BULKY DOCUMENTS

(exceeds 300 pages)

Proceeding/Serial No: 91123506

Filed: 5-11-07

Title: Pucel Enterprises, Inc.

V S.

Grizzly Industrial, Inc.

Part ____ of ____

1 two of them myself. I don't have an opportunity to
2 the phone as I would like.
3 Q Do you remember the one or two that you may have
4 taken directly?
5 A Just the confusion. I can't specifically.
6 Q I don't know what you mean when you say "just
7 the confusion."
8 A Well, what I'm saying is they were asking for a
9 product and I'll say, yes, this is Grizzly, but it's
10 not the product that you're asking for. And they go,
11 "Well, can you direct me to the product the dust
12 collector?" And then I always left it at that and
13 said "No," but I never pursued it or went any further.
14 Q What are Sianor products?
15 A They're light switch plates.
16 Q Is Sianor a Pucel trademark?
17 A Yes.
18 Q Is that a separate business of Pucel from
19 material handling?
20 A No. It's all part of it, part of the company.
21 Q Are Sianor products in the Pucel catalog?
22 A No. We have a separate catalog that we send for
23 that.
24 Q And those are light switch plates?
25 A Um-hmm.

1 Q And you sell those under the Sianor trademark?
2 Am I saying it right, Sianor?
3 A Yeah. You're right. Sianor.
4 Q Now, prior to the Internet the past few years,
5 the focus of Pucel was on industrial users, correct?
6 A In years past.
7 Q In years - prior to the time that you went on
8 the Internet.
9 A That's hard to say because we didn't see all the
10 end users to that product.
11 Q Well, your target audience was certainly
12 industrial users, wasn't it, prior to the Internet?
13 A Industrial distributors we focused on, but like
14 I said, a distributor could sell to anybody they want
15 within their region or their district in which they're
16 selling.
17 Q Isn't it your understanding though that they
18 typically sell to industrial users?
19 A I don't have control over that. That's not a
20 concern of mine.
21 - - - - -
22 (Exhibit Mlakar R-17 was
23 marked for identification.)
24 - - - - -
25 Q 17 does not have a document number because Mr.

1 Mitchell produced that today. Mr. Mlakar, I have put
2 in front of you Exhibit R-17.
3 A Yes.
4 Q And that is the front cover of *Metal Working*
5 *Digest*.
6 A Um-hmm.
7 Q Pucel does not advertise in *Metal Working*
8 *Digest*, does it?
9 A At this point we do not have any ad in it.
10 Q Has Pucel ever run an ad in *Metal Working*
11 *Digest*?
12 A Tony would have a better idea of that.
13 Q Not to your knowledge?
14 A We have publications we've been in similar to
15 this and I'm not sure specifically it's *Metal Working*
16 *Digest*. I can't answer yes on that.
17 Q Looking at Exhibit R-1, remember that list of -
18 A Yes.
19 Q Looking at that list, can you think of any
20 printed publication that Pucel has advertised in other
21 than what's listed here?
22 A I don't specifically sign the contracts so I
23 don't know all of them. If they are not here, I would
24 not be aware of it.
25 Q Okay. I'm just asking you are you aware.

1 A No, I'm not.

2 Q You said you're not aware of any others that are

3 not listed here.

4 A That's correct.

5 Q Then I have at least one question for Tony.

6 - - - - -

7 (Exhibit Mlakar R-18 was

8 marked for identification.)

9 - - - - -

10 Q To save some time, I'm going to mark a lot of

11 these catalogs that you brought and I just want you to

12 say that you can identify them and that it contains or

13 doesn't contain an ad of yours.

14 A Okay.

15 Q Unless you want me to ask the questions, but I

16 would assume -

17 MR. MITCHELL: That's easier. You

18 can just give it to him, the same question.

19 Q There's a series here and I'm assuming some of

20 these are C&H, some are Global. I'd like to establish

21 that C&H is a distributor of yours -

22 A Yes.

23 Q - of Pucel. Global is a distributor?

24 A Yes.

25 Q And that these are pages from current or recent

1 catalogs that carry an ad or otherwise display Pucel's
2 products?
3 A That's correct.
4 MR. SCHMIDT: And I'm just going
5 to keep marking these and give you a
6 series, if that's okay with you, Ken.
7 MR. MITCHELL: That's fine.
8 MR. SCHMIDT: That's all I want to
9 establish is that these are your
10 distributors' catalogs and these are the
11 excerpts.
12 MR. MITCHELL: Sure.
13 MR. SCHMIDT: Some, not all
14 inclusive.
15 A Right. That's fair.
16 MR. SCHMIDT: Why don't we take a
17 break.
18 - - - - -
19 (Exhibit Mlakar R-19 through R-25
20 were marked for identification.)
21 - - - - -
22 (Recess had.)
23 Q We have a series of exhibits which I want you to
24 identify just in general terms as being Pucel
25 distributors and respective product placement of Pucel

1 products and their catalogs. So if you want to just
2 look at that — actually, let me identify the whole
3 series there, which would run from Exhibit R-18
4 through R-25, so if my general statements are then
5 applicable to all of them, we'll just move on once you
6 confirm that.
7 MR. MITCHELL: That's fine.
8 A You don't want me to comment on each one, just
9 look at them all and make one general statement?
10 Q If you have a comment on a particular one, feel
11 free, but don't feel compelled to. If it speaks for
12 itself, that's all that needs to be said.
13 A In response to R-18 to R-25, those are our
14 distributors in those catalogs and they do contain
15 Grizzly Equipment in them. It's not all-inclusive I
16 noticed on some of the pages, but it does represent
17 our product in there. I noticed some pages were
18 missing, but —
19 Q R-18 through R-25 would be representative of the
20 distributors of the type shown in those documents and
21 how your product is displayed in their catalogs; is
22 that right?
23 A Could you repeat that?
24 Q The Exhibits R-18 to R-25 would be
25 representative samples of distributors like C&H and

1 Global, that is Pucel's distributors, and how they
2 display your product in their catalogs?
3 A Yes. That is a sampling of our customers, yes.
4 Q And representative of how your product is sold
5 by customers like that?
6 A Yes.
7 Q Now, just to recap, the Global and C&H catalogs
8 are one way that Pucel's products are sold.
9 A Yes.
10 Q The other way is directly through Pucel
11 catalogs.
12 A Yes.
13 Q Another way is over the Pucel-Grizzly web site.
14 A Yes.
15 Q And are there any other ways that the product is
16 sold?
17 A Well, I did mention the fact that people do come
18 in the building, it's not a retail store, but they do
19 come in and we have outside people from the
20 neighborhood who just know we exist, like the product,
21 so —
22 Q Is that in addition to the annual auction sale
23 of —
24 A Yes, it is.
25 Q — second items?

1 A Yes, it is.

2 MR. MITCHELL: And just so the

3 recap also includes the retail stores he

4 had testified about, some retail store

5 activity in California and one or two -

6 five or six different places I think it was

7 total.

8 Q And is it accurate to say that you directly

9 place your product in some retail stores in

10 California, Cleveland and also New York?

11 A That's correct.

12 Q Any other cities?

13 A None that I'm aware of.

14 MR. MITCHELL: I thought the

15 testimony was Chicago and Atlanta, that

16 there were -

17 A Those were with the one company we were

18 referring to has six distribution centers and I

19 believe - I know that they stock our product and I'm

20 not quite sure how it's presented, but they're in each

21 area, California, New Jersey, Georgia, Ohio and

22 Chicago and then they just opened up one more.

23 Q These are distributors -

24 A Yes.

25 Q - that have showrooms?

1 A That stock our product.
2 Q But you don't know if the product is shown in
3 their showroom?
4 A I know that they have where our customers - they
5 say you can come in and do like a pick up or a will
6 call, and I'm not quite sure how, if that's a store
7 that they have. I just haven't visited them yet.
8 Q But what you're aware of in a traditional retail
9 environment is the one store in California, one in
10 Cleveland and one or more in New York?
11 A Yes. That's what I'm aware of.
12 Q That actually is a retail store that has your
13 products in the store, you can walk in off the street
14 and purchase it?
15 A And then we also have that one company who
16 actually -
17 Q Could you - before that, could you - I'm not
18 sure if you said yes to that. So in the traditional
19 retail environment it's those three places I mentioned
20 where people can actually walk in off the street and
21 buy your product?
22 A In a conventional way like that, yes.
23 Q And then you were saying?
24 A We also have another means that people are
25 selling to other people, in a sense, coming off the

1 street. The market is changing off the web site that
2 goes directly into the homes. So these people are
3 accessing - it becomes like a retail store and it's
4 shipped directly to their home.
5 Q So the web site you're considering -
6 A Absolutely.
7 Q - your electronic retail store?
8 A Absolutely, yes.
9 MR. SCHMIDT: So that we get
10 enough time with Tony, I think we ought to
11 switch over.
12 MR. MITCHELL: Are you finished
13 with Bob or Pucel or do you want to reserve
14 some time yet for that today? It's fine if
15 you do.
16 MR. SCHMIDT: Yeah. He couldn't
17 answer some questions and Tony could.
18 MR. MITCHELL: I just want to
19 reiterate he'll read the transcript.
20 (Recess had.)
21 - - - - -
22 (Exhibit Mlakar R-26 was
23 marked for identification.)
24 - - - - -
25

1 CONTINUED EXAMINATION OF ROBERT MLAKAR

2 BY MR. SCHMIDT:

3 Q R-26, is that the Pucel web site?

4 A Yes, it is.

5 Q There's a — I put a Post It on a page. Is that

6 the — if someone wants to order, if they go on your

7 web site and wants to order, is that the order page?

8 A No. This is just an e-mail page.

9 Q What is an e-mail page?

10 A An e-mail page, if they want any information on

11 a particular topic, the e-mail page would be — could

12 potentially be for RFQ, request for quote.

13 Q Is there an order page in there somewhere?

14 A Yes. When you click on the product and then put

15 it into the shopping cart, it will direct you to the

16 order form.

17 Q Would the order form show up on what I printed

18 out or it wouldn't? That's just what's available when

19 you print out the web site?

20 A This would be more of a correspondence sheet and

21 not necessarily an order form sheet.

22 Q If I click on order, is that something I could

23 print out?

24 A You should be able to.

25 Q Without ordering?

1 A Yes. I would imagine. Print the screen or -
2 Q Yeah.
3 A Yes.
4 Q You think you can?
5 A Um-hmm.
6 MR. SCHMIDT: If I can't, I'll
7 let you guys know and maybe you'll do that
8 for me.
9 MR. MITCHELL: Sure.
10 A Sure.
11 Q I just want to see what an order page looks
12 like.
13 A Sure.
14 Q Is it all the same?
15 A It looks basically all the same. It depends on
16 what the item is.
17 Q Is there anything there close to what the order
18 form looks like?
19 A I don't see it, no.
20 MR. MITCHELL: Do you have an
21 extra - do you have a copy of that?
22 MR. SCHMIDT: I have one, yeah.
23 They only made me two.
24 MR. MITCHELL: Okay. That's fine.
25 I think it's a matter of record. I don't

1 see it in there.
2 MR. SCHMIDT: You'll get that one
3 back.
4 MR. MITCHELL: We'll get a copy of
5 that from the court reporter.
6 MR. SCHMIDT: They had a lot of
7 trouble printing it out and as I was
8 leaving the office they had to make two and
9 I wanted three. Maybe you guys could just
10 do that for me then. I'll try and do it
11 too, but I'm just asking if you would give
12 me —
13 MR. MITCHELL: Sure.
14 MR. SCHMIDT: In fact, if you
15 could send it to the court reporter, I'd
16 like IT attached to the back page as a
17 sample, I would like it to be part of R-26
18 as a sample of the order form that way we
19 all are on the same page.
20 MR. MITCHELL: Is that a complete
21 printout of your web site there?
22 MR. SCHMIDT: I'm told it was, but
23 I can't — if it's not, you can fix it up.
24 Be my guest.
25 MR. MITCHELL: Because it should

1 be content wise equivalent to the catalog.
2 THE WITNESS: Yes, it should be.
3 I'll go from memory, see if I can -
4 MR. MITCHELL: So we should send
5 that to Rebecca Brown?
6 MR. SCHMIDT: Yeah. And one copy
7 to me if you don't mind and that way it's
8 on the official exhibit and this way you've
9 approved to add it. Is that fair?
10 MR. MITCHELL: Yes.
11 MR. SCHMIDT: Both of you two then
12 have approved it rather than me trying to
13 tack it on some time.
14 MR. MITCHELL: Sure.
15 MR. SCHMIDT: Great. I appreciate
16 that.
17 MR. MITCHELL: Are you finished?
18 MR. SCHMIDT: No, but you got to
19 quit sometime.
20 - - - - -
21 (Deposition concluded at 4:25 p.m.)
22 - - - - -
23
24 _____
25 Robert A. Mlakar

The State of Ohio,)
) SS: CERTIFICATE
County of Cuyahoga.)

I, Rebecca L. Brown, Notary Public within and for the State of Ohio, duly commissioned and qualified, do hereby certify that the within-named ROBERT A. MLAKAR was by me first duly sworn to testify the truth, the whole truth, and nothing but the truth in the cause aforesaid; that the testimony then given by him/her was by me reduced to stenotypy in the presence of said witness, afterwards transcribed on a computer, and that the foregoing is a true and correct transcript of the testimony so given by him/her as aforesaid.

I do further certify that this deposition was taken at the time and place in the foregoing caption specified and was completed without adjournment.

I do further certify that I am not a relative, employee of, or attorney for any of the parties in the above-captioned action; I am not a relative or employee of an attorney for any of the parties in the above-captioned action; I am not financially interested in the action; I am not, nor is the court reporting firm with which I am affiliated, under a contract as defined in Civil Rule 28(D); nor am I otherwise interested in the event of this action.

IN WITNESS WHEREOF I have hereunto set my hand and affixed my seal of office at Cleveland, Ohio on this 4th day of April, 2003.

Rebecca L. Brown, Notary
Public in and for the
State of Ohio.
My commission expires 6/5/05.

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

PUCEL ENTERPRISES, INC.,	)
	)
Opposer,	)
	)CONFIDENTIAL
vs.	)Opposition No. 123, 506
	)Cancellation Nos. 31,984;
	)32,024;32,025
	)
GRIZZLY INDUSTRIAL, INC.,	) In Re: Exhibit 39
	)
Applicant/	)
Respondent.	)

- - - - -

EXCERPT OF THE TRIAL DEPOSITION OF ROBERT MLAKAR
Tuesday, May 23, 2006

- - - - -

Excerpt of the Trial Deposition of ROBERT MLAKAR, called for examination under the Federal Rules of Civil Procedure, taken before me, the undersigned, Caryn L. Lott, Registered Professional Reporter, a Notary Public in and for the State of Ohio, at the offices of Parise & Associates Court Reporters, 1360 East Ninth Street, Suite 1010, Cleveland, Ohio 44114 commencing at 9:00 a.m. the day and date set forth.

- - - - -

COPY

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

PUCEL ENTERPRISES, INC.,	)
	)
Opposer,	)
	)
vs.	)Opposition No. 123, 506
	)Cancellation Nos. 31,984;
	)32,024;32,025
	)
GRIZZLY INDUSTRIAL, INC.,	)
	)
Applicant/	)
Respondent.	)

- - - - -

DEPOSITION OF ROBERT MLAKAR
Tuesday, May 23, 2006

- - - - -

Deposition of ROBERT MLAKAR, called for examination under the Federal Rules of Civil Procedure, taken before me, the undersigned, Caryn L. Lott, Registered Professional Reporter, a Notary Public in and for the State of Ohio, at the offices of Parise & Associates Court Reporters, 1360 East Ninth Street, Suite 1010, Cleveland, Ohio 44114 commencing at 9:00 a.m. the day and date set forth.

- - - - -

APPEARANCES:

On Behalf of Respondent/Registrant Grizzly Industrial, Inc.:

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ALSO PRESENT:

Anthony Mlakar

- - - - -

EXAMINATION INDEX

DIRECT EXAMINATION BY MR. MITCHELL: Page 11

CROSS-EXAMINATION BY MR. SCHMIDT: Page 236

- - - - -

OBJECTION INDEX

BY MR. SCHMIDT 27
BY MR. SCHMIDT 29
BY MR. SCHMIDT 30
BY MR. SCHMIDT 36
BY MR. SCHMIDT 38
BY MR. SCHMIDT 46
BY MR. SCHMIDT 48
BY MR. SCHMIDT 50
BY MR. SCHMIDT 55
BY MR. SCHMIDT 56
BY MR. SCHMIDT 57
BY MR. SCHMIDT 57
BY MR. SCHMIDT 59
BY MR. SCHMIDT 59
BY MR. SCHMIDT 60
BY MR. SCHMIDT 62
BY MR. SCHMIDT 62
BY MR. SCHMIDT 62
BY MR. SCHMIDT 64
BY MR. SCHMIDT 65
BY MR. SCHMIDT 68
BY MR. SCHMIDT 80
BY MR. SCHMIDT 80
BY MR. SCHMIDT 103
BY MR. SCHMIDT 106
BY MR. SCHMIDT 113
BY MR. SCHMIDT 152
BY MR. SCHMIDT 157
BY MR. SCHMIDT 158
BY MR. SCHMIDT 160
BY MR. SCHMIDT 166
BY MR. SCHMIDT 167
BY MR. SCHMIDT 167
BY MR. SCHMIDT 168
BY MR. SCHMIDT 169
BY MR. SCHMIDT 178
BY MR. SCHMIDT 179
BY MR. SCHMIDT 181
BY MR. SCHMIDT 182
BY MR. SCHMIDT 209
BY MR. SCHMIDT 218
BY MR. SCHMIDT 232

- - - - -

EXHIBIT INDEX

Exhibit Number 1 (Trademark Principal Register 624,055)	MARKED ON PAGE 116
Exhibit Number 2 (Trademark Principal Register 704,631)	MARKED ON PAGE 120
Exhibit Number 3 (Trademark Principal Register 704,529)	MARKED ON PAGE 121
Exhibit Number 4 (Trademark Principal Register 704,539)	MARKED ON PAGE 123
Exhibit Number 5 (Trademark Principal Register 704,589	MARKED ON PAGE 124
Exhibit Number 6 (Trademark Principal Register 704,588)	MARKED ON PAGE 125
Exhibit Number 7 (Application for Trademark Principal register Grizzly.com)	MARKED ON PAGE 37
Exhibit Number 8 (Application for Trademark Principal Register Bear Power)	MARKED ON PAGE 126
Exhibit Number 9 (Trademark Service Mark Principal Register 2,413,625)	MARKED ON PAGE 185

EXHIBIT INDEX (CONTINUED)

Exhibit Number 10 MARKED ON PAGE 192
(Trademark Principal Register
2,312,226)

Exhibit Number 11 MARKED ON PAGE 193
(Trademark Principal Register
2,166,833)

Exhibit Number 12 MARKED ON PAGE 232
(Google web site)

Exhibit Number 13 MARKED ON PAGE 231
(Price list for 4-20-2000)

Exhibit Number 14 MARKED ON PAGE 232
(Price list for 3-15-74)

Exhibit Number 15 MARKED ON PAGE 194

(Pucel catalog)

Exhibit Number 16 MARKED ON PAGE 197
(Pucel catalog 1954)

Exhibit Number 17 MARKED ON PAGE 36
(Pucel 1954 Sticker)

Exhibit Number 18 MARKED ON PAGE 198
(Pucel label)

Exhibit Number 19 MARKED ON PAGE 198
(Pucel catalog 1961)

Exhibit Number 20 MARKED ON PAGE 201
(Pucel catalog 1961)

Exhibit Number 21 MARKED ON PAGE 202
(Pucel catalog 1964)

Exhibit Number 22 MARKED ON PAGE 207
(Pucel catalog 1967)

EXHIBIT INDEX (CONTINUED)

Exhibit Number 23 (Pucel catalog 1970)	MARKED ON PAGE 215
Exhibit Number 24 (Pucel catalog 1976)	MARKED ON PAGE 220
Exhibit Number 25 (Pucel catalog 1978)	MARKED ON PAGE 222
Exhibit Number 26 (Pucel catalog 1979)	MARKED ON PAGE 224
Exhibit Number 27 (Pucel catalog 1982)	MARKED ON PAGE 225
Exhibit Number 28 (Pucel catalog 1981)	MARKED ON PAGE 227
Exhibit Number 29 (Pucel catalog 1990)	MARKED ON PAGE 86
Exhibit Number 30 (Present Pucel catalog)	MARKED ON PAGE 80
Exhibit Number 31 (Pucel label)	MARKED ON PAGE 30
Exhibit Number 32 (Pucel label)	MARKED ON PAGE 32
Exhibit Number 33 (Pucel label)	MARKED ON PAGE 34
Exhibit Number 34 (Invoices and Bills of Lading)	MARKED ON PAGE 155
Exhibit Number 35 (Page from Grizzly Industrial's Catalog)	MARKED ON PAGE 153
Exhibit Number 36 (Grizzly Industrial customer list)	MARKED ON PAGE 153

EXHIBIT INDEX (CONTINUED)

Exhibit Number 37 (Invoices-Pucel)	MARKED ON PAGE 151
Exhibit Number 38 (Pucel web site)	MARKED ON PAGE 129
Exhibit Number 38-A (Home page for web site)	MARKED ON PAGE 130
Exhibit Number 38-B (Home page for web site)	MARKED ON PAGE 132
Exhibit Number 39 (Sales advertising costs)	MARKED ON PAGE 133
Exhibit Number 54 (SMO catalog)	MARKED ON PAGE 163
Exhibit Number 55 (SMO catalog)	MARKED ON PAGE 163
Exhibit Number 56 (C & H catalog)	MARKED ON PAGE 163
Exhibit Number 57 (C & H catalog)	MARKED ON PAGE 163
Exhibit Number 58 (SMO catalog)	MARKED ON PAGE 163
Exhibit Number 59 (Global Equipment web site)	MARKED ON PAGE 135
Exhibit Number 60 (Indoff web site)	MARKED ON PAGE 138
Exhibit Number 61 (Home page for Pucel web site)	MARKED ON PAGE 140
Exhibit Number 62 (Google web search)	MARKED ON PAGE 165
Exhibit Number 63 (Grizzly Industrial web site)	MARKED ON PAGE 170
Exhibit Number 64 (Product selection and Online ordering)	MARKED ON PAGE 177

EXHIBIT INDEX (CONTINUED)

Exhibit Number 65 MARKED ON PAGE 177
(Grizzly Industrial web site)

Exhibit Number 66 MARKED ON PAGE 180
(Pucel carts)

Exhibit Number 67 MARKED ON PAGE 181
(Grizzly Industrial carts
And platforms)

Exhibit Number 68 MARKED ON PAGE 149
(Grizzly Industrial 2005 catalog)

Exhibit Number 69 MARKED ON PAGE 149
(Grizzly Industrial 2001 catalog)

- - - - -

1 MR. SCHMIDT: Before we get
2 started, I don't think we ever put our
3 stipulation on the record. I think we
4 had agreed in writing that during your
5 testimony period you can rely on the
6 deposition of Mr. Balolia and all the
7 exhibits to it.
8 MR. MITCHELL: As far as filing
9 and notice of reliance?
10 MR. SCHMIDT: Yes.
11 MR. MITCHELL: I intended to do
12 that.
13 MR. SCHMIDT: Okay.
14 MR. MITCHELL: And similarly,
15 we agreed that I could rely on the
16 exhibits of both Robert and Anthony
17 Mlakar and the exhibits that were used
18 during that.
19 MR. SCHMIDT: Those were the
20 discovery depositions, so when we file
21 it, I think you should mark it as it's
22 stipulated that the parties relied on
23 it.
24 MR. MITCHELL: And it's all
25 confidential right now?

1 MR. SCHMIDT: Right now, yes.
2 MR. MITCHELL: Right now,
3 okay.
4 MR. SCHMIDT: If there is
5 something we need when we get to
6 briefing, just ask.
7 MR. MITCHELL: I am not sure
8 what portions of it we're going to use
9 for our brief. Thanks.
10 - - - - -
11 ROBERT MLAKAR
12 Called for examination under the Federal Rules of Civil
13 Procedure, after having been first duly sworn, as
14 hereinafter certified, was examined and testified as
15 follows:
16 DIRECT EXAMINATION
17 BY MR. MITCHELL:
18 Q Would you please state your name for the record.
19 A Robert Anthony Mlakar.
20 Q And how old are you?
21 A 44.
22 Q Okay. And are you currently employed?
23 A Yes.
24 Q Okay. And by whom are you employed?
25 A Pucel Enterprises, Incorporated.

1 Q And is Pucel Enterprises the opposer in the action
2 that we're here for today?
3 A Yes.
4 Q And is Pucel Enterprises the petitioner to cancel
5 in the action that we're here for today?
6 A Yes.
7 Q And what is your position?
8 A Vice president.
9 Q And how long have you held that position?
10 A 17 years.
11 Q And when did you first start working for Pucel?
12 A It was the late '70s. I was 15.
13 Q So you were 15 in which year?
14 A Probably '78.
15 Q And you were in high school at the time?
16 A Yes.
17 Q And what job functions did you perform at the time
18 you were 15 years old?
19 A I did the maintenance when I started, and then I
20 started working in the manufacturing end. I started
21 from the ground up until I was in production.
22 Q So when you were working in actually producing the
23 equipment, what types of machines did you work on?
24 A I first started running the punch presses that
25 were available, and then the notchers that we had, and

1 then started fabricating the pieces that are put into
2 the goods.
3 Q And what pieces were those?
4 A Sheet metal.
5 Q Sheet metal pieces?
6 A Uh-huh.
7 Q And what goods do those sheet metal pieces go
8 into?
9 A Some of them went into cabinets, carts, work
10 benches.
11 Q And at what point in time was it that you were
12 running these machines? Was this when you were 15
13 years old?
14 A Between 15 and 16. I worked a few months in the
15 summer just doing cleanup, and then I started moving
16 into production when they needed help.
17 Q Okay. And by, "cleanup," what were your duties?
18 A Cleaning out vaults, I was cleaning the yard,
19 cutting the grass.
20 Q Where was the business located?
21 A It was located on Kelley Avenue in Cleveland.
22 Q And where is the business located now?
23 A 1440 East 36th in Cleveland.
24 Q And are those two locations, Kelley Avenue and
25 East 36th street, in proximity to each other?

1 A Yes.
2 Q Tell us what other duties did you have as a
3 teenager working for Pucel?
4 A I continued in maintenance and production when
5 they needed me. I would do some mailings when they
6 needed it in the office. Then as time went on, I
7 started more -- doing more and more in production.
8 Q What types of mailings did you do in the office?
9 A We would do catalogs, mail catalogs with labels,
10 and we would have to sort them at that time by zip
11 code, ship them out.
12 Q When you're referencing labels, you're referring
13 to the addressee of the catalog?
14 A That's correct.
15 Q Did you ever participate in the assembly of the
16 products when you were a teenager?
17 A Yes. That would be in the shipping room.
18 Q And in 1978, you said you were 15?
19 A Yes.
20 Q What types of products were shipped in 1978?
21 A I shipped the cabinets. We had to put shelves in
22 and put handles on. There was a certain procedure that
23 we had when packaging equipment.
24 Q What are those cabinets used for?
25 A Storing material, handling. We would store

1 anything that we could.
2 Q Can those cabinets be used in any industry?
3 A Yes.
4 Q Now, did you affix labels to the products?
5 A Yes.
6 Q And this was in what year?
7 A 1978.
8 Q And did you personally affix labels?
9 A That's the first thing we did when I came over to
10 the shipping room. We had to put a label on. Then we
11 began assembling items with handles, shelves, and the
12 packaging began after that.
13 Q Now, what did the label say?
14 A "Grizzly Equipment Manufactured by Pucel
15 Enterprises, Incorporated."
16 Q And this was in 1978?
17 A '78.
18 Q And to your knowledge, has Pucel always used such
19 a label on its products?
20 A Yes, on everything, yes.
21 Q Is that a company policy, to use the label on all
22 of its products?
23 A Yes.
24 Q And tell us what that label indicates.
25 A On the label, it has the registered mark of a

1 bear, and it also has our -- the Grizzly on it as well
2 both showing that they're registered.
3 Q Okay. And how long did you work in shipping?
4 A I worked almost every year in the summer in the
5 beginning. I would be moved into shipping when they
6 needed it, and I would float around. It was from '78
7 on.
8 Q In 1978, you worked just in the summer?
9 A Yes.
10 Q Okay. And you were still in high school at that
11 time?
12 A That's correct.
13 Q And then did you go to college?
14 A Yes.
15 Q And where did you go to college?
16 A St. Charles Borromeo Seminary College.
17 Q What years were you in college?
18 A From '79 through '83.
19 Q And did you go to graduate school?
20 A Yes.
21 Q And where did you go to graduate school?
22 A St. Mary's Seminary for three years.
23 Q So what years did you attend St. Mary's Seminary?
24 A '83, '84 and '85.
25 Q Go ahead.

1 A That's not right. Yes, that's correct. Through
2 '85.
3 Q So you were a student at St. Mary's Seminary from
4 '83 to '85?
5 A Yes.
6 Q So you were in college for seven years?
7 A Four years of college and three years of graduate
8 school.
9 Q Okay. And did you work at Pucel Enterprises
10 during your four years of college and three years of
11 graduate school?
12 A Yes.
13 Q And were you employed during the summertime while
14 attending college?
15 A Yes.
16 Q Were you employed in the summertime while
17 attending graduate school?
18 A Yes.
19 Q And what were your duties at Pucel during your
20 summertime employment during college?
21 A It was two-fold. I worked in the factory as well
22 as on the road. Part of the company was a striping
23 company, so I did that as well. I was mixed.
24 In the factory, I worked -- primarily carried on what I
25 was doing previously. I worked where they needed me.

1 I worked on the machines and I also worked in the
2 shipping room as well.
3 Q And this would have been from '79 to '83?
4 A About '78 to '83.
5 Q Those are your college years, as you have
6 described them?
7 A Yes.
8 Q Okay. Now, when you worked in the shipping
9 department in the years '78 to '83, did you affix any
10 labels to the products?
11 A Yes. We put them on everything that we shipped
12 out. That was company policy.
13 Q Okay. Did you actually affix the labels -- and
14 the labels we're referring to are the Grizzly labels?
15 A Grizzly Equipment Manufactured By Pucel. That's
16 the label that we put on.
17 Q That label is affixed to the actual products?
18 A Every product.
19 Q Every product?
20 A Yes.
21 Q And during graduate school, you also worked in the
22 summertime only?
23 A As I got older, I started working sometimes on
24 Saturdays during school, because the company would be
25 open until usually 10:00, and I would go in when they

1 needed me.
2 Q When you say the company was open until 10:00,
3 you're talking about on Saturday?
4 A Yes.
5 Q Saturday morning?
6 A Yes.
7 Q So what did you do during your graduate school
8 employment at Pucel?
9 A I did the same thing I did in college.
10 Q Okay. And that included the affixation of labels?
11 A Yes.
12 Q To all of the products?
13 A All of the products.
14 Q Now, were any of the products packaged?
15 A Yes, we packaged all of our items before they were
16 shipped out by truck.
17 Q Okay. And what was indicated on the packaging?
18 A We always had our registered mark of the Grizzly
19 Bear, and then we had the words "Grizzly Manufactured
20 By" -- it was "Grizzly Equipment Manufactured By Pucel
21 Enterprises, Incorporated."
22 Q And that was on the packaging?
23 A Yes. It was printed on the outside of the
24 cartons.
25 Q Okay. Was that on every carton?

1 A Yes.
2 Q So when you finished graduate school, did you
3 continue working for Pucel?
4 A Yes, I did.
5 Q And that would have been what year?
6 A Probably around '85.
7 Q And did you work full-time?
8 A Yes.
9 Q In 1985?
10 A Yes.
11 Q And when were your duties in 1985?
12 A I worked on the road for a short -- for a couple
13 of months. Then I was brought into the office.
14 Q Okay. When you say, "on the road," what did you
15 do?
16 A We painted the lines on the highways.
17 Q And then when you went to work in the office, this
18 was your -- the time I am referring to is 1985 now?
19 A Yes.
20 Q What were your duties in the office?
21 A I began learning what took place in running the
22 business. I began understanding the principles of
23 payroll and how to do that, receivables, the payables.
24 Q And backing up to your high school employment at
25 Pucel, under whose supervision did you work?

1 A When I was in high school, it was Ed Pucel.
2 Q And when you were in college, under whose
3 supervision did you work?
4 A For the first year, it was under Ed Pucel. After
5 that, it was Tony Mlakar.
6 Q And who was Ed Pucel?
7 A Mr. Pucel was my grandfather.
8 Q Was he the founder of Pucel Enterprises?
9 A Yes, he was.
10 Q And do you know when the business was founded?
11 A 1949.
12 Q Did Mr. Pucel run the business in 1978 when you
13 began there as a 15-year-old high school student?
14 A Yes.
15 Q And was he the president of the company at the
16 time?
17 A Yes.
18 Q And what was Mr. Pucel's position with the company
19 during the time that you were employed by the company?
20 A What was his position?
21 Q Yes.
22 A He was the president.
23 Q At all times he was the president?
24 A Yes.
25 Q Okay. And is Mr. Pucel still alive?

1 A No.
2 Q And do you know when he died?
3 A I believe it was 1980.
4 Q He died in 1980?
5 A Yes.
6 Q Okay. And during your college years, you were
7 working under the supervision of Tony Mlakar?
8 A Yes.
9 Q What was Mr. Mlakar's position at the time?
10 A He was made president.
11 Q And what was your title when you began working at
12 Pucel after your college and graduate school ended?
13 A I became the vice president.
14 Q That was in 1983?
15 A 16 years ago from now. That would be --
16 Q That would have been the 1989-1990 time frame?
17 A That's when I became vice president.
18 Q What was your title in '85 when you finished
19 graduate school?
20 A I didn't have a title at that time.
21 Q Okay. And could you take me through your job
22 responsibilities through the years 1985 to 1989?
23 A I was learning the responsibilities of running of
24 the business. Then I became more active in the
25 production end of it. I started -- because of my

1 knowledge of the machines, I started getting pulled
2 down for more as the person between the office and the
3 plant itself, the manufacturing.
4 Q The liaison between the office business, so to
5 speak, and the actual manufacturing of the products?
6 A That's correct.
7 Q And that was for the years 1985 through 1989? Is
8 that correct?
9 A Yes.
10 Q And then in 1989 or 1990, is that the time when
11 you became vice president?
12 A Yes.
13 Q And what were your duties when you first became
14 vice president?
15 A I began handling some of the purchase parts that
16 we have in purchasing. I began doing a little bit --
17 getting more involved in the payroll. I started having
18 a more active role in what they do in production and
19 how they perform the production, some of the methods.
20 I worked on the equipment, upgrading equipment,
21 researching that. I helped with the production
22 schedules.
23 Q Were you in charge of the production workers?
24 A I worked -- I wasn't directly in a vertical line.
25 I was more horizontal. We worked between myself, the

1 plant manager and the foreman. We worked more on a
2 horizontal line.
3 Q And that was true when you became vice president.
4 And how have your job functions changed or how have
5 they been modified since the time you became vice
6 president?
7 A It seems like there is more and more
8 responsibility as I learned more and more of the
9 business.
10 Q And can you explain that?
11 A Well, Tony Mlakar is starting to work two days a
12 week, so presently I am taking on more of the
13 responsibilities that he had. He is semi-retired.
14 Q Now, Mr. Pucel, was he a relative of yours?
15 A Yes, he was my grandfather.
16 Q So he is your mother's father?
17 A Yes.
18 Q And Tony Mlakar, he is your father?
19 A My father, yes.
20 Q Now, how many people does Pucel employ now?
21 A Over 50.
22 Q Okay. And how has your employment been
23 historically? How many people, for instance, did you
24 have working at Pucel at the time you began as vice
25 president in that position in 1989 or 1990?

1 A It's about the same.
2 Q And what was the employment when you began in
3 1978, if you know?
4 A I don't know.
5 Q You have personal knowledge of everything you have
6 testified to up to this point, correct?
7 A Yes, that's correct.
8 Q What was the number of employees at the time you
9 started full-time in 1985?
10 A Probably 47, 48. I don't know the exact number.
11 Q Okay. So is it fair to say that you have been
12 employed full-time from 1985 until the present date by
13 Pucel Enterprises?
14 A Yes.
15 Q And returning to the subject of the Grizzly label,
16 has Pucel used the Grizzly label on all of its products
17 during your full-time employment --
18 A Yes.
19 Q -- with Pucel?
20 A Yes, on all of the products.
21 Q One thing. Let me try to finish my question
22 before you answer the question. It will read a little
23 bit more clearer.
24 Has Pucel used the Grizzly Bear symbol
25 continuously on all of its products during your full-

1 time tenure at Pucel Enterprises?
2 A Yes.
3 Q Now, your capacity as vice president, you're
4 appointed to that position, I take it?
5 A Yes.
6 Q And by what authority, the corporate authority?
7 A Yes.
8 Q And that's the board of directors?
9 A Right, primarily those in the office and Tony
10 Mlakar.
11 Q Now, the ownership of the company, the company is
12 a corporation, correct?
13 A Yes.
14 Q And is it a corporation in the State of Ohio?
15 A Yes.
16 Q Is all of the stock owned by the Mlakar family?
17 A No.
18 Q Okay. Does the Mlakar family own the controlling
19 portion of the stock?
20 A Yes.
21 Q Tell me about the business of Pucel Enterprises.
22 What products has Pucel sold during the tenure of your
23 employment? I want to go all the way back to 1978 to
24 this date. If you can describe generically the variety
25 of the products.

1 MR. SCHMIDT: I am going to
2 object as multiple questions there.
3 I think you're also calling for a
4 narrative. I didn't mind in the
5 beginning with the background, but as
6 we get more into this, you have to ask
7 him a question and let him answer --
8 MR. MITCHELL: Okay.
9 MR. SCHMIDT: -- not put the
10 answer in the question.
11 Q What products were you generically selling, to the
12 best of your knowledge, in 1978? When I say, "you," I
13 am referring to Pucel.
14 A Pucel Enterprises has sold a variety of what we
15 would consider Grizzly Equipment. It ranged from
16 cabinets -- there were all sorts of cabinets that we
17 manufactured. We manufactured storage cabinets, bifold
18 cabinets, gas cylinder cabinets. There was a variety
19 of cabinets within each of the categories. We sell
20 portable cabinet work benches, a variety of them.
21 There are cabinet work benches with drawers. There are
22 cabinet benches with tool boxes. There are portable
23 work benches that just have doors. Some don't have
24 doors, but they're portable. We sell a variety of work
25 benches, standard work benches with legs and stringers,

1 with hardwood tops, steel tops, laminate tops. We have
2 a variety of benches that are ergonomic. There are
3 hydraulic work benches. Some are hand crank,
4 motorized. We have hydraulic lift work benches with a
5 foot pedal. We have a variety of carts, platform
6 trucks, two-shelf carts, shelf carts, three-sided
7 carts, hand trucks, which would be considered a part of
8 carts and trucks. We have tool stands, machine cabinet
9 stands. We have drum handling equipment. We have
10 lifters for drum handling, drum equipment for 55-gallon
11 drums. We sell a variety of accessories with our
12 benches. We have risers and drawers, vises. We sold a
13 number of bags that are in conjunction with work
14 benches.
15 Q And this is all in 1978?
16 A Yes --
17 Q You mentioned --
18 A -- with the exception of the hydraulic. That came
19 later on in product development.
20 Q What are your hydraulics used on?
21 A They're used on our work benches.
22 Q And what function do they perform on your work
23 benches?
24 A It raises and lowers the surface of the work
25 bench.

1 Q And these products that you just listed and
2 identified, they were all sold in 1978?
3 A Yes.
4 Q And have these products been sold in the years
5 since 1978?
6 A Yes.
7 Q Each of the products has been sold?
8 A Yes.
9 Q In every year?
10 A In every year, yes.
11 Q Now, you mentioned a hydraulic bench, correct?
12 A Uh-huh.
13 Q This hydraulic bench is assembled by Pucel?
14 A Yes.
15 Q And then when it's shipped, the Grizzly label is
16 affixed to it?
17 A Yes.
18 Q And this is the label that has the word Grizzly,
19 G-r-i --
20 MR. SCHMIDT: I am going to
21 object as leading. I think you have
22 to ask him what is on the label rather
23 than telling him what is on the label
24 and asking him to confirm it.
25 MR. MITCHELL: Fair enough.

1 We can go to Exhibit 31.

2 - - - - -

3 (Opposer/Petitioner's Exhibit Number 31 was

4 marked for identification.)

5 - - - - -

6 Q Mr. Mlakar, I have handed you what has been marked

7 for identification as Exhibit Number 31. Can you

8 identify that for us.

9 A It has the word, "Grizzly." It has the Grizzly

10 Bear on it, and it says, "Grizzly Equipment

11 Manufactured By Pucel Enterprises, Incorporated,

12 Cleveland, Ohio, 44114" with our telephone number.

13 Q That label has a color?

14 A It has a silver background with blue printing on

15 it.

16 Q And when was that label used by Pucel?

17 A This specific one or a label?

18 Q A label like it with that --

19 A This my grandfather started back right from the

20 beginning.

21 Q Now, at some time in the past, the Grizzly labels

22 were yellow with black printing?

