

1 JUSTICE BREYER: Okay. Now, why not?

2 MR. WAXMAN: Okay. I -- I understand your
3 question, and I just want to bookmark the fact that I
4 have not yet had a chance to answer Justice Ginsburg's
5 question.

6 JUSTICE BREYER: Oh. Then go ahead and
7 answer her question. At some point you can come back to
8 it.

9 MR. WAXMAN: Okay. I'll answer Justice
10 Ginsburg first and then Justice Breyer.

11 Justice Ginsburg, the only thing that
12 Samsung was precluded from doing -- and this happened in
13 the Daubert ruling with respect to their expert report,
14 Mr. Wagner's report -- was they -- he was not allowed to
15 present evidence about that -- about the value of design
16 to the total product as a whole. That was
17 apportionment, Judge Koh said.

18 He wanted -- he calculated total profits
19 based on the phone. And his report then said, well, but
20 I believe that only 1 percent of the value of the phone
21 is due to the design or the design of the iconic front
22 face of the phone. And that, she wouldn't allow him to
23 do because that was apportionment.

24 The question -- the only issue with respect
25 to article of manufacture that Samsung ever made in

1 either trial or in the Court of Appeals was that, as a
2 matter of law in a multicomponent product, the article
3 of manufacture must be the portion.

4 They never said that to the jury. They did
5 propose a jury instruction, 42.1, which directed the
6 jury that that's what it was supposed to do. It also
7 directed the jury to apportion, and the judge didn't
8 approve it. Now, it just so happens that they preserved
9 no relevant objection to --

10 CHIEF JUSTICE ROBERTS: Mr. Waxman, we're
11 spending an awful lot of time on an issue about what was
12 raised below, what wasn't raised below, what was raised
13 below, what wasn't raised. Maybe it's a good time to
14 turn to Justice Breyer's question.

15 MR. WAXMAN: I would be very happy to do
16 that.

17 Justice Breyer, the -- there is no question
18 that in an appropriate case the jury can decide whether
19 the article of manufacture to which the design is
20 applied and to which it provides a distinctive and
21 pleasing appearance could either be the article that's
22 actually sold to consumers, that's bought by consumers,
23 or it could be a component of it.

24 In the case of a wall hanging, there's
25 really not much dispute. In the case of the cup-holder,

1 there really isn't much dispute. It is a question of
2 fact for the jury.

3 We believe that the -- the four factors that
4 the Solicitor General articulated would be appropriate
5 factors to consider.

6 I think that a -- in a case in which --

7 JUSTICE KENNEDY: What -- what is the
8 question of fact?

9 MR. WAXMAN: Here's --

10 JUSTICE KENNEDY: The article to -- to which
11 the law applies? What -- what is the question of fact?

12 MR. WAXMAN: Here is what I would say. In a
13 case in which the jury heard evidence as to competing
14 articles of manufacture, as to what total profits should
15 be applied to, the jury would be told, if you find
16 infringement, total profits are awarded on the article
17 of manufacture to which the patented design was applied
18 for the purpose of sale and to which it gives peculiar
19 or distinctive appearance.

20 You may determine that the article of
21 manufacture is the entire product or a distinct
22 component of that product. In making that
23 determination, you may consider, and this would depend
24 on the evidence in the case, among other factors I would
25 include the Solicitor General's, and there may be other

1 things. For example, most importantly the identity of
2 what it is that is typically consumed by purchasers.
3 Whether the patented design is likely to cause consumers
4 to purchase the infringing product thinking it to be the
5 patentee's product.

6 CHIEF JUSTICE ROBERTS: I -- maybe I'm not
7 grasping the difficulties in the case. It seems to me
8 that the design is applied to the exterior case of the
9 phone. It's not applied to the -- all the chips and
10 wires, so why --

11 MR. WAXMAN: That's right.

12 CHIEF JUSTICE ROBERTS: So --

13 MR. WAXMAN: That's absolutely right. And,
14 you know, of course you can't get a design patent on
15 something that the consumer can't see. And yet
16 Congress --

17 CHIEF JUSTICE ROBERTS: So there should --
18 there shouldn't be profits awarded based on the entire
19 price of the phone.

20 MR. WAXMAN: No. The profits are awarded on
21 the article of manufacture to which the design is
22 applied.

23 CHIEF JUSTICE ROBERTS: The outside, the
24 case is part of it.

25 MR. WAXMAN: Well, maybe and maybe not. I

1 think the -- the difficulty here is that it's important
2 to understand that design is not a component and the
3 patented design is not the article of manufacture. The
4 patented design is something that's applied to an
5 article of manufacture.

6 CHIEF JUSTICE ROBERTS: Okay. Well,
7 these -- these little, the chips and all are articles of
8 manufacture, right? How is the design of the case
9 applied to those chips?

10 MR. WAXMAN: The same way that -- I mean, if
11 you look at, for example, in the early days, when the
12 patent -- when the design -- when design patents were
13 first permitted by statute in 1842, the first hundred --
14 of the first hundred patents that were issued, 55 of
15 them were for stoves and furnaces and steam engines and
16 things like that. Congress -- when Congress said that
17 you are entitled, you know, in response to the Dobson
18 cases, that as an alternative remedy, if there is
19 infringement of a design -- which, by the way, does not
20 happen innocently.

21 When there is infringement of a design, the
22 patentee may choose an alternative remedy which is
23 essentially to have the jury put him or her in the shoes
24 of the infringer. That is, to -- to disgorge the
25 profits from the article to which the design was

1 applied.

2 There's no doubt the steam engine had plenty
3 of working components, but a design is not a component.
4 A design is applied to a thing. And the jury has to
5 decide in the case of the VW Beetle that you have either
6 a cup-holder or a patented hubcap, or the iconic shape
7 of the car, I think that a jury could very well conclude
8 that because someone who sees the iconic shape of a VW
9 Beetle and buys it thinks that they are buying the
10 Beetle, that is, after all the reason why the infringer
11 copied it.

12 The -- we know from Samsung's own documents
13 in this case, for example, that are recounted in our
14 brief, Samsung realized that it faced what this
15 executive called a crisis of design. And the crisis of
16 design was reflected, the documents show, in the
17 telephone company saying, you have to create something
18 like the iPhone, and a directive came out to create
19 something like the iPhone so we can stop use -- losing
20 sales. And in three months --

21 JUSTICE SOTOMAYOR: Mr. Waxman, can we go
22 back to the government's test, because if -- so far your
23 test has a lot of steps, but I don't know what it's
24 going towards. Okay.

25 They suggest two things. Article of

1 manufacture is the article of manufacture. They have a
2 four-part test. Do you agree that that four-part test
3 with respect to identifying just the article of
4 manufacture?

5 MR. WAXMAN: Yes, with the following caveat
6 only. What -- the factors that the jury will be told
7 will depend on the evidence that the parties educe --

8 JUSTICE SOTOMAYOR: Please don't go to
9 the -- to the record.

10 MR. WAXMAN: I'm not going to the -- I'm
11 sticking with the test.

12 JUSTICE SOTOMAYOR: All right. That's the
13 test.

14 MR. WAXMAN: Okay.

15 JUSTICE SOTOMAYOR: So let's assume, because
16 it makes logical sense to me, it may not to anybody
17 else, okay, that the Volkswagen body, not the innards,
18 are the article of manufacture.

19 Now, the government would say, go to the
20 second test, which takes in some of the things that you
21 were talking about, to figure out how much of the
22 profits that VW makes from the Bug are attributable to
23 the shape of the car.

24 Now, as Justice Alito said, some people
25 don't care a wit about the shape of the car. They want

1 just a small car. They want the car that has a certain
2 trunk. People buy cars for a multitude of reasons.

3 Experts would come in and say, but it's
4 90 percent of the profits. It may be that the body
5 accounts for only 10 percent of the cost of the car, but
6 90 percent of the profits are attributable to the shape
7 of the car. What's wrong with that analysis?

8 That's what I understand the government's
9 analysis to be. That that's what a jury has to be told
10 to do, to decide how much value the design is to the
11 product being sold. That's the government's test in a
12 nutshell.

13 MR. WAXMAN: So -- okay. So this is a test
14 that the government has articulated here at oral
15 argument. It has not been briefed by anybody.

16 The issue of how you calculate total profits
17 on something less than the whole article as sold was
18 wrestled with, I think, best by the Second Circuit in
19 the second Piano case, where in the second Piano case,
20 the Court said, well, okay, the first part of the test,
21 how do you determine what the article of manufacture is,
22 hasn't provided a lot of difficulty. The real
23 difficulty is in calculating a hundred percent of the
24 profits from that article of manufacture.

25 The -- the few courts that have addressed

1 this that I've seen it have done it in a way that I
2 think probably makes the most sense and is the least
3 difficult conceptually which is to say, okay, what were
4 the costs of producing that article, that particular
5 subcomponent, and what was the company's profit margin
6 on the product as a whole applied to that little
7 component?

