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

Proceeding	92054171
Party	Defendant VGO Communications, Inc.
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

Valeritas, Inc.,)	
)	
Petitioner,)	
)	
v.	)	Cancellation No. 92054171
)	
VGo Communications, Inc.,)	
)	
Registrant.)	
)	

**REGISTRANT’S CORRECTION OF INADVERTENT FILING OF PROTECTED
MATERIALS**

On December 15, 2014, Registrant VGo Communications, Inc. submitted its opposition to Petitioner Valeritas, Inc.’s Motion for Summary Judgment. In its submission, Registrant supplied a copy of Petitioner’s Second Supplemental Responses to Registrant’s Interrogatories in Exhibit I that had been marked “Confidential – For Attorneys’ Eyes Only”. Registrant also included a quote from the third page of Petitioner’s responses in Registrant’s memorandum. Because the confidential designation did not appear on the third page, but was made only on the first page of the responses, Registrant inadvertently did not redact this material.

Upon being made aware of the situation, counsel for Registrant contacted the Trademark Trial and Appeal Board staff and had the inadvertent disclosure marked confidential, thereby rendering it unavailable via TTABVue. In this filing, Registrant supplies a copy of its original December 15, 2014, filing with the appropriate redactions in its memorandum and Exhibit I.

VGo Communications. Inc..

By its attorneys,

/John V. Hobgood/

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January 6, 2015

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

Valeritas, Inc.,)	
)	
Petitioner,)	
)	
v.	)	Cancellation No. 92054171
)	
VGo Communications, Inc.,)	
)	
Registrant.)	
)	

**REGISTRANT’S OPPOSITION TO PETITIONER’S MOTION FOR SUMMARY
JUDGMENT AND MEMORANDUM IN SUPPORT THEREOF**

Registrant VGo Communications, Inc. respectfully submits its opposition to Petitioner Valeritas, Inc.’s Motion for Summary Judgment, pursuant to Rule 2.116 of the Trademark Rules of Practice, 37 C.F.R. §2.127(e) of the Federal Rules of Procedure.

I. PROCEDURAL HISTORY

On March 2, 2010, Registrant filed an application to register its trademark VGO on the basis of an intention to use the mark in commerce with the following goods, “robotic video and audio communication hardware; computer software for use in connection with audio and video communication systems.” A registration was issued from this application on December 21, 2010. Petitioner filed its Petition for Cancellation on June 28, 2011. The parties exchanged Initial Disclosures in October 2011 and conducted discovery from November 2011 through November 2014. During the discovery period, the parties attempted on numerous occasions to settle the matter but were unable to reach agreement. Petitioner served its Motion for Summary Judgment on November 8, 2014.

Registrant now responds to Petitioner's Motion for Summary Judgment.

II. ARGUMENT

A. The Standard for Summary Judgment

Rule 56(a) of the Federal Rules of Civil Procedure, adopted as TBMP §528, allows for summary judgment when there are no genuine issues of material fact in dispute. Summary judgment is inappropriate if a dispute about a material fact is genuine, "that is, if the evidence is such that a reasonable jury could return a verdict for the nonmoving party." Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 248 (1986). Summary judgment will be granted "only where the moving party is entitled to judgment as a matter of law, where it is quite clear what the truth is, . . . [and where] no genuine issue remains for trial . . . [for] the purpose of the rule is not to cut litigants off from the right of trial . . . if they really have issues to try." Poller v. Columbia Broadcasting Sys., Inc., 368 U.S. 464,467 (1962) (quoting Sartor v. Arkansas Natural Gas Corp., 321 U.S. 620, 627 (1944)).

To prevail on its Motion, Petitioner must prove that there are no disputed facts and that there is an "absence of evidence to support the non-moving party's case." TBMP §528.01. "The burden in a motion for summary judgment is on the moving party to establish prima facie that there is no genuine issue of material fact . . ." Shalom Children's Wear Inc. v. In-Wear A/S, 26 USPQ2d 1516, 1518 (TTAB 1993), and "all inferences to be drawn from the undisputed facts must be viewed in the light most favorable to the nonmoving party. . ." Moreover, "[a]ll doubts as to whether or not particular factual issues are genuinely in dispute must be resolved against the moving party." Flatley v. Trump, 11 USPQ2d 1284, 1287 (TTAB 1989).

When all inferences are drawn in favor of Registrant VGo Communications, Inc., this Cancellation presents genuine issues of material fact which compel denial of Petitioner Valeritas, Inc.'s Motion for Summary Judgment.

B. Statement of Disputed Factual Issue

The following unresolved issue of material fact precludes Summary Judgment: Whether there is a likelihood of confusion in view of the differences between the marks, the differences in the goods upon which the marks are used, the channels of trade in which the marks will be marketed and sold, the sophistication of the consumers, the lack of any actual confusion, and other factors distinguishing the marks.

C. The Marks are not likely to be confused

An examination of the factors set forth in In re E.I. DuPont DeNemours & Co., 476 F.2d 1357 (CCPA 1973), reveals numerous unresolved issues of material fact, precluding Summary Judgment in Petitioner's favor. Indeed, a cursory review of the record indicates that the majority of the factors overall support Registrant's contention that confusion is unlikely.

1. The Marks Differ in Appearance and Commercial Impression.

Petitioner argues that the similarities in its mark and Registrant's mark in standard characters make the marks virtually identical. Petitioner suggests that this alone requires the Board to determine that the parties marks are confusingly similar. See Petitioner's Motion for Summary Judgment at pg. 7. However, as set forth in more detail below, significant differences in other factors relevant to likelihood of confusion show unresolved genuine issues of material facts that render summary judgment inappropriate and, in fact, compel a determination that confusion is unlikely.

Petitioner compares the mark from Registrant’s specimen of use filed with its application (Registrant’s Design Mark) to Petitioner’s Mark Reg. No. 4,105,936 (Petitioner’s Design Mark), but Petitioner ignores material differences in appearance, connotation, and commercial impression between the marks¹. Petitioner’s Certificate of Registration, showing its Design Mark, and Registrant’s specimen of use, showing its Design Mark, are set forth below and are also provided in Exhibits A, and B, respectively.



As shown above, Petitioner’s Design Mark includes the words “DISPOSABLE INSULIN DELIVERY” in dark green below the “GO” component of the mark. Meanwhile, Registrant’s Design Mark has no other letter or word components aside from the letters “VGO” comprising the majority of the mark. The marks differ significantly in color scheme; the letters “VGO” of Registrant’s Design Mark are a single color, while those of Petitioner’s Design Mark are two-tone with the “V” in dark green and the “GO” in lime green. The font and letter layout of the marks differ as well. The letters “G” and “O” of Registrant’s Design Mark have a rounded square shape, the “G” overlaps with the “V”, and the letters “GO” fall roughly in the middle of the “V” from a vertical standpoint. The letters “G” and “O” of Petitioner’s Design Mark have a

¹ Petitioner cites Phillips Petroleum Company v. C.J. Webb, Inc., 170 U.S.P.Q. 35 (C.C.P.A. 1971) to support its comparison of its Design Mark to Registrant’s specimen of record. Petitioner discusses only the portion of Phillips in which that court found a high degree of similarity between the opposer’s and applicant’s marks and states, “As a result the court found a likelihood of confusion and reversed the TTAB’s decision dismissing the opposition.” See Petitioner’s Motion of Summary Judgment at pgs. 4-5. However, the Phillips Court did not decide likelihood of confusion based on a similarity of the marks alone. That court also found that Phillips’s mark was old and well known for petroleum products (dating back to Nov. 22, 1949) and that applicant’s and Phillips’s products were sufficiently similar. These later two factors are absent in the present cancellation, as is a sufficient similarity of the marks.

circular shape, there is no overlap between the letters, and the letters “GO” are top justified with the letter “V”.

Registrant’s Design Mark has a wheel symbol comprised of two arcs trailed by two pointed lines, which underline all three letters “VGO”. Petitioner has no such underline, but instead points to a hyphen that crosses the word “GO” to find a similarity between the marks. Petitioner states that Registrant’s rolling wheel element and Petitioner’s hyphen element suggest movement from left to right. However, in its Registration, Petitioner states, “The hyphen is a stylized design intended to represent a finger prick used to drawing [sic] blood for testing.” See Exhibit A. Moreover, when asked during her deposition what the hyphen element represented, Ms. Tara Charvat, Vice President Marketing and Marketing Operations for Petitioner, answered, “The needle button on the V-Go device.” See Deposition of Tara L. Charvat, attached as Exhibit C at 78:1-4. Thus, Petitioner has suggested three different impressions this element alone would make on the consumer. Which of these three impressions is appropriate, how that impression contributes to the overall connotation and commercial impression of the entire mark, and how that impression contrasts with the overall impression of Registrant’s Design Mark is, by itself, but one unresolved issue of material fact. See J. Thomas McCarthy, 4 McCarthy on Trademarks and Unfair Competition § 23:26 (“[T]he ‘psychological imagery evoked by the respective marks’ may overpower the respective similarities or difference in appearance and sound.”); see also Lever Bros. Co. v. Babson Bros. Co., 197 F.2d 531 (C.C.P.A. 1952). That the other differences between the design marks set forth above must be weighed with any similarities shows that the dissimilarity of the marks in their entireties is a genuine issue of material fact that renders summary judgment inappropriate.

Because of all these differences, Petitioner's Design Mark and Registrant's Design Mark create substantially different overall appearances, connotations and commercial impressions. It is clear that genuine issues of material facts exist which compel denial of Petitioner's Motion for Summary Judgment.

2. *The goods are distinct.*

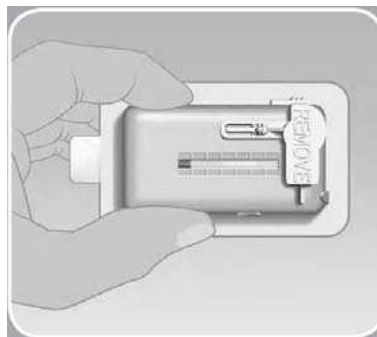
The Petitioner's goods are listed as "medical apparatus, namely, infusion and injection devices for administering drugs" in class 10. Petitioner's Vice President of Marketing described the product as "A disposable insulin delivery device," that "delivers insulin over a 24-hour period which you can take off and remove after that 24 hours and throw out." See Exhibit C at 10:20-12:5. Petitioner's Chief Executive Officer explains that its core product is designed for Type 2 diabetics, and, in use, "You insert it with insulin and then the patient puts it on their body, on the abdomen, and they click a couple of buttons and they deliver insulin on a continuous 24-hour basis. And then they click other buttons which will deliver insulin at mealtime." See Deposition of Kristen Peterson, CEO of Petitioner, attached as Exhibit D at 13:13-19.

The Registrant's goods are identified as "robotic video and audio communication hardware; computer software for use in connection with audio and video communication systems" in class 9. See Certificate of Registration No. 3,895,432, attached as Exhibit E. In the Rule 30(b)(6) Deposition of VGo Communications, Inc., attached as Exhibit F, Registrant describes its product as "a robotic telepresence system [that] is a robot with two-way audiovisual communications." See Exhibit F at 36:11-14. Registrant explained the meaning of "robotic telepresence" as "a physical avatar ... that has communication on a mobile platform that [one]

can control remotely ... [One] can drive the robot and go and meet people and interact with people remotely.” See id. at 36:15-37:2. In other words, Registrant’s goods are like a video phone on wheels.

Registrant’s goods are not infusion and injection devices for administering drugs and are not medical apparatus and, thus, do not fall within the range of the goods identified in the Petitioner’s registration. Registrant’s goods are clearly not disposable insulin delivery devices that continuously deliver insulin over a 24-hour period, and, indeed, do not deliver insulin or any other drug in any form or manner. Moreover, Registrant’s goods do not treat or diagnose diabetes or any other type of medical condition. Further still, Registrant’s products do not touch a patient, do not in and of themselves monitor or assess a patient for diagnosis or treatment, and do not administer any medication. Registrant’s product is a telepresence robot that provides two-way audiovisual communications that enables its user to communicate (including by video conference) with others remote from the user. It is difficult to believe that anyone would think that a remote communication robot would deliver a continuous supply of insulin over a 24-hour period or that such a robot and an insulin delivery device would be provided by the same source.

Illustrative images of Registrant’s and Petitioner’s goods in use follow below. The source documents of these images are a Product Brochure describing Registrant’s products (produced at VGO000001-002), attached as Exhibit G, and a Patient Instruction Manual for Petitioner’s products (produced as VAL000672-698), attached as Exhibit H.



The picture on the left shows a user of Registrant's telepresence robot participating in a meeting with colleagues. The picture on the top right is a rendering of Petitioner's disposable insulin delivery device. The picture on the bottom right is a rendering of Petitioner's product in use by a patient.

Registrant's telepresence robot is approximately 48 inches tall by 13 inches wide by 15 inches deep and weighs between 18-22 pounds. The telepresence robot has a motorized wheel base that enables the user to move the robot from place-to-place as well as obstacle and stair detection sensors to prevent collisions and damage while in motion. The robot also includes a six inch LCD display, a camera, speakers, and a microphone array that enable its user to conduct audio-video communications. See Exhibit G at VGO000002.

Petitioner's disposable insulin delivery device is 2.4 inches long by 1.3 inches wide by 0.5 inches thick and weighs between 0.7-1.8 ounces. The insulin delivery device has an insulin capacity reservoir between 0.56 – 0.76 mL. The device has an adhesive patch that holds the device to the patient's skin, *e.g.*, the patient's abdomen, as shown above. The device also includes a needle that subcutaneously delivers insulin to the patient through the action of a mechanically driven syringe. See Exhibit H at VGO000683, 000690.

Holding the evidence presented to date in the light most favorable to Registrant, there is a question of material fact as to whether Registrant's goods would be related to Petitioner's goods as they travel in commerce.

3. *There is no similarity between the Petitioner's established, likely-to-continue trade channels and Registrant's established, likely-to-continue trade channels.*

Petitioner's product is used by individuals that have diabetes. See Exhibit D at 13:13-19. Petitioner states that its product "[REDACTED]" See Petitioner's Second Supplemental Responses to Registrant's Interrogatories, No. 16, attached as Exhibit I. Thus, Petitioner's product must be prescribed by a physician. See Exhibit C at 14:10-15. As a result, Petitioner sells its goods "through all prescription based product channels." See Petitioner's Response to Registrant's First Set of Interrogatories, No. 6, attached as Exhibit J. Importantly, because the FDA requires a prescription for Petitioner's product, the individual end user of the product must consult a health care professional before being able to obtain the product from a pharmacy of any kind.

Registrant's product does not require a prescription – it is a telepresence robot – and does not require an FDA-clearance. Thus, Registrant does not sell its products through pharmacies,

other prescription based product channels, or retail outlets. Rather, Registrant sells its goods directly or through Value Added Resellers. See Registrant's Responses to Petitioner's First Set of Interrogatories, No. 5, attached as Exhibit K. Moreover, Registrant seeks to "[provide] its products to companies within the enterprise, education, and health care markets." See *id.* at No. 4.

The Petitioner claims the parties' products are closely related merely because Registrant sells its products into the health care market. However, Registrant's products are sold to the enterprise and education markets as well. See Exhibit F at 42:12-15. Petitioner makes no claim that it targets these later two markets. Although Petitioner ignores this issue, Petitioner's own exhibits to its Motion for Summary Judgment are replete with examples of Registrant's marketing efforts and the use of its products in the enterprise and education markets. See Petitioner's Motion for Summary Judgment, Exhibit I (VGO001327: schools use Registrant's products to enable home bound students to participate in class; VGO001329-1330: Registrant's products sold to Cisco, Intel, Ericsson, Massachusetts Institute of Technology, and Baylor University; VGO001354: Automobile maker Audi uses Registrant's products to enable technical assistance consultants to remotely diagnose vehicle problems.)

Registrant markets and sells its products to the enterprise market, which includes, *e.g.*, large enterprise, manufacturing, and small business consumers. Registrant's products help its enterprise consumers overcome distance, manage remote teams, and maintain a virtual presence at many geographically distant locations at once. For example, Registrant's products also enable remote engineers and remote project team leaders to engage in processes and keep visually involved in engineering, product development, and manufacturing projects. In another illustrative application, Registrant's products were used by a telecommunications company to

virtually attend the 2012 Consumer Electronics Show (CES). Registrant's telepresence robot enabled the company's representative to interact with others in the company's booth at CES as well as move about the conference and interact with other vendors. See Registrant Solution Examples, attached as Exhibit L.

Registrant also markets and sells its products to the educational market. Registrant's products enable students with disabilities and immune-deficiencies to attend classes virtually via the products' audio-video communication link to the telepresence robot. Students who are unable to physically attend school due to their illness or condition are able to move between classrooms independently and socialize with their friends via Registrant's products. See Registrant Solution Examples, attached as Exhibit M.

Moreover, in the health care market, Registrant does not specifically target individuals for sale of its products, but rather targets "the chief information officer, the IT department, [or] the chief innovation officer of health care institutions." See Exhibit F at 50:11-19; 60:14-19. To the extent Registrant advertises to individual health care providers, *e.g.*, individual physicians, it does so to identify possible needs to those in IT departments. See Exhibit F at 92:2-94:7. In other words, Registrant does not target the patient segment of the health care market, but rather the information technology segment of the health care market. It is appropriate for the Board to consider whom within the health care market makes the buying decisions when determining whether a likelihood of confusion exists. In Astra Pharm. Prods., Inc. v. Beckman Instruments, Inc., 718 F.2d 1201 (1st Cir.1983), the court found no likelihood of confusion between two uses of the identical mark "ASTRA". In Astra, the plaintiff, appellant sold mainly local anesthetics, cardiovascular medicines, and prefilled syringes. Id. at 1205. Meanwhile, the defendant,

appellee sold a computerized instrument that measured the quantities of various substances in a patient's blood. Id. at 1203-04.

The Astra court recognized that the products in question were all marketed to, sold to, and used in hospitals. See Astra, 718 F.2d at 1206-07. However, the decision to purchase appellant's products was made through the hospital pharmacy, while the appellee's blood analyzer was marketed to the hospital chemistry lab. Id. at 1206. In recognizing this difference as important to finding no likelihood of confusion, the court stated, "The 'hospital community' is not a homogeneous whole, but is composed of separate departments with diverse purchasing requirements, which, in effect, constitute different markets for the parties' respective products." Id. at 1207.

Because of the differences in the nature of the products, the manner in which they will come to be used, the markets into which they are sold, and the market segments to which they are marketed, it is clear that genuine issues of material facts as to the similarity of the channels of trade for these products exist which compel denial of Petitioner's Motion for Summary Judgment.

4. *The Conditions under which and Buyers to whom sales are made prevent confusion.*

The goods of both the Petitioner and the Registrant are not impulse purchases. In the case of the Petitioner, a consumer will have diabetes, the consumer must see a health care professional to have it diagnosed, the health care profession will offer a prescription for the treatment, and the consumer must then go to another party to purchase the goods for the treatment. Indeed, an individual purchasing Petitioner's product does so out of medical necessity

and not on a whim. Thus, necessarily, health care professionals are involved in the purchasing decisions and dispensing of Petitioner's goods. These health care professionals are sophisticated, having necessarily been educated about the benefits, side effects, and dosages of drugs and drug delivery systems. They are therefore likely to exercise more than the normal degree of care in determining whether to prescribe the Petitioner's products. See Astra, 718 F.2d at 1206-07 (health care provider "must be extremely cautious about what medicines it administers to its patients, as well as their source."). It goes without saying that a telepresence robot cannot be used in place of an insulin delivery device for the treatment of diabetes. As a result, a health care professional would not believe there is any connection between Petitioner's and Registrant's products. Therefore, the required involvement of an educated health care professional assisting in the selection of Petitioner's products and educating the consumer about use of the products ensures that there will be no likelihood of confusion.

Although for different reasons, consumers of Registrant's products also carefully consider the purchase of Registrant's products. First, these consumers will most often be a company, school, health care institution, or other large entity rather than an individual. Second, the purchasing decision will be made by the chief information officer, member of the information technology department, or member of the videoconferencing department of the company, institution, or school. See Exhibit F at 42:12-15; 50:11-19; 60:14-19. Third, the cost of Registrant's products is \$6,000-\$7,000 for a single telepresence robot. See id. at 38:15-23. Thus, the consumers of Registrant's products will be sophisticated buyers purchasing relatively expensive products, which ensures that there will be no likelihood of confusion. See Astra, 718 F.2d at 1206 ("[T]here is always less likelihood of confusion where goods are expensive and purchased after careful consideration.").

Because of the differences in the conditions under which sales are made, the differences in the buyers to whom the sales are made, and the relatively high degree of care exercised in the buying process, it is clear that genuine issues of material facts exist which compel denial of Petitioner's Motion for Summary Judgment.

5. *The record lacks evidence of actual confusion.*

Petitioner first used its Design Mark in commerce on January 3, 2012. Meanwhile, Registrant has continuously used its Design Mark in commerce since July 29, 2010. Registrant is not aware of any instances of actual confusion between Registrant and/ Registrant's Design Mark on the one hand and Petitioner and/or Petitioner's Design Mark on the other hand. See Exhibit K at No. 3. Nor is Registrant aware of any instance in which any person has claimed to be deceived, mistaken, or confused regarding the source of Registrant's goods or services offered under or in connection with Registrant's Design Mark based on confusion with Petitioner and/or Petitioner's Design Mark. See *id.* at No. 8.

In its Responses to Registrant's Interrogatories, Petitioner has identified only one instance of what it claims to be actual confusion as to the identity of the parties herein or their respective products or services.² However, the evidence in the record concerning this lone instance shows that the individual was not, in fact, confused as to the identity of the parties or their products. Specifically, Petitioner states:

Dr. Richard E. Pratley notified Petitioner that he received information from [Registrant] referring to the V-GO mark. Dr. Pratley is Director of the Florida Hospital Diabetes Institute and

² Registrant's Interrogatory No. 8 of its First Set of Interrogatories states, "Describe each instance you know of wherein any person has been confused, mistaken or deceived as to the identity of the parties herein or their respective products or services."

Senior Scientist and Professor at the Florida Hospital Sanford/Burnham Translational Research Institute. Dr. Pratley informed Petitioner, “Hey – somebody stole your name.....”

See Exhibit J at No. 8.; Electronic mail from Dr. Richard Pratley, VAL000720-722, attached as Exhibit N.

Holding the evidence of record in the light most favorable to Registrant, there is a question of material fact as to whether Petitioner’s example shows an instance of actual confusion. Specifically, there is a question as to whether Dr. Pratley was confused as to the source of information he received from Registrant or whether Dr. Pratley’s reference to “somebody” shows that he knew a party other than Petitioner was using a V-GO mark.

6. *Petitioner has failed to present evidence for other factors relevant to the lack of a likelihood of confusion.*

Petitioner has provided no evidence related to (i) the fame of the prior mark, (ii) the number and nature of similar marks in use on similar goods, (iii) the variety of goods on which a mark is or is not used, (iv) and the extent of potential confusion, i.e., whether de minimis or substantial. Genuine issues of material facts relevant to these omitted factors exist which compel denial of Petitioner’s Motion for Summary Judgment.

Upon an examination of the various factors which would establish a likelihood of confusion, it is clear Petitioner has submitted no evidence to support his case for a majority of the factors. For those few factors for which Petitioner has submitted evidence or argument, genuine issues of material facts exist which compel denial of Petitioner’s Motion for Summary Judgment. See Sports Authority, Inc. v. Prime Hospitality Corp., 89 F.3d 955, 39 U.S.P.Q.2d 1511 (2d Cir. 1996) (where five of the eight Polaroid factors weighed in favor of plaintiff and

three in favor of defendant, the court held that it was error for the district court to dismiss the case on summary judgment.)

IV. CONCLUSION

VGo Communications, Inc.'s Opposition to Valeritas, Inc.'s Motion for Summary Judgment has raised several contested issues of material fact. The unresolved facts relating to likelihood of confusion confirms that Petitioner's Motion for Summary Judgment should be denied.

VGo Communications. Inc..

By its attorneys,

/John V. Hobgood/

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December 15, 2010

TABLE OF AUTHORITIES

<u>Anderson v. Liberty Lobby, Inc.</u> , 477 U.S. 242, 248 (1986)	2
<u>Poller v. Columbia Broadcasting Sys., Inc.</u> , 368 U.S. 464,467 (1962)	2
<u>Shalom Children’s Wear Inc. v. In-Wear A/S</u> , 26 USPQ2d 1516, 1518 (TTAB 1993)	2
<u>Flately v. Trump</u> , 11 USPQ2d 1284, 1287 (TTAB 1989).	2
<u>In re E.I. DuPont DeNemours & Co.</u> , 476 F.2d 1357 (CCPA 1973)	3
<u>Phillips Petroleum Company v. C.J. Webb, Inc.</u> , 170 U.S.P.Q. 35 (C.C.P.A. 1971)	4
J. Thomas McCarthy, 4 <u>McCarthy on Trademarks and Unfair Competition</u>	5
<u>Lever Bros. Co. v. Babson Bros. Co.</u> , 197 F.2d 531 (C.C.P.A. 1952)	5
<u>Astra Pharm. Prods., Inc. v. Beckman Instruments., Inc.</u> 718 F.2d 1201 (1st Cir.1983)	11
<u>Sports Authority, Inc. v. Prime Hospitality Corp.</u> , 89 F.3d 955, 39 U.S.P.Q.2d 1511 (2d Cir. 1996)	15

EXHIBIT A

United States of America

United States Patent and Trademark Office



Reg. No. 4,105,936

Registered Feb. 28, 2012

Int. Cl.: 10

TRADEMARK

PRINCIPAL REGISTER

VALERITAS, INC. (DELAWARE CORPORATION)
SUITE 100
750 ROUTE 202 SOUTH
BRIDGEWATER, NJ 08807

FOR: MEDICAL APPARATUS, NAMELY, INFUSION AND INJECTION DEVICES FOR ADMINISTERING DRUGS, IN CLASS 10 (U.S. CLS. 26, 39 AND 44).

FIRST USE 1-3-2012; IN COMMERCE 1-3-2012.

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "DISPOSABLE INSULIN DELIVERY", APART FROM THE MARK AS SHOWN.

THE COLOR(S) DARK GREEN, MEDIUM GREEN, LIGHT GREEN, LIME GREEN, AND WHITE IS/ARE CLAIMED AS A FEATURE OF THE MARK.

THE MARK CONSISTS OF THE MARK "V-GO" WITH THE "V" IN DARK GREEN. THE HYPHEN, WHICH CROSSES THE WORD "GO" HORIZONTALLY APPROXIMATELY WHERE THE "G"'S CROSS BAR WOULD BEGIN AND ENDS INSIDE THE CENTER OF THE LETTER "O", IS A GENERALLY OVAL SHAPE WITH DARK GREEN ON THE LEFT, FADING TOWARD THE RIGHT INTO MEDIUM GREEN AND THEN LIGHT GREEN. THE GENERALLY OVAL SHAPE ENDS WITH A CIRCLE IN LIGHT GREEN, WITH A SHADED CIRCLE WITHIN THE LARGER CIRCLE. THE INNER SHADED CIRCLE IS DARK GREEN, FADING INWARD TO LIGHT GREEN, AND THEN FADING INWARD TO WHITE. THE HYPHEN IS A STYLIZED DESIGN INTENDED TO REPRESENT A FINGER PRICK USED TO DRAWING BLOOD FOR TESTING. THE "GO" COMPONENT OF THE WORDING APPEARS IN LIME GREEN. THE WORDS "DISPOSABLE INSULIN DELIVERY" ARE IN DARK GREEN BENEATH THE "GO" COMPONENT. THE WHITE INSIDE THE INNER SHADED CIRCLE ON THE HYPHEN IS A PART OF THE MARK. THE REST OF THE WHITE IS NOT PART OF THE MARK AND REPRESENTS BACKGROUND AREA.

SN 77-752,697, FILED 6-4-2009.



David J. Kyros

Director of the United States Patent and Trademark Office

ELLEN B. AWRICH, EXAMINING ATTORNEY

**REQUIREMENTS TO MAINTAIN YOUR FEDERAL
TRADEMARK REGISTRATION**

**WARNING: YOUR REGISTRATION WILL BE CANCELLED IF YOU DO NOT FILE THE
DOCUMENTS BELOW DURING THE SPECIFIED TIME PERIODS.**

Requirements in the First Ten Years*

What and When to File:

First Filing Deadline: You must file a Declaration of Use (or Excusable Nonuse) between the 5th and 6th years after the registration date. *See* 15 U.S.C. §§1058, 1141k. If the declaration is accepted, the registration will continue in force for the remainder of the ten-year period, calculated from the registration date, unless cancelled by an order of the Commissioner for Trademarks or a federal court.

Second Filing Deadline: You must file a Declaration of Use (or Excusable Nonuse) **and** an Application for Renewal between the 9th and 10th years after the registration date.*
See 15 U.S.C. §1059.

Requirements in Successive Ten-Year Periods*

What and When to File:

You must file a Declaration of Use (or Excusable Nonuse) **and** an Application for Renewal between every 9th and 10th-year period, calculated from the registration date.*

Grace Period Filings*

The above documents will be accepted as timely if filed within six months after the deadlines listed above with the payment of an additional fee.

**The United States Patent and Trademark Office (USPTO) will NOT send you any future notice or
reminder of these filing requirements.**

***ATTENTION MADRID PROTOCOL REGISTRANTS:** The holder of an international registration with an extension of protection to the United States under the Madrid Protocol must timely file the Declarations of Use (or Excusable Nonuse) referenced above directly with the USPTO. The time periods for filing are based on the U.S. registration date (not the international registration date). The deadlines and grace periods for the Declarations of Use (or Excusable Nonuse) are identical to those for nationally issued registrations. *See* 15 U.S.C. §§1058, 1141k. However, owners of international registrations do not file renewal applications at the USPTO. Instead, the holder must file a renewal of the underlying international registration at the International Bureau of the World Intellectual Property Organization, under Article 7 of the Madrid Protocol, before the expiration of each ten-year term of protection, calculated from the date of the international registration. *See* 15 U.S.C. §1141j. For more information and renewal forms for the international registration, see <http://www.wipo.int/madrid/en/>.

NOTE: Fees and requirements for maintaining registrations are subject to change. Please check the USPTO website for further information. With the exception of renewal applications for registered extensions of protection, you can file the registration maintenance documents referenced above online at <http://www.uspto.gov>.

EXHIBIT B



VGO



ONLINE

Menu

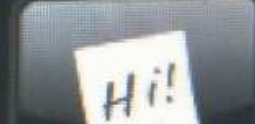


EXHIBIT C

Page 1

1 IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
2 BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD
3
4
5 VALERITAS, INC.,) In the matter of U.S.
6 Petitioner,) Reg. No. 3,895,432
7) For the Mark: VGO
8 V.) Filing Date: 3/2/2010
9) Reg. Date: 12/21/2010
10 VGO COMMUNICATIONS, INC.,) Canc. No. 92054171
11 Respondent.)
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18 DEPOSITION OF
19 TARA L. CHARVAT
20 August 14, 2013
21 9:30 a.m.
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Wilmer Cutler Pickering Hale and Dorr LLP
60 State Street
Boston, Massachusetts

Cindy Falcon, CSR

Page 2

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Page 3

1 INDEX
2 WITNESS EXAMINATION
3 TARA L. CHARVAT
4 (By Mr. Hobgood) 4
5
6
7 EXHIBITS
8 No. Page
9 1 Patent Document 56
10 2 Notebook 58
11 3 Patent Registration 74
12 4 Responses to Interrogatories 84
13 5 V-Go Logo 92
14
15
16
17
18
19
20
21
22
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24

Page 4

1 STIPULATIONS
2 It is stipulated and agreed by and between
3 counsel for the parties that the witness will read and
4 sign the deposition, but that the sealing, filing, and
5 certification thereof are waived.
6 It is further stipulated that all objections,
7 except as to form of the question, and motions to
8 strike are reserved until the time of trial.
9 TARA L. CHARVAT, having been satisfactorily
10 identified, and duly sworn by the notary public,
11 testified as follows:
12 EXAMINATION BY MR. HOBGOOD:
13 Q. Would you state your full name for the
14 record, please?
15 A. Tara Charvat.
16 Q. What's your address, Ms. Charvat?
17 A. Office or home?
18 Q. Home, please.
19 A. 200 Sherman Avenue South, Berkeley Heights,
20 New Jersey, 07922.
21 Q. Do you know what this proceeding is today?
22 A. Yes.
23 Q. Is Valeritas your current employer?
24 A. Yes.

Page 5

1 Q. Have you ever had your deposition taken
2 before?
3 A. No.
4 Q. The stenographer, Ms. Falcon, will prepare a
5 transcript of my questions and your answers, so please
6 answer verbally instead of nodding your head or
7 shaking your head. Do you understand?
8 A. Yes.
9 Q. If you could please do your best to wait
10 until I finish my question, and I'll try my best to
11 wait until you finish your answers; otherwise it's
12 difficult for Ms. Falcon to take what we are saying
13 when we are trying to speak over one another. Okay?
14 A. Okay.
15 Q. Today your lawyers may object from time to
16 time, but you still have to answer the question unless
17 they instruct you not to. Do you understand?
18 A. Yes.
19 Q. Thanks. I'll try to arrange breaks
20 throughout the deposition. If you need to take a
21 break, just let me know and we'll be happy to stop,
22 okay?
23 A. Okay.
24 Q. And you're aware that you are under oath?

Page 6

1 A. Yes.
2 Q. Have you taken any medications or any
3 substances that might affect your ability to
4 understand and respond to my questions today?
5 A. No.
6 Q. Is there any reason you can think of why you
7 wouldn't be able to answer my questions fully and
8 honestly today?
9 A. No.
10 Q. So what's your education?
11 A. I have a BA and an MBA.
12 Q. When did you get your BA?
13 A. 1994.
14 Q. And your MBA?
15 A. 1997.
16 Q. Did your study include anything about
17 telecommunications or robotics?
18 A. No.
19 Q. How long have you been with Valeritas?
20 A. Six and a half years.
21 Q. Did that have you start in 2006?
22 A. Yes.
23 Q. Do you remember the month?
24 A. December.

Page 7

1 Q. Okay. What's your current title?
2 A. Vice-president marketing and marketing
3 operations.
4 Q. How long have you held that position?
5 A. Since I joined Valeritas.
6 Q. What are your responsibilities?
7 A. All activities surrounding marketing of the
8 brand.
9 Q. Do you hold any other positions with any
10 other companies or organizations?
11 A. I sit on two boards.
12 Q. What are those boards?
13 A. The American Diabetes Association, North
14 Jersey, and the Diabetes Foundation of North Jersey.
15 Q. What's the mission of the Diabetes Foundation
16 of New Jersey?
17 A. To support people who need immediate medical
18 attention for their diabetes.
19 Q. How about the mission for the North Jersey
20 board for the American Diabetes Association?
21 A. To find a cure for diabetes.
22 Q. Before you joined Valeritas, who were your
23 past employers?
24 A. I worked for Publicis Healthcare Group,

Page 8

1 Abbott Laboratories, and I was a consultant, private
2 consultant.
3 Q. Publicis, is that P-U-B-L-I-C-I-S?
4 A. Yes.
5 Q. How long were you at Publicis?
6 A. I was in Publicis for three and a half years.
7 Q. Okay. What positions did you hold there?
8 A. I worked in, at the advertising arm as an
9 account supervisor, I worked two medical education
10 groups as a vice-president, group account director,
11 and then I was back on the advertising side as
12 vice-president, account director.
13 Q. Okay. So when you were in the advertising
14 arm, what were your responsibilities?
15 A. Overall brand management for different
16 companies.
17 Q. And how about your responsibilities as the --
18 you said it was an account supervisor?
19 A. Same.
20 Q. Okay. And then the last position that you
21 held there?
22 A. Vice-president?
23 Q. Yes.
24 A. Same.

Page 9

1 Q. What products did they sell or what was the
2 nature of the services they provided during your
3 employment?
4 A. I worked on different healthcare brands.
5 Q. Can you give me an idea of what tasks or
6 activities that included?
7 A. It was all marketing, brand development, and
8 marketing associated with brands?
9 Q. When you were with Abbott -- can you tell me
10 how long were you at Abbott?
11 A. Right around seven years.
12 Q. What positions did you hold there?
13 A. A variety of roles. I started off as a
14 medical writer, I moved into medical communication
15 manager, and I was in marketing, business development
16 manager.
17 Q. What was the nature of your responsibilities
18 as the marketing business manager?
19 A. Managing the marketing of cross brand assets.
20 Q. Would that include developing product names,
21 logos?
22 A. Yes.
23 Q. What was the nature of the products or
24 services that Abbott sold while you were there?

Page 10

1 A. That I was involved with?
2 Q. Yes.
3 A. GI products, nephrology products, heart
4 failure, intensive care sedation, obesity, cardiology.
5 Q. In those fields, were the products
6 pharmaceutical products or were they medical devices?
7 Can you give me a little more?
8 A. Sure. Pharmaceutical products.
9 Q. Did any of your past employers perform any
10 services for Valeritas while you were with them?
11 A. I'm sorry, I don't understand your question.
12 Q. For example, when you were with Publicis, did
13 Publicis do any work for Valeritas when you were with
14 Publicis?
15 A. No.
16 Q. You mentioned you did some private
17 consulting. Had you consulted for Valeritas before
18 you became employed by them?
19 A. No.
20 Q. What are Valeritas' products?
21 A. Our core product is the V-Go.
22 Q. Could you tell me just briefly what is the
23 V-Go product?
24 A. A disposable insulin delivery device.

Page 11

1 Q. When did you start using the V-Go mark on
2 those products that were shipped to customers?
3 A. Can you restate your question?
4 Q. Certainly. So you mentioned that your core
5 product is the V-Go disposable insulin delivery
6 device, correct?
7 A. Correct.
8 Q. You've identified it as the V-Go, and I'm
9 wondering, are there any other products or services
10 that Valeritas offers that use the V-Go name?
11 A. No.
12 Q. When did you start using the V-Go mark on the
13 V-Go insulin devices that were shipped to customers?
14 A. It sounds like you're asking me two
15 questions.
16 Q. Is the V-Go disposable insulin delivery
17 device marked with the V-Go name?
18 A. Yes.
19 Q. When did those products start shipping to
20 customers with the name associated, with the V-Go name
21 associated with that device?
22 A. When it was in market use?
23 Q. When it was shipped to customers, yes.
24 A. So we started using that in January of 2012.

Page 12

1 Q. Okay. So could you describe briefly what is
2 a disposable insulin delivery device?
3 A. It's a device that delivers insulin over a
4 24-hour period which you can take off and remove after
5 that 24 hours and throw out.
6 Q. Could you describe some features of the V-Go
7 product that set it apart from its competitors?
8 A. There are no competitors in that particular
9 insulin delivery space.
10 Q. Does Valeritas have any competitors who have
11 products that deliver insulin over a period of time
12 rather than in a single injection?
13 A. The V-Go.
14 Q. Are there any competing products that deliver
15 insulin over a period of time in any way?
16 A. Yes.
17 Q. And what is the nature of those competitive
18 products?
19 A. Competitive products, products that deliver
20 insulin over a period of time, pens, syringes, pumps.
21 Q. So is it correct that a syringe delivers a
22 single dose of insulin at one point in time?
23 A. Correct.
24 Q. And is the same true of a pen?

Page 13

1 A. Correct.
2 Q. And is it true that a pump gives a small dose
3 over a longer period of time?
4 A. Correct.
5 Q. So what are some of the features of the V-Go
6 product that set it apart from insulin pumps?
7 A. The nature of the way the insulin is
8 delivered.
9 Q. So how is the V-Go product presently used?
10 A. Can you clarify your question?
11 Q. How would a patient use the V-Go product to
12 deliver insulin?
13 A. Are you asking me the application?
14 Q. Please.
15 A. They would apply it to their body via an
16 adhesive, press a button which would start the flow of
17 insulin at a preset basal rate, and at meal times
18 would press two different buttons to deliver meal time
19 insulin. At the end of 24 hours the button would
20 retract the needle, the person would remove it from
21 their skin, and repeat for the next day.
22 Q. So while the patient is using the V-Go
23 device, the device itself is kept stationary relative
24 to the patient?

Page 14

1 A. It's on the person.
2 Q. Who is the main purchaser of the V-Go
3 product?
4 A. From what aspect?
5 Q. Who would buy the disposable insulin delivery
6 device?
7 A. Wholesalers.
8 Q. Who is the end user of the product?
9 A. Patients.
10 Q. Do patients need a prescription to get the
11 product?
12 A. Yes.
13 Q. And where do they get such a prescription?
14 A. From their physician or their prescribing
15 healthcare professional.
16 Q. Do you believe that doctors who prescribe or
17 recommend your product are educated?
18 A. Yes.
19 Q. Does Valeritas sell telecommunication
20 equipment?
21 A. No.
22 Q. Does Valeritas sell any robotic equipment?
23 A. No.
24 Q. Did any of your prior employers sell

Page 15

1 telecommunications equipment?
2 A. No.
3 Q. Did any of your prior employers sell robotic
4 equipment?
5 A. I'm not sure.
6 Q. Are you familiar with the VGo Communications
7 Telepresence Robot?
8 A. Yes.
9 Q. Describe your familiarity, please.
10 A. I understand that it operates similar to a
11 FaceTime or Skype type of equipment with more
12 electronics and functionalities around it.
13 Q. Have you seen one in person?
14 A. No.
15 Q. Have you reviewed any documents that describe
16 the operation of the robot?
17 A. Yes.
18 Q. And what were those documents?
19 A. I've seen the website. I was also provided
20 with a journal article from Med, from I believe
21 Medical Technology.
22 Q. Do you believe that the doctors who
23 prescribed your product could tell the difference
24 between an insulin delivery device and a Telepresence

Page 16

1 Robot?
2 MR. CONNOLLY: Objection.
3 Q. You may answer.
4 A. Yes.
5 Q. Where can patients buy your V-Go product?
6 A. It depends.
7 Q. What does it depend on?
8 A. Their managed care process.
9 Q. Could you identify the types of stores or
10 companies that patients could buy your V-Go product
11 from?
12 A. Retail pharmacies or DME houses.
13 Q. Could you tell us what a DME house is,
14 please?
15 A. Durable medical equipment house.
16 Q. Can you buy VGo Telepresence Robots in a
17 pharmacy?
18 A. I don't know.
19 Q. Have you ever seen a VGo Telepresence Robot
20 in any pharmacy?
21 MR. CONNOLLY: Objection.
22 Q. You may answer.
23 A. What was your question?
24 Q. Have you ever seen a V-Go Telepresence Robot

Page 17

1 in a pharmacy?
2 A. I have not.
3 Q. Can you buy a V-Go Telepresence Robot in a
4 DME house?
5 A. I don't know.
6 Q. Have you ever seen a Telepresence Robot for
7 sale in a DME house?
8 A. I've never been to a DME house.
9 Q. Does the McKesson Corporation distribute your
10 V-Go product?
11 A. Yes.
12 Q. Can you buy a VGo Telepresence Robot from
13 McKesson?
14 A. I don't know.
15 Q. Does AmerisourceBergen Corporation distribute
16 your product?
17 A. Yes.
18 Q. Can you buy a Telepresence Robot from
19 AmerisourceBergen?
20 A. I don't know.
21 Q. Does ANDA, Incorporated, distribute your
22 product?
23 A. I'm sorry?
24 Q. Does ANDA, Incorporated, distribute your

Page 18

1 product?
2 A. I don't know
3 Q. Does Better Living Now, Incorporated,
4 distribute your product?
5 A. Yes.
6 Q. Can you buy a Telepresence Robot from Better
7 Living Now?
8 A. I don't know.
9 Q. Does Burlington Drug Company distribute your
10 product?
11 A. I don't know.
12 Q. Does Byram Healthcare distribute your
13 product?
14 A. Yes.
15 Q. Can you buy a Telepresence Robot from Byram
16 Healthcare?
17 A. I don't know.
18 Q. Does Cardinal Health distribute your product?
19 A. Yes.
20 Q. Can you buy a Telepresence Robot from
21 Cardinal Health?
22 A. I don't know.
23 Q. Does Delight Medicals distribute your
24 product?

Page 19

1 A. I don't know.
2 Q. Does Diabetes Management & Supplies
3 distribute your product?
4 A. I don't know.
5 Q. Does Edgepark Medical Supplies distribute
6 your product?
7 A. Yes.
8 Q. Can you buy a Telepresence Robot from
9 Edgepark Medical Supplies?
10 A. I don't know.
11 Q. Does Frank W. Kerr distribute your product?
12 A. I don't know.
13 Q. Does HD Smith Wholesale Drug Company
14 distribute your product?
15 A. Yes.
16 Q. Can you buy a Telepresence Robot from HD
17 Smith Wholesale?
18 A. I don't know.
19 Q. Does Independence Medical distribute your
20 product?
21 A. Yes.
22 Q. Can you buy a Telepresence Robot from
23 Independence Medical?
24 A. I don't know.

Page 20

1 Q. Does Liberty Medical Supply distribute your
2 product?
3 A. Yes.
4 Q. Can you buy a Telepresence Robot from Liberty
5 Medical?
6 A. I don't know.
7 Q. Does Miami-Luken, Incorporated, distribute
8 your product?
9 A. I don't know.
10 Q. Does Mini Pharmacy Enterprise distribute your
11 product?
12 A. I don't know.
13 Q. Does Morris & Dickson Company distribute your
14 product?
15 A. I don't know.
16 Q. Does North Carolina Mutual Wholesale Drug
17 distribute your product?
18 A. Yes.
19 Q. Can you buy a Telepresence Robot from North
20 Carolina Mutual?
21 A. I don't know.
22 Q. Does Prescription Supply, Incorporated,
23 distribute your product?
24 A. Say that again.

Page 21

1 Q. Does Prescription Supply, Incorporated,
2 distribute your product?
3 A. Yes.
4 Q. Can you buy a Telepresence Robot from
5 Prescription Supply, Incorporated?
6 A. I don't know.
7 Q. Does Rochester Drug Company distribute your
8 product?
9 A. Yes.
10 Q. Can you buy a Telepresence Robot from
11 Rochester?
12 A. I don't know.
13 Q. Does Smith Drug Company distribute your
14 product?
15 A. Yes.
16 Q. Can you buy a Telepresence Robot from Smith
17 Drug?
18 A. I don't know.
19 Q. Does Value Drug Company distribute your
20 product?
21 A. I don't know.
22 Q. Of the distributors that you just identified
23 as distributing your product, do you have a written
24 agreement with each of the distributors?

Page 22

1 A. I don't know.
2 Q. Do you have a written agreement with
3 AmerisourceBergen Corporation?
4 A. Yes.
5 Q. What does that agreement cover?
6 A. I don't know the details.
7 Q. Could you tell me the nature of what it
8 covers in general terms?
9 A. No.
10 Q. Have you trained your distributors on what
11 your product is?
12 A. At a high level.
13 Q. What does that training consist of?
14 A. Brand awareness.
15 Q. Does training consist of how to use the
16 product?
17 A. Not use, per se.
18 Q. What do you mean, per se?
19 A. Brand awareness and how to order, not how to
20 fill, apply, and use the product.
21 Q. Of the distributors that you identified as
22 carrying your product, do you know if any of those
23 distributors also -- strike that.
24 Can you think of anywhere where one of the

Page 23

1 patients who would buy your product could also buy a
2 Telepresence Robot?
3 A. I don't know where a Telepresence Robot can
4 be purchased.
5 Q. How much does your product cost?
6 A. From what perspective?
7 Q. How much would a patient pay for one V-Go
8 disposable device?
9 A. We don't cut it by that.
10 Q. How do you sell the products to patients?
11 A. We don't sell directly to patients.
12 Q. In what quantities do patients buy the V-Go
13 devices?
14 A. Thirty-day supplies.
15 Q. How much would a patient pay for a 30-day
16 supply?
17 A. Depends on the managed care coverage.
18 Q. Could you give me the highest that you would
19 expect a patient might pay for 30 days?
20 A. I couldn't.
21 Q. How much does a distributor pay you for a
22 30-day supply of the V-Go product?
23 A. Wholesaler acquisition cost is \$216 and I
24 believe 40 cents per 30-day supply.

Page 24

1 Q. Does the patient typically pay for the
2 product when they acquire it?
3 A. Depends on their coverage.
4 Q. For those that have no insurance coverage,
5 would they pay the whole cost?
6 A. With no commercial insurance coverage are you
7 asking?
8 Q. Correct.
9 A. It depends on the charge that the retail
10 provides them.
11 Q. For patients that have some form of
12 healthcare , in your experience is part of the cost of
13 your product covered by that insurance?
14 A. Depending on the insurance.
15 Q. Do you know of any cases where health
16 insurance could reimburse the patient?
17 A. Yes.
18 Q. Do you know how much a VGo Telepresence Robot
19 costs?
20 A. No.
21 Q. Would it surprise you that it's about 6 to
22 \$7,000?
23 A. No.
24 Q. You said earlier that your product is

Page 25

1 disposable after it's been used for the 24-hour
2 period, correct?
3 A. Correct.
4 Q. Do you think that a VGo Telepresence Robot is
5 disposable?
6 A. I don't know.
7 Q. Do you know of any \$6,000 devices that are
8 considered disposable?
9 A. Depends on how you define disposable.
10 Q. Do you know of any \$6,000 devices that are
11 disposable after being used for 24 hours?
12 A. Not that I'm aware of.
13 Q. How many devices would a typical patient
14 using your V-Go disposable insulin device use in one
15 year?
16 MR. CONNOLLY: Objection.
17 Q. You may answer.
18 A. The full number, one per day per year, 365.
19 Q. 365, okay, thank you. Do you know if the VGo
20 Telepresence Robot is electronic?
21 A. I don't know.
22 Q. Earlier when I asked you about your
23 familiarity with the VGo Telepresence Robot, you
24 mentioned that it was a FaceTime-like interface; is

Page 26

1 that correct?
2 A. Yes.
3 Q. In view of that answer, do you think the VGo
4 Telepresence Robot is electronic?
5 A. I don't know how it's been designed and
6 manufactured.
7 Q. Do you think that the VGo robot uses a
8 battery or needs any electric power?
9 A. I would assume. I can't answer that, though.
10 Q. Is the V-Go insulin product electronic?
11 A. No.
12 Q. Does your product need a battery or power
13 source?
14 A. No. I take that back. We do need a power
15 source, but it's not through a battery.
16 Q. I'll clarify. Does your product need a
17 battery or electric source?
18 A. No.
19 Q. Thank you. Do you use the fact that your
20 device is not electronic and doesn't require a battery
21 in your marketing materials?
22 A. Yes.
23 Q. Do hospitals buy your product?
24 A. I don't know.

Page 27

1 Q. Do you market your product to hospitals?
2 A. Headquarters, no.
3 Q. I'm sorry. Your corporate headquarters does
4 not market to hospitals?
5 A. Can I clarify?
6 MR. CONNOLLY: Sure, go ahead.
7 A. To the institution, no. To the physicians
8 within the institution, yes.
9 Q. So you market your products to the physicians
10 in the hospitals?
11 A. Physicians who work within hospitals.
12 Q. Okay, thank you. Do those physicians buy
13 your product?
14 A. Physicians have high influence on decisions.
15 Q. Who then at the hospital would buy your
16 product?
17 A. No one at the hospital would buy the product.
18 Q. Do you know of any hospitals that have
19 pharmacies in them?
20 A. Yes.
21 Q. Would the pharmacies in those hospitals buy
22 your product?
23 A. I don't know.
24 Q. Do you market your product to pharmacists?

Page 28

1 A. Yes.
2 Q. Have you marketed your product to pharmacists
3 who are in hospitals?
4 A. Not from headquarters.
5 Q. Is there another part of the Valeritas
6 organization that markets the product other than
7 headquarters?
8 A. A representative could make a choice to go to
9 a hospital to talk to the pharmacy or cardiology or
10 the ED about the product in case a patient came in
11 with that on so they could rewrite the order.
12 Q. You said a representative could do that. Do
13 you know of any Valeritas' current representatives who
14 have done that?
15 A. I am aware.
16 Q. To whom does that representative typically
17 talk?
18 A. Healthcare professionals.
19 Q. Do you know of any of your representatives
20 who have talked to people in the hospital that are
21 responsible for buying the pharmaceuticals that the
22 hospital uses?
23 A. I couldn't say that specifically.
24 Q. Do you know if the chief information officer

Page 29

1 of a hospital has ever bought your product?
2 A. I don't know that.
3 Q. Do you know if anyone in an IT department of
4 a hospital has bought the product on behalf of the
5 hospital?
6 A. Do I know that?
7 Q. Are you aware of it?
8 A. I'm not aware of it.
9 Q. Do your distributors sell product to
10 hospitals?
11 A. I don't know.
12 Q. Do you know if hospitals have purchased your
13 product out of their capital budgets?
14 A. I don't know. I would assume no.
15 Q. Has Valeritas ever received a request for
16 information about a VGo Telepresence Robot?
17 A. Have we received a request on it? Can you
18 ask the question again?
19 Q. Sure. Has Valeritas ever received a request
20 for information about a VGo Telepresence Robot?
21 A. We have not received a request on it.
22 Q. Has Valeritas ever received a request to
23 purchase a VGo Telepresence Robot?
24 A. Not that I'm aware of.

Page 30

1 Q. How many units of your product would you
2 estimate have been sold since its release?
3 A. I don't know for sure.
4 Q. Could you estimate if it's in the tens,
5 hundreds, thousands, et cetera?
6 A. I would say in the tens, but I can't be for
7 certain.
8 Q. That's tens of thousands or --
9 A. Correct.
10 Q. Tens of thousands, thank you. Could you
11 estimate how much consumers have used your product,
12 the end consumer, the patient?
13 A. I don't have the exact numbers. The last I
14 had a conversation about it, within the last month,
15 was about 4,000.
16 (Recess.)
17 Q. So earlier you mentioned that healthcare
18 professionals make the decisions in the hospitals
19 whether or not to buy the product; is that correct?
20 MR. CONNOLLY: Objection.
21 Q. You may answer.
22 A. I don't believe that's what I said.
23 Q. Do you market your product -- strike that.
24 I believe you had said that healthcare

Page 31

1 professionals in the hospitals are the ones who buy
2 your product.
3 MR. CONNOLLY: Objection.
4 A. I didn't say that.
5 Q. Does anyone within the hospital organization
6 buy your product?
7 A. Can you rephrase that?
8 Q. Does anybody in a hospital buy your product?
9 A. I don't know.
10 Q. Earlier when I asked that question, I believe
11 you had answered healthcare professionals.
12 MR. CONNOLLY: Objection.
13 A. No.
14 MR. CONNOLLY: She didn't say that. If you
15 want to take a break you can have the stenographer
16 find that section of the transcript for you.
17 (Discussion off the record.)
18 (Proceedings read back.)
19 Q. Earlier you said that your representatives
20 would talk to healthcare professionals in the
21 hospitals; is that correct?
22 A. They may talk to healthcare professionals in
23 the hospital.
24 Q. And what do you mean by a healthcare

Page 32

1 professional?
2 A. Are you asking me to define that?
3 Q. Yes, could you define what you mean by
4 healthcare professional?
5 A. Sure. Prescribers or non-prescribers of
6 therapies.
7 Q. Could you give me an example of
8 non-prescribers?
9 A. Nurses.
10 Q. By healthcare professionals, do you mean
11 someone who is involved in the care of patients?
12 MR. CONNOLLY: Objection.
13 Q. You may answer.
14 A. I need you to explain that further.
15 Q. Would you consider an orderly in a hospital
16 who cleans up the rooms after a room has been used to
17 be a healthcare professional?
18 A. I don't know.
19 Q. I'm asking your meaning for healthcare
20 professional. So would you call such an orderly a
21 healthcare professional?
22 MR. CONNOLLY: Objection, asked and answered.
23 Q. You may answer.
24 A. Would I consider them a healthcare

Page 33

1 professional?
2 Q. Yes.
3 A. To a level.
4 Q. Do you consider everyone who works in a
5 hospital to be a healthcare professional?
6 A. I don't know everybody who works in a
7 hospital.
8 Q. Could you give me some examples of people who
9 work in hospitals who are not healthcare
10 professionals?
11 A. I'm sorry that I'm struggling to answer the
12 question. I would suggest that cafeteria workers --
13 Q. What I'm trying to understand is earlier you
14 said the representatives would talk to healthcare
15 professionals, so I'm trying to better understand who
16 you mean by healthcare professionals.
17 A. Gotcha.
18 Q. So my question is: Who would your
19 representatives talk to?
20 A. Physicians, support staff, potentially
21 pharmacists.
22 Q. Do you have any examples of people within the
23 hospital organizations who your representatives would
24 not talk to?

Page 34

1 MR. CONNOLLY: About anything?
2 Q. About the V-Go product.
3 A. Cafeteria workers.
4 Q. Is that the only example?
5 A. Probably not.
6 Q. Could you give me a few more, please?
7 A. Orderlies.
8 Q. Would your representatives talk to people in
9 the information technology support staff?
10 A. I wouldn't think so.
11 Q. Would your representatives talk to any of
12 the -- strike that.
13 Would you expect your representatives to talk
14 to the chief information officer of a hospital?
15 A. How do you define chief information officer?
16 Q. A person who has management responsibility
17 over the IT systems of the hospital.
18 A. Likely no.
19 Q. When I asked about your --
20 A. I'm sorry, I'd like to correct myself on
21 that. Only if it related to their EMR system.
22 Q. Could you tell me what an EMR system is?
23 A. Electronic medical records.
24 Q. So am I to understand that your

Page 35

1 representatives may talk to the chief information
2 officer if it relates to the emergency medical
3 records?
4 A. Pardon? Electronic medical records.
5 Q. I'll reask the question. So you expect your
6 reps might talk to the chief information officer if it
7 related to electronic medical records?
8 A. I don't know if it would be the chief medical
9 information officer, but someone responsible for
10 electronic records potentially.
11 Q. And why would your representatives talk to
12 people about the electronic medical records.
13 A. To insure that V-Go would be included with
14 the electronic medical records system.
15 Q. What's the nature of the information that
16 would be within the EMR system related to your V-Go
17 product?
18 A. As with any product, your product is included
19 within an EMR so somebody could pull that up to then
20 write a follow-up order.
21 Q. And what's the nature of that information?
22 I'll try to rephrase the question.
23 Would the name of the product be included in
24 the EMR system?

