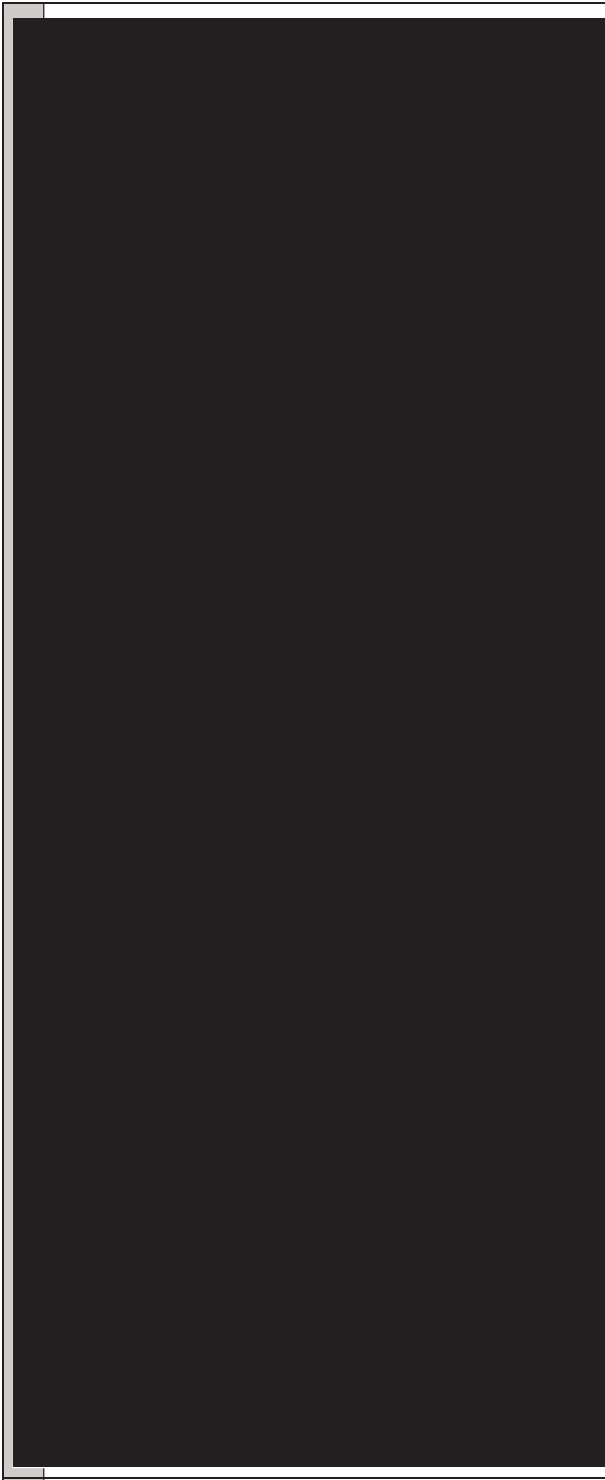



EXHIBIT A

Examples of Responsive Disclosures in Samsung Documents Cited In Response to Elm's Interrogatories for Exemplar Image Sensor Product



<p>Interrogatory No. 6: Separately for each stacked semiconductor product that constitutes, or is included in, a Product, identify the die included in the Product, including the following data: . . .</p> <p>e. The quantity of each type of die in the packaged product.</p>	 <p>SAMSUNG-ELM-000895575 - SAMSUNG-ELM-000895661 at SAMSUNG-ELM-000895617; SAMSUNG-ELM-000220266 at 3.</p>  <p>SAMSUNG-ELM-000895575 - SAMSUNG-ELM-000895661 at SAMSUNG-ELM-000895618; SAMSUNG-ELM-000220266 at 6.</p>
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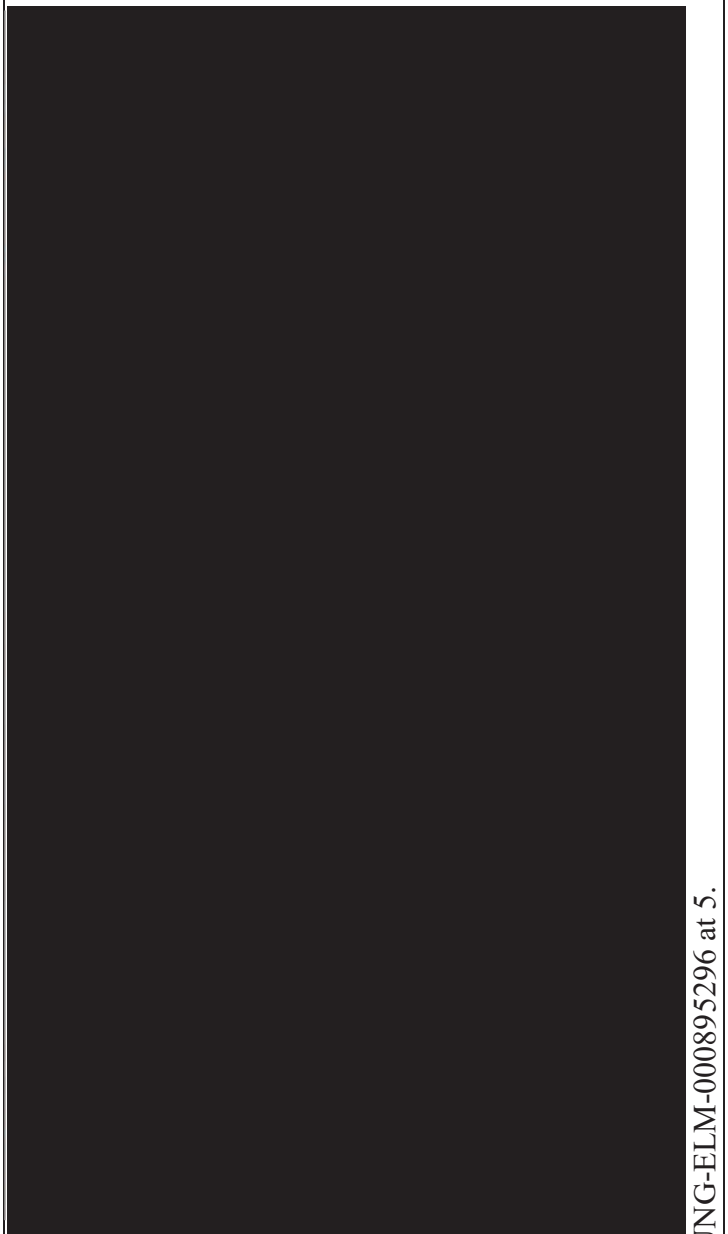




SAMSUNG-ELM-000895575 - SAMSUNG-ELM-000895661 at SAMSUNG-ELM-000895657; SAMSUNG-ELM-000220266 at 21.



SAMSUNG-ELM-000220266 at 24.

		 <p>Exhibit A to Amended Representative Products Agreement dated November 15, 2021.</p>
<p><u>Interrogatory No. 7:</u> Separately for each Relevant Die in each stacked semiconductor product that constitutes, or is included in, a Product, identify each dielectric, including without limitation each pre-metal dielectric, inter-layer dielectric, inter-metal dielectric, and passivation layer(s) that is deposited on the die, including the following information about each dielectric: . . .</p> <p>b. Material composition of the dielectric;</p>		<p>SAMSUNG-ELM-000895296 at 2.</p>

	 <p>SAMSUNG-ELM-000895338 at 4.</p>
<p>Interrogatory No. 7: Separately for each Relevant Die in each stacked semiconductor product that constitutes, or is included in, a Product, identify each dielectric, including without limitation each pre-metal dielectric, inter-layer dielectric, inter-metal dielectric, and passivation layer(s) that is deposited on the die, including the following information about each dielectric: . . .</p> <p>d. All process parameters and equipment used for deposition of the dielectric.</p>	 <p>SAMSUNG-ELM-000895296 at 5.</p>

	 <p>SAMSUNG-ELM-000895338 at 8.</p>
<p><u>Interrogatory No. 8:</u> For each dielectric identified in response to Interrogatory Number 7, identify all stress data, whether from ongoing process monitoring, quality control, simulation, or process qualification, including the following: . . .</p> <p>b. All Stress Measurements of the dielectric;</p>	 <p>SAMSUNG-ELM-000895296 at 10.</p>



SAMSUNG-ELM-000895296 at 11.



SAMSUNG-ELM-000895338 at 9.

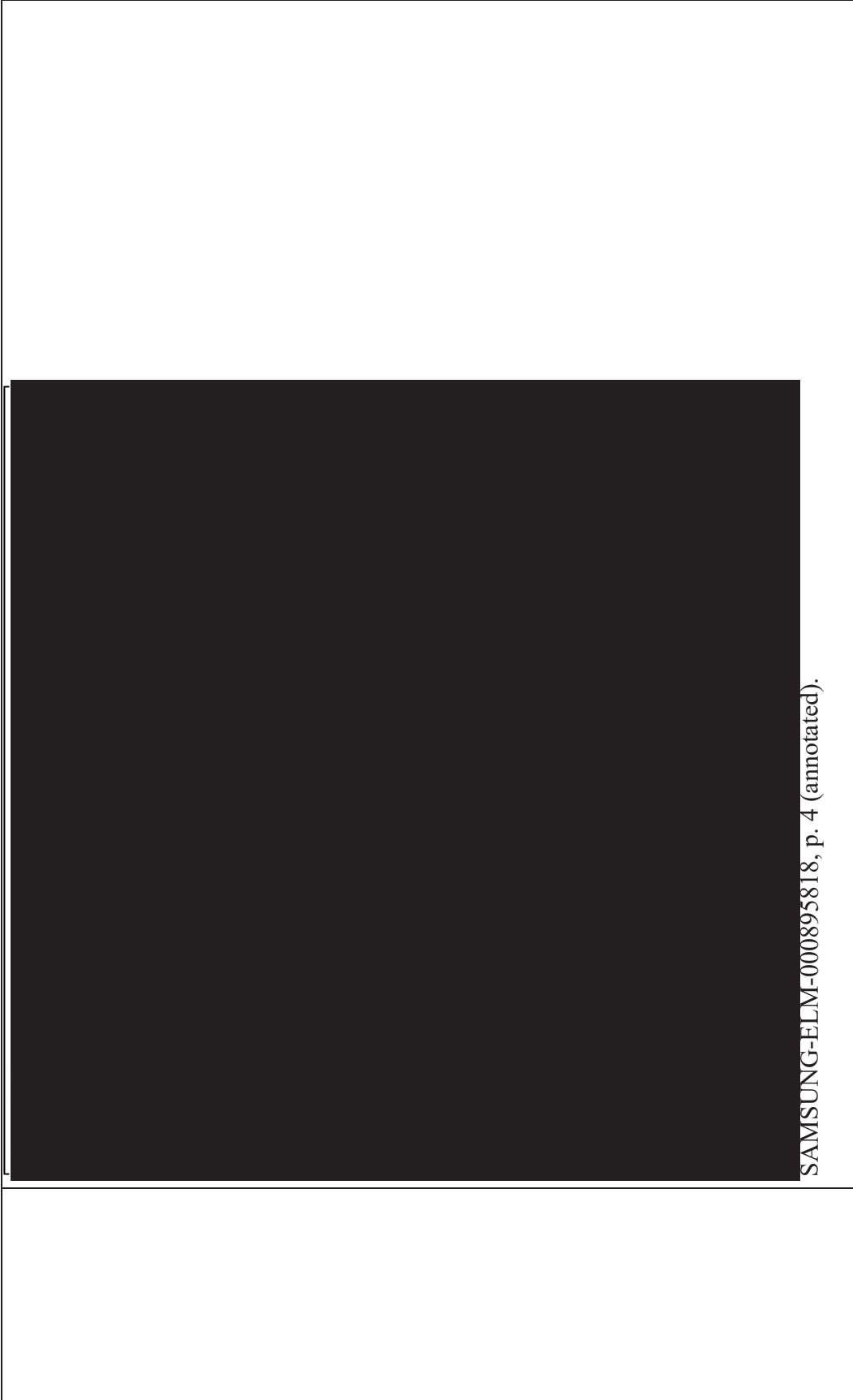


EXHIBIT B

Examples of Responsive Disclosures in Samsung Documents Cited in Response to Elm’s Interrogatories for Exemplar Memory Products

KLUBG4G1BE-E0B10Y0	
<p><u>Interrogatory No. 6:</u> Separately for each stacked semiconductor product that constitutes, or is included in, a Product, identify the die included in the Product, including the following data: . . .</p> <p>e. The quantity of each type of die in the packaged product.</p>	<div style="background-color: black; width: 100%; height: 100%; min-height: 400px;"></div> <p>SAMSUNG-ELM-000895752, p. 2 (annotated).</p> <div style="background-color: black; width: 100%; height: 100%; min-height: 100px;"></div> <p>SAMSUNG-ELM-000895752, p. 2 (annotated).</p>





Interrogatory

No. 7: Separately for each Relevant

Die in each stacked

semiconductor product that

constitutes, or is included in, a

Product, identify each dielectric,

including without limitation each

pre-metal

dielectric, inter-layer dielectric,

inter-metal

dielectric, and passivation

layer(s) that is deposited on the

die, including the following

information about each

dielectric: . . .

b. Material

composition of the dielectric;



(annotated).

Interrogatory

No. 7: Separately for each Relevant

Die in each stacked

semiconductor product that constitutes, or is included in, a

Product, identify each dielectric, including without limitation each

pre-metal dielectric, inter-layer dielectric, inter-metal dielectric, and passivation

layer(s) that is deposited on the die, including the following information about each dielectric: . . .

d. All process parameters and equipment used for deposition of the dielectric.



SAMSUNG-ELM-000056211 - SAMSUNG-ELM-000056237 at SAMSUNG-ELM-000056232 (p. 22) (annotated).

