

IN THE MATTER OF AN ARBITRATION UNDER CHAPTER ELEVEN  
OF THE NORTH AMERICAN FREE TRADE AGREEMENT  
AND THE UNCITRAL ARBITRATION RULES (1976)

Case No. UNCT/14/2

ELI LILLY AND COMPANY  
Claimant

VS.

GOVERNMENT OF CANADA  
Respondent

MINUTES OF ARBITRATION  
Washington, D.C.

Tuesday, 31 May 2016

(Pages 333-651)

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1 **THE PRESIDENT:** Good morning, ladies and gentlemen. I re-open the hearing for Day 2. As usual, a question to both sides. Are there any matters of an organizational or administrative nature you would like to raise? 09:00

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6 **MS. CHEEK:** Claimant does not have anything to raise at this point.

7

8 **MR. SPELLICSY:** Respondent has nothing.

9 **THE PRESIDENT:** Then we may proceed with the witness examination.

10

11 ROBERT ALLEN ARMITAGE

12 **THE WITNESS:** First we have Mr. Armitage. Could you please state your full name for the record?

13

14

15 **MR. ARMITAGE:** Robert Allen Armitage.

16 **THE PRESIDENT:** You are a fact witness appearing for the Claimant. If any question is unclear to you, either because of language or for any other reason, please do seek a clarification because, if you don't do so, the Tribunal will assume that you've understood the question and that your answer corresponds to the question.

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23 **MR. ARMITAGE:** Thank you.

24 **THE PRESIDENT:** You will appreciate that testifying, be it before a court or an arbitral

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1 tribunal, is a very serious matter. In that respect, the Tribunal expects you to give the declaration, the text of which is in front of you. 09:01

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4 **MR. ARMITAGE:** Yes. I solemnly declare upon my honor and conscience that I shall speak the truth, the whole truth and nothing but the truth.

5

6

7 **THE PRESIDENT:** Thank you. Mr. Armitage, I understand you have in front of you your witness statements?

8

9

10 **MR. ARMITAGE:** I think I will shortly.

11 **THE PRESIDENT:** Thank you. Could you go, please, to your first witness statement, which is dated September 27, 2014, to page 8?

12

13

14 **MR. ARMITAGE:** Yes.

15 **THE PRESIDENT:** And confirm for the record that the signature appearing above your name is your signature?

16

17

18 **MR. ARMITAGE:** Yes, it is.

19 **THE PRESIDENT:** Could you please go to your second witness statement, to page 17 that is dated September 11, 2015, and again confirm for the record that the signature appearing above your name is your signature?

20

21

22

23

24 **MR. ARMITAGE:** Yes, it is.

25 **THE PRESIDENT:** Is there any correction

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1 you would like to make to any of the statements? 09:02

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3 **MR. ARMITAGE:** In reviewing this statement, I discovered what I believe to be a typographical error in my first witness statement on page 6, Paragraph 21. It should refer to of the 36 jurisdictions rather than 35 jurisdictions, and I think that correct number, 36, appears in Paragraph 19 but unfortunately not in Paragraph 21.

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9 **THE PRESIDENT:** So noted. Is there any other correction you wish to make?

10

11 **MR. ARMITAGE:** No.

12 **THE PRESIDENT:** Thank you. Ms. Cheek, please proceed with the direct examination.

13

14 **MS. CHEEK:** Thank you, Mr. President.

15 **DIRECT EXAMINATION ON BEHALF OF THE CLAIMANT**

16 **MS. CHEEK:** Mr. Armitage, behind tab 3 of your direct examination binder there are a few excerpts from Canada's Rejoinder, and at paragraphs 17 51 to 53 of Canada's Rejoinder, page 26 and 27, Canada argues -- and this is at the bottom of Paragraph 51 -- "The fact is that Claimant has 18 enjoyed monopolies relating to these compounds for 19 51 to 53 of Canada's Rejoinder, page 26 and 27, 20 Canada argues -- and this is at the bottom of 21 Paragraph 51 -- "The fact is that Claimant has 22 enjoyed monopolies relating to these compounds for 23 years before it filed applications for the patents 24 at issue in these proceedings," and also at the end 25 of Paragraph 53, Canada asserts "Claimant was

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09:04

1 searching for another way to extend their monopoly  
2 over different aspects of these compounds."  
3 Mr. Armitage, did the Zyprexa and Strattera patents  
4 at issue in this case simply extend a pre-existing  
5 patent monopoly, in your view?  
6 **MR. ARMITAGE:** In my view, they did not.  
7 For olanzapine, I think Canada is referring to an  
8 earlier Canadian patent that actually issued before  
9 olanzapine itself had ever been synthesized. And  
10 for atomoxetine, I believe Canada is referring to a  
11 Canadian patent that issued before Strattera's ADHD  
12 use had even been discovered. So at least in any  
13 practical sense, my view is that the Canadian  
14 monopolies for Zyprexa and Strattera can be traced  
15 back only to the filing of the patents actually at  
16 issue in this Tribunal. I say that because it was  
17 the issuance of these patents that provided the  
18 economic justification for Lilly to proceed with the  
19 investment to develop Zyprexa for schizophrenia and  
20 Strattera for ADHD.  
21 **MS. CHEEK:** Thank you, Mr. Armitage. If  
22 you'd now turn to Canada's Rejoinder, paragraphs 57  
23 to 60 but in particular Paragraph 60 on page 29,  
24 here Canada asserts the first sentence of  
25 Paragraph 60, "Claimant itself acknowledges that its  
  
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1 drafting practices were inconsistent in regard with  
2 its earlier practices." And Canada cites to  
3 Paragraph 11 of your first statement for this  
4 proposition that your drafting practices for the  
5 '113 and '735 patents were inconsistent with earlier  
6 practices.  
7 Could you please turn to Paragraph 11 of  
8 your first statement?  
9 **MR. ARMITAGE:** I'm there.  
10 **MS. CHEEK:** And you've had a chance to  
11 review it?  
12 **MR. ARMITAGE:** Yes.  
13 **MS. CHEEK:** Does Paragraph 11 of your  
14 first statement "acknowledge that less data was  
15 included in the Strattera and Zyprexa patents than  
16 in other Lilly patents."  
17 **MR. ARMITAGE:** No, it does not.  
18 **MS. CHEEK:** And does anything else in  
19 either of your statements support Canada's  
20 assertion?  
21 **MR. ARMITAGE:** Nothing that I'm aware of.  
22 **MS. CHEEK:** Mr. Armitage, if you can turn  
23 to paragraphs 154 and 155, which are actually at  
24 page 69 of Canada's Rejoinder, Canada here asserts  
25 that if Canada had, in fact, dramatically changed  
  
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1 its law on utility, that Lilly would have produced  
2 documents during the document production phase of  
3 these proceedings and advised Lilly on this change.  
4 At the first sentence of Paragraph 154 they note  
5 that, had there been a major shift in Canadian law,  
6 then Claimant should have had a significant number  
7 of documents reflecting comments and advice on the  
8 allegedly new requirements, and then the first  
9 sentence at Paragraph 155 notes that Claimant did  
10 not produce or log in its privilege log any  
11 responsive documents. And it is the case that no  
12 such documents were produced.  
13 Mr. Armitage, would Lilly have received  
14 legal advice regarding Canadian patent law at the  
15 time that it applied for and received its Zyprexa  
16 and Strattera patents?  
17 **MR. ARMITAGE:** It most certainly would  
18 have. Lilly maintained a network of patent agents  
19 whose responsibility it was to provide advice on  
20 matters of patent law and practice to keep Lilly  
21 abreast of those developments. That global network  
22 included patent agents in each of the countries in  
23 which Lilly sought patents around the world, and in  
24 the case of Canada included highly competent  
25 Canadian patent agents located in Canada who  
  
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1 routinely provided that kind of advice to Lilly.  
2 And, in fact, I'm unaware of any more reliable way  
3 in which to secure that advice than from the  
4 individuals who then actually filed and prosecuted  
5 Lilly's Canadian patent applications.  
6 In addition, Lilly's in-house foreign  
7 patent law experts in Indianapolis would have  
8 routinely disseminated advice of this type to  
9 Lilly's in-house patent lawyers.  
10 **MS. CHEEK:** Mr. Armitage, would Lilly have  
11 received legal advice regarding the Canadian utility  
12 requirement at the time that it applied for the  
13 Strattera and Zyprexa patents?  
14 **MR. ARMITAGE:** Absolutely. If there had  
15 been material developments in the Canadian law on  
16 utility, there would have been any number of  
17 communications back and forth between Lilly's  
18 in-house patent attorneys and its Canadian patent  
19 agents. However, on this particular issue I'd be  
20 actually shocked if there were evidence that advice  
21 on Canadian utility law had been given during that  
22 time frame, since it was so well understood that the  
23 threshold for meeting the Canadian utility  
24 requirement for pharmaceutical inventions was so  
25 low.  
  
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1 **MS. CHEEK:** Thank you, Mr. Armitage.  
2 Mr. President, I have no further questions  
3 for Mr. Armitage at this time.  
4 **CROSS-EXAMINATION ON BEHALF OF THE RESPONDENT**  
5 **MR. SPELLICSY:** Good morning,  
6 Mr. Armitage.  
7 **MR. ARMITAGE:** Good morning.  
8 **MR. SPELLICSY:** My name is Shane  
9 Spelliscy, and I'm counsel for the Government of  
10 Canada in this proceeding. I'm going to ask you a  
11 few questions so I can understand the testimony you  
12 have submitted on behalf of the Claimant.  
13 As the Chair emphasized, if you don't  
14 understand a question, it's important to let me  
15 know. I'll do my best to rephrase it. It's very  
16 important we understand each other. It's also  
17 important, I would ask, that you answer my  
18 questions. So in that sense, if the answer is a yes  
19 or no, I would appreciate if you can start your  
20 answer that way so we have a clear record. Then  
21 I'll do my best to allow you to add whatever context  
22 that you think is necessary, though we do, of  
23 course, have limited time so I'd appreciate it very  
24 much if we could try to remain focused on the  
25 questions that we have.

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1 I don't expect that we will go for all  
2 that long today, but if you do need a break at some  
3 point, let me know and I'll find a good time to take  
4 one as quickly as possible.  
5 Does this sound like an agreeable way  
6 forward?  
7 **MR. ARMITAGE:** Yes, thank you.  
8 **MR. SPELLICSY:** I'd like to spend a moment  
9 just further clarifying the scope of your experience  
10 and the basis of your testimony that you have  
11 offered the Tribunal. In your first witness  
12 statement you explain in Paragraph 1 that you  
13 received a law degree from the University of  
14 Michigan in 1973. Is that correct?  
15 **MR. ARMITAGE:** That's correct.  
16 **MR. SPELLICSY:** And you've never had any  
17 training in Canadian law, correct?  
18 **MR. ARMITAGE:** Yes, that is correct. I've  
19 never had any -- yes, that is correct. I've not had  
20 any what I would call formal training in Canadian  
21 law.  
22 **MR. SPELLICSY:** And you're not a Canadian  
23 lawyer, correct?  
24 **MR. ARMITAGE:** That is absolutely correct,  
25 yes.

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1 **MR. SPELLICSY:** And you're not holding  
2 yourself out as an expert in Canadian patent law  
3 here?  
4 **MR. ARMITAGE:** That is correct, yes.  
5 **MR. SPELLICSY:** I think you spoke this  
6 morning about it, and in Paragraph 7 of your witness  
7 statement you say that you have maintained a general  
8 familiarity with the patent laws of non U.S.  
9 jurisdictions such as Canada. I think you were  
10 explaining this morning that you have that  
11 familiarity with Canadian law because you would be  
12 briefed by Canadian lawyers and patent agents. Is  
13 that right?  
14 **MR. ARMITAGE:** In part, yes.  
15 **MR. SPELLICSY:** In part. And you say  
16 actually in Paragraph 5 that you received regular  
17 reports "from attorneys in my office on litigation  
18 risks across Eli Lilly's global patent portfolio as  
19 well as on significant changes to patent law and  
20 policy in each of Eli Lilly's major markets."  
21 **MR. ARMITAGE:** Yes, that's correct. That  
22 appears in my expert report -- or my witness  
23 statement. Sorry.  
24 **MR. SPELLICSY:** So that I understand,  
25 then, Eli Lilly was constantly assessing the

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1 litigation risks with respect to its patents,  
2 correct?  
3 **MR. ARMITAGE:** Just so I understand your  
4 question, you're talking about when a patent was  
5 actually in litigation, was Lilly assessing the  
6 prospects for that litigation?  
7 **MR. SPELLICSY:** Let's take it in two  
8 parts. So even when a certain patent wasn't in  
9 litigation, you've said in Paragraph 5, "I received  
10 regular reports from attorneys in my office on the  
11 litigation risks associated with Lilly's global  
12 patent portfolio." So I understand that statement  
13 to say that even when a patent wasn't in litigation,  
14 you were still receiving reports on the litigation  
15 risks to those patents. Is that correct?  
16 **MR. ARMITAGE:** Let me clarify, then, what  
17 I hope was intended by that statement, because when  
18 I talked about litigation risks I was actually  
19 referring specifically to patents that were in  
20 litigation, being litigated, for which there was at  
21 least some contested proceeding with respect to the  
22 patent.  
23 **MR. SPELLICSY:** But then it goes on, "I  
24 also received regular reports from attorneys" -- the  
25 sentence goes on -- "on significant changes to

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1 patent law and policy in each of Lilly's major  
2 markets."  
3 **MR. ARMITAGE:** That's correct.  
4 **MR. SPELLICSY:** So those briefings, then,  
5 would have related to changes in patent law and how  
6 they would affect Lilly's patents in those major  
7 markets, correct?  
8 **MR. ARMITAGE:** That would be correct, yes.  
9 **MR. SPELLICSY:** I think you just -- we  
10 touched on it there, you said in your first  
11 statement -- and I'm looking at Paragraph 3 now, in  
12 the first line, that you had "overall supervisory  
13 responsibility for the company's patent litigation,  
14 particularly the lawsuits that were material to the  
15 company's business, both in the United States and  
16 internationally." And I think you just confirmed  
17 this, that you would receive appropriate briefings  
18 on Canadian law when Eli Lilly was involved in a  
19 patent litigation in Canada, correct?  
20 **MR. ARMITAGE:** To the extent they met that  
21 criteria, yes.  
22 **MR. SPELLICSY:** You would agree with me,  
23 then, that when one of Eli Lilly's patents was  
24 actually invalidated in Canada, that you would be  
25 briefed by Canadian counsel on the decision

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1 involved, correct?  
2 **MR. ARMITAGE:** I don't believe that's what  
3 I indicated in my report.  
4 **MR. SPELLICSY:** So is your testimony here  
5 that when a patent was invalidated, you would not be  
6 briefed by Canadian counsel on that decision?  
7 **MR. ARMITAGE:** I would not necessarily be  
8 briefed by Canadian counsel when decisions would  
9 come down. I would be briefed by individuals within  
10 Lilly's organization who had responsibility for  
11 those matters.  
12 **MR. SPELLICSY:** And in receiving those  
13 briefings, you would assume they had been briefed by  
14 the relevant Canadian counsel, correct?  
15 **MR. ARMITAGE:** When you say I would assume  
16 they'd been briefed, as a matter of fact, there  
17 would be no possibility they would not have been  
18 briefed by Canadian patent counsel.  
19 **MR. SPELLICSY:** So you may not have been  
20 briefed directly by Canadian counsel, is what your  
21 testimony is, but you certainly would have received  
22 briefings from your own staff in the general  
23 counsel's office that would have been informed by  
24 Canadian counsel on the decisions involving Eli  
25 Lilly's patents, correct?

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1 **MR. ARMITAGE:** Yes, that would necessarily  
2 be the case because all of our Canadian litigation  
3 matters were, in fact, handled by Canadian counsel.  
4 **MR. SPELLICSY:** You would also be involved  
5 in instructing -- well, if not directly -- local  
6 counsel, at least indirectly on whether to pursue  
7 appeals in Canadian courts, correct?  
8 **MR. ARMITAGE:** I'm sorry, could you repeat  
9 the question?  
10 **MR. SPELLICSY:** You would be involved in  
11 instructing, at least indirectly, counsel in Canada  
12 to pursue appeals in Canadian courts if Eli Lilly  
13 lost one of its patents, correct?  
14 **MR. ARMITAGE:** Just to be sure I can  
15 answer that question in context, there may well have  
16 been Canadian litigation matters that were of such a  
17 consequence that I would not be briefed on those  
18 matters on a regular basis or routinely, but when  
19 you're talking about material matters in any  
20 country, Canada included, I would be briefed and I  
21 would at least have a general awareness of whether  
22 we were pursuing appeals, again to the extent they  
23 were material.  
24 **MR. SPELLICSY:** But it would be your  
25 office, presumably in consultation with Eli Lilly

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1 management, that would actually instruct counsel to  
2 pursue an appeal, correct?  
3 **MR. ARMITAGE:** It would be the general  
4 counsel's responsibility to determine whether an  
5 appeal was appropriate, and if an appeal was  
6 appropriate whether it ought to be pursued. And in  
7 general -- there may have been situations where  
8 those were legal business decisions, but in many  
9 cases they would be legal decisions alone.  
10 **MR. SPELLICSY:** So ultimately the  
11 instruction to pursue appeal would come from your  
12 office? You may not personally have been briefed if  
13 it was a small matter, but on material matters  
14 ultimately the instruction would, in fact, come from  
15 you. Is that right?  
16 **MR. ARMITAGE:** When you say instruction  
17 would come from me, I think a better  
18 characterization would be certainly there weren't  
19 appeals that were taken that weren't authorized by  
20 me, and I use that in a sense that I may have done  
21 nothing more than received a recommendation and a  
22 justification and simply said this was an  
23 appropriate way to proceed.  
24 **MR. SPELLICSY:** So I understand, you're  
25 not saying you didn't review the grounds and make

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1 your own decision on Canadian law. You're not  
2 qualified to do that. But you did authorize the  
3 filing of appeals. You would have seen that on  
4 material matters and authorized it, correct?  
5 **MR. ARMITAGE:** When you say I would have  
6 seen that, what is the "that"?  
7 **MR. SPELLISCY:** The request to file an  
8 appeal.  
9 **MR. ARMITAGE:** Okay. So just to be very  
10 clear about modus operandi here, there would be in  
11 some cases e-mails that would come to me that would  
12 describe a factual situation in a particular country  
13 and seek my authorization to take an action, and I  
14 would provide that authorization. In other  
15 circumstances where the matter was ongoing, there  
16 would be conferences with the -- particularly the  
17 Lilly attorneys responsible for those matters.  
18 Sometimes I might involve actually the foreign  
19 patent professionals who were responsible for those  
20 in-country, and so, one way or another, there would  
21 be decisions taken in which my involvement would be  
22 either acquiescence or, in fact, I suppose in some  
23 cases direction, if indeed I decided that I wanted  
24 to take ultimate responsibility for the substance of  
25 that decision.

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1 question is clear, when you say domestic, are you  
2 referring to Canadian domestic?  
3 **MR. SPELLISCY:** Sure.  
4 **MR. ARMITAGE:** So just so I get the  
5 question clearly, because I was first hearing this  
6 as domestic obviously being a U.S. decision. If you  
7 could repeat it just so I get it clearly in mind.  
8 **MR. SPELLISCY:** I think we can do it in  
9 domestic as well, but when Lilly was involved in a  
10 Canadian litigation which resulted in the  
11 invalidation of one of its patents, Lilly would  
12 consider the implications of the validity of that  
13 for its other Canadian patents, correct?  
14 **MR. ARMITAGE:** You're asking me to speak  
15 on behalf of the company, and obviously I didn't  
16 have direct responsibility for those assessments.  
17 But in general, as developments occurred in Canadian  
18 patent law, Lilly needed, as they would in any  
19 jurisdiction, to take account of those developments  
20 in deciding how to proceed in the future to both  
21 litigate the patents and, more importantly, its  
22 ability to actually secure valid patents in any  
23 particular jurisdiction. So I don't believe there's  
24 anything unique about Canada here in the way Lilly  
25 would respond to litigation developments.

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1 **MR. SPELLISCY:** Now, in the case where you  
2 were going to take ultimate responsibility for the  
3 substance of that decision, I would assume that that  
4 would be a case where there was a material impact on  
5 Lilly's business or an important patent, correct?  
6 **MR. ARMITAGE:** Again, in my role as  
7 general counsel, there were only so many matters in  
8 which I could have enough in-depth involvement to  
9 say that I wanted to direct the decision that was  
10 being taken rather than simply be clear that this  
11 was an appropriate decision and have confidence in  
12 those who ultimately knew all the facts. There were  
13 particularly, in patent matters, issues in which I  
14 became deeply enough involved so that I would have  
15 made those decisions substantively, and those would  
16 have been typically on matters of most materiality  
17 to the company.  
18 **MR. SPELLISCY:** I think earlier you  
19 said -- and I'll just confirm -- that when Eli Lilly  
20 was involved in a domestic litigation which resulted  
21 in the invalidation of one of its patents, it would  
22 consider the implications for the validity of other  
23 patents in that same jurisdiction. Do you recall  
24 that?  
25 **MR. ARMITAGE:** Just again, so your

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1 **MR. SPELLISCY:** Right. Which is why I  
2 asked my question, first of all, domestic  
3 litigation. I assume this was a practice Lilly was  
4 doing in every jurisdiction. If it lost a patent in  
5 any jurisdiction, it would consider the implications  
6 of that decision for the other patents it held in  
7 that jurisdiction, correct?  
8 **MR. ARMITAGE:** Yes. And again, there's no  
9 general rule here. I mean there are situations in  
10 which you receive an adverse decision that, for  
11 example, you believe is wrong and won't be  
12 replicated and, therefore, the decision taken is no  
13 decision, that this anomaly need not affect our  
14 strategy or our practices.  
15 **MR. SPELLISCY:** I want to turn for a brief  
16 second to your second witness statement to  
17 understand the way Lilly thought about impacts of  
18 domestic law decisions on the patents. If you could  
19 turn to Paragraph 44. And in the last sentence you  
20 say "... neither Lilly nor any other firm I'm aware  
21 of would put off the acquisition of a patent owned  
22 by another company until after someone brings  
23 litigation to challenge the validity of the patent."  
24 Do you see that?  
25 **MR. ARMITAGE:** This is the first --

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1           **MR. SPELLISCY:** The second statement.  
2           **MR. ARMITAGE:** Second statement,  
3 Paragraph 44. I apologize.  
4           **MR. SPELLISCY:** That's okay.  
5           **MR. ARMITAGE:** Yes, I see that.  
6           **MR. SPELLISCY:** To be clear, while you  
7 wouldn't necessarily put off the application, you  
8 would certainly do your due diligence on the  
9 applicable patent laws, correct?  
10          **MR. ARMITAGE:** In any situation that I can  
11 imagine where a patent would be of material value to  
12 a transaction, there certainly would be some sort of  
13 due diligence involved, yes.  
14          **MR. SPELLISCY:** And so before any such  
15 purchase, in doing that due diligence you would be  
16 assessing the likely success of any invalidity  
17 challenge to those patents, correct?  
18          **MR. ARMITAGE:** As with any other asset  
19 being acquired, we would do the appropriate level of  
20 due diligence based on the potential value of the  
21 asset being acquired, yes.  
22          **MR. SPELLISCY:** Right. And you would  
23 assess the likely success of any invalidity  
24 challenge in that context, correct?  
25          **MR. ARMITAGE:** It's more than likely we  
  
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1 would, yes.  
2           **MR. SPELLISCY:** Right, you would assess  
3 whether or not, if it was challenged on invalidity,  
4 that challenge might be successful, correct?  
5           **MR. ARMITAGE:** Well, I think, more to the  
6 point, what one would do if it were a patent asset  
7 as opposed to an asset of another type is make some  
8 assessment of whether, under the substantive  
9 requirements for patentability, that patent would  
10 contain patentable subject matter at least to the  
11 extent we were valuing the ability of that asset to  
12 affect competition in the marketplace. So you would  
13 do due diligence knowing, for example, that there's  
14 a possibility that patent would be litigated and, if  
15 litigated, would need to be defended.  
16          **MR. SPELLISCY:** And if you thought, in  
17 doing that due diligence, that there was a risk that  
18 the patent would not survive an invalidity  
19 challenge, that would affect the price that you were  
20 willing to pay for that patent, correct?  
21          **MR. ARMITAGE:** Well, in -- you're getting  
22 now into an area where you want my opinions and how  
23 to do market value assessments for intellectual  
24 property, which I'm a little reluctant to do, but  
25 let me just make this observation.  
  
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1           By and large, these assets have a binary  
2 character. If you buy a piece of property, either  
3 you get a valid title or you don't. And if you're  
4 going to build your business on the assumption that  
5 you're going to have a valid title, then you  
6 basically need to have assurance that you can defend  
7 that title. So to a certain degree you have to, in  
8 a due diligence assessment, make that binary  
9 assessment, we're going to build a business on the  
10 assumptions the patent is valid and can be enforced.  
11 And then it's very difficult to get in a real world  
12 economic negotiation some discount based on some  
13 hypothetical probability that that patent might be  
14 invalidated. So there's a real world context to  
15 this that is sort of at a disconnect given the  
16 binary nature of the acquisition of most assets.  
17           I apologize if that doesn't make sense.  
18 I'd be happy to try again, if you like.  
19          **MR. SPELLISCY:** Let me see if I  
20 understand. If, in thinking about acquiring a  
21 patent, Eli Lilly determined that there was a  
22 significant risk that it would be subject to  
23 invalidation if challenged in the courts, then  
24 because of the binary nature, either valid or not,  
25 Eli Lilly would not assign value to that patent.  
  
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1           **MR. ARMITAGE:** Quite the contrary. It's a  
2 binary decision, and I've been involved in these  
3 binary decisions any number of times. Somebody at  
4 the company comes to you and says we have the  
5 potential to acquire a product that could be a  
6 multi-million-dollar blockbuster. It's going to be  
7 a viable business for us only if you can tell us  
8 whether we can expect these patents to be valid, and  
9 they need a yes or no answer. So if you look at the  
10 patents and they look like -- you know, you look at  
11 a patent based on your best understanding of the,  
12 quote, domestic patent law of whatever country in  
13 which this patent was issued; you make a  
14 determination that this patent should be able to  
15 survive any invalidity challenge; and you give the  
16 business the answer yes.  
17           On the other hand, you may see an asset  
18 that clearly, on its face, isn't going to be able to  
19 be defended or would be so problematic that it would  
20 be irresponsible for the business to try to acquire  
21 the asset and actually make the investment to  
22 produce the medicine, and so I think particularly in  
23 the pharmaceutical arena -- perhaps other arenas  
24 work differently where you're maybe buying a  
25 thousand patents and you just want a probabilization  
  
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1 of whether there are 500 or so that might survive,  
2 that typically isn't how our business works and it  
3 typically isn't how these decisions actually get  
4 made. That's why, at least in the pharmaceutical  
5 business, patents are really the bedrock asset on  
6 which you make the investment to develop  
7 pharmaceutical products.

8 **MR. SPELLISCY:** Let me give it another  
9 shot at understanding. I think I get the binary  
10 nature now. If Eli Lilly was looking to acquire --  
11 or if a business came to your office saying we've  
12 got a chance to acquire this patent, they would be  
13 looking for an answer from you as to do you think  
14 this would withstand a validity challenge if  
15 challenged, and if you looked at the patent laws of  
16 the jurisdiction and came to the conclusion that it  
17 would not likely withstand a validity challenge, you  
18 would answer no, and at that point I think you said  
19 it would be irresponsible for the transaction to go  
20 forward.

21 **MS. CHEEK:** Mr. President, I'm very sorry  
22 to interrupt, but Mr. Spelliscy has a habit of  
23 restating the answer, and so the record and the  
24 transcript is very confusing. I don't know if  
25 there's a way to use livenote more effectively or

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1 something so we don't keep getting these long  
2 restatements of the answer, so the witness has to  
3 consider whether that's actually what he just said.

4 **THE PRESIDENT:** Is your problem with  
5 Mr. Spelliscy's asking the questions, or is your  
6 problem with the livenote, where you cannot see  
7 whether you are reading a question or reading an  
8 answer?

9 **MS. CHEEK:** My problem is with the  
10 restating of the witness' answers and the witness  
11 does not have livenote and so the witness is,  
12 therefore...

13 **THE PRESIDENT:** I think we can hear who is  
14 speaking, so please proceed, Mr. Spelliscy.

15 **MR. ARMITAGE:** There's actually a pending  
16 question where my first response was going to be  
17 that I think what you restate as my answer is a bit  
18 of an overgeneralization and that I didn't actually  
19 say something as categorical as you did. But if you  
20 wouldn't mind repeating your question, that would  
21 help me.

22 **MR. SPELLISCY:** What I'm trying to  
23 understand is in the answer that you gave, you were  
24 talking about they need a yes or no answer, and you  
25 explained what would happen if it was a yes answer.

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1 And then you said, on the other hand, you may see an  
2 asset that clearly on its face isn't going to be  
3 able to be defended, or would be so problematic that  
4 it would be irresponsible for the business to try to  
5 acquire the asset and actually make the investment.  
6 And so I take it that was if it was a no answer. Is  
7 that correct?

8 **MR. ARMITAGE:** Well, I think the fairest  
9 way to look at this is in my own practice, in my own  
10 experience and my own work for the company I've  
11 given yes and no answers, and typically those yes  
12 answers create the possibility that that transaction  
13 of that type will go forward, and a no answer makes  
14 it virtually impossible for that transaction to go  
15 forward, and so there are any number of situations,  
16 including some I recall at Lilly where we actually  
17 looked at a particular asset and explained to the  
18 business that there was actually no economic  
19 justification for proceeding with this transaction  
20 given the fact that we assessed there was no  
21 reasonable likelihood that you would be able to  
22 actually enforce a patent, and a patent was key to  
23 the valuation of the entire enterprise.

24 **MR. SPELLISCY:** I think I understand now.  
25 Thank you.

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1 Let's come back to your first witness  
2 statement, and I want to discuss a few more topics.  
3 You have it in the second paragraph, but it's  
4 relatively recent. So you were the senior  
5 vice-president and general counsel of Eli Lilly  
6 until December 31, 2012, correct?

7 **MR. ARMITAGE:** That's correct.

8 **MR. SPELLISCY:** So then you are aware that  
9 Eli Lilly filed its first notice of intent to submit  
10 a claim to NAFTA arbitration on November 7, 2012,  
11 correct?

12 **MR. ARMITAGE:** Yes. I do not recall the  
13 date, but if that's the date, I accept that's  
14 correct.

15 **MR. SPELLISCY:** You were assuming that it  
16 was filed while you were still the general counsel  
17 of Eli Lilly, correct?

18 **MR. ARMITAGE:** As I recall, yes.

19 **MR. SPELLISCY:** I want to look, then, at  
20 some of the paragraphs in your first witness  
21 statement which you filed in support of Eli Lilly's  
22 original Memorial. I want to look first at with  
23 your comments regarding the decisions of the  
24 Canadian courts to invalidate Eli Lilly's olanzapine  
25 patents. If you could turn to Paragraph 13, we'll

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1 go through some of your comments and then I'll ask  
2 you some questions.  
3 In Paragraph 13 in the last sentence you  
4 say, "The doctrine was especially egregious as  
5 applied to the '113 Patent." Just for clarity, the  
6 '113 patent was the patent for olanzapine, correct?  
7 **MR. ARMITAGE:** Correct.  
8 **MR. SPELLISCY:** In Paragraph 16 you say  
9 about halfway down that paragraph, "...we were quite  
10 simply incredulous when, on remand, the trial judge  
11 invalidated our patent solely on the ground of  
12 inutility." Correct?  
13 **MR. ARMITAGE:** Correct.  
14 **MR. SPELLISCY:** You were incredulous  
15 because Eli Lilly's belief was that Canadian law had  
16 not been applied correctly to invalidate this  
17 patent, right?  
18 **MR. ARMITAGE:** I'm not sure that's a  
19 totally accurate statement of my incredulity, but  
20 indeed, I found this whole situation as it had  
21 developed in Canada to be total incredulous.  
22 **MR. SPELLISCY:** You said in Paragraph 16,  
23 "We were incredulous when, on remand, the trial  
24 judge [in the olanzapine case] invalidated our  
25 patent solely on the ground of inutility."  
  
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1 **MR. ARMITAGE:** That's correct.  
2 **MR. SPELLISCY:** Again, you were -- I'm  
3 trying to understand what you were incredulous  
4 about. Maybe let's look at that decision, and you  
5 can help me here. You've been handed a binder of  
6 documents. It's got the red cover on the front. If  
7 you can turn to Tab 1 in your binder, which for the  
8 record is Exhibit R-016, this is the decision of the  
9 Federal Court and the challenge to the '113 patent  
10 for olanzapine dated November 10, 2011. Do you see  
11 that?  
12 **MR. ARMITAGE:** Yes.  
13 **MR. SPELLISCY:** If we turn to page --  
14 we're going to look just at the conclusion. If you  
15 turn to page 38 or Paragraph 273 -- the page numbers  
16 are in the very bottom, but they're a little hard to  
17 see because they're faint. Paragraph 273.  
18 **MR. ARMITAGE:** That's fine.  
19 **MR. SPELLISCY:** The Federal Court's  
20 conclusion here was as follows: "Lilly had a patent  
21 for olanzapine (the '687) that lasted from 1980 to  
22 1997. But as the '687 patent neared expiry, it  
23 became important to Lilly to try to extend the  
24 patent protection for olanzapine. The '113 patent  
25 was clearly drafted with a view to justifying a  
  
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1 fresh patent." I take it from your testimony this  
2 morning that you disagree with that part of the  
3 statement?  
4 **MR. ARMITAGE:** Well, there is a part of  
5 the statement that is incorrect -- that is correct.  
6 It did become important for Lilly in order to be  
7 able to develop olanzapine as a medicine to be able  
8 to secure patent protection on the molecule itself.  
9 I think what I stated earlier this morning is it's  
10 not fair to say we had protection for olanzapine  
11 that existed before olanzapine had even been  
12 synthesized chemically. It just simply didn't  
13 exist. And it's -- not in any practical sense. You  
14 had protection for a compound that, after it was  
15 synthesized, was a long hard road away from being  
16 able to be monopolized in the sense of there being  
17 any possible marketplace for it.  
18 **MR. SPELLISCY:** So your opinion was that  
19 the finding of the court that Lilly had a patent for  
20 olanzapine that lasted from 1980 to 1997, that  
21 finding was factually incorrect is what you're  
22 saying?  
23 **MR. ARMITAGE:** Whether it's factually  
24 correct or not, the truth of the matter is Lilly had  
25 a generic patent that included -- within the genus  
  
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1 was olanzapine. Nonetheless, olanzapine had never  
2 been synthesized and when it did it became a  
3 separately patentable invention based on the  
4 discovery of properties of olanzapine that were  
5 unique relative to that genus, and so when you say  
6 we had a patent for olanzapine that began in 1980,  
7 olanzapine didn't begin its life until after that  
8 patent had issued in 1980 because it had never been  
9 made.  
10 **MR. SPELLISCY:** I think you just said that  
11 you do, you find this statement of fact -- the  
12 finding by the court incorrect, that olanzapine --  
13 you didn't have a patent for olanzapine that started  
14 from 1980 because olanzapine hadn't been made. So  
15 you disagree with this finding of fact, correct?  
16 **MR. ARMITAGE:** Well, I think as I've tried  
17 to say two or three times, whether it's correct or  
18 not, it's a meaningless observation to the extent  
19 it's used to suggest that we had protection that we  
20 could have used in any practical sense beginning in  
21 1980, for the two reasons I mentioned earlier.  
22 One, in 1980 the compound had never been  
23 synthesized; and, two, from the time it was  
24 synthesized after 1980, it was a long way from  
25 anybody being able to assert that patent in any  
  
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1 commercial environment because there was no possible  
2 market for olanzapine until its development as a  
3 medicine had been completed. So we had protection  
4 without a possibility of protecting anything.  
5 **MR. SPELLISCY:** Let's move on to second  
6 sentence there that I just read out. "As the '687  
7 patent neared expiry it became important to Lilly to  
8 try to extend the patent protection for olanzapine."  
9 Were you incredulous at that factual  
10 statement -- or that finding of the court, sorry?  
11 **MR. ARMITAGE:** Was I incredulous at that  
12 statement? I think the answer to that is no, I was  
13 actually incredulous with the holding of the court  
14 in this case. But with respect to this particular  
15 statement, it wasn't that the '687 patent was  
16 nearing expiration that it became important for  
17 Lilly to try to obtain patent protection for  
18 olanzapine. It was actually because of the work  
19 that Lilly had done, the scientific work that Lilly  
20 had done that satisfied them that, unlike other  
21 compounds in this genus that basically had no  
22 medical potential that Lilly could ever uncover,  
23 olanzapine appeared to have the ability to be an  
24 effective anti-psychotic medicine.  
25 **MR. SPELLISCY:** There you said you were  
  
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1 Canada.  
2 So what I was incredulous about, in sum,  
3 was that a utility requirement that would invalidate  
4 a patent where it was clear the patent was useful.  
5 **MR. SPELLISCY:** Let me ask you a few  
6 questions to try and understand this. We had  
7 earlier discussed how you had -- and you said in  
8 your statement -- you had a general familiarity with  
9 Canadian law and that you would have been briefed on  
10 changes or significant developments in the Canadian  
11 courts. And so what I don't understand -- this  
12 decision was in 2011, correct?  
13 **MR. ARMITAGE:** Correct.  
14 **MR. SPELLISCY:** So, Mr. Armitage, clearly  
15 by that point, 2011, you would have been aware that  
16 Canadian courts were holding patentees to the  
17 promises in their patents and were not considering  
18 post-filing evidence, correct?  
19 **MR. ARMITAGE:** Correct. If it helps, I'm  
20 as incredulous today as I was when I read this about  
21 the manner in which Canadian patent law operates  
22 relative to the way patent laws in all jurisdictions  
23 of which I'm aware have operated on the issue of  
24 utility.  
25 **MR. SPELLISCY:** But what I'm trying to  
  
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1 incredulous with the holding in this case. Let's go  
2 a couple of sentences down. It says, "But the  
3 evidence just was not there in 1991 when the patent  
4 was filed. Novopharm has established that the  
5 patent's promise had not been demonstrated and could  
6 not have been soundly predicted on the basis of the  
7 evidence available to the inventors in 1991."  
8 So this was the holding you were  
9 incredulous with. Is that right?  
10 **MR. ARMITAGE:** Well, when you asked me  
11 what the holding was I was incredulous with, maybe I  
12 can answer that and that would maybe simplify this  
13 whole line of questioning.  
14 My understanding, when I was briefed on  
15 this opinion, is that there was no doubt that  
16 olanzapine had utility under the law of utility as  
17 well understood in any patent jurisdiction of which  
18 I'm aware, but that the court was actually doing, as  
19 is suggested in what you had read here, attempting  
20 to read in the patent a set of promises such that  
21 unless Lilly had actually been able to demonstrate  
22 what the court viewed as a promise, the compound  
23 that had utility would nonetheless be determined not  
24 to have utility, irrespective of how useful the  
25 compound actually was at that point as a medicine in  
  
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1 understand, Mr. Armitage, is your statement when you  
2 said "My understanding when I was briefed on this  
3 opinion is that there was no doubt that olanzapine  
4 had utility under the law of utility as well  
5 understood in any patent jurisdiction of which I am  
6 aware." But you would agree with me that the test  
7 that the court set out of the patent's promise on  
8 the basis of the evidence available to the  
9 inventors, you were aware in 2011 that that was  
10 Canadian law, right?  
11 **MR. ARMITAGE:** I was aware that there were  
12 decisions in Canadian patent law by 2011 that had  
13 set out the promise doctrine, that's correct, and I  
14 was aware that the promise doctrine was applied  
15 factually in each patent that came before the  
16 Canadian courts. And, as applied to Zyprexa, in my  
17 view for good reason I remain to this day  
18 incredulous that the doctrine could apply to Zyprexa  
19 and still be a rational doctrine of patent law.  
20 **MR. SPELLISCY:** Let's focus on the last  
21 part of what the court said in its decision, which  
22 is "could not have been soundly predicted on the  
23 basis of the evidence available to the inventors in  
24 1991."  
25 You were Eli Lilly's general counsel at  
  
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1 the time the AZT decision was released in 2002,  
2 correct?  
3 **MR. ARMITAGE:** No. In 2002?  
4 **MR. SPELLISCY:** In 2002.  
5 **MR. ARMITAGE:** I believe I became general  
6 counsel in 2003. I'm sure I became general counsel  
7 in 2003.  
8 **MR. SPELLISCY:** You're right. So you were  
9 aware that the AZT decision was released essentially  
10 a month before you became general counsel, correct?  
11 **MR. ARMITAGE:** Well, if you're asking me  
12 am I aware now of that chronology, as you  
13 represented I am aware of that now, yes.  
14 **MR. SPELLISCY:** You weren't briefed on the  
15 AZT decision when you became senior vice-president  
16 and general counsel on January 1, 2003 on Canadian  
17 law?  
18 **MR. ARMITAGE:** I have no recollection  
19 whatsoever. I clearly was not briefed on January 1.  
20 **MR. SPELLISCY:** But sometime before 2011  
21 you would have been briefed on the AZT decision,  
22 wouldn't you have?  
23 **MR. ARMITAGE:** Sometime before 2011, I  
24 would have been briefed at least generally on  
25 developments in Canadian patent law, and I don't

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1 have a specific recollection of whether that  
2 briefing would have gone into the details of  
3 individual decisions and holdings.  
4 **MR. SPELLISCY:** You did say, I think just  
5 now, that you were aware by 2011 that courts were  
6 looking for the promise of the patent. Is that  
7 right?  
8 **MR. ARMITAGE:** So when you say courts were  
9 looking to the promise of the patent, you mean  
10 courts were looking for the promise in a patent in  
11 order to apply the promise utility doctrine as a  
12 means of invalidating patents for lack of utility.  
13 Is that the context the question is asked because,  
14 if so, I had a general awareness of the promise  
15 utility doctrine.  
16 **MR. SPELLISCY:** You said, "I was aware  
17 that there were decisions in Canadian patent law by  
18 2011 that had set out the promise doctrine."  
19 **MR. ARMITAGE:** Yes.  
20 **MR. SPELLISCY:** So in 2011 when it was  
21 applied -- when that promise doctrine was applied to  
22 Lilly's olanzapine patent, you weren't incredulous  
23 or shocked by those doctrines existing, were you?  
24 **MR. ARMITAGE:** Yes. I think I've already  
25 testified to that effect. I mean from the very

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1 beginning this idea that a utility under Canadian  
2 patent law would disregard utility in fact of  
3 inventions and go through the analytical analysis  
4 that's now done with the promise utility doctrine, I  
5 apologize if it's offensive, but I continue to find  
6 it incredulous.  
7 **MR. SPELLISCY:** But what I'm trying to  
8 understand is you knew the doctrine existed before  
9 2011, correct?  
10 **MR. ARMITAGE:** I knew there were court  
11 decisions applying the doctrine, yes.  
12 **MR. SPELLISCY:** And your testimony  
13 earlier, I believe, was that one of the things you  
14 were incredulous at is not just the substance of the  
15 doctrine but that the doctrine was applied to the  
16 olanzapine patent, correct?  
17 **MR. ARMITAGE:** Absolutely. Absolutely.  
18 This was a patent where, unlike many patents on new  
19 chemical entities, Lilly actually had clinical data  
20 on this compound that actually was the basis of some  
21 excitement within the company. I was not there at  
22 the point, but as has been related to me, that after  
23 many, many years of failed efforts to develop an  
24 anti-psychotic medicine, they finally had a compound  
25 with the pharmacology and human clinical results

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1 that suggested that they could have a uniquely  
2 effective anti-psychotic medicine.  
3 **MR. SPELLISCY:** Let's turn to your  
4 comments on the decision invalidating Eli Lilly's  
5 patent concerning atomoxetine. We'll stay in your  
6 first statement and look to Paragraph 22, which is  
7 on page 6. We'll just clarify for the record. You  
8 say, "When Canada invalidated the '735 patent solely  
9 on the grounds of inutility in 2010, we found this  
10 development outrageous." The '735 patent is for  
11 atomoxetine, correct?  
12 **MR. ARMITAGE:** Correct.  
13 **MR. SPELLISCY:** The next page, the last  
14 sentence of the paragraph, you say, "It was  
15 inconceivable to us that the Canadian courts could  
16 fairly adjudicate the inutility issue without  
17 considering the most salient facts." Do you see  
18 that?  
19 **MR. ARMITAGE:** You're on Paragraph 22?  
20 **MR. SPELLISCY:** It's 22.  
21 **MR. ARMITAGE:** Yes, I see that.  
22 **MR. SPELLISCY:** You state after that what  
23 your view of the most salient facts are. "The  
24 clinical trial conducted at one of the world's best  
25 known research hospitals" -- which I assume you're

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1 referring to the MGH study?  
 2 **MR. ARMITAGE:** Right.  
 3 **MR. SPELLISCY:** "...as well as the views  
 4 of Health Canada who had approved the drug as safe  
 5 and effective precisely because it was determined to  
 6 be useful in treating ADHD."  
 7 **MR. ARMITAGE:** Correct.  
 8 **MR. SPELLISCY:** So your concern -- or at  
 9 least one of your concerns as expressed in your  
 10 witness statement, was that the Canadian court's  
 11 decision was outrageous because in your view it did  
 12 not consider the right facts, right?  
 13 **MR. ARMITAGE:** When you say consider the  
 14 right facts, I think what's in Paragraph 22 is at  
 15 least my view that Canada didn't consider the  
 16 dispositive facts on the issue of whether or not  
 17 Strattera was useful to treat ADHD, which is the  
 18 understanding of how utility in patent law would  
 19 work for a medicine of this type. So again, it goes  
 20 to my earlier statement of ignoring the fact that a  
 21 compound is useful in an attempt to determine  
 22 whether the compound meets the requirement to be  
 23 useful.  
 24 **MR. SPELLISCY:** And your concern was --  
 25 your view was that the Canadian court, you say, made

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1 its decision without considering those facts?  
 2 **MR. ARMITAGE:** Without considering the  
 3 dispositive evidence that Strattera was useful to  
 4 treat ADHD in attempting to determine whether the  
 5 requirement for utility was met. That was why,  
 6 indeed, I think I used the intemperate word  
 7 "outrageous" and again continued by saying I didn't  
 8 believe that this could be part of a rational patent  
 9 law.  
 10 **MR. SPELLISCY:** The next paragraph,  
 11 Paragraph 23 you say, you were "wholly perplexed by  
 12 the court's decision." You see that?  
 13 **MR. ARMITAGE:** Yes.  
 14 **MR. SPELLISCY:** If we go to paragraph 24,  
 15 you talk in the first line about the Strattera  
 16 patent had been filed in Canada using the PCT  
 17 process.  
 18 **MR. ARMITAGE:** That's correct.  
 19 **MR. SPELLISCY:** You continue later in that  
 20 paragraph to say "That our patents would be held  
 21 invalid on the basis that proof of utility was not  
 22 disclosed in the patent itself was wholly  
 23 unexpected." Do you see that?  
 24 **MR. ARMITAGE:** Yes.  
 25 **MR. SPELLISCY:** Let's look at the

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1 decision. It's at Tab 3 of the binder you've been  
 2 given, which is Exhibit R-027, for the record.  
 3 This is the Federal court decision  
 4 invalidating -- or the Federal court decision in the  
 5 challenge to Eli Lilly's atomoxetine patent issued  
 6 on September 14, 2010, correct?  
 7 **MR. ARMITAGE:** Correct.  
 8 **MR. SPELLISCY:** Let's turn to, again,  
 9 page 31 in Paragraph 117. The Federal court says,  
 10 "In a case involving a claimed sound prediction of  
 11 utility, it is equally beyond debate that an  
 12 additional disclosure obligation arises. According  
 13 to Justice Binnie in AZT, above, this obligation is  
 14 met by disclosing in the patent both the factual  
 15 data on which the prediction is based and the line  
 16 of reasoning followed to enable the prediction to be  
 17 made. This requirement to disclose the basis of the  
 18 prediction in the patent specification was said to  
 19 be to some extent the *quid pro quo* the patentee  
 20 offers in exchange for the patent monopoly."  
 21 If we go to the next page in Paragraph 120  
 22 the court says it follows -- the second sentence.  
 23 "It follows inevitably from the authorities that to  
 24 the extent that the '735 patent is based on a sound  
 25 prediction from the MGH study, that atomoxetine is

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1 useful in the treatment of ADHD, the patent fails  
 2 for want of disclosure because some reference to  
 3 those findings was required to be set out in the  
 4 patent." You see that?  
 5 **MR. ARMITAGE:** Yes.  
 6 **MR. SPELLISCY:** Earlier you said as  
 7 general counsel you had oversight of Lilly's  
 8 responses to the cases brought by generic  
 9 manufacturers in Canada against the Strattera and  
 10 Zyprexa patents, correct?  
 11 **MR. ARMITAGE:** Correct.  
 12 **MR. SPELLISCY:** You also had the  
 13 responsibility for overseeing the case brought by  
 14 generic manufacturers in Canada with respect to Eli  
 15 Lilly's Raloxifene patent, correct?  
 16 **MR. ARMITAGE:** Correct.  
 17 **MR. SPELLISCY:** What I'm not sure I  
 18 understand is not once in your entire first  
 19 statement do you mention the Raloxifene decision, do  
 20 you?  
 21 **MR. ARMITAGE:** I don't recall mentioning  
 22 the Raloxifene decision, no.  
 23 **MR. SPELLISCY:** Look at Tab 3 again, which  
 24 is where we were. At Paragraph 118 the judges in  
 25 the atomoxetine case quotes five paragraphs from the

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1 Raloxifene decision at the Federal court. Do you  
2 see that?

3 **MR. ARMITAGE:** I do, yes.

4 **MR. SPELLISCY:** In the same paragraph, I  
5 think on the next page, quotes from the Federal  
6 Court of Appeal decision in the dispute over  
7 Raloxifene, correct? You see he's got 14 and 15  
8 there?

9 **MR. ARMITAGE:** Yes.

10 **MR. SPELLISCY:** I want to look at those  
11 decisions. Let's turn to Tab 4 in your binder,  
12 which is Exhibit R-200 for the record. This is  
13 dated February 5, 2008. Again, if we turn to  
14 Paragraph 163 in this decision. It says, "The third  
15 criterion, however, is that of disclosure. It is  
16 clear that the '356 patent does not disclose the  
17 study described in the Hong Kong abstract. The  
18 patent does not disclose any more than Jordan did.  
19 The person skilled in the art was given, by way of  
20 disclosure, no more than such person already had.  
21 No hard coinage had been paid for the claimed  
22 monopoly. Thus, for lack of disclosure, there was  
23 no sound prediction."  
24 Are you with me?  
25 **MR. ARMITAGE:** Yes, I see you've read

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1 that, yes.

2 **MR. SPELLISCY:** Turn to Tab 5, which is  
3 Exhibit R-354, for the record. This is dated  
4 March 25, 2009, and it's the Federal Court of Appeal  
5 decision in Eli Lilly's appeal of the Raloxifene  
6 case, correct?

7 **MR. ARMITAGE:** Correct. Well --

8 **MS. CHEEK:** Mr. President, just to be  
9 clear, neither of these opinions are opinions that  
10 Mr. Armitage covered in his witness statement.

11 **MR. SPELLISCY:** I think that that's  
12 irrelevant because he's testified to the fact that  
13 he has supervisory charge of that.

14 **THE PRESIDENT:** Overruled. Please  
15 proceed.

16 **MR. ARMITAGE:** I'm sorry. Again, tab 5 is  
17 what?

18 **MR. SPELLISCY:** The decision of the  
19 Federal Court of Appeal dated March 25, 2009 in Eli  
20 Lilly's appeal of the decision we just looked at in  
21 the Federal court in the Raloxifene case, correct?

22 **MR. ARMITAGE:** I believe so, yes.

23 **MR. SPELLISCY:** Let's turn to Paragraph 15  
24 in this decision. The Federal Court of Appeal says,  
25 "In my respectful view, the Federal court judge

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1 proceeded on proper principle when he held, relying  
2 on AZT, that when a patent is based on a sound  
3 prediction, the disclosure must include the  
4 prediction. As the prediction was made sound by the  
5 Hong Kong study, this study had to be disclosed."  
6 Do you see that?

7 **MR. ARMITAGE:** Yes.

8 **MR. SPELLISCY:** Eli Lilly appealed to the  
9 Supreme Court of Canada, correct?

10 **MR. ARMITAGE:** I believe that's correct,  
11 yes.

12 **MR. SPELLISCY:** And the Supreme Court of  
13 Canada denied that leave to appeal. Is that right?

14 **MR. ARMITAGE:** That's probably tab 6?

15 **MR. SPELLISCY:** We can look at it if you  
16 want, if you don't recall, but yes, that is Tab 6.

17 **MR. ARMITAGE:** Yes, that's what's reported  
18 in Tab 6.

19 **MR. SPELLISCY:** My problem, then, is how I  
20 can understand your testimony, Mr. Armitage, because  
21 you have stated that the rule in the atomoxetine  
22 decision was wholly unexpected when that decision  
23 was rendered in 2010. But you testified that you  
24 were in charge of the Raloxifene case, so you were  
25 aware and had knowledge of a decision on the exact

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1 same grounds and reasoning even with respect to the  
2 Patent Cooperation Treaty on another one of Eli  
3 Lilly's patents that came out in 2008 and 2009. Is  
4 that right?

5 **MR. ARMITAGE:** I'm sorry. You're pointing  
6 me to some paragraph in my first expert report?

7 **MR. SPELLISCY:** Your first witness  
8 statement.

9 **MR. ARMITAGE:** First witness statement. I  
10 apologize for that again.

11 **MR. SPELLISCY:** We can go back to it  
12 again. The paragraph where you said -- we can look  
13 at several paragraphs here. Where you said in  
14 Paragraph 23 that you were wholly perplexed and in  
15 Paragraph 24 you say it was wholly unexpected. In  
16 Paragraph 25 you say this was a new requirement that  
17 never previously existed in Canadian law.

18 What I'm trying to understand is how you  
19 could have testified to that to the Tribunal when  
20 you were aware, in 2008, that a Federal court had  
21 ruled on exactly the same grounds and that they were  
22 affirmed by the Federal Court of Appeal and Eli  
23 Lilly's application for leave was denied.

24 **MR. ARMITAGE:** Okay. Let me try to  
25 explain that. As I understand the 2008 decisions on

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1 Raloxifene, they go to a heightened disclosure  
2 standard, and this is a disclosure standard that,  
3 again, I find entirely perplexing. The issue on  
4 utility is whether the compound is useful in fact.  
5 That's traditionally how utility is decided. The  
6 compound Raloxifene was no more or less useful  
7 whether or not there was a disclosure of a reference  
8 study that was otherwise public made in the patent  
9 application itself. So with respect to Raloxifene,  
10 it's very difficult to decide other than in an  
11 arbitrary manner why this would be a requirement for  
12 demonstrating utility.

13 In any event, with respect to atomoxetine,  
14 we would not have needed an enhanced disclosure of  
15 any kind because if we had conducted a clinical  
16 trial -- which we did in this case -- that we  
17 believe showed statistical significance, it should  
18 have been accepted without being disclosed in the  
19 Canadian patent application, actually not as a  
20 matter of sound prediction but as a matter of a  
21 demonstration that, in fact, Strattera had been  
22 shown to be effective to treat ADHD.

23 This decision was lost only because the  
24 trial court judge did as Canadian trial court judges  
25 can do, made the extraordinary -- in my view --

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1 statement that for proving utility whether a  
2 compound works or not, I'm allowed not only to look  
3 at the promise that it will work but the promise  
4 that it will work long term for patients. And since  
5 it was, in effect, a short-term clinical trial and  
6 there were other issues that I think are reported in  
7 here about defects in the clinical trial, we're  
8 going to put you in the box of sound prediction.  
9 And by putting you in the box of sound prediction,  
10 if you don't actually disclose the study, you get  
11 the result in the Raloxifene case that, again, for  
12 reasons I just explained in this answer, are  
13 perplexing if the only issue is is this compound  
14 useful or not. Compounds only need to be novel,  
15 useful and non-obvious. These are two patents for  
16 which the compounds are novel, useful and  
17 non-obvious but nonetheless could not meet the  
18 Canadian requirement that they be useful.

19 **MR. SPELLISCY:** Coming back to what you  
20 just said, so that I understand, your view here is  
21 that the Canadian court should have concluded on the  
22 facts before it that you had demonstrated utility  
23 based on this clinical study because as you said, it  
24 was actually not as a matter of prediction but as a  
25 matter of demonstration. You believe that the

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1 Canadian court got it wrong in that regard, correct?  
2 **MR. ARMITAGE:** No. Only in small part.  
3 The larger part of what I think was gotten wrong by  
4 Canadian law was the fact that Health Canada  
5 actually approved this compound as safe and  
6 effective for the treatment of ADHD and, therefore,  
7 there was no factual issue, no factual dispute -- no  
8 possible factual dispute that this compound was, in  
9 fact, useful. My problem again is this is simply  
10 unprecedented, at least in my experience, among  
11 patent laws in any jurisdiction.

12 **MR. SPELLISCY:** But you were aware by  
13 2010, based on the AZT decision, or your briefings  
14 of Canadian law that the Canadian courts were not  
15 going to look to evidence post filing of the  
16 application but were going to require that utility  
17 be established at the date of the application,  
18 correct? You were aware of that by 2010, right?

19 **MR. ARMITAGE:** Again, I had a general  
20 awareness of what was going on in Canada at that  
21 point. I'm not going to be able to testify here in  
22 exact detail of what I knew absolutely when and how  
23 I understood it when. What I have testified to  
24 already is my general understanding of where I  
25 believe Canada moved into an area that's utterly

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1 unprecedented.

2 **MR. SPELLISCY:** Give me one second.  
3 I thank you, Mr. Armitage, for your time  
4 this morning. I don't have any other questions.

5 **THE PRESIDENT:** Ms. Cheek, any directions  
6 for redirect?

7 **MS. CHEEK:** Mr. President, I have no  
8 questions for Mr. Armitage. Thank you.

9 QUESTIONS BY THE ARBITRAL TRIBUNAL

10 **SIR DANIEL BETHLEHAM:** Mr. Armitage, my  
11 name is Daniel Bethlehem. I have a number of  
12 questions. Forgive the questions, they may seem  
13 simplistic to you. I'm just trying to clarify  
14 things in my own mind from your evidence.

15 You indicated in your testimony that  
16 olanzapine was one of a compound in a genus that was  
17 protected in the '687 patent. Is that correct?

18 **MR. ARMITAGE:** I think that's largely  
19 correct. The way chemical patenting works is that  
20 all chemical compounds are characterized by  
21 individual chemical structures, and so what I  
22 understand Lilly did in the earlier patent was draw  
23 a structure that was more general in nature so that  
24 if you filled in the various blanks as to what that  
25 structure might have been, you could have arrived at

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1 olanzapine. So it was what's called a genus patent.  
2 The fact of the matter is that olanzapine could  
3 still be novel and patentable, which it was, novel  
4 and non-obvious even in Canada, for example, because  
5 it had the ability to frankly be clinically useful  
6 in ways other members of the genus were not.  
7 **SIR DANIEL BETHLEHAM:** I suppose what I'm  
8 trying to understand is that after the '687 patent  
9 was issued, my understanding from the testimony and  
10 from the documents to which we've been taken was  
11 that olanzapine was being marketed as a medicine  
12 known as Zyprexa. Is that correct?  
13 **MR. ARMITAGE:** Right. And so after  
14 olanzapine had been first synthesized, it was  
15 clinically developed and then ultimately put on the  
16 market I think somewhere in the mid to late 1990s.  
17 **SIR DANIEL BETHLEHAM:** So there was the  
18 original '687 patent, the genus patent, but then  
19 subsequently through development by Lilly,  
20 olanzapine was marketed as a medicine known as  
21 Zyprexa?  
22 **MR. ARMITAGE:** That's correct. After the  
23 Canadian patent had issued on the genus, olanzapine  
24 was actually made for the first time in a laboratory  
25 so it could be tested, and based on that testing,

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1 it simply seeking regulatory approval? What further  
2 development was required? My understanding was that  
3 the drug was already being marketed.  
4 **MR. ARMITAGE:** No, I don't think that's  
5 the case. So I think olanzapine was synthesized in  
6 rough-rough 1982, so it was a laboratory chemical.  
7 Then there were animal studies and then human  
8 studies and finally large-scale human studies. So I  
9 think by about 1997, or thereabouts, Lilly was able  
10 to file for regulatory approval. So the very first  
11 regulatory approval of olanzapine came maybe  
12 15 years after it was first synthesized and was, I  
13 believe, for the treatment of schizophrenia. So  
14 that olanzapine patent that we're talking about  
15 that's at issue here is the Canadian patent on the  
16 molecule and then protected that molecule from  
17 someone wishing to develop a copied version of the  
18 molecule such as a generic.  
19 **SIR DANIEL BETHLEHAM:** Thank you. I was  
20 obviously misunderstanding the chronology of it, but  
21 that's helpful to know.  
22 You testified about the economic value of  
23 patents in the context of the acquisition of patents  
24 by Lilly. Counsel for Canada took you to the  
25 Raloxifene decisions of 2008 and 2009. Insofar as

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1 was ultimately developed.  
2 **SIR DANIEL BETHLEHAM:** Right. The '113  
3 patent was for a different medicinal use. Is that  
4 an accurate understanding?  
5 **MR. ARMITAGE:** Meaning the Stratterra  
6 patent?  
7 **SIR DANIEL BETHLEHAM:** Perhaps I'm getting  
8 confused. You've indicated that --  
9 **MR. ARMITAGE:** The Zyprexa patent. I'm  
10 sorry.  
11 **SIR DANIEL BETHLEHAM:** Yes.  
12 **MR. ARMITAGE:** The Zyprexa patent  
13 essentially in every jurisdiction in the world  
14 included a claim that just said basically olanzapine  
15 itself. So it was actually a patent on the molecule  
16 olanzapine itself.  
17 **SIR DANIEL BETHLEHAM:** In your opening  
18 testimony, you indicated that olanzapine was to be  
19 developed for schizophrenia. Is that correct?  
20 **MR. ARMITAGE:** I think that was the first  
21 clinical use that was developed, yes.  
22 **SIR DANIEL BETHLEHAM:** What further  
23 development was required when it came to the  
24 subsequent patent application? Was this a  
25 development of a medical scientific character? Was

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1 you can respond to this question from your knowledge  
2 as senior vice-president of Lilly, would Lilly have  
3 been required to have made any regulatory or  
4 financial filings following the Raloxifene decision  
5 indicating a risk associated with its subsequent  
6 patents in Canada?  
7 **MR. ARMITAGE:** As patent laws develop and  
8 to the extent they're material, we actually do --  
9 and there's an entire due diligence process within  
10 Lilly in all other countries to look at material  
11 assets, patents being the most material in our  
12 industry, and attempting to do regulatory  
13 assessments of risk to the extent that they're  
14 material to the company. So we report not only  
15 individual litigation matters but material  
16 developments otherwise. So I'd have to go back and  
17 actually look at our regulatory filings to determine  
18 whether these would have been material to the  
19 company as a whole. Clearly they were material to  
20 our Canadian business and our Canadian affiliate.  
21 **SIR DANIEL BETHLEHAM:** Thank you very  
22 much.  
23 **THE PRESIDENT:** I have actually two  
24 questions of you, Mr. Armitage.  
25 First of all, the semantics. You used a

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1 number of times the word "synthesized." So you  
2 synthesized out of the generic patent this specific  
3 patent or selection patent, as I understand it to be  
4 called. What is the process of synthesizing in your  
5 business?  
6 **MR. ARMITAGE:** I apologize for that  
7 because --  
8 **THE PRESIDENT:** No, no. It's fine. We  
9 all have our own internal language.  
10 **MR. ARMITAGE:** It's a term of art chemists  
11 use. Basically they used to have chalkboards in  
12 their offices and they'd say I wonder if we can make  
13 a compound with this structure, I believe it could  
14 be a good medicinal compound. And they'll sit down  
15 and try to figure out a route to make it from  
16 simpler chemicals. So they'll take starting  
17 material chemicals, they'll run chemical reactions,  
18 and they'll be able to actually brew up this  
19 molecule that had never been made before.  
20 In this case in 1982, the world had never  
21 seen the molecule olanzapine until it was first  
22 synthesized, usually in small quantities. Then the  
23 synthesis is scaled up so you can do the testing and  
24 ultimately be able to formulate it as a medicine.  
25 **THE PRESIDENT:** Thank you. My second

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1 question concerns you had testified slightly earlier  
2 about Health Canada, that -- saying that the drug  
3 was safe. You remember that testimony?  
4 **MR. ARMITAGE:** Safe and effective, yes.  
5 **THE PRESIDENT:** Safe and effective. And  
6 then in almost the same sentence you said and  
7 therefore it was useful.  
8 **MR. ARMITAGE:** That's correct.  
9 **THE PRESIDENT:** So is it your testimony  
10 that once Health Canada has given this approval, if  
11 we may call it that way, safe and effective, that it  
12 is therefore also useful in the terms of Section 2  
13 of the Patent Act?  
14 **MR. ARMITAGE:** Right. And so you can look  
15 at a regulatory approval for a medicine as  
16 sufficient to demonstrate it's useful but not  
17 necessary to demonstrate it's useful, and so  
18 usefulness, particularly in the international way in  
19 which that term utility is used, generally refers to  
20 some practical real-world value. And largely for  
21 many medicines -- for olanzapine, for example, as  
22 soon as we did the initial pharmacology testing, we  
23 knew the compound was useful. It had useful  
24 pharmacological properties. We could typically go  
25 ahead and seek a patent on that basis.

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1 But once you know a drug is safe and  
2 effective in humans, it's hard to say that in a  
3 patent sense, the drug can't even be useful.  
4 **THE PRESIDENT:** Any followup questions?  
5 Ms. Cheek?  
6 **MS. CHEEK:** I have no followup questions,  
7 Mr. President.  
8 **THE PRESIDENT:** From matters arising from  
9 the questions of the Tribunal.  
10 **MR. SPELLISCY:** Nothing from Respondent.  
11 **THE PRESIDENT:** Thank you, Mr. Armitage,  
12 for testifying. You are now excused and released as  
13 a witness.  
14 We will have a recess until 10:30.  
15 *(Recess taken)*  
16 PETER GEORGE STRINGER  
17 **THE PRESIDENT:** Good morning,  
18 Mr. Stringer. Could you please state your full name  
19 for the record?  
20 **MR. STRINGER:** Peter George Stringer.  
21 **THE PRESIDENT:** Mr. Stringer, you appear  
22 as a fact witness for the Claimant?  
23 **MR. STRINGER:** Yes.  
24 **THE PRESIDENT:** If any question is  
25 unclear, either because of language or for any other

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1 reason, please do seek a clarification, because if  
2 you don't do so, the Tribunal assumes that you've  
3 understood the question and that your answer  
4 corresponds to the question.  
5 **MR. STRINGER:** Thanks for the warning!  
6 **THE PRESIDENT:** You will appreciate that  
7 testifying before a court or an arbitral tribunal is  
8 a very serious matter. In that connection the  
9 Tribunal expects you to make the declaration, the  
10 text of which is in front of you.  
11 **MR. STRINGER:** I solemnly declare upon my  
12 honor and conscience that I shall speak the truth,  
13 the whole truth, and nothing but the truth.  
14 **THE PRESIDENT:** Can you go to your witness  
15 statement which is dated September 25, 2014 and go  
16 to page 7? Could you confirm for the record that  
17 the signature appearing above your name is your  
18 signature?  
19 **MR. STRINGER:** Yes. I confirm.  
20 **THE PRESIDENT:** Is there any correction  
21 you wish to make to your witness statement?  
22 **MR. STRINGER:** No.  
23 **THE PRESIDENT:** Thank you.  
24 **MR. BERENGAUT:** Mr. President, we have no  
25 questions at this time.

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1           **THE PRESIDENT:** Then we move to  
2 cross-examination. Mr. Spelliscy, you are  
3 conducting the cross-examination. Please proceed.  
4           **CROSS-EXAMINATION ON BEHALF OF THE RESPONDENT**  
5           **MR. SPELLISCY:** Good morning,  
6 Mr. Stringer. My name is Shane Spelliscy, and I'm  
7 counsel for Canada in these proceedings. I am going  
8 to ask you a few questions so that I can understand  
9 the witness statement you've submitted on behalf of  
10 the Claimant.  
11           I'll reiterate what the Chair said, that  
12 if you don't understand a question, please ask me to  
13 rephrase it. I do want to make sure we understand  
14 each other --  
15           **MR. STRINGER:** I would just say I've been  
16 battling an ear infection, and if this case wasn't  
17 so important I would have headed back home before  
18 now.  
19           **MR. SPELLISCY:** I'm sorry to hear that.  
20           **MR. STRINGER:** So if I ask you to repeat,  
21 I apologize in advance.  
22           **MR. SPELLISCY:** Absolutely no apology  
23 necessary. I will try to speak as loudly as I can.  
24           **THE PRESIDENT:** Mr. Stringer, if at any  
25 moment you would like to stop, please tell us and we

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1 will stop the proceedings.  
2           **MR. STRINGER:** Thank you.  
3           **MR. SPELLISCY:** Thank you. Now,  
4 Mr. Stringer, in your witness statement you briefly  
5 describe your experience and role during your career  
6 at Eli Lilly, and I would like to understand a  
7 little bit more about that. So you became a  
8 chartered patent attorney in England in 1974.  
9 Correct?  
10           **MR. STRINGER:** That is correct.  
11           **MR. SPELLISCY:** And you joined Eli Lilly  
12 in 1974 and, shortly thereafter, became the patents  
13 manager at the patent group at the Erl Wood research  
14 facility, correct?  
15           **MR. STRINGER:** That's correct.  
16           **MR. SPELLISCY:** Then in 1979 you  
17 transferred to the United States and served as a  
18 foreign patent advisor until the early 1990s.  
19 Correct?  
20           **MR. STRINGER:** That's correct.  
21           **MR. SPELLISCY:** To clarify, for the record  
22 when you say "foreign," here you mean on patent laws  
23 outside of the United States?  
24           **MR. STRINGER:** Correct.  
25           **MR. SPELLISCY:** Then you became the

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1 director of International Patents in the early  
2 1990s, and the executive director of International  
3 Patents in 1999, correct?  
4           **MR. STRINGER:** That's correct.  
5           **MR. SPELLISCY:** And again, even though a  
6 different word was used, "international" means with  
7 respect to patents outside of the United States,  
8 right?  
9           **MR. STRINGER:** That's correct.  
10           **MR. SPELLISCY:** You remained in that  
11 position until 2006 when you retired from Eli Lilly,  
12 correct?  
13           **MR. STRINGER:** Correct.  
14           **MR. SPELLISCY:** You disclosed that you  
15 still do work for Eli Lilly on a contract basis at  
16 least until your witness statement was filed. Do  
17 you still work for Eli Lilly on a contract basis  
18 until today?  
19           **MR. STRINGER:** Yes.  
20           **MR. SPELLISCY:** And you continue to advise  
21 Eli Lilly on international patent issues, correct?  
22           **MR. STRINGER:** I don't have the same role  
23 as I used to have. I work on specific cases. I  
24 don't generally advise anymore.  
25           **MR. SPELLISCY:** But you advise Lilly on

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1 specific cases on their international patent filing  
2 practices?  
3           **MR. STRINGER:** Sort of, yes.  
4           **MR. SPELLISCY:** Perhaps you could describe  
5 your role now.  
6           **MR. STRINGER:** Well, I work on specific  
7 cases that, you know, if they have a case that they  
8 want me to consider, I work on it, but I don't have  
9 the same role. That's what I was trying to say. I  
10 don't have the same role as I did.  
11           **MR. SPELLISCY:** I certainly understand  
12 that. When you say "cases," I just want to be  
13 clear. Do you mean litigations or do you mean  
14 patents?  
15           **MR. STRINGER:** Litigation.  
16           **MR. SPELLISCY:** Litigation, okay.  
17           Now, according to Paragraph 5 of your  
18 witness statement, you were the chair of Eli Lilly's  
19 Foreign Patent Committee from the late 1980s to the  
20 late 1990s. Is that correct?  
21           **MR. STRINGER:** Yes.  
22           **MR. SPELLISCY:** I think in that paragraph  
23 the patent committee had in your words the sole  
24 authority to decide whether to make a patent filing  
25 in a jurisdiction outside of the jurisdiction where

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1 the initial patent was filed. Is that right?  
2 **MR. STRINGER:** Yes.  
3 **MR. SPELLISCY:** So throughout your career,  
4 then, you have been advising Eli Lilly on the  
5 filings of patents in Canada, correct?  
6 **MR. STRINGER:** Until 1999.  
7 **MR. SPELLISCY:** And after 1999, you  
8 remained the executive director of international  
9 patents, or you were there until 1999, correct? It  
10 says you remained in that position until 2006,  
11 doesn't it?  
12 **MR. STRINGER:** Yes, but the Foreign Patent  
13 Committee ceased to exist as such in 1999, so in the  
14 period from 1999 to 2006, I did not -- I no longer  
15 had direct responsibility for the filing of foreign  
16 patent applications. That's what I was trying to  
17 say.  
18 **MR. SPELLISCY:** I see. But you were still  
19 the executive director of International Patents,  
20 right?  
21 **MR. STRINGER:** Yes.  
22 **MR. SPELLISCY:** And so you were, even  
23 though outside of the Foreign Patent Committee, you  
24 were advising Lilly on the filing of patents  
25 internationally?

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1 **MR. STRINGER:** I think my role had changed  
2 somewhat. I think I was -- you know, I may have  
3 been consulted, but in terms of the Foreign Patent  
4 Committee, there was no longer a Foreign Patent  
5 Committee. So I'm struggling with your question.  
6 I'm sorry. Could you tell me what you want me to  
7 say?  
8 **MR. SPELLISCY:** I'm just trying to  
9 understand what your role was at Eli Lilly after  
10 1999 when you were promoted to be executive director  
11 of International Patents. I had understood that you  
12 continued to advise in that period Eli Lilly on the  
13 filing of patents around the world. Is that not  
14 correct?  
15 **MR. STRINGER:** It's correct to some extent  
16 but not to the same extent as when I was chair of  
17 the Foreign Patent Committee. I spent a lot more  
18 time on litigation, foreign patent litigation, after  
19 1999. My major focus was specific targets in the  
20 international area. We had a very serious challenge  
21 in connection with one of our products, and I was  
22 very heavily involved in that patent litigation.  
23 **MR. SPELLISCY:** When did that start?  
24 **MR. STRINGER:** Started about 1999.  
25 **MR. SPELLISCY:** Was that challenge in

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1 Canada?  
2 **MR. STRINGER:** It was a challenge in  
3 Canada, actually, but we didn't -- we settled.  
4 **MR. SPELLISCY:** Turn to Paragraph 27 of  
5 your witness statement, Mr. Stringer, because I want  
6 to understand something before we proceed on too  
7 many questions.  
8 You say, "A routine part of my job at  
9 Lilly (and part of my role on the Foreign Patent  
10 Committee) was to advise research and development  
11 groups, and senior management, as to the prospects  
12 of obtaining valid international patent protection.  
13 I was familiar with patent laws around the world,  
14 including Canada." Then you go on to say "In the  
15 1990s and early 2000s, I do not remember any  
16 concerns vis-à-vis Canada's patent utility  
17 requirements."  
18 I guess I'm just trying to put some time  
19 around that. So when you say the early 2000s, you  
20 were just testifying that you were no longer  
21 advising Lilly primarily on obtaining international  
22 patents in the early 2000s. Or am I  
23 misunderstanding?  
24 **MR. STRINGER:** What I was trying to  
25 emphasize is that in terms of the actual filing

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1 decision, I didn't have the same role after 1999.  
2 But yes, I mean, I was the person at Lilly who was  
3 consulted on international patent matters.  
4 **MR. SPELLISCY:** So you were the person,  
5 then, at Lilly whose job it was up until 2006 to  
6 advise research and development groups and senior  
7 management as to the prospects of obtaining valid  
8 international patent protection outside of the U.S.  
9 That was your role in the 2006?  
10 **MR. STRINGER:** I wouldn't say I was "the"  
11 person, but it certainly was part of my  
12 responsibilities, yes.  
13 **MR. SPELLISCY:** I want to come back to the  
14 Foreign Patent Committee for a second. If you look  
15 at Paragraph 5 of your witness statement, you say  
16 that it was made up of heads of the various  
17 scientific research groups and senior patent  
18 personnel in the second sentence there. Do you see  
19 that?  
20 **MR. STRINGER:** Yes.  
21 **MR. SPELLISCY:** The Foreign Patent  
22 Committee did not include any patent lawyers from  
23 Canada, correct?  
24 **MR. STRINGER:** No.  
25 **MR. SPELLISCY:** And no Canadian patent

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1 agents, correct?  
2 **MR. STRINGER:** That's correct.  
3 **MR. SPELLISCY:** In Paragraph 10 of your  
4 witness statement you write "As the Chair of the  
5 Committee, it was ultimately my decision how widely  
6 to file patent applications," in the first sentence.  
7 Do you see that?  
8 **MR. STRINGER:** Yes.  
9 **MR. SPELLISCY:** You never went to a  
10 Canadian law school, correct?  
11 **MR. STRINGER:** That's correct.  
12 **MR. SPELLISCY:** You are not and have never  
13 been admitted to Canadian practice as lawyer in  
14 Canada, right?  
15 **MR. STRINGER:** That's correct.  
16 **MR. SPELLISCY:** You are not and have never  
17 been a Canadian patent attorney?  
18 **MR. STRINGER:** Correct.  
19 **MR. SPELLISCY:** We just went to paragraph  
20 27 of your witness statement and we saw you said  
21 that "I was familiar with patent laws around the  
22 world including Canada", so I take it, then, that  
23 you were familiar with Canadian law because you  
24 would receive briefings and advice from qualified  
25 Canadian lawyers, correct?

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1 **MR. STRINGER:** That's correct.  
2 **MR. SPELLISCY:** I want to turn to Tab  
3 No. 1 in front of you in the book -- sorry, in the  
4 binder. I think the legal profession keeps the  
5 binder industry in business. Turn to Tab No. 1  
6 there. This is Exhibit R-011, for the record.  
7 **MR. STRINGER:** Okay.  
8 **MR. SPELLISCY:** It's a decision of the  
9 Supreme Court of Canada in the case called  
10 Consolboard v MacMillan Bloedel issued in 1981. Do  
11 you see that?  
12 **MR. STRINGER:** Yes.  
13 **MR. SPELLISCY:** This decision was released  
14 when you were a foreign patent agent for Eli Lilly  
15 in the United States, correct?  
16 **MR. STRINGER:** Foreign patent advisor.  
17 **MR. SPELLISCY:** Yes. Sorry. The other  
18 "A".  
19 **MR. STRINGER:** 1981, yes, I see it was.  
20 **MR. SPELLISCY:** Do you recall being  
21 briefed on this decision?  
22 **MR. STRINGER:** I don't think I ever have  
23 been briefed on this, no.  
24 **MR. SPELLISCY:** You don't recall being  
25 briefed on the decision when you were the chair of

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1 the Foreign Patent Committee from the 1980s to the  
2 1990s?  
3 **MR. STRINGER:** I don't think -- I've heard  
4 of this case, but I don't think that -- you know, I  
5 don't remember, is the simple answer.  
6 **MR. SPELLISCY:** So you don't remember if  
7 you considered this case when, as the chair of the  
8 Foreign Patent Committee, you made the ultimate  
9 decision to file for a Canadian patent for  
10 olanzapine in 1991?  
11 **MR. STRINGER:** I just don't remember, no.  
12 **MR. SPELLISCY:** Just for the record, you  
13 don't recall that you were aware of this case when  
14 you made the ultimate decision to file for the  
15 Canadian patent for atomoxetine on July 12, 1995.  
16 Is that right?  
17 **MR. STRINGER:** I just don't remember.  
18 What's troubling me is I do remember the case but,  
19 you know, I can't answer your specific questions.  
20 **MR. SPELLISCY:** But you don't recall if  
21 you remember the case from before or after you filed  
22 the patents for olanzapine and atomoxetine. Is that  
23 right?  
24 **MR. STRINGER:** I don't recall.  
25 **MR. SPELLISCY:** Can you turn to Tab 3 of

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1 your binder now, which is, for the record, R-401.  
2 This is a decision of the Federal Court of Appeal in  
3 a case called Apotex v Wellcome Foundation, which  
4 was issued February 1, 1995. Are you there with me?  
5 **MR. STRINGER:** I'm sorry, I'm looking at  
6 the wrong one. Excuse me.  
7 **MR. SPELLISCY:** Tab 3.  
8 **MR. STRINGER:** Tab 3. Could you repeat  
9 that, please?  
10 **MR. SPELLISCY:** It's a case titled Apotex  
11 Inc. v Wellcome Foundation Ltd. et al. You can see  
12 it's issued February 1, 1995 in the italics right  
13 above the first bold paragraph there.  
14 **MR. STRINGER:** I see, yes. Sorry.  
15 **MR. SPELLISCY:** That's okay.  
16 So do you recall being briefed on this  
17 decision while you were the chair of the Foreign  
18 Patent Committee?  
19 **MR. STRINGER:** This 1995 decision?  
20 **MR. SPELLISCY:** Yes.  
21 **MR. STRINGER:** No.  
22 **MR. SPELLISCY:** Have you seen this  
23 decision before?  
24 **MR. STRINGER:** No.  
25 **MR. SPELLISCY:** You'll see it is dated

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1 February 1, 1995. In your witness statement I  
2 believe you attached the Foreign Patent Committee  
3 minutes as Appendix 2 to your witness statement,  
4 which was where the decision was made by the Foreign  
5 Patent Committee to file for the Strattera patent.  
6 It's also Exhibit C-89, but it is Appendix 2 to the  
7 witness statement. These are dated July 12, 1995,  
8 correct?  
9 **MR. STRINGER:** Yes. I'm sorry, yes.  
10 **MR. SPELLISCY:** So this Federal Court of  
11 Appeal decision was issued February 1, 1995, six  
12 months, five months before Eli Lilly applied for its  
13 patent that we just looked at, and you don't recall  
14 ever being briefed on this decision?  
15 **MR. STRINGER:** On this decision, no.  
16 **MR. SPELLISCY:** You say in Paragraph 8 of  
17 your witness statement, the first sentence, "Part of  
18 my responsibilities as chair of the Foreign Patent  
19 Committee was to monitor changes in patent law in  
20 the many national jurisdictions in which Lilly  
21 operated." Do you see that?  
22 **MR. STRINGER:** Yes.  
23 **MR. SPELLISCY:** So I understand, then,  
24 that if there were significant and dramatic changes  
25 in the way Canada -- in the law in Canada, it would

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1 have been your responsibility to understand those  
2 changes and to brief senior Eli Lilly management on  
3 them, correct?  
4 **MR. STRINGER:** Yes. I mean, the  
5 expectation would be that our local patent attorney  
6 would advise us as to an important change in the  
7 law.  
8 **MR. SPELLISCY:** Right. Then you, in turn,  
9 would advise, as you said in Paragraph 27 of your  
10 witness statement, you would advise the research and  
11 development groups and senior management on those  
12 changes, correct?  
13 **MR. STRINGER:** Yes.  
14 **MR. SPELLISCY:** Let's turn to Tab No. 5 in  
15 your binder, which is R-004 for the record. It is  
16 the decision of the Supreme Court in 2002 in Apotex  
17 v Wellcome, another Apotex v Wellcome case. This  
18 one is commonly known as the AZT decision. Are you  
19 familiar with this decision?  
20 **MR. STRINGER:** Yes.  
21 **MR. SPELLISCY:** You were the executive  
22 director at International Patents at Lilly at the  
23 time, correct?  
24 **MR. STRINGER:** Correct.  
25 **MR. SPELLISCY:** In your witness statement

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1 you don't mention this decision, correct?  
2 **MR. STRINGER:** I don't think so.  
3 **MR. SPELLISCY:** I'd like to turn to what's  
4 Tab No. 11 in your binder, which is a demonstrative  
5 that we have prepared which lists in chronological  
6 order all of the exhibits that Eli Lilly has  
7 submitted in this arbitration. I'd like to go to  
8 the bottom of page 14 here. In the very last line  
9 you'll see a reference to the December 5, 2002  
10 Apotex v Wellcome decision we were just looking at.  
11 It was exhibited by the Claimant at C-213. It's the  
12 same exhibit we looked at, just a different exhibit  
13 number.  
14 I want you to look at the next page,  
15 page 15. You would agree with me, looking at this  
16 list, that there is no evidence in the record of you  
17 being briefed by Canadian counsel on this decision,  
18 correct?  
19 **MR. BERENGAUT:** Objection.  
20 **THE PRESIDENT:** Sustained.  
21 **MR. SPELLISCY:** I think that the witness  
22 has testified that he would be briefed by the  
23 decisions, and that he would be briefed and his  
24 responsibility would be to brief senior management.  
25 So what I'm trying to understand is where the

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1 briefings are in that record.  
2 **THE PRESIDENT:** You have already covered  
3 that area sufficiently, but he is not familiar with  
4 reviewing this index.  
5 **MR. SPELLISCY:** Do you recall,  
6 Mr. Stringer, briefing on this issue, on this  
7 decision, to senior management?  
8 **MR. STRINGER:** Do I recall -- excuse me.  
9 Do I recall briefing senior management?  
10 **MR. SPELLISCY:** Yes.  
11 **MR. STRINGER:** No.  
12 **MR. SPELLISCY:** You were the executive  
13 director still until 2006. In 2005 the Claimant has  
14 alleged there was a change, another dramatic change,  
15 in Canadian patent law. Do you recall providing any  
16 briefings to Eli Lilly senior management in 2005 as  
17 your role of executive director of International  
18 Patents on those changes?  
19 **MR. STRINGER:** No.  
20 **MR. SPELLISCY:** Let's move on. I want to  
21 turn to the process of Eli Lilly's Foreign Patent  
22 Committee itself and understand that a little bit  
23 more.  
24 **MR. STRINGER:** Are you finished with this?  
25 **MR. SPELLISCY:** Not wholly, but for now.

