B

UNITED STATES DISTRICT COURT

DISTRICT OF DELAWARE

KYPHON INC.,
v.
DISC-O-TECH MEDICAL TECHNOLOGIES LTD., and DISC ORTHOPAEDIC TECHNOLOGIES, INC.

C.A. No. 04-204-JJF

Defendant's Trial Exhibit List

DTX	Dep. Exhibit or Exhibit to Court Filing[1]	Production No.	Date	Description	Objections[2] *

[1] Key:
DOT Appendix – Appendix of Exhibits submitted by DOT in support of Claim Construction and Summary Judgment Briefs
Kyphon C/C Dec. – Declaration of Thomas Halkowski in Support of Kyphon's Opening Claim Construction Brief
Kyphon SJ Dec. – Declaration of Thomas Halkowski in Support of Kyphon's Opening Summary Judgment Brief
Kyphon Opp. Dec. – Declaration of Thomas Halkowski in Support of Kyphon's Opposition to DOT's Summary Judgment and Claim Construction Briefs
P.I. Mot. – Kyphon's Preliminary Injunction Brief
P.I. Opp. – DOT's Brief in Opposition to Preliminary Injunction
P.I. Rep. – Kyphon's Preliminary Injunction Reply Brief.

[2] See final page of exhibit list for key to objections.

* As noted in Kyphon's comments in the pretrial order regarding admission of exhibits, Kyphon understood that the parties had agreed to a procedure that would allow for objections to be made and addressed in an efficient manner at trial. Because DOT recently objected to this approach, Kyphon has not had an adequate opportunity to review DOT's exhibits. However, based upon a preliminary review, Kyphon has noted with an asterisk those exhibits that appear to be objectionable based upon the descriptions set forth herein. Given the limited notice however, Kyphon has not had a meaningful opportunity to review the actual documents listed herein. Kyphon, therefore, reserves all rights to object to any exhibit that DOT ultimately chooses to offer at trial whether identified herein with an asterisk, or not.

DTX	Dep. Exhibit or Exhibit to Court Filing[1]	Production No.	Date	Description	Objections[2] *
1001	DOT Appendix Ex. A-2	N/A	11/13/90	U.S. Patent No. 4,969,888	
1002	DOT Appendix Ex. A-3	N/A	4/28/92	U.S. Patent No. 5,108,404	
1003	DOT Appendix Ex. A-4	N/A	5/22/01	U.S. Patent No. 6,235,043 B1	
1004		N/A	6/19/01	U.S. Patent No. 6,248,110 B1	*
1005	DOT Appendix Ex. D-1	N/A	6/5/01	U.S. Patent No. 6,241,734 B1	
1006	DOT Appendix Ex. D-2	N/A	9/2/03	U.S. Patent No. 6,613,054 B2	
1007		KY 228787 – 228907	N/A	File History for U.S. Patent No. 4,969,888	
1008		KY 228908 – 229043	N/A	File History for U.S. Patent No. 5,108,404	
1009		KY 229044 – 229364	N/A	File History for U.S. Patent No. 6,235,043 B1	
1010			N/A	File History for U.S. Patent No. 6,248,110 B1	*
1011			N/A	File History for U.S. Patent No. 6,241,734 B1	
1012			N/A	File History for U.S. Patent No. 6,613,054 B2	

Moreover, Kyphon specifically objects to any effort to introduce or rely upon technical references which are not set forth in Dr. Mitchell's report and/or which have been belatedly produced by DOT.

DTX	Dep. Exhibit or Exhibit to Court Filing[1]	Production No.	Date	Description	Objections[2] *
1013	DOT Appendix Ex. A-1			Curriculum Vitae of Dr. David Mitchell	*
1014	DOT Appendix Ex. A-25	N/A	7/9/2004	Kyphon's Supplemental Responses to Disc-O-Tech Medical Technologies, Ltd.'s First Set of Interrogatories (Nos. 1-45)	*
1015	DOT Appendix Ex. A-26	N/A	7/9/2004	Kyphon's Supplemental Responses to Disc Orthopaedic Technologies, Inc.'s First Set of Interrogatories (Nos. 1-13)	*
1016	P.I. Opp. Ex. W	N/A	8/2/2004	Kyphon's Amended Supplemental Responses to Disc-O-Tech Medical Technologies, Ltd.'s First Set of Interrogatories	*
1017		N/A	10/27/04	Kyphon's Responses to Disc-O-Tech Medical Technologies Ltd. and Disc Orthopaedic Technologies, Inc.'s First Set of Interrogatories to Plaintiff Kyphon Inc. (Nos. 1-17)	*
1018	P.I. Mot. Ex. W	N/A	8/4/2004	ITC Order No. 13 re Motion to Terminate Investigation	*
1019	DOT Appendix Ex. K	N/A	11/10/2002	Declaration of Dr. William S. Rosenberg	*
1020	DOT Appendix Ex. C-A	N/A	N/A	Kyphon "Key Points of Difference Between KyphX IBTs and SKy Device" Document	*

DTX	Dep. Exhibit or Exhibit to Court Filing[1]	Production No.	Date	Description	Objections[2] *
1021	DOT Appendix Ex. I	N/A	N/A	Definitions from Stedman's Medical Dictionary ("tissue"; "marrow")	*
1022	DOT Appendix Ex. CC	N/A	N/A	Definitions from Stedman's Medical Dictionary ("passage")	*
1023	DOT Appendix Ex. EE	N/A	N/A	Definitions from Stedman's Medical Dictionary ("fluid")	*
1024	DOT Appendix Ex. J	N/A	N/A	Definition from Medline ("bone marrow"; "cancellous")	*
1025	DOT Appendix Ex. BB	N/A	N/A	Dictionary definitions ("fenestration")	*
1026	DOT Appendix Ex. FF	N/A	N/A	Miscellaneous Dictionary definitions ("drill")	*
1027	DOT Appendix Ex. O	N/A	2/9/2005	Letter from Thomas Halkowski to Judge Poppiti regarding Kyphon not asserting claims from the '110 Patent	*
1028	DOT Appendix Ex. O	N/A	2/11/2005	Letter from Jonathan Sobel to Thomas Halkowski regarding Kyphon not asserting claims from the '110 Patent	*
1029	Kyphon C/C Dec. Ex. W	N/A	N/A	Kyphon Press Release, "Kyphon Receives FDA Clearance to Market KyphX ® HV-R ™ Bone Cement for Use in Kyphoplasty," April 5, 2004 at http://kyph.client.shareholder.com/ReleaseDetail.cfm?ReleaseID=132205 (last visited April 6, 2005).	