Interrogatory

No. 8: For each dielectric identified in response to Interrogatory Number 7, identify all stress data, whether from ongoing process monitoring, quality control, simulation, or process qualification, including the following: . . .

b. All Stress Measurements of the dielectric; and



SAMSUNG-ELM-000056211 - SAMSUNG-ELM-000056237 at SAMSUNG-ELM-000056232 (p. 22)
(annotated)

K3QF1F10EM-YGCE0P3

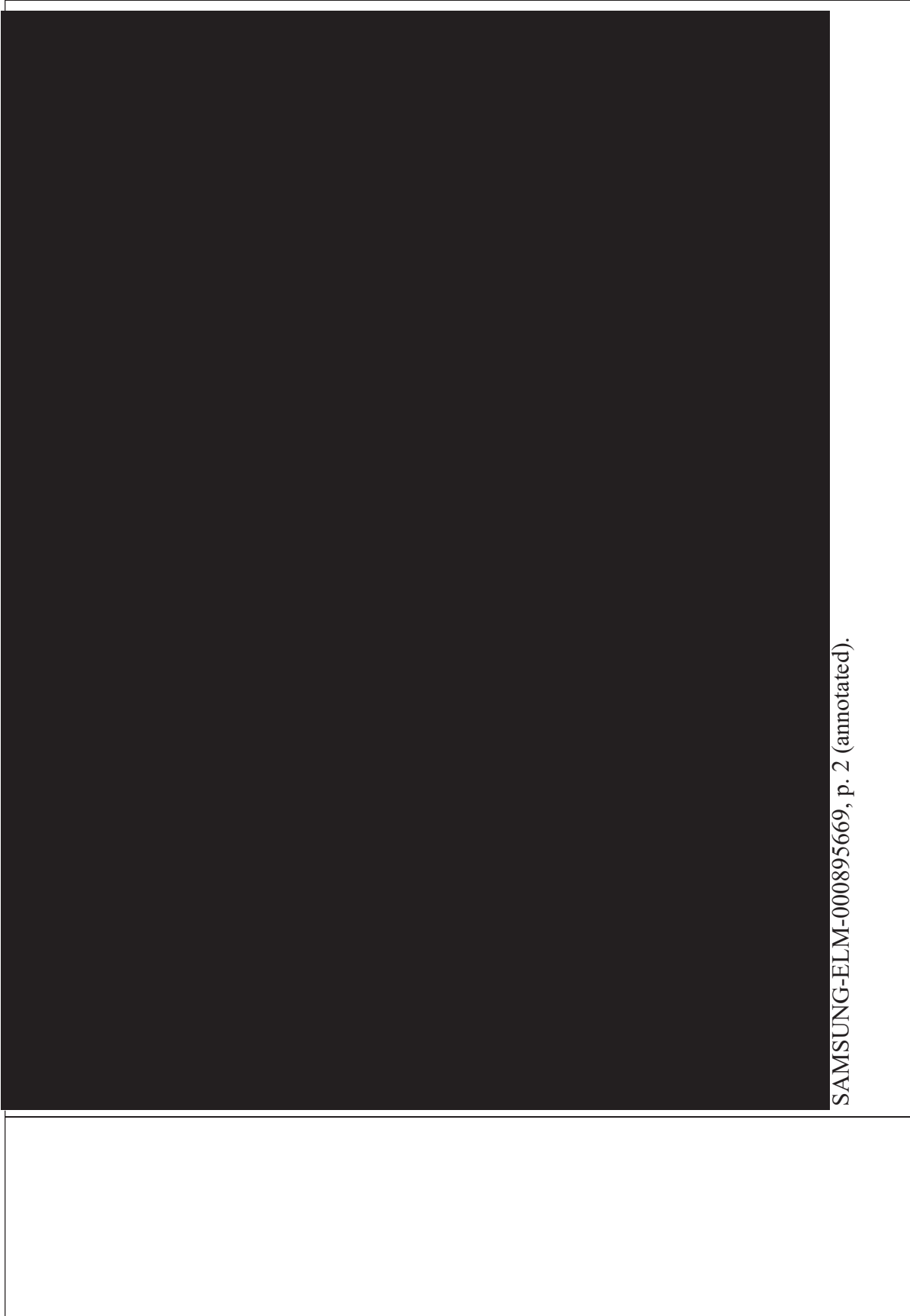
Interrogatory

No. 6: Separately for each stacked semiconductor product that constitutes, or is included in, a Product, identify the die included in the Product, including the following data: . . .

e. The quantity of each type of die in the packaged product.



SAMSUNG-ELM-000895668, p. 2 (annotated).



SAMSUNG-ELM-000895669, p. 2 (annotated).

[REDACTED]

Exhibit A to Amended Representative Products Agreement dated November 15, 2021 (annotated).

[REDACTED]

SAMSUNG-ELM-000200333 - SAMSUNG-ELM-000200485 at SAMSUNG-ELM-000200333 (p. 1)
[REDACTED] (annotated)

Interrogatory

No. 7: Separately for each Relevant

Die in each stacked

semiconductor product that constitutes, or is included in, a

Product, identify each dielectric, including without limitation each

pre-metal dielectric, inter-layer dielectric, inter-metal dielectric, and passivation

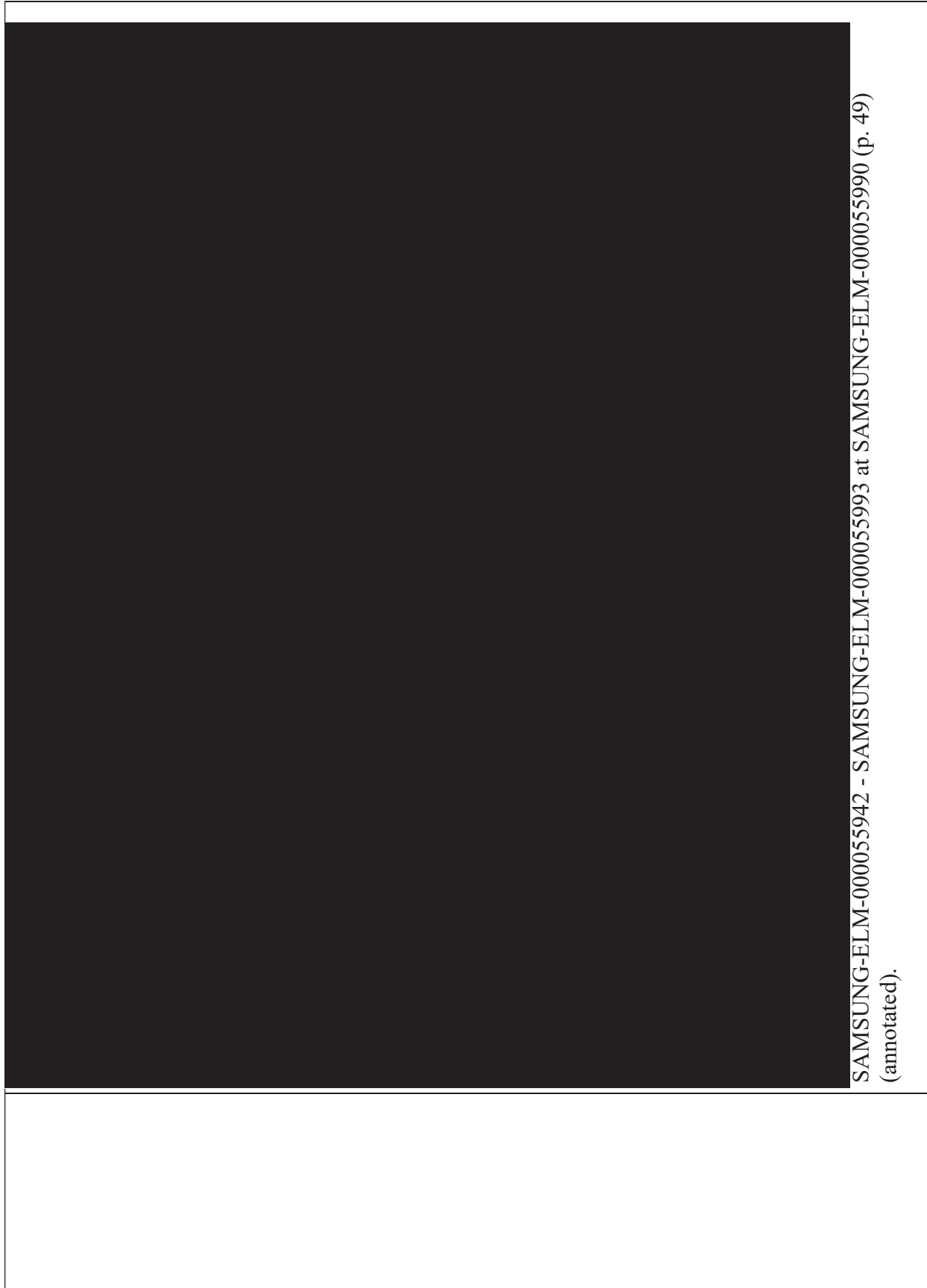
layer(s) that is deposited on the die, including the following

information about each dielectric: . . .

b. Material composition of the dielectric;



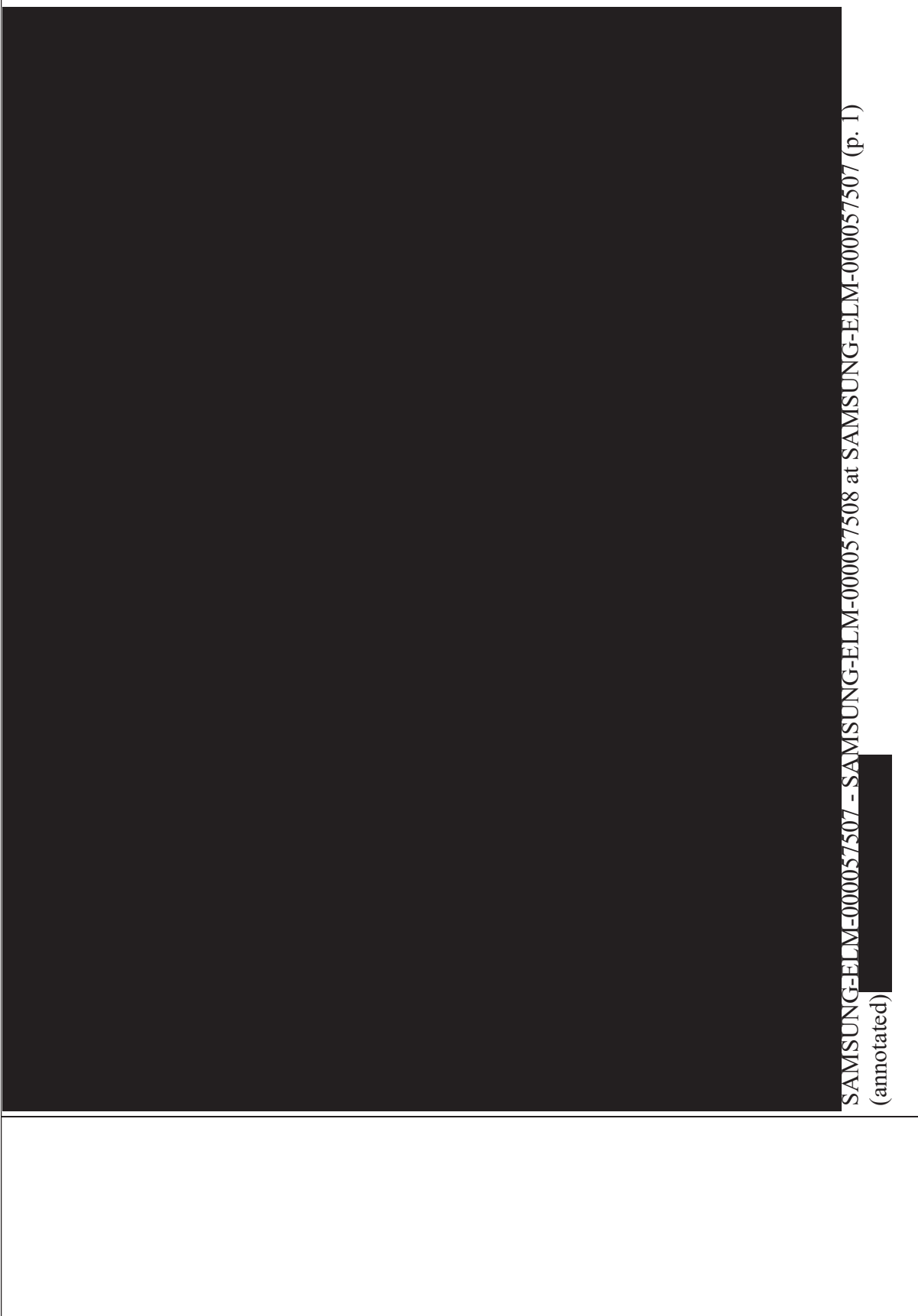
SAMSUNG-ELM-000055942 - SAMSUNG-ELM-000055993 at SAMSUNG-ELM-000055973 (p. 32) (annotated).



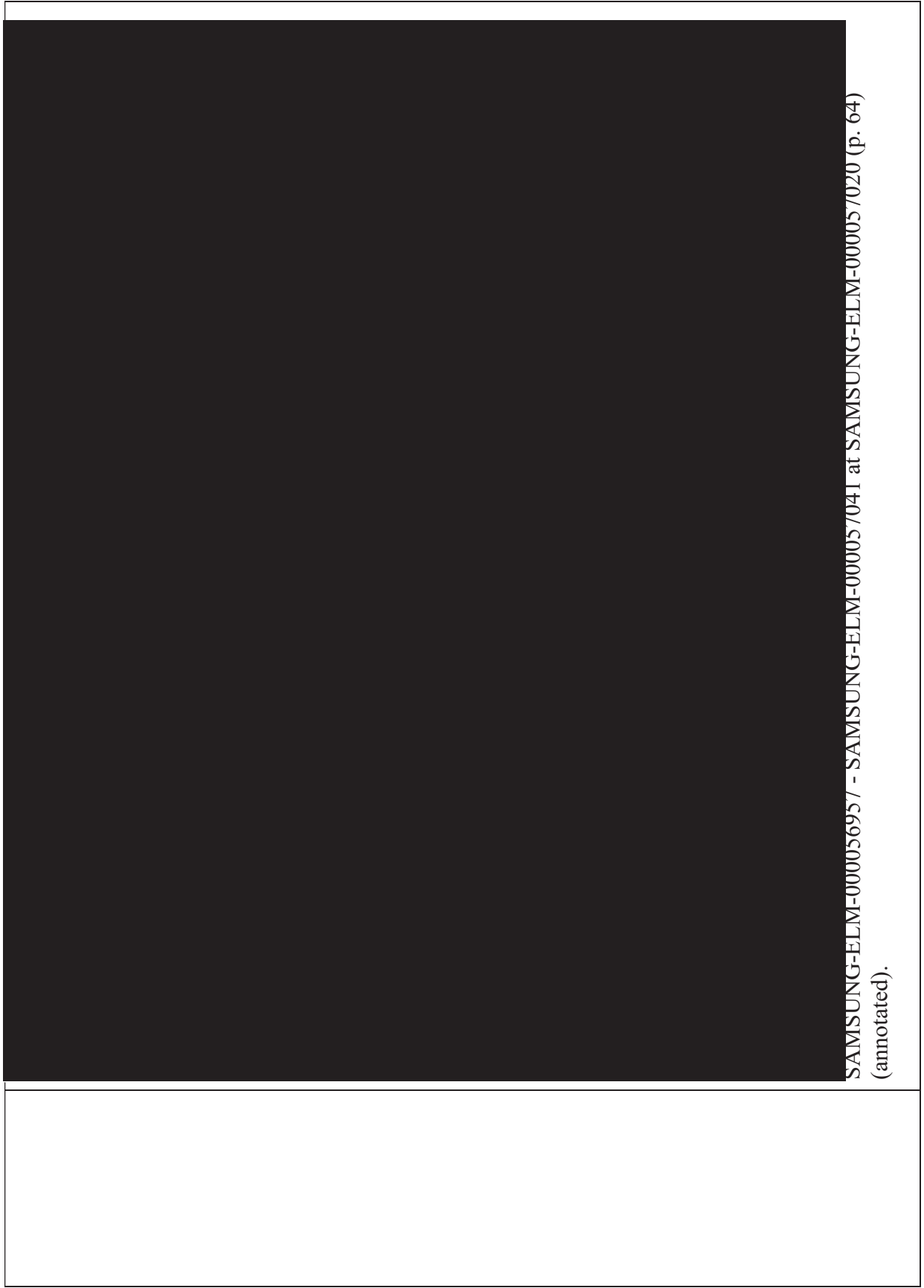
SAMSUNG-ELM-000055942 - SAMSUNG-ELM-000055993 at SAMSUNG-ELM-000055990 (p. 49)
(annotated).



SAMSUNG-ELM-000056957 - SAMSUNG-ELM-000057041 at SAMSUNG-ELM-000057010 (p. 54)
(annotated).



SAMSUNG-ELM-000057507 - SAMSUNG-ELM-000057508 at SAMSUNG-ELM-000057507 (p. 1)
(annotated)



SAMSUNG-ELM-000056957 - SAMSUNG-ELM-000057041 at SAMSUNG-ELM-000057020 (p. 64)
(annotated).

