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.

IPR2015-01167 (USP 8,717,758)

PETITIONER'S DEMONSTRATIVE EXHIBITS FOR ORAL ARGUMENT (CORRECTED)

In accordance with 37 C.F.R. § 42.70(b) and the Order granting requests for oral argument (Paper 29), attached are Petitioner's demonstrative exhibits for oral argument, which were served on June 22, 2016.

This paper corrects the filing earlier today, which inadvertently included six copies of the exhibits.

Respectfully submitted,

June 24, 2016

/ Sandip H. Patel /

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United States Patent and Trademark Office

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THINK PRODUCTS, INC.,

Patent Owner.

IPR2015-01167 (USP 8,717,758)

IPR2015-01168 (USP 8,837,144)

Petitioner's Demonstrative Exhibits for Oral Argument

IPR Petitions

- Petitioner ACCO Brands filed two IPR petitions, challenging claims of two related patents owned by Think Products.
- Petitions were supported by evidence including a declaration of Ryan White, Ex. 1021.

Challenged Claims

’758 Patent

- Independent claims 1, 16
- Dependent claims 2-7, 9-14

IPR2015-01167, Pet. at 2-4.

’144 Patent

- Independent claims 1, 14, 20
- Dependent claims 2-12, 15-19

IPR2015-01168, Pet. at 2-4.

Institution Decisions

- IPR2015-01167 (’758 Patent)
  - “Independent claim 1 [of the ’758 patent] is illustrative of the challenged claims . . . .”

    Paper 13 at 3.
- IPR2015-01168 (’144 Patent)
  - “Claim 1 [of the ’144 patent] is illustrative of the claimed subject matter.”

    Paper 13 at 3.

Illustrative Claim ('758 Patent)

1. A locking assembly for securing a portable electronic device having at least one housing to a substantially immovable object, the locking assembly comprising:

a captive security rod having a locking end and an anchoring end, wherein the anchoring end is passed through the at least one housing to anchor the captive security rod thereto;

said captive security rod partially in said at least one housing and partially out of said at least one housing during and before locking use; and

a locking device with a locking mechanism, wherein the locking device is configured with an opening to receive the locking end of the captive security rod to activate the locking mechanism, where the activation causes the locking mechanism to securely grasp the locking end and thereby lock the security rod and portable electronic device to the locking device.

Ex. 1001 at 19:8-34

Illustrative Claim ('144 Patent)

1. A locking assembly for securing a portable electronic device having at least one housing to a substantially immovable object, the locking assembly comprising:

a captive security rod having a locking end and an anchoring end, wherein the anchoring end is installed in the at least one housing to anchor the captive security rod thereto;

said captive security rod being captive partially in said at least one housing after installation and partially out of said at least one housing during and before locking use after installation; and,

a locking device with a locking mechanism, wherein the locking device is configured with an opening to receive the locking end of the captive security rod to activate the locking mechanism, where the activation causes the locking mechanism to securely grasp the locking end and thereby lock the installed security rod and portable electronic device to the locking device.

Ex. 1003 at 19:16–33.

Institution Decisions

- Construed *captive security rod* as "a rod-shaped portion of a locking assembly, wherein the rod is anchored to the housing of a portable electronic device." Paper 13 at 10/8.*
- Patent Owner did not demonstrate entitlement to filing date earlier than Feb. 18, 2011.

  Paper 13 at 15/12.
- The Board instituted review in each IPR on 3 grounds.

*Citation to "10/8" refers to IPR2015-01167, Paper 13 at 10; IPR2015-01168, Paper 13 at 8.

Instituted Grounds

'1167 IPR '758 Patent Claims	**'1168 IPR '144 Patent Claims**	**Basis**	**Prior Art References**
1-7, 9-13, **16**	**1**-11, **14**-20	§ 102	ClickSafe
14	12	§ 103	ClickSafe and McDaid
1-7, 9-14, **16**	**1**-12, **14**-20	§ 103	McDaid and Chen

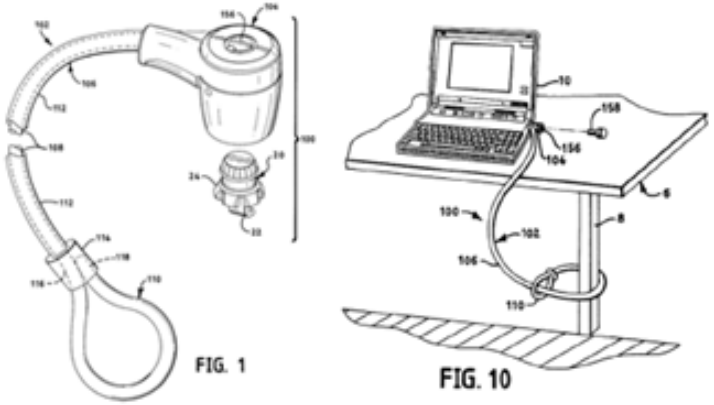
- ClickSafe published October 12, 2010. First two grounds apply if the patents are not entitled a filing date earlier than Feb. 18, 2011.