23 MR. SCHMIDT: Objection.

24 Leading.

25 You're supplying the answer,

1 Ken.
2 Q Were other labels used with different color
3 schemes?
4 A When I first started working, the labels were
5 yellow with a black lettering. They were a little bit
6 larger than this. The history of why we changed is
7 because we typically put them on a storage cabinet
8 right in the front on the top lip there, and the lip
9 was wider -- was narrower than the label was wider. It
10 sort of was hanging off by an eighth of an inch. We
11 shrunk it down to fit perfectly. That's when we made
12 the change from the yellow and black to the silver and
13 blue.
14 Q Okay. And you're referring to Exhibit Number 31
15 when you say the silver and blue, correct?
16 A Yes.
17 Q Now, when was the silver and blue label first
18 used? If you don't understand the question, what I am
19 seeking --
20 MR. SCHMIDT: What you're seeking
21 is leading. You can't tell him what
22 you're seeking.
23 Q When was that label first used?
24 A I am trying to think of the year of when it was
25 used. I don't know the year. I just know that we

1 created and changed it to fit better.
2 Q And do you know approximately when that was?
3 A It was in the '80s.
4 Q Okay. And before that, another color scheme was
5 used?
6 A Yes. We had yellow and black.
7 - - - - -
8 (Opposer/Petitioner's Exhibit Number 32 was
9 marked for identification.)
10 - - - - -
11 Q I direct your attention, Mr. Mlakar, to what has
12 been marked for identification as Opposer/Petitioner's
13 Exhibit Number 32. If you could, let the court
14 reporter initial and date it.
15 MR. SCHMIDT: Ken, if I might
16 suggest, as far as the exhibits, if
17 you're finished with one, if you want
18 to move to admit it, then I can deal
19 with it and go on to the next one.
20 It's up to you.
21 MR. MITCHELL: Well, I don't
22 think the TTAB requires us to move to
23 admit each individual exhibit. I was
24 going to do that at the end rather
25 than do each one separately. If you

1 feel the need to make some sort of
2 objection as we go along, go ahead.
3 Q In regard to what has been marked for
4 identification as Opposer/Petitioner's Exhibit Number
5 32, could you please identify what that is.
6 A It has the sticker that is silver and blue. It
7 has the word, "Grizzly," the registered trademark, and
8 also the Grizzly Bear and it has our company name and
9 address and telephone number.
10 Q And is there another label on Exhibit 32?
11 A There is one more label that was created. It has
12 Grizzly Equipment and the Grizzly Bear, the word
13 Grizzly and then Pucel Enterprises with the address and
14 phone number.
15 Q Okay. Now, could you describe the color scheme of
16 the larger label, which is part of Opposer/Petitioner's
17 Exhibit Number 32?
18 A It has a white background with dark blue
19 lettering.
20 Q And when was that label first used?
21 A That was used about two years ago.
22 Q And how was that label created, and I am referring
23 to the larger of the two there?
24 A This label was created when the packaging started
25 shifting from the corrugated to a stretch wrap machine

1 that we purchased. We use corrugated corners, and we
2 put it on a machine and it stretch wraps with a clear
3 film so to identify our company. We purchased this
4 label to affix on every product that goes out.
5 So the larger of the two is used on shrink wrap. It's
6 on the outside of the carton. The smaller label that's
7 silver and dark blue goes on each of the products as
8 they go out. The larger one goes on the outside of
9 every package.
10 Q And the smaller one goes on each individual
11 product?
12 A That's correct.
13 Q Are any products shipped without these Grizzly
14 labels?
15 A No product is shipped without any of these labels.
16 Q That's true for Exhibit 31 as well?
17 A That's correct.
18 Q The previous exhibit?
19 A Yes.
20 - - - - -
21 (Opposer/Petitioner's Exhibit Number 33 was
22 marked for identification.)
23 - - - - -
24 Q I direct your attention to what has been marked
25 for identification as Opposer/Petitioner's Exhibit

1 Number 33. Do you personally oversee the assurance
2 that every product is marked with your Grizzly
3 trademarks?
4 A Yes.
5 Q You have personal knowledge of the use of these
6 trademarks on the goods since you began with Pucel in
7 1978?
8 A Yes.
9 Q What is Opposer/Petitioner's Exhibit Number 33?
10 A It's a reduced version of what is printed on our
11 corrugated cartons. It has the registered bear and
12 also the Grizzly registered mark Grizzly,
13 G-r-i-z-z-l-y, Equipment. This is the actual exhibit
14 that has been reduced.
15 Q When you say it's a reduced exhibit, is it on
16 certain types of packaging?
17 A I was referring to the copy, because I didn't see
18 this one over there. This is the full version. This
19 one is smaller, reduced down from the original.
20 Q Right. And could you describe what that is
21 mounted on?
22 A This is mounted on the packaging of our
23 equipment. It's printed on each of the cartons that we
24 get in.
25 Q How long has that been used?

1 A Since the time that I began I am aware of it.
2 Q Is it still being used?
3 A Yes.
4 Q And when I say that, has the packaging been
5 continuously used since you began with Pucel?
6 A Yes.
7 Q Is that also a true statement with respect to
8 Exhibits 31 and 32?
9 A Yes.
10 - - - - -
11 (Opposer/Petitioner's Exhibit Number 17 was
12 marked for identification.)
13 - - - - -
14 Q I have handed to you, and the court reporter has
15 marked for identification, Opposer/Petitioner's Exhibit
16 Number 17. Can you identify what that is?
17 A This is a sticker that was put on all of our
18 products of Grizzly Equipment. It has the word
19 Grizzly, Registered Trademark Grizzly, G-r-i-z-z-l-y,
20 our bear symbol, and it has the company name and the
21 address of the company with the yellow and black
22 lettering.
23 Q And was that the sticker that was used before the
24 sticker --
25 MR. SCHMIDT: Objection.

1 You're leading him again.
2 Q When was that sticker used?
3 A This sticker was used in the earlier days in the
4 time when I first started. This sticker was used on
5 all of our products that went out the door, all of the
6 Grizzly Equipment.
7 Q Now, is your company known as Grizzly Equipment to
8 its customers?
9 A Yes.
10 Q Was the sticker shown in Exhibit 17 used up until
11 the time that the sticker shown in Exhibit 31 took its
12 place?
13 A Yes.
14 Q Did the sticker shown in Exhibit 31 take the place
15 of the sticker shown in Exhibit Number 17?
16 A Yes.
17 Q I would like to mark another exhibit.
18 - - - - -
19 (Opposer/Petitioner's Exhibit Number 7 was
20 marked for identification.)
21 - - - - -
22 Q Mr. Mlakar, I have marked for identification
23 Pucel's Exhibit Number 7. I would like to direct your
24 attention to that document, and in particular, I would
25 like to ask you what is that document?

1 A Grizzly Industrial is applying for the mark
2 Grizzly.com.
3 Q I would like to direct your attention to the page
4 marked number 1 of Pucel's Exhibit Number 7. Now, does
5 Pucel Enterprises sell anti-vibration mounts?
6 A Yes. We have put those on our product.
7 Q And is that listed on page 1 of the application to
8 register Grizzly.com, which is part of Exhibit Number
9 7?
10 A Yes. It's on the second line.
11 Q What is an anti-vibration mount?
12 A Actually, what it does is prevents any object from
13 moving when work is being done on a surface. We have
14 put them particularly on our work benches, because as
15 people mount different things on the work bench, they
16 require anti-vibration mounts so the item doesn't move
17 while the item is operating.
18 Q Do you put anti-vibration mounts on any other
19 equipment?
20 A We have put it on some of our tool stands and work
21 benches.
22 Q Those anti-vibration mounts, along with a bench,
23 are sold under the Grizzly mark?
24 MR. SCHMIDT: Objection.
25 Leading.

1 Q Let me ask it to you this way: Are the anti-
2 vibration mounts sold under the Grizzly mark?
3 A Yes, they are.
4 Q Are they sold as part of a work bench under the
5 Grizzly mark?
6 A Yes.
7 Q Do you see cable ties --
8 A Yes.
9 Q -- listed on page 1 of the application to register
10 Grizzly.com? What is a cable tie?
11 A A cable tie is used to gather wires, hydraulic
12 hoses or any other objects together in order to
13 consolidate the wires from falling all over. We use
14 them in our product.
15 Q And, for example, what products would you use
16 those on?
17 A We use them on mainly our hydraulic work benches,
18 because we have electrical wires. We have hydraulic
19 lines that move from each of the legs in order for the
20 hydraulics to operate. We use wire ties within our
21 product in order to ship and consolidate items so that
22 they're not flopping all over.
23 Q And are cable ties sold by Pucel under the Grizzly
24 mark?
25 A Yes.

1 Q Do you see clamps and vises identified in the
2 Grizzly.com application to register in Exhibit Number
3 7?
4 A Yes, I do.
5 Q What is a vise?
6 A A vise is an item that's mounted on anything to
7 hold items, to grab items, so you can work on them.
8 Q And do you sell vises under the mark Grizzly?
9 A Yes, we do.
10 Q Are they sold as part of a bench?
11 A Not limited to a bench.
12 Q Now, how long have you sold vises under the
13 Grizzly mark?
14 A As long as I can remember.
15 Q Can you give us a specific date?
16 A 1978.
17 Q Okay. How long has Pucel sold cable ties under
18 the Grizzly mark?
19 A Since the '80s.
20 Q Do you know when in the '80s?
21 A Probably the latter part of the '80s.
22 Q How long has Pucel sold anti-vibration mounts
23 under the Grizzly mark?
24 A As far as I can remember, since '78.
25 Q Now, how long has Pucel sold anti-vibration mounts

1 under the Grizzly word mark?
2 A Since '78.
3 Q How long has Pucel sold anti-vibration mounts
4 under the Grizzly Bear symbol?
5 A Since '78.
6 Q How long has Pucel sold cable ties under the
7 Grizzly word mark?
8 A My recollection is in the '80s.
9 Q How long has Pucel sold cable ties under the
10 Grizzly bear symbol?
11 A My knowledge is the '80s.
12 Q How long has Pucel sold vises under the Grizzly
13 word mark?
14 A 1978.
15 Q And how long has Pucel sold vises under the
16 Grizzly Bear symbol?
17 A 1978.
18 Q I direct your attention further to Exhibit Number
19 7. I believe it's on page 1 of that exhibit. Do you
20 see dollies identified in that application to register?
21 A Yes, I see it on line 6.
22 Q Does Pucel sell dollies under the Grizzly word
23 mark?
24 A Yes.
25 Q How long has Pucel sold dollies under the Grizzly

1 word mark?
2 A Since 1949.
3 Q Did Pucel sell dollies under the Grizzly word mark
4 in 1978 when you began?
5 A Yes.
6 Q I direct your attention to Opposer/Petitioner's
7 Exhibit Number 7, and I would ask you do you see
8 electric motors identified?
9 A Yes.
10 Q Does Pucel sell electric motors?
11 A Yes.
12 Q How are they sold?
13 A We incorporate electric motors within our Grizzly
14 Equipment.
15 Q And can you describe the incorporation of the
16 electric motors in the Grizzly Equipment?
17 A In our ergonomic benches specifically, we mount a
18 motor with a switch, and that switch is what operates
19 the hydraulics within each of the legs. When the
20 switch is turned up, it raises the bench up. Switch
21 down, it lowers the bench.
22 Q Does Pucel sell electric motors under the Grizzly
23 word mark?
24 A Yes.
25 Q How long has Pucel sold electric motors under the

1 Grizzly word mark?
2 A My recollection is the '80s.
3 Q Do you know when in the '80s?
4 A Not specifically.
5 Q Does Pucel sell electric motors under the Grizzly
6 Bear symbol?
7 A Yes.
8 Q And how long has Pucel sold electric motors under
9 the Grizzly Bear symbol?
10 A My recollection is the '80s.
11 Q Okay. I direct your attention to Pucel's Exhibit
12 Number 7 again. Do you see engine stands listed in the
13 application to register?
14 A Yes, I do.
15 Q Now, does Pucel sell stands?
16 A Yes.
17 Q And what are those stands used for?
18 A The stands are used for a variety of items.
19 They're used in many different applications. They're
20 used for holding materials. They're used for holding
21 engines, working on engines. They're used for anything
22 that you need to hold any material on.
23 Q Are they used to hold lathes?
24 A Yes.
25 Q Are they used to hold grill presses?

1 A Yes.
2 Q How long has Pucel sold stands under the Grizzly
3 word mark?
4 A Since the beginning of the company.
5 Q I'm sorry?
6 A Since the beginning of the company.
7 Q As far as your personal experience and employment
8 while at Pucel --
9 A 1978.
10 Q -- how long has Pucel used the Grizzly word mark
11 on stands?
12 A I am familiar since 1978.
13 Q Has Pucel used the Grizzly Bear symbol in
14 connection with the sale of stands?
15 A Yes.
16 Q And when did Pucel first use the Grizzly Bear
17 symbol in connection with the sale of stands?
18 A My knowledge or when the company did?
19 Q Your knowledge first.
20 A 1978.
21 Q Okay. What about the company?
22 A The company has had those as a part of our mark
23 from the beginning.
24 Q And when you say, "the beginning," what year?
25 A 1949.

1 Q And your source of knowledge on that answer?
2 A Is based on the catalogs that I have seen in the
3 previous years before my time.
4 Q Okay. Now, does Pucel produce a catalog every
5 year?
6 A No.
7 Q When are catalogs produced?
8 A Every few years.
9 Q With respect to the anti-vibration mounts, were
10 they sold under the labels as set forth in Exhibit 31
11 since 1978?
12 A Yes.
13 Q With respect to cable ties, were they sold under
14 the labels as set forth in Exhibit 31 since the 1980s?
15 A Yes.
16 Q With respect to the anti-vibration mounts, were
17 they sold under the labels as set forth in Pucel's
18 Exhibit 17 in 1978? Do you need to see 17 again?
19 A Could you repeat the question, please.
20 Q Was the label of Exhibit 17 used on anti-vibration
21 mounts since 1978?
22 A Yes.
23 Q Referring to the label of Exhibit 17 now, that
24 label was used up until the silver label of Exhibit 31?
25 A Yes.

1 Q And we're referring to the use on the anti-
2 vibration mounts, correct?
3 A Yes.
4 Q With regard to vises, was the label of Exhibit 17
5 used on vises in 1978?
6 A Yes.
7 Q Was that label used continuously up until the time
8 you switched to the silver label of Exhibit 31?
9 A Yes.
10 Q And was the label of Exhibit 31 then used on
11 vises --
12 A Yes.
13 Q -- going forward?
14 Were those labels of Exhibit 17 and Exhibit 31
15 used continuously --
16 A Yes.
17 Q -- on every product that contained an anti-
18 vibration mount or a vise?
19 A It was our policy to put it on every product.
20 Q Was it company policy to put a label on every
21 product that was shipped?
22 A Yes.
23 MR. SCHMIDT: Objection. Asked
24 and answered.
25 Q With respect to dollies, did your company put the

1 label of Exhibit 17 on dollies?
2 A Yes.
3 Q And it was continuously used on all dollies sold?
4 A Yes, it was put on all the dollies before they
5 shipped.
6 Q And then was the label of Exhibit 31 used on all
7 the dollies since the discontinuation of the label of
8 Exhibit 17?
9 A Yes.
10 Q Now, in regard to electric motors, were the labels
11 of Exhibits 17 and 31 used on products shipped which
12 had the electric motors in them?
13 A Yes.
14 Q Now, did Pucel affix the labels directly to the
15 electric motors?
16 A They got affixed to the -- whatever item they were
17 attached to. Usually in the front of that item of any
18 Grizzly Equipment that went out.
19 Q What would they be attached to?
20 A It would be attached to -- usually in the front of
21 the hardwood top or the steel top or anything visible
22 within the front.
23 Q Now, on the dollies, were the labels of Exhibits
24 17 and 31 placed directly on the dollies?
25 A Yes, directly on the dollies.

1 Q Now, those labels of Exhibits 17 and 31 are
2 adhesive labels, right?
3 A Yes.
4 Q And are the dollies shipped in a box or some other
5 packaging?
6 MR. SCHMIDT: Objection.
7 Leading.
8 Q How are the dollies shipped?
9 A They're wrapped in white foam and then they're put
10 into a box.
11 Q Does the box then have the Grizzly word mark on
12 it?
13 A Yes.
14 Q And is that the Grizzly word mark that appears on
15 Opposer/Petitioner's Exhibit Number 33?
16 A Yes, that's it.
17 Q And were the boxes used in shipping all of the
18 dollies?
19 A Yes.
20 Q And the mark was stenciled on the box and on all
21 of the packages?
22 A Yes.
23 Q Now, in regard to engine stands --
24 MR. SCHMIDT: Is that a
25 question?

1 MR. MITCHELL: I am trying to
2 direct him to the subject of the
3 question.
4 MR. SCHMIDT: I don't think
5 that's proper. You're leading him
6 into the subject. Just ask him the
7 question.
8 Q Were the labels of Exhibits 17 and 31 used on
9 engine stands?
10 A Yes.
11 Q And were they used on the stand directly?
12 A Directly on the stand, yes.
13 Q And then how are your stands shipped?
14 A After they put the sticker on with the Grizzly
15 Equipment Manufactured By Pucel, then they wrap it in
16 foam and then they would put it into a carton,
17 corrugated carton, that had the Grizzly Bear on it as
18 well as the words "Grizzly Equipment." Then it had:
19 "Manufactured By Pucel Enterprises," and the address on
20 it as well.
21 Q And all boxes were shipped with that indicia?
22 A Yes.
23 Q Have all boxes been shipped with that indicia that
24 contain engine stands?
25 A Yes.

1 Q I direct your attention again to Exhibit Number 7
2 the Grizzly.com application to register. And do you
3 see the word gauges indicated?
4 A Yes, sir, I do.
5 Q Does Pucel sell gauges?
6 A Yes.
7 Q When did Pucel first sell gauges?
8 A To the best of my knowledge, since I started,
9 1978.
10 Q And what types of products do gauges go on?
11 A We put gauges on a number of our work stations.
12 With some of our work benches we have used gauges. We
13 had air lines which have gauges on them to regulate the
14 air flow within those work benches. We hard wire them
15 and we plump them for air. Along with that we put an
16 air filter attached to it which has gauges on it.
17 Q Do you affix your Pucel label set forth in Exhibit
18 31 directly to the gauge?
19 A It goes on our Grizzly Equipment. That's a part
20 of it.
21 Q So it would go on a bench?
22 MR. SCHMIDT: Objection.
23 Leading.
24 A Yes.
25 Q Would it go on a bench?

1 A It would go on a bench.
2 Q What else might it go on?
3 A That label goes on all of our products that go out
4 the door.
5 Q Now, have gauges been sold under the Grizzly word
6 mark?
7 A Yes.
8 Q Since when?
9 A My knowledge, it would be 1978.
10 Q Have gauges been sold under the Grizzly Bear
11 symbol?
12 A Yes.
13 Q Since when?
14 A My knowledge, 1978.
15 Q Again referring to Exhibit 7, do you see hand
16 screws identified?
17 A Yes, I do.
18 Q What is a hand screw?
19 A With our equipment, hand screws are knobs within
20 our fork lift attachments as a part of our Grizzly
21 Equipment.
22 Q Did you sell hand screws in 1978?
23 A Yes.
24 Q Did you sell hand screws under the Grizzly word
25 mark in 1978?

1 A Yes.
2 Q Have you continuously sold hand screws under the
3 Grizzly word mark since 1978?
4 A Yes.
5 Q And have you sold hand screws under the Grizzly
6 symbol mark since 1978?
7 A Yes.
8 Q And have you continuously sold hand screws under
9 had Grizzly symbol mark since 1978?
10 A Yes.
11 Q Still referring to Pucel Exhibit 7, do you see
12 hand trucks identified?
13 A Yes.
14 Q And do you sell hand trucks?
15 A Yes, we do.
16 Q And how long have you sold hand trucks?
17 A Since the beginning of the company.
18 Q And did you sell hand trucks in 1978?
19 A Yes.
20 Q And were they sold using the Grizzly word mark
21 since 1978?
22 A Yes.
23 Q And how is the Grizzly word mark affixed to the
24 hand trucks?
25 A It is affixed by the -- presently by the silver

1 and dark blue sticker label on the product.
2 Q In 1978, was the label of Exhibit 17 used in
3 connection with hand trucks?
4 A Yes. Exhibit 17, which was the yellow with the
5 black lettering, was affixed to each of the hand trucks
6 as it left the dock.
7 Q And have the hand trucks been sold continuously
8 with the Grizzly word mark label applied to the hand
9 truck since 1978?
10 A Yes.
11 Q And have the hand trucks been sold with the
12 Grizzly symbol mark attached thereto since 1978?
13 A Yes.
14 Q And have they been sold continuously with that
15 Grizzly symbol mark affixed to the goods since 1978?
16 A Yes.
17 Q Okay. Still referring to Exhibit 7, do you see
18 hose reels identified in the application to register
19 Grizzly.com?
20 A Yes, I do.
21 Q And do you sell hose reels?
22 A Yes.
23 Q What is a hose reel?
24 A Well, for us, it's a reel that is usually spring
25 loaded with a coil of hose on it for a specific

1 application for us that was mounted on our work bench.
2 They specifically had an air line hose affixed to it.
3 Q Okay. And how long have you sold hose reels?
4 A As far as my knowledge, my experience, which would
5 be in 1978.
6 Q Was the label shown in Exhibit 17 used on the hose
7 reels or on the product containing the hose reels in
8 1978?
9 A Yes.
10 Q And were either the labels of Exhibits 17 or 31
11 affixed to all the products containing hose reels since
12 1978?
13 A Yes, it was affixed to all the products.
14 Q Okay. Was the Grizzly symbol mark applied to all
15 hoses reels sold since 1978?
16 A Yes.
17 Q In regard to hoses, do you sell hoses?
18 A Yes.
19 Q Do you see hoses listed in the application to
20 register Grizzly.com?
21 A Yes.
22 Q What types of hoses do you sell?
23 A The hoses that we have always affixed were
24 basically attached to the reels that we attached to the
25 work stations.

1 Q Do they carry air?
2 A Yes.
3 Q Do they carry water?
4 A They can.
5 Q Okay. Have your hoses been sold under the Grizzly
6 word mark since 1978?
7 A Yes.
8 Q And have your hoses been sold under the Grizzly
9 symbol mark since 1978?
10 A Yes.
11 Q Do you see jacks in Pucel's Exhibit 7, the
12 application to register Grizzly.com?
13 A Yes, I do.
14 Q What is a jack?
15 A A jack is a device that is put under a product to
16 lift it from one level to another level.
17 Q Do you sell jacks?
18 A Yes.
19 Q How long have you sold jacks for?
20 A My experience with the company, since 1978.
21 Q And have jacks been sold under the Grizzly word
22 mark since 1978?
23 MR. SCHMIDT: Objection.
24 Leading.
25 Q You can answer.

1 A Yes.
2 Q Have you applied the Grizzly word mark to all
3 products containing jacks, all Pucel products
4 containing jacks since 1978?
5 MR. SCHMIDT: Objection.
6 Leading.
7 A Yes.
8 Q Could you describe the application of the Grizzly
9 word mark to products containing jacks?
10 A We have a specific product that it can be on,
11 casters or non-mobile, where a jack is mounted
12 underneath and a foot pedal raises the table height
13 from one level to the next level.
14 Q And where do you put your label on that product?
15 A It gets affixed on the Grizzly Equipment top on
16 the front edge.
17 Q Do you see knobs listed in Pucel Exhibit 7?
18 A Yes, I do.
19 Q Does Pucel sell knobs?
20 A Yes.
21 Q How long has Pucel sold knobs?
22 A To my knowledge, since 1978.
23 Q What is a knob?
24 A A knob is any device that is used for opening or
25 tightening an object.

1 Q And what Pucel products use knobs?
2 A They could be a door. Also, a fork lift
3 attachment has a knob as well.
4 Q And have you marked all your knobs with the
5 Grizzly word mark?
6 A Yes.
7 Q Have you marked all of the products containing
8 knobs with the Grizzly word mark?
9 A Yes.
10 Q Have you marked the products containing knobs with
11 the Grizzly word mark since 1978?
12 MR. SCHMIDT: Objection.
13 Leading.
14 A Yes.
15 Q Have you used the trademark Grizzly, the word mark
16 Grizzly, with hand trucks continuously since 1978?
17 MR. SCHMIDT: Objection.
18 Leading.
19 A Yes.
20 Q When did Pucel first use the Grizzly word mark in
21 connection with hand trucks?
22 A To my knowledge, it would be 1978.
23 Q That's your direct knowledge using your own two
24 eyes?
25 A Yes.

1 Q Do you have any other knowledge about prior use
2 prior to 1978?
3 A Yes.
4 Q What is that based on?
5 A It's based on my grandfather and what he
6 implemented and procedures within the shipping
7 department. I knew this when I first came in, because
8 that's the first thing that they trained any new
9 employee in the shipping room, that they have to be
10 sure they put that on.
11 Q When you say, "that," you're referring to the
12 Grizzly label?
13 A The Grizzly label.
14 Q That's the Grizzly word mark label?
15 A Yes.
16 Q Is that also the Grizzly symbol mark label?
17 A Yes.
18 Q Is your knowledge prior to 1978 based on catalogs?
19 A Yes.
20 Q Returning to Exhibit 7, please, do you see lathe
21 accessories identified therein?
22 A Yes.
23 Q And does Pucel sell lathe accessories?
24 A Yes.
25 Q What are those lathe accessories?

1 A Lathe accessories is typically a stand in which
2 the lathe rests on the top. Ours have a coolant top on
3 them so there's circulation of the coolant as the lathe
4 is being moved and also there is a motor mount
5 typically attached to them that holds the motor for the
6 lathe.
7 Q When did Pucel first sell these lathe accessories?
8 A Since the beginning of the company.
9 Q And your personal knowledge extends to 1978, does
10 it not?
11 A Yes.
12 Q And did you personally see the application of the
13 Grizzly word mark to lathe accessories in 1978?
14 A Yes.
15 Q And have you seen personally seen the application
16 of the Grizzly word mark to lathe accessories during
17 the time period from 1978 to May 23rd, 2006?
18 MR. SCHMIDT: Objection.
19 Leading.
20 A Yes.
21 Q Has the Grizzly word mark been continuously
22 applied to the lathe accessories in the time period
23 1978 to date?
24 MR. SCHMIDT: Objection.
25 Leading.

1 A Yes.
2 Q Have you seen the Grizzly word mark used in
3 connection with lathe accessories in each year from
4 1978 to 2006?
5 A Yes.
6 Q Have you seen the use of the Grizzly symbol mark
7 in connection with lathe accessories since 1978?
8 MR. SCHMIDT: Objection.
9 Leading.
10 A Yes.
11 Q When did you first see the Grizzly symbol mark
12 used in connection with lathe accessories?
13 A My personal experience physically seeing them
14 would be in 1978, but I have seen them before in
15 catalogs.
16 Q And did you see the Grizzly symbol mark used
17 continuously since 1978 on lathe accessories?
18 A Yes.
19 Q And in what form was it used?
20 A We used it, not only on the product, but we used
21 the silver and dark blue sticker, which was affixed to
22 each of the product. We also used it in the packaging
23 process, which had the Grizzly Bear on it. It had the
24 words "Grizzly Manufactured By Pucel Enterprises," the
25 address.

1 Q Was the label of Exhibit 17 used on lathe
2 accessories?
3 A Yes.
4 Q And in what years was that label used?
5 A That label was used prior to the '80s, early '80s.
6 Q And what label was used on lathe accessories since
7 that time?
8 A The silver and dark blue label.
9 Q And are you referring to the label that's shown in
10 Exhibits 31 and 32? Take your time and look.
11 A Yes.
12 Q Do you see in Pucel's Exhibit Number 7 machine
13 mounts listed in the application to register?
14 A Yes, I do.
15 Q And do you sell machine mounts?
16 A Yes.
17 Q Could you describe those mounts, please.
18 A Typically on some of our stands we have power
19 mounts, especially on our lathe accessories. We have
20 what we would call a mount for our vises in different
21 applications for -- where it's provided. We have a
22 shelf mount. We have a plate mount that would hold
23 those devices.
24 Q Has the Grizzly word mark been applied to all
25 products containing machine mounts?

1 A Yes.
2 Q When were machine mounts sold by Pucel?
3 A Since the beginning of the company.
4 Q Did you see machine mounts being sold in 1978?
5 A Yes.
6 Q Have machine mounts been continuously sold since
7 1978?
8 A Yes.
9 MR. SCHMIDT: Objection.
10 Leading.
11 Q Have you applied the Grizzly labels to products
12 containing machine mounts since 1978?
13 MR. SCHMIDT: Objection.
14 Leading.
15 A Yes.
16 Q When have you applied Grizzly labels to machine
17 mounts?
18 A We have always applied the labels to the Grizzly
19 Equipment.
20 Q And did those always contain the Grizzly word mark
21 and the Grizzly Bear symbol?
22 MR. SCHMIDT: Objection.
23 Leading.
24 A They always include the Grizzly Bear and they have
25 the word Grizzly with the company name as well, with

1 Pucel Enterprises.
2 Q Still referring to Exhibit 7, do you see magnetic
3 switches listed?
4 A Yes.
5 Q Does Pucel sell magnetic switches?
6 A Yes.
7 Q And did Pucel sell magnetic switches in 1978?
8 A I can remember in the '80s.
9 Q Do you know when in the '80s?
10 A No, I don't.
11 Q Okay.
12 A Starting in the '80s.
13 Q Now, do you see mats listed as part of Exhibit
14 Number 7?
15 A Yes.
16 Q Does Pucel sell mats?
17 A Yes.
18 Q When did Pucel sell mats first?
19 A My recollection is in '78.
20 Q And have you applied the Grizzly word mark to all
21 mats sold since 1978?
22 A Yes.
23 Q Have you applied the Grizzly word mark to all mats
24 sold as a part of another piece of equipment since
25 1978?

1 A Yes.
2 Q I direct your attention still to Exhibit 7. Do
3 you see pulleys identified?
4 A Yes.
5 Q Does Pucel sell pulleys?
6 A Yes.
7 Q Did Pucel sell pulleys in 1978?
8 A Yes.
9 MR. SCHMIDT: Objection.
10 Leading.
11 Q When did Pucel first sell pulleys?
12 A I have seen it first in the early catalogs.
13 Q And what catalogs are you referring to?
14 A The ones prior to the time that I worked there.
15 Q Catalogs prior to 1978? Is that what you're
16 trying to say?
17 A Yes, correct.
18 Q Now, how does Pucel use pulleys?
19 A They use pulleys in conjunction with our drum
20 handling equipment. We have specific items that use
21 them for lifting.
22 Q When did you first view the Grizzly word mark used
23 in conjunction with pulleys?
24 A 1978.
25 Q Has the Grizzly word mark been continuously used

1 in conjunction with pulleys since 1978?
2 MR. SCHMIDT: Objection.
3 Leading.
4 A Yes.
5 Q Has the Grizzly Bear symbol been used in
6 conjunction with pulleys?
7 A Yes, sir.
8 Q And over what time period has that been?
9 A Always.
10 Q And when you say always, can you give me some
11 years?
12 A Since the beginning of the company they always
13 used those marks, and to the present time we have
14 always used them on every product.
15 Q And how are the pulleys packaged?
16 A They're packaged -- once the sticker is put on
17 them, then they're put into a white -- white foam is
18 wrapped around them, and they are put into a carton.
19 Q Okay. And is the carton labeled?
20 A Yes.
21 Q And is the carton stenciled?
22 A Yes.
23 Q And is there indicia put on the carton?
24 A On the carton is a picture of a bear on it, it has
25 the word "Grizzly" on it, and it has "Pucel

1 Enterprises" and the address on it.
2 Q Drawing your attention to Exhibit 7, do you see
3 the words router table identified in the application to
4 register Grizzly.com?
5 A Yes.
6 Q Do you sell router tables?
7 A Yes.
8 Q And when did you first view the production of a
9 router table?
10 A 1978.
11 Q And was the Grizzly word mark applied to the
12 router table?
13 A Yes.
14 Q And when did you first personally view the
15 application of the Grizzly word mark to the router
16 table?
17 A I personally viewed it in 1978.
18 Q And have the router tables sold by Pucel used the
19 Grizzly word mark?
20 A Every year.
21 Q Does every router table sold bear the Grizzly word
22 mark?
23 A Yes.
24 Q Since your tenure with the company, has every
25 router table borne the Grizzly symbol?

1 A Yes.
2 Q Again, I direct your attention to Exhibit Number
3 7, which is the application to register Grizzly.com.
4 Do you see the words slide tables identified therein?
5 A Yes, I do.
6 Q Does Pucel sell slide tables?
7 A Yes.
8 Q Did Pucel sell slide tables in 1978?
9 A Yes.
10 Q Has Pucel sold slide tables since 1978?
11 A Yes.
12 Q How are the slide tables marked?
13 A They're marked with the Grizzly Bear on them and
14 the word "Grizzly" which is affixed onto the silver and
15 dark blue label, which is put on each of the slide
16 tables.
17 Q Were the yellow labels of Exhibit 17 used on the
18 slide tables?
19 A Yes.
20 Q Again referring you to Pucel Exhibit 7, do you see
21 storage bins indicated therein?
22 A Yes, I do.
23 Q Does Pucel sell storage bins?
24 A Yes.
25 Q Did Pucel sell storage bins in 1978?

1 A Yes.
2 Q Did Pucel apply a trademark to the storage bins in
3 1978?
4 A Yes.
5 Q What mark was applied?
6 A There was the mark of the Grizzly Bear and then
7 the word "Grizzly" was affixed to the label which was
8 put on each of the products.
9 Q Okay. And in other words, was the sticker, as
10 indicated in Exhibit 17, applied to the storage bins?
11 A Yes.
12 Q Were the stickers of Exhibits 31 and 32 applied to
13 the storage bins?
14 A Yes.
15 Q Just for clarity now, referring to Exhibit 32, the
16 labels on 32 that have the silver backing, those are
17 the same as the similar label on Exhibit 31, correct?
18 MR. SCHMIDT: Objection.
19 Leading.
20 A Yes.
21 Q Is the silver label of Exhibit 31 the same as the
22 silver label of Exhibit 32?
23 A Yes.
24 Q Are the silver labels the labels that are applied
25 to the storage bins?

1 A Yes.
2 Q Still referring to Exhibit 32, there is another
3 label indicated there, correct?
4 A Yes.
5 Q Could you describe that label?
6 A That label is about -- it's got a white background
7 and a dark blue writing on it. It includes Grizzly
8 Equipment, the word Grizzly, which is registered, the
9 G-r-i-z-z-l-y, it's got the mark of the bear and then
10 it has the Pucel Enterprises with the address and the
11 phone number.
12 Q And what color is the backing of that?
13 A White.
14 Q And what color is the printing?
15 A Blue.
16 Q And is this an adhesive label?
17 A Yes, it is.
18 Q What are the approximate dimensions?
19 A They're approximately eight inches wide by two
20 inches high.
21 Q And this eight-inch wide, two-inch high label that
22 you just described, it is placed where in your process?
23 A It is placed on the outside of a carton of every
24 product that goes out.
25 Q And these silver labels, which also appear in

1 Exhibit 32, where are they placed?
2 A They're placed on each of the products themselves
3 on Grizzly Equipment.
4 Q The silver labels, how are they affixed to the
5 actual equipment?
6 A They's actually stuck on with an adhesive back on
7 to the product.
8 Q And with respect to this eight-inch wide, two-inch
9 high label that's affixed, as you testified, to the
10 outside of the packaging, how is it affixed?
11 A It's affixed with an adhesive backing material.
12 Q The storage bins in Pucel's business, how are they
13 used?
14 A The storage bins are used for any type of
15 application. It actually segregates units within our
16 cabinets so you can place different items in different
17 bin locations.
18 Q What industries are they used in?
19 A It's used in all industries.
20 Q What about the hand trucks? Where are they used?
21 A Everywhere.
22 Q Where are the lathe accessories used?
23 A In any application where you would need a stand of
24 that sort.
25 Q What industries use those stands?

1 A In all industries.
2 Q What industries use slide tables?
3 A All of the industries.
4 Q What industries use router tables?
5 A Could be any industry.
6 Q What industries use engine stands?
7 A All industries.
8 Q What industries use dollies?
9 A Could be any one of them.
10 Q Returning to Exhibit 7 again, please, do you see
11 wagons indicated in the application to register
12 Grizzly.com?
13 A Yes, I do.
14 Q Do you sell wagons?
15 A Yes.
16 Q What is a wagon?
17 A A wagon is a device with casters that typically
18 have sides with a long handle that can transport items
19 from one location to another.
20 Q And what industries are they used in?
21 A They're used in all industries.
22 Q What do your customers do with them?
23 A They use them to transport items from one place to
24 the next.
25 Q What do your customers use storage bins for?

1 A They use it in any of their applications where
2 they want to organize their material.
3 Q Now, have you sold wagons under the Grizzly word
4 mark?
5 A Yes.
6 Q And over what time period did you sell wagons
7 under the Grizzly word mark?
8 A All of the time.
9 Q What do you mean by all of the time?
10 A My experience is from '78, but I have seen them in
11 prior years in the catalogs.
12 Q Has the Grizzly word mark been used continuously
13 on wagons?
14 A Yes.
15 Q And your knowledge extends personally to what
16 year?
17 A 1978.
18 Q And when from 1978 to what year?
19 A To the present.
20 Q Has the Grizzly Bear symbol been used in
21 connection with wagons?
22 A Yes.
23 Q And when did you first see the Grizzly Bear symbol
24 used in connection with wagons?
25 A 1978.

1 Q Were the labels set forth in Exhibit 17 used on
2 wagons?
3 A Yes.
4 Q And over what time period?
5 A Up through the transition to the silver and dark
6 blue.
7 Q And were the silver and dark blue labels of
8 Exhibit 32 used on wagons since the transition time?
9 A Yes.
10 Q Do you see switches identified?
11 A Yes.
12 Q Do you sell switches?
13 A Yes.
14 Q And how do you use the switches?
15 A The most common application is in our work bench
16 work station section.
17 Q Are the switches incorporated into the work bench?
18 A Yes, they're hard wired into it.
19 Q And do you sell spindles?
20 A Yes.
21 Q Do you see spindles identified there in Exhibit
22 Number 7?
23 A Yes, I do.
24 Q Do you sell spindles?
25 A Yes.

1 Q What is a spindle?
2 A A spindle is typically -- for us, it would be a
3 rod that would be holding items of different sorts of
4 sizes and shapes.
5 Q And how long has Pucel sold spindles?
6 A To my knowledge and experience, 1978.
7 Q And have they been sold under or in connection
8 with the Grizzly word mark since 1978?
9 A Yes.
10 Q Have you applied labels as set forth in Exhibit 17
11 to products containing spindles?
12 A Yes.
13 Q And when did you first do that?
14 A Apply the stickers?
15 Q Yes.
16 A All the time to each of the products.
17 Q Were they applied in 1978?
18 A Yes.
19 Q Have they been applied since 1978 to products
20 containing spindles?
21 A Yes.
22 Q Have the labels of Exhibits 17 and 32 been applied
23 to products containing switches since 1978?
24 A Yes.
25 Q Still referring to Exhibit 7, do you see tool

1 boxes identified in the application to register
2 Grizzly.com?
3 A Yes, I do.
4 Q And do you sell tool boxes?
5 A Yes.
6 Q And what are tool boxes used for?
7 A They're used for holding small parts for machine
8 tools or any type of tool.
9 Q What industries use tool boxes?
10 A All industries use tool boxes.
11 Q Does the metal working industry use tool boxes?
12 A Yes.
13 Q Does the wood working industry use tool boxes?
14 A Yes.
15 Q Are some of the tool boxes mobile?
16 A Yes.
17 Q Do you sell mobile tool boxes?
18 A Yes.
19 Q And where are mobile tool boxes used?
20 A They're used everywhere.
21 Q Are they used in the wood working industry?
22 A Yes.
23 Q Are they used in the metal working industry?
24 A Yes.
25 Q Do you have customers in the wood working

1 industry?
2 A Yes.
3 Q Do you have customers in the metal working
4 industry?
5 A Yes, we do.
6 Q Do you see tool organizers identified as part of
7 Exhibit 7?
8 A Yes.
9 Q Do you sell tool organizers?
10 A Yes.
11 Q Could you identify what a tool organizer is?
12 A A tool organizer could be any type of cabinet or
13 cart or portable cabinet to hold and organize tools and
14 any small objects, or even some larger objects, can fit
15 inside the cabinets.
16 Q Were tool organizers sold in 1978?
17 A Yes.
18 Q Were they sold prior to 1978?
19 A Yes.
20 Q Have you used the labels of Exhibit 17 in
21 connection with tool organizers?
22 A Yes.
23 Q Have you used the label in connection with Exhibit
24 32 in connection with tool organizers?
25 A Yes.

1 Q Have all tool boxes been marked with the Grizzly
2 word mark?
3 A Yes.
4 Q Have all tool organizers been marked with the
5 Grizzly word mark?
6 A Yes.
7 Q How are tool boxes shipped?
8 A Tool boxes are shipped -- depending on if it's
9 mobile or not, we would put it on a skid and then after
10 the label is put on it and the hardware is all
11 attached, then we would box it and get it ready for
12 shipment.
13 Q Does the box contain any indicia?
14 A Yes. The box contains the Grizzly Bear,
15 everything that's on Exhibit 33.
16 Q Referring again to Exhibit 7, could you direct
17 your attention to the first page of that exhibit?
18 Could you identify that exhibit for the record?
19 A Of Exhibit 7?
20 Q Yes.
21 A Yes. It's a trademark application.
22 Q What number is it?
23 A 76/088,346.
24 Q Referring again to Exhibit 7, the application to
25 register Grizzly.com, do you see bumpers listed in the

1 application?
2 A Yes.
3 Q Do you sell bumpers?
4 A Yes, we do.
5 Q What is a bumper?
6 A A bumper is attached to -- it's any rubber that
7 attaches to a cart or a cabinet to prevent from
8 damaging the unit itself.
9 Q Did you sell bumpers in 1978?
10 A Yes.
11 Q And were they marked with the Grizzly word mark?
12 A Yes.
13 Q Were they marked with the label set forth in
14 Exhibit 17?
15 A Yes.
16 Q And have bumpers been marked with the label set
17 forth in Exhibit 32?
18 A Yes.
19 Q Do you sell drawer pulls?
20 A Yes.
21 Q Do you see drawer pulls identified in Exhibit 7?
22 A Yes, page 2.
23 Q What is a drawer pull?
24 A A drawer pull is a device that's attached to the
25 drawer face so you're able to pull out the drawer.

