Page 1	Page 3
IN THE UNITED STATES DISTRICT COURT	¹ A P P E A R A N C E S (continued):
FOR THE SOUTHERN DISTRICT OF CALIFORNIA	2
X	³ SCIENBIZIP, P.C.
MASIMO CORPORATION, a California Corporation,	⁴ Attorneys for Defendant Hon Hai Precision Industry
Plaintiff,	⁵ Co., Ltd.
V.	550 South Hope Street
and HON HALPPECISION INDUSTRY CO. LTD	⁶ Suite 2825
a Taiwan corporation.	Los Angeles, California 90071
Defendants.	7 213.426.1771
X	⁸ BY: HUA CHEN, ESQ.
Case No. 3:19-cv-01100-BAS-NLS	213.426.1778
X	⁹ huachen@scienbizippc.com
September 10, 2020	Ying Lu, Esq.
12:30 p.m.	yinglu@scienbizippc.com
	12 ALCO DESENT.
	12 ALSO PRESENT: 13 HENDY MADTE Videographer
Remote video deposition of GEORGE	
EMANUEL YANULIS, PH.D., taken by Plaintiff,	15
before Brandon Rainoff, a Federal Certified	16
Realtime Reporter and Notary Public of the State	17
of New York.	18
DIGITAL EVIDENCE GROUP	19
1730 M Street, NW. Suite 812	20
Washington, D.C. 20036	21
(202) 232-0646	22
Page 2	Page 4
¹ A P P E A R A N C E S:	¹ INDEX OF EXAMINATION
	2
 KNOBBE, MARTENS, OLSON & BEAR, LLP Attorneys for Plaintiff Masimo Corporation 	³ Witness:
4 2040 Main Street	4 George Emanuel Yanulis, Ph.D.
14th Floor	6 Examination:
⁵ Irvine, California 92614 949 760 0404	7 By Mr. Claassen Page 9
⁶ BY: BRIAN C. CLAASSEN, ESQ.	By Ms. HoekelPage 308
brian.claassen@knobbe.com	8 By Mr. ClaassenPage 319
	9
Attorneys for Defendant Sotera Wireless, Inc. and the	10 INDEX OF EXHIBITS
9 Witness	12 Exhibit 1 Page 25
190 Carondelet Plaza	Multipage document entitled: Joint Hearing Statement
Suite 600 St. Louis, Missouri 63105	¹³ dated August 10, 2020 (no Bates Nos.)
11 314.480.1500	14
¹² BY: JENNIFER E. HOEKEL, ESQ.	¹⁵ Exhibit 2Page 97
¹³ iennifer hoekel@huschblackwell.com	Document Bates stamped MAS0000020 thorough 60,
- and -	¹⁶ multipage document entitled: United States Patent
14 1801 Wewatta Street	17 No.: 9, /88, /35 B2, dated Uctober 1/, 201/, with cover
¹⁵ Denver, Colorado 80202	18 page unicu suite 10, 2015
¹⁶ 303.749.7200	¹⁹ Exhibit 3Page 96
¹⁷ BY: DUSTIN TAYLOR, ESQ.	Document Bates stamped MAS0020688 through 20850,
10 202.749.7247 19 dustin taylor@huschblackwall.com	²⁰ multipage document entitled: Declaration of George E.
20	Yanulis in Support of Petition for Inter Partes
21	Review of U.S. Patent No. 9,788,735, dated May 18,
22	2020

1 (Pages 1 to 4)

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202-232-6046

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1	INDEX OF EXHIBITS, CONT	1	* * *
2	Exhibit 7Page 147	2	P R O C E E D I N G
3	multipage document entitled: Declaration of George E.	3	Thursday, September 10, 2020
4	Yanulis in Support of Petition for Inter Partes	4	Remote Deposition
-	2020	5	12:30 p.m. Eastern Standard Time
5 6	Exhibit 6 Dago 156	6	* * *
	Document Bates stamped MAS0000140 through 179,	7	THE VIDEOGRAPHER: We are now on the
7	multipage document entitled: United States Patent	8	record. My name is Henry Marte. I'm a
8	cover page dated June 17, 2019	9	videographer on behalf of Digital Evidence
9 10	Evhibit 9 Dage 170	10	Group.
10	Document Bates stamped MAS0000180 through 284,	11	Today's date is September 10, 2020,
11	multipage document entitled: United States Patent	12	and the time is 12:30 p.m., Eastern Time.
12	cover page dated June 17, 2019	13	This videotaped deposition is being
13		14	held via remote Zoom in the matter of Masimo
14	Multipage document entitled: Declaration of George E.	15	Corporation versus Sotero Wireless, Inc., et al.
15	Yanulis in Support of Petition for Inter Partes	16	The deponent today is Dr. George
16	2020 (no Bates Nos.)	17	Yanulis.
17		18	All parties to this deposition are
10	Exhibit 11Page 211 Document Bates stamped MAS0021498 through 21678,	19	appearing remotely.
19	multipage document entitled: Declaration of George E.	20	Also, can all counsel introduce
20	Review of U.S. Patent No. RE47,244, dated May 21,	21	themselves for the record? which after the
21	2020	22	court reporter is going to administer the oath.
22			
	Page 6		Page 8
1	INDEX OF EXHIBITS, CONT'	1	MR. CLAASSEN: This is Brian Claassen
2	Exhibit 4Page 301	2	for plaintiff Masimo.
	Document Bates stamped MAS0000099 through 139,	3	MS. HOEKEL: Jennifer Hoekel for
3	multipage document entitled: United States Patent	4	defendant Sotero and the witness.
4	100.059,872,025B2, uated January 25, 2018, with cover page dated June 18, 2019	5	THE WITNESS: Dr. George Yanulis for
5	cover page dated valie 10, 2019	6	the defendant.
6	Exhibit 10Page 311	7	MR. CHEN: Hua Chen, counsel for
	Document Bates stamped MAS0000315 through 333,	8	co-defendant Hon Hai Precision Industry Co.,
7	multipage document entitled: United States Patent	9	Ltd.
8	No.: US RE4/,244 E, dated February 19, 2019, with	10	THE COURT REPORTER: Counsel, before
9	cover page dated suite 17, 2019	11	swearing in the witness, I have a short
10		12	statement to put on the record.
11		13	The attorneys participating in this
12		14	deposition acknowledge that, due to the severity
13 14		15	of COVID-19 and following the practice of social
15		16	distancing, I am not physically present in the
16		17	deposition room, and that I will be swearing in
17		18	the witness and reporting this deposition
18		19	remotely.
19		20	Do all parties stipulate to the
20 21		21	validity of this remote swearing and remote
22		22	reporting via video conference, and that it will
		1	

2 (Pages 5 to 8)

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202-232-6046

1 be admissible in the courtroom as if it had been taken pursuant to the applicable rules of civil 3 1 Q. And can you see me right now? 2 taken pursuant to the applicable rules of civil 3 Q. Are you having any difficulty hearing me right now? 3 MR. CLAASSEN: So stipulated. Q. Are you having any difficulty hearing me right now? 4 MR. CLAASSEN: So stipulated. Q. As there any reason why you can't give truthful testimony today? 6 MR. CLASSEN: A. No, sir, I do not. Q. Are you in good health? 10 EXAMINATION 10 A. No, there is not. Q. Are you on good health? 11 Q. Good afternoon, Dr. Yanulis. 12 A. No, I am not. 13 Q. How did, sir, thank you. 12 Q. Good afternoon, Dr. Yanulis. 13 Q. How did, sir, thank you. 14 deposition? 13 Did I pronounce your size? A. Six times, siz. 15 A. Treviewed all patents, all IPRs that are written. I did read Exhibit 1 and 2, the claim construction, the file histories. 14 Q. How many of those six depositions were in patent easer? 20 Q. I want to break that down a little. 15 A. No.sir. 14 Geostigon there ine patents started 14 Q. How many of those		Page 9		Page 11
2 taken pursuant to the applicable rules of civil 2 A. Yes, I can. 3 procedure? 3 Q. Are you having any difficulty hearing 4 MR. CLAASSEN: So stipulated. 6 me right now? 5 MS. HOEKEL: Yes. 5 A. No, sir, I do not. 6 MR. CLAASSEN: So stipulated. 6 Q. Is there any reason why you can't give 7 GEORGE EMANUEL YANULIS, Ph.D., 6 A. No, three is not. 8 naving been duly swom, was examined and 6 A. No, three is not. 9 EXAMINATION 11 Q. Are you in good health? 12 Q. Good afternoon, Dr. Yanulis. 12 A. Yes, I am. 13 Did pronounce your name the right 13 Q. How did you prepare for this 14 way? 15 A. Ireviewed all patents, all IPS that 15 A. You did, sir, thank you. 15 A. Ireviewed all patents, all IPS that 16 Q. How are you today? 16 are written. I did read Exhibit 1 and 2, the 17 A. Infine. How are you, sir? 17 Contary the patents, sir. 18 18 Q. Soy areviewed all patents.	1	be admissible in the courtroom as if it had been	1	O. And can you see me right now?
3 procedure? 3 Q. Are you having any difficulty hearing me right now? 4 MR. CLAASSEN: So stipulated. 6 A. No, sir, I do not. 6 MR. CHEN: Yes, so stipulated. 6 Q. Is there any reason why you can't give truthful testimony today? 7 GEORGIE EMANUEL VANULIS, Ph.D., 6 A. No, sir, I do not. 9 testified as follows: 9 Q. Are you any medication? 10 EXAMINATION 10 A. No, there is not. 11 BYMR, CLAASSEN: 11 Q. Are you in agood health? 12 Q. Good aftermoon, Dr. Yanulis. 12 A. Yee, I am. 13 Did I pronounce your name the right 13 Q. How did you prepare for this 14 Q. How are you today? 16 A. I reviewed all patents, all IPRs that are written. I did read Exhibit I ad 2, the claim construction, the file histories. 19 Have you ever been deposed before? 19 Q. I want to break that down a little. 21 Q. Approximately how many times? 21 You said you reviewed all patents. 22 A. Six times, sir. 21 A. I reviewed all nine 22 Q. How many of those six depositions were in patent cases? <th>2</th> <th>taken pursuant to the applicable rules of civil</th> <th>2</th> <th>A. Yes. I can.</th>	2	taken pursuant to the applicable rules of civil	2	A. Yes. I can.
4 MR. CLAASSEN: So stipulated. ameright now? 5 MR. CLASSEN: Yes, so stipulated. 5 A. No, sir, I do not. 6 MR. CHEN: Yes, so stipulated. 6 Q. Is there any reason why you can't give 7 GEORGE EMANUEL VANULLS, Ph.D., 8 A. No, I am not. 10 EXAMINATION 10 A. No, I am not. 11 BY MR. CLAASSEN: 10 Q. Are you in good health? 12 Q. Good aftemoon, Dr. Yanulis. 12 A. Yes, I am. 13 Did I pronounce your name the right 13 Q. How didy ou prepare for this 14 way? 14 deposition? A. Ireviewed all patents, all IPRs that 14 way? 15 A. Fre fine. How are you, sir? 17 Claim construction, the file histories. 13 Q. Doing well, thank you. 16 are wirriten. I did read Exhibit 1 and 2, the 14 Have you ever been deposed before? 19 You said you reviewed all patents. 14 Q. Approximately how many times? 20 A. Tre sorry. I reviewed all nine 15 Page 10 Page 12 A. Tre sorry. I reviewed all nine 16	3	procedure?	3	O Are you having any difficulty hearing
5 MS. HOEKE: Yes. 5 A. No, sir, I do not. 6 MR. CHEN: Yes, so simulated. 6 Q. Is there any reason why you can't give trathful testimony today? 7 GEORGE EMANUEL YANULIS, Ph.D., 7 Trathful testimony today? 8 having been duly swom, was examined and 9 A. No, there is not. 9 having been duly swom, was examined and 9 A. No, there is not. 10 EXAMINATION 10 A. No, there is not. 11 Q. Good afternoon, Dr. Yanulis. 12 A. Yee, I am. 12 Q. Good afternoon, Dr. Yanulis. 12 A. Yee, I am. 13 Did I pronounce your name the right 13 Q. How did you prepare for this 14 Q. How are you today? 15 A. I reviewed all patents, all IPRs that are written I did read Exhibit 1 ad 2, the claim construction, the file histories. 16 Q. Doing well, thank you. 19 To the best of my knowledge, that's 19 Have you ever been deposed before? 20 Q. How many of those six depositions were 21 Q. How many of those six depositions were 1 A. I reviewed all nine 22 A. None. 3 Ano	4	MR. CLAASSEN: So stipulated.	4	me right now?
a MR. CHEN: Yes, so stipulated. 6 0. Is there ary reason why you can't give truthful testimony today? a having been duly swom, was examined and ustified as follows: 6 0. Is there ary reason why you can't give truthful testimony today? a having been duly swom, was examined and ustified as follows: 9 0. Are you on any medication? a No, there is not. 9 0. Are you on any medication? a No, there is not. 9 0. Are you on any medication? a No, there is not. 9 0. Are you on any medication? a No, there is not. 9 0. Are you on any medication? a No did, sir, thank you. 11 0. Are you on any medication? a No did, sir, thank you. 16 are written. I did read Exhibit 1 and 2, the claim construction, the file histories. a No did, sir, thank you. 16 are written. I fil forgot something - 0. I want to break that down a little. a New you verb been deposed before? 10 You suid you reviewed all patents. a A. Yes. 10 A. Irwiewed all no reviewed all patents. a A. None. 2 A. Im serve you ereviewed all patents.	5	MS HOFKEL: Ves	5	A No sir I do not
GEORGE EMANUEL YANULIS, PAD, having been duly sworn, was examined and testified as follows:	6	MB. CHEN: Ves. so stimulated	6	Ω Is there any reason why you can't give
a howing bear duly sworn, was examined and g testified as follows: a A. No, there is not. a A. No, there is not. g Q. Are you on any medication? a A. No, there is not. g Q. Are you on any medication? a A. No, there is not. g Q. Are you on any medication? a A. No, there is not. g Q. Are you on any medication? a A. Statimery gous ing good health? A. No, there is not. a Did I pronounce your name the right a A. No, there is not. a A. You did, sir, thank you. a A. Ireviewed all patents, all IPRs that a Q. How are you today? a are written. I did read Exhibit I and 2, the claim construction, the file histories. are written. I did read Exhibit I and 2, the claim construction, the file histories. a New you cere been deposed before? a. You said you reviewed all patents. a A. Six times, sir. a A. Ireviewed all patents. are those the nine patents started - Page 10 Page 12 A. Six times, sir. are those the nine patents started - are those the nine patents started - a Q. Have you ever bee	7	GEORGE EMANUEL VANUELS Ph D	7	truthful testimony today?
a tay in aver, over examined and setting as follows:	8	baying been duly swom was exemined and	8	A No there is not
EXAMINATION 10 A. No, I am not. 11 BY MR. CLAASSEN: 11 Q. Are you in good health? 12 Q. Good afternoon, Dr. Yanulis. 13 Q. How did you prepare for this 13 Did I pronounce your name the right 14 A. Yes, I am. 14 way? 14 deposition? 15 A. You did, sir, thank you. 15 A. I reviewed all patents, all IPRs that 16 Q. How are you today? 16 A. I reviewed all patents, all IPRs that 16 Q. Doing well, thank you. 18 To the best of my knowledge, that's 17 A. Yes. 20 Q. I want to break that down a little. 19 Have you ever been deposed before? 19 For the best of my knowledge, that's 17 A. Yes. 20 Q. I want to break that down a little. You snid you reviewed all patents. 20 A. Six times, sir. 21 You snid you reviewed all patents. You snid you reviewed all patents. 21 Q. How many of those six depositions were 1 A. Tm sorry. I reviewed all nine Page 12 16 A. None. 1 I also reviewed my IPR declarations. I	9	tastified as fallows:	9	A. No, there is not.
LAAMINGTION 11 RY, No, Tam BU, 11 BY MR, CLAASSEN: 11 Q. Are you in good health? 12 Q. Good afternoon, Dr. Yanulis. 12 A. Yes, I am. 13 Did I pronounce your name the right 13 Q. How did you prepare for this 14 way? 14 deposition? A. Treviewed all patents, all IPRs that 14 Q. How are you today? 16 are written. I did read Exhibit 1 and 2, the 17 A. Trn fine. How are you, sir? 17 the best of my knowledge, that's 18 Q. Doing well, thank you. 18 To the best of my knowledge, that's 19 Have you ever been deposed before? 20 Q. I want to break that down a little. 21 Q. Approximately how many times? 21 You said you reviewed all patents. 22 A. Yes. are those the nine patents started - 20 24 Page 10 Page 12 25 A. None. 3 And I reviewed all nine 26 In also reviewed my IPR declarations. 17 26 May sin. 4 Gocusing on the terms being discussed in Exhibit 3	10	EXAMINATION	10	A No Lampot
12 Q. Godd afternoon, Dr. Yanulis. 12 A. Yes, Sir. 13 Did I pronounce your name the right 13 Q. How did you prepare for this 14 way? 14 deposition? 15 A. Yos, Ian. 13 Q. How did you prepare for this 16 Q. How are you today? 16 are written. I did read Exhibit 1 and 2, the 17 A. Im fine. How are you, sir? 17 claim construction, the file histories. 19 Have you ever been deposed before? 19 To the best of my knowledge, that's 19 Have you ever been deposed before? 20 Q. I want to break that down a little. 21 Q. Approximately how many times? 21 You said you reviewed all patents. 22 A. Six times, sir. 21 You said you reviewed all patents. 22 A. Six times, sir. 21 You said you reviewed all nime 23 A. Have you ever been deposed via Zoom 1 A. Tra sorry. I reviewed all nime 24 Maw you ever been deposed via Zoom 1 I also reviewed my IPR declarations. 24 A. None. 1 I also reviewed my IPR declarations. 25	11	DV MD CLAASSEN:	11	A. No, I all not. O Are you in good health?
13 Did I pronounce your name the right 13 Q. How did you prepare for this 14 way? 13 Q. How did you prepare for this 15 A. You did, sir, thank you. 15 A. I reviewed all patents, all IPRs that 16 Q. How are you today? 16 are written. I did read Exhibit I and 2, the 17 A. Ir m fine. How are you, sir? 17 A. Ireviewed all patents, all IPRs that 18 Q. Doing well, thank you. 18 To the best of my knowledge, that's 19 Have you ever been deposed before? 19 Forget 10 Vou said you reviewed all patents. 20 A. Yes, sir. 21 You said you reviewed all patents. You said you reviewed all patents. 21 Q. How many of those six depositions were 1 A. I'm sorry. I reviewed all nine 22 A. Six times, sir. 21 A. I'm sorry. I reviewed all nine 22 A. None. 3 And I reviewed the claim construction, focusing on the terms being discussed in Exhibit 1 3 A. None, sin. 6 I also reviewed my IPR declarations. 4 Q. Have you even is good during the 7 I reviewed all file histories. 6<	12	DI MR. CLAASSEN.	12	Q. Are you in good heatin?
12 Did i prohounce your name the right 12 0. How did you prepare for mins 14 way? 14 deposition? 4 15 A. You did, sir, thank you. 15 A. Tre viewed all patents, all IPRs that 16 Q. How are you today? 16 are written. 1 did read Exhibit 1 and 2, the 17 A. Trn fine. How are you, sir? 17 To the best of my knowledge, that's 18 Q. Doing well, thank you. 18 To the best of my knowledge, that's 19 Have you ever been deposed before? 20 Q. I want to break that down a little. 20 A. Yes. 20 Q. I want to break that down a little. 21 Q. Approximately how many times? 21 You said you reviewed all patents. 22 A. Six times, sir. 21 You said you reviewed all nine 2 in patent cases? 2 A. I'm sorry. I reviewed all nine 3 A. None. 3 And I reviewed the claim construction, focusing on the terms being discussed in Exhibit 4 Q. Have you ever been deposed via Zoom 4 I also reviewed my IPR declarations. 7 Q. Have you been using Zoom during the	12	Q. Good alternoon, Dr. Yanulis.	13	A. Tes, Talli.
12 way? 1.7 deposition? 15 A. You did, sir, thank you. 15 A. Ireviewed all patents, all IPRs that 16 Q. How are you today? 16 A. Ireviewed all patents, all IPRs that 17 A. Im fine. How are you, sir? 17 Iterviewed all patents, all IPRs that 19 Have you ever been deposed before? 19 To the best of my knowledge, that's 20 A. Yes. 20 Q. Jawa to break that down a little. 21 Q. Approximately how many times? 21 You said you reviewed all patents. 22 A. Six times, sir. 22 Are those the nine patents started Page 10 Page 10 Page 10 Page 10 Page 12 1 Q. How many of those six depositions were 1 2 in patent cases? 2 patents, sir. 3 A. None. 3 And I reviewed all nine 5 before? 5 1 6 A. No, sir. 6 Ialso reviewed my IPR declarations. 7 Q. Have you been using Zoom	14	Did I pronounce your name the right	14	Q. How did you prepare for this
13 A. You and, sr, thank you. 13 A. Treviewed all patents, all IPKs that 16 Q. How are you today? 16 are written. I did read Exhibit I and 2, the 17 A. I'm fine. How are you, sir? 17 18 Q. Doing well, thank you. 18 are written. I did read Exhibit I and 2, the 19 Have you ever been deposed before? 19 reviewed all patents, all IPKs that 20 A. Yes. 20 Q. I want to break that down a little. 21 Q. Approximately how many times? 20 Q. I want to break that down a little. 22 A. Six times, sir. 22 You said you reviewed all patents. 22 A. Six times, sir. 22 You said you reviewed all natents. 23 A. None. 1 A. I'm sorry. I reviewed all natents. 24 You said you reviewed all patents. - 25 A. No. sir. 3 And I reviewed all claim construction, focusing on the terms being discussed in Exhibit 1. 26 A. No, sir. 6 I also reviewed my IPR declarations. 26 Q. Have you been using Zoom during the 7 I reviewed all file histories. 3 A. Ou	15	way?	15	
10 Q. How are you today? 10 10 10 10 17 A. Im fine. How are you, sir? 10 17 10 17 10 110 <th>15</th> <th>A. You did, sir, thank you.</th> <th>1.0</th> <th>A. I reviewed all patents, all IPRs that</th>	15	A. You did, sir, thank you.	1.0	A. I reviewed all patents, all IPRs that
17 A. Tm fine. How are you, sit? 17 claim construction, the file histories. 18 Q. Doing well, thank you. 18 To the best of my knowledge, that's 19 Have you ever been deposed before? 19 everything. If I forgot something 20 A. Yes. 20 Q. I want to break that down a little. 21 Q. Approximately how many times? 21 You said you reviewed all patents. 22 A. Six times, sir. 22 Are those the nine patents started Page 10 Page 10 Page 12 1 Q. How many of those six depositions were 1 A. Tm sorry. I reviewed all nine 2 in patent cases? 3 And I reviewed the claim construction, 4 Q. Have you ever been deposed via Zoom 4 focusing on the terms being discussed in Exhibit 5 before? 5 1. I also reviewed my IPR declarations. 7 Q. Have you been using Zoom during the 7 I reviewed all file histories. 8 AOUID crisis? 8 And I think that covers everything. 9 A. Quite a lot. 9 Q.	10	Q. How are you today?	17	are written. I did read Exhibit I and 2, the
19 Q. Doing well, thank you. 14 16 the best of my knowledge, that's 19 Have you ever been deposed before? 19 10 the best of my knowledge, that's 20 A. Yes. 20 Q. I want to break that down a little. 21 Q. Approximately how many times? 21 You said you reviewed all patents. 22 A. Six times, sir. 22 Are those the nine patents started Page 10 1 Q. How many of those six depositions were 1 A. I'm sorry. I reviewed all nine 2 in patent cases? 3 And I reviewed the claim construction, 3 A. None. 3 And I reviewed the claim construction, 4 Q. Have you ever been deposed via Zoom 4 focusing on the terms being discussed in Exhibit 5 before? 1. I also reviewed my IPR declarations. 1 7 Q. Have you been using Zoom during the 7 I reviewed all file histories. And I think that covers everything. 9 A. Quite a lot. 9 Q. You have been referring to something called Exhibit 1. 1 10 Q. So you are familiar with how Zoom 10 called Exhibit 1. </th <th>1/</th> <th>A. I'm fine. How are you, sir?</th> <th>10</th> <th>claim construction, the file histories.</th>	1/	A. I'm fine. How are you, sir?	10	claim construction, the file histories.
19 Have you ever been deposed before? 19 everything. If 11 forgot something 20 A. Yes. 20 Q. I want to break that down a little. 21 Q. Approximately how many times? 21 You said you reviewed all patents. 22 A. Six times, sir. 22 Are those the nine patents started Page 10 1 Q. How many of those six depositions were 1 A. I'm sorry. I reviewed all nine 2 in patent cases? 2 patents, sir. 3 3 A. None. 3 And I reviewed the claim construction, focusing on the terms being discussed in Exhibit 1 5 before? 5 1. I also reviewed my IPR declarations. 7 Q. Have you been using Zoom during the 7 I reviewed all file histories. 8 COVID crisis? 8 And I think that covers everything. 9 A. Quite a lot. 9 Q. You have been referring to something 10 Q. So you are familiar with how Zoom 10 Is that the document that I gave you 14 Zoom works during the deposition, you'll let us 14 Statement, dated November 3rd, 2020. 14 </th <th>18</th> <th>Q. Doing well, thank you.</th> <th>18</th> <th>To the best of my knowledge, that's</th>	18	Q. Doing well, thank you.	18	To the best of my knowledge, that's
20 A. Yes. 20 Q. I want to break that down a little. 21 Q. Approximately how many times? 21 You said you reviewed all patents. 22 A. Six times, sir. 22 You said you reviewed all patents. 22 A. Six times, sir. 22 You said you reviewed all patents. 22 A. Six times, sir. 22 Are those the nine patents started 21 Q. How many of those six depositions were 1 A. I'm sorry. I reviewed all nine 2 in patent cases? 3 And I reviewed the claim construction, 4 Q. Have you ever been deposed via Zoom 4 focusing on the terms being discussed in Exhibit 5 before? 5 1. I also reviewed my IPR declarations. 7 Q. Have you been using Zoom during the 7 I reviewed all file histories. 8 COVID crisis? 8 And I freviewed all file histories. 9 A. Quite a lot. 9 Q. You have been referring to something 10 Q. So you are familiar with how Zoom 10 called Exhibit 1. 11 works? 11 Is that the document that I gave you	19	Have you ever been deposed before?	19	everything. If I forgot something
21 Q. Approximately how many times? 21 You said you reviewed all patents. 22 A. Six times, sir. 22 Are those the nine patents started Page 10 Page 10 1 Q. How many of those six depositions were 1 A. I'm sorry. I reviewed all nine 2 in patent cases? 2 And I reviewed the claim construction, 4 Q. Have you ever been deposed via Zoom 4 focusing on the terms being discussed in Exhibit 5 before? 5 1. I also reviewed my IPR declarations. 7 Q. Have you been using Zoom during the 7 I also reviewed my IPR declarations. 8 COVID crisis? 8 And I think that covers everything. 9 A. Quite a lot. 9 Q. You have been referring to something 10 Q. So you are familiar with how Zoom 10 called Exhibit 1. 11 works? 11 Is that the document that I gave you 12 A. Yes, sir. 12 Q. So you have equestions about how 14 Zoom works during the deposition, you'll let us 14 A. Yes, sir. That's the joint hearing	20	A. Yes.	20	Q. I want to break that down a little.
22 A. Six times, sir. 22 Are those the nine patents started Page 10 Page 12 A. Now endown of those six depositions were 1 a. None. 1 A. I'm sorry. I reviewed all nine patent cases? 3 And I reviewed the claim construction, 6 A. Non, sir. 3 And I reviewed the claim construction, 6 A. No, sir. 6 I also reviewed my IPR declarations. 7 Q. Have you been using Zoom during the 9 Q. You have been referring to something 6 A. Quite a lot. 9 Q. You have been referring to something 10 Q. So you are familiar with how Zoom 10 called Exhibit 1. 11 Is that the document that I gave you printed called Exhibit 1 11 13 Q. And if you have questions about how 13 A. Yes, sir. That's the joint hearing statement, dated November 3rd, 2020. 15 Know? 15	21	Q. Approximately how many times?	21	You said you reviewed all patents.
Page 10Page 121Q. How many of those six depositions were in patent cases?1A. I'm sorry. I reviewed all nine patents, sir.3A. None.2And I reviewed the claim construction, focusing on the terms being discussed in Exhibit 1.4Q. Have you ever been deposed via Zoom before?5I.6A. No, sir.6I also reviewed my IPR declarations.7Q. Have you been using Zoom during the 87I reviewed all file histories.8COVID crisis?8And I think that covers everything.9A. Quite a lot.9Q. You have been referring to something 	22	A. Six times, sir.	22	Are those the nine patents started
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20If at any point during the deposition,20through a few background questions with you.21you cannot hear me, will you let me know?21Did you speak to anyone about the22A. Yes, sir, thank you.22deposition?	10 11 12 13 14 15 16 17 18	 Q. So you are familiar with how Zoom works? A. Yes, sir. Q. And if you have questions about how Zoom works during the deposition, you'll let us know? A. Yes, sir. Thank you. Q. I'm going to assume that you can hear me. I know sometimes Zoom has difficulty with 	10 11 12 13 14 15 16 17 18	 called Exhibit 1. Is that the document that I gave you printed called Exhibit 1? A. Yes, sir. That's the joint hearing statement, dated November 3rd, 2020. Q. So you have seen that document before. Is that right? A. Yes. Q. I want to come back to that Exhibit 1
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3 (Pages 9 to 12)

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	Page 13		Page 15
1	A. Only	1	left. So if I'm looking away, I'm looking
2	MS. HOEKEL: And I just want to remind	2	toward the transcript. I'm not trying to ignore
3	the witness not to reveal the contents of any	3	you.
4	privilege.	4	Do you understand?
5	And also to wait until Mr. Claassen	5	A. No problem. Thank you for explaining.
6	has finished his question before you start your	6	Q. And I have the stack of documents that
7	answer.	7	we sent you as physical exhibits here, so that
8	BY MR. CLAASSEN:	8	if we have any questions I can refer to those
9	Q. Do you understand the question, Dr.	9	hard copies as well.
10	Yanulis?	10	Do you understand that?
11	A. Yes.	11	A. Thank you.
12	Q. Did you speak to anyone about this	12	Q. Who engaged you in this case?
13	deposition?	13	A. Husch Blackwell law firm.
14	A. Yes.	14	Q. What is your rate for the case?
15	Q. Who did you speak with?	15	(Pause)
16	A. Jennifer Hoekel and Dustin Taylor.	16	Q. If you don't recall off the top of
17	Q. Did you speak with anyone from Hon	17	your head, I'm not asking for a memory test. We
18	Hai?	18	can go back.
19	A. No, I did not.	19	A. I believe it's \$550; \$655 for
20	Q. Did you speak with anyone other than	20	depo/trial.
21	counsel about this deposition?	21	(Pause)
22	A. No, I did not.	22	Q. Approximately how many hours have you
	Page 14		Page 16
1	(Pause)	1	spent on this matter?
2	Q. So you mentioned earlier reviewing IPR	2	A. Well over 100, sir. It's probably
3	declarations.	3	close to 200. I don't have the exact
4	Is that correct?	4	calculation.
5	A. Yes, sir.	5	Q. In that 200 hours, you are including
6	Q. Those declarations are your	6	both the IPRs and the district court case.
7	declarations submitted in the IPRs related to	7	Is that right?
8	the nine patents in this litigation.	8	A. Yes, sir.
9	Is that correct?	9	Q. What's your understanding of the
10	A. Yes, sir.	10	difference between the IPR and the district
11	Q. Those declarations set forth your	11	court?
12	opinions regarding claim construction, right?	12	A. The IPR declarations that I wrote were
13	A. Yes, they do.	13	for the Patent Office to review patent
14	Q. Are the declarations complete?	14	invalidity.
15	A. Yes, they are.	15	The construction claims, which are
16	Q. Are you aware of any changes that need	16	handled by district court, are deal with what
17	to be made to them?	17	we are discussing today; discussing the terms of
18	A. No. I am not.	18	dispute, the claims terms that has been
19	(Pause)	19	construed by both parties.
20	Q. So from time to time, you may see me	20	Q. You understand that today we are going
21	looking sideways. That's because the feed for	21	to be focusing on the now top eight terms for
22	real time which is the transcript is to my	22	construction, right?

4 (Pages 13 to 16)

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	Page 17	Page 19
1	A. Yes, I do.	¹ just discussed in terms of the claim
2	O. And my understanding is that there are	² construction, or the way the claims have been
3	additional disputes about construction beyond	³ constructed by the district court.
4	those eight terms.	⁴ O. Okay. I think maybe you didn't
5	Is that your understanding?	⁵ understand my question fully.
6	A. Yes, it is.	⁶ I was asking about the level of
7	O. I want to talk a little bit now about	7 ordinary skill in the art.
8	your understanding of the claim construction	⁸ Do you understand that?
9	process.	9 A. Yes
10	Is that okay with you?	10 0 My question was: Why does the same
11	A. Yes, it is	¹¹ level of ordinary skill in the art apply to all
12	O You are not a lawyer right?	¹² nine natents?
13	A Correct	13 A I'm not sure I understand the
14	O Sotero's attorneys explained how to	¹⁴ question other than what I answered
15	perform claim construction or at least the	¹⁵ Would you rephrase it or repeat it
16	analysis for claim construction to you	16 sir?
17	right?	17 O I'm going to ask that you allow your
18	A Yes they did	¹⁸ attorney to make the types of objections you are
19	O What is your understanding of the	¹⁹ speaking about so the rephrasing or asked
20	process for claim construction?	20 and answered
21	A. I look at the claims being the	²¹ Vou can go ahead and answer the
22	eight claims being discussed being disputed	²² auestion unless you get some sort of instruction
		1
	Page 18	Page 20
1	in view of the specifications for the nine	¹ from your attorney not to answer, or for me to
2	patents, as well as the file histories for all	² rephrase the question.
3	nine patents; and my expertise as a POSA on	³ Do you understand that?
4	these particular matters and claims of interest.	4 A. Yes, sir.
5	(Pause)	⁵ MS. HOEKEL: I think he was just
6	Q. You said POSA?	⁶ telling you he didn't understand the question.
7	Is that right?	⁷ I don't think the question was objectionable. I
8	A. Yes, sir, for one skilled in the art.	⁸ don't think he understood it.
9	Q. So by that, did you mean a person of	⁹ MR. CLAASSEN: Okay. So let's start
10	ordinary skill in the art?	¹⁰ over with the premise again.
11	A. Yes, sir.	¹¹ BY MR. CLAASSEN:
12	(Pause)	¹² Q. You provided an opinion about the
13	Q. Did you develop any opinion about the	¹³ level of ordinary skill in the art.
14	level of ordinary skill in the art?	¹⁴ Is that right?
15	A. Yes, I did.	15 A. Yes, I did.
16	Q. Did that level of skill change based	¹⁶ Q. And you did that for all nine patents.
17	upon which patent you were considering?	¹⁷ Is that right?
18	A. No, it did not.	¹⁸ A. Yes, I did.
19	Q. Why is that?	¹⁹ Q. And in your opinion, the level of
20	A. All patents should be given their	²⁰ ordinary skill in the art is the same for all
21	plain and ordinary meaning. And I relied on	²¹ nine patents, right?
22	that premise to review all the materials that I	A. To some degree. Some are more complex

5 (Pages 17 to 20)

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	Page 21	Page 23
1	in terms of technology.	¹ A. Yes, sir.
2	Q. But you did not the change in	² MS. HOEKEL: Can I ask: For the
3	complexity and technology does that change	³ record, what Exhibit 2 is, please?
4	the level of ordinary skill in the art?	4 THE WITNESS: It's the other remaining
5	A. No, it does not.	⁵ terms being disputed.
6	Q. Which patents had more complexity?	⁶ MR. CLAASSEN: Let's talk about that
7	A. In my opinion, some of the	⁷ for just a minute.
8	alarm-related patents. But that's only my	⁸ BY MR. CLAASSEN:
9	opinion.	⁹ O. So you are referring now to the way
10	Q. What made them more complex?	¹⁰ the joint hearing statement marks exhibits.
11	A. Some of them were longer. The '994	¹¹ Is that correct?
12	was a little bit longer.	¹² A. Yes.
13	I'm not sure how else to answer that	¹³ O. Okav.
14	question.	¹⁴ I'd like to do something slightly
15	O. So the specification was longer.	¹⁵ different with you today if that's possible to
16	That's what made it more complex?	¹⁶ avoid confusion with the rest of the group here.
17	A. Yes, sir. It was one of the longer	¹⁷ I sent you a printed folder called
18	patents.	¹⁸ Exhibit 1.
19	O. Was there anything about the subject	¹⁹ Do you have that?
20	matter itself that made it more complex?	20 A. Yes. I do.
21	A. No, it was not.	²¹ MR. CLAASSEN: Can I ask the court
22	(Pause)	²² reporter to please bring up Exhibit 1?
	Page 22	Page 24
1	Page 22 Q. Did you help counsel determine which	Page 24 1 (Pause)
1 2	Page 22 Q. Did you help counsel determine which terms to construe?	Page 24 1 (Pause) 2 MR. CLAASSEN: So the court reporter
1 2 3	Page 22 Q. Did you help counsel determine which terms to construe? A. No, I did not.	Page 24 1 (Pause) 2 MR. CLAASSEN: So the court reporter 3 has just put on the screen a document that I've
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6 (Pages 21 to 24)

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	Page 25		Page 27
1	joint hearing statement with its Exhibit 1.	1	A. Correct.
2	Do you understand that?	2	Q. You understand that those declarations
3	MR. CLAASSEN: I'm going to ask the	3	were prepared before what I showed you is
4	court reporter to mark now this document Exhibit	4	Exhibit 1.
5	1 for the record.	5	Is that right?
6	(Exhibit 1, Multipage document	6	A. Correct.
7	entitled: Joint Hearing Statement, dated August	7	O. In those declarations, you set forth
8	10, 2020 (no Bates Nos.), marked for	8	some disputes on claim construction.
9	identification)	9	Is that correct?
10	BY MR. CLAASSEN:	10	A. Yes, I did.
11	Q. So, Dr. Yanulis, when we talk about	11	Q. So my question is: How did you know
12	Exhibit 1 today, we are going to be talking	12	which terms were disputed for purposes of
13	about this document that I have now marked as	13	preparing your IPR declaration?
14	Exhibit 1.	14	A. The terms that were noted in the IPRs,
15	Do you understand that?	15	terms that were based on file histories, the
16	A. Yes, I do.	16	specifications, the patents, the parent patents.
17	Q. So I asked you earlier if you had been	17	So I did have I did have an idea of the terms
18	given a list of disputed terms before you	18	being disputed.
19	prepared your IPR declarations.	19	I just didn't realize which nine would
20	Do you understand that?	20	be disputed or eight.
21	A. Yes, I do.	21	I apologize for the confusion.
22	Q. Had you been given that list before	22	Q. You didn't understand which top terms
	Page 26		Page 28
1	Page 26 you prepared your IPR declarations?	1	Page 28 would be disputed.
1 2	Page 26 you prepared your IPR declarations? A. No, I had not been.	1 2	Page 28 would be disputed. Is that correct?
1 2 3	Page 26 you prepared your IPR declarations? A. No, I had not been. Q. So how did you know which terms were	1 2 3	Page 28 would be disputed. Is that correct? A. Correct.
1 2 3 4	Page 26 you prepared your IPR declarations? A. No, I had not been. Q. So how did you know which terms were in dispute for purposes of preparing your IPR	1 2 3 4	Page 28 would be disputed. Is that correct? A. Correct. Q. But counsel gave you some sort of list
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1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	Page 26 you prepared your IPR declarations? A. No, I had not been. Q. So how did you know which terms were in dispute for purposes of preparing your IPR declarations? A. I did not use them to prepare my IPR declarations. Q. In your IPR declarations, you say that certain terms are disputed. Is that correct? A. Yes, I did. Q. How did you identify those terms? A. I'm not sure I understand the question. Could you repeat it? Q. Yes. MR. CLAASSEN: I'll ask the court reporter now to take down Exhibit 1 for now.	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	Page 28 would be disputed. Is that correct? A. Correct. Q. But counsel gave you some sort of list of disputed terms. Is that correct? A. They did, and there was also yes, they did. Q. So I want to come back to that. We'll talk about that when we get to your declaration. But I want to finish up talking about the general process for claim construction purposes. So do you understand that we are going to shift topics back to the general process for claim construction? A. Yes, I do. Q. Where do you start the claim
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1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	Page 26 you prepared your IPR declarations? A. No, I had not been. Q. So how did you know which terms were in dispute for purposes of preparing your IPR declarations? A. I did not use them to prepare my IPR declarations. Q. In your IPR declarations, you say that certain terms are disputed. Is that correct? A. Yes, I did. Q. How did you identify those terms? A. I'm not sure I understand the question. Could you repeat it? Q. Yes. MR. CLAASSEN: I'll ask the court reporter now to take down Exhibit 1 for now. BY MR. CLAASSEN: Q. So we talked about your IPR	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	Page 28 would be disputed. Is that correct? A. Correct. Q. But counsel gave you some sort of list of disputed terms. Is that correct? A. They did, and there was also yes, they did. Q. So I want to come back to that. We'll talk about that when we get to your declaration. But I want to finish up talking about the general process for claim construction purposes. So do you understand that we are going to shift topics back to the general process for claim construction? A. Yes, I do. Q. Where do you start the claim construction process? A. The first step is to review the
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	 Page 26 you prepared your IPR declarations? A. No, I had not been. Q. So how did you know which terms were in dispute for purposes of preparing your IPR declarations? A. I did not use them to prepare my IPR declarations. Q. In your IPR declarations, you say that certain terms are disputed. Is that correct? A. Yes, I did. Q. How did you identify those terms? A. I'm not sure I understand the question. Could you repeat it? Q. Yes. MR. CLAASSEN: I'll ask the court reporter now to take down Exhibit 1 for now. BY MR. CLAASSEN: Q. So we talked about your IPR declarations. 	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	Page 28 would be disputed. Is that correct? A. Correct. Q. But counsel gave you some sort of list of disputed terms. Is that correct? A. They did, and there was also yes, they did. Q. So I want to come back to that. We'll talk about that when we get to your declaration. But I want to finish up talking about the general process for claim construction purposes. So do you understand that we are going to shift topics back to the general process for claim construction? A. Yes, I do. Q. Where do you start the claim construction process? A. The first step is to review the patents parent patents that were also

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	Page 29		Page 31
1	patents. The file histories, the those are	1	terms that counsel provided for you?
2	the main essential tools I used.	2	A. After they informed me.
3	Q. When you did your claim construction,	3	Q. When you say "they informed you," are
4	did you start by reading the claims?	4	you talking about counsel?
5	Or did you read the specification	5	A. Yes. Prior
6	first?	6	Q. I want to make sure I understand the
7	A. I read both, sir.	7	process fully.
8	Q. In which order?	8	You read the patents. You read the
9	A. I read the specs in their entirety.	9	claims. You went back and read the
10	Then I read the claims.	10	specification and claims again
11	And I read both in their entirety	11	A. And file histories.
12	again.	12	Q. And the file histories.
13	Q. When you were trying to interpret the	13	And then counsel provided you with a
14	meaning of words in the claim, what was your	14	list of disputed terms?
15	process for doing that?	15	Is that correct?
16	A. The specifications; and I was also	16	A. Yes.
1/	utilizing my skill as one skilled in the art for	17	Q. What did you do next?
18	those specifications.	18	A. The next process was to develop my IPR
19	Q. And at what point did	19	declarations for the Patent Office.
20	(Pause)	20	Q. Did you look at prior art before you
22	THE VIDEOGRAPHER: The time is 12:55	21	developed your claim construction positions?
22	p.m. Off the record.	22	A. Yes, I did.
	Page 30		Page 32
1	(Recess from 12:55 p.m. to 1:03 p.m.)	1	Q. So your process was to look at the
2	THE VIDEOGRAPHER: The time is 1:03		
		2	prior art first, and then go back and look at
3	p.m. Back on the record.	3	prior art first, and then go back and look at the claim constructions?
3 4	p.m. Back on the record. BY MR. CLAASSEN:	2 3 4	prior art first, and then go back and look at the claim constructions? A. I switched back and forth, to be
3 4 5	p.m. Back on the record. BY MR. CLAASSEN: Q. Hello, Dr. Yanulis. Can you hear me	2 3 4 5	prior art first, and then go back and look at the claim constructions?A. I switched back and forth, to be honest with you. It was a multiple
3 4 5 6	p.m. Back on the record.BY MR. CLAASSEN:Q. Hello, Dr. Yanulis. Can you hear me now?	2 3 4 5 6	prior art first, and then go back and look at the claim constructions?A. I switched back and forth, to be honest with you. It was a multiple multi-task process.
3 4 5 6 7	p.m. Back on the record.BY MR. CLAASSEN:Q. Hello, Dr. Yanulis. Can you hear me now?A. Yes, I can.	2 3 4 5 6 7	prior art first, and then go back and look at the claim constructions?A. I switched back and forth, to be honest with you. It was a multiple multi-task process.Q. Did you break it up by patent or
3 4 5 6 7 8	 p.m. Back on the record. BY MR. CLAASSEN: Q. Hello, Dr. Yanulis. Can you hear me now? A. Yes, I can. Q. I apologize for our connectivity 	2 3 4 5 6 7 8	prior art first, and then go back and look at the claim constructions?A. I switched back and forth, to be honest with you. It was a multiple multi-task process.Q. Did you break it up by patent or patent family?
3 4 5 6 7 8 9	 p.m. Back on the record. BY MR. CLAASSEN: Q. Hello, Dr. Yanulis. Can you hear me now? A. Yes, I can. Q. I apologize for our connectivity issue, but I want to pick up where we left off. 	2 3 4 5 6 7 8 9	 prior art first, and then go back and look at the claim constructions? A. I switched back and forth, to be honest with you. It was a multiple multi-task process. Q. Did you break it up by patent or patent family? A. Patent family.
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3 4 5 6 7 8 9 10 11	 p.m. Back on the record. BY MR. CLAASSEN: Q. Hello, Dr. Yanulis. Can you hear me now? A. Yes, I can. Q. I apologize for our connectivity issue, but I want to pick up where we left off. We were talking about the general process for claim construction? 	2 3 4 5 6 7 8 9 10 11	 prior art first, and then go back and look at the claim constructions? A. I switched back and forth, to be honest with you. It was a multiple multi-task process. Q. Did you break it up by patent or patent family? A. Patent family. Q. What is your understanding of the patent families involved in this case?
3 4 5 6 7 8 9 10 11 12	 p.m. Back on the record. BY MR. CLAASSEN: Q. Hello, Dr. Yanulis. Can you hear me now? A. Yes, I can. Q. I apologize for our connectivity issue, but I want to pick up where we left off. We were talking about the general process for claim construction? A. Yes, we were. Q. A here a filting here the first for the first second second	2 3 4 5 6 7 8 9 10 11 12	 prior art first, and then go back and look at the claim constructions? A. I switched back and forth, to be honest with you. It was a multiple multi-task process. Q. Did you break it up by patent or patent family? A. Patent family. Q. What is your understanding of the patent families involved in this case? A. I can't remember all the parent
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3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	 p.m. Back on the record. BY MR. CLAASSEN: Q. Hello, Dr. Yanulis. Can you hear me now? A. Yes, I can. Q. I apologize for our connectivity issue, but I want to pick up where we left off. We were talking about the general process for claim construction? A. Yes, we were. Q. And we were talking about the fact that you looked at the specification and then the claims. And I was asking you: At what point did you consider the list of claim terms that counsel provided for you? 	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	 prior art first, and then go back and look at the claim constructions? A. I switched back and forth, to be honest with you. It was a multiple multi-task process. Q. Did you break it up by patent or patent family? A. Patent family. Q. What is your understanding of the patent families involved in this case? A. I can't remember all the parent patents. But anything that I knew was a parent patent, I looked at that. And I also reviewed the patent histories, and, of course, the specifications for these parent patents.
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3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	 p.m. Back on the record. BY MR. CLAASSEN: Q. Hello, Dr. Yanulis. Can you hear me now? A. Yes, I can. Q. I apologize for our connectivity issue, but I want to pick up where we left off. We were talking about the general process for claim construction? A. Yes, we were. Q. And we were talking about the fact that you looked at the specification and then the claims. And I was asking you: At what point did you consider the list of claim terms that counsel provided for you? Do you understand that question? A. Yes, I do. 	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	 prior art first, and then go back and look at the claim constructions? A. I switched back and forth, to be honest with you. It was a multiple multi-task process. Q. Did you break it up by patent or patent family? A. Patent family. Q. What is your understanding of the patent families involved in this case? A. I can't remember all the parent patents. But anything that I knew was a parent patent, I looked at that. And I also reviewed the patent histories, and, of course, the specifications for those parent patents. And they were listed in my IPRs as well.
3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	 p.m. Back on the record. BY MR. CLAASSEN: Q. Hello, Dr. Yanulis. Can you hear me now? A. Yes, I can. Q. I apologize for our connectivity issue, but I want to pick up where we left off. We were talking about the general process for claim construction? A. Yes, we were. Q. And we were talking about the fact that you looked at the specification and then the claims. And I was asking you: At what point did you consider the list of claim terms that counsel provided for you? Do you understand that question? A. Yes, I do. Q. So at what point did you consider the list of guestions that counsel provided for you? 	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	 prior art first, and then go back and look at the claim constructions? A. I switched back and forth, to be honest with you. It was a multiple multi-task process. Q. Did you break it up by patent or patent family? A. Patent family. Q. What is your understanding of the patent families involved in this case? A. I can't remember all the parent patents. But anything that I knew was a parent patent, I looked at that. And I also reviewed the patent histories, and, of course, the specifications for those parent patents. Q. Do you have an understanding of how the patents are broken up by cubicat metter?