Interrogatory

No. 7: Separately for each Relevant

Die in each stacked

semiconductor product that constitutes, or is included in, a

Product, identify each dielectric, including without limitation each

pre-metal

dielectric, inter-layer dielectric,

inter-metal

dielectric, and

passivation

layer(s) that is

deposited on the die, including the

following

information about each

dielectric: . . .

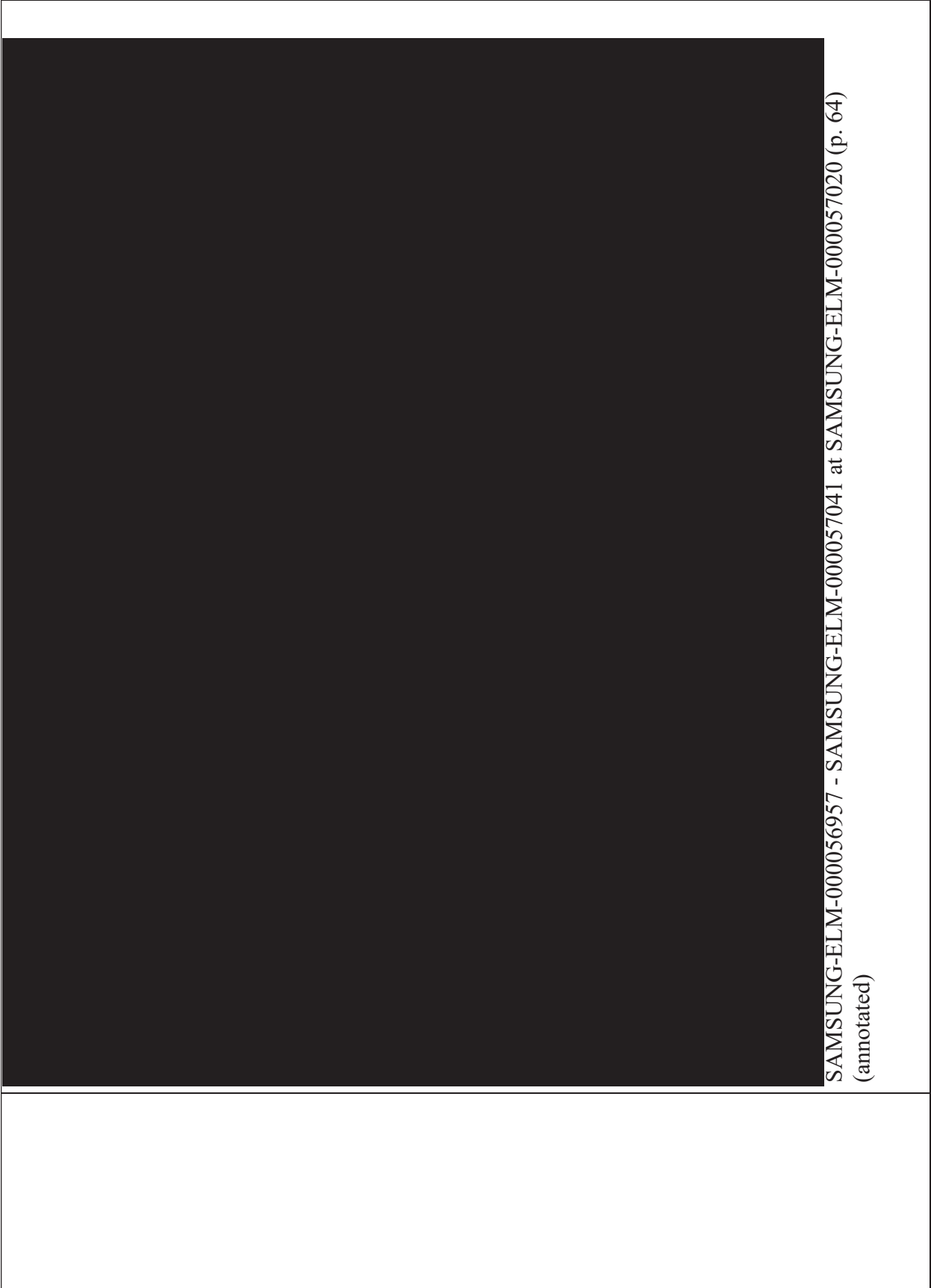
d. All process

parameters and equipment used

for deposition of the dielectric.



SAMSUNG-ELM-000056957 - SAMSUNG-ELM-000057041 at SAMSUNG-ELM-000057010 (p. 54) (annotated).



SAMSUNG-ELM-000056957 - SAMSUNG-ELM-000057041 at SAMSUNG-ELM-000057020 (p. 64)
(annotated)



SAMSUNG-ELM-000055942 - SAMSUNG-ELM-000055993 at SAMSUNG-ELM-000055964 (p. 23)
(annotated).

• [Redacted]



SAMSUNG-ELM-000055942 - SAMSUNG-ELM-000055993 at SAMSUNG-ELM-000055973 (p. 32)
(annotated).

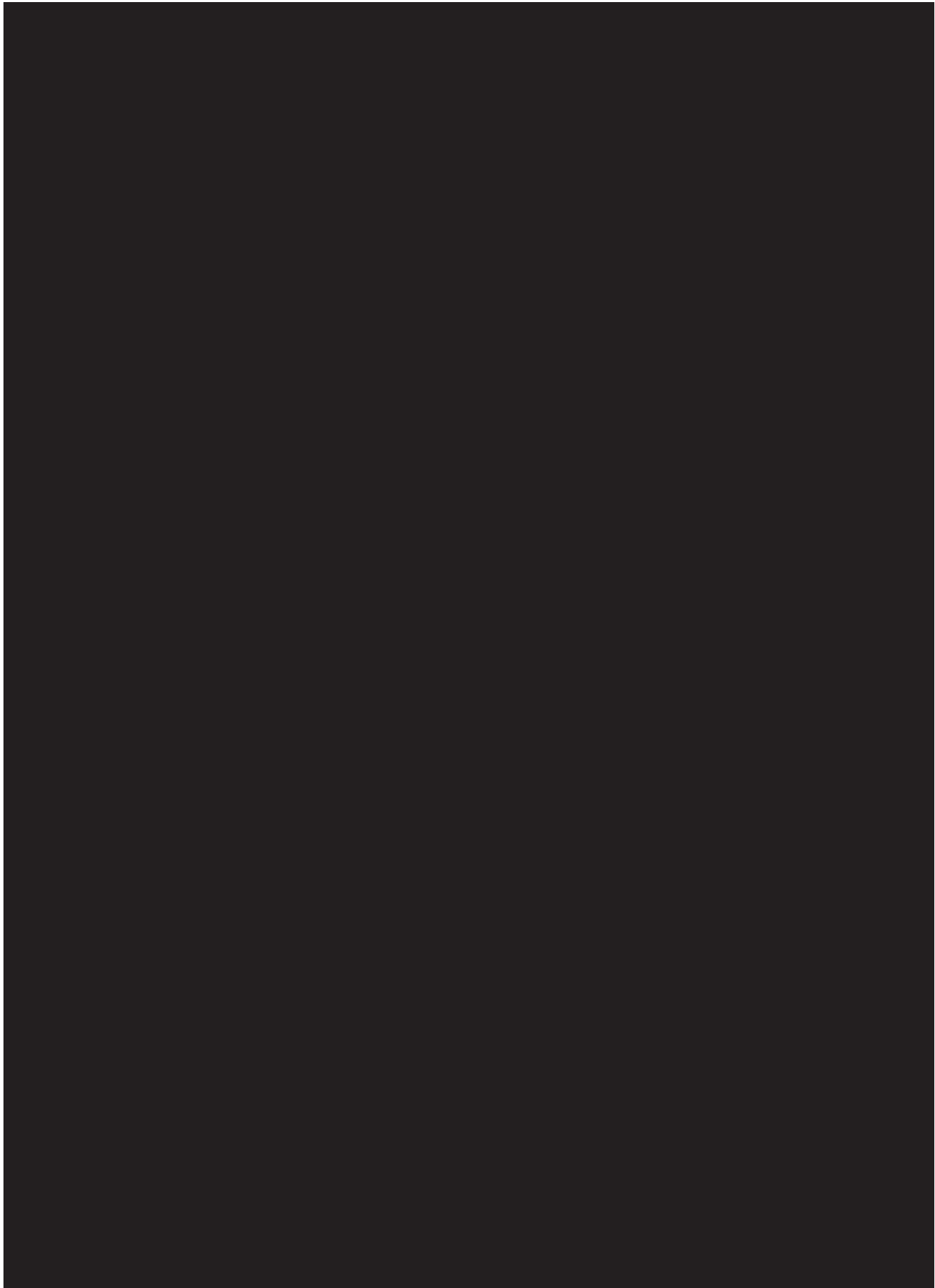


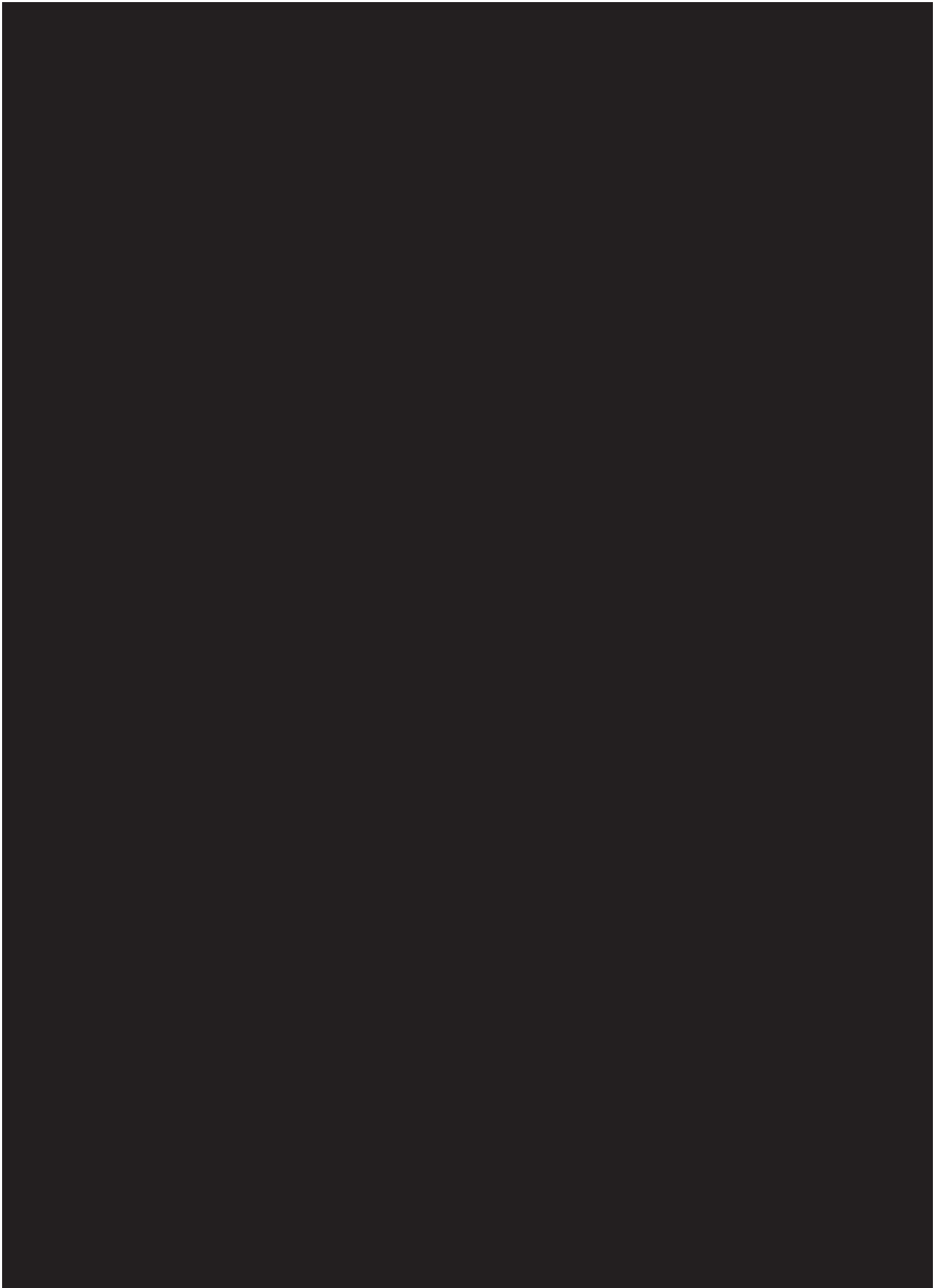


SAMSUNG-ELM-000055942 - SAMSUNG-ELM-000055993 at SAMSUNG-ELM-000055990 (p. 49)
(annotated)

• _____

EXHIBIT C













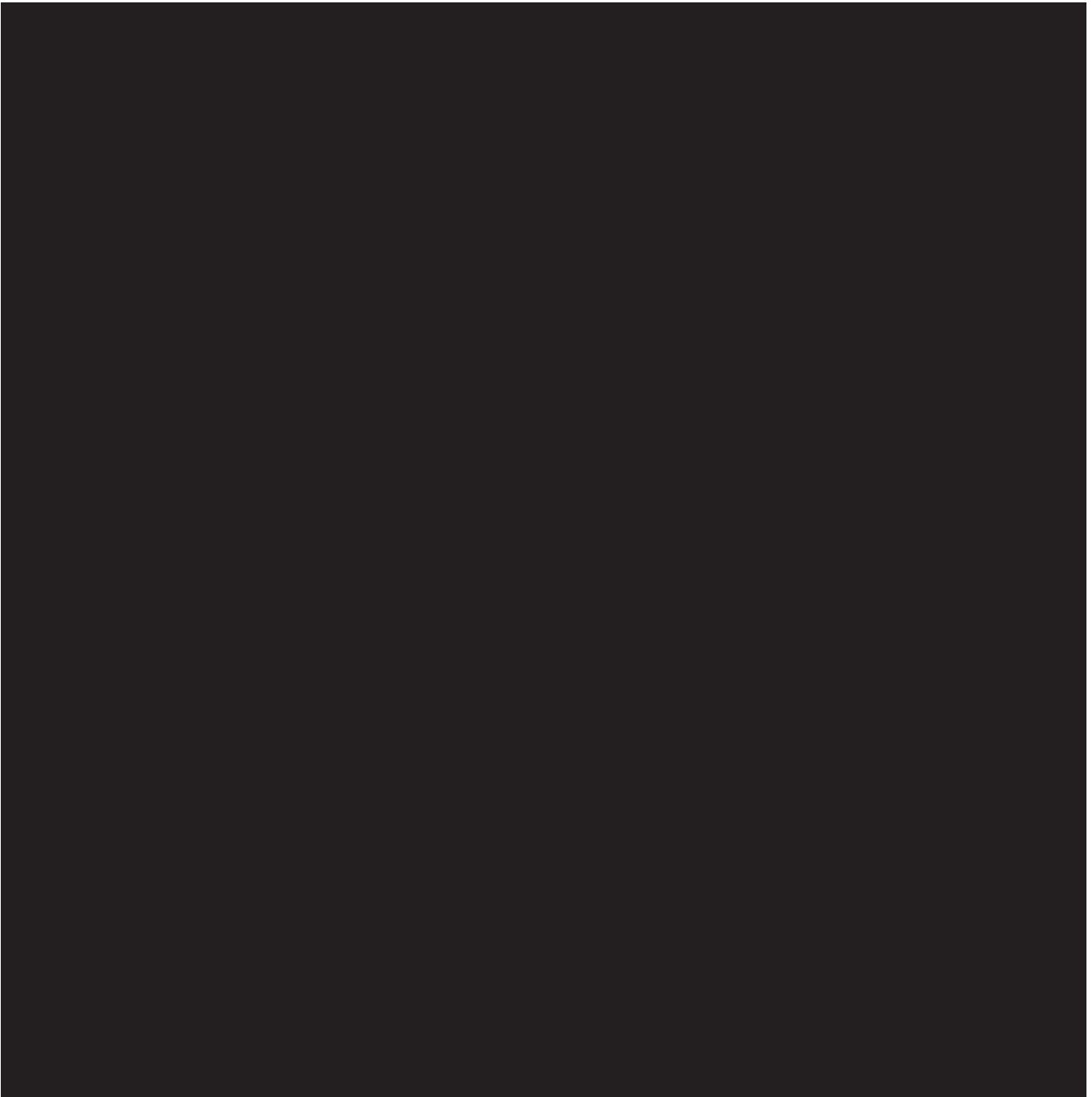




EXHIBIT D

From: [Nosson Knobloch](#)
To: [Citroen, Phillip W.](#); [Jung, Soyoung](#); [Brann, Elizabeth L.](#); [Soobert, Allan M.](#); apoff@ycst.com
Cc: [Mailing List - Leedy](#); [Michael J. Farnan](#)
Subject: [EXT] Samsung PRP Document Follow-Up
Date: Friday, June 25, 2021 3:00:53 PM
Attachments: [20210625 PRP document review.xlsx](#)

Counsel,

As we discussed yesterday, [REDACTED]

[REDACTED] Please review the attachment, and the additional detail below, and let us know if you have any questions or concerns. Please be prepared to discuss, on next week's meet and confer, when Samsung will produce the requested data.

