. is</p> <p>24 Dr. Haggquist?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 40</p> <p>1 MR. GERGELY: Bowman Exhibit 3.</p> <p>2 MR. JACKSON: We maintain our</p> <p>3 objections.</p> <p>4 MR. GERGELY: Can you mark that as</p> <p>5 Bowman 4?</p> <p>6 (Deposition Exhibit 4 was marked.)</p> <p>7 MR. JACKSON: Counsel, I'm going to</p> <p>8 object. This is not listed on the deposition notice.</p> <p>9 It is not the witness' testimony. So it's an improper</p> <p>10 exhibit, and it's outside the scope -- proper scope of</p> <p>11 the examination today.</p> <p>12 Q. (BY MR. GERGELY) Mr. Bowman, handing</p> <p>13 you what's been marked as Bowman Exhibit 4. Have you</p> <p>14 seen this document before?</p> <p>15 A. No.</p> <p>16 Q. Do you understand that the company</p> <p>17 responded to some interrogatories in the litigation?</p> <p>18 MR. JACKSON: Object to scope, form.</p> <p>19 A. I do.</p> <p>20 Q. (BY MR. GERGELY) Did you have any input</p> <p>21 into that?</p> <p>22 MR. JACKSON: Object to scope, form.</p> <p>23 A. I did not have any input into this</p> <p>24 document, no.</p> <p>25 Q. (BY MR. GERGELY) Do you know who</p>
<p style="text-align: right;">Page 39</p> <p>1 Q. And he reports to you?</p> <p>2 A. He does.</p> <p>3 Q. And all these people underneath you,</p> <p>4 other than the Kutak Rock firm, are those employees?</p> <p>5 A. No.</p> <p>6 MR. JACKSON: Object to scope.</p> <p>7 Q. (BY MR. GERGELY) I see. The dashed</p> <p>8 lines are independent contractors?</p> <p>9 A. Yes. Some of them don't exist, and</p> <p>10 there's people that are on the org chart, one of which</p> <p>11 reports to me, that aren't listed here.</p> <p>12 Q. And who is that?</p> <p>13 MR. JACKSON: Object to scope.</p> <p>14 A. Our finance guy, Mike Schweiger, reports</p> <p>15 to me these days. Alex J. is no longer working with</p> <p>16 the company. We have other accounting people that do</p> <p>17 work for the company that aren't listed here. Anne in</p> <p>18 the EU administration does not work there. TIC/Creare</p> <p>19 is really just a sales agent. Again, I don't know who</p> <p>20 prepared this org chart.</p> <p>21 Q. (BY MR. GERGELY) Okay. I appreciate</p> <p>22 your answers.</p> <p>23 A. Yeah.</p> <p>24 MR. JACKSON: Counsel, was that given an</p> <p>25 exhibit number? Is that 3?</p>	<p style="text-align: right;">Page 41</p> <p>1 prepared it?</p> <p>2 MR. JACKSON: Objection; form, scope,</p> <p>3 foundation.</p> <p>4 A. I don't know specifically. I'm assuming</p> <p>5 our Kutak Rock attorneys prepared it. Again, this is</p> <p>6 the first time I've seen it.</p> <p>7 Q. (BY MR. GERGELY) Can you take a look at</p> <p>8 Interrogatory Number 14 on Page 22?</p> <p>9 MR. JACKSON: Objection, scope.</p> <p>10 A. 22. Excuse me. Okay.</p> <p>11 Q. (BY MR. GERGELY) Do you see the</p> <p>12 question that requests, "Please identify each product</p> <p>13 that has ever been sold or offered for sale by</p> <p>14 Plaintiff that is covered by any of the asserted</p> <p>15 claims of the '287 patent, and for each product,</p> <p>16 identify the claim, and furnish a claim chart</p> <p>17 analyzing how each such claim covered each such</p> <p>18 product"?</p> <p>19 A. I do.</p> <p>20 MR. JACKSON: Object to the scope of the</p> <p>21 exhibit.</p> <p>22 Q. (BY MR. GERGELY) There's a bunch of</p> <p>23 objections that follow, and the response is, "Cocona</p> <p>24 has not sold or offered for sale any product that is</p> <p>25 covered by any of the asserted claims of the '287</p>