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	Page 33		Page 35
1	A. Yes, I do.	1	the particular families that are at issue in
2	Q. What is that understanding?	2	this case?
3	(Pause)	3	A. There was a lot of similarities, a lot
4	Q. Are you looking at a document or the	4	of classifications and arts used. I can't
5	computer screen?	5	remember all the different classifications.
6	A. No, I'm relying on my own knowledge,	6	Q. So when you are referring to
7	sir.	7	"families," are you referring to the specific
8	Q. I'm sorry. Can you repeat?	8	patents that are at issue in this case?
9	A. I'm what I was getting at I'm	9	A. If I'm understanding your question,
10	relying on my own knowledge as well.	10	yes.
11	And I did work for the U.S. Patent	11	Q. What are the families at issue in this
12	Office, so I am familiar with the art arts	12	case?
13	that they developed for the different medical	13	A. I'd have to look at the patent.
14	device, and they also list the arts on the	14	If you don't mind, can I look at one
15	patents itself.	15	patent?
16	(Pause)	16	O. Sure.
17	THE VIDEOGRAPHER: The time is 1:07	17	Is there a particular patent that
18	p.m. Off the record.	18	would be helpful for you?
19	(Recess from 1:07 p.m. to 1:09 p.m.)	19	A. Any one.
20	THE VIDEOGRAPHER: We are back on the	20	MR. CLAASSEN: I'll ask the court
21	record. The time is 1:09 p.m.	21	reporter to pull up Exhibit 2.
22	BY MR. CLAASSEN:	22	And Dr. Yanulis, if you look at
	Page 34		Page 36
1	Q. Dr. Yanulis, we were talking about the	1	Exhibit 2 in your printed materials
2	patent families.	2	(Pause)
3	Do you remember that?	3	THE WITNESS: Okay.
4	A. Yes, sir.	4	BY MR. CLAASSEN:
5	Q. You understand that there are	5	Q. This is the '735 patent.
6	different subject matters for each of these	6	Have you seen it before?
7	families, right?	7	A. Yes, I have.
8	A. Yes, I do.	8	Q. So would this help you understand the
9	Q. What is your understanding of the	9	patent families that are at issue in this case?
10	different subject matters for these families?	10	A. Yes, it would.
11	MS. HOEKEL: Objection, form.	11	Q. What is your understanding of the
12	BY MR. CLAASSEN:	12	patent families that are at issue in this case?
13	Q. Do you understand the question, Dr.	13	A. They have the international
14	Yanulis?	14	classification; and the classes which they
15	A. Yes, I do.	15	were the patent application was categorized.
16	Q. You can go ahead and answer.	16	Then they also had the U.S. classification
17	A. As I articulated, I looked at the	17	scheme. They have the field of classification
18	classes that were reviewed in each art and just	18	search what I also reviewed on the patent
19	insured I understood from the U.S. Patent's	19	of the second page excuse me the cover
20	office determination of those particular	20	page.
0.1	*	1	
21	classifications.	21	And I looked at references cited as
21	classifications. Q. Does that have something to do with	21 22	And I looked at references cited as well, and any other publications, as well as

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	Page 37		Page 39
1	foreign patent documents as well.	1	(Pause)
2	MR. CLAASSEN: I'll ask the court	2	Q. What do you mean by "a parent patent"?
3	reporter then to mark this Exhibit 2 for the	3	A. Some of these patents had parent
4	record.	4	patents, which I disclosed in my IPRs.
5	(Exhibit 2, Document Bates stamped	5	Q. If two patents had the same parent,
6	MAS0000020 thorough 60, multipage document	6	would they be family members?
7	entitled: United States Patent No.: 9,788,735	7	A. I don't know the absolute correct
8	B2, dated October 17, 2017, with cover page	8	answer. It would be a guess.
9	dated June 18, 2019, marked for identification)	9	My answer as a guess would be: Yes.
10	BY MR. CLAASSEN:	10	Q. Do you recall whether any of the
11	Q. So, Dr. Yanulis, if I'm understanding	11	asserted patents are family members sharing the
12	you right, when you are talking about patent	12	same parent application?
13	families, you are talking about the	13	A. There may be, but I'd have to look at
14	classification details that are listed on the	14	all the patents.
15	cover page of the '735 patent that's shown on	15	Q. And you don't know off the top of your
16	the screen now with the Bates label MAS0000021.	16	head as you are sitting here?
17	Is that correct?	17	A. A lot of them have to do with
18	A. Correct.	18	ambulatory monitoring systems. I'm aware of
19	Q. That would be the U.S. classification	19	that.
20	in the field of classification shown in the	20	And a lot of them have to do with
21	bottom-left of this page.	21	pulse oximetry monitoring, etc. To that extent,
22	Is that right?	22	I'm familiar.
	Page 38		Page 40
1	A. I believe it says 52 U.S.	1	Q. I want to return now to your claim
2	classifications.	2	construction process. And we were talking about
3	Q. So when you talk about families in	3	you looking at the claims.
4	this case, you are not talking about anything	4	Do you remember that?
5	about how the different specifications are	5	A. Yes.
6	related to one another, are you?	6	Q. And we were talking about you were
7	A. The specifications for some patents	7	provided a list of claim terms that were
8	may be related, but that's not always the	8	disputed from counsel.
9	case as far as my understanding.	9	Do you remember that?
10	Q. I'm just trying to understand.	10	A. Yes, I do.
11	When you say "family," are you	11	Q. What was the next step in your process
12	referring, then, to classifications?	12	after you received that list of terms?
13	A. To be honest with you, I know the U.S.	13	A. The first process that I utilized is
14	Patent Office has changed the terminology. So	14	looking at the file history for that particular
15	to the best of my knowledge, I'm referring to it	15	patent.
16	as U.S. classifications of various arts	16	The next step was to utilize my skill
17	excuse me various classifications.	17	in the art to evaluate this in view of the specs
18	Q. But you are not talking about how the	18	on the claims.
19	patents at issue in this case are related to one	19	Q. Did you look at the disputed terms in
20	another.	20	the context of the claims they are used in?
21	Is that correct?	21	A. Yes, I did.
22	A. No. No. Unless it's a parent patent.	22	Q. When did you do that?
		-	

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	Page 41		Page 43
1	A. In my development of my IPRs	1	Q. And that includes
2	declarations.	2	A as well as
3	Q. When in the development of your IPR	3	Q and you are saying the figures
4	declarations did you do that?	4	also
5	A. It was an ongoing process, counselor,	5	I'm going to refer to the figures as
6	while I was writing them and after, making sure	6	part of the specification today.
7	had I completed everything accurately.	7	Do you understand that?
8	Q. Did you do any word searches for use	8	A. Yes, now I do. Thank you.
9	of the terms in the specification?	9	Q. If there is a conflict between the
10	A. I always do a patent search based on	10	words of the claim and the specification, what
11	words.	11	do you do?
12	Q. What do you mean by "a patent search"?	12	A. I have to go by what's disclosed in
13	A. What I do is I have a couple of	13	the specs.
14	techniques.	14	Q. So if there is a conflict between the
15	What I usually do is I'll look at, for	15	claims and the specification, is it your
16	example, with these patents trying to	16	understanding that the specification controls?
17	formulate the best answer, so give me a second.	17	A. Yes.
18	I'm looking at the terms as used in	18	Q. What is your understanding for when
19	the patents, as discussed.	19	the specification limits the meaning of a claim
20	And I'm also looking at any prior art,	20	term?
21	if there is any kind of, you know, discrepancy	21	MS. HOEKEL: I'm going to object.
22	in terms of the way they define the terms as	22	A. I don't have an answer for that, sir.
	Page 42		Page 44
1	well, and any prior art that they have supplied.	1	I'd have to think about it.
2	Q. I'd like now to turn in Exhibit 2 to	2	Q. Have you thought about it in this
3	the claims. Those are in column 13 or	3	case?
4	beginning in column 13, MAS0000056.	4	A. Yes, I did.
5	Do you see that, Dr. Yanulis?	5	Q. When did you do that?
6	A. Yes, I do.	6	A. When I looked at each claim and it
7	Q. Do you see there is a claim 1 there?	7	
			wasn't what's claimed disclosed in the specs.
8	A. Yes, I do.	8	And I also looked at my skill in the
8 9	A. Yes, I do.Q. Do you see that one of the claim terms	8	And I also looked at my skill in the art as
9 10	A. Yes, I do.Q. Do you see that one of the claim terms there is "a display"?	8 9 10	And I also looked at my skill in the art evaluated with my skill in the art as well.
9 10 11	A. Yes, I do.Q. Do you see that one of the claim terms there is "a display"?A. Yes, I do.	8 9 10 11	 Wash t what's claimed disclosed in the specs. And I also looked at my skill in the art evaluated with my skill in the art as well. Q. Did you consider any extrinsic
8 9 10 11 12	 A. Yes, I do. Q. Do you see that one of the claim terms there is "a display"? A. Yes, I do. Q. If you were going about the process 	8 9 10 11 12	And I also looked at my skill in the art evaluated with my skill in the art as well. Q. Did you consider any extrinsic evidence?
8 9 10 11 12 13	 A. Yes, I do. Q. Do you see that one of the claim terms there is "a display"? A. Yes, I do. Q. If you were going about the process for determining the construction of "display," 	8 9 10 11 12 13	 Wash t what's claimed disclosed in the specs. And I also looked at my skill in the art as well. Q. Did you consider any extrinsic evidence? A. I didn't hear you, counselor.
8 9 10 11 12 13 14	 A. Yes, I do. Q. Do you see that one of the claim terms there is "a display"? A. Yes, I do. Q. If you were going about the process for determining the construction of "display," what would you do? 	8 9 10 11 12 13 14	 Wash t what's claimed disclosed in the specs. And I also looked at my skill in the art as well. Q. Did you consider any extrinsic evidence? A. I didn't hear you, counselor. Q. Did you consider any extrinsic
8 9 10 11 12 13 14 15	 A. Yes, I do. Q. Do you see that one of the claim terms there is "a display"? A. Yes, I do. Q. If you were going about the process for determining the construction of "display," what would you do? A. I'd look at the entire claim or claims 	8 9 10 11 12 13 14 15	 Wash t what's claimed disclosed in the spees. And I also looked at my skill in the art evaluated with my skill in the art as well. Q. Did you consider any extrinsic evidence? A. I didn't hear you, counselor. Q. Did you consider any extrinsic evidence?
8 9 10 11 12 13 14 15 16	 A. Yes, I do. Q. Do you see that one of the claim terms there is "a display"? A. Yes, I do. Q. If you were going about the process for determining the construction of "display," what would you do? A. I'd look at the entire claim or claims in view of the specs, as well as the figures. 	8 9 10 11 12 13 14 15 16 17	 Wash t what's claimed disclosed in the specs. And I also looked at my skill in the art evaluated with my skill in the art as well. Q. Did you consider any extrinsic evidence? A. I didn't hear you, counselor. Q. Did you consider any extrinsic evidence? A. Yes, I did. Q. De some leaver a base of the state in the spect.
8 9 10 11 12 13 14 15 16 17 18	 A. Yes, I do. Q. Do you see that one of the claim terms there is "a display"? A. Yes, I do. Q. If you were going about the process for determining the construction of "display," what would you do? A. I'd look at the entire claim or claims in view of the specs, as well as the figures. Q. So you would read this claim 1. 	8 9 10 11 12 13 14 15 16 17	 Wash t what's claimed disclosed in the spees. And I also looked at my skill in the art evaluated with my skill in the art as well. Q. Did you consider any extrinsic evidence? A. I didn't hear you, counselor. Q. Did you consider any extrinsic evidence? A. Yes, I did. Q. Do you know what extrinsic evidence
8 9 10 11 12 13 14 15 16 17 18	 A. Yes, I do. Q. Do you see that one of the claim terms there is "a display"? A. Yes, I do. Q. If you were going about the process for determining the construction of "display," what would you do? A. I'd look at the entire claim or claims in view of the specs, as well as the figures. Q. So you would read this claim 1. Is that correct? 	8 9 10 11 12 13 14 15 16 17 18	 Wash t what's claimed disclosed in the spees. And I also looked at my skill in the art evaluated with my skill in the art as well. Q. Did you consider any extrinsic evidence? A. I didn't hear you, counselor. Q. Did you consider any extrinsic evidence? A. Yes, I did. Q. Do you know what extrinsic evidence is?
8 9 10 11 12 13 14 15 16 17 18 19 20	 A. Yes, I do. Q. Do you see that one of the claim terms there is "a display"? A. Yes, I do. Q. If you were going about the process for determining the construction of "display," what would you do? A. I'd look at the entire claim or claims in view of the specs, as well as the figures. Q. So you would read this claim 1. Is that correct? A. Yes. Q. Then you would as head and heats to the spect of the spece of the	8 9 10 11 12 13 14 15 16 17 18 19 20	 Wash t what's claimed disclosed in the specs. And I also looked at my skill in the art evaluated with my skill in the art as well. Q. Did you consider any extrinsic evidence? A. I didn't hear you, counselor. Q. Did you consider any extrinsic evidence? A. I didn't hear you, counselor. Q. Did you consider any extrinsic evidence? A. Yes, I did. Q. Do you know what extrinsic evidence is? A. Extrinsic evidence is anything that's not in the patent. Eutripoin widence is "
8 9 10 11 12 13 14 15 16 17 18 19 20 21	 A. Yes, I do. Q. Do you see that one of the claim terms there is "a display"? A. Yes, I do. Q. If you were going about the process for determining the construction of "display," what would you do? A. I'd look at the entire claim or claims in view of the specs, as well as the figures. Q. So you would read this claim 1. Is that correct? A. Yes. Q. Then you would go back and look at the empeification right? 	8 9 10 11 12 13 14 15 16 17 18 19 20 21	 Wash t what's claimed disclosed in the spees. And I also looked at my skill in the art as well. Q. Did you consider any extrinsic evidence? A. I didn't hear you, counselor. Q. Did you consider any extrinsic evidence? A. Yes, I did. Q. Do you know what extrinsic evidence is? A. Extrinsic evidence is anything that's not in the patent. Extrinsic evidence is all based on the patents in the artifaction.
8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	 A. Yes, I do. Q. Do you see that one of the claim terms there is "a display"? A. Yes, I do. Q. If you were going about the process for determining the construction of "display," what would you do? A. I'd look at the entire claim or claims in view of the specs, as well as the figures. Q. So you would read this claim 1. Is that correct? A. Yes. Q. Then you would go back and look at the specification, right? 	8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	 Wash t what's claimed disclosed in the spees. And I also looked at my skill in the art as well. Q. Did you consider any extrinsic evidence? A. I didn't hear you, counselor. Q. Did you consider any extrinsic evidence? A. Yes, I did. Q. Do you know what extrinsic evidence is? A. Extrinsic evidence is anything that's not in the patent. Extrinsic evidence is all based on the patents in the entirety

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	Page 45	Page 47
1	you, Dr. Yanulis. You are too close to the	¹ (Pause)
2	microphone.	² A. If it was relevant, I would include
3	(Pause)	³ it.
4	A. The best tool that I would have is	⁴ And I can't remember. I'd have to
5	to trying to remember the question. Bear	⁵ look at all it's kind of cut off in some of
6	with me.	⁶ the exhibits you have given me, sir.
7	Could you repeat the question again,	⁷ But to the best of my recollection, if
8	just so	⁸ it was relevant, yes, but I would identify it as
9	Q. Sure.	⁹ extrinsic evidence, as opposed to intrinsic.
10	What is your understanding of	¹⁰ But my primary focus was the
11	extrinsic evidence?	¹¹ intrinsic, which is the patents.
12	A. Extrinsic, as an example, could be a	¹² Q. What I would like to know now: Is
13	dictionary definition. It could be an article.	¹³ there any extrinsic evidence that you relied
14	It could be an article that I found or it could	¹⁴ upon in forming your opinions that is not set
15	be an article that was found by the plaintiff;	¹⁵ forth in the joint hearing statement?
16	or anything else that I, based on my skill,	¹⁶ A. To the best of my knowledge, no.
17	found.	¹⁷ (Pause)
18	Q. Did you rely on any extrinsic evidence	¹⁸ Q. Is it your understanding that
19	in your analysis of the claims for this case?	¹⁹ indefiniteness is a claim construction issue?
20	A. Yes, I did.	²⁰ A. Yes, it is.
21	Q. Is that extrinsic evidence listed in	²¹ But I'm not an attorney, so I can't
22	the joint hearing statement that we were talking	²² say much more than that.
	Page 46	Page 48
1	Page 46	Page 48
1	Page 46 about earlier?	Page 48 1 Q. So what is your understanding of the 2 legal test for indefiniteness?
1 2 3	Page 46 about earlier? A. Can you give me a moment? The best answer is basically if you	Page 48 1 Q. So what is your understanding of the 2 legal test for indefiniteness? 3 (Pause)
1 2 3 4	Page 46 about earlier? A. Can you give me a moment? The best answer is basically if you give me a moment. sir?	Page 48 1 Q. So what is your understanding of the 2 legal test for indefiniteness? 3 (Pause) 4 A. Has the term been properly explained
1 2 3 4 5	Page 46 about earlier? A. Can you give me a moment? The best answer is basically if you give me a moment, sir? O. Sure.	Page 48 1 Q. So what is your understanding of the 2 legal test for indefiniteness? 3 (Pause) 4 A. Has the term been properly explained 5 in the specifications to be understood
1 2 3 4 5 6	Page 46 about earlier? A. Can you give me a moment? The best answer is basically if you give me a moment, sir? Q. Sure. MR. CLAASSEN: Can you go ahead and	Page 48 1 Q. So what is your understanding of the 2 legal test for indefiniteness? 3 (Pause) 4 A. Has the term been properly explained 5 in the specifications to be understood 6 adequately by one skilled in the art?
1 2 3 4 5 6 7	Page 46 about earlier? A. Can you give me a moment? The best answer is basically if you give me a moment, sir? Q. Sure. MR. CLAASSEN: Can you go ahead and take down Exhibit 2, court reporter?	Page 48 1 Q. So what is your understanding of the 2 legal test for indefiniteness? 3 (Pause) 4 A. Has the term been properly explained 5 in the specifications to be understood 6 adequately by one skilled in the art? 7 O. You understand that there are separate
1 2 3 4 5 6 7 8	Page 46 about earlier? A. Can you give me a moment? The best answer is basically if you give me a moment, sir? Q. Sure. MR. CLAASSEN: Can you go ahead and take down Exhibit 2, court reporter? A. Basically I looked at the intrinsic	Page 48 I Q. So what is your understanding of the 2 legal test for indefiniteness? 3 (Pause) 4 A. Has the term been properly explained 5 in the specifications to be understood 6 adequately by one skilled in the art? 7 Q. You understand that there are separate 8 tests for something called written description.
1 2 3 4 5 6 7 8 9	Page 46 about earlier? A. Can you give me a moment? The best answer is basically if you give me a moment, sir? Q. Sure. MR. CLAASSEN: Can you go ahead and take down Exhibit 2, court reporter? A. Basically I looked at the intrinsic evidence for the claim construction.	Page 48 1 Q. So what is your understanding of the 2 legal test for indefiniteness? 3 (Pause) 4 A. Has the term been properly explained 5 in the specifications to be understood 6 adequately by one skilled in the art? 7 Q. You understand that there are separate 8 tests for something called written description, 9 right?
1 2 3 4 5 6 7 8 9 10	Page 46 about earlier? A. Can you give me a moment? The best answer is basically if you give me a moment, sir? Q. Sure. MR. CLAASSEN: Can you go ahead and take down Exhibit 2, court reporter? A. Basically I looked at the intrinsic evidence for the claim construction. Q. Okay. I'm asking now about the	Page 48 1 Q. So what is your understanding of the 2 legal test for indefiniteness? 3 (Pause) 4 A. Has the term been properly explained 5 in the specifications to be understood 6 adequately by one skilled in the art? 7 Q. You understand that there are separate 8 tests for something called written description, 9 right? 10 A. Correct.
1 2 3 4 5 6 7 8 9 10 11	Page 46 about earlier? A. Can you give me a moment? The best answer is basically if you give me a moment, sir? Q. Sure. MR. CLAASSEN: Can you go ahead and take down Exhibit 2, court reporter? A. Basically I looked at the intrinsic evidence for the claim construction. Q. Okay. I'm asking now about the extrinsic evidence.	Page 48 1 Q. So what is your understanding of the 2 legal test for indefiniteness? 3 (Pause) 4 A. Has the term been properly explained 5 in the specifications to be understood 6 adequately by one skilled in the art? 7 Q. You understand that there are separate 8 tests for something called written description, 9 right? 10 A. Correct. 11 Q. And there is something else called
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1 2 3 4 5 6 7 8 9 10 11 12 13 14	Page 46 about earlier? A. Can you give me a moment? The best answer is basically if you give me a moment, sir? Q. Sure. MR. CLAASSEN: Can you go ahead and take down Exhibit 2, court reporter? A. Basically I looked at the intrinsic evidence for the claim construction. Q. Okay. I'm asking now about the extrinsic evidence. And you said earlier, I believe, that you considered some. Is that right?	Page 48 1 Q. So what is your understanding of the 2 legal test for indefiniteness? 3 (Pause) 4 A. Has the term been properly explained 5 in the specifications to be understood 6 adequately by one skilled in the art? 7 Q. You understand that there are separate 8 tests for something called written description, 9 right? 10 A. Correct. 11 Q. And there is something else called 12 enablement, right? 13 A. Yes. 14 Q. You understand that indefiniteness,
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15	Page 46 about earlier? A. Can you give me a moment? The best answer is basically if you give me a moment, sir? Q. Sure. MR. CLAASSEN: Can you go ahead and take down Exhibit 2, court reporter? A. Basically I looked at the intrinsic evidence for the claim construction. Q. Okay. I'm asking now about the extrinsic evidence. And you said earlier, I believe, that you considered some. Is that right? A. I considered them in the IPRs, sir.	Page 481Q. So what is your understanding of the2legal test for indefiniteness?3(Pause)4A. Has the term been properly explained5in the specifications to be understood6adequately by one skilled in the art?7Q. You understand that there are separate8tests for something called written description,9right?10A. Correct.11Q. And there is something else called12enablement, right?13A. Yes.14Q. You understand that indefiniteness,15written description, and enablement are all
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1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	Page 46 about earlier? A. Can you give me a moment? The best answer is basically if you give me a moment, sir? Q. Sure. MR. CLAASSEN: Can you go ahead and take down Exhibit 2, court reporter? A. Basically I looked at the intrinsic evidence for the claim construction. Q. Okay. I'm asking now about the extrinsic evidence. And you said earlier, I believe, that you considered some. Is that right? A. I considered them in the IPRs, sir. Q. Is the extrinsic evidence that you considered cited in your IPR declarations? A. It is. Q. Is the extrinsic evidence that you considered also cited in the joint hearing statement that's the Exhibit 1 that we	Page 481Q. So what is your understanding of the2legal test for indefiniteness?3(Pause)4A. Has the term been properly explained5in the specifications to be understood6adequately by one skilled in the art?7Q. You understand that there are separate8tests for something called written description,9right?10A. Correct.11Q. And there is something else called12enablement, right?13A. Yes.14Q. You understand that indefiniteness,15written description, and enablement are all16separate, right?17A. Yes, I do.18Q. So what is your understanding for what19makes a claim term indefinite?20MS. HOEKEL: I'm going to object to21the extent it calls for a legal conclusion.
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	Page 46 about earlier? A. Can you give me a moment? The best answer is basically if you give me a moment, sir? Q. Sure. MR. CLAASSEN: Can you go ahead and take down Exhibit 2, court reporter? A. Basically I looked at the intrinsic evidence for the claim construction. Q. Okay. I'm asking now about the extrinsic evidence. And you said earlier, I believe, that you considered some. Is that right? A. I considered them in the IPRs, sir. Q. Is the extrinsic evidence that you considered cited in your IPR declarations? A. It is. Q. Is the extrinsic evidence that you considered also cited in the joint hearing statement that's the Exhibit 1 that we were talking about earlier?	Page 481Q. So what is your understanding of the2legal test for indefiniteness?3(Pause)4A. Has the term been properly explained5in the specifications to be understood6adequately by one skilled in the art?7Q. You understand that there are separate8tests for something called written description,9right?10A. Correct.11Q. And there is something else called12enablement, right?13A. Yes.14Q. You understand that indefiniteness,15written description, and enablement are all16separate, right?17A. Yes, I do.18Q. So what is your understanding for what19makes a claim term indefinite?20MS. HOEKEL: I'm going to object to21the extent it calls for a legal conclusion.22But you can answer to the best of your

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	Page 49		Page 51
1	ability, Dr. Yanulis.	1	analysis, are you looking at the claim itself?
2	A. To the best of my ability, when there	2	A. I'm looking at the claim, specs, and
3	is a 112 issue, it's in reference to the claims	3	my expertise as a one skilled in the art.
4	or a claim term.	4	Q. When you were provided your list of
5	(Pause)	5	claim term disputes by counsel, did it identify
6	Q. Do I understand correctly that your	6	terms that were indefinite?
7	opinion is certain claim terms are indefinite in	7	(Pause)
8	this case?	8	A. Some of that was in the file
9	A. Yes, sir.	9	histories, as far as the office actions.
10	Q. How did you make that determination?	10	I would look at, you know, the way the
11	A. Again, I would first look at the	11	examiner would regard some of them as being
12	specs; and then go excuse me.	12	indefinite and not giving a proper disclosure of
13	I'd look at the specs; then go to the	13	what's being said in the claims.
14	claims; then go back again and make sure there	14	Q. You understand that these were issued
15	was no discrepancy or any indefiniteness based	15	patents that you were analyzing, right?
16	on my understanding.	16	A. I understand that.
17	Again, I'm not an attorney, but I'm	17	But I was also looking at the file
18	using my own previous skills.	18	histories as the patent process approval was
19	Q. What would lead a claim term to be	19	continuing. So it was not looked in isolation.
20	indefinite in your understanding?	20	Q. So what I'm trying to determine now is
21	MS. HOEKEL: Same objection.	21	who came up with the claim construction position
22	A. If it's not properly explained, again,	22	the terms were indefinite.
	Page 50		Page 52
1	for one skilled in the art, then it's an issue	1	Was it you?
2	of indefiniteness, 112.	2	Or was it counsel?
3	Q. I know you keep saying "112."	3	A. Both.
4	Are you now saying something more than	4	Q. What terms did you determine were
5	indefiniteness?	5	indefinite?
6	A. I'm going to have to defer. That's my	6	MS. HOEKEL: Object to the form.
7	best answer, because I'm not an attorney.	7	A. One example is the processor that I
8	Q. So when you say that a claim term is	8	already gave.
9	indefinite, what do you mean?	9	Another example would be the delay
10	A. Do you want me to give you an example?	10	the alarm delays.
11	Q. Yes.	11	Q. Are there any other examples?
12	A. If you say "processor" without	12	A. Counselor, there is probably several.
13	describing what the processor can do adequately	13	Another one could be the term "a separate
14	in the claim, you just list "processor."	14	computing device."
15	Q. So a claim that just says "processor"	15	Q. That's indefinite in your opinion?
10	and nothing more would be indefinite.	16	A. The way it may have been claimed.
1.7	Is that correct?	17	(Pause)
18	A. If there was no proper antecedental	18	Q. Do you set forth an opinion that
19	basis or any follow-up statements to make me	19	"separate computing device" is indefinite
ZU	understand: Is it a processor, or what kind of	20	anywhere?
21		01	
21	processor it is, or what it's capable of doing.	21	A. I do in my I'm not sure I

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	Page 53	Page 55
1	All I did was I evaluated the claims	¹ plain and ordinary standard.
2	being disputed.	² Other than that and my expertise.
3	So other than that, I haven't formally	³ That's basically the best answer I can
4	written any kind of opinions.	⁴ give.
5	But I did discuss in the IPRs my	⁵ Q. You applied the plain and ordinary
6	opinions as to a term that may have been	6 meaning and your expertise.
7	indefinite in my opinion.	7 Is that correct?
8	Q. So in your opinion, "separate	⁸ A. In view of the specification and
9	computing device" is indefinite?	⁹ claims, yes, sir.
10	MS. HOEKEL: Object to the form.	¹⁰ Q. That was your process for construing
11	A. If it's missing certain antecedental	¹¹ the claims in this case.
12	basis to understand what the processor is	¹² Is that right?
13	capable of doing, or performing said function.	¹³ A. Yes.
14	Q. I'd like to come back to that in a	¹⁴ Well, I didn't come up with these
15	little bit. We'll discuss it in more detail.	¹⁵ terms. The district court did. I didn't know
16	Do you understand that?	¹⁶ what terms were being disputed until I saw this
17	A. Yes, sir.	¹⁷ exhibit. I had an idea what the claims were,
18	Q. Are there differences between the	¹⁸ but I didn't know the terms.
19	claim construction standard for IPRs and for the	¹⁹ Q. So is it your understanding that the
20	district court?	²⁰ court came up with these terms?
21	A. No, there is not.	²¹ MS. HOEKEL: Object to the form.
22	Q. What is the claim construction	A. It's my understanding, counselor, that
	Page 54	Page 56
1	Page 54 standard?	Page 56 ¹ both sides developed their position on what the
1 2	Page 54 standard? A. Plain and ordinary meaning, as given	Page 56 ¹ both sides developed their position on what the ² terms of dispute.
1 2 3	Page 54 standard? A. Plain and ordinary meaning, as given by the expert in this case, myself.	Page 56 both sides developed their position on what the terms of dispute. And it was my job and again, I've
1 2 3 4	Page 54 standard? A. Plain and ordinary meaning, as given by the expert in this case, myself. Q. So plain and ordinary meaning, as	Page 56 both sides developed their position on what the terms of dispute. And it was my job and again, I've not written any full report of the claims being
1 2 3 4 5	Page 54 standard? A. Plain and ordinary meaning, as given by the expert in this case, myself. Q. So plain and ordinary meaning, as given by the expert?	Page 56 both sides developed their position on what the terms of dispute. And it was my job and again, I've not written any full report of the claims being disputed in the construction as set forth by the
1 2 3 4 5 6	Page 54 standard? A. Plain and ordinary meaning, as given by the expert in this case, myself. Q. So plain and ordinary meaning, as given by the expert? A. No.	Page 56 both sides developed their position on what the cterms of dispute. And it was my job and again, I've not written any full report of the claims being disputed in the construction as set forth by the district court.
1 2 4 5 6 7	Page 54 standard? A. Plain and ordinary meaning, as given by the expert in this case, myself. Q. So plain and ordinary meaning, as given by the expert? A. No. Q that's your understanding?	Page 56 both sides developed their position on what the cterms of dispute. And it was my job and again, I've not written any full report of the claims being disputed in the construction as set forth by the district court. Q. Is it your understanding that all the
1 2 4 5 6 7 8	Page 54 standard? A. Plain and ordinary meaning, as given by the expert in this case, myself. Q. So plain and ordinary meaning, as given by the expert? A. No. Q that's your understanding? A. I apply the standard of plain and	Page 56 both sides developed their position on what the cterms of dispute. And it was my job and again, I've not written any full report of the claims being disputed in the construction as set forth by the district court. Q. Is it your understanding that all the words of the claim need to appear in the
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1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	 Page 54 standard? A. Plain and ordinary meaning, as given by the expert in this case, myself. Q. So plain and ordinary meaning, as given by the expert? A. No. Q that's your understanding? A. I apply the standard of plain and ordinary meaning. And I base that evaluation of the disputed term based on what the term is, and what my expertise is, and the specifications, and the claims. Q. So was it your job to help determine the plain and ordinary meaning for the claim terms? A. As an expert, yes. Q. Do all the claim terms in this case have plain and ordinary meanings? 	Page 561both sides developed their position on what the2terms of dispute.3And it was my job and again, I've4not written any full report of the claims being5disputed in the construction as set forth by the6district court.7Q. Is it your understanding that all the8words of the claim need to appear in the9specification?10A. Could you repeat the question, sir?11Q. Yes.12Is it your understanding that all the13words in the claim need to appear in the14specification?15A. It's my understanding, yes, that they16have to be properly disclosed. Everything has17to be disclosed related to what their function18and structure is.19Q. My question is a little different.
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	 Page 54 standard? A. Plain and ordinary meaning, as given by the expert in this case, myself. Q. So plain and ordinary meaning, as given by the expert? A. No. Q that's your understanding? A. I apply the standard of plain and ordinary meaning. And I base that evaluation of the disputed term based on what the term is, and what my expertise is, and the specifications, and the claims. Q. So was it your job to help determine the plain and ordinary meaning for the claim terms? A. As an expert, yes. Q. Do all the claim terms in this case have plain and ordinary meanings? MS. HOEKEL: Object to the form. A. Tim going to say I'm not sure how to accurate that austion 	Page 561both sides developed their position on what the2terms of dispute.3And it was my job and again, I've4not written any full report of the claims being5disputed in the construction as set forth by the6district court.7Q. Is it your understanding that all the8words of the claim need to appear in the9specification?10A. Could you repeat the question, sir?11Q. Yes.12Is it your understanding that all the13words in the claim need to appear in the14specification?15A. It's my understanding, yes, that they16have to be properly disclosed. Everything has17to be disclosed related to what their function18and structure is.19Q. My question is a little different.20I'm asking: Does each word in the
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	 Page 54 standard? A. Plain and ordinary meaning, as given by the expert in this case, myself. Q. So plain and ordinary meaning, as given by the expert? A. No. Q that's your understanding? A. I apply the standard of plain and ordinary meaning. And I base that evaluation of the disputed term based on what the term is, and what my expertise is, and the specifications, and the claims. Q. So was it your job to help determine the plain and ordinary meaning for the claim terms? A. As an expert, yes. Q. Do all the claim terms in this case have plain and ordinary meanings? MS. HOEKEL: Object to the form. A. Im going to say I'm not sure how to answer that question. 	Page 561both sides developed their position on what the2terms of dispute.3And it was my job and again, I've4not written any full report of the claims being5disputed in the construction as set forth by the6district court.7Q. Is it your understanding that all the8words of the claim need to appear in the9specification?10A. Could you repeat the question, sir?11Q. Yes.12Is it your understanding that all the13words in the claim need to appear in the14specification?15A. It's my understanding, yes, that they16have to be properly disclosed. Everything has17to be disclosed related to what their function18and structure is.19Q. My question is a little different.20I'm asking: Does each word in the21claim need to appear in the specification?

14 (Pages 53 to 56)

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	Page 57	Page 59
1	Q. If the word does not appear in the	¹ recites a means-plus-function term when there
2	specification, how do you interpret the claim?	² are no means for recited in the claim?
3	A. I use my expertise as one skilled in	³ MS. HOEKEL: Object to the form.
4	the art.	4 A. Could you repeat the question?
5	Q. So you recognize that there may be	⁵ I need to think about that.
6	terms that are known to a person of ordinary	6 Q. Yes.
7	skill in the art.	7 We talked about the presumption with
8	Is that right?	⁸ means for.
9	A. Yes, sir.	⁹ Is that right?
10	Q. And those words would not need to	¹⁰ A. Yes.
11	appear in the specification.	¹¹ Q. And sometimes claims can be
12	Is that correct?	¹² interpreted as means-plus-function without the
13	A. Based on that, yes.	¹³ words "means for."
14	Q. Does that apply to everything claimed?	¹⁴ Is that right?
15	MS. HOEKEL: Object to the form.	¹⁵ A. Yes, sir.
16	A. I'm not an attorney, so I can't really	¹⁶ Q. When do claims result in a
17	give a real legal opinion of that question.	¹⁷ means-plus-function construction when they don't
18	Q. Did Sotero's attorneys explain	¹⁸ use the words "means for"?
19	"means-plus-function claiming" to you?	¹⁹ MS. HOEKEL: Object to the form.
20	A. Yes, they did.	A. I'm not sure how to answer the
21	Q. What is your understanding of when a	²¹ question other than the way that I've answered
22	claim recites a means-plus-function term?	²² it, counselor.
	Page 58	Page 60
1	Page 58 A. In the claims as stated, there is	Page 60 ¹ Q. How did you determine in this case
1 2	Page 58 A. In the claims as stated, there is usually a means, which to me implies structure.	Page 60 ¹ Q. How did you determine in this case ² when a means for construction was appropriate?
1 2 3	Page 58 A. In the claims as stated, there is usually a means, which to me implies structure. And then there is the function or	Page 60 Q. How did you determine in this case when a means for construction was appropriate? A. As an example, for the processor, you
1 2 3 4	Page 58 A. In the claims as stated, there is usually a means, which to me implies structure. And then there is the function or method that that particular structural element	Page 60 Q. How did you determine in this case when a means for construction was appropriate? A. As an example, for the processor, you can't just have a process of isolation. You
1 2 3 4 5	Page 58 A. In the claims as stated, there is usually a means, which to me implies structure. And then there is the function or method that that particular structural element can perform or potentially perform as	Page 60 Q. How did you determine in this case when a means for construction was appropriate? A. As an example, for the processor, you can't just have a process of isolation. You have to understand how the function is
1 2 3 4 5 6	Page 58 A. In the claims as stated, there is usually a means, which to me implies structure. And then there is the function or method that that particular structural element can perform or potentially perform as claimed.	Page 60 Q. How did you determine in this case when a means for construction was appropriate? A. As an example, for the processor, you can't just have a process of isolation. You have to understand how the function is performed for example, by an algorithm.
1 2 3 4 5 6 7	Page 58 A. In the claims as stated, there is usually a means, which to me implies structure. And then there is the function or method that that particular structural element can perform or potentially perform as claimed. Q. So I want to make sure that I	Page 60 Q. How did you determine in this case when a means for construction was appropriate? A. As an example, for the processor, you can't just have a process of isolation. You have to understand how the function is performed for example, by an algorithm. Q. So if a claim recites a function, is
1 2 3 4 5 6 7 8	Page 58 A. In the claims as stated, there is usually a means, which to me implies structure. And then there is the function or method that that particular structural element can perform or potentially perform as claimed. Q. So I want to make sure that I understand your answer correctly.	Page 60 Q. How did you determine in this case when a means for construction was appropriate? A. As an example, for the processor, you can't just have a process of isolation. You have to understand how the function is performed for example, by an algorithm. Q. So if a claim recites a function, is that when means-plus-function applies?
1 2 3 4 5 6 7 8 9	Page 58 A. In the claims as stated, there is usually a means, which to me implies structure. And then there is the function or method that that particular structural element can perform or potentially perform as claimed. Q. So I want to make sure that I understand your answer correctly. I believe you said that: Means	Page 60 Q. How did you determine in this case when a means for construction was appropriate? A. As an example, for the processor, you can't just have a process of isolation. You have to understand how the function is performed for example, by an algorithm. Q. So if a claim recites a function, is that when means-plus-function applies? MS. HOEKEL: Object to the form.
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1 2 3 4 5 6 7 8 9 10 11	Page 58 A. In the claims as stated, there is usually a means, which to me implies structure. And then there is the function or method that that particular structural element can perform or potentially perform as claimed. Q. So I want to make sure that I understand your answer correctly. I believe you said that: Means implies structure. Is that what you meant?	Page 601Q. How did you determine in this case2when a means for construction was appropriate?3A. As an example, for the processor, you4can't just have a process of isolation. You5have to understand how the function is6performed for example, by an algorithm.7Q. So if a claim recites a function, is8that when means-plus-function applies?9MS. HOEKEL: Object to the form.10A. You are asking me the same question11over and over again, counselor.
1 2 3 4 5 6 7 8 9 10 11 12	Page 58 A. In the claims as stated, there is usually a means, which to me implies structure. And then there is the function or method that that particular structural element can perform or potentially perform as claimed. Q. So I want to make sure that I understand your answer correctly. I believe you said that: Means implies structure. Is that what you meant? MS. HOEKEL: Object to the form.	Page 601Q. How did you determine in this case2when a means for construction was appropriate?3A. As an example, for the processor, you4can't just have a process of isolation. You5have to understand how the function is6performed for example, by an algorithm.7Q. So if a claim recites a function, is8that when means-plus-function applies?9MS. HOEKEL: Object to the form.10A. You are asking me the same question11over and over again, counselor.12I'm not really sure if I may be
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1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	 Page 58 A. In the claims as stated, there is usually a means, which to me implies structure. And then there is the function or method that that particular structural element can perform or potentially perform as claimed. Q. So I want to make sure that I understand your answer correctly. I believe you said that: Means implies structure. Is that what you meant? MS. HOEKEL: Object to the form. A. Again, I may be again, not an attorney, so I can't give the most accurate answer. Q. Are you familiar with a presumption? A. Yes. 	Page 601Q. How did you determine in this case2when a means for construction was appropriate?3A. As an example, for the processor, you4can't just have a process of isolation. You5have to understand how the function is6performed for example, by an algorithm.7Q. So if a claim recites a function, is8that when means-plus-function applies?9MS. HOEKEL: Object to the form.10A. You are asking me the same question11over again, counselor.12I'm not really sure if I may be13misinterpreting.14But as, again, means-plus-function in15the claims as recited is evaluated based on my16skill in the art and the specifications as17disclosed.
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	 Page 58 A. In the claims as stated, there is usually a means, which to me implies structure. And then there is the function or method that that particular structural element can perform or potentially perform as claimed. Q. So I want to make sure that I understand your answer correctly. I believe you said that: Means implies structure. Is that what you meant? MS. HOEKEL: Object to the form. A. Again, I may be again, not an atorney, so I can't give the most accurate answer. Q. Are you familiar with a presumption? A. Yes. Q. And you understand that there is a 	Page 601Q. How did you determine in this case2when a means for construction was appropriate?3A. As an example, for the processor, you4can't just have a process of isolation. You5have to understand how the function is6performed for example, by an algorithm.7Q. So if a claim recites a function, is8that when means-plus-function applies?9MS. HOEKEL: Object to the form.10A. You are asking me the same question11over and over again, counselor.12I'm not really sure if I may be13misinterpreting.14But as, again, means-plus-function in15the claims as recited is evaluated based on my16skill in the art and the specifications as17Q. So a person of ordinary skill in the
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	 Page 58 A. In the claims as stated, there is usually a means, which to me implies structure. And then there is the function or method that that particular structural element can perform or potentially perform as claimed. Q. So I want to make sure that I understand your answer correctly. I believe you said that: Means implies structure. Is that what you meant? MS. HOEKEL: Object to the form. A. Again, I may be again, not an atomey, so I can't give the most accurate answer. Q. Are you familiar with a presumption? A. Yes. Q. And you understand that there is a presumption when the words "means for" appear in the ability of the structure. 	Page 601Q. How did you determine in this case2when a means for construction was appropriate?3A. As an example, for the processor, you4can't just have a process of isolation. You5have to understand how the function is6performed for example, by an algorithm.7Q. So if a claim recites a function, is8that when means-plus-function applies?9MS. HOEKEL: Object to the form.10A. You are asking me the same question11over again, counselor.12I'm not really sure if I may be13misinterpreting.14But as, again, means-plus-function in15the claims as recited is evaluated based on my16skill in the art and the specifications as17disclosed.18Q. So a person of ordinary skill in the19art would understand when a claim recites a
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1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	 Page 58 A. In the claims as stated, there is usually a means, which to me implies structure. And then there is the function or method that that particular structural element can perform or potentially perform as claimed. Q. So I want to make sure that I understand your answer correctly. I believe you said that: Means implies structure. Is that what you meant? MS. HOEKEL: Object to the form. A. Again, I may be again, not an atomey, so I can't give the most accurate answer. Q. Are you familiar with a presumption? A. Yes. Q. And you understand that there is a presumption when the words "means for" appear in the claims? A. Yes. Q. Hue do you a determine a bar. 	Page 601Q. How did you determine in this case2when a means for construction was appropriate?3A. As an example, for the processor, you4can't just have a process of isolation. You5have to understand how the function is6performed for example, by an algorithm.7Q. So if a claim recites a function, is8that when means-plus-function applies?9MS. HOEKEL: Object to the form.10A. You are asking me the same question11over again, counselor.12I'm not really sure if I may be13misinterpreting.14But as, again, means-plus-function in15the claims as recited is evaluated based on my16skill in the art and the specifications as17g. So a person of ordinary skill in the19art would understand when a claim recites a20means-plus-function term.21Is that right?

15 (Pages 57 to 60)

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	Page 61	Page 63
1	of it.	1 as my expertise as having a skill in that art
2	O. And what would that understanding be	² for that particular system.
3	based on?	³ O. But you only identified a couple
4	A. Now, do you want me to define what I	4 means-plus-function constructions.
5	consider someone skilled in the art?	⁵ Is that right?
6	Q. Sure.	⁶ A. For the sake of time, yes.
7	A. Sure. That might help rather than	⁷ Q. If you had more time, would you have
8	repeating the same thing.	⁸ identified more?
9	For one skilled in the art for this	⁹ A. I could add some more examples.
10	particular set of patents and disputed claims,	¹⁰ The issue of suspension buttons and
11	you should have at least a Bachelor's degree in	¹¹ the function of suspension buttons.
12	either electrical and biomedical; as well as	¹² Another couple examples would be the
13	work experience in that particular type of	¹³ wireless technology involved in measuring, for
14	device or said system; or have additional work	¹⁴ example, pulse oximetry.
15	experience in those areas would also be helpful.	¹⁵ Another issue would be: How would the
16	And have experience working with, for	¹⁶ parameters measured be transmitted? or
17	example, pulse oximetry devices or other types	¹⁷ whatever.
18	of ambulatory devices, monitoring, for example,	¹⁸ I mean, I could go through an entire
19	a heart rate, pulse rate.	¹⁹ list.
20	Q. And that person	²⁰ Does that help?
21	A or	²¹ Q. And those would all be
22	Q go ahead.	²² means-plus-function terms.
	Page 62	Page 64
1	Page 62 A. I'm sorry. I didn't mean to	Page 64 ¹ Is that right?
1 2	Page 62 A. I'm sorry. I didn't mean to interrupt.	Page 64 ¹ Is that right? ² A. They should.
1 2 3	Page 62 A. I'm sorry. I didn't mean to interrupt. Q. Did you finish your answer?	Page 64 1 Is that right? 2 A. They should. 3 For example, a transmitter should have
1 2 3 4	Page 62 A. I'm sorry. I didn't mean to interrupt. Q. Did you finish your answer? A. I was also going to say, of course,	Page 64 Is that right? A. They should. For example, a transmitter should have means-plus-function. They should have the
1 2 3 4 5	Page 62 A. I'm sorry. I didn't mean to interrupt. Q. Did you finish your answer? A. I was also going to say, of course, pulse oximetry.	Page 64 Is that right? A. They should. For example, a transmitter should have means-plus-function. They should have the structure and how that function is performed,
1 2 3 4 5 6	Page 62 A. I'm sorry. I didn't mean to interrupt. Q. Did you finish your answer? A. I was also going to say, of course, pulse oximetry. Q. That person of ordinary skill in the	Page 64 Is that right? A. They should. For example, a transmitter should have means-plus-function. They should have the structure and how that function is performed, for example, by a pause button or suspension
1 2 3 4 5 6 7	Page 62 A. I'm sorry. I didn't mean to interrupt. Q. Did you finish your answer? A. I was also going to say, of course, pulse oximetry. Q. That person of ordinary skill in the art would understand when a claim recites a	Page 64 1 Is that right? 2 A. They should. 3 For example, a transmitter should have 4 means-plus-function. They should have the 5 structure and how that function is performed, 6 for example, by a pause button or suspension 7 button.
1 2 3 4 5 6 7 8	Page 62 A. I'm sorry. I didn't mean to interrupt. Q. Did you finish your answer? A. I was also going to say, of course, pulse oximetry. Q. That person of ordinary skill in the art would understand when a claim recites a means-plus-function term.	Page 64 Is that right? A. They should. For example, a transmitter should have means-plus-function. They should have the structure and how that function is performed, for example, by a pause button or suspension button. Q. So how do you determine when a claim
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1 2 3 4 5 6 7 8 9 10	Page 62 A. I'm sorry. I didn't mean to interrupt. Q. Did you finish your answer? A. I was also going to say, of course, pulse oximetry. Q. That person of ordinary skill in the art would understand when a claim recites a means-plus-function term. Is that right? MS. HOEKEL: Object to the form.	Page 64 Is that right? A. They should. For example, a transmitter should have means-plus-function. They should have the structure and how that function is performed, for example, by a pause button or suspension button. Q. So how do you determine when a claim recites structure? 10 A. I know you don't want me to use the
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1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	 Page 62 A. I'm sorry. I didn't mean to interrupt. Q. Did you finish your answer? A. I was also going to say, of course, pulse oximetry. Q. That person of ordinary skill in the art would understand when a claim recites a means-plus-function term. Is that right? MS. HOEKEL: Object to the form. A. I would say yes, from a yes. Q. Wouldn't that person need some sort of instruction from an attorney? A. If I had a question, I would refer to counsel if I didn't understand something. Again, I'm not an attorney. 	Page 64 Is that right? A. They should. For example, a transmitter should have means-plus-function. They should have the structure and how that function is performed, for example, by a pause button or suspension button. Q. So how do you determine when a claim recites structure? A. I know you don't want me to use the word "figure." But I look at the figure, in combination with what's disclosed in the specifications, and the detailed description of the invention, and looking at all the elements. Q. So is it your understanding that a
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1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	 Page 62 A. I'm sorry. I didn't mean to interrupt. Q. Did you finish your answer? A. I was also going to say, of course, pulse oximetry. Q. That person of ordinary skill in the art would understand when a claim recites a means-plus-function term. Is that right? MS. HOEKEL: Object to the form. A. I would say yes, from a yes. Q. Wouldn't that person need some sort of instruction from an attorney? A. If I had a question, I would refer to counsel if I didn't understand something. Again, I'm not an attorney. Q. So when you were performing your claim construction analysis, how did you determine 	Page 64 1 Is that right? 2 A. They should. 3 For example, a transmitter should have 4 means-plus-function. They should have the 5 structure and how that function is performed, 6 for example, by a pause button or suspension 7 button. 8 Q. So how do you determine when a claim 9 recites structure? 10 A. I know you don't want me to use the 11 word "figure." 12 But I look at the figure, in 13 combination with what's disclosed in the 14 specifications, and the detailed description of 15 the invention, and looking at all the elements. 16 Q. So is it your understanding that a 17 claim reciting something that's not shown in the 18 figures would not have structure?
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	 Page 62 A. I'm sorry. I didn't mean to interrupt. Q. Did you finish your answer? A. I was also going to say, of course, pulse oximetry. Q. That person of ordinary skill in the art would understand when a claim recites a means-plus-function term. Is that right? MS. HOEKEL: Object to the form. A. I would say yes, from a yes. Q. Wouldn't that person need some sort of instruction from an attorney? A. If I had a question, I would refer to counsel if I didn't understand something. Again, I'm not an attorney. Q. So when you were performing your claim construction analysis, how did you determine when a claim in this case recited a 	Page 641Is that right?2A. They should.3For example, a transmitter should have4means-plus-function. They should have the5structure and how that function is performed,6for example, by a pause button or suspension7button.8Q. So how do you determine when a claim9recites structure?10A. I know you don't want me to use the11word "figure."12But I look at the figure, in13combination with what's disclosed in the14specifications, and the detailed description of15the invention, and looking at all the elements.16Q. So is it your understanding that a17claim reciting something that's not shown in the18figures would not have structure?19MS. HOEKEL: Object to the form.
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	 Page 62 A. I'm sorry. I didn't mean to interrupt. Q. Did you finish your answer? A. I was also going to say, of course, pulse oximetry. Q. That person of ordinary skill in the art would understand when a claim recites a means-plus-function term. Is that right? MS. HOEKEL: Object to the form. A. I would say yes, from a yes. Q. Wouldn't that person need some sort of instruction from an attorney? A. If I had a question, I would refer to counsel if I didn't understand something. Again, I'm not an attorney. Q. So when you were performing your claim construction analysis, how did you determine when a claim in this case recited a means-plus-function term? 	Page 641Is that right?2A. They should.3For example, a transmitter should have4means-plus-function. They should have the5structure and how that function is performed,6for example, by a pause button or suspension7button.8Q. So how do you determine when a claim9recites structure?10A. I know you don't want me to use the11word "figure."12But I look at the figure, in13combination with what's disclosed in the14specifications, and the detailed description of15the invention, and looking at all the elements.16Q. So is it your understanding that a17claim reciting something that's not shown in the18figures would not have structure?19MS. HOEKEL: Object to the form.20A. If it's not been properly disclosed,
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	 Page 62 A. I'm sorry. I didn't mean to interrupt. Q. Did you finish your answer? A. I was also going to say, of course, pulse oximetry. Q. That person of ordinary skill in the art would understand when a claim recites a means-plus-function term. Is that right? MS. HOEKEL: Object to the form. A. I would say yes, from a yes. Q. Wouldn't that person need some sort of instruction from an attorney? A. If I had a question, I would refer to counsel if I didn't understand something. Again, I'm not an attorney. Q. So when you were performing your claim construction analysis, how did you determine when a claim in this case recited a means-plus-function term? A. I was evaluating the specifications 	Page 641Is that right?2A. They should.3For example, a transmitter should have4means-plus-function. They should have the5structure and how that function is performed,6for example, by a pause button or suspension7button.8Q. So how do you determine when a claim9recites structure?10A. I know you don't want me to use the11word "figure."12But I look at the figure, in13combination with what's disclosed in the14specifications, and the detailed description of15the invention, and looking at all the elements.16Q. So is it your understanding that a17claim reciting something that's not shown in the18figures would not have structure?19MS. HOEKEL: Object to the form.20A. If it's not been properly disclosed,21yes.

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			· · · ·
	Page 65		Page 67
1	disclosed"?	1	Q. So you are telling me someone with an
2	A. There had been proper support for, you	2	engineering degree and two years of work
3	know, for that structure in other words, a	3	experience might not know what a computer is?
4	detailed discussion of how the subsystem was	4	A. Sir, you didn't say that.
5	assembled in the entire system, and how that	5	You asked an ordinary person,
6	system or excuse me how that subsystem	6	differentiating from one that's not skilled in
7	performed that function.	7	the art, if I understand you correctly.
8	It should be adequately disclosed,	8	Q. Okay. You misunderstood my question.
9	again, for one skilled in the art, which I am.	9	I'm asking about a person of ordinary
10	Q. So how do you distinguish between when	10	skill in the art.
11	a claim recites structure versus function?	11	Do you understand that?
12	MS. HOEKEL: Object to the form.	12	A. Yes.
13	A. Structure to me means the physical	13	Q. Would a person of ordinary skill in
14	description of the system, whereas function	14	the art understand what a computer is?
15	means what function or process is being or	15	A. Yes.
16	method is being performed by said structure.	16	Q. Without looking at a patent
17	Q. Is that the process you followed in	17	specification?
18	this case?	18	A. Yes, sir.
19	A. Yes, it is.	19	Q. Would a person of ordinary skill in
20	Q. Did you follow any other process?	20	the art understand what a monitoring device is
21	A. No.	21	without looking at a patent specification?
22	MS. HOEKEL: Object.	22	A. Yes, they would.
	Page 66		Page 68
1	BY MR CLAASSEN	1	O What is a monitoring device?
2	O Would a person of ordinary skill in	2	MS. HOEKEL: Object to the form.
3	the art understand what a computer is without	3	A. A monitoring device allows the
4	looking at a patent specification?	4	nhysiological narameters being measured to
5	MS_HOEKEL: Objection	5	display
6	A. It depends on that person's level of	6	O does a computer
7	education. There is a lot of people that use	7	A after they have been processed.
8	computers and have trouble turning them on and	8	O. I'm sorry. Linterrupted you
9	off.	9	A. It's my understanding as an expert in
10	O. Okay. My question is a little	10	this field, a display of physiological
11	different.	11	parameters as it relates to these nine patents
12	I'm not asking if a person of ordinary	12	gives you a physical excuse me a visible
13	skill in the art would know how to use a	13	display of the measurements obtained after being
14	computer.	14	processed.
15	My question is: Would a person of	15	O. What is a computer?
16	ordinary skill in the art understand what a	16	MS. HOEKEL: Object to the form.
17	computer is without looking at a patent	17	A. A computer is a device that does
18	specification?	18	nothing unless you program an algorithm to do
19	MS. HOEKEL: Object to the form.	19	something. A computer will do nothing unless
20	A. Same answer: Depends on his level of	20	you tell it to do something.
21	education and how much instruction he's given	21	O. Is it any more than that?
22	how to use said computer	22	MS. HOEKEL: Object to the form
	·· ··· · ···· · ···· · ···· · ····	1	oojeet to the form

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	Page 69		Page 71
1	A. In these patents, it may be, depending	1	Do you remember that?
2	on what's disclosed in the specification.	2	A. Yes.
3	Q. Would person of ordinary skill in the	3	MR. CLAASSEN: I'll ask the
4	art understand "conventional bedside monitor"?	4	videographer to bring it up on the screen now.
5	MS. HOEKEL: Object to the form.	5	BY MR. CLAASSEN:
6	A. As an expert, I understand.	6	Q. And I'd like to turn back now to what
7	I can't say other experts would.	7	is page 15 of the PDF. And that's the beginning
8	Q. Now what I'm asking you is: Would a	8	of the chart, Dr. Yanulis.
9	person of ordinary skill in the art understand	9	Do you see that?
10	"conventional bedside monitor"?	10	A. Yes, I have it on my screen. Thank
11	A. He should or she should.	11	you.
12	Q. Would a person of ordinary skill in	12	Q. What is your understanding of this
13	the art understand "initiator"?	13	chart?
14	MS. HOEKEL: Object to the form.	14	A. In the first column is the claim
15	A. He should, and I understand.	15	language and the terms these are the claim
16	(Pause)	16	language as determined as articulated in the
17	MR. CLAASSEN: We have been going now	17	claims and for the patents.
18	for a little bit. Do you want to take about a	18	But the important thing is your
19	five-minute break?	19	construction and evidence, and my opinions of
20	MS. HOEKEL: Sure.	20	the constructions as you proposed them, and my
21	THE WITNESS: That would being	21	evidence how I viewed it.
22	fantastic. Thanks, counselor.	22	Q. So the right column that shows your
	Page 70		Page 72
1	Page 70 THE VIDEOGRAPHER: The time is 1:47	1	Page 72
1 2	Page 70 THE VIDEOGRAPHER: The time is 1:47 p.m. Off the record.	1 2	Page 72 opinions? Is that correct?
1 2 3	Page 70 THE VIDEOGRAPHER: The time is 1:47 p.m. Off the record. (Recess from 1:47 p.m. to 2:01 p.m.)	1 2 3	Page 72 opinions? Is that correct? A. To elaborate, what I for example, I
1 2 3 4	Page 70 THE VIDEOGRAPHER: The time is 1:47 p.m. Off the record. (Recess from 1:47 p.m. to 2:01 p.m.) THE VIDEOGRAPHER: We are back on the	1 2 3 4	Page 72 opinions? Is that correct? A. To elaborate, what I for example, I gave what I thought "a separate computing
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1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	Page 70 THE VIDEOGRAPHER: The time is 1:47 p.m. Off the record. (Recess from 1:47 p.m. to 2:01 p.m.) THE VIDEOGRAPHER: We are back on the record. The time is 2:01 p.m. BY MR. CLAASSEN: Q. Dr. Yanulis, we just took a little break. Is that right? A. Yes, sir. Q. Did you talk about the substance of your testimony with counsel? MS. HOEKEL: Object to the form, and objection that it calls for privileged testimony. BY MR. CLAASSEN: Q. You can answer the question. A. No, I did not. (Pause) Q. I want to turn now to what I introduced as Exhibit 1 earlier. That's the	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	Page 72 opinions? Is that correct? A. To elaborate, what I for example, I gave what I thought "a separate computing device" meant, as an example. Q. Let's start with that example. What is your understanding of the construction for "separate computing device"? A. My understanding, in view of the specification, and the claims, and my expertise for one skilled in the art, and the way this separate computing device has been disclosed in the specs, reads on "a conventional bedside monitor." Q. When you say "reads on," what do you mean? A. I meant to say it is the same thing, as it's been disclosed. Q. So "separate computing device" means "conventional bedside monitor." Is that right?