[REDACTED]

1. [REDACTED]

2. [REDACTED]

3.

[REDACTED]

4.

[REDACTED]

Please understand that this is merely the first in what we expect to be a number of requests for additional data concerning [REDACTED].

Thank You,

-Nosson

BartlitBeck LLP

Nosson D. Knobloch | p: 303.592.3122 | c: 773.301.2851 | Nosson.Knobloch@BartlitBeck.com | 1801 Wewatta Street, 12th Floor, Denver, CO 80202

This message may contain confidential and privileged information. If it has been sent to you in error, please reply to advise the sender of the error and then immediately delete this message.

From: Nosson Knobloch

Sent: Thursday, June 24, 2021 11:20 PM

To: Citroen, Phillip W. <phillipcitroen@paulhastings.com>; Soyoung Jung (soyoungjung@paulhastings.com) <soyoungjung@paulhastings.com>; Brann, Elizabeth L. <elizabethbrann@paulhastings.com>; Soobert, Allan M. <allansoobert@paulhastings.com>; apoff@ycst.com

Cc: Mailing List - Leedy <leedy@bartlit-beck.com>; Michael J. Farnan <mfarnan@farnanlaw.com>

Subject: June 24 Samsung/Elm Meet and Confer

Counsel,

Per our discussion today, I've attached an updated representative

products agreement. Please let us know by tomorrow whether Samsung is prepared to enter this agreement. If Samsung is not prepared to confirm its agreement tomorrow, then we will add this to the list of issues to be addressed at the next discovery teleconference.

Here is a summary of additional issues we discussed today concerning Samsung's discovery:

1.

[REDACTED]

We have been seeking discovery into this issue for weeks, but you have failed to provide anything or commit to provide anything. Accordingly, we informed you that we believe the parties are at an impasse on this issue and requested that you let us know tomorrow when Samsung is available for a discovery teleconference on this issue.

2.

[REDACTED]

3. Attorneys' fees: You indicated that Samsung has agreed not to seek attorneys' fees related to [REDACTED]

[REDACTED]

You further agreed to confirm this understanding in writing by tomorrow. Please provide that confirmation.

4. Depositions: You agreed to let us know ASAP whether Jongjin Kim would be removed from your Rule 26 disclosures. Otherwise, we will need dates for his deposition. You also agreed to give us dates for the deposition of Junyoung Oh.

5.

[REDACTED]

[REDACTED] to the extent you can

locate them.

6.

[REDACTED]

7.

[REDACTED]

8.

[REDACTED]

9. Protective Order: You said you would let us know ASAP whether Samsung agrees that, for purposes of the prosecution bar, “Receiving Party” refers to the relevant party to the litigation (i.e., Elm or Samsung).

We look forward to your updates.

Thanks,

-Nosson

BartlitBeck_{LLP}

Nosson D. Knobloch | p: 303.592.3122 | c: 773.301.2851 | Nosson.Knobloch@BartlitBeck.com | 1801 Wewatta Street, 12 Floor, Denver, CO 80202

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EXHIBIT E

File Produced In Native Format



EXHIBIT F

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EXHIBIT G

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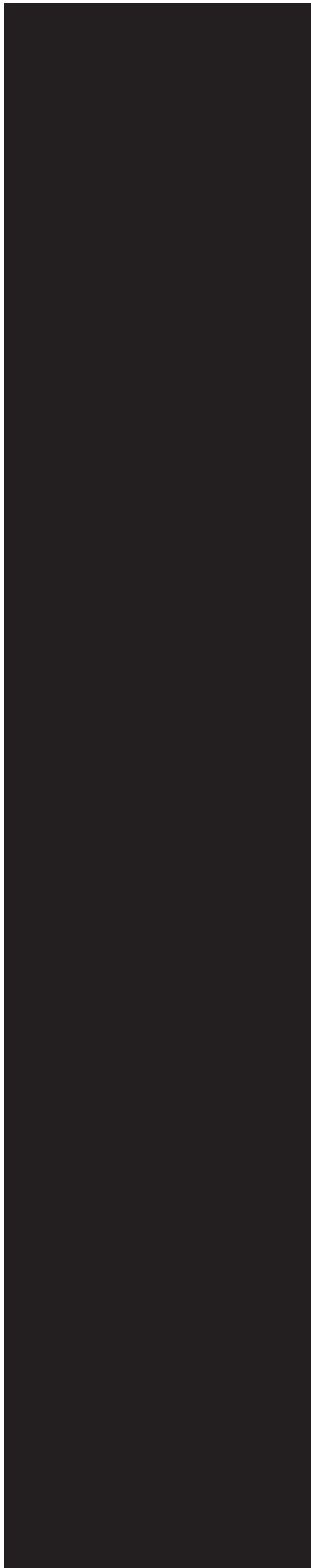


EXHIBIT H

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EXHIBIT I

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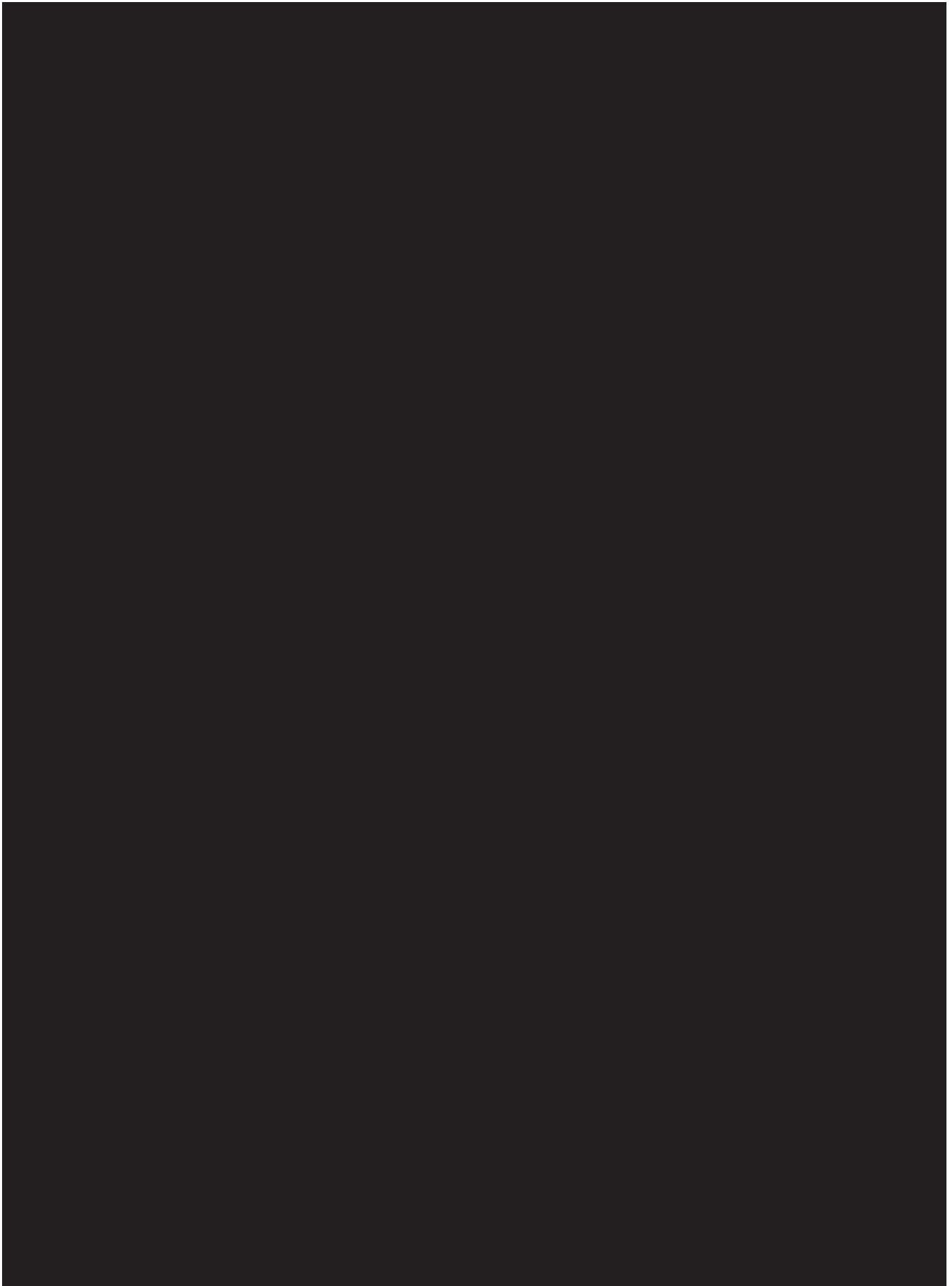
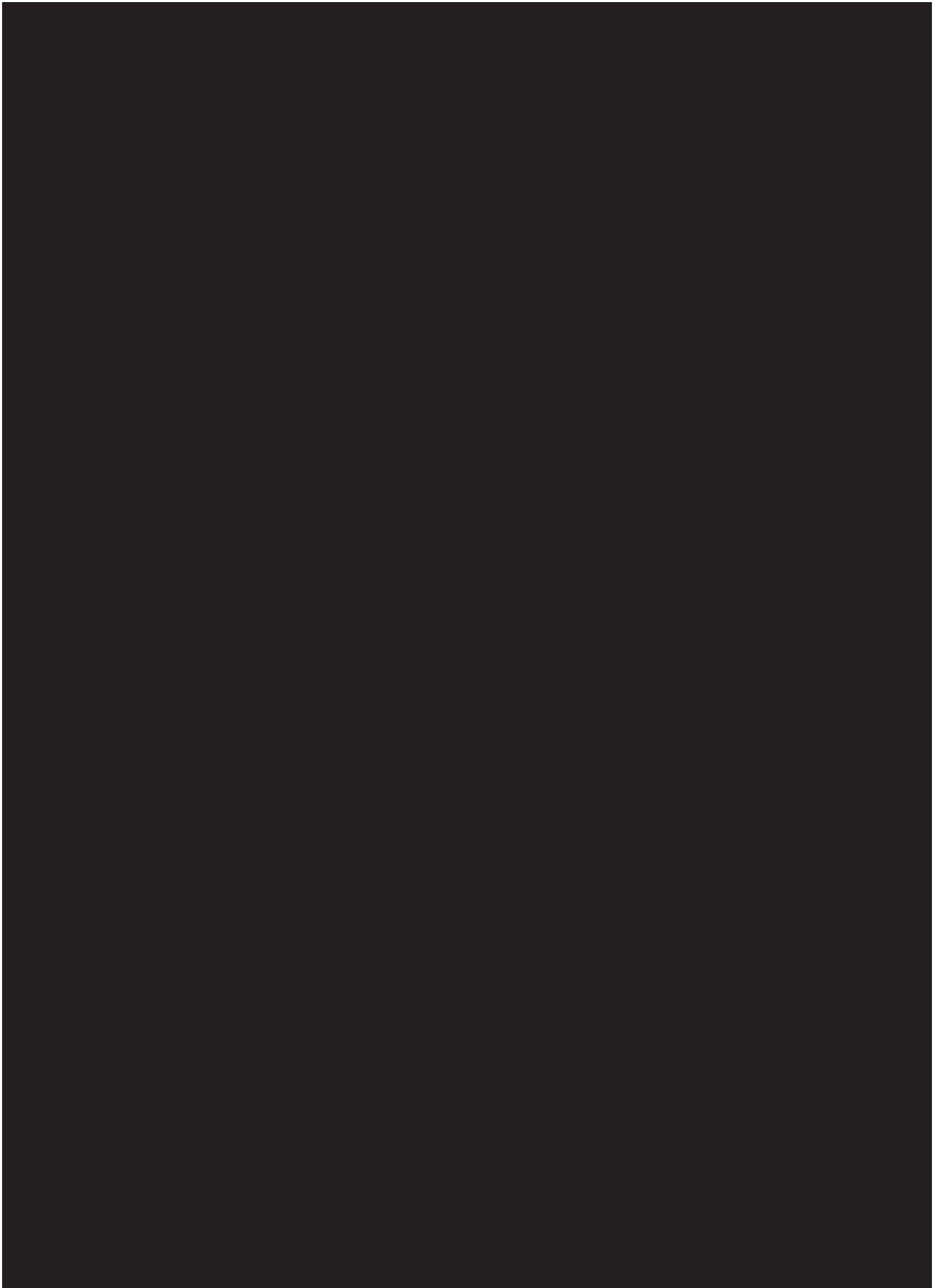
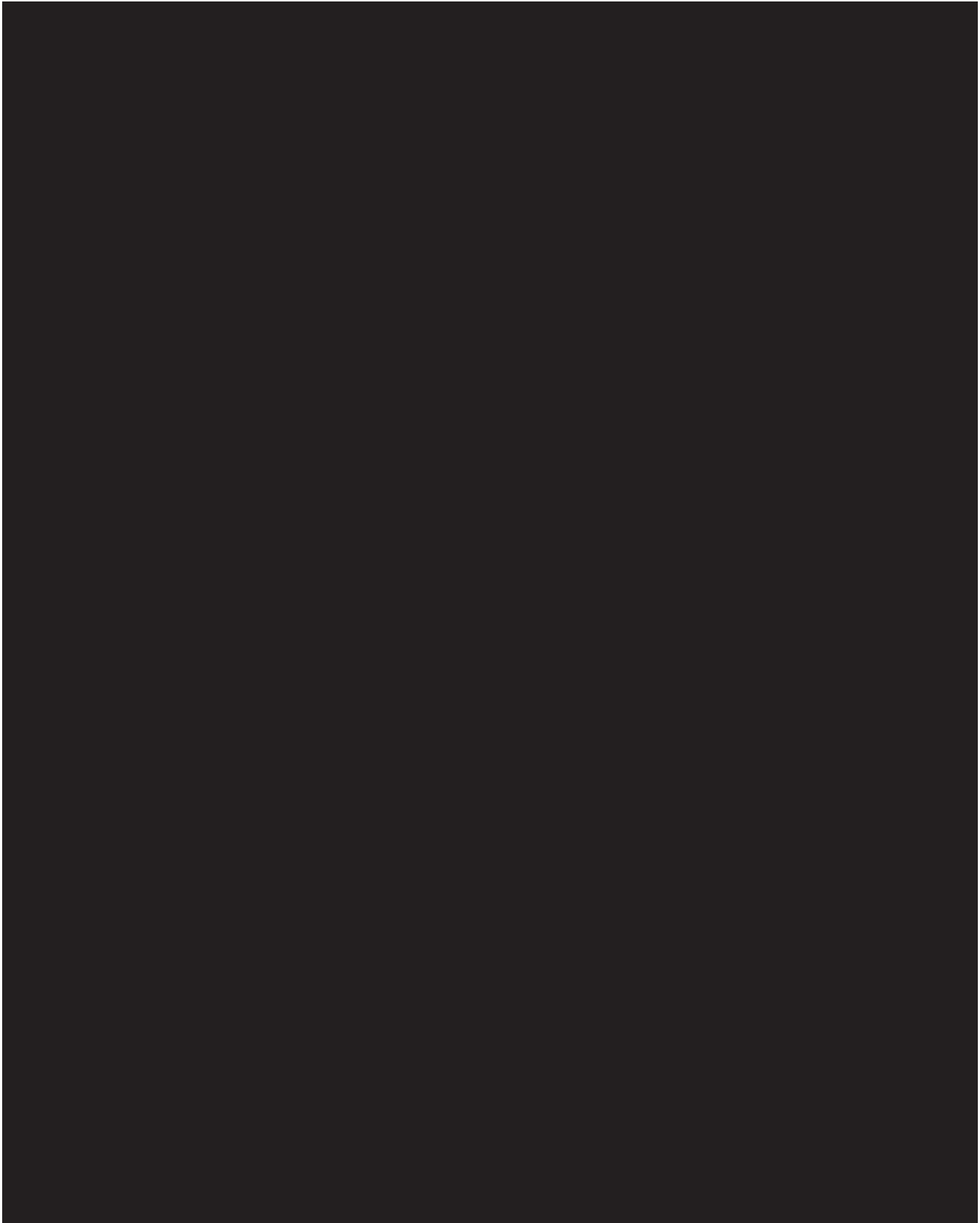