Page 36

1 A. Yes.
2 Q. Would a distributor be associated with that
3 name in the system?
4 A. No, I wouldn't think so.
5 Q. Would a description of your product be in the
6 EMR system?
7 A. Depending on the EMR system.
8 Q. Do you know of any EMR systems that would
9 have a description of the product associated with the
10 name of the product?
11 A. I don't know the depth of the EMR system. My
12 supposition would that it would be V-Go disposable
13 insulin delivery device.
14 Q. Is there any information that you know of
15 that would be in an EMR system besides the name?
16 A. Probably the option.
17 Q. What do you mean by option?
18 A. What V-Go that somebody would select.
19 Q. So there are different types of V-Go devices?
20 A. There are different dosing options.
21 Q. I see. Would you expect your representatives
22 when talking to anyone in the information technology
23 group of a hospital to discuss telecommunications
24 equipment?

Page 37

1 A. I would assume that EMR is a
2 telecommunications equipment.
3 Q. Would you expect your representatives to talk
4 to the IT support staff in hospitals about
5 telecommunications equipment that allows two people to
6 communicate over distance?
7 A. That's what an EMR system would do.
8 Q. Would you expect your representatives to talk
9 to the IT support staff personnel about equipment that
10 enables two people to have a live dialogue over
11 distance?
12 MR. CONNOLLY: Objection.
13 A. I would suppose that there would be a
14 dialogue associated with it, whether it's live or not,
15 no.
16 Q. Would you expect your representatives to talk
17 to the IT support staff in hospitals about
18 communications equipment that enables a telepresence?
19 A. What's a telepresence.
20 Q. A virtual representation of someone at a
21 distance from where they are.
22 A. No.
23 Q. When I asked about your responsibilities with
24 Valeritas, you answered along the lines of all

Page 38

1 activities related to the brand; is that right?
2 A. I believe I said all activities related to
3 marketing of the brand.
4 Q. Was that with reference to V-Go only?
5 A. V-Go and the brand, yes.
6 Q. Do you have other brands?
7 A. We do not have other brands.
8 Q. Do you have any other products?
9 A. We have other technology platforms that are
10 in development.
11 Q. Are you responsible for marketing the brand
12 of those products?
13 A. There's no marketing of those brands.
14 Q. How do the end users of your V-Go product
15 learn to use the product?
16 A. You'll have to explain the question a little
17 bit differently.
18 Q. Earlier you described at a high level how the
19 product is used, and I'm asking how would a patient
20 learn to take all of the appropriate steps to use your
21 product as you've designed it to be used?
22 A. With any clear product you have instructions
23 for use and associated documentation and associated
24 support programs that may be able to help different

Page 39

1 patient types learn more efficiently how to use the
2 product.
3 Q. Who supplies the instruction documents to the
4 patient?
5 A. It's a requirement from the FDA that any time
6 a product is distributed, whether it's commercial or
7 samples, those instructions for use are accompanied by
8 the product or the product accompanies --
9 Q. I understand, thank you. Who administers the
10 support programs you referenced?
11 A. How do you define administer?
12 Q. Who conducts the support programs?
13 A. There's a variety of different avenues for
14 that.
15 Q. Can you give me those avenues?
16 A. Sure. We have a call center.
17 Q. Is that call center staffed by Valeritas
18 personnel?
19 A. No, it's supported by an external resource
20 that we contract in.
21 Q. Who trains the people who answer the phones
22 in that call center?
23 A. The marketing organization as well as the
24 people who are responsible for training at that call

Page 40

1 center.
2 Q. And by the marketing organization, you mean
3 your company's marketing organization?
4 A. Correct.
5 Q. So that's one avenue. Could you tell me some
6 of the other avenues, please?
7 A. Sure. Representatives train healthcare
8 professionals who in turn train patients.
9 Q. And in that instance, who do you mean by
10 healthcare professionals?
11 A. A variety of people including physicians,
12 including mid-level support, as well as certified
13 diabetes educators, medical assistants and other folks
14 who are within a medical practice or group.
15 Q. Who do you mean by mid-level support?
16 A. Nurse practitioners and physician assistants.
17 Q. Do your representatives train any information
18 technology personnel on how to use their products so
19 they can support patients?
20 A. Our representatives would not train
21 information technology support people to train
22 patients.
23 Q. So we have identified two avenues, call
24 center and reps training healthcare professionals.

Page 41

1 Are there any other avenues for your support
2 programs?
3 A. Yes. We have comprehensive instructions for
4 use as I mentioned, as well as part of that, there are
5 tools that simplify the process yet are comprehensive
6 such as our quick reference guide, and with that there
7 is a DVD associated with that. We are also presently
8 building other programs and support mechanisms that
9 are not currently fielded today.
10 Q. There any other avenues that are presently in
11 use?
12 A. No, I think those are the main ones in use
13 today.
14 Q. You mentioned that instructions are included
15 in the product as required by the FDA.
16 Can you walk me through the supply chain?
17 How does the product with those instructions get from
18 Valeritas to the patient?
19 A. Sure. We have a third-party logistics
20 company who manages all of our transactions. From
21 there that product is sold to wholesalers. The
22 wholesalers either sell directly to patients through
23 their website, like Better Living Now is an example of
24 that, who is a DME house. Wholesalers such as

Page 42

1 McKesson, AmerisourceBergen, and Cardinal sell into
2 the retail channel.
3 Patients receive prescriptions based on their
4 relationship with their healthcare professional to
5 determine whether this is the right support or the
6 right tool for them. They in turn, patients in turn
7 would go to the pharmacy or the DME supplier,
8 depending on where their managed care would send them,
9 to then pick up and purchase the product.
10 Q. Are the patients' doctors involved in training
11 the patients on how to use your product?
12 A. Depends on the office.
13 Q. Do you know of instances where doctors are
14 training their patients?
15 A. Yes.
16 Q. Referencing the supply chain you just laid
17 out for us, where are your marketing efforts, or
18 rather to whom are your marketing efforts directed in
19 that supply chain?
20 A. Across the board.
21 Q. So you market to physicians?
22 A. Yes.
23 Q. And you market to the retail channels?
24 A. Yes.

Page 43

1 Q. Do you market directly to the patients?
2 A. Yes.
3 Q. Do you market to health insurance providers?
4 A. Yes.
5 Q. Are your marketing efforts directed to
6 information technology professionals?
7 A. People responsible for EMRs we've spoken
8 with. I don't know their titles.
9 Q. That's okay. When you say you've spoken with
10 those people, is it in an attempt to influence them to
11 recommend your product to end users?
12 A. The reason we would speak to them is to
13 insure that the V-Go was appropriately placed within
14 the EMR system.
15 Q. Do you attempt to influence them to recommend
16 your product to patients?
17 A. I don't think they have the connection with
18 the patients.
19 Q. When were you made aware of the VGo
20 Telepresence Robot?
21 A. December 7, 2010.
22 Q. Was that the day after you joined Valeritas?
23 A. I joined Valeritas in 2006.
24 Q. Sorry, I apologize. Are you aware of anyone

Page 44

1 who has been confused as to the source of the VGo
2 Telepresence Robot?
3 A. I don't understand your question.
4 Q. Are you aware of anyone who thought that
5 Valeritas sold the VGo Telepresence Robot?
6 A. I'm aware of a healthcare professional who
7 believed our name was stolen.
8 Q. Who is that healthcare professional?
9 A. Dr. Richard Pratley.
10 Q. And you claim that he was confused when he
11 saw the VGo Communications logo on the product?
12 MR. CONNOLLY: Objection, misstates her
13 testimony.
14 Q. Do you think that Dr. Pratley was confused as
15 to where he could buy a VGo Telepresence Robot?
16 A. I didn't have that conversation. I just know
17 he said our name was stolen.
18 Q. What communications did you have with
19 Dr. Pratley?
20 A. Email communications.
21 Q. Did Dr. Pratley talk with anyone else --
22 pardon me, strike that.
23 Did Dr. Pratley communicate with anyone else
24 in Valeritas?

Page 45

1 A. The email was directed to myself and Theresa
2 Wadja.
3 Q. Do you recall exactly what he said in that
4 email?
5 A. He said: Hey, someone stole your name.
6 Q. Did you have any other communications with
7 Dr. Pratley?
8 A. Yeah, we had a follow-up email on it, and we
9 said we were aware and we were looking into it, and he
10 said: The world isn't big enough for two V-Gos.
11 Q. And after that email chain, did you have any
12 other communications with Dr. Pratley?
13 A. I've spoken to Dr. Pratley on the phone, but
14 it was not directly related to this situation.
15 Q. Okay. What did you understand Dr. Pratley's
16 statement, "Hey, somebody stole your name," to mean?
17 MR. CONNOLLY: Objection.
18 Q. You may answer.
19 A. Can you state your question again?
20 Q. I'll restate it. When Dr. Pratley said to
21 you, "Hey, somebody stole your name," what did that
22 mean to you?
23 A. Well, to me it meant that there was some
24 level of confusion that there were more than one V-Go

Page 46

1 available that he was aware of.
2 Q. Did Dr. Pratley ask if Valeritas had started
3 selling Telepresence Robots?
4 A. He just said: Somebody stole your name.
5 Q. Did he ask you if your company had started
6 selling Telepresence Robots?
7 MR. CONNOLLY: Objection.
8 Q. You may answer.
9 A. He said: Somebody stole your name.
10 Q. But did he ask you if Valeritas had started
11 selling Telepresence Robots?
12 MR. CONNOLLY: Objection.
13 A. I'm telling you directly what he said.
14 Q. Is it correct that Dr. Pratley never asked if
15 Valeritas had started selling Telepresence Robots?
16 A. It's correct that he didn't ask that to me.
17 Q. Are you aware if he had asked that question
18 of anyone at Valeritas?
19 A. I'm not aware of all of his conversations.
20 Q. What does the word stole mean to you?
21 MR. CONNOLLY: Objection.
22 A. Stole?
23 Q. Yes. As in: Hey, somebody stole your name.
24 A. That our name was taken from us and being

Page 47

1 used in the -- being used clearly in an environment
2 that he was aware of.
3 Q. So did that phrase, "Hey, somebody stole your
4 name" -- strike that.
5 (Recess.)
6 (Proceedings read back.)
7 Q. So earlier when I asked what the word stole
8 meant to you, you said that the name was taken from
9 you and being used in an environment that Dr. Pratley
10 was aware of.
11 Did VGo Communications' use of the VGo name
12 remove Valeritas' ability to continue to use V-Go for
13 their product?
14 A. I don't understand your question.
15 Q. You had said that something was taken from
16 from Valeritas, and I'm asking did they take away, did
17 VGo Communications take away Valeritas' ability to use
18 the V-Go name?
19 A. It was suggested that the name was stolen,
20 meaning that we wouldn't be the only one using the
21 name within the space.
22 Q. So in this context, V-Go wasn't removed from
23 Valeritas, but rather was also being used by someone
24 else?

Page 48

1 A. It was stolen within the space is how it was
2 referred to.
3 Q. I'm sorry, who referred to the space?
4 A. Dr. Pratley, your name was stolen.
5 Q. Did he make reference to a space in which it
6 was being used?
7 A. He said: The world is not big enough for two
8 V-Gos.
9 Q. Did he make any reference to a market in
10 which the VGo Communications logo was being used?
11 A. The world in my perspective was related to my
12 world of healthcare.
13 Q. Did you understand Dr. Pratley's statement to
14 mean that a third party other than Valeritas was
15 involved in using a V-Go name?
16 A. A third party, I'm sorry?
17 Q. If he said, if Dr. Pratley said, "Hey,
18 somebody stole your name," do you understand that he
19 thought somebody other than Valeritas was involved?
20 A. Yes.
21 Q. Have you heard of Delta Airlines?
22 A. I have.
23 Q. Have you heard of Delta Faucets?
24 A. I have.

Page 49

1 Q. Do you think that one of those companies
2 stole the Delta name from the other?
3 A. I'm not aware of their trademark situation.
4 Q. Do you know if Dr. Pratley has any trademark
5 experience?
6 A. I know his experience in the world of
7 diabetes.
8 Q. So do you know if he has any trademark
9 experience?
10 A. I know of his experience in the world of
11 diabetes.
12 Q. I'll repeat the question again. Do you know,
13 yes or no, if Dr. Pratley has any trademark
14 experience?
15 A. I can't answer that as a yes or no. I know
16 his experience in the world of diabetes.
17 Q. But respectfully, I'm asking you what you
18 know and I'm asking if you know if he has any
19 trademark experience.
20 A. I don't know of Dr. Pratley's whole existence
21 and what he does within his businesses. I can't
22 answer that.
23 Q. Can I take your answer to be: No, I don't
24 know if he has trademark experience?

Page 50

1 A. No, you can take my answer as I don't know if
2 he has trademark experience. I know Dr. Pratley's
3 experience in the world of diabetes.
4 Q. Are you aware of Dr. Pratley's research work?
5 A. I'm aware of some of Dr. Pratley's research
6 work.
7 Q. Are you aware that Dr. Pratley led
8 pharmaceutical company sponsored studies while at the
9 University of Vermont?
10 A. Yes.
11 Q. Has Valeritas funded or sponsored any of his
12 work?
13 A. We have not funded or sponsored, per se, any
14 of his clinical work. We provided Dr. Pratley with a
15 very limited supply of V-Go to try on a patient.
16 Q. Have you paid him for anything?
17 A. I'm sure we have, and I can't recall whether
18 it was under consultative work and support that he's
19 done.
20 Q. Does Valeritas have a relationship with Novo
21 Nordisk?
22 A. What do you mean by relationship?
23 Q. Do you have any business dealings with them?
24 A. In what respect?

Page 51

1 Q. In any respect.
2 A. I don't understand your question.
3 Q. Do you have any written agreements with Novo
4 Nordisk?
5 A. No.
6 Q. Do you promote any of Novo Nordisk's
7 products?
8 A. No.
9 Q. Do you recommend the use of any Novo Nordisk
10 product with your insulin device?
11 A. V-Go has a clearance for use with NovoLog.
12 It also has the clearance with Humalog.
13 Q. Did you do any comarketing with Novo Nordisk?
14 A. No.
15 Q. Do you cooperate with them in their marketing
16 efforts for their product?
17 A. I don't understand what you mean by
18 cooperate.
19 Q. Do you in any way help Novo Nordisk in the
20 promotion of their product for use with your V-Go
21 insulin device?
22 A. Our product is cleared for use with NovoLog
23 and Humalog.
24 Q. Do any of your marketing materials reference

Page 52

1 Novo Nordisk or any of their products?
2 A. Yes, in relationship to indication.
3 Q. Do you know if Novo Nordisk has financed or
4 sponsored any of Dr. Pratley's work?
5 A. I don't know.
6 Q. Would it surprise you to learn to Novo
7 Nordisk funded a study of Dr. Pratley's while he was
8 at the University of Vermont?
9 A. Not at all.
10 Q. Are you aware of any media coverage of the
11 VGo Telepresence Robot?
12 A. Yes.
13 Q. What was the nature of that coverage?
14 A. There was a segment of the VGo on the Today
15 Show in the February time frame of 2011, and I'm also
16 aware of it having been on ESPN. Was your question --
17 can you repeat the question to make sure I answer
18 fully?
19 Q. Sure. I first asked if you were aware of any
20 media coverage of the VGo Telepresence Robot, and then
21 I asked what was the nature of the coverage.
22 A. Okay. Also I'm aware, and I can't remember
23 the name of the journal, but this was provided to me
24 by an employee of VGo Communications, so its use

Page 53

1 within the medical technology space. I believe the
2 story was specifically on diabetes.
3 Q. So I understand, there was a journal article
4 supplied to you by a representative from VGo
5 Communications?
6 A. By Ned.
7 Q. About the use of a VGo Telepresence Robot in
8 the diabetes --
9 A. I believe it was in the diabetes space was
10 the example.
11 Q. Did that journal article describe how the
12 robot was being used in the diabetes space?
13 A. I can't recall. I was just simply stunned by
14 the title of the journal and the cover.
15 Q. By Ned, do you mean Ned Semonite at VGo
16 Communications?
17 A. Yes.
18 Q. Do you recall if that journal article spoke
19 of the VGo Telepresence Robot in any way treating the
20 diabetes?
21 A. I don't recall.
22 Q. Are you aware that the V-Go robot has been
23 profiled in Businessweek magazine?
24 A. I'm not aware of that.

Page 54

1 Q. How about the Forbes magazine?
2 A. Not aware of that.
3 Q. Same question with Time magazine.
4 A. Not aware of that.
5 Q. Sports Illustrated magazine?
6 A. I think I was made aware of that.
7 Q. You had mentioned you knew of coverage for
8 ESPN and the Today Show. Are you aware that it was
9 also covered by the Oprah Winfrey Network?
10 A. No.
11 Q. 60 Minutes?
12 A. No.
13 Q. Having heard of this coverage, would it
14 surprise you that VGo Communications has never
15 received a request for an insulin delivery device?
16 MR. CONNOLLY: Objection.
17 A. I don't understand the relevance of the
18 question. Sorry, can you explain the question again?
19 Q. I'll ask it again. Would it surprise you
20 that VGo Communications has never received a request
21 for an insulin delivery device?
22 MR. CONNOLLY: Are you representing that as a
23 fact here today.
24 MR. HOBGOOD: I'm asking her if it's a

Page 55

1 surprise to her that they never received a request.
2 MR. CONNOLLY: You're representing that as a
3 fact.
4 MR. HOBGOOD: No, I'm not representing that
5 as a fact. I'm asking her if she heard that VGo
6 Communications has never received a request for an
7 insulin delivery device, would she be surprised.
8 MR. CONNOLLY: Objection.
9 A. I don't know how to answer that question.
10 MR. CONNOLLY: You want her to speculate as
11 to whether, if a certain series or set of facts
12 existed, whether that would surprise her or not? You
13 want her to speculate as to --
14 MR. HOBGOOD: I'm asking if she would be
15 surprised if she heard that VGo Communications has
16 never received a request for an insulin delivery
17 device.
18 A. I actually would be surprised. To clarify, I
19 would be surprised if somebody never had said to
20 them: Can we get the insulin delivery device?
21 Q. Okay. How do you spell your product, your
22 disposal insulin delivery name?
23 A. Who do I spell?
24 Q. How do you spell the V-Go name?

Page 56

1 A. I spell it V hyphen Go, as written, as
2 stylized, it's different.
3 (Exhibit No. 1 marked for identification.)
4 Q. I'm handing you what's marked Exhibit 1.
5 MR. CONNOLLY: Do you have a copy for me?
6 MR. HOBGOOD: Certainly.
7 Q. Referring to Exhibit 1, could you describe
8 that exhibit, please?
9 A. It's the registration of our trademark, V-Go.
10 Q. Does Exhibit 1 show the way that your name is
11 used in normal print?
12 A. No, it clearly lays out there that this is
13 without claim to any particular font style, size or
14 color.
15 Q. Does Valeritas ever use the word V-Go in
16 products or services without a hyphen?
17 A. Yes.
18 Q. Can you give me some examples of that?
19 A. In the stylized version.
20 Q. With the exception of the stylized version,
21 does Valeritas ever use the word V-Go in connection
22 with its products or services without the hyphen?
23 A. As you noted, the website.
24 Q. As I noted the website -- I'm sorry?

Page 57

1 A. V-Go is the website.
2 Q. Okay.
3 A. I'm sorry, V-Go, V-Go is the website and we
4 don't use the hyphen within there.
5 Q. That domain is go-vgo.com?
6 A. You'll have to pull out the actual name. Now
7 I feel like I'm getting confused with it. You have it
8 on the sheet where you pulled out the instructions for
9 use, the website address should be right on there.
10 Q. I'll get to that in a moment. Apart from the
11 stylized logo and apart from the domain name, does
12 Valeritas ever use the word V-Go in connection with
13 its products or services without a hyphen between the
14 V and the Go?
15 A. Not when appropriately written, I believe.
16 Q. Were you involved with the selection of the
17 V-Go name?
18 A. Yes.
19 Q. What was your role?
20 A. When I joined the company, the naming process
21 had begun, and I took over the entire naming process
22 as the head of the brand.
23 Q. And how did you come up with the name V-Go?
24 A. As with any naming search, a naming company

Page 58

1 provides you a series of names that they feel are
2 appropriate for your brand and where it doesn't have
3 any conflicts in the environment, and V-Go was one of
4 hundreds of names recommended.
5 Q. So could you walk me through the process of
6 working with that naming company in coming up with the
7 V-Go name?
8 A. As I mentioned, that was the first project I
9 was given when I came into the business, so the
10 original names were already given. In theory how it's
11 done is you give criteria around what the product is
12 and what you believe it can do. From there names are
13 generated and vetted, and then a list is provided.
14 From there you narrow down the selection process.
15 Q. When you first took over responsibility for
16 the naming process, was V-Go already a candidate?
17 A. Yes.
18 Q. Did you conduct any market research on the
19 name?
20 A. We conducted a small market research at a
21 TCOYD event, Taking Control of Your Diabetes event in
22 Minneapolis in March of 2007 to gain patient feedback.
23 (Exhibit No. 2 marked for identification.)
24 Q. I'm handing you what's been marked Exhibit

Page 59

1 2. I'm sorry, I don't have an additional copy of
2 this.
3 MR. CONNOLLY: This is the documents we
4 produced?
5 MR. HOBGOOD: Yes, this is the production
6 from Valeritas.
7 Q. You've opened it to Page 1. Do you see there
8 in the lower right-hand corner where it's marked
9 VAL00001?
10 A. Mm-hmm.
11 Q. If you could peak to the last page there, I'm
12 not going to stay on the last page, I just want you to
13 confirm that the last page of the binder is VAL000719?
14 A. Yes.
15 Q. So this binder includes the documents that
16 your counsel produced to us in discovery, and I'll ask
17 you a couple of questions about that document. And
18 when I do, I'll refer to the page numbers I just
19 pointed out. But for the sake of simplicity, I'll
20 omit the leading zeroes. I'll refer to VAL10,
21 VAL100. Does that make sense?
22 A. Yes, thank you.
23 Q. Could you turn to Page VAL19, please? Could
24 you identify the document that starts on this page,

Page 60

1 please?
2 A. Yes, this was our, a follow-up document from
3 our naming company ranking potential names.
4 Q. Okay. Would you turn to Page VAL20, please,
5 and what name candidate is on the second line in that
6 table.
7 A. V-Go.
8 Q. Could you tell me how the rankings on the far
9 right-hand column were generated?
10 A. I don't recall.
11 Q. Do you know if those rankings are with
12 potential consumers?
13 A. I don't think so.
14 Q. Do you know if those rankings reflect the
15 opinions of Valeritas employees working on the
16 marketing effort?
17 A. I think so. If I recall, I believe we did an
18 exercise, and this must be the ranking based on our
19 exercise.
20 Q. Would you turn to Page VAL167, please?
21 A. 167?
22 Q. Yes, please.
23 A. Okay, I've got it.
24 Q. What is this document starting on this page?

Page 61

1 A. This is the report based on the research from
2 Taking Control of Your Diabetes.
3 Q. Is this the convention, not convention, but
4 is this the meeting you made reference to in
5 Minneapolis?
6 A. Yes, this is the patient fair, correct.
7 Q. This is in May of 2007?
8 A. Did I say March? Yes, it's May, it's exactly
9 the same. Sorry about that.
10 Q. No problem, thank you. Could you turn to the
11 next page, VAL168, please, and on this page could you
12 tell me what Valeritas' secondary objectives were?
13 It's on or about Line 5 of that slide.
14 A. Input on marketing materials, packaging,
15 brand name, distribution, and dosing.
16 Q. Could you turn to the next page, please,
17 VAL169, and could you tell me what the third numbered
18 line says, please?
19 A. Sideclick and Sidekick rated very highly with
20 patients as potential brand names.
21 Q. Do you know how those ratings were achieved?
22 I'll reask the question. How did you come up with
23 those rankings or the ratings that you reference in
24 that line?

Page 62

1 A. I think we had asked them a series of
2 questions, and I would have to -- I can't remember the
3 exact questions, but we would ask them usually on a
4 five or ten point scale of what they thought of
5 certain names, or we would say: What are your top
6 three names that you like? We have a variety of
7 mechanisms we would do within market research.
8 Q. Who were the they or them you refer to?
9 A. Patients in this instance.
10 Q. Were these patients, were they part of --
11 strike that.
12 Had the product been commercially released at
13 this time when this study took place?
14 A. The V-Go -- I'm sorry, explain your question
15 again.
16 Q. Sure. Was the disposable insulin delivery
17 device that eventually became associated with the name
18 V-Go commercially released at the time of this study?
19 A. We had clearance from an earlier version of
20 the device.
21 Q. Was it being marketed broadly?
22 A. No.
23 Q. At this time had the V-Go name been suggested
24 as a potential brand name to these test patients?

Page 63

1 A. Had V-Go to these patient?
2 Q. Yes.
3 A. Yeah, I'm sure, at this meeting.
4 Q. Were -- strike that, I know you answered
5 that.
6 Were you involved in selecting an internet
7 domain name pertaining to the V-Go product?
8 A. To be clear, I want to go back to this. To
9 be clear, when you look at market research, this isn't
10 always an automatic of a yes, no. This is taking into
11 account a broader context.
12 Q. Are you referring to the ratings of the
13 names?
14 A. Sure, yeah.
15 Q. When you say it's a broader context, what
16 context do you mean exactly?
17 A. So for example, if you go to the previous
18 document, what was that, Page 10? I can't remember
19 the number you gave me.
20 Q. We started with VAL19.
21 A. 19. If you're on VAL20, Confidante rated the
22 highest, I think that sounds like a female sanitary
23 product. I wouldn't use it. So it ranks the
24 highest. You have to take into account the rest of

Page 64

1 the broad universe which I wanted to be clear about
2 based on research in general.
3 Q. When you say that one would have to take into
4 account the broader universe, for what purpose?
5 A. To make selections on how you would choose to
6 bring your brand forward.
7 Q. I see.
8 A. I wanted to clarify that.
9 Q. What I hear you saying -- forgive me if I
10 misstate or correct me if I misstate -- you take
11 patients' ratings into account, but that's not the
12 sole measure of how you arrive at the final name?
13 A. It's not absolute, yes.
14 Q. What are some of the other factors you would
15 take into account when arriving at the name you
16 eventually choose?
17 A. Internal awareness of that name being used in
18 other contexts, internal awareness of how you want the
19 product to be perceived by your audience set. So
20 there's a variety of different ways that you would
21 take into account what your final selection would be.
22 Q. Okay.
23 A. And I don't mean to derail. I just wanted to
24 clarify.

Page 65

1 Q. Thank you, that's helpful. When you say one
2 of the factors that would be taken into account is if
3 the name is used in other contexts, could you describe
4 what you mean by that?
5 A. Yes. So if I had a product that had a name
6 that would be used in a similar vertical that could
7 create confusion, I wouldn't use it.
8 Q. Okay. And by another context, I want to make
9 sure I understand what you mean by context. Do you
10 mean in a separate market when you say another
11 context?
12 A. No, I mean the things that would fall within
13 that vertical, within the healthcare vertical.
14 Q. Okay. Were you involved in selecting an
15 internet domain name pertaining to the V-Go product?
16 A. Yes.
17 Q. During the time you were reviewing names in
18 general, domain names, product names, did you become
19 aware of other entities using the name V-Go for their
20 products or services?
21 A. During the domain name final search after we
22 got clearance.
23 Q. Clearance for the product?
24 A. Yes.

Page 66

1 Q. Okay. So who was that, who were or who was
2 the entity using the V-Go name?
3 A. VCI.
4 Q. I'm sorry. During the time you were
5 reviewing domain names and product names for your
6 insulin device, did you become aware of any other
7 entities using the V-Go name at that time, for
8 example, in the 2007 time frame?
9 A. I'm sorry, that's mixing -- domain names and
10 brand names are separate. Sorry.
11 Q. No, that's fine. During the time you were
12 deciding on product names, did you become aware of any
13 other entities using the name V-Go for their products
14 or services?
15 A. Yes.
16 Q. And who were those entities?
17 A. Paslix was using the term V-Go which was
18 completely outside of our vertical.
19 Q. And what were the products and services of
20 Paslix?
21 A. As I understood it, they were financial
22 services.
23 Q. Any other entities using the V-Go name?
24 A. At that point I think I became aware, and I

Page 67

1 don't recall the timing, but V-Go was the name of a
2 Turkish tour company.
3 Q. Okay. Any other entities using the V-Go
4 name?
5 A. Not in that 2007 time period when we first
6 started looking at it.
7 Q. Would you turn to page VAL184 in Exhibit 2,
8 please. Could you tell me what this information is,
9 please?
10 A. Can I look at the surrounding pages?
11 Q. Certainly.
12 (Witness reviews document.)
13 A. These were I believe the names selected to go
14 into the testing for the Taking Control of Your
15 Diabetes meeting.
16 Q. If you see any dates in that document, can
17 you tell me what those dates are?
18 A. 4/27/2007.
19 Q. Okay. Any other dates on there?
20 A. 4/27/2007 and then 4/6/07.
21 Q. Can you turn to the next page, VAL185,
22 please. So what is the chart on the bottom of that
23 page?
24 A. Domain names.

Page 68

1 Q. And on the same line as the trade name V-Go,
2 what is listed under other findings?
3 A. Video camera on wheelchair.
4 Q. Can you tell me what that means?
5 A. I have no idea.
6 Q. Do you know who populated this chart?
7 A. I don't remember.
8 Q. Is this information that you would have
9 reviewed in preparation for the May 2007 Taking
10 Control of Your Diabetes?
11 A. Yes.
12 Q. Do you recall seeing this statement, video
13 camera on a wheelchair, in connection with the trade
14 name V-Go?
15 A. I didn't recall it until I'm looking at it
16 here. I probably wouldn't have taken much context
17 into it if it said Asian characters.
18 Q. What's does the Asian characters, looking at
19 this table, what do you think Asian characters means?
20 A. My assumption would be it would be a level of
21 a fake site.
22 Q. If you look along the top of this chart,
23 could you identify the columns in the chart, please?
24 A. Trade name, TMR, question mark, question

Page 69

1 mark, question mark, dot-com, dot-net, other findings.
2 Q. What do you think that the information in the
3 box under dot-com means?
4 A. Is there a name that's a dot-com associated
5 with V-Go would be my assumption.
6 Q. What would the meaning under the information
7 under the columnb dot-net mean?
8 A. Same.
9 Q. Meaning --
10 A. That was there something associated with
11 V-Go.net with Asian characters on it.
12 Q. And what would you think that the other
13 findings column would mean?
14 A. Other things that may have popped up in the
15 search.
16 Q. And if you had been aware of video camera on
17 a wheelchair popping up in connection with the search
18 for V-Go, would that have caused you concern?
19 A. Taken in and of itself, no.
20 Q. Are wheelchairs marketed to hospitals?
21 A. I have no idea.
22 Q. Have you ever seen wheelchairs in a hospital?
23 A. Yes.
24 Q. Do you think that the hospital owns those

Page 70

1 wheelchairs?
2 A. I don't know.
3 Q. Have you ever seen a hospital name printed on
4 a wheelchair?
5 A. I can't recall specifically.
6 Q. Are wheelchairs marketed to doctors?
7 A. I don't know how they're marketed.
8 Q. Would you be concerned that potential
9 consumers of the H-Pack product would be confused as
10 to the source of the product given that V-Go was used
11 in connection with wheelchairs?
12 MR. CONNOLLY: Objection.
13 A. The H-Pack product, I'm sorry, what's that?
14 Q. I'll rephrase it. If you knew that the V-Go
15 name was associated with a wheelchair, would you be
16 concerned that potential consumers of the disposable
17 insulin delivery device would be confused as to the
18 source of the product?
19 A. I can't say that I know that V-Go was
20 connected with a wheelchair.
21 Q. I understand, but if you knew that the name
22 V-Go was connected with wheelchairs, would you be
23 concerned that that would cause confusion to
24 consumers?

Page 71

1 MR. CONNOLLY: Objection.
2 A. I think we would have done our due diligence
3 appropriately around that.
4 Q. Do you recall what diligence was done around
5 the V-Go name when it was discovered it was associated
6 with video cameras on a wheelchair?
7 A. I can't relate to what the trade name versus
8 what the other findings were in this particular
9 context.
10 Q. Do you know who did the domain name search?
11 A. I'm sure it was a mix of people.
12 Q. Could you identify some of those people?
13 A. Our agency partners.
14 Q. Who was that?
15 A. GA Communications, probably known as Goble &
16 Associates at that point, and Intouch Solutions, and
17 by the way the document is written in here, I would
18 assume that Addison Whitney would have played a role
19 in that as well.
20 Q. Who is Addison Whitney?
21 A. Our naming company whom we use to select
22 brand names.
23 Q. Who is Global & Associates?
24 A. Pardon?

Page 72

1 Q. Who is Globale & Associates?
2 A. I don't know Global & Associates.
3 Q. I must have misheard. I'm sorry.
4 A. Goble & Associates.
5 Q. Oh, Goble. Who is Goble & Associates?
6 A. That was the former name of our advertising
7 agency, now known as GA Communications.
8 Q. What role did they take in choosing the name?
9 A. They didn't select the name, so they didn't
10 have a role in selecting the name.
11 Q. What role did they have in providing input on
12 the event name?
13 A. They're our branding agency.
14 Q. So what activities did they undertake?
15 A. They developed the logo.
16 Q. Did they suggest V-Go?
17 A. They were not part of that naming selection.
18 Q. Who made that selection?
19 A. As I said, we did research, and it was an
20 internal decision.
21 Q. Can you describe the process of -- strike
22 that.
23 Did you supply the V-Go name to GA
24 Communications to develop the logo?

<p style="text-align: right;">Page 73</p> <p>1 A. Yes.</p> <p>2 Q. And can you describe the process of working</p> <p>3 with them to come up with a logo?</p> <p>4 A. Sure. To develop a logo, you would always</p> <p>5 have a creative brief which outlines the parameters</p> <p>6 and character that you wish to convey with your</p> <p>7 brand. From that you build out potential logo options</p> <p>8 and determine what's most appropriate based on the</p> <p>9 creative brief as your foundation.</p> <p>10 Q. What was Intouch's role in that process, if</p> <p>11 any?</p> <p>12 A. They're our web hoster and they're our</p> <p>13 back-end web builder, so they were helping look into</p> <p>14 domain names with GA and seeing what we could access</p> <p>15 for our brand domain name.</p> <p>16 Q. Would you expect that Intouch supplied the</p> <p>17 information in the table that's at the bottom of Page</p> <p>18 185 of Exhibit 2?</p> <p>19 A. I couldn't speculate on that.</p> <p>20 Q. Do you know anyone on your team who would</p> <p>21 have reviewed the information in the docket we're</p> <p>22 talking about?</p> <p>23 A. The commercial leadership team.</p> <p>24 Q. Who are the members of that team?</p>	<p style="text-align: right;">Page 75</p> <p>1 Q. Does Exhibit 3 show the logo as it is</p> <p>2 currently used in connection with Valeritas'</p> <p>3 disposable insulin delivery devices?</p> <p>4 A. Yes.</p> <p>5 Q. At a very high level, could you describe the</p> <p>6 characteristics of the logo?</p> <p>7 A. What do you mean?</p> <p>8 Q. Strike that. I'll come back to it.</p> <p>9 Has Valeritas used this logo in</p> <p>10 connection with its products or services without the</p> <p>11 words disposable insulin delivery at the bottom?</p> <p>12 A. Yes.</p> <p>13 Q. Could you describe those uses, please?</p> <p>14 A. We use the logo without the descriptor when</p> <p>15 it's just a view of the logo and we don't want to have</p> <p>16 to add our important risk information to the bottom;</p> <p>17 for example, a T-shirt which would say Team V-Go.</p> <p>18 Q. Referring to Exhibit 2, the one we just slid</p> <p>19 out of the way, would you turn to Page VAL190?</p> <p>20 A. 190, yes.</p> <p>21 Q. Could you tell me what this document starting</p> <p>22 on Page 190 and continuing through 195 is?</p> <p>23 A. Yes, it's our, it's the V-Go 20 commercial</p> <p>24 kit artwork.</p>
<p style="text-align: right;">Page 74</p> <p>1 A. At that point it was Matt Nguyen,</p> <p>2 N-G-U-Y-E-N, John Timberlake, and Mike Stout.</p> <p>3 Q. And yourself?</p> <p>4 A. Yes, and Bart Larrabee, he was involved as</p> <p>5 well as our market researcher, marketing partner.</p> <p>6 Q. Do you know if any of the people on the team</p> <p>7 reviewed this information before the May 2007 meeting?</p> <p>8 A. I mean, I can't say whether they did review</p> <p>9 it or not. My assumption would be that they did.</p> <p>10 (Exhibit No. 3 marked for identification.)</p> <p>11 (Recess.)</p> <p>12 Q. I'm handing you Exhibit 3.</p> <p>13 A. Thank you. Is this done?</p> <p>14 Q. For now, but keep it nearby. Could you</p> <p>15 identify this document for me, please?</p> <p>16 A. Yes, it's the registration for the V-Go</p> <p>17 stylized logo.</p> <p>18 Q. Were you involved in arriving at this</p> <p>19 stylized logo?</p> <p>20 A. Yes.</p> <p>21 Q. Could you describe your involvement, please?</p> <p>22 A. Sure. I approved the creative brief that we</p> <p>23 would use to establish the logo, and I was part of the</p> <p>24 decision process in which logo to select.</p>	<p style="text-align: right;">Page 76</p> <p>1 Q. And what is in the V-Go 20 commercial kit?</p> <p>2 A. It's 30 V-Go devices. It is an easy-fill</p> <p>3 accessory.</p> <p>4 Q. And does the logo shown on the pages</p> <p>5 representing that artwork include the words disposable</p> <p>6 insulin delivery?</p> <p>7 A. Yes. I apologize, it's actually our early</p> <p>8 access and clinical trial kit, so that's what this is</p> <p>9 for, versus the commercial kit, to be precise.</p> <p>10 Q. Okay. Could we turn to page VAL208, please.</p> <p>11 Could you describe what pages 208 through 213 are,</p> <p>12 please?</p> <p>13 A. This is the commercial kit.</p> <p>14 Q. This is the commercial kit as -- who is</p> <p>15 this --</p> <p>16 A. This is what a patient would pick up at the</p> <p>17 pharmacy.</p> <p>18 Q. Are the words disposable insulin delivery at</p> <p>19 the bottom of the logo on this?</p> <p>20 A. Yes.</p> <p>21 Q. Could you turn in that same exhibit, turn to</p> <p>22 page val320?</p> <p>23 A. 320?</p> <p>24 Q. Yes, please.</p>

Page 77

1 A. Yes.

2 Q. Could you tell me what this document is,
3 spanning Pages 320 through 337?

4 A. To 327?

5 Q. 320 through 337.

6 A. Gotcha, thank you. This was a guide that we
7 had used to provide to healthcare professionals who
8 are training on the V-Go for their patients, a
9 reference that shows all the resources available to
10 them to train.

11 Q. Okay. Does the logo shown in that document
12 include the words disposable insulin delivery at the
13 bottom?

14 A. Yes.

15 Q. So turning back to Exhibit 3 -- you can slide
16 that binder to the side, I don't expect to turn back
17 to it within the next few questions.

18 So why did Valeritas decide to use a logo
19 with a slanted V?

20 A. We decided to use a logo with a slanted V
21 because it indicated motion.

22 Q. And what was that motion intended to convey?

23 A. Patients being able to be on the go with
24 their insulin therapy.

Page 78

1 Q. What is the icon that starts in the middle of
2 the G and extends into the center of the O intended to
3 represent?

4 A. The needle button on the V-Go device.

5 Q. If you could look on Exhibit 3, please, and
6 in the large paragraph there towards the bottom, about
7 halfway through that paragraph you'll see a sentence
8 that begins: The hyphen is. Can you read that
9 sentence for me, please?

10 A. "The hyphen is a stylized design intended to
11 represent a finger prick used for drawing blood for
12 testing." Is that where you'd like me to stop?

13 Q. Yes, thank you. So you just said that the
14 icon in the middle of this logo was intended to
15 represent the needle device on your product?

16 A. Yes.

17 Q. Yet the registration certificate says it's a
18 stylized design intended to represent a finger prick.
19 Can you tell me what a finger prick device is?

20 A. Pardon me?

21 Q. Could you tell me what a finger prick is, the
22 finger prick referred to?

23 A. I would imagine it's referring to a lancet,
24 but I'm speculating.

Page 79

1 Q. Do you know who suggested this description in
2 your logo?

3 A. I don't recall who suggested that.

4 Q. Has anyone ever asked what the icon in your
5 logo represents?

6 A. Yes.

7 Q. And who has asked that question?

8 A. Healthcare professionals, sales reps within
9 the company, investors.

10 Q. Anyone else?

11 A. Off the top of my head, I can't think of --
12 I'm sure there has been.

13 Q. Have you ever heard of patients who use your
14 product asking what the icon is?

15 A. Probably. I mean, I'm speculating, but
16 probably they have.

17 Q. Does the Valeritas V-Go product draw blood
18 samples?

19 A. Say the question again.

20 Q. Does the V-Go insulin delivery device draw
21 blood samples?

22 A. No.

23 Q. Does the V-Go device test blood glucose
24 levels?

Page 80

1 A. No.

2 Q. Do you believe that the button icon in your
3 logo conveys motion?

4 A. Do I believe the button icon in the logo
5 conveys motion?

6 Q. Yes.

7 A. No.

8 Q. So looking at this Exhibit 3, what are the
9 colors that are used in connection with your logo?

10 A. A darker green, a lighter green.

11 Q. On that same exhibit could you read from the
12 sentence that's just above the large paragraph?

13 A. "The colors, dark green, medium green, light
14 green, lime green, and white is our claim as features
15 of this mark."

16 Q. Are these the colors you're using in your
17 logo at the present time?

18 A. Yes.

19 Q. Are you using purple in this logo?

20 A. Not within the logo itself. It's a secondary
21 color.

22 Q. When you say secondary color, what do you
23 mean?

24 A. All brands have another color associated with

Page 81

1 it above and beyond the primary colors, which clearly
2 the primary colors are deviations of green. So our
3 other materials would show the purple as part of the
4 materials.
5 Q. Is purple part of this logo?
6 A. No.
7 Q. Are the colors that are presently being used
8 in your logo the original colors that you started with
9 for the logo?
10 A. These were the original selected colors for
11 the logo.
12 Q. When did you start using purple as a
13 secondary color?
14 A. I can't recall a specific date, but I know
15 we've talked about purple as way back as 2007.
16 Q. When you say talked about purple, do you mean
17 talked about using it in the actual logo itself?
18 A. No, as a second color, as I suggested
19 earlier.
20 Q. Was purple ever a candidate for the color in
21 the logo?
22 A. We had so many versions of the logo, I'm sure
23 every color was a candidate.
24 Q. Do you recall if purple was among them?

Page 82

1 A. I can't recall, but my assumption would be
2 yes, considering that purple is part of the Valeritas
3 logo color.
4 Q. What colors do you consider to be in the
5 purple family?
6 A. Periwinkle, magenta, violet, I mean, I could
7 probably list off a bunch of pantone colors. I'm not
8 sure what you're asking in that.
9 Q. Do you consider blue to be in the purple
10 family?
11 A. Depending on the type of blue it would be
12 because I think blue rolls into the purple family.
13 Q. When you say it rolls into the family, what
14 do you mean by rolls in?
15 A. You're aware of the color wheel, so I'm
16 talking about how it falls within the color wheel
17 spectrum, indigo-violet, so blue indigo-violet, when
18 you get into the blue indigo-violet phase, it all
19 depends on where you sit within your pantone specs to
20 be able to understand whether the blue would be in or
21 out of that spectrum.
22 Q. Would there be shades of blue you would
23 consider to be outside the purple family?
24 A. For sure.

Page 83

1 Q. How would you make the determination whether
2 a particular shade of blue was in or outside the
3 purple color family?
4 A. Typical marketers would go with their gut
5 reaction on those items and probably look at your
6 pantone wheel and see how closely they would align.
7 Q. Has any entity ever been authorized by your
8 company to use the V-Go name?
9 A. What do you mean?
10 Q. Has Valeritas given permission to any other
11 person or company to use V-Go in connection with that
12 company's products?
13 A. With that company, that company's products,
14 meaning the company outside of Valeritas?
15 Q. Yes.
16 A. I still don't think I understand the
17 question. Sorry.
18 Q. That's okay. Has Valeritas ever granted
19 permission to a non-Valeritas entity to use the name
20 V-Go in connection with that third party's products?
21 A. Bear with me as I explain this. In some
22 instances, for example, we advertise with the American
23 Diabetes Association through their meetings, we
24 advertise within Diabetes Care, we grant them the

Page 84

1 right to use our advertising, but it's under the guise
2 of advertising our own brands, so it's not to be, or
3 under our sponsorship realm. But not to say Company
4 X, we are going to give you this so you can represent
5 your brand with our name. I don't know, I don't know
6 if that answers your question.
7 Q. It did, thanks.
8 (Exhibit No. 4 marked for identification.)
9 Q. I'm handing you what's marked Exhibit 4, and
10 could you identify that document for me? It would be
11 the bold text right under the blocked caption.
12 A. Valeritas, Incorporated, Responses and
13 Objections to V-Go Communications, Incorporated's,
14 First Set of Interrogations.
15 Q. Is that interrogations or interrogatories?
16 A. Interrogatories, excuse me.
17 Q. Would you turn to Page 21, please. Is that
18 your signature on Page 21 under the verification?
19 A. Yes.
20 Q. Thank you. Could you turn to Page 16 of that
21 document, please? Could you read the first sentence
22 in that full paragraph?
23 MR. CONNOLLY: Page 16, response to
24 Interrogatory No. 18?

Page 85

1 MR. HOBGOOD: It would be response to 17.
2 A. Starting with, "Even though"?
3 Q. Yes, please.
4 A. "Even though petitioner has not commenced use
5 of petitioner's V-Go mark in commerce, petitioner's
6 V-Go mark is already well known in the marketplace and
7 petitioner is already aware of at least one instance
8 of actual confusion."
9 Should I continue?
10 Q. That's all, thank you. Could you provide the
11 basis for your conclusion that your mark is well known
12 in the marketplace as of the time of this answer?
13 A. We had representatives in the field talking
14 about the need for insulin delivery since 2009. So
15 within the areas that were targeted who were
16 communicated with, the product would have been well
17 aware of at this point.
18 Q. Is that based on knowing the actions of your
19 representatives alone?
20 A. We had different posters at medical meetings,
21 we had consultative meetings with influencers within
22 the space from a healthcare professional standpoint.
23 We were not broadly marketing it, per se, like having
24 advertisements in the back of the journal, but we had

Page 86

1 ten representatives -- I'm sorry, could have been
2 five. What is the date of the document?
3 Q. The date is on Page 20, November 23, 2011.
4 A. Yes, we had five representatives in the field
5 in the eastern seaboard who were seeing people who
6 were highly involved in the areas of diabetes.
7 Q. Would patients have been aware of your mark
8 at this point?
9 A. Well, from the TCOYD meeting they would have
10 known that there was an insulin delivery device. We
11 did not do much with patients.
12 Q. Was the name V-Go attached to your insulin
13 device at that May 2007 conference?
14 A. That's where we were looking at the market
15 research to determine the name.
16 Q. Had the name been selected for the product
17 that was being provided to patients for testing at
18 that time?
19 A. That was the meeting that we were looking at
20 selecting the name.
21 Q. So was the product called V-Go at that time?
22 A. As I said, we were in market research to
23 determine the name.
24 Q. I understand you were researching. Was the

Page 87

1 product called the V-Go device at that time?
2 A. The product was used under its technology
3 portfolio name.
4 Q. What was that name?
5 A. H-Patch.
6 Q. Okay. So had you received feedback from the
7 marketplace generally about the popularity of your
8 V-Go mark?
9 MR. CONNOLLY: At what time?
10 Q. By the time of the answers given here,
11 November 2011.
12 A. We had talked about this mark since 2007
13 so -- say the question again.
14 Q. Did you receive feedback from the marketplace
15 as to the level of recognition of the V-Go mark?
16 A. People were aware of the V-Go based on the
17 segments of who we spoke with.
18 Q. When you say they were aware of the V-Go, do
19 you mean they were aware of the device itself or they
20 were aware of the name?
21 A. The device itself was part of the name, so
22 it's all one. I wouldn't look at it as a separate
23 entity.
24 Q. When did you first start using the name V-Go

Page 88

1 with the product?
2 A. Internally we started using it in the back
3 end of 2007.
4 Q. When did you start using it outside of --
5 when did you start using it in public?
6 A. 2007.
7 Q. Did you conduct any market research studies
8 after that was done in 2007?
9 A. We conduct market research studies all the
10 time.
11 Q. Did you conduct any market research studies
12 as to the popularity of the V-Go name?
13 A. After the name was selected, there would be
14 no need to do market research on the popularity of the
15 name.
16 Q. When was the name selected?
17 A. It would have been selected in the 2007 year,
18 sometime between May and June, I'm guessing, because
19 we rolled out the product name internally in October
20 of 2007 to the team to say: We are no longer calling
21 this the h-Patch, you will only see V-Go. And thus
22 moving forward, V-Go was used in our communications
23 internally and externally.
24 Q. Did you conduct any market research on the

Page 89

1 awareness of the V-Go brand in the marketplace any
2 time after 2007?
3 A. Sure.
4 Q. I thought you told me there was no need to do
5 market research after the name was selected.
6 MR. CONNOLLY: Objection.
7 A. Not market research on the name. Awareness
8 you asked about. You didn't ask about the name.
9 Q. Have you conducted market research on the
10 awareness of the V-Go brand in the marketplace?
11 A. Absolutely.
12 Q. When were those studies conducted?
13 A. I couldn't give you an exact date. Like I
14 said, market research is continually ongoing.
15 Q. So could you tell me, was your conclusion
16 that you stated on Page 16 of this exhibit that the
17 V-Go mark is already well known in the marketplace,
18 was that based on the market studies?
19 A. No, it wouldn't have been based on the market
20 studies. It would have been based on the fact that
21 our representatives had been talking about the product
22 and about the need for a product as such in the
23 marketplace since 2009.
24 Q. Is a representative or set of representatives

Page 90

1 talking about a product in the marketplace enough to
2 establish that something is well known in the
3 marketplace?
4 A. It depends on the size of your universe,
5 right?
6 Q. I'm asking you.
7 A. Well, I'm asking you. Depending on the size
8 of the universe is what we're referring to here,
9 right?
10 Q. I'm asking are the actions of sales
11 representatives alone in a marketplace enough to
12 conclude that a mark is well known or not well known
13 in a marketplace?
14 MR. CONNOLLY: Objection.
15 A. Working in a venture capital company,
16 privately-held company, yes.
17 Q. So did you conduct market research on the
18 popularity of the V-Go mark in the marketplace after
19 2007?
20 A. There was no need to, so no. Popularity of
21 the mark, to be clear, we did not do research on
22 popularity of the mark.
23 Q. Did you do research on how well known the
24 V-Go mark is in the marketplace after 2007?

Page 91

1 A. Yes, we had awareness research.
2 Q. Who conducted that research?
3 A. It would have been done in the aspect of a
4 sales force effectiveness study, and we have had two
5 different organizations in the past few years who have
6 worked with us on that, SBR and ICG.
7 Q. And how did SBR conduct the sales force
8 effectiveness study?
9 A. Telephone interviews by people who are called
10 on by a representative within a 72-hour window.
11 Q. And who were those telephone interviews
12 conducted with?
13 A. People who had received a call from a
14 representative within the past 72 hours, a recorded
15 call.
16 Q. What types of people would that include?
17 A. Their customer segments.
18 Q. Would it include doctors?
19 A. Sure.
20 Q. Would it include pharmacists?
21 A. Probably not in those studies.
22 Q. Would it include patients?
23 A. No.
24 Q. How would ICG have conducted the sales force

Page 92

1 effectiveness study?
2 A. Same way.
3 (Exhibit No. 5 marked for identification.)
4 Q. I'm handing you Exhibit 5. Have you seen
5 this logo before?
6 A. Yes.
7 Q. How did you first become aware of it?
8 A. Of the specific logo?
9 Q. Yes.
10 A. During a search for website domain names.
11 Q. When was that?
12 A. In December of 2010. December of 2010, yes.
13 Q. What colors are used for the lettering in the
14 logo on Exhibit 5?
15 A. Black.
16 Q. Any other colors in that logo?
17 A. Green.
18 Q. Any other besides black and green?
19 A. I don't know if they would consider white
20 part of their logo, but I wouldn't. I would say it
21 was black and green.
22 Q. Okay. Would you describe the letters of that
23 logo?
24 A. There's a V, G and O, they are all done on a

Page 93

1 slant, they're italicized. The V takes precedence
2 over the G and the O which is slightly smaller in an
3 all-cap font size.
4 Q. Are any of the letters overlapping?
5 A. Yes, the V and the G.
6 Q. Could you describe the general shape of the G
7 and the O?
8 A. Yes, they look like small cap.
9 Q. Are the G and the O mid-height or are they
10 top justified?
11 A. They're small capped, centered it looks like.
12 Q. Centered meaning centered top to bottom in
13 the logo as a whole?
14 A. Yes.
15 Q. Does the logo on Exhibit 5 have any icons
16 embedded within the letters?
17 A. Yeah, I would say that the swish and the
18 circle at the bottom would be part of the letters.
19 Q. Are they embedded within the letters?
20 A. What do you mean, embedded within the
21 letters?
22 Q. Does what you describe as the swish logo
23 overlap any of the letters?
24 A. I would say that they were part of the

Page 94

1 letters.
2 Q. Does the swish logo overlap any of the
3 letters?
4 A. What do you mean by overlap?
5 Q. Is it superimposed on any of the letters?
6 A. No.
7 Q. Does the logo in front of you have any words
8 below the letters V, G, and O?
9 A. No, it doesn't.
10 Q. Could you describe the elements of what you
11 called the swish?
12 A. There is a line and a circle at the end that
13 looks like somewhat like a dot, a dot wheel.
14 Q. When you say a dot wheel, what do you mean by
15 a dot wheel?
16 A. It looks like a dot that's in motion.
17 Q. You said there was -- I'm sorry, I don't
18 remember if you said it was a line or a bar. Is there
19 more than one line that's part of the swish?
20 A. Yeah.
21 Q. Are those lines of equal width or do they
22 taper?
23 A. They taper.
24 Q. And as a whole, what impression do you get

Page 95

1 from that swish?
2 A. Motion, just like I do with the entire logo.
3 Q. Aside from the swish, what about the logo
4 gives you the impression of motion?
5 A. The italics and the way that the letters are
6 written, the font of which the letters are written in.
7 Q. What characteristic of the font gives you
8 that impression of movement?
9 A. The italics of the font. Excuse me.
10 (Luncheon recess.)
11 AFTERNOON SESSION
12 Q. Earlier you mentioned that you used the
13 website go-vgo to market your V-Go insulin products;
14 is that right?
15 A. Yes.
16 Q. Who owns the registration for that website?
17 A. I honestly can't remember whether it falls in
18 our name or Intouch or GA's name.
19 Q. And do you recall when the registration of
20 that domain began?
21 A. No.
22 Q. Do you remember when that domain was used in
23 connection with your products?
24 A. I think we had a small landing site in the

Page 96

1 back end of '11.
2 Q. And by landing site, rather, what do you mean
3 by landing site?
4 A. Just a basic -- it wasn't a fully fleshed-out
5 site.
6 Q. Would that site have had the Valeritas
7 stylized logo on it?
8 A. Yes. It may have been earlier than '11 as
9 well. I don't recall the exact date.
10 Q. If it's not registered in your name, do you
11 think you have a written agreement with its current
12 owner?
13 A. Yes.
14 Q. Do you know what that website domain was used
15 for prior to being associated with your products?
16 A. Go-vgo?
17 Q. Yes.
18 A. I don't believe it existed prior to.
19 Q. Do you know of any traffic that was intended
20 for VGo Communications that went to your site instead?
21 A. I don't understand your question.
22 Q. Are you aware of any web traffic that was
23 intended for the VGo Communications website but
24 mistakenly went to your site?

Page 97

1 A. That would be speculating. I'm not --

2 Q. Okay. Does either Valeritas or the owner of

3 the go-vgo collect any statistics on web usage and web

4 traffic?

5 A. We do collect statistics.

6 Q. Do those statistics include when users leave

7 your domain and go to other domains?

8 A. Yes.

9 Q. And do you know in those statistics if there

10 are any instances of a user leaving your domain and

11 going to the VGo Communications website?

12 A. We don't have the specifics on where people

13 go next.

14 Q. Are you aware of any web traffic that was

15 intended for your site but went to VGo Communications'

16 site instead?

17 A. I'm not aware.

18 Q. Do you know if the statistics that are

19 collected include the site immediately previous to

20 when the user arrived at your site?

21 A. I'm not aware.

22 Q. Are you aware of any communications that went

23 to VGo Communications that was intended for Valeritas?

24 A. Can you explain what you mean?

Page 98

1 Q. Any communications, meaning are you aware of

2 any letters that went to VGo Communications but they

3 were intended to go to Valeritas?

4 A. Not that I'm aware of.

5 Q. Are you aware of any communications that came

6 to Valeritas but were intended for VGo Communications?

7 A. Not that I'm aware of.

8 Q. I'd like to move back to your stylized logo

9 which is Exhibit 3. Earlier you read from one of the

10 descriptive paragraphs in this exhibit that said that

11 the hyphen is a stylized design intended to represent

12 the finger prick used for drawing blood for testing.

13 Do you know if the original intent of that

14 icon was in fact to represent a finger prick device?

15 A. It was not.

16 Q. Was it always intended to represent the

17 needle button on your V-Go?

18 A. Yes.

19 Q. Did you have product sales by November 2011?

20 A. No.

21 Q. When earlier we talked about market research

22 and market studies in connection with your mark being

23 well known, you mentioned that you had representatives

24 in the field talking to healthcare providers; is that

Page 99

1 right?

2 A. Say your question again.

3 Q. When we spoke earlier about the popularity or

4 the awareness of your logo, your V-Go mark, you stated

5 that the basis for that assertion was you had

6 representatives talking to healthcare providers.

7 A. I don't think that was the context of our

8 conversation.

9 Q. What was the basis for your conclusion that

10 your marks were well known in the marketplace?