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1 You have annexed the Committee decisions  
2 on atomoxetine and olanzapine to your statement, but  
3 I also think that you explain in Paragraph 10 that  
4 the minutes reflect really the decisions of the  
5 Foreign Patent Committee, not the entirety of the  
6 deliberations, correct?  
7 **MR. STRINGER:** I'm sorry, could you repeat  
8 that, please?  
9 **MR. SPELLISCY:** I'm referencing the  
10 appendices that you attached to your witness  
11 statement, which are you say the minutes of the  
12 Foreign Patent Committee meetings that approved the  
13 foreign patent filings for atomoxetine and  
14 olanzapine.  
15 In Paragraph 10 in the last sentence of  
16 your witness statement, you said, "The minutes of  
17 our meetings tended to be short, simply recording  
18 the outcome of our deliberations." Do you see that?  
19 **MR. STRINGER:** Yes.  
20 **MR. SPELLISCY:** So these minutes simply  
21 record the outcome; they don't reflect the entirety  
22 of the deliberations, correct?  
23 **MR. STRINGER:** That's correct.  
24 **MR. SPELLISCY:** The Foreign Patent  
25 Committee did not draft the patents itself, right?

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1 **MR. STRINGER:** No.  
2 **MR. SPELLISCY:** So as I understand it from  
3 the first sentence in Paragraph 6 of your witness  
4 statement, it was only after initial patent  
5 application was filed that the patent would come to  
6 the Foreign Patent Committee, correct?  
7 **MR. STRINGER:** That's correct.  
8 **MR. SPELLISCY:** In that same paragraph you  
9 say in the second sentence that "Lilly drafted  
10 patent applications with the goal of utilizing a  
11 single patent description (sometimes referred to as  
12 the disclosure) for use worldwide." Do you see  
13 that?  
14 **MR. STRINGER:** Whereabouts is that?  
15 Sorry. Hang on, I'm sorry. Yes.  
16 **MR. SPELLISCY:** The second sentence. Do  
17 you see that?  
18 **MR. STRINGER:** Yes.  
19 **MR. SPELLISCY:** To confirm, my  
20 understanding is Eli Lilly took that approach  
21 because it was looking for the most efficient way to  
22 file its applications worldwide. Isn't that right?  
23 **MR. STRINGER:** Yes.  
24 **MR. SPELLISCY:** As we have just noted,  
25 though, the Foreign Patent Committee did not even

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1 see the patents until the original patent  
2 application had been filed. You testified earlier  
3 that the Foreign Patent Committee -- and you say it  
4 in your statement -- was the sole determiner of  
5 whether and where to file patents, foreign patents.  
6 So it's correct, is it not, that when the initial  
7 patent application was filed in one jurisdiction,  
8 the persons filing that application would have had  
9 no idea in which other jurisdiction the patents  
10 might be filed, right?  
11 **MR. STRINGER:** That's probably true, yes.  
12 **MR. SPELLISCY:** In Paragraph 8 of your  
13 witness statement, the second sentence, you say, "If  
14 there were any country-specific concerns about  
15 patentability or enforceability... it would be up to  
16 me to make a decision about how to address it." Do  
17 you see that?  
18 **MR. STRINGER:** Yes.  
19 **MR. SPELLISCY:** But obviously you couldn't  
20 do that in the initial patent application because  
21 you wouldn't even see it until after that point,  
22 right?  
23 **MR. STRINGER:** What I'm really talking  
24 about there are issues with allowability of types of  
25 inventions. So you know in the early '90s there was

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1 wide spread discrimination against pharmaceutical  
2 patents. In some countries you could not obtain,  
3 for example, use patents. In some countries you  
4 couldn't get a patent to the compound per se; you  
5 could only protect the processes. So that's -- you  
6 have to read Paragraph 8 in the context of  
7 Paragraph 9. That's what I was really referring to.  
8 **MR. SPELLISCY:** So you weren't making  
9 efforts to address country-specific concerns about  
10 validity. It was about allowability of patents. Is  
11 that --  
12 **MR. STRINGER:** It's more allowability.  
13 Yes, I would say that comment there is directed to  
14 allowability rather than...  
15 **MR. SPELLISCY:** And you say that in the  
16 last sentence of Paragraph 8, "Depending on the  
17 circumstances, I would sometimes decide not to file  
18 in a particular foreign jurisdiction if the patent  
19 protection was not adequate." And I think this gets  
20 to your next sentence where you're talking about, I  
21 guess, the inverse in Czechoslovakia. But if the  
22 patent protection was not adequate sometimes you  
23 would decide not to file in that jurisdiction.  
24 **MR. STRINGER:** That's correct. For  
25 example, in those days in the iron curtain

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1 countries, they would give you only a very short  
2 patent term, 15 years from filing, and the patents  
3 would be limited to processes. So we would not file  
4 there. So that's really what I'm talking about  
5 here, allowability of the types of invention.  
6 **MR. SPELLISCY:** And, to your knowledge,  
7 Eli Lilly filed patents for pharmaceutical products  
8 in Canada all the way up through when you retired in  
9 2006, correct?  
10 **MR. STRINGER:** Yes. Canada was regarded  
11 as a very important country.  
12 **MR. SPELLISCY:** One last set of questions  
13 here, and we may avoid going back to the binder at  
14 all.  
15 You state in Paragraph 6 of your witness  
16 statement in the last sentence on the page, I guess  
17 about four lines from the bottom, that it was only  
18 in the "later years" that Eli Lilly began using the  
19 PCT to file patent applications.  
20 **MR. STRINGER:** That's correct.  
21 **MR. SPELLISCY:** So when you say "later  
22 years," do you mean the late 1990s?  
23 **MR. STRINGER:** Yes. What happened was  
24 that in the early days of the PCT, Lilly didn't file  
25 through the PCT. We carried on -- we were concerned

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1 about lack of flexibility. But by 1995, I think we  
2 were much more comfortable with the process so we  
3 began to use PCT.  
4 **MR. SPELLISCY:** That was -- you were  
5 concerned about the lack of flexibility in the PCT  
6 process?  
7 **MR. STRINGER:** Yes. And I should say that  
8 around about this time we got someone in, a very  
9 distinguished person, from Upjohn who was very  
10 familiar with PCT and he satisfied me, at least,  
11 that the fear we had was really not well-founded.  
12 And so -- and about that time TRIPS came into  
13 operation, and that allowed you to use one set of  
14 claims because it mandated that countries would  
15 allow compound protection for pharmaceuticals.  
16 So it all came together about 1995-ish,  
17 and that's when we began to use PCT.  
18 **MR. SPELLISCY:** So, prior to about  
19 1995-ish, you personally, before this other person  
20 convinced you otherwise, weren't convinced that the  
21 PCT offered significant advantages that would make  
22 Lilly want to use it for filing, correct?  
23 **MR. STRINGER:** Well, the concern that I  
24 had, and I'm not sure it's well-founded, was that  
25 there were some time limits that had to be met. And

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1 if -- you know, if the time limit was missed, the  
2 whole bundle of patents would go. So you know, if  
3 you let the whole bundle of patents on a commercial  
4 compound go, it wouldn't make you very popular in  
5 the company. So that was my concern really.  
6 **MR. SPELLISCY:** Give me one second,  
7 Mr. Stringer.  
8 I have no further questions at this moment  
9 for Mr. Stringer.  
10 **THE PRESIDENT:** Thank you, Mr. Spelliscy.  
11 Mr. Berengaut, any questions on redirect?  
12 **MR. BERENGAUT:** No redirect.  
13 **THE PRESIDENT:** The Tribunal has no  
14 questions either. Mr. Stringer, thank you for  
15 testifying. You are now released as a witness.  
16 **ROBERT M. POSTLETHWAIT.**  
17 **THE PRESIDENT:** Good morning,  
18 Mr. Postlethwait.  
19 **MR. POSTLETHWAIT:** Good morning.  
20 **THE PRESIDENT:** Could you please state  
21 your full name for the record?  
22 **MR. POSTLETHWAIT:** Robert M. Postlethwait.  
23 **THE PRESIDENT:** Mr. Postlethwait, you  
24 appear as a fact witness for the Claimant. If any  
25 question is unclear to you, either because of

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1 language or for any other reason, please do seek a  
2 clarification because, if you don't do so, the  
3 Tribunal will assume that you have understood the  
4 question and that your answer corresponds to the  
5 question.  
6 Mr. Postlethwait, you will appreciate that  
7 testifying, be it before a court or an arbitral  
8 tribunal, is a very serious matter. In that respect  
9 the Tribunal expects you to make the declaration,  
10 the text of which is in front of you.  
11 **MR. POSTLETHWAIT:** I solemnly declare upon  
12 my honor and conscience that I shall speak the  
13 truth, the whole truth, and nothing but the truth.  
14 **THE PRESIDENT:** Thank you,  
15 Mr. Postlethwait. Could you please go to your  
16 witness statement, page 7. It's dated September 25,  
17 2014. Could you confirm for the record that the  
18 signature appearing above your name is your  
19 signature?  
20 **MR. POSTLETHWAIT:** Yes, it is.  
21 **THE PRESIDENT:** Is there any correction  
22 you wish to make to your witness statement?  
23 **MR. POSTLETHWAIT:** No.  
24 **THE PRESIDENT:** Thank you. Mr. Berengaut?  
25 **MR. BERENGAUT:** No questions at this time,

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1 thank you.

2 **THE PRESIDENT:** Then we will proceed with  
3 the cross-examination.

4 **CROSS-EXAMINATION ON BEHALF OF THE RESPONDENT**

5 **MS. ZEMAN:** Good morning,  
6 Mr. Postlethwait. My name is Krista Zeman and I am  
7 counsel for Canada in this arbitration. A few  
8 questions for you this morning just to make sure  
9 that I understand a few aspects of your testimony.  
10 It is very important that we understand each other,  
11 so if there's any question that I have that you  
12 don't understand, by all means let me know and I  
13 will do my best to repeat it.

14 **MR. POSTLETHWAIT:** Okay.

15 **MS. ZEMAN:** I'd like to start by talking a  
16 bit about your background with Lilly. You started  
17 with the company in 1970. Is that right?

18 **MR. POSTLETHWAIT:** Yes.

19 **MS. ZEMAN:** As a staff engineer?

20 **MR. POSTLETHWAIT:** Yes.

21 **MS. ZEMAN:** Then you moved to Brazil in  
22 1974?

23 **MR. POSTLETHWAIT:** Yes.

24 **MS. ZEMAN:** And you held various positions  
25 there?

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11:10

1 **MR. POSTLETHWAIT:** Yes.

2 **MS. ZEMAN:** Then you spent a bit of time  
3 in Indianapolis and in Italy?

4 **MR. POSTLETHWAIT:** Yes.

5 **MS. ZEMAN:** In 1983 you were promoted to  
6 general manager of the Lilly affiliate in Argentina?

7 **MR. POSTLETHWAIT:** Yes.

8 **MS. ZEMAN:** There you were responsible for  
9 all of Lilly's Argentina-based operations?

10 **MR. POSTLETHWAIT:** Yes.

11 **MS. ZEMAN:** And you spent a substantial  
12 portion of your time dealing with issues raised by  
13 weak or uncertain patent protections in Argentina.  
14 Is that right?

15 **MR. POSTLETHWAIT:** Could you -- the first  
16 part of your question. What was the first part of  
17 your question?

18 **MS. ZEMAN:** Yes. You spent a substantial  
19 portion of your time dealing with issues raised by  
20 weak or uncertain patent protection?

21 **MR. POSTLETHWAIT:** I'm not sure that  
22 "substantial portion of my time" is applicable. I  
23 did spend time on patents, but a substantial portion  
24 of my time, I don't...

25 **MS. ZEMAN:** I was referring to

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1 Paragraph 21 of your statement where in the  
2 penultimate sentence there you say, "When I was the  
3 general manager of Lilly's affiliates in Argentina  
4 and Brazil, for example, I spent a substantial  
5 portion of my time dealing with issues raised by  
6 those countries' patent systems."

7 **MR. POSTLETHWAIT:** Okay. Yes. That's  
8 correct. But there was balance -- I was running the  
9 affiliate and so there was time, and important time,  
10 spent on patents, intellectual property.

11 **MS. ZEMAN:** And Lilly closed its Argentina  
12 affiliate in 1985. Is that right?

13 **MR. POSTLETHWAIT:** Yes.

14 **MS. ZEMAN:** And inadequate patent  
15 protection there was an important part of the  
16 decision to close?

17 **MR. POSTLETHWAIT:** Yes, it was an  
18 important part over there.

19 **MS. ZEMAN:** After the Argentina affiliate  
20 was closed, you moved back to Brazil to take the  
21 general manager and president position there?

22 **MR. POSTLETHWAIT:** Yes.

23 **MS. ZEMAN:** And you again spent some of  
24 your time dealing with issues raised by Brazil's  
25 patent system?

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1 **MR. POSTLETHWAIT:** Yes.

2 **MS. ZEMAN:** And then you returned to  
3 Indianapolis in 1988?

4 **MR. POSTLETHWAIT:** Yes.

5 **MS. ZEMAN:** And in 1994, you became  
6 president of the Neuroscience Product Group. Is  
7 that right?

8 **MR. POSTLETHWAIT:** That's correct.

9 **MS. ZEMAN:** You held that position until  
10 you retired in 1999?

11 **MR. POSTLETHWAIT:** Yes.

12 **MS. ZEMAN:** I'd like to make sure that I  
13 understand the scope of your responsibilities as  
14 president of the Neuroscience Product Group. In  
15 that role you were responsible for planning and  
16 oversight of all of Lilly's neuroscience products?

17 **MR. POSTLETHWAIT:** That is correct.

18 **MS. ZEMAN:** Including Zyprexa?

19 **MR. POSTLETHWAIT:** Including Zyprexa.

20 **MS. ZEMAN:** And part of that planning and  
21 oversight included product launch?

22 **MR. POSTLETHWAIT:** Yes.

23 **MS. ZEMAN:** And marketing and sales?

24 **MR. POSTLETHWAIT:** Yes. Planning for  
25 marketing and sales, yes.

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1 **MS. ZEMAN:** And as part of your plan for  
2 launch and marketing and sales, an important part of  
3 that plan was to ensure that your products were  
4 appropriately protected by patents. Is that right?  
5 **MR. POSTLETHWAIT:** That is correct.  
6 **MS. ZEMAN:** And strong patent protection  
7 was an important part of deciding where to launch  
8 your products. Is that right?  
9 **MR. POSTLETHWAIT:** Yes.  
10 **MS. ZEMAN:** And you were particularly  
11 attuned to patent issues because of your previous  
12 experiences in Argentina and Brazil?  
13 **MR. POSTLETHWAIT:** I was sensitive to  
14 those issues, yes.  
15 **MS. ZEMAN:** As the person with ultimate  
16 oversight of the product launch, you were familiar  
17 with the patent law systems of all the countries  
18 where you would launch?  
19 **MR. POSTLETHWAIT:** I was familiar with  
20 them, yes. Not being a patent lawyer, of course, I  
21 was not in-depth aware of those.  
22 **MS. ZEMAN:** You had some general  
23 familiarity?  
24 **MR. POSTLETHWAIT:** Familiarity, yes.  
25 **MS. ZEMAN:** Including in Canada?  
  
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1 **MR. POSTLETHWAIT:** Including in Canada.  
2 **MS. ZEMAN:** And you worked closely with  
3 Lilly's legal team for this aspect of the product  
4 launch. Is that right?  
5 **MR. POSTLETHWAIT:** Yes.  
6 **MS. ZEMAN:** And you expected them to  
7 monitor changes in the patent systems of launch  
8 countries?  
9 **MR. POSTLETHWAIT:** Yes.  
10 **MS. ZEMAN:** Including in Canada?  
11 **MR. POSTLETHWAIT:** Yes.  
12 **MS. ZEMAN:** And you expected them to keep  
13 informed about decisions of the Supreme Court of  
14 Canada related to patents?  
15 **MR. POSTLETHWAIT:** That's a bit specific.  
16 I did presume that they would be totally informed  
17 and very competent in this space and be attuned to  
18 any material changes, yes.  
19 **MS. ZEMAN:** And you expected your legal  
20 team to raise with you any issues they identified  
21 that might affect the products in your portfolio?  
22 **MR. POSTLETHWAIT:** Yes.  
23 **MS. ZEMAN:** For example, if Canada or  
24 another launch country changed its patent framework  
25 in a way that made it more difficult to protect your  
  
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11:14

1 products, you expected to be informed about that?  
2 **MR. POSTLETHWAIT:** Yes, I would have  
3 expected that.  
4 **MS. ZEMAN:** And if Canada or another  
5 launch country fundamentally changed its approach to  
6 a major patentability criterion, you expected to be  
7 informed about that?  
8 **MR. POSTLETHWAIT:** Your question is  
9 regarding subsequent to filing of the patent, or  
10 what?  
11 **MS. ZEMAN:** Or during patent prosecution.  
12 At both stages.  
13 **MR. POSTLETHWAIT:** Yes, I would.  
14 **MS. ZEMAN:** So I'd like to spend a bit of  
15 time discussing Zyprexa specifically. The chemical  
16 name of Zyprexa is olanzapine. Is that right?  
17 **MR. POSTLETHWAIT:** Yes.  
18 **MS. ZEMAN:** It is an anti-psychotic  
19 medicine?  
20 **MR. POSTLETHWAIT:** Yes.  
21 **MS. ZEMAN:** For the treatment of  
22 schizophrenia?  
23 **MR. POSTLETHWAIT:** Yes.  
24 **MS. ZEMAN:** At Paragraph 19 of your  
25 statement you note that the olanzapine patent you  
  
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1 applied for was a selection patent. Is that right?  
2 **MR. POSTLETHWAIT:** Yes.  
3 **MS. ZEMAN:** I'd like to make sure I  
4 understand what that means. So olanzapine was part  
5 of a broader class of compounds. Is that right?  
6 **MR. POSTLETHWAIT:** Yes. Once again, I'm  
7 not a patent lawyer, but I know that olanzapine  
8 emerged from what was called a genus.  
9 **MS. ZEMAN:** And that genus had, as you say  
10 here, potential use in the treatment of central  
11 nervous system disorders?  
12 **MR. POSTLETHWAIT:** Yes.  
13 **MS. ZEMAN:** And Lilly held a patent in  
14 Canada for that broader class of compounds, is that  
15 right?  
16 **MR. ARMITAGE:** I believe that was the  
17 case, yes.  
18 **MS. ZEMAN:** That was the '687 patent in  
19 Canada?  
20 **MR. POSTLETHWAIT:** I'm not familiar with  
21 the number, but ...  
22 **MS. ZEMAN:** But it was granted in 1980?  
23 Does that sound about right?  
24 **MR. POSTLETHWAIT:** Yes.  
25 **MS. ZEMAN:** In Tab 1 of the binder with  
  
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1 the red cover there is Exhibit R-292 for the record.  
 2 This is Canadian patent '687. That was issued in  
 3 1980, you can see there on the right.  
 4 At page 21 of the patent in line 13, which  
 5 is about the middle of the page, the disclosure in  
 6 this patent says, "As stated previously, the  
 7 compounds of the invention have useful central  
 8 nervous system activity." You see that?  
 9 **MR. POSTLETHWAIT:** Yes.  
 10 **MS. ZEMAN:** Then it discusses extensive  
 11 testing in animal models. At the end it says,  
 12 "These properties, coupled with their high  
 13 therapeutic index, render them useful in the  
 14 treatment of mild anxiety states and certain kinds  
 15 of psychotic conditions such as schizophrenia and  
 16 acute mania." You see that?  
 17 **MR. POSTLETHWAIT:** Yes.  
 18 **MS. ZEMAN:** So this disclosure is for the  
 19 broader class of compounds in the genus. Is that  
 20 right?  
 21 **MR. POSTLETHWAIT:** You're asking me  
 22 questions that I think are for patent lawyers.  
 23 Could you ask the question to me again to make sure  
 24 I understand?  
 25 **MS. ZEMAN:** This disclosure, if we take  
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11:18

1 that the '687 patent is the patent number of the  
 2 genus of compounds of which olanzapine is a part, is  
 3 saying here that the general class has properties  
 4 that render them useful in the treatment of mild  
 5 anxiety states and certain kinds of psychotic  
 6 conditions such as schizophrenia.  
 7 **MR. POSTLETHWAIT:** And your question?  
 8 **MS. ZEMAN:** My question is is that  
 9 correct?  
 10 **MR. POSTLETHWAIT:** Is that correct what  
 11 the --  
 12 **MS. ZEMAN:** What this is saying --  
 13 **MR. POSTLTHWAIT:** Yes, that's correct.  
 14 I'm sorry.  
 15 **MS. ZEMAN:** The olanzapine selection  
 16 patent application was filed in Canada in 1991. Is  
 17 that correct?  
 18 **MR. POSTLETHWAIT:** Yes.  
 19 **MS. ZEMAN:** While the genus patent was  
 20 still in effect?  
 21 **MR. POSTLETHWAIT:** Yes.  
 22 **MS. ZEMAN:** In your statement at  
 23 Paragraph 29 you say in the second to last sentence  
 24 that your patent attorneys had not flagged any issue  
 25 with your Canadian patent application. Is that  
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11:19

1 right?  
 2 **MR. POSTLETHWAIT:** Yes.  
 3 **MS. ZEMAN:** At Tab 2 of your binder is  
 4 Exhibit C-64. This is a communication from  
 5 applicant Lilly Industries Limited to the Canadian  
 6 patent office. It's dated September 5, 1997. Do  
 7 you see that?  
 8 **MR. POSTLETHWAIT:** Yes.  
 9 **MS. ZEMAN:** You were president of the  
 10 Neuroscience Products Group at that time?  
 11 **MR. POSTLETHWAIT:** Yes.  
 12 **MS. ZEMAN:** The first sentence of the  
 13 letter states that it is in reply to an official  
 14 action dated April 1, 1997. You see that?  
 15 **MR. POSTLETHWAIT:** Yes, I see that.  
 16 **MS. ZEMAN:** In this communication on  
 17 page 3 in the second to last paragraph Lilly asks  
 18 for reconsideration of the examiner's rejection of  
 19 the claims as being anticipated by the cited British  
 20 patent specifications. Do you see that?  
 21 **MR. POSTLETHWAIT:** I see that, yes.  
 22 **MS. ZEMAN:** You were not informed that the  
 23 patent office initially rejected the claims as being  
 24 anticipated?  
 25 **MR. POSTLETHWAIT:** I do not recall that I  
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1 was.  
 2 **MS. ZEMAN:** Lilly states here in this  
 3 paragraph that its claims are not anticipated  
 4 because olanzapine is selected from the invention  
 5 described in the other patent. Do you see that?  
 6 **MR. POSTLETHWAIT:** I see that.  
 7 **MS. ZEMAN:** And on page 4, in the second  
 8 full paragraph -- yes, second full paragraph on that  
 9 page in the middle Lilly says, "It is well settled  
 10 in patent law that invention may be presented as a  
 11 result of a new and useful selection among members  
 12 of a broader close of substances." Do you see that?  
 13 **MR. POSTLETHWAIT:** Yes.  
 14 **MS. ZEMAN:** It is identifying the rules it  
 15 views as applicable to selection patents?  
 16 **MR. POSTLETHWAIT:** What --  
 17 **MR. BERENGAUT:** Objection.  
 18 **THE PRESIDENT:** What's the objection?  
 19 **MR. BERENGAUT:** There is no foundation in  
 20 Mr. Postlethwait's statement for anything remotely  
 21 qualifying him to answer a question about whether  
 22 Lilly was here identifying the rules it believes are  
 23 applicable to selection patents.  
 24 **THE PRESIDENT:** Overruled.  
 25 **MS. ZEMAN:** In the second sentence here in  
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1 the same paragraph Lilly states, "There may well be  
2 invention in the selection of one member (or a few  
3 members) out of a number of substances for a  
4 particular purpose, even though others of this class  
5 may have been used before, even perhaps for the same  
6 purpose, provided there is a special advantage to be  
7 derived from the use of the selected substance or  
8 substances and its selection constitutes a definite  
9 advance upon existing knowledge."  
10 You see that?  
11 **MR. POSTLETHWAIT:** I see that, yes.  
12 **MS. ZEMAN:** So to obtain a selection  
13 patent in Canada, this is saying, there must be a  
14 special advantage to be derived from the use of the  
15 selected substance.  
16 **MR. POSTLETHWAIT:** Was that a question?  
17 **MS. ZEMAN:** Yes. That's what this is  
18 saying?  
19 **MR. POSTLETHWAIT:** I don't know if that's  
20 what it's saying.  
21 **MS. ZEMAN:** In this paragraph do you see  
22 that Lilly is relying on Fox, Canadian Patent Law  
23 and Practice, 4th Edition from 1969 as authority.  
24 **MR. POSTLETHWAIT:** Yes, I see that.  
25 **MS. ZEMAN:** Are you familiar with the  
  
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1 Canadian patent lawyer scholar Fox?  
2 **MR. POSTLETHWAIT:** No.  
3 **MS. ZEMAN:** Lilly's agent --  
4 **MR. POSTLETHWAIT:** Am I familiar with --  
5 **MS. ZEMAN:** This is Lilly's agent  
6 representing to the Canadian patent office certain  
7 things, a response to an office action --  
8 **MR. POSTLETHWAIT:** And your question is am  
9 I familiar with them?  
10 **THE PRESIDENT:** Wait. One at a time.  
11 Could you backtrack a little bit? First ask your  
12 question are you familiar with?  
13 **MS. ZEMAN:** The first question was are you  
14 familiar with the Canadian patent law scholar Fox?  
15 **MR. POSTLETHWAIT:** No.  
16 **MS. ZEMAN:** But it appears here that  
17 Lilly's patent agent in Canada was familiar with  
18 him.  
19 **MR. POSTLETHWAIT:** Is that a question  
20 or -- I don't understand if you're asking me a  
21 question or attesting to something that might appear  
22 logical or rational. I'm sorry.  
23 **THE PRESIDENT:** Ms. Zeman, could you ask a  
24 question, because if you state "But it appears here  
25 that Lilly's patent agent in Canada was familiar  
  
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11:24

1 with him" it's more argument than a question.  
2 Please limit yourself to questions. Argument comes  
3 later.  
4 **MS. ZEMAN:** Okay.  
5 On page 6 -- one more question in this  
6 document. In the first full paragraph Lilly's agent  
7 concludes, "In applicant's view, therefore,  
8 patentability of the compound of the present  
9 invention depends on proving that the compound has  
10 exceptional properties that could not be predicted  
11 from the prior art, and this, it is believed, is  
12 adequately established by evidence already included  
13 in the applicant's specification."  
14 You see that?  
15 **MR. POSTLETHWAIT:** I see that, yes.  
16 **MS. ZEMAN:** And you were not briefed on  
17 this response to the Canadian patent office?  
18 **MR. POSTLETHWAIT:** Not to my recollection.  
19 **MS. ZEMAN:** Let's take a look at the  
20 patent specification. It is at Tab 3 of your  
21 binder. It is Exhibit R-030. On page 3 -- you have  
22 to flip a couple of pages before they start being  
23 numbered -- lines 17-19, the patent describes, "We  
24 have now discovered a compound which possesses  
25 surprising and unexpected properties by comparison  
  
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1 with flumezapine and other related compounds."  
2 Do you see that?  
3 **MR. POSTLETHWAIT:** I see that.  
4 **MS. ZEMAN:** Do you agree the word  
5 "surprising and unexpected properties" is the  
6 language of exceptional properties that cannot be  
7 predicted from the prior art?  
8 **MR. BERENGAUT:** Objection. Same  
9 objection. This is well outside the scope of  
10 Mr. Postlethwait's testimony, and now he's being  
11 asked to give an opinion about the technical patent  
12 language that's used in this particular patent.  
13 **THE PRESIDENT:** The questions should be  
14 limited to factual questions, not opinions. But  
15 what I understand the question to be is that it is  
16 limited to factual questions, whether he is familiar  
17 with this or not. So objection overruled.  
18 **MS. ZEMAN:** So my question was do you  
19 agree that "surprising and unexpected properties" is  
20 the language of exceptional properties that cannot  
21 be predicted from the prior art?  
22 **MR. BERENGAUT:** Same objection.  
23 **MR. POSTLETHWAIT:** I'm not a scientist, I  
24 can't --  
25 **THE PRESIDENT:** First I have to rule on  
  
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1 the objection. This time sustained, because that is  
2 an opinion question.  
3 **MS. ZEMAN:** You stated earlier that you  
4 expected your patent attorneys to keep abreast of  
5 developments in Canadian patent law. Is that right?  
6 **MR. POSTLETHWAIT:** Yes.  
7 **MS. ZEMAN:** At Tab 4 of your binder is a  
8 Federal Court of Appeal decision from 1995, Exhibit  
9 R-401, and it's dated February 1, 1995. You were  
10 the president of the Neuroscience Product Group at  
11 this time?  
12 **MR. POSTLETHWAIT:** Yes.  
13 **MS. ZEMAN:** The olanzapine patent was in  
14 the course of prosecution at this time?  
15 **MR. POSTLETHWAIT:** Is that a question?  
16 Yes, I'm sorry.  
17 **MS. ZEMAN:** So you would have expected  
18 your patent attorneys to be aware of this decision?  
19 **MR. POSTLETHWAIT:** I'm sorry, the first  
20 part of your question, did you say I did have or I  
21 would have expected, or what -- what was your  
22 question?  
23 **MS. ZEMAN:** You would have expected your  
24 patent attorneys to be familiar with this decision?  
25 **MR. POSTLETHWAIT:** I would have expected  
  
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1 reason, please do seek a clarification because, if  
2 you don't do so, the Tribunal will assume that  
3 you've understood the question and that your answer  
4 corresponds to the question.  
5 **MS. NOBLES:** Thank you.  
6 **THE PRESIDENT:** Ms. Nobles, you will  
7 appreciate that testifying, be it before a court or  
8 an arbitral tribunal, is a very serious matter. In  
9 that connection, the Tribunal expects you to give  
10 the statement which is in front of you.  
11 **MS. NOBLES:** I solemnly declare upon my  
12 honor and conscience that I shall speak the truth,  
13 the whole truth and nothing but the truth.  
14 **THE PRESIDENT:** Thank you, Ms. Nobles.  
15 Could you please go to your witness statement which  
16 is in front of you and go to page 7? Your witness  
17 statement is dated September 25, 2014?  
18 **MS. NOBLES:** That's correct.  
19 **THE PRESIDENT:** Could you confirm for the  
20 record that the signature appearing above your name  
21 is your signature?  
22 **MS. NOBLES:** That is my signature.  
23 **THE PRESIDENT:** Thank you. Is there any  
24 correction you wish to make to your witness  
25 statement?  
  
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1 them to be familiar with this.  
2 **MS. ZEMAN:** Thank you. I have no further  
3 questions.  
4 **THE PRESIDENT:** That concludes your  
5 cross-examination, Ms. Zeman? Thank you.  
6 **MR. BERENGAUT:** No redirect.  
7 **THE PRESIDENT:** The Tribunal has no  
8 questions either. Thank you for testifying,  
9 Mr. Postlethwait. You are now excused and released  
10 as a witness.  
11 **MR. POSTLETHWAIT:** Thank you.  
12 **THE PRESIDENT:** Let's take 5 minutes and  
13 you can reorganize.  
14 *(Recess taken)*  
15 ANNE NOBLES  
16 **THE PRESIDENT:** Ms. Nobles, good morning.  
17 **MS. NOBLES:** Good morning.  
18 **THE PRESIDENT:** Could you please state  
19 your full name for the record?  
20 **MS. NOBLES:** Anne Nobles.  
21 **THE PRESIDENT:** Ms. Nobles, you appear as  
22 a fact witness for the Claimant in this case?  
23 **MS. NOBLES:** That's correct.  
24 **THE PRESIDENT:** If any question is unclear  
25 to you, either because of language or for any other  
  
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1 **MS. NOBLES:** There is. In Paragraph 21, I  
2 mistakenly said that the Canadian patent application  
3 was granted on December 1, 2002 when, in fact, it's  
4 October 1, 2002.  
5 **THE PRESIDENT:** Any other correction?  
6 **MS. NOBLES:** No.  
7 **THE PRESIDENT:** Thank you, Ms. Nobles.  
8 Mr. Berengaut, any question for direct?  
9 **MR. BERENGAUT:** No direct. Thank you,  
10 Mr. President.  
11 **THE PRESIDENT:** Ms. Zeman, you will  
12 conduct the cross-examination? Please proceed.  
13 **CROSS-EXAMINATION ON BEHALF OF THE RESPONDENT**  
14 **MS. ZEMAN:** Good morning, Ms. Nobles.  
15 **MS. NOBLES:** Good morning.  
16 **MS. ZEMAN:** My name is Krista Zeman. I am  
17 counsel for Canada and I will be asking you a few  
18 questions to make sure I understand a few aspects of  
19 your testimony this morning. It is important that  
20 we understand each other so, if there are any  
21 questions that you do not understand, please let me  
22 know and I will attempt to reframe it in a way that  
23 makes sense.  
24 **MS. NOBLES:** Thank you.  
25 **MS. ZEMAN:** I'd like to start by talking a  
  
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1 bit about your background. You joined Eli Lilly in  
2 1990?  
3 **MS. NOBLES:** That's correct.  
4 **MS. ZEMAN:** And you were named team leader  
5 of the Strattera Product Launch Team in  
6 November 1999?  
7 **MS. NOBLES:** That's correct.  
8 **MS. ZEMAN:** And you were in that position  
9 until mid 2003. Is that right?  
10 **MS. NOBLES:** That's correct.  
11 **MS. ZEMAN:** At which point you moved to  
12 vice-president Corporate Affairs. Is that right?  
13 **MS. NOBLES:** That's correct.  
14 **MS. ZEMAN:** And you held that position  
15 until you retired in 2012. Is that right?  
16 **MS. NOBLES:** That's not correct. I held  
17 that position until I believe it was 2007, and then  
18 I moved into the job that eventually became senior  
19 vice-president of Enterprise Risk Management and  
20 Chief Ethics and Compliance Officer.  
21 **MS. ZEMAN:** So I'd like to understand the  
22 scope of your responsibilities in all three of those  
23 positions. So the product team, we'll start there,  
24 is responsible for commercial development of the  
25 drug. Is that right?

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1 **MS. NOBLES:** That's correct. We took  
2 responsibility for the molecule as it ended Phase II  
3 and oversaw the Phase III development, as well as  
4 the registration and eventual launch in the U.S.  
5 **MS. ZEMAN:** So --  
6 **MS. NOBLES:** And other markets as well.  
7 **MS. ZEMAN:** And patent protection was an  
8 extremely important part of your launch strategy, as  
9 you stated in your witness statement. Is that  
10 right?  
11 **MS. NOBLES:** That's correct.  
12 **MS. ZEMAN:** And the product team works  
13 closely with the patent attorney responsible for  
14 prosecuting the relevant patents. Is that right?  
15 **MS. NOBLES:** That's correct.  
16 **MS. ZEMAN:** And the patent attorney  
17 advises the product team about any issues that  
18 emerge in the prosecution of the patent. Is that  
19 right?  
20 **MS. NOBLES:** That's correct.  
21 **MS. ZEMAN:** And the patent attorney also  
22 advises the product team about any potential risks  
23 to the validity of the patent if and when it is  
24 granted. Is that right?  
25 **MS. NOBLES:** That would be correct as

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1 well.  
2 **MS. ZEMAN:** As the team leader for the  
3 product team, your team advised you of these patent  
4 issues?  
5 **MS. NOBLES:** By that, do you mean members  
6 of the team would be working directly with the  
7 lawyers and then would come to me?  
8 **MS. ZEMAN:** Yes.  
9 **MS. NOBLES:** Generally that was the case.  
10 **MS. ZEMAN:** So patent protection was an  
11 extremely important consideration in determining  
12 whether and how to launch Strattera specifically in  
13 a particular market. Is that right?  
14 **MS. NOBLES:** That's correct.  
15 **MS. ZEMAN:** So you expected the patent  
16 attorney to be familiar with the patent law  
17 framework in each country in which you were  
18 launching?  
19 **MS. NOBLES:** That would be correct. That  
20 would be the expert we would be relying on.  
21 **MS. ZEMAN:** And you would expect them to  
22 be familiar with patent law in Canada. Is that  
23 right?  
24 **MS. NOBLES:** That would be correct, for  
25 purposes of the Canadian launch.

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1 **MS. ZEMAN:** And you expected the patent  
2 attorneys to monitor developments in the patent law  
3 framework of your launch countries. Is that right?  
4 **MS. NOBLES:** The product team would not be  
5 setting the lawyers' responsibilities directly.  
6 That would be the legal division that would do that  
7 and the patent attorney. So I can't really speak to  
8 exactly how the patent attorney was directed by the  
9 legal division, but what I relied on and what our  
10 team relied on was the information from that lawyer  
11 assessing patents where that was appropriate, the  
12 probability or likelihood that we would get a  
13 patent, and so forth.  
14 **MS. ZEMAN:** And, in that reliance, you  
15 would expect the information that was provided to  
16 you by the patent attorney to be up-to-date and  
17 current?  
18 **MS. NOBLES:** That's correct.  
19 **MS. ZEMAN:** And if there was a fundamental  
20 change that presented a potential risk to the  
21 validity of your patents, you would expect your  
22 patent attorney to advise you of that?  
23 **MS. NOBLES:** That's correct.  
24 **MS. ZEMAN:** In your role as vice-president  
25 Corporate, you stated that you continued to have

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1 responsibility for the launch of major products. Is  
2 that right?

3 **MS. NOBLES:** As the vice-president for  
4 Corporate Affairs, I obviously had global  
5 responsibilities for corporate affairs, so I would  
6 come in contact with information about products that  
7 we were launching both in their initial markets and  
8 subsequent markets, but I didn't have direct  
9 responsibility for that any longer. My successor  
10 did.

11 **MS. ZEMAN:** You continued to follow  
12 Stratterra's launch in Canada after it received  
13 regulatory approval. Is that right?

14 **MS. NOBLES:** Yes, in a general way,  
15 because it was of great interest to me given my  
16 previous responsibilities, as well as the new role  
17 that I had.

18 **MS. ZEMAN:** So you would not have been  
19 kept updated on patent issues in your new position?

20 **MS. NOBLES:** Not run-of-the-mill kinds of  
21 issues but if there are major issues it's possible a  
22 team member would have come to me to talk about the  
23 history and the new development.

24 **MS. ZEMAN:** So if one of your patents was  
25 invalidated, for example, in any one of your

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1 markets, you would be advised about that?

2 **MS. NOBLES:** If the product team felt that  
3 it was important for me to specifically know about  
4 that and felt they could draw on my expertise, they  
5 certainly would have done that and I would have  
6 expected them to do so.

7 **MS. ZEMAN:** And if there was a fundamental  
8 change in the patent framework of one of your major  
9 markets, would you have expected them to advise you  
10 about that?

11 **MS. NOBLES:** I think it would depend on  
12 how they assessed the change, but certainly if they  
13 considered it a major change from the basis on which  
14 we'd be proceeding previously, I think it's very  
15 likely that they would have talked to me about that.

16 **MS. ZEMAN:** So you held this position  
17 until 2005, is that correct?

18 **MS. NOBLES:** The Corporate Affairs role?  
19 No, it was 2007.

20 **MS. ZEMAN:** And in 2007 you moved into  
21 another role, the name of which I cannot recall  
22 right now.

23 **MS. NOBLES:** I was the Chief Ethics and  
24 Compliance Officer, and I had responsibility for  
25 Enterprise Risk Management, and I was subsequently

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1 promoted within that job to senior vice-president.

2 **MS. ZEMAN:** And, in that role, you would  
3 have expected to be informed about invalidations of  
4 patents?

5 **MS. NOBLES:** I think less so, because by  
6 that point years had passed since my  
7 responsibilities as product team leader, and  
8 obviously in an ethics and compliance role I would  
9 not have needed that information in order to do my  
10 job.

11 **MS. ZEMAN:** And so just to go back one job  
12 time frame, when you were VP Corporate Affairs,  
13 Lilly continued to file for patents in Canada, to  
14 your knowledge. Is that right?

15 **MS. NOBLES:** You mean related to Stratterra  
16 specifically?

17 **MS. ZEMAN:** Other products.

18 **MS. NOBLES:** Other products? I would  
19 assume so, but I wouldn't have had any direct  
20 knowledge of that.

21 **MS. ZEMAN:** I'd like to turn now to  
22 discuss Stratterra. The chemical name for Stratterra  
23 is atomoxetine. Is that right?

24 **MS. NOBLES:** That's correct.

25 **MS. ZEMAN:** And it is used for the

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11:44

1 treatment of attention deficit/hyperactivity  
2 disorder?

3 **MS. NOBLES:** That's correct.

4 **MS. ZEMAN:** And Lilly had previously held  
5 a patent for atomoxetine as an antidepressant agent  
6 in Canada since 1985?

7 **MS. NOBLES:** I'm not familiar with that  
8 patent.

9 **MS. ZEMAN:** But the ADHD patent was a new  
10 method of use patent. Is that right?

11 **MS. NOBLES:** That's correct. That was my  
12 understanding.

13 **MS. ZEMAN:** Lilly filed the Canadian  
14 patent application for the new use of atomoxetine in  
15 1996. Is that correct?

16 **MS. NOBLES:** To the best of my  
17 recollection, that's correct, but I wasn't obviously  
18 on the product team when it was filed.

19 **MS. ZEMAN:** Right. You joined the product  
20 team in 1999?

21 **MS. NOBLES:** That's correct. At the end  
22 of 1999.

23 **MS. ZEMAN:** And when you joined you  
24 received regular updates about the prosecution. Is  
25 that right?

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1 **MS. NOBLES:** Regular updates about patent  
2 issues in general, yes, and it would include that.  
3 **MS. ZEMAN:** And you can recall no  
4 patent-related concerns about Strattera in Canada.  
5 Is that right?  
6 **MS. NOBLES:** That's correct.  
7 **MS. ZEMAN:** And the patent was granted in  
8 Canada on October 1, 2002. Is that right?  
9 **MS. NOBLES:** That's correct.  
10 **MS. ZEMAN:** And you were still team leader  
11 of the product launch team at that point, is that  
12 right?  
13 **MS. NOBLES:** That's correct.  
14 **MS. ZEMAN:** You stated earlier that the  
15 patent attorney you worked with was responsible for  
16 advising the product team about any potential risks  
17 to the validity of the patent if and when it is  
18 granted. Is that correct?  
19 **MS. NOBLES:** That's correct.  
20 **MS. ZEMAN:** At Tab 3 of your binder, the  
21 one with the red cover, is Exhibit R-004 for the  
22 record, and it is the Supreme Court of Canada  
23 decision in Apotex Inc. v Wellcome Foundation  
24 Limited. Do you see that?  
25 **MS. NOBLES:** I do.

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1 **MS. ZEMAN:** You see it is dated  
2 December 5, 2002?  
3 **MS. NOBLES:** Yes.  
4 **MS. ZEMAN:** Your patent attorney did not  
5 advise you about this case?  
6 **MS. NOBLES:** I don't recall any discussion  
7 of this.  
8 **MS. ZEMAN:** At Paragraph 26 of your  
9 statement, you state that "It came as a complete  
10 surprise to me when I learned many years later that  
11 our Canadian patent for Strattera had been  
12 invalidated on the ground that it was not useful."  
13 Is that correct?  
14 **MS. NOBLES:** That's correct.  
15 **MS. ZEMAN:** I'd like to understand what  
16 you mean by that. At Tab 5 of your binder is  
17 Exhibit R-027, for the record. This is the decision  
18 of the Canadian Federal Court invalidating the  
19 Strattera patent. You see it's dated September 14,  
20 2010?  
21 **MS. NOBLES:** Yes.  
22 **MS. ZEMAN:** And you were advised about  
23 this decision?  
24 **MS. NOBLES:** I don't recall being advised.  
25 **MS. ZEMAN:** But you were completely

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1 surprised when you learned about the invalidation of  
2 this patent?  
3 **MS. NOBLES:** That's correct.  
4 **MS. ZEMAN:** At Tab 6 of your binder is  
5 Exhibit R-272. It is a decision of the U.S.  
6 District Court of New Jersey relating to the  
7 Strattera patent. You see it's dated August 12,  
8 2010?  
9 **MS. NOBLES:** Yes, I do.  
10 **MS. ZEMAN:** Were you advised about this  
11 decision?  
12 **MS. NOBLES:** I was not.  
13 **MS. ZEMAN:** At Tab 7 of your binder is  
14 Exhibit R-200. This is a decision of the Federal  
15 Court of Canada relating to Lilly's Canadian patent  
16 for Raloxifene. This is dated February 5, 2008. Is  
17 that correct?  
18 **MS. NOBLES:** That's correct. I don't  
19 see --  
20 **MS. ZEMAN:** I think it's highlighted on  
21 the screen in front of you if that helps.  
22 **MS. NOBLES:** Okay, yes. Thank you.  
23 **MS. ZEMAN:** You were advised about this  
24 decision?  
25 **MS. NOBLES:** I was not.

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1 **MS. ZEMAN:** I have no further questions.  
2 **THE PRESIDENT:** Mr. Berengaut, any  
3 questions for redirect?  
4 **MR. BERENGAUT:** Thank you. No redirect.  
5 **THE PRESIDENT:** Thank you, Ms. Nobles, the  
6 Tribunal has no questions either. You are now  
7 released as a witness.  
8 **MS. NOBLES:** Thank you.  
9 **THE PRESIDENT:** We can move to the next  
10 witness, Mr. Brisebois.  
11 **MS. CHEEK:** Could I have a moment to  
12 confer with Respondent on that before we move to the  
13 next witness? I just note I believe the next  
14 witness is scheduled for a 20-minute presentation  
15 and two hours of cross, and so that doesn't break  
16 awkwardly over lunch I was wondering if we might  
17 take an earlier lunch today.  
18 **THE PRESIDENT:** I suggest we have first  
19 the presentation and then we break for lunch. Of  
20 course he is under testimony so he's not allowed to  
21 discuss this case with anyone, and then we continue  
22 after lunch with the cross-examination.  
23 **MS. CHEEK:** That's fine with us. I  
24 understand.  
25 **THE PRESIDENT:** Five minutes.

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11:50

1 (Recess taken)

2 MARCEL BRISEBOIS

3 **THE PRESIDENT:** Good morning,

4 Mr. Brisebois.

5 **MR. BRISEBOIS:** Good morning.

6 **THE PRESIDENT:** Could you please state

7 your full name for the record?

8 **MR. BRISEBOIS:** My name is Marcel

9 Brisebois.

10 **THE PRESIDENT:** Mr. Brisebois, you appear

11 as a legal and fact witness for the Respondent. If

12 any question is unclear to you, either because of

13 language or for any other reason, please do seek a

14 clarification because, if you don't do so, the

15 Tribunal will assume that you've understood the

16 question and that your answer corresponds to the

17 question.

18 **MR. BRISEBOIS:** Sure.

19 **THE PRESIDENT:** Mr. Brisebois, you will

20 appreciate that testifying, be it before a court or

21 an arbitral tribunal, is a very serious matter. In

22 that connection, the Tribunal expects you to give

23 the statement which is in front of you.

24 **MR. BRISEBOIS:** I solemnly declare upon my

25 honor and conscience that I shall speak the truth,

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1 the whole truth, and nothing but the truth.

2 **THE PRESIDENT:** Thank you. Mr. Brisebois,

3 could you go to your first witness statement. Go to

4 page 27. The first witness statement is dated

5 January 26, 2015.

6 **MR. BRISEBOIS:** Yes.

7 **THE PRESIDENT:** Could you confirm for the

8 record that the signature appearing above your name

9 is your signature?

10 **MR. BRISEBOIS:** It's my signature.

11 **THE PRESIDENT:** Then could you go to your

12 second witness statement dated December 7, 2015,

13 page 19. Could you please confirm for the record

14 that the signature appearing above your name is your

15 signature?

16 **MR. BRISEBOIS:** That's correct. This is

17 my signature.

18 **THE PRESIDENT:** Mr. Brisebois, you have

19 become very popular with my paralegal in light of

20 all the corrections you have submitted to this

21 Tribunal. We have a whole list of the corrections

22 which have been submitted by letter of May 25, 2016.

23 No need to go over them now, but are there any other

24 corrections you wish to make?

25 **MR. BRISEBOIS:** Not that I'm aware of, no.

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11:59

1 **THE PRESIDENT:** Thank you.

2 **MS. ZEMAN:** No questions from the

3 Respondent, but I believe you have a presentation to

4 give.

5 **THE PRESIDENT:** Ms. Zeman, already

6 preempts me. That's okay.

7 **MS. ZEMAN:** My apologies!

8 **THE PRESIDENT:** I like proactive counsel.

9 We are now in the direct examination, and

10 you are allowed now to make your presentation of

11 25 minutes max.

12 **MR. BRISEBOIS:** Thank you.

13 **THE PRESIDENT:** Please proceed.

14 **PRESENTATION BY MR. BRISEBOIS**

15 **MR. BRISEBOIS:** My name is Marcel

16 Brisebois. I'm currently acting as a Patent Appeal

17 Board member of the Patent Appeal Board, Canadian

18 Intellectual Property Office. My substantive

19 position is senior patent examiner in the

20 Biotechnology Division, and today I will present you

21 my principal findings that were presented in my two

22 witness statements.

23 In this matter I was asked to first review

24 Claimant's allegation regarding the spike in

25 invalidations for pharma patents on utility grounds,

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12:00

1 allegedly caused by a shift in Canada's approach to

2 utility. 2, to review Claimant's patent

3 invalidation statistics and its conclusions with

4 respect to discrimination toward pharma patents,

5 and, finally, to collect and consider evidence

6 regarding Claimant's historic patent filing behavior

7 relating to the compounds olanzapine, atomoxetine

8 and Raloxifene.

9 In this Memorial Claimant asserts that

10 between 2005 and 2014 the number of pharma patent

11 invalidations based upon lack of utility increased

12 from none at all during the 1980 to 2004 period to

13 at least 23 during the period from 2005 to 2014.

14 The Claimant attributes this increase to a shift in

15 the interpretation of the utility criteria in patent

16 law by Canadian courts.

17 In order to put this absolute number

18 advanced by the Claimant in perspective, I chose to

19 draw a complete and objective portrait of the

20 pharmaceutical patent litigation in Canada between

21 1980 and 2014 at least in the context of my first

22 statement.

23 To do so, I reviewed all pharma patent

24 cases including impeachment actions and PM(NOC)

25 proceedings before the Canadian Federal courts, and

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12:02

1 I recorded the challenged grounds and final outcomes  
2 for each challenged patent.  
3 **MS. CHEEK:** I'm very sorry, Mr. Brisebois  
4 and Mr. President, but if I could just ask a  
5 question. Can we just confirm that Mr. Brisebois  
6 actually does have notes in front of him, beyond  
7 what is actually being presented on this screen?  
8 **MR. SPELLISCY:** I believe he does have  
9 speaking notes, yes.  
10 **THE PRESIDENT:** Witnesses should testify  
11 without speaking notes.  
12 **MR. SPELLISCY:** We can certainly ask him  
13 to do so. It wasn't our understanding that for the  
14 presentation aspect of this that we were going to  
15 require witnesses to memorize a presentation. We'd  
16 be happy to turn the speaking notes over. It may  
17 even help the reporter later. But I certainly  
18 didn't understand that he couldn't script out his  
19 presentation in the same way that counsel do.  
20 Certainly he won't have any notes during  
21 his actual cross-examination, but for the  
22 presentation we had not understood that.  
23 **THE PRESIDENT:** The problem is you  
24 understood the rule normally for fact witnesses, no  
25 notes in direct examination?

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1 **MR. SPELLISCY:** No. I would say for these  
2 presentations we understood it differently.  
3 **THE PRESIDENT:** Let's first go for the  
4 basic rule. For fact witnesses there are no notes?  
5 **MR. SPELLISCY:** We would agree that for  
6 fact witnesses they shouldn't have notes during  
7 cross-examination.  
8 **THE PRESIDENT:** Now we get to the next  
9 one. Mr. Brisebois is a hybrid, if I may call it  
10 that way.  
11 **MR. SPELLISCY:** I would certainly think it  
12 would be unfair to allow experts to bring notes for  
13 their presentations and not Mr. Brisebois.  
14 **THE PRESIDENT:** Let's also go to the basic  
15 rule for experts. They may have notes for their  
16 presentation?  
17 **MR. SPELLISCY:** I would agree.  
18 **MS. CHEEK:** Actually our view was for  
19 their presentation all they were going to rely upon  
20 was their actual expert statements, as submitted to  
21 the Tribunal, and their PowerPoint presentation.  
22 **THE PRESIDENT:** But they may have notes  
23 for the PowerPoint presentation?  
24 **MS. CHEEK:** That was not our understanding  
25 but if that is your --

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12:04

1 **THE PRESIDENT:** This at least was the  
2 Tribunal's but we should clarify it now. It's good  
3 that you have raised it.  
4 **MS. CHEEK:** Our understanding was that all  
5 presentations would only be done through the  
6 PowerPoint presentation without notes.  
7 **THE PRESIDENT:** I see.  
8 **MR. SPELLISCY:** I find it difficult to  
9 suggest that witnesses should try to -- or should  
10 have been required to memorize their presentations  
11 in advance. We don't require that generally. This  
12 is a presentation. As I say, we'd be happy to share  
13 the notes. They're just his speaking notes. But  
14 for these presentations we certainly had and in our  
15 past experience people have been able to bring notes  
16 for the presentation.  
17 **THE PRESIDENT:** Let me first confer with  
18 my colleagues about the experts in general. Then we  
19 come back to Mr. Brisebois, who is somewhere in the  
20 middle.  
21 (The Tribunal conferred)  
22 **THE PRESIDENT:** The Tribunal is grateful  
23 also to the Claimant that you have raised already  
24 now this issue because the understanding of the  
25 Tribunal was for experts in general, when they make

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12:06

1 a presentation, that they could also have speaking  
2 notes which we think is inherent to an expert and is  
3 also in accordance with the experience we have had  
4 in other cases. But fair enough, granted that this  
5 was an unclear point, we can clear it now at the  
6 beginning of the proceedings so also, when you now  
7 prepare your experts, if I may call it that way --  
8 both sides -- then they are allowed to have speaking  
9 notes for their presentations.  
10 That's point 1. That's more the general  
11 rule on experts.  
12 No speaking notes obviously for direct for  
13 fact witnesses.  
14 Now the Tribunal has a question of  
15 Mr. Brisebois. Are you able to make your  
16 presentation of 25 minutes without your speaking  
17 notes?  
18 **MR. BRISEBOIS:** I can try but it won't be  
19 as clear as with my speaking notes.  
20 **THE PRESIDENT:** So you are capable of  
21 doing it?  
22 **MR. BRISEBOIS:** I mean I can try. I think  
23 I can do a presentation, yes. Will it be as clear  
24 as it will be with my notes? I don't think so.  
25 **THE PRESIDENT:** The alternative is that,

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12:07

1 if you feel uncomfortable in doing this and in view  
2 of clarity, if you can make the copy available of  
3 your speaking notes to the parties, especially to  
4 the Claimant, during the break so you can go over  
5 these speaking notes, would that resolve your  
6 concerns, Ms. Cheek?  
7 **MS. CHEEK:** That actually raises our other  
8 expectation, which was that, given these are  
9 effectively demonstratives, that copies would be  
10 distributed in advance of the presentation as with  
11 our opening oral argument. So we had been wondering  
12 where our copy was of the PowerPoint presentation  
13 and certainly, if Mr. Brisebois is going to testify  
14 with notes, we would expect to have a copy of that  
15 in its entirety.  
16 **THE PRESIDENT:** Now you're raising a  
17 compound question, if I may call it that way,  
18 Ms. Cheek. Let's first deal with his speaking  
19 notes. So he will hand over the speaking notes, and  
20 that alleviates your concerns because during the  
21 break you can review them?  
22 **MS. CHEEK:** If that is the case, then what  
23 I would suggest is that Respondent provide us with a  
24 copy now. At the beginning of his presentation is  
25 when I would like to see the copy, not at the end.

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12:08

1 **THE PRESIDENT:** Okay.  
2 **MS. CHEEK:** They can either pass that out  
3 now and he can proceed. If they don't have it ready  
4 then let's take an early lunch break so they can  
5 give it us to when he begins his testimony.  
6 **MR. SPELLISCY:** I'm confused as to what we  
7 are talking about. Is this the PowerPoint  
8 presentation?  
9 **THE PRESIDENT:** No. That's the reason I  
10 raised it as compound. I come to the second  
11 question. Two issues came up. Let's deal with this  
12 issue first and then I will come back on the issue  
13 of the PowerPoint yesterday.  
14 Can the speaking notes of Mr. Brisebois be  
15 made available now?  
16 **MR. BRISEBOIS:** I can provide them,  
17 because there's some handwriting on it.  
18 **THE PRESIDENT:** That looks very general.  
19 **MR. BRISEBOIS:** But yes, I can.  
20 **THE PRESIDENT:** Can it be copied now on  
21 the copy machine outside? We will wait two minutes  
22 and then we will continue, because I would like to  
23 have the presentation concluded before the lunch,  
24 also in light of the situation that your side,  
25 Ms. Cheek, should have a possibility to review the

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12:09

1 speaking notes prior to the commencing the  
2 cross-examination, which you can do conveniently  
3 during the lunch.  
4 **MS. CHEEK:** Thank you, Mr. President.  
5 **THE PRESIDENT:** Then we get to No. 2,  
6 because you had two questions in one observation,  
7 which was about the PowerPoint. If I understood it  
8 correctly, you were looking for an electronic copy  
9 of the PowerPoint of yesterday of the opening  
10 statement? Or the PowerPoint that we see here now  
11 on the screen?  
12 **MS. CHEEK:** Well, it looks like maybe the  
13 Tribunal has copies of his presentation, and  
14 Claimant has no copy of this presentation. That is  
15 my confusion.  
16 **MR. SPELLISCY:** My paralegals have stepped  
17 out. My understanding from them was that they did  
18 hand a copy to the Claimant.  
19 **MS. CHEEK:** We have no copy of what is  
20 being presented. No hard copy.  
21 **THE PRESIDENT:** This is a logistical  
22 issue.  
23 **MS. CHEEK:** We'd be pleased to receive an  
24 electronic copy of the opening statement of  
25 Respondent, but in this instance our concern is we

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12:10

1 have no hard copy of what is being presented.  
2 **THE PRESIDENT:** We proceeded on the  
3 assumption that you had a copy because each time it  
4 has been handed out, but apparently it has been  
5 overlooked. Can the Claimant be handed a copy?  
6 **MR. SPELLISCY:** As soon as one of my  
7 paralegals comes back, I'm sure they can. I don't  
8 know where they are.  
9 **THE PRESIDENT:** Whilst we're talking about  
10 these copies, have the electronic versions of the  
11 opening statements been exchanged yesterday?  
12 **MS. CHEEK:** No, they have not.  
13 **THE PRESIDENT:** It would be helpful. Also  
14 the Tribunal would like to have them.  
15 **MS. CHEEK:** We'd be pleased to provide  
16 that.  
17 **THE PRESIDENT:** Thank you. And also for  
18 the Respondent.  
19 **MR. SPELLISCY:** I actually have a point of  
20 clarification, too, while we're talking on this,  
21 which is about Dr. Gillen, who is --  
22 **THE PRESIDENT:** Let's first finish with  
23 the version of your opening statement of yesterday.  
24 **MR. SPELLISCY:** Yes, we will provide that.  
25 **THE PRESIDENT:** Now move on to next

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12:11

1 subject.

2 **MR. SPELLISCY:** I guess I'd like

3 clarification on the status of Dr. Gillen's

4 presentation as well on the issue of speaking notes

5 because, again, I think we have the disparity and

6 I'd like clarity as well that, if experts are coming

7 up with speaking notes, that we'd be able to get a

8 copy of those speaking notes as well, because I

9 think we have a situation here where the Claimant

10 has presented an expert in Dr. Levin and, styled as

11 an expert report, Mr. Wilson, and our responding

12 witnesses, Dr. Gillen and Dr. Brisebois, are being

13 asked to turn over speaking notes.

14 Now, if they don't have speaking notes,

15 then it's not an issue, but if they do, I'd like to

16 see it. I'd also like to know whether we should be

17 informing Dr. Gillen that if he's going to have

18 speaking notes he has to be prepared, or what the

19 situation is.

20 **MS. CHEEK:** Mr. President, I believe you

21 already decided that experts can have speaking

22 notes, and I assume that those speaking notes would

23 not be handed over to the other side. With regards

24 to Mr. Gillen, any witness that has been

25 sequestered -- that is Mr. Brisebois' position -- if

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12:13

1 that witness is going to speak from speaking notes,

2 those should be shared with the other side. I think

3 that's a coherent approach.

4 **THE PRESIDENT:** Wait a moment. So you

5 accept that Mr. Gillen has speaking notes? Because

6 he is a witness, he is not an expert.

7 **MS. CHEEK:** In the same regard that

8 Mr. Brisebois has speaking notes, and, as

9 I understand it, you have determined that, as long

10 as he shares those notes with us, that he can use

11 them. And Mr. Gillen would be in the same category.

12 **THE PRESIDENT:** Exactly. Is that

13 acceptable to the Respondent?

14 **MR. SPELLISCY:** I'm not sure that it is.

15 Dr. Wilson, or Mr. Wilson, is then in the same

16 category? Because he's been sequestered as well.

17 **MS. CHEEK:** That's correct. Those three

18 witnesses, Mr. Wilson, Mr. Brisebois and Mr. Gillen,

19 because they've been sequestered and, therefore, are

20 quasi fact witnesses, shall we say, given the

21 default rule that they would not have any speaking

22 notes, if it's been determined they may have

23 speaking notes, those speaking notes need to be

24 shared with the other party at the beginning of

25 their presentation.

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12:14

1 **THE PRESIDENT:** The determination, at

2 least as a practical solution as regards

3 Mr. Brisebois, was that since he has speaking notes

4 and he was already starting this, he gives a copy to

5 your side so you can study it during the lunch

6 break. But with Dr. Gillen, we don't know yet

7 whether that should be the case.

8 **MS. CHEEK:** Maybe Respondent can let us

9 know if Mr. Gillen intends to speak with speaking

10 notes, but if he does intend to speak with speaking

11 notes, then I think the same rule would apply. The

12 sequestered witnesses need to provide those notes

13 since they're testifying as quasi fact witnesses.

14 **THE PRESIDENT:** Do you have a problem that

15 he has speaking notes, Mr. Gillen?

16 **MS. CHEEK:** I think if we are going to

17 have one of our quasi fact witnesses have speaking

18 notes, then I have no objection to being consistent

19 in that regard.

20 **THE PRESIDENT:** Then for both, and you

21 agree also for Mr. Dimock? But he is not a true

22 expert, so it's not a problem.

23 **MS. CHEEK:** And true experts, when they

24 give their presentations, would not share their

25 speaking notes.

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12:15

1 **THE PRESIDENT:** I agree. So is it clear

2 now, Mr. Spelliscy? We have now the speaking notes

3 of Mr. Brisebois, and Dr. Gillen, when he testifies

4 and gives his presentation, may also have speaking

5 notes on the condition that the speaking notes are

6 shared with the Claimant and the Tribunal.

7 **MR. SPELLISCY:** And vice versa for

8 Mr. Wilson.

9 **THE PRESIDENT:** I look to the Claimant.

10 **MS. CHEEK:** Correct. Mr. Wilson will be

11 treated as Mr. Brisebois and Mr. Gillen.

12 **THE PRESIDENT:** Okay, with speaking notes

13 and speaking notes shared with the Respondent and

14 the Tribunal.

15 **MS. CHEEK:** Yes, at the beginning of the

16 presentation.

17 **THE PRESIDENT:** Then we have resolved this

18 issue.

19 **MR. SPELLISCY:** I think this is fine. I

20 have one other clarification. I think you said

21 25 minutes for the presentation. I think we had

22 agreed on 20 minutes.

23 **THE PRESIDENT:** Your estimate says 25.

24 **MR. SPELLISCY:** That was five minutes for

25 direct examination and 20 meant for the

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1 presentation. I think the parties had agreed on  
2 maximum of 20 minutes.  
3 **THE PRESIDENT:** Okay. Thank you.  
4 20 minutes.  
5 **MS. CHEEK:** We had agreed on a maximum of  
6 20 minutes.  
7 **THE PRESIDENT:** That's what I thought but  
8 I saw 25. Further agreement of the parties. All  
9 right.  
10 **MR. SPELLISCY:** I'm asking one of our  
11 paralegals to come over. He did leave two copies of  
12 the PowerPoint presentation for Claimant.  
13 **THE PRESIDENT:** Let's check that everybody  
14 is literally on the same page. Ms. Cheek, your  
15 side, you have a document which is captioned  
16 "Summary of Witness Statements of Marcel Brisebois",  
17 and I show it here to you?  
18 **MS. CHEEK:** Yes, Claimant has a copy of  
19 the Summary of Witness Statements of Marcel  
20 Brisebois, the speaking notes version.  
21 **THE PRESIDENT:** You have the PowerPoint,  
22 the large PowerPoint, and then you have the version  
23 with -- it's probably the same but then the speaking  
24 notes are below it?  
25 **MS. CHEEK:** Correct. We do not have the  
  
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1 large PowerPoint version but I'm assuming it is the  
2 same as the speaking notes version, if Respondent  
3 can confirm.  
4 **MR. BRISEBOIS:** One difference. The last  
5 slide doesn't exist in the final version.  
6 **THE PRESIDENT:** How come that the Claimant  
7 has not received the original PowerPoint without the  
8 notes?  
9 **MR. SPELLISCY:** They have received it.  
10 They have received two copies. I think perhaps on  
11 the five-minute break they gathered it up.  
12 **MS. CHEEK:** With my sincere apologies,  
13 they've been discovered at Claimant's table.  
14 **THE PRESIDENT:** So now we have resolved  
15 everything. Mr. Brisebois, could you please start  
16 again your presentation. This time it's 20 minutes.  
17 **MR. BRISEBOIS:** Yes.  
18 In this matter I was asked to review  
19 Claimant's allegation regarding the spike in the  
20 invalidations for pharma patents on utility grounds,  
21 allegedly caused by a shift in Canada's approach to  
22 utility. Also to review Claimant's patent  
23 invalidation statistics and its conclusions with  
24 respect to discrimination toward pharmaceutical  
25 patents, and, finally, to collect and consider  
  
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1 evidence regarding Claimant's historic patent filing  
2 behavior relating to the compounds olanzapine,  
3 atomoxetine and Raloxifene.  
4 In its Memorial Claimant asserts that  
5 between 2005 and 2014, the number of pharma patent  
6 invalidations based upon lack of utility increased  
7 from none at all during the 1980 to 2004 period to  
8 at least 23 during the period from 2005 to 2014.  
9 The Claimant attributes this increase to a shift in  
10 the interpretation of the utility criteria in patent  
11 law by Canadian courts. In order to put the  
12 absolute number advanced by the Claimant in  
13 perspective, I chose to draw a complete and  
14 objective portrait of the pharma patent litigation  
15 in Canada between 1980 and 2014, at least for the  
16 context of my first statement.  
17 To do so I reviewed all pharma patent  
18 cases, including impeachment proceedings and PM(NOC)  
19 proceedings before the Canadian Federal Court, and I  
20 recorded the challenged grounds and the final  
21 outcomes for each challenged patent.  
22 One of my first findings was that the  
23 number of pharma patent challenges on all grounds  
24 increased in the post 2005 period. This finding is  
25 illustrated in this graph. The light purple bars  
  
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1 represent the 1980-2004 period and the dark purple  
2 bars represent the 2005-2014 period. As you can  
3 see, the number of challenges in the post 2005  
4 period increased and is observed for all  
5 requirements, including the non-obviousness and  
6 novelty, utility and sufficiency of disclosure.  
7 Therefore, it's not surprising that the absolute  
8 number of invalidity findings including those on  
9 utility grounds has so increased in the post-2005  
10 period.  
11 I also found that PM(NOC) cases represent  
12 the vast majority of all pharma patent challenges.  
13 And with regard to PM(NOC) proceedings it must be  
14 remembered that an adverse finding in a PM(NOC) case  
15 does not invalidate a patent. The patentee still  
16 can enforce his patent rights against generic  
17 companies, and PM(NOC) proceedings are available  
18 exclusively to the pharma sector.  
19 So this graphic represents a timeline of  
20 the pharma patent challenges. The PM(NOC)  
21 proceedings are represented by the light purple and  
22 the bars. You can see an increase of the total  
23 number of validity challenges per year from 2004  
24 onward, and that PM(NOC) cases contributed  
25 substantially to this increase in pharma patent  
  
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1 litigation.  
2 83 percent of the patent challenges were  
3 under PM(NOC) proceedings in the post-2005 period.  
4 So, therefore, it's incorrect to refer to the 23  
5 invalidations on utility grounds when only five  
6 pharma patents were actually invalidated for lack of  
7 utility under an impeachment action in the 2005-2014  
8 period.  
9 I also found that about half of the pharma  
10 patents that lost a utility challenge had other  
11 problems as well. In other words, about half of  
12 these patents would have been found invalid anyway  
13 had they not been challenged for lack of utility.  
14 I also produced a timeline of total  
15 validity challenges and total invalidity findings  
16 for each main ground to determine if the spike of  
17 findings of lack of utility that began in 2005 is  
18 unique to the utility requirement. So these two  
19 graphs show that challenges and invalidity findings  
20 on other grounds peaked around the same time.  
21 On your left on figure 1 you can see the  
22 timeline of total challenges for pharma patents for  
23 each main grounds. In blue it's utility, and red  
24 non-obviousness, green novelty, and purple  
25 sufficiency. You can also see on your right the

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1 corresponding finding of invalidity that all peak  
2 around the same time.  
3 In orange you also observe a spike for  
4 cases where utility was not challenged, so  
5 supporting that the utility challenges did not drive  
6 the challenges on other grounds. So these graphs  
7 support that the observed increase in findings of a  
8 lack of utility is not related to an event specific  
9 to the utility requirement, such as an alleged shift  
10 in the interpretation of the utility criteria by the  
11 Canadian courts.  
12 I will turn now to the review of  
13 Claimant's patent invalidation statistics, and its  
14 conclusions with respect to discrimination toward  
15 pharma patents. For this section of my second  
16 statement, I updated the pharmaceutical case list.  
17 I reviewed the case list relied on by Dr. Levin, and  
18 for the non-pharma post-2005 cases I relied on  
19 Appendix C of Dr. Levin's expert report. As only  
20 one patent was challenged on utility grounds in each  
21 case, I counted my outcomes based on an individual  
22 patent challenge basis, except for two cases,  
23 Eurocopter and Uponsor, two non-pharma cases which  
24 had opposite utility findings for distinct  
25 embodiments in a single patent.

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1 So following the review of the dataset  
2 relied on by Dr. Levin, one of my observations was  
3 that the data counts court judgments rather than  
4 individual patent challenges. I consider this to be  
5 inappropriate because the data set includes cases  
6 wherein multiple pharma patents were challenged on  
7 the same grounds, and that only one outcome is  
8 counted if you count court judgments rather than  
9 patent challenges. So this example illustrates the  
10 difference in counting outcomes based on the core  
11 judgments, or on individual patent challenges. So  
12 for this particular decision, 2009 FCA 1102, two  
13 pharma patents were challenged for lack of utility.  
14 One patent, a '453 patent, was found useful and the  
15 other one, '492, was found to lack utility. So  
16 based on the basis of an individual patent  
17 challenge, I counted two different outcomes. One  
18 patent held invalid and one patent held valid.  
19 According to Appendix C of Dr. Levin's  
20 report, Claimants counted only one outcome, the  
21 invalidity finding, and the other outcome was not  
22 taken into account in the analysis relied on by  
23 Dr. Levin. When you repeat this same methodology in  
24 several cases it affects the observed rates of  
25 invalidity. In the context of this example, I

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1 obtained an invalidity rate of 33 percent, and  
2 counting for judgments will lead to a rate of  
3 66 percent.  
4 So I consider outcomes based on each  
5 individual patent challenge reflects more accurately  
6 the outcomes of cases dealing with multiple pharma  
7 patent challenges on the same grounds.  
8 I also found there are discrepancies and  
9 inaccuracies in the data relied on by Dr. Levin.  
10 The most significant one is the treatment of Bell  
11 Helicopter versus Eurocopter. This is a case where  
12 two different embodiments of a landing gear were  
13 challenged for lack of utility. So the first  
14 embodiment is the landing gear with a forward offset  
15 cross-piece, and the second and distinct embodiment  
16 is a landing gear with a backward offset  
17 cross-piece. One was held useful, the one with the  
18 forward offset cross-piece, and one was held to lack  
19 utility, the one with the backward offset  
20 cross-piece. So in my opinion, counting this case  
21 exclusively as a case where a non-pharma patent was  
22 held valid on utility grounds, as Claimant did in  
23 Appendix C to Dr. Levin's report, is not an accurate  
24 reflection of the outcomes of this case. I  
25 considered that counting this case as a non-pharma

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1 patent, that both won and lost a utility challenge,  
2 is a more accurate reflection of the outcomes of  
3 this case.  
4 I also found that the data relied on by  
5 Dr. Levin is biased by PM(NOC) cases. I considered  
6 that PM(NOC) cases should not be included in any  
7 statistical analysis regarding the difference of  
8 invalidity rates between pharma and non-pharma  
9 sectors for at least three main reasons.  
10 First, like I said previously, PM(NOC)  
11 proceedings do not invalidate a pharma patent.  
12 2, there is an interim problem of double  
13 counting associated with the inclusion of PM(NOC)  
14 proceedings, because the same pharma patent can be  
15 challenged in one or more PM(NOC) proceedings and  
16 subsequently challenged in an impeachment action.  
17 In my view recording the same outcome more than one  
18 time for the same patent is problematic. Also, the  
19 only invalidations that are equally comparable  
20 between the pharma and non-pharma sectors are  
21 invalidation under impeachment actions.  
22 So I reproduced Claimant's analysis with  
23 an updated and corrected data set, and I found there  
24 is no statistical evidence of discrimination towards  
25 pharma patents. And this is true whether or not I

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1 include PM(NOC) proceedings in my analysis.  
2 I also produced additional analyses.  
3 First I looked whether there was a difference in  
4 overall invalidity rates before and after 2005. A  
5 finding of invalidity on a single ground is  
6 sufficient to invalidate a patent. Therefore if  
7 utility-based invalidation rates increased with  
8 statistical significance after 2005, but the rates  
9 of invalidation on other grounds remain stable  
10 before and after 2005, one would expect to see a  
11 significant increase in overall patent invalidation  
12 rates for pharma patents. This is not the case.  
13 I also looked at the utility based  
14 invalidity rates for two specific cases, AZT in 2002  
15 and Raloxifene in 2008. These two cases were  
16 identified by the Claimant as a decision where  
17 important changes were made to the rules about the  
18 utility test, and what I observed is that there is  
19 no statistically significant difference in  
20 utility-based invalidity rates for pharma patents  
21 before and after any of these two cases.  
22 Finally, I collected and considered  
23 evidence regarding Claimant's historic patent filing  
24 behavior relating to the compounds olanzapine,  
25 atomoxetine and Raloxifene. So I retrieved the

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1 application related to these three compounds and I  
2 found that there were multiple patent applications  
3 that were filed for new therapeutic uses for at  
4 least three compounds considering the 1990 and 2004  
5 period, 16 for olanzapine, 12 for atomoxetine and 68  
6 for Raloxifene.  
7 I reviewed the applications to identify  
8 the presence of experimental data relevant to the  
9 claimed therapeutic use, and I found that about half  
10 of Claimant's patent applications contained at least  
11 some reference to experimental data specifically  
12 relevant to the claimed therapeutic use. I also  
13 determined the status of each patent application,  
14 meaning whether it was still in prosecution before  
15 the Canadian patent office, whether it was dead, or  
16 whether it became a patent, and what I found is that  
17 94 percent of these patent applications are dead.  
18 Unlike abandoned applications that could be  
19 reinstated under certain conditions, dead  
20 applications cannot be reinstated.  
21 So to put this proportion of dead  
22 applications in perspective, I compared it to  
23 Claimant's percentage of dead applications for all  
24 applications filed in the same field of invention,  
25 and to the percentage of dead applications for

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1 applications filed in the same field of invention by  
2 any applicant during the same time period. The  
3 field of invention was based on classification code  
4 that was shared by 95 percent of all applications  
5 that I reviewed.  
6 As can be seen here on this graph, the  
7 average percentage of dead applications filed by the  
8 Claimant in the field of therapeutic use of  
9 compounds of the same broad category of olanzapine,  
10 atomoxetine and Raloxifene during the 1990 and 2004  
11 period is 86 percent. This is lower than what I  
12 observed for the application covering the new uses  
13 of the three compounds, but higher than 64 percent  
14 which is the percentage of dead applications among  
15 all applications filed in the same field of  
16 inventions during the same time period.  
17 This concludes my presentation. Thank you  
18 for your time.  
19 **THE PRESIDENT:** Thank you. Mr. Spelliscy,  
20 or Ms. Zeman, that also concludes the direct  
21 examination, because you have five minutes left, I  
22 understand.  
23 **MS. ZEMAN:** That does conclude our direct  
24 examination.  
25 **THE PRESIDENT:** Then we break now for

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1 lunch. We resume at 1:30. Dr. Brisebois, you are  
2 under testimony. It means you are not allowed to  
3 discuss this case with anyone during your testimony,  
4 but you are free to, of course, have your lunch.  
5 Thank you. Resume at 1:30.  
6 *(Recess taken)*  
7 **THE PRESIDENT:** Ms. Cheek, you are  
8 conducting the cross-examination?  
9 **MS. CHEEK:** I will be conducting the  
10 cross-examination of Mr. Brisebois.  
11 **THE PRESIDENT:** Please proceed. And  
12 you've had a certain time to review the speaking  
13 notes?  
14 **MS. CHEEK:** We have. Thank you.  
15 **CROSS-EXAMINATION**  
16 **MS. CHEEK:** Good afternoon, Mr. Brisebois.  
17 **MR. BRISEBOIS:** Good afternoon.  
18 **MS. CHEEK:** I'd like to start just by  
19 asking you a few questions about your background.  
20 After receiving your doctorate you went to work for  
21 the Canadian Intellectual Property Office as a  
22 patent examiner. Is that correct?  
23 **MR. BRISEBOIS:** That's correct.  
24 **MS. CHEEK:** Then in December 2013, after  
25 this arbitration commenced, you were seconded to  
  
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1 Industry Canada. Is that correct?  
2 **MR. BRISEBOIS:** That's correct.  
3 **MS. CHEEK:** And there at Industry Canada  
4 you were assigned to the strategic policy sector.  
5 Is that right?  
6 **MR. BRISEBOIS:** That's correct.  
7 **MS. CHEEK:** And there your title was  
8 senior policy analyst and strategic policy advisor.  
9 Is that right?  
10 **MR. BRISEBOIS:** I think it was senior  
11 analyst, yeah.  
12 **MS. CHEEK:** So I assume by its name, if  
13 you were a policy analyst in the strategic policy  
14 sector at Industry Canada, that that meant you  
15 formed strategic policies for Canadian industry. Is  
16 that right?  
17 **MR. BRISEBOIS:** I mean I participated in  
18 the work done there, yeah.  
19 **MS. CHEEK:** And I believe, is it correct  
20 that you also -- a notable part of your job was to  
21 be advising on matters specific to this arbitration?  
22 **MR. BRISEBOIS:** That's correct.  
23 **MS. CHEEK:** So Mr. Brisebois, you're  
24 familiar with patent validity challenges brought  
25 under Canada's Patented Medicines (Notice of  
  
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1 Compliance) Regulations, right?  
2 **MR. BRISEBOIS:** I'm familiar with it.  
3 **MS. CHEEK:** In your second statement --  
4 and if you could turn to your second statement at  
5 Paragraph 3 -- your second statement should be  
6 before you.  
7 **MR. BRISEBOIS:** I missed the page, sorry.  
8 **MS. CHEEK:** Paragraph 3 of your second  
9 statement.  
10 **MR. BRISEBOIS:** Yes.  
11 **MS. CHEEK:** At Paragraph 3 of your second  
12 statement, you say that the data set analyzed by  
13 Professor Levin is -- I believe the words used here  
14 are afflicted with at least three flaws. Is that  
15 right?  
16 **MR. BRISEBOIS:** That's right.  
17 **MS. CHEEK:** And one of those flaws is the  
18 inclusion of the PM(NOC) cases. Is that right?  
19 **MR. BRISEBOIS:** That's right.  
20 **MS. CHEEK:** Now, Mr. Brisebois, are you  
21 aware that PM(NOC) proceedings apply the same  
22 utility law as infringement cases?  
23 **MR. BRISEBOIS:** Yes.  
24 **MS. CHEEK:** And are you aware that PM(NOC)  
25 decisions are cited as precedent in subsequent  
  
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1 patent case, both pharma cases and in other sectors?  
2 **MR. BRISEBOIS:** Yes, they're not binding,  
3 but they are cited, yes.  
4 **MS. CHEEK:** And PM(NOC) cases are relied  
5 upon by the Canadian patent office as well, as  
6 reflected in the MOPOP. Is that right?  
7 **MR. BRISEBOIS:** I'm not sure about that,  
8 but could be right, yes.  
9 **MS. CHEEK:** Perhaps if you could turn to  
10 Tab 7 of the binder. This is C-351, and this is the  
11 chapter of the MOPOP on biotechnology, Chapter 17.  
12 Do you see that?  
13 **MR. BRISEBOIS:** Yes. Can you tell me  
14 which date is that?  
15 **MS. CHEEK:** This is the 2009 MOPOP. Just  
16 to familiarize ourselves with the document, if you  
17 turn to page 17-9, there you can see this is the  
18 January 2009 edition of the MOPOP. At the bottom of  
19 page 17-9, there's the Section 17.03 on utilities.  
20 Do you see that?  
21 **MR. BRISEBOIS:** Yes, I do.  
22 **MS. CHEEK:** And then if we keep flipping  
23 to page 17-12, here at 17.03.02a there's a section  
24 discussing factual basis. Do you see that?  
25 **MR. BRISEBOIS:** Yes, I do.  
  
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1 **MS. CHEEK:** A little more than halfway  
 2 down there is a statement that says, "As was noted  
 3 in the case of Pfizer v Apotex, however, 'utility  
 4 and sound prediction are questions of fact that must  
 5 obviously be supported.'" Do you see that?  
 6 **MR. BRISEBOIS:** Yes, I do.  
 7 **MS. CHEEK:** There's a footnote 20 there,  
 8 correct?  
 9 **MR. BRISEBOIS:** Sorry, a what?  
 10 **MS. CHEEK:** A footnote 20 to that  
 11 sentence.  
 12 **MR. BRISEBOIS:** Yes.  
 13 **MS. CHEEK:** Let's look at footnote 20.  
 14 I'm sorry. That's on page 17-49 of the MOPOP before  
 15 you.  
 16 **MR. BRISEBOIS:** Okay.  
 17 **MS. CHEEK:** Footnote 14 the Pfizer Canada  
 18 v Apotex case, here the cite is 2007 FCA 135, and I  
 19 assume that's familiar to you as a PM(NOC) case?  
 20 **MR. BRISEBOIS:** I'm sorry, you said  
 21 footnote 20?  
 22 **MS. CHEEK:** 20, yes, on page 17-49. I'll  
 23 give you a moment to look at footnote 20.  
 24 **MR. BRISEBOIS:** Okay.  
 25 **MS. CHEEK:** And the cite here is 2007 FCA

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1 195. So is that familiar to you as a PM(NOC) case?  
 2 **MR. BRISEBOIS:** Let me check in my case  
 3 list.  
 4 **MS. CHEEK:** Mr. Brisebois, if I could  
 5 assist, it might help you to look at line 17 of  
 6 Annex B to your First Report.  
 7 **MR. BRISEBOIS:** Okay. Okay, yes, PM(NOC).  
 8 **MS. CHEEK:** And if we can turn back to the  
 9 substantive discussion of MOPOP to page 17-13, here  
 10 at 17.03.02c, Proper Disclosure, do you see that  
 11 provision?  
 12 **MR. BRISEBOIS:** Yes, I do.  
 13 **MS. CHEEK:** It says: "The requirement for  
 14 proper disclosure means that the person skilled in  
 15 the art has to, throughout the specification  
 16 interpreted in view of their common general  
 17 knowledge, be provided with sufficient information  
 18 to understand the basis of the sound prediction."  
 19 At the end of that sentence there's a  
 20 footnote 21. Is that right?  
 21 **MR. BRISEBOIS:** Yes.  
 22 **MS. CHEEK:** If we could flip back to the  
 23 footnote, I'll give you a moment to look at footnote  
 24 21, which is on page 17-49.  
 25 **MR. BRISEBOIS:** Okay.