EXHIBIT J

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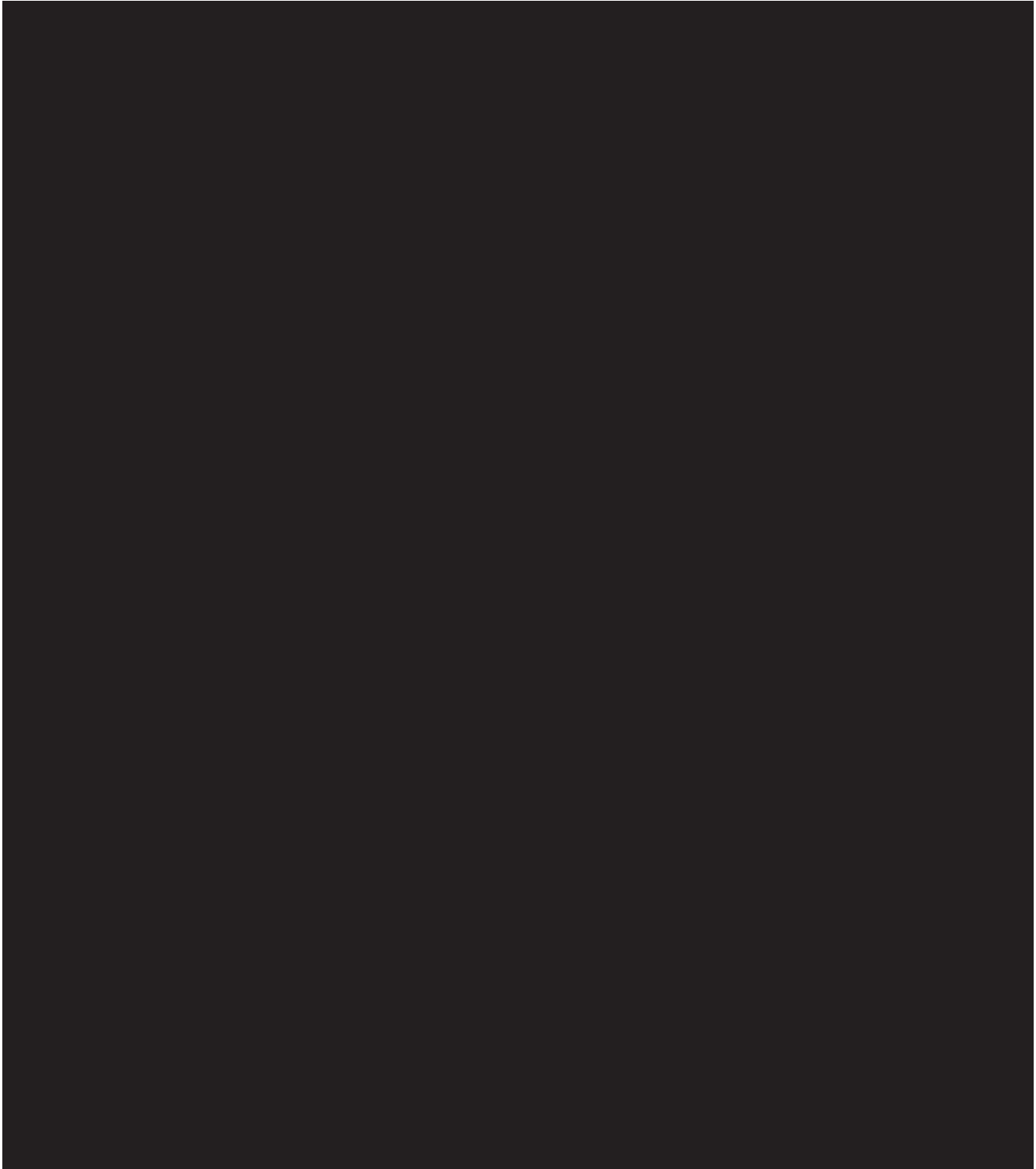


EXHIBIT K

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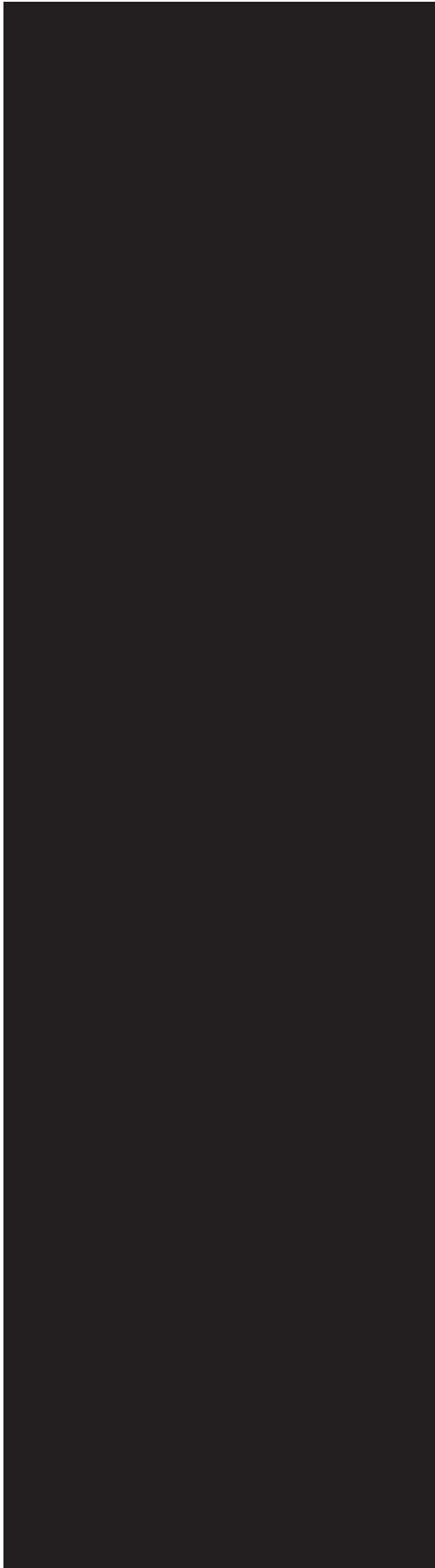




EXHIBIT L

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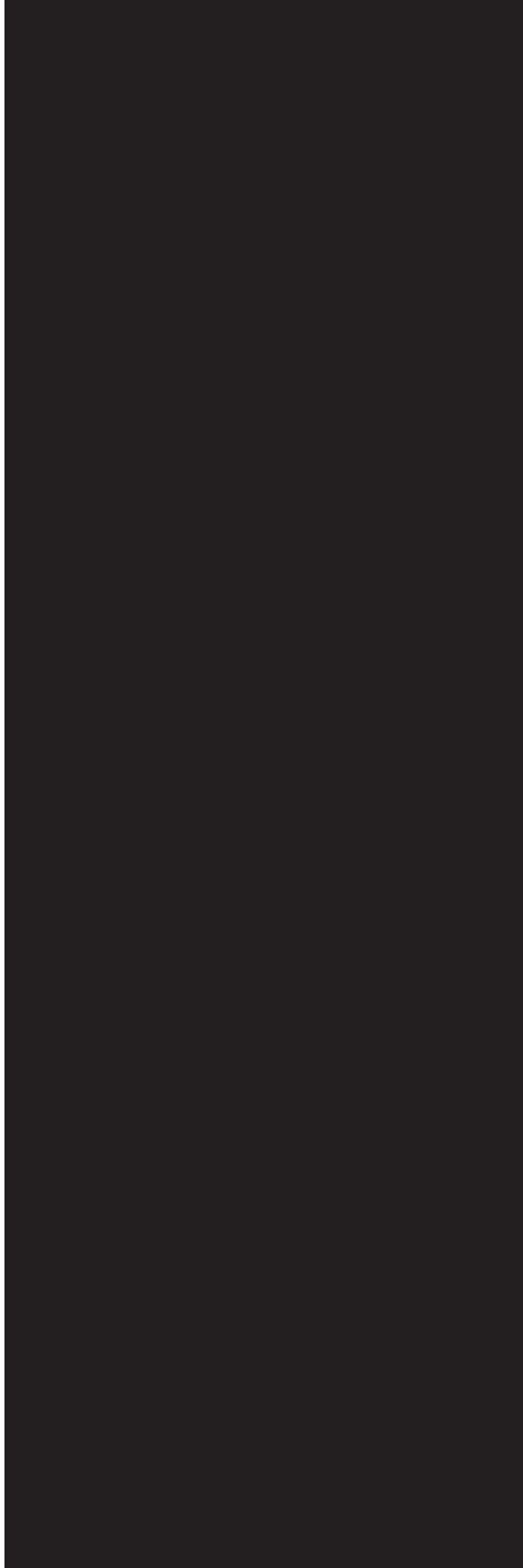


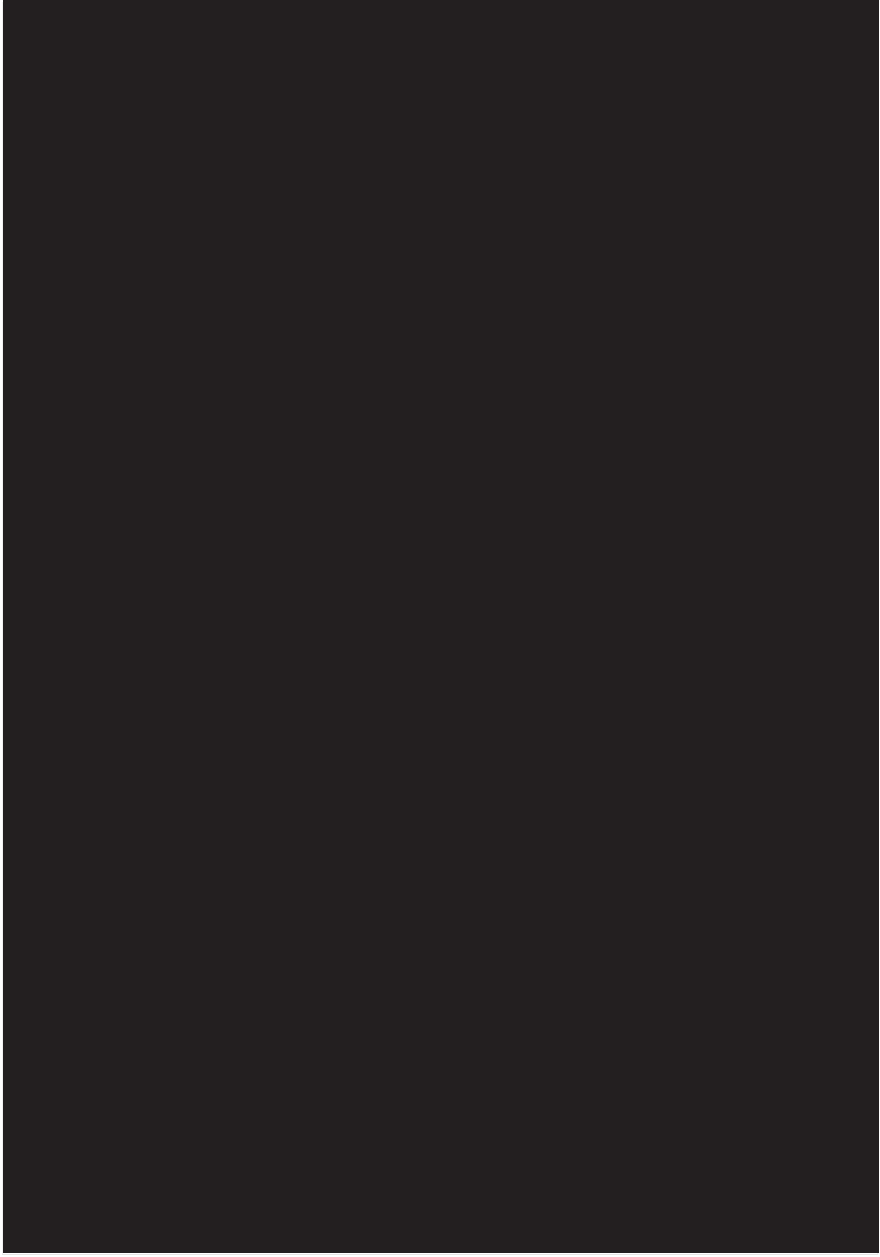


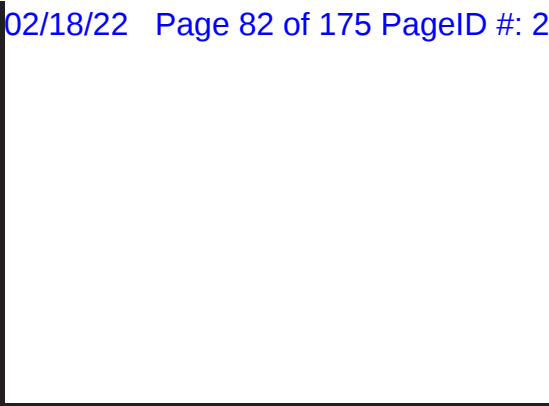
EXHIBIT M

[REDACTED]