11 MR. CONNOLLY: Objection, asked and answered.

12 Q. You can answer.

13 A. When you talk about the marks, I'm talking

14 about the brand, so I would never take the mark in

15 isolation.

16 Q. Could you look at Exhibit 4, please?

17 A. Yup.

18 Q. If you could turn to Page 16, please.

19 A. Yes.

20 Q. Could you read the first sentence of that

21 full paragraph starting with: Even though?

22 A. "Even though petitioner has not commenced the

23 use of petitioner's V-Go mark in commerce,

24 petitioner's V-Go mark is already well known in the

Page 100

1 marketplace and the petitioner is already aware of at

2 least one instance of actual confusion."

3 Q. Again, what is the basis for your conclusion

4 that the V-Go mark was well known in the marketplace

5 at the time of your answer?

6 MR. CONNOLLY: Objection, asked and answered.

7 Q. You may answer.

8 A. The brand was known within the marketplace

9 because of various representatives being in the field

10 having conversations with their customers about the

11 needs of this type of product.

12 Q. So I understand you're saying with regard to

13 the brand, but specifically I'm asking you about the

14 mark.

15 A. I can't delineate between the two.

16 Q. You can't delineate between the brand and the

17 V-Go mark?

18 A. Not when we're talking about in the

19 marketplace. You would see that in the context of a

20 whole.

21 Q. Up to the time of this answer, which was

22 November 2011, how many representatives did you have

23 talking to healthcare providers?

24 A. We had five up and down eastern seaboard.

Page 101

1 Q. Anywhere else in the country?
2 A. Five up and down the eastern seaboard.
3 That's all.
4 Q. Anywhere else in the world?
5 A. No.
6 Q. When did those five representatives start
7 talking to the healthcare professionals?
8 A. They started talking about the need of
9 insulin delivery in August of 2009.
10 Q. When did those representatives start using
11 your V-Go mark in their conversations with healthcare
12 professionals?
13 A. August 2009.
14 Q. How many calls would you say those
15 representatives made in a week?
16 A. Twenty to 30 calls per week.
17 Q. Is that per representative or total?
18 A. Per representative.
19 Q. When those representatives made those calls,
20 did they leave any written marketing materials with
21 the folks they met with?
22 A. I don't believe so at that time. We may have
23 had a front-back piece.
24 Q. Meaning a single-page document?

Page 102

1 A. A front and back stylized document, yes.
2 Q. Would that document have included the
3 stylized logo?
4 A. Yes.
5 Q. Earlier you mentioned that at the time you
6 were reviewing the domain names and the product names
7 that you were aware of Paslix and a Turkish tour
8 company using the V-Go name.
9 Were there any others that you became aware
10 of at that time using the V-Go name?
11 A. I don't recall at that point, in that 2007
12 time point.
13 Q. Are you aware of anyone now presently using
14 the V-Go name aside from VGo Communications in
15 connection with products?
16 A. Yes.
17 Q. Could you say who that is, please?
18 A. There was an electronic cigarette company
19 that -- I don't know if they exist anymore.
20 Q. Do you remember the name?
21 A. V-Go.
22 Q. That was the name of the company?
23 A. That was how they talked about the product.
24 I don't know if that was the name.

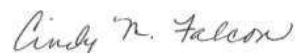
Page 103

1 Q. So what I was getting at is it the name of
2 the company, I heard you say you weren't sure?
3 A. Yes, that's correct.
4 Q. Was it the name of the product?
5 A. I believe it was.
6 Q. Any other entities using the name?
7 A. V-Go Communications.
8 Q. Anyone else?
9 A. Off the top of my head, I can't think of
10 anything. I'm sorry, Matthias Rath.
11 Q. Can you describe the products that he's using
12 the V-Go name in connection with?
13 MR. CONNOLLY: Currently, today?
14 Q. Currently, yes.
15 A. I don't believe he's using the name currently
16 today.
17 Q. How did you become aware of his use or
18 proposed use of the name?
19 A. I don't recall.
20 Q. Have you communicated with Matthias Rath in
21 the past?
22 MR. CONNOLLY: The witness personally?
23 Q. Has Valeritas communicated with Matthias Rath
24 in the past?

Page 104

1 A. I don't know how to answer. It's through
2 counsel, through each other's counsels.
3 Q. Is Valeritas currently opposing a
4 registration by Matthias Rath?
5 A. Yes.
6 Q. Aside from communications through counsel,
7 has Valeritas had any communications directly with
8 Matthias Rath?
9 A. Not that I'm aware of.
10 MR. HOBGOOD: No more questions.
11 MR. CONNOLLY: I have no questions for the
12 witness. Thank you very much.
13 (Whereupon, the deposition was concluded at
14 1:17 p.m.)
15
16
17
18
19
20
21
22
23
24

Page 105

1 CERTIFICATE
2 COMMONWEALTH OF MASSACHUSETTS
3 I, Cindy M. Falcon, Certified Shorthand
4 Reporter and Notary Public duly commissioned and
5 qualified in and for the Commonwealth of
6 Massachusetts, do hereby certify that there came
7 before me the person hereinbefore named and was by me
8 duly sworn to testify to the truth of her knowledge
9 concerning the matters in controversy in this cause;
10 that she was thereupon carefully examined upon her
11 oath and her examination reduced to typewriting under
12 my direction; and that the deposition is a true and
13 accurate record of the testimony given by the witness.
14 I further certify that I am not
15 interested in the cause of this action.
16 IN WITNESS WHEREOF, I have hereunto set
17 my hand this 26th day of August, 2013.
18
19 
20 Notary Public
21 My Commission Expires:
22 June 25, 2017
23
24

Page 107

1 DEPOSITION ERRATA SHEET
2 Page No. ____ Line No. ____ Change to: _____
3 _____
4 Page No. ____ Line No. ____ Change to: _____
5 _____
6 Page No. ____ Line No. ____ Change to: _____
7 _____
8 Page No. ____ Line No. ____ Change to: _____
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10 Page No. ____ Line No. ____ Change to: _____
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12 Page No. ____ Line No. ____ Change to: _____
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14 Page No. ____ Line No. ____ Change to: _____
15 _____
16 Page No. ____ Line No. ____ Change to: _____
17 _____
18 Page No. ____ Line No. ____ Change to: _____
19 _____
20
21 SIGNATURE: _____ DATE: _____
22 TARA L. CHARVAT
23
24

Page 106

1 DEPOSITION ERRATA SHEET
2 Our Assignment No. 456077
3 Case Caption: Valeritas, Inc., Vs.
4 VGo Communications, Inc.
5 DECLARATION UNDER PENALTY OF PERJURY
6 I declare under the penalty of perjury that I
7 have read the entire transcript of my Deposition taken
8 in the captioned matter or the same has been read to
9 me, and the same is true and accurate, save and except
10 for changes and/or corrections, if any, as indicated
11 by me on the DEPOSITION ERRATA SHEET hereof, with the
12 understanding that I offer these changes as if still
13 under oath.
14 Signed on the ____ day of _____,
15 20__.
16 _____
17 _____
18 TARA L. CHARVAT
19
20
21
22
23
24

Blank page for corrections or additional information.

EXHIBIT D

Page 1

1 IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
2 BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD
3
4 VALERITAS, INC., In the Matter of U.S.
5 Petitioner, Reg. No. 3,895,432
6 For the Mark: VGO
7 vs. Filing Date: 3/2/2010
8 VGO COMMUNICATIONS, INC., Reg. Date: 12/21/2010
9 Respondent. Canc. No. 92054171
10 -----x
11
12 DEPOSITION OF
13 KRISTEN PETERSON
14 Tuesday, September 17, 2013
15 10:14 a.m.
16 Wilmer Hale
17 60 State Street
18 Boston, Massachusetts 02109
19
20 Laurie K. Langer, RPR
21
22
23
24

Page 3

1 INDEX OF EXAMINATION
2 WITNESS: Kristen Peterson
3 EXAMINATION PAGE NO.
4 By Mr. Hobgood 4
5
6
7 INDEX TO EXHIBITS
8 NO. DESCRIPTION PAGE NO.
9 1 Binder of Documents 32
10 2 Binder of Documents 32
11 3 V-GO Trademark Registration 40
12 4 VGO Disposable Insulin Delivery
13 Trademark Registration 42
14 5 Valeritas, Inc.'s Responses and
15 Objections to VGo Communications,
16 Inc.'s First Set of Interrogatories 53
17 6 VGo Logo 61
18
19
20
21
22 (Exhibits 1 and 2 retained by Attorney Hobgood.)
23
24

Page 2

1 APPEARANCES
2
3 ON BEHALF OF THE PETITIONER (s):
4 BY: Scott J. Connolly, Esq.
5 Sheri S. Mason, Esq.
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14
15 ON BEHALF OF THE RESPONDENT(s):
16 BY: John V. Hobgood, Esq.
17 Michael J. Bevilacqua, Esq.
18 WILMER HALE
19 60 State Street
20 Boston, Massachusetts 02109
21 (617) 526-6448
22 john.hobgood@wilmerhale.com
23 michael.bevilacqua@wilmerhale.com
24

Page 4

1 PROCEEDINGS
2
3 KRISTINE PETERSON,
4 having been satisfactorily identified by the production
5 of her driver's license, and duly sworn by the Notary
6 Public, was examined and testified as follows:
7
8 MR. HOBGOOD: The standard stipulations?
9 MR. CONNOLLY: Sure. We'll agree to the
10 stipulations we agreed to at the last deposition; that
11 we'll reserve all objections and motions to strike until
12 the time of trial except as to the form of the
13 questions.
14 MR. HOBGOOD: And read and sign, but we'll
15 waive the filing, seal, and certification.
16 MR. CONNOLLY: Agreed.
17 MR. HOBGOOD: Okay.
18
19 EXAMINATION
20
21 BY MR. HOBGOOD:
22 Q. Would you state your name for the record, please.
23 A. Kristine Peterson.
24 Q. What is your address, Miss Peterson?

Page 5

1 A. Home address?
2 Q. Yes, please.
3 A. 8 Old Barn Court, Newtown, Pennsylvania 18940.
4 Q. And do you know what this proceeding is today?
5 A. Yes.
6 Q. Is Valeritas your current employer?
7 A. Yes.
8 Q. Have you ever had your deposition taken before?
9 A. Yes.
10 Q. So just a few ground rules here. Preliminaries.
11 So Miss Langer will prepare a transcript of my
12 questions and your answers so please answer verbally
13 instead of shaking your head or nodding your head; is
14 that okay?
15 A. Yes. I'll try to remember.
16 Q. I do the same thing. Also, please do your best
17 to wait for me to finish and I'll do my best to wait for
18 you to finish, that way we're not talking over one
19 another. Okay?
20 A. Yes.
21 Q. And your lawyers may object from time to time,
22 and you still must answer unless they instruct you not
23 to do so; do you understand?
24 A. Yes.

Page 6

1 Q. And I'll try to arrange breaks every now and
2 again. If you need a break just let me know and we can
3 stop, take a break, and then we'll resume.
4 And you're aware that you're now under oath?
5 A. Yes.
6 Q. Have you taken any medications or any other
7 substances that might affect your ability to understand
8 and answer truthfully?
9 A. No.
10 Q. Is there any reason you can think of as to why
11 you may not be able to answer fully and truthfully?
12 A. No.
13 Q. What's your education?
14 A. I have a Master's degree.
15 Q. And what's that Master's in?
16 A. It's an M.B.A.
17 Q. Okay. And your Bachelor's degree?
18 A. Yes, I have a Bachelor's in science.
19 Q. Okay. And what area is that in?
20 A. Marketing.
21 Q. And when did you get your BS?
22 A. 1981.
23 Q. Okay. And the M.B.A.?
24 A. 1983.

Page 7

1 Q. And did your studies in marketing or the M.B.A.
2 include anything about telecommunications or robotics?
3 A. Not robotics. Communications was included.
4 Q. Anything in telecommunications?
5 A. No.
6 Q. How long have you been with Valeritas?
7 A. Since June of 2009.
8 Q. Okay. And what's your current title?
9 A. CEO.
10 Q. How long have you held that position?
11 A. Since I joined.
12 Q. Okay. And generally speaking what are your
13 responsibilities as CEO?
14 A. I'm responsible for running the organization and
15 raising financing for the organization.
16 Q. Have you held any other -- no. You said you
17 didn't. Sorry. Scratch that.
18 Do you hold any other positions with other
19 companies or organizations?
20 A. Yes. I'm on the board of two public companies.
21 And I'm on the board for a trade association and for a
22 not-for-profit organization.
23 Q. And what are those two companies?
24 A. Which two?

Page 8

1 Q. You said you were on the board of two public
2 companies.
3 A. Yes.
4 Q. Which companies are those?
5 A. ImmunoGen and Amarin.
6 Q. And what's the mission of ImmunoGen? The mission
7 statement. Broadly what's their goal?
8 A. They're looking for treatments to fight cancer.
9 Q. And for Amarin?
10 A. Treatments to deal with elevated lipids.
11 Q. Who were your past employers?
12 A. Prior to joining, prior to joining Valeritas I
13 was with Johnson & Johnson.
14 Q. Okay.
15 A. Prior to that I was with Biovail. And prior to
16 that I was with Bristol-Myers Squibb.
17 Q. How long were you at Johnson & Johnson?
18 A. Five years.
19 Q. How long for Biovail?
20 A. Just under a year and a half. And with BMS
21 20 years.
22 Q. Okay. Going back to J&J; what positions did you
23 hold there?
24 A. I had two positions that I held at J&J. I was

Page 9

1 the, I believe it was executive vice president, was the
2 title, for strategic marketing. Global strategic
3 marketing. And then I was the company group chair for
4 the biotech businesses.
5 Q. And what were your responsibilities as executive
6 VP of strategic marketing?
7 A. Working alongside R and D to develop the global
8 launch plans for all the products in the pipeline.
9 Q. How about your responsibilities as company group
10 chair?
11 A. Running a large global business. Including R and
12 D and global manufacturing.
13 Q. And what were the -- what was the nature of the
14 products or services that J&J provided during your
15 tenure there that you had oversight for?
16 A. A wide range. They were mainly pharmaceuticals,
17 biologics. Some device overlap.
18 Q. What was the nature of those devices?
19 A. Stem cell therapy, scaffolds, and delivery
20 systems.
21 Q. Any robotics or telecommunications equipment?
22 A. No. None that I can recall.
23 Q. And so now into Biovail; what position did you
24 hold there?

Page 10

1 A. I was president for the U.S. operation and I
2 think it was executive vice president. The title was
3 executive or senior vice president for the Canadian and
4 the U.S. organization.
5 Q. And what was the nature of the products that
6 Biovail was selling?
7 A. Pharmaceuticals.
8 Q. Any robotics or telecommunications equipment?
9 A. No.
10 Q. What were the positions you held at Bristol
11 Meyers?
12 A. There was a very long list. They were all
13 commercial roles. Everything on the sale side,
14 marketing side. I ran the generics division and then I
15 ran one of their largest business units in
16 cardiovascular and metabolic diseases.
17 Q. And again, the nature of the products?
18 A. All pharmaceutical.
19 Q. Okay. Any robotics or telecommunications
20 equipment?
21 A. No.
22 Q. Okay. Did any of these past employers have a
23 relationship with Valeritas that you know of?
24 A. Yes. Johnson & Johnson did.

Page 11

1 Q. And what was the nature of that relationship?
2 A. Johnson & Johnson has a venture capital arm,
3 internal venture capital group, and they had an
4 investment in Valeritas.
5 Q. And did you have any dealings with Valeritas
6 while you were at Johnson & Johnson?
7 A. No.
8 Q. And outside of your employment with your previous
9 employers, did you have any dealings with Valeritas
10 before you joined them?
11 A. No.
12 Q. Okay. So what are Valeritas' products?
13 A. Our primary product is V-Go, our disposable
14 delivery insulin system. And we have products in our
15 pipeline as well. But the primary focus is V-Go.
16 Q. Are any of those products that are in the
17 pipeline directed to telecommunications or robotics?
18 A. No.
19 Q. And again, with reference to the products in the
20 pipeline. Will those -- are the plans to use the V-Go
21 name with those products or will they have different
22 names?
23 A. One of them will definitely continue the V-Go
24 name. It would be a generation 2 type of a product.

Page 12

1 The others I don't know at this point.
2 Q. Okay. That generation 2 product, is that still
3 directed to disposable insulin delivery?
4 A. Yes.
5 Q. So when did you start shipping products with the
6 V-Go name associated with those products to customers?
7 A. Shipments to customer. I might need some
8 clarification here because we began shipping to
9 wholesalers and to customers in January of 2012, but we
10 have been shipping some product prior to that for
11 individual use with patients and physicians.
12 Q. So for the individual use in patients, do you
13 know how far before January 2012 that was happening?
14 A. That probably would have happened shortly
15 after -- let me think. Timeframe. It would have been
16 in 2011 but I don't know the precise date in 2011.
17 Q. Do you think it was -- can you narrow it down to
18 a quarter, to first quarter or second quarter?
19 A. I'm trying to think. I'm guessing because I'm
20 not the person who does the shipments. I'll say midyear
21 was probably roughly right.
22 Q. Okay. And was the stylized logo that you have
23 associated with those products, what was the nature of
24 the name that was associated with that?

Page 13

1 I'm sorry. I'll ask it again.
2 You have both the name V-Go and you have a
3 stylized logo?
4 A. (Witness nods in the affirmative.)
5 Q. And I'm wondering did you use the stylized logo
6 with those products when they shipped in 2011?
7 A. Yes.
8 Q. Okay.
9 A. In fact, we've been using the stylized logo since
10 I joined the organization. In the materials that we
11 shared with clinicians and a variety of different
12 customer sites.
13 Q. So what is a disposable insulin delivery device?
14 A. So the V-Go is designed for Type 2 diabetics.
15 You insert it with insulin and then the patient puts it
16 on their body, on the abdomen, and they click a couple
17 of buttons and they deliver insulin on a continuous
18 24-hour basis. And then they click other buttons which
19 will deliver insulin at mealtime.
20 Q. And what other options do patients have for
21 taking insulin aside from the V-Go device?
22 A. They can inject with pens or with syringes or in
23 some cases with the durable pumps.
24 Q. And could you describe the features of your

Page 14

1 product that set it apart from those other methods that
2 you just mentioned?
3 A. Certainly. The patient wears the product. The
4 person gets delivery of both the basal and bolus
5 delivery of insulin. It's easy for the patient to use
6 because they're wearing it, so they don't have to
7 remember to carry pens or needles with them.
8 Q. And do you have any competitors?
9 A. Not directly. Indirectly. So indirectly it
10 would be the pens and the needles.
11 Q. Okay. Could you identify some of those
12 competitors that you said --
13 A. The indirect ones?
14 Q. Yeah.
15 A. Yes. That would be like Sanofi, Novo, Lilly.
16 And then on the pump space, because those would
17 be indirect competitors as well, it would be Medtronic,
18 J&J, Insulet. And there's probably about four to six
19 others who I wouldn't remember all of their names.
20 Q. Okay. First Sanofi, Novo, and Lilly. What's the
21 nature of those products?
22 A. They have insulin pens.
23 Q. Okay.
24 A. Insulin in vials as well.

Page 15

1 Q. So who's the end user of the V-Go product?
2 A. The end user would be a patient.
3 Q. And do those patients need a prescription to get
4 the device?
5 A. Yes.
6 Q. And where do they get such a prescription?
7 A. They get the prescription either at the retail
8 pharmacy or through an outpatient clinic pharmacy that
9 could be associated with a hospital, or they get it
10 through a medical distributor.
11 Q. And so is that where the patients would get the
12 actual prescription for it, or is that where they would
13 get the device?
14 A. That's where they get the device.
15 Q. Okay.
16 A. The device.
17 Q. And where would they get the prescription for the
18 device?
19 A. From the physician.
20 Q. Okay. Does Valeritas sell any telecommunications
21 equipment?
22 A. No.
23 Q. How about robotics equipment?
24 A. No.

Page 16

1 Q. Are you familiar with the VGo Communications
2 telepresence robot?
3 A. Yes.
4 Q. Do you believe that the doctors who prescribe
5 your product to their patients are educated people?
6 A. Well, I believe -- I think by the very nature of
7 them being physicians they're educated.
8 Q. And do you think that they would understand the
9 nature and use of your V-Go product?
10 A. We have to explain it to them, yes.
11 Q. Do you believe that the doctors who prescribe
12 your product can tell the difference between your
13 product and the telepresence robot?
14 A. I think it would depend upon the setting in which
15 it is presented to them.
16 Q. So could you give me some examples of where they
17 couldn't tell the difference?
18 A. Certainly. They just heard the name of the
19 product, they may not know which one is which.
20 Q. If a doctor was told the nature of the product do
21 you think they could distinguish?
22 A. If they were given a detailed description then in
23 that case they probably could.
24 Q. Earlier you mentioned some places where you could

<p style="text-align: right;">Page 17</p> <p>1 buy, pardon me, where the patients could buy the 2 product. Could you repeat that for me, the various 3 outlets that are available. 4 A. Certainly. At a retail pharmacy, an outpatient 5 clinic pharmacy which are sometimes associated in 6 hospitals, and with a medical distributor. 7 Q. Do you know if you can buy a VGo telepresence 8 robot at a retail pharmacy? 9 A. I don't know where the VGo robots are sold. 10 Q. Do you know of any outpatient clinics that sell 11 telepresence robots? 12 A. I have no idea. 13 Q. And do you know of any durable medical equipment 14 houses that sell telepresence robots? 15 A. I have no idea. I don't know what the, who sells 16 to customers out there. 17 Q. Is it accurate for me to say that you don't know 18 of any that do? 19 A. No, I don't know whether they do. 20 Q. Can you identify a retail pharmacy that sells 21 telepresence robots? 22 A. Again, I don't know who sells their products. 23 Q. Does McKesson Corporation distribute your 24 product?</p>	<p style="text-align: right;">Page 19</p> <p>1 Q. Does Burlington Drug Company sell your product? 2 A. I don't know. 3 Q. Does Byron Healthcare distribute your product? 4 A. I don't know. 5 Q. Does Cardinal Health distribute your product? 6 A. Yes. 7 Q. Can you buy a telepresence robot from Cardinal 8 Health? 9 A. I don't know. 10 Q. Does Delight Medical distribute your product? 11 A. I don't know. 12 Q. Does Diabetes Management and Supplies distribute 13 your product? 14 A. I don't know. 15 Q. Does Edgepark Medical Supplies distribute your 16 product? 17 A. Yes. 18 Q. Can you buy a VGo telepresence robot from 19 Edgepark Medical? 20 A. I don't know. 21 Q. Does Frank W. Kerr distribute your product? 22 A. Say that one again. 23 Q. Frank W. Kerr. K-e-r-r. 24 A. I don't know.</p>
<p style="text-align: right;">Page 18</p> <p>1 A. Yes. 2 Q. And can you buy a VGo telepresence robot from 3 McKesson? 4 A. I don't know. 5 Q. Does AmerisourceBergen Corporation distribute 6 your product? 7 A. Yes. 8 Q. Do you know if you can buy a telepresence robot 9 from AmerisourceBergen? 10 A. I don't know. 11 Q. Does ANDA Incorporated distribute your product? 12 A. I'm sorry. Repeat the name. 13 Q. A-N-D-A Incorporated. 14 A. I don't know. 15 I would like to interject there's a number of 16 medical distributors, I don't know all of the names of 17 the medical distributors nor all of the regional 18 wholesalers. 19 Q. Okay. Does Better Living Now distribute your 20 product? 21 A. Yes. 22 Q. Can you buy a telepresence robot from Better 23 Living Now? 24 A. I don't know.</p>	<p style="text-align: right;">Page 20</p> <p>1 Q. Does HD Smith Wholesale Drug Company distribute 2 your product? 3 A. Yes. 4 Q. Can you buy a telepresence robot from HD Smith? 5 A. I don't know. 6 Q. Does Independence Medical distribute your 7 product? 8 A. I don't know. 9 Q. Does Liberty Medical Supply distribute your 10 product? 11 A. Yes. 12 Q. Can you buy a telepresence robot from Liberty? 13 A. I don't know. 14 Q. Does Miami-Luken Incorporated distribute your 15 product? 16 A. I don't know. 17 Q. Does Mini Pharmacy Enterprise distribute your 18 product? 19 A. I don't know. 20 Q. Does Morris and Dickson distribute your product? 21 A. I don't know. 22 Q. Does North Carolina Mutual Wholesale Drug Company 23 distribute your product? 24 A. I don't know.</p>

Page 21

1 Q. Does Prescription Supply Incorporated distribute
2 your product?
3 A. I don't know.
4 Q. Does Rochester Drug Company distribute your
5 product?
6 A. I don't know.
7 Q. Does Smith Drug Company distribute your product?
8 A. I don't know.
9 Q. Does Value Drug Company distribute your product?
10 A. I don't know.
11 Q. Can you identify any company that distributes
12 your product that also sells a VGo telepresence robot?
13 A. Again, I don't know who sells the VGo
14 telepresence robot, so I don't think I can tell you who
15 distributes both.
16 Q. Is it fair for me to say that you cannot identify
17 a distributor that sells both your product and a VGo
18 telepresence robot?
19 A. No. Because I believe in that case I don't know
20 who is selling which one, so there may be a case where
21 both do and I just don't know.
22 Q. So you don't know of any that do?
23 A. I don't know of anyone who sells which one.
24 so -- I don't know who sells who sells our product and

Page 22

1 sells the other product.
2 Q. And in a yes or no answer, do you know of any
3 distributors that sell both your product and sell VGo
4 telepresence robots?
5 A. No, I don't know, because I don't know their
6 distributors.
7 Q. Okay. Do you have a written agreement with any
8 of the distributors that do distribute your product?
9 A. Yes.
10 Q. And what does that agreement cover?
11 A. Providing the product to make shipments available
12 to their customers.
13 Q. Does the agreement talk about the use of your
14 logos or trademarks?
15 A. I don't know.
16 Q. And has Valeritas trained the distributors on
17 what the product is?
18 A. I don't know.
19 Q. Can you think of anyplace where a customer could
20 buy both the V-Go disposable insulin delivery device and
21 a VGo telepresence robot?
22 MR. CONNOLLY: Objection. Asked and
23 answered.
24 You may answer again.

Page 23

1 Q. You may answer.
2 MR. CONNOLLY: You have to answer again.
3 A. Oh, okay. Well, I don't know who is selling the
4 robot so it's hard for me to tell you I know of a
5 customer that sells both.
6 Q. So how much does your product cost?
7 A. Roughly \$215 a month. That's the wholesale
8 acquisition cost. That's what, the cost the wholesaler
9 pays for the product roughly.
10 Q. Okay. Do you know what a patient typically pays
11 for the product?
12 A. It varies across depending on the insurance
13 coverage that they have or whether they're cash paying.
14 And we don't control that price.
15 Q. And in the case where they have insurance do you
16 know if part of that cost is covered by their insurance?
17 A. I would assume if they have drug insurance or
18 medical benefit insurance, in many cases it will be
19 covered. Not in all.
20 Q. Okay. Do you know how much a VGo telepresence
21 robot costs?
22 A. No.
23 Q. Would it surprise you to learn that it's about
24 \$6,000 per robot?

Page 24

1 A. It doesn't surprise me one way or another. I
2 don't have any concept of its cost.
3 Q. Is your product disposable?
4 A. Yes.
5 Q. Do you think that the VGo -- do you think that
6 the VGo telepresence robot is disposable?
7 A. I have no idea.
8 Q. Do you know of any \$6,000 devices that are
9 considered disposable?
10 A. There are devices that have components that are
11 disposable in some of the insulin pumps; so portions
12 that are disposable.
13 Q. How much do those pumps cost?
14 A. They can range from 5,000 to \$15,000.
15 Q. And are those pumps as a whole disposable?
16 A. Components are disposable, not the entire pump.
17 Q. Do you think the VGo telepresence robot is
18 electronic?
19 A. I don't know.
20 Q. Could you describe in your words what your
21 understanding of what the VGo robot is?
22 A. I know that it plays videos and conveys
23 information to patients and to physicians.
24 Q. So with that understanding do you think that the

Page 25

1 VGo robot is electronic?
2 A. I could assume that it has some sort of power
3 system.
4 Q. Okay.
5 A. But I don't know what powers it.
6 Q. I understand. Is your product electronic?
7 A. It is not electronic.
8 Q. Does your product need a battery or an electric
9 power source?
10 A. No. It's powered hydraulically.
11 Q. Do you use the fact that your device is not
12 electronic and does not need a battery in your
13 marketing?
14 A. Yes.
15 Q. Do you market your product to hospitals?
16 A. We market our product to physicians, many of whom
17 may be in hospitals.
18 Q. Do you market your product to anyone other than
19 physicians in hospitals?
20 A. We market to nurse practitioners, physician
21 assistants, nurses, clinical diabetes educators,
22 pharmacists. Sometimes patients.
23 Q. And what do those marketing efforts include?
24 A. I'm sorry. Can you be more specific.

Page 26

1 Q. What types of activities does Valeritas undertake
2 to market their products to the people that you've just
3 listed?
4 A. Well, typically it's a sales representative who
5 is calling on one of the customers and conveys
6 information about the product. We also have an online
7 presence and we market through videos, DVDs,
8 advertisements, some direct to patients.
9 Q. And who at the hospitals buy your product?
10 A. In that case it would be a pharmacist ordering a
11 product in.
12 Q. Would you expect those pharmacists to also buy
13 telecommunications robots?
14 A. I don't know who buys telecommunications robots.
15 Q. Do you market your V-Go products to any
16 information technology support staff in the hospitals?
17 A. Not directly. We may interact with some of the
18 technology folks. For instance, I was working with a
19 rep in the field and she was asking the physician about
20 his electronic medical records to make certain that V-Go
21 was included. And so if it's not she's obviously going
22 to bird dog to make sure it's included in those sort of
23 technologies that the physicians have.
24 Q. And when you say "bird dog" you mean that your

Page 27

1 rep would follow up with the person who is in charge of
2 the EMR system?
3 A. Whoever would be appropriate, yes.
4 Q. And would you consider those activities to be
5 marketing to the EMR personnel?
6 A. Certainly.
7 Q. Are your representatives advocating the use of
8 your product over a competing product to the EMR
9 personnel?
10 A. I wouldn't know specifically what they would be
11 saying in those settings. They're trying to make sure
12 that V-Go is included in the EMR. So there is some
13 marketing involved, but I don't know the specific
14 messaging.
15 Q. Do you market your products to the chief
16 information officers at hospitals?
17 A. I don't know.
18 Q. Can you identify any instance in which a person
19 in the information technology department at a hospital
20 bought your product on behalf of the hospital?
21 A. I don't know.
22 Q. Would you expect the hospitals to purchase your
23 product out of their capital budget?
24 A. I don't know. I don't know how they handle their

Page 28

1 budgets.
2 Q. Could you explain the nature of the information
3 that's kept in the electronic medical records systems?
4 A. I'm certainly not an expert. But in this case
5 it's oftentimes information about product selection,
6 detailed background on side effects, efficacy, use of
7 product, and some I know go broader than that, but I
8 don't know a lot of the details.
9 Q. Do you know if EMR systems contain a listing of
10 all of the products that could possibly be used in the
11 hospital?
12 A. I don't know.
13 Q. Would you expect that an EMR system would have
14 information about notepads?
15 A. I don't know.
16 Q. Has Valeritas ever received a request for
17 information about a VGo telepresence robot?
18 A. I don't know.
19 Q. About how many units of your product have been
20 sold since its release?
21 A. This is going to have to be an estimate.
22 Q. That's fine.
23 A. Roughly a million.
24 Q. And that would be a million individual V-Go

Page 29

1 devices?
2 A. A million individual V-Gos.
3 Q. And again an estimate is fine. How many
4 consumers have used your products?
5 A. Again, this would be a rough estimate because we
6 don't capture the data that way. So probably between
7 six and 8,000 patients.
8 Q. When were you made aware of the VGo telepresence
9 robot?
10 A. I don't know the precise date. It was shortly
11 after I joined the organization.
12 Q. And are you aware of anyone who has been
13 confused, mistaken, or deceived as to the source of the
14 VGo telepresence robot?
15 A. Yes.
16 Q. And who is that person?
17 A. There were two. So I had an investor, one of my
18 investors who called me up and was confused because they
19 had heard information about VGo and thought it was our
20 product and found out it was something different. So I
21 had an investor who called me up and was confused.
22 And as well as I was made aware of a physician
23 who was confused as well and saw the name.
24 Q. And do you know the name of that physician?

Page 30

1 A. I don't know the physician's name, no.
2 Q. How about the investor?
3 A. I can't remember the investor. There are about
4 15; I can't remember who called me up.
5 Q. And that was -- I'll rephrase.
6 After the telephone call with the investor did
7 you have any further communication with that investor
8 about the VGo telecommunications robot?
9 A. Yes. I probably called him up and informed him
10 what the difference was. What the product was.
11 Q. Any communications in writing with that investor?
12 A. No.
13 Q. And could you tell me in a little more detail the
14 nature of this investor's confusion?
15 A. He was concerned because our product is called
16 V-Go and he heard or saw, I don't recall which it was,
17 information about something named VGo and didn't
18 understand why there was someone else using the name
19 among, among physicians.
20 Q. Did that investor at the time you talked to him
21 know the nature of this other VGo product?
22 A. He knew the -- he knew generally what it was; he
23 didn't know the specifics of how it worked or anything
24 like that.

Page 31

1 Q. Did the investor know that this other VGo product
2 was robotic?
3 A. I don't know that he knew that.
4 Q. Did he know that this other VGo product was a
5 telecommunications equipment?
6 A. I don't know. His main focus was he had heard
7 about it and he heard about it through a physician
8 friend and was concerned.
9 Q. And did he think that Valeritas was the source of
10 this other VGo product?
11 A. He didn't know. He was calling up to find out
12 whose product was it.
13 Q. Did you say that this investor was concerned?
14 A. Yes.
15 Q. What was the nature of his concern?
16 A. He's invested money in Valeritas and he's
17 invested money in V-Go and we're building awareness for
18 the name and suddenly he hears a name being used
19 associated with something else. So he's concerned about
20 the risk to his investment.
21 Q. When you say the name was being used with
22 something else, what do you mean? Other than what?
23 A. Other than the V-Go disposable insulin delivery
24 device.

Page 32

1 Q. And do you know -- let me rephrase that.
2 Who is Dr. Richard Pratley?
3 A. I don't know.
4 Q. Do you want to take a break now or are we okay to
5 keep going?
6 A. I'm okay.
7 Q. Okay.
8 MR. HOBGOOD: Mark this Exhibit 1, please.
9 (Deposition Exhibit 1 marked for
10 identification.)
11 MR. HOBGOOD: And mark this Exhibit 2,
12 please.
13 (Deposition Exhibit 2 marked for
14 identification.)
15 Q. So I'm handing you Exhibits 1 and 2. They're
16 simply in two binders due to size.
17 This is the production that Valeritas has made to
18 us. So if you would in Exhibit 1 which you have in
19 front of you there, do you see --
20 A. Excuse me. I need to get my glasses.
21 Q. Okay.
22 (Pause)
23 A. Okay.
24 Q. If you look in the lower right-hand corner you'll

Page 33

1 see that it's marked VAL00001. And then if you want to
2 look at the last page, you don't have to turn all of the
3 pages over, look in the lower right-hand corner of the
4 last page you'll see that's marked in a similar way with
5 VAL000270.
6 A. No. It's 000722.
7 Q. Okay. And then if we look at exhibit -- so
8 there's been some redundancy in these exhibits.
9 If you look in the lower right-hand corner can
10 you tell me the number you see there?
11 A. 000720.
12 Q. And the last page of that same exhibit, please.
13 A. 000934.
14 Q. Okay. So when I reference a page I'll just say
15 VAL, I'll say the number, I won't go through the zeros
16 again; is that all right?
17 A. Yes.
18 Q. Okay. Great.
19 So could you -- looking in Exhibit 2, if you
20 would, please. If you could just quickly look at pages
21 VAL 720 through 722.
22 A. (Witness reviewing.)
23 Q. Have you seen this e-mail thread before today?
24 A. It looks familiar, but I couldn't tell you for

Page 34

1 certain if I have.
2 Q. Okay. Do you think that this is, this e-mail
3 contains the name of the physician who was confused
4 about the VGo reference that you mentioned earlier?
5 A. This may have been the same physician. I
6 couldn't tell you for certain.
7 Q. Okay. Have you talked to anyone in Valeritas
8 about this e-mail thread or -- about this e-mail thread?
9 A. We've talked about the other, what we feel is
10 somebody using our name. I don't know whether it was
11 this specific e-mail thread.
12 Q. Okay. So in those general conversations about a
13 physician being confused about someone using the V-Go
14 name did you discuss any of the statements made by that
15 physician?
16 A. I don't recall discussing specific statements.
17 Q. Okay. So if you could look on page VAL 720, it's
18 the first page there in the exhibit. The very bottom in
19 the last line, could you read what's there, please.
20 A. "Hey, somebody stole your name."
21 Q. Could you tell me what you think that means?
22 A. That means somebody is using our trademark.
23 Q. Do you think that the person making this
24 statement was confused about whether Valeritas had

Page 35

1 started selling robots?
2 A. I couldn't tell you what he was thinking at that
3 point in time. To me it expresses concern.
4 Q. Is the nature of the concern that Valeritas is
5 selling a new product?
6 A. I don't know. I mean, I'm assuming here that
7 he's saying someone is using your name on another
8 product.
9 Q. And by "someone" do you think that this person is
10 referring to a third party other than Valeritas?
11 A. Yes.
12 Q. Are you aware that Valeritas has taken the
13 position that actual confusion exists as to the
14 identities of Valeritas and VGo Communications or their
15 products or services?
16 A. We believe there is confusion.
17 Q. And what's your understanding of the basis for
18 this conclusion that confusion exists?
19 A. Because these are physicians -- this is a
20 physician who has come across the name, I've had an
21 investor come across the name; if they're in a hospital
22 setting or a clinic setting it's the same physicians who
23 can see the name that we are selling our product to.
24 So very concerned about our continuing to sell

Page 36

1 the product and build a brand name and having somebody
2 else create confusion.
3 Q. Is it true that you know of only one doctor who
4 has expressed concern?
5 A. Well, I heard of one doctor. I don't know if
6 it's this doctor or a separate doctor.
7 Q. And is it true that you've heard of only one
8 investor who is concerned?
9 A. At my level, yes, I've only heard of one.
10 Q. Okay. And do you think that a statement from two
11 people alone shows that there's confusion generally in
12 the marketplace as to the source of your product?
13 MR. CONNOLLY: Objection.
14 Q. You may answer.
15 A. I'm concerned because of the timeframe that this
16 started happening. And that's a point in time when we
17 were getting ready to launch our product.
18 Q. I understand your concern, but do you think a
19 statement from two people alone shows that there's
20 confusion generally in your marketplace?
21 A. I think, yes. It doesn't always come directly to
22 us when there's confusion.
23 Q. Do you think that two different companies
24 offering different types of products or services with

Page 37

1 the same name to the same customers will always generate
2 confusion as to the source of those products?
3 MR. CONNOLLY: Objection.
4 Q. You may answer.
5 A. I don't know. I would say in many cases, yes.
6 Q. Have you seen advertisements for Delta Airlines?
7 A. Yes.
8 Q. And where have you seen those advertisements?
9 Just a few examples is all.
10 A. Television, magazines, Internet. A variety of
11 places.
12 Q. And in your opinion who are those advertisements
13 directed to?
14 A. To business executives, people who want to
15 travel. Probably business to business. Probably a
16 variety of different customers. I don't know, I don't
17 know where they focus their efforts.
18 Q. Do you think that those advertisements are
19 directed to the general public?
20 A. Yes.
21 Q. Have you seen advertisements for Delta Faucets?
22 A. Yes.
23 Q. Where have you seen those?
24 A. Typically in magazines that are more related to

Page 38

1 home improvements.
2 Q. Have you seen any television advertisements for
3 Delta Faucets?
4 A. No.
5 Q. And in the -- for the advertisements that you
6 mentioned, to whom are those advertisements directed?
7 A. People who are doing home improvements.
8 Q. And after seeing both advertisements were you
9 confused as to the identity of Delta Airlines or Delta
10 Faucets?
11 A. No. Very different products and very different
12 spaces with very different target audiences.
13 Q. And were you confused as to the source of the
14 products or services that those two companies sell?
15 A. What do you mean by "source of the products"?
16 Q. After seeing both advertisements were you
17 confused as to who supplied faucets and who supplied
18 travel services?
19 A. No. I don't know which parents own them, so.
20 Q. Do you know if Valeritas has a working
21 relationship with this doctor that we talked about with
22 reference to Exhibit 2, Dr. --
23 A. I don't know.
24 Q. -- Pratley?

Page 39

1 A. I don't know.
2 Q. Do you know anything about Dr. Pratley's research
3 work?
4 A. No.
5 Q. Does Valeritas have a working relationship with
6 Novo Nordisk?
7 A. Not a direct relationship, no.
8 Q. Could you explain the nature of the relationship.
9 A. Novo Nordisk has rapid acting insulin and we
10 tested their insulin in V-Go, so that's included in our
11 IFU, Instructions For Use.
12 Q. Do you know if Novo Nordisk has sponsored any of
13 Dr. Pratley's work?
14 A. I have no idea.
15 Q. You can put those exhibits aside for now.
16 Are you aware of any media coverage of the VGo
17 telepresence robot?
18 A. Yes. YouTube, advertisements. And I think there
19 was something else on the Internet, but I don't know the
20 source of it.
21 Q. Are you aware that the VGo telepresence robot has
22 been profiled in Business Week magazine?
23 A. No, I wasn't aware.
24 Q. How about Forbes magazine?

Page 40

1 A. No, I wasn't aware.
2 Q. Time magazine?
3 A. No, I wasn't aware.
4 Q. Sports Illustrated?
5 A. No, I wasn't aware.
6 Q. Are you aware that the VGo telepresence robot has
7 received coverage on the Today Show?
8 A. No, I wasn't aware.
9 Q. Oprah Winfrey Network?
10 A. No, I wasn't aware.
11 Q. 60 Minutes?
12 A. No, I wasn't aware.
13 Q. Would you be surprised if you were told that VGo
14 Communications has never received a request for an
15 insulin delivery device?
16 A. I wouldn't be surprised or unsurprised. So
17 either way I just don't know.
18 Q. How do you spell your product name?
19 A. V-G-O.
20 Q. And does that have any punctuation in it?
21 A. Oh, there's a dash. V-Go.
22 MR. HOBGOOD: Could you mark this as
23 Exhibit 3, please.
24 (Deposition Exhibit 3 marked for

Page 41

1 identification.)

2 Q. So you have Exhibit 3 in front of you. Could you

3 describe this exhibit, please.

4 A. It is a sheet of paper from the Patent and

5 Trademark Office with the trademark registration number.

6 Q. Does Exhibit 3 show the way that your name is

7 used in normal print?

8 A. It shows one of the ways in which the product's

9 name is used.

10 Q. Are there other ways that the product -- are

11 there other ways that the product name is represented

12 besides what you have in front of you?

13 A. It is used with a logo and a font that's

14 consistent with the logo that we use. And it's

15 registered in certain systems like if you go into a

16 pharmacy and they were to look up V-Go it will be

17 registered with or without the dash, depending on how

18 the system categorizes it.

19 Q. And does Valeritas use this word V-Go in

20 connection with its products or services without a

21 hyphen?

22 A. Just as I described, at some pharmacy systems. I

23 don't think they enable you to put the dash in or

24 something, so sometimes it's V-Go, sometimes it's VGo.

Page 42

1 Q. Would Valeritas use it without the dash, though?

2 A. Rarely. Sometimes it might get typed that way.

3 Q. Can you think of specific instances of when it

4 would be typed without the hyphen?

5 A. Just in communications between individuals. On

6 official documents where it's going to a customer you

7 would see the, either the logo or typed like it's shown

8 here.

9 Q. Okay. So do I understand that the communications

10 that you made reference to, where it might be without

11 the hyphen, may just be internal only to Valeritas?

12 A. Or it could be an e-mail or a letter to a

13 physician, or someone makes, doesn't include the hyphen

14 for some reason.

15 Q. Does Valeritas have a policy on how the V-Go name

16 should be used?

17 A. Yeah. We want the dash to be included. But

18 people make typos or people just write it that way

19 because that's how they hear it.

20 Q. Do you know how the name V-Go was selected?

21 A. No.

22 MR. HOBGOOD: Could you mark this Exhibit 4,

23 please.

24 (Deposition Exhibit 4 marked for

Page 43

1 identification.)

2 Q. So this is Exhibit 4; could you describe it,

3 please.

4 A. Certainly. Let me read it first.

5 Q. Sure.

6 A. (Witness reviewing.) This would be another

7 Patent and Trademark Notice that includes the trademark

8 number with the logo. With the V-Go logo.

9 Q. Is this what you referred to earlier as the

10 stylized logo with the particular --

11 A. Yes.

12 Q. -- font?

13 A. Yes.

14 Q. Okay. Thank you. Do you know how this stylized

15 logo was created?

16 A. No.

17 Q. And does Exhibit 4 show Valeritas' logo as it's

18 currently used in connection with its disposable insulin

19 delivery devices?

20 A. Yes.

21 Q. Could you describe some of the characteristics of

22 that logo.

23 A. Green, capital letters, slanted, stylized dash as

24 part of the G. And with "disposable insulin delivery"

Page 44

1 written below the brand name itself.

2 Q. Has Valeritas used this logo in connection with

3 its products and services without the words "disposable

4 insulin delivery" at the bottom?

5 A. I don't know. Let me correct that. Yes. There

6 are documents where oftentimes I'll just see the V-Go

7 trademark without "disposable insulin delivery" simply

8 because of the size of, the room that we will have on

9 the bottom of a PowerPoint and it will just say, "V-Go."

10 Q. And would those be documents that go outside of

11 Valeritas, or are those internal only?

12 A. Those might go outside in presentations.

13 Q. So would you look at Exhibit 2 again, please,

14 that's the small binder. And could you look at page

15 VAL 723. So do you see your logo at the top of that

16 exhibit?

17 A. Yes.

18 Q. And are the words "disposable insulin delivery"

19 used at the bottom?

20 A. No.

21 Q. Are there any other words included along with

22 that logo?

23 A. "Easy fill."

24 Q. And are there any other uses on your products

<p style="text-align: right;">Page 45</p> <p>1 where the V-Go stylized logo does not have the words at 2 the bottom and does not have additional words following 3 the V-Go logo? 4 A. Just the example that I said it might occur on 5 some PowerPoint slides or something. I don't know 6 beyond that. 7 Q. Would it -- do you know of any uses on a product 8 that would not have the words beneath it and not have 9 other words following the logo? 10 A. I don't know. 11 Q. Okay. Could you look at Exhibit 1 again, please. 12 It's this larger binder. Page VAL 190, please. 13 A. (Witness reviewing.) 14 Q. So could you look at the logo at the top and does 15 that design include the words, "disposable insulin 16 delivery" at the bottom? 17 A. Yes. 18 Q. Would you say that as it appears there is the 19 most typical way that Valeritas products would be 20 marked? 21 A. Yes. I would assume on products that are in, 22 like, the packaged kits, yes. 23 Q. So in the packaged kits you would expect normally 24 to have the words "disposable insulin delivery" in the</p>	<p style="text-align: right;">Page 47</p> <p>1 with physicians around prescribing patterns, the types 2 of patients that they're prescribing the product for. 3 Q. And in those studies is it correct that you're 4 asking doctors questions? 5 A. Yes. 6 Q. And are you asking how they prescribe the 7 product? 8 A. Typically around a specific patient, yes. 9 Q. Are you asking them whether they choose your 10 product over competing products? 11 A. I don't know. 12 Q. Would you ask those doctors about your use of the 13 logo on the products that they get? 14 A. No. We're not asking about the logo. This is 15 more around their use with individual patients. 16 Q. So let's turn back to Exhibit 4, please. It's 17 the stylized logo. 18 Do you know why Valeritas decided to use a 19 slanted V in its logo? 20 A. I know after the fact, not at the point in time 21 that they made the decision. But the slant is to convey 22 movement. 23 Q. And what's the icon that starts in the middle of 24 the G and extends into the center of the O intended to</p>
<p style="text-align: right;">Page 46</p> <p>1 logo? 2 A. Yes. But I don't know whether it's there 3 100 percent of the time. 4 Q. Are you aware of any studies or research 5 conducted by or on behalf of Valeritas regarding the 6 V-Go stylized logo? 7 A. No, I'm not aware of the research. 8 Q. Are you aware of any studies or research 9 conducted by or on behalf of Valeritas regarding the 10 V-Go brand? 11 A. I'm not familiar with any research. 12 Q. Are you aware of any studies or research 13 conducted by or on behalf of Valeritas regarding the 14 V-Go products? 15 A. I'm sorry. That may be one you have to clarify 16 what you mean by "research on the products." We do a 17 lot of marketing research. I'm not certain what you 18 mean. 19 Q. So you have -- you have conducted some marketing 20 research on the V-Go products; is that correct? 21 A. Yes. 22 Q. Could you identify some recent research that 23 you've done? The nature of the research. 24 A. There's marketing research that's typically done</p>	<p style="text-align: right;">Page 48</p> <p>1 represent? 2 A. That's the needle button on the V-Go. 3 Q. And what is the needle button trying to convey in 4 that logo? 5 A. It conveys the pricking of the skin. 6 Q. And is that pricking of the skin to administer 7 insulin or some other purpose? 8 A. Well, V-Go right now is used with insulin so it 9 would be to administer insulin. 10 Q. Okay. So if you could look at that exhibit, the 11 large paragraph at the, at the bottom part of the 12 registration statement there. 13 A. Uh-huh. 14 Q. And there's a sentence that starts at the end of 15 the eighth line, it begins with "the hyphen is." Could 16 you read that sentence please. 17 A. Now I lost you. "The hyphen is a stylized design 18 intended to represent a fingerprick used to drawing 19 blood for testing. The V-Go" -- do you want me to keep 20 going? 21 Q. That's fine. Thank you. 22 And what is a fingerprick device? 23 A. That's a needle that goes in and pricks the skin. 24 Q. And is that needle that goes to prick the skin</p>

Page 49

1 different than the needle on the V-Go device?
2 A. I don't know.
3 Q. What's the purpose of a fingerprick device?
4 A. Well, it's either to measure glucose or you're
5 pricking the skin to actually deliver a drug.
6 Q. Where do patients typically place the V-Go device
7 on their bodies?
8 A. It varies. But in our label we specifically
9 state on the abdomen or back of the arm. But the
10 patients use it in a variety of different locations.
11 Q. Would Valeritas recommend that a patient place
12 the V-Go device on one of their fingers?
13 A. No.
14 Q. Would the V-Go device function properly if it was
15 installed on a patient's finger?
16 A. I don't know.
17 Q. Do you think that a fingerprick device is
18 different than the needle button on the V-Go device?
19 A. I don't know.
20 Q. So do you know why the trademark registration of
21 your logo states that the hyphen is intended to
22 represent the fingerprick device when you said that the
23 icon was intended to represent the needle button on the
24 V-Go?

Page 50

1 A. So let me clarify. I don't know it was intended
2 to represent. I only know what it looks like to me. I
3 wasn't here at the time that the intention was, when a
4 logo was created. So I don't know what the intentions
5 were.
6 Q. Would you consider the needle device on the V-Go
7 to be a fingerprick device?
8 A. I don't know.
9 Q. Does Valeritas encourage their patients to prick
10 their finger with the needle from the V-Go device?
11 A. We encourage them to do fingerpricks to test.
12 Q. Using the V-Go device?
13 A. They can't test with the V-Go device.
14 Q. Has anyone asked what that icon represents?
15 A. I don't know.
16 Q. Does the Valeritas insulin delivery device draw
17 blood samples?
18 A. No.
19 Q. Does the Valeritas device test blood glucose
20 levels?
21 A. No. Not currently.
22 Q. Do you believe the needle button icon conveys
23 motion?
24 A. I don't know what the intention is. It looks

Page 51

1 like movement, but I don't know what the intention is.
2 Q. So it looks like movement to you?
3 A. Well, the whole logo looks like movement. So I
4 would say all components of it convey movement to me.
5 But I wasn't the person who created it.
6 Q. So does the -- do the words, "disposable insulin
7 delivery" convey motion to you?
8 A. The slanting of it makes it look, at least in the
9 this copy, they look slanted. All of it does.
10 Q. Does the shape of the O convey motion?
11 A. Yes. To me.
12 Q. And does the shape of the G convey motion?
13 A. Yes. To me they do.
14 Q. So again looking at Exhibit 4, what colors are
15 used in connection with this logo?
16 A. Different shades of green.
17 Q. If you could again look at the text that's part
18 of the registration certificate. The sentence that's
19 above the large paragraph, could you read that to me,
20 please.
21 A. The one that starts "the colors"?
22 Q. Please.
23 A. "The color(s) dark green, medium green, light
24 green, lime green and white is/are claimed as a feature

Page 52

1 of the mark."
2 Q. And are these the colors that Valeritas is using
3 in the logo at present?
4 A. That's what I currently see.
5 Q. Are you using purple in this logo?
6 A. Purple -- not in this depiction of the logo, but
7 purple is one of the colors that we use. Whether it's
8 specifically used in the logo I don't know.
9 Q. Do you know when Valeritas started incorporating
10 purple to its marketing materials?
11 A. I don't know.
12 Q. Any idea why Valeritas chose purple?
13 A. No idea why.
14 Q. Do you know if the colors that you're presently
15 using in your logo were the original colors that were
16 used in the logo?
17 A. I don't know.
18 Q. What colors do you consider to be in the purple
19 family?
20 A. I think if you're looking at the spectrum it
21 probably depends. It's probably different shades of
22 blue and different shades of red that can be categorized
23 as purple in individuals eyes.
24 Q. Would all shades of blue fall in the color purple

Page 53

1 family?
2 A. I don't know. I'm not an expert.
3 Q. In your opinion.
4 A. I guess there are certain shades of blue or
5 certain shades of red that may not look as much like
6 purple.
7 Q. Do you know what color yellow and blue combined
8 make?
9 A. Yes. Green.
10 Q. And do you know what color yellow and red
11 combined make?
12 A. Yes. Orange.
13 Q. Is yellow part of the green family or orange
14 family?
15 A. I don't know.
16 Q. Has any entity been authorized by your company to
17 use the V-Go name?
18 A. I don't know.
19 Q. Are you aware that Valeritas took the position in
20 late November of 2011 that its marks were well-known in
21 the marketplace?
22 A. I don't recall that.
23 MR. HOBGOOD: Mark this Exhibit 5, please.
24 (Deposition Exhibit 5 marked for

Page 54

1 identification.)
2 Q. So you have Exhibit 5 in front of you and this is
3 Valeritas' responses and objections to VGo
4 Communications first set of interrogatories in this
5 matter.
6 Could you look at page 9, please. And if you
7 look at the last paragraph on that page. Can you read
8 the first sentence, please.
9 A. The one that starts with "even though"?
10 Q. Yes, please.
11 A. "Even though Petitioner has not commenced use of
12 Petitioner's V-Go mark in commerce, Petitioner's V-Go
13 mark is already well-known in the marketplace, and
14 Petitioner is already aware of at least one instance of
15 actual confusion."
16 Q. Do you understand in this instance that
17 Petitioner is Valeritas?
18 A. No, I didn't. So thank you for clarifying.
19 Q. So this was in November of 2011. Do you know if
20 this was before products bearing your marks were shipped
21 to consumers?
22 A. What was the date again?
23 Q. November of 2011.
24 A. We may have had product in consumers hands before

Page 55

1 that. Again, I don't know the precise date of when
2 product was shipped. But prior to that certainly we
3 had, we had sales representatives in the field.
4 Q. So what's the basis for the conclusion that your
5 marks were well-known in the marketplace?
6 A. Well, I couldn't specifically address it here,
7 but I can tell you at the time we did have sales
8 representatives calling on physicians, so physicians
9 were aware of V-Go.
10 We had been working for many years with key
11 opinion leaders, thought leaders across the country and
12 had been calling on a lot of different institutions.
13 In all of those instances the V-Go name had been
14 used and those physicians were familiar with the V-Go
15 name.
16 Q. And do you think that both your word mark and the
17 stylized logo that we looked at earlier were well-known
18 in the market place?
19 A. Certainly the word V-Go was and the trademark was
20 being used on materials. So I would assume so. But I
21 couldn't -- I couldn't prove that with -- I'm going by
22 recollection more than I am with specifics.
23 Q. And earlier you said there were a number of
24 factors that formed the basis for that conclusion and

Page 56

1 one is you had sales representatives in the field; is
2 that correct?
3 A. Yes.
4 Q. And do you know how many sales representatives
5 were working for Valeritas in November of 2011?
6 A. I don't know specifically in November of 2011. I
7 do know that in 2009 we had five sales representatives.
8 I just don't remember the precise date that we began to
9 add others. So we had five sales representatives, we
10 had two people calling on large clinics and
11 institutions. Actually, three.
12 And we may have had more in other functions that
13 were also doing that work. Plus the key opinion leader
14 work was done by a variety of different individuals
15 within the organization.
16 Q. Do you think that in 2011, by the, by November of
17 2011 you had more than 10 sales reps in the field?
18 A. So let me give it some thought because I can
19 think about the timeframes here. So let me go
20 with -- I'm estimating -- well, when you say "sales
21 representatives," it was somewhere between 5 and 15. I
22 just don't know the precise number at that point in
23 time.
24 Q. Okay. And what territories did those sales

Page 57

1 representatives cover?
2 A. Generally they were covering the eastern coast of
3 Massachusetts down to Florida.
4 Q. Was there any sales representative activity
5 outside the U.S.?
6 A. Only with key opinion leaders.
7 Q. Can you identify some of those key opinion
8 leaders?
9 A. I don't know off the top of my head. There are a
10 number of opinion leaders who work in different
11 countries on a consulting basis. So I don't know -- I
12 don't know their names.
13 Q. Let's take a short break.
14 (Short break taken.)
15 Q. So before the break we were talking about the
16 territories that your sales representatives were
17 covering and you had answered that it was the east
18 coast, I think you said, from Massachusetts to Florida.
19 You had mentioned that you had some conversations
20 with thought leaders outside the U.S., could you
21 identify some of those?
22 A. I don't know their names, but they're physicians
23 that are oftentimes engaged as speakers or as
24 consultants to the company around different aspects of

Page 58

1 the product. So they could be based in the U.S. and
2 they could be based in other countries. So if they're
3 based in the U.S. oftentimes they do work in other
4 countries.
5 Q. Okay. And do you think you could find out some
6 of the names of those people that you contacted?
7 A. I don't know that we keep records of everyone
8 that we've contacted.
9 Q. And in November of 2011 what did you consider
10 your marketplace to be geographically speaking?
11 A. The United States.
12 Q. So if you only had representatives in -- I'll
13 rephrase the question.
14 If you only had sales reps along the east coast
15 but your marketplace was the entire U.S., why is it you
16 thought your marks were well-known across the whole
17 U.S.?
18 A. Because we were contacting key thought leaders.
19 We were beginning to contact some key clinics at that
20 point. And we were also calling on large institutions
21 and payor organizations and wholesalers and so forth.
22 Q. Was anyone from Valeritas or on behalf of
23 Valeritas contacting customers at that point in time,
24 November of 2011?

