IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

U.S. PHILIPS CORPORATION, Plaintiff, v. EASTMAN KODAK COMPANY, Defendant.	)	Civil Action No. 06-251-GMS **REDACTED PUBLIC VERSION**

FINAL PRETRIAL ORDER

This matter having come before the Court at a pretrial conference held pursuant to Fed. R. Civ. P. ("Rule") 16, and Steven J. Balick of Ashby & Geddes, 500 Delaware Ave., P.O. Box 1150, Wilmington, Delaware 19899, (302) 654-1888, and Steven M. Anzalone of Finnegan, Henderson, Farabow, Garrett and Dunner, L.L.P., 901 New York Avenue, Washington, D.C. 20001, (202) 408-4000, having appeared as counsel for plaintiff U.S. Philips Corporation ("Philips"), and Francis DiGiovanni of Connolly, Bove, Lodge & Hutz, 1007 N. Orange Street, Wilmington, Delaware 19899, (302) 658-9141, and Sean C. Cunningham and John Allcock of DLA Piper, 401 B Street, Suite 1700, San Diego, California 92101, (619) 699-2700, having appeared as counsel for defendant Eastman Kodak Company ("Kodak"), the following actions were taken:

(1) This is an action for patent infringement, including a claim for willful infringement. The jurisdiction of the Court is involved under 28 U.S.C. §§ 1331 and 1338. Jurisdiction is not disputed. In the event that liability is found on U.S. Patent No. 4,901,075 ("the '075 patent"), Philips will seek treble damages and attorneys' fees.

(2) This is also an action for a declaratory judgment that the '075 patent is not infringed, is invalid, that Philips is estopped from enforcing the '075 patent based on equitable estoppel and that Kodak is entitled to relief for Philips' deceptive trade practices, fraud and negligent misrepresentation. The jurisdiction of the Court is involved under 28 U.S.C. §§1331, 1337, 1338 and 1367. Jurisdiction is not disputed. In the event that Philips is found to have engaged in deceptive trade practices, fraud or negligent misrepresentation, Kodak will seek damages and attorneys' fees.

(3) The following stipulations and statements were submitted and are attached to and made a part of this Order:

(a) a comprehensive stipulation or statement of all uncontested facts, which will become a part of the evidentiary record in the case (and which, in a jury trial, may be read to the jury by the Court or any party) [Exhibit A];

(b) an agreed statement or statements by each party of the contested issues of fact and law and a statement or statements of contested issues of fact or law not agreed to [Exhibits B1 - B3];

(c) except for rebuttal exhibits, schedules in the form set out in the attached Schedule (c) of;

(1) all exhibits (all exhibits shall be marked for identification before trial), including documents, summaries, charts and other items expected to be offered in evidence, and

(2) any demonstrative evidence and experiments to be offered during trial [Exhibits C1 - C4];[1]

(d) a list or lists of names and addresses of the potential witnesses to be called by each party, with a statement of any objections to calling, or to the qualifications of, any witness identified on the list [Exhibits D1 - D2];

(e) stipulations or statements setting forth the qualifications of each expert witness in such form that the statement can be read to the jury at the time the expert witness takes the stand [Exhibit E1 - E2];

(f) a list of all depositions, or portions thereof, to be read into evidence and statements of any objections thereto [Exhibits F1 - F2];

(g) an itemized statement of special damages [Exhibit G];

(h) waivers of any claims or defenses that have been abandoned by any party [Exhibit H];

(i) for the jury trial:

(i) trial briefs [Exhibits I1 - I2];

(ii) three sets of marked proposed jury instructions, verdict forms, and special interrogatories, if any [Exhibits I3 through I5]; and

(iii) a list of the questions the parties request the Court to ask prospective jurors in accordance with Fed. R. Civ. P. 47(a) and D. Del. LR 47.1(a) [Exhibit I6].

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[1] The parties agree that they will disclose by e-mail to each other any witnesses that will be called two days prior to such witnesses being called. The parties also agree that they will disclose by e-mail to each other the demonstratives and exhibits intended to be used in direct examination by 7:00 p.m. the day before such witnesses will be called and the demonstratives and exhibits are intended to be used.

(j) for equitable issues, proposed Findings of Fact and Conclusions of Law [Exhibit J1]. Kodak plans to submit, and Philips plans to submit a supplemental, proposed Findings of Fact and Conclusions of Law on any equitable issues following trial;

(k) a statement summarizing the history and status of settlement negotiations, indicating whether further negotiations are ongoing and likely to be productive [Exhibit K];

(l) a statement that each party has completed discovery, including the depositions of expert witnesses [Exhibit L]; and

(m) motions *in limine*: Motions *in limine* will be briefed and filed in accordance with the schedule set forth in the Revised Scheduling Order (D.I. 72).

(4) Trial of this case is expected to take 7 days.

(5) Indicate the type of trial by placing an X in the appropriate box:

Jury X Non-Jury X[2]

(6) The parties recommend that 8 jurors be selected at the commencement of the trial and that all 8 jurors deliberate.

(7) This Order will control the course of the trial and may not be amended except by consent of the parties and the Court, or by order of the Court to prevent manifest injustice.

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[2] Philips' position is that infringement, validity, certain defenses, Kodak's state law claims, and damages should be tried to the jury; equitable issues and defenses should be tried to the bench. Kodak's position is that a separate trial for the equitable issues is unnecessary and that all issues should be tried before the jury.

(8) Possibility of settlement of this case was considered by the parties.

_____
Chief Judge

Date:_____

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EXHIBIT A

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

U.S. PHILIPS CORPORATION, Plaintiff, v. EASTMAN KODAK COMPANY, Defendant.	Civil Action No. 06-251 (GMS)

EXHIBIT A: UNDISPUTED FACTS

1. Plaintiff U.S. Philips Corporation ("Philips") is a corporation organized and existing under the laws of Delaware, with a place of business at 1251 Avenue of the Americas, New York, New York 10020.

2. Defendant and Counterclaim Plaintiff Eastman Kodak Company ("Kodak") is a corporation organized and existing under the laws of New Jersey, having an office and a principal place of business at 343 State Street, Rochester, New York 14650.

3. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338, and venue is proper pursuant to 28 U.S.C. §§ 1391(b), 1391(c), and 1400(b).

4. On April 18, 2006, Philips filed a Complaint against Kodak alleging infringement of U.S. Patent No. 4,901,075 ("the '075 patent"). Philips' Complaint also alleges that Kodak willfully infringed the '075 patent.

5. On October 17, 2006, Kodak filed its Answer to Philips' Complaint denying infringement and setting forth Kodak's defenses including invalidity and unenforceability of the

'075 patent. In addition, Kodak alleged counterclaims against Philips based on fraud and other state law causes of action.

6. The application for the '075 patent was filed on September 11, 1987.

7. The '075 patent issued on February 13, 1990.

8. The '075 patent expired on September 11, 2007.

9. Peter Vogel is named as the inventor on the face of the '075 patent.

10. Peter Vogel was an employee of Philips' German subsidiary, Philips Komunikations Industrie AG, or "PKI."

11. Peter Vogel assigned any rights he had in the '075 patent to U.S. Philips Corporation. Philips currently holds any such rights.

12. Philips asserts only Claims 3, 4, 7, 8, and 11 of the '075 patent against Kodak.

13. CCITT Recommendation T.81 was published on September 21, 1992, and sets forth specific procedures for the encoding of images.

14. ISO/IEC International Standard 10918-1 was published on February 15, 1994, and sets forth specific procedures for the encoding of images.

15. ISO/IEC International Standard 10918-1, CCITT Recommendation T.81 and BS ISO/IEC 10918-1:1994 set forth identical procedures for the encoding of images.

16. ISO/IEC International Standard 10918-1 and CCITT Recommendation T.81 are collectively and individually referred to as "the JPEG standard."

17. Philips' allegations of infringement are based on Kodak's implementation of the JPEG standard into its products and services.

18. "Scene Adaptive Coder" by W.H. Chen and W.K. Pratt ("Chen and Pratt Article") was published in March 1984.

19. U.S. Patent Nos. 4,101,934, 4,316,222, 4,394,774, and 4,698,672 (Chen) were cited during the prosecution of the '075 patent.

20. "Codec Squeezes Color Teleconferencing Through Digital Telephone Lines" by J. Anderson et al. was published on January 26, 1984.

21. U.S. Patent No. 4,698,672 to Chen was filed on October 27, 1986 and issued on October 6, 1987.

22. U.S. Patent No. 3,984,833 to Van Voorhis was filed on July 17, 1975 and issued on October 5, 1976.

23. U.S. Patent No. 4,420,771 to Pirsch was filed on February 9, 1981 and issued on December 13, 1983.

24. U.S. Patent No. 4,363,036 to Subramaniam was filed on March 16, 1981 and issued on December 7, 1982.

25. U.S. Patent No. 4,316,222 to Subramaniam was filed on December 7, 1979 and issued on February 16, 1982.

26. U.S. Patent No. 4,092,676 to Saran was filed on December 29, 1976 and issued on May 30, 1978.

27. U.S. Patent No. 4,136,363 to Saran was filed on December 29, 1976 and issued on January 23, 1979.

28. U.S. Patent No. 4,494,151 to Liao was filed on February 9, 1982 and issued on January 15, 1985.

29. "Upper Bound, Lower Bound and Run-Length Substitution Coding" by Henry J. Liao was published in 1977.

30. The JPEG standard uses a lossy image compression algorithm that employs a block-wise DCT (Discrete Cosine Transform), followed by quantization and Huffman coding of the transform coefficients.

31. The minimum capabilities of the JPEG standard's lossy image compression algorithm that employs a block-wise DCT (Discrete Cosine Transform), followed by quantization and Huffman coding of the transform coefficients, is known as "Baseline JPEG."

32. The functional specification for Baseline JPEG is given in Annex F of the JPEG standard.

33. Any DCT-based JPEG decoder must support Baseline JPEG.

34. Each 8x8 DCT (Discrete Cosine Transform) block in the JPEG standard contains 64 coefficients. The first coefficient, which represents the average value of the block, is called the DC coefficient. The remaining 63 coefficients are called AC coefficients.

35. Huffman coding must be used for encoding in Baseline JPEG.

36. Kodak has imported, made, offered for sale, and/or sold in the United States hardware and software products, such as digital cameras, file scanners, document scanners, software, and scanning services that are compliant with Baseline JPEG.

EXHIBIT B1

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

U.S. PHILIPS CORPORATION, Plaintiff, v. EASTMAN KODAK COMPANY, Defendant.	Civil Action No. 06-251 (GMS)

EXHIBIT B1:
AGREED STATEMENT OF CONTESTED ISSUES OF FACT AND LAW

I. CONTESTED ISSUES OF FACT ON INFRINGEMENT

1. Whether Kodak directly infringed claims 3, 4, 7, 8, or 11 of the '075 patent either literally or under the doctrine of equivalents.
2. Whether Kodak induced infringement of claims 3, 4, 7, 8, or 11 of the '075 patent.
3. Whether Kodak engaged in contributory infringement of claims 3, 4, 7, 8, or 11 of the '075 patent.

II. CONTESTED ISSUES OF FACT AND LAW ON DAMAGES, WILLFUL INFRINGEMENT, LACHES AND PATENT MARKING

A. Contested Issues of Fact

4. What amount of monetary damages would compensate Philips for Kodak's alleged infringement of the '075 patent.
5. Whether Kodak willfully infringed the '075 patent.
6. Whether Kodak is entitled to a presumption of laches.
7. If a presumption of laches arises, whether it is overcome.

8. Whether Philips delayed filing suit for an unreasonable and inexcusable length of time from when it knew or reasonably should have known of its patent infringement claim against Kodak.

B. Contested Issues of Law

9. If Kodak is found to have willfully infringed the '075 patent, whether any damages for which Kodak is found liable should be trebled or increased under 35 U.S.C. § 284.

10. If Kodak is found to have willfully infringed the '075 patent, whether Kodak is barred from asserting any equitable defense because it acted with unclean hands.

11. Whether the case is exceptional under 35 U.S.C. § 285, entitling Philips or Kodak to recover attorneys' fees, expenses, and costs.

12. Whether pre-suit damages are barred under the equitable doctrine of laches.

III. CONTESTED ISSUES OF FACT AND LAW ON VALIDITY

A. Contested Issues of Fact

13. Whether Kodak has proven by clear and convincing evidence that the references relied on by Kodak are prior art to the '075 patent under 35 U.S.C. § 102.

14. What is the scope and content of the prior art to the '075 patent.

15. What are the differences between the prior art and claims 3, 4, 7, 8, and 11 of the '075 patent.

16. What is the level of ordinary skill in the art related to the subject matter of claims 3, 4, 7, 8, and 11 of the '075 patent.

17. What objective indicia support nonobviousness of the claimed invention of claims 3, 4, 7, 8, and 11 of the '075 patent.

B. Contested Issues of Law

18. Whether Kodak has proven by clear and convincing evidence that claims 3, 4, 7, 8, or 11 of the '075 are invalid under 35 U.S.C. § 103 as obvious in view of the prior art references relied upon by Kodak.

19. Whether Kodak has proven by clear and convincing evidence that claims 3 or 8 of the '075 patent are invalid under 35 U.S.C. § 112 as indefinite.

IV. CONTESTED ISSUES OF FACT AND LAW ON KODAK'S DEFENSES AND COUNTERCLAIMS RELATING TO STANDARDS SETTING

A. Equitable Estoppel/Waiver (4th and 7th Aff. Def.; 3d Cclm.)

1. Contested Issues of Fact

20. Whether facts exist respecting the equities of the parties that the Court should consider in exercising its discretion in deciding whether to allow this equitable defense.

2. Contested Issues of Law

21. Whether Philips is equitably estopped from asserting that Kodak, through its implementation of the JPEG Standard into its products, infringes the '075 patent.

B. Implied License (6th and 7th Aff. Def., 4th Cclm.)

1. Contested Issues of Fact

22. Whether Philips engaged in any conduct during or after the development and adoption of the JPEG Standard from which Kodak could reasonably infer that Philips consented to Kodak's use of the '075 patent.

23. Whether Kodak reasonably relied upon such conduct in investing in and developing its products that comply with the JPEG Standard.

24. Whether Kodak would be harmed if Philips is allowed to proceed with its infringement claim.

2. Contested Issues of Law

25. Whether Kodak has an implied license to practice the '075 patent.

C. Unclean Hands (8th Aff. Def.)

26. Whether Philips is barred from recovery for infringement on the ground of unclean hands.

D. Fraud (6th Cclm.)

27. Whether Kodak is entitled to an injunction prohibiting Philips from asserting the '075 patent against Kodak for practicing the JPEG standard.

28. Whether Kodak's counterclaim for fraud is barred by the statute of limitations.

E. Negligent Misrepresentation (7th Cclm.)

29. Whether Kodak is entitled to an injunction prohibiting Philips from asserting the '075 patent against Kodak for practicing the JPEG standard.

30. Whether Kodak's counterclaim for negligent misrepresentation is barred by the statute of limitations.

F. Deceptive Trade Practices (5th Cclm.)

1. Contested Issues of Fact

31. Whether Philips' '075 patent infringement claims in this lawsuit are objectively baseless and were brought and maintained in an attempt to interfere directly with the business relationships of Kodak.

2. Contested Issues of Law

32. Whether Kodak is entitled to treble damages under Del. Code Ann. tit. 6, § 2533.

33. Whether Kodak is entitled to an injunction prohibiting Philips from asserting the '075 patent against Kodak for practicing the JPEG Standard.

34. Whether Del. Code Ann. tit. 6, § 2532 applies to the conduct that Kodak alleges.

35. Whether allegedly causing a likelihood of confusion or misunderstanding as to the infringement, validity and enforceability of a patent is within the scope of Del. Code Ann. tit. 6, § 2532.

36. Whether allegedly disparaging Kodak by filing an infringement Complaint is within the scope of Del. Code Ann. tit. 6, § 2532.

37. Whether Kodak's claim that Philips violated Del. Code Ann. tit. 6, § 2532 by filing its Complaint and pursuing this litigation is preempted by federal patent law.

38. Whether Philips' filing of its Complaint and pursuing this litigation is protected by the First Amendment to the Constitution.

39. Whether Kodak faces the prospect of any future harm by any of the alleged conduct such that an injunction would be warranted.

40. Whether Kodak's counterclaim under Del. Code Ann. tit. 6, § 2532 is barred by the statute of limitations.

EXHIBIT B2

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

U.S. PHILIPS CORPORATION, Plaintiff, v. EASTMAN KODAK COMPANY, Defendant.	Civil Action No. 06-251 (GMS)

EXHIBIT B2: PLAINTIFF PHILIPS' STATEMENT OF CONTESTED ISSUES OF FACT AND LAW

I. CONTESTED ISSUES OF FACT ON INFRINGEMENT

1. Whether Kodak directly infringed claims 3, 4, 7, 8, or 11 of the '075 patent either literally or under the doctrine of equivalents.
2. Whether Kodak induced infringement of claims 3, 4, 7, 8, or 11 of the '075 patent.
3. Whether Kodak engaged in contributory infringement of claims 3, 4, 7, 8, or 11 of the '075 patent.

II. CONTESTED ISSUES OF FACT AND LAW ON DAMAGES, WILLFUL INFRINGEMENT, LACHES AND PATENT MARKING

A. Contested Issues of Fact

4. What amount of monetary damages would compensate Philips for Kodak's alleged infringement of the '075 patent.
5. Whether Kodak willfully infringed the '075 patent.
6. Whether Kodak is entitled to a presumption of laches.
7. If a presumption of laches arises, whether it is overcome.

8. Whether Philips delayed filing suit for an unreasonable and inexcusable length of time from when it knew or reasonably should have known of its patent infringement claim against Kodak.

9. Whether Kodak was materially prejudiced, economically or by loss of evidence, as a result of the amount of time between when Philips knew or reasonably should have known of its patent infringement claim against Kodak and when Philips sued.

B. Contested Issues of Law

10. If Kodak is found to have willfully infringed the '075 patent, whether any damages for which Kodak is found liable should be trebled or increased under 35 U.S.C. § 284.

11. If Kodak is found to have willfully infringed the '075 patent, whether Kodak is barred from asserting any equitable defense because it acted with unclean hands.

12. Whether the case is exceptional under 35 U.S.C. § 285, entitling Philips or Kodak to recover attorneys' fees, expenses, and costs.

13. Whether pre-suit damages are barred under the equitable doctrine of laches.

III. CONTESTED ISSUES OF FACT AND LAW ON VALIDITY

A. Contested Issues of Fact

14. Whether Kodak has proven by clear and convincing evidence that the references relied on by Kodak are prior art for the '075 patent under 35 U.S.C. § 102.

15. Whether Kodak has proven by clear and convincing evidence that any of the references relied on by Kodak anticipate claims 3, 4, 7, or 8 of the '075 patent under 35 U.S.C. § 102.

16. What is the scope and content of the prior art to the '075 patent.

17. What are the differences between the prior art and claims 3, 4, 7, 8, and 11 of the '075 patent.

18. What is the level of ordinary skill in the art related to the subject matter of claims 3, 4, 7, 8, and 11 of the '075 patent.

19. What objective indicia support nonobviousness of the claimed invention of claims 3, 4, 7, 8, and 11 of the '075 patent.

B. Contested Issues of Law

20. Whether Kodak has proven by clear and convincing evidence that claims 3, 4, 7, 8, or 11 of the '075 are invalid under 35 U.S.C. § 103 as obvious in view of the prior art references relied upon by Kodak.

21. Whether Kodak has proven by clear and convincing evidence that claims 3 or 8 of the '075 patent are invalid under 35 U.S.C. § 112 as indefinite.

IV. CONTESTED ISSUES OF FACT AND LAW ON KODAK'S DEFENSES AND COUNTERCLAIMS RELATING TO STANDARDS SETTING

A. Equitable Estoppel/Waiver (4th and 7th Aff. Def.; 3d Cclm.)

1. Contested Issues of Fact

22. Whether Philips had a duty to disclose the '075 patent to the appropriate standards organization(s) during the development and adoption of the JPEG standard.

23. Whether Philips engaged in any misleading conduct before the JPEG Committee by violating a duty of disclosure that led Kodak to reasonably infer that Philips did not intend to enforce its '075 patent against Kodak's products or services that comply with the JPEG standard.

24. Whether Kodak reasonably relied upon any allegedly misleading conduct by Philips before the JPEG Committee by violating a duty of disclosure to infer that Philips did not intend to enforce a patent against Kodak's products or services that comply with the JPEG standard.

25. Whether Kodak would be materially prejudiced if Philips is permitted to proceed with its infringement claim.

26. Whether facts exist respecting the equities of the parties that the Court should consider in exercising its discretion in deciding whether to allow this equitable defense.

2. Contested Issues of Law

27. Whether Philips is equitably estopped from asserting that Kodak, through its implementation of the JPEG Standard into its products, infringes the '075 patent.

B. Implied License (6th and 7th Aff. Def., 4th Cclm.)

1. Contested Issues of Fact

28. Whether Philips engaged in any conduct during and after the development and adoption of the JPEG Standard from which Kodak could reasonably infer that Philips consented to Kodak's use of the '075 patent.

29. Whether Kodak reasonably relied upon such conduct in investing in and developing its products that comply with the JPEG Standard.

30. Whether Kodak would be harmed if Philips is allowed to proceed with its infringement claim.

31. Whether facts exist respecting the equities of the parties that the Court should consider in exercising its discretion in deciding whether to allow this equitable defense.

2. Contested Issues of Law

32. Whether Kodak has an implied license to practice the '075 patent.

C. Unclean Hands (8th Aff. Def.)

1. Contested Issues of Fact

33. Whether Philips engaged in any unconscionable acts that had an immediate and necessary relation to Philips' claim for relief against Kodak for patent infringement.

34. Whether facts exist respecting the equities of the parties that the Court should consider in exercising its discretion in deciding whether to allow this equitable defense.

2. Contested Issues of Law

35. Whether Philips is barred from recovery for infringement on the ground of unclean hands.

D. Fraud (6th Cclm.)

1. Contested Issues of Fact

36. Whether Philips had a duty to disclose the '075 patent to the appropriate standards organization(s) during the development and adoption of the JPEG standard.

37. Whether Philips deliberately concealed from the appropriate standards organization(s) during the development and adoption of the JPEG standard any material facts regarding the '075 patent in the face of a duty to disclose those facts.

38. Whether Philips did not provide such a disclosure with reckless indifference to the truth.

39. Whether Philips did not provide such a disclosure with an intent to induce Kodak to develop products compliant with the JPEG Standard.

40. Whether Kodak justifiably relied upon any allegedly fraudulent conduct by Philips before the JPEG committee during the development and adoption of the JPEG

standard to conclude that Philips did not have any patents potentially covering to the proposed JPEG standard.

41. Whether Philips' '075 patent infringement claims in this lawsuit are objectively baseless and were brought and maintained in an attempt to interfere directly with the business relationships of Kodak.

2. Contested Issues of Law

42. Whether Kodak is entitled to an injunction prohibiting Philips from asserting the '075 patent against Kodak for practicing the JPEG standard.

43. Whether Kodak's counterclaim for fraud is barred by the statute of limitations.

44. Whether Kodak's claim that Philips engaged in fraud by filing its Complaint and pursuing this litigation is preempted by federal patent law.

45. Whether Philips' filing of its Complaint and pursuing this litigation is protected by the First Amendment to the Constitution.

46. Whether Kodak is entitled to its attorneys' fees to defend Philips' infringement claims in this litigation as damages for fraud.

E. Negligent Misrepresentation (7th Cclm.)

1. Contested Issues of Fact

47. Whether Philips had a particular duty to provide a disclosure of the '075 patent to the appropriate standards organization(s) during the development and adoption of the JPEG standard based on Kodak's financial interest in that information.

48. Whether Philips supplied false information to the appropriate standards organization(s) during the development and adoption of the JPEG standard regarding the '075 patent.

49. Whether Philips failed to exercise reasonable care in communicating information regarding the '075 patent to the appropriate standards organization(s) during the development and adoption of the JPEG standard.

50. Whether Kodak justifiably relied upon the information communicated by Philips to the appropriate standards organization(s) during the development and adoption of the JPEG standard regarding the '075 patent.

51. Whether Philips' '075 patent infringement claims in this lawsuit are objectively baseless and were brought and maintained in an attempt to interfere directly with the business relationships of Kodak.

2. Contested Issues of Law

52. Whether Kodak is entitled to an injunction prohibiting Philips from asserting the '075 patent against Kodak for practicing the JPEG standard.

53. Whether Kodak's counterclaim for negligent misrepresentation is barred by the statute of limitations.

54. Whether Kodak's claim that Philips engaged in negligent misrepresentation by filing its Complaint and pursuing this litigation is preempted by federal patent law.

55. Whether Philips' filing of its Complaint and pursuing this litigation is protected by the First Amendment to the Constitution.

56. Whether Kodak is entitled to its attorneys' fees to defend Philips' infringement claims in this litigation as damages for negligent misrepresentation.

F. Deceptive Trade Practices (5th Cclm.)

1. Contested Issues of Fact

57. Whether Philips caused a likelihood of confusion or misunderstanding as to the validity and enforceability of the '075 patent by its conduct relating to the

development and adoption of the JPEG standard or by its dealings with Kodak relating to the '075 patent after the JPEG standard was set, in violation of Del. Code Ann. tit. 6, § 2532.

58. Whether Philips disparaged Kodak's digital imaging products and services through Philips' Complaint in this lawsuit, in violation of Del. Code Ann. tit. 6, § 2532.

59. Whether Philips brought this lawsuit and is maintaining this litigation in bad faith.

60. Whether Philips' '075 patent infringement claims in this lawsuit are objectively baseless and were brought and maintained in an attempt to interfere directly with the business relationships of Kodak.

61. Whether Philips willfully engaged in a deceptive trade practice in violation of Del. Code Ann. tit. 6, § 2532

2. Contested Issues of Law

62. Whether Kodak is entitled to treble damages under Del. Code Ann. tit. 6, § 2533.

63. Whether Kodak is entitled to an injunction prohibiting Philips from asserting the '075 patent against Kodak for practicing the JPEG Standard.

64. Whether Del. Code Ann. tit. 6, § 2532 applies to the conduct that Kodak alleges.

65. Whether allegedly causing a likelihood of confusion or misunderstanding as to the infringement, validity and enforceability of a patent is within the scope of Del. Code Ann. tit. 6, § 2532.

66. Whether allegedly disparaging Kodak by filing an infringement Complaint is within the scope of Del. Code Ann. tit. 6, § 2532.

67. Whether Kodak's claim that Philips violated Del. Code Ann. tit. 6, § 2532 by filing its Complaint and pursuing this litigation is preempted by federal patent law.

68. Whether Philips' filing of its Complaint and pursuing this litigation is protected by the First Amendment to the Constitution.

69. Whether Kodak faces the prospect of any future harm by any of the alleged conduct such that an injunction would be warranted.

70. Whether Kodak's counterclaim under Del. Code Ann. tit. 6, § 2532 is barred by the statute of limitations.

71. Whether Kodak is entitled to its attorneys' fees to defend Philips' infringement claims in this litigation as damages for a violation of Del. Code Ann. tit. 6, § 2532.

EXHIBIT B3

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

U.S. PHILIPS CORPORATION, Plaintiff, v. EASTMAN KODAK COMPANY, Defendant.	Civil Action No. 06-251 (GMS)

EXHIBIT B3:
KODAK'S STATEMENT OF CONTESTED ISSUES OF FACT AND LAW NOT AGREED TO

I. CONTESTED ISSUES OF FACT ON DAMAGES, WILLFUL INFRINGEMENT, LACHES AND PATENT MARKING

1. What amount of monetary damages would compensate Kodak for Philips' alleged fraud.
2. What amount of monetary damages would compensate Kodak for Philips' alleged negligent misrepresentation.
3. Whether Kodak was materially prejudiced, economically or by loss of evidence, as a result of Philips' unreasonable and inexcusable delay in filing suit.
4. Whether Philips' claims for relief are barred, in whole or in part, by failing to comply with the marking and notice requirements of 35 U.S.C. § 287.

II. CONTESTED ISSUES OF FACT ON VALIDITY

5. Whether Kodak has proven by clear and convincing evidence that any of the references relied on by Kodak anticipate claims 3, 4, 7, 8, or 11 of the '075 patent under 35 U.S.C. § 102.

III. CONTESTED ISSUES OF FACT AND LAW ON KODAK'S DEFENSES AND COUNTERCLAIMS RELATING TO STANDARDS SETTING

A. Equitable Estoppel/Waiver (4th and 7th Aff. Def.; 3d Cclm.)

6. Whether Philips had a duty to disclose to the ISO, CCITT, BSI and/or the JPEG Committee, the '075 patent's alleged applicability to the JPEG Standard.

7. Whether Philips' failure to disclose the '075 patent's alleged applicability to the ISO, CCITT, BSI and/or the JPEG Committee led Kodak to reasonably infer that Philips did not believe that the '075 patent applied to the JPEG Standard.

8. Whether Kodak relied upon Philips' failure to disclose the '075 patent to the ISO, CCITT, BSI and/or the JPEG Committee.

9. Whether Kodak was harmed by Philips' failure to disclose the '075 patent to the ISO, CCITT, BSI and/or the JPEG Committee.

B. Unclean Hands (8th Aff. Def.)

10. Whether Philips engaged in any inequitable or bad faith acts that have an immediate and necessary relation to Philips' claim for relief against Kodak for patent infringement.

C. Fraud (6th Cclm.)

11. Whether Philips had a duty to disclose to the ISO, CCITT, BSI and/or the JPEG Committee, the '075 patent's alleged applicability to the JPEG Standard.

12. Whether Philips acted with knowledge when it failed to disclose the '075 patent to the ISO, CCITT, BSI and/or the JPEG Committee, or acted with reckless indifference to the truth.

13. Whether Philips intentionally concealed the '075 patent.

14. Whether Kodak justifiably relied upon Philips' failure to disclose the '075 patent to the ISO, CCITT, BSI and/or the JPEG Committee.

15. Whether Kodak suffered harm as a result of its reliance on Philips' failure to disclose the '075 patent to the ISO, CCITT, BSI and/or the JPEG Committee, and if so, in what amount.

D. Negligent Misrepresentation (7th Cclm.)

16. Whether Philips had a duty to disclose to the ISO, CCITT, BSI and/or the JPEG Committee, the '075 patent's alleged applicability to the JPEG Standard.

17. Whether Philips failed to exercise reasonable care when it failed to disclose the '075 patent's alleged applicability to the JPEG Standard to the ISO, CCITT, BSI or the JPEG Committee.

18. Whether Kodak suffered harm as a result of its reliance on Philips' failure to disclose the '075 patent to the ISO, CCITT, BSI and/or the JPEG Committee, and if so, in what amount.

E. Deceptive Trade Practices (5th Cclm.)

19. Whether Philips caused a likelihood of confusion or misunderstanding as to the validity and enforceability of the '075 patent by its silence regarding the existence and relevance of the '075 patent to the JPEG standard during JPEG standardization, in violation of Del. Code Ann. tit. 6, § 2532.

20. Whether Philips caused a likelihood of confusion or misunderstanding as to the validity and enforceability of the '075 patent by its continued silence during the years Kodak incorporated the JPEG Standard into its products and services, in violation of Del. Code Ann. tit. 6, § 2532.

21. Whether Philips disparaged Kodak's goods, services, and business by falsely and misleadingly alleging that Kodak's goods infringe the '075 patent, in violation of Del. Code Ann. tit. 6, § 2532.

22. Whether Philips has acted in bad faith in engaging in the aforementioned deceptive trade practices.

EXHIBIT C1

U.S. Philips Corporation v. Eastman Kodak Company
Philip's Trial Exhibit List with Kodak's Objections [Exhibit C1]
(Dated March 3, 2008)[1]

Trialx#	Def. Trial# (DTX)	Docdate	Description	Begdoc#	Enddoc#	Depexh#	Objected	Identified	Admitted
PX 0001		1/31/2006	Certified Copy of U.S. Patent No. 4,901,075 for Method and Apparatus for Bit Rate Reduction, issued to Vogel on February 13, 1990	PHLPSKD_00005022	PHLPSKD_00005032				
PX 0002		2/26/2007	Certified Copy of U.S. Patent File History for 4,901,075, Application Number 07/096,177 for Method and Apparatus for Bit Rate Reduction, filed September 11, 1987, issued February 13, 1990	PHLPSKD_00089919	PHLPSKD_00090110				

[1] **Legend of Kodak's Objections:**

A – Lacks Authenticity (FRE 901/902)
H - Hearsay (FRE 802/805)
UP – Unduly Prejudicial/Confusing/Waste of Time (FRE 403)
NP – Philips Did Not Timely Produce This Exhibit (FRCP 37(c)(1))
UPA – Undisclosed Prior Art
M - Multiple Documents
F – Lacks Foundation/ Speculative (FRE 602)
R – Lacks Relevance (FRE 401/402)
CL - Conclusion of Law
P - Partial Document/Lacks Context (FRE 106)
I - Incorrectly Identified
Q - Quality

In addition to these objections, Kodak incorporates any objections made in its motions *in limine* as they pertain to the trial exhibits.

PX 0003		1/26/2006	Certified Copy of U.S. Patent Assignment from Peter Vogel to U.S. Philips Corporation for Serial No. 096,177, for Method of and circuit arrangement for bit rate reduction, filed September 11, 1987	PHLPSKD_00005250	PHLPSKD_00005253				
PX 0004		9/13/1986	Certified German Patent Application for Procedures for Bit Rate Reduction PHD 86 327, file reference P 36 31 252.5	PHLPSKD_00009229	PHLPSKD_0009274		F, A, H		
PX 0005		9/13/1986	Certified English Translation of German Patent Application for Procedures for Bit Rate Reduction PHD 86 327, file reference P 36 31 252.5	PHLPSKD_00080967	PHLPSKD_00080973		F, A, H		
PX 0006		11/8/1986	Certified German Patent Application for Method for Bit Rate Reduction PHD 86 336, file reference P36 38 127.6, Addendum to Patent Application P 36 31 252.5	PHLPSKD_00009237	PHLPSKD_00009250		F, A, H		
PX 0007		11/8/1986	Certified English Translation of German Patent Application for Method for Bit Rate Reduction PHD 86 336, file reference P 36 38 127.6, Addendum to Patent Application P 36 31 252.5	PHLPSKD_00080945	PHLPSKD_00080957		F, A, H		

PX 0008		5/23/1987	Certified German Patent Application for Procedures for Bit Rate Reduction PHD 87-109 file reference P 37 17 399.5	PHLPSKD_00009212	PHLPSKD_00009220		F, A, H		
PX 0009		5/23/1987	Certified English Translation of German Patent Application for Procedures for Bit Rate Reduction PHD 87-109 file reference P 37 17 399.5	PHLPSKD_00080958	PHLPSKD_00080966		F, A, H		
PX 0010		4/18/2006	Complaint including Exhibit A: US Patent 4,901,075				R		
PX 0011		10/17/2006	Excerpts from Defendant Eastman Kodak Company's Answer and Counterclaims; Demand for Jury Trial				R, P		
PX 0012		11/6/2006	Philips' Reply to Eastman Kodak Company's Counterclaims				R		
PX 0013		11/4/2007	Kodak's Accused Product List				A, I		
PX 0014		11/19/2007	Kodak's Log of Privileged Documents				R, F, H		
PX 0015	DTX 174		Issues and Future Directions in JPEG Image Coding	IBM 8810000569	IBM 8810000574	Mitchell 4			
PX 0016	DTX 279		2006 Big Bundle Roadmap			Scott 3			
PX 0017	DTX 280		Project Charter-Corvette	KDK 426577	KDK 426577	Scott 4			
PX 0018	DTX 281		Project Charter-Mustang	KDK 426252	KDK 426559	Scott 5	P, I		
PX 0019	DTX 283		US Go-To-Market Plan C315			Scott 7			

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PX 0020	DTX 291		Kodak D&AI Market Requirements Document M3 Camera	Kodak_189193	Kodak_189219	Scott 15			
PX 0021	DTX 219		License Agreement between Eastman Kodak Company and [redacted]	Kodak_019047	Kodak_019062				
PX 0022		5/12/2004	License Agreement between Eastman Kodak Company and [redacted]	KODAK_019117	KODAK_019134		R, A, F, H		
PX 0023	DTX 224	3/21/2005	License Agreement between Eastman Kodak Company and [redacted]	KODAK_019170	KODAK_019187				
PX 0024		8/21/2002	License Agreement between Eastman Kodak Company and [redacted]	KODAK_021969	KODAK_021988		R, A, F, H		
PX 0025		9/1/2003	License Agreement between Eastman Kodak Company and [redacted]	KODAK_023184	KODAK_023292		P, I, R, A, F, H		
PX 0026	DTX 240		Data Compression Algorithm Evaluation	Kodak_279492	Kodak_279509	Rabbani 11			
PX 0027	DTX 278		2005 Digital Camera Market Attack Plan	Kodak_704145	Kodak_704145				
PX 0028		2/20/2003	Development Agreement between Eastman Kodak company and [redacted]	KODAK_023139	KODAK_023159		R, F, A, H		
PX 0029		12/26/2005	License Agreement between Eastman Kodak Company and [redacted]	KODAK_023293	KODAK_023357		R, F, A, H		
PX 0030		1/7/2005	License Agreement between Eastman Kodak Company and [redacted]	KODAK_023376	KODAK_023395		R, F, A, H		

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PX 0031		3/31/2005	License Agreement between Eastman Kodak Company and [redacted]	KODAK_023415	KODAK_023431		R, F, A, H		
PX 0032		1/1/1997	License Agreement between Eastman Kodak and [redacted]	KODAK_022058	KODAK_022062		R, F, A, H		
PX 0033	DTX 356	4/15/2005	License Agreement between Koninklijke Philips Electronics N.V and [redacted]	PHLPSKD_00042369	PHLPSKD_00042380				
PX 0034		11/1/2006	License Agreement between Koninklijke Philips Electronics NV and [redacted]	PHLPSKD_00079185	PHLPSKD_00079199		R, F, A, H		
PX 0035		12/31/2007	[redacted] Product Royalties Chart	PHLPSKD_00083642	PHLPSKD_00083642		R, F, A, H, UP		
PX 0036	DTX 208		Cross-Licensee List			Parkins 1			
PX 0037			Cost 211bis Rules of Procedure	PHLPSKD_00081147	PHLPSKD_00081149		P		
PX 0038		7/18/1978	U.S. Patent 4,101,934 issued to Fukuoka	PHLPSKD_00090026	PHLPSKD_00090038		R, F		
PX 0039		7/19/1983	U.S. Patent 4,394,774 issued to Widergren et al.	PHLPSKD_00005070	PHLPSKD_00005112		R, F		
PX 0040			WITHDRAWN						
PX 0041			WITHDRAWN						
PX 0042		5/20/1982	Letter of Agreement between [redacted] and Koninkluke Philips Electronics N.V. and [redacted]	PHLPSKD_00079231	PHLPSKD_00079232		P, R, F, A, H		

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PX 0043			WITHDRAWN						
PX 0044	DTX 337	3/1/1983	ISO- Report of First WG8 Meeting	KODAK_184108	KODAK_184114	Van Der Meer 65			
PX 0045	DTX 150	4/1/1983	Algorithm Definition Report for 56 Kbps Video Teleconferencing Codec (VTC-56)	WIDCOM 000905	WIDCOM 000957	Fralick 2			
PX 0046	DTX 153	8/1/1983	Pictures for Pennies, Data Communications, August 1983	WIDCOM 011256	WIDCOM 011257	Fralick 5			
PX 0047	DTX 300	12/9/1983	CCITT Patent Policy	KODAK_183599	KODAK_183599	Sebestyen 26			
PX 0048	DTX 100	1/1/1984	CODEC squeezes color teleconferencing through digital telephone lines, 8032 Electronics International, Vol. 57 (1984) Jan., No. 2, New York, USA	KODAK_051224	KODAK_051226	Acharya 5			
PX 0049	DTX 164	3/1/1984	Scene Adaptive Coder-IEEE Article, Wen-Hsiung Chen, and William K. Pratt, IEEE Transactions on Communications, Vol. Com-32, No. 3, March 1984	KODAK_050252	KODAK_050260	Hamilton 7			
PX 0050			WITHDRAWN						
PX 0051	DTX 152	6/15/1985	Telespan Newsletter 6/15/1985	WIDCOM 008671	WIDCOM 008672	Fralick 4			
PX 0052	DTX 99	8/26/1985	Approval of Blanket SER Expenditure	KODAK_015746	KODAK_015748	Derounian 9			
PX 0053	DTX 11	9/27/1985	Memo from D. Keen to B. Widergren, C. Van Dusen, J. Tubb, M. Triolo, K. Arnold regarding PVS			Acharya 11			

			Production						
PX 0054	DTX 310	11/1/1985	ISO- WG8 Related Resolutions in Recent 3 SC2 Plenaries	IBM 8710049419	IBM 8710049424	Clark 17			
PX 0055		3/1/1986	WG8 Photographic Coding Group Ad hoc Meeting in Boston	KODAK_058366	KODAK_053867				
PX 0056		7/1/1986	WG8 Photographic Coding Group Ad hoc Meeting in Rennes	KODAK_058778	KODAK_058780				
PX 0057	DTX 18	9/9/1986	Cost 211 bis Simulation Subgroup Document, Block Coding using a two-dimensional run-length table, dated September 9, 1986	PHLPSKD_00070973	PHLPSKD_00070979	Cho 6			
PX 0058		10/1/1986	October 1986 Federal Republic of Germany delegation submits Intellectual Property to CCITT SGXV	KODAK_050443	KODAK_050446				
PX 0059	DTX 332	10/28/1986	CCITTStudy Group XV, Working Party XV/1 Specialists Group on Coding for Visual Telephony - Intellectual Property	KODAK_183922	KODAK_183925	Van der Meer 55			
PX 0060	DTX 272	11/00/1986	WG8 Active Member List	KODAK_059317	KODAK_059319	Schylander 3	P		
PX 0061	DTX 244	11/1/1986	CCITTSC XV, Specialists Group on Coding for Visual Telephony, Coding of coefficients with a two-dimensional table, November 1986	KODAK_183918	KODAK -183921	Volmer 8			

PX 0062		11/1/1986	ISO- Parsippany, NJ Meeting attendance list	KODAK_059186	KODAK_059187				
PX 0063		11/1/1986	ISO- Cooperation between ISO and CCITT in the development of picture coding techniques	KODAK_059035	KODAK_059036				
PX 0064	DTX 305	11/1/1986	ISO- Report of JPEG meeting 11-13 November 1986, Parsippany, NJ	PHLPSKD_00063733	PHLPSKD_00063743				
PX 0065	DTX 243	11/1/1986	SGXV 7th Specialists Group on Coding for Visual Telephony attendance	KODAK_052841	KODAK_052882	Rabbani 16			
PX 0066		1/1/1987	ISO- Rules for reference to patented items in International Standards	PHLPSKD_00066479	PHLPSKD_00066479		P		
PX 0067			WITHDRAWN						
PX 0068	DTX 409	3/1/1987	ISO- Information to be Given on Photographic Compression Techniques	KODAK_184201	KODAK_184203	Weth 9			
PX 0069	DTX 322	3/1/1987	ISO- Report of the Joint Photographic Experts Group, 24-26 March 1987, Darmstadt	KODAK_011492	KODAK_011504	Turner 2			
PX 0070		3/1/1987	ESPRIT's Proposal: Adaptive Discrete Cosine Transform (ADCT)	KODAK_059621	KODAK_059644				
PX 0071	DTX 61	3/1/1987	JPEG Meeting Darmstadt attendance ISO- Report of JPEG Meeting 24-26 March 1987, Darmstadt	KODAK_013119	KODAK_013132				
PX 0072	DTX 301	5/1/1987	ISO- Fifteenth WG8 Distribution List	KODAK_012398	KODAK_012402	Sebestyen 27			

PX 0073	DTX 14	6/1/1987	ISO- Adaptive Discrete Cosine Transform coding scheme for still image communication on ISDN	PHLPSKD_00038619	PHLPSKD_00038651	Acharya 14			
PX 0074		6/1/1987	ISO- Report of Joint Photographic Experts Group Meeting Copenhagen, 16-19 June, 1987	KODAK_063664	KODAK_063695--		P		
PX 0075	DTX 306	7/10/1987	Fax Annex 6, of Results of joint ISO/CCITT meeting Correspondence- Istvan Sebestyen to G. Hudson, M. Worlitzer, Yasuda, & Yamazaki	KODAK_061018	KODAK_061020	Sebestyen 32			
PX 0076	DTX 365	8/1/1987	Unofficial Copy of DIS 10918-1, JPEG Joint Photographic Experts Group ISO/IEC JTC1/SC2/WG10, CCITT SG VIII	PHLPSKD_00070739	PHLPSKD_00070739	Vogel 20			
PX 0077	DTX 249	1/1/1988	ISO- Report of Joint Photographic Experts Group Meeting Washington, 26-30 October, 1987	KODAK_062123	KODAK_062134	Rabbani 23			
PX 0078	DTX 319	10/6/1987	US Patent 4,698,672 to Chen	KODAK_074752	KODAK_074770	Tescher 5			
PX 0079	DTX 81	11/1/1987	ISO- Liason between ISO/TC97/SC2/WG8 and CCITT SGXV (Mr. Okubo)	KODAK_012471	KODAK_012530	Clark 28			
PX 0080		11/1/1987	JPEG Meeting Winchester attendance	PHLPSKD_00039019	PHLPSKD_00039031				
PX 0081	DTX 248	11/27/1987	AFNOR - Report and Recommendations of the 11th meeting of WG 8 in Copenhagen (1987-6-15/19	KODAK_062440	KODAK_062461	Rabbani 22			

PX 0082	DTX 250	1/31/1988	Report of the JPEG Meeting 25-27 January 1988, KTAS, Copenhagen	KODAK_184286	KODAK_184298	Mitchell 5			
PX 0083		1/1/1988	JPEG Meeting Copenhagen 88 attendance	KODAK_062882	KODAK_062889		I		
PX 0084	DTX 307	1/13/1988	Siemens Fax between I. Sebestyen and H. Yasuda			Sebestyen 33			
PX 0085	DTX 302	1/31/1988	ISO- Report Joint Photographic Expert Group Meeting 25-27 January 1988, KTAS, Copenhagen	KODAK_013189	KODAK_013201	Sebestyen 28			
PX 0086	DTX 177	2/29/1988	Document titled: A draft ISO Standard for Coded Representation of Still Pictures bearing	KODAK_184267	KODAK_184285				
PX 0087	DTX 262	3/1/1988	ISO- Recommendation of 12th WG8 Meeting at Copenhagen (1/25-1/29 1988)	PHLPSKD_00039077	PHLPSKD_00039077	Richards 3	P		
PX 0088	DTX 177	3/1/1988	ISO- A Draft ISO Standard for Coded Representation of Still Pictures	KODAK_012326	KODAK_012344	Richards 4			
PX 0089	DTX 304	3/1/1988	CCITT- Report of Final Meeting of Study Group VIII in the Study Period 1985-1988 (Geneva, 8 to 19 February 1988)	KODAK_013202	KODAK_013217	Rothgordt 7			
PX 0090		3/1/1988	Activity Report of WG8 to SC2 Plenary in London	KODAK_063944	KODAK_063951				
PX 0091		4/1/1988	Relevant patents and patent applications listed in a document from JPEG Working Party XV/1 Chairman.	KODAK_053601	KODAK_053604				

PX 0092		5/1/1988	JTC1/SC2/WG 8 MPEG Meeting In Ottawa	KODAK_063875	KODAK_063876				
PX 0093	DTX 64	5/1/1988	ISO- Patent Policy on JPEG Standard	KODAK_184310	KODAK_184314	Weth 8			
PX 0094	DTX 412	5/9/1988	ISO- Patent Issues: ADCT and ISO in General	KODAK_074801	KODAK_074802	Weth 13			
PX 0095		5/9/1988	Report of the JPEG Meeting in Canada	KODAK_013683	KODAK_013689				
PX 0096	DTX 77	9/1/1988	ISO- Report of JPEG Meeting 9-13 May 1988, Communications Canada Ottawa	KODAK_184335	KODAK_184341	Rabbani 32			
PX 0097		5/11/1988	CCITT/ISO- Photographic Image Data Compression Standard Functionality and Goals	KODAK_069356	KODAK_069361	Richards 6	I		
PX 0098	DTX 71	6/1/1988	ISO- JPEG Member/ Mailing List	KODAK_067314	KODAK_067319	Weth 17			
PX 0099	DTX 515	6/8/1988	Letter from T. Omachi to G. Wallace	KODAK_183558	KODAK_183562				
PX 0100	DTX 517	9/1/1988	CCITT SG XV: Patent Applications by PKI	KODAK_184066	KODAK_184066				
PX 0101	DTX 84	9/1/1988	Patent Applications by PKI on low bitrate video encoding	KODAK_012454	KODAK_012454	Van der Meer 53			
PX 0102		9/1/1988	14th WG8 Meeting attendance	KODAK_063650	KODAK_063695				
PX 0103	DTX 308	9/9/1988	International Organization for Standardaztion ISO/IEC/JTC1SC2/WG8 Coded Representaion of Picture and Audio Information Patent Considerations In Standardization Efforts, September 9, 1988	KODAK_012370	KODAK_012376				

PX 0104	DTX 245	9/22/1988	CCITT- Report of the Thirteenth Meeting in Paris	Kodak_012118	Kodak_012143	Rabbani 18			
PX 0105	DTX 559	10/17/1988	Resolutions taken by ISO/IEC JTC 1/SC2 at 1st Plenary Meeting in London	KODAK_184416	KODAK_184423				
PX 0106	DTX 72	10/18/1988	ISO Report on the activity of SC2/WG8 to the SC Plenary Meeting in London, 1988 10-17/21	IBM 8710031697	IBM 8710031738	Clark 16			
PX 0107	DTX 179	1/1/1989	ISO- WG8 Document Register from N800	IBM 8710026924	IBM 8710026925	Mitchell 20	I		
PX 0108		1/20/1989	Recommendations in 15th WG8 Meeting at Livingston	KODAK_064491	KODAK_064496				
PX 0109	DTX 311	1/25/1989	ISO- Important Matters toward 15th WG8 February Meeting at Livingston	IBM 8710026926	IBM 8710026929	Sebestyen 37			
PX 0110	DTX 204	1/25/1989	X3L2.8 Picture Coding	WIDCOM 004501	WIDCOM 004506				
PX 0111	DTX 704	2/3/1989	JPEG Joint Photographic Experts Group ISO/IEC JTCI/SC2/WG8 CCITT SGVIII JPEG N264, February 3, 1989 Workng Paper for Draft Proposal (Algorithm Specification)	PHLPSKD_00037418	PHLPSKD_00037535				
PX 0112	DTX 202	2/10/1989	Memorandum from C. F. Touchton (of IBM) to G. Wallace (JPEG Chairman)	KODAK_013690	KODAK_013690				
PX 0113	DTX 73	2/24/1989	15th meeting in Livingston, New Jersey, USA.	KODAK_068816	KODAK_068818				
PX 0114		3/1/1989	Q-Coder Patents for JPEG Committee	KODAK_069774	KODAK_069774				

			Consideration						
PX 0115		3/1/1989	Agenda and Schedule of 16th WG8 Meeting at Stockholm	KODAK_064534	KODAK_064542		I		
PX 0116	DTX 203	4/1/1989	IBM, KTAS, and SAT submit patent statements.	KODAK_013283	KODAK_013290		P		
PX 0117		5/1/1989	JPEG/ODA-Color meeting	KODAK_064965	KODAK_064977				
PX 0118		7/1/1989	Document Register JPEG-377 thru JPEG 418	PHLPSKD_00036861	PHLPSKD_00036864				
PX 0119		7/7/1989	ISO- Accreditation of Delegates to ISO/IEC/ JTC1/SC2/WG8	KODAK_064700	KODAK_064736	Nier 3	I		
PX 0120	DTX 206	10/10/1989	Letter from J. Speidel to S. Okubo regarding CCITT Patent Statement for p x 64 Kbit/s video coding	KODAK_012455	KODAK_012456	Nier 31			
PX 0121		10/16/1989	JPEG Meeting Report-Japan	PHLPSKD_00036853	PHLPSKD_00036875				
PX 0122	DTX 247	11/7/1989	CCITT- Patent Licensing Policies for Rec. H. 261	KODAK_184067	KODAK_184080	Rabbani 20			
PX 0123	DTX 230	1/1/1990	Patent license agreement between [redacted] and Eastman Kodak Company	KODAK_019276	KODAK_019301				
PX 0124	DTX 169	2/16/1990	US Patent 4,316,222	KODAK_051025	KODAK_051041				
PX 0125		3/1/1990	JPEG Tampa Meeting attendance	PHLPSKD_00036834	PHLPSKD_00036843		I		
PX 0126	DTX 190	3/10/1990	WG8 Mailing List (March 1990)	KODAK_065554	KODAK_065577	Schylander 4			
PX 0127		3/17/1990	Proposal for a Change to the Maximum Number of Quantization Matrices in the JPEG Baseline System	PHLPSKD_00038135	PHLPSKD_00038135				

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PX 0128	DTX 380	3/15/1990	ISO/IEC JTC 1/SC2/WG8 Coded Representation of Picture and Audio Information Tampa, Florida	PHLSKD_00067265	PHLSKD_00067267	Watkins 7			
PX 0129	DTX 200	3/27/1990	ISO- JPEG Member/Mailing List	IBM 8810406775	IBM 8810406781	Nier 11			
PX 0130	DTX 532	4/1/1990	JPEG Budapest Meeting attendance	KODAK_184632	KODAK_184642				
PX 0131	DTX 23	4/12/1990	ISO- Budapest Meeting Report	PHLPSKD_00039932	PHLPSKD_00039934	Cho 11			
PX 0132	DTX 161	6/13/1990	ISO- Preprint of Interface Paper	PH_PAN 0158584	PH_PAN 0158591	Hamilton 2			
PX 0133	DTX 274	9/4/1990	Meeting Minutes of WG8 at its 19th meeting in Porto, July 9th-13th 1990	KODAK 184595	KODAK 184624	Schylander 6			
PX 0134	DTX 402	9/5/1990	Report on activities of Q.16/VIII since April 1990, temp. doc. 294/3	KODAK_182598	KODAK_182611				
PX 0135	DTX 86	12/5/1990	ISO- Patent Statement, Information to MPEG Members	KODAK_011662	KODAK_011662				
PX 0136	DTX 86	12/5/1990	Disclosure of German Patent No. 36.31.252	KODAK_011663	KODAK_011663				
PX 0137	DTX 239	1/8/1991	Comprehensive List of Chip Manufactures and their interests	WIDCOM 004420	WIDCOM 004424	Rabbani 10			
PX 0138	DTX 162	4/1/1991	The JPEG Still Picture Compression Standard	KODAK_079211	KODAK_079225	Hamilton 3			
PX 0139	DTX 65	8/4/1991	ISO- Request for Patent Statements or Re-statements	KODAK_183589	KODAK_183589	Clark 9			
PX 0140	DTX 334	8/15/1991	ISO- Collection of patent statements concerning patents for 11172	KODAK_184661	KODAK_184699	Van der Meer 60			
PX 0141	DTX 199	8/19/1991	ISO- Patent Status	KODAK_182971	KODAK_182975	Nier 9			

PX 0142	DTX 67	8/19/1991	ISO- Draft Annex L on patents for CD/DIS/IS	KODAK_013440	KODAK_013441	Nier 23			
PX 0143	DTX 76	9/19/1991	ISO- WG10 Response to June 1991 US Resolutions	IBM8710004704	IBM8710004714	Clark 22			
PX 0144	DTX 188	9/30/1991	Report of the Plenary Meeting of ISO/IEC JTC 1/SC 2/WG8 held in Santa Clara, California, USA on August 19th and 23rd 1991	KODAK_184700	KODAK_184709	Morris 7			
PX 0145	DTX 327	9/30/1991	ISO- Report from the plenary meeting of ISO/IEC JTC 1/SC 2/WG8 held in Santa Clara, California, USA on August 19th and 23rd 1991	PHLPSKD_00068823	PHLPSKD_00068823				
PX 0146	DTX 346	10/16/1991	Document headed STUDY GROUP VIII - REPORT R 28	KODAK_182147	KODAK_182230				
PX 0147	DTX 176	10/22/1991	Letter from between H.J Hall and T. Irmer	KODAK_013243	KODAK_013244	Mitchell 10			
PX 0148	DTX 196	10/24/1991	CCITT- List of Participants	KODAK_180080	KODAK_180087	Nier 4			
PX 0149	DTX 198	11/1/1991	CCITT- Study Group VIII- Report R 28	KODAK_077497	KODAK_077579	Nier 6			
PX 0150	DTX 276	11/21/1991	ISO/IEC JTC 1/SC 29 N 094 First Plenary Meeting Report, Tokyo	KODAK_183654	KODAK_183692				
PX 0151		11/22/1991	Agreement between Eastman Kodak Company and [redacted] REDACTED	KODAK_023074	KODAK_023138		R, F, A, H		
PX 0152	DTX 414	12/1/1991	JPEG Still Compression Standard	PHLPSKD_00001284	PHLPSKD_00001300	Hamilton 4			
PX 0153	DTX 383	1/1/1992	ISO- Singapore Meeting Attendance List	PHLPSKD_00058226	PHLPSKD_00058229	Watkins 10			

PX 0154	DTX 276	1/24/1992	ISO- Report of the First Plenary Meeting, held in Tokyo Japan, 21-23 November 1991, of ISO/IEC JTC 1/SC 29	KODAK_183654	KODAK_183692	Schylander 8			
PX 0155	DTX 296	4/29/1992	CCITT- List of Participants	KODAK_183036	KODAK_183043	Sebestyen 21			
PX 0156	DTX 294	9/1/1992	CCITT- T.81 Terminal Equipment and Protocols for Telematic Services	KODAK_012535	KODAK_012720	Clark 24			
PX 0157	DTX 63	10/13/1992	Correspondence between L Sebestyen and J. Miyagaya			Clark 7			
PX 0158	DTX 314	6/29/1993	ISO- ITU-TS Special Rapporteur Report	IBM 8710227860	IBM 8710227874				
PX 0159	DTX 242	11/4/1993	Revised ISO/IEC DIS 10918-2, Information technology- Digital compression and coding of continuous-tone still images- Part 2: Compliance testing	KODAK_141603	KODAK_141686	Rabbani 13			
PX 0160	DTX 186	7/15/1994	Implementation of ISO/IEC 10918-1:1994	KODAK_183218	KODAK_183399	Morris 6			
PX 0161	DTX 229	4/21/1995	Agreement between Eastman Kodak and [redacted] REDACTED	KODAK_019266	KODAK_019275	Parkins 22			
PX 0162	DTX 298	7/31/1995	Kodak D&AI Market/Customer Requirements Document	KODAK_218571	KODAK_218571	Scott 13			
PX 0163	DTX 207	5/23/1997	Correspondence between K. Parulski and Izumi	KODAK_205431	KODAK_205432	Nier 33			
PX 0164	DTX 47	8/6/1997	Kodak Philips Correspondence	KODAK_181205	KODAK_181211	Cho 35			
PX 0165		8/18/1998	Cross License Agreement between Koninkluke Philips Electronics N.V. and [redacted] REDACTED	PHLPSKD_00083615	PHLPSKD_00083623		R, F, A, H		

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PX 0166		1/1/1999	Patent Cross License Agreement between [redacted] and Koninklijke Philips Electronics N.V.	PH_PAN 0175231	PH_PAN 0175244		R, F, A, H		
PX 0167	DTX 220	2/10/1999	Agreement between Eastman Kodak and [redacted]	KODAK_019063	KODAK_019075	Parkins 13			
PX 0168		4/20/1999	Automotive Supplier Agreement between [redacted] and Eastman Kodak	KODAK_022036	KODAK_022047		R, F, A, H		
PX 0169	DTX 28	7/6/2000	Philips Electronics North America Corporation Document Retention/Destruction Policy and Guidelines			Cho 16			
PX 0170		12/6/2000	December 6, 2000 letter from S. Tsugaru to T. Sasaki regarding Japanese Patent 2,711,665	PHLPSKD_00057293	PHLPSKD_00057293		R, F, A, H		
PX 0171		12/25/2000	December 25, 2000 letter from T. Sasaki to S. Tsugaru responding to December 6, 2000 letter	PHLPSKD_00057291	PHLPSKD_00057292		R, F, A, H		
PX 0172	DTX 80	8/2/2001	ISO- Correspondence to F. Bennett			Clark 27			
PX 0173	DTX 223	9/1/2001	Cross-license agreement between Eastman Kodak Company and [redacted]	KODAK_019153	KODAK_019169				
PX 0174		12/15/2001	DV Editing License Agreement between Koninklijke Philips Electronics N.V. and	PHLPSKD_00079200	PHLPSKD_00079210		R, F, A, H		

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			[redacted]						
PX 0175		3/29/2002	Digital Still Picture Camera License Agreement between Koninkluke Philips Electronics N.V. and [redacted]	PH_PAN10175348	PH_PAN10175360		I, R, F, A, H		
PX 0176	DTX 232	4/1/2002	Agreement between Eastman Kodak and [redacted]	KODAK_019135	KODAK_019152	Parkins 25			
PX 0177	DTX 356	4/15/2002	Patent License Agreement between Koninklijke Philips Electronics N.V. and [redacted]	PHLPSKD_00042369	PHLPSKD_00042381		I		
PX 0178		6/1/2002	Excerpts from e-mails correspondence between Kodak and Chinon	KODAK_018207	KODAK_018226		R, M, F, A, H		
PX 0179	DTX 394	6/20/2002	Letter from Philips to Chinon Industries	PHLPSKD_00057315	PHLPSKD_00057315				
PX 0180	DTX 395	7/8/2002	Excerpt from e-mail correspondence between T. Close and W. Shih	KODAK_018207	KODAK_018208	Watkins 21			
PX 0181	DTX 396	7/15/2002	Correspondence between C. Snee and T. Takehana	KODAK_018220	KODAK_018220	Watkins 22			
PX 0182	DTX 397	7/19/2002	Correspondence between M. Kobayashi and S. Tsugaru	PHLPSKD_00057313	PHLPSKD_00057314	Watkins 23			
PX 0183	DTX 32	7/30/2002	Patent License Agreement between [redacted] and Koninkluke Philips Electronics N.V.	PHLPSKD_00040203	PHLPSKD_00040213	Cho 20			

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PX 0184	DTX 253	8/12/2002	Excerpt from e-mail correspondence between I. Sebestyen, A. Leger, and others	IBM 8810385969	IBM 8810385971	Rabbani 27			
PX 0185	DTX 252	8/13/2002	JPEG Patent Activity Question	IBM 8810386011	IBM 8810386016	Rabbani 26			
PX 0186		9/30/2002	Digital Still Picture Camera License Agreement between Koninkluke Philips Electronics N.V. and [redacted] REDACTED	PHLPSKD_00071005	PHLPSKD_00071014		R, F, A, H		
PX 0187	DTX 53	10/1/2002	Correspond between J. Slobod and T. Close	KODAK_427833	KODAK_427843	Cho 41			
PX 0188	DTX 52	10/1/2002	Correspond between J. Slobod and T. Close	PH_PAN 0168752	PH_PAN 0168752	Cho 40			
PX 0189	DTX 167	11/6/2002	Excerpt from e-mail correspondence between M. Rabbani and guru@jpeg.org	IBM 8710182911	IBM 8710182911	Hamilton 13			
PX 0190	DTX 254	11/14/2002	CLI attendance of JPEG	IBM 8810387048	IBM 8810387054	Rabbani 28			
PX 0191	DTX 284	3/9/2003	DX7630 Gate 6 Addendums			Scott 8			
PX 0192		6/5/2003	Patent License Agreement between [redacted] and Eastman Kodak.	KODAK_023007	KODAK_023044		R, F, A, H		
PX 0193		6/5/2003	Patent License Agreement between [redacted] and Eastman Kodak.	KODAK_022992	KODAK_023006		R, F, A, H		
PX 0194		6/5/2003	Patent License Agreement between [redacted] and Eastman Kodak	KODAK_022977	KODAK_022991		R, F, A, H		

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PX 0195	DTX 227	8/18/2003	Agreement between Eastman Kodak and [redacted]	KODAK_019228	KODAK_019245	Parkins 20			
PX 0196		8/30/2003	ISO- Why Standards Matter	KODAK_012457	KODAK_012458		R, F, H		
PX 0197	DTX 210	12/2/2003	Agreement between Kodak and [redacted] regarding [redacted]	KODAK_077829	KODAK_077882				
PX 0198		1/1/2004	License Agreement for Digital Video Camera-Recorder between Koninkluke Philips Electronics N.V. and [redacted]	PHLPSKD_00078488	PHLPSKD_00078495		R, F, A, H		
PX 0199	DTX 37	3/31/2004	Patent License Agreement between Koninkluke Philips Electronics N.V. and [redacted]	PH_PAN 0175154	PH_PAN 0175163	Cho 25			
PX 0200	DTX 278	4/1/2004	2005 Digital Camera Market Attack Plan Industry Characterization			Scott 2			
PX 0201	DTX 225	4/9/2004	Agreement between Eastman Kodak and [redacted]	KODAK_019188	KODAK_019207	Parkins 18			
PX 0202	DTX 277	7/1/2004	2006 Digital Camera Market Industry Characterization			Scott 1			
PX 0203	DTX 226	7/1/2004	Agreement between Eastman Kodak and [redacted]	KODAK_019208	KODAK_019227	Parkins 19			
PX 0204	DTX 228	1/7/2005	Agreement between Eastman Kodak and [redacted]	KODAK_019246	KODAK_019265	Parkins 21			
PX 0205	DTX 221	3/31/2005	Agreement between Eastman Kodak and [redacted]	KODAK_019076	KODAK_019094	Parkins 14			
PX 0206	DTX 356	4/15/2005	Patent License Agreement between [redacted]	PHLPSKD_00042369	PHLPSKD_00042380	Van Der Meer 99			

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			Philips and [redacted]						
PX 0207	DTX 209	6/11/2005	License between Kodak and [redacted] regarding [redacted]	KODAK_078089	KODAK_078149				
PX 0208		10/3/2005	Patent License Agreement between Koninkluke Philips Electronics N.V. and [redacted]	PHLPSKD_00079174	PHLPSKD_00079184		R, F, A, H		
PX 0209	DTX 42	12/15/2005	Patent License Agreement between Koninkluke Philips Electronics N.V. and [redacted]	PH_PAN 0175280	PH_PAN 0175291	Cho 30			
PX 0210		12/22/2005	Letter regarding Patent License Agreement between [redacted] and Koninkluke Philips Electronics N.V.	PHLPSKD_00071037	PHLPSKD_00071037		P, R, F, A, H		
PX 0211		12/31/2005	Patent License Agreement between N.V. Philips Electronics N.V. and [redacted]	PH_PAN 0172778	PH_PAN 0172784		R, F, A, H		
PX 0212	DTX 35	1/2/2006	Patent License Agreement between Koninkluke Philips Electronics N.V. and [redacted]	PH_PAN 0175129	PH_PAN 0175138	Cho 23			
PX 0213	DTX 43	1/31/2006	Patent License Agreement between Koninkluke Philips Electronics N.V. and [redacted]	PH_PAN 0175306	PH_PAN 0175316	Cho 31			
PX 0214	DTX 114	2/10/2006	VPE Drill Down			Evenski 3			
PX 0215	DTX 113	2/24/2006	Basic Statutory Margin			Evenski 1			

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PX 0216	DTX 37	3/31/2006	Patent License Agreement between Philips and [redacted]	PH_PAN 0175154	PH_PAN 0175163				
PX 0217		5/30/2006	Patent License Agreement between [redacted] and Koninkluke Philips Electronics N.V.	PHLPSKD_00079233	PHLPSKD_00079244		R, F, A, H		
PX 0218	DTX 44	5/31/2006	Patent License Agreement between Koninkluke Philips Electronics N.V. and [redacted]	PH_PAN 0175317	PH_PAN 0175326	Cho 32			
PX 0219	DTX 40	5/31/2006	Patent License Agreement between Koninkluke Philips Electronics N.V. and [redacted]	PH_PAN 0175203	PH_PAN 0175213	Cho 28			
PX 0220	DTX 41	8/31/2006	Patent License Agreement between Koninkluke Philips Electronics N.V. and [redacted]	PH_PAN 0175223	PH_PAN 0175230	Cho 29			
PX 0221	DTX 38	9/1/2006	Patent License Agreement between Koninkluke Philips Electronics N.V. and [redacted]	PH_PAN 0175164	PH_PAN 0175193	Cho 26			
PX 0222	DTX 39	9/15/2006	Patent License Agreement between Koninkluke Philips Electronics N.V. and [redacted]	PH_PAN 0175194	PH_PAN 0175202	Cho 27			
PX 0223	DTX 231	9/18/2006	Agreement between Eastman Kodak and [redacted]	KODAK_019318	KODAK_019351				

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PX 0224		3/29/2007	Patent License Agreement between Koninkluke Philips Electronics N.V. and [redacted] REDACTED	PHLPSKD_00079213	PHLPSKD_00079230		R, F, A, H		
PX 0225		4/6/2007	Excerpts from Kodak's Responses to Philips' First Set of Interrogatories (Nos. 1-13)				P		
PX 0226		7/25/2007	Certified Copy of Eastman Kodak Company v. Matsushita Electronic Industrial Company, Limited, Panasonic Corporation of North America, Victor Company of Japan, Limited (JVC) and JVC Americas Corporation, Civil Action No. 6:07CV352 Complaint and Exhibits A-D; Exhibit A U.S. Patent 5,016,107; Exhibit B U.S. Patent 5,164,831; Exhibit C U.S. Patent 5,493,335; Exhibit D U.S. Patent 6,292,218 B1	PHLPSKD_00089637	PHLPSKD_00089701		R, F, H		
PX 0227		9/7/2007	Excerpts from Defendant Eastman Kodak Company's First Supplemental Responses to Plaintiff U.S. Philips Corporation's First Set of Interrogatories (Nos. 2-3)				P		

PX 0228		9/17/2007	Excerpts from Defendant Eastman Kodak Company's Second Supplemental Responses to Plaintiff U.S. Philips Corporation's First Set of Interrogatories (Nos. 1 & 10)				P		
PX 0229		9/25/2007	License Agreement between Philips Electronics N. V. and [redacted] REDACTED	PHLPSKD_00079165	PHLPSKD_00079173		R, F, A, H		
PX 0230		10/1/2007	Payment Satisfaction Agreement between Philips Electronics N. V. and [redacted] REDACTED	PHLPSKD_00079106	PHLPSKD_00079107		R, F, A, H		
PX 0231	DTX 238	10/8/2007	Excerpts from Defendant Eastman Kodak Company's Third Supplemental Response to Plaintiff US Philips Corporation's First Set of Interrogatories (Nos. 1, 4, and 10)			Rabbani 7	P		
PX 0232		10/11/2007	Excerpts from Defendant Eastman Kodak Company's Fourth Supplemental Response to Plaintiff U.S. Philips Corporation's First Set of Interrogatories (No. 5)				P		
PX 0233	DTX 282	10/17/2007	Consumer Digital Camera Dashboard 2007			Scott 6			
PX 0234	DTX 112	10/19/2007	Eastman Kodak Co US-DAI Cameras			Evenski 2			
PX 0235	DTX 376	11/6/2007	Eastman Kodak Company Management			Wahl 6			

			Flowchart						
PX 0236		11/7/2007	Excerpts from Defendant Eastman Kodak Company's Responses to Plaintiff U.S. Philips Corporation's Second Set of Interrogatories (Nos. 14-20)				P		
PX 0237		11/7/2007	Excerpts from Defendant Eastman Kodak Company's Responses to Plaintiff U.S. Philips Corporation's Third Set of Interrogatories (Nos. 21-23)				P		
PX 0238		11/13/2007	Excerpts from Defendant Eastman Kodak Company's Supplemental Responses to Plaintiff U.S. Philips Corporation's First Set of Interrogatories (Nos. 7-9)				P		
PX 0239		4/2/1990	Activity Report of WG8 to SC2 Plenary in Washington, DC (April 9-12, 1990)	PHLPSKD_00039843	PHLPSKD_00039855				
PX 0240		5/10/1989	IBM Statement on Q-coder Patents	KODAK_013238	KODAK_013242				
PX 0241		1/1/1982	Objectives and Results of COST 211	PH_PAN 0154736	PH_PAN 0154738				
PX 0242		00/00/0000	Memorandum of Understanding on the COST 211 Project	PH_PAN 0154719	PH_PAN 0154733				
PX 0243		00/00/0000	Hudson- a UK View on Photographic Coding	KODAK_058234	KODAK_058240		M		
PX 0244		00/00/1987	Hudson- PICA Photovideotex Image	PH_PAN 0155143	PH_PAN 0155152		I		

			Compression Algorithm						
PX 0245		3/3/1986	Report COST 211-bis Simulation Subgroup Meeting	PHLPSKD_00048460	PHLPSKD_00048474				
PX 0246		9/1/1987	ESPRIT 563- PICA Towards International Standardization	KODAK_061286	KODAK_061310				
PX 0247		6/1/1987	Report of the 1st Meeting, KTAS-Copenhagen	KODAK_061376	KODAK_061489		P		
PX 0248		1/17/1986	Objective Measures of Quality in highly compressed images	KODAK_052171	KODAK_052175				
PX 0249		3/22/1985	CCITT- Comments on Source Coding	KODAK_051793	KODAK_051794				
PX 0250		9/1/1985	Simulations on source coding with a COST sequence	KODAK_051919	KODAK_051931				
PX 0251		5/1/1987	Hybrid Coding at 64 bits and its compatibility with 384kbits/sec	KODAK_053171	KODAK_053173				
PX 0252		1/9/2008	T. Schoechle Appendix C- 1983 WG8 Structure				R, F, H		
PX 0253		1/9/2008	T. Schoechle Appendix D- 1986 Formation of JPEG Organizational Structure				R, F, H, UP		
PX 0254		1/9/2008	T. Schoechle Appendix E- 1988 WG 8 Structure Expansion				R, F, H, UP		
PX 0255		1/9/2008	T. Schoechle Appendix F- 1991 Reorganization within JTC 1 of ISO				R, F, H, UP		
PX 0256		3/2/2008	T. Schoechle Appendix G- Attendance at WG8/ SC 29 Meetings				F, H, UP		

PX 0257		3/2/2008	T. Schoechle Appendix H- Attendance at JPEG Meetings				F, H, UP		
PX 0258		3/2/2008	T. Schoechle Appendix J- Attendance at MPEG Meetings				F, H, UP		
PX 0259		3/2/2008	T. Schoechle Appendix K- Attendance at CCITT SGXV Meetings				F, H, UP		
PX 0260		3/3/2008	M. Peterson Exhibit III- Royalty and Damages Charts				F, H, UP, CL		
PX 0261	DTX 298	4/1/1991	CCITT- Report of the Working Party VIII/3 (Part I) of the Study Group VIII Meeting Held in Geneva from 18-27 March 1991	KODAK_182073	KODAK_182146	Sebestyen 24			
PX 0262	DTX 173	7/7/1989	ISO- Accreditation of Delegates to ISO/IEC JTC1/SC2/WG8	KODAK_064711	KODAK_064736	Mitchell 3			
PX 0263	DTX 294	9/1/1992	CCITT- T.81 Terminal Equipment and Protocols for Telematic Services	KODAK_012535	KODAK_012720	Sebestyen 19			
PX 0264	DTX 189	5/1/1988	ISO N730- Patent Policy on JPEG Standard	KODAK_079247	KODAK_079251	Morris 8			
PX 0265	DTX 197	10/25/1991	CCITT- Report of the Rapporteur Group on Question 16/VIII	KODAK_183005	KODAK_183023	Sebestyen 22			
PX 0266	DTX 413	2/24/1989	ISO- Recommendations from Livingston N.J. JPEG Meeting	KODAK_183548	KODAK_183549	Weth 14			
PX 0267		5/31/1991	May 31, 1991 Meeting of the CEBus Technical Steering Committee."	PHLPSKD_00090895	PHLPSKD_00090897		P		
PX 0268		2/7/2008	M. Peterson Exhibit IV- "M. Peterson Exhibit IV- Reconciliation of Mr. Wallace to Mr. Peterson"				F, H, UP		

PX 0269	DTX 513	5/9/1988	ISO/IEC/SC2/WG8 Coded Representation of Picture and Audio Information CCITT/ISO Photographic Image Data Compression Standard Functionality and Goals by Joan L. Mitchell	KODAK_184322	KODAK_184327				
PX 0270	DTX 415	9/23/1988	September 1988 WG8 Meeting in London-attendance list	PHLPSKD_00066447	PHLPSKD_00066450				
PX 0271	DTX 251	4/6/2001	Excerpt from e-mail correspondence between D. Woods and I. Sebestyen regarding JPEG encoding	KODAK_427773	KODAK_427773				
PX 0272		11/16/2007	Excerpts from Defendant Eastman Kodak Company's Sixth Supplemental Responses to Plaintiff U.S. Philips Corporation's First Set of Interrogatories (Nos. 2-3, 7-9 & 12-13)				P		
PX 0273			Kodak EasyShare C330 Zoom Digital Camera Specifications	KODAK_004512	KODAK_004588		M, A, F, H		
PX 0274		2/22/2007	Web page for Kodak Professional DCS Pro Back 645M, 645C, 645H	KODAK_010602	KODAK_010750		M, A, F, H		
PX 0275			Comparison Chart for Kodak Picture CD and Kodak Photo CD Discs	KODAK_090347	KODAK_090348		R, F, A, H		
PX 0276			Web page and User's Guide for i30/i40 Scanners	KODAK_007579	KODAK_007666		M, F, A, H, R		
PX 0277			Kodak Molecular Imaging Software Manual	KODAK_079624	KODAK_079999		R, F, A, H		

PX 0278		2/23/2007	Web Page for Kodak EasyShare P850 Zoom Digital Camera	KODAK_006779	KODAK_006891		M, F, A, H		
PX 0279		4/10/1992	License Agreement between Kodak and [redacted] REDACTED	KODAK_023769	KODAK_023778		R, F, A, H		
PX 0280	DTX 656	2/25/1986	Compression Labs, Inc. v. Widergren Communications, Inc. (Sup. Ct. Cal.), Order Finding Defendants in Contempt	WIDCOM 006895	WIDCOM 006901		R		
PX 0281		11/9/1989	JPEG Mailing List (Nov. 1989)	KODAK_068489	KODAK_068494		I		
PX 0282		6/5/2003	Patent License Agreement between [redacted] and Eastman Kodak. REDACTED	KODAK_023045	KODAK_023073		R, F, A, H		
PX 0283		1/9/2008	T. Schoechle Appendix I- Attendance at CCITT SGVIII Meetings				F, H, UP		
PX 0284		1/30/2008	Kodak's intercompany sales data (2000_all_months)	KODAK_24188			F, A		
PX 0285		1/30/2008	Kodak's intercompany sales data (2001_all_months)	KODAK_24188			F, A		
PX 0286		1/30/2008	Kodak's intercompany sales data (2002_all_months)	KODAK_24188			F, A		
PX 0287		1/30/2008	Kodak's intercompany slaes data (2003all_months)	KODAK_24188			F, A		
PX 0288		1/30/2008	Kodak's intercompany sales data (2004_all_months)	KODAK_24188			F, A		
PX 0289		1/30/2008	Kodak's intercompany sales data (2005_all_months)	KODAK_24188			F, A		

PX 0290		1/30/2008	Kodak's intercompany sales data (2007_all_months)	KODAK_24188			F, A		
PX 0291		1/30/2008	Kodak's intercompany sales data (Pakon JPEG 2Kodak Spreadsheet 07Dec07JB)	KODAK_24188			F, A		
PX 0292		1/30/2008	Kodak's intercompany sales data (Pakon JPEG 2Kodak Spreadsheet 25Oct07bJB)	KODAK_24188			F, A		
PX 0293		8/7/2001	Excerpts from e-mail correspondence between W. Van Der Kruk and M. Rabbani regarding JPEG committee	PHLPSKD_00000357			F, A, H		
PX 0294		3/1/1988	23rd WG8 Document Register	KODAK_063271	KODAK_063274				
PX 0295		3/1/1987	ESPRIT PICA-Summary of Report for the Second Half of 1986	KODAK_059656	KODAK_059660				
PX 0296	DTX 293	2/15/1994	ISO/IEC 10918-1	KODAK_012872	KODAK_013058	Rabbani 9			
PX 0297	DTX 688	6/8/1989	Correspondence between M. Gold and A. Leger (Patent Statement)	PHLPSKD_00060101	PHLPSKD_00060101				
PX 0298	DTX 687	6/6/1989	Correspondence between G. Modena and G. Wallace (Patent Statement)	PHLPSKD_00037713	PHLPSKD_00037713				
PX 0299	DTX 686	4/1/1989	H. Poulsen Patent Statement	PHLPSKD_00037690	PHLPSKD_00037690				
PX 0300	DTX 313	4/20/1989	Report of the CCIC Group Activities during interregnum (including image compression standardization article from Nov. 1988)	KODAK_076583	KODAK_076595				
PX 0301	DTX 257	11/15/2002	Excerpts from e-mail correspondence between	IBM 8810387106	IBM 8810387107	Rabbani 31			