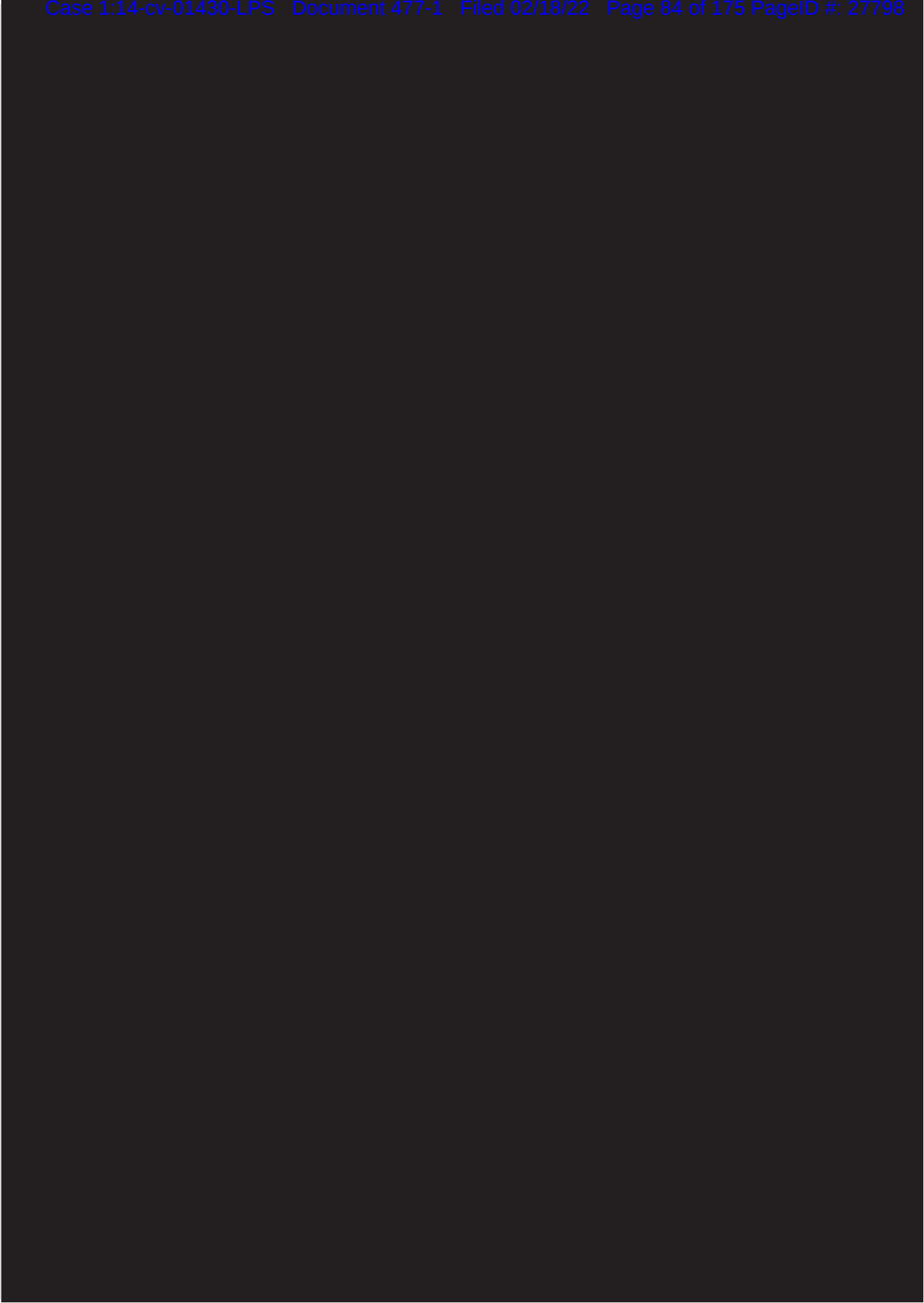
[REDACTED]

[REDACTED]







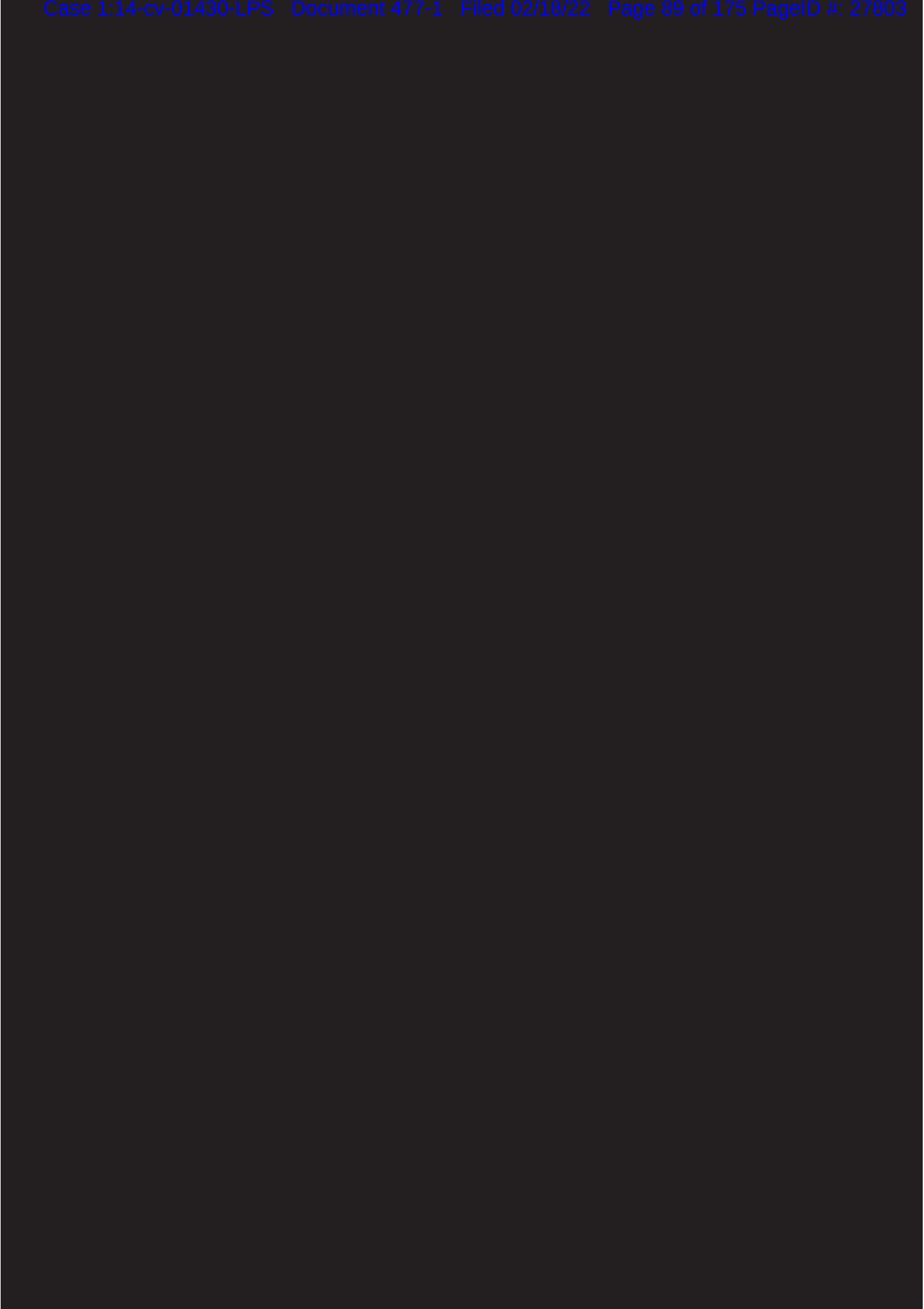














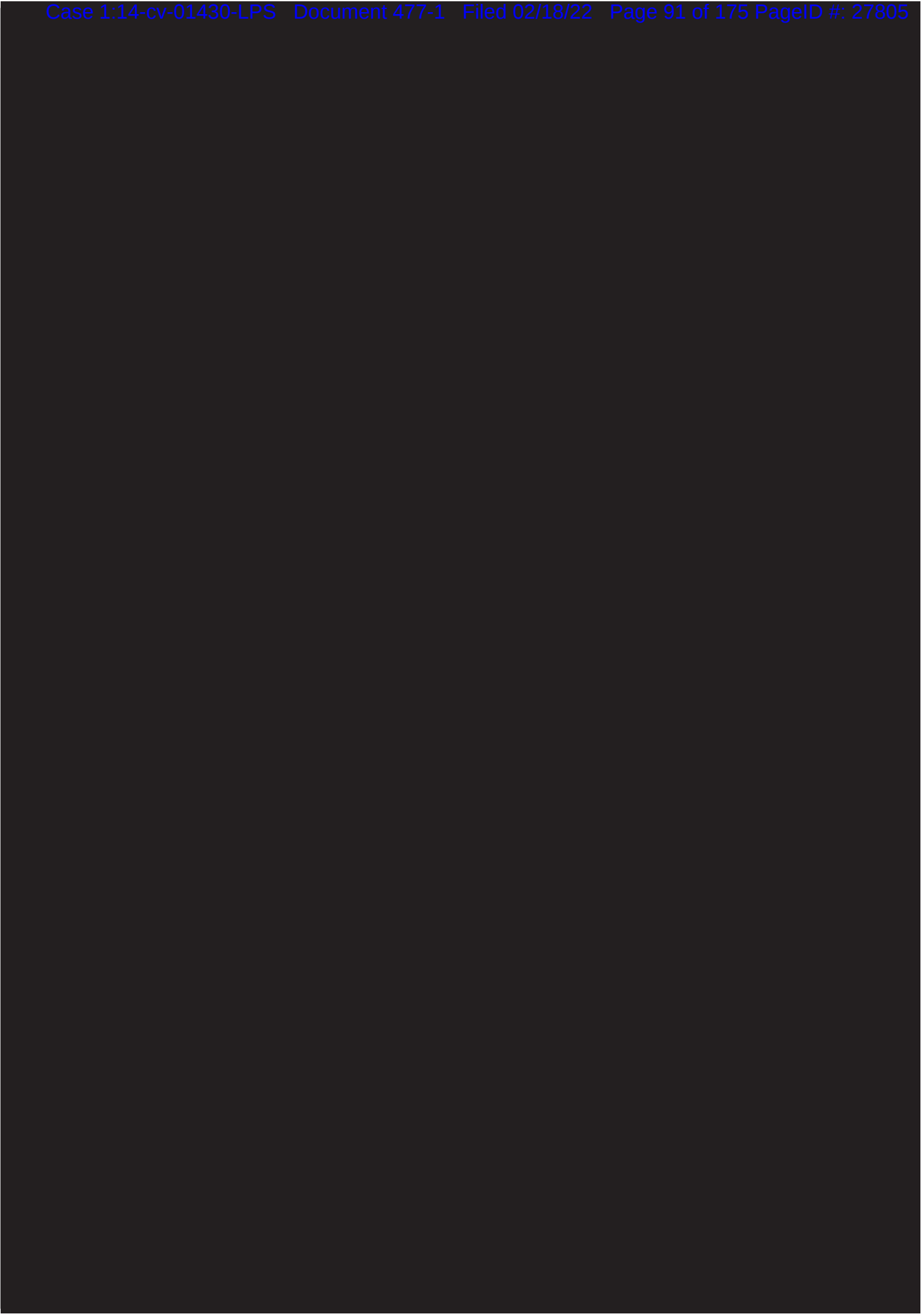
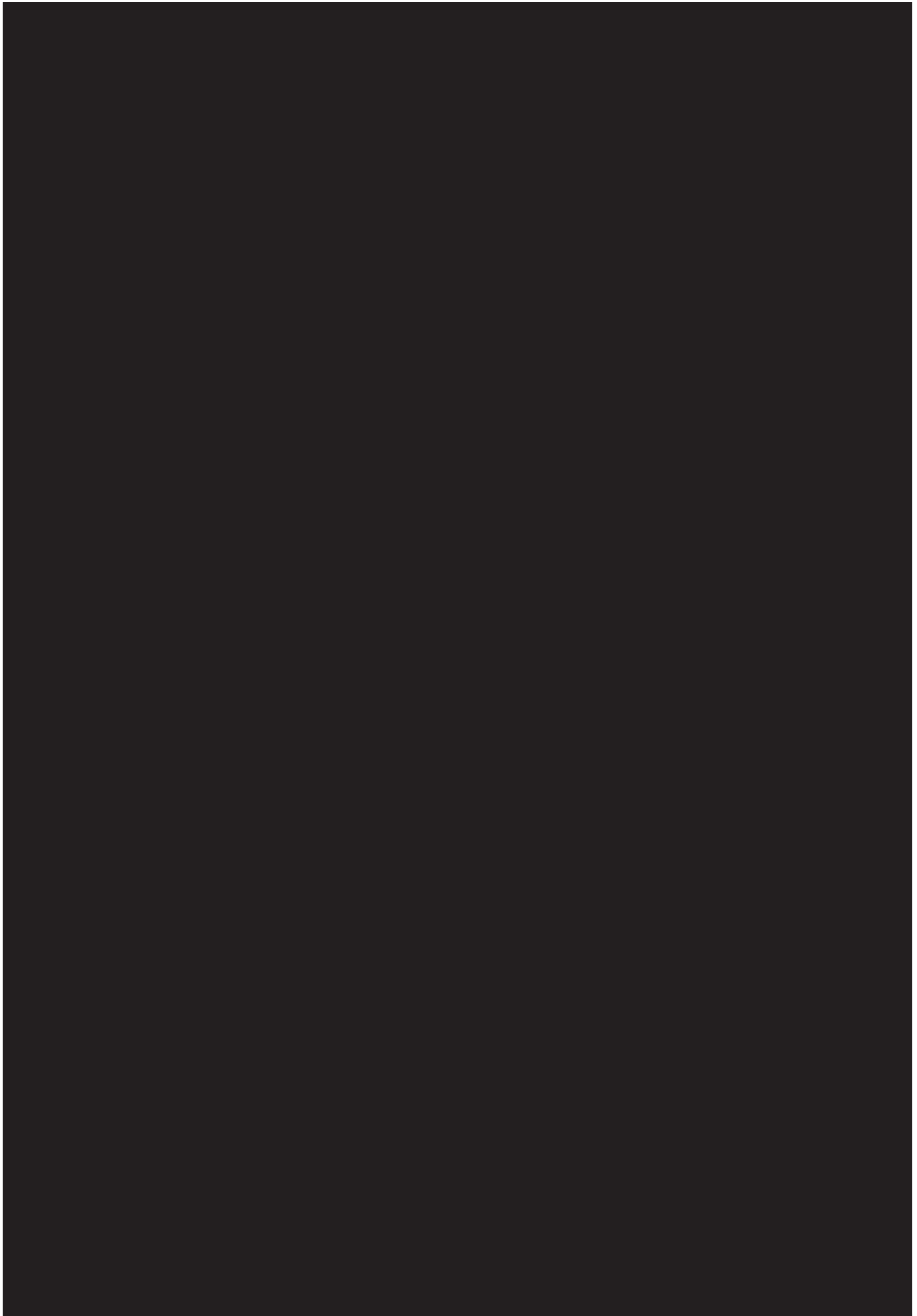