18 (Pages 69 to 72)

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	Page 73		Page 75
1	been disclosed.	1	A. Yes, I did.
2	Q. Al I'm talking about right now is the	2	Q. When did you help prepare the chart?
3	'735 patent, claim 20.	3	A. I'm going to have to rephrase that.
4	Do you understand that?	4	No, I didn't.
5	A. Yes, sir.	5	This was the defendants' proposed
6	Q. And then also the '623 patent, claims	6	construction and evidence. I just provided my
7	1, 6 see that list of claims?	7	evaluation.
8	A. Yes.	8	I apologize.
9	Q. So I'd like to have this discussion in	9	Q. Okay.
10	the context of those claims.	10	What is your understanding of Masimo's
11	Do you understand that?	11	proposed construction?
12	A. Yes.	12	A. As I have done, they are giving plain
13	Q. So you understand that third column	13	and ordinary meaning to these terms.
14	sets forth the defendants' proposed	14	Q. So they did what you have done?
15	construction, right?	15	MS. HOEKEL: Objection.
16	A. Yes, I do.	16	A. Up to
17	O. What's your understanding of the	17	Q. You were answering. Go ahead.
18	defendants in the case?	18	A. Up to a point.
19	MS. HOEKEL: Have object to the form.	19	I may not agree with the way they have
20	BY MR. CLAASSEN:	20	construed it.
21	O. Who are the defendants in the case.	21	O. What is your understanding of the
22	Dr. Yanulis?	22	construction that Masimo proposes?
	Page 74		Page 76
1	A. The defendants are Sotero Sotero	1	A. For the term "a separate computing
2	Wireless, I believe, is the full name.	2	device"?
3	Q. Is it anyone else?	3	O. Yes.
4	A. There was initially. But that I	4	A. And they are implying, as the chart
5	believe that party no longer is involved.	5	says, plain and ordinary meaning, no
6	Q. What's your understanding of that	6	construction necessary.
7	party?	7	O. At what point do you disagree with
8	MS. HOEKEL: Object to the form.	8	Masimo's construction?
9	A. I don't know that much about it.	9	A. The fact, for one skilled in the art
10	But they, obviously, are not part of	10	looking at the specifications, it is nothing
11	the case from my understanding.	11	more it is equivalent to a conventional
12	Q. Who informed you they are not part of	12	bedside monitor, as disclosed in the specs.
13	case?	13	O. Can it be anything other than a
14	MS. HOEKEL: Object to the form.	14	conventional bedside monitor?
15	A. Counsel.	15	A. Sure, if it was disclosed in a
16	MS. HOEKEL: Let me get my objection	16	different way.
17	on the record please.	17	O. What do you mean by that?
18	Object to the form, beyond the scope.	18	A. I'm basing the fact that I have said
19	and relevance.	19	it's a conventional bedside monitor based on
20	BY MR. CLAASSEN:	20	reading the specs as disclosed in the natents
21	0. Did vou heln prepare this chart Dr	21	and my skill in the art
22	Yanulis?	22	O. I'd like to scroll down now about five
		1	

19 (Pages 73 to 76)

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	Page 77		Page 79
1	pages to where it mentions your potential	1	to be limited to wearable transmitter wirelessly
2	testimony.	2	transmitting data to the conventional bedside
3	Are you familiar with that?	3	monitor using a specific receiver unit
4	So it's going to be	4	configured to function with a conventional
5	A. Yes.	5	bedside monitor, that the spec
6	Q 5 to 6, starting there.	6	Q. I'd like to focus on the words
7	So you see where it says: Defendants	7	"invention scope."
8	may rely on Dr. Yanulis?	8	Do you see those?
9	A. Give me a moment to read it,	9	A. Yes.
10	counselor.	10	Q. They are highlighted in yellow on the
11	Q. Sure.	11	screen in Exhibit 1?
12	A. For all disputed claim terms,	12	A. Yes, sir.
13	Defendants have identified Dr. George Yanulis	13	Q. What's your understanding of the
14	myself as the expert who will provide	14	invention scope within this statement?
15	testimony	15	A. I'm not reading it just that in
16	Q. Doctor, I don't want you to read that.	16	isolation. I'm reading the whole paragraph.
17	What I'd like to you focus on now	17	Q. What does the whole paragraph mean?
18	is do you see what's been highlighted in	18	A. The whole paragraph is describing the
19	yellow on the screen?	19	function and why the means-plus-function
20	A. Yes.	20	why how I propose evaluating why the
21	Q. Then that continues on.	21	defendants' proposed construction of evidence
22	You understand that this is describing	22	is.
	Page 78		Page 80
1	Page 78	1	Page 80
1	Page 78 what the defendants may rely on you to do. Is that right?	1	Page 80 I mean, that's the purpose of our discussion today is getting my opinions and why
1 2 3	Page 78 what the defendants may rely on you to do. Is that right? A. Correct.	1 2 3	Page 80 I mean, that's the purpose of our discussion today is getting my opinions and why it was proposed this way.
1 2 3 4	Page 78 what the defendants may rely on you to do. Is that right? A. Correct. O. Let's scroll down to the next page	1 2 3 4	Page 80 I mean, that's the purpose of our discussion today is getting my opinions and why it was proposed this way. O. I want to make sure I heard you right.
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20 (Pages 77 to 80)

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	Page 81		Page 83
1	monitor?	¹ physiological parameters being mea	sured in some
2	A. Based on the way the specifications	2 way.	
3	yes.	³ Q. Okay.	
4	MS. HOEKEL: Dr. Yanulis, we can't	⁴ Does it have to have a specific	÷
5	hear you when you lean in.	⁵ receiver unit to do that?	
6	THE WITNESS: I apologize. Can you	⁶ A. Not necessarily. But the way	/ it's
7	hear me now?	⁷ been disclosed, this is the way I und	erstand it.
8	MS. HOEKEL: Now we can.	⁸ Q. What I'm trying to understan	d is: Is
9	A. My opinions and they have not	⁹ your understanding of separate comp	puting device
10	changed is, after evaluating the claims and	¹⁰ also include a specific receiver unit?	
11	in view of the specification which includes the	11 (Pause)	
12	figures, I'm saying that my opinions, as one	¹² A. That it includes a transmittin	g or a
13	skilled in the art, is this particular so-called	¹³ means to wirelessly transmit the data	a it's
14	separate computing device is exactly a so-called	¹⁴ been written into the conventional	bedside
15	conventional bedside monitor which has been used	¹⁵ monitor or to the conventional bec	dside
16	for several years now.	¹⁶ monitor.	
17	That's all I'm saying.	¹⁷ Q. Okay.	
18	Q. Okay.	¹⁸ You said "transmitting," I beli	eve.
19	So "separate computing device" means	¹⁹ Does the separate computing of	device
20	"conventional bedside monitor," right?	transmit in this claim?	
21	A. As it's been disclosed in the	A. No, not directly. But it has to	0
22	specifications.	have the parameters being measur	ed has to be
	Page 82		Daga 94
			Page 04
1	Q. Why did you also then include the	¹ transmitted to the conventional bed	side monitor
1 2	Q. Why did you also then include the "using a specific receiver unit"?	 transmitted to the conventional bed to be visible to the clinician. 	side monitor
1 2 3	Q. Why did you also then include the"using a specific receiver unit"?Do you see that?	 transmitted to the conventional bed to be visible to the clinician. Q. So they have to be received 	side monitor
1 2 3 4	Q. Why did you also then include the"using a specific receiver unit"?Do you see that?A. Because I was limiting I was	 transmitted to the conventional bed to be visible to the clinician. Q. So they have to be received separate computing device. 	side monitor by the
1 2 3 4 5	 Q. Why did you also then include the "using a specific receiver unit"? Do you see that? A. Because I was limiting I was providing what the device as claimed should have 	 transmitted to the conventional bed to be visible to the clinician. Q. So they have to be received separate computing device. Is that right? 	side monitor
1 2 3 4 5 6	 Q. Why did you also then include the "using a specific receiver unit"? Do you see that? A. Because I was limiting I was providing what the device as claimed should have read. 	 transmitted to the conventional bed to be visible to the clinician. Q. So they have to be received separate computing device. Is that right? A. Yes. 	by the
1 2 4 5 6 7	 Q. Why did you also then include the "using a specific receiver unit"? Do you see that? A. Because I was limiting I was providing what the device as claimed should have read. Q. So it should have read: Conventional 	 transmitted to the conventional bed. to be visible to the clinician. Q. So they have to be received separate computing device. Is that right? A. Yes. Q. And where are they received 	by the
1 2 4 5 6 7 8	 Q. Why did you also then include the "using a specific receiver unit"? Do you see that? A. Because I was limiting I was providing what the device as claimed should have read. Q. So it should have read: Conventional bedside monitor using a specific receiver unit. 	 transmitted to the conventional bed. to be visible to the clinician. Q. So they have to be received separate computing device. Is that right? A. Yes. Q. And where are they received separate computing device? 	by the
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1 2 3 4 5 6 7 8 9 10 11 12	 Q. Why did you also then include the "using a specific receiver unit"? Do you see that? A. Because I was limiting I was providing what the device as claimed should have read. Q. So it should have read: Conventional bedside monitor using a specific receiver unit. Is that correct? MS. HOEKEL: Object to the form. THE WITNESS: Could you repeat the question again, counselor? 	 transmitted to the conventional bed. to be visible to the clinician. Q. So they have to be received separate computing device. Is that right? A. Yes. Q. And where are they received separate computing device? (Pause) A. They are received by by t so-called conventional bedside mor allows you to do that. 	by the d in the he hitor. It
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1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	 Q. Why did you also then include the "using a specific receiver unit"? Do you see that? A. Because I was limiting I was providing what the device as claimed should have read. Q. So it should have read: Conventional bedside monitor using a specific receiver unit. Is that correct? MS. HOEKEL: Object to the form. THE WITNESS: Could you repeat the question again, counselor? MR. CLAASSEN: Yeah. BY MR. CLAASSEN: Q. What I'm trying to figure out here is it says: Using a specific receiver unit. 	1 transmitted to the conventional bed 2 to be visible to the clinician. 3 Q. So they have to be received 4 separate computing device. 5 Is that right? 6 A. Yes. 7 Q. And where are they received 8 separate computing device? 9 (Pause) 10 A. They are received by by t 11 so-called conventional bedside mor 12 allows you to do that. 13 Q. Does the conventional bedside 14 have to have a specific receiver uni 15 to do that? 16 A. No. But based on the way t	by the by the d in the he hitor. It ide monitor t in order he specs
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1	Page of	Page 6	0/
1	A. I never used the word: Had.	\perp Is that right?	
2	And if I had, I apologize.	A. Yes.	
3	What I meant to say: This is what the	Q. I want to scroll back now to page 1 of	f
4	spec says. And that's all I'm going by.	⁴ this Exhibit 1. The PDF page is 15.	
5	Q. The spec says that the separate	5 A. Okay.	
6	computing device has to be a conventional	⁶ Q. You see the construction that Sotero	
7	bedside monitor.	⁷ proposed there in the third column?	
8	Is that your understanding?	⁸ A. Counselor, are you referring to page	
9	A. The way I'm understanding the way the	9 1?	
10	specs are written.	Q. It's shown on the screen right now, if	
11	Q. So it must be a conventional bedside	¹¹ that would be helpful to you.	
12	monitor.	¹² A. Okay, I see where you have highlight	ted
13	Is that right?	¹³ it.	
14	A. The way they have disclosed it, it is	Q. You see where it says: Conventional	l
15	exactly the way a conventional bedside monitor	¹⁵ bedside monitor?	
16	operates and functions, having worked with these	¹⁶ A. Yes.	
17	devices.	¹⁷ Q. That's your understanding of the	
18	Q. What about the specific receiver unit?	¹⁸ meaning of separate computing device, right	?
19	MS. HOEKEL: Object to the form.	¹⁹ A. The way Masimo has disclosed it in	
20	A. I'd have to go back to the	²⁰ their patent specs, yes.	
21	specifications to show you the exact line.	Q. But it doesn't say anything about a	
22	But working from memory, the way this	²² specific receiver unit, does it?	
	Page 86	Page	88
1	Page 86 device as disclosed by Masimo in their patent	Page 8	88
1 2	Page 86 device as disclosed by Masimo in their patent or these two patents it is functioning as a	Page 2 1 A. No, it does not. 2 Q. Does "specific receiver unit" appear	88
1 2 3	Page 86 device as disclosed by Masimo in their patent or these two patents it is functioning as a conventional bedside monitor.	Page 3 1 A. No, it does not. 2 Q. Does "specific receiver unit" appear 3 in the claims itself?	88
1 2 3 4	Page 86 device as disclosed by Masimo in their patent or these two patents it is functioning as a conventional bedside monitor. Q. Is it your understanding that a	Page 3 1 A. No, it does not. 2 Q. Does "specific receiver unit" appear 3 in the claims itself? 4 A. Can I look at the claim again?	88
1 2 3 4 5	Page 86 device as disclosed by Masimo in their patent or these two patents it is functioning as a conventional bedside monitor. Q. Is it your understanding that a specific receiver unit is part of the claims of	Page 1 1 A. No, it does not. 2 Q. Does "specific receiver unit" appear 3 in the claims itself? 4 A. Can I look at the claim again? 5 Q. Yes, it's shown in column 1, for	88
1 2 3 4 5 6	Page 86 device as disclosed by Masimo in their patent or these two patents it is functioning as a conventional bedside monitor. Q. Is it your understanding that a specific receiver unit is part of the claims of the '735 patent?	Page 1 A. No, it does not. Q. Does "specific receiver unit" appear in the claims itself? A. Can I look at the claim again? Q. Yes, it's shown in column 1, for example.	88
1 2 3 4 5 6 7	Page 86 device as disclosed by Masimo in their patent or these two patents it is functioning as a conventional bedside monitor. Q. Is it your understanding that a specific receiver unit is part of the claims of the '735 patent? A. The claims are I'm not looking at	Page 3 1 A. No, it does not. 2 Q. Does "specific receiver unit" appear 3 in the claims itself? 4 A. Can I look at the claim again? 5 Q. Yes, it's shown in column 1, for 6 example. 7 A. I can flip back, counselor. You don't	88
1 2 3 4 5 6 7 8	Page 86 device as disclosed by Masimo in their patent or these two patents it is functioning as a conventional bedside monitor. Q. Is it your understanding that a specific receiver unit is part of the claims of the '735 patent? A. The claims are I'm not looking at the claims in isolation. I'm looking at the	Page 3 1 A. No, it does not. 2 Q. Does "specific receiver unit" appear 3 in the claims itself? 4 A. Can I look at the claim again? 5 Q. Yes, it's shown in column 1, for 6 example. 7 A. I can flip back, counselor. You don't 8 have to share.	88
1 2 3 4 5 6 7 8 9	Page 86 device as disclosed by Masimo in their patent or these two patents it is functioning as a conventional bedside monitor. Q. Is it your understanding that a specific receiver unit is part of the claims of the '735 patent? A. The claims are I'm not looking at the claims in isolation. I'm looking at the claims in terms of the specs as well.	Page 1 1 A. No, it does not. 2 Q. Does "specific receiver unit" appear 3 in the claims itself? 4 A. Can I look at the claim again? 5 Q. Yes, it's shown in column 1, for 6 example. 7 A. I can flip back, counselor. You don't 8 have to share. 9 Q. No, it's shown on the screen right	88
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1 2 3 4 5 6 7 8 9 10 11 12 13	Page 86 device as disclosed by Masimo in their patent or these two patents it is functioning as a conventional bedside monitor. Q. Is it your understanding that a specific receiver unit is part of the claims of the '735 patent? A. The claims are I'm not looking at the claims in isolation. I'm looking at the claims in terms of the specs as well. Maybe I'm not making that clear. Q. Okay. So when you are looking at the claims of the '735 patent, and you see the "separate	Page 3 1 A. No, it does not. 2 Q. Does "specific receiver unit" appear 3 in the claims itself? 4 A. Can I look at the claim again? 5 Q. Yes, it's shown in column 1, for 6 example. 7 A. I can flip back, counselor. You don't 8 have to share. 9 Q. No, it's shown on the screen right 10 now, Dr. Yanulis, in column 1. 11 A. Okay. 12 Q. Can you read that? 13 A. I didn't hear the question. I heard	88
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1 2 3 4 5 6 7 8 9 10 11 12 13 14 15	Page 86 device as disclosed by Masimo in their patent or these two patents it is functioning as a conventional bedside monitor. Q. Is it your understanding that a specific receiver unit is part of the claims of the '735 patent? A. The claims are I'm not looking at the claims in isolation. I'm looking at the claims in terms of the specs as well. Maybe I'm not making that clear. Q. Okay. So when you are looking at the claims of the '735 patent, and you see the "separate computing device," your understanding is that that is a conventional bedside monitor, right?	Page 1 A. No, it does not. 2 Q. Does "specific receiver unit" appear 3 in the claims itself? 4 A. Can I look at the claim again? 5 Q. Yes, it's shown in column 1, for 6 example. 7 A. I can flip back, counselor. You don't 8 have to share. 9 Q. No, it's shown on the screen right 10 now, Dr. Yanulis, in column 1. 11 A. Okay. 12 Q. Can you read that? 13 A. I didn't hear the question. I heard 14 what you said about reading the top line. 15 Q. Are you able to read that claim in the	88
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1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	 Page 86 device as disclosed by Masimo in their patent or these two patents it is functioning as a conventional bedside monitor. Q. Is it your understanding that a specific receiver unit is part of the claims of the '735 patent? A. The claims are I'm not looking at the claims in isolation. I'm looking at the claims in terms of the specs as well. Maybe I'm not making that clear. Q. Okay. So when you are looking at the claims of the '735 patent, and you see the "separate computing device," your understanding is that that is a conventional bedside monitor, right? A. Yes, I do. Q. Does that conventional bedside monitor 	Page 3 1 A. No, it does not. 2 Q. Does "specific receiver unit" appear 3 in the claims itself? 4 A. Can I look at the claim again? 5 Q. Yes, it's shown in column 1, for 6 example. 7 A. I can flip back, counselor. You don't 8 have to share. 9 Q. No, it's shown on the screen right 10 now, Dr. Yanulis, in column 1. 11 A. Okay. 12 Q. Can you read that? 13 A. I didn't hear the question. I heard 14 what you said about reading the top line. 15 Q. Are you able to read that claim in the 16 left column, claim 20 from the '735 patent? 17 A. As how is Masimo a separate computi	88
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1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	 Page 86 device as disclosed by Masimo in their patent or these two patents it is functioning as a conventional bedside monitor. Q. Is it your understanding that a specific receiver unit is part of the claims of the '735 patent? A. The claims are I'm not looking at the claims in isolation. I'm looking at the claims in terms of the specs as well. Maybe I'm not making that clear. Q. Okay. So when you are looking at the claims of the '735 patent, and you see the "separate computing device," your understanding is that that is a conventional bedside monitor, right? A. Yes, I do. Q. Does that conventional bedside monitor also need to include a specific receiver unit? A. Again, that's what the specs of the 	Page 3 1 A. No, it does not. 2 Q. Does "specific receiver unit" appear 3 in the claims itself? 4 A. Can I look at the claim again? 5 Q. Yes, it's shown in column 1, for 6 example. 7 A. I can flip back, counselor. You don't 8 have to share. 9 Q. No, it's shown on the screen right 10 now, Dr. Yanulis, in column 1. 11 A. Okay. 12 Q. Can you read that? 13 A. I didn't hear the question. I heard 14 what you said about reading the top line. 15 Q. Are you able to read that claim in the 16 left column, claim 20 from the '735 patent? 17 A. As how is Masimo a separate computi 18 device? 19 Q. No.	ing
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	 Page 86 device as disclosed by Masimo in their patent or these two patents it is functioning as a conventional bedside monitor. Q. Is it your understanding that a specific receiver unit is part of the claims of the '735 patent? A. The claims are I'm not looking at the claims in isolation. I'm looking at the claims in terms of the specs as well. Maybe I'm not making that clear. Q. Okay. So when you are looking at the claims of the '735 patent, and you see the "separate computing device," your understanding is that that is a conventional bedside monitor, right? A. Yes, I do. Q. Does that conventional bedside monitor also need to include a specific receiver unit? A. Again, that's what the specs of the patent says. 	Page 1 A. No, it does not. 2 Q. Does "specific receiver unit" appear 3 in the claims itself? 4 A. Can I look at the claim again? 5 Q. Yes, it's shown in column 1, for 6 example. 7 A. I can flip back, counselor. You don't 8 have to share. 9 Q. No, it's shown on the screen right 10 now, Dr. Yanulis, in column 1. 11 A. Okay. 12 Q. Can you read that? 13 A. I didn't hear the question. I heard 14 what you said about reading the top line. 15 Q. Are you able to read that claim in the 16 left column, claim 20 from the '735 patent? 17 A. As how is Masimo a separate computi 18 device? 19 Q. No. 20 My question is: Does it mention	88
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	 Page 86 device as disclosed by Masimo in their patent or these two patents it is functioning as a conventional bedside monitor. Q. Is it your understanding that a specific receiver unit is part of the claims of the '735 patent? A. The claims are I'm not looking at the claims in isolation. I'm looking at the claims in terms of the specs as well. Maybe I'm not making that clear. Q. Okay. So when you are looking at the claims of the '735 patent, and you see the "separate computing device," your understanding is that that is a conventional bedside monitor, right? A. Yes, I do. Q. Does that conventional bedside monitor also need to include a specific receiver unit? A. Again, that's what the specs of the patent says. Q. So it must include the specific 	Page 1 A. No, it does not. 2 Q. Does "specific receiver unit" appear 3 in the claims itself? 4 A. Can I look at the claim again? 5 Q. Yes, it's shown in column 1, for 6 example. 7 A. I can flip back, counselor. You don't 8 have to share. 9 Q. No, it's shown on the screen right 10 now, Dr. Yanulis, in column 1. 11 A. Okay. 12 Q. Can you read that? 13 A. I didn't hear the question. I heard 14 what you said about reading the top line. 15 Q. Are you able to read that claim in the 16 left column, claim 20 from the '735 patent? 17 A. As how is Masimo a separate computing 18 device? 19 Q. No. 20 My question is: Does it mention 21 anything about a specific receiver unit?	88

22 (Pages 85 to 88)

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	Page 89	Ра	ge 91
1	Q. So I'd like to scroll then back down	¹ Q. If the court adopts your construct	tion,
2	to page 5 and 6 that we were looking at before.	² does it include using a specific receiver	unit?
3	I guess it's page 6.	³ A. That's if they agree. This is just	a
4	(Pause)	⁴ proposed construction by the district con-	urt.
5	Q. You see the words "using a specific	⁵ Q. So if the district court agrees with	th
6	receiver unit," right? in the right-hand	⁶ your construction, it includes using a sp	ecific
7	column?	7 receiver unit, right?	
8	(Pause)	⁸ A. To the best of my knowledge, ye	es.
9	A. I'm not sure I'm I'm looking at the	⁹ Q. That specific receiver unit is not	
10	page. But can you highlight the section that	¹⁰ part of Sotero's construction, right?	
11	you are referring to?	¹¹ A. Correct.	
12	Q. Sure.	¹² Q. So you propose a different	
13	It is it begins six lines down:	¹³ construction, right?	
14	Using a specific receiver unit.	¹⁴ A. No, sir, I'm not. I'm looking at t	he
15	MR. CLAASSEN: On page 6,	¹⁵ disputed eight terms as proposed by the	court's
16	videographer. Right column, please.	¹⁶ listing the way Masimo would like the c	laims to
17	Using at the end of that line where	¹⁷ be constructed, or using plain and ordin	ary
18	your cursor is.	¹⁸ meaning, versus Sotero's position on wh	ny they
19	THE WITNESS: I have that, sir	¹⁹ don't agree with that term or the way it's	5
20	"bedside monitor using a specific receiver."	evaluated or used.	
21	BY MR. CLAASSEN:	21 Q. Have you provided any other op	inions
22	Q. So you see that "using a specific	²² on the construction of the terms in the '7	35
	Page 90	Pa	.ge 92
1	Page 90 receiver unit"?	Pa ¹ patent?	.ge 92
1 2	Page 90 receiver unit"? A. Yes.	 patent? MS. HOEKEL: Object to the form 	.ge 92 n.
1 2 3	Page 90 receiver unit"? A. Yes. Q. Is that part of the claims of the '735	 patent? MS. HOEKEL: Object to the form A. Could you repeat the question ag 	.ge 92 n. ain,
1 2 3 4	Page 90 receiver unit"? A. Yes. Q. Is that part of the claims of the '735 patent?	 patent? MS. HOEKEL: Object to the form A. Could you repeat the question ag counselor? 	.ge 92 n. ain,
1 2 3 4 5	Page 90 receiver unit"? A. Yes. Q. Is that part of the claims of the '735 patent? A. No, that's the defendants' proposed	 patent? MS. HOEKEL: Object to the form A. Could you repeat the question ag counselor? Q. Sure. 	.ge 92 n. ain,
1 2 3 4 5 6	Page 90 receiver unit"? A. Yes. Q. Is that part of the claims of the '735 patent? A. No, that's the defendants' proposed construction.	 patent? MS. HOEKEL: Object to the form A. Could you repeat the question ag counselor? Q. Sure. Have you provided any other opin 	.ge 92 n. ain, ions
1 2 3 4 5 6 7	Page 90 receiver unit"? A. Yes. Q. Is that part of the claims of the '735 patent? A. No, that's the defendants' proposed construction. Q. So defendants' proposed construction	 patent? MS. HOEKEL: Object to the form A. Could you repeat the question ag counselor? Q. Sure. Have you provided any other opin on the construction of terms in the '735 p 	.ge 92 n. ain, ions patent?
1 2 4 5 6 7 8	Page 90 receiver unit"? A. Yes. Q. Is that part of the claims of the '735 patent? A. No, that's the defendants' proposed construction. Q. So defendants' proposed construction includes a specific receiver unit.	 patent? MS. HOEKEL: Object to the form A. Could you repeat the question ag counselor? Q. Sure. Have you provided any other opin on the construction of terms in the '735 p A. No. 	.ge 92 n. ain, ions patent?
1 2 4 5 6 7 8 9	Page 90 receiver unit"? A. Yes. Q. Is that part of the claims of the '735 patent? A. No, that's the defendants' proposed construction. Q. So defendants' proposed construction includes a specific receiver unit. Is that correct?	 patent? MS. HOEKEL: Object to the form A. Could you repeat the question ag counselor? Q. Sure. Have you provided any other opin on the construction of terms in the '735 p A. No. Q. Did you provide any opinion on the 	.ge 92 n. ain, ions patent?
1 2 3 4 5 6 7 8 9 10	Page 90 receiver unit"? A. Yes. Q. Is that part of the claims of the '735 patent? A. No, that's the defendants' proposed construction. Q. So defendants' proposed construction includes a specific receiver unit. Is that correct? A. Correct.	1 patent? 2 MS. HOEKEL: Object to the form 3 A. Could you repeat the question ag 4 counselor? 5 Q. Sure. 6 Have you provided any other opin 7 on the construction of terms in the '735 p 8 A. No. 9 Q. Did you provide any opinion on the construction of terms for your IPR declar	n. ain, ions patent? the ration
1 2 3 4 5 6 7 8 9 10 11	Page 90 receiver unit"? A. Yes. Q. Is that part of the claims of the '735 patent? A. No, that's the defendants' proposed construction. Q. So defendants' proposed construction includes a specific receiver unit. Is that correct? A. Correct. Q. Is it your understanding that a	 patent? MS. HOEKEL: Object to the form A. Could you repeat the question ag counselor? Q. Sure. Have you provided any other opin on the construction of terms in the '735 p A. No. Q. Did you provide any opinion on to construction of terms for your IPR decla for the '735 patent? 	n. ain, ions batent? the ration
1 2 3 4 5 6 7 8 9 10 11 12	Page 90 receiver unit"? A. Yes. Q. Is that part of the claims of the '735 patent? A. No, that's the defendants' proposed construction. Q. So defendants' proposed construction includes a specific receiver unit. Is that correct? A. Correct. Q. Is it your understanding that a specific receiver unit is also part of the	 patent? MS. HOEKEL: Object to the forr A. Could you repeat the question ag counselor? Q. Sure. Have you provided any other opin on the construction of terms in the '735 p A. No. Q. Did you provide any opinion on the construction of terms for your IPR decla for the '735 patent? MS. HOEKEL: Object to the form 	n. ain, ions patent? the ration n.
1 2 3 4 5 6 7 8 9 10 11 12 13	Page 90 receiver unit"? A. Yes. Q. Is that part of the claims of the '735 patent? A. No, that's the defendants' proposed construction. Q. So defendants' proposed construction includes a specific receiver unit. Is that correct? A. Correct. Q. Is it your understanding that a specific receiver unit is also part of the claims of the '623 patent?	1 patent? 2 MS. HOEKEL: Object to the form 3 A. Could you repeat the question ag 4 counselor? 5 Q. Sure. 6 Have you provided any other opin 7 on the construction of terms in the '735 p 8 A. No. 9 Q. Did you provide any opinion on the construction of terms for your IPR decla 10 construction of terms for your IPR decla 11 for the '735 patent? 12 MS. HOEKEL: Object to the form 13 I don't think it's fair to have this	n. ain, ions patent? the ration n.
1 2 3 4 5 6 7 8 9 10 11 12 13 14	Page 90 receiver unit"? A. Yes. Q. Is that part of the claims of the '735 patent? A. No, that's the defendants' proposed construction. Q. So defendants' proposed construction includes a specific receiver unit. Is that correct? A. Correct. Q. Is it your understanding that a specific receiver unit is also part of the claims of the '623 patent? A. To the best of my knowledge, yes.	1 patent? 2 MS. HOEKEL: Object to the form 3 A. Could you repeat the question ag 4 counselor? 5 Q. Sure. 6 Have you provided any other opin 7 on the construction of terms in the '735 p 8 A. No. 9 Q. Did you provide any opinion on to 10 construction of terms for your IPR decla 11 for the '735 patent? 12 MS. HOEKEL: Object to the form 13 I don't think it's fair to have this 14 being be a memory test; plus the IPR decla	n. ain, ions batent? the ration n. claration
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1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	 Page 90 receiver unit"? A. Yes. Q. Is that part of the claims of the '735 patent? A. No, that's the defendants' proposed construction. Q. So defendants' proposed construction includes a specific receiver unit. Is that correct? A. Correct. Q. Is it your understanding that a specific receiver unit is also part of the claims of the '623 patent? A. To the best of my knowledge, yes. (Pause) Q. And the claims as you understand them are limited to using a specific receiver unit. Is that correct? A. No. I'm not saying that. 	1 patent? 2 MS. HOEKEL: Object to the form 3 A. Could you repeat the question ag 4 counselor? 5 Q. Sure. 6 Have you provided any other opin 7 on the construction of terms in the '735 p 8 A. No. 9 Q. Did you provide any opinion on the construction of terms for your IPR decla 10 construction of terms for your IPR decla 11 for the '735 patent? 12 MS. HOEKEL: Object to the form 13 I don't think it's fair to have this 14 being be a memory test; plus the IPR decla 15 is not an issue in this particular proceeding 16 (Pause) 17 A. To the best of my memory, I did 18 provide opinions on some of the terms as 19 discussed earlier in my IPRs, but as a sep	ge 92 n. ain, ions patent? the ration n. claration ng. s I parate
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	 Page 90 receiver unit"? A. Yes. Q. Is that part of the claims of the '735 patent? A. No, that's the defendants' proposed construction. Q. So defendants' proposed construction includes a specific receiver unit. Is that correct? A. Correct. Q. Is it your understanding that a specific receiver unit is also part of the claims of the '623 patent? A. To the best of my knowledge, yes. (Pause) Q. And the claims as you understand them are limited to using a specific receiver unit. Is that correct? A. No. I'm not saying that. What I'm saying this is the way 	1 patent? 2 MS. HOEKEL: Object to the form 3 A. Could you repeat the question age 4 counselor? 5 Q. Sure. 6 Have you provided any other opin 7 on the construction of terms in the '735 p 8 A. No. 9 Q. Did you provide any opinion on the construction of terms for your IPR decla 10 construction of terms for your IPR decla 11 for the '735 patent? 12 MS. HOEKEL: Object to the form 13 I don't think it's fair to have this 14 being be a memory test; plus the IPR decla 15 is not an issue in this particular proceedit 16 (Pause) 17 A. To the best of my memory, I did 18 provide opinions on some of the terms as 19 discussed earlier in my IPRs, but as a seg 20 exercise.	ege 92 n. ain, ions patent? the ration n. claration ng. s I parate
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23 (Pages 89 to 92)

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	Page 93		Page 95
1	I'd have to look at the specific IPRs to answer	1	Is that right?
2	accurately.	2	A. Yes, sir, I did.
3	Q. Did you consider the evidence cited by	3	MR. CLAASSEN: I'd like you to pull
4	Masimo in support of its proposed constructions?	4	out now what's been labeled as Exhibit No. 3.
5	A. That, I did do.	5	And that's your declaration. That's the
6	Q. I want to scroll up, then, to page 2.	6	declaration we were just talking about.
7	MS. HOEKEL: Page 2 of what? I'm	7	THE WITNESS: Give me a second,
8	sorry.	8	counselor.
9	MR. CLAASSEN: Page 2 of this Exhibit	9	MR. CLAASSEN: Yes.
10	1, which is what I want to look at is page 2	10	THE WITNESS: Let me make sure you are
11	of the joint claim construction chart. It's up	11	asking me about Exhibit 3, sir?
12	on the screen now.	12	MR. CLAASSEN: Yes.
13	Do you see that, Dr. Yanulis?	13	THE WITNESS: Give me a moment.
14	A. Yes, I do.	14	Yes, sir, I have it.
15	But could you highlight exactly what	15	BY MR. CLAASSEN:
16	section you want me to	16	Q. That's your declaration regarding the
17	Q. Okay I'm just making sure you can	17	'735 patent.
18	see it on the screen so far.	18	Is that right?
19	A. Yes, I do. I'm sorry.	19	A. Yes, sir, it is.
20	Q. And you considered the extrinsic	20	Q. Does this Exhibit 3 appear to be
21	evidence that Masimo cited in support of its	21	complete to you?
22	construction, right?	22	A. Yes, it does.
	Page 94		Page 96
1	A Yes I did	1	MR. CLAASSEN: I'd like the court
2	Ω And you see that there is a petition	2	reporter to mark Exhibit 3 for the record.
3	cited there for the '735 patent?	3	(Exhibit 3. Document Bates stamped
4	A. I didn't hear you, sir.	4	MAS0020688 through 20850, multipage document
5	O. You see that there is a petition	5	entitled: Declaration of George E. Yanulis in
6	listed there for the '735 patent.	6	Support of Petition for Inter Partes Review of
7	Is that correct?	7	U.S. Patent No. 9,788,735, dated May 18, 2020,
8	A. Yes.	8	marked for identification)
9	Q. And you see that further down on the	9	BY MR. CLAASSEN:
10	page, there is a declaration from you in support	10	Q. Did you write this declaration, Dr.
11	of that IPR?	11	Yanulis?
12	A. Yes, I do, sir.	12	A. Yes, I did.
13	Q. So you understand that that's part of	13	Q. In it, you provide an overview of the
14	the evidence that Masimo is relying on, right?	14	'735 patent, right?
15	MS. HOEKEL: Object to the form.	15	A. Yes, I did, as well as any other
16	A. As Masimo relies on it for their	16	information relevant to the declaration.
17	proposed constructions.	17	Q. There is a section in this declaration
18	Doesn't mean I rely on it.	18	on claim construction, right?
19	Q. You considered it, right?	19	A. Yes, there is. I'd have to look and
20	A. Yes.	20	see what that is but, yes.
21	Q. You reviewed that in preparing for the	21	Q. Okay. We'll talk about that in just a
22	deposition today.	22	couple minutes.

24 (Pages 93 to 96)

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	Page 97	Page 99
1	(Pause)	¹ MS. HOEKEL: Object to the form.
2	O. I'd like to start with paragraph 21.	² incomplete.
3	A. I didn't hear what you said.	³ O. Do you understand the question?
4	counselor.	⁴ A. I did understand the question.
5	O. I'd like to start with paragraph 21.	⁵ O. You can answer it?
6	That's on page 8, and it's also Bates marked	⁶ A. The answer is: Yes.
7	MAS0020715.	⁷ O. What's your understanding of
8	A. Yes, I'm at that page now.	⁸ "untethering" in this paragraph?
9	MS. HOEKEL: I would like just a	⁹ A. Untethering, from my experience, as an
10	continuing objection so I don't have to keep	¹⁰ example, would apply if you are transferring a
11	interrupting that it is defendants' position	¹¹ patient, for example, to a critical care unit,
12	that the IPR declaration. even though cited by	¹² or to a step down unit, or to another facility.
13	Masimo in its claim construction chart, is not	¹³ such as the operating room, etc.
14	relevant to the current dispute.	14 (Pause)
15	MR. CLAASSEN: Understood. We	¹⁵ A. "Untethering" means just to "remove."
16	respectfully disagree.	¹⁶ (Pause)
17	(Pause)	¹⁷ A. Are you there?
18	BY MR. CLAASSEN:	¹⁸ Q. Yes, thank you.
19	Q. So you see paragraph 21 there, Dr.	¹⁹ A. Can I continue on with it?
20	Yanulis?	²⁰ Q. If you have more to add, go ahead.
21	A. Yes, I do.	A. Not at this point, no, I don't.
22	Q. The first sentence there describes	22 (Pause)
	Page 98	Page 100
1	Page 98 wirelessly transferring sensor data to another	Page 100 ¹ Q. Turning now down to paragraph 22?
1 2	Page 98 wirelessly transferring sensor data to another device, right?	Page 100 1 Q. Turning now down to paragraph 22? 2 A. Okay, I'm there, thanks, counselor.
1 2 3	Page 98 wirelessly transferring sensor data to another device, right? A. Yes, it does.	Page 100 Q. Turning now down to paragraph 22? A. Okay, I'm there, thanks, counselor. Q. About the fifth line you see the
1 2 3 4	Page 98 wirelessly transferring sensor data to another device, right? A. Yes, it does. Q. So you understood that to be part of	Page 100 Q. Turning now down to paragraph 22? A. Okay, I'm there, thanks, counselor. Q. About the fifth line you see the fifth line there?
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1 2 3 4 5 6 7 8 9 10 11	 Page 98 wirelessly transferring sensor data to another device, right? A. Yes, it does. Q. So you understood that to be part of the '735 patent, right? A. Yes, sir, I did. Q. When you wrote this overview of the patent, were you writing that from the perspective of a person of ordinary skill in the art? A. Yes, I did. 	Page 100 Q. Turning now down to paragraph 22? A. Okay, I'm there, thanks, counselor. Q. About the fifth line you see the fifth line there? It begins: The '735 specification focuses on this transmitter/receiver system? Do you see that? A. Yes, I do. Q. Is that stated somewhere in the patent itself, as far as you are aware? A. Yes. Do Will a ind ro
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	Page 101		Page 103
1	Is that right?	1	Q. Okay, you can stop there. I want to
2	A. Yes, it is, sir.	2	ask you just about that sentence right now.
3	Q. How does that focus impact the	3	A. Okay.
4	construction of the terms in the '735 patent?	4	Q. So you see the sentence you just read?
5	A. Can we again, based on my memory of	5	A. Yes.
6	the claims as written, it doesn't provide this	6	Q. You mentioned: The nine figures focus
7	limitation, if I remember correctly.	7	solely on the unclaimed receiver module.
8	(Pause)	8	Do you see that "unclaimed receiver
9	THE WITNESS: Can you hear me okay,	9	module"?
10	counselor?	10	A. Yes.
11	MR. CLAASSEN: I can, thank you.	11	Q. What do you mean by "unclaimed
12	I'm taking a look at the transcript to	12	receiver module"?
13	make sure I understood your response correctly.	13	A. They haven't claimed it. They haven't
14	So I can hear you. There is just a little bit	14	listed it as part of the claim.
15	of delay on my end.	15	Q. Is that different than the specific
16	THE WITNESS: Please let me know at	16	receiver unit we were talking about just a few
17	any time if you don't hear me. Sometimes I bend	17	minutes ago?
18	back in the chair.	18	A. Based on the specifications as
19	MR. CLAASSEN: I think the only time	19	written, they are the same thing.
20	we haven't really been able to hear you is when	20	Q. Here you recognize that it's not
21	you lean forward and to the right a little.	21	claimed, right?
22	THE WITNESS: Oh, okay.	22	A. Yes.
	 Page 102		Page 104
1	(Pause)	1	O. Does the specification have an
2	BY MR. CLAASSEN:	2	embodiment without the unclaimed receiver
3	O. Continuing with that paragraph 22 that	3	module?
4	we were just looking at, do you see the nine	4	A. I'd have to look at all the specs, but
5	figure sentence that starts right after the	5	I'm sure it does. I don't know them by memory.
6	sentence we just highlighted: Indeed, nine	6	(Pause)
7	figures?	7	Q. You understand that Masimo has other
8	Do you see that?	8	patents that claim this receiver module, right?
9	A. If I may, I want to read it in the	9	A. Yes, sir, I do.
10	whole context.	10	(Pause)
11	Q. Yeah, go ahead. I just want to direct	11	Q. Now I want to move to paragraph
12	your attention to it.	12	page 12, beginning at paragraph 27. That's your
13	A. Yes, I'm there.	13	opinion on the level of ordinary skill in the
14	May I read the statement?	14	art.
15	Q. Please do.	15	Do you see that?
16	A. Indeed, the nine figures of the '735	16	MR. CLAASSEN: Videographer, can you
17	Patent focus solely on the unclaimed receiver	17	take down that highlighted section for now? You
18	module that plugs into a conventional bedside	18	can highlight the B section for Dr. Yanulis so
19	monitor. Exhibit 1001, Figures 3, 5A through C,	19	he can see what we are talking about.
20	7, 9, 11, 12, and lines 14 excuse me	20	A. Reading that statement so it's in the
21	column 14, lines 1 through 16 in the	21	court record: I have knowledge relevant to what
22	statement as written. Also, I note	22	a person having ordinary skill in the art at the
		-	

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	Page 105	Page 107
1	time of invention would understand and do. In	1 A. The answer is: Yes.
2	2002, at the priority date of the '735, I had 20	² Q. What did you do?
3	years of experience in the field and was a	³ A. I realize that everybody doesn't have
4	person of ordinary skill in the art.	⁴ a Ph.D. in biomedical engineering, number one.
5	Q. How did that level of ordinary skill	⁵ And everybody doesn't have at least 10 years of
6	in the art that you opined on impact your	6 clinical engineering design and having
7	analysis?	⁷ experience to do that.
8	A. I was using it as a basis of forming	⁸ But, again, if the person, again, has
9	my opinions.	⁹ the B.S. in biomedical engineering and has some
10	Q. In what way?	¹⁰ additional work experience in design and
11	A. In terms of what was being disclosed	¹¹ development of these systems, I can agree that
12	in the '735 and what my experience in the field	¹² these opinions were properly formed.
13	related to the '735 patent had disclosed.	¹³ Q. When was the last time you worked with
14	Q. So were you relying on what a person	¹⁴ a person of ordinary skill in the art?
15	of ordinary skill in the art would see?	¹⁵ A. I've had two other excuse me I
16	Or your 20 years of experience?	¹⁶ have had three other patent cases, one that just
17	A. I've had 20 years experience in	¹⁷ finished and I have another patent case where I
18	designing monitoring systems. I've been in the	¹⁸ am involved with I can't discuss what it is.
19	operating room as a clinical engineer. I have	¹⁹ And I am looking at what their
20	been in other clinical care environments. And I	²⁰ expert who has ordinary skill in the art
21	have been involved in design and develop of	²¹ so at least four or five times.
22	these types of systems.	²² Q. So my question is slightly different.
	Page 106	Page 108
1	Page 106 Q. So you are beyond a person of ordinary	Page 108 ¹ When was the last time you had
1 2	Page 106 Q. So you are beyond a person of ordinary skill in the art, right?	Page 108 When was the last time you had experience with someone who had graduated from
1 2 3	Page 106 Q. So you are beyond a person of ordinary skill in the art, right? A. Yes.	Page 108 When was the last time you had experience with someone who had graduated from engineering school and had two years of work
1 2 3 4	Page 106 Q. So you are beyond a person of ordinary skill in the art, right? A. Yes. Q. Well beyond?	Page 108 When was the last time you had experience with someone who had graduated from engineering school and had two years of work experience?
1 2 3 4 5	Page 106 Q. So you are beyond a person of ordinary skill in the art, right? A. Yes. Q. Well beyond? A. Yes.	Page 108 I When was the last time you had 2 experience with someone who had graduated from 3 engineering school and had two years of work 4 experience? 5 A. The last the patent I'm involved
1 2 3 4 5 6	Page 106 Q. So you are beyond a person of ordinary skill in the art, right? A. Yes. Q. Well beyond? A. Yes. Q. You have a degree, right?	Page 108 When was the last time you had experience with someone who had graduated from engineering school and had two years of work experience? A. The last the patent I'm involved with.
1 2 3 4 5 6 7	Page 106 Q. So you are beyond a person of ordinary skill in the art, right? A. Yes. Q. Well beyond? A. Yes. Q. You have a degree, right? A. Yes.	Page 108 Page 108 1 When was the last time you had 2 experience with someone who had graduated from 3 engineering school and had two years of work 4 experience? 5 A. The last the patent I'm involved 6 with. 7 Q. Outside the patent context now, what I
1 2 4 5 6 7 8	Page 106 Q. So you are beyond a person of ordinary skill in the art, right? A. Yes. Q. Well beyond? A. Yes. Q. You have a degree, right? A. Yes. Q. And you have 20 years of experience?	Page 108 Page 108 1 When was the last time you had 2 experience with someone who had graduated from 3 engineering school and had two years of work 4 experience? 5 A. The last the patent I'm involved 6 with. 7 Q. Outside the patent context now, what I 8 want to talk about is: Do you have any
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1 2 3 4 5 6 7 8 9 10 11 12	Page 106 Q. So you are beyond a person of ordinary skill in the art, right? A. Yes. Q. Well beyond? A. Yes. Q. You have a degree, right? A. Yes. Q. And you have 20 years of experience? A. Yes. Q. So you are well beyond your definition of a person of ordinary skill in the art, right? A. What I'm saying in this is the minimal	Page 108 Page 108 1 When was the last time you had 2 experience with someone who had graduated from 3 engineering school and had two years of work 4 experience? 5 A. The last the patent I'm involved 6 with. 7 Q. Outside the patent context now, what I 8 want to talk about is: Do you have any 9 experience working with a person of ordinary 10 skill in the art? 11 A. The answer is: Yes. 12 Q. When was the last time you worked with
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1 2 3 4 5 6 7 8 9 10 11 12 13 14 15	 Page 106 Q. So you are beyond a person of ordinary skill in the art, right? A. Yes. Q. Well beyond? A. Yes. Q. You have a degree, right? A. Yes. Q. And you have 20 years of experience? A. Yes. Q. So you are well beyond your definition of a person of ordinary skill in the art, right? A. What I'm saying in this is the minimal requirement would have to have this ordinary skill to understand it. I may have additional work 	Page 1081When was the last time you had2experience with someone who had graduated from3engineering school and had two years of work4experience?5A. The last the patent I'm involved6with.7Q. Outside the patent context now, what I8want to talk about is: Do you have any9experience working with a person of ordinary10skill in the art?11A. The answer is: Yes.12Q. When was the last time you worked with13that type of person?14A. As a faculty member at Temple where I15had to work with graduate students in biomedical
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1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	Page 106 Q. So you are beyond a person of ordinary skill in the art, right? A. Yes. Q. Well beyond? A. Yes. Q. You have a degree, right? A. Yes. Q. You have a degree, right? A. Yes. Q. And you have 20 years of experience? A. Yes. Q. So you are well beyond your definition of a person of ordinary skill in the art, right? A. What I'm saying in this is the minimal requirement would have to have this ordinary skill to understand it. I may have additional work experiences, but I'm just basing it on what my experience was in research and design and being involved in seeing these monitoring systems used in different critical care environments.	Page 108 Page 108 1 When was the last time you had 2 experience with someone who had graduated from 3 engineering school and had two years of work 4 experience? 5 A. The last the patent I'm involved 6 with. 7 Q. Outside the patent context now, what I 8 want to talk about is: Do you have any 9 experience working with a person of ordinary 10 skill in the art? 11 A. The answer is: Yes. 12 Q. When was the last time you worked with 13 that type of person? 14 A. As a faculty member at Temple where I 15 had to work with graduate students in biomedical 16 engineering to understand research and design. 17 And that was 2016. 18 Q. So you are very familiar with what a 19 person of ordinary skill in the art would
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1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 20	Page 106 Q. So you are beyond a person of ordinary skill in the art, right? A. Yes. Q. Well beyond? A. Yes. Q. You have a degree, right? A. Yes. Q. You have a degree, right? A. Yes. Q. And you have 20 years of experience? A. Yes. Q. So you are well beyond your definition of a person of ordinary skill in the art, right? A. What I'm saying in this is the minimal requirement would have to have this ordinary skill to understand it. I may have additional work experiences, but I'm just basing it on what my experience was in research and design and being involved in seeing these monitoring systems used in different critical care environments. Q. Did you do anything to put yourself in the shoes of a person of ordinary skill in the	Page 108 1 When was the last time you had 2 experience with someone who had graduated from 3 engineering school and had two years of work 4 experience? 5 A. The last the patent I'm involved 6 with. 7 Q. Outside the patent context now, what I 8 want to talk about is: Do you have any 9 experience working with a person of ordinary 10 skill in the art? 11 A. The answer is: Yes. 12 Q. When was the last time you worked with 13 that type of person? 14 A. As a faculty member at Temple where I 15 had to work with graduate students in biomedical 16 engineering to understand research and design. 17 And that was 2016. 18 Q. So you are very familiar with what a 19 person of ordinary skill in the art would 20 understand, right? 21 A. Yes, sir, I am I believe I am.

27 (Pages 105 to 108)

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	Page 109		Page 111
1	down to paragraph 29.	1	(Pause)
2	Do you see that paragraph?	2	Q. You understood that the claims also
3	A. Yes, sir.	3	included other features, right?
4	Q. The second sentence in that	4	A. Yes, sir, I did.
5	paragraph do you see that? that the	5	Q. Does that include the wireless
6	claims' scope focuses on the housing	6	transmission?
7	configuration?	7	A. I'm not sure I understand the context
8	Do you see that?	8	in which you are asking me that question.
9	A. Yes, I do.	9	Q. Did the claims include wireless
10	Q. Then it continues: Not on the	10	transmission?
11	electrical technology that facilitates	11	A. I'm saying what they should have been
12	communication with medical sensors or wireless	12	directed. And a lot of the claims did discuss
13	data transmission.	13	wire management.
14	Right?	14	Q. I'm asking a different question now.
15	A. Yes, I do.	15	Did the claims also include wireless
16	(Pause)	16	transmission?
17	Q. Do you agree with that statement as	17	A. Some of them do.
18	you sit here today?	18	Q. Was wireless transmission conventional
19	A. I agree with that statement, but I'd	19	at the time of the invention?
20	like to read the rest of the statement for the	20	A. Yes, it was.
21	court reporter.	21	Q. Was a computing device conventional at
22	Q. We have the exhibit in the record. I	22	the time of the invention?
	Page 110		Page 112
1	don't think you need to read it.	1	A. Yes. it was.
2	A. Yes, I agree with everything that's	2	O. How much disclosure in the
3	written.	3	specification is needed for something that's
4	O. Down near the bottom of the paragraph.	4	conventional?
5	the second-to-last sentence says: Thus, the	5	MS. HOEKEL: Object to the form.
6	claims are directed mostly to wire management.	6	A. Can you repeat the question,
7	Do vou see that?	7	counselor?
8	A. Yes, I do.	8	Q. What is your understanding of how much
9	O. How did that impact your analysis of	9	disclosure is needed in the specification for
10	claims for construction?	10	something conventional?
11	A. Because my experiences with these	11	A. Enough to understand that it's being
12	types of devices, patient comfort is not always	12	used as I believe it's being used. And I
13	considered. And a patient needs to be you	13	understand it as an expert as a conventional
14	need to be concerned with patient comfort.	14	bedside manner.
15	O. So patient comfort is important.	15	(Pause)
16	right?	16	O. If the claims recited a light emitting
17	A. Yes, the patient is very scared to	17	diode, does the specification need to describe a
18	begin with and you are trying to minimize	18	light emitting diode?
19	anxiety.	19	A. No, because one skilled in the art
20	O. Did that impact your analysis of	20	like myself knows what an LED is and how it's
21	claims the construction of any of the claims?	21	O. Does one skilled in the art also know
22	A No	22	what a computing device is?
	11. 110.	1	mar a comparing active is:

28 (Pages 109 to 112)

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	Page 113		Page 115
1	A He or she should And I do	1	the support of the prior art, which I have
2	 And does a person of ordinary skill in 	2	identified which invalidates the claims as
3	the art understand what wireless transmission	3	written in these particular patents
4	is?	4	Whereas the construction terms
5	A They should	5	construed by the court and agreed to be
6	A. They should. O I want to move now to claim 14 of your	6	discussed by both parties is a different
7	declaration And that's the section that	7	eversise because it implies additional
8	starte: Claim construction	8	Other than invalidity you are also
9	Do you see that?	9	concerned with infringement and more preside
10		10	definitions of the terms disputed
11	A. ICS.	11	Contractions of the terms disputed.
10	MS. HOEKEL: Just continue my	12	So there are two distinct exercises.
12	objection that this is irrelevant to the	1.2	Q. So the claims should be construed
13	disputed issue and seems to be being used as a	13	differently in the different venues.
14	deposition for the IPR, not for the claim	14	Is that right?
15	construction exercise.	15	A. I never said that.
16	MR. CLAASSEN: Okay.	16	You are still using plain ordinary
17	BY MR. CLAASSEN:	17	meaning. Maybe I'm not articulating correctly.
18	Q. I'm going to direct your attention now	18	What I'm trying to say is, for the
19	to paragraph 34.	19	purposes of the discussion of the eight disputed
20	Do you see that?	20	term, you are looking for the most precise
21	A. Yes, I do, sir.	21	terminology as it's discussed, construed by both
22	Q. You say there that: I believe that	22	sides.
	Page 114		Page 116
1	Page 114 all claim terms, for purposes of the inter	1	Page 116 This is not what's being discussed in
1 2	Page 114 all claim terms, for purposes of the inter partes review can be given their plain and	1 2	Page 116 This is not what's being discussed in the IPR.
1 2 3	Page 114 all claim terms, for purposes of the inter partes review can be given their plain and ordinary meaning.	1 2 3	Page 116 This is not what's being discussed in the IPR. Q. So is it your understanding that
1 2 3 4	Page 114 all claim terms, for purposes of the inter partes review can be given their plain and ordinary meaning. Right?	1 2 3 4	Page 116 This is not what's being discussed in the IPR. Q. So is it your understanding that "conventional bedside monitor" is the plain and
1 2 3 4 5	Page 114 all claim terms, for purposes of the inter partes review can be given their plain and ordinary meaning. Right? A. And I agree with that statement.	1 2 3 4 5	Page 116 This is not what's being discussed in the IPR. Q. So is it your understanding that "conventional bedside monitor" is the plain and ordinary meaning of "separate computing device"?
1 2 3 4 5 6	Page 114 all claim terms, for purposes of the inter partes review can be given their plain and ordinary meaning. Right? A. And I agree with that statement. O. You do?	1 2 3 4 5 6	Page 116 This is not what's being discussed in the IPR. Q. So is it your understanding that "conventional bedside monitor" is the plain and ordinary meaning of "separate computing device"? A. Yes, it is.
1 2 3 4 5 6 7	Page 114 all claim terms, for purposes of the inter partes review can be given their plain and ordinary meaning. Right? A. And I agree with that statement. Q. You do? A. Which is why I put it in there.	1 2 3 4 5 6 7	Page 116 This is not what's being discussed in the IPR. Q. So is it your understanding that "conventional bedside monitor" is the plain and ordinary meaning of "separate computing device"? A. Yes, it is. Q. So you think the parties agree that
1 2 3 4 5 6 7 8	Page 114 all claim terms, for purposes of the inter partes review can be given their plain and ordinary meaning. Right? A. And I agree with that statement. Q. You do? A. Which is why I put it in there. Q. For separate computing device, how is	1 2 3 4 5 6 7 8	Page 116 This is not what's being discussed in the IPR. Q. So is it your understanding that "conventional bedside monitor" is the plain and ordinary meaning of "separate computing device"? A. Yes, it is. Q. So you think the parties agree that the plain and ordinary meaning applies.
1 2 3 4 5 6 7 8 9	Page 114 all claim terms, for purposes of the inter partes review can be given their plain and ordinary meaning. Right? A. And I agree with that statement. Q. You do? A. Which is why I put it in there. Q. For separate computing device, how is that different from Masimo's construction in the	1 2 3 4 5 6 7 8 9	Page 116 This is not what's being discussed in the IPR. Q. So is it your understanding that "conventional bedside monitor" is the plain and ordinary meaning of "separate computing device"? A. Yes, it is. Q. So you think the parties agree that the plain and ordinary meaning applies. Is that right?
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29 (Pages 113 to 116)

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	Page 117		Page 119
1	BY MR. CLAASSEN:	1	I keep repeating: You still give it
2	Q. Is it your understanding that Sotero's	2	plain and ordinary meaning.
3	construction in the district court is the plain	3	But, again, the claims are invalid on
4	and ordinary meaning?	4	both sides. It doesn't come into play until we
5	A. It's both sides for the purpose of	5	discuss the district court's construction of
6	looking excuse me giving plain and	6	claims and the two sides the way they the
7	ordinary meaning. Doesn't matter if we are	7	claims.
8	talking about IPRs.	8	This has not been discussed
9	But for the this purpose, again, we	9	MR. CLAASSEN: Dr. Yanulis, you need
10	are talking about IPRs.	10	to lean back.
11	Q. I understand.	11	THE WITNESS: Can you hear me okay
12	A. And if we were talking about the	12	now?
13	so-called construction of claims as developed by	13	MR. CLAASSEN: Yes.
14	district court, you go a little bit further.	14	A. So we are not talking about whether
15	As I said, it's not just invalidity in	15	other than the fact I'm looking at all the
16	this case. And that's why the terms are much	16	IPRs written is to see, using plain and ordinary
17	more important.	17	meaning nothing more which is the standard
18	The only thing we are looking at the	18	for both.
19	IPRs as I have said a couple of times is	19	But in this case I'm looking to see if
20	the IPR the claims are invalid for both	20	the patents are invalidated by the prior art.
21	sides. They haven't been construed by the court	21	And I have showed that.
22	yet. We are looking at the invalidity based on	22	Q. Okay.
	Page 118		Page 120
1	the prior art, which I disclosed in all of the	1	So you showed where the prior art
2	IPRs nothing more, nothing less.	2	teaches that a separate computing device is a
3	Q. You understand that Sotero's	3	conventional bedside monitor.
4	construction in the District Court of "separate	4	Is that right?
5	computing device" is "conventional bedside	5	MS. HOEKEL: Object to the form.
6	monitor," right?	6	MR. CLAASSEN: Let me ask it
7	A. Yes.	7	differently.
8	Q. Is that construction set forth	8	BY MR. CLAASSEN:
9	anywhere in your IPR declaration?	9	Q. Which prior art that you relied on in
10	A. Not no, it's not.	10	this IPR shows that a device that a separate
11	Q. Is a conventional bedside monitor	11	computing device is a conventional bedside
12	different than the plain and ordinary meaning?	12	monitor?
13	A. No, it's not. Still given plain and	13	MS. HOEKEL: Object to the form.
14	ordinary meaning in the IPRs and in the	14	This is way beyond the scope of what
15	so-called disputed claims.	15	the deposition is supposed to be, which is claim
16	But we are going a little further with	16	construction of the district court.
17	the claims disputed. It's not the same thing.	17	And we are now continuing even further
18	Q. So it's appropriate to apply a	18	down the line of prior art and the IPR.
19	different claim construction for an IPR than it	19	BY MR. CLAASSEN:
20	is for the district court.	20	Q. Dr. Yanulis, you just told me your
21	Is that right?	21	opinion is that you applied the claim
22	A. No, sir.	22	constructions from both sides, right?
		1	

