

1           IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
2                   BEFORE THE PATENT TRIAL AND APPEAL BOARD  
3

4                           CASE NO. IPR2015-01167

5                           PATENT NO. 8,717,758  
6

7           -----  
8           ACCO BRANDS CORPORATION and

9           ACCO BRANDS USA LLC,

10                           Petitioners

11           v.

12           THINK PRODUCTS INC.,

13                           Patent Owner.  
14           -----

15                           CASE NO. IPR2015-01168

16                           PATENT NO. 8,837,144  
17

18           ACCO BRANDS CORPORATION and

19           ACCO BRANDS USA LLC,

20                           Petitioners

21           v.

22           THINK PRODUCTS INC.,

23                           Patent Owner.

ACCO Brands  
Exhibit 1023

ACCO Brands v. Think Products  
IPR2015-01167

24                           Ex. 1023 - Page 1 of 139  
25

1 --- This is the deposition of ROBERT MAHAFFEY,  
2 taken before a court reporter at the Renaissance  
3 Toronto Downtown Hotel, One Blue Jay Way, Toronto,  
4 Ontario, Canada, M5V 1J4, on the 21st day of March,  
5 2016.

6 -----

7 REPORTED BY: CONNIE A. HOLTON, CSR

8  
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1 ALSO PRESENT: Eric Lazarus  
2 Peter Allen  
3  
4 -----  
5

6 I N D E X

7 WITNESS: ROBERT MAHAFFEY

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17	Provided in the IPR. Prepared by Rob	
18	Mahaffey in Support of Findings in	
19	IPR. Last updated 03/17/2016.	

1 --- Upon commencing at 8:37 a.m.

2 ROBERT MAHAFFEY, Affirmed

3 CROSS-EXAMINATION BY MR. WEINER:

4 Q. Good morning.

5 A. Good morning.

6 Q. My name is Michael Weiner. I  
7 represent ACCO Brands in Inter Partes Review  
8 proceedings before the U.S. patent and trademark  
9 office. Would you state your name, please?

10 A. Robert Mahaffey, or Rob Mahaffey.

11 Q. And where do you live, Mr.  
12 Mahaffey?

13 A. I live in Vancouver, British  
14 Columbia.

15 Q. And where are you employed?

16 A. I am employed currently at a  
17 company called Douglas Lighting Controls, a  
18 subsidiary of Panasonic Lighting Americas.

19 Q. Have you ever had your deposition  
20 taken before, Mr. Mahaffey?

21 A. No, sir.

22 Q. You understand that you're  
23 testifying under oath today?

24 A. Yes, sir.

25 Q. And you understand that the court

1 reporter will be recording all of my questions and  
2 all of your answers today?

3 A. Yes, sir.

4 Q. You also understand that your  
5 testimony is being used in connection with  
6 proceedings that are held before the U.S. patent  
7 and trademark office?

8 A. Yes, sir.

9 Q. Is there anything that would  
10 interfere with your ability to testify fully and  
11 completely today, and truthfully?

12 A. Not to the best of my knowledge.

13 Q. Do you understand that the patent  
14 office rules prohibit you from discussing your  
15 testimony with counsel until after your  
16 cross-examination deposition is completed?

17 A. If that's the case, yes.

18 Q. I hand you that.

19 Mr. Mahaffey, I've handed you what's  
20 been marked Exhibit No. 5 in Inter Partes  
21 Proceedings No. IPR 2015-1167. Do you recognize  
22 this as the declaration you provided for Think  
23 Products in connection with the IPR proceeding?

24 A. Let me take a look.

25 (Witness reads document)

1 Yes, this is correct.

2 Q. And that's your signature at the  
3 bottom of page 16?

4 A. That is my signature, correct.

5 Q. This declaration was submitted in  
6 connection with an Inter Partes Review proceeding  
7 in which the patent office is reviewing U.S. patent  
8 No. 8,837,144.

9 A. The '114 patent, yes.

10 Q. And you refer to that by the '144  
11 patent as --

12 A. Yes.

13 Q. Do you agree that the identical  
14 declaration was submitted as Exhibit 6 in an IPR of  
15 Think Products patent 8,717,758?

16 A. So I do understand that there's  
17 two pieces of IP, and I believe it is the identical  
18 declaration used in both proceedings.

19 Q. And the other patent you refer to  
20 that as the '758.

21 A. '758, yes.

22 Q. If I refer to your declaration  
23 today, or to a particular paragraph of your  
24 declaration you understand that I will be referring  
25 to the declarations filed in both IPR proceedings?

1 A. Yes, I understand.

2 Q. That way I won't have to ask you  
3 all the same questions two times.

4 A. Makes sense.

5 Q. You were engaged by Think Products  
6 to serve as a witness in these IPR matters, right?

7 A. That's correct, yes.

8 Q. And how did that engagement come  
9 about?

10 A. So, in particular in providing  
11 this declaration, or -- can you just clarify the  
12 question? Is it about how did I come to --

13 MR. SCHINDLER: I object. What's the  
14 relevance of that?

15 How is that relevant?

16 MR. WEINER: Your objection is noted on  
17 the record. I don't need to respond that.

18 BY MR. WEINER:

19 Q. Let me restate the question. I'm  
20 asking you about how you got engaged to be an  
21 expert witness in connection with the IPR  
22 proceedings. Could you briefly explain how that  
23 engagement came about?

24 A. I believe it was Peter contacting  
25 me and retaining me for my services to provide a

1 reading on the prior art that was used in the IPR.

2 Q. And you're referring to Peter  
3 Allen, the named inventor of the patent?

4 A. That's correct, yes.

5 Q. And when did Mr. Allen contact you  
6 in connection with the IPR proceedings?

7 A. It would have been later in 2015 I  
8 believe. So maybe the second or third quarter in  
9 the calendar year. More likely in the third.

10 THE REPORTER: I need to stop you.

11 --- Off-the-record discussion

12 BY MR. WEINER:

13 Q. So you were saying that in late  
14 2015 you were contacted by Mr. Allen?

15 A. In particular to provide expert  
16 testimony as it relates to this document that I  
17 provided, yes.

18 Q. But you knew Mr. Allen before that  
19 time, correct?

20 A. That's correct, yes.

21 Q. And then in the time period when  
22 Mr. Allen contacted you in late 2015 concerning the  
23 IPR proceedings, did you also talk to counsel for  
24 Think Products?

25 MR. SCHINDLER: Objection to relevancy.



1 THE DEPONENT: Not directly, to the  
2 best of my knowledge. Maybe indirectly.

3 BY MR. WEINER:

4 Q. When did you first speak directly  
5 to counsel for Think Products?

6 A. I can't recall a specific period  
7 of time, but it would be perhaps after that.

8 Q. So probably some time in 2016?

9 A. I mean, end of the calendar year.  
10 So some time -- there was some conversation, but I  
11 think it would have been, like I say, probably in a  
12 two quarter period. It would be some time again  
13 maybe in the third or fourth, maybe early 2016.  
14 That's the best I can recall.

15 Q. And then you told Mr. Allen that  
16 you would be available to serve as a witness?

17 A. Correct, yes.

18 Q. At the time you were engaged were  
19 you advised that you needed to be available for a  
20 deposition in the United States?

21 MR. SCHINDLER: Objection to relevancy.  
22 It's a continuing objection.

23 THE DEPONENT: No.

24 BY MR. WEINER:

25 Q. At the time you were engaged by

1 Think Products did you advise Think Products that  
2 you would be available for a deposition in the  
3 United States?

4 A. I understood from the proceedings,  
5 the requirements of the proceeding in an IPR that I  
6 would have to provide a deposition. My  
7 understanding is like in most cases regarding IP  
8 experts witnesses may not be available in the  
9 United States, and the process allows for foreign  
10 depositions to be taken which I was available for.

11 MR. SCHINDLER: There's also an  
12 objection that this issue was raised by the board  
13 and the board ruled that the deposition could be  
14 taken outside the United States and taken here in  
15 Toronto.

16 BY MR. WEINER:

17 Q. When did you learn that you would  
18 not be available for a deposition in the United  
19 States?

20 A. So my status and my ability to  
21 travel has been -- not been an issue with relevance  
22 to this case. So I have known that I wouldn't be  
23 able to travel to the United States. But, again,  
24 my understanding of the process itself is that as  
25 in all IP cases where expert testimony may be

1 provided by someone from a foreign country is a  
2 process to handle it. So it was never really  
3 raised or made an issue of. It was more to do so  
4 with in order to provide expert testimony I just  
5 happen to reside in Canada and my travel ability  
6 right now is such that I cannot travel to the  
7 United States.

8 Q. And you were aware of that for a  
9 period of time, that you weren't able to travel  
10 into the United States?

11 MR. SCHINDLER: Same objection.

12 THE DEPONENT: I mean it's resolvable,  
13 but, yes, I'm aware right now currently, right,  
14 that I would have to do something in order for me  
15 to travel to the United States.

16 BY MR. WEINER:

17 Q. And you were aware of that before  
18 you were engaged by Think Products in late 2015,  
19 right?

20 A. Correct.

21 Q. How are you being compensated by  
22 Think Products for your work on these IPR matters?

23 A. It's a flat rate. Hourly fee.

24 Q. And how much is the flat rate that  
25 you're being paid?

1 A. 375 U.S. an hour.

2 Q. 375 U.S. dollars?

3 A. Correct.

4 Q. How much time have you spent  
5 working on these IPR matters?

6 A. Say in that timeframe that I  
7 provided I would estimate it's about 100 hours,  
8 more or less.

9 Q. About 100 hours?

10 A. Correct.

11 Q. And you're being paid a total of  
12 \$375.00 for the 100 hours worth of work?

13 A. I'm being paid \$375 an hour.

14 Q. I'm sorry. I misunderstood. I  
15 thought you said it was a flat rate.

16 A. Well, the fee's flat rate.  
17 There's not a change to the fee based on complexity  
18 or anything else, but it's an hourly rate.

19 Q. Hourly rate of \$375.00 an hour?

20 A. Correct, yes.

21 Q. And about 100 hours have been  
22 spent so far?

23 A. Roughly, yes.

24 Q. So it's been about \$37,500 that  
25 you've been paid so far?

1 A. Yes.

2 Q. Can you briefly describe your  
3 educational background after high school?

4 A. Sure. I just want to make sure  
5 that I...

6 Q. Do you need to refer to your  
7 declaration to see what you have there?

8 A. No. I remember the declaration.  
9 It will be consistent with what -- can you just ask  
10 the question again, please?

11 Q. Okay. The question was could you  
12 briefly describe your educational background?

13 A. My educational background. So I'm  
14 a mechanical engineer. I just want to check the  
15 dates. I graduated from the University of British  
16 Columbia with a degree in applied science in 2003.

17 Q. Now, I see you're referring to  
18 some paper materials there? Can you describe what  
19 you're referring to?

20 A. It's my -- basically I've just  
21 highlighted for myself just some key takeaways. So  
22 just my educational level, experience, etcetera, in  
23 preparation for this.

24 Q. Are those notes that you prepared?

25 A. Correct, yes.

1 Q. Did counsel assist in preparing  
2 those notes?

3 A. No, sir.

4 Q. I request from counsel can I get a  
5 copy of the notes the witness is referring to?

6 MR. VODOPIA: I guess to the court  
7 reporter as well. Give one to each.

8 What's the last exhibit that you're  
9 going to introduce? We'll mark this as a further  
10 exhibit?

11 MR. WEINER: Let me take...

12 No, we'll review this, but we don't  
13 want to mark that as an exhibit at this time.

14 MR. VODOPIA: We would like to mark it  
15 as an exhibit at this time.

16 MR. WEINER: No. We object to that.  
17 Your opportunity to put evidence in the record is  
18 not --

19 MR. VODOPIA: Give it back then.

20 MR. WEINER: No. We're going to review  
21 that. And we're entitled to see that, but we're  
22 not going to put that in the record.

23 MR. VODOPIA: You can object, but we're  
24 putting it into the record. You got it, it's in  
25 the record.

1 MR. WEINER: If you want to mark it as  
2 an exhibit you can mark it as an exhibit and we  
3 will object to it as untimely.

4 MR. VODOPIA: We want to put it in the  
5 record now. Or give it back. We'll give it to you  
6 when we put it in the record.

7 MR. SCHINDLER: We'll put it in later,  
8 how's that? We'll deal with that issue later.

9 MR. WEINER: You can submit it later if  
10 you like, and we can object to it if you like.

11 MR. SCHINDLER: We'll take it that way.

12 MR. WEINER: Okay.

13 THE DEPONENT: Would you like me to  
14 continue answering the question? I got as far as  
15 my undergraduate degree in mechanical engineers.

16 BY MR. WEINER:

17 Q. Yes. Please describe what was  
18 next in your education.

19 A. So in my education I then in 2009  
20 I completed a part-time master's of business  
21 administration also through the University of  
22 British Columbia that I completed in January of  
23 2011, specialization in international business.

24 Q. And you also received an award  
25 from the Copenhagen business school?

1                   A.    So as part of my education I  
2 completed a term overseas in Denmark in which I  
3 completed that international business and business  
4 -- international leadership and business strategy  
5 award program.

6                   Q.    So you studied in Denmark in 2010?

7                   A.    It would have been in late -- in  
8 the summer of 2010, correct, yes.

9                   Q.    You began work at ACCO or  
10 Kensington in 2005; is that right?

11                  A.    Correct, yes.

12                  Q.    And your understanding is that  
13 Kensington is a part of ACCO?

14                  A.    Correct, yes.

15                  Q.    If I refer to ACCO today would you  
16 understand that I'm also referring to Kensington?

17                  A.    Yes.

18                  Q.    What was your position when you  
19 were hired at ACCO in 2005?

20                  A.    Associate project manager.

21                  Q.    Associate project manager?

22                  A.    Correct. And specifically I  
23 worked on the power business.

24                  Q.    And what does the power business  
25 include?



1                   A.    It would have included laptop  
2 power supplies. So the external power supply for a  
3 laptop would be an example of the product in that  
4 product line.