			M. Rabbani, J. Barda, and others						
PX 0302			Supplement to Charts for expert report of M. Peterson	TBD	TBD		I		
PX 0303		1/09/2008	T. Schoechle Appendix L- Flowchart of ADCT Technology into JPEG				R, F, H, UP		
PPX 1			Kodak C330 Digital Camera						
PPX 2			Kodak P850 Digital Camera						
PPX 3			Reserved for Plaintiff's Physical Exhibit						
PPX 4			Reserved for Plaintiff's Physical Exhibit						
PPX 5			Reserved for Plaintiff's Physical Exhibit						
PPX 6			Reserved for Plaintiff's Physical Exhibit						
PPX 7			Reserved for Plaintiff's Physical Exhibit						
PPX 8			Reserved for Plaintiff's Physical Exhibit						
PPX 9			Reserved for Plaintiff's Physical Exhibit						
PPX 10			Reserved for Plaintiff's Physical Exhibit						

EXHIBIT C2

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

U.S. PHILIPS CORPORATION V. EASTMAN KODAK COMPANY
CIVIL ACTION NO. 06-00251-GMS

DEFENDANT EASTMAN KODAK'S TRIAL EXHIBIT LIST with PHILIP'S OBJECTIONS (MARCH 3, 2008)

DTX 1		02/13/1990	U.S. Patent Number 4,901,075	KODAK_074784	KODAK_074793	Acharya Ex. 16 and Schylander Ex. 2 Girod Ex. 3; Clark Ex. 2; Rabbani Ex. 14; Weth Ex. 2; Tescher Ex. 7; Marion Ex. 2; Vogel Ex. 1; Van Der Meer Ex. 77; Volmer Ex. 3; Derounian Ex. 3; Schoechle Ex. 1; Ebrahimi Ex. 20		
DTX 2		02/16/2006	Certified U.S. Patent Number 4,901,075 File History	PHLPSKD_00005033	PHLPSKD_00005249			
DTX 3		05/22/2006	Certified Patent Assignment Abstract of Title for U.S. Patent Number 4,901,075	KODAK_000001	KODAK_000003			
DTX 4		04/27/2006	Certified Patent Assignment	KODAK_000004	KODAK_000008			
DTX 5		04/27/2006	Certified Maintenance Fee for Serial number 07/096,177	KODAK_000009	KODAK_000011			
DTX 6		09/08/1984	Acharya performance review	WIDCOM 012611	WIDCOM 012612	Acharya Ex. 1	402, 403, 802, 901	

DTX 7		11/12/1983	Computer code (AOS Rev. 4.2)	WIDCOM 003705	WIDCOM 003798	Partial Doc. At Acharya Ex. 2	402, 403, 802, 901	
DTX 8		04/26/1999	Letter from Sies Plokker (Royal Philips Electronics) to Shrinath Acharya re patent rights	PHLPSKD_00056531	PHLPSKD_0056531	Acharya Ex. 3		
DTX 9		Undated	Committee Membership List (non-paying members)	IBM 8710075837	IBM 8710075838	Acharya Ex. 4	402, 403, 802	
DTX 10		08/28/1984	Letter from James P. Skinner (General Electric Information Serivces Company) to Edmund T. Wright (WIDCOM)	N/A	N/A	Acharya Ex. 10	402, 403, 802	
DTX 11	PX 0053	09/27/1985	Memorandum from Dana Keen to Bob Widergren, Chuck Van Dusen, Jim Tubb re PVS Production	N/A	N/A	Acharya Ex. 11	402, 403, 802	
DTX 12		03/01/1988	Letter from Landis Mahaffey to Len Roberts enclosing StarSignal products brochure	N/A	N/A	Acharya Ex. 12	402, 403, 802	
DTX 13		Undated	WIDCOM block diagram (schematic)	N/A	N/A	Acharya Ex. 13	402, 403, 802, 901	
DTX 14	PX 0073	June 1987	ISO/TC97/SC2/WG8 N502: Coded Representation of Picture and Audio Information	N/A	N/A	Acharya Ex. 14		
DTX 15		Undated	Excerpted pages from publication or patent application	N/A	N/A	Acharya Ex. 15	402, 403, 802, 901	
DTX 16		10/26/2007	Current Philips Structure and Philips Structure circa 1990	PHLPSKD_00083277	PHLPSKD_00083278	Cho Ex. 2		
DTX 17		10/26/2007	Timeline for Philips Companies listed by Kodak	PHLPSKD_00083279	PHLPSKD_00083280	Cho Ex. 3		
DTX 18	PX 0057	09/09/1986	Cost 211bis Simulation Subgroup Block coding using a two-dimensional run-length table	PHLPSKD_00070973	PHLPSKD_00070979	Cho Ex. 6		
DTX 19		05/14/1987	Esprit 925 (PKI-Original) Further results regarding the transformation blocksize	PHLPSKD_00070980	PHLPSKD_000709983	Cho Ex. 7	Incomplete	
DTX 20		No Date	Handwritten notes regarding Hybrid Coding of Pictorial Data	PHLPSKD_00069653	PHLPSKD_00069655	Cho Ex. 8	402, 403, 802, 901	
DTX 21	PX 0115	09/00/1989	International Organization for Standardization Agenda and Schedule of 16th WG8 Meeting at Stockholm (July 3-7, 1989)	PHLPSKD_00039405	PHLPSKD_00039407	Cho Ex. 9		
DTX 22		11/12/1991	Jim Kurose letter to Peter Vogel regarding receipt of paper entitled "Source Coding by Classification" with	PHLPSKD_00070798	PHLPSKD_00070809	Cho Ex. 10	402, 403, 802, 901	

			multiple similar letters to Vogel attached					
DTX 23	PX 0131	04/12/1990	JPEG Joint Photographic Experts Group Budapest Meeting Report	PHLPSKD_00039932	PHLPSKD_00039934	Cho Ex. 11		
DTX 24		No Date	Greg Wallace memorandum to JPEG members regarding brief outline of the JPEG DP.	PHLPSKD_00059678		Cho Ex. 12		
DTX 25		09/08/1989	Takao Omachi memorandum to Gregory Wallace regarding Japan's current work on JPEG	PHLPSKD_00060130		Cho Ex. 13		
DTX 26		02/10/1989	JPEG Joint Photographic Experts Group Patent Positions for Committee Consideration and Action	PHLPSKD_00060044		Cho Ex. 14		
DTX 27		11/20/1989	JPEG Joint Photographic Experts Group Update on JPEG work	PHLPSKD_00037881	PHLPSKD_00037883	Cho Ex. 15		
DTX 28	PX 0169	07/06/2000	Philips Electronic North America Corporation Document Retention/Destruction Policy and Guidelines (11 Pages)	NO BATES		Cho Ex. 16		
DTX 29		06/06/2003	Retention Policy Files (3 Pages)	NO BATES		Cho Ex. 17		
DTX 30		06/29/1988	Assignment from Vogel to U.S. Philips Corporation for U.S. Patent for the improvements in a "System for transmitting video pictures."	PH_PAN 0099344		Cho Ex. 18		
DTX 31	PX 0003	01/30/2006	Certified Copy of Assignment	PHLPSKD_00005250	PHLPSKD_00005253	Cho Ex. 19		
DTX 32	PX 0183	11/07/2002	Patent License Agreement between [redacted] and Koninklijke Philips Electronics N.V. REDACTED	PHLPSKD_00040203	PHLPSKD_00040213	Cho Ex. 20		
DTX 33		09/10/1987	Republic of China Assignment from Vogel to N.V. Philips' Gloeilampenfabrieken for a new invention entitled: "Method of and circuit arrangement for bitrate reduction."	PH_PAN 0080698		Cho Ex. 21		
DTX 34		04/15/2005	Patent License Agreement between Koninklijke Philips Electronics N.V. and [redacted]	PH_PAN 0175337	PH_PAN 0175347	Cho Ex. 22		
DTX 35	PX 0212	01/02/2006	Patent License Agreement between Koninklijke Philips Electronics N.V. and [redacted]	PH_PAN 0175129	PH_PAN 0175138	Cho Ex. 23		
DTX 36		11/01/2006	Patent License Agreement between Koninklijke Philips Electronics N.V. and [redacted]	PH_PAN 0175139	PH_PAN 0175153	Cho Ex. 24		
DTX 37	PX 0199	03/31/2004	Patent License Agreement between Koninklijke Philips	PH_PAN 0175154	PH_PAN 0175163	Cho Ex. 25		

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	PX 0216		Electronics N.V. and					
DTX 38	PX 0221	09/01/2006	Patent License Agreement between Koninklijke Philips Electronics N.V.	PH_PAN 0175164	PH_PAN 0175193	Cho Ex. 26		
DTX 39	PX 0222	09/15/2006	Patent License Agreement between Koninklijke Philips Electronics N.V. and	PH_PAN 0175194	PH_PAN 0175202	Cho Ex. 27		
DTX 40	PX 0219	05/31/2005	Patent License Agreement between Koninklijke Philips Electronics N.V. and	PH_PAN 0175203	PH_PAN 0175213	Cho Ex. 28		
DTX 41	PX 0220	08/31/2005	Patent License Agreement between Koninklijke Philips Electronics N.V. and	PH_PAN 0175223	PH_PAN 0175230	Cho Ex. 29		
DTX 42	PX 0209	12/15/2005	Patent License Agreement between Koninklijke Philips Electronics N.V. and	PH_PAN 0175280	PH_PAN 0175291	Cho Ex. 30		
DTX 43	PX 0213	01/31/2006	Patent License Agreement between Koninklijke Philips Electronics N.V. and	PH_PAN 0175306	PH_PAN 0175316	Cho Ex. 31		
DTX 44	PX 0218	05/31/2006	Patent License Agreement between Koninklijke Philips Electronics N.V. and	PH_PAN 0175317	PH_PAN 0175326	Cho Ex. 32		
DTX 45		11/01/1986	Draft VTC-56 Decoder Theory of Operation Widcom, Inc.	PH_PAN 0171478	PH_PAN 0171520	Cho Ex. 33	402, 403, 802, 901	
DTX 46		03/17/2006	Settlement **REDACTED**	KODAK_018650	KODAK_018651	Cho Ex. 34	408	
DTX 47	PX 0164	08/06/1997	Philips Semiconductors and Eastman Kodak Company Bilateral Non-disclosure Agreement Number NDA971240	KODAK_181205	KODAK_181211	Cho Ex. 35	402, 403	
DTX 48		11/05/1990 check date 11/16/1990?	Video Technology News article, *New Products Bring Video to the Desktop on a Chip Set*	VDMPK_000508	VDMPK_000515	Cho Ex. 36; Van Der Meer Ex. 90	402, 403, 802	
DTX 49		03/02/2005	Philips Electronics North America Corporation Confidential Disclosure Agreement with Kodak	KODAK_181178	KODAK_181181	Cho Ex. 37	402, 403	
DTX 50		03/00/1992	Macworld Article: Macworld Lab tests 8 JPEG products.	KODAK_075788	KODAK_075794	Cho Ex. 38; Van Der Meer Ex. 91	402, 403, 802	

DTX 51			Kodak Professional DCS Information	KODAK_011346	KODAK_011349	Cho Ex. 39	402, 403, 802	
DTX 52	PX 0188	10/01/2002	Jack D. Slobod letter to Thomas Close at Eastman Kodak Company regarding U.S. Patent No. 4,901,075	FH_PAN 0168752		Cho Ex. 40; Watkins Ex. 24		
DTX 53	PX 0187	10/01/2002	Jack D. Slobod letter to Thomas Close at Eastman Kodak Company regarding discussion to grant Kodak a royalty-bearing license with attached patent. (same letter as above with attachment and additional Kodak date stamp and handwritten initials)	KODAK_427833	KODAK_427843	Cho Ex. 41		
DTX 54		01/12/2004	J.J. Hawley email to Jack D. Slobod regarding visit to Kodak office	KODAK_427870	KODAK_427872	Cho Ex. 42	408	
DTX 55		12/09/2005	J.J. Hawley email to Jack Slobod regarding meeting	KODAK_018169	KODAK_018171	Cho Ex. 43	408	
DTX 56		01/10/2006	[redacted] REDACTED	KODAK_018164	KODAK_018165	Cho Ex. 44	408	
DTX 57		No Date	[redacted]	KODAK_018163		Cho Ex. 45	408	
DTX 58		03/21/2006	Jack Slobod email to J. Jeffrey Hawley regarding [redacted] REDACTED	KODAK_018248	KODAK_018251	Cho Ex. 46	408	
DTX 59		03/27/2006	J.J. Hawley email to Jack Slobod regarding Widcom machine	KODAK_018254		Cho Ex. 47	408	
DTX 60		10/12/2007	Notice of Deposition of Richard Clark			Clark Ex. 1		
DTX 61	PX 0071	03/00/1987	ISO – Coded Representation of Picture and Audio Information – Report of the Joint Photographic Experts Group Meeting 24-26 March 1987, Darmstadt	KODAK_013119	KODAK_013132	Clark Ex. 3		
DTX 62		01/00/1988	Eighteenth WG8 Distribution List	KODAK_012301	KODAK_012305	Clark Ex. 6		
DTX 63	PX 0157	10/13/1992	Director of CCITT facsimile to Jacqueline Miyagaya regarding ISO/IEC DIS 10918-1 ("JPEG Part 1") approved as CCITT T.81 – September 19, 1992 was officially approved by CCITT as their Recommendation			Clark Ex. 7		

DTX 64	PX 0093	05/00/1988	ISO – Coded Representation of Picture and Audio Information – Patent Policy on JPEG Standard; Patents Relevant to the Flexible Hardware Specification (1/26/1988)	KODAK_184310	KODAK_184314	Clark Ex. 8; Weth Ex. 8; Nier Ex. 7; Schoechle Ex. 7		
DTX 65	PX 0139	08/04/1991	JPEG Joint Photographic Experts Group ISO/IEC JTC1/SC2/WG10 Request for Patent Statements or Re-statements	KODAK_183589	KODAK_183589	Clark Ex. 9; Weth Ex. 12; Nier Ex. 8; Morris Ex. 10; Ebrahimi Ex. 15		
DTX 66		05/09/1988	ISO memo regarding Patent Issues: ADCT and ISO in General, Source: Gregory Wallace	PHLPSKD_00039148	PHLPSKD_00039149	Clark Ex. 10; Richards Ex. 8, 8A; Nier Ex. 10		
DTX 67	PX 0142	08/19/1991	JPEG memo – Source: Convenor (G.K. Wallace); Title: Draft Annex L on patents for CD/DIS/IS	KODAK_013440	KODAK_013441	Clark Ex. 11; Nier Ex. 23		
DTX 68		08/22/2006	Affidavit of Richard Clark	KODAK_181533	KODAK_181539	Clark Ex. 12	402, 403, 802	
DTX 69		03/00/1988	ISO memo – Source: ISO/IEC JTC1/SC2/WG8 Convener, Title: A Draft ISO of Standard for Coded Representation of Still Pictures	KODAK_063203	KODAK_063221	Clark Ex. 13		
DTX 70		10/00/1988	Meeting Schedules, JPEG Attendance Japan Meeting October 1989	KODAK_068825	KODAK_068840	Clark Ex. 14		
DTX 71	PX 0098	06/00/1988	JPEG Member/ Mailing List	KODAK_067314 KODAK_068458	KODAK_067319 KODAK_068464	Clark Ex. 15; Weth Ex. 17		
DTX 72	PX 0106	10/18/1988	ISO Report on the activity of SC 2/WG 8 to the SC 2 Plenary meeting in London, 1988-10-17/21	IBM 8710031697	IBM 8710031738	Clark Ex. 16; Nier Ex. 13; Mitchell Ex. 26		
DTX 73	PX 0113	02/24/1989	JPEG document titled Recommendations from Livingston N.J. JPEG Meeting	KODAK_068816	KODAK_068817	Clark Ex. 18; Nier Ex. 16; Ebrahimi Ex. 12		
DTX 74		05/30/1989	JPEG memo Title: IBM Patent Statement relative to JPEG Algorithm; Source: Touchton (IBM); Pennebaker (IBM); Mitchell (IBM)	KODAK_013583	KODAK_013290	Clark Ex. 20		
DTX 75		03/28/1991	CCITT Study Group VIII Title: Direction Statement regarding Patent Statement with Respect to JEPG Algorithm	IBM 8710004640	IBM 8710004640	Clark Ex. 21; Nier Ex. 20		

DTX 76	PX 0143	09/19/1991	JPEG Document titled WG10 Response to June 1991 US Resolutions	IBM 8710004704	IBM 8710004714	Clark Ex. 22; Nier Ex. 21		
DTX 77	PX 0096	09/00/1988	ISO Report of the Joint Photographic Experts Group Meeting 9-13 May 1988, Communications Canada, Ottawa	KODAK_184335	KODAK_184341	Clark Ex. 23; Weth Ex. 7; Turner Ex. 5; Nier Ex. 22; Van Der Meer Ex. 87		
DTX 78		11/19/1993	ISO/IEC Draft Recommendation from JTC 1/SC 29 to JTC 1 on Patent Issues			Clark Ex. 25		
DTX 79		07/05/1994	Meeting Report, Fourth Meeting of JTC 1/SC 29, 1993-11-06/08, Seoul, Rep. of Korea			Clark Ex. 26		
DTX 80	PX 0172	08/02/2001	Brotons-Dias (IEC) letter to Bennett (ISO/IEC) regarding policy of ISO/IEC IPR			Clark Ex. 27		
DTX 81	PX 0079	01/18/1988	ISO Liaison between ISO/TC97/SC2/WG8 and CCITT SGXV (Mr. Okubo)	KODAK_012471	KODAK_012530	Clark Ex. 28; Nier Ex. 25 Van der Meer Ex. 52		
DTX 82		05/18/1988	ISO Liaison to CCITT SGXV, re 5/25-26 Marlesham Heath Meeting of DCT Chip Manufactures	KODAK_067331	KODAK_067332	Clark Ex. 29; Nier Ex. 26		
DTX 83		01/29/1988	CCITT SGXV Document titled Report of the Eleventh Meeting in Tokyo (January 26-29, 1988)	KODAK_184029	KODAK_184065	Clark Ex. 30; Nier Ex. 28; Van Der Meer Ex. 58		
DTX 84	PX 0101	09/00/1988	CCITT SG XV Document titled Patent Application by PKI on low bitrate video encoding	KODAK_012454	KODAK_012454	Clark Ex. 31; Van der Meer Ex. 53; Nier Ex. 29		
DTX 85		11/28/1988	CCITT SG XV List of Informed Patents (Issue 3)	KODAK_054550	KODAK_054555	Clark Ex. 32; Nier Ex. 30		
DTX 86	PX 0135 and PX 0136 they made 2 exhibits out of this	12/05/1990	ISO Information to MPEG members -- Patent Statement	KODAK_011662	KODAK_011663	Clark Ex. 33; Nier Ex. 32		
DTX 87		09/30/2002	Mitchell email to Schecter (and others) regarding Press Release	IBM 8710218466	IBM 8710218475	Clark Ex. 34	402, 403, 802, 602	

DTX 88		08/13/2002	Mitchell email to Schecter (and others) regarding "News – JPEG no more? ISO mulls withdrawal of Standard"	IBM 8710218321	IBM 8710218329	Clark Ex. 35	402, 403, 802, 602	
DTX 89		09/25/2002	Ron Arps email to Daniel Morris (and others) regarding two law firms and Xerox coming together in an agreement to defend claims being made by Forgent	IBM 8710218447	IBM 8710218449	Clark Ex. 36; Hamilton Ex. 12	402, 403, 802, 602	
DTX 90		09/16/2002	Mitchell email to Morris regarding more information on Philips patent	IBM 8710230149	IBM 8710230151	Clark Ex. 37	402, 403, 802, 602	
DTX 91		08/28/2002	Mitchell email to Schecter (and others) regarding Philips patent mentioned in email between Clark and Sebestyen	IBM 8710218411	IBM 8710218415	Clark Ex. 38	402, 403, 802, 602	
DTX 92		03/20/2006	Clark letter to ICT Members regarding major patent issue, regarding JPEG/ Phillips	KODAK_075839	KODAK_075840	Clark Ex. 39; Morris Ex. 12	402, 403, 802, 602	
DTX 93		07/27/2007	Clark email to Mitchell regarding being new part of the Info-Print Solutions Company	JM-IBM 00001	JM-IBM 00008	Clark Ex. 40	402, 403, 802, 602	
DTX 94		00/00/2006	Declaration of Robert Derounian	KODAK_015735	KODAK_015738	Derounian Ex. 1	402, 403, 802, 602	
DTX 95		08/16/2007	Subpoena to Robert Derounian			Derounian Ex. 2		
DTX 96		07/16/1985	Leith letter to Derounian enclosing a temporary retrofit of the existing videoconference systems	KODAK_015749	KODAK_015749	Derounian Ex. 6	402, 403, 802	
DTX 97		07/18/1985	Seidel Proposal to Derounian regarding teleconferencing retrofit	KODAK_015750	KODAK_015751	Derounian Ex. 7	402, 403, 802	
DTX 98		10/15/1984	TeleSpan article referencing Peirce-Phelps contract and using two Widcom VTC-56 codecs	KODAK_015752	KODAK_015753	Derounian Ex. 8	402, 403, 802	
DTX 99	PX 0052	08/26/1985	Approval of Blanket SER Expenditure to Kenneth Keating	KODAK_015746	KODAK_015748	Derounian Ex. 9	402, 403, 802	
DTX 100	PX 0048	01/26/1984	Article entitled *Codec Squeezes Color Teleconferencing Through Digital Telephone Lines*, by Anderson, Fralick, Hamilton, Tescher and Widergren	KODAK_051224	KODAK_051226	Derounian 10 (different bates); Tescher Ex. 2; Volmer Ex. 10; Hamilton Ex. 5; Fralick Ex. 6; Acharya Ex. 5	402, 403, 802	
DTX 101		00/00/0000	Brochure article entitled *Videoconferencing Comes of Age. And Down to Size.*	XEROX 00001	XEROX 00004	Derounian Ex. 11; Marion Ex. 11	402, 403, 802	

DTX 102		12/14/2007	Expert Report of Dr. Touradj Ebrahimi for U.S. Patent No. 4,901,075 on Invalidity			Ebrahimi Invalidity Report Ebrahimi Ex. 23	402, 403, 802	
DTX 103		12/14/2007	Dr. Touradj Ebrahimi 4,901,075 Invalidity Report List of Materials Relied Upon			Ebrahimi Invalidity Appendix A	402, 403, 802	
DTX 104		12/14/2007	Anticipatory Invalidity Charts from Dr. Touradj Ebrahimi 4,901,075 Invalidity Report			Ebrahimi Invalidity Appendix B	402, 403, 802	
DTX 105		12/14/2007	Obviousness Invalidity Charts from Dr. Touradj Ebrahimi 4,901,075 Invalidity Report			Ebrahimi Invalidity Appendix C	402, 403, 802	
DTX 106		01/07/2008	Expert Report of Dr. Touradj Ebrahimi for U.S. Patent 4,901,075 on NonInfringement			Ebrahimi Non-Infringement Report Ebrahimi Ex. 22	402, 403, 802	
DTX 107		01/07/2008	Dr. Touradj Ebrahimi U.S. Patent 4,901,075 Report on Non-Infringement List of Materials Relied Upon			Ebrahimi Non-Infringement Report	402, 403, 802	
DTX 108		12/14/2007	Dr. Touradj Ebrahimi Curriculum Vitae			Ebrahimi Standard Appendix A	402, 403, 802	
DTX 109		12/14/2007	Dr. Touradj Ebrahimi JPEG Standard Issues Report List of Documents Relied Upon			Ebrahimi Standard Appendix B	402, 403, 802	
DTX 110		12/14/2007	Philips Standardization Participation: JPEG and MPEG Chart.			Ebrahimi Standard Appendix C	402, 403, 802	
DTX 111		12/14/2007	Expert Report of Dr. Touradj Ebrahimi Regarding JPEG Standard Issues			Ebrahimi Standard Report	402, 403, 802	
DTX 112		12/00/2000	EK Statement of Earnings Comparison	KODAK 1999-2000 CAMERAS P&L DATA		Evenski Ex. 2		
DTX 113		2000-2001	Eastman Kodak Company Basic Statutory Margin Chart	KODAK_078364	KODAK_078368	Evenski Ex. 1		
DTX 114		06/06/2006	Eastman Kodak Company ERP Global Data Warehouse Chart	KODAK_078547	KODAK_078549	Evenski Ex. 3		
DTX 115		2002-2003	Eastman Kodak Company Basic Statutory Margin Chart	KODAK_078383	KODAK_078393	Evenski Ex. 4		
DTX 116		2004-2005	Eastman Kodak Company Basic Statutory Margin Chart	KODAK_078438	KODAK_078454	Evenski Ex. 5		
DTX 117		12/00/2002	EK Statement of Earnings Comparison	KODAK 2001-2002		Evenski Ex. 6		

				CAMERAS P&L DATA				
DTX 118		12/00/2004	EK Statement of Earnings Comparison	KODAK 2003-2004 CAMERAS PL DATA		Evenski Ex. 7		
DTX 119		12/00/2006	EK Statement of Earnings Comparison	KODAK 2005-2006 CAMERAS PL DATA		Evenski Ex. 8		
DTX 120		09/00/2007	EK Cameras PL Data for Jan-Sept 2007	KODAK 2007 JAN-SEPT CAMERAS PL DATA		Evenski Ex. 9		
DTX 121		2004-2005	Eastman Kodak Company ERP Global Data Warehouse Chart	KODAK_078671	KODAK_078682	Evenski Ex. 11		
DTX 122		2006	Eastman Kodak Company ERP Global Data Warehouse Chart	KODAK_078470	KODAK_078474	Evenski Ex. 12; Evenski Ex. 10		
DTX 123		2001	Sum of Inv Extended Price and Month	KDK00709013 KODAK_018143\CAPT-IL DATA 2001-07 V4.XLS		Evenski Ex. 13		
DTX 124		2004-2007	Total Manufacturing Costs – JPEG Enabled Products Sold in the U.S.	KDK00709012 \KODAK_018141\US MFG INVESTMENT SPENDING FOR DL.XLS		Evenski Ex. 14		
DTX 125		2000-2007	U.S. Only Products Revenue and Sales Marketing Investment Actuals	KDK00709011 \KODAK_018141\JPEG PRODUCTS REVENUE AND SALES MARKETING INVESTMENT.XLS		Evenski Ex. 15		
DTX 126		1998-2006	Basic Statutory Margin KP-Digital Cameras	KDK00000001 KODAK_015930\NATIVE\57686.XLS		Evenski Ex. 16		

DTX 127		1998-2005	Corp. & BU allocated costs are not include in this P/L Drill Down Reports	KDK00000003 KODAK_015930\NATIVE\57688.XLS		Evenski Ex. 17		
DTX 128		2003-2005	Corp. & BU allocated costs are not include in this P/L Drill Down Reports for POJJ KPro Digital Cameras	KDK00000006 KODAK_015930\NATIVE\57691.XLS		Evenski Ex. 18		
DTX 129		1998-2005	ProDigital Cameras Sales Units	KDK00000007 KODAK_015930\NATIVE\57692.XLS		Evenski Ex. 19		
DTX 130		1998-2006	ProDigital Cameras Sales Units	KDK00000009 KODAK_015930\NATIVE\57694.XLS		Evenski Ex. 20		
DTX 131		1998-2006	Corp. & BU allocated costs are not include in this P/L Drill Down Reports	KDK00000010 KODAK_015930\NATIVE\57699.XLS		Evenski Ex. 21		
DTX 132		1998-2005	Fully Allocated SPU Results Total Digital Cameras	KDK00000011 KODAK_015930\NATIVE\57700.XLS		Evenski Ex. 22		
DTX 133		1999	Digital and Applied Imaging 1999 Sales	KDK00000012 KODAK_015930\NATIVE\57701.XLS		Evenski Ex. 23		
DTX 134		00/00/0000	List of Companies	KDK00000013 KODAK_015930\NATIVE\57702.XLS		Evenski Ex. 24		
DTX 135		1998	U.S. Sales	KDK00000020 KODAK_015930\NATIVE\57713.XLS		Evenski Ex. 25		
DTX 136		2007	Financials with US and C Waterfall Analysis			Evenski Ex. 26		
DTX 137		2005	Financials with US and C Waterfall Analysis			Evenski Ex. 27		
DTX 138		2006	Financials with US and C Waterfall Analysis			Evenski Ex. 28		
DTX 139		1998-2006	ProDigital Cameras Sales Units	KODAK_015930\NATIVE\57692.XLS		Evenski Ex. 29		
DTX 140		2004-2005	Financials with US and C Waterfall Analysis	KDK00000028 KODAK_015930\NATIVE\57721.XLS		Evenski Ex. 30		

DTX 141		2003-2005	Pro Camera P&L – US chart	KDK00000028 KODAK_015930\NATIVE\57721.XLS		Evenski Ex. 31		
DTX 142		2000-2001	Eastman Kodak Company ERP Global Data Warehouse VPE Drill Down	KDK00000029 KODAK_015930\NATIVE\57728.XLS		Evenski Ex. 32		
DTX 143		2002-2003	Eastman Kodak Company ERP Global Data Warehouse VPE Drill Down	KDK00000030 KODAK_015930\NATIVE\577298.XLS		Evenski Ex. 33		
DTX 144		2004-2005	Eastman Kodak Company ERP Global Data Warehouse VPE Drill Down	KDK00000031 KODAK_015930\NATIVE\57730.XLS		Evenski Ex. 34		
DTX 145		20020-2005	Eastman Kodak Company Camera WW Avg NRR Trend Chart	KDK00000034 KODAK_015930\NATIVE\57734.XLS		Evenski Ex. 35		
DTX 146		2000-2007	Kodak Pakon JPEG Spreadsheet	KODAK PAKON JPEG SPREADSHEET 25OCT07A		Evenski Ex. 36		
DTX 147		1998-2004	JPG U.S. Sales Since April 22, 1998	JPG US SALES SINCE APR 22 1998		Evenski Ex. 37		
DTX 148		09/00/2007	Cameras Hyperion P&L data chart for January to September 2007	CAMERAS HYPERION 07 JAN-SEP 2007 JAN-SEPT CAMERAS P&L DATA –RE-REVISED		Evenski Ex. 38		
DTX 149		Undated	CV of Dr. Stanley C. Fralick	WIDCOM 018448	WIDCOM 018448	Fralick Ex. 1	402, 403, 802	
DTX 150	PX 0045	04/01/1983	Algorithm Definition Report for 56 Kbps Video Teleconferencing Codec (VTC-56)	WIDCOM 000905	WIDCOM 000987	Fralick Ex. 2 + additional pages	402, 403, 802, 901	
DTX 151		Feb. 1984	Innovative Codecs and Many New Services Brighten Nation's Teleconferencing Picture, by M. Edwards	KODAK_018228	KODAK_018239	Fralick Ex. 3	402, 403, 802, 901	
DTX 152	PX 0051	06/15/1985	Pages from TeleSpan regarding WIDCOM's third quarterly report	WIDCOM 008671	WIDCOM 008672	Fralick Ex. 4	402, 403, 802, 901	

DTX 153	PX 0046	08/00/1983	Newsfront: Pictures for pennies	WIDCOM 011256	WIDCOM011257	Fralick Ex. 5	402, 403, 802, 901	
DTX 154		01/18/2008	Bernd Girod Subpoena			Girod Ex. 1		
DTX 155		12/14/2007	Expert Report of Professor Bernd Girod Regarding Infringement of Philips' U.S. Patent No. 4,901,075 by Certain Kodak Products and Services			Girod Ex. 2		
DTX 156		01/25/2008	Order Construing the Terms of the U.S. Patent No. 4,901,075			Girod Ex. 4; Ebrahimi Ex. 21		
DTX 157		01/07/2008	Rebuttal Expert Report of Professor Bernd Girod Regarding Validity of Philips' U.S. Patent No. 4,901,075			Girod Ex. 7		
DTX 158		10/30/2007	Deposition transcript of Shrikant Acharya			Girod Ex. 8	402, 403, objection to submission of complete transcript; objection to designated portions in log for deposition designations	
DTX 159		00/00/000	Handwritten note "400 50000 50000001 001"			Girod Ex. 9		
DTX 160		09/00/2002	CCITT Recommendation T.81: Terminal Equipment and Protocols for Telematic Services – Information Technology – Digital Compression and Coding of Continuous-Tone Still Images – Requirements and Guidelines	N/A	N/A	Hamilton Ex. 1		
DTX 161	PX 0132	06/13/1990	JPEG-601 Translation of a paper "The Standardization of Still Picture Coding: The JPEG Image Compression Algorithm," by Eric R. Hamilton	PH_PAN 0158584	PH_PAN 0158591	Hamilton Ex. 2		
DTX 162	PX 0138	04/00/1991	The JPEG Still Picture Compression Standard, by Gregory K. Wallace	KODAK_079211	KODAK_079225	Hamilton Ex. 3		
DTX 163		Undated	VTC-56B Coder Theory of Operation Widcom, Inc.	KODAK_079512	KODAK_079570	Hamilton Ex. 6; Fralick Ex. 7; Acharya Ex. 6; Teschet Ex. 3	402, 403, 802, 901	

DTX 164	PX 0049	03/00/1984	Scene Adaptive Coder, by Wen-Hsiung Chen and William K. Pratt	KODAK_050252	KODAK_050260	Hamilton Ex. 7; Pralick Ex. 8; Acharya Ex. 7; Girod Ex. 6	402, 403, 802	
DTX 165		09/21/1988	Settlement Agreement between Compression Labs, Robert D. Widergren, John L. Douglas and Eric Hamilton	WIDCOM 000092	WIDCOM 000107	Hamilton Ex. 10	402, 403, 408, 802	
DTX 166		01/08/1991	Comprehensive List of Chip Manufactures and their interests (from SKA)	WIDCOM 004293	WIDCOM 004295	Hamilton Ex. 11	402, 403, 802	
DTX 167	PX 0189	11/06/2002	Email from Majid Rabbani to guru@ipeg.org re CLI attendance of JPEG	IBM 8710182911	IBM 8710182911	Hamilton Ex. 13	402, 403, 802	
DTX 168		02/13/1990	File History for U.S. Patent No. 4,901,075	KODAK_000012	KODAK_000230	Marion Ex. 3; Vogel Ex. 2		
DTX 169	PX 0124	02/16/1982	U.S. Patent No. 4,316,222 (Subramaniam)	KODAK_051025	KODAK_051041	Marion Ex. 8		
DTX 170		00/00/1987	Abstract: Improved Hybrid Coders with 2D-Signal Processing for Moving Pictures by Speidel and Vogel	KODAK_184081	KODAK_184090	Marion Ex. 10; Volmer Ex. 9		
DTX 171		00/00/0000	Participants List for Meeting Evaluation of MPEG Related Patents on 04/01/1993	PHLPSKD_00046968	PHLPSKD_00046968	Marion Ex. 12; Vogel Ex. 16; Van Der Meer Ex. 78; Schoechle Ex. 20		
DTX 172		06/28/2007	Subpoena in a Civil Case	N/A	N/A	Mitchell Ex. 1		
DTX 173	PX 0262	07/07/1989	ISO Document titled Accreditation of Delegates to ISO/IEC JTC1/SC2/WG8	KODAK_064711	KODAK_064736	Mitchell Ex. 3		
DTX 174	PX 0015	Undated	Issues and Future Directions In JPEG Image Coding, by Joan L. Mitchell	IBM 8810000569	IBM 8810000572	Mitchell Ex. 4		
DTX 175		10/28/1988	JPEG Liaison Report, by Jock Williams	KODAK_184430	KODAK_184432	Mitchell Ex. 8; Turner Ex. 10		
DTX 176	PX 0147	10/22/1991	Letter from H.J. Hall (IBM) to Theodore Irmer, CCITT re IBM Patents for Arithmetic Coding	KODAK_013243	KODAK_113244	Mitchell Ex. 10		
DTX 177	PX 0086	03/00/1988	A Draft ISO Standard for Coded Representation of Still Pictures	KODAK_184267	KODAK_184285	Mitchell Ex. 15; Van Der Meer Ex. 84; Richards Ex. 4		
DTX 178		03/00/1987	ISO Document titled Information To Be Given On Photographic Compression Techniques	IBM 8810014124	IBM 8810014126	Mitchell Ex. 16		

DTX 179	PX 00107	01/00/1988	ISO Document titled WG8 Document Register from NBOO	IBM 8710026924	IBM 8710026928	Mitchell Ex. 20		
DTX 180		05/01/1989	Meeting Report: X9L2.8 Meeting #3: Tampa: January 1989	IBM 8710040054	IBM 8710040060	Mitchell Ex. 21		
DTX 181		06/03/1991	IBM Patent Statement relative to JPEG algorithm	IBM 8710003823	IBM 871000836	Mitchell Ex. 23		
DTX 182		03/18/1991	CCITT Study Group VIII: Patent Statement with Respect to JPEG Algorithm	IBM 8710004640	IBM 8710004640	Mitchell Ex. 24		
DTX 183		04/18/2007	Email string re Fw: I'm part of the new InfoPrint Solutions Company			Mitchell Ex. 27	402, 403, 802	
DTX 184		02/02/2007	Notice of Deposition and Requests for Production of Documents and Things of Dr. John Morris	NO BATES		Morris Ex. 1		
DTX 185		00/00/1991	British Standard: A standard for standards Part 1. Guide to general principles of standardization	KODAK_181396	KODAK_181523	Morris Ex. 5		
DTX 186	PX 0160	00/00/1994	British Standard: Implementation of ISO/IEC 10918-1:1994 Information technology – Digital compression and coding of continuous-tone still images: Requirements and guidelines	KODAK_183218	KODAK_183399	Morris Ex. 6		
DTX 187		00/00/1994	ISO/IEC 10918-1:1994(E) page 91	KODAK_012966	KODAK_012967	Morris Ex. 6a	Incomplete	
DTX 188	PX 0144	09/30/1991	ISO/IEC JTC 1/SC 2/WG 8 Coded Representation of Picture and Audio Information: Report from the Plenary Meeting held in Santa Clara, California on August 19th and 23rd, 1991	KODAK_0184700	KODAK_184709	Morris Ex. 7		
DTX 189	PX 0264	05/00/1988	International Organization for Standardization Patent Policy of JPEG Standard	KODAK_079247	KODAK_079251	Morris Ex. 8		
DTX 190	PX 0126	03/10/1990	International Organization for Standardization WG8 Mailing List Coded Representation of Picture and Audio Information by Hiroshi Yasuda	KODAK_065554	KODAK_065577	Morris Ex. 9; Schylander Ex. 4		
DTX 191		01/30/1990	O.J. Morris letter to Ir. Jan van der Meer regarding a draft technical specification from the JPEG still picture coding group; specification attached.	PHLPSKD_00070990	PHLPSKD_00070994	Morris Ex. 11		
DTX 192		03/00/1989	Philips Research Laboratories Technical Note No. 2796: A Software Implementation of the Draft ISO-JPEG Adaptive Discrete Cosine Transform Still Picture	VDMPK_019202	VDMPK_019225	Morris Ex. 13; Schylander Ex. 10; Van Der Meer Ex. 64		

			Coding Technique by O.J. Morris					
DTX 193		12/13/2007	Expert Report of Charles J. Neuhauser, PH.D. on Behalf of Defendant Eastman Kodak Company			Neuhauser Report; Neuhauser Ex. 1	402, 403, 802	
DTX 194		10/19/2007	Eastman Kodak Company's Subpoena Ad Testificandum of Michael C. Nier	N/A	N/A	Nier Ex. 1		
DTX 195	PX 0119	07/07/1989	OSO/IEC JTC1/SC2/WG8 Coded Representaion of Picture and Audio Information memo	KODAK_064711	KODAK_064732	Nier Ex. 3		
DTX 196	PX 0148	10/24/1991	List of Participants, CCITT, Geneve, 16-25 Octobre 1991	KODAK_180080	KODAK_180087	Nier Ex. 4		
DTX 197	PX 0265	10/16/1991	CCITT Study Group VIII Pater titled Report of the Rapporteur Group on Question 16/VIII	KODAK_183005	KODAK_183023	Nier Ex. 5; Sebestyen Ex. 22; Wenzel Ex. 17; Schoechle Ex. 16		
DTX 198	PX 0149	11/00/1991	Study Group VIII – Report R 28	KODAK_077497	KODAK_077579	Nier Ex. 6		
DTX 199	PX 0141	08/19/1991	JPEG Document from Mitsubishi Electric Corp. titled Patent Status	KODAK_182971	KODAK_182975	Nier Ex. 9		
DTX 200	PX 0129	03/27/1990	JPEG Member/Mailing List	IBM 8810406775	IBM 8810406781	Nier Ex. 11; Mitchell Ex. 25		
DTX 201		12/00/1991	The JPEG Still Picture Compression Standard, by Gregory K. Wallace	KODAK_051207	KODAK_051223	Nier Ex. 12		
DTX 202	PX 0112	02/10/1989	JPEG Memo from C.F. Touchton (IBM) to G.K. Wallace (DEC) re Patent Positions	KODAK_013690	KODAK_013690	Nier Ex. 17; Clark Ex. 19		
DTX 203	PX 0116	05/30/1989	JPEG Document titled IBM Patent Statement relative to JPEG algorithm	KODAK_013283	KODAK_013290	Nier Ex. 18; Mitchell Ex. 11; Schoechle Ex. 8		
DTX 204	PX 0110	01/25/1989	Meeting Minutes for ANSI x3L2.8 Picture Coding, hosted by IBM in Tampa, Florida	WIDCOM 004501	WIDCOM 004506	Nier Ex. 19		
DTX 205		04/02/1990	ISO Document titled Activity Report of WG8 to SC2 Plenary in Washington D.C. (April 9-12, 1990)	KODAK_184554	KODAK_184566	Nier Ex. 27		
DTX 206	PX 0120	10/10/1989	Philips Letter from Dr. Speidel and Dr. Brandis to Mr. S. Okubo re CCITT Patent Statement for p x 64 kbit/s video coding	KODAK_012455	KODAK_012456	Nier Ex. 31		
DTX 207	PX 0163	05/26/1997	Email from Ken Parulski to Izumi-san re Kodak IP on TIFF/EP and Exif	KODAK_205431	KODAK_205432	Nier Ex. 33		

DTX 208	PX 0036	Undated	List of Cross-Licensees	N/A	N/A	Parkins Ex. 1		
DTX 209	PX 0207	06/11/2005	MPEG-2 Patent Portfolio License	KODAK_078089	KODAK_078149	Parkins Ex. 2		
DTX 210	PX 0197	01/01/2000	MPEG-4 Visual Patent Portfolio License	KODAK_077829	KODAK_077882	Parkins Ex. 3		
DTX 211		01/01/1998	1394 Patent Portfolio License	KODAK_077883	KODAK_077906	Parkins Ex. 4	402, 403	
DTX 212		10/18/1993	Photo CD Patent License Agreement for Read & Display Software	K 003579	K 003590	Parkins Ex. 5	402, 403	
DTX 213		01/26/1994	Photo CD Player License Agreement	K 004201	K 004214	Parkins Ex. 6	402, 403	
DTX 214		03/03/1993	Photo CD Authoring System Software License Agreement	K 003520	K 003528	Parkins Ex. 7	402, 403	
DTX 215		08/24/1992	Photo CD Photofinisher Authoring Software License Agreement	K 004322	K 00004330	Parkins Ex. 8	402, 403	
DTX 216		08/24/1992	Photo CD Industrial & Institutional Authoring Software License Agreement	K 004348	K 004356	Parkins Ex. 9	402, 403	
DTX 217		01/23/2001	Settlement Agreement (unsigned) between [redacted] and Kodak	KODAK_427767	KODAK_422772	Parkins Ex. 10	402, 403	
DTX 218		04/06/2002	Royalty Report, MPEGLA LLC	N/A	N/A	Parkins Ex. 11		
DTX 219	PX 0021	05/01/2002	Agreement (between Kodak and [redacted])	KODAK_019047	KODAK_019062	Parkins Ex. 12		
DTX 220	PX 0167	02/10/1999	Patent License Agreement Between [redacted] and Eastman Kodak Company	KODAK_019063	KODAK_019075	Parkins Ex. 13		
DTX 221	PX 0205	03/31/2005	[redacted]	KODAK_019076	KODAK_019094	Parkins Ex. 14		
DTX 222		05/06/2004	Email from ATLC to suzukis@funai.co.jp re PLA, with attached agreement documents	KODAK_019095	KODAK_019134	Parkins Ex. 15		
DTX 223	PX 0173	09/01/2001	Agreement (between Kodak and [redacted])	KODAK_019153	KODAK_019169	Parkins Ex. 16		
DTX 224	PX 0023	04/04/2005	Letter from Michael R. Pagao to Mitsuhiro Yoshizawa re patent license agreement, with attached agreement	KODAK_019170	KODAK_019187	Parkins Ex. 17		
DTX 225	PX 0201	04/09/2004	Agreement (between Kodak and [redacted])	KODAK_019188	KODAK_019207	Parkins Ex. 18		
DTX 226	PX 0203	07/01/2004	Agreement (between Kodak and [redacted])	KODAK_019208	KODAK_019227	Parkins Ex. 19		
DTX 227	PX 0195	08/19/2003	Agreement (between Kodak and [redacted])	KODAK_019228	KODAK_019245	Parkins Ex. 20		
DTX 228	PX 0204	01/07/2005	Digital Video Camera Agreement (between Kodak and [redacted])	KODAK_019246	KODAK_019265	Parkins Ex. 21		

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DTX 229	PX 0161	04/21/2005	Agreement (between Kodak and [redacted])	KODAK_019266	KODAK_019275	Parkins Ex. 22		
DTX 230	PX 0123	01/01/1990	Patent License Agreement between Kodak and [redacted]	KODAK_019276	KODAK_019301	Parkins Ex. 23		
DTX 231	PX 0223	09/18/2006	Digital Still Camera Patent License Agreement (between Kodak and [redacted])	KODAK_019318	KODAK_019351	Parkins Ex. 24		
DTX 232	PX 0176	04/01/2002	Agreement between Eastman Kodak Company and [redacted] REDACTED	KODAK_099135	KODAK_019152	Parkins Ex. 25		
DTX 233		08/17/2007	Notice of Deposition and Requests for Production of Documents and Things of Majid Rabbani			Rabbani Ex. 1		
DTX 234		09/11/2007	Plaintiff U.S. Corporation's Second Notice of 30(b)(6) Deposition to Kodak			Rabbani Ex. 3		
DTX 235		09/21/2007	Plaintiff U.S. Philips Corporation's Third Notice of 30(b)(6) Deposition to Kodak			Rabbani Ex. 4; Sasson Ex. 2		
DTX 236		10/02/2007	Wyll letter to Levy regarding list of Philips' 30(b)(6) deposition topics			Rabbani Ex. 5		
DTX 237		10/10/2007	Wyll email to Levy regarding 30(b)(6) deposition of Majid Rabbani			Rabbani Ex. 6		
DTX 238	PX 0231	10/08/2007	Defendant Eastman Kodak Company's Third Supplemental Response to Plaintiff U.S. Philips Corporation's First Set of Interrogatories (Nos. 1,4 and 10)			Rabbani Ex. 7; Sasson Ex. 4	402, 403, 802	
DTX 239	PX 0137	01/08/1991	Comprehensive List of Chip Manufactures and their interests	WIDCOM 004420	WIDCOM 004424	Rabbani Ex. 10	402, 403, 802	
DTX 240	PX 0026	12/11/1995	Imaging Science Division Technical Memorandum – the Data Compression Algorithm Evaluation	KODAK_279492	KODAK_279509	Rabbani Ex. 11	402, 403, 802	
DTX 241		09/28/1998	Hobbes System Architecture by Schmlze	KODAK_261390	KODAK_261421	Rabbani Ex. 12	402, 403, 802	
DTX 242	PX 0159	11/04/1993	JPEG – Revised ISO/IEC DIS 10918-2, Information technology – Digital Compression and Coding of Continuous-tone Still Images – Part 2: Compliance testing	KODAK_141603	KODAK_141686	Rabbani Ex. 13		
DTX 243	PX 0065	11/14/1986	CCITT SGXV – Report of the Seventh Meeting in Nurnberg (November 11-14, 1986)	KODAK_052841	KODAK_052882	Rabbani Ex. 16		

DTX 244	PX 0061	11/00/1986	CCITT SGXV – Coding of Coefficients with a two-dimensional table	KODAK_183918	KODAK_183921	Rabbani Ex. 17; Volmer Ex. 8; Van Der Meer Ex. 57		
DTX 245	PX 0104	09/22/1988	CCITT SGXV – Report of the Thirteenth Meeting in Paris (September 19-22, 1988)	KODAK_012118	KODAK_012143	Rabbani Ex. 18		
DTX 246		09/00/1988	CCITT SGXV – Patent Applications by PKI on low bitrate video encoding	PHLPS_NATIVE0000 63	PHLPS_NATIVE0000 63	Rabbani Ex. 19		
DTX 247	PX 0122	11/07/1989	CCITT SGXV Document titled Patent Licensing Policies for Rec. H.261	KODAK_184067	KODAK_184080	Rabbani Ex. 20; Van Der Meer Ex. 59		
DTX 248	PX 0081	11/27/1987	Report and Recommendation of the 11th Meeting of WG 8 in Copenhagen (1987-6-15/19)	KODAK_062440	KODAK_062461	Rabbani Ex. 22		
DTX 249	PX 0077	01/00/1988	Report of the Joint Photographic Experts Group Meeting 26-30 October 1987, Washington	KODAK_062123	KODAK_062134	Rabbani Ex. 23		
DTX 250	PX 0082	01/00/1988	Report of the Joint Photographic Experts Group Meeting 25-27 January 1988, KTAS, Copenhagen	KODAK_184286	KODAK_184298	Rabbani Ex. 24; Van Der Meer Ex.; 69; Mitchell Ex. 5; Schoechle Ex. 11		
DTX 251	PX 0271	04/06/2001	Woods email to Sebestyen and Rabbani regarding Phillips company's involvement in the original generation of the JPEG standard in 1985-1986	KODAK_427773	KODAK_427773	Rabbani Ex. 25		
DTX 252	PX 0185	08/13/2002	Leger email to Hamilton, Sebestyen (and others) regarding JPEG Patent Activity Question	IBM 8810386011	IBM 8810386016	Rabbani Ex. 26	402, 403, 802	
DTX 253	PX 0184	8/12/2002	Sebestyen email to Leger, Rabbani (and others) regarding "some old docs" (PCS '86, JPEG-patent forum)	IBM 8810385969	IBM 8810385971	Rabbani Ex. 27	402, 403, 802	
DTX 254	PX 0190	11/14/2002	Clark email to Rabbani regarding CLI attendance of JPEG	IBM 8810387048	IBM 8810387054	Rabbani Ex. 28	402, 403, 802	
DTX 255		12/19/2002	Rabbani email to Hamilton regarding prior art and Widcom Teleconferencing units	IBM 8810387349	IBM 8810387350	Rabbani Ex. 29	402, 403, 802	
DTX 256		03/00/1988	Study Group VIII – Report R 13 – Report of Final Meeting of Study Group VIII in the Study Period of 1985-1988 (Geneva, 8 to 19 February 1988)	PHLPS_NATIVE0000 78	PHLPS_NATIVE0000 92	Rabbani Ex. 30		
DTX 257	PX 0301	11/15/2002	Rabbani email to Barda regarding CLI attendance of JPEG	IBM 8810387106	IBM 8810387107	Rabbani Ex. 31	402, 403, 802	

DTX 258		09/00/1988	ISO Coded Representation of Picture and Audio Information	KODAK_012294	KODAK_012300	Rabbani Ex. 32		
DTX 259		02/24/1989	JPEG – Recommendations from Livingston N.J. JPEG Meeting	IBM 8810025393	IBM 8810025394	Rabbani Ex. 33 Mitchell Ex. 22		
DTX 260		02/02/2007	Notice of Deposition and Request for Production of Documents and Things of Norman Richards			Richards Ex. 1		
DTX 261	PX 0087	06/00/1989	ISO WG8 Mailing List (June 1989)	KODAK_064562	KODAK_064576	Richards Ex. 2		
DTX 262	PX 0087	03/00/1988	Recommendation of 12th WG8 Meeting at Copenhagen (1/25-1/29, 1988)	PHLPSKD_00039077	PHLPSKD_00039081	Richards Ex. 3		
DTX 263		01/00/1989	ISO Report of the Joint Photographic Experts Group Meeting 25-27 January 1988, KTAS, Copenhagen	KODAK_012345	KODAK_012357	Richards Ex. 5		
DTX 264	PX 0097	05/11/1988	CCITT/ISO Photographic Image Data Compression Standard Functionality and Goals	KODAK_183408	KODAK_183413	Richards Ex. 6; Van Der Meer Ex. 73		
DTX 265		01/25/1988	Summary OSO ADCT (from Copenhagen meeting)	KODAK_184223	KODAK_184247	Richards Ex. 7; Van Der Meer Ex. 72		
DTX 266		01/16/1990	Current Membership List of IST/2/-/1 Panel	PHLPSKD_00039775	PHLPSKD_00039778	Richards Ex. 9; Van Der Meer Ex. 80		
DTX 267		08/17/2007	Plaintiff U.S. Philips Corporation's First Notice of 30(b)(6) Deposition to Kodak	N/A	N/A	Sasson Ex. 1; Rabbani Ex. 2		
DTX 268		10/17/2006	Defendant Eastman Kodak Company's Answer and Counterclaims; Demand for Jury Trial	N/A	N/A	Sasson Ex. 3	402, 403, 802	
DTX 269		10/31/2007	Letter from Megan E. McCarthy to Matthew Levy re Accused Product List	N/A	N/A	Sasson Ex. 5		
DTX 270	PX 0013	10/31/2007	Accused Product List	N/A	N/A	Sasson Ex. 6		
DTX 271		03/14/2007	Notice of Deposition and Requests for Production of Documents and Things of Erik Schylander	N/A	N/A	Schylander Ex. 1		
DTX 272	PX 0060	Undated	Active Member List	PHLPSKD_00039446	PHLPSKD_00039458	Schylander Ex. 3		
DTX 273		08/30/1989	Coded Representation of Picture and Audio Information (WG8 Meeting Report Draft)	KODAK_065000	KODAK_065031	Schylander Ex. 5		
DTX 274	PX 0133	09/04/1990	Coded Representation of Picture and Audio Information (Meeting minutes)	KODAK_184595	KODAK_184624	Schylander Ex. 6		

DTX 275		09/30/1991	Coded Representation of Picture and Audio Information (Meeting minutes)	PHLPSKD_00040107	PHLPSKD_00040115	Schylander Ex. 7		
DTX 276	PX 0150; PX 0154	01/24/1992	Report of the First Plenary Meeting held in Toyko ISO/IEC JTC 1/SC 29 Coded Representation of Audio, Picture Multimedia and Hypermedia Information	KODAK_183654	KODAK_183692	Schylander Ex. 8; Van Der Meer Ex. 83		
DTX 277	PX 0202	July 2004	PowerPoint Presentation: 2006 Digital Camera Market Industry Characterization	KDK 704284		Scott Ex. 1		
DTX 278	PX 0027	April 2004	PowerPoint Presentation: 2005 Digital Camera Market Attack Plan	KDK 704145		Scott Ex. 2		
DTX 279	PX 0016	Undated	PowerPoint Presentation: 2006 Big Bundle Roadmap	KDK 66395		Scott Ex. 3		
DTX 280	PX 0017	Undated	Spreadsheet titled Project Charter – Corvette	KDK00426577		Scott Ex. 4		
DTX 281	PX 0018	Undated	Spreadsheet titled Project Charter – Mustang	KDK426582		Scott Ex. 5		
DTX 282	PX 0233	10/17/2007	Consumer Digital Camera Dashboard spreadsheet	KODAK_019302	KODAK 019302	Scott Ex. 6		
DTX 283	PX 0019	Undated	PowerPoint Presentation: Kodak EasyShare C315 Digital Camera	KDK 28620		Scott Ex. 7		
DTX 284	PX 0191	03/09/2003	DX7630 (Bud) Gate 6 Addendums	KDK160479		Scott Ex. 8		
DTX 285		04/09/2003	PowerPoint Presentation: Bud Pre Gate 0	KDK 159799		Scott Ex. 9		
DTX 286		09/01/1990	Report of Japan FAST Team	KODAK_285934	KODAK_285970	Scott Ex. 10		
DTX 287		Undated	Kodak Confidential Draft: Chameleon Strategic Vision	KODAK_222304	KODAK_222361	Scott Ex. 11		
DTX 288		07/14/1993	ROADRUNNER Phase 0 Product Concept Proposal, Version 1.0	KODAK_280376	KODAK_280383	Scott Ex. 12		
DTX 289	PX 0162	07/31/1995	Kodak D&AI Market/Customer Requirements Document ("Snap" Digital Camera)	KODAK_218544	KODAK_218571	Scott Ex. 13		
DTX 290		01/20/1997	PowerPoint Presentation: Marketing and Business Issues – The M3 Camera Gate 0/1 Review	KODAK_187050	KODAK_187097	Scott Ex. 14		
DTX 291	PX 0020	Undated	Kodak D&AI Market Requirements Document – M3 Camera	KODAK_189193	KODAK_189219	Scott Ex. 15		
DTX 292		06/09/1997	PowerPoint Presentation: 1997 Digital Imaging Strategic Quantification	KODAK_279779	KODAK_279798	Scott Ex. 16		

DTX 293	PX 0296	02/15/1994	ISO/IEC 10918-1 International Standard: Information Technology – Digital Compression and Coding of Continuous-Tone Still Images: Requirements and Guidelines	KODAK_012872	KODAK_013058	Sebestyen Ex. 18; Rabbani Ex. 9; Mitchell Ex. 13; Ebrahimi Ex. 24		
DTX 294	PX 0156; PX 0263	09/00/1992	CCITT International Telecommunication Union: Terminal Equipment and Protocols for Telematic Services – Information Technology – Digital Compression and Coding of Continuous-Tone Still Images – Requirements and Guidelines	KODAK_012535	KODAK_012720	Sebestyen Ex. 19; Rabbani Ex. 8; Clark Ex. 24; Nier Ex. 24; Mitchell Ex. 14; Girod Ex. 5; Ebrahimi Ex. 19		
DTX 295		00/00/0000	Declaration of Dr. Istvan Sebestyen	KODAK_181540	KODAK_181545	Sebestyen Ex. 20	402, 403, 802	
DTX 296	PX 0155	04/29/1992	CCITT Study Group VIII – List of Participants	KODAK_183036	KODAK_183043	Sebestyen Ex. 21		
DTX 297		03/27/1991	CCITT Study Group VIII – Liasion to the Associate Rapporteur on Q.4/VIII on Colour Facsimile Gr4	KODAK_182660	KODAK_182667	Sebestyen Ex. 23		
DTX 298	PX 0261	04/00/1991	Study Group VIII – Report R 21 – Report of Working Party VIII/3 (Part 1) of the Study Group VIII Meeting Held in Geneva from 18-27 March 1991	KODAK_182073	KODAK_182146	Sebestyen Ex. 24; Van Der Meer Ex. 88; Schoechle Ex. 15		
DTX 299		11/00/1991	CCITT Study Group VIII – Report of the Meeting of the Study Group VII, of the Four Working Parties of Study Group VIII and the Rapporteurs Group on Question 17/VIII – Meeting Held in Geneva from 16-25 October 1991 – Report (Part 1) of Working Party VIII/3	KODAK_013442	KODAK_013455	Sebestyen Ex. 25		
DTX 300	PX 0047	12/09/1983	CCITT Meeting of Chairmen of Study Groups – CCITT Patent Policy	KODAK_183599	KODAK_183599	Sebestyen Ex. 26; Rothgordt Ex. 8; Schoechle Ex. 5		
DTX 301	PX 0072	05/00/1987	International Organization of Standardization – Fifteenth WG8 Distribution List	KODAK_012398	KODAK_012402	Sebestyen Ex. 27; Clark Ex. 5		
DTX 302	PX 0085	01/00/1989	ISO – Coded Representation of Picture and Audio Information – Report of the Joint Photographic Experts Group Meeting 25-27 January 1989, KTAS Copenhagen	KODAK_013189	KODAK_013201	Sebestyen Ex. 28; Clark Ex. 4		

DTX 303		01/18/1988	Sebestyen letter to Zhao regarding distribution of the upcoming CCITT Study Group VIII Plenary Meeting in February	KODAK_184221	KODAK_184222	Sebestyen Ex. 29; Van Der Meer Ex. 71		
DTX 304	PX 0089	03/00/1988	CCITT Study Group VIII – Report of the Final Meeting of Study Group VIII in the Study Period 1985-1988 (Geneva, 8 to 19 February 1988)	KODAK_013202	KODAK_013217	Sebestyen Ex. 30; Rothgordt Ex. 7; Wenzel Ex. 16; Ebrahimi Ex. 5		
DTX 305	PX 0064	11/00/1986	ISO – Coded Representation of Picture and Audio Information – Report of the Joint Photographic Experts Meeting, 11-13 November 1986, Parsippany	PHLPSKD_00063733	PHLPSKD_00063744	Sebestyen Ex. 31		
DTX 306	PX 0075	00/00/0000	Sebestyen facsimile to Hudson, Wortitzer, Yasuda, Yamazahi enclosing Annex 6 Results of Joint ISO/CCITT Meeting and Sebestyen letter to Zhao dated 07/10/87 regarding Annex 6 typos	KODAK_061018	KODAK_061020	Sebestyen Ex. 32		
DTX 307	PX 0084	01/13/1988	Sebestyen facsimile to Yasuda regarding receipt of envelopes from three proposer's groups (Dr. Mitchell, KTAS and the Japanese group)	PHLPSKD_00039050		Sebestyen Ex. 33		
DTX 308	PX 0103	09/09/1988	ISO – Coded Representation of Picture and Audio Information – Patent Consideration in Standardization Efforts	KODAK_012370	KODAK_012376	Sebestyen Ex. 34; Nier Ex. 14; Mitchell Ex. 18		
DTX 309		10/18/1988	ISO Report in the activity of SC 2/WG to the SC 2 Plenary meeting in London, 1988-10-17/21	KODAK_064269	KODAK_064314	Sebestyen Ex. 35		
DTX 310	PX 0054	09/26/1985	WG8 Related Resolutions in Recent 3 SC2 – Resolutions Approved by ISO/TC 97/SC 2 at its 19th Plenary Meeting, Stockholm, September 23-26, 1985	IBM 8710049419	IBM 8710049424	Sebestyen Ex. 36; Clark Ex. 17; Nier Ex. 15; Mitchell Ex. 19		
DTX 311	PX 0109	01/25/1989	ISO Coded Representation of Picture and Audio Information	IBM 8710026926	IBM 8710026929	Sebestyen Ex. 37		
DTX 312		03/27/1990	Joint Photographic Experts Group – Explanation of JPEG Member/Mailing Lists	PHLPSKD_00036596	PHLPSKD_00036602	Sebestyen Ex. 38; Rabbani Ex. 15; Ebrahimi Ex. 17		
DTX 313	PX 0300	04/20/1989	CCITT Study Group VIII – Report on the Activities of the CCIC Group during Interregnum (February 1988 – March 1989)	KODAK_076583	KODAK_076595	Sebestyen Ex. 39		

DTX 314	PX 0158	06/29/1993	ISO/IEC ITU-TS Special Rapporteur Report on Some "Lessons Learned" Regarding Current Parent Policy of Joint CCITT and ISO/IEC Recommendations/ Standards	IBM 8710227860	IBM 8710227868	Sebestyen Ex. 40		
DTX 315	PX 0067	03/00/1987	Coded Representation of Picture and Audio Information – Report of the Joint Photographic Experts Group Meeting 24-26 March 1987, Darmstadt	IBM 8810398959	IBM 8810398972	Sebestyen Ex. 41; Rabbani Ex. 21		
DTX 316		11/11/1992	ISO/IEC Concern about current patent policy practice of joint ISO/CCITT standards/recommendations	PHLPSKD_00030095	PHLPSKD_00030096	Sebestyen Ex. 42		
DTX 317		11/00/1983	Computer print-out – Two Dimensional Adaptive Block Coder	WIDCOM 003706	WIDCOM 003712	Tescher Ex. 1	402, 403, 802, 901	
DTX 318		03/03/1984	IEEE article entitled *Scene Adaptive Coder*, by Chen and Pratt	PH_PAN 0080327	PH_PAN 0080334	Tescher Ex. 4; Marion Ex. 7; Vogel Ex. 8;	402, 403, 802	
DTX 319	PX 0078	10/06/1987	U.S. Patent 4,698,672 (Chen)	KODAK_074752	KODAK_074770	Tescher Ex. 5; Marion Ex. 9; Vogel Ex. 11; Hamilton Ex. 8; Fralick Ex. 9; Acharya Ex. 8; Girod Ex. 11; Ebrahimi 25		
DTX 320		09/10/1985	U.S. Patent 4,541,012 (Tescher)	KODAK_051113	KODAK_051160	Tescher Ex. 6; Hamilton Ex. 9; Fralick Ex. 10; Acharya Ex. 9		
DTX 321		02/07/2007	Notice of Deposition and Requests for Production of Documents and Things of Simon Turner			Turner Ex. 1		
DTX 322	PX 0069	03/00/1987	ISO Report of Joint Photographic Experts Group Meeting 24-26 March 1987, Darmstadt	KODAK_011492	KODAK_011504	Turner Ex. 2		
DTX 323		03/00/1988	ISO Nineteenth WG8 Distribution List	KODAK_012314	KODAK_012318	Turner Ex. 3		
DTX 324		09/00/1987	ISO Report of Joint Photographic Experts Group Meeting Copenhagen, 16-19 June, 1987	PHLPSKD_00038866	PHLPSKD_00038871	Turner Ex. 4		
DTX 325		01/25/1989	ISO Important Matters Toward 15th WG8 February Meeting at Livingston	PHLPSKD_00039388	PHLPSKD_00039388	Turner Ex. 6		
DTX 326		02/14/1989	ISO WG8 Mailing List (fifth revision)	PHLPSKD_00039281	PHLPSKD_00039298	Turner Ex. 7		

DTX 327		09/30/1991	ISO Report from the Plenary Meeting of ISO/IEC JTC 1/SC 2/WG8 held in Santa Clara, California, U.S.A on August 19th and 23rd 1991	PHLPSKD_00068823 PHLPSKD_00040107	PHLPSKD_00068823 PHLPSKD_00040115	Turner Ex. 8		
DTX 328		09/28/2007	Handwritten drawing on DLA paper entitled "International Standard Process"			Turner Ex. 9		
DTX 329		02/02/2007	Eastman Kodak Company's First 30(b)(6) Notice of Deposition to Plaintiff U.S. Philips Corporation	N/A	N/A	Van Der Meer Ex. 50; Cho Ex. 1; Volmer Ex. 1 Previously Marked Ex. 50 (See Van Der Meer Depo)		
DTX 330		08/13/2007	Eastman Kodak Company's Second 30(b)(6) Notice of Deposition to Plaintiff U.S. Philips Corporation	N/A	N/A	Van Der Meer Ex. 51; Marion Ex. 1; Volmer Ex. 2; Morris Ex. 2; Cho Ex. 4		
DTX 331		Undated	Pages 11 – 50 from a book or publication with the heading COOM 15-R 3-E	KODAK_077457	KODAK_077496	Van Der Meer Ex. 54	Incomplete	
DTX 332	PX 0059	Undated	CCIT Study Group XV document titled Intellectual Property	KODAK_183922	KODAK_183925	Van Der Meer Ex. 55		
DTX 333		11/00/1986	ISO Document: Report of the Joint Photographic Experts Meeting, 11-13 November 1986, Parsippany	KODAK_184183	KODAK_184194	Van Der Meer Ex. 56		
DTX 334	PX 0140	08/15/1991	ISO Document titled Collection of Patent Statements Concerning Patents for 11172	KODAK_184661	KODAK_184699	Van Der Meer Ex. 60		
DTX 335		10/00/1992	CCITT Document titled Use of JPEG still image transmission	KODAK_183192	KODAK_183192	Van Der Meer Ex. 61		
DTX 336		01/30/1990	Letter from O.J. Morris (Philips) to Jan Van Der Meer re draft JPEG specification	PHLPSKD_00070990	PHLPSKD_00070994	Van Der Meer Ex. 62		
DTX 337	PX 0044	03/00/1983	ISO Document titled Report of First WG8 Meeting	KODAK_184108	KODAK_184114	Van Der Meer Ex. 65		
DTX 338		05/00/1984	ISO Document titled Report of the Third WG8 Meeting (Tokyo 16-18 April 1984)	KODAK_184120	KODAK_184125	Van Der Meer Ex. 66		
DTX 339		06/12/1986	Letters from Hiroshi Yasuda to Philips and Tektronicx thanking them for contribution to ISO	KODAK_184177	KODAK_184177	Van Der Meer Ex. 67		
DTX 340		03/00/1987	ISO Document titled Report of The Joint Photographic Experts Group Meeting 24 – 26 March 1987, Darmstadt	KODAK_184204	KODAK_184218	Van Der Meer Ex. 70 Mitchell Ex. 17		

DTX 341		05/10/1989	JPEG-306: IBM Statement of Q-Coder Patents	KODAK_183580	KODAK_183583	Van Der Meer Ex. 74		
DTX 342		08/24/2007	Eastman Kodak Company's Third 30(b)(6) Notice of Deposition to Plaintiff U.S. Philips Corporation			Van Der Meer Ex. 75; Morris Ex. 3; Cho Ex. 5		
DTX 343		12/05/1990	Patent Statement	PHLPSKD_00046957	PHLPSKD_00046957	Van Der Meer Ex. 76		
DTX 344		07/04/1991	Report MPEG2 meeting at Nat Lab, July 3, 1991	VDMPK_021012	VDMPK_021015	Van Der Meer Ex. 79		
DTX 345		09/04/1990	ISO Coded Representation of Picture and Audio Information	KODAK_184625	KODAK_184631	Van Der Meer Ex. 81		
DTX 346	PX 0146	11/00/1991	Study Group VIII – Report R 28 Report of the Meeting of Study Group VIII of the Four Working Parties of Study Group VIII and of the Rapporteurs Group on Question 17/VIII – Meeting Held in Geneva	KODAK_182147	KODAK_182230	Van Der Meer Ex. 82		
DTX 347		04/08/1992	ISO Summary of Voting on CD 10918-2, Information Technology Digital Images Compression and Coding Continuous-Tone Still Images – Part 2: Compliance Testing	KODAK_183799	KODAK_183844	Van Der Meer Ex. 85		
DTX 348		07/00/1990	Enhancement of Draft Rec. H.221/H.242 for Still Picture Transmission	KODAK_183600	KODAK_183910	Van Der Meer Ex. 89		
DTX 349		06/24/1991	Video Technology News article, *Multimedia: Companies Turn to Software Compression*	VDMPK_000485	VDMPK_0004888	Van Der Meer Ex. 92 Schylander Ex. 9	402, 403, 802	
DTX 350		00/00/0000	Table: PVRs: Worldwide Unit Shipment Forecast by Platform (Units in Thousands)	PHLPSKD_00083268		Van Der Meer Ex. 93		
DTX 351		00/00/0000	Table: Worldwide Sales of Philips Semiconductor Products with TriMedia Cores	PHLPSKD_00083269		Van Der Meer Ex. 94		
DTX 352		00/00/0000	Table: Worldwide DVD Recorder market	PHLPSKD_00083270		Van Der Meer Ex. 95		
DTX 353		00/00/0000	Table: Philips Licensees	PHLPSKD_00083271		Van Der Meer Ex. 96		
DTX 354		00/00/0000	Table: Worldwide Market DSC	PHLPSKD_00083272	PHLPSKD_00083275	Van Der Meer Ex. 97		
DTX 355		00/00/0000	Handwritten "Commercial Success"	PHLPSKD_00083276		Van Der Meer Ex. 98		
DTX 356		04/15/2005	Patent License Agreement between Philips and [redacted] REDACTED	PHLPSKD_00042369	PHLPSKD_00042380	Van Der Meer Ex. 99		
DTX 357		05/22/1987	German document – Vogel	PHLPSKD_00070077	PHLPSKD_00070088	Vogel Ex. 4		
DTX 358		11/11/1986	German document – Vogel	PHLPSKD_00070063	PHLPSKD_00070076	Vogel Ex. 7		
DTX 359		06/16/1982	U.S. Patent No. 4,316,222 (Subramaniam) with European Patent cover page attached	PHLPSKD_00069934	PHLPSKD_00069951	Vogel Ex. 9		

DTX 360		06/10/1987	Coding System for Reducing Redundancy	PHLPSKD_00069908	PHLPSKD_00069933	Vogel Ex. 10		
DTX 361		03/14/1990	Draft Revision of Recommendation Vide Codex for Audiovisual Services At *px64* kbit/s	PHLPSKD_00070572	PHLPSKD_00070590	Vogel Ex. 12	402, 403, 802	
DTX 362		09/07/1988	Video Coding and Associates Systems: Modified Version *Description of Ref. Model 5 (RM5)*	PHLPSKD_00069736	PHLPSKD_00069783	Vogel Ex. 15		
DTX 363		00/00/0000	Summary of Hybrid Coding Techniques	PHLPSKD_00069551 PHLPSKD_00070976	PHLPSKD_00069554 PHLPSKD_00070983	Vogel Ex. 17	402, 403, 802	
DTX 364		07/18/1989	Wilfired Geuen memo to Members of the COST 211bis Simulation Subgroup enclosing draft report of Paris meeting	PHLPSKD_00069583	PHLPSKD_00069587	Vogel Ex. 18		
DTX 365	PX 0076	10/15/1991	Unofficial Copy of DIS 10918-1 JPEG Joint Photographic Experts Group	PHLPSKD_00070739	PHLPSKD_00070739	Vogel Ex. 20; Schoechle Ex. 17		
DTX 366		02/21/1987	Improved Hybrid Coders with 2D-Signal Processing for Moving Pictures by Speidel and Vogel	PHLPSKD_00070947	PHLPSKD_00070963	Vogel Ex. 21		
DTX 367		00/00/1985	IEEE article *Motion-Compensated Hybrid Coding at 50 KB/S* by Ericsson	PHLPSKD_00069659	PHLPSKD_00069662	Vogel Ex. 22	402, 403, 802	
DTX 368		01/00/1988	CCITT SGXV A Hybrid Coder for nx384 kbit/s with 64 kbit/s capacity	PHLPSKD_00069835	PHLPSKD_00069907	Vogel Ex. 23		
DTX 369		10/19/1987	Declaration and Power of Attorney	KODAK_000046	KODAK_000046	Volmer Ex. 7		
DTX 370		00/00/0000	Article *Now You Can Make and Answer Your Own Video Phone Calls. In Color.*	WIDCOM 008738	WIDCOM 008741	Volmer Ex. 11	402, 403, 802	
DTX 371		08/05/1985	Article *Picture Phones: New Spin on an Old Idea*	WIDCOM 009101	WIDCOM 009101	Volmer 12	402, 403, 802	
DTX 372		08/09/2007	Letter from Nikki Wyll to Joyce Craig	N/A	N/A	Wahl Ex. 1	402, 403, 802	
DTX 373		2002	EK Records Management – Exemptions Defined (printed from Kodak.com)	KODAK_019804	KODAK_019804	Wahl Ex. 2		
DTX 374		Undated	Eastman Kodak Corporate Policy on Records Management	N/A	N/A	Wahl Ex. 3		
DTX 375		10/24/2000	Memo to EK Leadership Team re Lotus Notes – Mail – Policy – Kodak Management Directive Regarding Mail Retention	KODAK_018242	KODAK_018242	Wahl Ex. 5; Wahl Ex. 4		
DTX 376	PX 0235	11/06/2007	Kodak Organizational Chart (MGT Chairman's Office)	KODAK_019305	KODAK_019312	Wahl Ex. 6		

DTX 377		03/22/2006	Consumer Digital Imaging Group (CDG) Intellectual Property Org Chart	KODAK_018243	KODAK_018243	Wahl Ex. 7		
DTX 378		12/00/1998	Statement of Policy (Records Management)	KODAK_018140	KODAK_018140	Wahl Ex. 8		
DTX 379		07/04/1989	ISO Document titled Separate Meeting of the MPEG/Video Group	PHLPSKD_00028173	PHLPSKD_00028175	Watkins Ex. 6		
DTX 380	PX 0128	03/15/1990	United States Delegation for Coded Representation of Picture and Audio Information, Tampa Florida	PHLPSKD_00067265	PHLPSKD_00067267	Watkins Ex. 7		
DTX 381		Unknown	Slipsheet stating "Not shown to witness"	IBM 8710134021	IBM 8710134023	Watkins Ex. 8		
DTX 382		01/00/1992	Sixteenth WG11 Meeting Report (ISO)	PHLPSKD_00022092	PHLPSKD_00022100	Watkins Ex. 9		
DTX 383	PX 0153	01/00/1992	Singapore Meeting Attendance List (ISO)	PHLPSKD_00058226	PHLPSKD_00058229	Watkins Ex. 10		
DTX 384		03/00/1992	Haifa meeting report (ISO)	PHLPSKD_00021040	PHLPSKD_00021047	Watkins Ex. 11		
DTX 385		01/00/1983	Report of 21st meeting (ISO)	PHLPSKD_00020599	PHLPSKD_00020610	Watkins Ex. 12		
DTX 386		04/02/1993	Report of 22nd meeting (ISO)	PHLPSKD_00020178	PHLPSKD_00020191	Watkins Ex. 13		
DTX 387		09/00/1993	Report of the 24th meeting (ISO)	PHLPSKD_00019423	PHLPSKD_00019437	Watkins Ex. 14		
DTX 388		11/00/1993	Report of the 25th meeting (ISO)	PHLPSKD_00027717	PHLPSKD_00027732	Watkins Ex. 15		
DTX 389		03/00/1994	Report of the 26th meeting (ISO)	PHLPSKD_00014883	PHLPSKD_00014896	Watkins Ex. 16		
DTX 390		03/00/1994	Report of the 26th meeting (ISO)	PHLPSKD_00014883	PHLPSKD_00014890; 14940	Watkins Ex. 17		
DTX 391		07/00/1994	Report of the 28th meeting (ISO)	PHLPSKD_00017855	PHLPSKD_00017869	Watkins Ex. 18		
DTX 392		11/00/1995	Report of the 32nd WG11 meeting	PHLPSKD_00001426	PHLPSKD_00001437	Watkins Ex. 19		
DTX 393		Undated	Kodak's Log of Privileged Documents	N/A	N/A	Watkins Ex. 2	402, 403, 802	
DTX 394	PX 0179	06/20/2002	Letter from Susumu Tsugaru to Chinon Industries Inc. re Philips Patents for JPEG	PHLPSKD_00057315	PHLPSKD_00057315	Watkins Ex. 20		
DTX 395	PX 0180	07/08/2002	Email string re Action needed -- Accusation of Patent Infringement from Philips – Japanese JPEG Patent	KODAK_018207	KODAK_018208	Watkins Ex. 21		
DTX 396	PX 0181	07/15/2002	Letter from Charles E. Snee to Takamichi Takehana (Chinon Industries) re Philips Patents for JPEG	KODAK_018220	KODAK_018220	Watkins Ex. 22		
DTX 397	PX 0182	07/19/2002	Letter from Masao Kobayashi (Chinon) to Susmu Tsugaru (Philips) re Philips Patents for JPEG	PHLPSKD_00057313	PHLPSKD_00057314	Watkins Ex. 23		
DTX 398		07/00/1985	Report of the Meeting of Study Group VIII, Kyoto, 5-14 June 1985 Part 1: Report of the Plenary Meetings of Study Group VIII	KODAK_181941	KODAK_181946	Wenzel Ex. 18		

DTX 399		04/20/1989	CCITT Study Group VIII - List of Names and Addresses of the Various Rapporteur Group Members	KODAK_182534	KODAK_182566	Wenzel Ex. 19		
DTX 400		04/20/1989	CCITT Study Group VIII – Report on the Activities of the CCITT-ISO/JPEG Group "Joint Photographic Experts Group" during the Interregnum on the Consensus for the Main Technical Features (February 1988-March 1989)	KODAK_182505	KODAK_182513	Wenzel Ex. 20		
DTX 401		09/13/1990	List of Participants	KODAK_182624	KODAK_182631	Wenzel Ex. 21		
DTX 402	PX 0134	09/14/1990	CCITT Study Group VIII – Report on the Activities of Q.16/VIII since April 1990 – Status Report	KODAK_182598	KODAK_082611	Wenzel Ex. 22		
DTX 403		00/00/1991	M. Wenzel name and company label			Wenzel Ex. 23		
DTX 404		07/10/1990	U.S. Patent No. 4,941,053 (Hienerwadel)	PHLPSKD_00001152	PHLPSKD_00001156	Weth Ex. 1		
DTX 405		09/10/1987	European Patent EP 0 260 748 B1	PHLPSKD_00001157	PHLPSKD_00001152	Weth Ex. 3		
DTX 406		04/27/1987	Federal Republic of Germany – Certificate/ Application "bit-rate reduction process" on September 13, 1986	KODAK_018629	KODAK_018648	Weth Ex. 4; Marion Ex. 6; Vogel Ex. 5; Volmer Ex. 4; Girod Ex. 10		
DTX 407		08/26/1987	Federal Republic of Germany – Certificate/ Application "bit-rate reduction process" on November 8, 1986	KODAK_018602	KODAK_018627	Weth Ex. 5; Marion Ex. 5; Vogel Ex. 6; Volmer Ex. 5		
DTX 408		10/16/1987	Federal Republic of Germany – Certificate/ Application "bit-rate reduction process" on May 23, 1987	KODAK_018581	KODAK_018601	Weth Ex. 6; Marion Ex. 4; Vogel Ex. 3; Volmer Ex. 6		
DTX 409	PX 0068	03/00/1987	Information to be Given on Photographic Compression Techniques	KODAK_184201	KODAK_184203	Weth Ex. 9; Ebrahimi Ex. 11		
DTX 410		08/19/1991	Draft Annex L on patents for CD/ DIS/ IS			Weth Ex. 10		
DTX 411		10/00/1988	Attendants of London Meeting (September 19-23, 1988)	KODAK_012292	KODAK_012293	Weth Ex. 11		
DTX 412	PX 0094	05/09/1988	ISO – Patent Issues: ADCT and ISO in General	KODAK_074801	KODAK_074802	Weth Ex. 13		
DTX 413	PX 0266	02/24/1989	JPEG Structure of Standard	KODAK_183548	KODAK_183549	Weth Ex. 14		