<p style="text-align: right;">Page 42</p> <p>1 patent." Do you see that?</p> <p>2 A. I do.</p> <p>3 MR. JACKSON: Objection, scope.</p> <p>4 Q. And is that a true statement?</p> <p>5 MR. JACKSON: Objection, scope.</p> <p>6 A. I guess it depends on how it's</p> <p>7 interpreted. Certainly everything that's made with</p> <p>8 our technology is covered by the '287 patent. It</p> <p>9 depends on how you define "product." We don't sell</p> <p>10 garments, and we don't sell fabrics. We do sell the</p> <p>11 active particles that are used to make the slurry that</p> <p>12 are used to make the products. So I guess based on</p> <p>13 the definition -- using strict logic "has not sold or</p> <p>14 offered for sale any product," if you assume that the</p> <p>15 active particle is a product, then I would say this</p> <p>16 statement is incorrect.</p> <p>17 Q. (BY MR. GERGELY) Okay. And just for</p> <p>18 clarity, "covered" means actually covered by a claim</p> <p>19 of the '287 patent.</p> <p>20 MR. JACKSON: Objection; form, scope.</p> <p>21 Q. (BY MR. GERGELY) So that would include</p> <p>22 the membrane, the active particle?</p> <p>23 A. It's my understanding, just using</p> <p>24 straight logic, right, any product would be defined as</p> <p>25 anything going into it. So given that, I would say</p>	<p style="text-align: right;">Page 44</p> <p>1 MR. JACKSON: Objection, scope.</p> <p>2 A. Yes, we haven't licensed anybody since</p> <p>3 February 2013, although there are three licensees that</p> <p>4 are currently making the product. They were licensed</p> <p>5 before -- prior to February 2015. So that piece of it</p> <p>6 is accurate. Had made, used -- so I use this product</p> <p>7 here, and I'm a Cocona employee. I guess it depends</p> <p>8 on how you define "used," but we don't sell fabrics,</p> <p>9 and we don't sell garments, and we don't typically</p> <p>10 have things made for us. The brands do. They go to</p> <p>11 manufacture.</p> <p>12 Q. So there hasn't been any new licenses</p> <p>13 since the patent issued?</p> <p>14 MR. JACKSON: Objection, scope.</p> <p>15 A. Not since February '13 -- or February</p> <p>16 2015, no.</p> <p>17 Q. (BY MR. GERGELY) And what do you</p> <p>18 attribute that to?</p> <p>19 MR. JACKSON: Objection; scope, form,</p> <p>20 foundation.</p> <p>21 A. Part of our business strategy in general</p> <p>22 is not to try to do business with everybody but only</p> <p>23 do business with people that we can trust, number one.</p> <p>24 It's hard to come by in China and Taiwan in general,</p> <p>25 particularly if you're transferring intellectual</p>
<p style="text-align: right;">Page 43</p> <p>1 that this claim is incorrect -- or this response is</p> <p>2 incorrect.</p> <p>3 Q. And then how about Interrogatory Number</p> <p>4 13 on the following page?</p> <p>5 MR. JACKSON: Objection, scope.</p> <p>6 A. On the following page or the previous</p> <p>7 page?</p> <p>8 Q. (BY MR. GERGELY) The previous page.</p> <p>9 And the question is, "Please identify the factual</p> <p>10 basis demonstrating how Plaintiff and/or each of its</p> <p>11 licensees have complied with the marking requirements</p> <p>12 of 35 U.S.C. 287." Then there's a bunch of objections</p> <p>13 that follow. And the response is, "Since</p> <p>14 February 3rd, 2015 - the date of the issuance for the</p> <p>15 '287 Patent - Cocona has not granted any licenses to</p> <p>16 any licensee that is making or selling products that</p> <p>17 practice any of the inventions taught in the '287</p> <p>18 Patent nor has Cocona made, had made, used, imported,</p> <p>19 or sold any products that practice any of the</p> <p>20 inventions taught in the '287 Patent."</p> <p>21 Do you see that?</p> <p>22 MR. JACKSON: Objection, scope.</p> <p>23 A. I do.</p> <p>24 Q. (BY MR. GERGELY) And is that a true</p> <p>25 statement?</p>	<p style="text-align: right;">Page 45</p> <p>1 property to them. So we have a small manufacturing</p> <p>2 base in general for that reason.</p> <p>3 We're also a relatively small group, so</p> <p>4 trying to control quality. It's more difficult as you</p> <p>5 add more manufacturers. So part of our overall</p> <p>6 business strategy is to limit the number of</p> <p>7 manufacturers that make all of our technologies for</p> <p>8 quality purposes primarily. Also, we want to make</p> <p>9 sure that everybody that's involved with this is</p> <p>10 getting enough business that there's an incentive for</p> <p>11 them to work with us.</p> <p>12 Q. (BY MR. GERGELY) And what about with</p> <p>13 respect to the brands? Have there been any new brand</p> <p>14 licenses since February 3rd, 2015?</p> <p>15 MR. JACKSON: Objection to scope, form,</p> <p>16 and foundation.</p> <p>17 A. Dozens, if not hundreds.</p> <p>18 Q. (BY MR. GERGELY) There have been new</p> <p>19 ones?</p> <p>20 A. Yes. We license new brands every single</p> <p>21 day.</p> <p>22 Q. Okay. And they make -- excuse me. They</p> <p>23 sell products that are allegedly covered by the '287</p> <p>24 patent, correct?</p> <p>25 A. That's right. So this brand here,</p>