30 (Pages 117 to 120)

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	Page 121		Page 123
1	A. No.	1	the IPR.
2	$\Omega_{\rm c}$ Okay.	2	What's relevant is I have been
3	What did you do?	3	properly supported why this patent is invalid
4	A. What I had done is applied a standard	4	based on the prior art, which I disclosed in the
5	of plain and ordinary meaning for all the claim	5	IPR.
6	terms being disagreed upon by both sides.	6	O. And the prior art has to disclose each
7	But I'm telling the correct way, as an	7	and every claim limitation.
8	expert, how I would apply those terms.	8	Isn't that right?
9	And it's not the same thing in the	9	MS. HOEKEL: Object to the form.
10	IPR.	10	beyond the scope of the deposition.
11	All I've discussed in the IPR is	11	A. I believe I've answered your question.
12	invalidity based on prior art.	12	counselor. I don't know how to answer it
13	O. But this section says: Claim	13	differently.
14	construction.	14	(Pause)
15	Right?	15	MR CLAASSEN: All right Let's take
16	A Ves it does	16	our short lunch break How long would you like
17	O And you gave an opinion on claim	17	Hua?
18	construction right?	18	MR CHEN: Twenty-five minutes to an
19	A Ves I did	19	hour
20	O And it's different from the opinion in	20	MS_HOEKEL: Why don't we do 45
21	the district court.	21	minutes and come back at I can't do the
22	Isn't that right?	22	math 2:00 o'clock
	Page 122		Page 124
1	Page 122 MS. HOEKEL: Object to the form.	1	Page 124 MR. CLAASSEN: Yeah, 45 after the
1 2	Page 122 MS. HOEKEL: Object to the form. A. I don't agree with you interpreting my	1 2	Page 124 MR. CLAASSEN: Yeah, 45 after the hour?
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1	* * *	¹ things.
2	AFTERNOON SESSION	² Q. What different things could it apply
3	Time noted 3:49 p.m. Eastern Standard Time	³ to?
4	* * *	⁴ A. Well, it doesn't have to be a
5	THE VIDEOGRAPHER: The time is 3:49	⁵ conventional monitor. But that's not the way
6	p.m. Back on the record.	⁶ it's discussed in the patents in all respects.
7	BY MR. CLAASSEN:	7 It's discussed as a conventional
8	Q. Okay. Dr. Yanulis, can you hear me	⁸ bedside monitor.
9	well?	⁹ But it could have different uses in
10	A. Yes, I can, thank you. Thanks for the	¹⁰ other applications.
11	lunch break.	¹¹ Q. Can you think of any examples of uses
12	Q. Of course.	¹² in other applications?
13	We have been talking about separate	¹³ A. I surveillance system, in other
14	computing device.	¹⁴ words program to turn on and off when one leaves
15	Do you remember that?	¹⁵ the home; turning your lights on and off; again,
16	A. Yes, sir.	¹⁶ turning the alarm system or surveillance system.
17	Q. Let break down that term "separate	¹⁷ I'm trying to think of nonmedical
18	computing device."	¹⁸ applications.
19	Would a person of ordinary skill in	¹⁹ It could also apply to your heating
20	the art understand the word "separate"?	²⁰ system, how it's controlled.
21	A. Yes, they would.	Q. How would a surveillance system be a
22	Q. Would a person of ordinary skill in	²² separate computing device?
	Page 126	Page 128
1	the art understand "computing"?	¹ A. Just the system alone but it could
1 2	the art understand "computing"? A. Yes, they would.	1A.Just the system alone but it could2incorporate a separate computing device, in
1 2 3	the art understand "computing"?A. Yes, they would.Q. Would a person of ordinary skill in	 A. Just the system alone but it could incorporate a separate computing device, in other words, to control the functioning of your
1 2 3 4	the art understand "computing"?A. Yes, they would.Q. Would a person of ordinary skill in the art understand "device"?	 A. Just the system alone but it could incorporate a separate computing device, in other words, to control the functioning of your surveillance system. It depends on the
1 2 3 4 5	the art understand "computing"?A. Yes, they would.Q. Would a person of ordinary skill in the art understand "device"?A. Yes, they would.	 A. Just the system alone but it could incorporate a separate computing device, in other words, to control the functioning of your surveillance system. It depends on the complexity of your surveillance systems. And
1 2 3 4 5 6	the art understand "computing"?A. Yes, they would.Q. Would a person of ordinary skill in the art understand "device"?A. Yes, they would. (Pause)	 A. Just the system alone but it could incorporate a separate computing device, in other words, to control the functioning of your surveillance system. It depends on the complexity of your surveillance systems. And I'm not really an expert on surveillance
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1 2 3 4 5 6 7 8	 the art understand "computing"? A. Yes, they would. Q. Would a person of ordinary skill in the art understand "device"? A. Yes, they would. (Pause) Q. So we have also talking about the plain and ordinary meaning. 	 A. Just the system alone but it could incorporate a separate computing device, in other words, to control the functioning of your surveillance system. It depends on the complexity of your surveillance systems. And I'm not really an expert on surveillance systems. But it's the same type of electronic
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	Page 129	Page 1	131
1	to describe the application which it's used in.	¹ hundreds	
2	Q. Would a person of ordinary skill in	² Q. Do you	
3	the art understand a "separate computing device"	3 A go ahead.	
4	to include a laptop computer?	4 Q. I'll let you finish.	
5	MS. HOEKEL: Object to the form.	⁵ A. The unit, if I'm understanding the	
6	A. Same answer, counselor: It could.	⁶ element 160, is the conventional bedside	
7	That's not what's being disclosed	⁷ monitor. And it looks like you are just showin	ng
8	here.	⁸ one parameter being monitored or showing or	1 the
9	Q. Is there a distinction between what's	⁹ display.	
10	disclosed and what's claimed?	¹⁰ Q. Do you see two different numbers on	
11	A. The specs, as I have been saying,	¹¹ there? 98 and an 80?	
12	basically articulate a conventional bedside	¹² A. Yes.	
13	monitor. That's not in agreement with the	¹³ Q. Are those one parameter?	
14	claims and the terms that are used, which is why	A. I would say now looking at this, I	
15	we are having the discussion.	¹⁵ would say the top number is the pulse oximetr	ry.
16	(Pause)	¹⁶ The bottom number is more than likely I we	ould
17	Q. Do you still have the '735 patent	¹⁷ say that's the pulse rate, heart rate.	
18	that's been marked as Exhibit 2?	¹⁸ I'll just say pulse rate.	
19	A. Yes, sir, I do. I have it if front of	¹⁹ Q. Would this conventional bedside	
20	me.	²⁰ monitor satisfy the separate computing device	•
21	MR. CLAASSEN: I'll ask the	²¹ limitation?	
22	videographer to put that up on the screen for	A. Again, I have to look at the specs in	
	Page 130	Page 1	132
1	Page 130 us.	Page 1 1 combination with this figure.	132
1 2	Page 130 us. So Exhibit 2. And let's look at	Page 1 ¹ combination with this figure. ² Q. Did you do that?	132
1 2 3	Page 130 us. So Exhibit 2. And let's look at Figure 1.	Page 1 combination with this figure. Q. Did you do that? A. Yes, I can do that right now.	132
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1 2 3 4 5 6 7 8	Page 130 us. So Exhibit 2. And let's look at Figure 1. BY MR. CLAASSEN: Q. Do you see Figure 1, Dr. Yanulis? A. Yes, I do. Q. What's shown in Figure 1? A. Without looking at the specs, I could	 Page 1 combination with this figure. Q. Did you do that? A. Yes, I can do that right now. Q. I'm not asking if you could do it. I'm asking: Did you do that? A. Yes, I did. Q. Do you remember what you conclude A. I concluded that this is a separate 	132 led?
1 2 3 4 5 6 7 8 9	Page 130 us. So Exhibit 2. And let's look at Figure 1. BY MR. CLAASSEN: Q. Do you see Figure 1, Dr. Yanulis? A. Yes, I do. Q. What's shown in Figure 1? A. Without looking at the specs, I could identify main monitoring unit and the device	Page 1 1 combination with this figure. 2 Q. Did you do that? 3 A. Yes, I can do that right now. 4 Q. I'm not asking if you could do it. 5 I'm asking: Did you do that? 6 A. Yes, I did. 7 Q. Do you remember what you conclude 8 A. I concluded that this is a separate 9 excuse me that this this is a convention	led?
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1 2 3 4 5 6 7 8 9 10 11 12 13	 Page 130 us. So Exhibit 2. And let's look at Figure 1. BY MR. CLAASSEN: Q. Do you see Figure 1, Dr. Yanulis? A. Yes, I do. Q. What's shown in Figure 1? A. Without looking at the specs, I could identify main monitoring unit and the device that's attached to the hand. But I'd have to look at the figure in combination with the specs as it applies to this figure. 	Page 1 1 combination with this figure. 2 Q. Did you do that? 3 A. Yes, I can do that right now. 4 Q. I'm not asking if you could do it. 5 I'm asking: Did you do that? 6 A. Yes, I did. 7 Q. Do you remember what you conclude 8 A. I concluded that this is a separate 9 excuse me that this this is a convention 10 bedside monitor as disclosed, which is well 11 known in the art. 12 Q. Did you find a separate computing 13 device within your understanding of the term 14	l 32 led? al
1 2 3 4 5 6 7 8 9 10 11 12 13 14	us. So Exhibit 2. And let's look at Figure 1. BY MR. CLAASSEN: Q. Do you see Figure 1, Dr. Yanulis? A. Yes, I do. Q. What's shown in Figure 1? A. Without looking at the specs, I could identify main monitoring unit and the device that's attached to the hand. But I'd have to look at the figure in combination with the specs as it applies to this figure. Q. Is anything on this Figure 1 a	1 combination with this figure. 2 Q. Did you do that? 3 A. Yes, I can do that right now. 4 Q. I'm not asking if you could do it. 5 I'm asking: Did you do that? 6 A. Yes, I did. 7 Q. Do you remember what you conclude 8 A. I concluded that this is a separate 9 excuse me that this this is a convention 10 bedside monitor as disclosed, which is well 11 known in the art. 12 Q. Did you find a separate computing 13 device within your understanding of the terr 14 the '735 patent?	132 led? al
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	 Page 130 us. So Exhibit 2. And let's look at Figure 1. BY MR. CLAASSEN: Q. Do you see Figure 1, Dr. Yanulis? A. Yes, I do. Q. What's shown in Figure 1? A. Without looking at the specs, I could identify main monitoring unit and the device that's attached to the hand. But I'd have to look at the figure in combination with the specs as it applies to this figure. Q. Is anything on this Figure 1 a separate computing device? 	Page 1 combination with this figure. Q. Did you do that? A. Yes, I can do that right now. Q. I'm not asking if you could do it. I'm asking: Did you do that? A. Yes, I did. Q. Do you remember what you conclude A. I concluded that this is a separate 9 excuse me that this this is a convention bedside monitor as disclosed, which is well known in the art. Q. Did you find a separate computing device within your understanding of the term MS. HOEKEL: Object to the form.	l 32 ded? al m in
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	 Page 130 us. So Exhibit 2. And let's look at Figure 1. BY MR. CLAASSEN: Q. Do you see Figure 1, Dr. Yanulis? A. Yes, I do. Q. What's shown in Figure 1? A. Without looking at the specs, I could identify main monitoring unit and the device that's attached to the hand. But I'd have to look at the figure in combination with the specs as it applies to this figure. Q. Is anything on this Figure 1 a separate computing device? A. Again, I have to look at the specs the way they have been defined. Just looking at 	Page 1 combination with this figure. Q. Did you do that? A. Yes, I can do that right now. Q. I'm not asking if you could do it. I'm asking: Did you do that? A. Yes, I did. Q. Do you remember what you conclude A. I concluded that this is a separate excuse me that this this is a convention bedside monitor as disclosed, which is well known in the art. Q. Did you find a separate computing device within your understanding of the terr MS. HOEKEL: Object to the form. A. I don't really understand the question	l 32 led? m in n
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	 Page 130 us. So Exhibit 2. And let's look at Figure 1. BY MR. CLAASSEN: Q. Do you see Figure 1, Dr. Yanulis? A. Yes, I do. Q. What's shown in Figure 1? A. Without looking at the specs, I could identify main monitoring unit and the device that's attached to the hand. But I'd have to look at the figure in combination with the specs as it applies to this figure. Q. Is anything on this Figure 1 a separate computing device? A. Again, I have to look at the specs the way they have been defined. Just looking at this L can't tell 	Page 1 combination with this figure. Q. Did you do that? A. Yes, I can do that right now. Q. I'm not asking if you could do it. I'm asking: Did you do that? A. Yes, I did. Q. Do you remember what you conclude A. I concluded that this is a separate 9 excuse me that this this is a convention 10 bedside monitor as disclosed, which is well 11 known in the art. 12 Q. Did you find a separate computing 13 device within your understanding of the terr 14 the '735 patent? 15 MS. HOEKEL: Object to the form. 16 A. I don't really understand the question 17 you are asking me.	l 32 ded? al m in n
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	 By MR. CLAASSEN: Q. Do you see Figure 1, Dr. Yanulis? A. Yes, I do. Q. What's shown in Figure 1? A. Without looking at the specs, I could identify main monitoring unit and the device that's attached to the hand. But I'd have to look at the figure in combination with the specs as it applies to this figure. Q. Is anything on this Figure 1 a separate computing device? A. Again, I have to look at the specs the way they have been defined. Just looking at this, I can't tell. 	Page 1 combination with this figure. Q. Did you do that? A. Yes, I can do that right now. Q. I'm not asking if you could do it. I'm asking: Did you do that? A. Yes, I did. Q. Do you remember what you conclude A. I concluded that this is a separate 9 excuse me that this this is a convention 10 bedside monitor as disclosed, which is well 11 known in the art. 12 Q. Did you find a separate computing 13 device within your understanding of the term 14 the '735 patent? 15 MS. HOEKEL: Object to the form. 16 A. I don't really understand the question 17 you are asking me. 18 Because I have already said a separate	l 32 ded? al m in n
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	 Bage 130 us. So Exhibit 2. And let's look at Figure 1. BY MR. CLAASSEN: Q. Do you see Figure 1, Dr. Yanulis? A. Yes, I do. Q. What's shown in Figure 1? A. Without looking at the specs, I could identify main monitoring unit and the device that's attached to the hand. But I'd have to look at the figure in combination with the specs as it applies to this figure. Q. Is anything on this Figure 1 a separate computing device? A. Again, I have to look at the specs the way they have been defined. Just looking at this, I can't tell. Q. Is anything on here a conventional bedside monitor? 	Page 1 combination with this figure. Q. Did you do that? A. Yes, I can do that right now. Q. I'm not asking if you could do it. I'm asking: Did you do that? A. Yes, I did. Q. Do you remember what you conclude A. I concluded that this is a separate 9 excuse me that this this is a convention 10 bedside monitor as disclosed, which is well known in the art. 12 Q. Did you find a separate computing 13 device within your understanding of the term 14 the '735 patent? 15 MS. HOEKEL: Object to the form. 16 A. I don't really understand the question you are asking me. 18 Because I have already said a separate 19 computing device is, as I made opinions on 20 conventional bedside monitor	l 32 ded? al m in n e , a
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	 By MR. CLAASSEN: Q. Do you see Figure 1, Dr. Yanulis? A. Yes, I do. Q. What's shown in Figure 1? A. Without looking at the specs, I could identify main monitoring unit and the device that's attached to the hand. But I'd have to look at the figure in combination with the specs as it applies to this figure. Q. Is anything on this Figure 1 a separate computing device? A. Again, I have to look at the specs the way they have been defined. Just looking at this, I can't tell. Q. Is anything on here a conventional bedside monitor? 	Page 1 combination with this figure. Q. Did you do that? A. Yes, I can do that right now. Q. I'm not asking if you could do it. I'm asking: Did you do that? A. Yes, I did. Q. Do you remember what you conclude A. Yes, I did. Q. Do you remember what you conclude A. I concluded that this is a separate 9 excuse me that this this is a convention 10 bedside monitor as disclosed, which is well 11 known in the art. 12 Q. Did you find a separate computing 13 device within your understanding of the terr 14 the '735 patent? 15 MS. HOEKEL: Object to the form. 16 A. I don't really understand the question 17 you are asking me. 18 Because I have already said a separat 19 computing device is, as I made opinions on 20 conventional bedside monitor.	l 32 led? al m in n e , a
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	 Bage 130 us. So Exhibit 2. And let's look at Figure 1. BY MR. CLAASSEN: Q. Do you see Figure 1, Dr. Yanulis? A. Yes, I do. Q. What's shown in Figure 1? A. Without looking at the specs, I could identify main monitoring unit and the device that's attached to the hand. But I'd have to look at the figure in combination with the specs as it applies to this figure. Q. Is anything on this Figure 1 a separate computing device? A. Again, I have to look at the specs the way they have been defined. Just looking at this, I can't tell. Q. Is anything on here a conventional bedside monitor? 	Page 1 combination with this figure. Q. Did you do that? A. Yes, I can do that right now. Q. I'm not asking if you could do it. I'm asking: Did you do that? A. Yes, I did. Q. Do you remember what you conclude A. I concluded that this is a separate 9 excuse me that this this is a convention 10 bedside monitor as disclosed, which is well 11 known in the art. 12 Q. Did you find a separate computing 13 device within your understanding of the term 14 the '735 patent? 15 MS. HOEKEL: Object to the form. 16 A. I don't really understand the question 17 you are asking me. 18 Because I have already said a separat 19 conventional bedside monitor. 20 Col don't really understand your	l 32 ded? al m in n e , a

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	Page 133	Pag	e 135
1	Q. So does this Figure 1 show a separate	¹ A. Again, this separate computing de	evice,
2	computing device within your understanding of	² which I have been saying right along, is a	a
3	the claim?	³ conventional bedside monitor as disclose	d.
4	A. Again, I'll repeat myself: This is	⁴ Q. My question is slightly different.	
5	showing a separate computing device which is	⁵ If you took away the receiver unit	
6	equivalent to a conventional bedside monitor, as	⁶ 510, would that still be a conventional be	dside
7	disclosed in the specs.	⁷ monitor?	
8	Q. Did you also consider Figure 5A?	⁸ MS. HOEKEL: Same objection.	
9	A. Yes, I did, sir.	⁹ A. I'm going to say I have to look at	the
10	MR. CLAASSEN: I'll ask the court	¹⁰ specs before I make that opinion.	
11	reporter, then, to put up figure 5A.	¹¹ Q. Have you done that before?	
12	(Pause)	¹² A. Yes, I have.	
13	THE WITNESS: Okay.	¹³ Q. Do you remember what you conc	luded?
14	BY MR. CLAASSEN:	¹⁴ A. I concluded, again, the main 360	
15	Q. See that?	¹⁵ whether you have this plug-in unit is s	till a
16	A. Yes, I do.	¹⁶ conventional bedside monitor.	
17	Q. What is shown in Figure 5A?	¹⁷ Q. Would that also be a separate	
18	A. From remembering the specs without	¹⁸ computing device?	
19	looking at it, it is clear this is the	¹⁹ A. Yes.	
20	conventional bedside monitor.	20 (Pause)	
21	And the unit I'll call it 510-K	Q. We talked about earlier that the	
22	excuse me 510 is the element described as the	²² separate computing device needs to recei	ve data,
	Page 134	Pag	e 136
1	Page 134 plug-in compatible device as they referred to in	Pag ¹ right?	e 136
1 2	Page 134 plug-in compatible device as they referred to in the specs.	Pag 1 right? 2 A. Yes, it does.	e 136
1 2 3	Page 134 plug-in compatible device as they referred to in the specs. Q. So is Figure 5A showing a conventional	Pag 1 right? 2 A. Yes, it does. 3 Q. Does a conventional bedside m	e 136 onitor
1 2 3 4	Page 134 plug-in compatible device as they referred to in the specs. Q. So is Figure 5A showing a conventional bedside monitor?	Pag right? A. Yes, it does. Q. Does a conventional bedside m have an apparatus for receiving data? 	e 136 onitor
1 2 3 4 5	Page 134 plug-in compatible device as they referred to in the specs. Q. So is Figure 5A showing a conventional bedside monitor? A. Right, with a 510 element, which is	Pag right? A. Yes, it does. Q. Does a conventional bedside m have an apparatus for receiving data? A. There is usually something con 	e 136 onitor nected
1 2 3 4 5 6	Page 134 plug-in compatible device as they referred to in the specs. Q. So is Figure 5A showing a conventional bedside monitor? A. Right, with a 510 element, which is basically without elaborating much more is	Pag 1 right? 2 A. Yes, it does. 3 Q. Does a conventional bedside m 4 have an apparatus for receiving data? 5 A. There is usually something con 6 or within that system that allows you to	e 136 onitor nected o do
1 2 3 4 5 6 7	Page 134 plug-in compatible device as they referred to in the specs. Q. So is Figure 5A showing a conventional bedside monitor? A. Right, with a 510 element, which is basically without elaborating much more is the so-called plug in unit, communication unit,	 Pag right? A. Yes, it does. Q. Does a conventional bedside m have an apparatus for receiving data? A. There is usually something con or within that system that allows you to that. You have to receive the signals in 	e 136 onitor nected o do n order
1 2 4 5 6 7 8	Page 134 plug-in compatible device as they referred to in the specs. Q. So is Figure 5A showing a conventional bedside monitor? A. Right, with a 510 element, which is basically without elaborating much more is the so-called plug in unit, communication unit, that's been disclosed in the patent.	Pag 1 right? 2 A. Yes, it does. 3 Q. Does a conventional bedside m 4 have an apparatus for receiving data? 5 A. There is usually something con 6 or within that system that allows you to 7 that. You have to receive the signals in 8 to show the visible display of the moni	e 136 onitor nected o do n order tor of
1 2 3 4 5 6 7 8 9	Page 134 plug-in compatible device as they referred to in the specs. Q. So is Figure 5A showing a conventional bedside monitor? A. Right, with a 510 element, which is basically without elaborating much more is the so-called plug in unit, communication unit, that's been disclosed in the patent. Q. You are calling that 510, right?	Pag 1 right? 2 A. Yes, it does. 3 Q. Does a conventional bedside m 4 have an apparatus for receiving data? 5 A. There is usually something con 6 or within that system that allows you to 7 that. You have to receive the signals in 8 to show the visible display of the moni 9 the physiological parameters being mo	e 136 onitor nected o do n order tor of nitored.
1 2 3 4 5 6 7 8 9 10	Page 134 plug-in compatible device as they referred to in the specs. Q. So is Figure 5A showing a conventional bedside monitor? A. Right, with a 510 element, which is basically without elaborating much more is the so-called plug in unit, communication unit, that's been disclosed in the patent. Q. You are calling that 510, right? A. Without going to the specs directly.	Pag 1 right? 2 A. Yes, it does. 3 Q. Does a conventional bedside m 4 have an apparatus for receiving data? 5 A. There is usually something con 6 or within that system that allows you to 7 that. You have to receive the signals in 8 to show the visible display of the moni 9 the physiological parameters being mo 10 (Pause)	e 136 onitor nected o do n order tor of nitored.
1 2 3 4 5 6 7 8 9 10 11	Page 134 plug-in compatible device as they referred to in the specs. Q. So is Figure 5A showing a conventional bedside monitor? A. Right, with a 510 element, which is basically without elaborating much more is the so-called plug in unit, communication unit, that's been disclosed in the patent. Q. You are calling that 510, right? A. Without going to the specs directly. I mean, I would want to see the specs. I'm	Pag1right?2A. Yes, it does.3Q. Does a conventional bedside m4have an apparatus for receiving data?5A. There is usually something con6or within that system that allows you to7that. You have to receive the signals in8to show the visible display of the moni9the physiological parameters being moni10(Pause)11Q. Let's talk about the next claim to	e 136 onitor nected o do n order tor of nitored. erm
1 2 3 4 5 6 7 8 9 10 11 12	Page 134 plug-in compatible device as they referred to in the specs. Q. So is Figure 5A showing a conventional bedside monitor? A. Right, with a 510 element, which is basically without elaborating much more is the so-called plug in unit, communication unit, that's been disclosed in the patent. Q. You are calling that 510, right? A. Without going to the specs directly. I mean, I would want to see the specs. I'm guessing from memory.	Pag 1 right? 2 A. Yes, it does. 3 Q. Does a conventional bedside m 4 have an apparatus for receiving data? 5 A. There is usually something con 6 or within that system that allows you to 7 that. You have to receive the signals in 8 to show the visible display of the moni 9 the physiological parameters being mo 10 (Pause) 11 Q. Let's talk about the next claim to 12 the "separate monitoring device."	e 136 onitor nected o do n order tor of nitored. erm
1 2 3 4 5 6 7 8 9 10 11 12 13	Page 134 plug-in compatible device as they referred to in the specs. Q. So is Figure 5A showing a conventional bedside monitor? A. Right, with a 510 element, which is basically without elaborating much more is the so-called plug in unit, communication unit, that's been disclosed in the patent. Q. You are calling that 510, right? A. Without going to the specs directly. I mean, I would want to see the specs. I'm guessing from memory. But just based on my expertise, I	Pag 1 right? 2 A. Yes, it does. 3 Q. Does a conventional bedside m 4 have an apparatus for receiving data? 5 A. There is usually something con 6 or within that system that allows you to 7 that. You have to receive the signals in 8 to show the visible display of the moni 9 the physiological parameters being mo 10 (Pause) 11 Q. Let's talk about the next claim term 12 the "separate monitoring device." 13 Do you remember that claim term	e 136 onitor nected o do n order tor of nitored. erm n?
1 2 3 4 5 6 7 8 9 10 11 12 13 14	Page 134 plug-in compatible device as they referred to in the specs. Q. So is Figure 5A showing a conventional bedside monitor? A. Right, with a 510 element, which is basically without elaborating much more is the so-called plug in unit, communication unit, that's been disclosed in the patent. Q. You are calling that 510, right? A. Without going to the specs directly. I mean, I would want to see the specs. I'm guessing from memory. But just based on my expertise, I would say that's the plug-in module that's being	Pag 1 right? 2 A. Yes, it does. 3 Q. Does a conventional bedside m 4 have an apparatus for receiving data? 5 A. There is usually something con 6 or within that system that allows you to 7 that. You have to receive the signals in 8 to show the visible display of the moni 9 the physiological parameters being moni 10 (Pause) 11 Q. Let's talk about the next claim term 12 the "separate monitoring device." 13 Do you remember that claim term 14 A. Yes, I do.	e 136 onitor nected o do n order tor of nitored. erm n?
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15	Page 134 plug-in compatible device as they referred to in the specs. Q. So is Figure 5A showing a conventional bedside monitor? A. Right, with a 510 element, which is basically without elaborating much more is the so-called plug in unit, communication unit, that's been disclosed in the patent. Q. You are calling that 510, right? A. Without going to the specs directly. I mean, I would want to see the specs. I'm guessing from memory. But just based on my expertise, I would say that's the plug-in module that's being claimed.	Pag 1 right? 2 A. Yes, it does. 3 Q. Does a conventional bedside m 4 have an apparatus for receiving data? 5 A. There is usually something con 6 or within that system that allows you to 7 that. You have to receive the signals in 8 to show the visible display of the moni 9 the physiological parameters being mo 10 (Pause) 11 Q. Let's talk about the next claim to 12 the "separate monitoring device." 13 Do you remember that claim tern 14 A. Yes, I do. 15 Q. Let's go back, then, to Exhibit I	e 136 onitor nected o do n order tor of nitored. erm n?
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	Page 134 plug-in compatible device as they referred to in the specs. Q. So is Figure 5A showing a conventional bedside monitor? A. Right, with a 510 element, which is basically without elaborating much more is the so-called plug in unit, communication unit, that's been disclosed in the patent. Q. You are calling that 510, right? A. Without going to the specs directly. I mean, I would want to see the specs. I'm guessing from memory. But just based on my expertise, I would say that's the plug-in module that's being claimed. Q. If you removed the receiver unit that	Pag 1 right? 2 A. Yes, it does. 3 Q. Does a conventional bedside m 4 have an apparatus for receiving data? 5 A. There is usually something con 6 or within that system that allows you to 7 that. You have to receive the signals in 8 to show the visible display of the moni 9 the physiological parameters being moni 10 (Pause) 11 Q. Let's talk about the next claim term 12 the "separate monitoring device." 13 Do you remember that claim term 14 A. Yes, I do. 15 Q. Let's go back, then, to Exhibit I 16 A. Okay.	e 136 onitor nected o do n order tor of nitored. erm n?
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	Page 134 plug-in compatible device as they referred to in the specs. Q. So is Figure 5A showing a conventional bedside monitor? A. Right, with a 510 element, which is basically without elaborating much more is the so-called plug in unit, communication unit, that's been disclosed in the patent. Q. You are calling that 510, right? A. Without going to the specs directly. I mean, I would want to see the specs. I'm guessing from memory. But just based on my expertise, I would say that's the plug-in module that's being claimed. Q. If you removed the receiver unit that we have been calling 510 from the monitor, is it	Pag 1 right? 2 A. Yes, it does. 3 Q. Does a conventional bedside m 4 have an apparatus for receiving data? 5 A. There is usually something con 6 or within that system that allows you to 7 that. You have to receive the signals in 8 to show the visible display of the moni 9 the physiological parameters being moni 10 (Pause) 11 Q. Let's talk about the next claim term 12 the "separate monitoring device." 13 Do you remember that claim term 14 A. Yes, I do. 15 Q. Let's go back, then, to Exhibit I 16 A. Okay. 17 Q. We'll move on to page well, i	e 136 onitor nected o do n order tor of nitored. erm n?
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	Page 134 plug-in compatible device as they referred to in the specs. Q. So is Figure 5A showing a conventional bedside monitor? A. Right, with a 510 element, which is basically without elaborating much more is the so-called plug in unit, communication unit, that's been disclosed in the patent. Q. You are calling that 510, right? A. Without going to the specs directly. I mean, I would want to see the specs. I'm guessing from memory. But just based on my expertise, I would say that's the plug-in module that's being claimed. Q. If you removed the receiver unit that we have been calling 510 from the monitor, is it a separate computing device?	Pag 1 right? 2 A. Yes, it does. 3 Q. Does a conventional bedside m 4 have an apparatus for receiving data? 5 A. There is usually something con 6 or within that system that allows you to 7 that. You have to receive the signals in 8 to show the visible display of the moni 9 the physiological parameters being mo 10 (Pause) 11 Q. Let's talk about the next claim ter 12 the "separate monitoring device." 13 Do you remember that claim ter 14 A. Yes, I do. 15 Q. Let's go back, then, to Exhibit I 16 A. Okay. 17 Q. We'll move on to page well, i 18 page 7 of the chart.	e 136 onitor nected o do n order tor of nitored. erm n?
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	Page 134 plug-in compatible device as they referred to in the specs. Q. So is Figure 5A showing a conventional bedside monitor? A. Right, with a 510 element, which is basically without elaborating much more is the so-called plug in unit, communication unit, that's been disclosed in the patent. Q. You are calling that 510, right? A. Without going to the specs directly. I mean, I would want to see the specs. I'm guessing from memory. But just based on my expertise, I would say that's the plug-in module that's being claimed. Q. If you removed the receiver unit that we have been calling 510 from the monitor, is it a separate computing device? MS. HOEKEL: Object to the form	Pag 1 right? 2 A. Yes, it does. 3 Q. Does a conventional bedside m 4 have an apparatus for receiving data? 5 A. There is usually something con 6 or within that system that allows you to 7 that. You have to receive the signals in 8 to show the visible display of the moni 9 the physiological parameters being moni 10 (Pause) 11 Q. Let's talk about the next claim term 12 the "separate monitoring device." 13 Do you remember that claim term 14 A. Yes, I do. 15 Q. Let's go back, then, to Exhibit I 16 A. Okay. 17 Q. We'll move on to page well, if 18 page 7 of the chart. 19 A. Okay.	e 136 onitor nected o do n order tor of nitored. erm n?
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	Page 134 plug-in compatible device as they referred to in the specs. Q. So is Figure 5A showing a conventional bedside monitor? A. Right, with a 510 element, which is basically without elaborating much more is the so-called plug in unit, communication unit, that's been disclosed in the patent. Q. You are calling that 510, right? A. Without going to the specs directly. I mean, I would want to see the specs. I'm guessing from memory. But just based on my expertise, I would say that's the plug-in module that's being claimed. Q. If you removed the receiver unit that we have been calling 510 from the monitor, is it a separate computing device? MS. HOEKEL: Object to the form A. Yes, if you go ahead.	Pag1right?2A. Yes, it does.3Q. Does a conventional bedside m4have an apparatus for receiving data?5A. There is usually something con6or within that system that allows you to7that. You have to receive the signals in8to show the visible display of the moni9the physiological parameters being mo10(Pause)11Q. Let's talk about the next claim ter12 the "separate monitoring device."13Do you remember that claim ter14A. Yes, I do.15Q. Let's go back, then, to Exhibit I16A. Okay.17Q. We'll move on to page well, i18page 7 of the chart.19A. Okay.20MR. CLAASSEN: I'll ask the	e 136 onitor nected o do n order tor of nitored. erm n? it's
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	Page 134 plug-in compatible device as they referred to in the specs. Q. So is Figure 5A showing a conventional bedside monitor? A. Right, with a 510 element, which is basically without elaborating much more is the so-called plug in unit, communication unit, that's been disclosed in the patent. Q. You are calling that 510, right? A. Without going to the specs directly. I mean, I would want to see the specs. I'm guessing from memory. But just based on my expertise, I would say that's the plug-in module that's being claimed. Q. If you removed the receiver unit that we have been calling 510 from the monitor, is it a separate computing device? MS. HOEKEL: Object to the form A. Yes, if you go ahead. MS. HOEKEL: I object to the form.	Pag 1 right? 2 A. Yes, it does. 3 Q. Does a conventional bedside m 4 have an apparatus for receiving data? 5 A. There is usually something con 6 or within that system that allows you to 7 that. You have to receive the signals in 8 to show the visible display of the moni 9 the physiological parameters being moni 10 (Pause) 11 Q. Let's talk about the next claim term 12 the "separate monitoring device." 13 Do you remember that claim term 14 A. Yes, I do. 15 Q. Let's go back, then, to Exhibit I 16 A. Okay. 17 Q. We'll move on to page well, H 18 page 7 of the chart. 19 A. Okay. 20 MR. CLAASSEN: I'll ask the 21 videographer to do the same thing there	e 136 onitor nected o do n order tor of nitored. erm n? it's

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	Page 137		Page 139
1	BY MR CLAASSEN	1	A As disclosed in the specs in my
2	O Do you see that page 7 is listed up on	2	oninion and expertise with working with the spec
3	the video screen there?	3	device
4	A Ves I do	4	(Pause)
5	O What's your understanding of Sotero's	5	Ω Let's focus on the difference, then
6	construction for "a separate monitoring device"?	6	between computing and monitoring
7	A That it's a conventional bedside	7	Is there a difference?
8	A. That it's a conventional bedside	8	A The way this spee has been displayed
9	O Is that the same construction for	9	A. The way this spec has been disclosed,
10	Q. Is that the same construction for	10	no. O Dess that difference in claim language
11	separate computing device" that we just talked	11	Q. Does that difference in claim language
10	about?	10	impact your analysis?
12	A. A conventional bedside monitor as	12	A. Can I repeat the question in my own
13	disclosed and listed on this chart is the exact	13	words?
14	same thing as has been disclosed in the specs	14	Could you repeat the question,
15	separate monitoring device, yes.	15	counselor?
16	But it's a conventional bedside	16	Q. Is the difference in claim language
17	monitor. I'm sticking with that position, and	17	can that have any difference let me just
18	that's my opinion.	18	start all over again.
19	Q. The same construction for "separate	19	We were talking about separate
20	computing device" and "separate monitoring	20	computing device, right?
21	device."	21	And you understand that that term is
22	Is that right?	22	different from separate monitoring device,
	Page 138		Page 140
1	A. I didn't hear the question, sir.	1	right?
2	Q. I want to make sure that I'm	2	A. No, that's not what I said, counselor.
3	understanding your previous response correctly.	3	What I said was: The way it's been
4	In your opinion, "separate computing	4	disclosed, separate monitoring device as it's
5	device" and "separate monitoring device" have	5	been disclosed in the specs is a separate
6	the same construction, right?	6	computing device.
7	A. Not what I said, sir.	7	Q. Okay.
8	What I said was: The way the specs	8	Now you are talking about the meaning.
9	have been written and disclosed, it is, in my	9	What I want to talk about is the claim
10	expert opinion, a conventional bedside monitor.	10	terms themselves.
11	What you call it the way the term I	11	So you understand the words "separate
12	understand it and the way it's been articulated	12	computing device" and "separate monitoring
13	in the specs, conventional bedside monitor is	13	device" are different, right?
14	a separate computer device.	14	A. Yes.
15	O. So it's a separate computing device.	15	O. How did that difference impact your
16	Is that right?	16	claim construction analysis?
17	A. As it's been disclosed in the patent.	17	A. It impacted it in the sense that the
18	O. Is a conventional bedside monitor also	18	way the specs have been disclosed is a
19	a separate monitoring device?	19	separate monitoring device. The opinion has not
20	A. Could you repeat the question?	20	changed.
21	Q. Is a conventional bedside monitor also	21	Q. So the ultimate opinion did not
~ ~	a senarate monitoring device?	22	change Lunderstand that
22	a separate monitoring device:		change. I understand that.

35 (Pages 137 to 140)

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	Page 141		Page 143
1	Did it change anything about your	1	Or does it need to be the specific
2	analysis?	2	receiver unit?
3	A. No, it did not.	3	A. It could be any receiver, but the
4	(Pause)	4	receiver has been disclosed in a certain manner.
5	Q. Does the conventional bedside monitor	5	So I'm basing it on the way they have
6	need to include a specific receiver unit?	6	discussed in the specs the receiver unit.
7	A. Not necessarily.	7	You could use a different receiver
8	O. What do you mean by that?	8	unit, to answer your question.
9	A. I'm going to rephrase this and say:	9	Q. But you couldn't use any different
10	The way it's been disclosed, I would say that it	10	monitoring device.
11	does include a transmitter, receiver, or some	11	Is that correct?
12	means for attaching it to.	12	A. No, sir, that's not what I'm saying.
13	Q. My question, though, is: Does it	13	I'm saying that the specs read on a
14	require using a specific receiver unit?	14	conventional bedside monitor period.
15	A. No, it does not. Can use any receiver	15	Q. That will not include a central
16	unit.	16	station, right?
17	Q. How did you make that determination?	17	MS. HOEKEL: Object to the form.
18	A. My skill in the art. You have to	18	A. For my answer, it could be.
19	receive the data somehow. You have to receive	19	Q. How would a central unit be bedside?
20	it in some manner.	20	A. You could have a central nurse's
21	(Pause)	21	station, which is has its and it's not the
22	Q. Is it your opinion that a conventional	22	patient monitor. It's their display of the
	Page 142		Page 144
1	Page 142	1	Page 144
1 2	Page 142 bedside monitor included a receiver? MS_HOEKEL: Object to the form	1	Page 144 individual patient monitoring systems.
1 2 3	Page 142 bedside monitor included a receiver? MS. HOEKEL: Object to the form.	1 2 3	Page 144 individual patient monitoring systems. And that's the state that's the usual well-known use
1 2 3 4	Page 142 bedside monitor included a receiver? MS. HOEKEL: Object to the form. A. I'm going to reply: I'm not sure how you are asking and how it's different than the	1 2 3 4	Page 144 individual patient monitoring systems. And that's the state that's the usual, well-known use. So I want to make sure it's clear in
1 2 3 4 5	Page 142 bedside monitor included a receiver? MS. HOEKEL: Object to the form. A. I'm going to reply: I'm not sure how you are asking and how it's different than the opinions and comments I've already made in the	1 2 3 4 5	Page 144 individual patient monitoring systems. And that's the state that's the usual, well-known use. So I want to make sure it's clear in the record.
1 2 3 4 5 6	Page 142 bedside monitor included a receiver? MS. HOEKEL: Object to the form. A. I'm going to reply: I'm not sure how you are asking and how it's different than the opinions and comments I've already made in the record.	1 2 3 4 5 6	Page 144 individual patient monitoring systems. And that's the state that's the usual, well-known use. So I want to make sure it's clear in the record. A central call it display unit
1 2 3 4 5 6 7	Page 142 bedside monitor included a receiver? MS. HOEKEL: Object to the form. A. I'm going to reply: I'm not sure how you are asking and how it's different than the opinions and comments I've already made in the record. O. Let's take a look, then, at page 11 of	1 2 3 4 5 6 7	Page 144 individual patient monitoring systems. And that's the state that's the usual, well-known use. So I want to make sure it's clear in the record. A central call it display unit for all the patient monitors is not the same
1 2 4 5 6 7 8	Page 142 bedside monitor included a receiver? MS. HOEKEL: Object to the form. A. I'm going to reply: I'm not sure how you are asking and how it's different than the opinions and comments I've already made in the record. Q. Let's take a look, then, at page 11 of this Exhibit 1. This is similar to what we	1 2 3 4 5 6 7 8	Page 144 individual patient monitoring systems. And that's the state that's the usual, well-known use. So I want to make sure it's clear in the record. A central call it display unit for all the patient monitors is not the same thing as one individual conventional bedside
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1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	Page 142 bedside monitor included a receiver? MS. HOEKEL: Object to the form. A. I'm going to reply: I'm not sure how you are asking and how it's different than the opinions and comments I've already made in the record. Q. Let's take a look, then, at page 11 of this Exhibit 1. This is similar to what we talked about before. You see on the third line there it says: Specific receiver unit? A. Yes. Q. What is your understanding of the reason for including the words "specific receiver unit" in this paragraph? A. Because the patent as disclosed has to include some type of receiver unit which can be configured to function with a conventional bedside monitor. Q. So my question for you and I want to make sure I'm understanding you is: Can	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	Page 144 individual patient monitoring systems. And that's the state that's the usual, well-known use. So I want to make sure it's clear in the record. A central call it display unit for all the patient monitors is not the same thing as one individual conventional bedside monitor the way it's been disclosed. Q. So is a nurse's station a central nurse's station a separate monitoring device? A. It could be. Q. Under what conditions could it be? MS. HOEKEL: Object to the form, beyond the scope of the deposition, beyond the scope of claim construction. BY MR. CLAASSEN: Q. What's your understanding of the word "bedside," Dr. Yanulis? A. Adjacent to the patient or in close proximity to the patient being monitored.

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		1
	Page 145	Page 147
1	proximity to a patient?	¹ remember.
2	A. If you are talking about an IC unit,	² Q. That's okay. I just want to make sure
3	from my expertise, it could be visible but it	³ that we are talking about the same thing.
4	could be a separate unit. And that particular	⁴ So up on the screen, we are going to
5	monitor for that patient could be visible on	⁵ call this exhibit Exhibit 7.
6	their central conventional monitor.	⁶ Do you understand that?
7	Q. But would that be bedside?	7 A. Yes, sir, I appreciate that.
8	A. No.	⁸ MR. CLAASSEN: So I'd like the court
9	(Pause)	⁹ reporter to mark this exhibit as Exhibit 7.
10	MR. CLAASSEN: Let take a look now at	¹⁰ (Exhibit 7, Document Bates stamped
11	Exhibit 6, which is your IPR declaration	¹¹ MAS0021189 through 21315, multipage document
12	regarding the '108 patent.	¹² entitled: Declaration of George E. Yanulis in
13	THE WITNESS: Okay. And I appreciate	¹³ Support of Petition for Inter Partes Review of
14	your sharing the screen with me, counselor.	¹⁴ U.S. Patent No. 10,213,108, dated May 6, 2020,
15	MR. CLAASSEN: Of course. Is it	¹⁵ marked for identification)
16	helpful?	¹⁶ BY MR. CLAASSEN:
17	THE WITNESS: Very helpful.	¹⁷ Q. So what is this document, Dr. Yanulis?
18	MR. CLAASSEN: I need Exhibit 7.	¹⁸ A. This is the inter partes review that I
19	MS. HOEKEL: I'm just going to put on	¹⁹ wrote for U.S. Patent '108 as part of our
20	the record an objection, again, to questioning	²⁰ petition to the patent review board.
21	about the IPR declaration as irrelevant and	²¹ Q. And as part of this petition or,
22	beyond the scope of this deposition.	²² sorry part of this declaration, you set forth
	Page 146	Page 148
1	What exhibit are we looking at, Brian?	¹ an opinion on claim construction for the '108
2	MR. CLAASSEN: Exhibit 7.	² patent, right?
3	MS. HOEKEL: And it is the IPR	³ A. Yes, I did.
4	declaration for '108?	⁴ Q. I want to turn now to page 13 of that
5	MR. CLAASSEN: That's correct.	⁵ declaration.
6	BY MR. CLAASSEN:	⁶ (Pause)
7	Q. Dr. Yanulis, have you seen this	A. Okay. I'm seeing it now.
8	Exhibit 7 before?	⁸ Q. You see there is a heading there that
9	A. Yes, counselor.	⁹ says: Claim Construction?
10	I want to make sure that we are you	¹⁰ A. Yes, I do.
11	are referring to Exhibit 1003? I mean, I am	¹¹ You want me to read it?
12	looking at the declaration that I made for the	¹² Or
13	'108 patent.	¹³ Q. No, I don't. At least not aloud. You
14	Q. I just want to make sure what we're	¹⁴ can read it to yourself if that would help you.
15	talking about here when you say Exhibit 1003 is	¹⁵ A. Do you mind if I read it very quickly
16	for the '108 patent, right?	¹⁶ myself?
17	A. Yes.	Q. Go ahead. Let me know when you are
18	Q. The reason I'm being particular there	¹⁸ finished.
19	is because I understand or at least it's my	¹⁹ A. I have read what's on page 13 at the
20	observation that Exhibit 1003 is the number	²⁰ bottom.
21	for your declaration for each of the IPRs?	Q. That continues on to page 14, right?
22	A. And I apologize about that. I don't	A. I'm assuming it does, yes.
	1 0	

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	Page 149		Page 151
1	Q. The bottom of the page 13 sets forth	1	where it starts with: Summary of the Prior Art.
2	the legal principles for claim construction,	2	Right?
3	right?	3	A. I don't see where you are talking
4	A. Correct.	4	about, sir.
5	Q. Then there is a heading gives:	5	Q. Up on the screen now you see on the
6	Opinion of Claim Construction.	6	right side, there is page 14 of what we have
7	Right?	7	been calling Exhibit 7, which is your
8	A. I'm not seeing B.	8	declaration, right?
9	Could you repeat that, sir?	9	A. Correct.
10	Q. Sure.	10	Q. And there is a heading B that says:
11	On the next page, 14, which has also	11	Opinion of Claim Construction.
12	got Bates Nos. MAS0021218 do you see that?	12	Do you see that?
13	A. Yes.	13	A. I see that.
14	Q there is a heading B that says:	14	Q. And there are three paragraphs below
15	Opinion of Claim Construction.	15	that, right?
16	Do you see that?	16	A. Yes, there are.
17	A. Yeah. I thought I heard 8, counselor.	17	Q. Then there is a new heading, right?
18	I'm sorry.	18	A. Yes.
19	Q. That's no problem.	19	Q. Did those three paragraphs address
20	So you see that section B, as in boy?	20	"separate computing device"?
21	A. Yes, I do.	21	MS. HOEKEL: Objection.
22	Q. That's an opinion of claim	22	A. No, they did not.
	Page 150		Page 152
1	construction, right?	1	Q. Did they address "separate monitoring
2	A. Indeed yes, it is. It's my	2	device"?
3	opinion.	3	MS. HOEKEL: Object to the form.
4	Q. Do you see that paragraph 34 there?	4	A. Again, looking at this page, no, they
5	A. Yes.	5	do not.
6	Q. And it says you believe that all claim	6	Q. You set forth a construction of
7	terms for purposes of inter partes review can be	7	"separate monitoring device" that is different
8	given their plain and ordinary meaning.	8	than the plain and ordinary meaning in these
9	Do you see that?	9	three paragraphs?
10	A. Yes.	10	A. I didn't hear your question,
11	Q. Did that include "separate monitoring	11	counselor.
12	device"?	12	Q. Sorry. I think we had two people
13	MS. HOEKEL: Object to the form.	13	speaking.
14	A. I'm not sure how to answer that, sir,	14	MR. CLAASSEN: Jennifer, were you
15	in the context of this page.	15	objecting?
16	Q. Do "all claim terms" of the '108	16	MS. HOEKEL: I was.
17	patent include "separate monitoring device"?	17	MR. CLAASSEN: I don't think that
18	(Pause)	18	objection made it on to the record.
19	A. Looking in the context of what's	19	MS. HOEKEL: Because everyone keeps
20	written on this page, I don't know. I'd have to	20	talking over each other.
21	go through the rest of the IPR.	21	So I'm objecting to the form.
22	Q. You see there are two paragraphs below	22	I think if you reask the question,

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	Page 153		Page 155
1	we'll start over.	1	Q. Does the '108 patent provide a
2	MR. CLAASSEN: Great.	2	definition of the word "monitoring"?
3	BY MR. CLAASSEN:	3	A. I'd have to look at the entire patent.
4	Q. So, Doctor, you notice you see	4	I believe they used a term "patient
5	these three paragraphs, right?	5	monitoring."
6	A. I do.	6	Q. My question is a little different.
7	Q. Do you set forth a construction of	7	Did the '108 patent define the word
8	"separate monitoring device" that is different	8	"monitoring"?
9	than the plain and ordinary meaning in these	9	A. I believe it did.
10	three paragraphs?	10	Q. How did it do that?
11	(Pause)	11	A. In the context of patient monitoring.
12	A. I'm not still understanding the	12	(Pause)
13	question.	13	Q. Let's take a look, then, at Exhibit 6,
14	Are you asking me: Is it a separate	14	which was the '108 patent.
15	monitoring device being discussed in these	15	Do you see that that's been put up on
16	paragraphs?	16	the screen?
17	The answer is: No.	17	A. I see the certificate oh, here it
18	Q. You cut out when you leaned forward.	18	is.
19	A. I'm sorry.	19	Q. Do you have a printed copy of that
20	Q. So what was your response there?	20	'108 patent that's Exhibit 1six?
21	A. The answer is: No.	21	A. Yes, I do.
22	Q. So if I were reading this petition, I	22	Q. Where in the '108 patent does it
	Page 154		Page 156
1	rage 134	1	define the term "manitorine"?
2	abilities the est as would understand that your	2	A Ud have to take a moment and see if
2	skill in the art would understand that your	3	A. I d have to take a moment and see II
1	construction is plain and ordinary meaning,	4	It ald.
5	right?	5	Q. Why don't you take a moment and do
6	A. Yes.	6	unat?
7	Q. Is your understanding of "separate	7	right?
8	A No it's not	8	$\frac{1}{100}$
9	A. NO, It'S HOL. MS. HOEKEL: Object to the form	9	A. Thave 755 out, get the 108.
10	(Bauce)	10	Q. It's in a folder labeled: Exhibit 6.
11	(rause)	11	(rause)
12	DI MR. CLAASSEN.	12	A. ICS. O Do you have Exhibit 6 in front of you?
13	Q. Would a person of ordinary skill in the extrumometer of the wood "meanitering"?	13	Q. Do you have Exhibit 0 in none of you?
14	MS_UOEKEL: Object to the form	14	A. ICS, I do.
15	MS. HOEKEL: Object to the form.	15	with CLAASSEN. I'd like the could
16	A. The answer is: Yes.	16	(Exhibit 6 Decument Dates stemped
17	Q. How would it be understood?	17	(EXHIBITO, DOCUMENT BATES STAMPED
± / 1.8	MS. HOEKEL: Object to the form.	1.9	wiAS0000140 inrough 1/9, multipage document
19	A. Taken in the context of the specs, and	19	entitied: United States Patent No.: US 10,
19 20	the claims, and the file history for this	20	215,108 B2, dated February 26, 2019, with cover
20	particular patent, "monitoring" in this case	20	page dated June 17, 2019, marked for
Ζ⊥	implies physiological monitoring of a specific		
22			

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	Page 157		Page 159
1	that Exhibit 6 right now.	1	Q. I can.
2	Is that right, Dr. Yanulis?	2	Just don't want to speak over you.
3	THE WITNESS: Yes, I would like to	3	Just want to make sure you are finished with
4	take a couple of minutes, if I can.	4	your response.
5	MR. CLAASSEN: Okay. Let's take a	5	A. Yes, I am.
6	short break, and you can review that, and we'll	6	(Pause)
7	come back.	7	Q. Is it your opinion that, if the
8	THE VIDEOGRAPHER: The time is 4:24	8	specification disclosed only the conventional
9	p.m. Off the record.	9	bedside monitor, the claims cannot include
10	(Recess from 4:24 p.m. to 4:30 p.m.)	10	anything more as a separate monitoring device?
11	THE VIDEOGRAPHER: The time is 4:30	11	MS. HOEKEL: Objection.
12	p.m. Back on the record.	12	A. Could you repeat the question?
13	BY MR. CLAASSEN:	13	Q. Sure.
14	Q. Dr. Yanulis, we were talking about	14	Is it your opinion that, if the
15	Exhibit 6, which is the '108 patent.	15	specification disclosed only the conventional
16	Right?	16	bedside monitor, the claims cannot include
17	A. Yes, sir.	17	anything more as a separate monitoring device?
18	Q. You were looking for where it defines	18	MS. HOEKEL: Same objection.
19	"monitoring."	19	MR. CLAASSEN: What is the objection?
20	Is that right?	20	MS. HOEKEL: That it is as to form,
21	A. Yes.	21	and it is incomplete.
22	Q. What did you find?	22	BY MR. CLAASSEN:
	 Page 158		Page 160
1	A. I did not find it actually defined.	1	Q. You can answer the question.
2	What I found in the Background of the	2	A. My response is: I'm going to answer
3	Invention column 1, line 37 referring to	3	this question as a biomedical engineer and not
4	patient vital sign monitoring, which is same	4	an attorney.
5	thing as physiological monitoring of different	5	And I'm going to say the claims, as
6	parameters, such as hemoglobin, SpO2, pulse	6	directed to the specs if the specs have been
7	rate, heart rate.	7	written any differently, I would have had
8	Then I'm looking on.	8	different opinions.
9	This patent spends more time	9	But my opinions do not change based on
10	discussing the communications adapter.	10	what's been disclosed.
11	And I don't see an accurate I	11	Q. What do you mean when you say "if the
12	shouldn't say I couldn't find in the time	12	specs had been written any differently"?
13	that I had an actual definition of what they	13	A. I only have the patents. I have to go
14	called "monitoring."	14	by what the spec says. I can't create
15	But they used the term	15	specifications.
16	"physiological vital sign monitoring" which,	16	Q. So the claims limited to the
17	to one skilled in the art, would be	17	specifications?
18	physiological monitoring.	18	A. It has to be directed to the
19	Most of the figures that I noticed	19	specifications in some way.
20	refer to this so-called communications plug-in	20	Q. What is your understanding of when a
21	system.	21	specification limits the claim?
22	Can you hear me okay?	22	A. Specification should include all the
		-	