5                   Q.    Did your job title change at any  
6 time during your employment at ACCO?

7                   A.    Yes, it did.

8                   Q.    And what was the next position you  
9 had after associate project manager?

10                  A.    Project manager.

11                  Q.    And when did you receive the title  
12 of project manager?

13                  A.    I believe it may have been either  
14 2006 or 2007. I don't recall exactly.

15                  Q.    Did your title change at any time  
16 after 2006 or 2007 when you became a project  
17 manager?

18                  A.    Yes, it did. I believe -- and  
19 there may be intermediary steps there. What I do  
20 recall is my final title would have been manager  
21 global security business, or something to that  
22 extent.

23                  Q.    And the global security business  
24 does that refer to the computer locks and related  
25 products?

1 A. Yes, it does.

2 Q. And then you worked at ACCO up  
3 until January 2011?

4 A. That's correct, yes.

5 Q. Your study at the Copenhagen  
6 business school in Denmark did that occur while you  
7 were employed at ACCO?

8 A. Yes, it did.

9 Q. Did you need to take a leave of  
10 absence from work to do that?

11 A. Yes, I did.

12 Q. And then after studying in  
13 Copenhagen you returned to ACCO?

14 A. That's correct, yes.

15 Q. Did you work with Ryan White at  
16 ACCO?

17 A. Yes, I did.

18 Q. What was Mr. White's title at ACCO  
19 if you recall?

20 A. Senior designer, I believe, global  
21 security business. Or it may have included senior  
22 industrial designer, global security business.

23 Q. So you worked with Mr. White when  
24 you were working in the global security business?

25 A. That's correct, yes. Ryan

1 reported to me as a direct report.

2 Q. Was Ryan working at ACCO before  
3 you began to work there?

4 A. I don't think so. As I recall I  
5 may have started slightly before Ryan.

6 MR. SCHINDLER: Objection to relevancy.  
7 It's also an objection that the witness  
8 should not necessarily know what Mr. Ryan's work  
9 history is.

10 BY MR. WEINER:

11 Q. At ACCO what products were you  
12 responsible for?

13 A. During the tenure? The entire  
14 period? Or a specific period of time?

15 Q. Why don't you focus on while you  
16 were working on the global security business?

17 A. As the manager for the business  
18 unit I would have been responsible for product  
19 managing and doing product development. So product  
20 managing existing SKUs, stock keeping units, and  
21 responsible for the introduction of new products  
22 into their product line.

23 Q. Were you responsible for  
24 developing new products?

25 A. Can you clarify what responsible

1 for developing would mean in your context?

2 Q. Well, by developing I meant coming  
3 up with designs for new products.

4 A. So in my role, right, it's not  
5 just the design, it's the assessing market  
6 opportunity and aligning market need with product  
7 need. So there's a nuance there. But, yes, you  
8 could describe it as a responsibility to define a  
9 roadmap to introduce new products to the market,  
10 including executing on the technical capability to  
11 meet the requirements that we defined.

12 Q. Were you responsible for  
13 developing the design of ACCO's ClickSafe product  
14 line of computer locks?

15 A. Again, I just want to make sure  
16 I'm clear. When you say "responsible" can you  
17 clarify?

18 MR. SCHINDLER: Objection to relevancy.

19 BY MR. WEINER:

20 Q. I'll try to help clarify it.  
21 Could you let me know if there's something in  
22 particular that is unclear to you about that word?

23 A. So from my perspective product  
24 management is complicated. So responsibility could  
25 mean a number of different things. Are you

1 responsible for the technical performance of the  
2 product? Are you responsible for the profit and  
3 loss of the product on introduction? Are you  
4 responsible for the go-to-market planning? I just  
5 would like to understand. New product introduction  
6 is a very multi-stepped process. So when you say  
7 were you responsible, are you implying I had final  
8 responsibility, autonomy to say yes or no. That's  
9 the way I understand the question. So if you could  
10 clarify specifically around if you're asking about  
11 my technical involvement or my business involvement  
12 that would help.

13 Q. Okay. I think I understand. I'll  
14 try to clarify that. First of all, when I'm asking  
15 you if you had responsibility for, I'm not asking  
16 if you were ultimately top responsibility in the  
17 company necessarily, I'm just asking if that was  
18 part of your job responsibilities. And in  
19 particular I'm asking if you had responsibilities  
20 for coming up with the design of the ClickSafe  
21 products?

22 A. Yes. And, again, let me clarify  
23 again, because lock design is complicated, and I  
24 oversaw a team of people, one of which Ryan was a  
25 member of. It was quite collaborative in terms of

1 coming up with the final design that worked. But  
2 ultimately I had or I had the feeling of  
3 responsibility to make sure the product met the  
4 technical requirements as set forth during the  
5 product requirements definition stage.

6 So other people may have taken care of  
7 the detailed design, like the CAD work, specific  
8 radiuses, etcetera, but I ultimately oversaw and  
9 made sure that that design was robust, that met the  
10 requirements that we had set forth in the product  
11 requirement document.

12 Q. So you and your team came up with  
13 the design of the ClickSafe products; is that  
14 right?

15 A. So, can I ask the question about  
16 the relevance of ClickSafe just to the deposition?  
17 Because what I've provided in the deposition or in  
18 the testimony myself focused on two pieces of art,  
19 McDaid and Chen.

20 So the questioning around ClickSafe  
21 which quite honestly some of that I do feel a  
22 responsibility to maintain some privilege  
23 especially if you want to talk about the detailed  
24 design thereof, I would prefer that that is done in  
25 confidence. I don't want to discuss specifics

1 around that design.

2 And, again, the questioning around --  
3 if you're trying to assess how technical I am and  
4 did I have responsibility for coming up with lock  
5 designs in general, not specifically just  
6 ClickSafe, or quick connect as it was then called,  
7 then the answer to that question is yes.

8 I'm a mechanical engineer. I'm a lock  
9 designer. Although I provided business management  
10 for that team, I was technically the person that  
11 would do all the design reviews, gated the product  
12 and made sure the product met the requirements  
13 before it entered production. So, yes, I'm  
14 mechanically responsible for the final design  
15 performance of the product, not just ClickSafe.

16 Q. I'm handing you what has  
17 previously been marked Exhibit 1014.

18 And just a clarification about the  
19 exhibits, I'm handing you an exhibit that's marked  
20 1014. It's also marked with IPR No. 2015-1167.

21 MR. VODOPIA: I just want to object.  
22 This is outside the scope of the deposition.

23 MR. WEINER: Okay. Objection is noted.

24 THE DEPONENT: And, again, specifically  
25 this is a product that is protected by intellectual

1 property of which I'm a named inventory. And,  
2 again, I don't feel comfortable talking about  
3 specifics around ClickSafe, the specificity of the  
4 lock, the lock performance, how it functions,  
5 etcetera.

6 BY MR. WEINER:

7 Q. The reason you're raising the  
8 issue of confidential information, is that because  
9 you have confidentiality obligations to ACCO?

10 MR. SCHINDLER: Objection. This is  
11 beyond the scope of his testimony. It's of no  
12 relevance. And there's nothing confidential about  
13 ClickSafe because it's out there in the public  
14 domain; the knowledge of its operation.

15 MR. WEINER: Could you read back the  
16 question, please?

17 (Last question read back)

18 THE DEPONENT: There are some covenants  
19 in my employment contract when I signed it such  
20 that information that we agreed would be  
21 confidential during my tenure I don't feel  
22 comfortable sharing that.

23 And, again, specifically as I  
24 mentioned, the testimony provided in this case I  
25 looked at McDaid and Chen, it has nothing to do



1 with ClickSafe. Kensington and the ClickSafe lock.

2 BY MR. WEINER:

3 Q. I understand, and I will ask you  
4 about that. If at any time a question that I'm  
5 asking you think would require confidential  
6 information or response please let me know and  
7 we'll address how to do that.

8 A. Sure. And I think that's what I'm  
9 trying to do, I'm trying to say if there is  
10 something specific about the lock, how it works,  
11 etcetera, if I don't understand the question where  
12 that might be going I would prefer that that's  
13 provided in confidence.

14 Q. Okay. Understood. And my  
15 intention is not to ask you any questions that  
16 would require revealing any confidential  
17 information in your response, but if you think  
18 that's the case please let me know --

19 A. Sure.

20 Q. -- and we'll determine how to mark  
21 the record as confidential, or I can rephrase the  
22 question to avoid that, okay?

23 A. Thank you.

24 Q. So you mentioned you have a  
25 written confidential agreement with ACCO, right?

1 Or employment agreement?

2 A. So part of my employment --  
3 typically when you work in technology at time of  
4 employment you're asked and you covenant to say  
5 basically anything shared with you that's deemed  
6 privileged or confidential.

7 MR. SCHINDLER: Same objection to  
8 relevance.

9 THE DEPONENT: That would have been  
10 part of the employment contract.

11 BY MR. WEINER:

12 Q. And that agreement prevents you  
13 from disclosing any confidential ACCO information,  
14 right?

15 A. Correct.

16 Q. Did you review the confidentiality  
17 agreement before or during any discussions with  
18 Think Products?

19 A. I'm aware of my covenants. I'm  
20 always aware of my covenants. I understand my  
21 covenants extend post employment with Kensington,  
22 and I honour and abide by them, which, again, in my  
23 industry is typical.

24 Q. Did you bring to Think Products'  
25 attention your confidentiality obligation?

1           A.     It's understood. But anything  
2 they would ask me similar to this conversation if I  
3 feel that it's confidential I, again, abide by my  
4 covenant, I don't share that information.

5           Q.     So Think Products was aware of  
6 your confidentiality obligations to ACCO?

7           A.     I think anybody that works in  
8 technology, if you engage with them where there's  
9 IP at play as a professional mechanical engineer  
10 with my obligations it's understood.

11          MR. SCHINDLER: I didn't know anything  
12 about it, I don't think John Vodopia did either,  
13 about any confidentiality agreement prior to the  
14 time that it was introduced in the Federal District  
15 Court case, I guess it was early this month, March  
16 7th I believe. Until that time John and I had not  
17 seen any confidentiality agreement, or any  
18 confidential information.

19          BY MR. WEINER:

20          Q.     But your understanding was that  
21 Think Products would be aware that you had these  
22 obligations because they're common in the industry?

23          MR. VODOPIA: Objection. He can't  
24 answer for Think Products.

25          THE DEPONENT: I can't answer for

1 Think. I can answer for myself. Again, as a  
2 professional person working in this industry, it's  
3 no different than I work today for Panasonic. I'm  
4 privy to confidential information. As a person  
5 with my reputation in this industry I abide by the  
6 covenants of all my employment, post employment  
7 with that organization.

8 BY MR. WEINER:

9 Q. In your discussions with Think  
10 Products did you discuss any information that you  
11 learned while employed at ACCO?

12 A. I shared no confidential  
13 information as per that covenant.

14 MR. SCHINDLER: So is the answer no?

15 MR. WEINER: Counsel, just make your  
16 objections on the record and don't testify for the  
17 witness.

18 MR. SCHINDLER: I'm not testifying for  
19 him.

20 MR. WEINER: The patent office rules  
21 strictly limit the scope of your objections on the  
22 record, and I can read that into the record if  
23 you're not aware of that, but I would ask you to  
24 please make brief objections on the record and then  
25 be quiet and let the witness answer.

1 MR. SCHINDLER: You're well beyond the  
2 scope of his deposition testimony. Written  
3 testimony.

4 MR. WEINER: Your objection is noted.

5 BY MR. WEINER:

6 Q. Did you discuss ACCO's products  
7 with Think Products or their counsel?

8 A. Other than the information that  
9 would have been in the public domain, so through  
10 the website, through marketing materials, etcetera,  
11 no.

12 Q. Did you discuss ACCO's sales  
13 figures?

14 A. I would have used information that  
15 would have been in the public domain. So ACCO 10K  
16 filing for example, right, I would have said  
17 reference that. And I would have actually pointed  
18 and said if you want to understand Kensington  
19 computer products group performance within the ACCO  
20 family it's all noted and in the public domain  
21 within the 10K filing.

22 Q. Did you discuss with Think  
23 Products the research and design of ACCO's  
24 products?

25 A. No.

1 Q. Did Think Products or Think  
2 Products' counsel ever ask you about confidential  
3 ACCO information?

4 A. No.

5 MR. SCHINDLER: Continuing objection.

6 BY MR. WEINER:

7 Q. Getting back to Exhibit 1014 that  
8 I handed you a couple minutes ago. What product is  
9 depicted in Exhibit 1014?

10 MR. VODOPIA: Objection. Outside the  
11 scope of the deposition.

12 THE DEPONENT: It's a computer lock.

13 BY MR. WEINER:

14 Q. Have you seen Exhibit 1014 before  
15 today?

16 A. The exhibit itself?

17 Q. Yes.

18 A. No.

19 Q. Did you review the entire record  
20 for the IPR proceedings?

21 A. Can you clarify? I mean we can go  
22 back and check document by document what I received  
23 and what I did review.

24 Q. I'm just asking about this one  
25 document, 1014, you haven't reviewed that?

1                   A.    I have not seen 1014 prior to  
2   today, no.

3                   Q.    Let me direct your attention to  
4   paragraph 5 of your declaration.

5                   A.    Yes, I understand.

6                   Q.    Now, in paragraph 5 it states:

7                        "In support of my testimony  
8   herein, I reviewed the electronic  
9   file wrapper of each IPR proceeding,  
10   including the Petitions of ACCO and  
11   the Decisions to institute the IPRs,  
12   issued by the PTAB on October 21,  
13   2015, as well as all patents  
14   referenced in this declaration."

15                   Did I read paragraph 5 correctly?

16                   A.    Correct.

17                   Q.    What did you mean in paragraph 5  
18   when you said you reviewed the electronic file  
19   wrapper of each IPR proceeding?

20                   A.    So I would have reviewed the IPR  
21   document itself.  So whatever was contained within  
22   that document I reviewed.

23                   Q.    By the IPR document are you  
24   referring to the IPR petition that was filed by  
25   ACCO?

1                   A.     I'm not a lawyer. I review  
2 whatever documents -- and I mean I can read them to  
3 you and we can put these into the record if you  
4 choose. I'll give you the very specifics around  
5 what I reviewed. Would you like to do that?

6                   Q.     Well, why don't you give me a list  
7 of the documents you reviewed or you can identify  
8 them?