DTX 414	PX 0152	02/00/1992 12/06/1991 Which date is correct?	Article entitles *The JPEG Still Picture Compression Standard*, by Wallace	PHLPSKD_00001284	PHLPSKD_00001300	Weth Ex. 15; Hamilton Ex. 4		
DTX 415	PX 0270	00/00/0000	Handwritten attendance list at London	PHLPSKD_00066447	PHLPSKD_00066450	Weth Ex. 16		
DTX 416		01/30/2008	Expert Report of Robert H. Wallace	N/A	N/A	Wallace 1/30/08 Report	402, 403, 802	
DTX 417		01/30/2008	Summary of Reasonable Royalties Due to Philips on Kodak's Domestic Sales	N/A	N/A	Exhibit 1 to Wallace 1/30/08 Report	402, 403, 802, but will consider as demonstrative	
DTX 418		01/30/2008	Summary of Kodak's Domestic Sales of Accused Products	N/A	N/A	Exhibit 2 to Wallace 1/30/08 Report		
DTX 419		01/30/2008	Summary of Kodak's Consumer Digital Camera Sales In the U.S.	N/A	N/A	Exhibit 2A to Wallace 1/30/08 Report		
DTX 420		01/30/2008	Summary of Kodak's Consumer Digital Camera Sales In the U.S.	N/A	N/A	Exhibit 2B to Wallace 1/30/08 Report		
DTX 421		01/30/2008	Summary of Kodak's Consumer Digital Camera Sales In the U.S.	N/A	N/A	Exhibit 2C to Wallace 1/30/08 Report		
DTX 422		01/30/2008	Summary of Kodak's Consumer Digital Camera Sales In the U.S.	N/A	N/A	Exhibit 2D to Wallace 1/30/08 Report		
DTX 423		01/30/2008	Summary of Kodak's Consumer Digital Camera Sales In the U.S.	N/A	N/A	Exhibit 2E to Wallace 1/30/08 Report		
DTX 424		01/30/2008	Summary of Kodak's Consumer Digital Camera Sales In the U.S.	N/A	N/A	Exhibit 2F to Wallace 1/30/08 Report		
DTX 425		01/30/2008	Summary of Kodak's Consumer Digital Camera Sales In the U.S.	N/A	N/A	Exhibit 2G to Wallace 1/30/08 Report		
DTX 426		01/30/2008	Summary of Kodak's Consumer Digital Camera Sales In the U.S.	N/A	N/A	Exhibit 2H to Wallace 1/30/08 Report		
DTX 427		01/30/2008	Summary of Kodak's Domestic Sales of Accused Document Imaging Products – Paper Scanner Products	N/A	N/A	Exhibit 2I to Wallace 1/30/08 Report		
DTX 428		01/30/2008	Kodak's Domestic Sales of Health Molecular Imaging Systems JPEG Products	N/A	N/A	Exhibit 2J to Wallace 1/30/08 Report		

DTX 429		01/30/2008	Summary of the Profits/(Losses) Earned by Kodak From Domestic Sales of Consumer Digital Cameras and Related Accessories and Service	N/A	N/A	Exhibit 3 to 1/30/08 Wallace Report		
DTX 430		01/30/2008	Summary of Kodak's Total Company Statements of Operations	N/A	N/A	Exhibit 4 to 1/30/08 Wallace Report		
DTX 431		01/30/2008	Summary of Kodak's Revenues and Operating Earning/(Losses) By Business Segment	N/A	N/A	Exhibit 5 to 1/30/08 Wallace Report		
DTX 432		01/30/2008	Philips' Licenses of the '075 Patent and Eleven Foreign Patent Counterparts for JPEG-Related Products	N/A	N/A	Exhibit 6 to 1/30/08 Wallace Report		
DTX 433		01/30/2008	Summary of License Fees For Philip's License of the '075 Patent and 11 Foreign Patent Counterparts For JPEG Use	N/A	N/A	Exhibit 6A to 1/30/08 Wallace Report		
DTX 434		01/30/2008	Summary of License Fees Received by Philips For Licensing the '075 Patent and 11 Foreign Patent Counterparts For JPEG Use (Excluding Licenses Involving Litigation or Mobile Phones) And License Fees per 1% of Worldwide Market Share	N/A	N/A	Exhibit 6B to 1/30/08 Wallace Report		
DTX 435		01/30/2008	Worldwide Market for Digital Still Cameras (Stated in thousand of units)	N/A	N/A	Exhibit 6C to 1/30/08 Wallace Report		
DTX 436		01/30/2008	Summary of Kodak's Agreements Licensing in Technology From Third Parties	N/A	N/A	Exhibit 7 to 1/8/08 Wallace Report		
DTX 437		01/30/2008	License Indicating Industry Royalty Rates for MPEG Technology – Licensor is MPEG LA, an independent licensing administrator	N/A	N/A	Exhibit 8 to 1/30/08 Wallace Report		
DTX 438		01/30/2008	Reasonable Royalty for the Patent-In-Suit Indicated by the Georgia-Pacific Factors	N/A	N/A	Exhibit 9 to 1/30/08 Wallace Report	402, 403, 802, but will consider as demonstrative	
DTX 439		01/30/2008	Summary of Reasonable Royalties Due to Philips on Kodak's Domestic and Intercompany Sales	N/A	N/A	Exhibit 10 to 1/30/08 Wallace Report	402, 403, 802, but will consider as demonstrative	
DTX 440		01/30/2008	Summary of Kodak's Domestic and Intercompany Sales of Accused Products	N/A	N/A	Exhibit 11 to 1/30/08 Wallace Report		

DTX 441		01/30/2008	Summary of Kodak's Consumer Digital Camera Sales In the U.S. and Intercompany	N/A	N/A	Exhibit 11A to 1/30/08 Wallace Report		
DTX 442		01/30/2008	Summary of Kodak's Consumer Digital Camera Sales In the U.S. and Intercompany	N/A	N/A	Exhibit 11B to 1/30/08 Wallace Report		
DTX 443		01/30/2008	Summary of Kodak's Consumer Digital Camera Sales In the U.S. and Intercompany	N/A	N/A	Exhibit 11C to 1/30/08 Wallace Report		
DTX 444		01/30/2008	Summary of Kodak's Consumer Digital Camera Sales In the U.S. and Intercompany	N/A	N/A	Exhibit 11D to 1/30/08 Wallace Report		
DTX 445		01/30/2008	Summary of Kodak's Consumer Digital Camera Sales In the U.S. and Intercompany	N/A	N/A	Exhibit 11E to 1/30/08 Wallace Report		
DTX 446		01/30/2008	Summary of Kodak's Consumer Digital Camera Sales In the U.S. and Intercompany	N/A	N/A	Exhibit 11F to 1/30/08 Wallace Report		
DTX 447		01/30/2008	Summary of Kodak's Consumer Digital Camera Sales In the U.S. and Intercompany	N/A	N/A	Exhibit 11G to 1/30/08 Wallace Report		
DTX 448		01/30/2008	Summary of Kodak's Consumer Digital Camera Sales In the U.S. and Intercompany	N/A	N/A	Exhibit 11H to 1/30/08 Wallace Report		
DTX 449		01/30/2008	Summary of Kodak's Domestic and Itnercompany Sales of Accused Documetns Imaging Products -- Paper Scanner Products	N/A	N/A	Exhibit 11I to 1/30/08 Wallace Report		
DTX 450		01/30/2008	CV of Robert H. Wallace, CPA/ABV	N/A	N/A	Appendix A to 1/30/08 Wallace Report	402, 403, 802	
DTX 451		01/30/2008	Robert Wallace Deposition List and Trial Testimony List	N/A	N/A	Appendix B to 1/30/08 Wallace Report	402, 403, 802	
DTX 452		01/30/2008	List of documents reviewed by Robert Wallace in Connection with this Matter	N/A	N/A	Appendix C to 1/30/08 Wallace Report	402, 403, 802	
DTX 453		03/29/1991	ST Report International Online Magazine "The Original 16/32bit Online Magazine"	KODAK_011380	KODAK_011424		402, 403, 802	
DTX 454		03/26/1991	Article *Kodak Colorsqueeze in Public Domain – Eastman Kodak Releases Its Decompression Tools*	KODAK_011430	KODAK_011430		402, 403, 802	
DTX 455		08/19/1991	JPEG Joint Photographic Image Experts Group -- Patent Status	KODAK_013435	KODAK_013439			
DTX 456		1991, 1992	User Manual: Kodak Professional Digital Camera System	KODAK_018257	KODAK_018580			
DTX 457		00/00/0000	CD of Native Files.	KODAK_018652	KODAK_018652			

DTX 458			WITHDRAWN					
DTX 459		09/15/1984	TeleSpan article *Widcom Sells to Federal Express*	WIDCOM 010535	WIDCOM 010535		402, 403, 802, 901	
DTX 460			WITHDRAWN					
DTX 461			WITHDRAWN					
DTX 462			WITHDRAWN					
DTX 463			WITHDRAWN					
DTX 464			WITHDRAWN					
DTX 465			WITHDRAWN					
DTX 466			WITHDRAWN					
DTX 467			WITHDRAWN					
DTX 468			WITHDRAWN					
DTX 469		06/30/1983	Form 10-K – Annual Report for Widergren Communications	WIDCOM 012913	WIDCOM 012930		402, 403, 802, 901	
DTX 470			WITHDRAWN					
DTX 471			WITHDRAWN					
DTX 472			WITHDRAWN					
DTX 473		07/21/1983	Video Teleconferencing Codec Purchase Agreement between Widergren Communications, Inc. and Vitalink Corporation	WIDCOM 018905	WIDCOM 018920		402, 403, 802, 901	
DTX 474			WITHDRAWN					
DTX 475			WITHDRAWN					
DTX 476		03/27/1991	CCITT Report of the Meeting of Working Party VIII/3	KODAK_182668	KODAK_182680			
DTX 477		03/28/1991	CCITT Meeting Report for Question 16/VIII	KODAK_182681	KODAK_182686			
DTX 478		03/28/1991	CCITT Report of the Rapporteur Group on Question 16/VIII	KODAK_182687	KODAK_182704			
DTX 479		03/27/1991	CCITT Meeting Agenda regarding Question 16/VIII	KODAK_182654	KODAK_182654			
DTX 480		04/00/1991	Study Group VIII – Report R 18: Report of the Meeting of the Study Group VIII, of the Four Working Parties of Study Group VIII and of the Rapporteurs Group on Question 17/VIII – Meeting Held in Geneva From 18-27 March 1991	KODAK_182001	KODAK_182072			

DTX 481		03/27/1991	CCITT Report of the Rapporteur Group on Q. 16/VIII Covering the Period Since the September 1990 CCITT SGVIII Meeting	KODAK_182655	KODAK_182659			
DTX 482		08/19/1991	JPEG – Joint Photographic Image Experts Group – Patent Status	KODAK_183592	KODAK_182975			
DTX 483		08/19/1991	JPEG – Joint Photographic Image Experts Group – Draft Annex L on Patents for CD/DIS/IS	KODAK_183590	KODAK_183591			
DTX 484		10/25/1991	CCITT Study Group – Report of the Meeting of Working Party VIII/3	KODAK_182976	KODAK_183000			
DTX 485		10/25/1991	CCITT Study Group VIII and its Working Parties – Report of the SpR for Q.16/VIII on the Work Since the March 1991 SGVIII Meeting	KODAK_182712	KODAK_182744			
DTX 486		25/10/1991	CCITT Study Group VIII and its Working Parties – Draft Recommendation T.81	KODAK_182761	KODAK_182970			
DTX 487		05/03/2007	Declaration of Richard Clark at Elysium, Ltd.	KODAK_181552	KODAK_181553	Schoechle Ex. 21	402, 403, 802	
DTX 488		03/27/1991	ISO – Updated List of Members and Mailing Address of ISO/IEC JTC 1/SC 2/WG 8 1005, 1990-09-04)	KODAK_184645	KODAK_184660			
DTX 489		11/00/1992	CCITT Study Group XV – Report R 105 – Report of the Geneva Meeting (5-10 November 1992)	KODAK_181555	KODAK_181590			
DTX 490		10/00/1992	CCITT Study Group XV – Contribution – Protocols For JPEG Still Picture Transmission Through LSD/HSD	KODAK_183102	KODAK_183191			
DTX 491		04/29/1993	ITU – Telecommunication Standardization Sector Study Group 8 – Draft Report of the First Meeting of Study Group 8 (Part 1 – 27 April)	KODAK_183207	KODAK_183210			
DTX 492		00/00/1993	ITU – Telecommunication Standardization Sector Study Group 8 – Some Information on the "Still Image Transmission Option" in CCITT H.261 ("Videophony")	KODAK_183195	KODAK_183197			
DTX 493		03/28/1991	CCITT Study Group VIII - Report Rapporteur for Question 16/VIII	KODAK_076775	KODAK_076792			
DTX 494		00/00/1993	ITU – Telecommunication Standardization Sector Study Group 8 – Rapporteur Progress Report	KODAK_183211	KODAK_183215			

DTX 495		02/15/1996	ITU – Telecommunication Standardization Sector Study Group 8 – Assessment of Work of Q.16/8 in the Study Period 1993-1996 (for discussion)	KODAK_183216	KODAK_183401			
DTX 496		06/30/1994	ISO – Preprint if Invited Paper for the Picture Coding Symposium '94	KODAK_184097	KODAK_184104			
DTX 497		11/00/1998	IEEE article *The International Standardization of a Still Picture Compression Technique*, Hudson, Yasuda, Sebestyen	KODAK_183574	KODAK_183579			
DTX 498		12/00/1992	ISO – Calling Notice for the First WG8 Meeting	KODAK_184105	KODAK_184107			
DTX 499		08/00/1993	ISO – Coded Representation of Pictures Third Distribution List (To Supersede WG8 N25)	KODAK_184115	KODAK_184119			
DTX 500		05/00/1984	ISO – Coded Representation of Pictures Fifth WG8 Distribution List	KODAK_184126	KODAK_184129			
DTX 501		10/00/1984	ISO – Coded Representation of Pictures Sixth WG8 Distribution List	KODAK_184130	KODAK_184133			
DTX 502		01/00/1985	ISO – Coded Representation of Pictures Seventh WG8 Distribution List	KODAK_184134	KODAK_184137			
DTX 503		09/00/1993	Study Group 15 – Report R 3 – Report of Working Party 1/15 (Audiovisual) – Part 1 (General)	KODAK_077447	KODAK_077496			
DTX 504		00/00/0000	Handwritten: "Patents" WG8 Guidance	KODAK_183587	KODAK_183587	Ebrahimi Ex. 16	402, 403, 802, 901	
DTX 505		09/00/1990	CCITT Study Group VIII – Report of the meeting of Working Part 3 of Study Group VIII, Part 1 Geneva 5-14, September 1990	KODAK_181962	KODAK_182000			
DTX 506		00/00/1986	ISO – Liaison Statement to CCITT SG VIII New Image Communication (NIC) Group	KODAK_184178	KODAK_184179			
DTX 507		07/00/1986	ISO – Brief Report of the Photographic Ad-hoc Meeting, Rennes (handwritten)	KODAK_184180	KODAK_184182			
DTX 508		11/14/1986	CCITT SGXV Working Party Group XV/1 –Report of the Seventh Meeting in Nurnberg (November 11-14, 1986)	KODAK_183926	KODAK_183967			
DTX 509		06/00/1987	WG8 Document Register in Copenhagen	KODAK_184219	KODAK_184219			
DTX 510		00/00/1988	ISO – Report of the Joint Photographic Experts Group Meeting 25-27 January 1988, KTAS Copenhagen	KODAK_184299	KODAK_184305			

DTX 511		04/00/1988	ISO – Standardization of ADCT Algorithm	KODAK_184306	KODAK_184309			
DTX 512		05/09/1988	ISO – Alternative Approaches to Specifying DCT and IDCT	KODAK_184317	KODAK_184321			
DTX 513	PX 0269	09/09/1988	ISO – CCITT/ISO Photographic Image Data Compression Standard Functionality and Goals	KODAK_184322	KODAK_184327			
DTX 514		06/00/1988	JEPG Member Mailing List	KODAK_183402	KODAK_183407			
DTX 515	PX 0099	06/08/1988	Omachi letter to Wallace regarding patent that includes 2-D VLC (two dimensional variable length coder)	KODAK_183558	KODAK_183562	Schoechle Ex. 19; Ebrahimi Ex. 18		
DTX 516		07/00/1988	ISO – Encoding Method of AC Coefficient	KODAK_183563	KODAK_183565			
DTX 517	PX 100	09/00/1988	CCITT SG XV – Patent Applications by PKI on Low Bitrate Video encoding	KODAK_184066	KODAK_184066			
DTX 518		10/23/1988	Report of 21st SC2 London Plenary about WG8 Matters	KODAK_184349	KODAK_184349			
DTX 519		10/27/1988	European Patent papers (Yasuda)	KODAK_184350	KODAK_184351			
DTX 520		02/14/1989	ISO – WG8 Mailing List (Fifth Revision)	KODAK_184352	KODAK_184369			
DTX 521		04/20/1989	CCITT – Report of the Activities of the CCIC Group During Interregnum (February 1988-March 1989)	KODAK_182492	KODAK_182504			
DTX 522		04/19/1989	CCITT Study Group VIII – List of Participants	KODAK_182526	KODAK_182533			
DTX 523		04/21/1989	CCITT Study Group VIII – Meeting Reports	KODAK_182520	KODAK_182525			
DTX 524		04/21/1989	Handwritten: CCITT Study Group VIII – Report of the Rapporteur Group on Q.16/VIII	KODAK_182514	KODAK_182519			
DTX 525		06/00/1989	ISO – WG8 Mailing List (June 1989)	KODAK_184433	KODAK_184447			
DTX 526		11/07/1989	CCITT SGXV Working Party XV/1 – Patent Licensing Policies for Rec. H.261	KODAK_184067	KODAK_184080			
DTX 527		01/00/1990	CCITT 16/VIII – Technical Specification of the JPEG-Algorithm (revision 5) for Compression and Decompression of Still-Frame, Continuous-Tone "Photographic" (Grayscale or Color) Digitized Images	KODAK_181779	KODAK_181911			
DTX 528		04/00/1990	CCITT Questions 5, 8, 11, 16, 20, 23/VIII –Report of the Meeting Party VIII/3 – Coding, Conversion Transmission (Budapest, 26 March – 4 April 1990)	KODAK_182445	KODAK_182491	Schoechle Ex. 14		
DTX 529		04/10/1990	Handwritten: CCITT Meeting Report of Working Party	KODAK_182588	KODAK_182597			
DTX 530		04/10/1990	CCITT Study Group VIII – Mailing List	KODAK_182584	KODAK_182587			

DTX 531		04/10/1990	CCITT Study Group VIII – Mailing Report	KODAK_182567	KODAK_182583			
DTX 532	PX 0130	12/05/1990	ISO – Budapest Meeting Report	KODAK_184632	KODAK_184642			
DTX 533		04/00/1990	ISO – Redefinition/Restructure of WG8	KODAK_184581	KODAK_184587			
DTX 534		04/00/1990	ISO – Resolutions of 2nd SC2 Plenary at Washington (April 9-12, 1990)	KODAK_184567	KODAK_184580			
DTX 535		07/12/1990	JPEG - Liaison Report to WG9 (handwritten)	KODAK_183588	KODAK_183588			
DTX 536		09/14/1990	CCITT Study Group VIII –Report of the Meeting of Working Party VIII/3	KODAK_182632	KODAK_182653			
DTX 537		09/14/1990	CCITT Study Group VIII –Report of Q.16/VIII Meeting (Geneva, 10 September 1990)	KODAK_182620	KODAK_182623			
DTX 538		09/05/1990	CCITT Study Group VIII – Provisional List of Participants	KODAK_182612	KODAK_182619			
DTX 539		09/00/1990	CCITT Study Group VIII – Photovideotex Syntax	KODAK_181912	KODAK_181940			
DTX 540		12/04/1992	Memo to Lepesqueur regarding Planned Revision of CCITT Recommendation T.81	KODAK_181524	KODAK_181532			
DTX 541		03/00/1988	Study Group VIII - Report of Final Meeting of Study Group VIII in the Study Period 1985-1988 (Geneva 8 to 19 February 1988)	KODAK_181947	KODAK_181961			
DTX 542		10/00/1991	Study Group VIII – Report of the Meeting of Study Group VIII, of the Four Working Parties of the Study Group VIII and of the Rapporteurs Group on Question 17/VIII – Meeting Held in Geneva From 16-25 October 1991	KODAK_182231	KODAK_182444			
DTX 543		04/30/1992	Liaison Report on the Second SC29 Plenary Meeting (March 30-April 1, 1992)	KODAK_183024	KODAK_183035			
DTX 544		05/00/1992	Study Group VIII – Report of the Meeting of Study Group VIII, of the Four Working Parties of the Study Group VIII and of the Rapporteurs Group on Question 17/VIII – Meeting Held in Geneva From 22-30 April 1992	KODAK_183044	KODAK_183094			
DTX 545		00/00/0000	Annex 2-2 Proposed Text for Question Qpci-general/VIII	KODAK_183095	KODAK_183101		Incomplete	
DTX 546		05/06/1993	Report on the ISO/IEC JTC1/SC29 Plenary Meeting in Ottawa, Canada (November 9-11, 1992)	KODAK_183193	KODAK_183194			

DTX 547		05/06/1993	The SpR's Report on some "Lessons Learned" regarding Current Patent Policy Practice of Joint CCITT and ISO/IEC Recommendations/Standards	KODAK_183198	KODAK_183206			
DTX 548		03/28/1989	Structure of JPEG Algorithm: Explanation of Livingston Consensus	KODAK_183550	KODAK_183557			
DTX 549		05/10/1989	IBM Statement on Q-Coder Patents	KODAK_183580	KODAK_183584			
DTX 550		07/00/1990	Handwritten – Joint Photographic Expert Group – Questions to the "Near Lossless" Cap	KODAK_183586	KODAK_183586			
DTX 551		10/05/1976	CCITT VIth Plenary Assembly – Draft Resolution Patented Items	KODAK_183598	KODAK_183598			
DTX 552		11/23/1991	Attendance List for the First Plenary Meeting of ISO/IEC JTC 1/SC 29	KODAK_183911	KODAK_183912		402, 403, 802, 901	
DTX 553		00/00/0000	CCITT Study Group XV - Intellectual Property Considerations	KODAK_183913	KODAK_183915			
DTX 554		01/18/1988	CCITT SGXV Working Party XV/1 – Coded Representation of Picture and Audio Information	KODAK_183968	KODAK_184028			
DTX 555		03/08/1994	Coding of Still Pictures – IBM Letter on Arithmetic Coding Patents (Mitchell)	KODAK_184093	KODAK_184096			
DTX 556		11/00/1987	ISO – Liaison Between ISO/TC97/SC2/WG8 and CCITT SGXV (Mr. Okubo)	KODAK_184220	KODAK_184220			
DTX 557		09/09/1988	ISO – Patent Consideration in Standardization Efforts	KODAK_184328	KODAK_184334			
DTX 558		10/18/1988	ISO – Report on the Activity of SC 2/WG8 to the SC 2 Plenary Meeting in London, 1988-10-17/21	KODAK_184370	KODAK_184415			
DTX 559	PX 0105	10/20/1988	ISO – Resolutions Taken by ISO/IEC JTC 1/SC 2 at Its 1st Plenary Meeting in London, 1988-10-17/20	KODAK_184416	KODAK_184423			
DTX 560		06/28/1989	ISO – WG8 Document Register at Stockholm	KODAK_184424	KODAK_184425			
DTX 561		01/25/1989	ISO – Important Matters Toward 15th WG8 February Meeting at Livingston	KODAK_184426	KODAK_184429			
DTX 562		06/28/1989	ISO – WG8 Participation List (June 1989)	KODAK_184448	KODAK_184453			
DTX 563		03/12/1990	ISO – WG8 Plenary Sessions: Stockholm: July 3-7, 1989 Meeting Report	KODAK_184486	KODAK_184549			
DTX 564		07/06/1990	ISO – WG8 Participation List (To Porto Meeting: July 6, 1990)	KODAK_184588	KODAK_184594			

DTX 565		12/25/1990	ISO – JPEG Activity Summary for Term of 10/88-3/90 (Wallace)	KODAK_184643	KODAK_184644			
DTX 566		00/00/0000	Photocopy of "2 Professional DCS" (with picture of a camera)	KODAK_438383	KODAK_438383		901	
DTX 567		09/10/1986	Invention Disclosure/ European Patent File History – German Language document	PH_PAN 0188335	PH_PAN 0188354			
DTX 568		00/00/0000	Article: *Facial Recognition Emerges as New Frontier*	KODAK_024189	KODAK_024189			
DTX 569		12/00/2005	Network magazine *It's All His Fault*, Steven Sasson "Father of the Digital Camera"	KODAK_024190	KODAK_024193		402, 403, 802	
DTX 570		11/15/2005	Digital Life article *Future Memories Look Good*, Steven Sasson	KODAK_024194	KODAK_024194		402, 403, 802	
DTX 571		10/00/2003	Picture CD Consumer Satisfaction Survey Wave IX	KODAK_024086	KODAK_024167		402, 403, 802, 901, 1006	
DTX 572		01/12/1995	Peters letter to Sheldon regarding ISO-IEC Standard DIS 10918-1 (JPEG)	PH_PAN 0289493	PH_PAN 0289496			
DTX 573		01/00/1988	CCITT SGXV – A Hybrid Coder for n x 384 kbit/s with 64 kbit/s capability	PHLPSKD_00070965	PHLPSKD_00070989		Two documents together	
DTX 574		03/00/1994	ISO – Report of the 26th Meeting	PHLPSKD_00014883	PHLPSKD_00014956			
DTX 575		07/00/1994	ISO – Report of the 28th Meeting	PHLPSKD_00017855	PHLPSKD_00017925			
DTX 576		09/00/1993	ISO – Report of the 24th Meeting	PHLPSKD_00019423	PHLPSKD_00019502			
DTX 577		04/02/1993	ISO – Report of the 22nd Meeting	PHLPSKD_00020178	PHLPSKD_00020299			
DTX 578		01/00/1993	ISO – Report of the 21st Meeting	PHLPSKD_00020599	PHLPSKD_00021087			
DTX 579		03/00/1989	Philips Research Laboratories, Redhill – Technical Note A Software Implementation of the Draft ISO/JPEG Adaptive Discrete Cosine Transform Still Picture Coding Technique, O.J. Morris	PHLPSKD_00054091	PHLPSKD_00054114			
DTX 580			WITHDRAWN					
DTX 581			WITHDRAWN					
DTX 582		00/00/0000	System Block Diagram – flowchart	WIDCOM 001273	WIDCOM 001283		402, 403, 802, 901	
DTX 583		09/25/1984	VTC-56 Instruction Manual, by Widcom Inc.	WIDCOM 001335	WIDCOM 001345		402, 403, 802, 901	

DTX 584		01/23/1986	Widcom Customer Base (Shipped) VTC-56 Video CODEC Personal Video Stations Rapios 500	WIDCOM 001550	WIDCOM 001551		402, 403, 802, 901	
DTX 585		05/28/1985	Distribution Agreement	WIDCOM 003056	WIDCOM 003075		402, 403, 802, 901	
DTX 586			WITHDRAWN					
DTX 587		00/00/0000	Widcom flowchart – VTC __, Incoder Coder Board	WIDCOM 004140	WIDCOM 004145		402, 403, 802, 901	
DTX 588		03/23/1983	Award/Contract issued by Defense Supply Service-Washington to Widergren Communications, Inc. (dated effective April 1, 1983)	WIDCOM 006694	WIDCOM 006178		402, 403, 802, 901	
DTX 589			WITHDRAWN					
DTX 590			WITHDRAWN					
DTX 591			WITHDRAWN					
DTX 592			WITHDRAWN					
DTX 593		04/15/1984	TeleSpan article *Teleconferencing Used for Citizens Forums*	WIDCOM 008664	WIDCOM 008664		402, 403, 802, 901	
DTX 594		03/29/1985	TeleSpan article *Widcom Demonstrates 56kbps System on Today Show*	WIDCOM 008669	WIDCOM 008669		402, 403, 802, 901	
DTX 595			WITHDRAWN					
DTX 596		06/15/1986	TeleSpan article *Federal Express to Install 500-Site Dedicated Broadcast Video Network*	WIDCOM 008677	WIDCOM 008677		402, 403, 802, 901	
DTX 597			WITHDRAWN					
DTX 598			WITHDRAWN					
DTX 599		04/01/1982	Computer Print-out – Grey scale image using Widcom's proprietary adaptive cosine transform sub-block coding algorithm	WIDCOM 001075	WIDCOM 001148		402, 403, 802, 901	
DTX 600		12/15/1986	Robson letter to Wallace regarding two Widcom VTC-56 Codecs in September 1985	WIDCOM 001565	WIDCOM 001565		402, 403, 802, 901	
DTX 601		06/08/1983	VTC-56 Encoder – coder board flowchart	WIDCOM 003029	WIDCOM 003038		402, 403, 802, 901	
DTX 602		11/13/1987	Coder flowchart	WIDCOM 003039	WIDCOM 003046		402, 403, 802, 901	
DTX 603		00/00/0000	Clock Gen Circuitry flowchart	WIDCOM 003149	WIDCOM 003158		402, 403, 802, 901	

DTX 604		00/00/0000	Clock Gen Circuitry flowchart	WIDCOM 003159	WIDCOM 003166		402, 403, 802, 901	
DTX 605		12/12/1985	Handwritten VTC-56 Customers	WIDCOM 003167	WIDCOM 003168		402, 403, 802, 901	
DTX 606		00/00/1987	Coder Board – Block Diagram	WIDCOM 003169	WIDCOM 003179		402, 403, 802, 901	
DTX 607		07/31/1985	Kodak office – Approval of SER Expenditure	WIDCOM 003216	WIDCOM 003216		402, 403, 802, 901	
DTX 608		00/00/0000	Kodak office – Resource Request Form	WIDCOM 003217	WIDCOM 003217		402, 403, 802, 901	
DTX 609		07/16/1985	Leith letter to Derounian enclosing design for a temporary retrofit of the existing videoconference systems	WIDCOM 003220	WIDCOM 003220		402, 403, 802, 901	
DTX 610		07/18/1985	Pierce Phelps proposal no. 850813 to Derounian	WIDCOM 003221	WIDCOM 003221		402, 403, 802, 901	
DTX 611		08/26/1985	Kodak office – Approval of Blanket SER Expenditure	WIDCOM 003224	WIDCOM 003227		402, 403, 802, 901	
DTX 612		00/00/0000	Abstract: Design and Testing of a Facility for Two-Way Video Teleconferencing by Cushman and Derounian	WIDCOM 003228	WIDCOM 003232	Derounian Ex. 4	402, 403, 802, 901	
DTX 613		00/00/0000	Purchase Requisition for Teleconferencing Equipment to be Used with Widcom 56 kbps CODEC in B/20 and B205	WIDCOM 003233	WIDCOM 003234	Derounian Ex. 5	402, 403, 802, 901	
DTX 614		12/13/1983	Widergren Communications, Inc Notice of Annual Meeting of Shareholders	WIDCOM 003245	WIDCOM 003271		402, 403, 802, 901	
DTX 615		11/21/1983	Computer print out coding luminance and chrominance components of an image sequence	WIDCOM 003413	WIDCOM 003425		402, 403, 802, 901	
DTX 616		10/17/1983	Computer print out	WIDCOM 003488	WIDCOM 003502		402, 403, 802, 901	
DTX 617		00/00/1982	Darpa Report for VTC-56	WIDCOM 003518	WIDCOM 003594		402, 403, 802, 901	
DTX 618		06/25/1984	VTC Experiments, Phase I	WIDCOM 003693	WIDCOM 003704		402, 403, 802, 901	

DTX 619		11/12/1983	Computer print out fixed initial variance - two dimensional adaptive block coder	WIDCOM 003705	WIDCOM 003807		402, 403, 802, 901	
DTX 620		00/00/0000	VTC-56 Coder Board flowchart	WIDCOM 003808	WIDCOM 003813		402, 403, 802, 901	
DTX 621		04/11/1984	Schematic - Console Central Panel	WIDCOM 003957	WIDCOM 003959		402, 403, 802, 901	
DTX 622		04/01/1982	Computer print out Subroutine to perform forward or inverse two dimensional cosine transform	WIDCOM 003960	WIDCOM 003962		402, 403, 802, 901	
DTX 623		10/11/1983	Computer print out rate buffer definitions	WIDCOM 003996	WIDCOM 004042		402, 403, 802, 901	
DTX 624		08/04/1981	Computer print out program to adjust replenishment threshold	WIDCOM 004045	WIDCOM 004046		402, 403, 802, 901	
DTX 625		09/25/1980	Computer print out index mapping arrays for snake block coder	WIDCOM 004047	WIDCOM 004048		402, 403, 802, 901	
DTX 626		12/23/1980	Computer print out subroutine xfload (NBPEL, NBITS, BLK, DIM) – subroutine to position a block for the forward transformation	WIDCOM 004051	WIDCOM 004054		402, 403, 802, 901	
DTX 627		08/31/1983	Computer print out	WIDCOM 004057	WIDCOM 004060		402, 403, 802, 901	
DTX 628		08/31/1983	Computer print out	WIDCOM 004063	WIDCOM 004068		402, 403, 802, 901	
DTX 629		06/15/1984	Computer print out	WIDCOM 004074	WIDCOM 004086		402, 403, 802, 901	
DTX 630		09/30/1983	Computer print out	WIDCOM 004095	WIDCOM 004124		402, 403, 802, 901	
DTX 631		06/16/1984	Computer print out frame to frame synchronizer	WIDCOM 004146	WIDCOM 004151		402, 403, 802, 901	
DTX 632		06/13/1984	Computer print out	WIDCOM 004155	WIDCOM 004166		402, 403, 802, 901	
DTX 633		11/11/1977	Article *Digital Coding of Color Video Signals – A Review*, Limb, Rubinstein and Thompson	WIDCOM 004167	WIDCOM 004238		402, 403, 802, 901	
DTX 634		08/31/1983	Computer print out	WIDCOM 004239	WIDCOM 004240		402, 403, 802, 901	

DTX 635		06/02/1982	Computer print out frame to frame synchronizer	WIDCOM 004250	WIDCOM 004252		402, 403, 802, 901	
DTX 636		00/00/0000	Meeting Minutes from January 25, 1989 meeting	WIDCOM 004323	WIDCOM 004328			
DTX 637		01/09/1991	List of Significant Contributors in the X3I2.8 Committee	WIDCOM 004329	WIDCOM 004331			
DTX 638		10/17/1983	Computer print out	WIDCOM 004389	WIDCOM 004585		402, 403, 802, 901	
DTX 639		06/20/1984	Computer print out Multi resolution block smoother	WIDCOM 004619	WIDCOM 004626		402, 403, 802, 901	
DTX 640		07/20/1984	Computer print out convert images in real format to integer format	WIDCOM 004752	WIDCOM 004755		402, 403, 802, 901	
DTX 641		11/01/1986	DRAFT: VTC-56B Theory of Operation A System Overview Widcom, Inc.	WIDCOM 005000	WIDCOM 005016		402, 403, 802, 901	
DTX 642		06/01/1984	Coder Board Block Diagram	WIDCOM 006042	WIDCOM 006072		402, 403, 802, 901	
DTX 643		11/01/1986	DRAFT: VTC-56B Coder Theory of Operation, Widcom, Inc.	WIDCOM 006170	WIDCOM 006234		402, 403, 802, 901	
DTX 644		11/01/1986	DRAFT: VTC-56B Cosine Theory of Operation, Widcom, Inc.	WIDCOM 006235	WIDCOM 006256		402, 403, 802, 901	
DTX 645		11/01/1986	DRAFT: VTC-56 Decoder Theory of Operation, Widcom, Inc.	WIDCOM 006257	WIDCOM 006300		402, 403, 802, 901	
DTX 646		11/01/1986	DRAFT: VTC-56 Digital to Analog Converter (DAC) Theory of Operation, Widcom, Inc.	WIDCOM 006301	WIDCOM 006306		402, 403, 802, 901	
DTX 647		11/01/1986	DRAFT: VTC-56 Forward Error Corrector Theory of Operation, Widcom, Inc.	WIDCOM 006307	WIDCOM 006341		402, 403, 802, 901	
DTX 648		11/01/1986	DRAFT: VTC-56 Input Processor Theory of Operation, Widcom, Inc.	WIDCOM 006342	WIDCOM 006356		402, 403, 802, 901	
DTX 649		11/01/1986	DRAFT: VTC-56 Inverse Cosine Transform Theory of Operation, Widcom, Inc.	WIDCOM 006357	WIDCOM 006384		402, 403, 802, 901	
DTX 650		11/01/1986	DRAFT: VTC-56 Output Processor Theory of Operation, Widcom, Inc.	WIDCOM 006385	WIDCOM 006395		402, 403, 802, 901	
DTX 651		11/01/1986	DRAFT: VTC-56 Receive Memory Theory of Operation, Widcom, Inc.	WIDCOM 006467	WIDCOM 006512		402, 403, 802, 901	

DTX 652		11/01/1986	DRAFT: VTC-56 Theory of Operation A System Overview, Widcom, Inc.	WIDCOM 006513	WIDCOM 006528		402, 403, 802, 901	
DTX 653		00/00/1986	Power Distribution System 220/VDE VTC-56	WIDCOM 006529	WIDCOM 006529		402, 403, 802, 901	
DTX 654		00/00/0000	Schenker Stinnes Logistics: European Document, shipping receipts, invoices, photos	WIDCOM 006631	WIDCOM 006662		402, 403, 802, 901	
DTX 655		00/00/0000	Photocopy of a CD entitled VTC-56 Product Demonstrations	WIDCOM 006663	WIDCOM 006663		402, 403, 802, 901, 1002	
DTX 656	PX 0280	02/22/1986	Order Finding Defendants in Contempt of this Court's May 27, 1983 Order and Dismissing Defendant's Order to Show Cause re Contempt Against Plaintiff	WIDCOM 006895	WIDCOM 009601			
DTX 657		06/30/1984	Widcom, Inc. SEC Form 10-K	WIDCOM 007139	WIDCOM 007165		402, 403, 802, 901	
DTX 658		02/15/1986	TeleSpan Article *Widcom, in the Black for Quarter Sells 102 Codecs to Date UK Distribution Set*	WIDCOM 008864	WIDCOM 008864		402, 403, 802, 901	
DTX 659		10/15/1986	TeleSpan Article *Widcom Report Shipments of 56kbps Codecs; Revised Financials Pending*	WIDCOM 008865	WIDCOM 008865		402, 403, 802, 901	
DTX 660		11/15/1985	TeleSpan Article *Widcom Announces 90 Codecs Shipped so Far in 1985*	WIDCOM 009344	WIDCOM 009344		402, 403, 802, 901	
DTX 661		00/00/0000	Specification page: *A Line on Widcom The 56 Kilobit Performer*	WIDCOM 011200	WIDCOM 011200		402, 403, 802, 901	
DTX 662		00/00/0000	Video Teleconferencing User Guide	WIDCOM 011307	WIDCOM 011308		402, 403, 802, 901	
DTX 663		12/31/1984	Widcom Form 10-K	WIDCOM 011548	WIDOCM 011563		402, 403, 802, 901	
DTX 664		04/00/1986	IEEE Article: *Gray-Scale Image Coding for Freeze-Frame Videoconferencing*, Anastassiou, Pennebaker, Mitchell	WIDCOM 012405	WIDCOM 012417		402, 403, 802, 901	
DTX 665		09/29/1983	Excerpts from Anderson lab notebook	WIDCOM 018996	WIDCOM 018999		402, 403, 802, 901	
DTX 666		12/12/1985	Handwritten notes on VTC-56 Customers	WIDCOM 019000	WIDCOM 019001		402, 403, 802, 901	
DTX 667		11/01/1986	DRAFT: VTC-56 Inverse Cosine Transform Theory of Operation, Widcom, Inc.	WIDCOM 019092	WIDCOM 019114		402, 403, 802, 901	

DTX 668		11/01/1986	DRAFT: VTC-56B Coder Theory of Operation, Widcom, Inc.	WIDCOM 019167	WIDCOM 019225		402, 403, 802, 901	
DTX 669		11/01/1986	DRAFT: VTC-56 Output Processor Theory of Operation, Widcom, Inc.	WIDCOM 019226	WIDCOM 019237		402, 403, 802, 901	
DTX 670		09/10/1986	English translation with certification of German Invention Disclosure to Vogel patent [Bates stamped PH_PAN 0188335-PH_PAN 0188339]	KODAK_024344	KODAK_024349		402, 403, 701, 802	
DTX 671		06/05/2007	Court of the Hague – Dutch Judgement LG Electronics Benelux Sales v. Koninklijke Philips Electronics (2007)	KODAK_024195	KODAK_024204		402, 403, 802	
DTX 672		06/05/2007	English translation with certification of Dutch Judgment LG Electronics Benelux Sales v Koninklijke Philips Electronics (2007) [Bates stamped KODAK_024195-KODAK_024204]	KODAK_024381	KODAK_024391		402, 403, 701, 802	
DTX 673		00/00/2006	Korean District Court Decision of Noninfringement for Koninklijke Philips Electronics N.V. v. LG Electronics	KODAK_024205	KODAK_024232		402, 403, 802	
DTX 674		00/00/2006	English translation with certification of Korean District Court Decision of Noninfringement for Koninklijke Philips Electronics N.V. v. LG Electronics [Bates stamped KODAK_024205-KODAK_024232]	KODAK_024392	KODAK_024420		402, 403, 701, 802	
DTX 675		00/00/2006	Korean IPT Decision of Noninfringement in the case of LG Electronics v. Koninkijke Philips Electronics	KODAK_024233	KODAK_024271		402, 403, 802	
DTX 676		00/00/2006	English translation with certification of Korean IPT Decision of Noninfringement in the case of LG Electronics v. Koninkijke Philips Electronics [Bates stamped KODAK_024233-KODAK_024271]	KODAK_024421	KODAK_024461		402, 403, 701, 802	
DTX 677		00/00/2006	Korean IPT Decision of Validity in the case of LG Electronics v. Koninkijke Philips Electronics	KODAK_024272	KODAK_024313		402, 403, 802	
DTX 678		00/00/2006	English translation with certification of Korean IPT Decision of Validity in the case of LG Electronics v. Koninkijke Philips Electronics [Bates stamped KODAK_024272-KODAK_024313]	KODAK_024462	KODAK_024504		402, 403, 701, 802	

DTX 679		06/05/2007	German Nullity Decision in the case of LG Electronics and Kodak v. Philips Intellectual Property and Standards	KODAK_024314	KODAK_024342		402, 403, 802	
DTX 680		06/05/2007	English translation with certification of German Nullity Decision in the case of LG Electronics and Kodak v. Philips Intellectual Property and Standards [Bates stamped KODAK_024314-KODAK_024342]	KODAK_024350	KODAK_024379		402, 403, 701, 802	
DTX 681		00/00/0000	CD of NBC Today Show	KODAK_011345	KODAK_011345		402, 403, 802, 901	
DTX 682		00/00/1992	Kodak Professional DCS – Specifications of Kodak Professional Digital Camera System	KODAK_438406	KODAK_438409			
DTX 683		01/13/93	International Standard DIS 10918-1; CCITT Recommendation T.81; Digital Compression and Coding of Continuous-Tone Still Images, Table of Contents and Forward	PHLPSKD_00070211	PHLPSKD00070212	Schoechle Ex. 17		
DTX 684			Annex L (informative)	PHLPSKD_00070409	PHLPSKD_00070410	Schoechle Ex. 17		
DTX 685		05/23/2007	Tijdslijn – deelname Philips aan diverse JPEG-studiegroepen	PH_PAN 0259847	4 pages total (not bated)		402, 403, 802	
DTX 686	PX 0299	04/00/1989	Patents Statement; JPEG 314	PHLPSKD_00037690				
DTX 687	PX 0298	06/06/1989	Statement on CSELT patents relevant to the ADCT algorithm; JPEG 325	PHLPSKD_00037713				
DTX 688	PX 0297	08/08/1989	Patent Statement; JPEG 334	PHLPSKD_00060101				
DTX 689		02/08/1993	Patent Statement from Electronic Imagery	PHLPSKD_00060502				
DTX 690		04/12/92	ISO/IEC DIS 11172; Coding of Moving Pictures and Associated Audio (MPEG); MPEG93/193	PHLPSKD_00046969				
DTX 691		08/06/1986	BSI – Technical Committee IST/2 Character Sets and Information Coding – Uniformed Minutes of the IST/2 Meeting Held on July 22, 1986 Held at Hampton House in London	BSI_00001	BSI_00008			
DTX 692		05/03/1989	BSI – To the Members of Technical Committee IST/2 Character Sets and Information Coding – Uniformed Minutes of the IST/2 Meeting Held on April 26, 1989 Held at Hampton House in London	BSI_00009	BSI_00030			

DTX 693		08/03/1989	BSI – To the Members of Technical Committee IST/2 Character Sets and Information Coding – Uniformed Minutes of the IST/2 Meeting Held on July 31, 1989 Held at Hampton House in London	BSI_00031	BSI_00038			
DTX 694		11/28/1989	BSI – To the Members of Technical Committee IST/2 Character Sets and Information Coding – Uniformed Minutes of the IST/2 Meeting Held on November 27, 1989 Held at Hampton House in London	BSI_00039	BSI_00055			
DTX 695		02/12/1990	BSI – To the Members of Technical Committee IST/2 Character Sets and Information Coding – Uniformed Minutes of the IST/2 Meeting Held on February 12, 1990 Held at Hampton House in London	BSI_00056	BSI_00066			
DTX 696		05/29/1990	BSI – To the Members of Technical Committee IST/2 Character Sets and Information Coding – Uniformed Minutes of the IST/2 Meeting Held on May 17, 1990 Held at Hampton House in London	BSI_00067	BSI_00074			
DTX 697		05/23/1991	BSI – To the Members of Technical Committee IST/2 Character Sets and Information Coding – Uniformed Minutes of the IST/2 Meeting Held on May 21, 1991 Held at Hampton House in London	BSI_00075	BSI_00087			
DTX 698		11/05/1991	BSI – To the Members of Technical Committee IST/37 Coded Representation of Picture, Audio, and Multimedia/Hypermedia Information – Uniformed Minutes of the First IST/37 Meeting Held on November 1, 1991 Held at Hampton House in London	BSI_00088	BSI_00100			
DTX 699		03/03/1992	BSI – To the Members of Technical Committee IST/37 Coded Representation of Picture, Audio, and Multimedia/Hypermedia Information – Uniformed Minutes of the Third IST/37 Meeting Held on March 2, 1992 Held at Hampton House in London	BSI_00101	BSI_00111			
DTX 700		06/12/1992	BSI – To the Members of Technical Committee IST/37 Coded Representation of Picture, Audio, and Multimedia/Hypermedia Information – Uniformed Minutes of the Fourth IST/37 Meeting Held on June 11, 1992 Held at Hampton House in London	BSI_00112	BSI_00123			

DTX 701		09/21/1992	BSI – To the Members of Technical Committee IST/37 Coded Representation of Picture, Audio, and Multimedia/Hypermedia Information – Uniformed Minutes of the Third IST/37 Meeting Held on September 2, 1992 Held at Hampton House in London	BSI_00124	BSI_00133			
DTX 702		10/12/1990	BSI – To the Members of Technical Committee IST/2 Character Sets and Information Coding – Uniformed Minutes of the IST/2 Meeting Held on October 5, 1990 Held at Hampton House in London	BSI_00134	BSI_00139			
DTX 703		09/30/1991	BSI – To the Members of Technical Committee IST/2 Character Sets and Information Coding – Uniformed Minutes of the IST/2 Meeting Held on September 26, 1991 Held at Hampton House in London	BSI_00140	BSI_00150			
DTX 704	PX 0111	02/03/1989	JPEG –Joint Photographic Experts Group ISO/IEC JTC1/SC2/WG8	PHLPSKD_00037418	PHLPSKD_00037535	[redacted]		
DTX 705		03/17/2006	Directory of CD "Widcom Technical Documentation for Neuhauser"			[redacted]	402, 403, 802, 901, 1006	
DTX 706		06/21/2006	Directory of CD "CLI351725 re 5_20 CLI VTC-56 San Diego Inspection for Neuhauser"			[redacted]	402, 403, 802, 901, 1006	
DTX 707		07/16/2004	Widcom VTC-56B Video Coder/ Decoder Data Extraction Report			[redacted]	402, 403, 701, 702, 802, 901	
DTX 708		01/19/2006	Article entitled *Reverse Engineering Delivers Product Knowledge, Aids Technology Spread*, Dick James			[redacted]	402, 403, 802, 901	
DTX 709		02/08/2008	Native File CD: 2007 January to September drop shipments of digital cameras to non-US locations	KODAK_024343	KODAK_024343			
DTX 710		02/20/2008	Native File CD	KODAK_024505	KODAK_024505		901, 402, 403	
DTX 711		02/20/2008	Native File CD	KODAK_024506	KODAK_024506			
DTX 712		02/21/2008	Native File CD	KODAK_024507	KODAK_024507			
DTX 713		00/00/0000	Korean File Wrapper	KODAK_024508	KODAK_024626		402, 403, 901	
DTX 714		00/00/0000	English Translation and certification for Korean File Wrapper [Bates stamped KODAK_024568-KODAK_024584]	TBD	TBD		402, 403, 802, 901	

DTX 715		01/07/2008	Rebuttal Expert Report of Timothy Schoechle Regarding Standards Issues – corrected January 9, 2008			Schoechle Ex. 2; Ebrahimi Ex. 3		
DTX 716		00/00/0000	Curriculum Vitae of Timothy Schoechle			Schoechle Ex. 3		
DTX 717		00/00/0000	Common Patent Policy for ITU-T/ITU-R/ISO/IEC	KODAK_024170	KODAK_024171	Schoechle Ex. 4	402, 403, 802, 901	
DTX 718		12/05/2002	Presentation: Standards and Patents: Do they Fit?	PHLPSKD_00089843	PHLPSKD_00089850	Schoechle Ex. 6	402, 403, 802	
DTX 719		08/00/1991	Ogden Webster letter to Gregory Wallace regarding JEPG-718, 4 August 1991	KODAK_013497	KODAK_013437	Schoechle Ex. 9		
DTX 720		08/13/1991	Vesben Jorgen memo to Gregory Wallace regarding Patent statement on JPEG technology	KODAK_013438	KODAK_013438	Schoechle Ex. 10		
DTX 721		05/09/1988	ISO Coded Representation of Picture and Audio Information: Titled – Patent Issues: ADCT and ISO General	KODAK_012379	KODAK_012380	Schoechle Ex. 11		
DTX 722		03/00/1988	SO Coded Representation of Picture and Audio Information: Titled – A Draft ISO for Coded Representation of Still Pictures	KODAK_184248	KODAK_184266	Schoechle Ex. 13		
DTX 723		04/28/1989	Hall letter to G. Wallace regarding licensing arrangements for Q-Coder patents and Wallace letter to Hall dated 4/21/89 regarding licensing arrangements for Q-Coder patents	KODAK_083581	KODAK_083584	Schoechle Ex. 18		
DTX 724		01/15/2007	Notice of Deposition and Subpoena of Dr. Touradj Ebrahimi			Ebrahimi Ex. 1		
DTX 725		12/14/2007	Expert Report of Touradj Ebrahimi regarding JPEG Standard Issues			Ebrahimi Ex. 2	402, 403, 802	
DTX 726		02/19/1988	CCITT Study Group VIII, Title: Statement on the CCITT Patent Policy	KODAK_012533	KODAK_012534	Ebrahimi Ex. 4		
DTX 727		00/00/1987	Rules for Reference to Patented Items in International Standards	KODAK_011681	KODAK_011681	Ebrahimi Ex. 6		
DTX 728		03/19/2007	ISO: IEC, ISO and ITU, the World's Leading Developers of International Standards, Agree on Common Patent Policy			Ebrahimi Ex. 7	402, 403, 802	
DTX 729			Email to Ebrahimi regarding Ticket Passenger Itinerary			Ebrahimi Ex. 8	402, 403, 802	
DTX 730			Ebrahimi Electronic Ticketing number			Ebrahimi Ex. 9	402, 403, 802	

DTX 731			Ebrahimi billing/ hours calculations for time spent on Philips v. Kodak			Ebrahimi Ex. 10	402, 403, 802	
DTX 732		10/31/2007	Deposition of Richard Clark			Ebrahimi Ex. 13	402, 403, objection to submission of complete transcript; objection to designated portions in log for deposition designations	
DTX 733		04/05/1993	ITU – Telecommunication Standardization Sector Study Group .8: The SpR's Report on Some "Lessons Learned" regarding Current Patent Policy Practice of Joint CCITT and ISO/IEC Recommendations/ Standards			Ebrahimi Ex. 14		
DTX 734		04/06/2007	Plaintiff U.S. Philips Corporation's Objections and Responses to Defendant Eastman Kodak Company's First Set of Interrogatories to Plaintiff U.S. Philips Corporation (Nos. 1-12)					
DTX 735		04/09/2007	Plaintiff U.S. Philips Corporation's Objections and Responses to Defendant Eastman Kodak Company's Second Set of Interrogatories to Plaintiff U.S. Philips Corporation (Nos. 13)					
DTX 736		11/06/2007	Plaintiff U.S. Philips Corporation's Supplemental Responses to Defendant Eastman Kodak Company's First Set of Interrogatories to Plaintiff U.S. Philips Corporation (Nos. 1-3, 5, 10-12)					
DTX 737		04/23/2006	Neuhauser Invoices for March 2006 through October 2007	NEUHAUSER 0063	NEUHAUSER 0079		402, 403, 802	
DTX 738		1/14/2008	Neuhauser Invoice for December 2007	NEUHAUSER 0080	NEUHAUSER 0081		402, 403, 802	
DTX 739		2/5/2008	Neuhauser Invoice for January 2008	NEUHAUSER 0082	NEUHAUSER 0083		402, 403, 802	

			Reserved for: Kodak Litigation Expenses				All objections reserved	

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

U.S. PHILIPS CORPORATION V. EASTMAN KODAK COMPANY
CIVIL ACTION NO. 06-00251-GMS

DEFENDANT EASTMAN KODAK'S PHYSICAL TRIAL EXHIBITS

DPX001			Widcom VTC-56 Codec				402, 403, 901	
			Reserved for Physical Evidence					
			Reserved for Physical Evidence					
			Reserved for Physical Evidence					
			Reserved for Physical Evidence					
			Reserved for Physical Evidence					
			Reserved for Physical Evidence					
			Reserved for Physical Evidence					

EXHIBIT C3

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

U.S. PHILIPS CORPORATION, Plaintiff, v. EASTMAN KODAK COMPANY, Defendant.	Civil Action No. 06-251 (GMS)

EXHIBIT C3
U.S. PHILIPS CORPORATION'S LIST OF DEMONSTRATIVES AND EXPERIMENTS

Plaintiff U.S. Philips Corporation ("Philips") hereby submits its list of proposed demonstratives and experiments as of March 3, 2008. The parties agree that they will disclose any demonstrative exhibits intended to be used at trial by at least 7:00 p.m. the day before such exhibits are used in order to permit any objections to be raised before any such demonstratives are used at trial. Philips reserves the right to submit additions and/or revisions to its demonstrative list after meeting and conferring with defendant Eastman Kodak Company ("Kodak") on outstanding trial management issues, after reviewing the defendant's demonstrative list, and after receiving the Court's rulings on the parties' respective motions *in limine*.

1. Animations, diagrams, time lines and/or pictures illustrating Philips' formation, corporate history, primary business responsibilities, commercial relationships, legal and statutory obligations, and/or corporate and ownership structure.

2. Animations, diagrams, and/or pictures demonstrating Kodak's infringement (both literal and under the doctrine of equivalents) of the claims in suit.

3. Animations, diagrams, and/or pictures demonstrating the structure and operation of products implementing the JPEG standard.

4. Animations, diagrams, and/or pictures demonstrating the invention, the asserted claims, drawings, excerpts, and the prosecution history of U.S. Patent No. 4,901,075.

5. Posters and/or pictures of the asserted claims.

6. Posters and/or pictures of briefs and accompanying exhibits, transcripts, and demonstratives in connection with the November 20, 2007, *Markman* hearing.

7. Animations, diagrams, and/or pictures demonstrating the distinctions between U.S. Patent 4,901,075 and the prior art references asserted by Kodak.

8. Animations, diagrams, time lines and/or pictures illustrating the inapplicability of the prior art references asserted by Kodak as anticipating U.S. Patent 4,901,075.

9. Animations, diagrams, time lines and/or pictures illustrating the development of the JPEG standard.

10. Animations, diagrams, time lines and/or pictures illustrating Kodak's practice of the JPEG standard.

11. Animations, diagrams, time lines, and/or pictures illustrating Kodak's willful infringement.

12. Animations, diagrams, time lines, and/or pictures illustrating communications between Kodak and Philips demonstrating Kodak's willful infringement.

13. Animations, diagrams, time lines, and/or pictures illustrating Kodak's market activity, product introductions, marketing, sales, market share, commercial relationships, and communications with Philips demonstrating Kodak's willful infringement and Philips' entitlement to damages.

14. Animations diagrams, time lines, and/or pictures illustrating the licensing of Philips' patents.

15. Animations, diagrams, time lines, spread sheets, charts, and/or pictures reflecting summaries of voluminous material, including financial and sales records, pursuant to Federal Rule of Evidence 1006.

16. Charts, summaries, and/or calculations of voluminous material, including financial and sales records, pursuant to Federal Rule of Evidence 1006.

EXHIBIT C4

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

U.S. PHILIPS CORPORATION, Plaintiff, v. EASTMAN KODAK COMPANY, Defendant.	Civil Action No. 06-251 (GMS)

EXHIBIT C4:
EASTMAN KODAK COMPANY'S LIST OF DEMONSTRATIVES

Defendant and Counterclaim Plaintiff Eastman Kodak Company ("Kodak") hereby submits its list of proposed demonstratives as of March 3, 2008. The parties agree that they will disclose any demonstrative exhibits intended to be used at trial by at least 7:00 p.m. the day before such exhibits are used in order to permit any objections to be raised before any such demonstratives are used at trial. Kodak reserves the right to submit additions and/or revisions to its demonstrative list after meeting and conferring with Plaintiff U.S. Philips Corporation ("Philips") on outstanding trial management issues, after reviewing the plaintiff's demonstrative list, and after receiving the Court's rulings on the parties' respective motions *in limine*.

Kodak's proposed list is as follows:

1. Animations, diagrams, time lines, charts and/or pictures illustrating Kodak's formation, corporate history, primary business responsibilities, commercial relationships, legal and statutory obligations, and/or corporate and ownership structure.

2. Animations, diagrams, time lines, charts and/or pictures illustrating Philips' formation, corporate history, primary business responsibilities, commercial relationships, legal and statutory obligations, and/or corporate and ownership structure.

3. Animations, diagrams, charts and/or pictures demonstrating Kodak's non-infringement of the claims in suit.

4. Animations, posters and/or pictures of the asserted claims.

5. Charts, posters and/or pictures of briefs and accompanying exhibits, transcripts, and demonstratives in connection with the November 20, 2007, *Markman* hearing or the Court's January 25, 2008 Claim Construction Order.

6. Animations, diagrams, charts and/or pictures demonstrating the comparison between U.S. Patent No. 4,901,075 and the asserted prior art references.

7. Animations, diagrams, time lines, charts and/or pictures illustrating the applicability of the asserted prior art references as invalidating U.S. Patent No. 4,901,075.

8. Animations, diagrams, time lines, charts and/or pictures illustrating the development, policies and practices of the JPEG standard.

9. Animations, diagrams, time lines, charts and/or pictures illustrating the industry's practice of and investment in the JPEG standard.

10. Animations, diagrams, time lines, charts and/or pictures illustrating the extent of Philips' participation in JPEG.

11. Animations, diagrams, time lines, charts and/or pictures illustrating Kodak's reasonable actions in implementing the JPEG standard.

12. Animations, diagrams, time lines, charts and/or pictures illustrating Philips' unreasonable delay in filing this lawsuit.

13. Animations, diagrams, time lines, charts and/or pictures illustrating the evidentiary and economic prejudice Kodak has suffered as a result of Philips' unreasonable delay in filing this lawsuit.

14. Animations, diagrams, time lines, charts and/or pictures illustrating Kodak's market activity, product introductions, marketing, sales, market share, commercial relationships, and communications with Philips in assessing whether Philips is entitled to damages.

15. Animations, diagrams, time lines, spread sheets, charts, and/or pictures reflecting calculations or summaries of voluminous material, including financial and sales records, pursuant to Federal Rule of Evidence 1006.

16. Animations, posters and/or pictures of verdict forms and/or jury instructions.

EXHIBIT D1

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

U.S. PHILIPS CORPORATION, Plaintiff, v. EASTMAN KODAK COMPANY, Defendant.	Civil Action No. 06-251 (GMS)

EXHIBIT D1:

PHILIPS' WITNESS LIST

Plaintiff U.S. Philips Corporation ("Philips") hereby submits its witness list as of March 3, 2008. Philips reserves the right to submit, as appropriate, additions and/or revisions to its witness list as the pretrial and trial process evolves, including meeting and conferring with Defendant Eastman Kodak Company ("Kodak") on outstanding trial management issues and receiving the Court's rulings on matters such as the parties' respective motions *in limine*. Philips reserves the right to call any witnesses on Kodak's witness list and any other witnesses called by Kodak. To the extent that Philips has not yet had an opportunity to depose a potential witness and will not be provided with an opportunity to depose such a witness, Philips objects to Kodak's inclusion of such witness(es) on its witness list. Philips reserves all objections under Fed. R. Civ. P. 32. Philips also reserves the right to introduce deposition testimony consistent with the deposition designations set forth in Exhibit F.

Witnesses Who Will Be Called

1. Dr. Bernd Girod, 790 Mayfield Avenue, Stanford, CA 94305-1044

2. Mark Peterson, Robinwood Consulting LLC, 566 West Adams, Suite 300, Chicago, IL 60661

3. Dr. Timothy D. Schoechle, 3066 Sixth Street, Boulder, CO 80304

4. Jack Slobod, Philips Intellectual Property & Standards, 345 Scarborough Road, Briarcliff Manor, NY 10510

5. Jan van der Meer, Philips Research Eindhoven, High Tech Campus 44, 5656 AE Eindhoven, The Netherlands

6. Dr. Peter Vogel, Freesienweg 37, 41564 Kaarst, Germany

Witnesses Who May Be Called

7. Kenneth Cho, Philips Intellectual Property & Standards, 345 Scarborough Road, Briarcliff Manor, NY 10510

8. John Morris, Philips Applied Technologies, Cross Oak Lane, Redhill, Surrey, RH1 5HA, UK

9. Majid Rabbani, Eastman Kodak Co., c/o DLA PIPER US LLP, 401 B Street, Suite 1700, San Diego, California 92101-4297

10. Norman Richards, 15 Saint Mary's Gardens, Horsham, West Sussex RH12 1JP, UK

11. Eric Schylander, Juliana de Lannoylaan 14, 5582 EC Waalre, The Netherlands

12. Joachim Speidel, Institute of Telecommunications, University of Stuttgart, Pfaffenwaldring 47 (ETI 2), 70569 Stuttgart, Germany

13. Susumu Tsugaru, Philips Intellectual Property & Standards 2-13-37, Kohnan, Minato-ku, Tokyo 108-8507, Japan

14. Simon Turner, Simon Turner Associates Ltd., Redhill, Surrey, UK

EXHIBIT D2

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

U.S. PHILIPS CORPORATION, Plaintiff, v. EASTMAN KODAK COMPANY, Defendant.	)	Civil Action No. 06-00251-GMS

EXHIBIT D2:

EASTMAN KODAK COMPANY'S WITNESS LIST

Defendant and Counterclaim Plaintiff Eastman Kodak Company ("Kodak") hereby submits its witness list as of March 3, 2008. Kodak reserves the right to submit, as appropriate, additions and/or revisions to its witness list as the pretrial and trial process evolves, including meeting and conferring with Plaintiff U.S. Philips Corporation ("Philips") on outstanding trial management issues and receiving the Court's rulings on matters such as the parties' respective motions *in limine*. Kodak reserves the right to call any witnesses on Philips' witness list and any other witnesses called by Philips. To the extent that Kodak has not yet had an opportunity to depose a potential witness and will not be provided with an opportunity to depose such a witness, Kodak objects to Philips' inclusion of such witness(es) on its witness list. Kodak reserves all objections under Fed. R. Civ. P. 32. Kodak also reserves the right to introduce deposition testimony consistent with the deposition designations set forth in Exhibit F2.

Witnesses Who Will Be Called:

1. Dr. Touradj Ebrahimi, Bd de la Forêt 32, CH-1009 Pully, Switzerland
2. Mr. Andrew R. Evenski, Eastman Kodak Company, 343 State Street, Rochester, NY 14650
3. Dr. Stanley Fralick, 9220 Los Lagos Circle South, Granite Bay, CA 95746
4. Dr. Joan Mitchell, Infoprint Solutions Co., 6300 Diagonal Hwy., Boulder, CO 80301
5. Dr. Charles J. Neuhauser, 525 West Remington Drive, Suite 126, Sunnyvale, CA 94087
6. Mr. Michael Nier, 22638 Rose Quartz Square, Ashburn, VA 20148
7. Mr. Steve Sasson, Eastman Kodak Company, 343 State Street, Rochester, NY 14650
8. Mr. Majid Rabbani, Eastman Kodak Company, 343 State Street, Rochester, NY 14650
9. Mr. Robert Wallace, Brodshatzer, Wallace, Spoon & Yip, 555 W. Beech Street, Suite 400, San Diego, CA 92101

Witnesses May Be Called:

1. Mr. Richard Clark, Rocks Farm Cottage, Stone Cross, Crowborough, United Kingdom
2. Mr. Jan van der Meer, Philips Research Eindhoven, High Tech Campus 44, 5656 AE Eindhoven, The Netherlands
3. Mr. Istvan Sebestyen, Ecma International, Rue du Rhône 114, CH-1204 Geneva, Switzerland
4. Dr. Peter Vogel, Freesienweg 37, 41564 Kaarst, Germany
5. Mr. Peyton Watkins, Eastman Kodak Company, 343 State Street, Rochester, NY 14650

EXHIBIT E1

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

U.S. PHILIPS CORPORATION, Plaintiff, v. EASTMAN KODAK COMPANY, Defendant.	Civil Action No. 06-251 (GMS)

EXHIBIT E1: PLAINTIFF U.S. PHILIPS CORPORATION'S STATEMENT SETTING FORTH THE QUALIFICATIONS OF ITS EXPERTS

Plaintiff U.S. Philips Corporation hereby submits its statement setting forth the qualifications of its expert witnesses in such form as can be read to the jury at the time the expert witness takes the stand.

BERND GIROD, Ph.D.

Dr. Bernd Girod is Professor of Electrical Engineering at Stanford University and holds a courtesy appointment in the Stanford Department of Computer Science. Dr. Girod also serves as Director both of the Stanford Center for Image Systems Engineering and the Max Planck Center for Visual Computing and Communication. Dr. Girod earned a Prediploma in Electrical Engineering from the University of Hannover, Germany, in 1978, and a Master of Science degree in Electrical Engineering from the Georgia Institute of Technology in 1980. Dr. Girod earned a Ph.D. in Electrical Engineering "with highest honors" from the University of Hannover in 1987.

Dr. Girod has over 25 years of experience in the area of image compression. He has authored or co-authored over 400 scientific publications, the majority of them related to image compression. He is also the inventor of more than 20 patents, with several others pending, most of them related to image compression. At Stanford University, Dr. Girod teaches graduate-level courses in the fields of image compression and digital image processing. As part of these courses, image compression in general, and Baseline JPEG in particular, are discussed in detail.

From 1981 to 1987, Dr. Girod was member of the research staff of the Telecommunications Institute at the University of Hannover. In 1988, he joined the Massachusetts Institute of Technology, first as a Visiting Scientist and then as an Assistant Professor of Media Technology. From 1990 to 1993, he was Professor of Computer Graphics and Technical Director of the Academy of Media Arts in Cologne, Germany. In 1993, he was a Visiting Adjunct Professor with the Digital Signal Processing Group at the Georgia Institute of Technology. From 1993 until 1999, Dr. Girod was Chaired Professor of Electrical Engineering and Telecommunications at the University of Erlangen-Nuremberg, Germany, and the Head of

the Telecommunications Institute. He served as the Chairman of the Electrical Engineering Department from 1995 to 1997, and as Director of the Center of Excellence "3-D Image Analysis and Synthesis" from 1995 to 1999.

In 1988, "for his contributions to the theory and practice of video communications," Dr. Girod was elected Fellow of the Institute of Electrical and Electronics Engineers (IEEE), the world's leading professional association for the advancement of technology. He was a member of the IEEE Image and Multidimensional Signal Processing Technical Committee from 1989 to 1997. He has served on the Editorial Boards of several journals in his field, among them as Area Editor for Speech, Image, Video & Signal Processing of the *IEEE Transactions on Communications*. The IEEE Signal Processing Society named him "Distinguished Lecturer" in 2002. Dr. Girod received the Technical Achievement Award from the European Signal Processing Society in 2004 and the IEEE Multimedia Communication Best Paper Award in 2007. In 2007, Dr. Girod was also elected a member of the German Academy of Sciences (Leopoldina).

MARK A. PETERSON

Mr. Peterson is the Chief Executive Officer and founder of Robinwood Consulting, located in Chicago, Illinois. He has over 20 years of experience in the valuation of intellectual property and has assisted clients in valuing technology for licensing purposes, including negotiating licenses and packaging technology for sale.

Mr. Peterson has also assisted clients in the licensing of technology, both in settlement of litigation as well as the avoidance of litigation. In addition, Mr. Peterson has provided consulting assistance in the evaluation of economic damages resulting from the infringement of intellectual property rights. These evaluations have included reasonable royalties. His analyses have included determinations of fixed and variable costs, incremental profit determinations, cost savings, analyses of market demand, capacity, convoyed sales, economic effects of acceptable non-infringing alternatives, and more.

Since 1988, Mr. Peterson has been actively involved with the Licensing Executives Society (LES), an organization of over 11,000 licensing professionals worldwide and over 5,000 in the U.S. and Canada. Since 2002, Mr. Peterson has created and taught a number of LES educational seminars related to the valuation of intellectual property. He has also made numerous presentations to the Licensing Executives Society and the Association of University Technology Managers on technology pricing and damages in intellectual property litigation. In 2002, Mr. Peterson wrote the valuation and negotiation sections of the Licensing Executive Society's *Fundamentals of Intellectual Asset Management* seminar, and in 2003 he wrote the valuation portion of the *Intermediate Intellectual Asset Management* seminar.

Prior to forming Robinwood Consulting, Mr. Peterson was a Vice President in the international consulting firm Peterson Consulting Limited Partnership, where he focused on

intellectual property and commercial damage issues. Before that, he was an Associate Member of the Chicago Board of Trade and spent three years as Controller and General Manager of a brokerage firm in Chicago.

Mr. Peterson has a Bachelor of Business Administration degree in accounting and economics from Ohio University. He is a Certified Public Accountant in Illinois, and a member of the American Institute of Certified Public Accountants and the Illinois CPA Society. In the Licensing Executives Society, Mr. Peterson served as Trustee from 1995 to 2001, as Treasurer from 1999 to 2001, and as a member of its Executive Committee from 1998 to 2001.

TIMOTHY D. SCHOECHLE, Ph.D.

Dr. Schoechle is an expert in the field of standardization, specifically with respect to communications and computer engineering. He has also been involved in communication policy for over a decade. Dr. Schoechle advises corporations, law firms, governments, and agencies on standards policy and on related intellectual property issues. He lives in Boulder, Colorado.

For over 30 years, Dr. Schoechle has served as a speaker, moderator, and author of technical engineering and public policy papers at numerous international conferences and forums. He has written and lectured on such topics as electronic privacy, network architectures, Internet telephony, higher education, distance learning, technical standards, patents, innovation, and intellectual property.

Dr. Schoechle has served in many capacities in various standards bodies, including as Chair and Secretary. Since 1990, he has served as the Secretary of ISO/IEC JTC1 SC25 WG1, the international standards committee for Home Electronic System, where he also serves as a technical expert representing the United States and as an editor of international standards documents. In addition, he serves as Secretary of JTC1 SC32—the international standards committee for Data Management and Interchange. In 2006, Dr. Schoechle was appointed to a special standards oversight committee on Intelligent Transportation Systems associated with the National Academy of Sciences. In addition, he presently serves as a member of the American National Standards Institute's Patent and Education Committees.

Dr. Schoechle earned a B.S. in Administrative Science from Pepperdine University in 1973. He earned an M.S. in Telecommunications in 1995 and a Ph.D. in Communication Policy in 2004, both from the University of Colorado, Boulder. His doctoral dissertation focused on the

development of the international standardization system and on its current issues and dynamics It is currently being edited for publication as a book by an international academic publisher.

Until recently, Dr. Schoechle was a faculty member in the Interdisciplinary Telecommunications Program at the University of Colorado, where, for several years, he taught one of the only graduate courses in standards offered at the university level worldwide, TLEN 5190 *Telecommunications Standards: Current Issues.* During that time, he also was a founder and Director of the International Center for Standards Research, an academic research and teaching initiative devoted to the study of the standards system and processes.

Dr. Schoechle currently serves on the Editorial Board of the *International Journal of IT Standards and Standardization Research*, an international scholarly journal on standardization research. He served as the organizer and General Chair of SIIT 2001 (the 2nd *IEEE Conference on Standardization and Innovation in Information Technology*), a juried biennial interdisciplinary academic conference devoted to standards research and teaching. He continues his involvement with SIIT, both as an advisor and as member of its International Organizing Committee.

EXHIBIT E2

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

U.S. PHILIPS CORPORATION, Plaintiff, v. EASTMAN KODAK COMPANY, Defendant.	Civil Action No. 06-00251-GMS

EXHIBIT E2:
DEFENDANT EASTMAN KODAK COMPANY'S STATEMENTS SETTING FORTH THE QUALIFICATIONS OF ITS EXPERTS

Defendant Eastman Kodak Company hereby submits its statement setting forth the qualifications of its expert witnesses in such form as can be read to the jury at the time the expert witness takes the stand.

Touradj Ebrahimi, Ph.D.

Dr. Touradj Ebrahimi is a Professor of Image Processing at the Swiss Federal Institute of Technology (EPFL), in Lausanne, Switzerland and is involved in teaching and research in the field of Multimedia Signal Processing. Before joining EPFL as a faculty member in 1994, Dr. Ebrahimi was employed at AT&T Bell Laboratories Research Center in Holmdel, NJ, USA, where Dr. Ebrahimi worked on video compression techniques for communication. Prior to that, Dr. Ebrahimi was employed by Sony Corporation in Tokyo, Japan, working at its Corporate Research Center in the area of image and video compression for storage applications.

Dr. Ebrahimi holds a Masters of Science Degree from EPFL in Electrical Engineering with specialization in Image Processing, and a PhD from EPFL in Video Compression.

During his career, Dr. Ebrahimi has been closely involved in various projects on image and video compression including many related to standardization. Dr. Ebrahimi is the Head of the Swiss Delegation to JPEG, MPEG and SC29 which is the body overseeing the work of these two standards. Dr. Ebrahimi has been and continues to be the chair of various technical subgroups within the JPEG and MPEG standardization committees, including chairman of requirements in JPEG, editor of the secure JPEG 2000 standard, and editor of the MPEG-4 video standard. Dr. Ebrahimi also chaired the joint Ad Hoc Group between ISO/IEC and ITU-T experts in charge of examining proposals for inclusion of new Amendments to the JPEG image compression standard.

Dr. Ebrahimi has received several awards and distinctions in the area of image and video compression standardization. Examples include four ISO certificates for outstanding contributions to JPEG 2000, Secure JPEG 2000, JPEG 2000 reference software, and the MPEG-4 video standard. Dr. Ebrahimi received the first prize for best publication of the IEEE Transactions on Consumer Electronics in 2000 for a paper describing the JPEG 2000 standard. Dr. Ebrahimi is the author or co-author of more than 150 publications (books, book chapters, journal papers, conference proceedings), and holds several patents.

Dr. Ebrahimi regularly teaches courses at graduate levels in European Universities (Switzerland, France, and Italy) on image and video compression which include a detailed description of the JPEG compression standard.

Charles J. Neuhauser, Ph.D.

Dr. Charles Neuhauser is an electrical engineer by training with specific education and experience in the operation of logic circuits and systems built from those circuits. Dr. Neuhauser holds a Bachelors of Science Degree from the University of Notre Dame in Electrical Engineering, a Masters of Science Degree from Northwestern University in Electrical Engineering, and a PhD from the John Hopkins University in Electrical Engineering.

From 1970-1990, Dr. Neuhauser worked actively in the field of logic and system design. Dr. Neuhauser's responsibilities covered the specification, selection of technology, design, simulation, debugging and validation of systems. During the period from 1970 to 1990, Dr. Neuhauser participated directly in design activities and supervised other engineers undertaking similar activities. Dr. Neuhauser's experience with designs includes processors, communications interfaces, printer controllers and similar systems.

For the product that is the subject of his opinions (the Widcom Coder Board), Dr. Neuhauser has designed a number of systems based on the logic families used in the Widcom Coder Board. In addition, the techniques used in the Widcom Coder Board design were widely known in the early 1980s because the particular logic families and components used in the Widcom Coder Board were standards within the semiconductor industry. Many of the systems that Dr. Neuhauser designed and worked with during the 1980s required extensive use of simulation systems similar to the system used for analyzing the Widcom Coder Board.

Robert H. Wallace, CPA/ABV

Mr. Robert Wallace is a Certified Public Accountant and one of the founding partners of Brodshatzer Wallace Spoon and Yip, Certified Public Accountants and Consultants in San Diego, California. Mr. Wallace has been a CPA since 1977 and has over 20 years experience with Brodshatzer. He is one of the principal partners and devotes a significant amount of his career to litigation consulting and the analysis of damages in various legal matters.

Mr. Wallace obtained both a Bachelor of Science degree in Economics and Masters of Science degree in Accounting simultaneously from the Wharton Graduate School of the University of Pennsylvania, one of the world's leading business schools. After graduating in 1975, Mr. Wallace began his professional career with the international accounting firm Peat, Marwick, Mitchell & Company doing accounting, auditing and consulting work for large corporations. He moved on to Columbia Pictures Industries Inc. where he was engaged in auditing and financial work, and in 1978 joined Steres, Alpert and Carne where he was engaged in accounting, auditing, and consulting work centered on litigation. In 1988, Mr. Wallace formed Brodshatzer Wallace Spoon and Yip in San Diego, California and has focused his practice on litigation support and damages analysis for the last 20 years.

Mr. Wallace has extensive teaching experience throughout the last 30 years, and frequently instructs law firms, banks and other organizations. In addition, he frequently teaches classes and seminars at law schools.

For the last 20 years, Mr. Wallace has been well known and respected for his financial research, damage computations and valuation for cases involving intellectual property- including patent, copyright, trademark and trade secret matters. He has evaluated damages such as lost profits and reasonable royalties for both plaintiffs and defendants. His extensive accounting and finance background has led to his consultation for over forty companies in regard to patent matters, and he has been retained as a damage expert in over 30 patent infringement cases.

Mr. Wallace has been a member of the American Institute of Certified Public Accountants, the California Society of Certified Public Accountants, the Institute of Business Appraisers, the Licensing Executives Society and the National Association of Forensic Economists. Mr. Wallace is qualified by the courts in both California and Delaware to testify on patent damage matters.