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	Page 161	Page 163
1	limitations of their system, what they are	¹ That's all I have is the specs that
2	trying to do with the system, what they are	² are available for me in this patent.
3	hoping to accomplish with the system.	³ Q. You also have knowledge of ordinary
4	I'm not sure I understand your	⁴ person skilled in the art, right?
5	question, counselor.	⁵ A. Again, that's why I said: For one
6	Q. Does that include disclosing something	⁶ skilled in the art, based on the way they have
7	a person of ordinary skill in the art would find	⁷ disclosed it, this is a conventional bedside
8	conventional?	⁸ monitor.
9	MS. HOEKEL: Object to the form.	⁹ Q. I want to move on now and talk about
10	A. Again, one skilled in the art would	¹⁰ the '994 patent and alarm condition. That's the
11	call this a conventional bedside monitor.	¹¹ next in the exhibit line.
12	(Pause)	¹² A. Do want me to get that out, counselor?
13	Q. Does the specification disclose that	¹³ O. Sure.
14	the conventional bedside monitor is a separate	Let's go back to Exhibit 1.
15	monitoring device?	¹⁵ (Pause)
16	(Pause)	¹⁶ O. We are going back now to that joint
17	A. My understanding and the way I viewed	¹⁷ claim construction chart.
18	this is is they may be the only thing I	¹⁸ A. I apologize. It's going to take me a
19	see is this is a conventional bedside monitor.	¹⁹ minute. I'm sorry.
20	I'm not going to add anything more	²⁰ O. That's okay.
21	than that.	A. I have now got the joint hearing
22	Q. But does the specification say that	²² statement, which I believe is Exhibit 1,
	Page 162	Page 164
1	the conventional bedside monitor is a separate	¹ correct.
1 2	the conventional bedside monitor is a separate monitoring device?	 ¹ correct. ² Q. That's correct.
1 2 3	the conventional bedside monitor is a separate monitoring device?A. I'd have to look at the entire specs	 correct. Q. That's correct. Then if you move down into the chart
1 2 3 4	the conventional bedside monitor is a separate monitoring device?A. I'd have to look at the entire specs to answer that question.	 correct. Q. That's correct. Then if you move down into the chart in the back, the third term on beginning on
1 2 3 4 5	the conventional bedside monitor is a separate monitoring device?A. I'd have to look at the entire specs to answer that question.Q. Did you do that?	 correct. Q. That's correct. Then if you move down into the chart in the back, the third term on beginning on page 11 the very bottom of page 11
1 2 3 4 5 6	the conventional bedside monitor is a separate monitoring device?A. I'd have to look at the entire specs to answer that question.Q. Did you do that?A. Figure 1 is prior art.	 correct. Q. That's correct. Then if you move down into the chart in the back, the third term on beginning on page 11 the very bottom of page 11 A. Let me turn to page 11 first.
1 2 3 4 5 6 7	 the conventional bedside monitor is a separate monitoring device? A. I'd have to look at the entire specs to answer that question. Q. Did you do that? A. Figure 1 is prior art. (Pause) 	 correct. Q. That's correct. Then if you move down into the chart in the back, the third term on beginning on page 11 the very bottom of page 11 A. Let me turn to page 11 first. Q. Sure.
1 2 3 4 5 6 7 8	 the conventional bedside monitor is a separate monitoring device? A. I'd have to look at the entire specs to answer that question. Q. Did you do that? A. Figure 1 is prior art. (Pause) Q. I asked a yes-or-no question. 	 correct. Q. That's correct. Then if you move down into the chart in the back, the third term on beginning on page 11 the very bottom of page 11 A. Let me turn to page 11 first. Q. Sure. (Pause)
1 2 3 4 5 6 7 8 9	 the conventional bedside monitor is a separate monitoring device? A. I'd have to look at the entire specs to answer that question. Q. Did you do that? A. Figure 1 is prior art. (Pause) Q. I asked a yes-or-no question. Did you do that? 	 correct. Q. That's correct. Then if you move down into the chart in the back, the third term on beginning on page 11 the very bottom of page 11 A. Let me turn to page 11 first. Q. Sure. (Pause) A. Yes, I see it. And I have got it in
1 2 3 4 5 6 7 8 9 10	 the conventional bedside monitor is a separate monitoring device? A. I'd have to look at the entire specs to answer that question. Q. Did you do that? A. Figure 1 is prior art. (Pause) Q. I asked a yes-or-no question. Did you do that? A. No. 	 correct. Q. That's correct. Then if you move down into the chart in the back, the third term on beginning on page 11 the very bottom of page 11 A. Let me turn to page 11 first. Q. Sure. (Pause) A. Yes, I see it. And I have got it in front of me.
1 2 3 4 5 6 7 8 9 10 11	 the conventional bedside monitor is a separate monitoring device? A. I'd have to look at the entire specs to answer that question. Q. Did you do that? A. Figure 1 is prior art. (Pause) Q. I asked a yes-or-no question. Did you do that? A. No. Q. No, you did not do that? 	1 correct. 2 Q. That's correct. 3 Then if you move down into the chart 4 in the back, the third term on beginning on 5 page 11 the very bottom of page 11 6 A. Let me turn to page 11 first. 7 Q. Sure. 8 (Pause) 9 A. Yes, I see it. And I have got it in 10 front of me. 11 Q. And you see that the disputed term is
1 2 3 4 5 6 7 8 9 10 11 12	 the conventional bedside monitor is a separate monitoring device? A. I'd have to look at the entire specs to answer that question. Q. Did you do that? A. Figure 1 is prior art. (Pause) Q. I asked a yes-or-no question. Did you do that? A. No. Q. No, you did not do that? A. I'm sorry. I didn't repeat the 	 correct. Q. That's correct. Then if you move down into the chart in the back, the third term on beginning on page 11 the very bottom of page 11 A. Let me turn to page 11 first. Q. Sure. (Pause) A. Yes, I see it. And I have got it in front of me. Q. And you see that the disputed term is "alarm condition," right?
1 2 3 4 5 6 7 8 9 10 11 12 13	 the conventional bedside monitor is a separate monitoring device? A. I'd have to look at the entire specs to answer that question. Q. Did you do that? A. Figure 1 is prior art. (Pause) Q. I asked a yes-or-no question. Did you do that? A. No. Q. No, you did not do that? A. I'm sorry. I didn't repeat the question? 	1 correct. 2 Q. That's correct. 3 Then if you move down into the chart 4 in the back, the third term on beginning on 5 page 11 the very bottom of page 11 6 A. Let me turn to page 11 first. 7 Q. Sure. 8 (Pause) 9 A. Yes, I see it. And I have got it in 10 front of me. 11 Q. And you see that the disputed term is 12 "alarm condition," right? 13 (Pause)
1 2 3 4 5 6 7 8 9 10 11 12 13 14	 the conventional bedside monitor is a separate monitoring device? A. I'd have to look at the entire specs to answer that question. Q. Did you do that? A. Figure 1 is prior art. (Pause) Q. I asked a yes-or-no question. Did you do that? A. No. Q. No, you did not do that? A. I'm sorry. I didn't repeat the question? Q. Let's go back to my question. 	1 correct. 2 Q. That's correct. 3 Then if you move down into the chart 4 in the back, the third term on beginning on 5 page 11 the very bottom of page 11 6 A. Let me turn to page 11 first. 7 Q. Sure. 8 (Pause) 9 A. Yes, I see it. And I have got it in 10 front of me. 11 Q. And you see that the disputed term is 12 "alarm condition," right? 13 (Pause) 14 A. Give me a moment. I'm looking at the
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15	 the conventional bedside monitor is a separate monitoring device? A. I'd have to look at the entire specs to answer that question. Q. Did you do that? A. Figure 1 is prior art. (Pause) Q. I asked a yes-or-no question. Did you do that? A. No. Q. No, you did not do that? A. I'm sorry. I didn't repeat the question? Q. Let's go back to my question. I had asked: Does the specification 	1 correct. 2 Q. That's correct. 3 Then if you move down into the chart 4 in the back, the third term on beginning on 5 page 11 the very bottom of page 11 6 A. Let me turn to page 11 first. 7 Q. Sure. 8 (Pause) 9 A. Yes, I see it. And I have got it in 10 front of me. 11 Q. And you see that the disputed term is 12 "alarm condition," right? 13 (Pause) 14 A. Give me a moment. I'm looking at the 15 hard copy. I can discuss it from the chart
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	 the conventional bedside monitor is a separate monitoring device? A. I'd have to look at the entire specs to answer that question. Q. Did you do that? A. Figure 1 is prior art. (Pause) Q. I asked a yes-or-no question. Did you do that? A. No. Q. No, you did not do that? A. I'm sorry. I didn't repeat the question? Q. Let's go back to my question. I had asked: Does the specification say that the conventional bedside monitor is a 	1 correct. 2 Q. That's correct. 3 Then if you move down into the chart 4 in the back, the third term on beginning on 5 page 11 the very bottom of page 11 6 A. Let me turn to page 11 first. 7 Q. Sure. 8 (Pause) 9 A. Yes, I see it. And I have got it in 10 front of me. 11 Q. And you see that the disputed term is 12 "alarm condition," right? 13 (Pause) 14 A. Give me a moment. I'm looking at the 15 hard copy. I can discuss it from the chart 16 here, save time.
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	 the conventional bedside monitor is a separate monitoring device? A. I'd have to look at the entire specs to answer that question. Q. Did you do that? A. Figure 1 is prior art. (Pause) Q. I asked a yes-or-no question. Did you do that? A. No. Q. No, you did not do that? A. I'm sorry. I didn't repeat the question? Q. Let's go back to my question. I had asked: Does the specification say that the conventional bedside monitor is a separate monitoring device? 	1 correct. 2 Q. That's correct. 3 Then if you move down into the chart 4 in the back, the third term on beginning on 5 page 11 the very bottom of page 11 6 A. Let me turn to page 11 first. 7 Q. Sure. 8 (Pause) 9 A. Yes, I see it. And I have got it in 10 front of me. 11 Q. And you see that the disputed term is 12 "alarm condition," right? 13 (Pause) 14 A. Give me a moment. I'm looking at the 15 hard copy. I can discuss it from the chart 16 here, save time. 17 Q. So you understand the third disputed
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	 the conventional bedside monitor is a separate monitoring device? A. I'd have to look at the entire specs to answer that question. Q. Did you do that? A. Figure 1 is prior art. (Pause) Q. I asked a yes-or-no question. Did you do that? A. No. Q. No, you did not do that? A. I'm sorry. I didn't repeat the question? Q. Let's go back to my question. I had asked: Does the specification say that the conventional bedside monitor is a separate monitoring device? A. No, it does not. 	1 correct. 2 Q. That's correct. 3 Then if you move down into the chart 4 in the back, the third term on beginning on 5 page 11 the very bottom of page 11 6 A. Let me turn to page 11 first. 7 Q. Sure. 8 (Pause) 9 A. Yes, I see it. And I have got it in 10 front of me. 11 Q. And you see that the disputed term is 12 "alarm condition," right? 13 (Pause) 14 A. Give me a moment. I'm looking at the 15 hard copy. I can discuss it from the chart 16 here, save time. 17 Q. So you understand the third disputed 18 term here is "alarm condition," right?
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	 the conventional bedside monitor is a separate monitoring device? A. I'd have to look at the entire specs to answer that question. Q. Did you do that? A. Figure 1 is prior art. (Pause) Q. I asked a yes-or-no question. Did you do that? A. No. Q. No, you did not do that? A. I'm sorry. I didn't repeat the question? Q. Let's go back to my question. I had asked: Does the specification say that the conventional bedside monitor is a separate monitoring device? A. No, it does not. Q. How did you reach that conclusion? 	1 correct. 2 Q. That's correct. 3 Then if you move down into the chart 4 in the back, the third term on beginning on 5 page 11 the very bottom of page 11 6 A. Let me turn to page 11 first. 7 Q. Sure. 8 (Pause) 9 A. Yes, I see it. And I have got it in 10 front of me. 11 Q. And you see that the disputed term is 12 "alarm condition," right? 13 (Pause) 14 A. Give me a moment. I'm looking at the 15 hard copy. I can discuss it from the chart 16 here, save time. 17 Q. So you understand the third disputed 18 term here is "alarm condition," right? 19 A. Correct.
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	 the conventional bedside monitor is a separate monitoring device? A. I'd have to look at the entire specs to answer that question. Q. Did you do that? A. Figure 1 is prior art. (Pause) Q. I asked a yes-or-no question. Did you do that? A. No. Q. No, you did not do that? A. I'm sorry. I didn't repeat the question? Q. Let's go back to my question. I had asked: Does the specification say that the conventional bedside monitor is a separate monitoring device? A. No, it does not. Q. How did you reach that conclusion? A. Because the specs; and for one skilled 	1 correct. 2 Q. That's correct. 3 Then if you move down into the chart 4 in the back, the third term on beginning on 5 page 11 the very bottom of page 11 6 A. Let me turn to page 11 first. 7 Q. Sure. 8 (Pause) 9 A. Yes, I see it. And I have got it in 10 front of me. 11 Q. And you see that the disputed term is 12 "alarm condition," right? 13 (Pause) 14 A. Give me a moment. I'm looking at the 15 hard copy. I can discuss it from the chart 16 here, save time. 17 Q. So you understand the third disputed 18 term here is "alarm condition," right? 19 A. Correct. 20 Q. What is your understanding of Masimo's
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	 the conventional bedside monitor is a separate monitoring device? A. I'd have to look at the entire specs to answer that question. Q. Did you do that? A. Figure 1 is prior art. (Pause) Q. I asked a yes-or-no question. Did you do that? A. No. Q. No, you did not do that? A. I'm sorry. I didn't repeat the question? Q. Let's go back to my question. I had asked: Does the specification say that the conventional bedside monitor is a separate monitoring device? A. No, it does not. Q. How did you reach that conclusion? A. Because the specs; and for one skilled in the art as I am, it is a conventional bedside 	1 correct. 2 Q. That's correct. 3 Then if you move down into the chart 4 in the back, the third term on beginning on 5 page 11 the very bottom of page 11 6 A. Let me turn to page 11 first. 7 Q. Sure. 8 (Pause) 9 A. Yes, I see it. And I have got it in 10 front of me. 11 Q. And you see that the disputed term is 12 "alarm condition," right? 13 (Pause) 14 A. Give me a moment. I'm looking at the 15 hard copy. I can discuss it from the chart 16 here, save time. 17 Q. So you understand the third disputed 18 term here is "alarm condition," right? 19 A. Correct. 20 Q. What is your understanding of Masimo's 21 proposed construction of that term?

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	Page 165		Page 167
1	Masimo's construction implies "alarm	1	A. No, it does not.
2	condition," which is based on one criterion.	2	Q. So where are you getting criteria
3	And Sotero's is based on multiple	3	from?
4	criterion.	4	A. My interpretation for one skilled in
5	Q. Okay. So let's scroll down now to	5	the art and looking at the specs as
6	page 12.	6	articulated
7	A. Okay.	7	MR. CLAASSEN: You are dropping off
8	Q. So you understand Masimo's	8	again
9	construction is plain and ordinary meaning,	9	THE WITNESS: All right. Let me bring
10	right?	10	it to my face. It is a lot easier.
11	A. Correct.	11	A. The alarm criteria has to be satisfied
12	Q. There is an alternate definition	12	before you have any kind of triggered alert.
13	there, right?	13	And Masimo just that statement.
14	A yes	14	I'm not changing my opinion on that.
15	Q. Dr. Yanulis, if you are speaking, you	15	Q. So I haven't gotten to your opinion
16	are not	16	yet, as far as I understand it.
17	A. I'm sorry. Can you hear me now,	17	I was asking if you agreed with
18	counsel?	18	Masimo's construction.
19	Q. Yes.	19	And at first, you said: Yes.
20	THE VIDEOGRAPHER: I'm sorry to	20	Then you said: Let me clarify.
21	interject, but any time you lean forward assume	21	A. The answer is: Yes.
22	we may have issues hearing you.	22	Q. So you do agree?
	Page 166		Page 168
1	THE WITNESS: All right.	1	A. Yes.
1 2	A. The alternate is Masimo's position.	1 2	A. Yes.Q. Okay.
1 2 3	A. The alternate is Masimo's position. This term should be construed as a measurement	1 2 3	A. Yes.Q. Okay.Let's talk about Sotero's
1 2 3 4	A. The alternate is Masimo's position. This term should be construed as a measurement of a physiological parameter that's outside	1 2 3 4	 A. Yes. Q. Okay. Let's talk about Sotero's construction.
1 2 3 4 5	A. The alternate is Masimo's position. This term should be construed as a measurement of a physiological parameter that's outside certain limits.	1 2 3 4 5	 A. Yes. Q. Okay. Let's talk about Sotero's construction. A. Okay.
1 2 3 4 5 6	A. The alternate is Masimo's position. This term should be construed as a measurement of a physiological parameter that's outside certain limits. Q. Do you disagree with that	1 2 3 4 5 6	 A. Yes. Q. Okay. Let's talk about Sotero's construction. A. Okay. Q. You see that in the right column
1 2 3 4 5 6 7	 A. The alternate is Masimo's position. This term should be construed as a measurement of a physiological parameter that's outside certain limits. Q. Do you disagree with that construction? 	1 2 3 4 5 6 7	 A. Yes. Q. Okay. Let's talk about Sotero's construction. A. Okay. Q. You see that in the right column there?
1 2 3 4 5 6 7 8	 A. The alternate is Masimo's position. This term should be construed as a measurement of a physiological parameter that's outside certain limits. Q. Do you disagree with that construction? A. Yes. Well, no, I don't. I'm sorry. 	1 2 3 4 5 6 7 8	 A. Yes. Q. Okay. Let's talk about Sotero's construction. A. Okay. Q. You see that in the right column there? A. Yes.
1 2 3 4 5 6 7 8 9	 A. The alternate is Masimo's position. This term should be construed as a measurement of a physiological parameter that's outside certain limits. Q. Do you disagree with that construction? A. Yes. Well, no, I don't. I'm sorry. No, I don't. 	1 2 3 4 5 6 7 8 9	 A. Yes. Q. Okay. Let's talk about Sotero's construction. A. Okay. Q. You see that in the right column there? A. Yes. Q. We're talking about Exhibit 1 on page
1 2 3 4 5 6 7 8 9 10	 A. The alternate is Masimo's position. This term should be construed as a measurement of a physiological parameter that's outside certain limits. Q. Do you disagree with that construction? A. Yes. Well, no, I don't. I'm sorry. No, I don't. Q. So you agree with Masimo's alternate 	1 2 3 4 5 6 7 8 9 10	 A. Yes. Q. Okay. Let's talk about Sotero's construction. A. Okay. Q. You see that in the right column there? A. Yes. Q. We're talking about Exhibit 1 on page 12 of the joint chart?
1 2 3 4 5 6 7 8 9 10 11	 A. The alternate is Masimo's position. This term should be construed as a measurement of a physiological parameter that's outside certain limits. Q. Do you disagree with that construction? A. Yes. Well, no, I don't. I'm sorry. No, I don't. Q. So you agree with Masimo's alternate construction? 	1 2 3 4 5 6 7 8 9 10 11	 A. Yes. Q. Okay. Let's talk about Sotero's construction. A. Okay. Q. You see that in the right column there? A. Yes. Q. We're talking about Exhibit 1 on page 12 of the joint chart? A. Right.
1 2 3 4 5 6 7 8 9 10 11 12	 A. The alternate is Masimo's position. This term should be construed as a measurement of a physiological parameter that's outside certain limits. Q. Do you disagree with that construction? A. Yes. Well, no, I don't. I'm sorry. No, I don't. Q. So you agree with Masimo's alternate construction? A. Yes. 	1 2 3 4 5 6 7 8 9 10 11 12	 A. Yes. Q. Okay. Let's talk about Sotero's construction. A. Okay. Q. You see that in the right column there? A. Yes. Q. We're talking about Exhibit 1 on page 12 of the joint chart? A. Right. Q. That's: A patient condition that
1 2 3 4 5 6 7 8 9 10 11 12 13	 A. The alternate is Masimo's position. This term should be construed as a measurement of a physiological parameter that's outside certain limits. Q. Do you disagree with that construction? A. Yes. Well, no, I don't. I'm sorry. No, I don't. Q. So you agree with Masimo's alternate construction? A. Yes. Q. You disagree with the plain and 	1 2 3 4 5 6 7 8 9 10 11 12 13	 A. Yes. Q. Okay. Let's talk about Sotero's construction. A. Okay. Q. You see that in the right column there? A. Yes. Q. We're talking about Exhibit 1 on page 12 of the joint chart? A. Right. Q. That's: A patient condition that satisfies all alarm criteria resulting in a
1 2 3 4 5 6 7 8 9 10 11 12 13 14	 A. The alternate is Masimo's position. This term should be construed as a measurement of a physiological parameter that's outside certain limits. Q. Do you disagree with that construction? A. Yes. Well, no, I don't. I'm sorry. No, I don't. Q. So you agree with Masimo's alternate construction? A. Yes. Q. You disagree with the plain and ordinary meaning construction? 	1 2 3 4 5 6 7 8 9 10 11 12 13 14	 A. Yes. Q. Okay. Let's talk about Sotero's construction. A. Okay. Q. You see that in the right column there? A. Yes. Q. We're talking about Exhibit 1 on page 12 of the joint chart? A. Right. Q. That's: A patient condition that satisfies all alarm criteria resulting in a triggered alert.
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15	 A. The alternate is Masimo's position. This term should be construed as a measurement of a physiological parameter that's outside certain limits. Q. Do you disagree with that construction? A. Yes. Well, no, I don't. I'm sorry. No, I don't. Q. So you agree with Masimo's alternate construction? A. Yes. Q. You disagree with the plain and ordinary meaning construction? A. Can I reanswer that question? 	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15	 A. Yes. Q. Okay. Let's talk about Sotero's construction. A. Okay. Q. You see that in the right column there? A. Yes. Q. We're talking about Exhibit 1 on page 12 of the joint chart? A. Right. Q. That's: A patient condition that satisfies all alarm criteria resulting in a triggered alert. Right?
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1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	 A. The alternate is Masimo's position. This term should be construed as a measurement of a physiological parameter that's outside certain limits. Q. Do you disagree with that construction? A. Yes. Well, no, I don't. I'm sorry. No, I don't. Q. So you agree with Masimo's alternate construction? A. Yes. Q. You disagree with the plain and ordinary meaning construction? A. Can I reanswer that question? Q. Sure. A. I disagree with the way it's written. 	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	 A. Yes. Q. Okay. Let's talk about Sotero's construction. A. Okay. Q. You see that in the right column there? A. Yes. Q. We're talking about Exhibit 1 on page 12 of the joint chart? A. Right. Q. That's: A patient condition that satisfies all alarm criteria resulting in a triggered alert. Right? A. Correct. Q. What does "all" in "all alarm
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1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	 A. The alternate is Masimo's position. This term should be construed as a measurement of a physiological parameter that's outside certain limits. Q. Do you disagree with that construction? A. Yes. Well, no, I don't. I'm sorry. No, I don't. Q. So you agree with Masimo's alternate construction? A. Yes. Q. You disagree with the plain and ordinary meaning construction? A. Can I reanswer that question? Q. Sure. A. I disagree with the way it's written. It implies it's based on one criterion; whereas our position is that it's more than one alarm aritemine 	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	 A. Yes. Q. Okay. Let's talk about Sotero's construction. A. Okay. Q. You see that in the right column there? A. Yes. Q. We're talking about Exhibit 1 on page 12 of the joint chart? A. Right. Q. That's: A patient condition that satisfies all alarm criteria resulting in a triggered alert. Right? A. Correct. Q. What does "all" in "all alarm criteria" mean? A. More than one criterion. Q. La true criteria ""
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	 A. The alternate is Masimo's position. This term should be construed as a measurement of a physiological parameter that's outside certain limits. Q. Do you disagree with that construction? A. Yes. Well, no, I don't. I'm sorry. No, I don't. Q. So you agree with Masimo's alternate construction? A. Yes. Q. You disagree with the plain and ordinary meaning construction? A. Can I reanswer that question? Q. Sure. A. I disagree with the way it's written. It implies it's based on one criterion; whereas our position is that it's more than one alarm criterion. 	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	 A. Yes. Q. Okay. Let's talk about Sotero's construction. A. Okay. Q. You see that in the right column there? A. Yes. Q. We're talking about Exhibit 1 on page 12 of the joint chart? A. Right. Q. That's: A patient condition that satisfies all alarm criteria resulting in a triggered alert. Right? A. Correct. Q. What does "all" in "all alarm criteria" mean? A. More than one criterion. Q. Is two criteria "all"?
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	 A. The alternate is Masimo's position. This term should be construed as a measurement of a physiological parameter that's outside certain limits. Q. Do you disagree with that construction? A. Yes. Well, no, I don't. I'm sorry. No, I don't. Q. So you agree with Masimo's alternate construction? A. Yes. Q. You disagree with the plain and ordinary meaning construction? A. Can I reanswer that question? Q. Sure. A. I disagree with the way it's written. It implies it's based on one criterion; whereas our position is that it's more than one alarm criterion. Q. Okay, does the word "criteria" appear in Masimo's construction? 	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	 A. Yes. Q. Okay. Let's talk about Sotero's construction. A. Okay. Q. You see that in the right column there? A. Yes. Q. We're talking about Exhibit 1 on page 12 of the joint chart? A. Right. Q. That's: A patient condition that satisfies all alarm criteria resulting in a triggered alert. Right? A. Correct. Q. What does "all" in "all alarm criteria" mean? A. More than one criterion. Q. Is two criteria "all"? MS. HOEKEL: Objection.

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	Page 169		Page 171
1	criterion, as far as my expertise.	1	Q. Masimo's construction doesn't include
2	Q. So what I'm trying to figure out now	2	"criteria" either, does it?
3	is what "all" means within the construction	3	MS. HOEKEL: Object to the form.
4	itself.	4	BY MR. CLAASSEN:
5	A. It could be the treatment times, as an	5	Q. It doesn't include the word
6	example. It could be the type of patient who	6	"criteria," does it?
7	you are monitoring. It could also and I	7	A. As far as Sotero, they satisfy all
8	don't want to get into terms we haven't talked	8	alarm criteria.
9	about here but it could talk about in terms	9	Q. So both the "all" and the "criteria"
10	of what's meant by for example, you can't	10	come from Sotero's construction, right?
11	just have something outside the limits. There	11	MS. HOEKEL: Object to the form.
12	also has to be other criterion applied before	12	A. They come from the construction.
13	you have an alert triggered.	13	But I'm giving you if I could
14	Q. What does "criteria" mean?	14	finish my statement as to the way the patent
15	A. "Criterion" is one single element or	15	specs have been disclosed in combination with
16	one single variable or parameter.	16	the figures, it's directed, to me, you have to
17	You have to have more than one	17	satisfy all alarm criteria before you have a
18	parameter with "criteria" in terms of what you	18	triggered alert.
19	are actually defining as; "all the criteria."	19	Q. What are "all alarm criteria"?
20	Q. You understand that "criteria" is not	20	A. Depends on how they are defined.
21	part of the claim, right?	21	Q. Okay.
22	MS. HOEKEL: Object to the form.	22	So you understand the purpose of claim
	Page 170		Page 172
1	BY MR. CLAASSEN:	1	construction, right?
2	Q. The words of the claim do not include	2	A. Yes, I do.
3	"criteria," right?	3	Q. What is it?
4	A. Correct.	4	A. The purpose of claim construction is
5	Q. They include "condition," right?	5	to evaluate whether Masimo or defendant Sotero's
6	A. Right.	6	claim construction are precise for purposes of
7	Q. Is "condition" singular or plural?	7	such things as infringement, or moving other
8	A. "Alarm condition" is singular in the	8	factors other than just invalidity.
9	claim in the claim.	9	Q. You understand that a jury has to
10	Q. Understood.	10	understand the constructions, right?
11	So the introduction of the word	11	A. But I do as well as an expert. I have
12	"criteria" makes it plural, right?	12	to understand the difference in the terms as
13	A. Correct.	13	they have been agreed on by the two different
14	Q. Where does "criteria" come from in	14	parties or in other words, what's been
15	your analysis?	15	stipulated.
16	A. It comes from what parameters. It may	16	Q. So if a juror is evaluating "all alarm
17	be two, three but it's more than one	17	criteria," what are they looking at?
18	criterion.	18	A. Multiple parameters. Multiple
19	Q. Okay.	19	parameters.
20	But you understand the claim language	20	Q. Why didn't you say "multiple alarm
21	itself doesn't use the word "criteria," right?	21	criteria"?
22	A. Yes, I do, sir.	22	MS. HOEKEL: Object to the form.

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	Page 173		Page 175
1	A. Because I'm answering these questions	¹ multiple parameters n	eed to be satisfied.
2	from the perspective of someone skilled in the	² Is that right?	
3	art. I may not have the same level of knowledge	³ A. Let me rephra	se that, because I
4	as the attorneys.	4 think I'm saying on	e thing, and it's being
5	Q. So would "multiple alarm criteria" be	⁵ implied in a different	way.
6	a correct construction to a person of ordinary	6 What I'm sayin	g is different criteria
7	skill in the art?	⁷ for that particular par	ameter have to be
8	A. You say "multiple alarm criteria," and	⁸ satisfied is what I'n	n saying.
9	my answer is: Yes.	⁹ I apologize if I'	m confusing parameter
10	(Pause)	⁰ with what kind of lim	its that you set for the
11	Q. You see the claim language in the left	¹ alarm condition.	
12	column of page 12 of Exhibit 1?	² MS. HOEKEL:	Dr. Yanulis, you have to
13	It on the screen right now.	³ back up or we can't h	ear you.
14	No?	4 THE WITNESS	S: Oh, I'm sorry.
15	A. Can you highlight I see on the	A. What I'm sayi	ng, counselor, is that
16	left.	⁶ and I want this in the	record I'm saying the
17	Can you highlight the claim language?	⁷ one parameter may be	e monitored, and you have an
18	Okay. I see.	⁸ alarm condition for th	at one parameter.
19	Q. You see that, right?	9 Whether it be S	SpO2, or pulse rate, or
20	A. Yes, sir.	whatever, you have to	have certain criteria
21	Q. And you see that the word "alarm	for example, what typ	be of and I don't want to
22	condition" is or the phrase "alarm condition"	get into some of the to	erms, but lack of a
	Page 174		Page 176
1	Page 174	¹ better term what are	Page 176
1 2	Page 174 is bold, right? A. Yes.	 better term what are example, treatment tip 	Page 176 e all the criterion?, for mes as opposed to how you
1 2 3	Page 174 is bold, right? A. Yes. O. That's the term that's being	 better term what are example, treatment tin set those. 	Page 176 e all the criterion?, for mes as opposed to how you
1 2 3 4	Page 174 is bold, right? A. Yes. Q. That's the term that's being construed, right?	 better term what are example, treatment tin set those. And until all th 	Page 176 e all the criterion?, for mes as opposed to how you ose criterion are set,
1 2 3 4 5	Page 174 is bold, right? A. Yes. Q. That's the term that's being construed, right? A. Yes.	 better term what are example, treatment tin set those. And until all th for example, for insta 	Page 176 e all the criterion?, for mes as opposed to how you ose criterion are set, nce, what's your let's
1 2 3 4 5 6	Page 174 is bold, right? A. Yes. Q. That's the term that's being construed, right? A. Yes. Q. And so "alarm condition" is for the	 better term what are example, treatment tin set those. And until all th for example, for insta say you are monitorin 	Page 176 e all the criterion?, for mes as opposed to how you ose criterion are set, nce, what's your let's ag pulse oximetry. You have
1 2 3 4 5 6 7	Page 174 is bold, right? A. Yes. Q. That's the term that's being construed, right? A. Yes. Q. And so "alarm condition" is for the physiological parameter, right?	 better term what are example, treatment tin set those. And until all th for example, for insta say you are monitorin to, first of all, set what 	Page 176 e all the criterion?, for mes as opposed to how you ose criterion are set, nce, what's your let's ag pulse oximetry. You have at your upper limit,
1 2 3 4 5 6 7 8	Page 174 is bold, right? A. Yes. Q. That's the term that's being construed, right? A. Yes. Q. And so "alarm condition" is for the physiological parameter, right? MS. HOEKEL: Object to the form.	 better term what are example, treatment tin set those. And until all th for example, for insta say you are monitorin to, first of all, set wha lower limit. You also 	Page 176 e all the criterion?, for mes as opposed to how you ose criterion are set, nce, what's your let's ag pulse oximetry. You have at your upper limit, o have to sort of set
1 2 3 4 5 6 7 8 9	Page 174 is bold, right? A. Yes. Q. That's the term that's being construed, right? A. Yes. Q. And so "alarm condition" is for the physiological parameter, right? MS. HOEKEL: Object to the form. BY MR. CLAASSEN:	 better term what are example, treatment til set those. And until all th for example, for insta say you are monitoring to, first of all, set wha lower limit. You also what what's the time 	Page 176 e all the criterion?, for mes as opposed to how you ose criterion are set, nce, what's your let's ag pulse oximetry. You have at your upper limit, o have to sort of set ing of when the alarm
1 2 3 4 5 6 7 8 9 10	Page 174 is bold, right? A. Yes. Q. That's the term that's being construed, right? A. Yes. Q. And so "alarm condition" is for the physiological parameter, right? MS. HOEKEL: Object to the form. BY MR. CLAASSEN: Q. Is that right?	 better term what are example, treatment tin set those. And until all th for example, for insta say you are monitorin to, first of all, set wha lower limit. You also what what's the tim condition is triggered 	Page 176 e all the criterion?, for mes as opposed to how you ose criterion are set, nce, what's your let's ag pulse oximetry. You have at your upper limit, b have to sort of set ing of when the alarm
1 2 3 4 5 6 7 8 9 10 11	Page 174 is bold, right? A. Yes. Q. That's the term that's being construed, right? A. Yes. Q. And so "alarm condition" is for the physiological parameter, right? MS. HOEKEL: Object to the form. BY MR. CLAASSEN: Q. Is that right? Or wrong?	 better term what are example, treatment tin set those. And until all th for example, for insta say you are monitorin to, first of all, set wha lower limit. You also what what's the tim condition is triggered Does that make 	Page 176 e all the criterion?, for mes as opposed to how you ose criterion are set, nce, what's your let's ag pulse oximetry. You have at your upper limit, o have to sort of set ing of when the alarm e sense?
1 2 3 4 5 6 7 8 9 10 11 12	Page 174 is bold, right? A. Yes. Q. That's the term that's being construed, right? A. Yes. Q. And so "alarm condition" is for the physiological parameter, right? MS. HOEKEL: Object to the form. BY MR. CLAASSEN: Q. Is that right? Or wrong? A. Correct.	 better term what are example, treatment tin set those. And until all th for example, for insta say you are monitorin to, first of all, set wha lower limit. You also what what's the tim condition is triggered Does that make Q. No, but we'll to 	Page 176 e all the criterion?, for mes as opposed to how you ose criterion are set, nce, what's your let's up pulse oximetry. You have at your upper limit, o have to sort of set ing of when the alarm e sense? alk about it some more.
1 2 3 4 5 6 7 8 9 10 11 12 13	Page 174 is bold, right? A. Yes. Q. That's the term that's being construed, right? A. Yes. Q. And so "alarm condition" is for the physiological parameter, right? MS. HOEKEL: Object to the form. BY MR. CLAASSEN: Q. Is that right? Or wrong? A. Correct. Q. The physiological parameter refers to	 better term what are example, treatment tin set those. And until all th for example, for insta say you are monitorin to, first of all, set what lower limit. You also what what's the tim condition is triggered Does that make Q. No, but we'll to A. Okay. 	Page 176 e all the criterion?, for mes as opposed to how you ose criterion are set, nce, what's your let's up pulse oximetry. You have at your upper limit, have to sort of set ing of when the alarm e sense? alk about it some more.
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1 2 3 4 5 6 7 8 9 10 11 12 13 14 15	Page 174 is bold, right? A. Yes. Q. That's the term that's being construed, right? A. Yes. Q. And so "alarm condition" is for the physiological parameter, right? MS. HOEKEL: Object to the form. BY MR. CLAASSEN: Q. Is that right? Or wrong? A. Correct. Q. The physiological parameter refers to one parameter, right? A. Yes.	 better term what are example, treatment tin set those. And until all th for example, for insta say you are monitorin to, first of all, set wha lower limit. You also what what's the tim condition is triggered Does that make Q. No, but we'll ti A. Okay. Q. So the SpO2 is A. The SpO2 is a 	Page 176 e all the criterion?, for mes as opposed to how you ose criterion are set, nce, what's your let's up pulse oximetry. You have at your upper limit, b have to sort of set ing of when the alarm e sense? alk about it some more.
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	Page 174 is bold, right? A. Yes. Q. That's the term that's being construed, right? A. Yes. Q. And so "alarm condition" is for the physiological parameter, right? MS. HOEKEL: Object to the form. BY MR. CLAASSEN: Q. Is that right? Or wrong? A. Correct. Q. The physiological parameter refers to one parameter, right? A. Yes. Q. Did you consider that when you were	 better term what are example, treatment tin set those. And until all th for example, for insta say you are monitorin to, first of all, set what lower limit. You also what what's the tim condition is triggered Does that make Q. No, but we'll to A. Okay. Q. So the SpO2 is a I'm sorry. I interview 	Page 176 e all the criterion?, for mes as opposed to how you ose criterion are set, nce, what's your let's up pulse oximetry. You have at your upper limit, have to sort of set ing of when the alarm e sense? alk about it some more. s an example, right? in example, yes. errupted.
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1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	Page 174 is bold, right? A. Yes. Q. That's the term that's being construed, right? A. Yes. Q. And so "alarm condition" is for the physiological parameter, right? MS. HOEKEL: Object to the form. BY MR. CLAASSEN: Q. Is that right? Or wrong? A. Correct. Q. The physiological parameter refers to one parameter, right? A. Yes. Q. Did you consider that when you were evaluating Sotero's claim construction? A. Yes, I did. Q. How did it impact your analysis? A. It did not change my opinions, as I	 better term what are example, treatment the set those. And until all the for example, for insta for example, for insta say you are monitoring to, first of all, set what lower limit. You also what what's the time condition is triggered Does that make Q. No, but we'll the Ansatz A. Okay. Q. So the SpO2 is a I'm sorry. I interact A. Correct. Q. What would "A correct. Q. What would "A correct. Q. What would "A context of SpO2? 	Page 176 e all the criterion?, for mes as opposed to how you ose criterion are set, nce, what's your let's ag pulse oximetry. You have at your upper limit, o have to sort of set ing of when the alarm e sense? alk about it some more. s an example, right? m example, yes. errupted. hysiological parameter? all alarm criteria" be in
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 20	Page 174 is bold, right? A. Yes. Q. That's the term that's being construed, right? A. Yes. Q. And so "alarm condition" is for the physiological parameter, right? MS. HOEKEL: Object to the form. BY MR. CLAASSEN: Q. Is that right? Or wrong? A. Correct. Q. The physiological parameter refers to one parameter, right? A. Yes. Q. Did you consider that when you were evaluating Sotero's claim construction? A. Yes, I did. Q. How did it impact your analysis? A. It did not change my opinions, as I discussed.	 better term what are example, treatment the set those. And until all th for example, for insta say you are monitoring to, first of all, set what lower limit. You also what what's the time condition is triggered Does that make Q. No, but we'll th A. Okay. Q. So the SpO2 is a I'm sorry. I into Q. And that's a plate A. Correct. Q. What would " the context of SpO2? A. The threshold 	Page 176 e all the criterion?, for mes as opposed to how you ose criterion are set, nce, what's your let's ag pulse oximetry. You have at your upper limit, o have to sort of set ing of when the alarm e sense? alk about it some more. s an example, right? in example, yes. errupted. hysiological parameter? all alarm criteria" be in values before the alarm

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	Page 177	Page 179
1	triggered, based on your high and low.	¹ answer, not waste time.
2	I'm just going to leave that answer as	² MR. CLAASSEN: So what's being shown
3	is.	³ on the screen now is Exhibit 8. We're going to
4	Q. Is that all of the alarm criteria for	⁴ mark that as Exhibit 8. It's a copy of the '994
5	SpO2?	⁵ patent.
6	A. Other alarm criteria could be in terms	6 (Exhibit 8, Document Bates stamped
7	of: Do you have a patient in heart failure? Or	7 MAS0000180 through 284, multipage document
8	do you have a patient just going to the	⁸ entitled: United States Patent No.: US
9	operating room for a normal elective procedure?	⁹ 10,255,994 B2, dated April 9, 2019, with cover
10	Obviously, the criteria are going to	¹⁰ page dated June 17, 2019, marked for
11	be set differently by the user clinician.	¹¹ identification)
12	Q. That's all part of your understanding	¹² BY MR. CLAASSEN:
13	of "alarm condition," right?	¹³ Q. Do you see that?
14	A. It's giving an example of SpO2 based	¹⁴ A. Correct.
15	on how you would set the criterion before they	¹⁵ Q. I provided you a printed copy of that,
16	are all satisfied, or how they should be	¹⁶ right?
17	satisfied before an alarm is triggered.	¹⁷ A. Yes, you did.
18	(Pause)	¹⁸ Q. Does that appear to be complete?
19	Q. Did the '994 patent specification	¹⁹ A. Yes.
20	define "alarm condition"?	²⁰ Q. And you mentioned that "alarm
21	A. Yes, it does.	²¹ condition" is defined in the '994 patent, right?
22	Q. Where does it define "alarm	A. I'm trying to refresh my memory. Give
	Page 178	Page 180
1	Page 178	Page 180 ¹ me a couple of minutes, sir.
1 2	Page 178 condition"? A. Give me a moment. I have to look at	Page 180 me a couple of minutes, sir. Q. Okay.
1 2 3	Page 178 condition"? A. Give me a moment. I have to look at the patent.	Page 180 1 me a couple of minutes, sir. 2 Q. Okay. 3 (Pause)
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1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	Page 178 condition"? A. Give me a moment. I have to look at the patent. Q. Okay. I think I provided that to you as an exhibit. A. Yes, you did. Q. It's Exhibit No. 8. MR. CLAASSEN: We haven't pulled it out yet, but we'll take it out now. THE WITNESS: And that's Exhibit 8, sir? MR. CLAASSEN: Yes. (Pause) MR. CLAASSEN: Yes. (Pause) MR. CLAASSEN: The last three of the patents should be '994. THE VIDEOGRAPHER: You want me to bring that up? MR. CLAASSEN: Sure. THE WITNESS: If you want it's just	Page 180 me a couple of minutes, sir. Q. Okay. (Pause) A. I'm referring on column 2, they are talking about: In some embodiments, a medical monitoring device or system capable of collecting physiological parameter data, and using the data to simulate a variety of alarm condition detection criteria and/or alarm notification delay times. This simulated alarm condition detection criteria and/or alarm notification delay times can be analyzed to alter the actual alarm condition. Q. So you are now reading from the summary of the invention in column 2, right? A. Yes, I'm reading but I'm looking very quickly to see if the term "alarm condition" is defined. Q. In what you just read, is "alarm
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	Page 178 condition"? A. Give me a moment. I have to look at the patent. Q. Okay. I think I provided that to you as an exhibit. A. Yes, you did. Q. It's Exhibit No. 8. MR. CLAASSEN: We haven't pulled it out yet, but we'll take it out now. THE WITNESS: And that's Exhibit 8, sir? MR. CLAASSEN: Yes. (Pause) MR. CLAASSEN: Yes. (Pause) MR. CLAASSEN: The last three of the patents should be '994. THE VIDEOGRAPHER: You want me to bring that up? MR. CLAASSEN: Sure. THE WITNESS: If you want it's just easier if I have it in my face.	Page 180 me a couple of minutes, sir. Q. Okay. (Pause) A. I'm referring on column 2, they are talking about: In some embodiments, a medical monitoring device or system capable of collecting physiological parameter data, and using the data to simulate a variety of alarm condition detection criteria and/or alarm notification delay times. This simulated alarm condition detection criteria and/or alarm notification delay times can be analyzed to alter the actual alarm condition. Q. So you are now reading from the summary of the invention in column 2, right? A. Yes, I'm reading but I'm looking very quickly to see if the term "alarm condition" is defined. Q. In what you just read, is "alarm condition" defined?
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	Page 178 condition"? A. Give me a moment. I have to look at the patent. Q. Okay. I think I provided that to you as an exhibit. A. Yes, you did. Q. It's Exhibit No. 8. MR. CLAASSEN: We haven't pulled it out yet, but we'll take it out now. THE WITNESS: And that's Exhibit 8, sir? MR. CLAASSEN: Yes. (Pause) MR. CLAASSEN: Yes. (Pause) MR. CLAASSEN: The last three of the patents should be '994. THE VIDEOGRAPHER: You want me to bring that up? MR. CLAASSEN: Sure. THE WITNESS: If you want it's just easier if I have it in my face. MR. CLAASSEN: I agree.	Page 180 1 me a couple of minutes, sir. 2 Q. Okay. 3 (Pause) 4 A. I'm referring on column 2, they are 5 talking about: In some embodiments, a medical 6 monitoring device or system capable of 7 collecting physiological parameter data, and 8 using the data to simulate a variety of alarm 9 condition detection criteria and/or alarm 10 notification delay times. This simulated alarm 11 condition detection criteria and/or alarm 12 notification delay times can be analyzed to 13 alter the actual alarm condition. 14 Q. So you are now reading from the 15 summary of the invention in column 2, right? 16 A. Yes, I'm reading but I'm looking 17 very quickly to see if the term "alarm 18 condition" is defined. 19 Q. In what you just read, is "alarm 20 Condition" defined? 21 A. Based on that, yes.

45 (Pages 177 to 180)

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	Page 181	Page 183
1	A. The term "alarm condition" is not	¹ (Pause)
2	defined explicitly, but I understand	² BY MR. CLAASSEN:
3	Q. Please lean back when you are	³ Q. So are you looking at column 39, line
4	responding so we can hear you.	4 29?
5	A. It's not explicitly stated.	⁵ A. Yes, I am.
6	But as one is an expert, you have to	⁶ Q. Do you see the words "all alarm
7	set aside certain alarm criteria.	⁷ conditions"?
8	(Pause)	⁸ A. Not in this particular line, no.
9	Q. Does it say "all alarm criteria"?	⁹ But I am reading these can include
10	A. No.	¹⁰ alarm limits, alarm silence
11	Q. Does it say "multiple alarm criteria"?	¹¹ THE WITNESS: Yeah, thank you. I
12	A. It uses the term "detection criteria,"	¹² couldn't see
13	and that to me implies plural, sir.	¹³ MR. CLAASSEN: Keep zooming in, line
14	Q. Because it uses the word "criteria,"	14 29, it's the left.
15	it's plural.	¹⁵ THE WITNESS: Yes.
16	Is that right?	¹⁶ (Pause)
17	A. Yes.	¹⁷ BY MR. CLAASSEN:
18	Q. And that impacted your understanding	¹⁸ Q. Do you see the words "all alarm
19	of the words "alarm condition," right?	¹⁹ conditions"?
20	A. I'm going to say that it doesn't	²⁰ A. Yes.
22	define "alarm condition," period.	Q. Had you seen that before?
22	(Pause)	A. Yes.
	Page 182	Page 184
1	Q. Does the '994 patent use the phrase	¹ Q. What did you take that to mean?
2	"all alarm criteria"?	² A. All the conditions for that
3	A. No, it does not.	³ particular
4	Q. Does it use the phrase "all alarm	⁴ Q. Each and every condition, right?
5	conditions"?	⁵ A. Yes, yes.
6	A. No, it does not.	⁶ Q. So there must be something less than
7	Q. Did you look for that?	7 "all alarm conditions," right?
8	A. Yes, I did.	⁸ MS. HOEKEL: Object to the form.
9	But I also used my expertise to	⁹ A. Counselor, I'm not sure how to answer
10	understand this invention to include multiple	¹⁰ that question. Could you repeat the question?
11	call it criterion, if you will.	¹¹ Q. Yeah.
12	Q. The specification does not use the	¹² There is a statement here that says
14	phrase "all alarm conditions," right?	¹³ "all alarm conditions," right?
14	A. Correct. It just talks in terms of	$\begin{array}{cccc} 14 & \text{A. Yes.} \\ 15 & \text{O} & \text{D} & \text{Ind} & \text$
10	"alarm condition."	Q. Doesn't that imply there might be less
17	Q. I'd like to direct your attention now	17 than all alarm conditions?
± / 1 8	to column 39, about line 29. Δ Column 20 of the same retart right?	A. I es, II does.
19	A. Column 39 of the same patent, right?	19 Word "all" when they meant "all " might?
20	Q. I call. A Give me a moment	20 MS HOEKEL Object to the former
21	A. Ove me a moment. MS_HOEKEL: Did you say line 202	21 (Pause)
22	MR CLAASSEN: V_{ee}	22 A I'm not sure if the inventors had the
	WIN, CLAADDEN, 168.	A. Thi not sure if the inventors had the

46 (Pages 181 to 184)

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	Page 185	Page 187
1	same meaning or reading it the same way I did.	¹ proposed construction?
2	You are asking me how they used the	² A. Could you read that line again?
3	word "all."	³ I'm looking at page 12, and I'm
4	And I've told you maybe I have not	⁴ looking at: Defendants' Proposed Construction.
5	expressed myself how I would interpret "all."	⁵ Q. Okay. So defendants' proposed
6	Q. So am I to understand you right that	⁶ construction you understand the defendants
7	the inventors may have understood the claims to	⁷ include Sotero, right?
8	be different from how you understand the claims?	⁸ A. Yes, sir.
9	A. And that is my response, yes. That's	⁹ Q. So the proposed construction is
10	where my skill in the art comes.	¹⁰ listed.
11	Q. Had you seen this use of "all	¹¹ Then there is a list of intrinsic
12	conditions" before?	¹² evidence, right?
13	A. Yes, I have.	¹³ A. Correct.
14	Q. Didn't you tell me earlier that the	¹⁴ Q. And there is a citation there to
15	specification didn't use "all alarm conditions"?	¹⁵ column 39, lines 23 to 31, right?
16	A. Again, I did not remember the entire	¹⁶ A. Yes.
17	specification, sir. That's why I said I want to	¹⁷ Q. What we were just talking about,
18	refer to the sections.	¹⁸ right?
19	Q. But this isn't some kind of a strange	¹⁹ A. Yes.
20	memory test, right?	20 Q. That used the phrase "all alarm
21	MS. HOEKEL: Objection to form.	²¹ conditions," right?
22	BY MR. CLAASSEN:	A. Remembering what the spec said, yes.
	Page 186	Page 188
		I age 100
1	Q. This is actually cited by Sotero in	¹ Q. Does the claim recite "all alarm
1 2	Q. This is actually cited by Sotero in support of its construction, right?	1 Q. Does the claim recite "all alarm 2 conditions"?
1 2 3	Q. This is actually cited by Sotero in support of its construction, right?A. I'm not sure what you are asking me,	1 Q. Does the claim recite "all alarm 2 conditions"? 3 (Pause)
1 2 3 4	Q. This is actually cited by Sotero in support of its construction, right?A. I'm not sure what you are asking me, sir.	1 Q. Does the claim recite "all alarm 2 conditions"? 3 (Pause) 4 A. I'm going to say "all," but I may need
1 2 3 4 5	Q. This is actually cited by Sotero in support of its construction, right?A. I'm not sure what you are asking me, sir.Q. I'm asking you: Is this section cited	1 Q. Does the claim recite "all alarm 2 conditions"? 3 (Pause) 4 A. I'm going to say "all," but I may need 5 to go to the claim itself.
1 2 3 4 5 6	Q. This is actually cited by Sotero in support of its construction, right?A. I'm not sure what you are asking me, sir.Q. I'm asking you: Is this section cited in support of Sotero's construction?	1 Q. Does the claim recite "all alarm 2 conditions"? 3 (Pause) 4 A. I'm going to say "all," but I may need 5 to go to the claim itself. 6 Q. Let's take a look at the claim itself.
1 2 3 4 5 6 7	 Q. This is actually cited by Sotero in support of its construction, right? A. I'm not sure what you are asking me, sir. Q. I'm asking you: Is this section cited in support of Sotero's construction? A. No, they used the word "all" right 	1 Q. Does the claim recite "all alarm 2 conditions"? 3 (Pause) 4 A. I'm going to say "all," but I may need 5 to go to the claim itself. 6 Q. Let's take a look at the claim itself. 7 It's on the left there.
1 2 4 5 6 7 8	 Q. This is actually cited by Sotero in support of its construction, right? A. I'm not sure what you are asking me, sir. Q. I'm asking you: Is this section cited in support of Sotero's construction? A. No, they used the word "all" right there. 	1 Q. Does the claim recite "all alarm 2 conditions"? 3 (Pause) 4 A. I'm going to say "all," but I may need 5 to go to the claim itself. 6 Q. Let's take a look at the claim itself. 7 It's on the left there. 8 Go to the claim itself.
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1 2 3 4 5 6 7 8 9 10 11 12 13 14	 Q. This is actually cited by Sotero in support of its construction, right? A. I'm not sure what you are asking me, sir. Q. I'm asking you: Is this section cited in support of Sotero's construction? A. No, they used the word "all" right there. Q. Okay. So this section of the specification is not cited in support of Sotero's construction? A. No, they used the specification is not cited in support of Sotero's construction. A. No. Q. Let's go back to Exhibit 1. 	1 Q. Does the claim recite "all alarm 2 conditions"? 3 (Pause) 4 A. I'm going to say "all," but I may need 5 to go to the claim itself. 6 Q. Let's take a look at the claim itself. 7 It's on the left there. 8 Go to the claim itself. 9 A. It's saying "an alarm condition." 10 Q. Is that "all alarm conditions"? 11 A. No. 12 Q. It's just one, right? 13 A. Yes. 14 (Pause)
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	Page 189		Page 191
1	Q. So you are talking about the alternate	1	What are you talking about?
2	construction, right?	2	A. I'm saying the courts have said: When
3	A. Yes.	3	an alarm condition is detected for a parameter
4	Counselor, I don't see the word	4	and it delays a notification of alarm condition
5	"alternate."	5	until the alarm condition persists for a
6	I just see to the extent this term	6	predetermined alarm notification delay.
7	should be construed.	7	Q. I'm really confused here.
8	Q. Okay.	8	What courts are you talking about?
9	Do you not understand that that's a	9	A. I'm reading the claim language on the
10	construction in addition to the plain and	10	left.
11	ordinary meaning?	11	Q. Okay.
12	A. Yes.	12	So you are talking about the there
13	Q. So it's an alternate, right?	13	is nothing to do with the courts having
14	A. Yes, I apologize. I'm not an	14	construed anything, right?
15	attorney.	15	A. Yes.
16	Q. That's okay. I just want to make sure	16	Q. So what you are talking about is the
17	we are speaking the same language.	17	column on the left, the claim language?
18	So what do you disagree with in this	18	A. Yes.
19	construction?	19	Q. Okay.
20	A. I don't agree with the preciseness. I	20	What about the claim language are you
21	think it lacks preciseness and not directing to	21	talking about?
22	all the alarm criteria the way I have read the	22	A. I'm just reading the claim language as
	Page 190		Page 192
1	Page 190	1	Page 192
1	Page 190 specs and my expertise in the area. That's where L disagree	1	Page 192 the courts have articulated.
1 2 3	Page 190 specs and my expertise in the area. That's where I disagree.	1 2 3	Page 192 the courts have articulated. Q. What are you talking about when you say "the courts"?
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	Page 193	Page 195
1	• And we talked show and in that	1 O We were telling shout one of the
2	Q. And we talked about earlier that	differences being that "elerm criterie" is
3	MS HOEKEL: Object to the form	² differences being that alarm enterial is
4	mischarpatarizas	4 A Correct
5	DV MD CLAASSEN:	A. Collect.
6	DI MR. CLAASSEN.	6 h starsen "slame eriteria" and "slame and dition"
7	Q is a plural word, fight?	^o between alarm criteria, and alarm condition?
8	we talked about earlier that	A. NO.
q	A Var	Q. You submitted an IPR declaration in
10	A. ICS.	10 support of a petition on this patent as well,
11	Q. Condition is a singular word, right?	
12	A. I CS.	$\begin{array}{c} 11 \\ 12 \\ 12 \\ 12 \\ 12 \\ 12 \\ 12 \\ 12 $
13	Q. So there is at least one difference	MR. CLAASSEN: what I sent you is
14	between the two terms right? two words,	¹³ Exhibit 9. And I'll ask the videographer to
15	right?	¹⁴ pull that up for us now.
16	A. Yes. $(1 + 1)^{1/2}$	15 IHE WIINESS: Thank you.
17	Q. Are there any other differences?	¹⁰ BY MR. CLAASSEN:
10	A. The alarm condition has to be based on	Q. Do you see that document?
10	something	¹⁸ A. Yes, I'm looking at the IPR document,
19	Q. Does the criteria	¹⁹ which I submitted, April 9, 2019.
20	A either one	Q. This is your declaration, right?
21	Q also have to be based on something?	A. Yes, it is.
22	MS. HOEKEL: Objection.	Q. It is for the '994 patent?
	Page 194	Page 196
1	Page 194 You may	Page 196
1 2	Page 194 You may A. Yes	Page 196 A. Yes. MR. CLAASSEN: I'd like the court
1 2 3	Page 194 You may A. Yes MS. HOEKEL: answer.	Page 196 A. Yes. MR. CLAASSEN: I'd like the court reporter to mark this as Exhibit No. 9.
1 2 3 4	Page 194 You may A. Yes MS. HOEKEL: answer. You guys are talking over each other	Page 196 A. Yes. MR. CLAASSEN: I'd like the court reporter to mark this as Exhibit No. 9. (Exhibit 9, Multipage document
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49 (Pages 193 to 196)