DTX	Dep. Exhibit or Exhibit to Court Filing[1]	Production No.	Date	Description	Objections[2] *
1030		KY 230242 – 230410		Kyphon's 2002 10-K SEC Filing	
1031		KY 230411 – 230491		Kyphon's 2003 10-K SEC Filing	
1032				Kyphon's 1Q 2003 10-Q SEC Filing	
1033				Kyphon's 2Q 2003 10-Q SEC Filing	
1034				Kyphon's 3Q 2003 10-Q SEC Filing	
1035				Kyphon's 4Q 2003 10-Q SEC Filing	
1036				Kyphon's 2004 10-K SEC Filing	
1037				Kyphon's 1Q 2004 10-Q SEC Filing	
1038				Kyphon's 2Q 2004 10-Q SEC Filing	
1039				Kyphon's 3Q 2004 10-Q SEC Filing	
1040				Kyphon's 4Q 2004 10-Q SEC Filing	
1041				Kyphon's 1Q 2005 10-Q SEC Filing	
1042	P.I. Mot. Ex. N	DOTINC 000686 – 000689		SKy Bone Expander System Instructions for Use	
1043		DOTINC 000990		DOT Surgical Technique Document	
1044		DOTLTD 014120		SKy Bone Expander System Instructions For Use	
1045		DOTLTD 014096		SKy Bone Expander System Instructions For Use	
1046		DOTLTD 014102		SKy Bone Expander System Instructions For Use	
1047		DOTLTD 006338		SKy Bone Expander System Instructions For Use	
1048		DOTLTD 013563		SKy Bone Expander System Instructions For Use	

DTX	Dep. Exhibit or Exhibit to Court Filing[1]	Production No.	Date	Description	Objections[2] *
1049		DOTLTD 014114		SKy Bone Expander System Instructions For Use	
1050		DOTLTD 014117		SKy Bone Expander System Instructions For Use	
1051		DOTLTD 014120		SKy Bone Expander System Instructions For Use	
1052	P.I. Opp. Ex. P	DOTINC 001399-1409		Surgical Technique for SKy Bone Expander System	
1053	P.I. Opp. Ex. E	DOTINC 009300-9318		DOT Sales Summaries for 1/1/2004 to 9/30/2004	
1054		DOTINC 050018		Post-July 2004 Impactor Instructions For Use	
1055		DOTINC 050096 – 050198	2/9/2004	Osteoporosis and the Spinal Surgeon (Presentation)	*
1056		DOTINC 050301 – 050451		DOT Sales Summaries	
1057		DOTINC 050452 – DOTINC 050477		Procedure Summary Spreadsheet detailing each SKy surgery	
1058		DOTINC 050478	3/3/2005	X-Ray of Fractured Tibia	*
1059		DOTINC 050581 - 050585		Hi-Visco Flow Advertising Materials	*
1060		DOTINC 050586 - 050738		Worldwide Orthopaedic Market & Equity Research Document	*
1061		DOTINC 050741 - 050742		Surgical Technique Document	*
1062		DOTLTD 000042	3/3/2004	Letter from Richard Mott to Motti Beyar	

DTX	Dep. Exhibit or Exhibit to Court Filing[1]	Production No.	Date	Description	Objections[2] *
1063	P.I. Mot. Ex. H	KY 114403 – 114405		Kyphon "Fact Sheet"	
1064	P.I. Mot. Ex. I	KY 114715 – 114717		Kyphon Patient Education Series: "Osteoporosis"	
1065	P.I. Mot. Ex. K	KY 114731 – 114734		Kyphon Patient Educations Series: "Osteoporosis", Questions and Answers	
1066		KY 116135-116137	8/9/2000	Letter from Mark Reiley to Invention Disclosure File Re: Balloon Reduction and Fixation of Distal Radius Fracture	*
1067		KY 003870		Product Catalog	
1068		KY 003869		Diagram- Preparing the KyphX Inflatable Bone Tamp and Inflation Syringe	
1069		KY 039421		Pre-Clinical Evaluation Protocol Intraosseous Balloon System	*
1070		KY 072428		KYPHX System Demonstration	
1071		KY 020202-020242		Proposed Intraosseous Balloon Protocol for Vertebral Body Fractures	*
1072		KY 258772-258813	1/26/2004	A Scientific Review of Current and Potential Bone Void Fillers	*
1073		KY 376078-376093		Instructions for Use Kyphx HV-R Bone Cement	
1074		KY 376093		Kyphon Launches KyphX HV-R Bone Cement for use in Balloon Kyphoplasty	
1075		KY 189309-189320	9/2003	Kphx HV-R Bone Cement- Information	
1076		KY 189453-189530	9/2003	Kphx HV-R Bone Cement- Information	

DTX	Dep. Exhibit or Exhibit to Court Filing[1]	Production No.	Date	Description	Objections[2] *
1077		DOTINC 050744-050747		Vertebral Augmentation and the Limits of Interpreting Complications Reported in the Food and Drug Administration Manufacturer and User Facility Device Experience Database	*
1078		KY 004932-004959	2001	Presentation regarding Kyphon Meeting with FDA on January 16, 2001	*
1079		KY 006271-006273	3/2/1998	Letter from Karen Talmadge to Michael Courtney Re: Draft Minutes	*
1080		KY004433-004865	4/3/1998	510 (k) Premarket Notification Submission, KyphX ™ Inflatable Bone Tamp – K981251	*
1081		KY 004440	4/3/1998	Letter from Karen Talmadge to the FDA	*
1082		KY 004925-004927	6/2/1998	Letter from Celia Witter to Karen Talmadge Re: Inflatable Bone Tamp	*
1083		KY 004961-004968	6/29/1998	Memo from Karen Talmadge to K981251 File re: Requested Indications for use Statement Changes	*
1084		KY 114452 -114454	7/2/1998	Letter from the FDA to Karen Talmadge	*
1085		KY 005518-005520	10/25/2000	Letter from Larry Spears to Richard Murdock re: Kyphon Inflatable Bone Tamp	*
1086		KY 159239-159241	10/25/2000	October 25, 2000 Warning Letter	*
1087		KY 006430	11/21/2000	Letter from Richard Murdock to Byron Tart, Jr. re: Warning Letter	*
1088		KY 006415	11/22/2000	Memo from Rick Murdock to Byron Tart and Steve Budabin re: Letter	*