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1 **MS. CHEEK:** Mr. Brisebois, that's also the  
 2 same PM(NOC) case that's cited at line 9 of your  
 3 Annex B to your First Report?  
 4 **MR. BRISEBOIS:** I cite the appeal.  
 5 **MS. CHEEK:** Yes, you cite the appeal.  
 6 **MR. BRISEBOIS:** But it's the same case.  
 7 **MS. CHEEK:** If we might just look now at  
 8 page 17-13 again, you'll see under 17.03.03,  
 9 Relevant Date, there's a statement that "the date at  
 10 which the applicant must be in a position to  
 11 establish the utility of their invention is the  
 12 filing date." And, again, there's footnote 22. Do  
 13 you see that?  
 14 **MR. BRISEBOIS:** Yes.  
 15 **MS. CHEEK:** If you could take a moment to  
 16 familiarize yourself with footnote 22 on page 17-49.  
 17 **MR. BRISEBOIS:** Okay.  
 18 **MS. CHEEK:** At footnote 22 Aventis Pharma  
 19 v Apotex, the Court of Appeal's decision 2006 FCA  
 20 64, that's the PM(NOC) case that's cited at line 22  
 21 of your Annex B to your First Report, correct?  
 22 **MR. BRISEBOIS:** Correct.  
 23 **MS. CHEEK:** Mr. Brisebois, if you could  
 24 turn to your second statement at Paragraph 22, on  
 25 the top of page 8 you do acknowledge that there are

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1 practical effects of PM(NOC) findings of invalidity  
 2 that are real, immediate and significant. Is that  
 3 correct?  
 4 **MR. BRISEBOIS:** Yes.  
 5 **MS. CHEEK:** Mr. Brisebois, are you aware  
 6 of a single case where a patent that was found to  
 7 lack usefulness, a patent that was found not useful  
 8 in a PM(NOC) proceeding, was later found to be  
 9 useful in a subsequent infringement proceeding?  
 10 **MR. BRISEBOIS:** I would have to review all  
 11 the cases, but from my head I cannot think of one.  
 12 **MS. CHEEK:** So you cannot point me to a  
 13 specific case where a patent found not to be useful  
 14 in a PM(NOC) proceeding was then found useful in a  
 15 subsequent infringement proceeding?  
 16 **MR. BRISEBOIS:** Not now. But I can't --  
 17 it doesn't mean it doesn't exist. I will have to go  
 18 through the cases and see.  
 19 **MS. CHEEK:** So you've not looked before at  
 20 this question?  
 21 **MR. BRISEBOIS:** Maybe, but I don't  
 22 remember the answer if I did.  
 23 **MS. CHEEK:** Would it surprise you to learn  
 24 that there's no such cases?  
 25 **MR. BRISEBOIS:** Not particularly.

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1 **MS. CHEEK:** So Mr. Brisebois, I'd like to  
 2 go back to Paragraph 3 of your second statement.  
 3 We've looked at this paragraph before, and here you  
 4 discuss the three flaws with Professor Levin's data  
 5 set, correct?  
 6 **MR. BRISEBOIS:** Correct.  
 7 **MS. CHEEK:** And one of those flaws is the  
 8 use of cases instead of patents to measure patent  
 9 invalidation rates. Is that right?  
 10 **MR. BRISEBOIS:** That's right.  
 11 **MS. CHEEK:** Mr. Brisebois, if I could  
 12 direct your attention to behind tab 1 of the binder,  
 13 this is Brisebois cross-examination demonstrative 1,  
 14 and I'll give you a moment to familiarize yourself  
 15 with it. I'll walk you through it as well, and the  
 16 Tribunal as well as Respondent.  
 17 Table 1 at the top is listed "Corrections  
 18 to Levin's Table No. 1." For the record, that's  
 19 Professor Levin's Table No. 1, which is actually  
 20 titled in Professor Levin's Report "Patent cases in  
 21 the post-2005 period involving a decided challenge  
 22 on grounds of utility."  
 23 So this table 1 is counting patent cases  
 24 deciding utility challenges. Is that right?  
 25 **MR. BRISEBOIS:** Yes.

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1 **MS. CHEEK:** Then table 2 is your table,  
 2 which you've titled "Patents involving a decided  
 3 challenge on grounds of utility post-2005." Is that  
 4 right?  
 5 **MR. BRISEBOIS:** Yes, that's right.  
 6 **MS. CHEEK:** And in your chart, table 2,  
 7 you counted challenged patents rather than court  
 8 decisions, right?  
 9 **MR. BRISEBOIS:** Right.  
 10 **MS. CHEEK:** And for the record, both your  
 11 table 1, corrections to Professor Levin's table 1,  
 12 and your table 2 have been updated to reflect your  
 13 errata that were submitted prior to the hearing. Is  
 14 that correct?  
 15 **MR. BRISEBOIS:** Yes.  
 16 **MS. CHEEK:** So, Mr. Brisebois, when you  
 17 count patents, your second table, rather than  
 18 decisions, the first table, that does not change the  
 19 number of invalidations on grounds of utility for  
 20 pharmaceutical patents, correct? That number stays  
 21 at 29.  
 22 **MR. BRISEBOIS:** That's correct.  
 23 **MS. CHEEK:** And when you count patents  
 24 under your table as opposed to cases, that does not  
 25 change invalidations on grounds of utility for

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1 non-pharma patents. That stays at 2. Is that  
 2 correct?  
 3 **MR. BRISEBOIS:** Yes, it's correct.  
 4 **MS. CHEEK:** It also does not change the  
 5 number of non-pharmaceutical patents that survive a  
 6 utility challenge. That remains at 8, correct?  
 7 **MR. BRISEBOIS:** That's correct.  
 8 **MS. CHEEK:** But when you look at  
 9 pharmaceutical patents that survive the utility  
 10 challenge then your number changed, right?  
 11 **MR. BRISEBOIS:** The number changed but the  
 12 first one is not my number.  
 13 **MS. CHEEK:** Correct. So your  
 14 correction -- so let me just phrase the question,  
 15 Mr. Brisebois, so the record would be clear. When  
 16 you counted patents in your table 2 you found 49  
 17 patents, whereas in Professor Levin's table No. 1  
 18 there would only be 42 patents found valid on  
 19 utility in the pharmaceutical sector. Is that  
 20 right?  
 21 **MR. BRISEBOIS:** That's correct.  
 22 **MS. CHEEK:** So the change there is from 42  
 23 to 49?  
 24 **MR. BRISEBOIS:** That's correct.  
 25 **MS. CHEEK:** So just quickly eyeballing the

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1 math, in table 1, Professor Levin's table, 29  
 2 invalid findings of inutility out of 71 is how we  
 3 get to roughly the 40 percent figure of findings of  
 4 inutility, right?  
 5 **MR. BRISEBOIS:** Yes. I mean -- I trust  
 6 you on the math.  
 7 **MS. CHEEK:** So in your chart where you're  
 8 counting patents rather than cases, I'm sorry -- in  
 9 your chart where you are counting patents rather  
 10 than cases, the 29 invalidity findings in the  
 11 pharmaceutical sector on grounds of utility out of a  
 12 total of about 78 -- that gets us to about  
 13 37 percent?  
 14 **MR. BRISEBOIS:** Again, I trust you on  
 15 that.  
 16 **MS. CHEEK:** Somewhere in the ballpark.  
 17 Mr. Brisebois, if I can turn Annex B of your Second  
 18 Report.  
 19 **MR. BRISEBOIS:** Yes.  
 20 **MS. CHEEK:** If you turn to page 3 and  
 21 familiarize yourself with lines 72 to 76.  
 22 **MR. BRISEBOIS:** Yes.  
 23 **MS. CHEEK:** On page 3 at line 72, this is  
 24 Eli Lilly and Company v Apotex, and the decision  
 25 over in the far right-hand column is 2009 FC 991,

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1 correct?  
2 **MR. BRISEBOIS:** Correct.  
3 **MS. CHEEK:** And this is the Canadian  
4 Federal Court's decision in the Cefaclor case?  
5 **MR. BRISEBOIS:** I believe so.  
6 **MS. CHEEK:** Do you recall that Cefaclor is  
7 a single pharmaceutical product? It's an  
8 antibiotic?  
9 **MR. BRISEBOIS:** Okay. But the patents in  
10 play, at issue, were not all about this particular  
11 compound. They were also patents for the process of  
12 making it, and I can't remember all the details but  
13 there's other patents in play in there.  
14 **MS. CHEEK:** So this decision in line 72  
15 did relate to a single product. That's right?  
16 **MR. BRISEBOIS:** I'd have to see the patent  
17 per se.  
18 **MS. CHEEK:** So, Mr. Brisebois, this same  
19 case, this same decision, Lilly v Apotex, 2009 FC  
20 991, you code that same case also in line 73. Is  
21 that right?  
22 **MR. BRISEBOIS:** Yes, for other patents.  
23 **MS. CHEEK:** And it appears in line 74.  
24 **MR. BRISEBOIS:** Yes.  
25 **MS. CHEEK:** And line 75?

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1 **MR. BRISEBOIS:** Yeah, but I did some  
2 corrections for these cases.  
3 **MS. CHEEK:** Yes. So I think your  
4 corrections still coded lines 72 through 76 green.  
5 Would you like to check that?  
6 **MR. BRISEBOIS:** Oh, yes. Yes, you're  
7 correct.  
8 **MS. CHEEK:** And green means that a utility  
9 challenge was won by the patent owner according to  
10 your coding, so here in this case Lilly prevailed.  
11 Is that right?  
12 **MR. BRISEBOIS:** Yes.  
13 **MS. CHEEK:** I would note, in case the  
14 Tribunal doesn't have a corrected version before  
15 them, that your correction to the record was that in  
16 lines 78 and 79 you no longer coded those green,  
17 correct?  
18 **MR. BRISEBOIS:** Correct.  
19 **MS. CHEEK:** If we could go back to  
20 demonstrative 1, the tables that were behind tab 1.  
21 **MR. BRISEBOIS:** Yes.  
22 **MS. CHEEK:** To refresh our memory, the  
23 only difference between these two tables is that  
24 there's 42 utility findings in table 2 that's  
25 counting patents, and there's 49 utility findings in

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1 table -- I'm sorry. I said that backwards.  
2 So the only difference between the two  
3 charts is that there's 42 utility findings in table  
4 1 that counts decisions, and there's 49 utility  
5 findings in table 2 that counts patents. Is that  
6 right?  
7 **MR. BRISEBOIS:** Yes.  
8 **MS. CHEEK:** And so these five entries we  
9 just looked at for your chart in a single case,  
10 lines 72, 73, 74, 75, 76, those five cases account  
11 for five of the seven differences between those two?  
12 **MR. BRISEBOIS:** Yes, they are part of it.  
13 **MS. CHEEK:** Mr. Brisebois, if we could  
14 turn to your second statement at Paragraph 8.  
15 **MR. BRISEBOIS:** Yes.  
16 **MS. CHEEK:** And here you discuss the  
17 Eurocopter decision. Is that right?  
18 **MR. BRISEBOIS:** That's correct.  
19 **MS. CHEEK:** And you say, about halfway  
20 down or so, "I have counted this case as one in  
21 which a non-pharmaceutical patent both won and lost  
22 a utility-based validity challenge." Is that right?  
23 **MR. BRISEBOIS:** That's right. It was the  
24 most accurate way of reflecting the outcomes of the  
25 case.

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1 **MS. CHEEK:** If you could turn to page 4 in  
2 your binder, this is the Eurocopter decision.  
3 **MR. BORN:** Tab 4?  
4 **MS. CHEEK:** Tab 4, yes.  
5 Just to be clear, Mr. Brisebois,  
6 Eurocopter, you count this case twice in each of the  
7 tables in your second statement. You count it once  
8 as a non-pharma case with a finding of validity, and  
9 then you also count it a second time as a non-pharma  
10 case with a finding of invalidity. Is that right?  
11 **MR. BRISEBOIS:** Yes, to acknowledge that  
12 two different outcomes or two different embodiments  
13 that were claimed in the patent received different  
14 rulings with regard to utility.  
15 **MS. CHEEK:** If you could turn to  
16 Paragraph 456 of the Eurocopter decision, it's on  
17 page 146, so it's near the end, Mr. Brisebois, at  
18 Paragraph 456 the court says, "In the final  
19 analysis, the court finds that Eurocopter is  
20 entitled to punitive damages as a result of the  
21 infringement by Bell of the '787 patent and the  
22 deliberate and outrageous conduct of Bell in this  
23 case." Do you see that?  
24 **MR. BRISEBOIS:** Uh-huh.  
25 **MS. CHEEK:** So the court found

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1 infringement and awarded punitive damages in this  
2 case. Is that right?  
3 **MR. BRISEBOIS:** Yes.  
4 **MS. CHEEK:** Yet nevertheless you coded  
5 this case as both a win for the patent holder and a  
6 loss?  
7 **MR. BRISEBOIS:** No. What I said is that I  
8 coded this as both a won and lost utility challenge  
9 on the grounds of utility, so not as a loss or a  
10 win, since what I was coding was for the challenge  
11 and the outcomes, and there was an outcome which is  
12 invalidity on the grounds of utility for one of the  
13 embodiments, so that's why I coded that way.  
14 The fact that the infringer was infringing  
15 the valid claim has no relevance to what I was  
16 doing, and to acknowledge that there was a finding  
17 of lack of utility for a non-pharma patent in my  
18 opinion should be acknowledged and in any  
19 statistical analysis to see if there's any  
20 statistically significant difference between  
21 invalidity rates on the basis of utility between  
22 pharma and non-pharma sectors. Because the fact  
23 that this infringer was infringing that one doesn't  
24 mean anyone elsewhere could have infringed the other  
25 invalidated claims, and it doesn't mean that in the

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1 future, now that this claim is out, that people are  
2 allowed to produce and market this second  
3 embodiment. So there was a true finding of  
4 invalidity on grounds of utility for that case.  
5 **MS. CHEEK:** Mr. Brisebois, are you aware  
6 that the embodiment that was found to be infringed  
7 was the only commercialized embodiment of this  
8 invention?  
9 **MR. BRISEBOIS:** Yes, but, again, this has  
10 no bearing on the outcomes of the case, whether or  
11 not a finding of invalidity on utility grounds was  
12 found, so...  
13 **MS. CHEEK:** In layman's terms, given that  
14 there was a finding that Eurocopter was entitled to  
15 punitive damages because of Bell's infringement of  
16 its patent, would you say that Eurocopter won this  
17 case?  
18 **MR. BRISEBOIS:** No. They won the  
19 infringement portion of it but they lost on the  
20 utility findings with regard to one of the two  
21 embodiments.  
22 **MS. CHEEK:** And they were able to protect  
23 the embodiment that they commercialized because it  
24 was found to be useful?  
25 **MR. BRISEBOIS:** Yes, but they won't be

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1 able to defend and then protect the second  
2 embodiment for the future.  
3 **MS. CHEEK:** Are you aware of any plans  
4 they had to commercialize the second embodiment?  
5 **MR. BRISEBOIS:** Again, not part of my  
6 work. Same as -- I never distinguished the outcomes  
7 based on the commercial value of the claims. It was  
8 with regard to whether or not a finding of  
9 invalidity was present or not. So if we want to  
10 look at the impact and the impact is being invalid,  
11 I think this should be acknowledged that one of the  
12 embodiments had been found invalid for lack of  
13 utility.  
14 **MS. CHEEK:** So, despite the fact that the  
15 commercial embodiment was found infringed and it was  
16 found that it had utility, you code this case both  
17 as a finding of validity and as a finding of  
18 invalidity?  
19 **MR. BRISEBOIS:** With regard to utility,  
20 yes.  
21 **MS. CHEEK:** With regards to utility. If  
22 we could now turn to the Uponor case, which is at  
23 Tab 10 of your binder, I direct your attention to  
24 the operative part of this judgment which is on  
25 page 93.

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1 **MR. BRISEBOIS:** Yes.  
2 **MS. CHEEK:** You coded this case the same  
3 way you code Eurocopter, is that right, as both a  
4 finding of validity and a finding of invalidity?  
5 **MR. BRISEBOIS:** That's correct.  
6 **MS. CHEEK:** At Paragraph 2 on page 93, you  
7 see that claim 16, 17, 25, 26 and 27 of the '376  
8 patent were found valid and infringed by Pexcor and  
9 Heatlink, correct?  
10 **MR. BRISEBOIS:** Yes. I also see that many  
11 claims in Paragraph 1 were found invalid, and I  
12 believe many of these were found invalid for lack of  
13 utility.  
14 **MS. CHEEK:** That's with regard to the  
15 claims.  
16 **MR. BRISEBOIS:** That's right. That claims  
17 an embodiment of an invention.  
18 **MS. CHEEK:** So in paragraph 4, you see,  
19 Mr. Brisebois, it says "Pexcor and Heatlink... are  
20 enjoined from manufacturing, using, offering for  
21 sale and/or selling to others for their use the  
22 apparatus of the heating polymer material that  
23 infringes the '376 patent." You see that?  
24 **MR. BRISEBOIS:** Yes.  
25 **MS. CHEEK:** And then at Paragraph 5, it

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1 says here that the plaintiff is entitled to damages  
2 as a result of Pexcor and Heatlink's infringement?  
3 **MR. BRISEBOIS:** Yes.  
4 **MS. CHEEK:** And in paragraphs 7 and 8 it  
5 says the plaintiff is entitled to pre-judgment  
6 interest on that damages award, correct?  
7 **MR. BRISEBOIS:** 7 and 8?  
8 **MS. CHEEK:** Yes.  
9 **MR. BRISEBOIS:** Yes.  
10 **MS. CHEEK:** So, again, even though in this  
11 case, Uponor v Heatlink, there is a finding of  
12 infringement, and damages are awarded, you code this  
13 both as a finding of inutility and a finding of  
14 utility. Is that right?  
15 **MR. BRISEBOIS:** That's correct, because I  
16 was not coding infringement outcomes, and the party  
17 lost his monopoly over many of the scope of the  
18 claims with regard to particular embodiments, what  
19 is particular invention. So he cannot anymore  
20 enforce these patent rights with regard to these  
21 claims.  
22 **MS. CHEEK:** But surely they can enforce  
23 their patent rights for the commercially valuable  
24 claims that were upheld and found infringed,  
25 correct?

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1 **MR. BRISEBOIS:** Commercially valuable for  
2 this particular infringer, and at this particular  
3 time, who knows, next year, for anybody else trying  
4 to infringe any other part of this patent.  
5 **MS. CHEEK:** In theory, because you don't  
6 know anything about the other claims.  
7 **MR. BRISEBOIS:** But it's never theory. At  
8 the end of the day they lost claims because they  
9 were held invalid for lack of utility.  
10 **MS. CHEEK:** You do see that on the claims,  
11 the commercially valuable claims, that the defendant  
12 was enjoined from manufacturing, using, offering for  
13 sale and/or selling to others the use of that  
14 apparatus that was at issue and contention in this  
15 case between these two parties, correct?  
16 **MR. BRISEBOIS:** Yes.  
17 **MS. CHEEK:** So, Mr. Brisebois, could we  
18 turn to your first statement at Paragraph 41?  
19 **MR. BRISEBOIS:** Yes.  
20 **MS. CHEEK:** In Paragraph 41,  
21 Mr. Brisebois, you note that you've chosen to use  
22 terminology "primary patents" and "secondary  
23 patents," correct?  
24 **MR. BRISEBOIS:** Correct.  
25 **MS. CHEEK:** And you define the term

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1 "secondary patent" in Paragraph 41. You say, "I use  
2 'secondary patent' to describe a patent directed to  
3 modified forms of that base compound, or to a new  
4 medical use of a known drug." Is that correct?  
5 **MR. BRISEBOIS:** Yes.  
6 **MS. CHEEK:** Now, Mr. Brisebois, you would  
7 agree that Canadian patent law doesn't make a  
8 distinction between primary and secondary patents in  
9 terms of their patentability criteria, right?  
10 **MR. BRISEBOIS:** No. Yes, I agree.  
11 **MS. CHEEK:** Now, Mr. Brisebois, you  
12 characterized the atomoxetine '735 patent as a  
13 secondary patent. Is that correct?  
14 **MR. BRISEBOIS:** That's correct, because it  
15 was falling in the category of new therapeutic use.  
16 **MS. CHEEK:** Mr. Brisebois, what known drug  
17 or known medicine was already on the market at the  
18 time that the '735 patent was filed?  
19 **MR. BRISEBOIS:** I don't know.  
20 **MS. CHEEK:** There was no known drug  
21 already on the market for the atomoxetine compound,  
22 correct?  
23 **MR. BRISEBOIS:** Possibly. It doesn't  
24 matter with regard to how I classified a patent.  
25 **MS. CHEEK:** You say here that it's for a

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1 new use of a known drug, and I take "drug" to mean a  
2 medicine that's being offered to patients, correct?  
3 **MR. BRISEBOIS:** No. What I meant is a  
4 known drug as a molecule, so I guess this isn't  
5 precise to say known-drug. It should have been  
6 known molecule, or patented molecule.  
7 **MS. CHEEK:** Are you aware, Mr. Brisebois,  
8 that Strattera, the drug, the known drug that's  
9 protected by the '735 patent, was the very first  
10 human treatment ever developed and approved using  
11 the compound atomoxetine?  
12 **MR. BRISEBOIS:** I believe you, but it was  
13 not the first patent that protected that molecule.  
14 **MS. CHEEK:** Mr. Brisebois, you also say  
15 that you consider selection patents as secondary  
16 patents. This is also at Paragraph 41, since they  
17 involve a member of an already patented class of  
18 compounds. Is that right?  
19 **MR. BRISEBOIS:** That's correct.  
20 **MS. CHEEK:** And on that basis you've  
21 characterized Zyprexa, the '113 patent, as a  
22 secondary patent?  
23 **MR. BRISEBOIS:** Yes.  
24 **MS. CHEEK:** So are you aware that the  
25 olanzapine compound itself was never even

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1 synthesized until two years after the genus patent  
2 was issued?  
3 **MR. BRISEBOIS:** I think I read about this,  
4 yeah.  
5 **MS. CHEEK:** And are you aware that  
6 Zyprexa -- so the invention protected by the '113  
7 patent -- was the very first human treatment that  
8 was ever developed and approved to use the compound  
9 olanzapine?  
10 **MR. BRISEBOIS:** Okay, but it doesn't  
11 change the fact that the molecule was previously  
12 protected by the genus patent, although it was not  
13 synthesized.  
14 **MS. CHEEK:** Your focus is on the molecule,  
15 not on the approved drug?  
16 **MR. BRISEBOIS:** My focus is on whether it  
17 was patented.  
18 **MS. CHEEK:** Mr. Brisebois, if we could  
19 turn to Paragraph 62 of your statement.  
20 **MR. BRISEBOIS:** The first one?  
21 **MS. CHEEK:** Yes, I believe the first one.  
22 Here you note that Claimant filed 12 patent  
23 applications for atomoxetine between 1992 and 2004.  
24 Is that right?  
25 **MR. BRISEBOIS:** That's right.

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1 **MS. CHEEK:** Mr. Brisebois, you know that  
2 research takes place before a scientist applies for  
3 a patent, correct?  
4 **MR. BRISEBOIS:** They should, yes.  
5 **MS. CHEEK:** And did you have any personal  
6 knowledge of any of the Lilly scientists who were  
7 working on atomoxetine in the 1990s?  
8 **MR. BRISEBOIS:** No.  
9 **MS. CHEEK:** Did you have access to any of  
10 Lilly's reports or studies on their research for  
11 atomoxetine in the 1990s?  
12 **MR. BRISEBOIS:** No. I only base my  
13 observation on what I saw in the patents --  
14 application, sorry. Patent applications.  
15 **MS. CHEEK:** So, beyond what's in the  
16 patent applications, you have no insight into the  
17 research and development taking place of atomoxetine  
18 inside Lilly laboratories. Correct?  
19 **MR. BRISEBOIS:** That's correct.  
20 **MS. CHEEK:** If we could turn to Tab 8,  
21 which is C-384, for your own reference,  
22 Mr. Brisebois, this is in your Annex E to your First  
23 Report. If you could just give me one moment,  
24 Mr. Brisebois?  
25 **MR. BRISEBOIS:** Sure.

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1 **MS. CHEEK:** Mr. Brisebois, in your Annex E  
2 to your First Report, if you could turn to the page  
3 with the atomoxetine patents, which is page 3,  
4 you've coded them in green, and on line 4 there is a  
5 patent 2,304,657 for conduct disorder where you say  
6 there was no data pertinent to the therapeutic use.  
7 Is that right?  
8 **MR. BRISEBOIS:** That's correct.  
9 **MS. CHEEK:** This is the same patent,  
10 patent 2,304,657, that is behind tab 8?  
11 **MR. BRISEBOIS:** Yes.  
12 **MS. CHEEK:** So you've criticized this  
13 patent for including no data that was pertinent to  
14 therapeutic use. Is that right?  
15 **MR. BRISEBOIS:** No. I just observed that  
16 there was no relevant experimental data to the  
17 specific therapeutic use claimed.  
18 **MS. CHEEK:** Are you aware that by the time  
19 this patent, the 2,304,657 patent, was filed in  
20 1998, that Lilly had spent close to two decades  
21 researching the atomoxetine compound?  
22 **MR. BRISEBOIS:** Okay, but was it on the  
23 treatment of conduct disorder?  
24 **MS. CHEEK:** Are you aware that the  
25 scientist who's listed as the inventor who

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1 discovered -- actually let me back up,  
2 Mr. Brisebois.  
3 This patent application that we're looking  
4 at, patent application 2,304,657, that is for a  
5 norepinephrine reuptake inhibitor that's used to  
6 treat conduct disorder, correct?  
7 **MR. BRISEBOIS:** That's the abstract?  
8 **MS. CHEEK:** I am reading from the  
9 abstract, yes, and line 54 on the front of the  
10 patent which says "Treatment of conduct disorder".  
11 **MR. BRISEBOIS:** I observe that the claim  
12 includes the use of atomoxetine as a norepinephrine  
13 reuptake inhibitor.  
14 **MS. CHEEK:** Very good. And you're looking  
15 to the claims of this patent and the claims of this  
16 patent are on page 13. Is that right?  
17 **MR. BRISEBOIS:** That's correct.  
18 **MS. CHEEK:** So, looking back at the front  
19 of the patent, Mr. Brisebois, you'll see that  
20 there's two inventors listed, John Harrison  
21 Ligenstein and Eli Lilly and Company. Is that  
22 right?  
23 **MR. BRISEBOIS:** Are these the same person  
24 or --  
25 **MS. CHEEK:** Sorry, John Heiligenstein

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1 listed at line 72 on the front of the patent.  
2 **MR. BRISEBOIS:** Yeah, okay. Yeah.  
3 **MS. CHEEK:** Are you aware that John  
4 Heiligenstein was one of the inventors of the '735  
5 patent atomoxetine for the treatment of ADHD?  
6 **MR. BRISEBOIS:** I didn't know.  
7 **MS. CHEEK:** Do you have any personal  
8 knowledge of the research that Dr. Heiligenstein was  
9 performing before he filed this patent before you?  
10 **MR. BRISEBOIS:** No, because I only looked  
11 at what was disclosed in the patent application.  
12 **MS. CHEEK:** So you weren't privy to any  
13 internal scientific research or other information  
14 that Lilly might have relied upon when it decided to  
15 file this patent, correct?  
16 **MR. BRISEBOIS:** That's correct. It could  
17 be the reason why this patent did not include  
18 experimental data relevant to the therapeutic use,  
19 but I did not assess the reason or -- I was just  
20 looking whether or not it was containing this  
21 specific data for the claimed therapeutic use.  
22 **MS. CHEEK:** So, Mr. Brisebois, you have no  
23 insight into why Lilly might have decided to include  
24 or not include certain information in this patent,  
25 correct?

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1 **MR. BRISEBOIS:** That's correct. I was  
2 just finding it interesting that some patents did  
3 include experimental data and some did not.  
4 **MS. CHEEK:** So again, Mr. Brisebois, but  
5 you're not familiar at all with the lines of  
6 research on atomoxetine that Lilly was conducting in  
7 the 1990s, correct?  
8 **MR. BRISEBOIS:** That's correct.  
9 **MS. CHEEK:** I think we've now  
10 established -- and in fact, it's established in your  
11 chart -- that there were multiple patents filed  
12 related to the compound atomoxetine. Is that right?  
13 **MR. BRISEBOIS:** That's right.  
14 **MS. CHEEK:** Do you have any idea how Lilly  
15 decides which of these uses might ultimately become  
16 marketable drugs?  
17 **MR. BRISEBOIS:** No, not precisely.  
18 **MS. CHEEK:** So you're not privy to the  
19 reasons why Lilly might decline to commercialize a  
20 particular patented use, correct?  
21 **MR. BRISEBOIS:** That's correct.  
22 **MS. CHEEK:** Mr. Brisebois, you've said  
23 that you're not privy to all of the research that  
24 was being done on the atomoxetine patent at Lilly?  
25 **MR. BRISEBOIS:** Correct.

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1 **MS. CHEEK:** And the same can be said for  
2 all the research that had been done related to  
3 olanzapine at Lilly, correct?  
4 **MR. BRISEBOIS:** Correct. Except for what  
5 is disclosed in the patent application.  
6 **MS. CHEEK:** And it's also true that you  
7 have no personal knowledge of all of the research  
8 that Lilly was doing on Raloxifene prior to filing  
9 these patents. Is that correct?  
10 **MR. BRISEBOIS:** That's correct.  
11 **MS. CHEEK:** So, Mr. Brisebois, to confirm,  
12 when you made statements in your witness statement  
13 about Lilly's patents that were filed for  
14 atomoxetine, olanzapine and Raloxifene, you did that  
15 solely based on reading what happened to be in the  
16 patent applications and not based at all on any  
17 knowledge of the broader research that Lilly was  
18 doing on those compounds at the time. Is that  
19 right?  
20 **MR. BRISEBOIS:** For the olanzapine, I also  
21 looked at a list of clinical trials performed for  
22 olanzapine. So, to the extent that is reflecting  
23 the stage of the research, I also consulted that  
24 document, but not to the internal or research  
25 conducted at Lilly.

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1 **MS. CHEEK:** I have no further questions.  
2 Thank you, Mr. Brisebois.  
3 **THE PRESIDENT:** Thank you, Ms. Cheek. Any  
4 redirect?  
5 **MR. SPELLISCY:** Just give us a moment to  
6 confer.  
7 **THE PRESIDENT:** Yes.  
8 **MS. ZEMAN:** There will be no questions  
9 from the Respondent.  
10 **THE PRESIDENT:** Thank you. No questions  
11 from the Tribunal either. Mr. Brisebois, thank you  
12 for testifying. You are now released and excused as  
13 a witness.  
14 **MR. BRISEBOIS:** Thank you.  
15 **THE PRESIDENT:** I suggest five minutes  
16 change-over for Professor Siebrasse.  
17 **MS. CHEEK:** Very good. Thank you.  
18 *(Recess taken)*  
19 PROFESSOR NORMAN SIEBRASSE  
20 **THE PRESIDENT:** Good afternoon. Could you  
21 please state your full name for the record?  
22 **PROFESSOR SIEBRASSE:** Professor Norman  
23 Siebrasse.  
24 **THE PRESIDENT:** Professor Siebrasse, you  
25 appear as an expert witness for the Claimant?

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1           **PROFESSOR SIEBRASSE:** Yes.

2           **THE PRESIDENT:** If any question is unclear

3 to you, either because of language or for any other

4 reason, please do seek a clarification because, if

5 you don't do so, the Tribunal will assume that

6 you've understood the question and that your answer

7 corresponds to the question.

8           **PROFESSOR SIEBRASSE:** Yes, I understand.

9           **THE PRESIDENT:** Professor, you will

10 appreciate that testifying, be it before a court or

11 an arbitral tribunal, is a very serious matter, and

12 in this connection the Tribunal requests you to make

13 the statement which is in front of you.

14           **PROFESSOR SIEBRASSE:** I solemnly declare

15 upon my honor and conscience that my statement will

16 be in accordance with my sincere belief.

17           **THE PRESIDENT:** Thank you. Could you

18 please go to your first Expert Report.

19           **PROFESSOR SIEBRASSE:** Yes.

20           **THE PRESIDENT:** To page 31, and it's dated

21 September 29, 2014, and confirm for the record that

22 the signature appearing above your name is your

23 signature?

24           **PROFESSOR SIEBRASSE:** Yes, that is my

25 signature.

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1           **THE PRESIDENT:** Could you then go to your

2 second Expert Report and go to page 36, and that is

3 dated September 10, 2015, and again confirm for the

4 record that the signature appearing above your name

5 is your signature?

6           **PROFESSOR SIEBRASSE:** Yes, that is my

7 signature.

8           **THE PRESIDENT:** Is there any correction

9 you wish to make to either report?

10           **PROFESSOR SIEBRASSE:** Yes. I have an

11 errata sheet.

12           **THE PRESIDENT:** The errata sheet is there,

13 but is there anything in addition to the errata

14 sheet?

15           **PROFESSOR SIEBRASSE:** No.

16           **THE PRESIDENT:** Ms. Cheek or Ms. Wagner,

17 who is conducting the direct examination?

18           **MS. CHEEK:** Ms. Wagner will be directing

19 Professor Siebrasse. Thank you. To clarify, we

20 were going to propose that Professor Siebrasse

21 present his presentation in the first instance, and

22 then we do have some direct questions for him that

23 will follow his presentation.

24           **THE PRESIDENT:** Five minutes?

25           **MS. CHEEK:** Of direct? Probably a bit

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1 more than five minutes of direct. But his

2 presentation will be within the 20 minutes, as

3 agreed.

4           **THE PRESIDENT:** And the Professor has no

5 speaking notes?

6           **MS. CHEEK:** He does not.

7           **THE PRESIDENT:** Professor Siebrasse,

8 please proceed. Actually you are in the hands of

9 counsel for the Claimant, not in my hands.

10           **MS. WAGNER:** Please go ahead. ^

11           **PRESENTATION BY PROFESSOR SIEBRASSE**

12           **PROFESSOR SIEBRASSE:** My background and

13 qualifications, I'm Norman Siebrasse, Professor of

14 Law at the University of New Brunswick, a post I've

15 held for 23 years. I teach in the areas of IP law,

16 commercial law, remedies and competition law. My

17 research generally is on Canadian patent law, patent

18 remedies, and the intersection of intellectual

19 property and commercial law.

20 I've written some articles on the matters

21 at issue in this arbitration. The first two listed

22 here were written before I was retained by Lilly in

23 this matter, and the third was written subsequently,

24 and I'll confirm that I had no prior or other

25 relationship with Lilly.

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1 Turning, then, to the substantive

2 overview, first I'll start with the utility

3 requirements under prior law when Lilly's patents

4 were filed and granted. At the time the standard

5 for utility was very low. It was normal to say "a

6 slight amount" or "very little will do." Since 2005

7 it's become normal for the courts to say a "mere

8 scintilla" of utility is required. No one has ever

9 suggested this is any different; it all reflects the

10 same standard.

11 Post-filing evidence was always admissible

12 to establish utility, and in particular two kinds of

13 post-filing evidence were commonly used. One is

14 commercial success so the fact that the product was

15 sold in the marketplace was considered evidence of

16 utility. And also use by the defendant. If the

17 defendant was actually infringing, this would be

18 considered also proof that the invention was useful

19 on the view the infringer would not infringe

20 something useless, or couldn't really infringe

21 something useless.

22 The rationale for this under prior law was

23 that proof today that the invention works is proof

24 that it would have worked yesterday. So for

25 example, if the Wright brothers build an airplane,

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1 they park it in the field on Day 1. Day 2, they  
2 write down a patent application that perfectly  
3 describes that particular airplane. They file their  
4 patent application and the next day they come back  
5 and actually fly the airplane, the fact that the  
6 airplane flew on Day 3 is evidence that that  
7 airplane -- that same airplane -- would have worked,  
8 would have flown on Day 1.

9 Utility was assessed as of the filing  
10 date. What this means is that it's the very plane  
11 that was parked in the field and described in the  
12 application that had to fly and not some  
13 subsequently improved version.

14 On to the third aspect of the law we're  
15 concerned with, sound prediction. As you've heard I  
16 believe the past couple of days, a patent can claim  
17 a broad class of compounds called a genus or a  
18 single compound sometimes referred to as a species.  
19 It's not possible to test all the compounds in a  
20 broad genus, and the utility of the tested compounds  
21 under prior law is said to be demonstrated. The  
22 utility of the untested compounds can be established  
23 on the basis of sound prediction.

24 Evidence from outside the patent was  
25 admissible to establish sound prediction, so this is

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1 a quote from Olin Mathieson, a UK case, but it is  
2 one that was accepted into Canadian law by Monsanto  
3 in '78. It's clear from that case the works relied  
4 on to establish the sound prediction were outside  
5 the patent.

6 So, in summary, the bar was low,  
7 post-filing evidence was admissible to establish  
8 utility, sound prediction could be established on  
9 the basis of all the evidence. So when were  
10 inventions held to lack utility? Not very often.

11 And it was primarily in the case or only in the case  
12 of inoperable inventions -- death ray, perpetual  
13 motion, the snow blower in Wandscheer, the Supreme  
14 Court of Canada decision, that really didn't throw  
15 snow, or inoperable species within a claim.

16 Turning now to the current law of utility  
17 when Lilly's patents were revoked, in 2002 -- and  
18 I'm going chronologically through the changes -- in  
19 2002 in the AZT decision, the Supreme Court of  
20 Canada held that after-the-fact evidence cannot be  
21 used to establish utility. And, in particular, the  
22 claim was to AZT for the treatment of HIV Aids, and  
23 the Federal Court, the trial court, and the Court of  
24 Appeal said yes, of course it's useful, it's  
25 actually being used to treat people with HIV Aids.

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1 And the Supreme Court of Canada said that fact that  
2 it's actually being used cannot be considered.

3 So how do we know the law changed? First,  
4 there are no prior decisions excluding post-filing  
5 evidence of utility. The Supreme Court itself did  
6 not cite any prior case law supporting this rule  
7 excluding post-filing evidence. Canada doesn't even  
8 cite any prior case law excluding post-filing  
9 evidence of utility. And the Supreme Court reversed  
10 both the AZT decision and it reversed the Court of  
11 Appeal decision in AZT, and overruled the prior  
12 Court of Appeal decision in Ciba-Geigy.

13 Also there was subsequent clarification  
14 required as to the scope of this rule. I believe  
15 you heard that a patent filed in Canada can claim  
16 priority to a prior, subsequent or foreign  
17 application, and the question was well, does  
18 after-the-fact mean after the priority date or after  
19 the filing date. Subsequent to AZT the Court of  
20 Appeal clarified, interpreting AZT, that this meant  
21 post filing. If this had been a long-established  
22 rule; that clarification shouldn't have been  
23 necessary.

24 Most clearly, I suppose, patents for  
25 commercially successful products are now often held

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1 to lack patentable utility. Prior to AZT no  
2 commercially successful product was ever held to  
3 lack patentable utility.

4 Next on the standard for utility, now we  
5 have a bifurcated standard for utility. You can  
6 have an invention which would otherwise be valid,  
7 that is would have a scintilla of utility, and can  
8 nonetheless promise more for the invention than is  
9 required by the Act so as to render the patent  
10 invalid. So this promise of the patent, promise  
11 doctrine, I call it here, or promise of the patent,  
12 may result, as the courts have said, in an elevated  
13 standard for utility that's an exception to the Act.  
14 So it represents a standard above the scintilla that  
15 would otherwise be required.

16 The promise of the patent is determined by  
17 a detailed examination of statements in the  
18 disclosure. Anastrozole is a good example of this.  
19 62 paragraphs, a quarter of the decision, dedicated  
20 to construing the promise of the patent, and this  
21 type of analysis of the disclosure to determine the  
22 promise was not seen under prior law.

23 Now, it may seem intuitive that a patentee  
24 should not be able to obtain a patent on the basis  
25 of misrepresentations, and the Patent Act -- but

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1 that's not -- well, in my opinion that's not the  
2 rationale for the promise of the patent doctrine  
3 because the Patent Act has always policed untrue  
4 statements under Section 53 -- we've had an  
5 equivalent to Section 53 in almost the same wording  
6 ever since the Confederation -- and a patent is void  
7 if any material allegation is untrue and the  
8 admission is willfully made for the purpose of  
9 misleading.  
10 This is distinct from the promise of the  
11 patent. In particular, under Section 53, any  
12 statement must be false in fact. It must actually  
13 be false.  
14 Under the promise of the patent, a  
15 statement of promise may be true in fact and, yet,  
16 the patent will be held to not have met the promise  
17 because it could not have been proven to have been  
18 true as of the filing date. 53 must actually be  
19 false. Also 53 has an intent requirement,  
20 willfulness, not under the promise, and also  
21 materiality requirement, which we don't see under  
22 the promise of the patent.  
23 The fact of this distinction is  
24 illustrated by the first decision on olanzapine, in  
25 which the generic did attack this very same patent

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1 on the basis of Section 53, and the court dismissed  
2 that attack both on the basis that there was no  
3 intent but also that the generic had not persuaded  
4 me that Lilly had made any false statements.  
5 And it was the same patent that was  
6 nonetheless held invalid for failure to satisfy the  
7 promise.  
8 So how do we know the law has changed?  
9 Prior to 2005 no Canadian court ever held a patent  
10 invalid for failure to satisfy an elevated standard  
11 of utility derived from the disclosure. Consolboard  
12 itself emphasized a low bar, did not apply an  
13 elevated standard for utility, and Consolboard was  
14 never cited as supporting a bifurcated or elevated  
15 standard prior to 2005.  
16 The third aspect of the law that we're  
17 considering is that the additional disclosure  
18 requirement for sound prediction -- so now it's  
19 clear law that only evidence in the patent itself  
20 can be used in support of sound prediction, this was  
21 established by the Raloxifene decision in  
22 interpreting the AZT decision. But, on the other  
23 hand, it's equally clear law that evidence outside  
24 the patent can be used to demonstrate utility, and  
25 so the courts say that the disclosure requirements

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1 for sound prediction are more onerous than to  
2 demonstrate utility. They might say enhanced or  
3 additional disclosure requirements.  
4 There is no basis in the Act for this  
5 distinction. Utility, the word "useful", only  
6 appears once. There's no statutory basis for this.  
7 How do we know the law changed? No sound  
8 prediction decision prior to Raloxifene ever refused  
9 to consider evidence from outside the patent. No  
10 court has ever cited any decision prior to AZT as  
11 authority for the rule. And, in fact, prior sound  
12 prediction cases like Olin Mathieson and Ciba-Geigy  
13 admitted evidence from outside the patent.  
14 In addition details of the rule are still  
15 being debated by the courts, does it apply in all  
16 sound prediction cases, as usually thought, or some  
17 courts have suggested that no, it only applies in  
18 new use cases such as atomoxetine in this context.  
19 These changes have had particular impact  
20 on pharmaceutical patents essentially because, as a  
21 practical matter, pharmaceuticals have to be  
22 patented before any large scale clinical trials,  
23 otherwise there's a risk of anticipating your own  
24 patent by having clinical trials and the nature of  
25 the invention becomes public, in which case you

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1 can't get a patent.  
2 Also, of course, the pharmaceutical  
3 companies don't want to invest in expensive clinical  
4 trials before they actually have the patent. So the  
5 problem is, if we have an elevated standard for  
6 disclosure under the promise of the patent, as in  
7 atomoxetine, a requirement to establish clinical  
8 efficacy in the longer term, you really need longer  
9 term clinical trials to establish this, but those  
10 very trials that are needed to establish the higher  
11 elevated standard are excluded by this rule against  
12 after-the-fact evidence. This means utility of a  
13 commercially successful product cannot always be  
14 demonstrated.  
15 This means that the ability to establish  
16 utility based on sound prediction is much more  
17 important, even for commercially successful  
18 pharmaceuticals. It was never used previously for  
19 commercially successful pharmaceuticals because  
20 utility would be demonstrated. That sound  
21 prediction is now important but we now have this  
22 more onerous evidentiary standard for sound  
23 prediction, excluding potentially probative  
24 pre-filing tests that are not in the patent itself.  
25 In the patents at issue, post-filing

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1 evidence, in particular commercial  
2 success/regulatory approval, would have established  
3 validity under old law but the elevated standard to  
4 which they were held could not be proven at the time  
5 of filing.  
6 So for those reasons my conclusion is that  
7 there has been a sea change in the Canadian law of  
8 utility that has made it interact, made it  
9 substantially more difficult to establish utility  
10 and substantially easier to challenge patents on  
11 that basis. Thank you.

**DIRECT EXAMINATION ON BEHALF OF THE CLAIMANT**  
**MS. WAGNER:** Good afternoon,  
14 Professor Siebrasse. Members of the Tribunal, I'm  
15 not sure you're aware that a hard copy of  
16 Professor Siebrasse's presentation slides are at  
17 Tab 4 of our direct examination binder.  
18 Professor Siebrasse, you don't have to  
19 speak too quickly. I think the court reporter might  
20 be having some difficulty, although she has said  
21 nothing!  
22 I'm primarily going to be referring to  
23 Tab 18 of the direct examination binder, which is  
24 the Second Report of Mr. Dimock. The cases that I  
25 will be referencing are also within the direct

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1 examination binder. You may or may not need to  
2 refer to them, but they're there if you need them.  
3 So at Tab 18, the Second Report of  
4 Mr. Dimock, at Paragraph 33 of that report,  
5 Mr. Dimock claims "There are several other cases and  
6 legal commentary not mentioned in my First Report  
7 which show that Consolboard was cited as authority  
8 for promised utility." And he gives a date range  
9 between 1981 and 2005.  
10 Then, at paragraphs 38-40 of that report,  
11 Mr. Dimock references in particular three cases.  
12 Feherguard, which is at Tab 5 of the direct  
13 examination materials and is Exhibit R-360; Almecon,  
14 which is at Tab 6 of the materials and is Exhibit  
15 C-230, and the Goldfarb case at Tab 7, R-187.  
16 With respect to those cases, what is your  
17 response to his assertion?  
18 **PROFESSOR SIEBRASSE:** Mr. Dimock says  
19 "These cases cite Consolboard as authority for the  
20 promised standard of utility." These cases cite the  
21 particular passage from Consolboard that's  
22 controversial, but they don't cite it for the  
23 promised standard of utility. Almecon/Goldfarb says  
24 what I take from this is that the patent must work,  
25 and Almecon similarly just takes from it that the

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1 patent has to work. Feherguard was a case in which  
2 the claimed invention didn't work because the claim  
3 didn't specify its nuts and bolts that were needed  
4 to make it operable, so it was a simple case of  
5 inoperability. In none of these cases was there an  
6 elevated standard of utility or a standard derived  
7 from the disclosure.  
8 **MS. WAGNER:** At Paragraph 40 of his Second  
9 Report -- again, this is at Tab 18 -- Mr. Dimock  
10 also quotes the 1995 treatise of Donald MacOdrum,  
11 and that is at Tab 8 of the direct examination  
12 binder, R-361, and he states that this text  
13 considered Consolboard as authority for the promise  
14 standard prior to 2005. What is your response to  
15 this assertion?  
16 **PROFESSOR SIEBRASSE:** So Mr. Dimock at  
17 Paragraph 40 cites Mr. MacOdrum as saying where some  
18 specific utility is promised, the patentee must meet  
19 that, and then notes that Mr. MacOdrum cited the  
20 Consolboard decision with the implication, I  
21 suppose, I would take, that Mr. MacOdrum cited  
22 Consolboard for that proposition. But Mr. MacOdrum  
23 cited Consolboard for this basic utility  
24 requirement. He had three bulleted points, cited  
25 Consolboard in the first bulleted point along with

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1 cases like the Death Ray case and the Perpetual  
2 Motion case, so he didn't cite it for the promise of  
3 the patent in the sense of a bifurcated standard.  
4 The cases which Mr. MacOdrum did cite in  
5 the section -- Mr. MacOdrum did indeed refer to a  
6 promised utility. In that section he cited some UK  
7 cases and three Canadian cases. I believe the only  
8 Canadian case I haven't discussed previously is the  
9 TRW case. Let me take a look. Which tab is  
10 Mr. MacOdrum?  
11 **MS. WAGNER:** It's at Tab 8.  
12 **PROFESSOR SIEBRASSE:** The only other case  
13 is TRW, and in that case it was a patent for claim  
14 to a produced article, and the produced article  
15 included compressor blades and turbine blades, and  
16 the claimed method worked to produce turbine blades  
17 but was inoperable and useless, I believe were the  
18 words the court used, to produce compressor blades.  
19 So it's simply a matter of inoperability. And none  
20 of the cases cited by MacOdrum -- none of the  
21 Canadian cases, I'm sorry, cited by Mr. MacOdrum use  
22 an elevated standard derived from the disclosure.  
23 **THE PRESIDENT:** Can you please help me, in  
24 the MacOdrum treatise, where can we find the three  
25 bullets you just referred to?

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1           **PROFESSOR SIEBRASSE:** That's page 1, which  
2 is about the fourth physical page of that tab. The  
3 one that says Chapter 5, Utility. And if you look  
4 at the second paragraph under Introduction, "There  
5 are three broad ways..." 1, 2, 3. If you look  
6 above it, utility, he's got an introduction and  
7 general comments but it's 5.2, 3 and 4 correspond to  
8 those bullet points 1, 2, 3.  
9           **MS. WAGNER:** Professor Siebrasse, at  
10 Paragraph 26 of Mr. Dimock's Second Report, he  
11 refers to a number of cases also listed in Annex B  
12 to his report, which is at page 45 of his report.  
13           **PROFESSOR SIEBRASSE:** Yes.  
14           **MS. WAGNER:** These are cases which he  
15 indicates exemplify the promise of the patent  
16 analysis. Some of these are new to his Second  
17 Report and you've not addressed these previously,  
18 and so I'm going to ask you to respond briefly to  
19 Mr. Dimock's assertion with respect to each of these  
20 cases, and each are in your direct examination  
21 binder. The first case is listed in Annex B that  
22 you have not responded to, the Wandscheer case,  
23 which is also at Tab 10 of the direct examination  
24 binder and is Exhibit C-259.  
25           **PROFESSOR SIEBRASSE:** Yes. This case, the  
  
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1 Wandscheer case, the Supreme Court decision is  
2 discussed in my previous report. This citation is  
3 to the trial decision in Wandscheer, and it simply  
4 says really in almost the same words as were used by  
5 the Supreme Court, that the invention doesn't work.  
6 It was the snow blower that wouldn't blow snow. The  
7 invention didn't work. The court is using it here  
8 to mean the basic purpose, blowing snow, it was  
9 inoperable. So it's saying the same thing as the  
10 Supreme Court said.  
11           **MS. WAGNER:** The next listed decision you  
12 have not discussed is the Consolboard trial division  
13 decision, which is included in the binder at Tab 11  
14 and is R-359.  
15           **PROFESSOR SIEBRASSE:** Yes. So this trial  
16 decision, there were actually a number of patents at  
17 issue at trial. This particular statement of  
18 utility addressed a couple of patents that weren't  
19 appealed, and the patents, as the trial court  
20 pointed out in the claims, specified that the  
21 process would produce a uniform mat. The evidence  
22 was uncontested that it would not produce a uniform  
23 mat. It was held inoperable for that reason.  
24           **MS. WAGNER:** The next case listed as  
25 Corning Glass is at Tab 12 of the direct materials,  
  
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1 and R-375.  
2           **PROFESSOR SIEBRASSE:** The Corning Glass  
3 case really applies a very low standard of utility.  
4 The invention was fiber optic cable, fiber optic  
5 cable defined to include impurities up to  
6 .1 percent, and there was uncontested evidence that  
7 cables with that degree of impurity would not be  
8 commercially successful, and the trial judge said  
9 well, that doesn't matter, commercial utility isn't  
10 the success. There's no evidence that it doesn't  
11 have some degree -- some utility, commercial or  
12 otherwise, and upheld the validity.  
13           **MS. WAGNER:** The last case I'll ask you to  
14 comment on is the Wellcome Foundation v Apotex.  
15 This is actually not the AZT case; it's a different  
16 Wellcome case. It's at Tab 13 of the direct  
17 materials and C-41 is the exhibit.  
18           **PROFESSOR SIEBRASSE:** Yes. As I stated in  
19 my First Report, the courts often have to look to  
20 the disclosure to find out what the invention is  
21 good for. This is particularly in the case true for  
22 compound patents where the claim will simply be a  
23 chemical formula. Even a skilled person often can't  
24 tell simply by looking at the formula what it's  
25 actually good for. And this case was a little bit  
  
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1 complicated because the claim was to intermediates  
2 for the production of end products. Under Canadian  
3 law, that claim to the intermediates would only be  
4 considered useful if the end products themselves  
5 were useful, and the court was looking to the  
6 disclosure to see well, what are the end products  
7 good for.  
8           It's evident that this is not a promise  
9 case because there were actually a number of  
10 statements in the disclosure that today would be,  
11 arguably at least, considered to be promises, so the  
12 intermediates were said to have yields that were  
13 very superior to other processes, and the end  
14 products were said to have very high antibacterial  
15 properties, and today there would be a debate as to  
16 whether or not those were promises that had to be  
17 satisfied.  
18           The patent was not held to any of those  
19 statements. They were not even considered in  
20 establishing the utility.  
21           **MS. WAGNER:** Professor Siebrasse, do you  
22 have any general reaction to Mr. Dimock's assertion  
23 regarding these cases and what they exemplify?  
24           **PROFESSOR SIEBRASSE:** Yes. As I said in I  
25 forget which report, but one of my reports, the mere  
  
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1 use of the word "promise" doesn't indicate the  
2 promise doctrine. Promise of the patent is looking  
3 to the disclosure for an elevated standard. The  
4 courts -- and all that Mr. MacOdrum has done here is  
5 taken a bunch of examples where the court uses the  
6 word "promise" in the utility context. Yes, the  
7 courts often use the word "promise" in the utility  
8 context and, as these very cases illustrate, they  
9 used it simply to mean what is the patent good for.  
10 **MS. WAGNER:** Professor Siebrasse, I'll ask  
11 you to now turn to Paragraph 54 of Mr. Dimock's  
12 Second Report. At this Paragraph Mr. Dimock  
13 contends that the overbreadth jurisprudence,  
14 including several cases he did not address in his  
15 First Report, demonstrates that the current law  
16 promised utility is not new. How would you respond  
17 to that assertion with respect to these new cases?  
18 **PROFESSOR SIEBRASSE:** Overbreadth just  
19 means that you have claimed more than you actually  
20 invented. By the nature of overbreadth, it's normal  
21 that your claim, if it's too broad, would overlap  
22 with some other ground of invalidity. For example,  
23 if I invent the spoked wheel but I claimed the  
24 wheel, my invention would be too broad. I've  
25 claimed more than I actually invented. But it will

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1 also be anticipated because the wheel was not new.  
2 Only the spoked wheel was.  
3 So overbreadth can overlap with any of the  
4 other grounds of invalidity; it can overlap with  
5 utility, or anticipation or obviousness. Prior to  
6 2005, whenever overbreadth overlapped with utility,  
7 it overlapped with the scintilla branch because that  
8 was the only branch there was. Since 2005 it's  
9 possible that overbreadth could overlap with either  
10 of the branches of utility.  
11 **MS. WAGNER:** Professor Siebrasse, if you  
12 can now turn to Paragraph 91 of Mr. Dimock's Second  
13 Report.  
14 **PROFESSOR SIEBRASSE:** Yes.  
15 **MS. WAGNER:** In this paragraph Mr. Dimock  
16 has stated that in characterizing the bar on  
17 post-filing evidence as new, you've ignored the  
18 jurisprudence on this point that was developed under  
19 Canada's first-to-invent regime. What is your  
20 response to this assertion?  
21 **PROFESSOR SIEBRASSE:** Well, I didn't deal  
22 with that jurisprudence in my Second Report because  
23 first off these are inventorship cases, not utility  
24 attacks as such, and there are lots of utility cases  
25 to deal with, but, more importantly, the First

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1 Report, to my mind on its face, simply didn't  
2 address Mr. Dimock's point.  
3 Mr. Dimock says, and I agree, that the  
4 test for whether the invention was made, as he puts  
5 it, under these inventorship disputes was whether or  
6 not it was reduced to a definite and practical form.  
7 That says nothing about testing. So the Wright  
8 brothers' airplane that's sitting in the field is  
9 not a mere idea floating through somebody's brain.  
10 It's definite and practical. That says nothing  
11 about whether it had to be tested.  
12 In his Second Report Mr. Dimock has made  
13 it clear that he views that part of this reducing to  
14 definite and practical form is that not only must it  
15 exist but it must have been tested, in effect, and  
16 this is incorrect as a matter of law. In fact, the  
17 very case cited by Mr. Dimock in his First Report,  
18 *Christiani v Rice*, a leading Supreme Court of Canada  
19 decision on this case from the 1930s, I believe, in  
20 the very paragraph cited by Mr. Dimock, there's a  
21 contrast drawn between when the invention was  
22 reduced to a definite and practical shape at this  
23 date, only tested at a later date, and the Privy  
24 Council in that case, accepted by the Supreme Court,  
25 held that the date of being reduced to definite and

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1 practical form is when it's written down in a manner  
2 that allows some third party to implement it, and  
3 not when it was tested. So definite and practical  
4 shape, on the one hand, means more than an idea  
5 floating through someone's brain, but less than  
6 testing.  
7 **MS. WAGNER:** And, Professor Siebrasse, at  
8 Paragraph 98 of his report, Mr. Dimock raises in  
9 this context a decision in 2001, *Goldfarb*, which is  
10 also in the materials at Tab 7 and is R-187. Can  
11 you comment specifically on that case?  
12 **PROFESSOR SIEBRASSE:** Yes. Mr. Dimock on  
13 page 28 quotes a little section from *Goldfarb* and  
14 underlines the words "at that date." I don't know  
15 if it's really worth turning to the tab but, if you  
16 do turn to the *Goldfarb* case, you'll see that that  
17 passage is excerpted from a discussion of general  
18 principles of law, and the general thrust of the  
19 discussion as a whole is that failed experiments are  
20 not considered to establish that the invention was  
21 made, and on the facts that's what happened at the  
22 earliest date. The court held that's a failed  
23 experiment. So really the decision as a whole says  
24 failed experiment is not an invention. That's  
25 nothing new.

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1 **MS. WAGNER:** Can you turn now to  
2 paragraphs 124 and 125 of Mr. Dimock's Second  
3 Report? In these paragraphs Mr. Dimock asserts that  
4 recent legal commentary draws a link between the  
5 heightened disclosure requirement for sound  
6 prediction and the Supreme Court of Canada's  
7 decision in the 1979 Monsanto case. And he cites in  
8 particular articles that are written by  
9 Carol Hitchman and Adrian Zahl. Just for reference  
10 the Hitchman article is Tab 14 and is R-366. The  
11 Zahl article is Tab 14 and is R-310. Can you  
12 respond to this?

13 **PROFESSOR SIEBRASSE:** Yes. Ms. Hitchman  
14 says the need for proper disclosure certainly was  
15 raised in the Monsanto case, but the question is  
16 what does that mean. She's quoted some words, those  
17 words are actually from Monsanto, but those words  
18 were actually Monsanto quoting Olin Mathieson, and  
19 Mr. Zahl subsequently simply paraphrases the words  
20 from Olin Mathieson that were quoted by the Supreme  
21 Court in Monsanto.

22 So rather than trying to interpret what  
23 these commentators have said in these brief remarks,  
24 if we go to Olin Mathieson, Olin Mathieson tells us  
25 what that phrase means. What it means is that the

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1 prediction must be sound, based on the specification  
2 and all the surrounding circumstances, and based on  
3 all the evidence. And, if we look at Olin Mathieson  
4 itself, there was no disclosure of any factual basis  
5 in the patent.

6 **MS. WAGNER:** Thank you,  
7 Professor Siebrasse. Those are my direct questions.  
8 Thank you.

9 **THE PRESIDENT:** Thank you. Mr. Johnston,  
10 are you conducting the cross-examination?

11 **MR. JOHNSTON:** Yes, I will be,  
12 President van den Berg. If it's possible to take a  
13 brief break of five minutes before we begin, or the  
14 afternoon break?

15 **THE PRESIDENT:** That's fine. Five  
16 minutes' break. Professor Siebrasse, you are under  
17 testimony. It means you are not allowed to discuss  
18 this case with anyone.

19 Break for five minutes.  
20 *(Recess taken)*

21 **THE PRESIDENT:** Mr. Johnson, please  
22 proceed with the cross-examination.

23 **MR. JOHNSTON:** Thank you, President  
24 van den Berg.  
25

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1 **CROSS-EXAMINATION ON BEHALF OF THE RESPONDENT**

2 **MR. JOHNSTON:** Professor Siebrasse, I'll  
3 be asking you some questions this afternoon about  
4 your expert reports. If I'm not clear in how I ask  
5 the question, please do let me know, and I'll be  
6 able to rephrase it so we can understand each other.

7 Professor Siebrasse, you've submitted two  
8 expert reports in this proceeding. Do you consider  
9 your role as an expert witness to address matters  
10 within your reports in an impartial manner?

11 **PROFESSOR SIEBRASSE:** Yes, of course.

12 **MR. JOHNSTON:** And to assist the Tribunal  
13 in understanding the matters falling within the  
14 scope of your reports?

15 **PROFESSOR SIEBRASSE:** Yes.

16 **MR. JOHNSTON:** And part of your mandate in  
17 preparing those reports is to describe the law of  
18 utility in Canada, both at the time that Lilly's  
19 Strattera and Zyprexa patents were filed and  
20 granted?

21 **PROFESSOR SIEBRASSE:** Yes.

22 **MR. JOHNSTON:** You mentioned in your  
23 direct testimony that you had been retained by Eli  
24 Lilly after writing two of your papers that address  
25 elements of the promise utility doctrine, but before

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1 the third, and I wonder if you could please provide  
2 the date at which you were retained by Eli Lilly?

3 **PROFESSOR SIEBRASSE:** Well, I don't have  
4 notes, but I believe it was June of 2013. But I  
5 mean, I don't have notes in front of me. That's my  
6 best recollection.

7 **MR. JOHNSTON:** And your opinion in this  
8 case concerns alleged changes in Canadian patent law  
9 in 2002, 2005 and 2008, referring to the elements of  
10 the --

11 **PROFESSOR SIEBRASSE:** Yes. I should maybe  
12 clarify that the second article might have been  
13 published after that date, but it was completed, and  
14 I did check on this in October of 2012. That is  
15 when I submitted the second article for publication,  
16 final version.

17 **MR. JOHNSTON:** In your expert reports you  
18 refer to a period of prior law?

19 **PROFESSOR SIEBRASSE:** Yes.

20 **MR. JOHNSTON:** And so prior law would  
21 refer to the time when none of the alleged changes  
22 were part of Canadian law?

23 **PROFESSOR SIEBRASSE:** Yes.

24 **MR. JOHNSTON:** So prior law is prior to  
25 2002?

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1 PROFESSOR SIEBRASSE: Yes.  
2 MR. JOHNSTON: To the AZT decision?  
3 PROFESSOR SIEBRASSE: Yes.  
4 MR. JOHNSTON: You obtained your Law  
5 degree in 1991?  
6 PROFESSOR SIEBRASSE: That's right.  
7 MR. JOHNSTON: And when were you called to  
8 the Bar?  
9 PROFESSOR SIEBRASSE: I'm not a member of  
10 the Bar. Not called to the Bar.  
11 MR. JOHNSTON: So you're not a member of  
12 any Canadian law society?  
13 PROFESSOR SIEBRASSE: That's correct.  
14 MR. JOHNSTON: So you have never litigated  
15 a patent case?  
16 PROFESSOR SIEBRASSE: That's correct --  
17 well, I did consult for Apotex on a damages case, as  
18 is stated in my First Report.  
19 MR. JOHNSTON: You're not able to provide  
20 legal advice in the context of a patent case in  
21 Canada?  
22 PROFESSOR SIEBRASSE: Right, yes.  
23 MR. JOHNSTON: Because you're not called  
24 to the bar?  
25 PROFESSOR SIEBRASSE: I'm not called to  
  
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1 the Bar, that's correct.  
2 MR. JOHNSTON: You're a law professor at  
3 the University of New Brunswick?  
4 PROFESSOR SIEBRASSE: Yes.  
5 MR. JOHNSTON: And you say in your Expert  
6 Report that your academic research focuses on patent  
7 law?  
8 PROFESSOR SIEBRASSE: Yes.  
9 MR. JOHNSTON: In particular  
10 pharmaceutical patent law?  
11 PROFESSOR SIEBRASSE: Well, yes. Yes,  
12 that's right.  
13 MR. JOHNSTON: You began teaching at the  
14 University of New Brunswick in 1993?  
15 PROFESSOR SIEBRASSE: Yes.  
16 MR. JOHNSTON: You did not start teaching  
17 intellectual property law until 1995?  
18 PROFESSOR SIEBRASSE: I can't remember the  
19 exact date, but I know I didn't teach intellectual  
20 property law from the very first time I arrived, no,  
21 that's correct.  
22 MR. JOHNSTON: Perhaps, actually, as we're  
23 discussing your background, it would be useful to  
24 pull up your CV, which is in your first expert  
25 report. It follows at the very end of your report  
  
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1 in attachment A and --  
2 PROFESSOR SIEBRASSE: Yes, I have it.  
3 MR. JOHNSTON: You've got it there. So  
4 I'm looking at --  
5 PROFESSOR SIEBRASSE: If it says it in my  
6 CV, I'm sure that's right.  
7 MR. JOHNSTON: I'm looking at page 10,  
8 really the last page of your CV. It says Teaching  
9 Responsibilities, and we see there intellectual  
10 property law, 1995, 1996 to present.  
11 PROFESSOR SIEBRASSE: Right.  
12 MR. JOHNSTON: So this was an introductory  
13 class?  
14 PROFESSOR SIEBRASSE: Yes, it still is.  
15 There's only one IP class offered at UNB.  
16 MR. JOHNSTON: And as an introductory IP  
17 class it would have covered copyright, trademarks  
18 and patents, the main pillars of intellectual  
19 property law?  
20 PROFESSOR SIEBRASSE: That's right.  
21 MR. JOHNSTON: In the 1990s you were also  
22 teaching municipal and planning law, legal method,  
23 real estate transactions, commercial law.  
24 PROFESSOR SIEBRASSE: Yes, that's right.  
25 Yes.  
  
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1 MR. JOHNSTON: So it's fair to say that  
2 patent law was not the focus of your teaching in the  
3 1990s?  
4 PROFESSOR SIEBRASSE: Well, it's still not  
5 the focus of my teaching. We teach -- I teach four  
6 courses, only one of which is IP law. In fact, I  
7 only teach about three weeks of patent law.  
8 MR. JOHNSTON: And that was true in the  
9 1990s and that's still true?  
10 PROFESSOR SIEBRASSE: Yes. Three or four  
11 weeks, that's right.  
12 MR. JOHNSTON: You also had -- in your CV  
13 starting at page 1, we see your publications.  
14 PROFESSOR SIEBRASSE: Yes.  
15 MR. JOHNSTON: In the 1990s you had I  
16 counted nine refereed publications in the 1990s. If  
17 you include the other publications listed on pages  
18 6-10 of your CV you had 15 other publications during  
19 the 1990s.  
20 PROFESSOR SIEBRASSE: Uh-huh.  
21 MR. JOHNSTON: So 24 publications. Now,  
22 your publications, would you say you published on  
23 issues including tort law, constitutional law, real  
24 estate law?  
25 PROFESSOR SIEBRASSE: Yes. I mean the --  
  
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1 perhaps I should have said in my overview that those  
2 are my current research interests. When I first  
3 started at UNB I was teaching, it was really hard to  
4 teach real estate law and I was associated with some  
5 kind of center for real estate and so for the '90s I  
6 had a variety of interest and the focus on IP and  
7 patents in particular did start around 1995.  
8 **MR. JOHNSTON:** So in the 1990s you did not  
9 have any publications at all on patent law?  
10 **PROFESSOR SIEBRASSE:** Well, that's not  
11 quite true, I don't think. Let me see here. Yes,  
12 no, that's right. Yes.  
13 **MR. JOHNSTON:** Your first publication on  
14 patent law was actually in 2004, I understand from  
15 your CV?  
16 **PROFESSOR SIEBRASSE:** That's not quite  
17 right. The 2001 publication property rights theory,  
18 the limits of copyright, while it's about the  
19 limits -- idea/expression dichotomy in copyright, it  
20 really goes into why there's a distinction between  
21 copyright and patent, so it did substantially engage  
22 with patent law. But let me see after that. Then  
23 it would be the -- 2004, yes.  
24 **MR. JOHNSTON:** You'd agree that during the  
25 1990s, patent law was neither the focus of your

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1 teaching nor your research?  
2 **PROFESSOR SIEBRASSE:** That's right.  
3 **MR. JOHNSTON:** You did not publish any  
4 paper addressing any aspect of the promise of the  
5 alleged promise utility doctrine until 2012. Is  
6 that right? I believe you address it in your 2011  
7 year end review published in 2012, and also your  
8 paper on the disclosure requirement for sound  
9 prediction.  
10 **PROFESSOR SIEBRASSE:** Yes. That's fair.  
11 **MR. JOHNSTON:** This is seven years after  
12 you say that the Federal Court introduced the  
13 promise standard.  
14 **PROFESSOR SIEBRASSE:** Uh-huh.  
15 **MR. JOHNSTON:** And ten years after you say  
16 the Supreme Court of Canada changed the rule  
17 regarding evidence to establish utility.  
18 After 2005, the issue of whether the  
19 promise standard was part of Canadian law, that was  
20 being actively litigated in Canadian courts, wasn't  
21 it?  
22 **PROFESSOR SIEBRASSE:** Yes.  
23 **MR. JOHNSTON:** So arguments were being  
24 made that Consolboard did or did not stand for the  
25 promise standard of utility.

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1 **PROFESSOR SIEBRASSE:** Well, no, not  
2 really. I mean I'm not sure that Canadian courts  
3 have really ever engaged with the question of  
4 whether or not Consolboard stands for the promise  
5 utility doctrine. The courts have cited Consolboard  
6 for that proposition but, that I can think of, no  
7 court has ever done an analysis of Consolboard.  
8 They just say: Promise of the patent, cite  
9 Consolboard.  
10 **MR. JOHNSTON:** But the parties were  
11 arguing about the meaning of Consolboard presumably  
12 after 2005 in Canadian courts?  
13 **PROFESSOR SIEBRASSE:** Well, I'm not sure  
14 the -- I mean if what you're saying is the Canadian  
15 courts were citing Consolboard for the promise of  
16 the patent analysis starting in 2005, yes, that's  
17 correct. I mean the degree to which -- you know,  
18 the early cases on the promise analysis was -- I  
19 think the first one was -- it was either a motion to  
20 strike or a discovery motion. It was one of many  
21 issues, so it certainly wasn't the central issue in  
22 2005.  
23 **MR. JOHNSTON:** When you're reviewing court  
24 decisions, do you also generally review the  
25 pleadings of the parties?

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1 **PROFESSOR SIEBRASSE:** Sometimes I do,  
2 sometimes I don't. It depends how deeply I want to  
3 go into the decision.  
4 **MR. JOHNSTON:** You don't know whether the  
5 issue of what Consolboard meant was being put before  
6 the courts after 2005 by the parties?  
7 **PROFESSOR SIEBRASSE:** Well, in the  
8 nefazadone case -- now, that was the first -- well,  
9 I mean obviously starting in nefazadone they must  
10 have put it to the court in the sense that the court  
11 cited it. I mean it was a prothonotary which a case  
12 management judge initially cited I believe in  
13 nefazadone so clearly the parties put Consolboard to  
14 her, but I mean did they debate it with her back and  
15 forth? It was a motion to strike. There were a lot  
16 of issues. I mean, sure, they were citing it to --  
17 they were citing Consolboard on that issue. It  
18 wasn't the major issue in the case.  
19 **MR. JOHNSTON:** Take that case, for  
20 example. You haven't reviewed the written pleadings  
21 of the parties in that case?  
22 **PROFESSOR SIEBRASSE:** Yes, I did review  
23 the pleadings of the parties in that case, yes.  
24 **MR. JOHNSTON:** You were the first legal  
25 academic to really focus on this issue in Canadian

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1 patent law?  
2 **PROFESSOR SIEBRASSE:** Yes.  
3 **MR. JOHNSTON:** And to investigate the  
4 legal history of the issue?  
5 **PROFESSOR SIEBRASSE:** Yes. Well, I  
6 believe so, yes.  
7 **MR. JOHNSTON:** And it is now the case that  
8 brand pharmaceutical companies cite your papers in  
9 their submission to Canadian courts?  
10 **PROFESSOR SIEBRASSE:** Well, I think  
11 everybody cites my submissions. I mean I know  
12 Apotex has cited my submissions, both leave  
13 applications and -- so yes, I mean, I understand the  
14 brands do but I know that the generics do as well.  
15 **MR. JOHNSTON:** Your view is that both the  
16 brands and the generics cite your papers on the  
17 promise utility doctrine?  
18 **PROFESSOR SIEBRASSE:** No. Not on the -- I  
19 mean I don't know of a generic citing my promise  
20 paper. I know in the Plavix appeal, so it was  
21 Apotex -- Apotex was granted leave to appeal in the  
22 Plavix decision and I know I've looked at their  
23 leave application and I believe they do cite my  
24 promise doctrine paper, but without notes in front  
25 of me I can't be sure. Mostly the generics cite my  
  
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1 damages papers.  
2 **MR. JOHNSTON:** You would agree that not  
3 every inutility decision can be attributed to the  
4 promise utility doctrine?  
5 **PROFESSOR SIEBRASSE:** Currently you mean  
6 or ever?  
7 **MR. JOHNSTON:** Currently in Canadian law.  
8 **PROFESSOR SIEBRASSE:** There are probably  
9 two decisions that expressly apply scintilla  
10 standard, and there are a few other decisions -- I  
11 mean the promise is so entrenched now that the  
12 patentees rarely, so far as you can tell from the  
13 cases, rarely even argue for a scintilla standard  
14 because a promise will almost always be found. I  
15 think there are about two cases that expressly say  
16 there's no promise and there's a scintilla. And  
17 there are a handful of others that have a very low  
18 promise that maybe the promise actually corresponds  
19 to scintilla.  
20 **MR. JOHNSTON:** There's certainly other  
21 reasons in the law that a patent could be found to  
22 lack utility. For example, would you agree if an  
23 invention is completely inoperable, an inutility  
24 finding would be possible?  
25 **PROFESSOR SIEBRASSE:** Yes, absolutely.  
  
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1 **MR. JOHNSTON:** For example, if the patent  
2 is held to a specific claimed utility, that could  
3 lead to an inutility decision, which would not be  
4 attributable to the promise utility doctrine?  
5 **PROFESSOR SIEBRASSE:** If it doesn't have a  
6 scintilla of utility, if the claimed invention has  
7 no scintilla of utility, yes, that would not be the  
8 promise doctrine.  
9 **MR. JOHNSTON:** Or if a claim includes an  
10 inoperable species, for example, that could also  
11 lead to an inutility finding?  
12 **PROFESSOR SIEBRASSE:** Yes, that's right.  
13 **MR. JOHNSTON:** Would you agree that  
14 English case law has been highly formative of  
15 Canadian patent law?  
16 **PROFESSOR SIEBRASSE:** Yes. Yes.  
17 **MR. JOHNSTON:** Canadian civil cases could  
18 be appealed to the Judicial Committee of the Privy  
19 Council until 1959, is that right?  
20 **PROFESSOR SIEBRASSE:** Yes. I'm not going  
21 to swear my personal knowledge of the exact date but  
22 it was somewhere around then.  
23 **MR. JOHNSTON:** I'm not trying to catch you  
24 on it. But it was possible to appeal to the  
25 Judicial Committee of the Privy Council, so up until  
  
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1 that time an English court could have had the final  
2 say in any Canadian patent dispute.  
3 **PROFESSOR SIEBRASSE:** Yes, and they  
4 occasionally did, for sure.  
5 **MR. JOHNSTON:** Numerous Canadian patent  
6 doctrines have been received from English law?  
7 **PROFESSOR SIEBRASSE:** Yes. Some have.  
8 **MR. JOHNSTON:** For example, there's a  
9 longstanding rule that a claim will be  
10 found invalid, could be found invalid, for inutility  
11 if it contains inoperable species.  
12 **PROFESSOR SIEBRASSE:** Yes.  
13 **MR. JOHNSTON:** That came to us from  
14 English law?  
15 **PROFESSOR SIEBRASSE:** Well, no, not  
16 really. That was because the Canadian cases do go  
17 to the Privy Council but when the Privy Council --  
18 before 1959, but when the Privy Council would decide  
19 a Canadian case it was as the final Court of Appeal  
20 on Canadian law, so the Mineral Separation case is  
21 perhaps the one you're thinking of which went from  
22 the Supreme Court of Canada to the Privy Council and  
23 that's the leading case holding inoperable species  
24 would invalidate the invention, but that's a matter  
25 of Canadian law, and as I understand it the leading  
  
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1 UK case on the same issue is I think Norton and  
2 Gregory, a different case. So the Privy Council  
3 doesn't apply UK law when it hears appeals on  
4 Canadian patent cases.  
5 **MR. JOHNSTON:** Could you turn up in volume  
6 1, tab 16? This is Exhibit R-476. These are  
7 excerpts from your patent law blog which is called  
8 Sufficient Description. On page 2 there's a blog  
9 entry from February 11, 2011. Around the middle of  
10 the page on page 2, we're talking here about rules  
11 governing the scope of the claim. In the middle,  
12 "In contrast to Canadian law where it is in  
13 principle enough to show that one embodiment within  
14 the claim lacks utility" -- that's a situation of a  
15 claim covering an inoperable species?  
16 **PROFESSOR SIEBRASSE:** Yes.  
17 **MR. JOHNSTON:** Then you begin this next  
18 paragraph, "The UK did at one time have the same  
19 rule as Canada. It should be no surprise that we  
20 adopted this rule from English law."  
21 **PROFESSOR SIEBRASSE:** Uh-huh.  
22 **MR. JOHNSTON:** So would you say it's fair  
23 to say that this rule came to us from English law,  
24 this aspect of Canadian law?  
25 **PROFESSOR SIEBRASSE:** Well, I have just  
  
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1 explained how it came to us. It came to us from  
2 Mineral Separation.  
3 **MR. JOHNSTON:** The doctrine of sound  
4 prediction was developed in English law and received  
5 into Canadian law?  
6 **PROFESSOR SIEBRASSE:** Yes.  
7 **MR. JOHNSTON:** And the Supreme Court of  
8 Canada, in its 2008 decision in Sanofi, described an  
9 English case from 1930 In re IG Farbenindustrie. It  
10 was described as the locus classicus on the doctrine  
11 of selection patents?  
12 **PROFESSOR SIEBRASSE:** Yes, although --  
13 yes, that's right.  
14 **MR. JOHNSTON:** So it's fair to say, even  
15 in recent years, the Supreme Court has relied  
16 heavily on UK law in a number of important  
17 decisions?  
18 **PROFESSOR SIEBRASSE:** Well, it has relied  
19 on UK law, yes.  
20 **MR. JOHNSTON:** In the Patent Act,  
21 Professor Siebrasse, the utility requirement is set  
22 out in Section 2 the definition of invention.  
23 That's right?  
24 **PROFESSOR SIEBRASSE:** Yes.  
25 **MR. JOHNSTON:** And that definition is that  
  
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1 inventions must be new and useful.  
2 **PROFESSOR SIEBRASSE:** Yes.  
3 **MR. JOHNSTON:** The Act does not define  
4 what "useful" means.  
5 **PROFESSOR SIEBRASSE:** That's right. Well,  
6 not beyond that, yes.  
7 **MR. JOHNSTON:** It does not specify any  
8 particular meaning in the Act for the word "useful"?  
9 **PROFESSOR SIEBRASSE:** That's right.  
10 **MR. JOHNSTON:** It does not say that  
11 "useful" is a high bar?  
12 **PROFESSOR SIEBRASSE:** No.  
13 **MR. JOHNSTON:** It does not say that it is  
14 a low bar?  
15 **PROFESSOR SIEBRASSE:** No. Not in the Act.  
16 **MR. JOHNSTON:** Would you agree that it is  
17 left to the courts to interpret what the word  
18 "useful" means in the Patent Act?  
19 **PROFESSOR SIEBRASSE:** Yes. They  
20 interpreted it a hundred years ago as meaning very  
21 little will do.  
22 **MR. JOHNSTON:** As we've been discussing,  
23 on your view for a case to be an example of the  
24 promise utility doctrine, the promise must be  
25 derived from the disclosure, not from the claims.  
  
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1 **PROFESSOR SIEBRASSE:** That's right.  
2 That's correct.  
3 **MR. JOHNSTON:** And if an invention does  
4 not achieve the particular utility claimed, it will  
5 be invalid for lack of utility.  
6 **PROFESSOR SIEBRASSE:** Yes.  
7 **MR. JOHNSTON:** So certainly part of the  
8 meaning of utility in Canadian law is that you must  
9 deliver the claimed utility?  
10 **PROFESSOR SIEBRASSE:** The claimed  
11 invention must be operable, must have utility, yes.  
12 **MR. JOHNSTON:** The utility as claimed.  
13 **PROFESSOR SIEBRASSE:** Well, strictly the  
14 claims define the invention. That's what the  
15 Patent Act says. That's what the courts have always  
16 said. So if you define the invention -- and I'll  
17 use New Process Screw as an example, since it's  
18 discussed extensively, the claim is defined as a die  
19 capable of rolling only double threads, so you've  
20 defined your invention in that way, and it's  
21 actually wholly incapable of rolling double threads,  
22 that it's inoperable, the claimed invention is  
23 inoperable whether or not it rolls single threads or  
24 triple threads or faster-than-light travel, yes.  
25 **MR. JOHNSTON:** And if in that case the  
  
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1 Claimant said it would roll strong threads or thin  
2 threads or thick threads, whatever it is that the  
3 claim says, the invention must operate for that's  
4 what it must do.  
5 **PROFESSOR SIEBRASSE:** Yes.  
6 **MR. JOHNSTON:** In New Process Screw --  
7 perhaps we should turn up the case since we were  
8 just talking about it -- this is volume 1, tab 8,  
9 R-162 at page 46 in the middle, so this decision in  
10 New Process Screw, just above the middle of the page  
11 it says, "He also said that dies with a pitch angle  
12 of 22 degrees would roll a double-threaded No. 18  
13 screw, but it would not be a good one but would be  
14 rough and not a good commercial product."  
15 Did the claims in New Process Screw make  
16 any reference to the need to be a good commercial  
17 product?  
18 **PROFESSOR SIEBRASSE:** No, but it did say  
19 "capable of only rolling double threaded screws,"  
20 and the actual promise language, which is about a  
21 quarter of the way to the bottom, was "Thus, it was  
22 conclusively proved that dies at the specified  
23 angles would not produce No. 18 double-threaded  
24 screws. Thus there was a failure of the promise  
25 which was fatal to it," and the claims referred to

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1 double-threaded screws, so that's the failure of the  
2 promise.  
3 **MR. JOHNSTON:** But if we go back up to  
4 right after the sentence I read, not a good  
5 commercial product, the court says, "This statement  
6 was enough in itself to destroy the patent."  
7 **PROFESSOR SIEBRASSE:** It might be that the  
8 court was saying, you know, very little doesn't  
9 necessarily mean zero. It means very little.  
10 Mostly when it's very little, no scintilla, it means  
11 wholly inoperable. But it's quite possible the  
12 court was saying well, the fact that it's not good  
13 is enough in itself to say it doesn't have a  
14 scintilla of utility. In fact, the patent itself  
15 does refer to commercial results, but I know that  
16 because I've read the patent itself. That phrase --  
17 the court never looked in the patent. That phrase  
18 isn't in the case. If it were deriving this from  
19 the patent presumably the court would have said --  
20 well, today the court would have certainly said:  
21 Commercial results, you said it in the disclosure,  
22 that's the promise.  
23 **MR. JOHNSTON:** The term "commercial  
24 results" was in the patent.  
25 **PROFESSOR SIEBRASSE:** In the disclosure,

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1 yes.  
2 **MR. JOHNSTON:** In the disclosure. And the  
3 patent was before the court.  
4 **PROFESSOR SIEBRASSE:** Yes.  
5 **MR. JOHNSTON:** And the court says this  
6 statement alone would be enough to destroy the  
7 patent?  
8 **PROFESSOR SIEBRASSE:** Well, yes, "it would  
9 be rough and not a good one." This could well be  
10 taken as saying it didn't have a scintilla of  
11 utility just on a scintilla standard.  
12 **MR. JOHNSTON:** You were discussing in your  
13 direct testimony the treatise by Donald MacOdrum in  
14 1995?  
15 **PROFESSOR SIEBRASSE:** Yes.  
16 **MR. JOHNSTON:** It's included in your  
17 direct binder. You identified that Mr. MacOdrum had  
18 set out a category of cases referring to promise  
19 utility.  
20 **PROFESSOR SIEBRASSE:** Yes.  
21 **MR. JOHNSTON:** And he included the New  
22 Process Screw case as one of his examples.  
23 **PROFESSOR SIEBRASSE:** Yes. Well, that's  
24 right. I mean Mr. MacOdrum, he has New Process  
25 Screw, TRW and Feherguard, I believe. And it's

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1 clear enough -- well, clear enough. It would appear  
2 that Mr. MacOdrum is not drawing any distinction  
3 between statements made by -- I shouldn't say that.  
4 The English cases he's lumped together in that  
5 section, the English cases where there are  
6 statements in the disclosure, with the Canadian  
7 cases where the New Process Screw statement and  
8 claim -- I mean Mr. MacOdrum is really quite clear  
9 where his excerpt starts off with the definition of  
10 the claim "capable of only rolling double threads."  
11 TRW -- that's the one that was inoperable  
12 for compressor -- and Feherguard, yes.  
13 **MR. JOHNSTON:** So does he include this  
14 case in his section on promise utility?  
15 **PROFESSOR SIEBRASSE:** Right, but the  
16 promise in this case was in the claims.  
17 **MR. JOHNSTON:** And Mr. MacOdrum, you say,  
18 appears not to be distinguishing between the English  
19 --  
20 **PROFESSOR SIEBRASSE:** Well --  
21 **THE PRESIDENT:** One at a time, and can you  
22 please repeat the last question?  
23 **MR. JOHNSTON:** What you're saying is that  
24 Donald MacOdrum is not distinguishing in his  
25 chapter. He's putting in English false promise

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1 cases, and he's also putting in cases like New  
2 Process Screw, which you regard as being a case  
3 where the promise was derived from the claims.  
4 That's a fair statement of what's contained in  
5 Donald MacOdrum's section on promised utility.  
6 **PROFESSOR SIEBRASSE:** Well, there are both  
7 kinds of cases in here. We don't really know;  
8 they're teaching materials. We don't know what he  
9 was saying about them.  
10 **MR. JOHNSTON:** You state in your expert  
11 report -- this is your first expert report at  
12 page 21, Paragraph 72, footnote 98, you identify  
13 here that the first decisions trial level decisions  
14 adopting the requirement that utility be assessed by  
15 reference to the promise of the patent. Is that  
16 correct?  
17 **PROFESSOR SIEBRASSE:** Yes.  
18 **MR. JOHNSTON:** And so these cases are  
19 listed in footnote 98. Do you recall which of these  
20 was the first case to be decided?  
21 **PROFESSOR SIEBRASSE:** I believe it was the  
22 first one listed, but I'm not entirely sure.  
23 **MR. JOHNSTON:** In any case, these three  
24 cases are your understanding of the origin of the  
25 application of the promise standard in 2005?