Prior Art

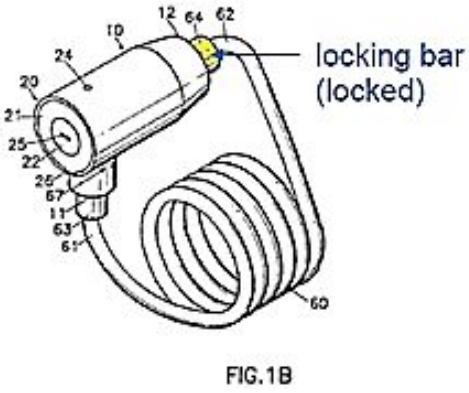
Kensington ClickSafe Keyed Laptop Lock

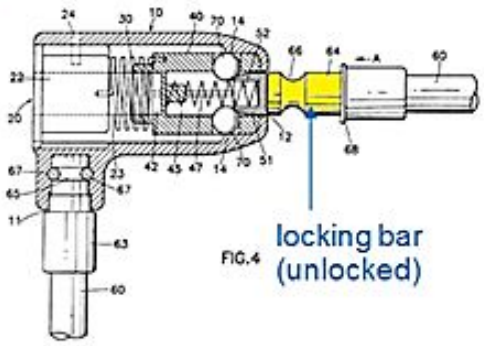
Kensington ClickSafe Keyed Laptop Lock

Ex. 1013, 1014, ClickSafe Video



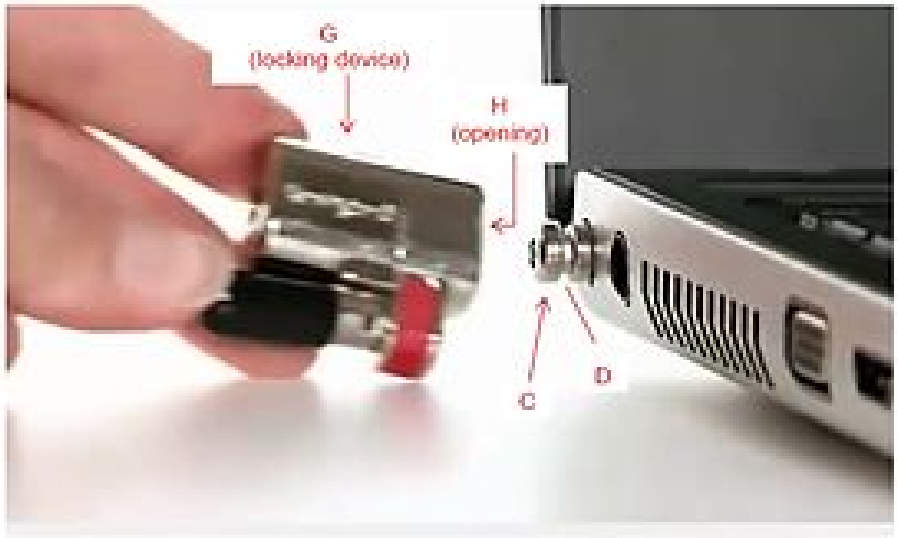
Ex. 1008, McDaid



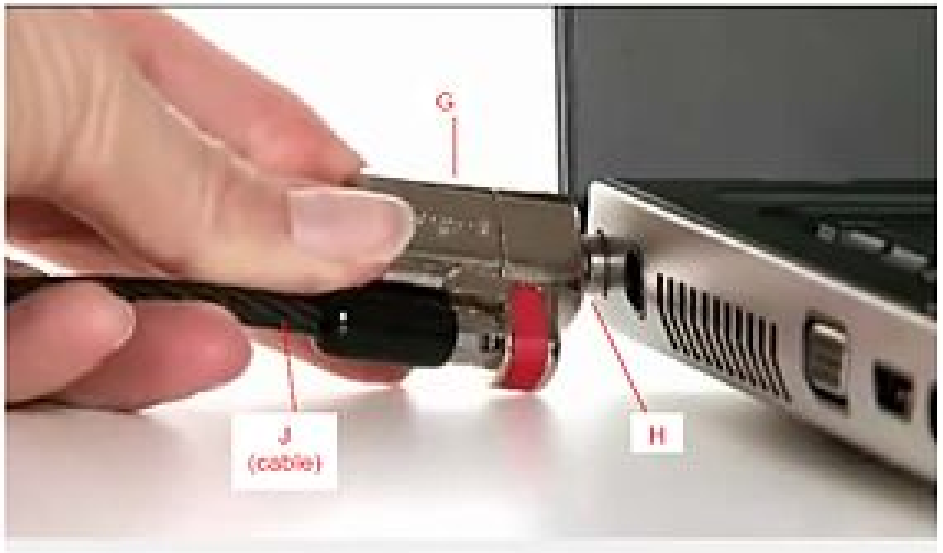


Ex. 1009, Chen

Prior Art



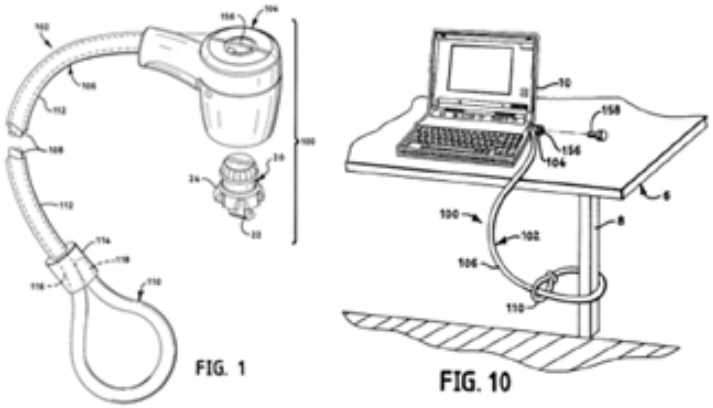
Kensington ClickSafe Keyed Laptop Lock



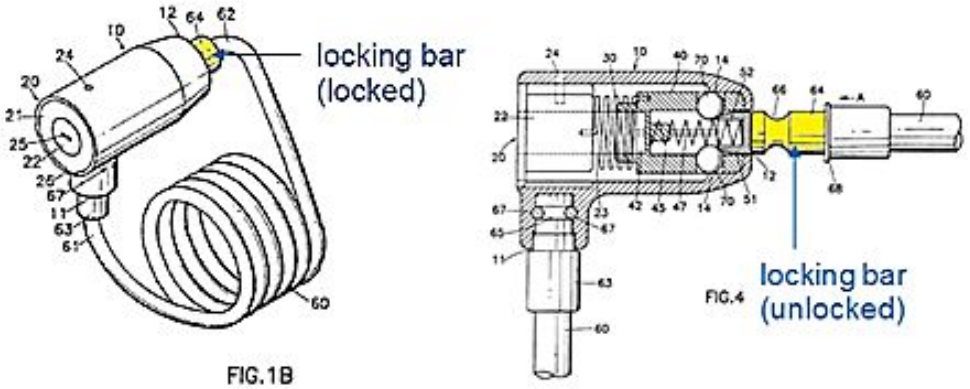
Kensington ClickSafe Keyed Laptop Lock

Ex. 1013, 1014, ClickSafe Video

Prior Art



Ex. 1008, McDaid



Ex. 1009, Chen

Patent Owner Response (POR)

(1) Argues that “patent claims” of the challenged patent are entitled to earlier filing date.

POR at 5-15/5-14.

(2) Disagrees with Board’s construction of captive security rod.

POR at 5-13/5-12.

(3) Argues no motivation to combine McDaid and Chen.

POR at 15-22/14-21.

Not Disputed

- Claim 1 of ’758 and claim 1 of ’144 are “representative” of challenged claims.
- McDaid, Chen, and ClickSafe disclose all limitations of challenged claims.
- ClickSafe is prior art if Board correctly determined that patents are not entitled to filing date earlier than Feb. 18, 2011.

Issues in Dispute

(1) Construction of *captive security rod*.

(2) Priority benefit date of ’758 and ’144 patents.

(3) Motivation to combine McDaid and Chen.

(4) Evidentiary motions.

(1) Construction of *Captive Security Rod* (CSR)

- Board's construction: "a rod-shaped portion of a locking assembly, wherein the rod is anchored to the housing of a portable electronic device."

  Paper 13 at 10/8.

- Board's construction is correct, reflects express language of the claims.

  Reply at 2-4/2-5; Ex. 1024, White Suppl. Decl. ¶¶ 7-9.

- Petitions rely on ordinary meaning of claim language, which expressly recites features of the claimed CSR.

  Pet. at 5-10/5-11; Ex. 1021, White Decl. ¶¶ 32-43.

Construction of *Captive Security Rod*

- '758 claim 1

1. A locking assembly for securing a portable electronic device having at least one housing to a substantially immovable object, the locking assembly comprising:

a captive security rod having a locking end and an anchoring end, wherein the anchoring end is passed through the at least one housing to anchor the captive security rod thereto;

said captive security rod partially in said at least one housing and partially out of said at least one housing during and before locking use; and

a locking device with a locking mechanism, wherein the locking device is configured with an opening to receive the locking end of the captive security rod to activate the locking mechanism, where the activation causes the locking mechanism to securely grasp the locking end and thereby lock the security rod and portable electronic device to the locking device.

Ex. 1001 at 19:8-34

Construction of *Captive Security Rod*

- ’144 claim 1

1. A locking assembly for securing a portable electronic device having at least one housing to a substantially immovable object, the locking assembly comprising:

a captive security rod having a locking end and an anchoring end, wherein the anchoring end is installed in the at least one housing to anchor the captive security rod thereto;

said captive security rod being captive partially in said at least one housing after installation and partially out of said at least one housing during and before locking use after installation; and,

a locking device with a locking mechanism, wherein the locking device is configured with an opening to receive the locking end of the captive security rod to activate the locking mechanism, where the activation causes the locking mechanism to securely grasp the locking end and thereby lock the installed security rod and portable electronic device to the locking device.

Ex. 1003 at 19:16–33.

Construction of *Captive Security Rod*

- PO's proposed "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."

  POR at 13/12 (underlining emphasis added).

- PO's proposed construction ignores the claim language, and focuses on priority benefit issue.