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	Page 197	Page 19	9
1	A. Yes, I do.	¹ system to claim construction?	
2	Q. So you provided an opinion on the	² MS. HOEKEL: Object to the question -	
3	construction for "alarm," right? sorry	³ to the form of the question.	
4	"alarm condition," right?	⁴ BY MR. CLAASSEN:	
5	A. If I'm reading it correctly,	⁵ Q. You can answer the question.	
6	counselor, I provided the meaning of the two	⁶ A. Would you repeat your question?	
7	terms "alarm condition" and "alarm	⁷ Because I was looking at the line.	
8	notification"	⁸ Q. Yeah.	
9	Q. Are you reading ahead in Exhibit 9?	⁹ So you are looking at paragraph 48,	
10	MS. HOEKEL: Object to the form.	¹⁰ right?	
11	BY MR. CLAASSEN:	¹¹ It talks about Sotero's system, right?	
12	Q. So what I'm looking at right now on	¹² A. Correct.	
13	the screen is Exhibit 9, page 24.	¹³ Q. And this is in your claim construction	
14	Do you see that?	¹⁴ section, right?	
15	A. Yes.	¹⁵ A. Correct.	
16	Q. I'm not asking if you provided any	¹⁶ Q. And it's in your claim construction	
17	construction on other terms.	¹⁷ section for "alarm condition," right?	
18	But did you provide an opinion on the	¹⁸ A. Correct.	
19	construction for "alarm condition"?	¹⁹ Q. That's the term we are talking about	
20	A. I did.	²⁰ for the district court also, right?	
21	(Pause)	²¹ A. Yes.	
22	Q. This section goes on for a couple	Q. So my question to you is: What is the	
	Page 198	Page 20	0
1	pages.	¹ relevance of Sotero's system in the constructio	n
2	Is that right?	² of alarm condition?	
3	A. Correct.	³ MS. HOEKEL: Object to the form.	
4	Q. I'd like to focus on paragraph 48.	⁴ A. It was relevant that I was defining no	
5	That's on the next page and continues now on to	⁵ alarm exists until all alarm criteria are	
6	page 26. So that's all of paragraph 48 is now	⁶ satisfied, including expiration of the pre-alarm	L
7	up on the screen on two pages.	⁷ delay period of time.	
8	Can you read it this way, when it's	⁸ Q. What does have that to do with	
9	two pages?	⁹ construing the claim?	
10	A. I'll be happy to. The line starts	¹⁰ MS. HOEKEL: Same objection.	
11	out: I understand that in co-pending	¹¹ A. We are not talking about construed	
12	Q. Sorry. I don't want you to read it	¹² claim.	
13	aloud.	¹³ Q. We are not talking about construction	
14	I'm just asking if you can read it.	¹⁴ for "alarm condition"?	
15	A. Oh, I apologize. I'm sorry.	¹⁵ A. We are talking about the construed	
16	Q. So it's legible to you?	¹⁶ terms.	
17	You can read what's on the screen?	¹⁷ But in the IPR, all I'm discussing is	
18	A. Yes.	¹⁸ whether this patent was invalid based on the	
	O G (1) (1) (1) (1) (1) (1)	¹⁹ prior art.	
19	Q. So in this paragraph 48, you describe		
19 20	Q. So in this paragraph 48, you describe Sotero's system, right?	²⁰ Terms really mean nothing in terms of	
19 20 21	Q. So in this paragraph 48, you describe Sotero's system, right? A. Yes, I did.	 Terms really mean nothing in terms of other than making sure that I am looking at 	

50 (Pages 197 to 200)

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	Page 201		Page 203
1	Q. Did you construe "alarm condition"	1	Q. But you were looking at Sotero's
2	based upon how Sotero's device operates?	2	system when you did that, right?
3	A. No.	3	A. Yes, I did look at Sotero's system,
4	I construed it on the way that I read	4	only from the sense of understanding what to
5	the specs in this particular patent to read.	5	my suspicion was that their alarm or their
6	Q. The spec mentioned Sotero's system?	6	system is basically the same as what is known in
7	MS. HOEKEL: Object to the form.	7	the art.
8	A. No, it does not.	8	Q. What software were you looking at?
9	Q. So what are you referring to in this	9	MS. HOEKEL: Same objection.
10	paragraph 48?	10	A. I was not looking at the specific
11	A. I was referring to an example. For	11	software because I didn't need to. I knew what
12	one skilled in the art this: Is this way this	12	software needed to do, which is analyze the
13	alarm condition function?, based on what I	13	physiological data obtained and determine
14	Q. Go ahead.	14	whether an alarm condition had occurred or had
15	A based on what I saw in the specs	15	exceeded a threshold nothing more, nothing
16	for this particular patent.	16	less.
17	Q. When you are talking about "this alarm	17	Q. You made conclusions about Sotero's
18	condition," you are talking about the claimed	18	system here, right?
19	alarm condition, right?	19	A. I'm not making conclusions.
20	A. Correct.	20	I'm commenting on my understanding of
21	Q. What are you talking about when you	21	how Sotero's device works as far as satisfying
22	mentioned Sotero's system?	22	all alarm criteria before you have the three
	Page 202		Page 204
1	Page 202 (Pause)	1	Page 204 alarm and, like, period of time expiring.
1 2	Page 202 (Pause) A. I'm, sort of, augmenting why I took	1 2	Page 204 alarm and, like, period of time expiring. Q. And you put that under claim
1 2 3	Page 202 (Pause) A. I'm, sort of, augmenting why I took the opinion as being divergent, and as it	1 2 3	Page 204 alarm and, like, period of time expiring. Q. And you put that under claim construction for "alarm condition," right?
1 2 3 4	Page 202 (Pause) A. I'm, sort of, augmenting why I took the opinion as being divergent, and as it pertains to the Sotero system, as it applies to	1 2 3 4	Page 204 alarm and, like, period of time expiring. Q. And you put that under claim construction for "alarm condition," right? MS. HOEKEL: Excuse me. I didn't hear
1 2 3 4 5	Page 202 (Pause) A. I'm, sort of, augmenting why I took the opinion as being divergent, and as it pertains to the Sotero system, as it applies to alarm condition, and what my understanding of	1 2 3 4 5	Page 204 alarm and, like, period of time expiring. Q. And you put that under claim construction for "alarm condition," right? MS. HOEKEL: Excuse me. I didn't hear the question.
1 2 3 4 5 6	Page 202 (Pause) A. I'm, sort of, augmenting why I took the opinion as being divergent, and as it pertains to the Sotero system, as it applies to alarm condition, and what my understanding of that means in view of the specs and the prior	1 2 3 4 5 6	Page 204 alarm and, like, period of time expiring. Q. And you put that under claim construction for "alarm condition," right? MS. HOEKEL: Excuse me. I didn't hear the question. BY MR. CLAASSEN:
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51 (Pages 201 to 204)

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	Page 205		Page 207
1	system, right?	1	A. Yes.
2	A. Yes, I did.	2	Q right?
3	Q. And you can't tell me what software	3	A. Yes.
4	you looked at, right?	4	Q. You do not offer an opinion that this
5	A. I did not look at the specific	5	term is indefinite, right?
6	software	6	A. No.
7	Q. But you	7	Now, wait a minute. I do.
8	A I said	8	Q. Okay.
9	Q say "software analyzes."	9	Where is that?
10	Right?	10	(Pause)
11	A. May I finish my response, sir?	11	A. The statement that I made under either
12	Q. Go ahead.	12	proposed constructions: Plaintiff's proposed
13	A. What I said I did not look at the	13	construction gives rise to additional bases of
14	specific software because it's proprietary and I	14	invalidity.
15	didn't need to.	15	Q. Are you reading above the line now?
16	I understand as an expert that it's	16	You see there is a line at the bottom
17	analyzing the physiological data obtained or	17	of page 14 that so this is a chart, right?
18	the measurements obtained is what I said.	18	A. Right.
19	Q. Was that based upon a representation	19	Q. And there is "alarm delay or
20	of counsel?	20	suspension period of time."
21	A. That's on my expertise.	21	Do you see that?
22	Q. Okay.	22	A. Oh, I'm sorry. You are talking about
	Page 206		Page 208
1	So did you look at software that	1	the two my anologies
2	Sotero provided to you?	2	Ω Now we are moving on to this term
3	A No I did not	3	right?
4	Ω So how can you say that software	4	You understand that?
5	analyzes the physiological data?	5	A. Yes.
6	A. For this type of system, you as an	6	O. So we are talking about "alarm delay
7	expert, would know that's what the software is	7	or suspension period of time." right?
8	doing.	8	A. I'm with vou.
9	O. Is that relevant to the construction	9	O. Okay.
10	of "alarm condition"?	10	You don't offer any opinion that this
11	A. No.	11	term is indefinite. right?
12	(Pause)	12	A. No. no opinions. I don't think
13	O. Let's go back to Exhibit 1 like we	13	it's go ahead.
14	were talking about, and we'll move on to the	14	O. Is there something more you needed add
15	next term.	15	to that response?
16	A. Okay. Page 13. right, counsel?	16	A. I would like to see the rest of page
17	(Pause)	17	15, if I can.
18	Q. We were on page 13. I would like to	18	Q. Sure, go ahead.
19	move forward, then, to page 14.	19	It continues on to 16
20	So you see there is another term	20	A. And as I expected, no, I had no
21	starting there "alarm delay or suspension	21	problems calling this term indefinite.
22	period of time"?	22	I just wanted to see the rest.
	*	1	•

52 (Pages 205 to 208)

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	Page 209	Page 211
1	O. That response was I think I	¹ vour declaration for the '244 patent.
2	understood it, but I want to make sure you do	² Is that right?
3	not offer any opinion that this term is	³ Do you see it on the screen?
4	indefinite.	⁴ A. Correct.
5	Right?	⁵ Q. In this declaration, you set forth
6	A. For the court record, the term is not	⁶ opinions on claim construction for the patent,
7	indefinite in my opinion.	⁷ right?
8	(Pause)	⁸ A. Yes, I did.
9	Q. Sotero's construction is listed in the	⁹ Q. So if we go to page 22 of that
10	right-hand column, top of page 14?	¹⁰ declaration
11	MR. CLAASSEN: I'll ask the	¹¹ MR. CLAASSEN: And I'd like that
12	videographer to go back up.	¹² marked as Exhibit 11, please.
13	BY MR. CLAASSEN:	¹³ (Exhibit 11, Document Bates stamped
14	Q. Do you see that?	¹⁴ MAS0021498 through 21678, multipage document
15	A. I do.	¹⁵ entitled: Declaration of George E. Yanulis in
16	Q. What is that construction?	¹⁶ Support of Petition for Inter Partes Review of
17	A. Without reading it aloud, I have read	¹⁷ U.S. Patent No. RE47,244, dated May 21, 2020,
18	it.	¹⁸ marked for identification)
19	Q. Okay.	¹⁹ BY MR. CLAASSEN:
20	So it's a period of time in which an	Q. Do you see this section labeled:
21	active alarm is paused, right?	²¹ Claim Construction?
22	A. Yes.	²² A. Yes, I do.
	Page 210	Page 212
1	Page 210 Q. Did you apply that construction in	Page 212 Q. Did you set forth any opinion on claim
1 2	Page 210 Q. Did you apply that construction in your IPR declaration?	Page 212 1 Q. Did you set forth any opinion on claim 2 construction with respect to "alarm delay or
1 2 3	Page 210 Q. Did you apply that construction in your IPR declaration? MS. HOEKEL: Object to the form,	Page 212 Q. Did you set forth any opinion on claim construction with respect to "alarm delay or suspension period of time"?
1 2 3 4	Page 210 Q. Did you apply that construction in your IPR declaration? MS. HOEKEL: Object to the form, object to relevance.	Page 212 Q. Did you set forth any opinion on claim construction with respect to "alarm delay or suspension period of time"? MS. HOEKEL: Object to the form.
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1 2 3 4 5 6	Page 210 Q. Did you apply that construction in your IPR declaration? MS. HOEKEL: Object to the form, object to relevance. BY MR. CLAASSEN: Q. Did you apply that construction in	Page 212 Q. Did you set forth any opinion on claim construction with respect to "alarm delay or suspension period of time"? MS. HOEKEL: Object to the form. (Pause) A. Yes, I did.
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1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	Page 210 Q. Did you apply that construction in your IPR declaration? MS. HOEKEL: Object to the form, object to relevance. BY MR. CLAASSEN: Q. Did you apply that construction in your IPR declaration? MS. HOEKEL: Same objections. (Pause) A. I'm not ignoring you, counselor. I'm thinking about my answers Q. Would you like to A give me a moment Q the IPR declaration? A. Right. Q. Would you? MS. HOEKEL: He asked if you would like to see your IPR declaration. THE WITNESS: Yes. MR. CLAASSEN: Obsy	Page 212 Q. Did you set forth any opinion on claim construction with respect to "alarm delay or suspension period of time"? MS. HOEKEL: Object to the form. (Pause) A. Yes, I did. Main delay or suspension" must be form. superstant Main delay or suspension" must be limited to what is taught in the specifications. So I was relying on the specification. Can I read can I see page 23? Q. Sure. A. The important term here is "active alarm." The alarm has to be occurring. And that's what I was trying to point out in this particular section. (Pause) Q. So what is your understanding of the correct construction for "alarm delay or
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1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	Page 210 Q. Did you apply that construction in your IPR declaration? MS. HOEKEL: Object to the form, object to relevance. BY MR. CLAASSEN: Q. Did you apply that construction in your IPR declaration? MS. HOEKEL: Same objections. (Pause) A. I'm not ignoring you, counselor. I'm thinking about my answers Q. Would you like to A give me a moment Q the IPR declaration? A. Right. Q. Would you? MS. HOEKEL: He asked if you would like to see your IPR declaration. THE WITNESS: Yes. MR. CLAASSEN: Okay. BY MR. CLAASSEN: Q. Exhibit 11 is the declaration for	Page 212 1 Q. Did you set forth any opinion on claim 2 construction with respect to "alarm delay or 3 suspension period of time"? 4 MS. HOEKEL: Object to the form. 5 (Pause) 6 A. Yes, I did. 7 And what I also added on line 45: The 8 "alarm delay or suspension" must be limited to 9 what is taught in the specifications. 10 So I was relying on the specification. 11 Can I read can I see page 23? 12 Q. Sure. 13 A. The important term here is "active 14 alarm." The alarm has to be occurring. 15 And that's what I was trying to point 16 out in this particular section. 17 (Pause) 18 Q. So what is your understanding of the 19 correct construction for "alarm delay or 20 suspension period of time"? 21 A. Before you can have either, you have 22 to have an active alarm occurring

53 (Pages 209 to 212)

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	Page 213	Page 215
1	(Pause)	¹ about this "activate an alarm."
2	O. And that's from the phrase "active	² Do you see that?
3	alarm delay or suspension period of time."	3 A. Yes.
4	Is that right?	⁴ O. So just to be clear now, we are
5	A No	⁵ talking about the '244 patent claim 1, right?
6	But what I'm trying to say this	6 A. Correct.
7	is why I wrote it that the alarm has to be	7 O And you mentioned: User input
8	occurring before you have either of those	8 Right?
9	conditions occurring	⁹ A No I misspoke when I said it
10	Ω Why do you say that?	¹⁰ All I was saving is the alarm has to
11	A Because that's what the spec tells me	¹¹ be occurring.
12	Ω Is that what the claim tells you?	¹² I misspoke.
13	A No that's what the spec tells me and	¹³ O. But you said it, but you misspoke?
14	my understanding of one skilled in the art for	¹⁴ A. L misspoke based on the way the
15	this particular aspect. You have to have an	¹⁵ question was asked, because you I'm having
16	active alarm occurring	¹⁶ trouble understanding you switching from the IPR
17	Ω You understand that there is a	17 to what the nurpose of me discussing the claims
18	separate claim element for "activates an alarm "	18 terms being disputed
19	right?	¹⁹ They are two different things
20	A Yes	²⁰ O Same claim right?
21	Ω What is the difference between that	²¹ A What's in the claim?
22	"activate an alarm" and the active alarm in	²² O. The same claims are involved in the
	derivate an alarm and the derive alarm m	
	Page 214	Page 216
1	"alarm delay or suspension period of time"?	¹ patent lawsuit in the district court and in the
2	A. There is no difference.	² IPR, right?
3	Q. Then why does the claim say "activate	3 A. Yes.
4	an alarm"?	⁴ Q. So what's confusing you about
5	A. I'm implying or stating there has to	⁵ switching?
6	be some user input. And that user input occurs	⁶ A. I'm just rearticulating my focus and
7	after the alarm is already occurring.	⁷ purpose for writing the IPRs versus my
8		purpose for writing the first of sub-
	Q. Where is the user input in this claim?	 ⁸ understanding of explaining why I believe
9	Q. Where is the user input in this claim?A. It's not in this section, sir.	 ⁸ understanding of explaining why I believe ⁹ Sotero's construction is correct.
9 10	Q. Where is the user input in this claim?A. It's not in this section, sir.Q. Do you want to go back to the claim	 ⁸ understanding of explaining why I believe ⁹ Sotero's construction is correct. ¹⁰ I'm not confused
9 10 11	Q. Where is the user input in this claim?A. It's not in this section, sir.Q. Do you want to go back to the claim itself?	 ⁸ understanding of explaining why I believe ⁹ Sotero's construction is correct. ¹⁰ I'm not confused ¹¹ Q. If Sotero's construction is correct,
9 10 11 12	Q. Where is the user input in this claim?A. It's not in this section, sir.Q. Do you want to go back to the claim itself?A. Yes, I'd like to see the claim.	 ⁸ understanding of explaining why I believe ⁹ Sotero's construction is correct. ¹⁰ I'm not confused ¹¹ Q. If Sotero's construction is correct, ¹² didn't you have a duty to disclose that to the
9 10 11 12 13	 Q. Where is the user input in this claim? A. It's not in this section, sir. Q. Do you want to go back to the claim itself? A. Yes, I'd like to see the claim. Q. Would it be most helpful for you to 	 ⁸ understanding of explaining why I believe ⁹ Sotero's construction is correct. ¹⁰ I'm not confused ¹¹ Q. If Sotero's construction is correct, ¹² didn't you have a duty to disclose that to the ¹³ Patent Office?
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9 10 11 12 13 14 15 16 17 18 19 20 21 22	 Q. Where is the user input in this claim? A. It's not in this section, sir. Q. Do you want to go back to the claim itself? A. Yes, I'd like to see the claim. Q. Would it be most helpful for you to see it in the context of patent specification? Or do you want to go back to Exhibit 1? A. Probably be best to see it in Exhibit 1. Q. Let's go back to Exhibit 1, then. (Pause) Q. Now, this is the end of the claim that we were talking about, and I was just talking 	 ⁸ understanding of explaining why I believe ⁹ Sotero's construction is correct. ¹⁰ I'm not confused ¹¹ Q. If Sotero's construction is correct, ¹² didn't you have a duty to disclose that to the ¹³ Patent Office? ¹⁴ MS. HOEKEL: Object to the form. ¹⁵ A. I believe I said early in the record ¹⁶ that the claim terms are invalid for both ¹⁷ parties in the IPR. ¹⁸ What's important in the IPR and what ¹⁹ my goal and task and I believe accomplish ²⁰ that is saying: This particular patent was ²¹ in the art.

54 (Pages 213 to 216)

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	Page 217	Page 219
1	I did not again, the claims are	¹ discussion today to discuss the disputed terms.
2	invalid for both parties in the IPR.	² They are not the same exercise.
3	Q. "For both parties" you mean under	³ Q. The claim construction process is not
4	either construction?	⁴ the same exercise in the IPR and the district
5	A. Correct.	⁵ court?
6	Q. Did you explain that to the Patent	6 MS. HOEKEL: Object to the form.
7	Office?	⁷ A. I don't know how else to say it than
8	MS. HOEKEL: Object to the form.	⁸ to repeat it that the claim construction as
9	A. No, not directly.	⁹ discussed in the IPR for both parties has not
10	(Pause)	¹⁰ really been my focus.
11	A. May I add to that?	¹¹ The focus was to prove that the patent
12	Q. Go ahead.	¹² for the purposes of the patent board was invalid
13	A. In this declaration, I discussed	¹³ based on the prior art, my expertise, file
14	whether this patent was invalid.	¹⁴ histories, and nothing else and the file
15	Q. When you say "this declaration," now,	¹⁵ histories and nothing else.
16	you are talking about Exhibit 11, which is your	¹⁶ Q. But you need the claim construction to
17	declaration regarding the '244 patent IPR,	¹⁷ perform that analysis, right?
18	right?	18 A. Yes.
19	A. Yes, sir. That's all.	¹⁹ (Pause)
20	(Pause)	Q. Further down in Exhibit 1, there is a
22	Q. So you were construing the claims for	1 little more discussion about how defendants may
22	purposes of evaluating invalidity in the IPR,	²² rely on you.
	Page 218	Page 220
	Tage 210	Tage 220
1	right?	¹ Are you familiar with that?
1 2	right? A. Correct.	1 Are you familiar with that? 2 A. Yes, sir.
1 2 3	right? A. Correct. Q. Are you construing them for a	1 Are you familiar with that? 2 A. Yes, sir. 3 Q. I'd like to move, then, down to page
1 2 3 4	right? A. Correct. Q. Are you construing them for a different purpose in the district court?	 Are you familiar with that? A. Yes, sir. Q. I'd like to move, then, down to page 21 of Exhibit 1.
1 2 3 4 5	right? A. Correct. Q. Are you construing them for a different purpose in the district court? A. In the district court, I'm also	 Are you familiar with that? A. Yes, sir. Q. I'd like to move, then, down to page 21 of Exhibit 1. You see there, it begins: Defendants
1 2 3 4 5 6	right? A. Correct. Q. Are you construing them for a different purpose in the district court? A. In the district court, I'm also concerned not just with invalidity; I'm also	1 Are you familiar with that? 2 A. Yes, sir. 3 Q. I'd like to move, then, down to page 4 21 of Exhibit 1. 5 You see there, it begins: Defendants 6 may rely on Dr. Yanulis?
1 2 3 4 5 6 7	right? A. Correct. Q. Are you construing them for a different purpose in the district court? A. In the district court, I'm also concerned not just with invalidity; I'm also concerned with infringement.	1 Are you familiar with that? 2 A. Yes, sir. 3 Q. I'd like to move, then, down to page 4 21 of Exhibit 1. 5 You see there, it begins: Defendants 6 may rely on Dr. Yanulis? 7 A. Yes, I do.
1 2 3 4 5 6 7 8	right? A. Correct. Q. Are you construing them for a different purpose in the district court? A. In the district court, I'm also concerned not just with invalidity; I'm also concerned with infringement. Q. Shouldn't the same claim construction	1 Are you familiar with that? 2 A. Yes, sir. 3 Q. I'd like to move, then, down to page 4 21 of Exhibit 1. 5 You see there, it begins: Defendants 6 may rely on Dr. Yanulis? 7 A. Yes, I do. 8 Q. And that continues on to the next
1 2 3 4 5 6 7 8 9	right? A. Correct. Q. Are you construing them for a different purpose in the district court? A. In the district court, I'm also concerned not just with invalidity; I'm also concerned with infringement. Q. Shouldn't the same claim construction apply in both the IPR and the district court?	1 Are you familiar with that? 2 A. Yes, sir. 3 Q. I'd like to move, then, down to page 4 21 of Exhibit 1. 5 You see there, it begins: Defendants 6 may rely on Dr. Yanulis? 7 A. Yes, I do. 8 Q. And that continues on to the next 9 page, right? 10 A. Yes air
1 2 3 4 5 6 7 8 9 10	right? A. Correct. Q. Are you construing them for a different purpose in the district court? A. In the district court, I'm also concerned not just with invalidity; I'm also concerned with infringement. Q. Shouldn't the same claim construction apply in both the IPR and the district court? MS. HOEKEL: Object to the form. (Pause)	1 Are you familiar with that? 2 A. Yes, sir. 3 Q. I'd like to move, then, down to page 4 21 of Exhibit 1. 5 You see there, it begins: Defendants 6 may rely on Dr. Yanulis? 7 A. Yes, I do. 8 Q. And that continues on to the next 9 page, right? 10 A. Yes, sir. 11 MB. CLAASSEN: So latis means down to
1 2 3 4 5 6 7 8 9 10 11	right? A. Correct. Q. Are you construing them for a different purpose in the district court? A. In the district court, I'm also concerned not just with invalidity; I'm also concerned with infringement. Q. Shouldn't the same claim construction apply in both the IPR and the district court? MS. HOEKEL: Object to the form. (Pause) A. My purpose for writing the IPR	1 Are you familiar with that? 2 A. Yes, sir. 3 Q. I'd like to move, then, down to page 4 21 of Exhibit 1. 5 You see there, it begins: Defendants 6 may rely on Dr. Yanulis? 7 A. Yes, I do. 8 Q. And that continues on to the next 9 page, right? 10 A. Yes, sir. 11 MR. CLAASSEN: So let's move down to 12 page 21 We can just page 22 is sufficient
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55 (Pages 217 to 220)

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	Page 221	Page 223
1	A. Correct.	1 O. It not here on this page anywhere.
2	O. You mention: Scope of the '244 to be	² right?
3	limited to pausing an active alarm.	³ A. No.
4	Do you see that?	⁴ O. So why would this disclose that this
5	A. Yes, sir, I do.	⁵ step required some sort of user input?
6	Q. Then you say: E.g. silence or pausing	⁶ A. How else would you pause it, sir?
7	the active alarm?	⁷ Q. Automatically.
8	A. For example.	⁸ Is that possible?
9	Q. Okay. For example.	⁹ A. It's possible, but that's not the way
10	And is that for example describing the	¹⁰ the specs read
11	entire pausing an active alarm?	¹¹ Q. Isn't
12	A. I'm just saying that, in order to	¹² A it's not the way
13	pause an alarm which is already occurring, it	¹³ Q does it
14	requires user input to actually cause the alarm	¹⁴ A. You could have another user input,
15	to be paused.	¹⁵ like Alexa's, or something like that.
16	Q. Does it say anything about user input	¹⁶ Q. What I'm trying to understand, Dr.
17	here?	¹⁷ Yanulis, is why you are so literal when you are
18	A. No. But for one skilled in the art,	¹⁸ reading the patent specification, but I'm
19	he should understand that, for the alarms that	¹⁹ supposed to be not so literal when I'm reading
20	are already active, you have to apply some type	²⁰ your analysis on this page?
21	of user input	²¹ MS. HOEKEL: Object to the form.
22	Q. Why does it have to be a user input?	Q. Do you understand my concern here?
	Page 222	Page 224
1	Page 222 I'm sorry. I stepped on your answer	Page 224 ¹ It doesn't say anything about a user
1 2	Page 222 I'm sorry. I stepped on your answer there.	Page 224 1 It doesn't say anything about a user 2 here.
1 2 3	Page 222 I'm sorry. I stepped on your answer there. Do you have more to add?	Page 224 1 It doesn't say anything about a user 2 here. 3 A. That's the purpose of our discussion,
1 2 3 4	Page 222 I'm sorry. I stepped on your answer there. Do you have more to add? A. There has to be some kind of user	Page 224 1 It doesn't say anything about a user 2 here. 3 A. That's the purpose of our discussion, 4 to agree on the preciseness of these terms.
1 2 3 4 5	Page 222 I'm sorry. I stepped on your answer there. Do you have more to add? A. There has to be some kind of user input to pause or silence this alarm.	Page 224 It doesn't say anything about a user here. A. That's the purpose of our discussion, to agree on the preciseness of these terms. And I don't agree with Masimo's
1 2 3 4 5 6	Page 222 I'm sorry. I stepped on your answer there. Do you have more to add? A. There has to be some kind of user input to pause or silence this alarm. Q. That's all from "alarm delay	Page 224 1 It doesn't say anything about a user 2 here. 3 A. That's the purpose of our discussion, 4 to agree on the preciseness of these terms. 5 And I don't agree with Masimo's 6 preciseness. I agree with my preciseness based
1 2 4 5 6 7	Page 222 I'm sorry. I stepped on your answer there. Do you have more to add? A. There has to be some kind of user input to pause or silence this alarm. Q. That's all from "alarm delay suspension or period of time."	Page 224 It doesn't say anything about a user here. A. That's the purpose of our discussion, to agree on the preciseness of these terms. And I don't agree with Masimo's preciseness. I agree with my preciseness based on my skill.
1 2 3 4 5 6 7 8	Page 222 I'm sorry. I stepped on your answer there. Do you have more to add? A. There has to be some kind of user input to pause or silence this alarm. Q. That's all from "alarm delay suspension or period of time." Is that right?	Page 224 1 It doesn't say anything about a user 2 here. 3 A. That's the purpose of our discussion, 4 to agree on the preciseness of these terms. 5 And I don't agree with Masimo's 6 preciseness. I agree with my preciseness based 7 on my skill. 8 Q. You continue on: The specification
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56 (Pages 221 to 224)

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	Page 225		Page 227
1	Q. This is Sotero's position, right?	1 i	t or suspend it.
2	A. All I'm referring to in this section	2	Q. It doesn't say anything about an input
3	is, in order to understand the scope of the	з i	n this
4	invention, it has to be limited to pausing an	4	A. No, it does not, sir.
5	active alarm.	5	But as an expert, I'm adding what one
6	Q. That's in part because the	6 5	killed in the art would mean this to be, or
7	specification does not support alarm pre-alarm	7 V	what it should be supported by.
8	delays, right?	8	Q. Are there limits to what a person of
9	A. Correct.	9 (ordinary skill in the art can add to a claim?
10	Q. Is that a lack of written description	10	A. I didn't hear your question. I'm
11	argument?	11 5	sorry.
12	MS. HOEKEL: Object to the form, calls	12	Q. Are there limits to what a person of
13	for a legal conclusion.	¹³ (ordinary skill in the art can add to a claim?
14	BY MR. CLAASSEN:	14	MS. HOEKEL: Objection, calls for a
15	Q. How is it relevant to claim	15 l	egal conclusion.
16	construction?	16	A. I'm not sure I understand the
17	A. Other than the way I answered it, I'm	17 (question. And I'm not sure I can answer it,
18	referring to my expertise as a medical device	¹⁸ (other than what I've given.
19	engineer, not an attorney.	19	Q. It continues on here saying: Does not
20	So I'm not sure how to answer that	20 s	support parameter-specific pre-alarm delays.
21	question other than the way I have.	21	Do you see that in Exhibit 1?
22	Q. Where do you get the phrase "alarm	22	A. Yes, sir.
	Page 226		Page 228
1	Page 226 pre-alarm delays''?	1	Page 228 Q. What are you referring to there?
1 2	Page 226 pre-alarm delays"? A. Because in the specs, it recites the	1 2	Page 228 Q. What are you referring to there? A. Now you are talking about the fact
1 2 3	Page 226 pre-alarm delays"? A. Because in the specs, it recites the use of pre-alarm delays. And it's not supported	1 2 3 tl	Page 228 Q. What are you referring to there? A. Now you are talking about the fact nat I said the specs not support
1 2 3 4	Page 226 pre-alarm delays"? A. Because in the specs, it recites the use of pre-alarm delays. And it's not supported by what that is in the specs.	1 2 3 tl 4 p	Page 228 Q. What are you referring to there? A. Now you are talking about the fact hat I said the specs not support arameter-specific pre-alarm delays.
1 2 3 4 5	Page 226 pre-alarm delays"? A. Because in the specs, it recites the use of pre-alarm delays. And it's not supported by what that is in the specs. Q. I have a very basic question for you.	1 2 3 tl 4 p 5	Page 228 Q. What are you referring to there? A. Now you are talking about the fact nat I said the specs not support arameter-specific pre-alarm delays. That's all I'm saying.
1 2 3 4 5 6	Page 226 pre-alarm delays"? A. Because in the specs, it recites the use of pre-alarm delays. And it's not supported by what that is in the specs. Q. I have a very basic question for you. Does the specification support alarm	1 2 3 tl 4 p 5 6	Page 228 Q. What are you referring to there? A. Now you are talking about the fact nat I said the specs not support arameter-specific pre-alarm delays. That's all I'm saying. Q. Do you remember what construction you
1 2 3 4 5 6 7	Page 226 pre-alarm delays"? A. Because in the specs, it recites the use of pre-alarm delays. And it's not supported by what that is in the specs. Q. I have a very basic question for you. Does the specification support alarm pre-alarm delay?	1 3 tl 4 p 5 6 7 a	Page 228 Q. What are you referring to there? A. Now you are talking about the fact hat I said the specs not support arameter-specific pre-alarm delays. That's all I'm saying. Q. Do you remember what construction you pplied for this term in your IPR declaration?
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57 (Pages 225 to 228)

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	Page 229	Page 231
1	Q. Do you understand the question?	¹ Q. Do you understand that there is a
2	A. Yes.	² difference between a structural claim element
3	Q. Can you answer it?	³ and a means-plus-function claim element?
4	A. I believe I've answered it, sir. I'm	⁴ A. Yes, I do, sir.
5	saying that the specs do not support	⁵ Q. What is the difference?
6	parameter-specific pre-alarm delays.	⁶ A. The function is basically a method
7	Q. That's not my question.	⁷ that accomplishes what that structure does, or
8	My question is: Did you apply the	⁸ it describes what the process is accomplished by
9	same construction that Masimo proposes now in	⁹ that structure or element.
10	your IPR declaration?	¹⁰ Q. What about this limitation makes it a
11	A. Yes, I did.	¹¹ means-plus-function limitation?
12	Q. Let's move on, then, to the next term,	¹² (Pause)
13	the "one or more processors" term. And that	¹³ A. If I'm reading this the one or more
14	begins on page 23 of Exhibit 1, the joint claim	¹⁴ processors configured to electronically
15	construction chart.	¹⁵ determine that the measurement of the parameter
16	Do you see that?	¹⁶ satisfy an alarm activation threshold.
17	A. Yes.	¹⁷ Q. What about that makes it
18	Q. Is it your opinion that this term is a	¹⁸ means-plus-function?
19	means-plus-function term?	¹⁹ A. Describing the means by how it's done.
20	A. Yes well, function and structure.	Q. What's "the means" here?
21	Q. What was your response, again, Dr.	²¹ A. The processor.
22	Yanulis?	Q. Can a processor ever be sufficient to
	Page 230	Page 232
1	Page 230 Is it your understanding that this	Page 232 ¹ denote structure by itself?
1 2	Page 230 Is it your understanding that this term is a means-plus-function term?	Page 232 1 denote structure by itself? 2 MS. HOEKEL: Object to the form.
1 2 3	Page 230 Is it your understanding that this term is a means-plus-function term? (Pause)	Page 232 1 denote structure by itself? 2 MS. HOEKEL: Object to the form. 3 A. No.
1 2 3 4	Page 230 Is it your understanding that this term is a means-plus-function term? (Pause) A. I'm saying this term are I am using	Page 232 1 denote structure by itself? 2 MS. HOEKEL: Object to the form. 3 A. No. 4 Q. Never?
1 2 3 4 5	Page 230 Is it your understanding that this term is a means-plus-function term? (Pause) A. I'm saying this term are I am using function and structure for the way the	Page 232 denote structure by itself? MS. HOEKEL: Object to the form. A. No. Q. Never? A. I didn't say never.
1 2 3 4 5 6	Page 230 Is it your understanding that this term is a means-plus-function term? (Pause) A. I'm saying this term are I am using function and structure for the way the processors are configured.	Page 232 1 denote structure by itself? 2 MS. HOEKEL: Object to the form. 3 A. No. 4 Q. Never? 5 A. I didn't say never. 6 Q. I'm asking: Never.
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1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	 Page 230 Is it your understanding that this term is a means-plus-function term? (Pause) A. I'm saying this term are I am using function and structure for the way the processors are configured. Q. Do you know what a means-plus-function term is? A. Not to the same extent as an attorney would. Q. Do you have any understanding of what a means-plus-function term is? A. Means-plus-function is the the means is the method they are kind of the same thing. Q. Kind of the same thing as what? A. They are the same thing in my understanding. Q. What are the same thing? 	Page 232 1 denote structure by itself? 2 MS. HOEKEL: Object to the form. 3 A. No. 4 Q. Never? 5 A. I didn't say never. 6 Q. I'm asking: Never. 7 A. No repeat the question. 8 Q. Can a processor ever be sufficient to 9 denote structure? 10 A. It can be. 11 Q. When does it denote structure? 12 A. I didn't hear the last part, sir. 13 Q. When is a processor structure? 14 MS. HOEKEL: Object to the form. 15 A. When it's defined in a specific unit, 16 subunit, or whatever, from the figures and 17 specs. 18 Q. Let me ask this question a little more 19 simply.
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 20	 Page 230 Is it your understanding that this term is a means-plus-function term? (Pause) A. I'm saying this term are I am using function and structure for the way the processors are configured. Q. Do you know what a means-plus-function term is? A. Not to the same extent as an attorney would. Q. Do you have any understanding of what a means-plus-function term is? A. Means-plus-function is the the means is the method they are kind of the same thing. Q. Kind of the same thing as what? A. They are the same thing in my understanding. Q. What are the same thing? 	Page 232 1 denote structure by itself? 2 MS. HOEKEL: Object to the form. 3 A. No. 4 Q. Never? 5 A. I didn't say never. 6 Q. I'm asking: Never. 7 A. No repeat the question. 8 Q. Can a processor ever be sufficient to 9 denote structure? 10 A. It can be. 11 Q. When does it denote structure? 12 A. I didn't hear the last part, sir. 13 Q. When is a processor structure? 14 MS. HOEKEL: Object to the form. 15 A. When it's defined in a specific unit, 16 subunit, or whatever, from the figures and 17 specs. 18 Q. Let me ask this question a little more 19 simply. 20 When a patent uses the word
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	 Page 230 Is it your understanding that this term is a means-plus-function term? (Pause) A. I'm saying this term are I am using function and structure for the way the processors are configured. Q. Do you know what a means-plus-function term is? A. Not to the same extent as an attorney would. Q. Do you have any understanding of what a means-plus-function term is? A. Means-plus-function is the the means is the method they are kind of the same thing. Q. Kind of the same thing as what? A. They are the same thing in my understanding. Q. What are the same thing? A. Means-plus-function describes the process that's occurring. 	Page 2321denote structure by itself?2MS. HOEKEL: Object to the form.3A. No.4Q. Never?5A. I didn't say never.6Q. I'm asking: Never.7A. No repeat the question.8Q. Can a processor ever be sufficient to9denote structure?10A. It can be.11Q. When does it denote structure?12A. I didn't hear the last part, sir.13Q. When is a processor structure?14MS. HOEKEL: Object to the form.15A. When it's defined in a specific unit,16subunit, or whatever, from the figures and17specs.18Q. Let me ask this question a little more19simply.20When a patent uses the word21"processor" you are familiar with that22accent?

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		1
	Page 233	Page 235
1	A. Yes.	¹ Q. Do you have an answer?
2	Q does that mean that whatever	² A. I'm not sure how to answer because I'm
3	function the processor performs is going to make	³ not an attorney. I'm looking at this from an
4	that claim limitation means-plus-function?	⁴ expert evaluation. I'm not privy to all the
5	MS. HOEKEL: Object to the form.	⁵ facets of 112(6).
6	A. From my understanding, I would say:	⁶ Q. So did the attorneys tell you that
7	Yes.	⁷ this term was 112(6)?
8	(Pause)	⁸ A. Yes, they did.
9	Q. Could a processor be sufficient	⁹ Q. Did you rely on that representation
10	structure to compare a value to a limit?	¹⁰ from the attorneys?
11	MS. HOEKEL: Object to the form.	¹¹ A. I relied on that.
12	A. It depends on how it's disclosed in	¹² But I also relied as to what has been
13	the specs.	¹³ disclosed in specs, as far as function and
14	Q. You'd have to read the specification	¹⁴ structure.
15	to tell?	¹⁵ So I relied on both.
16	A. Which is what I did while reading this	¹⁶ (Pause)
17	chart.	17 Q. Do you think that 112(6) is the
18	Q. So how did you determine that this	¹⁸ correct construction for this term?
19	processor claim limitation recited a	¹⁹ A. In my understanding and limited
20	means-plus-function term?	²⁰ understanding, yes.
21	A. I guess I don't understand your	Q. Did you use that construction in your
22	definition of "means-plus-function," sir.	²² IPR declaration?
	Page 234	Page 236
1	Q. So you don't know what a	¹ A. Yes.
2	means-plus-function term is?	² Q. You did?
3	MS. HOEKEL: Object to the form.	³ A. No.
4	A. The way you are asking me, sir, I	⁴ Q. Did you?
5	don't understand.	⁵ Or didn't you?
6	Q. Let me use a different term and see if	⁶ A. Did not.
7	you understand that.	7 Q. Did not.
8	Do you know what 112(6) is?	⁸ So you did not use that construction
9	A. Yes.	⁹ for your IPR declaration, right?
10	Q. What is it?	¹⁰ MS. HOEKEL: Same objections to
11	A. From my limited understanding and	¹¹ relevance, and this is not being a memory test.
12	background, it pertains to the function.	¹² A. I don't remember.
13	Q. When does 112(6) apply?	¹³ MR. CLAASSEN: Let's pull up what was
14	A. I'm not privy to all the conditions.	¹⁴ previously marked as Exhibit 11.
15	Q. Are you privy to the conditions that	¹⁵ BY MR. CLAASSEN:
16	apply to this particular term?	¹⁶ Q. Do you remember looking at this
17	A. Yes.	¹⁷ Exhibit 11?
18	Q. What makes this term 112(6)?	¹⁸ A. Yes, I do.
19	(Pause)	¹⁹ Q. And this is the declaration that you
20	MS. HOEKEL: Going to have the same	²⁰ wrote for the IPR for the '244 patent, right?
21	objection, calls for a legal conclusion.	²¹ A. Correct.
22	A. I'm not sure how to answer it, sir.	Q. And you set forth positions on claim
		1

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	Page 237	Page 239
1	construction in this declaration, right?	¹ A. Other than I've given the terms plain
2	A. Yes, I did.	² and ordinary meaning.
3	MR. CLAASSEN: Let's go to page 22	³ Q. Okay.
4	through 23.	⁴ So you gave the terms plain and
5	BY MR. CLAASSEN:	⁵ ordinary meaning, right?
6	Q. Do you see that section labeled:	⁶ A. Correct.
7	Claim Construction?	⁷ Q. Isn't that Masimo's construction for
8	A. Are you referring to opinions of claim	⁸ the "one or more processors" term?
9	construction starting on 43?	⁹ MS. HOEKEL: In the lawsuit?
10	Q. Or the heading "Claim Construction"	¹⁰ MR. CLAASSEN: I won't limit it to
11	above that, yes, also	¹¹ that.
12	A. Yes.	¹² A. That was going to be my answer, by the
13	Q. Okay.	¹³ way: In the lawsuit.
14	Do you see that?	¹⁴ Q. So your response is: In the lawsuit?
15	A. Yes.	¹⁵ A. Yes.
16	Q. So we are talking about Exhibit 11 on	¹⁶ Q. So you understand that Masimo's
17	page 22, Claim Construction.	¹⁷ construction of this term is plain and ordinary
18	You see that, right?	¹⁸ meaning, right?
19	A. Yes.	¹⁹ A. Correct.
20	Q. Do you set forth any opinion about	Q. And that's the same construction you
21	means-plus-function terms on these two pages?	²¹ set forth in your IPR declaration, right?
22	MS. HOEKEL: Objection.	²² A. Yes.
	Page 238	Page 240
1	Page 238 MR. CLAASSEN: What's the objection?	Page 240 Q. Going back to your Exhibit 1, Sotero
1 2	Page 238 MR. CLAASSEN: What's the objection? Are you continuing?	Page 240 Q. Going back to your Exhibit 1, Sotero also proposed an alternative construction,
1 2 3	Page 238 MR. CLAASSEN: What's the objection? Are you continuing? MS. HOEKEL: My objection is partially	Page 240 1 Q. Going back to your Exhibit 1, Sotero 2 also proposed an alternative construction, 3 right?
1 2 3 4	Page 238 MR. CLAASSEN: What's the objection? Are you continuing? MS. HOEKEL: My objection is partially the continuing objection, and also that it is	Page 240 1 Q. Going back to your Exhibit 1, Sotero 2 also proposed an alternative construction, 3 right? 4 A. Can we go back to that?
1 2 3 4 5	Page 238 MR. CLAASSEN: What's the objection? Are you continuing? MS. HOEKEL: My objection is partially the continuing objection, and also that it is vague and incomplete.	Page 240 1 Q. Going back to your Exhibit 1, Sotero 2 also proposed an alternative construction, 3 right? 4 A. Can we go back to that? 5 Q. Yeah.
1 2 3 4 5 6	Page 238 MR. CLAASSEN: What's the objection? Are you continuing? MS. HOEKEL: My objection is partially the continuing objection, and also that it is vague and incomplete. BY MR. CLAASSEN:	Page 240 1 Q. Going back to your Exhibit 1, Sotero 2 also proposed an alternative construction, 3 right? 4 A. Can we go back to that? 5 Q. Yeah. 6 Actually, before we go down to the
1 2 3 4 5 6 7	Page 238 MR. CLAASSEN: What's the objection? Are you continuing? MS. HOEKEL: My objection is partially the continuing objection, and also that it is vague and incomplete. BY MR. CLAASSEN: Q. Do the words "means-plus-function"	Page 240 1 Q. Going back to your Exhibit 1, Sotero 2 also proposed an alternative construction, 3 right? 4 A. Can we go back to that? 5 Q. Yeah. 6 Actually, before we go down to the 7 alternative construction, I have a couple of
1 2 4 5 6 7 8	Page 238 MR. CLAASSEN: What's the objection? Are you continuing? MS. HOEKEL: My objection is partially the continuing objection, and also that it is vague and incomplete. BY MR. CLAASSEN: Q. Do the words "means-plus-function" appear on these two pages of your declaration?	Page 240 Page 240 1 Q. Going back to your Exhibit 1, Sotero 2 also proposed an alternative construction, 3 right? 4 A. Can we go back to that? 5 Q. Yeah. 6 Actually, before we go down to the 7 alternative construction, I have a couple of 8 questions for you to follow up on the structure
1 2 4 5 6 7 8 9	Page 238 MR. CLAASSEN: What's the objection? Are you continuing? MS. HOEKEL: My objection is partially the continuing objection, and also that it is vague and incomplete. BY MR. CLAASSEN: Q. Do the words "means-plus-function" appear on these two pages of your declaration? A. I'm taking a moment just to read the	Page 240 Page 240 1 Q. Going back to your Exhibit 1, Sotero 2 also proposed an alternative construction, 3 right? 4 A. Can we go back to that? 5 Q. Yeah. 6 Actually, before we go down to the 7 alternative construction, I have a couple of 8 questions for you to follow up on the structure 9 that you opine on.
1 2 4 5 6 7 8 9 10	MR. CLAASSEN: What's the objection? Are you continuing? MS. HOEKEL: My objection is partially the continuing objection, and also that it is vague and incomplete. BY MR. CLAASSEN: Q. Do the words "means-plus-function" appear on these two pages of your declaration? A. I'm taking a moment just to read the entire page.	Page 240 Page 240 Q. Going back to your Exhibit 1, Sotero also proposed an alternative construction, right? A. Can we go back to that? G. Yeah. Actually, before we go down to the questions for you to follow up on the structure that you opine on. So on page 23 of Exhibit 1 Exhibit
1 2 4 5 6 7 8 9 10 11	MR. CLAASSEN: What's the objection? Are you continuing? MS. HOEKEL: My objection is partially the continuing objection, and also that it is vague and incomplete. BY MR. CLAASSEN: Q. Do the words "means-plus-function" appear on these two pages of your declaration? A. I'm taking a moment just to read the entire page. Q. Go ahead.	Page 240 Page 240 1 Q. Going back to your Exhibit 1, Sotero 2 also proposed an alternative construction, 3 right? 4 A. Can we go back to that? 5 Q. Yeah. 6 Actually, before we go down to the 7 alternative construction, I have a couple of 8 questions for you to follow up on the structure 9 that you opine on. 10 So on page 23 of Exhibit 1 Exhibit 11 1, the joint chart?
1 2 4 5 6 7 8 9 10 11 12	Page 238 MR. CLAASSEN: What's the objection? Are you continuing? MS. HOEKEL: My objection is partially the continuing objection, and also that it is vague and incomplete. BY MR. CLAASSEN: Q. Do the words "means-plus-function" appear on these two pages of your declaration? A. I'm taking a moment just to read the entire page. Q. Go ahead. (Pause)	Page 240 I Q. Going back to your Exhibit 1, Sotero 2 also proposed an alternative construction, 3 right? 4 A. Can we go back to that? 5 Q. Yeah. 6 Actually, before we go down to the 7 alternative construction, I have a couple of 8 questions for you to follow up on the structure 9 that you opine on. 10 So on page 23 of Exhibit 1 Exhibit 11 1, the joint chart? 12 (Pause)
1 2 3 4 5 6 7 8 9 10 11 12 13	MR. CLAASSEN: What's the objection? Are you continuing? MS. HOEKEL: My objection is partially the continuing objection, and also that it is vague and incomplete. BY MR. CLAASSEN: Q. Do the words "means-plus-function" appear on these two pages of your declaration? A. I'm taking a moment just to read the entire page. Q. Go ahead. (Pause) A. Okay. I've read it.	Page 240 Page 240 Q. Going back to your Exhibit 1, Sotero also proposed an alternative construction, right? A. Can we go back to that? G. Yeah. Actually, before we go down to the alternative construction, I have a couple of questions for you to follow up on the structure that you opine on. So on page 23 of Exhibit 1 Exhibit 11 1, the joint chart? 12 (Pause) 13 Q. So you see the bottom of page 23 there
1 2 3 4 5 6 7 8 9 10 11 12 13 14	Page 238 MR. CLAASSEN: What's the objection? Are you continuing? MS. HOEKEL: My objection is partially the continuing objection, and also that it is vague and incomplete. BY MR. CLAASSEN: Q. Do the words "means-plus-function" appear on these two pages of your declaration? A. I'm taking a moment just to read the entire page. Q. Go ahead. (Pause) A. Okay. I've read it. Q. Do the words "means-plus-function"	Page 240 Page 240 1 Q. Going back to your Exhibit 1, Sotero 2 also proposed an alternative construction, 3 right? 4 A. Can we go back to that? 5 Q. Yeah. 6 Actually, before we go down to the 7 alternative construction, I have a couple of 8 questions for you to follow up on the structure 9 that you opine on. 10 So on page 23 of Exhibit 1 Exhibit 11 1, the joint chart? 12 (Pause) 13 Q. So you see the bottom of page 23 there 14 where there is some structure identified?
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15	 Page 238 MR. CLAASSEN: What's the objection? Are you continuing? MS. HOEKEL: My objection is partially the continuing objection, and also that it is vague and incomplete. BY MR. CLAASSEN: Q. Do the words "means-plus-function" appear on these two pages of your declaration? A. I'm taking a moment just to read the entire page. Q. Go ahead. (Pause) A. Okay. I've read it. Q. Do the words "means-plus-function" 	Page 2401Q. Going back to your Exhibit 1, Sotero2also proposed an alternative construction,3right?4A. Can we go back to that?5Q. Yeah.6Actually, before we go down to the7alternative construction, I have a couple of8questions for you to follow up on the structure9that you opine on.10So on page 23 of Exhibit 1 Exhibit111, the joint chart?12(Pause)13Q. So you see the bottom of page 23 there14where there is some structure identified?15A. Yes.
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	Page 238 MR. CLAASSEN: What's the objection? Are you continuing? MS. HOEKEL: My objection is partially the continuing objection, and also that it is vague and incomplete. BY MR. CLAASSEN: Q. Do the words "means-plus-function" appear on these two pages of your declaration? A. I'm taking a moment just to read the entire page. Q. Go ahead. (Pause) A. Okay. I've read it. Q. Do the words "means-plus-function" appear in this section? A. No.	Page 2401Q. Going back to your Exhibit 1, Sotero2also proposed an alternative construction,3right?4A. Can we go back to that?5Q. Yeah.6Actually, before we go down to the7alternative construction, I have a couple of8questions for you to follow up on the structure9that you opine on.10So on page 23 of Exhibit 1 Exhibit111, the joint chart?12(Pause)13Q. So you see the bottom of page 23 there14where there is some structure identified?15A. Yes.16Q. Did you help identify that structure?
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	Page 238 MR. CLAASSEN: What's the objection? Are you continuing? MS. HOEKEL: My objection is partially the continuing objection, and also that it is vague and incomplete. BY MR. CLAASSEN: Q. Do the words "means-plus-function" appear on these two pages of your declaration? A. I'm taking a moment just to read the entire page. Q. Go ahead. (Pause) A. Okay. I've read it. Q. Do the words "means-plus-function" appear in this section? A. No. Q. Does "112(6)" appear anywhere in this	Page 2401Q. Going back to your Exhibit 1, Sotero2also proposed an alternative construction,3right?4A. Can we go back to that?5Q. Yeah.6Actually, before we go down to the7alternative construction, I have a couple of8questions for you to follow up on the structure9that you opine on.10So on page 23 of Exhibit 1 Exhibit111, the joint chart?12(Pause)13Q. So you see the bottom of page 23 there14where there is some structure identified?15A. Yes.16Q. Did you help identify that structure?17A. No. I just gave opinions.
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	 Page 238 MR. CLAASSEN: What's the objection? Are you continuing? MS. HOEKEL: My objection is partially the continuing objection, and also that it is vague and incomplete. BY MR. CLAASSEN: Q. Do the words "means-plus-function" appear on these two pages of your declaration? A. I'm taking a moment just to read the entire page. Q. Go ahead. (Pause) A. Okay. I've read it. Q. Do the words "means-plus-function" appear in this section? A. No. Q. Does "112(6)" appear anywhere in this section? 	Page 2401Q. Going back to your Exhibit 1, Sotero2also proposed an alternative construction,3right?4A. Can we go back to that?5Q. Yeah.6Actually, before we go down to the7alternative construction, I have a couple of8questions for you to follow up on the structure9that you opine on.10So on page 23 of Exhibit 1 Exhibit111, the joint chart?12(Pause)13Q. So you see the bottom of page 23 there14where there is some structure identified?15A. Yes.16Q. Did you help identify that structure?17A. No. I just gave opinions.18No. The answer is: No.
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	Page 238 MR. CLAASSEN: What's the objection? Are you continuing? MS. HOEKEL: My objection is partially the continuing objection, and also that it is vague and incomplete. BY MR. CLAASSEN: Q. Do the words "means-plus-function" appear on these two pages of your declaration? A. I'm taking a moment just to read the entire page. Q. Go ahead. (Pause) A. Okay. I've read it. Q. Do the words "means-plus-function" appear in this section? A. No. Q. Does "112(6)" appear anywhere in this section? A. No, it does not.	Page 2401Q. Going back to your Exhibit 1, Sotero2also proposed an alternative construction,3right?4A. Can we go back to that?5Q. Yeah.6Actually, before we go down to the7alternative construction, I have a couple of8questions for you to follow up on the structure9that you opine on.10So on page 23 of Exhibit 1 Exhibit111, the joint chart?12(Pause)13Q. So you see the bottom of page 23 there14where there is some structure identified?15A. Yes.16Q. Did you help identify that structure?17A. No. I just gave opinions.18No. The answer is: No.19Q. What opinions did you give about that
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	 Page 238 MR. CLAASSEN: What's the objection? Are you continuing? MS. HOEKEL: My objection is partially the continuing objection, and also that it is vague and incomplete. BY MR. CLAASSEN: Q. Do the words "means-plus-function" appear on these two pages of your declaration? A. I'm taking a moment just to read the entire page. Q. Go ahead. (Pause) A. Okay. I've read it. Q. Do the words "means-plus-function" appear in this section? A. No. Q. Does "112(6)" appear anywhere in this section? A. No, it does not. Q. So there is no opinion in your IPR 	Page 2401Q. Going back to your Exhibit 1, Sotero2also proposed an alternative construction,3right?4A. Can we go back to that?5Q. Yeah.6Actually, before we go down to the7alternative construction, I have a couple of8questions for you to follow up on the structure9that you opine on.10So on page 23 of Exhibit 1 Exhibit111, the joint chart?12(Pause)13Q. So you see the bottom of page 23 there14where there is some structure identified?15A. Yes.16Q. Did you help identify that structure?17A. No. I just gave opinions.18No. The answer is: No.19Q. What opinions did you give about that20structure?
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	 Page 238 MR. CLAASSEN: What's the objection? Are you continuing? MS. HOEKEL: My objection is partially the continuing objection, and also that it is vague and incomplete. BY MR. CLAASSEN: Q. Do the words "means-plus-function" appear on these two pages of your declaration? A. I'm taking a moment just to read the entire page. Q. Go ahead. (Pause) A. Okay. I've read it. Q. Do the words "means-plus-function" appear in this section? A. No. Q. Does "112(6)" appear anywhere in this section? A. No, it does not. Q. So there is no opinion in your IPR declaration under a means-plus-function 	Page 2401Q. Going back to your Exhibit 1, Sotero2also proposed an alternative construction,3right?4A. Can we go back to that?5Q. Yeah.6Actually, before we go down to the7alternative construction, I have a couple of8questions for you to follow up on the structure9that you opine on.10So on page 23 of Exhibit 1 Exhibit111, the joint chart?12(Pause)13Q. So you see the bottom of page 23 there14where there is some structure identified?15A. Yes.16Q. Did you help identify that structure?17A. No. I just gave opinions.18No. The answer is: No.19Q. What opinions did you give about that20xtructure?21A. I didn't give any opinions in this