Page 59

1 A. Well, those would be considered customers what I
2 just described to you.
3 Q. How about end users of the product?
4 A. You mean patients?
5 Q. Yes.
6 A. I don't know.
7 Q. And what do you consider your marketplace to be
8 now?
9 A. The United States.
10 Q. And do you consider your marks to be well-known
11 in the marketplace now?
12 A. Yes.
13 Q. Both the stylized logo and the name mark V-Go?
14 A. I would say yes.
15 Q. So what other companies operate in your
16 marketplace?
17 A. What do you mean by, "what other companies"?
18 Q. Other companies that would sell competing
19 products.
20 A. Well, we don't really have direct competitors.
21 As I said earlier it's the indirect competitors which is
22 the pens and the needles and the durable pumps.
23 Q. So is it fair to say that other companies
24 operating in your marketplace in the diabetes space were

Page 60

1 the companies that you listed to me earlier?
2 A. Yes, that's correct.
3 Q. Okay. And do you think your marks are as
4 well-known as Sanofi?
5 A. I would say many of these global products that
6 you're mentioning, these large companies that have
7 products on the market for 10, 15, 20 years, so, no, on
8 a relative basis. We have not been around as long as
9 they have.
10 Q. Okay. And then how about as well-known as Novo
11 Nordisk?
12 A. It's the same answer. They've all had products,
13 their products, insulin products have been out for 10,
14 15, 20, 25, 30 years.
15 Q. I'll lump them. Is it fair to say then with
16 regard to Lilly, Medtronic, J&J, and Insulet that their
17 marks, you think their marks are more well-known than
18 yours?
19 A. In those cases I don't know. There are several
20 different pump companies that are newer to the market
21 and I don't know what their recognition factor is.
22 Q. How about Medtronic?
23 A. Medtronic, yes, would be better known than we
24 are.

Page 61

1 Q. Johnson & Johnson?
2 A. It depends on the product, yes.
3 Q. And Insulet?
4 A. I don't know.
5 MR. HOBGOOD: Would you mark this Exhibit 6,
6 please.
7 (Deposition Exhibit 6 marked for
8 identification.)
9 Q. Have you seen this logo before on Exhibit 6?
10 A. Yes.
11 Q. Do you know it as being VGo Communications' logo?
12 A. Yes.
13 Q. So would you look at Exhibit 5 and Exhibit 6 side
14 by side. I'm sorry. Exhibit 4 and Exhibit 6 side by
15 side. So the VGo Communications logo and your own style
16 logo.
17 Do you see any differences between the two logos?
18 A. They're very similar. I think they're very, very
19 close.
20 Q. Are there any differences at all?
21 A. A difference that the, the typeface is black,
22 however, our Exhibit No. 3 uses black. So, yeah, there
23 are a couple of differences there.
24 Q. Just --

Page 62

1 A. And there's not type under the V-Go name.
2 Q. So with regard to the differences between
3 Exhibit 4 and Exhibit 6, you said that the letter
4 coloring was different. Are there any other differences
5 in the lettering between those two exhibits?
6 A. No, they're very similar.
7 Q. Could you -- please.
8 A. The only difference as I said is that we have the
9 lettering underneath and there's not lettering
10 underneath the other V-Go name here. So depending on
11 the size of the logo you might actually view this as
12 lettering because it's small. But at this -- at this
13 scale, no, you don't notice the lettering. There's no
14 lettering on this one.
15 Q. And are the letters in the two logos both top
16 justified?
17 A. I'm not certain what you mean.
18 Q. Are they -- are they both -- do they both start
19 at the same level in the logo as a whole?
20 A. You mean like this? Is this what you're meaning
21 (indicating?)
22 Q. In Exhibit 6 do any of the letters protrude above
23 the top of the logo relative to the other letters?
24 A. The V comes up higher; is that what you mean?

Page 63

1 Q. If that's what you see, yes.
2 A. Higher than the GO.
3 Q. And in Exhibit 4, your own logo, are all the
4 letters starting at the same level on the top?
5 A. Yes.
6 Q. Are there any icons embedded in any of the
7 letters on Exhibit 6?
8 A. There's a circle at the bottom, I guess. It's a
9 circle.
10 Q. Are there any icons embedded in the lettering?
11 In other words, over the top of the letters in
12 Exhibit 6.
13 A. Over the top of the letters, no.
14 Q. And is there an icon embedded in the letters of
15 your V-Go logo, Exhibit 4?
16 A. Yes.
17 Q. Earlier you said that Exhibit 6 did not appear to
18 have letters beneath the logo, but that in certain
19 circumstances it might be mistaken for letters. Could
20 you describe the circumstances under which you think
21 that might happen again, please?
22 A. Certainly. If you took both logos and you shrunk
23 them down to a smaller size, which could appear on
24 certain promotional materials, you may see, you may not

Page 64

1 see the distinctness in Exhibit 4 on the specific
2 letters and your eye may just pick it up as green.
3 Likewise, on 6 you might just pick that up as
4 green. You may not see the distinctness they're trying
5 to create.
6 Q. Do you know of any circumstances where Valeritas
7 ships products with this stylized logo such that the
8 logo is so small that you wouldn't perceive the
9 lettering below as being words?
10 A. I don't know.
11 Q. Are there any regulations that govern the use of
12 that logo that mandate that disposable insulin delivery
13 be used with the logo?
14 A. I don't know.
15 Q. If you compare the icon that's embedded in the
16 logo in Exhibit 4 with the bars that are beneath the
17 logo on Exhibit 6; are there any differences in those
18 two?
19 A. I want to make certain that we're talking about
20 the same thing. So when you say "the icon" are you
21 referring to the needle button?
22 Q. Yes, the needle button.
23 A. When you're talking about Exhibit 6 are you
24 referring to the lines?

<p style="text-align: right;">Page 65</p> <p>1 Q. I am.</p> <p>2 A. And so ask your question again so I know what</p> <p>3 you're referring to.</p> <p>4 Q. Are there differences between the needle button</p> <p>5 in 4 and the lines in 6?</p> <p>6 A. There are differences but they look very similar</p> <p>7 in color and in the point where you actually see the</p> <p>8 circle.</p> <p>9 Q. And you said there were some differences; could</p> <p>10 you identify some of those differences?</p> <p>11 A. That the coloring on Exhibit 6 is a little</p> <p>12 lighter, the shading is a little lighter on the far</p> <p>13 left, where it is not on Exhibit 4.</p> <p>14 Q. Are the lines in the needle button both comprised</p> <p>15 of one bar or two?</p> <p>16 A. Exhibit 6 it looks like there's two lines. And</p> <p>17 Exhibit 4 it's all filled in.</p> <p>18 Q. And how about any differences between the</p> <p>19 circular part of the needle button versus the circle</p> <p>20 that's included at the lines at the bottom of 6?</p> <p>21 A. The circular part on 6 has a white center. And</p> <p>22 there's only partial white on Exhibit 4 in the center.</p> <p>23 Q. Okay. Do you know who Intouch Solutions is?</p> <p>24 A. They're one of our vendors, but I don't know them</p>	<p style="text-align: right;">Page 67</p> <p>1 Q. Do you know of any other uses of the name V-Go</p> <p>2 other than Valeritas' use and VGo Communications' use?</p> <p>3 A. I'm sorry. Say that again.</p> <p>4 Q. Do you know of any other uses of the name V-Go</p> <p>5 other than Valeritas' use and VGo Communications' use?</p> <p>6 A. No.</p> <p>7 Q. So you mentioned earlier when we were talking</p> <p>8 about actual confusion that there was an investor that</p> <p>9 you talked to. You told me that you didn't remember who</p> <p>10 that investor was. Do you think you could find out who</p> <p>11 that investor was?</p> <p>12 A. I don't know. I mean, I would have to go back.</p> <p>13 I've got a lot of investors, so that would be a lot of</p> <p>14 phone calls to try to figure out who mentioned it to me.</p> <p>15 So I don't know and I don't know whether they will</p> <p>16 remember the call.</p> <p>17 Q. Did you talk to anyone else in Valeritas about</p> <p>18 that investor call?</p> <p>19 A. I probably would have mentioned it to Tara at</p> <p>20 some point.</p> <p>21 Q. Anyone else besides Tara?</p> <p>22 A. I don't know.</p> <p>23 Q. Do you know if that investor was a user of your</p> <p>24 product?</p>
<p style="text-align: right;">Page 66</p> <p>1 closely.</p> <p>2 Q. Are they the owner of the registration for your</p> <p>3 go-VGO website?</p> <p>4 A. I don't know.</p> <p>5 Q. You mentioned that they were a vendor; do you</p> <p>6 know when that relationship began?</p> <p>7 A. No, I don't know.</p> <p>8 Q. Do you know if you have any written agreements</p> <p>9 with Intouch Solutions?</p> <p>10 A. I don't know.</p> <p>11 Q. Do you know when you registered your name</p> <p>12 go-VGO.com?</p> <p>13 A. No.</p> <p>14 Q. Do you know if Valeritas collects statistics on</p> <p>15 web traffic to its domains?</p> <p>16 A. I don't know.</p> <p>17 Q. Are you aware of any communications that came to</p> <p>18 Valeritas that were intended to go to VGo</p> <p>19 Communications?</p> <p>20 A. I don't know.</p> <p>21 Q. Are you aware of any communications that were</p> <p>22 sent to you by VGo Communications that was intended for</p> <p>23 you but came to them by mistake?</p> <p>24 A. I don't know.</p>	<p style="text-align: right;">Page 68</p> <p>1 A. I don't know. He's probably one of the investors</p> <p>2 you guys represent.</p> <p>3 Q. Could be.</p> <p>4 Do you know if that user -- pardon me -- that</p> <p>5 investor was an institutional investor or an investor</p> <p>6 with another company?</p> <p>7 A. A venture capital investor.</p> <p>8 Q. Okay. Do you know if that venture capital</p> <p>9 investor had any other relationships with any of your</p> <p>10 distributors or retail outlets?</p> <p>11 A. I have no idea. I don't know which one it is so</p> <p>12 I don't know other relationships.</p> <p>13 Q. I understand.</p> <p>14 So earlier we were talking about Delta Airlines</p> <p>15 and Delta Faucets and you mentioned that you thought</p> <p>16 that those were completely different products. Is that</p> <p>17 an accurate characterization of what you said?</p> <p>18 A. Yes. They're different products.</p> <p>19 Q. And do you think that someone who flies Delta</p> <p>20 Airlines would buy a faucet?</p> <p>21 A. If they're doing home improvements, possibly.</p> <p>22 Q. So in that instance do you think that Delta</p> <p>23 Airlines and Delta Faucets are marketing to the same</p> <p>24 people?</p>

Page 69

1 A. I don't know.
2 Q. When we were talking about disposable products
3 you had mentioned that some of the components in insulin
4 pumps are disposable; correct?
5 A. Yes.
6 Q. Could you identify some of those components that
7 would be disposable?
8 A. Not accurately. I'm not an expert on the other
9 pumps and each pump is a little different. Some of them
10 have different needle sets and infusion sets that are
11 disposable. Some have electronic components that are
12 disposable. Some of them are disposable after a period
13 of time. And some of them are replaceable. I don't
14 know which ones are set up which way.
15 Q. And do you know the approximate cost of a needle
16 set?
17 A. No.
18 Q. Would you say it's in the hundreds of dollars?
19 A. I don't know.
20 Q. Would you expect any of the disposable and
21 replaceable components of those pumps to cost \$6,000?
22 A. I have no idea what they cost.
23 Q. Earlier when you pointed out that there was one
24 doctor and one investor who seemed to be confused about

Page 70

1 the use of V-Go, you said that it caused you concern
2 because it was in the same setting; is that an accurate
3 characterization of what you said?
4 A. I said that because it's in the healthcare
5 setting that creates concern for me.
6 Q. Okay. Is that investor solely operating in the
7 healthcare setting?
8 A. Since I'm not sure which investor; all of my
9 investors are in healthcare. Some of my investors are
10 also in the IT space, and some of them are in other
11 categories, so it's hard for me to tell you for certain
12 which spaces they're operating in.
13 Q. Okay. So could you tell me what you did
14 today -- pardon me -- what you did to prepare for
15 today's deposition.
16 A. I didn't. Other than talk to my attorneys. I
17 didn't prepare.
18 Q. Did you meet with anyone else besides your
19 attorneys?
20 A. No.
21 Q. During your meeting with your attorneys was
22 anyone else present?
23 A. No.
24 Q. During that meeting did you review any documents?

Page 71

1 A. Yes.
2 Q. Could you identify those documents?
3 MR. CONNOLLY: You can identify what
4 documents you looked at to prepare for your deposition.
5 But don't, in the context of identifying documents,
6 don't reveal any communications that you had with either
7 me or Miss Mason.
8 A. Okay. Exhibit 3 and Exhibit 4, and I'm not
9 certain which one it was, but it was one of the labels
10 on the product packaging. So it may have been page 190
11 or something similar to page 190.
12 Q. Product packaging that's presently in the
13 discovery?
14 A. Correct.
15 Q. The production?
16 A. Correct.
17 Q. And did -- strike that.
18 Did you bring any documents to the deposition
19 today?
20 A. No.
21 Q. No further questions.
22 MR. CONNOLLY: I have no questions for the
23 witness. Thanks very much.
24 (Whereupon, the deposition concluded at

Page 72

1 approximately 11:59 a.m.)
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Page 73


CERTIFICATE

COMMONWEALTH OF MASSACHUSETTS
SUFFOLK, ss.

I, Laurie Langer, Registered Professional Reporter and Notary Public in and for the Commonwealth of Massachusetts, do hereby certify that the witness whose deposition is hereinbefore set forth, was duly sworn by me and that such deposition is a true record of the testimony given by the witness.

I further certify that I am neither related to or employed by any of the parties in or counsel to this action, nor am I financially interested in the outcome of this action.

In witness whereof, I have hereunto set my hand and seal this 26th day of September, 2013.



NOTARY PUBLIC
Commission Expires
8/19/2016

Page 75

DEPOSITION ERRATA SHEET

Page No. ___ Line No. ___ Change to: _____

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Page 74

DEPOSITION ERRATA SHEET

Our Assignment No: 456076
Case Caption: Valeritas vs. VGO

DECLARATION UNDER PENALTY OF PERJURY

I declare under penalty of perjury that I have read the entire transcript of my Deposition taken in the captioned matter or the same has been read to me, and the same is true and accurate, save and except for changes and/or corrections, if any, as indicated by me on the DEPOSITION ERRATA SHEET hereof, with the understanding that I offer these changes as if still under oath.

Signed on the _____ day of _____ 2013

Kristine Peterson

Page 76

DEPOSITION ERRATA SHEET

Page No. ___ Line No. ___ Change to: _____

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Page No. ___ Line No. ___ Change to: _____

Reason for change: _____

SIGNATURE: _____ DATE: _____

Kristine Peterson

EXHIBIT E

United States of America

United States Patent and Trademark Office

VGO

Reg. No. 3,895,432

VGO COMMUNICATIONS, INC. (DELAWARE CORPORATION)

Registered Dec. 21, 2010

40 SIMON STREET
NASHUA, NH 03060

Int. Cl.: 9

FOR: ROBOTIC VIDEO AND AUDIO COMMUNICATION HARDWARE; COMPUTER SOFTWARE FOR USE IN CONNECTION WITH AUDIO AND VIDEO COMMUNICATION SYSTEMS, IN CLASS 9 (U.S. CLS. 21, 23, 26, 36 AND 38).

TRADEMARK

FIRST USE 7-29-2010; IN COMMERCE 7-29-2010.

PRINCIPAL REGISTER

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

SN 77-948,481, FILED 3-2-2010.

HEATHER SAPP, EXAMINING ATTORNEY



David J. Kyffers

Director of the United States Patent and Trademark Office

EXHIBIT F

Page 1

1 Volume: I
 2 Pages: 1-119
 3 Exhibits: 1-2
 4 IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
 5 BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD
 6 ----- x
 7 Valeritas, Inc.,
 8 Petitioner,
 9 vs.
 10 VGo Communications, Inc.,
 11 Respondent.
 12 ----- x
 13 In the matter of U.S. Reg. No. 3,895,432
 14 For the Mark: VGO
 15 Filing Date: March 2, 2010
 16 Registration Date: December 21, 2010
 17 Cancellation No. 92054171
 18 RULE 30(b)(6) DEPOSITION OF VGO COMMUNICATIONS, INC.
 19 BY ITS DESIGNEE THOMAS RYDEN
 20 Monday, June 24, 2013 9:29 a.m. to 1:25 p.m.
 21 Morse, Barnes-Brown & Pendelton, P.C.
 22 230 Third Avenue, Fourth Floor
 23 Waltham, Massachusetts
 24 Reporter: Karen A. Morgan, CSR/RPR

Page 2

1 APPEARANCES:
 2
 3 MORSE, BARNES-BROWN & PENDLETON, P.C.
 4 By Scott J. Connolly, Esquire
 5 and Sheri S. Mason, Esquire
 6 CityPoint
 7 230 Third Avenue, Fourth Floor
 8 Waltham, Massachusetts 02451
 9 781-622-5930
 10 sconolly@mbbp.com
 11 smason@mbbp.com
 12 on behalf of the Petitioner.
 13
 14 WILMER CUTLER PICKERING HALE AND DORR, LLP
 15 By Nimit Y. Patel, Esquire
 16 and Michael J. Bevilacqua, Esquire
 17 60 State Street
 18 Boston, Massachusetts 02109
 19 617-526-6384
 20 nimit.patel@wilmerhale.com
 21 michael.bevilacqua@wilmerhale.com
 22 on behalf of the Respondent.
 23
 24

Page 3

1 I N D E X
 2
 3 EXAMINATION OF: PAGE
 4 THOMAS RYDEN
 5 By Mr. Connolly 4
 6
 7
 8 E X H I B I T S
 9 NO. PAGE
 10 Exhibit 1 Binder 13
 11 Exhibit 2 Page displaying logos 14
 12
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 15 *Original exhibits retained by Mr. Connolly
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Page 4

1 P R O C E E D I N G S
 2 THOMAS RYDEN, having been
 3 satisfactorily identified by the production of his
 4 driver's license and duly affirmed that his
 5 testimony would be the truth, the whole truth and
 6 nothing but the truth, testified as follows in
 7 answer to interrogatories by MR. CONNOLLY:
 8 Q. Good morning. Could you please state your
 9 name for the record?
 10 A. **Thomas Ryden.**
 11 Q. What is your address, Mr. Ryden?
 12 A. **My personal home address?**
 13 Q. Yes.
 14 A. **55 River Road in Pepperell, Massachusetts.**
 15 Q. Do you know what this proceeding is today?
 16 A. **In general terms, yes.**
 17 Q. Are you aware that this is the 30(b)(6),
 18 the Rule 30(b)(6) deposition of VGo Communications,
 19 Inc.?
 20 A. **Yes.**
 21 Q. And VGo Communications, Inc., is that your
 22 employer?
 23 A. **Yes.**
 24 Q. And to avoid confusion today I'm going to

Page 5

1 refer to VGo Communications, Inc. as VCI; is that
2 okay with you?
3 **A. We go by VGo.**
4 Q. Right. As you know, there are issues with
5 the letters V-G-O that are relevant to the case so
6 I'm going to use the letters VCI to refer to your
7 employer.
8 **A. Okay.**
9 Q. The stenographer Miss Morgan will prepare
10 a transcript of my questions and your answers so you
11 have to answer verbally today and not shake your
12 head yes or no. Do you understand?
13 **A. Yes.**
14 Q. Also please wait for me to finish my
15 questions and I'll try to wait until you finish your
16 answers before asking you another question because
17 it's very difficult when we start to speak over one
18 another for the stenographer to keep the transcript.
19 **A. I understand.**
20 Q. And your lawyers here today may object
21 from time to time. You must still answer unless
22 you're instructed not to answer by your attorneys.
23 Do you understand that?
24 **A. Yes.**

Page 6

1 Q. And I'll try to arrange it so we can take
2 breaks every now and then but if you need to take a
3 break, just let me know and we'll take a break.
4 **A. Okay.**
5 Q. How do you feel this morning?
6 **A. Fine.**
7 Q. Have you taken any medication or other
8 substance that might affect your ability to
9 understand and respond to my questions?
10 **A. No.**
11 Q. Is there any reason you can think of why
12 you will not be able to answer my questions fully
13 and truthfully?
14 **A. No.**
15 Q. What is your title at VCI?
16 **A. Chief operating officer.**
17 Q. What are your responsibilities?
18 **A. Day-to-day operations, overseeing finance
19 and production and the like.**
20 Q. What do you mean by and the like?
21 **A. We are a small company. It's everything
22 and anything.**
23 Q. How many employees does VCI have?
24 **A. About 15.**

Page 7

1 Q. Has your role at VCI changed over time?
2 **A. Not significantly.**
3 Q. And were you one of the co-founders of
4 VCI?
5 **A. Yes.**
6 Q. What year did you found VCI?
7 **A. 2007.**
8 Q. So you were there at the start of the
9 company?
10 **A. Yes.**
11 Q. And prior to that you were at iRobot;
12 correct?
13 **A. Yes.**
14 Q. And by the way VCI was formerly North End
15 Technologies; is that correct?
16 **A. North End Technologies, correct.**
17 Q. Was that a corporation or an LLC?
18 **A. It started as an LLC. It changed to a
19 corporation.**
20 Q. Is your background primarily in sales and
21 marketing?
22 **A. No.**
23 Q. What does your background primarily
24 consist of?

Page 8

1 **A. Engineering, program management.**
2 Q. Has the majority of your professional
3 experience been in engineering and program
4 management?
5 **A. Probably about half and half.**
6 Q. What does the half consist of?
7 **A. Sales and marketing.**
8 Q. Who did you found VCI with?
9 **A. Tim Root and Grinnell More.**
10 Q. Is Mr. Root still with VCI?
11 **A. Yes.**
12 Q. And is Mr. More still with VCI?
13 **A. I'm sorry. Mr. Root is not with VCI.**
14 Q. Go ahead.
15 **A. Sorry. Mr. More is with VCI. Mr. Root is
16 not with VCI.**
17 Q. When did Mr. Root leave VCI?
18 **A. 2012.**
19 Q. What was Mr. Root's role at the company
20 when he left?
21 **A. He was head of engineering.**
22 Q. Did that role change over time from 2007
23 until he left?
24 **A. No.**

Page 9

1 Q. What is Mr. More's role at the company
2 today?
3 **A. Chief robotics officer.**
4 Q. Has Mr. More's role at the company changed
5 since 2007?
6 **A. No.**
7 Q. Mr. More was there obviously at the
8 beginning?
9 **A. Yes.**
10 Q. Do you hold any other positions besides
11 chief operating officer?
12 **A. No.**
13 Q. Who reports to you at the company?
14 **A. No one.**
15 Q. Has anyone ever reported to you since
16 2007?
17 **A. Yes.**
18 Q. Who is that?
19 **A. Ashley Wells.**
20 Q. What is Miss Wells' position?
21 **A. I don't recall. I mean office manager.**
22 **Something to that effect.**
23 Q. Is it accurate to say that Miss Wells
24 performed office and administrative duties for the

Page 10

1 company under your supervision?
2 **A. Yes.**
3 Q. What years did Miss Wells report to you?
4 **A. I don't recall.**
5 Q. Was Miss Wells employed by the company
6 when it was founded in 2007?
7 **A. No.**
8 Q. Do you recall when Miss Wells joined the
9 company?
10 **A. 2009.**
11 Q. Do you know why she left?
12 **A. She got another job.**
13 Q. Have you been deposed before?
14 **A. Yes.**
15 Q. When?
16 **A. Last year. Yes. Last year.**
17 Q. And have you been deposed at any other
18 times besides in 2012?
19 **A. No.**
20 Q. What was the nature of the proceeding in
21 which you were deposed in 2012?
22 **A. I was deposed as a 30 whatever, (b)(6)**
23 **witness for a patent litigation suit.**
24 Q. Who was the other party?

Page 11

1 **A. In Touch Technologies.**
2 Q. Where was that matter? In what forum was
3 that matter proceeding? Was it in court?
4 **A. Yes.**
5 Q. Do you know what court it was in?
6 **A. Central California, L. A.**
7 Q. And was your employer VCI the plaintiff or
8 the defendant?
9 **A. Defendant.**
10 Q. Is that matter still pending?
11 **A. It is currently under appeal in the**
12 **appellate court.**
13 Q. Can you tell me what the result was in the
14 trial court?
15 **A. So VGo was a defendant. We were sued on**
16 **five patents which was eventually dropped to three**
17 **patents. We prevailed and proved that we were not**
18 **violating any of the patents and we also invalidated**
19 **their patents.**
20 Q. And in Touch is appealing that decision?
21 **A. In Touch is appealing, yes.**
22 Q. What about at iRobot? Had you been
23 deposed in any proceedings when you were at iRobot?
24 **A. No.**

Page 12

1 Q. Have you ever participated in any other
2 trademark type proceeding of any kind?
3 **A. No.**
4 Q. Did you speak with anyone about your
5 deposition today besides your counsel?
6 **A. No.**
7 Q. Nobody at VCI?
8 **A. No.**
9 Q. Can you tell me who Ned Semonite is?
10 **A. He's our VP of marketing and products.**
11 Q. Can you tell me what his role is at the
12 company?
13 **A. VP of marketing and products.**
14 Q. What tasks does he perform as VP of
15 marketing?
16 **A. He heads up the marketing efforts,**
17 **promotion of the product, those types of things.**
18 Q. When did he start working for VCI?
19 **A. I think 2008.**
20 Q. Has Mr. Semonite's role at VCI changed
21 over time?
22 **A. No.**
23 **MR. CONNOLLY:** Could you please mark
24 this as Ryden Exhibit 1?

Page 13

1 (Exhibit 1 was marked for
2 identification.)
3 Q. Mr. Ryden, I'm handing you a binder full
4 of documents that has been marked as Exhibit No. 1.
5 **A. Okay.**
6 Q. Would you please open it and take a look
7 at the first page and in the bottom right-hand
8 corner of the first page do you see where it has the
9 letters and numbers VGO 000001?
10 **A. Yes.**
11 Q. And can you turn to the last page of the
12 binder?
13 **A. Yes.**
14 Q. That page is similarly marked as VGO 749.
15 Do you see that?
16 **A. Yes.**
17 Q. This binder consists of the documents that
18 your counsel produced to us in discovery and I'm
19 going to be asking you some questions today about
20 the documents in here and when I do, I'll refer to
21 the page numbers by the letters and numbers that I
22 just called to your attention; okay?
23 **A. I understand.**
24 **MR. CONNOLLY:** Mark that as Exhibit

Page 14

1 2, please.
2 (Exhibit 2 was marked for
3 identification.)
4 Q. Mr. Ryden, could you look at the first
5 page of Exhibit 1 that's marked VGO number 1?
6 **A. Yes.**
7 Q. And in the upper right-hand corner there
8 is a logo. Can you tell me what that is?
9 **A. That is our logo.**
10 Q. I'm handing you a document that has been
11 marked as Exhibit No. 2. Can you take a look at
12 that, please?
13 (Witness perused document.)
14 **A. Yes.**
15 Q. Can you tell me what is depicted in the
16 upper part or the top part of Exhibit No. 2?
17 **A. That's our logo.**
18 Q. And does the logo on the top part of
19 Exhibit No. 2 depict VCI's trademark as VCI uses it
20 in commerce on its products?
21 **A. Yes.**
22 Q. Can you tell me what is depicted on the
23 bottom portion of Exhibit No. 2?
24 **A. No. I mean it's letters and another logo.**

Page 15

1 Q. Can you describe it for me?
2 **A. Sure. There's the letters V and G and O**
3 **with the words disposable insulin delivery and some**
4 **kind of thermometer maybe tilted sideways.**
5 Q. Have you ever seen that logo before?
6 **A. Yes.**
7 Q. When have you seen it?
8 **A. In materials that you sent us.**
9 Q. Prior to seeing it in the materials that
10 were produced by Valeritas in this matter had you
11 ever seen it before that time?
12 **A. No.**
13 Q. Had anyone at VCI seen it before?
14 **A. Not that I'm aware of.**
15 Q. Turning your attention back to Exhibit
16 No. 1, the first page in the upper right-hand
17 corner. You identified that as VCI's logo; correct?
18 **A. Correct.**
19 Q. Can you just tell me in general terms why
20 does VCI have a logo?
21 **A. We have a logo to identify the company and**
22 **our products.**
23 Q. Is it also used for marketing purposes?
24 **A. Yes.**

Page 16

1 Q. And would you agree that it's used to
2 distinguish VCI's products in the marketplace?
3 **A. It is used to identify our products, yes.**
4 Q. Who conceived of the logo?
5 **A. Well, I think it was a group effort.**
6 Q. Tell me all the people involved in the
7 group effort.
8 **A. It was probably Grinnell, Tim, myself,**
9 **Ned, Doug Geer. I'm sure there were others who**
10 **contributed.**
11 Q. By Tim you're referring to Mr. Root;
12 correct?
13 **A. Tim Root. Correct.**
14 Q. What was Mr. Grinnell's role in the
15 conception of the VGo logo?
16 **A. Well, we all gave ideas so I think Doug**
17 **designed it and then we suggested changes and things**
18 **we liked and things we didn't like.**
19 Q. So my question is what was Mr. Grinnell's
20 role? Was that your answer as to what Mr. Grinnell
21 contributed?
22 **A. Mr. Grinnell contributed feedback based on**
23 **designs that were shown to us.**
24 Q. Who is Doug Geer?

Page 17

1 **A. He was our graphics designer.**
2 Q. Is it G-E-E-R?
3 **A. I believe so, yes.**
4 Q. Does he have a relationship with VCI
5 currently?
6 **A. No.**
7 Q. What was his relationship to VCI?
8 **A. Can you be more clear?**
9 Q. Sure. Was Mr. Geer an employee of VCI at
10 any time?
11 **A. Yes.**
12 Q. And when did Mr. Geer's employment begin?
13 **A. 2008.**
14 Q. And for how long did Mr. Geer's employment
15 with VCI continue?
16 **A. Couple of months.**
17 Q. Just to be clear, Mr. Geer was an employee
18 of the company, not an independent contractor?
19 **A. In 2008.**
20 Q. In 2008 Mr. Geer was an employee?
21 **A. Correct.**
22 Q. Did that change at any time? Did Mr. Geer
23 become an independent contractor to the company?
24 **A. Yes.**

Page 18

1 Q. When did that occur?
2 **A. Probably after he left employment.**
3 Q. I'm sorry. When did he leave employment
4 again?
5 **A. 2008.**
6 Q. But you don't know specifically when he
7 became a consultant to the company?
8 **A. I think he started right after he left**
9 **employment. He started to -- continued to help us.**
10 Q. Do you know why he transitioned from an
11 employee of the company to becoming a consultant to
12 the company?
13 **A. We didn't have a full-time role for a**
14 **graphics designer.**
15 Q. What types of responsibilities did Mr.
16 Geer perform while he was an employee to the
17 company?
18 **A. Designing brand logo, that type of work.**
19 **Material, promotion material.**
20 Q. Can you describe the brands or logos that
21 Mr. Geer designed for the company during the period
22 he was an employee?
23 **A. Sure. He designed a brand book around a**
24 **logo that we're currently not using now called Ego.**

Page 19

1 Q. Was VCI at one time using the brand name
2 or logo Ego?
3 **A. Not publicly.**
4 Q. During what period was VCI using the Ego
5 brand or logo not publicly?
6 **A. Internally probably using it 2008, 2009.**
7 Q. How was it used internally?
8 **A. We were just testing it as a potential**
9 **before we launched the product.**
10 Q. And how did you test it?
11 **A. We asked potential consumers and others**
12 **their opinion of the logo and the look.**
13 Q. And what feedback did you get concerning
14 the look of Ego?
15 **A. I think it was more on the name itself.**
16 **People -- it did not test well. Thought we had too**
17 **much ego for a name with Ego. It just didn't have**
18 **the right connotation for the product.**
19 Q. Do you know where Mr. Geer lives
20 currently?
21 **A. I should because I just looked it up for**
22 **you guys but I don't recall.**
23 Q. How did you look it up for us?
24 **A. I went back in the records and looked at**

Page 20

1 **his last invoice.**
2 Q. What records besides invoices does VCI
3 have pertaining to Mr. Geer?
4 **A. We have his employment records for 2008.**
5 Q. Anything else?
6 **A. Not that I'm aware of.**
7 Q. How about an independent contractor
8 agreement? Do you have one of those?
9 **A. No.**
10 Q. Are you aware that there was an
11 independent contractor agreement at any time for
12 Mr. Geer?
13 **A. Not that I'm aware of.**
14 Q. Do you know where he works currently?
15 **A. I do not.**
16 Q. Do you know anything about the type of
17 work that he's doing currently?
18 **A. I do not.**
19 Q. What services did Mr. Geer provide as a
20 consultant to the company?
21 **A. He provided work around the design and**
22 **suggestions for logos and other print material.**
23 Q. And just so I'm clear about the dates
24 again, did he perform services as an independent

Page 21

1 contractor or consultant to VCI from the period 2009
2 until 2010?
3 **A. We used him on projects so it was not --**
4 **we did not use him consistently but only when we**
5 **needed specific work.**
6 Q. Did Mr. Geer perform any services for VCI
7 in 2011?
8 **A. No.**
9 Q. But he did in 2010?
10 **A. Yes.**
11 Q. When was the last time anyone associated
12 with VCI spoke to Mr. Geer?
13 **A. I'm not sure. I believe Ned Semonite**
14 **spoke to him indicating you had an interest in**
15 **deposing him.**
16 Q. You're not sure whether Mr. Semonite spoke
17 to him or not?
18 **A. I believe he did but I have no personal**
19 **knowledge that he did.**
20 Q. So what do you base your belief on that
21 Mr. Semonite spoke to Mr. Geer about our interest in
22 speaking to him?
23 **A. Because I had mentioned that his name came**
24 **up in the paperwork that you had provided us and he**

Page 22

1 **had asked if it was okay to mention that to him and**
2 **I contacted Wilmer Hale and asked if that was okay.**
3 Q. Just to be clear I don't want to hear
4 anything that you said to your lawyers or your
5 lawyers said to you; okay?
6 **A. Okay.**
7 Q. I'm not asking for that information. When
8 did your discussion with Mr. Semonite occur?
9 **A. Last week, maybe the week before.**
10 Q. Where did it take place?
11 **A. At our offices in Nashua.**
12 Q. Your office?
13 **A. Yes.**
14 Q. And tell me what you said -- strike that.
15 Tell me what Mr. Semonite said to you and what you
16 said to Mr. Semonite concerning Mr. Geer.
17 **A. Was it okay to contact him, that he was**
18 **mentioned in this matter and I said yes.**
19 Q. Did you ask Mr. Semonite why he wanted to
20 contact Mr. Geer?
21 **A. No.**
22 Q. And did Mr. Semonite tell you why he
23 wanted to contact Mr. Geer?
24 **A. No.**

Page 23

1 Q. It's your belief today that Mr. Semonite
2 spoke to Mr. Geer?
3 **A. Yes.**
4 Q. Did Mr. Semonite report back to you and
5 tell you what they discussed?
6 **A. No.**
7 Q. Did you ask Mr. Semonite at any time what
8 they discussed?
9 **A. No.**
10 Q. Do you have any understanding as to why
11 Mr. Semonite would contact Mr. Geer?
12 **A. I think just to let him know that his name**
13 **came up.**
14 Q. Turning your attention back to Page 1 of
15 Exhibit 1 the upper right-hand corner, the VCI logo.
16 **A. Yes.**
17 Q. Did Mr. Geer present to VCI a preliminary
18 design of the logo?
19 **A. Yes.**
20 Q. And do you know whether he created that
21 preliminary design independently?
22 **MR. PATEL:** Objection. Vague.
23 Q. In other words did you say to -- did VCI
24 tell Mr. Geer I want you to design us a logo and he

Page 24

1 went off and came back and produced something that
2 looked likes that?
3 **A. I think it was a collaborative effort. We**
4 **gave him some suggestions but, yes, he came back**
5 **with that design amongst others.**
6 Q. In the collaborative effort with Mr. Geer
7 did VCI indicate to Mr. Geer that it wanted to use
8 the letters V, G and O in the logo?
9 **A. Yes.**
10 Q. Had that decision already been made before
11 engaging Mr. Geer's services to design the logo?
12 **A. Yes.**
13 Q. Other than the letters V, G and O as used
14 in VCI's logo as depicted on Page 1 of Exhibit 1,
15 did VCI instruct or direct Mr. Geer to incorporate
16 any other features or elements or designs in the
17 logo?
18 **A. Not that I'm aware of.**
19 Q. Please describe for me what the
20 collaboration process with Mr. Geer consisted of.
21 How did it work?
22 **A. Ned was the primary contact, Mr. Semonite,**
23 **but we gave some suggestions on what we would like**
24 **to see and what we would like to have the logo infer**

Page 25

1 about our product and we asked him for numerous
2 designs and we evaluated all the designs. We liked
3 some features. We didn't like some features. We
4 asked him for a couple of rounds as I recall of, you
5 know, use this, don't use that and we finally
6 settled on this.

7 Q. What do you recall about some of the
8 preliminary designs Mr. Geer provided to VCI, what
9 they looked like?

10 A. **There was a lot of them. I don't**
11 **really -- I mean there were all sorts of different**
12 **styles.**

13 Q. How long did this process take?

14 A. **Not that long. A couple of months maybe,**
15 **a month and a half, two months.**

16 Q. Do you remember when it took place?

17 A. **2010. Beginning of 2010.**

18 Q. Do you recall what month it started?

19 A. **I'm going to say March or April but I'm**
20 **not fully sure of those dates. Somewhere in that**
21 **time frame.**

22 Q. You believe it started in March or April
23 of 2010 the process with Mr. Geer of collaborating
24 on the design of VCI's logo and then it continued

Page 26

1 for approximately one or two months?

2 A. **That's correct.**

3 Q. Can you give me some examples of what
4 suggestions or feedback VCI provided to Mr. Geer
5 concerning what it liked about the initial design he
6 presented?

7 **MR. PATEL:** Objection. Vague.

8 A. **It's a long time ago. I don't recall**
9 **exactly what we liked and what we didn't like of**
10 **each of the different designs.**

11 Q. So sitting here today you can't tell me
12 what feedback VCI provided to Mr. Geer?

13 A. **Directly, no. I mean I think we had**
14 **selected -- obviously we looked at different colors.**
15 **We ended up picking the color that we did. We liked**
16 **that. We liked some of the motion. We certainly**
17 **wanted to get that impression of motion. It's a**
18 **moving product. It's a mobile product. So we**
19 **wanted to show that. It implied it had wheels. It**
20 **could move. So videoconferencing is traditionally**
21 **stationary. Ours was the first more mobile**
22 **videoconferencing device and we really wanted to get**
23 **that implied so we talked about those design aspects**
24 **but I can't particularly say we liked that, we**

Page 27

1 **didn't like that.**

2 Q. Can you take a look at Exhibit No. 2,
3 please? Can you tell me what aspects of the design
4 depicting VGo's logo conveys motion?

5 A. **Sure. The two sort of half circles that**
6 **obviously look like a wheel and the fading in of the**
7 **lines implies speed, motion.**

8 Q. Is that element or design aspect something
9 that VGo directed or suggested to Mr. Geer or that
10 Mr. Geer proposed to VCI?

11 A. **I don't recall who came up with that**
12 **specific idea.**

13 **MR. PATEL:** I'm sorry. Just to be
14 clear for the record we're switching between VGo and
15 VCI.

16 **MR. CONNOLLY:** Thank you. I'll try
17 to be careful about that.

18 Q. I'll try to refer to your employer as VCI.

19 A. **Fair enough.**

20 Q. How did Mr. Geer provide preliminary
21 designs to VCI?

22 A. **I saw them printed. They were posted up**
23 **on a wall in our conference room.**

24 Q. Do you know how VCI obtained those

Page 28

1 preliminary designs from Mr. Geer?

2 A. **I do not.**

3 Q. Did you ever communicate with Mr. Geer
4 while he was providing services as a contractor to
5 VCI?

6 A. **Yes.**

7 Q. How did you communicate with Mr. Geer
8 during that period?

9 A. **I talked to him.**

10 Q. You spoke with him on the phone?

11 A. **Right, or I probably e-mailed him as well.**

12 Q. So you e-mailed -- you had e-mail
13 communications with Mr. Geer?

14 A. **Correct.**

15 Q. Do you recall the period you had e-mail
16 communications? Was it in-between March and
17 April 2010 and May or June of 2010?

18 A. **Are you asking me specifically --**

19 Q. Concerning the preliminary designs.

20 A. **Concerning the design?**

21 Q. I'm sorry. Let me give you a better
22 question. I was asking you how you communicated
23 with Mr. Geer and you answered that you had e-mail
24 communications with Mr. Geer. I just want to

Page 29

1 identify during what time period you had e-mail
2 communications with Mr. Geer concerning the
3 preliminary designs of VCI's logo.
4 **A. So I'm not sure I had them specifically on
5 this but if it was, it was in reference probably to
6 payment or cost or that type of thing and that was
7 in that time frame.**
8 Q. Do you recall any specific e-mails with
9 Mr. Geer, between you and Mr. Geer concerning the
10 design of VCI's logo?
11 **A. No.**
12 Q. Did you meet with Mr. Geer in person?
13 **A. Yes.**
14 Q. During early 2010?
15 **A. Yes.**
16 Q. Do you recall how many times?
17 **A. I do not. It was not my meeting
18 specifically. Small office. He was in.**
19 Q. Whose meeting was it?
20 **A. Ned.**
21 Q. And are you aware of how Mr. Semonite
22 communicated with Mr. Geer?
23 **A. No.**
24 Q. During that time?

Page 30

1 **A. No.**
2 Q. In the past year have you seen any e-mails
3 between anyone employed by VCI and Mr. Geer?
4 **A. No.**
5 Q. During the past year have you seen any
6 documents that Mr. Geer had provided at any time to
7 VCI?
8 **A. No. I should clarify other than whatever
9 we provided you. I would have to look through.**
10 Q. Can you take a minute and look through
11 Exhibit 1 and tell me whether there are any e-mails
12 or other communications between any employee of VCI
13 and Mr. Geer?
14 **A. All 749 pages?**
15 Q. If you don't mind just going through
16 quickly.
17 (Witness perused documents.)
18 **MR. CONNOLLY:** Do you want to read
19 back my last question to the witness, please?
20 (Question was read back by the stenographer.)
21 **A. No.**
22 Q. Having now looking through Exhibit 1 do
23 you recognize any documents that Mr. Geer provided
24 to VCI at any time?

Page 31

1 **A. Not specifically. I don't know all that
2 he worked on.**
3 Q. I believe you testified but let me ask it
4 again. Did Mr. Geer provide initial designs or
5 logos to VCI?
6 **A. Yes.**
7 Q. And does VCI have any of those initial
8 designs or documents?
9 **A. I am unaware of any.**
10 Q. Is there anyone at VCI who would be aware
11 of where those documents are or what happened to
12 them?
13 **A. Ned Semonite would be.**
14 Q. Thank you. Do you know whether Mr. Geer
15 was aware of Valeritas and its marks at the time he
16 provided logo designs to VCI?
17 **MR. PATEL:** Objection. Calls for
18 speculation.
19 **A. I do not know.**
20 Q. How was Mr. Geer paid? Was he paid on a
21 fee basis or by the hour?
22 **A. I think it was on a fee basis. Yes.**
23 Q. Was it an hourly rate?
24 **A. No. I mean I'm sorry. It was a fixed**

Page 32

1 **amount as I recall.**
2 Q. Do you recall how much VCI paid Mr. Geer
3 for his design work on the VCI logo?
4 **A. I do not.**
5 Q. Would the answer to that question be
6 reflected in payment records that VCI has?
7 **A. Yes.**
8 Q. Are you aware of whether VCI has those
9 records?
10 **A. I would have to go and search.**
11 Q. Are you aware of whether anyone at VCI has
12 searched for those records before?
13 **A. That would probably be me and I don't
14 recall but I'll have to -- I can't recall what you
15 had asked for specifically so I don't know. I don't
16 recall seeing it but --**
17 Q. During the period Mr. Geer provided
18 services to VCI as a contractor or consultant did he
19 have his own business?
20 **A. I believe so, yes.**
21 Q. Do you know the name of his business at
22 that time?
23 **A. I think it was -- I'm sorry. Not a
24 business. He was just under his own name but I**

Page 33

1 **believe he worked for other people. We were**
2 **obviously not his sole account.**
3 Q. At the time Mr. Geer was working on the
4 designs of VCI's logo, had VCI already made the
5 decision not to use the Ego logo?
6 **A. Yes.**
7 Q. And at the time Mr. Geer was working on
8 developing the design of the logo for VCI in the
9 early part of 2010, was VCI considering the use of
10 any other type of mark or logo for its products?
11 **A. You mean other than V-G-O?**
12 Q. Yes. Other than V-G-O.
13 **A. No. I think we had discussed a number of**
14 **different alternatives but we liked V-G-O.**
15 Q. Did the design of the logo V-G-O that is
16 depicted on VCI's products change in any way after
17 Mr. Geer stopped being involved in the work?
18 **A. Not that I'm aware of.**
19 Q. I believe you mentioned that I-G-O was at
20 one time considered as a --
21 **A. Ego. E-G-O.**
22 Q. Was I-G-O ever considered, the letters I
23 and G and O?
24 **A. I don't think so. I don't recall hearing**

Page 34

1 **those. Ego was electronic go. We really liked**
2 **that. We went to visual go or something like that.**
3 **I don't think we used I-G-O but maybe. I mean maybe**
4 **it came up in discussions. I'm sure we went through**
5 **all the letters in the alphabet.**
6 Q. Can you tell me why you changed the name
7 of the company from North End Technologies to VGo
8 Communications?
9 **A. Yes. The name was too long.**
10 Q. Any other reasons?
11 **A. No. It was just our development name. We**
12 **wanted the name to be more associated with the**
13 **product.**
14 Q. So was the decision to change the name of
15 the company from North End Technologies to VGo
16 Communications, was that made after you decided to
17 use the V-G-O logo or mark?
18 **A. Yes.**
19 Q. Was a reason for you changing the name of
20 the company to have consistency for branding
21 purposes in the marketplace?
22 **A. Yes.**
23 Q. Did VCI register the mark V-G-O or VGo on
24 or about March 2, 2010?

Page 35

1 **A. I would have to look at the documents.**
2 **That sounds about right.**
3 Q. Do you know when VCI first used the mark
4 VGo in commerce?
5 **A. Can you define what you mean by in**
6 **commerce?**
7 Q. Sure. Can you tell me the first time that
8 VCI sold any product in the marketplace that
9 depicted the letters V-G-O on it to identify it?
10 **A. I believe that would be July of 2010.**
11 Q. And was July 2010 the earliest date that
12 VCI offered any products for sale under the V-G-O
13 mark?
14 **A. Yes. That's the first time we sold**
15 **product. We announced the product in that time**
16 **frame at a show called Infocomm. That show might**
17 **have been in June but it might have been in July.**
18 **Anyhow, that's when we started using it was when we**
19 **introduced the product.**
20 Q. And is there a longer name for the
21 Infocomm show or does it stand for something?
22 **A. I don't know. It's a big audiovisual**
23 **communication show.**
24 Q. Where does that take place or where did it

Page 36

1 take place in 2010?
2 **A. I would say it was in Las Vegas that year.**
3 **It's pretty much in the same time every year but it**
4 **moves around.**
5 Q. Can you describe for me how VCI introduced
6 is VGo product at the Infocomm show in June or
7 July 2010?
8 **A. Sure. Yes. We had a trade show booth.**
9 **We had product on the booth. We did demonstrations.**
10 **We sent out an announcement as I recall.**
11 Q. Can you please describe VCI's product?
12 **A. Sure. It is a robotic telepresence**
13 **system so it is a robot with two-way audiovisual**
14 **communications.**
15 Q. Do you mind describing for me what you
16 mean by robotic telepresence?
17 **A. Sure. So it gives -- think of it another**
18 **way as a physical avatar but it is a product that**
19 **has communication on a mobile platform that you can**
20 **control remotely so rather than in traditional**
21 **videoconferencing where -- you don't have any in**
22 **here but it's on the wall and you come into a**
23 **conference room to have that meeting. On our system**
24 **you can actually control it from the far end from**

Page 37

1 **your laptop or PC. You can drive the robot and go**
2 **and meet people and interact with people remotely.**
3 Q. Can you turn back to Exhibit 1, Page 1?
4 **A. Yes.**
5 Q. Do you see in the middle of the page
6 there's a picture of two people standing in an
7 office next to a machine?
8 **A. Yes.**
9 Q. Does the machine depicted in the picture,
10 does that convey -- is that an image of VGo's
11 product?
12 **A. That is our product.**
13 Q. I'm sorry. VCI's product.
14 **A. Yes. That is our product.**
15 Q. In the picture on Page 1 of Exhibit 1
16 would you mind just drawing a circle -- strike that.
17 Let me ask you a question first. Does VGo's logo as
18 depicted on Exhibit No. 2 appear on VCI's product?
19 **A. Yes.**
20 Q. And can you describe for me where VCI's
21 logo V-G-O is depicted?
22 **A. On the front right above the screen.**
23 Q. Do you mind circling it for me in the
24 picture on Page 1 of Exhibit 1?

Page 38

1 (Witness did as requested.)
2 Q. If you can just draw a line off to the
3 side and just write logo.
4 (Witness did as requested.)
5 Q. Thank you. Does VCI's robotic
6 telepresence product come in different
7 configurations?
8 **A. Yes.**
9 Q. Can you describe the different
10 configurations of VCI's product for me?
11 **A. So it is primarily the communications**
12 **method so the standard model is with wifi and we**
13 **also have a model with Verizon 4G LTE. Those are**
14 **the primary differences.**
15 Q. How much does the product cost?
16 **A. Between six and \$7,000.**
17 Q. Is there a cost difference between the two
18 configurations, one with wifi and one with the other
19 telecommunications method?
20 **A. Correct. Yes. The 4G is more expensive**
21 **than the wifi.**
22 Q. Is the 4G product around \$7,000?
23 **A. Correct.**
24 Q. Between the founding of the company in

Page 39

1 2007 and when you introduced the product in 2010,
2 did VCI create prototypes of the product?
3 **A. Yes.**
4 Q. And did any of the prototypes have a logo
5 on them such as the logo that you identified on Page
6 1 of Exhibit 1?
7 **A. We created a number of different**
8 **prototypes during the stages of our product**
9 **development. Some of them had no logo. Some of**
10 **them had the Ego logo and some of them had the V-G-O**
11 **logo.**
12 Q. Do you recall when VCI developed a
13 prototype that first had the V-G-O logo?
14 **A. It would have been after we had developed**
15 **the logo.**
16 Q. So after March or April 2010?
17 **A. Correct.**
18 Q. And those prototypes still exist; correct?
19 **A. Parts of them.**
20 Q. Parts of them?
21 **A. Yes.**
22 Q. They're located at VCI's offices in
23 Nashua?
24 **A. Correct.**

Page 40

1 Q. How many complete prototypes currently
2 exist?
3 **A. Currently exist. Couple of dozen maybe.**
4 Q. Do any of the existing prototypes display
5 a logo?
6 **A. Yes.**
7 Q. Does VCI sell any other products or goods
8 other than the one we have been discussing or the
9 two models of the robotic telepresence product that
10 we have been discussing?
11 **A. Other than accessories for those products,**
12 **no.**
13 Q. Can you describe what accessories VCI
14 sells?
15 **A. Batteries, remotes. There is a height**
16 **extension. Those are the primary.**
17 Q. Do you know how many units of the product
18 the company sold in 2010?
19 **A. I would say -- I don't know the exact**
20 **number.**
21 Q. How about for 2011? Do you know how many
22 units VCI sold?
23 **A. I don't know the exact number.**
24 Q. Can you give me a range?

Page 41

1 **A. Couple hundred.**
2 Q. How about in 2012? How many units did VCI
3 sell?
4 **A. A couple hundred.**
5 Q. Do you know how many units of the robotic
6 telepresence product VCI has sold in 2013?
7 **A. Just under a hundred.**
8 Q. In 2010 did VCI sell products throughout
9 the United States?
10 **A. Yes.**
11 Q. And in 2011 as well?
12 **A. Yes.**
13 Q. So is the geographic scope of VCI's sales
14 the United States?
15 **A. Yes.**
16 Q. Does VCI have competitors?
17 **A. Yes.**
18 Q. Can you identify some of VCI's
19 competitors?
20 **A. Currently iRobot, In Touch, Anybots,**
21 **Mantero Bots, Suitable Technologies. I think that's**
22 **it.**
23 Q. Is VCI's selling point of between six and
24 \$7,000, is that lower than the products offered by

Page 42

1 the other companies?
2 **A. It's midrange.**
3 Q. Was it important -- strike that. Did VCI
4 in designing the product desire to keep the cost
5 low?
6 **A. Yes.**
7 Q. Why did it do that?
8 **A. We felt there would be a broader appeal in**
9 **the marketplace for a lower cost product.**
10 Q. Is health care VCI's largest market?
11 **A. It is one of its largest markets.**
12 Q. What are VCI's markets for its products?
13 **A. So enterprise so corporations, businesses**
14 **all through office through manufacturing. Education**
15 **is a large market and health care.**
16 Q. What percentage of VCI's market consists
17 of health care?
18 **A. I would say about a third. I think it's**
19 **almost a third between those three major market**
20 **groups.**
21 Q. Does that change over time?
22 **A. Education has grown. It used to be**
23 **smaller and now there's been a lot of publicity**
24 **around some of our successful uses of the product**

Page 43

1 **within school districts and now school districts are**
2 **buying them quite a bit. So that's picked up. It**
3 **used to be very small and now it has grown**
4 **especially this year.**
5 Q. Is it a true statement that VCI's primary
6 applications are in education and health care?
7 **A. No.**
8 Q. Is that a true statement?
9 **A. No.**
10 Q. Is it a true statement that health care is
11 VCI's largest market?
12 **A. I think it is a significant market. I**
13 **think other than education growing this year I think**
14 **last year it might have been the largest market but**
15 **it varies.**
16 Q. Was health care VCI's largest market
17 earlier this month?
18 **A. Earlier this month?**
19 Q. Yes.
20 **A. No.**
21 Q. How are VCI's products used by health care
22 professionals?
23 **A. They are used in a variety of different**
24 **manners. Again, the product allows people to be**

Page 44

1 **remote so doctors can now make house calls. Doctors**
2 **can visit other hospitals. Doctors can visit other**
3 **facilities but some hospitals are using it to allow**
4 **patient's family members to visit them within the**
5 **hospital. So it can be used inside within a**
6 **hospital or can be deployed outside a hospital in**
7 **rural clinics. So a variety of uses.**
8 Q. Who is Eugene Spiritus?
9 **A. He is a doctor out of I believe U. C.**
10 **Irvine who has been a consultant and now most**
11 **recently has become our chief medical officer.**
12 Q. Why does VCI have a chief medical officer?
13 **A. So that we can better understand that**
14 **marketplace.**
15 Q. What is Mr. Spiritus's or Dr. Spiritus's
16 function at VCI?
17 **A. To inform us of potential uses within the**
18 **health area market.**
19 Q. Do you know what Dr. Spiritus's background
20 and training is, in what medical field?
21 **A. I do not.**
22 Q. Are any of VCI's products currently used
23 to treat patients with diabetes?
24 **A. The product doesn't treat the patients.**

Page 45

1 Q. I apologize if I asked that. Strike that.
2 Let me ask you a different question I thought I had
3 asked you. Are VCI's products currently used --
4 well, let me just give you a new question. Sorry.
5 Are VCI's products currently used by health care
6 professionals to treat or evaluate or educate or
7 diagnose patients with a medical condition known as
8 diabetes?
9 **MR. PATEL: Objection. Compound.**
10 Q. You have to answer.
11 **A. Thanks. I understand that. The product**
12 **is a communications device so I don't know how**
13 **doctors -- you know, with which doctors communicate**
14 **with their patients and other things. I don't know.**
15 **I mean I don't know how doctors use the product. So**
16 **the doctor can communicate with another doctor.**
17 **They could communicate with a patient. They could**
18 **communicate with anybody.**
19 Q. Is VCI aware as of today whether or not
20 medical professionals or health care professionals
21 use VCI's products to assist in treating patients
22 with diabetes?
23 **A. So the product is not FDA approved. We**
24 **can't do any diagnostics type of thing. Do they**

Page 46

1 **communicate with patients? I can't comment on all**
2 **the patients they communicate with. I don't know**
3 **the range of diseases that patients have that**
4 **doctors communicate with them.**
5 Q. Do any doctors or health care
6 professionals across the United States use VCI's
7 products to communicate with patients having
8 diabetes?
9 **A. I don't know.**
10 Q. Has VCI ever sold any of its products to a
11 health care practitioner who focuses on diabetes?
12 **A. No.**
13 Q. Has VCI ever sold any of its products to a
14 doctor or health care professional who treats
15 patients with diabetes?
16 **A. No.**
17 Q. Has VCI sold any of its products to
18 hospitals?
19 **A. Yes.**
20 Q. Which hospitals?
21 **A. MGH, Boston Children's, Radius. The list**
22 **goes on and on. Kaiser.**
23 Q. Can you go on, please?
24 **A. Kaiser, Palomar, El Camino, Mayo, Florida**

Page 47

1 **Children's, Miami Children's, Atlanticare. I mean**
2 **that's just off the top of my head. I would have to**
3 **look at a list.**
4 Q. Did you look at a list of hospital buyers
5 of VCI's products prior to your deposition?
6 **A. No.**
7 Q. Has VCI sold any of its products to any
8 health care institutions besides hospitals?
9 **A. Can you define what you mean by health**
10 **care institution?**
11 Q. Sure. Medical clinics, medical group
12 practices.
13 **A. I would imagine yes.**
14 Q. Can you give me some examples?
15 **A. I can't think. I'm assuming it's the**
16 **non-hospitals that I recognize names. I'm assuming**
17 **that's what they are.**
18 Q. Has VCI sold any of its products to group
19 purchasing organizations?
20 **A. Not that I'm aware of.**
21 Q. Has VCI ever sold any of its products to
22 kidney dialysis centers?
23 **A. Not that I'm aware of.**
24 Q. Has VCI ever sold a product to a diabetes

Page 48

1 educator, someone who educates people with diabetes?
2 **A. I couldn't say for sure. I mean I don't**
3 **know what all of our customers do but I don't think**
4 **so.**
5 Q. How does VCI sell its products to users in
6 the health care community or field?
7 **A. We sell both direct and through resellers**
8 **and most of our resellers are -- some of them are**
9 **stronger in health care than others but a lot of**
10 **times we will sell directly to the chief information**
11 **officer or the IT department.**
12 Q. Could you name VCI's resellers who sell
13 into the health care market?
14 **A. I think IVCI does. They're out of New**
15 **York and AVISPL I believe does. I think they sold a**
16 **Florida hospital one. SKC. They're all video**
17 **communications resellers.**
18 Q. Do the resellers that you identified, do
19 they specialize in reselling products to the health
20 care field?
21 **A. No.**
22 Q. Does VCI intend to continue selling its
23 products into the health care field?
24 **A. Yes.**

Page 49

1 Q. How does VCI advertise or promote its
2 products?
3 **A. We generally do targeted mailings,**
4 **e-mailings. We go to trade shows and then we do a**
5 **lot of PR work.**
6 Q. What do you mean by we do a lot of PR
7 work?
8 **A. We work with existing customers to get**
9 **their stories out so that potentially new customers**
10 **hear about the application and uses of the product.**
11 Q. Has VCI licensed its VGo mark or logo?
12 **A. No.**
13 Q. Does VCI target a particular type of
14 customer?
15 **A. No. It's a general product so.**
16 Q. If I understood you correctly earlier, you
17 testified that VCI's business is generally divided
18 between education, health care and enterprise and
19 that the market share was about one-third for each
20 of those?
21 **A. Correct.**
22 Q. Is VCI considering less expensive versions
23 of its products for assisted living uses?
24 **A. Yes, amongst other uses but yes. We are**

Page 50

1 **considering a less expensive version of the product.**
2 Q. And what other types of uses is VCI
3 considering less expensive products for?
4 **A. For the general market.**
5 Q. Is elder care one of those?
6 **A. Elder care is one of those.**
7 Q. And is VCI considering offering less
8 expensive versions of its products so that
9 individual consumers can purchase them?
10 **A. I'm not sure we have a consumer product.**
11 Q. Sorry. I don't want to use a term of art.
12 I just want to know is one of the reasons VCI -- is
13 one of the reasons that VCI is considering offering
14 less expensive products in the marketplace is that
15 so that individuals, people like myself can buy
16 them, can afford to buy them?
17 **A. I think that would be an outcome if you**
18 **get the product cheap enough. That's not our**
19 **specific target.**
20 Q. Why is VCI considering offering less
21 expensive versions of its products?
22 **A. If we can expand our sales.**
23 Q. How would that accomplish an expansion of
24 sales by lowering the cost of your products?