9                   A.     And this would not be the  
10 complete -- I can give you a partial list today,  
11 but it would be best and, again, I would have to go  
12 back through. I only brought a subset of them with  
13 me, it's not exhaustive. If you would like me to  
14 provide the full list and clarify which documents  
15 were reviewed as part of No. 5 I would be happy to  
16 do so.

17                  Q.     Well, first, your review did not  
18 include Exhibit 1014, right? You didn't review  
19 that in connection with preparing your declaration,  
20 right?

21                  A.     So I hadn't seen that document,  
22 the specific pictures of it until today, that is  
23 correct. But, again, specifically, like the way I  
24 read the statement is I went through -- and, again,  
25 it may be the semantics of IPR electronic wrapper.



1 I'll be happy to provide a list of all documents  
2 that I did review.

3 Q. Why don't you identify what you  
4 can now for the documents that you reviewed?

5 A. Okay. But it would be a very --  
6 again, it would be a shorter list. It will be  
7 what's with me today unless I go back through my  
8 own electronic records.

9 Q. Well, let's start with that, why  
10 don't you describe what you have with you today?

11 A. Sure. So I have -- and, again,  
12 some of these -- I don't know if these are in any  
13 specific order. But this is the patent owner Think  
14 Products' response to the petition requesting the  
15 IPR, proceeding No. IPR 2015-01167.

16 Q. Patent owner response to petition?

17 A. Patent owner Think Products Inc.'s  
18 response to the petition requesting IPR.

19 Okay. Again, not in any specific  
20 order. I have the decision. This would have been  
21 dated October 2015. Case IPR 2015-01168.

22 Q. Okay. That's a decision issued by  
23 the patent trial and appeal board; is that right?

24 A. Is that what this is? I mean this  
25 is the document. I don't want to --

1 Q. I see. It says paper No. 13 in  
2 the upper left-hand corner.

3 A. Does that help?

4 Q. Yes, thank you. What else did you  
5 review?

6 A. Also paper 13, and I guess this is  
7 the Rice administrative patent judge document. And  
8 then this is another decision, also paper 13, with  
9 case IPR 2015-01167 Pollock administrative patent  
10 judge decision.

11 Q. So you reviewed that other  
12 decision as well. And what else did you review?

13 A. This would be patent owner Think  
14 Products Inc.'s preliminary statement pursuant to  
15 37 CFR 42-107, paragraph 42-107. In proceeding IPR  
16 2015-01168.

17 Q. Did you assist Think Products in  
18 preparing that preliminary statement?

19 A. I don't believe. The preliminary  
20 was prior to that timeframe that I provided to you.

21 Q. That was filed earlier than late  
22 2015 when you were contacted?

23 A. Again, my engagement is to provide  
24 the expert testimony that was filed I believe in  
25 January of 2016. My declaration.

1 Q. Okay. And are there additional  
2 documents that you reviewed?

3 A. I also reviewed my own  
4 declaration.

5 Q. Now, my question was really  
6 directed to what you reviewed in connection with  
7 preparing your declaration.

8 A. Sure.

9 Q. That's your declaration; you  
10 reviewed that in preparation for today's  
11 deposition?

12 A. Right. I reviewed and, again,  
13 this might be a copy, but I'll repeat it again.  
14 It's IPR 2015-01168 patent owner Think Products'  
15 response to the petition requesting IPR.

16 Q. And for the preliminary  
17 statements, you also reviewed the preliminary  
18 statements that were filed in both cases; is that  
19 right?

20 A. Correct, as well as Ryan White's  
21 affidavit. And there may, again, have been other  
22 documents that I did look at and I will be happy to  
23 provide that full list to you.

24 Q. But that's the complete list of  
25 the documents you have with you today?

1 A. Correct.

2 Q. And those are the documents you  
3 reviewed in preparation for your deposition today  
4 as well?

5 A. Correct, yes.

6 Q. Other than those documents, are  
7 there any other documents you recall that you  
8 reviewed in preparation for your declaration?

9 A. The patents themselves.

10 Q. Okay. The two Think Products  
11 patents you reviewed?

12 A. Correct. Plus the cited prior  
13 art.

14 Q. And that's the McDaid patent you  
15 referred to and the Chen patent?

16 A. Correct.

17 Q. Anything else that you recall as  
18 you're sitting here that you reviewed?

19 A. Not that I recall right now. I  
20 know there may have been others and, again, I'll  
21 being happy to provide that list.

22 Q. Okay. Getting back to Exhibit  
23 1014. I'm not sure if you answered this already,  
24 but just to clarify, what's your understanding of  
25 what product is depicted in Exhibit 1014?

1 MR. VODOPIA: Objection. Outside the  
2 scope of the deposition, Michael.

3 THE DEPONENT: I can read the title on  
4 there, but, again, it's a piece of -- a product  
5 that I worked on that I'm being a bit careful about  
6 discussing specifics about. So it's another  
7 Kensington cable lock solution.

8 BY MR. WEINER:

9 Q. Is that -- and take whatever time  
10 you need to review it. I know you have seen the  
11 front page --

12 A. Sure.

13 Q. -- but if you need to look at  
14 everything, please take whatever time you need.  
15 Depicted in Exhibit 1014 is that one of the  
16 ClickSafe products that you and your team was  
17 responsible for designing?

18 A. It was a product that I worked on  
19 during my tenure --

20 MR. VODOPIA: Objection. Outside the  
21 scope of the deposition.

22 MR. SCHINDLER: Also irrelevant.

23 MR. VODOPIA: Do you want to get a  
24 ruling? We don't want you to talk about this.  
25 Shall we get a ruling?

1 MR. WEINER: Your objections are noted  
2 on the record. According to the rules we should  
3 continue with the deposition.

4 MR. VODOPIA: Let's take a break.  
5 We're going to call the PTAB and we're going to get  
6 a ruling on this. Because we don't want him  
7 answering any questions about anything that's not  
8 relevant to this deposition to the IPR proceeding.  
9 No relevance to the IPR proceeding. None. Okay?

10 MR. WEINER: Are you instructing the  
11 witness not to answer?

12 MR. SCHINDLER: Let's put it this way,  
13 we've got to object to everything along these lines  
14 because it is irrelevant. So I mean you can ask  
15 him if he has confidential information he doesn't.  
16 If you ask him about the ClickSafe that's in the  
17 knowledge of public domain. He worked on it. He  
18 testified to that. So where is this going?

19 MR. WEINER: If you want to contact the  
20 board, that's fine. If you want to instruct the  
21 witness not to answer, that's fine. I just want to  
22 understand how you would like to proceed. Under  
23 the rules you should note your objections on the  
24 record and you can deal with it later, but if you  
25 need to contact the board now then we should go

1 ahead and do that.

2 But I do have some more questions for  
3 the witness about Exhibit 1014.

4 THE DEPONENT: My declaration itself  
5 doesn't discuss ClickSafe.

6 MR. VODOPIA: Let's talk to the board.  
7 May we take a break?

8 --- Recess at 9:22 a.m.

9 --- On resuming at 9:45 a.m.

10 ---REPORTER'S NOTE: Call connected to Patent Trial  
11 and Appeal Board and counsel introduced themselves

12 JUDGE POLLOCK: Good afternoon,  
13 gentlemen. This is Judge Pollock. I have here  
14 with me Judge Rice, and this is about IPR  
15 2015-01167 and 01168. I understand there's some  
16 question regarding the conduct of an expert  
17 deposition?

18 MR. VODOPIA: There is.

19 JUDGE POLLOCK: Who do I have on the  
20 line for petitioner?

21 MR. WEINER: This is Michael Weiner,  
22 and I'm here with Tron Fu, F-U.

23 JUDGE POLLOCK: And who's on the line  
24 for patent owner?

25 MR. VODOPIA: John Vodopia and Edwin

1 Schindler for owner.

2 JUDGE POLLOCK: All right. And who  
3 requested the conference call?

4 MR. SCHINDLER: The patent owner.

5 JUDGE POLLOCK: What seems to be the  
6 problem today?

7 MR. SCHINDLER: There's an objection to  
8 the scope of the relevant testimony. The  
9 petitioner is asking about its product and seems to  
10 be suggesting whether there may be an infringement  
11 of the product involved in the civil litigation,  
12 but that's not part of the written testimony of the  
13 expert which deals solely with issues of validity,  
14 particularly patents -- and really just patents  
15 that were made of record with the expert testimony.  
16 And we believe that the questions regarding  
17 potential infringement, or whether the expert had  
18 ever worked for the petitioner are irrelevant to  
19 this proceeding.

20 MR. VODOPIA: And outside the scope of  
21 the proceeding.

22 JUDGE POLLOCK: All right. And  
23 petitioner?

24 MR. WEINER: Yes. This is Michael  
25 Weiner. I think Mr. Vodopia may have misstated the



1 scope of my question. I didn't ask anything about  
2 infringement. I'm not intending to get any  
3 information about infringement. I asked the  
4 witness about a particular exhibit that's in the  
5 IPR petition, Exhibit 1014, that's in the IPR  
6 record and his declaration states that he reviewed  
7 the electronic file record of both IPR proceedings.

8 The witness also testified that the  
9 exhibit depicts a product that he and his team were  
10 responsible for developing while he was working for  
11 the petitioner ACCO Brands. So I just have a few  
12 questions about that particular product. Nothing  
13 about infringement. The questions I have are  
14 limited, probably 10 minutes at the most.

15 So we don't think there's a basis for  
16 an objection, and even if there's an objection we  
17 don't think it would be appropriate to instruct not  
18 to answer or for the board to cut off the line of  
19 questioning. If they want to object to relevance  
20 later on if we wanted to rely on this testimony  
21 then they could do that at the appropriate time.

22 MR. VODOPIA: This is John Vodopia,  
23 counsel for owner. And the exhibit is part of the  
24 record, but certainly not part of the expert's  
25 testimony. The exhibit is a photograph of the only

1 allegedly infringing product at issue in the stayed  
2 litigation. And, again, we feel it's just totally  
3 irrelevant when the deponent has...

4 MR. SCHINDLER: Has testified -- this  
5 is Edwin Schindler. Has testified to issues of  
6 validity based on issued patents. There's no  
7 discussion in the expert written testimony  
8 regarding anything about ClickSafe. It was cited  
9 as a reference, but the reference was circumvented  
10 based upon the allegation of an earlier filing  
11 date.

12 JUDGE POLLOCK: I'm sorry. I'm  
13 starting to get a little lost here.

14 MR. SCHINDLER: Okay. It's probably  
15 too much information.

16 THE REPORTER: I'm sorry.

17 MR. SCHINDLER: Can you repeat that for  
18 the court reporter, please?

19 JUDGE POLLOCK: I'm sorry. Was the  
20 question to me?

21 MR. WEINER: Your honour, we couldn't  
22 hear what you said. We don't have the greatest  
23 phone connection here. If you could please repeat  
24 it?

25 JUDGE POLLOCK: I see. I was asking

1 whether Exhibit 1014, the questions are about  
2 Exhibit 1014 and the content thereof, is that cited  
3 in the expert's report?

4 MR. VODOPIA: No, it's not.

5 MR. WEINER: Your honour, this is  
6 Michael Weiner. It is cited in the IPR petition.  
7 It's prior art that we rely on. And the expert did  
8 say that he reviewed the file history. But I agree  
9 that he didn't cite this exhibit in the expert's  
10 declaration, the expert that is being deposed  
11 today. But the expert did say that he recognized  
12 it as a product that he was responsible for  
13 developing.

14 MR. VODOPIA: Upon owner's objection,  
15 Judge.

16 JUDGE POLLOCK: Gentlemen, do we have  
17 anything else before we go off the record and I  
18 speak with Judge Rice?

19 MR. VODOPIA: No.

20 MR. WEINER: Nothing else for the  
21 petitioner.

22 JUDGE POLLOCK: I believe I understand  
23 the problem.

24 Well, I'm going to put you on hold just  
25 for a minute. Excuse us.

1 MR. VODOPIA: Thank you.

2 JUDGE POLLOCK: Gentlemen, are you  
3 still there?

4 MR. WEINER: Yes, Your Honour.

5 MR. VODOPIA: Yes.

6 JUDGE POLLOCK: Is counsel for patent  
7 owner still there?

8 MR. VODOPIA: Yes, we are, Your Honour.

9 JUDGE POLLOCK: Very good. Sorry, the  
10 phone connection isn't working very well.

11 The expert has recognized the content  
12 of Exhibit 1014 as a product that he worked on in  
13 development. To the extent that the questions and  
14 answers are not relevant, I believe that the  
15 objections that the parties put on the record will  
16 be sufficient and we can take up any additional  
17 matters regarding that later.

18 So I'm going to allow the questioning  
19 with respect to Exhibit 1014.

20 --- WITNESS RETURNS

21 BY MR. WEINER:

22 Q. Mr. Mahaffey, before we had a  
23 break I was asking you about Exhibit 1014, and you  
24 said that you recognize the product shown in  
25 Exhibit 1014 as one of the ClickSafe products you

1       were responsible for designing with your team at  
2       ACCO; is that correct?

3               A.     I don't think that's what I said.  
4       I think I said that I recognize that as a product.  
5       So, again, I'm being quite careful about it. It  
6       says ClickSafe on it. It's labelled ClickSafe. It  
7       is a computer lock that I did work on, yes.

8               Q.     Does it look like one of the  
9       products that you worked on?

10              A.     Yes.

11              Q.     Why don't you take a few minutes  
12       to look at the other photographs in Exhibit 1014.  
13       It's 14 pages long. You don't need to study every  
14       photograph in detail, but I just want you to review  
15       that and see if you can confirm that it does look  
16       like one of the products that you were responsible  
17       for designing with your team at ACCO.

18              A.     Do you actually have a source for  
19       these images? Like what are they from? Were they  
20       staged in preparation for the exhibit? Is it for  
21       marketing collateral?

22              Q.     I can represent to you they're  
23       still images from a video that was publicly  
24       available. We have copies of it on our computers,  
25       I don't know if it necessary for you to see it.

1 But these are still images from a video that was  
2 used for promotion of the ClickSafe line of  
3 products.

4 A. Okay.

5 Q. Of course we added the red  
6 annotations to the still images.

7 You're finished reviewing Exhibit 1014?

8 A. Yes.

9 Q. And do you agree that the  
10 photographs in Exhibit 1014 do show a ClickSafe  
11 product that was one of the products you and your  
12 team were responsible for designing?