EXHIBIT F1

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

U.S. PHILIPS CORPORATION V. EASTMAN KODAK COMPANY
CIVIL ACTION NO. 06-00251-GMS

PHILIPS' DEPOSITION DESIGNATIONS AND KODAK'S AMENDED OBJECTIONS FOR TRIAL EXHIBIT F1

Witness	Date of Deposition	Philips' Deposition Designations	Kodak's Objections[1]	Kodak's Counter-Designations	Philips' Objections	Philips' Rebuttal Designations
Acharya, Shrikant	10/30/2007	19:5-19:7				
		20:4-8; 21:2-6				
		24:2-24:5	F	24:6	R 32(a)	
		24:7-24:8	F	24:6	R 32(a)	
		24:12-24:16				
		25:17-26:1		26:2	R 32(a)	
		26:3-26:5		26:2	R 32(a)	
		26:7-26:17				
		27:11-28:3	S, F as to 28:1-28:3	28:4-28:5	R 32(a)	
		28:9-28:15	I	28:7-28:8		28:7-28:8
		28:21-29:14		29:15	R 32(a)	
		29:16-29:18		29:15	R 32(a)	
		29:20-29:21		29:22	R 32(a)	
		30:1-30:2		29:22	R 32(a)	
		30:4-30:7		30:8	R 32(a)	
		30:9-30:11		30:8	R 32(a)	
		32:3-32:4				
		32:10-32:21	D	32:22-33:1	R 32(a)	

[1] Kodak's Objection Key is located at the end of this document.

Witness	Date of Deposition	Philips' Deposition Designations	Kodak's Objections[1]	Kodak's Counter-Designations	Philips' Objections	Philips' Rebuttal Designations
Acharya cont.		33:2-33:17	D as to 33:2-33:5	32:22-33:1	R 32(a)	
		34:18-35:16				
		36:2-38:9				
		38:21-39:9				
		39:16-39:21				
		40:7-40:10		40:11-40:12	R 32(a)	
		40:13-40:15		40:11-40:12	R 32(a)	
		40:17-41:3				
		41:9-42:3		42:4-42:5	R 32(a)	
		42:6-42:7	D as to 42:6-42:7	42:4-42:5	R 32(a)	
		42:9-43:16				
		43:21-44:3				
		44:14-44:21				
		45:1-45:7				
		45:10-45:21	FM, I as to 45:21	45:22	R 32(a)	
		46:3-46:5	I	46:6-46:7	R 32(a)	
		46:8-46:9	FM, I	46:6-46:7	R 32(a)	
		46:11-46:22		47:1	R 32(a)	
		47:2-47:4		47:1	R 32(a)	
		47:6-47:10		47:11	R 32(a)	
		47:12-47:14		47:11	R 32(a)	
		47:16-47:18				
		50:5-50:6		50:7	R 32(a)	
		50:8-50:9		50:7	R 32(a)	
		50:11-50:12				
		51:8-51:12				
		56:17-57:8		57:9	R 32(a)	

Witness	Date of Deposition	Philips' Deposition Designations	Kodak's Objections	Kodak's Counter-Designations	Philips' Objections	Philips' Rebuttal Designations
Acharya cont.		57:10-57:16		57:9	R 32(a)	
		57:18-57:20		57:21-58:1	R 32(a)	
		58:2-58:3		57:21-58:1	R 32(a)	
		58:5-58:8		58:9	R 32(a)	
		58:10-58:18		58:9	R 32(a)	
		58:20-60:15		60:16	R 32(a)	
		60:17-60:19	FM	60:16	R 32(a)	
		60:21-60:22	FM	61:1	R 32(a)	
		61:2-62:12	FM as to 61:2-61:6	61:1	R 32(a)	
		70:22-71:12		71:13	R 32(a)	
		71:14-71:16		71:13	R 32(a)	
		71:18-71:20		71:21	R 32(a)	
		71:22-72:5		71:21	R 32(a)	
		72:7-72:15	S, F, FM as to 72:15	72:16-72:17	R 32(a)	
		72:18-72:19	S, F, FM	72:16-72:17	R 32(a)	
		72:21	S, F, FM	72:22	R 32(a)	
		73:1-73:8	S, F, FM	72:22	R 32(a)	
		73:10-73:19	D, S as to 73:19	73:20-73:21	R 32(a)	
		73:22-74:3	D, S	73:20-73:21	R 32(a)	
		74:5-75:17	FM as to 75:15-75:17	75:18-75:19	R 32(a)	
		75:20-78:16	FM as to 75:20-76:10; FM, S as to 78:13-78:15	75:18-75:19; 78:17-78:20	R 32(a)	
		78:21-78:22	FM, S	78:17-78:20	R 32(a)	
		79:2-79:4	FM, S	79:5	R 32(a)	
		79:6-79:8	FM, S	79:5	R 32(a)	

Witness	Date of Deposition	Philips' Deposition Designations	Kodak's Objections[1]	Kodak's Counter-Designations	Philips' Objections	Philips' Rebuttal Designations
Acharya cont.		79:10-79:13	FM, S	79:14	R 32(a)	
		79:16-79:17	FM, S	79:18-79:19	R 32(a)	
		79:20-80:4	FM, S	79:18-79:19	R 32(a)	
		80:6-80:17	S as to 80:17	80:18	R 32(a)	
		80:19-81:2	S	80:18	R 32(a)	
		81:4-81:8	S as to 81:7-81:8	81:9	R 32(a)	
		81:11	S	81:9	R 32(a)	
		88:13-88:17	S	88:18	R 32(a)	
		88:19-88:20	S	88:18	R 32(a)	
		88:22-89:1	FM	89:2	R 32(a)	
		89:3-89:6	FM	89:2	R 32(a)	
		89:8-89:13	F	89:14-89:17	R 32(a)	
		104:19-105:12				
Cho, Kenneth	10/26/2007	In addition to the objections below, Kodak objects to Philips' designation of this witness' deposition as hearsay under Fed. R. Evid. 802. The declarant is a Philips representative, and therefore can be made available to testify at trial.				
		6:25-7:14				
		8:23-9:7				
		10:11-10:16				
		25:13-25:15				
		25:20-26:15				
		27:5-28:15				
		29:7-31:25	I as to 29:7-29:12	28:16-29:6		
		32:25-33:5				
		50:23-51:2				
		51:4-51:24	I as to 51:24	52:1-52:2		
		52:4-52:22				

Witness	Date of Deposition	Philips' Deposition Designations	Kodak's Objections[1]	Kodak's Counter-Designations	Philips' Objections	Philips' Rebuttal Designations
Cho cont.		52:24-53:4				
		58:13-58:22				
		60:14-60:17				
		60:19-60:24				
		61:1-61:23				
		79:10-79:11				
		79:13-80:1				
		80:3-80:15				
		84:8-84:11				
		101:4-101:6				
		101:9-101:20				
		101:23-102:5				
		104:7-104:9				
		104:12-105:9				
		111:2-111:3				
		111:8-111:16				
		111:22-112:2				
		114:21-118:21				
		119:3-119:16				
		121:21-122:10				
		127:22-128:24				
		134:2-134:4				
		139:13-139:17	I	139:18-140:5		
		145:12-146:3	I	145:1-146:3		
		146:15-147:23				
		148:9-148:13				
		152:18-153:7				
		153:11-153:12				
		153:24-154:1	I	153:14-153:20		

Witness	Date of Deposition	Philips' Deposition Designations	Kodak's Objections[1]	Kodak's Counter-Designations	Philips' Objections	Philips' Rebuttal Designations
Cho cont.		160:5-160:19				
		161:5-161:21				
		165:2-165:14				
		166:1-166:10				
		173:23-175:7				
		178:23-178:25				
		179:3-179:8				
		180:17-180:20				
		180:22-181:17				
		182:3-182:24				
		183:2-183:9				
		184:15-185:5				
		187:12-188:6				
Clark, Richard	10/31/2007	6:17-6:20				
		17:23-23:18				
		24:25-25:19				
		26:10-26:13				
		26:15-26:25				
		40:19-40:25				
		41:4-42:11				
		59:12-59:24				
		60:17-61:8				
		61:22-24; 62:3-5				
		69:9-70:15				
		89:6-89:9				
		89:12-90:4				
		111:5-112:4				
		117:20-119:17				

Witness	Date of Deposition	Philips' Deposition Designations	Kodak's Objections[1]	Kodak's Counter-Designations	Philips' Objections	Philips' Rebuttal Designations
Clark cont.		126:14-128:21				
		146:23-147:17				
		174:20-174:25				
		175:5-175:10				
		175:19-175:23	I	175:24-175:25		
		176:23-178:7	I as to 178:2-178:7	178:8-178:13; 178:17	802 as to 178:8-13; R 32(a) as to 178:17	
		179:7-180:12				
		184:13-184:21				
		188:8-189:2	D, FM, I as to 188:23-189:2	189:3-189:4; 189:5	R 32(a) as to 189:3-4	
		189:8-189:16	I, F, FM as to 189:13-189:16	189:17-190:2	R 32(a) as to 189:17-19	
		190:3-190:5	F, FM	190:6-190:8	R 32(a)	
		190:9-191:10	F, FM as to 190:9-23	190:6-190:8	R 32(a)	
		208:12-208:14	F	208:15	R 32(a)	
		208:16-209:2	F	208:15	R 32(a)	
		235:12-235:15				
		236:6-236:21				
Derounian, Robert	9/14/2007	4:9-4:15				
		6:4-6:20				
		7:21-7:25				
		9:7-9:9				
		13:7-14:4	I as to 13:16-14:4	14:5-14:7		
		15:16-15:19				

Witness	Date of Deposition	Philips' Deposition Designations	Kodak's Objections[1]	Kodak's Counter-Designations	Philips' Objections	Philips' Rebuttal Designations
Derounian cont.		18:9-18:13				
		21:10-21:19				
		21:22-22:3				
		22:8-22:24				
		23:12-24:24				
		25:23-27:18				
		31:24-33:12				
		45:4-46:11	I as to 45:8-46:11	46:12-46:15		
		47:15-48:2				
		48:24-49:9				
		49:11-50:5				
		52:16-53:10	I as to 53:2-53:10	53:11-53:19		
		57:25-59:13				
		59:18-60:14				
		60:25-61:12				
		62:9-62:12				
		66:6-67:5				
		67:7-69:23	I as to 69:13-69:23	69:24-70:2		
		71:12-71:25				
		72:2-72:25				
		73:6-75:15				
		76:22-77:13				
Evenski, Andrew	11/7/2007	16:7-16:9				18:22-19:3; 19:8-13; 22:22-23:16
		55:14-56:4				
		56:14-56:17				

Witness	Date of Deposition	Philips' Deposition Designations	Kodak's Objections[1]	Kodak's Counter-Designations	Philips' Objections	Philips' Rebuttal Designations
Evenski cont.		56:20-58:2	FM as to 58:1-58:2	58:3	R 32(a) as to 58:3	
		58:5-58:10	FM as to 58:5; I	58:3; 58:11-58:13	R 32(a) as to 58:3	58:14-22
		59:1-59:10				
		68:13-68:15	FM, SC	68:16-68:17	R 32(a)	
		68:22-69:1	FM, SC as to 68:22; SC as to 69:1	68:16-68:17; 69:2-69:3		
		69:4	SC	69:2-69:3	R 32(a)	
		116:15-117:1				
Evenski, Andrew (Day 2)	11/8/2007	170:3-171:14				
Fralick, Stanley	10/22/2007	7:21-9:11				
		10:19-12:7				
		15:14-21:22				
		23:4-32:22				
		34:1-37:18				
		45:15-55:13				
		58:18-64:12				
		72:1-72:4	FM	72:5	R 32(a)	
		72:6-74:5	FM as to 72:6	72:5	R 32(a)	
		75:20-76:12				
		77:4-77:14	FM as to 77:12-77:14	77:15-77:16	R 32(a)	
		77:17-77:22	FM	77:15-77:16	R 32(a)	
Hamilton, Eric	10/10/2007	16:4-16:6				

Witness	Date of Deposition	Philips' Deposition Designations	Kodak's Objections	Kodak's Counter-Designations	Philips' Objections	Philips' Rebuttal Designations
Hamilton cont.		16:21-17:1				
		17:4-21:20				
		22:10-24:18				
		25:5-27:10				
		27:18-28:6				
		29:13-29:21				
		32:1-32:17				
		34:13-35:13				
		38:17-39:20				
		40:12-43:8				
		45:4-47:18				
		48:1-51:6				
		51:19-52:11				
		52:19-53:1				
		55:8-61:21	FM as to 61:20-61:21	61:22	R 32(a)	
		62:1-62:2		61:22	R 32(a)	
		62:4-67:19				
		74:13-75:6	FM as to 75:5-75:6	75:7	R 32(a)	
		75:8-75:13	FM as to 75:8-75:9	75:7	R 32(a)	
		75:19-76:11				
		77:2-81:21				
		82:17-83:11				
		83:16-84:10				
		84:14-88:3				
		88:21-93:2				
		93:9-98:11				
		98:14-103:11				

Witness	Date of Deposition	Philips' Deposition Designations	Kodak's Objections[1]	Kodak's Counter-Designations	Philips' Objections	Philips' Rebuttal Designations
Hamilton cont.		104:6-106:5				
		106:10-107:17		107:18-107:19	R 32(a)	
		107:20-108:5	LC	107:18-107:19	R 32(a)	
		108:10-114:5	LC as to 109:3-109:4 & 109:7-109:14; FM as to 114:4-114:5	109:5-109:6; 114:6	R 32(a)	
		114:7-114:8	FM	114:6	R 32(a)	
		116:14-119:4				
		125:3-129:22				
		131:3-131:21				
Marion, Michael	10/23/2007	In addition to the objections below, Kodak objects to Philips' designation of this witness' deposition as hearsay under Fed. R. Evid. 802. The declarant is a Philips representative, and therefore can be made available to testify at trial.				
		9:12-9:25				
		24:8-24:23				
		62:16-62:18				
		62:23-62:25				
		105:25-106:1				
		106:6-106:23				
		109:21-109:24				
		110:3-110:7				
		113:3-113:5	I	111: 18-21; 111:24-112:2; 112:5-6; 112:8-9; 112:12-21; 112:24; 113:2		

Witness	Date of Deposition	Philips' Deposition Designations	Kodak's Objections	Kodak's Counter-Designations	Philips' Objections	Philips' Rebuttal Designations
Mitchell, Dr. Joan	9/20/2007	6:2-6:11				
		15:19-16:2				
		17:10-17:15				
		18:16-18:18				
		21:12-24:24				
		25:7-32:9				
		42:16-42:20				
		43:1-43:18				
		49:11-49:19				
		50:16-51:15				
		52:16-53:11	I	53:12-17		
		56:3-57:22				
		68:14-68:21				
		70:10-72:7				
		76:7-78:15				
		79:5-80:11				
		89:21-91:4				
		91:8-91:11				
		95:8-96:21				
		102:20-104:12				
		105:4-105:7				
		106:6-106:14				
		106:16-107:21				
		109:16-110:8				
		110:13-110:22				
		139:19-144:18				
		145:4-146:14	FM as to 146:13-146:14	146:15	R 32(a) as to 146:15	

Witness	Date of Deposition	Philips' Deposition Designations	Kodak's Objections	Kodak's Counter-Designations	Philips' Objections	Philips' Rebuttal Designations
Mitchell cont.		146:16-148:6	FM as to 146:16-147:10	146:15	R 32(a) as to 146:15	
		149:14-150:6				
		150:20-152:25				
		153:12-158:6				
		158:16-159:13				
		159:23-161:9	FM as to 160:23-161:9	161:10	R 32(a) as to 161:10	
		161:11-161:12	FM	161:10	R 32(a) as to 161:10	
		162:19-162:23	I	162:24-163:1		
		164:23-167:13	I as to 167:7-167:13	167:14-167:18		
		167:22-169:10				
		172:16-174:14				
		183:13-184:12				
		186:12-187:9				
		188:1-189:4				
		189:19-194:1				
		201:15-201:19				
		203:23-205:18				
Morris, John	9/26/2007	In addition to the objections below, Kodak objects to Philips' designations of this witness' deposition as hearsay under Fed. R. Evid. 802. The declarant is a Philips representative, and therefore can be made available to testify at trial. Thus, Fed. R. Evid. 804 does not apply.				
		30:2-30:23	F	6:1-3; 9:23-10:24 21:14-23		
		33:11-33:25				

Witness	Date of Deposition	Philips' Deposition Designations	Kodak's Objections	Kodak's Counter-Designations	Philips' Objections	Philips' Rebuttal Designations
Morris cont.		34:11-34:19				
		35:19-35:21				
		35:24-36:5				
		36:19-36:24				
		37:1-37:14				
		47:3-47:6				
		47:9-47:11				
		47:13-49:2				
		49:4-52:1				
		81:14-82:20				
		89:5-89:20				
		104:19-105:4				
		116:11-117:4				
		126:20-127:16				
		132:8-133:1				
Nier, Michael	10/30/2007	4:9-4:11				
		7:12-7:15				
		8:13-8:18				
		9:5-9:7				
		9:24-10:17				
		13:17-13:21				
		17:13-17:22				
		18:7-20:16				
		21:12-22:11				
		23:16-25:17				
		27:5-27:6				
		27:9-27:11				
		27:13-28:9				

Witness	Date of Deposition	Philips' Deposition Designations	Kodak's Objections	Kodak's Counter-Designations	Philips' Objections	Philips' Rebuttal Designations
Nier cont.		35:8-37:4				
		37:6-38:22				
		39:1-39:13				
		40:5-40:17				
		41:18-42:12				
		43:5-44:4				
		45:1-45:8				
		46:4-46:6				
		46:9				
		56:19-56:21				
		61:3-61:4				
		61:18-62:2				
		62:13-62:15				
		62:17-62:19				
		62:21-63:1				
		63:5-63:6				
		63:19-64:1				
		64:16-64:21				
		65:3-65:4				
		65:18-66:3				
		66:16-67:9				
		68:2-68:5				
		68:9-68:14				
		69:19-69:20				
		70:2-70:4				
		70:17-70:18				
		70:20-71:2				
		72:20-74:5				
		75:2-75:11				

Witness	Date of Deposition	Philips' Deposition Designations	Kodak's Objections	Kodak's Counter-Designations	Philips' Objections	Philips' Rebuttal Designations
Nier cont.		75:19-76:2				
		76:5				
		84:9-86:1				
		89:3-89:13				
		92:17-92:19	FM	92:20	R 32(a) as to 92:20	
		92:21-92:23	FM	92:20	R 32(a) as to 92:20	
		92:25-94:19				
		96:6-97:9				
		97:20-99:14				
		99:18-101:20				
		102:7-102:24				
		104:20-107:6	FM, S as to 107:4-107:6	107:7-107:8	R 32(a) as to 107:7-107:8	
		107:9-110:3	FM, S as to 107:9-107:12; D as to 110:1-110:3	107:7-107:8; 110:4-110:5	R 32(a) as to 107:7-107:8; 110:4-110:5	
		110:6-110:19	D as to 110:6; S as to 110:15-110:19	110:4-110:5; 110:20	R 32(a) as to 110:4-110:5; 110:20	
		110:21-110:24	S	110:20	R 32(a) as to 110:20	
		111:16-113:16				
		114:24-116:19				
		117:18-117:23	FM	117:24	R 32(a) as to 117:24	
		117:25-118:9	FM	117:24	R 32(a) as to 117:24	

Witness	Date of Deposition	Philips' Deposition Designations	Kodak's Objections	Kodak's Counter-Designations	Philips' Objections	Philips' Rebuttal Designations
Nier cont.		118:15-119:21	D as to 119:19-119:21	119:22-119:23	R 32(a) as to 119:22-23	
		119:24-121:22	D as to 119:24-120:1; S, FM as to 121:14-121:22	119:22-119:23; 121:23	R 32(a) as to 119:22-23; 121:23	
		121:24-124:3	FM as to 121:24; FM as to 123:17-124:3	121:23; 124:5	R 32(a) as to 121:23; 124:5	
		124:6-124:10	FM as to 124:6; FM as to 124:8-124:10	124:5; 124:11	R 32(a) as to 124:5; 124:11	
		124:12-124:25	FM as to 124:12-124:13	124:11	R 32(a) as to 124:11	
		125:6-125:8	D	125:9-125:10	R 32(a) as to 125:9-10	
		125:11	D	125:9-125:10	R 32(a) as to 125:9-10	
		126:1-126:22	S as to 126:22	126:23	R 32(a) as to 126:23	
		126:24-126:25	S	126:23	R 32(a) as to 126:23	
		127:2-127:16				
		128:13-130:2				
		131:1-132:2	FM as to 132:1-132:2	132:3	R 32(a) as to 132:3	

Witness	Date of Deposition	Philips' Deposition Designations	Kodak's Objections[1]	Kodak's Counter-Designations	Philips' Objections	Philips' Rebuttal Designations
Nier cont.		132:4-133:24	FM as to 132:4-132:5; D as to 133:22-133:24	132:3; 133:25-134:1	R 32(a) as to 132:3; 133:25-134:1	
		134:2	D	133:25-134:1	R 32(a) as to 133:25-134:1	
		134:4-135:16	FM, S as to 135:13-135:16	135:17	R 32(a) as to 135:17	
		135:18-136:9	FM, S as to 135:18-135:20			
		137:12-139:7	FM as to 139:7	139:8	R 32(a) as to 139:8	
		139:9-139:13	FM	139:8	R 32(a) as to 139:8	
		140:12-140:21				
		141:7-141:17	D, I as to 141:14-141:17	141:18-141:20	R 32(a) as to 141:18-141:20	
		142:7-142:10	D, S, FM	142:11-142:12	R 32(a) as to 142:11-142:12	
		142:13-142:20	D, S, FM as to 142:13	142:11-142:12	R 32(a) as to 142:11-142:12	
		142:23-143:17				
		145:25-147:6	FM as to 147:5-147:6	147:7	R 32(a) as to 147:7	
		147:8-147:17	FM as to 147:8-147:11	147:7	R 32(a) as to 147:7	
		164:11-164:14	S, FM	164:15-164:16	R 32(a) as to 164:15-164:16	

Witness	Date of Deposition	Philips' Deposition Designations	Kodak's Objections	Kodak's Counter-Designations	Philips' Objections	Philips' Rebuttal Designations
Nier cont.		164:17-164:18	S, FM	164:15-164:16	R 32(a) as to 164:15-164:16	
		169:15-169:16	S	169:17-169:18	R 32(a) as to 169:17-169:18	
		169:19-169:22	S as to 169:19; S, FM as to 169:21-169:22	169:17-169:18; 169:23-169:24	R 32(a) as to 169:17-169:18; 169:23-169:24	
		169:25-170:16	S, FM as to 169:25-170:5; S, FM as to 170:14-170:26	169:23-169:24; 170:17 & 170:19-170:20	R 32(a) as to 169:23-169:24; 170:17; 170:19-170:20	
		170:18	S, FM	170:17 & 170:19-170:20	R 32(a) as to 170:17; 170:19-170:20	
		170:22	FM, S	170:23-170:24	R 32(a) as to 170:23-170:24	
		170:25-171:1	FM, S	170:23-170:24	R 32(a) as to 170:23-170:24	
		171:24-178:22	FM as to 175:14 & 175:21-175:22 & 175:23; S as to 176:12 & 176:15; D, F as to 117:11-177:19	175:15; 175:19; 176:13-176:14; 177:20-177:21	R 32(a) as to 175:15; 175:19; 176:13-176:14; 177:20-177:21	
		179:7-181:12				

Witness	Date of Deposition	Philips' Deposition Designations	Kodak's Objections[1]	Kodak's Counter-Designations	Philips' Objections	Philips' Rebuttal Designations
Parkins, Paul	11/9/2007	10:12-10:20				
		15:2-17:10				
		23:19-24:16				
		24:21-25:9				
		27:21-28:3				
		35:5-37:2	FM	35:3-35:4	402	
		37:6-37:21				
		38:10-38:13				
		38:17-39:3				
		39:6-39:11	FM as to 39:7-39:11	39:12	R 32(a) as to 39:12	
		39:14-39:18	FM	39:12	R 32(a) as to 39:12	
		63:18-64:17				
Rabbani, Majid	10/11/2007	6:4-6:16				
		11:5-11:18				
		14:22-15:14				
		16:17-20:12				
		25:5-26:17				
		27:2-29:16				
		34:8-34:21				
		40:6-42:12				
		42:21-43:1	I	42:13-42:20		
		44:12-44:17				
		45:13-45:21				
		47:3-47:5				
		47:12-47:13				
		48:15-50:4				

Witness	Date of Deposition	Philips' Deposition Designations	Kodak's Objections[1]	Kodak's Counter-Designations	Philips' Objections	Philips' Rebuttal Designations
Rabbani cont.		50:7-51:1	SC, FM as to 50:20-51:1	51:2-51:3	R 32(a)	
		51:5-52:6	SC, FM as to 51:5-51:9; SC as to 52:5-52:6	51:2-51:3; 52:7-52:8	R 32(a)	
		52:9-54:22	SC, FM as to 52:10-52:13; SC as to 54:22	52:7-52:8; 55:1-55:2	R 32(a)	
		55:4-55:11	SC as to 55:4-55:7	55:1-55:2	R 32(a)	
		58:8-58:11	SC as to 58:11	58:12-58:13	R 32(a)	
		58:14-58:17	SC	58:12-58:13; 58:18	R 32(a)	
		58:19-58:21	SC	58:18	R 32(a)	
		59:1-59:8	SC as to 59:7-59:8	59:9 & 59:11	R 32(a)	
		59:10	SC	59:9 & 59:11	R 32(a)	
		59:12-59:14	SC	59:9 & 59:11	R 32(a)	
		59:19-60:4				
		61:17-62:10				
		62:17-63:5	SC, F as to 63:1-63:5	63:6-63:7	R 32(a)	
		63:8-64:2	SC, F as to 63:9-63:15; SC, F as to 64:1-64:2	63:6-63:7; 64:3	R 32(a)	
		64:4-64:6	SC, F	64:3	R 32(a)	
		65:5-68:11				
		68:18-69:22				
		70:19-72:2				

Witness	Date of Deposition	Philips' Deposition Designations	Kodak's Objections[1]	Kodak's Counter-Designations	Philips' Objections	Philips' Rebuttal Designations
Rabbani cont.		75:12-75:14	F, SC	75:15-75:16	R 32(a)	
		75:17-76:6	F, SC	75:15-75:16	R 32(a)	
		78:8-80:9				
		84:11-84:16	F, FM as 84:15-84:16	84:17	R 32(a)	
		84:18-84:21	F, FM	84:17	R 32(a)	
		85:7-85:13	F as to 85:12-85:13	85:14-85:15	R 32(a)	
		85:16-86:3	F as to 85:16-85:18	85:14-85:15	R 32(a)	
		89:1-89:11				
		89:13-90:8				
		93:16-93:19	S, F	93:20-93:21	R 32(a)	
		94:1-95:16	S, F as to 94:1-94:3	93:20-93:21	R 32(a)	
		97:6-100:7	LC as to 100:4-100:7	100:8-100:9	R 32(a)	
		100:10-100:15	LC as to 100:10-100:11; LC as to 100:12-100:15	100:8-100:9; 100:16-100:17	R 32(a)	
		100:18-102:1	LC as to 100:18-100:19; FM as to 101:20-102:1	100:16-100:17; 102:2	R 32(a)	
		102:3-102:5	FM	102:2; 102:6	R 32(a)	
		102:7-102:9	FM	102:2; 102:6	R 32(a)	
		102:19-103:11	F, S, FM as to 103:10-103:11	103:12-103:13	R 32(a)	

Witness	Date of Deposition	Philips' Deposition Designations	Kodak's Objections[1]	Kodak's Counter-Designations	Philips' Objections	Philips' Rebuttal Designations
Rabbani cont.		103:14-103:20	F, S, FM as to 103:14-103:16; F, S, FM as to 103:17-103:20	103:12-103:13; 103:21	R 32(a)	
		103:22-104:3	F, S, FM	103:21	R 32(a)	
		105:16-105:18	SC	105:19-105:20	R 32(a)	
		105:21-106:16	SC as to 105:21-106:6; SC as to 106:15-106:16	105:19-105:20; 106:17-106:18	R 32(a)	
		106:19-108:8	SC as to 106:19-107:4	106:17-106:18	R 32(a)	
		109:13-109:19				
		111:13-111:16	S, F, O, SC	111:17-111:19	R 32(a)	
		111:20-112:20	S, F, O, SC	111:17-111:19	R 32(a)	
		115:6-115:11	LC	115:12-115:13	R 32(a)	
		115:15-116:6	LC as to 115:15-115:20; FM, F, S, LC as to 115:21-116:6	115:12-115:13; 116:7-116:9	R 32(a)	
		116:10-118:9	FM, F, S, LC as to 116:10-118:4; FM, F, S, LC as to 118:5-118:9	116:7-116:9; 118:10-118:12	R 32(a)	

Witness	Date of Deposition	Philips' Deposition Designations	Kodak's Objections	Kodak's Counter-Designations	Philips' Objections	Philips' Rebuttal Designations
Rabbani cont.		118:13-118:21	FM, F, S, LC as to 118:13-118:16; FM, F, S, LC as to 118:16-118:21	118:10-118:12; 118:22	R 32(a)	
		119:1	FM, F, S, LC			
		120:8-120:11	FM, F, S, LC as to 120:8-120:11	120:12	R 32(a)	
		120:13-120:19	FM, F, S, LC as to 120:13; FM, F, S, LC as to 120:14-120:19	120:12; 120:20	R 32(a)	
		120:21-122:6	FM, F, S, LC	120:20	R 32(a)	
		122:12-122:18	FM, F, S, LC	122:19	R 32(a)	
		122:20-123:16	FM, F, S, LC as to 122:20-122:22; FM, F, S, LC as to 123:14-123:16	122:19; 123:17-123:18	R 32(a)	
		123:19-124:9	FM, F, S, LC	123:17-123:18	R 32(a)	
		126:13-128:15				
		129:10-129:19				
		130:11-130:19	FM	130:20	R 32(a)	

Witness	Date of Deposition	Philips' Deposition Designations	Kodak's Objections[1]	Kodak's Counter-Designations	Philips' Objections	Philips' Rebuttal Designations
Rabbani cont.		130:21-131:22	FM as to 130:21-131:17; F, S, FM as to 131:18-131:22	130:20: 132:1-132:2	R 32(a)	
		132:3-132:6	F, S, FM	132:1-132:2; 132:7	R 32(a)	
		132:8-133:15	F, S, FM	132:7	R 32(a)	
		135:20-137:7				
		145:7-152:17				
		153:16-153:18	FM	153:21	R 32(a)	
		154:1-154:6	FM, F	153:21; 154:7-154:8	R 32(a)	
		154:9-155:15	F as to 154:9-154:10; FM, S as to 155:13-155:15	154:7-154:8; 155:16-155:17	R 32(a)	
		155:18-155:20	FM, S	155:16-155:17	R 32(a)	
		156:16-158:1				
		162:9-163:13				
		166:6-167:21	S as to 167:19-167:21	167:22-168:1	R 32(a)	
		168:1-169:14	S as to 168:2-168:9; SC as to 169:12-169:14	167:22-168:1; 169:15-169:16	R 32(a)	
		169:18-171:7	SC as to 169:18	169:15-169:16	R 32(a)	
		174:18-175:14				

Witness	Date of Deposition	Philips' Deposition Designations	Kodak's Objections	Kodak's Counter-Designations	Philips' Objections	Philips' Rebuttal Designations
Rabbani cont.		178:6-178:15				
		179:2-179:7				
		181:21-182:10				
		182:16-184:6	SC as to 184:4-184:6	184:7-184:8	R 32(a)	
		184:9-184:13	SC as to 184:9-184:11; SC as to 184:12-184:13	184:7-184:8; 184:14	R 32(a)	
		184:15-185:14	SC as to 184:15-185:11; SC as to 185:12-185:14	184:14; 185:15	R 32(a)	
		185:16-186:17	SC as to 185:16-186:12; SC, FM as to 186:13-186:17	185:15; 186:18-186:19	R 32(a)	
		186:20-189:10	SC, FM as to 186:20-189:1; I, SC as to 189:5-189:10	186:18-186:19; 189:11-189:12 & 189:20 & 190:3	R 32(a)	
		189:22-190:2	SC	190:3	R 32(a)	
		190:4-191:1	SC	190:3	R 32(a)	
		192:5-192:9	SC	192:15-192:16	R 32(a)	
		192:17-193:17	SC	192:15-192:16	R 32(a)	

Witness	Date of Deposition	Philips' Deposition Designations	Kodak's Objections	Kodak's Counter-Designations	Philips' Objections	Philips' Rebuttal Designations
Rabbani cont.		198:9-201:19	LC as to 201:16-201:19	201:20-201:21	R 32(a)	
		201:22-202:11	LC as to 201:22-202:3	201:20-201:21	R 32(a)	
		203:10-203:12	FM	203:13	R 32(a)	
		203:14-205:16	FM as to 203:14; I as to 205:10-16	203:13; 205:17-206:3	R 32(a) as to 203:13	
		206:4-208:9				
		208:22-209:12	S, FM as to 209:10-209:12	209:13-209:14	R 32(a)	
		209:15-209:17	S, FM	209:13-209:14	R 32(a)	
		210:6-210:9	SC, FM	210:10-210:11	R 32(a)	
		210:12-211:14	SC, FM	210:10-210:11	R 32(a)	
		212:20-212:21	FM, S, SC	212:22	R 32(a)	
		213:1-213:13	FM, S, SC	212:22	R 32(a)	
		215:5-215:10	FM, S	215:11-215:12	R 32(a)	
		215:13-217:5	FM, S as to 215:13-216:22; FM, S, SC as to 217:1-217:5	215:11-215:12; 217:6-217:7	R 32(a)	
		217:8-218:1	FM, S, SC as to 217:8-217:22; FM, S, SC as to 218:1	217:6-217:7; 218:2	R 32(a)	
		218:3-219:5	FM, S, SC	218:2	R 32(a)	

Witness	Date of Deposition	Philips' Deposition Designations	Kodak's Objections[1]	Kodak's Counter-Designations	Philips' Objections	Philips' Rebuttal Designations
Rabbani cont.		219:14-222:10				
		223:2-223:6				
		223:15224:7				
		227:2-227:21	I	227:22-228:5 & 228:7		
		228:9-230:22				
		231:5-232:11	FM as to 232:4-232:11	232:12	R 32(a)	
		232:13-236:17	FM as to 232:13-233:2	232:12	R 32(a)	
		237:13-237:22	I as to 237:20-237:21	237:22		
		238:1-239:12	LC as to 238:20-239:5 & 239:8-239:10; LC as to 239:11-239:12	239:6-239:7; 239:13	R 32(a)	
		239:14-241:8	LC as to 239:14-239:17	239:13	R 32(a)	
		241:16-241:17	I, SC	241:18-241:19	R 32(a)	
		242:2-242:7	SC	241:18-241:19: 242:8	R 32(a)	
		242:9-242:10	SC	242:8	R 32(a)	
		243:4-243:5	I	243:6-244:1		
		244:2-244:15	I	243:6-244:1		
		244:18-244:19				
		245:1-245:2				

Witness	Date of Deposition	Philips' Deposition Designations	Kodak's Objections	Kodak's Counter-Designations	Philips' Objections	Philips' Rebuttal Designations
Rabbani cont.		246:5-250:22				
		251:6-251:14	S, F, SC as to 251:13-251:14	251:15-251:17	R 32(a)	
		251:18-252:11	S, F, SC as to 251:18-252:1	251:15-251:17	R 32(a)	
		252:14-252:20	I, S, F, SC	252:12; 252:13; 252:21-252:22	R 32(a)	
		253:1-253:16	SC as to 253:1-253:2	252:21-252:22	R 32(a)	
		253:18-254:17	LC as to 254:14-254:17	254:18-254:19	R 32(a)	
		254:20-255:6	LC	254:18-254:19; 255:7	R 32(a)	
		255:8-257:2	LC as to 255:8-256:18; FM, F, S as to 256:19-257:2	255:7; 257:3-257:4	R 32(a)	
		257:5-257:12	FM, F, S as to 257:6; LC, FM, F, S as to 257:7-257:12	257:3-257:4; 257:13-257:14	R 32(a)	
		257:15-260:11	LC, FM, F, S as to 257:15-258:11	257:13-257:14	R 32(a)	

Witness	Date of Deposition	Philips' Deposition Designations	Kodak's Objections	Kodak's Counter-Designations	Philips' Objections	Philips' Rebuttal Designations
Rabbani cont.		261:21-266:21	LC as to 263:12-265:7; I, F, FM as to 266:17-266:21	263:20-263:21; 266:22-267:1 & 267:2	R 32(a)	
		267:3-269:14	FM as to 269:11-269:14	269:15-269:16	R 32(a)	
		269:17-274:1	FM as to 269:17	269:15-269:16	R 32(a)	
		274:4	F as to 274:4	274:2-273:3	R 32(a)	
		274:22-275:7	SC, FM, F, LC as to 274:22-275:7	275:8-275:16	R 32(a)	
		275:17-276:1	SC, P, FM, F, LC as to 275:17-275:19; SC, FM, LC as to 275:20-276:1	275:8-275:16; 276:2-276:3	R 32(a)	
		277:1-278:11	SC, P, FM, LC as to 277:1-277:2; SC as to 278:10-278:11	276:2-276:3; 278:12-278:13	R 32(a)	
		278:14-278:19	SC as to 278:14-278:16; SC as to 278:17-278:19	278:12-278:13; 278:20	R 32(a)	
		278:21-279:22	SC as to 278:21	278:20	R 32(a)	

Witness	Date of Deposition	Philips' Deposition Designations	Kodak's Objections[1]	Kodak's Counter-Designations	Philips' Objections	Philips' Rebuttal Designations
Rabbani cont.		280:14-280:19	LC as to 280:14-280:19	280:20	R 32(a)	
		280:21-283:13	LC as to 280:21-281:1	280:20	R 32(a)	
		283:18-283:21	FM	283:22	R 32(a)	
		284:1-286:9	FM as to 284:2-285:15	283:22	R 32(a)	
		288:7-288:15	SC, P	289:3-289:7	R 32(a)	
		289:13-292:8	SC, P as to 289:13-290:3	289:3-289:7	R 32(a)	
		292:13-292:22	F as to 292:18-292:19	292:20-292:21	R 32(a)	
		293:2-293:3	F	292:20-292:21	R 32(a)	
		293:13-293:16	F, SC	293:17	R 32(a)	
		293:18-293:21	F, SC	293:17; 293:22	R 32(a)	
		294:1-294:3	F, SC	293:22; 294:4	R 32(a)	
		294:5-294:14	F, SC	294:4	R 32(a)	
		295:2-295:5	F, SC	295:6-295:7	R 32(a)	
		295:8-295:16	F, SC	295:6-295:7; 295:17-295:19	R 32(a)	
		295:20-296:1	SC as to 295:20-295:21; SC as to 295:22-296:1	295:17-295:19; 296:2	R 32(a)	

Witness	Date of Deposition	Philips' Deposition Designations	Kodak's Objections	Kodak's Counter-Designations	Philips' Objections	Philips' Rebuttal Designations
Rabbani cont.		296:3-299:7	SC as to 296:3-296:21; SC as to 299:6-299:7	296:2; 299:8-299:9	R 32(a)	
		299:10	SC	299:8-299:9	R 32(a)	
		301:7-301:9	SC	301:10-301:11	R 32(a)	
		301:12	SC	301:10-301:11	R 32(a)	
		301:14-301:19	SC	301:20	R 32(a)	
		301:21-302:7	SC	301:20	R 32(a)	
		303:8-303:9	F	303:10-303:11	R 32(a)	
		303:12-303:22	F	303:10-303:11	R 32(a)	
		304:3-304:8			R 32(a)	
		305:10-306:2	F, SC as to 305:22-306:2	306:3-306:4	R 32(a)	
		306:5-308:3	F, SC as to 306:5-307:15; F, FM as to 308:2-308:3	306:3-306:4; 308:4-308:5	R 32(a)	
		308:6-310:4	F, FM as to 308:6	308:4-308:5	R 32(a)	
		313:2-314:7				
		314:15-314:16				
		314:21-315:7				
		316:20-325:2				
		325:8-325:13				
		331:1-333:20				
		334:1-334:13				

Witness	Date of Deposition	Philips' Deposition Designations	Kodak's Objections	Kodak's Counter-Designations	Philips' Objections	Philips' Rebuttal Designations
Rabbani cont.		334:22-335:2	P	335:3-335-5	R 32(a)	
		335:9-335:14	P	335:3-335-5; 335:15-335:18	R 32(a) as to 335:3-5; 335:15-16; 701, 702 for 335:17-18	335:19-20
		335:21-336:10	P as to 335:21-336:3	335:15-335:18	R 32(a) as to 335:15-16; 701, 702 for 335:17-18	335:19-20
		336:16-336:21				
		337:7-338:4				
		338:8-338:10	I, LC	338:6-338:7	R 32(a)	
		344:3-344:8	LC, O, FM	344:9-344:10	R 32(a)	
		344: 11-345:11	LC, O, FM as to 344:11-345:2; LC, O, FM as to 345:3-345:11	344:9-344:10; 345:12	R 32(a)	
		345:13-347:11	LC, O, FM	345:12; 347:12	R 32(a)	
		347:13-348:9	LC, O, FM	347:12; 348:10-348:12	R 32(a)	
		348:13-349:6	LC, O, FM	348:10-348:12	R 32(a)	
Rabbani, Majid (Day 2)	10/12/2007	358:21-362:1	F, FM as to 361:22-362:1	362:2-362:3	R 32(a)	
		362:4-362:8	F, FM	362:9; 362:12	R 32(a)	
		362:10-363:21	F, FM as to 362:10-362:13	362:9; 369:12	R 32(a)	

Witness	Date of Deposition	Philips' Deposition Designations	Kodak's Objections[1]	Kodak's Counter-Designations	Philips' Objections	Philips' Rebuttal Designations
Rabbani (Day 2) cont.		364:1-364:9	FM as to 364:7-364:9	364:10	R 32(a)	
		364:11-368:8	FM as to 364:11-364:19; SC as to 368:6-368:8	364:10; 368:9	R 32(a)	
		368:11-368:14	SC	368:9; 368:15	R 32(a)	
		368:16-370:1	SC as to 368:16-368 18; FM as to 370:1	368:15; 370:2	R 32(a)	
		370:3	FM	370:2	R 32(a)	
		371:22-372:14	S, F as to 372:12-372:14	372:15-372:16	R 32(a)	
		372:17-372:20	S, F	372:15-372:16	R 32(a)	
		374:11-376:20				
		380:6-380:7	FM	380:8	R 32(a)	
		380:9-381:14	FM as to 380:9-380:10; FM as to 381:12-381:14	380:8; 381:15	R 32(a)	
		381:16-382:8	FM as to 381:16-381:22	381:15	R 32(a)	
		382:18-385:2	I, FM as to 382:18-384:1; FM, F as to 384:22-385:2	382:11-382:13 & 382:14-382:15; 385:3-385:4	R 32(a) as to 382:14-15; 385:3-4	
		385:5-385:11	FM, F	385:3-4	R 32(a)	

Witness	Date of Deposition	Philips' Deposition Designations	Kodak's Objections[1]	Kodak's Counter-Designations	Philips' Objections	Philips' Rebuttal Designations
Rabbani (Day 2) cont.		385:13-385:17	FM, F	385:3-4	R 32(a)	
		385:20-385:22	FM, F	386:1-2	R 32(a)	
		386:3-388:4	FM, F as to 386:3-386:12	386:1-2	R 32(a)	
		389:8-391:17				
		392:12-395:20				
		396:16-398:14	FM	398:15-398:16	R 32(a)	
		398:17-400:7	FM as to 398:17-398:22	398:15-398:16	R 32(a)	
		400:17-401:11	FM as to 401:9-401:11	401:12	R 32(a)	
		401:14-402:5	FM as to 401:14-401:18; FM as to 402:4-402:5	401:12; 402:6	R 32(a)	
		402:7-403:21	FM as to 402:7-402:9	402:6	R 32(a)	
		404:19-404:22	FM	405:1	R 32(a)	
		405:2-405:8	FM	405:1	R 32(a)	
		407:9-407:15				
		407:19-411:15				
		413:13-414:6	FM as to 414:2-414:6	414:7	R 32(a)	
		414:8-414:10	FM	414:7 & 414:11	R 32(a)	
		414:12-414:22	FM	414: 11	R 32(a)	
		415:14-415:19	F	415:20-415:21	R 32(a)	

Witness	Date of Deposition	Philips' Deposition Designations	Kodak's Objections	Kodak's Counter-Designations	Philips' Objections	Philips' Rebuttal Designations
Rabbani (Day 2) cont.		415:22-417:15	F as to 415:22-416:2; P as to 417:8-417:15	415:20-415:21; 417:16-417:20	R 32(a)	
		417:21-418:4	P as to 417:21	417:16-417:20	R 32(a)	
		418:7-418:14				
		418:20-419:4				
		419:7				
		420:5-420:8	SC	420:9-420:11	R 32(a)	
		420:18-421:21	SC as to 420:19-421:2: FM as to 421:20-421:21	420:9-420:11; 421:22	R 32(a)	
		422:1-422:16	FM as to 422:1-422:6; FM, SC as to 422:13-422:16	421:22; 422:17-422:18	R 32(a)	
		422:19-424:1	FM, SC as to 422:19-423:8	422:17-422:18	R 32(a)	
		424:21-425:5	FM	425:6-425:7	R 32(a)	
		425:8-426:11	FM as to 425:8-425:12; SC as to 426:7-426:11	425:6-425:7; 426:12-426:13	R 32(a)	
		426:14-426:20	SC as to 426:14-426:16; I, SC, FM as to 426:17-426:20	426:12-426:13; 426:21-426:22	R 32(a)	

Witness	Date of Deposition	Philips' Deposition Designations	Kodak's Objections[1]	Kodak's Counter-Designations	Philips' Objections	Philips' Rebuttal Designations
Rabbani (Day 2) cont.		427:1-427:7	I, SC, FM	426:21-426:22	R 32(a)	
		427:18-430:5				
		430:8-430:10	LC, F, FM	430:11-430:12	R 32(a)	
		430:13-430:15	LC, F, FM	430:11-430:12	R 32(a)	
		432:9-432:12	P	432:13-432:14	R 32(a)	
		**				
		432:15-432:16	P	432:13-432:14	R 32(a)	
		433:6-433:16	F, FM	433:17-433:18	R 32(a)	
		433:19-433:21	F, FM	433:17-433:18	R 32(a)	
		434:6-434:8	F	434:9-434:10	R 32(a)	
		434:11-434:15	F, P	434:9-434:10; 434:16-434:20	R 32(a)	
		434:21-435:4	P as to 434:21-434:22; SC as to 435:4	434:16-434:20; 435:5-435:6	R 32(a)	
		435:7-435:20	SC as to 435:7-435:10	435:5-435:6	R 32(a)	
		436:4-436:9				
		436:13-437:4				
		437:19-439:13	F as to 438:21-439:6; F, FM, LC as to 439:9-439:13	439:7-439:8; 439:14-439:15	R 32(a)	

Witness	Date of Deposition	Philips' Deposition Designations	Kodak's Objections	Kodak's Counter-Designations	Philips' Objections	Philips' Rebuttal Designations
Rabbani (Day 2) cont.		439:16-439:21	F, FM, LC	439:14-439:15	R 32(a)	
		440:7-441:1				
		441:8-443:21				
		444:21-445:4	F	445:5-445:6	R 32(a)	
		445:7-446:6	F as to 445:7-446:2; F, FM, S as to 446:3-446:6	445:5-445:6; 446:7-446:8	R 32(a)	
		446:9-446:13	F, FM, S	446:7-446:8; 446:14-446:15	R 32(a)	
		446:16-447:8	F, FM	446:14-446:15	R 32(a)	
		447:20-448:10				
		449:6-451:2				
		451:15-451:20				
		454:12-454:19				
		455:11-456:6	F as to 455:22-456:6	456:7-456:8	R 32(a)	
		456:9-456:14	F as to 456:9-456:12; F, S as to 456:13-456:14	456:7-456:8; 456:15-456:16	R 32(a)	
		456:17-457:4	F, S as to 456:17; F, S as to 457:4	457:5-457:6	R 32(a)	
		457:8-458:5	F, S	457:5-457:6	R 32(a)	
		458:13-459:7	FM as to 459:5-459:7	459:8	R 32(a)	

Witness	Date of Deposition	Philips' Deposition Designations	Kodak's Objections[1]	Kodak's Counter-Designations	Philips' Objections	Philips' Rebuttal Designations
Rabbani (Day 2) cont.		459:9-460:2	FM as to 459:9-459:20	459:8	R 32(a)	
		460:21-461:3				
		462:10-462:12	F, FM	462:13-462:14	R 32(a)	
		462:15-462:17	F, FM as to 462:15; F, FM as to 462:16-462:17	462:13-462:14; 462:18-462:20	R 32(a)	
		462:22-464:14	F, FM as to 462:22-463:4; FM as to 464:12-464:14	462:18-462:20; 464:15	R 32(a)	
		464:16-466:20	FM as to 464:16-464:19	464:15	R 32(a)	
		467:2-469:15				
		469:21-474:4	FM as to 474:1-474:4	474:5	R 32(a)	
		474:6-474:10	FM	474:5	R 32(a)	
		476:2-476:21				
		478:8-479:10				
		480:5-482:10				
		482:16-482:20	FM	482:21	R 32(a)	
		482:22-483:3	FM as to 482:22-23; F as to 483:2-3	483:4-483:5	R 32(a)	
		483:6-483:12	F	483:4-483:5; 483:13-483:14	R 32(a)	

Witness	Date of Deposition	Philips' Deposition Designations	Kodak's Objections	Kodak's Counter-Designations	Philips' Objections	Philips' Rebuttal Designations
Rabbani (Day 2) cont.		483:15-483:19	F	483:13-483:14	R 32(a)	
		485:7-485:9				
		486:10-487:3				
		487:6-487:12				
		487:15-487:22				
		489:6-489:22				
		491:14-492:2				
		492:12-492:17				
		494:16-495:10				
		495:22-496:2	FM	496:3	R 32(a)	
		496:4-496:22	F, FM	496:3; 497:1-497:2	R 32(a)	
		497:3-497:18	F, FM	497:1-497:2	R 32(a)	
		498:2-498:20	S as to 498:15-498:20	498:21-498:22	R 32(a)	
		499:1-500:2	S as to 499:1-499:11; S as to 499:19-500:2	498:21-498:22:500:3-500:4	R 32(a)	
		500:5-500:7	S	500:3-500:4	R 32(a)	
		500:15-500:18	F, FM, LC	500:19-500:21	R 32(a)	
		500:22-501:6	F, FM, LC	500:19-500:21	R 32(a)	
		501:18-501:21				
		502:8-504:11	LC as to 504:9-504:11	504:12-504:13	R 32(a)	

Witness	Date of Deposition	Philips' Deposition Designations	Kodak's Objections	Kodak's Counter-Designations	Philips' Objections	Philips' Rebuttal Designations
Rabbani (Day 2) cont.		504:14-505:1	LC as to 504:14-504:17; F, S as to 18-505:1	504:12-504:13; 505:2-505:3	R 32(a)	
		505:4-506:4	F, S as to 505:4-505:8	505:2-505:3	R 32(a)	
		506:13-507:19	F, S as to 507:17-507:19	507:20-507:21	R 32(a)	
		507:22-508:10	F, S; F, S, FM as to 508:9-508:10	507:20-507:21; 508:11-508:12	R 32(a)	
		508:13-509:1	F, S, FM	508:11-508:12; 508:16; 509:2-509:3	R 32(a)	
		509:4-509:8	S, F, FM	509:2-509:3; 509:9-509:10	R 32(a)	
		509:11-510:3	F, S, FM as to 509:11-509:21; F, S, FM as to 509:22-510:3	509:9-509:10; 510:4-510:5	R 32(a)	
		510:6	F, S, FM	510:4-510:5	R 32(a)	
		511:9-511:11				
		511:14-512:2				
		513:2-513:6	FM	513:7	R 32(a)	
		513:8-515:20	FM as to 513:8-513:13; FM as to 515:18-515:20	513:7; 515:21	R 32(a)	

Witness	Date of Deposition	Philips' Deposition Designations	Kodak's Objections	Kodak's Counter-Designations	Philips' Objections	Philips' Rebuttal Designations
Rabbani (Day 2) cont.		515:22-516:3	FM as to 515:22	515:21	R 32(a)	
		517:15-51[8]:3	I, S	518:4-518:5	R 32(a)	
		518:7-519:19	S as to 518:7-519:16; F, S as to 519:17-519:19	518:4-518:5; 519:20-519:21	R 32(a)	
		519:22-520:13	F, S as to 519:22-520:2; F, S as to 520:10-520:13	519:20-519:21; 520:14-520:15	R 32(a)	
		520:16-521:18	F, S as to 520:16-520:17	520:14-520:15	R 32(a)	
		522:5-523:21	F, FM as to 523:19-523:21	523:22-524:1	R 32(a)	
		524:2-524:5	F, FM, P	523:22-524:1; 524:6-524:12	R 32(a)	
		524:13-524:22	P as to 524:13-524:18; FM as to 19-524:22	524:6-524:12; 525:1	R 32(a)	
		525:2-525:6	FM	525:1	R 32(a)	
		526:5-527:1	FM	527:2-527:3	R 32(a)	
		527:4-527:15	FM as to 527:4-527:7; F, LC as to 527:8-527:15	527:2-527:3; 527:16-527:17	R 32(a)	

Witness	Date of Deposition	Philips' Deposition Designations	Kodak's Objections	Kodak's Counter-Designations	Philips' Objections	Philips' Rebuttal Designations
Rabbani (Day 2) cont.		527:18-528:1	F, LC as to 527:18-527:20; LC as to 527:21-528:1	527:16-527:17; 528:2-528:3 & 528:5-528:7	R 32(a)	
		528:4	LC	528:2-528:3 & 528:5-528:7	R 32(a)	
Richards, Norman	9/27/2007	In addition to the objections below, Kodak objects to Philips' designation of this witness' deposition as hearsay under Fed. R. Evid. 802. The declarant is a Philips representative, and therefore can be made available to testify at trial.				
		19:24-20:11	F	6:6-12; 9:25-10:6		
		25:1-25:2				
		28:19-28:22				
		33:22-34:16				
		40:23-40:24				
		41:1-41:6				
		41:11-41:13				
		46:8-46:10				
		46:13-46:14				
		48:1-48:10				
		58:20-58:23				
		58:25-59:2				
		63:23-64:2				
		64:4-64:7				
		69:21-70:2				
Sasson, Steve	11/6/2007	7:5-7:16				18:18-19
		14:10-14:12				
		19:3-20:7	I	18:21-19:2		

Witness	Date of Deposition	Philips' Deposition Designations	Kodak's Objections[1]	Kodak's Counter-Designations	Philips' Objections	Philips' Rebuttal Designations
Sasson conti.		20:12-21:5				
		33:9-34:19	F	25:13-26:5		
		36:12-37:4				
		39:14-39:17				
		40:9-41:10	SC	43:2-7	R 32(a) as to 43:2-7	
		42:11-43:1	SC			
		47:21-48:4				
		48:20-49:11				
		51:17-52:4				
		52:10-52:11	S, SC	52:12-13	R 32(a) as to 52:12-13	
		52:14-52:17				
		54:17-58:6				
		58:20-59:3				
		71:1-71:16	SC	71:17-18	R 32(a) as to 71:17-18	
		71:19-71:21				
		72:20-73:15	F	72:8-19		
Schylander, Eric	10/2/2007	In addition to the objections below, Kodak objects to Philips' designation of this witness' deposition as hearsay under Fed. R. Evid. 802. The declarant is a Philips representative, and therefore can be made available to testify at trial.				
		6:17-6:22				
		7:1-7:8				
		10:22-11:3				
		13:5-19:5	I	12:19-13:4		
		29:20-30:2				
		31:8-31:13				
		32:20-33:7				
		34:11-35:5	I	35:6-7		

Witness	Date of Deposition	Philips' Deposition Designations	Kodak's Objections	Kodak's Counter-Designations	Philips' Objections	Philips' Rebuttal Designations
Schylander cont.		35:8-35:18				
		37:1-37:16				
		37:20-37:21				
		54:1-54:4				
		54:10-54:20				
		60:2-60:4				
		60:8-60:16				
		60:18-61:2				
		66:7-66:11				
		66:15-67:2				
		69:11-71:6				
		71:20-72:5				
		72:9-72:10				
		72:20-73:21				
		74:3-74:12				
		75:13-75:20				
		82:16-83:19	I	82:8-15		
		84:22-85:7				
		85:11-85:22	I	85:8-10		
		102:1-102:12				
		103:14-103:18				
		104:12-106:21	F	103:19-104:11		
		108:15-108:21	F	107:11-108:13		
		109:2-109:16				
		121:9-121:10	F	120:7-12		
		122:14-121:17				
		122:20-123:3				
Scott, Philip	11/6/2007	10:8-10:10				

Witness	Date of Deposition	Philips' Deposition Designations	Kodak's Objections[1]	Kodak's Counter-Designations	Philips' Objections	Philips' Rebuttal Designations
Scott cont.		13:9-13:21				
		14:22-17:18	S	17:19-20	R 32(a) as to 17:19-20	
		17:21-18:10				
		25:17-26:8	SC	26:9-11	R 32(a) as to 26:9-11	
		26:12-27:6				
		32:11-33:8	F	30:1-31:8		
		35:18-36:12	F			
		37:8-37:17	F			
		38:2-38:12	I	38:13-15		38:16-19
		38:20-39:7	F			
		42:6-44:7	S			
		48:13-49:4				
		49:12-49:14				
		50:9-50:21				
		55:7-55:22	F, D	54:20-55:6		
		56:8-57:14				
		61:9-62:10				
		68:19-69:21				
		70:1-72:3	F, S	72:8-20		
		72:21-74:21				
		75:8-75:19				
		77:8-77:16	I	77:7		76:20-77:6
		90:1-90:18				
		96:17-98:8				
		99:11-101:15	I	101:16		
		105:2-105:22	F	102:4-103:4; 103:18-104:4; 104:10-18		104:5-9; 104:19-105:1

Witness	Date of Deposition	Philips' Deposition Designations	Kodak's Objections[1]	Kodak's Counter-Designations	Philips' Objections	Philips' Rebuttal Designations
Scott cont.		110:16-111:3	F, D	110:11-13; 111:4-13		
		112:16-118:5				
		122:16-122:19	F, I	122:10-15; 122:20-123:7		
		123:8-125:22	R			
		141:4-141:19	F	137:13-138:2; 140:13-15; 141:1-3		
		143:2-143:8				
Sebestyen, Istvan	9/21/2007	6:11-6:16				
		8:22-9:19				
		10:7-11:19				
		12:1-13:13				
		13:25-15:3				
		15:5-16:12				
		17:16-18:2				
		19:2-19:20				
		20:11-22:8				
		22:12-22:13				
		22:16-24:24				
		31:17-32:15				
		38:19-38:21				
		38:23-39:14				
		39:20-39:23				
		40:13-40:14				
		40:19:41:12				
		41:21-43:25				
		45:20-46:8				
		50:18-50:25				

Witness	Date of Deposition	Philips' Deposition Designations	Kodak's Objections[1]	Kodak's Counter-Designations	Philips' Objections	Philips' Rebuttal Designations
Sebestyen cont.		51:8-55:8	I	51:1-3		
		55:17-56:12				
		57:14-58:5				
		58:7-58:24				
		59:11-59:14				
		59:16-60:4				
		66:3-66:25	F	61:22-62:24		
		67:2-67:17				
		69:13-69:24	I	69:25-70:2		
		70:9-70:25				
		71:2-72:2				
		72:11-73:7				
		75:17-75:19	I	74:24-75:5		
		76:4-77:4				
		77:8-77:10				
		77:20-77:22				
		79:8-79:12	F	78:11-13; 78:25-79:7		
		80:3-81:3	F			
		84:19-84:22				
		85:2-85:15	F			
		87:2-87:22				
		89:2-89:17				
		89:24-90:8	F, I	89:18-23		
		90:23-91:18				
		95:7-95:14				
		96:8-96:22				
		98:21-100:1				
		103:1-103:16				

Witness	Date of Deposition	Philips' Deposition Designations	Kodak's Objections	Kodak's Counter-Designations	Philips' Objections	Philips' Rebuttal Designations
Sebestyen cont.		106:9-106:19	F, I	104:18-105:11; 105:18-20; 106:5-8		
		107:20-108:2				
		108:12-109:5	F	108: 6-8		
		109:18-110:1	F, I	109:7-17		
		110:9-110:17				
		117:12-117:18				
		118:11-118:17	F	118:18-20		
		118:21-119:19				
		120:19-121:6				
		121:14-121:18				
		121:24-122:16				
		125:15-126:8				
		126:10-126:15				
		129:3-129:7	FM, F	127:20-23; 129:8	R 32(a) as to 129:8	
		129:9-130:23				
		131:6-131:9				
		132:1-132:9				
		133:1-133:3				
		134:2-136:18	D			
		138:10-139:3				
		139:20-140:15				
		141:6-142:13	D, F	142:14	R 32(a) as to 142:14	
		142:15-142:23				
		143:3-144:4				
		144:9-144:20				
		147:20-148:6				

Witness	Date of Deposition	Philips' Deposition Designations	Kodak's Objections	Kodak's Counter-Designations	Philips' Objections	Philips' Rebuttal Designations
Sebestyen cont.		149:8-153:1	S, F	153:2-4	R 32(a) as to 153:2-4	
		156:23-158:4				
		158:12-158:18	D, F	158:19-20	R 32(a) as to 158:19-20	
		158:22-159:23	D			
		160:21-165:19	O, H			
		166:2-166:14	D			
		167:7-168:15	H, D			
		168:24-170:25	H, D			
		171:9-172:11	F, D	172:12-13; 172:16-17	R 32(a) as to 172:12-13	
		172:18-173:18				
		175:14-175:23				
		177:9-177:21	F	175:24-176:11		
		178:2-179:24				
		180:10-181:17				
		187:17-187:21				
		188:3-196:5	D			
		205:15-206:9				
		207:2-210:3	D, F			
		210:16-213:25	D, F, S, I	214:1-9	R 32(a) as to 214:1-9	
		230:17-230:22	F, I	229:16-24		
Tescher, Andrew	10/5/2007	14:22-17:9	F	7:1-4		
		24:18-26:3				
		26:7-27:2				
		27:19-28:3				
		30:13-30:20				

Witness	Date of Deposition	Philips' Deposition Designations	Kodak's Objections	Kodak's Counter-Designations	Philips' Objections	Philips' Rebuttal Designations
Tescher conti.		32:3-33:4				
		33:10-34:7	F	31:15-18		
		35:4-37:14	FM as to 37:13-14	37:15		
		37:16-40:19	S as to 39:10-11			
		41:8-41:22	S			
		42:6-43:13				
		55:3-60:21				
		62:12-62:15				
		62:19-63:17				
		63:19-68:7				
		69:4-81:16	F	68:18-21		
		82:5-89:14	F; R as to 88:6-19; FM as to 82:5-7	89:15-16		
		89:17-91:3	S			
		92:5-92:13				
		94:1-95:19	S as to 95:12-14			
		114:19-116:19				
		117:3-117:12				
Turner, Simon	9/28/2007	In addition to the objections below, Kodak objects to Philips' designation of this witness' deposition as hearsay under Fed. R. Evid. 802. The declarant is a Philips representative, and therefore can be made available to testify at trial.				
		34:4-34:21	F, I	6:1-6; 9:2-19; 33:16-34:3		
		40:10-40:12	F, I			
		45:7-45:10				
		45:12				

Witness	Date of Deposition	Philips' Deposition Designations	Kodak's Objections[1]	Kodak's Counter-Designations	Philips' Objections	Philips' Rebuttal Designations
Turner conti.		53:9-53:19	F, I	47:2-17		
		53:21-54:15				
		54:25-55:10				
		55:12-56:12				
		57:1-58:1				
		87:25-88:5				
		91:1-91:2				
		91:4-91:10				
		91:12-92:25				
		125:9-125:21	F, I	121:5-14; 124:20-125:8		
		127:3-127:6	F, I	126:10-127:2		
		143:22-144:4				
		145:6-145:13				
Van der meer, Jan	9/25/2007	In addition to the objections below, Kodak objects to Philips' designation of this witness' deposition as hearsay under Fed. R. Evid. 802. The declarant is a Philips representative, and therefore can be made available to testify at trial.				
		6:21-7:1				
		23:10-23:17				
		26:4-26:19				
		27:2-29:12				
		30:5-30:20				
		32:6-35:5				
		36:13-38:17				
		39:14-41:15	I	38:18-39:2; 39:7-13		
		44:22-45:2				
		45:5-45:10				
		45:13-46:10				
		46:21-47:19				

Witness	Date of Deposition	Philips' Deposition Designations	Kodak's Objections	Kodak's Counter-Designations	Philips' Objections	Philips' Rebuttal Designations
Van der meer cont.		49:10-49:19				
		50:12-50:18				
		56:8-56:17				
		59:15-59:17				
		59:21-61:14				
		63:6-63:7	I	63:9-11		
		63:22-64:1	I, F			
		64:4-64:11				
		66:4-66:17				
		66:20-66:21				
		78:5-78:16				
		78:22-79:4				
		80:12-80:14				
		80:17-81:3				
		114:15-114:18	I	114:6-14		
		114:21-115:6				
		134:9-134:20				
		136:2-137:13				
		138:21-139:9				
		139:15-140:3	I	140:4-7		
		140:8-140:18				
		141:22-142:16				
		148:21-149:16	I	149:19-150:2		
		151:14-153:12				
		153:15-153:17				
		156:21-157:12				
		158:3-158:9				
		158:12-158:16				
		158:19-158:20				

Witness	Date of Deposition	Philips' Deposition Designations	Kodak's Objections[1]	Kodak's Counter-Designations	Philips' Objections	Philips' Rebuttal Designations
Van der meer cont.		159:5-159:10				
		159:13-160:1				
		173:12-173:20	I	173:21-174:2		
		182:8-183:5				
		207:7-207:18				
		207:20-208:3				
Van der meer, Jan (Day 2)	10/24/2007	In addition to the objections below, Kodak objects to Philips' designation of this witness' deposition as hearsay under Fed. R. Evid. 802. The declarant is a Philips representative, and therefore can be made available to testify at trial.				
		284:6-284:11				
		284:18-285:1				
		286:11-286:15				
		290:9-290:16				
		294:6-294:7				
		294:10-295:9				
		298:7-298:12				
		299:20-299:21				
		300:3-300:5				
		301:2-301:8				
		301:14-302:7				
		302:11-302:14				
		304:1-304:16				
		304:19-304:20				
		305:9-305:17				
		305:20-305:21				
		306:18-306:19	I	306:1-2; 306:7-8; 306:10-11; 306:15-16		
		306:22-307:2				

Witness	Date of Deposition	Philips' Deposition Designations	Kodak's Objections	Kodak's Counter-Designations	Philips' Objections	Philips' Rebuttal Designations
Wahl, Nancy	11/8/2007	81:22-83:1	F	7:10-14; 66:14-67:1; 80:4-10		
Watkins, Peyton	11/8/2007	9:6-9:8				
		12:10-12:11				
		12:17-12:21				
		13:22-14:16				
		16:20-17:2				
		19:2-19:6	I	18:18-21	802	
		31:11-32:22				
		34:1-34:15				
		37:15-37:22				
		40:22-42:3				
		43:20-43:21	SC	43:11-19; 43:22-44:2	R 32(a) as to 43:13-14; 43:22-44:2	43:3-10
		44:3-44:4				
		44:15-44:19	SC	44:5-14; 44:20-22	R 32(a) as to 44:6-9; 44:13-14; 44:20-22	
		45:1-45:3	SC	45:4-5	R 32(a) as to 45:4-5	
		45:6-45:7				
		46:10-46:16	SC	46:17-18	R 32(a) as to 46:17-18	
		46:21-47:2	SC	47:3-4	R 32(a) as to 47:3-4	
		47:5-47:9	SC	47:10	R 32(a) as to 47:10	
		47:11-47:12	SC	47:13	R 32(a) as to 47:13	

Witness	Date of Deposition	Philips' Deposition Designations	Kodak's Objections	Kodak's Counter-Designations	Philips' Objections	Philips' Rebuttal Designations
Watkins cont.		47:14-47:15				
		48:12-48:13	SC	48:14-15; 48:18-49:11	R 32(a) as to 48:21-22; 49:4	
		48:16-48:17				
		57:4-57:14	F, SC	57:15-16	R 32(a) as to 57:15-16	
		57:17-57:18	F, SC	57:19-20	R 32(a) as to 57:19-20	
		57:21-57:22				
		58:11-58:13	F, SC	58:14-15	R 32(a) as to 58:14-15	
		58:16				
		59:4-59:7	FM, F	59:8-9	R 32(a) as to 59:8-9	
		59:10-59:20	S, I, F	59:21-60:6		
		61:8-61:10	F, FM, SC, I	61:11-15	R 32(a) as to 61:11-13	
		62:3-62:8	S, SC, F	62:9-10	R 32(a) as to 62:9-10	
		62:11-63:1	F, S, SC	63:2-3	R 32(a) as to 63:2-3	
		63:4-63:11	F, SC, S	63:12-13	R 32(a) as to 63:12-13	
		63:14-63:15				
		63:19-64:3	F, SC, S	64:4-6	R 32(a) as to 64:4-6	
		64:7-64:17	F, SC, S	64:18-19	R 32(a) as to 64:18-19	
		64:20-64:22				
		65:4-65:13	FM, F, SC, S, I	65:14-18	R 32(a) as to 65:14-16	
		65:19-65:22	F, S, SC	66:1-3	R 32(a) as to 66:1-3	

Witness	Date of Deposition	Philips' Deposition Designations	Kodak's Objections[1]	Kodak's Counter-Designations	Philips' Objections	Philips' Rebuttal Designations
Watkins cont.		66:4				
		108:10-108:12	F, I	107:21-108:9; 108:13-15		
		109:11-109:19	F	109:9-10		
		118:9	I	118:5-8; 118:10-16	R 32(a) as to 118:14-15	
		118:17-119:19		17:9-18:5; 20:22-21:7; 38:11-17; 119:20-21	R 32(a) as to 119:20-21; 802 as to 17:9-18:5; 20:22-21:7	
		119:22-120:2		120:3-5	R 32(a) as to 120:3-5	
		120:6-120:11				
		121:1-121:4				
		121:21-122:1	D, I	121:5-6; 122:4		
		122:5-124:6				
		124:14-124:17				
		124:20-125:5	D			
		125:21-126:11	D, S			
		131:10-131:19	D			
		132:4-132:21	D			
		134:5-134:7	F, I, P	134:8-9	R 32(a) as to 137:14	
		134:10-134:11				
		135:15-135:17				
		135:19-136:17				
		137:10-137:13	FM	137:14	R 32(a) as to 137:14	
		137:15				

Witness	Date of Deposition	Philips' Deposition Designations	Kodak's Objections	Kodak's Counter-Designations	Philips' Objections	Philips' Rebuttal Designations
Weth, Gerald	9/19/2007	11:6-11:18	F	6:21-24; 10:15-21		
		12:23-13:8				
		24:19-25:1	F, I	21:14-22:9; 23:24-24:18		21:5-13
		29:6-31:5				
		31:7-32:13				
		32:15-32:17				
		32:19-33:20				
		33:23-33:25				
		34:3-34:9				
		34:16-34:25				
		47:14-48:16				
		48:19-48:20				
		48:22-48:23				
		49:7-49:21				
		49:23-50:22				
		50:24-51:11				
		51:13-51:14				
		51:16-52:12				
		52:15-53:6				
		53:8-53:22				
		58:14-58:15				
		58:17-58:20				
		68:5-68:10				
		68:12-68:14				
		82:18-84:5	F, I	82:5-17		
		103:16-103:20	F			
		103:22				

Eastman Kodak Company's Objection Key: Deposition Designations

D = Document Speaks for Itself. Kodak objects to this deposition designation because the question asks the witness to offer testimony on a document that speaks for itself.

F = Lacks Foundation. Kodak objects to this deposition designation on the ground that the foundation necessary for its admission has not been laid. (Fed. R. Evid. 602)

FM = Form. Kodak objects to this deposition designation because the question asked is compound, leading, vague or has some other defect in form.

H = Hearsay. Kodak objects to this deposition designation because it constitutes or contains hearsay. (Fed. R. Evid. 802)

I = Incomplete. Kodak objects to this deposition designation because it does not contain the complete testimony. (Fed. R. Evid. 106). Kodak generally objects to all designations that include only a part of a question and/or a part of an answer, or that do not include any question.

LC = Legal Conclusion. Kodak objects to this deposition designation because it contains conclusions of law.

O = Improper Opinion. Kodak objects to this deposition designation because it constitutes or contains improper opinion by a lay witness. (Fed. R. Evid. 701 & 702)

P = Privilege. Kodak objects to this deposition designation because it seeks communications or information protected from disclosure by the attorney-client privilege and/or work product doctrine.

R = Lacks Relevance. Kodak objects to this deposition designation because it is not relevant to any issue to be decided in this case. (Fed. R. Evid. 401 & 402)

S = Speculative. Kodak objects to this deposition designation because it includes statements that are speculative as to matters of fact or law.

SC = Beyond the Scope of 30(b)(6) Notice. Kodak objects to this deposition designation because it is outside the scope of the topics on which the witness was designated as a corporate representative.