DTX	Dep. Exhibit or Exhibit to Court Filing[1]	Production No.	Date	Description	Objections[2] *
1089		KY 005416-005418	12/1/2000	Letter from Byron Tart to Richard Murdock re: Kyphon Inflatable Bone Tamp, K981251	*
1090		KY 005409-005411	12/19/2000	Letter from Richard Murdock to Byron Tart re: Kyphon Inflatable Bone Tamp, K981251	*
1091		KY 006459	12/27/2000	Letter from Byron Tart to Richard Murdock re: Warning Letter	*
1092		KY 006461-00462	1/31/2001	Letter from Richard Murdock to Byron Tart re: Kyphon Inflatable Bone Tamp, K981251	*
1093		KY 267657	6/2/2003	Memorandum from Cindy Domecus to Alan Marquardt re: Conversation with Dan Schultz, M.D.	*
1094		KY 263533-263536	7/9/2003	Draft Letter from Richard Mott to Erin Keith	*
1095			12/14/1971	U.S. Patent No. 3,626,949	
1096			12/18/1984	U.S. Patent No. 4,488,549	*
1097			4/30/1985	U.S. Patent No. 4,513,754	*
1098			5/21/1985	U.S. Patent No. 4,518,430	*
1099			3/18/1986	U.S. Patent No. 4,576,152	
1100			12/9/1986	U.S. Patent No. 4,627,434	*
1101			3/31/1987	U.S. Patent No. 4,654,314	*
1102			1/26/1988	U.S. Patent No. 4,721,112	*
1103			1/31/1989	U.S. Patent No. 4,801,263	
1104			11/7/1989	U.S. Patent No. 4,878,495	

DTX	Dep. Exhibit or Exhibit to Court Filing[1]	Production No.	Date	Description	Objections[2] *
1105			3/20/1990	U.S. Patent No. 4,909,252	
1106			1/1/1991	U.S. Patent No. 4,981,481	*
1107			4/16/1991	U.S. Patent No. 5,007,932	*
1108			3/9/1993	U.S. Patent No. 5,012,818	*
1109			9/17/1991	U.S. Patent No. 5,049,132	
1110			3/9/1993	U.S. Patent No. 5,192,282	*
1111			5/17/1994	U.S. Patent No. 5,312,333	
1112			5/16/1995	U.S. Patent No. 5,415,631	
1113			4/21/1998	U.S. Patent No. 5,741,261	
1114			7/6/1999	U.S. Patent No. 5,919,196	
1115			1/25/2000	U.S. Patent No. 6,017,348	
1116	DOT Appendix Ex. A-9		1988	Aebi, M., "The internal skeletal fixation system. A new treatment of thoracolumbar fractures and other spinal disorders," Clin. Orthop., Vol. 227, pp. 30-43, 1988	
1117			1985	Angel, M. et al., "Vascularization of Tricalcium Phosphate, an Artificial Bone Substitute," Microsurgery, Vol. 6, pp. 175-81, 1985	*
1118			1977	Benum, P. et al., "Porous Ceramics as a Bone Substitute in the Medial Condyle of the Tibia," Acta Orthop. Scand., Vol. 48, pp. 150-57, 1977	*

DTX	Dep. Exhibit or Exhibit to Court Filing[1]	Production No.	Date	Description	Objections[2] *
1119	DOT Appendix Ex. A-10		1987	Blauth, M., "Therapeutic Concept and Results of Operative Treatment in Acute Trauma of the Thoracic and Lumbar Spine: The Hannover Experience," J. of Orthop. Trauma, Vol. 1, No. 3, pp. 240–252, 1987	
1120			1987	Bucholz, R. et al., "Hydroxyapatite and Tricalcium Phosphate Bone Graft Substitutes," Orthop. Clin. North Am., Vol. 18, No. 2, pp. 323 - 34, 1987	*
1121	DOT Appendix Ex. A-11		1987	Campbell's Operative Orthopaedics, A.H. Crenshaw, Ed., 7th ed., Chapter 44, pp. 1653–1663, 1987	
1122	DOT Appendix Ex. A-12		1974	Carlson, "The Use of Methylmethacrylate in Repair of Neoplastic Lesions in Bone," Radiology, Vol. 112, pp. 43-46, July 1974	
1123			2004	Charvet, A. et al., "Pulmonary embolism of cement during vertebroplasty," Ann. Fr. Anesth. Reanim, Vol. 23, No. 8, pp. 827-30, 2004	*
1124	DOT Appendix Ex. A-13		1982	Daniaux, H., "Technik und Ergebnisse der transpedikulären Spongiosaplastik bei Kompressionsbrüchen im Lendenwirbelsäulenbereich," Acta Chir. Austr. (Suppl.), Vol. 43, pp. 79-80, 1982	

DTX	Dep. Exhibit or Exhibit to Court Filing[1]	Production No.	Date	Description	Objections[2] *
1125	DOT Appendix Ex. A-14		1986	Daniaux, H., "Transpedikuläre Reposition und erste Spongiosaplastik bei Wirbelkörperbrüchen der unteren Brust und Lendenwirbelsäule," Unfallchirurg, Vol. 89, pp. 197-213, 1986	
1126	DOT Appendix Ex. A-15		1987	Dick, W., "Use of the Acetabular Reamer to Harvest Autogeneic Bone Graft Material: A Simple Method for Producing Bone Paste," Arch. Orthop. Trauma Surg., Vol. 105, pp. 235 – 238, 1986	
1127	DOT Appendix Ex. A-16		1986	Dick, W., "The 'Fixatuer Interne' as versatile implant for spine surgery," Spine, Vol. 12 (9), pp. 882-900, 1987	
1128	DOT Appendix Ex. A-17		1976	Edeland, H.G., "Open Reduction of Central Compression Fractures of the Tibial Plateau," Acta Orthop. Scand., Vol. 47, pp. 686-689, 1976	
1129			1981	Frame, J. et al., "Hydroxyapatite as a Bone Substitute in the Jaws," Biomaterials, Vol. 2, pp. 19 - 22, 1981	*
1130			2003	Higgins, K. et al., "Biomechanical Effects of Unipedicular Vertebroplasty on Intact Vertebrae," Spine, Vol. 28, No. 14, pp. 1540-1548, 2003	*
1131			2004	Hillmeier, J. et al., "The evaluation of balloon kyphoplasty for osteoporotic vertebral fractures," Orthopade, Vol. 33, No. 8, pp. 893-904, 2004	*