13 A. They show a computer lock that I  
14 did work on when I was at Kensington, yes.

15 Q. And do you agree that the computer  
16 lock shown in Exhibit 1014 is a click-to-lock  
17 mechanism that doesn't require turning a key in  
18 order to activate the lock?

19 A. Can you repeat the question?

20 Q. Could you read that back, please?

21 (Last question read back)

22 THE DEPONENT: Can we break that  
23 question down? I mean there's a lot. You've asked  
24 specifics around the mechanism, how it functions.  
25 Can you just break that down a bit? Because if I

1 just agree to that that's a lot of complexity. I  
2 mean locks are complex mechanisms. What you've  
3 described to me as a lock designer you put a bunch  
4 of functionality into that one statement. So can  
5 you break that down into its specifics?

6 BY MR. WEINER:

7 Q. Well, in particular, let's take a  
8 look at page 11 of Exhibit 1014.

9 A. Okay.

10 Q. That shows a close-up of the lock  
11 mechanism. It's marked as G is the locking device,  
12 right?

13 A. Okay. I just want to be very  
14 careful again. I mean locking mechanism, locking  
15 device, right, there are some semantics and nuances  
16 there, right. So let's be careful. The mechanism  
17 to me describes the inner working, how it actually  
18 functions. The device encapsulates what you see in  
19 that image, right. It's a locking device. Yes, I  
20 agree that it's a locking device.

21 Q. And you're saying the mechanism is  
22 what you would describe the inner workings that's  
23 inside of that what's been labelled G on page 11,  
24 right?

25 A. So I'm agreeing that what's shown

1 on page 11 of this exhibit is a locking device.

2 Q. Okay. Now, if you weren't  
3 familiar with the product you couldn't tell how it  
4 works just by looking at the picture, right?

5 A. Explain.

6 Q. You're familiar with this product,  
7 right?

8 A. Yes.

9 Q. So you may have some idea as to  
10 what's shown inside as part of the inner workings  
11 of the lock mechanism even though it's not shown,  
12 right?

13 A. So if there are specifics around  
14 that mechanism, again, I need to make sure we  
15 understand that there is some know-how and  
16 knowledge that went into building that mechanism.  
17 The question you're asking is is someone who's not  
18 ordinary skilled in art can they look at this image  
19 and understand that that's a computer lock? The  
20 answer to that is absolutely. Because we're not  
21 making devices that if you don't recognize what  
22 their functionality is there wouldn't be a market  
23 for them. If we had to educate the market on  
24 computer locks or this is a device for locking a  
25 computer we wouldn't sell any.



1                   Q.     So even someone that wasn't  
2 familiar with this product by reviewing the images  
3 you would understand that it's a computer lock,  
4 right?

5                   A.     Everybody that's sitting at this  
6 table today should recognize that that's a locking  
7 device. And what's shown here, which I assume is a  
8 laptop, that's being used to lock down that laptop.

9                   Q.     And I have some questions for you  
10 that also relate to your knowledge of the product  
11 beyond what's shown in the figure, because you're  
12 familiar with the product, right? You're familiar  
13 with the line of products?

14                  A.     Correct.

15                  MR. SCHINDLER: Objection. That goes  
16 beyond what the scope of the petition was. Not  
17 just the testimony.

18                  THE DEPONENT: My declaration has  
19 nothing to do with the workings, the mechanics of a  
20 Kensington product. So you're showing me -- I mean  
21 you're actually asking me to divulge how does  
22 ClickSafe work. That has nothing to do with the  
23 signed declaration, my testimony, what I used in  
24 coming to the opinion that I provided.

25                  BY MR. WEINER:

1                   Q.    Okay.  I understand you didn't  
2   refer to this in your declaration, right?

3                   A.    Correct.

4                   Q.    You understand that this ClickSafe  
5   lock is operated by pushing the locking device onto  
6   the anchor that's attached to the laptop housing as  
7   shown on pages 11 and 12 of the exhibit?

8                   A.    So is the question -- just for  
9   clarification, are you asking me to describe how  
10   ClickSafe works?  The steps required to operate  
11   ClickSafe?

12                  Q.    I'm not asking for you to describe  
13   the entire operation but simply the locking.  If I  
14   were using this product how would I lock the lock  
15   onto the laptop?

16                  A.    I think whatever the video and the  
17   stills these were taken from would describe that.  
18   Again, looking at stills from them, there's more to  
19   this process, and we aren't talking about any of  
20   the preceding steps.  You're asking me just to look  
21   at page 11 and agree with that statement?  That's  
22   difficult.  We're negating a bunch of steps.  
23   You're asking me to come to a conclusion that  
24   you're sort of leading me to, I would say that's  
25   difficult.  We should review the whole video.

1 Let's watch the video, see how it operates and then  
2 agree that holistically that's how the product  
3 operates. I'm happy to do that.

4 Q. We do have a copy of the video.  
5 If you'd like to see I'm happy to show it, it takes  
6 a couple minutes, but let me just clarify that I'm  
7 just trying to save a little time here. So if  
8 there's something you feel comfortable answering  
9 without seeing the video please go ahead and  
10 answer, but if you need to review it that's fine  
11 too.

12 A. It's a bit of a leading question  
13 because I can talk about -- I mean what you're  
14 asking me to do is say use your knowledge of  
15 ClickSafe, which is not relevant as I said as to  
16 the declaration that I provided or in the expert  
17 testimony that I'm providing to Think Products, and  
18 to conclude that this particular still from a video  
19 shows that action? That's a stretch. That's very  
20 difficult for me.

21 Q. I'm really asking about the  
22 product, not so much about exactly what's shown in  
23 the video. But looking at page 11 of the document  
24 you recognize that product, right?

25 A. This could be a third attempt at

1 putting the lock head onto the knob. This could be  
2 the product's come off, the key's been removed.  
3 I'm not sure what particular step. You're asking  
4 me to identify the action as being this locking  
5 device is being pushed onto that? That's very  
6 difficult for me to do. I would have to assume a  
7 whole bunch of other steps.

8 Q. Have you ever used one of these  
9 products to lock a laptop?

10 A. Have I used a computer lock?

11 MR. SCHINDLER: Objection to relevance.

12 BY MR. WEINER:

13 Q. I'm asking about a ClickSafe lock  
14 as shown in Exhibit 1014.

15 A. Have I used ClickSafe?

16 Q. Yes.

17 A. The answer is yes, I've used  
18 ClickSafe.

19 Q. And the ClickSafe product line has  
20 more than one product, right?

21 A. Can you clarify that? I mean what  
22 are we calling product? More than one product?

23 Q. More than one SKU?

24 A. More than one Sku? So do you  
25 understand that there could be different SKUs based

1 on different lengths of cable, or different colours  
2 of that tab that's provided on the cable lock? So  
3 there's a number of different reasons for creating  
4 a new SKU. One could be an English package and one  
5 could be in French. So were there multiple SKUs of  
6 ClickSafe? Yes, for multiple reasons for multiple  
7 markets.

8 Q. Okay. And I'm asking about a  
9 ClickSafe product similar to what's shown in  
10 Exhibit 1014; you recognize that, right?

11 A. Again, I'll reiterate what I said  
12 when the question was asked previously. I do  
13 recognize this as a computer lock. I recognize it  
14 as a computer lock that I worked on during my  
15 tenure at Kensington.

16 Q. And you recognize as shown on page  
17 11 the ClickSafe lock has an anchor that's attached  
18 to the laptop housing, right?

19 A. So if we want to construe anchor  
20 I've got to be careful again, right, that's got a  
21 common colloquial understanding, anchor. You're  
22 asking me to agree that that is an anchor? Again,  
23 there are nuances in this business, right, and I  
24 want to make sure that I don't misstate or  
25 misrepresent what is shown again on a snapshot from

1 a two-minute video.

2 Q. I understand, and I don't want to  
3 get too hung up on the particular language in  
4 connection with this line of questions.

5 A. But just so I can also clarify,  
6 this is where my or Mr. White's testimony is that  
7 expert level of testimony is particular about how  
8 the product is used in specific applications. So  
9 we are taking some generalities and you're drawing  
10 from me specific, can you identify this mechanism?  
11 Can you identify this? That's difficult to do,  
12 again, without the context of it.

13 If you're asking me to say that this is  
14 specifically a security anchor? Again, anchor.  
15 What does that really mean? Did I call it an  
16 anchor during my tenure at Kensington? I might  
17 have. I might not have. It has different  
18 connotations. But I do understand that the word  
19 "anchor" can have very specific meaning with  
20 regards to this particular action. I want to be  
21 careful.

22 Q. Let me try to simplify the line of  
23 questioning a little bit if I can. You see on page  
24 11 there's the part that's referred to by the  
25 reference letters C and D? Do you see that?

1                   A.     Okay.

2                   Q.     That's a part that is attached to  
3 the housing of a laptop, do you agree with that?

4                   A.     It's a part somehow attached to a  
5 housing on a laptop.

6                   Q.     Okay. You recognize that part  
7 that's labelled C and D, you've seen those before,  
8 right?

9                   A.     I recognize the part. Without  
10 clarification, I don't actually know specifically  
11 what C is referencing, or D. D is even missing its  
12 arrow. So I recognize the protrusion that is  
13 attached to the laptop housing.

14                  Q.     Okay. I used the term anchor to  
15 refer to that and maybe that wasn't the best term.  
16 Would you call it a protrusion, or how would you  
17 identify that part?

18                  A.     So I think -- again, it's been  
19 called a protrusion, a knob, a security rod, an  
20 anchor. There's a number of different terms. And  
21 that, again, is not exhaustive.

22                  Q.     If I call it a knob will you  
23 understand what I'm referring to?

24                  A.     If we call -- let's refer to this  
25 particular device attached to this housing as a

1 knob? Okay. I understand, yes.

2 Q. So when I say "knob" I'm referring  
3 to that. And I see there's a C and a D on that  
4 referring to one particular part, just that entire  
5 part attached to the housing, okay?

6 A. So hang on. So are you familiar  
7 with how that part works and all of its mechanism?

8 Q. I'm familiar with it, but right  
9 now I don't have a specific question for you about  
10 exactly how that knob works.

11 A. So the physical, the exterior  
12 part, the knob, I'm not including in that the  
13 actual functionality and how it attaches to that  
14 device. I want to look at these as black boxes.  
15 We have a knob and we have a locking device.

16 Q. So you agree the knob is attached  
17 to the laptop housing, right?

18 Okay. And you agree that the locking  
19 device labelled G in this figure is locked to the  
20 knob?

21 A. No. I don't agree with that.  
22 Again, what's happening in this particular image?  
23 Is it locking to? Is it been pressed on? Is it  
24 coming off? I don't see a key, but it's really the  
25 angle of the shot. It's like a goal review in a



1 game of hockey. I'm not particular about this.  
2 Where are we in the steps?

3 Q. In the still image you can't tell  
4 what's happening?

5 A. Cannot tell.

6 Q. All you can see is there's a  
7 locking device --

8 A. Locking device --

9 THE REPORTER: One at a time.

10 THE DEPONENT: I agree that in this  
11 image we see a locking device, a knob attached to  
12 what appears to be a laptop.

13 BY MR. WEINER:

14 Q. Now I have a couple of questions  
15 for you. I know I said I'd ask for 10 minutes or  
16 fewer in this line of questioning. It's going a  
17 little bit longer than I had intended, but I don't  
18 think this should take too long.

19 A. And I'm trying to be careful,  
20 right. I mean there's what we perceive and then  
21 how these things work. Again, as per my covenant I  
22 want to make sure that I only share information  
23 that I'm most comfortable with.

24 Q. And if any of my questions would  
25 require confidential information in your response

1 please let me know and we'll address that. But my  
2 intention is not to ask for any confidential  
3 information. As I mentioned, these are still  
4 images from a video that's publicly available. So  
5 there's nothing secret that's actually shown in the  
6 document. And of course the document itself wasn't  
7 filed in a confidential manner. It's publicly  
8 available in the IPR record as well.

9 A. Understood.

10 Q. I'm using the photograph in the  
11 exhibit as a reference point, but my questions are  
12 not directed to exactly what is shown in the video  
13 or in the photograph. This is more just a  
14 reference point so we know what product we're  
15 referring to.

16 A. Okay.

17 Q. But you do recognize the product  
18 that is shown here in Exhibit 1014, right?

19 A. Yes. I agree to that, yes.

20 Q. So what I'm asking is if you were  
21 going to use this product to lock the laptop using  
22 the locking device G, would you agree that the lock  
23 is designed to operate by snapping it onto the  
24 knob?

25 MR. VODOPIA: Objection. Form.

1 THE DEPONENT: No, I would not agree  
2 necessarily. Again, we've used click, snap, right.  
3 What is -- what happens -- can you break that down  
4 into again a series of operations, and then I'll  
5 agree that if they are correct those are the series  
6 of steps taken to lock a locking device to a knob.  
7 Just to simply say it snaps together doesn't quite  
8 explain the nuance again on how the product  
9 operates.

10 BY MR. WEINER:

11 Q. Let me try it this way: Can you  
12 describe very generally how one would use this  
13 product to lock to the knob on the laptop housing?  
14 From your own knowledge and background.

15 A. Can you repeat the question,  
16 please?

17 Q. Could you read that back, please?  
18 (Last question read back)

19 THE DEPONENT: So what I'd, again,  
20 recommend, it's a two-minute video, I think the  
21 video is produced by Kensington and it explains  
22 complete all the steps. Let's watch it and say  
23 that particular product in this particular instance  
24 the person has used it this way. I'll agree to  
25 that's how it's used. Rather than specifics around

1 a step that again negates all the other steps. If  
2 we watch the video I'll say that's how that  
3 particular product could be used to lock down a  
4 laptop, if I agree.

5 MR. WEINER: Okay. Let's look at the  
6 video. This will just take a couple of minutes to  
7 start up my computer. I don't have an extra copy  
8 of it, but, counsel, we can all look at the same  
9 laptop screen if you like.

10 MR. VODOPIA: Sure.

11 He can agree that the video shows what  
12 it shows.

13 MR. WEINER: Okay. I have a video that  
14 I'm about to show to the witness. It's on my  
15 laptop computer, and I'll turn it around so counsel  
16 can see it as well. This video is Exhibit 1013 in  
17 the record.