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	Page 241	Page 243
1	written any opinions yet on it, other than	¹ implying it's already occurring either
2	understanding and explaining why I agreed with	² visually or auditory.
3	the proposed construction and evidence.	3 Q. That's for determining that the
4	Q. But you've looked at this structure,	⁴ measurement of the physiological parameter
5	right?	⁵ satisfies an alarm activation threshold, right?
6	A. Yes.	6 A. Yes.
7	Q. Is this the minimum structure required	⁷ Q. Now, in the next page page 24
8	to perform the function?	⁸ there is an alternative construction.
9	A. Yes.	⁹ Do you see that?
10	Q. Does it need all of what's disclosed	¹⁰ A. Yes.
11	in Figure 3?	Q. Do you agree with that construction?
12	A. Yes.	¹² A. As far as defendants? Yes.
13	Q. Does it need all of what's disclosed	¹³ Q. As far as defendants.
14	in Figure 4?	¹⁴ Is that what you said?
15	A. I don't know Figure 4. I have to look	¹⁵ A. Yes, sir.
16	at Figure 4.	16 (Pause)
17	Q. There is Figures 3-4 in the	¹⁷ Q. So this claim limitation requires
18	A. Oh, okay.	¹⁸ "resulting in the activation of an alarm,"
19	Q. You got it?	¹⁹ right?
20	A. Yes.	²⁰ A. Correct.
21	Q. So does it require all of Figure 3?	²¹ Q. And you understand that there is a
22	A. No.	²² separate claim limitation for "activate an
	Page 242	Page 244
1	Page 242 Q. No?	Page 244 ¹ alarm," right?
1 2	Page 242 Q. No? A. No, it does not.	Page 244 1 alarm," right? 2 A. Yes, I do.
1 2 3	Page 242 Q. No? A. No, it does not. But I'm trying to finish my answer for	Page 244 1 alarm," right? 2 A. Yes, I do. 3 Q. But this alternative definition is
1 2 3 4	Page 242 Q. No? A. No, it does not. But I'm trying to finish my answer for what you had asked me, sir.	Page 244 1 alarm," right? 2 A. Yes, I do. 3 Q. But this alternative definition is 4 precise enough for you, right?
1 2 3 4 5	Page 242 Q. No? A. No, it does not. But I'm trying to finish my answer for what you had asked me, sir. Q. Go ahead.	Page 244 1 alarm," right? 2 A. Yes, I do. 3 Q. But this alternative definition is 4 precise enough for you, right? 5 A. Yes.
1 2 3 4 5 6	Page 242 Q. No? A. No, it does not. But I'm trying to finish my answer for what you had asked me, sir. Q. Go ahead. A. What I was also saying that why I	Page 244 1 alarm," right? 2 A. Yes, I do. 3 Q. But this alternative definition is 4 precise enough for you, right? 5 A. Yes. 6 (Pause)
1 2 3 4 5 6 7	Page 242 Q. No? A. No, it does not. But I'm trying to finish my answer for what you had asked me, sir. Q. Go ahead. A. What I was also saying that why I take the position, agree with the position, you	Page 244 1 alarm," right? 2 A. Yes, I do. 3 Q. But this alternative definition is 4 precise enough for you, right? 5 A. Yes. 6 (Pause) 7 Q. Let's move on to the next claim
1 2 3 4 5 6 7 8	Page 242 Q. No? A. No, it does not. But I'm trying to finish my answer for what you had asked me, sir. Q. Go ahead. A. What I was also saying that why I take the position, agree with the position, you are satisfying a program to activate an alarm	Page 244 1 alarm," right? 2 A. Yes, I do. 3 Q. But this alternative definition is 4 precise enough for you, right? 5 A. Yes. 6 (Pause) 7 Q. Let's move on to the next claim 8 limitation. That's on page 33 of Exhibit 1, the
1 2 3 4 5 6 7 8 9	Page 242 Q. No? A. No, it does not. But I'm trying to finish my answer for what you had asked me, sir. Q. Go ahead. A. What I was also saying that why I take the position, agree with the position, you are satisfying a program to activate an alarm upon determination. And you are waiting until	Page 244 1 alarm," right? 2 A. Yes, I do. 3 Q. But this alternative definition is 4 precise enough for you, right? 5 A. Yes. 6 (Pause) 7 Q. Let's move on to the next claim 8 limitation. That's on page 33 of Exhibit 1, the 9 joint claim construction chart.
1 2 3 4 5 6 7 8 9	Page 242 Q. No? A. No, it does not. But I'm trying to finish my answer for what you had asked me, sir. Q. Go ahead. A. What I was also saying that why I take the position, agree with the position, you are satisfying a program to activate an alarm upon determination. And you are waiting until you have satisfied an alarm activation	Page 244 1 alarm," right? 2 A. Yes, I do. 3 Q. But this alternative definition is 4 precise enough for you, right? 5 A. Yes. 6 (Pause) 7 Q. Let's move on to the next claim 8 limitation. That's on page 33 of Exhibit 1, the 9 joint claim construction chart. 10 MS. HOEKEL: We have been going about
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61 (Pages 241 to 244)

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	Page 245		Page 247
1	p.m. Back on the record.	1	with that the way they proposed this
2	BY MR. CLAASSEN:	2	construction of this term.
3	Q. Dr. Yanulis, we are moving on to this	3	Q. What are you talking about right now?
4	next claim element. We are now talking about	4	A. Talking about the: Electronically
5	"electronically initiating."	5	initiating, using the patient monitoring device,
6	Do you see that on your screen,	6	the first parameter-specific alarm delay or
7	Exhibit 1, page 33, of the joint claim	7	suspension period of time.
8	construction chart?	8	Q. So that entire phrase, Masimo proposes
9	A. Yes, I do.	9	plain and ordinary meaning, right?
10	Q. What's your understanding of Sotero's	10	A. Up to the point that they haven't
11	construction for this claim limitation?	11	included in my opinion pausing
12	A. My understanding is that you are	12	Q. That's not my question.
13	pausing this first alarm for a period of time or	13	My question is: Masimo proposes plain
14	particular parameter in response to user input	14	and ordinary meaning, right?
15	from a user, or request from a user.	15	A. I don't agree with the term
16	Q. Did you use that construction in your	16	"initiating."
17	IPR declaration?	17	Q. I'm not asking if you agree with it.
18	MS. HOEKEL: Objection.	18	I'm asking if Masimo proposes the
19	Q. This is the same patent we have been	19	plain and ordinary meaning.
20	talk about right the '244 patent?	20	A. Yes, they do.
21	A. I'm not trying to hedge the answer.	21	Q. Isn't that what you proposed in your
22	I think the best answer was: To some	22	IPR declaration?
	Page 246		Page 248
1	extent.	1	MS. HOEKEL: Same objection.
2	But, again, the IPR was more of an	2	A. In the IPR, yes.
3	exercise to look at invalidity. This is looking	3	Q. So you proposed the same construction
4	at potential infringement.	4	that Masimo proposes in the district court,
5	Q. So a different claim construction	5	right?
6	should apply.	6	MS. HOEKEL: Same objection.
7	Is that right?	7	A. Not to the extent that they have
8	A. No, same claim I'm sorry same	8	construed the claim
9	claim construction.	9	Q. Now you are talking about to the
10	It's just I'm trying to identify and	10	extent the court concludes the construction of
11	support why defendants' construction is correct,	11	"initiating is necessary," right?
12	why I don't agree with Masimo.	12	A. Yeah. I have problems the way they
13	Q. So you don't agree with Masimo's,	13	say: Of "initiating" is necessary.
14	right?	14	I think that's
15	A. Not in this proposed construction of	15	Q. What does "initiating" mean to you?
16	this claim, no.	16	A. To begin.
17	Q. And Masimo's construction is plain and	17	Q. Isn't that what this says the term
18	ordinary meaning, right?	18	should be construed as "beginning"?
19	A. It is.	19	A. It should also incorporate having some
20	But then you mention: The first	20	kind of user input.
21	parameter-specific alarm delay.	21	Q. "Initiating" should have user input?
22	And my contention is I don't agree	22	A. Yes, to be more precise.
		1	

62 (Pages 245 to 248)

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	Page 249		Page 251
1	Q. How does a user electronically	¹ Q. Does the '244 patent use	the word
2	initiate?	² "pause"?	
3	A. He why I have set up and why I	³ A. No, it does not use that p	particular
4	agree with the proposed construction of Sotero,	⁴ word.	
5	I say you have to have an actual action where	⁵ Q. You've tried to incorpora	ate it into
6	you are actually pausing or holding some button.	⁶ two different constructions now	, right?
7	(Pause)	7 MS. HOEKEL: Object to	o the form.
8	Q. Where does it say anything about a	⁸ A. I think there is a different	nce I
9	button in this construction from Sotero?	⁹ don't agree with the way Masim	o proposes to
10	A. I'm implying as an expert.	¹⁰ initiate this action.	
11	It would have to be some kind of	¹¹ Q. We are talking about pat	use now.
12	button, or it could be something else, so long	¹² A. Yes.	
13	as you have user input.	¹³ Q. So you are trying to inse	ert the word
14	I should just limit to that.	¹⁴ "pause" into the claims, right?	
15	Q. What would the "something else" be?	A. I guess I am.	
16	A. You could have an electric system.	Q. Trying to do that in two	places,
17	Q. Explain what you mean by that.	1/ right?	
18	A. You could set up an electric system to	18 A. Yes.	
19	cause pausing or suspend particular actions.	Q. That word "pause" does	n't appear in
20	Q. Could a user do that with a mouse?	20 the specification at all, right?	
21	A. Yeah.	22 (Pause) 22 A Not the direct word "recy	
22	Q. Could a user do that with a keyboard?	A. Not the direct word pat	ising, no.
	Page 250		Page 252
1	A. Yes.	¹ But there is some action that	at causes
2	Q. Would that be a button?	² this response of stopping the alarr	n. There is
3	A. I'm sorry?	³ something. And there are several	ways of doing
4	Q. Would that be a button?	4 it.	
5	A. Yeah I mean, you could any type	⁵ Q. I asked you earlier, but I'n	n not sure
6	of I'll just say any device.	⁶ I understood your answer.	
7	Q. So if a user input a parameter, would	7 Did you apply Sotero's con	struction in
8	that satisfy your "something else"?	⁸ your IPR declaration?	_
9	MS. HOEKEL: Object to the form.	⁹ MS. HOEKEL: Same obje	ction.
10	A. The user input would have to be some	Q. Do you understand the que	estion?
10	kind of physical act, whether it be user	A. I do. I'm just thinking abo	but the
12	pressing a button, keyboard, or whatever, or an	appropriate answer and the correc	t answer.
14	Alexa system doing it. They all would do the	As an expert, I did consider	r that.
15	same thing. They pause their first alarm for a	But, again, the IPK, I was for	lidating
16	period of time.	16 not to the level of this terminology	undating,
17	Q. I have no second claim term that	 not to the revel of this terminolog heing construct 	y that s
± ′ 18	Le Sotorola position	18 So no	
10	A. In Soleto's position.	$\begin{array}{ccc} - & & & \\ & & & \\ 19 & & & \\ \end{array}$	ith
19	O Pight	BIII I MAN MANA MANA MANA	
19 20	Q. Right.	20 But I did concern mysell w	101
19 20 21	Q. Right. So Sotero proposes pause for multiple claim terms, now, right?	 ²⁰ understanding what it means. ²¹ O You construed a different 	conclusion
19 20 21 22	Q. Right. So Sotero proposes pause for multiple claim terms, now, right?	 ²⁰ But I did concern myself w ²⁰ understanding what it means. ²¹ Q. You construed a different ²² in the IPR right? 	conclusion

63 (Pages 249 to 252)

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	Page 253		Page 255
1	MS. HOEKEL: Object to the form.	1	court case at the top of the right-hand column
2	A. Yeah the IPR was written for a	2	on page 40?
3	different call it goal or reason. And it	3	A. Are you referring to
4	was primarily directed for invalidity.	4	parameter-specific alarm delay?
5	Here we are talking about terms that	5	Q. That's the top of that column, yes.
6	are being disagreed we are trying to find the	6	But you see the first full sentence
7	best precise terminology, trying to get some	7	there that says: Dr. Yanulis may explain?
8	agreement. That's the purpose of this exercise.	8	A. Yes.
9	Q. And that's not the purpose of claim	9	Q. And it says: That the '244 Patent
10	construction in the IPR process, right?	10	only supports pausing of an already activated
11	MS. HOEKEL: Objection.	11	alarms in response to user input.
12	A. I wasn't concerned with claim	12	Right?
13	construction, other than applying the standard	13	A. Correct.
14	of plain and ordinary meaning. It was a much	14	Q. How does that relate to claim
15	broader whereas I was my intent, as I said	15	construction?
16	before, was to support my evidence that the	16	A. Well, the patent does not support the
17	prior art, in my expertise, invalidates the	17	parameter-specific pre-alarm delay. So that's
18	patents.	18	what I'm having some concern about
19	Q. But you didn't perform that analysis	19	parameter-specific pre-alarm delay.
20	using Sotero's construction, right?	20	Q. How is that relevant to claim
21	MS. HOEKEL: Object to the form.	21	construction?
22	A. What I looked at is the specs, file	22	A. Because the parameters specific are
	Page 254		Page 256
1	Page 254 history, and my knowledge of these particular	1	Page 256 not they are not parameter-specific the way
1 2	Page 254 history, and my knowledge of these particular systems in supporting my claim or supporting	1 2	Page 256 not they are not parameter-specific the way that the specs have been written, as far as
1 2 3	Page 254 history, and my knowledge of these particular systems in supporting my claim or supporting my contention that the prior art basically	1 2 3	Page 256 not they are not parameter-specific the way that the specs have been written, as far as understanding the scope of the invention.
1 2 3 4	Page 254 history, and my knowledge of these particular systems in supporting my claim or supporting my contention that the prior art basically invalidated the patent.	1 2 3 4	Page 256 not they are not parameter-specific the way that the specs have been written, as far as understanding the scope of the invention. Q. I want you to focus now on that one
1 2 3 4 5	Page 254 history, and my knowledge of these particular systems in supporting my claim or supporting my contention that the prior art basically invalidated the patent. Q. In performing that analysis, you did	1 2 3 4 5	Page 256 not they are not parameter-specific the way that the specs have been written, as far as understanding the scope of the invention. Q. I want you to focus now on that one sentence.
1 2 3 4 5 6	Page 254 history, and my knowledge of these particular systems in supporting my claim or supporting my contention that the prior art basically invalidated the patent. Q. In performing that analysis, you did not use Sotero's proposed construction, right?	1 2 3 4 5 6	Page 256 not they are not parameter-specific the way that the specs have been written, as far as understanding the scope of the invention. Q. I want you to focus now on that one sentence. I don't see anything about
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	Page 257		Page 259
1	pausing of already activated alarms in response	1	A. Well, without reiterating the whole
2	to user input relevant to claim construction?	2	specification, in order to have the proper
3	A. Based on the way the specifications	3	construction in terms of the way the
4	have been disclosed, it's only supporting an	4	specification has been disclosed, it has to, in
5	already active alarm or, in other words, alarm	5	my opinion, require pausing an already activated
6	that's already going off.	6	alarm, or an alarm that's already occurring.
7	Q. Do you understand the phrase "written	7	Q. But we have talked about the
8	description"?	8	specification discloses that part.
9	A. Yes.	9	A. Right.
10	Q. What does that mean to you?	10	Q. Now let's talk about that user input.
11	A. Written description	11	A. In response to the user input, that
12	MS. HOEKEL: Object to the form.	12	was the last part.
13	A implies a discussion in view of	13	Q. Right.
14	specs, the figures, explaining what their	14	And those are in conjunction with one
15	invention is in other words, what are they	15	another, right?
16	trying to do.	16	A. Yes.
17	Q. Is this sentence talking about written	17	Q. So where did you get the "in response
18	description?	18	to user input" portion of your opinion?
19	Or is it talking about claim	19	A. I was looking at the inventive scope
20	construction?	20	of the device, of this particular patent in
21	MS. HOEKEL: Object to the form, calls	21	terms of how they defined or disclosed the alarm
22	for legal conclusion.	22	systems.
	Page 258		Page 260
1	Page 258 A. Well, I can't speak about from a legal	1	Page 260 Q. So "the inventive scope of the
1 2	Page 258 A. Well, I can't speak about from a legal perspective.	1 2	Page 260 Q. So "the inventive scope of the device"?
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1 2 3 4 5	Page 258 A. Well, I can't speak about from a legal perspective. But from an expert in this case, I can discuss the fact that I'm looking at the scope of the invention in view of the way the	1 2 3 4 5	Page 260 Q. So "the inventive scope of the device"? Is that right? A. No the scope of the invention, as disclosed in the patent.
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	Page 261	Page 263
1	in the art understand "electronically	¹ or auditory signal going off that the clinician
2	initiating"?	2 can view.
3	A. It would articulate to me that the	³ Q. And that's a pre-alarm delay, right?
4	alarm is already occurring, and that requires	⁴ A. No, sir.
5	some kind of response to stop it, if necessary.	⁵ Q. What is that?
6	Q. Why does that response have to be from	⁶ A. I'm saying: There is no such in my
7	a user?	⁷ understanding, I don't agree with the term
8	A. It doesn't have to be. That's why I	⁸ "parameter-specific pre-alarm delay."
9	alluded to it could be terminal, could be a	⁹ I don't think that's a proper
10	mouse pad, or button.	¹⁰ construction, and it's not supported in the
11	Q. Then moving down to that last sentence	¹¹ specs.
12	in Exhibit 1, page 40.	¹² Q. Where are you getting pre-alarm delay
13	And now we are talking about: Dr.	¹³ from the claims?
14	Yanulis may explain that the '244 Patent does	¹⁴ A. Not getting it from the claim per se.
15	not support parameter-specific pre-alarm delays.	¹⁵ I'm saying that the patent has not
16	Do you see that?	¹⁶ properly supported the fact that you have to
17	A. Yes, sir.	¹⁷ have an actively occurring alarm. I'm saying
18	Q. Does that mean anything more than it	¹⁸ that's what's lacking.
19	says?	¹⁹ And to claim it as such is not proper.
20	A. Yes, it does. The scope of the	20 Q. Where does Masimo claim the pre-alarm
21	patent the so-called parameter-specific	²¹ delay?
22	pre-alarm delays are not parameter-specific as	²² MS. HOEKEL: Object to the form.
	Page 262	Dago 264
	rage 202	rage 204
1	far as being pre-alarm delays.	¹ BY MR. CLAASSEN:
1 2	far as being pre-alarm delays. Q. Can you explain what you mean by that?	 BY MR. CLAASSEN: Q. At the end of your response was: And
1 2 3	far as being pre-alarm delays. Q. Can you explain what you mean by that? A. The pre-alarm delays, from my skill in	 BY MR. CLAASSEN: Q. At the end of your response was: And to claim it as such is not proper.
1 2 3 4	far as being pre-alarm delays.Q. Can you explain what you mean by that?A. The pre-alarm delays, from my skill in the art reading the specs, does not convince me	 Page 204 BY MR. CLAASSEN: Q. At the end of your response was: And to claim it as such is not proper. 4 Right?
1 2 3 4 5	far as being pre-alarm delays. Q. Can you explain what you mean by that? A. The pre-alarm delays, from my skill in the art reading the specs, does not convince me that these these pre-alarm delays are	 BY MR. CLAASSEN: Q. At the end of your response was: And to claim it as such is not proper. Right? 5 A. No.
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66 (Pages 261 to 264)

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	Page 265	Page 267
1	Where does pre-alarm delay enter your	¹ A. It does have some importance when you
2	analysis in this claim?	² are discussing the claim terms that's used and
3	A. I'm saying the patent in its entirety	³ written so, yes.
4	does not support it. Again, I'm referring to	4 Q. Which term in this claim the '244
5	the	⁵ patent claim 13 which claim term references
6	Q. Is that relevant to the construction	⁶ "pre-alarm delay"?
7	of this claim term?	⁷ A. I'm doing this from memory.
8	A. Yes, it is.	⁸ The claims, as discussed, articulate
9	Q. How?	⁹ parameter-specific pre-alarm delays.
10	A. It's relative to the way the claims	¹⁰ And I'm not I'm saying that's not
11	are written, based on what's been disclosed in	¹¹ supported in the specs.
12	specs	¹² Q. The words "parameter-specific
13	Q. And where	¹³ alarm-delay" I see that.
14	A what is not	¹⁴ Now what I'm focusing on is "pre-alarm
15	Q. Go ahead.	¹⁵ delay."
16	A. What I was starting to say: It	¹⁶ Where are you reading in the claim
17	matters as far as what's in there or not in	¹⁷ limitation to include "pre-alarm delay"?
18	there as far as supporting the specs as written.	¹⁸ MS. HOEKEL: Objection, asked and
19	You can write claims, but it may not	¹⁹ answered.
20	be a proper discussion for purposes of our	²⁰ MR. CLAASSEN: It hasn't been
21	discussion here in terms of what's written in	²¹ answered.
22	the specs.	²² BY MR. CLAASSEN:
	Page 266	Page 268
1	Page 266 That's all I have is the specs and the	Page 268 ¹ Q. Go ahead.
1 2	Page 266 That's all I have is the specs and the claims. I have nothing else and my skill, of	Page 268 1 Q. Go ahead. 2 A. The pre-alarm delays are not
1 2 3	Page 266 That's all I have is the specs and the claims. I have nothing else and my skill, of course.	Page 268 1 Q. Go ahead. 2 A. The pre-alarm delays are not 3 parameter-specific. And I have not been
1 2 3 4	Page 266 That's all I have is the specs and the claims. I have nothing else and my skill, of course. Q. Okay, the patent doesn't say anything	Page 268 1 Q. Go ahead. 2 A. The pre-alarm delays are not 3 parameter-specific. And I have not been 4 convinced that they are parameter-specific.
1 2 3 4 5	Page 266 That's all I have is the specs and the claims. I have nothing else and my skill, of course. Q. Okay, the patent doesn't say anything about blue moons either, right?	Page 268 1 Q. Go ahead. 2 A. The pre-alarm delays are not 3 parameter-specific. And I have not been 4 convinced that they are parameter-specific. 5 Q. Are the alarm delays
1 2 3 4 5 6	Page 266 That's all I have is the specs and the claims. I have nothing else and my skill, of course. Q. Okay, the patent doesn't say anything about blue moons either, right? A. Correct.	Page 268 1 Q. Go ahead. 2 A. The pre-alarm delays are not 3 parameter-specific. And I have not been 4 convinced that they are parameter-specific. 5 Q. Are the alarm delays 6 parameter-specific?
1 2 3 4 5 6 7	Page 266 That's all I have is the specs and the claims. I have nothing else and my skill, of course. Q. Okay, the patent doesn't say anything about blue moons either, right? A. Correct. Q. And blue moons aren't recited anywhere	Page 268 1 Q. Go ahead. 2 A. The pre-alarm delays are not 3 parameter-specific. And I have not been 4 convinced that they are parameter-specific. 5 Q. Are the alarm delays 6 parameter-specific? 7 MS. HOEKEL: Object to the form.
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1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	 Page 266 That's all I have is the specs and the claims. I have nothing else and my skill, of course. Q. Okay, the patent doesn't say anything about blue moons either, right? A. Correct. Q. And blue moons aren't recited anywhere in the claims, right? A. The patent itself only supports the pausing of already existing alarms. Q. Okay. So we've talked about pausing. I understand our disagreement on pausing A. Right. Q okay? Now I want to talk to you about pre-alarm delays. A. And I'm saying it's not supportive. 	Page 268 1 Q. Go ahead. 2 A. The pre-alarm delays are not 3 parameter-specific. And I have not been 4 convinced that they are parameter-specific. 5 Q. Are the alarm delays 6 parameter-specific? 7 MS. HOEKEL: Object to the form. 8 A. The alarm delays may be, but the 9 pre-alarm delays are not. 10 Q. Did the claim require pre-alarm 11 delays? 12 MS. HOEKEL: Object to the form. 13 A. I'm not sure how else to answer the 14 question. 15 Q. It's a yes-or-no question. 16 Does the claim require pre-alarm 17 delays? 18 MS. HOEKEL : Under whose construction?
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	Page 269		Page 271
1	parameter-specific pre-alarm delays.	1	A. We just read it.
2	Q. I'm looking at Sotero's construction.	2	We talked about pre-alarm delay,
3	It doesn't say: Pre-alarm delay.	3	didn't we?
4	MS. HOEKEL: Can we go back to page	4	Or did I miss something?
5	33, so he can see the term in the constructions?	5	Q. Okay. You have a copy of Exhibit 1 in
6	Because we are not on the right page.	6	front of you?
7	THE WITNESS: Thank you.	7	A. Right.
8	MR. CLAASSEN: Okay.	8	O. Somewhere, right?
9	BY MR. CLAASSEN:	9	A. Yes.
10	Q. The third column in Exhibit 1, page	10	Q. Do you have the hard copy of it?
11	33 does it say anything about pre-alarm	11	A. Yes.
12	delay?	12	O. Okay. So will you turn to page 33?
13	A. No, it does not.	13	A. Be glad to.
14	Q. So the middle column with Masimo's	14	Q. The joint claim construction chart?
15	construction does it say anything about	15	A. I have that right now. So you want me
16	pre-alarm delay?	16	to refer to page 33 on here.
17	A. No, all it talks about is	17	Q. I want you to start on page 33.
18	parameter-specific alarm delays.	18	And I want you to tell me where you
19	Q. So what is the relevance of pre-alarm	19	are seeing pre-alarm delay.
20	delay to the construction of this term?	20	A. I am not seeing it.
21	A. Including the whole term, not just	21	Q. It's not in the claim, is it?
22	alarm delays, but pre-alarm delays are not	22	A. No.
	Page 270		Page 272
1	parameter-specific.	1	Q. It's not in either construction, is
2	You want me to explain what I mean by	2	it?
3	that?	3	A. Correct.
4	Q. Yes.	4	Q. So what does it have to do with the
5	A. Parameter-specific, in my	5	construction of "electronically initiating"?
6	understanding, is just that particular	6	A. It has to do with applying some kind
7	parameter.	7	of user response.
8	But when you add the term	8	Q. Okay.
9	parameter-specific is I have no problem with	9	You have a separate sentence on user
10	that.	10	input, right?
11	I have a problem with	11	A. Yes.
12	parameter-specific reading later, as far as	12	Q. And that's on page 40 that we were
13	parameter-specific alarm delays.	13	talking about earlier?
14	It is pre-alarm, that's where I'm	14	A. Let me go back to page 40.
15	having a problem. The phrase "pre" is bothering	15	(Pause)
16	me.	16	A. You want me to start with:
17	• • • • • • • • • • • • • • • • • • •	17	Alternatively, a common silence button?
1 /	Q. Where are you getting the phrase		
18	"pre"?	18	Q. No, page 40 of the chart
19	"pre"? That's what I'm asking.	18 19	Q. No, page 40 of the chartA. I'm sorry. I was looking at 41. I'm
18 19 20	"pre"? That's what I'm asking. A. I'm not getting it in this. I'm	18 19 20	Q. No, page 40 of the chart A. I'm sorry. I was looking at 41. I'm sorry.
18 19 20 21	 "pre"? That's what I'm asking. A. I'm not getting it in this. I'm getting it in the following section. 	18 19 20 21	 Q. No, page 40 of the chart A. I'm sorry. I was looking at 41. I'm sorry. Q. Okay. So page 40 of the chart

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	Page 273		Page 275
1	Q right?	1	Is that right?
2	A. Correct.	2	MS. HOEKEL: Object to the form.
3	Q. You see there is a sentence that we	3	A. I would be more comfortable if there
4	have been talking about, about: Dr. Yanulis may	4	was more discussion to convince me that the
5	explain that the '244 patent does not support	5	pre-alarm delays are parameter-specific.
6	parameter-specific pre-alarm delays.	6	Q. Again, my basic question is: What
7	Right?	7	pre-alarm delays are you talking about?
8	A. Correct.	8	A. The period of time you are actually
9	Q. And that is different sentence from	9	delaying the doing any kind of actions to the
10	user input, right?	10	alarm it's already occurred.
11	A. Correct.	11	Q. When does that period of time begin?
12	Q. So pre-alarm delays is not talking	12	A. Once the alarm has been gone off,
13	about user input, right?	13	whether it be auditory or visual.
14	A. Correct.	14	Q. So the alarm has to be active.
15	Q. What is it talking about?	15	Is that right?
16	A. Could you repeat the question? I'm	16	A. Well, I'm not sure how to answer this.
17	not sure I'm following what you are saying.	17	My understanding that you have to have
18	Q. I don't understand your last sentence	18	a pre-alarm delay to once you have a
19	in this chart	19	pre-alarm delay, then that could that causes
20	A. What I'm saying	20	a what you call the term is an "alarm
21	Q does not support parameter-specific	21	alert," or whatever you want to call it.
22	pre-alarm delays.	22	Q. That refers to some period of time
	Page 274		Page 276
1	What I don't understand is: Where	1	before the alarm is activated.
2	does "pre-alarm" come from?	2	Is that right?
3	(Pause)	3	A. Correct, before you have some actual
4	A. Because the way this patent is defined	4	active alarm.
5	and disclosed, it talks about parameter-specific	5	Q. Is that concept recited in this claim?
6	pre-alarm delays.	6	(Pause)
7	Q. This sentence says: This	7	A. Go back to the previous page. Let me
8	specification does not support.	8	read that, please.
9	A. Right. I'm saying it doesn't. It	9	Q. Go back to page 39, please, on Exhibit
10	lacks that.	10	1?
11	Q. It lacks that, right?	11	MS. HOEKEL: I think he means the
12	A. Yes.	12	claim language.
13	Q. What about pre-alarm delays is	13	MR. CLAASSEN: Do you want to go up to
14	relevant to the claim?	14	the top, Dr. Yanulis?
15	A. The fact that pre-alarm delays and my	15	THE WITNESS: Yes, if I can.
16	expertise are not parameter-specific.	16	MR. CLAASSEN: All right. Let's go
17	Q. Does the claim require pre-alarm	17	back then to page 33.
18	delays?	18	BY MR. CLAASSEN:
19	A. If you are writing the claims in view	19	Q. We are there.
20	of the patent specs, yes.	20	Do you see that?
21	Q. So if you re-imagine what the claims	21	A. Yes, sir.
22	say, it would say: Pre-alarm delays.	22	Q. Is this what you were looking for?

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	Page 277		Page 279
1	Δ Ves	1	But the way it's been disclosed and
2	Ω And we are looking at claim 13 of the	2	claimed it's indefinite and there is not enough
3	'244 patent right?	3	information to understand what this alarm hold
4	Okay	4	initiator is doing
5	And where is the concept of pre-alarm	5	That's why it's indefinite why I
6	delay claimed inside claim 13?	6	agree with that.
7	A. It's not.	7	O. Would a person of ordinary skill in
8	O. So why is it relevant to the	8	the art know what an alarm hold initiator is?
9	construction of "electronically initiated"?	9	MS. HOEKEL: Object to the form.
10	A. Because there has to be some kind of	10	A. They would.
11	user input cause	11	But they would also want to know: How
12	Q. Because user input that also	12	does that alarm hold initiator function in terms
13	satisfies the pre-alarm delay.	13	of the claim, looking in view of the specs?
14	Is that right?	14	They want both aspects.
15	A. Yes.	15	Q. But they would understand the words
16	Q. Okay. Let's move on then to the next	16	"alarm hold initiator," right?
17	term, which is "alarm hold initiator."	17	A. Yes, sir, they would.
18	(Pause)	18	Q. Sotero has an alternative construction
19	THE WITNESS: Do we want 41?	19	here, right?
20	MR. CLAASSEN: I believe. So hold on	20	A. Are you looking now at 41?
21	just one second.	21	Q. Let's go down to page 41 of Exhibit 1.
22	Actually, yeah, let's start at page	22	Do you see the alternative
		1	
	Page 278		Page 280
1	Page 278	1	Page 280 construction?
1 2	Page 278 40, just to be very clear. MS. HOEKEL: There are page breaks	1 2	Page 280 construction? A. Yes.
1 2 3	Page 278 40, just to be very clear. MS. HOEKEL: There are page breaks throughout this document.	1 2 3	Page 280 construction? A. Yes. Q. You see that the construction is a
1 2 3 4	Page 278 40, just to be very clear. MS. HOEKEL: There are page breaks throughout this document. BY MR. CLAASSEN:	1 2 3 4	Page 280 construction? A. Yes. Q. You see that the construction is a common silence button, right?
1 2 3 4 5	Page 278 40, just to be very clear. MS. HOEKEL: There are page breaks throughout this document. BY MR. CLAASSEN: Q. So there is a page break here at the	1 2 3 4 5	Page 280 construction? A. Yes. Q. You see that the construction is a common silence button, right? And it continues down from there?
1 2 3 4 5 6	Page 278 40, just to be very clear. MS. HOEKEL: There are page breaks throughout this document. BY MR. CLAASSEN: Q. So there is a page break here at the bottom of page 40.	1 2 3 4 5 6	Page 280 construction? A. Yes. Q. You see that the construction is a common silence button, right? And it continues down from there? A. Correct.
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1	Q. And the "other suspend initiator"	¹ skill in the art understand "alarm pause
2	that uses the word "initiator" in it, right?	² initiator"?
3	A. Yes.	³ MS. HOEKEL: Object to the form.
4	Q. So what you have done is replace	4 A. Could you zero in a little bit more
5	"alarm hold" with "other suspend," right?	⁵ about the question?
6	A. Right.	⁶ Are you asking me: If I was skilled
7	Q. Would a person of ordinary skill in	⁷ in the art, would I understand what an alarm
8	the art understand that substitution?	⁸ hold initiator is?
9	A. Yes, they would.	⁹ Q. No.
10	Q. So if the specification said "other	¹⁰ Would you would a person of
11	suspend initiator," that would let a person of	¹¹ ordinary skill in the art understand what an
12	ordinary skill in the art know what an alarm	¹² alarm pause initiator is?
13	hold initiator is, right?	¹³ A. He should. You are initiating a
14	A. Correct.	¹⁴ pause, so you should understand that. Or you
15	(Pause)	¹⁵ are commencing a pause, you are hitting
16	Q. Is there a difference between pausing	¹⁶ something, you are hitting some device or system
17	and holding?	17 to stop the alarm.
18	A. "Pausing" to me as an expert would	¹⁸ Q. Is it triggering a time?
19	imply that you are just momentarily stopping an	¹⁹ A. When you pause it? No.
20	alarm from continuing.	²⁰ Q. When you hold it?
21	Whereas a "hold," you may want to see	²¹ A. If you hold it, you are sort of
22	if the condition rectifies. A clinician would	²² waiting to see if the condition, as I said,
	Page 282	Page 284
1	Page 282 understand that you want to see if the condition	Page 284 ¹ worsens or gets it improves.
1 2	Page 282 understand that you want to see if the condition worsens or doesn't worsen.	Page 284 1 worsens or gets it improves. 2 (Pause)
1 2 3	Page 282 understand that you want to see if the condition worsens or doesn't worsen. Q. Is there any difference in terms of	Page 284 1 worsens or gets it improves. 2 (Pause) 3 MR. CLAASSEN: Dr. Yanulis, would you
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71 (Pages 281 to 284)

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	Page 285		Page 287
1	concept of suspending an active alarm	1	this is achieved, or how it could be
2	Q. Correct.	2	initiated or whatever term you want to use
3	A using a common silence button?	3	the way the specs have been written.
4	Q. You say "a common silence button,"	4	Q. But the words "alarm hold initiator"
5	right?	5	are understandable, right?
6	A. But would not understand how a common	6	A. Yes, sir.
7	silence button is more specific than an alarm	7	Q. You didn't rely on an indefinite
8	hold initiator would be "accessed," as claimed.	8	construction for the IPR, right?
9	Q. Right.	9	A. No, I did not.
10	But you skipped over something there.	10	Q. Is that because you can't present an
11	There is a parenthetical, right?	11	indefiniteness argument in an IPR?
12	A. I'm sorry.	12	MS. HOEKEL: Object to the form.
13	Saying that is wouldn't understand	13	A. Other than to say that I'm only
14	how a common silence button, based on the way	14	applying the standard of plain and ordinary
15	the specs are written, could be accessed or	15	meaning, and the prior art whether it
16	you want me to	16	invalidates or doesn't invalidate.
17	Q. "I.e." what's your understanding of	17	Q. You applied the construction that
18	what "i.e." means?	18	Masimo proposes, right?
19	A. Oh, I'm sorry.	19	A. I'm sorry?
20	That is.	20	Q. You proposed the construction in your
21	Q. That is.	21	IPR that Masimo proposes in the district court,
22	Right?	22	right?
	Page 286		Page 288
1	A. Yes.	1	A. Am Laccepting it?
2	O So an alarm hold initiator is a common	2	0. Did vou accept it?
3	silence button, right?	3	A. No. That's the purpose of our
4	A. Yes.	4	discussion.
5	O You understood that from the	5	O. Okav.
6	specification, right?	6	So in your IPR declaration, what did
7	A. Yes.	7	you propose as the construction for "alarm hold
8	But I did not understand how it could	8	initiator"?
9	be accessed from the specification is what	9	MS. HOEKEL: Same objection.
10	I'm saving as claimed.	10	A. Are vou talking about the extrinsic?
11	O. But you understand that the term that	11	Or intrinsic?
12	we are asking the court to construe is "alarm	12	O. I'm talking about the IPR declaration.
13	hold initiator." right?	13	A. Yes.
14	A. Yes. I do.	14	O. Did you apply the plain and ordinary
15	O. And that's the very phrase that you	15	meaning for "alarm hold initiator"?
16	used in this i.e., right?	16	A. To the extent that the IPR related to
17	A. Yes.	17	discussing the invalidity of the entire patent.
18	O. And it's a common silence button.	18	ves.
19	right?	19	Again, I want to repeat that, in the
20	A. Correct.	20	IPR, I wasn't concerned about the way the claims
21	O. So how is the term indefinite?	21	were construed by either party
22	A. From the specs, I don't understand how	22	(Pause)

72 (Pages 285 to 288)

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	Page 289		Page 291
1	A. Again, maybe I haven't made myself	¹ alternative	construction the plain and
2	clear.	² ordinary m	eaning of the term "alarm hold
3	The exercise of the IPR being written	³ initiator"?	
4	was to discuss the potential invalidity of the	4 A. It's	more precise in this proceeding
5	patent based on prior art and my knowledge for	5 than it was	required in the IPR.
6	one skilled in the art.	6 They	weren't concerned with the
7	I wasn't concerned about the construed	7 preciseness	of different construed terms, other
8	claims because I regarded them as being invalid	⁸ than plain a	and ordinary meaning, or using that
9	for both sides.	⁹ standard.	
10	Q. Did you start with the position that	10 Q. Plai	n and ordinary meaning was enough
11	the claims were invalid?	¹¹ for you to u	inderstand what an alarm hold
12	MS. HOEKEL: Object to the form.	¹² initiator wa	s, right?
13	A. No, I would never make that statement.	¹³ A. Yes	
14	I would base it on the art that was	¹⁴ MS.	HOEKEL: Object to the form.
15	used to support my arguments in the IPR.	15 A to	the level of detail that I was
16	Q. But presumably somewhere in the prior	16 concerned	in the IPR.
17	art, you found an alarm hold initiator, right?	17 This	is different.
18	A. Something very similar that functioned	¹⁸ Q. Is it	your opinion that it is
19	like that.	¹⁹ different?	
20	But, again, I wasn't really concerned	20 Or w	ere you informed that it was
21	with that term in isolation.	²¹ different by	v counsel?
22	I was concerned about what the patent	22 MS.	HOEKEL: Object to the form.
	Page 290		Page 292
1	Page 290 was disclosing, and the claims, and was that	¹ A. I wa	Page 292 as informed by counsel.
1 2	Page 290 was disclosing, and the claims, and was that invalid in view of prior art that I had	¹ A. I w. ² But J	Page 292 as informed by counsel. also understand from an expert's
1 2 3	Page 290 was disclosing, and the claims, and was that invalid in view of prior art that I had discussed.	1 A. I was 2 But 1 3 perspective	Page 292 as informed by counsel. also understand from an expert's for one skilled in the art what
1 2 3 4	Page 290 was disclosing, and the claims, and was that invalid in view of prior art that I had discussed. (Pause)	 A. I was But I Berspective would be n 	Page 292 as informed by counsel. also understand from an expert's for one skilled in the art what hore accurate, based on the specs as
1 2 3 4 5	Page 290 was disclosing, and the claims, and was that invalid in view of prior art that I had discussed. (Pause) Q. Do you consider Sotero's alternative	1 A. I was 2 But I 3 perspective 4 would be n 5 written and	Page 292 as informed by counsel. also understand from an expert's of or one skilled in the art what hore accurate, based on the specs as as claimed.
1 2 3 4 5 6	Page 290 was disclosing, and the claims, and was that invalid in view of prior art that I had discussed. (Pause) Q. Do you consider Sotero's alternative construction in preparing your IPR declaration?	1A. I was2But I3perspective4would be n5written and6Q. The	Page 292 as informed by counsel. also understand from an expert's of or one skilled in the art what nore accurate, based on the specs as as claimed. more accurate constructions are
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	Page 293	Page 295
1	A not in this context, I have never	¹ And I don't know what it is, because
2	heard the word "tail" used.	² you haven't shown me. You haven't told me what
3	Q. When you say "not in this context,"	³ it is.
4	what do you mean some?	⁴ Q. So a person of ordinary skill in the
5	A. In the context the way they discussed	⁵ art would not understand the word "tail."
6	the tail.	⁶ Is that right?
7	And part of the problem with the term	7 A. That's not what I said, sir.
8	"tail" in the patent specs, I can	⁸ I said, to repeat myself: The term
9	specifically articulate it stated the	⁹ "tail" is not a recognizable term that I'm
10	following and this is in reference to the	¹⁰ familiar with.
11	"tail" being substituted for the cable.	¹¹ I understand the word "cable."
12	You didn't show it to me. You didn't	¹² You told me that it's not a cable, so
13	tell me. You told me what it wasn't. And I	¹³ why is it not a cable? I don't know.
14	didn't see tail in the figures.	¹⁴ I know what a cable is and I know what
15	I meant in that context.	¹⁵ a tail is.
16	Q. Does the claim system require	¹⁶ But in the context of the patent
17	electricity?	¹⁷ specs, I do not understand what they mean by
18	A. For this particular patent, yes.	¹⁸ "tail."
19	Q. Is electricity disclosed in the	¹⁹ Q. Okay.
20	specification?	²⁰ What does a "tail" mean outside of
21	A. You are turning some circuit on, so in	²¹ this context?
22	that regard, yes.	²² MS. HOEKEL: Object to the form.
	Page 294	Page 296
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1 2	Page 294 Q. Is the word "electricity" used in the specification?	Page 296 A. If you are talking about a tail, it could be very broad. You could be talking about
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	Page 297	Page 299
1	Q. Presumably you found a tail somewhere	¹ IPR declaration.
2	in the prior art in your IPR declaration, right?	² Q. So you understood tail to refer to
3	A. In some of the prior art, yes, I did.	³ some sort of attachment or connection, right?
4	That term was used.	⁴ A. As it applies to invalidating the
5	But you I asked me, if I am	⁵ patent, as written, supported by the prior art,
6	understanding your question: Is this a term	⁶ yes.
7	I've seen in the art, and that I've used?	7 Q. Was it your understanding that a tail
8	And the answer is: No, I've used	⁸ is any different from a wire?
9	not used this term.	9 MS. HOEKEL: Object to the form.
10	Q. My question is a little bit different.	¹⁰ A. In the context of the IPR
11	In the IPRs, were you able to find	¹¹ MR. CLAASSEN: Lean back, Dr. Yanulis.
12	prior art that satisfied the "tail" limitation	¹² We can't hear you any more.
13	of this claim?	¹³ THE WITNESS: Oh, I am sorry.
14	A. For the purposes of the IPR, yes.	¹⁴ A. In the context of the IPR, yes.
15	Q. What did you find?	¹⁵ But in the context of this district
16	A. I'm sorry?	¹⁶ court proceeding, I don't agree. And I contend
17	Q. What did you find?	¹⁷ that it's indefinite the way it's been disclosed
18	MS. HOEKEL: Object to the form,	¹⁸ in this particular patent or patents
19	beyond the scope of the deposition, relevance.	¹⁹ excuse me '623 and '108.
20	A. I'm not sure how to answer, other than	20 Q. You considered the figures when you
21	I've already answered it, sir.	²¹ were looking at the construction of the term
22	Q. You found something in prior art that	²² "tail"?
	Page 298	Page 300
1	Page 298 you contend is a tail, right?	Page 300 ¹ A. Yes, I did.
1 2	Page 298 you contend is a tail, right? A. Yes.	Page 300 A. Yes, I did. Q. How did the figures impact your
1 2 3	Page 298 you contend is a tail, right? A. Yes. Q. How did you make that determination?	Page 300 A. Yes, I did. Q. How did the figures impact your analysis?
1 2 3 4	Page 298 you contend is a tail, right? A. Yes. Q. How did you make that determination? A. Based on the way the specs were	Page 300 A. Yes, I did. Q. How did the figures impact your analysis? A. Well, when the statement is made that
1 2 3 4 5	Page 298 you contend is a tail, right? A. Yes. Q. How did you make that determination? A. Based on the way the specs were disclosed, I understood what the function of the	Page 300 A. Yes, I did. Q. How did the figures impact your analysis? A. Well, when the statement is made that it's not a cable, and they say "we are not
1 2 3 4 5 6	Page 298 you contend is a tail, right? A. Yes. Q. How did you make that determination? A. Based on the way the specs were disclosed, I understood what the function of the tail was, as written in the context of plain and	Page 300 A. Yes, I did. Q. How did the figures impact your analysis? A. Well, when the statement is made that it's not a cable, and they say "we are not showing it," I have to base it on what I've seen
1 2 3 4 5 6 7	Page 298 you contend is a tail, right? A. Yes. Q. How did you make that determination? A. Based on the way the specs were disclosed, I understood what the function of the tail was, as written in the context of plain and ordinary meaning for the IPR from the broadest	Page 300 A. Yes, I did. Q. How did the figures impact your analysis? A. Well, when the statement is made that it's not a cable, and they say "we are not showing it," I have to base it on what I've seen in the specs. The specs are all I have to use.
1 2 3 4 5 6 7 8	Page 298 you contend is a tail, right? A. Yes. Q. How did you make that determination? A. Based on the way the specs were disclosed, I understood what the function of the tail was, as written in the context of plain and ordinary meaning for the IPR from the broadest sense, using the construct of standard or	Page 300 A. Yes, I did. Q. How did the figures impact your analysis? A. Well, when the statement is made that it's not a cable, and they say "we are not showing it," I have to base it on what I've seen in the specs. The specs are all I have to use. Q. Okay.
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1 2 3 4 5 6 7 8 9 10	Page 298 you contend is a tail, right? A. Yes. Q. How did you make that determination? A. Based on the way the specs were disclosed, I understood what the function of the tail was, as written in the context of plain and ordinary meaning for the IPR from the broadest sense, using the construct of standard or plain and ordinary meaning but no further Q. Okay, wait a minute	Page 300 1 A. Yes, I did. 2 Q. How did the figures impact your 3 analysis? 4 A. Well, when the statement is made that 5 it's not a cable, and they say "we are not 6 showing it," I have to base it on what I've seen 7 in the specs. The specs are all I have to use. 8 Q. Okay. 9 MR. CLAASSEN: Let's take a look at 10 that '623 patent. That is Exhibit No. 5
1 2 3 4 5 6 7 8 9 10 11	Page 298 you contend is a tail, right? A. Yes. Q. How did you make that determination? A. Based on the way the specs were disclosed, I understood what the function of the tail was, as written in the context of plain and ordinary meaning for the IPR from the broadest sense, using the construct of standard or plain and ordinary meaning but no further Q. Okay, wait a minute A it's not	Page 300 1 A. Yes, I did. 2 Q. How did the figures impact your 3 analysis? 4 A. Well, when the statement is made that 5 it's not a cable, and they say "we are not 6 showing it," I have to base it on what I've seen 7 in the specs. The specs are all I have to use. 8 Q. Okay. 9 MR. CLAASSEN: Let's take a look at 10 that '623 patent. That is Exhibit No. 5 11 sorry that is Exhibit No. 4.
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1 2 3 4 5 6 7 8 9 10 11 12 13	Page 298 you contend is a tail, right? A. Yes. Q. How did you make that determination? A. Based on the way the specs were disclosed, I understood what the function of the tail was, as written in the context of plain and ordinary meaning for the IPR from the broadest sense, using the construct of standard or plain and ordinary meaning but no further Q. Okay, wait a minute A it's not Q go ahead. A. It's not a precise term, sir, that I	Page 300 1 A. Yes, I did. 2 Q. How did the figures impact your 3 analysis? 4 A. Well, when the statement is made that 5 it's not a cable, and they say "we are not 6 showing it," I have to base it on what I've seen 7 in the specs. The specs are all I have to use. 8 Q. Okay. 9 MR. CLAASSEN: Let's take a look at 10 that '623 patent. That is Exhibit No. 5 11 sorry that is Exhibit No. 4. 12 BY MR. CLAASSEN: 13 Q. The court reporter has just placed on
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1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	 Page 298 you contend is a tail, right? A. Yes. Q. How did you make that determination? A. Based on the way the specs were disclosed, I understood what the function of the tail was, as written in the context of plain and ordinary meaning for the IPR from the broadest sense, using the construct of standard or plain and ordinary meaning but no further Q. Okay, wait a minute A it's not Q go ahead. A. It's not a precise term, sir, that I have seen used in the art. But I did see it in prior art that I discussed in the IPRs. Q. When you are talking about "the broadest sense," what do you mean? 	Page 300 1 A. Yes, I did. 2 Q. How did the figures impact your 3 analysis? 4 A. Well, when the statement is made that 5 it's not a cable, and they say "we are not 6 showing it," I have to base it on what I've seen 7 in the specs. The specs are all I have to use. 8 Q. Okay. 9 MR. CLAASSEN: Let's take a look at 10 that '623 patent. That is Exhibit No. 5 11 sorry that is Exhibit No. 4. 12 BY MR. CLAASSEN: 13 Q. The court reporter has just placed on 14 the screen the '623 patent. 15 Do you see that? 16 A. Yes, sir, I do. 17 Q. Are you familiar with this patent? 18 A. Yes.
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	Page 298 you contend is a tail, right? A. Yes. Q. How did you make that determination? A. Based on the way the specs were disclosed, I understood what the function of the tail was, as written in the context of plain and ordinary meaning for the IPR from the broadest sense, using the construct of standard or plain and ordinary meaning but no further Q. Okay, wait a minute A it's not Q go ahead. A. It's not a precise term, sir, that I have seen used in the art. But I did see it in prior art that I discussed in the IPRs. Q. When you are talking about "the broadest sense," what do you mean? A. Talking about a tail to me would be	Page 3001A. Yes, I did.2Q. How did the figures impact your3analysis?4A. Well, when the statement is made that5it's not a cable, and they say "we are not6showing it," I have to base it on what I've seen7in the specs. The specs are all I have to use.8Q. Okay.9MR. CLAASSEN: Let's take a look at10that '623 patent. That is Exhibit No. 511sorry that is Exhibit No. 4.12BY MR. CLAASSEN:13Q. The court reporter has just placed on14the screen the '623 patent.15Do you see that?16A. Yes, sir, I do.17Q. Are you familiar with this patent?18A. Yes.19MR. CLAASSEN: I'm going to mark it as
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	 Page 298 you contend is a tail, right? A. Yes. Q. How did you make that determination? A. Based on the way the specs were disclosed, I understood what the function of the tail was, as written in the context of plain and ordinary meaning for the IPR from the broadest sense, using the construct of standard or plain and ordinary meaning but no further Q. Okay, wait a minute A it's not Q go ahead. A. It's not a precise term, sir, that I have seen used in the art. But I did see it in prior art that I discussed in the IPRs. Q. When you are talking about "the broadest sense," what do you mean? A. Talking about a tail to me would be some kind of attachment, some kind of 	Page 300 1 A. Yes, I did. 2 Q. How did the figures impact your 3 analysis? 4 A. Well, when the statement is made that 5 it's not a cable, and they say "we are not 6 showing it," I have to base it on what I've seen 7 in the specs. The specs are all I have to use. 8 Q. Okay. 9 MR. CLAASSEN: Let's take a look at 10 that '623 patent. That is Exhibit No. 5 11 sorry that is Exhibit No. 4. 12 BY MR. CLAASSEN: 13 Q. The court reporter has just placed on 14 the screen the '623 patent. 15 Do you see that? 16 A. Yes, sir, I do. 17 Q. Are you familiar with this patent? 18 A. Yes. 19 MR. CLAASSEN: I'm going to mark it as 20 Exhibit 4 for purposes of this deposition.
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 20 21	 Page 298 you contend is a tail, right? A. Yes. Q. How did you make that determination? A. Based on the way the specs were disclosed, I understood what the function of the tail was, as written in the context of plain and ordinary meaning for the IPR from the broadest sense, using the construct of standard or plain and ordinary meaning but no further Q. Okay, wait a minute A it's not Q. Okay, wait a minute A it's not a precise term, sir, that I have seen used in the art. But I did see it in prior art that I discussed in the IPRs. Q. When you are talking about "the broadest sense," what do you mean? A. Talking about a tail to me would be some kind of attachment, some kind of connection. 	Page 300 1 A. Yes, I did. 2 Q. How did the figures impact your 3 analysis? 4 A. Well, when the statement is made that 5 it's not a cable, and they say "we are not 6 showing it," I have to base it on what I've seen 7 in the specs. The specs are all I have to use. 8 Q. Okay. 9 MR. CLAASSEN: Let's take a look at 10 that '623 patent. That is Exhibit No. 5 11 sorry that is Exhibit No. 4. 12 BY MR. CLAASSEN: 13 Q. The court reporter has just placed on 14 the screen the '623 patent. 15 Do you see that? 16 A. Yes, sir, I do. 17 Q. Are you familiar with this patent? 18 A. Yes. 19 MR. CLAASSEN: I'm going to mark it as 20 Exhibit 4 for purposes of this deposition. 21 Do you understand that?