8 Now, the difficulty with that -- I mean, I
9 think that's what courts have generally done. And what
10 it underscores, and in appropriate cases it may be
11 appropriate, like the cup-holder example, but what it
12 underscores is the very --

13 JUSTICE SOTOMAYOR: Please don't get off
14 track.

15 MR. WAXMAN: Okay.

16 JUSTICE SOTOMAYOR: Do you endorse that part
17 of the government's test? How we measure it, you're
18 saying, hasn't been briefed adequately. The government
19 is saying the same thing. But is -- conceptually, is
20 that right?

21 MR. WAXMAN: Conceptually, it is correct
22 that under Section 289 the patentee is entitled to the
23 total profits on the sale of the articles of manufacture
24 to which the design has been applied. That is
25 relatively straightforward when, in a contested case,

1 the jury concludes that the article of manufacture is
2 the product that's sold. It is more complicated when
3 the jury concludes that the relevant article of
4 manufacture, as was the case in the piano cases where
5 customers could choose an array of cases in which to put
6 the piano mechanism, it is more difficult to figure out
7 total profits from the manufacture and sale of the case.

8 But the decided cases that I have seen have
9 looked at the question what was the manufacture -- what
10 were the direct costs associated with producing the
11 relevant piano cases and what was the profit margin on
12 the piano as applied to that.

13 And may I just add one other point which I
14 think is still on track. The problem with that is that
15 it runs headlong into the kind of thing that Congress
16 was concerned about in 1887 when it passed the Design
17 Patent Act, because the concern was that counterfeiters
18 and copyists would -- if the only penalty -- if the only
19 compensation was something that could be viewed as the
20 cost of doing business, that is okay, you're going to
21 get a 10 percent margin on \$2.50 for what it cost to
22 produce this little component, there would be no
23 deterrents to what Congress deemed to be an emergency.

24 Yes, Justice Kagan.

25 JUSTICE KAGAN: Let's take a case -- and I

1 think that the VW example is a good example for this
2 reason -- where the thing that makes the product
3 distinctive does not cost all that much. There's not
4 been a lot of input. Somebody just -- some engineer or
5 some graphic artist or whatever woke up one day and said
6 I just have this great idea for an appearance. But
7 that's the principal reason why the product has been
8 successful. I mean, the car has to run, and it has to
9 do all the other things that cars do, but the principal
10 reason why the car has been successful has to do with
11 this particular appearance, the design.

12 As I understood the government, that does
13 not come into the first inquiry. That does not come
14 into the question of what is the article. It only comes
15 into the second inquiry, which is how much of the
16 profits are attributable to that article.

17 Do you agree with that?

18 MR. WAXMAN: I don't think that that -- I
19 don't agree with -- if that is the government's test as
20 you have articulated it, I wouldn't agree with that. I
21 think that the government's -- if you look at the
22 government's factors, you know, one factor is the
23 relative prominence of the design within the product as
24 a whole. And the government says that whether the
25 design -- in other words, whether the design is a

1 significant attribute of the entire product affecting
2 the appearance of the product as a whole would suggest
3 that the article should be the product.

4 Another factor in the government's test is
5 the physical relationship between the patented design
6 and the rest of the product. In other words, as the
7 government's brief says, can the user or the seller
8 physically separate it, or is it manufactured
9 separately.

10 Another factor is whether the design is
11 conceptually different from the product as a whole, as,
12 for example, a design on a book binding is different
13 from the intellectual property reflected in the
14 copyright material in the book. Those -- we agree with
15 all those factors as relevant, but I do think directly,
16 you know, speaking to the question that you raised, the
17 first factor that I mentioned, the relative prominence
18 of the design within the product of the whole is in
19 essence asking -- and it is a relevant question in
20 determining the article of manufacture -- whether the
21 patented design is likely to cause the consumers to
22 purchase the infringing product thinking it to be the
23 patentee's product. So in the VW Beetle example -- I
24 can't bring myself to call it a "bug." In the VW Beetle
25 example, nobody would look at the cup-holder that was

1 similar to what was in a VW Beetle that was in a Jeep or
2 a Porsche and say, oh, this must be a VW. But somebody
3 who looked at the exterior of a Jeep that copied the
4 iconic side profile of the VW Beetle might very well say
5 that, and a jury would take that into account.

6 JUSTICE KENNEDY: Is the approach -- is the
7 approach that you're discussing fairly described as
8 "apportionment," or is that a bad word?

9 MR. WAXMAN: That is a really bad word. And
10 if there's a -- I mean, in some --

11 JUSTICE KENNEDY: What other -- what -- what
12 word would you use to describe your approach?

13 MR. WAXMAN: What is the thing, the article
14 of manufacture, to which the design is applied for
15 purposes of sale in order to give it a distinctive and
16 pleasing appearance. Apportionment is what their
17 expert, Mr. Wagner, tried to do in his report saying the
18 total profits on the phone are X hundreds of millions of
19 dollars, but I find that only one percent of consumers
20 buy phones because of the front face of the phone either
21 off or on.

22 JUSTICE KENNEDY: But once you've identified
23 the relevant article, then it seems to me necessarily
24 what you're doing is apportioning profits. I just don't
25 see how we can get away from that word.

1 MR. WAXMAN: Yes. In this sense, Justice
2 Kennedy, the vernacular sense of "apportionment," once
3 you -- if you -- if the jury answers the question at
4 step 1 and says no, no, no, the article of manufacture
5 is the refrigerator latch or the cup-holder, how do we
6 determine total profits from the sale of that thing?
7 You do have to engage in a kind of an apportionment that
8 looks to how much did it cost to make the cup-holder and
9 what is the -- you know, what is the profit margin for
10 the car or the refrigerator or something like that.
11 That, it seems to me, is the way that you would do it if
12 you found it.

13 So, you know, in this case it's a little
14 difficult to figure out what the alternative article of
15 manufacture would be. I mean, in the trial court even
16 before the trial judge, they never even suggested what
17 the article of manufacture could be for the 305 patent,
18 the graphical user interface. And --

19 JUSTICE ALITO: Listing factors is not
20 helpful unless the jury or whoever the fact finder is
21 knows what the determination must -- what determination
22 must be made. The factors are helpful in making the
23 determination.

24 Now what you just said about the article of
25 manufacture is, it is the thing to which the design is

1 applied. Is that -- is that basically what you said?

2 MR. WAXMAN: What I would tell the jury is
3 quoting the statute and this Court's decision in 1872
4 decision in Gorham, is that the article of manufacture
5 is the thing to which the design is applied for purposes
6 of sale, and to which it gives distinctive and pleasing,
7 attractive appearance. That's all you're trying to find
8 out --

9 JUSTICE ALITO: Yeah, but in a physical
10 sense -- that -- you can answer it easily, and that's
11 what the Chief Justice was talking about. It's applied
12 to the outside in a physical sense. But you mean it in
13 a different sense, and I don't really understand what --
14 what that means. Once you get beyond the pure -- where
15 is the design applied? Is it applied to the inside?
16 No. It's applied to the outside.

17 MR. WAXMAN: Well, the design, by
18 definition, applies to the outside. It has to apply to
19 something that --

20 JUSTICE ALITO: Okay. So when you say what
21 it's applied to, you're not talking about it in terms of
22 the physical world, so what is -- what are you talking
23 about?

24 MR. WAXMAN: The jury is being asked to
25 decide was this -- if you find that this was a -- that

1 this was a patentable design and you find under Gorham
2 that it was infringed, what is the thing to which that
3 design was applied to give it a pleasing appearance.
4 Obviously, it's not a transistor or some circuit or the
5 software. It is applied to the phone. Now, they could
6 if they had, if they had wanted to, suggested to the
7 jury no, no, no, the relevance --

8 CHIEF JUSTICE ROBERTS: It's applied to the
9 outside of the phone.

10 MR. WAXMAN: Well, it's applied --
11 Justice -- Mr. Chief justice, it's always applied to the
12 outside of an article. It has to be applied to the
13 outside of an article.

14 I see my time is expired. Thank you very
15 much.

16 CHIEF JUSTICE ROBERTS: Thank you, counsel.
17 Miss Sullivan. Four minutes.

18 REBUTTAL ARGUMENT OF KATHLEEN M. SULLIVAN

19 ON BEHALF OF THE PETITIONERS

20 MS. SULLIVAN: Mr. Chief Justice, and may it
21 please the Court:

22 Justice Kennedy, Congress did not say that
23 all apportionment is forbidden. Congress said you can't
24 apportion the value of the design in relation to the
25 article. We're conceding that here. What Congress did

1 not say is you can't segregate the proper article from
2 the other articles that make up the product. So we can
3 segregate article from other articles within the
4 product. And, in fact, Section 289 requires us to do
5 that because it allows total profit only from that
6 article of manufacture to which the design has applied.

7 Now, the test that we ask the Court to
8 announce on remand. As has been discussed, it has two
9 parts.

10 The first is -- the antecedent question is
11 identify the relevant article of manufacture. Sometimes
12 that will be very easy if you do it from two main
13 factors. What does the patent scope claim, a front
14 face, or as the Chief Justice said, the exterior casing?
15 And, in fact, we asked Mr. Chief Justice for the
16 instruction, you allude to it, blue brief 21, we
17 actually asked the jury to be told that where the
18 article of manufacture is a case or external housing,
19 that's the article of manufacture.

