

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

4 ONE WORLD TECHNOLOGIES, INC., D/B/A
5 TECHTRONIC INDUSTRIES POWER EQUIPMENT,
6 Petitioner,
7 v.
8 CHERVON (HK) LIMITED
9 Patent Owner.
10

11 Case IPR2020-00884

12 U.S. Patent No. 9,596,806

13 Case IPR2020-00886

14 U.S. Patent No. 9,826,686

15 Case IPR2020-00887

16 U.S. Patent No. 9,986,686

17 Case IPR2020-00888

18 U.S. Patent No. 10,070,588
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Deposition of E. Reed Smith
Conducted on January 22, 2021

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REMOTE DEPOSITION of E. REED SMITH

Friday, January 22, 2021

10:04 a.m. CST

Job No.: 346441

Pages: 1 - 145

Reported By: Michelle M. Yohler, CSR, RMR, CRR

1 Deposition of E. SMITH REED, held remotely
2 pursuant to notice before Michelle M. Yohler, CSR,
3 RMR, CRR, a certified shorthand reporter,
4 CSR No. 84-4531.

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1 A P P E A R A N C E S

2 ON BEHALF OF THE PETITIONER

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20 ALSO PRESENT:

21 Mr. Lawrence Wallace, Technician

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1 (WHEREUPON, the witness was duly sworn.)

2 MR. GILFORD: So let's go ahead and do
3 appearances for the record then.

4 I'm Ben Gilford appearing on behalf of
5 patent owner Chervon at the law firm of Greenberg
6 Traurig.

7 MR. SIKORSKI: I guess I'll note for the
8 record that it seems like Mr. Keith Jarosik is
9 also appearing on your behalf.

10 This is Ed Sikorski on behalf of the
11 petitioner, of DLA Piper.

12 MR. GILFORD: Sorry, Keith. I didn't see
13 you were on.

14 Yeah, Keith Jarosik also appearing on
15 behalf of the patent owner.

16 MR. JAROSIK: Correct.

17 MR. GILFORD: And, Ed, before we get
18 started, I just wanted to confirm on the record
19 that the parties have agreed to take this
20 deposition remotely over video deposition
21 software. The parties are in physically different
22 locations, including the court reporter. And that

1 the parties have agreed that the transcript from
2 today's deposition can be used in IPR numbers
3 2020-00884, 2020-00886, 2020-00887, and
4 2020-00888.

5 Does that sound correct, Mr. Sikorski?

6 MR. SIKORSKI: It is, yeah. I guess I
7 thank you guys for designating only one deposition
8 for the four proceedings.

9 To the extent that something comes up in
10 one proceeding that is completely not relevant to
11 other proceedings, then maybe we can talk
12 afterward about dissecting the transcript, but I
13 agree that this deposition is intended to cover
14 those four proceedings.

15 E. REED SMITH,
16 called as a witness herein, having been first duly
17 sworn, was examined and testified as follows:

18 EXAMINATION

19 BY MR. GILFORD:

20 Q Okay. Mr. Reed, can you go ahead and
21 state your full name for the record.

22 A My name is E. Smith Reed. That's Edward

1 Smith Reed.

2 Q And, Mr. Reed, is there any reason why the
3 testimony you offer today would not be truthful?

4 A No reason.

5 Q So I just want to run through a few
6 deposition expectations. I'm sure you've been
7 deposed before, but I'd like to go through them,
8 you know, for a little refresher anyways.

9 The court reporter is taking down all the
10 words that we say, so it's important that we don't
11 talk over each other. You know, I'll ask a
12 question, let me finish, and then I'll let you
13 answer -- let you finish your complete answer
14 before I ask my next question.

15 Because the court reporter is taking down
16 things that we say, we need verbal responses so
17 shrugs, nods, stuff like that aren't sufficient.

18 If you don't understand a question, please
19 go ahead and ask for clarification. If you
20 answer, I'll assume that you're answering the
21 question posed.

22 And if you need a break, go ahead and ask

1 for it. The only limitation I have is that if a
2 question is pending, you answer the question
3 before we take a break.

4 So, Mr. Reed, I don't know if you've had a
5 remote deposition like this before, but obviously
6 the circumstances are a little different than the
7 in-person deposition.

8 So what device are you connecting to the
9 deposition from today? Are you on a personal
10 computer?

11 A I'm on a personal computer, yes.

12 Q And do you have any other electronic
13 devices in the room with you?

14 A Telephones and nothing unusual.

15 Q Like an iPhone or something like that?

16 A No.

17 Q iPad, any other kind of portable
18 electronic device?

19 A None that are turned on, no.

20 Q Okay. Are there any other people in the
21 room with you today?

22 A No.

1 Q And do you have any handwritten notes with
2 you today?

3 A Yes.

4 Q And are those on your desk with you or...

5 A Yeah, they're two -- two pages of
6 scribbled notes. I'd be happy to show them up to
7 you if you'd like.

8 Q Yeah, I would like to see those notes.

9 Do you have any notes pulled up on your
10 computer?

11 A No.

12 Q Do you have any web pages open on your
13 computer other than Zoom?

14 A No.

15 Q Okay. I guess now would be a good time to
16 see the notes that you have with you.

17 A Yes, scribbled stuff that I doubt that you
18 could read it, but just a couple quick notes on
19 that page (indicating).

20 And, well, this -- this is just laying on
21 the desk. I don't think it has anything to do
22 with what's going on here. Just that note.

1 That's all.

2 Q So the first page does have notes that do
3 have something to do with today's deposition?

4 A Yeah. Just a quick reminder of some of
5 the terms, obviousness and things like that.

6 Q Obviously it's a little hard to see what
7 you have written down through, you know, you
8 holding it up. Is there any way you can snap a
9 picture of it on a cell phone and send it via
10 email to us so that we can actually see what you
11 have written down?

12 A No, I can't, other than sending it through
13 the computer that we're all using right now.
14 It's -- these are just some rough notes that I
15 took about an year ago, very honestly, an intake
16 note showing really no information that should be
17 of any concern to any of us.

18 Q I think we're okay with that for now, but
19 we might come back to those notes later.

20 A Sure.

21 Q We'll cross that bridge at a different
22 point.

1 Do you have any email or other messaging
2 programs open on your computer?

3 A No.

4 Q And you've -- you have been deposed
5 before, correct?

6 A Yes.

7 Q Approximately how many times have you been
8 deposed before?

9 A Approximately 120 maybe.

10 Q And have you testified at trial or hearing
11 before?

12 A Yes.

13 Q Approximately how many times?

14 A Approximately 30 times.

15 Q And have you ever testified as an expert
16 witness in a patent case?

17 A Yes.

18 Q Approximately how many patent cases have
19 you testified as an expert witness in?

20 A Actual testified in deposition -- actual
21 testifying, probably -- fewer than three times.

22 MS. REPORTER: Sorry to interrupt. It

1 looks like we lost Mr. Sikorski's video.

2 (Technological issues were resolved off
3 the record.)

4 BY MR. GILFORD:

5 Q So you said you testified as an expert in
6 a patent case fewer than three times.

7 How many times have you been deposed as an
8 expert in a patent case?

9 A Well, when I say "testified," I -- my
10 recollection is that that would be in deposition.
11 I don't believe that I have testified in a trial
12 in a patent case.

13 Q Got it. Got it.

14 To your knowledge, has your testimony or
15 opinions ever been excluded?

16 A In patent cases, no, to my knowledge never
17 been excluded.

18 Q Yeah, just to clarify, so in any case, not
19 just patent cases, to your knowledge, has your
20 testimony or opinions ever been excluded?

21 A Yes, one time.

22 Q And do you recall the name of that case?

1 A I don't recall the name of that case, but
2 I do recall specifically the reason -- reasons as
3 far as exclusion.

4 Q Well, let's start with, do you recall
5 approximately how long ago that case took place?

6 A 16, 18 years ago, maybe 20 years ago --
7 no, not 20. Probably 16 to 18 years ago.

8 Q And do you recall what party you were
9 representing, like the name of the company or
10 whatever?

11 A I was testifying on behalf of the injured
12 party. This was a product liability, a personal
13 injury case.

14 Q And do you remember the name of the person
15 you were testifying on behalf of?

16 A Offhand, no.

17 Q Okay. And do you recall what kind of
18 product that case involved?

19 A Yes, I do.

20 Q What kind of product was it?

21 A That was a spin trimmer, a brush cutter.

22 Q What's a spin trimmer?

1 A A brush cutter, a spin -- these are all
2 terms that describe the same type of product.
3 These are handheld motorized products for the
4 purpose of cutting brush.

5 Some of these products have a string on
6 them that spins and cuts the brush using the
7 string's velocity. Other times they're outfitted
8 with a blade that cuts a more robust brush.

9 Q Got you. Do you -- so you were
10 appearing -- you were testifying on behalf of the
11 plaintiffs in that case, correct?

12 A Yes.

13 Q And you were testifying as an expert in
14 that case, correct?

15 A Correct.

16 Q And do you recall why your opinions were
17 excluded?

18 A Yes.

19 Q Why were your opinions excluded?

20 A It was a matter of statistical numbers.
21 The testifying -- the testimony that I was
22 providing, it was challenged because the numbers

1 of failures -- this was a blade on a strim -- a
2 trim string trimmer or a brush cutter that had
3 fractured and blown apart following use.

4 And the numbers of blades that had broken
5 like this one had was challenged in that this was
6 one case out of some 6 million blades that were
7 purported to be in use.

8 So the statistical numbers that one could
9 draw conclusions on were challenged, and the judge
10 ruled that the challenge -- that there was not a
11 sufficient statistical number to enable me to
12 testify before a jury.

13 Q Okay --

14 A He -- the judge said I was most certainly
15 qualified to testify to the issues, but the
16 numbers, the statistical numbers were not
17 sufficient.

18 Q So the gist of what you were testifying
19 about in that case was -- it was something about
20 the blades of the string trimmers; is that
21 correct? Or correct me if I'm wrong.

22 A Yeah, essentially, you have a brush cutter

1 that has a ten-inch blade. It looks like a saw
2 blade on it. The blade had fractured in half
3 causing it to separate and fly away from the spin
4 trimmer and injured the injured party.

5 Q Got you. Have you ever been a witness
6 against Chervon?

7 A No.

8 Q And have you ever had any interaction with
9 Chervon before this case?

10 A No.

11 Q Had you heard of Chervon before this case?

12 A I don't believe I had, no.

13 Q Have you heard of the EGO brand of outdoor
14 power equipment before?

15 A No.

16 Q Outside of your work on these four IPRs
17 we're talking about today, the five other related
18 IPRs and PGRs that were not instituted, and the
19 claim construction declaration you submitted in
20 the related district court case, have you ever
21 done any other work for One World?

22 A No.

1 Q Have you ever collaborated with or
2 received funding from One World?

3 A No.

4 Q Have you ever previously provided
5 testimony or opinions on behalf of One World?

6 A No.

7 Q Have you ever previously worked for or
8 provided testimony or opinions on behalf of an
9 entity related to one One World?

10 A No.

11 Q Have you ever provided testimony or
12 opinions on behalf of Techtronic?

13 A No.

14 Q What about Homelite?

15 A On behalf of Homelite?

16 Q Yes.

17 A I'm pretty sure the answer's no. I'm
18 fairly sure it's -- the answer's no.

19 Q And have you ever provided testimony or
20 opinions on behalf of OWT Industries?

21 A No.

22 Q Have you ever provided testimony or

1 opinions on behalf of a company called Hart,
2 H-a-r-t?

3 A No.

4 Q Did you do anything to prepare for today's
5 deposition?

6 A Yes.

7 Q What did you do?

8 A I read through my declarations. I read
9 through the patent owner's responses to the
10 petitions. I read through the petitions, and I
11 read through the patent office's decisions.

12 And then I read through the patents that
13 were cited as prior art. And I read through other
14 literature that would be relative to this
15 matter -- or these matters.

16 Q So when you say other literature that
17 would be relative to these matters, what are you
18 referring to specifically?

19 A Well, specifically, there is a prior art
20 patent. And if you really want me to tell you
21 which one it is -- it sparked some interest into
22 what exactly this particular product is. And

1 doing some research, I came upon literature -- and
2 I'm looking at a -- all of the prior art patents
3 that are on my left here -- and came across a
4 product that seems to be the product that was
5 referred -- that the patent was referring to to
6 get a better understanding of what that patent was
7 talking about.

8 Q Sure. So, yeah, when you say -- would you
9 mind identifying what patent you're talking about.

10 A Yeah, bear with me just a second here.

11 Q Sure.

12 A This would be the Reichart patent, which
13 is number '813 -- 2,386,813, Reichart.

14 Q Okay.

15 MR. GILFORD: And for the court reporter,
16 that's R-e-i-c-h-a-r-t, Reichart.

17 BY THE WITNESS:

18 A That's correct.

19 BY MR. GILFORD:

20 Q And you said you found some literature
21 relating to the Reichart patent?

22 A Yes.

1 Q Okay. What literature would that be?

2 A This is literature based on the assignee
3 of that particular patent, which is a company that
4 I refer to as Gardena, G-a-r-d-e-n-a. It's a
5 German company.

6 And they offered for sale a 34-centimeter
7 mower, which is a very small mower. And I
8 downloaded from the web, from the internet, a page
9 which gave some basic information about that
10 particular mower.

11 Q Got you. Was there any other literature
12 that you were referring to when you mentioned
13 reviewing other literature earlier?

14 A No. Offhand, no. If I think of
15 something, I'll --

16 Q Um --

17 A -- answer.

18 Q So this literature regarding the Gardena
19 34-centimeter mower, I guess, what -- is your --
20 is the connection between that and the Reichart
21 prior art reference just that the same -- the
22 assignee is the same between the two. Is that

1 accurate?