1 Q When did you first sell drawer pulls?
2 A I have actually physically seen them since 1978.
3 Q Were they sold before 1978?
4 A Yes.
5 Q How do you know?
6 A I have seen them in catalogs.
7 Q What products of Pucel's incorporate drawer pulls?
8 A Almost all of our products. We operate them in
9 cabinets, our work benches, our stands get drawers,
10 carts get drawers with drawer pulls on them.
11 Q And have you used the label of Exhibit 17 in
12 connection with drawer pulls?
13 A Yes.
14 Q And could you describe how that label is used in
15 connection with drawer pulls?
16 A The label is attached onto each of the products
17 that get shipped.
18 Q And have you used the label of Exhibits 31 and 32
19 in connection with drawer pulls?
20 A Yes.
21 Q And how is it used?
22 A It's affixed on the Grizzly Equipment before it's
23 shipped.
24 Q Are your products known as Grizzly Equipment?
25 A Yes.

1 Q Are all of your products known as Grizzly
2 Equipment?
3 MR. SCHMIDT: Objection.
4 Leading.
5 A Yes.
6 Q Which products of yours are known as Grizzly
7 Equipment?
8 MR. SCHMIDT: Objection.
9 Leading.
10 A All of our products that are known.
11 Q Can you identify what products those are?
12 A To name them all would be well beyond the scope of
13 what we're trying to accomplish here. But it's in each
14 of our categories such as cabinets, carts, work
15 benches, stands, drum handling equipment, work
16 stations, everything listed in our catalog.
17 Q I direct your attention to Exhibit Number 30 and
18 ask the court reporter to initial and date it.
19 - - - - -
20 (Opposer/Petitioner's Exhibit Number 30 was
21 marked for identification.)
22 - - - - -
23 Q Would you please identify Pucel's Exhibit Number
24 30.
25 A This is Grizzly Equipment Manufactured By Pucel

1 Enterprise's present catalog.
2 Q And when was that catalog first used?
3 A In '99.
4 Q Do you know when in '99?
5 A January of '99.
6 Q Okay. Now, does this catalog contain the Grizzly
7 Equipment?
8 A Yes, it does.
9 Q Do you have equipment that you sell that is not
10 identified in this catalog?
11 A Yes.
12 Q What is that equipment?
13 A We have equipment that customers know that we're
14 willing to incorporate within our product line based on
15 the use. So we have measuring devices that aren't
16 shown in here but we actually incorporate within our
17 work station or cart stool stand. There is items like
18 that that aren't necessarily in the catalog but we
19 still provide on our equipment.
20 Q Are anti-vibration mounts shown in Exhibit 30?
21 A No.
22 Q Are cable ties shown in Exhibit 30?
23 A I am not sure if you can see them. I don't think
24 you can see them.
25 Q Are hand screws shown in Exhibit 30?

1 A Yes.
2 Q How about switches? Are they shown in Exhibit 30?
3 A Yes.
4 Q Are spindles shown in Exhibit 30?
5 A Yes, they are.
6 Q Are bumpers shown --
7 A Yes.
8 Q -- in Exhibit 30?
9 A Yes.
10 Q Where are the anti-vibration mounts in Exhibit
11 30? Are they shown?
12 A No.
13 Q Are vises shown in Exhibit 30?
14 A Yes.
15 Q Can you show us where in Exhibit 30 vises are
16 shown?
17 A Page 14.
18 Q And can you describe the use of the vises on page
19 14?
20 A The vises are attached to Grizzly Equipment, and
21 they're used for a variety of purposes.
22 Q What are those purposes?
23 A All purposes.
24 Q On what equipment are they attached?
25 A The Grizzly Equipment.

1 Q And what is that equipment?
2 A On this page?
3 Q Yes.
4 A It's on the MTC series and PTC series.
5 Q What is the MTC series?
6 A Mobile cabinet work benches, tool cabinets.
7 Q Okay. What are the PTC series?
8 A Portable tool cabinet work benches.
9 Q Are they used on mobile service benches?
10 A Yes.
11 Q Are hand screws shown in Exhibit 30?
12 A Yes.
13 Q Where are they shown in Exhibit 30?
14 A Page 52.
15 Q Can you point our attention to the hand screws?
16 A It would be in the VH-100 series, the Number 210
17 and Number 24 model numbers that are pictured in the
18 catalog.
19 Q And what are those products known as?
20 A Drum lifters and fork hoists.
21 Q And when you sell a drum lifter, is it marked with
22 the Grizzly Equipment label?
23 A Yes.
24 Q And where do you place the label?
25 A Right on the product itself.

1 Q And is there packaging for this product?
2 A Yes. Typically, after the label is placed on it,
3 then it is wrapped in white foam and then it is placed
4 into a carton.
5 Q And does the carton bear the indicia of Exhibit
6 33?
7 A Yes.
8 Q Are electric motors shown in Exhibit 30?
9 A Yes.
10 Q And where are they shown?
11 A Page 25.
12 Q Where is the electric motor on page 25?
13 A This one is actually showing the motor. It's
14 usually affixed either with a hand crank or the switch,
15 either one. This one right here, the HBS series, the
16 ergonomic work bench.
17 Q Are hand screws shown in Exhibit 30?
18 A Yes.
19 Q Where?
20 A We use the screws -- hand screws would be in the
21 assembly of the work benches. They're placed within --
22 incorporated within the work bench section. It also
23 can be considered within the VH-100 and the Number 25
24 series in the catalog.
25 Q What page are you referring to there in Exhibit

1 30?
2 A Page 24.
3 Q Okay.
4 A That's our knock down work bench section.
5 Q Are switches shown in your catalog?
6 A Yes.
7 Q Where are they shown?
8 A The first page I come to is page 27.
9 Q Of Exhibit 30, right?
10 A That's correct.
11 Q Okay.
12 A On the FWS series, and there is also a switch on
13 the BSDD series. There is an electrical outlet on it
14 with a switch as well.
15 Q Are you referring to the FWS series in the upper
16 right-hand portion that shows the switch?
17 A Yes.
18 Q Spindles, where are they shown in your catalog,
19 Exhibit 30?
20 A Page 47 in the middle of the page there marked as
21 spindles.
22 Q Are bumpers shown in Exhibit 30?
23 A Yes.
24 Q Where are they shown in Exhibit 30?
25 A Page 1. The third cart down has the continuous

1 bumper all the way down the product.
2 Q Can you circle that with this pen to illustrate
3 the bumper on page 1 of Exhibit 30.
4 A (Witness complies.)
5 Q You have written some words there?
6 A I just wrote "continuous bumper."
7 Q You also marked an arrow on that page?
8 A Yes.
9 Q Does the bumper extend around the cart?
10 A Yes.
11 - - - - -
12 (Opposer/Petitioner's Exhibit Number 29 was marked
13 for identification.)
14 - - - - -
15 Q I would like to refer you to Exhibit 29. Can you
16 identify what Exhibit 29 is?
17 A Yes. This is one of the Grizzly Equipment's
18 catalogs.
19 Q Right. And when was that catalog published?
20 A January of 1990.
21 Q And are bumpers shown in Exhibit 29?
22 A I have got the bumper shown, but it's not the
23 rubber bumper shown.
24 Q Where is the bumper shown?
25 A I have the bumper on the WPT-RE series.

1 Q What is the WPT-Re series?
2 A It's a platform truck.
3 Q And what page are you referring to in Exhibit 29?
4 A Page 28.
5 Q Could you circle the bumper on that page, please.
6 A (Witness complies.)
7 Q Are switches shown in Exhibit 29?
8 A Yes.
9 Q What page are switches shown in Exhibit 29?
10 A Page 14 in the center of the page, the FWS series.
11 Q What is the FWS series?
12 A It's a work station that has a work bench surface,
13 a shelf and a stringer. It has a light fixture
14 attached to it with a hard wired switch.
15 Q Are electric motors shown on Exhibit 29?
16 A No.
17 Q Referring to Exhibit 7, please, do you see drawer
18 slides indicated in the identification of Exhibit 7? I
19 believe it's after bumpers, so it's down --
20 A Yes, I do.
21 Q What is a drawer slide?
22 A A drawer slide is a mechanism attached to the
23 drawer so you're able to move the drawer in and out of
24 the unit.
25 Q Are drawer slides the rails that go inside the

1 hole of the cabinet?
2 A Yes, inside the cavity where the drawer goes.
3 Q Do you see hinges identified?
4 A Yes.
5 Q And do you sell hinges?
6 A Yes, we do.
7 Q And where do you incorporate the hinges in your
8 products?
9 A Most of them are affixed to the -- for the cabinet
10 doors, so you're able to open and close. Sometimes we
11 incorporate hinges into lifting devices. Like a fold-
12 down shelf, we'll incorporate that as well.
13 Q And where do you incorporate your drawer slides?
14 A In every product you're capable of putting a
15 drawer slide.
16 Q And to your knowledge, when did Pucel begin using
17 drawer slides?
18 A My first-hand experience was 1978.
19 Q Did they use drawer slides before 1978?
20 A Yes.
21 Q And how do you know that?
22 A I have actually physically seen the slides that
23 they have used, and also by seeing the old catalogs.
24 Q How did you come to see the drawer slides prior to
25 1978?

1 A How did I physically see it?
2 Q Yes.
3 A I saw them when they were sitting up in the
4 warehouse space of the slides we have used.
5 Q Did you personally see drawer pulls in connection
6 with your products?
7 A Yes.
8 Q When did you first see those products?
9 A 1978.
10 Q And were drawer pulls used before 1978?
11 A Yes.
12 Q And how do you know that?
13 A I have seen them in the catalogs.
14 Q Have drawer pulls been used since 1978?
15 A Yes.
16 Q Have they been used continuously since 1978?
17 A Yes.
18 Q Have drawer slides been used continuously since
19 1978?
20 A Yes.
21 Q Have hinges been continuously used since 1978?
22 A Yes.
23 Q The products that incorporate drawer pulls, drawer
24 slides and hinges, have they been marked with the Pucel
25 trademark?

1 A Yes.
2 Q And have all the products been marked with the
3 Pucel trademark?
4 A Yes, all of them.
5 Q And can you tell me where in the exhibit lists you
6 would find those?
7 A They would be in 33 and 17.
8 Q And --
9 A 17, 32 and 33.
10 Q Okay. Do you use lock sets in your products?
11 A Yes.
12 Q And what do you use the lock sets for?
13 A We can use them for all of the products of Grizzly
14 Equipment. We use them for securing cabinets. We use
15 lock sets and we use them for drawers. We use them for
16 locking a shelf in place, any of our items.
17 Q And when did you first see lock sets being used in
18 the Pucel business?
19 A I personally saw them in 1971.
20 Q Have they been used since 1978?
21 A Yes.
22 Q Have they been used in each year since 1978?
23 A Yes.
24 Q Have they been sold under the Grizzly mark as
25 depicted in Exhibits 17, 32 and 33?

1 A Yes.
2 Q And have they been continuously used hinges since
3 1978 as depicted in Exhibits 17, 32 and 33?
4 A Yes.
5 Q Do you sell shelf supports?
6 A Yes.
7 Q What product incorporates shelf supports?
8 A We use supports for shelves within each of our
9 cabinets to hold and suspend each of our shelves. We
10 use shelf supports on our work stations.
11 Q So shelf supports are contained in other products?
12 A Yes.
13 Q Correct?
14 A Yes.
15 Q And have all of those products been marked with
16 the Grizzly word mark?
17 A Yes.
18 Q And have they all been marked with the Grizzly
19 word mark beginning, from your personal knowledge, in
20 1978 to date?
21 A Yes.
22 Q I direct your attention to Exhibit 7, the
23 application to register Grizzly.com, and in particular,
24 do you see electric switches there?
25 A Yes, I do.

1 Q And do you sell electric switches?
2 A Yes.
3 Q And when, to your personal knowledge, did Pucel
4 first sell electric switches?
5 A I have actually seen them personally in the '80s.
6 Q Do you know when in the '80s?
7 A No.
8 Q Do you see motors in the identification of goods
9 in Exhibit 7? It's a little bit after electric
10 switches, to speed things up a little bit.
11 A Yes. I found it.
12 Q Do you sell motors?
13 A Yes.
14 Q What type of motors do you sell?
15 A In particular, we have a motor that lowers and
16 raises our ergonomic work benches.
17 Q I direct your attention to Exhibit 7 and ask do
18 you see rotary tables identified?
19 A Yes.
20 Q Do you sell rotary tables?
21 A Yes.
22 Q When did you first see rotary tables sold?
23 A I think it was after my time of 1978.
24 Q When you say after your time, do you have a
25 specific year?

1 A No.
2 Q Was it 1978?
3 A Not necessarily.
4 Q Was it --
5 A It was probably within the first couple of years
6 of me being there.
7 Q What are rotary tables used for?
8 A It can be used in any application. Any table that
9 requires some sort of movement to transport the goods
10 or ship the goods from one area to another.
11 Q And what types of industries use rotary tables?
12 A All industries can use rotary tables.
13 Q Do wood workers use rotary tables?
14 A Yes.
15 Q Do metal workers use rotary tables?
16 A Yes.
17 Q Do you sell rotary tables to wood workers?
18 A Yes.
19 Q Do you sell rotary tables to metal workers?
20 A Yes.
21 Q Have you marked the sale of goods of rotary
22 tables?
23 A Have we marked?
24 Q Have you marked them with your trademark?
25 A Yes.

1 Q And have you applied the labels to them?
2 A Yes.
3 Q And have those labels been applied to each rotary
4 table sold?
5 A Yes.
6 Q Does the label actually go on the rotary table?
7 A Yes.
8 Q Does the stenciling go on the packaging for the
9 rotary table?
10 A Yes, it does.
11 Q And is that stenciling indicated in Exhibit 33?
12 A Yes.
13 Q And are the labels indicated in Exhibit 17?
14 A Yes.
15 Q And are the labels indicated in Exhibit 32?
16 A Yes.
17 Q Do you see sliding tables identified in Exhibit 7?
18 A Yes.
19 Q Does Pucel sell sliding tables?
20 A Yes.
21 Q Since when?
22 A Since, my recollection, 1978.
23 Q Did Pucel sell sliding tables before 1978?
24 A Yes.
25 Q How do you know?

1 A I have seen them in pictures.
2 Q And those pictures are where?
3 A I have seen pictures of products that we did with
4 images that were taken, photos, as well as in the
5 catalog itself.
6 Q So the catalogs you're referring to are dated
7 prior to 1978? Is that what you're saying?
8 A Yes.
9 Q Now, have you applied your trademark to all
10 sliding tables sold?
11 A Yes.
12 Q And, again, are those the labels of Exhibit 17?
13 A Yes.
14 Q Are they the labels of Exhibit 32?
15 A Yes.
16 Q Do you see spindles --
17 A Yes, I do.
18 Q -- indicated?
19 A Yes.
20 Q Do you see stands indicated?
21 A Yes.
22 Q What is a stand?
23 A A stand can be used for many purposes, for many
24 operations. It is used to hold the material,
25 typically, off the ground. It could be mobile. It

1 could be stationary.
2 Q And do your stands support lathes?
3 A Yes.
4 Q Can your stands support lathes?
5 A Yes.
6 Q Can your stands support drill presses?
7 A Yes.
8 Q Do your customers buy stands to use with lathes?
9 A Yes.
10 Q Do your customers buy stands to use with drill
11 presses?
12 A Yes.
13 Q When did you first witness the sale of stands?
14 A 1978.
15 Q Did Pucel sell stands before 1978?
16 A Yes.
17 Q How do you know?
18 A Pictures in the catalog.
19 Q Has Pucel marked its stands with the Grizzly word
20 mark?
21 A Yes.
22 Q Has Pucel marked its stands with the Grizzly Bear
23 symbol?
24 A Yes.
25 Q Since when?

1 A Since the beginning of time of the company.
2 Q Okay. In your personal tenure there?
3 A 1978.
4 Q Have they marked all stands since 1978?
5 A Yes.
6 Q Have they marked all stands with the Grizzly word
7 mark since 1978?
8 A Yes.
9 Q Have they marked all stands since 1978 with the
10 Grizzly Bear symbol?
11 A Yes.
12 Q And could you explain how they have been marked?
13 A They took the label sticker in Exhibit Number 32
14 and placed it on the Grizzly Equipment itself before it
15 was wrapped and shipped.
16 Q And what about the packaging? Was it marked?
17 A Yes, it was.
18 Q And how was it marked?
19 A It's marked by either the larger label on Exhibit
20 32 or the carton on 33.
21 Q The larger label on 32 has been used since when?
22 A For the last two years.
23 Q And the stenciled label on Exhibit 33, when was it
24 first used, to your personal knowledge?
25 A 1978.

1 Q And in which years was that stenciling of Exhibit
2 33 used on the packaging of stands since 1978?
3 A All of the time.
4 Q Is it still used today?
5 A Yes.
6 Q And is the larger label of Exhibit 32, the one
7 with the white background and the blue lettering, is
8 that also used in addition to the stenciling today?
9 A Yes.
10 Q I direct your attention back to Exhibit 7. Do you
11 see tool holders identified in the listing?
12 A Yes, I see it.
13 Q And do you sell tool holders?
14 A Yes.
15 Q What is a tool holder?
16 A A tool holder is a shelf or a cart that holds
17 tools that typically are being moved to a particular
18 work station.
19 Q And what types of tools can they hold?
20 A All tools.
21 Q Can they hold screw drivers?
22 A Yes.
23 Q Can they hold portable tools?
24 A Yes.
25 Q How long has Pucel sold tool holders?

1 A To my knowledge, 1978.
2 Q They are sold as part of other equipment that's
3 marked with the Grizzly trademark; is that correct?
4 A They're marked with Grizzly Equipment.
5 Q And are the tool holders separate pieces from the
6 cabinets or are they part and parcel?
7 A They're a part of the units.
8 Q I direct your attention to material handling
9 equipment. I direct your attention to Exhibit 7. I
10 ask do you see material handling equipment?
11 A Yes, I do.
12 Q Now, does Pucel sell material handling equipment?
13 A Yes.
14 Q Since when?
15 A Since the beginning of the company.
16 Q And Pucel has sold material handling equipment
17 since 1978, correct?
18 A That's when I first physically saw it, was 1978.
19 Q Now, does Pucel sell industrial equipment?
20 A Yes.
21 Q And I ask you to refer to Exhibit 7 again, and
22 find the word "carts." Can you identify carts in that
23 listing?
24 A Yes.
25 Q Does Pucel sell carts?

1 A Yes.
2 Q Since when?
3 A Since 1949.
4 Q Under what trademark?
5 A Grizzly.
6 Q And are the goods sold under the Grizzly Bear
7 symbol as well?
8 A That's correct.
9 Q Have all the carts that have been sold been marked
10 with your trademark?
11 A Yes.
12 Q And could you explain that?
13 A After it's manufactured, before we ship it out, we
14 place the sticker, the blue and the silver sticker, in
15 Exhibit Number 32, which has the Grizzly written out,
16 G-r-i-z-z-l-y, and the bear symbol. It's also packaged
17 with what you see in Exhibit 33 with the bear on the
18 outside and the word "Grizzly" on it.
19 Q Every item that's been sold since 1978, to the
20 best of your knowledge, has been sold with the Grizzly
21 word mark applied thereto?
22 A Every item has that.
23 Q Every cart sold since 1978, to the best of your
24 knowledge, that has been sold with the Grizzly Bear
25 symbol applied thereto; is that correct?

1 A Yes.
2 Q I direct your attention back to Exhibit 7, and ask
3 can you identify casters and wheels in the
4 identification?
5 A Yes.
6 Q And does Pucel sell casters and wheels?
7 A Yes.
8 Q Since when?
9 A To the best of my knowledge, 1978.
10 Q Are the casters and wheels sold separately?
11 A Yes.
12 Q And when they're sold separately, is your
13 trademark applied to them?
14 A Yes, sir.
15 Q And when they're sold separately, is your
16 trademark applied to the packaging for the casters?
17 A Yes.
18 Q And since when have you sold casters?
19 A To the best of my knowledge, 1978.
20 Q And since when, to your knowledge, have you sold
21 wheels?
22 A 1978.
23 Q And has Pucel applied the Grizzly word mark to all
24 casters and wheels sold since 1978?
25 A Yes.

1 Q Has Pucel applied the Grizzly Bear symbol to all
2 casters and wheels sold since 1978?
3 A Yes.
4 Q I direct your attention again to Exhibit 7. Do
5 you see mobile bases identified?
6 A Yes, I do.
7 Q And could you identify what is a mobile base?
8 A It's a unit that typically has casters on it so
9 that you can move it from one location to the next.
10 Q Okay. What industries use mobile bases?
11 A All industries use mobile bases.
12 Q Do metal workers use mobile bases?
13 A Yes.
14 Q Do wood workers use mobile bases?
15 A Yes.
16 Q Do you sell the mobile bases as a part of another
17 piece of equipment?
18 A We make the mobile bases.
19 Q Are they sold individually?
20 A Yes.
21 Q Are they marked with your Grizzly word mark?
22 A Yes.
23 Q And are they marked with your Grizzly Bear symbol?
24 A Yes, they are.
25 Q Have they been marked with the Grizzly word mark

1 since 1978?

2 MR. SCHMIDT: Objection.

3 Leading.

4 A Yes, they have been.

5 Q When did you first see the mobile bases sold?

6 A 1978.

7 Q Were they marked with the Grizzly word mark at

8 that time?

9 A Yes.

10 Q And in 1978, were they marked with the Grizzly

11 Bear symbol?

12 A Yes, sir.

13 Q Have all mobile bases sold, to your knowledge

14 since 1978, been marked with the Grizzly Bear word

15 mark?

16 A Yes.

17 Q Have all mobile bases sold, to the best of your

18 knowledge since 1978, been marked with the Grizzly Bear

19 symbol?

20 A Yes.

21 Q What type of packaging do you use for the mobile

22 bases?

23 A We would use either the corrugated or the stretch

24 wrapping, depending on the size.

25 Q And if you use stretch wrapping, what type of

1 label do you use on the stretch wrapping?
2 A The stretch wrapping, we would use the large label
3 in Exhibit Number 32.
4 Q And I direct your attention to Exhibit 7, which is
5 the application to register Grizzly.com and ask can you
6 identify outfeed tables and stands?
7 A I see that.
8 Q Now, do you sell outfeed tables and stands?
9 A Yes.
10 Q And what is an outfeed table?
11 A An outfeed table would be a table that is used in
12 conjunction with the area in which you're working, so
13 it's something -- it's separate on the side table.
14 Q And how do you mark your feed tables?
15 A We mark them with the Grizzly Bear symbol and we
16 mark it with the word Grizzly, which is on our gray and
17 dark blue label, which is attached to the equipment
18 before it's shipped.
19 Q And when did you first sell outfeed tables, to
20 your personal knowledge?.
21 A 1978.
22 Q And were they sold before 1978?
23 A Yes.
24 Q The outfeed tables that you saw in 1978 and that
25 were sold, were they marked with any kind of trademark?

1 A Yes.
2 Q And what trademark was that?
3 A They were marked with the word Grizzly.
4 Q Okay.
5 A Both on the unit itself and then on the packaging
6 once it's shipped.
7 Q Okay. And what is an outfeed stand?
8 A It would be the same as the table. Typically it's
9 -- it could be used as an overflow of the item they
10 have assembled. You can outfeed it and move it into
11 another area and then transport it from there.
12 Q When did you personally view Pucel selling outfeed
13 stands?
14 A 1978.
15 Q And were those stands you viewed marked with
16 Pucel's trademark?
17 A Yes.
18 Q And how were they so marked?
19 A They were marked with the bear symbol and the
20 Grizzly mark, which is located on the sticker which has
21 an adhesive back, and is placed on each of the
22 product. It is presently gray with the blue lettering.
23 Q Now, for each year from 1978 to the present, for
24 each sale from 1978 to the present, were your outfeed
25 tables and stands marked with the Grizzly word mark?

1 MR. SCHMIDT: Objection.
2 Leading.
3 A Yes.
4 Q For each year from 1978 to the present, were your
5 outfeed tables and stands marked with your trademark?
6 A Yes.
7 Q And what trademark was that?
8 A Grizzly.
9 Q And which exhibit represents the mark that was
10 applied?
11 A It would be Exhibit 32.
12 Q And what about Exhibit 17? Was that applied as
13 well?
14 A 17 was the one with the yellow background with the
15 black lettering. That one was used as well.
16 Q Now, I direct your attention to Exhibit 7 again,
17 and ask you to find roller stands in the listing.
18 A I see it.
19 Q Does Pucel sell roller stands?
20 A Yes.
21 Q Since when?
22 A My knowledge would be 1978.
23 Q Did Pucel sell roller stands before 1978?
24 A Yes.
25 Q How do you know that?

1 A I have seen drawings of them.
2 Q Were there any trademarks applied to the roller
3 stands sold in 1978?
4 A Yes.
5 Q When were those?
6 A They applied the sticker with the Grizzly Bear on
7 it and the word Grizzly written on it.
8 Q What about the time period between 1978 and today,
9 were they marked?
10 A Every item was marked with the same label on the
11 product, and every product was marked with the markings
12 seen on Exhibit 33.
13 Q Do you see rollers listed in Exhibit 7?
14 A Yes.
15 Q And do you sell rollers?
16 A Yes.
17 Q And could you explain what a roller is?
18 A A roller typically is used inside of a roller
19 stand. It's a ball bearing. It's attached so that
20 boxes and cartons can roll very easily like a conveyer
21 across the stands, table, work bench, et cetera.
22 Q Do you see tables listed in Exhibit 7, the
23 application to register Grizzly.com?
24 A Yes.
25 Q Does Pucel sell tables?

1 A Yes, we do.
2 Q Since when?
3 A My physical knowledge was 1978.
4 Q Did Pucel sell tables before 1978?
5 A Yes.
6 Q And how do you know?
7 A I have seen them in the catalogs.
8 Q Did Pucel apply a trademark to the tables sold in
9 1978?
10 A Yes.
11 Q What was that mark?
12 A That mark was the word Grizzly, the mark of the
13 bear was there and then it also had Grizzly. That was
14 on the label which is Exhibit 32.
15 Q Was the label that's part of the exhibit that is
16 identified by Exhibit 17, was that applied to a table
17 sold in 1978?
18 A Yes.
19 Q And was each table sold since 1978 sold with a
20 label?
21 A Yes.
22 Q And can you tell me what labels those were?
23 A It's the label that was shown on Exhibit 17 and
24 the label on Exhibit 32 and the packaging on Exhibit
25 33.

1 Q Work stands, do you see that identified in Exhibit
2 7?
3 A Yes.
4 Q Now, does Pucel sell work stands?
5 A Yes.
6 Q What is a work stand?
7 A A work stand is typically used in a work area to
8 keep items off the ground.
9 Q Since when has Pucel sold work stands?
10 A My personal experience, since 1978.
11 Q Did Pucel sell work stands before 1978?
12 A Yes.
13 Q Did Pucel apply a trademark to its work stands?
14 A Yes.
15 Q What was that trademark?
16 A They applied the registered Grizzly Bear itself
17 and also the word Grizzly was applied to each item.
18 Q Was the label of Exhibit 17 applied in 1978 to
19 work stands sold then?
20 A Yes.
21 Q And has a label been applied to every work stand
22 sold since 1978?
23 A Yes.
24 Q And have all of those labels had the same
25 information on them?

1 A Yes.
2 Q Does Pucel sell measuring tools?
3 A Yes.
4 Q What are they?
5 A Well, the measuring tools that we have, first of
6 all, one would be the air regulation on some of our
7 work stations. As the air is being pumped in, we have
8 the regulator to monitor the air pressure. We also
9 have pressuring devices that we have used on work
10 stations, for example, in lathe rulers and measuring
11 devices attached to the Grizzly Equipment work
12 stations.
13 Q Since when have you sold those?
14 A My knowledge, 1978.
15 Q And the products are incorporated in the Grizzly
16 bear trademark?
17 A Yes.
18 Q The trademark is shown in Exhibits 17, 31, 32 and
19 33?
20 A That's correct.
21 MR. MITCHELL: Let's break for
22 lunch.
23 (Luncheon recess had.)
24 DIRECT EXAMINATION (CONTINUED)
25 BY MR. MITCHELL:

1 Q Referring to Exhibit 7 again, please, you will
2 note on page 1 of that exhibit, which is actually about
3 four or five pages back, there is a mark identified in
4 the application. Do you see that?
5 A Yes.
6 Q And what is that mark?
7 A Grizzly.com.
8 Q Is that the same mark that you use?
9 A Yes.
10 Q Is Grizzly.com confusingly similar to your mark?
11 A Yes.
12 Q Does this application set forth goods that we
13 discussed this morning that is the same goods that are
14 sold by Pucel?
15 A Yes.
16 Q The mark of the application Grizzly.com, how is it
17 similar to your word mark Grizzly?
18 A Well, just by looking at it, you can see that it's
19 exactly Grizzly. When you pronounce it, it's
20 pronounced the same, Grizzly. In looking at what
21 they're selling, it's identical to what we sell.
22 Q Okay. Now, the mark Grizzly.com set forth in the
23 application to register, Exhibit 7, is that the same as
24 your Grizzly Bear symbol?
25 A Yes.

1 Q And why is that?
2 A Because it's using the exact symbol -- the exact
3 bear that we have ownership of.
4 Q Does your Grizzly Bear symbol create the
5 connotation --
6 A Identical.
7 Q Does your Grizzly Bear create the same meaning?
8 A Yes, it does.
9 Q Does your Grizzly Bear symbol create the same
10 connotation?
11 A Yes.
12 Q How long has Pucel used the word Grizzly as a
13 trademark?
14 A To my knowledge?
15 Q Yes.
16 A To my knowledge, it was 1978.
17 Q Was it used at all before you started working --
18 A Yes, it was.
19 Q -- at Pucel?
20 A Yes.
21 Q And how was Grizzly selected as a trademark for
22 Pucel?
23 A It was selected by Mr. Pucel, who was my
24 grandfather, and the family, which consisted of one
25 other member, my mother, and they decided to come up

1 with something that would represent the product. In
2 trying to decide, they knew that our product was all
3 welded and strong, heavy duty, so they came up with a
4 bear.
5 MR. SCHMIDT: I am going to move
6 to strike on the grounds of hearsay.
7 He has no first-hand knowledge of
8 this.
9 A They came up with a bear. They decided to go more
10 specifically with the Grizzly Bear because of its
11 strength and endurance.
12 MR. SCHMIDT: Move to strike that
13 answer on the grounds that it's
14 hearsay.
15 MR. MITCHELL: It's noted.
16 Q Did you have any discussions with your grandfather
17 about the selection of the mark Grizzly?
18 A Just why it was identified as being strong and
19 durable and all welded. He always tried to stress
20 that.
21 Q That's the impression that you had as a result of
22 your conversations with your grandfather?
23 MR. SCHMIDT: Objection.
24 Leading.
25 A Yes.

1 Q Is that the impression that you have, based on
2 your discussions with your grandfather?
3 A Yes, it is.
4 Q The goods that we identified this morning in the
5 Grizzly.com application, are those the exact same goods
6 that are being sold by Pucel now?
7 A Yes, they are.
8 Q Are those the exact same goods that were sold by
9 Pucel when you began as a full-time worker in 1985?
10 A Yes.
11 Q And are those the exact same goods that were sold
12 by Pucel, and I am referring to the goods that we
13 discussed this morning in the registration to register
14 Grizzly.com, are those the same goods that were sold by
15 Pucel in 1978 when you began with Pucel?
16 A Yes.
17 Q Would you please describe the procedures used at
18 Pucel to ensure marking of your products with your
19 trademarks.
20 A We have a policy that before any cabinet is
21 wrapped, it has to be marked with the sticker in
22 Exhibit 17 or later 32 and then also after that 33.
23 That's one of the first things that anybody coming into
24 the company in that department has to do. They're
25 instructed.

1 Q Every employee is instructed to ensure marking of
2 the products?
3 A Yes.
4 Q Was that the procedure in 1978?
5 A Yes.
6 Q Was that the procedure in 1985 as well?
7 A Yes.
8 Q Now, does Pucel own the trademark Grizzly for use
9 in connection with all of the goods as set forth in
10 Exhibit 30?
11 A Yes.
12 Q Does Pucel own the trademark Grizzly for all of
13 the goods set forth in Exhibit 29?
14 A Yes.
15 Q Did you, Robert Mlakar, create Exhibit 30, and I
16 mean the catalog?
17 A Yes.
18 Q Did you create Exhibit 29?
19 A Yes.
20 Q Both of these catalogs, Exhibits 29 and 30, were
21 they prepared under your direction?
22 A Yes, they were.
23 Q Now, in connection with Exhibits 31 and 32, if you
24 would turn to those, please. The labels in Exhibits 31
25 and 32, would you have been responsible for reordering

1 those labels?
2 A Yes.
3 Q Were you responsible for creating the label?
4 A Yes.
5 Q Were you responsible for the color selection?
6 A Yes.
7 Q And I am referring to both Exhibits 32 and 33.
8 Can I have your answer for both of these?
9 Maybe I can give a better question for
10 Mr. Schmidt. Were you responsible for creating the
11 color schemes in Exhibits 32 and 33?
12 A Yes.
13 Q Now, in regard to Exhibit 17, were you responsible
14 for reordering Exhibit 17?
15 A Yes.
16 Q And who created the color scheme for Exhibit 17?
17 A Mr. Pucel.
18 Q I would like to direct your attention to Exhibit
19 1, please, which is in the book on the bottom there.
20 - - - - -
21 (Opposer/Petitioner's Exhibit Number 1 was
22 marked for identification.)
23 - - - - -
24 Q Can you identify what that is?
25 A That's a Pucel Enterprises registered trademark.

1 Q And you're the owner of the registration?
2 A Yes.
3 Q And by, "you," I mean Pucel is the owner?
4 A That's correct.
5 Q And to your knowledge, it's in full force and
6 effect?
7 A Yes.
8 Q I would like to direct your attention to the
9 portion that says "For" and then there is a semicolon.
10 A Yes.
11 Q Can you take a minute and read that, please.
12 A Okay.
13 Q Now, can you identify tables in the Grizzly.com
14 application to register, Exhibit Number 7?
15 A Yes.
16 Q Can you identify benches in the application to
17 register Grizzly.com?
18 A Yes.
19 Q Okay. And where do you see tables, first of all?
20 A In Exhibit 7?
21 Q Yes. Let me withdraw the question.
22 Does Exhibit 7 indicate router tables?
23 A Yes.
24 Q Does Exhibit 7 indicate slide tables?
25 A Yes.

1 Q Does Exhibit 7, the application to register,
2 indicate rotary tables?
3 A Yes.
4 Q Does Exhibit 7, the application to register,
5 indicate tables?
6 A Yes.
7 Q Now, are those tables the same tables that are
8 referred to in your registration?
9 A Yes.
10 Q Now, is a table ever considered a bench?
11 A Yes.
12 Q Does Exhibit 7 indicate cabinets?
13 A Yes.
14 Q Does Exhibit 7 indicate shelves?
15 A Yes.
16 Q Does Exhibit 7 indicate stands?
17 A Yes.
18 Q Are those the exact same stands that are covered
19 by the registration?
20 A Yes, sir.
21 Q Are those the exact same stands as used in the
22 registration?
23 A Yes.
24 Q Does Exhibit 7 indicate desks or the equivalent
25 thereof?

1 A They mention drafting boards, which a lot of our
2 desks can be used for drafting of some sort.
3 Q Okay. Returning to Exhibit 1 momentarily, does it
4 also include the words "Parts thereof" in reference to
5 tables, benches, cabinets, et cetera?
6 A Yes, sir.
7 Q Are drawer pulls part of a cabinet?
8 A Yes.
9 Q Are drawer slides part of a cabinet?
10 A Yes.
11 Q Are shelf support parts of cabinets?
12 A Yes.
13 Q Are hinges parts of cabinets?
14 A Yes, they are.
15 Q Are tool boxes parts of cabinets?
16 A Yes.
17 Q Are rotary tables the tables identified in the
18 the 624,055 registration of Exhibit 1?
19 A Yes.
20 Q Are work stands the same as the stands identified
21 in the 624,055 registration, Exhibit 1?
22 A Yes.
23 Q Are storage bins covered by the 055 registration?
24 A Yes.
25 Q Why is a storage bin covered by the 055

1 registration?
2 A Because we have storage bins included within our
3 equipment within our catalog.
4 Q Is a router table a table within the meaning of
5 the 055 registration?
6 A Yes.
7 Q Are engine stands within the meaning of the 055
8 registration?
9 A Yes.
10 Q If I could direct your attention to Exhibit Number
11 2. If the court reporter could initial and date that
12 one.
13 - - - - -
14 (Opposer/Petitioner's Exhibit Number 2 was
15 marked for identification.)
16 - - - - -
17 Q Let me direct your attention to Exhibit 2. Could
18 you please identify it for us.
19 A It is the trademark registration for the bear
20 symbol.
21 Q Okay. And this registration covers the same goods
22 as the 055 registration as set forth in Exhibit 1?
23 A Yes.
24 Q Now, does Pucel own this registration?
25 A Yes, they do.

1 Q And to the best of your knowledge, is it valid and
2 enforceable?
3 A Yes.
4 Q Now, has this mark been applied to every product
5 shipped from Pucel Enterprises? I am referring to the
6 Grizzly Bear symbol in Exhibit 2.
7 A Yes, it's on every product.
8 Q We're referring to the 704,631 registration?
9 A Yes.
10 Q And you're saying that it's been on every product
11 shipped in your tenure since 1978?
12 A Yes.
13 Q In regard to Exhibit 1, do you see that there?
14 A Yes.
15 Q Now, that Grizzly mark of the 624,055
16 registration, has been applied to all of the products
17 shipped in your tenure at Pucel Enterprises?
18 A Yes, on all product.
19 Q I would like to draw your attention to Exhibit 3,
20 please.
21 - - - - -
22 (Opposer/Petitioner's Exhibit Number 3 was
23 marked for identification.)
24 - - - - -
25 Q Could you identify Exhibit 3 for us, please.

1 A It's a registered trademark of the word Grizzly.
2 Q It's numbered as?
3 A 704,529.
4 Q Could you read the description of goods, please.
5 A It's for box trucks, dump trucks, hand trucks,
6 dollies and wheeled platforms, wheeled racks and
7 wheeled tables.
8 Q Is a wheeled rack the same as a mobile base?
9 A Is a wheel what?
10 Q Is a wheeled rack the same as mobile bases?
11 A It can be, yes.
12 Q The dollies referred to in Exhibit 7 of the
13 Grizzly.com application, are those dollies the same
14 goods as the dollies shown in your 529 registration of
15 Exhibit 3?
16 A Yes.
17 Q The hand trucks referred to in Exhibit 7, are
18 those the same hand trucks referred to in the 529
19 registration?
20 A Yes.
21 Q Does Pucel own the 529 registration, Exhibit
22 Number 3?
23 A Yes.
24 Q To the best of your knowledge, is it in full force
25 and effect?

1 A Yes, it is.
2 Q Wagons, as the word is used in Exhibit 7, are
3 wagons covered by your 529 registration, Exhibit 3?
4 A Yes.
5 Q Mobile bases is used in Exhibit 7. Are mobile
6 bases covered by your 529 registration?
7 A Yes.
8 Q I direct your attention to Exhibit 4, please.
9 - - - - -
10 (Opposer/Petitioner's Exhibit Number 4 was
11 marked for identification.)
12 - - - - -
13 Q Could you identify Exhibit 4 for us, please.
14 A It's a trademark registering 704,530 for the
15 Grizzly Bear.
16 Q Is that owned by Pucel?
17 A Yes, it is.
18 Q To your knowledge, is it enforceable?
19 A Yes.
20 Q Now, the mark indicated on the 530 registration,
21 Exhibit 4, has that been used continuously on all goods
22 in your tenure at Pucel?
23 A Yes. It's used on every product.
24 Q In regard to Exhibit 3, has the mark Grizzly, as
25 indicated in that registration, been used on all goods

1 sold by Pucel?
2 A Yes, on all goods.
3 Q Has Pucel sold all of the goods, as indicated in
4 Exhibit 30, since the publication of that catalog in
5 January of 1999?
6 A Yes.
7 Q Has Pucel sold all of the goods, as indicated by
8 Exhibit 29, since the publication of that catalog?
9 A What is the question?
10 (Record read.)
11 A Yes.
12 Q What was the date of that catalog?
13 A January of '90.
14 Q If I could draw your attention to Exhibit 5,
15 please.
16 - - - - -
17 (Opposer/Petitioner's Exhibit Number 5 was
18 marked for identification.)
19 - - - - -
20 Q Could you please identify that for us.
21 A It's the registered trademark of Pucel Enterprises
22 mark 704,589 with the word Grizzly.
23 Q What goods are listed there?
24 A Drum lifters, tilting arcs, drum cradles, drum
25 up-enders and hoist hooks.