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1 the promise of the patent doctrine was in Wellcome  
2 Foundation v Apotex, 1991." If you go down in the  
3 paragraph you state, "MacKay J. held that the  
4 utility was only as intermediates in making useful  
5 end products." You further note, "In his analysis  
6 MacKay J. did examine the specification itself, and  
7 the Court of Appeal in affirming, remarked at 154  
8 that 'the utility of a patent must ultimately be  
9 judged against its promise the exercise requires  
10 that the specification be carefully construed to  
11 determine exactly what that promise is'.  
12 This is what you wrote in your paper?  
13 **PROFESSOR SIEBRASSE:** Yes, that's right.  
14 **MR. JOHNSTON:** Earlier today you affirmed  
15 that you understood your role as an expert witness  
16 is to provide the Tribunal with an impartial  
17 perspective on the matters falling within the scope  
18 of your Expert Report. Is that right?  
19 **PROFESSOR SIEBRASSE:** Yes.  
20 **MR. JOHNSTON:** And part of that mandate  
21 was to describe the law of utility both at the time  
22 that Lilly's Strattera and Zyprexa patents were  
23 filed and granted. They were filed in 1991 and  
24 1996. Is that right?  
25 **PROFESSOR SIEBRASSE:** Yes.

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1 **PROFESSOR SIEBRASSE:** Yes.  
2 **MR. JOHNSTON:** In your first expert  
3 report, Professor Siebrasse, at page 21,  
4 Paragraph 72, if you could turn that up, please.  
5 **PROFESSOR SIEBRASSE:** Yes.  
6 **MR. JOHNSTON:** Perhaps you're already  
7 there, you write that the promise of the patent  
8 began in 2005 and had no basis in prior case law or  
9 the Act?  
10 **PROFESSOR SIEBRASSE:** Yes.  
11 **MR. JOHNSTON:** If you could please turn up  
12 volume 1, tab 3, C-205, at page 22.  
13 **PROFESSOR SIEBRASSE:** Yes.  
14 **MR. JOHNSTON:** This is your 2013 paper  
15 entitled "False Doctrine of False Promise."  
16 **PROFESSOR SIEBRASSE:** Yes.  
17 **MR. JOHNSTON:** You write here on page 22,  
18 "The promise of the patent played no significant  
19 role in Canadian patent law until 2005. There were  
20 only two cases of which I am aware that considered a  
21 heightened utility requirement based on the promise  
22 of the specification, and one more which arguably  
23 did so."  
24 Now, your footnote 91 points to the bottom  
25 of the page and states, "The clearest support for

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1 **MR. JOHNSTON:** This Wellcome v Apotex  
2 decision, the trial decision was rendered in 1991.  
3 The Federal Court of Appeal decision was rendered in  
4 1995. Is that right?  
5 **PROFESSOR SIEBRASSE:** Yes.  
6 **MR. JOHNSTON:** You've described these  
7 cases as the clearest support for the promise  
8 doctrine in Canadian law in your paper.  
9 **PROFESSOR SIEBRASSE:** Yes, the clearest  
10 support. I didn't say they are clear support. The  
11 point of this was that the doctrine is new. So I  
12 was saying here even if you look for any case -- you  
13 know, this is the closest you're going to find. I  
14 wasn't saying these are promise cases; I was saying  
15 these are the closest you're going to find. So even  
16 if you're -- I also say see Corning Glass, which is  
17 the case which really had no scintilla of utility,  
18 so I wasn't saying these were promise cases. I'm  
19 saying this is as close as you're going to get, and  
20 they're, in fact, not promise cases.  
21 **MR. JOHNSTON:** You did say they were cases  
22 you were aware of where the court considered a  
23 heightened utility requirement based on the promise  
24 of the specification. That's what you said in your  
25 paragraph on page 22.

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1           **PROFESSOR SIEBRASSE:** Well, in the  
2 footnote I say the clearest support was in Wellcome.  
3 To the extent that there's any error, it's in this  
4 false promise article and not in my evidence,  
5 meaning in this article it was focusing on, as I  
6 say, the real emergence, and I read these cases  
7 enough -- in fact, I have to say that there are a  
8 couple of other -- there's an error in the footnote  
9 where he said that "the utility was only as  
10 intermediates in making useful end products, without  
11 any promise that the intermediates would themselves  
12 be therapeutically useful." Now that's true, but  
13 also he looked for the utility of the end product  
14 itself which is also required. So --  
15           **MR. JOHNSTON:** And he did look for that in  
16 the disclosure of the patent?  
17           **PROFESSOR SIEBRASSE:** Yes, for what the  
18 end products are good for, yes.  
19           **MR. JOHNSTON:** Which was held to be part  
20 of the claimed utility of the invention in that  
21 case. The production of intermediates --  
22           **PROFESSOR SIEBRASSE:** No.  
23           **MR. JOHNSTON:** -- that would produce end  
24 products having a certain utility.  
25           **PROFESSOR SIEBRASSE:** Well, as a matter of  
  
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1 Canadian law, if you have a process for producing  
2 compounds, even if the process is new or the  
3 intermediates are new, the final product also has to  
4 be useful. It's not enough that it simply operate  
5 to produce the final product. The final product has  
6 to be useful. So the final product also had to have  
7 utility, which the court said was therapeutic value  
8 or potentiating properties or -- one other.  
9 Antibacterial properties, I think.  
10           **MR. JOHNSTON:** Professor Siebrasse, in  
11 your direct testimony today you referred to this  
12 case and you said that it's not a promise case.  
13           **PROFESSOR SIEBRASSE:** That's right.  
14           **MR. JOHNSTON:** And that today, on the  
15 facts of this case, there would be a debate about  
16 what the promise is.  
17           **PROFESSOR SIEBRASSE:** Yes.  
18           **MR. JOHNSTON:** That's how you know the law  
19 has changed. Is that right?  
20           **PROFESSOR SIEBRASSE:** Yes. But the debate  
21 would not be over these issues raised here. It  
22 would be over the statements that the process has a  
23 very -- much higher yield -- markedly superior  
24 yields to the other known processes; that the end  
25 products would have very high antibacterial  
  
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1 properties. Those are the statements in the  
2 disclosure that today would be considered to be  
3 promise statements, not the statements I'm referring  
4 to in the footnote.  
5           **MR. JOHNSTON:** If you could turn up in  
6 your first volume, tab 1, this is the trial decision  
7 in Wellcome v Apotex from 1991. It's Exhibit C-41.  
8 If you could please turn to page 347g, here the  
9 judge writes, just toward h: "The utility of the  
10 inventions was characterized quite differently by  
11 the two learned counsel, as might be expected."  
12 That's what the trial judge wrote in that decision.  
13           You see that that's what the trial judge  
14 wrote?  
15           **PROFESSOR SIEBRASSE:** Yes.  
16           **MR. JOHNSTON:** And you recognize that, in  
17 this case, both parties called expert evidence  
18 interpreting certain words in the disclosure for the  
19 purpose of the utility analysis. Is that your  
20 recollection of the case?  
21           **PROFESSOR SIEBRASSE:** Well, certainly this  
22 is chemical compounds and trial judges in Canada are  
23 not normally chemists, and so certainly words like  
24 "benzylpyrimidines" would have expert evidence as to  
25 what those mean, so I would believe that's true.  
  
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1           **MR. JOHNSTON:** So there was expert  
2 evidence on the proper interpretation of the  
3 disclosure in this case?  
4           **PROFESSOR SIEBRASSE:** I mean, I'm not  
5 looking at it -- I don't see it right there on the  
6 page, but I don't doubt there would have been expert  
7 evidence on things like what does "benzylpyrimidine"  
8 mean.  
9           **MR. JOHNSTON:** Is that because the word  
10 "benzylpyrimidine" would have been in the claims  
11 rather than the disclosure?  
12           **PROFESSOR SIEBRASSE:** It's because patents  
13 are addressed to a person skilled in the art and so,  
14 as I've explained, trial judges in Canada and even  
15 Court of Appeal judges typically don't have a  
16 science background, and the role of the experts in  
17 any patent case is to educate the judge as to what  
18 the terms mean, because the judge typically won't  
19 be -- there will be some terms, of course, that the  
20 judge is familiar with, ordinary English words, but  
21 there will be many terms that the judge is not  
22 familiar with, and those words might appear anywhere  
23 in the specification. That is the claims as well as  
24 the disclosure.  
25           **MR. JOHNSTON:** Would it surprise you that  
  
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1 in this case there was competing expert evidence on  
2 the meaning of the word "chemotherapeutic activity"  
3 which was found in the disclosure and not in the  
4 claims?  
5 **PROFESSOR SIEBRASSE:** No, it wouldn't  
6 surprise me.  
7 **MR. JOHNSTON:** This case was appealed, as  
8 you've noted in your paper, and the Federal Court of  
9 Appeal affirmed the trial judge. I think it's worth  
10 pulling up the Federal Court of Appeal decision at  
11 Tab 15. This is R-401 at 154g.  
12 So here the Federal Court of Appeal --  
13 this is the 1995 decision?  
14 **PROFESSOR SIEBRASSE:** What page?  
15 **MR. JOHNSTON:** 154 at g. This is where  
16 the Federal Court of Appeal reviews the trial  
17 judge's reasons on utility and says, "Since the  
18 utility of a patent must ultimately be judged  
19 against its promise, the exercise requires that the  
20 specification be carefully construed to determine  
21 exactly what that promise is."  
22 **PROFESSOR SIEBRASSE:** Yes. And that just  
23 means you have to look at the specification and  
24 determine what the invention is good for. So this  
25 was a process for making -- I believe it claimed

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1 intermediates and the process, but for making  
2 valuable end products, and the question was well,  
3 what are those end products good for, and so the  
4 processes themselves, by looking at the chemical  
5 definition of the intermediate and reading the  
6 processes, the end products have to be useful but  
7 you can't tell from the claim what the end products  
8 are useful for, so the trial judge looked at the  
9 disclosure to say, well, what's it useful for, and  
10 it's true that the parties disagreed on the standard  
11 for utility, but neither of them made a promise of  
12 the patent argument. The generic argued that  
13 therapeutic utility was required, and I forget what  
14 the patentee argued.  
15 But the trial judge went through the  
16 patent to see what are the stated uses for the end  
17 products, which were therapeutic utility,  
18 potentiating, which means it enhances the utility of  
19 other products, and antibacterial compounds. As  
20 long as these end products had any of these  
21 products, then it was useful.  
22 **MR. JOHNSTON:** If we go back -- you  
23 needn't turn it up again, but in your tab 3 paper,  
24 Doctrine of False Promise, you said you'd also refer  
25 to the case Corning Glass Works.

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1 **PROFESSOR SIEBRASSE:** Yes.  
2 **MR. JOHNSTON:** So you had also cited this  
3 case as an example considered as a case where the  
4 court considered a heightened utility requirement  
5 based on the promise of the specification. You  
6 cited it for this purpose in that paper.  
7 **PROFESSOR SIEBRASSE:** Yes. I mean, can we  
8 turn to the actual case?  
9 **MR. JOHNSTON:** Sure. It's tab 13, R-375.  
10 **PROFESSOR SIEBRASSE:** So the statements in  
11 that case that I was referring to -- so what I was  
12 referring to in my direct is page 19 at the bottom  
13 of the very long paragraph where the court said --  
14 sorry, the top -- this says "A person skilled in the  
15 art must be taken to have known that the presence of  
16 certain impurities such as iron would render the  
17 waveguide [fiber optic cable] useless for long  
18 distance transmission" but there wasn't any evidence  
19 as to whether it would render it useless for any  
20 purpose. At the end it says well, there's no  
21 evidence that would render it useless for any  
22 purpose, so that's clearly low scintilla.  
23 Now, there were statements in here to the  
24 effect that there was no promise. No commercial  
25 success was promised.

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1 **MR. JOHNSTON:** I can take you to page 18  
2 at the bottom of the page. The court states in the  
3 middle of the second to last paragraph, "But neither  
4 in the disclosures nor in the claims in question  
5 does the patent describe a specific use for its  
6 optical waveguide nor does it promise any specific  
7 result with respect to practical transmission,  
8 distance or rates of attenuation." That's what the  
9 court said.  
10 **PROFESSOR SIEBRASSE:** Right. That's what  
11 I would have been referring to when I said "see  
12 also."  
13 **MR. JOHNSTON:** This is why you would cite  
14 that case as further authority as a situation in  
15 which the court considered a heightened utility  
16 requirement based on the promise of the  
17 specification, as you stated in your earlier paper.  
18 **PROFESSOR SIEBRASSE:** Well, that's what I  
19 stated in the paper. This is the sentence that  
20 we're looking at, so that's the sentence in  
21 question. Now, there weren't any such heightened  
22 requirements and, if there had been, would the court  
23 have said we're going to hold you to it? We don't  
24 know, right?  
25 What we do know is they held them to a

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1 very low standard of utility, so this was clearly  
 2 not a case in which the patentee was held to a  
 3 higher standard of utility based on statements from  
 4 the disclosure. You know, trial judges say all  
 5 sorts of things and usually they're pretty good and  
 6 get the law pretty right, but not every obiter  
 7 statement can be taken as a reflection of the law.  
 8 That's why I said "see also" with respect to this  
 9 because it is clearly not a promise case.  
 10 **MR. JOHNSTON:** Let's turn back to Tab 3,  
 11 C-205. This is still the footnote that we're on  
 12 where you're citing these cases in your false  
 13 promise paper. Footnote 92 here is a different  
 14 footnote. We were looking at 91 before. 92, you  
 15 distinguish, here this is a case where, you say, the  
 16 court arguably considered a heightened utility  
 17 requirement based on the promise of the  
 18 specification, and you cite to Mobil Oil  
 19 1995 decision, and lower down in that footnote you  
 20 state that "In context this is a matter of claims  
 21 construction, though it could also be taken as a  
 22 modest interpretation of the promise of the patent  
 23 by Wetston J." You did not mention this case at all  
 24 in your first Expert Report.  
 25 **PROFESSOR SIEBRASSE:** I believe you. I  
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1 mean I don't have a specific recollection.  
 2 **MR. JOHNSTON:** Mr. Dimock cited it in his  
 3 first Expert Report, and you responded to Mr. Dimock  
 4 on this case in your second Expert Report. You said  
 5 that it is, if anything, contrary to the promise of  
 6 the patent. That's at page 2, Paragraph 6 of your  
 7 second Expert Report. You did not state any  
 8 qualifications in that report like the ones that I  
 9 just read in your 2013 paper.  
 10 **PROFESSOR SIEBRASSE:** Yes. I mean I've  
 11 read these cases more carefully now than I did for  
 12 this false promise article. The point of the false  
 13 promise article was I was looking -- as I say on the  
 14 following page -- at the real emergence. Prior to  
 15 that it was is there any -- I didn't want somebody  
 16 to come back and say you missed this case and you  
 17 missed that case, and so I said maybe this one,  
 18 maybe that one, but at the very most maybe this one,  
 19 maybe that one. That wasn't the focus of my  
 20 report -- sorry not my report, my article.  
 21 My focus was this is new, here's the real  
 22 emergence, and went on from that. So these cases  
 23 I've simply read them more carefully now.  
 24 **MR. JOHNSTON:** To recall again the  
 25 language which you've reiterated today from your  
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1 first Expert Report is that, prior to 2005, the  
 2 promise of the patent had no basis in prior case law  
 3 or the Act. That's your view.  
 4 **PROFESSOR SIEBRASSE:** Yes.  
 5 **MR. JOHNSTON:** Please turn up tab 4,  
 6 C-206, page 11. This is your 2012 paper entitled  
 7 "Must the factual basis for sound prediction be  
 8 disclosed in the patent?"  
 9 At page 11, footnote 30, you write that  
 10 "This doctrine has had a long but sporadic history  
 11 in Anglo-Canadian patent law but it has recently  
 12 become a much more important feature of Canadian  
 13 patent law."  
 14 **PROFESSOR SIEBRASSE:** Uh-huh.  
 15 **MR. JOHNSTON:** And if you could turn up  
 16 tab 34, this is R-498 at page 132 at the bottom,  
 17 this is your 2011 in review article, and at page 132  
 18 at the bottom you're making reference here to the  
 19 promise doctrine and the requirement to disclose the  
 20 factual basis for a sound prediction, and you write  
 21 near the bottom of that last paragraph before the  
 22 conclusion, "The problem is compounded because both  
 23 doctrines are recent, at least in their prominence."  
 24 And if I can ask you to flip up to one  
 25 more document, tab 3, this is back to your false  
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1 doctrine of false promise paper, C-205, page 3 at  
 2 the top, you write midway through the first  
 3 paragraph, "Even in Canada the doctrine was almost  
 4 entirely quiescent for decades." That's what you  
 5 wrote.  
 6 **PROFESSOR SIEBRASSE:** Yes. Well, let's  
 7 start with the first one. It does have a long but  
 8 sporadic history in Anglo-Canadian patent law. It  
 9 had a very long history in UK patent law and by the  
 10 time I was writing this it was also part of Canadian  
 11 patent law. And the other one I think you were  
 12 saying something about at least in its prominence --  
 13 well, I wasn't going to debate how new is it. That  
 14 wasn't the point. It was a review article. So that  
 15 wasn't the point there to argue that absolutely this  
 16 is new and so on. So then we've got quiescent,  
 17 almost entirely quiescent. The fact is there are no  
 18 cases citing an elevated standard for utility  
 19 derived from the disclosure. There aren't any. I  
 20 don't cite any. I mean you've pointed to me saying  
 21 well, almost -- you say "almost entirely quiescent."  
 22 Doesn't that mean that it must have been actually  
 23 there but you haven't pointed -- there are no cases  
 24 where they've actually applied an elevated standard.  
 25 Even the TMP, Corning and Mobil Oil -- all  
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1 have upheld the validity of standard. None of them  
 2 actually applied an elevated standard. So you can  
 3 say, look, Corning, they said no utility was  
 4 promised. Maybe that was there. Well, it wasn't a  
 5 case that applied an elevated standard based on the  
 6 disclosure. On the contrary, it applied a scintilla  
 7 requirement.

8 **MR. JOHNSTON:** Professor Siebrasse, in  
 9 these three papers you've described the promise  
 10 doctrine as having a long but sporadic history in  
 11 Canadian law, recently becoming a much more  
 12 important feature, being recent at least in their  
 13 prominence, and being almost entirely quiescent for  
 14 decades. But in your expert report you said that  
 15 the promise doctrine has no basis in prior case law  
 16 or the Act.

17 **PROFESSOR SIEBRASSE:** Yes, and it has no  
 18 basis in prior case law or the Act. I mean, as I  
 19 said, you've pointed me to this statement here, this  
 20 statement there, in my reports, but there isn't a  
 21 case -- there are no cases that apply an elevated  
 22 standard. Certainly the Act hasn't changed and  
 23 there are no cases applying an elevated standard for  
 24 utility based on the disclosure.

25 **MR. JOHNSTON:** Professor Siebrasse, I want

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1 to go through a few of the treatises that we've been  
 2 discussing that have been mentioned so far in the  
 3 proceedings. If you could turn up, please, tab 9.  
 4 This is R-163. This is volume 1, tab 9. This is  
 5 Dr. Fox's 1969 treatise, Canadian Patent Law and  
 6 Practice. You're familiar with this treatise?

7 **PROFESSOR SIEBRASSE:** Yes.

8 **MR. JOHNSTON:** And would you say that this  
 9 treatise is still regularly cited in Canadian  
 10 courts?

11 **PROFESSOR SIEBRASSE:** Well, I don't doubt  
 12 it's still cited. I'm not sure exactly how  
 13 regularly.

14 **MR. JOHNSTON:** The Supreme Court has on  
 15 multiple occasions affirmatively cited Dr. Fox's  
 16 1969 treatise.

17 **PROFESSOR SIEBRASSE:** Yes.

18 **MR. JOHNSTON:** Do you consider this  
 19 treatise to be an authoritative text on Canadian  
 20 patent law at the time that it was written?

21 **PROFESSOR SIEBRASSE:** Well, it was the  
 22 only text. I mean are you asking me for my  
 23 assessment of the quality of this? It's certainly a  
 24 very well known text and regularly cited by the  
 25 courts.

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1 **MR. JOHNSTON:** As a legal scholar, if you  
 2 were looking for a statement of the law, a point of  
 3 Canadian law in the late 1960s, what is the first  
 4 text that you would reach for on your shelf in the  
 5 library?

6 **PROFESSOR SIEBRASSE:** The first text I'd  
 7 look for would be Fox, but I must say I was told a  
 8 number of years ago by a practitioner -- I can't  
 9 remember who -- at some conference, he said about  
 10 Fox, you know, always read the footnotes. So  
 11 certainly it was a well respected text, yes.

12 **MR. JOHNSTON:** If you could please turn up  
 13 page 150 -- it's actually the utility chapter, as  
 14 you can see. On page 150 there's a section, Utility  
 15 as Specified. Dr. Fox includes a quote, "If when  
 16 used in accordance with the directions contained in  
 17 the" --

18 **PROFESSOR SIEBRASSE:** Sorry?

19 **THE PRESIDENT:** Professor, are you there?

20 **PROFESSOR SIEBRASSE:** Yes, I have the page  
 21 now.

22 **MR. JOHNSTON:** "If when used in accordance  
 23 with the directions contained in the specification,  
 24 the promised results are obtained, the invention is  
 25 useful in the sense in which that term is used in

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1 the patent law." If you'll turn up to page 152,  
 2 there is a section entitled Promised Results, so we  
 3 can look there to see what Dr. Fox was saying about  
 4 promised results.

5 Over the page at 153, in that section  
 6 still, in the last paragraph Dr. Fox states: "Cases  
 7 of this type are of importance in that a distinction  
 8 must be drawn between them and those cases where the  
 9 specification contains no promise of results. In  
 10 the latter case no particular quantum of utility is  
 11 necessary; and a mere scintilla of utility is  
 12 sufficient for validity. But in those cases of  
 13 patents that are based upon a promise of results  
 14 contained in the specification it is not sufficient  
 15 that the patent be useful for a part only of the  
 16 result, or for that result only in a manner inferior  
 17 to that claimed."

18 You see that Dr. Fox wrote these passages.  
 19 Please turn up --

20 **PROFESSOR SIEBRASSE:** Do I get a chance to  
 21 respond to those?

22 **THE PRESIDENT:** Yes. But the question was  
 23 whether you saw them.

24 **PROFESSOR SIEBRASSE:** Yes, I saw them.

25 **THE PRESIDENT:** If you would like to

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1 expound on that, I think you can do it via redirect.  
 2 **PROFESSOR SIEBRASSE:** Okay.  
 3 **MR. JOHNSTON:** Please turn up tab 8. This  
 4 is R-162.  
 5 **THE PRESIDENT:** Mr. Johnson, one thing, I  
 6 think the professor has a point. Cross-examination  
 7 is asking questions and not taking us through the  
 8 documents in order to show to the court or the  
 9 Tribunal this matter what the document says. We can  
 10 read ourselves the document.  
 11 **MR. JOHNSTON:** Certainly. My apologies  
 12 professor van den Berg. I wanted to cover three  
 13 documents here and then to put a question to  
 14 Professor Siebrasse.  
 15 **THE PRESIDENT:** If this is to lay a  
 16 foundation, fine, go ahead.  
 17 **MR. JOHNSTON:** Yes.  
 18 So in Tab 8 this is R-162. This is the  
 19 New Process Screw case?  
 20 **PROFESSOR SIEBRASSE:** Yes.  
 21 **MR. JOHNSTON:** This is a head note to the  
 22 case. It's an editorial note. Gordon Henderson was  
 23 the editor of The Reporter that this is published  
 24 in. Are you familiar with him?  
 25 **PROFESSOR SIEBRASSE:** Yes.

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1 **MR. JOHNSTON:** You know he was a Canadian  
 2 patent practitioner in the mid to late 20th century?  
 3 **PROFESSOR SIEBRASSE:** Yes.  
 4 **MR. JOHNSTON:** He was a managing partner  
 5 of Gowling Lafleur Henderson, Claimant's counsel.  
 6 Page 34, near the top, this editorial note states,  
 7 "These findings illustrate the different senses in  
 8 which utility has been used in patent law. It has  
 9 been used in the sense of quantum of usefulness."  
 10 then lower in the paragraph, "However, commercial  
 11 utility may become a requirement as in the present  
 12 case, if it is found by the court to be part of the  
 13 promise. If the specification promises a commercial  
 14 advantage over the prior art, then commercial  
 15 utility would be a requisite."  
 16 You read that in the editorial note?  
 17 **PROFESSOR SIEBRASSE:** Yes.  
 18 **MR. JOHNSTON:** Last document, tab 7 at --  
 19 this is R-160. This is Donald Hill's article  
 20 entitled Claim Inutility. Are you familiar with  
 21 Donald Hill.  
 22 **PROFESSOR SIEBRASSE:** I can't say -- I  
 23 mean I'm familiar now that I've read this article.  
 24 I can't say that I was familiar with him before.  
 25 **MR. JOHNSTON:** You know that he was a

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1 practitioner?  
 2 **PROFESSOR SIEBRASSE:** Yes.  
 3 **MR. JOHNSTON:** Of Canadian patent law?  
 4 **PROFESSOR SIEBRASSE:** Yes.  
 5 **MR. JOHNSTON:** At page 188 in the middle,  
 6 Mr. Hill writes "Where, however, the patentee has  
 7 promised in his specification results of a certain  
 8 kind or order, and these are not yielded when the  
 9 invention is put into practice, the patent of course  
 10 will be invalid. This is so obvious that it hardly  
 11 needs stating."  
 12 You see that comment?  
 13 **PROFESSOR SIEBRASSE:** Yes.  
 14 **MR. JOHNSTON:** Now, Mr. Dimock cited these  
 15 three practitioners' publications in his first  
 16 Expert Report, and you responded to them in your  
 17 second Expert Report. Is that right?  
 18 **PROFESSOR SIEBRASSE:** Well, I imagine  
 19 I did. I mean if you're --  
 20 **MR. JOHNSTON:** If we could go to your  
 21 second Expert Report, page 16, Paragraph 40.  
 22 **PROFESSOR SIEBRASSE:** Yes.  
 23 **MR. SPELLISCY:** You write that "Mr. Dimock  
 24 cites three commentators as supporting the view that  
 25 the promise of the patent was part of Canadian law."

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1 You're referring here to Dr. Fox, Mr. Henderson and  
 2 Mr. Hill.  
 3 **PROFESSOR SIEBRASSE:** Yes.  
 4 **MR. JOHNSTON:** You dismiss the views of  
 5 these three leading practitioners in a single  
 6 three-sentence paragraph of your report, stating  
 7 that, "The only law cited by these commentators is  
 8 the old English false promise doctrine which, as  
 9 noted, did not form part of Canadian law."  
 10 Is that right?  
 11 **PROFESSOR SIEBRASSE:** Yes, that's what the  
 12 sentence says.  
 13 **MR. JOHNSTON:** You do note in footnote 53  
 14 that Dr. Fox did cite two Canadian cases in his  
 15 section on promised results, but that you disagree  
 16 with his citation of those cases as authority for  
 17 that proposition?  
 18 **PROFESSOR SIEBRASSE:** Yes.  
 19 **MR. JOHNSTON:** This is not, unfortunately  
 20 in the binder, but if we could pull up on the screen  
 21 the first Expert Report of Mr. Dimock at page 19,  
 22 Paragraph 69, this immediately follows those last  
 23 three practitioners' views that we just reviewed,  
 24 but Mr. Dimock actually referred to a fourth  
 25 practitioner's views on the promise standard, which

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1 you did not address in your responding expert  
2 report. This is a passage taken from an article by  
3 William Hayhurst, if we could pull up the article,  
4 tab 10, R-164. The passage quoted is at page 73.  
5 So the passage quoted by Mr. Dimock in his  
6 Expert Report is -- first of all, I should say this  
7 article was published in 1970 by William Hayhurst.  
8 "In the introductory parts of the specification, one  
9 must be chary of promising advantages that are not  
10 achieved by everything that falls within the  
11 broadest claim. If you make false promises, you may  
12 get an invalid patent."  
13 There's an endnote -- or footnote -- 12,  
14 and Mr. Hayhurst cites -- this is now on page 84 if  
15 we follow footnote 12 -- Mr. Hayhurst cites Raleigh  
16 v Miller, which is an English case, and he cites  
17 Hoechst v Gilbert, which is a Canadian case, right?  
18 **PROFESSOR SIEBRASSE:** Yes.  
19 **MR. JOHNSTON:** Decided in 1965.  
20 He's citing these authorities for the  
21 proposition if you make false promises you get an  
22 invalid patent?  
23 **PROFESSOR SIEBRASSE:** Well, it's not  
24 exactly what he said, I don't think -- oh yes,  
25 that's right.

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1 **MR. JOHNSTON:** And you did not respond to  
2 this passage from Mr. Hayhurst's article or to the  
3 authority that he relies upon in your expert  
4 reports. Is that right?  
5 **PROFESSOR SIEBRASSE:** Well, I can't  
6 specifically remember having done so. No, I  
7 wouldn't.  
8  
9 **MR. JOHNSTON:** I'd like to take you to the  
10 Supreme Court's Consolboard decision at Tab 2. This  
11 is C-118. This is the 1981 Consolboard decision.  
12 If you could turn up page 525 this is the much  
13 discussed passage where Consolboard turns to the  
14 utility requirement. The key passage states, "There  
15 is a helpful discussion in Halsbury's Laws of  
16 England on the meaning of 'not useful' in patent  
17 law. It means that the invention will not work,  
18 either in the sense that it will not operate at all  
19 or, more broadly, that it will not do what the  
20 specification promises that it will do." And lower  
21 down the page the court states "Canadian law is to  
22 the same effect."  
23 Professor Siebrasse, would you agree that,  
24 on its face, Consolboard quoted with approval the  
25 passage from Halsbury?

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1 **PROFESSOR SIEBRASSE:** Consolboard quoted  
2 with approval the passage. I disagree with the  
3 implication from the highlight that the words  
4 "Canadian law are to the same effect" implies that  
5 everything in the Halsbury is Canadian law.  
6 **MR. JOHNSTON:** In the passage quoted by  
7 the Supreme Court that I read earlier -- now, there  
8 are -- which is the meaning of "not useful" in  
9 patent law and, following from there, there are two  
10 parts to that sentence, that "the invention will not  
11 work either in the sense that it will not operate at  
12 all or, more broadly, that it will not do what the  
13 specification promises that it will do."  
14 You'd agree there's an "or" connecting two  
15 parts of the sentence there?  
16 **PROFESSOR SIEBRASSE:** I agree the word  
17 "or" appears in the sentence, yes.  
18 **MR. JOHNSTON:** The first branch says that  
19 the invention will not operate at all.  
20 **PROFESSOR SIEBRASSE:** I agree those are  
21 the words written there, yes.  
22 **MR. JOHNSTON:** The second branch says  
23 "more broadly, that it will not do what the  
24 specification promises that it will do."  
25 **PROFESSOR SIEBRASSE:** Yes, I agree those

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1 are the words.  
2 **MR. JOHNSTON:** Now, you've said that a  
3 bifurcated utility standard is new in Canadian law  
4 since 2005 but you would agree that on the plain  
5 reading of these words on their face, there is a  
6 bifurcated statement here about what "not useful"  
7 means in Canadian patent law.  
8 **PROFESSOR SIEBRASSE:** No, I disagree.  
9 **MR. JOHNSTON:** In substance, would you  
10 agree that the quoted passage from Halsbury did rely  
11 in part on old English false promise cases that held  
12 patentees to promises made in the disclosure?  
13 **PROFESSOR SIEBRASSE:** Halsbury does  
14 footnote such cases, yes.  
15 **MR. JOHNSTON:** And the leading Canadian  
16 practitioners of the day like Dr. Fox, publishing in  
17 the years preceding Consolboard, did consider the  
18 promise standard to be part of Canadian law.  
19 **PROFESSOR SIEBRASSE:** Well, that's not  
20 clear to me. They quote the Canadian cases. They  
21 say you should worry about this. Whether they  
22 considered it part of Canadian law -- they may have  
23 but it's not clear to me that they did.  
24 **MR. JOHNSTON:** Your view is that this  
25 passage in Consolboard cannot reasonably be

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1 interpreted as acknowledging the existence of the  
2 promise doctrine in prior law?  
3 **PROFESSOR SIEBRASSE:** Well, this one  
4 sentence out of the whole decision could be read as  
5 supporting that, yes, and that's how the current  
6 Canadian courts read that and they're not being  
7 ridiculous in reading it, but you have to read the  
8 whole decision. And certainly my position is that  
9 the decision as a whole cannot reasonably be read as  
10 importing this doctrine into Canadian law.  
11 **MR. JOHNSTON:** In your second Expert  
12 Report at page 7, footnote 15, you write,  
13 "Mr. Dimock states that Consolboard is the leading  
14 authority on the standard of an invention's utility  
15 (Dimock report at Paragraph 61). That is not  
16 correct. It is now cited for the promise doctrine,  
17 but it was rarely cited for utility prior to 2005."  
18 That was your expert opinion?  
19 **PROFESSOR SIEBRASSE:** Yes.  
20 **MR. JOHNSTON:** In your report. Earlier  
21 today -- actually if I could ask you to please turn  
22 up tab 41, this is R-360. It's the 1994 Feherguard  
23 case that you did mention in your direct testimony  
24 earlier today. R-360, page 6, Paragraph 23.  
25 You referred to this case and to two other

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1 cases in your direct testimony saying that, yes,  
2 they did cite Consolboard, but they did not endorse  
3 a bifurcated standard for utility. You said that  
4 you read these cases as simply saying that the  
5 patent must work?  
6 **PROFESSOR SIEBRASSE:** Yes.  
7 **MR. JOHNSTON:** That was your testimony  
8 earlier today. So at Paragraph 23, the Federal  
9 Court in Feherguard states, "In patent law, a patent  
10 is not useful if the invention will not work, either  
11 in the sense that it will not operate at all or,  
12 more broadly, that it will not do what the  
13 specification promises that it will do." And it  
14 cites to Consolboard for that proposition.  
15 Would you agree that what the court has  
16 reproduced there is the full bifurcated passage from  
17 Consolboard that we were discussing earlier?  
18 **PROFESSOR SIEBRASSE:** I agree that it is  
19 referencing the passage that we were discussing  
20 earlier. I do not agree that it represents a  
21 bifurcated standard, particularly as applied in  
22 Feherguard.  
23 **MR. JOHNSTON:** Could you please turn up  
24 tab 25? This is C-230. It's the Almecon decision.  
25 Tab 26. I'm sorry. I've given you bad

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1 instructions. On page 98 at Paragraph 45, again, we  
2 see the court says "Mr. Justice Dickson, as he then  
3 was, in the same matter [referring to Consolboard]  
4 when it came before the Supreme Court of Canada  
5 wrote by reference to the third edition of Halsbury  
6 that" -- and then he repeats the same passage from  
7 Consolboard that we've been discussing, that the  
8 invention will not work either in the sense that it  
9 will not operate at all or, more broadly, that it  
10 will not do what the specification promises that it  
11 will do.  
12 **PROFESSOR SIEBRASSE:** You're asking me if  
13 those words appear in the text?  
14 **MR. JOHNSTON:** Yes.  
15 **PROFESSOR SIEBRASSE:** Yes, they do. If  
16 you look at paragraphs 47 and 48, you'll see how the  
17 court interpreted it. I mean -- can I say more, or  
18 do we have to wait for redirect?  
19 **THE PRESIDENT:** Please expound.  
20 **PROFESSOR SIEBRASSE:** If you look at  
21 Paragraph 47, they quote this passage, and then they  
22 say counsel for the inventor urged it simply "did  
23 not work." 48. "It was a commercial success." "On  
24 the evidence before me 'it worked'." A, taking  
25 commercial success, post-filing evidence is proof of

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1 utility and, B, citing that very passage as simply  
2 standing for a unitary operability standard.  
3 Feherguard is to the same effect.  
4 Goldfarb is to the same effect. I mean yes, they  
5 say these words, but these cases show that, prior to  
6 2005, the courts did not interpret these words as  
7 adopting a bifurcated standard. It worked.  
8 **MR. JOHNSTON:** So your view of these  
9 cases, Feherguard, Almecon and Goldfarb, all of  
10 which you acknowledge reproduce the bifurcated  
11 language of Consolboard, you say does not mean that  
12 these courts were recognizing a bifurcated standard  
13 of utility?  
14 **PROFESSOR SIEBRASSE:** As I stated in my  
15 response to your question about Consolboard, that  
16 statement does not state a bifurcated standard.  
17 Now, I could expound unless we have to wait for  
18 redirect, but I do not agree that that statement  
19 states a bifurcated standard in Consolboard itself.  
20 **MR. JOHNSTON:** You recognize that  
21 Consolboard, the words of Consolboard, the principle  
22 in Consolboard, was reproduced in these cases prior  
23 to 2005 --  
24 **PROFESSOR SIEBRASSE:** Yes, the words were  
25 quoted, yes.

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1 **MR. JOHNSTON:** Despite what you have said  
2 in your second expert report, that it was rarely  
3 cited for utility prior to 2005.  
4 **PROFESSOR SIEBRASSE:** Consolboard was  
5 cited for roughly 100 cases. To my knowledge, this  
6 passage was cited in six of them, four of which are  
7 in the record. That's why I say "rarely." I didn't  
8 say "never;" I said "rarely."  
9 **MR. JOHNSTON:** Could you please turn up  
10 tab 19. This is R-489. This is your 2003 paper  
11 entitled "A remedial benefit-based approach to the  
12 innocent-user problem in the patenting of higher  
13 life forms." This paper, as I understand it, is not  
14 about the utility standard.  
15 **PROFESSOR SIEBRASSE:** Right.  
16 **MR. JOHNSTON:** However, you do address the  
17 issue of utility at page 95. In the middle of the  
18 page you write, "As the Supreme Court has affirmed,  
19 lack of utility means that the invention will not  
20 work, either in the sense that it will not operate  
21 at all or, more broadly, that it will not do what  
22 the specification promises that it will do... the  
23 practical usefulness of the invention does not  
24 matter, nor does its commercial utility, unless the  
25 specification promises commercial utility..."

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1 This is what you wrote in your 2003 paper?  
2 **PROFESSOR SIEBRASSE:** Yes, I wrote those  
3 words, but the Supreme Court -- those words, the  
4 court's decision does not mean a bifurcated  
5 standard. You've focused on this. I mean you've  
6 got -- we had the Supreme Court of Canada  
7 Consolboard decision, about 30 pages. We focused to  
8 one page, comments on utility, where the case was  
9 primarily about disclosure. In fact, the passage  
10 cited most commonly from Consolboard is the passage  
11 stating that patents, we should not be too astute or  
12 technical in construction of the specification or  
13 claims, but we've glossed over that part which was  
14 really the most important holding in the case. We  
15 focused on one small section on utility and, in  
16 fact, on one sentence and, you know, half a dozen  
17 words.  
18 If -- maybe on redirect I'll have a chance  
19 to read the case in context, but I certainly don't  
20 deny that these words appear in the case. What I do  
21 deny is that, when read in context, the Supreme  
22 Court should have been taken to endorse a bifurcated  
23 standard of utility with those words.  
24 **THE PRESIDENT:** Mr. Johnson, how many more  
25 minutes do you estimate your cross will last?

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1 **MR. JOHNSTON:** There are still a number of  
2 topics to cover in the cross.  
3 **THE PRESIDENT:** Would it be an appropriate  
4 moment to break for ten minutes? I'm conscious  
5 about the court reporters. Finish your line of  
6 questioning and then, when you find a moment, you  
7 break.  
8 **MR. JOHNSTON:** Thank you.  
9 Just to conclude on this point,  
10 Professor Siebrasse, you have quoted from  
11 Consolboard in your 2003 paper. It is the only  
12 authority that you've quoted for the meaning of "not  
13 useful" in Canadian patent law in 2003. Is that  
14 right?  
15 **PROFESSOR SIEBRASSE:** Yes.  
16 **MR. JOHNSTON:** And that is two years  
17 before you say that the promise utility doctrine was  
18 first recognized by Canadian courts --  
19 **PROFESSOR SIEBRASSE:** Well, I'm telling  
20 you this passage does not state the promise utility  
21 doctrine.  
22 **MR. JOHNSTON:** Consolboard was your go-to  
23 authority for a statement of the law of utility in  
24 2003?  
25 **PROFESSOR SIEBRASSE:** Well, it's the one I

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1 cited. I mean, go-to? You know, I've said that the  
2 cases rarely cited Consolboard. That is correct.  
3 It was almost always cited for disclosure. It was  
4 cited six times for this particular passage. As  
5 you've pointed out, this whole article really is  
6 nothing to do with utility. I mean presumably it's  
7 the one that I landed on, but I mean I don't know  
8 that that has really any significance at all.  
9 **MR. JOHNSTON:** I'm done with this line of  
10 questioning.  
11 **THE PRESIDENT:** Ten minutes' break.  
12 Professor Siebrasse, you are still under testimony.  
13 You know what it means. Thank you.  
14 *(Recess taken)*  
15 **THE PRESIDENT:** Mr. Johnson, please  
16 proceed with the cross-examination.  
17 **MR. JOHNSTON:** Professor Siebrasse, before  
18 the break we were going through the language of  
19 Consolboard and the times that it's been reproduced,  
20 and I just want to ask one sort of last brief line  
21 of questions on that topic before we move on.  
22 Now, you have recognized that the language  
23 itself of Consolboard is bifurcated language, two  
24 parts of the sentence, and you've recognized that  
25 that language has been reproduced prior to 2005 in

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1 several decisions. But if I'm understanding your  
2 view from your expert reports correctly, I  
3 understand you to be saying that you understand that  
4 passage from Consolboard not to stand for a  
5 bifurcated standard, but you think that it only  
6 means that the invention must work. Is that  
7 correct?

8 **PROFESSOR SIEBRASSE:** I did not agree that  
9 the language is bifurcated. I agreed that there is  
10 an "or" in the sentence. I could happily elaborate.

11 **THE PRESIDENT:** Would you please  
12 elaborate, because you come back each time on this  
13 point, so we better deal with it now.

14 **PROFESSOR SIEBRASSE:** Which tab is  
15 Consolboard?

16 **MR. JOHNSTON:** Tab 2, C-118. That's 526.

17 **PROFESSOR SIEBRASSE:** As I noted in my  
18 report, I believe my Second Report, this passage  
19 from Halsbury's, the footnotes to that passage --  
20 I'll point out the footnotes -- aren't reproduced in  
21 Consolboard. There are three lines of authority  
22 cited in the footnotes to Consolboard. One line is  
23 simple inoperability. One line is the false  
24 suggestion cases, which are Hatmaker and Alsop's  
25 patent, and one line is a rejection of comparative

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1 utility, and this line of cases is best illustrated  
2 by -- and I'm not 100 percent sure it was cited in  
3 Halsbury's, but what I call the red dye case, which  
4 was a patent for a chemical for dyeing compounds red.  
5 And the defendant said well, there's been no  
6 commercial success; nobody is using this dye in the  
7 marketplace. And the court said -- there was a  
8 suggestion of this argument that to be useful, to  
9 warrant a monopoly, it had to actually be better  
10 than what had gone before and commercial acceptance  
11 was the test. And the court said no, that can't be  
12 right because this red dye, maybe it's just not a  
13 fashionable color of red this year. It's enough  
14 that the patent does what the specification  
15 promises, which means it's enough that it works to  
16 dye the clothes red. And that's this language, that  
17 it's enough that it does what the specification  
18 promises that we see now. That's really -- the  
19 origin of that language is in the rejection of the  
20 comparative utility cases. The false suggestion  
21 cases.

22 And that's not a bifurcated standard.  
23 It's a lower standard. It's not saying that you  
24 have to meet any purpose; it's saying it's enough  
25 that it works. Commercial success is not

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1 recognized.

2 So that's why that sentence, particularly  
3 in the context of Consolboard as a whole, does not  
4 represent a bifurcated standard. It represents a  
5 rejection of comparative utility in favor of  
6 operability.

7 **THE PRESIDENT:** Does that complete your  
8 explanation?

9 **PROFESSOR SIEBRASSE:** It doesn't complete  
10 my explanation of the entire Consolboard, but of  
11 that particular phrase and whether it's bifurcated.

12 **THE PRESIDENT:** Thank you. This was a  
13 Tribunal question.

14 **MR. JOHNSTON:** If we could just bring up  
15 the language again on the screen, C-118, the passage  
16 we have turned up now at 525, Professor Siebrasse,  
17 in reading this sentence, I understand what you mean  
18 when you say that this says that the invention, it  
19 must work. I see that in the first half of the  
20 sentence. But is it not true that your reading of  
21 this sentence reads out the entire second half, what  
22 comes after the "or"?

23 **PROFESSOR SIEBRASSE:** I'm telling you that  
24 the cases that establish that proposition said it's  
25 enough that it will do what the specification

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1 promises, and that was a rejection of comparative  
2 utility.

3 **MR. JOHNSTON:** You've also said that the  
4 subsequent cases that reproduce this language, these  
5 were not cases, in your view, in which a promise  
6 standard was being applied. It was simply that the  
7 invention worked in those cases.

8 **PROFESSOR SIEBRASSE:** Right. We saw  
9 Almecon, it worked. If we actually look at  
10 Goldfarb, the judge quotes this, and the judge -- I  
11 can't remember if it was he or she -- says what I  
12 take from this is that it must work.

13 **MR. JOHNSTON:** You'd agree, Professor  
14 Siebrasse, that just because a case only engages  
15 half of a rule, it doesn't mean that the other half  
16 isn't there.

17 **PROFESSOR SIEBRASSE:** Well, what I'm  
18 saying about this passage specifically is the origin  
19 was in the cases rejecting comparative utility.  
20 That's what that passage meant, is that you don't  
21 have to be better than what went before; you merely  
22 have to dye clothes red.

23 What the specification promises is it will  
24 dye clothes red, it does dye clothes red, it does  
25 not have to be better than what went before. That's

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1 where that phrase originates.  
 2 **MR. JOHNSTON:** I understand your view that  
 3 you've explained about this passage. If you'll,  
 4 just as a hypothetical, assume that the reading of  
 5 this passage, that it, in fact, does stand for a  
 6 bifurcated standard of utility. Imagine that that  
 7 were to be true.  
 8 **PROFESSOR SIEBRASSE:** Yes.  
 9 **MR. JOHNSTON:** The fact that that passage  
 10 in its entirety was cited in a case that only  
 11 engaged half of the passage --  
 12 **PROFESSOR SIEBRASSE:** Which hypothetical  
 13 case is this?  
 14 **MR. JOHNSTON:** Let's imagine this is a  
 15 bifurcated standard and the first half means that it  
 16 works, and the second half is the promise utility  
 17 standard. The bifurcated standard. Imagine that to  
 18 be true. You've said in cases like Goldfarb and  
 19 Almecon on the facts these were not promise cases,  
 20 they are cases where just it wouldn't work. Or that  
 21 was the sentence --  
 22 **PROFESSOR SIEBRASSE:** Yes. So just as in  
 23 Corning Glass, the fact that the judge says well  
 24 there were no promises, I mean it wasn't at issue,  
 25 so I agree strictly those would be obiter -- I mean,

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1 I will say Goldfarb, if you take a look at it,  
 2 quotes that passage and then says "What I take from  
 3 this is that it must work." And they held it did  
 4 work, but clearly the court was reading that passage  
 5 as simply standing for the proposition "It must  
 6 work." Maybe they were thinking "or must satisfy  
 7 any elevated promises but I'm not going to mention  
 8 that because it's not at issue." I mean maybe they  
 9 were.  
 10 **MR. JOHNSTON:** My question,  
 11 Professor Siebrasse, is if there's a case where a  
 12 rule with two parts is enunciated but the facts of  
 13 the case only engage one part, but the court quotes  
 14 two parts of the rule, does that mean that the court  
 15 is saying that only half of that rule is there?  
 16 Just because the facts of a case only engage half of  
 17 a rule, does that mean we have to read what the  
 18 court reproduces as only meaning the half that  
 19 applies to the facts of the case?  
 20 **PROFESSOR SIEBRASSE:** Well, you know, this  
 21 hypothetical question, it's frankly a little bit  
 22 convoluted, but you have to read a case in context.  
 23 And I'm looking at Goldfarb right now, which is  
 24 Tab 31, Paragraph 109, page 19, where the court  
 25 quotes that passage and immediately it says "As I

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1 see it the test of utility or usefulness reflects  
 2 the notion that what is patented will work."  
 3 Now, is it possible that the court -- you  
 4 know, I suppose it's possible, as I just said, that  
 5 the court was thinking or, of course, you know,  
 6 there's a second part, which is an elevated  
 7 standard, and I quoted the whole thing but only one  
 8 part is relevant. I mean conceivably, but on its  
 9 face that's not what the court is saying.  
 10 **MR. JOHNSTON:** I'll move on now from this  
 11 topic. If I could ask you to turn up the very last  
 12 tab in volume 2, which is -- I'm sorry. If I could  
 13 first take you to your first Expert Report, page 22,  
 14 footnote 102, here at footnote 102 you're discussing  
 15 the case of Unifloc Reagents. To put it in context,  
 16 you see it, in Consolboard, this was another case  
 17 cited by Supreme Court of Canada in Consolboard,  
 18 Unifloc Reagents. You explain in your footnote 102  
 19 that this case "was cited for the proposition that  
 20 if when used in accordance with the directions  
 21 contained in the specification the promised results  
 22 are obtained, the invention is useful in the sense  
 23 in which that term is used in patent law."  
 24 And you say, "On the facts, the question  
 25 in Unifloc was purely one of operability, the

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1 decision implicates neither the promise of the  
 2 patent doctrine, nor comparative utility."  
 3 Is that right?  
 4 **PROFESSOR SIEBRASSE:** That's what I say  
 5 there.  
 6 **MR. JOHNSTON:** And in your second Expert  
 7 Report at page 11, Paragraph 30, you write  
 8 Consolboard takes this sentence from the Unifloc  
 9 case, and again in the Unifloc case the use of the  
 10 words "promised results" did not signal the  
 11 application of the promise of the patent or any  
 12 similar analysis. The utility attack in Unifloc was  
 13 based on the fact that the disclosure of the  
 14 invention stated that a material that was used to  
 15 make the invention (a flocculating gel) functioned  
 16 because it used cellulose membranes when in fact the  
 17 membranes were made of starch. The court held that  
 18 the misdescription was irrelevant since it did not  
 19 affect the utility of the invention. By following  
 20 the directions contained in the specification and  
 21 using the specified materials, a gel is produced and  
 22 that gel is a flocculating gel."  
 23 This is what you've quoted from the  
 24 Unifloc decision.  
 25 **PROFESSOR SIEBRASSE:** Yes.

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1 **MR. JOHNSTON:** So the utility that the  
2 invention had to have in that case was that, by  
3 following the directions contained in the  
4 specification and using the specified materials, it  
5 had to produce a gel, and that gel had to be a  
6 flocculating gel.  
7 **PROFESSOR SIEBRASSE:** Yes. I mean can I  
8 respond substantively? You've read me the words in  
9 my report and I agree you've read me the words.  
10 **MR. JOHNSTON:** We're going to go to  
11 Unifloc right now. Perhaps we could just do that.  
12 Please turn up the final tab in volume 2, tab 42,  
13 C-255, page 184. Around line 45, line 48, the last  
14 sentence there, "By following the directions  
15 contained in the specification and using the  
16 specified materials a gel is produced and that gel  
17 is an efficient flocculating agent."  
18 So I take it this is the passage that you  
19 were aiming to reproduce in your expert report, but  
20 there's a slight difference in the language. Your  
21 expert report omits the word "efficient flocculating  
22 agent." Is that right?  
23 **PROFESSOR SIEBRASSE:** I'm not sure that I  
24 actually quote the passage. The word "efficient"  
25 does not -- I hate to say "yes" without a chance to

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1 respond substantively.  
2 **MR. JOHNSTON:** Please do take a look at  
3 the passages.  
4 **PROFESSOR SIEBRASSE:** I do omit  
5 "efficient," yes.  
6 **MR. JOHNSTON:** Does that omission affect  
7 your reading of the case?  
8 **PROFESSOR SIEBRASSE:** No, not at all.  
9 **MR. JOHNSTON:** Turn up page 166 of the  
10 Unifloc decision. C-255. The word "efficient" did  
11 not appear anywhere in the claims in Unifloc, did  
12 it?  
13 **PROFESSOR SIEBRASSE:** Which page?  
14 **MR. JOHNSTON:** Sorry. Page 169. I gave  
15 you the wrong page there. At line 41 and following,  
16 this is the statement of the claims in Unifloc.  
17 I've read the claims, and I know when you referred  
18 to this case you would have read the claims. The  
19 word "efficient" does not appear in the claims in  
20 Unifloc.  
21 **PROFESSOR SIEBRASSE:** Right.  
22 **MR. JOHNSTON:** The word "efficient" does  
23 appear at a number of places in the disclosure in  
24 Unifloc. Is that correct?  
25 **PROFESSOR SIEBRASSE:** I can't recall

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1 specifically, but I don't doubt it.  
2 **MR. JOHNSTON:** I could take you to --  
3 **PROFESSOR SIEBRASSE:** You don't need to.  
4 I'm willing to accept it, at least for the point of  
5 argument. It wouldn't affect my reading of the  
6 case.  
7 **MR. JOHNSTON:** So the standard of utility  
8 that this patent had to meet was that, by following  
9 the directions contained in the specification and  
10 using the specified materials, a gel is produced and  
11 that gel is an efficient flocculating agent, is  
12 actually --  
13 **PROFESSOR SIEBRASSE:** No, no. The  
14 standard that it had to meet is a scintilla of  
15 utility as a flocculating agent. The fact that it  
16 far surpassed that standard is beside the point.  
17 And none of this turns, none of this argument in  
18 this passage turns on how efficient it was. I mean  
19 if I can respond more fully -- I don't know. But  
20 no, the answer is no, the standard was not an  
21 efficient flocculating agent. There's nothing in  
22 this passage that suggests that.  
23 It was an efficient flocculating agent.  
24 Certainly if something has far more than a scintilla  
25 of utility it clearly meets the standard, and that's

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1 what happens here.  
2 **MR. JOHNSTON:** I'm having difficulty  
3 understanding, Professor Siebrasse, because before I  
4 put the passage as quoted in your expert report to  
5 you and you said that that was the standard of  
6 utility the patent was held to. But now when I've  
7 read the same passage with efficient flocculating  
8 agent as part of it, you said that that is not the  
9 standard of utility.  
10 **PROFESSOR SIEBRASSE:** No. What I said is  
11 the court held the misdescription was irrelevant  
12 since it did not affect the utility of the  
13 invention. I didn't say it did not affect the  
14 standard for utility. I mean I'd like to explain  
15 the case but no, I don't say that it didn't affect  
16 the standard. It said -- if I can explain, what  
17 happened in this case is -- and let me actually --  
18 we can go back to Consolboard.  
19 The actual point of Consolboard was the  
20 Court of Appeal -- these were particle boards used  
21 to build houses. We see them all the time, the  
22 chipboard you see for building houses. That's what  
23 the invention was. The Court of Appeal held that  
24 you have to explain why the invention is useful, and  
25 the court struck down the patent for essentially not

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1 explaining the mechanism of why the board was an  
2 improvement. So that was really the issue. The  
3 court said you have to explain why your invention  
4 works. That was the issue in Consolboard. Do you  
5 have to explain why your invention works.  
6 I'll point out on page 525, Canadian law  
7 is to the same effect. That's not talking about --  
8 I mean it's referring to the passage above but this  
9 is the passage citing Unifloc. Here is what the  
10 court is telling us, Canadian law is to the same  
11 effect.  
12 Unifloc, if you look at the passage we  
13 just looked at, there was a misstatement in the  
14 specification, so it's a flocculating agent, a  
15 flocculating agent is something you add to  
16 wastewater that causes the suspended particles to  
17 drop out of solution so the water is clean. So you  
18 add the flocculating agent and the specification  
19 said that the flocculating agents are made of  
20 cellulose. They're cellulose bubbles. The truth  
21 was they were made of starch, not cellulose. The  
22 defendant said it's misdescription. You haven't  
23 described the invention. You said cellulose, it was  
24 actually starch. That's exactly parallel to  
25 Consolboard, where the court said you haven't told

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1 us how the invention works.  
2 Unifloc, the court said it doesn't matter  
3 if the bubbles are starch or cellulose. It doesn't  
4 matter that they've told us something wrong about  
5 how the invention works. What matters is that it  
6 works. That's why this word "efficient" -- the  
7 whole utility attack had nothing to do with the  
8 standard of utility, right? It was accepted that it  
9 was actually an efficient flocculating agent. That  
10 wasn't the debate. The debate was as to whether or  
11 not this misstatement was relevant, and the court  
12 said it's not relevant because the thing works.  
13 That's what Canadian law is to the same effect.  
14 The paragraph begins "Canadian law is to  
15 the same effect." It ends, that paragraph after  
16 Unifloc, saying "is not obliged to extol the effect  
17 or advantage of discovery if he describes his  
18 invention so as to produce it." That's what we're  
19 talking about. Unifloc says errors in your  
20 description don't matter, the thing works, that's  
21 all that matters. That's what Unifloc stands for.  
22 That's what the Canadian court cited it for and  
23 that's what Canadian law is to the same effect as --  
24 which was, after all, the point directly at issue in  
25 Consolboard.

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1 **MR. JOHNSTON:** So in your view in Unifloc,  
2 the fact that the court says "by following the  
3 directions contained in the specification and using  
4 the specified materials a gel is produced and that  
5 gel is an efficient flocculating agent," and that  
6 word "efficient" came from the disclosure not from  
7 the claims, that does not mean that this patent had  
8 to deliver -- that this invention had to deliver an  
9 efficient flocculating agent for utility.  
10 **PROFESSOR SIEBRASSE:** Absolutely. I mean  
11 there's nothing in that discussion -- I mean the  
12 word "efficient" no doubt appears in the  
13 specification. A Canadian court today would say,  
14 oh, the word "efficient," there would be an express  
15 statement. You said "efficient." There would be a  
16 debate. Is that a promise. Did you really -- you  
17 know, there are statements in the disclosure that it  
18 was efficient. I believe you. But a Canadian court  
19 today, we'd have expert evidence on well, they said  
20 efficient. Was that a real promise? Was it a mere  
21 statement of an advantage? We'd look at the other  
22 statements. Then the court would say, okay, the  
23 promise of the patent is efficient flocculating  
24 agent, have you met that standard.  
25 There's none of that here. I mean the

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1 fact was it was an efficient flocculating agent.  
2 The only attack was this misdescription and they  
3 said look, it works, you know. It works super well.  
4 It works. That wasn't the point.  
5 **MR. JOHNSTON:** So the patent specification  
6 said this is an efficient flocculating agent, and  
7 that is the utility that the invention delivered in  
8 this case on the facts?  
9 **PROFESSOR SIEBRASSE:** Well, I don't doubt  
10 that -- it may well have said that. I mean I should  
11 say -- I think this is clear enough, that simply  
12 because it says this is an efficient flocculating  
13 agent, even in modern Canadian law, does not mean  
14 that that statement would necessarily be taken as a  
15 promise, right? In current Canadian law you would  
16 still look at that statement and there would be a  
17 debate, is that a promise or is that not a promise.  
18 So we can't simply look at the specification. You  
19 know certainly today in Canadian law you don't say  
20 oh, well, it says these words, that must be a  
21 promise.  
22 There's a debate over it. There was no  
23 such debate. So the mere fact that it says that,  
24 even in modern Canadian law, does not imply that  
25 would be a promise. You have to have that debate.

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1 They did not have that debate.  
2 And the court never even referred to the  
3 specification or the disclosure in coming up with  
4 this "efficient" word. The fact was it was  
5 efficient. It wasn't a dispute. The dispute was  
6 over something totally different.  
7 **THE PRESIDENT:** Professor, could you help  
8 me? Can we go back to basics for one second? Very  
9 elementary. Can I ask you an elementary question  
10 now, because I thought I understood it but maybe I'm  
11 wrong.  
12 The promise utility, where do we find it?  
13 In the claim or in the disclosure?  
14 **PROFESSOR SIEBRASSE:** Well, in current  
15 Canadian law?  
16 **THE PRESIDENT:** First of all, what was the  
17 law, in your submission, prior to 2002? That  
18 doesn't exist actually?  
19 **PROFESSOR SIEBRASSE:** That's right.  
20 **THE PRESIDENT:** But utility, where should  
21 that be stated prior to 2002?  
22 **PROFESSOR SIEBRASSE:** There's no  
23 requirement to state utility anywhere in the patent,  
24 so that was stated in Consolboard, if the utility  
25 would be obvious to a skilled person. So

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1 Consolboard in particular, it was a board, they  
2 didn't have to say "it's useful for building  
3 things." I don't believe there was any actual  
4 statement in Consolboard.  
5 So the utility strictly doesn't have to be  
6 stated anywhere. But the problem is if you have,  
7 for example, a new chemical compound and a person  
8 reads it and looks at the patent and says it's a  
9 chemical compound, I can make it, but you don't know  
10 what it's good for, well, it may cure cancer but if  
11 nobody knows that it's not useful. So if the  
12 utility would not be obvious to a skilled person  
13 from reading the entire patent, then you would have  
14 to state it somewhere.  
15 **THE PRESIDENT:** "Somewhere?" What do you  
16 mean? Under the claim or under the disclosure?  
17 **PROFESSOR SIEBRASSE:** If you're claiming a  
18 compound per se, so this compound has never existed  
19 before, it has to be useful in order to get a patent  
20 on it, in that case you would never state the  
21 utility in the claim because if you did state the  
22 compound for treating X or for doing X, you would be  
23 restricted to that use.  
24 If you're claiming a compound per se, you  
25 would state the utility in the disclosure.

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1 **THE PRESIDENT:** You are free to state it  
2 in either part. Is that what you're saying?  
3 **PROFESSOR SIEBRASSE:** As a practical  
4 matter you're not free because, if you state it in  
5 the claim, then the limit of your monopoly is  
6 restricted to that use. But you could write it in  
7 there.  
8 **THE PRESIDENT:** So for practical purposes,  
9 if you want to state it, you will have to find it in  
10 the disclosure.  
11 **PROFESSOR SIEBRASSE:** That's right.  
12 **THE PRESIDENT:** And in this case in the  
13 Unifloc case, it was stated in the disclosure.  
14 "Efficient Unifloc?"  
15 **PROFESSOR SIEBRASSE:** Yes. I mean I'm not  
16 sure there was ever actually a dispute as to what it  
17 was useful for, so it's possible that it would have  
18 been obvious to a person skilled in the art what it  
19 was good for, but I believe it was stated in the  
20 disclosure.  
21 **THE PRESIDENT:** Can you please go to  
22 page 184 again? You were taken to this passage,  
23 where you see in the margin No. 45. You see first  
24 the judge is lamenting about the waste of time.  
25 **PROFESSOR SIEBRASSE:** Yes.

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1 **THE PRESIDENT:** "An enormous amount of  
2 time was, as I think, wasted in taking evidence upon  
3 the question whether the membranes enveloping the  
4 granules of starch were, as the patentee said they  
5 were, cellulose or, as the Defendants said they  
6 were, starch. If the patentees had misdescribed  
7 them, this misdescription did not seem to me to  
8 matter or to affect the utility of the invention  
9 described in the specification."  
10 So there's two things, as far as I read  
11 this -- misdescription does not seem to matter to  
12 me, or to affect the utility of the invention  
13 described in the specification. And then comes, "By  
14 following the directions contained in the  
15 specification and using the specified materials a  
16 gel is produced and that gel is an efficient  
17 flocculating agent."  
18 So is that not directed to utility as  
19 found in what is here called the specification,  
20 which is the disclosure, I understand?  
21 **PROFESSOR SIEBRASSE:** Yes, well, the  
22 disclosure in this case, it being a chemical  
23 compound, it would be normal to have it disclosed in  
24 the disclosure, so yes, it's referred to that  
25 utility in the disclosure, and it's common for the

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1 courts to say when they're referring to the utility,  
2 just the simple utility, they'll say the promised  
3 utility, the utility stated in the disclosure, the  
4 purpose for which it is useful, so those simply  
5 refer to the utility stated in the disclosure. So  
6 yes, the utility in this case was stated in the  
7 disclosure. But that doesn't mean that the degree  
8 of utility was imported from the disclosure.  
9 Now, it's possible this disclosure today  
10 in Canadian law it says "efficient flocculating gel"  
11 and, as I said, we'd have a debate, okay, is that  
12 actually a promise. And then there would have been  
13 a debate, is it efficient? We would have had expert  
14 evidence on how efficient would a skilled person  
15 have understood efficiency to be. We'd have a  
16 debate as to whether it met that standard. Here  
17 really the fact that it was efficient meant that it  
18 more than satisfied the utility standard.  
19 **THE PRESIDENT:** Okay.  
20 **MR. JOHNSTON:** Professor Siebrasse, you  
21 would agree that in a patent trial, courts will be  
22 interpreting the patent for many different purposes?  
23 **PROFESSOR SIEBRASSE:** Yes.  
24 **MR. JOHNSTON:** They might have to construe  
25 the claims?

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1 **PROFESSOR SIEBRASSE:** Yes.  
2 **MR. JOHNSTON:** And your view is that  
3 courts should always read the claims in light of the  
4 disclosure?  
5 **PROFESSOR SIEBRASSE:** Yes. Well, I mean  
6 strictly the rule is that the words of the claim are  
7 paramount. If the words are plain and unambiguous,  
8 there's no need to have recourse to the disclosure.  
9 If the words are ambiguous, we can have recourse to  
10 the disclosure to interpret them. I mean that would  
11 be the black letter law, I suppose.  
12 **MR. JOHNSTON:** Wouldn't you say that even  
13 before you can know if a word in the claims is  
14 actually ambiguous, you'd have to look at the  
15 disclosure to understand how the claim language  
16 ought to be interpreted to know if it is ambiguous?  
17 **PROFESSOR SIEBRASSE:** Yes, often that  
18 would be the case. I say "often" -- at least maybe  
19 sometimes. Sometimes the word is plain enough,  
20 there's no need to have recourse.  
21 **MR. JOHNSTON:** Another thing courts may  
22 have to do is identify the inventive concept of the  
23 invention for the non-obviousness analysis.  
24 **PROFESSOR SIEBRASSE:** Well, they don't  
25 strictly have to identify the inventive concept.

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1 They often do identify the inventive concept. They  
2 may look to the disclosure, although it's not always  
3 necessary to do so.  
4 **MR. JOHNSTON:** Your view is that it's  
5 generally necessary to do so?  
6 **PROFESSOR SIEBRASSE:** No. I wouldn't say  
7 that it's generally necessary to do so. I mean the  
8 leading case on that, which I think was Sanofi  
9 adopting this windsurfer Pozzoli test, but it says,  
10 as one of the steps, identify the inventive concept  
11 or, if that cannot be done, construe the claims. So  
12 it's a step but it's an alternative step which may  
13 or may not be necessary.  
14 **MR. JOHNSTON:** Tab 16, R-476, page 80, the  
15 middle of the page. This is an excerpt again from  
16 your blog where you write, "The '764 patent is one  
17 more example showing that it is generally necessary  
18 to have recourse to the disclosure to construe the  
19 inventive concept, not only in the case of a per se  
20 compound claim."  
21 **PROFESSOR SIEBRASSE:** Yes, generally, you  
22 know, in the particular context -- well, certainly  
23 in the context of a compound claim it will be  
24 generally necessary. I mean, is it generally  
25 necessary in all kinds of inventive concepts, I mean

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1 this may be a little bit overstated. Yes, it's --  
2 well, as I said, the black letter law is that you  
3 determine the inventive concept or construe the  
4 claim. Certainly often the courts will look to the  
5 inventive concept -- or look to the disclosure to  
6 determine the inventive concept. As I said, it's  
7 not strictly necessary at all as part of an  
8 obviousness determination, and it's not strictly  
9 necessary. Even when identifying the inventive  
10 concept is part of the obviousness analysis, it's  
11 not necessary to look to the disclosure, although  
12 that is often done.  
13 **MR. JOHNSTON:** Just to situate this  
14 discussion, you've said what's new in 2005 is courts  
15 looking to the disclosure to identify promises of  
16 the patent.  
17 **PROFESSOR SIEBRASSE:** Yes.  
18 **MR. JOHNSTON:** And that you consider this  
19 use of the disclosure antithetical to its purpose,  
20 if I've got your position correct?  
21 **PROFESSOR SIEBRASSE:** Yes, yes.  
22 **MR. JOHNSTON:** If you can turn up tab 18,  
23 R-488, page 7, paragraph 19, this is the Federal  
24 Court of Appeal's decision in Feherguard in 1995,  
25 and at Paragraph 19 the court says, "The patent as a

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1 whole, and not only the claims, must be considered  
2 when assessing the utility of an invention...." You  
3 consider this to be a correct statement of the law  
4 in 1995?  
5 **PROFESSOR SIEBRASSE:** Yes.  
6 **MR. JOHNSTON:** If you could please turn up  
7 tab 15, R-401 at 154g, this is a passage we looked  
8 at earlier. It's the Federal Court of Appeal in  
9 Wellcome v Apotex saying that "Since the utility of  
10 a patent must ultimately be judged against its  
11 promise, the exercise requires that the  
12 specification be carefully construed to determine  
13 exactly what that promise is."  
14 Now, here you understand the court in  
15 using the word "specification" to be referring to  
16 the disclosure?  
17 **PROFESSOR SIEBRASSE:** Yes.  
18 **MR. JOHNSTON:** Just to be clear, is this  
19 the case we discussed earlier that you described as  
20 the clearest support for the promise of the patent  
21 doctrine?  
22 **PROFESSOR SIEBRASSE:** Yes.  
23 **MR. JOHNSTON:** If you could turn up your  
24 first Expert Report at page 14, Paragraph 48, here  
25 you're discussing the Latanoprost case which

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1 involved a patent that claimed a compound for the  
2 treatment of glaucoma. The patent came before two  
3 different panels of the Federal Court of Appeal and  
4 you are highly critical of the second Federal Court  
5 of Appeal panel as interpreting treatment of  
6 glaucoma to require the treatment of a chronic  
7 condition. You consider this an extremely  
8 aggressive application of the false promise  
9 doctrine. Is that a fair statement of your position  
10 on this case?  
11 **PROFESSOR SIEBRASSE:** Well, I don't know  
12 that in this report I characterize it. I say it's a  
13 striking illustration because of the contrast and so  
14 on. I say it may vary between different courts.  
15 I'm afraid I'm losing you a little bit here. You've  
16 read me three different passages from three  
17 different things, and I'm trying to hold this all in  
18 my mind. Or are you just wanting me to confirm that  
19 it says these words?  
20 **MR. JOHNSTON:** If you can confirm for me  
21 the Latanoprost case, the issue there, the claims in  
22 fact specified that the patent was for treatment of  
23 glaucoma. That was in the claims in this case.  
24 **PROFESSOR SIEBRASSE:** Yes.  
25 **MR. JOHNSTON:** And the second panel of the

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1 Federal Court of Appeal interpreted that language to  
2 mean chronic treatment of glaucoma?  
3 **PROFESSOR SIEBRASSE:** Yes. Well, I don't  
4 know they interpreted that language. They construed  
5 the patent as promising chronic treatment, but I'm  
6 not sure that it was a matter of them --  
7 **MR. JOHNSTON:** But in this case the  
8 language they were talking about was in the claims,  
9 and that's what the court was interpreting --  
10 **PROFESSOR SIEBRASSE:** I'm not sure --  
11 **MR. JOHNSTON:** In arriving at that promise  
12 --  
13 **PROFESSOR SIEBRASSE:** It was --  
14 **THE PRESIDENT:** Hold on.  
15 **MR. JOHNSTON:** In the Latanoprost case was  
16 it not that the Court of Appeal was interpreting the  
17 meaning of those words in the claims in arriving at  
18 its understanding of the promise of the patent?  
19 **PROFESSOR SIEBRASSE:** I don't believe so.  
20 I believe it was interpreting the disclosure.  
21 **MR. JOHNSTON:** If you could, please, turn  
22 up tab 3, C-205, page 43, at the bottom you're  
23 discussing that Federal Court of Appeal decision in  
24 Latanoprost, and you write, "Thus, treatment was  
25 construed as chronic treatment due to the chronic

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1 nature of the disease. In so construing the patent,  
2 the Court of Appeal made no reference whatsoever to  
3 the disclosure."  
4 **PROFESSOR SIEBRASSE:** Well, the point  
5 there was that it was construed as requiring chronic  
6 treatment because a skilled person would know that  
7 glaucoma is a chronic condition, so when I said  
8 there was no reference to the disclosure, it didn't  
9 mean that they were construing the word in the  
10 claim. What I meant is that they arrived at that  
11 conclusion because a skilled person would understand  
12 the word -- and it wasn't that they'd understand  
13 "treatment" to mean treatment of chronic. It was  
14 that a skilled person would understand glaucoma to  
15 be a chronic disease and, therefore, treatment of it  
16 would have to be chronic.  
17 So the point here was that they construed  
18 the patent as requiring chronic treatment even  
19 though the word "chronic" or similar words did not  
20 appear in the disclosure. So it's not that it  
21 appeared in the claims and didn't appear in the  
22 disclosure. It didn't appear anywhere. That's the  
23 point.  
24 **MR. JOHNSTON:** If I have your reading of  
25 this case correct, then, both the words "treatment"

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1 and "glaucoma" were in the claims. The court, based  
 2 on skilled evidence, interpreted that to mean  
 3 chronic treatment of glaucoma, and the word  
 4 "chronic" did not actually appear in the disclosure.  
 5 The court did not have regard to the disclosure in  
 6 interpreting the promise that it found in the  
 7 patent.

8 **PROFESSOR SIEBRASSE:** Well, it's not quite  
 9 right to say it didn't have regard to the  
 10 disclosure. The word "chronic" does not appear in  
 11 the disclosure. The promise of the patent under  
 12 current Canadian law is construed as it would be  
 13 read by a skilled person, so the point was that a  
 14 skilled person reading the disclosure would say  
 15 "glaucoma." A skilled person, according to the  
 16 court, would know that it's chronic, and so a  
 17 skilled person reading the disclosure results in a  
 18 construction of the promises requiring chronic  
 19 treatment.

20 **MR. JOHNSTON:** If you'd please turn up tab  
 21 16, R-476, page 32 in the middle, this is in your  
 22 blog and you're discussing this Latanoprost  
 23 decision.

24 **PROFESSOR SIEBRASSE:** Yes.  
 25 **MR. JOHNSTON:** You say, "I have gone  
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1 through these details to show that the FCA  
 2 established its view of the promise of the patent  
 3 without making any reference to what is said in the  
 4 description and without taking into account what I  
 5 have argued is important factual context  
 6 information. It is for these reasons that I regard  
 7 this as a very aggressive use of the false promise  
 8 doctrine."

9 **MS. WAGNER:** Mr. President, I'm sorry to  
 10 interrupt, but we have an incomplete tab for Tab 16.  
 11 We're missing most pages of the tab so we're unable  
 12 to follow along.

13 **THE PRESIDENT:** You don't have page 32?  
 14 **MS. WAGNER:** No. We don't have many of  
 15 the tabs in -- in Tab 16 many of the pages are  
 16 missing.

17 **THE PRESIDENT:** Maybe the bundle can be  
 18 replaced. Do you have an extra bundle? (Handed)  
 19 **MS. WAGNER:** Thank you.

20 **THE PRESIDENT:** Return the incomplete  
 21 bundle. There's a return policy.  
 22 Ms. Wagner, you were referring to various  
 23 tabs that are missing, not only one?  
 24 **MS. WAGNER:** It's only tab 16, as far as I  
 25 can see, and it looks as though we have until  
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1 page 28 and no further within the tab.  
 2 **THE PRESIDENT:** There are many more, I can  
 3 promise you!  
 4 **MS. WAGNER:** I'm well aware of that.  
 5 Thank you.

6 **THE PRESIDENT:** It goes to 43.  
 7 You have them now?  
 8 **MS. WAGNER:** We have them now. Thank you.  
 9 **THE PRESIDENT:** Mr. Johnson, please  
 10 continue.

11 **MR. JOHNSTON:** Page 32 of Tab 16.  
 12 Professor Siebrasse, your view is this is a case  
 13 where the Federal Court of Appeal should have looked  
 14 at the language of the disclosure?

15 **PROFESSOR SIEBRASSE:** This case is best  
 16 understood by contrast with the subsequent Plavix  
 17 decision, the Court of Appeal, where in the Plavix  
 18 decision the Court of Appeal reaffirmed the promise  
 19 of the patent analysis but at the same time said  
 20 there must be an explicit promise. And I would say  
 21 I see -- well, I certainly see that case and it's  
 22 probably often thought to be a reaction to  
 23 Latanoprost.  
 24 So the issue in Latanoprost was that the  
 25 word "chronic" didn't appear -- and certainly, yes,  
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1 it's my position that, given the promise of the  
 2 patent doctrine we should at least look at the  
 3 disclosure and look at the words in the disclosure,  
 4 if you're going to find a promise.

5 As I've said here I've argued it should be  
 6 abandoned entirely, but if we're going to retain the  
 7 false promise doctrine to strike down an otherwise  
 8 valid patent, it should be with more attention to  
 9 the patent itself, so my criticism of Latanoprost is  
 10 that they read the disclosure through the eyes of a  
 11 skilled person and concluded that it promised a  
 12 chronic treatment even though there was no explicit  
 13 promise. That's really the point, that the words  
 14 weren't in there. So if we've got the promise  
 15 doctrine, well, at least you should only be held to  
 16 a promise when there are actually words in there as  
 17 opposed to this higher standard.

18 **MR. JOHNSTON:** What I'm not understanding  
 19 is that you have defined the promise of the patent  
 20 doctrine as cases in which utility is assessed  
 21 against a promise or promises derived from the  
 22 disclosure of the patent, and reading these passages  
 23 that you've written about the Latanoprost case, it's  
 24 very clear that you do not regard the Federal Court  
 25 of Appeal as having looked to the disclosure of the  
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1 patent, so I don't understand how you can consider  
2 this to be an example of the promise utility  
3 doctrine as you have defined it.  
4 **PROFESSOR SIEBRASSE:** Maybe it's a whole  
5 new doctrine that they just make up promises out of  
6 whole cloth, and that would also be problematic. I  
7 mean, as I stated, Plavix subsequently said that it  
8 should be an explicit promise.  
9 **MR. JOHNSTON:** You have cited this case in  
10 your expert report as an example of the promise  
11 utility doctrine.  
12 **PROFESSOR SIEBRASSE:** Yes.  
13 **MR. JOHNSTON:** But you would agree that  
14 the case, in fact, does not meet the way in which  
15 you have defined the promise utility doctrine.  
16 **PROFESSOR SIEBRASSE:** Well, no, it was  
17 reading the disclosure through the eyes of a skilled  
18 person. It was reading the disclosure through the  
19 eyes of a skilled person. It was -- I mean  
20 Mr. Dimock's report makes the point that the promise  
21 is interpreted by construing the disclosure through  
22 the eyes of a skilled person. That's what happened  
23 in Latanoprost. My point here is not that they did  
24 not read the disclosure to determine the promise.  
25 A promise being found -- you know, the

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1 point is that there weren't words in there. It  
2 wasn't the explicit words. But they read the  
3 promise. They construed the promise by reading the  
4 disclosure through the eyes of a skilled person.  
5 They did that. And the fact that the word "chronic"  
6 isn't in there, that was the focus of my criticism.  
7 But nonetheless, that court construed the promise by  
8 reading the disclosure through the eyes of a skilled  
9 person.  
10 **MR. JOHNSTON:** By reading the claims in  
11 that case through the eyes of a skilled person?  
12 **PROFESSOR SIEBRASSE:** I don't believe so.  
13 I believe it was the disclosure. But I mean...  
14 **MR. JOHNSTON:** We just had you look at a  
15 passage in your writing where you said that -- you  
16 wrote, "the Court of Appeal made no reference  
17 whatsoever to the disclosure." That's what you  
18 wrote in your paper.  
19 **PROFESSOR SIEBRASSE:** What I meant there  
20 is that they didn't -- there weren't explicit words  
21 in there. They certainly talked about the  
22 disclosure.  
23 **MR. JOHNSTON:** And the words they were  
24 interpreting were "treatment" and "glaucoma"?  
25 **PROFESSOR SIEBRASSE:** Yes.

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1 **MR. JOHNSTON:** And those words appeared  
2 both in the claims in Latanoprost?  
3 **PROFESSOR SIEBRASSE:** Well, they do appear  
4 in the claims, but my recollection of the case is  
5 that they were construing it from the disclosure.  
6 **MR. JOHNSTON:** You state in your expert  
7 reports that courts will scour the disclosure to  
8 determine what specific promises have been made, but  
9 would you agree that there have been moderate and  
10 principled applications of the promise utility  
11 doctrine?  
12 **PROFESSOR SIEBRASSE:** Well, my view is  
13 that the promise utility doctrine is inherently  
14 unprincipled, but there have been moderate  
15 applications of it, yes.  
16 **MR. JOHNSTON:** So, given the doctrine, you  
17 believe that the manner in which it has been applied  
18 by at least some Canadian judges has been moderate?  
19 **PROFESSOR SIEBRASSE:** Well, yes,  
20 sometimes. I mean this is the point, that it's hard  
21 to know until you get a judge to sit down and  
22 actually go through it. I'm certainly not saying  
23 that the promise is always construed to be a very  
24 high promise. Sometimes it is construed to be quite  
25 a low promise.

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1 **MR. JOHNSTON:** You've described the  
2 practice of construing the promise as subjective and  
3 arbitrary, and in part of that description you say  
4 that it involves a fine grammatical parsing and  
5 hair-splitting of the specification. If you'd turn  
6 to your section expert report at page 17,  
7 Paragraph 42, you present the Anastrozole decision  
8 as such fine hair-splitting.  
9 **PROFESSOR SIEBRASSE:** Yes. I don't say  
10 hair-splitting in that one but yes, it's a good  
11 example.  
12 **MR. JOHNSTON:** You mentioned it again  
13 today as an example of a 62 paragraph analysis of  
14 the promise. Elsewhere, Professor Siebrasse, you  
15 have described this decision as a significant  
16 advance in developing a coherent jurisprudence that  
17 is consistent with general principles of claim  
18 construction and statutory interpretation.  
19 **PROFESSOR SIEBRASSE:** Yes.  
20 **MR. JOHNSTON:** Does that sound like  
21 something you've written about that decision?  
22 **PROFESSOR SIEBRASSE:** Yes. I mean I could  
23 go on a little bit, but yes. The point is, even  
24 though it's a principled advance, the best you can  
25 do with the promise doctrine ends up with these

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1 arbitrary and hair-splitting kinds of distinctions,  
2 even with the principled -- that was Justice Rennie,  
3 who is now in the Court of Appeal, and even with a  
4 good judge and a principled approach you still end  
5 up with these unprincipled hair-splitting decisions  
6 because the promise doctrine is inherently  
7 arbitrary, and the reason for that is the claims  
8 define the invention. Patentees know they must be  
9 very precise. The disclosure describes the  
10 invention. They're supposed to say everything they  
11 know about the invention, and there's attention  
12 there. They're construing the disclosure to define  
13 the level of utility when the disclosure is not  
14 meant for that and, in fact, the purpose of the  
15 disclosure requiring the patentee to say everything  
16 they know as the courts have recognized long ago,  
17 it's almost antithetical to this point of defining  
18 the invention. So Justice Rennie did make a big  
19 advance, and even with that big advance we're still  
20 ending up with this very fine parsing.  
21 **MR. JOHNSTON:** I appreciate that your  
22 position is that the whole enterprise is flawed of  
23 looking to the disclosure, but you're saying that,  
24 given that enterprise, an approach which you hold  
25 out as the example of fine grammatical parsing and

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1 hair-splitting is, in fact, a principled approach  
2 that is consistent with principles of statutory --  
3 **PROFESSOR SIEBRASSE:** Well, his approach  
4 is principled --  
5 **THE PRESIDENT:** Sorry. Let him finish the  
6 question.  
7 **MR. JOHNSTON:** Consistent with principles  
8 of statutory interpretation.  
9 **PROFESSOR SIEBRASSE:** Yes, yes. The  
10 principles are sound principles. I mean, they're  
11 applying the same principles that are applied to  
12 claim construction. The problem is that, even  
13 applying those sound principles, it's fine to apply  
14 them to claim construction because the claims define  
15 the invention and parties have known for over  
16 100 years that they have to be very precise in  
17 defining the claims, but to apply that very same  
18 principle, which is the best approach to  
19 construction we can do, to apply it to the  
20 disclosure which was never meant to define for this  
21 purpose, that results in arbitrary results. I mean  
22 it is the best approach we can have. It's  
23 consistent with claim construction approach. But,  
24 when applied to construing the promise in the  
25 disclosure, it gives unsatisfactory results.