20 The second question is quantum of profits.
21 And I think Justice Kagan put it exactly right in saying
22 that a lot of the expert determinations about how much
23 did the Beetle exterior drive demand will come into
24 play, as the government said and we agree, only at the
25 second question: What is the quantum of profits from

1 the right article of manufacture?

2 But, Justice Alito, you asked how similar
3 are we to the government's test? And, Justice Kennedy,
4 you asked if this will lead to a lot of inconsistency
5 among juries.

6 We think the answer to the first question
7 can be made more consistent and uniform if we focus
8 mainly on two factors: What does the design in the
9 patent claim: front face, exterior casing holding the
10 front face? And second, what is the product to which it
11 has been applied? That will help judges to guide
12 juries.

13 We think we should have had instruction
14 42.1, but in a proper case, you might decide at summary
15 judgment that the article of manufacture is the front
16 face, and that could be instructed to the jury.

17 JUSTICE BREYER: The problem, of course, is
18 that Congress meant the whole wallpaper, even though
19 they only want to apply it to the front.

20 MS. SULLIVAN: Your Honor --

21 JUSTICE BREYER: And that's the problem in
22 the case. So I thought -- and that's why I pointed to
23 the brief I did point to -- that history is matters
24 here, and we're talking here about a multicomponent
25 product.

1 MS. SULLIVAN: That's right, Your Honor.

2 JUSTICE BREYER: And if you don't tell the
3 jury that there is that distinction, I think you either
4 disregard what Congress meant in its statute or you
5 create the kind of absurd results that your brief is
6 full of. So that's what I'm looking for.

7 MS. SULLIVAN: Your Honor --

8 JUSTICE BREYER: And that's why I looked at
9 page 23, and it says that seems to do it.

10 MS. SULLIVAN: We're fine with page 23 of
11 the tech company's brief, and that points to why you
12 must remand in this case.

13 This case was tried under the improper rule
14 of law. We tried at every juncture to get the correct
15 rule of law adopted. And the district court said, I
16 forbade apportionment. And we said, no, no, we're not
17 asking for apportionment; we're asking for article of
18 manufacture. And we were shut down over and over again
19 on that.

20 So you must remand and tell the nation's
21 economy that no one can claim a partial design patent on
22 a portion of a front face of an electronic device and
23 come in and get the entire profits on the phone. Juries
24 should be instructed that the article of manufacture
25 either is the Beetle exterior or there might be, Justice

1 Breyer, still today, there might be cases of unitary
2 articles, just like the Dobson rugs. The Gorham spoon
3 might be a unitary article. The patents on the handle,
4 but nobody really cares about the sipping cup of the
5 spoon. So we say the article of manufacture is the
6 spoon. And if you get the profits from the spoon,
7 that's all right.

8 JUSTICE GINSBURG: Who has the burden of
9 showing what is the relevant article? I assume in a
10 case like this, Apple will say it's the whole phone.

11 MS. SULLIVAN: Justice Ginsburg, if I leave
12 you with the most important disagreement we have with
13 the government and with Apple, the burden is on the
14 plaintiff. The burden is on the plaintiff to show what
15 the article of manufacture is.

16 Why is that? The burden is on the plaintiff
17 to show damages. And subsidiary questions subsumed in
18 what the damages are are also always the plaintiff's
19 burden, as the entire market value rule in the Federal
20 Circuit shows. With respect, we request that you
21 remand -- vacate and remand.

22 Thank you very much, Your Honor.

23 CHIEF JUSTICE ROBERTS: Thank you, counsel.
24 The case is submitted.

25 (Whereupon, at 11:07 a.m., the case in the

1 above-entitled matter was submitted.)
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

A	31:17,19 32:11 43:24 50:19 51:9,20 54:2 allow 37:22 allowed 37:14 allows 53:5 allude 53:16 alternative 6:1 41:18,22 50:14 amicus 1:21 2:7 20:21 analogous 22:23 24:1 analogy 10:13 analysis 44:7,9 announce 8:5 35:5 53:8 answer 7:8 10:25 16:9 20:5 22:17 23:8 27:9 37:4 37:7,9 51:10 54:6 answering 14:19 answers 14:4 50:3 antecedent 53:10 antitrust 36:18 anybody 43:16 44:15 apart 22:3 appeals 21:7 38:1 appeals' 21:14 appearance 3:15 3:18 14:6 15:18 19:9 27:10,24 28:5 38:21 39:19 47:6,11 48:2 49:16 51:7 52:3 APPEARAN... 1:16 appears 5:10 7:7 Appendix 17:14	17:15 Apple 1:7 3:5,23 10:5 11:1,6 14:6,17,22 15:6 16:19 19:10,21 56:10 56:13 Apple's 9:7,8,9 18:19,20 application 35:1 applied 4:1,3,7 5:13 6:17,21 7:21 11:17 15:16 21:21 23:14 27:14,20 31:4 35:10 36:11 38:20 39:15,17 40:8 40:9,22 41:4,9 42:1,4 45:6,24 46:12 49:14 51:1,5,11,15 51:15,16,21 52:3,5,8,10,11 52:12 53:6 54:11 applies 36:15 39:11 51:18 apply 9:20 23:3 30:9 32:13 51:18 54:19 apportion 26:10 38:7 52:24 apportioning 49:24 apportionment 4:18,20 6:11 12:1,15 17:19 17:20,23 18:2 18:10 37:17,23 49:8,16 50:2,7 52:23 55:16,17 approach 31:8 49:6,7,12 appropriate 13:8 35:4 38:18 39:4	45:10,11 approve 38:8 approximation 25:24 26:23 27:2 approximations 27:4 area 30:1 areas 22:24 24:2 argue 8:21 arguing 7:23 10:23 13:19 argument 1:14 2:2,5,9,12 3:3 3:7 5:25 6:1,10 8:1,12 11:25 13:15 14:13 20:20 31:10 32:25 33:17 34:24 44:15 52:18 arguments 34:14 array 46:5 article 4:3,6 5:12,23 6:3,9 6:11,16,20 7:11,13 8:2,19 8:22 9:13 11:2 11:12,16 12:5 12:6,19,25 13:9 14:5 15:15 16:12,14 16:18 17:1,4 17:10,12,16,18 17:21 18:2,3,4 18:6,11,13 20:3 21:13,15 21:20,25 22:2 22:5,8,11,13 23:13,19 27:11 27:19,24 28:16 28:17,20,25,25 29:14,17,21 30:6,11 31:7,9 31:10,14 32:2 32:4,9,14,17	33:7,8,19 35:16 36:14 37:25 38:2,19 38:21 39:10,16 39:20 40:21 41:3,5,25 42:25 43:1,3 43:18 44:17,21 44:24 45:4 46:1,3 47:14 47:16 48:3,20 49:13,23 50:4 50:14,17,24 51:4 52:12,13 52:25 53:1,3,6 53:11,18,19 54:1,15 55:17 55:24 56:3,5,9 56:15 article-of-man... 5:25 12:12 articles 19:21 21:10 39:14 41:7 45:23 53:2,3 56:2 articulated 39:4 44:14 47:20 artist 47:5 asked 22:12 33:10 51:24 53:15,17 54:2 54:4 asking 9:5 14:3 23:18 25:1 48:19 55:17,17 asks 6:19 aspect 7:5 assert 14:7 assign 9:2 Assistant 1:19 associated 28:18 46:10 Association 36:3 assume 10:13 43:15 56:9 assuming 15:10 attempt 11:1
----------	--	---	--	--