Page 51

1 **A. So it could be more affordable for people**
2 **to use it in multiple applications.**
3 Q. VCI is not intentionally undertaking or
4 intentionally deciding to offer lower priced
5 versions of its products so that individuals can
6 afford them?
7 **A. Not at this time, no.**
8 Q. Are most of VCI's customers currently
9 companies?
10 **A. Yes.**
11 Q. Has VCI sold any of its products to
12 individuals?
13 **A. We sold some to our employees. That**
14 **probably doesn't count. I don't think so.**
15 Q. Does VCI have any relationships with
16 companies in the field of treating, diagnosing or
17 counseling patients with diabetes?
18 **A. I don't believe so.**
19 Q. Do you know what Positive ID Corporation
20 is?
21 **A. Yes.**
22 Q. What is it?
23 **A. I don't know the products they make but I**
24 **know we did a demo with them years ago but we don't**

Page 52

1 **have a relationship with them. I don't think we**
2 **have done anything since.**
3 Q. And your testimony is that VCI did a
4 demonstration years ago with Positive ID
5 Corporation?
6 **A. Yeah. If I remember correctly, it was at**
7 **a trade show and we drove over to their booth and**
8 **did our communications at their booth but I can't**
9 **remember what their product was.**
10 Q. What people from VCI were involved in the
11 demonstration with Positive ID Corporation?
12 **A. Ned Semonite.**
13 Q. Do you recall when that demonstration was?
14 **A. 2011.**
15 Q. You don't know what Positive ID
16 Corporation does?
17 **A. No.**
18 Q. After the demonstration, did Positive ID
19 Corporation make any announcements or issue any
20 press releases concerning the joint demonstration
21 with VCI?
22 **A. They might have.**
23 Q. Did VCI issue any public communications or
24 press releases concerning the demonstration that it

Page 53

1 did with Positive ID Corporation?
2 **A. We may have. I don't recall.**
3 Q. What was Positive ID Corporation and VCI
4 demonstrating? Can you describe it for me?
5 **A. Well, I just know on our product we**
6 **demonstrate the ability to communicate, two-way**
7 **communication.**
8 Q. And it's remote communication; right?
9 **A. Correct.**
10 Q. Do you know what XL Pharmaceuticals does?
11 **A. No idea.**
12 Q. Are you aware of -- strike that. Earlier
13 you identified specifically hospitals that VCI has
14 sold its products to. Do you recall any other
15 examples other than the ones you have given?
16 **A. If you give me time, I'm sure I can think**
17 **of some more but those are the bigger ones.**
18 Q. Is it true you can't sitting here today
19 identify any medical practices other than hospitals
20 to which VCI has sold products?
21 **A. Not by name, no.**
22 Q. And you can't identify any medical clinics
23 or treatment centers that VCI has sold its products
24 to?

Page 54

1 **A. No.**
2 Q. Has VCI sold any products to educational
3 institutions, medical schools?
4 **A. Well, education is a big market for**
5 **primarily high schools and we've sold some to**
6 **colleges but I can't say. So Johns Hopkins,**
7 **Clemson, that type of thing but I don't know where**
8 **they're using it.**
9 Q. Let me give you a better question. Has
10 VCI sold any of its products to medical schools?
11 **A. Mass. General Hospital. I think they have**
12 **an institute. I think that's it. I mean some of**
13 **the hospitals like Boston Children's or others**
14 **obviously have an educational part of their hospital**
15 **but I can't say specifically.**
16 Q. Can you identify for me the people
17 involved in offering to sell VCI's products using
18 the VGo mark?
19 **A. Can you repeat that question?**
20 Q. Sure. I just want to know who at VCI are
21 involved in selling VCI's products. Do you have a
22 sales director?
23 **A. Yes.**
24 Q. What's his name?

Page 55

1 **A. Bern Terry.**
2 Q. Did Mr. Terry come to the company
3 recently?
4 **A. About a year, year and a half ago.**
5 Q. Do you know what Mr. Terry's background
6 was before he came to the company?
7 **A. He was doing something with elder care up**
8 **in Vermont but I don't recall whether he was**
9 **consulting or anything.**
10 Q. You don't recall whether Mr. Terry had a
11 particular area of expertise in sales before he
12 joined VCI?
13 **A. He had a history of sales. He had done**
14 **some sales for PERS which is personal emergency**
15 **response systems. Like the company that's I've**
16 **fallen and I can't get up, the old lady. I don't**
17 **remember the name. A little pendant thing. He has**
18 **done sales for them.**
19 Q. When you say that Mr. Terry had experience
20 in elder care, do you consider that health care
21 experience?
22 **A. I think that was what he was doing. Yes I**
23 **guess.**
24 Q. Are you aware of any customers who

Page 56

1 purchased products from both VCI and Valeritas?
2 **A. No. I'm not sure why they would buy. I**
3 **don't know enough about Valeritas products.**
4 Q. What do you know about Valeritas's
5 products?
6 **A. Only what you guys have sent, some**
7 **diabetic thing that patients wear or something.**
8 Q. Can you describe for me how doctors use
9 VCI's products in connection with providing medical
10 services to patients?
11 **A. So it's a communications device. It just**
12 **allows them if the robot is in the hospital and they**
13 **are away, they can call in and visit with other**
14 **doctors or patients from that location. If they**
15 **can't get to a rural clinic, it could be in the**
16 **rural clinic. It could be in an elder care facility**
17 **where they drive up and down and go visit a patient**
18 **to say hello. It could be even in a patient's home.**
19 **The doctor could from the hospital make essentially**
20 **a house call by visiting the patient.**
21 Q. Are you aware of whether any of VCI's
22 products are currently located in the homes of
23 patients?
24 **A. That would be through a hospital but I**

Page 57

1 **believe some of the hospitals are doing that**
2 **deployment, yes.**
3 Q. Can you give me some examples of hospitals
4 using that type of deployment?
5 **A. So Boston Children's.**
6 Q. Does VCI have any plans to incorporate
7 diagnostic equipment on its products?
8 **A. Not at the current time.**
9 Q. Is that something that VCI envisions for
10 the future?
11 **A. If the market demands it, we would look at**
12 **that.**
13 Q. So would one example be diagnostic
14 equipment to test a patient's blood sugar level?
15 **A. If that's something that's a remote**
16 **diagnostic capability that people demand and that**
17 **makes sense, that's certainly something that we**
18 **would evaluate.**
19 Q. Is that something that VCI has ever
20 discussed or considered?
21 **A. Not currently.**
22 Q. Has VCI ever discussed internally
23 incorporating diabetes test equipment on its
24 products?

Page 58

1 **A. No.**
2 Q. Has VCI ever discussed or considered
3 incorporating any sort of blood testing equipment on
4 its products?
5 **A. No.**
6 Q. Do any of VCI's competitors have
7 diagnostic equipment imbedded or on their products?
8 **A. What do you mean by diagnostic equipment?**
9 Q. Sure. Are any of VCI's competitors
10 including on their products any sort of medical test
11 equipment that would assist a doctor or medical
12 professional in diagnosing or treating a patient
13 remotely?
14 **A. Not that I'm aware of. One of our**
15 **competitors they are much more targeted in OR.**
16 **Their unit costs \$120,000. I think they have more**
17 **features but we don't really compete against them at**
18 **that price point.**
19 Q. Does VCI currently attend trade shows to
20 market is products?
21 **A. Yes.**
22 Q. Which trade shows?
23 **A. We have attended Infocomm in the past. We**
24 **attended recently an educational show in San**

Page 59

1 **Antonio. We do ATA. We attend.**
2 Q. What is ATA?
3 **A. American Telemedicine Association. Those**
4 **types of shows.**
5 Q. Can you tell me all the ATA trade shows
6 that VCI has attended?
7 **A. It's an annual show so I think we've been**
8 **for the last two or three years.**
9 Q. Would you agree that that's a health care
10 consumer show?
11 **A. No.**
12 Q. How would you describe it?
13 **A. It's a trade show targeted for health**
14 **care.**
15 Q. Thank you. Does VCI attend any other
16 trade shows targeted towards health care?
17 **A. We did TEDMed once.**
18 Q. What is TEDMed?
19 **A. TEDMed. It's the TED shows. You know the**
20 **TED shows?**
21 Q. I don't. Do you mind explaining?
22 **A. They are a very popular technology show**
23 **and TEDMed is their medical thing but it's**
24 **futuristic technology.**

Page 60

1 Q. Any others besides ATA and TEDMed?
2 **A. I'm sure we do some smaller ones but I**
3 **can't think of anything. I think we have done --**
4 **no. We spoke. We didn't exhibit there. I'm trying**
5 **to think. No, not that I can -- we did speak at**
6 **AFLA, at American Federation -- I can't remember.**
7 **There's some little shows that we do and we talk at**
8 **a number of shows, too. Those are the biggest shows**
9 **that I mentioned.**
10 Q. What are the ways -- let me just ask you a
11 preliminary question. Does VCI promote its product
12 to the health care industry?
13 **A. Yes.**
14 Q. What are the ways that VCI promotes its
15 products to the health care industry?
16 **A. So primarily we do direct mail or direct**
17 **calls. We'll target the chief information officer,**
18 **the IT department, maybe the chief innovation**
19 **officer of health care institutions.**
20 Q. How do you obtain sales leads or contact
21 information in order to conduct direct mailing?
22 **A. We purchase lists.**
23 Q. Who do you purchase them from?
24 **A. List selling companies.**

Page 61

1 Q. Have you been doing that each year from
2 2010 until the present?
3 **A. No. We have done that more recently.**
4 Q. Did you do it in 2012?
5 **A. Yes.**
6 Q. And 2011?
7 **A. I'm not sure we purchased a list in 2011.**
8 Q. And did you purchase a list in 2013?
9 **A. I don't think so yet.**
10 Q. But you're sure that VCI purchased a list
11 of potential customers in the health care industry?
12 **A. In 2012.**
13 Q. In 2012?
14 **A. Yes.**
15 Q. And when is the last time you saw that
16 list?
17 **A. Actually, I don't think I ever looked at**
18 **the list myself.**
19 Q. Who is responsible for maintaining the
20 list at the company? Who has the list?
21 **A. Ned Semonite purchased the list. It**
22 **depends on the list. Some lists they will do the**
23 **direct mailing for you so you don't actually get the**
24 **lists. That way they can remain their contacts.**

Page 62

1 **They will do mailings so we will submit the mailings**
2 **and then if they respond, then we'll get the name**
3 **but, otherwise, we might not have the name. If they**
4 **respond, we maintain the name in our database and do**
5 **follow-up mailings that way.**
6 **MR. PATEL:** Counsel, can we take a
7 break when you get to a good stopping point?
8 **MR. CONNOLLY:** We can take a break
9 whenever you want. Let's take a break.
10 (A break was taken.)
11 Q. Mr. Ryden, before the break we were
12 discussing or I was asking you questions and you
13 were answering questions about how VCI markets and
14 promotes its product.
15 **A. Yes.**
16 Q. And we were specifically talking about
17 direct mail as being one way in which VCI markets
18 and promotes its products. Do you recall that?
19 **A. Yes.**
20 Q. And you testified that in 2012 VCI
21 purchased a list of potential customers?
22 **A. Yes.**
23 Q. In the health care field?
24 **A. Yes.**

Page 63

1 Q. And you were describing to me how VCI uses
2 or used the list. Do you recall that?
3 **A. Yes. Correct.**
4 Q. Does VCI physically possess a list of
5 potential customers that it purchased in 2012?
6 **A. No. I believe that we had access to the**
7 **names only to do e-mails. They would do the e-mails**
8 **for us, the e-mail blasts so I don't believe we**
9 **actually have the list of names.**
10 Q. Please tell me who at VCI had access to
11 the list of names of potential customers.
12 **A. I don't think anybody did. We buy lists**
13 **but you don't actually get the names. They'll do**
14 **the mailings and then obviously your job is to get**
15 **them to respond so that you get their names.**
16 Q. How does VCI determine who it wants to
17 mail things to directly, advertising and promotion
18 materials?
19 **A. So we'll tell the list companies what we**
20 **are looking for in this case someone in the IT**
21 **department, someone who buys videoconferencing**
22 **equipment for the hospital, that type of thing.**
23 Q. And who are we talking about that VCI is
24 dealing with? Is it a vendor?

Page 64

1 **A. Yes. Third party.**
2 Q. Who is it?
3 **A. I don't recall the name.**
4 Q. Is it a company?
5 **A. Yes.**
6 Q. In the direct mail business?
7 **A. Yes.**
8 Q. But they specialize in direct mail towards
9 health care?
10 **A. I'm not sure.**
11 Q. Who at the company would know who they
12 are?
13 **A. Ned would know the name of the company.**
14 Q. And I just want to try figure out how you
15 conduct direct mailings to specific potential
16 customers. Do you do that?
17 **A. Do we mail directly to customers?**
18 Q. No. How do you decide which potential
19 customers are on the list, the mailing list?
20 **MR. PATEL:** Objection. Vague.
21 **A. I don't understand your question. Sorry.**
22 Q. Let me try to do a better job for you.
23 One of the ways in which VCI promotes and markets
24 its product is through direct mail; is that correct?

Page 65

1 **A. Yes.**
2 Q. And VCI uses a third party who you can't
3 identify to assist with its direct mail promotions;
4 is that correct?
5 **A. Correct.**
6 Q. And the third party provides the direct
7 mail services but doesn't provide you with a list of
8 specific potential customers; is that correct?
9 **A. Correct.**
10 Q. And so the third party service provider is
11 VCI telling it to send it to a specific type of
12 customer?
13 **A. Yes.**
14 Q. And what instructions or directions does
15 VCI provide to the third party direct mail service
16 provider?
17 **A. So again, we tell them the type of**
18 **customer that we are interested in so the chief**
19 **informational officer, someone in the IT department,**
20 **director of IT, someone in videoconferencing**
21 **services, that type of thing. We ask them to sort**
22 **for those names. In general they'll tell you, oh,**
23 **we have, you know, 50,000 health care names. Well,**
24 **we want the director of IT. Oh, we have 12,000 of**

Page 66

1 **those names. Then give us those and then we are**
2 **charged based on the number of names that meet our**
3 **criteria.**
4 Q. Those titles that you identified or titles
5 of employees that you identified, they're at
6 specific companies or employers; right?
7 **A. Correct.**
8 Q. And do you identify to the third party
9 vendor any specific potential customers you want to
10 contact? Any specific?
11 **A. No.**
12 Q. What directions or instructions has VCI
13 provided to the third party vendor with respect to
14 health care markets or customers?
15 **A. Exactly what I said before. We ask for**
16 **lists specifically targeted to the customers we're**
17 **going after within the health care market.**
18 **Sometimes we'll give them size of hospital or**
19 **something like that but generally we're not**
20 **particularly -- you know, most hospitals are large**
21 **enough to buy our type of product so we're really**
22 **looking for someone in the department that handles**
23 **this type of technology.**
24 Q. In the past has VCI through its direct

Page 67

1 mail service provider only conducted direct mail
2 promotions to hospitals in the health care field?
3 **A. I don't think we limit it to hospitals.**
4 Q. I want to know what other types of health
5 care providers besides hospitals have been targeted
6 in your direct mail promotions.
7 **A. Well, when the direct mail company offers**
8 **a health care list, I'm not sure who is on that**
9 **health care list. Again, we're not specific.**
10 Q. What types of health care venues besides
11 hospitals are on the list?
12 **A. I don't know.**
13 Q. So VCI doesn't know when it directs its
14 third party vendor to conduct direct mailings, VCI
15 doesn't know who it's sending those direct mail
16 promotions to?
17 **A. In the case of a promotion we did. Some**
18 **companies you can buy the name and they will send**
19 **you the names. Other companies it depends on the**
20 **quality of the names. The ones that retain the**
21 **names are generally higher quality because they**
22 **control the list.**
23 Q. Has VCI ever received a list of names of
24 potential customers from a third party in order to

Page 68

1 conduct direct mail?
2 **A. When we go to trade shows, you will get a**
3 **list of attendees at a trade show so sometimes we'll**
4 **take that list.**
5 Q. My question is a little different though.
6 Has VCI ever purchased from a third party a list of
7 potential customers in order to conduct direct mail
8 promotions?
9 **A. Yes.**
10 Q. And does VCI currently possess a list of
11 potential customers that it purchased from a third
12 party?
13 **A. No.**
14 Q. How do you know that VCI purchased a list
15 of specific potential customers from a third party?
16 **A. Because I know we purchased the access to**
17 **the list.**
18 Q. Have you seen the list?
19 **A. No.**
20 Q. Has VCI ever used an advertising or
21 marketing firm or agency?
22 **A. No.**
23 Q. Earlier you identified specific resellers
24 of VCI's products in the health care industry or

Page 69

1 field and you identified IVCI; is that correct?
2 **A. Correct.**
3 Q. And do you know what IVCI stands for?
4 **A. I'm sure the VC is videoconferencing. I**
5 **don't know.**
6 Q. But IVCI is one of the company's
7 resellers?
8 **A. That is correct.**
9 Q. Do you know what percentage of sales are
10 derived from business with IVCI?
11 **A. Fairly small.**
12 Q. Do you know where IVCI is located?
13 **A. New York.**
14 Q. Where specifically in New York?
15 **A. I do not know.**
16 Q. Does VCI have in its possession any
17 documents that identify IVCI's address?
18 **A. Yes.**
19 Q. And you also identified AVISPL; is that
20 correct?
21 **A. Yes.**
22 Q. Do you know what AVISPL stands for?
23 **A. I do not.**
24 Q. Do you know where AVISPL is located?

Page 70

1 **A. Florida.**
2 Q. And do you know where in Florida?
3 **A. No.**
4 Q. Does VCI have records that indicate
5 AVISPL's address in Florida?
6 **A. Yes.**
7 Q. You identified SKC; is that correct?
8 **A. Yes.**
9 Q. Do you know what percentage of VCI's sales
10 are derived from its business relationship with SKC?
11 **A. Small.**
12 Q. And do you know what percentage of VCI's
13 business is derived from its business relationship
14 with AVISPL in Florida?
15 **A. Small.**
16 Q. What percentage of VCI's sales are derived
17 from selling through resellers?
18 **A. Currently probably less than ten percent.**
19 **Ten to 20 percent from all the resellers.**
20 Q. What are the other ways the company sells
21 its products?
22 **A. Direct sales.**
23 Q. Any retail sales?
24 **A. No.**

Page 71

1 Q. What about online sales?
2 **A. No.**
3 Q. Has the company sold any of its products
4 at trade or consumer shows?
5 **A. No.**
6 Q. Other than the direct sellers that you
7 identified, IVCI, AVISPL and SKC, can you identify
8 any other resellers of VCI's products?
9 **A. There is RoData and Providea.**
10 Q. Is Providea P-R-O-V-I-D-E-A?
11 **A. I think it's probably E-A.**
12 Q. Do you know what percentage of VCI's
13 current business is derived from its business
14 relationship with RoData?
15 **A. Small.**
16 Q. Do you know where RoData is located?
17 **A. Pennsylvania.**
18 Q. And Providea same question. Do you know
19 what percentage of VCI's business is derived from
20 its relationship with Providea?
21 **A. Small.**
22 Q. Do you know where Providea is located?
23 **A. California.**
24 Q. Does the company have business records

Page 72

1 that identify the address of RoData and Providea?
2 **A. Yes, and Verizon. I don't want to forget**
3 **Verizon.**
4 Q. Is Verizon a reseller of VCI's products?
5 **A. No. They're a -- I can't remember the**
6 **official term of what they call the relationship.**
7 **So they don't take title but they help promote the**
8 **product.**
9 Q. Can you describe for me how Verizon helps
10 promote VCI's products?
11 **A. Verizon has 1200 salespeople. They are**
12 **aware of the product and if they come across a**
13 **customer that they feel might be interested in our**
14 **type of product, they will tell them about it.**
15 Q. Has VCI made any sales as a result of its
16 business relationship with Verizon to health care
17 customers?
18 **A. We don't track the sales by Verizon so I**
19 **would say yes. I believe that some are but I can't**
20 **say for certain which ones are if they were indeed**
21 **as a result of directly Verizon sales or**
22 **introduction from Verizon's advertising or we made**
23 **the call directly.**
24 Q. So you can't identify any specific

Page 73

1 customers in the health care industry that VCI has
2 obtained as a result of its relationship with
3 Verizon?
4 **A. No.**
5 Q. Just briefly going back to the
6 collaborative process that you described between VCI
7 and Doug Geer in terms of developing the VCI's logo
8 or mark as it is identified on Exhibit 2, is it fair
9 to say that VCI told Mr. Geer what it wanted its
10 logo to look like?
11 **A. No.**
12 Q. Why is it not fair to say that?
13 **A. We gave general indications of what we**
14 **would like but we didn't indicate what the design**
15 **should be.**
16 Q. Does VCI have plans to attend any trade or
17 consumer shows that are targeted towards the health
18 care field or industry?
19 **A. Forever in the future? Can you put a --**
20 **define that? Yes. Sorry. Yes.**
21 Q. I'm just looking for specific plans so
22 not -- strike that. Which consumer shows or trade
23 shows that are specifically targeted towards the
24 health care field does VCI have plans to attend?

Page 74

1 **A. We do not attend any consumer shows.**
2 Q. How about trade shows?
3 **A. We will look at trade shows as they come**
4 **up on the schedule.**
5 Q. I just want to know about current plans
6 that the company has to attend. Does VCI have
7 current plans to attend trade shows that are
8 targeted towards the health care field in 2013?
9 **A. For the remainder of 2013?**
10 Q. Yes.
11 **A. I do not believe so.**
12 Q. What about 2014?
13 **A. I would assume we would go ATA again. We**
14 **have not made that decision.**
15 Q. What percentage of VCI's sales in 2012
16 were derived from its direct selling activities?
17 **A. Probably about 80 percent.**
18 Q. Is that percentage, 80 percent, is that
19 true with respect to the health care field?
20 **MR. PATEL: Objection. Vague.**
21 Q. In 2012 what percentage of VCI's sales to
22 health care customers were derived from direct
23 selling?
24 **A. Probably 20 percent.**

Page 75

1 Q. And for health care customers what
2 percentage of sales in 2012 were derived by VCI from
3 other types of selling activities?
4 **MR. PATEL: Objection. Vague.**
5 **A. Can you rephrase that question?**
6 Q. In 2012 VCI's sales to health care
7 customers as a result of direct sales was 20
8 percent?
9 **A. Correct.**
10 Q. And how did VCI obtain the other 80
11 percent of sales in 2012 to health care customers?
12 **A. I'm sorry. Repeat that again. I think**
13 **either you or I misunderstood something there.**
14 Q. Let me try to do this again. I just want
15 to understand how VCI obtained sales from health
16 care customers and what percentage of those sales.
17 So in 2012 what percentage of VCI's sales to health
18 care customers came from direct selling?
19 **A. Eighty percent.**
20 Q. Is it your testimony here on behalf of VCI
21 that VCI first became aware of Valeritas as a result
22 of this proceeding?
23 **A. Yes.**
24 Q. So VCI only became aware of Valeritas

Page 76

1 after Valeritas filed this trademark action?
2 **A. Yes.**
3 Q. And the first time VCI learned of
4 Valeritas was when it received notice of this
5 proceeding?
6 **A. Yes.**
7 Q. So prior to learning of this proceeding
8 VCI was not aware that Valeritas offered products
9 for sale in the health care field?
10 **A. Can you repeat that question?**
11 Q. Prior to VCI's learning of this
12 proceeding, VCI was not aware that Valeritas offered
13 products for sale in health care?
14 **A. Correct.**
15 Q. Prior to adopting the VGo logo identified
16 on Exhibit No. 2, did VCI undertake any research
17 regarding availability of the mark and logo?
18 **A. Yes.**
19 Q. And what research did VCI undertake before
20 adopting the mark depicted to Exhibit 2?
21 **A. VGo asked its counsel to inform us of the**
22 **availability of the mark.**
23 Q. Who at VCI knew about the results of that
24 search activity?

Page 77

1 **A. I did.**
2 Q. Anybody else at the company?
3 **A. I'm sure I told Ned.**
4 Q. Did the company receive reports concerning
5 the research that its counsel undertook on its
6 behalf?
7 **A. Yes.**
8 Q. And did Mr. Semonite view those reports?
9 **A. I'm not sure.**
10 Q. Did you review those reports?
11 **A. Yes.**
12 Q. Did Valeritas appear in those search
13 results?
14 **A. I don't recall.**
15 Q. Earlier you testified you only became
16 aware of Valeritas after the filing of this
17 proceeding; right?
18 **A. Correct.**
19 Q. So prior to learning of this proceeding
20 you were not aware of Valeritas; right?
21 **A. Correct.**
22 Q. After receiving the search results, did
23 VCI consider whether its desired mark and logo would
24 be confusingly similar to others, other marks and

Page 78

1 logos?
2 **A. Yes.**
3 Q. And which marks or logos did VCI consider
4 when it evaluated whether its desired mark would be
5 confusingly similar to others?
6 **A. We got the report and asked advice of
7 counsel and we proceeded with our mark.**
8 Q. Before making the decision to proceed on
9 adopting the mark as you have described, what
10 internal discussions, if any, took place about the
11 similarity of VGo's desired marks with other marks?
12 **MR. PATEL:** To the extent the
13 internal discussions involved communications with
14 your attorneys, I instruct you not to answer.
15 Everything else you're allowed to answer.
16 Q. I'm looking for internal discussions so
17 not where counsel was present.
18 **A. None.**
19 Q. So you never discussed with Ned Semonite
20 the results of the search reports?
21 **A. No.**
22 Q. Other than the research that you have
23 described did VCI undertake any other types of
24 studies or research pertaining to its desired mark?

Page 79

1 **A. No.**
2 Q. Did VCI after receiving the search results
3 consider at that time going in a different direction
4 and using a different logo and mark?
5 **A. No.**
6 Q. Does VCI advertise or promote its products
7 using television ads?
8 **A. No.**
9 Q. Radio ads?
10 **A. No.**
11 Q. News print or other media?
12 **A. No.**
13 Q. Has VCI assigned the right to use the logo
14 or mark to anyone?
15 **A. No.**
16 Q. So earlier we were talking about the
17 direct mail activities that the company undertakes
18 to sell and market its products. Is VCI aware of
19 any health care professional who treats people with
20 diabetes, is VCI aware that they received any direct
21 mail promotions?
22 **A. I'm not aware of any.**
23 Q. But you're here testifying on behalf of
24 VCI.

Page 80

1 **A. Correct. As far as my understanding of
2 the company, yes. We are not aware of any.**
3 Q. Who is Brad Kayton, K-A-Y-T-O-N?
4 **A. He was the CEO of the company at the time.
5 Sorry. In 2010.**
6 Q. Was he CEO for VCI during the entire
7 period of 2010?
8 **A. No.**
9 Q. Do you recall when Mr. Kayton stopped
10 being CEO of VCI?
11 **A. I don't recall.**
12 Q. Was it sometime in 2010?
13 **A. I think it was in 2011.**
14 Q. Was Mr. Kayton involved in any way in
15 VCI's creation or adoption of the mark or logo
16 depicted on Exhibit 2?
17 **A. He was one of the people that contributed
18 to suggestions.**
19 Q. So it was Mr. Kayton and yourself and
20 Mr. More and Mr. Root?
21 **A. And Mr. Semonite.**
22 Q. And Mr. Semonite who participated with Mr.
23 Geer in creating the VCI logo and mark?
24 **A. Yes.**

Page 81

1 Q. Was anyone else involved besides those
2 individuals?
3 **A. As I mentioned, other members of the staff**
4 **came in and contributed their thoughts. I think we**
5 **might have voted. Had everybody come in and say,**
6 **yeah, I like this one. I don't like that one so,**
7 **you know.**
8 Q. Can you identify any other VCI employees
9 who participated in that process?
10 **A. I don't remember which engineers said they**
11 **liked it or didn't like it.**
12 Q. Do you remember the names of the engineers
13 who worked for company in 2010?
14 **A. Yes.**
15 Q. Can you tell me what those names are?
16 **A. Jeff Muller, Barrett Wolber.**
17 Q. I'm sorry. Jeff Muller?
18 **A. Muller.**
19 Q. Can you spell the last name, please?
20 **A. M-U-L-L-E-R.**
21 Q. And who was the second person you
22 identified?
23 **A. Barrett Wolber, W-O-L-B-E-R. Dave**
24 **Johnson. I'm sure there are other engineers.**

Page 82

1 Q. Anyone else you can identify sitting here
2 today as being someone involved in the process of
3 selecting or working on VCI's mark in 2010?
4 **A. No.**
5 Q. Who is Peter Vickers?
6 **A. He is our current CEO.**
7 Q. Did he replace Mr. Kayton as CEO?
8 **A. Yes.**
9 Q. Do you recall when that took place?
10 **A. In the end of 2011. September of 2011 I**
11 **believe.**
12 Q. Who is John Nye?
13 **A. VP of sales.**
14 Q. Does Mr. Terry report to Mr. Nye?
15 **A. No. Mr. Nye is no longer with the**
16 **company.**
17 Q. Do you recall when Mr. Nye left the
18 company?
19 **A. I do not.**
20 Q. Do you know where Mr. Nye is now?
21 **A. I do not.**
22 Q. Do you know where Mr. Kayton is now?
23 **A. He's with a startup in Cambridge that does**
24 **like smart energy, digital thermometer type things.**

Page 83

1 Q. Do you know where Mr. Kayton lives?
2 **A. He lives in Holliston, Maine.**
3 Q. Do you know where Mr. Nye lives?
4 **A. I do not.**
5 Q. Who is John Rodella, R-O-D-E-L-L-A?
6 **A. I'm going to say he's CEO of RoData, one**
7 **of our resellers.**
8 Q. Where is RoData located?
9 **A. Pennsylvania. Just because the name**
10 **sounds like it. I think that's who he is. I'm not**
11 **sure.**
12 Q. You're right. Can I ask you to take a
13 look at Exhibit No. 2 again?
14 **A. Yes.**
15 Q. And just to go back over this, Exhibit 2
16 contains on the upper part VCI's mark or logo as it
17 appears on VCI products as they're sold in the
18 marketplace; correct?
19 **A. Yes.**
20 Q. And on the bottom can you identify what is
21 depicted on the bottom portion of Exhibit 2?
22 **A. You have told me that that is the logo for**
23 **Valeritas.**
24 Q. Do you have any knowledge to dispute that?

Page 84

1 **A. No.**
2 Q. Are the two marks identical?
3 **A. No.**
4 Q. Is VCI's mark similar to Valeritas's mark?
5 **MR. PATEL:** Objection. Vague.
6 **A. They both use the letters V-G-O.**
7 Q. Are they similar in any other ways?
8 **A. The V slants.**
9 Q. Any other ways?
10 **A. No.**
11 Q. Do both logos or marks have a large
12 capital letter V?
13 **A. Yes.**
14 Q. Are they both -- is the capital letter V
15 followed by the word go in both of the marks?
16 **A. Yes.**
17 Q. And is the word go in smaller capital
18 letters in both the VCI mark and the Valeritas mark?
19 **A. They're both the same size so I would**
20 **assume that that means -- you're saying that's a**
21 **capital O? I'll trust that that's correct.**
22 Q. I'm just asking you to look at Exhibit 2
23 and tell me whether it's true or not that the
24 capital letter V is followed by the word go in

Page 85

1 smaller capital letters?
2 **A. The capital letter V is followed by the**
3 **letters G and O.**
4 Q. Is it fair to say that both of the logos
5 or marks depicted on Exhibit 2 have a horizontal
6 line element in them?
7 **A. Is that a thermometer? It looks like a**
8 **tilted thermometer. Is that what you mean by a**
9 **horizontal line? Yes. Then both of those are**
10 **horizontal.**
11 Q. Thank you.
12 **A. Can you tell me if that's a thermometer?**
13 Q. I'm asking the questions here today.
14 **A. Okay. Sorry.**
15 Q. That's okay. In the horizontal design
16 element that you have identified in the VCI mark is
17 there a spherical shape on the right-hand side of
18 the horizontal design?
19 **A. Yes.**
20 Q. And on the Valeritas mark is there also a
21 spherical element at the right-hand side of the
22 horizontal mark?
23 **A. It's incorporated in the mark.**
24 Q. But both have a spherical element to the

Page 86

1 horizontal mark; right?
2 **A. Well, theirs is incorporated and on ours**
3 **it's separate but yes. There's some spherical**
4 **element to that.**
5 Q. Is it fair to say that both of the marks
6 depicted on Exhibit 2 are similar?
7 **MR. PATEL: Objection. Vague.**
8 **A. No.**
9 Q. And why is it not fair to say that they're
10 both similar?
11 **A. Because this one is for disposable**
12 **insulin. I'm sorry. The lower one is for disposal**
13 **insulin delivery something. I guess it's system.**
14 Q. So other than the text underneath
15 Valeritas's logo or mark, how else are they
16 different?
17 **A. Well, it's in lime green the letters and**
18 **then it's got that thermometer thing.**
19 Q. Just so the record is clear you're
20 pointing to the --
21 **A. I'm sorry. I'm pointing to the lower one.**
22 Q. And that's the Valeritas mark; right?
23 **A. Yes.**
24 Q. Do you think a person could mistake the

Page 87

1 two marks?
2 **A. No.**
3 Q. Do you think a person would think that the
4 two marks identify the same company?
5 **A. No.**
6 Q. Why not?
7 **A. Because they are different.**
8 Q. They are different in the ways you
9 described earlier?
10 **A. Yes.**
11 Q. Have any doctors confused VCI with
12 Valeritas?
13 **A. The only one I'm aware of is the one that**
14 **Valeritas informed us and I believe there's a doctor**
15 **that they have hired to do trials and he has**
16 **confused the two or said he has confused the two. I**
17 **don't know him personally.**
18 Q. And the doctor that you described, VCI
19 learned of that through this proceeding; right?
20 **A. Correct.**
21 Q. VCI did not learn of that independent of
22 this proceeding?
23 **A. Correct.**
24 Q. Have any patients confused the two marks

Page 88

1 depicted on Exhibit 2?
2 **A. No.**
3 Q. Have any members of a hospital staff
4 confused the two marks depicted on Exhibit 2?
5 **A. No.**
6 Q. Have any buyers of VCI's products confused
7 the two marks depicted on Exhibit 2?
8 **A. No.**
9 Q. How about IT directors at hospitals? Is
10 VCI aware of any IT director or individual who
11 purchases VCI's products on behalf of hospitals that
12 has confused VCI with Valeritas?
13 **A. No.**
14 Q. Have any purchasers of VCI's products
15 indicated that they believe Valeritas and VCI are
16 connected in some way?
17 **A. No.**
18 Q. Is VCI aware of any instance where a
19 person confused or mistook VCI's product with a
20 Valeritas product?
21 **A. No.**
22 Q. Has VCI ever received communications from
23 any person that were intended for Valeritas?
24 **A. No.**

Page 89

1 Q. Has VCI ever been contacted by any person
2 thinking VCI was Valeritas or the source of any
3 Valeritas product or service?
4 **A. No.**
5 Q. Has VCI ever marketed or sold any product
6 to the Florida Hospital Diabetes Institute?
7 **A. We sold product to Florida Hospital. I do**
8 **not believe it's the diabetes institute. I'm not**
9 **sure if those two are related.**
10 Q. But VCI has sold products to the Florida
11 Hospital?
12 **A. Yes.**
13 Q. Do you know what the Sanford Burnham
14 Translational Research Institute is?
15 **A. No.**
16 Q. Is that a customer of VCI?
17 **A. Can you repeat the name?**
18 Q. Sure. Sanford Burnham Translational
19 Research Institute.
20 **A. No.**
21 Q. Does VCI market or promote its products
22 through phone calls?
23 **A. Yes.**
24 Q. Does it conduct those marketing phone

Page 90

1 calls internally or does it use a third party?
2 **A. We have used a third party. We primarily**
3 **do it internally now.**
4 Q. On the occasions VCI used a third party to
5 conduct phone marketing, can you tell me the name or
6 names of the vendor used?
7 **A. There was a local vendor. I don't recall**
8 **the name.**
9 Q. So a company in Nashua, New Hampshire?
10 **A. Nashua I believe.**
11 Q. Would VCI have any records that identify
12 the vendor that was used?
13 **A. Yes.**
14 Q. Can you describe for me how VCI has
15 conducted phone marketing, how does it do it? How
16 do you do it?
17 **A. We call the customers. So we solicit**
18 **customers that we think might be interested in the**
19 **product. We research. We find maybe a major**
20 **hospital and try to determine who is in the IT**
21 **department that we could, you know, make a call to.**
22 Q. So does VCI use publicly available contact
23 information in order to conduct its phone marketing?
24 **A. Yes.**

Page 91

1 Q. Does VCI use any contact lists purchased
2 from a third party to conduct its phone marketing?
3 **A. No.**
4 Q. Who at the company conducts phone
5 marketing on behalf of VCI to health care potential
6 clients?
7 **A. Bern Terry.**
8 Q. Anyone else?
9 **A. Primarily Bern. Tom Thornton handles**
10 **mostly education but might do some health care.**
11 Q. Does VCI know whether Mr. Thornton has
12 contacted any health care providers that provide
13 services to patients with diabetes in the context of
14 VCI's phone marketing campaign?
15 **A. I would assume a lot of hospitals provide**
16 **as part of their thing diabetes.**
17 Q. Let me try to give you a more specific
18 question. Is VCI aware of Mr. Terry contacting any
19 health care providers that specialize in the
20 treatment of patients with diabetes?
21 **A. I think there's one. I think maybe yes to**
22 **one.**
23 Q. Which one is that?
24 **A. I knew you were going to ask me that. I**

Page 92

1 **don't know.**
2 Q. So why do you believe sitting here today
3 that Mr. Terry has contacted on behalf of VCI a
4 health care provider that specializes in the
5 treatment of patients with diabetes?
6 **A. I think he was trying to determine which**
7 **customers might be interested in the product, would**
8 **contact all of them, you know, all the major**
9 **departments in terms of trying to determine what IT**
10 **and supporting the IT folks where they could**
11 **potentially find doctors who might use this type of**
12 **product in their communications so I think it's just**
13 **more educational rather than --**
14 Q. What information would Mr. Terry provide
15 to a health care provider who specializes in the
16 treatment of patients with diabetes to sell the
17 product or inform them that they may be interested
18 in purchasing the product?
19 **MR. PATEL:** Objection. Compound,
20 vague.
21 **A. They ask them if they use**
22 **videoconferencing equipment, tell them this is a**
23 **mobile type of videoconferencing equipment and find**
24 **out their communication methods.**

Page 93

1 Q. With patients?
2 **A. It doesn't have to be with patients.**
3 **Within the hospital or, you know, are you remote, do**
4 **you travel, how do you make -- you know, essentially**
5 **how do you make your calls, how do you run your**
6 **business. Really has nothing to do with the**
7 **services they provide so it doesn't really matter**
8 **what kind of doctor they are. It's really do they**
9 **do remote visits or do they have patients who are in**
10 **multiple clinics, would they like to be in different**
11 **clinics at different times. So really, as I said,**
12 **it has little to do with the type of doctor they**
13 **are. It more has to do with the type of style or**
14 **the type of practice they're in.**
15 Q. What information does VCI provide to
16 doctors or health care providers as a way to promote
17 VCI's products and get physicians to purchase their
18 products? What does VCI tell doctors about what it
19 can do for their practices?
20 **A. Well, we provide them the materials, tell**
21 **them how to extend their communications or extend**
22 **their capability through mobile communications.**
23 Q. Does VCI convey to health care providers
24 any information about how VCI products can help them

Page 94

1 service their patients?
2 **A. In terms of how to communicate, yes. How**
3 **to be able to do two-way audiovisual communication.**
4 Q. Does VCI market or promote any particular
5 advantages of its products to physicians?
6 **A. Just the ability to be remote and to**
7 **extend that communication reach.**
8 Q. So it's no different than a phone call?
9 **A. It's no different than a phone call.**
10 Q. So VCI products don't provide physicians
11 with any particular advantages as compared with a
12 phone call?
13 **A. Well, that's putting words in my mouth.**
14 **No. I mean there's a lot of benefits to the**
15 **product, the ability to be able to remote control**
16 **that device and go in and visit, you know, go to a**
17 **conference room or a lab or something like that,**
18 **remotely be able to do that. It's much more than a**
19 **phone. You can't do that with a phone.**
20 Q. So why is VCI's product advantageous to
21 physicians?
22 **A. So if physicians can't be in -- if they're**
23 **pulled in many different directions. If they want**
24 **to be in two places at once, our product allows them**

Page 95

1 **to do that, to physically be in maybe a rural**
2 **clinic, to be in an office, to be in an elder care**
3 **facility, to be in a lab when they're not there.**
4 **Maybe they're in one location but really want to be**
5 **at that separate location. It gives them that**
6 **ability.**
7 Q. Do VCI products have any particular
8 advantages that VCI uses to market its products as
9 compared to say Skype or videoconferencing?
10 **A. Yes. So the mobility is the key there,**
11 **the differentiator between Skype. So in Skype you**
12 **can be in that remote location or videoconferencing**
13 **but you're not mobile. You're stuck to wherever**
14 **that location of that PC or screen is as opposed to**
15 **our product. You can be where you need to be. You**
16 **can go where you need to go.**
17 Q. And other than what you have described
18 does VCI tell physicians of any other types of
19 advantages to the use of its product over other more
20 traditional types of teleconferencing equipment?
21 **A. No. Those are the highlights.**
22 Q. What about the look of the unit? Does VCI
23 convey to physicians that the look of its products
24 provide certain advantages to physicians in their

Page 96

1 practices?
2 **A. We do explain that the look is not -- when**
3 **people think of robots, they think of something**
4 **they've seen in a movie or something like that. So**
5 **we do tell them about the look of the product, that**
6 **it is very pleasing to have in an office.**
7 Q. Is there any reason why the product has a
8 particular height?
9 **A. Yes. It's 48 inches tall at the camera**
10 **height and that's a very comfortable height for**
11 **where you're sitting or standing. The camera pivots**
12 **so you can look up and down but it's not too big and**
13 **intimidating and it's a comfortable height and it**
14 **moves nicely.**
15 Q. Are those elements that you have just
16 described to me conveyed by VCI to physician
17 customers and potential physician customers as
18 advantages to using VCI's products?
19 **A. The size of the product, yes.**
20 Q. What about the look of the product, how
21 the product presents to a patient?
22 **A. Yes.**
23 **MR. CONNOLLY:** It's almost
24 12 o'clock. I think this is a good time to stop for

Page 97

1 a lunch break. Can we go off the record?
2 (A break was taken for lunch.)
3 Q. Could you please turn to Page 3 of
4 Exhibit 1?
5 **A. Okay.**
6 Q. Do you recognize Page 3 of Exhibit 1?
7 **A. It is our VGo trademark, the form from the**
8 **patent office.**
9 Q. Is it accurate for me to state that Page 3
10 of Exhibit 1 is VCI's trademark registration
11 certificate?
12 **A. Sure. Yes.**
13 Q. Can you please turn to Page 26 of
14 Exhibit 1?
15 **A. Yes.**
16 Q. In early 2010 did VCI consider whether or
17 not to use the letters V-I-D-G-O as its trademark
18 logo?
19 **A. Certainly it looks like that. I don't**
20 **recall that but maybe we did because the search is**
21 **on that.**
22 Q. Just putting aside the documents, just
23 from your memory did VCI at any time consider using
24 Vidgo as its trademark or logo?

Page 98

1 **A. We looked at a number of different**
2 **combinations of letters and words and so forth so we**
3 **could have.**
4 Q. So there was Ego; right?
5 **A. There was Ego, yes.**
6 Q. And was there Vidgo as well?
7 **A. There could have been.**
8 Q. You don't know?
9 **A. I don't know. It did not -- we never --**
10 **so with Ego we had developed a logo and so forth. I**
11 **don't recall any logo or any work done around that**
12 **name so we didn't get very far if we did look to use**
13 **that name.**
14 Q. Thank you. Sitting here today can you
15 recall any other names that VCI considered?
16 **A. No. I mentioned we looked at other**
17 **letters in the alphabet and so forth so I know we**
18 **looked at other combinations before we settled on**
19 **VGo.**
20 Q. Prior to March 1, 2012 was VCI focused on
21 health care as a market?
22 **A. No.**
23 Q. In 2012 was VCI focused on health care as
24 a market?

Page 99

1 **A. It was one of the markets we were going**
2 **after, yes.**
3 Q. Does VCI consider the health care market
4 to be divided into segments?
5 **A. Yes.**
6 Q. What are the segments?
7 **A. We determine it based on the applications**
8 **of our product so within the market themselves I**
9 **think other people will find different ways to**
10 **segment it. Health care itself is such a broad term**
11 **but we look specifically on applications so we**
12 **divide it more into remote visits, different ways**
13 **that the product can be used from our perspective.**
14 Q. So internally does VCI divide the health
15 care market into segments --
16 **A. Yes.**
17 Q. -- for purposes of marketing and promoting
18 its products?
19 **A. For purposes of discussion, yes.**
20 Q. And what specifically are the segments?
21 **A. The different applications so whether we**
22 **do remote visits. So as an example having family**
23 **members visit in a hospital is different than having**
24 **a doctor have a product in a hospital or go to a**

Page 100

1 **rural clinic. It's a different user, different**
2 **application.**
3 Q. So is remote visits one of the segments
4 that VCI divides the health care market into?
5 **A. Right. Yes.**
6 Q. So are there others?
7 **A. Yes, although I don't think we have nice**
8 **names for them but in terms of the way we discuss it**
9 **more, as I said, on the applications.**
10 Q. Can you tell me the names?
11 **A. So we have the application of where the**
12 **doctor is in hospitals so a doctor visiting within a**
13 **hospital. Maybe a doctor -- we also look at doctors**
14 **visiting other locations so rural clinics and then**
15 **elder care facilities would fall into that and then**
16 **we look at applications where it would be used with**
17 **a patient so visiting in a patient's home.**
18 Q. So have you identified the following as
19 targeted segments of the health care market, remote
20 visits, doctors visiting patients in hospitals,
21 doctors visiting remote clinics and patients using
22 VCI's products at home?
23 **MR. PATEL: Objection. Compound.**
24 **A. No.**

Page 101

1 Q. All I want to do is understand how VCI
2 identifies the segments it has identified in the
3 health care market.
4 **A. Right. You have stated the last one**
5 **incorrectly. So doctors using it in the patient's**
6 **home. You said patients using it. Patients don't**
7 **use the product.**
8 Q. So doctors using VCI's products in the
9 patient's home?
10 **A. Right.**
11 Q. Did I get the other ones right?
12 **A. I think so.**
13 Q. All right. Just so I have a complete
14 listing.
15 **A. Yes.**
16 Q. Does VCI identify the follows segments of
17 the health care market, remote visits; is that
18 correct?
19 **A. Correct.**
20 Q. And is the second one doctors using VCI's
21 products in the hospitals?
22 **A. Correct.**
23 Q. And is the third one remote clinics?
24 **A. Doctors using it in, yes.**

Page 102

1 Q. Doctors using VCI's products in remote
2 clinics?
3 **A. Yes.**
4 Q. And the fourth one was doctors using VCI's
5 products in the patient's home?
6 **A. Correct. Although the numbering means --**
7 **there's no numbering or ranking as you have ranked**
8 **it.**
9 Q. It is just for purposes of identifying it
10 here today. I agree. Other than those we have just
11 mentioned, are there others?
12 **A. Well, when you said rural clinics, I**
13 **talked about elder care and other facilities so**
14 **other potential facilities that they could be in.**
15 Q. What are some of the other potential
16 facilities that they could be in?
17 **A. Elder care facilities, assisted living**
18 **facilities, something like that.**
19 Q. Any others?
20 **A. I think that basically, you know, between**
21 **the remote clinics and that, I think that covers it.**
22 Q. In 2012 was VCI expanding its business in
23 those segments that we have just discussed?
24 **A. Yes.**

Page 103

1 Q. But earlier I asked you whether VCI had a
2 health care focus in 2012 and I think you answered
3 in the negative; am I misstating your testimony?
4 **A. If you read back the question, I think you**
5 **asked it slightly differently so we have had a focus**
6 **on health care in 2012, not for the entire year. It**
7 **was more something that was developed towards the**
8 **end of the year.**
9 Q. Was your earlier testimony that VCI does
10 not attend any consumer shows; is that correct?
11 **A. Correct.**
12 Q. In the past has VCI attended any consumer
13 shows?
14 **A. We have been in partners' booths. We have**
15 **not had a booth. So Verizon for instance. Verizon**
16 **goes to the Consumer Electronics Show. Again,**
17 **that's not -- although it's called Consumer**
18 **Electronics Shows, it's actually not targeted at**
19 **consumers. It's targeted at resellers and so forth.**
20 **We were in their booth so we had a product in their**
21 **booth.**
22 Q. So you don't consider that as VCI
23 attending the CES?
24 **A. Correct. We weren't trying to sell**

Page 104

1 **product. We were supporting our partner.**
2 Q. Does VCI discuss internally a goal of
3 replacing hospital monitoring with home-based
4 monitoring for health care patients?
5 **A. No.**
6 Q. Is it true that mobile robots are now
7 being used in hundreds of hospitals nationwide as
8 the eyes, ears and voices of doctors who can not be
9 there in person?
10 **A. Yes.**
11 Q. So that includes mobile robot producers
12 other than VCI; correct?
13 **A. Correct.**
14 Q. Do you have an understanding as to how
15 many hospitals VCI has its robotic telepresence
16 product in?
17 **A. Probably around a hundred.**
18 Q. Can you turn to Page 268 and 269, please?
19 **A. Yes.**
20 Q. Can you tell me which of the VCI customers
21 identified here are in the field of health care?
22 **A. Sure. So Palomar, Glendale, Montreal**
23 **Children's Hospital, Children's Hospital of Boston,**
24 **Capital Health, Florida Hospital, Intermountain**

Page 105

1 **Health Care, Advanced Pediatric. No. Advanced**
2 **Dermatology. VTS Medical. I think that's it.**
3 Q. Do you know what VTS Medical Systems is?
4 **A. I do not.**
5 Q. Do you know what the Macy Center is?
6 **A. I do not. It says learning lab. I don't**
7 **know what that means.**
8 Q. How about Capital Health? Do you know
9 what they do?
10 **A. I do not.**
11 Q. Do you know what a CRM is?
12 **A. Yes.**
13 Q. Can you tell me what it is?
14 **A. Relationship. Customer relationship**
15 **management system.**
16 Q. Does VCI have a CRM?
17 **A. Yes.**
18 Q. Does it list VCI's customers by name?
19 **A. Yes.**
20 Q. Do you use the CRM?
21 **A. Yes.**
22 Q. Have you ever seen a customer identified
23 in the VCI CRM with the word diabetes in its name or
24 title?

Page 106

1 **A. I don't recall. I mentioned one before.**
2 **I think there is one but I don't -- it's not --**
3 Q. Which one did you mention before?
4 **A. I don't remember the name. I think I've**
5 **seen it. I don't recall the actual name so I would**
6 **have to go look.**
7 Q. You would ascertain that information by
8 going into the CRM system and looking?
9 **A. I would have to do a search in the system.**
10 Q. And you can print off reports from the
11 CRM; right?
12 **A. Yes.**
13 Q. I think I asked you earlier whether VCI
14 promoted its products on television. Do you recall
15 that?
16 **A. Yes.**
17 Q. Has the VCI's robotic telepresence product
18 appeared on television?
19 **A. Numerous times.**
20 Q. Can you give me some examples?
21 **A. It's been on the Today show. It has been**
22 **on a Verizon commercial that ran nationwide during a**
23 **lot of football names and so forth. It has been on**
24 **Fox News, CNBC, CBS, ABC, most of the local**

Page 107

1 **affiliates although some national coverage on those**
2 **pretty much throughout the country. I'm trying to**
3 **think what else. It has been on Bloomberg TV last**
4 **week or the week before. It's generally on TV**
5 **almost every month.**
6 Q. Bringing your attention back to early 2010
7 when VCI was, as you testified, collaborating with
8 Mr. Geer on the design of VCI's logo. Do you recall
9 whether VCI gave sort of an initial sketch or design
10 to Mr. Geer or it was the opposite, Mr. Geer
11 provided the initial sketch or design of the logo to
12 VCI?
13 **A. I believe Mr. Geer provided the initial.**
14 Q. Do you recall what it looked like?
15 **A. I do not.**
16 Q. Have you seen that design, initial design
17 at any time after 2010?
18 **A. No.**
19 Q. Can you recall any other health care
20 customers that the company VCI sold its products to
21 other than the ones you have identified previously?
22 **A. You mean the ones I just read off?**
23 Q. Yes.
24 **A. I'm sure I can think of more. Let me**

Page 108

1 **think. Eastern Maine, Hospice of the North Shore,**
2 **Atlanticare. I don't know if I mentioned that**
3 **before. You know, there's others. I'm sure if I --**
4 **how long do you want me to spend thinking about our**
5 **customer list?**
6 Q. I just want you to do the best you can
7 because that's why you're here today.
8 **A. I think that's it.**
9 Q. Do you know whether any departments in the
10 hospitals to which VCI has sold products are using
11 VCI's product in connection with the diagnosis or
12 treatment of patients with diabetes?
13 **MR. PATEL: Objection. Vague.**
14 Q. So we talked about hospitals earlier and
15 you identified that while there are a lot of
16 departments in hospitals so I'm asking you whether
17 you're aware of VCI's products being used in any
18 departments in hospitals that specialize in the
19 treatment of patients with diabetes.
20 **A. Not that I'm aware of.**
21 Q. Has VCI prepared any specific papers on
22 using its products in health care?
23 **A. Yes.**
24 Q. Can you identify that for me?

Page 109

1 **A. We created a white paper about the use of**
2 **VGo in health care.**
3 Q. When you previously looked through Exhibit
4 1, did you see the white paper there?
5 **A. I think it was in there; right? I would**
6 **have to look through. That's not the white paper.**
7 **That's a shorter version. I think there's a longer**
8 **one. I think I saw it in here. I don't recall. I**
9 **would have to go look through all of pages but it's**
10 **probably in here or maybe not. I don't know.**
11 Q. It's kind of an important point and I
12 don't see it in there.
13 **A. Okay.**
14 Q. So I'm not asking you to look through it.
15 **A. If you don't see it, then it's just a**
16 **longer version of this which basically it's the same**
17 **thing. It's on our web site.**
18 **MR. CONNOLLY:** The witness is
19 pointing to Page 1 and 2 of Exhibit 1.
20 Q. And so VCI's white paper is a longer
21 version?
22 **A. It's just a couple more pages than this.**
23 Q. That's available to the public on your web
24 site?