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1 **MR. JOHNSTON:** Claimant's patent for  
2 olanzapine was a selection patent. That's right?  
3 **PROFESSOR SIEBRASSE:** Yes.  
4 **MR. JOHNSTON:** And you'd agree that, for a  
5 selection patent, the selection must have a special  
6 advantage compared with the genus.  
7 **PROFESSOR SIEBRASSE:** Yes. It's usually  
8 special advantage or absence of disadvantage and  
9 generally unexpected properties. Some unexpected  
10 properties, yes.  
11 **MR. JOHNSTON:** To be clear, that  
12 requirement for a selection patent is something  
13 that's longstanding for those patents in Canadian  
14 law --  
15 **PROFESSOR SIEBRASSE:** Yes.  
16 **MR. JOHNSTON:** -- traced to this 1930  
17 IG Farbenindustrie case in the UK.  
18 **PROFESSOR SIEBRASSE:** Yes.  
19 **MR. JOHNSTON:** Not being a valid selection  
20 patent is not an independent ground of invalidity  
21 under the Patent Act.  
22 **PROFESSOR SIEBRASSE:** That's right.  
23 **MR. JOHNSTON:** So the requirements for a  
24 selection patent have to be dealt with through other  
25 statutory criteria?

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1 **PROFESSOR SIEBRASSE:** That's -- well --  
2 **MR. JOHNSTON:** Or through the requirements  
3 of patentability, I should say.  
4 **PROFESSOR SIEBRASSE:** Yes.  
5 **MR. JOHNSTON:** And in Europe, an the  
6 United States, I know you've written that selection  
7 patent issues are often dealt with under  
8 non-obviousness?  
9 **PROFESSOR SIEBRASSE:** Yes.  
10 **MR. JOHNSTON:** And in Canada they're  
11 primarily dealt with through utility instead?  
12 **PROFESSOR SIEBRASSE:** Well, I'm not sure  
13 it's primarily. They're dealt with both as a matter  
14 of obviousness and utility and, in fact, we  
15 shouldn't forget anticipation. There are also  
16 anticipation aspects.  
17 **MR. JOHNSTON:** In tab 16, R-476, at 93 at  
18 the top, you say, "In Canadian law, in contrast, the  
19 unexpected advantages are also, and primarily,  
20 treated as a matter of utility." So you're talking  
21 here about the approach to selection patents in  
22 Canada.  
23 **PROFESSOR SIEBRASSE:** Yes.  
24 **MR. JOHNSTON:** And the way in which  
25 they're treated as a matter of utility in Canada is

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1 through the promise doctrine?  
 2 **PROFESSOR SIEBRASSE:** The promise of the  
 3 patent, yes. Yes, I suppose so, yes.  
 4 **MR. JOHNSTON:** If you could turn to  
 5 page 94, you're discussing here the different  
 6 approaches to dealing with the selection  
 7 necessary -- or the advantages necessary for a  
 8 selection, non-obviousness versus utility, and  
 9 whether one is better than the other. You write,  
 10 "This is an inconsequential objection" -- I  
 11 understand here you're writing inconsequential  
 12 objection to approaching it under utility -- "so  
 13 long as the required utility is found in the very  
 14 same advantage that satisfies the obviousness  
 15 requirement, as the Federal Court of Appeal  
 16 indicates here is usually the case." Is that what  
 17 you wrote there?  
 18 **PROFESSOR SIEBRASSE:** I'm having a little  
 19 trouble finding it. Yes.  
 20 **MR. JOHNSTON:** What you're saying here is  
 21 that there are situations in which dealing with  
 22 advantages necessary for a selection under utility  
 23 will simply produce the same result that proceeding  
 24 under the non-obviousness analysis would produce.  
 25 This is why it's an inconsequential objection in

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1 those cases.  
 2 **PROFESSOR SIEBRASSE:** Yes.  
 3 **MR. JOHNSTON:** In your second expert  
 4 report, page 20, Paragraph 49 --  
 5 **PROFESSOR SIEBRASSE:** Yes.  
 6 **MR. JOHNSTON:** -- 48 and 49 is what we're  
 7 looking at here, we're discussing the same issue in  
 8 your second expert report, so on pages 20 in 48 you  
 9 say "To view those stated advantages as being the  
 10 promised utility is at best redundant with the  
 11 non-obviousness requirement." So I take that to  
 12 parallel your other comment of inconsequential  
 13 objection. Those cases.  
 14 **PROFESSOR SIEBRASSE:** Yes.  
 15 **MR. JOHNSTON:** "At worst, the courts have  
 16 found that the patentee promised even more than  
 17 would be required to show that the invention is  
 18 non-obvious and have invalidated the patent for  
 19 failure to meet this promised utility, even though  
 20 the invention is useful and non-obvious." You say  
 21 "This is exactly the type of additional burden that  
 22 was imposed in the olanzapine litigation at issue in  
 23 these proceedings. The patent was held to have been  
 24 non-obvious."  
 25 **PROFESSOR SIEBRASSE:** Yes.

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1 **MR. JOHNSTON:** Please turn up tab 29.  
 2 This is the first Federal Court of Appeal decision  
 3 in olanzapine. It's R-15, Paragraph 61.  
 4 **PROFESSOR SIEBRASSE:** Yes. This is the  
 5 Court of Appeal decision.  
 6 **MR. JOHNSTON:** Yes, this is the first  
 7 Court of Appeal decision. I could use my opening  
 8 slide right now showing the various proceedings, but  
 9 essentially the trial judge has made first  
 10 determination that olanzapine is not a valid  
 11 selection patent and various other grounds. It's  
 12 gone up to the first Court of Appeal decision, and  
 13 the Court of Appeal is here correcting the trial  
 14 judge on the proper approach to a selection patent.  
 15 In Paragraph 61 we're within the non-obviousness  
 16 analysis and the Federal Court of Appeal says the  
 17 trial judge made an error because his  
 18 non-obviousness inquiry "included consideration of  
 19 evidence that is not to be considered as part of the  
 20 obviousness inquiry. Rather, it goes to utility."  
 21 Is that right?  
 22 **PROFESSOR SIEBRASSE:** Yes.  
 23 **MR. JOHNSTON:** So there he's referring to  
 24 evidence of the advantages asserted in the patent.  
 25 **PROFESSOR SIEBRASSE:** Yes.

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1 **MR. JOHNSTON:** The advantages that are  
 2 necessary as a selection patent?  
 3 **PROFESSOR SIEBRASSE:** Yes.  
 4 **MR. JOHNSTON:** So, in this non-obviousness  
 5 analysis, the Federal Court of Appeal takes as  
 6 asserted the advantages of this selection over the  
 7 genus, takes the asserted advantages at face value,  
 8 and says the trial judge made an error in  
 9 considering evidence of those advantages within the  
 10 non-obviousness analysis.  
 11 **PROFESSOR SIEBRASSE:** I'm not sure about  
 12 that. So you're...  
 13 **MR. JOHNSTON:** Right here the judge says  
 14 "That inquiry included consideration of evidence  
 15 that is not to be considered as part of the  
 16 obviousness inquiry."  
 17 **PROFESSOR SIEBRASSE:** Yes.  
 18 **MR. JOHNSTON:** Perhaps I could take you to  
 19 your paper, tab 3 at C-205, your Doctrine of False  
 20 Promise paper, page 35, footnote 157. You're  
 21 talking about olanzapine here and you say, "The  
 22 Court of Appeal treated the advantages necessary to  
 23 ground the selection patent as being a matter of  
 24 utility. This is in contrast to European and U.S.  
 25 law in which the requirement of an additional

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1 advantage is considered to be a matter of  
2 obviousness."  
3 **PROFESSOR SIEBRASSE:** Yes, I think that's  
4 wrong. I mean if I can go back to the --  
5 **MR. JOHNSTON:** Sorry, what's wrong?  
6 **PROFESSOR SIEBRASSE:** Well, the advantages  
7 necessary to ground selection patents as a matter of  
8 utility.  
9 **MR. JOHNSTON:** The statement in your paper  
10 at footnote 157?  
11 **PROFESSOR SIEBRASSE:** Yeah. I mean if we  
12 can go back to the Court of Appeal decision, so  
13 generally speaking for selection patents, you have a  
14 prior genus, which in this case was the '687 patent.  
15 All the compounds of the prior genus have certain  
16 properties. To have a valid selection you have to  
17 have unexpected properties over the genus. So at  
18 Paragraph 13, the trial judge identified the '113  
19 patent's advantages over the '687 patent and over  
20 other anti-psychotics. So he determined the  
21 advantages over the '687 patents, included a list of  
22 advantages, and then the advantages over other  
23 antipsychotics in a second list.  
24 So when I read the passage you were just  
25 reading to me, I take it the court was saying that

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1 first list of advantages over the genus is what was  
2 relevant to selection patents, and the trial judge  
3 erred because the trial judge bundled it all  
4 together and he considered the list of advantages  
5 over the genus but he also considered the promised  
6 advantages over all other anti-psychotic drugs, and  
7 as a matter of selection patents it's not necessary  
8 to be better than all other anti-psychotics. It's  
9 just necessary to be better than the genus.  
10 So that's how I read that passage.  
11 **MR. JOHNSTON:** Professor Siebrasse, you  
12 would accept that the Federal Court of Appeal's  
13 approach to the non-obviousness analysis in its  
14 first olanzapine decision that we were looking at  
15 R-15, the Federal Court of Appeal did not consider  
16 any evidence of whether the advantages actually  
17 existed. It simply looked at the language of the  
18 patent.  
19 **PROFESSOR SIEBRASSE:** Well, I'm not sure.  
20 I mean it's a relatively -- we don't know what  
21 they -- they had all the record before them. We  
22 don't really know what they considered.  
23 **MR. JOHNSTON:** So the analysis is in that  
24 section in R-15 between Paragraph 54 and ending at  
25 Paragraph 64, and there is no assessment of the

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1 evidence of advantages in that section of the  
2 judgment.  
3 **PROFESSOR SIEBRASSE:** Well, it's pretty  
4 clear law that, like any invention, a selection  
5 patent has to be non-obvious. It has to be  
6 inventive. That's right in the Act. And a  
7 selection patent has to have advantages over the  
8 other compounds in the genus. And if the selection  
9 patent doesn't actually have the advantages, then  
10 it's not an invention. The invention must be new,  
11 useful and non-obvious. So to suggest that the  
12 Court of Appeal simply took these advantages at face  
13 value is -- I mean, I can't read it that way because  
14 the invention has to be inventive.  
15 **MR. JOHNSTON:** Which would mean in this  
16 context it has to have the advantages?  
17 **PROFESSOR SIEBRASSE:** Yes, and the court  
18 held it was non-obvious, so it's a pretty short  
19 inference that it has to have the -- it has to be  
20 non-obvious. That means it has to have the  
21 advantages. The court held it was non-obvious.  
22 They had the record before them. I take them to be  
23 saying it had the advantages, the specific ones over  
24 the genus.  
25 **MR. JOHNSTON:** So you take the Federal

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1 Court of Appeal to be saying that on the record  
2 there was sufficient evidence establishing  
3 advantages over the genus to support a selection  
4 patent.  
5 **PROFESSOR SIEBRASSE:** That's what I take  
6 them to be saying, yes. I mean they held it was  
7 non-obvious, and they also held that a selection  
8 patent like any other has to be non-obvious, so I  
9 have to interpret them that way.  
10 **MR. JOHNSTON:** The passage I took you to  
11 in Paragraph 61 indicates that the Federal Court of  
12 Appeal found error in the trial judge's  
13 consideration of evidence that is not to be  
14 considered as part of the obviousness inquiry.  
15 Rather, it goes to utility. So isn't this, rather,  
16 that the Federal Court of Appeal is telling the  
17 trial judge that you ought to be doing this under a  
18 different heading?  
19 **PROFESSOR SIEBRASSE:** Well, that's not how  
20 I read it. I read it as saying the trial judge  
21 considered the question of is it a valid selection  
22 patent. Is it a valid selection patent as a single  
23 question and that, as the court said, tainted his  
24 whole analysis. So can you just repeat what you  
25 just said, your last question?

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1 **MR. JOHNSTON:** I said so isn't this,  
2 rather, that the Federal Court of Appeal is telling  
3 the trial judge that you ought to be doing this  
4 under a different heading?  
5 **PROFESSOR SIEBRASSE:** Oh, okay. No. So I  
6 see it as saying, look, the problem was you  
7 considered all of these advantages -- the advantages  
8 over the genus and the advantages over all the other  
9 compounds all at the same time, mushed it all  
10 together, what you have to do is separate them out.  
11 The obviousness stuff is all the  
12 advantages over the genus, and the utility stuff is  
13 any promise under the current promise doctrine, all  
14 the promises, and the court found in this case that  
15 you promised advantages over other known  
16 anti-psychotics. And the court, as I read it, is  
17 saying that's irrelevant to obviousness. What's  
18 relevant to obviousness is the advantages over the  
19 genus, and you made a mistake by taking those  
20 promises which are relevant to utility and requiring  
21 as a matter of obviousness -- so we have advantages  
22 that here's the genus, is useful, advantages over  
23 the genus is this useful, advantages over all other  
24 compounds, and you put the bar too high for  
25 obviousness, because you imported those promises

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1 into the obviousness analysis, and the bar is lower,  
2 that is, advantage over the genus. So that's how I  
3 read this.  
4 **MR. JOHNSTON:** Let's just take a look at  
5 the trial judge's findings of fact in the first  
6 instance. If you could please turn up tab 30, R-16,  
7 Paragraph 260, these are the trial judge's findings  
8 of fact. "More particularly the evidence does not  
9 support a prediction that the alleged advantages of  
10 olanzapine over two '687 compounds, flumezapine and  
11 ethyl olanzapine, are substantial. To the extent  
12 they existed at all their magnitude was  
13 insignificant. In addition, there is no evidence  
14 that olanzapine was superior to any other compounds  
15 in the '687 class in respect of the characteristics  
16 described in the '113 patent. The comparisons did  
17 not relate to the class as a whole, and I have no  
18 evidence that any advantage was peculiar to  
19 olanzapine."  
20 I'll just continue because this next  
21 paragraph is relevant also. "None of the  
22 comparisons in the '113 patent was supported by  
23 evidence suggesting that olanzapine was a peculiar  
24 or special member of the '687 class. I have no  
25 information about any of the other '687 members'

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1 properties in respect of efficacy, liver enzymes,  
2 CPK, cholesterol or anything else. I do not know  
3 flumezapine's tendency, if any, to raise cholesterol  
4 or ethyl olanzapine's liability, if any, in respect  
5 of liver enzymes or CPK. There is no evidence  
6 before me indicating whether only a small number of  
7 unselected compounds possess the same alleged  
8 advantages as olanzapine, or whether a larger number  
9 of them does."  
10 So those were the trial judge's findings  
11 of fact regarding the evidence of alleged  
12 advantages?  
13 **PROFESSOR SIEBRASSE:** Yes, well, the trial  
14 judge made a number of other findings as well that I  
15 see aren't actually in the binder, but the two  
16 compounds that were part of the genus that were  
17 known compounds, part of the genus were ethyl -- I'm  
18 sorry, what we were looking at? Flumezapine and  
19 ethyl olanzapine, those were the known compounds  
20 that were part of the genus. Those had been -- and  
21 this is -- as I say, it's not in these paragraphs  
22 but Lilly had started -- it is in the trial  
23 decision, just not in the paragraphs we have in  
24 front of us.  
25 **MR. JOHNSTON:** Do you not have the entire

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1 decision?  
2 **PROFESSOR SIEBRASSE:** I don't have the  
3 entire decision, no. I have Paragraph 114 and on.  
4 **MR. JOHNSTON:** I apologize. You should  
5 have the entire decision there.  
6 **PROFESSOR SIEBRASSE:** But in the earlier  
7 decision Lilly had actually started testing  
8 flumezapine and ethyl olanzapine and they had been  
9 told to stop by the FDA because of side effects. I  
10 believe CPK, which I believe is a kind of jerking --  
11 no, CPK is a liver enzyme, so one of them had  
12 increased liver enzymes. The other had -- I think  
13 it was some kind of motion side effect. Anyway,  
14 both of those compounds earlier the judge sets that  
15 out, that Lilly had actually been required to stop  
16 by the FDA because of those side effects, so this is  
17 confusing.  
18 Again, as I say, this is in particular why  
19 it's important that the Court of Appeal had the  
20 whole trial record before it. You know, the trial  
21 judge here also did say that the compounds are  
22 inventive and non-obvious, which are synonyms. It's  
23 not possible. So the trial judge says that. The  
24 trial judge also says some other things. The Court  
25 of Appeal had the whole record. I don't have the

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1 whole record. I haven't read the whole record and  
 2 so I have to go back to the pretty simple syllogism,  
 3 an invention must be inventive. It must have the  
 4 advantages. For us it's obvious, and they held it  
 5 wasn't obvious.  
 6 **THE PRESIDENT:** You have two minutes left  
 7 for today. You can take a couple minutes longer,  
 8 but finish this line of questioning and, when you  
 9 find a natural moment, then we'll stop.  
 10 **MR. JOHNSTON:** Thank you.  
 11 If you could please turn up tab 16 again.  
 12 Again, your blog excerpts. This is R-476, page 57,  
 13 at the bottom, and here you're writing about the  
 14 trial judge's findings in the olanzapine case. At  
 15 the very end of that last paragraph you summarize  
 16 the findings and you write, "In other words, the  
 17 evidence was that flumezapine" -- so another  
 18 compound in this genus -- "was just as promising as  
 19 olanzapine." And if I could just take you to  
 20 page 72 at the bottom of the page, you write here,  
 21 "As I noted in a previous post on the FC decision,  
 22 O'Reilly J invalidated the olanzapine patent exactly  
 23 for failure to conduct enough experiments to show  
 24 that olanzapine had a substantial advantage over the  
 25 prior class. That is, his decision turned on

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1 precisely an application of the test which caused  
 2 the EWCA to reject the IG Farbenindustrie rules as  
 3 unsound. Nonetheless, in light of the four-year-old  
 4 decision in Sanofi Supreme Court approving those  
 5 rules, it is understandable that the FCA would not  
 6 choose to revisit them here."  
 7 This is what you wrote about the trial  
 8 judge's findings of fact on your blog?  
 9 **PROFESSOR SIEBRASSE:** Yes. So the trial  
 10 judge -- you can read it that way, and that's the  
 11 way -- the way you've just read it, and that's what  
 12 I was saying in my blog, but the point is that -- so  
 13 why does a selection -- why is this relevant to  
 14 obviousness? We have a genus of all these prior  
 15 compounds that are all known to treat schizophrenia  
 16 but they have side effects.  
 17 If you pull one out of that genus and you  
 18 say, hey, look, it treats schizophrenia with all  
 19 sorts of side effects, anybody's going to say well,  
 20 duh, yeah, of course it does they all do. That's  
 21 obvious.  
 22 So what you're, as I understand it, trying  
 23 to suggest to me is that the Court of Appeal held  
 24 that you can pick one compound out of a genus and it  
 25 has exactly the same properties as everything else

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1 in the genus and, yet, that's non-obvious. That's  
 2 why the obviousness requirement applies because,  
 3 forgetting about selection patents, any patent has  
 4 to be non-obvious over the prior art. You have a  
 5 genus, it treats schizophrenia with side effects,  
 6 you pull one out, it treats schizophrenia with side  
 7 effects. That was known. You can't get a patent  
 8 for that. And you're suggesting to me, as  
 9 I understand it, that the Court of Appeal said well,  
 10 that's okay, it's inventive anyway. And it's just  
 11 not -- I just can't read the case that way.  
 12 **MR. JOHNSTON:** I think that's a good place  
 13 for me to end my questions today.  
 14 **THE PRESIDENT:** Professor Siebrasse, you  
 15 are still under testimony, which means that  
 16 overnight you cannot discuss this case with anyone.  
 17 We'll see each other tomorrow at 9:00, and  
 18 we will continue the cross-examination.  
 19 (The hearing was adjourned at 6:03 p.m.)  
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<p><b>MS. CHEEK:...</b>  <b>[69]</b> 495/25  496/3 496/14  496/24 497/3  498/4 498/12  498/21 499/2  499/13 499/20  500/1 500/5  500/13 500/17  500/24 501/3  501/7 501/9  501/21 502/4  502/9 502/16  502/19 502/24  503/5 503/10  503/15 503/19  503/24 504/6  504/13 504/19  504/23 505/4  505/13 505/17  505/20 505/25  506/4 506/8  506/14 506/19</p>	<p>506/25 507/8  507/11 507/17  507/23 508/7  508/13 508/17  508/24 509/2  509/6 509/11  509/21 510/3  510/8 510/13  510/17 510/21  510/25 511/5  511/10 511/25  512/16 514/17  514/24 515/5  <b>MS. NOBLES:</b>  <b>[64]</b> 438/16  438/19 438/22  439/4 439/10  439/17 439/21  439/25 440/5  440/14 440/23  441/2 441/6  441/9 441/12  441/15 441/25  442/5 442/10</p>	<p>442/14 442/19  442/24 443/4  443/8 443/13  443/18 443/23  444/3 444/17  444/22 445/2  445/13 445/19  446/1 446/10  446/17 446/22  447/4 447/14  447/17 447/23  448/2 448/6  448/10 448/15  448/20 448/25  449/5 449/8  449/12 449/18  449/24 450/2  450/5 450/13  450/20 450/23  451/2 451/8  451/11 451/17  451/21 451/24  452/7  <b>MS.</b>  <b>WAGNER:</b>  <b>[22]</b> 515/9</p>
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<p><b>MS. WAGNER:...</b> [21] 525/12 527/7 528/10 529/8 529/13 530/10 530/23 531/12 532/20 533/9 534/10 534/14 536/6 536/25 538/5 626/8 626/13 626/18 626/23 627/3 627/7 <b>MS. ZEMAN:</b> [141] 421/4 421/14 421/18 421/20 421/23 422/1 422/4 422/7 422/10 422/17 422/24 423/10 423/13 423/18 423/22 424/1 424/4</p>	<p>424/8 424/11 424/17 424/19 424/22 424/25 425/5 425/9 425/14 425/21 425/24 426/1 426/5 426/9 426/11 426/18 426/22 427/3 427/10 427/13 427/17 427/20 427/23 428/2 428/8 428/12 428/17 428/21 428/24 429/9 429/17 429/24 430/7 430/11 430/14 430/18 430/21 431/2 431/8 431/11 431/15 431/21 432/1 432/6 432/13 432/24 433/11 433/16</p>	<p>433/20 433/24 434/2 434/4 434/12 434/15 435/3 435/15 435/18 436/3 436/17 437/2 437/6 437/12 437/16 437/22 438/1 440/13 440/15 440/24 441/3 441/7 441/10 441/13 441/20 442/4 442/6 442/11 442/15 442/20 443/1 443/7 443/9 443/14 443/20 443/25 444/13 444/18 444/23 445/10 445/17 445/23 446/6 446/15 446/19 447/1 447/10 447/16</p>
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<p><b>MS. ZEMAN:....</b>  <b>[28]</b> 447/20  447/24 448/3  448/8 448/12  448/18 448/22  449/2 449/6  449/9 449/13  449/19 449/25  450/3 450/7  450/14 450/21  450/24 451/3  451/9 451/12  451/19 451/22  451/25 455/1  455/6 480/22  512/7  <b>PROFESSOR</b>  <b>SIEBRASSE:</b>  <b>[301]</b> 512/21  512/25 513/7  513/13 513/18  513/23 514/5  514/9 514/14</p>	515/11 526/17 527/15 528/11 528/25 529/12 529/24 530/14 531/1 531/17 532/23 533/17 534/13 534/20 536/11 537/12 539/10 539/14 539/20 540/2 540/10 540/18 540/22 540/25 541/2 541/5 541/8 541/12 541/15 541/21 541/24 542/3 542/7 542/10 542/14 542/17 543/1 543/4 543/10 543/13 543/19 543/23 544/3 544/9 544/13 544/19 544/24 545/9	545/15 546/1 546/9 546/13 546/21 546/25 547/12 547/25 548/6 548/21 549/1 549/4 549/9 549/17 550/4 550/7 550/24 551/4 551/11 551/15 551/19 552/2 552/6 552/11 552/14 553/15 553/20 553/24 554/5 554/11 554/17 554/23 555/1 555/4 555/8 555/11 555/14 555/18 555/25 556/5 556/9 556/12 557/4 557/17 558/6 558/24 559/3 559/7
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	576/5 577/16	595/18 595/24
<b>PROFESSOR</b>	578/6 578/10	597/7 597/13
<b>SIEBRASSE...</b>	578/16 578/20	597/16 599/8
<b>[196]</b> 559/14	579/5 579/17	599/22 600/7
559/19 559/22	579/19 580/19	600/16 601/7
560/14 560/19	580/23 581/1	601/11 601/21
561/5 561/16	581/19 581/24	602/19 604/3
561/20 561/25	582/2 582/16	604/24 605/6
562/4 562/9	582/21 583/1	605/22 606/3
562/12 562/15	583/3 583/12	606/7 606/12
563/12 563/18	583/17 583/21	606/20 606/24
563/24 564/4	584/2 584/10	607/2 607/12
564/8 564/25	584/17 585/17	608/9 611/9
565/16 565/21	585/22 586/4	612/8 613/13
565/24 566/12	586/25 587/15	613/18 613/21
566/16 566/19	587/19 587/24	614/16 615/2
567/14 567/20	588/7 588/12	615/10 615/14
568/3 568/11	588/18 589/2	615/24 616/20
569/4 569/13	589/18 590/5	617/22 617/25
569/21 570/25	590/17 591/11	618/4 618/16
571/6 571/9	591/14 591/19	618/23 619/5
572/9 572/17	592/13 592/23	619/20 620/16
573/24 574/9	593/3 593/14	620/20 621/4
575/3 575/13	594/1 595/14	621/16 621/21

<p><b>PROFESSOR SIEBRASSE:...</b> .... [59] 622/10 622/23 623/2 623/9 623/12 623/18 624/3 625/7 625/23 627/14 629/3 629/11 629/15 630/11 630/18 630/24 631/2 631/11 631/18 632/8 632/18 632/21 634/2 634/8 635/2 635/6 635/14 635/17 635/21 635/25 636/3 636/8 636/11 636/22 637/1 637/17 638/1 638/4 638/13 638/24 639/3</p>	<p>639/21 639/24 640/2 640/10 640/16 641/2 641/5 641/10 642/18 643/2 643/16 644/4 644/18 645/4 647/12 648/1 648/5 650/8 <b>SIR DANIEL BETHLEHAM:</b> [10] 388/9 389/6 389/16 390/1 390/6 390/10 390/16 390/21 391/18 392/20 <b>THE PRESIDENT:</b> [180] 337/18 338/8 338/15 338/23 339/6 339/10 339/14 339/18 339/24</p>	<p>340/8 340/11 362/3 362/12 382/13 388/4 392/22 393/7 393/24 394/4 394/8 395/3 395/7 395/10 395/16 395/20 395/23 396/5 396/13 396/19 396/22 396/25 397/23 411/19 412/1 419/9 419/12 419/16 419/19 419/22 420/13 420/20 420/23 421/1 432/17 432/23 434/9 434/22 436/12 436/24 438/3 438/6 438/11 438/15 438/17 438/20 438/23 439/5</p>
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<p><b>THE PRESIDENT:....</b>  <b>[123]</b> 439/13  439/18 439/22  440/4 440/6  440/10 452/1  452/4 452/8  452/17 452/24  453/2 453/5  453/9 453/18  454/1 454/6  454/10 454/17  454/25 455/4  455/7 455/12  457/9 457/22  458/2 458/7  458/13 458/21  458/25 459/6  459/16 459/21  460/19 460/24  461/15 461/25  462/8 462/17  462/19 463/4</p>	<p>463/20 464/1  464/8 464/12  464/16 464/21  464/24 466/3  466/11 466/25  467/13 467/19  467/25 468/8  468/11 468/16  468/22 469/2  469/6 469/12  469/20 470/5  470/13 480/18  480/24 481/6  481/10 512/2  512/6 512/9  512/14 512/19  512/23 513/1  513/8 513/16  513/19 513/25  514/7 514/11  514/15 514/23  515/3 515/6  528/22 538/8  538/14 538/20</p>	<p>560/20 579/18  580/21 580/24  581/4 581/14  591/18 594/23  595/2 596/10  596/14 597/10  599/6 599/11  613/6 613/15  613/19 614/14  614/25 615/7  615/11 615/20  615/25 617/18  623/13 626/12  626/16 626/19  627/1 627/5  627/8 634/4  649/5 651/13  <b>THE WITNESS: [1]</b>  338/11    '<b>113 [11]</b> 342/5  365/5 365/6  366/9 366/24</p>
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'	509/4	<b>016 [1]</b> 366/8
' <b>113... [6]</b>	' <b>764 [1]</b> 619/16	<b>027 [2]</b> 379/2
390/2 504/21	' <b>78 [1]</b> 518/3	450/17
505/6 641/18	' <b>787 [1]</b> 496/21	<b>030 [1]</b> 435/21
646/16 646/22	' <b>90s [2]</b> 415/25	<b>1</b>
' <b>356 [1]</b> 381/16	545/5	<b>10 [10]</b> 366/10
' <b>376 [2]</b> 500/7	' <b>it [1]</b> 591/24	405/3 413/3
500/23	' <b>not [1]</b> 586/16	413/15 499/23
' <b>453 [1]</b> 475/14	' <b>secondary [1]</b>	514/3 529/23
' <b>492 [1]</b> 475/15	503/2	543/7 544/18
' <b>687 [17]</b>	' <b>the [1]</b> 563/8	585/4
366/21 366/22	' <b>utility [1]</b>	<b>100 [1]</b> 593/5
369/6 369/15	485/3	<b>100 percent [1]</b>
388/17 389/8	.	598/2
389/18 428/18	<b>...as [1]</b> 377/3	<b>100 years [1]</b>
429/2 430/1	<b>...we [1]</b> 365/9	634/16
641/14 641/19	<b>.1 [1]</b> 531/6	<b>102 [3]</b> 603/14
641/21 646/10	<b>.1 percent [1]</b>	603/14 603/18
646/15 646/24	531/6	<b>1050 [1]</b> 334/7
646/25	<b>0</b>	<b>109 [1]</b> 602/24
' <b>735 [8]</b> 342/5	<b>004 [2]</b> 410/15	<b>10:30 [1]</b>
376/8 376/10	449/21	395/14
379/24 503/12	<b>011 [1]</b> 406/6	<b>11 [10]</b> 339/21
503/18 504/9		342/3 342/7

<b>1</b>	365/3 429/4	<b>153 [1]</b> 580/5
<b>11... [7]</b> 342/13	486/9 487/8	<b>154 [4]</b> 342/23
411/4 530/13	508/16 531/16	343/4 563/7
553/9 575/6	571/9 641/18	569/15
575/9 604/7	<b>132 [2]</b> 575/16	<b>154g [2]</b>
<b>1102 [1]</b>	575/17	569/11 621/7
475/12	<b>135 [1]</b> 485/18	<b>155 [2]</b> 342/23
<b>114 [1]</b> 648/3	<b>14 [8]</b> 379/6	343/9
<b>117 [1]</b> 379/9	381/7 411/8	<b>157 [2]</b> 640/20
<b>118 [4]</b> 380/24	450/19 485/17	641/10
586/11 597/16	537/10 537/11	<b>16 [15]</b> 365/8
599/15	621/24	365/22 479/5
<b>12 [9]</b> 407/15	<b>146 [1]</b> 496/17	500/7 553/6
409/7 451/7	<b>15 [10]</b> 381/7	583/21 619/14
479/5 484/23	382/23 411/15	625/21 626/10
505/22 530/25	544/18 569/11	626/15 626/24
585/13 585/15	589/12 621/7	627/11 636/17
<b>120 [1]</b> 379/21	639/3 642/15	646/6 649/11
<b>1201 [1]</b>	642/24	<b>160 [2]</b> 335/16
335/12	<b>15 years [2]</b>	582/19
<b>124 [1]</b> 537/2	391/12 417/2	<b>162 [3]</b> 557/9
<b>125 [2]</b> 336/12	<b>150 [2]</b> 579/13	581/4 581/18
537/2	579/14	<b>163 [2]</b> 381/14
<b>13 [9]</b> 364/25	<b>152 [1]</b> 580/1	578/4



<b>1</b>	536/10	<b>1973 [1]</b>
<b>164 [1]</b> 585/4	<b>188 [1]</b> 583/5	346/14
<b>166 [1]</b> 606/9	<b>19 [10]</b> 340/8	<b>1974 [3]</b> 398/8
<b>169 [1]</b> 606/14	427/24 435/23	398/12 421/22
<b>17 [5]</b> 339/20	454/13 571/12	<b>1976 [1]</b> 333/4
484/11 486/5	584/21 593/10	<b>1979 [2]</b>
500/7 632/6	602/24 620/23	398/16 537/7
<b>17-19 [1]</b>	620/25	<b>1980 [14]</b>
435/23	<b>1930 [2]</b> 554/9	366/21 367/20
<b>17.03 [1]</b>	635/16	368/6 368/8
484/19	<b>1930s [1]</b>	368/14 368/21
<b>17.03.02a [1]</b>	535/19	368/22 368/24
484/23	<b>195 [1]</b> 486/1	428/22 429/3
<b>17.03.02c [1]</b>	<b>1959 [2]</b>	456/12 456/21
486/10	551/19 552/18	471/7 471/15
<b>17.03.03 [1]</b>	<b>1960s [1]</b>	<b>1980-2004 [1]</b>
487/8	579/3	472/1
<b>18 [7]</b> 525/23	<b>1965 [1]</b>	<b>1980s [2]</b>
526/3 527/9	585/19	400/19 407/1
557/12 557/23	<b>1969 [3]</b>	<b>1981 [4]</b>
572/1 620/22	433/23 578/5	406/10 406/19
<b>184 [2]</b> 605/13	578/16	526/9 586/11
615/22	<b>1970 [2]</b>	<b>1982 [2]</b> 391/6
<b>187 [2]</b> 526/15	421/17 585/7	393/20

<p><b>1</b></p> <p><b>1983 [1]</b> 422/5</p> <p><b>1985 [2]</b> 423/12 448/6</p> <p><b>1988 [1]</b> 424/3</p> <p><b>1990 [3]</b> 441/2 479/4 480/10</p> <p><b>1990s [18]</b> 389/16 398/18 399/2 400/20 403/15 407/2 417/22 506/7 506/11 510/7 543/21 544/3 544/9 544/15 544/16 544/19 545/8 545/25</p> <p><b>1991 [10]</b> 370/3 370/7 372/24 407/10 430/16 541/5 563/2 563/23 564/2 567/7</p> <p><b>1992 [1]</b></p>	<p>505/23</p> <p><b>1993 [1]</b> 542/14</p> <p><b>1994 [2]</b> 424/5 589/22</p> <p><b>1995 [15]</b> 407/15 408/4 409/1 409/7 409/11 418/1 437/8 437/9 542/17 543/10 545/7 559/14 564/4 620/24 621/4</p> <p><b>1995 decision [3]</b> 408/19 569/13 573/19</p> <p><b>1995 in [1]</b> 408/12</p> <p><b>1995 treatise [1]</b> 527/10</p> <p><b>1995-ish [2]</b> 418/16 418/19</p> <p><b>1996 [3]</b></p>	<p>448/15 543/10 563/24</p> <p><b>1997 [5]</b> 366/22 367/20 391/9 431/6 431/14</p> <p><b>1998 [1]</b> 507/20</p> <p><b>1999 [14]</b> 399/3 401/6 401/7 401/9 401/13 401/14 402/10 402/19 402/24 404/1 424/10 441/6 448/20 448/22</p> <p><b>1:30 [2]</b> 481/1 481/5</p> <p><b>1C3 [1]</b> 335/17</p> <p><b>1PS [1]</b> 334/13</p> <hr/> <p><b>2</b></p> <hr/> <p><b>2,304,657 [4]</b> 507/5 507/10 507/19 508/4</p>
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<b>2</b>	373/4 410/16	473/3 473/17
<b>20 [10]</b> 334/15	411/9 440/3	474/18 478/4
468/25 485/7	440/4 449/8	478/8 478/10
485/10 485/13	450/2 478/14	489/21 490/3
485/21 485/22	518/17 518/19	516/6 522/9
485/23 638/4	540/9 540/25	522/15 526/9
638/8	613/17 613/21	527/14 534/6
<b>20 minutes [6]</b>	<b>2003 [9]</b> 373/6	534/8 540/9
468/22 469/2	373/7 373/16	546/18 547/12
469/4 469/6	441/9 593/10	547/16 547/22
470/16 515/2	594/1 595/11	548/6 561/25
<b>20-minute [1]</b>	595/13 595/24	562/8 562/19
452/14	<b>2004 [9]</b>	575/1 588/4
<b>200 [2]</b> 381/12	456/12 471/7	589/17 592/6
451/14	472/1 472/23	592/23 593/3
<b>20004-2041 [1]</b>	479/4 480/10	596/25 620/14
335/12	505/23 545/14	<b>2005-2014 [2]</b>
<b>2000s [3]</b>	545/23	472/2 473/7
403/15 403/19	<b>2005 [42]</b>	<b>2006 [8]</b>
403/22	412/13 412/16	399/11 401/10
<b>2001 [2]</b> 536/9	446/17 456/10	401/14 404/5
545/17	456/13 471/5	404/9 412/13
<b>2002 [16]</b>	471/8 471/24	417/9 487/19
373/1 373/3	472/3 472/9	<b>2007 [5]</b>

<b>2</b>	373/23 374/5	454/22
<b>2007... [5]</b>	374/18 374/20	<b>202.662.6000</b>
441/17 446/19	375/9 546/6	<b>[1]</b> 335/13
446/20 485/18	553/9 575/17	<b>2041 [1]</b>
485/25	<b>2012 [7]</b> 364/6	335/12
<b>2008 [9]</b>	364/10 441/15	<b>205 [5]</b> 562/12
381/13 384/3	540/14 546/5	573/11 576/1
384/20 384/25	546/7 575/6	623/22 640/19
391/25 451/16	<b>2013 [4]</b>	<b>206 [1]</b> 575/6
478/15 540/9	481/24 540/4	<b>20th [1]</b> 582/2
554/8	562/14 574/9	<b>21 [9]</b> 340/5
<b>2009 [9]</b> 382/4	<b>2014 [13]</b>	340/8 423/1
382/19 384/3	339/13 396/15	429/4 440/1
391/25 475/12	420/17 439/17	486/20 486/24
484/15 484/18	456/10 456/13	561/12 562/3
492/25 493/19	456/21 471/5	<b>213 [1]</b> 411/11
<b>2010 [7]</b> 376/9	471/8 471/15	<b>22 [13]</b> 376/6
379/6 383/23	472/2 473/7	376/19 376/20
387/13 387/18	513/21	377/14 487/12
450/20 451/8	<b>2015 [4]</b>	487/16 487/18
<b>2011 [14]</b>	339/21 454/5	487/20 487/24
366/10 371/12	454/12 514/3	562/12 562/17
371/15 372/9	<b>2016 [3]</b>	564/25 603/13
372/12 373/20	333/21 337/1	<b>22 degrees [1]</b>

<b>2</b>	<b>259 [1]</b> 529/24	<b>3</b>
<b>22 degrees...</b>	<b>26 [6]</b> 340/19	<b>30 [4]</b> 575/9
<b>[1]</b> 557/12	450/8 454/5	594/7 604/7
<b>23 [7]</b> 378/11	500/7 529/10	646/6
384/14 456/13	590/25	<b>31 [6]</b> 333/21
471/8 473/4	<b>260 [1]</b> 646/7	337/1 364/6
589/24 590/8	<b>2600 [1]</b>	379/9 513/20
<b>23 years [1]</b>	335/16	602/24
515/15	<b>27 [7]</b> 339/13	<b>310 [1]</b> 537/11
<b>230 [2]</b> 526/15	340/19 403/4	<b>32 [3]</b> 625/21
590/24	405/20 410/9	626/13 627/11
<b>24 [3]</b> 378/14	454/4 500/7	<b>33 [1]</b> 526/4
384/15 544/21	<b>272 [1]</b> 451/5	<b>33 percent [1]</b>
<b>25 [11]</b> 382/4	<b>273 [2]</b> 366/15	476/1
382/19 384/16	366/17	<b>333-651 [1]</b>
396/15 420/16	<b>28 [2]</b> 536/13	333/24
439/17 454/22	627/1	<b>34 [2]</b> 575/16
468/23 469/8	<b>29 [7]</b> 341/23	582/6
500/7 590/24	430/23 490/21	<b>347g [1]</b> 567/8
<b>25 minutes [3]</b>	492/1 492/10	<b>35 [2]</b> 340/6
455/11 460/16	513/21 639/1	640/20
468/21	<b>292 [1]</b> 429/1	<b>351 [1]</b> 484/10
<b>255 [2]</b> 605/13		<b>354 [1]</b> 382/3
606/10		<b>359 [1]</b> 530/14

<b>3</b>	437/9 569/11 621/7	619/14 625/21 636/17 649/12
<b>36 [3]</b> 340/5 340/7 514/2	<b>41 [8]</b> 502/18 502/20 503/1 504/16 531/17 567/7 589/22 606/15	<b>48 [6]</b> 591/16 591/23 605/13 621/24 638/6 638/8
<b>360 [3]</b> 526/13 589/22 589/24	<b>42 [6]</b> 491/18 491/22 494/24 495/3 605/12 632/7	<b>480-Box [1]</b> 334/7
<b>361 [1]</b> 527/12	<b>43 [2]</b> 623/22 627/6	<b>488 [1]</b> 620/23
<b>366 [1]</b> 537/10	<b>44 [2]</b> 356/19 357/3	<b>489 [1]</b> 593/10
<b>37 percent [1]</b> 492/13	<b>45 [4]</b> 529/12 591/1 605/13 615/23	<b>49 [11]</b> 334/12 485/14 485/22 486/24 487/16 491/16 491/23 494/25 495/4 638/4 638/6
<b>375 [2]</b> 531/1 571/9	<b>456 [2]</b> 496/16 496/18	<b>498 [1]</b> 575/16
<b>38 [1]</b> 366/15	<b>46 [1]</b> 557/9	<b>4th [1]</b> 433/23
<b>38-40 [1]</b> 526/10	<b>47 [2]</b> 591/16 591/21	<b>5</b>
<b>384 [1]</b> 506/21	<b>476 [5]</b> 553/6	<b>5 minutes [1]</b> 438/12
<b>3AL [1]</b> 334/16		<b>5.2 [1]</b> 529/7
<b>4</b>		<b>500 [1]</b> 361/1
<b>40 [4]</b> 526/10 527/8 527/17 583/21		<b>51 [2]</b> 340/19
<b>40 percent [1]</b> 492/3		
<b>401 [4]</b> 408/1		

<b>5</b>	<b>62 [3]</b> 505/19 520/19 632/13	495/10
<b>51... [1]</b> 340/21	<b>64 [3]</b> 431/4 487/20 642/25	<b>75 [2]</b> 493/25 495/10
<b>525 [3]</b> 586/12 599/16 609/6	<b>64 percent [1]</b> 480/13	<b>76 [3]</b> 492/21 494/4 495/10
<b>526 [1]</b> 597/16	<b>651 [1]</b> 333/24	<b>78 [2]</b> 492/12 494/16
<b>53 [9]</b> 340/19 340/25 521/4 521/5 521/11 521/18 521/19 522/1 584/13	<b>66 percent [1]</b> 476/3	<b>79 [1]</b> 494/16
<b>54 [3]</b> 508/9 533/11 642/24	<b>68 [1]</b> 479/5	<b>8</b>
<b>57 [2]</b> 341/22 649/12	<b>69 [2]</b> 342/24 584/22	<b>80 [1]</b> 619/14
<b>6</b>	<b>6:03 p.m [1]</b> 651/19	<b>83 percent [1]</b> 473/2
<b>6-10 [1]</b> 544/18	<b>7</b>	<b>84 [1]</b> 585/14
<b>60 [3]</b> 341/23 341/23 341/25	<b>71 [1]</b> 492/2	<b>86 percent [1]</b> 480/11
<b>61 [4]</b> 589/15 639/3 639/15 644/11	<b>72 [9]</b> 492/21 492/23 493/14 494/4 495/10 509/1 561/12 562/4 649/20	<b>89 [1]</b> 409/6
<b>613.233.1781</b> <b>[1]</b> 335/17	<b>73 [3]</b> 493/20 495/10 585/4	<b>9</b>
	<b>74 [2]</b> 493/23	<b>91 [3]</b> 534/12 562/24 573/14
		<b>92 [2]</b> 573/13 573/14
		<b>93 [3]</b> 499/25 500/6 636/17

<b>9</b>	363/3 363/21	416/20 417/4
<b>94 [1]</b> 637/5	367/7 367/7	417/17 418/1
<b>94 percent [1]</b> 479/17	367/16 368/25	418/5 418/8
<b>95 [1]</b> 593/17	370/21 387/21	418/12 418/16
<b>95 percent [1]</b> 480/4	391/9 393/18	418/18 421/16
<b>98 [4]</b> 536/8	393/24 459/15	426/13 427/1
561/12 561/19	460/15 465/7	427/7 428/23
591/1	498/22 499/1	429/5 432/21
<b>991 [2]</b> 492/25	520/24 539/6	436/11 441/1
493/20	541/19	442/17 442/22
<b>9:00 [1]</b> 651/17	<b>about [121]</b>	445/6 445/22
<b>9th [1]</b> 334/6	347/6 348/4	446/1 446/3
<b>A</b>	348/18 351/19	446/10 446/15
<b>abandoned [2]</b> 479/18 628/6	353/10 355/24	447/3 448/24
<b>ability [5]</b> 355/22 358/11	356/17 359/20	449/1 449/4
369/23 389/5	362/24 365/9	449/16 450/5
524/15	366/4 371/2	450/22 451/1
<b>able [21]</b> 360/14 360/18	371/20 378/15	451/10 451/23
	386/7 391/9	459/18 462/7
	391/14 391/22	463/7 464/9
	394/2 398/7	464/21 473/9
	402/24 415/14	473/11 478/17
	415/16 415/24	479/9 481/19
	416/9 416/10	484/7 492/12



<p><b>A</b></p> <p><b>about... [47]</b>  492/12 493/10  495/19 502/6  505/3 511/13  529/2 535/7  535/11 539/3  544/7 545/18  547/11 550/15  553/10 557/8  557/20 561/9  566/15 576/12  579/9 580/3  588/6 588/21  592/15 593/14  594/7 594/9  595/5 600/18  601/3 609/7  610/4 610/19  615/24 623/8  628/23 630/21  632/21 633/11  636/21 640/11  640/21 646/25</p>	<p>649/13 650/7  651/3</p> <p><b>above [15]</b>  339/16 339/22  379/13 396/17  408/13 420/18  439/20 454/8  454/14 513/22  514/4 520/14  529/6 557/10  609/8</p> <p><b>abreast [2]</b>  343/21 437/4</p> <p><b>absence [1]</b>  635/8</p> <p><b>absolute [3]</b>  456/17 471/12  472/7</p> <p><b>absolutely [9]</b>  344/14 346/24  375/17 375/17  387/22 397/22  550/25 576/15  611/10</p>	<p><b>abstract [3]</b>  381/17 508/7  508/9</p> <p><b>academic [2]</b>  542/6 548/25</p> <p><b>accept [4]</b>  364/13 466/5  607/4 642/12</p> <p><b>acceptable [1]</b>  466/13</p> <p><b>acceptance [1]</b>  598/10</p> <p><b>accepted [4]</b>  385/18 518/2  535/24 610/8</p> <p><b>access [1]</b>  506/9</p> <p><b>accordance [5]</b>  460/3 513/16  579/16 579/22  603/20</p> <p><b>according [5]</b>  379/12 400/17  475/19 494/9</p>
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<p><b>A</b></p> <p><b>according... [1]</b> 625/15</p> <p><b>account [4]</b> 355/19 475/22 495/10 626/4</p> <p><b>accurate [5]</b> 365/19 390/4 476/23 477/2 495/24</p> <p><b>accurately [1]</b> 476/5</p> <p><b>achieve [1]</b> 556/4</p> <p><b>achieved [1]</b> 585/10</p> <p><b>acknowledge [5]</b> 342/14 487/25 496/11 497/16 592/10</p> <p><b>acknowledged [2]</b> 497/18 499/11</p> <p><b>acknowledges [1]</b> 341/25</p>	<p><b>acknowledging [1]</b> 589/1</p> <p><b>acquiescence [1]</b> 353/22</p> <p><b>acquire [5]</b> 360/5 360/20 361/10 361/12 363/5</p> <p><b>acquired [2]</b> 357/19 357/21</p> <p><b>acquiring [1]</b> 359/20</p> <p><b>acquisition [3]</b> 356/21 359/16 391/23</p> <p><b>across [1]</b> 347/18</p> <p><b>Act [19]</b> 394/13 520/9 520/13 520/25 521/3 523/4 554/20 555/3 555/8 555/15 555/18 556/15</p>	<p>562/9 575/3 577/16 577/18 577/22 635/21 643/6</p> <p><b>acting [1]</b> 455/16</p> <p><b>action [5]</b> 353/13 431/14 434/7 473/7 477/16</p> <p><b>actions [2]</b> 456/24 477/21</p> <p><b>actively [1]</b> 546/20</p> <p><b>activity [2]</b> 429/8 569/2</p> <p><b>actual [7]</b> 403/25 457/21 458/20 557/20 571/8 608/19 614/3</p> <p><b>actually [92]</b> 341/8 341/15 342/23 344/4</p>
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<p><b>A</b></p> <p><b>actually... [88]</b>  344/20 347/16  348/5 348/18  349/24 352/1  353/18 355/22  360/21 361/3  362/3 362/15  362/18 363/5  363/16 363/18  363/22 369/13  369/18 370/18  370/21 370/25  375/19 375/20  385/19 386/10  386/24 387/5  389/24 390/15  392/8 392/17  392/23 393/18  403/3 457/6  457/7 458/18  461/7 464/19  473/6 489/19  508/1 515/8</p>	<p>516/17 517/5  518/25 519/2  521/12 521/18  524/4 530/16  531/15 531/25  532/9 533/19  533/25 537/17  537/18 542/22  545/14 550/18  556/21 576/22  576/24 577/2  579/13 584/24  589/21 598/9  600/9 605/24  607/12 608/17  609/24 610/9  613/18 615/16  617/12 618/14  625/4 628/16  631/22 642/16  643/9 647/15  648/7 648/15</p> <p><b>acute [1]</b>  429/16</p>	<p><b>add [3]</b> 345/21  609/15 609/18</p> <p><b>addition [4]</b>  344/6 514/13  523/14 646/13</p> <p><b>additional [6]</b>  379/12 478/2  522/17 523/3  638/21 640/25</p> <p><b>address [9]</b>  415/16 416/9  533/14 535/2  539/9 539/24  546/6 585/1  593/16</p> <p><b>addressed [3]</b>  529/17 530/18  568/13</p> <p><b>addressing [1]</b>  546/4</p> <p><b>adequate [2]</b>  416/19 416/22</p> <p><b>adequately [1]</b>  435/12</p>
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<p><b>A</b></p> <p><b>ADHD [10]</b> 341/11 341/20 377/6 377/17 378/4 380/1 385/22 387/6 448/9 509/5</p> <p><b>adjourned [1]</b> 651/19</p> <p><b>adjudicate [1]</b> 376/16</p> <p><b>administrative [1]</b> 338/4</p> <p><b>admissible [3]</b> 516/11 517/25 518/7</p> <p><b>admission [1]</b> 521/8</p> <p><b>admitted [2]</b> 405/13 523/13</p> <p><b>adopted [1]</b> 553/20</p> <p><b>adopting [3]</b> 561/14 592/7</p>	<p>619/9</p> <p><b>ADRIAN [2]</b> 336/5 537/9</p> <p><b>advance [8]</b> 397/21 433/9 459/11 461/10 632/16 632/24 633/19 633/19</p> <p><b>advanced [2]</b> 456/18 471/12</p> <p><b>advantage [12]</b> 433/6 433/14 582/14 610/17 611/21 635/6 635/8 637/14 641/1 646/2 646/18 649/24</p> <p><b>advantages [42]</b> 418/21 585/9 636/19 637/7 637/22 638/9 639/24 640/1 640/6 640/7 640/9</p>	<p>640/22 641/6 641/19 641/21 641/22 641/22 642/1 642/4 642/6 642/16 643/1 643/7 643/9 643/12 643/16 643/21 643/23 644/3 645/7 645/7 645/8 645/12 645/15 645/18 645/21 645/22 645/23 646/9 647/8 647/12 649/4</p> <p><b>adverse [2]</b> 356/10 472/14</p> <p><b>advice [10]</b> 343/7 343/14 343/19 344/1 344/3 344/8 344/11 344/20 405/24 541/20</p>
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<p><b>A</b></p> <p><b>advise [12]</b>  399/20 399/24  399/25 402/12  403/10 404/6  410/6 410/9  410/10 444/22  446/9 450/5</p> <p><b>advised [7]</b>  343/3 443/3  446/1 450/22  450/24 451/10  451/23</p> <p><b>advises [2]</b>  442/17 442/22</p> <p><b>advising [5]</b>  401/4 401/24  403/21 449/16  482/21</p> <p><b>advisor [3]</b>  398/18 406/16  482/8</p> <p><b>affairs [6]</b>  336/11 441/12</p>	<p>445/4 445/5  446/18 447/12</p> <p><b>affect [13]</b>  349/6 356/13  358/12 358/19  426/21 604/19  606/6 607/5  608/12 608/13  608/15 616/8  616/12</p> <p><b>affects [1]</b>  475/24</p> <p><b>affiliate [5]</b>  392/20 422/6  423/9 423/12  423/19</p> <p><b>affiliates [1]</b>  423/3</p> <p><b>affirmatively [1]</b> 578/15</p> <p><b>affirmed [4]</b>  384/22 563/14  569/9 593/18</p> <p><b>affirming [1]</b></p>	<p>563/7</p> <p><b>afflicted [1]</b>  483/14</p> <p><b>afraid [1]</b>  622/15</p> <p><b>after [44]</b>  356/22 367/14  368/7 368/24  375/22 376/22  389/8 389/13  389/22 391/12  401/7 402/9  402/18 404/1  407/21 414/4  415/21 423/19  445/12 452/22  478/4 478/8  478/10 478/21  481/20 481/24  505/1 518/20  519/18 519/18  519/18 524/12  539/24 540/13  545/22 546/11</p>
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<p><b>A</b></p> <p><b>after... [8]</b>  546/15 546/18  547/12 548/6  558/4 599/22  610/15 610/24</p> <p><b>after-the-fact [3]</b> 518/20  519/18 524/12</p> <p><b>afternoon [6]</b>  481/16 481/17  512/20 525/13  538/14 539/3</p> <p><b>again [45]</b>  339/21 351/22  354/6 354/25  356/8 359/18  366/2 377/19  378/7 379/8  380/23 381/13  382/16 384/10  384/12 385/3  386/11 387/9  387/19 399/5</p>	<p>423/23 428/6  429/23 465/5  470/16 487/8  487/12 492/14  498/9 499/5  501/10 510/4  514/3 527/9  570/23 574/24  591/1 599/15  604/9 615/22  619/15 632/12  648/18 649/11  649/12</p> <p><b>against [8]</b>  380/9 416/1  472/16 524/11  563/9 569/19  621/10 628/21</p> <p><b>agent [25]</b>  406/14 434/3  434/5 434/17  434/25 435/6  448/5 605/17  605/22 607/11</p>	<p>607/15 607/21  607/23 608/8  609/14 609/15  609/18 610/9  611/5 611/9  611/24 612/1  612/6 612/13  616/17</p> <p><b>agents [7]</b>  343/18 343/22  343/25 344/19  347/12 405/1  609/19</p> <p><b>aggressive [2]</b>  622/8 626/7</p> <p><b>ago [3]</b> 555/20  579/8 633/16</p> <p><b>agree [36]</b>  349/22 372/6  411/15 436/4  436/19 458/5  458/17 467/21  468/1 503/7  503/10 535/3</p>
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<p><b>A</b></p> <p><b>agree... [24]</b>  545/24 550/2  550/22 551/13  555/16 586/23  587/14 587/16  587/20 587/25  588/4 588/10  590/15 590/18  590/20 592/18  597/8 600/13  601/25 605/9  617/21 629/13  631/9 635/4</p> <p><b>agreeable [1]</b>  346/5</p> <p><b>agreed [5]</b>  468/22 469/1  469/5 515/3  597/9</p> <p><b>agreement [2]</b>  333/3 469/8</p> <p><b>ahead [3]</b>  394/25 515/10</p>	<p>581/16</p> <p><b>Aids [2]</b>  518/22 518/25</p> <p><b>aiming [1]</b>  605/19</p> <p><b>airplane [7]</b>  516/25 517/3  517/5 517/6  517/7 517/7  535/8</p> <p><b>ajvandenber</b>  <b>[1]</b> 334/8</p> <p><b>al [1]</b> 408/11</p> <p><b>ALBERT [1]</b>  334/5</p> <p><b>ALEXANDER</b>  <b>[2]</b> 335/5  335/9</p> <p><b>all [86]</b> 346/1  351/2 354/12  356/2 371/22  388/20 392/10  392/25 393/9  411/6 417/8</p>	<p>417/14 418/16  421/12 422/9  424/16 425/17  441/22 454/20  456/12 456/23  458/19 459/4  469/8 471/7  471/17 471/23  472/4 472/12  474/1 479/23  480/4 480/15  488/10 493/10  493/12 510/5  510/23 511/2  511/7 511/16  516/9 517/19  518/9 523/15  533/4 538/2  538/3 545/9  573/4 573/23  576/25 585/6  586/18 587/12  587/19 590/11  591/9 592/9</p>
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<p><b>A</b></p> <p><b>all... [27]</b>  593/21 596/8  606/8 608/21  610/21 610/24  613/16 619/25  620/7 622/17  641/15 642/3  642/6 642/8  642/21 645/7  645/8 645/9  645/9 645/11  645/13 645/23  646/12 650/14  650/15 650/18  650/20</p> <p><b>allegation [3]</b>  455/24 470/19  521/7</p> <p><b>alleged [8]</b>  412/14 474/9  540/8 540/21  546/5 646/9  647/7 647/11</p>	<p><b>allegedly [3]</b>  343/8 456/1  470/21</p> <p><b>ALLEN [3]</b>  337/5 338/11  338/15</p> <p><b>alleviates [1]</b>  461/20</p> <p><b>allow [3]</b>  345/21 418/15  458/12</p> <p><b>allowability [5]</b>  415/24 416/10  416/12 416/14  417/5</p> <p><b>allowed [8]</b>  386/2 418/13  452/20 455/10  460/8 481/2  498/2 538/17</p> <p><b>allows [1]</b>  536/2</p> <p><b>Almecon [7]</b>  526/13 526/23</p>	<p>526/25 590/24  592/9 600/9  601/19</p> <p><b>Almecon/Goldf  arb [1] 526/23</b></p> <p><b>almost [11]</b>  394/6 521/5  530/4 550/14  576/3 576/17  576/21 576/21  577/13 596/3  633/17</p> <p><b>alone [2] 352/9  559/6</b></p> <p><b>along [2]</b>  527/25 626/12</p> <p><b>already [14]</b>  374/24 381/20  387/24 391/3  412/2 435/12  455/5 459/23  465/21 467/4  503/17 503/21  504/17 562/6</p>
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<p><b>A</b></p> <p><b>also [87]</b></p> <p>335/19 336/16  340/24 345/16  348/24 351/4  380/12 394/12  409/6 413/3  442/21 458/14  459/23 460/1  460/3 460/6  462/24 464/13  464/17 465/16  467/21 468/4  470/22 472/11  473/9 473/14  473/25 474/3  476/8 477/4  477/18 478/2  478/13 479/12  480/20 482/20  487/1 491/4  493/11 493/20  496/9 500/10  504/14 504/16</p>	<p>511/6 511/20  511/23 516/16  516/18 519/13  521/19 521/20  522/3 524/2  525/25 527/10  529/11 529/23  534/1 536/10  543/21 544/12  546/7 547/24  551/10 557/11  561/1 564/16  565/13 565/14  566/3 566/6  570/24 571/2  572/12 573/8  573/21 576/10  600/3 629/6  636/15 636/19  642/5 644/7  646/21 648/21  648/24</p> <p><b>Alsop's [1]</b></p> <p>597/24</p>	<p><b>alternative [2]</b></p> <p>460/25 619/12</p> <p><b>although [5]</b></p> <p>505/12 525/20  554/12 619/2  620/11</p> <p><b>always [10]</b></p> <p>516/11 521/3  524/13 550/14  556/15 579/10  596/3 618/3  619/2 631/23</p> <p><b>am [11]</b> 372/5  373/12 373/13  397/7 403/22  421/6 434/4  434/8 440/16  508/8 562/20</p> <p><b>ambiguous [3]</b></p> <p>618/9 618/14  618/16</p> <p><b>AMERICAN [1]</b></p> <p>333/3</p> <p><b>among [3]</b></p>
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<p><b>A</b></p> <p><b>among... [3]</b> 387/10 432/11 480/14</p> <p><b>amount [2]</b> 516/6 616/1</p> <p><b>analyses [1]</b> 478/2</p> <p><b>analysis [27]</b> 375/3 475/22 477/7 477/22 478/1 496/19 497/19 520/21 529/16 547/7 547/16 547/18 563/5 567/19 604/12 618/23 620/10 627/19 632/13 637/24 639/16 640/5 640/10 642/13 642/23 644/24 646/1</p> <p><b>analyst [3]</b></p>	<p>482/8 482/11 482/13</p> <p><b>analytical [1]</b> 375/3</p> <p><b>analyzed [1]</b> 483/12</p> <p><b>Anastrozole [2]</b> 520/18 632/7</p> <p><b>and/or [2]</b> 500/21 502/13</p> <p><b>Anderson [1]</b> 335/20</p> <p><b>ANDRE [1]</b> 336/8</p> <p><b>Andy [1]</b> 335/22</p> <p><b>angle [1]</b> 557/11</p> <p><b>angles [1]</b> 557/23</p> <p><b>Anglo [2]</b> 575/11 576/8</p> <p><b>Anglo-Canadian [2]</b> 575/11</p>	<p>576/8</p> <p><b>animal [2]</b> 391/7 429/11</p> <p><b>ANNE [3]</b> 337/13 438/15 438/20</p> <p><b>Annex [8]</b> 486/6 487/3 487/21 492/17 506/22 507/1 529/11 529/21</p> <p><b>annexed [1]</b> 413/1</p> <p><b>anomaly [1]</b> 356/13</p> <p><b>another [14]</b> 341/1 353/20 356/22 358/7 361/8 384/2 410/17 412/14 426/24 427/4 446/21 603/16 618/21 649/17</p> <p><b>answer [31]</b></p>
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<p><b>A</b></p> <p><b>Aventis... [1]</b> 487/18</p> <p><b>Avenue [2]</b> 334/7 335/12</p> <p><b>average [1]</b> 480/7</p> <p><b>avoid [1]</b> 417/13</p> <p><b>award [1]</b> 501/6</p> <p><b>awarded [2]</b> 497/1 501/12</p> <p><b>aware [38]</b> 342/21 356/20 364/8 370/18 371/15 371/23 372/6 372/9 372/11 372/14 373/9 373/12 373/13 374/5 374/16 383/25 384/20 387/12 387/18 407/13</p>	<p>425/21 437/18 454/25 483/21 483/24 488/5 498/5 499/3 504/7 504/24 505/5 507/18 507/24 509/3 525/15 562/20 564/22 627/4</p> <p><b>awareness [3]</b> 351/21 374/14 387/20</p> <p><b>away [1]</b> 367/15</p> <p><b>awkwardly [1]</b> 452/16</p> <p><b>AZT [20]</b> 373/1 373/9 373/15 373/21 379/13 383/2 387/13 410/18 478/14 518/19 518/22 519/10 519/11 519/19 519/20</p>	<p>520/1 522/22 523/10 531/15 541/2</p> <p><b>B</b></p> <p><b>back [33]</b> 341/15 344/17 364/1 384/11 386/19 392/16 397/17 404/13 417/13 423/20 447/11 459/19 462/12 464/7 486/8 486/22 489/2 494/19 508/1 508/18 517/4 548/14 558/3 570/22 573/10 574/16 575/25 597/12 608/18 613/8 641/4 641/12 649/2</p> <p><b>background [6]</b> 421/16</p>
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<p><b>B</b></p> <p><b>background...</b> [5] 441/1 481/19 515/12 542/23 568/16</p> <p><b>backtrack [1]</b> 434/11</p> <p><b>backward [2]</b> 476/16 476/19</p> <p><b>backwards [1]</b> 495/1</p> <p><b>bad [1]</b> 590/25</p> <p><b>balance [1]</b> 423/8</p> <p><b>ballpark [1]</b> 492/16</p> <p><b>bar [12]</b> 518/6 522/12 534/16 541/8 541/10 541/10 541/24 542/1 555/11 555/14 645/24 646/1</p> <p><b>bars [3]</b></p>	<p>471/25 472/2 472/22</p> <p><b>base [2]</b> 503/3 506/12</p> <p><b>based [40]</b> 357/20 359/12 360/11 368/3 379/15 379/24 383/2 386/23 387/13 389/25 422/9 456/11 471/6 474/21 475/10 475/16 476/4 478/7 478/13 478/20 480/3 495/22 499/7 511/15 511/16 524/16 538/1 538/2 562/21 564/23 571/5 572/16 573/3 573/17 577/5 577/24 580/13 593/11</p>	<p>604/13 625/1</p> <p><b>basic [4]</b> 458/4 458/14 527/23 530/8</p> <p><b>basically [4]</b> 359/6 369/21 390/14 393/11</p> <p><b>basics [1]</b> 613/8</p> <p><b>basis [33]</b> 346/10 351/18 370/6 372/8 372/23 375/20 378/21 379/17 394/25 399/15 399/17 446/13 474/22 475/16 484/24 486/18 497/21 504/20 517/23 518/9 520/24 522/1 522/2 523/4 523/6 525/11 538/4 562/8</p>
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<b>B</b>	365/15 366/17	477/14 480/21
<b>basis... [5]</b>	368/8 368/14	497/22 498/15
575/2 575/7	369/1 369/18	498/23 501/15
575/20 577/15	374/13 377/5	502/5 502/8
577/18	377/11 380/2	503/14 509/10
<b>battling [1]</b>	382/12 383/20	513/3 513/4
397/16	385/15 385/23	521/3 521/17
<b>be [366]</b>	386/23 389/4	523/20 524/19
<b>bearing [1]</b>	393/7 395/25	527/2 532/1
498/10	396/1 403/5	532/9 534/1
<b>became [15]</b>	405/23 414/21	534/7 534/22
354/14 366/23	415/20 418/14	541/23 550/14
368/2 369/7	419/25 420/2	552/16 558/16
369/16 373/5	425/11 432/4	568/9 568/12
373/6 373/10	434/24 437/1	568/18 573/9
373/15 398/7	438/25 439/1	575/22 597/12
398/12 398/25	445/15 447/5	598/12 600/14
424/5 441/18	453/12 453/14	602/8 602/16
479/16	459/24 461/20	604/16 608/3
<b>because [112]</b>	462/17 462/22	610/12 612/12
338/18 338/20	463/6 464/3	613/10 614/21
341/16 347/11	465/5 465/8	615/4 622/13
348/17 351/2	466/5 466/16	624/6 624/11
355/5 359/24	466/19 475/5	633/6 634/14



<b>B</b>	354/16 360/2	465/24 466/16
<b>because... [8]</b>	365/16 366/5	466/19 466/22
639/17 642/3	367/11 368/2	470/13 473/12
643/13 645/25	368/8 368/14	473/13 490/12
646/20 648/9	368/22 369/3	499/12 504/5
648/16 651/2	370/5 370/6	511/2 519/21
<b>become [6]</b>	370/21 371/9	519/22 521/17
367/6 454/19	371/15 372/22	521/17 525/7
510/15 516/7	373/21 373/24	535/15 539/23
575/12 582/11	375/22 378/16	540/12 551/14
<b>becomes [1]</b>	379/1 381/21	552/6 555/22
523/25	385/18 385/21	568/6 568/10
<b>becoming [1]</b>	388/25 389/10	572/11 572/22
577/11	389/14 392/3	576/22 578/1
<b>bedrock [1]</b>	392/18 393/19	578/2 582/8
361/5	397/15 401/4	582/9 591/7
<b>been [109]</b>	402/3 405/13	594/22 596/19
341/9 341/12	405/17 406/23	596/25 598/5
343/5 344/15	410/1 415/2	615/18 617/12
344/16 344/21	433/5 445/18	631/8 631/9
350/13 350/16	450/11 454/22	631/14 631/17
350/17 350/19	459/10 459/15	631/18 638/23
350/23 351/16	461/11 464/4	647/20 648/8
352/7 352/12	464/4 464/11	648/15

**B****before [69]**

338/25 340/23  
 341/8 341/11  
 357/14 367/11  
 372/15 373/10  
 373/20 373/23  
 375/8 386/22  
 393/19 396/7  
 397/17 403/6  
 407/21 408/23  
 409/12 418/19  
 420/7 433/5  
 435/22 439/7  
 452/12 453/20  
 456/25 462/23  
 471/19 478/4  
 478/10 478/21  
 479/14 483/6  
 485/14 488/19  
 489/3 494/14  
 506/2 509/9  
 509/9 513/10  
 515/22 523/22

524/4 538/13  
 539/25 548/5  
 552/18 559/3  
 573/14 575/21  
 582/24 591/4  
 591/24 595/17  
 596/17 596/21  
 598/10 600/21  
 600/25 608/3  
 614/19 618/13  
 622/2 642/21  
 643/22 647/6  
 648/20

**began [7]**

368/6 417/18  
 418/3 418/17  
 473/17 542/13  
 562/8

**begin [3]**

368/7 538/13  
 553/17

**beginning [6]**

368/20 375/1  
 460/6 461/24

466/24 468/15

**begins [2]**

462/5 610/14

**behalf [12]**

335/3 336/3  
 340/15 345/4  
 345/12 355/15  
 397/4 397/9  
 421/4 440/13  
 525/12 539/1

**behavior [3]**

456/6 471/2  
 478/24

**behind [4]**

340/16 489/12  
 494/20 507/10

**being [48]**

348/20 354/10  
 355/6 357/19  
 357/21 367/15  
 367/16 368/25  
 385/18 389/11  
 391/3 392/11  
 406/20 406/24