attractive 51:7	believe 8:1 33:5	bring 48:24	case 3:4,22 6:2	Chief 3:3,9
attributable	37:20 39:3	broke 31:25	6:15,23,24	20:17,18,23
9:12 21:12	best 7:20 30:15	bug 27:8 28:1,9	7:21 9:10	25:8,13 26:4
22:5,13 23:5	44:18	30:9,11,11,12	10:11 14:17,18	29:8 32:22,23
23:22 25:18	better 27:2	43:22 48:24	14:21 16:17,20	32:24 33:1
26:12 36:16	beyond 51:14	Bugs 30:17,23	17:2 18:15	38:10 40:6,12
43:22 44:6	bezel 19:1	build 25:15	20:25 21:23	40:17,23 41:6
47:16	billion 10:1	bulk 11:22	22:7,9,21,21	51:11 52:8,11
attribute 48:1	binding 48:12	burden 8:14	24:5,5,15,16	52:16,20 53:14
available 21:1	bit 12:18 13:2	56:8,13,14,16	24:17 25:14	53:15 56:23
award 21:8 23:1	blue 5:10 53:16	56:19	26:8,9 27:23	chips 40:9 41:7
26:22	Blueberry 19:7	business 46:20	28:22 31:12,14	41:9
awarded 26:20	boat 4:23 23:20	button 18:25	33:12,15 34:16	choice 4:21
33:23 36:16	body 11:15,17	buy 13:14 30:17	35:9,14,15	choose 41:22
39:16 40:18,20	27:11 28:10	30:23,24 44:2	38:18,24,25	46:5
awarding 27:3	29:11,17 30:12	49:20	39:6,13,24	circuit 3:13 8:17
awful 38:11	31:3 32:9	buying 42:9	40:7,8,24 41:8	13:16 44:18
	43:17 44:4	buys 9:18 31:21	42:5,13 44:19	52:4 56:20
	book 48:12,14	42:9	44:19 45:25	Circuit's 13:13
	bookmark 37:3		46:4,7,25	circumstances
	bottom 25:16		50:13 53:18	24:15 34:24
	bottom-up		54:14,22 55:12	cited 26:8
	25:20	C 2:1 3:1	55:13 56:10,24	claim 9:4 15:22
	bought 13:14	calculate 44:16	56:25	19:7,8,17
	38:22	calculated 33:21	cases 7:21 13:4	29:14 53:13
	Breyer 34:10,15	35:17 37:18	23:2 28:2,7,8	54:9 55:21
	34:17,20 35:3	calculating	36:9,18 41:18	claimed 15:20
	35:17,19,22	44:23	45:10 46:4,5,8	claiming 13:12
	36:7 37:1,6,10	calculation	46:11 56:1	18:21,24,25
	38:17 54:17,21	25:21	casing 53:14	claims 3:25
	55:2,8 56:1	call 48:24	54:9	14:12
	Breyer's 38:14	called 24:8	causation 5:25	clear 5:24 8:16
	BRIAN 1:19 2:6	42:15	11:25 12:15,20	33:9
	20:20	car 4:23 10:16	13:8 17:23	clearly 17:10
	brief 5:6,10 17:9	11:15,18,23	cause 15:10 40:3	close 18:1,5 36:1
	17:24 23:10	16:12 23:21	48:21	36:2
	26:8 36:2,4	27:12,14 28:10	caused 21:12	come 10:12
	42:14 48:7	29:9,15,24,25	causes 13:9	11:22 12:7
	53:16 54:23	30:18,24 31:4	caveat 43:5	27:4 34:22
	55:5,11	31:21 32:3,9	certain 7:4 18:8	36:10 37:7
	briefed 22:20	36:24 42:7	44:1	44:3 47:13,13
	23:24 44:15	43:23,25 44:1	certainly 8:9	53:23 55:23
	45:18	44:1,5,7 47:8	18:19 27:2	comes 3:22 6:2
	briefer 20:8	47:10 50:10	certainty 26:25	16:11 26:16
	briefing 3:22	care 43:25	chance 37:4	47:14
	briefly 20:6 21:6	cares 56:4	charge 17:25	commerce 21:23
	briefs 10:14	cars 44:2 47:9	22:4	23:4
		carve 14:11		

<p>company 9:18 9:21 24:20 42:17 company's 45:5 55:11 compare 28:13 compensation 46:19 competing 39:13 complete 22:16 complicated 46:2 component 4:1 4:1 8:10 9:17 9:19 21:22 22:2 23:22 25:19 26:1 33:8 36:15,16 38:23 39:22 41:2 42:3 45:7 46:22 components 18:17 19:24 24:24 25:6,17 25:18 28:17 32:20 42:3 concede 11:11 12:4 conceding 52:25 conceptually 28:16 29:22 32:19 45:3,19 45:21 48:11 concern 46:17 concerned 46:16 conclude 42:7 concludes 46:1,3 conclusion 19:19 34:23 35:14 36:10 conference 17:25 confronted 24:2 confusion 16:5 Congress 12:23 13:6 40:16 41:16,16 46:15</p>	<p>46:23 52:22,23 52:25 54:18 55:4 Congress's 12:23 consider 39:5,23 considerations 23:10 32:18 considered 36:14 consistent 12:22 54:7 constitutes 5:23 construction 9:4 consumed 40:2 consumer 4:17 8:6 11:4,8,10 16:5 19:24 25:5,6 30:16 40:15 consumers 12:9 15:25 38:22,22 40:3 48:21 49:19 contains 3:11 contested 45:25 contribute 25:7 contributed 25:12 cool 11:14,20 copied 42:11 49:3 copyists 46:18 copyright 16:4 24:5,6 26:9 48:14 corner 7:5 correct 6:13 14:23 30:5 35:12 45:21 55:14 correctly 21:4,7 corresponds 19:20 Corvette 11:15 11:19 16:24 cost 9:16 10:1</p>	<p>19:23 25:9,11 25:16,19 31:24 44:5 46:20,21 47:3 50:8 costs 31:22 45:4 46:10 counsel 20:18 32:22 52:16 56:23 counterfactual 16:23 counterfeiters 46:17 course 40:14 54:17 court 1:1,14 3:10,22,25 5:10 6:2 9:6 17:16,18,21 18:9 20:24 21:6,14 22:19 26:9,19,20,21 28:10 33:2,25 35:5,6,8,10 38:1 44:20 50:15 52:21 53:7 55:15 Court's 24:4 27:21 33:3 51:3 courts 9:2 22:22 22:23 24:2 25:22 27:3 34:13 35:2 44:25 45:9 cover 15:17,18 15:23 29:20 covers 29:14 create 42:17,18 55:5 credited 13:20 crisis 42:15,15 cup 56:4 cup-holder 4:22 23:20 38:25 42:6 45:11 48:25 50:5,8</p>	<p>curiae 1:21 2:7 20:21 customers 21:17 46:5 cuts 29:19,23</p> <hr/> <p style="text-align: center;">D</p> <hr/> <p>D 3:1 D'087 7:3 19:6 D'305 7:6 D'677 6:25 19:5 D.C 1:10,20,23 daily 9:3 damages 16:17 17:4 22:25 24:3 33:15 56:17,18 Daubert 17:19 37:13 day 47:5 days 10:12,15 41:11 days' 10:18 de 4:22 decide 28:22 32:8 38:18 42:5 44:10 51:25 54:14 decided 30:11 46:8 decides 23:19 decision 13:13 24:4 51:3,4 decisions 30:18 deemed 46:23 definition 15:18 51:18 demand 11:5 25:6 36:13 53:23 Department 1:20 depend 24:14 25:14 39:23 43:7 derived 6:16 describe 49:12</p>	<p>described 24:3 49:7 design 3:14,17 3:25,25 4:3,7 4:16 5:12 6:17 6:20 7:20 9:9 10:11,12,15 11:17 12:7,16 13:5,9 14:10 14:12,16 15:16 15:17,20,23 16:4 18:11 20:10 21:12,21 23:14 27:13,20 27:22,23 28:3 28:14,15,18,20 29:14,15,19,20 31:4,14 32:3,8 32:21 36:11,15 37:15,21,21 38:19 39:17 40:3,8,14,21 41:2,3,4,8,12 41:12,19,21,25 42:3,4,15,16 44:10 45:24 46:16 47:11,23 47:25,25 48:5 48:10,12,18,21 49:14 50:25 51:5,15,17 52:1,3,24 53:6 54:8 55:21 design-patent 3:19 12:25 21:2 detail 22:20 23:25 determination 39:23 50:21,21 50:23 determinations 53:22 determine 9:12 16:14,16 20:2 30:15 32:14 33:13 39:20</p>
--	---	---	---	--