EXHIBIT F2

U.S. Philips Corporation v. Eastman Kodak Company
Civil Action No. 06-00251-GMS

Kodak's Amended Deposition Designations for Trial

Witness	Date	Kodak's Designated Testimony	Philips' Objections	Philips' Counter-Designations	Kodak's Objections	Kodak's Rebuttal Designations
Acharya, Shrikant	10/30/07	8:4-7				
		8:11-13				
		12:16-13:16				
		16:3				
		16:7-8				
		16:10				
		19:5-14	802 as to 19:8-14			
		20:4-21:6				
		23:4				
		23:6-9				
		23:12-13				
		24:2-5				
		24:7-16				
		25:17-26:1				
		26:3-17				
		27:11-22		27:11-28:3	F as to 28:12	
		28:7-15				
		28:21-29:14				
		29:16-21				
		30:1-7				
		30:9-11				
		32:3-4				
		35:2-16		34:18-35:16		
		36:6-38:1		36:2-38:9; 38:21-39:9		38:10-11; 38:13-19
		40:7-10				
		40:13-41:3				
		41:9-42:3				
		44:14-45:7				
		45:10-12		45:10-21	FM	
		46:3-5				
		46:8-22				
		47:2-10				
		47:12-18				
		50:5-6				
		50:8-12				

Witness	Date	Kodak's Designated Testimony	Philips' Objections	Philips' Counter-Designations	Kodak's Objections	Kodak's Rebuttal Designations
Acharya cont.		51:8-12				
		56:2-7				
		56:17-57:8	901, 1002			
		57:10-20	901, 1002			
		58:2-8	901, 1002			
		58:10-60:5	901, 1002	58:20-60:15		
		60:12-14	901, 1002			
		68:2-4				
		68:7-14		68:15-18	FM	
		70:22-71:12				
		71:14-20				
		71:22-72:5				
Cho, Kenneth	10/26/07	5:1-7				
		5:12-14				
		6:25-7:14				
		7:22-8:6				
		8:23-9:7				
		10:11-16				
		25:13-15				
		25:20-26:15				
		27:5-28:15				
		28:25-29:2				
		29:7-30:9		29:7-31:25		
		79:10-11				
		79:13-80:1				
		80:3-15				
		84:8-11				
		101:4-6				
		101:9-20				
		101:23-102:5				
		114:21-116:6		114:21-118:21		
		127:22-128:6		127:22-128:24		
		130:3-19	402, 403	132:10-133:8		
		133:9-14				
		133:18-134:4				
		137:4-18	402, 403	145:12-146:3		
		138:16-139:1	402, 403			
		141:19-21	402, 403			
		151:21-152:12				

Witness	Date	Kodak's Designated Testimony	Philips' Objections	Philips' Counter-Designations	Kodak's Objections	Kodak's Rebuttal Designations
Cho cont.		152:14-153:4	408, 402, 403	152:18-154:1		
		160:5-19				
		161:5-21				
		162:23-163:18				
		166:11-13		166:1-10		
		167:5-168:10				
		173:23-174:9		173:23-175:7		
		174:17-175:7				
		180:7-8				
		181:5-17		180:17-20; 180:22-181:17		
		182:3-21		182:3-24		
		184:15-185:5				
Clark, Richard	10/31/2007	6:5-11				
		6:17-25				
		9:18-10:5				
		10:18-12:12				
		13:16-15:16; 15:20-16:4				
		16:12-17:22				
		17:23-19:8				
		19:14-24:21				
		24:25-25:19				
		26:10-13; 26:15-27:21				
		27:22-28:17				
		30:2-4; 30:7-31:8				
		31:9-32:13				
		32:25-33:25				
		34:17-35:17				
		36:2-37:4; 37:7-38:4		38:5-39:20		
		40:19-25; 41:4-42:16				
		43:2-7; 43:9-24				
		43:25-45:10				
		45:24-47:4;				

Witness	Date	Kodak's Designated Testimony	Philips' Objections	Philips' Counter-Designations	Kodak's Objections	Kodak's Rebuttal Designations
		47:7-10				
Clark cont.		48:2-8; 48:11-49:5	602			
		50:6-13; 50:15-17; 50:21-23				
		50:24-52:15; 52:18-21; 52:23-24	802, 602 as to 52:13-24			
		55:11-12; 55:15-56:12; 56:15-57:8	802, 602 as to 56:10-57:8			
		57:9-12; 57:15-20	802, 602			
		57:21-58:13	802, 602			
		59:25-60:16	802, 602 as to 60:3-16			
		61:15-21				
		64:2-15				
		64:23-65:17				
		69:8-70:3				
		70:16-17; 70:20-71:4				
		71:5-6; 71:9-21				
		71:22-25; 72:5-74:10; 74:13-75:20	802, 602 as to 72:13-15, 74:22-75:20; 401 as to 73:16-22	75:21-25; 76:3-18; 124:19-125:13; 128:22-130:2; 130:5-131:22; 132:12-19; 133:8-134:14; 135:17-21; 135:23-136:11; 137:2-140:8; 140:16-142:20; 145:23-146:5; 147:18-149:16; 150:2-10;	F(130:3-4) O(135:22) SC(140:9-11) FM(149:22-23) F(150:11)	131:23-132:11; 132:20-133:4 142:21-24 146:6-18 149:17-21; 149:24-150:1

Witness	Date	Kodak's Designated Testimony	Philips' Objections	Philips' Counter-Designations	Kodak's Objections	Kodak's Rebuttal Designations
				150:12-14; 150:16-21; 152:4-13; 161:4-21: 161:24- 162:12; 171:20-22; 174:9-11; 174:14-19; 191:23- 192:11; 198:20- 201:14; 201:22-24; 202:2-22; 202:25- 203:12; 203:14- 204:12; 206:8-17; 206:19- 208:11; 209:12- 215:13; 255:21-23; 256:8-16; 257:15-18; 257:20; 257:22- 259:24; 260:3-19: 260:21: 260:24; 262:17-19; 263:3-5; 263:8-264:14; 265:20-266:7; 271:21-24; 272:3-24; 273:5-11; 273:22-275:2	(150:15) F (156:2) F (161:22-23) (FM) (162:17) F (163:3) FM (174:12-13) (FM) (201:25) F (202:24) F (203:13) F (206:18) F F(255:24-25) F(256:3-5) (257:19-21) FM F(259:25-260:2) F(263:6-7) (271:25) FM (272:25-273:4) F, LC,	152:14-155:25 156:3-22 162:13-16 162:18-163:2 163:4-8 170:25-171:19 192:12-193:7 206:5-7 260:20 260:22-23

Witness	Date	Kodak's Designated Testimony	Philips' Objections	Philips' Counter-Designations	Kodak's Objections	Kodak's Rebuttal Designations
					FM	
Clark cont.		76:19-21; 76:24-78:6	802, 602	78:7-9; 78:12-24		
		78:25-80:22	802 as to 80:18-22			
		80:23-81:4; 81:7-82:11				
		82:14-83:21				
		83:22-84:20	83:22-84:14 - Not testimony			
		84:25-86:14				
		87:2-4; 87:7-12; 87:14-88:4				
		88:5-89:3				
		89:6-9; 89:12-90:7; 90:10-17				
		90:25-91:4; 91:8-92:8	701, 802, 602			
		92:12-93:20				
		94:7-95:3				
		96:2-98:12; 98:16; 98:19-22				
		100:2-11				
		100:12-102:24				
		103:14-104:9				
		104:23-105:16				
		105:17-106:6				
		106:7-107:11				
		107:25-108:24				
		108:25-110:2				
		110:3-114:11		114:12-115:3		
		115:4-116:21		116:22-117:19		
		119:18-120:13				
		121:21-123:8				
		123:9-125:6				
		147:3-17				
		170:11-24				

Witness	Date	Kodak's Designated Testimony	Philips' Objections	Philips' Counter-Designations	Kodak's Objections	Kodak's Rebuttal Designations
Clark cont.		171:23-172:23		171:20-22; 172:24-173:18		
		183:12-184:3; 186:23-87:10; 187:12-188:8		183:12-18; 185:8-186:4; 186:8-187:10	(186:5-7) F, FM/(187:11) F	
		196:10-13; 196:15-23		196:3-9		
		229:16-232:8	402, 802			
		247:7-249:6	701, 602 as to 248:23-249:3			
		252:17-253:11				
		279:20-24; 280:3-9; 280:13-15	802			
		281:9-11; 281:13-16				
		283:19-284:23	802, 602			
		285:6-14	602			
		285:15-286:10				
Derounian, Robert	9/14/07	4:9-11				
		9:10-11:11		16:12-17:6		
		12:3-13:4				
		13:7-15:25				
		18:14-21:19				
		21:22-24				
		22:5-24				
		23:12-15				
		23:18-24:24		24:25-25:16		
		25:17-26:6				
		26:8-27:15				
		27:19-30:23				
		30:24-31:23				
		36:3-15		34:17-36:2; 36:16-39:3		
		39:4-40:5				
		42:8-43:7		40:22-42:4; 43:8-24; 44:9-13	I as to 40:22-42:4	42:5-7
		43:25-44:8				

Witness	Date	Kodak's Designated Testimony	Philips' Objections	Philips' Counter-Designations	Kodak's Objections	Kodak's Rebuttal Designations
		44:14-20		44:21-45:3		
Derounian cont.		45:4-46:15	701-702	46:22-47:10; 57:13-59:7	I as to 57:13-59:7	56:25-57:12
		61:13-62:16				
		67:7-68:19	602, 608			
		68:23-69:4				
Fralick, Stanley	10/22/2007	5:8-11				
		6:16-21				
		9:22-10:13				
		10:19-12:7				
		13:11-14:14				
		15:14-20	701-702, 901, 1002	15:14-21:22		
		16:2-20:21	701-702, 802, 901, 1002	15:14-21:22		
		23:4-32:22	901, 1002 as to 32:19-22			
		33:6-9				
		34:1-13		34:1-37:18		
		39:1-21	802, 901, 1002			
		45:15-20	802 as to 45:18-46:5	45:15-55:13		
		47:12-49:4		45:15-55:13		
		51:20-53:2	901, 1002	45:15-55:13		
		56:8-16				
		58:21-59:1		58:18-64:12	S as to 63:9-64:3	
		59:7-17	901	58:18-64:12	S as to 63:9-64:3	
		62:1-9	701-702	58:18-64:12	S as to 63:9-64:3	
		62:17-20	701-702	58:18-64:12	S as to 63:9-64:3	
		64:4-12		58:18-64:12	S as to 63:9-64:3	
Hamilton, Eric	10/10/2007	7:22-8:3				
		10:7-11:7				
		12:22-13:8				

Witness	Date	Kodak's Designated Testimony	Philips' Objections	Philips' Counter-Designations	Kodak's Objections	Kodak's Rebuttal Designations
Hamilton cont.		16:4-14				
		16:21-17:1				
		17:4-10		17:4-21:20		
		17:15-18:10		17:4-21:20		
		18:19-20:11		17:4-21:20		
		20:21-21:12		17:4-21:20		
		21:17-20		17:4-21:20		
		23:7-8		22:10-24:18		
		23:14-22	802, 901, 1002	22:10-24:18		
		25:5-26:11	701-702, 901, 1002	25:5-27:10		
		27:18-28:3	901, 1002	27:18-28:6		
		28:22-29:8		29:13-29:21		
		29:16-21	802, 1002	29:13-29:21		
		33:14-34:6	701-702			
		34:16-19	701-702	34:13-35:13		
		35:3-6	701-702	34:13-35:13		
		35:10-11	701-702	34:13-35:13		
		42:6-18				
		45:4-47:16		45:4-47:18		
		48:1-21		48:1-51:6		
		49:9-50:5		48:1-51:6		
		50:22-51:6		48:1-51:6		
		51:19-52:11				
		55:11-56:4	802, 1002	55:8-61:21		
		56:10-57:4		55:8-61:21		
		57:12-58:19	802, 1002	55:8-61:21		
		59:18-60:4	802, 1002	55:8-61:21		
		61:15-21	1002	55:8-61:21		
		62:1-8	1002	62:4-67:19		
		63:6-9	1002	62:4-67:19		
		63:15-64:4	802, 1002	62:4-67:19		
		65:22-66:20	1002	62:4-67:19		
		67:14-69:20	701-702	62:4-67:19		
		70:2-6	701-702			
		70:15-18	701-702			
		71:12-74:5	701-702			
		77:20-82:16	802, 1002			
		84:11-18		84:14-88:3		
		87:6-88:3		84:14-88:3		
		88:21-89:22	701-702,	97:14-16;	LR as to 88:8-	

Witness	Date	Kodak's Designated Testimony	Philips' Objections	Philips' Counter-Designations	Kodak's Objections	Kodak's Rebuttal Designations
			901, 1002	84:19-93:2	88:19	
Hamilton cont.		90:7-17	701-702, 901, 1002	97:14-16; 84:19-93:2	LR as to 88:8-88:19	
		92:11-93:2	701-702, 901, 1002	97:14-16; 84:19-93:2	LR as to 88:8-88:19	
		93:21-94:7	701-702, 901, 1002	97:14-16; 84:19-85:1; 93:9-98:11		
		94:15-95:15	701-702, 901, 1002	97:14-16; 84:19-85:1; 93:9-98:11		
		96:16-97:13	701-702, 901, 1002	97:14-16; 84:19-85:1; 93:9-98:11		
		97:20-98:2	701-702, 901, 1002	97:14-16; 84:19-85:1; 93:9-98:11		
		98:14-99:8	701-702, 901, 1002	97:14-16; 98:14-103:11; 84:19-85:1		
		99:12-15	701-702, 901, 1002	97:14-16; 98:14-103:11; 84:19-85:1		
		100:3-16	701-702, 901, 1002	97:14-16; 98:14-103:11; 84:19-85:1		
		106:10-19	802 as to 106:13-19	106:10-107:17	LC as to 107:16-107:19	
		107:4-12	701-702	106:10-107:17	LC as to 107:16-107:19	
		113:3-11	701-702	108:10-114:5	LC as to 109:3-109:14; FM, I as 114:4-5	
		114:9-14				
		114:21-115:10				
		117:18-118:4	802, 1002	116:14-119:14	I as to 119:5-119:14	119:5-119:16
		131:14-21	701-702, 901, 1002 as to 131:19-21	131:3-21		

Witness	Date	Kodak's Designated Testimony	Philips' Objections	Philips' Counter-Designations	Kodak's Objections	Kodak's Rebuttal Designations
Marion, Michael	10/23/07	5:2-8				
		5:13-17				
		12:16-13:2				
		13:6-23		13:24-14:16		
		14:17-19				
		14:21-23				
		15:20-21				
		15:23-16:5				
		16:8-23		17:9-18:18		
		19:7-21:7				
		21:9-15				
		21:17-23:12				
		23:14-19				
		23:21				
		24:8-10				
		24:15-16				
		24:19-23				
		25:1-3				
		25:6-7				
		25:9				
		25:11-26:6		26:7-9		
		27:14-18				
		27:21				
		27:23-28:23				
		28:25-29:7				
		29:12-23				
		29:25-30:1		30:3-30:10		
		33:23-34:4				
		34:7-9				
		34:18-35:7				
		35:10-15				
		35:19				
		36:10-12				
		36:14-37:1				
		37:4-14				
		37:16-20				
		37:22-38:4				
		38:16-20				
		38:22-39:5				
		39:8-13		39:15-40:14		
		40:19-20				
		40:22-24				

Witness	Date	Kodak's Designated Testimony	Philips' Objections	Philips' Counter-Designations	Kodak's Objections	Kodak's Rebuttal Designations
Marion cont.		41:5-23				
		42:10-12				
		42:14-20				
		43:20-44:2				
		44:17-19				
		44:22-24				
		45:2-3				
		45:21-46:4				
		46:7				
		49:22-50:9				
		50:15-23				
		51:8-12		51:25-52:16		
		52:17-19				
		52:23-24				
		53:1-3				
		53:5-7				
		53:25-54:3				
		54:5-55:2				
		55:8-14				
		55:16-24				
		56:1-2				
		58:6-10				
		58:16-21				
		59:1-8				
		59:13-20		59:22-61:9		
		61:11-15				
		61:17-62:7				
		62:12-14		62:23-25	I	62:16-18 & 16:23-16:25
		63:2-4				
		63:7				
		63:9-11				
		63:14				
		65:3-7				
		65:11-12				
		65:17-23				
		76:5-12				
		76:15				
		82:11-14				
		82:19-22				
		83:24-84:19				
		84:23				

Witness	Date	Kodak's Designated Testimony	Philips' Objections	Philips' Counter-Designations	Kodak's Objections	Kodak's Rebuttal Designations
Marion cont.		84:25-85:5				
		88:4-25				
		89:3-12				
		89:14-18				
		92:6-9				
		92:14-15				
		94:12-15				
		94:20-95:6				
		95:11-21				
		96:2-6				
		101:6-9				
		101:11-12				
		101:14-17				
		101:20-102:5				
		102:8-17		103:9-25		
		104:2-8				
		104:11-15		104:21-105:23		
		104:17-19				
		106:8-24				
		107:2-10				
		107:13-16				
		107:21-23				
		108:22-23				
		109:3-5				
		109:7-13				
		109:18-19				
		111:12-13				
		111:16-112:2				
		112:5-6				
		113:7-8				
		113:15				
Mitchell, Dr. Joan	9/20/07	5:24-6:14				
		15:2-17:1				
		17:17-25				
		18:16-19:6				
		21:12-22:3				
		22:21-24:24				
		25:7-32:9				
		32:17-22				
		33:2-3				

Witness	Date	Kodak's Designated Testimony	Philips' Objections	Philips' Counter-Designations	Kodak's Objections	Kodak's Rebuttal Designations
Mitchell cont.		33:11-23		33:24-34:18 "Philips had a patent that covered the same thing as Forgent"		
		34:19-20				
		34:25-36:1	802, 602, 402, 403 as to 34:19-35:2			
		37:5-39:23	802, 602 as to 39:22-40:4	41:3-11; 41:14-15; 44:12-16		
		40:1-11				
		40:15-24				
		43:1-18				
		44:6-11				
		44:17-47:19				
		48:4-49:12				
		49:20-22				
		50:1-50:12	802, 602 as to 50:8-12			
		51:4-25	602 as to 51:24-25			
		52:5-53:19	602 as to 52:5-15			
		53:25-54:13				
		54:17-61:16				
		61:20-64:3				
		64:23-65:14		64:4-9		64:10-22
		66:21-69:17		69:18-19; 69:22-70:9		
		70:10-15				
		70:22-71:3				
		71:11-25				
		72:3-76:6				
		79:5-23				
		80:18-19				
		80:23-83:24				
		83:25-84:1				
		84:6-15				

Witness	Date	Kodak's Designated Testimony	Philips' Objections	Philips' Counter-Designations	Kodak's Objections	Kodak's Rebuttal Designations
Mitchell cont.		84:20-86:1				
		86:4-5				
		86:11-87:4				
		87:16-25		88:1-8		
		88:9-14				
		88:18-91:4	602, 802 as to 88:19-20			
		91:8-22	602, 802 as to 92:3-4			
		92:1-10				
		92:17-93:5	602, 802 as to 93:9-15			
		93:9-94:12				
		95:8-24				
		97:16-21				
		97:24		97:25-98:2; 98:6-12		98:21-23
		98:13-15				
		98:17				
		98:24-99:21				
		100:6-9				
		100:16-101:15				
		101:18-21				
		109:7-110:1				
		111:9-112:9				
		112:17-21				
		113:1-123:9				
		123:20-125:16				
		126:8-129:22				
		130:2-135:20				
		137:19-139:2		136:11-137:18		
		144:13-18				
		145:4-146:7				
		152:6-25				
		154:6-17				
		155:8-158:6				
		167:22-168:11				
		170:3-16		169:11-170:2		
		174:15-24		179:20-25		
		178:5-179:18				

Witness	Date	Kodak's Designated Testimony	Philips' Objections	Philips' Counter-Designations	Kodak's Objections	Kodak's Rebuttal Designations
Morris, Dr. John	9/26/07	5:1-11				
		5:21-25				
		6:1-8				
		9:10-17				
		9:23-10:24				
		11:9-19				
		12:1-4				
		12:9-13:23				
		14:2-10				
		14:15-20				
		19:24-21:7				
		21:14-23				
		23:1-13				
		24:2-22				
		26:1-20		25:11-19; 25:22-25		
		26:25-27:18		27:19-24		27:25-28:14
		28:15-29:12				
		29:14-16				
		29:22-30:7				
		30:16-23				
		31:25-32:4		32:5-13		
		33:11-25				
		34:1-4		34:5-6; 34:9-10		
		34:20-22				
		35:11-21		35:3-8; 35:10		
		35:24-36:3				
		36:19-24				
		37:1-3				
		38:13-16				
		38:19-20				
		39:8-17		38:25-39:7		
		40:10-13		40:5-9		
		40:16-18				
		41:2-15				
		44:7-45:9		42:25-44:3		92:18-24; 95:12-19
		45:20-46:1				
		48:3-21				
		49:6-50:7				
		50:13-55:3				

Witness	Date	Kodak's Designated Testimony	Philips' Objections	Philips' Counter-Designations	Kodak's Objections	Kodak's Rebuttal Designations
Morris cont.		55:19-56:1				
		56:4-6		56:7-8		
		56:9-58:4				
		58:21-59:17				
		60:4-9		60:12-14		
		60:19-61:15				
		61:17-18				
		61:20-22				
		62:5-16				
		65:1-66:8				
		66:13-15				
		66:21-67:5				
		67:15-23		68:1-4		67:6-14
		68:5-21				
		68:23-69:16				
		71:7-17				
		72:8-74:6				
		74:10-75:15				
		76:7-16				
		76:20-77:9				
		77:14-18				
		78:7-16		78:17-18		
		78:19-22				
		79:19-80:16				
		82:21-83:15		83:18-23		
		84:1-5				
		84:8-11				
		84:20-85:3				
		85:8-9				
		85:12-13				
		85:17-88:24				
		89:5-90:10				
		90:21-22				
		91:11-92:24				
		93:7-13				
		95:6-8				
		95:11-16				
		95:18-20				
		96:16-18				
		96:20-97:4				
		97:6-8				
		97:10-15				

Witness	Date	Kodak's Designated Testimony	Philips' Objections	Philips' Counter-Designations	Kodak's Objections	Kodak's Rebuttal Designations
Morris cont.		97:19-98:11				
		98:17-102:20				
		102:22-103:4				
		103:6-9				
		103:19-104:6				
		104:8-106:9				
		106:24-108:8				
		108:13-22				
		108:24-109:4				
		109:6-17				
		109:19-110:11		110:12-14		
		110:20-111:10				
		112:3-7		112:9-10		
		112:11-113:22				
		113:24-119:10				
		119:16-122:23				
		123:9-124:2		124:3-4		
		125:3-9	R 32(a)			
		125:21-126:11				
		126:16-128:14				
		128:21-131:19				
		131:22-133:1		133:2-8		
		133:9-14				
		134:5-147:24				
		152:3-9		152:14-16		
		153:3-16				
Ngosi, Theodora	12/19/07	7:6-10		7:3-5		
		8:24-9:6				
		9:15-17		9:24-25		9:18-23; 10:1-3
		10:4-5				
		15:9-10				
		16:2-17:6		17:7-8		
		17:24-18:4				
		18:8-19:4		19:5-13		
		19:17-20:2		20:3-7		
		20:8-25		21:24-22:6		
		22:7-22		22:23-23:1; 34:21-35:3; 36:11-15		
		23:2-3		25:11-16		

Witness	Date	Kodak's Designated Testimony	Philips' Objections	Philips' Counter-Designations	Kodak's Objections	Kodak's Rebuttal Designations
Ngosi cont.		24:17-19				
		25:21-26:9	802, 602 as to 26:1-9	25:17-20		
		27:13-28:2		26:10-27:12; 28:3-4		
		29:4-30:16		30:17-18		
		30:19-31:3	802, 602 as to 30:21-31:3			
		32:13-18				
		37:21-39:7	802, 602 as to 38:2-39:7			
		39:16-20				
		41:10-17	802, 602			
		44:2-4				
		48:3-12	802, 602			
		56:12-57:5	802, 602			
Nier, Michael	10/30/07	4:1-15				
		6:13-7:11				
		7:24-8:18				
		9:5-10:17				
		15:20-16:13				
		17:6-19:11				
		19:12-20:16				
		20:17-21:2				
		21:12-22:24; 23:2-15				
		23:16-24:18				
		24:23-25:17				
		26:16-26:22				
		27:13-28:19; 29:22-30:10; 30:12-17	602 as to 30:9-17			
		30:18-32:11				
		39:1-13				
		40:5-41:5				
		43:5-9				
		43:14-45:5				
		47:22-49:3				
		57:18-58:3				
		57:24-58:6				

Witness	Date	Kodak's Designated Testimony	Philips' Objections	Philips' Counter-Designations	Kodak's Objections	Kodak's Rebuttal Designations
Nier cont.		58:9-16; 58:19-60:7		58:4-8		
		60:18-24; 61:2	802, 602 as to 60:22-61:2			
		61:3-62:15				
		62:17-63:1				
		63:10-64:21				
		65:3-66:3				
		66:16-67:9				
		67:10-14; 67:17-25	602 as to 67:10-25			
		68:2-5; 68:9-14				
		68:15-23				
		69:19-70:4				
		70:9-18; 70:20-71:2				
		71:3-72:25				
		74:7-11; 74:14-25	802			
		75:2-18				
		76:7-12				
		94:20-25; 95:4-13				
		111:14-112:17				
Richards, Norman	9/27/07	5:23-6:15				
		9:13-10:6				
		11:20-13:2				
		13:7-14:17				
		18:19-19:15				
		19:16-20:5				
		20:12-21:1				
		21:11-23:6				
		23:11-23; 23:25-24:12				
		24:23-25:7		24:20-22		
		25:11-19		25:23-25		
		26:5-8				
		26:13-17; 26:19-27:10				

Witness	Date	Kodak's Designated Testimony	Philips' Objections	Philips' Counter-Designations	Kodak's Objections	Kodak's Rebuttal Designations
Richards cont.		28:3-22				
		29:17-30:19				
		30:24-31:25				
		32:16-34:16		34:17-35:2		
		35:3-11				
		35:12-36:14				
		37:20-22		37:23-38:10		
		38:11-40:1				
		40:4-8; 40:10-13				
		42:3-43:25; 44:3-23				
		47:1-2				
		47:13-16		47:8-12; 47:22-25		47:3-7; 47:17-21
		49:16-23				
		51:18-52:2		52:3-4; 52:6-15		51:3-4
		55:9-18				
		57:1-58:19		58:20-23; 58:25-59:2		
		61:13-16				
		61:25-62:24				
		63:4-64:12				
		64:20-65:9				
		65:23-66:25				
		67:3-5				
		67:12-68:11				
		68:16-69:2		69:4		
		69:5-12		69:13-20		
Schylander, Erik	10/2/2007	6:2-11				
		6:17-22				
		10:8-15				
		12:19-13:21		11:4-12:18		
		18:2-19:12				
		34:19-35:5				
		54:21-55:8				
		61:7-63:5				
		63:6-64:13				
		66:15-67:2		65:16-18; 65:22-66:6		

Witness	Date	Kodak's Designated Testimony	Philips' Objections	Philips' Counter-Designations	Kodak's Objections	Kodak's Rebuttal Designations
Schylander cont.		91:20-92:3				
		93:7-96:13				
		97:1-16				
		98:15-99:8; 99:11-101:14				
		103:6-105:6				
		106:8-107:10				
		107:11-108:21				
		109:2-110:5; 110:9-14; 110:18-21				
		110:22-112:15				
		117:4-5; 117:8-15				
		118:3-5; 118:9-11				
		118:17-119:7; 120:1-14		119:16-20		119:21-22
		120:21-121:8				
		121:18-122:2				
		122:15-19				
Sebestyen, Istvan	9/21/07	5:12-17				
		6:11-16				
		7:15-9:19				
		10:7-13				
		10:22-11:19				
		12:1-13:4				
		13:18-15:3				
		15:5-16:12				
		17:16-18:23				
		19:2-6				
		20:8-22:13				
		22:16-24:6				
		24:14-22				
		24:25-26:1				
		33:15-34:3				
		36:23-37:5				
		37:8-18				
		38:19-21				
		38:23-39:19				
		40:13-14				

Witness	Date	Kodak's Designated Testimony	Philips' Objections	Philips' Counter-Designations	Kodak's Objections	Kodak's Rebuttal Designations
Sebestyen cont.		40:19-41:12				
		41:21-43:25				
		44:12-45:16	602			
		45:20-46:8				
		46:15-17				
		46:21-47:1	802			
		47:12-15				
		48:4-49:7	802			
		49:11-24	802 as to 49:11-21			
		50:1-25	802 as to 50:10-16			
		51:8-53:22				
		54:14-16				
		55:9-56:12				
		57:10-13				
		60:6-8				
		60:11-17	602			
		73:23-24				
		74:1-10				
		74:12-75:5	802			
		78:11-13				
		79:8-12				
		80:3-25				
		81:9-21				
		81:23-24				
		83:3-6				
		83:22-84:6				
		84:19-22				
		85:2-86:2				
		86:13-14				
		86:16-24				
		87:2-22				
		88:2-9				
		88:21-89:20				
		89:24-90:8				
		91:21-22				
		92:10-93:25				
		95:5-17				
		96:8-97:5				
		97:9-10				
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		5:8-11	802, 604 - Hague Convention	*		
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		45:25-47:21	802, 604 - Hague Convention	*		
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		51:10-18	802, 604 - Hague Convention	*		
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		60:19-61:15	802, 604 - Hague Convention	*		
		62:1-14	802, 604 - Hague Convention	*		
		63:14-16	802, 604 - Hague Convention	*		
		63:19-64:2	802, 604 - Hague Convention	*		
		64:14-65:1	802, 604 - Hague Convention	*		
		65:5-14	802, 604 - Hague Convention	*		
		65:18-25	802, 604 - Hague Convention	*		
		66:1-10	802, 604 - Hague Convention	*		
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		66:25-67:4	802, 604 - Hague	*		

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		154:22-155:10				
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		379:9-21		380:2-14		
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* Preserves right to designate testimony if Kodak's designations found admissable.

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EXHIBIT G

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

U.S. PHILIPS CORPORATION, Plaintiff, v. EASTMAN KODAK COMPANY, Defendant.	Civil Action No. 06-251 (GMS)

EXHIBIT G:
ITEMIZED STATEMENT OF SPECIAL DAMAGES

I. PHILIPS' STATEMENT

Philips asserts that Kodak's infringement has been, and continues to be, willful. As such, Philips seeks enhanced damages. Philips has also requested a finding that this is an exceptional case and is seeking an award of its attorneys' fees and costs. Philips further requests an award of pre-judgment interest.

II. KODAK'S STATEMENT

Kodak asserts counterclaims based on fraud, negligent misrepresentation and deceptive trade practices under Delaware state law. As such, Kodak seeks compensatory damages in addition to punitive damages in connection with its fraud and negligent misrepresentation claims. Kodak also seeks treble damages in connection with its deceptive trade practices claim. Kodak requests a finding that this is an exceptional case and seeks an award of its attorney's fees and costs pursuant to 35 U.S.C. § 285. Kodak further requests an award of pre-judgment interest.

EXHIBIT H

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

U.S. PHILIPS CORPORATION, Plaintiff, v. EASTMAN KODAK COMPANY, Defendant.	Civil Action No. 06-251 (GMS)

EXHIBIT H:
JOINT STATEMENT OF WAIVERS OF CLAIMS AND DEFENSES

I. PHILIPS' STATEMENT

Philips has not abandoned or waived any of its claims or defenses.

II. KODAK'S STATEMENT

Kodak waives the following defenses:

- First Defense (Failure to State a Claim)
- Sixth Defense (Patent Exhaustion)
- Tenth Defense (Lack of Standing)

EXHIBIT I1

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

U.S. PHILIPS CORPORATION, Plaintiff, v. EASTMAN KODAK COMPANY, Defendant.	Civil Action No. 06-251 (GMS)

EXHIBIT I1:
TRIAL BRIEF OF PLAINTIFF U.S. PHILIPS CORPORATION

Plaintiff U.S. Philips Corporation ("Philips") submits its trial brief as of March 3, 2008. Philips reserves the right to submit additions and revisions to its trial brief after meeting and conferring with defendant Eastman Kodak Company ("Kodak") on outstanding trial management issues, after reviewing defendant's trial brief, and after receiving the Court's rulings on the parties' respective motions *in limine*.

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March 3, 2008

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I. NATURE OF THE CASE

This case is about the invention forming the core of the most widely known and practiced technique for saving digital images, such as photos. Philips' patented technique is part of the JPEG standard and is used to compress data into smaller files that take up less memory and transmit more quickly. The marketplace and two major standards organizations adopted this invention as the preferred method for coding still image data.

Dr. Peter Vogel, a scientist at a Philips' subsidiary, invented his "Two-Dimensional Variable Length Coding" ("2D-VLC") method in 1986 as a more effective way to compress data for digital images, including the still images produced by digital cameras. He claimed his invention in U.S. Patent No. 4,901,075, which is the patent-in-suit and claims priority from a set of patent applications filed in Germany beginning in September 1986. The patent expired on September 11, 2007.

Dr. Vogel based his 2D-VLC method on his insight that certain combinations of numbers used to code data for images occur more frequently than others—long runs of zeros were typically followed by smaller numbers, while short runs of zeros were typically followed by larger numbers. Employing his discovery, Dr. Vogel invented a variable length coding method in which two occurrences—runs of zeros and the immediately following number--are both coded together as one statistical event, i.e., Two-Dimensional Variable Length Coding.

In 1986, Dr. Vogel participated in a working group in Europe, referred to as the COST 211bis Simulation Subgroup, that sought to develop a coding system for picture phones and videoconferencing. Dr. Vogel presented his 2D-VLC method to the Subgroup. Philips supported inclusion of this technique in the H.261 and MPEG standards, which apply to video-conferencing and moving pictures, respectively, and the standards organizations included it.

Without a proposal by Philips and unknown to Philips at the time, Dr. Vogel's 2D-VLC

method also was included in a coding standard for the type of digital images produced by digital cameras and other still imaging products, such as image scanners. In 1986, groups from two international standards organization, ISO/IEC and CCITT, collaborated in a joint group (Joint Photographic Experts Group, i.e., "JPEG") to establish standards for the compression of these types of images. They considered at least 12 proposed methods and picked the one with the best quality. The winning method included an implementation of Dr. Vogel's 2D-VLC method.

The team that proposed this implementation to the JPEG group had been participating in a European project referred to as ESPRIT 563-PICA. People on this team may have learned about Dr. Vogel's 2D-VLC method because they also were in the COST 211bis Simulation Subgroup. But no one on the proposing team attributed the idea to Dr. Vogel.

Neither Dr. Vogel nor anyone else from Philips made any technology proposals to the JPEG group. Indeed, Philips' employees attended only a few early JPEG group meetings and did not know at the time that the winning proposal implemented Dr. Vogel's ideas.

In January 1988, the JPEG group effectively chose 2D-VLC as the encoding technique for what would become the core JPEG "Baseline" standard for compressing image data. Four years later in 1992, it was adopted by one of the two standards organizations (CCITT). Two years later in 1994, it was adopted by the other organization (ISO/IEC).

Since then, digital still cameras have universally implemented the JPEG Baseline method. For example, every Kodak digital camera that has been charged with infringement incorporates the 2D-VLC method set forth in the JPEG Baseline standard. The JPEG Baseline with 2D-VLC has been an overwhelming commercial success for coding multilevel still images, such as photos, in spite of attempts to promote other file formats. Kodak alone obtained over [redacted] in revenues from products and services sold in the U.S. that perform the patented 2D-

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VLC method from 2000 through the patent's expiration in September 2007. Other file formats for digital images have been available, but none have been able to replace the JPEG Baseline standard as the most popular format for digital still pictures.

Kodak, traditionally dominant in film cameras, adopted digital imaging more slowly that many of its camera competitors. While Kodak claims to have marketed one digital camera offering a JPEG standard option at least as early as 1992, substantial sales of its JPEG format digital still cameras began around 2000.

In December 2000, Philips brought its worldwide patent rights to the 2D-VLC method to Kodak's attention. Philips offered to license everyone in the industry, including Kodak, under reasonable terms and conditions. Kodak, however, continued to make and sell digital cameras and other imaging products and services that implement the patented method without paying for its use of Dr. Vogel's invention. Philips had to bring this lawsuit in April 2006 because Kodak refused to take a license, even though most of Kodak's competitors have taken licenses and paid for their use of the invention. Philips has received over REDACTED in revenue from its JPEG licensing program, demonstrating the importance of Dr. Vogel's invention.

After Philips offered to negotiate a license in December 2000, Kodak strung out the licensing negotiations. While taking its time in negotiations, Kodak continued to design and market JPEG products that used Philips' patented 2D-VLC method. Kodak greatly profited from its unsanctioned use of this important patented technology.

Philips' infringement case is straightforward in view of the JPEG Baseline standard, as is Philips' claim that Kodak willfully infringed. This Court's January 25, 2008 Order Construing the Terms of the '075 Patent rejected Kodak's position on 25 of 26 claim construction issues. The incorporation of the patented 2D-VLC method into the standards for JPEG,

videoconferencing, and MPEG and Philips' successful patent licensing program demonstrate the importance, acceptance, awareness, and applicability of Philips' 2D-VLC patented technology.

II. CONTESTED FACTS TO BE ESTABLISHED AT TRIAL

The contested facts Philips will establish at trial are set forth in Exhibit B, as well as in Exhibit J1 (Plaintiff Philips' Proposed Findings of Fact and Conclusions of Law) to the final Joint Proposed Pretrial Order.

III. PHILIPS' THEORY OF LIABILITY

A. Infringement

1. Claim Construction of the Asserted Claims

On January 25, 2008, the Court construed the claims of the '075 patent as a matter of law. The Court rejected Kodak's proposal for virtually all of the 26 claim interpretation issues on which Kodak took a position (see ¶¶ 1-19 and 21-26 of the Court's January 25, 2008 Order; the Court accepted parts of Philips' proposal in ¶ 22). While the Court accepted Kodak's proposed construction for the phrase "video signal," which appears only in the preamble of independent claim 3 (¶20 of January 25, 2008 Order), that construction has no bearing on independent claim 8, which does not contain any "video signal" limitation. As a result, almost all of Kodak's infringement defenses are without support in the claim language. Moreover, Philips asserts infringement of claim 3 by digital still cameras, for the reasons set forth in the Expert Report of Professor Bernd Girod Regarding Infringement.

2. Infringement of the Asserted Claims

The grounds for finding direct infringement by Kodak are detailed in the Expert Report of Professor Bernd Girod Regarding Infringement.

The claims Philips asserts—claims 3, 4, 7, 8, and 11—are method claims directed to 2D-VLC of digital images. Each limitation in the claims is met, either literally or under the doctrine

of equivalents, by the JPEG Baseline encoding method of the JPEG Standard.

Because each of Kodak's accused products and services conforms to the JPEG Baseline standard, proof of infringement is straightforward. The infringement issues are narrow because no dispute exists regarding how Kodak implements image encoding. *See Lucent Techs. v. Newbridge Networks Corp.*, 168 F. Supp. 2d 181, 223-24 (D. Del. 2001).

Kodak based its noninfringement positions principally on claim constructions that this Court rejected. If Kodak disputes infringement on these or other grounds, documentary evidence and fact and expert testimony will resolve these issues in Philips' favor.

3. Inducement and Contributory Infringement

Likewise, the grounds for finding indirect infringement by Kodak are detailed in the Expert Report of Professor Bernd Girod Regarding Infringement.

Philips will establish that Kodak induced infringement by providing aid, encouragement, or instructions to its suppliers, customers, end users, or others to use the accused Kodak products and services to perform JPEG Baseline encoding. Kodak provided that help with the knowledge and intent that others would directly infringe Philips' patent. 35 U.S.C. § 271(b); *DSU Medical Corp. v. JMS Co.*, 471 F.3d 1293 (Fed. Cir. 2006) (en banc); *Lucent*, 168 F. Supp. 2d 181.

Philips also will establish that Kodak contributed to infringement by making, having made, selling, offering for sale, or importing components that are not staple articles of commerce and that provide functionality that is a material part of the claimed invention. Kodak did so with knowledge that components of its products and services were especially made or adapted for use in infringing the '075 patent. 35 U.S.C. § 271(c); *Aro Mfg. Co. v. Convertible Top Replacement Co.*, 377 U.S. 476 (1964).

B. Willfulness

Philips will establish that Kodak acted in complete disregard of Philips' 2D-VLC patent

rights. Kodak knew about these patent rights and knew or should have known of the objectively high likelihood that its JPEG products and services would infringe. *In re Seagate Tech., LLC*, 497 F.3d 1360, 1371 (Fed. Cir. 2007).

By at least December 2000, Kodak learned that Philips had worldwide patent rights covering JPEG encoding technology. Kodak also learned that Philips was actively licensing the '075 patent and its foreign counterparts. Direct negotiations relating to the '075 patent began in 2002, but Kodak still refused to obtain any license when Philips filed suit. Meanwhile, Kodak developed, introduced, and sold over REDACTED of products and services in the U.S. from 2000 to patent expiration specifically designed to encode image data by practicing Philips' patented 2D-VLC method.

Philips will establish that, under the totality of the circumstances, Kodak engaged in willful infringement of the '075 patent, warranting a finding that this case is exceptional under 35 U.S.C. § 285 and an award of enhanced damages under 35 U.S.C. § 284. *Jurgens v. CBK Ltd.*, 80 F.3d 1566, 1570 (Fed. Cir. 1996).

IV. PHILIPS' THEORY OF DAMAGES

The grounds for awarding damages to Philips are set forth in detail in the Expert Report on Damages of Mark A. Peterson.

Philips is entitled to damages "adequate to compensate for the infringement, but in no event less than a reasonable royalty . . . ." 35 U.S.C. § 284. Philips seeks a reasonable royalty that, for most applications, would be the greater of REDACTED or REDACTED per infringing product. These rates correspond to rates Philips actually proposed in its original license offers to suppliers of digital still cameras. Licensing has been Philips' principal way of recovering its substantial investments in research and development. Instead of offering exclusive licenses or strategically using its patents to exclude competitors, Philips has made its 2D-VLC patent available at

reasonable rates.

Kodak may argue that it is only liable for damages based on rates below those originally proposed by Philips. But, unlike most of its competitors in the digital camera field, Kodak chose not to accept any of Philips' offers. Instead, Kodak forced Philips into litigation and thus should not be entitled to pay royalties at the same rates as licensees who entered agreements without litigating. *Panduit Corp. v. Stahlin Bros. Fibre Works,* 575 F.2d 1152, 1158 (6th Cir. 1978) ("[T]he infringer would have nothing to lose, and everything to gain if he could count on paying only the normal, routine royalty non-infringers might have paid."), *adopted, Stickle v. Heublein,* 716 F.2d 1550, 1563 (Fed. Cir. 1983).

Philips is entitled to damages beginning April 18, 2000 (six years prior to filing of the lawsuit) until the '075 patent expired on September 11, 2007. The marking provisions of 35 U.S.C. § 287(a) do not apply in this case, because Philips asserts only method claims and never asserted that apparatus claims 1, 2, or 12 cover any licensed products. *Hanson v. Alpine Valley Ski Area, Inc.*, 718 F.2d 1075, 1083 (Fed. Cir. 1983); *Devices for Medicine, Inc. v. Boehl*, 822 F.2d 1062, 1066 (Fed. Cir. 1987).

Philips will support its claim for damages with fact and expert testimony and documentary evidence directed toward the factors considered in calculating a reasonable royalty enumerated in *Georgia-Pacific Corp. v. United States Plywood Corp.*, 318 F. Supp. 1116, 1120 (S.D.N.Y. 1970), and the calculation of the amount of damages. If any doubts exist about the size of the royalty base of infringing JPEG products, and these doubts can be attributed to Kodak's failure to provide discovery or to keep adequate records, those doubts should be resolved in Philips' favor. *DSU Medical Corp.* 471 F.3d at 1309.

Philips also is entitled to receive prejudgment interest as part of its damages, and will

support its claim for interest with fact and expert testimony and documentary evidence. Philips also will seek enhancement of its damages under 35 U.S.C. § 284, due to Kodak's willful infringement. Finally, Philips will ask this Court to find this case exceptional under 35 U.S.C. § 285 and award Philips its attorneys' fees.

V. DEFENDANT'S AFFIRMATIVE DEFENSES AND COUNTERCLAIMS

A. Non-Infringement (2d Aff. Def.; 1st Cclm.)

Kodak infringes for the reasons discussed above.

B. Invalidity (3d Aff. Def.; 2d Cclm.)

Each claim in Philips' patent is presumed to be valid, and Kodak will be unable to rebut this presumption with clear and convincing evidence. 35 U.S.C. § 282; *Ortho Pharm. Corp. v. Smith*, 959 F.2d 936, 942 (Fed. Cir. 1992). Specifically, Kodak will be unable to establish, by clear and convincing evidence, that any asserted claim is invalid under 35 U.S.C. §§ 102, 103, or 112. *Graham v. John Deere Co.*, 383 U.S. 1 (1966); *Univ. of Rochester v. G.D. Searle & Co.*, 358 F.3d 916 (Fed. Cir. 2004); *Schering Corp. v. Geneva Pharms., Inc.*, 339 F.3d 1373 (Fed. Cir. 2003); *Bayer AG v. Schein Pharms., Inc.*, 301 F.3d 1306 (Fed. Cir. 2002); *Durel Corp. v. Osram Sylvania Inc.*, 256 F.3d 1298, 1306 (Fed. Cir. 2001).

Kodak has based its invalidity positions on incorrect claim constructions that the Court has rejected. For example, paragraphs 21-22 of the Court's January 25, 2008, Order confirm that phrases in the preamble of the asserted claims that call "for transmission at a reduced" bit rate/bandwidth are not claim limitations. As a result, Kodak cannot maintain that these terms render the claims indefinite, and Philips will move for summary judgment on this defense. As another example, Kodak cannot, in view of paragraphs 1-3 of the Order, show that all claim limitations, including "coefficients" and "non-zero coefficient," are found in any references that qualify as prior art. To the extent Kodak is permitted to challenge validity on these or other

grounds, documentary evidence and fact and expert testimony will resolve these issues in Philips' favor.

C. Defenses and Counterclaims Based on Development of JPEG Standard

Kodak asserts defenses and counterclaims based on incorrect allegations that Philips violated a supposed obligation to disclose the '075 patent to standards-setting organizations that developed and adopted the JPEG standard. In fact, Philips fully met its obligations to the organizations, as detailed in Plaintiff Philips' Proposed Findings of Fact and Conclusions of Law in Exhibit J1 to the final Joint Proposed Pretrial Order, and in the Rebuttal Expert Report Regarding Standards Issues by Dr. Timothy Schoechle.

Kodak asserts three false premises: (1) Philips was required to disclose its patent to the JPEG group; (2) by not disclosing, Philips led Kodak to believe that Philips had no patents covering the JPEG standard; and (3) had Philips disclosed its patent but not offered to license it for *free*, a different JPEG Baseline standard would have been adopted.

Kodak's first premise fails, because only those who proposed technology for the JPEG standard were required to disclose those patents they personally knew of that potentially covered their technology. Philips, however, never proposed any technology for the JPEG standard.

Moreover, no evidence exists that any Philips' employees received the JPEG group's requests for disclosure in February 1989 or August 1991; they attended only three of 24 JPEG group meetings and stopped attending after May 1988. They focused on other areas (MPEG and videoconferencing), where they proposed technologies for those standards and, thus, disclosed foreign patents corresponding to the '075 patent and provided the required commitment to provide licenses on reasonable and non-discriminatory ("RAND") terms. Philips would have done the same in the JPEG group if Philips had proposed technology for the JPEG standard.

Contrary to Kodak's arguments, attendance at some plenary sessions of the JPEG group's

parent committee created no duty to disclose the '075 patent. Nor did it put attendees on notice to disclose the '075 patent, since no technical details were discussed. Moreover, none of Philips' employees attending JPEG group sessions knew about the '075 patent application or foreign counterparts when they attended, and no evidence exists that those attending plenary sessions knew about the patent coverage of the JPEG standard when they attended.

Kodak's second premise fails, because JPEG meeting participants—including Kodak's employees—were warned that additional patents might exist beyond the disclosures, the published standards carried this same warning. Moreover, the requests for patent disclosures sought only the personal knowledge of individual participants, not a search of their employers' files. In addition, the obligation was not strictly observed, for no disclosures or RAND license commitments came from several proposers.

Kodak's third premise fails as well, because the JPEG group chose the technology for the JPEG Baseline in January 1988 solely on the ground that it was the best option evaluated, not because it was royalty-free. Moreover, *before* the JPEG group chose the encoding technique, the technique's proposer told the group that it would not offer a free license. Well *after* choosing the 2D-VLC technique, the JPEG group's chairman requested disclosures in 1989 and again in 1991. Moreover, its parent committee expressly instructed the JPEG group *not* to chose technology based on patents, if a license on RAND terms were offered. The JPEG group would have violated its parent's instructions if it had switched from the best option because it was not free. Moreover, the next best alternatives also were not free. And, even if Philips had brought the '075 patent to the JPEG group's attention in August 1991, the group would not have switched to a different technology, because it had invested much effort in the intervening time in refining and documenting the proposed standard, which was to be released for voting in a few months.

In addition, Kodak's willful infringement should bar its equitable defenses and counterclaim because Kodak has acted with unclean hands. *Keystone Driller Co. v. Gen. Excavator Co.*, 290 U.S. 240, 243-46 (1933); *Schockley v. Arcan, Inc.*, 248 F.3d 1349, 1361 (Fed. Cir. 2001). Finally, Kodak's state law claims of fraud, negligent misrepresentation, and deceptive trade practices fail to meet the required elements of proof and are barred by the statute of limitations, Del. Code Ann. tit. 10, § 8106, and Philips will move for summary judgment on its statute of limitations defense.

1. Equitable Estoppel (4th Aff. Def.; 3d Cclm.)

Kodak will not be able to establish estoppel by a preponderance of the evidence. Philips had no duty to disclose the '075 patent to the JPEG group because it proposed no technology for the JPEG standard. *See Rambus, Inc., v. Infineon Tech., AG*, 318 F.3d 1081, 1102 (Fed. Cir. 2003). Thus, Philips engaged in no misleading conduct that led Kodak reasonably to infer that Philips did not have or intend to enforce a patent covering the JPEG standard. Moreover, Kodak did not rely on the lack of such a disclosure in developing its digital camera business, and would not be materially prejudiced by the lack of such a disclosure if Philips is permitted to proceed with its infringement claim. *A.C. Aukerman Co. v. R.L. Chaides Constr. Co.*, 960 F.2d 1020, 1028, 1041-43 (Fed. Cir. 1992) (en banc); *Gasser Chair Co. v. Infanti Chair Mfg.*, 60 F.3d 770, 776 (Fed. Cir. 1995); *Ecolab, Inc., v. Envirochem, Inc.*, 264 F.3d 1358, 1372 (Fed. Cir. 2001).

2. Waiver (7th Aff. Def.)

Kodak will not be able to establish by clear and convincing evidence that Philips waived its right to assert the '075 patent against Kodak. No waiver would arise on equitable estoppel grounds, as discussed above. Moreover, Philips did not, with full knowledge of the material facts, intentionally relinquish its right to enforce the '075 patent or act so inconsistently with its right to enforce the '075 patent so as to induce a reasonable belief that it had relinquished that

right. *Qualcomm Inc. v. Broadcom Corp.*, No. 05-CV-1958-B, 2007 U.S. Dist. LEXIS 28211, at *25-26, 32-33 (S.D. Cal. Mar. 21, 2007).

3. Implied License (4th Cclm.)

Kodak will not be able to establish by a preponderance of the evidence that Philips engaged in any conduct exhibited to Kodak from which Kodak could properly infer that Philips consented to Kodak's use of the '075 patent. *De Forest Radio Tel. & Tel. Co. v. United States*, 273 U.S. 236, 241 (1927); *Wang Labs. v. Mitsubishi Elecs. Am.*, 103 F.3d 1571, 1580-81 (Fed. Cir. 1997). Moreover, no implied license would arise on equitable estoppel grounds, as discussed above.

4. Unclean Hands (8th Aff. Def.)

Kodak will not be able to establish by clear and convincing evidence that Philips had unclean hands. Philips complied with the standard-setting organizations' rules in connection with the JPEG standard, and did not engage in any unconscionable conduct, including any having an "immediate and necessary relation" to the relief that Philips seeks here. *Keystone Driller*, 290 U.S. at 245; *Aptix Corp. v. Quickturn Design Sys., Inc.*, 269 F.3d 1369, 1374, 1376 (Fed. Cir. 2001); *Honeywell Int'l, Inc. v. Universal Avionics Sys. Corp.*, 398 F. Supp. 2d 305, 310 (D. Del. 2005); *Rixon, Inc. v. Racal-Milgo, Inc.*, 551 F. Supp. 163, 171 (D. Del. 1982).

5. Fraud (6th Cclm.), Negligent Misrepresentation (7th Cclm.), and Deceptive Trade Practices, Del. Code Ann. tit. 6, § 2532 (5th Cclm.)

Kodak will not be able to establish by a preponderance of the evidence that Philips committed fraud. Kodak does not allege that Philips made any false representations of fact, but rather that Philips did not disclose the '075 patent to the JPEG group. Philips did not deliberately conceal material facts from the JPEG group, act with reckless indifference to the truth, or intend to induce Kodak to act. Kodak neither took any action in justifiable reliance on

the lack of a disclosure by Philips to the JPEG group, nor was damaged as a result of any supposed reliance. *See Stephenson v. Capano Dev., Inc.*, 462 A.2d 1069, 1074 (Del. 1983) (stating elements); *Czarnik v. Illumina, Inc.*, 437 F. Supp. 2d 252, 259 (D. Del. 2006) (stating elements); *Tracinda Corp. v. DaimlerChrysler AG*, 364 F. Supp. 2d 362, 389 (D. Del. 2005) (stating burden of proof).

Kodak will not be able to establish by a preponderance of the evidence that Philips made any negligent misrepresentation. Kodak alleges no affirmative misrepresentation, but rather that Philips did not disclose the '075 patent to the JPEG group. Philips, however, supplied no false information and exercised reasonable care in its dealings with the JPEG group. Moreover, Kodak could not justifiably rely on any information communicated by Philips to the JPEG group to conclude that Philips had no patent potentially applicable to the JPEG standard, and Kodak suffered no pecuniary loss as a result of any such communication. *H-M Wexford LLC v. Encorp, Inc.*, 832 A.2d 129, 147 n. 44 (Del. 2003) (stating elements).

Kodak will not be able to establish by a preponderance of the evidence that Philips violated Delaware's Deceptive Trade Practices Act. Del. Code Ann. tit. 6, § 2532; *Roberts v. Am. Warranty*, 514 A.2d 1132, 1134 (Del. Super. Ct. 1986). First, the law is a trademark and passing off statute and does not apply to conduct that Kodak alleges violated the statute—causing confusion or disparagement by bringing suit. Second, Philips' not disclosing the patent to the JPEG group or raising the patent with Kodak earlier did not cause any likelihood of misunderstanding as to the validity or enforceability of the '075 patent. Third, Philips did not disparage Kodak by bringing this suit. Fourth, Kodak does not face any prospect of being harmed by such conduct that would warrant an injunction. Del. Code Ann. tit. 6, § 2532(a).

Silence alone cannot support a claim for fraud, negligent misrepresentation, or a

deceptive trade practice without a duty to speak, and a standards-setting organization's policy that does not define clearly what, when, how, and to whom the members must disclose does not provide a firm basis for the necessary disclosure duty. *See Rambus v. Infineon*, 318 F.3d 1081, 1096, 1102 (Fed. Cir. 2003). Kodak will not be able to establish that Philips violated any disclosure duty. In addition, Kodak's claims that Philips damaged Kodak by filing its Complaint and pursuing this litigation are preempted by the federal patent law, because Philips has done so in good faith. *Hunter Douglas, Inc. v. Harmonic Design, Inc.*, 153 F.3d 1318, 1336-37 (Fed. Cir. 1998); *Moore N. Am., Inc. v. Poser Bus. Forms, Inc.*, Civ. A. No. 97-712-SLR, 2000 U.S. DIST. LEXIS 14651, at *22 (D. Del. Sept. 29, 2000). Moreover, Philips' actions are protected by the First Amendment because its claims are not objectively baseless and were not brought in an attempt to interfere directly with the business relationships of Kodak. *See Prof'l Real Estate Investors, Inc. v. Columbia Pictures Indus., Inc.*, 508 U.S. 49, 60-61 (1993); *Cheminor Drugs, Ltd. v. Ethyl Corp.*, 168 F.3d 119, 128-29 (3d Cir. 1999).

D. Laches (5th Aff. Def.)

Kodak will be unable to establish laches on a product-by-product basis by a preponderance of the evidence. The time that passed until Philips sued was reasonable and excusable, especially in view of Philips' notice to Kodak in 2000, the licensing negotiations between the parties from 2002-2006, Philips' licensing negotiations with numerous camera and camera-phone manufacturers beginning in 2000, Philips' suits against others, and the relatively small size of the digital still camera market throughout the 1990s. Also, Kodak did not suffer material prejudice attributable to Philips' not bringing suit until 2006, because Kodak had to utilize the JPEG Baseline technique to compete in the digital camera market. Kodak also was not deprived of any material, non-cumulative evidence that it would have relied upon. *See A.C. Aukerman Co.*, 960 F.3d at 1028. Moreover, if, as Kodak contends, it believed the '075 patent to

be invalid, not infringed, or unenforceable, it did not rely on any lack of statements or delay in bringing suit by Philips when deciding to participate in the huge market for digital imaging products. *Hemstreet v. Computer Entry Sys. Corp.*, 972 F.2d 1290, 1294 (Fed. Cir. 1992).

E. Prosecution History Estoppel (9th Aff. Def.)

Prosecution history estoppel has already been considered and rejected by the Court in its January 25, 2008 Claim Construction Order.

F. Patent Marking (11th Aff. Def.)

The marking and notice requirements of 35 U.S.C. § 287 do not apply in this case, because Philips asserts only method claims and never asserted that apparatus claims 1, 2, or 12 cover any licensed products. *Hanson*, 718 F.2d at 1083; *Devices for Medicine*, 822 F.2d at 1066.

G. Limitation on Damages (12th Aff. Def.)

Philips seeks damages for six years prior to suit, as permitted by 35 U.S.C. § 286.

VI. PHILIPS' ANTICIPATED MOTIONS FOR A DIRECTED VERDICT

Based on the legal theories presented herein and subject to the evidence presented at trial, Philips anticipates moving for a directed verdict (or judgment as a matter of law) that no reasonable jury could find:

1 Non-infringement (either literally or under the doctrine of equivalents) of the '075 patent;
2 That the '075 patent is invalid over alleged prior art under theories of anticipation or obviousness;
3 That the '075 patent is invalid under 35 U.S.C. § 112 as indefinite; or
4 That Philips is liable under Kodak's state law claims of fraud, negligent misrepresentation, or deceptive trade practices.

Philips reserves the right to move for a directed verdict (or JMOL) on additional issues or theories that Kodak advances at trial depending on the evidence or lack thereof.

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Dated: March 3, 2008
188749.1

EXHIBIT I2

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

U.S. PHILIPS CORPORATION, Plaintiff, v. EASTMAN KODAK COMPANY, Defendant.	)	Civil Action No. 06-00251-GMS

EXHIBIT I2:
TRIAL BRIEF OF DEFENDANT EASTMAN KODAK COMPANY

Defendant Eastman Kodak Company ("Kodak") submits its trial brief as of March 3, 2008. Kodak reserves the right to submit additions and revisions to its trial brief for any reason including without limitation after meeting and conferring with defendant Plaintiff U.S. Philips Corporation ("Philips") and after receiving the Court's rulings on the parties' respective motions *in limine*.

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I. NATURE OF THE CASE.

This lawsuit arises out of efforts by Philips to enforce a patent it now alleges covers the JPEG Standard for still image compression. Although Philips' effort fails because the patent is invalid and not infringed, Philips' infringement claims in this lawsuit suffer from an even more fundamental defect because Philips failed to disclose U.S. Patent No. 4,901,075 during the JPEG standardization process despite having a duty to do so. Philips' conduct renders the patent unenforceable and also constitutes fraud.

The JPEG Standard is an international standard that has played a key role in the rapid growth of the digital imaging industry over the past 15 years. Since its formal adoption in 1992, hundreds of manufacturers worldwide have implemented the JPEG Standard in their products. Although it is difficult to pinpoint the worldwide revenue for all products incorporating the JPEG Standard, it is in the many billions of dollars. The widespread success of the JPEG Standard is largely the result of the universal understanding that it was and is an "open" standard, unencumbered by patents and free from royalty demands.

Philips' present claim that the '075 patent covers the JPEG Standard is directly at odds with its many years of conduct to the contrary. Philips was a member and an active participant in the standard-setting organizations responsible for setting the JPEG Standard. JPEG and its parent organizations are governed by specific policies that required its participants to disclose patents that they believed were relevant to the developing standard. Despite these written policies, despite verbal and written requests to disclose related patents, and despite patent disclosures made by other participants, Philips never so much as hinted to the JPEG committees that the '075 patent might be relevant to JPEG. Philips' silence misled other JPEG participants,

including Kodak, into believing that Philips did not have any patents that might be relevant to the standard.

Had Philips disclosed its current position regarding its patents during the standard-setting process, JPEG could have chosen one of the readily available alternative techniques for its standard. Similarly, had Philips disclosed its patent interests pursuant to the JPEG policies and made the excessive royalty demands it is now making, companies and entire industries would not have incorporated the JPEG Standard into their products. Instead, for nearly a decade after the JPEG Standard was published, Philips remained silent regarding the '075 patent. During that decade, industries and consumers worldwide became locked into the standard. To this day, despite asserting the patent against Kodak and others in various district courts throughout the United States, Philips has never disclosed the '075 patent to the relevant JPEG standards committees.

The evidence in this case establishes that Philips was well-aware of the '075 patent's purported applicability to JPEG during the standardization process. Indeed, the '075 patent's inventor, Peter Vogel, testified during his deposition that he prepared handwritten notes on a draft version of the JPEG Standard dated October 1991—one year before the JPEG Standard was first published. Dr. Vogel's handwritten notes specifically identify the '075 patent as applicable to the JPEG Standard. Dr. Vogel also testified that he [redacted] **REDACTED** [redacted]. Dr. Vogel's handwritten notes and testimony establish that Philips, its employees, and its lawyers were all alerted to the '075 patent's purported applicability to the JPEG Standard. Nevertheless, Philips chose to remain silent both during standardization and for the decade following.

Philips' silence was contrary to the patent disclosure policies of the standards committees in which it participated and the expectations of other members of the JPEG standards committees. One of those members is Kodak, who also participated in the JPEG standardization process. As a pioneer in digital photography, Kodak had a significant interest in developing an international standard for still image compression. Like other members of the JPEG committees, Kodak relied on Philips' misleading silence during the JPEG standardization process and spent billions of dollars researching and developing products that implement the JPEG Standard, including digital cameras. Philips' attempted patent ambush in this lawsuit is unreasonable, unexcused, and has substantially harmed Kodak. Philips' conduct renders the '075 patent unenforceable and also entitles Kodak to damages.

II. CONTESTED FACTS TO BE ESTABLISHED AT TRIAL

The contested facts Kodak will establish at trial are set forth in Exhibit B.

III. KODAK'S DEFENSES AND COUNTERCLAIMS

A. Kodak Does Not Infringe the '075 Patent.

Kodak's noninfringement positions are set forth in Dr. Touradj Ebrahimi's expert report and deposition testimony.

A finding of infringement requires that every limitation of a claim be met, either literally or equivalently, by the accused device. *Warner-Jenkinson Co. v. Hilton Davis Chem. Co.*, 520 U.S. 17, 29 (1997). There can be no infringement if even one limitation of a claim or its equivalent is not present in the accused device. *Pennwalt Corp. v. Durand-Wayland, Inc.*, 833 F.2d 931, 935-36 (Fed. Cir. 1987) (en banc). Philips asserts that the accused products and services infringe claims 3, 4, 7, 8 and 11 of the '075 patent by virtue of encoding images using the JPEG Standard's baseline mode. As such, the parties agree it is appropriate to compare the

asserted claims as construed by the Court with the JPEG Standard itself. Accordingly, the JPEG Standard does not infringe the claims of the '075 patent for at least the following reasons:

- Claim 3 (and dependent claims 4 and 7) of the '075 patent contains the limitation "video signal," which the Court construed to mean "a sequence of values that represents sequential and interdependent image frames that when rapidly displayed are capable of depicting movement." Claim Construction Order at 6 (D.I. 158). The JPEG Standard is for still image and not video compression as clearly evidenced by its title—"*Digital compression of continuous-tone **still images***." The JPEG Standard plainly does not describe encoding a "video signal" as construed by the Court and there is no literal infringement. Furthermore, still image signals are not equivalent to video signals, and the "video signal" limitation was added during prosecution of the '075 patent to overcome a prior art rejection. As such, Philips is not entitled to any range of equivalents. *Festo Corp. v. Shoketsu Kinzoku Kogyo Kabushiki*, 535 U.S. 722, 723 (2002).

- All asserted claims of the '075 patent contain an "event" limitation, which the Court construed to mean "a run of zero coefficients and the value of the non-zero coefficient which immediately precedes or follows that run." Claim Construction Order at 3 (D.I. 158). The JPEG Standard does not derive the claimed event from the still image signals. Rather, JPEG derives two different symbols from the still image signal. The first symbol derived for encoding in JPEG is the run of zero coefficients and the category of the non-zero coefficient which follows the run, not the value of that coefficient as required by the Court's construction. The second symbol derived for encoding is the value of the non-zero coefficient which follows the run. Neither the first symbol nor the second symbol can be the claimed "event" as construed by the

Court. Accordingly, the JPEG Standard does not satisfy this limitation literally or under the doctrine of equivalents.

- Each asserted independent claim also contains the limitation "assigning a code word to represent said non-zero coefficient and said run length," which the Court construed to have its plain and ordinary meaning. Claim Construction Order at 2 (D.I. 158). The plain and ordinary meaning of assigning a code word to represent said non-zero coefficient and said run length involves assigning just one code word. In JPEG, the two symbols described above are assigned two different code words and, therefore, this limitation is not met literally or under the doctrine of equivalents.

- Dependent claims 4 and 7 contain the limitation "Huffman code word" which the Court construed to mean "a sequence of bits assigned to represent a particular event or events in accordance with a predefined set of rules with the following characteristics: (i) the code words may be of different lengths; (ii) no code word is a prefix of another code word; and (iii) the predefined set of rules strives to minimize the average code word length by exploiting the distribution of event probabilities." *Id.* If Philips takes the position that the two code words assigned to the two symbols encoded using the JPEG Standard are a single code word, that single code word is not a Huffman code under the Court's construction or its equivalent because in JPEG, code words for combinations of the same run length with different following non-zero coefficients can have the exact same length, even if the probabilities of that combination are different. Thus Kodak does not infringe either literally or under the doctrine of equivalents.

- Dependent claim 7 also contains the limitation "Huffman codeword is independent of the sign of that non-zero coefficient" which the Court construed to have its plain and ordinary meaning. *Id.* If Philips takes the position that the two code words assigned to the

two symbols encoded using the JPEG Standard constitute a single Huffman code word, that single code word is not a Huffman code word independent of the sign of the following non-zero coefficient or its equivalent under the plain and ordinary meaning of the phrase.

- Claim 11 requires that the run length of each section be below the predetermined length. The Court construed these limitations to have their plain and ordinary meaning. Claim Construction Order at 6 (D.I. 158). In the JPEG Standard, the run length of the run of zeroes followed by a non-zero coefficient is examined to see if it exceeds a length of 15. If the run length exceeds 15, a symbol is created with a run length of 15 followed by a non-zero coefficient of category 0. Thus, even if this symbol is the claimed "event" (and it is not), its run length is equal to the predetermined amount, not below the predetermined amount as claimed. Therefore, this claim is not infringed literally or under the doctrine of equivalents.

B. The '075 Patent Is Invalid.

Invalidity is an affirmative defense to a charge of infringement. *Festo Corp.* 535 U.S. 722. The analysis focuses on whether the properly construed claims of a patent comply with the requirements for patentability set forth in Title 35, United States Code and in particular the novelty requirements of 35 U.S.C. § 102 and the non-obviousness requirements of 35 U.S.C. § 103. In order to anticipate a claim under 35 U.S.C. § 102, each element of the claim must be found in a single prior art reference. *In re Paulsen*, 30 F.3d 1475 (Fed. Cir. 1994); *Connell v. Sears, Roebuck & Co.*, 722 F.2d 1542 (Fed. Cir. 1983). The claims of a patent may be found to be obvious if the differences between the subject matter sought to be patented and the prior art is such that the subject matter as a whole would have been obvious at the time of the invention to a person of ordinary skill in the art. *See* 35 U.S.C. § 103. If no single prior art reference discloses all of the elements of a claim, the claim may nevertheless be obvious under 35 U.S.C. § 103

based upon a combination of references. *Cable Electric Prods. v. Genmark, Inc.*, 770 F.2d 1015 (Fed. Cir. 1985).

Kodak will establish, by clear and convincing evidence, that the asserted claims of the '075 patent are invalid because several different single pieces of prior art anticipate those claims (with each element of the claims being found in the prior art) and because a number of different combinations of prior art render the asserted claims obvious. More specifically, one or more of the asserted claims of the '075 patent are anticipated by five different pieces of prior art: (1) the Widcom VTC-56 codec machine; (2) U.S. Patent No. 4,698,672 to Chen et al; (3) a "Block Coding Using a Two-Dimensional Run-Length Table" paper published to the COST 211bis Simulation Subgroup; (4) U.S. Patent No. 4,420,771 to Pirsch; and (5) the "Scene Adaptive Coder" article by Chen et al. (the "Chen Article").

In addition, the asserted claims are obvious over a number of different combinations of prior art, including: (1) U.S. Patent No. 3,984,833 to Van Voorhis in view of the Chen Article; (2) U.S. Patent No. 4,316,222 to Subramaniam in view of the Chen Article; (3) U.S. Patent No. 4,363,036 to Subramaniam in view of the Chen Article; (4) U.S. Patent No. 4,092,676 to Saran in view of the Chen Article; (5) U.S. Patent No. 4,136,363 to Saran in view of the Chen Article; (6) U.S. Patent No. 4,494,151 to Liao in view of the Chen Article; and (7) the "Upper Bound, Lower Bound and Run-Length Substitution Coding" article by Henry Liao in view of the Chen Article.

C. Kodak Has Not Willfully Infringed the '075 Patent.

A finding of willful infringement requires "at least a showing of objective recklessness." *In re Seagate Tech., LLC*, 497 F.3d 1360, 1371 (Fed. Cir. 2007). Accordingly, to establish willful infringement, Philips "must show by clear and convincing evidence" that Kodak "acted

despite an objectively high likelihood that its actions constituted infringement of a valid patent." *Id.*

The evidence establishes that Kodak's actions were not objectively reckless. Kodak and Philips were members of JPEG, and were present at meetings where the patent disclosure policies were discussed. At these meetings and in various documents distributed to members, it was announced on a number of occasions that members were conducting patent searches and that the baseline JPEG Standard was believed to be patent-free. And Philips never disclosed the '075 patent to JPEG members like Kodak. Moreover, a digital camera patent search conducted by Kodak in 1998 did not reveal the '075 patent.

Later in 2002 when Kodak first received notice of the '075 patent, Kodak reasonably determined that the patent did not cover JPEG, was invalid and would be unenforceable as a result of Philips standards-setting abuses. Courts in Korea, Germany and the Netherlands have agreed with Kodak's assessment, finding the '075 patent's foreign counterparts either not infringed by JPEG, invalid or unenforceable. Finally, Kodak filed a petition for reexamination of the '075 patent on February 7, 2008. If approved, the PTO's finding of a substantial new question of patentability is further evidence that Kodak's actions were not objectively reckless. Philips cannot satisfy its burden to demonstrate by clear and convincing evidence that Kodak has willfully infringed the '075 patent.

D. The '075 Patent Is Unenforceable Based on Equitable Estoppel, Waiver, and Implied License Resulting From Philips' Standard Setting Misconduct.

Kodak will establish that the '075 patent is unenforceable in this case based on the doctrine of equitable estoppel. *A.C. Aukerman Co. v. R.L. Chaides Const. Co.*, 960 F.2d 1020, 1042-1043 (Fed. Cir. 1992). Members and participants of the various JPEG related committees were required to disclose to their respective committees the existence of patents or patent

applications relevant to any subject matter under consideration. These obligations attached to technology proposers and committee participants alike and applied even if the patent holder discovered the existence of a relevant patent after standardization was complete. These obligations arose not only from the relevant standards bodies' published patent statements, but also from numerous verbal and written requests by committee leaders for patent disclosure during promulgation of the JPEG Standard. *Rambus Inc. v. Infineon Technologies AG*, 318 F.3d 1081, 1098-99 (Fed. Cir. 2003).

Further, the conduct and expectation of the relevant committee members gave rise to a duty to disclose patents and patent applications. Numerous members of the relevant standards committees, including Kodak, made patent statements in accordance with the relevant disclosure policies and in response to specific disclosure requests. These members either disclosed known patents and/or patent applications and offered to license the same on reasonable and non-discriminatory terms or stated that the member was not aware of any relevant patents. Philips did neither. Given the cooperative environment of the standards-setting process, there was a wide spread expectation on the part of committee members that other members would simply act in good faith and timely disclose relevant patents. *Id.* Philips' own conduct in disclosing its patent applications in the context of MPEG (i.e. video compression) standardization—which was governed by the same rules as JPEG standardization—demonstrates Philips' knowledge and recognition of the aforementioned policies and obligations.

Despite its membership and participation in the JPEG related committees, Philips ignored its duties and never disclosed the '075 patent. Had Philips disclosed its purported belief that the '075 patent was applicable, JPEG could have chosen one of the other available techniques for the standard. Instead, JPEG and Kodak relied on Philips' misleading conduct and chose a technique

they believed to be royalty free. Kodak further relied to its detriment when it subsequently made substantial investments in products that practiced JPEG. Philips continued to mislead JPEG and Kodak when it remained silent for over a decade following JPEG's official publication in 1992 and while the entire digital imaging industry became locked into the standard.

JPEG and Kodak were robbed of the opportunity to pick an unencumbered technique for the standard, which they would have done had Philips disclosed. Kodak has also been harmed because it is forced to address Philips' infringement allegations 15 years following adoption of the JPEG Standard, after it has invested hundreds of millions of dollars in compliant products. Finally, Kodak has expended significant resources in defending Philips' patent infringement claims. The harm to Kodak is severe.

E. Philips Has Committed Fraud.

Fraud shares the common elements of misleading silence, reliance and harm with the defense of equitable estoppel—but with the added elements of (1) knowledge (or reckless indifference to the truth) and (2) intent. *Stephenson v. Capano Development, Inc.*, 462 A.2d 1069, 1074 (Del. 1983). Philips' fraud is established by at least the following facts: (1) Philips was a member of the standard-setting bodies involved in setting the JPEG Standard and attended numerous JPEG related committee meetings; (2) Those standards-setting bodies had policies requiring members to disclose patents that a member believed to apply to a standard; (3) While the JPEG Standard was being set, Philips analyzed a draft version and concluded that the '075 patent purportedly applied to the standard; (4) Philips chose not to disclose the '075 patent to JPEG; (5) Based on Philips' misleading silence, Kodak reasonably concluded that the JPEG Standard was patent-free and implemented the standard into its products; and (6) Philips purposefully waited more than a decade until after Kodak had made a substantial investment in

products using the JPEG Standard before asserting its patent. *Id.* Kodak's damages include without limitation litigation expenses such as the significant costs associated with international discovery and expert witness fees. Kodak's damages also include potential infringement liability.

F. Negligent Misrepresentation.

Kodak will establish by a preponderance of the evidence that Philips made negligent misrepresentations regarding the '075 patent. Under Delaware law, a claim of negligent misrepresentation requires the same elements as fraud, yet a party need not demonstrate that the misrepresentation was made knowingly or recklessly. *In re Medical Wind Down Holdings III, Inc.*, 332 B.R. 98, 102 (Bkrtcy. D. Del. 2005). Through their participation in the JPEG committees and continued silence, beginning in 1987 and continuing on to this day, Philips misled their fellow participating members, including Kodak, into believing that they had no patents applicable to the JPEG Standard. Kodak justifiably relied on Philips' continued silence and chose to implement JPEG rather than pursue alternative, equally performing compression techniques. Kodak's damages include litigation expenses and potential infringement liability.

G. Deceptive Trace Practices — 6 Del. C. § 2532 et seq.

Kodak will establish that Philips violated Delaware's Deceptive Trade Practices Act by a preponderance of the evidence. 6 Del. C. § 2532. The Delaware Deceptive Trade Practices Act is not solely limited to trademark actions. The Act forbids disparagement of the business of another by false or misleading misrepresentations of fact. *EDIX Media Group, Inc. v. Mahani*, 2006 WL 3742595, 12 (Del.Ch. Dec. 12, 2006). In the course of its business, Philips has made false and misleading allegations of fact that Kodak's products infringe the '075 patent. Philips'

failure to disclose the '075 patent to the JPEG committee and failure to raise the patent with Kodak before 2002 created a substantial likelihood of misunderstanding as to the applicability of the '075 patent to practice the JPEG Standard and the products that implement it.

Through the pursuit of this litigation, Philips has disparaged Kodak's goods and services in alleging violation of the '075 patent. Kodak has been, and will be, harmed by Philips' deceptive trade practices and false assertions to the public that Kodak's products and services are infringing. Furthermore, Philips has acted in bad faith by maintaining continued silence to the JPEG committee by not disclosing the '075 patent and foreign counterparts and pursuing its patent ambush.

Finally, Kodak's claim of deceptive trade practices is not preempted by patent law. Philips' use of *Moore North America, Inc. v. Poser Business Forms, Inc.* is misplaced. Because Kodak has presented sufficient allegations of bad faith regarding Philips' failure to disclose the '075 patent, the state claim is not preempted. *Moore North America, Inc. v. Poser Business Forms, Inc.*, 2000 WL 1480992, 7 (D. Del. Sept. 29, 2000).

H. Laches.

Philips unreasonably and inexcusably delayed in filing suit from the time it knew or should have known of Kodak's alleged infringement. *Crown Packaging Technology, Inc. v. Rexam Beverage Can Co.*, 498 F. Supp. 2d 718, 726 (D. Del. 2007). In 1991, Kodak released the first digital professional camera, the Kodak DCS-100. The DCS-100 utilized JPEG image compression and was widely known and publicized. Publication of allegedly infringing activities starts the laches delay period. *Hall v. Aqua Queen Mfg., Inc.*, 93 F.3d 1548, 1552-1553 (Fed. Cir. 1996). In addition, files produced from Mr. Jan van der Meer, Philips' 30(b)(6) corporate designee, contained articles from the early 1990s describing Kodak's JPEG based products.

Despite Philips' belief in 1991 that the '075 patent applied to JPEG and Kodak's widespread publication and sale of JPEG Standard enabled cameras, Philips delayed approximately 15 years before filing suit against Kodak on April 18, 2006. Because Philips' delay was greater than 6 years, its delay is presumptively unreasonable, inexcusable and prejudicial. *Crown Packaging*, 498 F. Supp. 2d at 726. During Philips' delay, Kodak invested many years and hundreds of millions of dollars into the design, development, manufacture and marketing of products compliant with the JPEG Standard. By the time Philips filed suit, Kodak and its customers were deeply locked in, making it no longer feasible for Kodak to abandon the JPEG Standard for an alternative compression technique. Further, relevant documents related to JPEG standardization and other issues that existed in the 1990's are now difficult to locate and many witnesses' memories have faded. Therefore Philips' unreasonable delay has resulted in both economic and evidentiary prejudice to Kodak, and Philips should be precluded from any damages occurring before April 18, 2006, when it filed suit. *Wanlass v. General Elec. Co.*, 148 F.3d 1334, 1337 (Fed. Cir. 1998).

I. Unclean Hands.

Due to Philips' fraud and deceit in connection with JPEG standardization as set forth above, Philips has unclean hands in connection with its assertion of the '075 patent against Kodak. *Princess Cruises, Inc. v. U.S.*, 397 F.3d 1358, 1369 (Fed. Cir. 2005).

IV. KODAK'S THEORY OF DAMAGES

Kodak's positions regarding Philips' claimed damages based on infringement of the '075 patent are set forth in detail in the expert report of Robert H. Wallace.

Assuming liability, Philips would be entitled to a reasonable royalty to compensate for Kodak's alleged infringement. 35 U.S.C. § 284. A reasonable royalty for a patent is that which

would have been agreed to in a hypothetical negotiation taking place on the eve of first infringement. *Rite-Hite Corp. v. Kelley Co.*, Inc., 56 F.3d 1538, 1554 (Fed. Cir. 1995). Here, Kodak's first allegedly infringing product (i.e., JPEG compliant) was the DCS 100 which Kodak brought to market in May, 1991. Because the evidence establishes that JPEG was seeking a royalty free technique for its baseline standard, had Philips asserted its patent in 1991 and demanded anything other than nominal fees, JPEG would have chosen one of the available alternatives. Specifically, IBM's arithmetic coding technique delivered equivalent or better performance than ADCT and IBM had offered to make all related patents available for a one-time fee of $15,000. Therefore, a reasonable royalty to Philips should be no greater than $15,000.

Assuming, contrary to the evidence, that JPEG would have knowingly included a patented technique subject to undetermined royalty fees into the baseline standard, a reasonable royalty calculated under the factors set forth in *Georgia-Pacific Corp. v. U.S. Plywood-Champion Papers Inc.*, 446 F.2d 295 (2d Cir. 1971) *cert. denied*, 404 U.S. 870 (1971), would not exceed **REDACTED** per allegedly infringing product. This will be established at trial through expert and fact witness testimony and documentary evidence.

The evidence will further establish that Philips' royalty base figures are significantly exaggerated. A large percentage of the "intercompany sales" for which Philips seeks royalties involve products that were never manufactured, sold or imported into the United States. These products were shipped directly from manufacturing facilities abroad to Kodak's wholly owned foreign subsidiaries—transfers that do not constitute infringing sales. *See FAG (U.K.) Ltd. v. U.S.*, 24 F. Supp. 2d 297, 303 at n.5 (C.I.T. 1998); *see also Kearns v. Ford Motor Co.*, 726 F. Supp. 159, 163 (E.D. Mich. 1989).

In addition, Kodak has not willfully infringed Philips' patent and is therefore not liable for enhanced damages under 35 U.S.C. § 284. Nor is Philips entitled to attorney's fees and costs under 35 U.S.C. § 285. Indeed, to the contrary, Kodak is entitled to its attorneys' fees and costs based on Philips' standards setting misconduct.

Finally, Philips should be precluded from any pre-filing damages under the doctrine of laches. *A.C. Aukerman Co.*, 960 F.2d 1020. Philips is also barred from seeking any damages occurring prior to Philips providing notice to Kodak because of its failure to comply with the marking requirements of 35 U.S.C. § 287. And at the very least, any recovery by Philips is limited under 35 U.S.C. § 286 to any alleged infringement committed no more than 6 years prior to filing of the Complaint.

V. KODAK'S ANTICIPATED MOTIONS FOR JUDGMENT AS A MATTER OF LAW.

Based on the legal theories herein and subject to the evidence presented at trial, Philips anticipates moving for judgment as a matter of law regarding the following issues:

1. Noninfringement (either literally or under DOE) of at least claims 3, 4, 7 and 11;
2. Invalidity of each asserted claim under theories of anticipation or obviousness;
3. Unenforceability of the '075 patent based on Philips' standards-setting abuses;
4. Preclusion of pre filing damages on the grounds of laches;
5. Exclusion from the royalty base of any damages based on products not manufactured, sold or imported in the United States.

Kodak reserves its right to move for judgment as a matter of law on any other grounds as the evidence, or lack thereof, provides.

EXHIBIT I3

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

U.S. PHILIPS CORPORATION, Plaintiff, v. EASTMAN KODAK COMPANY, Defendant.	Civil Action No. 06-251 (GMS)

EXHIBIT I 3a:

PRELIMINARY JURY INSTRUCTIONS [PATENT]

Plaintiff and Counterclaim Defendant U.S. Philips Corporation ("Philips") and Defendant and Counterclaim Plaintiff Eastman Kodak Company ("Kodak") submit the following proposed Preliminary Jury Instructions and objections as of March 3, 2008. The parties reserve the right to submit modifications to these instructions and/or additional instructions on any pertinent issue.

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1. INTRODUCTION [AGREED]

Members of the jury: Now that you have been sworn, I am now going to give you some preliminary instructions to guide you in your participation in the trial.

These instructions will give you some general rules and guidance that might apply to any civil case. However, because this is a patent trial which will deal with subject matter that is not within the everyday experience of most of us, I will also give you some additional preliminary instructions regarding patents to assist you in discharging your duties as jurors.

Source: Preliminary Jury Instructions - Patent (GMS) Rev: 1/18/06.

2. THE PARTIES AND THEIR CONTENTIONS [DISPUTED]

[PHILIPS' INSTRUCTION]

Before I begin with those instructions, however, allow me to give you an overview of who the parties are and what each contends.

You may recall that during the process that led to your selection as jurors, I advised you that this is a civil action for patent infringement arising under the patent laws of the United States.

The parties in this case are the plaintiff, U.S. Philips Corporation, and the defendant, Eastman Kodak Company.

The dispute between the parties relates to the importation, manufacture, and sale of JPEG image encoding hardware and software products, including digital cameras, file scanners, document scanners, software, and scanning services. During the trial, the parties will offer testimony to familiarize you with this technology.

Philips asserts that it owns a United States Patent that it alleges Kodak has infringed, Patent No. 4,901,075. Because a patent number is so long, a patent is usually referred to by its last three digits. For example, Patent No. 4,901,075 is called simply "the '075 patent." Sometimes the patent will be referred to as the "Patent-In-Suit." Philips contends that Kodak has made, used, sold, and offered for sale image encoding products that infringe this patent. Philips contends that Kodak's infringement of the '075 patent has been willful. Philips seeks damages for Kodak's alleged infringement.

Philips does not contend that Kodak has infringed all of the claims of the patent. Instead, Philips asserts that only certain claims have been infringed. They may be called "asserted claims." Philips contends that some of Kodak's products have infringed the asserted claims. I,

and the attorneys and witnesses, may refer to these products as "accused products." You, of course, will determine whether or not each accused product has infringed the asserted claims of Philips' patent.

Persons or companies sued for allegedly infringing a patent can deny infringement. They can also defend a charge of infringement by proving the patent is invalid or unenforceable. In this case, Kodak denies that it has infringed Philips' patent and asserts what are called "affirmative defenses" to the charges of infringement. Kodak asserts defenses and counterclaims against Philips based on fraud, negligent misrepresentation, and deceptive trade practices. I will tell you more about infringement in a few minutes. I will instruct you as to defenses to a charge of infringement and possible damages resulting from a finding of infringement in my instructions to you at the close of the evidence.

Source: Preliminary Jury Instructions - Patent (GMS) Rev: 1/18/06

[KODAK'S OBJECTIONS]

Kodak objects on the grounds that Philips' proposed instruction fails to include or mention Kodak's affirmative defenses of equitable estoppel and laches. Although Kodak acknowledges these are equitable issues, given the substantial factual and evidentiary overlap with Kodak's state law counterclaims, Kodak believes a combined trial with all issues being presented before the jury for advisory verdicts would promote judicial economy. Kodak respectfully requests the opportunity to address this issue at the pre-trial conference.

Kodak objects to Philips' characterization of "JPEG image encoding hardware and software products" as prejudicially overemphasizing the JPEG functionality of Kodak's accused products. The accused products include digital cameras, digital scanners, complex medical imaging devices and software whose functionality goes far beyond being merely JPEG compliant. Kodak's proposed language fairly characterizes the accused products.

[KODAK'S INSTRUCTION]

Before I begin with those instructions, however, allow me to give you an overview of who the parties are and what each contends.

You may recall that during the process that led to your selection as jurors, I advised you that this is a civil action for patent infringement arising under the patent laws of the United States.

The parties in this case are the plaintiff and counterclaim defendant U.S. Philips Corporation, and the defendant and counterclaim plaintiff Eastman Kodak Company.

The dispute between the parties relates to the importation, manufacture, and sale of digital cameras, document scanners, software, and other products and services that are compliant with or utilize the JPEG Standard for digital image compression and storage. During the trial, the parties will offer testimony to familiarize you with this technology.

Philips asserts that it owns a United States Patent that it alleges Kodak has infringed, Patent No. 4,901,075. Because a patent number is so long, a patent is usually referred to by its last three digits. For example, Patent No. 4,901,075 is called simply "the '075 patent." Sometimes the patent will be referred to as the "Patent-In-Suit." Philips contends that Kodak has made, used, sold, and offered for sale image encoding products that infringe this patent and that such infringement has been willful. Philips seeks damages for Kodak's alleged infringement.

Philips does not contend that Kodak has infringed all of the claims of the patent. Instead, Philips asserts that only certain claims have been infringed. They may be called "asserted claims." Philips contends that some of Kodak's products have infringed the asserted claims. I, and the attorneys and witnesses, may refer to these products as "accused products." You, of course, will determine whether or not each accused product has infringed the asserted claims of Philips' patent.