  Reply at 4/5.

(2) Priority benefit date

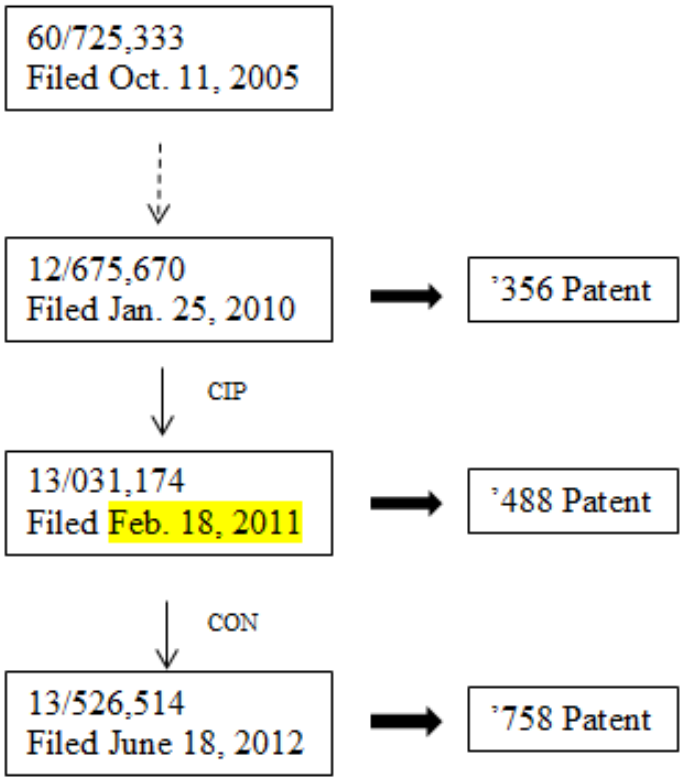
- Board correct that patents are not entitled to priority benefit date before Feb. 18, 2011, because not described in earlier application for ’356 patent (Ex. 1007).

  Paper 13 at 12-15/11-13.

- PORs rely on Figs. 28, 28A-D, 29, 30, 31 of the ’356 patent.

  POR at 13-15/12-14.

- These figures do not disclose a CSR with both (1) a locking end and (2) an anchoring end, and (3) which remains anchored in housing both before and during locking.



IPR2015-01167, Paper 13 at 13.

Priority benefit date—Figs 28, 28B, 28A

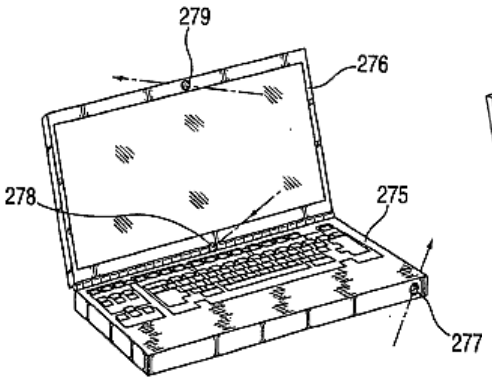


FIG. 28

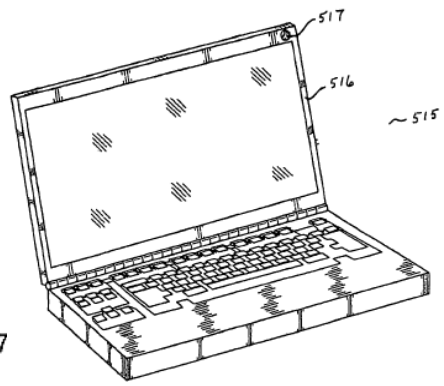


FIG. 28B

- Figs. 28 and 28B—no locking device.

  Pet. at 13/13-14; Ex. 1007 at 10:52-57.

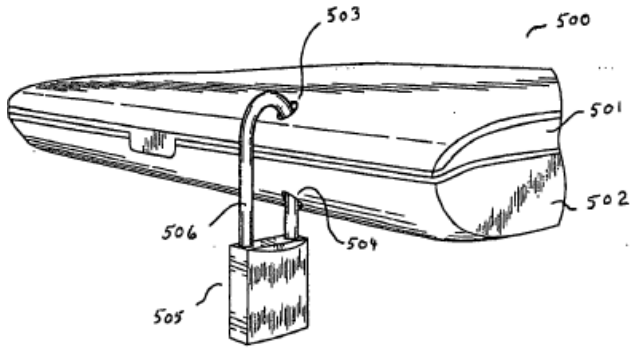


FIG. 28A

- Fig. 28A—no CSR anchored in housing.

  Pet. at 13-14/14, Ex. 1007 at 10:58-63.