2 A Yeah.

3 Q Okay. So the Gardena literature doesn't
4 mention the Reichart patent in it somewhere, does
5 it?

6 A The literature not -- incidentally that
7 was not on my desk, it was off to the side of my
8 desk when you asked me the question regarding what
9 other papers I might have, but it was this --
10 essentially this page right here (indicating).

11 And this is the extent of what I was able
12 to uncover through the internet. I'll bring it up
13 a little closer.

14 Q Got you. So on that page somewhere, it
15 doesn't mention the Reichart patent, correct?

16 A Correct. It does not.

17 Q Got you.

18 Did you speak with anybody in preparation
19 for today's deposition?

20 A Over the course of the last several days,
21 I -- yes, I did.

22 Q Who did you speak with?

1 A Mr. Ed Sikorski -- Sikorski and Damon
2 Lewis.

3 Q And did you speak with Mr. Sikorski and
4 Mr. Lewis on the same day?

5 A Yes.

6 Q Okay. And you said you spoke with them
7 over the course of several days or what -- did you
8 speak with them on one day? How was the breakdown
9 on that?

10 A I spoke with the two of them or one of
11 them or the other of them yesterday and the day
12 before yesterday.

13 Q Okay. So when you spoke the day before
14 yesterday, how long did you speak for?

15 A On the day before yesterday?

16 Q Yes.

17 A Probably five hours. Maybe a little more
18 than five hours.

19 Q And when you spoke with -- you say you
20 spoke with both of them yesterday?

21 A Yes.

22 Q And how long did you speak with both of

1 them yesterday?

2 A About an hour and a half.

3 Q And when you spoke with them --

4 A No, maybe two hours. Maybe -- I'd have to
5 look at my notes.

6 Q Okay. And when you spoke with them the
7 day before yesterday, did you review any documents
8 in preparation for today's deposition?

9 A Yes.

10 Q And what kind of documents did you review?

11 A I reviewed with them these documents that
12 I've just talked -- just cited just a few minutes
13 ago, the -- all related to the four patents that
14 we're discussing today.

15 Q Got you. And when you spoke with them
16 yesterday, what kind of -- did you review any
17 documents?

18 A Yes.

19 Q And what -- what documents did you review
20 when you spoke with them yesterday?

21 A Again, the same series of documents. And
22 if you look at these four sets of types of

1 documents with these four cases, that adds up to
2 be 16 documents, as I recall.

3 Q Got you. Did you review any other
4 documents other than the ones you ran through
5 earlier?

6 A Well, the cited earlier patents of course,
7 yes.

8 Q Okay. Other than -- you had mentioned the
9 patent owner's preliminary responses and the
10 institution decisions. You reviewed those,
11 correct?

12 A Yes.

13 Q So other than those documents and the
14 Gardena document you mentioned, did you review any
15 other documents in preparation for today's
16 deposition that you had not reviewed when you
17 drafted your declarations?

18 A No. No.

19 Q And did you talk to anybody else other
20 than Mr. Sikorski and Mr. Lewis about today's
21 deposition?

22 A No.

1 Q And besides One World's attorneys, have
2 you spoken to anyone else about these IPR
3 proceedings or the subject patents?

4 A No.

5 Q Did you speak with anyone at One World
6 about today's deposition?

7 A No.

8 Q Have you ever spoken with anyone at One
9 World at any time?

10 A No.

11 Q Is there anything else that you did to
12 prepare for today's deposition other than what
13 we've covered so far?

14 A No.

15 Q And you're aware that there is an ongoing
16 district court litigation involving the patents at
17 issue in these IPR proceedings, correct?

18 A Yes.

19 Q And have you discussed the district court
20 litigation involving the subject patents with
21 anyone at any time?

22 A No.

1 Q Have you ever reviewed any documents from
2 the related district court litigation?

3 A Not anything beyond what I've already
4 disclosed.

5 Q Okay.

6 MR. GILFORD: So, Lawrence, can we go
7 ahead and pull up Exhibit 1003 from IPR2020-00884.

8 And for this one, you don't need to add an
9 exhibit label because it's already been previously
10 marked. Sorry. I should have mentioned that.

11 (WHEREUPON, Reed Exhibit No. 1 was
12 presented to the witness.)

13 MR. SIKORSKI: Ben, sorry to interrupt.

14 MR. GILFORD: Go ahead.

15 MR. SIKORSKI: I don't know what other
16 exhibits you're going to put into the record.
17 Obviously there's four declarations, each of them
18 bearing the same exhibit number, 1003.

19 Again, I'm okay if you don't want to mark
20 these as exhibits. To the extent you do, my
21 suggestion would be maybe to mark them with either
22 the IPR number or the patent number, but that's

1 just my thought. If you want to proceed without
2 marking it, that's fine, too.

3 MR. GILFORD: We can go ahead and mark it.
4 You're right, it might make it easier because
5 they're all 1003. So, yeah, that's a good idea.

6 Okay. So we'll call this Deposition
7 Exhibit 1 then.

8 MR. SIKORSKI: But during the course of
9 the deposition, I think it might be clearer if you
10 refer to the patent or the IPR number
11 so -- because that number would make sense to
12 everybody more so than the exhibit numbers.

13 BY MR. GILFORD:

14 Q So I guess, you know, Mr. Reed, just for
15 your understanding, you realize this is the
16 declaration you drafted in IPR2020-00884, right?

17 A That is correct.

18 Q And you understand that this relates to
19 U.S. Patent Number 9,596,806, correct?

20 A Yes.

21 Q And if I refer to that patent as the
22 '806 patent, you'll know what I'm referring to,

1 right?

2 A I will, yes.

3 Q Okay. And then if I refer to this
4 declaration as a whole as, like, the '806 patent
5 declaration or the '806 declaration, will you know
6 what I'm talking about?

7 A I do. I will.

8 MR. GILFORD: All right. Ed, does that
9 work for you then?

10 THE WITNESS: It works fine, yeah.

11 MR. SIKORSKI: For me as well, Ben.
12 Thanks.

13 MR. GILFORD: Okay. Cool.

14 BY MR. GILFORD:

15 Q Mr. Reed, have your opinions changed since
16 you drafted this declaration?

17 A No.

18 MR. GILFORD: So, Lawrence, can we go
19 ahead and flip to Page 80 of the declaration.

20 BY MR. GILFORD:

21 Q And, Mr. Reed, this is your CV, correct?

22 A Yes, it is.

1 Q Okay. So we're going to spend a little
2 bit of time going through your educational work
3 background, so feel free to refer to this CV as
4 needed, you know, if you need to refer to it.

5 A And you have a bachelor's degree in
6 mechanical engineering from the University of
7 Arkansas, correct?

8 A That is correct.

9 Q And you obtained that degree in 1968?

10 A That's right.

11 Q Have you obtained any other degrees?

12 A No.

13 Q And you worked at Honeywell from 1968 to
14 1970, correct?

15 A Correct.

16 Q And what kind of products did you work on
17 while at Honeywell?

18 A Well, at Honeywell, I was a production
19 engineer, and I was responsible for the design and
20 maintenance and continued maintenance of automatic
21 assembly machinery.

22 Q What's automatic assembly machinery?

1 A These are machines that are capable of
2 producing several hundred products per hour, 3-,
3 4-, 500 products per hour, operating -- I'm not
4 sure how much detail you want, but --

5 Q Just like a high level is fine.

6 A Yeah. It's -- these are machines that
7 would fit into a person's living room but is
8 capable of producing small products -- products
9 that Honeywell is contracted to produce.

10 Q And did you design any lawn mowers while
11 you worked at Honeywell?

12 A No.

13 Q And did you design any grass or hedge
14 trimmers while at Honeywell?

15 A No.

16 Q Did you design any bush cutters while at
17 Honeywell?

18 A No.

19 Q And you worked for The Toro Company from
20 1970 to 1979, correct?

21 A Correct.

22 Q And what kind of products did you work on

1 while at Toro?

2 A At Toro I was a design engineer, senior
3 design engineer, chief product engineer for
4 basically the -- well, many of the Toro products,
5 most of which were used on golf courses and in
6 school systems to maintain formal turf areas.
7 Lawn mowers, walk-behind lawn mowers, riding
8 lawn mowers, turf sweepers, and similar products.

9 I was also responsible for -- or was one
10 of the individuals who participated in the review
11 of other of Toro's products which included spin
12 trimmers, snow throwers, consumer mowers, and
13 products -- other products that Toro produced at
14 that time.

15 Q You say consumer mowers?

16 A Yes.

17 Q What do you mean by that? Just
18 lawn mowers for people's homes?

19 A Correct. You can look at lawn mowers
20 as -- a product manufacturer such as The Toro
21 Company produces mowers that are for homeowners'
22 use as well as for professionals' use.

1 Q Okay. Did you design any lawn mowers
2 while you worked at Toro?

3 A Yes.

4 Q What kind of lawn mowers did you design?

5 A Riding lawn mowers as well as walk-behind
6 lawn mowers.

7 Q And were the walk-behind -- were the
8 walk-behind mowers power lawn mowers?

9 A Yes.

10 Q And were they engine-powered?

11 A Gasoline engine-powered, yes.

12 Q And did you design any grass or hedge
13 trimmers while at Toro?

14 A No.

15 Q Did you design any bush cutters while at
16 Toro?

17 A No.

18 Q And what percentage of your time was spent
19 on designing walk-behind lawn mowers?

20 A A relatively small percentage. Maybe
21 10 percent.

22 Q Okay.

1 A Maybe even less than that. Maybe
2 5 percent.

3 Q Okay. So you were there for about nine or
4 ten years. So would you say you spent about,
5 like, half a year to a year designing walk-behind
6 mowers?

7 A Being responsible for, yes, and designing,
8 yes.

9 Q Okay. And how much of your time was spent
10 designing riding lawn mowers?

11 A Probably 90 percent.

12 Q Okay. And you worked at the Tennant
13 Company, T-e-n-n-a-n-t, from 1979 to 1985,
14 correct?

15 A Correct.

16 Q And what kind of products did you work on
17 while at Tennant?

18 A Industrial sweepers and scrubbers. These
19 are machines very much like what Toro produced
20 except for the products are used to maintain hard
21 surfaces rather than turf surfaces.

22 These would include walk-behind sweepers

1 like you would find in the aisles of shopping
2 centers or grocery stores, to riding machines like
3 what you'd find that would use -- be used to
4 maintain parking lots, parking garages,
5 warehouses, things like that.

6 I was responsible also for the electrical
7 engineering staff which produced the
8 battery-powered machines -- many of these
9 machines because they're indoor machines were
10 battery-powered -- as well as the hydraulics
11 department which produced the hydraulic
12 componentry for hydraulic drives for brushes or
13 scrubbers or propulsion.

14 Q Did you design any lawn mowers while you
15 worked at Tennant?

16 A No. I produced a -- we -- Tennant
17 produced, again, walk-behind and riding floor care
18 machines, not lawn care machines.

19 Q Got you. And did you design any grass or
20 hedge trimmers while at Tennant?

21 A No.

22 Q Any bush cutters?

1 A No.

2 Q And you worked at Vermont Castings, Inc.,
3 from 1985 to 1987?

4 A Correct.

5 Q And what kind of products did you work on
6 while at Vermont Castings?

7 A At Vermont Castings -- Vermont Castings
8 produced -- primarily the product was solid fuel
9 heating appliances, which one can see as
10 wood-burning stoves, parlor stoves, coal-burning
11 stoves that were used in either the U.S. or Canada
12 or the European marketplace.

13 Cast iron products essentially.

14 Q Got you. So I take you did not design any
15 lawn mowers while you worked at Vermont Castings,
16 correct?

17 A Correct.

18 Q And did you design any grass or hedge
19 trimmers?

20 A While at Vermont Castings?

21 Q Yes.

22 A No.

1 Q And you did not -- you did not design any
2 bush cutters at Vermont Castings, correct?

3 A Correct.

4 Q And so between 1987 and 1989, you worked
5 at -- I'm going to probably butcher this, but
6 Lozeau & Son, Inc., L-o-z-e-a-u.

7 A Lozeau, yes.

8 Q Lozeau. Okay. And what kind of products
9 did you work on while at Lozeau?

10 A Lozeau was a distributor of buildings -- I
11 guess building material products, insulation
12 products.

13 We also had a crew of about a dozen
14 individuals who subcontracted to the installation
15 of these various products that were passed
16 through.

17 That particular employment was -- I was an
18 owner and operator of that company. We did not
19 design products; we were a marketing installer of
20 products.

21 Q Got you. So you did not design any
22 lawn mowers while you worked at Lozeau, correct?

1 A Nor brush cutters.

2 Q Okay. And you worked at Centricut,
3 C-e-n-t-r-i-c-u-t, Centricut, Inc., from 1990 to
4 1993, correct?

5 A Correct.

6 Q And what kind of products did you work on
7 while at Centricut?

8 A The fours years I was at Centricut, we
9 produced arc plasma cutting equipment. These are
10 machines that are used -- torches you might say,
11 cutting torches, much like acetylene cutting
12 torches. Electrical-powered using arc plasma to
13 cut through steel or other metals or other
14 materials. Put on a large X-Y table for cutting
15 predetermined products, I guess, for other people
16 to use.

17 These were products that were used for the
18 industrial marketplace.

19 Q And, again, I take it you did not design
20 any lawn mowers while you worked at Centricut,
21 correct?

22 A Correct, Centricut cut metal; it did not

1 cut grass.

2 Q And you've been working at Reed
3 Engineering Consultants, Inc., and E. Smith Reed,
4 P.E., LLC, from 1990 to the present, correct?

