

ROUGH DRAFT

08:44:34

1 LOS ANGELES, CALIFORNIA; TUESDAY, JUNE 6, 2017

08:49:17

2 9:06 A.M.

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14 SECTION 273b

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09:05:50

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17 THE VIDEOGRAPHER: Good morning. My name

09:06:01

18 is Fritz Sperberg. I'm a videographer with DTI.

09:06:05

19 The court reporter is Philip Norris, also with DTI,

09:06:08

20 at 20750 Ventura Boulevard, Woodland Hills,

09:06:12

21 California. Today's date is June 6th, 2017. The

09:06:17

22 time is now 9:06 a.m.

09:06:20

23 Our location is 1888 Century Park East in

09:06:24

24 Los Angeles, California.

09:06:26

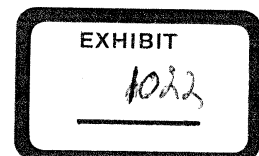
25 Counsel, please identify yourselves and

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ROUGH DRAFT

09:06:28

1 state whom you represent.



R.J. Reynolds Vanor

09:06:30 2 MR. MALLIN: Robert Mallin and Ralph Gabric
09:06:33 3 of Brinks Gilson & Lione on behalf of petitioners.

09:06:36 4 MS. DUEPPEN: Lara Dueppen, Nate Kassebaum
09:06:41 5 and Joseph Hamilton for patent holdings 1 BV.

09:06:46 6 THE VIDEOGRAPHER: All others present
09:06:47 7 please identify yourselves for the record.

09:06:50 8 MR. KASSEBAUM: Nathan Kassebaum
09:06:51 9 representing Fontem.

09:06:52 10 MR. HAMILTON: And Joe Hamilton
09:06:54 11 representing Fontem.

09:06:56 12 MR. GABRIC: Morning. Ralph Gabric
09:06:57 13 representing petitioner.

09:07:00 14 THE VIDEOGRAPHER: Thank you.

09:07:00 15 The witness today is Richard Meyst.

09:07:03 16 Would the reporter please swear in the
09:07:05 17 witness.

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RICHARD MEYST,

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having been first duly sworn, was

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examined and testified as follows:

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EXAMINATION

09:07:16 24

09:07:16 25 BY MR. MALLIN:

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ROUGH DRAFT

09:38:12 1 any file histories other than the '239 patent?

09:38:18 2 A. I would have to go back and look. I don't

09:38:20 3 know.

09:38:20 4 Q. For the day-to-day -- the patent that's the
09:38:43 5 subject of this IPR is patent, U.S. patent,
09:38:46 6 8,899,239; correct?

09:38:49 7 A. Yes.

09:38:49 8 Q. Okay. If I refer to the '239 patent, will
09:38:54 9 you understand what I'm referring to?

09:38:55 10 A. Yes.

09:38:56 11 Q. So we can both refer to it that way. All
09:38:59 12 right?

09:38:59 13 A. Yes.

09:38:59 14 Q. Great. Thank you.

09:39:02 15 What is the technology relating to the '239
09:39:07 16 patent?

09:39:10 17 A. Well, it's an electronic cigarette.

09:39:13 18 Q. Okay. And what technology is involved in
09:39:16 19 that?

09:39:17 20 MS. DUEPPEN: Objection, asked and
09:39:19 21 answered.

09:39:19 22 THE WITNESS: As part of an electronic
09:39:23 23 cigarette?

09:39:23 24 MR. MALLIN: Yeah.

09:39:25 25 THE WITNESS: Well, the production of vapor
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ROUGH DRAFT

09:39:30 1 or aerosol, so there's a conversion technology to go
09:39:37 2 from a liquid to a vapor in aerosol. There's also
09:39:48 3 some electronics involved, so there's a heater, a
09:39:52 4 circuit to control that. Additionally, there's a
09:39:59 5 light to emulate a burning ember of a cigarette when
09:40:06 6 the person uses a device.

09:40:14 7 So there also would be typical --
09:40:18 8 materials, technology, manufacturing technology
09:40:21 9 producing all of the components and those are all
09:40:24 10 technologies, I guess.

09:40:33 11 There could be others that I didn't
09:40:34 12 mention.

09:40:35 13 BY MR. MALLIN:

09:40:36 14 Q. Is there a difference between a vapor and
09:40:37 15 an aerosol?

09:40:41 16 A. Yes.

09:40:42 17 Q. What's the difference between the two?

09:40:44 18 A. An aerosol is fine droplets where a vapor
09:40:50 19 is vapor.

09:40:52 20 Q. When you say "vapor," is vapor, does that
09:41:03 21 mean vapor is a gas?

09:41:04 22 A. It's a gas, yes. There could be very small
09:41:07 23 particles in the vapor, but the distinguishing
09:41:09 24 difference is that the aerosol has small droplets
09:41:15 25 which you can see. A vapor oftentimes you can't

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ROUGH DRAFT

09:41:19 1 see.

09:41:24 2 Q. For an aerosol, is there any limitation to
09:41:27 3 the size of these fine droplets?

09:41:32 4 MS. DUEPPEN: Objection, scope.

09:41:33 5 THE WITNESS: I don't understand your
09:41:34 6 question. Is there a limitation?

09:41:36 7 MR. MALLIN: Right.

09:41:37 8 Q. I mean, how small do the fine droplets need
09:41:39 9 to be to be considered an aerosol?

09:41:42 10 MS. DUEPPEN: Objection, scope.

09:41:43 11 THE WITNESS: I don't know if there's a

09:41:51 12 particular break-off or cut-off point.

09:41:55 13 MR. MALLIN: Okay.

09:41:56 14 THE WITNESS: As far as a definition.

09:42:01 15 BY MR. MALLIN:

09:42:06 16 Q. You'd mentioned that the '239 patent

09:42:23 17 involves a light to emulate a burning ember; do you

09:42:27 18 recall that?

09:42:28 19 A. Yes.

09:42:28 20 Q. Okay. And by "a burning ember" do you mean

09:42:31 21 the burning end of the cigarette?

09:42:33 22 A. Yes.

09:42:33 23 Q. Okay. And could you describe what the

09:42:39 24 burning end of a cigarette looks like?

09:42:43 25 A. Well, I think I have a -- an explanation in

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