18 I'm going to press start there, and I  
19 guess it's 1 minute 44 seconds. It's pretty quick.  
20 If you could take a quick look at it.

21 (Counsel plays video)

22 THE DEPONENT: Just hang on a second.  
23 Can we just go back?

24 BY MR. WEINER:

25 Q. Put that on pause if you'd like.

1                   A.     So this is a marketing video but  
2     there's been an error made.

3                   Q.     Let's show the whole video first  
4     and then I'll ask any questions about it?

5                   A.     So that's about -- roughly just  
6     note the time. It's about 54 seconds in.

7                             (Video played)

8                   A.     Okay.

9                   Q.     After reviewing the video which  
10    has been marked Exhibit 1013, do you agree that  
11    Exhibit 1014 appears to show still images from that  
12    video?

13                  MR. SCHINDLER: We have the continuing  
14    objection to relevancy.

15                  THE DEPONENT: It could, right. Again,  
16    I mean how do I correlate exactly these? I mean if  
17    we correlate it time specifically, yes, some of  
18    these look like they came from them. I mean I  
19    recognize more page 6 is obviously the same model,  
20    page 7, but some of the close-ups it's difficult to  
21    tell they specifically came from the video.

22                  BY MR. WEINER:

23                  Q.     For the purposes of the questions  
24    that I have now I don't need your detailed  
25    explanation as to each image in the video, but just

1 generally do you agree it looks like they come from  
2 the video?

3 A. It appears that way, yes.

4 Q. And you're familiar with the  
5 product that's shown in the video, right?

6 A. Yes.

7 Q. Can you describe briefly how one  
8 would lock the locking device to the laptop using  
9 this product?

10 A. So one possible way to do it is as  
11 shown in that video.

12 Q. And could you describe that please  
13 for the record?

14 A. Can we not -- the video is entered  
15 as an exhibit. What's the purpose of me providing  
16 how I personally would use it? My way may be  
17 different from yours, may be different from  
18 Peter's. I'm not sure specifically, again, why I  
19 need to describe the steps I personally as a person  
20 that knows computer locks intimately how I would  
21 use it versus a layperson would use it. It doesn't  
22 necessarily help. It's not providing any insights  
23 into how computer locks are used.

24 Q. Did you meet with counsel in  
25 advance of your deposition today?

1                   A.    Have I met with counsel in advance  
2 of the deposition?

3                   Q.    Yes.

4                   A.    Can you clarify the question?

5                   Q.    Is there something unclear about  
6 the language that I used in my question?

7                   A.    Is the question around -- these  
8 are my responses. This is how I would respond to  
9 the line of questioning. It's based on my  
10 background, my education. It's not on coaching  
11 from counsel.

12                   So I'm trying my very best to give you  
13 as an expert witness enough information that  
14 describes how I came to the declaration that I  
15 provided. The line of questioning is around  
16 generalities and how to use a security product? I  
17 just don't understand the relevance. So I'm trying  
18 my best to be as general as possible. Unless there  
19 are specifics around my design experience, lock  
20 design, what's provided in the declaration, I'm  
21 going to be quite general about it as well.

22                   So you asked the question, how would  
23 you use the product? We all agree, we watched the  
24 video, that's how a layperson could use the product  
25 to secure a laptop; I agree to that.

1                   Q.    I didn't ask you whether counsel  
2                   coached you today, did I?

3                   A.    This is the semantics of the  
4                   language.  You asked me a question if I was  
5                   prepared by.  I can understand as these  
6                   responses -- you're asking something that's very  
7                   close to me.  I know this product.  I'm doing my  
8                   very best to, again, be an expert in the case.  But  
9                   I'm not going to get caught into -- again, there's  
10                  privileged information, there's confidential  
11                  information, and I want to answer the questions as  
12                  accurately as I can.  But I do need specifics  
13                  around the question for me to give you simple  
14                  answers.

15                 Q.    I'm sure counsel for Think  
16                 Products told you to answer the questions as  
17                 accurately as you could, right?

18                 A.    That's understood.

19                 Q.    And do you understand you're here  
20                 to answer my questions today?  You're not here to  
21                 give your opinions about what's relevant or not  
22                 relevant in the IPR proceeding.

23                 A.    You're asking --

24                 Q.    Do you understand that?

25                 A.    Can you repeat the question?



1 Q. Do you understand that you're here  
2 to answer my questions today?

3 MR. SCHINDLER: Objection to being  
4 argumentative.

5 THE DEPONENT: To the best of my  
6 ability I'll ask answer the questions.

7 BY MR. WEINER:

8 Q. And you understand you're not here  
9 to give your opinions on what's relevant in the IPR  
10 proceedings?

11 A. On the record I'm making a  
12 statement about how I feel around the questioning  
13 as relates to the particular case, the action.

14 Q. Move to strike the response as  
15 non-responsive.

16 You're not here to give your opinions  
17 or your feelings about what you think about the  
18 questions or about the IPR proceeding. You're here  
19 to answer my questions, do you understand that?

20 A. The question has to be specific.  
21 I cannot provide you with -- you know, you're  
22 asking me how I would use the computer lock. The  
23 video shows how it would be used. I agree to that.  
24 It's an exhibit.

25 Q. It's a product you're very

1 familiar with, right?

2 MR. SCHINDLER: Objection to relevance.

3 THE DEPONENT: It's a product I'm  
4 familiar with, yes.

5 BY MR. WEINER:

6 Q. You're very familiar with it?

7 MR. SCHINDLER: Objection. He's  
8 familiar with the product.

9 MR. WEINER: Your objection is noted.

10 BY MR. WEINER:

11 Q. You're very familiar with the  
12 product, right?

13 MR. SCHINDLER: Objection to form.  
14 What's the difference between familiar and very  
15 familiar?

16 BY MR. WEINER:

17 Q. You're gesturing. Please answer  
18 orally so the court reporter can put it on the  
19 record. You're very familiar with the product,  
20 right?

21 MR. VODOPIA: You can't testify,  
22 Michael. Ask him a question if you have a  
23 question.

24 MR. WEINER: Your objection is noted.

25 THE DEPONENT: I am familiar with the

1 product.

2 MR. SCHINDLER: Objection. What is --

3 MR. WEINER: Counsel, will you be quiet  
4 and let me ask my questions?

5 MR. SCHINDLER: What does the form of  
6 very familiar mean as opposed to familiar?

7 MR. WEINER: Counsel, you're not here  
8 to coach the witness and tell him how to answer.

9 MR. SCHINDLER: I'm not coaching. I  
10 don't understand the question.

11 MR. WEINER: You object concisely on  
12 the record. That's what the patent office trial  
13 practice guide says. If you continue to make  
14 speeches on the record we're going to have to  
15 bother the Patent Trial and Appeal Board again to  
16 get an instruction to have you be quiet and just  
17 make your objections on the record.

18 MR. SCHINDLER: I'm allowed to raise  
19 objections.

20 MR. WEINER: I'm just going to put into  
21 the record I'm reading from the patent office trial  
22 practice guide that's in the federal register,  
23 volume 77, page 48772. Testimony guidelines No. 3:

24 An objection must be stated concisely  
25 in a non-argumentative and non-suggestive manner.

1 Unnecessary objections, speaking objections and  
2 coaching of witnesses in proceedings before the  
3 board are strictly prohibited. The defending  
4 lawyer must not act as an intermediary,  
5 interpreting questions, deciding which questions  
6 the witness should answer and helping the witness  
7 formulate answers while testifying.

8 Counsel, I ask you to keep your  
9 objections concise as required under the trial  
10 practice guide and if we need to bother the Patent  
11 Trial and Appeal Board again to get guidance on how  
12 to proceed then I'll do that.

13 Can you read back the last question,  
14 please?

15 (Last question read back)

16 THE DEPONENT: And I said I'm familiar  
17 with the product. I don't understand very  
18 familiar.

19 BY MR. WEINER:

20 Q. Well, you've used a ClickSafe  
21 product as shown in Exhibit 1014; you've used that  
22 hundreds of times, right?

23 A. I didn't count how many times I've  
24 used it.

25 Q. Have you used it more than 10

1 times?

2 A. Possibly.

3 Q. You're not sure if you've used it  
4 more than 10 times?

5 A. I do not recall how many times  
6 I've used the product.

7 Q. More than once?

8 A. More than once, yes.

9 Q. More than five times?

10 A. I really don't know. I did not  
11 keep count how many times I used the product.

12 Q. But you were head of a team that  
13 designed this product, right?

14 A. Correct.

15 Q. And you know how the product works  
16 as head of the team that designed it?

17 A. Yes, I am.

18 Q. And you know that it works by  
19 clicking the lock onto the knob, right?

20 A. Again, when we -- back to the line  
21 of questioning and the reason I did ask to watch  
22 the video is what the video shows is how it was  
23 portrayed from a marketing perspective. That's how  
24 the product could be used. A possible series of  
25 steps that could be taken to use the product, I

1 agree to that, yes.

2 Q. So the court reporter can get this  
3 on the record, please describe in your own words  
4 how the product was shown used in the video.

5 A. So I would say that, again, one --  
6 how it could be used is as shown in the video.

7 Q. And would you describe that please  
8 for the record?

9 A. In generality I would say that  
10 that particular person inserted the knob into a  
11 laptop incorrectly, and then attached the locking  
12 device to the knob securing the laptop.

13 Q. Okay. So you don't think she  
14 inserted the knob into the housing correctly; is  
15 that what you were saying?

16 A. That is correct, yes.

17 Q. How would you describe how the  
18 knob should be inserted into the laptop?

19 A. So that particular knob required  
20 indexing to be inserted into the housing and she  
21 failed to do that when she tied in the Allen screw  
22 using the Allen key available.

23 Q. What do you mean by indexing?

24 A. So, again, nothing in this exhibit  
25 actually shows -- so I'll refer to page 4 of

1 Exhibit 1014. And actually this is about where the  
2 error was made in the video.

3 Q. And page 4 shows the knob being  
4 inserted into the housing; is that right?

5 A. It shows what appears to be the  
6 installation. Either it being installed or  
7 removed, but either/or is fine. It shows that  
8 there's actually a pin that is required to be  
9 aligned with the slot, right. In this particular  
10 video and in this photo it appears to be -- instead  
11 of being inserted correctly into the slot it's  
12 being turned 90 degrees. So the pin itself will  
13 actually crush the housing of that laptop when she  
14 tightens the screw. The video then fades out to  
15 make a correction. It's shown then in the video  
16 correctly inserted.

17 Q. So you're saying that the knob  
18 wasn't turned to the correct angle when it was  
19 inserted --

20 A. Correct.

21 Q. -- into the housing?

22 A. Correct.

23 Q. But you agree that the knob is  
24 attached to the housing, it's tightened to the  
25 housing using an Allen wrench tightening on the

1 screw?

2 MR. SCHINDLER: Objection to relevance  
3 about anything having to do with anything with his  
4 testimony.

5 THE DEPONENT: It shows an Allen key  
6 being used to tighten the screw on the knob that's  
7 being installed on a laptop housing.

8 BY MR. WEINER:

9 Q. And that's how you understand the  
10 product should be used, right?

11 A. It's how the product can be used,  
12 yes.

13 Q. It was designed to be used that  
14 way, right?

15 A. It shows an instance of how we  
16 envision the product to be used, yes.

17 Q. And now please continue describing  
18 how the product was used in the video.

19 A. That's how it works.

20 Q. How was the lock attached to the  
21 knob?

22 A. How was the lock attached to the  
23 knob? It's pushed on.

24 MR. SCHINDLER: Objection. The witness  
25 is essentially testifying to the infringement



1 issue, and I believe the board was told this would  
2 take 10 minutes, this line of questioning, I think  
3 it's taken close to a half an hour.

4 BY MR. WEINER:

5 Q. The lock doesn't require turning a  
6 key to activate the lock, right?

7 A. That's incorrect. Can you read  
8 back that statement? I'll show you why it's wrong.

9 Q. I said the lock doesn't require  
10 turning a key to activate the lock, right?

11 A. The lock requires a key to  
12 activate the lock.

13 Q. To unlock it?

14 A. That's different.

15 Q. But not to lock it?

16 A. So does this particular product  
17 require the key to lock the locking device to the  
18 knob, securing it to the knob?

19 Q. Yes, that's my question.

20 A. It was designed to operate without  
21 the key, that is correct, to lock.

22 Q. And would you agree that the lock  
23 mechanism in this product is an axial lock  
24 mechanism?

25 A. So, again, we're back to specifics

1 around the mechanism.

2 Okay. Locks have two distinct  
3 portions. You have where the key goes and how the  
4 key works, and you have how the engagement goes.  
5 So you have a back end and a front end. So if  
6 you're asking me to describe is the engagement of  
7 the lock head on the knob axial? Yes, it is.

8 Q. And would you agree that the lock  
9 mechanism is an axial lock mechanism?

10 A. Again, we're talking about  
11 mechanism. The embodiment of -- we've used locking  
12 device. We had that discussion about locking  
13 devices. The device itself which is the keyed end  
14 plus the engagement end, right, I've described to  
15 you that how the engagement side is axial. I  
16 haven't discussed anything regarding the keyed  
17 side. It's difficult to put those things together  
18 and talk about specific functionality, again,  
19 without being specific to the portion of the lock.

20 I do have a very clear and concise  
21 explanation of axial versus radial if that helps.  
22 In relation to the cited prior art.

23 Q. You understand what an axial lock  
24 mechanism is, right?

25 A. That's correct, yes.

1                   Q.    You've used that term in your  
2    declaration in your sworn testimony, right?

3                   A.    That's correct, yes.

4                   Q.    Is the ClickSafe product as shown  
5    in 1014 does that include an axial lock mechanism?

6                   A.    I've agreed that a portion of that  
7    particular lock, that embodiment shows an axial  
8    locking engagement mechanism, that is correct.

9                   Q.    Does it show a different lock  
10   mechanism other than a axial lock mechanism?

11                  A.    That particular lock uses a very  
12   different keying mechanism.

13                  Q.    Could you repeat that, please?

14                  A.    The lock shown in the video and  
15   Exhibit 1014 uses what is commonly called a  
16   disk-style keying mechanism.