DTX	Dep. Exhibit or Exhibit to Court Filing[1]	Production No.	Date	Description	Objections[2] *
1132	DOT Appendix Ex. A-18		1978	Kennedy, W., "Fractures of the Tibial Condyles: A Preliminary Report on Supplementary Fixation with Methylmethacrylate," Clin. Orthop., Vol. 134, pp. 153-157, 1978	
1133			2004	Komp, M. et al., "Minimal-invasive Therapie der funktionell instabilen osteoporotishcen Wirbelkorperfraktur mittels Kyphoplastie: Prospektive Vergleichsstudie von 19 operierten under 17 konservativ behandelten Patienten," J. Miner Stoffwechs, Vol. 11 (Suppl. 1), pp. 13 - 15, 2004	*
1134			2003	Kraus, G. et al., "Pelvic and leg venous thrombosis as a complication of percutaneous vertebroplasty," Rofo., Vol. 175, No. 4, pp. 565 - 66, 2003	*
1135			2002	Lee, B. et al., "Paraplegia as a complication of percutaneous vertebroplasty with polymethylmethacrylate: a case report," Spine, Vol. 27, No. 19, pp. E419 - 22, 2002	*
1136			2003	Lieberman et al., "Vertebroplasty and Kyphoplasty for Osteolytic Vertebral Collapse," Clin. Orthop. And Related Res., No. 415S, pp. S176-186, 2003	*

DTX	Dep. Exhibit or Exhibit to Court Filing[1]	Production No.	Date	Description	Objections[2] *
1137		DOTINC 050479 – DOTINC 050537	1987	Limb Salvage in Musculoskeletal Oncology, Chapter 6, "Effectiveness of Methyl Methacrylate as a Physical adjuvant in Local Tumor Control,", Enneking, W., Ed., Churchill Livingstone, pp. 443 - 498, 1987	*
1138	DOT Appendix Ex. A-19		1984	Ma, Yuan-zhang, "Os Calsis Fracture Treated by Percutaneous Poking Reduction and Internal Fixation," Chinese Medical Journal, Vol. 97, No. 2, pp. 105-110, 1984	
1139		DOTINC 050525 – DOTINC 050537	1987	M. Malawer, M. Marks et al., " Effect of Cryosurgery and PMMA on Tumor Cavity: Evalutaion of Bone Necrosis and Bone Graft Incorporation in a Dog Model," Limb Salvage in Musculoskeletal Oncology, Enneking, W., Ed., Churchill Livingstone, pp. 486-498, 1987	*
1140			2001	Mathis, J. M. et al., "Percutaneous Vertebroplasty: A Developing Standard of Care for Vertebral Compression Fractures," Am. J. Neuroradiology, Vol. 22, pp. 373-381, 2001	*
1141	DOT Appendix Ex. A-20		1988	Olerud, S., "Transpedicular Fixation of Thoracolumbar Vertebral Fractures," Clin. Orthop., Vol. 227, pp. 44-51, 1988	

DTX	Dep. Exhibit or Exhibit to Court Filing[1]	Production No.	Date	Description	Objections[2] *
1142			1999	Padovani, Bernard, et al., "Pulmonary Embolism Cause by Acrylic Cement: A Rare Complication of Percutaneous Vertebroplasty," Am. J. Neuroradiology, Vol. 20, pp.375-77	*
1143	DOT Appendix Ex. A-21		1988	Pentelenyi, T., "First Hungarian Neurosurgical Experiences with 'Fixateur Interne' in the Treatment of Thoraco-lumbar Spine Injuries," Acta Neurochir. (Wien), Vol. 93, pp. 104-109, 1988	
1144			2002	Phillips, F. et al., "An in Vivo Comparison of the Potential of Extravertebral Cement Leak After Vertebroplasty and Kyphoplasty," Spine, Vol. 27, No. 19, pp. 2173 - 78, 2002	*
1145			2004	Pleser, M. et al., "Pulmonary embolism caused by PMMA in percutaneous vertebroplasty," Unfallchirug, Vol. 107, No. 9, pp. 807 - 11, 2004	*
1146			2001	Ratliff, J. et al., "Root and spinal cord compression from methylmethacrylate vertebroplasty," Spine, Vol. 26, No. 13, pp. E300 - 2, 2001	*
1147			2004	Rauschmann, M. et al., "Complications of vertebroplasty," Orthopade, Vol. 33, No. 1, pp. 40 - 7, 2004	*

DTX	Dep. Exhibit or Exhibit to Court Filing[1]	Production No.	Date	Description	Objections[2] *
1148			1977	Rejda, B. et al., "Tri-calcium Phosphate as a Bone Substitute," J. Bioeng., Vol. 1, pp. 93 - 97, 1977	*
1149			2002	Ryu, K. et al., "Dose-dependent epidural leakage of polymethylmethacrylate after percutaneous vertebroplasty in patients with osteoporotic vertebral compression fractures," J. Neurosurg. Spine., Vol. 96, No. 1, pp. 56 - 61, 2002	*
1150	DOT Appendix Ex. A-22		1988	Schatzker, J., Operative Orthopaedics, M. Chapman, Ed., 1st ed., Ch. 35, pp. 421 – 434, 1988	
1151	DOT Appendix Ex. A-23		1967	Scoville, W., "The Use of Acrylic Plastic for Vertebral Replacement or Fixation in Metastatic Disease of the Spine," J. Neurosurg., Vol. 27: 274-279, Sept. 1967	
1152			1963	Smith, L., "Ceramic-Plastic Material as a Bone Substitute," Arch. Surg., Vol. 87, pp. 653 - 61, 1963	*
1153			2004	Stricker, K. et al., "Severe Hypercapnia Due to Pulmonary Embolism of Polymethylmethacrylate During Vertebroplasty," Anesth. Analg., Vol. 98, pp. 1184-1186, 2004	*

DTX	Dep. Exhibit or Exhibit to Court Filing[1]	Production No.	Date	Description	Objections[2] *
1154				Tsai, T. T. et al., "Polymethylmethacrylate Cement Dislodgement Following Percutaneous Vertebroplasty: A case report," Spine, Vol. 28, No. 22, pp. 457-60, 2003	*
1155		DOTINC 002393 – 2395		Investor notes re: Kyphon from Value Investors Club, www.investorsclub.com	*
1156		DOTINC 002925 - 002927	5/18/2004	Product DGF Forms	
1157		DOTINC 003165 – 003279		Kyphon Surgeon List	
1158		DOTINC 005503 - 005507	6/2/2004	E-mail correspondence between Ronny Barak and Brent Johnston	*
1159		DOTINC 006273	3/22/2004	E-mail from Ronny Barak to Tamir Kazaz attaching SKy Business Plan	
1160		DOTINC 006861	4/30/2004	E-mail from Ronny Barak to Randy Hebert re: Post meeting summary	
1161		DOTINC 006975 - 006978	5/12/2004	E-mail from Ronny Barak to Ken Corrado re: Sales Opportunity	
1162		DOTINC 007247		E-mail from Ronny Barak to pmprince@bellsouth.net re: Follow up on our May 26 morning meeting- exploring the Jacksonville area	*
1163		DOTINC 007250-7252	5/27/2004	E-mail from Ronny Barak to Tamir Kazaz re: Corvus Medical, Inc.	*
1164		DOTINC 007296	5/31/2004	E-mail from Ronny Barak to Gene Trozzi re: Pittsburgh	*