<p>44:21 50:6 determining 22:4 32:4 48:20 deterrents 46:23 develop 10:18 device 22:13 55:22 difference 11:24 12:3,4 different 31:18 36:9 48:11,12 51:13 difficult 4:24 32:12 34:16,16 34:18,21 35:4 45:3 46:6 50:14 difficulties 40:7 difficulty 41:1 44:22,23 45:8 direct 46:10 directed 38:5,7 directive 42:18 directly 48:15 directors 26:13 disagree 16:7 disagreement 34:10 56:12 disclaimed 19:10,11 discussed 19:22 24:4 26:9,10 27:6 53:8 discussing 49:7 disgorge 41:24 display 7:6 11:3 18:18 disproportion... 11:7 dispute 22:9 38:25 39:1 disputed 22:7 disregard 55:4 distinct 28:17 29:22 32:19 33:8 39:21</p>	<p>distinction 55:3 distinctive 27:10 27:10,24 28:5 29:11 38:20 39:19 47:3 49:15 51:6 district 5:10 9:2 9:6 17:18,21 34:2 55:15 division 9:22,23 divisions 9:24 Dobson 13:4 41:17 56:2 Docket 17:9 documents 42:12,16 doing 37:12 46:20 49:24 dollars 10:1 49:19 dotted 19:2,11 doubt 42:2 drawings 28:14 drive 25:6 36:13 53:23 driver 29:16 drives 8:8 due 37:21</p> <hr/> <p style="text-align: center;">E</p> <p>E 2:1 3:1,1 e-mail 16:21 earlier 19:22 early 41:11 easily 51:10 easy 28:3 34:21 35:14 53:12 economy 55:21 edge 8:7 educe 43:7 either 7:9 8:24 19:22 24:19 28:9 33:17 35:15 38:1,21 42:5 49:20 55:3,25 electronic 55:22</p>	<p>Electronics 1:3 3:5 embodies 5:14 embraced 18:13 emergency 46:23 ended 26:19 endorse 45:16 engage 50:7 engine 29:25 42:2 engineer 47:4 engines 41:15 entire 3:16,20 7:12 8:18 9:10 14:5,7,8,9,17 14:18 15:15 19:19,20 21:17 22:3 28:5 32:3 36:13 39:21 40:18 48:1 55:23 56:19 entirely 12:7 35:4 entitle 3:19 entitled 13:7 18:19 21:24 23:4 41:17 45:22 entitles 3:14 4:5 equipment 9:19 error 15:1,2,12 ESQ 1:17,19,23 2:3,6,10,13 essence 48:19 essentially 41:23 ET 1:4 evidence 8:14 11:5,8,9,10 14:21 15:6 18:1,15,18 19:23,25 34:9 35:17 37:15 39:13,24 43:7 exactly 30:13 53:21 example 4:22</p>	<p>12:8 27:8 28:2 40:1 41:11 42:13 45:11 47:1,1 48:12 48:23,25 examples 36:18 36:20,21 exception 4:22 executive 42:15 exercise 13:7 expert 8:9 10:6 13:20 19:25 24:7,12 26:2,5 26:18 27:5 33:20 37:13 49:17 53:22 experts 25:2 26:13 28:22 29:5 44:3 expired 52:14 explain 20:14 23:25 36:21 extent 4:16 24:23 25:5 30:17,19 exterior 11:15 11:17,23 16:12 16:20 40:8 49:3 53:14,23 54:9 55:25 external 19:8 53:18 extra 13:5</p> <hr/> <p style="text-align: center;">F</p> <p>face 7:1,2,4 9:7 9:10,22 10:3 11:3,7 12:9,9 12:13,14 18:17 18:17,24 19:1 19:11 31:12 37:22 49:20 53:14 54:9,10 54:16 55:22 Facebook 36:4 faced 42:14 fact 8:24,25</p>	<p>34:21 37:3 39:2,8,11 50:20 53:4,15 fact-finder 22:10 23:4,15 23:19 27:16,21 28:11,12 fact-finders 27:19 fact-finding 13:7 factor 29:18 47:22 48:4,10 48:17 factors 20:2,9 28:11,13 29:13 32:13 39:3,5 39:24 43:6 47:22 48:15 50:19,22 53:13 54:8 factual 22:7 29:4 33:6 fairly 36:2 49:7 familiar 24:18 24:20 26:14 far 42:22 favor 6:3 15:5 29:20 feasible 25:23 feature 29:19 features 12:14 21:13 28:15 29:16,24 Federal 3:13 8:16 13:13,16 56:19 feel 18:23 19:13 fiber 13:6 figure 8:10 22:15 34:12 43:21 46:6 50:14 file 34:5 finally 28:19 find 9:23,25 14:13 15:24,25</p>
--	---	---	---	--

<p>39:15 49:19 51:7,25 52:1 finder 50:20 finding 13:23 29:20 fine 55:10 first 3:4 9:15 16:14 18:6 21:6 22:8,14 22:21,25 23:12 24:21 27:22 30:3,22 31:23 37:10 41:13,13 41:14 44:20 47:13 48:17 53:10 54:6 Fletcher 1:19 2:6 20:19,20 20:23 22:6,18 23:11 24:9,14 24:17 25:13 26:7 27:7,18 28:8,24 29:3 29:12 30:5,10 30:14,25 31:5 31:18 32:6,15 32:23 focus 34:24 54:7 follow 4:24,25 following 43:5 forbade 55:16 forbidden 52:23 found 14:14,22 15:5,14 18:16 35:10,12 50:12 four 20:2 28:10 29:13 39:3 52:17 four-part 43:2,2 friend 21:3 front 7:1,2,4 9:7 9:10,22 11:3,6 12:9,9,13,14 18:17,17,24 19:1,11 31:12 37:21 49:20 53:13 54:9,10</p>	<p>54:15,19 55:22 full 55:6 function 13:17 functional 12:17 15:19 functions 16:22 furnaces 41:15 further 20:14</p> <hr/> <p style="text-align: center;">G</p> <hr/> <p>G 3:1 gallon 31:24 general 1:20 20:1 35:23,24 39:4 General's 20:7 39:25 generally 26:10 45:9 genius 10:11,16 getting 12:18 13:5 Ginsburg 6:22 7:19 9:11 17:3 22:1,16,18 23:18 24:1 25:1 33:10 34:1 37:10,11 56:8,11 Ginsburg's 10:25 23:8 37:4 give 4:12 10:17 12:8,11 14:15 20:13 49:15 52:3 given 15:11 28:10 29:1 gives 5:1 12:24 27:24 28:4 32:3 39:18 51:6 giving 7:11 glass 9:22 global 35:9 go 13:24 27:15 34:22 37:6</p>	<p>42:21 43:8,19 goes 23:12 going 7:20 12:11 26:24 28:2,4 29:10,24 42:24 43:10 46:20 good 27:2 34:23 38:13 47:1 goods 9:16 19:23 Gorham 27:22 51:4 52:1 56:2 government 3:23 4:11 33:5 36:1 43:19 44:14 45:18 47:12,24 53:24 56:13 government's 42:22 44:8,11 45:17 47:19,21 47:22 48:4,7 54:3 graphic 47:5 graphical 7:7 50:18 grasping 40:7 great 19:14 34:25 35:6 47:6 guidance 5:9 7:11 20:14 guide 7:20 54:11</p> <hr/> <p style="text-align: center;">H</p> <hr/> <p>H 1:19 2:6 20:20 handle 56:3 handled 22:23 hanging 38:24 happen 16:24 41:20 happened 17:15 22:24 33:11 34:3 37:12 happens 9:21 18:8 38:8 happy 12:20</p>	<p>20:14 38:15 hard 28:7,8 36:18 hard-enough 34:11 headlong 4:18 46:15 hear 3:3 28:23 28:24 29:4 30:2 heard 39:13 held 3:13 8:17 21:7,15 help 54:11 helpful 31:20 50:20,22 helps 25:10 higher 25:11 35:13 history 36:8 54:23 hold 3:25 4:5 8:18,22 holder 3:14,19 12:5 holders 12:25 holding 54:9 holds 33:25 home 18:25 Honor 5:2,7,21 6:13,18,24 7:15 8:13,16 8:21 9:14 10:5 10:8,20,24 11:11 12:17,23 13:24 14:4,16 14:23 15:7 16:3,9 17:6 18:14,20 19:12 19:18 20:5 25:3 54:20 55:1,7 56:22 hood 36:23 hours 10:18 housing 53:18 hubcap 42:6 hundred 10:2</p>	<p>41:13,14 44:23 hundreds 3:12 49:18 hypo 16:19,25 hypothetical 31:17,19</p> <hr/> <p style="text-align: center;">I</p> <hr/> <p>iconic 37:21 42:6,8 49:4 idea 47:6 identified 10:16 35:15 49:22 identifies 22:11 identify 31:9 33:18 53:11 identifying 43:3 identity 40:1 ignore 18:25 19:1 importance 34:25 important 26:15 41:1 56:12 importantly 40:1 impressionistic 25:24 improper 55:13 inappropriate 14:14 include 23:10 39:25 includes 12:13 inconsistency 54:4 Incorporated 3:5 incorporates 5:14 indifferent 16:21 indirect 11:10 industries 35:1 industry 24:18 24:19 26:14 36:3</p>
--	--	---	--	--

