UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ACCO Brands Corporation and
ACCO Brands USA LLC
Petitioner

v.

Think Products, Inc.
Patent Owner

Case IPR2015-01167
Patent 8,717,758

PETITIONER'S REPLY

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Cases

Statutes

Rules

I. INTRODUCTION

The Petition established that the challenged claims of the ’758 patent are unpatentable on the three instituted grounds: (A) claims 1-7, 9-14, and 16 are obvious in view of McDaid and Chen; (B) claims 1-7, 9-13, and 16 are anticipated by the ClickSafe video; and (C) claim 14 is obvious over the ClickSafe video and McDaid.

The Patent Owner does not dispute that the Petition correctly identified disclosures of each challenged claim limitation in the ClickSafe video, McDaid, and Chen. Accordingly, the Reply addresses the issues of claim construction, support in alleged priority applications, and motivation to combine addressed in the Patent Owner’s Response.

The Board correctly construed the term *captive security rod* and determined that there is no disclosure of the claimed subject matter in the Patent Owner’s alleged priority documents. Accordingly, the ClickSafe video is prior art and anticipates claims 1-7, 9-13, and 16; and claim 14 is obvious over the ClickSafe video and McDaid.

McDaid does not teach away from combining its disclosure with the automatic lock mechanism disclosed in Chen; and Chen itself provides an express motivation to combine. Accordingly, the challenged claims are obvious over McDaid and Chen.

II. ARGUMENT

A. Construction of Captive Security Rod

1. The Board Correctly Construed *Captive Security Rod*

In its Institution Decision, the Board correctly construed *captive security rod* to mean: "a rod-shaped portion of a locking assembly, wherein the rod is anchored to the housing of a portable electronic device." Decision, Paper No. 13 at 7-10; *see* Ex. 1024, White Suppl. Decl. ¶¶ 7-9.[1]

The term *captive security rod* is recited in both challenged independent claims, 1 and 16. Ex. 1001 at 19:18-34, 20:34-54. As recited in claim 1, which is representative of the claimed subject matter, the *captive security rod* has a locking end and an anchoring end, wherein the anchoring end is passed through the housing to anchor the *captive security rod*, and the *captive security rod* is partially in, and partially out of the housing before and during use. Likewise, claim 16 recites that the *captive security rod* is formed with an anchoring end separated

[1] This Reply is supported by a Supplemental Declaration of Ryan White, Ex. 1024, which addresses the following issues raised in the Patent Owner's Response: (a) construction of *captive security rod*; (b) the subject matter disclosed in McDaid, Ex. 1008; and (c) whether POSA had a reason to combine McDaid, Ex. 1008 with Chen, Ex. 1009. *See* Ex. 1024, White Suppl. Decl. ¶¶ 1-6.

axially by a protruding end, and the *captive security rod* is captive, partially in and partially out of the housing, before and during locking use.

According to the Board's construction, "the rod is anchored to the housing of a portable electronic device." This construction reflects the ordinary meaning of the claim language stating that the anchoring end of the *captive security rod* is passed through the housing "to anchor the *captive security rod* thereto" (claim 1) and the step of "securedly fixing the anchoring end of the *captive security rod* or spike to the portable electronic device upon or through the housing" (claim 16).

The Petition does not include a proposed construction of *captive security rod*, relying on its ordinary meaning in the context of the patent. However the Petition's analysis of whether a *captive security rod* is described in the alleged priority documents, and whether a *captive security rod* is disclosed in the prior art, addressed in detail all of the claim language, consistent with the Board's construction.

The Board's construction expressly states that the *captive security rod* is anchored to the housing, as required by the claims. The Board's construction does not expressly state that: (1) the *captive security rod* has two ends, (a) a locking end and (b) an anchoring end; (2) that the anchoring end anchors the *captive security rod* to the housing; or (3) that the *captive security rod* is captive in the housing, partially in the housing, and partially out of the housing, before and during locking

use. Likewise the Petitioner did not propose a construction of each of these terms, recited in the claims, relying on their ordinary meaning. *See* Ex. 1001 at 19:18-34; Petition at 5-10. Although each recited limitation does not need to be included in an express construction of *captive security rod*, each limitation must be considered and given weight to determine whether each feature is shown in the prior art, and in evaluating whether the Patent Owner's alleged priority applications provide support for the claims.