EXHIBIT N

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EXHIBIT O

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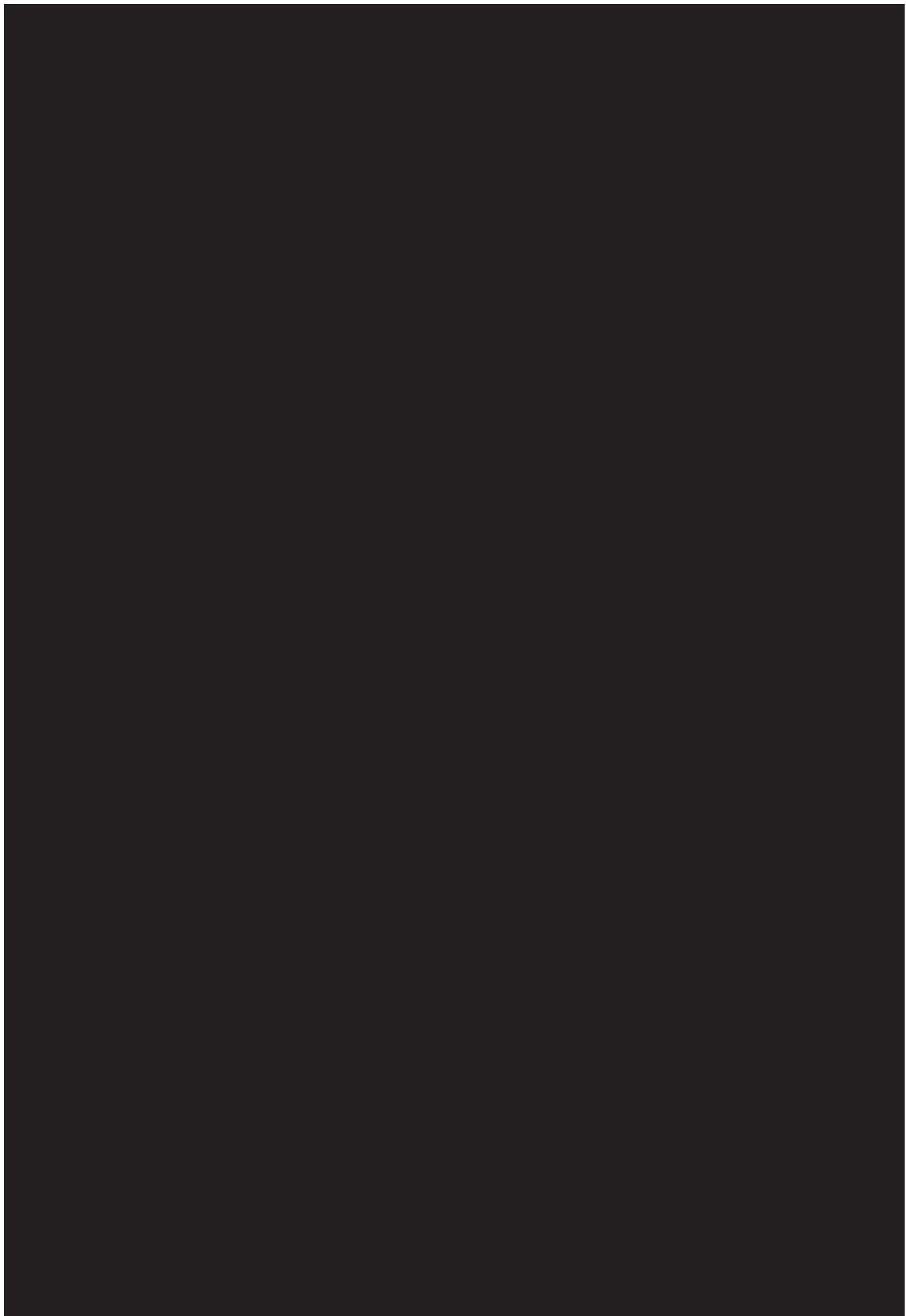




































EXHIBIT P

Highly Confidential - Attorneys' Eyes Only

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

-----|
ELM 3DS INNOVATIONS, LLC, |
Plaintiff, |
v. |
SAMSUNG ELECTRONICS, LTD., |
et al., |
Defendants.

C.A. No. 14-cv-1430-LPS

- - -
Wednesday, June 30, 2021
- - -

HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY
PURSUANT TO PROTECTIVE ORDER

This is the Remote Videotaped Deposition of
JOUNGYOUNG PARK, commencing at 9:05 a.m. Korea
Standard Time, on the above date, before Susan D.
Wasilewski, Registered Professional Reporter,
Certified Realtime Reporter, Certified Manager of
Reporting Services and Certified Realtime Captioner

- - -
GOLKOW LITIGATION SERVICES
877.370.3377 ph | 917.591.5672 fax
deps@golkow.com

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6 Representing the Plaintiff

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SOYOUNG JUNG, ESQUIRE

15 soyoungjung@paulhastings.com

515 South Flower Street, Twenty-Fifth Floor

16 Los Angeles, California 90071

Phone: (213) 683-6211

17 Representing the Samsung Defendants

18

19

20 ALSO PRESENT VIA REMOTE COUNSEL/ZOOM TECHNOLOGY:

21 ALBERT KIM, Lead Interpreter

22 MICHELLE KIM, Check Interpreter

23 MADDIE CROWELL, Videographer

24

25

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I N D E X
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Testimony of: JOUNGYOUNG PARK PAGE
DIRECT EXAMINATION BY MR. KNOBLOCH..... 5

E X H I B I T S
(Attached to transcript)

JOUNGYOUNG PARK DEPOSITION EXHIBITS PAGE

Exhibit 1 [REDACTED] 11
Exhibit 2 [REDACTED] 29
Exhibit 3 [REDACTED] 33
Exhibit 4 [REDACTED] 40
Exhibit 5 [REDACTED] 53
Exhibit 6 [REDACTED] 61

Highly Confidential - Attorneys Eyes Only

- [Redacted]
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EXHIBIT Q

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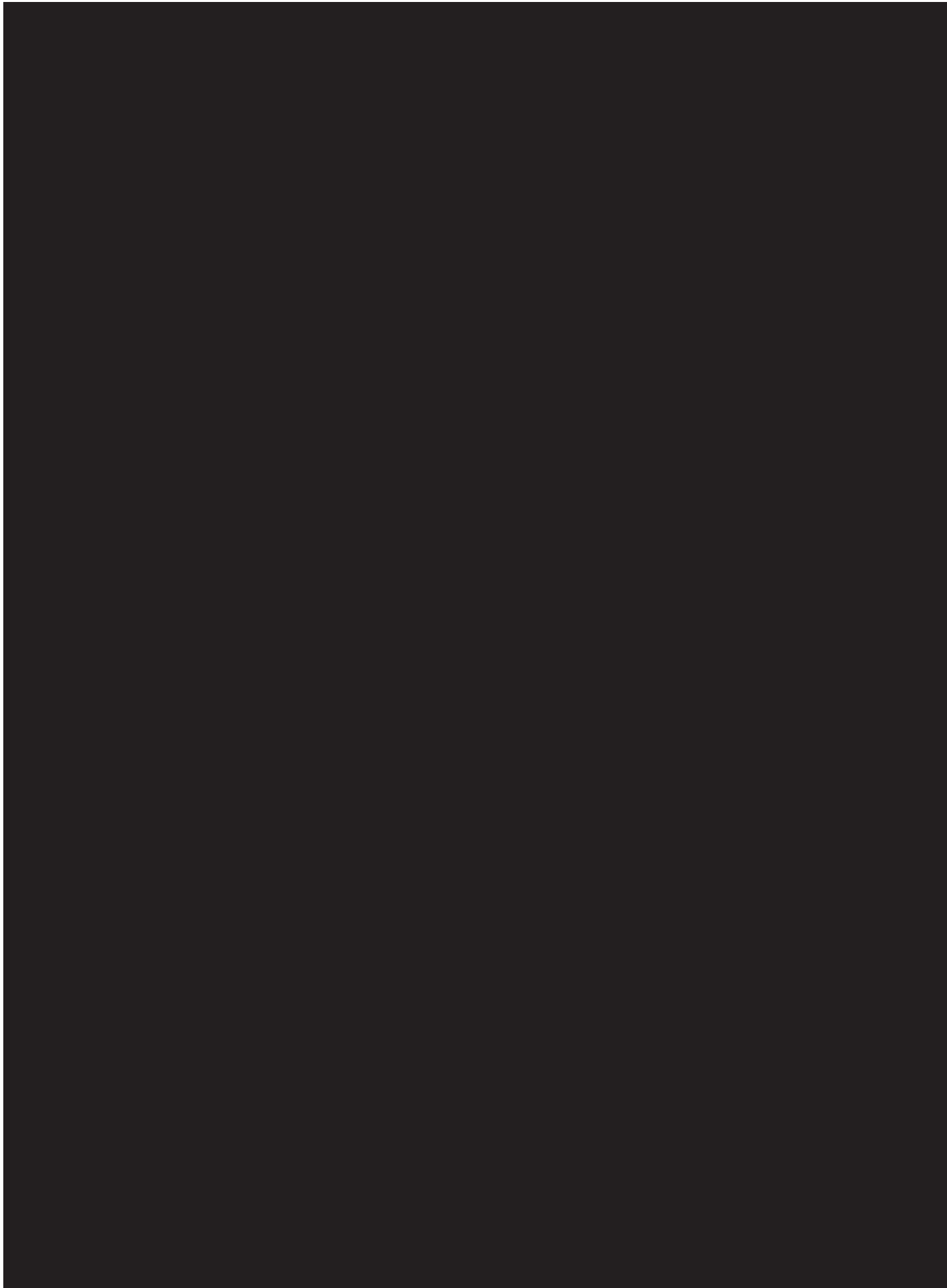








EXHIBIT R





EXHIBIT S

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

MASTEROBJECTS, INC.,

Plaintiff,

vs.

AMAZON.COM, INC.,

Defendant.

Case No. 5:20-cv-08103-WHA (KAW)

ORDER OF SPECIAL MASTER:
(1) GRANTING IN PART MOTION TO COMPEL FURTHER RESPONSE TO INTERROGATORIES (DKT. NO. 165);
(2) GRANTING MOTION TO COMPEL LICENSING COMMUNICATIONS (DKT. NO. 166);
(3) GRANTING MOTION TO COMPEL DOCUMENTS FROM RELATED CASES (DKT. NO. 167);
(4) GRANTING MOTION TO COMPEL PRODUCTION OF PRIVILEGE LOG (DKT. NO. 168);
(5) WITHDRAWING MOTION TO SEAL (DKT. NO. 169);
(6) DENYING MOTION TO COMPEL FURTHER ANSWERS TO INTERROGATORIES (DKT. NO. 171);
(7) GRANTING MOTION TO SEAL (DKT. NO. 170).

Pursuant to the Case Management Order in this matter, as amended, the last day to file fact discovery motions was November 9, 2021. On November 8, the parties filed five such motions by letter brief, and two related motions to seal. On November 17, 2021, pursuant to stipulation, the Court appointed the undersigned to hear and decide discovery disputes. A hearing was held on these motions on December 1, 2021.

Dkt. No. 165. MasterObjects Interrogatory No. 16

In this interrogatory, MasterObjects asked Amazon to identify any non-infringing alternatives that may exist for the asserted claims and to “identify in detail” every reason why the identified alternative is acceptable and non-infringing. Amazon answered the first question but claims that it is unable to answer the second at this time because it remains uncertain as to the exact nature of plaintiff’s infringement contentions. Amazon’s objection is commonly asserted early in discovery, particularly in cases where a definitive claim construction is anticipated before discovery closes. Frequently, courts are willing to postpone further answers until later in discovery.

The problem here is that fact discovery in this case closes in three weeks. In addition, Judge Alsup has expressly refused to stay or modify the discovery deadlines. (Order, Dkt. No. 164.) Finally, there will be no definitive claim construction before trial. Thus, Amazon is seeking to turn a timing objection into a permanent refusal to answer.

Amazon apparently had sufficient information to identify previous versions of its software as non-infringing alternatives; it is not too much to ask it to identify those versions specifically and to state its view of the differences between those versions and its accused software, and why those differences support an argument that each of the earlier versions is an acceptable non-infringing alternative.

Amazon also identified its “accused instrumentalities” as a possible non-infringing alternative because it is, in Amazon’s view, not infringing. Although this seems logically impossible, Plaintiff did not object to this answer. Nevertheless, further discovery of why the accused device does not infringe seems outside the scope of this particular interrogatory and no further discovery will be required on this limited point.

MasterObjects’ motion to compel further response to Interrogatory No. 16 is GRANTED IN PART. On or before COB on December 15, 2021, Amazon shall (1) identify each previous version of its software it contends to be a non-infringing alternative with specificity (e.g., version number or name) and (2) explain in detail the differences between each previous version and the accused software that supports an assertion that the previous version is an acceptable non-infringing alternative.

Dkt. No. 166. Motion to Compel Licensing Communications

Amazon moves to compel further production of documents in response to its Requests No. 81 concerning “licenses granted, proposed or considered, including drafts thereof” and No. 85 concerning the commercialization of any “MasterObjects Practicing Instrumentality.”

“Practicing Instrumentality” is a term defined to mean any MasterObjects “system, method or technology” that practices any asserted patent claim. Plaintiff responds that it has produced all relevant signed licenses and that any further production would be unduly burdensome. Plaintiff offers to submit a selection of license exchanges for *in camera* review, a request the undersigned respectfully declines.

On December 2, 2021, after the hearing, Amazon, without seeking leave, sought to add further Requests for Production to its motion, claiming, among other reasons, that page limitations had precluded it from including addition broader requests in its original motion. In general, the undersigned will not consider unrequested post-hearing filings. I will note however, that other Amazon motions considered in this order included many more document requests, and that, while there was a page limit on letter briefs, there was no limit on the number of motions that could have been filed by the deadline.

Given the narrow scope of the two requests at issue in this motion, it is difficult to see how a more complete production would be burdensome and Plaintiff offers no evidence to support its assertion. Licenses for patents in suit, related applications, and patented products are often offered in evidence in patent litigation, thus discovery on these subjects should be expected.

The motion to compel is GRANTED. On or before COB on December 15, 2021, Plaintiff shall comply with both requests by producing all responsive documents it in possession, custody, or control.

Dkt. No. 167. Motion to Compel Documents from Related Cases

Amazon moves to compel further production of documents from related litigation in response to its Requests 55, 56, 68, 74, 112 and 113. Amazon agreed that Plaintiff need not produce publicly available information and it has limited its requests to cover only “past interrogatory and RFA responses, claim charts, infringement and invalidity contentions and other Patent Local Rule disclosures, expert reports, MasterObjects privilege logs, technical tutorials, demonstratives, document production cover letters, hearing transcripts, unproduced transcripts of MasterObjects — aligned or neutral witnesses, and any under seal filings.”

Plaintiff responds that the requested documents are irrelevant and that they are likely to contain third-party confidential information subject to pre-existing confidentiality orders and agreements.

Related litigation tends to be highly relevant to issues of validity, infringement, and damages in patent litigation. In its Amended Complaint in this case, MasterObjects details its previous litigation successes. (*See e.g.*, Paragraphs 15, 41, 91 and 108.) Having put this history into issue, Plaintiff cannot credibly challenge discovery on these cases as irrelevant.

There is no actual evidence before me of concerns from third parties regarding confidential information. Plaintiff asserts that it has taken the steps it is required to take to put the relevant parties on notice. No objection or request for protective order has been filed. In any

event, confidentiality concerns, if any, can be addressed under the terms of the Protective Order in this case.

Amazon's Motion to Compel is GRANTED. On or before COB on December 15, 2021, Plaintiff shall produce the documents listed above that are within its possession, custody, or control.

Dkt. No. 168. Motion to Compel Prosecution Bar Materials

Amazon moves to compel production of a privilege log of all "prosecution and litigation — related communications" between Plaintiff's trial counsel and Plaintiff and all communications between trial counsel and MaterObjects' patent prosecution attorneys. Plaintiff opposes the motion and seeks sanctions.