Persons or companies sued for allegedly infringing a patent can deny infringement. They can also defend a charge of infringement by proving the patent is invalid or unenforceable. In this case, Kodak denies that it has infringed Philips' patent and asserts defenses to the charges of infringement. Specifically, Kodak asserts that the '075 patent is invalid and unenforceable against Kodak. Kodak also asserts defenses and counterclaims against Philips based on fraud, negligent misrepresentation, deceptive trade practices, equitable estoppel and laches.

I will tell you more about infringement in a few minutes. I will instruct you as to defenses to a charge of infringement and possible damages resulting from a finding of infringement in my instructions to you at the close of the evidence. I will also instruct you regarding Kodak's defenses and claims that Philips has committed standard setting misconduct.

Source: Preliminary Jury Instructions - Patent (GMS) Rev: 1/18/06.

[PHILIPS' OBJECTIONS]

Philips objects to the inclusion of equitable estoppel and laches, which are claims for the Court to decide. *See Schering Corp. v. Amgen Inc.*, 969 F. Supp. 258, 269 (D. Del. 1997) ("Laches and estoppel are equitable defenses, committed to the sound discretion of the trial court." (quoting *Hemstreet v. Computer Entry Sys. Corp.*, 972 F.2d 1290, 1292 (Fed. Cir. 1992) (*citing A.C. Aukerman Co. v. R.L. Chaides Construction Co.*, 960 F.2d 1020, 1028 (Fed.Cir. 1992))); *Cox v. Keystone Carbon Co.*, 894 F.2d 647, 649-50 (3d Cir. 1990) (explaining that claims for equitable relief do not give rise to a right to a jury trial); *Gibson v. Hartford Life and Accident Ins. Co.*, No. 2:06-CV-3814-LDD, 2007 WL 1892486, at *5 (E.D. Pa. June 29, 2007) (citing *Cox*, 894 F.2d at 649-50).

Philips also objects to the last line regarding "standard setting misconduct." It is a redundant characterization, slanted to prejudice Philips. Its substance is already covered by the "defenses to a charge of infringement and possible damages" sentence just before it, as well as

the sentence in the previous paragraph that states "Kodak denies that it has infringed Philips' patent and asserts defenses to the charges of infringement."

3. DUTIES OF THE JURY [AGREED]

So, let me begin with those general rules that will govern the discharge of your duties as jurors in this case.

It will be your duty to find from the evidence what the facts are. You and you alone will be the judges of the facts. You will then have to apply those facts to the law as I will give it to you both during these preliminary instructions and at the close of the evidence. You must follow that law whether you agree with it or not. In addition to instructing you about the law, at the close of the evidence, I will provide you with instructions as to what the claims of the patents mean. Again, of course, you are bound by your oath as jurors to follow these and all of the instructions that I give you, even if you personally disagree with them. All of the instructions are important, and you should consider them together as a whole.

Perform these duties fairly. Do not let any bias, sympathy, or prejudice that you may feel toward one side or the other influence your decision in any way. Also, do not let anything that I may say or do during the course of the trial influence you. Nothing that I may say or do is intended to indicate, or should be taken by you as indicating, what your verdict should be.

Source: Preliminary Jury Instructions - Patent (GMS) Rev: 1/18/06.

4. EVIDENCE [AGREED]

The evidence from which you will find the facts will consist of the testimony of witnesses (testimony of witnesses consists of the answers of the witnesses to questions posed by the attorneys or the court — you may not ask questions). Evidence will also consist of documents and other things received into the record as exhibits, and any facts that the lawyers agree to or stipulate to or that I may instruct you to find.

Certain things are not evidence and must not be considered by you. I will list them for you now:

1. Statements, arguments, and questions by lawyers are not evidence.
2. Objections to questions are not evidence. Lawyers have an obligation to their clients to make objections when they believe evidence being offered is improper under the rules of evidence. You should not be influenced by the objection or by the court's ruling on it. If the objection is sustained, ignore the question. If it is overruled, treat the answer like any other. If you are instructed that some item of evidence is received for a limited purpose only, you must follow that instruction.
3. Testimony that the court has excluded or told you to disregard is not evidence and must not be considered.
4. Anything you may have seen or heard outside the courtroom is not evidence and must be disregarded. You are to decide the case solely on the evidence presented here in the courtroom.

There are two kinds of evidence: direct and circumstantial. Direct evidence is direct proof of a fact, such as testimony of an eyewitness. Circumstantial evidence is proof of facts from which you may infer or conclude that other facts exist. As a general rule, the law makes no

distinction between these two types of evidence, but simply requires that you find facts from all the evidence in the case, whether direct or circumstantial or a combination of the two.

Source: Preliminary Jury Instructions - Patent (GMS) Rev: 1/18/06.

5. CREDIBILITY OF WITNESSES - WEIGHING CONFLICTING TESTIMONY [AGREED]

You are the sole judges of each witness's credibility. You should consider each witness's means of knowledge; strength of memory; opportunity to observe; how reasonable or unreasonable the testimony is; whether it is consistent or inconsistent; whether it has been contradicted; the witness's biases, prejudices, or interests; the witness's manner or demeanor on the witness stand; and all circumstances that, according to the evidence, could affect the credibility of the testimony.

If you find the testimony to be contradictory, you must try to reconcile it, if reasonably possible, so as to make one harmonious story of it all. But if you cannot do this, then it is your duty and privilege to believe the testimony that, in your judgment, is most believable and disregard any testimony that, in your judgment, is not believable. This instruction applies to the testimony of all witnesses, including expert witnesses.

Source: Preliminary Jury Instructions - Patent (GMS) Rev: 1/18/06.

6. BURDEN OF PROOF [DISPUTED]

[PHILIPS' INSTRUCTION]

As I have already told you, in this case Philips is the owner of a patent which it contends Kodak infringes. Philips has the burden of proving infringement by what is called a preponderance of the evidence. That means Philips has to produce evidence, which, considered in light of all the facts, leads you to believe that what the patent owner alleges is more likely true than not. To put it differently, if you were to put Philips' and Kodak's evidence on opposite sides of a scale, the evidence supporting Philips' allegations would have to make the scale tip somewhat on its side. If Philips fails to meet this burden, the verdict must be for Kodak. Philips must also prove its damages by a preponderance of the evidence. Kodak must prove its counterclaims or defenses of fraud, negligent misrepresentation, and deceptive trade practices by a preponderance of the evidence as well.

In this case, Kodak asserts that Philips' patent is invalid and unenforceable. A patent, however, is presumed to be valid and enforceable. Accordingly, the party challenging the patent has the burden of proving by clear and convincing evidence that the patent is invalid or unenforceable. Clear and convincing evidence is evidence that produces an abiding conviction that the truth of a factual contention is highly probable. Proof by clear and convincing evidence is thus a higher burden than proof by a preponderance of the evidence. Philips also contends that Kodak willfully infringed the patent-in-suit. Philips must prove willful infringement by clear and convincing evidence.

Those of you who have sat on criminal cases will have heard of proof beyond a reasonable doubt. That requirement does not apply to a civil case; therefore, you should put it out of your mind.

Source: Preliminary Jury Instructions - Patent (GMS) Rev: 1/18/06.

[KODAK'S OBJECTIONS]

Kodak objects on the grounds that Philips' proposed instruction fails to include or mention Kodak's affirmative defenses of equitable estoppel and laches. Although Kodak acknowledges these are equitable issues, given the substantial factual and evidentiary overlap with Kodak's state law counterclaims, Kodak believes a combined trial with all issues being presented before the jury for advisory verdicts would promote judicial economy. Kodak respectfully requests the opportunity to address this issue at the pre-trial conference.

[KODAK'S INSTRUCTION]

As I have already told you, in this case Philips is the owner of a patent which it contends Kodak infringes. Philips has the burden of proving infringement by what is called a preponderance of the evidence. That means Philips has to produce evidence, which, considered in light of all the facts, leads you to believe that what the patent owner alleges is more likely true than not. To put it differently, if you were to put Philips' and Kodak's evidence on opposite sides of a scale, the evidence supporting Philips' allegations would have to make the scale tip somewhat on its side. If Philips fails to meet this burden, the verdict must be for Kodak. Philips must also prove its damages by a preponderance of the evidence. Kodak must prove its counterclaims or defenses of equitable estoppel, fraud, negligent misrepresentation, deceptive trade practices, and laches by a preponderance of the evidence as well.

In this case, Kodak asserts that Philips' patent is invalid. A patent, however, is presumed to be valid. Accordingly, the party challenging the patent has the burden of proving by clear and convincing evidence that the patent is invalid. Clear and convincing evidence is evidence that produces an abiding conviction that the truth of a factual contention is highly probable. Proof by clear and convincing evidence is thus a higher burden than proof by a preponderance of the

evidence. Philips also contends that Kodak willfully infringed the patent-in-suit. Philips must prove willful infringement by clear and convincing evidence.

Those of you who have sat on criminal cases will have heard of proof beyond a reasonable doubt. That requirement does not apply to a civil case; therefore, you should put it out of your mind.

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[PHILIPS' OBJECTIONS]

Philips objects to the inclusion of equitable estoppel and laches, which are claims for the Court to decide. *See Schering Corp. v. Amgen Inc.*, 969 F. Supp. 258, 269 (D. Del. 1997) ("Laches and estoppel are equitable defenses, committed to the sound discretion of the trial court." (quoting *Hemstreet v. Computer Entry Sys. Corp.*, 972 F.2d 1290, 1292 (Fed. Cir. 1992) (*citing A.C. Aukerman Co. v. R.L. Chaides Construction Co.*, 960 F.2d 1020, 1028 (Fed.Cir. 1992))); *Cox v. Keystone Carbon Co.*, 894 F.2d 647, 649-50 (3d Cir. 1990) (explaining that claims for equitable relief do not give rise to a right to a jury trial); *Gibson v. Hartford Life and Accident Ins. Co.*, No. 2:06-CV-3814-LDD, 2007 WL 1892486, at *5 (E.D. Pa. June 29, 2007) (citing *Cox*, 894 F.2d at 649-50).

7. GENERAL GUIDANCE REGARDING PATENTS [AGREED]

I will now give you a general overview of what a patent is and how one is obtained.

Source: Preliminary Jury Instructions - Patent (GMS) Rev: 1/18/06.

7.1. CONSTITUTIONAL BASIS FOR PATENT GRANT [AGREED]

The United States Constitution, Article I, Section 8, grants the Congress of the United States the power to enact laws "to promote the progress of science and the useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries."

Source: Preliminary Jury Instructions - Patent (GMS) Rev: 1/18/06

7.2. EXCLUSIONARY RIGHT AND TERM OF A PATENT [AGREED]

The United States Patent and Trademark Office is responsible for reviewing patent applications and granting patents. Once the "Patent and Trademark Office" or "PTO" has issued a patent, the patent owner has the right to exclude others from making, using, selling, or offering for sale the invention throughout the United States for the length of the patent term. If the invention covered by the patent is a method, the patent law gives the patent owner the right to exclude others from using the method throughout the United States or making or selling throughout the United States any product made by the patented method anywhere in the world.

A person who, without the patent owner's authority, makes, uses, sells, or offers to sell a product or employs a method that is covered by one or more claims of a valid patent, infringes the patent. A person can also induce others to infringe a patent by suggesting to other persons or companies that they undertake acts that constitute infringement. This is called inducing infringement.

Source: Preliminary Jury Instructions - Patent (GMS) Rev: 1/18/06.

8. THE PARTS OF A PATENT [AGREED]

I will next briefly describe the parts of a patent and some of the procedures followed by those attempting to obtain patents. Many of the terms used by me in this description are contained in a "Glossary of Patent Terms," which I will give to you along with a copy of these preliminary instructions. Feel free to refer to the Glossary throughout the trial.

For an invention to be patentable, it must be new, useful, and, at the time the invention was made, must not have been obvious to a person having ordinary skill in the art to which the subject matter pertains.

Under the patent laws, the Patent and Trademark Office examines patent applications and issues patents. A person applying for a patent must include a number of items in his or her application, including: (1) a detailed description of the invention in terms sufficiently full, clear, concise, and exact to enable any person skilled in the art to which the invention pertains to be able to make and use the invention; (2) a disclosure of the best mode of carrying out the invention known to the inventor at the time of filing; and (3) one or more claims.

The application includes a written description of the invention called a "specification" and may include drawings that illustrate the invention. The specification concludes with one or more claims that particularly and distinctly define the subject matter that the inventor regards as his or her invention. When a patent application is received at the Patent and Trademark Office, it is assigned to an examiner, who examines the application, including the claims, to determine whether the application complies with the requirements of the U.S. patent laws. The examiner reviews the prior work of others in the form of voluminous files of patents and publications. This type of material is called "prior art." Prior art is generally technical information and knowledge that was known to the public either before the invention by the applicant or more than one year before the filing date of the application. Sometimes, in specific circumstances and

under specific conditions, technical information that was not known to the public can also be prior art. Documents found in the search of prior art are called "references." In conducting the search of prior art, the examiner notes in writing on the file the classes or subclasses of art searched. The compilation of the papers concerning the proceedings before the Patent and Trademark Office is called the "prosecution history," "file wrapper," or "file history." The PTO does not have its own laboratories or testing facilities.

The examiner may "reject" the application claims if he or she believes that they are applications for inventions that are not patentable in light of the prior art, or because the patent specification does not adequately describe the claimed inventions. The applicant may then amend the claims to respond to the examiner's rejections. If, after reviewing the prior art maintained at the PTO, the examiner concludes that the claims presented by the applicant define the applicant's claimed invention over the most relevant known prior art in a manner that is patentable and that the patent meets the other requirements for patentability, the application is granted as a U.S. patent.

Source: Preliminary Jury Instructions - Patent (GMS) Rev: 1/18/06

9. SUMMARY OF THE ISSUES [DISPUTED]

[PHILIPS' INSTRUCTION]

In this case, you must decide several things according to the instructions that I will give you at the end of the trial. Those instructions will repeat this summary and will provide more detail. One thing you will need not decide is the meaning of the patent claims. That is one of my jobs — to explain to you what the patent claims mean. By the way, the word "claims" is a term of art and I will instruct you on its meaning at trial's end. Meanwhile, you will find a definition in the glossary attached to these preliminary instructions. In essence, you must decide:

(1) whether Philips has proven by a preponderance of the evidence that Kodak infringed the asserted claims of the '075 patent;

(2) if you find that Kodak infringed the '075 patent, whether Philips has proven by clear and convincing evidence that Kodak's infringement was willful;

(3) whether the asserted claims of Philips' patent that have been infringed have been proven by Kodak by clear and convincing evidence to be invalid or unenforceable;

(4) if you find that Philips' patent, before it expired, was valid and infringed, whether Philips has proven its measure of damages for the infringement by a preponderance of the evidence;

(5) whether Kodak has proven by a preponderance of the evidence that Philips engaged in fraud, negligent misrepresentation, or deceptive trade practices.

Source: Adapted from Preliminary Jury Instructions - Patent (GMS) Rev: 1/18/06

[KODAK'S OBJECTIONS]

Kodak objects on the grounds that Philips' proposed instruction fails to include or mention Kodak's affirmative defenses of equitable estoppel and laches. Although Kodak

acknowledges these are equitable issues, given the substantial factual and evidentiary overlap with Kodak's state law counterclaims, Kodak believes a combined trial with all issues being presented before the jury for advisory verdicts would promote judicial economy. Kodak respectfully requests the opportunity to address this issue at the pre-trial conference.

Kodak further objects to Philips' proposed instruction to the extent it seeks to take the issue of damages relating to Kodak's state law counterclaims from the jury. The Seventh Amendment guarantees a right to a jury trial for civil causes of action based on the common law. U.S. Const. Amend. VII; *Benjamin v. Traffic Executive Ass'n Eastern Railroads* 869 F.2d 107, 114 (2d Cir. 1989). Fraud and negligent misrepresentation "are claims at law which the Seventh Amendment right to a jury trial attaches." *In re Tou Houa Thao,* 2006 WL 3716055 at *2 (Bkrtcy.W.D. Mo. 2006). And the Seventh Amendment applies to statutory actions such as those brought under Delaware's Deceptive Trade Practices Act. *See Granfinanciera, S.A. v. Nordberg,* 492 U.S. 33, 42 (1989). Kodak has a constitutional right to present its damages claims to the jury.

[KODAK'S INSTRUCTION]

In this case, you must decide several things according to the instructions that I will give you at the end of the trial. Those instructions will repeat this summary and will provide more detail. One thing you will need not decide is the meaning of the patent claims. That is one of my jobs — to explain to you what the patent claims mean. By the way, the word "claims" is a term of art and I will instruct you on its meaning at trial's end. Meanwhile, you will find a definition in the glossary attached to these preliminary instructions. In essence, you must decide:

1. whether Philips has proven by a preponderance of the evidence that Kodak infringed the asserted claims of the '075 patent;

2. whether the asserted claims of the '075 patent have been proven by Kodak by clear and convincing evidence to be invalid;

3. if you find that Philips' patent, before it expired, was valid and infringed, whether Philips has proven its measure of damages for the infringement by a preponderance of the evidence;

4. if you find that Kodak infringed the '075 patent, whether Philips has proven by clear and convincing evidence that Kodak's infringement was willful;

5. if you find Kodak liable, whether Kodak has proven by a preponderance of the evidence that pre filing damages should be excluded under the doctrine of laches;

6. whether Kodak has proven by a preponderance of the evidence that Philips engaged in fraud, negligent misrepresentation, or deceptive trade practices;

7. if you find that Philips engaged in fraud or negligent misrepresentation, whether Kodak has proven its measure of damages by a preponderance of the evidence;

8. whether Kodak has proven by a preponderance of the evidence that Philips' patent is unenforceable against Kodak due to equitable estoppel.

Source: Adapted from Preliminary Jury Instructions - Patent (GMS) Rev: 1/18/06.

[PHILIPS' OBJECTIONS]

Philips objects to the inclusion of equitable estoppel and laches, which are claims for the Court to decide. *See Schering Corp. v. Amgen Inc.*, 969 F. Supp. 258, 269 (D. Del. 1997) ("Laches and estoppel are equitable defenses, committed to the sound discretion of the trial court." (quoting *Hemstreet v. Computer Entry Sys. Corp.*, 972 F.2d 1290, 1292 (Fed. Cir. 1992) (*citing A.C. Aukerman Co. v. R.L. Chaides Construction Co.*, 960 F.2d 1020, 1028 (Fed.Cir. 1992))); *Cox v. Keystone Carbon Co.*, 894 F.2d 647, 649-50 (3d Cir. 1990) (explaining that claims for equitable relief do not give rise to a right to a jury trial); *Gibson v. Hartford Life and*

Accident Ins. Co., No. 2:06-CV-3814-LDD, 2007 WL 1892486, at *5 (E.D. Pa. June 29, 2007) (citing *Cox*, 894 F.2d at 649-50).

Philips also objects to paragraph 7, which asks the jury to decide damages for Kodak's fraud and negligent misrepresentation counterclaims. Kodak claims as damages for its state law claims: (1) its litigation expenses in defending Philips infringement suit; and (2) whatever damages it may be required to pay for its infringement of Philips' patent. For those two theories, the Court, not the jury, must determine the amount of damages, because Kodak will not be able to prove until after trial the amount of any adverse damage award for which it is liable or its litigation expenses. The amount of damages for which Kodak is liable may be affected by decisions the Court must make if the jury were to find that Kodak willfully infringed Philips' patent, or if the Court were to find in favor of Kodak on its equitable defenses of equitable estoppel and laches. Likewise, the litigation expenses (even if Kodak were entitled to claim them as damages for its fraud and negligent misrepresentation counterclaims, which it is not) will not be quantifiable until after trial. *See TruePosition Inc. v. Andrew Corp.*, 507 F. Supp. 2d 447, 465 (D. Del. 2007) (deferring alleged relief for fraud, based on possible infringement damages and attorneys fees, for the Court's consideration after trial); *Acierno v. Goldstein*, No. Civ. A. 20056-NC, 2005 WL 3111993, at *6 (Del. Ch. Nov. 16, 2005) ("Delaware law does not permit the fact finder to supply a damages figure based on 'speculation or conjecture' where the plaintiff has failed to meet its burden of proof on damages.") (citing *Henne v. Balick*, 146 A.2d 394, 396 (Del. 1950)).

10. CONDUCT OF THE JURY [AGREED]

Now, a few words about your conduct as jurors.

First, I instruct you that during the trial you are not to discuss the case with anyone or permit anyone to discuss it with you. Until you retire to the jury room at the end of the case to deliberate on your verdict, you simply are not to talk about this case. If any lawyer, party, or witness does not speak to you when you pass in the hall, ride the elevator, or the like, remember it is because they are not supposed to talk with you nor you with them. In this way, any unwarranted and unnecessary suspicion about your fairness can be avoided. If anyone should try to talk to you about the case, bring it to the court's attention promptly.

Second, do not read or listen to anything touching on this case in any way.

Third, do not try to do any research or make any investigation about the case on your own.

Finally, do not form any opinion until all the evidence is in. Keep an open mind until you start your deliberations at the end of the case.

During the trial, I will permit you to take notes. A word of caution is in order. There is always a tendency to attach undue importance to matters which one has written down. Some testimony which is considered unimportant at the time presented, and thus not written down, takes on greater importance later in the trial in light of all the evidence presented. Therefore, you are instructed that your notes are only a tool to aid your own individual memory and you should not compare your notes with other jurors in determining the content of any testimony or in evaluating the importance of any evidence. Your notes are not evidence, and are by no means a complete outline of the proceedings or a list of the highlights of the trial. Above all, your

memory should be your greatest asset when it comes time to deliberate and render a decision in this case.

So, if you do take notes, leave them in your seat at the end of the day, and my Deputy will collect them and return them to your seat the next day. And remember that they are only for your own personal use.

I will give you detailed instructions on the law at the end of the case, and those instructions will control your deliberations and decision.

Source: Preliminary Jury Instructions - Patent (GMS) Rev: 1/18/06.

11. COURSE OF THE TRIAL [AGREED]

This trial, like most jury trials, comes in seven stages or phases. We have already been through the first phase, which was to select you as jurors. The remaining stages are:

2. These preliminary instructions to you;

3. Opening statements which are intended to explain to you what each side intends to prove and are offered to help you follow the evidence. The lawyers are not required to make opening statements at this time or they may defer this opening until it is their turn to present evidence;

4. The presentation of the evidence, which will include live witnesses and may also include previously recorded testimony, as well as documents and things;

5. My final instructions on the law to you;

6. The closing arguments of the lawyers, which will be offered to help you make your determination; and, finally,

7. Your deliberations, where you will evaluate and discuss the evidence among yourselves and determine the outcome of the case.

Please keep in mind that evidence is often introduced somewhat piecemeal. So, as the evidence comes in, you as jurors need to keep an open mind.

We will begin shortly, but first I want to outline the anticipated schedule of the trial.

Source: Preliminary Jury Instructions - Patent (GMS) Rev: 1/18/06.

12. TRIAL SCHEDULE [AGREED]

Though you have heard me say this during the voir dire, I want to again outline the schedule I expect to maintain during the course of this trial.

This case is expected to take seven (7) days to try. We will normally begin the day at 9:00 A.M. promptly. We will go until 1:00 P.M. and, after a one-hour break for lunch, from 2:00 p.m. to 4:30 P.M. There will be a fifteen-minute break at 11:00 A.M. and another fifteen-minute break at 3:15 P.M. The only significant exception to this schedule may occur when the case is submitted to you for your deliberations. On that day, the proceedings might last beyond 5:00 P.M. We will post a copy of this schedule for your convenience in the jury room.

Source: Preliminary Jury Instructions - Patent (GMS) Rev: 1/18/06.

13. GLOSSARY OF PATENT TERMS [AGREED]

Applicants	The named inventors who are applying for the patent.
Assignment	Transfer of ownership rights in a patent or patent application from one person or company to another.
Claims	The part of a patent that defines the invention. These are found at the end of the patent specification in the form of numbered paragraphs.
Disclosure of Invention	The part of the patent specification that explains how the invention works and usually includes a drawing.
File Wrapper, File History or Prosecution History	The written record of proceedings in the United States Patent and Trademark Office ("Patent and Trademark Office" or "PTO"), including the original patent application and later rejections, responses to the rejections and other communications between the Patent and Trademark Office and the applicant.
Patent Application	The initial papers filed in the Patent and Trademark Office by an applicant. These typically include a specification, drawings, claims and the oath (Declaration) of the applicant.
Patent Examiners	Personnel employed by the Patent and Trademark Office having expertise in various technical areas who review (examine) patent applications to determine whether the claims of a patent application are patentable and whether the disclosure adequately describes the invention.
Prior Art	Any information that is used to describe public, technical knowledge prior to the invention by the applicant or more than a year prior to the filing of his/her application.
Prior Art References	Any item of prior art (publication, patent or product) used to determine patentability.
Specification	The part of the patent application or patent that describes the invention, and may include drawings. The specification does not define the invention, only the claims do.

Source: Preliminary Jury Instructions - Patent (GMS) Rev: 1/18/06.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

U.S. PHILIPS CORPORATION, Plaintiff, v. EASTMAN KODAK COMPANY, Defendant.	Civil Action No. 06-251 (GMS)

EXHIBIT I 3b:

FINAL JURY INSTRUCTIONS [PATENT]

Plaintiff and Counterclaim Defendant U.S. Philips Corporation ("Philips") and Defendant and Counterclaim Plaintiff Eastman Kodak Company ("Kodak") submit the following proposed final jury instructions and objections as of March 3, 2008. The parties reserve the right to submit modifications to these instructions and/or additional instructions on any pertinent issue.

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1. GENERAL INSTRUCTIONS

1.1 INTRODUCTION [AGREED]

Members of the jury, now it is time for me to instruct you about the law that you must follow in deciding this case.

Each of you has been provided a copy of these instructions. You may read along as I deliver them if you prefer, however, I would encourage you to focus your attention on me while the instructions are being read. You will be able to take your copies with you into your deliberations and refer to them at that time, if necessary.

I will start by explaining your duties and the general rules that apply in every civil case.

Then I will explain some rules that you must use in evaluating particular testimony and evidence.

Then I will explain the positions of the parties and the law you will apply in this case.

And last, I will explain the rules that you must follow during your deliberations in the jury room, and the possible verdicts that you may return.

Please listen very carefully to everything I say.

Source: Uniform Jury Instructions for Patent Cases in The United States District Court for the District of Delaware (March 1993) ("Uniform Instructions") § 1.1; *Johns Hopkins Univ. v. CellPro*, 894 F. Supp. 819, 829 (D. Del. 1995); Miscellaneous Jury Instructions (GMS) Rev: 1/18/06; *Telcordia Tech. Inc. v. Cisco Sys. Inc.*, 04-876-GMS (D.I. 343) § 1.1.

1.2 JURORS' DUTIES [AGREED]

Members of the Jury, it is important that you bear in mind the distinction between your duties and my duties. You have two main duties as jurors. The first one is to decide what the facts are from the evidence that you saw and heard here in court. You are the sole judges of the facts. It is your judgment, and your judgment alone, to determine what the facts are, and nothing that I have said or done during this trial was meant to influence your decision about the facts in any way.

Your second duty is to take the law that I give you and apply it to the facts. It is my job to instruct you about the law and about what the claims of the patent mean, and you are bound by the oath that you took at the beginning of the trial to follow the instructions that I give you, even if you personally disagree with them. This includes the instructions that I gave you before and during the trial, and these instructions. All the instructions are important, and you should consider them together as a whole.

Perform these duties fairly. Do not let any bias, sympathy or prejudice that you may feel toward one side or the other influence your decision in any way.

Source: Adapted from Uniform Instructions § 1.2; *CellPro*, 894 F. Supp. at 829; Miscellaneous Jury Instructions (GMS) Rev. 1/18/06; *Telcordia,* 04-876-GMS (D.I. 343) § 1.2.

1.3 BURDENS OF PROOF [DISPUTED]

[PHILIPS' INSTRUCTION]

This is a civil case in which the plaintiff, Philips, is charging the defendant, Kodak, with patent infringement. Philips alleges that Kodak has infringed the asserted claims of Philips' patent. Philips has the burden of proving patent infringement by a preponderance of the evidence. That means that Philips has to produce evidence which, when considered in light of all of the facts, leads you to believe that what Philips claims is more likely true than not. To put it differently, if you were to put Philips' and Kodak's evidence relating to infringement on the opposite sides of a scale, the evidence supporting Philips' claims would have to make the scales tip somewhat on Philips' side.

Philips further alleges that Kodak's infringement has been willful. Philips has the burden of proving that the Kodak's infringement was willful by clear and convincing evidence. Clear and convincing evidence is evidence that produces an abiding conviction that a factual contention is true. Proof by clear and convincing evidence is thus a higher burden than proof by a preponderance of the evidence.

In this case, Kodak is alleging that Philips' patent is invalid. A patent, however, is presumed to be valid. Accordingly, Kodak has the burden of proving that Philips' patent is invalid by clear and convincing evidence.

Kodak also contends that it had a license to practice the '075 patent for digital still imaging,and that Philips engaged in fraud, negligent misrepresentation, and deceptive trade practices, which Kodak has the burden of proving by a preponderance of the evidence.

Those of you who are familiar with criminal cases will have heard the term "proof beyond a reasonable doubt." That burden does not apply in a civil case and you should, therefore, put it out of your mind in considering whether or not the plaintiff or defendant has met

its burden of proof.

Source: Adapted from Uniform Instructions § 1.3; *CellPro*, 894 F. Supp. at 829; *Telcordia,* 04-876-GMS (D.I. 343) § 1.3.

[KODAK'S OBJECTION]

Kodak objects on the grounds that Philips' proposed instruction fails to include or mention Kodak's affirmative defenses of equitable estoppel and laches. Although Kodak acknowledges these are equitable issues, given the substantial factual and evidentiary overlap with Kodak's state law counterclaims, Kodak believes a combined trial with all issues being presented before the jury for advisory verdicts would promote judicial economy. Kodak respectfully requests the opportunity to address this issue at the pretrial conference.

[KODAK'S INSTRUCTION]

This is a civil case in which the plaintiff, Philips, is charging the defendant, Kodak, with patent infringement. Philips alleges that Kodak has infringed the asserted claims of the '075 patent. Philips has the burden of proving patent infringement by a preponderance of the evidence. That means that Philips has to produce evidence which, when considered in light of all of the facts, leads you to believe that what Philips claims is more likely true than not. To put it differently, if you were to put Philips' and Kodak's evidence relating to infringement on the opposite sides of a scale, the evidence supporting Philips' claims would have to make the scales tip somewhat on Philips' side.

Philips further alleges that Kodak's infringement has been willful. Philips has the burden of proving that Kodak's infringement was willful by clear and convincing evidence. Clear and convincing evidence is evidence that produces an abiding conviction that a factual contention is true. Proof by clear and convincing evidence is thus a higher burden than proof by a

preponderance of the evidence.

In this case, Kodak alleges that the '075 patent is invalid. A patent, however, is presumed to be valid. Accordingly, Kodak has the burden of proving that the '075 patent is invalid by clear and convincing evidence.

Kodak also contends Philips engaged in fraud, negligent misrepresentation, and deceptive trade practices. Kodak further contends that the '075 patent is unenforceable against Kodak based on equitable estoppel, and that Philips' damages are limited by the legal doctrine of laches. Kodak has the burden of proving these claims and defenses by a preponderance of the evidence.

Those of you who are familiar with criminal cases will have heard the term "proof beyond a reasonable doubt." That burden does not apply in a civil case and you should, therefore, put it out of your mind in considering whether or not the plaintiff or defendant has met its burden of proof.

Source: Adapted from Uniform Instructions § 1.3; *CellPro*, 894 F. Supp. at 829; *Telcordia*, 04-876-GMS (D.I. 343) § 1.3.

[PHILIPS' OBJECTION]

Philips objects to the inclusion of equitable estoppel and laches in the jury instructions, which are equitable issues for the Court to decide *See Schering Corp. v. Amgen Inc.*, 969 F. Supp. 258, 269 (D. Del. 1997) ("Laches and estoppel are equitable defenses, committed to the sound discretion of the trial court." (quoting *Hemstreet v. Computer Entry Sys. Corp.*, 972 F.2d 1290, 1292 (Fed. Cir. 1992) (*citing A.C. Aukerman Co. v. R.L. Chaides Construction Co.*, 960 F.2d 1020, 1028 (Fed.Cir. 1992))); *Cox v. Keystone Carbon Co.*, 894 F.2d 647, 649-50 (3d Cir. 1990) (explaining that claims for equitable relief do not give rise to a right to a jury trial); *Gibson v. Hartford Life and Accident Ins. Co.*, No. 2:06-CV-3814-LDD, 2007 WL 1892486, at *5 (E.D. Pa. June 29, 2007) (citing *Cox*, 894 F.2d at 649-50).

1.4 EVIDENCE DEFINED [AGREED]

You must make your decision based only on the evidence that you saw and heard here in court. Do not let rumors, suspicions, or anything else that you may have seen or heard outside of court influence your decision in any way.

The evidence in this case includes only what the witnesses said while they were testifying under oath, deposition transcript testimony that was read to you, the exhibits that I allowed into evidence, the stipulations that the lawyers agreed to, and the facts that I have judicially noticed. Certain charts, summaries, and graphics have been used to illustrate testimony from witnesses. These charts, summaries, and graphics are not themselves evidence, and are only as good as the underlying evidence supporting them. You should, therefore, give them only as much weight as you think the underlying evidence deserves.

Nothing else is evidence. The lawyers' statements and arguments are not evidence. Their questions and objections are not evidence. My legal rulings are not evidence. Any of my comments and questions are not evidence.

During the trial I may have not let you hear the answers to some of the questions that the lawyers asked. I also may have ruled that you could not see some of the exhibits that the lawyers wanted you to see. And sometimes I may have ordered you to disregard things that you saw or heard, or I struck things from the record. You must completely ignore all of these things. Do not even think about them. Do not speculate about what a witness might have said if he or she had been allowed to answer, or what an exhibit might have shown had I admitted it. These things are not evidence, and you are bound by your oath not to let them influence your decision in any way.

Make your decision based only on the evidence, as I have defined it here, and nothing else.

Source: Uniform Instructions § 1.4; *CellPro*, 894 F. Supp. at 830; *Telcordia,* 04-876-GMS (D.I. 343) § 1.4.

1.5 CONSIDERATION OF EVIDENCE [AGREED]

You should use your common sense in weighing the evidence. Consider it in light of your everyday experience with people and events, and give it whatever weight you believe it deserves. If your experience tells you that certain evidence reasonably leads to a conclusion, you are free to reach that conclusion.

Source: Miscellaneous Jury Instructions (GMS) Rev: 1/18/06; Uniform Instructions § 1.5; *CellPro*, 894 F. Supp. at 830; *Telcordia,* 04-876-GMS (D.I. 343) § 1.5.

1.6 DIRECT AND CIRCUMSTANTIAL EVIDENCE [AGREED]

Now, some of you may have heard the terms "direct evidence" and "circumstantial evidence."

Direct evidence is simply evidence like the testimony of an eyewitness which, if you believe it, directly proves a fact. If a witness testified that he saw it raining outside, and you believed him, that would be direct evidence that it was raining.

Circumstantial evidence is simply a chain of circumstances that indirectly proves a fact. If someone walked into the courtroom wearing a raincoat covered with drops of water and carrying a wet umbrella, that would be circumstantial evidence from which you could conclude that it was raining.

It is your job to decide how much weight to give the direct and circumstantial evidence. The law makes no distinction between the weight that you should give to either one, nor does it say that one is any better evidence than the other. You should consider all the evidence, both direct and circumstantial, and give it whatever weight you believe it deserves.

Source: Uniform Instructions § 1.6; *CellPro*, 894 F. Supp. at 830; Miscellaneous Jury Instructions (GMS) Rev: 1/18/06; *Telcordia,* 04-876-GMS (D.I. 343) § 1.6.

1.7 CREDIBILITY OF WITNESSES [AGREED]

You are the sole judges of each witness's credibility. You should consider each witness's means of knowledge; strength of memory; opportunity to observe; how reasonable or unreasonable the testimony is; whether it is consistent or inconsistent; whether it has been contradicted; the witness's biases, prejudices, or interests; the witness's manner or demeanor on the witness stand; and all circumstances that, according to the evidence, could affect the credibility of the testimony.

If you find the testimony to be contradictory, you must try to reconcile it, if reasonably possible, so as to make one harmonious story of it all. But if you cannot do this, then it is your duty and privilege to believe the testimony that, in your judgment, is most believable and disregard any testimony that, in your judgment, is not believable.

In determining the weight to give to the testimony of a witness, you should ask yourself whether there is evidence tending to prove that the witness testified falsely about some important fact, or whether there was evidence that at some other time the witness said or did something, or failed to say or do something, that was different from the testimony he or she gave at trial. You have the right to distrust such witness's testimony and you may reject all or some of the testimony of that witness or give it such credibility as you may think it deserves.

You should remember that a simple mistake by a witness does not necessarily mean that the witness was not telling the truth. People may tend to forget some things or remember other things inaccurately. If a witness has made a misstatement, you must consider whether it was simply an innocent lapse of memory or an intentional falsehood, and that may depend upon whether it concerns an important fact or an unimportant detail.

This instruction applies to all witnesses.

Source: Miscellaneous Jury Instructions (GMS) Rev: 1/18/06; *Telcordia,* 04-876-GMS (D.I. 343) § 1.7.

1.8 NUMBER OF WITNESSES [AGREED]

One more point about the witnesses. Sometimes jurors wonder if the number of witnesses who testified makes any difference.

Do not make any decisions based only on the number of witnesses who testified. What is more important is how believable the witnesses were, and how much weight you think their testimony deserves. Concentrate on that, not the numbers.

Source: Miscellaneous Jury Instructions (GMS) Rev: 1/18/06; Uniform Instructions § 1.8; *CellPro*, 894 F. Supp. at 830-31; *Telcordia,* 04-876-GMS (D.I. 343) § 1.8.

1.9 EXPERT TESTIMONY [AGREED]

Expert testimony is testimony from a person who has a special skill or knowledge in some science, profession, or business. This skill or knowledge is not common to the average person but has been acquired by the expert through special study or experience.

In weighing expert testimony, you may consider the expert's qualifications, the reasons for the expert's opinions, and the reliability of the information supporting the expert's opinions, as well as the factors I have previously mentioned for weighing testimony of any other witness. Expert testimony should receive whatever weight and credit you think appropriate, given all the other evidence in the case.

Source: Miscellaneous Jury Instructions (GMS) Rev: 1/18/06; *Telcordia,* 04-876-GMS (D.I. 343) § 1.9.

2. THE PARTIES' CONTENTIONS

2.1 THE PARTIES [AGREED]

The plaintiff and counterclaim defendant is U.S. Philips Corporation. U.S. Philips Corporation asserts that it owns United States Patent No. 4,901,075. The defendant and counterclaim plaintiff in this case is Eastman Kodak Company. For convenience, I will refer to the plaintiff and counterclaim defendant as Philips and the defendant and counterclaim plaintiff as Kodak. As I noted at the start of the trial, I will refer to the asserted patent by its last three numbers: the '075 patent.

Source: Adapted from Uniform Instructions § 2.1; *Telcordia,* 04-876-GMS (D.I. 343) § 2.1.

2.2 PHILIPS' CONTENTIONS [DISPUTED]

[PHILIPS' INSTRUCTION]

Philips contends that Kodak has infringed claims 3, 4, 7, 8, and 11 of Philips' '075 patent by making, using, selling and offering for sale image encoding products that fall within or perform methods falling within the scope of one or more of those claims, and by inducing and contributing to infringement by others.

Philips contends that Kodak's infringement of the '075 patent is willful.

Philips contends that it has been damaged by Kodak's infringement of the '075 patent, and that Philips is thus entitled to, among other things, an award of a reasonable royalty, as provided by statute.

Philips contends that none of the asserted claims of the '075 patent is invalid or unenforceable for any of the reasons alleged by Kodak.

Philips contends that Kodak's claims and defenses of negligent misrepresentation, fraud, and deceptive trade practices are not supported by the facts and should be rejected.

Source: Adapted from Uniform Instructions § 2.2; *Telcordia,* 04-876-GMS (D.I. 343) § 2.2.

[KODAK'S OBJECTIONS]

Kodak objects on the grounds that Philips' proposed instruction fails to include or mention Kodak's affirmative defenses of equitable estoppel and laches. Although Kodak acknowledges these are equitable issues, given the substantial factual and evidentiary overlap with Kodak's state law counterclaims, Kodak believes a combined trial with all issues being presented before the jury for advisory verdicts would promote judicial economy. Kodak respectfully requests the opportunity to address this issue at the pretrial conference.

[KODAK'S INSTRUCTION]

Philips contends that Kodak has infringed claims 3, 4, 7, 8, and 11 of Philips' '075 patent by making, using, selling and offering for sale image encoding products that fall within or perform methods falling within the scope of one or more of those claims, and by inducing and contributing to infringement by others.

Philips contends that Kodak's infringement of the '075 patent was willful.

Philips contends that it has been damaged by Kodak's infringement of the '075 patent, and that Philips is thus entitled to, among other things, an award of a reasonable royalty.

Philips contends that none of the asserted claims of the '075 patent is invalid or unenforceable for any of the reasons alleged by Kodak.

Philips contends that Kodak's claims and defenses of fraud, equitable estoppel, negligent misrepresentation, deceptive trade practices and laches are not supported by the facts and should be rejected.

Source: Adapted from Uniform Instructions § 2.2; *Telcordia,* 04-876-GMS (D.I. 343) § 2.2.

[PHILIPS' OBJECTIONS]

Philips objects to the inclusion of equitable estoppel and laches in the jury instructions, which are equitable issues for the Court to decide. *See Schering Corp. v. Amgen Inc.*, 969 F. Supp. 258, 269 (D. Del. 1997) ("Laches and estoppel are equitable defenses, committed to the sound discretion of the trial court." (quoting *Hemstreet v. Computer Entry Sys. Corp.*, 972 F.2d 1290, 1292 (Fed. Cir. 1992) (*citing A.C. Aukerman Co. v. R.L. Chaides Construction Co.*, 960 F.2d 1020, 1028 (Fed.Cir. 1992)))); *Cox v. Keystone Carbon Co.*, 894 F.2d 647, 649-50 (3d Cir. 1990) (explaining that claims for equitable relief do not give rise to a right to a jury trial); *Gibson*

v. Hartford Life and Accident Ins. Co., No. 2:06-CV-3814-LDD, 2007 WL 1892486, at *5 (E.D. Pa. June 29, 2007) (*citing Cox*, 894 F.2d at 649-50).

2.3 KODAK'S CONTENTIONS [DISPUTED]

[PHILIPS' INSTRUCTION]

Defendant Kodak contends that it does not infringe any of the asserted claims of the '075 patent.

Kodak contends that it has not willfully infringed any claim of the '075 patent.

Kodak contends that the Philips' patent is invalid in view of the prior art.

Kodak contends that Philips engaged in deceptive trade practices, fraud, and negligent misrepresentation.

Source: Adapted from Uniform Instructions § 2.3; *Telcordia,* 04-876-GMS (D.I. 343) § 2.3.

[KODAK'S OBJECTIONS]

Kodak objects on the grounds that Philips' proposed instruction fails to include or mention Kodak's claim for damages based on Kodak's state law counterclaims. The Seventh Amendment guarantees a right to a jury trial for civil causes of action based on the common law. U.S. Const. Amend. VII; *Benjamin v. Traffic Executive Ass'n Eastern Railroads* 869 F.2d 107, 114 (2d Cir. 1989). Fraud and negligent misrepresentation "are claims at law which the Seventh Amendment right to a jury trial attaches." *In re Tou Houa Thao,* 2006 WL 3716055 at *2 (Bkrtcy.W.D. Mo. 2006). And the Seventh Amendment applies to statutory actions such as those brought under Delaware's Deceptive Trade Practices Act. *See Granfinanciera, S.A. v. Nordberg,* 492 U.S. 33, 42 (1989). Kodak has a constitutional right to present its damages claims to the jury. Kodak has quantified those damages and Philips has not sought summary judgment on this issue. Therefore, Kodak is entitled to the instruction.

Kodak further objects on the grounds that Philips' proposed instruction fails to include or mention Kodak's affirmative defenses of equitable estoppel and laches. Although Kodak

acknowledges these are equitable issues, given the substantial factual and evidentiary overlap with Kodak's state law counterclaims, Kodak believes a combined trial with all issues being presented before the jury for advisory verdicts would promote judicial economy. Kodak respectfully requests the opportunity to address this issue at the pretrial conference.

[KODAK'S INSTRUCTION]

Kodak contends that it does not infringe any of the asserted claims of the '075 patent.

Kodak contends that the '075 patent is invalid in view of the prior art.

Kodak contends that Philips is not entitled to any damages for any alleged infringement.

Kodak contends that it has not willfully infringed any claim of the '075 patent.

Kodak contends that Philips engaged in fraud, negligent misrepresentation, and deceptive trade practices.

Kodak contends that it has been damaged by Philips' fraud and/or negligent misrepresentation and that Kodak is, without limitation, entitled to the costs associated with defending against Philips' claims.

Kodak contends that the '075 patent is unenforceable against Kodak based on equitable estoppel.

Kodak contends that any damages for which it may be found liable are limited to those occurring after Philips filed suit based on the doctrine of laches.

Source: Adapted from Uniform Instructions § 2.3; *Telcordia,* 04-876-GMS (D.I. 343) § 2.3.

[PHILIPS' OBJECTIONS]

Philips objects to the inclusion of equitable estoppel and laches in the jury instructions, which are equitable issues for the Court to decide. *See Schering Corp. v. Amgen Inc.*, 969 F. Supp. 258, 269 (D. Del. 1997) ("Laches and estoppel are equitable defenses, committed to the

sound discretion of the trial court." (quoting *Hemstreet v. Computer Entry Sys. Corp.*, 972 F.2d 1290, 1292 (Fed. Cir. 1992) (*citing A.C. Aukerman Co. v. R.L. Chaides Construction Co.*, 960 F.2d 1020, 1028 (Fed.Cir. 1992))); *Cox v. Keystone Carbon Co.*, 894 F.2d 647, 649-50 (3d Cir. 1990) (explaining that claims for equitable relief do not give rise to a right to a jury trial); *Gibson v. Hartford Life and Accident Ins. Co.*, No. 2:06-CV-3814-LDD, 2007 WL 1892486, at *5 (E.D. Pa. June 29, 2007) (*citing Cox*, 894 F.2d at 649-50).

Philips also objects to Kodak's proposed instruction that it is entitled to claim as damages under its fraud and negligent misrepresentation counterclaims the costs associated with defending against Philips' claims of infringement, which is contrary to the law. *See MBKS Co. Ltd. v. Reddy*, 924 A.2d 965, 977 (Del. Ch. 2007) (explaining that under the "American Rule" litigants generally bear their own costs of litigation); *Brice v. State Dept. of Correction*, 704 A.2d 1176, 1178 (Del. 1998) (same).

2.4 SUMMARY OF PATENT ISSUES [DISPUTED]

[PHILIPS' INSTRUCTION]

The following is a brief summary of the patent issues that you will be asked to decide:

1. Whether Philips has proven by a preponderance of the evidence that Kodak's manufacture, use, sale and/or offer for sale of the accused products, or the methods practiced by the products, infringe any of the asserted claims of Philips' '075 patent.

2. If you find that Kodak has infringed any of the asserted claims of Philips' '075 patent, whether Philips has established by clear and convincing evidence that Kodak's infringement was willful.

3. If you find that Kodak has infringed any of the asserted claims of Philips' '075 patent, what amount of damages due to the infringement Philips has proven by a preponderance of the evidence.

4. Whether Kodak has proven by clear and convincing evidence that any of the asserted claims of Philips' '075 patent are invalid.

5. Whether Kodak has proven by a preponderance of the evidence that Philips engaged in deceptive trade practices.

6. Whether Kodak has proven by a preponderance of the evidence that Philips engaged in fraud.

7. Whether Kodak has proven by a preponderance of the evidence that Philips engaged in negligent misrepresentation.

Source: Adapted from Uniform Instructions § 2.4; *CellPro*, 894 F. Supp. at 831; *Telcordia,* 04-876-GMS (D.I. 343) § 2.4.

[KODAK'S OBJECTIONS]

Kodak objects on the grounds that Philips' proposed instruction fails to include or mention Kodak's claim for damages based on Kodak's state law counterclaims. The Seventh Amendment guarantees a right to a jury trial for civil causes of action based on the common law. U.S. Const. Amend. VII; *Benjamin v. Traffic Executive Ass'n Eastern Railroads* 869 F.2d 107, 114 (2d Cir. 1989). Fraud and negligent misrepresentation "are claims at law which the Seventh Amendment right to a jury trial attaches." *In re Tou Houa Thao,* 2006 WL 3716055 at *2 (Bkrtcy.W.D. Mo. 2006). And the Seventh Amendment applies to statutory actions such as those brought under Delaware's Deceptive Trade Practices Act. *See Granfinanciera, S.A. v. Nordberg,* 492 U.S. 33, 42 (1989). Kodak has a constitutional right to present its damages claims to the jury. Kodak has quantified those damages and Philips has not sought summary judgment on this issue. Therefore, Kodak is entitled to the instruction.

Kodak further objects on the grounds that Philips' proposed instruction fails to include or mention Kodak's affirmative defenses of equitable estoppel and laches. Although Kodak acknowledges these are equitable issues, given the substantial factual and evidentiary overlap with Kodak's state law counterclaims, Kodak believes a combined trial with all issues being presented before the jury for advisory verdicts would promote judicial economy. Kodak respectfully requests the opportunity to address this issue at the pretrial conference.

[KODAK'S INSTRUCTION]

The following is a brief summary of the patent issues that you will be asked to decide:

1. Whether Philips has proven by a preponderance of the evidence that Kodak's manufacture, use, sale and/or offer for sale of the accused products, or the methods practiced by the products, infringe any of the asserted claims of Philips' '075 patent.

2. If you find that Kodak has infringed any of the asserted claims of Philips' '075 patent, whether Philips has established by clear and convincing evidence that Kodak's infringement was willful.

3. If you find that Kodak has infringed any of the asserted claims of Philips' '075 patent, what amount of damages due to the infringement Philips has proven by a preponderance of the evidence.

4. Whether Kodak has proven by clear and convincing evidence that any of the asserted claims of Philips' '075 patent are invalid.

5. Whether Kodak has proven by a preponderance of the evidence that Philips engaged in fraud.

6. Whether Kodak has proven by a preponderance of the evidence that Philips engaged in negligent misrepresentation.

7. If you find that Philips has engaged in fraud and/or negligent misrepresentation, what amount of damages has Kodak proven by a preponderance of the evidence.

8. Whether Kodak has proven by a preponderance of the evidence that Philips engaged in deceptive trade practices.

9. Whether the '075 patent is unenforceable against Kodak due to equitable estoppel.

10. Whether Kodak has proven by a preponderance of the evidence that Philips' damages, if any, should be limited to those occurring before Philips filed suit based on laches.

Source: Adapted from Uniform Instructions § 2.4; *CellPro*, 894 F. Supp. at 831; *Telcordia,* 04-876-GMS (D.I. 343) § 2.4.

[PHILIPS' OBJECTIONS]

Philips objects to the inclusion of equitable estoppel and laches in paragraphs 9 and 10, which are equitable issues for the Court to decide. *See Schering Corp. v. Amgen Inc.*, 969 F. Supp. 258, 269 (D. Del. 1997) ("Laches and estoppel are equitable defenses, committed to the sound discretion of the trial court." (quoting *Hemstreet v. Computer Entry Sys. Corp.*, 972 F.2d 1290, 1292 (Fed. Cir. 1992) (*citing A.C. Aukerman Co. v. R.L. Chaides Construction Co.*, 960 F.2d 1020, 1028 (Fed.Cir. 1992))); *Cox v. Keystone Carbon Co.*, 894 F.2d 647, 649-50 (3d Cir. 1990) (explaining that claims for equitable relief do not give rise to a right to a jury trial); *Gibson v. Hartford Life and Accident Ins. Co.*, No. 2:06-CV-3814-LDD, 2007 WL 1892486, at *5 (E.D. Pa. June 29, 2007) (citing *Cox*, 894 F.2d at 649-50).

Philips also objects to paragraph 7, which asks the jury to decide damages for Kodak's fraud and negligent misrepresentation counterclaims. Kodak claims as damages for its state law claims: (1) its litigation expenses in defending Philips infringement suit; and (2) whatever damages it may be required to pay for its infringement of Philips' patent. For those two theories, the Court, not the jury, must determine the amount of damages, because Kodak will not be able to prove until after trial the amount of any adverse damage award for which it is liable or its litigation expenses. The amount of damages for which Kodak is liable may be affected by decisions the Court must make if the jury were to find that Kodak willfully infringed Philips' patent, or if the Court were to find in favor of Kodak on its equitable defenses of equitable estoppel and laches. Likewise, the litigation expenses (even if Kodak were entitled to claim them as damages for its fraud and negligent misrepresentation counterclaims, which it is not) will not be quantifiable until after trial. *See TruePosition Inc. v. Andrew Corp.*, 507 F. Supp. 2d 447, 465 (D. Del. 2007) (deferring alleged relief for fraud, based on possible infringement

damages and attorneys fees, for the Court's consideration after trial); *Acierno v. Goldstein*, No. Civ. A. 20056-NC, 2005 WL 3111993, at *6 (Del. Ch. Nov. 16, 2005) ("Delaware law does not permit the fact finder to supply a damages figure based on 'speculation or conjecture' where the plaintiff has failed to meet its burden of proof on damages." (citing *Henne v. Balick*, 146 A.2d 394, 396 (Del. 1950))).

3. INFRINGEMENT

3.1 CLAIM INFRINGEMENT [AGREED]

Before you can decide whether Kodak has infringed the '075 patent, you will have to understand the patent "claims." Patent claims define, in words, the boundaries of what Philips claims as its invention. The patent claims are the numbered paragraphs at the end of the patent. The patent claims at issue here are claims 3, 4, 7, 8, and 11 of the '075 patent, beginning at column 7, line 41 of the patent. Only the claims of a patent can be infringed. Neither the specification, which is the written description of the invention, nor the drawings of a patent can be infringed. The specification and drawings merely describe certain embodiments of the invention. Limitations of those embodiments may not be incorporated into the claims. Each of the claims must be considered individually, and to show infringement of a patent, Philips need only establish that one claim of the patent has been infringed.

Source: Adapted from Uniform Instructions § 3.1; *CellPro*, 894 F. Supp. at 831-32; *Telcordia,* 04-876-GMS (D.I. 343) § 3.1.

3.2 CONSTRUCTION OF CLAIMS [AGREED]

It is the Court's duty under the law to define what the patent claims mean. I have made my determinations and I will now instruct you on the meaning of the terms the Court construed. You must use the meaning that I give you for each patent claim to make your decisions as to whether the claim is infringed or invalid. You must ignore any different definitions used by the witnesses or attorneys.

It may be helpful to refer to the copy of the '075 patent that you have been given as I discuss the claims at issue here. The claims of the '075 patent are toward the end, starting in column 7. The claims of the patent at issue are 3, 4, 7, 8, and 11.

1. The term "coefficient" is construed to mean "a multiplication factor that results from transform coding."

2. The term "zero coefficient" is construed to mean "a coefficient whose value is zero or approximately zero."

3. The term "non-zero coefficient" is construed to mean "a coefficient whose possible magnitudes proceed through the natural numbers without the zero."

4. The term "code word" is construed to mean "a sequence of bits assigned to represent a particular event or events in accordance with a predefined set of rules."

5. The term "assigning a code word to represent said run length and said non-zero coefficient" is construed to have its plain and ordinary meaning.

6. The term "Huffman codeword" is construed to mean "a sequence of bits assigned to represent a particular event or events in accordance with a predefined set of rules with the following characteristics: (i) the code words may be of different lengths; (ii) no code word is a prefix of another code word; and (iii) the predefined set of rules strives to minimize the average code word length by exploiting the distribution of event probabilities."

7. The term "Huffman codeword is independent of the sign of that nonzero coefficient" is construed to have its plain and ordinary meaning.

8. The term "the sign is coded by a separate bit" is construed to have its plain and ordinary meaning.

9. The term "event" is construed to mean "a run of zero coefficients and the value of the non-zero coefficient which immediately precedes or follows that run."

10. The term "run" is construed to mean "a sequence, of zero or more length, of successive identical particular values."

11. The term "run length" is construed to mean "the number, which can be zero, of identical particular values in a run."

12. The term "transform" is construed to mean "a mathematical operation which yields an alternative representation of a sequence or array of values."

13. The term "transforming" is construed to mean "performing a mathematical operation which yields an alternative representation of a sequence or array of values."

14. The term "a blockwise transform of pixels" is construed to mean "a mathematical operation which yields an alternative representation of a block of pixels."

15. The term "a sequence of coefficients which results after a blockwise transform of pixels of a video signal with subsequent quantization" is construed to have its plain and ordinary meaning.

16. The term "signal comprising a sequence of coefficients which results after a blockwise transform of pixels of a video signal" limits the claim in which it appears and is construed to have its plain and ordinary meaning.

17. The term "transforming said signal" is construed to mean "performing a

mathematical operation which yields an alternative representation of a sequence or array of values."

18. The term "transforming said signal into a sequence comprising zero coefficients occurring in runs and non-zero coefficients" is construed to mean "performing a mathematical operation on a sequence or array of values that yields an alternative representation comprising zero coefficients occurring in runs and non-zero coefficients."

19. The term "signal" is construed to mean "a sequence or array of values that represents information."

20. The term "video signal" is construed to mean "a sequence of values that represents sequential and interdependent image frames that when rapidly displayed are capable of depicting movement."

21. The term "for transmission at a reduced bit rate" is not a claim limitation and is construed to mean "for transmission with fewer bits per pixel."

22. The term "for transmission at a reduced bandwidth" is not a claim limitation and is construed to mean "for transmission at fewer bits per second."

23. The term "determining whether the run length of each event exceeds a predetermined run length" is construed to have its plain and ordinary meaning.

24. The term "splitting said respective event into a plurality of sections" is construed to have its plain and ordinary meaning.

25. The term "assigning a code word to each section" is construed to have its plain and ordinary meaning.

26. The term "coding" is construed to have its plain and ordinary meaning.

Source: Adapted from [Proposed] Uniform Jury Instructions for Patent Cases in The United States District Court for the District of Delaware (2004) ("2004 Uniform Instructions") § 3.3.2.

3.3 DEPENDENT AND INDEPENDENT CLAIMS [AGREED]

There are two different types of claims in the patent. The first type is called an independent claim. An independent claim does not refer to any other claim of the patent. An independent claim is read separately to determine its scope.

On the other hand, a dependant claim refers to at least one other claim in the patent and thus incorporates whatever that other claim says. Accordingly, to determine what a dependent claim covers, you must read both the dependent claim and the claim or claims to which it refers.

For example, Claim 3 is an independent claim. You know this because this claim mentions no other claim. Accordingly, the words of this claim are read by themselves in order to determine what the claim covers.

Claim 4, on the other hand, is a dependent claim. Accordingly, the words of Claims 3 and 4 must be read together in order to determine what the dependent Claim 4, covers.

Some claims of the patent-in-suit are broader than other claims.. You are not to imply the limitations or words of the narrower or dependent claim into a broad or independent claim if the broader claim does not include the same limitations.

Source: Adapted from Uniform Instructions § 3.3.

3.4 PATENT INFRINGEMENT—GENERALLY [AGREED]

A patent confers on its owner the right to exclude others from importing, making, using, selling or offering to sell the patented invention in the United States during the term of its patent. The patent owner may enforce this right by filing a lawsuit for patent infringement. Here, Philips, the patent owner, has sued Kodak and has alleged that certain of Kodak's products infringe claims 3, 4, 7, 8, and 11 of Philips' '075 patent.

Any person or business entity which imports, makes, uses, sells or offers to sell, without the patent owner's permission, any product, apparatus or method legally protected by at least one claim of a patent within the United States before the patent expires, infringes the patent. You must decide whether Philips has proven, by a preponderance of the evidence, that the defendant's products or methods infringe any of the asserted claims of the '075 patent.

There are three ways to infringe a patent. One may: (1) directly infringe a patent; (2) induce others to infringe a patent, in which case the inducer is liable for infringement as well as the direct infringer; or (3) contribute to the infringement of a patent by another by supplying a component specially designed for the patented invention, in which case both the direct infringer and the contributory infringer would be liable for patent infringement. Next, I will explain each type of infringement more completely.

Source: Adapted from Uniform Instructions § 3.4; *CellPro*, 894 F. Supp. at 834; *Telcordia,* 04-876-GMS (D.I. 343) § 3.3.

3.5 DIRECT INFRINGEMENT [AGREED]

Kodak is liable for directly infringing Philips' '075 patent if you find that Philips has proven, by a preponderance of the evidence, that Kodak has imported, made, used, sold, or offered to sell the invention defined in any one or more of claims 3, 4, 7, 8, and 11 of Philips' '075 patent.

A person may directly infringe a patent without knowledge that what he is doing is an infringement of the patent. He may directly infringe even though in good faith he believes that what he is doing is not an infringement of any patent.

Source: Adapted from Uniform Instructions § 3.5; *Telcordia,* 04-876-GMS (D.I. 343) § 3.4.

3.6 INDIRECT INFRINGEMENT [AGREED]

Philips asserts that Kodak indirectly infringes Philips' '075 patent. There are two kinds of indirect infringement: (1) inducement to infringe; and (2) contributory infringement. Both types of indirect infringement require that Philips prove that someone other than Kodak directly infringes the patent claim by making, using, selling, offering for sale or importing a Kodak product in a way that includes all of the requirements of the asserted claims. Kodak can be liable for indirect infringement only where its sale of a product results in a direct infringement. Therefore, Kodak can only be liable for acts of indirect infringement stemming from specific instances of direct infringement.

Source: Adapted from 2004 Uniform Instructions § 3.7; *Telcordia,* 04-876-GMS (D.I. 343) § 3.4.1.

3.6.1 INDUCING PATENT INFRINGEMENT [AGREED]

To be liable for inducement to infringe, the accused inducer must have known of the patent and actively encouraged or instructed another person how to use a product or perform a method in a manner that you find infringes the asserted patent claims. For example, an accused inducer may be liable for inducing infringement if it provided instructions or directions to perform the infringing act through labels, advertising or other materials.

Thus, to prove that Kodak induced infringement of the '075 patent, Philips must prove by a preponderance of the evidence each of the following four things with respect to that patent and that Defendant:

1. Kodak had knowledge of the patent;
2. Kodak actively encouraged or instructed another person how to use a product [or perform a process] in a way you, the jury, finds infringes the patent claims;
3. Kodak had an affirmative intent to cause the acts that constitute direct infringement and must have known or should have known that its action would cause direct infringement; and
4. The induced person directly infringed a claim of the patent.

All four of these things must be proven by either direct or circumstantial evidence before you may find that Kodak induced patent infringement.

Source: Adapted from 2004 Uniform Instructions § 3.8; *Telcordia*, 04-876-GMS (D.I. 343) § 3.5.

3.6.2 CONTRIBUTORY INFRINGEMENT [AGREED]

Kodak may also be infringing if they contribute to infringement by others. The elements of contributory infringement are:

1. sale or supply by Kodak;

2. of a material component of the patented invention, or a material component for use in practicing a patented process, that is not a staple article of commerce capable of substantial noninfringing use;

3. with knowledge of the patent and with knowledge that the component was especially made or adapted for use in infringement of such invention.

A "staple" article is a commodity or product with substantial uses apart from a patented invention. In determining whether the component supplied by Kodak is a "staple article of commerce," you should take into account the quality, quantity, and efficiency of Kodak's suggested uses for its products.

Kodak can be liable for contributory infringement if a patent claim is directly infringed by one of its customers. Proof of contributory infringement and the underlying direct infringement may be based on circumstantial evidence you have heard in this case, rather than direct evidence of infringement.

Source: Adapted from Uniform Instructions § 3.7; *Telcordia,* 04-876-GMS (D.I. 343) § 3.6.

3.7 LITERAL INFRINGEMENT [AGREED]

There are two ways in which a patent claim may be directly infringed. First, a claim may be literally infringed. Second, a claim may be infringed under what is called the "doctrine of equivalents," which I will address shortly.

A patent claim is literally infringed if the defendant's product or method includes each and every component, or limitation, of that claim. If Kodak's products or methods include each and every limitation of any claim of the '075 patent, then Kodak infringes that claim. You must conduct this comparison for each asserted claim of the patent. Infringement may not be avoided simply by adding features or components or method steps not required by the claims. If Kodak's products or methods do not meet any single limitation of any asserted claim of the '075 patent, then there is no literal infringement. You must determine literal infringement with respect to each patent claim, and each product and method, individually.

Source: Adapted from Uniform Instructions § 3.8; *Telcordia,* 04-876-GMS (D.I. 343) § 3.7.

3.8 DOCTRINE OF EQUIVALENTS [AGREED]

If you do not find literal infringement, you may consider infringement under the "doctrine of equivalents." You may find that Kodak's products and methods infringe a claim, even if not all of the components or method steps of the claim are literally present in Kodak's products. You may find infringement in such circumstances if the components or method steps of Kodak's products are equivalent to that claimed in at least one of the '075 patent claims. This is called the doctrine of equivalents.

Application of the doctrine of equivalents is the exception, however, not the rule. Patent claims must be clear enough so that the public has fair notice of what was patented. Notice permits other parties to avoid actions which infringe the patent and to design around the patent. On the other hand, the patent owner should not be deprived of the benefits of his patent by competitors who appropriate the essence of an invention while avoiding the literal language of the patent claims.

The test to determine equivalence under the doctrine of equivalents is whether Kodak's products and components and methods involve no substantial differences from the inventions claimed in the '075 patent. One way to determine if the differences are substantial is to determine whether each component of Kodak's products, or each method step in Kodak's methods, perform substantially the same function in substantially the same way to produce substantially the same result as the corresponding component or method step claimed in the '075 patent. However, the doctrine of equivalents is applied on a limitation by limitation basis. Therefore, if any limitation is substantially different, there is no infringement under the doctrine of equivalents.

It is not a requirement under doctrine of equivalents infringement that those of ordinary skill in the art knew of the equivalent when the patent application was filed or when the patent

issued. The question of whether Kodak's products and/or methods and components are equivalent to that defined in Philips' claims is to be determined as of the time of the alleged infringement.

Source: Adapted from Uniform Instructions § 3.9; *Dawn Equip. Co. v. Kentucky Farms, Inc.*, 140 F.3d 1009, 1015-16 (Fed. Cir. 1998).

3.9 INFRINGEMENT DESPITE DEFENDANT'S IMPROVEMENTS OR PATENTS ON IMPROVEMENTS [AGREED]

You may find that Kodak's accused products or methods represent an improvement over the invention defined in the '075 patent claims. You may have even seen and heard evidence that Kodak obtained patents on its products or methods. However, you are not to presume that this means that Kodak cannot infringe the '075 patent claims. As long as Kodak's accused products or methods include all of the elements of at least one of the '075 patent claims, or if Kodak's accused products or methods are found to be equivalent under the doctrine of equivalents, then the '075 patent claims are infringed by Kodak's products despite any improvements made or patents obtained by Kodak.

Source: Adapted from Uniform Instructions § 3.16; *Telcordia,* 04-876-GMS (D.I. 343) § 3.10.

3.10 WILLFUL INFRINGEMENT [DISPUTED]

[PHILIPS' INSTRUCTION]

Philips asserts that Kodak has willfully infringed Philips' '075 patent. If you find that Kodak's products infringe at least one of Philips' '075 patent claims, you must further decide whether or not Philips has proven by clear and convincing evidence that Kodak's infringement was willful.

Willful infringement is established where Philips has proven 1) that Kodak was aware of the '075 patent, and 2) that Kodak infringed *despite an objectively high likelihood that its actions constituted infringements of a valid patent.

The law requires that a potential infringer having actual notice of another's patent has an affirmative duty to use due care.

In determining whether Kodak willfully infringed Philips' patent, you must consider the totality of the circumstances, which may include contribution of several factors. These factors include but are not limited to:

(1) Whether Kodak, when it learned of Philips' patent protection, investigated the scope of the patent and formed a good faith belief that the patent was invalid or unenforceable or that it was not infringed before Kodak started or continued any possible infringing activity;

**(2) Whether Kodak, when it learned of the Philips' patent protection sought and obtained legal advice before continuing to engage in activity that may result in infringement.

(3) Whether Kodak reasonably believed that it had a substantial defense to infringement and reasonably believed that the defense would be successful if litigated;

(4) Whether Kodak made a good faith effort to avoid infringing the patent, for example, by taking remedial action upon learning of the patent by ceasing infringing activity or attempting to design around the patent; and

(5) ***Whether Kodak previously had been licensed or offered a license.

In assessing these various factors and deciding whether or not Kodak willfully infringed the patent, you need not find that all of the factors are present. In addition, no one or more of these factors are determinative. Rather, you must decide, based on the evidence that is presented to you, whether you find clear and convincing evidence that the alleged infringement was willful.

Source: Adapted from Uniform Instructions § 3.18; **In re Seagate Tech.,LLC*, 497 F.3d 1360, 1371 (Fed. Cir. 2007); ***Stryker Corp. v. Intermedics Orthopedics, Inc.*, 96 F.3d 1409, 1414 (Fed. Cir. 1996); ****SRI Int'l, Inc. v. Advanced Tech. Labs., Inc.*, 127 F.3d 1462, 1464-66 (Fed. Cir. 1997) ; *Read Corp. v. Portec, Inc.*, 970 F.2d 816, 826-27 (Fed. Cir. 1992) (superseded on other grounds as recognized in *Hoechst Celanese Corp. v. BP Chems. Ltd.*, 78 F.3d 1575, 1578 (Fed. Cir. 1996)).

[KODAK'S OBJECTIONS]

Philips' instruction is not consistent with the current case law. In particular, Philips' inclusion of whether Kodak sought and obtained legal advice is contrary to the Federal Circuit's holding in *Knorr-Bremse. Knorr-Bremse Systeme Fuer Nutzfahrzeuge GmbH v. Dana Corp.*, 383 F.3d 1337, 1347 (Fed. Cir. 2004) (en banc) ("[I]t is inappropriate to draw an adverse inference that undisclosed legal advice for which attorney-client privilege is claimed was unfavorable . . . [and] it is [also] inappropriate to draw a similar adverse inference from failure to consult counsel.").

Kodak's proposed instruction is adapted directly from the American Intellectual Property Law Association's 2007 Model Patent Jury Instructions which, contrary to Philips' assertion below, is post-*Seagate* and in fact cites the *Seagate* decision. The 2007 AIPLA instruction specifically notes that the factor of "'whether the Defendant relied on competent legal advice,' should only be included in the instruction if the alleged infringer relies on a legal opinion as a defense to an allegation of willful infringement." AIPLA Model Patent Jury Instructions, No. 13 (2007). Kodak is not relying on advice of counsel as a defense to willful infringement and, therefore, Philips' instruction is contrary to current law.. The 2007 AIPLA Model Patent Jury Instructions are available at:

http://www.aipla.org/Content/Microsites117/Patent_Litigation1/Committee_Documents19/Reports19/AIPLA_Model_Patent_Jury_Instructions/CleanAIPLA2007ModelJuryInstructions.pdf

Finally, to the extent the Court finds that Philips' instruction is appropriate, Kodak requests that the jury be instructed that the law imposes "no affirmative obligation to obtain opinion of counsel." *In re Seagate Tech.,LLC*, 497 F.3d 1360, 1371 (Fed. Cir. 2007).

[KODAK'S INSTRUCTION]

If you find by a preponderance of the evidence that Kodak infringed the '075 patent, either literally or under the doctrine of equivalents, then you must further determine if this infringement was willful. Willfulness must be proven by clear and convincing evidence showing that:

1. Kodak had actual knowledge of the '075 patent;

2. A reasonable person, with knowledge of the '075 patent, would have concluded that: (a) Kodak's actions were highly likely to infringe the '075 patent, and (b) the '075 patent was highly likely to be valid; and

3. Kodak acted even though Kodak knew, or it was so obvious that Kodak should have known, that Kodak's actions were highly likely to infringe the '075 patent.

In making the determination as to willfulness, you must consider the totality of the circumstances. The totality of the circumstances comprises a number of factors, which include but are not limited to whether Kodak intentionally copied the claimed invention or product covered by the '075 patent and whether Kodak presented a substantial defense to infringement, including the defense that the patent is invalid or unenforceable.

Source: Adapted from AIPLA Model Patent Jury Instructions, No. 13; *In re Seagate Technology, LLC*, 497 F.3d 1360, 83 U.S.P.Q.2d 1865 (Fed. Cir. 2007) (en banc); *Knorr-Bremse Systeme Fuer Nutzfahrzeuge GmbH v. Dana Corp.*, 383 F.3d 1337, 1347 (Fed. Cir. 2004) (en banc).

[PHILIPS' OBJECTIONS]

Kodak relies on AIPLA Model Jury Instruction No. 13, dated February 2006, which interprets the *Knorr-Bremse* case. AIPLA's pre-*Seagate* instruction includes the advice of counsel as an optional factor, with the following footnote:

> This factor, "whether the Defendant relied on competent legal advice," should only be included if the alleged infringer relies on a legal opinion as a defense to an allegation of willful infringement. "[I]t is inappropriate to draw an adverse inference that undisclosed legal advice for which attorney-client privilege is claimed was unfavorable . . . [and] it is [also] inappropriate to draw a similar adverse inference from failure to consult counsel." *Knorr-Bremse Systeme Fuer Nutzfahrzeuge GmbH v. Dana Corp.*, 383 F.3d 1337, 1347 (Fed. Cir. 2004) (en banc).

AIPLA Model Patent Jury Instructions (Feb. 2006), available at http://www.aipla.org/Content/ContentGroups/Publications1/Publications_available_for_viewing1/MPJ_word_021006.doc, p. 46.

Contrary to the AIPLA Model Instructions' suggestion limiting the use of the legal advice instruction, *Knorr-Bremse* does not provide for completely removing the "opinion of counsel" factor from the jury's consideration, as Kodak did. This Court analyzed *Knorr-Bremse*

in a virtually identical context and held that "*Knorr-Bremse* left untouched the totality of the circumstances standard that the jury may consider in its willful infringement analysis," noting further that subsequent cases applying *Knorr-Bremse* have held that "[t]he fact that no opinion of counsel on the issue of infringement was acquired by [the] defendant may be considered by the trier of fact in its willful infringement analysis, but no inference may be drawn to suggest that such an opinion, had it been acquired, would have been unfavorable to [the] defendant." *Telcordia Tech., Inc. v. Lucent Tech., Inc.*, No. 1:04-cv-00875-GMS, slip op. at 9-10 (D. Del. Apr. 24, 2007) (Sleet, J.) (citations omitted). The Court allowed the plaintiff to introduce evidence of the defendant's failure to obtain legal advice about the patent-in-suit. *Id.* at 11.

In a more recent, post-*Seagate*, decision, this Court held that "nothing in *Seagate* forbids a jury to consider whether a defendant obtained advice of counsel as part of the totality of the circumstances in determining willfulness . . . ." *Energy Transp. Group, Inc. v. William Demant Holding A/S*, C.A. No. 05-422 GMS, 2008 WL 114861, at *1 (D. Del. Jan. 7, 2008).

Philips further objects to Kodak's introduction of "a reasonable person" in element 2 of Kodak's instruction. Nowhere has Kodak defined or provided a legal standard for determining who a "reasonable person" is.

4. VALIDITY DEFENSES

4.1 ANTICIPATION [DISPUTED]

[PHILIPS' INSTRUCTION]

Kodak contends that the invention defined in the claims of Philips' patent is not new or novel. Something that shows that a patent claim is not novel is said to anticipate that claim. Several different types of events may anticipate and invalidate a patent claim. Here, Kodak contends that the claims are anticipated by publications or patents which, if they meet certain requirements, may be "prior art." I will explain the requirements as to each shortly.

In order to prove invalidity of the invention claimed in Philips' patent for anticipation, Kodak must prove, by clear and convincing evidence for each claim, that each and every limitation of the claimed invention is found in a single piece of prior art. The absence from the single piece of prior art of even a single claim limitation negates anticipation. [redacted]. To meet its burden, Kodak must prove by clear and convincing evidence that:

1) the material upon which it relies is "prior art" under the law;

2) if the material is prior art, that the prior art contains each and every limitation of the claimed invention; and

3) the prior art contains enough information to enable one skilled in the art to make and use the claimed invention.

If you find that Kodak has failed to meet its burden with respect to any of these elements, then you must find that the claims are not invalid for anticipation.

A piece of prior art anticipates a patent claim if it discloses, either expressly or inherently, all of the limitations of the claim. There is no anticipation unless every one of the

limitations of the claimed invention is found in a single piece of prior art. If the piece of prior art is silent about a limitation of a claim, it may still anticipate that claim if that limitation is inherently present in that piece of prior art. To prove that a limitation is inherent in a piece of prior art, Kodak must show, by clear and convincing evidence, that the missing matter is necessarily present in the piece of prior art and that it would be recognized by persons skilled in the art. Inherency may not be established by probabilities or possibilities. Thus, the allegedly inherent property must always be present. The mere fact that a certain thing may result from a given set of circumstances is not enough.

Accordingly, the claims of the '075 patent are anticipated if each and every element of the claimed invention was disclosed in a single prior art reference before September 11, 1986.

You must keep these requirements in mind and apply them to each kind of alleged anticipatory prior art offered by Kodak. There are additional requirements that apply to each kind of anticipation that Kodak contends apply here, and I will discuss those further.

Source: Adapted from Uniform Instructions § 4.2; *Telcordia*, 04-876-GMS (D.I. 343) § 4.3.

[KODAK'S OBJECTIONS]

Philips instruction is inconsistent with the case law and the facts and evidence in the present case. Kodak has asserted that the Widcom VTC-56 machine (a product) is prior art to the '075 patent and anticipates the '075 patent. However, Philips jury instruction does not describe that a product (on sale or used) can be anticipatory prior art. The sentence that begins with "Accordingly" does not describe all of the events in which a piece of prior art is anticipatory prior art.

[KODAK'S INSTRUCTION]

Kodak contends that the invention defined in the claims of the '075 patent is not new or novel. Something that shows that a patent claim is not novel is said to anticipate that claim. Several different types of events may anticipate and invalidate a patent claim. Here, Kodak contends that the claims are anticipated by publications, patents or products which, if they meet certain requirements, may be "prior art." I will explain the requirements as to each shortly.

In order to prove invalidity of the invention claimed in the '075 patent for anticipation, Kodak must prove, by clear and convincing evidence for each claim, that each and every limitation of the claimed invention is found expressly or inherently in a single piece of prior art. The absence from the single piece of prior art of even a single claim limitation negates anticipation. To meet its burden, Kodak must prove by clear and convincing evidence that:

1. the material upon which it relies is "prior art" under the law;

2. if the material is prior art, that the prior art contains each and every limitation of the claimed invention; and

3. the prior art contains enough information to enable one skilled in the art to make and use the claimed invention.

If you find that Kodak has failed to meet its burden with respect to any of these elements, then you must find that the claims are not invalid for anticipation.

A piece of prior art anticipates a patent claim if it discloses, either expressly or inherently, all of the limitations of the claim. There is no anticipation unless every one of the limitations of the claimed invention is found in a single piece of prior art. If the piece of prior art is silent about a limitation of a claim, it may still anticipate that claim if that limitation is inherently present in that piece of prior art. To prove that a limitation is inherent in a piece of

prior art, Kodak must show, by clear and convincing evidence, that the missing matter is necessarily present in the piece of prior art and that it would be recognized by persons skilled in the art. Inherency may not be established by probabilities or possibilities. Thus, the allegedly inherent property must always be present. The mere fact that a certain thing may result from a given set of circumstances is not enough.

Accordingly, the claims of the '075 patent are anticipated if: 1) each and every element of the claimed invention was disclosed in a single prior art reference [redacted].

You must keep these requirements in mind and apply them to each kind of alleged anticipatory prior art offered by Kodak. There are additional requirements that apply to each kind of anticipation that Kodak contends apply here, and I will discuss those further.

Source: Adapted from Uniform Instructions § 4.4; *Telcordia*, 04-876-GMS (D.I. 343) § 4.3.

[PHILIPS' OBJECTIONS]

Kodak has provided no support for deleting the third sentence in the second paragraph from the standard instruction (shown in grey background in Philips' instruction), which explains an important point and was used by this Court in April 2007 in the *Telcordia* case. If Kodak restores it, Philips will agree to Kodak's additions to the penultimate paragraph (shown in grey background in Kodak's instruction).

4.2 WHAT IS PRIOR ART [AGREED]

As previously discussed, for Kodak to prevail on an anticipation defense as to any asserted claim, Kodak must prove, by clear and convincing evidence, not only that the material relied upon contains each and every limitation of the claims of the '075 patent, but also that the material relied upon is legally available as prior art. Because Kodak relies on different types of alleged prior art, I will discuss what is required for various categories of material to be legally available as prior art. If you determine that any of the material or events on which Kodak relies is not prior art, then you must disregard that material or event, because it can have no effect on the validity of the patent.

Source: *Telcordia*, 04-876-GMS (D.I. 343) § 4.4.

4.2.1 PRINTED PUBLICATIONS AS PRIOR ART [AGREED]

Kodak contends that claims 3, 4, 7, and 8 of the '075 patent were anticipated because the inventions defined by those claims were described in a printed publication. Kodak must prove this by clear and convincing evidence.