Priority benefit date—Fig. 29

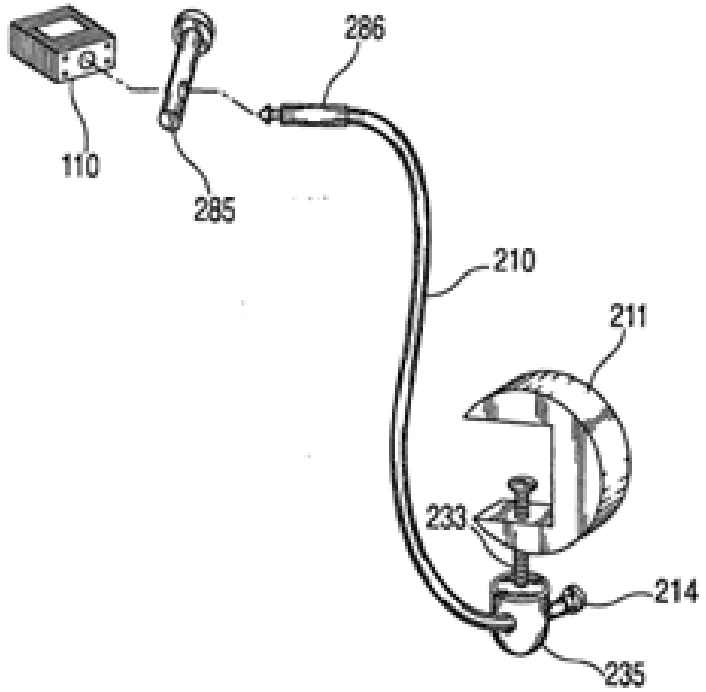
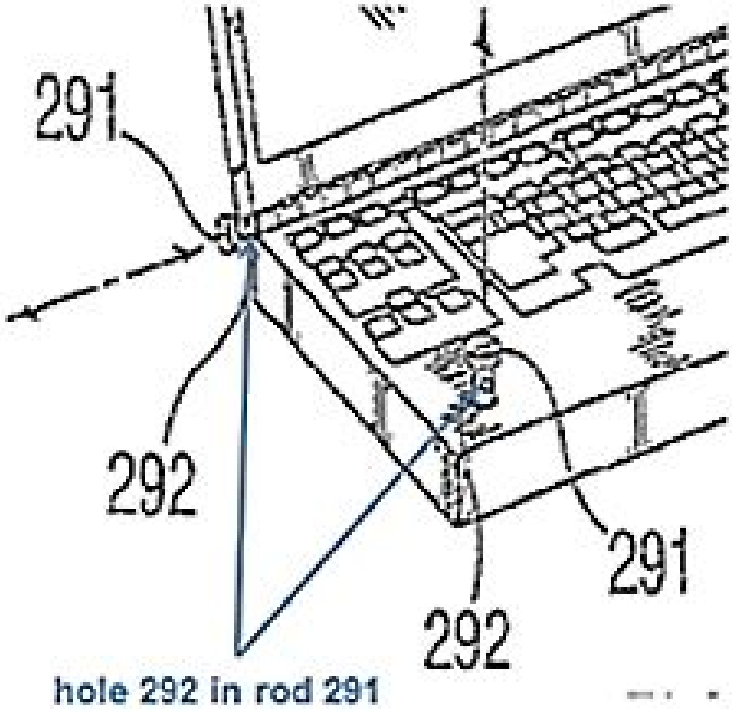


FIG. 29

- Spike 285 has no locking end activating the lock.

Ex. 1007; Pet. 15-16/15-16.

Priority benefit date—Fig. 30



- The "captive security rod 291" has no locking end activating the lock.

  Ex. 1007, Fig. 30; Pet. at 17-19/17-19.

- "Rods 291 are stored in a recessed position with only a small knob protruding so that they may be easily grasped to move the rod into an extended position and expose a transverse hole."

  Ex. 1007 at Fig. 30, 11:33-37.

Priority benefit date—Fig. 31

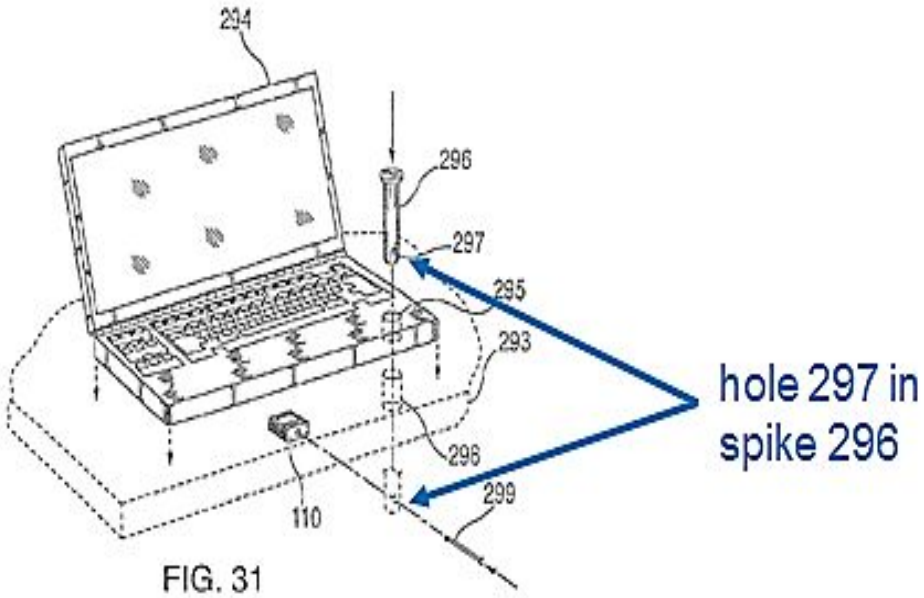


FIG. 31

Ex. 1007; Pet. at 18-19/19.