<p style="text-align: right;">Page 46</p> <p>1 they've been licensed, I believe, since 2013. That</p> <p>2 would be FirstLite, very high-end hunting brand.</p> <p>3 Q. I'm talking about after February 3rd,</p> <p>4 2015.</p> <p>5 A. So am I.</p> <p>6 Q. Okay. So you've signed up new</p> <p>7 licensees?</p> <p>8 A. All the time.</p> <p>9 Q. Okay.</p> <p>10 A. Burberry would be another case. We just</p> <p>11 signed Burberry up for -- to use the technology.</p> <p>12 Q. And then so -- but the response is since</p> <p>13 February 3rd, 2015 - the date of issuance for the '287</p> <p>14 Patent - Cocona has not granted any licensees" -- "any</p> <p>15 licenses to any licensee that is making or selling</p> <p>16 products that practice any of the inventions taught in</p> <p>17 the '287 Patent, nor has Cocona made, had made,</p> <p>18 imported, or sold any products that practice any of</p> <p>19 the inventions taught in the '287 Patent."</p> <p>20 MR. JACKSON: Objection, scope.</p> <p>21 Q. (BY MR. GERGELY) Are you saying that's</p> <p>22 an inaccurate statement as well?</p> <p>23 MR. JACKSON: Objection, scope.</p> <p>24 A. So I guess that depends on how you</p> <p>25 define "products." So certainly everybody in the</p>	<p style="text-align: right;">Page 48</p> <p>1 Mountain, Trek, Tucker Rocky, Turbella, FirstLite,</p> <p>2 most of these here would be -- that are current would</p> <p>3 be since 2015, and, again, we add them all the time.</p> <p>4 Q. And so back to the interrogatory</p> <p>5 response, why then did Cocona say that it had not</p> <p>6 granted any new licenses after February 3rd, 2015?</p> <p>7 MR. JACKSON: Object to scope.</p> <p>8 A. Well, number one, I didn't prepare this.</p> <p>9 I am not familiar with it. So I don't know. I would</p> <p>10 say likely it's because the way the question was</p> <p>11 phrased, the interpretation was that we haven't added</p> <p>12 any new manufacturers of the fabric, and we have not.</p> <p>13 Q. (BY MR. GERGELY) The question doesn't</p> <p>14 talk about manufacturers. It talks about Plaintiff or</p> <p>15 its licensees.</p> <p>16 MR. JACKSON: Objection; scope,</p> <p>17 foundation.</p> <p>18 A. Again, I wasn't involved in preparation</p> <p>19 of the response, hadn't seen the question. I'm</p> <p>20 telling you today that everybody that's licensed to</p> <p>21 use our technology is using technology that's covered</p> <p>22 by the '287 patent, regardless of what these words</p> <p>23 say.</p> <p>24 (At this time Ms. Ott left the room.)</p> <p>25 Q. (BY MR. GERGELY) Well, you're guessing</p>