Amazon claims to be concerned that Plaintiff's trial counsel has violated the terms of the Model Protective Order which contains a prosecution bar. In general, a prosecution bar prohibits any attorney who has had access to a third party's confidential information from using that information to influence the scope of her client's patent claims. As part of the meet and confer process, Plaintiff produced a partial privilege log. The log did not allay Defendant's concerns. Rather, Defendant argues that entries in the partial log compel a broader investigation. In this motion, Amazon limits its request to a more complete privilege log, but it notes that once it reviews the new log it may seek *in camera* review of particular documents.

MasterObjects responds that the allegations are unfounded and frivolous. In support of its position, Plaintiff offered *in camera* review of all the documents on its 15-page log. The undersigned accepted that offer and reviewed the documents before the hearing.

Amazon's allegations are speculative and unfounded. The log entries on which it relies are subject to an innocent interpretation. In fact, the actual documents demonstrate that all participants in the communications were aware of the prosecution bar and took careful steps to comply with it. The best that can be said about Amazon's professed "concern" is that it is based on an overly broad and mistaken reading of the rule which, if adopted, would prevent all communication between litigation and prosecution counsel and most communication between litigation counsel and clients.

Nevertheless, although its reasons may be misguided, Amazon is entitled to the privilege log it seeks. The rule is simple and absolute, if a relevant document is withheld from production on the ground of privilege, a log must be produced to disclose the existence of the document. Judge Alsup expressly reminded the parties of this requirement in a Hearing on March 25, 2021. (Transcript 27:9-15.)

Given the amount of prior litigation concerning these patents, the burden of producing a complete privilege log may be substantial. And, given the facts of this case, that burden is likely asymmetrical. The record reflects good faith efforts by both sides to limit burden, resolve disputes and devote efforts to projects likely to be relevant at trial. I encourage the parties to

continue to discuss whether it makes sense to impose this burden given my views on the evidence presented to date.

Nevertheless, the Motion to Compel is GRANTED. On or before COB on December 24, 2021, Plaintiff is required to produce a complete log of all documents described in Amazon's motion, as set out above.

Amazon is reminded that the last day to file fact discovery motions in this case was November 9, 2021. As previously noted, Judge Alsup has expressly ordered that the discovery cut-off be maintained. Nothing in this Order should be construed as leave to file any follow-on motion.

Plaintiff's Counter-motion for Sanctions is DENIED WITHOUT PREJUDICE for failure to comply with Local Rule 7-8.

Dkt. No. 169. Motion to Seal Docket 168

At the Hearing, on the record, Plaintiff withdrew its motion to seal both the Letter Brief and the attached Exhibit. Consequently, the Letter Brief and its Exhibit, Docket No. 168 should be filed in the public record.

Dkt. No. 171. Motion to Compel Further Answers to MasterObjects' Interrogatories 4-9

Plaintiff served Interrogatories seeking to discover how Amazon's Instant Search system works. Amazon responded, pursuant to FRCP 33(d) by designating software programs, code and related documents. Plaintiff argues that only a written description of how the system works will be helpful at trial and that Amazon is in the best position to provide that description.

Software cases are difficult. Plaintiffs may be required to spend hundreds of hours studying defendants' programs trying to achieve an understanding of the result of years of software development and evolution. It would be so much easier, plaintiffs argue, if a defendant could be required to explain it, even at the highest level.

Despite appreciating the reasons why plaintiffs make these requests, courts have been consistently unwilling to grant them. Plaintiffs who initiate litigation must prove their allegations; defendants cannot be compelled to do the work for them. *See Apple Inc. v Samsung Elecs. Co., Ltd.*, No. 12-CV-0630 LHK (PSG), 2013 WL 1563253, at *1 (N.D. Cal. Apr. 12, 2013) and *Digital Reg of Texas, LLC v Adobe Sys. Inc.*, No. CV 12-01971, 2013 WL 3361241, at *5 (N.D. Cal. July 3, 2013.)

Plaintiff's motion to compel further answers to these interrogatories is DENIED.

Dkt. No. 170. Motion to Seal Docket No. 171

The Administrative Motion to Seal is GRANTED. The material cited is clearly confidential and there is no interest in sharing it with the public. The following portions of

Exhibit A to the Letter Brief (Dkt. No. 171) should be sealed. [Page number citations are to the interrogatory response's original paginations, not to ECF or PDF page numbers.]

- Exhibit A Page 5, lines 19-20.
- Exhibit A Page 6, lines 20-21
- Exhibit A Page 7, lines 22-23
- Exhibit A Page 8, lines 22-23
- Exhibit A Page 9, lines 20-21
- Exhibit A Page 11, lines 3-4

SO ORDERED

Dated: December 3, 2021.

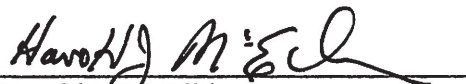

Harold J. McElhinny
Special Master

EXHIBIT T

From: [Citroen, Phillip W.](#)
To: [Nosson Knobloch](#); [ServicePH Samsung-ELM 3DS](#)
Cc: [Poff, Adam](#); [Michael J. Farnan](#); [Brian E. Farnan](#); [Mailing List - Leedy](#)
Subject: RE: Samsung/Elm Meet and Confer on Thursday
Date: Sunday, February 6, 2022 9:32:15 PM

Nosson,

Schedule. We are still considering your proposal to adjust the current case schedule, as Samsung just returned from its Lunar New Year holiday.

Interrogatory Supplementation. Our characterization of our January 27 call was accurate. On that call, we explained that we are open to addressing specific concerns Elm may have relating to the technical interrogatories, but that we would need Elm to specifically identify what those concerns are. Rather than seriously entertain that reasonable proposal, your response was that Samsung must agree to provide narrative responses to every technical interrogatory describing all technical details of the representative products. Your emails below do not move this discussion forward either.

We understand that Elm has identified [REDACTED] an issue that has been discussed in prior emails and meet and confers, but that does not justify Elm's extreme request for extensive narrative responses to every technical interrogatory; nor does your reference to other, still unidentified discrepancies that Elm has allegedly encountered. At the end of the day, Samsung would have to review the documents produced to Elm to derive or ascertain answers to Elm's interrogatories. It would be substantially the same burden on Elm to perform a similar review.

Your point about the standalone computer is a red herring. [REDACTED]
[REDACTED]
[REDACTED] [REDACTED]
[REDACTED]
[REDACTED] It
is also telling that Elm is only now complained about an inability to access documents on the standalone computer, which was set up over a year ago.

All that said, we remain available to discuss this issue further, assuming Elm is willing to work with Samsung to reach a reasonable compromise.

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]

Meet and Confer. We are not available on Thursday this week to meet and confer. We are available Friday afternoon or early the following week.

Thanks,
Phillip

From: Nosson Knobloch <nosson.knobloch@bartlitbeck.com>
Sent: Tuesday, February 1, 2022 4:34 PM
To: Citroen, Phillip W. <phillipcitroen@paulhastings.com>; ServicePH Samsung-ELM 3DS <ServicePHSamsung-ELM3DS@paulhastings.com>
Cc: Poff, Adam <apoff@ycst.com>; Michael J. Farnan <mfarnan@farnanlaw.com>; Brian E. Farnan <bfarnan@farnanlaw.com>; Mailing List - Leedy <leedy@bartlit-beck.com>
Subject: [EXT] RE: Samsung/Elm Meet and Confer on Thursday

Phillip—one item I neglected to note in my earlier email: Your reliance on Rule 33(d) is also inappropriate because that rule requires “giving the interrogating party a reasonable opportunity to examine and audit the records and to make copies, compilations, abstracts, or summaries.”

Key documents Samsung has relied on have been sequestered on a standalone computer that Elm’s counsel does not have access to, in clear violation of this requirement.

BartlitBeck^{LLP}

Nosson D. Knobloch | p: 303.592.3122 | c: 773.301.2851 | Nosson.Knobloch@BartlitBeck.com | 1801 Wewatta Street, 12th Floor, Denver, CO 80202

This message may contain confidential and privileged information. If it has been sent to you in error, please reply to advise the sender of the error and then immediately delete this message.

From: Nosson Knobloch
Sent: Tuesday, February 1, 2022 1:47 PM
To: Citroen, Phillip W. <phillipcitroen@paulhastings.com>; ServicePH Samsung-ELM 3DS <ServicePHSamsung-ELM3DS@paulhastings.com>
Cc: Poff, Adam <apoff@ycst.com>; Michael J. Farnan <mfarnan@farnanlaw.com>; Brian E. Farnan <bfarnan@farnanlaw.com>; Mailing List - Leedy <leedy@bartlit-beck.com>
Subject: RE: Samsung/Elm Meet and Confer on Thursday

Phillip,

Thanks for agreeing to make your best effort to substantially complete

discovery [REDACTED]

[REDACTED] With that extension, we believe the following additional changes should be made to the current case schedule:

1. Elm's deadline to serve interrogatories, 30(b)(6) notices, and fact deposition notices: move from March 14 to March 28
2. Close of fact discovery: move from April 14 to April 27

We note that these changes will not impact the deadlines for expert reports or motions practice which, as we've told you before, Elm cannot agree to extend any further. Please let me know if you agree with these scheduling tweaks and, if so, we can prepare an updated scheduling stipulation.

With regard to the interrogatory supplementations, we disagree with your characterization of our conversation. Among other things, we did not "flatly reject" any Samsung proposals. In fact, we told you that we'd be happy to avoid unnecessary motions practice by working to resolve our disagreement. But we also made clear that we did not believe Rule 33(d) was fundamentally appropriate for addressing many of the issues raised in our interrogatories. You disagreed with that basic premise, which is why we believe judicial intervention is necessary. That said, we are always open to further discussion and would be happy to make ourselves available to talk this week if you think that might enable the parties to avoid unnecessary motions practice.

We also disagree with your assertion that Elm has failed to explain what needs a narrative response, or why a narrative response is necessary. We discussed those issues at length on our meet and confer. But our concerns appear to have fallen on deaf ears, as your email falsely asserts that the only issue we raised was a discrepancy regarding the thickness of one product. [REDACTED]

[REDACTED] We also discussed the fact that, given the numerous issues we've encountered deciphering the documents you've identified, "the burden of deriving or ascertaining the answer" is *not* "substantially the same for either party" as required by Rule 33(d).

There were a few other items we discussed last week that I was hoping to follow up on:

[REDACTED]

[REDACTED]

- a. As promised on our call, we sent you a proposed stipulation last week.
- b. Can you please let us know *this week* whether Samsung agrees to that stipulation?

[REDACTED]

- c. Can you please let us know *this week* whether I have accurately summarized Samsung's trial plan, so that we can evaluate and let you know if we have any changes to propose?

[REDACTED]

- [REDACTED]
- b. Can you please let us know *this week* what your investigation has revealed?

Thanks,

-Nosson

BartlitBeck LLP

Nosson D. Knobloch | p: 303.592.3122 | c: 773.301.2851 | Nosson.Knobloch@BartlitBeck.com | 1801 Wewatta Street, 12th Floor, Denver, CO 80202

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From: Citroen, Phillip W. <phillipcitroen@paulhastings.com>

Sent: Friday, January 28, 2022 2:36 PM

To: Nosson Knobloch <nosson.knobloch@bartlitbeck.com>; ServicePH Samsung-ELM 3DS <ServicePHSamsung-ELM3DS@paulhastings.com>

Cc: Poff, Adam <apoff@ycst.com>; Michael J. Farnan <mfarnan@farnanlaw.com>; Brian E. Farnan <bfarnan@farnanlaw.com>; Mailing List - Leedy <leedy@bartlit-beck.com>

Subject: RE: Samsung/Elm Meet and Confer on Thursday

Nosson,

Below is our follow up on the issues we discussed yesterday.

1. [REDACTED]

2. [REDACTED]

[REDACTED]

3. **Interrogatory Supplementation**

a. In the email below and during our call, we explained that Samsung’s reliance on Rule 33(d) is appropriate for responding to Elm’s technical interrogatories. In particular, in our email of January 14, for each exemplary product, we pointed Elm to specific documents from which responsive information can be derived for each issue raised in Elm’s technical interrogatories.

b. Elm believes that the specific reference to documents are insufficient and demands narrative responses as well, but the primary justifications provided by Elm were [REDACTED]
[REDACTED]
[REDACTED] the burden would be the same for Samsung and Elm to review the documents to derive or ascertain answers to Elm’s technical interrogatories.

c. Nevertheless, during our call, we explained that we may be able to reach a compromise to address any specific concerns, but Elm flatly rejected that proposal. You responded that Elm would accept nothing short of an “extensive” narrative response detailing every technical feature of the accused product that Elm believes is relevant to this case.

d. In sum, Samsung believes the information provided to date is sufficient, particularly in view of Elm’s failure and unwillingness to specify what exactly requires a detailed narrative response and why. Samsung remains available to meet and confer on this issue, and believes any motion practice at this point would be premature. If Elm decides to press forward anyway, Samsung is available for a conference call with the Court on February 16, 17, or 18.

Thanks,
Phillip

From: Citroen, Phillip W. <phillipcitroen@paulhastings.com>
Sent: Thursday, January 27, 2022 12:23 PM
To: Nosson Knobloch <nosson.knobloch@bartlitbeck.com>; ServicePH Samsung-ELM 3DS <ServicePHSamsung-ELM3DS@paulhastings.com>
Cc: Poff, Adam <apoff@ycst.com>; Michael J. Farnan <mfarnan@farnanlaw.com>; Brian E. Farnan <bfarnan@farnanlaw.com>; Mailing List - Leedy <leedy@bartlit-beck.com>
Subject: RE: Samsung/Elm Meet and Confer on Thursday

Nosson,

Please see our responses below. We can discuss on our call.

Thanks,
Phillip

From: Nosson Knobloch <nosson.knobloch@bartlitbeck.com>
Sent: Monday, January 24, 2022 6:29 PM
To: Citroen, Phillip W. <phillipcitroen@paulhastings.com>; ServicePH Samsung-ELM 3DS <ServicePHSamsung-ELM3DS@paulhastings.com>
Cc: Poff, Adam <apoff@ycst.com>; Michael J. Farnan <mfarnan@farnanlaw.com>; Brian E. Farnan <bfarnan@farnanlaw.com>; Mailing List - Leedy <leedy@bartlit-beck.com>
Subject: [EXT] Samsung/Elm Meet and Confer on Thursday

Phillip,

We have a lot to discuss on Thursday. To the extent you can, please send us updates in advance of Thursday's call so that we can have a productive conversation.

Thanks,

-Nosson

1.

[REDACTED]

[REDACTED]

2. Interrogatory Supplementation: The exemplar products correlation chart you provided just over a week ago confirms what we have long suspected: Samsung cannot rely on Rule 33(d) and merely identify documents in response to interrogatories seeking technical data about the accused products. [REDACTED]

[REDACTED]

If Samsung cannot agree to provide such narrative responses to the technical interrogatories *by January 31* for the three exemplar products, and *by February 18* for all the remaining representative products, then we intend to seek immediate judicial intervention.

[REDACTED]

3.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

We are continuing to investigate this issue and, in the meantime, reiterate our request that Samsung provide additional information on this front in order to avoid unnecessary judicial intervention.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[PH] This is another inaccurate summary of our discussion. We have explained many times, including during our last call, that Samsung would make best efforts to produce documents on a rolling basis, as it did for the exemplary products.

[REDACTED]

[REDACTED]

[REDACTED]

BartlitBeck_{LLP}

Nosson D. Knobloch | p: 303.592.3122 | c: 773.301.2851 | Nosson.Knobloch@BartlitBeck.com | 1801 Wewatta Street, 12th Floor, Denver, CO 80202

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