5 A Correct.

6 Q And have you designed any lawn mowers over
7 the course of your present employment?

8 A No.

9 Q And have you designed any grass or hedge
10 trimmers over the course of your present
11 employment?

12 A No.

13 Q How about any bush cutters?

14 A No.

15 Q Have you ever done any consulting work for
16 One World?

17 A No.

18 Q Have you ever done any consulting work for
19 Techtronic or Homelite?

20 A No.

21 Q Have you ever done any consulting work for
22 Echo?

1 A No.

2 Q Have you ever done any consulting work for
3 Hart, H-a-r-t?

4 A No.

5 Q Are you familiar with the Ryobi brand of
6 products?

7 A Yes.

8 Q How are you familiar with the Ryobi brand
9 of products?

10 A They are marketed and widely distributed
11 through hardware stores throughout -- everywhere
12 I've ever lived.

13 They're a competitor to products like
14 Craftsman or SKIL -- and SKIL or Milwaukee and so
15 on.

16 Q And so your familiarity with the Ryobi
17 brand is just through the general knowledge in the
18 marketplace; is that correct?

19 A Correct.

20 Q Okay.

21 MR. GILFORD: Lawrence, can we go to
22 Page 85 of the declaration.

1 BY MR. GILFORD:

2 Q And, Mr. Reed, I just want to go through
3 each of these cases kind of at a high level, and
4 I've got a few questions about each, so...

5 A Sure.

6 Q You're able to see what's on your screen
7 there?

8 A I am, yes.

9 Q So what we're looking at is a list of all
10 the cases in which you've testified at trial or in
11 deposition the past ten years, correct?

12 A Correct.

13 MR. GILFORD: Sorry. Give me one second.

14 Michelle, my realtime feed is not
15 updating. Is there a reason why? Do you know?

16 MS. REPORTER: Sorry. I'm having internet
17 issues on my end. If we can go off the record for
18 a second.

19 (Technological issues were resolved off
20 the record.)

21 BY MR. GILFORD:

22 Q So, Mr. Reed, we were talking about this

1 list of cases that you've testified at trial or in
2 deposition in the past ten years.

3 So, again, we'll just go through the list
4 one by one and just talk briefly about each case.

5 So the first one here is Janowski versus
6 Deere. Do you see that?

7 A Yes.

8 Q What kind of case was that? When I say
9 what kind of case, I mean like patent, product
10 liability, that kind of stuff.

11 A That particular case I testified only as a
12 fact witness incidentally. Which, as a fact
13 witness, is the only case that I have testified as
14 a fact witness on this list.

15 That was an issue regarding how many
16 riding lawn mower child back-over cases do I know
17 of. And I was reviewing -- or responding to that
18 issue -- or that question.

19 Q Okay. Interesting. So were you appearing
20 on behalf of one of the parties to that case?

21 A One of the parties asked me to testify,
22 yes.

1 Q And which party in the case asked you to
2 testify?

3 A The party that was representing the
4 injured party in this.

5 Q Okay. And you said they just wanted you
6 to testify about how many cases?

7 A How many child back-over blade contact
8 accidents with riding lawn mowers that I was
9 familiar with.

10 Q Okay. And that was the sole extent of the
11 testimony you were providing?

12 A Yes.

13 Q Got you. So the next case here is Fraser
14 versus Boething Nursery, B-o-e-t-h-i-n-g. What --

15 A Yes.

16 Q -- case was that?

17 A That was a California case. My testimony
18 provided information regarding how much air
19 movement is kicked up by a rotary lawn mower.

20 The injured party in that case, from what
21 I understand, was subjected to an undue amount of
22 harmful dust after operating for years rotary

1 lawn mowers in California.

2 Q Okay. So was it a personal injury product
3 liability case?

4 A Yes, it was.

5 Q And were you appearing on behalf of the
6 plaintiff or the defendant.

7 A That one, I was on behalf of the
8 plaintiff.

9 Q And you were appearing as an expert?

10 A Yes.

11 Q Okay. And, again, the substance of your
12 testimony was about how much air a riding
13 lawn mower kicks up?

14 A A walk-behind mower.

15 Q Got you. Okay. So the next case is McCoy
16 versus Snapper. What kind of case was that?

17 A Be mindful, this was seven or eight years
18 ago. Quite honestly, I don't remember offhand.
19 It was a riding lawn mower issue, Snapper -- no,
20 it was walk -- it was a -- it was a Snapper mower.

21 I don't recall if it was a riding mower or
22 if it was a walk-behind mower issue. And it was

1 another product liability personal injury.

2 Q Okay. And you were appearing as an expert
3 in that case on behalf of the plaintiff again?

4 A On behalf of the plaintiff, yes.

5 Q Got you. And do you recall -- to the
6 extent you can recall, what was, kind of, the
7 substance of your testimony in that case?

8 A That one I don't recall hardly -- I don't
9 recall anything about that particular case as we
10 sit here, so I can't answer that.

11 Q Okay. The next case is Marks versus
12 Briggs & Stratton. What kind of case was that?

13 A That was also a product liability personal
14 injury case regarding a riding mower. An
15 individual rearward overturned on his riding mower
16 while operating on a slope.

17 Q And were you testifying as an expert on
18 behalf of the plaintiff?

19 A Yes.

20 Q And what was the general substance of your
21 testimony in that case?

22 A That a riding mower in a certain situation

1 when the clutch is engaged can cause a sudden
2 acceleration which will cause the riding mower at
3 question to be able to do a wheelie to the high
4 extent to the fact that the machine can indeed
5 overturn onto the operator, rearwardly.

6 Q Okay. That sounds bad.

7 A It was.

8 Q The next case was Moore versus Jupiter
9 Lanes. What kind of case was that?

10 A That is a floor care machine issue case
11 where a floor care machine failed to perform as it
12 was designed.

13 The individual -- this was a bowling
14 alley. The individual had a fall and was injured.

15 Q Got you. So --

16 A After the scrubber machine failed to pick
17 up the soapy residue.

18 Q And were you testifying as an expert on
19 behalf of the plaintiff again?

20 A The plaintiff, yes.

21 Q And what was the general substance of your
22 testimony in that case?

1 A That the machine was designed properly,
2 but it was not -- it didn't perform as it was
3 supposed to perform.

4 Q Okay. I just wanted to run quickly again
5 through the cases we talked about already.

6 In the Fraser versus Boething Nursery
7 case, did you submit an expert report?

8 A No.

9 Q In the McCoy versus Snapper case, do you
10 recall submitting an expert report?

11 A More than likely -- almost for sure I did,
12 yes.

13 Q Okay.

14 A Although I can't remember.

15 Q In the Marks versus Briggs & Stratton
16 case, did you submit an expert report?

17 A Yes.

18 Q And in the Moore versus Jupiter Lanes
19 case, did you submit an expert report?

20 A That one I may not have. I don't
21 remember.

22 Q The next case we have here is Vitale,

1 V-i-t-a-l-e, versus R.D. Olson and CEC.

2 Do you see that case?

3 A Yes.

4 Q What kind of case was that?

5 A I'm trying to remember. It was a -- it
6 was a -- if I recall right, it was a walk-behind
7 ride -- walk-behind lawn mower or turf care
8 machine -- no, it wasn't either.

9 Offhand, I don't recall.

10 Q Okay. Do you recall who you testified on
11 behalf of in that case?

12 A No, I don't.

13 Q Okay. Do you recall submitting an expert
14 report in that case?

15 A I'm almost sure I did, yes.

16 Q Okay. The next case is Nationwide versus
17 JD. What kind of case was that?

18 A This was a while. This was, as I recall,
19 a fire case where a machine caught fire and was
20 destroyed. Nationwide would be the insurance
21 company that was asking the question was the Deere
22 Company's machine designed such that it could have

1 erupted in flames like it did.

2 Q Do you know what kind of machine we're
3 talking about?

4 A As I recall, it was a harvesting machine,
5 an agricultural machine.

6 Q Okay. And did you testify on behalf of
7 Nationwide in that case, or on behalf of the
8 plaintiff?

9 A I think I did, yes.

10 Q And did you testify as an expert in that
11 case?

12 A As an expert, yes. And I don't recall if
13 I testified for Deere & Company or Nationwide. I
14 don't recall.

15 Q Do you recall if you submitted an expert
16 report in that case?

17 A In that one I did not. I'm pretty sure I
18 did not.

19 Q Okay. And do you recall the general
20 substance of your testimony in that case?

21 A I would -- I'm not going to be -- I'm not
22 guessing, but I'm -- my recollection is that it

1 was an electrical circuitry malfunction issue, but
2 I'm not -- we better -- I better not say that.
3 I'm not sure -- I don't remember.

4 Q That's fine. We're talking about ten
5 years ago, so no worries if you --

6 A Yeah.

7 Q -- don't remember.

8 The next case is Lichtman versus
9 Blanchard. What kind of case was that?

10 A I don't recall offhand.

11 Q Okay. Do you recall if you were
12 testifying as an expert in at that case?

13 A I take that back. I do recall. This was
14 a -- this was a maintenance -- a grounds
15 maintenance tractor produced by one of the major
16 tractor manufacturer -- agricultural tractor
17 manufacturers that was not maintained as it should
18 have been, as I recall.

19 And Lichtman was the injured party that I
20 was testifying for. Blanchard Equipment I think
21 was the leasing equipment or the company that he
22 was working for or something to that effect.

1 Q And did you submit an expert report in
2 this case?

3 A That one I'm pretty sure I did.

4 Q And do you recall the general substance of
5 your testimony in that case?

6 A No, I don't.

7 Q Okay. Mitchell versus Textron, what kind
8 of case was that?

9 A That would have been a turf maintenance --
10 just a moment.

11 Oh, yeah. This was a -- a riding mower,
12 professional riding mower case where the operator
13 of a Textron machine, a gang mower, when he -- as
14 he was mowing a park area in the township of
15 Worcester, Mass., the machine, he put -- he parked
16 the machine, turned it off, parked it, set the
17 parking brake, and then walked away. And before
18 he -- before he realized it, the machine had
19 started to roll, and the machine rolled over and
20 killed the individual.

21 Q Did you say gain mower, g-a-i-n?

22 A No, g-a-n-g. Meaning it had several

1 cutting units on it. Gang, g-a-n-g.

2 As I recall, this particular mower has
3 five cutting units on it, five mower decks on it.

4 Q So it's a -- this is a pretty large
5 machine?

6 A Several thousand pounds, yes.

7 Q Okay. Yeah, definitely don't want that
8 running over you.

9 A No.

10 Q And you were testifying on behalf of the
11 plaintiff in that case?

12 A Yes.

13 Q And did you submit an expert report in
14 that case?

15 A Yes, I did.

16 Q Okay. And it sounds like the -- you said
17 something earlier about setting the parking brake.
18 I'm assuming your testimony was something about
19 how the parking brake was defective or something?

20 A Or how it was not maintained properly.

21 Q Okay.

22 A Something to that effect.

1 Q Got you. The next case is Peabody versus
2 ABF. What kind of case was that?

3 A If I recall -- if this is the one I'm
4 recalling, that was a case where a worker in a
5 blueberry field -- blueberry production field --
6 he was an agricultural large farm operation. An
7 employee became entangled in the power takeoff
8 shaft of the tractor and machine, what's called a
9 blueberry burning machine, and was injured by the
10 entanglement that he encountered with the PTO
11 shaft of the tractor.

12 Q And were you testifying as an expert on
13 behalf of the plaintiff in that case?

14 A Yes.

15 Q And did you submit an expert report in
16 that case?

17 A Yes.

18 Q And do you recall the general substance of
19 your testimony in that case?

20 A Generally, that the employer, ABF -- this
21 is my recollection here -- that the employer, ABF,
22 provided his employees machinery that were not

1 properly shielded, as is well known in the
2 industry.

3 Q Got you. And the next case is Mavity,
4 M-a-v-i-t-y, versus MTD. What kind of case was
5 that?

6 A This is an individual who owned and
7 operated an MTD zero-turn radius mower for the
8 maintenance of his home property, his yard.

9 And in the process of operating the MTD
10 mower, he also -- I shouldn't say also -- he, in
11 the process of accelerating the machine on an
12 uphill slope, flipped the machine over rearwardly
13 and the 7- or 8- or 900-pound machine came down
14 upon him and he suffered injuries as a result of
15 being overturned onto by this machine.

16 Q So the mower we're talking about, is that
17 a ride-on mower?

18 A Yes.

19 Q Got you. So this was a -- this was a
20 products liability case?

21 A Yes, it was.

22 Q Okay. And you were appearing as an expert

1 on behalf of the plaintiff, correct?

2 A The plaintiff, yes.

3 Q And do you recall if you submitted an
4 expert report?

5 A Yes, I did.

6 Q Okay. And do you recall the general
7 substance of your testimony in that case?

8 A I do.

9 Q What was the general substance of your
10 testimony?

11 A There were -- this -- this is a pretty
12 complex case, but essentially the machine did not
13 have one of the features that most machines have.
14 The machine was delivered to the individual
15 without a manual. The manual that he downloaded
16 from the internet was distorted and provided him
17 with incorrect information on the slope operation
18 ability of that machine.

19 The individual that operated this machine
20 was beyond the machine's capability if the machine
21 was designed to the 95th percentile weight of a
22 particular individual -- of an American male.

1 That the American males between 1968 when the
2 standards were established and 1990, whatever it
3 was, or 2009 when this accident occurred have
4 grown substantially.

5 That the standards that were produced by
6 the ANSI B71.1 Standard Institute were
7 significantly out of date as to their calling for
8 the 95th percentile male to be the design
9 criteria.

10 There were a number of issues that all
11 piled up in conjunction with each other that
12 resulted in this unfortunate accident.

13 Q So essentially the guy was -- was too
14 hefty for what the standard called for; does that
15 sound right?

16 A That's a real quick summary of -- yes.

17 Q Not to be, like, glib or anything but...

18 A Yeah, exactly.

19 Q So the next case is Follett versus Sears.
20 What kind of case was that?

21 A That was a riding lawn mower child
22 back-over blade contact accident case. I

1 testified on behalf of the injured party.