<p style="text-align: right;">Page 47</p> <p>1 market with our laminate is using technology contained</p> <p>2 in the '287 patent. Every one of them. They're</p> <p>3 buying those fabrics from one of, these days, two --</p> <p>4 since Harmony is not currently making product, one of</p> <p>5 two manufacturers of the fabric itself. So my</p> <p>6 interpretation of this is that the two licensees for</p> <p>7 the manufacture of products would be Kolon and Raco,</p> <p>8 and they're making and selling.</p> <p>9 Now, if you want to extend the product</p> <p>10 to the finished garment, then there are a bunch of</p> <p>11 others for sure, and I think most of those are listed,</p> <p>12 if not all of them, depending on what date this was</p> <p>13 produced, would be listed here in my -- in Exhibit 2.</p> <p>14 Q. (BY MR. GERGELY) So you said you've</p> <p>15 signed up hundreds of new licensees after February 3rd</p> <p>16 of 2015?</p> <p>17 A. I'd say dozens, if not hundreds, and</p> <p>18 those would not be -- those would be licensees of '287</p> <p>19 technology. Not necessarily all of them are going to</p> <p>20 be using this technology here.</p> <p>21 Q. Okay. So with respect to 2.5, how many</p> <p>22 new ones have you signed up?</p> <p>23 A. I don't know. I don't have that</p> <p>24 information available. But taking a look at this --</p> <p>25 when was this produced? Rossignol, Salomon, Sun</p>	<p style="text-align: right;">Page 49</p> <p>1 that, right?</p> <p>2 A. No, I know that, actually.</p> <p>3 Q. But you said you've never measured for</p> <p>4 the 2.5 to 10 ratio, correct?</p> <p>5 MR. JACKSON: Objection; form,</p> <p>6 foundation.</p> <p>7 A. Did I say never measured it? No, I did</p> <p>8 not say that we've never measured that. I'm saying on</p> <p>9 an ongoing quality basis that what we do to determine</p> <p>10 whether people are operating according to the</p> <p>11 guidelines in the '287 patent are robust. Most of it</p> <p>12 is done at the manufacturing level. Most of it is</p> <p>13 done, as I explained earlier, that as we go in and we</p> <p>14 work with these very select manufacturers, who we talk</p> <p>15 to all the time -- I was with Raco last week in</p> <p>16 Taiwan -- the week before last -- we make sure that</p> <p>17 they're using the guidelines that we vetted and to</p> <p>18 make sure the products being produced are complying</p> <p>19 with our guidelines for quality.</p> <p>20 Q. Right. But you never tell them to</p> <p>21 manufacture it in the 2.5 to 10 ratio, correct?</p> <p>22 A. We tell them how to manufacture -- very</p> <p>23 specifically, we tell them what the slurry makeup</p> <p>24 needs to be, what gravure roll they need to use, what</p> <p>25 temperatures they need to run, what line speeds they</p>