- The “long spike 296” has no locking end activating the lock.

Ex. 1007 at 11:43-45.

Priority benefit date—Figs. 28C, 28D

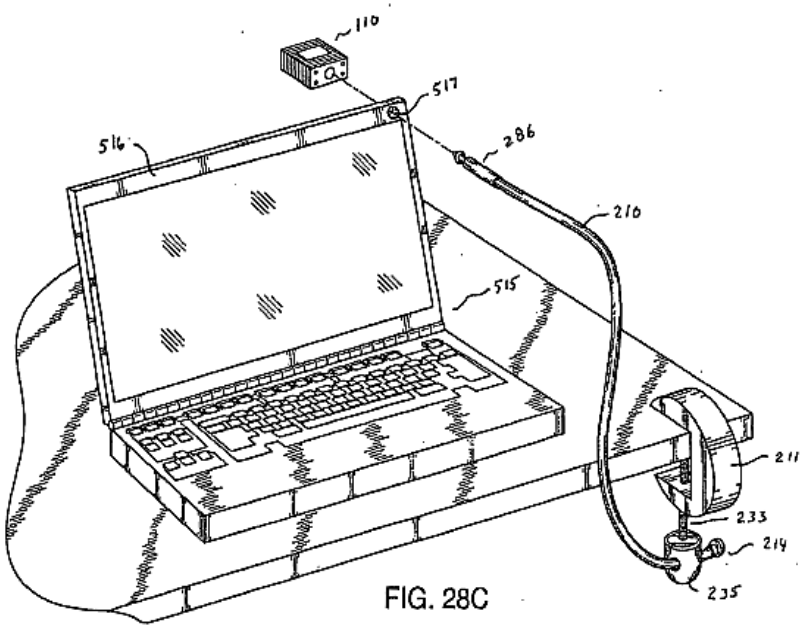


FIG. 28C

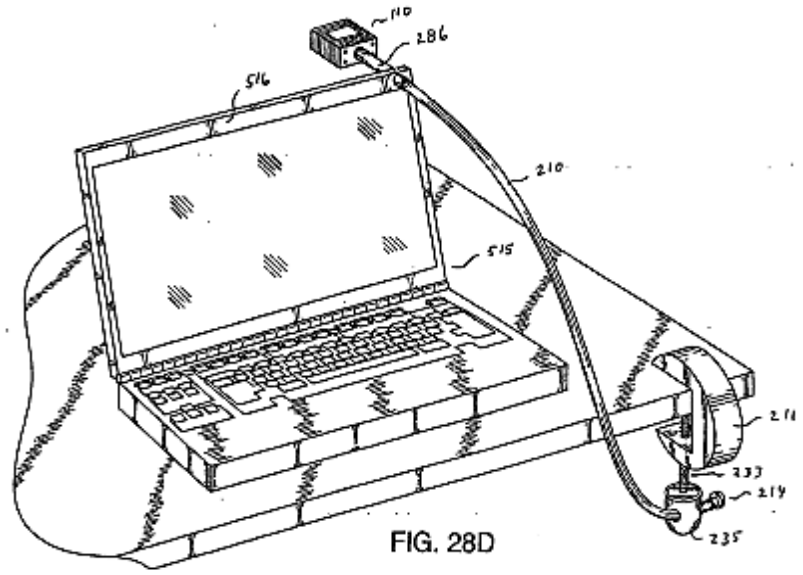


FIG. 28D

Ex. 1007

- Ferrule 286 has no anchoring end anchored to the housing, and no anchoring end in the housing before and after locking use.

Pet. at 14-15; Ex. 1021, White. Decl. ¶¶ 54, 55.

Priority benefit date—Figs. 28C, 28D

- PO argues that ferrule 286 "becomes 'captive' when a locking device (such as a lockhead) is attached to the far distal end."

  POR at 8 (citing Mahaffey Decl. ¶ 20).

- Mr. Mahaffey testified that ferrule 286 is both the locking end and the anchoring end of the CSR.

  Ex. 1023, Mahaffey Dep. Tr. 92:15-18.

- The ferrule 286 cannot be a CSR because
  - it is not anchored to the housing and does not include an anchoring end; and
  - is not partially in the housing and partially out of the housing before and during locking use.

  Pet. at 14-15; Ex. 1021, White. Decl. ¶¶ 54, 55.

Priority benefit date—File history

- In file history, PO distinguished Murray, Ex. 1019:
  - PO said Murray "does not have a captive security rod."
  - PO stated: "Murray's rectangular T-shaped locking member 124 is stored out of the housing 137 during non-use and between deployments."