2 Q And you were testifying as an expert in
3 that case, correct?

4 A Yes.

5 Q And did you submit an expert report in
6 that case?

7 A Yes.

8 Q And what was the general substance of your
9 testimony in that case?

10 A Essentially that when this particular
11 mower that was involved in this accident was
12 designed and manufactured, that the scenario of
13 children being backed over by operating riding
14 lawn mowers was well known to the industry and
15 only -- and several of -- several companies in the
16 industry had taken steps to prevent this kind of
17 accidents, but this -- Sears, which was the
18 marketer or the nameplate on this particular
19 riding mower had not taken such steps.

20 Q Mr. Reed, what design considerations go
21 into designing a walk-behind lawn mower?

22 A Design considerations include that the

1 mower produce the results that the customer
2 expects, which is a mowed -- a mowed lawn that
3 is -- that is pleasant to look at; that they be
4 able to operate the machine in a way that's not
5 going to unduly endanger him or bystanders; and
6 that the machine be reasonably priced such that he
7 can afford it; and that it be durable to a
8 reasonable degree.

9 Those are some of the criteria.

10 Q Okay. So you would agree that safety is a
11 design consideration, correct?

12 A Yes.

13 Q And cost is a design consideration, right?

14 A Yes.

15 Q What is the most important design
16 consideration when designing a walk-behind
17 lawn mower?

18 A That it -- well, you -- I -- all of those
19 factors are important.

20 Q Okay. How important is safety when
21 designing a walk-behind lawn mower?

22 A It's imperative. You have to have it.

1 Q And what happens when you -- when the
2 lawn mower is not safe?

3 A You are exposing yourself to individuals
4 becoming injured when using or when being around
5 these machines. Or property damage. For
6 instance, if the machine spon- -- not
7 spontaneous -- if the machine unexpectedly erupts
8 in flames.

9 Q And how do you determine whether a given
10 lawn mower is safe?

11 A There are a couple criteria -- there are
12 several criteria for helping a person determine if
13 a lawn mower is reasonably safe, one of which is,
14 does the lawn mower meet industry standards.

15 And there's several standards that are
16 available to -- to manufacturers, designers.

17 Q What standards are those?

18 A The most prevalent one is the ANSI
19 Standard B -- this is for lawn mowers for
20 homeowners, ANSI Standard B71.1.

21 For lawn mowers for -- or turf care
22 machines for professionals, it would be the

1 standard ANSI Standard B71.4.

2 For the international market, there's also
3 the ISO, the International Standards Organization
4 standards. For the Canadian markets, there's the
5 CEN, Canadian national standards. For the
6 British, there's the BSI standards. There's the
7 European normative standards.

8 These are some of them.

9 Q Okay. Other than the standards, are there
10 any other ways to determine if a given lawn mower
11 is reasonably safe?

12 A Well, once you design the machine to the
13 standard, you also have -- these are minimum
14 standards, so if you want to make sure that your
15 mower is even safer than the minimum, you proceed
16 with testing -- designing and testing the machine
17 to determine if other problems that you have not
18 foreseen crop up.

19 Q And how do you determine whether a given
20 lawn mower is unsafe?

21 MR. SIKORSKI: I'm going to insert an
22 objection that these questions are irrelevant.

1 It's okay to find out some background information,
2 but, as you know, Ben, Mr. Reed is not here to
3 give any sort of product liability or safety
4 standard testimony. So these questions are
5 outside of his expert duties in this proceeding.

6 So I'll let him answer the question, but
7 let's try to move to something that's relevant.

8 MR. GILFORD: Okay. I disagree with your
9 characterization as the question being irrelevant,
10 but I understand your objection.

11 You know, feel free to make brief
12 objections on the record as you're allowed to,
13 but, you know, I'll ask that you keep the length
14 of the objections to a minimum, as the PTAB rules
15 require, but --

16 MR. SIKORSKI: Michelle, can you please
17 read back the question.

18 (WHEREUPON, the record was
19 read by the reporter.)

20 MR. SIKORSKI: I'll stand by my
21 objections.

22

1 BY MR. GILFORD:

2 Q Okay. Go ahead, Mr. Reed.

3 A Okay. How do you tell if a lawn mower is
4 unsafe? There's several ways you can determine if
5 it's unsafe. One of which is to compare the mower
6 itself to the standards that I've just cited.

7 Another way is to look at the lawn mower
8 and see how it performs relative to its
9 performance history, like looking or reviewing the
10 Consumer Product Safety Commission literature.

11 You can also tell if a lawn mower is not
12 reasonably safe by comparing -- by reviewing
13 what's called the NEISS literature, the National
14 Electronic -- Emergency Room Electronic
15 Surveillance literature, to see how it -- your
16 particular questioned lawn mower fares with other
17 mowers.

18 You can also look at what people --
19 essentially how they respond to your particular
20 mower. In other words, the -- the common consumer
21 can raise questions or objections to the safety of
22 a particular product without it -- without your

1 having to go back to look at -- review it relative
2 to the safety standards and so on.

3 You can review and find -- you can test
4 the mower and determine whether you reveal some
5 unsafe characteristics without turning to these
6 other documents.

7 There's a variety of different ways that
8 you can use to determine if a mower is safe or not
9 safe.

10 Q And when designing the lawn mower, would a
11 person of skill in the art look to a lawn mower
12 that is considered unsafe?

13 A When designing a lawn mower --

14 MR. SIKORSKI: Objection to form.

15 BY THE WITNESS:

16 A Would you look at a lawn mower that is --
17 that you would consider unsafe?

18 BY MR. GILFORD:

19 Q Correct.

20 A Most certainly you --

21 MR. SIKORSKI: Same objection.
22

1 BY MR. GILFORD:

2 Q Sorry, what was your answer, Mr. Reed?

3 A Most certainly you would, yes.

4 Q Why do you say that?

5 A Because that's one piece of information
6 that you should not ignore. If --

7 Q And how --

8 A -- you're -- if you're reasonably prudent
9 in your evaluation.

10 Q How would you use a lawn mower that is
11 considered unsafe in your design of a lawn mower?
12 Is there like a way to know what not to do?

13 A That's one --

14 MR. SIKORSKI: I just want to go back on
15 the record to indicate that what -- in terms of
16 designing, we're -- this is lay testimony, not
17 expert testimony, because it's beyond the scope of
18 his expert report.

19 MR. GILFORD: Okay.

20 MR. SIKORSKI: Or declaration.

21 MR. GILFORD: Understood.

22 So I'll repeat my question for Mr. Reed.

1 BY MR. GILFORD:

2 Q How would you use a lawn mower that is
3 considered unsafe in your design of a lawn mower?

4 A You would understand why it's unsafe and
5 you would know to avoid doing that.

6 Q What is the principal operating component
7 of a power lawn mower?

8 MR. SIKORSKI: Objection, form.

9 BY THE WITNESS:

10 A The principal operating component?

11 BY MR. GILFORD:

12 Q Yes.

13 A The moving blade.

14 Q And what causes the moving blade to move?

15 A A power source that causes it to move.

16 Incidentally, your question -- you may have in
17 mind a rotary mower, but of course lawn mowers are
18 also reel mowers or sickle bar mowers.

19 Q Right. So, yeah, just to clarify, my
20 question was directed towards power lawn mowers.
21 So in my mind, that's something that has a power
22 source.

1 A Yes.

2 Q Okay. So what kind of power source can be
3 in a power lawn mower?

4 A Classically or typically it's either a
5 gasoline power or in larger machines, diesel
6 power, internal combustion engine. There's also
7 the electric motors that are available that can
8 power a blade.

9 Q Are you generally familiar with the
10 lawn mower market?

11 A Yes.

12 Q Do you know what percentage of the
13 lawn mower market is made up of gas-powered
14 lawn mowers?

15 MR. SIKORSKI: I'm going to object.
16 Again, this is lay testimony, and I really have a
17 hard time understanding the relevance of this
18 question.

19 There doesn't seem to be any industry or
20 market analysis in the declarations, so I'll let
21 him -- I'll let Mr. Reed answer as a lay witness,
22 but I really wish we would move to the reasons why

1 we're here today.

2 BY MR. GILFORD:

3 Q Okay. Do you need me to repeat the
4 question, Mr. Reed?

5 A I need you to clarify it. What time frame
6 are you referring to?

7 Q Currently.

8 A Currently, I --

9 MR. SIKORSKI: Same objection.

10 BY THE WITNESS:

11 A The market is changing significantly and
12 dramatically because of the development of
13 batteries. And I don't know what the percentage
14 is in the 2000 or the 2001 -- or even the '19 --
15 or the 2019 -- I'm sorry, 2020 or the 2021 or the
16 2019 marketplace. I do not know the answer -- the
17 answer to that question.

18 BY MR. GILFORD:

19 Q Okay. Is there a certain time frame, you
20 know, going back from now when you would know what
21 percentage of the lawn mower market is made up of
22 gas-powered lawn mowers?

1 MR. SIKORSKI: I'll repeat my objections.

2 BY THE WITNESS:

3 A You're asking what kind -- do I know if
4 there's a time frame when I would know?

5 BY MR. GILFORD:

6 Q Right. So if, like, you went back to 2010
7 or so, would you know what percentage of the
8 lawn mower market is made up of gas-powered
9 lawn mowers?

10 A Yes, I would.

11 MR. SIKORSKI: Same objection.

12 BY MR. GILFORD:

13 Q The question is generally going back from
14 today to what -- what would be, like, the first
15 year in which -- in which you would know the
16 answer to the question.

17 MR. SIKORSKI: Same objections. I'll add
18 objection to form if I didn't previously.

19 BY THE WITNESS:

20 A I would know the answer to that question
21 based on reports that I have in my files of eight
22 years ago.

1 BY MR. GILFORD:

2 Q So like 2012?

3 A 2012, 2013, 2010 for sure.

4 Q Okay. Let's go with 2013.

5 In 2013, what percentage of the lawn mower
6 market was made up of gas-powered lawn mowers?

7 A Probably in excess --

8 MR. SIKORSKI: Same objections.

9 Mr. Reed, you can answer on behalf of --
10 or as a lay witness.

11 I'll add objection to form as well.

12 BY THE WITNESS:

13 A In excess of 90 percent.

14 BY MR. GILFORD:

15 Q Do you have any understanding as to why
16 consumers prefer gas-powered lawn mowers over
17 electric lawn mowers?

18 A Yes.

19 MR. SIKORSKI: Same objections.

20 BY MR. GILFORD:

21 Q What is your understanding?

22 MR. SIKORSKI: Same objections.

1 BY THE WITNESS:

2 A Power, convenience -- excuse me, your
3 question was, why they would prefer gas over
4 electric?

5 BY MR. GILFORD:

6 Q Yes.

7 MR. SIKORSKI: Same objections.

8 BY THE WITNESS:

9 A Power, mobility, torque.

10 BY MR. GILFORD:

11 Q Anything else?

12 MR. SIKORSKI: Same objections.

13 BY THE WITNESS:

14 A I'm sure there's other reasons, but those
15 would be the ones.

16 BY MR. GILFORD:

17 Q When you say "mobility," what do you mean
18 by that?

19 A Freedom from --

20 MR. SIKORSKI: Same objections.

21 BY THE WITNESS:

22 A Freedom from electric cords from

1 alternate -- excuse me, from household currents,
2 mowers.

3 BY MR. GILFORD:

4 Q And when you say "power" and "torque,"
5 what do you mean by that?

6 A Gasoline engines have a particular power
7 curve that is -- if you look at the curve of a
8 gasoline engine, the governor droop curve, looking
9 at the -- how much torque and speed you can
10 actually expect out of a gasoline engine is quite
11 different than that of an electric motor.

12 An electric motor's torque goes up -- it
13 depends on the type of motor, but it goes up. The
14 slower the mower -- the slower the motor is -- or
15 the more drag the motor is subjected to, which
16 when you spin a blade slower, affects the quality
17 of cut.

18 Q So when you mentioned power and torque as
19 reasons why consumers prefer gas-powered
20 lawn mowers over electric lawn mowers, how do
21 consumers perceive the power and torque of
22 electric lawn mowers?

1 MR. SIKORSKI: Same objection.

2 You can answer as a lay witness.

3 BY THE WITNESS:

4 A Yeah, and I will answer only as a lay
5 witness on this. It's historically been the case
6 that electric mowers are not preferred over
7 gasoline-engine mowers.

8 Now we're talking about rotary mowers;
9 we're not talking about reel mowers and we're not
10 talking about sickle bar mowers but the more
11 common homeowner rotary mowers.

12 It's just understood and believed that a
13 gasoline engine can be sized to produce a lot more
14 torque -- significantly more torque to cut grass
15 at a high speed than an electric motor.

16 Q You said historically it's been the case
17 that the electric motors are not preferred over
18 gasoline-engine mowers?

19 A That's correct.

20 Q Okay. If you wanted --

21 A For -- for performance and torque and
22 being able to cut lush, high grass.

1 Q Understood. Thank you.

2 If you wanted to convert a gas-powered
3 lawn mower to a battery-powered lawn mower, what
4 would you have to do?

5 A You'd have to, first off, understand that
6 an electric battery-powered lawn mower has a very
7 limited amount of energy stored on board. Only so
8 many kilowatt hours of -- of power -- of energy is
9 available to you.

10 So if you want to get a one-hour's worth
11 of mowing, you're going to have to have a
12 notably -- notable size battery in that machine.

13 And number two is if you're going to want
14 to be able to cut lush grass, heavy, high, lush
15 grass, you're going to have to have enough torque
16 in the motor -- the electric motor, that is, to be
17 able to maintain tip speed -- cutting speed of the
18 blades.

19 And in order to have that large enough
20 electric motor, you're going to have to, again,
21 size the batteries to be able to power that large
22 motor.