2. The Patent Owner's Proposed Construction is Inconsistent with the Claim Language

The Patent Owner ignores the claim language surrounding the words *captive security rod*, arguing for the following "construction":

> Accordingly, Think Products respectfully submits that the proper construction of the "captive security rod" claim term *includes, but is not necessarily limited to, a rod or spike **285** that may include a ferrule **286*** so that, upon insertion through a hole of a locking mechanism, the rod, spike or anchor is locked, via, *e.g.*, a pin lock **110** or another type of locking device, within the hole sufficient for barring unintended removal of the spike or rod from the hole.

Response at 13 (italics emphasis added). The Patent Owner's proposed construction of *captive security rod* is based on definitions of the three words *captive*, *security*, and *rod* taken out of context, without proper consideration of the

claim language, specification, and file history, as confirmed by the deposition testimony of the Patent Owner's witness, Robert Mahaffey. *See* Ex. 1023, Mahaffey Dep. Tr. 98:14-99:21.

Although the language quoted above is identified as the "proper construction" by the Patent Owner, what is provided instead is a non-exclusive list ("includes, but is not necessarily limited to") of what might be encompassed by a *captive security rod* ("a rod or spike **285** that may include a ferrule **286**"), not actually a proposed construction of the term. In addition, the Patent Owner makes additional, inconsistent statements concerning its proposed construction. *See, e.g.*, Response at 9 (stating that the "'758 Patent disclosure provides that the ferrule **286** is the captive security rod"); Response at 10 ("Figs. 29, 30, and 31 depict alternative embodiments of captive security rods **291**, **296**, **299**"); Response at 12 ("both spike **285** and ferrule **286** are 'captive security rods'").

In its discussion of the construction of *captive security rod*, the Patent Owner also states the following, relying on Mr. Mahaffey's declaration:

> 20. A captive security rod can be a rod, ferrule or spike that passed through a hole (unidirectionally), but could have freedom to slide back-and-forth as well as rotate. *This rod becomes "captive" when a locking device (such as lockhead) is attached to far distal end.* Once attached to a locking device, the rod is now captive in the hole and prevents the device to which the assembly has been

> applied, from being removed. The locking assembly, *i.e.*, the captive security rod, the locking device or head and device to he secured, are now captive. With locking device applied to security rod, the security rod itself may still rotate and but retained or "captive."

Response at 8 (quoting Ex. 5,[2] Mahaffey Decl. ¶ 20) (emphasis added).

As explained below, the Patent Owner's construction and Mr. Mahaffey's discussion ignore express claim language that modifies *captive security rod*. Moreover, a rod or spike 285 that may include a ferrule 286, as described in the specification, cannot be a *captive security rod*, as discussed in detail in the Petition and supporting testimony. *See* Petition at 15-19, Ex. 1021, White Decl. ¶¶ 51-62; Ex. 1024, White Suppl. Decl. ¶¶ 10-14.

The Patent Owner seeks a construction that ignores claim language other than the three words "*captive security rod*." In particular, the Patent Owner, and its witness, Mr. Mahaffey ignore the claim language stating that: (1) the *captive security rod* has two ends, (a) a locking end and (b) an anchoring end; (2) that the anchoring end anchors the *captive security rod* to the housing; and (3) that the *captive security rod* is captive in the housing, partially in the housing, and partially

[2] This Reply cites the Patent Owner's exhibit numbers, as filed with the Response, although the Patent Owner's numbering does not comply with 37 C.F.R. § 42.63(c).

out of the housing, before and during locking use. *See* Ex. 1024, White Suppl. Decl. ¶ 15.