17                  Q.    A disk-style keying mechanism?

18                  A.    Disk style. D-I-S-C or K style  
19   locking mechanism.

20                  Q.    And that mechanism has an axial  
21   engagement?

22                  A.    I need to do an analysis to  
23   determine if it actually fits that.

24                  Q.    Didn't you already say that?

25                  A.    No. I spoke about the engagement

1 mechanism being axial. ClickSafe uses an axial  
2 engagement mechanism. It uses a disk-style locking  
3 mechanism.

4 Q. It uses an axial engagement  
5 mechanism is that what you said?

6 A. That is correct, yes.

7 Q. And the particular type of axial  
8 engagement mechanism is a disk-style mechanism?

9 A. No. The locking mechanism is disk  
10 style. The engagement mechanism we described as  
11 axial.

12 Q. What's the difference between the  
13 locking mechanism and the engagement mechanism?

14 A. So the engagement mechanism is how  
15 we describe how the lock would lock either to the  
16 laptop or to some intermediary adaptor type device.  
17 The locking mechanism is how you actually secure so  
18 there would only be a unique key to be able to  
19 unlock it. They interface through some sort of a  
20 mechanism, but in the lock world there's engagement  
21 and there's the locking side. They are distinctly  
22 different.

23 Q. By engagement are you referring to  
24 how the parts fit today?

25 A. I'm describing how you would -- to

1 enable yourself to take a locking device and attach  
2 it to a device you want to secure, that action  
3 between those two devices that's the engagement  
4 side.

5 Q. How about the Chen prior art  
6 reference that you referred to in your declaration,  
7 would you agree that Chen also shows an axial  
8 engagement mechanism?

9 A. So, yes, we agree that Chen -- I  
10 agree that Chen shows an axial engagement  
11 mechanism.

12 Q. Would you agree that the axial  
13 engagement mechanism in Chen is similar to the  
14 axial engagement mechanism in the ClickSafe  
15 products?

16 MR. VODOPIA: Objection. Outside the  
17 scope of the deposition.

18 THE DEPONENT: To a person not  
19 necessarily skilled in the art they would appear to  
20 be similar, but there could be some dissimilarities  
21 between the two.

22 BY MR. WEINER:

23 Q. Well, I'm asking questions to you  
24 as a person who is skilled in the art of the  
25 invention.

1                   A.    Is there similarity in the  
2 engagement mechanism of Chen and the ClickSafe  
3 patent? Or the ClickSafe embodiment of the lock,  
4 the ClickSafe product?

5                   Q.    Let me put it this way: Would you  
6 use the same description of the Chen mechanism as  
7 an axial engagement mechanism as you would use for  
8 the ClickSafe product, an axial engagement  
9 mechanism?

10                  A.    Give me a second. Can you repeat  
11 the question?

12                  Q.    Could you read that back, please.

13                        (Last question read back)

14                  THE DEPONENT: So only on the  
15 engagement side as I've described that there's two  
16 distinct different functions. There's similarity  
17 in the fact that there's a knob that's used to  
18 attach a locking device to the laptop. That is  
19 similar, yes, right. In the specifics around how  
20 those mechanisms work they are quite different.  
21 They are dissimilar.

22                       And, again, I have -- I can  
23 specifically show you a view of Chen and why there  
24 are dissimilarities.

25                  Q.    Would you agree that in the

1 ClickSafe product after locking the lock mechanism  
2 can turn relative to the knob?

3 A. Can you repeat the question?

4 Q. Would you read that back, please?

5 (Last question read back)

6 MR. WEINER: Let me restate that.

7 MR. VODOPIA: Objection. Michael,  
8 outside the scope of the deposition. You're asking  
9 him about something that he didn't prepare for.

10 BY MR. WEINER:

11 Q. Let me restate the question.  
12 Would you agree that in the ClickSafe product after  
13 the lock head is locked onto the knob that the  
14 knock head can turn relative to the knob?

15 A. So let's establish a degree of  
16 freedom. So when you say turn, you've got a knob,  
17 right, attached to the laptop. You're asking the  
18 question can ClickSafe rotate 360 degrees around  
19 its axis around the knob?

20 Q. That's not exactly my question. I  
21 didn't say anything about 360 degrees. I asked  
22 would you agree that in the ClickSafe product after  
23 the lock mechanism is locked onto the knob the lock  
24 head can turn relative to the knob?

25 A. So you'll always have some --

1       there's always going to be some slack, some play.

2                   Q.     And you saw that on the video,  
3       right?  You saw some play between the lock head and  
4       the knob?

5                   A.     So the question is, is there  
6       relative freedom between the knob and the lock head  
7       on the Kensington product?

8                   Q.     Yes.

9                   A.     From recollection, I believe there  
10      is.  It's free to turn.  Around that axis that I've  
11      described.

12                  Q.     Referring to your declaration  
13      Exhibit 5, or Exhibit 6 in the other IPR  
14      proceeding, can you briefly describe how you  
15      prepared your declaration?

16                  A.     Sorry.  Let me just get the  
17      document.  Exhibit 5.  Can you repeat the question,  
18      please?

19                  Q.     Referring to your declaration, and  
20      of course it's Exhibit 5 in IPR 1167, it's Exhibit  
21      6 in IPR 1168.  My question is can you generally  
22      describe how your declaration was prepared?

23                  A.     So after being retained I prepared  
24      a report that reviewed the cited prior art.  The  
25      report was made available to my client.



1 Q. You made the report available to  
2 counsel for Think Products?

3 A. Yes, I did.

4 Q. And then what happened after you  
5 provided your report?

6 A. So the report was used to  
7 generate, or portions of the report were used to  
8 generate the declaration.

9 Q. And then counsel for Think  
10 Products provided that written declaration to you  
11 for your review?

12 A. That's correct.

13 Q. And after they provided that did  
14 you make any revisions in the language they had  
15 prepared?

16 A. Yes, I did.

17 Q. Did you go through multiple drafts  
18 after that point?

19 A. Yes, there were multiple drafts.

20 Q. How many drafts did you go  
21 through?

22 A. Recollection, more than two. Two  
23 or more.

24 Q. And when you made revisions you  
25 sent the revised draft back to counsel for Think

1 Products?

2 A. Correct, yes.

3 Q. And did you also have discussions  
4 with counsel for Think Products in preparing the  
5 declaration?

6 A. Yes.

7 Q. In those discussions were you  
8 asked about your role at ACCO?

9 A. Let me think.

10 So I provided my resume. My resume  
11 discussed my experience, my achievements at ACCO.  
12 So they would have been aware of that, yes.

13 Q. Did they ask you any questions  
14 about your work at ACCO?

15 A. Questions relative to what? Lock  
16 design? The business of ACCO?

17 Q. My question is were you asked any  
18 questions about your work at ACCO?

19 A. So for them to attain that I had  
20 the credentials to provide expert testimony they  
21 would have asked me questions regarding my lock  
22 design experience which would have been during my  
23 tenure at Kensington; how many years did I work  
24 there, etcetera.

25 Q. And you provided that information

1 to them?

2 A. Yes.

3 Q. Did they tell you why you were  
4 being contacted to provide testimony for Think  
5 Products?

6 A. I understood that it would be used  
7 in this IPR.

8 Q. In your discussions with counsel  
9 for Think Products did you discuss your involvement  
10 in designing the ClickSafe products?

11 A. No.

12 Q. Did you discuss with counsel for  
13 Think Products your involvement in obtaining  
14 patents to cover the ClickSafe products?

15 MR. VODOPIA: Objection. Form.

16 THE DEPONENT: My resume contained, or  
17 even my LinkedIn page would have contained specific  
18 references to the intellectual property that I  
19 would have been involved in generating. So it's  
20 whatever would be in the public domain again.

21 So if I'm a named inventor and it was  
22 on IP that was generated during ACCO it would be --  
23 I use it. It's on my LinkedIn page. It's in the  
24 public domain. So that's for issued or pending  
25 applications.

1 BY MR. WEINER:

2 Q. Other than what you said is  
3 publicly available on your LinkedIn page, for  
4 example about your being a named inventor, did you  
5 provide any other information to counsel for Think  
6 Products about your involvement in obtaining  
7 patents on ClickSafe products?

8 A. Nothing that, again, back to --  
9 would have been at issue with my covenant, or I  
10 would have considered to be confidential. No, I  
11 did not share information other than what was in  
12 the public record. Public domain.

13 Q. When you were at ACCO were you --  
14 let me strike that. Were you actively involved in  
15 the process for obtaining patents for the ClickSafe  
16 products?

17 MR. SCHINDLER: Objection to relevance.

18 THE DEPONENT: What would you consider  
19 to be active in the process of? I was --

20 BY MR. WEINER:

21 Q. Did you have any involvement other  
22 than having your name listed as a named inventor on  
23 those applications?

24 A. So I'm a material contributor to  
25 all the patents that I'm the named inventor on.

1 And of course there would be with the creation, the  
2 writing of the claim language, they would obviously  
3 come back and they would review that with us. So  
4 that iterative process of generating the actual  
5 patent application I would have been involved with,  
6 yes.

7 Q. And you had to review the final  
8 applications before they were filed with the U.S.  
9 patent and trademark office?

10 A. Correct.

11 MR. SCHINDLER: Objection to relevance.

12 THE DEPONENT: Correct.

13 BY MR. WEINER:

14 Q. In your discussions with counsel  
15 for Think Products did you discuss Ryan White?

16 A. Other than Ryan's affidavit, my  
17 discussing Ryan White had no relevance to the  
18 declaration that I provided.

19 Q. So you didn't provide any  
20 information to them?

21 A. What he looked like? Where he  
22 lived? Unless it was anecdotal, such as Peter has  
23 a New York accent, Ryan has a Bostonian accent, but  
24 it wasn't anything further than that.

25 Q. Now, you've said before you spent

1 about 100 hours on serving as an expert in these  
2 IPR proceedings, right?

3 A. Mm-hmm.

4 Q. How much of that time was spent  
5 preparing your declaration?

6 A. A significant portion.

7 Q. The majority of that would you  
8 say?

9 A. Majority, yes.

10 Q. So more than 50 hours to prepare  
11 the declaration?

12 A. More than 50 hours, correct.

13 Q. How did you decide what to address  
14 in the declaration?

15 A. So I would have reviewed the other  
16 actions in the IPR, including the preliminary  
17 judgments, and I would have used my skill in  
18 reviewing the cited prior art to opinion  
19 differently when appropriate to do so.

20 Q. So you were asked to reviewed the  
21 cited prior art?

22 A. That's correct.

23 Q. In the petition and in the  
24 institution decision, right?

25 A. Correct.

1 Q. Okay. But you weren't asked to  
2 review Exhibit 1014 relating to the ClickSafe  
3 product, right?

4 A. Quite honestly, it might have just  
5 been that whatever documentation I was provided  
6 this particular exhibit was missing, right, or I  
7 don't recall seeing it, but that's correct. As I  
8 said earlier on 1014 is amiss. And I wouldn't have  
9 needed to look at that to make the declaration that  
10 I provided. It doesn't change my declaration.

11 Q. And you weren't asked to review  
12 that video that we just looked at, Exhibit 1013?

13 A. I have seen that video before. I  
14 just haven't seen it in the last -- I haven't  
15 worked at ACCO Kensington since January 2011. It  
16 was helpful for me to see. I don't believe that is  
17 still in the public domain. I wouldn't have been  
18 able to view it other than off your laptop.

19 Q. But in connection with your work  
20 in preparing your declaration you were not asked to  
21 review that video, right?

22 A. No, I was not asked to review it.

23 Q. Okay. How were the annotated  
24 patent figures in your declaration prepared?

25 A. So give me an example, please.

1 Q. For example, if you take a look at  
2 paragraph 23.

3 A. Yes.

4 Q. And then bottom half of that page,  
5 that's page 6, it shows a patent figure that's  
6 marked figure 28C, right?

7 A. Correct, yes.

8 Q. And you recognize that as a patent  
9 figure from the Think Products patents that are  
10 being reviewed in the IPR proceedings?

11 A. That's correct, yes.

12 Q. And you understand that the text  
13 on that page, it says, "opening and locking device"  
14 and then there's some other text that says,  
15 "Anchoring end of captive security rod or spike."  
16 You understand that I'm referring to that as  
17 annotations?

18 A. Understood now, yes.

19 Q. That language is not part of the  
20 actual patent figures in the Think Products  
21 patents, right?

22 A. I believe it's not, that's  
23 correct.

24 Q. And how was this annotated figure  
25 prepared that's shown in paragraph 23 of your



1 declaration?

2 A. So through that iterative process,  
3 multiple rounds of revision, right, they would  
4 take -- we would take my general findings, right,  
5 as I would look at that cited prior art and we  
6 would use the available material that's within the  
7 scope of the IPR and we would use it to clarify  
8 some of the statements that I made.

9 So just in generality I might make a  
10 general statement around something that I had  
11 found, and through that iterative process we would  
12 pare it down into specifics, and then obviously  
13 with some understanding of the process themselves,  
14 I'm not a lawyer, we would use the agreed-to  
15 language to annotate the figures from the cited  
16 patents from Think Products.

17 Q. You realize this annotated figure  
18 was in the preliminary response that was filed by  
19 Think Products before you were engaged as an  
20 expert, right?

21 A. I would have to just take a quick  
22 look to make sure that that's the case, but I  
23 believe it is.

24 Q. So this was actually prepared  
25 before you provided any comments to Think Products

1 about the prior art, right?

2 MR. VODOPIA: Objection. It appears  
3 you're pointing to his declaration.

4 BY MR. WEINER:

5 Q. Paragraph 23. The annotated  
6 figure we've been discussing. This was prepared  
7 before you were engaged as an expert, right?

8 A. There could have been some  
9 provisioning of the annotation about the time of,  
10 around the time of, prior to, I don't recall  
11 specifically.

12 Q. But in your opinion the annotation  
13 accurately describes what's shown in the figure,  
14 right?

15 A. As per my declaration, yes.

16 Q. For example, this annotated figure  
17 shows an anchoring end of the captive security rod  
18 or spike, right?

19 A. Correct.

20 Q. Is your understanding that that is  
21 what reference 286 refers to?

22 A. Correct. So we also use the term  
23 ferrule, right. So it's quite common, again, when  
24 you've got steel rope which is typically what that  
25 lanyard is made out of, it's quite common to

1 terminate it otherwise it would fray out with  
2 something called a ferrule. The ferrule could be  
3 shaped into something that we would call an  
4 anchoring end or a security rod that would be  
5 captive when passed through the computer.