1 Those are some of the factors that you're
2 going to have to have. But if you're going to
3 have to compromise performance to get length of
4 operation or compromise length of operation to get
5 a smaller size battery or compromise cost to keep
6 the -- compromise the battery to keep the cost
7 down, then all of these things reduce the overall
8 performance or the expectation of performance by
9 the operator of the mower, the consumer.

10 These are all balancing acts.

11 Q And in terms of physically what you'd have
12 to do to a gas-powered lawn mower to convert it to
13 a battery-powered lawn mower, what would you have
14 to do?

15 A Well, when you say "convert," I'm not sure
16 I understand what you mean. Are you talking
17 about -- what are you -- what are you saving --
18 when you ask this question, what part of it are
19 you wanting to save?

20 Q Sure. So if you -- you know, Toro makes
21 gas-powered consumer -- gas-powered consumer
22 walk-behind mowers. If you wanted to take a Toro

1 gas-powered mower, for example, and convert it to
2 a -- an electric-powered lawn mower, what would
3 you physically have to do to the machine to make
4 that conversion?

5 MR. SIKORSKI: Objection to form.

6 BY THE WITNESS:

7 A If you're not worried about the compromise
8 between performance and length of duty and so on,
9 you'd have to take the gasoline engine out and put
10 an electric motor in, and take the gas tank out
11 and put a battery in and put the blade on and then
12 you've got what you need. You've got a handle,
13 you got an electric motor, you've got a blade.

14 And then you'd have to configure a way of
15 turning the electric motor on and off as it's
16 connected or not connected to the battery.

17 BY MR. GILFORD:

18 Q Would you have to change the starting and
19 control components?

20 A Most certainly.

21 Q Okay. Would you have to change the shape
22 of the main body to accommodate an electric motor?

1 A Well, the shape of the body itself, of
2 course, has to accommodate what it is that it's
3 holding. It holds four wheels, it holds the
4 motor, it holds the handles.

5 So in that you're taking the motor -- the
6 engine out and you're putting an electric motor
7 in, that part of the deck would have to be
8 changed.

9 Q You're familiar with 16 CFR 1205, correct?

10 A Yes.

11 Q What is 16 CFR 1205?

12 A That's the -- the federal regulations
13 which speak to the minimum requirements for
14 walk-behind power mowers sold in -- in the United
15 States.

16 Q Do you know why it was created?

17 A Yes.

18 Q Why was it created?

19 A It was created in response to what the
20 Consumer Product Safety Commission was revealing
21 when it started its -- its study of what are the
22 most significant dangers to the consumer

1 marketplace. Lawn mowers had to be one of those
2 items, along with ladders, glass doors, and
3 swimming pools, just to name three of the top ten.

4 Q And how is 16 CFR 1205 used today?

5 A It's used as a -- a minimum standard by
6 the manufacturers of lawn mowers who want to sell
7 their mowers in the United States. It's one of
8 two significant -- it's actually the less of the
9 significant of the two significant standards that
10 people use to produce mowers that are intended to
11 be sold in the United States.

12 Q Is the other standard the ANSI B71.1
13 standard?

14 A Yes.

15 Q Got you. Would a POSITA -- sorry. Strike
16 that.

17 Would a person of skill in the art have
18 considered a lawn mower that fails to comply with
19 16 CFR 1205 to be unsafe?

20 A Yes.

21 Q Would a person of skill in the art have
22 considered a lawn -- strike that.

1 What --

2 A Excuse me, I'm going to change my answer
3 to more than likely they would.

4 Q Okay. Understood.

5 MR. GILFORD: We've been going for about
6 an hour and a half. Let's take a five-minute
7 break. Does that work, Mr. Reed, or do you need
8 longer than five minutes?

9 THE WITNESS: Five minutes is fine.

10 MR. GILFORD: Let's meet back here around
11 11:30.

12 (WHEREUPON, a recess was had.)

13 BY MR. GILFORD:

14 Q Welcome back, Mr. Reed. During the break,
15 did you speak with anybody?

16 A No.

17 Q Okay.

18 MR. GILFORD: Lawrence, can we go ahead
19 and pull up what was marked as Exhibit 1 again.

20 (WHEREUPON, the exhibit was presented to
21 the witness.)

22 MR. GILFORD: And can we go to Page 17.

1 BY MR. GILFORD:

2 Q So, Mr. Reed, for the '806 patent, you
3 assert four invalidity grounds, correct?

4 A Correct.

5 Q And you rely on both -- so I want to spell
6 this out for the court reporter -- O-u-t-i-l-s,
7 Outils, and M-a-t-s-u-n-a-g-a, Matsunaga, for each
8 asserted invalidity ground, correct?

9 A Correct.

10 MR. GILFORD: And, Lawrence, can we go
11 ahead and flip to Page 26.

12 BY MR. GILFORD:

13 Q And, Mr. Reed, I'm looking at Paragraph 42
14 in your declaration there. Are you able to see
15 it?

16 A Yes.

17 Q You state that "A person of ordinary skill
18 in the art as of October 10, 2013, would have had
19 at least a bachelor's degree in mechanical
20 engineering, electrical engineering, or similar
21 technical field with at least three years of
22 relevant product design experience, and an

1 increase in experience could compensate for less
2 education."

3 Did I read that correctly?

4 A You did.

5 Q And for all four of the IPRs that we're
6 talking about today, you define the level of
7 ordinary -- ordinary skill in the art in the same
8 way, correct?

9 A It is, yes.

10 Q And what is your basis for your proposed
11 definition of level of ordinary skill in the art?

12 A It's based primarily on my experience in
13 the outdoor power machinery field. It's my belief
14 that it takes a few years for you to fully
15 understand what it takes to produce a machine that
16 does that -- that performs as it's supposed to as
17 well as do so in a safe way.

18 And on top of that, it takes a certain
19 degree of education in order to perform in a
20 competent way.

21 Q And in Paragraph 42, when you say
22 "relevant product design experience" -- do you see

1 that?

2 A Yes.

3 Q What do you mean by relevant product
4 design experience?

5 A I'm referring to design experience in
6 designing machinery that is used outdoors that is
7 used to maintain products that are typically used
8 to maintain turf and garden equipment.

9 Q So --

10 A Tillers, lawn mowers, snow throwers, brush
11 cutters, spin trimmers. All of that is relative
12 experience.

13 Q So in your opinion, would a grass or hedge
14 trimmer be a relevant product?

15 A Yes.

16 Q Would a bush cutter be a relevant product?

17 A Yes.

18 Q You mention the phrase "technical field"
19 in Paragraph 42. What is the technical field of
20 the patents we're talking about today?

21 A The technical field is mechanical
22 engineering and electrical engineering.

1 MR. GILFORD: So, Lawrence, can we go
2 ahead and flip to Page 30.

3 BY MR. GILFORD:

4 Q And, Mr. Reed, I'm looking at
5 Paragraph 48. And do you see in Paragraph 48 --

6 MR. GILFORD: Actually, Lawrence, would
7 you mind flipping to the next page, Page 31.

8 BY MR. GILFORD:

9 Q So kind of -- Paragraph 48 continues over
10 the two pages, but you see in Paragraph 48,
11 Mr. Reed, you define the claim terms "locks" and
12 "unlocks" as electrically disabling and
13 electrically enabling respectively?

14 A Yes.

15 Q What -- what do you mean by electrically
16 disabling?

17 A Taking it out of the circuit, making it
18 such that if it were to -- the device -- just a
19 moment. I'm going to use the words that are in
20 here.

21 Well, enabling or disabling, it means it
22 either allows the device that it enables or

1 disables to operate as it is -- normally operates
2 or not operate.

3 Q Okay. So how is electrically disabling
4 and electrically enabling different than disabling
5 and enabling?

6 A I had not thought about that as -- as a
7 question. In the context of this '806 patent, I
8 believe all of the nomenclature and all of the
9 surrounding paragraphs and writings refer to
10 electrical locking or electrically unlocking and,
11 therefore, my choice of words, electrically
12 disabling or electrically enabling, is referring
13 to those components that were talked about in the
14 preceding and subsequent paragraphs in this
15 particular patent, thus the reason for my choice
16 of words "electrical."

17 Q So for one component to be able to
18 electrically disable or electrically enable and
19 the other component, the two components are
20 electrically connected together?

21 A They're electrically interlocked -- or
22 inter- -- connected together in some way, yes.

1 Q Okay.

2 MR. GILFORD: Let's go ahead and flip
3 to -- Lawrence, if you could flip to Page 43.

4 BY MR. GILFORD:

5 Q And, Mr. Reed, I'm looking at
6 Paragraph 72. And you asserted here that
7 Outils -- again, that's O-u-t-i-l-s -- you assert
8 that Outils' is -- operation assembly is the
9 holds-to-run of component 30, correct?

10 A That's what I say, yes.

11 MR. GILFORD: And, Lawrence, if you could
12 flip to the next page, Page 44.

13 BY MR. GILFORD:

14 Q And on Page 44 of your declaration,
15 Mr. Reed, is reproduced Figure 1 of Outils,
16 correct?

17 A Yes.

18 Q And Outils' hold-to-run component 30 is
19 depicted here in Figure 1, correct?

20 A Ask that question again, please.

21 Q Sure. Outils' hold-to-run component 30 is
22 depicted in Figure 1 of Outils, correct?

1 A That's correct.

2 Q And Outils' hold-to-run component 30 is
3 attached to a remote control cable 29, correct?

4 A Yes.

5 Q And in Figure 1 here, the remote control
6 cable 29 is this cable 29 that runs along the
7 inside of the handle from one end to the other?

8 A That is correct.

9 Q And Outils' remote control cable 29 acts
10 on an electrical slide contactor, correct?

11 A Yes.

12 Q Okay.

13 MR. GILFORD: Let's go ahead, Lawrence, if
14 you could pull up what was previously marked as
15 Exhibit 1014. And we'll go ahead and mark that as
16 Deposition Exhibit 2.

17 MR. SIKORSKI: We could probably just mark
18 it as Exhibit 1014, couldn't we?

19 MR. GILFORD: That works for me, too.
20 Yeah. So it sounds like the plan I guess is, for
21 the four declarations, because they're all
22 Exhibit 1003, to just use deposition exhibit

1 numbers, but for this, we can just leave it as
2 1014, Ed?

3 MR. SIKORSKI: Yeah, I think the people
4 reading at home are more apt to understand what's
5 going on by keeping the exhibit numbers the same.

6 I mean, the -- yeah. Yeah, Exhibit 1014
7 is on the bottom edge of this page and now on the
8 sticker, so everything makes sense to me. Thanks,
9 Ben.

10 MR. GILFORD: Okay. Cool. Yeah, that
11 works for me, too.

12 (WHEREUPON, Reed Exhibit No. 1014 was
13 presented to the witness.)

14 BY MR. GILFORD:

15 Q So, Mr. Reed, can you -- can you see the
16 exhibit here?

17 A Yes.

18 Q And you have seen this document before,
19 correct?

20 A I have.

21 Q And this is the Outils Prior Art
22 Reference, right?

1 A Yes.

2 MR. GILFORD: Lawrence, can you go ahead
3 and flip to Page 4.

4 BY MR. GILFORD:

5 Q And, Mr. Reed, I'm looking at Line 24.
6 Are you able to see -- hold on one sec.

7 So I'm looking at Line 24. And do you see
8 it's written here, during this tilting, the
9 distance between the sleeve stops of the cable 29
10 varies from a length x to a length X prime less
11 than the first corresponding to an additional
12 slack of the cable 29 to make it is impossible for
13 the cutting blade to resume rotation when the
14 handlebar 1 is in the forward-tilted position.

15 Do you see that?

16 A I do.

17 Q Do you agree that in Outils when there is
18 slack on the cable 29, the motor cannot start?

19 A In this configuration, yes.

20 Q Okay.

21 MR. GILFORD: And, Lawrence, if we could
22 go to the next page, Page 5.

1 BY MR. GILFORD:

2 Q And I'm looking right at the top
3 paragraph, starting about Line 4.

4 And, Mr. Reed, do you see where it's
5 written there, In addition, since the distance
6 between the sleeve stops of the cable 29 is
7 reduced during said pivoting, said cable would be
8 released resulting in sufficient slack to ensure
9 that the driving of the blade would be
10 automatically interrupted due to the power supply
11 to the motor being cut off or due to the driving
12 of the spindle thereof being interrupted through
13 action on a brake and/or coupling.

14 Do you see that?

15 A I do.

16 Q Do you --

17 MR. SIKORSKI: Sorry, Ben, where were we?

18 MR. GILFORD: Page 5, Lines 4 to 8.

19 BY MR. GILFORD:

20 Q Okay. And, Mr. Reed, do you agree that in
21 Outils, where there is slack on cable 29, the
22 motor shuts off?

1 A In that configuration, yes.

2 Q What do you mean by "in that
3 configuration"?

4 A Well, Outils also teaches that that can be
5 accomplished through an electrical switch such as
6 described in Figures 10 and 11.

7 Q Okay. So the electrical switch shown in
8 Figures 10 and 11 can also shut off and disable
9 the motor?

10 A Correct.

11 Q Got you.

12 MR. GILFORD: Lawrence, if we can go back
13 to what was previously marked as Exhibit 1, the
14 declaration. And can we go to Page 52.

15 (WHEREUPON, the exhibit was presented to
16 the witness.)

17 BY MR. GILFORD:

18 Q And, Mr. Reed, I'm looking at
19 Paragraphs 83 and 84 on Page 52.

20 Do you see those?

21 A I do.

22 Q All right. So you -- here you're

1 proposing to implement Outils' actuator 23 as
2 Matsunaga's contact switches 11 or 12, correct?

3 A Yes.

4 Q So in order to implement Outils'
5 actuator 23 as Matsunaga's contact switches 11
6 and 12, what other components of Matsunaga --
7 Matsunaga do you need to implement those switches?