1 Q And what is the registration number there, please?
2 A 704,589.
3 Q Is Pucel the owner of that registration?
4 A Yes.
5 Q To the best of your knowledge, is it in full force
6 and effect?
7 A Yes, it is.
8 Q Now, has that mark Grizzly, as indicated on the
9 589 registration, Exhibit 5, been used for the goods
10 listed continuously since 1978?
11 A Yes, on all goods.
12 Q I draw your attention to Exhibit 6.
13 - - - - -
14 (Opposer/Petitioner's Exhibit Number 6 was
15 marked for identification.)
16 - - - - -
17 Q Can you please identify Exhibit 6.
18 A It's the registered trademark 704,588, which has
19 the mark of the bear, the Grizzly Bear.
20 Q And what goods are listed?
21 A Drum lifters, tilting arcs, drum cradles, drum
22 up-enders and hoist hooks.
23 Q And is Pucel the owner of that registration?
24 A Yes.
25 Q To your knowledge, is it in full force and effect?

1 A Yes, it is.
2 Q Has the Grizzly Bear symbol been used on all of
3 the goods indicated in the registration since your
4 tenure at Pucel?
5 A Yes, on all of the goods.
6 Q Has it been continuously used on all of the goods
7 since your tenure?
8 A Yes.
9 - - - - -
10 (Opposer/Petitioner's Exhibit Number 8 was
11 marked for identification.)
12 - - - - -
13 Q I direct your attention to Exhibit 8, please. Can
14 you identify that for me, please.
15 A This is a trademark application by Grizzly
16 Industrial, Inc. for the mark of Bear Power.
17 Q Would you please turn to the first page of the
18 application.
19 A Okay.
20 Q Are you there?
21 A Yes.
22 Q Do you see where it says, "The following goods and
23 services"?
24 A Yes.
25 Q Now, are those the same goods and services sold by

1 Pucel?
2 A They're identical.
3 Q Are the words used in that application to register
4 the same words used by Pucel in its catalog?
5 A Yes, identical.
6 Q And are there some words that are peculiar to
7 Pucel that are found in this application to register?
8 A Well, there is a reference to hopper tables that
9 is pretty unique to us, and it was unusual to see it
10 written identically in here.
11 Q And what is unique about hopper tables?
12 A The distinction is it has a slope and it has a
13 contour that you can throw parts on and it will slide
14 underneath into another bin.
15 Q Is the description of a hopper table standard in
16 the industry?
17 A I have never seen it before.
18 Q Did Pucel create that description?
19 A Yes.
20 Q Was that description copied from Pucel's catalog?
21 A Yes.
22 Q And that's in the Bear Power application?
23 A That's correct.
24 Q Okay.
25 A It's the same words and in the same order as ours.

1 Q Let me draw your attention again to Exhibit 7,
2 please.
3 A Yes.
4 Q Would you please turn further in that exhibit,
5 which is the application to register Grizzly.com, the
6 file history of it, would you please turn to the page
7 identified as "Examiner's Amendment." Do you see the
8 examiner's amendment there?
9 A Yes, I do.
10 Q Do you see the portion where it says,
11 "Identification"?
12 A Yes.
13 Q Could you read that out loud, please.
14 A "The wording 'retail sales' in the recitation of
15 services is amended as follows: 'Retail store
16 services, online retail store services and mail order
17 services featuring."
18 Q Now, does Pucel engage in on-line retail store
19 services?
20 A Yes.
21 Q I would like to draw your attention now to Exhibit
22 38, please. Would you please identify what Exhibit 38
23 is.
24 - - - - -
25 (Opposer/Petitioner's Exhibit Number 38 was

1 marked for identification.)

2 - - - - -

3 A This is Grizzly Equipment Manufactured By Pucel's

4 web site.

5 Q Do you see a number GRIZC at the bottom?

6 A Yes.

7 Q And can you identify the pages here in this group?

8 A It's pages 10003 through 10062.

9 Q Now, this is a printout of your web site?

10 A Yes.

11 Q And for how long have you had your web site?

12 A I don't know the exact date or the year.

13 Q What date do you believe you first published it?

14 A Late '80s.

15 Q Now, does your web site --

16 MR. ANTHONY MLAKAR: No, '90s.

17 Q Does your web site provide for on-line ordering?

18 A Yes.

19 Q Where it says "Order Form, on, for instance, page

20 10032?

21 A Yes.

22 Q does your web site also provide for contacting you

23 via email?

24 A Yes.

25 Q Is that what the "Contact Us" button indicates?

1 A Yes.
2 Q All of the products shown in Exhibit 30, which is
3 your 1999 catalog, are all of those products shown in
4 your web site here as indicated by Exhibit 38?
5 A Yes.
6 Q Are your services provided by way of your web site
7 identical to the on-line retail store services recited
8 in the application to register Grizzly.com?
9 A Yes.
10 Q Now, I would ask the court report to mark this as
11 38-A.
12 - - - - -
13 (Opposer/Petitioner's Exhibit Number 38-A was
14 marked for identification.)
15 - - - - -
16 Q Could you please identify what has been marked as
17 Exhibit 38-A.
18 A That's the home page to the web site.
19 Q Does that page mention Thomas Register?
20 A Yes, it does.
21 Q And what is the relationship with Thomas Register?
22 A Well, they set up a program, and we participated
23 in it when they started the Internet. They actually
24 host the web site for us. They provide tracking and
25 things like that, making sure that it's running

1 correctly.
2 Q So does Thomas Register have a link to your
3 web site?
4 A I am not sure how it links, but there is a link.
5 When you go on Pucel-Grizzly.com, it brings up --
6 enters into their database and brings up the web site.
7 Q What is your URL?
8 A Www.Pucel-Grizzly.com.
9 Q So a customer can acquire everything going through
10 Thomas Register that they can acquire going directly to
11 Pucel?
12 A Yes.
13 Q Now, these web sites identified in Exhibits 38 and
14 38-A, they're published on the Internet, are they not?
15 A Yes.
16 Q And does that enable retail access?
17 A Yes, it does.
18 Q Referring back to Exhibit 38-A, once again, the
19 bottom portion of the first page of 38-A, what do those
20 words that are listed there mean?
21 A Those are some of the products and services that
22 we produce.
23 Q And who generated that list?
24 A I did.
25 Q And what was the purpose of generating that list?

1 A Just getting the categories in which people could
2 choose our product from, the general categories.
3 - - - - -
4 (Opposer/Petitioner's Exhibit Number 38-B was
5 marked for identification.)
6 - - - - -
7 Q Referring to what has been marked for
8 identification as Pucel's Exhibit Number 38-B, could
9 you identify what this is.
10 A Looks like another home page to our web site.
11 Q And do you see the letters and numbers GRIZC 09923
12 at the bottom of the first page?
13 A Yes.
14 Q It runs through GRIZC 09963 as the last page?
15 A Yes.
16 Q Now, drawing your attention to Exhibit 38-B, pages
17 09959 and 09960, can you identify for us what those two
18 pages are for?
19 A This is for anyone searching on the Internet to
20 have the capability of letting us know who they are and
21 what information they would like to receive. And it
22 breaks it into categories broken down of our product
23 line so they can inquire on our catalog fliers.
24
25

1 A Just getting the categories in which people could
2 choose our product from, the general categories.
3 - - - - -
4 (Opposer/Petitioner's Exhibit Number 38-B was
5 marked for identification.)
6 - - - - -
7 Q Referring to what has been marked for
8 identification as Pucel's Exhibit Number 38-B, could
9 you identify what this is.
10 A Looks like another home page to our web site.
11 Q And do you see the letters and numbers GRIZC 09923
12 at the bottom of the first page?
13 A Yes.
14 Q It runs through GRIZC 09963 as the last page?
15 A Yes.
16 Q Now, drawing your attention to Exhibit 38-B, pages
17 09959 and 09960, can you identify for us what those two
18 pages are for?
19 A This is for anyone searching on the Internet to
20 have the capability of letting us know who they are and
21 what information they would like to receive. And it
22 breaks it into categories broken down of our product
23 line so they can inquire on our catalog fliers.
24 - - - - -
25 (Opposer/Petitioner's Exhibit Number 39 was

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17 Q And backing up to Exhibits 38, 38-A and 38-B, who
18 is responsible for the production of your web site?
19 A Within the company?
20 Q Yes.
21 A Myself.
22 Q And you work with an outside firm to produce your
23 web site?
24 A Yes, I do.
25 Q And you review all the procedural aspects of your

1 marked for identification.)

2 - - - - -

3 Q And can I direct your attention, please, to what

4 has been marked for identification as Exhibit 39. Can

5 you please identify what Exhibit 39 is.

6 A It looks like sales advertising costs, and it

7 breaks it down by year.

8 Q Now, the advertising figures for 2002, 2003, 2004,

9 what do they include?

10 A They include the catalog itself. It includes any

11 of the advertising. For example, the Yellow Pages, it

12 would include that. I am not sure if this includes

13 some of our catalogs that we actually do advertising

14 with and have substantial amounts towards those.

15 Q Who prepared Exhibit 39?

16 A Tony Mlakar.

17 Q And backing up to Exhibits 38, 38-A and 38-B, who

18 is responsible for the production of your web site?

19 A Within the company?

20 Q Yes.

21 A Myself.

22 Q And you work with an outside firm to produce your

23 web site?

24 A Yes, I do.

25 Q And you review all the procedural aspects of your

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1 web site, the ordering, the email, and those types of
2 things; is that correct?
3 A Yes.
4 Q And you permit others to link to your web site?
5 A Yes.
6 Q And is Thomas Register one of those others that
7 are permitted to link to your web site?
8 A Yes.
9 Q Who else is it permitted to link to your web site?
10 A We have another -- we allow distributors of ours
11 that would link in. They would be people such as
12 Maternal Handing Group, which is an Indoff
13 Partnership. We have other distributors that are able
14 to access it that we give permission to.
15 Q You generate retail sales to end users on your web
16 site, correct?
17 A Yes.
18 Q And customers can also order from one of your
19 distributors' web sites?
20 A Yes.
21 Q And when they do that, they're linked to your web
22 site? Is that the procedure?
23 A Yes, they're linked to the product in our web
24 site.
25 Q You mentioned Indoff. Does Indoff have a link to

1 your web site?
2 A They have a link. They access the components
3 within our web site.
4 Q And is all of the linking controlled by you?
5 A Yes.
6 Q I could ask the court reporter to date and initial
7 Exhibit 59.
8 - - - - -
9 (Opposer/Petitioner's Exhibit Number 59 was
10 marked for identification.)
11 - - - - -
12 Q Can you please identify what Exhibit 59 is.
13 A This is a company called Global Equipment, which
14 is a distributor of ours.
15 MR. SCHMIDT: I am going to move
16 to strike that response as
17 unresponsive. He didn't answer your
18 question.
19 MR. MITCHELL: Thanks for
20 bringing that up. With my headache, I
21 could have slipped right past that.
22 Q Would you please identify what Exhibit 59 is?
23 A It's identifying one of our distributors, Global
24 Equipment.
25 Q Let me ask you this: Is this from the Global

1 Industrial web site?
2 A Yes.
3 MR. SCHMIDT: I am going to move
4 to strike that as leading.
5 You have asked him to identify
6 it. He has got to go with that.
7 Don't feed him the answer.
8 Q Please identify Exhibit Number 59.
9 A It's a web site.
10 Q Who produced that web site?
11 A Global Equipment.
12 Q And what is your relationship with Global
13 Equipment?
14 A We have been dealing with them for a number of
15 years, and they're one of our distributors.
16 Q And do they have your products listed on their web
17 site?
18 A Yes, they do.
19 Q Is there a link from their web site to yours?
20 A They have a link to our products.
21 Q So if someone clicks on one of your products, what
22 happens?
23 A Then they have the ability to order that product.
24 Q Does it connect the person with your web site and
25 a view of your product?

1 A Yes, it does.
2 Q And did Pucel authorize the production of this
3 page?
4 A Yes.
5 Q Did Pucel authorize the production of this
6 web site?
7 A Yes.
8 Q And did Pucel authorize the production of the web
9 site with links to your products?
10 A Yes.
11 Q And did you first approve this web site before its
12 publication?
13 MR. SCHMIDT: Just to clarify,
14 when you say, "this web site," what
15 are you talking about?
16 MR. MITCHELL: I am talking
17 about Exhibit 59 right now.
18 MR. SCHMIDT: That's not a web
19 site. That's a photocopy of
20 something. You're saying a web site.
21 It refers to
22 www.globalindustrial.com. Is that
23 what you're referring to?
24 MR. MITCHELL: Very good point.
25 Yes, yes.

1 MR. SCHMIDT: That's what you're
2 referring to?
3 MR. MITCHELL: Yes.
4 Q Did you authorize the publication of the web site
5 and links to your web site as part of
6 www.globalindustrial.com?
7 A Yes.
8 Q I would like to turn your attention to Pucel
9 Exhibit Number 60.
10 - - - - -
11 (Opposer/Petitioner's Exhibit Number 60 was
12 marked for identification.)
13 - - - - -
14 Q Can you identify Exhibit Nnumber 60 for us,
15 please.
16 A It's a copy of a web site of Indoff.
17 Q Are your products indicated in this copy of the
18 Indoff web site?
19 A Yes.
20 Q Did you authorize your products to appear in this
21 web site?
22 A Yes.
23 Q Does Indoff have a link to your web site?
24 A They had access to our web site, and it created
25 theirs.

1 Q So is the Indoff web site a stand-alone web site
2 not linked to yours?
3 A They linked in there initially. Then they created
4 theirs.
5 Q On page 1 of Exhibit 60, is that your registered
6 trademark used therein?
7 A Yes.
8 Q Is that used with your permission?
9 A Yes.
10 Q And does the Grizzly word mark appear on page 1 of
11 Exhibit 60?
12 A Yes.
13 Q And does the Grizzly Bear symbol appear on page 1
14 of Exhibit 60?
15 A Yes.
16 Q And are both the word mark and bear symbol your
17 marks?
18 A Yes, they are.
19 Q Just returning briefly to Exhibit 38, is that your
20 registered trademark word mark Grizzly --
21 A Yes.
22 Q -- on your web site?
23 A Yes.
24 Q Do you put your registered trademark Grizzly on
25 every page of your web site?

1 A Yes.
2 Q And is your registered Grizzly Bear symbol on your
3 web site?
4 A Yes.
5 Q And do you put your registered Grizzly Bear symbol
6 on every page of your web site?
7 A Yes.
8 Q Please mark Exhibit 61, if you would, please.
9 - - - - -
10 (Opposer/Petitioner's Exhibit Number 61 was
11 marked for identification.)
12 - - - - -
13 Q Would you please identify Exhibit Number 61.
14 A It's the home page to our web site.
15 Q Are that's your registered trademarks on the first
16 page of Exhibit 61?
17 A Yes. It has the bear symbol and the Grizzly.
18 Q And what is the date of the printout there,
19 please?
20 A 12-31-02.
21 Q Do you distribute your catalogs to customers and
22 prospective customers?
23 A Yes.
24 Q And how many catalogs per year do you distribute?
25 A Probably about 15,000.

1 Q And referring to Exhibit 30, do you distribute
2 15,000 of your 1999 catalogs every year or have you
3 distributed 15,000 of your catalogs every year?
4 A Yes.
5 Q Did you distribute 15,000 catalogs in 1999?
6 A Yes.
7 Q And how many have you distributed in the year
8 2000?
9 A Probably close to 15,000 as well.
10 Q And for the years thereafter, did you also
11 distribute 15,000 each year?
12 A It was close to that.
13 Q What determines when you issue a new catalog?
14 A A new one?
15 Q Yes.
16 A It depends on what product line and how we want to
17 represent the product. We redesign a new catalog based
18 on that new product and how we want to change the pages
19 around a little bit.
20 Q Now, how many outside firms sell or market your
21 products?
22 A Well, we have over 2,500 on record of our own that
23 we distribute to, and then we have another section
24 where they put our product in and they do a
25 distribution of their 2,000 to 3,000 customers, and

1 then we have other companies like Indoff who have
2 theirs all through the country that they're sending to.
3 Q Okay. Can you explain what Indoff does in
4 marketing the Grizzly Equipment?
5 A Indoff markets our product in a number of
6 different ways. They, number 1, have salesmen who
7 actually go out and physically go into wherever they're
8 requested, or if they get a request for quote, they
9 typically will go depending upon their territory.
10 Indoff also gets a large customer base through their
11 web site. They get orders and customers through that,
12 which is people in their area as well as out of their
13 area, because it is so broad. They also do their own
14 catalog mailings to their customers and potential
15 customers.
16 Q And where is Indoff headquartered?
17 A St. Louis.
18 Q And what is their geograhic extent, as far as the
19 area they cover?
20 A Throughout the whole country.
21 Q Do you have a business relationship with special
22 mail order?
23 A Yes, we do.
24 Q And is the special mail order known as SMO?
25 A Yes.

1 Q And what is that business relationship with
2 special mail order?
3 A With us, they host our products and their pages,
4 and they distribute well over one million catalogs in a
5 year.
6 Q Are your products contained in their catalogs?
7 A Yes, they are.
8 Q Are they contained in their catalogs under the
9 Grizzly trademark?
10 A Yes.
11 Q Does the special mail order catalog contain your
12 products under the mark of the Grizzly Bear symbol?
13 A Yes.
14 Q And you do special mail order, do you not?
15 A Yes.
16 Q How does the compensation work?
17 A The compensation is a percentage of the sales that
18 we have with them, which is typically five percent we
19 give them for the publication and producing the
20 catalog.
21 Q And does special mail order, SMO, bring orders to
22 you?
23 A No, not directly.
24 Q How does that work?
25 A They have people who buy into the program of the

1 specialized mail order. They purchase their books and
2 they sometimes have the names printed on them and they
3 distribute with each group that would participate in
4 the program. A number of our distributors are a part
5 of that group. They have access to not only the
6 printed pages but also the web site. They could be a
7 part of that program as well.
8 Q They have access to your web site?
9 A Yes, the products that are on the web site, they
10 have access to them.
11 Q These are distributors that are listed or have a
12 relationship with SMO?
13 A Yes.
14 Q So a customer would order from SMO and then they
15 would be directed to a distributor?
16 A No.
17 A I believe that they actually buy into the web site
18 and then they host their own buying into it. Then the
19 person will go to those individuals and first place the
20 order with us.
21 Q Then you ship to the buyer?
22 A That's correct.
23 Q And you bill to someone else?
24 A Yes.
25 Q You bill to the distributor?

1 A Yes.
2 Q Do you have a relationship with C & H
3 Distributing?
4 A Yes, we do.
5 Q What is that relationship?
6 A They also sell our products. They sell them both
7 in their print book as well as on the Internet.
8 Q Is their Internet linked to your site?
9 A Yes. They grab the products off of our web site.
10 Q Do they contain orders from you?
11 A Yes.
12 Q And then C & H does the ordering?
13 A Yes.
14 Q The product is then delivered to the buyer?
15 A Yes.
16 Q Do you have a relationship with Global Equipment?
17 A Yes.
18 Q What is that relationship?
19 A They are another one of our distributors who have
20 taken our product off of our web site into theirs, and
21 they have also a print catalog that they distribute.
22 It's through the print and through the web site.
23 Q Does Global's site use your Grizzly trademark?
24 A Yes, they do.
25 Q Does C & H use your Grizzly --

1 A Yes.
2 Q -- trademark?
3 A Yes.
4 Q Does Global use your Grizzly Bear symbol?
5 A Yes.
6 Q And does C & H use your Grizzly Bear symbol?
7 A Yes, I believe so.
8 Q Is your entire catalog of products available from
9 C & H?
10 A Yes, they at any time are available.
11 Q Is your entire product catalog available through
12 Global Equipment?
13 A Yes.
14 Q Do you have a relationship with Thomas Register?
15 A Yes.
16 Q And what is that relationship?
17 A Actually, they're the ones who worked with me to
18 create the design and layout of the web site, and we
19 also do quite a bit of advertising through them.
20 Q Does a customer order from Thomas Register?
21 A The web site or specifically Thomas Register?
22 Q From Thomas Register.
23 A No.
24 Q Does the customer order directly from Pucel?
25 A Yes.

1 Q And Thomas Register is authorized to use your
2 Grizzly trademark in connection with your goods?
3 A Yes.
4 Q And is Thomas Register authorized to use your
5 Grizzly Bear symbol in connection with your goods?
6 A Yes.
7 Q Are your products sold retail?
8 A Yes.
9 Q Where are they sold retail?
10 A We have some of our distributors who are actually
11 set up with a store front. One would be Conveyer &
12 Caster. They sell to anybody off the street. We have
13 some distributors that sell retail simply because the
14 web has opened up a whole new host of customers all
15 over. Anybody can go and look at it and search and buy
16 a product off the web sites. That's another form that
17 we have.
18 Q Does the Internet bring you retail sales?
19 A Yes.
20 Q Now, do you sell to metal workers?
21 A Yes.
22 Q Referring to Exhibits 29 and 30, which of your
23 products are sold to metal workers?
24 A All of our products.
25 Q Do you sell stands to metal workers?

1 A Yes.
2 Q And what do the metal workers do with a stand?
3 A They use it in any of their applications that they
4 might have within their shop or garage.
5 Q How many catalogs does Global Equipment distribute
6 per year, which include Grizzly Equipment Manufactured
7 By Pucel?
8 A Over a million.
9 Q How many catalogs does SMO distribute, which
10 include Grizzly Equipment Manufactured By Pucel?
11 A At least that or more.
12 Q And when you say at least that or more --
13 A At least a million or more.
14 Q Do you sell your products to wood workers?
15 A Yes.
16 Q Which products are sold to wood workers?
17 A That would be all of them in our catalogs.
18 Q And when you say, "your catalogs," you're
19 referring to, for instance, Exhibits 29 and 30?
20 A Yes.
21 Q Do you sell your products to plastic workers?
22 A Yes, sir.
23 Q And what products do the plastic workers purchase?
24 A All of our products.
25 Q And do you sell your products to automobile

1 workers?
2 A Yes.
3 Q And what products do the automobile workers
4 purchase?
5 A Could be any of the items in our catalog.
6 Q Do you sell your products to electronic workers?
7 A Yes.
8 Q What type of products do the electronic workers
9 purchase?
10 A Could be anything in the catalog.
11 Q Do you sell your products by mail order?
12 A What do you mean by that?
13 Q Do you sell your products by fliers on mail order
14 systems?
15 A We have done in the past where we have done
16 advertising where we have specials with certain items,
17 and they can send in their request on that card and
18 then send it back to us.
19 Q I would like to go to Exhibits 68 and 69 if we
20 can.
21 - - - - -
22 (Opposer/Petitioner's Exhibit Numbers 68 and 69
23 were marked for identification.)
24 - - - - -
25 Q Starting with 68, please, could you identify that

1 exhibit, please.
2 A It looks like the catalog of Grizzly Industrial,
3 2005.
4 Q Okay. I would like to draw your attention to page
5 3 of that catalog. Do you sell to any of the customers
6 identified in Grizzly Industries sampling of customers
7 listed on page 3?
8 A Yes, we do.
9 Q Can you identify which customers you sell to?
10 A I would say all of them.
11 Q You sell to every single customer there?
12 A Every one hat I have -- I see about six that I am
13 not quite sure.
14 Q Which six are you not sure about?
15 A Bellagio.
16 Q Any others?
17 A I don't know all of ours, but Panama Canal
18 Commission, I never heard of that. It's possible that
19 we could have, but those are a few that I personally
20 don't recognize.
21 Q So you sell to all but a handful of Grizzly
22 Industrial customers?
23 A Yes.
24 Q What products do you sell to those customers?
25 A We sell all of our products to each one of them.

1 Any one of our products can fit in the realm of any of
2 those customers.
3 Q If you could turn, please, to Exhibit Number 37.
4 - - - - -
5 (Opposer/Petitioner's Exhibit Number 37 was
6 marked for identification.)
7 - - - - -
8 Q Could you please identify what Exhibit 37 is.
9 A These are invoices from Pucel Enterprises.
10 They're the actual invoices that have the customer and
11 where they ship to.
12 Q Now, what is the significance of the customers --
13 MR. SCHMIDT: Before you go on,
14 are these your documents?
15 MR. MITCHELL: Yes.
16 MR. SCHMIDT: I don't see a
17 production number on there.
18 MR. MITCHELL: They're recent
19 documents.
20 MR. SCHMIDT: Were they ever
21 produced?
22 MR. MITCHELL: No, these were
23 not produced. You can see the date,
24 9-28.
25 MR. SCHMIDT: Then I am going to

1 object to any use of these documents
2 because they haven't been produced in
3 this case. Your discovery wasn't
4 supplemented. I am going to move to
5 strike. If you're going to ask
6 questions, let me make my motion to
7 strike continuing because I have never
8 seen these before and they were not
9 produced.
10 Q What is the significance of the documents in
11 Pucel's Exhibit Number 37?
12 A Looks like each of the customers were identical to
13 those found on page 3 of the Grizzly Industrial, Inc.
14 Catalog.
15 Q On page 3 of the catalog --
16 MR. SCHMIDT: Just to be sure, I
17 am going to move to strike that answer
18 because it's based upon documents that
19 weren't produced.
20 MR. MITCHELL: Exhibit Number 36
21 is the 2005 Grizzly Industrial
22 customer list.
23 MR. SCHMIDT: Are you testifying?
24 MR. MITCHELL: I am trying to
25 straighten it out for the record.

1 MR. SCHMIDT: Let the witness
2 straighten it out.
3 MR. MITCHELL: I will. That's
4 a good idea.
5 - - - - -
6 (Opposer/Petitioner's Exhibit Numbers 35 and 36
7 were marked for identification.)
8 - - - - -
9 Q Could you back up to Exhibit 35, please. Could
10 you identify what that is?
11 A This is a page out of Grizzly Industrial's
12 catalog.
13 Q Let's go to Exhibit 69, and let me refer you to
14 page 3 of Exhibit 69.
15 A Okay.
16 Q Referring just to page 3 of Exhibit 69, do you
17 sell to the customers on page 3 of Exhibit 69?
18 A Yes.
19 Q And which of the customers on page 3 of Exhibit 69
20 do you not sell to?
21 A I don't believe El Paso Zoo. That's the only one
22 that I don't recognize.
23 Q Exhibit Number 69, you sell to all of the
24 customers on page 3 of Exhibit 69, correct, except the
25 one that you mentioned?

1 A Yes, that's correct.
2 Q Exhibit 68, you sell to all of the customers
3 except a handful on 68; is that correct?
4 A Yes.
5 Q Which ones on 68, page 3, don't you sell to?
6 A We could sell to them, but I don't recognize
7 personally.
8 Q Identify them, the ones you don't.
9 A I am identifying the ones I personally know.
10 Ocean Spray. I don't know about Tetley, Inc. The
11 third one was Sea Ray Boats.
12 Q Returning to Exhibit 37, and we acknowledge
13 Mr. Schmidt's continuing objection to Exhibit 37, all
14 of the invoices which make up Exhibit 37 indicate
15 companies that you have sold to or are a sampling of
16 customers as identified by Grizzly Industrial in
17 Exhibit 68?
18 A Yes.
19 Q In regard to Exhibit 69, the invoices of Exhibit
20 37 indicate sales to the customers as identified by
21 Grizzly Industrial on page 3 of Exhibit 69?
22 A Yes.
23 Q I would like to refer you to Exhibit 34, please.
24 If you can mark that one.
25 - - - - -

1 (Opposer/Petitioner's Exhibit Number 34 was
2 marked for identification.)
3 - - - - -
4 Q Could you please identify Exhibit 34, Mr. Mlakar.
5 A These are invoices and bills of lading
6 specifically pulled out by someone from Mr. Schmidt's
7 office.
8 Q The second page of Exhibit 34, I would like to
9 draw your attention to that.
10 MR. SCHMIDT: Is there a document
11 number on that?
12 MR. MITCHELL: No, there
13 isn't.
14 MR. SCHMIDT: Was that produced?
15 MR. MITCHELL: The second,
16 third, fourth and --
17 MR. SCHMIDT: All those without
18 production numbers weren't produced,
19 right?
20 MR. MITCHELL: Well, for
21 instance, if you look at the third
22 page, which is invoice 50666, that one
23 was produced as --
24 MR. SCHMIDT: The third page?
25 MR. MITCHELL: Yes.

1 MR. SCHMIDT: Where is the number
2 on it?
3 MR. MITCHELL: It says,
4 "Invoice Number 50666."
5 MR. SCHMIDT: Where is the
6 production number?
7 MR. MITCHELL: It says,
8 "Confidential Z502."
9 MR. SCHMIDT: Why don't you use
10 Z502?
11 MR. MITCHELL: I have a couple
12 of questions about the one that
13 doesn't have a Bates Number on it.
14 MR. SCHMIDT: I objected to
15 anything about the document that
16 wasn't produced. This wasn't
17 produced.
18 MR. MITCHELL: It was
19 produced. Then that part was
20 redacted. That's all.
21 MR. SCHMIDT: Use the redacted
22 one. Otherwise, I maintain my
23 objection.
24 MR. MITCHELL: Sure.
25 Q Returning back to Exhibit 34, the second page of

1 Exhibit 34, Invoice Number 52745, can you identify who
2 that product was sold to?
3 A That was Lockheed.
4 Q Is Lockheed on the list on page 3 of --
5 MR. SCHMIDT: What document
6 number or invoice number are you on?
7 MR. MITCHELL: Invoice Number
8 52745. It's the second one.
9 MR. SCHMIDT: I am objecting to
10 that because it hasn't been produced.
11 I am moving to strike any answer about
12 it.
13 MR. MITCHELL: He has already
14 answered that.
15 MR. SCHMIDT: I am moving to
16 strike the answer.
17 MR. MITCHELL: Okay.
18 Q In regard to the fourth page back, Mr. --
19 MR. SCHMIDT: Can you give me an
20 invoice number or document number?
21 MR. MITCHELL: The invoice
22 number is obscured on this one. It
23 says 527. Then the rest of it is kind
24 of --
25 MR. SCHMIDT: I can see that.

1 This hasn't been produced either, I
2 take it?
3 MR. MITCHELL: Actually, we
4 believe it has been produced. All of
5 these in Exhibit 34 were produced and
6 given to Patricia.
7 MR. SCHMIDT: Are you asking a
8 question about 527?
9 MR. MITCHELL: Yes. They were
10 all --
11 MR. SCHMIDT: I am objecting. It
12 hasn't been produced. It doesn't bear
13 a production number.
14 MR. MITCHELL: All of these
15 documents were made available to be
16 copied when Patricia, I can't remember
17 what her name was, was there and she
18 selected a few certain lines and there
19 was something like 200 boxes.
20 MR. SCHMIDT: Your point is?
21 MR. MITCHELL: She didn't --
22 she could have copied them all if she
23 wanted to. They were all, in fact,
24 produced. They were made available
25 for inspection and copying. She just

1 chose not to do it.
2 MR. SCHMIDT: I'm sorry. I don't
3 agree. If you're using a document,
4 you have got to produce it. I don't
5 have to look at documents --
6 MR. MITCHELL: We produced them
7 all. We produced them all.
8 MR. SCHMIDT: You didn't produce
9 it to me.
10 MR. MITCHELL: They were
11 produced to Patricia.
12 MR. SCHMIDT: They weren't
13 produced to us if there is not a
14 document number on it.
15 MR. MITCHELL: She had an
16 obligation, the way we see it, to
17 number them all and get them all.
18 MR. SCHMIDT: You can argue that.
19 MR. MITCHELL: Okay.
20 Q On the fourth page, it says, "Invoice Number 527,
21 and I draw your attention to that one.
22 MR. SCHMIDT: I think questions
23 on this -- to make it clear, I am
24 objecting to this.
25 MR. MITCHELL: We acknowledge

his objection.

Q Now, on that invoice, whose number is partially cut off? Who is that shipped to?

A Bowing.

Q Is that the same company that is indicated on page 3 of the 2001 and 2005 Grizzly Industrial catalogs, Exhibits 68 and 69?

A Yes.

Q Now, when Patricia came to Pucel to inspect invoices, was she given access to all of your invoices?

A She had access to everything.

Q She was pregnant at the time?

A That' ss what she told us.

Q She was unable to get some boxes down that were up on the higher racks?

A Yes.

Q And you and others brought down whatever box she wanted to see, right?

A That's correct.

Q And what did you do? Did you take them into the conference --

A It was cold. We didn't want her outside. Any box that she identified we carried into an office for her to work.

Q Right. And did she select these documents that

1 make up Exhibit Number 34 as ones to copy?
2 A Yes, she did.
3 Q Now, returning to Exhibit 34, and that's in the
4 first document, Z500, is that your registered Grizzly
5 word mark on this invoice?
6 A Yes.
7 Q Is that your registered bear symbol on this
8 invoice?
9 A Yes.
10 Q Does the invoice indicate a Grizzly work bench on
11 it?
12 A Yes.
13 Q In connection with the second sheet that
14 Mr. Schmidt is objecting to, the second sheet, the
15 third sheet and the fourth sheet carrying invoices
16 numbers 52745, 50666 and 527, do they all indicate in
17 the description of the goods Grizzly work bench,
18 Grizzly drum stacking unit and Grizzly laminated hard
19 maple top respectively?
20 A Yes.
21 Q And is it usual and customary for your customers
22 to request your equipment as Grizzly?
23 A Yes.
24 Q Do they know your company as Grizzly?
25 A Yes, some do.

1 Q Do some know it as Pucel?
2 A Yes.
3 Q Do more of the customers know your company as
4 Grizzly than Pucel?
5 A Well, some call it Grizzly. Other people call it
6 Pucel, but they know it's Grizzly Equipment.
7 Q I refer to confidential stamp Z504.
8 A Okay.
9 Q Does that indicate a product in the invoice
10 itself?
11 A Yes.
12 Q How is it denoted?
13 A It says, "Grizzly Rack-U-Frames."
14 Q What about Z506? Does that state a product by
15 your business's name?
16 A Yes.
17 Q Do you use Grizzly as your company's tradename?
18 A Yes, we do.
19 Q And is it used on everything?
20 A It's used on all of our products.
21 Q Is it used on all of your paperwork?
22 A Yes.
23 Q Is it used on all of your envelopes?
24 A Yes.
25 Q I refer to production number Z527 and 533. Are

1 the products described on those two pages as being
2 Grizzly products?
3 A Yes.
4 Q I would like to refer to Exhibits 54 and 55 and 56
5 and 57 and 58.
6 - - - - -
7 (Opposer/Petitioner's Exhibits Numbers 54, 55,
8 56, 57 and 58 were marked for identification.)
9 - - - - -
10 Q Would you please identify what Pucel's Exhibit
11 Number 54 is?
12 A This is a copy of the SMO catalog.
13 Q And what time frame is it used?
14 A It's fall and winter of 2002.
15 Q Now, is your Grizzly Equipment shown in the
16 catalog?
17 A Yes, it is.
18 Q And could you identify those page numbers where it
19 is shown and also state what products are yours in
20 there?
21 A Page 70, all of the products.
22 Q And --
23 A Page 71, all of the products.
24 Q Anything else?
25 A Page 185, all of the products.

1 Q And this company is selling your products?
2 A Yes.
3 Q And is the Grizzly mark indicated?
4 A Yes.
5 Q With respect to Exhibit 55, could you please
6 identify it?
7 A It's a 2002 SMO catalog.
8 Q And are your products shown in the catalog?
9 A Yes.
10 Q Are your trademarks indicated in the catalog?
11 A Yes.
12 Q Are your trademarks used with your permission --
13 A Yes.
14 Q -- in the catalog?
15 A Yes.
16 Q Referring to Exhibit 56, could you please identify
17 that?
18 A That is a C & H catalog.
19 Q And is C & H selling your equipment?
20 A Yes.
21 Q Are your products shown in the catalog?
22 A Yes.
23 Q Are they indicated to be a Grizzly nine-drawer
24 portable maintenance center?
25 A Yes. That's one of them.

1 Q And a Grizzly 18-drawer portable maintenance
2 center?
3 A Yes.
4 Q Returning to Exhibit 57, could you please identify
5 that?
6 A It's a 2005 winter-spring C & H catalog.
7 Q And are your products shown in this catalog?
8 A Yes.
9 Q Could you turn to Exhibit 58, please.
10 A Yes.
11 Q Could you identify what Exhibit 58 is?
12 A It's a 2003 SMO catalog.
13 Q And are your products sold in this catalog?
14 A Yes.
15 Q Is your registered trademark Grizzly used in the
16 catalog?
17 A Yes.
18 Q I draw your attention to Exhibit 62, please, and
19 if we could mark that.
20 - - - - -
21 (Opposer/Petitioner's Exhibit Number 62 was
22 marked for identification.)
23 - - - - -
24 Q Can you identify what Exhibit 62 is, please.
25 A This is a Google web search.

1 MR. SCHMIDT: Is there a
2 production number on here?
3 MR. MITCHELL: No.
4 MR. SCHMIDT: Is this new again,
5 hasn't been produced?
6 MR. MITCHELL: This is dated
7 May 17th, 2006.
8 MR. SCHMIDT: Then I am going to
9 object to any questions on it as not
10 having been produced.
11 MR. MITCHELL: Sure. No
12 problem.
13 Q Now, did you do this?
14 A This is my printout.
15 Q Your printout?
16 A Yes.
17 Q And did you search on Google?
18 A Yes.
19 Q And what were the search terms?
20 A Well, I pulled up Grizzly Equipment, and I came up
21 with the following pages.
22 Q And what is listed first?
23 A There was a, "Buy Grizzly Tools On Sale, a Grizzly
24 Industrial - Grizzly's 2006 Catalog, Grizzly Equipment,
25 Grizzly Equipment Manufactured By Pucel Enterprises."

1 Q Does a consumer know where to find Grizzly
2 Equipment if they do a Grizzly Equipment Google search?
3 A Could you repeat that question?
4 (Record read.)
5 A Well, if they pull it up, they're going to be a
6 little bit -- there is a few Grizzly's on there.
7 They're going to have to select which one.
8 Q How do they know what to select?
9 A They'll have to go by chance.
10 Q Would a consumer be confused seeing this, if
11 somebody Googles Grizzly Equipment?
12 MR. SCHMIDT: Objection. There
13 is no foundation for him to give an
14 opinion on that.
15 Are you asking him to testify as
16 an expert or is this a lay opinion
17 you're asking for?
18 Q Go ahead and answer, if you can.
19 MR. SCHMIDT: Objection to the
20 question. When he is done, I am
21 moving to strike it.
22 Q Go ahead.
23 A In looking at it, you can't tell the difference
24 between Grizzly Industrial and Grizzly Equipment.
25 There is confusion between the two.

1 MR. SCHMIDT: I move to strike
2 that answer.
3 Q Mr. Mlakar, you recently did a Google search?
4 A Yes.
5 Q And as a result of that search, would you be
6 confused as a consumer in locating your company?
7 MR. SCHMIDT: Objection. You're
8 asking for opinion testimony, not
9 fact.
10 A Well, it is a fact if you look at the word Grizzly
11 spelled the same Grizzly, sounding the same Grizzly and
12 you're looking at it and you see the same type of
13 equipment, it's the same thing. How could that not be
14 confusing? You're looking at Grizzly. You're looking
15 at Grizzly. What is the difference? I don't know.
16 MR. SCHMIDT: I move to strike
17 that answer on the grounds of it's
18 opinion testimony.
19 Q How would Pucel's customers locate you on the
20 Internet?
21 A They could locate us by typing in Grizzly
22 Equipment. They could locate us by Pucel. They could
23 locate us in different methods. I found there is
24 different ways with carts or work stations or work
25 benches you can look through.

1 Q If they search under Grizzly, will there be
2 confusion?
3 A Absolutely.
4 MR. SCHMIDT: Objection. Move to
5 strike. You're asking for an opinion
6 again. There is no foundation for the
7 question.
8 Q Have you ever been confused yourself, I mean Bob
9 Mlakar now, when you searched for your own equipment on
10 the web site by other information from search engines
11 that would lead you away from your web site?
12 A Well, when I saw the Grizzly spelled the same way
13 and looking the same way, it was confusing.
14 Q In the past, not referring to Exhibit 62, have you
15 had an occasion to search in an attempt to find your
16 own web site?
17 A Yes.
18 Q And have you ever located any information that
19 would lead you away from your own web site?
20 A Yes.
21 Q And what has that been?
22 A Grizzly Industrial.
23 Q Has it been Grizzly.com?
24 A Yes.
25 Q Referring and marking, please, Exhibit 63 --

1 MR. SCHMIDT: All of the previous
2 questions I am moving to strike based
3 on the fact that Exhibit 62 was not
4 produced and the testimony was
5 elicited from that exhibit.
6 MR. MITCHELL: In the question
7 I specifically --
8 MR. SCHMIDT: I don't know if you
9 can comment.
10 MR. MITCHELL: No. I just want
11 to say that it was excluded from the
12 question, so it seems to me if you're
13 objecting to all questions
14 previously --
15 MR. SCHMIDT: You can argue
16 that. I don't think we're arguing the
17 motion now, are we?
18 - - - - -
19 (Opposer/Petitioner's Exhibit Number 63 was
20 marked for identification.)
21 - - - - -
22 Q Now, turning to Exhibit 63, can you identify that
23 for us, please.
24 A It looks like Grizzly Industrial's Internet web
25 site.