Page 110

1 **A. Yes.**
2 Q. And can you tell me what additional
3 information is in the longer version of the white
4 paper?
5 **A. It just talks about using the application,**
6 **using it in the health care application.**
7 Q. Anything specific?
8 **A. No.**
9 Q. You can't recall or you don't know?
10 **A. It's general.**
11 Q. Is patient monitoring one of the ways that
12 VCI's products can be used by health care
13 organizations?
14 **A. Can you define patient monitoring?**
15 Q. Well, does VCI use the term patient
16 monitoring as one of the ways its products can be
17 used in health care?
18 **A. Patient observation, yes. So more**
19 **recently there's been more definition around what**
20 **patient monitoring is.**
21 Q. Okay.
22 **A. So we don't have devices that hook up to**
23 **it but you can absolutely view a patient through our**
24 **device. So, yes, in that general term. One of our**

Page 111

1 **competitors is starting to say that you need FDA**
2 **this and that for certain things so we're trying to**
3 **be more careful about what the language is but**
4 **that's not my area so.**
5 Q. Earlier we talked about I'll use the term
6 selling points.
7 **A. Yes.**
8 Q. That VCI uses to promote its products in
9 health care to physicians.
10 **A. Yes.**
11 Q. Other than what we discussed previously
12 are there any other selling points that VCI makes
13 health care providers aware of?
14 **A. No.**
15 Q. What about cost containment? Does VCI
16 promote its products to health care providers as a
17 way to save costs?
18 **A. Yes, to all our customers.**
19 Q. Can you tell me what VCI says to
20 physicians about that?
21 **A. We see it as a way because of its**
22 **extensive reach it allows you to be in other**
23 **locations. You can lower your costs by visiting**
24 **patients remotely or visiting sites remotely.**

Page 112

1 Q. Is that also important because there's a
2 shortage of trained health care professionals?
3 **A. I'm sure that's a reason, yes.**
4 Q. Is that one of the reasons that VCI notes
5 in its sales materials to health care customers?
6 **A. That there's a shortage of doctors?**
7 Q. Yes.
8 **A. Well, it's a way to extend the reach of**
9 **doctors so make them more efficient, yes.**
10 Q. We discussed and I asked you questions
11 earlier about Positive ID Corporation. Do you
12 recall that?
13 **A. Yes.**
14 Q. Did Positive ID Corporation and VCI host a
15 joint demonstration of wireless health solutions at
16 ATA in 2011?
17 **A. Yes. That's what I had mentioned before.**
18 Q. That was in Florida?
19 **A. Are you telling me or asking me?**
20 Q. I'm asking you was it in Florida?
21 **A. I don't know.**
22 Q. And do you know what Positive ID
23 Corporation's product was that was demonstrated?
24 **A. No.**

Page 113

1 Q. Do you know what it was called?
2 **A. No.**
3 Q. Do you know what their product was used
4 for?
5 **A. No.**
6 Q. Do you remember anything about the details
7 of the demonstration?
8 **A. No.**
9 Q. Were you there?
10 **A. I was at the show. I was not involved in**
11 **the demonstration.**
12 Q. Can you tell me who was involved?
13 **A. Ned Semonite.**
14 Q. Anyone else?
15 **A. I think Ashley Wells.**
16 Q. Ashley Wells is the employee you
17 identified earlier as someone who was reporting to
18 you but she is no longer with the company; correct?
19 **A. Correct.**
20 Q. Is VCI's product a videoconferencing
21 telepresence solution?
22 **A. Yes.**
23 Q. Can you describe for me the ways that
24 doctors and nurses use VCI's products to monitor

Page 114

1 patients when they can't be there in the room with
2 them?
3 **A. So it's two-way audiovisual communication**
4 **so if the product is there, the robot itself, the**
5 **doctors can call in and communicate as if they were**
6 **there.**
7 Q. Did Mr. Semonite select VCI's mark in
8 early 2010?
9 **A. Yes.**
10 Q. Did he do that alone?
11 **A. Well, as mentioned before, it was a**
12 **collaborative. We all agreed but in terms of the**
13 **final decision making it was his.**
14 **MR. CONNOLLY:** Why don't we take ten
15 minutes and I'll see what I need to do to finish;
16 okay?
17 **MR. PATEL:** Okay.
18 (A break was taken.)
19 Q. Does VCI customize its products?
20 **A. No.**
21 Q. Between 2007 and 2009 did VCI have a
22 business plan?
23 **A. Yes.**
24 Q. Was it written?

Page 115

1 **A. Yes.**
2 Q. And did it identify health care
3 specifically as an important market to the company?
4 **A. I do not believe so.**
5 Q. In 2009 did VCI consider that health care
6 was an important market for its products?
7 **A. I do not believe so, no.**
8 Q. In early 2010 did VCI consider that health
9 care was an important market for the company?
10 **A. I believe it was just viewed as one of the**
11 **markets.**
12 Q. Just one of several markets?
13 **A. One of several markets.**
14 Q. As of January 2010 had VCI identified the
15 markets that it would pursue for its products?
16 **A. Yes.**
17 Q. What were they?
18 **A. So they were, as I mentioned before,**
19 **enterprise, which is obviously a broad topic within**
20 **enterprise, any type of remote communication whether**
21 **it's in factories or office buildings or anything**
22 **like that, any type of area where video**
23 **communications is being used so, again, we looked at**
24 **a lot of our resellers, what markets they were in**

Page 116

1 **and determined that those markets would be**
2 **applicable to us. If they bought traditional**
3 **videoconferencing equipment, they could potentially**
4 **buy our equipment so that meant health care was**
5 **certainly on that list. Education was on that list**
6 **but that was prior to us announcing the product and**
7 **selling the product so we didn't know which ones we**
8 **would get traction from.**
9 Q. Before launching the product or selling
10 the product did you conduct any market studies
11 relating to health care specifically about the level
12 of interest for your intended product?
13 **A. No.**
14 Q. Did the company have a written business
15 plan in January 2010?
16 **A. We did not write a plan in January of**
17 **2010.**
18 Q. As of January 2010 did a business plan in
19 written form exist for VCI?
20 **A. I think one of the previous ones. I'm not**
21 **sure it was updated.**
22 Q. Does the company have a copy of the
23 business plan that was in place in January of 2010?
24 **A. It should have.**

1 MR. CONNOLLY: I don't have any
2 further questions for the witness.

3 MR. PATEL: No questions.

4 MR. CONNOLLY: Off the record.

5 (Whereupon, at 1:25 p.m., the
6 deposition was concluded.)
7
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1 CERTIFICATE

2 Commonwealth of Massachusetts

3 Suffolk ss.
4

5 I, Karen A. Morgan, Certified Shorthand
6 Reporter and Notary Public in and for the
7 Commonwealth of Massachusetts, do hereby certify
8 that THOMAS RYDEN, the witness whose deposition is
9 hereinbefore set forth, was duly sworn by me and
10 that such deposition is a true record of the
11 testimony given by the witness.

12 I further certify that I am neither related to
13 or employed by any of the parties in or counsel to
14 this action, nor am I financially interested in the
15 outcome of this action.

16 In witness whereof, I have hereunto set my
17 hand this second day of July, 2013.
18

19 _____
20 Karen A. Morgan
21 CSR/RPR
22

23 My commission expires:
24 November 5, 2015

1 C E R T I F I C A T E
2 I, THOMAS RYDEN, do hereby certify
3 that I have read the foregoing transcript of my
4 testimony, and further certify that it is a true and
5 accurate record of my testimony (with the exception
6 of the corrections listed below):

7	Page	Line	Correction/Reason
8	_____	_____	_____
9	_____	_____	_____
10	_____	_____	_____
11	_____	_____	_____
12	_____	_____	_____
13	_____	_____	_____
14	_____	_____	_____
15	_____	_____	_____
16	_____	_____	_____
17	_____	_____	_____
18	_____	_____	_____

19 THOMAS RYDEN
20 Sworn and subscribed to before me this ____
21 day of _____, 2013.

22 _____
23 Notary Public
24 My commission expires:

EXHIBIT G



Enterprise / Office
Manufacturing
Education
Healthcare

Introducing VGo®

A Breakthrough in Audio-Video Communication

Secure, Simple, Affordable

Remote Managers

VGo is used by executives and senior managers to run their organizations more easily and cost effectively. Visit distant locations at a moments notice, pop into the office when on the road. Put out fires, coach the managers, improve communications.

Project Teams

When they can't be there in person, project and development team members are using VGo to ensure progress continues on schedule. Visibility into working project areas is critical for a manager – in the lab, layout room, prototyping area, manufacturing floor, brainstorming areas. Remote team members can also use VGo to telecommute – increasing their overall value.

Remote Student

Homebound or absent students are using VGo to attend class. VGo's remote operation removes operational burdens from the local staff.

Patient Visits

Healthcare organizations are making VGo available to family members of patients and residents in their hospitals and senior care facilities and to healthcare workers to improve patient care.



VGo is an entirely new solution that hasn't been available until now. VGo gives you the ability to not only be in a distant location, but also to move around in that location. Remote people can go to where they are needed to get the job done without the cost and inconvenience of travel. VGo increases productivity by enabling anytime face-to-face interaction, not just in the conference room or behind the desk, but now anywhere in your facility. With VGo, you don't make a call – *you just go there* – your presence is established remotely via VGo's physical presence. VGo's remote controlled mobility and physical presence makes it something totally different than a video conferencing session.

- See, hear, talk, and **move** in any location – be in two places at once
- Mobility enhances your effectiveness at a distance by freeing you from the bounds of a conference room or office
- 100% remote controlled – be fully-empowered even though you are not there at the remote site
- High quality audio / video and easy remote driving via any PC or laptop with an internet connection makes it feel like you're really there
- Advanced security controls and privacy policies mimic real life
- WiFi connectivity, battery power, and advanced robotics for driving deliver complete freedom of movement

VGo utilizes standard ubiquitous Wi-Fi and broadband networks for its remote operation, allowing users to leverage their existing IT environment. The solution does not require any special actions on the part of people in the location of the VGo; people interact just as if the remote VGo-user were there in the flesh.

Disciplined engineering has produced a graceful and intelligent form factor, a simple yet powerful remote control user interface, high quality video images and amazing audio pickup and fidelity. All without the need for time consuming setup and training.

When you can't be there, VGo there!

Reimer's Electra Steam has been using a VGo robotic telepresence system to facilitate collaboration between a valued electrical engineer, who is currently located in the Dominican Republic, and our production team on the manufacturing line. We have been really pleased with the product's performance and have been able to dramatically improve our development time on projects that require collaboration with the manufacturing group. Bottom line: "It works!"

→ Roger Burkhardt, President, Reimer's Electra Steam

VGO 000001

VGo

How it All Works

VGo's unique capability is in its remotely controlled mobility combined with two-way video and audio communications. The solution comprises two primary elements:

- The VGo - The remote controlled mobile device that represents you in a distant location.
- The VGo PC App - The software application that is downloaded to your PC that you use to initiate connectivity, see and hear the far end and drive the VGo.

Calls run over the internet with the help of VGoNet, a special cloud computing network that manages everything so you don't have to. The network was especially designed to handle the complexities of a solution that requires real time AV communications and simultaneous robotic remote controls.



Specifications

- 48" H x 13" W x 15" D
- 18 lbs (using the standard 6 hr battery)
- 22 lbs (using the 12 hr long-life battery)
- Independent dual motorized drives
- 0 to 2.5 ft/sec variable speed
- Obstacle and stair detection sensors
- Auto-docking for battery re-charging
- 2MP motorized camera w/ flash
- 5X Video Zoom
- Hi-Res snapshot and transfer
- H.264 30 fps video codec
- 8khz Hi fidelity audio codec
- Integrated WiFi (802.11 a/b/g/n)
- 6" LCD display
- 4 microphone array, 360° pick-up
- Woofer and tweeter speakers
- Illumination & status LED lights
- "Raised hand" lights
- Integrated touchpad user controls
- Speech processor
- Remote operation PC App

Box Contents

- The VGo
- Handheld local controller
- Battery
- Charging Dock & Power cord
- Documentation

Remote PC / Laptop Minimum Requirements

- Windows 7, Vista, or XP (MAC OS X available in Q3, 2011)
- Dual Core 2.0 GHz
- 1 MB RAM
- Camera, MIC, speakers

Network Requirements

- 802.11 a/b/g/n wireless coverage for the VGo with WEP, WPA, WPA2, 802.1X or unsecured
- 768 Kbps Internet upload speed
- Open outbound ports: 5222, 3478, 443, 80

Using it is Easy

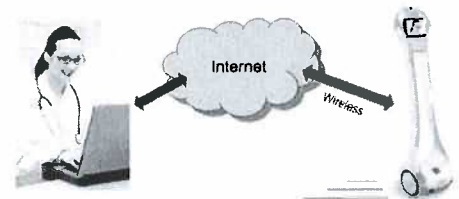
- 1) On your PC or laptop, bring up your VGo PC App.
- 2) Click the location where you need to be.
- 3) You're done. There is no step 3. Now you can see, hear, talk, be heard, be seen and go anywhere. Go fast, go slow, pivot in place-- just like you would if you were there.



The view from the VGo PC App

"We used VGo for remote management and coaching of our outbound call center staff. Over a quarter, we measured our performance using VGo, and realized a 30 percent increase in sales".

→ Tom Serani, VP & Co-Founder, Ratepoint, a rapidly growing internet business



System Feature Highlights

- Self-contained wireless audio-video appliance
- Simple point and click user interface
- Remote user controlled mobility, volume, mute, camera lights, and hi-resolution snapshots
- WiFi and Battery status indicators
- Auto docking for battery recharging
- Strict privacy and connectivity controls
- Comprehensive Web tools for managing your VGo's and the people who you let use them
- Multiple driving methods – use the one you like most
- Spoken visitor arrival announcements and text messaging
- Sensors to assist driving, avoid obstacles and prevent falling down steps

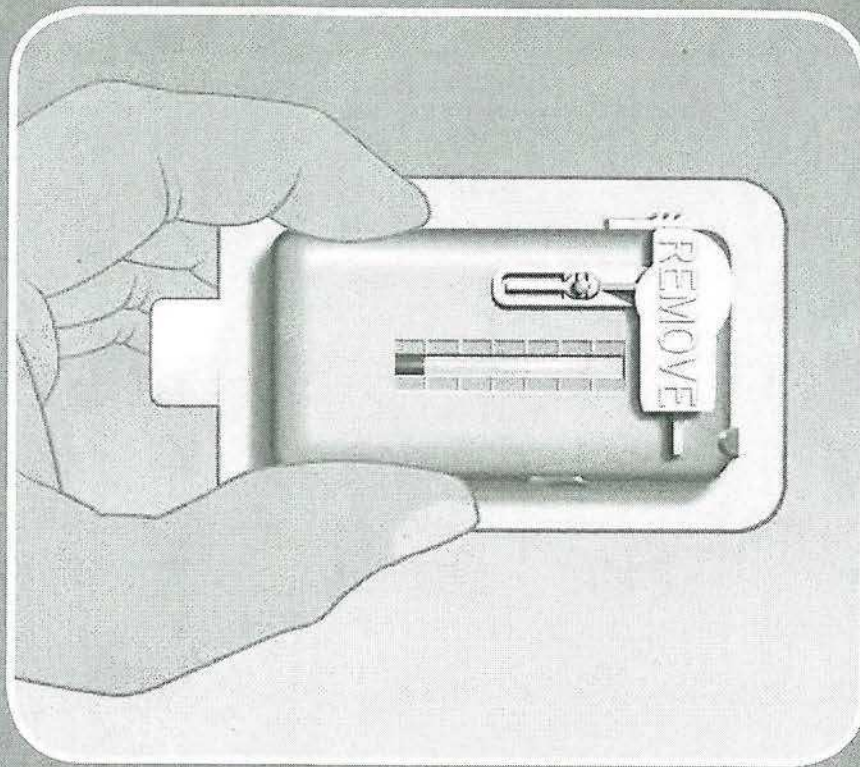


40 Simon Street
Nashua, NH 03060
603-880-8040
www.vgocom.com



Customer Care
1-866-881-1209

Using the V-Go™ Disposable Insulin Delivery Device Instructions for Patient Use



Training on the V-Go is important. If you have not been previously trained, speak to a Valeritas Customer Care Representative at 1-866-881-1209 before using the V-Go.

Read the entire manual before operating the V-Go™ Disposable Insulin Delivery Device.

CONTENTS

Section 1 (Part 1): Introduction and V-Go Overview 4
 Healthcare professional prescribing considerations 4
 Valeritas customer care 6
 Liability disclaimer 6
Section 1 (Part 2): Before You Begin 6
Section 2 (Part 1): V-Go Operating Instructions 7
 V-Go product overview 7
 EZ Fill product overview 8
 Aseptic technique 9
Section 2 (Part 2): Filling the V-Go with Insulin Using the EZ Fill 10
 Step 1: Remove the plug from the EZ Fill drawer 10
 Step 2: Place the V-Go into the EZ Fill 11
 Step 3: Place the insulin vial into the EZ Fill insulin vial holder 12
 Step 4: Fill the V-Go with insulin 13
 Step 5: Remove the V-Go from the EZ Fill 15
 Step 6: Store the EZ Fill and unfilled V-Go devices
 after each day's V-Go filling session 16
 Step 7: Remove an empty vial of insulin from the insulin vial holder
 and place a new vial of insulin into the insulin vial holder 16
 Step 8: Dispose of the EZ Fill 17

Section 2 (Part 3): Applying and Using the V-Go 18
 Step 1: Inspect the V-Go before you attach it to your body 18
 Step 2: Wash your hands 19
 Step 3: Select and prepare the infusion site 19
 Step 4: Attach the V-Go 21
 Step 5: Start the 24-hour flow of insulin with the V-Go 23
 Step 6: Bolus dose with the V-Go at mealtimes 24
 Step 7: Monitor V-Go progress 26
 Step 8: Remove the V-Go 27
 Step 9: Dispose of the V-Go 29
Section 3: V-Go Safety Information 30
 Caution 30
 Indication 30
 Healthcare professional dosing considerations 31
 Warnings 31
 Precautions 32
 Adverse reactions 35
Section 4: Product Specifications 36
 EZ Fill 36
 V-Go 37
 Delivery accuracy test results 38
Section 5: V-Go User Assistance Information 40
Section 6: Troubleshooting/Frequently Asked Questions 41
Section 7: Glossary and Packaging Symbols 48

The V-Go Disposable Insulin Delivery Device should be used only by people who have been prescribed the device, and only for intended use.

Terms in **bold and italic** are explained in the glossary.

SECTION 1 (Part 1): INTRODUCTION AND V-Go™ OVERVIEW

The V-Go provides a continuous **subcutaneous** insulin infusion over 24 hours. It uses a preset **basal rate** for between-meal and nighttime insulin. The V-Go provides on-demand **bolus** dosing to cover **glucose** intake at meals. The V-Go device is convenient and easy to operate (see Section 3 for indication).

Here is how to use the V-Go:

- Fill the V-Go with insulin using the EZ Fill
- Attach the V-Go to a selected site (skin area)
- Push in the needle button to deliver the preset basal rate
- Wear the V-Go for one (1) 24-hour period
- Bolus dose at meals as prescribed by your doctor or healthcare professional
- At the end of the 24-hour period, retract the needle and remove the V-Go from your body
- Discard the device after use (the V-Go is 100% disposable)
- Repeat these steps for the next 24-hour period using a new V-Go

Healthcare Professional Prescribing Considerations

Dosing considerations

- When selecting a V-Go option, healthcare professionals should refer to their own experience when initiating continuous subcutaneous insulin infusion therapy with a patient. If unfamiliar, the healthcare professional should refer to insulin therapy guidelines from diabetes associations.
- The following should be considered when initially prescribing the V-Go:
 - Understand the total daily dose of insulin your patient is *actually* taking with their current insulin regimen versus what is being prescribed. Selecting the correct V-Go option may lessen the risk of **hypoglycemia** (low blood sugar).
 - It is common practice to reduce the total daily insulin dose when *starting* a patient on continuous subcutaneous insulin infusion therapy and this reduction should be considered when starting a patient on the V-Go.

Other prescribing considerations

- A separate prescription of a U100 fast-acting insulin is required for use with the V-Go (see Section 3 for insulins tested with the V-Go).
 - Two (2) vials of insulin are required for the V-Go 20 option.
 - Three (3) vials of insulin are required for the V-Go 30 and 40 options.

The V-Go comes in 3 options for your insulin needs. Your doctor or healthcare professional has selected the most appropriate V-Go option for you.

The 3 V-Go options are:

- **VGo™ 20**
DISPOSABLE INSULIN DELIVERY
 - 20 Units/24 hr (0.83 U/hr) basal rate and up to 36 Units of on-demand bolus dosing in 2-Unit increments*
- **VGo™ 30**
DISPOSABLE INSULIN DELIVERY
 - 30 Units/24 hr (1.25 U/hr) basal rate and up to 36 Units of on-demand bolus dosing in 2-Unit increments*
- **VGo™ 40**
DISPOSABLE INSULIN DELIVERY
 - 40 Units/24 hr (1.67 U/hr) basal rate and up to 36 Units of on-demand bolus dosing in 2-Unit increments*

*36 Units of insulin are available for on-demand bolus dosing in all V-Go options.

Bolus doses are delivered in 2-Unit increments. You can only push the bolus delivery button 18 times in every 24-hour period. Each push of the bolus delivery button delivers 2 Units of insulin (1 push = 2 Units).

IMPORTANT: A separate prescription for insulin is required for use with the V-Go. A U100 fast-acting insulin should be used to fill the V-Go. (See Section 3 for insulins tested with the V-Go.)

- V-Go 20 requires two (2) vials of insulin
- V-Go 30 and 40 require three (3) vials of insulin

IMPORTANT: Let your healthcare professional know how much insulin you actually take each day. Your healthcare professional will help select the correct V-Go option for you.

The correct V-Go option may lessen the risk of hypoglycemia.

IMPORTANT: A V-Go Disposable Insulin Delivery Device that has been properly prescribed and used will deliver your insulin needs. Wear each V-Go for a full 24-hour period, including while you sleep.

IMPORTANT: Do not use other insulin products while on V-Go therapy.

Valeritas Customer Care

If you have any questions about using the V-Go™ or EZ Fill, speak to a Valeritas Customer Care Representative 24/7 at 1-866-881-1209.

If you have a medical emergency while using the V-Go, call 911, your doctor, or go directly to the hospital.

Liability Disclaimer

Valeritas does not give medical advice about insulin therapy. Discuss all medical therapies with your healthcare professional.

SECTION 1 (Part 2): BEFORE YOU BEGIN

Step 1: Remove the EZ Fill from the blister packaging



- Turn the packaging over so you can read the text.
- Peel back on the lower right corner.
- Remove the EZ Fill.

Step 2: Remove the V-Go from the blister packaging



- Turn the packaging over so you can read the text.
- Peel back on the lower left corner on one of the V-Go containers.
- Remove the V-Go. Do not pull on the adhesive tab while removing the V-Go from the container.

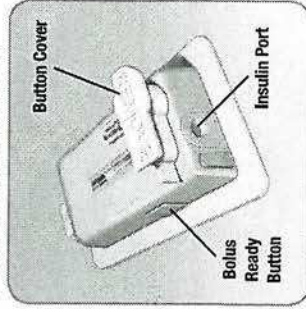
NOTE: Only remove one (1) V-Go every 24 hours to fill, apply, and use. Leave the rest in their containers until you are ready to use them.

6

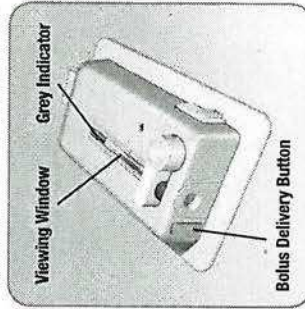
SECTION 2 (Part 1): V-Go OPERATING INSTRUCTIONS

IMPORTANT: Understanding the button names and locations is important for the successful use of the V-Go and EZ Fill.

V-Go Product Overview



- Button Cover:** Covers the needle button. Prevents the needle button from being pushed in. Cover must be removed for V-Go to operate.
- Insulin Port:** Location where insulin enters the V-Go through the EZ Fill.
- Bolus Ready Button:** A grey button that lies flat on one of the long edges of the V-Go. When activated, it releases the bolus delivery button. This allows for bolus dosing of insulin.



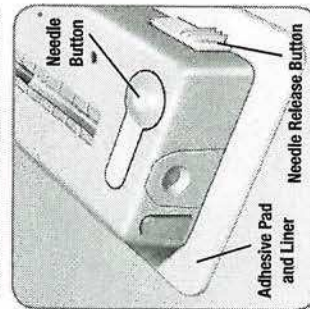
- Bolus Delivery Button:** A grey button next to the insulin port on one of the short edges of the V-Go. When pressed after the bolus ready button activates this button, the V-Go delivers a bolus dose of 2 Units of insulin (1 push = 2 Units).

- Viewing Window:** Shows a view of the insulin reservoir. A **grey indicator** in the window demonstrates that insulin is flowing from the device.

- Needle Button:** When pressed, it inserts the needle into your skin and begins the flow of insulin into your body.

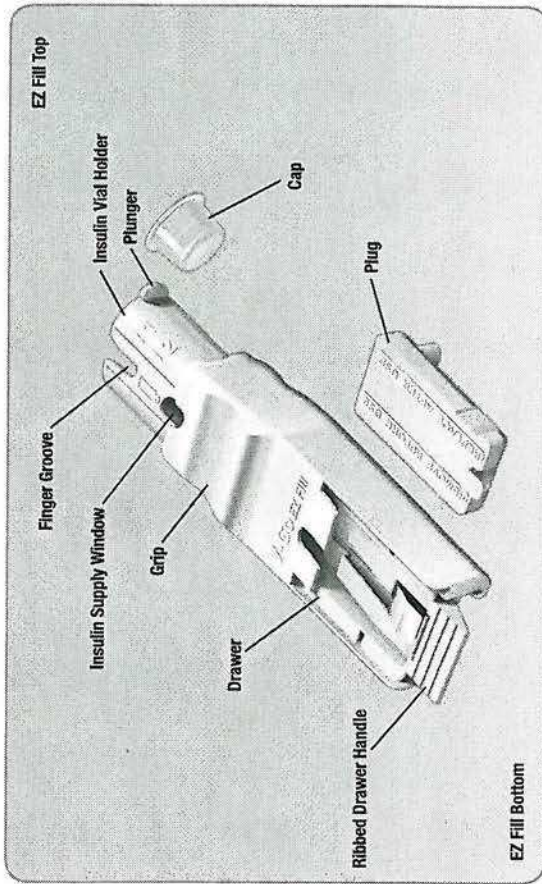
- Needle Release Button:** A wide white button with 3 ridges on one of the long edges of the V-Go. An activated needle release button removes the needle from your body and stops the V-Go from delivering insulin.

- Adhesive Pad and Liner:** Once the protective adhesive liner is removed, the adhesive pad affixes the V-Go to your skin.



7

EZ Fill Product Overview



- **Cap:** Protects the needle inside the EZ Fill (bottom of insulin vial holder).
- **Finger Groove:** Opening to allow for easy removal of the insulin vial.
- **Insulin Vial Holder:** Opening in the EZ Fill where the insulin vial is placed upside down.
- **Insulin Supply Window:** Shows a view of the insulin remaining in the insulin vial.
- **Plunger:** When you pull this handle slowly up (about 5 seconds) and then push it down (about 25 seconds), insulin transfers from the vial into the V-Go™.
- **Grip:** The left thumb occupies this groove throughout most of the filling process.
- **Drawer:** The V-Go is placed in this drawer for filling. The plug sits in the drawer when the EZ Fill is not in use.
- **Ribbed Drawer Handle:** A grooved piece at the bottom end of the EZ Fill that helps with opening and closing the drawer.
- **Plug:** When placed in the drawer, the plug protects the EZ Fill components between each fill.

Aseptic Technique

Aseptic technique helps keep the V-Go and the EZ Fill devices clean during preparation, filling, and application. Following this technique requires hand-washing and wiping the application site with an alcohol swab. It may involve wiping the V-Go device with an alcohol swab if the device comes into contact with anything else.

Use aseptic technique when you are preparing, filling, and attaching a new V-Go.

1. Inserting a needle into your skin creates an opening where germs can enter your body. This could cause an infection at the **infusion site**. Always use aseptic technique. The V-Go, EZ Fill, and other supplies come to you sterilized. To keep them that way, follow these precautions:
 - a. Always wash your hands thoroughly before preparing, filling, and attaching the V-Go.
 - b. The infusion needle is sterile and protected within the V-Go. Do not touch the underside of the V-Go after you remove it from the sterile blister packaging. If you place the V-Go on a surface, do not let the underside touch that surface. Gently lay the V-Go on the front side of the device.
2. If the underside of the V-Go touches something, you must wipe the underside with an alcohol swab.
3. Do not touch the circular opening on the top of the EZ Fill plug. If you place the plug on a surface, do not let the circular opening touch that surface. If the circular opening touches something, you must wipe the circular opening with an alcohol swab.
4. Wipe the infusion site of your skin with an alcohol swab. Let the alcohol dry before you attach the V-Go. Do not touch this site again before putting the V-Go on your skin.

**SECTION 2 (Part 2): FILLING THE V-Go™
WITH INSULIN USING THE EZ FILL**

IMPORTANT:

The EZ Fill is intended to fill one (1) V-Go each day.

Use the EZ Fill to fill 30 V-Go devices, one (1) V-Go each day. Then discard the EZ Fill after 30 fills.

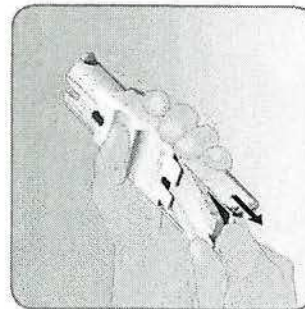
A new EZ Fill will be included in each month's supply of V-Go devices.

Do not fill and store V-Go devices ahead of time. That may result in the loss of insulin effectiveness.

Remove the EZ Fill from the refrigerator, allowing the insulin to reach room temperature (about 20 minutes) before filling the V-Go.

Step 1: Remove the plug from the EZ Fill drawer

NOTE: On day 1 when you remove the EZ Fill from the packaging, the plug will be separate from the EZ Fill; therefore, you can skip Step 1.

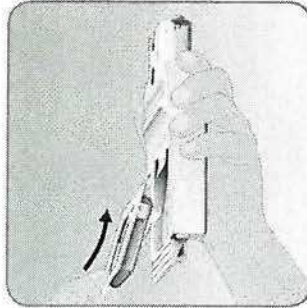


A. Place your thumb over the plug tab and your forefinger underneath the ribbed drawer handle. Pull the drawer out until it stops. The plug will pop up from the drawer.

B. Lift the plug out of the EZ Fill using your thumb and forefinger. Set the plug aside. You will replace the plug into the EZ Fill after you fill the V-Go with insulin.

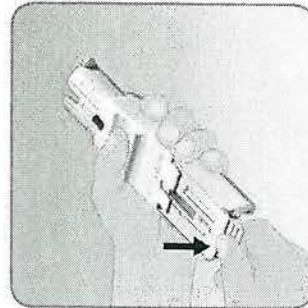
IMPORTANT: People should not touch the circular opening on the top of the plug. Touching the circular opening may compromise the sterility of the EZ Fill.

Step 2: Place the V-Go into the EZ Fill



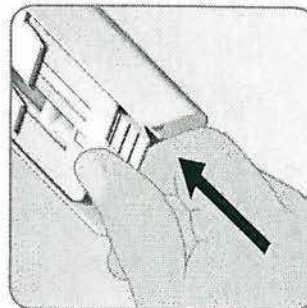
A. Hold the EZ Fill so that the plunger is on the top right side of the EZ Fill.

B. With your other hand, place the V-Go into the EZ Fill drawer upside down. Place the adhesive side facing up with the plastic tab toward the bottom of the EZ Fill. The button cover should be facing down into the drawer and toward the top of the EZ Fill.



C. Slide the V-Go up into the EZ Fill drawer. Press the V-Go flat with the top of the drawer. Hold the V-Go down with your thumb.

- Make sure that the adhesive backing on the V-Go fits inside the drawer.

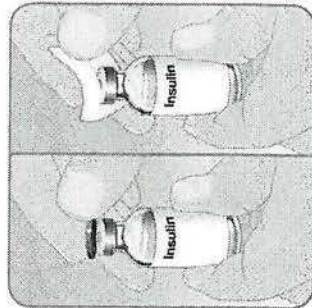


D. Push the drawer all the way closed.

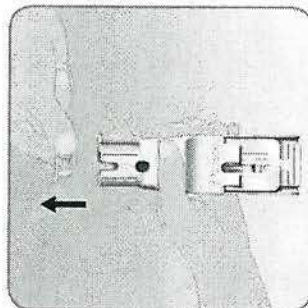
IMPORTANT: Shut the EZ Fill drawer only when the V-Go is completely inside the drawer. The drawer is shut when it cannot be pushed any further forward or in.

Step 3: Place the insulin vial into the EZ Fill insulin vial holder

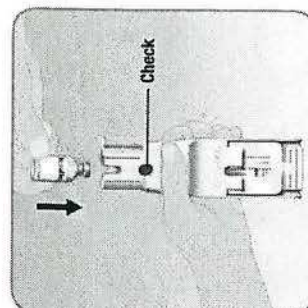
NOTE: Before placing a new vial into the EZ Fill, check to make sure the insulin vial is not expired and that it will not expire during the time period that the vial will be used in the EZ Fill.



- A.** Remove the protective cap from the insulin vial. Wipe the top with an alcohol swab.



- B.** Pull the EZ Fill cap out of the insulin vial holder and discard.

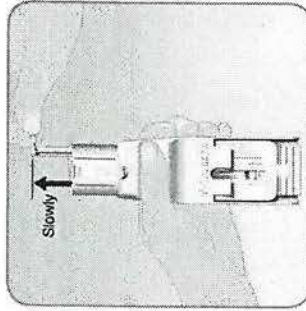


- C.** Turn the insulin vial upside down so the top of the vial faces downward.
- D.** Place the insulin vial into the EZ Fill. Push the vial firmly straight down into the insulin vial holder until you feel it attach and you cannot push it further.
- E.** Check the insulin supply window to make sure there is enough insulin to fill the V-Go™.

Step 4: Fill the V-Go with insulin

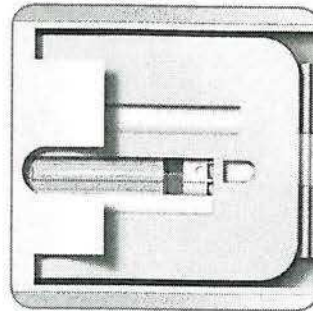
- A.** Hold the EZ Fill upright over a counter or table by placing your thumb across the grip. The grip is just below the insulin vial holder and the plunger. Use the rest of your hand to support the back of the EZ Fill.
- Do not block light from the back of the EZ Fill. Light from the back will help you see the viewing window.

NOTE: Keep the EZ Fill in a vertical, fully upright position during filling. Keep the viewing window at eye level. Direct the backside of the EZ Fill toward a brightly lit area when you fill the V-Go. This makes it easier to see the flow of insulin. Seeing the flow of insulin helps you fill the V-Go properly and completely.



- B.** Slowly pull the plunger up to its full upright position with your free hand and wait 5 seconds.

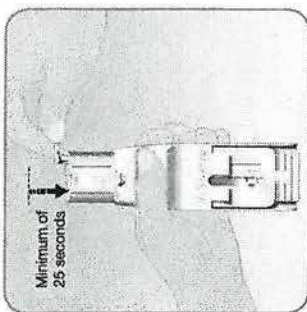
IMPORTANT: Make sure you slowly pull the plunger up as far as it can go.



- C.** Make sure the viewing window is at eye level so you can watch the V-Go fill with insulin.

D. Slowly and steadily push the plunger down over a minimum of 25 seconds to fill the V-Go™ with insulin.

- The V-Go should be filled with insulin in a continuous flow of droplets, not in a solid, steady stream. Make sure you don't fill the V-Go with a steady stream of insulin. If you push too fast or too hard the insulin will become foamy. Foamy insulin may lead to an incomplete fill. If the insulin turns foamy, push the plunger more slowly.



IMPORTANT: Watch the insulin fill the V-Go to make sure you get a complete fill.

E. Push the plunger until it is all the way down.

- When the position of the plunger is all the way down, the V-Go should be full.

IMPORTANT: Make sure the V-Go fills with insulin in a continuous flow of droplets, not in a solid, steady stream. Make sure the insulin is not foamy. Foam will not damage the V-Go or the insulin, but may lead to an incomplete fill of the V-Go.

Count to about 25 seconds when you push the plunger down to make sure the V-Go is filled with insulin.

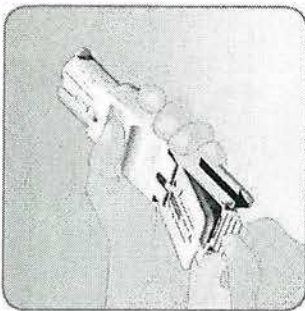
F. Check that the V-Go is filled properly. Ideally you should see only fluid and no air space. You may see tiny air bubbles smaller than a grain of rice.

- If the V-Go is not filled fully, check to see if you still have insulin in your vial.
 - If you do not, replace vial (Step 3) and repeat Step 4A to 4F.
 - If you do, repeat Step 4A to 4F.

IMPORTANT: Make sure the V-Go is completely full of insulin before removing from the EZ Fill. If the V-Go does not appear completely full, repeat Step 4A to 4F.

Step 5: Remove the V-Go from the EZ Fill

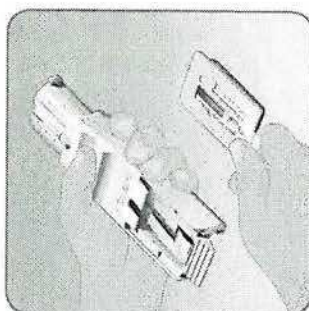
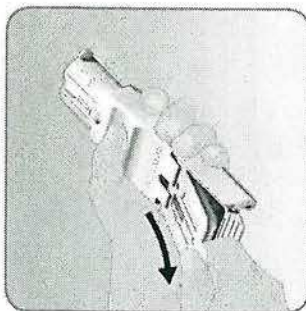
- A.** Hold the EZ Fill in a sideways position.
- B.** Pull the EZ Fill ribbed drawer handle all the way out. Pull until the V-Go pops up from the drawer.



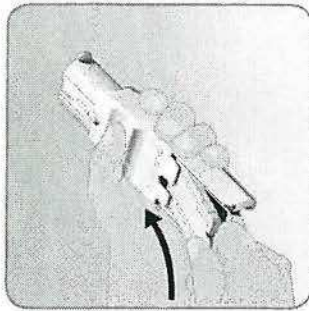
C. Remove the filled V-Go from the EZ Fill by lifting it up with your thumb and forefinger.

- Leave the plunger in the down position.

REMEMBER: Fill only one (1) V-Go each day. Fill the V-Go on the day you use it, and attach the V-Go to your skin immediately after filling it with insulin.

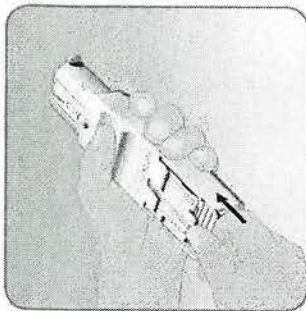


Step 6: Store the EZ Fill and unfilled V-Go™ devices after each day's V-Go filling session



A. Place the plug back into the EZ Fill. Follow the directions for filling Step 2A to 2D. This time use the plug and not a V-Go.

NOTE: Do not remove the insulin vial from the EZ Fill. The insulin vial should be removed only when the vial is empty.



IMPORTANT: To make sure the EZ Fill remains sterile:

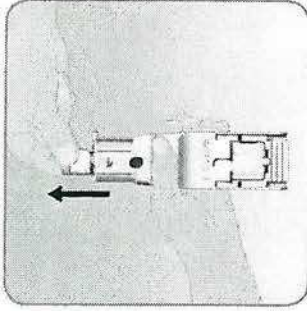
- Replace the plug after each fill.
- Wipe the circular opening on top of the plug with an alcohol swab before placing the plug back into the EZ Fill.

B. Store the EZ Fill with the insulin vial and plug attached in a clean, dry area of the refrigerator between each fill. Store unfilled, unused V-Go devices in a dry, safe place until your next fill. Please refer to Section 4 for additional storage information.

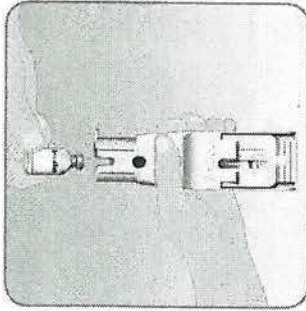
Additional Steps

Step 7: Remove an empty vial of insulin from the insulin vial holder and place a new vial of insulin into the insulin vial holder

NOTE: Before placing a new vial into the EZ Fill, check to make sure the insulin vial is not expired and that it will not expire during the time period that the vial will be used in the EZ Fill.

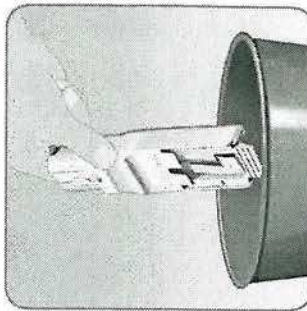


A. Grasp the vial along the finger and thumb grooves. Pull up the vial to remove it from the EZ Fill.



B. To place a new vial of insulin into the EZ Fill, follow filling Step 3A to 3E.

Step 8: Dispose of the EZ Fill



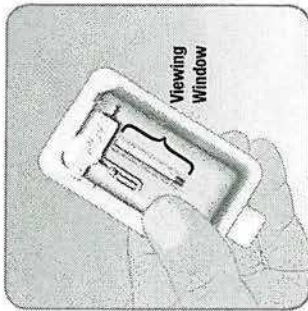
A. After the 30-fill use period, discard the EZ Fill, with the insulin vial attached, according to local disposal requirements. The insulin vial should be discarded even if there is insulin remaining in the vial.

IMPORTANT: The EZ Fill is only intended to fill a 30-day supply of V-Go devices (1 V-Go per day). A new EZ Fill will be provided with each monthly prescription of the V-Go.

Do not use the same EZ Fill for more than 30 fills.

SECTION 2 (Part 3): APPLYING AND USING THE V-Go™

Step 1: Inspect the V-Go before you attach it to your body



- A. Look at the entire viewing window to make sure that the V-Go has been filled completely with insulin. You should see only fluid and no air space.

- B. Rotate the V-Go and look in the viewing window. The viewing window will show you if there are any large air bubbles.

IMPORTANT: If you see air bubbles larger than a grain of rice, the V-Go may not be filled completely. Repeat Step 4A to 4F in Section 2 (Part 2) to ensure a complete fill.

Having a few small bubbles is normal and harmless.

As discussed in Section 2 (Part 2), you should slowly and steadily push the plunger down for about 25 seconds to reduce air bubbles as you fill the V-Go.

- C. When the insulin is full in the viewing window, you are ready to attach the V-Go to your body.

IMPORTANT: To receive your total 24-hour dose of insulin, always start with a V-Go that has been completely filled with insulin.

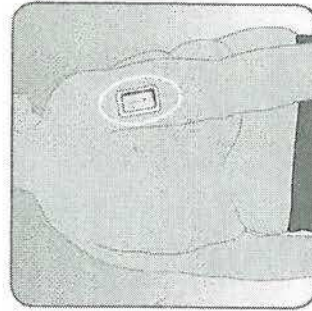
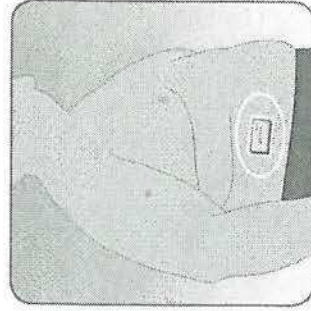
Do not attach a partially filled or empty V-Go to your body. If the V-Go is not filled completely with insulin, repeat Step 4A to 4F in Section 2 (Part 2).

Step 2: Wash your hands

Always wash your hands thoroughly before preparing the V-Go for use. Use aseptic technique when you are preparing and applying a new V-Go. See the end of Section 2 (Part 1) for a description of aseptic technique.

Step 3: Select and prepare the infusion site

IMPORTANT: The place on your body where you attach the V-Go is important for the success of your therapy. Choose a location that remains flat when you are sitting down, standing up, or lying down. Discuss the best location for you with your doctor or healthcare professional.



- A. The V-Go can be worn any place that insulin can be injected or infused. Insulin is injected or infused into the subcutaneous tissue.

- You may wish to attach the V-Go:

- On the **abdomen**. The abdomen has ample flat surface area, and is an accessible and comfortable location. Insulin absorption is fast, predictable, and less affected by exercise when administered through the abdomen.

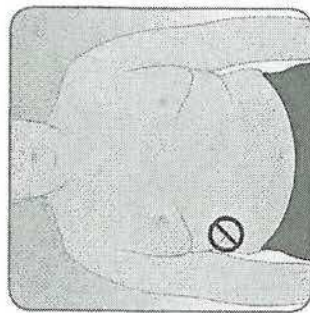
- If the V-Go is worn on the abdomen, keep it horizontal above the belt line.

- On the **backside of the arm**, not on the muscle.

- If the V-Go is worn on the backside of the arm, keep it in the up and down direction. Make sure you can see the grey indicator in the viewing window directly by rotating your arm, or indirectly through the use of a mirror. Attach the V-Go in the up and down position as your arm hangs down.

B. When choosing the location for the V-Go™, consider the following:

- Make sure you are able to view the grey indicator in the viewing window, either directly or indirectly through the use of a mirror.
- That you can comfortably reach the V-Go and all of the buttons, for easy operation and removal.
- That you apply the V-Go to a flat area of skin, not on a fold of the skin, muscle, or bone.
- That the site is flat when you are in any of the following positions: sitting down, standing up, or lying down.



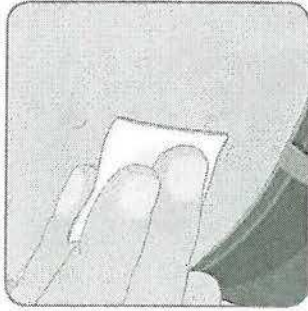
C. When choosing the location for the V-Go, avoid the following:

- The belt line or waistline, or other areas where clothing may rub or constrict.
 - Areas with excessive hair. You may shave the area to help the V-Go attach to your skin.
 - Areas that are curved or rigid due to muscle or bone.
 - Areas within a 1-inch circle around the belly button or surgical scars.
- Skin that is tender, bruised, red, or hard or has any skin disease or infection.

NOTE: If you have sensitive skin or your skin becomes irritated, ask your doctor or healthcare professional about skin barrier products.

NOTE: Change the location of the V-Go slightly every 24 hours. Needle insertion sites should be at least 1 inch away from the last site.

This may mean moving it from the right to the left side of the abdomen. It does not require attaching the V-Go on the abdomen one day then on the arm the next.



D. Clean the area where you will attach the V-Go with an alcohol swab.

- The alcohol swab will remove all lotions and oils. Let the area dry. This helps the adhesive stick properly to the skin.
- Practice aseptic technique as described in Section 2 (Part 1).

Step 4: Attach the V-Go

Actions in this step describe how to attach the V-Go to your abdomen. As noted in Section 2 (Part 3) Step 3, there are a couple of places you can attach the V-Go.

A. Practice placing the V-Go before you actually remove the protective liner.

Practice helps you to make sure you can reach and operate the bolus ready button, bolus delivery button, needle button, and needle release button.

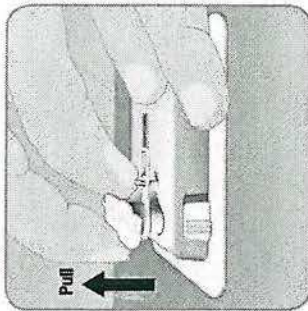
- To practice with your right hand, hold your thumb on the needle release button, your index finger near but not on the bolus delivery button, and middle finger near the bolus ready button.
- Hold the V-Go on the selected body site to make sure that you can reach all necessary buttons when you wear the V-Go.

Now you are ready to attach the V-Go.

IMPORTANT: Be careful not to press any buttons when you practice attaching the V-Go.

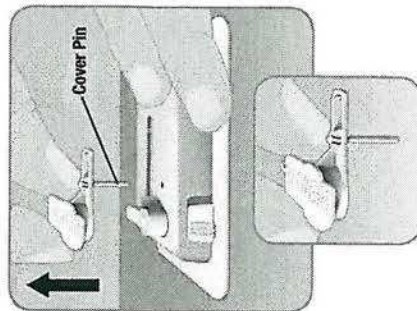
B. Remove the button cover.

1. Hold the V-Go™ with one hand and pull the button cover with the other hand. Pull the button cover in a quick, straight direction up and away from the V-Go.



2. Check to see if the cover pin came off with the button cover.

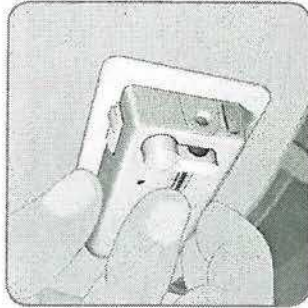
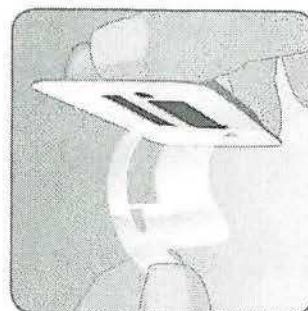
- If the cover pin is not attached and has remained inside the V-Go, try to remove the pin manually; otherwise discard this V-Go and start over with a new V-Go.



IMPORTANT: If you bend the button cover backwards, as you would a soda pop can top, you could damage the V-Go.

- C. Lift the adhesive tab and completely peel off the adhesive liner from the bottom of the V-Go.**
Removing the liner exposes the adhesive.

1. Do not touch the adhesive surface. Touching the adhesive surface can reduce the strength of the adhesive.
2. Keep the adhesive pad intact and clean before you place it on the infusion site.



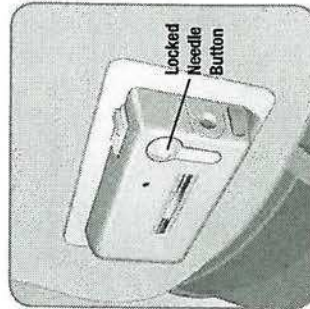
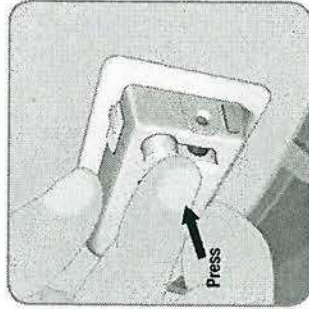
- D.** Without touching the adhesive pad, press the V-Go against the skin at the cleaned needle infusion site.

- E.** Hold the V-Go in place for 5-10 seconds. Run your finger around the entire edge of the adhesive pad to make sure it is attached to your body. Do not accidentally press any of the buttons.

NOTE: When you apply the V-Go to the abdomen, attach the V-Go horizontally at a slight downward angle. This allows any tiny air bubbles to travel away from the needle.

Step 5: Start the 24-hour flow of insulin with the V-Go

Press down on the raised bump of the needle button with one firm quick motion. Needle button needs to be pressed completely into the V-Go until you hear a click or button locks in place. This begins the flow of insulin. The V-Go delivers a continuous preset basal rate of insulin over 24 hours.



NOTE: Grasp the side of the V-Go as you press the raised bump of the needle button to keep the V-Go in place.

Be careful not to press any other buttons during this process.

IMPORTANT: Needle button must lock in place to begin the flow of insulin.

IMPORTANT: Avoid exposing the V-Go™ to direct sunlight. Avoid extremely hot temperatures. Remove the V-Go prior to hot tub, whirlpool, or sauna use and replace with a new filled V-Go afterward.

IMPORTANT: If the needle button does not fully depress or does not remain in the down position, the V-Go cannot function. You will not receive the preset basal rate of insulin. **Do not** use the V-Go if the needle button does not stay down. Remove and discard that V-Go. Start over with a new V-Go.

Once the needle button is pushed down and locks into place, insulin is now flowing into your body. The needle within the V-Go remains in your body for the entire 24-hour use of the V-Go. The V-Go design helps to minimize discomfort.

IMPORTANT: Stop all your previous insulin injections and do not use any other insulin in conjunction with the V-Go Disposable Insulin Delivery Device.

NOTE: You should check the area around the V-Go at regular intervals for redness, irritation, and inflammation.

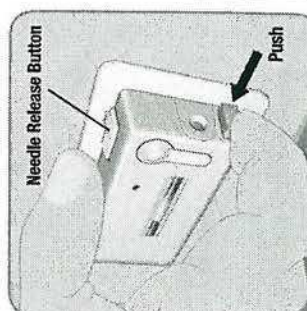
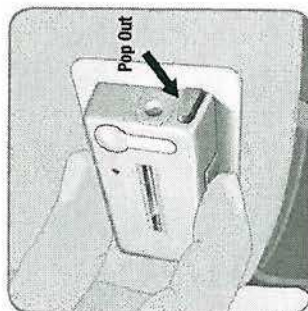
Step 6: Bolus dose with the V-Go at mealtimes

Your doctor or healthcare professional should have instructed you on how and when to use the V-Go and how many bolus doses to administer at mealtimes. Consult your doctor or healthcare professional if you have questions regarding your specific bolus dosing needs.

IMPORTANT: Each V-Go has a total of 36 Units of insulin available for on-demand bolus dosing per 24-hour period. The 36 Units of insulin can only be delivered in 2-Unit increments (1 push = 2 Units). You can only push the bolus delivery button 18 times in every 24-hour period. After 18 uses, the bolus delivery button will pop out and lock, preventing further bolus doses. Plan your day so that you have enough insulin for each meal.

A. To administer 2 Units of insulin at mealtime:

1. Slide your finger with pressure to locate and press the bolus ready button on the long edge of the V-Go.



- The bolus delivery button located at the end of the V-Go will pop out. You will hear a click.

2. Push the bolus delivery button all the way into the V-Go until it stops. You will hear another click.

- You have just delivered 2 Units of insulin (1 push = 2 Units).

IMPORTANT: Do not touch the needle release button (button with ridges) while giving yourself bolus doses. This may cause you to retract the needle before the end of its 24-hour use and stop the delivery of insulin to your body. If this occurs and the needle button pops out, remove the V-Go and replace it with a new one.

B. Repeat Step 6A until you reach the number of bolus doses prescribed by your doctor or healthcare professional for that specified time.

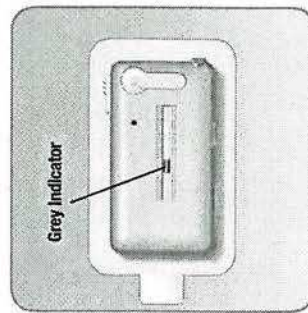
NOTE: Each push of the bolus delivery button delivers 2 Units of insulin (1 push = 2 Units).

IMPORTANT: If you do not know the number of insulin units you have just delivered or if you lose count, **STOP** bolus dosing, monitor your blood glucose, and follow the plan agreed upon with your doctor or healthcare professional. If you have not agreed upon a plan already, consult your doctor or healthcare professional for guidance.

IMPORTANT: If the bolus ready button or bolus delivery button does not press in or does not click when pressed, you may have used all of the available bolus doses. If you require additional bolus doses, do not continue to use this V-Go™. Replace it with a new filled V-Go.

Step 7: Monitor V-Go progress

A. While wearing the V-Go, you should check your blood glucose at regular intervals to make sure the V-Go is working properly. Refer to Section 3 for recommendations on blood glucose monitoring.



B. You can also check the movement of the grey indicator in the viewing window to make sure the V-Go is working properly. After several hours, you should see a slight change in the location of the grey indicator as it moves toward the needle button.

- The exact location of the grey indicator will vary based on the number of bolus doses you have used.

IMPORTANT: The indicator moves very slowly over the 24-hour period. It will take time to notice the change in the indicator location.

Monitoring the V-Go progress is important to make sure the V-Go is delivering insulin. If the indicator does not appear to be moving after several hours of wearing the V-Go, consider checking your blood glucose levels. If your levels are abnormally high after normal V-Go use as prescribed by your doctor or healthcare professional, you should remove the V-Go and replace it with a new one.

Step 8: Remove the V-Go

IMPORTANT: After 24 hours of use it is time to replace the current V-Go with a new filled V-Go. Remember to fill the V-Go with insulin using the EZ Fill, and attach the V-Go to your skin immediately after filling.

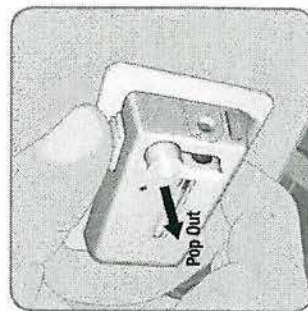
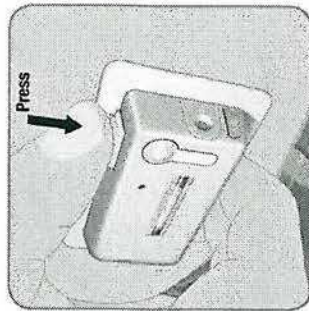
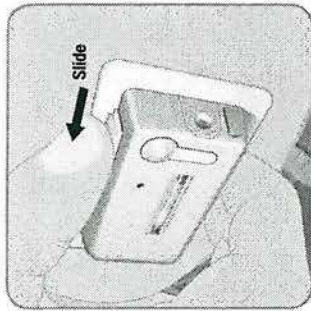
The V-Go is meant to be worn for 24 hours only. Establishing a daily routine will help remind you to change the V-Go every 24 hours.

A. Start by filling a new V-Go with insulin. Follow previous instructions in Section 2 (Part 2) Steps 1 to 6.

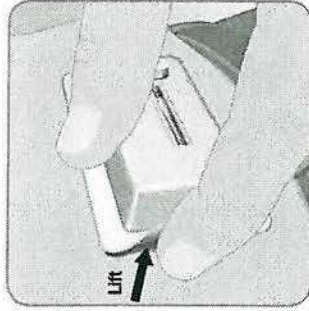
- Make sure the V-Go is completely filled with insulin before you attach.
- B.** Set the new filled V-Go aside until you remove the used V-Go from your skin.

NOTE: Do not block the needle button with your finger or any part of your hand or clothing while releasing the needle via the needle release button.