8 A Ask that question again, please.

9 Q Yeah, maybe that was a little unclear.

10 So in order to implement Outils'
11 actuator 23 as Matsunaga's contact switches 11
12 or 12, what other components of Matsunaga do you
13 need to add to Outils? For example,
14 semiconductors, CPU, gate circuit, wires,
15 et cetera.

16 A Well, it depends on how you wire switch
17 number 23 into your circuit. But 23 could be
18 wired into the circuit that would accomplish what
19 you're wanting to do, which is to ultimately shut
20 the motor off if the handle is in an unsafe
21 position.

22 And that is and can be done through a -- a

1 processor or a circuit that sends a signal not
2 directly in the power supply circuit but to some
3 sort of device that would interrupt the power
4 supply circuit. So that includes, of course,
5 wires and switches and other components that make
6 that all happen.

7 Q Got you.

8 MR. GILFORD: So, Lawrence, can we go to
9 Page 51 of Deposition Exhibit 1.

10 BY MR. GILFORD:

11 Q And, Mr. Reed, I'm looking at
12 Paragraph 82. Do you agree that in your opinion,
13 Matsunaga discloses a power supply circuit?

14 A Yes.

15 Q And in Paragraph 82 of your declaration
16 here, you state that Matsunaga's power supply
17 circuit includes the circuit path from battery 7
18 through semiconductor switch Q1 to the blade's
19 motor M through semiconductor switch Q2 to ground,
20 correct?

21 A Yes.

22 MR. GILFORD: Lawrence, can we go ahead

1 and turn to Page 52.

2 I'm not sure if -- if there is a way that
3 the witness can draw on this figure here? Is that
4 possible?

5 TECHNICIAN WALLACE: He's shaking his
6 head, I don't think he wants to, but, yes, there
7 is a way.

8 MR. GILFORD: Okay.

9 BY MR. GILFORD:

10 Q If we can do it, it would be great,
11 Mr. Reed, if you could draw on this figure here
12 using, let's say, yellow or something, what you
13 consider Matsunaga's power supply circuit to be?

14 TECHNICIAN WALLACE: I'll have to give
15 control of the cursor on over to you, Mr. Reed, so
16 give me one moment while I get it set up for you.

17 BY THE WITNESS:

18 A I will respond by, I'm not going to try to
19 do that. This requires a substantial amount of --
20 of in-depth analysis and understanding, which I
21 was -- am not prepared to do at this point.

22

1 BY MR. GILFORD:

2 Q So you are not able to draw -- you're not
3 able to indicate on this figure what Matsunaga's
4 power supply circuit is?

5 A Well, no, indeed I am. I'm just not going
6 to do it right here, right now.

7 Q What is your basis for refusing to do it?

8 A I'm not refusing to. I don't think that
9 we all want to take the time for me to do it
10 correctly.

11 Q I don't mind taking the time. I'm not
12 sure what your holdup is.

13 A For me to do this properly and correctly
14 would require some substantial review of other
15 documents that I have, including textbooks -- just
16 a lot of other stuff that I'm -- I'm not going to
17 even try to do what you're asking me to do.

18 The real issue here is, can a product
19 which has a switch in it cause a power supply
20 circuit to be interrupted, and of course it can
21 and is displayed by some circuitry that I'm not
22 going to try to design as we sit here.

1 These types of circuits are things that a
2 design engineer spends weeks on to do. And to try
3 to integrate something that is your -- you know,
4 what you're asking for into a drawing that was
5 created by someone who did this after weeks or
6 months of development would be an unreasonable
7 request.

8 Q Okay. It sounds like you -- you may have
9 misunderstood what I was asking you to do. So I'm
10 going to go ahead and clarify it for you.

11 We just looked at Paragraph 82 of your
12 declaration where you define -- you opine that
13 Matsunaga has a power supply circuit. And I'm
14 asking you to indicate in this figure from
15 Matsunaga where Matsunaga's power supply circuit
16 is.

17 Is it still your position that you are not
18 going to do that today?

19 A You're asking me where the power supply
20 circuit is in this diagram?

21 Q Yes.

22 A I'll be happy to draw a circle around the

1 diagram if you'd like. I'll be do -- I'll be
2 happy to do that.

3 Q Yeah, that's -- that's what I'm asking.

4 A Okay. Give me the cursor, then.

5 TECHNICIAN WALLACE: Mr. Reed, you now
6 have control.

7 BY MR. GILFORD:

8 Q So, yes, Mr. Reed, please indicate on this
9 figure where Matsunaga's power supply circuit is.

10 A I'm trying to figure out how I draw it
11 here. How do I draw?

12 (Technological issues were resolved off
13 the record.)

14 BY THE WITNESS:

15 A Okay. The power supply circuit is this
16 circuit right here (indicating).

17 BY MR. GILFORD:

18 Q Okay. Got you.

19 And is it your opinion that Matsunaga's
20 contact switches 11 and 12 are connected to
21 Matsunaga's power supply circuit?

22 A Is it my opinion that switches 11 and 12

1 are connected to it?

2 Q Yes.

3 A Yes.

4 Q And how is Matsunaga's contact switch 11
5 connected to Matsunaga's power supply circuit?

6 A It's through a -- I'm trying to -- there
7 it is.

8 It passes through item number 13 and goes
9 to a relay switch, which is called Q1.

10 Q Maybe it would be helpful --

11 MR. GILFORD: Lawrence, is there any way
12 to make his cursor a different color?

13 TECHNICIAN WALLACE: Yes.

14 MR. GILFORD: Keep that thing what it was,
15 yellow or whatever, but then make it so the next
16 thing he can draw is a different color.

17 If it's too hard to make things different
18 colors, it should be fine.

19 TECHNICIAN WALLACE: It should be good
20 now.

21 THE WITNESS: Give me a darker yellow or
22 something.

1 BY MR. GILFORD:

2 Q So, Mr. Reed, if you could take control
3 again of the cursor and then just draw for me what
4 you were talking about about how contact switch 11
5 is connected to the power supply circuit.

6 A Sure. This is contact number 11 right
7 there (indicating). It goes to the power supply
8 circuit following this path to this relay right
9 here (indicating).

10 Q So what -- what's Q1 in Matsunaga?

11 A I'd have to look.

12 Q Okay. Do you -- we can pull up the
13 exhibit on the screen if you want.

14 A You can do that or I can look here.

15 Q Okay.

16 A And maybe you want to pull it up on the
17 screen so we can all be looking for Q1 to make
18 sure we get this right.

19 Q Sure. Yeah. We can do that.

20 MR. GILFORD: Lawrence, can you pull up
21 what was previously marked as Exhibit 1006.

22

1 (WHEREUPON, Reed Exhibit No. 1006 was
2 presented to the witness.)

3 BY MR. GILFORD:

4 Q So, Mr. Reed, we have a document here.
5 Have you seen this before?

6 A Yes.

7 Q And this is the Matsunaga reference,
8 correct?

9 A Yes, it is.

10 Q So let us know where you want to look.

11 A I'm looking at the body of the -- of the
12 patent, and I'm looking for a word search quickly
13 for the term "Q1."

14 And I'm not finding it.

15 Q I believe it's a semiconductor; does that
16 sound right?

17 A Q1 could be, yes.

18 MR. GILFORD: Lawrence, maybe can you --

19 BY THE WITNESS:

20 A I suspect it is.

21 BY MR. GILFORD:

22 Q Okay.

1 MR. GILFORD: Lawrence, can you flip to
2 Page 10 of this document. And scroll down a
3 little bit to where the text starts.

4 BY MR. GILFORD:

5 Q I'm looking, Dr. Reed -- Mr. Reed, in the
6 bottom left corner of this, it says,
7 "Specifically, a gate of the first semiconductor
8 switch Q1."

9 A Yeah.

10 Q All right. So Q1 is a semiconductor
11 switch?

12 A Yes, it is.

13 Q Okay. And we're going to talk about Q2 as
14 well. On the right-hand column, do you see around
15 Line 38, it says, For example, the second
16 semiconductor switch Q2?

17 A Yes.

18 Q So it looks like they're both
19 semiconductor switches?

20 A Yes. Yes. I have that page, yes.

21 Q What's a semiconductor switch?

22 A It's a switch that's a trigger that

1 does -- does not have the need for high voltage to
2 trigger it.

3 MR. GILFORD: And, Lawrence, can you go
4 ahead and flip back to what was previously marked
5 Exhibit 1.

6 BY MR. GILFORD:

7 Q All right. And so we were talking again
8 about how switch 11 is connected to power --
9 Matsunaga's power supply circuit?

10 A Yes.

11 Q All right. So you drew a line here from
12 switch 11 to the semiconductor switch Q1?

13 A Yes.

14 Q So is switch 11 electrically connected to
15 switch Q1?

16 A It's -- in this circuit, it is. In this
17 diagram, it is.

18 Q Got it. And how is Matsunaga's contact
19 switch 12 connected to Matsunaga's power supply
20 circuit?

21 A Switch number 12 goes through a central
22 processing unit, CPU, which is inside of object

1 number 13. The CPU I'm referring to is item
2 number 14.

3 Q Okay.

4 MR. GILFORD: Lawrence, can you give
5 Mr. Reed the cursor again to draw a line. The
6 same yellow color is fine.

7 TECHNICIAN WALLACE: You have control,
8 Mr. Reed.

9 BY THE WITNESS:

10 A And your question is what, please?

11 BY MR. GILFORD:

12 Q Yeah, if you could just show us how
13 switch 12 is connected to the Matsunaga power
14 supply circuit.

15 A Switch 12, which is this right here
16 (indicating), goes to this component right here
17 (indicating), and out of this component goes to
18 the gate circuit and then into Q2, which is this
19 right here (indicating).

20 Q Okay. And is contact switch 12
21 electrically connected to Q2?

22 A In a roundabout way.

1 Q Okay. So how -- I guess what -- when you
2 say they're connected in a roundabout way, what do
3 you mean by that?

4 A There are other components that are in
5 between the -- the -- what Q -- what switch
6 number 12 does and what Q2 does to respond.

7 Q Even though there's other components
8 between the switch and the semiconductor, you
9 still consider the two connected?

10 A It depends on what the processor unit and
11 the gate circuit does. If the gate circuit or the
12 PCPU are set to a position where it does not allow
13 12 to communicate with Q2, then it doesn't. But
14 if they are set so that it will allow Q -- 12 to
15 communicate with Q2, then it does.

16 Q What do you mean by communicate between 12
17 and Q2?

18 A The gate circuit could lock out -- we'll
19 use that term, it could lock out -- what 12 does
20 relative to Q2. And the CPU could lock out what
21 12 does to Q2 if it so chose to do.

22 Q What do you mean by "lock out"?

1 A Electrically interrupt.

2 Q Okay.

3 A Or electrically disable. Be electrically
4 disabled, I guess you could say.

5 Q So how does switch 12 communicate with the
6 semiconductor switch Q2?

7 A What do you mean?

8 Q Well, we were talking earlier and I said
9 what do you mean by communicate between 12 and
10 semiconductor switch Q2, and you mentioned that
11 they -- they communicate with each other. So I
12 was wondering, what -- what do you mean by
13 communicate?

14 A What Q2 does, assuming that the CPU and
15 the gate circuit are in a position where they keep
16 the connection -- keep the connection will affect
17 Q2. That's what I mean by communicate.

18 Q Okay. What -- one switch affects the
19 other; that's what you mean by communicate?

20 A Yes.

21 Q Okay.

22 A When the CPU and the gate circuit are in

1 the position that allows the communication to be
2 transmitted.

3 Q Okay. And that's how you tell if contact
4 switch 12 is connected to Matsunaga's power supply
5 circuit?

6 A That is a way, yes.

7 Q Okay.

8 A This is all, of course, taken care -- I'll
9 let it go at that.

10 Q Okay. So if a switch affects a
11 semiconductor switch in a power supply circuit,
12 that means the two switches are connected to each
13 other?

14 A They are communicating with each other.

15 Q And that means the switch is connected to
16 the power supply circuit?

17 A What happens to the one switch affects the
18 operation of the other if they're connected, yes.

19 Q Okay. In the context of Matsunaga, what
20 is the CPU 14?

21 A I'm not sure what you're asking.

22 Q Like what does the CPU 14 do in Matsunaga?

1 A I'd have to read through the text of this
2 to be able to answer that.

3 Q Okay. Let's hold off on that for now.

4 Do you have an understanding of what the
5 Gate 16 in Matsunaga does?

6 A Again, I'd have to read through the text
7 to make -- to recollect what that does. I've not
8 tried to memorize all of these patents.

9 Q Okay. Is it your opinion that Matsunaga's
10 contact switches 11 and 12 send a control signal
11 to Matsunaga's power supply circuit?

12 A It is my understanding that that's the
13 case, yes.

14 Q How does Matsunaga's contact switch 11
15 send a control signal to Matsunaga's power supply
16 circuit?

17 A I'd have to read through the text to fully
18 reacquaint myself to be able to answer that.

19 Q Do you have an understanding of what form
20 the control signal takes from contact switch 11 to
21 Matsunaga's power supply circuit?

22 MR. SIKORSKI: Objection to form.

1 BY THE WITNESS:

2 A What form it takes? I need to -- well,
3 it's either a wire connected -- or the way it's
4 displayed and illustrated in this Figure 2, it's
5 either a connected wire to the battery -- or to
6 the -- to the ground or it's not a wire connected
7 to the ground.

8 That's -- if that answers your question.

9 BY MR. GILFORD:

10 Q So, I mean, does -- does the contact
11 switch 11 send a control signal to the
12 semiconductor switch Q1?

13 A By either grounding it or not grounding it
14 and going through resistor R2, it appears to, yes,
15 according to this illustration, Figure 2.