1 Q Now, on the first page, the one with the exhibit
2 sticker on it, do you sell all the goods there?
3 A Yes.
4 Q And your hand trucks, are they labeled when
5 they're sold?
6 A Pardon me?
7 Q Are your hand trucks labeled when they're sold?
8 A Yes.
9 Q And do you put your Exhibits 31 and 32 labels on
10 it?
11 A Yes, sir.
12 Q Your carts, are they labeled?
13 A Yes.
14 Q They all bear the Grizzly marks?
15 A Yes. They include the bear and the word Grizzly.
16 Q The first page, are these goods covered by your
17 registrations?
18 A Yes.
19 Q On page 2 of Exhibit 63, do you sell all of the
20 goods shown on that page?
21 A Yes.
22 Q Do you sell them through on-line retail store
23 services?
24 A Yes.
25 Q Are the goods on page 2 of Exhibit 63 covered by

1 your registrations?
2 A Yes.
3 Q Turning to the next page, does Pucel sell the
4 goods shown on that page?
5 A Yes.
6 Q Are they sold through your on-line retail --
7 A Yes.
8 Q -- store services?
9 A Yes.
10 Q Turning to the next page, do you sell your
11 cabinets on-line?
12 A Yes.
13 Q Do you sell mobile work stations?
14 A Yes.
15 Q Do you sell everything on this next page?
16 A Yes.
17 Q Do you sell all the stuff on-line?
18 A Yes, we do.
19 Q Is all of the stuff on page 34, which includes the
20 cabinet, the chest, the wagon, the drawer with ball
21 bearing slides, the work station, the drawer, chest
22 with roller bearings, the drawer mobile work station,
23 the drawer work station with roller bearings, do you
24 sell all of that stuff?
25 A Yes.

1 Q Do you sell it on-line?

2 A Yes.

3 Q Do you sell it through your catalogs?

4 A Yes.

5 Q Are these goods covered by your registrations?

6 A They are.

7 Q Who would use these goods that we have discussed

8 on pages 1 through 6 of Exhibit 63? Who would use

9 these goods?

10 A Anyone can use these goods.

11 Q Would they be used by metal workers?

12 A Yes.

13 Q Do your customers use these goods?

14 A Yes.

15 Q Could they be used by automobile workers?

16 A Yes.

17 Q Could they be used by Bowing?

18 A Yes.

19 Q Exhibit 63, do you sell everything on the seventh

20 page?

21 A Yes.

22 Q Do you sell everything on the eighth page?

23 A Yes.

24 Q Do you sell everything on the ninth page?

25 A Yes.

1 Q Do you sell all of the goods on pages 1 through 9
2 of Exhibit 63?
3 A Yes.
4 Q And do you sell all of these goods bearing the
5 work mark Grizzly?
6 A Yes.
7 Q Do you sell all of these goods bearing the Grizzly
8 Bear symbol?
9 A Yes.
10 Q And the Grizzly Bear symbol is the symbol as set
11 forth in, for example, your registration 704,631
12 indicated as Exhibit 3? Do you sell all of those goods
13 with the Grizzly Bear symbol indicated in Exhibit 2?
14 A Yes.
15 Q How long have you sold those goods with the
16 Grizzly word mark on them, and I am referring to the
17 goods pages 1 through 9 of Exhibit 63?
18 A My knowledge is 1978.
19 Q In Exhibit 63, pages 1 through 9 that we talked
20 about, are these goods identified in Exhibit Number 7,
21 the application to register Grizzly.com?
22 A Yes.
23 Q Turning to the tenth, eleventh and twelfth pages
24 of Exhibit 63, do you sell those goods?
25 A Yes.

1 Q Do you put the Grizzly word mark on those goods?
2 A Yes.
3 Q Do you put the Grizzly symbol, as identified in
4 Exhibit 2, on those goods?
5 A Yes.
6 Q Do you put the Grizzly word mark and the bear
7 symbol, as identified by Exhibit 2, on the packaging
8 for those goods?
9 A Yes.
10 Q Has the Grizzly word mark always appeared on those
11 goods during your tenure at Pucel?
12 A Yes.
13 Q Has the Grizzly Bear symbol always appeared on
14 those goods during your tenure at Pucel, and I am
15 referring to pages 9, 10 and 11 of Exhibit 63?
16 A Yes.
17 Q Now, still on Exhibit 63, drawing your attention
18 to pages 13, 14, 15 and 16, do you sell all of those
19 goods?
20 A Yes.
21 Q And for how long have those goods been sold?
22 A My knowledge, since 1997.
23 Q 1997?
24 A I mean 1987.
25 Q Are you getting tired?

1 A I am. I am getting very tired. Since 1978.
2 Q Why don't we take a break.
3 A 1978.
4 (Recess had.)
5 BY MR. MITCHELL:
6 Q Referring to the last four pages of Exhibit 63,
7 which is the Grizzly.com web site dated November 8th,
8 2002 previously produced as OP14 from Mr. Balolia's
9 deposition, you applied that Grizzly mark to the
10 counterpart goods that are sold by Pucel?
11 A Yes.
12 Q And have you applied your Grizzly word mark over
13 all of those products on pages 14, 15 and 16 and 17 of
14 Exhibit 63 that have been sold by Pucel since 1978?
15 A Yes.
16 Q And has the Grizzly word mark been on all of those
17 products since 1978?
18 A Yes.
19 Q Has it been continuously used?
20 A Yes.
21 Q And it's been used in the format set forth, for
22 example, by Exhibit 1, the 624,055 registration?
23 A Yes.
24 Q And the Grizzly Bear, as indicated in Exhibit 2 on
25 the 704,631 registration, that Grizzly Bear symbol has

1 been on these goods as well?
2 A Yes.
3 Q I would like to mark Exhibit 64.
4 - - - - -
5 (Opposer/Petitioner's Exhibit Number 64 was
6 marked for identification.)
7 - - - - -
8 Q Please identify Pucel Exhibit Number 64.
9 A Looks like this was printed on 12-15-01, and it's
10 the product selection and on-line ordering for
11 Grizzly.com.
12 Q Now, look through these pages and tell me if you
13 sell these goods?
14 A Yes, we do.
15 Q And for how long have you sold the goods?
16 A Well, from me personally seeing them was 1978.
17 Q Do you sell these goods by way of the Internet?
18 A Yes.
19 Q And do you mark these goods when they're sold?
20 A Yes, we do.
21 Q How are they marked?
22 A They're marked with the bear and they're marked
23 with the word Grizzly.
24 Q You use the labels as set forth in Exhibit 32?
25 A They're put on every product before it's shipped.

1 Q And the labels of Exhibit 32 are used on the
2 products?
3 A Yes. And 33 is put on the carton.
4 Q If a customer goes to this Grizzly.com web site to
5 buy a platform truck, would there be confusion?
6 MR. SCHMIDT: Objection. It's a
7 hypothetical question.
8 Q Do you remember the question, Bob?
9 A No.
10 (Record read.)
11 A Just by looking at this page, the product looks
12 identical to our product.
13 Q Okay.
14 A They're using the same name Grizzly to sell it.
15 Q Do you sell the exact same platform truck on the
16 Internet?
17 A Yes.
18 Q So the exact same platform truck in your Exhibit
19 30 or as advertised in your Exhibit 30, your 1999
20 catalog?
21 A Yes.
22 - - - - -
23 (Opposer/Petitioner's Exhibit Number 65 was
24 marked for identification.)
25 - - - - -

1 Q Turning your attention to Exhibit 65, I would ask
2 you to identify that, please.
3 MR. SCHMIDT: Was this previously
4 an exhibit or produced?
5 MR. MITCHELL: No, it was not
6 previously an exhibit. This is dated
7 May 21st, 2006, two days ago.
8 MR. SCHMIDT: I am going to
9 object again to using it on the
10 grounds that it was not produced or
11 made available to me.
12 Q Can you identify that, Mr. Mlakar?
13 A It looks like Grizzly Industrial's web site.
14 Q The current web site?
15 A Yes.
16 Q Is this the current web site?
17 A Yes, 2006.
18 Q Now, you sell the same products that are shown on
19 the third page of that exhibit, do you not?
20 A Yes.
21 Q The fourth page, do you sell the same products?
22 A Yes.
23 Q Do you sell the tables that are shown on the
24 fourth page?
25 A Yes.

1 Q And on the seventh page, do you sell the cabinets?
2 A The ninth page?
3 Q I think it's the fourth page. I'm sorry. The
4 ninth page. I am getting a little tired, too.
5 A Yes.
6 Q Do you sell all those products on the Internet?
7 A Yes.
8 Q You don't sell guitars, do you?
9 A No.
10 Q Page 14, the wagons and carts, do you sell those
11 goods?
12 A Page --
13 Q Pages 14, 15, 16 and 17, do you sell those goods?
14 I am wrong. The 16th page. Do you sell those goods on
15 page 16 of Exhibit 65?
16 A Yes, we do.
17 Q What about the following page?
18 A Yes.
19 Q Page 18, do you sell those goods, the wheels and
20 casters?
21 A Yes.
22 Q And on page 19, the casters?
23 A Yes.
24 Q 20, 21, 22, do you sell those goods?
25 A Yes.

1 Q 23, do you sell drum dollies with handles?
2 A Yes.
3 Q And the tool carts on that page, 23?
4 A Yes.
5 - - - - -
6 (Opposer/Petitioner's Exhibit Number 66 was
7 marked for identification.)
8 - - - - -
9 Q Referring to Exhibit 66, please, can you identify
10 that, please.
11 MR. SCHMIDT: Was this previously
12 an exhibit?
13 MR. MITCHELL: No.
14 MR. SCHMIDT: Same objection
15 again to any questions about this
16 document. It hasn't been previously
17 produced.
18 Q Go ahead.
19 A This is Grizzly Equipment Manufactured By Pucel
20 showing some carts.
21 - - - - -
22 (Oppposer/Petitioner's Exhibit Number 67 was
23 marked for identification.)
24 - - - - -
25 Q And what about Exhibit 67? Could you please

1 identify it.

2 MR. SCHMIDT: Before he does

3 that, this appears to also be the --

4 MITCHELL: It hasn't been

5 produced.

6 MR. SCHMIDT: I would object to

7 any questions on it on the grounds it

8 was not produced.

9 Q Go ahead, Bob.

10 A This is Grizzly Industrial's carts and platforms.

11 Q Okay. Now, if you compare Exhibit 66 to Exhibit

12 67, what is the comparison?

13 A The products are identical.

14 Q Would there be confusion?

15 A Absolutely.

16 Q Now, your retail sales, are there stores that sell

17 your products retail?

18 A Yes.

19 Q And what stores are those?

20 A Conveyer & Caster has a storefront. There is

21 Black, Inc. Company that buys our products and puts it

22 in a couple of their stores.

23 Q Where is Black, Inc.?

24 A I am not sure.

25 Q What about Conveyer & Caster?

1 A It's in Cleveland.
2 Q Do you know where in Cleveland it is?
3 A Yes. It's off of Detroit.
4 Q Are there any other retailers that you can
5 identify?
6 A Well, anybody would be whoever has a web site
7 deals with the on-line catalog would be considered the
8 retail. We would have that as well on our catalog
9 being on the web site would be retail.
10 Q Are there 2000 outside persons and firms which
11 sell or market your products in connection with the
12 Grizzly mark?
13 A Yes.
14 Q And can you explain who these 2000 outside persons
15 and firms are?
16 A They're distributors of ours.
17 Q And over what geographic location are these
18 distributors located?
19 A All over the country.
20 Q Okay.
21 A Some outside, one of them.
22 Q Where do you sell your products?
23 A All over.
24 Q What do you mean by, "all over?"
25 A All over throughout the country in different

1 locations.
2 Q Are the products sold more in one location as
3 compared to another?
4 A No, not necessarily.
5 Q Do certain products sell under certain markets?
6 Do your Grizzly Equipment products sell more in one
7 market than another?
8 A I don't think so.
9 Q Do you sell any of your products overseas?
10 A Yes.
11 Q To where are they sold?
12 A We have one distributor that has a store in
13 Japan. We also have items going to Iraq, being shipped
14 over by boat.
15 Q Is that in support of the military?
16 A Yes.
17 Q And do you sell to any other countries besides
18 Japan and Iraq?
19 A Canada.
20 Q And you have sales directly from your web site?
21 A Yes.
22 Q And what products are purchased from your web
23 site?
24 A All products can be purchased through the web
25 site.

1 Q Are particular products of yours purchased from
2 the web site in larger quantities?
3 A No.
4 Q Is it distributed evenly across your products as
5 far as purchases from your on-line site?
6 A I would say so, yes.
7 Q I would like to draw your attention to Exhibit
8 Number 9, please.
9 - - - - -
10 (Opposer/Petitioner's Exhibit Number 9 was
11 marked for identification.)
12 - - - - -
13 Q Please identify what Exhibit Number 9 is.
14 A Looks like a registered trademark for Grizzly
15 Industrial.
16 Q Do you have the registration number, please.
17 A 2,413,625.
18 Q Now, do you see grinding stands identified in that
19 registration?
20 A Yes.
21 Q Now, does Pucel sell grinding stands?
22 A Yes.
23 Q Is that covered by the Pucel trademark
24 registration?
25 A Yes.

1 Q And referring back to Exhibit Number 1, your
2 registration number 624,055, the stands recited in
3 there, are those the same stands that are referred to
4 as grinding stands in the 2,413,625 registration of
5 Exhibit 9?
6 A Yes.
7 Q Now, you see shortly after grinding stands listed
8 in the 2,413,625 registration there are accessories for
9 wood lathes listed?
10 A Yes.
11 Q Are those wood lathe accessories -- what
12 corresponding equipment that you have qualifies as an
13 accessory for a wood lathe?
14 A Our stands.
15 Q Those are the same stands we just spoke of in
16 regard to the 055 registration of Exhibit 1?
17 A That's correct.
18 Q And do you see accessories for table saws listed
19 in the 625 registration as well as accessories for
20 drill presses listed in the 625 registration?
21 A Yes, I do.
22 Q Now, are your stand accessories for table saws and
23 drill presses?
24 A Yes, they are.
25 Q Again, I point your attention to Exhibit 9, the

1 2,413625 registration, and I ask you do you see
2 measuring tapes identified in that registration?
3 A Would you repeat the question?
4 Q Do you see measuring tapes?
5 A Yes, I do.
6 Q Do you sell measuring tapes?
7 A Yes.
8 Q And are these tapes embedded into some of your
9 equipment?
10 A Yes. It's a part of our work stations.
11 Q All of the goods that we're talking about with
12 respect to Exhibit 9, the 2,413,625 registration, do
13 you apply the word mark Grizzly to those goods?
14 A Yes, we do.
15 Q Now, I draw your attention to Registration Number
16 2,413,625, Exhibit 9. Do you see the mark that's
17 identified there?
18 A Yes, I see it.
19 Q Okay. Now, what is that?
20 A That's our mark.
21 Q Read it.
22 A "Grizzly."
23 Q Now, is that identical to your mark?
24 A Yes, it is.
25 Q Are the goods that we have identified thus far in

1 the 2,413,625 registration identical to your goods?
2 A Yes.
3 Q Proceeding a little further down from measuring
4 tapes, do you see magnetic switches listed?
5 A Yes.
6 Q Now, do you sell switches?
7 A Yes.
8 Q Do you sell them underneath the Grizzly mark?
9 A Yes.
10 Q And you sell them underneath the Grizzly word
11 mark?
12 A Yes.
13 Q How long have you sold switches underneath the
14 Grizzly word mark?
15 A To my knowledge and my experience, through 1978.
16 Q To date?
17 A Yes, that's correct.
18 Q And they have always continuously been marked with
19 your Grizzly word mark?
20 A Yes.
21 Q Now, what about paint brushes? Do you sell paint
22 brushes?
23 A Yes.
24 Q And how do you sell the paint brushes?
25 A We have paint brushes that are put into

1 particular items as a touch-up. We have a bottle of
2 touch-up paint that goes along with the paint brushes.
3 Q Do you sell paint sprayers as well?
4 A We sell cans that actually spray out the touch-up
5 paint.
6 Q And do you sell stain kits?
7 A No.
8 Q Do you sell paint kits?
9 A Yes.
10 Q In your paint kits, paint brushes and paint
11 sprayers, are they sold underneath the Grizzly mark?
12 A Yes.
13 Q How long have they been sold underneath the
14 Grizzly mark?
15 A That I know of, since 1978.
16 Q And you sell mobile bases, right?
17 A Yes.
18 Q And do you see mobile bases listed in the
19 identification of the goods of the 625 registration?
20 A Yes.
21 Q I refer you to Exhibit 4. It's your 704,529
22 trademark registration. Are mobile bases synonymous
23 with wheeled racks under the 529 registration?
24 A Which is -- what number?
25 Q It's Exhibit 3. Did I say 4? 4 is the next one.

1 A Yes.
2 Q And do you see drawers and slides in Exhibit 9
3 recited?
4 A Yes, I do.
5 Q And are the drawer slides part of tables, benches,
6 cabinets, racks, shelves, stands, desks and parts
7 thereof as recited in your 624,055 registration of the
8 Grizzly mark set forth in Exhibit 1?
9 A Yes.
10 Q Now, grinding stands, do you see grinding stands
11 identified in the 625 registration, Exhibit 9?
12 A Yes.
13 Q And do you sell grinding stands?
14 A Yes.
15 Q And the stands, as used in the 624,055
16 registration, are they grinding stands? Do they cover
17 grinding stands?
18 A Yes.
19 Q The 625 registration recites drill press
20 accessories and wood lathe accessories. Do you sell
21 accessories to wood lathes and drill presses?
22 A Yes.
23 Q And what are those accessories?
24 A The stands.
25 Q Do you sell hinges and hose reels recited in the

1 625 registration?
2 A Yes.
3 Q And do you sell hinges and hose reels?
4 A Yes.
5 Q And have you sold hinges, hose reels and stands
6 all marked with the Grizzly word mark since 1978?
7 A Yes.
8 Q Have you continuously sold those products marked
9 with the Grizzly word mark since 1978?
10 A Yes.
11 Q The 625 registration recites router stands, router
12 tables and router table accessories. Do you sell those
13 products?
14 A Yes.
15 Q For how long have you sold those products?
16 A To my knowledge, since 1978.
17 Q And every time that you have sold those products,
18 have they been marked with your marks?
19 A Yes.
20 Q Do you sell all of the products that we have
21 discussed in connection with the 625 registration
22 on-line?
23 A Yes.
24 Q And do you sell all the products that we have
25 discussed in connection with the 625 registration

1 through your catalogs?
2 A Yes.
3 Q Exhibit 9, do you sell all of your products to
4 wood workers and to metal workers?
5 A Yes.
6 - - - - -
7 (Opposer/Petitioner's Exhibit Number 10 was
8 marked for identification.)
9 - - - - -
10 Q Now, Exhibit Number 10, could you please identify
11 that for us.
12 A It's a trademark registration for Grizzly
13 Industrial Number 2,312,226.
14 Q Do you sell electric motors?
15 A Yes.
16 Q Do you see electric motors identified in the
17 2,312,226 registration?
18 A Yes, I do.
19 Q And do you sell electric motors in connection with
20 wood working machinery?
21 A Yes.
22 Q And do you sell electric motors in connection with
23 metal working machinery?
24 A Yes.
25 Q And when did you first sell electric motors in

1 connection with the wood working and metal working
2 machinery?
3 A My first recollection is in the '80s.
4 Q And do you know when in the '80s?
5 A No.
6 Q Did you use your Grizzly mark on the electric
7 motors for use in connection with wood working and
8 metal working?
9 A Yes.
10 Q Let's mark Exhibit 11.
11 - - - - -
12 (Opposer/Petitioner's Exhibit Nubmer 11 was
13 marked for identification.)
14 - - - - -
15 Q Would you please identify Exhibit Number 11.
16 A It's trademark registration number 2,166,833 with
17 the name of Grizzly by Grizzly Imports, Incorporated.
18 Q Do you see rotary tables identified near the end
19 of the identification of goods there?
20 A Yes.
21 Q And does Pucel sell rotary tables?
22 A Yes.
23 Q Are tables covered by your 055 trademark
24 registration, Exhibit 1?
25 A Yes.

1 Q You sell electric motors for machines. Do you see
2 that identified there?
3 A Yes, I do.
4 Q And have you sold rotary tables and electric
5 motors for use in the wood working and metal working
6 machinery?
7 A Yes.
8 Q When did you first do that?
9 A My recollection is from 1978.
10 Q And for every such sale of rotary tables, for
11 example, you have marked those goods with your
12 stickers?
13 A Yes.
14 Q And for every such sale, you have marked those
15 goods with stenciling on the packaging, have you not?
16 A Yes.
17 Q Exhibit 15, please.
18 - - - - -
19 (Opposer/Petitioner's Exhibit Number 15 was
20 marked for identification.)
21 - - - - -
22 Q Can you please identify what Exhibit 15 is.
23 A It's a catalog of Grizzly Equipment Manufactured
24 By Pucel.
25 Q This is a copy, is it not --

1 A Yes.
2 Q -- of a catalog?
3 A Yes.
4 Q Is this the best available copy from Grizzly
5 Equipment?
6 A Yes.
7 Q Do you see floor cabinet stands depicted in
8 Exhibit 15 on page Z76, which is page 28 of the
9 catalog?
10 A Yes.
11 Q What year is this catalog?
12 A December of '53.
13 Q Now, are the products in this catalog still made
14 today?
15 A Yes.
16 Q And which products would be wood lathe accessories
17 in this catalog?
18 A There is several that could be used.
19 Q Could you identify them, please.
20 A It could be some of the stands, could be the
21 tables, could be the machine cabinet stands.
22 Q I direct your attention to page 15 of the catalog
23 which is marked Z000062. Is that a lathe mounted on a
24 machine cabinet stand in the top right-hand portion?
25 A Yes, it is.

1 Q Are those the stands that Grizzly is referring to
2 in its Grizzly.com application to register, which is
3 Exhibit Number 7?
4 A Yes.
5 Q I direct your attention to the utility tables,
6 page 2 of your 1953 catalog.
7 A Okay.
8 Q Are those tables the tables that are referred to
9 in the Grizzly.com application to register?
10 A Yes.
11 Q Turning your attention to page 13 of Exhibit 15,
12 are those work bench cabinet units storage bins?
13 A Yes.
14 Q With respect to the goods that are shown on page
15 18 of Exhibit 15, are those shop cabinet desk storage
16 bins?
17 A Yes.
18 Q Drawing your attention to page 23 of Exhibit 15,
19 please, your 1953 catalog, are those pulleys that are
20 being used?
21 A Yes.
22 Q And were all of these products in the 1953 product
23 sold, to the best of your knowledge, under the
24 trademark Grizzly?
25 A Yes.

1 Q Do all of the pages of the catalog have Grizzly
2 indicated thereon as your trademark?
3 A Yes.
4 Q Do all of the pages of the catalog indicate the
5 Grizzly Bear symbol?
6 A Yes.
7 Q I direct your attention to page 26 of your 1953
8 manual. I ask are those dollies still sold today?
9 A Yes.
10 Q Have they always been sold under the trademark
11 Grizzly?
12 A Always, yes.
13 Q Now, this 1953 catalog, you as custodian of this
14 catalog kept as a copy?
15 A Yes.
16 Q And you have a sincere feeling about the history
17 of your company, do you not?
18 A I do, yes.
19 - - - - -
20 (Opposer/Petitioner's Exhibit Number 16 was
21 marked for identification.)
22 - - - - -
23 Q Turning to Exhibit 16, could you please identify
24 Exhibit 16 for us.
25 A This is a Grizzly Equipment Manufactured By Pucel

1 Enterprises catalog, 1954.
2 Q I direct your attention to page 18 of the catalog,
3 and 19. The machine cabinet stands, are those the
4 stands of the Grizzly.com application to register of
5 Exhibit 7?
6 A Yes.
7 - - - - -
8 (Opposer/Petitioner's Exhibit Number 18 was
9 marked for identification.)
10 - - - - -
11 Q Can you please identify Exhibit 18 for us.
12 A That was a label that was attached to the Grizzly
13 Equipment Manufactured By Pucel.
14 Q Okay. Could we switch to 19, please.
15 - - - - -
16 (Opposer/Petitioner's Exhibit Number 19 was
17 marked for identification.)
18 - - - - -
19 Q Back on 18, I didn't see a production number.
20 MR. MITCHELL: That was out of
21 the file history that, I think, you
22 produced to us. I don't have the
23 number. There is a duplicate of this
24 in the file history you produced to
25 us. I could locate the number for

1 you.

2 MR. SCHMIDT: That would be

3 good.

4 What about 19?

5 MR. MITCHELL: 19 is the one

6 we're on now. It's Z405.

7 MR. SCHMIDT: Okay.

8 Q Bob, this is the best available copy of Exhibit

9 19, I take it --

10 A Yes.

11 Q -- from your ordinary business records?

12 A Yes.

13 Q Could you have identify what Exhibit 19 is?

14 A It's a Grizzly Equipment catalog Manufactured by

15 Pucel. It's a copy of it. It's from 1961.

16 Q And are the products that are shown in here still

17 made by your company today?

18 A Yes.

19 Q You were the custodian of this copy of the

20 catalog?

21 A Yes.

22 Q Now, the goods that are in the application to

23 register back on Exhibit 7, to the extent that you can

24 recall, are they all in this 1961 catalog?

25 A Yes, sir.

1 Q Are there a couple of exceptions to that? Are the
2 anti-vibration mounts in this 1961 catalog?
3 A That's correct.
4 Q Are they in there, the anti-vibration mounts in
5 there?
6 A I don't see them in here.
7 Q The cable ties, are they in here?
8 A No.
9 Q The dollies?
10 A Yes.
11 Q They're in here?
12 A Yes.
13 Q The engine stands?
14 A Yes.
15 Q They're in here?
16 A Yes.
17 Q Hand trucks, are they in there?
18 A Yes.
19 Q This is Exhibit 19 that we're referring to?
20 A Yes.
21 Q And the router tables and slide tables, are they
22 in there?
23 A Yes.
24 Q The wagons, are they in the 1961 catalog?
25 A Yes.

1 Q The tool boxes, are they in the 1961 catalog?
2 A Yes.
3 Q Where are they in the catalog, so we're crystal
4 clear on that?
5 A That would be in the portable cabinet work benches
6 or PC series.
7 Q Is there a page number on that?
8 A Page 37.
9 Q Okay.
10 A That's what they used to hold the tools inside of
11 the cabinet.
12 Q The drawer pulls, drawer slides, hinges, lock sets
13 and shelf supports that are part of the benches, I
14 believe, are they in the 1961 catalog?
15 A Yes.
16 Q And the stands, mobile bases, and rollers stands,
17 tables and work stands, are all of those in the 1961
18 catalog?
19 A Yes.
20 - - - - -
21 (Opposer/Petitioner's Exhibit Number 20 was
22 marked for identification.)
23 - - - - -
24 Q If we could go to Exhibit Number 20, can you
25 please identify what that document is?

1 A It's a 1961 catalog.
2 Q Does this catalog include prices?
3 A Yes.
4 Q This is the best available copy?
5 A Yes.
6 Q And you have been in custody of this document?
7 A Yes, I have.
8 Q Okay. If we could go to 21, please.
9 - - - - -
10 (Opposer/Petitioner's Exhibit Number 21 was
11 marked for identification.)
12 - - - - -
13 Q Can you identify Exhibit Number 21.
14 A It's a Grizzly Equipment catalog Manufactured by
15 Pucel from 1964.
16 Q And is this the best available copy of the 1964
17 catalog?
18 A Yes, it is.
19 Q You have been in custody of it?
20 A Yes.
21 Q On page 46, which is the third from last page, you
22 have casters indicated thereon, right?
23 A Yes.
24 Q Do you still sell casters?
25 A Yes, we do.

1 Q And how do you mark the casters when you sell
2 them?
3 A We mark them with our Grizzly sticker before it's
4 processed in the carton, and then we actually put them
5 in a carton that has the 33 markings on it.
6 Q Exhibit 33?
7 A With the bear and the word Grizzly.
8 Q Are all of the products in the 1964 catalog still
9 for sale?
10 A Yes, as far as I can see, yes.
11 Q In your work in the shop, your personal work in
12 the shop, have you worked on every product?
13 A Yes.
14 Q And, in other words, you have participated on a
15 production basis with all of the goods that we have
16 talked about today and that have been indicated in or
17 discussed in connection with the catalogs?
18 A Yes.
19 MR. MITCHELL: Let's take a five-
20 minute break.
21 (Recess had.)
22 BY MR. MITCHELL:
23 Q Has the design of your products changed from the
24 early years, as indicated by some of these older 1964
25 catalogs, to date?

1 A The majority of them are identical. Some of them
2 have evolved into new products. That's why thee
3 catalogs are larger today than it was back in the '60s.
4 Q Is Grizzly.com, when compared to your Grizzly mark
5 as indicated in Exhibit 1, exactly the same mark?
6 A It is exactly the same.
7 Q Okay.
8 A It's spelled the same and pronounced the same.
9 Q Does it sound the same?
10 A Yes.
11 Q Is there a difference in the sound of Grizzly and
12 Grizzly.com?
13 A No.
14 Q Is Grizzly, as used in your registrations,
15 Grizzly, the word mark, that we have talked about here
16 today, the 055 registration, the 529 registration and
17 the 589 registration, are the same goods listed in the
18 Grizzly.com application that are contained in your
19 registrations which are Exhibit 1, Exhibit 3 and
20 Exhibit 5?
21 A Yes.
22 Q Are the goods and the services alleged to be
23 provided in the Grizzly.com application or register
24 provided in the same way that you provide your
25 services?

1 A They would be identical. We have the same
2 Grizzly -- we have the same products that are being
3 shown.
4 Q You advertise your products by way of your
5 catalogs, too?
6 A Yes.
7 Q Such as your Exhibit 30, correct?
8 A Yes.
9 Q And to whom do those catalogs go?
10 A Catalogs get sent out to all of our customers, all
11 of our distributors, all of the -- they get distributed
12 in larger volume to some of the distributors to
13 distribute to their people. The catalogs get
14 distributed to anyone else who has a catalog request.
15 Q Do you keep a mailing list for your catalogs?
16 A Yes.
17 Q Now, your sales of your web site or by virtue of
18 your web site, are they geographically limited at all?
19 A The web site provides a very broad range of
20 customers, because anyone can go and do a search for
21 anything. The customers are endless all over.
22 Q Has your web site provided you with retail
23 exposure?
24 A Yes, it has.
25 Q So an individual not associated with any company

1 can order products through you by virtue of your web
2 site?
3 A Yes.
4 Q And do you get contacts and orders from all over
5 the country which originate with your web site?
6 A Yes.
7 Q And what about your distributors? I believe you
8 testified that you have over 2,000 distributors?
9 A Yes.
10 Q How many of those distributors are linked to your
11 web site?
12 A There is quite a few. I don't know the exact
13 amount.
14 Q Now, do you have other ways of advertising your
15 products?
16 A Yes. We advertise through places like the Yellow
17 Pages. We advertise through the Thomas Register. We
18 advertise through some other Internet people using our
19 images and mark to distribute our product. We have --
20 periodically we attend shows that we --
21 Q Trade shows?
22 A Yes.
23 Q And SMO is an advertiser?
24 A Yes.
25 Q SMO is not a distributor?

1 A No.
2 Q SMO has a relationship with other distributors?
3 A That's correct.
4 Q And SMO can link to your web site?
5 A Yes.
6 Q Okay.
7 A They link to products in the web site.
8 Q Now, your catalogs, they're directly mailed to a
9 number of customers without a special customer request,
10 are they not?
11 A Yes.
12 Q And your advertising budget has increased,
13 according to 39, in recent years. Why have you found
14 it necessary to increase your advertising budget?
15 A Well, the more that we advertise and get involved
16 with these -- with some of the people who do large
17 mailings, we found it very beneficial for us in the
18 volume of business that we get.
19 Q Can we mark Exhibit Number 22, please.
20 - - - - -
21 (Opposer/Petitioner's Exhibit Number 22 was
22 marked for identification.)
23 - - - - -
24 Q Would you please identify what this exhibit is.
25 A It's a Grizzly catalog dated 1967.

1 MR. SCHMIDT: Was this produced
2 or am I missing a number somewhere?
3 MR. MITCHELL: You used this
4 catalog in your deposition of Mr. --
5 MR. SCHMIDT: Is there an exhibit
6 number on it?
7 MR. MITCHELL: I don't see one
8 on here. You used it in your
9 deposition.
10 MR. SCHMIDT: If it was used, I
11 assume there would be a number on it.
12 There is on everything else.
13 MR. MITCHELL: It's the same
14 1967 catalog that you used in your
15 March, 2003 deposition and it's been
16 produced in addition to that with
17 other Bate Stamp numbers. This
18 document has been produced.
19 MR. SCHMIDT: I don't see it.
20 MR. MITCHELL: It has been.
21 MR. SCHMIDT: I don't see any
22 numbers on it. I don't have it in my
23 exhibit pile from the depositions
24 before.
25 MR. MITCHELL: This one has

1 been produced, so you need not worry.
2 MR. SCHMIDT: I am worried, so I
3 am going to object to any questions
4 related to it.
5 MR. MITCHELL: Go ahead.
6 Q You have identified this, Bob?
7 A Yes.
8 Q Is Pucel's mark used throughout the catalog?
9 A Yes.
10 Q This is a record regularly kept by the company?
11 A It is.
12 Q All the products that are depicted in here are
13 still made by Pucel?
14 A Yes.
15 Q Now, Exhibit 30, can we please turn to Exhibit
16 30. Could you look at 68, too, Exhibit 68, please.
17 I'm sorry. 69. First of all, the goods in your
18 catalog and then the goods being sold by Grizzly are
19 the same or similar goods?
20 A Which Grizzly are you referring to on the second?
21 Q The Grizzly Industrial. I want you to compare
22 Grizzly Equipment Manufactured by Pucel to the goods
23 being sold in this manual of Grizzly Industrial.
24 MR. MITCHELL: By the way, it's
25 an excerpt of the 2001 Grizzly

1 Industrial book.
2 MR. SCHMIDT: The exhibit?
3 MR. MITCHELL: Yes. It's not
4 the whole thing.
5 A You want me to describe the whole book or just its
6 contents?
7 Q I would like you to show where in the Pucel
8 manual -- what in the Grizzly Industrial manual
9 corresponds to what in the Pucel manual, compare the
10 manuals.
11 A On the first several pages they're working on
12 machine stands.
13 Q Identify which one you're talking about there, if
14 you would, please.
15 A Grizzly Industrial.
16 Q Exhibit Number 69?
17 A Exhibit Number 69, pages 19 through 99, deal with
18 rolling bases and cabinet stands, which are all in the
19 catalog as well of Grizzly Equipment Manufactured By
20 Pucel.
21 Q That's Exhibit 30?
22 A Exhibit 30.
23 Q What page in Exhibit 30?
24 A Page 19.
25 Q Just backing up for a minute, Mr. Mlakar, do you

1 send your catalogs to the customers identified in
2 Exhibit 69, page 3, of Grizzly Industrial? Do you send
3 your catalog to those people?
4 A Yes.
5 Q Exhibit 30?
6 A Yes, we do.
7 Q Do you send it to all of them or how many do you
8 send it to, just about all?
9 A I would say just about all of them.
10 Q There, I believe, are a handful of exceptions?
11 A There might be, but I am not aware of -- I see the
12 machine cabinet stands on pages 18 and 19 but not
13 limited to some of the other stands are on page 21 of
14 our catalog. I see the bases on page 43.
15 Q Of which book now?
16 A Of Exhibit 30.
17 Q Okay.
18 A Grizzly Equipment Manufactured By Pucel.
19 Q Anything else?
20 A I see the tables on page 100 of the Grizzly
21 Industrial and the tables on page 32 of Exhibit 30,
22 Grizzly Manufactured By Pucel.
23 Vises on Grizzly Industrial, page 134, Exhibit 69,
24 and Exhibit 30, page 14.
25 Q Exhibit 30 was published in January, 1999,

1 correct?
2 A That's correct.
3 Q Okay.
4 A As well as page 137 of Exhibit 69 was tool boxes.
5 Exhibit 30, page 14, has tool boxes as well.
6 Page 149, Exhibit 69, has casters, and we offer it
7 throughout the whole book of Exhibit 30 of different
8 casters of various sizes and styles.
9 Exhibit 69, page 153, there are platform trucks,
10 carts, five-shelf trucks, sheet and panel trucks and
11 hand trucks on Exhibit 69, page 153. In Exhibit 30,
12 Grizzly Equipment Manufactured by Pucel has platform
13 trucks. On page 42 it has service carts and material
14 carts on page 154, shelf carts. Page 38, trucks. From
15 Exhibit 69, page 153, it's paralelled with Exhibit 30,
16 page 49.
17 Q Okay.
18 A Exhibit 69, page 153, round drum dolly is
19 paralelled with Exhibit 30, page 50. Exhibit 69, page
20 154, once again, has carts, two-shelf carts and three-
21 shelf carts, and it has a rack. Exhibit 30, pages 34,
22 35, 36, 37, all have the same type carts, the exact
23 carts. And on Exhibit 69, page 154, has shelving
24 units. Exhibit 30 has shelving units on page 54.
25 Exhibit 69, page 155, has wagons, which include a shelf

1 with a pole handle, and Exhibit 30, page 32, has a
2 shelf with a pole handle. Exhibit 69, page 155, has
3 shelves that hold, looks like, some plastic bins. If
4 you look at Exhibit 30, page 30, we have, once again,
5 the same thing. On Exhibit 69, page 156, there is a
6 series of platform trucks which are identical to
7 Exhibit 30, page 42. On Exhibit 69, page 157, has drum
8 dollies and hand trucks. Exhibit 30, page 50 and 51
9 have drum handling. Exhibit 69, page 158, has
10 two-shelf carts with a handle. On Exhibit 30, page 42
11 and 43, have similar carts. Exhibit 69, page 214 and
12 215, 216, 217 on the Grizzly Industrial catalog
13 parallels to Exhibit 30 on page 29 and 24, which has
14 the exact same thing. Exhibit 69, page 258, has
15 hinges. Exhibit 30, pages 4, 5, 6, 7, 8, 10, 11, 12,
16 14 through 19, 23, 30, drawer slides, page 259 of
17 Exhibit 69. If you go to Exhibit 30, all of the
18 drawers in this catalog have drawer slides. In Exhibit
19 69, page 260, it has hardware with knobs and pulls. Al
20 of our drawers have a pull handle to pull out the
21 drawers. Exhibit 69, page 31 and 29, 30, 33, 34, 35,
22 36, 65 and 66 all have -- there is an optional stand,
23 machine stand. Exhibit 30, page 18 and 19, are the
24 same.
25 Q Now, turning to Exhibit 29, could you make a

1 similar comparison between Exhibit 29 and Exhibit 69?
2 A Yes.
3 Q In regard to the 1964 catalog, which is marked
4 Pucel Exhibit Number 21, could you make a similar
5 comparison?
6 A Yes.
7 Q Would they compare similarly to the page-by-page
8 analysis that you just went through?
9 A The products would, but the page numbers would be
10 different.
11 Q Your products have remained constant, have they
12 not?
13 A Yes.
14 Q And over what period of time would you say that
15 they have remained constant?
16 A From the beginning of the company.
17 Q Do your customers send you written purchase
18 orders?
19 A Yes.
20 Q Do they send those in response to your catalog
21 mailings?
22 A Yes.
23 Q So your customers are not limited to industrial
24 customers, are they?
25 A No.

1 Q One of the two cart carts that you identified in
2 Exhibit 69 said it was a nursery cart or something like
3 that. Have you ever had orders from individuals for
4 non-industrial applications?
5 A That I don't know on that particular product.
6 Q I am not speaking on that particular product.
7 Have you ever received an order from someone in regard
8 to any products that is not for an industrial
9 application?
10 A Yes, definitely.
11 Q And what are some examples of orders for non-
12 industrial customers?
13 A We have some people call up asking for some things
14 in their home. I remember one application where a
15 woman wanted a table for her basement because she was
16 doing pottery. That was a non-industrial application.
17 Q Okay.
18 A We have had people coming off the street. We
19 periodically have auctions where we sell -- they come
20 and purchase other than for an industrial environment.
21 Q Please mark 23.
22 - - - - -
23 (Opposer/Petitioner's Exhibit Number 23 was
24 marked for identification.)
25 - - - - -

1 Q Upon making a comparison such as you did between
2 Exhibits 69, the 2001 Grizzly catalog, and the Exhibit
3 30, the January, 1999 Pucel catalog, do you feel
4 violated?
5 A I do. I feel there is no difference when you're
6 looking through each of the catalogs. There is no
7 difference. They're the exact same product. They're
8 using the same Grizzly words spelled the same. They're
9 using the same bear on their product recommending their
10 product that we have had for so long. They not only
11 are using the bear, they're not only using the word
12 Grizzly, but they're also utilizing those in the same
13 product that we have, the identical product that we
14 have.
15 Q Now, the fact that they may be using some other
16 signifier such as Panthercarts, does that in any way
17 change your feeling of being violated?
18 A No, because they still go into Grizzly.com. You
19 can purchase those products. The customers are going
20 to look at Grizzly that they have known from us,
21 they're going to go into Grizzly, see Grizzly.com, they
22 go onto that web site and they see the exact same
23 products. To them, they think they're in Grizzly.
24 They don't care if it's gots a Panther name on it. If
25 it's got Grizzly from the beginning, they're going to

1 assume it's Grizzly Equipment Manufactured By Pucel.
2 MR. SCHMIDT: Just a second. I
3 am going to move to strike that --
4 MR. MITCHELL: Too truthful?
5 MR. SCHMIDT: -- as opinion
6 testimony.
7 MR. MITCHELL: I thought it was
8 maybe on the basis of being too
9 truthful.
10 MR. SCHMIDT: There is no
11 foundation for him to testify about
12 what his customer may or may not
13 think.
14 The other objection would be
15 hearsay.
16 Q Have you searched Panthercarts.com?
17 A Yes, I have been on it.
18 Q What happens when you search Panthercarts.com?
19 A You come up with the goods that we service as
20 well.
21 Q Does it lead you to the Grizzly.com web site?
22 A Yes.
23 Q The fact that there is some signifier or indicator
24 with a registered symbol there or registration on the
25 catalog of Grizzly Industrial, does that change your

1 feeling of being violated?
2 A No.
3 Q Would Grizzly.com overwhelm a purchaser if they
4 see it on the bottom of the pages of Exhibit 69, which
5 is one of the Grizzly Industrial catalogs?
6 MR. SCHMIDT: Objection. There
7 is no foundation. It appears that
8 you're asking for opinion testimony.
9 It appears that you're -- it's a
10 hypothetical question to a fact
11 witness. I object on those three
12 grounds.
13 A I don't know if overwhelm would be the word. I
14 would use confusion. If you're looking at Grizzly on
15 the bottom of that page and you're relating to Grizzly
16 Equipment Manufactured By Pucel, that's where the
17 confusion would take place.
18 Q Okay.
19 A It's not a question of being hypothetical or where
20 is it coming from. It's proven fact. You see the word
21 Grizzly. You see the bear. There is no doubt about
22 it. It's confusion.
23 MR. SCHMIDT: Move to strike.
24 He's giving opinion testimony.
25 Q Let's go to Exhibit Number 23, please.