The Patent Owner ignores this claim language in its discussion of claim construction (Response at 7-13), as well as in its analysis of alleged support in earlier-filed applications (Response at 13-15). For example, the Patent Owner quotes Mr. Mahaffey as stating that the *captive security rod* "*becomes* 'captive' when a locking device (such as lockhead) is attached to far distal end." Response at 8 (quoting Ex. 5, Mahaffey Decl. ¶ 20) (emphasis added). In his deposition, Mr. Mahaffey admitted that a spike 285, ferrule 286, and rod 291 are not "captive," and cannot be *captive security rods* until *after* they are locked. Ex. 1023, Mahaffey Dep. Tr. 100:5-10. This construction directly contradicts express claim language stating that the *captive security rod* must be captive *during and before* locking use, not only *after* a lock is engaged. This claim language is reflected in the Board's construction, stating that the *captive security rod* is anchored to the housing, but is ignored by the Patent Owner. *See* Ex. 1024, White Suppl. Decl. ¶ 16.

The Response acknowledges that the claims under review recite that a *captive security rod* has a locking end and an anchoring end. *See* Response at 7 ("Independent apparatus Claim 1 of U.S. Patent No. 8,717,758 recites a 'captive security rod' as 'having a locking end and an anchoring end,' while independent method Claim 16 provides that 'a captive security rod or spike [is] formed with an

anchoring end separated axially by a protruding end.'"). The Response, however, omits these features from its construction of *captive security rod*, and ignores these features in its analysis of alleged support in the priority applications. *See* Response at 7-15. Accordingly, the Patent Owner's proposed construction is inconsistent with the claim language.

3. The Patent Owner's Proposed Construction is Inconsistent with the Specification

At pages 9-10 of the Response, Patent Owner argues that the "ferrule 286" is a captive security rod, as shown in Figs. 28C and 28D:

> The '758 Patent disclosure provides that ferrule **286** is the captive security rod to lock notebook computer **500** in place once the lock is operated as shown in Fig. 28D; the ferrule 286 is now a captive security rod in the housing of the computer, as can be seen from Figs. 28C and 28D:

Response at 9. In support of this argument, Patent Owner relies on copies of Figs. 28C and 28D that the Patent Owner annotated in a manner that is inconsistent with the claim language, patent figures, and specification. Response at 9, 10. The Patent Owner's annotated Fig. 28C is reproduced below:

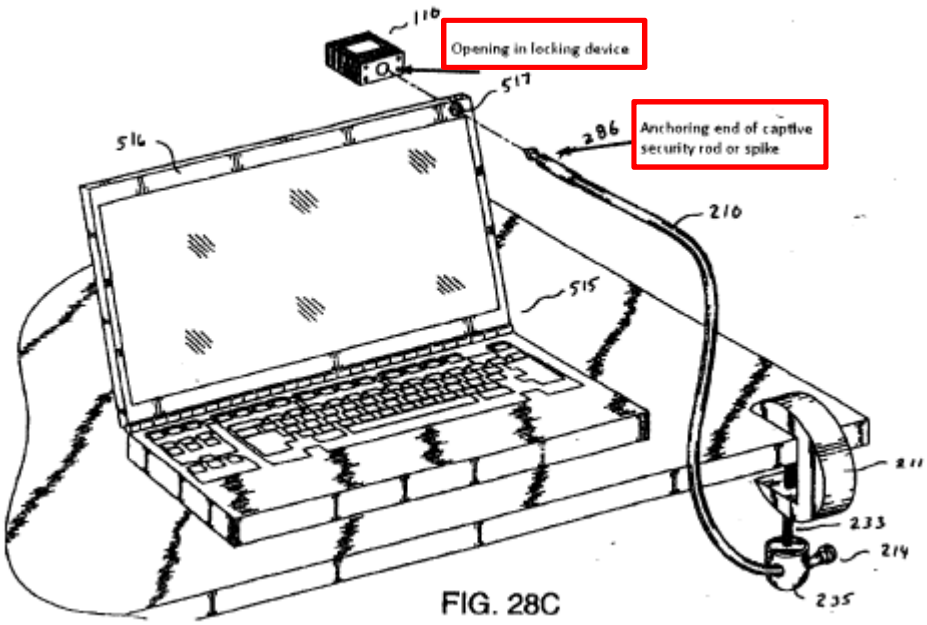

FIG. 28C

Response at 9 (red highlighting added); *see* Ex. 1024, White Suppl. Decl. ¶¶ 17, 18.