infringed 34:7,8 52:2	50:18	49:5 50:3,20	<hr/> K <hr/>	35:1 56:11
infringement 14:12,14 18:22 21:2 35:11 39:16 41:19,21	interior 29:15 29:16	51:2,24 52:7 53:17 54:16 55:3	Kagan 6:7 27:7 28:6 30:21 31:1 46:24,25 53:21	leaves 5:8
infringer 21:17 41:24 42:10	Internet 36:3	jury's 33:15	KATHLEEN 1:17 2:3,13 3:7 52:18	legal 15:1,2,11 17:9,24 21:5
infringer's 23:2	involve 9:1	justice 1:20 3:3 3:9 4:9 5:3,16 5:18 6:5,7,22 7:8,16,19,22 8:4 9:11,25 10:6,10,22,25 11:5,24 12:2,3 13:11 14:2,19 14:25 15:4,9 15:22 16:7 17:3 20:1,12 20:17,18,23 22:1,14,16,18 23:7,7,7,17,18 24:1,7,11,16 25:1,8,14 26:4 27:7 28:6,21 29:1,8 30:3,6 30:13,21 31:1 31:17,19 32:11 32:22,23,24 33:1,4,10,10 34:1,10,15,17 34:20 35:3,17 35:19,22 36:7 36:25 37:1,4,6 37:9,10,11 38:10,14,17 39:7,10 40:6 40:12,17,23 41:6 42:21 43:8,12,15,24 45:13,16 46:24 46:25 49:6,11 49:22 50:1,19 51:9,11,20 52:8,11,11,16 52:20,22 53:14 53:15,21 54:2 54:3,17,21 55:2,8,25 56:8 56:11,23	Kennedy 4:9 5:3 5:16,18 6:5 7:17 8:4 9:25 10:6,10,22 11:5 20:12 23:7 24:7,11 24:16 28:21 29:1 33:4 39:7 39:10 49:6,11 49:22 50:2 52:22 54:3	length 24:4
infringing 21:10 21:25 22:5,13 23:5 40:4 48:22	iPhone 5:19 19:5,6,7,14 42:18,19		Kennedy's 7:8	let's 10:12,13 11:14,14 13:24 28:6 43:15 46:25
initial 34:4	issue 13:3 26:1 35:23 37:24 38:11 44:16		key 18:1	limit 12:16
initiated 33:4	issued 41:14		kind 4:11 36:20 46:15 50:7 55:5	limited 17:11 34:2
innards 9:23 11:19 15:19,19 15:24 43:17	issues 25:3		know 4:13 5:5 5:19,20 8:8,10 9:2 13:17 29:13 31:22 36:4,21 40:14 41:17 42:12,23 47:22 48:16 50:9,13	line 19:9,10
inner 10:2	<hr/> J <hr/>		knows 50:21	lines 19:2,11
innocently 41:20	JA197 18:4		Koh 37:17	listen 17:16 34:13
innovations 28:17 29:23,25	Jeep 49:1,3		<hr/> L <hr/>	Listing 50:19
input 47:4	joint 17:14		language 4:2	little 4:24 12:18 12:19 13:2,4,5 14:13 36:10 41:7 45:6 46:22 50:13
inquiry 47:13,15	judge 22:4 34:2 37:17 38:7 50:16		larger 21:22 23:3	logical 43:16
inside 19:9 51:15	judges 20:12 54:11		latch 28:4,4 50:5	logically 31:8
instruct 4:10 20:13	judgment 23:15 54:15		law 7:24,25 8:17 8:18,20,22,25 22:24 24:2 35:5 38:2 39:11 55:14,15	look 5:20 6:6,9 6:19 7:14,16 7:17,19 9:2,4,6 9:16,18,20 13:11,16 14:9 18:23 19:4,6 19:13,16 20:9 22:22 30:18,24 41:11 47:21 48:25
instructed 6:15 7:9 13:22 14:1 14:21 15:5 18:16 28:12 33:5 54:16 55:24	juris 54:5,12 55:23		lead 54:4	looked 46:9 49:3 55:8
instruction 5:1,9 7:10,10 13:25 15:1,3,10,11 17:8 33:14 38:5 53:16 54:13	juror 4:12,12 5:5,18 28:21 33:22		leave 4:11,21 5:4	looking 35:24 55:6
instructions 17:13 27:17	jury 4:10,17 5:4 5:8,11,19 6:15 7:9,11,18 13:15,20,22,25 14:21,25 15:3 15:5,10,14,24 17:7,12 18:16 19:12,14 20:13 22:4 28:11,12 33:4,18 35:15 36:21 38:4,5,6 38:7,18 39:2 39:13,15 41:23 42:4,7 43:6 44:9 46:1,3			looks 11:20 16:1 31:22 50:8
intellectual 48:13				losing 42:19
intentional 35:11				lot 22:20 23:25 26:15 36:8 38:11 42:23 44:22 47:4 53:22 54:4
interface 7:7				lots 29:24

lower 34:13 35:2 35:10	manufactures 11:2	36:12 38:2 54:24	opened 7:23	particularly 26:16
<hr/> M <hr/>	margin 45:5	multiple 14:11	opinion 21:15	parties 4:10,11
M 1:17 2:3,13	46:11,21 50:9	multitude 44:2	opposed 21:13	21:4,19,23
3:7 52:18	margins 9:20	<hr/> N <hr/>	26:12	34:5 36:1 43:7
machine 23:6	market 4:15	N 2:1,1 3:1	option 29:2	parts 5:22 9:8
main 53:12	24:20 56:19	N.Y 1:17	oral 1:13 2:2,5,9	10:2 11:7
making 4:14	Markman 8:24	narrow 14:12	3:7 20:20	12:17,17 29:6
28:1 30:17	9:3 20:13	nation's 55:20	32:25 44:14	53:9
39:22 50:22	material 48:14	navigate 16:22	order 24:8 49:15	party 1:22 2:8
manufacture	matter 1:13 5:14	necessarily 8:19	ordinary 9:15	20:22
4:4,7 5:12,23	7:23,24 8:17	49:23	original 9:19	passed 46:16
6:4,10,12,16	8:18,20,22	necessary 35:8	ornamental 14:5	patencies 14:11
6:20 7:12,13	13:8 18:14	need 6:14 35:6	15:17	patent 3:14,15
8:3,19 9:13	38:2 57:1	neither 1:22 2:8	ought 7:18	3:18,25 4:3,7
11:12,16 12:5	matters 54:23	5:1 20:22	28:12	5:15 7:16,19
12:19 13:1	mean 5:3 10:22	33:16	outer 8:7	7:19 9:4,6,7,9
14:5 15:15	16:12 29:10	never 26:24	outside 14:7,8	9:10 11:17
16:13,15 17:1	41:10 45:8	35:15 38:4	14:10 19:2,10	12:6 14:6,17
17:10,17,21	47:8 49:10	50:16	40:23 51:12,16	15:21,23 19:17
18:12 21:10,16	50:15 51:12	New 1:17	51:18 52:9,12	20:10 22:25
21:20 22:2	means 21:8	12:14	52:13	23:1,3 24:3
23:14 24:19	51:14	non-design	overinclusive	27:22 28:15
27:20,25 30:7	meant 54:18	12:14	12:18 13:2	40:14 41:12
31:7 32:2,5,9	55:4	numerous 32:13	overturn 13:22	46:17 50:17
32:14,17 33:7	measure 8:20	nutshell 44:12	33:15	53:13 54:9
33:19 35:16	45:17	<hr/> O <hr/>	owed 21:16	55:21
36:14 37:25	mechanism 46:6	O 2:1 3:1	<hr/> P <hr/>	patent-holder
38:3,19 39:14	mentioned 25:9	objection 38:9	P 1:23 2:10 3:1	4:6 11:22
39:17,21 40:21	48:17	observation	32:25	12:12 21:9,11
41:3,5,8 43:1,1	miles 31:24,25	27:22	page 2:2 5:11	21:24 31:9,13
43:4,18 44:21	million 10:2	Obviously 52:4	19:5 23:10,12	patentable 52:1
44:24 45:23	25:25	October 1:11	26:8 36:12	patented 21:21
46:1,4,7,9	millions 49:18	oh 4:12 9:7 37:6	55:9,10	28:3,14,18,20
48:20 49:14	mind 27:21	49:2	papers 34:4	39:17 40:3
50:4,15,17,25	minimis 4:22	okay 36:7 37:1,2	part 5:13 7:13	41:3,4 42:6
51:4 53:6,11	minus 19:23	37:9 41:6	8:10 9:5 11:13	48:5,21
53:18,19 54:1	minutes 52:17	42:24 43:14,17	15:20 21:22	patentee 41:22
54:15 55:18,24	mistake 21:18	44:13,20 45:3	23:3,6,21 24:8	45:22
56:5,15	mongrel 8:24	45:15 46:20	24:8 28:18	patentee's 40:5
manufacture's	months 42:20	51:20	30:4,8 31:11	48:23
18:13	morning 3:4	once 22:10	36:12 40:24	patents 6:25 9:2
manufactured	motor 10:19	23:14,19 49:22	44:20 45:16	9:8 15:17 16:4
24:23 48:8	movie 26:11,16	50:2 51:14	partial 14:11	18:11 19:4
manufacturer	26:21	open 11:21	55:21	41:12,14 56:3
9:19	multi-article 4:4	32:12	particular 6:11	pause 32:3
	multicompone...		45:4 47:11	pay 11:18,20