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	Page 301		Page 303
1	(Exhibit 4, Document Bates stamped	1	A. Oh, 4A?
2	MAS0000099 through 139, multipage document	2	Q. Yeah.
3	entitled: United States Patent No.: US 9,872,623	3	A. Looking at 4A now.
4	B2, dated January 23, 2018, with cover page	4	Q. How does Figure 4A inform your
5	dated June 18, 2019, marked for identification)	5	construction of "tail"?
6	BY MR. CLAASSEN:	6	A. First of all, the 420 is articulated
7	Q. So you looked at the figures, right?	7	as being the cable.
8	A. All the figures, yes.	8	And to repeat myself, the specs said
9	MR. CLAASSEN: Do you have the printed	9	the tail is not shown and the tail is not a
10	copy of Exhibit No. 4?	10	cable.
11	THE WITNESS: Yes.	11	Q. So if you were to remove 420, what
12	Do you mind if I take it out?	12	would you be left with?
13	MR. CLAASSEN: No, go ahead.	13	A. What would I be without seeing
14	THE WITNESS: Help me out and tell me	14	where the tail is, I can't render an opinion.
15	what Exhibit it is?	15	I can have an idea from an expert
16	MR. CLAASSEN: Exhibit No. 4, the '623	16	perspective based on the figures and the way
17	patent.	17	it's disclosed.
18	(Pause)	18	I can't make any kind of opinion.
19	THE WITNESS: All right. Here is	19	Q. So if 420 was removed from figure
20	Exhibit 1, and I'm taking that out now.	20	4A
21	MR. CLAASSEN: Okay, you are going to	21	A. Correct.
22	flip back to the figures?	22	Q would you still have a sensor?
	Page 302		Page 304
1	THE WITNESS: Yes.	1	A. Yes.
2	BY MR. CLAASSEN:	2	Q. Would you still have a wrist-borne
3	Q. Which figures did you consider when	3	device?
4	you were considering the construction of "tail"?	4	A. You are referring to figure 4B now?
5	A. I was looking at the figures and the	5	Q. 4A.
6	way they were disclosed in the specs in	6	A. Okay. Look at 4A. Sorry.
7	combination.	7	Q. So if you remove 420
8	Q. Okay.	8	A. Okay.
9	Were there any figures that were more	9	Q would you still have a sensor?
10	instructive than others?	10	A. You have a sensor, but something has
11	A. Well, when the statement is made that	11	got to connect to the sensor
12	"the tail is not a cable," there is not much	12	Q. Okay.
13	more I can opinionate.	13	Have you seen other types of sensors?
14	Q. I want in Exhibit 1 we don't	14	A. I've seen thousands of sensors.
1 5	need to pull it back up but the intrinsic	15	Q. Thousands.
10	need to put it buck up but the intrinsie		
16	evidence that was cited I'm just going to	16	Would a person of ordinary skill in
15 16 17	evidence that was cited I'm just going to kind of refine our look at the figures, based	16 17	Would a person of ordinary skill in the art have seen different types of sensors?
16 17 18	evidence that was cited I'm just going to kind of refine our look at the figures, based upon our intrinsic evidence.	16 17 18	Would a person of ordinary skill in the art have seen different types of sensors? A. He would assume that, but he would
15 16 17 18 19	evidence that was cited I'm just going to kind of refine our look at the figures, based upon our intrinsic evidence. It mentions Figures 4A and 4B.	16 17 18 19	Would a person of ordinary skill inthe art have seen different types of sensors?A. He would assume that, but he wouldwant to know how the sensor is connected.
15 16 17 18 19 20	evidence that was cited I'm just going to kind of refine our look at the figures, based upon our intrinsic evidence. It mentions Figures 4A and 4B. So can we take a look at those?	16 17 18 19 20	Would a person of ordinary skill in the art have seen different types of sensors?A. He would assume that, but he would want to know how the sensor is connected.Q. So the sensor has to be connected
15 16 17 18 19 20 21	evidence that was cited I'm just going to kind of refine our look at the figures, based upon our intrinsic evidence. It mentions Figures 4A and 4B. So can we take a look at those? A. Yes, sir. I got 4B in front of me.	16 17 18 19 20 21	Would a person of ordinary skill in the art have seen different types of sensors? A. He would assume that, but he would want to know how the sensor is connected. Q. So the sensor has to be connected somehow, right?

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	Page 305	Page 307
1	Q. What are some of the ways that you've	¹ claims when you were coming up with the
2	seen a sensor connected to a device?	² construction of "tail"?
3	A. I'm sorry, sir?	³ A. I looked at all the claims that
4	Q. What are some of the ways that you	⁴ incorporated that term.
5	have seen a sensor connected to a device?	⁵ (Pause)
6	A. As applies to pulse oximetry, I've	⁶ MR. CLAASSEN: I'd like to take a
7	seen hundreds of devices where the cable is	⁷ break, maybe 15 minutes. Then hopefully, we can
8	is utilized in the same way it's used in this	⁸ wrap up relatively soon.
9	particular system.	⁹ THE WITNESS: Sounds good. Thank you,
10	Q. This cable 420 has removable	¹⁰ counselor.
11	connectors at both ends, right?	¹¹ THE VIDEOGRAPHER: The time is 7:28
12	A. Correct.	¹² p.m. Off the record.
13	Q. Is that the only configuration of a	¹³ (Recess from 7:28 p.m. to 7:49 p.m.)
14	cable you've seen?	¹⁴ THE VIDEOGRAPHER: The time is 7:49
15	A. No some of the you could have	¹⁵ p.m. Back on the record.
16	different configurations.	¹⁶ BY MR. CLAASSEN:
17	Q. What are those configurations as	¹⁷ MR. CLAASSEN: Thank you, Dr. Yanulis.
18	you've seen?	¹⁸ You were just on a break.
19	A. It could be that I made some point,	¹⁹ Is that right?
20	I think, earlier where, for patient comfort, you	²⁰ THE WITNESS: Yes, sir.
21	want to be able to disconnect them without going	²¹ MR. CLAASSEN: As I mentioned before
22	through a lot of rigamarole, and not creating	the break, we were hoping to wrap up relatively
	Page 306	Page 308
1	Page 306 anxiety in the patient.	Page 308 ¹ soon. I'll pass the witness now.
1 2	Page 306 anxiety in the patient. Q. So is one example you've seen on a	Page 308 ¹ soon. I'll pass the witness now. ² MS. HOEKEL: Okay. Great. Well, I
1 2 3	Page 306 anxiety in the patient. Q. So is one example you've seen on a sensor that's directly wired to a device without	Page 308 1 soon. I'll pass the witness now. 2 MS. HOEKEL: Okay. Great. Well, I 3 got my exhibits ready, so I think I'm ready to
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1 2 4 5 6 7	Page 306 anxiety in the patient. Q. So is one example you've seen on a sensor that's directly wired to a device without connecting? A. Yes. Q. Have you seen a sensor with a cable with only one connector?	Page 308 1 soon. I'll pass the witness now. 2 MS. HOEKEL: Okay. Great. Well, I 3 got my exhibits ready, so I think I'm ready to 4 do that. 5 If the videographer can pull up 6 Exhibit 1 at pages 11 and 12. 7 (Pause)
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1 2 3 4 5 6 7 8 9 10 11	Page 306 anxiety in the patient. Q. So is one example you've seen on a sensor that's directly wired to a device without connecting? A. Yes. Q. Have you seen a sensor with a cable with only one connector? A. Yes. Q. How does that connect to a patient monitor? A. By means of some kind of cable	Page 308 1 soon. I'll pass the witness now. 2 MS. HOEKEL: Okay. Great. Well, I 3 got my exhibits ready, so I think I'm ready to 4 do that. 5 If the videographer can pull up 6 Exhibit 1 at pages 11 and 12. 7 (Pause) 8 THE VIDEOGRAPHER: You want 11 and 12 9 from the 10 MS. HOEKEL: The joint claim 11 construction part of the
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1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	 Page 306 anxiety in the patient. Q. So is one example you've seen on a sensor that's directly wired to a device without connecting? A. Yes. Q. Have you seen a sensor with a cable with only one connector? A. Yes. Q. How does that connect to a patient monitor? A. By means of some kind of cable attachment. Q. How would you refer to that type of cable? A. I'd call it cable or wire. Q. Would it be different from a cable or wire with two connectors? A. Depending on the way it was configured, it more than likely would be different. I'd have to look at the drawing and 	Page 308 1 soon. I'll pass the witness now. 2 MS. HOEKEL: Okay. Great. Well, I 3 got my exhibits ready, so I think I'm ready to 4 do that. 5 If the videographer can pull up 6 Exhibit 1 at pages 11 and 12. 7 (Pause) 8 THE VIDEOGRAPHER: You want 11 and 12 9 from the 10 MS. HOEKEL: The joint claim 11 construction part of the 12 (Pause) 13 THE VIDEOGRAPHER: Okay. 14 EXAMINATION 15 BY MS. HOEKEL: 16 Q. Dr. Yanulis, I just have a couple of 17 questions about a couple of terms. 18 You were asked questions this morning 19 about "alarm condition," which is the third term 20 in the joint claim construction statement.
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	 Page 306 anxiety in the patient. Q. So is one example you've seen on a sensor that's directly wired to a device without connecting? A. Yes. Q. Have you seen a sensor with a cable with only one connector? A. Yes. Q. How does that connect to a patient monitor? A. By means of some kind of cable attachment. Q. How would you refer to that type of cable? A. I'd call it cable or wire. Q. Would it be different from a cable or wire with two connectors? A. Depending on the way it was configured, it more than likely would be different. I'd have to look at the drawing and specs. 	Page 308 soon. I'll pass the witness now. MS. HOEKEL: Okay. Great. Well, I got my exhibits ready, so I think I'm ready to do that. If the videographer can pull up Exhibit 1 at pages 11 and 12. (Pause) THE VIDEOGRAPHER: You want 11 and 12 from the MS. HOEKEL: The joint claim construction part of the (Pause) THE VIDEOGRAPHER: Okay. KEXAMINATION BY MS. HOEKEL: Q. Dr. Yanulis, I just have a couple of questions about a couple of terms. You were asked questions this morning about "alarm condition," which is the third term in the joint claim construction statement. And I believe your testimony may have

77 (Pages 305 to 308)

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	Page 309		Page 311
1	sure we are clear as to whether or not you agree	¹ Q. It's hold on one second	ond.
2	with Masimo with plaintiff's proposed	² Is it it's Sotero's posit	ion that
3	alternative construction?	³ this is a means-plus-function of	claim, correct?
4	A. The answer is: No, I did not agree.	⁴ A. Correct.	
5	Q. And I think you clarified this later	⁵ (Pause)	
6	in the record, but just to avoid any ambiguity:	⁶ MS. HOEKEL: If we g	go to I'm sorry.
7	What is it that you believe is the dispute	⁷ Let's go actually to Exh	ibit sorry,
8	between the parties as to these constructions?	⁸ I don't have my list.	
9	Or why is it that you don't agree with	⁹ What exhibit is the '244	patent?
10	Masimo's proposed alternate construction?	¹⁰ THE WITNESS: I'd ha	ve to look at my
11	A. Based on the specifications and the	¹¹ folders again.	ý
12	claims as written. I don't support the claim	¹² MR. CLAASSEN: It w	ould be Exhibit 10.
13	terms as proposed by Masimo unless certain	¹³ (Exhibit 10. Document	Bates stamped
14	things were added, as I have articulated in our	¹⁴ MAS0000315 through 333, m	ultipage document
15	proposed construction and evidence.	¹⁵ entitled: United States Patent	No.: US RE47.244
16	O. So to be more specific: What is it	¹⁶ E. dated February 19, 2019, w	vith cover page
17	that you don't agree with with Masimo's proposed	¹⁷ dated June 17, 2019, marked 1	for identification)
18	alternate construction of "a measurement of a	¹⁸ THE WITNESS: Than	k vou.
19	physiological parameter that is outside set	¹⁹ I have them off to the si	ide. I do
20	limits"?	²⁰ appreciate you sending them t	o me. counsel.
21	A. The issue is that a patient condition	21 (Pause)	,
22	that satisfies all the alarm criteria resulting	²² MS. HOEKEL: I apolo	gize. Let's maybe
	Page 310		Page 312
1	Page 310 in a triggered alert.	¹ look at the claim itself. I thi	Page 312 nk it's easier.
1 2	Page 310 in a triggered alert. And that's not articulated in Masimo's	 look at the claim itself. I thi If you look at the '244 	Page 312 nk it's easier. patent, claim
1 2 3	Page 310 in a triggered alert. And that's not articulated in Masimo's proposed construction.	 look at the claim itself. I thi If you look at the '244 1 and that's at column 7 	Page 312 nk it's easier. patent, claim at the bottom of
1 2 3 4	Page 310 in a triggered alert. And that's not articulated in Masimo's proposed construction. Q. Are there any other reasons that you	 look at the claim itself. I thi If you look at the '244 1 and that's at column 7 column 7, if the court report 	Page 312 nk it's easier. patent, claim at the bottom of er can blow it up
1 2 3 4 5	Page 310 in a triggered alert. And that's not articulated in Masimo's proposed construction. Q. Are there any other reasons that you disagree there is a disagreement between	 look at the claim itself. I thi If you look at the '244 1 and that's at column 7 column 7, if the court report for us. Great. 	Page 312 nk it's easier. patent, claim at the bottom of er can blow it up
1 2 3 4 5 6	Page 310 in a triggered alert. And that's not articulated in Masimo's proposed construction. Q. Are there any other reasons that you disagree there is a disagreement between Sotero's position and Masimo's proposed	 look at the claim itself. I thi If you look at the '244 1 and that's at column 7 column 7, if the court report for us. Great. BY MS. HOEKEL: 	Page 312 nk it's easier. patent, claim at the bottom of er can blow it up
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	Page 313	Page 315
1	the processor to perform these tasks, could you	¹ Q. Okay.
2	do that from this claim?	² MS. HOEKEL: Can you sit back again
3	A. Not the way it's written.	³ for me?
4	Q. Why is that?	4 THE WITNESS: I'm sorry?
5	A. Because there is a lot of	⁵ A. If the court adopted accepted their
6	antecedental, kind of, description that should	⁶ position, not ours.
7	have been included as to how this function is	7 Q. Why is it that you believe that would
8	performed the way the claims are written.	⁸ be an incorrect construction?
9	Q. Are there steps missing in the way	⁹ A. Because you have to go beyond plain
10	this claim is written?	¹⁰ and ordinary meaning and you have to talk about
11	A. Yes, there are.	¹¹ pausing the so-called alarm for a period of time
12	Q. And so does that one of skill in	¹² based on a response from the user, just as
13	the art who is programming these steps would	¹³ written.
14	they be able to program them directly using the	¹⁴ Q. Does the specification disclose
15	claims of the term the terms of the claim	¹⁵ something other than a user-initiated delay or
16	A. Not as it is written.	¹⁶ suspension?
17	Q. Now I'm going to ask you to look at	¹⁷ A. It discusses it begins it, but it
18	page 33 of Exhibit 1.	¹⁸ doesn't do a complete job, in my estimation.
19	(Pause)	¹⁹ Q. Go ahead.
20	Q. Claim term 6 that's in dispute between	²⁰ A. No, it doesn't disclose adequately so
21	the parties as to the '244 patent is	²¹ I could understand it as an expert in the field.
22	"electronically initiating, using the patient	Q. Does the patent specification in the
	Page 314	Page 316
1	Page 314 monitoring device, the first parameter-specific	Page 316 ¹ '244 patent disclose the concept of pre-alarm
1 2	Page 314 monitoring device, the first parameter-specific alarm delay or suspension period of time."	Page 316 1 '244 patent disclose the concept of pre-alarm 2 delays?
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	Page 317		Page 319
1	says plain and ordinary meaning may be applied	1	claims in those petitions?
2	by the Patent Office in the IPR.	2	A. Yes, it would.
3	Is that correct?	3	MS. HOEKEL: I don't have any further
4	A. Yes.	4	questions. I'll pass the witness back to Mr.
5	O. You want me to ask that again?	5	Claassen if he has any questions.
6	A. Yes, that's correct. For the	6	MR. CLAASSEN: I do have just a couple
7	purposes	7	of questions about what you talked about.
8	O. Go ahead.	8	EXAMINATION
9	A if I'm understanding your question.	9	BY MR. CLAASSEN:
10	counselor, in the context of the IPR, not for	10	O. Let's go back to Exhibit 1, page 12.
11	this exercise.	11	You were asked about Masimo's proposed
12	O. So there are some terms in the IPR for	12	construction. right?
13	which Sotero has offered said that plain and	13	A. Correct.
14	ordinary meaning may be applied to the terms and	14	O. What do you disagree with in Masimo's
15	in which in a district court litigation they	15	proposed alternative construction?
16	have given a different construction, correct?	16	A. I think that the terms should have
17	A. Correct.	17	included a patient condition that satisfies all
18	O. And I think at one point, you said	18	the alarm criteria resulting in triggered alert
19	something like you weren't worried about being	19	So that I would want it to include satisfy
20	quite as precise in the construction of the	20	"all alarm criteria."
21	terms in the IPR.	21	O But you would want the construction to
22	Do you recall saving that?	22	be Sotero's proposed construction, right?
	, , , ,		
	Page 318		Page 320
1	A. Yes. And I misspoke.	1	A. Yes.
~	-		
2	Q. What did you mean when you said that?	2	Q. That's the reason you disagree with
2	Q. What did you mean when you said that?A. I was just applying the plain and	2 3	Q. That's the reason you disagree with Masimo's proposed construction, right?
2 3 4	Q. What did you mean when you said that?A. I was just applying the plain and ordinary meaning.	2 3 4	Q. That's the reason you disagree withMasimo's proposed construction, right?A. Well, the way it's written, I think it
2 3 4 5	Q. What did you mean when you said that?A. I was just applying the plain and ordinary meaning.That doesn't mean I wasn't concerned	2 3 4 5	Q. That's the reason you disagree withMasimo's proposed construction, right?A. Well, the way it's written, I think itneeds to be more precise in defining how this
2 3 4 5 6	 Q. What did you mean when you said that? A. I was just applying the plain and ordinary meaning. That doesn't mean I wasn't concerned with the initial terms the way they were 	2 3 4 5 6	Q. That's the reason you disagree with Masimo's proposed construction, right?A. Well, the way it's written, I think it needs to be more precise in defining how this alarm criteria triggers an alert or an alarm.
2 3 4 5 6 7	 Q. What did you mean when you said that? A. I was just applying the plain and ordinary meaning. That doesn't mean I wasn't concerned with the initial terms the way they were disclosed. That's not what I was implying. 	2 3 4 5 6 7	 Q. That's the reason you disagree with Masimo's proposed construction, right? A. Well, the way it's written, I think it needs to be more precise in defining how this alarm criteria triggers an alert or an alarm. And it's not acceptable in my
2 3 4 5 6 7 8	 Q. What did you mean when you said that? A. I was just applying the plain and ordinary meaning. That doesn't mean I wasn't concerned with the initial terms the way they were disclosed. That's not what I was implying. And I apologize if I conveyed the 	2 3 4 5 6 7 8	 Q. That's the reason you disagree with Masimo's proposed construction, right? A. Well, the way it's written, I think it needs to be more precise in defining how this alarm criteria triggers an alert or an alarm. And it's not acceptable in my opinion expert opinion the way Masimo has
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80 (Pages 317 to 320)

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	Page 321	Page	323
1	Q. Okay.	¹ what exactly is incorporating alarm crite	ria.
2	Why?	² It's not really defined as clear as I	
3	A. Because I think it it's too broad,	³ liked [.	
4	not precise enough.	⁴ And it's definitely not discussed as	5
5	Q. And it lacks the words that are in	⁵ far as what exactly is being claimed base	d on
6	Sotero's construction, right?	⁶ the specs.	
7	A. No, it lacks the words that I would	⁷ Maybe I'm not saying that right.	
8	use as an expert in the field.	⁸ Q. Would "all alarm criteria" depend	l on
9	And my expertise and the devices I've	⁹ which particular parameter is being evaluated	uated?
10	seen and worked with requires in this scenario	¹⁰ A. Yes, it would.	
11	that all the alarm criteria are satisfied when	¹¹ Q. How would it depend on that?	
12	an alarm is triggered.	¹² A. As the example, you could talk a	bout
13	That's really what I was basing it on.	¹³ the give an example of something I'm	a little
14	O. But earlier, we talked about "all" not	¹⁴ bit more familiar with.	
15	being quite right, right?	¹⁵ As I alluded to, a pulse oximetry	
16	MS. HOEKEL: Objection.	¹⁶ device being used to monitor a patient in	heart
17	A. I was saying it in the context. And I	¹⁷ failure, as opposed to a patient going for	а
18	may not expressed it as well as I could have.	¹⁸ tonsillectomy that is basically in good sh	ape.
19	But I want to make sure on the record	¹⁹ You wouldn't have the same alarm criter	ia for
20	I wanted to reflect: As an expert, I would want	²⁰ that.	
21	to have a limitation "all alarm criteria" need	²¹ Or if you take another example, pr	ılse
22	to be satisfied.	²² oximetry, a patient in a critical care	
	Page 322	Page	324
1	Page 322 Q. I thought had you told me earlier that	Page environment, you would be more concern	e 324 ed with
1 2	Page 322 Q. I thought had you told me earlier that "multiple alarm criteria" would be sufficient?	Page environment, you would be more concern sudden changes in the oximetry levels or	ed with
1 2 3	Page 322 Q. I thought had you told me earlier that "multiple alarm criteria" would be sufficient? A. And I misspoke at that point. That	Page environment, you would be more concern sudden changes in the oximetry levels or oxygenation levels, more so than you wou	e 324 ed with Ild be
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	Page 325	Page 327
1	higher limits. Would be a lot tighter for	¹ A. Right.
2	someone that's for example, in heart failure	² Q. You told us that there were some steps
3	as opposed to the patient that just comes in the	³ missing from the claimed processor, right?
4	hospital for a normal physical exam.	4 A. Yes, I did.
5	Q. So the criteria themselves are the	⁵ Q. What steps are missing?
6	same?	⁶ A. The steps are what exactly is going to
7	It's just the actual values are	⁷ be in the algorithm for accomplishing this.
8	different, based upon the parameters	⁸ I don't mean the specific software,
9	A. No, it's the way they are set up by	⁹ but the steps for going first of all,
10	the clinician.	¹⁰ determining what the alarm criteria is, how you
11	The clinician is the one who has the	¹¹ set the alarm delays based on what the clinician
12	expertise that can set those alarm criteria.	¹² provides, and so forth.
13	I don't have that expertise. Or I	¹³ Q. So the settings is that what you
14	should I know what some of them are, as I	¹⁴ are talking about?
15	have articulated.	¹⁵ A. A lack of a better term, you have to
16	It's the expertise and experience of	¹⁶ program the processors to do what you want them
17	the clinician how he sets those criteria.	¹⁷ to do. The processes are dumb brains. They
18	Q. But your understanding of this claim	¹⁸ don't know what to do. You have to provide all
19	term is that there are different "all alarm	¹⁹ the steps to accomplish all the tasks which
20	criteria" for different parameters.	²⁰ are basically set the alarm criteria, determine
21	Is that right?	²¹ how long the alarm delays are, determine how
22	A. There is different alarm criteria for	the you respond to a particular alarm or
	Page 326	Page 328
1	Page 326 each parameter being monitored based on the	Page 328 ¹ particular parameter.
1 2	Page 326 each parameter being monitored based on the needs of the patient.	Page 328 1 particular parameter. 2 Q. So you'd call those steps.
1 2 3	Page 326 each parameter being monitored based on the needs of the patient. Q. And all those criteria would have to	Page 328 1 particular parameter. 2 Q. So you'd call those steps. 3 Is that right?
1 2 3 4	Page 326 each parameter being monitored based on the needs of the patient. Q. And all those criteria would have to be satisfied?	Page 328 1 particular parameter. 2 Q. So you'd call those steps. 3 Is that right? 4 A. Yes. Steps, sequences, sequential
1 2 3 4 5	Page 326 each parameter being monitored based on the needs of the patient. Q. And all those criteria would have to be satisfied? A. Yes.	Page 328 1 particular parameter. 2 Q. So you'd call those steps. 3 Is that right? 4 A. Yes. Steps, sequences, sequential 5 order of sub-processes, or whatever term. I'm
1 2 3 4 5 6	Page 326 each parameter being monitored based on the needs of the patient. Q. And all those criteria would have to be satisfied? A. Yes. Q. So then let's move down to page 23.	Page 328 1 particular parameter. 2 Q. So you'd call those steps. 3 Is that right? 4 A. Yes. Steps, sequences, sequential 5 order of sub-processes, or whatever term. I'm 6 using engineering terms.
1 2 3 4 5 6 7	Page 326 each parameter being monitored based on the needs of the patient. Q. And all those criteria would have to be satisfied? A. Yes. Q. So then let's move down to page 23. We were talking about "the one or more	Page 328 1 particular parameter. 2 Q. So you'd call those steps. 3 Is that right? 4 A. Yes. Steps, sequences, sequential 5 order of sub-processes, or whatever term. I'm 6 using engineering terms. 7 (Pause)
1 2 3 4 5 6 7 8	Page 326 each parameter being monitored based on the needs of the patient. Q. And all those criteria would have to be satisfied? A. Yes. Q. So then let's move down to page 23. We were talking about "the one or more processors."	Page 328 1 particular parameter. 2 Q. So you'd call those steps. 3 Is that right? 4 A. Yes. Steps, sequences, sequential 5 order of sub-processes, or whatever term. I'm 6 using engineering terms. 7 (Pause) 8 A. Can I expand on that?
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1 2 3 4 5 6 7 8 9 10 11	Page 326 each parameter being monitored based on the needs of the patient. Q. And all those criteria would have to be satisfied? A. Yes. Q. So then let's move down to page 23. We were talking about "the one or more processors." Do you remember that? A. Yes, sir. Q. And you looked at claim 10 itself,	Page 328 1 particular parameter. 2 Q. So you'd call those steps. 3 Is that right? 4 A. Yes. Steps, sequences, sequential 5 order of sub-processes, or whatever term. I'm 6 using engineering terms. 7 (Pause) 8 A. Can I expand on that? 9 Q. Go ahead. 10 A. I had a lot of experience with 11 programming. And before I do anything, I have
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1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	Page 326 each parameter being monitored based on the needs of the patient. Q. And all those criteria would have to be satisfied? A. Yes. Q. So then let's move down to page 23. We were talking about "the one or more processors." Do you remember that? A. Yes, sir. Q. And you looked at claim 10 itself, right? Exhibit 10, I'm sorry. I didn't mean claim 10. Exhibit 10? MS. HOEKEL: The patent? MR. CLAASSEN: The patent. THE WITNESS: We were looking at claim 10 BY MS. HOEKEL: Q. We were talking about the	Page 328 1 particular parameter. 2 Q. So you'd call those steps. 3 Is that right? 4 A. Yes. Steps, sequences, sequential 5 order of sub-processes, or whatever term. I'm 6 using engineering terms. 7 (Pause) 8 A. Can I expand on that? 9 Q. Go ahead. 10 A. I had a lot of experience with 11 programming. And before I do anything, I have 12 to develop an algorithm: What do I want to do? 13 I have to go to step A, step B, step C. And I 14 can't skip from A to Z because the computer 15 processor will not know what to do. I have to 16 tell the processor what to do so and the steps 17 required. 18 Doesn't matter what software I use. I 19 have to provide the steps. 20 Q. So let's talk about this claim 1 21 that's shown in the left column.

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	Page 329	Page 331
1	A. Yes.	¹ MS. HOEKEL: Object to the form.
2	Q. Do you see those: One or more	² A. I'm not sure I understand how to
3	processors configured to electronically?	³ answer the question other than the way I have
4	A. Yes.	⁴ answered it.
5	Q. Process the signal is that a step?	⁵ You are providing a sequence of steps.
6	A. Yes.	⁶ And the steps have to be clearly articulated.
7	Q. Is that the first step?	7 And the claims as claimed have to reflect what's
8	A. Well, you have to first determine what	⁸ being discussed in the user's specs.
9	kind of threshold you want for that particular	⁹ Q. I just want to make sure I'm
10	parameter that you are measuring, what kind of	¹⁰ understanding you correctly.
11	limits you set.	¹¹ You are saying, in order to program
12	Q. That's before you process the signal,	¹² the system, you would need to know what the
13	you have to know what the limits are going to	¹³ limits are.
14	be?	¹⁴ Is that correct?
15	A. You have to have an understanding of	¹⁵ A. No. I'm giving you a very call
16	what the again, I'm speaking as a	¹⁶ it brief synopsis of what an algorithm
17	clinician you have to understand what type of	¹⁷ entails.
18	threshold limits, how tight you want to make	¹⁸ An algorithm is defined from an
19	them, and what the time frame is if you want to	¹⁹ engineering perspective and one skilled in the
20	see if the condition revolves itself, depending	²⁰ art: What sequence of steps needs to be set
21	on, again, the clinical needs of the patient.	²¹ forth so the processor or computer knows what to
22	Q. You need to do all of that before you	²² do, and how to process the information in
	Page 330	Page 332
1	Page 330 determine the measurement of a physiological	Page 332 ¹ this case the physiological parameters; and what
1 2	Page 330 determine the measurement of a physiological parameter.	Page 332 this case the physiological parameters; and what the limits that are going to be acceptable as
1 2 3	Page 330 determine the measurement of a physiological parameter. Is that right?	Page 332 this case the physiological parameters; and what the limits that are going to be acceptable as far as the threshold limits.
1 2 3 4	Page 330 determine the measurement of a physiological parameter. Is that right? A. Well, first of all, you have to	Page 332 this case the physiological parameters; and what the limits that are going to be acceptable as far as the threshold limits. I'm giving you, sort of, an
1 2 3 4 5	Page 330 determine the measurement of a physiological parameter. Is that right? A. Well, first of all, you have to determine which physiological parameters.	Page 332 this case the physiological parameters; and what the limits that are going to be acceptable as far as the threshold limits. I'm giving you, sort of, an bbreviated what an algorithm does.
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1 2 3 4 5 6 7 8	Page 330 determine the measurement of a physiological parameter. Is that right? A. Well, first of all, you have to determine which physiological parameters. Obviously, there is several different parameters. There is hemoglobin, pulse ox, pulse rate, EKG, glucose levels.	Page 332 this case the physiological parameters; and what the limits that are going to be acceptable as far as the threshold limits. I'm giving you, sort of, an bbreviated what an algorithm does. We haven't talked about the specific software used. I'm just saying: The sequence of
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	Page 333	Page 335
1	monitored to satisfy an alarm activation	¹ BY MR. CLAASSEN:
2	threshold holding?	² Q. Counsel was talking with you about the
3	Haven't really defined how you do	³ "electronically initiating."
4	that.	⁴ Do you remember that?
5	Q. Defining a threshold is important to	⁵ A. Yes.
6	determining that the measurement satisfies a	⁶ Q. You were talking about Masimo's
7	threshold, right?	⁷ construction, right?
8	A. You have to understand what's	⁸ A. Correct.
9	acceptable; outside thresholds that are not	⁹ Q. Why does Masimo's construction include
10	acceptable. In other words, your predetermined	¹⁰ "pre-alarm delays"?
11	threshold or limits should be understood.	¹¹ MS. HOEKEL: I'm going to object to
12	And that's why I thought now that's	¹² the form.
13	why I'm of the opinion that my terminology for	¹³ BY MR. CLAASSEN:
14	structure is more precise and more correct as	¹⁴ Q. Do you understand the question?
15	far as for one skilled in the art to	15 A. Yes.
16	understand this device.	16 Q. You can answer it.
17	Q. Does "predetermine" mean	¹⁷ A. I can, but I need to think about what
18	"preprogrammed"?	¹⁸ you are asking me.
19	A. It can be.	¹⁹ So could you repeat the question?
20	Q. Must it be?	Q. You testified when counsel asked you
21	A. Based on the context of these specs, I	that Masimo's construction includes pre-alarm
22	would say: Yes.	delays, right?
	Page 334	Page 336
1	Page 334 Q. So a user could not input any sort of	Page 336 A. And I answered: I don't agree with
1 2	Page 334 Q. So a user could not input any sort of limits into	Page 336 A. And I answered: I don't agree with the way they disclosed the pre-alarm delays
1 2 3	Page 334 Q. So a user could not input any sort of limits into A. No, I didn't say that.	Page 336 A. And I answered: I don't agree with the way they disclosed the pre-alarm delays because they used the term I didn't agree with.
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	Page 337	Page 339
1	A. You are asking me in the claims?	¹ Q. You see the "electronically
2	Or the specs?	² initiating" limitation?
3	Q. I'm asking you in Masimo's	³ A. If I'm reading correctly, are you
4	construction.	⁴ starting from line 34.
5	A. And I don't agree with the way they	5 MR. CLAASSEN: Would you mind putting
6	proposed it.	⁶ up Exhibit 10 on the screen, and then claim
7	Q. And that's because it includes	7 THE WITNESS: Yeah, I'm looking at the
8	pre-alarm delays, in part, right?	⁸ claim.
9	A. Somewhat.	⁹ MR. CLAASSEN: I want to make sure we
10	Q. Okay.	¹⁰ are all looking at the same thing.
11	Does Masimo's construction include	¹¹ THE WITNESS: Okay. Thank you.
12	pre-alarm delays?	¹² BY MR. CLAASSEN:
13	MS. HOEKEL: Object to the form.	¹³ Q. So what were you directing us to, Dr.
14	A. I don't believe that the scope	¹⁴ Yanulis?
15	properly discussed it. And I think, no, they	¹⁵ A. The use of the term
16	didn't discuss pre-alarm delays in a way that I	¹⁶ "parameter-specific alarm delay."
17	understand what they meant.	¹⁷ And I don't think the term
18	Q. Are you talking about the	¹⁸ "parameter-specific alarm delay" has been
19	specification now?	¹⁹ properly disclosed and supported in the patent
20	Or are you talking about Masimo's	²⁰ specs.
21	proposed construction?	²¹ Q. Okay.
22	A. I'm talking about the proposed claim	²² We were talking about the construction
	Page 338	Page 340
1	construction in view of what they disclosed in	¹ of the term "electronically initiating."
2	their specs.	² You understood that, right?
3	Q. So does the proposed construction	³ A. Correct.
4	the Masimo proposed construction include	4 Q. And you understood Masimo's proposed
5	pre-alarm delays?	⁵ construction to be plain and ordinary meaning,
6	A. I'd have to look at the claims again.	⁶ right?
7	Q. I'm asking you to do that right now.	⁷ A. I didn't hear the last part,
8	A. Okay. I have to get out my patent.	⁸ counselor.
9	Q. Okay.	⁹ Q. You understood Masimo's construction
10	A. Which exhibit is this, by the way, for	¹⁰ to be plain and ordinary meaning, right?
11	'244?	¹¹ A. Yes.
12	Q. I believe it's going to be Exhibit 10	¹² Q. What about the plain and ordinary
13	again.	¹³ meaning includes pre-alarm delays?
14	A. Give me a second.	¹⁴ A. It doesn't say it, but it says
15	(Pause)	¹⁵ "parameter-specific alarm delay."
16	A. So we are looking at the claims, if	¹⁶ Q. So "parameter-specific alarm delay"
17	they actually articulate that.	¹⁷ means "pre-alarm delays."
18	Give me a moment to read it,	¹⁸ Is that right?
18 19	Give me a moment to read it, counselor.	18Is that right?19MS. HOEKEL: Object to the form.
18 19 20	Give me a moment to read it, counselor. Q. I'll direct your attention to claim	 ¹⁸ Is that right? ¹⁹ MS. HOEKEL: Object to the form. ²⁰ A. I don't how do I phrase this?
18 19 20 21	Give me a moment to read it, counselor. Q. I'll direct your attention to claim 13.	18Is that right?19MS. HOEKEL: Object to the form.20A. I don't how do I phrase this?21In the way the term has been construed

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	Page 341		Page 343
1	this part of the claim as far as the	1	Q. That would include "pre-alarm delays,"
2	parameter-specific alarm delay, I don't really	2	right?
3	see how that parameter-specific alarm delay has	3	A. Again, I'm putting the phrase
4	been properly disclosed for me to understand it	4	"parameter-specific alarm delays."
5	in the claim.	5	There is a difference.
6	Q. So is that your complete description	6	I'm saying they are not defined why
7	of why Masimo's construction includes pre-alarm	7	they are parameter-specific for a particular
8	delays?	8	physiological parameter.
9	A. I would have liked to also have	9	Q. So I'll ask you one more time: Why
10	included a little bit more description of how	10	does Masimo's construction include pre-alarm
11	the user responds to a set parameter-specific	11	delays?
12	alarm delay.	12	A. Because it's a period of time before
13	And, again, I was focusing on the term	13	some action is taken by the user.
14	in the terminology "pre-alarm	14	(Pause)
15	parameter-specific."	15	Q. Your attorney then asked you at the
16	Q. So now we are talking about what you	16	end of your redirect on about the plain and
17	would hope to see in the specification.	17	ordinary meaning used in the IPR petitions.
18	Is that right?	18	Do you remember that?
19	A. Well, what I would hope to see more	19	A. Yes.
20	clearly, precisely defined in this claim.	20	Q. You testified that using the plain and
21	(Pause)	21	ordinary meaning would result in the invalidity
22	Q. Do you have anything else to add on	22	of the claim term for the claims at issue,
	Page 342		Page 344
			Idge Sii
1	why Masimo's construction includes pre-alarm	1	right?
1 2	why Masimo's construction includes pre-alarm delays?	1 2	right? A. In the context of the IPR declaration,
1 2 3	why Masimo's construction includes pre-alarm delays? A. I am sorry?	1 2 3	right? A. In the context of the IPR declaration, I was saying plain and ordinary meaning is
1 2 3 4	why Masimo's construction includes pre-alarm delays? A. I am sorry? Q. Do you have anything else to add on	1 2 3 4	right? A. In the context of the IPR declaration, I was saying plain and ordinary meaning is sufficient for the IPR presented to the patent
1 2 3 4 5	why Masimo's construction includes pre-alarm delays? A. I am sorry? Q. Do you have anything else to add on why Masimo's construction includes pre-alarm	1 2 3 4 5	right? A. In the context of the IPR declaration, I was saying plain and ordinary meaning is sufficient for the IPR presented to the patent board.
1 2 3 4 5 6	why Masimo's construction includes pre-alarm delays? A. I am sorry? Q. Do you have anything else to add on why Masimo's construction includes pre-alarm delays?	1 2 3 4 5 6	right? A. In the context of the IPR declaration, I was saying plain and ordinary meaning is sufficient for the IPR presented to the patent board. Q. But you expressed no opinion under
1 2 3 4 5 6 7	 why Masimo's construction includes pre-alarm delays? A. I am sorry? Q. Do you have anything else to add on why Masimo's construction includes pre-alarm delays? A. Because they haven't really discussed 	1 2 3 4 5 6 7	right? A. In the context of the IPR declaration, I was saying plain and ordinary meaning is sufficient for the IPR presented to the patent board. Q. But you expressed no opinion under Sotero's proposed constructions, right?
1 2 3 4 5 6 7 8	 why Masimo's construction includes pre-alarm delays? A. I am sorry? Q. Do you have anything else to add on why Masimo's construction includes pre-alarm delays? A. Because they haven't really discussed it in terms of no, I don't, at this point. 	1 2 3 4 5 6 7 8	right? A. In the context of the IPR declaration, I was saying plain and ordinary meaning is sufficient for the IPR presented to the patent board. Q. But you expressed no opinion under Sotero's proposed constructions, right? A. I didn't agree with Masimo's.
1 2 3 4 5 6 7 8 9	 why Masimo's construction includes pre-alarm delays? A. I am sorry? Q. Do you have anything else to add on why Masimo's construction includes pre-alarm delays? A. Because they haven't really discussed it in terms of no, I don't, at this point. I may have an opinion later on, but I 	1 2 3 4 5 6 7 8 9	 right? A. In the context of the IPR declaration, I was saying plain and ordinary meaning is sufficient for the IPR presented to the patent board. Q. But you expressed no opinion under Sotero's proposed constructions, right? A. I didn't agree with Masimo's. I thought I expressed that.
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1 2 3 4 5 6 7 8 9 10 11	 why Masimo's construction includes pre-alarm delays? A. I am sorry? Q. Do you have anything else to add on why Masimo's construction includes pre-alarm delays? A. Because they haven't really discussed it in terms of no, I don't, at this point. I may have an opinion later on, but I need to think about it. Give me a moment. (Pause) 	1 2 3 4 5 6 7 8 9 10 11	 right? A. In the context of the IPR declaration, I was saying plain and ordinary meaning is sufficient for the IPR presented to the patent board. Q. But you expressed no opinion under Sotero's proposed constructions, right? A. I didn't agree with Masimo's. I thought I expressed that. Q. In the IPR declarations, you presented no position based upon Sotero's narrower
1 2 3 4 5 6 7 8 9 10 11 12	 why Masimo's construction includes pre-alarm delays? A. I am sorry? Q. Do you have anything else to add on why Masimo's construction includes pre-alarm delays? A. Because they haven't really discussed it in terms of no, I don't, at this point. I may have an opinion later on, but I need to think about it. Give me a moment. (Pause) A. The way it's claimed is not adequately disclosed to react the part of the part	1 2 3 4 5 6 7 8 9 10 11 12 13	 right? A. In the context of the IPR declaration, I was saying plain and ordinary meaning is sufficient for the IPR presented to the patent board. Q. But you expressed no opinion under Sotero's proposed constructions, right? A. I didn't agree with Masimo's. I thought I expressed that. Q. In the IPR declarations, you presented no position based upon Sotero's narrower constructions that we discussed today, right?
1 2 3 4 5 6 7 8 9 10 11 12 13	 why Masimo's construction includes pre-alarm delays? A. I am sorry? Q. Do you have anything else to add on why Masimo's construction includes pre-alarm delays? A. Because they haven't really discussed it in terms of no, I don't, at this point. I may have an opinion later on, but I need to think about it. Give me a moment. (Pause) A. The way it's claimed is not adequately disclosed to my understanding as an expert chilled in the ort the way it's claimed. 	1 2 3 4 5 6 7 8 9 10 11 12 13 14	 right? A. In the context of the IPR declaration, I was saying plain and ordinary meaning is sufficient for the IPR presented to the patent board. Q. But you expressed no opinion under Sotero's proposed constructions, right? A. I didn't agree with Masimo's. I thought I expressed that. Q. In the IPR declarations, you presented no position based upon Sotero's narrower constructions that we discussed today, right? A. Because today's discussion does not accurate the presented of the presented of the presented of the presented of the presented to the presented of the presented of
1 2 3 4 5 6 7 8 9 10 11 12 13 14	 why Masimo's construction includes pre-alarm delays? A. I am sorry? Q. Do you have anything else to add on why Masimo's construction includes pre-alarm delays? A. Because they haven't really discussed it in terms of no, I don't, at this point. I may have an opinion later on, but I need to think about it. Give me a moment. (Pause) A. The way it's claimed is not adequately disclosed to my understanding as an expert skilled in the art the way it's claimed. 	1 2 3 4 5 6 7 8 9 10 11 12 13 14	 right? A. In the context of the IPR declaration, I was saying plain and ordinary meaning is sufficient for the IPR presented to the patent board. Q. But you expressed no opinion under Sotero's proposed constructions, right? A. I didn't agree with Masimo's. I thought I expressed that. Q. In the IPR declarations, you presented no position based upon Sotero's narrower constructions that we discussed today, right? A. Because today's discussion does not require or today's discussion requires a more provise understanding and agreement of tarms
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	 why Masimo's construction includes pre-alarm delays? A. I am sorry? Q. Do you have anything else to add on why Masimo's construction includes pre-alarm delays? A. Because they haven't really discussed it in terms of no, I don't, at this point. I may have an opinion later on, but I need to think about it. Give me a moment. (Pause) A. The way it's claimed is not adequately disclosed to my understanding as an expert skilled in the art the way it's claimed. I don't know what else to say. 	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	 right? A. In the context of the IPR declaration, I was saying plain and ordinary meaning is sufficient for the IPR presented to the patent board. Q. But you expressed no opinion under Sotero's proposed constructions, right? A. I didn't agree with Masimo's. I thought I expressed that. Q. In the IPR declarations, you presented no position based upon Sotero's narrower constructions that we discussed today, right? A. Because today's discussion does not require or today's discussion requires a more precise understanding and agreement of terms. The IPR does not
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	 why Masimo's construction includes pre-alarm delays? A. I am sorry? Q. Do you have anything else to add on why Masimo's construction includes pre-alarm delays? A. Because they haven't really discussed it in terms of no, I don't, at this point. I may have an opinion later on, but I need to think about it. Give me a moment. (Pause) A. The way it's claimed is not adequately disclosed to my understanding as an expert skilled in the art the way it's claimed. I don't know what else to say. Q. Do you have anything else to add on why Masimo's construction does not or would 	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	 right? A. In the context of the IPR declaration, I was saying plain and ordinary meaning is sufficient for the IPR presented to the patent board. Q. But you expressed no opinion under Sotero's proposed constructions, right? A. I didn't agree with Masimo's. I thought I expressed that. Q. In the IPR declarations, you presented no position based upon Sotero's narrower constructions that we discussed today, right? A. Because today's discussion does not require or today's discussion requires a more precise understanding and agreement of terms. The IPR does not.
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1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	 why Masimo's construction includes pre-alarm delays? A. I am sorry? Q. Do you have anything else to add on why Masimo's construction includes pre-alarm delays? A. Because they haven't really discussed it in terms of no, I don't, at this point. I may have an opinion later on, but I need to think about it. Give me a moment. (Pause) A. The way it's claimed is not adequately disclosed to my understanding as an expert skilled in the art the way it's claimed. I don't know what else to say. Q. Do you have anything else to add on why Masimo's construction does not or would include pre-alarm delays? 	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	 right? A. In the context of the IPR declaration, I was saying plain and ordinary meaning is sufficient for the IPR presented to the patent board. Q. But you expressed no opinion under Sotero's proposed constructions, right? A. I didn't agree with Masimo's. I thought I expressed that. Q. In the IPR declarations, you presented no position based upon Sotero's narrower constructions that we discussed today, right? A. Because today's discussion does not require or today's discussion requires a more precise understanding and agreement of terms. The IPR does not. I was using the standard very correctly. Obviously, the so-called plain and ordinary meaning annlied to both
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	 why Masimo's construction includes pre-alarm delays? A. I am sorry? Q. Do you have anything else to add on why Masimo's construction includes pre-alarm delays? A. Because they haven't really discussed it in terms of no, I don't, at this point. I may have an opinion later on, but I need to think about it. Give me a moment. (Pause) A. The way it's claimed is not adequately disclosed to my understanding as an expert skilled in the art the way it's claimed. I don't know what else to say. Q. Do you have anything else to add on why Masimo's construction does not or would include pre-alarm delays? A. Because of the term "'m not I'm not 	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	 right? A. In the context of the IPR declaration, I was saying plain and ordinary meaning is sufficient for the IPR presented to the patent board. Q. But you expressed no opinion under Sotero's proposed constructions, right? A. I didn't agree with Masimo's. I thought I expressed that. Q. In the IPR declarations, you presented no position based upon Sotero's narrower constructions that we discussed today, right? A. Because today's discussion does not require or today's discussion requires a more precise understanding and agreement of terms. The IPR does not. I was using the standard very correctly. Obviously, the so-called plain and ordinary meaning applied to both. But again I was not concerned with
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	 why Masimo's construction includes pre-alarm delays? A. I am sorry? Q. Do you have anything else to add on why Masimo's construction includes pre-alarm delays? A. Because they haven't really discussed it in terms of no, I don't, at this point. I may have an opinion later on, but I need to think about it. Give me a moment. (Pause) A. The way it's claimed is not adequately disclosed to my understanding as an expert skilled in the art the way it's claimed. I don't know what else to say. Q. Do you have anything else to add on why Masimo's construction does not or would include pre-alarm delays? A. Because of the term "parameter-specific alarm." I'm not I'm not agreeing with it proper use. I think that's 	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	 right? A. In the context of the IPR declaration, I was saying plain and ordinary meaning is sufficient for the IPR presented to the patent board. Q. But you expressed no opinion under Sotero's proposed constructions, right? A. I didn't agree with Masimo's. I thought I expressed that. Q. In the IPR declarations, you presented no position based upon Sotero's narrower constructions that we discussed today, right? A. Because today's discussion does not require or today's discussion requires a more precise understanding and agreement of terms. The IPR does not. I was using the standard very correctly. Obviously, the so-called plain and ordinary meaning applied to both. But, again, I was not concerned with the terms per se, because I did not have an idea
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	 why Masimo's construction includes pre-alarm delays? A. I am sorry? Q. Do you have anything else to add on why Masimo's construction includes pre-alarm delays? A. Because they haven't really discussed it in terms of no, I don't, at this point. I may have an opinion later on, but I need to think about it. Give me a moment. (Pause) A. The way it's claimed is not adequately disclosed to my understanding as an expert skilled in the art the way it's claimed. I don't know what else to say. Q. Do you have anything else to add on why Masimo's construction does not or would include pre-alarm delays? A. Because of the term "parameter-specific alarm." I'm not I'm not agreeing with it proper use, I think that's an improper, less-precise terminology 	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	 right? A. In the context of the IPR declaration, I was saying plain and ordinary meaning is sufficient for the IPR presented to the patent board. Q. But you expressed no opinion under Sotero's proposed constructions, right? A. I didn't agree with Masimo's. I thought I expressed that. Q. In the IPR declarations, you presented no position based upon Sotero's narrower constructions that we discussed today, right? A. Because today's discussion does not require or today's discussion requires a more precise understanding and agreement of terms. The IPR does not. I was using the standard very correctly. Obviously, the so-called plain and ordinary meaning applied to both. But, again, I was not concerned with the terms per se, because I did not have an idea what the courts would determine as the ton eight

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1	or nine or 20 claims of disagreement.	¹ You are misinterpreti	ng what I'm
2	What I was basing the IPR as I have	² saying.	-
3	said a couple of times now is the IPR	³ The IPR is a separate	exercise. It
4	exercise was proving the invalidity of the	⁴ looks at the invalidity. You	don't care about
5	patent being discussed based on prior art.	⁵ the so-called potential terms	š.
6	O. Based upon the broader construction	⁶ This is the purpose of	the district
7	that Masimo proposed, right?	⁷ court acting in this stage.	
8	A. No. I didn't say that.	⁸ O. I understand that tha	ıt's vour view.
9	Again. I think I have said a couple	9 MR. CLAASSEN: I	have no further
10	times on the record: The claims are invalid in	¹⁰ auestions.	
11	the IPR. They have no meaning. You are only	¹¹ THE WITNESS: An	d I appreciate the
12	looking at the invalidity of the patent its	¹² time sir.	
13	entirety	¹³ MS_HOEKEL: No r	edirect.
14	Lam not looking as how precise or how	14	
15	correct because the court hasn't decided	15 THE VIDEOGRAPH	ER · Okay This marks
16	Lonly have what's been discussed in	¹⁶ the end of today's deposition	n The time is 8.33
17	the IPR And that's as I have been saying	¹⁷ n m	1. The time is 0.55
18	right along you are looking at invalidity	18 * * *	
19	issues	¹⁹ ENDOF PROCE	FEDING
2.0	You are not looking in a limited	20 Time noted 8:33 n m East	ern Standard Time
21	context if you will of the so called claims	21 * * *	
22	that may or may not be construed	22	
	that may of may not be construct.		
	Page 346		Page 348
1	The claims have no the claims are	¹ CERTIFICATE	
2	invalid for both parties in the IPR.		
3	I have said that a few times now.	I, BRANDON RAINOFF Realtime Reporter and Notary Pi	, a Federal Certified
4	Q. I don't know what that means.	 the State of New York, do hereby 	y certify:
5	A. It means they could be right or not	That GEORGE EMANU	JEL YANULIS,, the
6	right. That's not the purpose of the IPR.	⁵ witness whose deposition is here	inbefore set forth,
7	The IPR is to provide evidence that	⁶ true record of the testimony give	n by the witness.
8	the patents are invalid nothing more, nothing	7 I further certify that I am	not related
9	less.	to any of the parties to this action	ı by blood or
10	This district court in the next phase	 marriage, and that I am in no way outcome of this matter 	y interested in the
11	requires an accurate preciseness of all the	 ⁹ IN WITNESS WHEREO 	F, I have hereunto set
12	terms in the claims in view of the	my hand this 10th day of Septem	ber, 2020.
13	specifications.	10	
14	Q. So in your view, the claims can be	11	
15			
	construed differently for the IPR than they can	13	
16	construed differently for the IPR than they can for the district court, right?	13 14	
16 17	construed differently for the IPR than they can for the district court, right? A. I didn't say that.	13 14 15	
16 17 18	construed differently for the IPR than they can for the district court, right? A. I didn't say that. I said you are looking more broadly at	13 14 15 16 17	
16 17 18 19	construed differently for the IPR than they can for the district court, right?A. I didn't say that.I said you are looking more broadly at the terms. You are not concerned with the terms	13 14 15 16 17 18	
16 17 18 19 20	construed differently for the IPR than they can for the district court, right?A. I didn't say that.I said you are looking more broadly at the terms. You are not concerned with the terms as much as you are in this exercise.	13 14 15 16 17 18 19	
16 17 18 19 20 21	construed differently for the IPR than they can for the district court, right?A. I didn't say that.I said you are looking more broadly at the terms. You are not concerned with the terms as much as you are in this exercise.You are still using the standard plain	13 14 15 16 17 18 19 20	
16 17 18 19 20 21 22	 construed differently for the IPR than they can for the district court, right? A. I didn't say that. I said you are looking more broadly at the terms. You are not concerned with the terms as much as you are in this exercise. You are still using the standard plain and ordinary meaning. 	13 14 15 16 17 18 19 20 21 22 BRANDON R. RAINOFF	RMR CRR RPR FCPR

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	Page 349	Page 351
1	George Emanuel Yanulis, Ph.D., c/o	¹ Digital Evidence Group, LLC
	HUSCH BLACKWELL LLP	² 1730 M Street, NW, Suite 812
2	190 Carondelet Plaza, Suite 600	³ Washington, D.C. 20036
з	St. Louis, Missouri 63105	4 (202)232-0646
4	Case: Masimo Cornoration v. Sotera Wireless, et al	5
	Date of deposition: September 10, 2020	6 ERRATA SHEET
5	Deponent Name: George Emanuel Yanulis, Ph.D.	7
6		
7	Please be advised that the transcript in the above	• Case: Masimo Corporation v. Sotera Wireless, et al.
8	referenced matter is now complete and ready for signature.	⁹ Witness Name: George Emanuel Yanulis, Ph.D.
9	The deponent may come to this office to sign the transcript,	¹⁰ Deposition Date: September 10, 2020
11	a copy may be purchased for the witness to review and sign,	¹¹ Page No. Line No. Change
12	of the deponent and/or counsel may waive the option of signing. Please advise us of the option selected	12
13	Please forward the errata sheet and the original signed	13
14	signature page to counsel noticing the deposition, noting the	14
15	applicable time period allowed for such by the governing	15
16	Rules of Procedure. If you have any questions, please do	16
17	not hesitate to call our office at (202)-232-0646.	17
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1 2	Page 350 Digital Evidence Group, L.L.C. 1730 M Street, NW, Suite 812 Washington, D.C. 20036 (202) 232 0646	
1 2 3	Page 350 Digital Evidence Group, L.L.C. 1730 M Street, NW, Suite 812 Washington, D.C. 20036 (202) 232-0646	
1 2 3 4	Page 350 Digital Evidence Group, L.L.C. 1730 M Street, NW, Suite 812 Washington, D.C. 20036 (202) 232-0646 SIGNATURE PAGE	
1 2 3 4 5	Page 350 Digital Evidence Group, L.L.C. 1730 M Street, NW, Suite 812 Washington, D.C. 20036 (202) 232-0646 SIGNATURE PAGE Case: Masimo Corporation v. Sotera Wireless, et al. Witness Name: Name: George Emenuel Yanulic Ph D	
1 2 3 4 5	Page 350 Digital Evidence Group, L.L.C. 1730 M Street, NW, Suite 812 Washington, D.C. 20036 (202) 232-0646 SIGNATURE PAGE Case: Masimo Corporation v. Sotera Wireless, et al. Witness Name: Name: George Emanuel Yanulis, Ph.D. Deposition Date: September 10, 2020	
1 2 3 4 5 6	Page 350 Digital Evidence Group, L.L.C. 1730 M Street, NW, Suite 812 Washington, D.C. 20036 (202) 232-0646 SIGNATURE PAGE Case: Masimo Corporation v. Sotera Wireless, et al. Witness Name: Name: George Emanuel Yanulis, Ph.D. Deposition Date: September 10, 2020	
1 2 3 4 5 6 7	Page 350 Digital Evidence Group, L.L.C. 1730 M Street, NW, Suite 812 Washington, D.C. 20036 (202) 232-0646 SIGNATURE PAGE Case: Masimo Corporation v. Sotera Wireless, et al. Witness Name: Name: George Emanuel Yanulis, Ph.D. Deposition Date: September 10, 2020 I do hereby acknowledge that I have read and examined the foregoing pages	
1 2 3 4 5 6 7 8	Page 350 Digital Evidence Group, L.L.C. 1730 M Street, NW, Suite 812 Washington, D.C. 20036 (202) 232-0646 SIGNATURE PAGE Case: Masimo Corporation v. Sotera Wireless, et al. Witness Name: Name: George Emanuel Yanulis, Ph.D. Deposition Date: September 10, 2020 I do hereby acknowledge that I have read and examined the foregoing pages of the transcript of my deposition and that:	
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