The annotated copies of Figs. 28C and 28D in the Response incorrectly identify the ferrule 286 as the "[a]nchoring end of captive security rod or spike," and the Response fails to acknowledge that what is incorrectly annotated as an "anchoring" end of the ferrule: (1) is located on a flexible cable 210, not on a rod or spike; (2) is not described as an anchoring end in the specification; and (3) is shown outside of the housing, not anchored to the housing, as required by the claims. Accordingly, the ferrule 286 does not include an anchoring end. *See* Ex. 1024, White Suppl. Decl. ¶ 15; Ex. 1023, Mahaffey Dep. Tr. 92:15-18 (stating that

what is annotated as the "anchoring end" in Fig. 28C is the same as the locking end).

Moreover, the ferrule 286 (alone or in combination with attached cable 210) cannot be the claimed *captive security rod* because the ferrule 286 is not partially in the housing and partially out of the housing before and during locking use, as recited in the claims. Fig. 28C depicts the ferrule 286 *completely out of the housing* before locking use, not partially in the housing as recited in the claims. *See* '758 patent at 8:4-6 ("FIG. 28C is a perspective view of the computer of FIG. 28B with a pin lock and locking ferrule aligned prior to insertion through security hole.") The Patent Owner's argument that Fig. 28C depicts a *captive security rod*, and cited supporting testimony (Ex. 5, Mahaffey Decl. ¶ 23), ignores this express claim language and what is actually depicted in Fig. 28C. For these reasons, in addition to the reasons addressed in the Petition and supporting evidence, Figures 28C and 28D do not depict a claimed *captive security rod*. *See* Petition at 14, 15; *see also* Ex. 1021, White Decl. ¶¶ 54, 55; Ex. 1024, White Suppl. Decl. ¶ 19.

At pages 10-11 of the Response, the Patent Owner argues that "Figs. 29, 30, and 31 depict alternative embodiments of captive security rods 291, 296, 299," as claimed in the '758 patent. As shown below, and as discussed in the Petition and supporting evidence, these figures do not depict a claimed *captive security rod*.

Contrary to the Patent Owner's argument, Fig. 29 does not depict *any* of "rods 291, 296, 299." Instead, Fig. 29 depicts a locking rod or spike 285, with a hole in which ferrule 286 is inserted, not a *captive security rod* that includes a locking end and anchoring end, and other features recited in the claims. As discussed in detail in the Petition and supporting evidence, the locking rod or spike 285, alone or in combination with the ferrule 286, cannot be a *captive security rod* as claimed. *See* Petition at 15-17; Ex. 1021, White Decl. ¶¶ 56, 57.

With respect to Fig. 30, the Patent Owner's argument relies on a copy of Fig. 30 that Patent Owner annotated in a manner inconsistent with the claim language, patent figures, and specification:

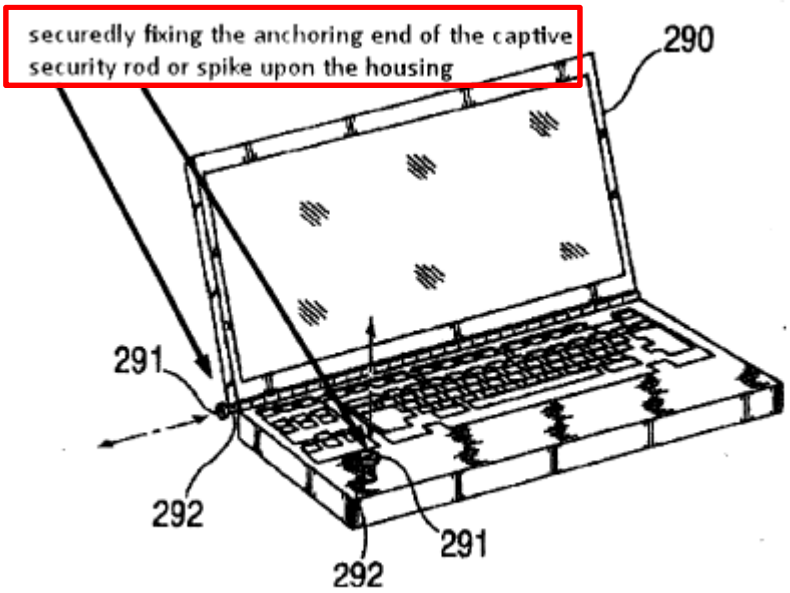

FIG. 30

Response at 11 (red highlighting added). Fig. 30 depicts a rod 291, which the specification describes as a "captive security rod." Indeed, rod 291 is the only

structure identified in the specification as a *captive security rod.* As discussed in detail in the Petition and supporting evidence, rod 291 cannot be a *captive security rod* as claimed, because similar to the spike 285, the rod 291 is not inserted into the opening of a lock mechanism as recited in the claims. Instead, in the embodiment of Fig. 30, the laptop is secured by inserting ferrule 286 through a hole (292) in the rod 291 and then engaging the ferrule into a pin lock 110. Accordingly, rod 291 cannot be a *captive security rod* because it does not include a locking end, as required by the claims. The annotated copy of Fig. 30 in the Response misleadingly indicates that Fig. 30 depicts an "anchoring end" of "captive security rod" 291, but ignores the absence of any locking end in the rod 291, which is required in the claimed *captive security rod*. For these reasons, in addition to the reasons discussed in the Petition, rod 291 cannot be a *captive security rod*. *See* Petition at 17, 18; White Decl. ¶¶ 58, 59.

Fig. 31 depicts a long spike 296 and transverse pin 299, but as discussed in detail in the Petition and supporting evidence, long spike 296 and transverse pin 299 are not *captive security rods* as claimed. The spike 296 is inserted through a housing of a laptop, but is not inserted into a locking mechanism as the claimed *captive security rod*; instead the spike 296 is secured by using a transverse pin and a pin lock. Accordingly, Fig. 31 does not depict a *captive security rod. See* Petition at 18, 19; Ex. 1021, White Decl. ¶ 60.

4. The Patent Owner's Proposed Construction is Inconsistent with the File History

The Response's argument that Figs. 28, 28C, 28D, 29, 30, or 31, and accompanying specification text support the Patent Owner's proposed construction of *captive security rod* is directly contradicted by the Patent Owner's arguments made in the file history, during prosecution of the application that issued as the '758 patent, in particular, arguments distinguishing Ex. 1019, Murray, U.S. Patent No. 5,502,989. *See* Petition at 16, 17; Ex. 1002 at 942 (Amendment dated November 22, 2013). Although the Petition explained how the Patent Owner's arguments distinguishing Murray contradict any argument that a spike and ferrule locking arrangement depicted in the specification discloses a claimed *captive security rod*, the Response and Mr. Mahaffey's declaration (Ex. 5) ignore the file history. Ex. 1024, White Suppl. Decl. ¶ 20. Mr. Mahaffey is not even familiar with the file history, and counsel for the Patent Owner objected when Mr. Mahaffey was questioned during his deposition about Murray and the file history. Ex. 1023, Mahaffey Dep. Tr. 108:15-111:11.