1 Mr. Mlakar, can you identify Exhibit Number 23?
2 A It's a Grizzly Equipment catalog Manufactured by
3 Pucel Enterprises dated 1970.
4 Q It's a copy of it, isn't it?
5 A Yes.
6 Q Is this the best available copy that you have?
7 A Yes, it is.
8 Q And you have been the custodian of this copy and
9 the other catalogs as well?
10 A Yes.
11 Q And these are kept in the ordinary course of your
12 business?
13 A Yes.
14 Q Is this 23 also a price sheet?
15 A Yes, it is.
16 Q Were the price sheets sometimes combined with the
17 catalogs?
18 A Yes. In the earlier days, that's how they did it.
19 Q Are they now separated?
20 A Yes. We have a separate price list and a separate
21 catalog.
22 Q What was the date of this catalog?
23 A January 1st, 1970.
24 Q So this is getting close to the time that you
25 began?

1 A Yes.
2 Q And your registered marks Grizzly and the bear
3 symbol are on all pages throughout the catalog?
4 A Yes.
5 Q Are the goods in your 1970 catalog the same goods
6 that were advertised for sale in the 2001 Grizzly
7 Industrial catalog, which is Exhibit 69?
8 A Yes.
9 Q If we can mark Exhibit 24, please.
10 - - - - -
11 (Opposer/Petitioner's Exhibit Number 24 was
12 marked for identification.)
13 - - - - -
14 Q Could you please identify Pucel Exhibit Number
15 24.
16 A It's Grizzly Equipment catalog Manufactured By
17 Pucel.
18 Q Do you see an indication of a year on that?
19 A April 1st, 1976.
20 Q And is this a combined price sheet, too?
21 A No.
22 Q In 1985 when you began full-time, were you exposed
23 to the information in regard to where your products
24 were being shipped?
25 A I was aware of them, yes.

1 Q And how were you aware from documents that you
2 saw?
3 A Yes. We had some reports that I would look
4 through on a daily basis and weekly basis of basically
5 the orders I was looking at.
6 Q And in 1976, what was the geographical reach of
7 your products?
8 A It was all over.
9 Q And I should have said in 1985, what was the
10 geographical reach of your products?
11 A It was throughout the country.
12 Q Throughout the United States?
13 A Yes.
14 Q And did you have cause to see bills of lading and
15 the like indicating where the products were going?
16 A Yes. I would walk past the fax machine and glance
17 at them or the time when I was in the shipping room, I
18 would see them as they were being loaded.
19 Q Okay. And in 1985, were all employees instructed
20 to duly mark all products and all packaging with your
21 Grizzly word mark?
22 A Yes, definitely.
23 Q Has anything changed in the presentation and use
24 of the Grizzly word mark during the time that you have
25 been employed or associated with Pucel?

1 A No, it hasn't.
2 Q Has anything changed in regard to the use of the
3 Grizzly Bear symbol that we have talked about in
4 connection with Exhibits 2, 4 and 6?
5 A No, it hasn't.
6 Q Now, the product line as presented in this 1976
7 catalog, have those products substantially carried
8 forward to this day?
9 A Yes.
10 - - - - -
11 (Opposer/Petitioner's Exhibit Number 25 was
12 marked for identification.)
13 - - - - -
14 Q I would like to direct your attention to Exhibit
15 Number 25. What is the standard of quality of your
16 products?
17 A We're known throughout anyone who purchases our
18 equipment that it's all welded, heavy duty
19 construction.
20 Q Is that --
21 A Very rugid.
22 Q Have the same manufacturing techniques been used
23 since 1978?
24 A Yes.
25 Q And throughout the years in between, without

1 naming each year specifically, were the same
2 principles, construction principles, applied between
3 '78 and 2006?
4 A Yes.
5 Q And when you look at the corresponding goods, as
6 you made the comparison between Exhibit 69 and your
7 Exhibit 30 and your Exhibit 29, for example, are there
8 any differences in the quality of those goods?
9 A They look the same. They look identical, but they
10 definitely have the same quality that we have.
11 Q And you can tell that from --
12 A You can tell by the different gauges that they
13 would be using and by the weight that they have.
14 Q Are there some rating differences?
15 A Well, you can tell with the different gauge steel
16 that you have what the capacity could be.
17 Q If someone purchases a Grizzly.com cart or stand
18 or something and it's inferior, do you feel that hurts
19 your business?
20 A Yes.
21 Q Exhibit Number 25, can you please identify that
22 for me.
23 A A Grizzly Equipment catalog Manufactured by Pucel,
24 March 1st, 1978.
25 Q And were you familiar with this catalog in 1978

1 when you were working at the company?
2 A Yes.
3 Q Now, is this the best available copy left over
4 from 1978?
5 A Yes, it is.
6 Q And have you been the custodian of this document?
7 A Yes.
8 Q And have you been the custodian of the document
9 from the time that you began full-time with the company
10 in 1985 up until the present?
11 A Yes.
12 Q And what year did Mr. Pucel die?
13 A I believe it was 1980.
14 Q And then Tony Mlakar took over running the company
15 at that time?
16 A Yes.
17 Q Was Mr. Pucel a stickler for details?
18 A Yes.
19 - - - - -
20 (Opposer/Petitioner's Exhibit Number 26 was
21 marked for identification.)
22 - - - - -
23 Q I would like to go to Exhibit Number 26, please.
24 Can you please identify Pucel Exhibit Number 26.
25 A It's a Grizzly Equipment catalog Manufactured by

1 Pucel, 1979.
2 Q In regard to 25, the 1978 catalog, were all of the
3 products sold that were in that catalog in the 1978
4 time frame?
5 A What was the question?
6 Q All the products that you had in the '78 catalog,
7 were they all produced and sold and marked --
8 A Yes.
9 Q -- with your trademark?
10 A Yes.
11 Q And is this the best available copy of the Pucel
12 catalog from 1979?
13 A Yes.
14 Q And you have been the custodian of this document
15 and the other documents since you began at the company
16 full-time?
17 A Yes.
18 Q Are the products illustrated and depicted for sale
19 in this 1979 catalog marked as Exhibit 26 substantially
20 the same and sold today?
21 A Yes.
22 Q Can you please mark 27.
23 - - - - -
24 (Opposer/Petitioner's Exhibit Number 27 was
25 marked for identification.)

1 - - - - -

2 Q Could you please identify this document.

3 A It's a Grizzly Equipment catalog Manufactured by

4 Pucel Enterprises from 1982.

5 Q And this is what is believed to be a true and

6 accurate copy of the original?

7 A Yes.

8 Q All the other copies of the catalogs that we have

9 presented, are they believed to be true and accurate

10 copies?

11 A Yes.

12 Q And you have been the custodian of this catalog?

13 A I have been.

14 Q What year is this catalog?

15 A 1982.

16 Q And does this catalog indicate Anthony Mlakar as

17 president?

18 A Yes.

19 Q Are the products depicted in this 1982 catalog the

20 same or substantially the same as the products sold

21 today?

22 A Yes.

23 Q They're all welded construction?

24 A Yes.

25 - - - - -

1 (Opposer/Petitioner's Exhibit Number 28 was
2 marked for identification.)
3 - - - - -
4 Q Exhibit Number 28, which I think is in a new book,
5 can you please identify Exhibit Number 28.
6 A It's a Grizzly Equipment catalog Manufactured By
7 Pucel Enterprises 1981.
8 Q Now, is this a through and accurate copy of the
9 original catalog, to the best of your knowledge?
10 A Yes.
11 Q You have been the custodian of the copy, have you
12 not?
13 A Yes.
14 Q Your registered marks are indicated on every page,
15 are they not?
16 A Yes.
17 Q The products identified in here were all sold
18 under the Grizzly mark, were they not?
19 A Yes.
20 Q Every single one?
21 A Yes.
22 Q Every single one was sold under the bear symbol as
23 well as the trademark?
24 A Yes.
25 MR. MITCHELL: I am going to take

1 a break. Then I'll be back and I
2 don't have too much more.
3 MR. SCHMIDT: Then I'll continue
4 with my cross.
5 MR. MITCHELL: Well, let me talk
6 to Bob about that. He already
7 indicated he's tired.
8 Let's go off the record.
9 (Discussion had off the record.)
10 MR. MITCHELL: Joe, you're
11 insisting on cross-examining Bob. I
12 am not going to speak with Bob at the
13 end of this deposition and between the
14 cross-examination conducted tomorrow.
15 Bob is willing to stay and kill
16 himself. I explained earlier today I
17 wasn't feeling well. I understand
18 your concerns. All I can do is tell
19 you that I am not -- I don't intend to
20 coach Bob if we adjourn. I am going
21 to leave the decision up to Bob
22 Mlakar. He would just as soon wrap
23 this up tonight because he has got a
24 business to run. That's what his
25 concern is. I am concerned about all

1 of us killing ourselves, including the
2 court reporter, and I just don't see
3 any point to it.
4 I was joking when you were out of
5 the room that, if necessary, I would
6 come down and get a room next to you
7 at the Ritz Hotel and you could verify
8 that I am locked down.
9 MR. SCHMIDT: Are you finishing
10 the direct today?
11 MR. MITCHELL: Yes, I am trying
12 to finish the direct with Bob. I
13 have got three more exhibits to go
14 over with him. The remainder I am
15 going to do with Tony tomorrow.
16 MR. SCHMIDT: How long are you
17 going to be with Tony?
18 MR. MITCHELL: I don't think
19 I'll be more than two and a half hours
20 to three hours with Tony, at the
21 most. I could conceivably do those
22 with Bob, but I'll make a committment
23 I am not going to do with those Bob if
24 he is too tired to do it. He was
25 confused between the years 1987 and

1978 in one of his answers when we took a break. We're going to do whatever Bob wants to do and whatever you want to do. I don't feel right about it. I don't think it's the right thing to do. I don't think it's fair to Caryn.

MR. SCHMIDT: What do you guys want to do?

MR. MITCHELL: I want to finish the direct. I am close to being done with my direct.

MR. SCHMIDT: I can do my cross tomorrow if you close your direct.

MR. MITCHELL: I think that's better. I am concerned about him.

MR. SCHMIDT: As long as you agree that you are done with direct.

MR. MITCHELL: I don't see any problem with that.

MR. SCHMIDT: Let's agree to it.

MR. MITCHELL: I'll agree to it. If I agree to finish the direct examination tonight, then we can terminate and pick up your cross

1 tomorrow morning.
2 MR. SCHMIDT: I just don't want
3 to come in tomorrow morning and start
4 again with direct.
5 MR. MITCHELL: No. That's
6 fine. I am going to be asking Tony
7 questions on direct examination. You
8 do understand that?
9 MR. SCHMIDT: Hopefully less.
10 MR. MITCHELL: Yes. I have
11 distinct areas that he is kind of
12 better to answer the questions.
13 That's the thought process.
14 - - - - -
15 (Opposer/Petitioner's Exhibit Number 13 was
16 marked for identification.)
17 - - - - -
18 Q Can you please identify what has been marked for
19 identification as Pucel Exhibit Number 13?
20 A It is the Grizzly Equipment price list for April
21 20th, 2000.
22 Q And does this document give the prices for the
23 corresponding equipment identified in Exhibit 30, the
24 January '99 equipment catalog number?
25 A Yes.

1 - - - - -

2 (Opposer/Petitioner's Exhibit Number 14 was

3 marked for identification.)

4 - - - - -

5 Q In regard to Pucel Exhibit Number 14, could you

6 please identify what those are?

7 A It's a compilation of copies of the front cover of

8 the Grizzly Equipment price list ranging from 1974

9 through 1999, not continuous. They're broken up.

10 Q And on Exhibits 14 and 15, your trademarks are

11 duly shown?

12 A Yes.

13 Q Can you please mark Exhibit 12.

14 - - - - -

15 (Opposer/Petitioner's Exhibit Number 12 was

16 marked for identification.)

17 - - - - -

18 MR. MITCHELL: Exhibit 12 was not

19 produced. It's dated May 22nd, 2006.

20 MR. SCHMIDT: Well, I guess I am

21 going to have to object.

22 MR. MITCHELL: I just wanted to

23 point that out.

24 Q Mr. Mlakar, could you explain what this is?

25 A This was a search that I did on Grizzly Equipment

1 on the Google search. I came up with the responses of
2 that, and then there are some printed pages in relation
3 to that.
4 Q And is Amazon.com the first so-called hit that you
5 located?
6 A Yes.
7 Q Okay.
8 A Then from that the following pages were printed.
9 Q So your next step was to go to Amazon.com, the
10 first hit on page 1 of Exhibit 12?
11 A Yes.
12 Q And then what was your next step?
13 A I went to carts and clicked on that. I looked
14 around a little bit. Then I went onto Grizzly,
15 searched the Grizzly.
16 Q You did this personally?
17 A Yes, I did.
18 Q And when you searched Grizzly on Amazon.com, who
19 did you come up with?
20 A I came up with the Grizzly Industrial. I clicked
21 on that and went on through the carts. Then another
22 page, once I linked through that Grizzly, I was looking
23 at the -- all the different customers that they have on
24 the third page, fourth page.
25

1 on the Google search. I came up with the responses of
2 that, and then there are some printed pages in relation
3 to that.
4 Q And is Amazon.com the first so-called hit that you
5 located?
6 A Yes.
7 Q Okay.
8 A Then from that the following pages were printed.
9 Q So your next step was to go to Amazon.com, the
10 first hit on page 1 of Exhibit 12?
11 A Yes.
12 Q And then what was your next step?
13 A I went to carts and clicked on that. I looked
14 around a little bit. Then I went onto Grizzly,
15 searched the Grizzly.
16 Q You did this personally?
17 A Yes, I did.
18 Q And when you searched Grizzly on Amazon.com, who
19 did you come up with?
20 A I came up with the Grizzly Industrial. I clicked
21 on that and went on through the carts. Then another
22 page, once I linked through that Grizzly, I was looking
23 at the -- all the different customers that they have on
24 the third page, fourth page.
25 Q Referring to Exhibit 39 briefly --

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1 A Yes.
2 Q -- do you have sales information for 2005 and
3 advertising information for 2005?
4 A I don't have it.
5 Q There is an increase in your advertising
6 expenditures. What is that due to?
7 A Well, by increasing our advertising sales, it
8 increases our sales.
9 Q Something you felt you had to do?
10 A Yes.
11 MR. MITCHELL: I have no further
12 questions.
13 Joe, if you bring up some new
14 matter, I'll ask Bob some questions on
15 re-direct.
16 MR. SCHMIDT: I understand that.
17 MR. MITCHELL: I just want to
18 make sure that it wasn't going to be
19 foreclosed.
20 MR. SCHMIDT: No. We have just
21 agreed that the direct is closed and
22 cross will start tomorrow. If there
23 is any appropriate re-direct, it will
24 go after the cross. Then we'll start
25 right away with Tony.

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11 MR. MITCHELL: I have no further
12 questions.
13 Joe, if you bring up some new
14 matter, I'll ask Bob some questions on
15 re-direct.
16 MR. SCHMIDT: I understand that.
17 MR. MITCHELL: I just want to
18 make sure that it wasn't going to be
19 foreclosed.
20 MR. SCHMIDT: No. We have just
21 agreed that the direct is closed and
22 cross will start tomorrow. If there
23 is any appropriate re-direct, it will
24 go after the cross. Then we'll start
25 right away with Tony.

1 MR. MITCHELL: We move for the
2 admission of all exhibits marked,
3 please.
4 MR. SCHMIDT: Subject to my
5 objections which I made.
6 MR. MITCHELL: Subject to your
7 objections, right.
8 MR. SCHMIDT: In particular,
9 Exhibit 37, 62, 65, and there may have
10 been a few others, but I think it was
11 on the record.
12 MR. MITCHELL: That's it for
13 tonight.
14 - - - - -
15 (Deposition adjourned at 6:25 p.m.)
16 - - - - -
17
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25

1 Wednesday, May 24, 2006
2 8:30 a.m.
3 CROSS-EXAMINATION
4 BY MR. SCHMIDT:
5 Q Good morning, Mr. Mlakar.
6 A Good morning.
7 Q As you know, this is your cross-examination of
8 your direct testimony from yesterday.
9 A Yes.
10 Q So court reporter can hear you, you can speak
11 straight ahead. Don't feel compelled to have to look
12 over to me because of the position you are at the
13 table.
14 A Okay.
15 Q Pucel is a very well known name in the material
16 handling industry, isn't it?
17 A Yes.
18 Q And your company phone is answered as Pucel
19 Enterprises, correct?
20 A Yes.
21 Q And the Pucel name is on every page of your web
22 site, isn't it?
23 A Yes.
24 Q And your customers know your company as Pucel,
25 correct?

1 A They know it as Pucel and Grizzly Equipment.
2 Q Now, any retail sales that you have really started
3 when you have went on the Internet, correct?
4 A Not necessarily.
5 Q I understand that you had some auctions at your
6 place of business once a year, and you consider those
7 to be retail sales, correct?
8 A That's a part of our retail.
9 Q Prior to going on the Internet, did you have any
10 retail sales?
11 A Yes.
12 Q And where were they?
13 A We had people like Conveyer & Caster who had their
14 show room, and they have items in their show room that
15 anyone off the street can come and purchase.
16 Q And was that prior to 1999?
17 A Yes.
18 Q Was that prior to 1995?
19 A Yes.
20 Q Prior to 1990?
21 A Yes.
22 Q When do you think it started?
23 A Since they were in that building, that I am aware
24 of.
25 Q What year would that be?

1 A I was aware of them in the '80s.
2 Q And what percentage of your overall sales would be
3 sales that they made of your products?
4 A That, I don't know.
5 Q Less than one percent?
6 A I can't answer that.
7 Q Now, there is various items that you discussed
8 yesterday that you said that you sell and that you sell
9 under the Grizzly mark. I am going to list of number
10 of them.
11 A Okay.
12 Q Pucel does not sell anti-vibration mounts
13 separately, do you?
14 A They go in conjunction with the equipment.
15 Q The question is you do not sell them separately,
16 do you?
17 A If someone asks, but we don't have them cateloged
18 separately.
19 Q Have you ever sold them separately?
20 A No.
21 Q Have you ever sold cable ties separately?
22 A When customers have asked for them, we have sold
23 them separately.
24 Q Have you ever sold clamps and vises separately?
25 A Yes.

1 Q What name is on the clamps and vises?
2 A It's one of our -- first of all, it's put in our
3 Grizzly carton, and it's sold under our name.
4 Q I am going to move to strike that.
5 MR. SCHMIDT: Could you read back
6 the question.
7 A Columbian vises.
8 Q What name is on the cable ties?
9 A There is no name that I am aware of.
10 Q Pucel does not sell electric motors separately,
11 does it?
12 A No.
13 Q What name is on the electric motors?
14 A Suspa.
15 Q Pucel does not sell gauges separately, correct?
16 A They're incorporated in our product.
17 Q Move to strike.
18 MR. SCHMIDT: Would you read back
19 the question, please.
20 A Correct.
21 Q Pucel does not sell hand screws separately,
22 correct?
23 A Yes, we do.
24 Q What name is on the hand screws, the
25 manufacturer's name, that is?

1 A There is no name on it.
2 Q Do you manufacture hand screws?
3 A We manufacture the screw part that is welded on to
4 it. We assemble it.
5 Q Do you manufacture hand screws?
6 A Yes.
7 Q Do you sell hose reels separately?
8 A No.
9 Q Do you sell hoses separately?
10 A No.
11 Q Do you sell jacks separately?
12 A Yes.
13 Q And what name is on the jacks?
14 A Not sure.
15 Q It's a manufacturer's name other than Pucel,
16 correct?
17 A That's correct.
18 Q And do you sell knobs separately?
19 A Yes.
20 Q And what name is on the knobs?
21 A There is no name on the knobs.
22 Q Do you manufacture knobs?
23 A No.
24 Q Do you sell machine mounts separately?
25 A Yes, sir.

1 Q And what name is on the machine mounts?
2 A They're ours. We manufacture them.
3 Q Is your name on the mount?
4 A Yes.
5 Q The Pucel name?
6 A Yes, and the Grizzly name, Grizzly Equipment.
7 Q Do you sell electric switches separately?
8 A No.
9 Q And is there a name on the electric switches?
10 A On the inside, there is.
11 Q And who is your supplier or the manufacturer of
12 the switches?
13 A Leveton.
14 Q And you don't sell tool boxes separately, correct?
15 A Yes.
16 Q And who manufactures the tool boxes?
17 A Some of them we purchase and some of them we make.
18 Q And the ones that you purchase, what name is on
19 those?
20 A Huot.
21 Q Pucel does not separately sell bumpers?
22 A Yes, we do.
23 Q And who manufactures the bumpers?
24 A Jarvis.
25 Q Is there a name on the bumpers?

1 A Not sure.
2 Q Do you separately sell drawer pulls?
3 A Yes.
4 Q This is separate and apart from being part of one
5 of their catalog items?
6 A Yes.
7 Q Who manufactures the drawer pulls?
8 A That, I don't know.
9 Q Do you know what name is on the drawer pulls?
10 A No, I don't.
11 Q Do you --
12 A Some of the drawer pulls are manufactured with our
13 name on them. It has Pucel/Grizzly on the drawer
14 pulls.
15 Q Do you separately sell drawer slides?
16 A Yes.
17 Q And who manufacturers the drawer slides?
18 A That, I don't know.
19 Q Do you know whose name is on the drawer slides?
20 A No.
21 Q Do you separately sell hinges?
22 A No.
23 Q Do you separately sell lock sets?
24 A Yes.
25 Q And who manufactures those?

1 A Penn Equipment.
2 Q Is their name on it?
3 A Our name is on it.
4 Q Is their name on it?
5 A No. Our name is stamped on the keys.
6 Q Now, all of these items that I just mentioned are
7 not listed in your catalog, correct?
8 A That's not correct.
9 Q Can you pull out one of your catalogs and show me
10 where the item is listed in the index or table of
11 contents?
12 A Would you like me to look at a specific exhibit or
13 is Exhibit 30 okay?
14 Q Any of your catalogs.
15 A Okay.
16 Q I would like you to show it to me in the table of
17 contents or the index that it's a listed product. Are
18 you in Exhibit 30?
19 A Yes. You asked me initially if it was in the
20 catalog. I said yes.
21 Q Well, I continued with my question. My question
22 is, is it in the table of contents or indexed in the
23 catalog as a listed product?
24 A No.
25 Q None of the items are listed, correct?

1 A No. They're in the catalog.
2 Q None of the items are listed in the table of
3 contents, correct?
4 A We have the mobile cabinet benches.
5 Q I'm sorry. The items we spoke about, are any of
6 those listed in the table of contents?
7 A Yes.
8 Q Tell me which ones.
9 A The tool cabinet.
10 Q I didn't ask you about a tool cabinet.
11 A Yes, you did.
12 Q I asked you if you sell tool boxes. Did you
13 misunderstand the question?
14 A That's included in tool boxes.
15 Q Is tool boxes listed in the table of contents?
16 A That would be -- yes, tool and repair bench
17 cabinets.
18 Q Are the words tool boxes listed in the table of
19 contents?
20 A No.
21 Q Are any of the other items we just discussed
22 listed in the table of contents?
23 A No.
24 Q Are any of those items we just discussed listed in
25 the index, the index in your catalog, Exhibit 30?

1 A The only thing we have would be in the accessories
2 section, which is to all the products in the index
3 where it talks about work bench accessories, and that
4 would include the switches and all of the accessories
5 that go on a bench.
6 Q Are any of these items listed in the index?
7 A It's listed under the accessories section.
8 Q Are any of the items specifically listed by the
9 names that we used?
10 A (Witness reviewing.)
11 Q You have reviewed the index, and do you remember
12 the question?
13 A Could you repeat the question, please.
14 (Record read.)
15 A No.
16 Q Could you name me a couple of the wood working
17 customers at Pucel?
18 A The first one that comes to mind is my next door
19 neighbor, who is a wood worker. They make wood working
20 cabinets. They use routers. They have all of our
21 equipment. They have our work benches. They have
22 stands in their facility. They have carts.
23 Q Bob, again, I ask you to name them, not everything
24 they do.
25 A Okay.

1 Q You did, and thank you. Other than your neighbor,
2 can you name a wood working customer?
3 A General Motors.
4 Q Do you currently sell to General Motors?
5 A Yes.
6 Q Any others?
7 A Ford has a wood working section in their facility.
8 Q Do you sell to Ford?
9 A Yes. Those are the only ones I can think of.
10 Q Okay. Can you name some of Pucel's metal working
11 customers?
12 A Once again, the GM facilities have metal working.
13 Ford has metal working.
14 Q You sell to both of them?
15 A Yes.
16 Q Currently?
17 A Yes.
18 Q Okay.
19 A There are also people like Cleveland Art &
20 Antiques.
21 Q Would it be fair to say -- I'm sorry.
22 A There is a number of tool and die people that do
23 metal working that have our equipment in it.
24 Q Is that it?
25 A That's it.

1 Q Would it be fair to say that the percentage of
2 sales to wood working and metal working customers are
3 less than five percent of your --
4 A No, I wouldn't say that.
5 Q What percent would it be?
6 A I don't know.
7 Q It could be less than five percent, no?
8 A I know it's five percent.
9 Q Is it more than 10 percent?
10 A I would have to say yes.
11 Q How do you know that if you don't know --
12 A I don't know the specific amount, but I know the
13 volume we send out. I don't have a percentage.
14 Q Is the volume that you send out less than 10
15 percent of your total volume?
16 A No.
17 Q Is it more than 10 percent?
18 A Yes.
19 Q What is it?
20 A I don't know what it is. I know it's more than 10
21 percent.
22 Q Global is a major distributor of Pucel, correct?
23 A Yes.
24 Q Would you take a look at Exhibit 59, please.
25 A Yes. I believe you testified that this is

1 Global's web page that refers to Pucel products,
2 correct?
3 A Yes.
4 Q And I note that they referred to Pucel Enterprises
5 products and no where on the page do I see any
6 reference to Grizzly or Grizzly Equipment; is that
7 correct? There is no reference on this page to Grizzly
8 or Grizzly Equipment, is there?
9 A That's correct.
10 Q What is the average amount of purchase orders for
11 a Pucel order?
12 A Probably 500 to 800.
13 Q Do you agree that Pucel's industrial customers are
14 sophisticated in the purchase of material handling
15 equipment?
16 A Could you repeat the question?
17 (Record read.)
18 A I don't know.
19 Q You deal with customers directly on occasion,
20 correct?
21 A Just on occasion.
22 Q On those occasions, do you think they know what
23 they're talking about when they're ordering material
24 handling equipment?
25 A It all depends. Sometimes you have to help

1 customers more than others.
2 Q Now, if you would go to 37, please.
3 A Yes.
4 Q Please confirm that these are a group of 2005 and
5 2006 Pucel invoices, correct?
6 A Yes.
7 Q I see that the invoice is issued by Pucel
8 Enterprises, correct?
9 A Yes.
10 Q The Grizzly Equipment and Grizzly name is not used
11 in the name, correct?
12 A That's correct.
13 Q And on each of the invoices, there is a product
14 that is being invoiced, correct?
15 A Yes.
16 Q And not one of those products are referred to by
17 the mark Grizzly or Grizzly Equipment, correct?
18 A Right.
19 Q Let's go to Exhibit 68, which is the Grizzly
20 Industrial catalog. Go to the fourth page of that
21 exhibit, which I think has a page number of 302.
22 A Okay.
23 Q It is the page that had a sampling of our
24 customers.
25 A I am on that page.

1 Q Now, yesterday I was a little uncertain as to
2 whether you said you sell to just about all of these
3 customers or you could sell to all of these customers.
4 Which was it?
5 A We do sell to all of these customers.
6 Q Well, not to all of them. You said there is a few
7 that you don't; is that correct?
8 A Yes, sir.
9 Q Do you sell to ABC?
10 A Yes.
11 Q Currently?
12 A Yes.
13 Q Do you sell to Alaskan Airlines?
14 A That, I am not sure.
15 Q AT&T?
16 A Yes, sir.
17 MR. SCHMIDT: By the way, if it's
18 all right, and, Ken, in order not to
19 have 80 questions, can I just preface
20 these as customers who you sell to and
21 I'll just list the name or would you
22 want me to repeat the question every
23 time?
24 MR. MITCHELL: I think do you
25 sell to them is clear.

1 Q The question is do you sell to these people?
2 A Okay.
3 Q Alaskan Airlines?
4 A Yes.
5 Q Bellagio?
6 A Don't know.
7 Q B.F. Goodrich?
8 A Yes.
9 Q Black & Decker?
10 A Yes.
11 Q Black Entertainment Television?
12 A Not sure.
13 Q Boeing?
14 A Yes.
15 Q Briggs & Stratton?
16 A Yes.
17 Q Bristol Myers?
18 A Not sure.
19 Q California Department of Forestry?
20 A Not sure.
21 Q Campbell's Soup?
22 A Yes.
23 Q Chicago Transport Authority?
24 A Yes.
25 Q Chris Craft Boats?

1 A Not sure.
2 Q Dupont?
3 A Yes.
4 Q Duracell?
5 A Yes.
6 Q Eastman Kodak?
7 A Yes.
8 Q Eveready?
9 A Yes.
10 Q Exxon?
11 A Yes.
12 Q Federal Aviation Administration?
13 A Yes.
14 Q Federal Bureau of Prisons?
15 A Yes.
16 Q FedEx?
17 A Yes.
18 Q Federal Reserve Bank of New York?
19 A Yes.
20 Q Fender Musical Instruments?
21 A Not sure.
22 Q Fisher Price?
23 A Yes.
24 Q Fleetwood Motor Homes?
25 A Not sure.

1 Q Ford?
2 A Yes.
3 Q Frito Lay?
4 A Yes.
5 Q GE?
6 A Yes.
7 Q Georgia Pacific?
8 A Yes.
9 Q Gibson Musical Instruments?
10 A Not sure.
11 Q Goodyear?
12 A Yes.
13 Q Gulfstream?
14 A Not sure.
15 Q Harvard?
16 A Yes.
17 Q Hasbro?
18 A Yes, sir.
19 Q Hershey?
20 A Yes.
21 Q Hewlett-Packard?
22 A Yes, sir.
23 Q Honeywell?
24 A Yes.
25 Q Hyatt Regency?

1 A Yes.
2 Q Intel?
3 A Yes.
4 Q JC Penney?
5 A We have, yes.
6 Q John Deere?
7 A Yes.
8 Q Johnson & Johnson?
9 A Yes.
10 Q Kimberly Clark?
11 A Not sure.
12 Q Kohler?
13 A Yes.
14 Q Polaris?
15 A Yes.
16 Q Seattle Tacoma International Airport?
17 A Not sure.
18 Q Miller Brewing?
19 A Yes.
20 Q Mirage Casinos?
21 A Yes.
22 Q Mattel?
23 A Yes.
24 Q Maytag?
25 A Yes.

Q MGM Grand?
A Yes.
Q Lucent Technologies?
A Yes.
Q RJ Reynolds?
A Yes, sir.
Q Wal-Mart?
A Not sure.
Q Walgreens?
A Yes.
Q Whirlpool?
A Yes.
Q Xerox?
A Yes.
Q Yale?
A Yes.
Q 3M?
A Yes.
Q Venetian Hotel?
A Not sure.
Q Taylor Guitars?
A Not sure.
Q Sylvania?
A Yes.
Q Stanford University?

1 A Yes.
2 Q Sony?
3 A Yes.
4 Q Smithsonian?
5 A Yes.
6 Q Shop Vac?
7 A Not sure.
8 Q Sherwin Williams?
9 A Yes.
10 Q Sea World?
11 A Yes.
12 Q Sara Lee?
13 A Yes, sir.
14 Q Sanyo?
15 A What was that last one?
16 Q Sanyo Manufacturing?
17 A Not sure.
18 Q Rockwell Automation?
19 A Yes.
20 Q Ricoh?
21 A Yes.
22 Q Quaker Oats?
23 A Yes.
24 Q Polo?
25 A Not sure.

1 Q You have been aware of Grizzly Industrial since
2 about 1995, correct?
3 A I think it was a little after that.
4 Q As I recall, you have testified during your
5 deposition that there was a Dun & Bradstreet that your
6 father had obtained and you saw that was in 1995? Do
7 you recall that?
8 A No.
9 Q Now, Grizzly Industrial has a couple of
10 registrations for the mark Grizzly, correct? You
11 talked about those yesterday?
12 A Yes.
13 Q And when those were published for opposition in
14 the US Trademark & Patent Office, Pucel did not oppose
15 registration, did it?
16 A No.
17 Q At the time those trademarks were registered, you
18 were aware of Grizzly Industrial and the use of the
19 work Grizzly, correct?
20 A No.
21 Q Do you know when they were published?
22 A No, not offhand.
23 Q Do you want to look at the exhibit and see when
24 they were registered? I believe they're Exhibit 9 and
25 10.

1 A Sure. 2000.
2 Q You were very well aware of Grizzly Industrial in
3 2000, weren't you?
4 A Yes, I was aware of them at that time.
5 Q In fact, you were contacting attorneys about
6 Grizzly Industrial in 2000, didn't you?
7 A Yes.
8 Q You have been full-time with Pucel for
9 approximately 20 years, correct?
10 A Yes.
11 Q And you have attended trade shows on and off for
12 those 20 years?
13 A Yes.
14 Q And you have never seen Grizzly Industrial at a
15 trade show?
16 A No.
17 MR. SCHMIDT: Strike the question
18 and answer, because it makes no
19 sense. I'll reask it.
20 MR. MITCHELL: Okay.
21 MR. SCHMIDT: I think you
22 answered you have seen them at a trade
23 show. Maybe it was a very poor
24 question on my part.
25 MR. MITCHELL: I would like the

answer to stand.

Q What trade show have you seen Grizzly Industrial at?

A I haven't seen them.

Q You haven't seen Grizzly Industrial at any trade shows, correct?

A No.

Q Correct?

A That's correct.

MR. SCHMIDT: I thought that's what he answered.

MR. MITCHELL: It might be me, but I think it was backwards.

MR. SCHMIDT: That's all I have.

MR. MITCHELL: I don't have any re-direct.

We're done.

- - - - -

(Deposition concluded at 6:20 p.m.)

- - - - -

Robert A. Mlakar

ROBERT MLAKAR

Carol L. Lott Carol Lott
Notary Public in and for The State of Ohio
My Commission Expires 10-18-10

1 The State of Ohio,)
) SS: CERTIFICATE
2 County of Cuyahoga.)

3 I, Caryn L. Lott, Registered Professional Reporter and Notary Public within and for the State of Ohio,
4 duly commissioned and qualified, do hereby certify that the within-named ROBERT MLAKAR was by me first duly
5 sworn to testify the truth, the whole truth, and nothing but the truth in the cause aforesaid; that the
6 testimony then given by him/her was by me reduced to stenotypy in the presence of said witness, afterwards
7 transcribed on a computer, and that the foregoing is a true and correct transcript of the testimony so givenby
8 him/her as aforesaid.

9 I do further certify that this deposition was taken at the time and place in the foregoing caption
10 specified and was completed without adjournment.

11 I do further certify that Joseph Schmidt was present at said deposition and said deposition was
12 taken on May 23, 2006 beginning at 9:00 a.m. and continuing on May 24, 2006 beginning at 8:30 a.m at the
13 offices of Parise & Asociates Court Reporters, 1360 East Ninth Street, Suite 1010, Cleveland, Ohio 44114.
14

I do further certify that I am not a relative,
15 employee of, or attorney for any of the parties in the above-captioned action; I am not a relative or employee
16 of an attorney for any of the parties in the above-captioned action; I am not financially interested in
17 the action; I am not, nor is the court reporting firm with which I am affiliated, under a contract as defined
18 in Civil Rule 28(D); nor am I otherwise interested in the event of this action.
19

IN WITNESS WHEREOF I have hereunto set my hand and
20 affixed my seal of office at Cleveland, Ohio on this 19th day of June, 2006. I have not been disqualified
21 as specified in Rule 28 of the Federal Rules of Civil Procedure.
22

23 Caryn L. Lott, Notary Public
24 in and for the State of Ohio.

25 My commission expires 10/18/10.

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

PUCEL ENTERPRISES, INC.,	)
	)
Opposer,	)
	)CONFIDENTIAL
vs.	)Opposition No. 123, 506
	)Cancellation Nos. 31,984;
	)32,024;32,025
	)
GRIZZLY INDUSTRIAL, INC.,	) In Re: Exhibit 39
	)
Applicant/	)
Respondent.	)

- - - - -

EXCERPT OF THE TRIAL DEPOSITION OF ROBERT MLAKAR
Tuesday, May 23, 2006

- - - - -

Excerpt of the Trial Deposition of ROBERT MLAKAR, called for examination under the Federal Rules of Civil Procedure, taken before me, the undersigned, Caryn L. Lott, Registered Professional Reporter, a Notary Public in and for the State of Ohio, at the offices of Parise & Associates Court Reporters, 1360 East Ninth Street, Suite 1010, Cleveland, Ohio 44114 commencing at 9:00 a.m. the day and date set forth.