<p><b>B</b></p> <p><b>being... [34]</b>  408/16 409/14  411/17 425/20  431/19 431/23  435/22 436/10  450/24 457/7  463/20 464/1  465/12 467/18  499/10 504/2  510/24 518/25  519/2 523/15  535/25 546/20  546/23 548/5  561/2 577/12  577/13 589/6  600/6 616/22  629/25 635/19  638/9 640/23</p> <p><b>Belgium [1]</b>  334/8</p> <p><b>belief [2]</b>  365/15 513/16</p> <p><b>believe [54]</b></p>	340/3 341/10 350/2 355/23 356/11 373/5 375/13 378/8 382/22 383/10 385/17 386/25 387/25 391/13 393/13 409/2 428/16 441/17 452/13 455/3 457/8 465/20 482/19 483/13 493/5 500/12 504/12 505/21 517/16 519/14 528/7 528/17 535/19 540/4 546/6 548/12 549/6 549/23 559/25 561/21 567/25 569/25 573/25 597/18 611/18 614/3 615/19 623/19	623/20 630/12 630/13 631/17 648/10 648/10 <p><b>believed [1]</b>  435/11</p> <p><b>believes [1]</b>  432/22</p> <p><b>Bell [3]</b> 476/10  496/21 496/22</p> <p><b>Bell's [1]</b>  498/15</p> <p><b>below [1]</b>  469/24</p> <p><b>benefit [1]</b>  593/11</p> <p><b>benefit-based [1]</b> 593/11</p> <p><b>benzylpyrimidine [2]</b> 568/7  568/10</p> <p><b>benzylpyrimidines [1]</b> 567/24</p> <p><b>BERENGAUT [5]</b> 335/5</p>
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<p><b>B</b></p> <p><b>BERENGAUT...</b>  <b>[4]</b> 419/11  420/24 440/8  452/2</p> <p><b>BERG [5]</b>  334/5 334/6  538/12 538/24  581/12</p> <p><b>beside [1]</b>  607/16</p> <p><b>best [13]</b>  345/15 345/21  360/11 376/24  421/13 448/16  540/6 598/1  627/15 632/24  634/18 634/22  638/10</p> <p><b>BETHLEHEM</b>  <b>[2]</b> 334/15  388/11</p> <p><b>better [8]</b>  352/17 597/13</p>	<p>598/9 600/21  600/25 637/9  642/8 642/9</p> <p><b>between [24]</b>  344/17 456/10  456/20 471/5  471/15 477/8  477/20 494/23  495/2 495/11  497/20 497/21  502/15 503/8  505/23 526/9  535/21 537/4  545/20 560/3  560/18 580/8  622/14 642/24</p> <p><b>beyond [4]</b>  379/11 457/6  506/15 555/6</p> <p><b>biased [1]</b>  477/5</p> <p><b>bifurcated [24]</b>  520/5 522/14  528/3 588/3</p>	<p>588/6 590/3  590/16 590/21  592/7 592/10  592/12 592/16  592/19 594/4  594/22 596/23  597/5 597/9  598/22 599/4  599/11 601/6  601/15 601/17</p> <p><b>big [2]</b> 633/18  633/19</p> <p><b>binary [7]</b>  359/1 359/8  359/16 359/24  360/2 360/3  361/9</p> <p><b>binder [33]</b>  340/17 366/5  366/7 379/1  381/11 406/4  406/5 408/1  410/15 411/4  417/13 428/25</p>
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<p><b>B</b></p> <p><b>binder... [21]</b>  431/3 435/21  437/7 449/20  450/16 451/4  451/13 484/10  489/12 496/2  499/23 525/17  525/23 526/1  527/12 529/21  529/24 530/13  559/17 584/20  647/15</p> <p><b>binding [1]</b>  484/2</p> <p><b>Binnie [1]</b>  379/13</p> <p><b>biotechnology [2]</b> 455/20  484/11</p> <p><b>bit [15]</b> 362/17  398/7 412/22  421/16 422/2  426/15 427/14</p>	<p>434/11 441/1  514/25 531/25  602/21 620/1  622/15 632/23</p> <p><b>black [2]</b>  618/11 620/2</p> <p><b>blades [4]</b>  528/15 528/15  528/16 528/18</p> <p><b>blanks [1]</b>  388/24</p> <p><b>blockbuster [1]</b>  360/6</p> <p><b>Bloedel [1]</b>  406/10</p> <p><b>blog [7]</b> 553/7  553/8 619/16  625/22 649/12  650/8 650/12</p> <p><b>blow [1]</b> 530/6</p> <p><b>blower [2]</b>  518/13 530/6</p> <p><b>blowing [1]</b>  530/8</p>	<p><b>blue [1]</b> 473/23</p> <p><b>board [4]</b>  455/17 455/17  609/1 614/1</p> <p><b>boards [1]</b>  608/20</p> <p><b>bold [1]</b>  408/13</p> <p><b>bolts [1]</b> 527/3</p> <p><b>book [1]</b> 406/3</p> <p><b>BORN [1]</b>  334/11</p> <p><b>both [30]</b>  338/3 349/15  355/20 379/14  427/12 445/7  460/8 467/20  477/1 484/1  490/10 495/21  497/5 497/8  499/16 500/3  501/13 519/10  522/2 539/18  549/12 549/15</p>
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<p><b>B</b></p> <p><b>both... [8]</b>  561/6 563/21  567/17 575/22  624/25 631/2  636/13 648/14</p> <p><b>bottom [15]</b>  340/20 366/16  411/8 417/17  484/18 557/21  562/24 571/12  572/2 575/16  575/18 575/21  623/22 649/13  649/20</p> <p><b>box [3]</b> 334/7  386/8 386/9</p> <p><b>Brad [1]</b>  336/21</p> <p><b>brain [2]</b> 535/9  536/5</p> <p><b>branch [4]</b>  534/7 534/8  587/18 587/22</p>	<p><b>branches [1]</b>  534/10</p> <p><b>brand [1]</b>  549/8</p> <p><b>brands [2]</b>  549/14 549/16</p> <p><b>Brazil [4]</b>  421/21 423/4  423/20 425/12</p> <p><b>Brazil's [1]</b>  423/24</p> <p><b>break [17]</b>  346/2 452/15  452/19 461/4  461/21 462/4  467/6 470/11  480/25 538/13  538/14 538/16  538/19 595/4  595/7 596/11  596/18</p> <p><b>break they [1]</b>  470/11</p> <p><b>brew [1]</b></p>	<p>393/18</p> <p><b>brief [6]</b>  356/15 410/2  411/24 537/23  538/13 596/20</p> <p><b>briefed [28]</b>  347/12 349/25  350/6 350/8  350/9 350/13  350/16 350/18  350/20 351/17  351/20 352/12  370/14 371/9  372/2 373/14  373/19 373/21  373/24 406/21  406/23 406/25  408/16 409/14  411/17 411/22  411/23 435/16</p> <p><b>briefing [3]</b>  374/2 412/6  412/9</p> <p><b>briefings [8]</b></p>
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<p><b>B</b></p> <p><b>briefings... [8]</b>  349/4 349/17  350/13 350/22  387/13 405/24  412/1 412/16</p> <p><b>briefly [2]</b>  398/4 529/18</p> <p><b>bring [3]</b>  458/12 459/15  599/14</p> <p><b>brings [1]</b>  356/22</p> <p><b>BRISEBOIS [69]</b>  337/16  452/10 453/2  453/4 453/9  453/10 453/19  454/2 454/18  455/14 455/16  457/3 457/5  458/9 458/13  459/19 460/15  461/13 462/14</p>	465/12 466/8 466/18 467/3 468/3 468/11 469/16 469/20 470/15 481/1 481/10 481/16 482/23 483/20 486/4 487/1 487/23 488/5 489/1 489/11 489/13 490/16 491/15 492/17 493/18 495/13 496/5 496/17 498/5 500/19 502/17 502/21 503/6 503/11 503/16 504/7 504/14 505/18 506/1 506/22 506/24 507/1 508/2 508/19 509/22 510/4 510/22 511/11	512/2 512/11 <b>Brisebois' [1]</b> 465/25 <b>British [1]</b> 431/19 <b>broad [6]</b> 480/9 517/17 517/20 529/5 533/21 533/24 <b>broader [5]</b> 428/5 428/14 429/19 432/12 511/17 <b>broadest [1]</b> 585/11 <b>broadly [6]</b> 586/19 587/12 587/23 590/12 591/9 593/21 <b>brothers [1]</b> 516/25 <b>brothers' [1]</b> 535/8 <b>brought [3]</b>
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<p><b>B</b></p> <p><b>brought... [3]</b> 380/8 380/13 482/24</p> <p><b>Bruce [1]</b> 335/21</p> <p><b>Brunswick [3]</b> 515/14 542/3 542/14</p> <p><b>Brussels [1]</b> 334/7</p> <p><b>bubbles [2]</b> 609/20 610/3</p> <p><b>build [4]</b> 359/4 359/9 516/25 608/21</p> <p><b>building [3]</b> 336/12 608/22 614/2</p> <p><b>bullet [1]</b> 529/8</p> <p><b>bulleted [2]</b> 527/24 527/25</p> <p><b>bullets [1]</b></p>	<p>528/25</p> <p><b>bunch [1]</b> 533/5</p> <p><b>bundle [5]</b> 419/2 419/3 626/17 626/18 626/21</p> <p><b>bundled [1]</b> 642/3</p> <p><b>burden [3]</b> 334/22 334/23 638/21</p> <p><b>BUREAU [1]</b> 336/10</p> <p><b>BURLING [1]</b> 335/11</p> <p><b>business [16]</b> 349/15 352/8 354/5 359/4 359/9 360/7 360/16 360/20 361/2 361/5 361/11 363/4 363/18 392/20</p>	<p>393/5 406/5</p> <p><b>buy [1]</b> 359/2</p> <p><b>buying [1]</b> 360/24</p> <hr/> <p><b>C</b></p> <p><b>C-118 [3]</b> 586/11 597/16 599/15</p> <p><b>C-205 [5]</b> 562/12 573/11 576/1 623/22 640/19</p> <p><b>C-206 [1]</b> 575/6</p> <p><b>C-213 [1]</b> 411/11</p> <p><b>C-230 [2]</b> 526/15 590/24</p> <p><b>C-255 [2]</b> 605/13 606/10</p> <p><b>C-259 [1]</b> 529/24</p> <p><b>C-351 [1]</b> 484/10</p>
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<p><b>C</b></p> <p><b>C-384 [1]</b> 506/21</p> <p><b>C-41 [2]</b> 531/17 567/7</p> <p><b>C-64 [1]</b> 431/4</p> <p><b>C-89 [1]</b> 409/6</p> <p><b>cable [3]</b> 531/4 531/5 571/17</p> <p><b>cables [1]</b> 531/7</p> <p><b>call [7]</b> 346/20 394/11 458/9 460/7 461/17 520/11 598/3</p> <p><b>called [13]</b> 389/1 393/4 406/9 408/3 428/8 517/17 541/7 541/10 541/23 541/25 553/7 567/17 616/19</p> <p><b>Caltrider [1]</b></p>	<p>335/19</p> <p><b>came [17]</b> 361/11 361/16 372/15 384/3 390/23 391/11 418/12 418/16 450/9 462/11 552/13 553/23 554/1 554/1 591/4 611/6 622/2</p> <p><b>can [125]</b> 341/14 342/22 345/11 345/19 351/14 355/8 357/10 359/6 359/10 360/7 360/8 362/13 366/5 366/7 370/12 383/15 383/20 384/11 384/12 385/25 392/1 393/12 393/23 394/14</p>	<p>396/14 397/8 397/23 407/25 408/11 429/3 438/13 449/3 452/9 457/5 457/12 460/5 460/18 460/22 460/23 461/2 461/4 461/21 462/2 462/3 462/4 462/14 462/16 462/19 462/20 463/2 464/5 464/7 465/21 466/10 467/5 467/8 470/3 472/2 472/16 472/22 473/21 473/25 477/14 480/6 484/13 484/17 486/8 492/17 501/22 511/1 517/16 517/22</p>
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<p><b>C</b></p> <p><b>can... [53]</b></p> <p>519/15 520/5  520/7 522/20  522/24 528/23  528/24 534/3  534/4 534/12  536/10 537/1  537/11 539/6  547/6 550/3  550/12 560/21  571/7 572/1  573/7 575/24  577/2 579/14  580/3 581/1  581/9 591/17  605/7 607/19  608/16 608/18  613/8 613/9  614/9 615/21  618/9 618/13  620/22 622/20  626/17 626/25  627/2 629/1</p>	<p>632/24 634/19  634/22 641/4  641/12 644/24  649/7 650/10  650/24</p> <p><b>can't [22]</b></p> <p>395/3 407/19  436/24 444/7  488/16 493/12  524/1 531/23  542/18 549/25  570/7 579/8  582/22 582/24  586/5 598/11  600/11 606/25  612/18 643/13  651/7 651/11</p> <p><b>CANADA [100]</b></p> <p>333/12 335/17  336/14 340/20  340/25 341/7  341/10 341/24  342/2 342/24  342/25 343/24</p>	<p>343/25 345/10  347/9 349/19  349/24 351/11  351/20 355/24  365/21 371/1  376/8 377/4  377/15 378/16  380/9 380/14  383/9 383/13  387/4 387/20  387/25 389/4  391/24 392/6  394/2 394/10  397/7 401/5  403/1 403/3  403/14 404/23  405/14 405/22  406/9 409/25  409/25 417/8  417/10 421/7  425/25 426/1  426/10 426/14  426/23 427/4  428/14 428/19</p>
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<p><b>C</b></p> <p><b>CANADA...</b></p> <p><b>[40]</b> 430/16</p> <p>433/13 434/17</p> <p>434/25 440/17</p> <p>443/22 445/12</p> <p>447/13 448/6</p> <p>449/4 449/8</p> <p>449/22 451/15</p> <p>456/20 471/15</p> <p>482/1 482/3</p> <p>482/14 485/17</p> <p>518/14 518/20</p> <p>519/1 519/7</p> <p>519/15 535/18</p> <p>539/18 541/21</p> <p>546/16 552/22</p> <p>553/19 554/8</p> <p>567/22 568/14</p> <p>576/3 591/4</p> <p>594/6 603/17</p> <p>636/10 636/22</p> <p>636/25</p> <p><b>Canada's [11]</b></p>	<p>340/18 340/19</p> <p>341/22 342/19</p> <p>342/24 403/16</p> <p>456/1 470/21</p> <p>482/25 534/19</p> <p>537/6</p> <p><b>Canadian [184]</b></p> <p>341/8 341/11</p> <p>341/13 343/5</p> <p>343/14 343/25</p> <p>344/5 344/11</p> <p>344/15 344/18</p> <p>344/21 344/23</p> <p>346/17 346/20</p> <p>346/22 347/2</p> <p>347/11 347/12</p> <p>349/18 349/25</p> <p>350/6 350/8</p> <p>350/14 350/18</p> <p>350/20 350/24</p> <p>351/2 351/3</p> <p>351/7 351/12</p> <p>351/16 353/1</p> <p>355/2 355/10</p>	<p>355/13 355/17</p> <p>364/24 365/15</p> <p>371/9 371/10</p> <p>371/16 371/21</p> <p>372/10 372/12</p> <p>372/16 373/16</p> <p>373/25 374/17</p> <p>375/1 376/15</p> <p>377/10 377/25</p> <p>384/17 385/19</p> <p>385/24 386/18</p> <p>386/21 387/1</p> <p>387/4 387/14</p> <p>387/14 389/23</p> <p>391/15 392/20</p> <p>392/20 404/25</p> <p>405/10 405/13</p> <p>405/17 405/23</p> <p>405/25 407/9</p> <p>407/15 411/17</p> <p>412/15 429/2</p> <p>430/25 431/5</p> <p>433/22 434/1</p> <p>434/6 434/14</p>
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<b>Canadian...</b>	552/20 552/25	612/15 612/19
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471/11 471/19	576/10 577/11	<b>cannot [15]</b>
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<p><b>C</b></p> <p><b>case... [126]</b></p> <p>537/7 537/15</p> <p>538/18 540/8</p> <p>541/15 541/17</p> <p>541/20 548/8</p> <p>548/11 548/18</p> <p>548/19 548/21</p> <p>548/23 549/7</p> <p>551/14 552/19</p> <p>552/20 552/23</p> <p>553/1 553/2</p> <p>554/9 555/23</p> <p>556/25 557/7</p> <p>558/18 559/22</p> <p>560/14 560/16</p> <p>561/2 561/20</p> <p>561/23 562/8</p> <p>564/12 564/17</p> <p>565/21 566/12</p> <p>566/12 566/15</p> <p>567/17 567/20</p> <p>568/3 568/17</p> <p>569/1 569/7</p>	<p>570/25 571/3</p> <p>571/3 571/8</p> <p>571/11 572/14</p> <p>573/2 573/9</p> <p>573/15 573/23</p> <p>574/4 574/16</p> <p>574/17 575/2</p> <p>577/5 577/15</p> <p>577/18 577/21</p> <p>580/10 581/19</p> <p>581/22 582/12</p> <p>585/16 585/17</p> <p>589/23 589/25</p> <p>594/8 594/14</p> <p>594/19 594/20</p> <p>598/3 600/14</p> <p>601/10 601/13</p> <p>602/11 602/13</p> <p>602/16 602/19</p> <p>602/22 603/15</p> <p>603/16 603/19</p> <p>604/9 604/9</p> <p>605/2 606/7</p> <p>606/18 607/6</p>	<p>608/15 608/17</p> <p>612/8 614/20</p> <p>615/12 615/13</p> <p>616/22 617/6</p> <p>618/18 619/8</p> <p>619/19 621/19</p> <p>621/25 622/10</p> <p>622/21 622/23</p> <p>623/7 623/15</p> <p>624/25 627/12</p> <p>627/15 627/21</p> <p>628/23 629/9</p> <p>629/14 630/11</p> <p>631/4 635/17</p> <p>637/16 641/14</p> <p>645/14 649/14</p> <p>651/11 651/16</p> <p><b>cases [124]</b></p> <p>352/9 353/11</p> <p>353/23 380/8</p> <p>399/23 400/1</p> <p>400/7 400/12</p> <p>456/24 460/4</p> <p>471/18 472/11</p>
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<p><b>C</b></p> <p><b>ceased... [1]</b> 401/13</p> <p><b>Cefaclor [2]</b> 493/4 493/6</p> <p><b>cellulose [7]</b> 604/16 609/20 609/20 609/21 609/23 610/3 616/5</p> <p><b>center [1]</b> 545/5</p> <p><b>central [3]</b> 428/10 429/7 547/21</p> <p><b>century [1]</b> 582/2</p> <p><b>certain [13]</b> 348/8 359/7 429/14 430/5 434/6 479/19 481/12 509/24 565/24 567/18 571/16 583/7</p>	<p>641/15</p> <p><b>certainly [36]</b> 343/17 350/21 352/18 357/8 357/12 400/11 404/11 446/5 446/12 457/12 457/17 457/20 458/11 459/14 461/13 537/14 547/21 550/20 556/7 558/20 567/21 567/23 577/22 578/23 579/11 581/11 589/8 594/19 607/24 612/19 619/22 620/4 627/21 627/25 630/21 631/22</p> <p><b>chair [9]</b> 345/13 397/11 400/18 402/16 405/4 406/25</p>	<p>407/7 408/17 409/18</p> <p><b>CHAJON [1]</b> 335/6</p> <p><b>chalkboards [1]</b> 393/11</p> <p><b>challenge [27]</b> 356/23 357/17 357/24 358/4 358/19 360/15 361/14 361/17 366/9 379/5 402/20 402/25 403/2 473/10 474/22 475/17 476/5 477/1 489/21 490/3 491/6 491/10 494/9 495/22 497/8 497/10 525/10</p> <p><b>challenged [16]</b> 358/3 359/23 361/15</p>
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<p><b>C</b></p> <p><b>challenged...</b>  <b>[13]</b> 457/1  457/2 471/20  471/21 473/13  474/4 474/20  475/6 475/13  476/13 477/15  477/16 490/7</p> <p><b>challenges</b>  <b>[17]</b> 471/23  472/3 472/12  472/20 472/23  473/2 473/15  473/19 473/22  474/5 474/6  475/4 475/9  475/11 476/7  482/24 489/24</p> <p><b>chance [5]</b>  342/10 361/12  580/20 594/18  605/25</p> <p><b>change [15]</b></p>	<p>343/3 410/6  412/14 412/14  444/20 446/8  446/12 446/13  490/18 490/25  491/4 491/22  505/11 512/16  525/7</p> <p><b>change-over</b>  <b>[1]</b> 512/16</p> <p><b>changed [12]</b>  342/25 402/1  426/24 427/5  491/10 491/11  519/3 522/8  523/7 546/16  566/19 577/22</p> <p><b>changes [16]</b>  347/19 348/25  349/5 371/10  409/19 409/24  410/2 410/12  412/18 426/7  426/18 478/17</p>	<p>518/18 523/19  540/8 540/21</p> <p><b>chapter [6]</b>  333/3 484/11  484/11 529/3  560/25 579/13</p> <p><b>character [2]</b>  359/2 390/25</p> <p><b>characteristics</b>  <b>[1]</b> 646/15</p> <p><b>characterization [1]</b> 352/18</p> <p><b>characterize</b>  <b>[1]</b> 622/12</p> <p><b>characterized</b>  <b>[4]</b> 388/20  503/12 504/21  567/10</p> <p><b>characterizing</b>  <b>[1]</b> 534/16</p> <p><b>charge [2]</b>  382/13 383/24</p> <p><b>chart [5]</b> 490/6  492/7 492/9</p>
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<p><b>C</b></p> <p><b>chart... [2]</b> 495/9 510/11</p> <p><b>chartered [1]</b> 398/8</p> <p><b>charts [1]</b> 495/3</p> <p><b>chary [1]</b> 585/9</p> <p><b>check [4]</b> 469/13 486/2 494/5 540/14</p> <p><b>CHEEK [11]</b> 335/5 340/12 388/5 395/5 461/6 461/18 462/25 469/14 481/7 512/3 514/16</p> <p><b>chemical [15]</b> 375/19 388/19 388/20 388/21 391/6 393/17 427/15 447/22</p>	<p>531/23 567/22 570/4 598/4 614/7 614/9 616/22</p> <p><b>chemically [1]</b> 367/12</p> <p><b>chemicals [2]</b> 393/16 393/17</p> <p><b>chemists [2]</b> 393/10 567/23</p> <p><b>chemotherape utic [1]</b> 569/2</p> <p><b>Chief [2]</b> 441/20 446/23</p> <p><b>chipboard [1]</b> 608/22</p> <p><b>cholesterol [2]</b> 647/2 647/3</p> <p><b>choose [1]</b> 650/6</p> <p><b>chose [2]</b> 456/18 471/13</p> <p><b>chosen [1]</b> 502/21</p>	<p><b>Christiani [1]</b> 535/18</p> <p><b>chronic [20]</b> 622/6 623/2 623/5 623/25 623/25 624/5 624/7 624/13 624/15 624/16 624/18 624/19 625/3 625/4 625/10 625/16 625/18 627/25 628/12 630/5</p> <p><b>chronological [1]</b> 411/5</p> <p><b>chronological ly [1]</b> 518/18</p> <p><b>chronology [2]</b> 373/12 391/20</p> <p><b>Ciba [2]</b> 519/12 523/12</p> <p><b>Ciba-Geigy [2]</b> 519/12 523/12</p> <p><b>circumstances [3]</b> 353/15</p>
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<p><b>C</b></p> <p><b>circumstances</b> ... [2] 416/17 538/2</p> <p><b>citation [2]</b> 530/2 584/16</p> <p><b>cite [21]</b> 485/18 485/25 487/4 487/5 519/6 519/8 526/19 526/20 526/22 528/2 528/4 547/8 549/8 549/16 549/23 549/25 572/13 573/18 576/20 584/14 590/2</p> <p><b>cited [47]</b> 431/19 483/25 484/3 487/2 487/20 522/14 523/10 526/7 527/19 527/21</p>	<p>527/23 527/24 528/6 528/20 528/21 535/17 535/20 547/5 548/11 548/12 549/12 571/2 571/6 574/2 578/9 578/12 578/15 578/24 583/14 584/7 589/16 589/17 593/3 593/5 593/6 594/10 596/1 596/2 596/3 596/4 597/22 598/2 601/10 603/17 603/19 610/22 629/9</p> <p><b>cites [9]</b> 342/2 527/17 537/7 549/11 583/24 585/14 585/15 585/16 590/14</p>	<p><b>citing [9]</b> 547/15 548/16 548/17 549/19 573/12 576/18 585/20 592/1 609/9</p> <p><b>civil [1]</b> 551/17</p> <p><b>claim [42]</b> 364/10 390/14 497/15 498/1 500/7 508/11 517/16 518/15 518/22 519/15 527/2 528/13 531/22 532/1 532/3 533/21 551/9 552/9 553/11 553/14 553/15 556/18 557/3 560/8 560/10 570/7 582/20 585/11 613/13 614/16 614/21 615/5</p>
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<p><b>C</b></p> <p><b>claim... [10]</b>  618/6 618/15  619/20 619/23  620/4 624/10  632/17 634/12  634/14 634/23</p> <p><b>Claimant [42]</b>  333/9 335/3  338/6 338/17  340/15 340/21  340/25 341/25  343/6 343/9  345/12 395/22  397/10 411/11  412/13 419/24  438/22 456/9  456/14 456/18  459/23 461/4  463/14 463/18  464/5 465/9  468/6 468/9  469/12 469/18  470/6 471/4</p>	<p>471/9 471/12  476/22 478/16  480/8 505/22  512/25 515/9  525/12 557/1</p> <p><b>Claimant's [14]</b>  455/24 456/2  456/6 470/13  470/19 470/22  471/1 474/13  477/22 478/23  479/10 479/23  582/5 635/1</p> <p><b>Claimants [1]</b>  475/20</p> <p><b>claimed [23]</b>  379/10 381/21  479/9 479/12  496/13 507/17  509/21 527/2  528/16 533/19  533/23 533/25  551/2 551/6  556/4 556/9</p>	<p>556/10 556/12  556/22 565/20  569/25 580/17  622/1</p> <p><b>claiming [2]</b>  614/17 614/24</p> <p><b>claims [55]</b>  418/14 431/19  431/23 432/3  497/25 499/7  500/11 500/15  500/16 501/18  501/21 501/24  502/6 502/8  502/10 502/11  508/15 508/15  526/5 530/20  555/25 556/14  557/15 557/25  560/16 561/3  568/10 568/23  569/4 572/4  573/20 594/13  606/11 606/16</p>
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<p><b>C</b></p> <p><b>claims... [21]</b>  606/17 606/18  606/19 611/7  617/25 618/3  618/13 619/11  621/1 622/21  622/23 623/8  623/17 624/21  625/1 630/10  631/2 631/4  633/7 634/14  634/17</p> <p><b>clarification [11]</b> 338/19  396/1 420/2  439/1 453/14  464/20 465/3  468/20 513/4  519/13 519/22</p> <p><b>clarified [1]</b>  519/20</p> <p><b>clarify [7]</b>  348/16 376/7</p>	<p>388/13 398/21  459/2 514/19  540/12</p> <p><b>clarifying [1]</b>  346/9</p> <p><b>clarity [3]</b>  365/5 461/2  465/6</p> <p><b>class [14]</b>  428/5 428/14  429/19 430/3  433/4 504/17  517/17 543/13  543/15 543/17  646/15 646/17  646/24 649/25</p> <p><b>classicus [1]</b>  554/10</p> <p><b>classification [1]</b> 480/3</p> <p><b>classified [1]</b>  503/24</p> <p><b>clean [1]</b>  609/17</p>	<p><b>clear [31]</b>  345/20 353/10  354/10 355/1  357/6 371/4  381/16 382/9  400/13 460/5  460/19 460/23  468/1 491/15  496/5 518/3  522/19 522/23  535/13 539/4  560/1 560/1  560/8 564/10  588/20 588/23  612/11 621/18  628/24 635/11  643/4</p> <p><b>clearest [5]</b>  562/25 564/7  564/9 565/2  621/20</p> <p><b>clearly [15]</b>  355/5 355/7  360/18 363/2</p>
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<p><b>C</b></p> <p><b>clearly... [11]</b>  366/25 371/14  373/19 392/19  519/24 548/13  571/22 573/1  573/9 602/4  607/25</p> <p><b>clinical [14]</b>  375/19 375/25  376/24 385/15  386/5 386/7  386/23 390/21  511/21 523/22  523/24 524/3  524/7 524/9</p> <p><b>clinically [2]</b>  389/5 389/15</p> <p><b>close [4]</b>  423/16 432/12  507/20 564/19</p> <p><b>closed [2]</b>  423/11 423/20</p> <p><b>closely [2]</b></p>	<p>426/2 442/13</p> <p><b>closest [2]</b>  564/13 564/15</p> <p><b>cloth [1]</b> 629/6</p> <p><b>clothes [4]</b>  598/16 600/22  600/24 600/24</p> <p><b>CO [1]</b> 334/10</p> <p><b>CO-ARBITRAT  ORS [1]</b>  334/10</p> <p><b>code [5]</b> 480/3  493/20 499/16  500/3 501/12</p> <p><b>coded [7]</b>  494/4 494/16  497/4 497/8  497/13 500/2  507/4</p> <p><b>coding [3]</b>  494/10 497/10  501/16</p> <p><b>coherent [2]</b>  466/3 632/16</p>	<p><b>coinage [1]</b>  381/21</p> <p><b>colleagues [1]</b>  459/18</p> <p><b>collect [2]</b>  456/5 470/25</p> <p><b>collected [1]</b>  478/22</p> <p><b>color [1]</b>  598/13</p> <p><b>column [1]</b>  492/25</p> <p><b>come [19]</b>  350/9 352/11  352/14 352/17  353/11 364/1  404/13 414/5  443/7 445/6  445/22 459/19  462/10 462/12  469/11 470/6  517/4 574/16  597/12</p> <p><b>comes [5]</b></p>
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<p><b>C</b></p> <p><b>comes... [5]</b> 360/4 435/2 464/7 599/22 616/13</p> <p><b>comfortable [1]</b> 418/2</p> <p><b>coming [3]</b> 386/19 465/6 613/3</p> <p><b>commenced [1]</b> 481/25</p> <p><b>commencing [1]</b> 463/1</p> <p><b>comment [5]</b> 416/13 531/14 536/11 583/12 638/12</p> <p><b>commentary [2]</b> 526/6 537/4</p> <p><b>commentators [3]</b> 537/23 583/24 584/7</p>	<p><b>comments [6]</b> 343/7 364/23 365/1 376/4 529/7 594/8</p> <p><b>commercial [29]</b> 369/1 419/3 441/24 499/7 499/15 515/16 515/19 516/14 525/1 531/9 531/11 543/23 557/14 557/16 558/5 558/15 558/21 558/23 571/24 582/10 582/13 582/14 591/23 591/25 593/24 593/25 598/6 598/10 598/25</p> <p><b>commercialize [2]</b> 499/4 510/19</p> <p><b>commercialize d [2]</b> 498/7</p>	<p>498/23</p> <p><b>commercially [9]</b> 501/23 502/1 502/11 519/25 520/2 524/13 524/17 524/19 531/8</p> <p><b>committee [27]</b> 400/19 400/23 401/13 401/23 402/4 402/5 402/17 403/10 404/14 404/22 405/5 407/1 407/8 408/18 409/2 409/5 409/19 412/22 413/1 413/5 413/12 413/25 414/6 414/25 415/3 551/18 551/25</p> <p><b>common [2]</b> 486/16 616/25</p>
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<p><b>C</b></p> <p><b>commonly [3]</b> 410/18 516/13 594/10</p> <p><b>communicatio n [2]</b> 431/4 431/16</p> <p><b>communicatio ns [1]</b> 344/17</p> <p><b>companies [3]</b> 472/17 524/3 549/8</p> <p><b>company [13]</b> 333/8 354/17 355/15 356/22 360/4 363/10 375/21 392/14 392/19 419/5 421/17 492/24 508/21</p> <p><b>company's [2]</b> 349/13 349/15</p> <p><b>comparable [1]</b> 477/19</p>	<p><b>comparative [6]</b> 597/25 598/20 599/5 600/1 600/19 604/2</p> <p><b>compared [2]</b> 479/22 635/6</p> <p><b>comparison [1]</b> 435/25</p> <p><b>comparisons [2]</b> 646/16 646/22</p> <p><b>competent [2]</b> 343/24 426/17</p> <p><b>competing [1]</b> 569/1</p> <p><b>competition [2]</b> 358/12 515/16</p> <p><b>complete [5]</b> 450/9 456/19 471/13 599/7 599/9</p> <p><b>completed [2]</b> 369/3 540/13</p>	<p><b>completely [2]</b> 450/25 550/23</p> <p><b>compliance [4]</b> 441/20 446/24 447/8 483/1</p> <p><b>complicated [1]</b> 532/1</p> <p><b>compound [48]</b> 367/14 368/22 370/22 370/25 375/20 375/24 377/21 377/22 385/4 385/6 386/2 386/13 387/5 387/8 388/16 393/13 393/14 394/23 416/4 418/15 419/4 435/8 435/9 435/24 461/17 462/10 493/11 503/3 503/21 504/11 504/25 505/8</p>
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<p><b>C</b></p> <p><b>compound...</b>  <b>[16]</b> 507/21  510/12 517/18  531/22 614/7  614/9 614/18  614/18 614/22  614/24 616/23  619/20 619/23  622/1 649/18  650/24</p> <p><b>compounded</b>  <b>[1]</b> 575/22</p> <p><b>compounds</b>  <b>[42]</b> 340/22  341/2 369/21  386/14 386/16  388/20 428/5  428/14 429/7  429/19 430/2  436/1 456/7  471/2 478/24  479/1 479/4  480/9 480/13</p>	504/18 511/18 517/17 517/19 517/20 517/22 566/2 567/22 570/19 598/4 641/15 643/8 645/9 645/24 646/10 646/14 647/7 647/16 647/17 647/19 648/14 648/21 650/15 <p><b>compressor</b>  <b>[3]</b> 528/15  528/18 560/12</p> <p><b>conceivably</b>  <b>[1]</b> 603/8</p> <p><b>concept</b> <b>[9]</b>  618/22 618/25  619/1 619/10  619/19 620/3  620/5 620/6  620/10</p> <p><b>concepts</b> <b>[1]</b></p>	619/25 <b>concern</b> <b>[5]</b> 377/8 377/24 418/23 419/5 463/25 <p><b>concerned</b> <b>[3]</b>  417/25 418/5  517/15</p> <p><b>concerning</b> <b>[1]</b>  376/5</p> <p><b>concerns</b> <b>[9]</b>  377/9 394/1  403/16 415/14  416/9 449/4  461/6 461/20  540/8</p> <p><b>conclude</b> <b>[2]</b>  480/23 595/9</p> <p><b>concluded</b> <b>[3]</b>  386/21 462/23  628/11</p> <p><b>concludes</b> <b>[4]</b>  435/7 438/4  480/17 480/20</p>
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<p><b>C</b></p> <p><b>conclusion [6]</b> 361/16 366/14 366/20 525/6 575/22 624/11</p> <p><b>conclusions [3]</b> 456/3 470/23 474/14</p> <p><b>conclusively [1]</b> 557/22</p> <p><b>condition [3]</b> 468/5 622/7 624/7</p> <p><b>conditions [3]</b> 429/15 430/6 479/19</p> <p><b>conduct [7]</b> 440/12 496/22 507/5 507/23 508/6 508/10 649/23</p> <p><b>conducted [3]</b> 376/24 385/15 511/25</p>	<p><b>conducting [6]</b> 397/3 481/8 481/9 510/6 514/17 538/10</p> <p><b>Confederation [1]</b> 521/6</p> <p><b>confer [3]</b> 452/12 459/17 512/6</p> <p><b>conference [1]</b> 579/9</p> <p><b>conferences [1]</b> 353/16</p> <p><b>conferred [1]</b> 459/21</p> <p><b>confidence [1]</b> 354/11</p> <p><b>confirm [18]</b> 339/15 339/21 354/19 396/16 396/19 414/19 420/17 439/19 454/7 454/13 457/5 470/3</p>	<p>511/11 513/21 514/3 515/24 622/18 622/20</p> <p><b>confirmed [1]</b> 349/16</p> <p><b>confused [2]</b> 390/8 462/6</p> <p><b>confusing [2]</b> 361/24 648/17</p> <p><b>confusion [1]</b> 463/15</p> <p><b>connecting [1]</b> 587/14</p> <p><b>connection [5]</b> 396/8 402/21 439/9 453/22 513/12</p> <p><b>conscience [6]</b> 339/5 396/12 420/12 439/12 453/25 513/15</p> <p><b>conscious [1]</b> 595/4</p> <p><b>consequence [1]</b> 351/17</p>
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<p><b>C</b></p> <p><b>consider [22]</b>  354/22 355/12  356/5 362/3  377/12 377/13  377/15 400/8  456/5 470/25  475/4 476/4  504/15 523/9  539/8 578/18  588/17 620/18  621/3 622/7  629/1 642/15</p> <p><b>consideration [4]</b> 443/11  639/18 640/14  644/13</p> <p><b>considered [31]</b> 407/7  446/13 476/25  477/5 478/22  516/15 516/18  519/2 527/13  532/4 532/11</p>	532/19 536/20 562/20 564/22 567/2 571/3 571/4 572/15 573/16 588/22 621/1 639/19 640/15 641/1 642/4 642/5 642/22 644/14 644/21 645/7 <p><b>considering [7]</b>  371/17 376/17  378/1 378/2  479/4 522/17  640/9</p> <p><b>consistent [5]</b>  467/18 632/17  634/2 634/7  634/23</p> <p><b>Consolboard [66]</b> 406/10  522/11 522/13  526/7 526/19  526/21 527/13</p>	527/20 527/22 527/23 527/25 530/12 546/24 547/4 547/5 547/7 547/9 547/11 547/15 548/5 548/13 548/17 586/10 586/11 586/13 586/24 587/1 588/17 588/25 589/13 590/2 590/14 590/17 591/3 591/7 592/11 592/15 592/19 592/21 592/21 592/22 593/4 594/7 594/10 595/11 595/22 596/2 596/19 596/23 597/4 597/15 597/21 597/22 599/3 599/10
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<p><b>C</b></p> <p><b>Consolboard...</b>  <b>[11]</b> 603/16  603/17 604/8  608/18 608/19  609/4 609/25  610/25 613/24  614/1 614/4  <b>constantly [1]</b>  347/25  <b>constitutes [1]</b>  433/8  <b>constitutional [1]</b> 544/23  <b>construction [8]</b> 573/21  594/12 625/18  632/18 634/12  634/14 634/19  634/23  <b>construe [4]</b>  617/24 619/11  619/18 620/3  <b>construed [12]</b></p>	<p>563/10 569/20  621/12 623/4  623/25 624/5  624/17 625/12  630/3 630/7  631/23 631/24  <b>construing [8]</b>  520/20 624/1  624/9 629/21  631/5 632/2  633/12 634/24  <b>consult [1]</b>  541/17  <b>consultation [1]</b> 351/25  <b>consulted [3]</b>  402/3 404/3  511/23  <b>contact [1]</b>  445/6  <b>contain [1]</b>  358/10  <b>contained [12]</b>  479/10 561/4</p>	<p>579/16 579/23  580/14 603/21  604/20 605/3  605/15 607/9  611/3 616/14  <b>containing [1]</b>  509/20  <b>contains [2]</b>  552/11 580/9  <b>contends [1]</b>  533/13  <b>contention [1]</b>  502/14  <b>contested [1]</b>  348/21  <b>context [25]</b>  345/21 351/15  357/24 359/14  374/13 391/23  416/6 456/21  471/16 475/25  523/18 533/6  533/8 536/9  541/20 573/20</p>
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<p><b>C</b></p> <p><b>context... [9]</b> 594/19 594/21 599/3 602/22 603/15 619/22 619/23 626/5 643/16</p> <p><b>continue [8]</b> 375/5 378/19 399/20 452/21 462/22 627/10 646/20 651/18</p> <p><b>continued [5]</b> 378/7 402/12 444/25 445/11 447/13</p> <p><b>contract [2]</b> 399/15 399/17</p> <p><b>contrary [3]</b> 360/1 574/5 577/6</p> <p><b>contrast [6]</b> 535/21 553/12 622/13 627/16</p>	<p>636/18 640/24</p> <p><b>contributed [1]</b> 472/24</p> <p><b>controversial [1]</b> 526/22</p> <p><b>conveniently [1]</b> 463/2</p> <p><b>convinced [2]</b> 418/20 418/20</p> <p><b>convoluted [1]</b> 602/22</p> <p><b>Cooperation [1]</b> 384/2</p> <p><b>copied [2]</b> 391/17 462/20</p> <p><b>copies [5]</b> 461/9 463/13 464/10 469/11 470/10</p> <p><b>copy [19]</b> 461/2 461/12 461/14 461/24 461/25 462/21 463/8 463/14</p>	<p>463/18 463/19 463/20 463/24 464/1 464/3 464/5 465/8 467/4 469/18 525/15</p> <p><b>copyright [4]</b> 543/17 545/18 545/19 545/21</p> <p><b>core [1]</b> 475/10</p> <p><b>Corning [7]</b> 530/25 531/2 564/16 570/25 576/25 577/3 601/23</p> <p><b>corporate [6]</b> 441/12 444/25 445/4 445/5 446/18 447/12</p> <p><b>correct [246]</b> 340/7 346/14 346/15 346/17 346/18 346/19</p>
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<b>C</b>	372/13 373/2	405/1 405/2
<b>correct... [240]</b>	373/10 375/9	405/10 405/11
346/23 346/24	375/16 376/11	405/15 405/18
347/4 347/21	376/12 377/7	405/25 406/1
348/2 348/15	378/18 379/6	406/15 409/8
349/3 349/7	379/7 380/10	410/3 410/12
349/8 349/19	380/11 380/15	410/23 410/24
350/1 350/14	380/16 381/7	411/1 411/18
350/25 351/7	382/6 382/7	413/6 413/22
351/13 352/2	382/21 383/9	413/23 414/6
353/4 354/5	383/10 387/1	414/7 415/6
355/13 356/7	387/18 388/17	416/24 417/9
357/9 357/17	388/19 389/12	417/20 418/22
357/24 358/4	389/22 390/19	423/8 424/8
358/20 363/7	394/8 398/9	424/17 425/5
364/6 364/7	398/10 398/14	430/9 430/10
364/11 364/14	398/15 398/19	430/13 430/17
364/17 365/6	398/20 398/24	438/23 439/18
365/7 365/12	399/3 399/4	441/3 441/7
365/13 366/1	399/9 399/12	441/10 441/13
367/5 367/24	399/13 399/21	441/16 442/1
368/15 368/17	400/20 401/5	442/11 442/15
371/12 371/13	401/9 402/14	442/20 442/25
371/18 371/19	402/15 404/23	443/14 443/19

<p><b>C</b></p> <p><b>correct.....</b></p> <p><b>[100]</b> 443/24  444/18 444/23  446/17 447/24  448/3 448/11  448/15 448/17  448/21 449/6  449/9 449/13  449/18 449/19  450/13 450/14  451/3 451/17  451/18 454/16  466/17 468/10  469/25 481/22  481/23 482/1  482/2 482/6  482/19 482/22  485/8 487/21  487/22 488/3  489/5 489/6  490/14 490/20  490/22 491/2  491/3 491/6</p>	491/7 491/13 491/21 491/24 493/1 493/2 494/7 494/17 494/18 495/18 500/5 500/9 501/6 501/15 501/25 502/15 502/23 502/24 503/4 503/13 503/14 503/22 504/2 504/19 506/3 506/18 506/19 507/8 508/6 508/17 509/15 509/16 509/25 510/1 510/7 510/8 510/20 510/21 510/25 511/3 511/4 511/9 511/10 541/13 541/16 542/1 542/21 547/17	556/2 561/16 589/16 596/2 597/7 606/24 620/20 621/3 624/25 <b>corrected [2]</b> 477/23 494/14 <b>correcting [1]</b> 639/13 <b>correction [9]</b> 339/25 340/10 396/20 420/21 439/24 440/5 491/14 494/15 514/8 <b>corrections [7]</b> 454/20 454/21 454/24 489/17 490/11 494/2 494/4 <b>correctly [3]</b> 365/16 463/8 597/2 <b>correspond [1]</b> 529/7
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<b>C</b>	408/8 413/7	514/1 518/8
<b>corresponding</b>	416/2 416/5	521/17 525/4
<b>[1] 474/1</b>	419/20 420/15	534/9 540/1
<b>corresponds</b>	420/17 422/15	550/21 551/2
<b>[7] 338/22</b>	429/23 434/11	551/10 551/17
396/4 420/4	434/23 435/10	552/1 552/10
439/4 453/16	438/18 439/15	553/5 559/9
513/7 550/18	439/19 446/4	562/4 562/11
<b>could [127]</b>	452/11 453/6	567/5 567/8
338/13 339/11	454/3 454/7	573/21 575/15
339/19 342/7	454/11 454/13	578/3 579/12
345/24 351/8	457/4 460/1	583/20 584/20
354/8 355/7	470/15 479/18	585/3 586/12
356/18 360/5	483/4 484/8	589/4 589/21
364/25 368/20	484/9 486/4	590/23 592/17
369/22 370/5	486/22 487/15	593/9 597/10
372/18 372/22	487/23 489/11	599/14 603/11
376/1 376/15	494/19 495/13	603/12 605/11
378/8 384/19	496/1 496/15	607/2 613/7
386/17 388/25	497/24 499/22	615/6 621/6
389/2 389/25	502/17 505/18	621/23 623/21
393/13 394/24	506/20 506/23	632/22 637/4
395/18 396/16	507/2 509/16	639/7 640/18
400/4 402/6	512/20 513/17	646/6 649/11



<p><b>C</b></p> <p><b>could... [1]</b> 649/19</p> <p><b>couldn't [4]</b> 415/19 416/4 457/18 516/20</p> <p><b>Council [8]</b> 535/24 551/19 551/25 552/17 552/17 552/18 552/22 553/2</p> <p><b>counsel [32]</b> 345/9 349/25 350/6 350/8 350/14 350/18 350/20 350/24 351/3 351/6 351/11 352/1 354/7 364/5 364/16 372/25 373/6 373/6 373/10 373/16 380/7 391/24 397/7 411/17</p>	<p>421/7 440/17 455/8 457/19 515/9 567/11 582/5 591/22</p> <p><b>counsel's [2]</b> 350/23 352/4</p> <p><b>count [6]</b> 475/8 490/17 490/23 496/6 496/7 496/9</p> <p><b>counted [8]</b> 474/21 475/8 475/17 475/20 490/7 491/16 495/20 544/16</p> <p><b>counting [9]</b> 475/10 476/2 476/20 476/25 477/13 489/23 492/8 492/9 494/25</p> <p><b>countries [9]</b> 343/22 392/10 416/2 416/3</p>	<p>417/1 418/14 425/17 426/8 444/3</p> <p><b>countries' [1]</b> 423/6</p> <p><b>country [10]</b> 351/20 353/12 353/20 360/12 415/14 416/9 417/11 426/24 427/5 443/17</p> <p><b>country-specific [2]</b> 415/14 416/9</p> <p><b>counts [3]</b> 475/3 495/4 495/5</p> <p><b>couple [6]</b> 370/2 435/22 517/16 530/18 565/8 649/7</p> <p><b>coupled [1]</b> 429/12</p> <p><b>course [12]</b></p>
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<b>C</b>	384/20 384/22	530/10 530/19
<b>course... [12]</b>	385/24 385/24	532/5 533/5
345/23 425/20	386/21 387/1	535/18 535/24
437/14 452/20	396/7 406/9	536/22 537/6
481/4 518/24	408/2 409/10	537/21 546/12
524/2 539/11	410/16 420/7	546/16 547/7
568/19 583/9	426/13 437/8	547/23 548/10
603/5 650/20	439/7 449/22	548/10 552/1
<b>courses [1]</b>	450/18 451/6	552/19 552/22
544/6	451/15 453/20	554/7 554/15
<b>court [209]</b>	471/19 475/3	558/5 558/8
334/21 338/25	475/8 487/19	558/12 558/17
366/9 367/19	490/7 496/18	558/19 558/20
368/12 369/10	496/19 496/25	559/3 559/5
369/13 370/18	513/10 518/14	563/7 564/3
370/22 372/7	518/19 518/23	564/22 566/7
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377/25 379/3	519/1 519/5	569/10 569/12
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381/6 382/4	522/1 522/9	572/9 572/15
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382/24 382/25	528/18 530/1	578/14 581/8
383/9 383/12	530/5 530/7	582/12 586/21

<p><b>C</b></p> <p><b>court... [87]</b>  587/7 590/9  590/15 591/2  591/4 591/17  593/18 594/3  594/6 594/22  595/5 598/7  598/11 602/4  602/13 602/14  602/18 602/24  603/3 603/5  603/9 603/17  604/17 608/11  608/20 608/23  608/25 609/3  609/10 609/25  610/2 610/11  610/22 611/2  611/13 611/18  611/22 613/2  620/24 620/25  621/8 621/14  622/3 622/4</p>	<p>623/1 623/9  623/16 623/23  624/2 625/1  625/5 625/16  627/13 627/17  627/18 628/24  630/7 630/16  633/3 637/15  639/2 639/5  639/7 639/12  639/13 639/16  640/5 640/22  641/12 641/25  642/12 642/15  643/12 643/17  643/21 644/1  644/11 644/16  644/23 645/2  645/14 645/16  648/19 648/24  650/4 650/23  651/9</p> <p><b>court's [6]</b>  366/19 377/10</p>	<p>378/12 493/4  586/10 594/4</p> <p><b>courts [49]</b>  351/7 351/12  359/23 364/24  371/11 371/16  372/16 374/5  374/8 374/10  376/15 387/14  456/16 456/25  471/11 474/11  516/7 520/12  522/25 523/15  523/17 531/19  533/4 533/7  546/20 547/2  547/5 547/12  547/15 548/6  549/9 555/17  556/15 578/10  578/25 589/6  592/6 592/12  595/18 617/1  617/21 618/3</p>
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<p><b>C</b></p> <p><b>courts... [7]</b> 618/21 620/4 620/14 622/14 631/7 633/16 638/15</p> <p><b>cover [5]</b> 366/6 429/1 449/21 581/12 595/2</p> <p><b>covered [3]</b> 382/10 412/2 543/17</p> <p><b>covering [2]</b> 480/12 553/15</p> <p><b>COVINGTON [1]</b> 335/11</p> <p><b>CPK [4]</b> 647/2 647/5 648/10 648/11</p> <p><b>create [1]</b> 363/12</p> <p><b>criteria [6]</b> 349/21 456/15</p>	<p>471/10 474/10 503/9 635/25</p> <p><b>criterion [2]</b> 381/15 427/6</p> <p><b>critical [1]</b> 622/4</p> <p><b>criticism [2]</b> 628/9 630/6</p> <p><b>criticized [1]</b> 507/12</p> <p><b>cross [30]</b> 345/4 397/2 397/3 397/4 421/3 421/4 438/5 440/12 440/13 452/15 452/22 457/21 458/7 463/2 476/15 476/17 476/18 476/20 481/8 481/10 481/15 489/13 538/10 538/22 539/1 581/6</p>	<p>594/25 595/2 596/16 651/18</p> <p><b>cross-examina tion [23]</b> 345/4 397/2 397/3 397/4 421/3 421/4 438/5 440/12 440/13 452/22 457/21 458/7 463/2 481/8 481/10 481/15 489/13 538/10 538/22 539/1 581/6 596/16 651/18</p> <p><b>cross-piece [4]</b> 476/15 476/17 476/18 476/20</p> <p><b>cure [1]</b> 614/10</p> <p><b>current [9]</b> 444/17 518/16 533/15 545/2 589/5 612/15</p>
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<p><b>C</b></p> <p><b>current... [3]</b> 613/14 625/12 645/13</p> <p><b>currently [3]</b> 455/16 550/5 550/7</p> <p><b>curtain [1]</b> 416/25</p> <p><b>CV [6]</b> 542/24 543/6 543/8 544/12 544/18 545/15</p> <p><b>Czechoslovakia [1]</b> 416/21</p>	<p>334/15 388/11</p> <p><b>dark [1]</b> 472/1</p> <p><b>data [18]</b> 342/14 375/19 379/15 475/3 475/5 476/9 477/4 477/23 479/8 479/11 483/12 489/4 507/6 507/13 507/16 509/18 509/21 510/3</p> <p><b>dataset [1]</b> 475/1</p> <p><b>date [22]</b> 364/13 364/13 387/17 444/16 484/14 487/9 487/9 487/12 517/10 519/18 519/19 521/18 526/8 535/23 535/23 535/25 536/14 536/22</p>	<p>540/2 540/13 542/19 551/21</p> <p><b>dated [22]</b> 339/13 339/21 366/10 381/13 382/3 382/19 396/15 408/25 409/7 420/16 431/6 431/14 437/9 439/17 450/1 450/19 451/7 451/16 454/4 454/12 513/20 514/3</p> <p><b>day [9]</b> 338/2 372/17 502/8 517/1 517/1 517/4 517/6 517/8 588/16</p>
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<p><b>D</b></p> <p><b>dead... [8]</b>  479/15 479/17  479/19 479/21  479/23 479/25  480/7 480/14</p> <p><b>deal [5]</b> 461/18  462/11 534/21  534/25 597/13</p> <p><b>dealing [7]</b>  422/12 422/19  423/5 423/24  476/6 637/6  637/21</p> <p><b>dealt [4]</b>  635/24 636/7  636/11 636/13</p> <p><b>DEARDEN [1]</b>  335/14</p> <p><b>death [2]</b>  518/12 528/1</p> <p><b>debate [17]</b>  379/11 532/15  548/14 566/15</p>	<p>566/20 576/13  610/10 610/10  611/16 612/17  612/22 612/23  612/25 613/1  617/11 617/13  617/16</p> <p><b>debated [1]</b>  523/15</p> <p><b>decades [3]</b>  507/20 576/4  577/14</p> <p><b>December [6]</b>  364/6 411/9  440/3 450/2  454/12 481/24</p> <p><b>December 1 [1]</b>  440/3</p> <p><b>December 2013 [1]</b>  481/24</p> <p><b>December 31 [1]</b> 364/6</p> <p><b>December 5 [2]</b>  411/9 450/2</p>	<p><b>December 7 [1]</b>  454/12</p> <p><b>decide [5]</b>  385/10 400/24  416/17 416/23  552/18</p> <p><b>decided [9]</b>  353/23 385/5  465/21 489/21  490/2 509/14  509/23 561/20  585/19</p> <p><b>decides [1]</b>  510/15</p> <p><b>deciding [3]</b>  355/20 425/7  489/24</p> <p><b>decision [157]</b>  349/25 350/6  353/1 353/25  354/3 354/9  354/11 355/6  356/6 356/10  356/12 356/13</p>
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<b>decision...</b>	409/14 409/15	535/19 536/9
[145] 360/2	410/16 410/18	536/23 537/7
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371/12 372/21	411/10 411/17	549/22 550/3
373/1 373/9	412/7 415/16	551/3 554/8
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378/1 378/12	449/23 450/17	567/6 567/12
379/1 379/3	450/23 451/5	569/10 569/13
379/4 380/19	451/11 451/14	573/19 586/10
380/22 381/1	451/24 475/12	586/11 589/4
381/6 381/14	478/16 487/19	589/8 589/9
382/5 382/18	492/24 493/4	590/24 594/4
382/20 382/24	493/14 493/19	594/7 604/1
383/22 383/22	495/17 496/2	604/24 606/10
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<p><b>D</b></p> <p><b>decision.....</b>  <b>[6]</b> 648/3  648/5 648/7  649/21 649/25  650/4</p> <p><b>decisions [34]</b>  350/8 350/24  352/8 352/9  353/21 354/15  356/18 360/3  361/3 364/23  372/12 374/3  374/17 375/11  381/11 384/25  391/25 411/23  413/1 413/4  426/13 483/25  490/8 490/18  495/4 519/4  547/24 550/9  550/10 554/17  561/13 561/13  597/1 633/5</p>	<p><b>declaration [3]</b>  339/3 396/9  420/9</p> <p><b>declare [6]</b>  339/4 396/11  420/11 439/11  453/24 513/14</p> <p><b>decline [1]</b>  510/19</p> <p><b>dedicated [1]</b>  520/19</p> <p><b>deeply [2]</b>  354/14 548/2</p> <p><b>default [1]</b>  466/21</p> <p><b>defects [1]</b>  386/7</p> <p><b>defend [2]</b>  359/6 499/1</p> <p><b>defendant [5]</b>  502/11 516/16  516/17 598/5  609/22</p> <p><b>Defendants [1]</b>  616/5</p>	<p><b>defended [3]</b>  358/15 360/19  363/3</p> <p><b>deficit [1]</b>  448/1</p> <p><b>deficit/hyperactivity [1]</b> 448/1</p> <p><b>define [8]</b>  502/25 555/3  556/14 556/16  633/8 633/12  634/14 634/20</p> <p><b>defined [6]</b>  531/5 556/18  556/20 628/19  629/3 629/15</p> <p><b>defining [2]</b>  633/17 634/17</p> <p><b>definite [7]</b>  433/8 535/6  535/10 535/14  535/22 535/25  536/3</p> <p><b>definition [4]</b></p>
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<p><b>D</b></p> <p><b>definition... [4]</b> 554/22 554/25 560/9 570/5</p> <p><b>degree [7]</b> 346/13 359/7 531/7 531/11 541/5 547/17 617/7</p> <p><b>degrees [1]</b> 557/12</p> <p><b>deliberate [1]</b> 496/22</p> <p><b>deliberations [3]</b> 413/6 413/18 413/22</p> <p><b>deliver [3]</b> 556/9 611/8 611/8</p> <p><b>delivered [1]</b> 612/7</p> <p><b>demonstrate [5]</b> 370/21 394/16 394/17</p>	<p>522/24 523/2</p> <p><b>demonstrated [5]</b> 370/5 386/22 517/21 524/14 524/20</p> <p><b>demonstrates [1]</b> 533/15</p> <p><b>demonstrating [1]</b> 385/12</p> <p><b>demonstration [2]</b> 385/21 386/25</p> <p><b>demonstrative [3]</b> 411/4 489/13 494/20</p> <p><b>demonstrative s [1]</b> 461/9</p> <p><b>den [5]</b> 334/5 334/6 538/12 538/24 581/12</p> <p><b>denied [2]</b> 383/13 384/23</p> <p><b>Denis [1]</b> 336/18</p>	<p><b>deny [2]</b> 594/20 594/21</p> <p><b>DEPARTMENT [1]</b> 336/10</p> <p><b>depend [1]</b> 446/11</p> <p><b>Depending [1]</b> 416/16</p> <p><b>depends [2]</b> 435/9 548/2</p> <p><b>depth [2]</b> 354/8 425/21</p> <p><b>derived [9]</b> 433/7 433/14 522/11 527/6 528/22 555/25 561/3 576/19 628/21</p> <p><b>deriving [1]</b> 558/18</p> <p><b>DERZKO [1]</b> 335/8</p> <p><b>describe [7]</b> 353/12 398/5</p>
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<p><b>D</b></p> <p><b>describe... [5]</b> 400/4 503/2 539/17 563/21 572/5</p> <p><b>described [14]</b> 381/17 432/5 517/11 554/8 554/10 564/6 577/9 609/23 616/9 616/13 621/19 632/1 632/15 646/16</p> <p><b>describes [4]</b> 435/23 517/3 610/17 633/9</p> <p><b>description [5]</b> 414/11 553/8 610/20 626/4 632/3</p> <p><b>despite [2]</b> 499/14 593/1</p> <p><b>destroy [2]</b> 558/6 559/6</p>	<p><b>detail [1]</b> 387/22</p> <p><b>detailed [1]</b> 520/17</p> <p><b>details [4]</b> 374/2 493/12 523/14 626/1</p> <p><b>determination [4]</b> 360/14 467/1 620/8 639/10</p> <p><b>determine [14]</b> 352/4 377/21 378/4 392/17 473/16 520/21 563/11 569/20 569/24 620/3 620/6 621/12 629/24 631/8</p> <p><b>determined [8]</b> 359/21 370/23 377/5 466/9 466/22 479/13 520/16 641/20</p>	<p><b>determiner [1]</b> 415/4</p> <p><b>determining [1]</b> 443/11</p> <p><b>develop [6]</b> 341/19 361/6 367/7 375/23 391/17 392/7</p> <p><b>developed [9]</b> 365/21 389/15 390/1 390/19 390/21 504/10 505/8 534/18 554/4</p> <p><b>developing [1]</b> 632/16</p> <p><b>development [14]</b> 336/11 369/2 376/10 389/19 390/23 390/25 391/2 403/10 404/6 410/11 441/24 442/3 445/23</p>
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<b>D</b>	401/14 402/23	564/21 565/15
<b>development...</b>	404/22 413/25	573/23 574/7
<b>[1] 506/17</b>	414/25 422/23	574/11 583/19
<b>developments</b>	426/16 437/20	584/9 584/14
<b>[10] 343/21</b>	437/20 445/10	585/1 586/1
344/15 355/17	450/4 463/17	588/10 588/17
355/19 355/25	469/11 474/5	588/23 589/23
371/10 373/25	476/22 488/22	590/2 590/2
392/16 437/5	493/15 494/1	591/22 592/6
444/2	506/5 506/9	597/8 602/3
<b>Diana [2]</b>	509/17 509/19	604/10 604/18
334/22 334/23	510/2 510/3	606/10 606/11
<b>dichotomy [1]</b>	511/14 519/5	608/12 608/13
545/19	521/25 522/12	611/16 613/1
<b>Dickson [1]</b>	528/4 528/5	614/21 616/7
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<b>did [102] 341/3</b>	541/17 542/16	625/5 629/23
341/6 343/9	545/7 545/8	630/5 633/18
353/2 362/19	545/21 546/3	642/15 646/16
367/6 368/2	546/24 546/24	648/21
374/4 377/11	548/14 548/22	<b>didn't [35]</b>
381/18 385/16	552/4 553/18	352/25 355/15
385/24 388/22	557/15 557/18	362/18 367/12
394/22 400/10	562/23 563/6	368/7 368/13

<p><b>D</b></p> <p><b>didn't... [29]</b>  377/15 378/7  403/3 404/1  417/24 445/8  457/18 509/6  518/14 527/2  527/3 528/2  530/7 534/21  535/1 542/19  559/10 564/10  574/15 593/7  608/13 608/15  614/2 624/8  624/21 624/22  625/9 627/25  630/20</p> <p><b>die [1]</b> 556/18</p> <p><b>dies [2]</b> 557/11  557/22</p> <p><b>difference [9]</b>  470/4 475/10  477/7 478/3  478/19 494/23</p>	<p>495/2 497/20  605/20</p> <p><b>differences [1]</b>  495/11</p> <p><b>different [23]</b>  341/2 390/3  399/6 411/12  475/17 476/12  496/12 496/12  496/13 516/9  531/15 553/2  573/13 582/7  613/6 617/22  622/3 622/14  622/16 622/17  637/5 644/18  645/4</p> <p><b>differently [3]</b>  360/24 458/2  567/10</p> <p><b>difficult [5]</b>  359/11 385/10  426/25 459/8  525/9</p>	<p><b>difficulty [2]</b>  525/20 608/2</p> <p><b>diligence [8]</b>  357/8 357/13  357/15 357/20  358/13 358/17  359/8 392/9</p> <p><b>Dimock [27]</b>  336/19 467/21  525/24 526/4  526/5 526/11  526/18 527/9  527/16 533/12  534/15 535/3  535/12 535/17  535/20 536/8  536/12 537/3  574/2 574/3  583/14 583/23  584/21 584/24  585/5 589/13  589/15</p> <p><b>Dimock's [8]</b>  529/10 529/19</p>
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<p><b>D</b></p> <p><b>Dimock's... [6]</b>  532/22 533/11  534/12 535/2  537/2 629/20</p> <p><b>direct [40]</b>  340/13 340/15  340/17 354/9  355/16 401/15  440/8 440/9  445/8 447/19  455/9 457/25  460/12 468/25  480/20 480/23  489/12 499/23  514/17 514/22  514/25 515/1  525/12 525/17  525/23 525/25  526/12 527/11  529/20 529/23  530/25 531/16  538/7 539/23  559/13 559/17</p>	<p>566/11 571/12  589/23 590/1</p> <p><b>directed [4]</b>  416/13 444/8  503/2 616/18</p> <p><b>directing [1]</b>  514/18</p> <p><b>direction [1]</b>  353/23</p> <p><b>directions [10]</b>  388/5 579/16  579/23 603/20  604/20 605/3  605/14 607/9  611/3 616/14</p> <p><b>directly [5]</b>  350/20 351/5  443/6 444/5  610/24</p> <p><b>director [8]</b>  399/1 399/2  401/8 401/19  402/10 410/22  412/13 412/17</p>	<p><b>disadvantage [1]</b> 635/8</p> <p><b>disagree [5]</b>  367/2 368/15  584/15 587/2  588/8</p> <p><b>disagreed [1]</b>  570/10</p> <p><b>disclose [5]</b>  379/17 381/16  381/18 386/10  575/19</p> <p><b>disclosed [8]</b>  378/22 383/5  385/18 399/14  509/11 511/5  575/8 616/23</p> <p><b>disclosing [1]</b>  379/14</p> <p><b>disclosure [120]</b> 379/12  380/2 381/15  381/20 381/22  383/3 385/1</p>
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<p><b>E</b></p> <p><b>extensive [1]</b> 429/10</p> <p><b>extensively [1]</b> 556/18</p> <p><b>extent [13]</b> 349/20 351/22 358/11 368/18 379/19 379/24 392/8 392/13 402/15 402/16 511/22 565/3 646/11</p> <p><b>extol [1]</b> 610/16</p> <p><b>extra [1]</b> 626/18</p> <p><b>extraordinary [1]</b> 385/25</p> <p><b>extremely [3]</b> 442/8 443/11 622/7</p> <p><b>eyeballing [1]</b> 491/25</p>	<p><b>eyes [7]</b> 628/10 629/17 629/19 629/22 630/4 630/8 630/11</p> <hr/> <p><b>F</b></p> <p><b>face [8]</b> 360/18 363/2 535/1 586/24 588/5 603/9 640/7 643/12</p> <p><b>facility [1]</b> 398/14</p> <p><b>fact [77]</b> 338/16 340/21 342/25 344/2 350/16 351/3 352/14 353/22 363/20 368/11 368/15 375/2 377/20 382/12 385/4 385/21 387/4 387/9 389/2 395/22</p>	<p>419/24 438/22 440/3 453/11 457/24 458/4 458/6 460/13 466/20 467/13 467/17 485/4 497/14 497/22 499/14 505/11 510/10 516/14 517/5 518/20 519/1 519/18 521/12 521/15 521/23 523/11 524/12 535/16 544/6 558/12 558/14 564/20 565/7 576/17 594/9 594/16 601/5 601/9 601/23 604/13 604/16 607/15 611/2 612/1 612/23 613/4 617/17 622/22</p>
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<b>F</b>	<b>factually [3]</b>	563/17
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633/14 634/1	<b>failed [4]</b>	521/12 521/13
636/14 646/5	375/23 536/19	521/19 522/4
646/8 647/11	536/22 536/24	560/25 562/15
650/8	<b>fails [1]</b> 380/1	562/15 565/4
<b>facts [16]</b>	<b>failure [6]</b>	570/24 573/12
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376/23 377/12	557/24 558/1	575/25 576/1
377/14 377/16	638/19 649/23	584/8 585/11
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436/16 437/24 438/1 443/16	<b>fashionable [1]</b>	<b>February 1 [5]</b>
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485/19 486/1 510/5 568/20	<b>faster [1]</b>	409/1 409/11
568/22 578/6 581/24 582/20	556/24	437/9
582/23 582/24	<b>faster-than-lig</b>	<b>February 11 [1]</b>
<b>familiar with</b>	<b>ht [1]</b> 556/24	553/9
[1] 434/9	<b>fatal [1]</b> 557/25	<b>February 5 [2]</b>
<b>familiarity [5]</b>	<b>favor [1]</b> 599/5	381/13 451/16
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489/14 492/21	650/5	382/19 382/21
<b>far [7]</b> 492/25	<b>FDA [2]</b> 648/9	382/24 382/25
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607/16 607/24	<b>fear [1]</b> 418/11	408/2 409/10
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	<b>February [8]</b>	471/19 493/4
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644/16 645/2	517/1 517/11	479/3 479/24
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<b>Feherguard</b>	<b>figure [3]</b>	480/15 503/18
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560/12 589/22	<b>file [16]</b> 353/7	511/13 516/4
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620/24	409/5 414/22	<b>filing [33]</b>
<b>felt [2]</b> 446/2	415/5 416/17	341/15 353/3
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<p><b>F</b></p> <p><b>filing... [29]</b>  400/1 400/24  401/15 401/24  402/13 403/25  415/8 417/2  418/22 427/9  456/6 471/1  478/23 487/12  511/8 516/11  516/13 517/9  518/7 519/4  519/7 519/8  519/19 519/21  521/18 524/25  525/5 534/17  591/25</p> <p><b>filings [4]</b>  392/4 392/17  401/5 413/13</p> <p><b>filled [1]</b>  388/24</p> <p><b>final [12]</b> 457/1  470/5 471/20</p>	<p>496/18 540/16  552/1 552/19  566/3 566/5  566/5 566/6  605/12</p> <p><b>finally [5]</b>  375/24 391/8  456/5 470/25  478/22</p> <p><b>financial [1]</b>  392/4</p> <p><b>find [14]</b> 346/3  368/11 375/5  385/3 459/8  528/24 531/20  564/13 564/15  595/6 613/12  615/9 628/4  649/9</p> <p><b>finding [28]</b>  367/19 367/21  368/12 368/15  369/10 471/24  472/14 474/1</p>	<p>475/21 478/5  496/8 496/10  497/16 498/3  498/11 498/14  499/8 499/17  499/17 500/4  500/4 501/11  501/13 501/13  510/2 550/24  551/11 637/19</p> <p><b>findings [26]</b>  380/3 455/21  471/22 472/8  473/15 473/17  473/19 474/7  474/24 488/1  492/2 492/3  492/10 494/24  494/25 495/3  495/5 498/20  582/7 646/5  646/7 647/10  647/14 649/14  649/16 650/8</p>
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<b>F</b>	356/25 362/16	487/21 490/18
<b>finds [1]</b>	364/1 364/9	491/12 502/18
496/19	364/20 364/22	504/9 504/13
<b>fine [11]</b>	376/6 378/15	505/7 505/20
366/18 393/8	380/18 384/6	505/21 506/22
452/23 468/19	384/7 384/9	507/2 513/18
538/15 581/16	389/14 389/24	514/21 515/21
632/4 632/8	390/20 391/10	516/2 519/3
633/20 633/25	391/12 392/25	521/24 526/6
634/13	393/21 405/6	527/25 529/21
<b>finish [4]</b>	408/13 409/17	531/19 533/15
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634/5 649/8	422/16 431/12	534/25 535/17
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<b>first [128]</b>	454/3 454/4	548/8 548/24
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342/14 343/4	464/22 471/16	573/24 574/3
343/8 346/11	471/22 476/13	575/1 576/2
349/10 349/12	477/10 478/3	576/7 579/3
355/5 356/2	486/6 487/3	579/6 583/15

<p><b>F</b></p> <p><b>first... [18]</b>  584/21 585/6  587/18 595/18  599/19 601/15  603/13 603/13  613/16 615/23  621/24 639/2  639/6 639/9  639/12 642/1  642/14 646/5</p> <p><b>first-to-invent [1]</b> 534/19</p> <p><b>five [16]</b>  380/25 409/12  452/25 468/24  470/11 473/5  480/21 495/8  495/10 495/11  512/15 514/24  515/1 538/13  538/15 538/19</p> <p><b>five-minute [1]</b>  470/11</p>	<p><b>flagged [1]</b>  430/24</p> <p><b>flawed [1]</b>  633/22</p> <p><b>flaws [4]</b>  483/14 483/17  489/4 489/7</p> <p><b>flew [1]</b> 517/6</p> <p><b>flexibility [2]</b>  418/1 418/5</p> <p><b>flip [3]</b> 435/22  486/22 575/24</p> <p><b>flipping [1]</b>  484/22</p> <p><b>floating [2]</b>  535/9 536/5</p> <p><b>flocculating [23]</b> 604/15  604/22 605/6  605/17 605/21  607/11 607/15  607/21 607/23  608/7 609/14  609/15 609/18</p>	<p>609/19 610/9  611/5 611/9  611/23 612/1  612/6 612/12  616/17 617/10</p> <p><b>Floor [1]</b> 334/6</p> <p><b>flown [1]</b> 517/8</p> <p><b>flumezapine [5]</b> 436/1  646/10 647/18  648/8 649/17</p> <p><b>flumezapine's [1]</b> 647/3</p> <p><b>fly [2]</b> 517/5  517/12</p> <p><b>focus [12]</b>  372/20 402/19  505/14 505/16  544/2 544/5  545/6 545/25  548/25 574/19  574/21 630/6</p> <p><b>focused [4]</b>  345/24 594/5</p>
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<p><b>F</b></p> <p><b>focused... [2]</b> 594/7 594/15</p> <p><b>focuses [1]</b> 542/6</p> <p><b>focusing [1]</b> 565/5</p> <p><b>follow [4]</b> 445/11 514/23 585/15 626/12</p> <p><b>followed [1]</b> 379/16</p> <p><b>following [11]</b> 392/4 475/1 574/14 587/9 604/19 605/3 605/14 606/15 607/8 611/2 616/14</p> <p><b>follows [5]</b> 366/20 379/22 379/23 542/25 584/22</p> <p><b>followup [2]</b></p>	<p>395/4 395/6</p> <p><b>footnote [33]</b> 485/7 485/10 485/13 485/17 485/21 485/23 486/20 486/23 486/23 487/12 487/16 487/18 561/12 561/19 562/24 565/2 565/8 567/4 573/11 573/13 573/14 573/19 575/9 584/13 585/13 585/15 588/14 589/12 603/14 603/14 603/18 640/20 641/10</p> <p><b>footnotes [4]</b> 579/10 597/19 597/20 597/22</p> <p><b>for</b></p> <p><b>compressor [1]</b> 560/12</p>	<p><b>foreign [35]</b> 336/11 344/6 353/18 398/18 398/22 400/19 401/12 401/15 401/23 402/3 402/4 402/17 402/18 403/9 404/14 404/21 406/14 406/16 407/1 407/8 408/17 409/2 409/4 409/18 412/21 413/5 413/12 413/13 413/24 414/6 414/25 415/3 415/5 416/18 519/16</p> <p><b>forget [3]</b> 532/25 570/13 636/15</p> <p><b>forgetting [1]</b> 651/3</p>
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<b>F</b>	476/14 476/18	<b>found invalid</b>
<b>Forgive [1]</b>	<b>found [44]</b>	<b>[1] 552/10</b>
388/12	365/20 376/9	<b>foundation [7]</b>
<b>form [4]</b> 535/6	472/11 473/9	408/3 408/11
535/14 536/1	473/12 475/14	432/19 449/23
584/9	475/15 476/8	531/14 563/2
<b>formal [1]</b>	477/4 477/23	581/16
346/20	479/2 479/9	<b>founded [2]</b>
<b>formative [1]</b>	479/16 488/6	418/11 418/24
551/14	488/7 488/8	<b>four [5]</b> 417/17
<b>formed [1]</b>	488/13 488/14	544/5 544/10
482/15	491/16 491/18	593/6 650/3
<b>forms [2]</b>	496/25 498/6	<b>four-year-old</b>
503/3 593/13	498/12 498/24	<b>[1] 650/3</b>
<b>formula [2]</b>	499/12 499/15	<b>fourth [2]</b>
531/23 531/24	499/16 500/8	529/2 584/24
<b>formulate [1]</b>	500/11 500/12	<b>Fox [12]</b>
393/24	501/24 550/14	433/22 434/1
<b>forth [3]</b>	550/21 552/10	434/14 579/7
344/17 444/13	552/10 569/3	579/10 579/15
548/15	582/12 616/19	580/3 580/6
<b>forward [6]</b>	625/6 629/25	580/18 584/1
346/6 361/20	637/13 638/16	584/14 588/16
363/13 363/15	644/12 645/14	<b>Fox's [2] 578/5</b>



<p><b>F</b></p> <p><b>Fox's... [1]</b> 578/15</p> <p><b>frame [2]</b> 344/22 447/12</p> <p><b>framework [4]</b> 426/24 443/17 444/3 446/8</p> <p><b>frankly [2]</b> 389/5 602/21</p> <p><b>free [4]</b> 333/3 481/4 615/1 615/4</p> <p><b>fresh [1]</b> 367/1</p> <p><b>front [18]</b> 339/3 339/8 366/6 396/10 406/3 420/10 439/10 439/16 451/21 453/23 457/6 508/9 508/18 509/1 513/13 540/5 549/24 647/24</p>	<p><b>full [10]</b> 338/13 395/18 419/21 432/8 432/8 435/6 438/19 453/7 512/21 590/16</p> <p><b>fully [1]</b> 607/19</p> <p><b>functioned [1]</b> 604/15</p> <p><b>fundamental [2]</b> 444/19 446/7</p> <p><b>fundamentally [1]</b> 427/5</p> <p><b>further [12]</b> 345/2 346/9 390/22 391/1 419/8 438/2 452/1 469/8 512/1 563/5 572/14 627/1</p> <p><b>future [3]</b> 355/20 498/1 499/2</p>	<p><b>G</b></p> <p><b>GARY [1]</b> 334/11</p> <p><b>gary.born [1]</b> 334/13</p> <p><b>Gastrell [1]</b> 334/19</p> <p><b>gathered [1]</b> 470/11</p> <p><b>gave [2]</b> 362/23 606/14</p> <p><b>gear [3]</b> 476/12 476/14 476/16</p> <p><b>Geigy [2]</b> 519/12 523/12</p> <p><b>gel [16]</b> 604/15 604/21 604/22 604/22 605/5 605/5 605/6 605/16 605/16 607/10 607/11 611/4 611/5 616/16 616/16</p>
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<b>G</b>	373/24 394/19	428/8 428/9
<b>gel... [1]</b> 617/10	399/24 443/9 459/11 515/17	429/19 430/2 430/19 505/1
<b>general [38]</b>	547/24 619/5	505/12 517/17
347/7 350/22	619/7 619/17	517/20 635/6
351/21 352/3	619/21 619/24	640/7 641/14
352/7 354/7	619/24 635/9	641/15 641/17
355/17 356/9	641/13	642/1 642/5
364/5 364/16	<b>generic [10]</b>	642/9 643/8
371/8 372/25	367/25 380/8	643/24 644/3
373/5 373/6	380/14 391/18	645/8 645/12
373/10 373/16	393/2 472/16	645/19 645/22
374/14 380/7	521/25 522/3	645/23 646/2
387/19 387/24	549/19 570/12	647/16 647/17
388/23 422/6	<b>generics [3]</b>	647/20 649/18
423/3 423/21	549/14 549/16	650/14 650/17
425/22 430/3	549/25	650/24 651/1
445/14 449/2	<b>gentlemen [1]</b>	651/5
459/18 459/25	338/2	<b>GEORGE [3]</b>
460/10 462/18	<b>genus [43]</b>	337/8 395/16
486/16 529/7	367/25 368/5	395/20
532/22 536/17	369/21 388/16	<b>get [22]</b> 355/4
536/18 632/17	389/1 389/6	355/7 359/3
<b>generally [15]</b>	389/18 389/23	359/11 361/3

<p><b>G</b></p> <p><b>get... [17]</b>  361/9 386/10  416/4 444/12  458/8 463/5  465/7 492/3  524/1 564/19  573/6 580/20  585/12 585/21  614/19 631/21  651/7</p> <p><b>gets [2]</b> 416/19  492/12</p> <p><b>getting [3]</b>  358/21 362/1  390/7</p> <p><b>Gilbert [1]</b>  585/17</p> <p><b>Gillen [12]</b>  464/21 465/12  465/17 465/24  466/5 466/11  466/18 467/6  467/9 467/15</p>	<p>468/3 468/11</p> <p><b>Gillen's [1]</b>  465/3</p> <p><b>GINA [1]</b> 335/7</p> <p><b>give [17]</b> 339/2  360/15 361/8  388/2 417/1  419/6 436/11  439/9 453/22  455/4 462/5  467/24 485/23  486/23 489/14  506/23 512/5</p> <p><b>given [15]</b>  344/21 359/15  363/11 363/20  379/2 381/19  394/10 445/15  461/8 466/20  498/13 590/25  628/1 631/16  633/24</p> <p><b>gives [4]</b> 467/4  468/4 526/8</p>	<p>634/25</p> <p><b>Glass [5]</b>  530/25 531/2  564/16 570/25  601/23</p> <p><b>glaucoma [10]</b>  622/2 622/6  622/23 623/2  624/7 624/14  625/1 625/3  625/15 630/24</p> <p><b>global [4]</b>  343/21 347/18  348/11 445/4</p> <p><b>glossed [1]</b>  594/13</p> <p><b>go [59]</b> 339/11  339/19 346/1  361/19 363/13  363/14 365/1  370/1 375/3  378/14 379/21  384/11 385/1  392/16 394/24</p>
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<b>G</b>	<b>go-to [2]</b>	564/19 572/23
<b>go... [44]</b>	595/22 596/1	576/13 596/18
396/14 396/15	<b>goal [1]</b> 414/10	602/7 605/10
403/14 411/7	<b>goes [7]</b>	628/4 628/6
419/2 419/4	348/23 348/25	650/19
420/15 439/15	377/19 545/20	<b>Goldfarb [11]</b>
439/16 447/11	627/6 639/20	526/15 526/23
454/3 454/3	644/15	536/9 536/13
454/11 454/23	<b>going [39]</b>	536/16 592/4
458/3 458/14	345/10 354/2	592/9 600/10
461/4 488/17	359/4 359/5	601/18 602/1
489/2 494/19	359/9 360/6	602/23
513/18 514/1	360/18 362/16	<b>gone [4]</b> 374/2
514/2 515/10	363/2 366/14	598/10 625/25
537/24 548/3	386/8 387/15	639/12
552/16 558/3	387/16 387/20	<b>good [44]</b>
563/2 570/22	387/21 397/7	338/1 345/5
578/1 581/16	417/13 457/14	345/7 346/3
583/20 595/22	458/19 461/13	372/17 393/14
596/1 605/10	465/17 466/1	395/17 397/5
608/18 613/8	467/16 514/20	419/17 419/19
615/21 631/22	518/18 525/22	421/5 438/16
632/23 641/4	529/18 551/20	438/17 440/14
641/12 649/2	564/13 564/15	440/15 453/3

<p><b>G</b></p> <p><b>good... [28]</b>  453/5 459/2  481/16 481/17  508/14 512/17  512/20 520/18  525/13 531/21  531/25 532/7  533/9 557/13  557/14 557/16  558/4 558/12  559/9 565/18  569/24 570/3  573/5 614/10  615/19 632/10  633/4 651/12</p> <p><b>Gordon [1]</b>  581/22</p> <p><b>GORE [1]</b>  335/8</p> <p><b>got [11]</b>  361/12 366/6  381/7 387/1  418/8 529/6</p>	<p>543/3 576/16  594/6 620/20  628/14</p> <p><b>gotten [1]</b>  387/3</p> <p><b>governing [1]</b>  553/11</p> <p><b>GOVERNMENT [2]</b> 333/12  345/9</p> <p><b>Government of [1]</b> 345/9</p> <p><b>GOWLING [2]</b>  335/15 582/5</p> <p><b>grammatical [2]</b> 632/4  633/25</p> <p><b>granted [10]</b>  428/22 440/3  442/24 449/7  449/18 460/4  516/4 539/20  549/21 563/23</p> <p><b>granules [1]</b></p>	<p>616/4</p> <p><b>graph [2]</b>  471/25 480/6</p> <p><b>graphic [1]</b>  472/19</p> <p><b>graphs [2]</b>  473/19 474/6</p> <p><b>grateful [1]</b>  459/22</p> <p><b>great [1]</b>  445/15</p> <p><b>green [5]</b>  473/24 494/4  494/8 494/16  507/4</p> <p><b>Gregory [1]</b>  553/2</p> <p><b>ground [9]</b>  365/11 365/25  450/12 473/16  478/5 533/22  635/20 640/23  641/7</p> <p><b>grounds [30]</b></p>
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<p><b>G</b></p> <p><b>grounds... [30]</b>  352/25 376/9  384/1 384/21  455/25 457/1  470/20 471/20  471/23 472/9  473/5 473/20  473/23 474/6  474/20 475/7  476/7 476/22  478/9 489/22  490/3 490/19  490/25 492/11  497/9 497/12  498/4 498/11  534/4 639/11</p> <p><b>group [5]</b>  398/13 424/6  424/14 431/10  437/10</p> <p><b>groups [4]</b>  403/11 404/6  404/17 410/11</p>	<p><b>guess [5]</b>  403/18 416/21  417/16 465/2  504/4</p> <p><b>H</b></p> <p><b>habit [1]</b>  361/22</p> <p><b>had [158]</b>  341/9 341/12  342/10 342/25  343/5 343/6  344/14 344/21  346/16 346/19  346/19 349/12  350/10 350/13  365/15 365/20  366/20 367/10  367/11 367/14  367/19 367/24  368/1 368/6  368/8 368/8  368/19 368/22  369/3 369/3  369/19 369/20</p>	<p>369/21 370/5  370/16 370/19  370/21 370/23  371/6 371/7  371/8 372/4  372/12 374/14  374/18 375/19  375/24 377/4  378/16 380/7  380/12 381/20  381/21 383/5  383/25 384/20  385/15 385/21  386/22 387/19  389/5 389/14  389/23 393/19  393/20 394/1  394/23 400/23  401/15 402/1  402/11 402/20  415/2 415/8  418/11 418/24  418/25 425/22  428/9 430/24</p>
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<p><b>H</b></p> <p><b>had... [78]</b>  445/4 445/17  446/24 447/6  447/19 448/4  450/11 457/22  459/14 460/3  461/11 463/6  464/3 468/21  469/1 469/5  473/10 473/13  474/24 481/12  499/4 499/12  499/16 507/20  511/2 515/24  517/12 519/21  521/4 522/3  522/4 523/19  527/24 532/16  535/11 539/23  544/12 544/15  544/18 545/6  552/1 559/17  562/8 564/17</p>	<p>566/6 570/20  571/2 572/22  575/2 575/10  576/9 594/6  598/9 598/10  605/2 605/5  605/5 607/8  607/14 610/7  611/7 611/8  616/6 617/13  630/14 642/21  643/22 643/23  647/20 647/22  648/7 648/8  648/11 648/12  648/15 648/19  648/25 649/24</p> <p><b>hadn't [1]</b>  368/14</p> <p><b>hair [6]</b> 632/5  632/8 632/10  633/1 633/5  634/1</p> <p><b>hair-splitting [6]</b> 632/5</p>	<p>632/8 632/10  633/1 633/5  634/1</p> <p><b>HALE [1]</b>  334/12</p> <p><b>half [14]</b> 473/9  473/11 479/9  594/16 599/19  599/21 600/15  600/15 601/11  601/15 601/16  602/15 602/16  602/18</p> <p><b>halfway [3]</b>  365/9 485/1  495/19</p> <p><b>Halsbury [5]</b>  586/25 587/5  588/10 588/13  591/5</p> <p><b>Halsbury's [3]</b>  586/15 597/19  598/3</p> <p><b>hand [7]</b></p>
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<b>H</b>	<b>happened [5]</b> 417/23 511/15 536/21 608/17 629/22	375/22 382/13 394/10 411/6 411/22 412/13 419/13 430/3 435/9 438/7 452/6 460/14 463/13 463/14 464/4 464/4 465/10 465/18 465/24 466/5 466/8 467/3 467/15 469/18 470/7 472/9 486/15 497/15 498/9 515/4 516/8 521/3 521/19 522/8 523/10 525/7 525/8 525/20 527/1 533/4 534/16 535/12 547/7 549/12 551/6 551/14 554/15 554/18
<b>hand... [7]</b> 360/17 363/1 461/19 463/18 492/25 522/23 536/4	<b>happens [1]</b> 608/1	
<b>handed [5]</b> 366/5 464/4 464/5 465/23 626/18	<b>happily [1]</b> 597/10	
<b>handful [1]</b> 550/17	<b>happy [3]</b> 359/18 457/16 459/12	
<b>handled [1]</b> 351/3	<b>hard [9]</b> 366/16 367/15 381/21 395/2 463/20 464/1 525/15 545/3 631/20	
<b>hands [2]</b> 515/8 515/9	<b>hardly [1]</b> 583/10	
<b>handwriting [1]</b> 462/17	<b>Harrison [1]</b> 508/20	
<b>Hang [1]</b> 414/15	<b>has [88]</b> 338/8 340/21 361/22 362/2 370/4	
<b>HANOTIAU [1]</b> 334/6		
<b>happen [1]</b> 362/25		



<p><b>H</b></p> <p><b>has... [35]</b>  559/24 566/3  566/5 566/19  566/22 575/10  575/11 577/15  577/17 578/14  581/6 582/8  582/8 583/6  590/15 593/18  596/8 596/25  607/24 614/18  614/19 631/17  631/18 639/9  643/5 643/5  643/7 643/14  643/16 643/19  643/19 643/20  644/8 650/25  651/3</p> <p><b>hasn't [1]</b>  577/22</p> <p><b>hate [1]</b> 605/25</p> <p><b>Hatmaker [1]</b></p>	<p>597/24</p> <p><b>have [381]</b></p> <p><b>haven't [6]</b>  528/8 548/20  576/23 609/22  609/25 649/1</p> <p><b>having [8]</b>  523/24 525/20  565/24 577/10  586/6 608/2  628/25 637/18</p> <p><b>Hayhurst [4]</b>  585/3 585/7  585/14 585/15</p> <p><b>Hayhurst's [1]</b>  586/2</p> <p><b>he [64]</b> 362/3  382/13 383/1  411/22 411/23  412/3 418/10  436/16 452/20  457/8 457/18  457/20 461/19  462/3 462/5</p>	<p>465/18 466/6  466/6 466/10  466/10 467/3  467/4 467/4  467/10 467/15  467/21 468/3  469/11 501/19  509/9 515/6  526/8 527/12  527/24 528/2  528/6 529/10  529/14 533/14  535/4 535/13  537/7 557/11  559/21 559/24  560/13 561/8  565/9 565/13  565/15 579/9  582/1 582/4  582/25 585/16  585/24 586/3  591/2 591/6  600/11 610/17  641/20 642/4</p>
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<b>H</b>	519/15	378/20 383/1
<b>he...</b> [1] 642/5	<b>hearing</b> [4]	421/24 424/9
<b>he's</b> [12] 381/7	338/2 355/5	428/13 441/14
382/12 436/10	490/13 651/19	441/16 446/16
452/20 465/17	<b>hears</b> [1]	448/4 475/18
466/16 529/6	553/3	475/18 476/17
560/4 560/25	<b>heating</b> [1]	476/18 476/22
561/1 585/20	500/22	502/9 515/15
639/23	<b>Heatlink</b> [3]	518/10 518/20
<b>head</b> [2]	500/9 500/19	519/25 520/2
488/11 581/21	501/11	521/16 522/6
<b>headed</b> [1]	<b>Heatlink's</b> [1]	522/9 525/4
397/17	501/2	530/23 532/18
<b>heading</b> [2]	<b>heavily</b> [2]	535/25 536/22
644/18 645/4	402/22 554/16	551/2 563/3
<b>heads</b> [1]	<b>heightened</b> [8]	565/19 572/25
404/16	385/1 537/5	573/2 588/11
<b>Health</b> [4]	562/21 564/23	602/3 604/17
377/4 387/4	571/4 572/15	608/6 608/11
394/2 394/10	572/21 573/16	608/23 628/15
<b>hear</b> [2]	<b>Heiligenstein</b>	638/23 643/18
362/13 397/19	[3] 508/25	643/21 644/6
<b>heard</b> [3]	509/4 509/8	644/7 649/4
407/3 517/15	<b>held</b> [48] 356/6	650/23

<b>H</b>	384/13 386/7	577/19 581/13
<b>Helicopter [1]</b>	386/20 387/21	584/1 588/6
476/11	391/15 398/22	603/14 608/1
<b>help [6]</b> 362/21	411/8 417/5	609/9 611/25
366/5 457/17	417/13 428/10	616/19 617/16
486/5 528/23	430/3 432/2	621/14 621/24
613/7	432/22 432/25	622/15 624/17
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553/22 554/14	614/10 614/11	<b>italics [1]</b>
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<p><b>K</b></p> <p><b>kind... [1]</b> 648/13</p> <p><b>kinds [7]</b> 429/14 430/5 445/20 516/12 561/7 619/25 633/1</p> <p><b>Kingdom [1]</b> 334/13</p> <p><b>knew [5]</b> 354/12 375/8 375/10 387/22 394/23</p> <p><b>know [81]</b> 345/15 346/3 360/10 361/24 391/21 395/1 400/7 402/2 407/4 407/19 415/25 419/1 419/2 421/12 428/7 433/19 440/22 446/3</p>	<p>464/8 465/16 467/6 467/9 502/6 503/19 506/1 509/6 519/3 522/8 523/7 536/14 539/5 542/19 547/17 548/4 549/11 549/14 549/19 549/20 549/22 558/8 558/15 561/7 561/8 564/13 566/18 572/24 572/25 573/4 579/10 582/1 582/25 594/16 596/1 596/7 596/13 602/20 603/4 603/5 606/17 607/19 611/17 612/3 612/19 614/9 618/13 618/16</p>	<p>619/22 622/11 623/4 624/6 625/16 629/25 631/21 633/8 633/11 633/16 636/6 642/20 642/22 647/2 648/20</p> <p><b>knowing [1]</b> 358/13</p> <p><b>knowledge [13]</b> 383/25 392/1 417/6 433/9 447/14 447/20 486/17 506/6 509/8 511/7 511/17 551/21 593/5</p> <p><b>known [22]</b> 376/25 389/12 389/20 410/18 503/4 503/16 503/17 503/20 504/1 504/4</p>
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<p><b>K</b></p> <p><b>known... [12]</b>  504/5 504/6  504/8 566/24  571/15 578/24  634/15 645/15  647/17 647/19  650/15 651/7</p> <p><b>known-drug [1]</b> 504/5</p> <p><b>knows [2]</b>  502/3 614/11</p> <p><b>Kong [2]</b>  381/17 383/5</p> <p><b>KRISTA [3]</b>  336/6 421/6  440/16</p>	<p>374/12 381/22  418/1 418/5  456/11 471/6  473/6 473/13  473/17 474/8  475/13 475/15  476/13 476/18  488/7 497/17  499/12 500/12  502/9 518/10  520/1 520/3  550/22 556/5  593/19</p> <p><b>lacks [1]</b>  553/14</p> <p><b>ladies [1]</b>  338/1</p> <p><b>LAFLEUR [2]</b>  335/15 582/5</p> <p><b>lamenting [1]</b>  615/24</p> <p><b>landed [1]</b>  596/7</p> <p><b>landing [3]</b></p>	<p>476/12 476/14  476/16</p> <p><b>Lane [1]</b>  334/12</p> <p><b>language [29]</b>  338/18 393/9  395/25 420/1  436/6 436/12  436/20 438/25  453/13 513/3  557/20 574/25  592/11 596/18  596/22 596/23  596/25 597/9  598/16 598/19  599/15 600/4  605/20 618/15  623/1 623/4  623/8 627/14  642/17</p> <p><b>large [5]</b> 359/1  391/8 469/22  470/1 523/22</p> <p><b>large-scale [1]</b></p>
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<p><b>L</b></p> <p><b>large-scale...</b> [1] 391/8</p> <p><b>largely [2]</b> 388/18 394/20</p> <p><b>larger [2]</b> 387/3 647/8</p> <p><b>last [26]</b> 356/19 365/3 372/20 376/13 411/8 413/15 416/16 417/12 417/16 430/23 431/17 470/4 531/13 543/8 560/22 572/3 575/21 580/6 582/18 584/22 594/25 596/20 603/11 605/13 644/25 649/15</p> <p><b>lasted [2]</b> 366/21 367/20</p> <p><b>Latanoprost [11]</b> 621/25</p>	<p>622/21 623/15 623/24 625/22 627/23 627/24 628/9 628/23 629/23 631/2</p> <p><b>late [6]</b> 389/16 400/19 400/20 417/22 579/3 582/2</p> <p><b>later [8]</b> 378/19 417/18 417/21 435/3 450/10 457/17 488/8 535/23</p> <p><b>latter [1]</b> 580/10</p> <p><b>launch [18]</b> 424/21 425/2 425/7 425/16 425/18 426/4 426/7 426/24 427/5 441/5 442/4 442/8 443/12 443/25</p>	<p>444/3 445/1 445/12 449/11</p> <p><b>launching [2]</b> 443/18 445/7</p> <p><b>LAUREN [1]</b> 335/9</p> <p><b>Laurie [1]</b> 334/22</p> <p><b>law [194]</b> 336/10 343/1 343/5 343/14 343/20 344/7 344/15 344/21 346/13 346/17 346/21 347/2 347/11 347/19 349/1 349/5 349/18 353/1 355/18 356/18 360/12 365/15 370/16 371/9 371/21 372/4 372/10 372/12 372/19 373/17</p>
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<b>law... [164]</b>	523/7 525/3	553/20 553/23
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387/4 387/14	540/8 540/18	562/8 562/19
405/10 405/23	540/20 540/22	563/21 564/8
409/19 409/25	540/24 541/4	566/1 566/18
410/7 412/15	541/12 542/2	573/6 573/7
425/17 432/10	542/7 542/10	575/2 575/11
433/22 434/14	542/17 542/20	575/13 576/8
437/5 443/16	543/10 543/19	576/9 576/11
443/22 444/2	543/22 543/23	577/11 577/15
456/16 471/11	544/2 544/6	577/18 578/5
483/22 503/7	544/7 544/23	578/20 579/2
515/14 515/15	544/23 544/24	579/3 580/1
515/16 515/16	545/4 545/9	582/8 583/3
515/17 515/19	545/14 545/22	583/25 584/7
516/3 516/22	545/25 546/19	584/9 586/17
517/14 517/21	549/1 550/7	586/21 587/4
518/2 518/16	550/21 551/14	587/5 587/9
519/3 519/6	551/15 552/6	588/3 588/7
519/8 520/22	552/14 552/20	588/18 588/22
522/8 522/16	552/25 553/3	589/2 589/10