As argued by the Patent Owner in the file history, Murray fails to disclose a *captive security rod*, which the Patent Owner acknowledged must be stored *in the housing* "during non-use and between deployments," and must include a locking end, such that "the locking end of the captive security rod is received into the locking mechanism." Ex. 1002 at 942. In view of the Patent Owner's file history

arguments, the ferrule 286, rod 291, long spike 296, and transverse pin 299, as depicted in Figs. 28, 28C, 28D, 29, 30, or 31, do not support the Patent Owner's proposed construction of *captive security rod*. Similar to the cited prior art ("Murray's rectangular T-shaped locking member 124"), as characterized by the Patent Owner, these figures do not disclose a structure that is "stored out of the housing 137 during non-use and between deployments" and that includes a locking end that is "received into the locking mechanism," as required for a claimed *captive security rod*. Ex. 1024, White Suppl. Decl. ¶¶ 21, 22.

5. The '758 Patent Does Not Depict Any Embodiment of the Claimed Invention

The Response repeatedly argues that the Petition and Institution Decision's construction of *captive security rod* is improperly based on alleged "preferred embodiments," a "specific embodiment," or a result of "importing limitations" from the specification. This argument is puzzling because neither the Petition nor the Institution Decision identify any disclosed embodiment that supports the challenged claims; indeed the specification of the '758 patent does not disclose *any* embodiment of a *captive security rod* as recited in the claims.

As shown in the Petition and supporting evidence, there is no disclosure of the claimed subject matter in Figs. 1-58, or in the text of Ex. 1007, the '356 patent. *See* Petition at 11-19; Ex. 1021, White Decl. ¶¶ 44-62. The relationship between the '356 patent and the '758 patent is illustrated in the Institution Decision at 13:

The ’488 patent is a CIP of the ’356 patent, and the ’758 patent is a continuation of the ’488 patent. Consequently, the ’356 patent and the ’758 patent contain identical Figs. 1-58 and accompanying text. Other than its claims, the ’758 patent does contain some limited, additional text not found in the ’356 patent, primarily the summary of the invention section, which paraphrases the claim language. *See* Ex. 1001 at 3:10-4:37, 4:60-6:22. The ’758 patent also contains Figs. 59-65 and accompanying text, which the Response does not dispute, are not pertinent to the challenged claims. For these reasons, the ’758 patent may very well be invalid for failure to satisfy the written description requirement of 35 U.S.C. § 112.[3]

B. The Board Correctly Determined that the Challenged Claims Are Not Entitled to a Priority Benefit Date Earlier Than February 18, 2011

At pages 13-15, the Response argues that the challenged claims have a priority benefit date of May 23, 2008, based on the filing date of Ex. 4, U.S. Patent No. 7,724,520, relying on the subject matter illustrated in Figs. 28, 28A-D, and 29 of the ’520 patent, which the Response apparently argues is also found in Ex. 2,

[3] Although lack of written description is not an issue subject to review in an IPR, 35 U.S.C. § 311(b), the Petitioner addresses this issue to rebut the Patent Owner’s arguments concerning alleged disclosure of preferred embodiments, and to avoid any misreading of the Petition, as somehow indicating that there is adequate disclosure of the claimed subject matter in the ’758 patent.

U.S. Patent No. 8,223,488; and Ex. 3, U.S. Patent No. 8,139,356 (identical to Ex. 1007). The Response at page 14, lines 3, 6, and 9 actually refers to Figs. "29A-D," but we understand this to refer to Figs. 28A-D, because there are no Figs. "29A-D" in any of these patents. (However, we also note that the Response nowhere refers to Fig. 28A.)

As discussed in detail in the Petition and supporting evidence, the '356 patent does not contain any disclosure of the claimed subject matter, in Figs. 28, 28A-D, 29, or anywhere else. *See* Petition at 11-19, Ex. 1021, White Decl. ¶¶ 44-62. For the same reasons, the claimed subject matter is also not disclosed in the other alleged priority documents on which the Patent Owner relies.