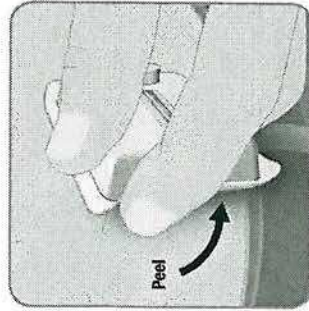
C. To remove the used V-Go™, place thumb on the ridged section of the needle release button. Slide the needle release button along the side of the V-Go. In a continuous motion, press the needle release button directly into the V-Go until you hear a click. This motion retracts the needle.



D. At this point the needle button will pop out automatically.



E. To remove the V-Go from your skin, run a finger under an edge of the adhesive pad.



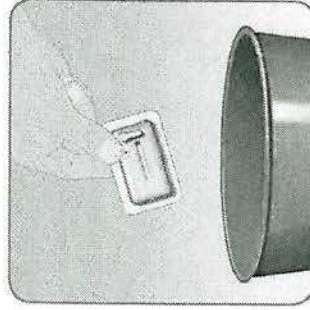
F. Press lightly on the skin adjacent to the V-Go with one hand and peel the V-Go away from your skin with the other hand.

NOTE: After you remove the V-Go, the adhesive may leave behind a sticky residue. Use warm soapy water and roll your finger around the attachment site. This motion will remove the sticky adhesive residue.

You could use a medical adhesive remover instead. Ask your doctor or healthcare professional to recommend an adhesive remover.

Step 9: Dispose of the V-Go

Discard the used V-Go according to local disposal requirements.



NOTE: When used as directed, the V-Go needle is never exposed. It comes out only when the device is attached to the skin. After use, the needle is retracted back into the V-Go and locked. Once retracted, the V-Go needle is completely contained/covered.

Check to make sure the needle is retracted. If it is not, repeat Step 8C prior to disposal of the V-Go.

SECTION 3: V-Go™ SAFETY INFORMATION

The V-Go is a safe and reliable device. As with many medical devices, you must be aware of safety-related issues to make sure that you are using the V-Go correctly. Always consult with your doctor or healthcare professional if you have any questions regarding the functions and operation of the V-Go.

Caution

Federal (United States) law restricts this device to sale by or on the order of a physician or properly licensed practitioner (prescription only).

Indication

V-Go 20:

The V-Go Disposable Insulin Delivery Device is indicated for continuous subcutaneous infusion of 20 Units of insulin in one 24-hour time period (0.83 U/hr) and on-demand bolus dosing in 2-Unit increments (up to 36 Units per one 24-hour time period) in adult patients requiring insulin.

V-Go 30:

The V-Go Disposable Insulin Delivery Device is indicated for continuous subcutaneous infusion of 30 Units of insulin in one 24-hour time period (1.25 U/hr) and on-demand bolus dosing in 2-Unit increments (up to 36 Units per one 24-hour time period) in adult patients requiring insulin.

V-Go 40:

The V-Go Disposable Insulin Delivery Device is indicated for continuous subcutaneous infusion of 40 Units of insulin in one 24-hour time period (1.67 U/hr) and on-demand bolus dosing in 2-Unit increments (up to 36 Units per one 24-hour time period) in adult patients requiring insulin.

A U100 fast-acting insulin should be used with the V-Go. Humalog® (insulin lispro, rDNA origin) and NovoLog® (insulin aspart, rDNA origin) have been tested by Valeritas, Inc. and found to be safe for use in the V-Go Disposable Insulin Delivery Device.

Before using different insulin with the V-Go, you should check the insulin label to make sure it can be used with this device.

30

Healthcare Professional Dosing Considerations

When selecting a V-Go option, healthcare professionals should refer to their own experience when initiating continuous subcutaneous insulin infusion therapy with a patient. If unfamiliar, the healthcare professional should refer to insulin therapy guidelines from diabetes associations.

The following should be considered when initially prescribing the V-Go:

- Understand the total daily dose of insulin your patient is *actually* taking with their current insulin regimen versus what is being prescribed. Selecting the correct V-Go option may lessen the risk of hypoglycemia.
- It is common practice to reduce the total daily insulin dose when *starting* a patient on continuous subcutaneous insulin infusion therapy and this reduction should be considered when starting a patient on the V-Go.

Warnings

Insulin requirements

If you have to make regular adjustments or modifications to your basal rate during a 24-hour period, or if the amount of insulin used at meals requires adjustments of less than 2-Unit increments, use of the V-Go may result in hypoglycemia.

The following conditions may occur during insulin therapy with the V-Go.

- Hypoglycemia:
 - Intensive management of diabetes with too much insulin has been associated with an increase in the incidence of hypoglycemia (low blood sugar).
- Hyperglycemia and diabetic ketoacidosis (DKA):
 - Any insulin delivery interruption may result in **hyperglycemia** (high blood sugar) or the onset of **diabetic ketoacidosis**.

If you have a medical emergency while using the V-Go, call 911, your doctor, or go directly to the hospital.

Precautions

General

The following are a number of general precautions you should consider when using the V-Go™ Disposable Insulin Delivery Device.

The V-Go is magnetic resonance (MR) unsafe.

You should remove the V-Go before having an X-ray, MRI, or CT scan (or any similar test or procedure). Replace with a new V-Go after the test or procedure is completed.

You should monitor your **blood glucose levels** based on your doctor's or healthcare professional's recommendation. American Diabetes Association guidelines suggest that patients test blood glucose 3 or more times daily.

You should act quickly to respond to abnormal blood sugar levels.

- Notify your doctor or healthcare professional of any serious hypoglycemia or hyperglycemia. Tell your doctor or healthcare professional of any increased frequency in abnormally high or low blood glucose test results.

You should create a plan with your doctor or healthcare professional in case a problem occurs when you are unable to reach him or her for advice.

You should create a plan with your doctor or healthcare professional on how to manage your bolus (mealtime) dosing using the V-Go, including what to do if you lose count while bolus dosing or if you forget to take a bolus dose.

You should carry an emergency kit of insulin supplies, if instructed by your doctor or healthcare professional, in case you develop a problem with the V-Go that stops your insulin delivery. Tell a family member or friend where you keep your emergency kit items.

- **You should** speak with your doctor or healthcare professional regarding what to have in the emergency kit, which often includes the following items:
 - Fast-acting glucose tablets
 - Blood glucose and urine ketone monitoring supplies
 - Back-up insulin, insulin syringe, and needles with directions from your doctor or healthcare professional regarding how much insulin to take
 - Dressing and adhesive

You should avoid exposing the V-Go to direct sunlight.

You should avoid exposure to extremely hot temperatures. Remove the V-Go prior to hot tub, whirlpool, or sauna use and replace with a new filled V-Go afterward.

You should check that the V-Go is securely in place during and after periods of increased physical activity. Check that the V-Go is securely in place if it has been exposed to water or gone under water to the depth of 3 feet, 3 inches (1 meter). The V-Go can go under water and will continue to work safely.

You should follow these precautions to help prevent problems with the V-Go placement:

1. Never use insulin that appears cloudy. Cloudy insulin may be inactive. Do not use cloudy insulin with the V-Go.
2. Do not expose the insulin to extreme changes in temperature. Check the insulin package insert for temperature variation.
3. Practice aseptic technique when preparing, filling, and attaching the V-Go.
4. Check the adhesive site for redness, irritation, and inflammation when you remove a used V-Go and before you attach a new V-Go.
5. Change the application site each time you change the V-Go. See Section 2 (Part 3) Step 3. Changing the site will ensure proper absorption of insulin. The new site should be at least 1 inch away from the previous site.
6. Do not apply the V-Go to a site that has excess hair or is irritated, infected, or unhealthy for any reason. Consult with your doctor or healthcare professional about how to prepare and maintain these sites.
7. Avoid attaching the V-Go to sites that may interfere with your clothing, accessories, or car seatbelts.
8. Do not attach the V-Go to sites with rigorous movement and stretching due to exercise or job-related activities.

Hyoglycemia

Low blood sugar is the most common side effect associated with any insulin, including the insulin delivered using the V-Go™. Symptoms of low blood sugar may vary and can happen suddenly.

To help prevent hypoglycemic episodes, follow these precautionary steps:

1. Know the symptoms of hypoglycemia. Do not ignore these symptoms, no matter how mild they may be.
2. Always carry a fast-acting sugar replacement (such as candy, juice, or glucose tablets) in the event of a hypoglycemic episode.
3. The V-Go delivery rate can vary by up to +/- 10% from device to device. Even though the chance of this happening is remote, you should monitor your glucose level at least 3 times per day or as recommended by your doctor. Your doctor or healthcare professional may recommend specific times for you to check your blood glucose.
4. Check your blood glucose before driving or operating heavy machinery. Appropriate blood glucose levels are required to maintain alertness.

IMPORTANT: If your glucose level falls below 70 mg/dL, you may be hypoglycemic (low blood sugar) and you should take immediate action to raise your blood glucose level. This may be done by taking glucose tablets, eating candy, drinking juice, or doing as your doctor or healthcare professional instructs. You should retest your blood glucose after 15 minutes and if it is still below 70 mg/dL continue to take steps to increase your blood glucose level until it reaches your normal level.

Consult with your doctor or healthcare professional to understand how to best recognize and manage low blood glucose.

Hyperglycemia and Diabetic Ketoacidosis (DKA)

To help prevent serious hyperglycemia (high blood sugar) and the possibility of diabetic ketoacidosis (DKA), follow these precautions:

1. Check your blood glucose frequently based on your doctor's or healthcare professional's recommendation. Your doctor or healthcare professional may recommend specific times for you to check your blood glucose.

IMPORTANT: Nausea and vomiting are often the first signs of DKA. To avoid DKA, be prepared and act quickly. Don't assume your blood glucose is high because you are under stress, have the flu, or miscalculated your last meal bolus.

2. Be sure you know when to test for **ketones** and when your doctor or healthcare professional expects you to call with results.
3. Know your blood glucose target ranges and when your doctor or healthcare professional expects you to report trouble. When your blood glucose is high, be prepared to administer insulin. If you suspect that the V-Go is not delivering insulin, refer to the Troubleshooting section of this manual on page 41.
4. Keep yourself well hydrated, especially during illness or exercise.
5. Do not treat DKA yourself. If you suspect DKA, contact your doctor or healthcare professional.

Adverse Reactions

Site Infection/Abscesses

Infections at the infusion site may occur. Proper site preparation and frequent site rotation (refer to Section 2 (Part 3) Step 3) can minimize infections. Remove the V-Go immediately if the area around the V-Go becomes sore, red, or swollen. Apply a new V-Go to a new, clean site away from the suspected infected area. Do not discontinue therapy without the advice of your doctor or healthcare professional.

Skin Irritation

A more common problem than infection is skin irritation. Skin may become irritated by the adhesive pad on the V-Go or by the way the V-Go is positioned on your skin. Skin irritation can occur but does not lead to any further clinical complication.

NOTE: If you have sensitive skin or your skin becomes irritated, ask your doctor or healthcare professional about skin barrier products.

SECTION 4: PRODUCT SPECIFICATIONS

EZ Fill

Storage Conditions — Unused Device Only	-4°F (-20°C) to +140°F (+60°C) 20% to 90% relative humidity
Operating Conditions	+40°F (+5°C) to +99°F (+37°C) 20% to 90% relative humidity
Insulin	Warm to room temperature to optimize fill quality Each time before placing a new vial into the EZ Fill, check to make sure the insulin vial is not expired and that it will not expire during the time period that the vial will be used in the EZ Fill
Duration of Use	30 fills
Disposal	Local disposal requirements

V-Go™

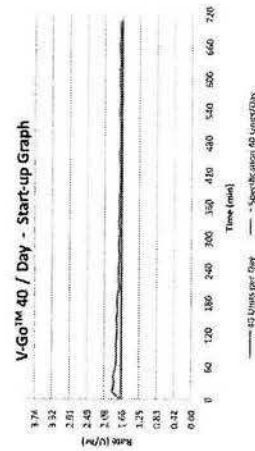
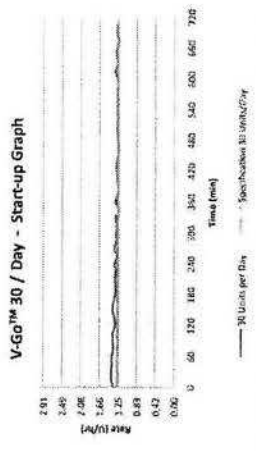
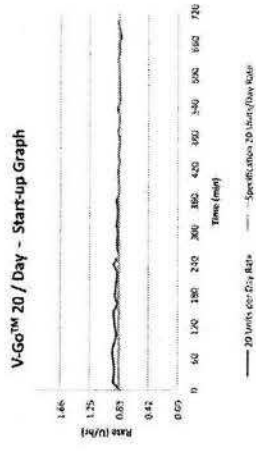
Basal Delivery, Continuous Subcutaneous	20 Units/24 hr (0.83 U/hr) 30 Units/24 hr (1.25 U/hr) 40 Units/24 hr (1.67 U/hr)
Bolus Delivery, On-Demand	Each push of the bolus delivery button provides 2 Units Each V-Go contains 18 uses for a maximum of 36 Units per V-Go
V-Go Minimum Capacity Reservoir	0.56 mL V-Go 20 0.66 mL V-Go 30 0.76 mL V-Go 40
V-Go Size	2.4 x 1.3 x 0.5 inches (6.1 cm x 3.3 cm x 1.3 cm)
V-Go Weight	0.7 to 1.8 ounces (20 to 50 grams)
Storage Conditions — Device Only	+10°F (-12°C) to +140°F (+60°C) 20% to 90% relative humidity Avoid prolonged exposure to the extremes of the storage temperature range
Storage Conditions — Filled with Humalog®	The V-Go may be filled with Humalog for up to 24 hours prior to use if refrigerated or if left at room temperature
Storage Conditions — Filled with NovoLog®	The V-Go may be filled with NovoLog for up to 5 days prior to use if refrigerated The V-Go may be filled with NovoLog for up to 3 days prior to use if left at room temperature
Operating Conditions	+40°F (+5°C) to +99°F (+37°C) 20% to 90% relative humidity Do not expose the V-Go to temperatures over 99°F for prolonged periods of time (beyond 14 hours) as this may lead to degradation of the insulin (check the insulin manufacturer's instructions for use for temperature details) and may cause the V-Go to run at a basal rate slightly greater than the specified range
Operating Atmospheric Pressure	697 hPa to 1,013 hPa (Equivalent to altitudes up to 10,000 feet [3,048 meters])
Duration of Use	24 hr
Bolus Delivery Accuracy (For all 3 V-Go options)	+/-10%
Basal Delivery Accuracy (For all 3 V-Go options)	+/-10%
V-Go Power Source	Mechanical
Enclosure Protection	Protects against the effects of submersion at depths up to 3 feet, 3 inches (1 meter) for 24 hours. (IPX8)
Needle	4.6-mm, 30-gauge needle with sharps injury prevention features and floating needle technology
Disposal	Local disposal requirements

Delivery Accuracy Test Results

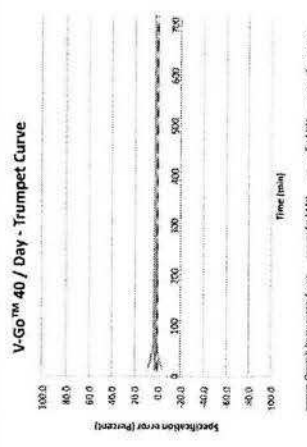
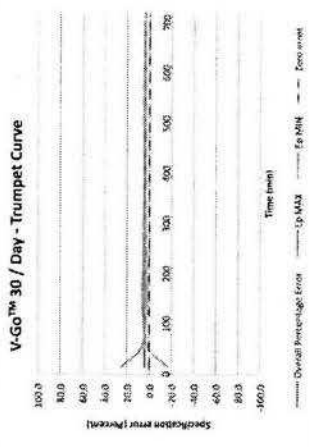
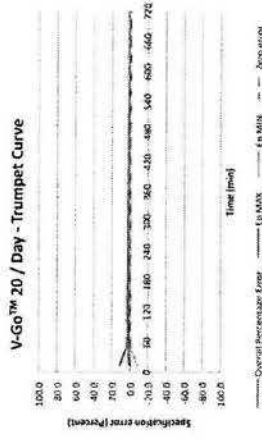
The following graphs show the basal flow rate accuracy for all 3 V-Go™ options (20/30/40) for the given time periods.

The bolus accuracy is +/- 10% for all 3 V-Go options.

Flow Rate Start-up Graphs



Flow Rate Test Period Graphs



SECTION 5: V-Go™ USER ASSISTANCE INFORMATION

Valeritas Customer Care

You may have questions or concerns when you use a new product. Please contact us for advice or assistance. A trained staff member will help you with any questions on how to fill, apply, or use the V-Go.

For specific treatment questions, information on insulin, or medical advice, call your doctor or healthcare professional.

If you have any questions regarding the operation of the V-Go or EZ Fill, speak to a Valeritas Customer Care Representative 24/7 at 1-866-881-1209.

Customers can visit the Valeritas website (www.valeritas.com) for additional information about disposable insulin delivery with the V-Go.

If you have a medical emergency while using the V-Go, call 911, your doctor, or go directly to the hospital.

SECTION 6: TROUBLESHOOTING/FREQUENTLY ASKED QUESTIONS

How do I know how much insulin to put into the V-Go?

You always fill the V-Go completely. The V-Go comes in 3 options and your doctor or healthcare professional will select the option you need.

Why does insulin leak from the EZ Fill?

Check to make sure a V-Go is placed in the EZ Fill before a new insulin vial is placed into the insulin vial holder. This may reduce any insulin leak that can happen when extra pressure is built up in the vial upon initial puncture. Also, make sure the plug is properly inserted into the EZ Fill between fills.

It looks like the V-Go has not filled completely.

There are 5 reasons the V-Go may not fill completely:

1. The insulin vial is not completely pushed down into the insulin vial holder.
 - If this is the case, push the vial firmly straight down into the insulin vial holder until you feel it attach and cannot push it further.
2. You have run out of insulin in your vial. You have to switch vials before you can fill the rest of the V-Go.
 - If this is the case, keep the V-Go in the EZ Fill drawer. Remove the insulin vial from the EZ Fill insulin vial holder, replace with a new vial, and refill the V-Go.
3. You did not completely pull the plunger to its full upright position.
 - If this is the case, slowly pull the plunger up completely and repeat the filling process for the V-Go.
4. You have pushed down the plunger too quickly, which turned the insulin foamy. The foam could become an air bubble larger than a grain of rice.
 - If this is the case, the EZ Fill cannot correct this error at this time. Set the V-Go aside for use on the next day and start over with a new V-Go.
 - The V-Go with the foamy insulin should be stored with the insulin port up. Before using this V-Go, refill it completely with insulin. See Section 2 (Part 2) Step 4A to 4F. Refer to the V-Go storage conditions in Section 4.

5. The EZ Fill drawer may not be completely closed.

- If this is the case, check again to ensure the drawer is pushed all the way closed.

In any of these situations follow Step 4A to 4F to make sure you have a complete fill.

I am looking in the viewing window while pushing the plunger down, but I don't see the V-Go™ filling.

There are 2 reasons you may not see any insulin fill the V-Go.

1. You have run out of insulin in your vial. You have to switch vials before you can fill the rest of the V-Go.

- If this is the case, keep the V-Go in the EZ Fill drawer. Remove the insulin vial from the EZ Fill insulin vial holder, replace with a new vial, and refill the V-Go.
2. You did not completely shut the EZ Fill drawer.

- Grip the ribbed drawer handle and push the drawer completely into the EZ Fill. The ribbed drawer handle should not stick out past the bottom of the EZ Fill.

If there is insulin in the vial and the drawer is completely shut, try to fill a new V-Go. If you are unable to fill a new V-Go, speak to a Valeritas Customer Care Representative at 1-866-881-1209.

There are bubbles in the insulin vial.

The most common reason for bubbles in the insulin vial is filling more than 1 V-Go at a time. The EZ Fill is designed to fill only 1 V-Go per day.

It is harder to push the plunger when it gets closer to the downward position.

This is normal. When the V-Go is full or close to full, you should expect to push a little harder. You may need a little extra pressure to push the plunger completely down.

What happens if I do not pull the plunger completely up when I fill the V-Go?

If the plunger is pulled only part of the way up during the fill process, you will get only a partial fill of the V-Go. You will see air bubbles in the V-Go viewing window. Keep the V-Go in the EZ Fill drawer and slowly pull the plunger up completely again. Make sure the plunger is completely up. Slowly and steadily push the plunger back down over about 25 seconds until it is in the complete down position.

I tried to pull the plunger up and it snapped back down. What should I do?

Try slowly pulling the plunger up again, but count the full 5 seconds before releasing or reversing the direction of the plunger. The plunger snaps back down if you try to pull the plunger up and release it in less than 5 seconds.

After I place the V-Go into the EZ Fill drawer, what happens if the plunger is already in the up position?

You can still fill the V-Go. Hold the EZ Fill upwards and slowly and steadily push the plunger down over about 25 seconds until it is in the complete down position. As you push the plunger down, check to make sure insulin enters the V-Go. Repeat the plunger cycle if no insulin entered the V-Go or if additional insulin is required to fill the V-Go. See Section 2 (Part 2) Step 4A to 4F.

I did not apply the V-Go directly after filling. Do I have to throw it away?

It is preferable to apply the V-Go immediately after filling. However, refer to the V-Go storage conditions in Section 4 and the specific insulin's storage conditions for more information.

I believe an item is missing or appears to be damaged.

If you suspect an item is damaged, do not use the damaged piece. Replace this with a new one (V-Go or EZ Fill). EZ Fill replacements can be requested from a Valeritas Customer Care Representative at 1-866-881-1209.

I believe I have broken the EZ Fill. How do I get another one to fill the V-Go™?

EZ Fill replacements can be requested from a Valeritas Customer Care Representative at 1-866-881-1209. You will be asked to return the unusable EZ Fill. Valeritas Customer Care will provide you with further details.

The inner package for the V-Go is torn or damaged.

If you suspect the package containing the V-Go has been torn or damaged, do not use this V-Go. Replace with a new V-Go.

After I removed the button cover, the cover pin was not attached to the button cover and is still inside the V-Go.

If the cover pin is inside the V-Go, the V-Go will not work correctly. Try to remove the pin manually; otherwise discard this V-Go and start over with a new V-Go.

It is difficult to press down on the needle button.

Be sure you are pressing the raised bump of the needle button. If the needle button does not move when pressed, the needle button may have already been activated. Do not use this V-Go. Replace with a new V-Go.

The needle button will not stay in the down position.

The needle button must be pressed down fully to be locked into place. If you cannot get the button to stay down, do not use this V-Go. Replace with a new V-Go.

The V-Go won't remain securely attached to my skin for the duration of use, which sometimes causes poking of the needle.

If the V-Go will not remain secure, replace with a new V-Go.

When replacing the V-Go, please review Section 2 (Part 3) Step 3A to 3D.

Do not touch the adhesive pad before you attach the V-Go to your skin. Thoroughly clean the site with an alcohol swab. Let the site dry before attaching the V-Go. Many lotions and ointments may keep the V-Go from sticking to your skin.

Be sure that you have properly attached the V-Go to a flat surface on your body.

If the site is covered with hair, this could also affect whether the V-Go sticks. You may shave the area to help the V-Go attach to your skin.

When I went to give myself a bolus dose of insulin, the bolus delivery button was already popped out.

If the bolus delivery button was already popped out, the bolus ready button was already activated. Press the bolus delivery button to deliver 2 Units of insulin when the next bolus dose is needed.

The bolus delivery button will not pop out.

First check that you are pressing the bolus ready button fully. If the bolus delivery button fails to pop out after you activate the bolus ready button, you have used all of the available insulin for bolus dosing (36 Units or 18 uses per 24 hours). Replace this V-Go with a new V-Go before your next meal. Plan your day so that you have enough insulin for each meal.

What should I do if I forget the number of Units I have delivered when bolus dosing or if I forget to take a bolus dose?

Follow the plan you created with your doctor or healthcare professional for such situations. If you have not created a plan already, consult your doctor or healthcare professional for guidance.

The area of skin around the V-Go is red and sore to the touch.

Skin may be irritated by the adhesive pad on the V-Go. There are a number of skin barrier products available to help prevent irritation and treat sensitivity problems. Contact your doctor or healthcare professional for specific products and recommendations.

Infections at the site may also occur. If you experience redness, irritation, or inflammation around the V-Go (specifically the end closest to the needle), immediately replace the V-Go with a new V-Go on a new body site. Contact your doctor or healthcare professional for the best way to treat infection and irritation, especially if the inflamed site appears bigger than a dime.

I dropped the V-Go™.

Check to see if there is any damage to the V-Go. If you suspect that the V-Go was damaged or became dirty as a result of the fall, do not use this one. Replace with a new V-Go.

I dropped the EZ Fill.

Check to see if there is any damage to the EZ Fill or the insulin vial, if it was attached. If the insulin vial came out of the EZ Fill, wipe the top of the vial with an alcohol swab and watch closely for leaks when you place the vial back into the EZ Fill. If insulin is leaking, replace the insulin vial with a new one. If you suspect that the EZ Fill was damaged, speak to a Valeritas Customer Care Representative at 1-866-881-1209.

The V-Go was exposed to water. Is this a problem?

The V-Go can go under water up to 3 feet, 3 inches (1 meter), and will continue to work safely. You should check to see that it stays in place. Depending on the cleanliness of the water, you may be at an increased risk for an infection at the needle infusion site.

Can I swim, scuba dive, shower, or bathe while wearing the V-Go?

The V-Go has been successfully tested in water to depths of 3 feet, 3 inches (1 meter) for 24 hours, and therefore can be worn during normal daily activities, such as showering and bathing as well as activities near the surface of the water, such as swimming.

The V-Go has not been tested and therefore should not be used in the following conditions:

- Water activities below 3 feet, 3 inches (1 meter), such as scuba diving.
- Extremely hot water temperatures, such as hot tubs or whirlpools.

Remove the V-Go prior to scuba diving, hot tub use, or whirlpool use, and replace with a new filled V-Go afterward.

Can I wear the V-Go for longer than 24 hours – for example, if I sleep an extra hour on the weekend?

The V-Go has been designed for 24-hour wear. You should change it at the same time each day. After 24 hours, the V-Go may no longer deliver a continuous preset basal rate of insulin.

How do I travel with the V-Go?

Use the same precautions that you would when traveling with other insulin supplies. Speak with your doctor or healthcare professional about extra precautions you may need to take while traveling.

When traveling with the EZ Fill, with an insulin vial attached, it should be refrigerated at all times. Empty V-Go devices do not require refrigeration. They should be stored according to the storage conditions in Section 4. For information on storing filled V-Go devices refer to the V-Go storage conditions in Section 4.

Can I wear the V-Go on an airplane?

Yes, the V-Go can safely be worn on an airplane.

Should I wear the V-Go to bed?

Yes, you should wear the V-Go for a full 24 hours, even while you sleep.

The needle will not retract back into the V-Go.

Try to slide and press the needle release button again. See Section 2 (Part 3) Step 8C. If the needle still will not retract into the V-Go, dispose of the V-Go in a sharps container.

SECTION 7: GLOSSARY AND PACKAGING SYMBOLS

Aseptic technique: This process helps keep the V-Go™ and EZ Fill devices clean during preparation, filling, and application. Following this technique requires hand-washing and wiping the application site with an alcohol swab. It may involve wiping the V-Go device with an alcohol swab if the device comes into contact with anything else.

Basal rate: The basal rate is the amount of insulin delivered at a preset rate by the V-Go over 24 hours. Your basal rate is the amount of insulin required to maintain your target glucose values when you are not eating. Basal rate may also be referred to as background, continuous, or long-acting insulin.

Blood glucose levels: Blood glucose levels are the measure of how much sugar is in the blood.

Bolus: A bolus is an amount of insulin delivered at one time. A bolus is usually taken before a meal to cover your body's insulin needs. A bolus of insulin can also be taken when blood glucose levels are abnormally high. Bolus may also be referred to as mealtime, prandial, short-acting, or rapid-acting insulin.

Diabetes mellitus: Diabetes is a disease in which the body cannot maintain its own healthy blood glucose levels. Either the body cannot produce enough insulin or the body cannot properly use insulin. There are two main types of diabetes:

Type 1 diabetes: In Type 1 diabetes, the body does not produce enough insulin. People with Type 1 diabetes must use insulin to regulate their blood glucose levels.

Type 2 diabetes: In Type 2 diabetes, the body does not produce enough insulin or use it properly. People with Type 2 diabetes can usually regulate their blood glucose levels by following an individual meal plan, exercising, and taking certain medicines, including insulin, if needed. It usually occurs in people 40 years or older.

Diabetic ketoacidosis (DKA): DKA occurs when the blood glucose level is elevated and the insulin level is low. The body does not have enough insulin to help the glucose enter the cells. Glucose in the cells is used for energy. During this situation, the body begins to burn muscle and fat for energy. A waste product of fat burning is ketones. Ketones accumulate in the blood and are passed through the urine and lungs. This condition can be identified by urine and/or blood tests. DKA usually requires hospitalization and can lead to a life-threatening situation if not promptly treated.

Glucose: Glucose, a sugar, is a main way the body takes in carbohydrates. Glucose is the body's most important source of energy. It is produced from digested food, by the normal action of the liver. Glucose is carried by the blood throughout the body.

Hyperglycemia: Hyperglycemia or high blood sugar occurs when blood glucose levels rise above normal (approximately 250 mg/dL). Hyperglycemia is the result of the body not having enough insulin or not being able to use insulin to process glucose.

Hypoglycemia: Hypoglycemia or low blood sugar occurs when blood glucose levels drop below normal (approximately 70 mg/dL). Hypoglycemia may result from too much insulin and/or exercising more than usual.

Infusion site: The infusion site is the place on the body where the V-Go is attached, specifically the end of the V-Go where the needle is inserted under the skin.

Insulin: Insulin is a hormone produced by the pancreas. Insulin is needed by the body to regulate the production and use of glucose.


Ketones: Ketones, or ketone bodies, are substances produced by normal liver activity, and used by muscle tissue. When blood glucose levels are elevated, the body's normal process is unbalanced and ketones can accumulate in the blood, pass through the urine, and ultimately result in diabetic ketoacidosis (DKA).

Subcutaneous: Subcutaneous means beneath the layer of the skin. The V-Go infusion needle delivers insulin subcutaneously. Subcutaneous injections are not the same thing as intravenous (IV) or intramuscular (IM) injections.


Packaging Symbols


 Rx Only

 Store at


 Unless opened or damaged, contents are sterile

 Do not reuse

 Dispose of after 30 fills

 Use by

 Before using contents, read the Instructions for Patient Use

 Lot code

Humalog is a registered trademark of Eli Lilly and Company.
NovoLog is a registered trademark of Novo Nordisk A/S.



www.go-vgo.com



www.valeritas.com

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VAL 000698

EXHIBIT I

CONFIDENTIAL – FOR ATTORNEYS’ EYES ONLY

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

Valeritas, Inc.,	)	In the matter of U.S. Reg. No. 3,895,432
)	
Petitioner,	)	For the Mark: VGO
)	
v.	)	Filing Date: March 2, 2010
)	
VGo Communications, Inc.	)	Registration Date: December 21, 2010
)	
Respondent,	)	Cancellation No.: 92054171
)	

**VALERITAS, INC.’S SECOND SUPPLEMENTAL RESPONSES TO
VGO COMMUNICATIONS, INC.’S INTERROGATORIES**

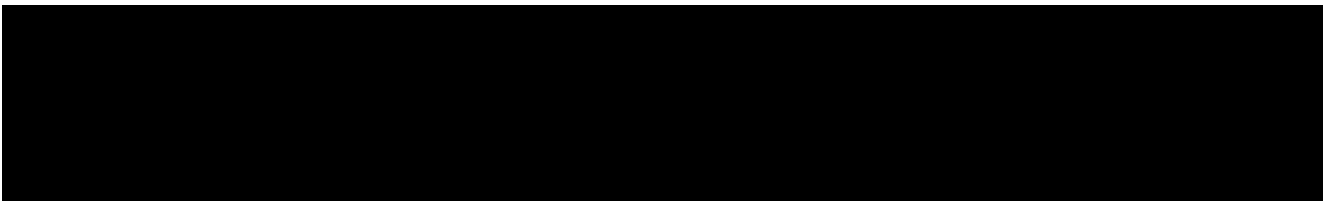
Petitioner supplements its prior responses to Respondent VGo Communications, Inc.’s interrogatories as follows. These responses are confidential and designated “CONFIDENTIAL – FOR ATTORNEYS EYES ONLY.” Petitioner fully incorporates all objections stated in response to Respondent’s interrogatories, as previously set forth in Petitioner’s responses.

SUPPLEMENTAL RESPONSES TO FIRST SET OF INTERROGATORIES

FIRST INTERROGATORY NO. 2

Identify all persons who have ever been authorized by you to employ Petitioner’s Mark in connection with the sale or offering for sale of any goods or services.

SUPPLEMENTAL RESPONSE TO FIRST INTERROGATORY NO. 2



FIRST INTERROGATORY NO. 5

For each product or service identified in response to Interrogatory Number 4, please state:

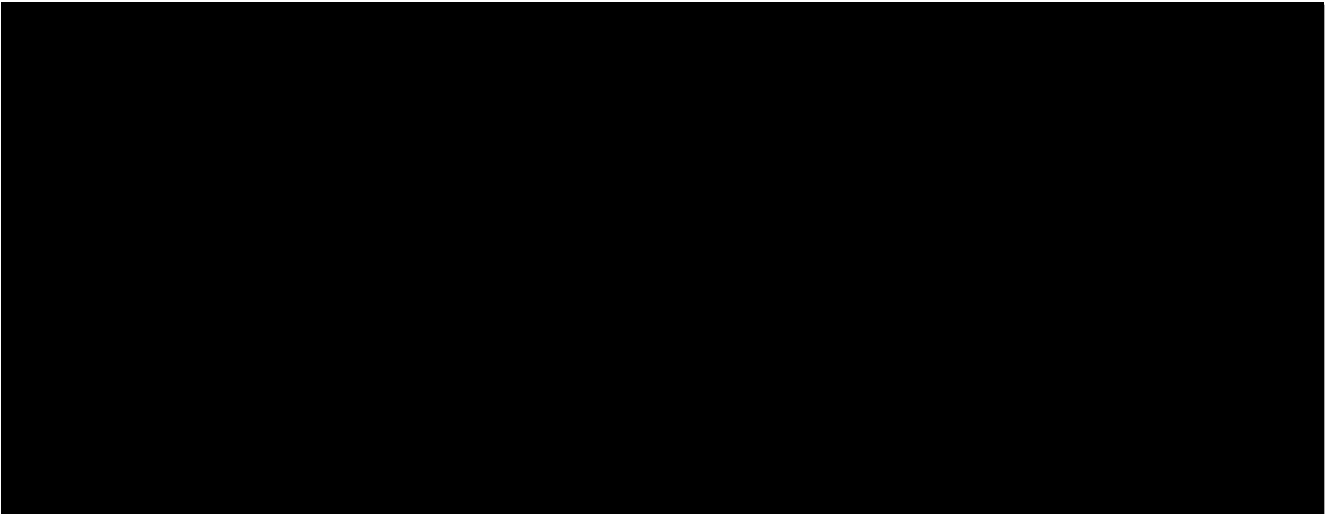
(a) the prices at which the product or service is being sold, and the prices at which it was sold over the past five years for which data is available;

(b) whether the product or service is sold or offered to wholesale or retail customers, and whether such customers use the product or service for business or personal purposes;

(c) the price of an average sale; and

(d) if applicable, the dollar amount of sales for that product or service in each of the last five years for which data is available.

SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 5



FIRST INTERROGATORY NO. 16

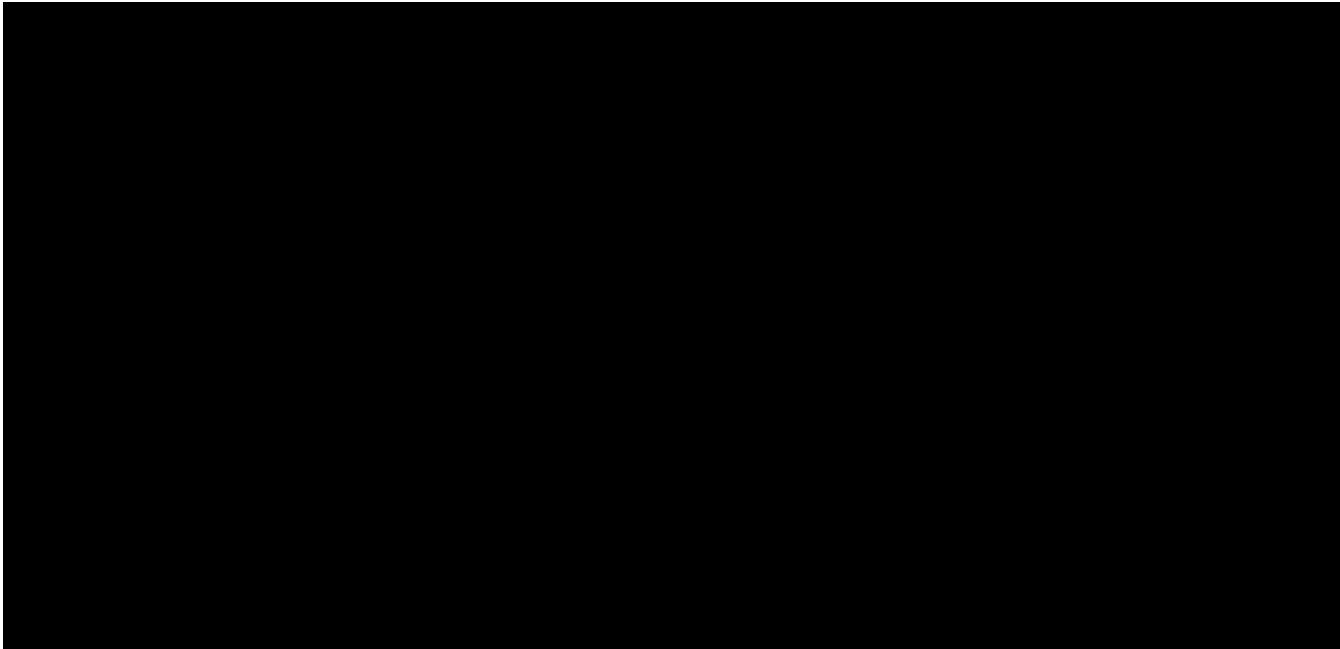
Please:

(a) identify the principal competitors in the business in which Petitioner uses or intends to use Petitioner's Marks;

(b) describe the market position, including customer identity and product type, to which Petitioner targets or intends to target its business in which Petitioner uses Petitioner's Marks; and

(c) describe any plans Petitioner currently has for expansion or contraction of its business conducted under Petitioner's Marks.

SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 16

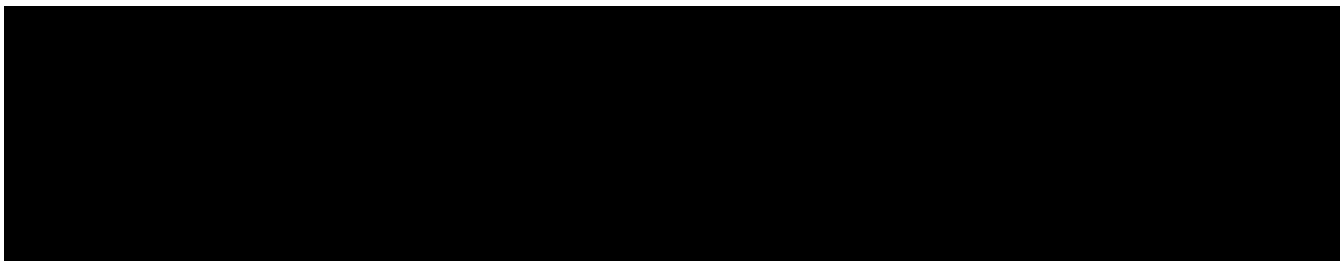


SUPPLEMENTAL RESPONSES TO THIRD SET OF INTERROGATORIES

THIRD INTERROGATORY NO. 1

Please describe in detail all facts concerning Petitioner's attendance at trade and consumer shows, identifying all shows attended during the last 5 years, the dates upon which the shows took place, and the dates upon which future show that Petitioner plans to attend are scheduled to take place.

SUPPLEMENTAL RESPONSE TO THIRD INTERROGATORY NO. 1



Respectfully Submitted,

Dated: November 7, 2014

VALERITAS, INC.

By: 

Thomas F. Dunn

Sheri S. Mason

Morse, Barnes-Brown & Pendleton, P.C.

CityPoint

230 Third Avenue, Fourth Floor

Waltham, MA 02451

Tel: 781.622.5930

Fax: 781.622.5933

Email: ttab@mbbp.com

VERIFICATION

As to the Supplemental Responses, on behalf of Valeritas, Inc., I hereby state under the penalties of perjury that I have read the foregoing answers and believe them to be true and accurate to the best of my knowledge. To those answers to which I do not have personal knowledge, I hereby affirm that the information provided to me for the foregoing answers is true and accurate to the best of my knowledge.



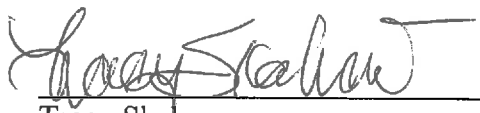
Tara Charvat
Vice President of Marketing
and Marketing Operations
Valeritas, Inc.

CERTIFICATE OF SERVICE

I, Tracy Skahan, certify that a copy of the foregoing VALERITAS, INC.'S SUPPLEMENTAL RESPONSES TO VGO COMMUNICATIONS, INC.'S INTERROGATORIES were served on:

Michael J. Bevilacqua, Esq.
Barbara A. Barakat, Esq.
John V. Hobgood, Esq.
Wilmer Cutler Pickering Hale & Dorr LLP
60 State Street
Boston, Massachusetts 02109

by email and by placing same with the U.S. Postal Service, via first class mail, postage pre-paid, this 7th day of November, 2014.



Tracy Skahan

EXHIBIT J

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

Valeritas, Inc.,	)	In the matter of U.S. Reg. No. 3,895,432
)	
Petitioner,	)	For the Mark: VGO
)	
v.	)	Filing Date: March 2, 2010
)	
VGo Communications, Inc.	)	Registration Date: December 21, 2010
)	
Respondent,	)	Cancellation No.: 92054171
)	

**VALERITAS, INC.'S RESPONSES AND OBJECTIONS TO
VGO COMMUNICATIONS, INC.'S FIRST SET OF INTERROGATORIES**

Pursuant to Rules 26 and 33 of the Federal Rules of Civil Procedure, Petitioner Valeritas, Inc. ("Valeritas" or "Petitioner") hereby serves its responses and objections to Respondent VGo Communications, Inc.'s ("VCI's" or "Respondent's") first set of interrogatories.

GENERAL OBJECTIONS

The following General Objections are applicable to, and hereby incorporated by reference into, each of Valeritas's responses to the specific interrogatories.

1. Valeritas objects to each and every interrogatory to the extent it is vague, ambiguous, overly broad, and/or unduly burdensome.
2. Valeritas objects to each and every interrogatory to the extent it seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence.
3. Valeritas objects to each and every interrogatory that seeks legal conclusions or that is more properly considered a request for admissions.

4. Valeritas objects to the Interrogatories to the extent that they purport to impose obligations on Valeritas inconsistent with or additional to those imposed by the Federal Rules of Civil Procedure.

5. Valeritas objects to each and every interrogatory to the extent it seeks disclosure of confidential or proprietary information. To the extent such information is requested and is relevant to the issues raised in this case, Valeritas will disclose such information upon entry of a suitable protective order.

6. Valeritas objects to each and every interrogatory to the extent it seeks information protected from disclosure by the attorney-client privilege, the work product doctrine, and/or any other applicable privilege. Valeritas thus objects to divulging any such information in response to the Interrogatories. To the extent any such information is or may be divulged in response to the Interrogatories, the divulging of any such information is inadvertent and is not to be deemed a waiver of the privilege in question (or any other applicable privilege) with respect to the divulged information or any other information.

7. Valeritas objects to the Interrogatories to the extent they call for information the disclosure of which is barred by law or which would invade the legitimate privacy interests of third parties. Valeritas thus objects to divulging any such information in response to the Interrogatories. To the extent any such information is or may be divulged in response to the Interrogatories, the divulging of any such information is inadvertent and is not to be deemed a waiver of the objection in question (or any other objection) with respect to the divulged information or any other information.

8. The specific responses set forth below are based upon information now available to Valeritas after making a diligent search, of any files in its possession, custody, or control that

reasonably relate to one or more of the specific interrogatories.

9. Valeritas objects to the interrogatories to the extent they seek information not in Valeritas' possession, custody, or control or to require a search of files that do not reasonably relate to one or more of the specific interrogatories. Further, Valeritas reserves the right at any time to amend, revise, correct, add to, supplement, modify, or clarify the specific responses set forth below or the information contained therein, although Valeritas does not hereby undertake to do so except to the extent required by the Trademark Rules of Practice or the Federal Rules of Civil Procedure.

10. Valeritas objects to the interrogatories to the extent they seek information that is publicly available and thus of no greater burden for Respondent to obtain independently than for Valeritas to disclose in response to the interrogatories.

11. Valeritas objects to the disclosure of any information falling within the General Objections set forth above or within one of the specific objections set forth below. To the extent any such information is or may be divulged in response to the Interrogatories, the divulging of such information is inadvertent and is not to be deemed a waiver of the objection in question (or any other objection) with respect to the divulged information or any other information.

Moreover, Valeritas's responses to the Interrogatories and the information divulged therein are being provided without waiver or prejudice to Valeritas' right, at any other time, to raise objections as to (a) any further demand for discovery involving or relating to the matters raised in the Interrogatories or (b) the relevance, materiality or admissibility of (i) the Interrogatories, the specific interrogatories contained in the Interrogatories, or any part thereof, (ii) statements made in these Responses and Objections to the Interrogatories, the specific interrogatories contained in the Interrogatories, or any part thereof, and/or (iii) any information divulged in these

Responses and Objections. Valeritas' responses to the specific interrogatories are subject to the general objections set forth in these paragraphs 1-11.

INTERROGATORIES

INTERROGATORY NO. 1

Please state the date on which you first sold or offered any goods and/or services under Petitioner's Marks in the United States, specifying the mark for each date.

RESPONSE TO INTERROGATORY NO. 1

Petitioner objects to this interrogatory as irrelevant to the subject matter of this action and not reasonably calculated to lead to the discovery of admissible evidence. Petitioner's priority date precedes Respondent's priority date by virtue of Petitioner's U.S. trademark applications (Ser. Nos. 77/752,694 and 77/752,697) for the marks V-GO and V-GO DISPOSABLE INSULIN DELIVERY & Design (collectively, "Petitioner's V-GO Mark"). Once Petitioner's registrations issue, Petitioner will have priority of rights in the V-GO Mark over Respondent. Subject to this objection and the General Objections, Petitioner responds as follows:

Petitioner has engaged in substantial efforts and preparation to begin use of Petitioner's V-GO Mark in commerce. Such efforts and preparation constitute confidential, proprietary, and/or trade secret information of Petitioner. Accordingly, Petitioner reserves the right to supplement this interrogatory response with additional information upon entry of a suitable protective order.

INTERROGATORY NO. 2

Identify all persons who have ever been authorized by you to employ Petitioner's Mark in connection with the sale or offering for sale of any goods and/or services.

RESPONSE TO INTERROGATORY NO. 2

Petitioner objects to this interrogatory as irrelevant to the subject matter of this action and not reasonably calculated to lead to the discovery of admissible evidence. Petitioner further objects to this interrogatory as so vague and ambiguous with respect to what is meant by “employ Petitioner’s Mark” that Petitioner is unable to answer the interrogatory.

INTERROGATORY NO. 3

Please describe the circumstances under which you first learned of Registrant’s use of Registrant’s Mark.

RESPONSE TO INTERROGATORY NO. 3

Petitioner objects to this interrogatory to the extent it seeks discovery of information protected from disclosure by the attorney-client privilege, the attorney work product doctrine, and/or any other applicable privilege. Subject to this objection and the General Objections, Petitioner responds as follows:

Petitioner learned of Respondent’s V-GO mark through the publicly available records of the U.S. Patent and Trademark Office website at www.uspto.gov. Upon learning of Respondent’s infringing use of the V-GO mark, Petitioner promptly sent a letter to Respondent notifying Respondent of Petitioner’s prior rights in Petitioner’s V-GO Mark and urging Respondent to cease use of its infringing V-GO mark. When Respondent refused to cease its infringing use of Petitioner’s V-GO Marks, Petitioner filed the Petition for Cancellation here at issue.

INTERROGATORY NO. 4

Please specify each and every product and/or service ever sold or offered by you under Petitioner’s Marks, and for each, please indicate if the product and/or service is currently being

sold or offered.

RESPONSE TO INTERROGATORY NO. 4

Petitioner objects to this interrogatory as irrelevant to the subject matter of this action and not reasonably calculated to lead to the discovery of admissible evidence. Petitioner's priority date precedes Respondent's priority date by virtue of Petitioner's U.S. trademark applications (Ser. Nos. 77/752,694 and 77/752,697) for the marks V-GO and V-GO DISPOSABLE INSULIN DELIVERY (collectively, "Petitioner's V-GO Mark"). Once Petitioner's registrations issue, Petitioner will have priority of rights in the V-GO Mark over Respondent. Subject to this objection and the General Objections, Petitioner responds as follows:

Petitioner has engaged in substantial efforts and preparation to begin use of Petitioner's V-GO Mark in commerce. Such efforts and preparation constitute confidential, proprietary, and/or trade secret information of Petitioner. Accordingly, Petitioner reserves the right to supplement this interrogatory response with additional information upon entry of a suitable protective order.

INTERROGATORY NO. 5

For each product or service identified in response to Interrogatory Number 4, please state:

- (a) the prices at which the product or service is being sold, and the prices at which it was sold over the past five years for which data is available;
- (b) whether the product or service is sold or offered to wholesale or retail customers, and whether such customers use the product or service for business or personal purposes;
- (c) the price of an average sale; and

(d) if applicable, the dollar amount of sales for that product or service in each of the last five years for which data is available.

RESPONSE TO INTERROGATORY NO. 5

Petitioner objects to this interrogatory as irrelevant to the subject matter of this action and not reasonably calculated to lead to the discovery of admissible evidence. Petitioner's priority date precedes Respondent's priority date by virtue of Petitioner's U.S. trademark applications (Ser. Nos. 77/752,694 and 77/752,697) for the marks V-GO and V-GO DISPOSABLE INSULIN DELIVERY (collectively, "Petitioner's V-GO Mark"). Once Petitioner's registrations issue, Petitioner will have priority of rights in the V-GO Mark over Respondent. Subject to this objection and the General Objections, Petitioner responds as follows:

Petitioner has engaged in substantial efforts and preparation to begin use of Petitioner's V-GO Mark in commerce. Such efforts and preparation constitute confidential, proprietary, and/or trade secret information of Petitioner. Accordingly, Petitioner reserves the right to supplement this interrogatory response with additional information upon entry of a suitable protective order.

INTERROGATORY NO. 6

Describe in detail the channels of distribution which Petitioner uses for the goods or services identified in response to Interrogatory No. 4, including representative outlets, such as the top five (by dollar volume of sales) retailers, wholesalers or distributors, through which Petitioner sells such goods or services.

RESPONSE TO INTERROGATORY NO. 6

Petitioner objects to this interrogatory as irrelevant to the subject matter of this action and not reasonably calculated to lead to the discovery of admissible evidence. Petitioner's priority

date precedes Respondent's priority date by virtue of Petitioner's U.S. trademark applications (Ser. Nos. 77/752,694 and 77/752,697) for the marks V-GO and V-GO DISPOSABLE INSULIN DELIVERY (collectively, "Petitioner's V-GO Mark"). Once Petitioner's registrations issue, Petitioner will have priority of rights in the V-GO Mark over Respondent. Subject to this objection and the General Objections, Petitioner responds as follows:

Petitioner will sell its goods bearing Petitioner's V-GO Mark through all prescription based product channels including but not limited through pharmacy wholesalers, mass merchandising pharmacies, retail pharmacies, institutional pharmacies, and mail order pharmacies. Petitioner's sales representatives will market, promote and/or sell Petitioner's products bearing Petitioner's V-GO Marks to health care professionals, including but not limited to doctors, managed care organizations, healthcare institutions (hospitals), wholesalers, Group Purchasing Organizations, pharmacies and diabetes educators. Petitioner will also market its products bearing Petitioner's V-GO Marks directly to consumers.

INTERROGATORY NO. 7

Identify the classes or types of customers to whom Petitioner distributes or intends to distribute each of the goods or services specified in response to Interrogatory No. 4, describing the purpose for which such customer typically uses said goods or services.

RESPONSE TO INTERROGATORY NO. 7

Petitioner objects to this interrogatory as irrelevant to the subject matter of this action and not reasonably calculated to lead to the discovery of admissible evidence. Petitioner's priority date precedes Respondent's priority date by virtue of Petitioner's U.S. trademark applications (Ser. Nos. 77/752,694 and 77/752,697) for the marks V-GO and V-GO DISPOSABLE INSULIN DELIVERY (collectively, "Petitioner's V-GO Mark"). Once Petitioner's registrations issue,

Petitioner will have priority of rights in the V-GO Mark over Respondent. Subject to this objection and the General Objections, Petitioner responds as follows:

Petitioner will distribute its goods through all available channels of a prescription based products) including but not limited through Pharmacy wholesalers, mass merchandising pharmacies, retail pharmacies, institutional pharmacies, mail order pharmacies. Doctors treating patients across all healthcare venues will recommend Petitioner's product bearing Petitioner's V-GO Mark as an insulin delivery device for patients with diabetes, and will write a prescription if patients wish to use Petitioner's products bearing Petitioner's V-GO Mark.

INTERROGATORY NO. 8

Describe each instance you know of wherein any person has been confused, mistaken or deceived as to the identity of the parties herein or their respective products or services.

RESPONSE TO INTERROGATORY NO. 8

Petitioner objects to this interrogatory as irrelevant to the subject matter of this action and not reasonably calculated to lead to the discovery of admissible evidence. Petitioner's priority date precedes Respondent's priority date by virtue of Petitioner's U.S. trademark applications (Ser. Nos. 77/752,694 and 77/752,697) for the marks V-GO and V-GO DISPOSABLE INSULIN DELIVERY (collectively, "Petitioner's V-GO Mark"). Once Petitioner's registrations issue, Petitioner will have priority of rights in the V-GO Mark over Respondent. Subject to this objection and the General Objections, Petitioner responds as follows:

Even though Petitioner has not commenced use of Petitioner's V-GO Mark in commerce, Petitioner's V-GO Mark is already well known in the marketplace, and Petitioner is already aware of at least one instance of actual confusion. Dr. Richard E. Pratley notified Petitioner that he received information from Respondent referring to the V-GO mark. Dr. Pratley is Director of

the Florida Hospital Diabetes Institute and Senior Scientist and Professor at the Florida Hospital Sanford/Burnham Translational Research Institute. Dr. Pratley informed Petitioner, “Hey – somebody stole your name.....”

INTERROGATORY NO. 9

Please state the date on which Petitioner first used the letters “V-GO” in the format shown in U.S. trademark application No. 77/752697 and describe that use.

RESPONSE TO INTERROGATORY NO. 9

Petitioner objects to this interrogatory as irrelevant to the subject matter of this action and not reasonably calculated to lead to the discovery of admissible evidence. Petitioner’s priority date precedes Respondent’s priority date by virtue of Petitioner’s U.S. trademark applications (Ser. Nos. 77/752,694 and 77/752,697) for the marks V-GO and V-GO DISPOSABLE INSULIN DELIVERY & Design (collectively, “Petitioner’s V-GO Mark”). Once Petitioner’s registrations issue, Petitioner will have priority of rights in the V-GO Mark over Respondent. Subject to this objection and the General Objections, Petitioner responds as follows:

Petitioner filed U.S. Trademark Application Ser. No. 77/752,697 for the mark V-GO DISPOSABLE INSULIN DELIVERY & Design on June 4, 2009 based on a bona fide intent to use the mark in commerce. Once Petitioner files a statement of use and the registration issues, Petitioner will have nationwide priority in the mark as of the filing date of the application.

INTERROGATORY NO. 10

Identify with specificity each medium of advertising and promotion in which you have promoted or intend to promote the aspects of Petitioner’s business with which Petitioner’s Marks are associated.

RESPONSE TO INTERROGATORY NO. 10

Petitioner objects to this interrogatory as irrelevant to the subject matter of this action and not reasonably calculated to lead to the discovery of admissible evidence. Petitioner's priority date precedes Respondent's priority date by virtue of Petitioner's U.S. trademark applications (Ser. Nos. 77/752,694 and 77/752,697) for the marks V-GO and V-GO DISPOSABLE INSULIN DELIVERY & Design (collectively, "Petitioner's V-GO Mark"). Once Petitioner's registrations issue, Petitioner will have priority of rights in the V-GO Mark over Respondent. Subject to this objection and the General Objections, Petitioner responds as follows:

Petitioner's specific promotional plans for Petitioner's V-GO Mark constitute confidential, proprietary, and/or trade secret information of Petitioner. Accordingly, Petitioner reserves the right to supplement this interrogatory response with additional information upon entry of a suitable protective order.

INTERROGATORY NO. 11

Please state the approximate annual dollar volume of advertising spent by Petitioner for products and/or services under Petitioner's Mark in the United States, providing a breakdown of such advertising by various advertising media.

RESPONSE TO INTERROGATORY NO. 11

Petitioner objects to this interrogatory as irrelevant to the subject matter of this action and not reasonably calculated to lead to the discovery of admissible evidence. Petitioner's priority date precedes Respondent's priority date by virtue of Petitioner's U.S. trademark applications (Ser. Nos. 77/752,694 and 77/752,697) for the marks V-GO and V-GO DISPOSABLE INSULIN DELIVERY & Design (collectively, "Petitioner's V-GO Mark"). Once Petitioner's registrations

issue, Petitioner will have priority of rights in the V-GO Mark over Respondent. Subject to this objection and the General Objections, Petitioner responds as follows:

Petitioner's advertising expenditures constitute confidential, proprietary, and/or trade secret information of Petitioner. Accordingly, Petitioner reserves the right to supplement this interrogatory response with additional information upon entry of a suitable protective order.