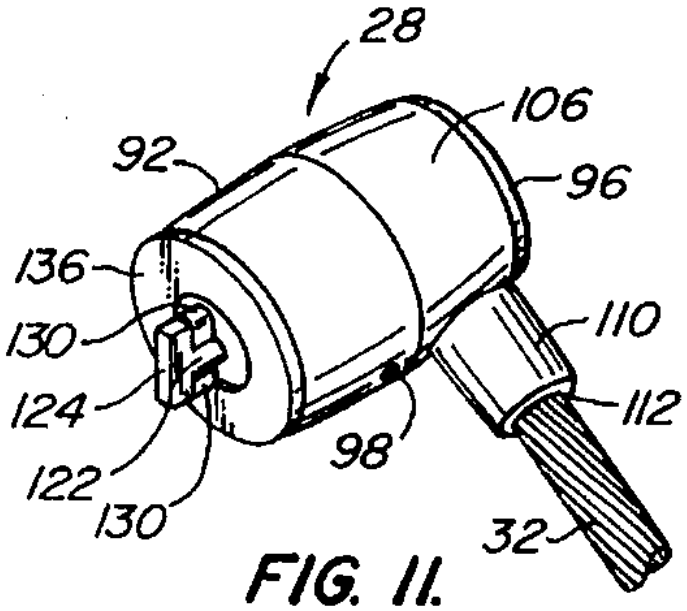


FIG. 11.

Murray, Ex. 1019; Ex. 1002 at 942; Pet. at 16-17; Reply at 13-14/14-15; Ex. 1024 ¶ 21.

(3) Motivation to combine McDaid and Chen

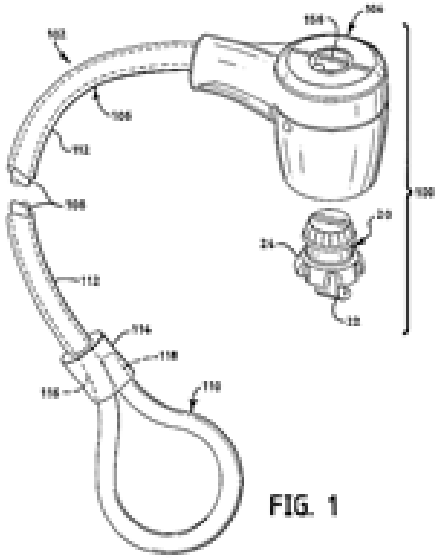


FIG. 1

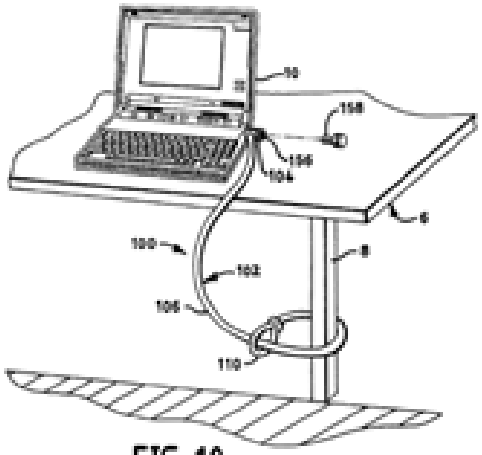


FIG. 10

Ex. 1008, McDaid.

- No dispute that McDaid discloses all claimed features, except the lock in McDaid is not activated by inserting the CSR into the lock; lock is activated by turning a key after the CSR is inserted.

Pet. at 20-28, 38-46/37-46; POR at 15-22/15-21.

Motivation to combine McDaid and Chen

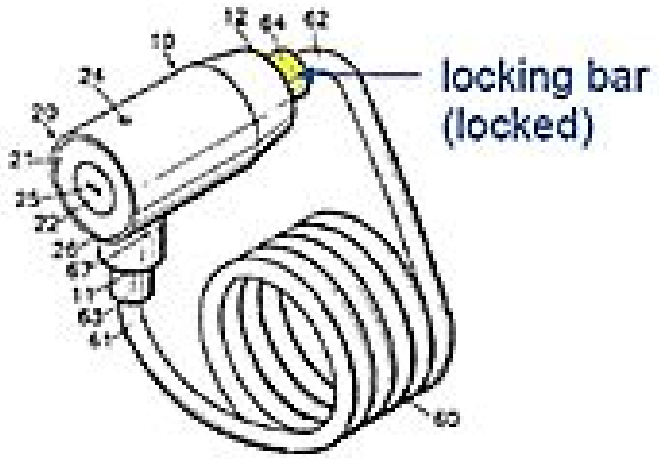


FIG.1B

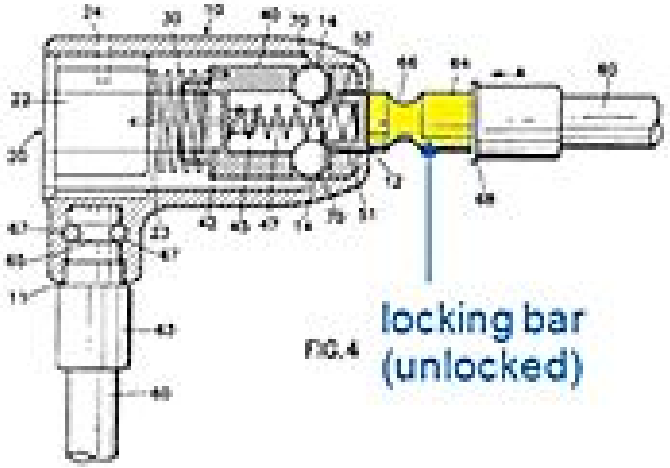


FIG.4

Ex. 1009, Chen; Pet. at 28.