The Patent Owner's arguments concerning alleged priority benefit are entirely based on, and overlap with its arguments concerning construction of *captive security rod* (Response at 5-13). Accordingly, for the reasons discussed in Section II.A above (addressing claim construction), in addition to the reasons discussed in the Petition and supporting evidence (*see* Petition at 11-19, Ex. 1021, White Decl. ¶¶ 44-62), the Board correctly determined that the '758 patent is not entitled to an effective filing date earlier than February 18, 2011. Institution Decision at 12-15.

C. The Challenged Claims Are Unpatentable over ClickSafe

At pages 15-16 of the Response, the Patent Owner argues that the challenged claims are not unpatentable over the cited art, because the claims are entitled to a priority benefit date of May 23, 2008, which is earlier than the publication date of the Clicksafe video, October 12, 2010. The Response does not dispute that the Clicksafe video discloses all limitations of claims 1-7, 9-13, and 16 of the '758 patent, and that if '758 patent is not entitled to a priority date earlier than October 12, 2010, then claim 14 is obvious over the combination of the Clicksafe video and Chen.

As shown in Section II.B above and in the Petition at 11-19, and as determined by the Board (Institution Decision at 12-15), the '758 patent is not entitled to an effective filing date earlier than February 18, 2011. Accordingly, claims 1-7, 9-13, and 16 are anticipated by the ClickSafe video; and claim 14 is obvious over the ClickSafe video and McDaid.

D. The Challenged Claims Are Unpatentable over McDaid and Chen

The Response does not dispute that all limitations of the challenged claims are disclosed by the combination of McDaid and Chen, and that these references are prior art. However, the Response argues that the claims are not unpatentable because McDaid teaches away from the combination, and because POSA would not have had a motivation to combine these references. Response at 14-21. The

Petition and supporting testimony establish that POSA would have had a reason to combine the references. Petition at 46, 47; Ex. 1021, White Decl. ¶ 117. Moreover, the Board correctly determined that McDaid does not teach away from the combination with Chen. Even if McDaid did teach away, the prior art as a whole provides a motivation to combine the references. For these reasons the claims would have been obvious over McDaid and Chen.

In its Preliminary Response, the Patent Owner argued that McDaid teaches away from using an "axial" locking mechanism (as disclosed in Chen), in the context of the McDaid locking device, which includes a "radial" locking mechanism, because McDaid teaches that the locking head in the disclosed device "should not be rotatable relative to the anchor." Preliminary Response at 3 (citing Ex. 1008, McDaid at 6:20-28). In its Institution Decision, the Board quoted this cited portion of McDaid in context, and explained that this discussion in McDaid, prefaced by the phrase "[i]in another configuration," refers to a particular embodiment. The Board accordingly determined that McDaid's disclosure of one embodiment did not teach away from other disclosed embodiments, such as those that may permit rotation of the locking head relative to the anchor. *See* Institution Decision at 21-22 (citing *In re Fulton*, 391 F.3d 1195, 1202 (Fed. Cir. 2004)).

In its Response, the Patent Owner does not directly address the Board's analysis of this issue in the Institution Decision, citing other passages in McDaid,

namely Ex. 1008 at 2:38-45 and 6:29-48, instead of at 6:22-28. Response at 17. As the Board correctly determined, McDaid discloses two embodiments (or configurations) of a locking device: (1) a first configuration in which a round external member 64 mates with the locking head 104; and (2) a second configuration in which the external member 64 contains peaks and valleys, that mate with corresponding peaks and valleys of the locking head. As stated in McDaid:

> [1] *In one configuration*, the opening 132 is round to mate with a round external member skirt 64. [2] *In another configuration*, shown in FIGS. 8, the opening 132 is shaped with peaks 134 and valleys 136 to mate with the valleys 66 and peaks 68 of the 20 external member skirt 64 of FIG. 4. With this configuration, the locking head 104 will not rotate relative to the anchor 20 when they are engaged.