A printed publication may be prior art if it was sufficiently accessible to interested members of the public either more than one year before the U.S. filing date of the patent-in-suit (or the filing date of the parent application in the case of a reissued patent), or before the inventor made the invention. Books, periodicals, or newspapers of general circulation are common examples of printed publications. In the other extreme, information that can only be located in a person's private files or a company's private files is not a printed publication. Documents disseminated to a degree between these extremes may constitute printed publications under certain circumstances. Documents maintained in a library, for example, may constitute printed publications if the public could, by reference to a subject matter index, locate and access the document without restriction.

The existence or lack of confidentiality restrictions on the document is one factor to consider in determining whether the document was sufficiently accessible. The mere lack of a confidentiality label, however, does not compel the conclusion that the document constitutes a printed publication. Rather, there still must be clear and convincing evidence of actual dissemination.

Even if a reference meets the conditions I just discussed, it still will not qualify as invalidating prior art unless it meets the so-called "enablement" requirement. Enablement requires that the disclosure of the reference be sufficiently detailed to enable one skilled in the art to practice the reference's teachings without undue experimentation. This requirement ensures that the subject matter of the reference was truly put into the possession of the public, thereby

operating as a surrender of patent rights to that same subject matter. If a reference does not enable one skilled in the art to practice the reference's teachings without undue experimentation, then it cannot be used to invalidate a patent claim. Shortly, I will list various factors to consider when evaluating the issue of undue experimentation.

Source: Adapted from Uniform Instructions § 4.8.1; *CellPro*, 894 F. Supp. at 840; *Telcordia*, 04-876-GMS (D.I. 343) § 4.4.1.

4.2.2 PRIOR UNITED STATES PATENT APPLICATION [DISPUTED]

[PHILIPS' INSTRUCTION]

Kodak contends that Claims 3, 4, 7, and 8 of the '075 patent were anticipated because the invention defined in those claims was embodied in a prior patent application. A patent may be found invalid if the claimed invention was described in a patent granted on an application as filed by another in the United States before the invention was made by Plaintiff. *The filing of a patent application in Germany by Philips served as the invention date of the subject matter described in that patent application.

In order for the '075 patent to be anticipated by a prior United States patent application, Defendant must prove the following:

1. There is another patent with inventors other than the named inventor;
2. The application for that other patent was filed in the United States before September 13, 1986; and
3. The other patent describes what the named inventor claimed in the '075 patent.

Source: 2004 Uniform Instruction § 4.6; **Hyde v. Boone*, 146 F.3d 1348 (Fed. Cir. 1998).

[KODAK'S OBJECTION]

Philips instruction is not consistent with the case law. In particular, the filing of the German patent application can only serve as an invention date for the '075 patent if the German patent application meets the requirements of best mode, written description and enablement which is not clearly stated in Philips instruction.

[KODAK'S INSTRUCTION]

Kodak contends that claims 3, 4, 7, and 8 of the '075 patent were anticipated because the invention defined in those claims was embodied in a prior patent application. A patent may be found invalid if the claimed invention was described in a patent granted on an application as filed

by another in the United States before the invention was made by Plaintiff. The patent may be entitled to an earlier invention date based on a priority date.

The "priority date" of the '075 patent is the earliest date on which Philips filed with the German patent office an application containing a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same, and shall set forth the best mode contemplated by the inventor of carrying out his invention.

In order for the '075 patent to be anticipated by a prior United States patent application, Defendant must prove the following:

1. There is another patent with inventors other than the named inventor;
2. The application for that other patent was filed in the United States before the "priority date" of the '075 patent; and
3. The other patent describes what the named inventor claimed in the '075 patent.

Source: 2004 Uniform Instruction § 4.6; *Hyde v. Boone*, 146 F.3d 1348 (Fed. Cir. 1998).

[PHILIPS' OBJECTION]

Philips objects to Kodak's proposed instruction to the extent it states contentions or theories that have not been adequately disclosed to Philips or are not supported by the evidence and/or expert testimony. Specifically, Philips objects to Kodak's removing the September 13, 1986, date from the instruction when Kodak has provided no support for its contention that the '075 patent is not entitled to the September 13, 1986 priority date, since Kodak's expert did not offer any opinion on the '075 patent's priority date.

Philips also objects to the paragraph defining the priority date of the '075 patent.

Kodak's instruction misstates the law, is not supported by case law, and will confuse the jury.

4.2.3 PRIOR PUBLIC USE/SALE [DISPUTED]

[PHILIPS' INSTRUCTION]

Kodak contends that Claims 3, 4, 7, and 8 of the '075 patent were anticipated because the invention defined in those claims was publicly used prior to September 13, 1986.

The "public use" of a completed invention before September 13, 1986, invalidates the patent. An invention is publicly used when it is made accessible to any member of the public other than the inventor or a person under an obligation of secrecy imposed by the inventor. Thus, a patent is not invalidated if the particular device, composition, or process is used by someone other than the inventor, under circumstances where it is not made accessible to the public.

If the prior public use was an experimental use that was performed to perfect or complete the invention to determine that it will work for its intended purpose, that use will not invalidate the patent.

Source: 2004 Uniform Instruction § 4.5.2.

[KODAK'S OBJECTION]

The '075 patent is not entitled to the September 13, 1986 priority date indicated in Philips' instruction.

[KODAK'S INSTRUCTION]

Kodak contends that claims 3, 4, 7, and 8 of the '075 patent were anticipated because the invention defined in those claims was publicly used prior to the "priority date" of the '075 patent.

The "public use" of a completed invention before the priority date, invalidates the patent. An invention is publicly used when it is made accessible to any member of the public other than the inventor or a person under an obligation of secrecy imposed by the inventor. Thus, a patent

is not invalidated if the particular device, composition, or process is used by someone other than the inventor, under circumstances where it is not made accessible to the public.

If the prior public use was an experimental use that was performed to perfect or complete the invention to determine that it will work for its intended purpose, that use will not invalidate the patent.

Source: 2004 Uniform Instruction § 4.5.2.

[PHILIPS' OBJECTION]

Philips objects to Kodak's proposed instruction to the extent it states contentions or theories that have not been adequately disclosed to Philips or are not supported by the evidence and/or expert testimony. Specifically, Philips objects to Kodak's removing the September 13, 1986, date from the instruction when Kodak has provided no support for its contention that "'075 patent is not entitled to the September 13, 1986 priority date," since Kodak's expert did not offer any opinion on the '075 patent's priority date.

4.2.4 REFERENCES DESCRIBING THE INVENTOR'S WORK [AGREED]

References describing the inventor's own work published less than one year before the United States application filing date are not prior art that will render the invention anticipated or obvious. It does not matter whether the article was authored by the inventor or someone else. So long as the article describes the inventor's own work, it cannot be used as prior art to invalidate the claimed invention.

Source: *Telcordia*, 04-876-GMS (D.I. 343) § 4.4.2.

4.3 OBVIOUSNESS [AGREED]

Even though an invention claimed in Philips' patent is not anticipated by the prior art, the claimed invention may nevertheless be invalid if it would have been obvious to one of skill in the art at the time the invention was made.

In order to prove that the invention claimed in the claims of Philips' patent is invalid for obviousness, Kodak must prove, by clear and convincing evidence for each claim, that the differences between the subject matter of the claimed invention and the prior art are such that the subject matter of the claim taken as a whole would have been obvious at the time the invention was made to a person of ordinary skill in the relevant art.

In order to be patentable, an invention must not be obvious to a person of ordinary skill in the art at the time the invention was made. The issue is not whether the claimed invention would be obvious to you as a layman, to me as a judge, or to a genius in the art, but whether it would have been obvious to one of ordinary skill in the art at the time it was made.

In determining whether or not Kodak has established obviousness by clear and convincing evidence, you must consider the following factors:

1. The scope and content of the prior art relied upon by Kodak;
2. The differences between each claim of Philips' patent and the prior art;
3. The level of ordinary skill in the pertinent art at the time the invention of Philips' patent was made; and
4. Any objective indicia of non-obviousness.

I will now explain each of these factors.

Source: Adapted from 2004 Uniform Instructions § 4.8; *CellPro*, 894 F. Supp. at 837; *Telcordia*, 04-876-GMS (D.I. 343) § 4.5.

4.3.1 SCOPE AND CONTENT OF THE PRIOR ART [AGREED]

As I just instructed you, in arriving at your decision on the issue of whether or not the claimed invention is obvious to one of ordinary skill in the art, you must first determine the scope and content of the prior art. This means that you must determine what prior art is reasonably pertinent to the particular problem with which the inventor was faced. Prior art is reasonably pertinent if, although in a different field from that of the inventor's endeavor, it is one which, because of the matter with which it deals, logically would have presented itself as worthy of an inventor's attention in considering his problem. Scope and content of the prior art includes references from those areas a person with ordinary skill in the art would look at in solving a particular problem. Non-analogous, or non-pertinent art cannot render a patent claim obvious. The prior art includes the following:

1. Prior patents that issued before the date of invention or more than one year before the filing date of the patent-in-suit;
2. Prior publications having a publication date before the date of invention or more than one year before the filing date of the patent-in-suit;
3. U.S. Patents that have a filing date prior to the date of invention of the patent-in-suit;
4. Anything in public use or on sale in the United States more than one year before the filing date of the patent-in-suit;
5. Anything that was publicly known or publicly used by others in this country before the date of invention of the patent-in-suit;
6. Anything that was made or built or any process that was used in this country by another person before the date of invention of the patent-in-suit, where the thing

made or built or the process used was not abandoned, suppressed or concealed; and

7. Anything that, although not publicly known at the time of the invention, existed before the claimed invention, but was not invented by any of the inventors of the patent-in-suit, was known to the inventor(s) prior to invention, and from which the named inventors derived the claimed invention.

As you did in considering Kodak's anticipation contentions, you must first determine whether the material or events relied on by Kodak are "prior art." If these materials or events are the same as those relied on by Kodak in alleging anticipation, your determination should be the same here. Thus, if you previously found that something did not qualify as "prior art" for anticipation purposes, it is likewise not prior art for the obviousness determination.

You must then consider what the qualifying prior art would have taught to one skilled in the art at the time of the invention.

Source: Adapted from Uniform Instructions § 4.8.1, *CellPro*, 984 F. Supp. at 837; *Telcordia*, 04-876-GMS (D.I. 343) § 4.5.1.

4.3.2 DIFFERENCES OVER THE PRIOR ART [AGREED]

The next factor that you must consider is the differences, if any, between the prior art and the claimed invention. Although it is proper for you to note any differences between the claimed invention and the prior art, it is improper to consider the invention as only the differences because the test is whether the claimed invention as a whole would have been obvious over all of the prior art. Each claim must be considered in its entirety.

Source: Adapted from Uniform Instructions § 4.8.2; *Telcordia*, 04-876-GMS (D.I. 343) § 4.5.2.

4.3.3 LEVEL OF ORDINARY SKILL [AGREED]

Next, you are to determine the level of ordinary skill in the art to which the claimed invention pertains at the time the claimed invention was made. The issue of obviousness is determined entirely with reference to a hypothetical person having ordinary skill in the art. It is only that hypothetical person who is presumed to be aware of all the pertinent prior art. The actual inventor's skill is irrelevant to the inquiry. A person of ordinary skill in the art is also presumed to be one who thinks along the line of conventional wisdom in the art and is not one who undertakes to innovate. Factors to be considered in determining the level of ordinary skill in the pertinent art include the educational level of the inventor, the types of problems encountered in the art, the prior art patents and publications, the activities of others and prior art solutions to the problems encountered by the inventor, the sophistication of the technology and the education of others working in the field.

Source: Adapted from Uniform Instructions § 4.8.3; *Telcordia*, 04-876-GMS (D.I. 343) § 4.5.3.

4.3.4 OBJECTIVE CRITERIA CONCERNING OBVIOUSNESS (SECONDARY CONSIDERATIONS) [AGREED]

In deciding whether a claimed invention is obvious, you must consider the following objective evidence which may show that the claims at issue are not obvious:

1. Commercial success of products covered by Philips' '075 patent. Evidence concerning commercial success may take the form of sales figures coupled with market share data, or sales figures alone. The commercial success may be shown through the sales of anyone practicing the claimed invention, including Kodak.
2. A long-felt need in the art which was satisfied by the invention of the patent-in-suit;
3. The failure of others to make the invention;
4. Unexpected results achieved by the invention;
5. Praise of the invention by those in the field;
6. The taking of licenses under the patent by others; and
7. Initial skepticism of the invention by those in the field.

There must be a connection between the evidence showing any of these factors and the claimed invention.

Source: Adapted from Uniform Instructions § 4.8.4; *Telcordia*, 04-876-GMS (D.I. 343) § 4.5.4.

5. STANDARDS SETTING CLAIMS AND DEFENSES

5.1 EQUITABLE ESTOPPEL [DISPUTED]

[KODAK'S INSTRUCTION]

Kodak contends that Philips is equitably estopped from asserting the '075 patent against Kodak. A finding of equitable estoppel bars Philips from seeking relief for Kodak's infringement of the '075 patent.

To prevail on this defense, Kodak must prove, by a preponderance of the evidence, that:

1. Philips, through misleading words, conduct, or silence, led Kodak to reasonably infer that Philips would not assert the '075 against the JPEG Standard. Silence alone will not create an estoppel unless there was a duty to speak; and

2. Kodak would be harmed if Philips is now permitted to proceed with its infringement claim. This harm suffered by Kodak must be the result of Kodak's reliance on Philips' words, conduct or silence.

Source: *A.C. Aukerman Co. v. R.L. Chaides Constr. Co.*, 960 F.2d 1020, 1042-43 (Fed. Cir. 1992); *Winbond Elec. Corp. v. Int'l Trade Comm'n*, 262 F.3d 1363, 1374 (Fed. Cir. 2001); *Gasser Chair Co., Inc. v. Infanti Chair Mfg. Corp.*, 60 F.3d 770, 775 (Fed. Cir. 1995).

[PHILIPS' OBJECTIONS]

Equitable estoppel is an issue for the Court to decide, not the jury. *See Schering Corp. v. Amgen Inc.*, 969 F. Supp. 258, 269 (D. Del. 1997) ("Laches and estoppel are equitable defenses, committed to the sound discretion of the trial court." (quoting *Hemstreet v. Computer Entry Sys. Corp.*, 972 F.2d 1290, 1292 (Fed. Cir. 1992) (*citing A.C. Aukerman Co. v. R.L. Chaides Construction Co.*, 960 F.2d 1020, 1028 (Fed.Cir. 1992))); *Cox v. Keystone Carbon Co.*, 894 F.2d 647, 649-50 (3d Cir. 1990) (explaining that claims for equitable relief do not give rise to a right to a jury trial); *Gibson v. Hartford Life and Accident Ins. Co.*, C.A. No. 2:06-CV-3814-LDD,

2007 WL 1892486, at *5 (E.D. Pa. June 29, 2007) (citing *Cox*, 894 F.2d at 649-50). Philips does not agree that equitable estoppel should be decided by the jury, and will oppose an advisory verdict on this equitable issue. If the Court were to permit an advisory jury, Philips reserves its rights to object to this proposed instruction and to propose its own.

[KODAK'S RESPONSE]

Although Kodak acknowledges this is an equitable issue, given the substantial factual and evidentiary overlap with Kodak's state law counterclaims, Kodak believes a combined trial with all issues being presented before the jury for advisory verdicts would promote judicial economy. Kodak respectfully requests the opportunity to address this issue at the pretrial conference.

5.2 FRAUD [DISPUTED]

[PHILIPS' INSTRUCTION]

Kodak alleges that Philips committed fraud, causing damage to Kodak. To prove that Philips committed fraud, for each accused product Kodak must prove, by a preponderance of the evidence, all five of the following elements:

1) Philips made a false representation of a fact that is important to another;

2) Philips knew or believed that this representation was false, or made it with reckless indifference to the truth;

3) Philips intended to induce Kodak to act on the false representation, or to decline to act;

4) Kodak acted, or declined to act, in justifiable reliance on the false representation; and

5) Kodak was damaged as a result of this reliance.

A false representation may be asserted by words or conduct. A fact is important if it would cause a reasonable person to decide to act in a particular way, or if the maker of the misrepresentation knew another person would regard it as important.

Fraud may occur if Philips deliberately concealed facts important to a transaction, causing Kodak to rely on the deception to its detriment. This concealment can occur by a person's silence in the fact of a duty to disclose the facts or by some action taken to prevent Kodak from discovering the facts important to the transaction. *Silence alone will not give rise to fraud unless there was a duty to speak.

[redacted]

If Kodak was aware of the true facts of the transaction, even if they were concealed by Philips, or if Kodak did not rely on the concealment of these facts, then there is no fraud.

[redacted]

Source: Adapted from Delaware Superior Court Instructions §§ 16.1, 16.3, 16.4; **Rambus v. Infineon*, 318 F.3d 1081, 1096, 1102 (Fed. Cir. 2003); *** Prof'l Real Estate Investors, Inc. v. Columbia Pictures Indus., Inc.*, 508 U.S. 49, 60-61 (1993); *Cheminor Drugs, Ltd. v. Ethyl Corp.*, 168 F.3d 119, 128-29 (3d Cir. 1999).

[KODAK'S OBJECTIONS]

Kodak objects to Philips' instruction on the grounds that the proposed language from *Rambus v. Infineon* is taken out of context and is misleading. The cited language relates to the Court's discussion regarding whether a member's plans or intentions to file or amend patent applications fell within the scope of the standards-setting committee's patent disclosure policy. *Rambus v. Infineon*, 318 F.3d 1081, 1102 (Fed. Cir. 2003). The Court was merely observing that if a standards-setting body intends its patent disclosure policy to require disclosure of future intentions, it could be drafted accordingly. *See id.* In the present case, Philips' failed to disclose an existing patent which clearly falls within all relevant policies.

Further, the cited language is misleading. In the same case, the Federal Circuit found that although the relevant patent disclosure policy statements did not impose any direct disclosure duty on members, "because [the] members treated the language … as imposing a duty," the court nevertheless found that a duty existed. *Rambus*, 318 F.3d at 1098. This finding contradicts the proposed language that Philips takes out of context.

Next, Kodak objects to Philips' proposed language set forth in the last paragraph of its proposed instruction. The cited case, *Prof'l Real Estate Investors, Inc. v. Columbia Pictures*

Indus., Inc., 508 U.S. 49 (1993), involves the issue of what constitutes "sham" litigation for purposes of establishing an exception to *Noerr* antitrust immunity. *Id.* at 51. Nothing cited by Philips supports the proposition that this language is in any way applicable to Kodak's fraud counterclaim. This instruction is simply inappropriate.

In addition, because this case involves misleading silence, it is appropriate that the listed elements in the beginning of the instruction include the appropriate language, which Philips' instruction omits.

Finally, Kodak objects to Philips' proposed language requiring Kodak to prove fraud "for each accused product." Philips provides no support for this language and it is inappropriate and confusing.

[KODAK'S INSTRUCTION]

Kodak alleges that Philips committed fraud, causing damage to Kodak. To prove that Philips committed fraud, Kodak must prove, by a preponderance of the evidence, all five of the following elements:

1. Philips made a false representation of an important fact either by affirmative conduct or misleading silence. Silence alone will not give rise to fraud unless there was a duty to speak;

2. Philips knew or believed that this representation was false, or made it with reckless indifference to the truth;

3. Philips intended to induce Kodak to act on the false representation, or to decline to act;

4. Kodak acted, or declined to act, in justifiable reliance on the false representation; and

5. Kodak was damaged as a result of this reliance.

A fact is important if it would cause a reasonable person to decide to act in a particular way, or if the maker of the misrepresentation knew another person would regard it as important.

Fraud may occur if Philips deliberately concealed important facts, causing Kodak to rely on the deception to its detriment. This concealment can occur by a person's silence despite a duty to disclose the facts, or by some action taken to prevent Kodak from discovering the important facts.

If Kodak was aware of the true facts of the transaction, even if they were concealed by Philips, or if Kodak did not rely on the concealment of these facts, then there is no fraud.

Source: Adapted from Delaware Superior Court Instructions §§ 16.1, 16.3, 16.4.

[PHILIPS' OBJECTIONS]

Philips is willing to agree to Kodak's instruction provided Kodak allows the insertion of the highlighted holdings from *Rambus v. Infineon* and *Prof'l Real Estate Iinvestors*.

5.3 NEGLIGENT MISREPRESENTATION [DISPUTED]

[PHILIPS' INSTRUCTION]

Kodak alleges that Philips committed negligent misrepresentation, causing damage to Kodak. To prove that Philips committed negligent representation, for each accused product Kodak must prove, by a preponderance of the evidence, all four of the following elements:

(1) Philips had a particular duty to provide accurate information based on Kodak's pecuniary interest in that information;

(2) Philips supplied false information;

(3) Philips failed to exercise reasonable care in obtaining or communicating information; and

(4) Kodak suffered a pecuniary loss caused by justifiable reliance upon the false information.

*Silence alone will not give rise to negligent misrepresentation unless there was a duty to speak. A standards-setting organization's policy that does not define clearly what, when, how, and to whom the members must disclose does not provide a firm basis for the disclosure duty necessary for a negligent misrepresentation verdict.

**Kodak claims that it was damaged by Philips' bringing and maintaining this infringement litigation. In order to find that Kodak was damaged by Philips' bringing and maintaining this infringement litigation, you must find that Philips' claims of infringement were objectively baseless and were brought in an attempt to use the litigation to interfere directly with the business relationships of Kodak.

Source: *Atwell v. Rhis, Inc.*, 2006 WL 2686532, at *1 (Del. Super. Ct. Aug. 18, 2006); *H.M. Wexford LLC v. Encorp, Inc.*, 832 A.2d 129, 147 n.44 (Del. Ch. 2003); **Rambus v. Infineon*, 318 F.3d 1081, 1096, 1102 (Fed. Cir. 2003); ** *Prof'l Real Estate Investors, Inc. v. Columbia Pictures Indus., Inc.*, 508 U.S. 49, 60-61 (1993); *Cheminor Drugs, Ltd. v. Ethyl Corp.*, 168 F.3d 119, 128-29 (3d Cir. 1999).

[KODAK'S OBJECTIONS]

Kodak objects to Philips proposed construction on the grounds that it does not cover circumstances involving omitted material facts. A claim of negligent misrepresentation, or equitable fraud, requires proof of all of the elements of common law fraud except "that plaintiff need not demonstrate that the misstatement or omission was made knowingly or recklessly." *Williams v. White Oak Builders, Inc.*, No. Civ.A. 17556, 2006 WL 1668348, *7 (Del.Ch. June 6, 2006) (emphasis added); *Eames v. Nationwide Mut. Ins. Co.* , 412 F.Supp.2d 431, 437 (D.Del.,2006); *Those Certain Underwriters at Lloyd's London v. National Installment Ins. Services, Inc.* No. Civ.A. 19804-NC, 2007 WL 1207106, at *4 (Del.Ch.Feb. 8, 2007). Because negligent misrepresentation, like fraud, can be established with silence in the face of a duty to speak, Kodak's proposed language cures the deficiency in Philips' proposed instruction.

Kodak objects to Philips' instruction on the grounds that the proposed language from *Rambus v. Infineon* is taken out of context and is misleading. The cited language relates to the Court's discussion regarding whether a member's plans or intentions to file or amend patent applications fell within the scope of the standards-setting committee's patent disclosure policy. *Rambus v. Infineon*, 318 F.3d 1081, 1102 (Fed. Cir. 2003). The Court was merely observing that if a standards-setting body intends its patent disclosure policy to require disclosure of future intentions, it could be drafted accordingly. *See id.* In the present case, Philips' failed to disclose an existing patent which clearly falls within all relevant policies.

Further, the cited language is misleading. In the same case, the Federal Circuit found that although the relevant patent disclosure policy statements did not impose any direct disclosure duty on members, "because [the] members treated the language … as imposing a duty," the court nevertheless found that a duty existed. *Rambus*, 318 F.3d at 1098. This finding contradicts the

proposed language that Philips takes out of context.

Next, Kodak objects to Philips' proposed language set forth in the last paragraph of its proposed instruction. The cited case, *Prof'l Real Estate Investors, Inc. v. Columbia Pictures Indus., Inc.*, 508 U.S. 49 (1993), involves the issue of what constitutes "sham" litigation for purposes of establishing an exception to *Noerr* antitrust immunity. *Id.* at 51. Nothing cited by Philips supports the proposition that this language is in any way applicable to Kodak's fraud counterclaim. This instruction is simply inappropriate.

Finally, Kodak objects to Philips' proposed language requiring Kodak to prove negligent misrepresentation "for each accused product." Philips provides no support for this language and it is inappropriate and confusing.

[KODAK'S INSTRUCTION]

Kodak alleges that Philips committed negligent misrepresentation, causing damage to Kodak. To prove that Philips committed negligent representation, Kodak must prove, by a preponderance of the evidence, all four of the following elements:

1. Philips had a duty to provide accurate information based on Kodak's financial interest in that information;

2. Philips supplied false information or omitted material facts;

3. Philips failed to exercise reasonable care in obtaining or communicating the information or omitting material facts; and

4. Kodak suffered a financial loss caused by justifiable reliance upon the false information or omission.

Source: *Atwell v. Rhis, Inc.*, No. 02C-12-003WLW, 2006 WL 2686532, at *1 (Del. Super. Ct. Aug. 18, 2006); *H-M Wexford LLC v. Encorp, Inc.*, 832 A.2d 129, 147 n.44 (Del. Ch.

2003); *In re Medical Wind Down Holdings III, Inc.*, 332 B.R. 98, 102 (Bankr. D.Del. 2005).

[PHILIPS' OBJECTIONS]

The instruction with the asterisk in Philips' proposed instruction should be included to parallel the same duty referred to in the fraud instruction, based on *Rambus v. Infineon*, 318 F.3d 1081, 1096, 1102 (Fed. Cir. 2003). Kodak also does not include the obligation to prove that Philips' claims of infringement were objectively baseless and were brought in an attempt to use the litigation to interfere directly with the business relationships of Kodak, as required by *Prof'l Real Estate Investors.*

5.4 DAMAGES – FRAUD OR NEGLIGENT MISREPRESENTATION [DISPUTED]

[KODAK'S INSTRUCTION]

If you find that Philips has committed fraud or negligent misrepresentation, then Kodak is entitled to damages that will put it in the same financial position that would have existed had Philips' representation been true. In this case, Kodak would be entitled to be placed in the same financial position that would have existed if Philips had no patents applicable to the JPEG Standard. Such damages may include costs Kodak has incurred associated with Philips' lawsuit and any damages associated with Kodak's alleged infringement of the '075 patent.

Source: Adapted from Delaware Superior Court Instructions § 22.17.

[PHILIPS' OBJECTIONS]

Philips objects to this instruction, because the jury cannot determine damages for Kodak's fraud and negligent misrepresentation counterclaims. Kodak claims as damages for its fraud and negligent misrepresentation counterclaims: (1) its litigation expenses in defending Philips infringement suit; and (2) whatever damages it may be required to pay for its infringement of Philips' patent. For those two theories, the Court, not the jury, must determine the amount of damages, because Kodak will not be able to prove until after trial the amount of any adverse damage award for which it is liable or its litigation expenses. The amount of damages for which Kodak is liable may be affected by decisions the Court must make if the jury were to find that Kodak willfully infringed Philips' patent, or if the Court were to find in favor of Kodak on its equitable defenses of equitable estoppel and laches. Likewise, the litigation expenses (even if Kodak were entitled to claim them as damages for its fraud and negligent misrepresentation counterclaims, which it is not) will not be quantifiable until after trial. *See TruePosition Inc. v. Andrew Corp.*, 507 F. Supp. 2d 447, 465 (D. Del. 2007) (deferring alleged relief for fraud, based on possible infringement damages and attorneys fees, for the Court's

consideration after trial); *Acierno v. Goldstein*, No. Civ. A. 20056-NC, 2005 WL 3111993, at *6 (Del. Ch. Nov. 16, 2005) ("Delaware law does not permit the fact finder to supply a damages figure based on 'speculation or conjecture' where the plaintiff has failed to meet its burden of proof on damages." (citing *Henne v. Balick*, 146 A.2d 394, 396 (Del. 1950))).

Philips also objects to Kodak's proposed instruction that it is entitled to claim as damages under its fraud and negligent misrepresentation counterclaims the costs associated with defending against Philips' claims of infringement, which is contrary to the law. *See MBKS Co. Ltd. v. Reddy*, 924 A.2d 965, 977 (Del. Ch. 2007) (explaining that under the "American Rule" litigants generally bear their own costs of litigation); *Brice v. State Dept. of Correction*, 704 A.2d 1176, 1178 (Del. 1998) (same).

[KODAK'S RESPONSE]

Kodak's instruction is appropriate. The Seventh Amendment guarantees a right to a jury trial for civil causes of action based on the common law. U.S. Const. Amend. VII; *Benjamin v. Traffic Executive Ass'n Eastern Railroads* 869 F.2d 107, 114 (2d Cir. 1989). Fraud and negligent misrepresentation "are claims at law which the Seventh Amendment right to a jury trial attaches." *In re Tou Houa Thao,* 2006 WL 3716055 at *2 (Bkrtcy.W.D. Mo. 2006). And the Seventh Amendment applies to statutory actions such as those brought under Delaware's Deceptive Trade Practices Act. *See Granfinanciera, S.A. v. Nordberg,* 492 U.S. 33, 42 (1989). Kodak has a constitutional right to present its damages claims to the jury. Kodak has quantified those damages and Philips has not sought summary judgment on this issue. Therefore, Kodak is entitled to the instruction.

5.5 DECEPTIVE TRADE PRACTICES [DISPUTED]

[PHILIPS' INSTRUCTION]

Kodak alleges that Philips engaged in deceptive trade practices in violation of Delaware's Deceptive Trade Practices Act. To prove that Philips violated Delaware's Deceptive Trade Practices Act, for each accused product Kodak must prove, *by a preponderance of the evidence, all four of the following elements:

1) Philips caused a likelihood of confusion or of misunderstanding as to the source, sponsorship, approval, or certification of goods or services;

2) Philips caused a likelihood of confusion or of misunderstanding as to affiliation, connection, or association with, or certification by, another;

3) Philips disparaged the goods, services, or business of another by false or misleading representation of fact; or

4) Philips engaged in any other conduct which similarly created a likelihood of confusion or of misunderstanding.

In determining whether a likelihood of confusion exists, you should consider the following factors:

1) the degree of similarity between the marks;

2) the similarity of products for which the name is used;

3) the area and manner of concurrent use;

4) the degree of care likely to be exercised by consumers;

5) the strength of the plaintiff's mark;

6) whether there has been actual confusion; and

7) the intent of the party to palm off his products as those of another.

Source: 6 Del. C. § 2532(a)(2)-(a)(3), (a)(8), (a)(12); **Roberts v. Am. Home Warranty*, 514 A.2d 1132 (Del. Sup. Ct. 1986); *Draper Commc'ns, Inc. v. Delaware Valley Broadcasters Ltd. P'ship*, 505 A.2d 1283, 1290 (Del.Ch. 1985); *Copi of Delaware, Inc. v. Kelly*, 1996 WL 633302, at *7 (Del. Ch. Oct. 25, 1996).

[KODAK'S OBJECTIONS]

Kodak objects to Philips proposed instruction on the grounds that it improperly imposes a requirement to establish four separate elements. Each element identified by Philips constitutes a stand alone violation of the Delaware Deceptive Trade Practices Act.

Kodak also objects to Philips language requiring Kodak to prove a violation of the Act for "each accused product." Philips provides no support for this language and it is inappropriate and confusing.

Kodak objects to Philips' proposed instruction as misleading on the grounds that Philips includes language from the statute relating to violations involving trademark actions. The Delaware Deceptive Trade Practices Act is not solely limited to trademark actions. The Act forbids disparagement of the business of another by false or misleading misrepresentations of fact. *EDIX Media Group, Inc. v. Mahani,* 2006 WL 3742595, 12 (Del.Ch. Dec. 12, 2006). Kodak's proposed instruction excludes Philips' unnecessary and misleading language and applies the statute appropriately.

[KODAK'S INSTRUCTION]

Kodak alleges that Philips engaged in deceptive trade practices in violation of Delaware's Deceptive Trade Practices Act. To prove that Philips violated Delaware's Deceptive Trade Practices Act, Kodak must prove, by a preponderance of the evidence, that:

1. Philips caused a likelihood of confusion or of misunderstanding as to the applicability of the '075 patent to Kodak's products that practice the JPEG standard by failing to disclose the '075 patent to the JPEG committees and failing to raise the patent

with Kodak before 2002;

2. Philips caused a likelihood of confusion or of misunderstanding by attempting to enforce the '075 patent against Kodak's products that practice the JPEG Standard;

3. Philips disparaged the goods, services, or business of Kodak by false or misleading representation of fact; or

4. Philips engaged in any other conduct which similarly created a likelihood of confusion or of misunderstanding.

Source: 6 Del. C. § 2532(a)(2)-(a)(3), (a)(8), (a)(12); *Roberts v. Am. Warranty Corp.*, 514 A.2d 1132 (Del. Sup. Ct. 1986); *Draper Commc'ns, Inc. v. Delaware Valley Broadcasters Ltd. P'ship*, 505 A.2d 1283, 1290 (Del.Ch. 1985); *Copi of Delaware, Inc. v. Kelly*, No. 14529, 1996 WL 633302, at *7 (Del. Ch. Oct. 25, 1996).

[PHILIPS' OBJECTIONS]

Kodak appears to be trying to rewrite the statute. Its changes to paragraph nos. 1 and 2 do not appear in the language of the statute. Kodak has provided no support for its changes. Moreover, to the extent Kodak proposes to include a failure to disclose standard for deceptive trade practices, it should at least parallel the failure to disclose standard set for fraud set forth above regarding a duty to speak.

6. DAMAGES - INFRINGEMENT

6.1 COMPENSATORY DAMAGES IN GENERAL [AGREED]

If you find that one or more of Kodak's products infringes at least one valid claim of the '075 patent, you must determine the amount of damages to be awarded to Philips for the infringement. By statute, the amount of those damages must be adequate to compensate Philips for the infringement, but in no event may it be less than a "reasonable royalty." Damages "adequate to compensate" means "full compensation for 'any damages' [Philips] suffered as a result of the infringement."

Source: Uniform Instructions § 6.1; *Telcordia*, 04-876-GMS (D.I. 343) § 6.1.

6.2 REASONABLE CERTAINTY [DISPUTED]

[PHILIPS' INSTRUCTION]

Philips bears the burden of proving patent infringement damages by a preponderance of the evidence and is entitled to all damages that can be proven with "reasonable certainty." You may base your evaluation of reasonable certainty on opinion evidence. The amount of damages must not be the result of mere speculation or guess-work. Philips, however, does not need to prove its damages with absolute certainty.

[redacted]

Source: Adapted from Uniform Instructions § 6.3.

[KODAK'S OBJECTIONS]

Kodak objects to Philips' proposed instruction on the grounds that the last paragraph is vague as to the terms "any doubts" and "computation" and renders the entire instruction confusing and prejudicial to Kodak. This paragraph is also unnecessary because the instruction already indicates that Philips' is not required to prove its damages with absolute certainty. Finally, the Court recently struck a similar instruction. *See Telcordia Tech. Inc. v. Cisco Sys. Inc.*, 04-876-GMS (D.I. 343) § 6.2.

[KODAK'S INSTRUCTION]

Philips bears the burden of proving patent infringement damages by a preponderance of the evidence and is entitled to all damages that can be proven with "reasonable certainty." You may base your evaluation of reasonable certainty on opinion evidence. The amount of damages must not be the result of mere speculation or guess-work. Philips, however, does not need to prove its damages with absolute certainty.

Source: Adapted from Uniform Instructions § 6.3.

[PHILIPS' OBJECTIONS]

Kodak has offered no support for its deletion of the last paragraph from this standard instruction, shown in grey background above. *See Lam, Inc. v. Johns-Manville Corp.*, 718 F.2d 1056, 1065 (Fed. Cir. 1983) ("[W]hen the amount of the damages cannot be ascertained with precision, any doubts regarding the amount must be resolved against the infringer.")

6.3 ENTIRE MARKET VALUE RULE [AGREED]

Under the "entire market value" rule, a patent owner may recover damages based on the value of an entire apparatus or product containing several features, even though only one feature is patented, where the unpatented components function together with the patented components in some manner to produce a desired end product or result. A patent owner may also recover damages under the entire market value rule where the infringing component was the basis of customer demand for the product.

Source: Adapted from Uniform Instructions § 6.4; *Telcordia*, 04-876-GMS (D.I. 343) § 6.4.

6.4 REASONABLE ROYALTY AS A MEASURE OF DAMAGES [DISPUTED]

[PHILIPS' INSTRUCTION]

By statute, Philips is entitled to damages adequate to compensate for the infringement, but in no event less than a reasonable royalty for any infringing sales. A reasonable royalty is the amount of money that would be agreed to in a hypothetical arms-length negotiation between Philips and Kodak, assuming that both parties were willing to enter into a license and with both operating under the assumption that the patent is valid and is being infringed. While the date of the hypothetical negotiation is the date on which infringement began, all relevant business facts (even those after the date of the hypothetical negotiation) are deemed known to both parties.

In the hypothetical arms-length negotiation, you must assume that the person negotiating on behalf of Kodak, and who was willing to take a license, would have known that Philips' patent was valid and enforceable, and infringed by Kodak.

[redacted]

Source: 35 U.S.C. § 284; adapted from Uniform Instructions § 6.10, *Telcordia*, 04-876-GMS (D.I. 343) § 6.5.

[KODAK'S OBJECTIONS]

Kodak objects to the final paragraph in Philips' proposed instruction. Philips' proposed language is not supported by 35 U.S.C. § 284, Uniform Instruction § 6.10, nor the factors set forth in *Georgia-Pacific Corp. v. United States Plywood Corp.* 318 F. Supp. 1116 (S.D.N.Y. 1970). Further, Philips' proposed language is confusing and contradicts itself to the extent it instructs the jury to "take into consideration" that litigation ensued but to "not enhance" damages due to the litigation.

[KODAK'S INSTRUCTION]

By statute, Philips is entitled to damages adequate to compensate for the infringement, but in no event less than a reasonable royalty for any infringing sales. A reasonable royalty is the amount of money that would be agreed to in a hypothetical arms-length negotiation between Philips and Kodak, assuming that both parties were willing to enter into a license and with both operating under the assumption that the patent is valid and is being infringed. While the date of the hypothetical negotiation is the date on which infringement began, all relevant business facts (even those after the date of the hypothetical negotiation) are deemed known to both parties.

In the hypothetical arms-length negotiation, you must assume that the person negotiating on behalf of Kodak, and who was willing to take a license, would have known that the '075 patent was valid and enforceable, and infringed by Kodak.

Source: 35 U.S.C. § 284; adapted from Uniform Instructions § 6.10; *Telcordia*, 04-876-GMS (D.I. 343) § 6.5.

[PHILIPS' OBJECTIONS]

Kodak has offered no support for departing form the instruction used in the *Telcordia* case in April 2007 by removing the last paragraph from the instruction shown in grey background above.

6.5 FACTORS FOR DETERMINING REASONABLE ROYALTY [AGREED]

In determining a reasonable royalty, some of the factors that may be considered are:

1. the royalties received by the patentee for licensing others under the patent-in-suit;

2. the rates paid by the licensee for the use of other patents comparable to the patent-in-suit;

3. the nature and scope of the license, as exclusive or non-exclusive, or as restricted or unrestricted in terms of territory or with respect to whom the manufactured product may be sold;

4. the licensor's established policy and marketing program to maintain his patent exclusivity by not licensing others to use the invention or by granting licenses under special conditions designed to preserve that exclusivity;

5. the commercial relationship between the licensor and licensee, such as, whether they are competitors in the same territory in the same line of business, or whether they are inventors or promoters;

6. the effect of selling the patented specialty in promoting sales of other products of the licensee, the existing value of the invention to the licensor as a generator of sales of his non-patented items, and the extent of such derivative or convoyed sales;

7. the duration of the patent and the term of the licenses;

8. the established profitability of the product made under the patent, its commercial success, and its current popularity;

9. the utility and advantages of the patent property over the old modes or devices, if any, that had been used for working out similar results;

10. the nature of the patented invention, the character of the commercial embodiment of it as owned and produced by the licensor, and the benefits to those who have used the invention;

11. the extent to which the infringer has made use of the invention, and any evidence probative of the value of that use;

12. the portion of the profit or of the selling price that may be customary in the particular business or in comparable businesses to allow for the use of the invention or analogous inventions;

13. the portion of the realizable profit that should be credited to the invention as distinguished from non-patented elements, the manufacturing process, business risks, or significant features or improvements added by the infringer;

14. the opinion testimony of qualified experts; and

15. any other economic factor that a normally prudent businessman would, under similar circumstances, take into consideration in negotiating the hypothetical license.

Source: Uniform Instructions § 6.11; *Telcordia*, 04-876-GMS (D.I. 343) § 6.6.

6.6 LACHES [DISPUTED]

[KODAK'S INSTRUCTION]

Kodak contends that any damages should be limited based on the defense of laches. A finding of laches bars Philips from collecting any damages occurring prior to when Philips filed this lawsuit – in this case, April 18, 2006. To prove laches, Kodak must prove, by a preponderance of the evidence, that:

1. Philips engaged in unreasonable delay in filing suit based on when Philips knew or should have known that Kodak was infringing the '075 patent; and

2. Philips' unreasonable delay in filing suit resulted in material harm to Kodak. This harm can be either economic or evidentiary.

If you find that Philips delayed over 6 years from the time it knew or should have known of Kodak's alleged infringement, laches is presumed and must be found absent credible evidence that either Philips' delay was reasonable or Kodak was not harmed.

Source: *A.C. Aukerman Co. v. R.L. Chaides Constr. Co.*, 960 F.2d 1020, 1032 (Fed. Cir. 1992).

[PHILIPS' OBJECTIONS]

Laches is an equitable issue for the Court to decide, not the jury. *See Schering Corp. v. Amgen Inc.*, 969 F. Supp. 258, 269 (D. Del. 1997) ("Laches and estoppel are equitable defenses, committed to the sound discretion of the trial court." (quoting *Hemstreet v. Computer Entry Sys. Corp.*, 972 F.2d 1290, 1292 (Fed. Cir. 1992) (*citing A.C. Aukerman Co. v. R.L. Chaides Construction Co.*, 960 F.2d 1020, 1028 (Fed.Cir. 1992)))); *Cox v. Keystone Carbon Co.*, 894 F.2d 647, 649-50 (3d Cir. 1990) (explaining that claims for equitable relief do not give rise to a right to a jury trial); *Gibson v. Hartford Life and Accident Ins. Co.*, No. 2:06-CV-3814-LDD, 2007 WL 1892486, at *5 (E.D. Pa. June 29, 2007) (citing *Cox*, 894 F.2d at 649-50). Philips does

not agree that equitable estoppel should be decided by the jury, and will oppose an advisory verdict on this equitable issue. If the Court were to permit an advisory jury, Philips reserves its rights to object to this proposed instruction and to propose its own.

[KODAK'S RESPONSE]

Although Kodak acknowledges this is an equitable issue, given the substantial factual and evidentiary overlap with Kodak's state law counterclaims, Kodak believes a combined trial with all issues being presented before the jury for advisory verdicts would promote judicial economy. Kodak respectfully requests the opportunity to address this issue at the pretrial conference.

6.7 CURATIVE INSTRUCTION [AGREED]

The fact that I have instructed you regarding damages should not be construed as indicating any view of the Court as to which party is entitled to prevail in this case. Instructions regarding damages are given for your guidance in the event that the evidence leads you to find in favor of Philips.

Source: Uniform Instructions § 6.13; *Telcordia*, 04-876-GMS (D.I. 343) § 6.7.

7. DELIBERATION AND VERDICT

7.1 INTRODUCTION [AGREED]

That concludes the part of my instructions explaining the rules for considering some of the testimony and evidence. After you hear the closing arguments of counsel, you will return to the jury room to begin your deliberations. Now let me finish up by explaining some things about your deliberations in the jury room, and your possible verdicts.

Once you start deliberating, do not talk to the jury officer, or to me, or to anyone else except each other about the case. The first thing you should do is select a foreperson. If you have any questions or messages, you must write them down on a piece of paper, sign them, and then give them to the jury officer. The officer will give them to me, and I will respond as soon as I can. I may have to talk to the lawyers about what you have asked, so it may take me some time to get back to you. Any questions or messages should normally be sent to me through your foreperson.

One more thing about messages. Do not ever write down or tell anyone how you stand on your votes. For example, do not write down or tell anyone that you are split 4-4, or 6-2, or whatever your vote happens to be. That should stay secret until you are finished.

Source: Adapted from Uniform Instructions § 7.1; *Telcordia*, 04-876-GMS (D.I. 343) § 7.1.

7.2 UNANIMOUS VERDICT [AGREED]

Your verdict must represent the considered judgment of each juror. In order for you as a jury to return a verdict, it is necessary that each juror agree to the verdict. Your verdict must be unanimous.

It is your duty, as jurors, to consult with one another and to deliberate with a view towards reaching an agreement, if you can do so without violence, to your individual judgment. Each of you must decide the case for yourself, but do so only after an impartial consideration of the evidence with your fellow jurors. In the course of your deliberations, do not hesitate to reexamine your own views and change your opinion, if convinced it is erroneous. But do not surrender your honest conviction as to the weight or effect of evidence solely because of the opinion of your fellow jurors, or for the purpose of returning a verdict. Remember at all times that you are not partisans. You are judges -- judges of the facts. Your sole interest is to seek the truth from the evidence in the case.

A form of verdict has been prepared for you. You will take this form to the jury room and when you have reached unanimous agreement as to your verdict, you will have your foreperson fill in, date and sign the form. You will then return to the courtroom and your foreperson will give your verdict.

It is proper to add the caution that nothing said in these instructions and nothing in the form of verdict is meant to suggest or convey in any way or manner any intimation as to what verdict I think you should find. What the verdict shall be is the sole and exclusive duty and responsibility of the jury.

Source: Uniform Instructions § 7.2.

7.3 DUTY TO DELIBERATE [AGREED]

Now that all the evidence is in and the arguments are completed, you are free to talk about the case in the jury room. In fact, it is your duty to talk with each other about the evidence, and to make every reasonable effort you can to reach a unanimous agreement. Talk with each other, listen carefully and respectfully to each other's views, and keep an open mind as you listen to what your fellow jurors have to say.

Try your best to work out your differences. Do not hesitate to change your mind if you are convinced that other jurors are right and that your original position was wrong.

But do not ever change your mind just because other jurors see things differently, or just to get the case over with. In the end, your vote must be exactly that -- your own vote. It is important for you to reach unanimous agreement, but only if you can do so honestly and in good conscience.

No one will be allowed to hear your discussions in the jury room, and no record will be made of what you say. So you should all feel free to speak your minds.

Listen carefully to what the other jurors have to say, and then decide for yourself.

Source: Uniform Instructions § 7.3.

7.4 COURT HAS NO OPINION [AGREED]

Let me finish up by repeating something that I said to you earlier. Nothing that I have said or done during this trial was meant to influence your decision in any way. You must decide the case yourselves based on the evidence presented.

Source: Uniform Instructions § 7.4.

EXHIBIT I4

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

U.S. PHILIPS CORPORATION, Plaintiff, v. EASTMAN KODAK COMPANY, Defendant.	Civil Action No. 06-251 (GMS)

EXHIBIT I4: PLAINTIFF PHILIPS' PROPOSED VERDICT FORM

Plaintiff U.S. Philips Corporation ("Philips") hereby submits its proposed verdict form as of March 3, 2008. Philips may submit revisions to its Proposed Verdict Form after meeting and conferring with Defendant Eastman Kodak Company ("Kodak") on outstanding trial management issues, after receiving the Court's rulings on the parties' respective motions *in limine*, and as necessary to conform to the evidence presented at trial and the rulings of the Court.

INFRINGEMENT

We, the jury, unanimously find as follows:

Question No. 1:

Do you find that Philips has proven, by a preponderance of the evidence, that Kodak has infringed any of the following claims of Philips' U.S. Patent No. 4,901,075, either directly or indirectly, either literally or under the doctrine of equivalents?

Answer "Yes" or "No".

	Yes (For Philips)	No (For Kodak)
Claim 3		
Claim 4		
Claim 7		
Claim 8		
Claim 11		

WILLFULNESS

Question No. 2:

Do you find that Philips has proven, by clear and convincing evidence, that Kodak's infringement of any one of Claims 3, 4, 7, 8, or 11 of Philips' U.S. Patent No. 4,901,075 was willful?

Answer "Yes" or "No".

Yes (For Philips)	No (For Kodak)

ANTICIPATION

Question No. 3(a):

Do you find that Kodak has proven, by clear and convincing evidence, that any of the following claims of Philips' U.S. Patent No. 4,901,075 are invalid because each and every element of the invention defined in the claim of Philips' patent was disclosed in a single item of prior art relied upon by Kodak?

Answer "Yes" or "No".

	No (For Philips)	Yes (For Kodak)
Claim 3		
Claim 4		
Claim 7		
Claim 8		

Question No. 3(b):

If you answered "Yes" to Question 3(a) with respect to any claim, please identify each item of prior art that you find rendered that claim invalid.

Claim 3	
Claim 4	
Claim 7	
Claim 8	

OBVIOUSNESS

Question No. 4(a):

Do you find that Kodak has proven, by clear and convincing evidence, that any of the following claims of Philips' U.S. Patent No. 4,901,075 are invalid because the claimed invention described in the claim would have been obvious to persons of ordinary skill in the art in view of the prior art at the time of the invention?

Answer "Yes" or "No".

	No (For Philips)	Yes (For Kodak)
Claim 3		
Claim 4		
Claim 8		
Claim 11		

Question No. 4(b):

If you answered "Yes" to Question 4(a) with respect to any claim, please identify the prior art that you find rendered that claim invalid.

Claim 3	
Claim 4	
Claim 8	
Claim 11	

MONETARY DAMAGES FOR INFRINGEMENT

Question No. 5:

If you have found one or more claims of Philips' U.S. Patent No. 4,901,075 to be valid and infringed by Kodak, please identify the amount of monetary damages that will compensate Philips for Kodak's infringement.

$_____

FRAUD

Question No. 6:

Do you find that Kodak has proven, by a preponderance of the evidence, that Philips has committed fraud?

Answer "Yes" or "No".

No (For Philips)	Yes (For Kodak)

NEGLIGENT MISREPRESENTATION

Question No. 7:

Do you find that Kodak has proven, by a preponderance of the evidence, that Philips has committed negligent misrepresentation?

Answer "Yes" or "No".

No (For Philips)	Yes (For Kodak)

DECEPTIVE TRADE PRACTICES

Question No. 8:

Do you find that Kodak has proven, by a preponderance of the evidence, that Philips has engaged in deceptive trade practices in violation of Delaware's Deceptive Trade Practices Act?

Answer "Yes" or "No".

No (For Philips)	Yes (For Kodak)

EXHIBIT I5

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

U.S. PHILIPS CORPORATION, Plaintiff, v. EASTMAN KODAK COMPANY, Defendant.	Civil Action No. 06-251 (GMS)

EXHIBIT I5:
EASTMAN KODAK COMPANY'S PROPOSED VERDICT FORM

Defendant and Counterclaim Plaintiff Eastman Kodak Company ("Kodak") hereby submits its proposed verdict form as of March 3, 2008. Kodak reserves the right to submit revisions to its Proposed Verdict Form after meeting and conferring with Plaintiff U.S. Philips Corporation ("Philips") on outstanding trial management issues, after receiving the Court's rulings on the parties' respective motions *in limine*, and as necessary to conform to the evidence presented at trial and the rulings of the Court.

INFRINGEMENT

We, the jury, unanimously find as follows:

Question No. 1:

Do you find that Philips has proven, by a preponderance of the evidence, that Kodak has infringed any of the following claims of Philips' U.S. Patent No. 4,901,075, either directly or indirectly, either literally or under the doctrine of equivalents?

Answer "Yes" or "No".

	Yes (For Philips)	No (For Kodak)
Claim 3		
Claim 4		
Claim 7		
Claim 8		
Claim 11		

ANTICIPATION

Question No. 2:

Do you find that Kodak has proven, by clear and convincing evidence, that any of the following claims of Philips' U.S. Patent No. 4,901,075 are invalid because each and every element of the invention defined in the claim of Philips' patent was disclosed in a single item of prior art relied upon by Kodak?

Answer "Yes" or "No".

	Yes (For Kodak)	No (For Philips)
Claim 3		
Claim 4		
Claim 7		
Claim 8		

OBVIOUSNESS

Question No. 3:

Do you find that Kodak has proven, by clear and convincing evidence, that any of the following claims of Philips' U.S. Patent No. 4,901,075 are invalid because the claimed invention described in the claim would have been obvious to persons of ordinary skill in the art in view of the prior art at the time of the invention?

Answer "Yes" or "No".

	Yes (For Kodak)	No (For Philips)
Claim 3		
Claim 4		
Claim 8		
Claim 11		

MONETARY DAMAGES FOR INFRINGEMENT

Question No. 4:

If you have found one or more claims of Philips' U.S. Patent No. 4,901,075 to be valid and infringed by Kodak, please identify the amount of monetary damages that will compensate Philips for Kodak's infringement.

$ _____

_____

WILLFULNESS

Question No. 5:

Do you find that Philips has proven, by clear and convincing evidence, that Kodak's infringement of any one of Claims 3, 4, 7, 8, or 11 of Philips' U.S. Patent No. 4,901,075 was willful?

Yes (For Philips)	No (For Kodak)

FRAUD

Question No. 6(a):

Do you find that Kodak has proven, by a preponderance of the evidence, that Philips has committed fraud?

Answer "Yes" or "No".

Yes (For Kodak)	No (For Philips)

Question No. 6(b):

If you have answered "Yes" to Question 6(a), please identify the amount of monetary damages that will compensate Kodak for Philips' conduct.

_____

$ _____

NEGLIGENT MISREPRESENTATION

Question No. 7(a):

Do you find that Kodak has proven, by a preponderance of the evidence, that Philips has committed negligent misrepresentation?

Answer "Yes" or "No".

Yes (For Kodak)	No (For Philips)

Question No. 7(b):

If you have answered "Yes" to Question 7(a), please identify the amount of monetary damages that will compensate Kodak for Philips' conduct.

_____

$ _____

DECEPTIVE TRADE PRACTICES

Question No. 8:

Do you find that Kodak has proven, by a preponderance of the evidence, that Philips has engaged in deceptive trade practices in violation of Delaware's Deceptive Trade Practices Act?

Answer "Yes" or "No".

Yes (For Kodak)	No (For Philips)

EQUITABLE ESTOPPPEL

Question No. 9:

Do you find that Kodak has proven, by a preponderance of the evidence, that Philips' U.S. Patent No. 4,901,075 is unenforceable against Kodak due to equitable estoppel?

Answer "Yes" or "No".

Yes (For Kodak)	No (For Philips)

EXHIBIT I6

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

U.S. PHILIPS CORPORATION, Plaintiff, v. EASTMAN KODAK COMPANY, Defendant.	Civil Action No. 06-251 (GMS)

EXHIBIT I6: PHILIPS' PROPOSED VOIR DIRE

1. Good morning, ladies and gentlemen, I am about to ask you a series of questions that we call voir dire. The purpose of the voir dire examination is:

   (a) to enable the court to determine whether or not any prospective juror should be excused for cause;

   (b) to enable counsel for the parties to exercise their individual judgment with respect to peremptory challenges — that is, challenges for which counsel need not give a reason.

2. If any of you answer "yes" to any of these questions, I would ask you to stand up and, upon being recognized by me, to state your name. At the end of the questions, I will ask those who have responded "yes" to any of the questions to come to sidebar (that is, up to the bench next to me) with counsel for the parties to discuss your answers.

3. This case is expected to take 7 days to try. The schedule that I expect to maintain over those 7 days will be as follows:

   We will normally begin the day at 9:00 a.m. promptly. We will go until 1:00 p.m. and, after a one hour break for lunch, from 2:00 p.m. to 4:30 p.m. There will be a fifteen minute break at 11:00 a.m. and another fifteen minute break at 3:15 p.m. One exception to this schedule may occur when the case is submitted to those of you who are selected to serve as jurors for your deliberation. On that day, the proceedings might last beyond 4:30 p.m. We will post a copy of this schedule for the jury's convenience in the jury deliberation room.

   Does the length of this trial or the schedule contemplated by the court present a special problem to any member of the panel?

4. This case is an action for patent infringement arising under the patent laws of the United States. The plaintiff in this case is U.S. Philips Corporation (or simply "Philips"). The defendant in this case is Eastman Kodak Company (or simply "Kodak").

   For those of you selected to serve as jurors, I will give you more detailed instructions regarding the meaning of the word infringement once you are sworn in as jurors and again at the conclusion of the trial. For now, I will simply tell you that Kodak is accused by Philips of infringing Philips' patent-in-suit by importing, manufacturing, using, selling, and offering for sale certain digital cameras and other image encoding hardware and software products. Philips contends that Kodak's products infringed Philips' patent, and seeks damages for this alleged infringement. Kodak denies that it has infringed Philips' patent and contends that Philips' patent is not infringed, not valid, and not enforceable.

   Has any member of the panel heard or read anything about this case?

5. Have you or any member of your immediate family (spouse, child, parent or sibling) ever been employed by Philips or Kodak?

6. Have you or any member of your immediate family ever owned stock in any of these companies?

7. Have you or any member of your immediate family ever had a business relationship of any kind with any of these companies?

8. To the best of your knowledge, have you or any member of your family had any negative or positive experience with the products of any of these companies?

9. Have you or, to the best of your knowledge, any member of your immediate family, had any experiences with any of these companies that might keep you from being a fair and impartial juror?

10. Do you possess any opinions about any of these companies that might keep you from being a fair and impartial juror?

11. HAVE COUNSEL INTRODUCE THEMSELVES.

    Does any member of the panel, or your immediate family, know any of the attorneys involved in the case or have you or any of your immediate family had any business dealings with or been employed by any of these attorneys or their respective law firms?

12. HAVE COUNSEL IDENTIFY ALL POTENTIAL WITNESSES.

    Does any member of the panel know or is any member of the panel familiar with any of the prospective witnesses?

13. Have you ever worked in the fields of data compression or digital imaging, or for a company that makes digital cameras, digital camcorders, or other digital imaging equipment?

14. Do you believe companies frequently try to infringe or violate the patent rights of other companies?

15. Have you or any member of your immediate family ever been employed by the United States Patent and Trademark Office or the United States Department of Commerce?

16. Do you hold any opinions about the U.S. Patent and Trademark Office or the U.S. Department of Commerce that might keep you from being a fair and impartial juror?

17. Do you have any opinions about the relationship between patents and the public interest that might keep you from being a fair and impartial juror?

18. Have you or anyone in your immediate family ever applied for or obtained a patent in the U.S. or abroad?

19. Have you or any member of your immediate family ever had an experience with patents or the patent system that has resulted in feelings that might keep you from being a fair and impartial juror?

20. Have you ever served as a juror in a criminal or a civil case or as a member of a grand jury in either a federal or state court?

21. Have you or has anyone in your immediate family ever participated in a lawsuit as a party or in any other capacity (such as a plaintiff, defendant, or witness)?

22. Is there any member of the panel who has any special disability or problem that would make serving as a member of the jury difficult or impossible?

23. Having heard the questions put to you by the court, does any other reason suggest itself to you as to why you could not sit on this jury and render a fair verdict based on the evidence presented to you and in the context of the court's instructions to you on the law?

EXHIBIT I7

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

U.S. PHILIPS CORPORATION, Plaintiff, v. EASTMAN KODAK COMPANY, Defendant.	Civil Action No. 06-251 (GMS)

EXHIBIT I7:
EASTMAN KODAK COMPANY'S PROPOSED VOIR DIRE

1. Good morning, ladies and gentlemen, I am about to ask you a series of questions that we call voir dire. The purpose of the voir dire examination is:

   (a) to enable the court to determine whether or not any prospective juror should be excused for cause;

   (b) to enable counsel for the parties to exercise their individual judgment with respect to peremptory challenges — that is, challenges for which counsel need not give a reason.

2. If any of you answer "yes" to any of these questions, I would ask you to stand up and, upon being recognized by me, to state your name. At the end of the questions, I will ask those who have responded "yes" to any of the questions to come to sidebar (that is, up to the bench next to me) with counsel for the parties to discuss your answers.

3. This case is expected to take 7 days to try. The schedule that I expect to maintain over those 7 days will be as follows:

   We will normally begin the day at 9:00 a.m. promptly. We will go until 1:00 p.m. and, after a one hour break for lunch, from 2:00 p.m. to 4:30 p.m. There will be a fifteen minute break at 11:00 a.m. and another fifteen minute break at 3:15 p.m. One exception to this schedule may occur when the case is submitted to those of you who are selected to serve as jurors for your deliberation. On that day, the proceedings might last beyond 4:30 p.m. We will post a copy of this schedule for the jury's convenience in the jury deliberation room.

   Does the length of this trial or the schedule contemplated by the court present a special problem to any member of the panel?

4. This case is an action for patent infringement arising under the patent laws of the United States. The plaintiff in this case is U.S. Philips Corporation (or simply "Philips"). The defendant in this case is Eastman Kodak Company (or simply "Kodak").

   For those of you selected to serve as jurors, I will give you more detailed instructions regarding the meaning of the word infringement once you are sworn in as jurors and again at the conclusion of the trial. For now, I will simply tell you that Kodak is accused by Philips of infringing Philips' patent-in-suit by importing, manufacturing, using, selling, and offering for sale certain digital cameras and other image encoding hardware and software products. Philips also seeks damages for this alleged infringement.

   Kodak denies that it has infringed Philips' patent and asserts defenses to the charges of infringement. Specifically, Kodak asserts that the '075 patent is invalid and unenforceable against Kodak. Kodak also asserts defenses and counterclaims against Philips based on fraud, negligent misrepresentation, deceptive trade practices, equitable estoppel and laches.

   Has any member of the panel heard or read anything about this case?

5. Have you or any member of your immediate family (spouse, child, parent or sibling) ever been employed by Philips or Kodak?

6. Have you or any member of your immediate family ever owned stock in any of these companies?

7. Have you or any member of your immediate family ever had a business relationship of any kind with any of these companies?

8. To the best of your knowledge, have you or any member of your family had any negative or positive experience with the products of any of these companies?

9. Have you or, to the best of your knowledge, any member of your immediate family, had any experiences with any of these companies that might keep you from being a fair and impartial juror?

10. Do you possess any opinions about any of these companies that might keep you from being a fair and impartial juror?

11. COURT READS LIST OF COUNSEL

    For Eastman Kodak Company: John Allcock, Sean Cunningham, Timothy Lohse, Richard Mulloy, John Kinton, Jesse Hindman, Nikki Wyll and Megan McCarthy of DLA Piper US LLP and Frank DiGiovanni of Connolly Bove Lodge & Hutz LLP.

    For U.S. Philips Corporation: Thomas Winland, Steven Anzalone, Frank Decosta III, Kenneth Frankel, Joyce Craig and Matthew Levy of Finnegan, Henderson, Farabow, Garrett and Dunner LLP and Steven J. Balick and John Day of Ashby & Geddes.

Does any member of the panel, or your immediate family, know any of the attorneys involved in the case or have you or any of your immediate family had any business dealings with or been employed by any of these attorneys or their respective law firms?

12. COURT READS LIST OF WITNESSES

Mr. Majid Rabbani, Dr. Joan Mitchell, Mr. Steve Stasson, Mr. Michael Nier, Dr. Touradj Ebrahimi, Mr. Andrew Evenski, Mr. Robert Wallace, Dr. Charles Neuhauser, Mr. Stanley Fralick, Mr. Istvan Sebestyen, Mr. Richard Clark, Mr. Peyton Watkins, Dr. Bernd Girod, Mr. Mark Peterson, Dr. Timothy Schoechle, Mr. Jack Slobod, Mr. Jan van der Meer, Dr. Peter Vogel, Mr. Kenneth Cho, Dr. John Morris, Mr. Norman Richards, Mr. Eric Schylander, Mr. Joachim Speidel, Mr. Susumu Tsugaru, and Mr. Simon Turner.

Does any member of the panel know or is any member of the panel familiar with any of the prospective witnesses?

13. Have you ever worked in the fields of data compression or digital imaging, or for a company that makes digital cameras, digital camcorders, or other digital imaging equipment?

14. Do you believe companies frequently try to infringe or violate the patent rights of other companies?

15. Have you or any member of your immediate family ever been employed by the United States Patent and Trademark Office or the United States Department of Commerce?

16. Do you hold any opinions about the U.S. Patent and Trademark Office or the U.S. Department of Commerce that might keep you from being a fair and impartial juror?

17. Have you or anyone in your immediate family ever applied for or obtained a patent in the U.S. or abroad?

18. Have you or any member of your immediate family ever had an experience with patents or the patent system that has resulted in feelings that might keep you from being a fair and impartial juror?

19. Have you ever served as a juror in a criminal or a civil case or as a member of a grand jury in either a federal or state court?

20. Have you or has anyone in your immediate family ever participated in a lawsuit as a party or in any other capacity (such as a plaintiff, defendant, or witness)?

21. Is there any member of the panel who has any special disability or problem that would make serving as a member of the jury difficult or impossible?

22. Having heard the questions put to you by the court, does any other reason suggest itself to you as to why you could not sit on this jury and render a fair verdict based on the evidence presented to you and in the context of the court's instructions to you on the law?

EXHIBIT J

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

U.S. PHILIPS CORPORATION, Plaintiff, v. EASTMAN KODAK COMPANY, Defendant.	Civil Action No. 06-251 (GMS)

EXHIBIT J1: PLAINTIFF PHILIPS' PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW

Plaintiff U.S. Philips Corporation ("Philips") requests that the Court try all equitable issues separately during a bench trial, and that equitable issues should not be submitted to the jury. As such, Philips submits these preliminary proposed findings of fact and conclusions of law directed toward the equitable issues. Philips notes that Defendant Eastman Kodak Company ("Kodak") bears the burden of proving its equitable defenses and counterclaim, and Philips reserves the right to submit revisions or additions to its proposed findings of fact and conclusions of law after meeting and conferring with Kodak on outstanding trial management issues, after receiving proposed findings of fact and conclusions of law from Kodak, after receiving the Court's rulings on the parties' respective motions *in limine*, and after trying the equitable issues.

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I. Proposed Findings of Fact Relating to Kodak's Equitable Defenses of Equitable Estoppel, Implied License, Waiver, Patent Exhaustion by License or Release, Unclean Hands, and Laches, and Counterclaim for Equitable Estoppel

A. Proposed Findings of Fact Relating to Relevant Standards Issues

1. Introduction

1. Kodak's infringing products and services have practiced the international standard for still image coding that has become known as the "JPEG standard." More specifically, Kodak's infringing products and services have practiced a part of the JPEG standard that is known as "Baseline JPEG." (Testimony of Dr. Girod.)

2. Philips's patent-in-suit, U.S. Patent No. 4,901,075 ("the '075 patent"), was essential to practicing Baseline JPEG until it expired on September 11, 2007. (PX 0001; Testimony of Dr. Girod.)

3. Kodak bases its equitable defenses and counterclaim asserting unenforceability of the '075 patent due to equitable estoppel, implied license, waiver, and unclean hands on its allegations that Philips did not comply with alleged patent policies of certain standards-setting organizations in setting the JPEG international standard published in 1992 and 1994. (Answer ¶¶ 30, 32-34; Cclm. ¶¶ 1-10, 15-62, 84-107.)

4. More specifically, Kodak contends that Philips was required to, but did not, bring the '075 patent to the attention of the standards-setting organizations in connection with the development and adoption of the JPEG standard. (Cclm. ¶¶ 15-62.)

5. This Court finds, contrary to Kodak's contentions, that no such requirement applied to Philips, because Philips' employees did not propose any technology for the JPEG standard. Instead, Philips' employees complied with their obligations in the standards-setting organizations.

2. Relevant Standards-Setting Organizations and Standards

6. Three major Standards Setting Organizations ("SSOs") are relevant to this case: (1) the International Telecommunications Union ("ITU"), and its Comité Consultatif International Telegraphique et Telephonique ("CCITT") committee; (2) the International Organization for Standardization ("ISO"); and (3) the International Electrotechnical Commission ("IEC"). In the 1992-1994 timeframe, the CCITT was renamed the ITU Telecommunication Standardization Sector ("ITU-T"). (Testimony of Dr. Schoechle.)

7. The JPEG standard was developed in a joint effort between the CCITT and ISO/IEC beginning in the late 1980s through a committee known as the Joint Photographic Experts Group, which led to the acronym "JPEG." (Testimony of Dr. Schoechle.)

8. CCITT Recommendation T.81 was published on September 21, 1992, setting forth specific procedures for the encoding of images. (PX 0156.)

9. ISO/IEC International Standard 10918 was published on February 15, 1994, setting specific procedures for the encoding of images. (PX 0296.)

10. CCITT Recommendation T.81 and ISO/IEC International Standard 10918-1 set forth identical procedures for the encoding of images. Both are referred to as the JPEG standard. (PX 0156; PX 0296; Testimony of Dr. Schoechle.)

11. The JPEG standard uses a lossy image compression algorithm that employs a block-wise DCT (Discrete Cosine Transform), followed by quantization and Huffman coding of the transform coefficients. The minimum capability of that algorithm is known as "Baseline JPEG." The functional specification for Baseline JPEG is set forth in Annex F of the JPEG standard. (PX 0156 at KODAK_012625; PX 0296 at KODAK_012962.)

12. Any DCT-based JPEG decoder must support the Baseline JPEG standard. (Testimony of Dr. Girod.)

3. Patent Policies of Standards-Setting Organizations

a. General Structure and Practices

13. The ITU-T and CCITT before it, ISO, and IEC are all hierarchical organizations, with layers of governing committees, representing a taxonomy of technical topics. Within the ISO and IEC structures are committees called "Technical Committees" ("TC") and "Sub-Committees" ("SC"). In the ITU-T/CCITT, such committees are referred to as a "Study Groups" ("SG") and "Working Parties" ("WP"). The TCs and SCs of the ISO and IEC, along with the SGs and WPs of the ITU-T/CCITT, are all located at the top of the hierarchical organization chart. (Testimony of Dr. Schoechle.)

14. In the ISO and IEC, the TCs are divided downward into SCs and then further broken down into "Working Groups" ("WG"). In the ITU-T, this lowest level group is usually referred to as a "Rapporteur Group," identified by a "Question" the group addresses. The actual detailed technical work of considering and drafting standards takes place at the bottom level of the hierarchy, typically under a consensus process among technical experts. Usually, in the ISO structure, the WG level is the bottom, most specialized, level group. In the JPEG standard development process, however, the WG actually served as a plenary over several subgroups focusing on different technologies. (Testimony of Dr. Schoechle.)

15. Committee meetings above the bottom level are often referred to as "plenary" meetings, because they deal with broader management, policy, coordination, or oversight of the technical work. No technical work is performed in plenary meetings. Plenary meetings usually address administrative issues, which may include adoption of resolutions, approval of minutes, liaison paperwork, and other formalities, with formal votes. The bottom working level groups of technical experts, on the other hand, are not administrative bodies and do not, as a usual practice, vote on anything. (*E.g.* PX 0134.) Their meetings usually last several days, or a week or more,

and may be followed by or bracketed by a plenary meeting of the parent committee. Typically a working level group passes its work up to its parent committee to be presented and voted on at these plenary meetings. (*E.g.* PX 0115.) Technical experts in the working level groups often have little interest in arriving early or remaining to attend the parent's plenary meetings. Among the experts, plenary meetings are frequently regarded as perfunctory and not technically interesting, being mostly devoted to administrative issues. (Testimony of Dr. Schoechle.)

16. TC and SC level meetings, and the WG meetings involved in JPEG standard development process, are formal, plenary in nature, attended by national body "delegates," and presided over by a chairperson appointed by a particular national body that has been awarded the "secretariat" function for that specific TC or SC. Plenary meetings typically do not take more than a single day or two half days. (Testimony of Dr. Schoechle.) In contrast, at the usual WG level, and at the sub-WG level in the JPEG standard development process, meetings are less formal, attendees are known as "experts," meetings are chaired by a "convener" elected by the parent SC plenary, and decisions are made by consensus and not by voting. (*E.g.*, Morris Deposition, pp. 81-82; Clark Deposition, p. 31; Mitchell Deposition, p. 80.) The same people may not always participate at both the plenary and working levels, even though the meetings may be contiguous. (Testimony of Dr. Schoechle; PX 0256; PX 0257; PX 0258.)

17. When the WG level, or, in the present case, the sub-WG level JPEG group, has reached consensus on a document based on its own technical discussions, it advances the document up the ladder to its parent SC along with a recommended resolution to circulate the document as a Committee Draft ("CD") for ballot and comment among a wider range of member national bodies. (Testimony of Dr. Schoechle.)

18. Representation and attendance in the ISO and IEC is by national body. These "national bodies" are usually a nationally delegated (government agency or non-governmental industrial association) standards body such as American National Standards Institute ("ANSI"), British Standards Institution ("BSI"), *Deutsche Institute für Normung* (DIN), etc. Selection of delegates to TC and SC meetings and of experts to WG meetings is made by the national body, but is usually open to any interested individual. In most cases, these individuals are employed by corporations or other organizations with an economic interest, but are frequently professional consultants or academics. Corporations cannot be members of ISO/IEC committees, unlike ITU-T committees. (Testimony of Dr. Schoechle.)

19. In the ITU-T/CCITT, participation in SGs is not by standards bodies but is formally established by national governments as members, reflecting the traditional nationally-owned telephone operating companies. (Testimony of Dr. Schoechle.)

b. RAND Policy

20. Requiring an offer to license patents on RAND ("Reasonable And Non-Discriminatory") terms has long been the centerpiece of standards body patent policy. Under this policy, if there is a known possibility of patent claims existing on the subject matter of a potential standard, the patent holder must simply declare its intention to agree to either free or reasonable royalty, non-discriminatory licensing of the patent to users of the standard. (Testimony of Dr. Schoechle.)

21. Standards organizations do not define what is "reasonable" or "non-discriminatory," which is left to be negotiated or litigated outside of the standards development environment. (Testimony of Dr. Schoechle.)

c. Patent Search Obligations

22. Standards committees generally do not conduct a patent search before finalizing a standard. The primary reasons for not conducting a search are that searches are expensive and standards bodies do not have the legal resources, searches are not definitive, and standards organizations do not want to assume liability if something is missed in the course of the search. (Testimony of Dr. Schoechle; Mitchell Deposition, pp. 183-84, 204-05; Sebestyen Deposition, pp. 57-58.)

23. As a general matter, it is not practical for corporations, especially large ones whose employees are involved in large numbers of standards committees, to conduct patent searches, even within their own organizations, for technology relating to numerous standards that their employees are involved in developing. (Testimony of Dr. Schoechle; Sebestyen Deposition, pp. 57-58.)

24. Consequently, there has been no duty established to conduct a patent search by either a standards committee or by any individuals in the committees or their employers. Instead, the obligations for disclosure of patents have been for the personal knowledge of individuals, with the recognition that an individual is not a walking encyclopedia of all knowledge of his or her employer. (Testimony of Dr. Schoechle; Mitchell Deposition, pp. 183-84, 204-05; Sebestyen Deposition, pp. 57-58; PX 0143 at IBM 8710004710.)

d. ISO, IEC, and CCITT Application of General Principles

25. Throughout the time period that the JPEG standard was being developed, from 1986 to 1990, and through its adoption in 1992 and 1994, the patent policies for the ISO, IEC, and CCITT/ITU-T remained essentially unchanged. Although some concerns arose at the technical working levels, the top levels of these standards organizations held firm in their

policies and maintained the obligation to disclose patents only for those proposing technology for standards. (Testimony of Dr. Schoechle; Sebestyen Deposition, p. 179.)

4. Historical Committee Structure Relating to the Development of the JPEG Standard

a. Working Group 8

26. ISO Committee TC97/SC2/WG8, otherwise referred to as Working Group 8 ("WG8"), *Coded representations of pictures*, formed in March 1983. (PX 0252.)

27. The first WG8 meeting took place after WG8's parent committee, a sub-committee of TC97 known as SC2, had decided to form a new sub-group to consider standardization of communication of various picture formats. (PX 0044.)

28. The initial proposed work program of WG8 included: (1) videotex; (2) broadcast teletext; (3) computer graphics; (4) telewriting; (5) slow scan video; and (6) mixed-mode teletext and facsimile. (PX 0044 at KODAK_184111, ¶ 6.)

29. By 1985, SC2 broadened WG8's name to *Coded representation of picture and audio information*, further expanding its work program, and elected Dr. Hiroshi Yasuda of Nippon Telegraph and Telephone Corporation ("NTT") in Japan as Convener of WG8. (PX 0054 at IBM 8710049421.)

30. Because of its broad scope of responsibilities, WG8 rapidly spun its work program into additional sub-groups, referred to as *ad hoc* or *expert groups*. (PX 0115; PX 0081.)

31. WG8 effectively served as a plenary, rather than a true "working group," handling primarily administrative and management issues, logistics, and coordination of work groups and liaisons. Technical working level groups met separately to handle the actual standardization work, including evaluating proposals, deciding which technology to select, and drafting standards. (PX 0115; Schylander Deposition, pp. 73-74, 93-94; Morris Deposition, p. 82.)

32. When technical working level group meetings were held in conjunction with WG8 meetings, typically an opening WG8 plenary was held on the first day and a closing WG8 plenary was held on the last day, with the intervening days devoted to technical group meetings. (Schylander Deposition, pp. 73-74, 93-94; PX 0115.)

33. WG8 met roughly every five months until August 1991, for a total of twenty meetings. (PX 0256.)

b. CCITT SG VIII

34. In the mid-1980s, the scope of SG VIII was terminals for telematics services—responsible for subjects ("Questions") relating to terminals for services such as facsimile, phototelegraphy, teleconferencing and videotex. (PX 0300 at KODAK_076589-90; PX 0253.)

35. The initial connection with ISO/IEC WG8 was through the newly formed CCITT SG VIII special rapporteur's group on *New Image Communication* ("NIC"), led by Istvan Sebestyen from Siemens Corporation. This group originally was known in CCITT as Q.18/VIII (Question 18 of SG VIII), and later Q.16. (PX 0063; PX 0300.) By 1990, the name of the group was expanded to *Common components for image communication*. (PX 0134; PX 0300.)

c. JPEG—a Joint Committee of the ISO and CCITT

36. By 1984, a photographic *ad hoc* group, the *Photographic Experts Group* ("PEG"), was convened within WG8 and chaired by Graham Hudson of British Telecom. (PX 0056; PX 0257.)

37. At the July 1986 WG8 meeting, PEG reported that it had developed an active liaison exchange with the CCITT SG VIII *New Image Communication* group, led by Sebestyen. They said that a joint meeting was proposed for November 1986, where the possibility of a joint expert's group to evaluate compression techniques could be discussed. (PX 0056.)

38. In November 1986, the joint meeting occurred and the Joint Photographic Experts Group ("JPEG") replaced PEG as a sub-group under WG8, with Hudson as its first chairman. (PX 0064; PX 0253.) The new group continued to be administered under the ISO procedures as part of WG8, with some accommodation of the CCITT processes. (Testimony of Dr. Schoechle.)

39. Due to the rapid pace of activity in the JPEG group, as well as various delays in other WG8 business, the JPEG group scheduled interim meetings between regularly scheduled WG8 meetings. (PX 0081 at KODAK_062444; PX 0080.)

d. Philips' Employees Attended Three JPEG Group Meetings and None After May 1988, Did Not Vote, and Proposed No Technology for the JPEG Standard

40. Philips' employees attend only three of the 24 PEG or JPEG group meetings, attending the last in May 1988. (PX 0257.)

41. Different Philips' employees attended the JPEG committee meetings: Simon Turner attended in March 1987; Norman Richards attended in January 1988; and Gerald Weth attended in May 1988. (PX 0257.) Turner and Richards were from Philips Research Laboratories in the UK, while Weth was from the Philips Kommunikation Industrie AG ("PKI") business unit in Germany. (Turner Deposition, pp. 9, 15; Richards Deposition, p. 10; Weth Deposition, pp. 10-11.)

42. Philips' employees did not have any continuing or active role in the JPEG group. Turner and Weth both attended the JPEG group meetings. Turner and Richards served as experts in blind judging of the quality of pictures from the various technologies under consideration, and Weth was a listener. (Turner Deposition, pp. 50-52; Richards Deposition, pp. 40-41; Weth Deposition, pp. 68, 103.)

43. There is no evidence that Philips' employees voted on any proposed standard at any JPEG group meetings. (Weth Deposition, pp. 103-04.)

44. Philips' employees did not propose any technology for the JPEG standard. The JPEG group received twelve technical proposals for the JPEG standard, none of which came from Philips. (PX 0071 at KODAK_013128.) Sebestyen also testified that Philips never proposed any technology for the JPEG standard. (Sebestyen Deposition p. 144.)

e. Reorganization of Committees

45. In 1986, the ISO and IEC formed JTC1, the new joint TC for Information Technology. By 1988, SC2 moved from ISO TC97 into the new JTC1, and WG8 acquired the designation ISO/IEC JTC1/SC2/WG8. (PX 0090; PX 0254.)