INTERROGATORY NO. 12

If Petitioner is aware of the use by any person, other than Registrant, of any name or mark used in connection with any product or services related to healthcare, which includes the letters "VGO" or a colorable imitation of such letters, please provide the details of such use(s).

RESPONSE TO INTERROGATORY NO. 12

Petitioner objects to this interrogatory as irrelevant to the subject matter of this action and not reasonably calculated to lead to the discovery of admissible evidence. Petitioner further objects to this interrogatory to the extent it seeks disclosure of information that is publicly available and therefore no more burdensome for Respondent to obtain independently than for Petitioner to supply it. Subject to these objections and the General Objections, Petitioner responds as follows:

Petitioner is aware of a U.S. trademark application (Ser. No. 85/053,525) for the V-GO mark filed by Matthias Rath for use on "[p]harmaceutical preparations for use in treatment of heart disease and heart conditions, diabetes, menstrual disorders, blood pressure problems, cardiovascular problems, lipid metabolism disorders, asthma, arthritis, arthrosis, tinnitus, and periodontosis, anemia, cell deficiencies, and cancer; vitamin preparations and food supplements with a base of minerals, all for medical purposes; food supplements not for medical purposes, mainly consisting of vitamins, amino acids, minerals and trace elements; dietetic supplements,

not for medical use with a base of vitamins, amino acids, minerals and trace elements; syrups, powders and concentrates for making nutritionally fortified beverages” in International Class 5; “[m]eat, fish, poultry, game and meat extracts; vegetables and other edible horticultural products, prepared for consumption or preservation, namely, preserved, dried and cooked fruit and vegetables; jellies, jams; eggs; edible oils and fats; tofu” in International Class 29; and “[m]ineral and aerated waters and other non-alcoholic drinks, namely, fruit drinks and fruit juices; syrups, powders and concentrates for making sport beverages and fruit-flavored beverages” in International Class 32. On April 28, 2011, Petitioner filed a Notice of Opposition against Application Ser. No. 85/053,525. That case, titled *Valeritas, Inc. v. Rath*, Opp. No. 91199596, remains pending with the Trademark Trial and Appeal Board. To Petitioner’s knowledge, Matthias Rath has not begun using the V-GO mark in commerce.

INTERROGATORY NO. 13

Please identify all market research that you have had conducted relating to Registrant’s Mark and/or Petitioner’s Marks.

RESPONSE TO INTERROGATORY NO. 13

Petitioner objects to this interrogatory as irrelevant to the subject matter of this action and not reasonably calculated to lead to the discovery of admissible evidence. Petitioner further objects to this interrogatory as seeking disclosure of confidential, proprietary, and/or trade secret information. Subject to these objections and the General Objections, Petitioner responds as follows:

Petitioner has not conducted market research relating to Respondent’s Mark and/or Petitioner’s V-GO Marks.

INTERROGATORY NO. 14

Please describe all written challenges directed to or by Petitioner concerning Petitioner's Marks.

RESPONSE TO INTERROGATORY NO. 14

Subject to the General Objections, Petitioner responds as follows:

Petitioner has directed written challenges to Respondent and to Matthias Rath concerning Petitioner's V-GO Mark.

INTERROGATORY NO. 15

Identify all of Petitioner's past and present trademark registrations or applications (federal, state and foreign) for Petitioner's Marks.

RESPONSE TO INTERROGATORY NO. 15

Petitioner objects to this interrogatory to the extent it seeks disclosure of information that is publicly available and therefore no more burdensome for Respondent to obtain than for Petitioner to supply. Subject to this objection and the General Objections, Petitioner responds as follows:

Petitioner owns two U.S. trademark application for Petitioner's V-GO Mark, namely:

- U.S. Trademark Application Ser. No. 77/752,694 for the mark V-GO for use on "Medical apparatus, namely, infusion and injection devices for administering drugs"; and
- U.S. Trademark Application Ser. No. 77/752,697 for the mark V-GO DISPOSABLE INSULIN DELIVERY & Design for use on "Medical apparatus, namely, infusion and injection devices for administering drugs."

INTERROGATORY NO. 16

Please:

(a) identify the principal competitors in the business in which Petitioner uses or intends to use Petitioner's Marks;

(b) describe the market position, including customer identity and product type, to which Petitioner targets or intends to target its business in which Petitioner uses Petitioner's Marks; and

(c) describe any plans Petitioner currently has for expansion or contraction of its business conducted under Petitioner's Marks.

RESPONSE TO INTERROGATORY NO. 16

Petitioner objects to this interrogatory as seeking disclosure of confidential, proprietary, and/or trade secret information. Accordingly, Petitioner reserves the right to supplement this interrogatory response with additional information upon entry of a suitable protective order.

INTERROGATORY NO. 17

If anyone acting on Petitioner's behalf has ever contacted anyone who was a customer or prospective customer of Registrant or Petitioner relating to this Cancellation or the Registrant's Mark or Petitioner's Marks, describe the circumstances surrounding that contact.

RESPONSE TO INTERROGATORY NO. 17

Petitioner objects to this interrogatory as irrelevant to the subject matter of this action and not reasonably calculated to lead to the discovery of admissible evidence. Petitioner's priority date precedes Respondent's priority date by virtue of Petitioner's U.S. trademark applications (Ser. Nos. 77/752,694 and 77.752,697) for the marks V-GO and V-GO DISPOSABLE INSULIN DELIVERY (collectively, "Petitioner's V-GO Mark"). Once Petitioner's registrations issue,

Petitioner will have priority of rights in the V-GO Mark over Respondent. Subject to this objection and the General Objections, Petitioner responds as follows:

Even though Petitioner has not commenced use of Petitioner's V-GO Mark in commerce, Petitioner's V-GO Mark is already well known in the marketplace, and Petitioner is already aware of at least one instance of actual confusion. Dr. Richard E. Pratley notified Petitioner that he received marketing material from Respondent referring to the V-GO mark. Dr. Pratley is Director of the Florida Hospital Diabetes Institute and Senior Scientist and Professor at the Florida Hospital Sanford/Burnham Translational Research Institute. Dr. Pratley informed Petitioner, "Hey – somebody stole your name...."

INTERROGATORY NO. 18

Identify all past or present licenses of Petitioner's Marks, whether express, implied, written, oral or otherwise.

RESPONSE TO INTERROGATORY NO. 18

Petitioner objects to this interrogatory as irrelevant to the subject matter of this action and not reasonably calculated to lead to the discovery of admissible evidence. Petitioner's priority date precedes Respondent's priority date by virtue of Petitioner's U.S. trademark applications (Ser. Nos. 77/752,694 and 77.752,697) for the marks V-GO and V-GO DISPOSABLE INSULIN DELIVERY (collectively, "Petitioner's V-GO Mark"). Once Petitioner's registrations issue, Petitioner will have priority of rights in the V-GO Mark over Respondent. Subject to this objection and the General Objections, Petitioner responds as follows:

Petitioner has never licensed anyone to use Petitioner's V-GO Marks, whether express, implied, written, oral or otherwise.

INTERROGATORY NO. 19

Identify all goods or services which Petitioner markets or provides under Petitioner's Marks related to robotic video and audio communications hardware, including the dates of first use in commerce and in interstate commerce for each type of good or service.

RESPONSE TO INTERROGATORY NO. 19

Petitioner objects to this interrogatory as irrelevant to the subject matter of this action and not reasonably calculated to lead to the discovery of admissible evidence. Petitioner's priority date precedes Respondent's priority date by virtue of Petitioner's U.S. trademark applications (Ser. Nos. 77/752,694 and 77/752,697) for the marks V-GO and V-GO DISPOSABLE INSULIN DELIVERY (collectively, "Petitioner's V-GO Mark"). Once Petitioner's registrations issue, Petitioner will have priority of rights in the V-GO Mark over Respondent. Subject to this objection and the General Objections, Petitioner responds as follows:

Petitioner will market and sell insulin delivery devices for patients with diabetes. Doctors and other licensed prescribers) will recommend Petitioner's product bearing Petitioner's V-GO Mark to patients with diabetes, and will write a prescription if patients wish to use Petitioner's product bearing Petitioner's V-GO Mark. Respondent markets its goods to doctors in the field of diabetic medicine, which includes over 300,000 prescribers in the U.S. alone, as evidenced by Respondent's marketing communication that was sent to Dr. Richard E. Pratley. See also Petitioner's responses to Interrogatory Nos. 8 and 17. Petitioner's goods and Respondent's goods are substantially related because they are or will be marketed to the same doctors and sold to the same consumers.

INTERROGATORY NO. 20

Identify all goods or services which Petitioner markets or provides under Petitioner's

Marks related to software for use in connection with audio and video communications systems, including the dates of first use in commerce and in interstate commerce for each type of good or service.

RESPONSE TO INTERROGATORY NO. 20

Petitioner objects to this interrogatory as irrelevant to the subject matter of this action and not reasonably calculated to lead to the discovery of admissible evidence. Petitioner's priority date precedes Respondent's priority date by virtue of Petitioner's U.S. trademark applications (Ser. Nos. 77/752,694 and 77/752,697) for the marks V-GO and V-GO DISPOSABLE INSULIN DELIVERY (collectively, "Petitioner's V-GO Mark"). Once Petitioner's registrations issue, Petitioner will have priority of rights in the V-GO Mark over Respondent. Subject to this objection and the General Objections, Petitioner responds as follows:

Petitioner will market and sell insulin delivery devices for patients with diabetes. Doctors will recommend Petitioner's product bearing Petitioner's V-GO Mark to patients with diabetes. Respondent markets its goods to doctors in the field of diabetic medicine, as evidenced by Respondent's marketing communication that was sent to Dr. Richard E. Pratley, as described in Petitioner's responses to Interrogatory Nos. 8 and 17. Petitioner's goods and Respondent's goods are substantially related because they are or will be marketed to the same doctors and sold to the same consumers.

INTERROGATORY NO. 21

Please state the names and addresses of all natural persons who supplied information on which the answers to the foregoing Interrogatories are based and for each such person list the specific Interrogatory numbers for which he or she supplied such information. If the information is not within the personal knowledge of such person, identify the source of the information so

furnished.

RESPONSE TO INTERROGATORY NO. 21

Petitioner objects to this interrogatory to the extent it seeks disclosure of information protected from disclosure by the attorney-client privilege, attorney work product, and/or other applicable privilege. Subject to this objection and the General Objections, Petitioner responds as follows:

Tara Charvat supplied information on which the answers to the foregoing Interrogatories are based. Ms. Charvat's business address is 100 750 Route 202, South Bridgewater, New Jersey 08807. Ms. Charvat can be contacted through the undersigned.

INTERROGATORY NO. 22

Please state the names and addresses of all natural persons who participated in any way in locating or providing documents or things in response to Registrant's First Set of Requests for Production of Documents and Things, specifying for each such person the specific Requests on which the person participated in preparing a response.

RESPONSE TO INTERROGATORY NO. 22

Petitioner objects to this interrogatory to the extent it seeks disclosure of information protected from disclosure by the attorney-client privilege, attorney work product, and/or other applicable privilege. Subject to this objection and the General Objections, Petitioner responds as follows:

Tara Charvat participated in locating documents or things in response to Registrant's First Set of Requests for Production of Documents and Things. Ms. Charvat's business address is 100 750 Route 202, South Bridgewater, New Jersey 08807. Ms. Charvat can be contacted through the undersigned.

INTERROGATORY NO. 23

Identify each expert that you expect to call as a witness in this proceeding and state the subject matter on which each expert is expected to testify, the substance of the expert's opinion, and the grounds of the opinion.

RESPONSE TO INTERROGATORY NO. 23

Petitioner objects to this interrogatory to the extent it seeks disclosure of information protected from disclosure by the attorney-client privilege, attorney work product, and/or other applicable privilege. Petitioner further objects to this request as premature. Petitioner will identify expert witnesses in accordance with the Federal Rules of Civil Procedure and the Trademark Trial and Appeal Board Manual of Procedure.

Respectfully Submitted,

Dated: November 23, 2011

VALERITAS, INC.

By: /Gregory M. Krakau/
Gregory M. Krakau
Thomas F. Dunn
Sheri S. Mason
Morse, Barnes-Brown & Pendleton, P.C.
1601 Trapelo Road, Suite 205
Waltham, Massachusetts 02451
Tel: 781.622.5930
Fax: 781.622.5933
Email: ttab@mbbp.com

VERIFICATION

On behalf of Valeritas, Inc., I hereby state under the penalties of perjury that I have read the foregoing answers and believe them to be true and accurate to the best of my knowledge. To those answers to which I do not have personal knowledge, I hereby affirm that the information provided to me for the foregoing answers is true and accurate to the best of my knowledge.



Tara Charvat
Vice President of Marketing
and Marketing Operations
Valeritas, Inc.

CERTIFICATE OF SERVICE

I, Tracy D. Skahan, certify that a copy of the foregoing VALERITAS, INC'S RESPONSES AND OBJECTIONS TO VGO COMMUNICATIONS, INC.'S FIRST SET OF INTERROGATORIES were served on:

Michael J. Bevilacqua, Esq.
Barbara A. Barakat, Esq.
Wilmer Cutler Pickering Hale & Dorr LLP
60 State Street
Boston, Massachusetts 02109

by placing same with the U.S. Postal Service, via first class mail, postage pre-paid, this 23rd day of November, 2011.



Tracy D. Skahan

EXHIBIT K

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

Valeritas, Inc.,)

Petitioner)

v.)

Vgo Communications, Inc.,)

Registrant)

Cancellation No. 92054171

**REGISTRANT VGO COMMUNICATIONS, INC.'S RESPONSES TO PETITIONER
VALERITAS, INC.'S FIRST SET OF INTERROGATORIES TO REGISTRANT**

PRELIMINARY STATEMENT

1. These answers are made solely for the purpose of this proceeding and are subject to all objections as to competence, relevance, materiality, and admissibility, as well as to any and all other objections on any other ground. All of these objections and grounds are hereby expressly reserved and may be interposed at the time of any deposition or during any resulting proceedings.

2. These answers are based upon information and documents presently available to and located by Vgo Communications, Inc. ("VCI" as designated in Valeritas' First Set of Interrogatories to Registrant) and its attorneys, and VCI intends no incidental or implied admissions. VCI's responses or objections to any interrogatory or part of any interrogatory is not intended and should not be construed as an admission or that the answer or objections constitutes

3. VCI objects to the interrogatories to the extent they seek information protected by attorney/client privilege, the attorney work-product doctrine, or any other applicable privilege.

4. VCI objects to the interrogatories to the extent they are overly broad, unduly burdensome, oppressive, request irrelevant information, and/or are not reasonably calculated to lead to the discovery of admissible evidence.

5. VCI objects to the interrogatories to the extent they are unreasonably broad or burdensome by not providing a time limit as to the scope of the Interrogatory.

6. VCI objects to the interrogatories to the extent they are unreasonably broad or burdensome by not providing a geographic scope for the Interrogatory.

7. VCI objects to the interrogatories to the extent they contain words or phrases that lack an apparent meaning or have an uncertain meaning.

8. VCI objects to the interrogatories to the extent they impose obligations beyond those set forth in the Federal Rules of Civil Procedure and/or the Trademark Trial and Appeal Board Manual of Procedure.

9. VCI objects to the interrogatories to the extent that they number more than the number allowed under the Trademark Trial and Appeal Board Manual of Procedure.

Subject to the forgoing qualifications, General Objections and the specific objections made below, VCI answers Petitioner's First Set of Interrogatories as follows:

RESPONSES

INTERROGATORY NO. 1:

State all facts concerning VCI's adoption of VCI's Mark, including but not limited to:

- (a) identifying all persons who were involved in the selection of the mark and stating each such person's role in the selection of the mark;
- (b) identifying the date or dates upon which the mark was selected; and
- (c) stating whether any trademark searches were conducted in connection with the adoption of the mark, and if so, identifying the person(s) who conducted the search(es), whether or not such person(s) were attorneys, and identifying any search reports that were generated as a result of the search(es).

RESPONSE TO INTERROGATORY NO. 1:

VCI incorporates all of its General Objections and, specifically, General Objections 1 and 3. In particular, VCI objects to this Interrogatory to the extent that it seeks information that constitutes confidential or private business information, including information pertaining to trade secrets, business decisions, and/or competitively sensitive information. In addition, VCI objects to this Interrogatory to the extent that it seeks information that falls under attorney/client privilege or the attorney work product doctrine or any other applicable privilege. Subject to, and without waiving these objections, VCI responds as follows: Ned Semonite, VP Marketing of VCI selected VCI's mark in February 8, 2010. A trademark search was conducted by counsel for VGO.

INTERROGATORY NO. 2:

Identify each and every good and/or service advertised, promoted, distributed, offered, and/or sold by VCI in the United States under or in connection with VCI's Mark, and for each such good or service, state:

- (a) The date of first use in commerce of VCI's Mark in connection with the identified good or service;
- (b) The sales by unit volume, by month and year, for each year since such sales began;
- (c) The gross revenue, by month and year, for each year since such sales began;
- (d) The approximate annual dollar amount expended each year to date by VCI in advertising and promoting each identified good or service under VCI; Mark; and

- (e) The approximate annual dollar amount VCI expects to be spent in advertising and promoting VCI's goods and/or services in connection with VCI's Mark for each year from 2012 through 2016.

RESPONSE TO INTERROGATORY NO. 2:

VCI incorporates all of its General Objections and, specifically, General Objections 1 and 4. In particular, VCI objects to this Interrogatory to the extent that it requests to the extent they seek information that constitutes confidential or private business information, including information pertaining to trade secrets, business decisions, and/or competitively sensitive information. VCI also objects to this Interrogatory to the extent that it is unreasonably broad, unduly burdensome, oppressive, requests irrelevant information and/or is not reasonably calculated to lead to the discovery of admissible evidence. Subject to, and without waiving these objections, VCI responds as follows: VCI provides robotic video and communication hardware and computer software for use in connection with audio and video communication systems under its mark. The first use in interstate commerce of VCI's Mark was July 29, 2010. VCI expended approximately \$50,000 on advertising and sales in 2010 and approximately \$200,000 in 2011. VCI projects advertising expenses to be \$400,000 in 2012, \$800,000 in 2013, \$1,800,000 in 2014 and \$4,500,000 in 2015. VCI will provide documents responsive to Interrogatory 2(b) and (c).

INTERROGATORY NO. 3:

Identify all persons with knowledge of:

- (a) Valeritas's use of Valeritas' Mark;
- (b) any likelihood of confusion between VCI's Mark and Valeritas's Mark; and
- (c) any actual confusion between VCI and/or VCI's Mark on the one hand and Valeritas and/or Valeritas' Mark on the other hand;

and for each such person, state all facts and circumstances concerning that person's knowledge.

RESPONSE TO INTERROGATORY NO. 3:

VCI incorporates all of its General Objections and, specifically, General Objections 1 and 4. In particular, VCI objects to this interrogatory to the extent that it seeks information that constitutes confidential or private business information, including information pertaining to trade secrets, business decisions, and/or competitively sensitive information. VCI also objects to this Interrogatory to the extent that it is unreasonably broad, unduly burdensome, oppressive, requests irrelevant information and/or is not reasonably calculated to lead to the discovery of admissible evidence, in that it is impossible for VCI to identify “all persons with knowledge of Valeritas’ use of Valeritas’ Mark.” Additionally, VCI objects to this Interrogatory because the question of the likelihood of confusion between VCI’s Mark and Valeritas’ mark is a question of law. Subject to, and without waiving these objections, VCI responds as follows: VCI is not aware of any instances of actual confusion between VCI and/or VCI’s Mark on the one hand and Valeritas and/or Valeritas’ Mark on the other hand.

INTERROGATORY NO. 4:

State all facts concerning VCI’s class of customers—whether desired and/or actual—specifically with respect to demographic information for the customers (age, sex, income level, interests, and any other characteristics), how the customers purchased VCI’s products, and the uses to which the customers put VCI’s products.

RESPONSE TO INTERROGATORY NO. 4:

VCI incorporates all of its General Objections and, specifically, General Objections 1 and 4. In particular, VCI objects to this interrogatory to the extent that it seeks information that constitutes confidential or private business information, including information pertaining to trade secrets, business decisions, and/or competitively sensitive information. VCI also objects to this Interrogatory to the extent that it is unreasonably broad, unduly burdensome, oppressive, requests irrelevant information and/or is not reasonably calculated to lead to the discovery of

admissible evidence, in that it requests information as to VCI customers “sex, income level, interests and any other characteristic.” Subject to, and without waiving these objections, VCI responds as follows: VCI provides its products to companies within the enterprise, education and healthcare markets, and these companies range from small businesses to Fortune 500 companies. Customers purchase VCI products directly from VCI or through VCI’s value added resellers. Customers use VCI products for remote communication purposes in many different applications and locations throughout the customer’s company.

INTERROGATORY NO. 5:

State all facts concerning VCI’s channels of trade, including but not limited to identifying all channels through which VCI’s goods are sold, whether online, through retail outlets (and if so, identify the retail outlets), trade shows, consumer shows, through the medical and/or health care profession, and/or otherwise, and listing the percentages of VCI’s sales, by unit and dollar volume, for each such channel of trade.

RESPONSE TO INTERROGATORY NO. 5:

VCI incorporates all of its General Objections and, specifically, General Objections 1, 4 and 7. In particular, VCI objects to this interrogatory to the extent that it seeks information that constitutes confidential or private business information, including information pertaining to trade secrets, business decisions, and/or competitively sensitive information. VCI also objects to this Interrogatory to the extent that it is unreasonably broad, unduly burdensome, oppressive, requests irrelevant information and/or is not reasonably calculated to lead to the discovery of admissible evidence. VCI also objects to this interrogatory to the extent that it contains words or phrases that lack an apparent meaning or have an uncertain meaning, in that the phrase “through the medical and/or health care profession” is unclear and therefore cannot be answered. Subject to, and without waiving these objections, VCI responds as follows: VCI sells 100% of its goods directly or through its Value Added Resellers. VCI does not sell its products through retail outlets, trade shows, consumer shows.

INTERROGATORY NO. 6:

State all facts concerning VCI's attendance at trade and consumer shows, identifying all shows attended, the dates upon which the shows took place, the sales made, by unit and dollar volume, at each show attended, and the dates upon which future shows that VCI plans to attend are scheduled to take place.

RESPONSE TO INTERROGATORY NO. 6:

VCI incorporates all of its General Objections and, specifically, General Objections 1 and 4. In particular, VCI objects to this interrogatory to the extent that it seeks information that constitutes confidential or private business information, including information pertaining to trade secrets, business decisions, and/or competitively sensitive information. VCI also objects to this Interrogatory to the extent that it is unreasonably broad, unduly burdensome, oppressive, requests irrelevant information and/or is not reasonably calculated to lead to the discovery of admissible evidence. Subject to, and without waiving these objections, VCI responds as follows: In the past, VCI has attended the RoboBusiness Conference & Expo in 2010 and 2011, DevLearn 2010 in San Francisco, CA, and DevLearn 2011 in Las Vegas, Nevada, InfoComm 2010 in San Diego, CA and InfoComm 2011 in Las Vegas, Nevada, American Telemedicine Association Conference 2010 in Tampa, Florida, the Collaboration Across Borders III in 2011 in Tucson, Arizona, and the Consumer Electronic Show in Las Vegas, Nevada. VCI plans to attend World Mobile Congress, Barcelona, Spain, on February 27 -March 1, 2012, Human Robot Interaction, March 5-8, 2012 in Boston, MA, Northwest Regional Telemedicine Conference, March 19-20, 2012 in Billings MT, Verizon MtoM Tech Showcase, March 20-21, 2012 in Columbus, Ohio, Enterprise Connect, March 26-29, 2012 in Orlando FL, American Telemedicine Association Conference 2012, April 29 - May 1, 2012 in San Jose, California, e-Heath 2012, May 27-30, 2012 in Vancouver, BC, InfoComm 2012, June 15-17, 2012 in Las Vegas, Nevada,

VCI- Group Annual Conference, October 22-24, 2012 in Monterey, CA. As stated in response to Interrogatory No. 6, VCI does not sell its products at trade shows.

INTERROGATORY NO. 7:

Identify representative specimens of advertisements, brochures, catalogs, news and/or feature stories, press releases, and/or promotional materials evidencing VCI's use of VCI's Mark in connection with each and every good and service upon which VCI's Mark has been used, and state the respective dates and publications of the media in which the material appeared.

RESPONSE TO INTERROGATORY NO. 7:

VCI incorporates all of its General Objections and, specifically, General Objections 1 and 4. In particular, VCI objects to this interrogatory to the extent that it seeks information that constitutes confidential or private business information, including information pertaining to trade secrets, business decisions, and/or competitively sensitive information. VCI also objects to this Interrogatory to the extent that it is unreasonably broad, unduly burdensome, oppressive, requests irrelevant information and/or is not reasonably calculated to lead to the discovery of admissible evidence. Subject to, and without waiving these objections, VCI responds as follows: VCI will provide non-privileged and otherwise non-objectionable documents responsive to this Interrogatory.

INTERROGATORY NO. 8:

Identify each and every instance in which any person has claimed to be deceived, mistaken or confused regarding the source of VCI's goods or services offered under or in connection with VCI's Mark based on confusion with Valeritas and/or Valeritas' Mark, and identify each such person, the date upon which the claim of confusion was made, the employees and/or agents of VCI who have the most knowledge any such instance, and for each such person, state whether the person's alleged confusion resulted in a decision to purchase one party's goods in the mistaken belief that the other party was the source of the goods.

RESPONSE TO INTERROGATORY NO. 8:

VCI incorporates all of its General Objections and, specifically, General Objection No. 2. In particular, VCI objects to this Interrogatory to the extent it seeks information that is not within

its possession, custody or control and or is within the files or particular knowledge of Valeritas.

Subject to, and without waiving these objections, VCI responds as follows: VCI is not aware of any instance in which any person has claimed to be deceived, mistaken or confused regarding the source of VCI's goods or services offered under or in connection with VCI's Mark based on confusion with Valeritas and/or Valeritas' Mark.

INTERROGATORY NO. 9

State all facts concerning how VCI's goods and/or services are marketed, promoted, offered, and/or sold to the medical and/or health care communities, describing whether and how VCI's goods are marketed, promoted, offered, and/or sold to doctors, hospitals, health insurers, and/or patients.

RESPONSE TO INTERROGATORY NO. 9:

VCI incorporates all of its General Objections and, specifically, General Objections 1 and 4. In particular, VCI objects to this interrogatory to the extent that it seeks information that constitutes confidential or private business information, including information pertaining to trade secrets, business decisions, and/or competitively sensitive information. VCI also objects to this Interrogatory to the extent that it is unreasonably broad, unduly burdensome, oppressive, requests irrelevant information and/or is not reasonably calculated to lead to the discovery of admissible evidence. Subject to, and without waiving these objections, VCI responds as follows: Customers purchase VCI products directly from VCI or through VCI's value added resellers. VCI markets or promotes its products to doctors and/or hospitals by direct mail targeting medical technology innovation officers or IT directors and by attending trade shows targeted to the telemedicine market. VCI offers and sells its products to hospitals and/or doctors directly or through value added resellers.

INTERROGATORY NO. 10:

State all facts concerning any communications between Ned Semonite and any doctors, including but not limited to Richard E. Pratley, M.D., concerning VCI, VCI's Mark, and/or

VCI's goods and/or services, identifying the date of any and all such communications and describing the content of such communications.

RESPONSE TO INTERROGATORY NO. 10:

VCI incorporates all of its General Objections and, specifically, General Objections 1 and 4. In particular, VCI objects to this interrogatory to the extent that it seeks information that constitutes confidential or private business information, including information pertaining to trade secrets, business decisions, and/or competitively sensitive information. VCI also objects to this Interrogatory to the extent that it is unreasonably broad, unduly burdensome, oppressive, requests irrelevant information and/or is not reasonably calculated to lead to the discovery of admissible evidence, in that it asks for communications between Mr. Semonite and any doctors. Subject to, and without waiving these objections, VCI responds as follows: As part of his role of Vice President of Marketing, Mr. Semonite comes in contact with many doctors and other customers and prospects. Mr. Semonite does not have any communications between himself and Richard E. Pratley and does not have any recollection of communications with Richard E. Pratley. Dr. Pratley's name is not in VCI's CRM database and his name does not appear on any mailing lists obtained by VCI.

INTERROGATORY NO. 11:

Identify by uniform resource locator (URL) and/or domain name each and every website owned, operated, or used by VCI to advertise, promote, and/or sell any goods or services in connection with VCI's Mark, and identify all persons with knowledge of VCI's advertising, promotion, and/or sale of goods and services via the Internet.

RESPONSE TO INTERROGATORY NO. 11:

VCI incorporates all of its General Objections and, specifically, General Objections 1 and 4. In particular, VCI objects to this interrogatory to the extent that it seeks information that constitutes confidential or private business information, including information pertaining to trade secrets, business decisions, and/or competitively sensitive information. VCI also objects to this

Interrogatory to the extent that it is unreasonably broad, unduly burdensome, oppressive, requests irrelevant information and/or is not reasonably calculated to lead to the discovery of admissible evidence. Subject to, and without waiving these objections, VCI responds as follows: VCI owns, operates and uses the domain name www.vgocom.com to advertise, and promote its goods or services in connection with VCI's Mark. In addition, VCI's Value Added Resellers promote VCI's products on their websites. As stated above, VCI does not sell its products via the Internet.

INTERROGATORY NO. 12:

For each request for admission set forth in Valeritas's First Set of Requests for Admissions that VCI does not unqualifiedly admit, state the factual basis for the denial or qualified admission, and identify all persons with knowledge of the facts described.

RESPONSE TO INTERROGATORY NO. 12:


VCI incorporates all of its General Objections and, specifically, General Objections 1, 4 and 8. In particular, VCI objects to this interrogatory to the extent that it seeks information that constitutes confidential or private business information, including information pertaining to trade secrets, business decisions, and/or competitively sensitive information. VCI also objects to this Interrogatory to the extent that it is unreasonably broad, unduly burdensome, oppressive, requests irrelevant information and/or is not reasonably calculated to lead to the discovery of admissible evidence and to the extent they impose obligations beyond those set forth in the Federal Rules of Civil Procedure and/or the Trademark Trial and Appeal Board Manual of Procedure. Finally, VCI objects to this Interrogatory to the extent that many of the Requests for Admissions were not answered because they required a conclusion of law, rather than a statement of fact.

Verification

On behalf of Vgo Communications, Inc., and in my capacity as

COO, I have read the foregoing responses to Petitioner Valeritas, Inc.'s First Set of Interrogatories. I do not necessarily have direct personal knowledge of every fact contained herein. The response was prepared with the assistance of Vgo Communications, Inc.'s employees and with the assistance and advice of counsel. The answers are based on records and information currently available. I reserve the right to make changes in or additions to any of these answers if it appears at any time that errors or omissions have been made or if more accurate or complete information becomes available. To the extent I do not have personal knowledge, I have relied on others to gather the responsive information. I declare under penalty of perjury that the foregoing is true and correct.


Signed this 5 day of March, 2012



Name:
Title: COO

As to objections

VGO COMMUNICATIONS, INC.
By its attorneys,



Michael J. Bevilacqua
Barbara A. Barakat
Wilmer Cutler Pickering Hale and Dorr LLP
60 State Street
Boston, Massachusetts 02109
(617) 526-6000

Date: March 8, 2012

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Registrant's Responses to Petitioner's First Set of Interrogatories to Registrant was served by first-class mail, postage-prepaid, this 8th day of March, 2012 upon:

Gregory M. Krakau, Esq.
Thomas F. Dunn, Esq.
Faith D. Kasparian, Esq.
Morse, Barnes-Brown & Pendleton, P.C.
1601 Trapelo Road, Suite 205
Waltham, Massachusetts 02451



Barbara A. Barakat

EXHIBIT L



Solutions

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- Benefits
- Applications
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 - Large Enterprise
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Large Enterprise

VGo helps many large enterprises overcome distance, manage remote teams, be at many locations at once and tackle unforeseen problems, cost-effectively while increasing organizational productivity.



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Applications abound in the large enterprise. Today, Remote Engineers/Project Management and Remote Manager are the most common. Virtual Tours, Security, and Inspections are also good uses for VGo.

Click here to download a comprehensive white paper on VGo for remote project management in large enterprises.

VGo Large Enterprise Applications

Learn more about how VGo is used in Large Enterprise environments:

- » Remote Executive
- » Remote Engineer
- » Training
- » People with Disabilities in the Work Place

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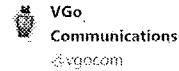
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Manufacturing

VGo's robotic telepresence solution is used by remote engineers and remote project team members to stay connected with distant team members, to engage in processes and to keep visually involved in engineering, product development, manufacturing and integration projects.



Manufacturers' performance is all about delivering required quality on time. VGo has been used to help diagnose issues by remote engineers anywhere on the production line and by operations managers to monitor progress. Virtual Tours, Security and Inspections are also good uses for VGo.

Click here to download a comprehensive white paper on VGo for remote project management in manufacturing environments.

VGo Manufacturing Applications

Learn more about how VGo is used in Manufacturing environments:

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Verizon Staffs Its CES Booth with People Who Aren't There Via VGo



VGo employee Angela Paris speaks with attendees at CES 2012, demonstrating VGo's Verizon 4G LTE connectivity. Though she wasn't able to attend the Las Vegas conference in person, she worked in the Verizon 4G LTE booth by controlling this VGo from her laptop in Boston.

From the Other Side of the Country, Staff Use a VGo with Embedded 4G LTE to Showcase the Latest Network Enabled Applications

LAS VEGAS, NV, BASKING RIDGE, NJ, and NASHUA, NH – From the 2012 International Consumer Electronics Show (CES), Verizon Wireless and VGo announced the demonstration of a state-of-the-art robotic telepresence with embedded 4G LTE connectivity in the Verizon booth (Las Vegas Convention Center, South Hall, Booth #30259). Direct from Verizon's LTE Innovation Center, a remote person's presence is replicated by a VGo in the booth, enabling complete freedom of movement and interactive conversations with attendees.

VGo is a productivity improvement solution that enables a person to replicate himself in a distant location and have the freedom to move around as if the person was physically there. VGo's are being used today in enterprises where a person needs to manage remotely or participate in a project team. Healthcare organizations are using VGo to monitor patients, leading to higher levels of care at lower costs. Schools are saving money by enabling home/hospital bound and special needs students to attend class with all their friends without the additional costs of tutors. With embedded Verizon

4G LTE connectivity, VGo's graceful form factor is preserved, while expanding the range of mobility by not requiring VGo to be close to Wi-Fi access points. In addition, congestion issues are managed and setup is extremely fast and easy.

Peter N. Vicars, president and chief executive officer for VGo Communications said, "When you have a solution that is guided remotely, the wireless connectivity is unbelievably important – we don't work without it. Using a wide area, high-speed wireless network greatly expands the applications for VGo, and Verizon 4G LTE is the first service that meets the unique requirements of our real-time solution."

Verizon Wireless leads the way in 4G with the largest 4G LTE network and most reliable 4G network in the United States, which now covers more than 200 million people in 190 markets. Verizon established its Innovation Program to encourage collaboration and help advance the 4G LTE ecosystem. The company's LTE Innovation Center in Waltham, Mass., and its Application Innovation Center in San Francisco were created to inspire, enable and develop non-traditional devices, services and applications that take advantage of Verizon Wireless' industry-leading wireless networks.

Through the Innovation Program, Verizon seeks to expand the possibilities of 4G LTE by working with diverse companies, from start-ups to established players, in industries representing a broad range of verticals. VGo has been a featured participant in the Verizon's Innovation Program since the spring of 2011. Development assistance was provided for the embedding of 4G LTE capabilities into the VGo, and introductions were provided to technology partners resulting in commercial relationships between VGo and Novatel for the supply of their E362 4G LTE modem and with Taoglas for their PA.700.A antenna. For more information about Verizon at CES, visit www.verizonwireless.com/ces or follow Verizon Wireless news on Twitter at @VZWnews.

(EDITOR'S NOTE: Media attending CES 2012 in Las Vegas can visit Verizon Wireless and VGo at LVCC, South Hall, Booth #30259.)

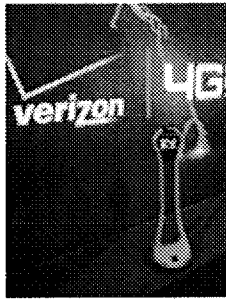
VGO 001466

About Verizon Wireless

Verizon Wireless operates the nation's largest 4G LTE network and largest, most reliable 3G network. The company serves 107.7 million total wireless connections, including 90.7 million retail customers. Headquartered in Basking Ridge, N.J., with nearly 83,000 employees nationwide, Verizon Wireless is a joint venture of Verizon Communications (NYSE, NASDAQ: VZ) and Vodafone (LSE, NASDAQ: VOD). For more information, visit www.verizonwireless.com. To preview and request broadcast-quality video footage and high-resolution stills of Verizon Wireless operations, log on to the Verizon Wireless Multimedia Library at www.verizonwireless.com/multimedia.

About VGo

VGo Communications, Inc. develops and markets visual communications solutions for the workplace. By leveraging the recent trends of widespread wireless high speed networks, lower specialized component costs and the universal acceptance of video as a communications medium VGo is creating a new market category called "Robotic Telepresence." With VGo, an individual's presence is established in a distant location such that they can interact and perform their job in ways not previously possible. Now you can see, hear, be seen, be heard and move around in any remote site – just as if you were there. Primary applications include healthcare, monitoring and remote management. VGo's channel partners will enable businesses to increase productivity of remote and travelling employees, healthcare providers to deliver lower cost services and improved quality of care, and small companies to check on their operations - all with a great user experience and at an affordable price. For more information visit www.vgocom.com



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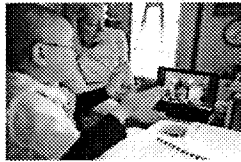
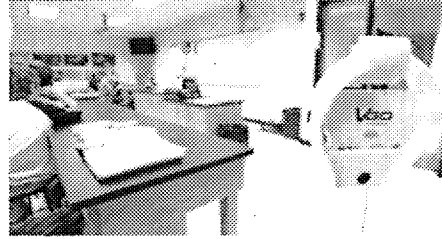
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VGo for Students with Special Health Needs

VGo for Remote Students has opened up academic and social environments to students with disabilities and immune-deficiencies. There are no longer boundaries between them and the world that was previously inaccessible. VGo enables students to:

- Receive the same instruction as their peers
- Move around/between classrooms independently
- Socialize with friends in the hallways and at lunch
- Participate in a full school day with their classmates



VGo is being used successfully today by students who can't physically go to school due to an illness, accident or medical condition. Its appliance design means instant deployment anywhere so no planning or handholding is required. VGo is also a great tool for teachers who may be remote.

Resources:

- Click [here](#) to find out what educators are saying about VGo.
- Click [here](#) to meet some real students using VGo today.
- Click [here](#) to download a white paper about how VGo enables students with special health needs to attend school.
- Click [here](#) to read the Homebound Remote Student Case Study and ROI

VGo VGo for Students with Special Health Needs Applications

Learn more about how VGo is used in VGo for Students with Special Health Needs environments:

» Remote Student


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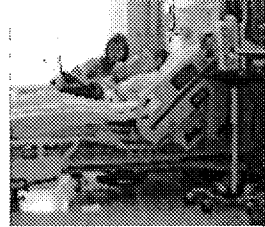
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Robot gives students a virtual presence in school

Student recovering from surgery at Barbara Bush Children's Hospital uses VGo to stay current in school

BERWICK, Maine (Tim Goff, WCSH NEWS CENTER) - Not every child is lucky enough to enjoy time with their friends during the school year or over summer vacation as they undergo treatment in the hospital or while they recover at home, but Grahamtastic Connection is using hi-tech tools to keep kids connected.



Last spring, Prime Motor Group donated a VGo Robot to the non-profit organization - which has provided more than 950 laptops to kids throughout the country over the past 16 years. Two more were donated by people who wish to remain anonymous. All three have been provided, free of charge, to families while their child undergoes treatment in the hospital or recovers at home.

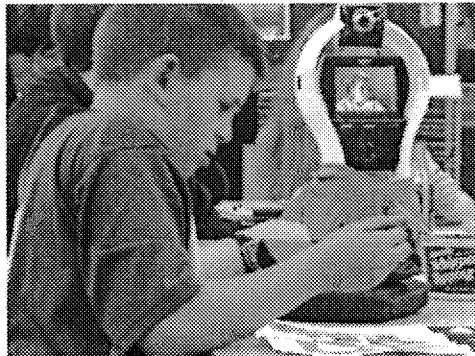
"It just transports them right into the classroom," explained Leslie Morisette, Grahamtastic's founder. "I think that is what really makes it unique."

>>> [WATCH THE VIDEO HERE](#)

The VGo not only allows kids to communicate face-to-face via cameras and monitors, but it also roams the halls and sits in class wherever the operator chooses to go.

"It has worked out perfectly," stated Melanie Stevens, a teacher at Noble Middle School. "It really has not been as disruptive as someone might think."

She says the first day VGo showed up in their school kids did get up in its face, but they soon learned how to act around it. She says it may have been more of an adjustment for the teachers as they got used to the minor lag time in communicating back and forth with their students.



Sixth grader, Kailee Sprague, was given the opportunity to use a VGo after having surgery at Barbara Bush Children's Hospital.

"It is really cool because I get to drive it around wherever I need to go," exclaimed Kailee, though she admits controlling the robot remotely took some getting used to.

"I've hit a few things like desks and walls," she said.

She says having the chance to stay connected with her friends, and caught up on her school work has been a nice distraction while she recovers.

"It is pretty amazing," said Kailee's mom, Jennifer. "It makes her feel connected. It helps her be there. Education is important. She is a good student and she doesn't want to miss everything that is going on in her world."

Grahamtastic Connection is now accepting applications from families that would like to use a VGo this fall. You can find more information about eligibility requirements and how to apply by visiting their website.

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Student with chronic pancreatitis attends school via VGo

SAN ANTONIO — Sitting on her living room couch Wednesday morning, fifth-grader Rebecca Taylor beamed at the screen of her iPad. With each swipe and tap, she maneuvered a VGo robot a few miles away in her Leon Springs Elementary School classroom.



For the past three weeks, Taylor has been using the robot to attend classes via a video chat. The 4-foot-tall device is always clad in a school T-shirt, and she controls its every move, wheeling it backwards, forwards and around corners.

Taylor, who was diagnosed with chronic pancreatitis four years ago, is often hospitalized for surgeries and has missed class for weeks at a time. Because the condition is rare and most of its treatments are experimental, Taylor and her parents need to travel to see specialists at the Mayo Clinic, the University of Minnesota in Minneapolis and The Johns Hopkins Hospital in Baltimore.

For Taylor, a cheerful and sociable girl, the robot is more than a way to keep up with schoolwork. It connects her to her friends.



"It was really exciting because I hadn't seen any of my friends in a long time," Taylor said.

"They don't allow kids in PICU," she added, referring to a pediatric intensive care unit she had recently spent time in. "I'd been there for a week, or a week and a half, and so I couldn't get any visits from anybody."

Watch of Video of Rebecca using the VGo

So far, the robot is the only method that's allowed Rebecca to actively learn and socialize during her hospital stays, some of which last 10

weeks at a time, said her mother, Christyn Taylor.

"This is the first thing that allows her to engage. She can participate in it, and she can keep up," Taylor said. "And she doesn't have to wait until the end of the hospital stay to get any of her schooling."

LeAnne Boddie, a third-grade teacher at Leon Springs, organized the robot loan as a way to keep Taylor involved during the three weeks before elementary school graduation, hoping Taylor would be well enough to attend the ceremony.

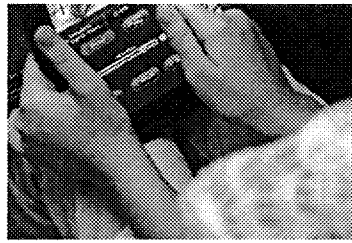
"I wanted to be able to try to get her on campus, even if it's for a couple of days," said her teacher. "Even if it was just virtually, (it's important that she) have a connection and feel like she's part of the group and the community."

The robot will be available for Taylor to use until next May. The school borrowed it from the Region 6 Education Service Center in Huntsville. The robot is one of 21 that the Texas Education Agency regional office lends to homebound children, said Kip Robins, its information technology service manager.



When Robins bought Region 6's first robot two years ago, it was the second one in Texas designated for use by homebound students, he said. Since then, Region 6's robot program has expanded; he believes it's the largest of its kind in the United States.

Other TEA regions have acquired robots as well, but teachers and administrators still seek out Robins for the devices. District 20, which includes Bexar County, has two. Cindy Miller, an educational specialist at Region 20, said her office is seeking funding to buy 11 more for the next school year.



Robins said that "all we're doing is basically putting these kids back in the classroom, where they need to be."

Christyn Taylor recalled the day her daughter fainted at school and begged the nurse not to send her home.

"We laugh because it's a privilege to go to school, and most kids take it for granted," Taylor said. "In this case, you don't. She wants to go every single day, because it just means being normal."

Images courtesy of San Antonio Express News photographer Bob Owen. See the full story here.

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VGo Helps Cancer Patient Return to Classroom

May 29, 2104 | Boerne, TX |

From Rosie, the Jetsons' sometimes cantankerous metallic maid, to the diminutive droid of *Star Wars*, R2D2, most of us have a mental image of how a robot is supposed to look, perform and behave.

If Fabra Elementary fourth grader Brea Hines had preconceived notions about robots before this semester, it just might be that those stereotypes have been transported to a distant galaxy since she met Fred.



Fred, the nickname of a robotic device produced by VGo Communications, spent the month of May in the fourth grade classrooms and corridors at Fabra. Meanwhile, Brea was homebound after being diagnosed with and treated for Wilms tumor, a cancerous tumor of the kidney. Fred became Brea's way to get back to class and be among her friends.

Brea was diagnosed shortly after school began last fall. After spending time in the hospital, she was able to return home and eventually resume classwork with the assistance of Becky Collie, Boerne ISD's teacher for homebound students. Her classroom teacher, Carrie Fiedler, occasionally would be in touch with Brea and her mother, Stephanie, supplying lesson materials and greetings from her classmates.

But Brea is the first to admit that "school" did not seem fun, isolated as she was, until late April when a new opportunity presented itself. Through a trial program initiated by the Region 20 Educational Service Center, Boerne ISD took the VGo robot on a test drive and all of a sudden Brea was able to be back in her Fabra classroom, albeit virtually.

Fred stands about four feet tall, roams about the classroom (or anywhere on campus) on two wheels, and features a video screen and camera that bring Brea into the classroom – and bring the classroom to Brea. For her part, Brea sits at a laptop computer on a desk in the Hines kitchen, talking on a headset, controlling the VGo's motions and actions remotely, and engaging once again with her teachers and classmates.



"Having the homebound teacher was good," Brea says, "but with the VGo, I get to see my friends. Seeing my friends, checking in with them and keeping up with what's going on has been the best part of this."

Everyone involved agrees with Brea's assessment.

"Before VGo, the time spent interacting with Brea was mostly non-existent," fourth grade teacher Fiedler says. "I gave work to the homebound teacher and kept in contact with Brea's mother, but everything felt very distant.

"The advantages to having Brea in the room through Fred are profound. We've established a relationship. She gets to experience both the excitement and the hum-drum of daily school activities. She participates in class discussion and "raises her hand" by turning on a bright light on the robot."

VGO 001358

Fiedler notes that she has to stay at least one step ahead of Brea, making sure she has handouts and other materials so that she is able to directly follow along during class time. But the teacher says she has seen a marked change in Brea's attitude since the student regained regular access to her friends.



"She gets to laugh at my jokes and interact with her peers," says Fiedler. "It's been utter joy having her in class again. VGo has allowed Brea to participate in most activities with her peers while keeping her safe and healthy and limiting her contact with germs."

Brea's mother, Stephanie, agrees that the arrival of the robot has helped Brea close her fourth grade year on a positive note.

"In addition to being able to directly participate in the classwork," she says, "just getting to stay connected socially has been a tremendous benefit for Brea. It has made a tremendous difference."

Even Brea's classmates have enjoyed the presence of Brea and Fred in their room.

"It is like she is actually in the room with us," says fellow fourth grader McKenna Mann.

As she prepares to move to fifth grade, Brea has a couple more treatments in her chemo regimen and then a full physical examination to determine where she is in her fight against disease. And Fred will most likely spend the summer recharging and getting ready to help another child somewhere stay connected with his or her classroom. George Jetson and Hans Solo most assuredly would approve of this partnership between human and robot.

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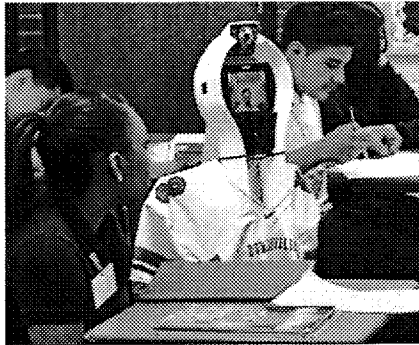


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Gunshot victim returns to campus with help of VGo

Storm Malone took his first steps on campus... or maybe "rolls" is the better word. From his home, the freshman maneuvered a VGo robot, equipped with a screen and outfitted in his football jersey, through the campus and attended his world geography class. This was Malone's first glimpse inside of the classroom since before his domestic violence incident this summer.



"I'm just really excited to have this opportunity," Malone said. "I couldn't believe when they told me."

Over the summer, Malone and his family were shot in a domestic violence incident. His mother and sister died, and he was left in critical condition. Since then, he continues to recover.

"He worries about his handicap and how people will receive him, but things like this give him independence," grandmother Lurlean Smith. said. "He's getting there."

Lori Aden, a representative from Region 10 educational service center, heard about the VGo program being used in another region and began the pilot program in this area. The robot allows home-bound students like Malone to actively participate in school. Malone is the second student to benefit from the technology, but with approximately 350 other home-bound students in this region, Aden hopes to expand the program with the help of corporate sponsors over the summer.

"We just want to help these kids out," Aden said. "It helps them be independent. They can drive to class, or drive right up to their group work, like Storm is doing. They're back in control of their learning."

Aden is passionate about the program because of the benefit it has on every student who witnesses it, not just the student operating it.

"It's a wonderful program," Aden said. "It's going to teach the students on the other side compassion and empathy. For the first few days, it's a robot, but after a week or so, that will be Storm."

"When the kids see him in the hallway, they don't gravitate to him because it's a robot. They gravitate to him because it's Storm," said Duncanville ISD's Mindy Autry. "And they look not at the robot, they look at the screen. And they look at his face and they want to see him."

Storm can guide the robot remotely through the halls. The technology is bringing him back to his friends, who say it doesn't feel strange at all.

"It already felt good just to see him at home doing better," said classmate Kamaria Davis. "So to see him at school is still a big step, and it's amazing."

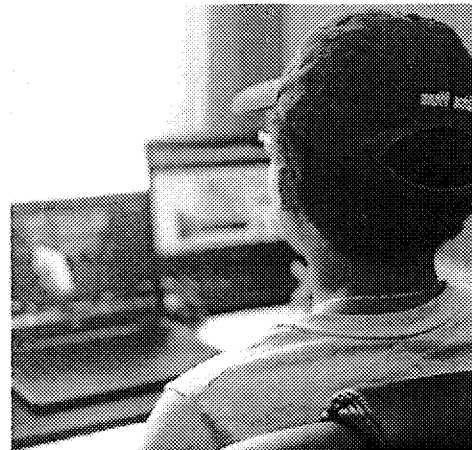
Malone's home-bound teacher Ruthie Achilles has been on this journey with Storm since the fall. She's seen much improvement in his vision and writing and his ability to sit or walk by himself since then.

"It's wonderful just to see the small things every day," Achilles said.

Achilles believes the robot will give Storm a realistic view of what he misses by not being in class.

"I'm incredibly hopeful," Achilles said. "This will allow him to have more normalcy in his life and be a part of high school."

Achilles said in addition to the academic advantages, he will benefit from interaction with his peers.



"With the end of the school year coming up, there's lots of social things at school. He'll be able to participate in the celebrations with his friends. I think that's important for him to regain some of that typical teenager experience."

Excerpts from Panther Prints Online and NBCDFW.

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VGo helps Student with Lymphoma Return to School

SAN ANTONIO, TX

Matthew Vasquez is a fifteen-year-old freshman that has been unable to go to school since January because of his lymphoma diagnosis. But now, because of a technology originally intended to bring doctors into the operating room from thousands of miles away, Matthew is ready to come back to school.

"It's really cool, its awesome because I really miss coming to school and seeing my teachers and friends, now with the robot I can," said Matthew. These special robots are remote controlled by the student so that they can hear, see, and move around the classroom, in the lunchroom and between classes with their peers.

"They can actually use (the robot) for four hours a day and be with their peers and be with their friends and get their schooling," said Kip Robins, systems engineer with the Region 6 Education Service Center. "So when they do get ready to go back into the classroom, they're right with their class."

Kip Robins, said that 18 months ago they started using wireless communication robots to help kids that were sick and could no longer attend classes.

"To be able to help somebody, to be able to change somebody's life is huge, and all it is is technology," Robins says.

Now Matt can attend classes, interact with teachers, talk to friends and classmates and once again go back to school from his own living room. "It makes my day 10 times better just seeing everyone," he says.

"He tells me everyday, 'Ask the doctor if I can go back. I can wear a mask. I can do this,'" said Leo Vasquez, Matthew Vasquez's father. "So just knowing now that he can participate daily with his classmates and his teachers, it means a lot to us."

Matthew Vasquez said he had been taking home homework packets and e-mailing back and forth with teachers, but he says to attend class this way is so much better.

"It just really lifts my spirits," Vasquez said. "Now I can see everybody, everyday. So, it's real nice."

Kip says that there are 26 robots in service now in TX, and Matt's robot, who he named Kawhi because he's such a huge Spurs fan, makes number 27. The robots are really starting to be noticed state wide, including right here in south Texas.

"We're really excited about it. We think there are a lot of possibilities for serving students that are out of school temporarily," said Cindy Miller, Educational Specialist with Region 20.

And for one young man, he couldn't be happier that someone took the time to reach out and help him return to a life he missed so much.

Watch the VIDEO here.

Read the NBC News 4 Article

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EXHIBIT N

Tara Charvat

From: Pratley, Richard [Richard.Pratley@flhosp.org]
Sent: Thursday, September 29, 2011 4:00 PM
To: Tara Charvat
Subject: RE: Hello from Florida

The world is not big enough for more than 1 Vgo. Unless of course you include Viggo Mortenson, the actor.

Richard E. Pratley, MD
Director, Florida Hospital Diabetes Institute
Senior Scientist, Florida Hospital Sanford|Burnham Translational Research Institute
Professor, Sanford|Burnham Medical Research Institute
2415 North Orange Avenue
Orlando, Florida 32804
Ph: 407 303-2519
FAX: 407 303-2507

From: Tara Charvat [mailto:TCharvat@valeritas.com]
Sent: Thursday, September 29, 2011 3:58 PM
To: Pratley, Richard; Theresa Wajda
Subject: RE: Hello from Florida

Hi Dr. Pratley-

Thanks for sending this on to us... we are aware of this and working with the Team to understand the impact.

Hope you are well!

Thanks
Tara
Tara Charvat
Vice President, Marketing and Marketing Operations
Valeritas, Inc.
750 Route 202 South, Suite 100
Bridgewater, NJ 08807
Office: 908-927-9920 Ext: 20110
Cell: 773-805-6875
Fax: 908-927-9927
www.valeritas.com
www.go-vgo.com

From: Pratley, Richard [mailto:Richard.Pratley@flhosp.org]
Sent: Thursday, September 29, 2011 3:49 PM
To: Theresa Wajda
Cc: Tara Charvat
Subject: Hello from Florida

Hey – somebody stole your name.....

1. Ned Semonite

VP, Marketing, VGo Comm.

VGo

Video/telepresence Robot

Meet VGo! Introducing VGo--a new solution previously unseen in the workplace. VGo enables you to be present and mobile in and throughout a distant location. You can see, hear, talk, interact, and move around just as if you were there. Hear how physicians are using VGo to attend to patients in distant locations, and how patients with limited mobility are able to attend school and participate in other locations. Conference participants will be able drive the VGo Telepresence Robot during the conference.

Richard E. Pratley, MD
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Ph: 407 303-2519
FAX: 407 303-2507

From: Theresa Wajda [<mailto:twajda@valeritas.com>]
Sent: Tuesday, June 14, 2011 10:57 AM
To: Pratley, Richard
Cc: Tara Charvat
Subject: RE: Hello from Valeritas

Dr. Pratley,

Hope this message finds you well. I should first welcome you to the "Sunshine" state.

As Tara mentions I am the Regional Business Leader for the Gulf Coast Region. I know this is short notice today, but I will be at Florida Hospital Diabetes at 5pm this afternoon. I also plan to be back in the area on the afternoon of July 13th and all day Thursday, July 14th. Please let me know if you would have any time to meet in person and introduce.

Again, welcome to Florida and I look forward to our V-Go discussions.

Regards,

Theresa Wajda
Regional Business Leader, Gulf Coast Region
Valeritas, Inc
twajda@valeritas.com
407-340-9893

From: Tara Charvat
Sent: Monday, June 13, 2011 5:34 PM
To: Rich E Pratley (Richard.Pratley@FLHosp.org)
Cc: Theresa Wajda
Subject: Hello from Valeritas

Hi, Dr. Pratley-

Congratulations on your new post! I was flipping through different symposia information from ADA and came across your name and saw you made a move to a bit of a warmer part of the country. I hope you and your family are settling in nicely.

I know this is probably too last minute, but John Timberlake (who had been promoted to our President and Chief Commercial Officer), Poul Strange and Glenda Lewis (a new medical science liaison who joined the Team earlier this year) will be at the ADA and we would love to catch you up on what is going on at Valeritas... we are getting very close to launch – and, in fact, Florida is a key launch territory for us. If you have time for breakfast, lunch, dinner (or frankly to grab a quick coffee) we would welcome the chance to meet with you.

I know I have solid appts Saturday midmorning and lunch; and an event Monday evening – otherwise, I am very flexible and will be in San Diego from Thurs – Tues.

In any event, I will also pass on your information to Theresa Wajda (copied), who is our regional business leader in Florida. I am sure she will want to reach out and introduce herself.

It would be great to see you in San Diego, if possible.

Best,
Tara

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