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612/24 613/15	<b>lay [1]</b> 581/15	387/10 399/16
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621/3 625/12	<b>lead [3]</b> 476/2	467/2 471/8
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640/25 643/4	<b>leader [4]</b>	479/4 479/10
<b>laws [10]</b>	441/4 443/2	483/14 532/11
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361/15 371/22	<b>leading [7]</b>	577/12 607/4
387/11 392/7	535/18 552/23	618/18 628/2
398/22 403/13	552/25 584/5	628/15 631/18
405/21 586/15	588/15 589/13	<b>leave [6]</b>
<b>lawsuits [1]</b>	619/8	383/13 384/23
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<b>lawyer [6]</b>	488/23	549/21 549/23
346/23 405/13	<b>learned [3]</b>	<b>left [4]</b> 473/21

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<b>L</b>	515/22 515/25	506/10 511/13
<b>LILLY... [52]</b>	522/4 539/24	516/3 518/17
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410/2 410/22	648/7 648/15	<b>limit [3]</b> 419/1
411/6 412/16	<b>Lilly's [44]</b>	435/2 615/5
414/9 414/20	344/5 344/6	<b>limited [6]</b>
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417/24 418/22	347/18 347/20	431/5 436/14
421/16 422/6	348/11 349/1	436/16 449/24
423/11 428/13	349/6 349/23	<b>limits [3]</b>
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432/2 432/9	354/5 364/21	545/19
432/22 433/1	364/24 365/15	<b>Lindsay [1]</b>
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493/19 494/10	382/5 382/20	378/15 379/15
506/6 506/18	384/3 384/23	411/8 429/4
507/20 508/21	400/18 412/21	486/5 487/2
509/14 509/23	422/9 423/3	487/20 492/23
510/6 510/14	424/16 426/3	493/14 493/20
510/19 510/24	434/3 434/5	493/23 493/25
511/3 511/8	434/17 434/25	507/4 508/9
511/17 511/25	435/6 451/15	509/1 595/5

<p><b>L</b></p> <p><b>line... [10]</b>  596/9 596/20  597/22 597/23  597/25 598/1  605/13 605/13  606/15 649/8</p> <p><b>lines [8]</b>  417/17 435/23  492/21 494/4  494/16 495/10  510/5 597/21</p> <p><b>link [1]</b> 537/4</p> <p><b>list [10]</b> 411/16  454/21 474/16  474/17 486/3  511/21 641/21  641/23 642/1  642/4</p> <p><b>listed [12]</b>  489/17 507/25  508/20 509/1  515/21 529/11  529/21 530/11</p>	<p>530/24 544/17  561/19 561/22</p> <p><b>lists [1]</b> 411/5</p> <p><b>literally [1]</b>  469/14</p> <p><b>litigate [1]</b>  355/21</p> <p><b>litigated [5]</b>  348/20 358/14  358/15 541/14  546/20</p> <p><b>litigation [29]</b>  347/17 348/1  348/5 348/6  348/9 348/11  348/13 348/14  348/18 348/20  349/13 349/19  351/2 351/16  354/20 355/10  355/25 356/3  356/23 392/15  400/15 400/16  402/18 402/18</p>	<p>402/22 456/20  471/14 473/1  638/22</p> <p><b>litigations [1]</b>  400/13</p> <p><b>little [18]</b>  358/24 366/16  398/7 412/22  434/11 485/1  516/6 531/25  536/13 555/21  558/8 558/9  558/10 602/21  620/1 622/15  632/23 637/18</p> <p><b>livenote [3]</b>  361/25 362/6  362/11</p> <p><b>liver [4]</b> 647/1  647/5 648/11  648/12</p> <p><b>LLP [2]</b> 335/11  335/15</p> <p><b>local [2]</b> 351/5</p>
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<b>L</b>	<b>long-establish</b>	487/7 491/8
<b>local... [1]</b> 410/5	<b>ed [1]</b> 519/21 <b>longer [8]</b>	499/10 528/9 529/3 529/5
<b>located [1]</b> 343/25	401/14 402/4 403/20 445/9	531/19 538/3 564/12 565/15
<b>locus [1]</b> 554/10	494/16 524/8 524/8 649/7	569/23 577/3 579/7 580/3
<b>log [2]</b> 343/10 343/10	<b>longstanding</b> <b>[2]</b> 552/9 635/13	591/16 591/20 600/9 602/1 606/2 609/12
<b>logical [1]</b> 434/22	<b>look [62]</b> 360/9 360/10 360/10	611/21 612/3 612/16 612/18
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<b>London [2]</b> 334/13 334/16	366/14 376/6 378/25 380/23	620/11 628/2 628/3 630/14
<b>long [16]</b> 346/2 362/1 367/15 368/24	381/10 383/15 384/12 386/2 387/15 392/10	645/6 646/4 650/18 <b>looked [21]</b>
519/21 570/20 571/13 571/17	392/17 394/14 404/14 411/14	361/15 363/17 382/20 409/13
575/10 576/7 576/9 577/10	435/19 468/9 485/13 485/23	411/12 478/3 478/13 488/19
633/16 637/13	486/5 486/23	489/3 495/9

<b>L</b>	642/14 647/18	531/3 550/17
<b>looked... [11]</b> 509/10 511/21 549/22 558/17 565/13 570/8 609/13 621/7 627/13 628/25 642/17	<b>looks [4]</b> 462/18 463/12 614/8 626/25 <b>losing [1]</b> 622/15 <b>loss [2]</b> 497/6 497/9	555/14 571/22 573/1 631/25 <b>lower [6]</b> 480/11 573/19 582/10 586/20 598/23 646/1 <b>Ltd [1]</b> 408/11
<b>looking [32]</b> 349/11 361/10 361/13 374/6 374/9 374/10 408/5 411/10 411/15 414/21 463/8 508/3 508/14 508/18 509/20 531/24	<b>lost [10]</b> 351/13 356/4 385/23 473/10 477/1 495/21 497/8 498/19 501/17 502/8 <b>lot [2]</b> 402/17 548/15 <b>lots [1]</b> 534/24	<b>lumped [1]</b> 560/4 <b>lunch [10]</b> 452/16 452/17 452/19 452/22 462/4 462/23 463/3 467/5 481/1 481/4 <b>LUZ [1]</b> 336/6
532/5 533/2 543/4 543/7 568/5 570/4 572/20 573/14 574/13 579/2 602/23 620/15 633/23 638/7	<b>loudly [1]</b> 397/23 <b>Louise [1]</b> 334/7 <b>low [10]</b> 344/25 516/5 518/6 522/12	<b>M</b> <b>machine [1]</b> 462/21 <b>MacKay [2]</b> 563/3 563/6 <b>MacMillan [1]</b> 406/10

<b>M</b>	404/16 407/8	<b>major [11]</b>
<b>MacMillan</b>	407/14 409/4	343/5 347/20
<b>Bloedel [1]</b>	426/25 462/15	349/1 349/6
406/10	478/17 511/12	402/19 427/6
<b>MacOdrum</b>	521/8 522/4	445/1 445/21
<b>[19]</b> 527/10	525/8 525/8	446/8 446/13
527/17 527/19	535/4 535/12	548/18
527/21 527/22	536/21 546/24	<b>majority [1]</b>
528/4 528/5	560/3 570/11	472/12
528/10 528/20	588/12 604/17	<b>make [44]</b>
528/21 528/24	609/19 609/21	340/1 340/10
533/4 559/13	624/2 630/16	352/25 358/7
559/17 559/24	631/8 639/9	358/25 359/8
560/2 560/8	639/17 640/8	359/17 360/13
560/17 560/24	645/19 647/14	360/21 361/6
<b>MacOdrum's</b>	<b>magnitude [1]</b>	363/5 393/12
<b>[1]</b> 561/5	646/12	393/15 396/9
<b>made [42]</b>	<b>mails [1]</b>	396/21 397/13
354/15 361/4	353/11	400/24 415/16
368/9 368/14	<b>main [4]</b>	418/21 419/4
377/25 379/17	473/16 473/23	420/9 420/22
383/4 385/8	477/9 543/18	421/8 424/12
385/25 389/24	<b>maintained [2]</b>	428/3 429/23
392/3 393/19	343/18 347/7	439/24 440/18



<p><b>M</b></p> <p><b>make... [16]</b>  454/24 455/10  459/25 460/15  461/2 503/7  513/12 514/9  527/4 557/15  585/11 585/21  604/15 614/9  629/5 633/18</p> <p><b>makes [3]</b>  363/13 440/23  629/20</p> <p><b>making [8]</b>  416/8 493/12  563/4 565/10  569/25 570/1  575/18 626/3</p> <p><b>management [12]</b> 352/1  403/11 404/7  410/2 410/11  411/24 412/7  412/9 412/16</p>	<p>441/19 446/25  548/12</p> <p><b>manager [4]</b>  398/13 422/6  423/3 423/21</p> <p><b>managing [1]</b>  582/4</p> <p><b>mandate [2]</b>  539/16 563/20</p> <p><b>mandated [1]</b>  418/14</p> <p><b>mania [1]</b>  429/16</p> <p><b>manner [6]</b>  371/21 385/11  536/1 539/10  580/16 631/17</p> <p><b>manufacturers [2]</b> 380/9  380/14</p> <p><b>manufacturing [2]</b> 500/20  502/12</p> <p><b>many [19]</b></p>	<p>352/8 354/7  375/18 375/23  375/23 394/21  403/7 409/20  450/10 500/10  500/12 501/17  547/20 568/21  594/24 617/22  626/14 626/15  627/2</p> <p><b>MARC [1]</b>  336/8</p> <p><b>MARC-ANDRE [1]</b> 336/8</p> <p><b>MARCEL [6]</b>  337/16 453/2  453/8 455/15  469/16 469/19</p> <p><b>March [2]</b>  382/4 382/19</p> <p><b>March 25 [2]</b>  382/4 382/19</p> <p><b>margin [1]</b>  615/23</p>
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<b>M</b>	<b>markets [8]</b>	<b>materials [12]</b>
<b>MARIELLA [1]</b> 336/7	347/20 349/2 349/7 442/6	526/13 526/14 530/25 531/17
<b>MARK [1]</b> 336/6	445/7 445/8 446/1 446/9	536/10 561/8 604/21 605/4
<b>markedly [1]</b> 566/23	<b>MARNEY [1]</b> 335/5	605/16 607/10 611/4 616/15
<b>market [7]</b> 358/23 369/2 389/16 443/13 498/2 503/17 503/21	<b>Martel [1]</b> 336/18	<b>math [2]</b> 492/1 492/6
<b>marketable [1]</b> 510/16	<b>mat [2]</b> 530/21 530/23	<b>Mathieson [7]</b> 518/1 523/12 537/18 537/20 537/24 537/24 538/3
<b>marketed [3]</b> 389/11 389/20 391/3	<b>material [20]</b> 344/15 349/14 351/19 351/23 352/13 353/4 354/4 357/11 392/8 392/10 392/11 392/14 392/15 392/18 392/19 393/17 426/18 500/22 521/7 604/14	<b>matter [46]</b> 333/3 339/1 350/16 352/13 353/15 358/10 367/24 385/20 385/20 386/24 386/25 389/2 396/8 420/8 439/8 453/21 455/23 470/18
<b>marketing [3]</b> 424/23 424/25 425/2	<b>materiality [2]</b> 354/16 521/21	
<b>marketplace [4]</b> 358/12 367/17 516/15 598/7		

<p><b>M</b></p> <p><b>matter... [28]</b>  503/24 513/11  515/23 523/21  528/19 531/9  535/16 552/24  565/25 573/20  581/9 591/3  593/24 610/2  610/4 610/20  615/4 616/8  616/11 623/6  636/13 636/20  636/25 640/23  641/1 641/7  642/7 645/21</p> <p><b>matters [23]</b>  338/4 343/20  350/11 351/3  351/16 351/18  351/19 352/13  353/4 353/17  354/7 354/13  354/16 392/15</p>	<p>395/8 404/3  482/21 515/20  539/9 539/13  563/17 610/5  610/21</p> <p><b>max [1]</b> 455/11</p> <p><b>maximum [2]</b>  469/2 469/5</p> <p><b>may [42]</b>  333/21 337/1  338/9 350/19  351/15 352/7  352/12 352/20  360/17 363/1  388/12 394/11  402/2 417/13  432/10 433/1  433/5 454/22  457/16 458/9  458/15 458/22  460/7 461/17  466/22 468/4  520/12 520/23  521/15 526/1</p>	<p>526/1 582/11  585/11 588/22  612/10 614/10  618/21 619/2  619/12 619/13  620/1 622/14</p> <p><b>May 25 [1]</b>  454/22</p> <p><b>maybe [23]</b>  360/24 366/4  370/11 370/12  391/11 463/12  467/8 488/21  540/11 550/18  574/17 574/18  574/18 574/19  577/4 594/18  598/12 602/6  602/8 613/10  618/18 626/17  629/4</p> <p><b>me [83]</b> 345/14  346/3 348/16  349/22 352/17</p>
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<p><b>M</b></p> <p><b>me... [78]</b></p> <p>352/20 353/11  355/14 358/25  359/19 361/8  362/21 366/5  370/10 371/5  372/6 373/11  375/22 381/24  384/6 384/24  388/2 397/12  400/8 402/6  402/6 407/18  408/4 408/6  411/15 412/8  415/16 418/10  419/6 421/12  429/21 429/23  434/20 440/21  443/7 445/15  445/22 446/3  446/15 450/10  455/6 459/17  484/13 486/2</p>	<p>488/12 491/14  506/23 508/1  522/4 528/9  528/23 539/5  540/5 545/11  545/22 549/25  569/6 576/20  577/19 578/22  588/20 588/23  591/12 591/24  605/8 605/9  608/17 613/8  616/7 616/12  622/16 622/18  622/20 641/25  647/6 650/23  651/8 651/13</p> <p><b>mean [104]</b></p> <p>356/9 374/9  374/25 398/22  400/13 400/13  404/2 410/4  417/22 443/5  447/15 450/16</p>	<p>460/22 482/17  488/17 492/5  497/24 497/25  504/1 519/18  530/8 533/9  537/16 540/5  544/25 547/2  547/14 547/17  548/9 548/11  548/14 548/16  549/11 549/13  549/19 550/5  550/11 558/9  559/24 560/8  567/25 568/4  568/8 568/18  571/7 574/1  574/10 576/20  576/22 577/18  578/22 582/23  583/19 591/17  592/4 592/11  594/4 594/5  596/1 596/6</p>
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<b>M</b>	<b>meaning [13]</b>	598/15 601/15
<b>mean... [44]</b>	390/5 479/14	643/20 651/15
596/7 599/17	547/11 555/8	<b>meant [11]</b>
600/15 601/24	555/20 556/8	468/25 482/14
601/25 602/8	565/5 569/2	504/3 519/20
602/14 602/17	586/16 587/8	548/5 600/20
603/8 605/7	595/12 602/18	617/17 624/10
607/18 608/14	623/17	630/19 633/14
609/8 611/7	<b>meaningless</b>	634/20
611/10 611/11	<b>[1]</b> 368/18	<b>measure [1]</b>
611/25 612/10	<b>means [30]</b>	489/8
612/13 614/16	374/12 399/6	<b>mechanism [1]</b>
615/15 617/7	421/12 428/4	609/1
618/5 618/10	481/2 486/14	<b>medical [3]</b>
619/7 619/24	494/8 517/10	369/22 390/25
619/25 623/2	524/12 524/15	503/4
624/9 624/13	533/19 536/4	<b>medicinal [2]</b>
625/2 629/7	537/25 537/25	390/3 393/14
629/19 630/13	538/17 555/4	<b>medicine [15]</b>
631/20 632/22	555/18 558/9	360/22 367/7
634/10 634/21	558/10 569/23	369/3 369/24
641/4 641/11	570/18 586/17	370/25 375/24
642/20 643/13	588/7 593/19	376/2 377/19
643/15 644/6	596/13 597/6	389/11 389/20

<p><b>M</b></p> <p><b>medicine... [5]</b> 393/24 394/15 427/19 503/17 504/2</p> <p><b>medicines [2]</b> 394/21 482/25</p> <p><b>meet [7]</b> 386/17 527/18 598/24 607/8 607/14 629/14 638/19</p> <p><b>meeting [1]</b> 344/23</p> <p><b>meetings [2]</b> 413/12 413/17</p> <p><b>meets [2]</b> 377/22 607/25</p> <p><b>member [7]</b> 433/2 445/22 455/17 504/17 541/9 541/11 646/24</p> <p><b>members [5]</b></p>	<p>389/6 432/11 433/3 443/5 525/14</p> <p><b>members' [1]</b> 646/25</p> <p><b>membranes [3]</b> 604/16 604/17 616/3</p> <p><b>Memorial [3]</b> 364/22 456/9 471/4</p> <p><b>memorize [2]</b> 457/15 459/10</p> <p><b>memory [1]</b> 494/22</p> <p><b>mention [5]</b> 380/19 411/1 573/23 589/23 602/7</p> <p><b>mentioned [5]</b> 368/21 526/6 539/22 578/2 632/12</p> <p><b>mentioning [1]</b></p>	<p>380/21</p> <p><b>mere [6]</b> 516/7 532/25 535/9 580/11 611/20 612/23</p> <p><b>merely [1]</b> 600/21</p> <p><b>Merges [1]</b> 335/21</p> <p><b>met [7]</b> 349/20 378/5 379/14 418/25 521/16 611/24 617/16</p> <p><b>method [3]</b> 448/10 528/16 543/22</p> <p><b>methodology [1]</b> 475/23</p> <p><b>MGH [2]</b> 377/1 379/25</p> <p><b>MICHAEL [1]</b> 335/6</p> <p><b>Michigan [1]</b> 346/14</p>
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<b>M</b>	<b>mild [2]</b> 429/14	480/21 512/15
<b>mid [3]</b> 389/16	430/4	514/24 515/1
441/9 582/2	<b>mill [1]</b> 445/20	515/2 538/13
<b>middle [12]</b>	<b>Miller [1]</b>	538/19 594/25
429/5 432/9	585/16	595/4 649/6
459/20 553/9	<b>million [1]</b>	649/7
553/11 557/9	360/6	<b>minutes' [2]</b>
557/10 572/3	<b>mind [5]</b> 355/7	538/16 596/11
583/5 593/17	362/20 388/14	<b>misdescribed</b>
619/15 625/21	535/1 622/18	<b>[1]</b> 616/6
<b>midway [1]</b>	<b>Mineral [2]</b>	<b>misdescription</b>
576/2	552/20 554/2	<b>[6]</b> 604/18
<b>might [22]</b>	<b>minute [2]</b>	608/11 609/22
353/18 358/4	452/14 470/11	612/2 616/7
359/13 361/1	<b>minutes [29]</b>	616/11
388/25 415/10	333/17 409/3	<b>misleading [1]</b>
426/21 434/21	413/4 413/11	521/9
452/16 486/5	413/16 413/20	<b>misrepresentat</b>
487/7 509/14	438/12 452/25	<b>ions [1]</b> 520/25
509/23 510/15	455/11 460/16	<b>missed [4]</b>
510/19 523/2	462/21 468/21	419/1 483/7
525/19 540/12	468/22 468/24	574/16 574/17
558/7 567/11	469/2 469/4	<b>missing [3]</b>
568/22 617/24	469/6 470/16	626/11 626/16

<p><b>M</b></p> <p><b>missing... [1]</b> 626/23</p> <p><b>misstatement [2]</b> 609/13 610/11</p> <p><b>mistake [1]</b> 645/19</p> <p><b>mistakenly [1]</b> 440/2</p> <p><b>misunderstanding [2]</b> 391/20 403/23</p> <p><b>Mobil [2]</b> 573/18 576/25</p> <p><b>models [1]</b> 429/11</p> <p><b>moderate [3]</b> 631/9 631/14 631/18</p> <p><b>modern [2]</b> 612/13 612/24</p> <p><b>modest [1]</b> 573/22</p>	<p><b>modified [1]</b> 503/3</p> <p><b>modus [1]</b> 353/10</p> <p><b>molecule [14]</b> 367/8 390/15 391/16 391/16 391/18 393/19 393/21 442/2 504/4 504/6 504/6 504/13 505/11 505/14</p> <p><b>moment [14]</b> 346/8 397/25 419/8 452/11 466/4 485/23 486/23 487/15 489/14 506/23 512/5 595/4 595/6 649/9</p> <p><b>monitor [3]</b> 409/19 426/7 444/2</p> <p><b>monopolies [2]</b> 340/22 341/14</p>	<p><b>monopolized [1]</b> 367/16</p> <p><b>monopoly [7]</b> 341/1 341/5 379/20 381/22 501/17 598/9 615/5</p> <p><b>Monsanto [6]</b> 518/2 537/7 537/15 537/17 537/18 537/21</p> <p><b>month [1]</b> 373/10</p> <p><b>months [2]</b> 409/12 409/12</p> <p><b>MONTPLAISIR [1]</b> 336/7</p> <p><b>MOPOP [6]</b> 484/6 484/11 484/15 484/18 485/14 486/9</p> <p><b>more [57]</b> 344/2 352/21 355/21 357/25</p>
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<p><b>M</b></p> <p><b>more... [53]</b></p> <p>358/5 361/25  364/2 381/18  381/20 385/6  388/23 398/7  402/17 412/23  416/12 418/2  426/25 435/1  435/5 460/10  476/5 477/2  477/15 477/17  485/1 515/1  520/8 523/1  524/16 524/22  525/9 533/19  533/25 534/25  536/4 562/22  574/11 574/23  575/12 575/25  577/11 586/19  587/12 587/23  590/12 591/9  591/17 593/21</p>	<p>594/24 607/19  607/24 617/18  619/17 627/2  628/8 638/16  646/8</p> <p><b>morning [21]</b></p> <p>338/1 345/5  345/7 347/6  347/10 367/2  367/9 388/4  395/17 397/5  419/17 419/19  421/5 421/8  438/16 438/17  440/14 440/15  440/19 453/3  453/5</p> <p><b>most [14]</b></p> <p>343/17 354/16  359/16 376/17  376/23 392/11  414/21 476/10  495/24 519/24  574/18 594/10</p>	<p>594/14 626/11</p> <p><b>Mostly [2]</b></p> <p>549/25 558/10</p> <p><b>motion [6]</b></p> <p>518/13 528/2  547/19 547/20  548/15 648/13</p> <p><b>move [8]</b> 369/5  397/1 412/20  452/9 452/12  464/25 596/21  603/10</p> <p><b>moved [6]</b></p> <p>387/25 421/21  423/20 441/11  441/18 446/20</p> <p><b>MR [28]</b></p> <p>334/11 335/5  335/6 335/6  335/7 335/8  335/9 335/14  335/19 335/20  335/22 335/23  336/5 336/5</p>
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<b>M</b>	397/24 398/4	467/3 467/9
<b>MR... [14]</b>	403/5 412/6	467/15 467/21
336/6 336/8	419/7 419/9	468/2 468/3
336/17 336/18	419/10 419/11	468/8 468/10
336/19 336/20	419/14 419/18	468/11 468/11
336/21 340/14	419/23 420/6	470/15 480/19
340/16 345/1	420/15 420/24	481/10 481/16
388/3 388/10	421/6 432/20	482/23 483/20
396/24 455/14	436/10 438/9	486/4 487/1
<b>Mr. [188]</b>	440/8 440/10	487/23 488/5
338/12 339/7	452/2 452/10	489/1 489/11
341/3 341/21	453/4 453/10	490/16 491/15
342/22 343/13	453/19 454/2	492/17 493/18
344/10 345/2	454/18 457/3	495/13 496/5
345/3 345/6	457/4 457/5	496/17 498/5
361/21 361/22	458/9 458/13	500/19 502/17
362/5 362/14	459/19 460/15	502/21 503/6
371/14 372/1	461/13 462/14	503/11 503/16
382/8 382/10	463/4 465/11	504/7 504/14
383/20 388/7	465/20 465/24	505/18 506/1
388/8 392/24	465/25 466/5	506/22 506/24
395/7 395/11	466/8 466/11	507/1 508/2
395/18 395/21	466/15 466/18	508/19 509/22
397/2 397/6	466/18 466/18	510/4 510/22

<p><b>M</b></p> <p><b>Mr.... [64]</b></p> <p>511/11 512/2  512/11 525/24  526/4 526/5  526/11 526/18  527/9 527/16  527/17 527/19  527/21 527/22  528/4 528/5  528/10 528/21  529/10 529/19  532/22 533/4  533/11 533/12  534/12 534/15  535/2 535/3  535/12 535/17  535/20 536/8  536/12 537/2  537/3 537/19  538/9 538/21  559/17 559/24  560/2 560/8  560/17 574/2</p>	<p>574/3 581/5  583/6 583/14  583/23 584/1  584/2 584/21  584/24 585/5  585/14 585/15  586/2 589/13  591/2 594/24  596/15 626/9  627/9 629/20</p> <p><b>Mr. Armitage</b>  <b>[16]</b> 338/12  339/7 341/3  341/21 342/22  343/13 344/10  345/3 345/6  371/14 372/1  382/10 383/20  388/8 392/24  395/11</p> <p><b>Mr. Berengaut</b>  <b>[4]</b> 419/11  420/24 440/8  452/2</p>	<p><b>Mr. Brisebois</b>  <b>[59]</b> 452/10  453/4 453/10  453/19 454/2  454/18 457/3  457/5 458/9  458/13 459/19  460/15 461/13  462/14 466/8  466/18 467/3  468/3 468/11  470/15 481/10  481/16 482/23  483/20 486/4  487/1 487/23  488/5 489/1  489/11 490/16  491/15 492/17  493/18 495/13  496/5 496/17  498/5 500/19  502/17 502/21  503/6 503/11  503/16 504/7</p>
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<p><b>M</b></p> <p><b>Mr. Brisebois...</b>  <b>[14]</b> 504/14  505/18 506/1  506/22 506/24  507/1 508/2  508/19 509/22  510/4 510/22  511/11 512/2  512/11</p> <p><b>Mr. Brisebois'</b>  <b>[1]</b> 465/25</p> <p><b>Mr. Dimock</b>  <b>[24]</b> 467/21  525/24 526/4  526/5 526/11  526/18 527/9  527/16 534/15  535/3 535/12  535/17 535/20  536/8 536/12  537/3 574/2  574/3 583/14  583/23 584/21</p>	<p>584/24 585/5  589/13</p> <p><b>Mr. Dimock's</b>  <b>[8]</b> 529/10  529/19 532/22  533/11 534/12  535/2 537/2  629/20</p> <p><b>Mr. Gillen [7]</b>  465/24 466/5  466/11 466/18  467/9 467/15  468/11</p> <p><b>Mr. Hayhurst</b>  <b>[2]</b> 585/14  585/15</p> <p><b>Mr. Hayhurst's</b>  <b>[1]</b> 586/2</p> <p><b>Mr. Henderson</b>  <b>[1]</b> 584/1</p> <p><b>Mr. Hill [2]</b>  583/6 584/2</p> <p><b>Mr. Johnson</b>  <b>[5]</b> 538/21</p>	<p>581/5 594/24  596/15 627/9</p> <p><b>Mr. Johnston</b>  <b>[1]</b> 538/9</p> <p><b>Mr. Justice [1]</b>  591/2</p> <p><b>Mr. MacOdrum</b>  <b>[14]</b> 527/17  527/19 527/21  527/22 528/4  528/5 528/10  528/21 533/4  559/17 559/24  560/2 560/8  560/17</p> <p><b>Mr.</b>  <b>Postlethwait</b>  <b>[6]</b> 419/18  419/23 420/6  420/15 421/6  438/9</p> <p><b>Mr.</b>  <b>Postlethwait's</b>  <b>[2]</b> 432/20</p>
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<p><b>M</b></p> <p><b>Mr. Postlethwait's ... [1]</b> 436/10</p> <p><b>Mr. President [10]</b> 345/2 361/21 382/8 388/7 395/7 440/10 457/4 463/4 465/20 626/9</p> <p><b>Mr. Spellicsy [1]</b> 419/10</p> <p><b>Mr. Spelliscy [5]</b> 361/22 362/14 397/2 468/2 480/19</p> <p><b>Mr. Spelliscy's [1]</b> 362/5</p> <p><b>Mr. Stringer [10]</b> 395/18 395/21 397/6 397/24 398/4 403/5 412/6</p>	<p>419/7 419/9 419/14</p> <p><b>Mr. Wilson [5]</b> 465/11 466/15 466/18 468/8 468/10</p> <p><b>Mr. Zahl [1]</b> 537/19</p> <p><b>Ms [14]</b> 334/19 334/22 334/22 335/5 335/7 335/8 335/9 335/10 335/14 335/20 336/6 336/7 336/7 336/8</p> <p><b>Ms. [26]</b> 340/12 388/5 395/5 434/23 438/5 438/16 438/21 439/6 439/14 440/7 440/11 440/14 452/5 455/5</p>	<p>461/6 461/18 462/25 469/14 480/20 481/7 512/3 514/16 514/16 514/18 537/13 626/22</p> <p><b>Ms. Cheek [10]</b> 340/12 388/5 395/5 461/6 461/18 462/25 469/14 481/7 512/3 514/16</p> <p><b>Ms. Hitchman [1]</b> 537/13</p> <p><b>Ms. Nobles [7]</b> 438/16 438/21 439/6 439/14 440/7 440/14 452/5</p> <p><b>Ms. Wagner [3]</b> 514/16 514/18 626/22</p> <p><b>Ms. Zeman [5]</b> 434/23 438/5</p>
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<b>Ms. Zeman...</b>	526/24 527/18	347/22 347/22
<b>[3]</b> 440/11	535/14 535/15	348/10 350/3
455/5 480/20	538/1 548/9	353/13 353/21
<b>much [8]</b>	555/1 555/24	354/6 356/2
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418/2 524/16	556/11 557/3	362/16 362/17
566/23 575/12	557/4 563/8	363/9 363/9
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<b>multi-million-d</b>	579/7 580/8	372/16 377/15
<b>ollar [1]</b> 360/6	585/9 590/5	377/20 382/25
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480/17 486/2  
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 549/25 551/21  
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 574/19 574/20  
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**name [26]**

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<b>N</b>	<b>necessarily [5]</b>	526/2 537/14
<b>name... [4]</b>	350/7 351/1	557/16 607/3
482/12 512/21	357/7 558/9	618/8 618/20
513/22 514/4	612/14	<b>needed [5]</b>
<b>named [1]</b>	<b>necessary [23]</b>	355/18 385/14
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<b>national [1]</b>	619/5 619/7	570/23
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<b>natural [1]</b>	619/24 619/25	583/11
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<b>nature [8]</b>	620/11 637/7	548/8 548/9
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533/20 624/1	642/9	<b>neither [6]</b>
<b>near [3]</b>	<b>need [18]</b>	356/20 382/9
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582/6	358/15 359/6	572/3 604/1
<b>neared [2]</b>	360/9 362/24	<b>nervous [2]</b>
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<b>nearing [1]</b>	466/23 467/12	<b>network [2]</b>
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<p><b>N</b></p> <p><b>neuroscience</b> [5] 424/6 424/14 424/16 431/10 437/10</p> <p><b>never</b> [23] 346/16 346/19 368/1 368/8 368/22 384/17 393/19 393/20 405/9 405/12 405/16 499/6 502/7 504/25 522/14 524/18 541/14 558/17 593/8 613/2 614/18 614/20 634/20</p> <p><b>nevertheless</b> [1] 497/4</p> <p><b>new</b> [46] 343/8 375/18 384/16 432/11 445/16 445/19 445/23</p>	<p>448/9 448/14 451/6 479/3 480/12 503/3 503/15 504/1 515/14 523/18 529/16 533/16 533/17 534/1 534/17 536/25 542/3 542/14 555/1 556/17 557/6 557/10 557/15 559/21 559/24 560/7 561/1 564/11 566/2 566/3 574/21 576/13 576/16 581/19 588/3 614/7 620/14 629/5 643/10</p> <p><b>New</b></p> <p><b>Brunswick</b> [3] 515/14 542/3 542/14</p>	<p><b>next</b> [18] 376/13 378/10 379/21 381/5 411/14 416/20 452/9 452/13 452/13 458/8 464/25 502/3 517/4 520/4 530/11 530/24 553/17 646/20</p> <p><b>NIKHIL</b> [1] 335/8</p> <p><b>nine</b> [1] 544/16</p> <p><b>no</b> [192] 333/6 340/11 342/17 343/11 345/2 345/19 350/17 356/8 356/12 360/9 361/18 362/24 363/6 363/11 363/13 363/18 363/20 369/1 369/12 369/21 370/15</p>
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<b>N</b>	438/6 438/7	514/15 515/4
<b>no... [171]</b>	440/6 440/9	515/24 516/8
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396/24 397/22	467/18 477/24	552/15 553/19
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403/20 404/24	494/16 497/7	557/18 558/10
404/25 406/23	497/15 498/10	562/8 562/18
407/11 408/21	498/18 503/10	564/17 565/22
408/24 409/15	503/20 504/3	569/5 571/20
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412/19 414/1	506/16 507/6	575/2 576/17
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419/12 419/13	507/16 509/10	577/15 577/17
420/23 420/25	509/22 510/17	577/21 577/23
432/19 434/2	511/7 512/1	580/9 580/10
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<p><b>N</b></p> <hr/> <p><b>no..... [31]</b>  598/5 598/11  601/24 606/8  607/13 607/13  607/20 607/20  608/10 608/15  611/12 612/22  613/22 618/8  618/20 619/6  624/2 624/8  626/14 627/1  628/12 629/16  630/16 642/25  645/5 646/13  646/17 646/24  647/5 648/3  648/11</p> <p><b>No. [11]</b> 406/3  406/5 410/14  411/4 463/5  489/18 489/19  491/17 557/12  557/23 615/23</p>	<p><b>No. 1 [4]</b> 406/3  489/18 489/19  491/17</p> <p><b>No. 18 [2]</b>  557/12 557/23</p> <p><b>No. 2 [1]</b> 463/5</p> <p><b>No. 45 [1]</b>  615/23</p> <p><b>NOBLES [10]</b>  337/13 438/15  438/16 438/20  438/21 439/6  439/14 440/7  440/14 452/5</p> <p><b>nobody [2]</b>  598/6 614/11</p> <p><b>NOC [27]</b>  456/24 471/18  472/11 472/13  472/14 472/17  472/20 472/24  473/3 477/5  477/6 477/10  477/13 477/15</p>	<p>478/1 483/18  483/21 483/24  484/4 485/19  486/1 486/7  487/2 487/20  488/1 488/8  488/14</p> <p><b>non [42]</b> 347/8  386/15 386/17  389/4 472/5  473/24 474/18  474/23 476/21  476/25 477/8  477/20 491/1  491/5 495/21  496/8 496/9  497/17 497/22  618/23 636/8  637/8 637/24  638/11 638/18  638/20 638/24  639/15 639/18  640/4 640/10  642/13 643/5</p>
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<p><b>N</b></p> <p><b>non... [9]</b>  643/11 643/18  643/20 643/21  644/7 644/8  648/22 651/1  651/4</p> <p><b>non-obvious [16]</b>  386/15  386/17 389/4  638/18 638/20  638/24 643/5  643/11 643/18  643/20 643/21  644/7 644/8  648/22 651/1  651/4</p> <p><b>non-obviousness [12]</b>  472/5  473/24 618/23  636/8 637/8  637/24 638/11  639/15 639/18  640/4 640/10</p>	<p>642/13</p> <p><b>non-pharma [11]</b>  474/18  474/23 476/21  476/25 477/8  477/20 491/1  496/8 496/9  497/17 497/22</p> <p><b>non-pharmaceutical [2]</b>  491/5  495/21</p> <p><b>none [11]</b>  456/12 471/7  527/5 528/19  528/20 540/21  577/1 607/17  607/17 611/25  646/21</p> <p><b>nonetheless [7]</b>  368/1  370/23 386/17  520/8 522/6  630/7 650/3</p> <p><b>norepinephrine [2]</b>  508/5</p>	<p>508/12</p> <p><b>normal [4]</b>  516/5 516/7  533/20 616/23</p> <p><b>normally [2]</b>  457/24 567/23</p> <p><b>Norman [5]</b>  335/22 337/18  512/19 512/22  515/13</p> <p><b>NORTH [1]</b>  333/3</p> <p><b>Norton [1]</b>  553/1</p> <p><b>not [410]</b></p> <p><b>notable [1]</b>  482/20</p> <p><b>note [12]</b>  343/4 427/25  452/13 494/13  502/21 505/22  563/5 581/21  581/22 582/6  582/16 584/13</p>
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<p><b>N</b></p> <p><b>noted [7]</b>  340/9 414/24  485/2 569/8  584/9 597/17  649/21</p> <p><b>notes [66]</b>  343/9 457/6  457/9 457/11  457/16 457/20  457/25 458/4  458/6 458/12  458/15 458/22  459/6 459/13  459/13 459/15  460/2 460/9  460/12 460/17  460/19 460/24  461/3 461/5  461/14 461/19  461/19 462/14  463/1 465/4  465/7 465/8  465/13 465/14</p>	465/18 465/22 465/22 466/1 466/5 466/8 466/10 466/22 466/23 466/23 467/3 467/10 467/11 467/12 467/15 467/18 467/25 468/2 468/5 468/5 468/12 468/13 469/20 469/24 470/2 470/8 481/13 515/5 527/19 540/4 540/5 549/24 <p><b>nothing [17]</b>  338/8 339/6  342/21 352/21  395/10 396/13  420/13 439/13  454/1 525/21  535/7 535/10  536/25 596/6</p>	607/21 610/7 611/11 <p><b>notice [2]</b>  364/9 482/25</p> <p><b>notion [1]</b>  603/2</p> <p><b>novel [4]</b>  386/14 386/16  389/3 389/3</p> <p><b>novelty [2]</b>  472/6 473/24</p> <p><b>November [3]</b>  364/10 366/10  441/6</p> <p><b>November 10</b>  <b>[1]</b> 366/10</p> <p><b>November</b>  <b>1999 [1]</b> 441/6</p> <p><b>November 7</b>  <b>[1]</b> 364/10</p> <p><b>Novopharm [1]</b>  370/4</p> <p><b>now [99]</b>  341/22 349/11</p>
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<p><b>N</b></p> <p><b>now... [97]</b></p> <p>354/1 358/22  361/10 363/24  373/12 373/13  374/5 375/4  395/12 397/18  398/3 400/5  400/17 408/1  412/25 419/15  435/24 436/10  438/9 446/22  447/21 452/6  454/23 455/9  455/10 458/8  459/2 459/24  460/5 460/6  460/14 461/16  461/24 462/3  462/15 462/20  463/10 464/25  465/14 468/2  468/2 470/14  474/12 480/25</p>	<p>483/20 487/7  488/16 498/1  499/22 503/6  503/11 510/9  512/12 518/16  519/25 520/4  520/23 522/18  524/21 524/21  533/11 534/12  537/1 544/21  548/8 549/7  550/11 562/24  565/12 571/23  572/21 574/11  574/23 579/21  582/23 583/14  585/14 587/7  588/2 589/16  592/17 596/22  597/13 598/18  599/16 602/23  603/3 603/10  605/11 608/6  613/10 617/9</p>	<p>621/14 627/7  627/8 633/3  639/8</p> <p><b>number [35]</b></p> <p>340/7 343/6  344/16 360/3  363/15 388/11  393/1 411/13  428/21 430/1  433/3 456/10  456/17 471/5  471/12 471/23  472/3 472/8  472/23 490/19  490/20 491/5  491/10 491/11  491/12 529/11  530/16 532/9  554/16 579/8  595/1 606/23  647/6 647/8  647/14</p> <p><b>numbered [1]</b></p> <p>435/23</p>
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<p><b>P</b></p> <p><b>paragraph...</b>  <b>[22]</b> 591/1  591/21 602/24  604/7 610/14  610/15 620/23  620/25 621/24  632/7 632/13  638/4 639/3  639/15 641/18  642/24 642/25  644/11 646/7  646/21 648/3  649/15</p> <p><b>Paragraph 1</b>  <b>[2]</b> 346/12  500/11</p> <p><b>Paragraph 10</b>  <b>[3]</b> 405/3  413/3 413/15</p> <p><b>Paragraph 109</b>  <b>[1]</b> 602/24</p> <p><b>Paragraph 11</b>  <b>[3]</b> 342/3</p>	<p>342/7 342/13</p> <p><b>Paragraph 114</b>  <b>[1]</b> 648/3</p> <p><b>Paragraph 117</b>  <b>[1]</b> 379/9</p> <p><b>Paragraph 118</b>  <b>[1]</b> 380/24</p> <p><b>Paragraph 120</b>  <b>[1]</b> 379/21</p> <p><b>Paragraph 13</b>  <b>[3]</b> 364/25  365/3 641/18</p> <p><b>Paragraph 15</b>  <b>[1]</b> 382/23</p> <p><b>Paragraph 154</b>  <b>[1]</b> 343/4</p> <p><b>Paragraph 155</b>  <b>[1]</b> 343/9</p> <p><b>Paragraph 16</b>  <b>[2]</b> 365/8  365/22</p> <p><b>Paragraph 163</b>  <b>[1]</b> 381/14</p> <p><b>Paragraph 19</b>  <b>[3]</b> 340/8</p>	<p>427/24 620/25</p> <p><b>Paragraph 2</b>  <b>[1]</b> 500/6</p> <p><b>Paragraph 21</b>  <b>[4]</b> 340/5  340/8 423/1  440/1</p> <p><b>Paragraph 22</b>  <b>[4]</b> 376/6  376/19 377/14  487/24</p> <p><b>Paragraph 23</b>  <b>[4]</b> 378/11  384/14 589/24  590/8</p> <p><b>Paragraph 24</b>  <b>[1]</b> 384/15</p> <p><b>Paragraph 25</b>  <b>[1]</b> 384/16</p> <p><b>Paragraph 26</b>  <b>[2]</b> 450/8  529/10</p> <p><b>Paragraph 260</b>  <b>[1]</b> 646/7</p>
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<p><b>P</b></p> <p><b>Paragraph 27</b> [2] 403/4 410/9</p> <p><b>Paragraph 273</b> [2] 366/15 366/17</p> <p><b>Paragraph 29</b> [1] 430/23</p> <p><b>Paragraph 3</b> [5] 349/11 483/5 483/8 483/11 489/2</p> <p><b>Paragraph 30</b> [1] 604/7</p> <p><b>Paragraph 33</b> [1] 526/4</p> <p><b>Paragraph 40</b> [3] 527/8 527/17 583/21</p> <p><b>Paragraph 41</b> [4] 502/18 502/20 503/1 504/16</p>	<p><b>Paragraph 42</b> [1] 632/7</p> <p><b>Paragraph 44</b> [2] 356/19 357/3</p> <p><b>Paragraph 45</b> [1] 591/1</p> <p><b>Paragraph 456</b> [2] 496/16 496/18</p> <p><b>Paragraph 47</b> [1] 591/21</p> <p><b>Paragraph 48</b> [1] 621/24</p> <p><b>Paragraph 49</b> [1] 638/4</p> <p><b>Paragraph 5</b> [5] 347/16 348/9 400/17 404/15 500/25</p> <p><b>Paragraph 51</b> [1] 340/21</p> <p><b>Paragraph 53</b> [1] 340/25</p>	<p><b>Paragraph 54</b> [2] 533/11 642/24</p> <p><b>Paragraph 6</b> [3] 414/3 417/15 574/6</p> <p><b>Paragraph 60</b> [2] 341/23 341/25</p> <p><b>Paragraph 61</b> [4] 589/15 639/3 639/15 644/11</p> <p><b>Paragraph 62</b> [1] 505/19</p> <p><b>Paragraph 64</b> [1] 642/25</p> <p><b>Paragraph 69</b> [1] 584/22</p> <p><b>Paragraph 7</b> [1] 347/6</p> <p><b>Paragraph 72</b> [2] 561/12 562/4</p>
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<b>P</b>	647/23	403/8 403/9
<b>Paragraph 8</b> [5] 409/16	<b>paralegal</b> [1] 454/19	404/11 409/17
415/12 416/6	<b>paralegals</b> [3]	422/16 422/16
416/16 495/14	463/16 464/7	423/15 423/18
<b>Paragraph 9</b> [1] 416/7	469/11	424/20 425/1
<b>Paragraph 91</b> [1] 534/12	<b>parallel</b> [2] 609/24 638/12	425/2 425/7
<b>Paragraph 98</b> [1] 536/8	<b>paramount</b> [1] 618/7	428/4 430/2
<b>Paragraph Mr. Dimock</b> [1] 533/12	<b>paraphrases</b> [1] 537/19	437/20 442/8
<b>paragraph on</b> [1] 564/25	<b>park</b> [2] 334/12 517/1	482/20 495/12
<b>paragraphs</b> [14] 340/18	<b>parked</b> [1] 517/11	499/5 499/24
341/22 342/23	<b>parsing</b> [3] 632/4 633/20	502/4 535/13
364/20 380/25	633/25	539/16 540/22
384/13 501/4	<b>part</b> [59] 347/14 347/15	546/19 556/7
520/19 526/10	367/2 367/4	563/20 565/19
537/2 537/3	372/21 378/8	576/10 580/15
591/16 647/21	387/2 387/3	582/12 583/25
		584/9 588/11
		588/18 588/22
		594/13 602/13
		603/6 603/8
		608/8 615/2
		620/7 620/10
		632/3 639/19
		640/15 644/14

<p><b>P</b></p> <p><b>part... [3]</b> 647/16 647/17 647/20</p> <p><b>participated [1]</b> 482/17</p> <p><b>particle [1]</b> 608/20</p> <p><b>particles [1]</b> 609/16</p> <p><b>particular [37]</b> 341/23 344/19 353/12 355/23 363/17 369/14 416/18 433/4 436/12 443/13 475/12 493/10 501/18 501/19 502/2 502/2 510/20 516/12 517/3 518/21 521/11 523/19 525/1 526/11 526/21 530/17</p>	<p>537/8 542/9 545/7 555/8 556/4 580/10 596/4 599/11 614/1 619/22 648/18</p> <p><b>particularly [11]</b> 349/14 353/16 354/13 360/22 394/18 425/10 488/25 531/21 590/21 599/2 646/8</p> <p><b>parties [13]</b> 461/3 469/1 469/8 502/15 547/10 547/25 548/6 548/13 548/21 548/23 567/17 570/10 634/15</p> <p><b>partner [1]</b> 582/4</p> <p><b>parts [7]</b> 348/8</p>	<p>585/8 587/10 587/15 596/24 602/12 602/14</p> <p><b>party [3]</b> 466/24 501/16 536/2</p> <p><b>pass [1]</b> 462/2</p> <p><b>passage [51]</b> 526/21 536/17 585/2 585/4 585/5 586/2 586/13 586/14 586/25 587/2 587/6 588/10 588/25 590/16 590/19 591/6 591/21 592/1 593/6 594/9 594/10 595/20 596/4 597/4 597/18 597/19 599/15 600/18 600/20 601/3 601/5 601/9</p>
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<p><b>P</b></p> <p><b>passage... [19]</b>  601/11 602/2  602/4 602/25  605/18 605/24  607/18 607/22  608/4 608/7  609/8 609/9  609/12 615/22  621/7 630/15  641/24 642/10  644/10</p> <p><b>passages [4]</b>  580/18 606/3  622/16 628/22</p> <p><b>passed [1]</b>  447/6</p> <p><b>past [2]</b> 459/15  517/16</p> <p><b>patent [597]</b>  <b>Patent Act [7]</b>  394/13 520/25  521/3 554/20  555/18 556/15</p>	<p>635/21</p> <p><b>Patent Committee [2]</b>  414/25 415/3</p> <p><b>Patent Cooperation [1]</b> 384/2</p> <p><b>patent' [1]</b>  503/2</p> <p><b>patent's [3]</b>  370/5 372/7  641/19</p> <p><b>patent-related [1]</b> 449/4</p> <p><b>patentability [6]</b> 358/9  415/15 427/6  435/8 503/9  636/3</p> <p><b>patentable [5]</b>  358/10 368/3  389/3 520/1  520/3</p> <p><b>patented [7]</b></p>	<p>482/25 504/6  504/17 505/17  510/20 523/22  603/2</p> <p><b>patentee [10]</b>  379/19 472/15  520/23 527/18  570/14 573/2  583/6 616/4  633/15 638/16</p> <p><b>patentees [5]</b>  371/16 550/12  588/12 616/6  633/8</p> <p><b>patenting [2]</b>  388/19 593/12</p> <p><b>patents [152]</b>  340/23 341/3  341/15 341/17  342/5 342/15  342/16 343/16  343/23 344/13  348/1 348/15  348/19 349/6</p>
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<p><b>P</b></p> <p><b>patents... [138]</b></p> <p>349/23 350/25</p> <p>351/13 354/21</p> <p>354/23 355/11</p> <p>355/13 355/21</p> <p>355/22 356/6</p> <p>356/18 357/17</p> <p>360/8 360/10</p> <p>360/25 361/5</p> <p>364/25 371/17</p> <p>374/12 375/18</p> <p>378/20 380/10</p> <p>384/3 386/15</p> <p>391/23 391/23</p> <p>392/6 392/11</p> <p>398/12 399/1</p> <p>399/3 399/7</p> <p>400/14 401/5</p> <p>401/9 401/19</p> <p>401/24 402/11</p> <p>402/13 403/22</p> <p>407/22 410/22</p> <p>412/18 413/25</p>	<p>415/1 415/5</p> <p>415/5 415/9</p> <p>416/2 416/3</p> <p>416/10 417/2</p> <p>417/7 419/2</p> <p>419/3 422/23</p> <p>423/10 425/4</p> <p>426/14 432/15</p> <p>432/23 442/14</p> <p>444/11 444/21</p> <p>445/24 447/4</p> <p>447/13 455/25</p> <p>456/4 470/20</p> <p>470/25 473/6</p> <p>473/10 473/12</p> <p>473/22 474/15</p> <p>475/6 475/13</p> <p>477/25 478/12</p> <p>478/20 489/8</p> <p>490/2 490/7</p> <p>490/17 490/20</p> <p>490/23 491/1</p> <p>491/5 491/9</p> <p>491/16 491/17</p>	<p>491/18 492/8</p> <p>492/9 493/9</p> <p>493/11 493/13</p> <p>493/22 494/25</p> <p>495/5 502/22</p> <p>502/23 503/8</p> <p>504/15 504/16</p> <p>506/13 507/3</p> <p>510/2 510/11</p> <p>511/9 511/13</p> <p>516/3 518/17</p> <p>519/24 523/20</p> <p>524/25 525/10</p> <p>530/16 530/18</p> <p>530/19 531/22</p> <p>539/19 543/18</p> <p>545/7 554/11</p> <p>563/22 568/12</p> <p>580/13 594/11</p> <p>635/13 636/21</p> <p>641/7 641/13</p> <p>641/21 642/2</p> <p>642/7 651/3</p> <p><b>patients [2]</b></p>
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<b>P</b>	518/25	<b>perhaps [13]</b>
<b>patients... [2]</b> 386/4 504/2	<b>per [6]</b> 416/4 472/23 493/17	360/23 390/7 400/4 433/5
<b>pay [1]</b> 358/20	614/18 614/24	470/10 484/9
<b>PCT [9]</b> 378/16	619/19	542/22 545/1
417/19 417/24	<b>per se [4]</b>	552/21 557/7
417/25 418/3	493/17 614/18	562/6 605/11
418/5 418/10	614/24 619/19	640/18
418/17 418/21	<b>percent [11]</b>	<b>period [19]</b>
<b>peak [1]</b> 474/1	473/2 476/1	401/14 402/12
<b>peaked [1]</b>	476/3 479/17	456/12 456/13
473/20	480/4 480/11	471/7 471/8
<b>Pearson [1]</b>	480/13 492/3	471/24 472/1
336/12	492/13 531/6	472/2 472/4
<b>peculiar [2]</b>	598/2	472/10 473/3
646/18 646/23	<b>percentage [4]</b>	473/8 479/5
<b>pending [1]</b>	479/23 479/25	480/2 480/11
362/15	480/7 480/14	480/16 489/21
<b>Pennsylvania</b>	<b>perfectly [1]</b>	540/18
[1] 335/12	517/2	<b>perpetual [2]</b>
<b>penultimate [1]</b>	<b>performed [1]</b>	518/12 528/1
423/2	511/21	<b>perplexed [2]</b>
<b>people [3]</b>	<b>performing [1]</b>	378/11 384/14
459/15 498/1	509/9	<b>perplexing [2]</b>

<p><b>P</b></p> <p><b>perplexing...</b> [2] 385/3 386/13</p> <p><b>person [32]</b> 381/19 381/20 404/2 404/4 404/11 418/9 418/19 425/15 486/14 508/23 531/23 568/13 571/14 613/25 614/7 614/12 615/18 617/14 624/6 624/11 624/14 625/13 625/14 625/15 625/17 628/11 629/18 629/19 629/22 630/4 630/9 630/11</p> <p><b>personal [4]</b> 506/5 509/7 511/7 551/21</p>	<p><b>personally [2]</b> 352/12 418/19</p> <p><b>personnel [1]</b> 404/18</p> <p><b>persons [1]</b> 415/8</p> <p><b>perspective [4]</b> 456/18 471/13 479/22 563/17</p> <p><b>persuaded [1]</b> 522/3</p> <p><b>pertinent [2]</b> 507/6 507/13</p> <p><b>PETER [3]</b> 337/8 395/16 395/20</p> <p><b>Pexcor [3]</b> 500/8 500/19 501/2</p> <p><b>Pfizer [2]</b> 485/3 485/17</p> <p><b>pharma [41]</b> 455/25 456/4 456/10 456/23</p>	<p>470/20 471/5 471/14 471/17 471/23 472/12 472/18 472/20 472/25 473/6 473/9 473/22 474/15 474/18 474/23 475/6 475/13 476/6 476/21 476/25 477/8 477/8 477/11 477/14 477/20 477/20 477/25 478/12 478/20 484/1 487/18 491/1 496/8 496/9 497/17 497/22 497/22</p> <p><b>pharmaceutica</b> <b>l [20]</b> 344/24 360/23 361/4 361/7 416/1 417/7 456/20</p>
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<p><b>P</b></p> <p><b>pharmaceutica</b> <b>l... [13]</b> 470/24 474/16 490/20 491/5 491/9 491/19 492/11 493/7 495/21 523/20 524/2 542/10 549/8</p> <p><b>pharmaceutica</b> <b>ls [4]</b> 418/15 523/21 524/18 524/19</p> <p><b>pharmacologic</b> <b>al [1]</b> 394/24</p> <p><b>pharmacology</b> <b>[2]</b> 375/25 394/22</p> <p><b>phase [3]</b> 343/2 442/2 442/3</p> <p><b>Phase II [1]</b> 442/2</p> <p><b>Phase III [1]</b></p>	<p>442/3</p> <p><b>Philip [1]</b> 335/23</p> <p><b>phrase [6]</b> 491/14 537/25 558/16 558/17 599/11 601/1</p> <p><b>physical [1]</b> 529/2</p> <p><b>pick [1]</b> 650/24</p> <p><b>piece [5]</b> 359/2 476/15 476/17 476/18 476/20</p> <p><b>pillars [1]</b> 543/18</p> <p><b>pitch [1]</b> 557/11</p> <p><b>place [3]</b> 506/2 506/17 651/12</p> <p><b>places [1]</b> 606/23</p> <p><b>plain [3]</b> 588/4 618/7 618/19</p> <p><b>plaintiff [2]</b></p>	<p>501/1 501/5</p> <p><b>plan [2]</b> 425/1 425/3</p> <p><b>plane [1]</b> 517/10</p> <p><b>planning [4]</b> 424/15 424/20 424/24 543/22</p> <p><b>plans [1]</b> 499/3</p> <p><b>Plavix [5]</b> 549/20 549/22 627/16 627/17 629/7</p> <p><b>play [2]</b> 493/10 493/13</p> <p><b>played [1]</b> 562/18</p> <p><b>pleadings [3]</b> 547/25 548/20 548/23</p> <p><b>please [64]</b> 338/13 338/19 339/12 339/19 340/13 342/7</p>
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<p><b>P</b></p> <p><b>please... [58]</b></p> <p>362/14 382/14</p> <p>395/18 396/1</p> <p>397/3 397/12</p> <p>397/25 408/9</p> <p>413/8 419/20</p> <p>420/1 420/15</p> <p>435/2 438/18</p> <p>439/1 439/15</p> <p>440/12 440/21</p> <p>453/6 453/13</p> <p>454/13 455/13</p> <p>470/15 481/11</p> <p>512/21 513/4</p> <p>513/18 515/8</p> <p>515/10 528/23</p> <p>538/21 539/5</p> <p>540/1 560/22</p> <p>562/4 562/11</p> <p>567/8 575/5</p> <p>578/3 579/12</p> <p>580/19 581/3</p> <p>589/21 590/23</p>	<p>591/19 593/9</p> <p>596/15 597/11</p> <p>605/12 606/2</p> <p>615/21 621/6</p> <p>623/21 625/20</p> <p>627/9 639/1</p> <p>646/6 649/11</p> <p><b>pleased [2]</b></p> <p>463/23 464/15</p> <p><b>PM [27]</b> 456/24</p> <p>471/18 472/11</p> <p>472/13 472/14</p> <p>472/17 472/20</p> <p>472/24 473/3</p> <p>477/5 477/6</p> <p>477/10 477/13</p> <p>477/15 478/1</p> <p>483/18 483/21</p> <p>483/24 484/4</p> <p>485/19 486/1</p> <p>486/7 487/2</p> <p>487/20 488/1</p> <p>488/8 488/14</p> <p><b>point [46]</b></p>	<p>338/7 346/3</p> <p>358/6 361/18</p> <p>370/25 371/15</p> <p>375/22 387/21</p> <p>415/21 441/11</p> <p>447/6 449/11</p> <p>460/5 460/10</p> <p>464/19 488/12</p> <p>527/25 534/18</p> <p>535/2 564/11</p> <p>574/12 576/14</p> <p>576/15 579/2</p> <p>581/6 595/9</p> <p>597/13 597/20</p> <p>607/4 607/16</p> <p>608/19 609/6</p> <p>610/24 612/4</p> <p>624/4 624/17</p> <p>624/23 625/13</p> <p>628/13 629/20</p> <p>629/23 630/1</p> <p>631/20 632/23</p> <p>633/17 650/12</p> <p><b>pointed [5]</b></p>
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<p><b>P</b></p> <p><b>pointed... [5]</b> 530/20 576/20 576/23 577/19 596/5</p> <p><b>pointing [1]</b> 384/5</p> <p><b>points [3]</b> 527/24 529/8 562/24</p> <p><b>policed [1]</b> 521/3</p> <p><b>policies [1]</b> 482/15</p> <p><b>policy [8]</b> 347/20 349/1 482/4 482/8 482/8 482/13 482/13 626/21</p> <p><b>polymer [1]</b> 500/22</p> <p><b>popular [2]</b> 419/4 454/19</p> <p><b>portfolio [3]</b></p>	<p>347/18 348/12 426/21</p> <p><b>portion [6]</b> 422/12 422/19 422/22 422/23 423/5 498/19</p> <p><b>portrait [2]</b> 456/19 471/14</p> <p><b>position [17]</b> 399/11 401/10 423/21 424/9 441/8 441/14 441/17 445/19 446/16 455/19 465/25 487/10 589/8 620/20 622/9 628/1 633/22</p> <p><b>positions [2]</b> 421/24 441/23</p> <p><b>possess [1]</b> 647/7</p> <p><b>possesses [1]</b> 435/24</p>	<p><b>possibility [5]</b> 350/17 358/14 363/12 369/4 462/25</p> <p><b>possible [16]</b> 346/4 367/17 369/1 387/8 445/21 517/19 534/9 538/12 550/24 551/24 558/11 603/3 603/4 615/17 617/9 648/23</p> <p><b>Possibly [1]</b> 503/23</p> <p><b>post [21]</b> 371/18 387/15 471/24 472/3 472/9 473/3 474/18 489/21 490/3 515/14 516/11 516/13 518/7 519/4 519/7 519/8</p>
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<b>P</b>	<b>potential [7]</b>	467/2 488/1
<b>post... [5]</b>	357/20 360/5	523/21 535/6
519/21 524/25	369/22 428/10	535/10 535/14
534/17 591/25	442/22 444/20	535/22 536/1
649/21	449/16	536/3 572/7
<b>post-2005 [5]</b>	<b>potentially [1]</b>	593/23 615/3
472/9 473/3	524/23	615/8
474/18 489/21	<b>potentiating</b>	<b>practice [8]</b>
490/3	<b>[2]</b> 566/8	343/20 356/3
<b>post-filing [10]</b>	570/18	363/9 405/13
371/18 516/11	<b>PowerPoint</b>	433/23 578/6
516/13 518/7	<b>[14]</b> 458/21	583/9 632/2
519/4 519/7	458/23 459/6	<b>practices [6]</b>
519/8 524/25	461/12 462/7	342/1 342/2
534/17 591/25	462/13 463/7	342/4 342/6
<b>POSTLETHWA</b>	463/9 463/10	356/14 400/2
<b>IT [9]</b> 337/11	469/12 469/21	<b>practitioner [3]</b>
419/16 419/18	469/22 470/1	579/8 582/2
419/22 419/23	470/7	583/1
420/6 420/15	<b>Pozzoli [1]</b>	<b>practitioner's</b>
421/6 438/9	619/9	<b>[1]</b> 584/25
<b>Postlethwait's</b>	<b>practical [17]</b>	<b>practitioners</b>
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<b>reduced... [1]</b> 535/25	413/9 525/25 590/19	490/12
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<p><b>R</b></p> <p><b>relative [2]</b> 368/5 371/22</p> <p><b>relatively [2]</b> 364/4 642/20</p> <p><b>released [8]</b> 373/1 373/9 395/12 406/13 419/15 438/9 452/7 512/12</p> <p><b>relevance [1]</b> 497/15</p> <p><b>relevant [15]</b> 350/14 442/14 479/8 479/12 487/9 507/16 509/18 603/8 610/11 610/12 642/2 645/18 645/20 646/21 650/13</p> <p><b>reliable [1]</b> 344/2</p> <p><b>reliance [1]</b></p>	<p>444/14</p> <p><b>relied [13]</b> 444/9 444/10 474/17 474/18 475/2 475/22 476/9 477/4 484/4 509/14 518/3 554/15 554/18</p> <p><b>relies [1]</b> 586/3</p> <p><b>reluctant [1]</b> 358/24</p> <p><b>rely [2]</b> 458/19 588/10</p> <p><b>relying [3]</b> 383/1 433/22 443/20</p> <p><b>remain [3]</b> 345/24 372/17 478/9</p> <p><b>remained [3]</b> 399/10 401/8 401/10</p> <p><b>remains [1]</b></p>	<p>491/6</p> <p><b>remand [2]</b> 365/10 365/23</p> <p><b>remarked [1]</b> 563/7</p> <p><b>remarks [1]</b> 537/23</p> <p><b>remedial [1]</b> 593/11</p> <p><b>remedies [2]</b> 515/16 515/18</p> <p><b>remember [14]</b> 394/3 403/15 407/5 407/6 407/11 407/17 407/18 407/21 488/22 493/12 542/18 579/9 586/6 600/11</p> <p><b>remembered [1]</b> 472/14</p> <p><b>remotely [1]</b> 432/20</p> <p><b>render [6]</b></p>
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<b>render...</b> [6] 429/13 430/4	<b>replaced</b> [1] 626/18	534/22 535/1 535/12 535/17
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<b>rendered</b> [3] 383/23 564/2	<b>report</b> [83] 347/22 350/3	561/11 561/11 562/3 563/18
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<p><b>R</b></p> <p><b>report... [3]</b> 632/6 638/4 638/8</p> <p><b>reported [2]</b> 383/17 386/6</p> <p><b>reporter [3]</b> 457/17 525/19 581/23</p> <p><b>reporters [2]</b> 334/21 595/5</p> <p><b>Reporting [1]</b> 334/23</p> <p><b>reports [16]</b> 347/17 348/10 348/14 348/24 506/10 532/25 539/4 539/8 539/10 539/14 539/17 540/17 577/20 586/4 597/2 631/7</p> <p><b>represent [4]</b> 472/1 472/2</p>	<p>472/11 599/4</p> <p><b>represented [2]</b> 373/13 472/21</p> <p><b>representing [1]</b> 434/6</p> <p><b>represents [4]</b> 472/19 520/14 590/20 599/4</p> <p><b>reproduce [3]</b> 592/10 600/4 605/19</p> <p><b>reproduced [6]</b> 477/22 590/16 592/22 596/19 596/25 597/20</p> <p><b>reproduces [1]</b> 602/18</p> <p><b>request [1]</b> 353/7</p> <p><b>requests [1]</b> 513/12</p> <p><b>require [4]</b> 387/16 457/15</p>	<p>459/11 622/6</p> <p><b>required [14]</b> 380/3 390/23 391/2 392/3 459/10 516/8 519/14 520/9 520/15 565/14 570/13 637/13 638/17 648/15</p> <p><b>requirement [36]</b> 344/12 344/24 371/3 377/22 378/5 379/17 384/16 385/11 386/18 473/18 474/9 486/13 521/19 521/21 522/18 524/7 527/24 537/5 546/8 554/21 561/14 562/21 564/23 571/4 572/16 573/17 575/19</p>
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<p><b>R</b></p> <p><b>requirement...</b>  <b>[9]</b> 577/7  582/11 586/14  613/23 635/12  637/15 638/11  640/25 651/2</p> <p><b>requirements</b>  <b>[10]</b> 343/8  358/9 403/17  472/5 516/3  522/25 523/3  572/22 635/23  636/2</p> <p><b>requires [3]</b>  563/9 569/19  621/11</p> <p><b>requiring [5]</b>  624/5 624/18  625/18 633/15  645/20</p> <p><b>requisite [1]</b>  582/15</p> <p><b>research [22]</b></p>	<p>376/25 398/13  403/10 404/6  404/17 410/10  506/2 506/10  506/17 509/8  509/13 510/6  510/23 511/2  511/7 511/17  511/23 511/24  515/17 542/6  545/2 546/1</p> <p><b>researching [1]</b>  507/21</p> <p><b>resolve [1]</b>  461/5</p> <p><b>resolved [2]</b>  468/17 470/14</p> <p><b>respect [21]</b>  339/2 348/1  348/21 369/14  380/14 384/1  385/9 385/13  399/7 420/8  456/4 470/24</p>	<p>474/14 526/16  529/19 533/17  572/7 573/8  646/15 647/1  647/4</p> <p><b>respected [1]</b>  579/11</p> <p><b>respectful [1]</b>  382/25</p> <p><b>respond [10]</b>  355/25 392/1  529/18 533/16  537/12 580/21  586/1 605/8  606/1 607/19</p> <p><b>responded [3]</b>  529/22 574/3  583/16</p> <p><b>Respondent</b>  <b>[21]</b> 333/13  336/3 338/8  345/4 395/10  397/4 421/4  440/13 452/12</p>
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<b>R</b>	<b>responsibility</b>	<b>result [9]</b>
<b>Respondent...</b> [12] 453/11 455/3 461/23 463/25 464/18 466/13 467/8 468/13 470/2 489/16 512/9 539/1	[15] 343/19 349/13 350/10 352/4 353/24 354/2 355/16 380/13 401/15 410/1 411/24 442/2 445/1 445/9 446/24	386/11 432/11 496/20 501/2 520/12 572/7 580/16 580/16 637/23
<b>responding [2]</b> 465/11 585/1	<b>responsible [7]</b> 353/17 353/19	<b>resulted [2]</b> 354/20 355/10
<b>response [7]</b> 362/16 434/7 435/17 526/17 527/14 534/20 592/15	422/8 424/15 441/24 442/13 449/15	<b>results [17]</b> 375/25 558/15 558/21 558/24 579/24 580/2 580/4 580/9 580/13 583/7
<b>responses [1]</b> 380/8	<b>responsive [1]</b> 343/11	584/15 603/21 604/10 625/17 634/21 634/21
<b>responsibilitie s [9]</b> 404/12 409/18 424/13 441/22 444/5 445/5 445/16 447/7 543/9	<b>restate [1]</b> 362/17	634/25
	<b>restatements</b> [1] 362/2	<b>resume [2]</b> 481/1 481/5
	<b>restating [2]</b> 361/23 362/10	<b>retain [1]</b> 628/6
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<p><b>R</b></p> <p><b>retained... [1]</b> 540/2</p> <p><b>retired [4]</b> 399/11 417/8 424/10 441/15</p> <p><b>retrieved [1]</b> 478/25</p> <p><b>return [2]</b> 626/20 626/21</p> <p><b>returned [1]</b> 424/2</p> <p><b>reuptake [2]</b> 508/5 508/13</p> <p><b>reversed [2]</b> 519/9 519/10</p> <p><b>review [17]</b> 342/11 352/25 455/23 456/2 461/21 462/25 470/18 470/22 474/12 475/1 481/12 488/10 546/7 547/24</p>	<p>548/22 575/17 576/14</p> <p><b>reviewed [7]</b> 456/23 471/17 474/17 479/7 480/5 548/20 584/23</p> <p><b>reviewing [3]</b> 340/2 412/4 547/23</p> <p><b>reviews [1]</b> 569/16</p> <p><b>revisit [1]</b> 650/6</p> <p><b>revoked [1]</b> 518/17</p> <p><b>Rice [1]</b> 535/18</p> <p><b>RICHARD [1]</b> 335/14</p> <p><b>ridiculous [1]</b> 589/7</p> <p><b>right [174]</b> 347/13 352/15</p>	<p>356/1 357/22 358/2 365/17 370/9 372/10 373/8 374/7 377/2 377/12 377/12 377/14 383/13 384/4 387/18 389/13 390/2 394/14 399/8 401/1 401/20 405/14 407/16 407/23 408/12 410/8 413/25 414/22 415/10 415/22 421/17 422/14 423/12 424/7 425/4 425/8 426/4 427/16 428/1 428/5 428/15 428/23 429/3 429/20 431/1 437/5 441/9 441/12</p>
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**R****right... [124]**

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 443/13 443/23  
 444/3 445/2  
 445/13 446/22  
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 448/10 448/19  
 448/25 449/5  
 449/8 449/12  
 469/9 473/25  
 482/5 482/9  
 482/16 483/1  
 483/15 483/16  
 483/18 483/19  
 484/6 484/8  
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 489/10 489/24  
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 491/10 491/20  
 492/4 492/25

493/15 493/21  
 494/11 495/6  
 495/17 495/22  
 495/23 496/10  
 497/2 500/3  
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 503/9 504/18  
 505/24 505/25  
 507/7 507/14  
 508/16 508/22  
 510/12 510/13  
 511/19 541/6  
 541/22 542/12  
 543/6 543/11  
 543/20 543/24  
 544/11 545/12  
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 546/6 551/12  
 551/19 554/13  
 554/23 555/5  
 555/9 556/1  
 558/4 559/24  
 560/15 563/13  
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564/4 566/13  
 566/19 568/5  
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<b>R</b>	384/12 384/13	577/3 577/14
<b>run [2]</b> 393/17	386/20 386/23	577/19 579/9
445/20	390/14 394/6	585/24 588/2
<b>run-of-the-mill</b>	397/11 405/20	590/3 593/1
<b>[1]</b> 445/20	410/9 413/16	593/8 596/1
<b>running [1]</b>	440/2 468/20	598/5 598/7
423/8	477/10 485/20	598/11 599/24
<b>Ryan [1]</b>	495/1 497/7	600/3 601/18
336/20	510/22 511/1	603/4 608/5
<b>S</b>	517/21 518/24	608/8 608/10
<b>safe [7]</b> 377/4	519/1 520/12	608/16 609/3
387/5 394/3	525/20 530/10	609/19 609/22
394/4 394/5	531/8 532/12	609/23 609/25
394/11 395/1	532/14 532/24	610/2 610/12
<b>said [113]</b>	537/23 545/1	611/15 611/19
348/9 349/10	556/16 557/1	612/3 612/6
352/22 354/19	557/11 558/19	612/10 616/4
361/18 362/3	558/20 558/21	616/5 617/11
363/1 365/22	564/24 565/9	620/2 620/6
368/10 369/25	566/7 566/12	620/14 624/7
371/7 372/2	570/24 571/13	626/3 627/19
372/21 374/16	572/9 572/11	628/5 629/7
379/18 380/6	572/23 573/8	630/15 644/23
	574/4 574/17	644/25 645/1

<p><b>S</b></p> <p><b>said... [1]</b> 651/9</p> <p><b>sale [2]</b> 500/21 502/13</p> <p><b>sales [3]</b> 424/23 424/25 425/2</p> <p><b>salient [2]</b> 376/17 376/23</p> <p><b>same [79]</b> 354/23 381/4 384/1 384/21 394/6 399/22 400/9 400/10 402/16 404/1 411/12 414/8 433/1 433/5 436/8 436/22 457/19 466/7 466/11 466/15 467/11 469/14 469/23 470/2 473/20 474/2</p>	<p>475/7 475/23 476/7 477/14 477/17 477/18 479/24 480/1 480/2 480/9 480/15 480/16 483/21 487/2 487/6 493/18 493/19 493/20 499/6 500/2 507/9 508/23 511/1 516/10 517/7 521/5 521/25 522/5 530/4 530/9 553/1 553/18 586/22 587/4 591/3 591/6 592/3 592/4 608/7 609/7 609/10 610/13 610/15 610/23 627/19 634/11 634/17 637/14</p>	<p>637/23 638/7 645/9 647/7 650/25</p> <p><b>Sanjay [1]</b> 336/17</p> <p><b>Sanofi [3]</b> 554/8 619/8 650/4</p> <p><b>satisfied [4]</b> 369/20 418/10 532/17 617/18</p> <p><b>satisfies [1]</b> 637/14</p> <p><b>satisfy [3]</b> 522/6 522/10 602/6</p> <p><b>saw [6]</b> 405/20 469/8 506/13 580/23 580/24 600/8</p> <p><b>say [147]</b> 341/16 347/7 347/15 348/13 350/15 352/16</p>
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<p><b>S</b></p> <p><b>say... [141]</b></p> <p>353/5 354/9</p> <p>355/1 356/20</p> <p>362/19 365/4</p> <p>365/8 367/10</p> <p>368/5 368/17</p> <p>374/4 374/8</p> <p>376/8 376/14</p> <p>377/13 377/25</p> <p>378/11 378/20</p> <p>384/15 384/16</p> <p>393/12 395/2</p> <p>397/15 398/22</p> <p>400/9 400/12</p> <p>401/17 402/7</p> <p>403/8 403/14</p> <p>403/19 404/10</p> <p>404/15 409/16</p> <p>413/11 414/9</p> <p>415/3 415/13</p> <p>416/13 416/15</p> <p>417/21 418/7</p> <p>423/2 428/9</p>	<p>430/23 437/20</p> <p>458/1 459/12</p> <p>466/20 483/12</p> <p>495/19 498/16</p> <p>503/1 503/25</p> <p>504/5 504/14</p> <p>507/5 516/5</p> <p>516/7 522/25</p> <p>523/2 542/5</p> <p>544/1 544/22</p> <p>546/12 546/15</p> <p>547/8 550/15</p> <p>552/2 553/22</p> <p>553/23 554/14</p> <p>555/10 555/13</p> <p>557/18 558/13</p> <p>560/3 560/17</p> <p>564/10 564/16</p> <p>564/21 565/2</p> <p>565/6 565/7</p> <p>570/9 573/4</p> <p>573/15 574/13</p> <p>574/16 576/21</p> <p>577/3 578/8</p>	<p>579/7 582/22</p> <p>582/24 585/6</p> <p>588/21 591/17</p> <p>591/22 592/5</p> <p>592/11 593/7</p> <p>593/8 595/17</p> <p>599/18 602/1</p> <p>603/24 604/4</p> <p>605/25 608/13</p> <p>608/15 611/13</p> <p>611/22 612/11</p> <p>612/19 614/2</p> <p>617/1 617/2</p> <p>618/12 618/18</p> <p>619/6 622/12</p> <p>622/14 625/9</p> <p>625/14 625/25</p> <p>627/20 632/3</p> <p>632/9 633/10</p> <p>633/15 636/3</p> <p>636/18 638/9</p> <p>638/20 640/21</p> <p>647/21 648/18</p> <p>648/21 650/18</p>
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<p><b>S</b></p> <p><b>say..... [1]</b> 650/19</p> <p><b>saying [48]</b> 352/25 361/11 367/22 378/7 394/2 430/3 430/12 433/13 433/18 433/20 527/17 530/9 547/14 558/8 558/12 559/10 560/23 561/9 564/12 564/14 564/14 564/18 564/19 576/12 576/20 580/3 590/1 590/4 597/3 598/23 598/24 600/18 602/15 603/9 610/16 615/2 621/9 631/22 633/23 637/20</p>	<p>641/25 643/23 644/1 644/6 644/20 645/6 645/17 650/12</p> <p><b>says [62]</b> 360/4 370/2 379/9 379/22 381/14 382/24 401/10 429/6 429/11 432/9 468/23 485/2 486/13 496/18 500/19 501/1 501/5 508/10 526/18 526/23 529/3 530/4 535/3 535/7 535/10 536/23 537/14 543/5 543/8 556/15 557/3 557/11 558/5 559/5 569/17 571/14 571/20 581/9</p>	<p>584/12 587/18 587/22 591/2 599/18 600/11 601/23 602/2 602/25 610/19 611/2 612/12 612/20 612/23 614/8 617/10 619/9 620/25 622/19 639/16 640/8 640/13 648/23 648/24</p> <p><b>scale [2]</b> 391/8 523/22</p> <p><b>scaled [1]</b> 393/23</p> <p><b>scheduled [1]</b> 452/14</p> <p><b>schizophrenia [10]</b> 341/19 390/19 391/13 427/22 429/15 430/6 650/15 650/18 651/5</p>
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<p><b>S</b></p> <p><b>schizophrenia.</b> .. [1] 651/6</p> <p><b>scholar [3]</b> 434/1 434/14 579/1</p> <p><b>school [1]</b> 405/10</p> <p><b>science [1]</b> 568/16</p> <p><b>scientific [4]</b> 369/19 390/25 404/17 509/13</p> <p><b>scientist [3]</b> 436/23 506/2 507/25</p> <p><b>scientists [1]</b> 506/6</p> <p><b>scintilla [20]</b> 516/8 520/7 520/14 534/7 550/9 550/13 550/16 550/19 551/6 551/7</p>	<p>558/10 558/14 559/10 559/11 564/17 571/22 577/6 580/11 607/14 607/24</p> <p><b>scope [9]</b> 346/9 424/13 436/9 441/22 501/17 519/14 539/14 553/11 563/17</p> <p><b>scour [1]</b> 631/7</p> <p><b>screen [5]</b> 451/21 457/7 463/11 584/20 599/15</p> <p><b>screw [10]</b> 556/17 557/6 557/10 557/13 557/15 559/22 559/25 560/7 561/2 581/19</p> <p><b>screws [3]</b></p>	<p>557/19 557/24 558/1</p> <p><b>script [1]</b> 457/18</p> <p><b>se [5]</b> 416/4 493/17 614/18 614/24 619/19</p> <p><b>sea [1]</b> 525/7</p> <p><b>searching [1]</b> 341/1</p> <p><b>second [73]</b> 339/20 356/16 356/16 357/1 357/2 364/3 369/5 379/22 388/2 393/25 404/14 404/18 414/9 414/16 415/13 419/6 430/23 431/17 432/7 432/8 432/25 454/12 462/10 474/15 476/15 483/3</p>
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<p><b>S</b></p> <p><b>second... [47]</b>  483/4 483/5  483/8 483/11  487/24 489/2  490/17 492/17  495/14 496/7  496/9 498/2  499/1 499/4  514/2 525/24  526/3 527/8  529/4 529/10  529/16 533/12  534/12 534/22  535/12 537/2  540/12 540/15  572/3 574/4  574/7 583/17  583/21 587/22  589/11 593/2  597/18 599/21  601/16 603/6  604/6 613/8  622/4 622/25</p>	<p>638/3 638/8  641/23</p> <p><b>secondary [6]</b>  502/22 503/1  503/8 503/13  504/15 504/22</p> <p><b>seconded [1]</b>  481/25</p> <p><b>SECRETARY</b>  <b>[1]</b> 334/18</p> <p><b>section [23]</b>  394/12 474/15  484/19 484/23  521/4 521/5  521/11 522/1  528/5 528/6  536/13 554/22  560/5 560/14  561/5 579/14  580/2 580/5  584/15 594/15  632/6 642/24  643/1</p> <p><b>Section 17.03</b>  <b>[1]</b> 484/19</p>	<p><b>Section 2 [2]</b>  394/12 554/22</p> <p><b>Section 53 [4]</b>  521/4 521/5  521/11 522/1</p> <p><b>sector [5]</b>  472/18 482/4  482/14 491/19  492/11</p> <p><b>sectors [4]</b>  477/9 477/20  484/1 497/22</p> <p><b>secure [3]</b>  344/3 355/22  367/8</p> <p><b>see [117]</b>  356/24 357/5  359/19 360/17  362/6 363/1  366/10 366/17  376/17 376/21  378/12 378/23  380/4 381/2  381/7 381/25</p>
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<p><b>S</b></p> <p><b>see... [101]</b></p> <p>383/6 401/18</p> <p>404/18 405/7</p> <p>406/11 406/19</p> <p>408/11 408/14</p> <p>408/25 409/21</p> <p>411/9 413/18</p> <p>414/12 414/17</p> <p>415/1 415/17</p> <p>415/21 429/3</p> <p>429/8 429/16</p> <p>431/7 431/14</p> <p>431/15 431/20</p> <p>431/21 432/5</p> <p>432/6 432/12</p> <p>433/10 433/11</p> <p>433/21 433/24</p> <p>435/14 435/15</p> <p>436/2 436/3</p> <p>449/24 450/1</p> <p>450/19 451/7</p> <p>451/19 459/7</p> <p>461/25 463/10</p>	<p>465/16 472/3</p> <p>472/22 473/21</p> <p>473/25 478/10</p> <p>484/12 484/17</p> <p>484/20 484/24</p> <p>485/5 486/10</p> <p>487/8 487/13</p> <p>488/18 493/16</p> <p>496/23 497/19</p> <p>500/7 500/10</p> <p>500/18 500/23</p> <p>502/10 508/19</p> <p>521/21 532/6</p> <p>536/16 543/9</p> <p>544/13 545/11</p> <p>545/22 564/16</p> <p>567/13 568/5</p> <p>570/16 572/11</p> <p>573/8 579/14</p> <p>580/3 580/18</p> <p>583/12 591/2</p> <p>591/16 598/18</p> <p>599/19 603/1</p> <p>603/16 608/21</p>	<p>608/22 615/23</p> <p>615/23 626/25</p> <p>627/21 627/21</p> <p>645/6 647/15</p> <p>651/17</p> <p><b>seek [8]</b></p> <p>338/19 353/13</p> <p>394/25 396/1</p> <p>420/1 439/1</p> <p>453/13 513/4</p> <p><b>seeking [1]</b></p> <p>391/1</p> <p><b>seem [4]</b></p> <p>388/12 520/23</p> <p>616/7 616/11</p> <p><b>seen [6]</b> 353/3</p> <p>353/6 393/21</p> <p>408/22 480/6</p> <p>520/22</p> <p><b>selected [3]</b></p> <p>432/4 433/7</p> <p>433/15</p> <p><b>selection [41]</b></p> <p>393/3 428/1</p>
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<b>S</b>	<b>semantics [1]</b>	582/7
<b>selection...</b>	392/25	<b>sensitive [1]</b>
<b>[39]</b> 430/15	<b>senior [17]</b>	425/13
432/11 432/15	364/4 373/15	<b>sentence [46]</b>
432/23 433/2	392/2 403/11	341/24 343/4
433/8 433/12	404/6 404/17	343/9 348/25
504/15 554/11	410/2 410/11	356/19 365/3
635/2 635/5	411/24 412/7	369/6 376/14
635/5 635/12	412/9 412/16	379/22 394/6
635/19 635/24	441/18 447/1	404/18 405/6
636/6 636/21	455/19 482/8	409/17 413/15
637/6 637/8	482/10	414/3 414/9
637/22 639/11	<b>sense [19]</b>	414/16 415/13
639/14 640/2	341/13 345/18	416/16 416/20
640/6 640/23	352/20 359/17	417/16 423/2
641/7 641/13	367/13 367/16	430/23 431/12
641/16 642/2	368/20 395/3	432/25 485/11
642/7 643/4	440/23 528/3	486/19 558/4
643/7 643/8	548/10 579/25	572/19 572/20
644/3 644/7	582/9 586/18	584/6 584/12
644/21 644/22	587/11 590/11	587/10 587/15
650/13 651/3	591/8 593/20	587/17 589/4
<b>selling [2]</b>	603/22	594/16 596/24
500/21 502/13	<b>senses [1]</b>	597/10 599/2