Ex. 1008 at 6:15-22 (emphasis added). POSA would have understood that the first embodiment of McDaid is shown in Fig. 2, which depicts a round external member 64, and that in this embodiment the locking head would be free to rotate about the member 64. Ex. 1024, White Suppl. Decl. ¶¶ 25-27.

The second McDaid embodiment is depicted in Figs. 4 and 8, and includes peaks and valleys in the external member 64, which mate with peaks and valleys in the locking head, to prevent rotation. As stated in McDaid, rotation is prevented in

the second embodiment. Ex. 1008 at 6:15-22. Ex. 1024, White Suppl. Decl. ¶¶ 28-32.

There is no support for the Patent Owner's argument that the absence of rotation is "critical" in McDaid. As acknowledged by the Patent Owner, McDaid discloses a ring 170 designed to *permit* rotation of the cable relative to the anchor, even if the lock head itself cannot rotate. *See* Ex. 1008 at 7:4-7; Response at 18. Mr. Mahaffey admits that in all McDaid embodiments the cable "has to" be permitted to rotate relative to the *captive security rod*. Ex. 1023, Mahaffey Dep. Tr. 119:4-18. Accordingly, even the McDaid embodiment relied on by the Patent Owner permits relative rotation of the cable and anchor. Ex. 1024, White Suppl. Decl. ¶ 33.

Even if the Board were to agree with the Patent Owner's argument that McDaid teaches that preventing rotation between the lock head and the captive security rod is desirable, Chen itself provides an express motivation to substitute an axial lock mechanism for McDaid's radial lock mechanism:

> It is a further objective of the present invention to provide a cable locking device with an automatic pop-up feature which *utilizes an axial locking mechanism instead of a radial locking mechanism* as in prior art that allows the locking device to be more easily operable than the prior art.

Ex. 1009 at 1:63-65 (emphasis added); Response at 19. Ex. 1024, White Suppl. Decl. ¶¶ 34-37.

The Patent Owner and Mr. Mahaffey quote this portion of Chen, but apparently fail to appreciate that this quoted language supplies exactly the motivation to combine that the Patent Owner argues is lacking in the prior art. This portion of Chen supports Mr. White's testimony that POSA knew that the automatic lock mechanisms disclosed in Chen had known advantages relative to key-operated mechanisms as disclosed in McDaid, and therefore would have had a reason to combine the references. *See* Ex. 1021, White Decl. at ¶ 117. Indeed, Mr. Mahaffey, a person of ordinary skill, "no more, no less," was aware of McDaid but was not discouraged from developing a computer lock product (ClickSafe) that contains an axial lock engagement mechanism, and which *permits* the lock head to turn relative to a captive security rod. Ex. 1023, Mahaffey Dep. Tr. 68:20-69:17, 75:4-8, 79:20-80:11, 93:22-95:6.

Considering the prior art as a whole, the Board must conclude that there was a motivation to combine McDaid and Chen, even if the Board agrees with the Patent Owner's argument that McDaid by itself would discourage such a combination. *See generally, Allergan, Inc. v. Sandoz, Inc*., 726 F.3d 1286, 1293 (Fed. Cir. 2013) (reversing district court judgment of no invalidity, determining that the prior art as a whole provided a motivation to combine references, despite

the court's finding that certain aspects of the prior art taught away from the combination). Accordingly, the challenged claims are unpatentable over McDaid and Chen.

III. CONCLUSION

For the foregoing reasons, the Petition establishes that the challenged claims are unpatentable on the three instituted grounds: (A) claims 1-7, 9-14, and 16 of the '758 patent are obvious in view of McDaid and Chen; (B) claims 1-7, 9-13, and 16 are anticipated by the ClickSafe video; and (C) claim 14 is obvious over the ClickSafe video and McDaid.

Respectfully submitted,

April 1, 2016

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on April 1, 2016, pursuant to 37 C.F.R. § 42.6, the foregoing PETITIONER'S REPLY is being electronically filed via the Patent Review Processing System (PRPS), and is being served via email upon the following counsel of record for Patent Owner Think Products, Inc.:

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