6 Q. So 286 is described as a ferrule  
7 in the patent, right?

8 A. Correct.

9 Q. And you refer to it as an  
10 anchoring end of the captive security rod or spike,  
11 right?

12 A. Correct. In its broadest terms I  
13 believe that it's common to call the end of that  
14 steel rope, the lanyard itself, the end of that  
15 could be called a ferrule, like it would be on a  
16 bicycle cable, to stop that steel rope from  
17 fraying, an anchor, a spike, a security rod.

18 Q. And in that annotated figure where  
19 is the locking end of the captive security rod?

20 A. What do you mean by locking end?  
21 In your mind what do you envision as the locking  
22 end? The locking end.

23 Q. As used in the patent.

24 A. So the locking end would be the  
25 end of the captive rod that is inserted into the

1 locking device. The locking end.

2 Q. At the end of 286 where the arrow  
3 is pointing?

4 A. Well, not a very good arrow or  
5 drawing, but generally there is a shape there that  
6 is meant to be engaged by the locking device. So  
7 if we agree we can reference that as a locking end,  
8 yes.

9 Q. Is that the same as the anchoring  
10 end in this case?

11 A. So in this particular case because  
12 you have the locking end attached by the steel rope  
13 cable to another device it is anchoring the locking  
14 device, the laptop to an immovable object.

15 Q. So in this case the locking end is  
16 the same as the anchoring end?

17 A. In this particular embodiment it  
18 is. It does not necessarily have to be though.

19 MR. WEINER: Do you want to take a  
20 break now? Go off the record for 10 minutes or so?

21 MR. VODOPIA: Sure.

22 --- Recess at 10:56 a.m.

23 --- On resuming at 11:13 a.m.

24 BY MR. WEINER:

25 Q. Mr. Mahaffey, I wanted to direct

1 your attention to your declaration to paragraph 14.

2 A. Okay.

3 Q. Paragraph 14 states your opinion  
4 as to the skill level of a person of ordinary skill  
5 in the art pertaining to the '144 and '758 patents,  
6 correct?

7 A. That actual statement is repeated  
8 from somewhere else in the IPR, to be honest. I  
9 think it was a challenge to Ryan White's experience  
10 to be a POSA, and therefore I think it's recited  
11 simply just to show that I meet that same level of  
12 requirement.

13 Q. Okay. So you agree with that  
14 statement in paragraph 14?

15 A. Let me read it and then I'll  
16 answer the question.

17 Yeah, I think we agreed through the IPR  
18 process. I don't necessarily disagree with it.

19 Q. So your declaration was signed on  
20 January 15, 2016, right?

21 A. Correct.

22 Q. At the time your declaration was  
23 signed would you consider yourself to have had the  
24 skill level of a person of ordinary skill in the  
25 art?

1 A. Yes.

2 Q. At that time would you consider  
3 yourself to have greater than ordinary skill in the  
4 art?

5 A. What would be greater -- so I  
6 understand what ordinary skill in the art is. What  
7 is --

8 Q. What I mean is greater than the  
9 skill level as described at paragraph 14.

10 A. So do I have -- I have at least an  
11 undergraduate degree in mechanical engineering.  
12 And it says, "and about two years of experience  
13 designing locking devices for portable." So the  
14 actual, you know, two years of designing locks for  
15 portable electronic equipment. So you could have a  
16 duration in a company like I had at Kensington, but  
17 in that duration do I actually have two years of  
18 lock design experience? I think yes. The duration  
19 is longer, but the relevant design experience is  
20 POSA, no more, no less.

21 Q. At the time your declaration was  
22 signed do you think you had more than two years of  
23 experience in designing locking devices for  
24 portable electronic equipment?

25 MR. VODOPIA: Objection. Asked and

1 answered.

2 THE DEPONENT: So I think I stated that  
3 I had a longer than two-year duration at  
4 Kensington, but my overall skill level is about two  
5 years if you boiled it all down in lock design. So  
6 I'm ordinarily skilled in the arts. In the art.

7 BY MR. WEINER:

8 Q. Now I would like to direct your  
9 attention to paragraph 18 under the heading of  
10 Claim Construction. So paragraph 18 addresses your  
11 understanding of the step of claim construction,  
12 correct?

13 A. Let me just read it.

14 Yes.

15 Q. Can you describe your  
16 understanding of the process that should be used  
17 for determining how terms on a patent claim should  
18 be construed?

19 A. Sure. So I do understand that  
20 through the process when you actually litigate  
21 intellectual property a big portion of that is  
22 spent construing terms, right. So I know that,  
23 again, and we've run into this issue several times  
24 today about what we commonly colloquially call  
25 semantics. So I understand that what we're trying

1 to do here is provide each of the terms as used  
2 their broadest most common meaning and that's where  
3 I bring in that skill and I try to provide my  
4 opinion on what the broadest customary meaning of a  
5 particular term is. I do not try to use the term  
6 as is being used in any of the prior art as cited.  
7 I don't import that term into the specific analysis  
8 as provided.

9 Q. What evidence should be used to  
10 determine the construction of a claim term?

11 A. What evidence? So are we talking  
12 now about intellectual property in general?

13 Q. Well, I'm talking specifically  
14 about interpreting patent claims, and I'm asking  
15 what's your understanding of what evidence should  
16 be considered in order to construe a claim term?

17 A. A claim term?

18 So, again, I'm not a lawyer. So I am  
19 seeking some clarification here about the  
20 specifics. So can you just help me understand a  
21 bit about the question itself?

22 Q. Well, let me restate it and maybe  
23 that evidence term is kind of confusing the issue.

24 A. Sure.

25 Q. If you're interpreting -- if



1     you're construing a patent claim term what  
2     information do you think should be considered?

3             A.     So I think you need to consider,  
4     again, when I look at it I look at the customary  
5     meaning. So one way I do that is to use a  
6     well-known English reference, such as Webster's.  
7     What is the meaning of the word? Right. And then  
8     also within the industry itself because we work in  
9     technology jargon is quite commonplace. Is there  
10    common references to a particular piece of  
11    technology, an invention, an apparatus, and is that  
12    language -- would it be specific to my own use  
13    thereof, or would my other colleagues who would  
14    also meet the requirement of POSA would they agree  
15    that that term would be commonly used.

16            Q.     How did you determine that the  
17    phrase captive security rod needed to be construed?

18            A.     How did I determine that the term  
19    captive security rod needed to be construed?

20            Q.     Right.

21            A.     Can you just repeat that to me?

22            MR. VODOPIA: Object to form.

23            THE DEPONENT: So I understand through  
24    the IPR that that particular term, right, we needed  
25    to -- we needed to discuss the meaning of it,

1 because it had relevance to what date we would  
2 assign the Think Products intellectual property,  
3 the file patents, when was it disclosed by Think  
4 Products.

5 BY MR. WEINER:

6 Q. Did you consider whether any other  
7 claim language other than captive security rod  
8 needed to be construed?

9 A. I believe by that preliminary  
10 decision that was the term that the judges had  
11 looked at and said this is the one that we  
12 specifically needed to focus on. So there was no  
13 need for me to try and construe others.

14 Q. In determining the construction of  
15 the term captive security rod what information did  
16 you consider?

17 A. It would be similar to that  
18 process I discussed. I would have looked at the  
19 common definition of the term. So we've got three  
20 words there: Captive, security, rod. I would  
21 start with breaking it down into common meaning of  
22 captive, common meaning of security, common meaning  
23 of rod. I would take a look at in the design of  
24 locks, the world of locks, do we reference, do we  
25 use this term? Does it have that technical

1 commonality amongst my peer group. So those would  
2 be the two starting points.

3 Q. And beyond the starting points was  
4 there anything else that you relied on to determine  
5 the construction?

6 A. So I would also rely on my own  
7 experience, right. Would I as a person ordinarily  
8 skilled in the art, if someone said to me this  
9 collection of terms, these words, what is it that  
10 comes to mind? Is it clear to me what an  
11 embodiment could be when those terms are used? So  
12 I use my technical expertise there.

13 Q. Other than that, anything else you  
14 relied on to determine the construction?

15 A. The construction of the term  
16 itself?

17 Q. Yes.

18 A. There may be others, but, again,  
19 today to the best of my recollection.

20 Q. Nothing you can recall right now?

21 A. Not right now.

22 Q. I direct your attention to  
23 paragraph 26. Paragraph 26 states:

24 "Spike 285, ferrule 286 and  
25 captive security rod 291 all may be

1                   said to be 'captive security rods',  
2                   once fixed in a locked state."

3                   Did I read that correctly?

4                   A.     Yes.

5                   Q.     Would you agree that before  
6 they're fixed in a locked state the spike 285,  
7 ferrule 286 and captive security rod 291 are not  
8 captive security rods?

9                   A.     By the definition of the word  
10 "captive" they would just be security rods.

11                  Q.     I have some questions for you  
12 about McDaid. Exhibit 1008. I have a copy of that  
13 if you need to look at it.

14                  A.     Please.

15                  Thank you.

16                  Q.     You recognize Exhibit 1008?

17                  A.     Yes, I do.

18                  Q.     And that's McDaid, one of the  
19 prior art references that you considered for  
20 preparing your declaration?

21                  A.     That's correct.

22                  Q.     Would you agree that there are two  
23 embodiments of a cable lock device disclosed in  
24 McDaid?

25                  A.     Can you describe how you came up

1 with two or describe the two?

2 Q. Well, let me do this, if you could  
3 take a look at your declaration in paragraph 38.

4 So let me just read that. So paragraph  
5 38 says:

6 "The second embodiment  
7 disclosed in McDaid is a 'fail  
8 safe', utilizing the 'peaks and  
9 valleys' present on the base of the  
10 captive rod or anchor 20 to prevent  
11 rotation."

12 Did I read that correctly?

13 A. Correct. So there are two  
14 embodiments of the captive security rod anchor  
15 disclosed in McDaid.

16 Q. So you agree with that, there are  
17 two embodiments disclosed?

18 A. Of?

19 Q. Of a cable lock device?

20 A. No. I disagree.

21 Q. Can you describe what you meant by  
22 -- what are the two embodiments?

23 A. Let's reference -- this is Exhibit  
24 1008. So the two embodiments that are disclosed  
25 that are referenced in that declaration were figure

1 2.

2 Q. And you're referring to figure 2  
3 of exhibit --

4 A. Let's use the language we agreed  
5 to early on today. Figure 2 is an embodiment of a  
6 knob.

7 Q. Okay.

8 A. And then I would say that figure 5  
9 would be the second embodiment of a knob disclosed  
10 within the McDaid patent.

11 Q. Okay. So figure 5 is a  
12 cross-section of a knob, right?

13 A. Correct. But in reference to  
14 figure 4. Figure 4 and 5, right. And we've got --  
15 so in general. Figure 2 is a general embodiment of  
16 one type of knob, and figure 4 and the  
17 cross-section figure 5 would be the second.

18 Q. So figure 4 and 5 --

19 A. And I'm not being exhaustive there  
20 either, because there's 6 and 7 as well.

21 Q. Would you agree that figure 4 and  
22 5 both depict different views of the same  
23 embodiment of a knob?

24 A. I believe that's the case. I  
25 believe that figure 5 shows a cross-section of a

1 portion. So figure 4 is also not a complete piece.  
2 I believe it's been sectioned.

3 Can I show you where?

4 Q. Okay. I'm sorry. Could you  
5 repeat that?

6 A. Okay. So figure 4 in clarity in  
7 McDaid they've shown the base of a knob, but  
8 they've -- for clarification in the description of  
9 this functionality that's labelled they've  
10 essentially just put a cross-section somewhere  
11 through, and it looks like they've just basically  
12 made a generalization. So they've taken and drawn  
13 a section this way. So that's what you see there.  
14 So that would be a view, right. Does it make  
15 sense?

16 Q. I think it does. Let me see if I  
17 can clarify my understanding. Are you saying that  
18 figure 5 also shows an additional part of the  
19 device that's not shown in figure 4?

20 A. I believe figure 5 is the complete  
21 installed knob, right, cross-sectioned vertically,  
22 and I believe figure 4 to provide some  
23 clarification shows the details around the base,  
24 right, and the base if, again, reference to figure  
25 5, are drawn in basically a datum plane with

1 arrows. So if you cut this top part off, like  
2 this, and you went back to an isometric view you  
3 would see figure 4.

4 Q. I see. And just so the record is  
5 clear I think what you're indicating is figure 5  
6 also includes the anchoring portion of the knob,  
7 the part that attaches it to the housing or the  
8 laptop, right?

9 A. It's more a nuance than that,  
10 Michael. So what it is is let's agree that figure  
11 5 is the installed complete knob, right,  
12 cross-sectioned vertically. Figure 4 to provide  
13 some clarification of the second embodiment which  
14 is the second fail safe with the scallops at the  
15 base. Essentially just so that you understand that  
16 this is not a complete knob they've basically taken  
17 figure 5 where I've drawn this datum plane in and  
18 they've just removed that from the top.

19 Q. Figure 4 you referred to I think  
20 the term scallops is what you used?

21 A. Sure.

22 Q. Okay. In your declaration I think  
23 you referred to that as a peaks and valleys design;  
24 is that correct?

25 A. And I believe that is actually



1 some of the language that was referenced in McDaid.

2 Q. Peaks and valleys was used in  
3 McDaid?

4 A. Correct.

5 Q. And in this embodiment shown in  
6 figure 4 and 5 the peaks and valleys in the base  
7 mate with the corresponding opening shown in figure  
8 8, for example?

9 A. So show me in figure 8 where you  
10 think the peaks and valleys --

11 Q. All the way at the top of figure  
12 8. I think the reference numbers are 134 and 136.

13 A. That's correct.

14 Q. So would you agree those are the  
15 mating surfaces that mate with the peaks and  
16 valleys on figure 4?

17 A. Correct. For that one embodiment,  
18 correct.

19 Q. And would you agree those peaks  
20 and valleys are designed to prevent rotation of the  
21 locking head relative to the knob?