46. By 1990, the structure of WG8 had become quite cumbersome and its plenary nature was becoming unmanageable, with over 150 active members from 15 countries. (PX 0239 at PHLPSKD_00039844.) At the WG8 plenary meeting in July 1990, it was announced that JTC1 would move WG8 "up" to become a new SC under JTC1 later designated as SC29 *Coding of audio, picture, multimedia and hypermedia information.* (PX 0133 at KODAK_184596) The new SC29 was finalized in 1991. (PX 0144 at KODAK_184704.)

47. The new SC29 became the parent committee over:

- Working group 9 (WG9)—*Coding of bi-level images*
  aka BIG or JBIG (Bi-level Image coding experts Group)
- Working group 10 (WG10)—*Coding of photographic images*
  aka JPEG
- Working group 11 (WG11)—*Coding of moving picture images and associated audio*
  aka MPEG (Moving Picture image coding Experts Group)

- Working group 12 (WG12)—*Coding of multimedia and hypermedia information* aka MHEG

(Multimedia and Hypermedia coding Experts Group) (PX 0133 at KODAK_184611; PX 0255.)

5. Patent Policies Relevant to JPEG

48. As JPEG was a collaboration between the ISO WG8 and the CCITT SG VIII, the patent policies of both parent organizations applied to JPEG. (PX 0134, ¶ 1.) Under both policies, the proposers of technology for a standard were asked to disclose patents they personally knew of that covered the proposed technology, and owners of those patents were asked to submit patent statements agreeing to license their patents on RAND terms. (Testimony of Dr. Schoechle.)

a. Patent Policy of ISO/JTC1

49. The patent policy stated in the ISO Directives (1982 Edition) and distributed to WG8 in March 1987 provided that the "member body" proposing technology for a standard should identify any patents they knew about that covered the proposal: "[T]he member body putting forward a proposal of such a kind should draw the technical committee's or sub-committee's attention to any known patent and like rights on a world-wide basis or any known pending applications . . . ." (PX 0068 at KODAK_184203 ¶ a.) In the ISO, a "member body" is a national committee represented at meetings by a national delegation. If the proposal were accepted on technical grounds, the Directives provided that the "proposing member body" should then ask any known owner of such a patent to offer to negotiate licenses to the patent on RAND terms. If such an offer were not provided, however, the technical committee was to proceed with inclusion of that technology only if justified by exceptional circumstances. (PX 0068; PX 0066; Testimony of Dr. Schoechle.)

50. Between 1989 and 1992, the ISO Directives were augmented with JTC1 Directives specific to information technology subject matter and processes, and used essentially the same wording as the earlier ISO Directives: "the NB putting forward a proposal of such a kind should draw JTC 1's or the SC's attention to any known patent and like rights on a world-wide basis or any known pending applications . . . ." (PX 0158 at IBM 8710227874.) The terms "NB" (National Body) and "Member Body" are equivalent. If the proposal were accepted on technical grounds, any known patent owner would be requested to offer to negotiate licenses on RAND terms; if the patent owner refused, then JTC1 was to proceed with the proposed technology as a standard only if justified by exceptional circumstances. (PX 0158 at IBM 8710227873-74; Testimony of Dr. Schoechle.)

51. The relevant patents to be identified were those actually known by individuals in the member body who proposed the technology. No patent search was required. (Testimony of Dr. Schoechle; Mitchell Deposition, pp. 193-84, 204-05; Sebestyen Deposition, pp. 57-58.)

b. Patent Policy of CCITT

52. The CCITT patent policy was very similar to the ISO and JTC1 policies. According to a policy statement circulated at a meeting of SG Chairmen in December 1983, "it was decided to adopt in principle the ISO/IEC rules for CCITT work . . . ." (PX 0047.) The chairmen were informed that the "rules stipulate that Study Group members should inform the meeting if they know of any patent concerning a subject under study," with "the minimum requirements" for the members to agree to offer licenses under RAND terms, and if they did not agree, the draft Recommendation might be withdrawn. (PX 0047.)

53. The policy was stated more formally at the SG VIII meeting held in February 1988, and was attached to the meeting report as Annex 3: "the CCITT member organization putting forward a proposal of this type should draw the CCITT's attention to any known patent

and similar rights on a world-wide basis or any known pending applications . . . ." (PX 0089 at KODAK_013217, ¶ 1.) The patent policy further provided that if any patents covering a standard were identified, the patent owner must provide a statement waiving its patent rights, offering to license the patent on RAND terms, or agreeing to neither. If the patent owner were not willing to waive its patent rights or offer to license on RAND terms for a patent essential to practicing a proposed standard technology, no CCITT standard would be established for that technology. (PX 0089 at KODAK_013217, ¶¶ 1, 2, 3.)

54. The relevant patents to be identified were those actually known by individuals in the member organization who proposed the technology. No patent search was required. (Testimony of Dr. Schoechle; Mitchell Deposition, pp. 193-84, 204-05; Sebestyen Deposition, pp. 57-58.)

c. Patent Policy of JPEG

(1) JPEG Group Patent Policy—March 1987

55. Implementing these policies in March 1987, the Chairman of the JPEG group, Hudson, distributed a memorandum stating that "[b]efore a photographic technique can be considered for standardization, the proposer must state if the technique is the subject of any patents." (PX 0068 at KODAK_184202.) He paraphrased the ISO policy asking for RAND declarations and attached a copy of the ISO Directives. (PX 0068 at KODAK_184202-203.)

56. Participants in the JPEG group understood that only patents or patent applications that the person actually knew about were requested, and that no patent search was required. Mitchell testified that there never was any obligation to search for your own patents. (Mitchell Deposition, pp. 183-84, 204-05.) Sebestyen similarly testified that there was no obligation to perform a search for your own patents, and he did not have his company, Siemens, search for

patents. (Sebestyen Deposition, pp. 57-58.) Sebestyen explained that a search would be a real problem for large organizations that have a large patent portfolio. (Sebestyen Deposition, p. 58.)

(2) JPEG Group Patent Policy Questioned and Reaffirmed—May 1988-Aug. 1991

57. In May 1988, Yasuda, the Convener of WG8, wrote a memorandum to WG8 expressing concerns about the disclosure of patents in accordance with ISO and CCITT policy, and urged an initiative to ask each national member body to adopt a new patent policy with respect to JPEG that would go further. For example, Yasuda wrote that he "hope[d]" that the patent owners would commit to "free of charge" license terms. (PX 0093.) Mitchell testified that she "believe[d] this JPEG policy he wanted adopted was not the ISO policy . . . ." (Mitchell Deposition, p. 145.)

58. In September 1988, Charles Touchton from IBM, who was Convener of an advisory sub-group within WG8 and an active participant in JPEG, wrote a memorandum in reaction to "numerous discussions within WG8 and its subgroups relating to the inclusion of patented technologies." (PX 0103 at KODAK_012370.) He reiterated the ISO patent policy and proposed that "this committee and its subgroups cease immediately any further deliberations relating to the existence of patents in connection with approaches under consideration for standardization" beyond what was necessary to determine whether the patent owner would refuse to waive its patent rights or agree to grant a license on RAND terms. (PX 0103 at KODAK_012371.) Touchton's memorandum explained that he had been advised that "it is totally inappropriate for a standards development body at the working group level to consider in any way the existence of patents as part of its deliberations," except to the extent necessary to determine whether the patent owner would refuse that waiver or provide a RAND license commitment. (*Id.*) He indicated that the reasons for his concern were the complexity of

licensing issues and potential antitrust exposure by the committee for discrimination against a patent holder (*i.e.*, boycott). (*Id.*)

59. On October 18, 1988, Yasuda, as Convener of WG8, submitted a report to WG8's parent, SC2, asking for guidance on discussion of patent issues. Yasuda noted that in spite of existing patent policies of the JPEG group's patent organizations, there were "heated discussions in our group about how to discuss patent issues in standardization activities." (PX 0106 at IBM 8710031701.) Yasuda attached to his memorandum a copy of a RAND statement, along with copies of both the ISO and CCITT patent policies. (PX 0106 at IBM 8710031727-32.)

60. SC2 responded to Yasuda's request by adopting Resolution 17. That Resolution told the bottom level working group to submit draft standards to the parent SC based solely on technical considerations and to leave patent considerations to its parent:

> JTC1/SC2 affirms the ISO policy that working groups should submit to their parent sub-committee (SC) draft proposed standards based on technical considerations derived from the technical expertise of the members of the working groups. Working groups should leave to such parent SC's any and all assessments of any patent considerations associated with the technical solutions underlying such proposed standards, other than such initial assessments as may be necessary to determine that any patents which working group believes may be applicable to any such technical solutions are, as required by ISO, available on reasonable and non-exclusive terms and conditions.

(PX 0105 at KODAK_184420.)

61. On October 27, 1988, the SC2 sent Yasuda a fax reporting its decision on Resolution 17. The fax reaffirmed that the working group should confine itself to technical

analysis, including producing multiple alternative draft standards for situations complicated by patent questions, and leave all patent decisions to the parent SC. (PX 0109 at IBM 8710026929.)

62. On January 25, 1989, Yasuda sent a memorandum to WG8 in preparation for the upcoming meeting. (PX 0109.) He conveyed the text of Resolution 17, stating that it "clearly defines what we should do in WG level." (PX 0109 at IBM 8710026926.) He added his own concerns, however, about the scope and terms of possible licenses, and noted that "there are many difficulties to solve." (PX 0109 at IBM 8710026927.) He summarized the obligation at the WG level according to Resolution 17 and reaffirmed that the disclosure obligation was on the proposers of techniques: "all the techniques proposed as candidates for standardization should clarify its patent status and policy, so that members can understand and decide carefully." (PX 0109 at IBM 8710026926.)

63. On February 10, 1989, Touchton sent a memorandum to Gregory Wallace, the new Chairman of the JPEG group, expressing concern that new technical material has been introduced and that he had not seen patent declarations on it. (PX 0112.) He was concerned that the committee would get "well down the road on a given approach and suddenly learn that we have a patent problem." (*Id.*) His recommendation focused on proposers of technology for the standard:

> [A]ll the proposers of each approach or set of function [sic] still under consideration to restate the patent position which exists with respect to each such proposal, and where necessary, provide the committee with the required [RAND] statement from each patent holder.

(*Id.*)

64. Subsequently in February 1989, WG8 and its sub-groups, including JPEG, met in Livingston, NJ. (PX 0108.) At that meeting, JPEG group Chairman Wallace followed the official policy and requested that "[a]ll Proposers of any Part of the JPEG algorithm being considered for Standardization" submit patent statements by June 5. (PX 0113 at KODAK_068817.) Wallace's request to the JPEG group was limited to proposers of technology for the standard, requesting identification of patents that the "Proposer believes would apply to his/her proposed part of the JPEG algorithm." (*Id.*) The request called for patents actually known by the individuals proposing the technology and did not require a patent search. (Mitchell Deposition, pp. 183-84, 204-05; Sebestyen Deposition, pp. 57-58.)

65. Participants in the JPEG group understood that only proposers of technology were required to provide the patent disclosure. For example, Mitchell testified that it was her understanding that in this time period the disclosure obligation was on the proposer. (Mitchell Deposition, pp. 143-44, 173-74.) Sebestyen had the same understanding, testifying that the patent policy was that all proposers of a technology had to declare whether their technique proposed for standardization was covered by a patent. (Sebestyen Deposition, pp. 210-12.) JPEG group participant Richard Clark testified similarly. (Clark Deposition, pp. 179-80.)

66. There is no evidence that any Philips' employees attended the February 1989 JPEG group meeting or learned of this request.

67. On March 1, 1989, Touchton of IBM wrote to JPEG group Chairman Wallace regarding IBM's Q-coder patents on its arithmetic coding technology proposed for the JPEG standard, saying that IBM would offer RAND licensing terms but would not discuss royalty rate or other specific terms with the committee. (PX 0114.)

68. On April 21, 1989, Wallace responded, expressing concern about IBM's possibly charging a royalty rate that would be volume-based and requesting further details about the license terms. (PX 0240 at KODAK_013241-42.)

69. On April 28, 1989, IBM responded to Wallace with certain license terms, but not with the specific amount of the royalty. (PX 0240 at KODAK_013239.)

70. On May 10, 1989, Wallace forwarded his correspondence with IBM to JPEG, noting that IBM's letter exceeded the requirements of the CCITT and the ISO, patent policies. (PX 0240.) Thus, the disclosure of all specific license terms was not required, and no requirement existed to give the specific amount of the royalty. (Testimony of Dr. Schoechle.)

71. At the end of May and beginning of June 1989, the JPEG group received several responses to Wallace's February request for patent statements by proposers. (PX 0116; PX 0297; PX 0298; PX 0299.) These responses demonstrate how the JPEG group understood the request, and how it dealt with the patent issue in practice. First, the responses confirmed that the group understood the request to be for disclosures by technology proposers. The only people who responded were technology proposers, with the exception of Kodak. At that time, Kodak was actively participating in the JPEG group but had not yet proposed any technology (Kodak proposed technology in March 1990). (PX 0257; PX 0127.) On behalf of Kodak, Michael Nier responded that he understood the request to be addressed to "core" members of the JPEG group. (PX 0116 at KODAK_013290.) According to Clark's understanding, however, Nier did not need to respond, because Kodak had not proposed any technology. (Clark Deposition, pp. 179-80.) Second, there was much non-compliance with the request, for only about half of the technology proposers responded in any way (*i.e.*, IBM, Mitsubishi, NEC, ESPRIT 563 PICA (ADCT), DEC, ANT, and SAT). (PX 0116; PX 0297; PX 0298; PX 0299; PX 0118.) Third, the

responses from both Nier of Kodak and Wallace of Digital Equipment Corporation spoke in the first person, indicating that they understood the request to be for their personal knowledge, not the entire knowledge of their respective companies. (PX 0116 at KODAK_013285, 013290.) In addition, none of the responses provided disclosure of patent license rates, indicating that a royalty-free license was not needed. (PX 0116; PX 0297; PX 0298; PX 0299.)

72. About two years later, in March 1991, the CCITT SG VIII/Q.16 committee issued a statement to the JPEG group proposing another effort to identify patents essential to practice the then current draft of the standard. (PX 0261 at KODAK_182082, KODAK_182115, and KODAK_182143.)

73. On August 4, 1991, Wallace, as the Convener of the JPEG group (newly reorganized as SC2/WG10 at that time), sent a request to all persons on the JPEG group's mailing list. He asked for identification of any patents covering the draft standard that they knew about. Wallace explained that no patent search was required but rather identification of patents "you currently know of" that may be needed to practice the standard. (PX 0143 at IBM 8710004710.)

74. No copy of this request was sent to any Philips employees, because none were on the JPEG group's mailing list at least as of March 1990. (PX 0129.) There is no evidence that any Philips' employees learned of this request.

75. In a contemporaneous memorandum to the JPEG group, Wallace discussed his plan. He described his uncertainty as to the way in which to proceed:

> There is an enormous number of patents in the world which concern some aspect of image compression technology. How should WG10 decide which patent holders in the

> world should be contacted and requested to write a letter stating they will follow the JTC1 rules?
>
> * * *
>
> I have consulted various officials within JTC1 and ANSI (the JTC1 Secretariat). They have given me various suggestions, but have told me that it is up to us, as an ISO WG, to decide for ourselves how to handle such practical matters.

(PX 0143 at IBM 8710004711-12.) Wallace's solution was to write his letter to all JPEG group participants on the mailing list, asking them to identify anybody's patents essential to implementation of any of the standardized processes. If a response were received, he, as Convener, would solicit a RAND statement directly from the patent holder. If no RAND licensing statement were forthcoming, he would threaten to withdraw the standard. (*Id.*)

76. In his memorandum, Wallace acknowledged that his proposed solution was different than what JPEG had been doing, but minimized it as a "slight formalization of what we've already been practicing." (PX 0143 at IBM 8710004712, ¶ 4.1.) He did not call attention to the difference that this request was addressed to all JPEG group participants on the mailing list, not simply to technology proposers. (PX 0143 at IBM 8710004712, ¶ 4.1; Mitchell Deposition, p. 152.) Nevertheless, JPEG participants recognized that although the call for patent disclosures was broadened after the technology was selected, the obligation to disclose remained on the technology proposers, since letters were received only from some proposers (*i.e.*, MEC, IBM, Kodak, and KTAS (ESPRIT 563 PICA)). (PX 0071 at KODAK_013128; PX 0141; PX 0147; PX 0081 at KODAK_062445; PX 0073.) Wallace's request received little response. Most proposers did not respond at all. Mitchell testified that most people did not respond because their in-house lawyers would not say that no patents applied. (Mitchell Deposition, p. 187.)

77. The August 1991 request from Wallace to those persons then on the JPEG group's mailing list varied from the ISO/IEC and CCITT policies. The policy of the parent organizations never changed during the relevant time period. The parent committees within the ISO and CCITT placed the patent disclosure obligation on the proposers of the technology for standardization. Wallace's August 1991 request was on his own initiative, without approval from the parent committee. As a result, the 1991 request did not expand the patent disclosure obligation, which remained only on technology proposers. (Testimony of Dr. Schoechle.)

(3) Summary—Patent Disclosure Obligation Remained on Technology Proposers for Personal Knowledge of Essential Patents

78. The preceding facts and the historical context lead to two primary conclusions. First, the obligation for disclosure of patents needed to practice technology incorporated in the JPEG standard rested only on proposers of technology for standardization. The CCITT and ISO/IEC policies and obligations stayed the same throughout the time period of JPEG standardization. Through 1991, the requests by the JPEG group were only to proposers of technology. The 1991 request, directed at all JPEG participants who were on the mailing list, did not establish a new policy or obligation. Requests by the JPEG group for additional policy or guidance from parent committees or from JTC1 received a reiteration of the original policy and a reluctance to make any changes. Moreover, because only a few of the proposers responded, the JPEG group did not strictly comply with any obligation to provide patent disclosures. (Testimony of Dr. Schoechle.)

79. Second, the patent disclosure was to be based on the personal knowledge of individuals, and no obligation existed to conduct a patent search. (Testimony of Dr. Schoechle.)

6. Chronology of JPEG Standard Development

80. Key dates in the development and adoption of the JPEG standard are as follows:

- November 1986—JPEG group formed (PX 0086 at KODAK_184270)
- March 1987—request for proposals; 12 methods proposed (PX 0086 at KODAK_184270)
- June 1987—pre-selection among 10 of the 12 methods proposed (2 withdrawn) (PX 0086 at KODAK_184270)
- January 1988—test among three top proposals: ADCT, arithmetic, and Japanese combined proposal; ADCT received highest marks; decision made to make ADCT top candidate and to refine ADCT (PX 0086 at KODAK_184270)
- July 1990—finalized technology at Porto meeting (PX 0015 at IBM 8810000570, Mitchell Deposition, p. 60)
- October 1991—CD had passed CD ballot phase in ISO and CCITT and was ready for approval as DIS (PX 0146 at KODAK_182153, KODAK_182181; PX 0150 at KODAK_183658)
- November 1991—CD released for ballot (PX 0150 at KODAK_183658)
- 1992—DIS passed (PX 0015 at IBM 8810000570)
- September 1992—Standard published by the CCITT (PX 0156)
- February 1994—Standard published by the ISO (PX 0296)

7. Philips' Employees' Inactive Role in JPEG Standard Development

81. Philips' employees were not active participants in the JPEG group. They attended a total of three JPEG meetings, and none after March 1988. In addition, as discussed earlier, they proposed no technology for potential use in the JPEG standard.

82. Out of 24 PEG and JPEG meetings, Philips' employees attended only three. Turner from the UK (Philips Laboratories) attended the March 1987 meeting, Richards from the

UK (Philips Laboratories) attended the January 1988 meeting, and Weth from Germany (PKI) attended the May 1988 meeting. (PX 0257.) The only substantive involvement by Philips' employees in any of these meetings was Turner's and Richards' serving on panels evaluating picture quality samples. (Turner Deposition, pp. 50-52; Richards Deposition, pp. 40-41.) There is no evidence of other substantive contributions or voting in any JPEG meeting by anyone employed by Philips.

83. According to testimony by Sebestyen, a JPEG participant who led the JPEG group's immediate parent committee in CCITT, "Philips was never, never in the main stream of the JPEG development." Rather, "Philips representative[s were] in the situation where they had no information on what was going on, . . . on the peripheral . . . ." (Sebestyen Deposition, p. 189.) He viewed Philips as uninterested in the development of a still picture standard at the time. (Sebestyen Deposition, pp. 76-77.) Clark, a UK participant in the JPEG group, testified with respect to Turner's and Richards' participation: "I think they were in a fairly passive role. I don't recall them as having made any significant proposals." (Clark Deposition, p. 59.) Turner testified that he did not know which algorithm produced a particular picture. (Turner Deposition, p. 51.) Richards likewise testified that he "was not involved in the decision process in any way, apart from as an input to the blind evaluation of the images." (Richards Deposition, pp. 40-41; Clark Deposition, p. 31.) When asked about his role in the Ottawa meeting, Weth testified that he attended as a "listener" and did not vote on a draft JPEG standard. (Weth Deposition, pp. 68, 103.)

84. Neither Mitchell nor Wallace listed Philips as a core member of the JPEG group. (Mitchell Deposition, p. 192; PX 0152 at PHLPSKD_00001299.)

85. By 1990, Philips employees no longer were on the JPEG group's mailing list. (PX 0129.)

86. Of the 22 WG8 and SC29 plenary meetings, Philips' employees attended 13. That attendance was distributed among six different individuals. The only Philips' employee who attended both JPEG and WG8 meetings was Weth, who attended a single JPEG meeting and a single WG8 meeting, both in Ottawa in May 1988. (PX 0256.)

87. Attendance in WG8 plenary meetings did not imply attendance in JPEG sub-group meetings. WG8 meetings were of a plenary nature, while JPEG meetings consisted of actual technical work and decision-making. Attendance at WG8 plenary meetings provided participants with general, not specific, technical information about the draft JPEG standard. (Morris Deposition, p. 82.) For example, Eric Schylander, a former Philips' employee and delegate from The Netherlands, testified that "[t]here were no technical reports whatsoever in the plenary, no technical meetings or discussions in the plenary. So they were all related to practical things like logistics and project process." (Schylander Deposition, p. 74.)

88. Similarly, CCITT SG VIII meetings, held on an annual basis, also were of a plenary nature, as the group oversaw various work, including fax imaging and collaboration with JPEG, rather than being involved with technical details. (Sebestyen Deposition, pp. 150-53; PX 0300 at KODAK_076589-90.) When asked, "If someone states that a person attending SG VIII sessions between February 8 and 19 . . . means that that person must have also attended a JPEG group meeting, that would be wrong, wouldn't it?", Sebestyen replied in the affirmative. (Sebestyan Deposition, pp. 152-53.)

89. There is no evidence that any employees of Philips voted for or approved the JPEG standard at any JPEG group meeting, or at any parent committee's plenary meeting on

behalf of Philips. Measures passed at various plenary meetings are not indicative of the votes of any individual, because voting at plenary meetings is by national body, not by individual attendees. (Testimony of Dr. Schoechle.)

90. None of the Philips' employees attending the JPEG group meetings knew about the application for the '075 patent or foreign counterparts when they attended. (Turner Deposition, pp. 143-45; Richards Deposition, pp. 58-59, 69-70; Weth Deposition, pp. 29-30.)

91. There is no evidence that any of the Philips' employees attending plenary sessions of WG8, SC29, or CCITT SG VIII knew about the coverage of the proposed JPEG standard by the '075 patent or foreign counterparts, or applications for those patents, when they attended.

92. Philips' employees were not interested in the JPEG standard at the time. (Testimony of Mr. van der Meer.)

8. Philips' Disclosures and RAND Statements to Other ISO/CCITT Committees in which It Was Interested and Proposed Technology for Standardization

93. In contrast, Philips was interested in other technologies for standards development, namely videoconferencing and motion picture imaging, where Philips' employees actively participated. They proposed technology for the standards and brought to those technical committee's attention Philips' patent rights covering those standards, including foreign patent applications corresponding to the application for the '075 patent, and offered to license the patents on RAND terms, as discussed below.

94. Philips' employees were active participants in CCITT SG XV Working Party (*Specialists Group on Coding for Visual Telephony*), a committee that was studying video conferencing technology. (PX 0259.) They proposed technology to SG XV related to the H.261 Recommendation, and provided appropriate patent disclosures to SG XV in October 1986 and September 1988, and RAND licensing statements in October 1989. (PX 0058 at

KODAK_050446; PX 0100; PX 0122 at KODAK_184071, KODAK_184073.) They identified foreign applications by Philips for patents corresponding to the application for the '075 patent. (PX 0100.)

95. Through a liaison between SG XV and WG8, SG XV notified WG8 of patents that had been disclosed relevant to videoconferencing. The convenor of WG8 circulated at least one such notification to WG8. (PX 0093.) It is likely that, through this liaison, SG XV notified WG8 of Philips' disclosure of the foreign applications for patents corresponding to the application of the '075 patent. (Testimony of Dr. Schoechle.)

96. Philips was an active participant in MPEG, *Motion Picture Experts Group*, which formed as a sub-group under WG8 and later reorganized as JTC1/SC2/WG11. Philips' employees regularly participated in MPEG meetings, beginning with the initiation of the MPEG group in May 1988. (PX 0258.) They proposed technology for an MPEG standard, identified Philips' foreign patent application corresponding to the application for the '075 patent, and provided an appropriate RAND licensing statement in December 1990. (PX 0135; PX 0136; testimony of Mr. van der Meer.)

97. If Philips had proposed technology for the JPEG standard, it would have similarly disclosed its foreign patent application corresponding to the application for the '075 patent and offered to license the patent on RAND terms. (Testimony of Mr. van der Meer.)

98. A Kodak employee participated in the MPEG group and attended MPEG meetings and would have learned of Philips' disclosure of its foreign patent application corresponding to the application for the '075 patent. (PX 0258; PX 0135.)

9. ADCT Technology Found Its Way into JPEG

99. An implementation of patented technology from Philips found its way into the JPEG standard without the deliberate involvement of Philips. A logical path exists, which is a

consequence of the normal exchange of information between various research projects, where the origin of the technology became obscured to those that passed it on, ultimately, to the JPEG group. (Testimony of Dr. Schoechle.)

100. Peter Vogel, the inventor for the '075 patent and a scientist at Philips' PKI unit in Nürnberg, Germany, was conducting research on videocoding related to television video signals in the mid-1980s. (Vogel Deposition, pp. 16-17, 19-20; Weth Deposition, pp. 30-32.) His work yielded advanced image compression and transmission technology that resulted in patent applications in Germany titled *Bitrate reduction by a two-dimensional coding table for encoding the quantizer indices in a hybrid coder*, filed on September 13, 1986, November 8, 1986, and May 23, 1987. (PX 0100.) Vogel did his work completely independently from the JPEG group. (Testimony of Dr. Schoechle.)

a. Vogel Disclosed Idea to COST 211bis Simulation Subgroup

101. Vogel made a technical presentation to a research group known as *COST 211bis Simulation Subgroup*, titled *Block coding using a two-dimensional run-length table*, which was dated September 9, 1986. (Vogel Deposition, pp. 117-118; PX 0057.) COST 211 was a European collaborative research project among seven countries begun in the early 1970s to develop compression methods for videoconferencing. (PX 0241; Testimony of Dr. Schoechle.) COST 211bis was a later project focused on broadcast television video and video conferencing. (PX 0242; Testimony of Dr. Schoechle.)

b. ESPRIT

102. ESPRIT, the *European Strategic Programme for Research and Development in Information Technology*, was an initiative to promote collaboration between European public and private companies with a view toward internationally accepted standards. (PX 0243 at

KODAK_058235; Testimony of Dr. Schoechle.) Partially funded by the Commission of the European Communities, it acted as an umbrella for a number of unrelated projects, each bringing together industrial, governmental, and academic members to work toward a narrowly-defined goal. (PX 0243 at KODAK_058235; Testimony of Dr. Schoechle.)

c. Vogel's Idea Disclosed to ESPRIT 925 via PKI

103. Vogel's work was also presented to an ESPRIT-funded collaborative research project ESPRIT 925, of which PKI was a participant, working on compression techniques for moving video and still picture coding for teleconferencing applications. One goal of the group was to allow the use of real-time transmission of moving images over a 64 kbit/s ISDN telephone line. (Vogel Deposition, pp. 113-14; Weth Deposition, pp. 31-34, 47-53.)

d. ESPRIT 563 PICA

104. Another ESPRIT-funded collaborative research project, ESPRIT 563 PICA (*Picture-Coding Algorithm for Photographic Videotex*), was working on ISDN transmission of still images around the same time. ESPRIT 563 PICA ("PICA") and ESPRIT 925 were two unrelated research projects. PICA was a 36-month project begun in January 1985 that included among its seven participants BTRL (British Telecom Research Labs), CCETT (Centre Commun d'Études De Télédiffusion et Télécommunications), Nixdorf, KTAS (Copenhagen Telephone Company), PTT/DNL (Dr. Neher Labs)—all also active in JPEG. The contact point for PICA was Hudson of Brithish Telecom, who was also the original Convener of JPEG. (PX 0244.)

105. Philips did not participate in PICA. (PX 0244; Sebestyen Deposition, p. 138.)

106. PICA submitted two compression algorithm proposals to JPEG, one of which was the ADCT proposal that was later adopted as the Baseline standard. (PX 0071 at KODAK_013125.) Alain Leger of CCETT, a participant in both PICA and JPEG, submitted the ADCT proposal from PICA to JPEG without any mention of Vogel. (PX 0070.)

e. Overlap Between Members of COST 211bis, ESPRIT 563 PICA, and JPEG

107. Substantial overlap existed between COST 211bis, PICA, and JPEG, in organizations and people. For example, Van Helden (PTT/DNL), and Nightingale (BTRL), were in both PICA and COST 211bis, and CSELT (Centro Studi e Laboratori Telecommunicazioni, SpA) was also represented in both groups. (PX 0245 at PHLPSKD_00048474; PX 0246 at KODAK_061300.) A paper by Hudson about PICA listed BTRL, CCETT, PTT/DNL as partners, and BT as the prime contractor. (PX 0244.) In addition, at the March 1987 meeting of JPEG (PX 0071), Hudson, in his role as Chairman of PICA, presented a paper summarizing the progress of PICA to the JPEG meeting, which he was also chairing. (PX 0295.) At the same meeting, Leger (CCETT), a participant in both PICA and JPEG, submitted the ADCT proposal on behalf of PICA. (PX 0071 at KODAK_013125.) Furthermore, a June 1987 WG8 document from the "Rapporteur of the ADCT Ad-hoc Group" listed Leger (CCETT), Loscheller (ANT), Haskell (AT&T), Yasuda (NTT), and Wallace (DEC), all JPEG participants, as "partners." (PX 0247 at KODAK_061376.) Also, in September 1987, Hudson distributed a paper to WG8 that he had authored for an upcoming ESPRIT conference in Brussels titled *Photovideotex image compression algorithms—towards international standardization.* (PX 0246.) This paper acknowledged BTRL, KTAS, DNL, CSELT, Nixdorf, and CCETT, (PX 0246), all JPEG participants.

f. COST 211bis, ESPRIT 925, and PKI Were Contributing to CCITT SGXV

108. In the mid-1980s, CCITT SG XV/WP1, the Working Party on visual telephony, was developing the H.261 Recommendation. SG XV/WP1 received contributions from COST 211bis (PX 0248 at KODAK_052175; Vogel Deposition, p. 102; PX 0249; PX 0250) and from ESPRIT 925. (PX 0251 at KODAK_053173.) It also received input directly from PKI, for

which Philips provided appropriate disclosures and RAND statements. (PX 0100.) This technology also made its way from PKI into MPEG, along with appropriate patent disclosures and RAND statements from Philips. (PX 0135; PX 0136.)

g. Summary—How ADCT Technology Found Its Way into JPEG

109. The technology developed by Vogel diffused through overlapping organizations and people, who collaborated and shared a common interest. The lack of clarity with respect to the boundaries between these various groups and the confidentiality/disclosure agreements or constraints, if any, that existed at the time contributed to this flow of information. As a result, the attribution of the coding technique to Vogel in JPEG became lost, and apparently not through any deliberate design. (Testimony of Dr. Schoechle.)

10. No Patent-Free or Royalty-Free JPEG Baseline Assured

110. A royalty-free Baseline in the JPEG standard was not a central goal of the JPEG group and not a determining factor in JPEG's technical choice. The technical choices of the ADCT technology and the other JPEG standard technology options were based on technical performance issues and not patent or licensing issues. Consideration of patent and license issues followed later in time, after the technology choices had been well established. (Testimony of Dr. Schoechle.)

111. If ADCT were not patent-free or royalty-free at the time of the development of the standard, the available technology alternatives would not have replaced ADCT, because of technical and other reasons. Furthermore, if technology choices in the JPEG group had been pre-empted on patent and licensing issues, that would have violated the organizational policies and the specific instructions of the JPEG's parent committee. (Testimony of Dr. Schoechle.)

a. Baseline Chosen in January 1988 on Technical Grounds, Not Licensing Grounds

112. In its January 1988 algorithm evaluation in Copenhagen, the JPEG group found ADCT to have significantly higher quality results than the next two top methods evaluated, ABAC and GBTC/BSPC. (PX 0082 at KODAK_184290; PX 0088 at KODAK_012338; PX 0300 at KODAK_076592.) According to the meeting report: "In all the subjective testing sessions, the ADCT technique had significantly higher results at all bit rates than the ABAC and BSPC techniques. . . . In view of the unequalled quality of ADCT the chairman asked delegates to determine in the future if an ADCT technique can meet all JPEG requirements." (PX 0082 at KODAK_184290; PX 0088 at KODAK_012329; PX 0071 at KODAK_013128.) The JPEG group further agreed to switch from ADCT only if "any JPEG defined application cannot be directly met by this ADCT technique, at the quality level shown at Copenhagen in January . . . ." (PX 0082 at KODAK_184290.) Nothing was said about patents or about switching if ADCT were not royalty-free. (PX 0082; PX 0088.)

113. The evaluation and decision by the JPEG group to use ADCT was made in January 1988. (PX 0082 at KODAK_184290.) By that time, the proposers of the ADCT technology had indicated that licenses would be available on reasonable terms, as opposed to "free" licenses. All proposers, except for a Hierarchical Predictive Coding method (later withdrawn), had indicated in or before the March 1987 JPEG meeting that they would license any applicable patents on reasonable terms, but not free licenses. (PX 0071 at KODAK_013128.) The JPEG group nevertheless proceeded with its evaluation and choice of those technologies. (PX 0071.)

(1) Technology Adoption Preceded Patent or License Discussion

114. The formal adoption of ADCT as its proposed Baseline standard by the JPEG group in January 1988 occurred before any significant discussion of patent or licensing issues arose. That was before a search had been done by Wallace in May 1988 (PX 0094); before a patent disclosure request was made to proposers in February 1989 (PX 0108 at KODAK_064492); before patent disclosures were made by technology proposers in May 1989 (PX 0116); before the August 1991 request was sent to all WG10 participants on the JPEG mailing list (PX 0143 at IBM 8710004710); and before the mid-1991 disclosures by technology proposers (PX 0141; PX 0147).

(2) The Committee Proceeded Properly

115. ADCT became the front-runner for adoption as the JPEG Baseline standard based on factors other than the lack or existence of applicable royalty and license fees. (PX 0082 at KODAK_184290.) Had the JPEG group based its technology choices on patent and royalty considerations, and particularly if it had chosen technologies that were of lower quality or performance because of such considerations, it would have violated the policy of the ISO and JTC1, as well as the explicit instructions of its parent, SC2. (Testimony of Dr. Schoechle.) The only patent assessment to be made by the JPEG group was an initial assessment to determine whether any patents believed to be applicable were available for licensing on RAND terms, as SC2 subsequently reaffirmed in Resolution 17 in October 1988. (PX 0105 at KODAK_184420.)

(3) Next-Best Alternatives Would Not Have Been Royalty-Free

116. An alternative to ADCT, the ABAC proposal from IBM, would have been considered the second choice from a performance standpoint. By the time of the technical evaluation in January 1988, IBM indicated that ABAC was covered by IBM's patents and would

not be royalty-free. In 1989, IBM said that it would charge a royalty under RAND terms, but was reluctant to be specific. (PX 0116.) In 1991, IBM offered specific royalty-bearing license terms. (PX 0147.) The final version of ABAC adopted by the JPEG group was a combination of IBM and AT&T technology that was only settled between the two, as a unified U.S. position, after technical negotiations mediated by Majid Rabbani of Kodak. (Rabbani Deposition 10/11/06, pp. 248-49; Rabbani Deposition 10/12/06, pp. 32-34.) AT&T did not submit any patent statements or disclosures in 1989, even though AT&T proposed its Block List Transform technology to JPEG. (PX 0116; PX 0071 at KODAK_013126, KODAK_013128.)

117. Kodak's expert, Dr. Ebrahimi, contends that another alternative to ADCT could have been a one-dimensional variable length coding ("1-D VLC") algorithm. (Testimony of Dr. Ebrahimi.) Further consideration of a 1-D VLC option was suggested as a possibility late in the process, in June 1988, when a JPEG group participant discovered a patent pertaining to two-dimensional variable length coding ("2-D VLC") algorithms. (PX 0099.) ADCT was a 2-D VLC algorithm. According to Dr. Ebrahimi, however, the 1-D VLC option offered a five percent lower performance penalty. (Testimony of Dr. Ebrahimi.) That would be a significant problem, given the committee's mandate to make the best technical choice. Also, there was no assurance that an implementation of a 1-D VLC process would not have had patent issues. (Testimony of Dr. Schoechle.)

118. Other alternatives from Japanese proposers existed, but they also had patent issues. In 1989, Mitsubishi and NEC both provided royalty-bearing RAND statements. (PX 0116 at KODAK_013286-87.) In 1991, Mitsubishi provided another royalty-bearing RAND statement. (PX 0141.) The Japanese composite BSPC proposal was a combination of GBTC,

PCS, and CVQ, but their proposer had already indicated an intention that licenses would be available under reasonable terms—not free licenses. (PX 0071 at KODAK_013128.)

119. Consequently, there is no evidence that a technically acceptable alternative existed that was completely free of patent or royalty issues. (Testimony of Dr. Schoechle.)

(4) ADCT Would Have Remained the Baseline Method, if Philips Had Disclosed and Offered RAND in 1991

120. If Philips had disclosed and offered RAND license terms in mid-1991, when Wallace sent his request to all people then on the JPEG mailing list, it would have occurred after the technology had been finalized in July 1990 (Mitchell Deposition, pp. 30-31, 60), and after much work had been done on the standard in the 1988 to 1990 timeframe. In that time period, the JPEG group undertook the sizeable task of defining, documenting, simulating, testing, validating, and simply agreeing on the numerous details necessary for genuine interoperability and universality. (PX 0152 at PHLPSKD_00001285.) In addition, the committee draft of the standard was about to circulated for voting in a few months. (PX 0146 at KODAK_182153.) It is highly unlikely that the JPEG group, upon discovering that ADCT was not royalty-free, would have abandoned ADCT as the Baseline JPEG standard at that point and started over. (Testimony of Dr. Schoechle.)

b. No Assurance of Patent-Free or Royalty-Free JPEG Baseline

121. Neither JPEG group participants, nor anyone else, were assured or could be assured that the JPEG Baseline would be free of patents or royalties. That simply would not have been a realistic expectation. A royalty-free technology may have been the wish of some in the JPEG group, yet the record shows repeated caveats, disclaimers, precautions, requests, and warnings on the issue of patents, searches, and royalties. (Testimony of Dr. Schoechle.)

(1) May 9, 1988 Wallace Communication to WG8—Advised Patent Search Not Definitive

122. In a May 9, 1988, communication to WG8, Wallace told the committee that one could not be sure that no patents covered ADCT. (PX 0094 at KODAK_074802, ¶ 3.) Wallace reported that he had had a law firm do a patent search on the ADCT proposal, and it had not found any patents that appeared to claim ADCT. But he warned that:

> it is impossible to PROVE that no one ever will come forward and claim to hold a patent which covers all or part of the ADCT. But, this situation would hold no matter which proposal JPEG had selected for refinement.

(PX 0094 at KODAK_074802, ¶ 3.)

123. The ISO would not take a position on whether a patent covered a standard. If a party came forward during standards development process, ISO would ask the party to write a letter stating it would give license on RAND terms. (PX 0094 at KODAK_074802, ¶ 3) It left up to each company implementing the JPEG standard to make a decision as to whether a patent covered the implementation. (PX 0094 at KODAK_074802, ¶ 3.)

(2) May 1988 JPEG Meeting—Wallace Advised Patent Search Not Definitive

124. In a report of the May 9-13, 1988 JPEG group meeting in Ottawa, Chairman Hudson reported Wallace's patent search. (PX 0095 at KODAK_013685.) He advised that the search was not conclusive, having "so far not turned up any obviously applicable patents," and that others in the JPEG group should have their own searches done to determine whether they might infringe any patents by implementing the standards. (PX 0095 at KODAK_013685; Mitchell Deposition, pp. 95-96.)

(3) March 1991 CCITT SG VIII WP VIII/3 Meeting—Sebestyen Advised Patent List Not Definitive

125. A March 1991 memorandum on patent statements with respect to the JPEG algorithm sent by Sebestyen, the Special Rapporteur for SG VIII Q.16, noted the importance of a comprehensive document that identified all patents the JPEG group believed were required to practice any part of the JPEG algorithm. (PX 0261 at KODAK_182143.) The memorandum pointed out that such a document would not, however, be a definitive statement of all patents required to practice the JPEG algorithm, "since it is questionable as to whether JPEG wants to (or should!) position itself as being the 'absolute definer' of what patents are required, and which are not." (PX 0261 at KODAK_182143.) Finally, the memorandum suggested that CCITT state that "responsibility for determining what patents apply to any given implementation of any part of the JPEG algorithm is solely that of the implementer, *i.e.,* any given implementer of the JPEG algorithm is responsible for doing its own patent search." (PX 0261 at KODAK_182143.)

(4) August 1991 Wallace Memorandum—Advised Patent List Not Definitive

126. In his August 4, 1991 memorandum to the JPEG group about identifying patents, Wallace explained that neither JTC1, nor SC2, nor WG10 could give any information on whether a particular patent is relevant to a proposed standard, and that none of the committees would do a patent search. (PX 0143 at IBM 8710004711.) He noted that "[t]his is entirely up to individuals and companies who are interested in implementing the proposed standard." (PX 0143 at IBM 8710004711.) His contemporaneous request to those on the JPEG group's mailing list for disclosure of patents they knew about further explained that his request was only for their own personal current knowledge, and not a request for them to do a patent search. (PX 0143 at IBM 8710004710.) A list of patents from personal knowledge would not be a definitive list of

all patents that may exist and could not ensure that no essential patents existed. (Testimony of Dr. Schoechle.)

(5) September 1992 CCITT Publication of JPEG Standard—Advised Patent List Not Definitive

127. When it was published in September 1992, the CCITT Recommendation T.81 carried a number of caveats. (PX 0156.) The Introduction called attention to the possibility that for some of the coding processes specified in the standard, compliance with the standard may require use of an invention covered by a patent, and referred to patents listed in Annex L. (PX 0156 at KODAK_012538.) Annex L repeated the warning, calling attention to the possibility that for some of the coding processes in the Annexes, including Annex F, compliance with the specification may require use of an invention covered by patent rights, and that no position was taken with respect to any patent rights. (PX 0156 at KODAK_012717.) Annex F described the Baseline coding method. (PX 0156 at KODAK_012625.) Therefore, the public was told that the list of patents in Annex L was not definitive.

(6) February 1994 ISO Publication of JPEG Standard—Advised Patent List Not Definitive

128. In February 1994, the ISO published its International Standard ISO/IEC 10918-1. (PX 0296.) The Foreword addressed patents and warned that the list included in the publication was not determinative:

> During the preparation of this part of ISO/IEC 10918, information was gathered on patents upon which application of this standard might depend. Relevant patents were identified as belonging to the patent holders listed in annex L. However, ISO/IEC cannot give authoritative or comprehensive information about evidence, validity, or scope of patent and like rights.

(PX 0296 at KODAK_012874.)

129. Annex L contained the same statement as the CCITT Recommendation, calling the user's attention to the possibility that some of the coding practices for the standard, including those in Annex F, may require use of an invention covered by a patent. (PX 0296 at KODAK_013054.) Annex F likewise described the Baseline, as in the CCITT version. (PX 0296 at KODAK_012962.) Again, the public was told that the list of patents in Annex L was not definitive.

c. Summary and Conclusion About Patent-Free or Royalty-Free JPEG Baseline

130. The history of the JPEG group and its parent committee proceedings reflects that any desire for a patent or royalty-free Baseline on the part of some JPEG participants was simply a desire. It was not a policy that ever was in effect, it could not be achieved as a practical matter, and it would have violated the instructions of the JPEG group's parent committee. Any belief that no patents covered the JPEG Baseline, or that if any did they would be licensed for free, would not have been reasonable. (Testimony of Dr. Schoechle.)

11. Summary Findings of Fact on Standards Issues

131. The clear and well established policies of both ISO/JTC1 and of CCITT/ITU-T, according to their relevant directives, put any obligation to disclose patents and to provide a statement regarding RAND licensing only on proposers of technology for a standard. Philips was at no point a proposer of technology for the JPEG standard, in any sense. There is no indication that Philips' technology found its way into the JPEG standard through any knowledge or effort on the part of Philips. Therefore, Philips had no obligation to disclose its '075 patent to the JPEG group. (Testimony of Dr. Schoechle.)

132. Philips' employees also were not active in the JPEG group. Three Philips employees attended three out of 24 JPEG group meetings, relatively early on, and in one case

played a minor role as a judge in a blind performance evaluation. There is no evidence that any of those persons knew about the patent application for the '075 patent (or corresponding foreign applications) when they attended. Philips' employees did not attend any JPEG group meetings after March 1988. In particular, they did not attend the February 1989 or August 1991 meetings at which the requests were made for patent disclosures; no Philips' employees were on the JPEG mailing list when the request for disclosures was mailed to those on the list in August 1991; and there is no evidence that anyone employed by Philips received those requests. There is no reason to consider their roles in the JPEG group to have been active ones. Philips' employees' attendance at WG8 or SG VIII plenary meetings cannot be construed as participation in JPEG, due to the range of topics covered in WG8 and SG VIII and the plenary nature of those meetings. (Testimony of Dr. Schoechle.)

133. Their interests lay in other indirectly related groups, such as standards for MPEG and videoconferencing, where Philips' employees focused their resources and met their obligations. They were active participants in the MPEG group and in SG XV, where they proposed technology and provided appropriate patent disclosures and RAND licensing statements. Philips' employees acted in good faith and fulfilled their obligations. (Testimony of Dr. Schoechle.)

134. In spite of hopes on the part of some individual JPEG participants, there was no assurance and no real expectation of a patent-free technology or royalty-free license for the JPEG Baseline. The JPEG group and its parent committee were cautioned multiple times that there was no assurance that a patent would not emerge, or that if it did, that it would be royalty-free. JPEG group participants were told to take their own responsibility for any searches, if desired.

They also were warned that searches by committee participants and lists of patents published in the standard were not to be considered definitive. (Testimony of Dr. Schoechle.)

135. There is no reason to believe, given the historical record, that the JPEG group would have switched from ADCT to another alternative in the 1989 timeframe if it had learned that Philips had a patent and was willing to offer a royalty-bearing RAND license. At that time, ADCT had been determined to be the best. The next best alternatives would also have been available for licensing on royalty-bearing RAND terms, and there was no guarantee that any other alternatives would have been royalty free. (Testimony of Dr. Schoechle.)

136. Although some participants in JPEG may have wished for a royalty-free Baseline standard, the actions of the committee, its proposers, its leadership, and instructions from its parent committee indicate that there was virtually no likelihood that JPEG would have changed course, unless possibly, if Philips had refused RAND for JPEG. But that would have been inconsistent with Philips' offer of RAND licenses for MPEG and the H.261 Recommendation developed by SG XV. The parent committee had repeatedly reaffirmed the ISO and CCITT patent policy and instructed JPEG to focus on technical evaluation and to not be concerned with patents, other than to determine availability of RAND licenses for relevant patents. (Testimony of Dr. Schoechle.)

137. If Philips had disclosed a patent in the August 1991 timeframe and provided a RAND statement for JPEG as it had for MPEG and H.261, in all likelihood JPEG would have accepted it and proceeded. By this time, the JPEG group had progressed well down the road, other alternatives were not royalty-free, and the parent committee likely would not have allowed the work to stop and start over with another technology simply because the license was not free. In addition, rejection of the technology on royalty grounds would have violated the policy set by

JPEG's parent committee. The parent committee had already spoken on the issue more than once, and antitrust issues raised by Touchton could possibly have been implicated as well. (Testimony of Dr. Schoechle.)

B. Proposed Findings of Fact Relating to Specific Equitable Defenses and Counterclaim

The Proposed Findings of Fact set forth in Part I.A, above, supplement those set forth below, and are adopted and incorporated below.

1. Equitable Estoppel

138. Kodak has failed to prove that: (1) Philips engaged in material misleading conduct with respect to its intention to sue Kodak for infringement; (2) Kodak relied on any such conduct of Philips; and (3) because of such reliance, Kodak will be materially prejudiced if Philips is permitted to proceed with its infringement claims.

139. Philips did not engage in any misleading conduct regarding the development and adoption of the JPEG standard, as discussed in Part I.A, above.

140. Philips did not engage in any conduct regarding the development and adoption of the JPEG standard that led Kodak reasonably to infer that Philips did not intend to enforce its '075 patent against Kodak, as shown in Part I.A, above.

141. Kodak has failed to prove its theories that: (1) Philips' employees were required to bring the '075 patent to the attention of the JPEG group responsible for developing the JPEG standard; (2) by not bringing the patent to the JPEG group's attention, Philips' employees led Kodak reasonably to believe that Philips had no patents that covered the proposed JPEG standard; and (3) had Philips' employees brought the patent to the JPEG group's attention and not offered to license it for free, the committee would have switched its recommendation to

different technology for the Baseline (i.e., basic) JPEG standard, and a different Baseline JPEG standard would have been adopted by the JPEG group's parent standards-setting organizations.

142. Philips had no obligation to provide a patent statement regarding the '075 patent to the JPEG group, as discussed in Part I.A, above.

143. Philips did not engage in any misleading conduct by not providing a patent statement to the JPEG group regarding the '075 patent, as discussed in Part I.A, above.

144. Kodak has not proven that it was aware of Philips' role in the development and adoption of the JPEG standard.

145. Kodak has not proven that it relied upon the lack of a patent statement by Philips to the JPEG group to conclude that Philips did not intend to enforce a patent against products or services that used the Baseline JPEG standard technology.

146. Kodak has not proven that the majority of other participants in the JPEG group, and the majority of voting members of ISO and CCITT, relied upon the lack of a patent statement by Philips to the JPEG group to conclude that Philips did not intend to enforce a patent against products or services that used the Baseline JPEG standard technology.

147. It would not have been reasonable for Kodak, other participants in the JPEG group, or voting members of ISO and CCITT, to rely upon the lack of a patent statement by Philips to the JPEG group to conclude that Philips did not intend to enforce a patent against products or services that used the Baseline JPEG standard technology, as discussed in Part I.A, above.

148. Kodak has not proven that, in investing in and developing its digital imaging business, Kodak reasonably relied upon Philips' not disclosing the '075 patent to the JPEG group during the development and adoption of the JPEG standard.

149. To compete in the marketplace, Kodak needed to offer digital still imaging products using the JPEG Baseline standard, because its primary competitors have offered digital still cameras using that standard, and the marketplace chose to standardize on the JPEG Baseline standard rather than other formats for digital still images. (Testimony of Mr. Peterson.)

150. Kodak contends that it believed that it did not infringe the '075 patent and that a court would hold the '075 patent invalid and/or unenforceable. (PX 0225, p. 18.)

151. Kodak has not proven that it was materially prejudiced by reasonably relying on Philips' not disclosing the '075 patent to the JPEG group during the development and adoption of the JPEG standard.

152. Kodak has not proven that it would be materially prejudiced if Philips is permitted to proceed with its infringement claim.

153. Philips proved at trial that Kodak willfully infringed the '075 patent.

2. Waiver

154. Philips did not intentionally relinquish its right to enforce its '075 patent against Kodak, or act so inconsistently with its right to enforce its patent so as to induce in Kodak a reasonable belief that it had relinquished that right, as discussed in Part I.A, above.

155. Philips adopts and incorporates the Proposed Findings of Fact relating to estoppel in Part I.B.1, above.

3. Implied License

156. Philips did not engage in any conduct exhibited to Kodak from which Kodak could properly infer that Philips consented to Kodak's use of the '075 patent, as discussed in Part I.A, above.

157. Kodak has not proven that, in investing in and developing its digital imaging business, Kodak reasonably relied upon Philips' not disclosing the '075 patent to the JPEG group during the development and adoption of the JPEG standard.

158. Philips adopts and incorporates the Proposed Findings of Fact relating to estoppel in Part I.B.1, above.

4. Patent Exhaustion by License or Release Based on Implied License

159. Kodak asserts as a defense patent exhaustion by license or release based on an alleged implied license.

160. Philips adopts and incorporates the Proposed Findings of Fact relating to estoppel and an implied license in Parts I.B.1 and I.B.3, above.

161. Philips did not affirmatively grant its consent or permission to Kodak to practice Philips' '075 patent for digital still images. (Testimony by Mr. Slobod.)

5. Unclean Hands

162. Philips followed the standard-setting organizations' rules in connection with their setting the JPEG standard, and did not engage in any unconscionable acts in relation to the '075 patent having an immediate and necessary relation to Philips' claim for relief from Kodak's patent infringement, as discussed in Part I.A, above.

163. Philips proved at trial that Kodak willfully infringed the '075 patent.

6. Laches

164. Kodak has failed to show that either (1) Philips delayed filing suit for an unreasonable and inexcusable length of time after Philips knew or reasonably should have known of its claims against Kodak, or (2) any delay in Philips' commencement of litigation resulted in material prejudice or injury, either economic or evidentiary, to Kodak.

165. Kodak contends that it first began to market and sell a professional digital still camera using the JPEG standard in the early 1990s and sold less than 1000 of them. (Sasson Deposition, pp. 36-37, 39.)

166. As a regular practice, since at least the early 1990s, Kodak has conducted patent clearance searches for products that Kodak was considering commercializing, including, for example, digital still cameras and other still imaging products. (Sasson Deposition, pp. 42-43, 52; Watkins Deposition, pp. 32, 40-48, 57-66.)

167. The '075 patent was issued and publicly available on February 13, 1990. (PX 0001.)

168. Kodak contends that it first began to market and sell consumer digital cameras using the JPEG standard in approximately 1996 or 1997. (Sasson Deposition, pp. 57-58.)

169. Kodak did not begin to sell substantial volumes of digital still cameras until 2000. (Testimony of Mr. Peterson.)

170. In 2000, Philips began a licensing program for the technology claimed in the '075 patent and its foreign counterparts. (Testimony of Mr. Slobod.)

171. Philips first had knowledge that Kodak infringed the '075 patent in the summer of 1999. (Cho Deposition, p. 181; Testimony of Mr. Slobod.)

172. On December 6, 2000, the General Manager of Philips' Japanese business unit's Legal and Corporate Intellectual Property department in Japan, Mr. Tsugaru, wrote to the Legal Director of the Legal Department of Kodak's business unit in Japan, Mr. Sasaki. (PX 0170.) Mr. Tsugaru's letter drew attention to Philips' Japanese patent number JP 711,665, which, the letter explained, "covers the JPEG standard," and pointed out that Kodak was making or selling digital still picture cameras that practiced the JPEG standard. (*Id.*) JP 711,665 corresponds to

the Unites States '075 patent. (PX 0222 at PH_PAN 0175202.) The letter further explained that Philips would offer a license to Kodak to practice the JPEG standard under Philips' worldwide patent rights: "Philips is prepared to grant a non-exclusive license under this Philips patent and all of its foreign counterparts under reasonable terms and conditions." (*Id.*)

173. On December 25, 2000, Kodak responded with a letter from Mr. Sasaki to Mr. Tsugaru. Mr. Sasaki explained that he had forwarded Philips' letter to Kodak's headquarters in the United States, which would contact Mr. Tsugaru. (PX 0171.) A copy of the letter was sent to, *inter alia*, Mr. J. J. Hawley, Assistant General Counsel and Divisional Vice President of Kodak in the United States. (*Id.*)

174. Kodak did not further respond to Philips' letter. (Testimony of Mr. Slobod.)

175. On June 20, 2002, Mr. Tsugaru wrote a similar letter to Chinon Industries, Inc. in Japan. (PX 0179.) The letter likewise drew Chinon's attention to Philips' Japanese patent number JP 711,665, which, the letter explained, "covers the JPEG standard," and pointed out that Chinon was making or selling digital still picture cameras that practiced the JPEG standard. (*Id.*) The letter further explained that Philips was prepared to grant a license to Chinon to practice the JPEG standard under Philips' patent rights on "reasonable terms and conditions." (*Id.*)

176. Chinon manufactured digital still cameras that it supplied to Kodak. (PX 0182.)

REDACTED

177. On June 28, 2002, [redacted]. (PX 0178 at KODAK_018208.)

178. On June 28, 2002, [redacted]

REDACTED

[redacted] (PX 0178 at KODAK_018207.) [redacted]

[redacted]

(Watkins Deposition, pp. 34, 122-24; PX 0178.)

REDACTED

179. On July 15, 2002, [redacted] (PX 0181.) [redacted]

REDACTED

[redacted] (*Id.*)

180. On July 19, 2002, Chinon wrote to Mr. Tsugaru that Kodak would assume the defense of this matter and that Philips should contact Mr. Close. (PX 0182.)

181. In response, on October 1, 2002, Jack Slobod, an attorney in Philips' Intellectual Property and Standards group in the United States, wrote to Mr. Close. (PX 0187.) Mr. Slobod

REDACTED

[redacted]

182. Following this letter, Philips negotiated with Kodak for a substantial period of time but was not able to resolve the licensing issue. (Testimony of Mr. Slobod.)

183. Unable to reach agreement, Philips brought suit on April 18, 2006. (Complaint.)

184. Between 2000 and April 2006, Philips negotiated and entered into licenses for the '075 patent and foreign counterparts with [redacted] licensees. (Testimony of Mr. Slobod;

REDACTED

[redacted] REDACTED

185. Between 2000 and April 2006, Philips was engaged in litigation enforcing the '075 patent and foreign counterparts. (Testimony of Mr. Slobod.)

186. For its laches defense, Kodak asserts that Philips waited to bring suit in 2006 for alleged infringement of Philips' '075 patent, which issued in 1990, after notifying Kodak of infringement in 2002. (Answer, ¶ 31.)

187. The amount of time between issuance of the '075 patent, Philips' notifying Kodak about the '075 patent and its Japanese counterpart, and Philips' bringing suit against Kodak is comparable to the amount of time before Kodak recently brought suit for infringement of its patents allegedly covering digital still cameras. Kodak did not bring suit for 16 years, from 1991 to 2007, for alleged infringement of a Kodak patent allegedly covering digital still cameras, after notifying the accused infringers of infringement in 2002; Kodak also did not bring suit for 15 years on a second patent, which issued in 1992. On July 27, 2007, Kodak filed a patent infringement suit against Matsushita Electric Industrial Co., Ltd. ("Matsushita") and others in the E.D. of Texas for infringement. (PX 0226.) Kodak alleged that the infringing products were digital still and video camera products. (*Id.*, ¶ 2.) Kodak further alleged that Matsushita infringed, *inter alia*, Kodak's U.S. Patent No. 5,016,107, which issued May 14, 1991, and Kodak's U.S. Patent No. 5,164,831, which issued November 17, 1992. (*Id.*, ¶¶ 12-13.) Kodak alleged that Matsushita was on notice of the patents since at least January 2002. (*Id.*, ¶ 17.)

188. Philips did not wait an unreasonable or inexcusable amount of time before bringing suit against Kodak for infringement of the '075 patent.

189. Kodak has not shown that it has suffered any material prejudice attributable to Philips' not bringing suit against Kodak for infringement of the '075 patent prior to April 2006.

190. Kodak's continued infringement was based on business decisions and not a change in position because of any alleged delay by Philips. To compete in the marketplace, Kodak needed to offer digital still imaging products using the JPEG Baseline standard, because its primary competitors have offered digital still cameras using that standard, and the marketplace chose to standardize on the JPEG Baseline standard rather than other formats for digital still images. (Testimony Mr. Peterson.) Kodak thus would have marketed and sold digital still imaging products using the JPEG Baseline standard, even if Philips had sued earlier.

191. Kodak contends that it believed that it did not infringe the '075 patent and that a court would hold the '075 patent invalid and/or unenforceable. (PX 0225, p. 18.)

192. Kodak has failed to identify any loss of evidence that has caused it to suffer material prejudice in its defense.

193. Philips proved at trial that Kodak willfully infringed the '075 patent.

II. Proposed Conclusions of Law Relevant To Kodak's Equitable Defenses of Equitable Estoppel, Implied License, Waiver, Patent Exhaustion by License or Release, Unclean Hands, and Laches, and Counterclaim for Equitable Estoppel

A. Equitable Estoppel

194. Kodak asserts as its Fourth Affirmative Defense and Third Counterclaim that Philips' claims for relief are barred by equitable estoppel.

1. Legal Standards for Equitable Estoppel

195. Equitable estoppel requires a defendant to prove that (1) the patent owner, through misleading conduct, led the alleged infringer to reasonably infer that the patent owner did not intend to enforce its patent against the alleged infringer, (2) the alleged infringer relied on

this conduct, and (3) due to the reliance, the alleged infringer will be materially prejudiced if the patent owner is allowed to proceed on its claim. *See A.C. Aukerman Co. v. R.L. Chaides Constr. Co.*, 960 F.2d 1020, 1028 (Fed. Cir. 1992) (en banc). The "conduct" may include specific statements, action, inaction, or silence when there was an obligation to speak. *Id.*

193. The infringer must "show that [it] acted in reliance on supposed actions of [the patentee] rather than a business judgment." *Gasser Chair Co. v. Infanti Chair Mfg.*, 60 F.3d 770, 776 (Fed. Cir. 1995). The defense is product-specific. *See Braun Medical, Inc. v. Abbott Labs.*, 124 F.3d 1419, 1425 (Fed. Cir. 1997).

194. To invoke equitable estoppel by inaction, the patent owner's "inaction must be combined with other facts respecting the relationship or contacts between the parties to give rise to the necessary inference that the claim against the defendant is abandoned." *Aukerman,* 960 F.2d at 1042. To support an estoppel, silence "must be sufficiently misleading to induce the alleged infringer to reasonably infer that the patentee has abandoned his patent claims." *Hottel Corp. v. Seaman Corp.*, 833 F.2d 1570, 1574 (Fed. Cir. 1987). Ordinarily, "silence alone will not create an estoppel unless there was a clear duty to speak . . . or somehow the patentee's continued silence reinforces the [accused infringer]'s inference from the [patentee]'s known acquiescence that the [accused infringer] will be unmolested." *Aukerman,* 960 F.2d at 1043-44 (citation omitted).

195. In order to support the defense of equitable estoppel, "[t]he accused infringer must show that, in fact, it substantially relied on the misleading conduct of the patentee in connection with taking some action." *Aukerman*, 960 F.2d at 1042-43; *see Gasser Chair*, 60 F.3d at 776 (accused infringer "totally failed to show that he acted in reliance on supposed actions of [the patentee] rather than a business judgment"). To establish that reliance, "the

infringer must have had a relationship or communication with the plaintiff which lulls the infringer into a sense of security in going ahead" with a change in economic position. *Aukerman*, 960 F.2d at 1043. "[F]or equitable estoppel, the alleged infringer cannot be unaware . . . of the patentee and/or its patent." *Id.* at 1042.

196. An accused infringer's belief that the patent was invalid or not infringed negates a claim of reliance. *See Ecolab, Inc. v. Envirochem, Inc.*, 264 F.3d 1358, 1372 (Fed. Cir. 2001); *Gasser Chair*, 60 F.3d at 776.

197. In order to prove equitable estoppel, the accused infringer must establish material prejudice by showing evidentiary or economic injury, together with a nexus to the patentee's misleading conduct, in the same manner as these apply to the defense of laches. *See Aukerman*, 960 F.2d at 1043.

198. Even when the elements of equitable estoppel have been established, a court must "take into consideration any other evidence and facts respecting the equities of the parties in exercising its discretion and deciding whether to allow the defense of equitable estoppel to bar the suit." *Id.* Egregious conduct such as willful infringement must be considered. *See Schockley v. Arcan, Inc.*, 248 F.3d 1349, 1361 (Fed. Cir. 2001); *Gasser Chair*, 60 F.3d at 776; *Aukerman*, 960 F.2d at 1044 ; *Bott v. Four Star Corp.*, 807 F.2d 1567, 1576 (Fed. Cir. 1986).

199. Equitable estoppel must be established by a preponderance of the evidence. *Aukerman*, 960 F.2d at 1046.

2. Conclusions Regarding Equitable Estoppel

200. Kodak has failed to meet its burden to prove by a preponderance of the evidence that Philips is equitably estopped from recovering for infringement by Kodak of the '075 patent. *Aukerman*, 960 F.2d at 1046.

201. Kodak has failed to show that the balance of equities weighs in its favor so that equitable estoppel should be applied to bar Philips' infringement claims.

202. Kodak has failed to meet its burden to prove by a preponderance of the evidence that Philips' claims for relief are barred by equitable estoppel.

203. Kodak may not assert this equitable defense, because Kodak acted with unclean hands in willfully infringing Philips' patent.

B. Waiver

204. Kodak asserts as its Seventh Affirmative Defense that Philips' claims for relief are barred by waiver.

1. Legal Standards for Waiver

205. To establish waiver, a defendant must prove that the patent owner, with full knowledge of the material facts, intentionally relinquish its right to enforce its patent or act so inconsistently with its right to enforce its patent so as to induce a reasonable belief that it had relinquished that right. *See Qualcomm Inc. v. Broadcom Corp.*, No. 05-CV-1958-B, 2007 U.S. Dist. LEXIS 28211, at *32-33 (S.D. Cal. Mar. 21, 2007).

206. Waiver must be proved by clear and convincing evidence. *See id.* at *25-26.

207. The Court may deny this equitable defense if Kodak has acted with unclean hands. *See Keystone Driller Co. v. General Excavator Co.*, 290 U.S. 240, 244-45 (1933); *Schockley*, 248 F.3d at 1361; *Aukerman*, 960 F.2d at 1033, 1043; *Bott*, 807 F.2d at 1576.

2. Conclusions Regarding Waiver

208. Philips has not waived any patent rights.

209. For digital still images, Philips has not waived its right to enforce the '075 patent.

210. Kodak has failed to meet its burden to prove by clear and convincing evidence that Philips' claims for relief are barred by waiver.

211. Kodak may not assert this equitable defense, because Kodak acted with unclean hands in willfully infringing Philips' patent.

C. Implied License

212. Kodak asserts as its Sixth Affirmative Defense and Fourth Counterclaim that Kodak has an implied license under the '075 patent for digital still images.

1. Legal Standards for an Implied License

213. To establish an implied license, a defendant must prove that: (1) the patent owner engaged in conduct exhibited to the defendant from which the defendant may properly infer that the patent owner consented to the defendant's use of the patent; and (2) the defendant reasonably relied upon that conduct in practicing the patent. *See De Forest Radio Tel. & Tel. Co. v. United States,* 273 U.S. 236, 241 (1927); *Wang Labs.*, 103 F.3d at 1580-81.

214. An implied license may arise by acquiescence, conduct, equitable estoppel, or legal estoppel. *See Wang Labs.*, 103 F.3d. at 1580.

215. An implied license must be proved by a preponderance of the evidence. *See Lucent Techs., Inc. v. Newbridge Networks Corp.*, 168 F. Supp. 2d 181, 240 (D. Del. 2001) (citing jury instruction applying preponderance standard to implied license); *Hewlett-Packard Co. v. Pitney Bowes Corp.*, 46 U.S.P.Q.2D (BNA) 1595, 1998 U.S. Dist. LEXIS 10936, at *29 (D. Or. 1998).

216. The Court may deny this equitable defense if Kodak has acted with unclean hands. *See Keystone Driller Co. v. General Excavator Co.,* 290 U.S. 240, 244-45 (1933); *Schockley,* 248 F.3d at 1361; *Aukerman*, 960 F.2d at 1033, 1043; *Bott*, 807 F.2d at 1576.

2. Conclusions Regarding Implied License

217. No equitable estoppel exists, as discussed in Part II.A, above. Accordingly, no implied license can be based on those grounds.

218. Kodak has failed to meet its burden to prove by a preponderance of the evidence that Philips' claims for relief are barred by an implied license.

219. Kodak may not assert this equitable defense, because Kodak acted with unclean hands in willfully infringing Philips' patent.

D. Patent Exhaustion by License or Release Based on Implied License

220. Kodak asserts as its Sixth Affirmative Defense that Philips claims are barred by a license or release based on an implied license.

1. Legal Standards for License or Release

221. Philips adopts and incorporates the legal standard for an implied license set forth in Part II.C, above.

222. A patent license allows a licensee access to the patented invention by providing immunity from an infringement suit, waiving the patent owner's right to sue. *See Intel Corp. v. Broadcom Corp.*, 173 F. Supp. 2d 201, 228 (D. Del. 2001).

223. A license is "an affirmative grant of consent or permission to make, use, or sell . . . ." *Wang Labs.*, 103 F.3d at 1581.

224. A license or release must be proved by a preponderance of the evidence. *See Oxy Metal Industries Corp. v. Roper Corp.*, 579 F. Supp. 664, 678 (D. Md. 1984).

2. Conclusions Regarding License or Release

225. Kodak has failed to meet its burden to prove by a preponderance of the evidence that Philips's claims are barred by a license or release based on an implied license or otherwise.

226. Kodak may not assert this equitable defense, because Kodak acted with unclean hands in willfully infringing Philips' patent.

E. Unclean Hands

227. Kodak asserts as its Eighth Affirmative Defense that Philips' claims are barred by unclean hands.

1. Legal Standards for Unclean Hands

228. "It is one of the fundamental principles upon which equity jurisprudence is founded, that before a complainant can have a standing in court he must first show that not only has he a good and meritorious cause of action, but he must come into court with clean hands." *Keystone Driller*, 290 U.S. at 244 (internal quotation marks and citation omitted). The unclean hands doctrine applies "only where some unconscionable act of one coming for relief has an immediate and necessary relation" to the relief the party seeks. *Id.* at 245; *see Aptix Corp. v. Quickturn Design Systems, Inc.*, 269 F.3d 1369, 1376 (Fed. Cir. 2001).

229. To establish the unclean hands defense, the party asserting the defense must show that the other party seeking relief "conducted [itself] as to shock the moral sensibilities of the judge," and was "offensive to the dictates of natural justice." *Honeywell Int'l, Inc. v. Universal Avionics Systems Corp.*, 398 F. Supp. 2d 305, 310 (D. Del. 2005), *aff'd*, 493 F.3d 1358 (Fed. Cir. 2007) (internal quotation marks and citations omitted).

230. The Court may deny this equitable defense if Kodak has acted with unclean hands. *See Keystone Driller*, 290 U.S. at 244-45; *Schockley*, 248 F.3d at 1361; *Aukerman*, 960 F.2d at 1033, 1043; *Bott*, 807 F.2d at 1576.

231. Unclean hands must be established by clear and convincing evidence. *See Aptix*, 269 F.3d at 1374; *Rixon, Inc. v. Racal-Milgo, Inc.*, 551 F. Supp. 163, 171 (D. Del. 1982).

2. Conclusions Regarding Unclean Hands

232. Kodak has failed to meet its burden to prove by clear and convincing evidence that Philips' claims are barred by unclean hands.

233. Kodak may not assert this equitable defense, because Kodak acted with unclean hands in willfully infringing Philips' patent.

F. Laches

234. Kodak asserts as its Fifth Affirmative Defense that Philips' claims are barred by laches.

1. Legal Standards for Laches

235. Where the equitable defense of laches is established, the patent owner's claim for damages before it brought suit may be barred. *See Aukerman*, 960 F.2d at 1028, 1041.

236. To prove laches, the defendant must establish (1) that the plaintiff delayed filing suit an "unreasonable and inexcusable" length of time after the plaintiff "knew or reasonably should have known of its claim against the defendant," and (2) the delay resulted in "material prejudice or injury [to] the defendant." *Aukerman*, 960 F.2d at 1032-33; *see also Gasser Chair Co. v. Infanti Chair Mfg.*, 60 F.3d 770, 773 (Fed. Cir. 1995).

237. Material prejudice may be either economic or evidentiary. *Aukerman Co.*, 960 F.2d at 1033.

238. Once these factual premises are established, a court weighs the equities in order to assess whether laches should apply to bar damages that accrued prior to suit. *See Advanced Cardiovascular Sys., Inc. v. SciMed Life Sys., Inc.*, 988 F.2d 1157, 1161 (Fed. Cir. 1993); *Aukerman*, 960 F.2d at 1033.

239. 35 U.S.C. § 286 permits recovery of damages only for infringement that takes place during the six-year period preceding the commencement of the lawsuit. A rebuttable presumption of laches arises upon proof that the patentee delaying filing suit for more than six years after actual or constructive knowledge of the defendant's alleged infringement. *Auckerman*, 960 F.2d at 1035-36. The plaintiff may eliminate the presumption of laches by

offering evidence either that the patentee's delay was reasonable, or that the defendant suffered no material prejudice as a result of the delay, or both. *Id.* at 1038. At all times, however, the ultimate burden of proof remains on the defendant asserting the laches defense. *Id.*

240. Laches must be determined separately for each product in suit. *Meyers v. Brooks Shoe Inc.*, 912 F.2d 1459, 1462 (Fed. Cir. 1992), *overruled in part on other grounds*, *Aukerman*, 960 F.2d at 1038. "The application of laches with respect to one product would not, however, act as a bar to the assertion of a claim against a different product produced by the same manufacturer." *Wanlass v. General Elec. Co.*, 148 F.3d 1334, 1341 (Fed. Cir. 1998) (Rader, J., dissenting); *see also Spalding & Evenflo Cos. v. Accushnet Co.*, 718 F. Supp. 1023, 1050 & n.26 (D. Mass. 1989). "[T]he delays associated with periods of infringement by different machines do not 'tack' unless the nature of the alleged infringement remains substantially constant throughout the relevant time periods." *Intertech Licensing Corp. v. Brown & Sharpe Mfg. Co.*, 708 F. Supp. 1423, 1435 (D. Del. 1989).

241. A patentee's mere suspicion of infringement does not provide sufficient notice to start the laches clock in the absence of constructive notice of an actual act of infringement. *Intirtool, Ltd. v. Texar Corp.*, 369 F.3d 1289, 1297-98 (Fed. Cir. 2004). "Absent actual knowledge, the facts must support a duty of inquiry . . . ." *Advanced Cardiovascular Sys.*, 988 F.2d at 1162. However, any duty of policing imposed on a patentee must be "feasible and affordable and otherwise a reasonable burden to impose on the patentee." *Wanlass v. Fedders Corp.*, 145 F.3d 1461, 1465 (Fed. Cir. 1998).

242. A court must consider whatever justification the plaintiff may offer for its delay in filing suit. *See Gasser Chair Co.*, 60 F.3d at 773-74; *Aukerman*, 960 F.2d at 1033. Among the justifications that a plaintiff may offer for its delay are ongoing license negotiations with the

defendant or third parties. *See id.* Another justification is waiting until the product is accepted in the marketplace. "[C]ommon experience proves that inventions which appear to be revolutionary are often not accepted by the public and never become a commercial success. A patentee is therefore justified in waiting to ascertain whether realizations equal expectations." *Aukerman*, 960 F.2d at 1041.

243. To prove economic prejudice, an infringer must show a nexus between an investment in infringing products and the patentee's alleged delay. *Gasser Chair*, 60 F.3d at 775. Accordingly, "[t]he [defendant's claimed] change [in position] must be because of and as a result of the delay, not simply a business decision to capitalize on a market opportunity." *Hemstreet v. Computer Entry Sys. Corp.*, 972 F.2d 1290, 1294 (Fed. Cir. 1992); *see also Ecolab, Inc. v. Envirochem, Inc.*, 264 F.3d 1358, 1371-72 (Fed. Cir. 2001) (hiring of new employees, modification of equipment, and engaging in sales and marketing activities related to the new product were merely damages normally associated with a finding of infringement or business decisions to capitalize on a market opportunity); *Hemstreet*, 972 F.2d at 1294 (delay cannot be "a deliberate business decision to ignore a warning, and to proceed as if nothing had occurred"). Conclusory assertions concerning expenditures are "not sufficient to show prejudice." *Meyers*, 912 F.3d at 1463.

244. Courts are reluctant to find a nexus between a patentee's delay in filing suit and a defendant's expenditures when the patentee has made the defendant aware of the patentee's rights, especially if the defendant responds that a patent is invalid or is not infringed by the defendant's conduct. *See Hemstreet*, 972 F.2d at 1294; *Genzyme Corp. v. Atrium Medical Corp.*, 2003 U.S. Dist. LEXIS 12784 at *25 (D. Del. July 22, 2003). The court in *In re Cole Patent Litig.* found no prejudice when the defendant knew that it was likely to be involved in litigation

if it did not take a license. 558 F. Supp. 937, 958 (D. Del. 1983), *reversed in part on other grounds, RCA Corp. v. Applied Digital Data Sys., Inc.*, 730 F.2d 1440 (Fed. Cir. 1984).

245. Evidentiary prejudice, such as the loss or destruction of records or witnesses' unavailability or lack of memory, is the type of prejudice which prevents the defendant from presenting a "full and fair defense of the merits" and undermines the "court's ability to judge the facts." *Aukeman Co.*, 960 F.2d at 1033.

246. Conclusory assertions are not sufficient. In *Meyers v. Asiacs Corp.*, 974 F.2d 1304, 1308 (Fed. Cir. 1992), the Federal Circuit rejected conclusory statements regarding missing witnesses and documents as insufficient because the defendant did not state "exactly what material prejudice it suffered from the absence of these witnesses or evidence."

247. "A witness's failure to remember specific past events is not, in and of itself, indicative of evidentiary prejudice." *Genzyme,* 2003 U.S. Dist. LEXIS 12784 at *25; *see also Symbol Techs., Inc. v. Proxim Inc.*, 2004 U.S. Dist. LEXIS 14949 at *16 (D. Del. July 28, 2004) ("[T]he absence of a document that was once known to exist, without more, does not give rise to an inference of evidentiary prejudice."); *Bayer AG v. Sony Elecs., Inc.*, 229 F. Supp. 2d 332, 368 (D. Del. 2002) (Sony failed to identify any testimony that only the deceased witnesses could provide or why missing documents would have been important to its defense).

248. The defendant's conduct, such as willful infringement, also is relevant. "Where there is evidence of other factors which would make it inequitable to recognize the defense despite undue delay and prejudice, the defense may be denied." *Aukerman*, 960 F.2d at 1036. *See Schockley,* 248 F.3d at 1361; *Aukerman*, 960 F.2d at 1033, 1043; *Bott*, 807 F.2d at 1576.

249. The defense of laches must be established by a preponderance of the evidence. *See Aukerman*, 960 F.2d at 1045.

2. Conclusions Regarding Laches

250. Kodak has failed to meet its burden to prove by a preponderance of the evidence that Philips' claims are barred by a laches.

251. Kodak may not assert this equitable defense, because Kodak acted with unclean hands in willfully infringing Philips' patent.

EXHIBIT K

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

U.S. PHILIPS CORPORATION, Plaintiff, v. EASTMAN KODAK COMPANY, Defendant.	Civil Action No. 06-251 (GMS)

EXHIBIT K:
HISTORY AND STATUS OF SETTLEMENT NEGOTIATIONS

The parties discussed the possibility of settlement before the Complaint was filed in 2006, and have discussed the possibility of settlement during the litigation prior to the issuance of the Court's Claim Construction Order.

The parties do not appear close to reaching a settlement, but remain willing to negotiate.

EXHIBIT L

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

U.S. PHILIPS CORPORATION, Plaintiff, v. EASTMAN KODAK COMPANY, Defendant.	Civil Action No. 06-251 (GMS)

EXHIBIT L: STATEMENT THAT EACH PARTY HAS COMPLETED DISCOVERY

I. PHILIPS' STATEMENT

Plaintiff U.S. Philips Corporation ("Philips") states that it has substantially completed discovery with the exception of limited information that Kodak has agreed to produce.

Philips reserves the right to seek leave of Court to conduct depositions and/or additional discovery in the event that Defendant Eastman Kodak Company designates trial witnesses who were not properly disclosed or made available to Philips during the discovery period. Philips also reserves the right to take discovery regarding any evidence that Kodak seeks to use at trial that was not properly disclosed during the discovery period.

II. KODAK'S STATEMENT

Defendant and Counterclaim Plaintiff Eastman Kodak Company ("Kodak") states that it has substantially completed discovery with the exception of limited production of financial documents/information and limited supplementation of Mr. Wallace's expert report on damages.

Kodak reserves the right to seek leave of Court to conduct depositions and/or additional discovery in the event that Philips' designates trial witnesses who were not properly disclosed or

made available to Kodak during the discovery period. Kodak also reserves the right to take discovery regarding any evidence that Philips seeks to use at trial that was not properly disclosed.