16 Q Okay. So I guess what -- what form does
17 the control signal from contact switch 11 to
18 semiconductor Q1 take? Is it just like --

19 MR. SIKORSKI: Objection to form.

20 BY THE WITNESS:

21 A You're asking the question what -- I'm
22 sorry, let me hear it again, please.

1 BY MR. GILFORD:

2 Q Sure. So what form does the control
3 signal from contact switch 11 to semiconductor
4 switch Q1 take?

5 MR. SIKORSKI: Objection to form.

6 BY THE WITNESS:

7 A Electrical.

8 BY MR. GILFORD:

9 Q Got you. And then how does the
10 semiconductor switch Q1 receive that control
11 signal?

12 MR. SIKORSKI: Objection to form.

13 BY THE WITNESS:

14 A I'm not -- can you ask that question in a
15 different choice of words? I'm not sure I
16 understand that question.

17 BY MR. GILFORD:

18 Q I guess, you know, maybe the question is
19 confusing based off my own ignorance on how these
20 circuits work.

21 But, you know, how -- I guess how does
22 switch 11, you know, have some affect on switch

1 Q1?

2 MR. SIKORSKI: Objection to form.

3 BY THE WITNESS:

4 A Well, based on this illustration in
5 Figure 2, when switch number 11 is closed, it
6 provides a ground circuit on that particular
7 terminal on Q1.

8 And when switch 11 is not closed, in other
9 words, it's open, which is the way it's
10 illustrated in Figure 2, it eliminates the ground
11 circuit from the Q1 terminal.

12 And the Q1 terminal is, through the
13 resistor R1, receiving a positive or on the
14 positive side of the battery, non-grounded
15 electrification. If that helps you out.

16 BY MR. GILFORD:

17 Q I think so.

18 So does -- does switch Q1 open and close,
19 or does it always stay shut?

20 A No, Q1 opens and closes. It depends on
21 what electrical signal it's getting or electrical
22 information it's getting from the wire that leads

1 to it. That's not in the -- in the power supply
2 circuit.

3 Q Okay. I think I'm starting to understand.

4 So if contact switch 11 is open, then that
5 causes semiconductor switch Q1 to open?

6 A Not necessarily. This --

7 Q Okay.

8 A -- this particular diagram doesn't
9 describe exactly whether it's open or closed when
10 one switch is open or closed. It just shows a
11 relationship of where the lines go. This is a
12 pretty crude diagram, as you already know, I'm
13 sure.

14 Q Yeah. Well, I -- maybe it will -- things
15 will clear up if we talk about contact switch 12.

16 So you agree that contact switch 12 sends
17 a control signal to Matsunaga's power supply
18 circuit, right?

19 MR. SIKORSKI: Asked and answered.

20 BY THE WITNESS:

21 A I'm sorry, ask that question again,
22 please.

1 BY MR. GILFORD:

2 Q Sure. So talking about contact switch 12
3 instead of contact switch 11 now.

4 A Yes.

5 Q So do you agree that contact switch 12
6 sends a control signal to Matsunaga's power supply
7 circuit?

8 MR. SIKORSKI: Same objection.

9 BY THE WITNESS:

10 A I want to get my words right here. I
11 believe so, yes.

12 BY MR. GILFORD:

13 Q Okay. And how does Matsunaga's contact
14 switch 12 send a control signal to Matsunaga's
15 power supply circuit?

16 MR. SIKORSKI: Objection to form.

17 BY THE WITNESS:

18 A Yeah, we already have talked about that.
19 It's through the bottom yellow line that I drew on
20 the chart here in front of us.

21 BY MR. GILFORD:

22 Q Got you. So the -- the signal goes

1 through the CPU and the gate circuit to
2 semiconductor switch Q2?

3 A Yes.

4 Q Okay.

5 A According to this diagram, Figure 2.

6 Q Okay. And so how does the semiconductor
7 switch Q2 receive the control signal from
8 contact -- contact switch 12?

9 MR. SIKORSKI: Objection to form.

10 BY THE WITNESS:

11 A Are those the same words you used
12 regarding Q1 a few minutes ago? And if so, I
13 guess I would have to answer it kind of the same
14 way. I'm not sure -- well, I'll stop at that.

15 BY MR. GILFORD:

16 Q Yeah, so I guess I'm just trying to figure
17 out what -- what happens to the control signal as
18 it goes from switch 12 to switch Q2.

19 A This diagram, I don't think -- let me
20 rephrase that.

21 You have to read the text and refer to
22 this dia- -- that refers to this particular

1 Figure 2 diagram to understand what is being
2 described in here.

3 And if you want me to read back through
4 that and recite that, I will be happy to do that.
5 I don't think that's really what you want to do,
6 though.

7 Q No. That's okay. If we -- do you have a
8 copy of Matsunaga in front of you?

9 A I do.

10 Q Okay.

11 MR. GILFORD: Lawrence, if we can go back
12 to Exhibit 1006. And if you scroll up a little
13 bit -- I'm just trying to figure out where the
14 description of Figure 2 starts.

15 (Exhibit management discussions were had
16 off the stenographic record.)

17 BY MR. GILFORD:

18 Q Mr. Reed, do you see on your copy where
19 the description of Figure 2 starts?

20 A I'm searching quickly here.

21 Q It looks like it's probably in Column 7 or
22 something. I forgot to print out a hard copy, so

1 that's why I'm struggling.

2 A Yeah, I always -- I always work with a
3 hard copy.

4 Q Yeah, I --

5 A Yeah.

6 Q -- [indiscernible] this time.

7 MR. GILFORD: Lawrence, can you scroll
8 down a little bit.

9 BY THE WITNESS:

10 A There it is. Yeah, in the middle of
11 Page 7 on the left column.

12 BY MR. GILFORD:

13 Q Okay.

14 A As shown in Figure 2. As shown in
15 Figure 2.

16 MR. GILFORD: So, Lawrence, it looks like
17 it might be down a little further on that page.

18 BY THE WITNESS:

19 A It starts with -- on Line about 38 or so,
20 Column 7.

21 BY MR. GILFORD:

22 Q No -- yep. Okay. I see.

1 Yeah, you know, Dr. Reed, go ahead and
2 take a look at this description of Figure 2 and
3 let -- let us know when you're done reading about
4 the description of Figure 2, and then maybe
5 we'll -- we'll go back and talk about Figure 2.

6 A All right.

7 For a person to understand Figure 2 and
8 your specific questions regarding the circuitry
9 between switch 12 and Q2 and the CPU and the gate
10 circuit, I would encourage them to read the
11 paragraphs on Column 8 between roughly Lines 16
12 and 31.

13 Q Cool.

14 MR. GILFORD: Lawrence, would you mind
15 pulling up that first exhibit again.

16 BY MR. GILFORD:

17 Q So, Mr. Reed, going back to this Figure 2
18 from Matsunaga.

19 A Yes.

20 Q And we were talking about the control
21 signal that's sent from contact switch 12 to
22 semiconductor switch Q2.

1 A Yes.

2 Q So now after having read the description
3 of Figure 2 in Matsunaga, what form does that
4 control signal take going from switch 12 to switch
5 Q2?

6 A What --

7 MR. SIKORSKI: Object to --

8 BY THE WITNESS:

9 A -- form -- it's the form of an
10 electrical -- it's an electric form.

11 BY MR. GILFORD:

12 Q Okay. So the electrical signal goes first
13 through the CPU 14, correct?

14 A Yes. According to this circuit, yes.
15 This diagram.

16 Q Sorry. I --

17 A According to this Figure 2 diagram, yes,
18 it does.

19 Q Got you. And then what -- what happens to
20 the signal in CPU 14?

21 A The control circuit 13 includes, other
22 than the resistors, the CPU 14, which generates an

1 output control signal for controlling the second
2 semiconductor switch Q2.

3 Does that answer your question?

4 Q I think so.

5 So it sounds like switch 12 sends a signal
6 to CPU 14 first, correct?

7 A Yes.

8 Q And then CPU 14 outputs what -- what did
9 you say again?

10 A According to the body of this patent on
11 Column 8, Lines 16 through 18 or so, the CPU
12 generates and outputs a control signal for
13 controlling the semiconductor Q2.

14 Q Okay. How -- what does that mean, to your
15 knowledge?

16 A It creates a -- essentially this is pretty
17 well written. It generates an output signal to
18 control CPU -- or, rather, Q2.

19 Q So how does the output signal control
20 switch Q2 from CPU 14?

21 A It either sends a -- an electrical circuit
22 signal or it doesn't.

1 Q Okay. And it sends that electrical
2 circle -- electrical signal or it doesn't based
3 off of the status of switch 12?

4 A And other things, yes.

5 Q Okay. And what is -- what does gate
6 circuit 16 do?

7 A The CPU 14 output -- outputs the control
8 signal for turning off the second semiconductor
9 switch Q2 in the gate circuit 16, thereby to turn
10 off the second semiconductor switch Q2, the path
11 is interrupted by at least a second semiconductor
12 switch Q2 -- Q2.

13 If that answers your question.

14 Q I'm not sure. So I've never really heard
15 of a gate circuit, so I'm trying to figure out
16 what -- what that is in the context of Matsunaga.

17 Do you know?

18 A The gate circuit -- again, I'm on
19 Column 8. The gate circuit receives power from
20 the battery, and gate circuit 16 turns on or off
21 the second semiconductor switch Q2 in accordance
22 with the control signal from the CPU 14.

1 Q So the gate circuit turns on or turns off
2 switch Q2?

3 A Receives a signal from --

4 Q The CPU 14?

5 A The CPU 14.

6 Q Got it. Okay.

7 So kind of going back to the start here,
8 for contact switch 12 of Matsunaga, the contact
9 switch 12 sends a control signal first to CPU 14
10 which then outputs a signal to gate circuit 16
11 which controls the status of semiconductor switch
12 Q2?

13 Does that sound accurate?

14 A That's fairly close to accurate, yes.

15 Q Was there any way that I got it wrong?

16 A I cannot come up with any way as we sit
17 here right now, no.

18 Q Okay. But in your opinion, that -- that
19 system we're just talking about where switch 12 is
20 sending a signal to CPU 14 which then sends a
21 signal to gate circuit 16 which controls the
22 status of semiconductor Q2, in your opinion, that

1 meets the claimed signal source sending a control
2 signal to the power supply circuit?

3 A Yes.

4 Q Okay.

5 A Which is as I drew on the lower yellow
6 line on the chart that's in front of us here.

7 Q Okay. Understood.

8 MR. GILFORD: So I'm not sure what time
9 zone you're in. I'm in Arizona right now, so it's
10 only 11:20 for me. So I don't really need a lunch
11 break, and we don't have a super ton of stuff to
12 go through. So up to you.

13 Like, do you feel like you need lunch, or
14 are you good to kind of plow through, or what do
15 you want to do, Mr. Reed?

16 THE WITNESS: I'm fine. I have a snack
17 sitting next to me here if I need to have a snack,
18 so I'm fine. So we can keep going if that's okay
19 with others.

20 MR. GILFORD: How about you, Ed?

21 MR. SIKORSKI: I'm fine if Mr. Reed is
22 fine.

1 MR. GILFORD: Okay. Do you need a
2 restroom break or anything like that, or are you
3 good to go?

4 THE WITNESS: No, I'm good to go.

5 MR. GILFORD: Okay. Let's keep going
6 then.

7 Lawrence, can you please pull up what was
8 previously marked Exhibit 1003 from IPR2020-00886,
9 and we can mark that as Deposition Exhibit 2.

10 (WHEREUPON, Reed Exhibit No. 2 was
11 presented to the witness.)

12 BY MR. GILFORD:

13 Q And, Mr. Reed, you've seen this document
14 before, correct?

15 A Yes, I have.

16 Q And this is the declaration you drafted
17 for IPR number 2020-00886, correct?

18 A Correct.

19 Q And you understand that IPR2020-00886
20 relates to U.S. Patent No. 9,826,686, correct?

21 A Correct.

22 Q And if I refer to that patent as the

1 '26686 patent, you'll know what I'm talking about?

2 A Yes.

3 Q And if I refer to this declaration as the,
4 for example, '26686 declaration, you'll also know
5 what I'm talking about, correct?

6 A Yes.

7 Q Have your opinions changed since you
8 drafted this declaration?

9 A No.

10 MR. GILFORD: Lawrence, can we go ahead
11 and flip to Page 18 of this declaration.

12 BY MR. GILFORD:

13 Q And, Mr. Reed, I'm looking at Paragraph 28
14 here. For the '26686 patent, you assert two
15 invalidity grounds, correct?

16 A Correct.

17 Q And for both asserted invalidity grounds,
18 you rely on both Outils and Matsunaga, correct?

19 A That is correct.

20 MR. GILFORD: And can we go ahead and flip
21 to Page 57 of this declaration.

22

1 BY MR. GILFORD:

2 Q And, Mr. Reed, I'm looking at
3 Paragraphs 90 to 91. And, again, in this
4 declaration you propose to implement Outils'
5 actuator 23 as Matsunaga's contact switches 11
6 or 12, correct?

7 A That is correct.

8 Q Okay.

9 MR. GILFORD: Lawrence, can you go ahead
10 and pull up what was previously marked as
11 Exhibit 1003 in IPR2020-00887. And we can go
12 ahead and make this Deposition Exhibit 3.

13 (WHEREUPON, Reed Exhibit No. 3 was
14 presented to the witness.)

15 BY MR. GILFORD:

16 Q And, Mr. Reed, have you seen this document
17 before?

18 A Yes, I have.

19 Q And this is the declaration you drafted
20 for IPR2020-00887, correct?

21 A Correct.

22 Q And you understand that IPR2020-00887

1 relates to U.S. Patent No. 9,986,686, correct?