22 A. Yes.

23 Q. And you said before the first  
24 embodiment is shown in figure 2?

25 A. Correct.

1 Q. And in figure 2 the anchor has a  
2 rounded external surface, right?

3 A. Correct.

4 Q. And there are no peaks and valleys  
5 in that anchor in figure 2?

6 A. Correct.

7 Q. And would you agree that the knob  
8 in figure 2 is designed to mate with a round  
9 opening and a lock head?

10 A. From what's shown in figure 2  
11 without that same specific level of detail like we  
12 see in 4, a cross-section, that would appear to be  
13 the design intent, yes.

14 Q. And that's your understanding of  
15 the first embodiment with this rounded surface?

16 A. Correct.

17 But I think then that's -- figure 3,  
18 the cross-section of figure 2, is also an important  
19 detail. So figure 3 is a cross-section. It  
20 doesn't have any of the -- it differs quite  
21 significantly in the cross-section shown in figure  
22 5.

23 Q. Okay. So figure 3 in contrast to  
24 figure 5 also doesn't show any peaks and valleys?

25 A. Correct.

1 Q. Now in paragraph 38 that I read  
2 before you refer to the peaks and valleys of the  
3 base of the captive security rod, right?

4 A. For that second embodiment, that's  
5 correct, yes.

6 Q. And the words peaks and valleys  
7 are in quotes in that paragraph, right?

8 A. Correct, yes.

9 Q. And is that because those terms  
10 are quoted from McDaid?

11 A. Yes.

12 Q. Now in paragraph 38 you state that  
13 the second embodiment is fail safe, right?

14 A. Correct.

15 Q. And the words fail safe are in  
16 quotes in paragraph 38?

17 A. Correct.

18 Q. But McDaid does not use the term  
19 fail safe, does it?

20 A. It does not, no.

21 Q. By putting fail safe in quotes  
22 were you trying to mislead the patent office to  
23 think that those words were in the patent?

24 A. No, that was not the intent. It  
25 was to say fail safe. It could have been

1     italicized. Again, it may be -- it was just meant  
2     to say in colloquial English fail safe.

3                 Q.     You were emphasizing it, but you  
4     didn't mean that it was quoted from --

5                 A.     It was meant to be an emphasis,  
6     correct.

7                 Q.     Okay. But peaks and valleys, for  
8     that phrase you use the quotes to indicate that it  
9     was quoted from the patent, right?

10                A.     I believe so.

11                Q.     Okay. I've got another exhibit to  
12     ask you about.

13                A.     Sure.

14                       Murray?

15                Q.     Yes. Murray, what's been marked  
16     as Exhibit 1019.

17                       Do you recognize Exhibit 1019?

18                A.     No. I've just seen this today.

19                MR. VODOPIA: Objection. Outside the  
20     scope of the expert's testimony.

21                       BY MR. WEINER:

22                Q.     Could you repeat your answer,  
23     please? I asked if you recognize Murray?

24                A.     So do I recognize the name Murray?  
25     Do I recognize that particular piece of IP by

1 Murray?

2 MR. SCHINDLER: It's also an objection  
3 it's outside the scope of the grounds that we  
4 instituted for IPR proceedings, since Murray was  
5 not implied in any potential rejection in validity  
6 of claims.

7 THE DEPONENT: It's not what I was  
8 retained to look at.

9 BY MR. WEINER:

10 Q. In connection with preparing your  
11 declaration you didn't review Exhibit 1019; is that  
12 right?

13 A. It's similar to the ClickSafe  
14 discussion. It wasn't required to review. It  
15 wasn't cited as prior art.

16 Q. It wasn't cited as prior art in  
17 the IPR?

18 A. Correct. And my understanding was  
19 that through the IPR process coming down this far  
20 in the process I only had to look at the referenced  
21 prior art that ACCO Brands or yourself introduced  
22 in the process. So all the rest of this from my  
23 perspective was out of scope.

24 Q. In preparing your declaration did  
25 you review the file histories of the '758 and '144

1 patents?

2 A. The complete file history?

3 Q. Yes.

4 A. I'm aware of the file history.

5 Did I go back and read all of the file history?

6 Not to the best of my recollection.

7 Q. Did you read any of the file  
8 history?

9 A. At some point I must have. I did  
10 review some of it, yes.

11 Q. You're saying at some point you  
12 reviewed it since you were retained in late 2015?

13 A. I believe so. I mean, again, I  
14 said that earlier on I'll provide you with a  
15 complete list. We went through what I had  
16 available today and what I could recall. I'm quite  
17 happy to provide a list of all the documents that I  
18 did review.

19 MR. VODOPIA: I just want to object to  
20 form with respect to the term file history.

21 BY MR. WEINER:

22 Q. Do you know if the examiner  
23 reviewing the '758 and '144 patents relied on  
24 Murray in rejecting any of the pending claims?

25 MR. SCHINDLER: Objection. This is an

1     improper attempt to introduce new ground for  
2     potential validity in the IPRs.

3                 THE DEPONENT:   Could you repeat the  
4     question, please?

5                 MR. WEINER:    Could you read that back,  
6     please?

7                 (Last question read back)

8                 THE DEPONENT:   I cannot recall.   I'm  
9     not sure what the patent review office statement  
10    regarding Murray in the patents in question may  
11    have been.

12                BY MR. WEINER:

13                Q.    What did you do to prepare for  
14    today's deposition?

15                MR. VODOPIA:   Objection.   Asked and  
16    answered.

17                THE DEPONENT:   I believe we've covered  
18    that.

19                BY MR. WEINER:

20                Q.    You're referring to the documents  
21    that you referred to before as having been  
22    reviewed?

23                A.    So I think we spoke about  
24    preparing myself by reviewing my report and the  
25    documents that were made available to me, those are

1 the ones that I did review in preparation for the  
2 deposition, and then the meetings that I had with  
3 the attorneys.

4 Q. Okay. And you met with counsel to  
5 prepare for the deposition?

6 A. Yes.

7 Q. When did you meet with them?

8 A. I had breakfast with them today.

9 Q. Prior to today did you meet with  
10 counsel to prepare for today's deposition?

11 A. Yes, I had.

12 Q. And about how much time did you  
13 spend meeting with counsel in advance of today?

14 A. Roughly two and a half hours,  
15 three hours.

16 MR. WEINER: Let's go off the record.

17 --- Off-the-record discussion

18 --- Recess at 11:38 a.m.

19 --- On resuming at 11:45 a.m.

20 MR. WEINER: We have no further  
21 questions. Thank you, Mr. Mahaffey.

22 THE DEPONENT: Thank you.

23 MR. SCHINDLER: We'll take a  
24 five-minute break.

25 MR. WEINER: Okay.



1 --- Recess at 11:45 a.m.

2 --- On resuming at 11:51 a.m.

3 RE-EXAMINATION BY MR. VODOPIA:

4 Q. So we have just a few questions.

5 Rob, I just want to bring your  
6 attention back to figure 2 of McDaid. I want to  
7 know is it your understanding that the knob in  
8 figure 2 is intended to rotate after being locked  
9 in place?

10 A. So I don't believe it is intended  
11 the lock to rotate around a knob of this design.  
12 And I think it's made more explicitly clear by  
13 figure 3.

14 Q. Can it rotate?

15 A. I believe that it would have  
16 difficulty rotating. It's not designed. The  
17 McDaid lock itself is what I describe as an axial  
18 clamp. So in figure 3 if you look at it, it's  
19 actually not annotated, but you have these very  
20 square cutouts in the cross-section. I believe by  
21 design -- and let's refer to figure 8.

22 So figure 8 you've got three ball  
23 bearings annotated with No. 140, and then you have  
24 figure 9 this cone-shaped piece with a groove. The  
25 intention of the groove and as this device is drawn

1 up by the locking mechanism into this lock these  
2 three ball bearings are actually driven out, or in  
3 this case they'll clamp radially on that figure 3  
4 knob. It would have a difficult time to rotate.  
5 Figure 3 was not designed to be a knob around which  
6 a locking head should or would rotate.

7 Q. Good. In the earlier part of your  
8 direct testimony by Mr. Weiner do you recall  
9 handing him a document?

10 A. Yes, I do.

11 Q. And do you recall whether or not  
12 Mr. Weiner looked at the document?

13 A. Yes, he did.

14 Q. And was it after Mr. Weiner  
15 reviewed the document that he objected to its being  
16 put into the record?

17 A. Yes.

18 Q. We would like to put that document  
19 in the record now.

20 MR. WEINER: Objection. Outside the  
21 scope of the cross-exam.

22 MR. VODOPIA: You use the IPR exhibit  
23 numbers, I guess this is just Exhibit A of today,  
24 yeah? Please mark it Exhibit A.

25 MR. WEINER: We disagree that it should

1 be in the record, but if you want to label it that  
2 way.

3 MR. VODOPIA: Exhibit A. Does that  
4 work? That works. Patent Owner Exhibit A.

5 EXHIBIT NO. A: Simplified Explanation  
6 of Findings Provided in the IPR.

7 Prepared by Rob Mahaffey in Support of  
8 Findings in IPR. Last updated  
9 03/17/2016.

10 BY MR. VODOPIA:

11 Q. Rob, can you tell us for the  
12 record what that is, that document?

13 A. So this would be the report that I  
14 compiled that my own words is the simplification,  
15 so more lay terms to describe my declaration, how I  
16 came to my findings, my opinion in the declaration  
17 itself.

18 Q. And did you prepare it in  
19 preparation of today for this deposition?

20 A. I finalized it in preparation for  
21 today, but it captures my method, my process, my  
22 analysis of the cited art in order for me to  
23 collect my thoughts and be able to present my  
24 expert witness testimony today.

25 Q. Has your testimony in your

1 declaration did it concern any product of ACCO  
2 Brands or Kensington?

3 A. No, it did not.

4 Q. Did you provide any opinion as to  
5 infringement of any ACCO or Kensington products?

6 A. No, I did not.

7 Q. Have you disclosed to either Think  
8 Products or counsel for Think Products any  
9 confidential information?

10 A. No, I have not.

11 MR. SCHINDLER: I'd like to ask a  
12 question. Did you give an opinion as to the  
13 validity or invalidity of any patent or patent  
14 applications owned or assigned to ACCO Brands or  
15 Kensington?

16 THE DEPONENT: No, I did not.

17 MR. VODOPIA: No more questions.

18 MR. WEINER: I have some re-cross.

19 RE-CROSS-EXAMINATION BY MR. WEINER:

20 Q. Referring to McDaid, in your  
21 re-direct testimony did you say that McDaid has an  
22 axial lock mechanism?

23 A. So McDaid -- and, again, I will  
24 reference this new Exhibit A from today, right.

25 Q. I don't have any questions for you

1 about Exhibit A. I have a question for you about  
2 McDaid that was of record. Are you saying that  
3 McDaid has an axial lock?

4 A. McDaid is what we call a radial  
5 lock, as described. I described quite clearly how  
6 the three ball bearings would actually clamp onto  
7 the knob itself.

8 Q. Maybe I misunderstood your  
9 testimony. I thought you said that McDaid has an  
10 axial?

11 A. I might have misspoke. That might  
12 be on record and that is incorrect. I've spoken  
13 about the two portions of the lock. The critical  
14 part of McDaid, the engagement lock itself is a  
15 radial style clamp as described, the ball bearings  
16 being drawn onto that knob itself.

17 Q. And your understanding in the  
18 first embodiment of McDaid the lock head cannot  
19 turn relative to the knob, right?

20 A. As stated, that embodiment without  
21 the peaks and the valleys it would, from my design  
22 perspective it would be difficult for the lock head  
23 to rotate around that particular embodiment.

24 Q. But McDaid itself doesn't say  
25 that, does it?

1           A.    It teaches a way from rotation in  
2 the patent itself.

3           Q.    Well, it teaches two embodiments,  
4 right?

5           A.    It teaches two embodiments, but it  
6 teaches a way -- from a lock design perspective,  
7 the fact that you have a rotating cable ring is the  
8 only way for the cable ring not to get twisted up  
9 when trying to turn the lock on, implies that this  
10 lock head as shown in figure 1 does not rotate. So  
11 either of the embodiments of the knob is used with  
12 this design of locking device.

13          MR. SCHINDLER: Explain what you're  
14 pointing to.

15          THE DEPONENT: Sorry. So on this  
16 locking device you've got a free rotating -- this  
17 is a cable ring, commonly called a cable ring that  
18 attaches to the lanyard. When this is all fixed to  
19 an immovable object, if you had to pick that lock  
20 head up off the desk to put it into that final step  
21 and you try to twist it without any freedom of  
22 rotation you wouldn't be able to. The way McDaid  
23 enables rotation is always through the cable ring.  
24 They show one embodiment of the locking device, two  
25 embodiments of the knob, neither of which, in my

1 opinion, allow rotation of this part of the lock  
2 around the knob itself.

3 BY MR. WEINER:

4 Q. But your understanding in the  
5 McDaid design the inventors wanted the cable to be  
6 allowed to turn relative to the knob, right?

7 A. They have to. The cable has to.  
8 If you've got a steel rope attached to a device and  
9 you have no degree of freedom, no rotation, it  
10 would be very awkward to twist the lock head to  
11 attach to a laptop. And if you managed to get it,  
12 laptops being light you would now have this tension  
13 in the cable that would have a twisting effect on  
14 the device you're trying to lock. So you have to  
15 have some way in your locking mechanism, some  
16 degree of freedom, some rotation, and McDaid says  
17 it comes from the cable ring, the attachment of the  
18 lanyard to the locking device itself.

19 MR. WEINER: No further questions.

20 MR. SCHINDLER: That is it. Thank you.

21 MR. WEINER: Thank you.

22 --Whereupon the proceedings adjourned at 12:00 p.m.  
23  
24  
25

## REPORTER'S CERTIFICATE

I, CONNIE A. HOLTON, CSR, Certified  
Shorthand Reporter, certify;

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That the testimony of the witness and  
all objections made at the time of the examination  
were recorded stenographically by me and were  
thereafter transcribed;

That the foregoing is a true and  
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Dated this 22nd day of March 2016.



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Per: Connie A. Holton, CSR  
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16 ROBERT MAHAFFEY  
17

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19 day of \_\_\_\_\_, 2016 at

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