peculiar 39:18	piano 44:19,19 46:4,6,11,12	price 40:19	16:20 17:4	30:18
penalty 46:18	plaintiff 56:14 56:14,16	pricing 9:24	21:8,9,11,16	pure 12:15,15 12:20 51:14
people 11:6 13:14,18 16:20 19:13 30:17,23 36:19 43:24 44:2	plaintiff's 56:18	principal 47:7,9	21:25 22:12	purpose 12:23 39:18
perceive 16:1	plaintiffs 12:20	probably 25:2 45:2	23:2,5,22	purposes 8:3 34:8 49:15 51:5
percent 25:19 25:20 26:3,20 37:20 44:4,5,6 44:23 46:21 49:19	play 32:18 53:24	problem 4:9 46:14 54:17,21	25:12,15,25	put 13:18,19 24:22 29:6,9,9 29:13 34:4 41:23 46:5 53:21
percentages 26:19	please 3:10 17:16 20:24 33:2 43:8 45:13 52:21	problems 24:1 26:10	26:11,21,25	
perform 9:3	pleasing 38:21 49:16 51:6 52:3	produce 46:22	31:7,16 33:21	Q
permitted 23:1 41:13	plenty 42:2	producing 45:4 46:10	33:24 34:9	quantum 16:16 16:17 53:20,25
petition 17:15	point 4:10 22:24 28:1 34:11 35:19 37:7 46:13 54:23	product 4:2,4,8 5:13 8:18 11:13 13:9,14 14:11 15:15 17:2 19:19 20:10 21:17,22 22:3 23:3 25:25 31:11,15 32:20 36:12,13 37:16 38:2 39:21,22 40:4 40:5 44:11 45:6 46:2 47:2 47:7,23 48:1,2 48:3,6,11,18 48:22,23 53:2 53:4 54:10,25	35:18 37:18	quarter 26:2
Petitioners 1:5 1:18 2:4,14 3:8 52:19	pointed 32:10 54:22	production 10:1	39:14,16 40:18 40:20 41:25 43:22 44:4,6 44:16,24 45:23 46:7 47:16 49:18,24 50:6 53:20,25 55:23 56:6	question 7:8 8:23,25 10:25 14:20 16:10 19:12,14 20:3 22:10,11,17 23:8,17,24 24:21,25 25:4 25:10 27:13,16 27:19 29:4,5 30:14,22,22 31:2,2,3 32:1,2 32:13 33:6 34:11,25 35:22 35:24 37:3,5,7 37:24 38:14,17 39:1,8,11 46:9 47:14 48:16,19 50:3 53:10,20 53:25 54:6
phone 3:15,16 3:18,20 4:1 7:1 7:2,4,13,14 8:6 9:9,23 11:8 13:13,16 14:6 14:7,8,10,13 15:19,20 17:5 17:11 18:3,5,7 18:23 19:9,20 25:7 34:9 35:16,18 37:19 37:20,22 40:9 40:19 49:18,20 52:5,9 55:23 56:10	points 55:11	profit 3:16,20 4:6 6:15,16 8:20 9:12,20 10:18 11:2,12 11:13 12:6,6 12:14,25 13:3 13:4 14:15,18 16:11,25 17:2 17:11,11,17,22 19:20,20 22:4 36:16,23 45:5 46:11 50:9 53:5	44:16,24 45:23 46:7 47:16 49:18,24 50:6 53:20,25 55:23 56:6	questions 20:25 21:5 22:7,23 23:12 26:25 27:1 33:3,9 56:17
phone's 12:8	Porsche 49:2	profits 4:8 11:22 12:13,16,16 13:12,20 16:17	prominence 47:23 48:17	quickly 6:7
phones 7:18 18:8 33:19,21 33:24 34:6,6,7 49:20	portion 3:15,18 5:13 7:14 17:1 19:8,15,16 21:11 26:11 31:16 38:3 55:22		prominent 29:18	quite 10:17 36:1
photos 16:22	positions 19:11		prominently 28:15	quoting 51:3
physical 28:19 48:5 51:9,12 51:22	position 14:24		proper 13:25 15:10 53:1 54:14	R
physically 48:8	possibly 33:23		properly 13:21 13:22,25 14:20 15:5 18:16 35:2	
	power 13:7		property 48:13	
	practical 11:25		propose 5:7 17:4 20:8,9 23:9,12 38:5	
	precisely 16:10		proposed 5:9 20:2 23:16	
	precluded 37:12		prove 11:1,9,22 16:23,24 21:12	
	preference 4:14		provide 12:24	
	present 37:15		provided 44:22	
	presentation 21:3		provides 38:20	
	presented 14:21 15:6		provision 21:7	
	presents 20:25		public 8:6	
	preserved 38:8		purchase 40:4 48:22	
	press 17:23		purchasers 40:2	
	pressing 6:14		purchasing 8:6	
	pretrial 34:5			

R 3:1	28:3,5 50:5,10	1:24 2:11	sale 8:3,8 21:10	sees 29:16 42:8
radii 7:5	rejected 5:10	response 33:11	34:8 39:18	segregate 53:1,3
raised 25:3 35:2	18:14	41:17	45:23 46:7	seller 48:7
38:12,12,12,13	related 20:25	responsible 26:2	49:15 50:6	selling 31:15
48:16	relation 9:16	rest 28:20 48:6	51:6	sells 21:17 31:12
ratio 7:5 10:3	52:24	restate 8:14	sales 42:20	sense 3:17 43:16
read 13:13	relationship	result 3:17,21,24	Samsung 1:3 3:4	45:2 50:1,2
16:21 21:14	28:19 48:5	17:14	14:8,10 17:3	51:10,12,13
35:20	relative 47:23	results 55:5	19:15 33:17	sensible 4:15
reads 31:6	48:17	revenue 25:17	37:12,25 42:14	sensibly 22:22
real 27:12 32:1,2	relatively 45:25	25:20	Samsung's	separable 24:24
44:22	relevance 52:7	revenues 9:17	33:20 42:12	separate 18:2
realized 42:14	relevant 9:12,17	19:23	saying 6:9 13:14	23:21 48:8
really 4:20 6:7	11:2 21:15,20	right 7:24 8:5,22	14:20 25:16	separately 48:9
11:6,18 13:18	22:8,11 23:10	10:4 28:6,8	26:20 32:12	set 19:7
26:15 31:12	23:19 30:11,22	30:16 33:14	34:4,5 42:17	SETH 1:23 2:10
36:17 38:25	31:2 32:8,9	40:11,13 41:8	45:18,19 49:17	32:25
39:1 49:9	33:6,7 38:9	43:12 45:20	53:21	shape 27:10
51:13 56:4	46:3,11 48:15	53:21 54:1	says 18:9 31:6	29:11 42:6,8
reason 12:22	48:19 49:23	55:1 56:7	47:24 48:7	43:23,25 44:6
14:10 36:19	53:11 56:9	rightly 36:14	50:4 55:9	share 25:15,17
42:10 47:2,7	rely 18:20	ROBERTS 3:3	scope 21:1 28:13	shark-shaped
47:10	remand 53:8	20:18 25:8	29:14 53:13	11:15
reasonable	55:12,20 56:21	26:4 29:8	scratch-resist...	shatterproof
15:14 18:16	56:21	32:22,24 38:10	12:10	12:11
26:22 27:1,4	remedies 27:1	40:6,12,17,23	screen 7:6 11:3	Sheldon 24:5
33:22	remedy 21:1	41:6 52:8,16	18:18	26:7
reasonably 28:9	41:18,22	56:23	script 24:6	shell 8:7
reasons 15:16	remind 19:3	Rolls 36:22	26:12,14	shoes 41:23
32:10 44:2	report 37:13,14	room 5:20 7:18	second 16:16	show 16:11 24:8
rebuffed 17:7	37:19 49:17	round-cornered	18:8 21:14	42:16 56:14,17
rebuttal 2:12	reprinted 19:4	7:1,4	22:10,19 24:25	showing 56:9
20:15 52:18	request 4:4	rounded 8:7	29:2,18 30:8	shown 28:14
record 8:11	56:20	Royce 36:22	32:7 43:20	shows 56:20
13:12 15:14	require 3:21,24	rug 13:10	44:18,19,19	shut 17:20,21,22
19:19 34:16	requirement	rugs 13:3 56:2	47:15 53:20,25	55:18
35:12,13 43:9	16:5	rule 4:15 6:3	54:10	side 5:1 34:21,23
recounted 42:13	requires 53:4	12:24 36:19	Section 3:13,21	49:4
recover 21:9	reserve 20:6,16	55:13,15 56:19	3:23 4:2,5 21:2	significant 48:1
31:15	resolve 6:14	ruled 18:10	21:7 45:22	similar 9:5 14:9
rectangular 7:1	respect 7:17	37:13	53:4	19:16 49:1
7:3	37:13,24 43:3	ruling 37:13	see 4:16 7:24	54:2
refer 10:14	56:20	rulings 18:1	19:4 29:10	simple 5:17
17:13	respectfully	run 47:8	40:15 49:25	simply 4:12 5:8
reflected 42:16	3:24 5:22	runs 4:18 46:15	52:14	35:5
48:13	17:13	_____	seen 8:6 45:1	single 3:14,17
refrigerator	Respondent 1:8	S	46:8	13:9
		S 2:1 3:1		