<p style="text-align: right;">Page 50</p> <p>1 need to run. All of that ensures that we get the</p> <p>2 product that's outlined in the '287 patent.</p> <p>3 Q. Are you aware of a test being done at</p> <p>4 any point in time demonstrating that a Cocona</p> <p>5 certified manufacturer product met that 2.5 to 10</p> <p>6 ratio? And if so, when was that test? Who was it</p> <p>7 done by?</p> <p>8 MR. JACKSON: Object to form.</p> <p>9 A. That's outside the scope of my</p> <p>10 declaration, so I don't remember any details.</p> <p>11 Q. (BY MR. GERGELY) Well, you're saying</p> <p>12 that in your declaration -- in your declaration,</p> <p>13 you're saying that these materials that come off the</p> <p>14 line from the certified manufacturers meet that ratio.</p> <p>15 So I'm asking you, what exactly did you determine --</p> <p>16 do to determine that that exact ratio was met? Where</p> <p>17 is the proof other than your say-so?</p> <p>18 MR. JACKSON: Objection; scope, form,</p> <p>19 foundation.</p> <p>20 Q. (BY MR. GERGELY) Because it's not in</p> <p>21 your declaration. So I'm asking you, is it somewhere</p> <p>22 else?</p> <p>23 A. I'm sure that it's somewhere else. I'm</p> <p>24 not privy to it. Undoubtedly when we did the original</p> <p>25 work to develop the patent, we determined that the 2.5</p>	<p style="text-align: right;">Page 52</p> <p>1 Mr. Bowman. I appreciate your time. Thank you.</p> <p>2 THE DEPONENT: You're welcome.</p> <p>3 MR. JACKSON: And on the record very</p> <p>4 briefly just to -- since we discussed exhibit numbers,</p> <p>5 preserve Cocona's objections to the org chart and to</p> <p>6 the responses, and then we reserve our right to review</p> <p>7 and sign the depo transcript.</p> <p>8 MR. GERGELY: Great. That's all.</p> <p>9 WHEREUPON, the within proceedings were</p> <p>10 concluded at the approximate hour of 10:37 a.m. on the</p> <p>11 4th day of December, 2018.</p> <p>12 * * * * *</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p style="text-align: right;">Page 51</p> <p>1 to 10 ratio was the ratio that we needed to operate</p> <p>2 within. We developed a manufacturing process to</p> <p>3 assure that, and we absolutely -- with the two ongoing</p> <p>4 manufacturers and previously with Harmony, we make</p> <p>5 sure that their manufacturing processes comply with</p> <p>6 the claims of our patent.</p> <p>7 Q. (BY MR. GERGELY) But you're not aware</p> <p>8 of any specific documents which would demonstrate</p> <p>9 that, are you?</p> <p>10 A. I'm not, no.</p> <p>11 MR. GERGELY: Let's take a short break.</p> <p>12 I'll confer with Indhira and Kathleen. If we have</p> <p>13 anything else, we'll come back.</p> <p>14 THE DEPONENT: Great.</p> <p>15 MR. GERGELY: So why don't we take,</p> <p>16 like, 15?</p> <p>17 THE DEPONENT: Sounds good.</p> <p>18 (Recess taken, 10:16 a.m. to 10:36 a.m.)</p> <p>19 MR. GERGELY: I just want to do some</p> <p>20 housekeeping, just make sure that we're on the same</p> <p>21 page. So the depo notice of Jeff Bowman is Exhibit 1.</p> <p>22 The declaration of Jeff Bowman is Exhibit 2. Cocona</p> <p>23 org chart is Exhibit 3, and the interrogatory</p> <p>24 responses are Exhibit 4.</p> <p>25 I don't have anything further,</p>	<p style="text-align: right;">Page 53</p> <p>1 I, JEFFREY BOWMAN, do hereby certify that</p> <p>2 I have read the above and foregoing deposition and</p> <p>3 that the same is a true and accurate transcription of</p> <p>4 my testimony, except for attached amendments, if any.</p> <p>5 Amendments attached () Yes () No</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p style="text-align: center;">_____ JEFFREY BOWMAN</p> <p>The signature above of JEFFREY BOWMAN was subscribed and sworn to or affirmed before me in the county of _____, state of _____, this _____ day of _____, 2018.</p> <p style="text-align: center;">_____ Notary Public My commission expires:</p> <p>VF Outdoor, LLC 12/4/18 (sb)</p>