- No dispute that Chen discloses an automatic lock mechanism that is activated by insertion, without a key.

Pet. at 28-29; POR at 15-22/15-21.

Motivation to combine McDaid and Chen

- POSA knew that automatic lock mechanisms as disclosed in Chen had advantages over key-activated mechanisms, and therefore had a reason to combine. Ex. 1021 at ¶ 117.
- Chen itself provides an express motivation to combine:

  "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); Reply at 20-21/21-22.

- Lee, Self-Locking Cable Lock, Ex. 1012, discloses a cable lock for a laptop computer and states: "Using keys to lock conventional cable locks on objects is inconvenient," and that Lee disclosed an invention "to overcome these shortcomings," by "provid[ing] a self-locking cable lock."

  Ex. 1012 at 1:6-20, Ex. 1021 at ¶ 128; Pet. at 32/31-32.

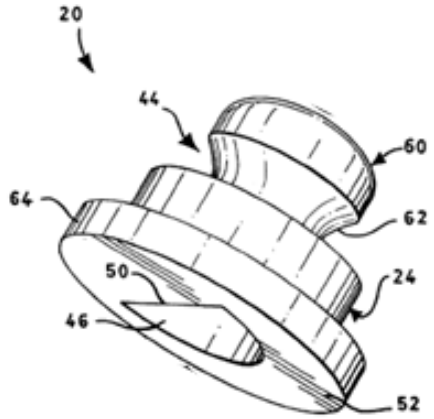
Motivation to combine McDaid and Chen

- McDaid does not teach away from using a mechanism in which the lock head can rotate about the CSR; discloses 2 embodiments, one of which can rotate:

> [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); Reply at 19/20.

[1]



Ex. 1008, Fig. 2.

[2]

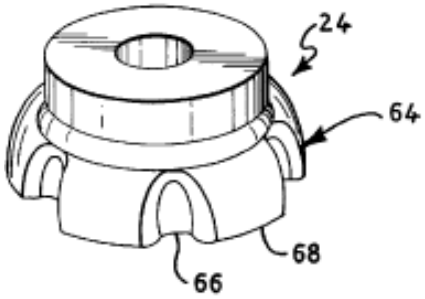
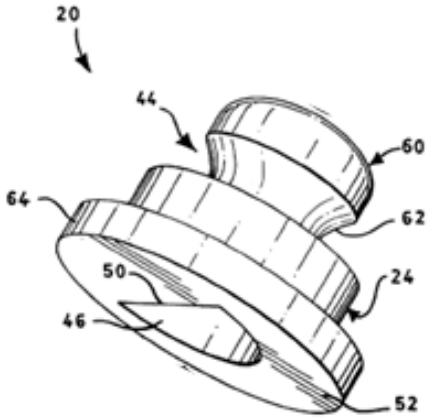


FIG. 4

Ex. 1008, Fig. 4.

Motivation to combine McDaid and Chen

- [1] first embodiment—round external member skirt 64



Ex. 1008, Fig. 2.

- [2] second embodiment—skirt 64 with peaks and valleys

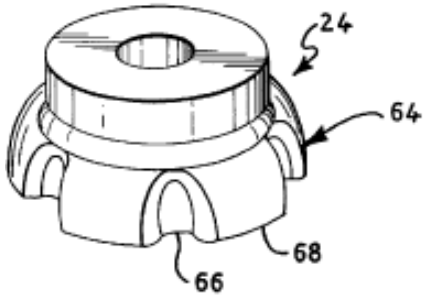


FIG. 4

Ex. 1008, Fig. 4.

Motivation to combine McDaid and Chen

- PO's witness Mr. Mahaffey, a person of ordinary skill, 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.

See Allergan, Inc. v. Sandoz, Inc., 726 F.3d 1286, 1293 (Fed. Cir. 2013); Reply at 21-22/22-23.

(4) Ryan White Testimony

- Motions to exclude declarations (Paper 26) were not properly filed because PO did not object to Ex. 1021 or Ex. 1024 before filing the motions. Paper 26, 31.
- "Having reviewed Mr. White's declaration, we find no reason to question his qualifications as an expert in the relevant field, or that his opinions are properly drawn from the perspective of one of ordinary skill in the art."

  IPR2015-01167, Paper 13 at 6 n.1;
  accord IPR2015-01168, Paper 13 at 7.
- PO did not cross-examine Mr. White in connection with Ex. 1021, only with respect to Ex. 1024.
- PO did not dispute Board's finding about Mr. White's testimony and qualifications in either POR.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on June 24, 2016, pursuant to 37 CFR § 42.6, a copy of the foregoing "PETITIONER'S DEMONSTRATIVE EXHIBITS FOR ORAL ARGUMENT (CORRECTED)" is being electronically filed via the Patent Review Processing System (PRPS) and served via email on the Patent Owner as follows:

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