<p><b>S</b></p> <p><b>sentence... [6]</b> 599/17 599/20 599/21 601/21 604/8 605/14</p> <p><b>sentences [1]</b> 370/2</p> <p><b>separate [1]</b> 645/10</p> <p><b>separately [1]</b> 368/3</p> <p><b>Separation [2]</b> 552/20 554/2</p> <p><b>September [10]</b> 339/13 339/21 379/6 396/15 420/16 431/6 439/17 450/19 513/21 514/3</p> <p><b>September 10 [1]</b> 514/3</p> <p><b>September 11 [1]</b> 339/21</p>	<p><b>September 14 [2]</b> 379/6 450/19</p> <p><b>September 25 [3]</b> 396/15 420/16 439/17</p> <p><b>September 27 [1]</b> 339/13</p> <p><b>September 29 [1]</b> 513/21</p> <p><b>September 5 [1]</b> 431/6</p> <p><b>sequestered [4]</b> 465/25 466/16 466/19 467/12</p> <p><b>serious [7]</b> 339/1 396/8 402/20 420/8 439/8 453/21 513/11</p> <p><b>served [1]</b> 398/17</p> <p><b>set [13]</b> 370/20</p>	<p>372/7 372/13 374/18 380/3 417/12 418/13 475/5 477/23 483/12 489/5 554/21 559/18</p> <p><b>sets [1]</b> 648/14</p> <p><b>setting [1]</b> 444/5</p> <p><b>settled [2]</b> 403/3 432/9</p> <p><b>seven [2]</b> 495/11 546/11</p> <p><b>several [5]</b> 384/13 475/24 526/5 533/14 597/1</p> <p><b>shall [6]</b> 339/5 396/12 420/12 439/12 453/25 466/20</p> <p><b>SHANE [3]</b> 336/5 345/8 397/6</p>
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<p><b>S</b></p> <p><b>shape [2]</b> 535/22 536/4</p> <p><b>share [2]</b> 459/12 467/24</p> <p><b>shared [5]</b> 466/2 466/24 468/6 468/13 480/4</p> <p><b>shares [1]</b> 466/10</p> <p><b>SHAWNA [1]</b> 336/7</p> <p><b>she [2]</b> 525/20 600/11</p> <p><b>She's [1]</b> 537/16</p> <p><b>sheet [3]</b> 514/11 514/12 514/14</p> <p><b>shelf [1]</b> 579/4</p> <p><b>shift [6]</b> 343/5 456/1 456/14 470/21 471/9</p>	<p>474/9</p> <p><b>shocked [2]</b> 344/20 374/23</p> <p><b>short [4]</b> 386/5 413/17 417/1 643/18</p> <p><b>short-term [1]</b> 386/5</p> <p><b>shortly [2]</b> 339/10 398/12</p> <p><b>shot [1]</b> 361/9</p> <p><b>should [41]</b> 340/5 343/6 360/14 385/17 386/21 418/7 436/13 457/10 459/2 459/9 459/9 462/25 465/16 466/2 467/7 477/6 483/5 497/18 499/11 504/5 506/4 520/24 540/11 545/1</p>	<p>553/19 557/7 585/6 588/21 594/11 594/22 612/10 613/20 618/3 627/13 628/2 628/5 628/8 628/15 629/8 636/3 648/4</p> <p><b>shouldn't [4]</b> 458/6 519/22 560/3 636/15</p> <p><b>show [9]</b> 469/17 473/19 526/7 553/13 581/8 592/5 626/1 638/17 649/23</p> <p><b>showed [1]</b> 385/17</p> <p><b>showing [2]</b> 619/17 639/8</p> <p><b>shown [1]</b> 385/22</p>
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<p><b>S</b></p> <p><b>side [12]</b>  462/24 465/23  466/2 467/5  469/15 648/9  648/13 648/16  650/16 650/19  651/5 651/6</p> <p><b>sides [2]</b> 338/3  460/8</p> <p><b>Siebrasse [41]</b>  335/22 337/18  512/16 512/19  512/23 512/24  514/19 514/20  515/7 515/11  515/13 525/14  525/18 529/9  532/21 533/10  534/11 536/7  538/7 538/16  539/2 539/7  554/21 562/3  566/10 577/8</p>	<p>577/25 581/14  586/23 595/10  596/12 596/17  599/16 600/14  602/11 608/3  617/20 627/12  632/14 642/11  651/14</p> <p><b>Siebrasse's [1]</b>  525/16</p> <p><b>signal [1]</b>  604/10</p> <p><b>signature [23]</b>  339/16 339/17  339/22 339/23  396/17 396/18  420/18 420/19  439/20 439/21  439/22 454/8  454/9 454/10  454/14 454/15  454/17 513/22  513/23 513/25  514/4 514/5</p>	<p>514/7</p> <p><b>significance [3]</b> 385/17  478/8 596/8</p> <p><b>significant [14]</b>  343/6 347/19  348/25 359/22  371/10 409/24  418/21 476/10  478/11 478/19  488/2 497/20  562/18 632/15</p> <p><b>similar [2]</b>  604/12 624/19</p> <p><b>similarly [1]</b>  526/25</p> <p><b>simple [5]</b>  407/5 527/4  597/23 617/2  649/2</p> <p><b>simpler [1]</b>  393/16</p> <p><b>simplify [1]</b>  370/12</p>
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<p><b>S</b></p> <p><b>simplistic [1]</b> 388/13</p> <p><b>simply [29]</b> 341/4 352/22 354/10 365/10 367/12 387/9 391/1 413/17 413/20 528/19 530/3 531/22 531/24 533/9 535/1 537/19 566/4 574/23 590/4 591/22 592/1 600/6 602/5 612/11 612/18 617/4 637/23 642/17 643/12</p> <p><b>since [18]</b> 344/22 386/4 447/6 448/6 467/3 467/13 497/10 504/16</p>	<p>516/6 521/6 534/8 556/17 557/7 569/17 588/4 604/18 608/12 621/9</p> <p><b>sincere [2]</b> 470/12 513/16</p> <p><b>single [11]</b> 414/11 474/25 478/5 488/6 493/7 493/15 495/9 517/18 556/23 584/5 644/22</p> <p><b>SIR [1]</b> 334/15</p> <p><b>sit [2]</b> 393/14 631/21</p> <p><b>sitting [1]</b> 535/8</p> <p><b>situate [1]</b> 620/13</p> <p><b>situation [8]</b> 353/12 357/10 365/20 462/24</p>	<p>465/9 465/19 553/14 572/14</p> <p><b>situations [4]</b> 352/7 356/9 363/15 637/21</p> <p><b>six [3]</b> 409/11 593/6 596/4</p> <p><b>skilled [24]</b> 381/19 486/14 531/23 568/13 571/14 613/25 614/12 615/18 617/14 624/6 624/11 624/14 625/2 625/13 625/14 625/15 625/17 628/11 629/17 629/19 629/22 630/4 630/8 630/11</p> <p><b>slide [2]</b> 470/5 639/8</p> <p><b>slides [1]</b> 525/16</p>
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<p><b>S</b></p> <p><b>statement...</b>  <b>[33]</b> 487/24  489/2 495/14  496/7 502/18  505/19 511/12  513/13 513/15  521/12 521/15  530/17 558/5  559/6 560/7  561/4 573/7  577/19 577/20  579/2 588/6  592/16 592/18  595/23 606/16  611/15 611/21  612/14 612/16  614/4 621/3  622/9 641/9</p> <p><b>statements</b>  <b>[25]</b> 339/9  340/1 342/19  455/22 458/20  464/11 469/16</p>	<p>469/19 511/12  520/17 521/4  522/4 532/10  532/19 560/3  560/6 566/22  567/1 567/3  567/3 571/10  571/23 573/3  611/17 611/22</p> <p><b>states [21]</b>  349/15 398/17  398/23 399/7  406/15 429/14  430/5 431/13  432/2 433/1  527/12 562/25  572/2 580/6  582/6 586/14  586/21 589/13  590/9 592/19  636/6</p> <p><b>stating [3]</b>  583/11 584/6  594/11</p>	<p><b>statistical [5]</b>  385/17 477/7  477/24 478/8  497/19</p> <p><b>statistically [2]</b>  478/19 497/20</p> <p><b>statistics [3]</b>  456/3 470/23  474/13</p> <p><b>status [2]</b>  465/3 479/13</p> <p><b>statutory [5]</b>  523/6 632/18  634/2 634/8  635/25</p> <p><b>stay [1]</b> 376/5</p> <p><b>stays [2]</b>  490/20 491/1</p> <p><b>step [2]</b> 619/12  619/12</p> <p><b>stepped [1]</b>  463/16</p> <p><b>steps [1]</b>  619/10</p>
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<b>Tab 10 [2]</b> 499/23 529/23	<b>Tab 2 [3]</b> 431/3 586/10 597/16	<b>Tab 8 [4]</b> 506/20 527/11 528/11 581/18
<b>Tab 11 [1]</b> 530/13	<b>Tab 26 [1]</b> 590/25	<b>Tab No. 1 [1]</b> 406/5
<b>Tab 12 [1]</b> 530/25	<b>Tab 3 [8]</b> 379/1 380/23 407/25 408/7 408/8 435/20 449/20 573/10	<b>Tab No. 11 [1]</b> 411/4
<b>Tab 13 [1]</b> 531/16	<b>Tab 31 [1]</b> 602/24	<b>Tab No. 5 [1]</b> 410/14
<b>Tab 14 [2]</b> 537/10 537/11	<b>Tab 4 [5]</b> 381/11 437/7 496/3 496/4 525/17	<b>TABET [1]</b> 336/8
		<b>table [22]</b> 470/13 489/17 489/18 489/19 489/23 490/1 490/1 490/6

<b>T</b>	462/4 487/15	612/14 615/22
<b>table... [14]</b>	504/1 526/24	<b>takes [5]</b> 506/2
490/11 490/11	527/21 528/9	526/25 604/8
490/12 490/17	538/12 548/19	640/5 640/7
490/18 490/24	572/1 586/9	<b>taking [6]</b>
491/16 491/17	600/12 602/1	506/17 581/7
492/1 492/1	602/2 603/13	591/24 616/2
494/24 495/1	605/18 606/2	626/4 645/19
495/3 495/5	607/2 638/11	<b>talk [2]</b> 378/15
<b>tables [3]</b>	640/18 641/25	445/22
494/20 494/23	643/22 643/25	<b>talked [3]</b>
496/7	644/5 646/4	348/18 446/15
<b>tabs [2]</b> 626/15	649/7 649/19	630/21
626/23	<b>taken [22]</b>	<b>talking [19]</b>
<b>tainted [1]</b>	352/19 353/21	348/4 351/19
644/23	354/10 356/12	362/24 391/14
<b>take [41]</b> 346/3	389/10 395/15	415/23 416/20
348/7 353/13	438/14 453/1	417/4 421/15
353/24 354/2	475/22 481/6	440/25 462/7
355/19 363/6	512/18 533/5	464/9 464/20
367/1 393/16	538/20 559/10	553/10 557/8
405/22 423/20	571/15 573/7	609/7 610/19
429/25 435/19	573/21 585/2	623/8 636/20
438/12 452/17	594/22 596/14	640/21

<p><b>T</b></p> <p><b>targets [1]</b> 402/19</p> <p><b>teach [6]</b> 515/15 542/19 544/5 544/5 544/7 545/4</p> <p><b>teaching [9]</b> 542/13 542/16 543/8 543/22 544/2 544/5 545/3 546/1 561/8</p> <p><b>team [22]</b> 426/3 426/20 441/4 441/5 441/23 442/12 442/17 442/22 443/2 443/3 443/3 443/6 444/4 444/10 445/22 446/2 447/7 448/18 448/20 449/10</p>	<p>449/11 449/16</p> <p><b>technical [2]</b> 436/11 594/12</p> <p><b>tell [7]</b> 360/7 397/25 402/6 484/13 531/24 550/12 570/7</p> <p><b>telling [5]</b> 595/19 599/23 609/10 644/16 645/2</p> <p><b>tells [1]</b> 537/24</p> <p><b>ten [3]</b> 546/15 595/4 596/11</p> <p><b>tended [1]</b> 413/17</p> <p><b>tendency [1]</b> 647/3</p> <p><b>term [11]</b> 386/4 386/5 393/10 394/19 417/2 502/25 524/8 524/9 558/23 579/25</p>	<p>603/23</p> <p><b>terminology [1]</b> 502/22</p> <p><b>terms [8]</b> 394/12 402/3 403/25 498/13 503/9 568/18 568/19 568/21</p> <p><b>test [8]</b> 372/6 478/18 517/19 535/4 598/11 603/1 619/9 650/1</p> <p><b>tested [6]</b> 389/25 517/20 535/11 535/15 535/23 536/3</p> <p><b>testified [9]</b> 374/25 382/12 383/23 384/19 387/23 391/22 394/1 411/22 415/2</p> <p><b>testifies [1]</b></p>
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<b>T</b>	539/23 559/13	475/8 477/17
<b>testifies... [1]</b> 468/3	566/11 589/23 590/1 590/7	480/11 480/13 485/1 490/7
<b>testify [3]</b> 387/21 457/10 461/13	596/12 651/15	490/17 492/8
<b>testifying [12]</b> 338/25 395/12 396/7 403/20 419/15 420/7 438/8 439/7 453/20 467/13 512/12 513/10	<b>testing [7]</b> 389/25 393/23 394/22 429/11 535/7 536/6 648/7	492/10 515/1 520/8 523/1 533/19 533/25 536/4 536/5 537/22 556/24
<b>testimony [28]</b> 345/11 346/10 350/4 350/21 367/1 375/12 383/20 388/15 389/9 390/18 394/3 394/9 421/9 436/10 440/19 452/20 462/5 481/2 481/3 538/17	<b>tests [1]</b> 524/24	568/11 574/11 598/10 600/21 600/25 607/24 617/18 637/9 638/16 642/8 642/9
	<b>text [11]</b> 339/3 396/10 420/10 527/12 578/19 578/22 578/24 579/4 579/6 579/11 591/13	<b>thank [67]</b> 338/23 339/7 339/11 340/12 340/14 341/21 345/1 346/7 363/25 388/3 388/8 391/19 392/21 393/25 395/11 396/23
	<b>than [41]</b> 340/6 342/15 344/3 352/21 354/10 357/25 381/18 381/20 385/10 416/14 435/1 475/3	

<b>T</b>	595/8 596/13	400/9 401/16
<b>thank... [51]</b>	599/12 626/19	405/2 405/11
398/2 398/3	627/5 627/8	405/15 406/1
419/10 419/14	649/10	408/15 413/23
420/14 420/24	<b>Thanks [1]</b>	414/7 415/11
421/1 438/2	396/5	416/5 416/7
438/5 438/8	<b>that [1583]</b>	416/24 417/4
438/11 439/5	<b>that's [247]</b>	417/20 418/17
439/14 439/23	346/15 347/21	423/7 424/8
440/7 440/9	349/3 350/2	426/15 430/13
440/24 451/22	357/4 361/4	433/17 433/19
452/4 452/5	362/3 364/7	436/12 438/23
452/8 454/2	364/13 364/13	439/18 441/3
455/1 455/12	365/18 366/1	441/7 441/10
463/4 464/17	366/18 372/13	441/13 441/16
469/3 480/17	375/4 378/18	442/1 442/11
480/19 481/5	382/11 383/10	442/15 442/20
481/14 512/2	383/14 383/17	443/14 444/18
512/3 512/10	385/5 387/25	444/23 447/24
512/11 512/14	388/18 389/22	448/3 448/11
512/17 513/17	391/4 391/15	448/17 448/21
514/19 525/11	391/21 394/8	449/6 449/9
538/6 538/8	398/15 398/20	449/13 449/19
538/9 538/23	399/4 399/9	450/14 451/3

<b>T</b>	507/8 508/5	556/14 556/15
<b>that's... [167]</b>	508/7 508/17	557/3 558/1
451/18 452/23	509/16 510/1	558/22 559/23
454/16 455/6	510/8 510/13	560/11 561/4
460/10 460/10	510/21 511/10	563/13 564/24
462/9 466/3	520/13 521/1	565/12 566/13
466/17 469/7	521/1 526/21	566/18 567/12
481/23 482/2	529/1 535/8	567/13 567/25
482/6 482/22	536/21 536/22	571/22 572/8
483/16 483/19	536/24 538/15	572/10 572/18
485/14 485/19	540/5 541/6	572/20 573/8
487/1 487/2	541/13 541/16	574/6 575/3
487/20 487/20	542/1 542/12	576/4 584/11
489/10 489/18	542/21 543/6	585/25 588/19
490/5 490/22	543/20 543/24	589/5 593/7
491/7 491/21	544/9 544/11	597/16 598/16
491/24 493/15	545/10 545/12	598/18 598/22
494/24 495/18	545/16 546/2	599/2 600/20
495/23 497/13	546/10 547/16	600/25 603/9
500/5 500/14	551/12 552/23	604/4 607/25
500/16 501/15	552/24 553/14	608/22 609/7
503/14 504/2	554/13 554/23	609/24 610/6
504/8 504/19	555/5 555/9	610/13 610/18
505/25 506/19	556/1 556/2	610/20 610/21

<b>T</b>	467/24 467/24	583/16 593/6
<b>that's..... [27]</b>	486/16 487/11	608/21 616/7
610/22 610/23	500/21 501/23	618/10 623/6
613/19 615/11	503/9 506/10	627/7 627/8
623/9 624/22	517/3 549/9	634/14 642/21
628/13 629/22	549/22 575/23	643/22 643/22
630/17 635/2	577/12 588/5	644/6 644/9
635/13 635/22	646/12	645/10 647/9
636/1 641/3	<b>them [48]</b>	648/11 650/6
642/10 643/6	369/20 410/3	<b>themselves [3]</b>
644/5 644/19	425/20 426/6	532/4 565/11
645/17 646/2	426/12 429/13	570/4
650/10 650/11	430/4 434/9	<b>then [95]</b>
650/20 651/1	438/1 443/21	338/9 343/6
651/1 651/10	446/6 446/9	343/8 344/4
651/12	454/23 461/21	345/20 347/25
<b>their [29]</b>	462/16 463/17	348/16 348/23
341/1 371/17	464/14 466/11	349/4 349/23
393/12 400/1	494/15 507/4	359/5 359/11
429/12 445/7	526/2 526/2	359/23 363/1
458/13 458/15	561/9 570/11	364/8 364/19
458/19 458/20	572/25 574/23	365/1 383/19
458/21 459/10	577/1 580/8	389/15 389/18
460/9 466/25	580/23 580/24	391/7 391/7

<b>T</b>	499/1 500/25	509/18 509/21
<b>then... [73]</b>	514/1 514/22	566/7 570/13
391/16 393/22	516/1 526/10	570/17
394/6 397/1	527/19 545/22	<b>therapeutically</b>
398/16 398/25	551/22 553/17	<b>[1]</b> 565/12
401/4 403/14	570/21 576/16	<b>there [228]</b>
404/5 405/22	581/13 582/10	338/3 339/25
409/23 410/8	582/14 591/2	340/9 340/17
421/2 421/21	591/6 591/21	342/9 343/5
422/2 424/2	595/6 602/2	344/14 344/16
429/10 441/17	611/22 614/13	344/20 348/20
443/7 452/19	615/5 616/13	349/10 350/16
452/21 454/11	617/12 624/25	351/15 352/7
459/18 460/8	641/22 643/9	352/18 353/10
461/22 462/4	649/9	353/15 353/20
462/12 462/22	<b>theory [3]</b>	354/4 354/7
463/5 465/15	502/5 502/7	354/12 356/9
466/15 467/11	545/17	357/12 358/17
467/18 467/20	<b>therapeutic</b>	359/21 361/1
468/17 469/22	<b>[14]</b> 429/13	363/15 363/18
469/23 480/25	479/3 479/9	363/20 367/4
481/24 484/22	479/12 480/8	367/16 369/1
488/14 490/1	503/15 507/6	369/6 369/25
491/10 496/9	507/14 507/17	370/3 370/15



<b>T</b>	440/1 440/20	531/6 532/9
<b>there... [192]</b>	441/23 444/19	532/15 534/8
372/3 372/11	445/21 446/7	534/24 538/4
374/17 375/10	454/23 458/4	543/3 543/9
375/21 381/8	476/8 477/12	548/15 550/8
381/22 385/7	477/23 478/3	550/10 550/15
386/6 387/7	478/18 479/2	550/17 557/24
389/17 391/7	482/3 482/7	560/5 561/6
396/20 401/9	482/18 484/17	562/7 562/19
402/4 404/18	485/2 485/7	565/7 566/15
406/6 408/4	487/25 491/18	568/1 568/5
408/13 409/24	491/22 493/13	568/6 568/19
411/16 412/14	497/11 497/16	568/21 569/1
415/14 415/24	498/3 498/14	571/18 571/23
415/25 416/13	501/11 503/20	571/24 572/21
417/4 418/25	507/4 507/6	572/22 574/15
420/21 421/25	507/16 510/11	576/15 576/17
422/8 423/2	512/8 514/8	576/19 576/23
423/8 423/9	514/12 514/13	576/23 577/4
423/15 423/18	519/4 519/13	577/20 577/20
423/21 429/1	522/2 523/4	577/21 577/23
429/3 432/19	525/7 526/2	579/19 580/2
433/1 433/6	526/5 527/5	580/3 586/14
433/13 439/23	529/4 530/16	587/7 587/9

<p><b>T</b></p> <p><b>there..... [52]</b>  587/9 587/15  587/21 588/5  590/16 595/1  597/9 597/21  598/7 600/16  601/24 602/15  604/5 605/14  606/15 609/13  611/14 611/15  611/17 612/16  612/22 614/3  615/7 615/16  617/12 622/21  624/5 624/8  627/2 627/20  628/12 628/14  628/16 628/16  630/1 630/1  630/6 630/19  630/20 630/21  631/9 631/14  633/12 636/15</p>	<p>637/17 637/21  639/23 642/25  644/2 646/13  647/5 648/5</p> <p><b>there's [54]</b>  355/23 356/8  358/13 359/14  361/25 362/15  392/9 421/11  462/17 484/19  484/23 485/7  486/19 487/9  487/12 488/24  493/13 494/24  494/25 495/3  495/4 497/19  508/20 523/6  523/23 531/10  535/20 543/15  545/20 550/16  550/16 550/20  552/8 553/8  565/3 565/8  571/20 579/14</p>	<p>585/13 587/14  598/5 602/11  603/6 605/20  607/21 611/11  611/25 612/22  613/22 616/10  618/8 618/20  626/21 633/11</p> <p><b>thereabouts</b>  <b>[1]</b> 391/9</p> <p><b>thereafter [1]</b>  398/12</p> <p><b>therefore [11]</b>  356/12 362/12  387/6 394/7  394/12 435/7  466/19 472/7  473/4 478/6  624/15</p> <p><b>these [104]</b>  340/22 340/24  341/2 341/17  343/3 359/1  360/2 360/8</p>
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<b>T</b>	535/5 537/3	645/7 646/7
<b>these... [96]</b>	537/23 537/23	647/21 650/14
361/3 362/1	553/6 561/18	<b>they [152]</b>
382/9 386/15	561/19 561/23	341/6 343/4
392/18 397/7	564/6 564/14	349/6 349/20
409/7 413/20	564/15 564/18	350/13 350/17
429/12 443/3	565/6 566/21	351/22 352/9
458/1 459/14	570/20 570/20	355/18 360/9
461/5 461/8	573/12 574/11	360/10 361/12
464/10 473/12	574/22 577/9	362/24 375/24
473/18 474/6	580/18 582/7	376/1 384/21
478/15 478/21	583/8 583/14	385/1 386/18
479/1 479/17	584/5 584/7	388/12 392/19
494/2 494/23	585/20 588/5	393/11 400/7
495/8 500/12	590/4 592/5	400/7 413/21
501/20 501/20	592/5 592/6	417/1 426/16
502/15 508/23	592/8 592/12	426/20 435/22
510/15 511/9	592/22 594/20	446/4 446/4
523/19 526/19	600/4 601/19	446/12 446/12
526/20 527/5	608/20 612/20	446/15 458/6
529/14 529/16	622/19 626/1	458/15 458/19
529/17 529/19	626/6 628/22	458/22 459/25
532/23 533/8	632/25 633/5	460/1 460/8
533/17 534/23	638/23 643/12	462/2 462/3

<p><b>T</b></p> <p><b>they... [110]</b></p> <p>462/4 463/17</p> <p>464/7 464/8</p> <p>464/12 465/14</p> <p>465/15 466/21</p> <p>466/22 467/23</p> <p>470/9 470/10</p> <p>470/11 473/13</p> <p>484/3 493/11</p> <p>495/12 498/18</p> <p>498/19 498/22</p> <p>498/23 498/25</p> <p>499/4 501/22</p> <p>502/8 502/8</p> <p>504/16 506/4</p> <p>517/1 517/1</p> <p>517/3 517/4</p> <p>523/2 524/4</p> <p>525/4 526/22</p> <p>532/19 532/23</p> <p>533/8 547/8</p> <p>548/9 548/14</p> <p>548/16 548/17</p>	<p>549/23 552/3</p> <p>555/19 563/23</p> <p>564/10 564/21</p> <p>572/25 577/3</p> <p>588/20 588/20</p> <p>588/21 588/22</p> <p>588/23 590/2</p> <p>590/2 591/15</p> <p>591/21 591/21</p> <p>592/4 601/20</p> <p>602/3 602/6</p> <p>602/8 609/21</p> <p>611/19 612/2</p> <p>613/1 614/1</p> <p>616/4 616/5</p> <p>617/24 618/24</p> <p>619/1 619/1</p> <p>623/4 623/4</p> <p>623/8 624/9</p> <p>624/10 624/17</p> <p>628/10 629/5</p> <p>629/23 630/2</p> <p>630/3 630/5</p> <p>630/20 630/21</p>	<p>630/23 631/3</p> <p>631/5 633/8</p> <p>633/10 633/16</p> <p>634/16 642/21</p> <p>642/21 642/22</p> <p>643/22 644/6</p> <p>644/7 646/12</p> <p>648/8 649/4</p> <p>650/16 650/20</p> <p><b>they'd [3]</b></p> <p>350/16 393/12</p> <p>624/12</p> <p><b>they'll [5]</b></p> <p>393/14 393/16</p> <p>393/17 393/18</p> <p>617/2</p> <p><b>they're [20]</b></p> <p>366/16 366/17</p> <p>392/8 392/13</p> <p>459/13 467/13</p> <p>484/2 526/2</p> <p>561/8 564/20</p> <p>573/5 589/6</p> <p>609/20 617/1</p>
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<b>T</b>	349/9 349/16	451/20 458/11
<b>they're... [6]</b>	352/17 354/18	460/2 460/22
633/10 633/12	355/8 358/5	460/24 465/5
634/10 636/10	360/22 361/9	465/9 466/2
636/13 636/25	361/13 361/18	467/11 467/16
<b>they've [4]</b>	362/13 362/17	468/19 468/20
466/19 470/13	363/8 363/24	468/21 469/1
576/24 610/4	367/9 368/10	470/10 482/10
<b>thick [1]</b> 557/2	368/16 369/12	488/11 494/3
<b>thin [1]</b> 557/1	374/4 374/24	499/11 505/3
<b>thing [6]</b> 530/9	377/14 378/6	510/9 525/19
581/5 603/7	381/5 382/11	545/11 547/6
610/12 610/20	386/6 387/3	547/19 549/10
618/21	388/18 389/16	550/15 553/1
<b>things [9]</b>	390/20 391/4	566/9 569/9
375/13 388/14	391/5 391/9	576/11 581/1
434/7 568/7	400/22 402/1	581/6 585/24
573/5 614/3	402/2 406/4	597/5 612/11
616/10 622/17	406/22 407/3	616/2 619/8
648/24	407/4 411/2	641/3 648/12
<b>think [95]</b>	411/21 413/3	651/12
339/10 340/7	416/19 418/1	<b>thinking [4]</b>
341/7 345/22	429/22 446/11	359/20 552/21
347/5 347/9	446/14 447/5	602/6 603/5

<b>T</b>	441/22 465/8	638/1 638/9
<b>third [7]</b>	465/22 466/2	638/13 640/9
381/14 515/23	466/10 466/17	645/19 645/25
517/14 522/16	466/23 467/12	647/10 647/19
536/2 540/1	472/8 483/17	647/20 648/14
591/5	489/7 494/16	648/16 650/4
<b>this [536]</b>	495/10 495/11	<b>though [12]</b>
<b>THOMAS [2]</b>	511/18 524/9	345/22 399/5
335/10 335/23	525/6 526/16	401/23 414/25
<b>those [88]</b>	529/8 532/16	433/4 501/10
343/21 348/15	532/18 537/16	573/21 624/19
349/4 349/6	537/17 538/7	626/25 628/12
350/11 350/12	539/17 545/1	632/24 638/19
351/17 352/8	567/1 567/25	<b>thought [6]</b>
353/17 353/19	568/22 570/3	356/17 358/16
354/12 354/15	580/8 580/12	469/7 523/16
354/15 355/16	580/21 584/16	613/10 627/22
355/19 357/17	584/22 587/20	<b>thousand [1]</b>
363/11 374/23	587/25 591/13	360/25
378/1 380/3	594/2 594/3	<b>threaded [4]</b>
381/10 410/1	594/23 600/7	557/12 557/19
410/11 412/18	601/25 617/4	557/23 558/1
416/25 423/6	623/17 631/1	<b>threads [8]</b>
425/14 425/21	634/13 635/13	556/19 556/21

<b>T</b>	<b>through [30]</b>	557/24 623/24
<b>threads... [6]</b>	365/1 375/3	<b>time [67]</b>
556/23 556/24	389/19 417/8	343/15 344/12
557/1 557/2	417/25 459/5	344/22 345/3
557/2 560/10	488/18 489/15	345/23 346/3
<b>three [27]</b>	494/4 518/18	368/23 373/1
368/17 441/22	535/9 536/5	388/3 389/24
466/17 477/9	570/15 576/2	396/25 402/18
479/1 479/4	578/1 581/7	403/18 410/23
480/13 483/14	596/18 626/1	418/8 418/12
489/4 526/11	628/10 629/17	418/25 419/1
527/24 528/7	629/18 629/21	420/25 422/2
528/24 529/5	630/4 630/8	422/12 422/19
544/7 544/10	630/11 631/22	422/22 422/23
561/23 577/9	635/24 636/2	422/24 423/5
581/12 583/15	636/11 637/1	423/9 423/9
583/24 584/5	<b>throughout [2]</b>	423/24 427/15
584/6 584/23	401/3 486/15	431/10 434/10
597/21 622/16	<b>throw [1]</b>	437/1 437/11
622/16	518/14	437/14 447/12
<b>three-sentence</b>	<b>thrust [1]</b>	464/3 470/16
<b>[1] 584/6</b>	536/18	473/20 474/2
<b>threshold [1]</b>	<b>Thus [4]</b>	477/18 480/2
344/23	381/22 557/21	480/16 480/18

<p><b>T</b></p> <p><b>time... [23]</b>  481/12 496/9  502/3 503/18  507/18 511/18  516/4 525/4  539/18 540/21  542/20 552/1  553/18 560/21  563/21 576/10  578/20 597/12  608/21 615/24  616/2 627/19  645/9</p> <p><b>timeline [3]</b>  472/19 473/14  473/22</p> <p><b>times [5]</b> 360/3  368/17 393/1  596/4 596/19</p> <p><b>TINA [1]</b>  335/10</p> <p><b>title [4]</b> 359/3  359/5 359/7</p>	<p>482/7</p> <p><b>titled [3]</b>  408/10 489/20  490/2</p> <p><b>TMP [1]</b>  576/25</p> <p><b>today [24]</b>  346/2 371/20  399/18 452/17  455/20 516/23  532/10 532/15  558/20 563/14  566/11 566/14  567/2 574/25  589/21 589/24  590/8 611/13  611/19 612/19  617/9 632/13  649/7 651/13</p> <p><b>together [4]</b>  418/16 560/4  642/4 645/10</p> <p><b>told [4]</b> 579/7  609/25 610/4</p>	<p>648/9</p> <p><b>tomorrow [1]</b>  651/17</p> <p><b>too [7]</b> 403/6  464/20 525/19  533/21 533/24  594/11 645/24</p> <p><b>took [5]</b>  391/24 414/20  442/1 643/12  644/10</p> <p><b>top [6]</b> 487/25  489/17 571/14  576/2 582/6  636/18</p> <p><b>topic [2]</b>  596/21 603/11</p> <p><b>topics [2]</b>  364/2 595/2</p> <p><b>tort [1]</b> 544/23</p> <p><b>total [6]</b>  365/21 472/22  473/14 473/15  473/22 492/12</p>
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<b>T</b>	<b>transaction [5]</b>	<b>treatise [8]</b>
<b>totally [3]</b> 365/19 426/16 613/6	357/12 361/19 363/12 363/14 363/19	527/10 528/24 559/13 578/5 578/6 578/9
<b>touched [1]</b> 349/10	<b>transactions [1]</b> 543/23	578/16 578/19
<b>toward [4]</b> 456/4 470/24 474/14 567/9	<b>transcript [1]</b> 361/24	<b>treatises [1]</b> 578/1
<b>towards [1]</b> 477/24	<b>transferred [1]</b> 398/17	<b>treatment [33]</b> 380/1 387/6
<b>Tower [1]</b> 334/6	<b>transmission [2]</b> 571/18 572/7	391/13 427/21 428/10 429/14 430/4 448/1
<b>traced [2]</b> 341/14 635/16	<b>travel [1]</b> 556/24	476/10 504/10 505/7 507/23 508/10 509/5
<b>TRADE [3]</b> 333/3 336/10 336/11	<b>treat [6]</b> 377/17 378/4 385/22 508/6 518/25 650/15	518/22 622/2 622/5 622/6 622/22 623/2
<b>trademarks [1]</b> 543/17	<b>treated [4]</b> 468/11 636/20 636/25 640/22	623/5 623/24 623/25 624/6 624/13 624/13
<b>traditionally [1]</b> 385/5	<b>treating [2]</b> 377/6 614/22	624/15 624/18 624/25 625/3
<b>training [2]</b> 346/17 346/20		625/19 628/12

<p><b>T</b></p> <p><b>treatment... [1]</b> 630/24</p> <p><b>treats [3]</b> 650/18 651/5 651/6</p> <p><b>Treaty [1]</b> 384/2</p> <p><b>trial [51]</b> 365/10 365/23 376/24 385/16 385/24 385/24 386/5 386/7 518/23 530/3 530/12 530/15 530/17 530/19 531/8 561/13 564/2 567/6 567/12 567/13 567/22 568/14 569/9 569/16 570/8 570/15 573/4 617/21 639/9 639/13</p>	<p>639/17 640/8 641/18 642/2 642/3 644/12 644/17 644/20 645/3 646/5 646/7 647/10 647/13 647/22 648/20 648/20 648/23 648/24 649/14 650/7 650/9</p> <p><b>trials [6]</b> 511/21 523/22 523/24 524/4 524/9 524/10</p> <p><b>tribunal [45]</b> 334/3 338/20 339/1 339/2 341/16 346/11 384/19 388/9 395/9 396/2 396/7 396/9 419/13 420/3 420/8 420/9</p>	<p>438/7 439/2 439/8 439/9 452/6 453/15 453/21 453/22 454/21 458/21 459/21 459/22 459/25 460/14 463/13 464/14 468/6 468/14 489/16 494/14 512/11 513/5 513/11 513/12 525/14 539/12 563/16 581/9 599/13</p> <p><b>Tribunal's [1]</b> 459/2</p> <p><b>tried [1]</b> 368/16</p> <p><b>triple [1]</b> 556/24</p> <p><b>TRIPS [1]</b> 418/12</p> <p><b>trouble [1]</b></p>
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<b>T</b>	439/13 453/25	<b>Tuesday [1]</b>
<b>trouble... [1]</b> 637/19	454/1 454/1 609/20	333/21
<b>troubling [1]</b> 407/18	<b>TRW [4]</b> 528/9 528/13 559/25	<b>turbine [2]</b> 528/15 528/16
<b>true [18]</b> 415/11 467/21 467/23 477/25 498/3 511/6 521/15 521/18 531/21 544/8 544/9 545/11 565/12 567/25 570/10 599/20 601/7 601/18	560/11	<b>turn [79]</b> 341/22 342/7
<b>trust [2]</b> 492/5 492/14	<b>try [14]</b> 345/24 359/18 360/20 363/4 366/23 369/8 369/17 371/6 384/24 393/15 397/23 459/9 460/18 460/22	342/22 356/15 356/19 364/25 366/7 366/13 366/15 376/3 379/8 381/11 381/13 382/2 382/23 403/4 406/2 406/5 407/25 410/8 410/14 411/3 412/21 447/21 457/16 465/13 474/12 483/4 484/9 484/17 486/8 487/24 492/17 492/20 495/14 496/1 496/15 499/22
<b>truth [17]</b> 339/6 339/6 339/6 367/24 396/12 396/13 396/13 420/13 420/13 420/13 439/12 439/13	<b>trying [18]</b> 362/22 366/3 371/25 375/7 384/18 388/13 389/8 400/9 401/16 402/8 403/18 403/24 411/25 502/3 537/22 551/23 622/17 650/22	

<p><b>T</b></p> <p><b>turn... [41]</b>  502/18 505/19  506/20 507/2  533/11 534/12  536/16 537/1  553/5 557/7  562/4 562/11  567/5 567/8  570/23 571/8  573/10 575/5  575/15 578/3  579/12 580/1  580/19 581/3  586/12 589/21  590/23 593/9  603/11 605/12  606/9 620/22  621/6 621/23  623/21 625/20  632/5 637/4  639/1 646/6  649/11</p> <p><b>turned [2]</b></p>	<p>599/16 649/25</p> <p><b>turning [3]</b>  516/1 518/16  536/15</p> <p><b>turns [3]</b>  586/13 607/17  607/18</p> <p><b>twice [1]</b> 496/6</p> <p><b>two [53]</b> 348/7  368/17 368/21  368/23 386/15  392/23 452/15  455/21 462/11  462/21 463/6  469/11 470/10  473/18 474/22  474/23 475/12  475/17 476/12  478/14 478/15  478/21 494/23  495/2 495/11  496/12 496/12  498/20 502/15  505/1 507/20</p>	<p>508/20 515/21  516/12 539/7  539/24 550/9  550/15 562/20  567/11 584/14  587/9 587/14  589/25 595/16  596/23 602/12  602/14 616/10  622/2 646/10  647/15 649/6</p> <p><b>type [7]</b> 344/8  358/7 363/13  377/19 520/21  580/7 638/21</p> <p><b>types [2]</b>  415/24 417/5</p> <p><b>typically [7]</b>  354/16 361/2  361/3 363/11  394/24 568/15  568/18</p> <p><b>typographical [1]</b> 340/4</p>
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<b>U</b>	390/1 393/24	531/6
<b>U.S [6]</b> 347/8	405/5 510/15	<b>uncover [1]</b>
355/6 404/8	563/8 569/18	369/22
442/4 451/5	621/10	<b>UNCT [1]</b>
640/24	<b>unable [1]</b>	333/6
<b>Uh [5]</b> 496/24	626/11	<b>UNCT/14/2 [1]</b>
544/20 546/14	<b>unambiguous</b>	333/6
553/21 575/14	<b>[1]</b> 618/7	<b>under [43]</b>
<b>Uh-huh [5]</b>	<b>unaware [1]</b>	333/3 358/8
496/24 544/20	344/2	370/16 372/4
546/14 553/21	<b>UNB [2]</b>	375/1 452/20
575/14	543/15 545/3	473/3 473/7
<b>UK [9]</b> 518/1	<b>uncertain [2]</b>	477/21 479/19
528/6 553/1	422/13 422/20	481/2 482/25
553/3 553/18	<b>UNCITRAL [1]</b>	487/8 490/24
554/16 554/19	333/4	516/3 516/22
576/9 635/17	<b>unclear [7]</b>	517/21 520/22
<b>ultimate [5]</b>	338/18 395/25	521/4 521/11
353/24 354/2	419/25 438/24	521/14 521/20
407/8 407/14	453/12 460/5	521/21 524/6
425/15	513/2	525/3 529/4
<b>ultimately [11]</b>	<b>uncomfortable</b>	532/2 534/18
352/10 352/14	<b>[1]</b> 461/1	535/5 538/16
354/12 389/15	<b>uncontested</b>	596/12 614/16
	<b>[2]</b> 530/22	

<p><b>U</b></p> <p><b>under... [11]</b>  614/16 625/11  635/21 636/7  637/12 637/22  637/24 644/17  645/4 645/13  651/15</p> <p><b>underlines [1]</b>  536/14</p> <p><b>understand [75]</b>  339/8  345/11 345/14  345/16 347/24  348/3 348/12  352/24 356/17  359/20 362/23  363/24 366/3  371/6 371/11  372/1 375/8  380/18 383/20  384/18 384/25  386/20 388/22  389/8 393/3</p>	397/8 397/12 397/13 398/6 400/11 402/9 403/6 409/23 410/1 411/25 412/22 414/2 421/9 421/10 421/12 424/13 428/4 429/24 434/20 436/15 440/18 440/20 440/21 441/21 450/15 452/24 457/18 466/9 480/22 486/18 513/8 539/6 545/14 549/13 552/25 593/13 597/3 597/3 599/17 601/2 616/20 618/15 621/14 624/11 624/12 624/14 629/1 637/11	650/22 651/9 <b>understandabl  e [1]</b> 650/5 <b>understanding [22]</b> 360/11 361/9 370/14 372/2 377/18 387/24 389/9 390/4 391/2 414/20 448/12 457/13 458/24 459/4 459/24 463/17 539/13 561/24 597/1 608/3 623/18 628/18 <p><b>understood [19]</b>  338/21  344/22 370/17  372/5 387/23  396/3 402/11  420/3 439/3  453/15 457/22  457/24 458/2</p>
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<p><b>U</b></p> <p><b>understood...</b> [6] 463/7 513/6 563/15 613/10 617/15 627/16</p> <p><b>unexpected</b> [10] 378/23 383/22 384/15 435/25 436/5 436/19 635/9 635/9 636/19 641/17</p> <p><b>unfair [1]</b> 458/12</p> <p><b>unfortunately</b> [2] 340/8 584/19</p> <p><b>Unifloc [22]</b> 603/15 603/18 603/25 604/8 604/9 604/12 604/24 605/11 606/10 606/11</p>	<p>606/16 606/20 606/24 609/9 609/12 610/2 610/16 610/19 610/21 611/1 615/13 615/14</p> <p><b>uniform [2]</b> 530/21 530/22</p> <p><b>unique [3]</b> 355/24 368/5 473/18</p> <p><b>uniquely [1]</b> 376/1</p> <p><b>unitary [1]</b> 592/2</p> <p><b>United [7]</b> 334/13 349/15 398/17 398/23 399/7 406/15 636/6</p> <p><b>University [4]</b> 346/13 515/14 542/3 542/14</p> <p><b>unless [3]</b></p>	<p>370/21 592/17 593/24</p> <p><b>unlike [3]</b> 369/20 375/18 479/18</p> <p><b>unprecedented</b> [2] 387/10 388/1</p> <p><b>unprincipled</b> [2] 631/14 633/5</p> <p><b>unsatisfactory</b> [1] 634/25</p> <p><b>unselected [1]</b> 647/7</p> <p><b>unsound [1]</b> 650/3</p> <p><b>untested [1]</b> 517/22</p> <p><b>until [30]</b> 356/22 364/6 368/7 369/2 393/21 395/14 398/18 399/11</p>
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<p><b>U</b></p> <p><b>until... [22]</b>  399/16 399/18  401/6 401/9  401/10 404/5  412/13 415/1  415/21 424/9  441/9 441/15  441/17 446/17  505/1 542/17  546/5 551/19  551/25 562/19  626/25 631/21</p> <p><b>untrue [2]</b>  521/3 521/7</p> <p><b>up [55]</b> 393/18  393/23 404/5  404/16 415/15  417/8 444/16  462/11 465/7  470/11 508/1  531/5 542/24  551/25 553/5  557/7 558/3</p>	562/4 562/11 567/5 569/10 570/23 575/5 575/15 575/24 578/3 579/12 580/1 580/19 581/3 584/20 585/3 586/12 589/22 590/23 593/9 599/14 599/16 603/11 605/12 606/9 613/3 620/22 621/6 621/23 623/22 625/20 629/5 632/25 633/5 633/20 639/1 639/12 646/6 649/11 <p><b>up-to-date [1]</b>  444/16</p> <p><b>updated [4]</b>  445/19 474/16  477/23 490/12</p>	<p><b>updates [2]</b>  448/24 449/1</p> <p><b>upheld [3]</b>  501/24 531/12  577/1</p> <p><b>Upjohn [1]</b>  418/9</p> <p><b>upon [15]</b>  339/5 396/11  420/11 433/9  439/11 453/24  456/11 458/19  471/6 484/5  509/14 513/15  580/13 586/3  616/2</p> <p><b>Uponor [3]</b>  474/23 499/22  501/11</p> <p><b>urged [1]</b>  591/22</p> <p><b>us [23]</b> 360/7  360/7 376/15  397/25 410/6</p>
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**U****us... [18]**

452/23 461/23  
 462/5 466/10  
 467/8 492/12  
 512/5 537/24  
 552/13 553/23  
 554/1 554/1  
 581/7 609/10  
 610/1 610/4  
 647/24 649/4

**use [50]**

341/12 352/20  
 361/25 390/3  
 390/21 393/11  
 414/12 416/3  
 418/3 418/13  
 418/17 418/22  
 428/10 433/7  
 433/14 448/10  
 448/14 466/10  
 479/9 479/12  
 480/8 489/8  
 500/21 502/13

502/21 503/1  
 503/4 503/15  
 504/1 505/8  
 507/6 507/14  
 507/17 508/12  
 509/18 509/21  
 510/20 516/16  
 523/18 528/21  
 533/1 533/7  
 556/17 572/5  
 604/9 614/23  
 615/6 620/19  
 626/7 639/7

**used [33]**

368/19 368/20  
 378/6 392/25  
 393/11 394/19  
 399/6 399/23  
 433/5 436/12  
 447/25 483/13  
 508/5 516/13  
 518/21 518/25  
 519/2 522/20  
 522/24 524/18

528/18 530/4  
 533/9 579/16  
 579/22 579/25  
 582/8 582/9  
 603/20 603/23  
 604/14 604/16  
 608/20

**useful [73]**

370/24 371/4  
 377/6 377/17  
 377/21 377/23  
 378/3 380/1  
 385/4 385/6  
 386/14 386/15  
 386/16 386/18  
 387/9 389/5  
 394/7 394/12  
 394/16 394/17  
 394/23 394/23  
 395/3 429/7  
 429/13 430/4  
 432/11 450/12  
 475/14 476/17  
 488/7 488/9

<p><b>U</b></p> <p><b>useful... [41]</b>  488/13 488/14  498/24 516/18  518/24 523/5  532/4 532/5  542/23 555/1  555/4 555/8  555/11 555/18  563/4 565/10  565/12 566/4  566/6 570/6  570/8 570/9  570/21 579/25  580/15 587/8  588/6 590/10  595/13 598/8  603/22 608/24  614/2 614/11  614/19 615/17  617/4 638/20  643/11 645/22  645/23</p> <p><b>useful' [1]</b></p>	<p>586/16</p> <p><b>usefulness [5]</b>  394/18 488/7  582/9 593/23  603/1</p> <p><b>useless [6]</b>  516/20 516/21  528/17 571/17  571/19 571/21</p> <p><b>user [1]</b>  593/12</p> <p><b>uses [5]</b> 479/3  480/12 510/15  533/5 570/16</p> <p><b>using [14]</b>  378/16 417/18  500/20 502/12  504/10 530/7  598/6 604/21  605/4 605/15  607/10 611/3  616/15 621/15</p> <p><b>usual [1]</b> 338/3</p> <p><b>usually [5]</b></p>	<p>393/22 523/16  573/5 635/7  637/16</p> <p><b>utilities [1]</b>  484/19</p> <p><b>utility [300]</b>  343/1 344/11  344/16 344/21  344/23 370/16  370/16 370/23  370/24 371/3  371/24 372/4  372/4 374/11  374/12 374/15  375/1 375/2  375/4 377/18  378/5 378/21  379/11 385/4  385/5 385/12  386/1 386/22  387/16 394/19  403/16 455/25  456/2 456/11  456/15 470/20</p>
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<p><b>U</b></p> <p><b>utility... [264]</b></p> <p>470/22 471/6</p> <p>471/10 472/6</p> <p>472/9 473/5</p> <p>473/7 473/10</p> <p>473/13 473/17</p> <p>473/18 473/23</p> <p>474/4 474/5</p> <p>474/8 474/9</p> <p>474/10 474/20</p> <p>474/24 475/13</p> <p>475/15 476/13</p> <p>476/19 476/22</p> <p>477/1 478/7</p> <p>478/13 478/18</p> <p>478/20 483/22</p> <p>487/11 489/22</p> <p>489/24 490/3</p> <p>490/19 490/25</p> <p>491/6 491/9</p> <p>491/19 492/11</p> <p>494/8 494/24</p> <p>494/25 495/3</p>	<p>495/4 495/22</p> <p>496/14 497/8</p> <p>497/9 497/12</p> <p>497/17 497/21</p> <p>498/4 498/11</p> <p>498/20 499/13</p> <p>499/16 499/19</p> <p>499/21 500/13</p> <p>501/14 502/9</p> <p>516/2 516/5</p> <p>516/8 516/12</p> <p>516/16 517/9</p> <p>517/20 517/22</p> <p>518/8 518/10</p> <p>518/16 518/21</p> <p>519/5 519/9</p> <p>520/1 520/3</p> <p>520/4 520/5</p> <p>520/7 520/13</p> <p>522/11 522/13</p> <p>522/24 523/2</p> <p>523/5 524/12</p> <p>524/16 524/20</p> <p>525/8 525/9</p>	<p>526/8 526/20</p> <p>526/23 527/6</p> <p>527/18 527/23</p> <p>528/6 529/3</p> <p>529/6 530/18</p> <p>531/3 531/9</p> <p>531/11 532/20</p> <p>533/6 533/7</p> <p>533/16 534/5</p> <p>534/6 534/10</p> <p>534/23 534/24</p> <p>539/18 539/25</p> <p>546/5 546/17</p> <p>546/25 547/5</p> <p>549/17 550/4</p> <p>550/22 551/2</p> <p>551/4 551/6</p> <p>551/7 553/14</p> <p>554/21 555/24</p> <p>556/4 556/5</p> <p>556/8 556/9</p> <p>556/11 556/12</p> <p>558/14 559/11</p> <p>559/19 560/14</p>
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<p><b>U</b></p> <p><b>utility..... [124]</b></p> <p>561/5 561/14</p> <p>562/21 563/4</p> <p>563/8 563/21</p> <p>564/17 564/23</p> <p>565/9 565/13</p> <p>565/20 565/24</p> <p>566/7 567/9</p> <p>567/19 569/17</p> <p>569/18 570/11</p> <p>570/13 570/17</p> <p>570/18 571/4</p> <p>572/15 573/1</p> <p>573/3 573/16</p> <p>576/18 577/3</p> <p>577/24 579/13</p> <p>579/14 580/10</p> <p>580/11 582/8</p> <p>582/11 582/15</p> <p>586/14 588/3</p> <p>589/14 589/17</p> <p>590/3 592/1</p> <p>592/13 593/3</p>	<p>593/14 593/17</p> <p>593/19 593/24</p> <p>593/25 594/8</p> <p>594/15 594/23</p> <p>595/17 595/20</p> <p>595/23 596/6</p> <p>598/1 598/20</p> <p>599/5 600/2</p> <p>600/19 601/6</p> <p>601/16 603/1</p> <p>604/2 604/12</p> <p>604/19 605/1</p> <p>607/7 607/15</p> <p>607/25 608/6</p> <p>608/9 608/12</p> <p>608/14 610/7</p> <p>610/8 611/9</p> <p>612/7 613/12</p> <p>613/20 613/23</p> <p>613/24 614/5</p> <p>614/12 614/21</p> <p>614/25 616/8</p> <p>616/12 616/18</p> <p>616/25 617/1</p>	<p>617/2 617/3</p> <p>617/3 617/5</p> <p>617/6 617/8</p> <p>617/18 621/2</p> <p>621/9 628/20</p> <p>629/2 629/11</p> <p>629/15 631/10</p> <p>631/13 633/13</p> <p>636/11 636/14</p> <p>636/20 636/25</p> <p>637/8 637/12</p> <p>637/13 637/22</p> <p>638/10 638/19</p> <p>639/20 640/24</p> <p>641/8 644/15</p> <p>645/12 645/20</p> <p><b>utility-based</b></p> <p><b>[3]</b> 478/7</p> <p>478/20 495/22</p> <p><b>utilizing [1]</b></p> <p>414/10</p> <p><b>utterly [1]</b></p> <p>387/25</p>
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<p><b>V</b></p> <p><b>validity [20]</b>  354/22 355/12  356/23 361/14  361/17 416/10  442/23 444/21  449/17 472/23  473/15 482/24  495/22 496/8  499/17 500/4  525/3 531/12  577/1 580/12</p> <p><b>valuable [4]</b>  501/23 502/1  502/11 570/2</p> <p><b>valuation [1]</b>  363/23</p> <p><b>value [10]</b>  357/11 357/20  358/23 359/25  391/22 394/20  499/7 566/7  640/7 643/13</p> <p><b>valuing [1]</b></p>	<p>358/11</p> <p><b>van [5]</b> 334/5  334/6 538/12  538/24 581/12</p> <p><b>van den Berg [2]</b> 538/24  581/12</p> <p><b>variety [1]</b>  545/6</p> <p><b>various [6]</b>  388/24 404/16  421/24 626/22  639/8 639/11</p> <p><b>vary [1]</b> 622/14</p> <p><b>vast [1]</b> 472/12</p> <p><b>Venugopal [1]</b>  336/17</p> <p><b>VERONEAU [1]</b>  335/7</p> <p><b>versa [1]</b> 468/7</p> <p><b>version [10]</b>  391/17 464/23  469/20 469/22  470/1 470/2</p>	<p>470/5 494/14  517/13 540/16</p> <p><b>versions [1]</b>  464/10</p> <p><b>versus [2]</b>  476/11 637/8</p> <p><b>very [73]</b> 339/1  345/15 345/23  353/9 359/11  361/21 361/24  366/16 374/25  385/10 391/10  392/21 396/8  402/20 402/22  411/8 417/1  417/11 418/8  418/9 419/4  420/8 421/10  426/17 439/8  446/14 453/21  454/19 457/3  462/18 504/9  505/7 508/14  512/17 513/11</p>
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<p><b>V</b></p> <p><b>very... [38]</b>  516/5 516/6  517/10 518/10  521/25 524/10  531/3 532/13  532/14 533/8  535/17 535/20  542/20 542/25  550/17 555/20  558/8 558/9  558/10 566/23  566/25 571/13  573/1 574/18  576/9 578/24  592/1 603/11  613/8 626/7  628/24 631/23  633/9 633/20  634/16 634/17  637/13 649/15</p> <p><b>VETERE [1]</b>  335/7</p> <p><b>via [1]</b> 581/1</p>	<p><b>viable [1]</b>  360/7</p> <p><b>vice [9]</b> 364/5  373/15 392/2  441/12 441/19  444/24 445/3  447/1 468/7</p> <p><b>vice versa [1]</b>  468/7</p> <p><b>vice-president [8]</b> 364/5  373/15 392/2  441/12 441/19  444/24 445/3  447/1</p> <p><b>view [34]</b>  341/5 341/6  341/13 366/25  372/17 376/23  377/11 377/15  377/25 382/25  385/25 386/20  435/7 458/18  461/1 477/17</p>	<p>486/16 516/19  549/15 555/23  575/3 583/24  588/24 592/8  597/2 600/5  601/2 611/1  618/2 619/4  626/2 627/12  631/12 638/9</p> <p><b>viewed [1]</b>  370/22</p> <p><b>views [6]</b>  377/3 432/15  535/13 584/4  584/23 584/25</p> <p><b>virtually [1]</b>  363/14</p> <p><b>vis [2]</b> 403/16  403/16</p> <p><b>vis-à-vis [1]</b>  403/16</p> <p><b>void [1]</b> 521/6</p> <p><b>volume [7]</b>  553/5 557/8</p>
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<p><b>V</b></p> <p><b>volume... [5]</b> 562/12 567/6 578/4 603/12 605/12</p> <p><b>VP [1]</b> 447/12</p>	<p>360/25 364/2 364/19 364/22 380/2 381/10 383/16 397/13 400/8 400/12 402/6 403/5 404/13 406/2</p>	<p>335/12</p> <p><b>wasn't [24]</b> 348/8 348/13 369/15 397/16 448/17 457/13 546/20 547/21 548/18 564/14</p>
<p><b>W</b></p> <p><b>W1K [1]</b> 334/13</p> <p><b>WAGNER [4]</b> 335/14 514/16 514/18 626/22</p> <p><b>wait [5]</b> 434/10 462/21 466/4 591/18 592/17</p> <p><b>walk [1]</b> 489/15</p> <p><b>Wandscheer [4]</b> 518/13 529/22 530/1 530/3</p> <p><b>want [26]</b> 356/15 358/22</p>	<p>411/14 412/20 418/22 499/9 524/3 548/2 574/15 577/25 596/20 615/9</p> <p><b>wanted [3]</b> 353/23 354/9 581/12</p> <p><b>wanting [1]</b> 622/18</p> <p><b>warning [1]</b> 396/5</p> <p><b>warrant [1]</b> 598/9</p> <p><b>was [638]</b></p> <p><b>Washington [2]</b> 333/18</p>	<p>564/18 571/18 574/19 576/13 576/14 576/15 577/4 601/24 610/10 612/4 613/5 624/12 630/2 649/5</p> <p><b>waste [1]</b> 615/24</p> <p><b>wasted [1]</b> 616/2</p> <p><b>wastewater [1]</b> 609/16</p> <p><b>water [1]</b> 609/17</p> <p><b>waveguide [2]</b> 571/17 572/6</p>

<b>W</b>	334/16	394/11 394/22
<b>way [39]</b> 341/1	<b>we [226]</b> 338/9	394/22 394/24
344/2 345/20	338/12 345/16	395/14 396/24
346/5 352/23	345/20 345/22	397/1 397/13
353/20 355/24	345/24 345/25	397/25 402/20
356/17 361/25	346/1 349/9	403/3 403/3
363/9 368/24	351/22 355/8	403/6 405/19
371/22 381/19	357/19 357/25	405/20 409/13
388/19 394/11	358/11 360/4	411/5 411/10
394/18 409/25	360/8 362/1	411/12 414/24
414/21 417/8	362/13 363/16	417/3 417/13
426/25 440/22	363/20 365/23	417/25 417/25
445/14 457/19	366/13 367/10	418/1 418/2
458/10 460/7	368/6 368/19	418/8 418/11
461/17 495/24	368/19 369/3	418/17 421/2
497/13 500/3	371/6 376/9	421/10 429/25
556/20 557/21	378/14 379/21	435/23 440/20
629/14 636/24	380/24 381/13	442/1 443/20
643/13 644/9	382/20 383/15	444/12 445/7
650/10 650/11	384/11 384/12	452/9 452/12
650/11 651/11	385/14 385/15	452/16 452/18
<b>ways [2]</b> 389/6	385/16 385/16	452/19 452/21
529/5	392/8 392/14	454/21 455/9
<b>WC2R [1]</b>	393/8 393/12	457/5 457/12



<b>W</b>	495/8 495/13	594/7 594/11
<b>we... [133]</b>	499/9 499/22	594/14 596/18
457/14 457/22	502/17 505/18	596/21 597/13
458/2 458/5	506/20 514/19	598/18 599/14
458/8 459/2	514/22 519/3	599/16 600/8
459/11 459/14	520/4 521/21	600/9 602/17
459/18 460/2	522/8 523/7	605/11 608/18
460/3 460/5	524/5 524/21	608/21 609/12
461/11 461/14	528/24 537/24	612/18 613/8
462/6 462/21	538/3 538/13	613/12 617/13
462/22 463/5	539/6 543/9	618/9 621/7
463/10 463/19	544/5 544/13	621/19 626/10
463/25 464/2	553/19 557/7	626/14 626/25
464/24 465/5	557/7 558/3	627/8 628/2
465/9 465/16	561/7 561/8	630/14 634/19
466/20 467/6	570/22 571/7	634/22 636/14
467/16 468/2	572/23 572/25	641/11 642/14
468/17 468/21	573/14 580/2	642/20 642/21
469/5 469/25	581/9 583/20	645/21 647/18
470/14 480/25	584/20 584/23	647/23 650/14
481/1 481/14	585/3 585/15	651/18
484/22 486/8	590/17 590/19	<b>we'd [10]</b>
486/22 487/7	591/1 591/18	446/14 457/15
492/2 494/19	592/17 594/6	459/12 463/23

<b>W</b>	489/3 510/9	465/4 465/6
<b>we'd... [6]</b>	521/4 555/22	465/8 466/16
464/15 465/7	576/16 578/1	473/11 484/5
611/19 611/21	591/7 594/13	489/15 489/16
617/11 617/15	628/14	519/17 521/1
<b>we'll [6]</b>	<b>weak [2]</b>	531/9 532/6
364/25 376/5	422/13 422/20	534/21 540/3
376/7 441/23	<b>weeks [2]</b>	541/17 542/11
649/9 651/17	544/7 544/11	544/4 545/10
<b>we're [23]</b>	<b>well [127]</b>	547/1 547/13
359/9 366/14	344/22 347/19	548/7 548/8
386/7 391/14	351/5 351/15	549/5 549/10
464/9 464/20	355/9 358/5	549/14 552/15
508/3 517/14	358/21 363/8	553/25 554/18
522/16 542/22	367/4 368/16	555/5 556/13
553/10 572/20	370/10 370/17	558/12 558/20
572/23 573/11	372/4 373/11	559/8 559/9
605/10 610/18	377/3 382/7	559/23 560/1
626/11 626/11	400/6 418/11	560/20 561/6
628/6 633/19	418/23 418/24	565/1 565/25
638/6 638/7	432/9 433/1	567/21 568/23
639/15	436/9 442/3	570/2 570/9
<b>we've [11]</b>	442/6 443/1	571/20 572/18
361/11 389/10	445/16 463/12	576/6 576/13

<b>W</b>	642/19 643/3	343/12 344/20
<b>well... [51]</b>	644/19 647/13	347/9 348/14
576/21 577/4	647/14 650/19	348/19 349/14
578/11 578/21	651/9	351/3 351/16
578/24 579/11	<b>well-founded</b>	351/22 351/23
583/18 585/23	<b>[2]</b> 418/11	352/8 352/19
586/5 588/19	418/24	353/19 354/2
589/3 595/19	<b>Wellcome [13]</b>	354/7 354/12
595/25 598/5	408/3 408/11	358/6 358/11
600/17 601/23	410/17 410/17	358/19 362/23
602/20 611/19	411/10 449/23	364/4 364/15
612/3 612/9	531/14 531/16	364/16 365/9
612/10 612/20	563/1 564/1	365/14 365/23
613/14 614/10	565/2 567/7	366/2 366/3
616/21 618/5	621/9	368/4 369/9
618/24 619/22	<b>WENDY [1]</b>	369/25 370/8
620/2 622/11	335/14	371/16 371/17
623/3 624/4	<b>went [8]</b> 405/9	372/9 372/11
625/8 627/4	405/19 481/20	372/25 373/8
627/21 628/15	552/21 570/15	374/5 374/5
629/16 631/3	574/22 600/21	374/8 374/10
631/12 631/19	600/25	374/17 374/23
634/3 636/1	<b>were [218]</b>	375/10 375/14
636/12 641/6	342/1 342/5	378/11 380/24

<b>W</b>	435/16 437/9	518/17 525/4
<b>were... [168]</b>	441/4 441/8	527/3 528/17
383/24 383/24	443/17 445/7	530/4 530/16
384/14 384/20	447/12 449/10	532/5 532/9
384/21 386/6	450/22 450/25	532/12 532/12
387/12 387/14	451/10 451/23	532/14 532/16
387/16 387/18	455/21 457/14	532/19 537/18
389/6 391/7	458/19 463/8	537/20 539/19
392/19 400/18	473/2 473/6	540/2 540/22
401/9 401/18	475/6 475/13	541/7 543/21
401/22 401/24	476/12 478/15	546/23 547/10
402/10 403/20	478/17 479/2	547/15 548/15
403/20 404/4	479/3 481/25	548/16 548/17
405/23 406/14	482/4 482/13	548/24 557/7
406/25 407/13	490/13 493/10	558/18 559/12
408/17 409/24	493/11 494/20	562/19 563/22
410/21 411/10	496/13 498/22	563/23 564/18
412/12 415/14	500/8 500/11	564/21 564/22
417/25 418/2	500/12 501/24	570/17 571/23
418/4 418/25	502/9 506/6	573/14 576/11
422/5 422/8	510/11 511/13	579/2 590/17
424/15 425/3	514/20 515/22	590/19 592/12
425/10 425/16	516/4 516/13	592/24 596/18
431/9 431/22	518/4 518/9	600/5 601/7

<b>W</b>	573/23	415/23 416/7
<b>were..... [28]</b>	<b>what [208]</b>	417/4 417/23
601/19 601/24	340/3 346/20	422/16 427/10
602/6 602/9	348/16 350/2	428/4 428/8
604/17 605/19	350/20 353/6	430/10 430/12
608/20 609/21	358/6 362/3	432/16 433/17
615/22 616/4	362/17 362/22	433/20 436/15
616/5 616/6	362/25 366/3	437/21 437/21
623/8 624/9	367/9 367/21	444/9 444/9
625/1 626/22	370/11 370/19	450/15 457/7
630/23 630/24	370/22 371/2	461/22 462/6
631/5 641/24	371/11 371/25	463/19 464/1
642/14 647/10	372/21 375/7	465/18 469/7
647/16 647/16	376/22 380/17	478/18 479/16
647/17 647/18	382/17 384/18	480/11 485/9
647/19 647/20	386/19 387/3	497/7 497/10
<b>weren't [12]</b>	387/20 387/22	497/15 501/18
352/18 352/19	387/23 388/21	503/16 504/3
373/14 374/22	388/24 389/7	506/13 509/11
416/8 418/20	390/22 391/1	511/4 511/15
509/12 530/18	393/4 397/11	517/10 526/16
572/21 628/14	400/9 401/16	526/24 527/14
630/1 630/20	402/6 402/9	531/20 531/24
<b>Wetston [1]</b>	403/24 411/25	532/6 532/23

<b>W</b>	586/19 587/12	616/19 621/13
<b>what... [116]</b>	587/23 588/6	623/9 624/10
533/9 534/19	590/12 590/15	626/3 626/4
536/21 537/16	591/10 593/1	628/18 629/22
537/22 537/25	593/21 594/1	630/17 630/19
537/25 547/14	594/20 596/13	631/8 637/16
548/5 555/4	598/3 598/10	637/20 638/6
555/17 556/14	598/14 598/17	642/1 642/20
556/15 557/4	599/17 599/21	642/22 644/5
560/23 561/8	599/25 600/11	644/24 645/10
563/11 563/12	600/17 600/20	647/18 650/7
564/24 565/17	600/21 600/23	650/11 650/22
566/16 567/12	600/25 602/2	<b>what's [12]</b>
567/13 567/25	602/17 603/2	377/14 383/17
568/7 568/17	603/9 604/4	389/1 407/18
569/14 569/21	604/23 608/1	411/3 432/18
569/24 570/3	608/10 608/16	506/15 561/4
570/7 570/13	608/22 609/9	570/9 620/14
570/16 571/11	610/5 610/13	641/5 645/17
572/8 572/10	610/18 610/21	<b>whatever [3]</b>
572/18 572/25	610/22 610/23	345/21 360/12
576/4 579/3	613/16 614/10	557/2
580/3 581/9	614/15 615/2	<b>whatsoever [3]</b>
584/11 585/24	615/16 615/18	373/19 624/2

<p><b>W</b></p> <p><b>whatsoever...</b>  <b>[1]</b> 630/17</p> <p><b>wheel [4]</b>  533/23 533/24  534/1 534/2</p> <p><b>when [112]</b>  348/4 348/8  348/13 348/17  349/18 349/23  350/5 350/8  350/15 351/18  352/16 353/5  354/19 355/1  355/9 365/10  365/23 368/2  368/5 370/3  370/10 370/14  371/20 372/1  372/2 373/15  374/8 374/20  374/21 376/8  377/13 383/1  383/2 383/22</p>	384/19 387/22 387/23 390/23 398/22 399/11 400/12 402/10 402/16 402/23 403/19 406/14 406/25 407/7 407/13 415/6 417/8 417/21 418/17 423/2 440/3 442/23 447/12 448/18 448/23 449/17 450/10 451/1 459/25 460/6 461/25 462/5 467/23 468/3 473/5 475/23 490/16 490/23 491/8 491/15 509/14 511/12 516/3 518/9 518/17 535/21 536/1 536/3	540/15 540/21 541/7 545/2 547/23 552/17 552/18 553/3 558/10 572/11 579/15 579/22 583/8 591/4 594/21 595/6 599/18 603/20 604/16 606/17 608/6 617/1 620/9 621/2 624/7 628/16 633/13 634/24 641/24 649/8 <p><b>whenever [1]</b>  534/6</p> <p><b>where [70]</b>  352/7 353/15  354/1 354/4  357/11 358/22  360/24 362/6  362/16 363/16  371/4 375/18</p>
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<b>W</b>	586/13 594/8	400/24 415/5
<b>where... [58]</b>	601/1 601/20	432/21 436/16
380/24 384/12	602/11 602/24	443/12 465/16
384/13 387/24	609/25 613/12	467/7 477/25
400/25 409/4	613/20 615/23	478/3 479/14
411/25 415/5	619/16 627/13	479/15 479/16
416/20 423/1	627/17 630/15	498/10 499/8
425/7 425/18	<b>Whereabouts</b>	505/16 509/20
444/11 461/12	<b>[1]</b> 414/14	532/16 535/4
464/8 465/9	<b>whereas [1]</b>	535/5 535/11
474/4 476/11	491/17	546/18 547/4
476/21 478/16	<b>wherein [1]</b>	548/4 556/23
488/6 488/13	475/6	571/19 580/23
492/7 492/9	<b>whether [55]</b>	588/21 599/11
507/5 527/17	351/6 351/21	610/10 616/3
528/24 531/22	352/4 352/6	617/16 637/9
533/5 553/12	358/3 358/8	642/16 647/6
560/5 560/7	360/8 361/1	647/8
560/9 561/3	362/3 362/7	<b>which [168]</b>
564/22 565/9	367/23 368/17	339/3 339/12
569/15 571/3	374/1 377/16	342/23 343/23
571/13 573/12	377/22 378/4	344/3 348/20
573/15 576/24	385/4 385/7	353/21 354/8
580/8 583/6	386/1 392/18	354/13 354/20



<b>W</b>	443/17 446/13	544/6 547/17
<b>which... [158]</b>	446/21 453/23	548/11 551/3
355/10 356/1	454/22 460/2	552/21 553/7
356/10 358/24	461/8 463/2	557/20 557/25
360/13 361/6	463/7 464/21	561/2 561/19
364/21 366/7	469/15 474/23	562/20 562/22
370/17 371/21	480/14 484/14	564/16 564/17
371/23 372/5	486/24 487/10	565/14 565/19
372/21 376/6	489/19 490/2	566/7 569/3
376/25 377/17	495/21 497/11	570/17 570/18
379/2 379/15	499/22 499/24	572/15 573/2
380/23 381/12	506/21 507/3	574/25 579/25
382/2 385/16	508/10 510/15	582/8 584/8
386/16 389/3	513/13 520/6	584/25 585/16
389/10 394/19	521/21 521/25	585/17 587/8
396/10 396/15	523/25 525/4	592/10 593/6
408/1 408/3	525/23 526/7	594/13 597/14
409/4 409/20	526/12 526/14	597/24 598/3
410/15 411/4	527/1 528/4	598/15 600/5
411/5 413/11	528/9 529/1	601/12 602/23
415/9 420/10	529/12 529/14	603/6 603/12
429/4 430/2	529/23 530/13	603/23 606/13
435/24 439/10	532/25 536/9	610/24 616/20
439/15 441/11	540/2 542/24	617/4 619/8

<p><b>W</b></p> <p><b>which..... [18]</b>  619/12 621/25  628/20 629/14  631/17 633/24  634/18 634/20  636/24 637/21  640/25 641/14  643/15 645/20  648/10 648/22  650/1 651/15</p> <p><b>while [6]</b> 357/6  364/16 408/17  430/19 464/20  545/18</p> <p><b>Whilst [1]</b>  464/9</p> <p><b>who [17]</b>  343/25 344/4  350/10 353/19  354/12 362/13  377/4 404/2  418/9 459/19  464/21 502/3</p>	<p>506/6 507/25  514/17 579/9  633/3</p> <p><b>who's [1]</b>  507/25</p> <p><b>whole [30]</b>  339/6 365/20  370/13 392/19  396/13 419/2  419/3 420/13  439/13 454/1  454/21 536/19  536/23 589/4  589/8 589/9  596/5 599/3  603/7 610/7  621/1 629/4  629/6 633/22  644/24 646/17  648/20 648/25  649/1 649/1</p> <p><b>wholly [8]</b>  378/11 378/22  383/22 384/14</p>	<p>384/15 412/25  556/21 558/11</p> <p><b>whose [2]</b>  343/19 404/5</p> <p><b>why [23]</b> 356/1  361/4 378/5  385/11 497/13  509/17 509/23  510/19 545/20  572/13 573/8  593/7 599/2  608/24 609/1  609/3 609/5  610/6 637/25  648/18 650/13  650/13 651/2</p> <p><b>wide [1]</b> 416/1</p> <p><b>widely [1]</b>  405/5</p> <p><b>will [90]</b>  338/20 338/24  339/10 346/1  363/13 386/3  386/4 395/14</p>
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<b>W</b>	568/19 568/21	521/20
<b>will... [82]</b>	583/10 586/17	<b>William [2]</b>
396/6 397/23	586/18 586/19	585/3 585/7
398/1 420/3	586/20 587/10	<b>willing [2]</b>
420/6 421/2	587/11 587/12	358/20 607/4
421/13 439/2	587/13 587/19	<b>WILMER [1]</b>
439/6 440/11	587/23 587/24	334/12
440/17 440/22	590/10 590/11	<b>wilmerhale.co</b>
453/15 453/19	590/12 590/13	<b>m [1] 334/13</b>
455/20 460/23	591/8 591/9	<b>Wilson [6]</b>
460/24 461/19	591/10 591/11	465/11 466/15
462/12 462/21	593/19 593/20	466/15 466/18
462/22 464/24	593/21 593/22	468/8 468/10
468/10 474/12	594/25 599/25	<b>win [2] 497/5</b>
476/2 481/9	600/23 602/1	497/10
488/17 512/8	603/2 615/9	<b>windsurfer [1]</b>
513/5 513/9	617/21 619/23	619/9
513/15 514/18	620/4 631/7	<b>wish [6]</b>
514/23 515/2	637/23 651/18	340/10 396/21
516/6 521/16	<b>WILLARD [1]</b>	420/22 439/24
525/25 531/22	335/9	454/24 514/9
533/25 538/11	<b>willfully [1]</b>	<b>wishing [1]</b>
550/14 552/9	521/8	391/17
555/21 556/4	<b>willfulness [1]</b>	<b>within [16]</b>

<p><b>W</b></p> <p><b>within... [16]</b>  350/9 367/25  375/21 392/9  447/1 515/2  518/15 525/25  539/10 539/13  553/13 563/17  585/10 627/1  639/15 640/9</p> <p><b>without [14]</b>  369/4 376/16  378/1 378/2  385/18 457/11  459/6 460/16  470/7 549/24  565/10 605/25  626/3 626/4</p> <p><b>withstand [2]</b>  361/14 361/17</p> <p><b>witness [72]</b>  338/10 338/16  339/8 339/12  339/20 340/4</p>	346/11 347/6 347/22 356/16 362/2 362/10 362/11 364/1 364/20 377/10 382/10 384/7 384/9 395/13 395/22 396/14 396/21 397/9 398/4 399/16 400/18 403/5 404/15 405/4 405/20 409/1 409/3 409/7 409/17 410/10 410/25 411/21 413/10 413/16 414/3 415/13 417/15 419/15 419/24 420/16 420/22 438/10 438/22 439/15 439/16 439/24 442/9 452/7	452/10 452/13 452/14 453/11 454/3 454/4 454/12 455/22 465/24 466/1 466/6 469/16 469/19 511/12 512/13 512/25 539/9 563/15 <p><b>witness' [1]</b>  362/10</p> <p><b>witnesses [13]</b>  457/10 457/15  457/24 458/4  458/6 459/9  460/13 465/12  466/18 466/20  467/12 467/13  467/17</p> <p><b>won [6]</b> 477/1  494/9 495/21  497/8 498/16  498/18</p> <p><b>won't [5]</b></p>
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<p><b>W</b></p> <p><b>won't... [5]</b>  356/11 457/20  460/18 498/25  568/18</p> <p><b>wonder [2]</b>  393/12 540/1</p> <p><b>wondering [2]</b>  452/16 461/11</p> <p><b>Wood [1]</b>  398/13</p> <p><b>word [33]</b>  378/6 393/1  399/6 436/4  523/5 533/1  533/6 533/7  555/8 555/17  568/9 569/2  587/16 605/21  605/24 606/10  606/19 606/22  610/6 611/6  611/12 611/14  613/4 618/13</p>	<p>618/19 621/15  624/9 624/12  624/19 625/3  625/10 627/25  630/5</p> <p><b>wording [1]</b>  521/5</p> <p><b>words [48]</b>  400/23 473/11  483/13 528/18  530/4 536/14  537/16 537/17  537/17 537/19  567/18 567/23  568/20 568/22  587/3 587/21  588/1 588/5  591/13 592/5  592/6 592/21  592/24 594/3  594/3 594/17  594/20 594/23  604/10 605/8  605/9 612/20</p>	<p>618/6 618/7  618/9 622/19  623/17 624/19  624/25 628/3  628/13 628/16  630/1 630/2  630/20 630/23  631/1 649/16</p> <p><b>work [35]</b>  360/24 363/10  369/18 369/19  377/19 386/3  386/4 399/15  399/17 399/23  400/6 400/8  481/20 482/18  499/6 526/24  527/1 527/2  530/5 530/7  586/17 587/11  590/5 590/10  591/8 591/23  593/20 597/6  599/19 600/12</p>
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<b>W</b>	612/3 612/4	349/5 349/6
<b>work... [5]</b>	<b>world [9]</b>	349/8 349/17
601/20 602/3	343/23 359/11	349/22 349/24
602/4 602/6	359/14 390/13	350/5 350/7
603/2	393/20 394/20	350/8 350/9
<b>worked [8]</b>	402/13 403/13	350/13 350/15
426/2 449/15	405/22	350/17 350/17
516/24 517/7	<b>world's [1]</b>	350/21 350/23
528/16 592/7	376/24	351/1 351/4
600/7 600/9	<b>worldwide [2]</b>	351/10 351/17
<b>worked' [1]</b>	414/12 414/22	351/20 351/21
591/24	<b>worry [1]</b>	351/24 352/1
<b>working [2]</b>	588/21	352/3 352/9
443/6 506/7	<b>worst [1]</b>	352/11 352/14
<b>works [20]</b>	638/15	352/17 352/18
361/2 386/2	<b>worth [2]</b>	353/3 353/5
388/19 442/12	536/15 569/9	353/10 353/11
516/23 518/3	<b>would [310]</b>	353/11 353/14
570/25 598/15	338/5 340/1	353/16 353/20
598/25 601/16	343/1 343/13	353/21 354/3
609/4 609/5	343/17 344/7	354/4 354/14
610/1 610/5	344/10 344/16	354/15 354/21
610/6 610/12	345/17 345/19	355/11 355/18
610/20 612/3	346/20 347/11	355/25 356/5

<b>W</b>	392/2 392/18	444/15 444/21
<b>would... [250]</b>	397/15 397/17	445/5 445/18
356/21 357/8	397/25 398/6	445/22 446/1
357/11 357/12	405/24 409/25	446/5 446/5
357/15 357/19	410/5 410/6	446/9 446/11
357/22 358/1	410/9 410/10	446/15 447/2
358/2 358/6	411/15 411/22	447/8 447/18
358/9 358/12	411/23 411/24	449/2 458/1
358/14 358/15	414/5 415/8	458/5 458/11
358/18 358/19	415/15 416/13	458/12 458/17
359/22 359/25	416/17 416/23	459/5 461/5
360/19 360/19	417/1 417/3	461/9 461/14
361/12 361/14	417/3 418/14	461/23 461/25
361/17 361/18	418/21 419/2	462/22 464/13
361/19 362/20	425/18 426/16	464/14 465/22
362/25 363/3	427/2 427/13	466/11 466/21
363/4 363/21	437/17 437/21	467/11 467/24
370/12 370/23	437/23 437/25	473/12 478/10
371/3 371/9	442/25 443/6	488/10 488/23
371/15 372/6	443/7 443/19	491/15 491/18
373/21 373/24	443/20 443/20	494/5 494/13
374/2 375/2	443/21 443/24	498/16 503/6
377/18 378/20	444/4 444/6	516/17 516/19
385/11 385/14	444/6 444/12	516/24 517/7

<b>W</b>	566/21 566/22	618/10 618/18
<b>would..... [110]</b>	566/25 567/2	624/6 624/11
517/8 520/6	567/24 567/25	624/14 624/16
520/7 520/15	568/6 568/10	625/12 625/14
524/20 525/2	568/25 571/16	625/16 627/20
527/21 530/21	571/19 571/21	629/6 629/13
530/22 531/7	572/11 572/13	631/9 637/24
532/3 532/10	572/22 578/8	638/17 642/12
532/15 533/16	579/4 579/7	643/15 650/5
533/21 533/24	580/25 582/15	<b>wouldn't [14]</b>
540/20 542/23	586/23 588/4	357/7 362/20
543/17 544/22	588/9 590/15	373/22 404/10
545/23 550/2	595/3 597/11	415/21 419/4
550/22 550/24	601/25 606/18	447/19 530/6
551/3 551/7	611/13 611/14	569/5 586/7
551/13 552/18	611/15 611/22	601/20 607/5
552/24 553/22	612/14 612/15	618/12 619/6
555/16 557/1	612/16 612/25	<b>Wright [2]</b>
557/12 557/13	613/25 614/12	516/25 535/7
557/13 557/23	614/13 614/20	<b>write [17]</b>
558/19 558/20	614/22 614/25	405/4 517/2
559/6 559/8	615/17 616/23	562/7 562/17
560/1 565/11	617/12 617/13	575/9 575/20
565/23 566/15	617/14 617/21	576/2 583/23



<b>W</b>	613/11 641/4	546/11 546/15
<b>write... [9]</b>	641/5	554/15 555/20
589/12 593/18	<b>wrote [12]</b>	579/8 588/17
604/7 615/6	563/12 567/12	595/16 634/16
619/16 623/24	567/14 576/5	<b>yes [414]</b>
637/9 649/16	580/18 591/5	<b>yesterday [5]</b>
649/20	594/1 594/2	462/13 463/9
<b>writes [2]</b>	630/16 630/18	464/11 464/23
567/9 583/6	637/17 650/7	516/24
<b>writing [5]</b>	<b>Y</b>	<b>yet [4]</b> 467/6
539/24 576/10	<b>yeah [8]</b>	497/4 521/15
630/15 637/11	482/11 482/18	651/1
649/13	494/1 505/4	<b>yield [1]</b>
<b>written [11]</b>	509/2 509/2	566/23
515/20 515/22	641/11 650/20	<b>yielded [1]</b>
515/23 536/1	<b>year [5]</b> 472/23	583/8
537/8 548/20	502/3 546/7	<b>yields [2]</b>
578/20 587/21	598/13 650/3	532/12 566/24
628/23 632/21	<b>years [18]</b>	<b>you [1127]</b>
636/6	340/23 375/23	<b>you'd [9]</b>
<b>wrong [9]</b>	391/12 417/2	341/22 545/24
356/11 387/1	417/18 417/22	570/24 587/14
387/3 408/6	447/6 450/10	600/13 618/14
606/15 610/4	505/1 515/15	625/20 632/5

<p><b>Y</b></p> <p><b>you'd... [1]</b> 635/4</p> <p><b>you'll [8]</b> 408/25 411/9 487/8 508/19 536/16 580/1 591/16 601/3</p> <p><b>you're [67]</b> 346/22 347/1 348/4 351/19 352/24 353/1 355/14 358/21 359/3 359/5 360/24 367/21 373/8 373/11 376/19 376/25 384/5 416/20 429/21 434/20 461/16 482/23 492/7 494/6 508/14 510/5 510/18 510/23 525/15 541/11</p>	<p>541/19 541/23 542/2 547/14 547/23 552/21 560/23 562/6 564/13 564/15 564/16 564/19 573/12 575/18 578/6 583/19 584/1 591/12 603/14 614/17 614/24 615/2 615/4 621/25 623/22 625/22 628/4 633/23 636/20 637/5 637/11 637/20 640/12 640/20 649/13 650/22 651/8</p> <p><b>you've [52]</b> 338/21 342/10 346/16 348/9 366/5 379/1 381/25 390/8</p>	<p>396/2 397/9 439/3 453/15 481/12 488/19 490/2 502/21 504/20 507/4 507/12 510/22 513/6 517/15 529/17 534/17 539/7 543/3 556/19 564/6 569/8 574/25 576/20 577/9 577/19 588/2 594/5 594/5 595/12 596/5 596/24 600/3 601/3 601/18 604/23 605/8 605/9 620/14 622/15 628/23 632/1 632/21 636/6 650/11</p> <p><b>your [397]</b> <b>yourself [5]</b></p>
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<p><b>Y</b></p> <hr/> <p><b>yourself... [5]</b>  347/2 435/2  487/16 489/14  492/21</p>	<p>427/16 504/21  505/6 539/19  563/22</p>	
<p><b>Z</b></p> <hr/> <p><b>Zahl [3]</b> 537/9  537/11 537/19</p> <p><b>ZEMAN [8]</b>  336/6 421/6  434/23 438/5  440/11 440/16  455/5 480/20</p> <p><b>zero [1]</b> 558/9</p> <p><b>Zyprexa [21]</b>  341/3 341/14  341/19 342/15  343/15 344/13  372/16 372/18  380/10 389/12  389/21 390/9  390/12 424/18  424/19 427/15</p>		