CONFIDENTIAL DESIGNATIONS PENDING
JEFFREY BOWMAN - 12/04/2018

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<p>1 REPORTER'S CERTIFICATE</p> <p>2 STATE OF COLORADO)</p> <p>3) ss.</p> <p>4 CITY AND COUNTY OF DENVER)</p> <p>5 I, SANDRA L. BRAY, Registered Diplomat</p> <p>6 Reporter, Certified Realtime Reporter, and Notary</p> <p>7 Public ID 20084001729, State of Colorado, do hereby</p> <p>8 certify that previous to the commencement of the</p> <p>9 examination, the said JEFFREY BOWMAN was duly sworn or</p> <p>10 affirmed by me to testify to the truth in relations to</p> <p>11 the matters in controversy between the parties hereto;</p> <p>12 that the said deposition was taken in machine</p> <p>13 shorthand by me at the time and place aforesaid and</p> <p>14 was thereafter reduced to typewritten form; that the</p> <p>15 foregoing is a true transcript of the questions asked,</p> <p>16 testimony given, and proceedings had.</p> <p>17 I further certify that I am not employed by,</p> <p>18 related to, nor of counsel for any of the parties</p> <p>19 herein nor otherwise interested in the outcome of this</p> <p>20 litigation.</p> <p>21 IN WITNESS WHEREOF, I have affixed my</p> <p>22 signature this 5th of December, 2018.</p> <p>23 My commission expires January 16, 2020.</p> <p>24 ___X___ Reading and Signing was requested.</p> <p>25 ___ ___ Reading and Signing was waived.</p> <p> ___ ___ Reading and Signing is not required.</p> <p> <i>Sandra L. Bray</i></p> <p> Sandra Bray</p> <p> Certified Realtime Reporter</p> <p> Registered Diplomat Reporter</p>	

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ERRATA SHEET

DEPONENT'S CHANGES OR CORECTIONS

Deposition of: JEFFERY BOWMAN

Case Title: VF Outdoor, LLC v. Cocona, Inc.

Date of Deposition: December 4, 2018

I, JEFFERY BOWMAN, have the following changes or corrections to make to my deposition:

Page:Line	Changes or Corrections	Reasons for Changes or Corrections
Entire transcript	Each instance of the name "Jeffrey" should be changed to "Jeffery"	Correction of spelling of first name of deponent
7:8	Correction. "Water" should be changed to "water vapor"	Corrected answer reflects what deponent said and intended answer
7:16	Correction. "Water" should be changed to "water vapor"	Corrected answer reflects what deponent said and intended answer
10:8	Correction. "I'll send out to edits through a number of people" should be changed to "I'll send it out for edits to a number of people"	Corrected answer reflects what deponent said and intended answer
13:18	Correction. "There" should be changed to "Flagstaff"	Corrected answer reflects what deponent said and intended answer
15:7	Correction. "Injected" should be changed to "invented"	Corrected answer reflects what deponent said and intended answer; this response refers to the deponent holding up a 2.5 layer jacket made by First Lite with a 2.5 layer laminate incorporating 37.5 technology
18:4	Correction. "Technology" should be changed to "technologies"	Correction of typographical error

18:9	Correction. "This shirt here is a woven" should be changed to "the shirt that I am wearing here is made from a woven fabric"	Corrected answer reflects what deponent said and intended answer; referring to and gesturing to deponent's own clothing
18:10	Correction. "Pants are a woven" should be changed to "the pants I am wearing are made from a woven fabric"	Corrected answer reflects what deponent said and intended answer; referring to and gesturing to deponent's own clothing
18:11-13	Clarification. Include parenthetical that deponent was referring to and gesturing to his own clothing	Deponent was referring to and gesturing to his own clothing
19:18-19	Correction. "Some have a trademark license, called a manufacturing license" should be changed to "they have a manufacturing license"	Corrected answer reflects what deponent said and intended answer
22:9; 27:11	Correction. The word "roll" should appear after each instance of the word "gravure"	Corrected answer reflects what deponent said and intended answer
30:23	Correction. "Trying to test the quality" should be changed to "trying to inspect in the quality"	Corrected answer reflects what deponent said and intended answer
31:9	Correction. "What lines" should be changed to "what line speed"	Corrected answer reflects what deponent said and intended answer
34:4-6	Correction. "So that's on a development level that we're usually doing a combination of the brand as well as the manufacturer" should be deleted "on a development level, what we're usually doing is working with both the brand as well as the manufacturer"	Corrected answer reflects what deponent said and intended answer
42:7	Correction. "Everything that's made with our technology" should be changed to "every 2.5 layer laminate made with our technology"	Corrected answer reflects what deponent said and intended answer

42:12	Correction. "Are used" should be changed to "is used"	Correction of typographical error
44:10-11	Deletion. "They go to manufacture"	Excerpt does not make sense in context, and deponent did not make or intend to make such testimony

DEPONENT'S SIGNATURE:


JEFFERY BOWMAN

DATE: 11/9/18