DTX	Dep. Exhibit or Exhibit to Court Filing[1]	Production No.	Date	Description	Objections[2] *
1165		DOTINC 007614-7617	6/3/2004	E-mail from Ken Corrado to Ronny Barak re: KRP Medical, Inc.	*
1166		DOTINC 007621-7622	5/24/2004	E-mail from David Smith to Ronny Barak re: GA/SC	*
1167		DOTINC 007691 – 7693	6/9/2004	E-mail from Kim Welch to Ronny Barak re: Craig Welch and our discussion last week of representing Disc-O-Tech	*
1168		DOTINC 007779	5/12/2004	E-mail from Kathy Morales to giallelj@bellsouth.net re: Jupiter Medical Center Forms	*
1169		DOTINC 007921 - 7924	2/2/2004	E-mail from Ronny Barak to dscspine@aol.com re: Post Surgeries Follow Up	*
1170		DOTINC 008435	4/27/2004	E-mail from Ronny Barak to Tamir Kazaz re: Lacoste distribution in LA/Mississippi	*
1171		DOTINC 008470	4/29/2004	E-mail from Ronny Barak to Travis Whitaker re: Territory Info	*
1172		DOTINC 008731	6/12/2004	E-mail from Ronny Barak to Paula Jagels re: Visit to Colorado	*
1173		DOTINC 009300 - 9318		Sales Report for the period 1/1/2004 to 9/30/2004	
1174		DOTINC 009593 - 009639		Sales Report for the period 1/1/2004 to 12/31/2004	
1175		DOTLTD 005539 - 005543		DOT Financial Projections Spreadsheet	*
1176		DOTLTD 06063 – 6064		Introduction from SKy Training Manual	*

DTX	Dep. Exhibit or Exhibit to Court Filing[1]	Production No.	Date	Description	Objections[2] *
1177		DOTLTD 006414		E-mail from Tamir Kazaz to Elad Magal, Motti Beyar and Oren Globerman re: Kyphon	
1178		DOTLTD 009593 - 009639		Test Report (notes in Hebrew)	*
1179		DOTLTD 013250 – 013302		Application Serial No. 60/478,841 for "Expandable Device for Treating Fractured and/or Osteoporotic Bone."	*
1180		DOTLTD 013303 – 013380		DOT Patent Application "Deformable Tools and Implants"	*
1181		DOTLTD 013438 - 13536		DOT Patent Application "Deformable Tools and Implants"	*
1182		KY 034711 - 034889		Kyphon February 2004 Financials	
1183		KY 139080 - 139081		Kyphon Revenue spreadsheet	
1184		KY 142117 – 142123		Competitive Activities, Q1 2004	*
1185		KY 158109		"Safety" sheet from Kyphon presentation	*
1186		KY 177482 –177489		"The Downward Spiral; Consequences of Vertebral Compression Fractures" Presentation	
1187		KY 178124 - 000127		"Minimally Invasive Thereapy for Functionally Unstable Osteoporotic Vertebral Fracture by Means of Kyphoplasty: Prospective Comparative Study of 19 Surgically and 17 Conservatively Treated Patients	*
1188		KY 236801 – 236812		Kyphon Financial Statements 3-22-04	

DTX	Dep. Exhibit or Exhibit to Court Filing[1]	Production No.	Date	Description	Objections[2] *
1189		KY 268929 – 000958		"Surgical Interventions for Vertebral Compression Fractures: An Update on Procedures and Outcomes"	*
1190		KY 377553 – 386666		Kyphon GM Analysis by Cost Category	
1191		KY 386712 – 386715		2003 GM Analysis Pivot Table Summary	
1192		KY 386716 - 386717		2003 GM Analysis with Cost of Goods Sold Breakdown by Variable Cost and Fixed Cost	
1193		KY 386833 - 386872		Kyphon-Bonutti Sublicense Agreement	
1194		KY 386873 - 386956		Sanatis Acquisition Agreement	
1195		CM 0026 - 0030	9/23/2004	Banc of America Securities Equity Research, 34th Annual Investment Conference, "Highlights from BofA Annual Investment Conference," September 23, 2004	*
1196		CM 0031 - 0035	5/24/2004	Banc of America Securities Equity Research, Health Care Conference, "Highlights from Banc of America Securities Health Care Conference", May 24, 2004	*
1197		CM 0036 - 0063	5/6/2004	Banc of America Securities, Equity Research United States, "Kyphon Inc. Extraordinary Growth, but Valuation Keeps Us at Bay; Coverage Initiated with a Rating of Neutral," May 6, 2004	*

DTX	Dep. Exhibit or Exhibit to Court Filing[1]	Production No.	Date	Description	Objections[2] *
1198		CM 0064 - 0084	4/12/2004	Banc of America Securities, Equity Research United States, "Kyphon Inc. Extraordinary Growth, but Valuation keeps Us at bay; Coverage Initiated with a Rating of Neutral, April 12, 2004	*
1199		CM 0085 - 0096	8/12/2004	Banc of America Securities, Equity Research United States, "Kyphon Inc. Lowering Rating to Sell Owing to New Competitive Threat," August 12, 2004	*
1200		CM 0097 – 0108	2/8/2005	Banc of America Securities, Equity Research United States, "Kyphon Inc. Raising Est./Target Price Due to Higher Int'l Sales. Our Caution Remains Valuation/Competition," February 8, 2005	*
1201		CM 0109 – 0117	10/27/2004	Banc of America Securities, Equity Research United States, "Kyphon Inc. Reports 3Q EPS $0.02 Above Our Estimate, Led by Gross Margin," October 27, 2004.	*
1202		CM 0118 – 0131	8/5/2004	Banc of America Securities, Equity Research United States, "Kyphon Inc. Reports Solid 2Q. Maintain Neutral Rating on Valuation," August 5, 2004	*
1203		CM 0132 – 0140	7/14/2004	Banc of America Securities, Equity Research United States, "Kyphon Inc. Update Following Recent Management Meeting," July 14, 2004	*