<p>sipping 56:4 Six 17:6 skeptical 32:16 slim 8:7 sliver 14:13 small 19:8,15,16 44:1 smart 3:11 smartphone 3:11 19:15 24:19,24 25:6 smartphones 13:17 24:21,22 software 36:3 52:5 sold 5:13 9:16 13:15 19:24 21:22 22:2 23:3 31:11,23 33:8 38:22 44:11,17 46:2 Solicitor 1:19 20:1,7 39:4,25 solid 19:9,10 somebody 47:4 49:2 sorry 17:8 18:4 sort 22:21 26:10 sorts 26:25 27:1 Sotomayor 7:22 13:11 14:2,19 14:25 15:4,9 15:22 16:7 22:14 30:3,6 30:13 33:10 42:21 43:8,12 43:15 45:13,16 Sotomayor's 23:17 speak 22:19 24:21 27:8 29:5 speaking 23:13 25:2,3 48:16 specific 18:24,25 spending 38:11 spent 10:1,2</p>	<p>spoon 56:2,5,6,6 standard 34:12 35:11,13,25 36:9,20 standards 35:25 statement 33:17 34:5 States 1:1,14,21 2:7 20:21 31:23 statute 4:19,25 6:5,18,19 31:6 31:6 41:13 51:3 55:4 steam 41:15 42:2 steering 29:25 step 16:16 22:14 22:19,21 32:7 50:4 steps 16:13 42:23 sticking 43:11 stop 42:19 stopped 22:21 stoves 41:15 straightforward 45:25 stressing 5:24 stroke 10:11,15 studies 4:15 subcomponent 45:5 subject 5:14 submitted 17:9 56:24 57:1 subsidiary 56:17 substantial 11:13 17:1 31:16 substantially 14:9 19:16 subsumed 56:17 successful 47:8 47:10 suggest 5:22</p>	<p>42:25 48:2 suggested 11:5 50:16 52:6 suggesting 35:7 Sullivan 1:17 2:3,13 3:6,7,9 5:2,7,21 6:13 6:24 7:22 8:13 9:14 10:4,8,20 10:24 12:2,4 13:24 14:3,4 14:23 15:2,7 15:13 16:3,9 17:6 20:5 25:4 52:17,18,20 54:20 55:1,7 55:10 56:11 Sullivan's 21:3 27:9 33:11 summarize 21:6 summarized 23:9 summary 54:14 support 6:18 supporting 1:21 2:8 20:22 suppose 10:10 10:10,14 30:23 supposed 27:16 38:6 supposing 30:10 Supreme 1:1,14 sure 6:8 surrounding 19:1 survey 11:8,10 19:25 surveys 25:5 30:16 survive 8:11 system 30:1</p>	<p>taken 32:7 takes 43:20 talk 18:11,22 28:6 talking 16:3 26:6 36:4 43:21 51:11,21 51:22 54:24 task 9:3 tech 35:9 55:11 technologies 3:12 telephone 42:17 tell 8:9 29:10 51:2 55:2,20 tells 6:5 terms 11:25 25:9 29:13 51:21 test 4:13 5:8,16 5:23 6:19 8:2,5 8:14,15,21 9:5 12:12,15,15,20 16:13 20:2,7,8 20:11 23:9,11 23:15 30:4,8 31:13 32:4,8 32:16,18 33:6 42:22,23 43:2 43:2,11,13,20 44:11,13,20 45:17 47:19 48:4 53:7 54:3 testimonies 26:18 testimony 10:7 26:2,5 27:5 30:2 33:18 Thank 20:15,18 20:23 32:22,23 33:1 35:21 52:14,16 56:22 56:23 theirs 34:14 theories 17:20 theory 18:13 thing 5:4,4 27:23 36:22,22</p>	<p>37:11 42:4 45:19 46:15 47:2 49:13 50:6,25 51:5 52:2 things 7:14 19:22 25:4,9 26:13,17 30:1 30:19 32:7 34:7 40:1 41:16 42:25 43:20 47:9 think 12:22 13:6 19:13 20:8,11 21:18 22:6,22 23:11,16 24:9 24:14,17 25:1 25:13 26:1,7 27:18,21 28:4 28:11 29:3,4 29:12,19,23 30:14,16,21,23 31:1,5,8,22 32:6,15,16 33:9 34:17,18 34:20,21 35:5 35:23 39:6 41:1 42:7 44:18 45:2,9 46:14 47:1,18 47:21 48:15 53:21 54:6,13 55:3 thinking 27:15 40:4 48:22 thinks 42:9 third 29:22 thought 31:20 54:22 thousands 3:12 three 6:25 9:14 10:15,17,25 42:20 time 17:7 20:6 20:16 38:11,13 52:14 times 17:6</p>
--	--	---	--	---

today 56:1	54:8	10:13,14 15:23	41:10,19 45:1	Y
told 5:11 39:15	typically 40:2	16:1,1 43:17	50:11	Yeah 51:9
43:6 44:9		VW 27:8 28:1	ways 9:14 10:25	York 1:17
53:17	U	30:23 42:5,8	27:5	
total 3:16 4:6,8	underscores	43:22 47:1	We'll 3:3	Z
6:15 8:20 11:2	45:10,12	48:23,24 49:1	we're 6:14 8:22	
11:11,13 12:25	understand 6:8	49:2,4	9:5 12:11,18	0
13:3,20 14:15	21:18 25:10		16:3 18:19,23	
14:18 16:25	27:9 36:17,19	W	18:25 26:24	1
17:2,11,17,22	37:2 41:2 44:8	Wagner 33:20	28:1 35:6	1 31:2 37:20
21:8 22:12	51:13	49:17	38:10 52:25	50:4
25:25 26:21	understood 21:3	Wagner's 37:14	54:24 55:10,16	10 25:19,25 44:5
33:21,23 34:9	23:18 47:12	wall 38:24	55:17	46:21
35:18 37:16,18	unfair 10:17	wallpaper 36:21	we've 19:3 27:5	10:05 1:15 3:2
39:14,16 44:16	uniform 54:7	54:18	28:10 30:10	10:1 10:3
45:23 46:7	unit 13:18	want 8:15 11:20	weave 13:6	100,000 10:18
49:18 50:6	unitary 56:1,3	28:23,24 29:4	went 17:15 36:8	11 1:11
53:5	United 1:1,14,21	29:12 30:2	windshield 4:23	11:07 56:25
tough 35:23	2:7 20:21	37:3 43:25	23:20	13 9:8
track 45:14	31:23	44:1 54:19	wires 40:10	1322 17:9
46:14	unrelated 32:20	wanted 37:18	wit 43:25	15-777 1:5 3:4
trademark 16:4	urge 22:19	52:6	witness 33:18,20	165A 17:15
transfer 9:24	use 4:2 36:19	wants 11:18	witnesses 18:19	18,000 31:24
transistor 52:4	42:19 49:12	Washington	18:20,22 24:7	1800 31:23
trial 17:4,8 18:6	user 7:7 48:7	1:10,20,23	24:12	1842 41:13
18:8,9 33:17	50:18	wasn't 38:12,13	woke 47:5	1871 27:22
38:1 50:15,16	users 24:23	water-resistant	word 49:8,9,12	1872 51:3
trials 33:16,20	utility 22:25	12:10	49:25	1887 46:16
33:23	24:3	Waxman 1:23	words 4:25 6:8	1946 23:1
tried 14:18	V	2:10 32:24,25	30:23 47:25	197 18:3
18:12 49:17	v 1:6 3:5	33:1 34:3,15	48:6	
55:13,14	vacate 56:21	34:19 35:3,21	work 3:13 5:1	2
trunk 44:2	vague 36:10	36:6,25 37:2,9	34:14	2 31:2,24
try 25:15,21	value 12:9 13:9	38:10,15 39:9	worked 24:18	2.50 46:21
trying 12:24	13:18 25:7	39:12 40:11,13	working 42:3	20 2:8 25:19
23:25 34:12	26:15 37:15,20	40:20,25 41:10	world 51:22	26:20
51:7	44:10 52:24	42:21 43:5,10	wouldn't 4:13	2016 1:11
Tuesday 1:11	56:19	43:14 44:13	5:5,20 35:7	206 17:14
turn 38:14	valuing 30:19	45:15,21 47:18	37:22 47:20	207 17:14
twice 17:24	various 25:5	49:9,13 50:1	wrestled 44:18	21 5:11 53:16
two 5:22 7:14	26:18	51:2,17,24	wrong 8:17,17	23 36:12 55:9,10
10:12 14:4	varying 26:19	52:10	8:20 35:11	25 26:3
15:16 16:13	verdict 33:15	way 10:9 11:20	44:7	27 26:8
19:22 20:9,25	vernacular 50:2	18:24 19:1		289 3:13,21,23
22:7,24 23:12	viewed 46:19	22:22 25:21	X	4:2,5 21:2
24:8 33:16	Volkswagen	29:23 30:15	x 1:2,9 49:18	33:21 45:22
42:25 53:8,12		31:6,8,18,22		53:4

289's 21:7				
<hr/> 3 <hr/>				
3 2:4				
305 50:17				
32 2:11				
<hr/> 4 <hr/>				
42.1 7:10 38:5				
54:14				
<hr/> 5 <hr/>				
50 31:25				
50A 17:25 18:1				
18:9				
50B 18:5,9				
52 2:14				
55 41:14				
<hr/> 6 <hr/>				
<hr/> 7 <hr/>				
7 19:5				
<hr/> 8 <hr/>				
8 19:7				
<hr/> 9 <hr/>				
9 23:10,12				
90 44:4,6				