- - - - -

COPY

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

PUCEL ENTERPRISES, INC.,	)
	)
Opposer,	)
	)
vs.	)Opposition No. 123, 506
	)Cancellation Nos. 31,984;
	)32,024;32,025
	)
GRIZZLY INDUSTRIAL, INC.,	)
	)
Applicant/	)
Respondent.	)

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DEPOSITION OF ROBERT MLAKAR
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- - - - -

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- - - - -

APPEARANCES:

On Behalf of Respondent/Registrant Grizzly Industrial, Inc.:

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On Behalf of Opposer/Petitioner Pucel Enterprises, Inc.:

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866-241-4150
Clevepat@aol.com

ALSO PRESENT:

Anthony Mlakar

- - - - -

EXAMINATION INDEX

DIRECT EXAMINATION BY MR. MITCHELL: Page 11

CROSS-EXAMINATION BY MR. SCHMIDT: Page 236

- - - - -

OBJECTION INDEX

BY MR. SCHMIDT 27
BY MR. SCHMIDT 29
BY MR. SCHMIDT 30
BY MR. SCHMIDT 36
BY MR. SCHMIDT 38
BY MR. SCHMIDT 46
BY MR. SCHMIDT 48
BY MR. SCHMIDT 50
BY MR. SCHMIDT 55
BY MR. SCHMIDT 56
BY MR. SCHMIDT 57
BY MR. SCHMIDT 57
BY MR. SCHMIDT 59
BY MR. SCHMIDT 59
BY MR. SCHMIDT 60
BY MR. SCHMIDT 62
BY MR. SCHMIDT 62
BY MR. SCHMIDT 62
BY MR. SCHMIDT 64
BY MR. SCHMIDT 65
BY MR. SCHMIDT 68
BY MR. SCHMIDT 80
BY MR. SCHMIDT 80
BY MR. SCHMIDT 103
BY MR. SCHMIDT 106
BY MR. SCHMIDT 113
BY MR. SCHMIDT 152
BY MR. SCHMIDT 157
BY MR. SCHMIDT 158
BY MR. SCHMIDT 160
BY MR. SCHMIDT 166
BY MR. SCHMIDT 167
BY MR. SCHMIDT 167
BY MR. SCHMIDT 168
BY MR. SCHMIDT 169
BY MR. SCHMIDT 178
BY MR. SCHMIDT 179
BY MR. SCHMIDT 181
BY MR. SCHMIDT 182
BY MR. SCHMIDT 209
BY MR. SCHMIDT 218
BY MR. SCHMIDT 232

- - - - -

EXHIBIT INDEX

Exhibit Number 1 (Trademark Principal Register 624,055)	MARKED ON PAGE 116
Exhibit Number 2 (Trademark Principal Register 704,631)	MARKED ON PAGE 120
Exhibit Number 3 (Trademark Principal Register 704,529)	MARKED ON PAGE 121
Exhibit Number 4 (Trademark Principal Register 704,539)	MARKED ON PAGE 123
Exhibit Number 5 (Trademark Principal Register 704,589	MARKED ON PAGE 124
Exhibit Number 6 (Trademark Principal Register 704,588)	MARKED ON PAGE 125
Exhibit Number 7 (Application for Trademark Principal register Grizzly.com)	MARKED ON PAGE 37
Exhibit Number 8 (Application for Trademark Principal Register Bear Power)	MARKED ON PAGE 126
Exhibit Number 9 (Trademark Service Mark Principal Register 2,413,625)	MARKED ON PAGE 185

EXHIBIT INDEX (CONTINUED)

Exhibit Number 10 MARKED ON PAGE 192
(Trademark Principal Register
2,312,226)

Exhibit Number 11 MARKED ON PAGE 193
(Trademark Principal Register
2,166,833)

Exhibit Number 12 MARKED ON PAGE 232
(Google web site)

Exhibit Number 13 MARKED ON PAGE 231
(Price list for 4-20-2000)

Exhibit Number 14 MARKED ON PAGE 232
(Price list for 3-15-74)

Exhibit Number 15 MARKED ON PAGE 194

(Pucel catalog)

Exhibit Number 16 MARKED ON PAGE 197
(Pucel catalog 1954)

Exhibit Number 17 MARKED ON PAGE 36
(Pucel 1954 Sticker)

Exhibit Number 18 MARKED ON PAGE 198
(Pucel label)

Exhibit Number 19 MARKED ON PAGE 198
(Pucel catalog 1961)

Exhibit Number 20 MARKED ON PAGE 201
(Pucel catalog 1961)

Exhibit Number 21 MARKED ON PAGE 202
(Pucel catalog 1964)

Exhibit Number 22 MARKED ON PAGE 207
(Pucel catalog 1967)

EXHIBIT INDEX (CONTINUED)

Exhibit Number 23 (Pucel catalog 1970)	MARKED ON PAGE 215
Exhibit Number 24 (Pucel catalog 1976)	MARKED ON PAGE 220
Exhibit Number 25 (Pucel catalog 1978)	MARKED ON PAGE 222
Exhibit Number 26 (Pucel catalog 1979)	MARKED ON PAGE 224
Exhibit Number 27 (Pucel catalog 1982)	MARKED ON PAGE 225
Exhibit Number 28 (Pucel catalog 1981)	MARKED ON PAGE 227
Exhibit Number 29 (Pucel catalog 1990)	MARKED ON PAGE 86
Exhibit Number 30 (Present Pucel catalog)	MARKED ON PAGE 80
Exhibit Number 31 (Pucel label)	MARKED ON PAGE 30
Exhibit Number 32 (Pucel label)	MARKED ON PAGE 32
Exhibit Number 33 (Pucel label)	MARKED ON PAGE 34
Exhibit Number 34 (Invoices and Bills of Lading)	MARKED ON PAGE 155
Exhibit Number 35 (Page from Grizzly Industrial's Catalog)	MARKED ON PAGE 153
Exhibit Number 36 (Grizzly Industrial customer list)	MARKED ON PAGE 153

EXHIBIT INDEX (CONTINUED)

Exhibit Number 37 (Invoices-Pucel)	MARKED ON PAGE 151
Exhibit Number 38 (Pucel web site)	MARKED ON PAGE 129
Exhibit Number 38-A (Home page for web site)	MARKED ON PAGE 130
Exhibit Number 38-B (Home page for web site)	MARKED ON PAGE 132
Exhibit Number 39 (Sales advertising costs)	MARKED ON PAGE 133
Exhibit Number 54 (SMO catalog)	MARKED ON PAGE 163
Exhibit Number 55 (SMO catalog)	MARKED ON PAGE 163
Exhibit Number 56 (C & H catalog)	MARKED ON PAGE 163
Exhibit Number 57 (C & H catalog)	MARKED ON PAGE 163
Exhibit Number 58 (SMO catalog)	MARKED ON PAGE 163
Exhibit Number 59 (Global Equipment web site)	MARKED ON PAGE 135
Exhibit Number 60 (Indoff web site)	MARKED ON PAGE 138
Exhibit Number 61 (Home page for Pucel web site)	MARKED ON PAGE 140
Exhibit Number 62 (Google web search)	MARKED ON PAGE 165
Exhibit Number 63 (Grizzly Industrial web site)	MARKED ON PAGE 170
Exhibit Number 64 (Product selection and Online ordering)	MARKED ON PAGE 177

EXHIBIT INDEX (CONTINUED)

Exhibit Number 65 MARKED ON PAGE 177
(Grizzly Industrial web site)

Exhibit Number 66 MARKED ON PAGE 180
(Pucel carts)

Exhibit Number 67 MARKED ON PAGE 181
(Grizzly Industrial carts
And platforms)

Exhibit Number 68 MARKED ON PAGE 149
(Grizzly Industrial 2005 catalog)

Exhibit Number 69 MARKED ON PAGE 149
(Grizzly Industrial 2001 catalog)

- - - - -

1 MR. SCHMIDT: Before we get
2 started, I don't think we ever put our
3 stipulation on the record. I think we
4 had agreed in writing that during your
5 testimony period you can rely on the
6 deposition of Mr. Balolia and all the
7 exhibits to it.
8 MR. MITCHELL: As far as filing
9 and notice of reliance?
10 MR. SCHMIDT: Yes.
11 MR. MITCHELL: I intended to do
12 that.
13 MR. SCHMIDT: Okay.
14 MR. MITCHELL: And similarly,
15 we agreed that I could rely on the
16 exhibits of both Robert and Anthony
17 Mlakar and the exhibits that were used
18 during that.
19 MR. SCHMIDT: Those were the
20 discovery depositions, so when we file
21 it, I think you should mark it as it's
22 stipulated that the parties relied on
23 it.
24 MR. MITCHELL: And it's all
25 confidential right now?

1 MR. SCHMIDT: Right now, yes.
2 MR. MITCHELL: Right now,
3 okay.
4 MR. SCHMIDT: If there is
5 something we need when we get to
6 briefing, just ask.
7 MR. MITCHELL: I am not sure
8 what portions of it we're going to use
9 for our brief. Thanks.
10 - - - - -
11 ROBERT MLAKAR
12 Called for examination under the Federal Rules of Civil
13 Procedure, after having been first duly sworn, as
14 hereinafter certified, was examined and testified as
15 follows:
16 DIRECT EXAMINATION
17 BY MR. MITCHELL:
18 Q Would you please state your name for the record.
19 A Robert Anthony Mlakar.
20 Q And how old are you?
21 A 44.
22 Q Okay. And are you currently employed?
23 A Yes.
24 Q Okay. And by whom are you employed?
25 A Pucel Enterprises, Incorporated.

1 Q And is Pucel Enterprises the opposer in the action
2 that we're here for today?
3 A Yes.
4 Q And is Pucel Enterprises the petitioner to cancel
5 in the action that we're here for today?
6 A Yes.
7 Q And what is your position?
8 A Vice president.
9 Q And how long have you held that position?
10 A 17 years.
11 Q And when did you first start working for Pucel?
12 A It was the late '70s. I was 15.
13 Q So you were 15 in which year?
14 A Probably '78.
15 Q And you were in high school at the time?
16 A Yes.
17 Q And what job functions did you perform at the time
18 you were 15 years old?
19 A I did the maintenance when I started, and then I
20 started working in the manufacturing end. I started
21 from the ground up until I was in production.
22 Q So when you were working in actually producing the
23 equipment, what types of machines did you work on?
24 A I first started running the punch presses that
25 were available, and then the notchers that we had, and

1 then started fabricating the pieces that are put into
2 the goods.
3 Q And what pieces were those?
4 A Sheet metal.
5 Q Sheet metal pieces?
6 A Uh-huh.
7 Q And what goods do those sheet metal pieces go
8 into?
9 A Some of them went into cabinets, carts, work
10 benches.
11 Q And at what point in time was it that you were
12 running these machines? Was this when you were 15
13 years old?
14 A Between 15 and 16. I worked a few months in the
15 summer just doing cleanup, and then I started moving
16 into production when they needed help.
17 Q Okay. And by, "cleanup," what were your duties?
18 A Cleaning out vaults, I was cleaning the yard,
19 cutting the grass.
20 Q Where was the business located?
21 A It was located on Kelley Avenue in Cleveland.
22 Q And where is the business located now?
23 A 1440 East 36th in Cleveland.
24 Q And are those two locations, Kelley Avenue and
25 East 36th street, in proximity to each other?

1 A Yes.
2 Q Tell us what other duties did you have as a
3 teenager working for Pucel?
4 A I continued in maintenance and production when
5 they needed me. I would do some mailings when they
6 needed it in the office. Then as time went on, I
7 started more -- doing more and more in production.
8 Q What types of mailings did you do in the office?
9 A We would do catalogs, mail catalogs with labels,
10 and we would have to sort them at that time by zip
11 code, ship them out.
12 Q When you're referencing labels, you're referring
13 to the addressee of the catalog?
14 A That's correct.
15 Q Did you ever participate in the assembly of the
16 products when you were a teenager?
17 A Yes. That would be in the shipping room.
18 Q And in 1978, you said you were 15?
19 A Yes.
20 Q What types of products were shipped in 1978?
21 A I shipped the cabinets. We had to put shelves in
22 and put handles on. There was a certain procedure that
23 we had when packaging equipment.
24 Q What are those cabinets used for?
25 A Storing material, handling. We would store

1 anything that we could.
2 Q Can those cabinets be used in any industry?
3 A Yes.
4 Q Now, did you affix labels to the products?
5 A Yes.
6 Q And this was in what year?
7 A 1978.
8 Q And did you personally affix labels?
9 A That's the first thing we did when I came over to
10 the shipping room. We had to put a label on. Then we
11 began assembling items with handles, shelves, and the
12 packaging began after that.
13 Q Now, what did the label say?
14 A "Grizzly Equipment Manufactured by Pucel
15 Enterprises, Incorporated."
16 Q And this was in 1978?
17 A '78.
18 Q And to your knowledge, has Pucel always used such
19 a label on its products?
20 A Yes, on everything, yes.
21 Q Is that a company policy, to use the label on all
22 of its products?
23 A Yes.
24 Q And tell us what that label indicates.
25 A On the label, it has the registered mark of a

1 bear, and it also has our -- the Grizzly on it as well
2 both showing that they're registered.
3 Q Okay. And how long did you work in shipping?
4 A I worked almost every year in the summer in the
5 beginning. I would be moved into shipping when they
6 needed it, and I would float around. It was from '78
7 on.
8 Q In 1978, you worked just in the summer?
9 A Yes.
10 Q Okay. And you were still in high school at that
11 time?
12 A That's correct.
13 Q And then did you go to college?
14 A Yes.
15 Q And where did you go to college?
16 A St. Charles Borromeo Seminary College.
17 Q What years were you in college?
18 A From '79 through '83.
19 Q And did you go to graduate school?
20 A Yes.
21 Q And where did you go to graduate school?
22 A St. Mary's Seminary for three years.
23 Q So what years did you attend St. Mary's Seminary?
24 A '83, '84 and '85.
25 Q Go ahead.

1 A That's not right. Yes, that's correct. Through
2 '85.
3 Q So you were a student at St. Mary's Seminary from
4 '83 to '85?
5 A Yes.
6 Q So you were in college for seven years?
7 A Four years of college and three years of graduate
8 school.
9 Q Okay. And did you work at Pucel Enterprises
10 during your four years of college and three years of
11 graduate school?
12 A Yes.
13 Q And were you employed during the summertime while
14 attending college?
15 A Yes.
16 Q Were you employed in the summertime while
17 attending graduate school?
18 A Yes.
19 Q And what were your duties at Pucel during your
20 summertime employment during college?
21 A It was two-fold. I worked in the factory as well
22 as on the road. Part of the company was a striping
23 company, so I did that as well. I was mixed.
24 In the factory, I worked -- primarily carried on what I
25 was doing previously. I worked where they needed me.

1 I worked on the machines and I also worked in the
2 shipping room as well.
3 Q And this would have been from '79 to '83?
4 A About '78 to '83.
5 Q Those are your college years, as you have
6 described them?
7 A Yes.
8 Q Okay. Now, when you worked in the shipping
9 department in the years '78 to '83, did you affix any
10 labels to the products?
11 A Yes. We put them on everything that we shipped
12 out. That was company policy.
13 Q Okay. Did you actually affix the labels -- and
14 the labels we're referring to are the Grizzly labels?
15 A Grizzly Equipment Manufactured By Pucel. That's
16 the label that we put on.
17 Q That label is affixed to the actual products?
18 A Every product.
19 Q Every product?
20 A Yes.
21 Q And during graduate school, you also worked in the
22 summertime only?
23 A As I got older, I started working sometimes on
24 Saturdays during school, because the company would be
25 open until usually 10:00, and I would go in when they

1 needed me.
2 Q When you say the company was open until 10:00,
3 you're talking about on Saturday?
4 A Yes.
5 Q Saturday morning?
6 A Yes.
7 Q So what did you do during your graduate school
8 employment at Pucel?
9 A I did the same thing I did in college.
10 Q Okay. And that included the affixation of labels?
11 A Yes.
12 Q To all of the products?
13 A All of the products.
14 Q Now, were any of the products packaged?
15 A Yes, we packaged all of our items before they were
16 shipped out by truck.
17 Q Okay. And what was indicated on the packaging?
18 A We always had our registered mark of the Grizzly
19 Bear, and then we had the words "Grizzly Manufactured
20 By" -- it was "Grizzly Equipment Manufactured By Pucel
21 Enterprises, Incorporated."
22 Q And that was on the packaging?
23 A Yes. It was printed on the outside of the
24 cartons.
25 Q Okay. Was that on every carton?

1 A Yes.
2 Q So when you finished graduate school, did you
3 continue working for Pucel?
4 A Yes, I did.
5 Q And that would have been what year?
6 A Probably around '85.
7 Q And did you work full-time?
8 A Yes.
9 Q In 1985?
10 A Yes.
11 Q And when were your duties in 1985?
12 A I worked on the road for a short -- for a couple
13 of months. Then I was brought into the office.
14 Q Okay. When you say, "on the road," what did you
15 do?
16 A We painted the lines on the highways.
17 Q And then when you went to work in the office, this
18 was your -- the time I am referring to is 1985 now?
19 A Yes.
20 Q What were your duties in the office?
21 A I began learning what took place in running the
22 business. I began understanding the principles of
23 payroll and how to do that, receivables, the payables.
24 Q And backing up to your high school employment at
25 Pucel, under whose supervision did you work?

1 A When I was in high school, it was Ed Pucel.
2 Q And when you were in college, under whose
3 supervision did you work?
4 A For the first year, it was under Ed Pucel. After
5 that, it was Tony Mlakar.
6 Q And who was Ed Pucel?
7 A Mr. Pucel was my grandfather.
8 Q Was he the founder of Pucel Enterprises?
9 A Yes, he was.
10 Q And do you know when the business was founded?
11 A 1949.
12 Q Did Mr. Pucel run the business in 1978 when you
13 began there as a 15-year-old high school student?
14 A Yes.
15 Q And was he the president of the company at the
16 time?
17 A Yes.
18 Q And what was Mr. Pucel's position with the company
19 during the time that you were employed by the company?
20 A What was his position?
21 Q Yes.
22 A He was the president.
23 Q At all times he was the president?
24 A Yes.
25 Q Okay. And is Mr. Pucel still alive?

1 A No.
2 Q And do you know when he died?
3 A I believe it was 1980.
4 Q He died in 1980?
5 A Yes.
6 Q Okay. And during your college years, you were
7 working under the supervision of Tony Mlakar?
8 A Yes.
9 Q What was Mr. Mlakar's position at the time?
10 A He was made president.
11 Q And what was your title when you began working at
12 Pucel after your college and graduate school ended?
13 A I became the vice president.
14 Q That was in 1983?
15 A 16 years ago from now. That would be --
16 Q That would have been the 1989-1990 time frame?
17 A That's when I became vice president.
18 Q What was your title in '85 when you finished
19 graduate school?
20 A I didn't have a title at that time.
21 Q Okay. And could you take me through your job
22 responsibilities through the years 1985 to 1989?
23 A I was learning the responsibilities of running of
24 the business. Then I became more active in the
25 production end of it. I started -- because of my

1 knowledge of the machines, I started getting pulled
2 down for more as the person between the office and the
3 plant itself, the manufacturing.
4 Q The liaison between the office business, so to
5 speak, and the actual manufacturing of the products?
6 A That's correct.
7 Q And that was for the years 1985 through 1989? Is
8 that correct?
9 A Yes.
10 Q And then in 1989 or 1990, is that the time when
11 you became vice president?
12 A Yes.
13 Q And what were your duties when you first became
14 vice president?
15 A I began handling some of the purchase parts that
16 we have in purchasing. I began doing a little bit --
17 getting more involved in the payroll. I started having
18 a more active role in what they do in production and
19 how they perform the production, some of the methods.
20 I worked on the equipment, upgrading equipment,
21 researching that. I helped with the production
22 schedules.
23 Q Were you in charge of the production workers?
24 A I worked -- I wasn't directly in a vertical line.
25 I was more horizontal. We worked between myself, the

1 plant manager and the foreman. We worked more on a
2 horizontal line.
3 Q And that was true when you became vice president.
4 And how have your job functions changed or how have
5 they been modified since the time you became vice
6 president?
7 A It seems like there is more and more
8 responsibility as I learned more and more of the
9 business.
10 Q And can you explain that?
11 A Well, Tony Mlakar is starting to work two days a
12 week, so presently I am taking on more of the
13 responsibilities that he had. He is semi-retired.
14 Q Now, Mr. Pucel, was he a relative of yours?
15 A Yes, he was my grandfather.
16 Q So he is your mother's father?
17 A Yes.
18 Q And Tony Mlakar, he is your father?
19 A My father, yes.
20 Q Now, how many people does Pucel employ now?
21 A Over 50.
22 Q Okay. And how has your employment been
23 historically? How many people, for instance, did you
24 have working at Pucel at the time you began as vice
25 president in that position in 1989 or 1990?

1 A It's about the same.
2 Q And what was the employment when you began in
3 1978, if you know?
4 A I don't know.
5 Q You have personal knowledge of everything you have
6 testified to up to this point, correct?
7 A Yes, that's correct.
8 Q What was the number of employees at the time you
9 started full-time in 1985?
10 A Probably 47, 48. I don't know the exact number.
11 Q Okay. So is it fair to say that you have been
12 employed full-time from 1985 until the present date by
13 Pucel Enterprises?
14 A Yes.
15 Q And returning to the subject of the Grizzly label,
16 has Pucel used the Grizzly label on all of its products
17 during your full-time employment --
18 A Yes.
19 Q -- with Pucel?
20 A Yes, on all of the products.
21 Q One thing. Let me try to finish my question
22 before you answer the question. It will read a little
23 bit more clearer.
24 Has Pucel used the Grizzly Bear symbol
25 continuously on all of its products during your full-

1 time tenure at Pucel Enterprises?
2 A Yes.
3 Q Now, your capacity as vice president, you're
4 appointed to that position, I take it?
5 A Yes.
6 Q And by what authority, the corporate authority?
7 A Yes.
8 Q And that's the board of directors?
9 A Right, primarily those in the office and Tony
10 Mlakar.
11 Q Now, the ownership of the company, the company is
12 a corporation, correct?
13 A Yes.
14 Q And is it a corporation in the State of Ohio?
15 A Yes.
16 Q Is all of the stock owned by the Mlakar family?
17 A No.
18 Q Okay. Does the Mlakar family own the controlling
19 portion of the stock?
20 A Yes.
21 Q Tell me about the business of Pucel Enterprises.
22 What products has Pucel sold during the tenure of your
23 employment? I want to go all the way back to 1978 to
24 this date. If you can describe generically the variety
25 of the products.

1 MR. SCHMIDT: I am going to
2 object as multiple questions there.
3 I think you're also calling for a
4 narrative. I didn't mind in the
5 beginning with the background, but as
6 we get more into this, you have to ask
7 him a question and let him answer --
8 MR. MITCHELL: Okay.
9 MR. SCHMIDT: -- not put the
10 answer in the question.
11 Q What products were you generically selling, to the
12 best of your knowledge, in 1978? When I say, "you," I
13 am referring to Pucel.
14 A Pucel Enterprises has sold a variety of what we
15 would consider Grizzly Equipment. It ranged from
16 cabinets -- there were all sorts of cabinets that we
17 manufactured. We manufactured storage cabinets, bifold
18 cabinets, gas cylinder cabinets. There was a variety
19 of cabinets within each of the categories. We sell
20 portable cabinet work benches, a variety of them.
21 There are cabinet work benches with drawers. There are
22 cabinet benches with tool boxes. There are portable
23 work benches that just have doors. Some don't have
24 doors, but they're portable. We sell a variety of work
25 benches, standard work benches with legs and stringers,

1 with hardwood tops, steel tops, laminate tops. We have
2 a variety of benches that are ergonomic. There are
3 hydraulic work benches. Some are hand crank,
4 motorized. We have hydraulic lift work benches with a
5 foot pedal. We have a variety of carts, platform
6 trucks, two-shelf carts, shelf carts, three-sided
7 carts, hand trucks, which would be considered a part of
8 carts and trucks. We have tool stands, machine cabinet
9 stands. We have drum handling equipment. We have
10 lifters for drum handling, drum equipment for 55-gallon
11 drums. We sell a variety of accessories with our
12 benches. We have risers and drawers, vises. We sold a
13 number of bags that are in conjunction with work
14 benches.
15 Q And this is all in 1978?
16 A Yes --
17 Q You mentioned --
18 A -- with the exception of the hydraulic. That came
19 later on in product development.
20 Q What are your hydraulics used on?
21 A They're used on our work benches.
22 Q And what function do they perform on your work
23 benches?
24 A It raises and lowers the surface of the work
25 bench.

1 Q And these products that you just listed and
2 identified, they were all sold in 1978?
3 A Yes.
4 Q And have these products been sold in the years
5 since 1978?
6 A Yes.
7 Q Each of the products has been sold?
8 A Yes.
9 Q In every year?
10 A In every year, yes.
11 Q Now, you mentioned a hydraulic bench, correct?
12 A Uh-huh.
13 Q This hydraulic bench is assembled by Pucel?
14 A Yes.
15 Q And then when it's shipped, the Grizzly label is
16 affixed to it?
17 A Yes.
18 Q And this is the label that has the word Grizzly,
19 G-r-i --
20 MR. SCHMIDT: I am going to
21 object as leading. I think you have
22 to ask him what is on the label rather
23 than telling him what is on the label
24 and asking him to confirm it.
25 MR. MITCHELL: Fair enough.

1 We can go to Exhibit 31.

2 - - - - -

3 (Opposer/Petitioner's Exhibit Number 31 was

4 marked for identification.)

5 - - - - -

6 Q Mr. Mlakar, I have handed you what has been marked

7 for identification as Exhibit Number 31. Can you

8 identify that for us.

9 A It has the word, "Grizzly." It has the Grizzly

10 Bear on it, and it says, "Grizzly Equipment

11 Manufactured By Pucel Enterprises, Incorporated,

12 Cleveland, Ohio, 44114" with our telephone number.

13 Q That label has a color?

14 A It has a silver background with blue printing on

15 it.

16 Q And when was that label used by Pucel?

17 A This specific one or a label?

18 Q A label like it with that --

19 A This my grandfather started back right from the

20 beginning.

21 Q Now, at some time in the past, the Grizzly labels

22 were yellow with black printing?

23 MR. SCHMIDT: Objection.

24 Leading.

25 You're supplying the answer,

1 Ken.
2 Q Were other labels used with different color
3 schemes?
4 A When I first started working, the labels were
5 yellow with a black lettering. They were a little bit
6 larger than this. The history of why we changed is
7 because we typically put them on a storage cabinet
8 right in the front on the top lip there, and the lip
9 was wider -- was narrower than the label was wider. It
10 sort of was hanging off by an eighth of an inch. We
11 shrunk it down to fit perfectly. That's when we made
12 the change from the yellow and black to the silver and
13 blue.
14 Q Okay. And you're referring to Exhibit Number 31
15 when you say the silver and blue, correct?
16 A Yes.
17 Q Now, when was the silver and blue label first
18 used? If you don't understand the question, what I am
19 seeking --
20 MR. SCHMIDT: What you're seeking
21 is leading. You can't tell him what
22 you're seeking.
23 Q When was that label first used?
24 A I am trying to think of the year of when it was
25 used. I don't know the year. I just know that we

1 created and changed it to fit better.
2 Q And do you know approximately when that was?
3 A It was in the '80s.
4 Q Okay. And before that, another color scheme was
5 used?
6 A Yes. We had yellow and black.
7 - - - - -
8 (Opposer/Petitioner's Exhibit Number 32 was
9 marked for identification.)
10 - - - - -
11 Q I direct your attention, Mr. Mlakar, to what has
12 been marked for identification as Opposer/Petitioner's
13 Exhibit Number 32. If you could, let the court
14 reporter initial and date it.
15 MR. SCHMIDT: Ken, if I might
16 suggest, as far as the exhibits, if
17 you're finished with one, if you want
18 to move to admit it, then I can deal
19 with it and go on to the next one.
20 It's up to you.
21 MR. MITCHELL: Well, I don't
22 think the TTAB requires us to move to
23 admit each individual exhibit. I was
24 going to do that at the end rather
25 than do each one separately. If you

1 feel the need to make some sort of
2 objection as we go along, go ahead.
3 Q In regard to what has been marked for
4 identification as Opposer/Petitioner's Exhibit Number
5 32, could you please identify what that is.
6 A It has the sticker that is silver and blue. It
7 has the word, "Grizzly," the registered trademark, and
8 also the Grizzly Bear and it has our company name and
9 address and telephone number.
10 Q And is there another label on Exhibit 32?
11 A There is one more label that was created. It has
12 Grizzly Equipment and the Grizzly Bear, the word
13 Grizzly and then Pucel Enterprises with the address and
14 phone number.
15 Q Okay. Now, could you describe the color scheme of
16 the larger label, which is part of Opposer/Petitioner's
17 Exhibit Number 32?
18 A It has a white background with dark blue
19 lettering.
20 Q And when was that label first used?
21 A That was used about two years ago.
22 Q And how was that label created, and I am referring
23 to the larger of the two there?
24 A This label was created when the packaging started
25 shifting from the corrugated to a stretch wrap machine

1 that we purchased. We use corrugated corners, and we
2 put it on a machine and it stretch wraps with a clear
3 film so to identify our company. We purchased this
4 label to affix on every product that goes out.
5 So the larger of the two is used on shrink wrap. It's
6 on the outside of the carton. The smaller label that's
7 silver and dark blue goes on each of the products as
8 they go out. The larger one goes on the outside of
9 every package.
10 Q And the smaller one goes on each individual
11 product?
12 A That's correct.
13 Q Are any products shipped without these Grizzly
14 labels?
15 A No product is shipped without any of these labels.
16 Q That's true for Exhibit 31 as well?
17 A That's correct.
18 Q The previous exhibit?
19 A Yes.
20 - - - - -
21 (Opposer/Petitioner's Exhibit Number 33 was
22 marked for identification.)
23 - - - - -
24 Q I direct your attention to what has been marked
25 for identification as Opposer/Petitioner's Exhibit

1 Number 33. Do you personally oversee the assurance
2 that every product is marked with your Grizzly
3 trademarks?
4 A Yes.
5 Q You have personal knowledge of the use of these
6 trademarks on the goods since you began with Pucel in
7 1978?
8 A Yes.
9 Q What is Opposer/Petitioner's Exhibit Number 33?
10 A It's a reduced version of what is printed on our
11 corrugated cartons. It has the registered bear and
12 also the Grizzly registered mark Grizzly,
13 G-r-i-z-z-l-y, Equipment. This is the actual exhibit
14 that has been reduced.
15 Q When you say it's a reduced exhibit, is it on
16 certain types of packaging?
17 A I was referring to the copy, because I didn't see
18 this one over there. This is the full version. This
19 one is smaller, reduced down from the original.
20 Q Right. And could you describe what that is
21 mounted on?
22 A This is mounted on the packaging of our
23 equipment. It's printed on each of the cartons that we
24 get in.
25 Q How long has that been used?

1 A Since the time that I began I am aware of it.
2 Q Is it still being used?
3 A Yes.
4 Q And when I say that, has the packaging been
5 continuously used since you began with Pucel?
6 A Yes.
7 Q Is that also a true statement with respect to
8 Exhibits 31 and 32?
9 A Yes.
10 - - - - -
11 (Opposer/Petitioner's Exhibit Number 17 was
12 marked for identification.)
13 - - - - -
14 Q I have handed to you, and the court reporter has
15 marked for identification, Opposer/Petitioner's Exhibit
16 Number 17. Can you identify what that is?
17 A This is a sticker that was put on all of our
18 products of Grizzly Equipment. It has the word
19 Grizzly, Registered Trademark Grizzly, G-r-i-z-z-l-y,
20 our bear symbol, and it has the company name and the
21 address of the company with the yellow and black
22 lettering.
23 Q And was that the sticker that was used before the
24 sticker --
25 MR. SCHMIDT: Objection.

1 You're leading him again.
2 Q When was that sticker used?
3 A This sticker was used in the earlier days in the
4 time when I first started. This sticker was used on
5 all of our products that went out the door, all of the
6 Grizzly Equipment.
7 Q Now, is your company known as Grizzly Equipment to
8 its customers?
9 A Yes.
10 Q Was the sticker shown in Exhibit 17 used up until
11 the time that the sticker shown in Exhibit 31 took its
12 place?
13 A Yes.
14 Q Did the sticker shown in Exhibit 31 take the place
15 of the sticker shown in Exhibit Number 17?
16 A Yes.
17 Q I would like to mark another exhibit.
18 - - - - -
19 (Opposer/Petitioner's Exhibit Number 7 was
20 marked for identification.)
21 - - - - -
22 Q Mr. Mlakar, I have marked for identification
23 Pucel's Exhibit Number 7. I would like to direct your
24 attention to that document, and in particular, I would
25 like to ask you what is that document?

1 A Grizzly Industrial is applying for the mark
2 Grizzly.com.
3 Q I would like to direct your attention to the page
4 marked number 1 of Pucel's Exhibit Number 7. Now, does
5 Pucel Enterprises sell anti-vibration mounts?
6 A Yes. We have put those on our product.
7 Q And is that listed on page 1 of the application to
8 register Grizzly.com, which is part of Exhibit Number
9 7?
10 A Yes. It's on the second line.
11 Q What is an anti-vibration mount?
12 A Actually, what it does is prevents any object from
13 moving when work is being done on a surface. We have
14 put them particularly on our work benches, because as
15 people mount different things on the work bench, they
16 require anti-vibration mounts so the item doesn't move
17 while the item is operating.
18 Q Do you put anti-vibration mounts on any other
19 equipment?
20 A We have put it on some of our tool stands and work
21 benches.
22 Q Those anti-vibration mounts, along with a bench,
23 are sold under the Grizzly mark?
24 MR. SCHMIDT: Objection.
25 Leading.

1 Q Let me ask it to you this way: Are the anti-
2 vibration mounts sold under the Grizzly mark?
3 A Yes, they are.
4 Q Are they sold as part of a work bench under the
5 Grizzly mark?
6 A Yes.
7 Q Do you see cable ties --
8 A Yes.
9 Q -- listed on page 1 of the application to register
10 Grizzly.com? What is a cable tie?
11 A A cable tie is used to gather wires, hydraulic
12 hoses or any other objects together in order to
13 consolidate the wires from falling all over. We use
14 them in our product.
15 Q And, for example, what products would you use
16 those on?
17 A We use them on mainly our hydraulic work benches,
18 because we have electrical wires. We have hydraulic
19 lines that move from each of the legs in order for the
20 hydraulics to operate. We use wire ties within our
21 product in order to ship and consolidate items so that
22 they're not flopping all over.
23 Q And are cable ties sold by Pucel under the Grizzly
24 mark?
25 A Yes.

1 Q Do you see clamps and vises identified in the
2 Grizzly.com application to register in Exhibit Number
3 7?
4 A Yes, I do.
5 Q What is a vise?
6 A A vise is an item that's mounted on anything to
7 hold items, to grab items, so you can work on them.
8 Q And do you sell vises under the mark Grizzly?
9 A Yes, we do.
10 Q Are they sold as part of a bench?
11 A Not limited to a bench.
12 Q Now, how long have you sold vises under the
13 Grizzly mark?
14 A As long as I can remember.
15 Q Can you give us a specific date?
16 A 1978.
17 Q Okay. How long has Pucel sold cable ties under
18 the Grizzly mark?
19 A Since the '80s.
20 Q Do you know when in the '80s?
21 A Probably the latter part of the '80s.
22 Q How long has Pucel sold anti-vibration mounts
23 under the Grizzly mark?
24 A As far as I can remember, since '78.
25 Q Now, how long has Pucel sold anti-vibration mounts

1 under the Grizzly word mark?
2 A Since '78.
3 Q How long has Pucel sold anti-vibration mounts
4 under the Grizzly Bear symbol?
5 A Since '78.
6 Q How long has Pucel sold cable ties under the
7 Grizzly word mark?
8 A My recollection is in the '80s.
9 Q How long has Pucel sold cable ties under the
10 Grizzly bear symbol?
11 A My knowledge is the '80s.
12 Q How long has Pucel sold vises under the Grizzly
13 word mark?
14 A 1978.
15 Q And how long has Pucel sold vises under the
16 Grizzly Bear symbol?
17 A 1978.
18 Q I direct your attention further to Exhibit Number
19 7. I believe it's on page 1 of that exhibit. Do you
20 see dollies identified in that application to register?
21 A Yes, I see it on line 6.
22 Q Does Pucel sell dollies under the Grizzly word
23 mark?
24 A Yes.
25 Q How long has Pucel sold dollies under the Grizzly

1 word mark?
2 A Since 1949.
3 Q Did Pucel sell dollies under the Grizzly word mark
4 in 1978 when you began?
5 A Yes.
6 Q I direct your attention to Opposer/Petitioner's
7 Exhibit Number 7, and I would ask you do you see
8 electric motors identified?
9 A Yes.
10 Q Does Pucel sell electric motors?
11 A Yes.
12 Q How are they sold?
13 A We incorporate electric motors within our Grizzly
14 Equipment.
15 Q And can you describe the incorporation of the
16 electric motors in the Grizzly Equipment?
17 A In our ergonomic benches specifically, we mount a
18 motor with a switch, and that switch is what operates
19 the hydraulics within each of the legs. When the
20 switch is turned up, it raises the bench up. Switch
21 down, it lowers the bench.
22 Q Does Pucel sell electric motors under the Grizzly
23 word mark?
24 A Yes.
25 Q How long has Pucel sold electric motors under the

1 Grizzly word mark?
2 A My recollection is the '80s.
3 Q Do you know when in the '80s?
4 A Not specifically.
5 Q Does Pucel sell electric motors under the Grizzly
6 Bear symbol?
7 A Yes.
8 Q And how long has Pucel sold electric motors under
9 the Grizzly Bear symbol?
10 A My recollection is the '80s.
11 Q Okay. I direct your attention to Pucel's Exhibit
12 Number 7 again. Do you see engine stands listed in the
13 application to register?
14 A Yes, I do.
15 Q Now, does Pucel sell stands?
16 A Yes.
17 Q And what are those stands used for?
18 A The stands are used for a variety of items.
19 They're used in many different applications. They're
20 used for holding materials. They're used for holding
21 engines, working on engines. They're used for anything
22 that you need to hold any material on.
23 Q Are they used to hold lathes?
24 A Yes.
25 Q Are they used to hold grill presses?

1 A Yes.
2 Q How long has Pucel sold stands under the Grizzly
3 word mark?
4 A Since the beginning of the company.
5 Q I'm sorry?
6 A Since the beginning of the company.
7 Q As far as your personal experience and employment
8 while at Pucel --
9 A 1978.
10 Q -- how long has Pucel used the Grizzly word mark
11 on stands?
12 A I am familiar since 1978.
13 Q Has Pucel used the Grizzly Bear symbol in
14 connection with the sale of stands?
15 A Yes.
16 Q And when did Pucel first use the Grizzly Bear
17 symbol in connection with the sale of stands?
18 A My knowledge or when the company did?
19 Q Your knowledge first.
20 A 1978.
21 Q Okay. What about the company?
22 A The company has had those as a part of our mark
23 from the beginning.
24 Q And when you say, "the beginning," what year?
25 A 1949.

1 Q And your source of knowledge on that answer?
2 A Is based on the catalogs that I have seen in the
3 previous years before my time.
4 Q Okay. Now, does Pucel produce a catalog every
5 year?
6 A No.
7 Q When are catalogs produced?
8 A Every few years.
9 Q With respect to the anti-vibration mounts, were
10 they sold under the labels as set forth in Exhibit 31
11 since 1978?
12 A Yes.
13 Q With respect to cable ties, were they sold under
14 the labels as set forth in Exhibit 31 since the 1980s?
15 A Yes.
16 Q With respect to the anti-vibration mounts, were
17 they sold under the labels as set forth in Pucel's
18 Exhibit 17 in 1978? Do you need to see 17 again?
19 A Could you repeat the question, please.
20 Q Was the label of Exhibit 17 used on anti-vibration
21 mounts since 1978?
22 A Yes.
23 Q Referring to the label of Exhibit 17 now, that
24 label was used up until the silver label of Exhibit 31?
25 A Yes.

1 Q And we're referring to the use on the anti-
2 vibration mounts, correct?
3 A Yes.
4 Q With regard to vises, was the label of Exhibit 17
5 used on vises in 1978?
6 A Yes.
7 Q Was that label used continuously up until the time
8 you switched to the silver label of Exhibit 31?
9 A Yes.
10 Q And was the label of Exhibit 31 then used on
11 vises --
12 A Yes.
13 Q -- going forward?
14 Were those labels of Exhibit 17 and Exhibit 31
15 used continuously --
16 A Yes.
17 Q -- on every product that contained an anti-
18 vibration mount or a vise?
19 A It was our policy to put it on every product.
20 Q Was it company policy to put a label on every
21 product that was shipped?
22 A Yes.
23 MR. SCHMIDT: Objection. Asked
24 and answered.
25 Q With respect to dollies, did your company put the

1 label of Exhibit 17 on dollies?
2 A Yes.
3 Q And it was continuously used on all dollies sold?
4 A Yes, it was put on all the dollies before they
5 shipped.
6 Q And then was the label of Exhibit 31 used on all
7 the dollies since the discontinuation of the label of
8 Exhibit 17?
9 A Yes.
10 Q Now, in regard to electric motors, were the labels
11 of Exhibits 17 and 31 used on products shipped which
12 had the electric motors in them?
13 A Yes.
14 Q Now, did Pucel affix the labels directly to the
15 electric motors?
16 A They got affixed to the -- whatever item they were
17 attached to. Usually in the front of that item of any
18 Grizzly Equipment that went out.
19 Q What would they be attached to?
20 A It would be attached to -- usually in the front of
21 the hardwood top or the steel top or anything visible
22 within the front.
23 Q Now, on the dollies, were the labels of Exhibits
24 17 and 31 placed directly on the dollies?
25 A Yes, directly on the dollies.

1 Q Now, those labels of Exhibits 17 and 31 are
2 adhesive labels, right?
3 A Yes.
4 Q And are the dollies shipped in a box or some other
5 packaging?
6 MR. SCHMIDT: Objection.
7 Leading.
8 Q How are the dollies shipped?
9 A They're wrapped in white foam and then they're put
10 into a box.
11 Q Does the box then have the Grizzly word mark on
12 it?
13 A Yes.
14 Q And is that the Grizzly word mark that appears on
15 Opposer/Petitioner's Exhibit Number 33?
16 A Yes, that's it.
17 Q And were the boxes used in shipping all of the
18 dollies?
19 A Yes.
20 Q And the mark was stenciled on the box and on all
21 of the packages?
22 A Yes.
23 Q Now, in regard to engine stands --
24 MR. SCHMIDT: Is that a
25 question?

1 MR. MITCHELL: I am trying to
2 direct him to the subject of the
3 question.
4 MR. SCHMIDT: I don't think
5 that's proper. You're leading him
6 into the subject. Just ask him the
7 question.
8 Q Were the labels of Exhibits 17 and 31 used on
9 engine stands?
10 A Yes.
11 Q And were they used on the stand directly?
12 A Directly on the stand, yes.
13 Q And then how are your stands shipped?
14 A After they put the sticker on with the Grizzly
15 Equipment Manufactured By Pucel, then they wrap it in
16 foam and then they would put it into a carton,
17 corrugated carton, that had the Grizzly Bear on it as
18 well as the words "Grizzly Equipment." Then it had:
19 "Manufactured By Pucel Enterprises," and the address on
20 it as well.
21 Q And all boxes were shipped with that indicia?
22 A Yes.
23 Q Have all boxes been shipped with that indicia that
24 contain engine stands?
25 A Yes.

1 Q I direct your attention again to Exhibit Number 7
2 the Grizzly.com application to register. And do you
3 see the word gauges indicated?
4 A Yes, sir, I do.
5 Q Does Pucel sell gauges?
6 A Yes.
7 Q When did Pucel first sell gauges?
8 A To the best of my knowledge, since I started,
9 1978.
10 Q And what types of products do gauges go on?
11 A We put gauges on a number of our work stations.
12 With some of our work benches we have used gauges. We
13 had air lines which have gauges on them to regulate the
14 air flow within those work benches. We hard wire them
15 and we plump them for air. Along with that we put an
16 air filter attached to it which has gauges on it.
17 Q Do you affix your Pucel label set forth in Exhibit
18 31 directly to the gauge?
19 A It goes on our Grizzly Equipment. That's a part
20 of it.
21 Q So it would go on a bench?
22 MR. SCHMIDT: Objection.
23 Leading.
24 A Yes.
25 Q Would it go on a bench?