DTX	Dep. Exhibit or Exhibit to Court Filing[1]	Production No.	Date	Description	Objections[2] *
1204		CM 0141 – 0218	5/1/2002	Deutsche Bank Securities Inc., "Orthopedics 2002 – An Updated Look at the Markets and Companies that Define the Orthopedic Industry," May 1, 2002	*
1205		CM 0219 - 0244		Esky, Clifford J., M.D., Ph.D, and Joshua A. Hirsch, M.D., "Vertebroplasty and Kyphonplasty," Dartmouth Medical Center	*
1206		CM 0245 - 0255		Goldscheider, Robert, John Joarosc, and Carla Mulhern, "Use of the 25 Percent Rule in Valuing IP," *les Nouvelles,* Vol. 37, No. 4, December 2002	*
1207		CM 00256 - 00260		Hiwatashi, A., et al., "Increase in Vertebral Body Height after Vertobroplasty", *AJNR Am J Neuroradiology* 23:185-189, February 2003	*
1208		CM 0261 – 0335		Knowledge Enterprises, "The Worldwide Orthopaedic Market – 2003-2004," November 2004	*
1209		CM 0336 – 0337		"Kyphon Announces Acquisition of Sanatis GmbH," *Business Wire,* March 4, 2003	*
1210		CM 0338 – 0346		Mathis, John M., et al., "Percutaneous Vertebroplasty: A Developing Standard of Care for Vertebral Compression Fractures," AJNR Am J. Neuroradiology 22:373-381, February 2001	*

DTX	Dep. Exhibit or Exhibit to Court Filing[1]	Production No.	Date	Description	Objections[2] *
1211		CM 0347 – 0356		McGavock, Daniel M., David A. Haas, and Michael P. Patin, "Factors Affecting Royalty Rates," *les Nouvelles*, Vol. 27, No. 2, June 1992	*
1212		CM 0357 - 0398		Philip A. Beutel and Richard T. Rapp, "Patent Damages: Updated Rules on the Road to Economic Rationality," *Patent Litigation 1996- Volume 2, Practising Law Institute, Patents, Copyrights, Trademarks and Literary Property: Course Handbook Series Number G-457,* November 1996 (Exhibit 6)	*
1213		DOTINC 050000 – 050007		DOT Color Marketing Materials	
1214		DOTINC 050008		DOT Instrumentation Set	
1215		DOTINC 050010		DOT Demonstration Device	
1216		DOTINC 050012		CD Containing DOT Electronic Materials	
1217		DOTINC 050013		Post-July 2004 Impactor Device	
1218		DOTINC 050743		Demonstration Kit	
1219		DOTLTD 050016		Trial Device Specimen	
1220		DOTLTD 051000		Bone Filler Kit representative of Pre-July 2004 device	*
1221		DOTLTD 0501001		Instrumentation Set representative of Pre-July 2004 device	
1222			11/17/1992	U.S. Patent No. 5,163,949	*
1223			3/30/1993	U.S. Patent No. 5,197,971	*

DTX	Dep. Exhibit or Exhibit to Court Filing[1]	Production No.	Date	Description	Objections[2] *
1224			1/26/1994	U.S. Patent No. 5,331,975	*
1225			3/22/1994	U.S. Patent No. 5,295,994	*
1226			9/13/1994	U.S. Patent No. 5,345,927	*
1227			5/7/1996	U.S. Patent No. 5,514,153	*
1228			2/11/1997	U.S. Patent No. 5,601,590	*
1229			9/16/1997	U.S. Patent No. 5,667,520	*
1230			11/11/1997	U.S. Patent No. 5,685,826	*
1231			1/13/1998	U.S. Patent No. 5,707,390	*
1232			2/10/1998	U.S. Patent No. 5,716,325	*
1233			10/27/1998	U.S. Patent No. 5,827,318	*
1234			1/19/1999	U.S. Patent No. 5,860,997	*
1235			3/30/1999	U.S. Patent No. 5,888,196	*
1236			9/21/1999	U.S. Patent No. 5,954,739	*
1237			1/25/2000	U.S. Patent No. 6,017,305	*
1238			3/28/2000	U.S. Patent No. 6,042,596	*
1239			8/15/2000	U.S. Patent No. 6,102,928	*
1240			1/9/2001	U.S. Patent No. 6,171,299	*
1241			1/9/2001	U.S. Patent No. 6,171,236	*
1242			2/13/2001	U.S. Patent No. 6,187,023	*
1243			8/21/2001	U.S. Patent No. 6,277,136	*
1244			3/19/2002	U.S. Patent No. 6,358,266	*

DTX	Dep. Exhibit or Exhibit to Court Filing[1]	Production No.	Date	Description	Objections[2] *
1245	Reiley Ex. 3	KY116725-116739	9/26/1988	Record of Invention for Balloon Assisted Fixation of Osteoporotic Fractures (Arie Scholton and Mark Reilly)	*
1246	Reiley Ex. 5	N/A	2/3/1989	Declaration and Power of Attorney for Surgical Protocol for Fixation of Osteoporotic Bone Using Inflatable Device	*
1247	Reiley Ex. 6	N/A	8/14/1990	Declaration and Power of Attorney for Surgical Protocol for Fixation of Bone Using Inflatable Device	*
1248	Reiley Ex. 7	N/A	2/9/1989	Patent Application for Surgical Protocol for Fixation of Osteoporotic Bone Using Inflatable Device	
1249	Reiley Ex. 8	N/A	8/25/1989	Notice of References Cited by Examiner for Patent Application for Surgical Protocol for Fixation of Osteoporotic Bone Using Inflatable Device	
1250	Reiley Ex. 9	N/A	2/9/1989	Amendment to Patent Application for Surgical Protocol for Fixation of Osteoporotic Bone Using Inflatable Device	
1251	Reiley Ex. 10	N/A	N/A	Surgical Protocol for the Osseous Balloon System, Percutaneous Vertebral Body Fixation	*
1252	Reiley Ex. 11	N/A	12/17/1990	The Effect of Internal Augmentation on Vertebral Body Mechanical Properties: A Preliminary Study, by A.U. Daniels, Ph.D. and Karl Wenger	*

DTX	Dep. Exhibit or Exhibit to Court Filing[1]	Production No.	Date	Description	Objections[2] *
1253	Globerman Ex. 12	DOTINC 006917-006918	5/7/2004	E-mail from Kathy Morales to Tamir Kazaz re: Surgical Guidelines & Tips	
1254	Globerman Ex. 13	DOTINC 001399-001409		Surgical Technique Sky Bone Expander System	
1255	Globerman Ex. 14	DOTINC 004891-004893	1/2004	Sky Bone Expander System- FAQ	
1256	Globerman Ex. 15	DOTINC 000686-000689		Appendix A- Sky Bone Expander System Instructions for Use (IFU)	
1257	Globerman Ex. 17	DOTINC 007304	6/1/2004	E-mail from Ronny Barak to Tamir Kazaz re: Product Manual SKy	
1258	Globerman Ex. 18	DOTINC 005268-005269		Sky Bone Expander Systems- Key Selling Points	
1259	Kazaz Ex. 37	DOTINC 008753-008803		Sky Bone Expander System Presentation	
1260	Kazaz Ex. 40	DOTINC 005218-005227		A Study Protocol for Comparing Sky Bone Expander System with the Kyphon Bone Tamp	
1261	Kazaz Ex. 41	DOTINC 003979-003997		Sky Bone Expander System Initial Clinical Results	
1262	Kazaz Ex. 48	DOTINC 000988	6/1/2004	Fax to Orian from Tamir Kazaz re: Comments on the attached Sky Surgical Technique	
1263	Kazaz Ex. 49			Sky Surgical Technique	
1264	Globerman Ex. 85	DOTLTD 000413		Disc-O-Tech Impactor Instructions for use	
1265	Globerman Ex. 86	DOTLTD 000123		Sky Bone Expander System Instructions for use	

DTX	Dep. Exhibit or Exhibit to Court Filing[1]	Production No.	Date	Description	Objections[2] *
1266	Globerman Ex. 87	DOTLTD 001560		Surgical Technique- Sky Bone Expander System	
1267	Globerman Ex. 102	DOTLTD 010309		Deformable Tools and Implants – Patent Application	*
1268	Beyar Ex. 157	DOTLTD 000431-437	10/6/2003	SKy System Design and Development Plan	
1269	Beyar Ex. 161	DOTLTD 005335-47	7/2003	B-Twin BE System Product (Tube) Specifications	
1270	Beyar Ex. 162	DOTINC 005856-5859	4/29/2004	Email from Or Benjamin to Kathy Morales regarding SKy Bone Expander Competitive Comparison, cc: Tamir Kazaz	
1271	Beyar Ex. 164	DOTINC 006872	5/4/2004	Email from David Elkayam to Tamir Kazaz and Ronny Barak regarding USA SKy Surgeon	*
1272	Beyar Ex. 174	DOTLTD 000040	4/7/2004	Email from Kimberly Sherwood (on behalf of Rich Mott) to Motti Beyar regarding follow up communications	
1273	Magal Ex. 175	DOTINC 002819	N/A	SKy Bone Expander System items and category numbers	*
1274	Globerman Ex. 188	DOTLTD 014204-271	7/14/2004	Letter from John C. Eisenhart to Oren Globerman regarding non-infringement opinion for U.S. Patent No. 5,108,404	
1275	Globerman Ex. 189	DOTLTD 014272-338	7/14/2004	Letter from John C. Eisenhart to Oren Globerman regarding non-infringement opinion for U.S. Patent No. 4,969,888	

DTX	Dep. Exhibit or Exhibit to Court Filing[1]	Production No.	Date	Description	Objections[2] *
1276	Globerman Ex. 190	DOTLTD 014123-203	6/18/2004	Letter from John C. Eisenhart to Oren Globerman regarding non-infringement opinion for U.S. Patent No. 6,235,043	
1277	Globerman Ex. 191	DOTLTD 014339-450	6/13/2004	Letter from John C. Eisenhart to Oren Globerman regarding non-infringement opinion for U.S. Patent No. 6,248,110	*
1278	Globerman Ex. 193	DOTLTD 001835-1840	N/A	Delphion patent search results on Kyphon	
1279	Globerman Ex. 195	DOTLTD 014722-727	N/A	Comparing SKy and balloon Kyphoplasty	
1280	Globerman Ex. 196	DOTLTD 014973-15007	N/A	SKy Bone Expander Imaging and Anatomy Tutorial	
1281	Globerman Ex. 197	DOTLTD 001843-1860	N/A	SKy System Clinical Evaluation – Spinal Indications	
1282	Kazaz Ex. 203	DOTLTD 005533-548	6/30/2004	Disc-O-Tech Breakdown of revenues, costs of goods sold, operating expenses	*
1283	Kazaz Ex. 204	DOTINC 009535-639	1/6/2005	Sales Report of Disc Orthopaedic Technologies, 1/1/2004 – 12/31/2004	
1284	Kazaz Ex. 205	DOTINC 050019-058	1/26/2005	Sales Report of Tamir Kazaz, 10/1/2004 – 10/31/2004	
1285	Kazaz Ex. 206	DOTINC 005430-431	5/7/2004	Email from Tamir Kazaz to Kathy Morales, Ronny Barak regarding surgical guidelines and tips	
1286	Kazaz Ex. 207	DOTLTD 015835-849	N/A	The SKy Bone Expander System, Kyphoplasty	
1287	Kazaz Ex. 208	DOTLTD 006341-353	N/A	SKy Bone Expander System, Surgical Technique	

DTX	Dep. Exhibit or Exhibit to Court Filing[1]	Production No.	Date	Description	Objections[2] *
1288	Kazaz Ex. 209	DOTINC 001410	2/2004	A Novel Technique for Percutaneous Local Anesthesia Reconstruction of Vertebral Fractures Using the SKy Bone Expander: A Preliminary Report on the First 20 Cases (accepted for oral presentation at the annual ASSR meeting, February 2004, Miami)	*
1289	Kazaz Ex. 210	DOTLTD 006176-178	5/20/2004	SKy surgical notes	*
1290	Kazaz Ex. 212	DOTLTD 014096-122	12/2004	SKy Bone Expander System, Instructions for Use	
1291	Kazaz Ex. 224	DOTINC 050000-001	N/A	Vertebral Compression Fractures and Osteoporosis	
1292	Kazaz Ex. 225	DOTINC 050003	7/2004	SKy Bone Expander System for Percutaneous Vertebral Compression Fracture Reduction	
1293	Barak Ex. 230A	DOTINC 003165-279	N/A	List of Kyphon Surgeons	
1294	Kazaz Ex.237	N/A	1/26/2005	Print screen of D drive, SKy Bone Expander System, SKy Presentations, SKy Training Manual; Booth Pictures	*
1295	Kazaz Ex. 238	N/A	N/A	SKy Bone Expander System Case Reports	*
1296	Kazaz Ex. 239	N/A	N/A	SKy Presentation: Osteoporosis/SKy Bone Expander System for void creation vertebral height restoration	
1297	Kazaz Ex. 240	N/A	11/2004	SKy Bone Expander System Training Manual, bone cement facts	