1 A It would go on a bench.
2 Q What else might it go on?
3 A That label goes on all of our products that go out
4 the door.
5 Q Now, have gauges been sold under the Grizzly word
6 mark?
7 A Yes.
8 Q Since when?
9 A My knowledge, it would be 1978.
10 Q Have gauges been sold under the Grizzly Bear
11 symbol?
12 A Yes.
13 Q Since when?
14 A My knowledge, 1978.
15 Q Again referring to Exhibit 7, do you see hand
16 screws identified?
17 A Yes, I do.
18 Q What is a hand screw?
19 A With our equipment, hand screws are knobs within
20 our fork lift attachments as a part of our Grizzly
21 Equipment.
22 Q Did you sell hand screws in 1978?
23 A Yes.
24 Q Did you sell hand screws under the Grizzly word
25 mark in 1978?

1 A Yes.
2 Q Have you continuously sold hand screws under the
3 Grizzly word mark since 1978?
4 A Yes.
5 Q And have you sold hand screws under the Grizzly
6 symbol mark since 1978?
7 A Yes.
8 Q And have you continuously sold hand screws under
9 had Grizzly symbol mark since 1978?
10 A Yes.
11 Q Still referring to Pucel Exhibit 7, do you see
12 hand trucks identified?
13 A Yes.
14 Q And do you sell hand trucks?
15 A Yes, we do.
16 Q And how long have you sold hand trucks?
17 A Since the beginning of the company.
18 Q And did you sell hand trucks in 1978?
19 A Yes.
20 Q And were they sold using the Grizzly word mark
21 since 1978?
22 A Yes.
23 Q And how is the Grizzly word mark affixed to the
24 hand trucks?
25 A It is affixed by the -- presently by the silver

1 and dark blue sticker label on the product.
2 Q In 1978, was the label of Exhibit 17 used in
3 connection with hand trucks?
4 A Yes. Exhibit 17, which was the yellow with the
5 black lettering, was affixed to each of the hand trucks
6 as it left the dock.
7 Q And have the hand trucks been sold continuously
8 with the Grizzly word mark label applied to the hand
9 truck since 1978?
10 A Yes.
11 Q And have the hand trucks been sold with the
12 Grizzly symbol mark attached thereto since 1978?
13 A Yes.
14 Q And have they been sold continuously with that
15 Grizzly symbol mark affixed to the goods since 1978?
16 A Yes.
17 Q Okay. Still referring to Exhibit 7, do you see
18 hose reels identified in the application to register
19 Grizzly.com?
20 A Yes, I do.
21 Q And do you sell hose reels?
22 A Yes.
23 Q What is a hose reel?
24 A Well, for us, it's a reel that is usually spring
25 loaded with a coil of hose on it for a specific

1 application for us that was mounted on our work bench.
2 They specifically had an air line hose affixed to it.
3 Q Okay. And how long have you sold hose reels?
4 A As far as my knowledge, my experience, which would
5 be in 1978.
6 Q Was the label shown in Exhibit 17 used on the hose
7 reels or on the product containing the hose reels in
8 1978?
9 A Yes.
10 Q And were either the labels of Exhibits 17 or 31
11 affixed to all the products containing hose reels since
12 1978?
13 A Yes, it was affixed to all the products.
14 Q Okay. Was the Grizzly symbol mark applied to all
15 hoses reels sold since 1978?
16 A Yes.
17 Q In regard to hoses, do you sell hoses?
18 A Yes.
19 Q Do you see hoses listed in the application to
20 register Grizzly.com?
21 A Yes.
22 Q What types of hoses do you sell?
23 A The hoses that we have always affixed were
24 basically attached to the reels that we attached to the
25 work stations.

1 Q Do they carry air?
2 A Yes.
3 Q Do they carry water?
4 A They can.
5 Q Okay. Have your hoses been sold under the Grizzly
6 word mark since 1978?
7 A Yes.
8 Q And have your hoses been sold under the Grizzly
9 symbol mark since 1978?
10 A Yes.
11 Q Do you see jacks in Pucel's Exhibit 7, the
12 application to register Grizzly.com?
13 A Yes, I do.
14 Q What is a jack?
15 A A jack is a device that is put under a product to
16 lift it from one level to another level.
17 Q Do you sell jacks?
18 A Yes.
19 Q How long have you sold jacks for?
20 A My experience with the company, since 1978.
21 Q And have jacks been sold under the Grizzly word
22 mark since 1978?
23 MR. SCHMIDT: Objection.
24 Leading.
25 Q You can answer.

1 A Yes.
2 Q Have you applied the Grizzly word mark to all
3 products containing jacks, all Pucel products
4 containing jacks since 1978?
5 MR. SCHMIDT: Objection.
6 Leading.
7 A Yes.
8 Q Could you describe the application of the Grizzly
9 word mark to products containing jacks?
10 A We have a specific product that it can be on,
11 casters or non-mobile, where a jack is mounted
12 underneath and a foot pedal raises the table height
13 from one level to the next level.
14 Q And where do you put your label on that product?
15 A It gets affixed on the Grizzly Equipment top on
16 the front edge.
17 Q Do you see knobs listed in Pucel Exhibit 7?
18 A Yes, I do.
19 Q Does Pucel sell knobs?
20 A Yes.
21 Q How long has Pucel sold knobs?
22 A To my knowledge, since 1978.
23 Q What is a knob?
24 A A knob is any device that is used for opening or
25 tightening an object.

1 Q And what Pucel products use knobs?
2 A They could be a door. Also, a fork lift
3 attachment has a knob as well.
4 Q And have you marked all your knobs with the
5 Grizzly word mark?
6 A Yes.
7 Q Have you marked all of the products containing
8 knobs with the Grizzly word mark?
9 A Yes.
10 Q Have you marked the products containing knobs with
11 the Grizzly word mark since 1978?
12 MR. SCHMIDT: Objection.
13 Leading.
14 A Yes.
15 Q Have you used the trademark Grizzly, the word mark
16 Grizzly, with hand trucks continuously since 1978?
17 MR. SCHMIDT: Objection.
18 Leading.
19 A Yes.
20 Q When did Pucel first use the Grizzly word mark in
21 connection with hand trucks?
22 A To my knowledge, it would be 1978.
23 Q That's your direct knowledge using your own two
24 eyes?
25 A Yes.

1 Q Do you have any other knowledge about prior use
2 prior to 1978?
3 A Yes.
4 Q What is that based on?
5 A It's based on my grandfather and what he
6 implemented and procedures within the shipping
7 department. I knew this when I first came in, because
8 that's the first thing that they trained any new
9 employee in the shipping room, that they have to be
10 sure they put that on.
11 Q When you say, "that," you're referring to the
12 Grizzly label?
13 A The Grizzly label.
14 Q That's the Grizzly word mark label?
15 A Yes.
16 Q Is that also the Grizzly symbol mark label?
17 A Yes.
18 Q Is your knowledge prior to 1978 based on catalogs?
19 A Yes.
20 Q Returning to Exhibit 7, please, do you see lathe
21 accessories identified therein?
22 A Yes.
23 Q And does Pucel sell lathe accessories?
24 A Yes.
25 Q What are those lathe accessories?

1 A Lathe accessories is typically a stand in which
2 the lathe rests on the top. Ours have a coolant top on
3 them so there's circulation of the coolant as the lathe
4 is being moved and also there is a motor mount
5 typically attached to them that holds the motor for the
6 lathe.
7 Q When did Pucel first sell these lathe accessories?
8 A Since the beginning of the company.
9 Q And your personal knowledge extends to 1978, does
10 it not?
11 A Yes.
12 Q And did you personally see the application of the
13 Grizzly word mark to lathe accessories in 1978?
14 A Yes.
15 Q And have you seen personally seen the application
16 of the Grizzly word mark to lathe accessories during
17 the time period from 1978 to May 23rd, 2006?
18 MR. SCHMIDT: Objection.
19 Leading.
20 A Yes.
21 Q Has the Grizzly word mark been continuously
22 applied to the lathe accessories in the time period
23 1978 to date?
24 MR. SCHMIDT: Objection.
25 Leading.

1 A Yes.
2 Q Have you seen the Grizzly word mark used in
3 connection with lathe accessories in each year from
4 1978 to 2006?
5 A Yes.
6 Q Have you seen the use of the Grizzly symbol mark
7 in connection with lathe accessories since 1978?
8 MR. SCHMIDT: Objection.
9 Leading.
10 A Yes.
11 Q When did you first see the Grizzly symbol mark
12 used in connection with lathe accessories?
13 A My personal experience physically seeing them
14 would be in 1978, but I have seen them before in
15 catalogs.
16 Q And did you see the Grizzly symbol mark used
17 continuously since 1978 on lathe accessories?
18 A Yes.
19 Q And in what form was it used?
20 A We used it, not only on the product, but we used
21 the silver and dark blue sticker, which was affixed to
22 each of the product. We also used it in the packaging
23 process, which had the Grizzly Bear on it. It had the
24 words "Grizzly Manufactured By Pucel Enterprises," the
25 address.

1 Q Was the label of Exhibit 17 used on lathe
2 accessories?
3 A Yes.
4 Q And in what years was that label used?
5 A That label was used prior to the '80s, early '80s.
6 Q And what label was used on lathe accessories since
7 that time?
8 A The silver and dark blue label.
9 Q And are you referring to the label that's shown in
10 Exhibits 31 and 32? Take your time and look.
11 A Yes.
12 Q Do you see in Pucel's Exhibit Number 7 machine
13 mounts listed in the application to register?
14 A Yes, I do.
15 Q And do you sell machine mounts?
16 A Yes.
17 Q Could you describe those mounts, please.
18 A Typically on some of our stands we have power
19 mounts, especially on our lathe accessories. We have
20 what we would call a mount for our vises in different
21 applications for -- where it's provided. We have a
22 shelf mount. We have a plate mount that would hold
23 those devices.
24 Q Has the Grizzly word mark been applied to all
25 products containing machine mounts?

1 A Yes.
2 Q When were machine mounts sold by Pucel?
3 A Since the beginning of the company.
4 Q Did you see machine mounts being sold in 1978?
5 A Yes.
6 Q Have machine mounts been continuously sold since
7 1978?
8 A Yes.
9 MR. SCHMIDT: Objection.
10 Leading.
11 Q Have you applied the Grizzly labels to products
12 containing machine mounts since 1978?
13 MR. SCHMIDT: Objection.
14 Leading.
15 A Yes.
16 Q When have you applied Grizzly labels to machine
17 mounts?
18 A We have always applied the labels to the Grizzly
19 Equipment.
20 Q And did those always contain the Grizzly word mark
21 and the Grizzly Bear symbol?
22 MR. SCHMIDT: Objection.
23 Leading.
24 A They always include the Grizzly Bear and they have
25 the word Grizzly with the company name as well, with

1 Pucel Enterprises.
2 Q Still referring to Exhibit 7, do you see magnetic
3 switches listed?
4 A Yes.
5 Q Does Pucel sell magnetic switches?
6 A Yes.
7 Q And did Pucel sell magnetic switches in 1978?
8 A I can remember in the '80s.
9 Q Do you know when in the '80s?
10 A No, I don't.
11 Q Okay.
12 A Starting in the '80s.
13 Q Now, do you see mats listed as part of Exhibit
14 Number 7?
15 A Yes.
16 Q Does Pucel sell mats?
17 A Yes.
18 Q When did Pucel sell mats first?
19 A My recollection is in '78.
20 Q And have you applied the Grizzly word mark to all
21 mats sold since 1978?
22 A Yes.
23 Q Have you applied the Grizzly word mark to all mats
24 sold as a part of another piece of equipment since
25 1978?

1 A Yes.
2 Q I direct your attention still to Exhibit 7. Do
3 you see pulleys identified?
4 A Yes.
5 Q Does Pucel sell pulleys?
6 A Yes.
7 Q Did Pucel sell pulleys in 1978?
8 A Yes.
9 MR. SCHMIDT: Objection.
10 Leading.
11 Q When did Pucel first sell pulleys?
12 A I have seen it first in the early catalogs.
13 Q And what catalogs are you referring to?
14 A The ones prior to the time that I worked there.
15 Q Catalogs prior to 1978? Is that what you're
16 trying to say?
17 A Yes, correct.
18 Q Now, how does Pucel use pulleys?
19 A They use pulleys in conjunction with our drum
20 handling equipment. We have specific items that use
21 them for lifting.
22 Q When did you first view the Grizzly word mark used
23 in conjunction with pulleys?
24 A 1978.
25 Q Has the Grizzly word mark been continuously used

1 in conjunction with pulleys since 1978?
2 MR. SCHMIDT: Objection.
3 Leading.
4 A Yes.
5 Q Has the Grizzly Bear symbol been used in
6 conjunction with pulleys?
7 A Yes, sir.
8 Q And over what time period has that been?
9 A Always.
10 Q And when you say always, can you give me some
11 years?
12 A Since the beginning of the company they always
13 used those marks, and to the present time we have
14 always used them on every product.
15 Q And how are the pulleys packaged?
16 A They're packaged -- once the sticker is put on
17 them, then they're put into a white -- white foam is
18 wrapped around them, and they are put into a carton.
19 Q Okay. And is the carton labeled?
20 A Yes.
21 Q And is the carton stenciled?
22 A Yes.
23 Q And is there indicia put on the carton?
24 A On the carton is a picture of a bear on it, it has
25 the word "Grizzly" on it, and it has "Pucel

1 Enterprises" and the address on it.
2 Q Drawing your attention to Exhibit 7, do you see
3 the words router table identified in the application to
4 register Grizzly.com?
5 A Yes.
6 Q Do you sell router tables?
7 A Yes.
8 Q And when did you first view the production of a
9 router table?
10 A 1978.
11 Q And was the Grizzly word mark applied to the
12 router table?
13 A Yes.
14 Q And when did you first personally view the
15 application of the Grizzly word mark to the router
16 table?
17 A I personally viewed it in 1978.
18 Q And have the router tables sold by Pucel used the
19 Grizzly word mark?
20 A Every year.
21 Q Does every router table sold bear the Grizzly word
22 mark?
23 A Yes.
24 Q Since your tenure with the company, has every
25 router table borne the Grizzly symbol?

1 A Yes.
2 Q Again, I direct your attention to Exhibit Number
3 7, which is the application to register Grizzly.com.
4 Do you see the words slide tables identified therein?
5 A Yes, I do.
6 Q Does Pucel sell slide tables?
7 A Yes.
8 Q Did Pucel sell slide tables in 1978?
9 A Yes.
10 Q Has Pucel sold slide tables since 1978?
11 A Yes.
12 Q How are the slide tables marked?
13 A They're marked with the Grizzly Bear on them and
14 the word "Grizzly" which is affixed onto the silver and
15 dark blue label, which is put on each of the slide
16 tables.
17 Q Were the yellow labels of Exhibit 17 used on the
18 slide tables?
19 A Yes.
20 Q Again referring you to Pucel Exhibit 7, do you see
21 storage bins indicated therein?
22 A Yes, I do.
23 Q Does Pucel sell storage bins?
24 A Yes.
25 Q Did Pucel sell storage bins in 1978?

1 A Yes.
2 Q Did Pucel apply a trademark to the storage bins in
3 1978?
4 A Yes.
5 Q What mark was applied?
6 A There was the mark of the Grizzly Bear and then
7 the word "Grizzly" was affixed to the label which was
8 put on each of the products.
9 Q Okay. And in other words, was the sticker, as
10 indicated in Exhibit 17, applied to the storage bins?
11 A Yes.
12 Q Were the stickers of Exhibits 31 and 32 applied to
13 the storage bins?
14 A Yes.
15 Q Just for clarity now, referring to Exhibit 32, the
16 labels on 32 that have the silver backing, those are
17 the same as the similar label on Exhibit 31, correct?
18 MR. SCHMIDT: Objection.
19 Leading.
20 A Yes.
21 Q Is the silver label of Exhibit 31 the same as the
22 silver label of Exhibit 32?
23 A Yes.
24 Q Are the silver labels the labels that are applied
25 to the storage bins?

1 A Yes.
2 Q Still referring to Exhibit 32, there is another
3 label indicated there, correct?
4 A Yes.
5 Q Could you describe that label?
6 A That label is about -- it's got a white background
7 and a dark blue writing on it. It includes Grizzly
8 Equipment, the word Grizzly, which is registered, the
9 G-r-i-z-z-l-y, it's got the mark of the bear and then
10 it has the Pucel Enterprises with the address and the
11 phone number.
12 Q And what color is the backing of that?
13 A White.
14 Q And what color is the printing?
15 A Blue.
16 Q And is this an adhesive label?
17 A Yes, it is.
18 Q What are the approximate dimensions?
19 A They're approximately eight inches wide by two
20 inches high.
21 Q And this eight-inch wide, two-inch high label that
22 you just described, it is placed where in your process?
23 A It is placed on the outside of a carton of every
24 product that goes out.
25 Q And these silver labels, which also appear in

1 Exhibit 32, where are they placed?
2 A They're placed on each of the products themselves
3 on Grizzly Equipment.
4 Q The silver labels, how are they affixed to the
5 actual equipment?
6 A They's actually stuck on with an adhesive back on
7 to the product.
8 Q And with respect to this eight-inch wide, two-inch
9 high label that's affixed, as you testified, to the
10 outside of the packaging, how is it affixed?
11 A It's affixed with an adhesive backing material.
12 Q The storage bins in Pucel's business, how are they
13 used?
14 A The storage bins are used for any type of
15 application. It actually segregates units within our
16 cabinets so you can place different items in different
17 bin locations.
18 Q What industries are they used in?
19 A It's used in all industries.
20 Q What about the hand trucks? Where are they used?
21 A Everywhere.
22 Q Where are the lathe accessories used?
23 A In any application where you would need a stand of
24 that sort.
25 Q What industries use those stands?

1 A In all industries.
2 Q What industries use slide tables?
3 A All of the industries.
4 Q What industries use router tables?
5 A Could be any industry.
6 Q What industries use engine stands?
7 A All industries.
8 Q What industries use dollies?
9 A Could be any one of them.
10 Q Returning to Exhibit 7 again, please, do you see
11 wagons indicated in the application to register
12 Grizzly.com?
13 A Yes, I do.
14 Q Do you sell wagons?
15 A Yes.
16 Q What is a wagon?
17 A A wagon is a device with casters that typically
18 have sides with a long handle that can transport items
19 from one location to another.
20 Q And what industries are they used in?
21 A They're used in all industries.
22 Q What do your customers do with them?
23 A They use them to transport items from one place to
24 the next.
25 Q What do your customers use storage bins for?

1 A They use it in any of their applications where
2 they want to organize their material.
3 Q Now, have you sold wagons under the Grizzly word
4 mark?
5 A Yes.
6 Q And over what time period did you sell wagons
7 under the Grizzly word mark?
8 A All of the time.
9 Q What do you mean by all of the time?
10 A My experience is from '78, but I have seen them in
11 prior years in the catalogs.
12 Q Has the Grizzly word mark been used continuously
13 on wagons?
14 A Yes.
15 Q And your knowledge extends personally to what
16 year?
17 A 1978.
18 Q And when from 1978 to what year?
19 A To the present.
20 Q Has the Grizzly Bear symbol been used in
21 connection with wagons?
22 A Yes.
23 Q And when did you first see the Grizzly Bear symbol
24 used in connection with wagons?
25 A 1978.

1 Q Were the labels set forth in Exhibit 17 used on
2 wagons?
3 A Yes.
4 Q And over what time period?
5 A Up through the transition to the silver and dark
6 blue.
7 Q And were the silver and dark blue labels of
8 Exhibit 32 used on wagons since the transition time?
9 A Yes.
10 Q Do you see switches identified?
11 A Yes.
12 Q Do you sell switches?
13 A Yes.
14 Q And how do you use the switches?
15 A The most common application is in our work bench
16 work station section.
17 Q Are the switches incorporated into the work bench?
18 A Yes, they're hard wired into it.
19 Q And do you sell spindles?
20 A Yes.
21 Q Do you see spindles identified there in Exhibit
22 Number 7?
23 A Yes, I do.
24 Q Do you sell spindles?
25 A Yes.

1 Q What is a spindle?
2 A A spindle is typically -- for us, it would be a
3 rod that would be holding items of different sorts of
4 sizes and shapes.
5 Q And how long has Pucel sold spindles?
6 A To my knowledge and experience, 1978.
7 Q And have they been sold under or in connection
8 with the Grizzly word mark since 1978?
9 A Yes.
10 Q Have you applied labels as set forth in Exhibit 17
11 to products containing spindles?
12 A Yes.
13 Q And when did you first do that?
14 A Apply the stickers?
15 Q Yes.
16 A All the time to each of the products.
17 Q Were they applied in 1978?
18 A Yes.
19 Q Have they been applied since 1978 to products
20 containing spindles?
21 A Yes.
22 Q Have the labels of Exhibits 17 and 32 been applied
23 to products containing switches since 1978?
24 A Yes.
25 Q Still referring to Exhibit 7, do you see tool

1 boxes identified in the application to register
2 Grizzly.com?
3 A Yes, I do.
4 Q And do you sell tool boxes?
5 A Yes.
6 Q And what are tool boxes used for?
7 A They're used for holding small parts for machine
8 tools or any type of tool.
9 Q What industries use tool boxes?
10 A All industries use tool boxes.
11 Q Does the metal working industry use tool boxes?
12 A Yes.
13 Q Does the wood working industry use tool boxes?
14 A Yes.
15 Q Are some of the tool boxes mobile?
16 A Yes.
17 Q Do you sell mobile tool boxes?
18 A Yes.
19 Q And where are mobile tool boxes used?
20 A They're used everywhere.
21 Q Are they used in the wood working industry?
22 A Yes.
23 Q Are they used in the metal working industry?
24 A Yes.
25 Q Do you have customers in the wood working

1 industry?
2 A Yes.
3 Q Do you have customers in the metal working
4 industry?
5 A Yes, we do.
6 Q Do you see tool organizers identified as part of
7 Exhibit 7?
8 A Yes.
9 Q Do you sell tool organizers?
10 A Yes.
11 Q Could you identify what a tool organizer is?
12 A A tool organizer could be any type of cabinet or
13 cart or portable cabinet to hold and organize tools and
14 any small objects, or even some larger objects, can fit
15 inside the cabinets.
16 Q Were tool organizers sold in 1978?
17 A Yes.
18 Q Were they sold prior to 1978?
19 A Yes.
20 Q Have you used the labels of Exhibit 17 in
21 connection with tool organizers?
22 A Yes.
23 Q Have you used the label in connection with Exhibit
24 32 in connection with tool organizers?
25 A Yes.

1 Q Have all tool boxes been marked with the Grizzly
2 word mark?
3 A Yes.
4 Q Have all tool organizers been marked with the
5 Grizzly word mark?
6 A Yes.
7 Q How are tool boxes shipped?
8 A Tool boxes are shipped -- depending on if it's
9 mobile or not, we would put it on a skid and then after
10 the label is put on it and the hardware is all
11 attached, then we would box it and get it ready for
12 shipment.
13 Q Does the box contain any indicia?
14 A Yes. The box contains the Grizzly Bear,
15 everything that's on Exhibit 33.
16 Q Referring again to Exhibit 7, could you direct
17 your attention to the first page of that exhibit?
18 Could you identify that exhibit for the record?
19 A Of Exhibit 7?
20 Q Yes.
21 A Yes. It's a trademark application.
22 Q What number is it?
23 A 76/088,346.
24 Q Referring again to Exhibit 7, the application to
25 register Grizzly.com, do you see bumpers listed in the

1 application?
2 A Yes.
3 Q Do you sell bumpers?
4 A Yes, we do.
5 Q What is a bumper?
6 A A bumper is attached to -- it's any rubber that
7 attaches to a cart or a cabinet to prevent from
8 damaging the unit itself.
9 Q Did you sell bumpers in 1978?
10 A Yes.
11 Q And were they marked with the Grizzly word mark?
12 A Yes.
13 Q Were they marked with the label set forth in
14 Exhibit 17?
15 A Yes.
16 Q And have bumpers been marked with the label set
17 forth in Exhibit 32?
18 A Yes.
19 Q Do you sell drawer pulls?
20 A Yes.
21 Q Do you see drawer pulls identified in Exhibit 7?
22 A Yes, page 2.
23 Q What is a drawer pull?
24 A A drawer pull is a device that's attached to the
25 drawer face so you're able to pull out the drawer.

1 Q When did you first sell drawer pulls?
2 A I have actually physically seen them since 1978.
3 Q Were they sold before 1978?
4 A Yes.
5 Q How do you know?
6 A I have seen them in catalogs.
7 Q What products of Pucel's incorporate drawer pulls?
8 A Almost all of our products. We operate them in
9 cabinets, our work benches, our stands get drawers,
10 carts get drawers with drawer pulls on them.
11 Q And have you used the label of Exhibit 17 in
12 connection with drawer pulls?
13 A Yes.
14 Q And could you describe how that label is used in
15 connection with drawer pulls?
16 A The label is attached onto each of the products
17 that get shipped.
18 Q And have you used the label of Exhibits 31 and 32
19 in connection with drawer pulls?
20 A Yes.
21 Q And how is it used?
22 A It's affixed on the Grizzly Equipment before it's
23 shipped.
24 Q Are your products known as Grizzly Equipment?
25 A Yes.

1 Q Are all of your products known as Grizzly
2 Equipment?
3 MR. SCHMIDT: Objection.
4 Leading.
5 A Yes.
6 Q Which products of yours are known as Grizzly
7 Equipment?
8 MR. SCHMIDT: Objection.
9 Leading.
10 A All of our products that are known.
11 Q Can you identify what products those are?
12 A To name them all would be well beyond the scope of
13 what we're trying to accomplish here. But it's in each
14 of our categories such as cabinets, carts, work
15 benches, stands, drum handling equipment, work
16 stations, everything listed in our catalog.
17 Q I direct your attention to Exhibit Number 30 and
18 ask the court reporter to initial and date it.
19 - - - - -
20 (Opposer/Petitioner's Exhibit Number 30 was
21 marked for identification.)
22 - - - - -
23 Q Would you please identify Pucel's Exhibit Number
24 30.
25 A This is Grizzly Equipment Manufactured By Pucel

1 Enterprise's present catalog.
2 Q And when was that catalog first used?
3 A In '99.
4 Q Do you know when in '99?
5 A January of '99.
6 Q Okay. Now, does this catalog contain the Grizzly
7 Equipment?
8 A Yes, it does.
9 Q Do you have equipment that you sell that is not
10 identified in this catalog?
11 A Yes.
12 Q What is that equipment?
13 A We have equipment that customers know that we're
14 willing to incorporate within our product line based on
15 the use. So we have measuring devices that aren't
16 shown in here but we actually incorporate within our
17 work station or cart stool stand. There is items like
18 that that aren't necessarily in the catalog but we
19 still provide on our equipment.
20 Q Are anti-vibration mounts shown in Exhibit 30?
21 A No.
22 Q Are cable ties shown in Exhibit 30?
23 A I am not sure if you can see them. I don't think
24 you can see them.
25 Q Are hand screws shown in Exhibit 30?

1 A Yes.
2 Q How about switches? Are they shown in Exhibit 30?
3 A Yes.
4 Q Are spindles shown in Exhibit 30?
5 A Yes, they are.
6 Q Are bumpers shown --
7 A Yes.
8 Q -- in Exhibit 30?
9 A Yes.
10 Q Where are the anti-vibration mounts in Exhibit
11 30? Are they shown?
12 A No.
13 Q Are vises shown in Exhibit 30?
14 A Yes.
15 Q Can you show us where in Exhibit 30 vises are
16 shown?
17 A Page 14.
18 Q And can you describe the use of the vises on page
19 14?
20 A The vises are attached to Grizzly Equipment, and
21 they're used for a variety of purposes.
22 Q What are those purposes?
23 A All purposes.
24 Q On what equipment are they attached?
25 A The Grizzly Equipment.

1 Q And what is that equipment?
2 A On this page?
3 Q Yes.
4 A It's on the MTC series and PTC series.
5 Q What is the MTC series?
6 A Mobile cabinet work benches, tool cabinets.
7 Q Okay. What are the PTC series?
8 A Portable tool cabinet work benches.
9 Q Are they used on mobile service benches?
10 A Yes.
11 Q Are hand screws shown in Exhibit 30?
12 A Yes.
13 Q Where are they shown in Exhibit 30?
14 A Page 52.
15 Q Can you point our attention to the hand screws?
16 A It would be in the VH-100 series, the Number 210
17 and Number 24 model numbers that are pictured in the
18 catalog.
19 Q And what are those products known as?
20 A Drum lifters and fork hoists.
21 Q And when you sell a drum lifter, is it marked with
22 the Grizzly Equipment label?
23 A Yes.
24 Q And where do you place the label?
25 A Right on the product itself.

1 Q And is there packaging for this product?
2 A Yes. Typically, after the label is placed on it,
3 then it is wrapped in white foam and then it is placed
4 into a carton.
5 Q And does the carton bear the indicia of Exhibit
6 33?
7 A Yes.
8 Q Are electric motors shown in Exhibit 30?
9 A Yes.
10 Q And where are they shown?
11 A Page 25.
12 Q Where is the electric motor on page 25?
13 A This one is actually showing the motor. It's
14 usually affixed either with a hand crank or the switch,
15 either one. This one right here, the HBS series, the
16 ergonomic work bench.
17 Q Are hand screws shown in Exhibit 30?
18 A Yes.
19 Q Where?
20 A We use the screws -- hand screws would be in the
21 assembly of the work benches. They're placed within --
22 incorporated within the work bench section. It also
23 can be considered within the VH-100 and the Number 25
24 series in the catalog.
25 Q What page are you referring to there in Exhibit

1 30?
2 A Page 24.
3 Q Okay.
4 A That's our knock down work bench section.
5 Q Are switches shown in your catalog?
6 A Yes.
7 Q Where are they shown?
8 A The first page I come to is page 27.
9 Q Of Exhibit 30, right?
10 A That's correct.
11 Q Okay.
12 A On the FWS series, and there is also a switch on
13 the BSDD series. There is an electrical outlet on it
14 with a switch as well.
15 Q Are you referring to the FWS series in the upper
16 right-hand portion that shows the switch?
17 A Yes.
18 Q Spindles, where are they shown in your catalog,
19 Exhibit 30?
20 A Page 47 in the middle of the page there marked as
21 spindles.
22 Q Are bumpers shown in Exhibit 30?
23 A Yes.
24 Q Where are they shown in Exhibit 30?
25 A Page 1. The third cart down has the continuous

1 bumper all the way down the product.
2 Q Can you circle that with this pen to illustrate
3 the bumper on page 1 of Exhibit 30.
4 A (Witness complies.)
5 Q You have written some words there?
6 A I just wrote "continuous bumper."
7 Q You also marked an arrow on that page?
8 A Yes.
9 Q Does the bumper extend around the cart?
10 A Yes.
11 - - - - -
12 (Opposer/Petitioner's Exhibit Number 29 was marked
13 for identification.)
14 - - - - -
15 Q I would like to refer you to Exhibit 29. Can you
16 identify what Exhibit 29 is?
17 A Yes. This is one of the Grizzly Equipment's
18 catalogs.
19 Q Right. And when was that catalog published?
20 A January of 1990.
21 Q And are bumpers shown in Exhibit 29?
22 A I have got the bumper shown, but it's not the
23 rubber bumper shown.
24 Q Where is the bumper shown?
25 A I have the bumper on the WPT-RE series.

1 Q What is the WPT-Re series?
2 A It's a platform truck.
3 Q And what page are you referring to in Exhibit 29?
4 A Page 28.
5 Q Could you circle the bumper on that page, please.
6 A (Witness complies.)
7 Q Are switches shown in Exhibit 29?
8 A Yes.
9 Q What page are switches shown in Exhibit 29?
10 A Page 14 in the center of the page, the FWS series.
11 Q What is the FWS series?
12 A It's a work station that has a work bench surface,
13 a shelf and a stringer. It has a light fixture
14 attached to it with a hard wired switch.
15 Q Are electric motors shown on Exhibit 29?
16 A No.
17 Q Referring to Exhibit 7, please, do you see drawer
18 slides indicated in the identification of Exhibit 7? I
19 believe it's after bumpers, so it's down --
20 A Yes, I do.
21 Q What is a drawer slide?
22 A A drawer slide is a mechanism attached to the
23 drawer so you're able to move the drawer in and out of
24 the unit.
25 Q Are drawer slides the rails that go inside the

1 hole of the cabinet?
2 A Yes, inside the cavity where the drawer goes.
3 Q Do you see hinges identified?
4 A Yes.
5 Q And do you sell hinges?
6 A Yes, we do.
7 Q And where do you incorporate the hinges in your
8 products?
9 A Most of them are affixed to the -- for the cabinet
10 doors, so you're able to open and close. Sometimes we
11 incorporate hinges into lifting devices. Like a fold-
12 down shelf, we'll incorporate that as well.
13 Q And where do you incorporate your drawer slides?
14 A In every product you're capable of putting a
15 drawer slide.
16 Q And to your knowledge, when did Pucel begin using
17 drawer slides?
18 A My first-hand experience was 1978.
19 Q Did they use drawer slides before 1978?
20 A Yes.
21 Q And how do you know that?
22 A I have actually physically seen the slides that
23 they have used, and also by seeing the old catalogs.
24 Q How did you come to see the drawer slides prior to
25 1978?

1 A How did I physically see it?
2 Q Yes.
3 A I saw them when they were sitting up in the
4 warehouse space of the slides we have used.
5 Q Did you personally see drawer pulls in connection
6 with your products?
7 A Yes.
8 Q When did you first see those products?
9 A 1978.
10 Q And were drawer pulls used before 1978?
11 A Yes.
12 Q And how do you know that?
13 A I have seen them in the catalogs.
14 Q Have drawer pulls been used since 1978?
15 A Yes.
16 Q Have they been used continuously since 1978?
17 A Yes.
18 Q Have drawer slides been used continuously since
19 1978?
20 A Yes.
21 Q Have hinges been continuously used since 1978?
22 A Yes.
23 Q The products that incorporate drawer pulls, drawer
24 slides and hinges, have they been marked with the Pucel
25 trademark?

1 A Yes.
2 Q And have all the products been marked with the
3 Pucel trademark?
4 A Yes, all of them.
5 Q And can you tell me where in the exhibit lists you
6 would find those?
7 A They would be in 33 and 17.
8 Q And --
9 A 17, 32 and 33.
10 Q Okay. Do you use lock sets in your products?
11 A Yes.
12 Q And what do you use the lock sets for?
13 A We can use them for all of the products of Grizzly
14 Equipment. We use them for securing cabinets. We use
15 lock sets and we use them for drawers. We use them for
16 locking a shelf in place, any of our items.
17 Q And when did you first see lock sets being used in
18 the Pucel business?
19 A I personally saw them in 1971.
20 Q Have they been used since 1978?
21 A Yes.
22 Q Have they been used in each year since 1978?
23 A Yes.
24 Q Have they been sold under the Grizzly mark as
25 depicted in Exhibits 17, 32 and 33?

1 A Yes.
2 Q And have they been continuously used hinges since
3 1978 as depicted in Exhibits 17, 32 and 33?
4 A Yes.
5 Q Do you sell shelf supports?
6 A Yes.
7 Q What product incorporates shelf supports?
8 A We use supports for shelves within each of our
9 cabinets to hold and suspend each of our shelves. We
10 use shelf supports on our work stations.
11 Q So shelf supports are contained in other products?
12 A Yes.
13 Q Correct?
14 A Yes.
15 Q And have all of those products been marked with
16 the Grizzly word mark?
17 A Yes.
18 Q And have they all been marked with the Grizzly
19 word mark beginning, from your personal knowledge, in
20 1978 to date?
21 A Yes.
22 Q I direct your attention to Exhibit 7, the
23 application to register Grizzly.com, and in particular,
24 do you see electric switches there?
25 A Yes, I do.

1 Q And do you sell electric switches?
2 A Yes.
3 Q And when, to your personal knowledge, did Pucel
4 first sell electric switches?
5 A I have actually seen them personally in the '80s.
6 Q Do you know when in the '80s?
7 A No.
8 Q Do you see motors in the identification of goods
9 in Exhibit 7? It's a little bit after electric
10 switches, to speed things up a little bit.
11 A Yes. I found it.
12 Q Do you sell motors?
13 A Yes.
14 Q What type of motors do you sell?
15 A In particular, we have a motor that lowers and
16 raises our ergonomic work benches.
17 Q I direct your attention to Exhibit 7 and ask do
18 you see rotary tables identified?
19 A Yes.
20 Q Do you sell rotary tables?
21 A Yes.
22 Q When did you first see rotary tables sold?
23 A I think it was after my time of 1978.
24 Q When you say after your time, do you have a
25 specific year?

1 A No.
2 Q Was it 1978?
3 A Not necessarily.
4 Q Was it --
5 A It was probably within the first couple of years
6 of me being there.
7 Q What are rotary tables used for?
8 A It can be used in any application. Any table that
9 requires some sort of movement to transport the goods
10 or ship the goods from one area to another.
11 Q And what types of industries use rotary tables?
12 A All industries can use rotary tables.
13 Q Do wood workers use rotary tables?
14 A Yes.
15 Q Do metal workers use rotary tables?
16 A Yes.
17 Q Do you sell rotary tables to wood workers?
18 A Yes.
19 Q Do you sell rotary tables to metal workers?
20 A Yes.
21 Q Have you marked the sale of goods of rotary
22 tables?
23 A Have we marked?
24 Q Have you marked them with your trademark?
25 A Yes.

1 Q And have you applied the labels to them?
2 A Yes.
3 Q And have those labels been applied to each rotary
4 table sold?
5 A Yes.
6 Q Does the label actually go on the rotary table?
7 A Yes.
8 Q Does the stenciling go on the packaging for the
9 rotary table?
10 A Yes, it does.
11 Q And is that stenciling indicated in Exhibit 33?
12 A Yes.
13 Q And are the labels indicated in Exhibit 17?
14 A Yes.
15 Q And are the labels indicated in Exhibit 32?
16 A Yes.
17 Q Do you see sliding tables identified in Exhibit 7?
18 A Yes.
19 Q Does Pucel sell sliding tables?
20 A Yes.
21 Q Since when?
22 A Since, my recollection, 1978.
23 Q Did Pucel sell sliding tables before 1978?
24 A Yes.
25 Q How do you know?

1 A I have seen them in pictures.
2 Q And those pictures are where?
3 A I have seen pictures of products that we did with
4 images that were taken, photos, as well as in the
5 catalog itself.
6 Q So the catalogs you're referring to are dated
7 prior to 1978? Is that what you're saying?
8 A Yes.
9 Q Now, have you applied your trademark to all
10 sliding tables sold?
11 A Yes.
12 Q And, again, are those the labels of Exhibit 17?
13 A Yes.
14 Q Are they the labels of Exhibit 32?
15 A Yes.
16 Q Do you see spindles --
17 A Yes, I do.
18 Q -- indicated?
19 A Yes.
20 Q Do you see stands indicated?
21 A Yes.
22 Q What is a stand?
23 A A stand can be used for many purposes, for many
24 operations. It is used to hold the material,
25 typically, off the ground. It could be mobile. It

1 could be stationary.
2 Q And do your stands support lathes?
3 A Yes.
4 Q Can your stands support lathes?
5 A Yes.
6 Q Can your stands support drill presses?
7 A Yes.
8 Q Do your customers buy stands to use with lathes?
9 A Yes.
10 Q Do your customers buy stands to use with drill
11 presses?
12 A Yes.
13 Q When did you first witness the sale of stands?
14 A 1978.
15 Q Did Pucel sell stands before 1978?
16 A Yes.
17 Q How do you know?
18 A Pictures in the catalog.
19 Q Has Pucel marked its stands with the Grizzly word
20 mark?
21 A Yes.
22 Q Has Pucel marked its stands with the Grizzly Bear
23 symbol?
24 A Yes.
25 Q Since when?

1 A Since the beginning of time of the company.
2 Q Okay. In your personal tenure there?
3 A 1978.
4 Q Have they marked all stands since 1978?
5 A Yes.
6 Q Have they marked all stands with the Grizzly word
7 mark since 1978?
8 A Yes.
9 Q Have they marked all stands since 1978 with the
10 Grizzly Bear symbol?
11 A Yes.
12 Q And could you explain how they have been marked?
13 A They took the label sticker in Exhibit Number 32
14 and placed it on the Grizzly Equipment itself before it
15 was wrapped and shipped.
16 Q And what about the packaging? Was it marked?
17 A Yes, it was.
18 Q And how was it marked?
19 A It's marked by either the larger label on Exhibit
20 32 or the carton on 33.
21 Q The larger label on 32 has been used since when?
22 A For the last two years.
23 Q And the stenciled label on Exhibit 33, when was it
24 first used, to your personal knowledge?
25 A 1978.

1 Q And in which years was that stenciling of Exhibit
2 33 used on the packaging of stands since 1978?
3 A All of the time.
4 Q Is it still used today?
5 A Yes.
6 Q And is the larger label of Exhibit 32, the one
7 with the white backgrcund and the blue lettering, is
8 that also used in addition to the stenciling today?
9 A Yes.
10 Q I direct your attention back to Exhibit 7. Do you
11 see tool holders identified in the listing?
12 A Yes, I see it.
13 Q And do you sell tool holders?
14 A Yes.
15 Q What is a tool holder?
16 A A tool holder is a shelf or a cart that holds
17 tools that typically are being moved to a particular
18 work station.
19 Q And what types of tools can they hold?
20 A All tools.
21 Q Can they hold screw drivers?
22 A Yes.
23 Q Can they hold portable tools?
24 A Yes.
25 Q How long has Pucel sold tool holders?