DTX	Dep. Exhibit or Exhibit to Court Filing[1]	Production No.	Date	Description	Objections[2] *
1298	Barak Ex. 262	TR 0173-196	N/A	Presentation: The SKy Bone Expander System for void creation and vertebral height restoration	
1299	Barak Ex. 263	TR 0197-208	1/1/2004	Disc-O-Tech's Draft Surgical Technique, US Version – the SKy Bone Expander System	
1300	Barak Ex. 268	TR 0245-277	2004	Disc-O-Tech SKy Bone Expander Surgical Technique Tutorial	
1301	Barak Ex. 285	N/A	2004	Report from American Society of Spine Radiology entitled "A Novel Technique for Percutaneous Local Anesthesia Reconstruction of Vertebral Fractures: A Preliminary Report on the First 20 Cases" by Reuven Gepstein, M.D. (9 pages)	*
1302	Barak Ex. 287	DOTINC 002489-2494	2/24/04	Fax from Ronny Barak to Tamir Kazaz regarding updates on Kyphon new sizes, shapes, access systems, directional system, KyphX Exact IBT	
1303	Barak Ex. 288	DOTINC 005218-5227	1/2004	A study protocol for comparing the SKy Bone Expander System with the Kyphon Bone Tamp	*
1304	Barak Ex. 297	DOTINC 050205-300	11/2004	Disc-O-Tech's SKy Bone Expander System Training Manual	
1305	Steck Ex. 301	N/A	N/A	John Crawford Steck's CV	
1306	Eisenhart Ex. 352	DOTLTD 014239	N/A	Schematic of Disc-O-Tech Sky Long Assembly	*
1307	Barak Ex. 366	N/A	N/A	Pre-July 2004 Impactor Tube	

DTX	Dep. Exhibit or Exhibit to Court Filing[1]	Production No.	Date	Description	Objections[2] *
1308	Barak Ex. 367	N/A	N/A	Pre-July 2004 Impactor Rod	
1309	Barak Ex. 370	DOTLTD 051001	N/A	Pre-July 2004 Instrumentation Set	
1310	Barak Ex. 374	N/A	N/A	Bone Biopsy Needle	
1311	Barak Ex. 375	N/A	N/A	High Visco Flow Cement Delivery Kit (for Europe)	*
1312	Barak Ex. 376	N/A	N/A	SKy Bone Expander System Instrumentation Set	
1313	Barak Ex. 378	N/A	N/A	Cannula	
1314	Mott Ex. 501	N/A	N/A	Kyphon 10-Q	
1315	Mott Ex. 502	KY 0142117-142123	3/31/2004	Competitive Activities- Q1 2004	*
1316	Mott Ex. 503	KY 115003-115020	N/A	Selected Kyphx Product Quick Refrence Guide	
1317	Mott Ex. 504	DOTINC 001961-1970	N/A	KYPHX Exact Inflatable Bone Tamp Guide	
1318	Mott Ex. 505	KY 073052-73117	N/A	Kyphon Sales Training Pre-Study Guide	
1319	Mott Ex. 506	KY 3869-3871	N/A	Preparing the Inflatable Bone Tamp (IBT) and Inflation Syringe	
1320	Mott Ex. 507	KY 207783-207783		Kyphon 10-K	
1321	Talmadge Ex. 510	KY 004433-4627	N/A	Kyphon 5 10(K) Pre-Market Notification Submission	
1322	Taylor Ex. 517	KY 236801	3/22/2005	Kyphon Financial Statement	
1323	Taylor Ex. 518	KY 386718	1/1/2005	Price List- U.S.	
1324	Taylor Ex. 519	KY 386712	N/A	Analysis Table	
1325	Taylor Ex. 520	KY 386717	N/A	Analysis	
1326	Taylor Ex. 521	KY 34710-34899	2/2004	Kyphon Financial Statement	

DTX	Dep. Exhibit or Exhibit to Court Filing[1]	Production No.	Date	Description	Objections[2] *
1327	Scholten Ex. 522	KY 386722	N/A	Picture of Arie Scholten with devices	
1328	Scholten Ex. 523	KY 386667	N/A	'138 Patent	*
1329	Scholten Ex. 524	KY 386729	N/A	Picture of Tool	
1330	Scholten Ex. 524 A	KY 386726	N/A	Picture of Tool	
1331	Scholten Ex. 525	KY 386727	N/A	Picture of Tool	
1332	Scholten Ex. 526	KY 386728	N/A	Picture of Tool	
1333	Scholten Ex. 527	KY 386730	N/A	Picture of Tool	
1334	Scholten Ex. 528	KY 386734	N/A	Picture of Product	
1335	Scholten Ex. 539	KY 386735	N/A	Picture of Doctors working on procedure	
1336	Scholten Ex. 530	KY 386736	N/A	Picture of Doctors working on procedure	
1337	Scholten Ex. 531	KY 386737	N/A	Picture of Doctors working on procedure	
1338	Scholten Ex. 532	KY 386738	N/A	Picture of Doctors working on procedure	
1339	Scholten Ex. 533	KY 116725	9/26/1988	Invention Disclosure Document	*
1340		KY 377552	N/A	KyphX Osteo Introducer System	
1341		N/A	N/A	Kyphon Curette	
1342		N/A	N/A	KyphX Elevate Inflatable Bone Tamp	
1343		N/A	N/A	Demonstratives to be used at trial	*
1344		N/A	N/A	Demonstratives to be used by DOT's Experts	*
1345		N/A	N/A	All Exhibits on Plaintiff's Exhibit List	*

KEY TO KYPHON'S OBJECTIONS TO DOT'S TRIAL EXHIBITS

A	=	Authenticity under FRE 901 et. seq. not established
C	=	Competency
H	=	Hearsay, FRE 802
I	=	Incomplete, FRE 106
IO	=	Improper Opinion Testimony by non-expert
IS	=	Improper summary of voluminous writings under FRE 1006
M	=	Not material, under FRE 401
P	=	Prejudicial, confusing or misleading, FRE 403
R	=	Not relevant, FRE 402
?	=	Not sufficiently identified for DOT/Kyphon to determine whether this item constitutes relevant evidence