2 A That is correct.

3 Q And if I refer to that patent as the
4 '86686 patent, you'll know what I'm referring to,
5 correct?

6 A I will, yes.

7 Q And if I refer to this declaration as the
8 '86686 patent declaration, you'll also know what
9 I'm referring to?

10 A Yes.

11 Q And have your opinions changed since you
12 drafted this declaration?

13 A No.

14 MR. GILFORD: Lawrence, can we go ahead
15 and flip to Page 42 of this document.

16 BY MR. GILFORD:

17 Q And, Mr. Reed, I'm looking at
18 Paragraph 29 [sic]. Do you see here you state in
19 Paragraph 29 [sic] that Reichart discloses an
20 engine cowling 6 --

21 A You're referring to Paragraph 69?

22 Q Yes, sir.

1 Engine cowling 6, do you see that?

2 A I think you misspoke, but let's start up
3 again on that, please.

4 Q Sure. So in Paragraph 69 of this
5 declaration, you state that Reichart discloses
6 engine cowling 6 -- oh, got you. I said engine
7 cowling 69. Sorry.

8 A Yeah. That's no problem. Yeah, I do see
9 that and I'm with you.

10 Q Got you. Sometimes there's a disconnect
11 between what I mean to say and what actually comes
12 out of my mouth.

13 A We all do that.

14 Q Right. Okay. So Reichart discloses
15 engine cowling 6. What -- what is an engine
16 cowling?

17 A It's a -- in this respect or according to
18 what I understand here, it would be the housing or
19 the material that covers the motor itself. It's a
20 cover.

21 Q What is the purpose of the engine cowling?

22 A Often it's for the purpose of making the

1 machine more pleasing to look at for the consumer
2 or for the customer, the user.

3 Q Got you.

4 MR. GILFORD: Let's go ahead and flip
5 to -- Lawrence, can we turn to Page 46.

6 BY MR. GILFORD:

7 Q I guess before we do that, actually,
8 Mr. Reed, what -- what else does an engine cowling
9 do besides make the machine look more pleasing for
10 the consumer?

11 A Sometimes -- well, often it will also help
12 to reduce the emitted noise from the -- from the
13 engine or the motor.

14 Q Got you. And does it function to do
15 anything else?

16 A It's a -- protects the motor from dust and
17 dirt and rain and water and things like that as
18 well as keep it protected, I guess, from
19 inadvertent contact from an individual who might
20 come in contact with it who might become thermally
21 injured by it.

22 It hides sharp edges that might be

1 unpleasant to be in contact with if you happen to
2 inadvertently come in contact with it.

3 It serves a number of purposes.

4 Q Is it --

5 A You don't see automobiles running around
6 without engines being covered.

7 Q Is it used for air intake?

8 A Well, sometimes -- yeah, sometimes it's
9 used for directing cooling air, yes.

10 Q Okay.

11 MR. GILFORD: Sorry. So, Lawrence, are we
12 at Page 46 of this?

13 It looks like yeah.

14 BY MR. GILFORD:

15 Q And then I'm looking at Paragraph 76,
16 Mr. Reed.

17 A I'm there.

18 Q And, Mr. Reed, is it your opinion that
19 Reichart's handle includes an operation assembly?

20 A Yes.

21 Q And you state in Paragraph 76 that
22 Reichart refers to different operating elements on

1 the handle, correct?

2 A Yes.

3 Q And you state here that a person of
4 ordinary skill in the art would understand this is
5 referring to on/off-type mechanisms operated by
6 the user to operate the motor, correct?

7 A Yes.

8 Q Are you familiar with 16 CFR 1205's blade
9 control requirements?

10 A Yes.

11 Q What are 16 CFR 1205's blade control
12 requirements?

13 A I'm assuming -- I think that I know what
14 you're asking, and I'll respond by my
15 understanding or my thought that I think I
16 understand what you're asking.

17 Essentially that 16-1205 requires that
18 blade controls for walk-behind powered lawn mowers
19 be within a 15-inch radius of the top of the
20 handle.

21 I think that's what you're asking.

22 Q Doesn't it require certain

1 operator-actuated controls as well?

2 A Yes, it does. I think it does, yeah.

3 Q Okay. What is your understanding of what
4 operator-actuated control 16 CFR 1205 requires?

5 A You know, I have to -- I have not read
6 through that entire CFR for quite a while. I'd
7 have to read through it.

8 But I do know that it's customary in the
9 industry and has been for decades that those
10 controls require a dead man control that would --
11 if released by the operator, would allow -- would
12 cause the blades to stop spinning within a few
13 seconds --

14 Q The -- sorry. Did you have something else
15 to say? I didn't mean to cut you off.

16 A I think even -- right. It also requires
17 that the control for turning the blades on and --
18 turning the whole mower on and off so that the
19 blades go on and off be positioned at the top of
20 the handle within, like I say, a few inches of
21 that radius of the top of the handle.

22 Q Got you. So when you say "dead man

1 control," what are you referring to?

2 A I'm referring to what has customarily
3 become the standard of the lawn mower industry,
4 and that is a -- a device that you have to keep
5 your hand on or squeeze or touch in order for the
6 machine to operate.

7 Q Does a dead man control start the mower?

8 A It can.

9 Q Okay. But generally the purpose of it is
10 you have to keep it held down in order for the
11 motor to continue to run?

12 A Yes.

13 Q Okay. Maybe this will be helpful so that
14 we're on the same page.

15 MR. GILFORD: Lawrence, can we pull up
16 what was previously marked Exhibit 1008.

17 (WHEREUPON, Reed Exhibit No. 1008 was
18 presented to the witness.)

19 BY MR. GILFORD:

20 Q And have you seen this document before,
21 Mr. Reed?

22 A Yes.

1 Q And this is 16 CFR 1205, right?

2 A It appears to be, yes.

3 Q Okay.

4 MR. GILFORD: And then, Lawrence, when you
5 get a chance, can you flip to Page 7. I don't
6 have the exact page number, but -- yeah, this one.

7 And then can you blow up that right-hand
8 column a little bit.

9 BY MR. GILFORD:

10 Q So, Mr. Reed, when I was talking about the
11 blade control requirements of 16 CFR 1205, I was
12 talking about what you see here in the right-hand
13 column. Just so --

14 A Okay.

15 Q -- we're on the same page.

16 A Sure.

17 Q Do you need me to -- do you want to take a
18 second to read through it really quick just to
19 kind of refresh your recollection a little bit?

20 A Sure.

21 Yeah, this is a statement that I remember
22 being in the 1205.

1 Q Okay. So now having read through it, what
2 do you recall are 16 CFR 1205's blade control
3 requirements?

4 A Yes.

5 Q If you could, you know, explain for the
6 record what in -- what your understanding of what
7 16 CFR 1205's blade control requirements are,
8 please.

9 A In this CFR -- 16 CFR 1205, it is required
10 that there -- that the -- that the blade control
11 system requires that the blades don't operate
12 unless the operator actuates the -- a control,
13 that there must be continuous control contact for
14 the blades to continue to be driven, that when the
15 contact is released or the handle is released, you
16 might say, that the blades must come to a stop
17 within three seconds.

18 And there are certain criteria that if you
19 don't stop the engine, that you got to stop the
20 blades in certain ways.

21 Q Would a person of ordinary skill in the
22 art have understood that Reichart's lawn mower

1 meets 16 CFR 1205's blade control requirements?

2 A That's my understanding, yes.

3 MR. GILFORD: Lawrence, can you please go
4 ahead and pull up what was previously marked
5 Exhibit 1003 and IPR2020-00888.

6 (WHEREUPON, Reed Exhibit No. 4 was
7 presented to the witness.)

8 BY MR. GILFORD:

9 Q And you've seen this document before,
10 right, Mr. Reed?

11 A Yes.

12 Q And this is the declaration you drafted
13 for IPR number 2020-00888, correct?

14 A Correct.

15 Q And you understand that IPR 2020-00888
16 relates to U.S. Patent No. 10,070,588, correct?

17 A Correct.

18 Q And if I refer to that patent as the
19 '588 patent, you will know what I'm referring to,
20 right?

21 A I will.

22 Q And if I refer to this declaration as the

1 '588 patent declaration, you will also know what
2 I'm referring to?

3 A I will.

4 Q And have your opinions changed since you
5 drafted this declaration?

6 A No.

7 MR. GILFORD: Lawrence, can we go ahead
8 and flip to Page 18, please.

9 BY MR. GILFORD:

10 Q And, Mr. Reed, I'm looking at
11 Paragraph 28. And do you see -- for the
12 '588 patent, you assert four invalidity grounds,
13 correct?

14 A Correct.

15 Q And for grounds two, three, and four, you
16 rely on both Outils and Matsunaga, correct?

17 A Correct.

18 MR. GILFORD: Lawrence, can we go ahead
19 and flip to Page 32.

20 BY MR. GILFORD:

21 Q And, Mr. Reed, I noticed for the
22 '588 patent declaration, you did not propose

1 construing the terms "locks" and "unlocks" even
2 though you proposed construing these terms in your
3 other three declaration -- declarations. Do you
4 know why it is?

5 A I thought it would be clear to anybody
6 who's grouping these together that they -- that it
7 be understood based on what was written in the
8 other declarations.

9 BY MR. GILFORD:

10 Q Okay. Do you think it was -- it was an
11 unintentional thing to omit a proposed
12 construction for locks and unlocks in this
13 declaration?

14 A Yes.

15 Q Okay. Go ahead --

16 MR. GILFORD: Or, Lawrence, if we could
17 flip to Page 90.

18 BY MR. GILFORD:

19 Q And I'm looking at Paragraph 146. And
20 this also continues to the next page to
21 Paragraph 147.

22 But, Mr. Reed, you're proposing in this

1 declaration to implement Outils' actuator 23 as
2 Matsunaga's contact switches 11 or 12, correct?

3 A Correct.

4 MR. GILFORD: And, Lawrence, can we go
5 ahead and pull up what was previously marked as
6 Exhibit 1001 and IPR2020-00886 and mark it
7 Deposition Exhibit 5.

8 (WHEREUPON, Reed Exhibit No. 5 was
9 presented to the witness.)

10 *** *** ***

11 (Exhibit management discussions were had
12 off the stenographic record.)

13 BY MR. GILFORD:

14 Q And, Mr. Reed, you've seen this document
15 before, correct?

16 A Yes.

17 Q And it's the '26686 patent, correct?

18 A Yes, it is.

19 MR. GILFORD: And then, Lawrence, when you
20 get a chance, can you flip to Page 12 of this
21 document.

22

1 BY MR. GILFORD:

2 Q And, Mr. Reed, I'm looking -- you see
3 Claim 1 there in -- in Column 8?

4 A Yes.

5 Q And I'm looking at Line 31.

6 A Okay. I'm there.

7 Q 30 to 31. Do you see where it says, To
8 keep the handle at an accommodating position
9 relative to the main body when the gardening tool
10 is not being used?

11 Do you see that?

12 A Yes.

13 Q In the context of the '26686 patent, what
14 is an accommodating position relative to the main
15 body?

16 A It's a position that the consumer or the
17 user would want it to be when it's not being used.

18 Q Is it a horizontal position?

19 A Well, in context with all that's being
20 displayed and disclosed in this patent, yes, it
21 would be a horizontal position over -- over the
22 mower.

1 MR. GILFORD: And, Lawrence, can you go
2 ahead and pull up U.S. Patent No. 5,636,504.

3 (WHEREUPON, Reed Exhibit No. 6 was
4 presented to the witness.)

5 BY MR. GILFORD:

6 Q And, Mr. Reed, have you seen this document
7 before?

8 A This is Kaley.

9 Q Yeah, I imagine you probably haven't.
10 It's not one of the exhibits that you listed in
11 your declaration.

12 A You are correct. I don't think I have
13 seen this one before.

14 Q Okay. So I'll represent to you that this
15 is U.S. Patent No. 5,636,504.

16 MR. GILFORD: And if we could zoom in on
17 the abstract a little bit, Lawrence, on this first
18 page.

19 BY MR. GILFORD:

20 Q And you see that first sentence where it
21 says, A U-shaped handle assembly for an outdoor
22 power equipment unit such as a lawn mower?

1 Do you see that?

2 A Yes.

3 Q Okay.

4 MR. GILFORD: And, Lawrence, if we could
5 go to the next page and zoom out a little bit.

6 BY THE WITNESS:

7 A Before we go to that page, can you go back
8 to the first page, please, for just a second.

9 BY MR. GILFORD:

10 Q Yep. No problem.

11 A Okay. Go ahead and go to the next page.
12 Thank you.

13 Q So, yeah, I'm just looking at Figures 1
14 and 3. Do you see those?

15 A Yes.

16 Q And do you see how the handle folds in
17 half and rotates over the main body for storage?

18 A Yes.

19 Q Have you seen lawn mowers that have a
20 foldable handle like that?

21 A For decades, yes, many decades.

22 Q It's a pretty common thing?

1 A Yes.

2 Q Okay. Is -- does that look like Outils'
3 handle?

4 A It's a little different, but they fold in
5 somewhat a similar way.

6 Q Okay. They both fold over -- they both
7 fold in half and then rotate over the main body?

8 A Either fold --

9 MR. SIKORSKI: (Unintelligible). Can you
10 read back the last two questions, please. I must
11 not have caught them.

12 (WHEREUPON, the record was
13 read by the reporter.)

14 BY MR. GILFORD:

15 Q Yeah, so, Mr. Reed, do you need the last
16 question read back to you?

17 A Yes, I do. Thank you.

18 Q Sure. The question was, they both fold
19 over -- they both fold in half and then rotate
20 over the main body?

21 A You know, I'm looking at the illustrations
22 in the Outils patent, and none of the

1 illustrations show that they fold over, just that
2 the base of the handle allows the handle itself to
3 rotate forward over the mower.

4 So I'm not so sure that one can say that
5 this folds in half unless you see something in the
6 body of the patent talking about that.

7 Q Have you ever heard of a Bowden cable
8 B-o-w-d-e-n?

9 A Yeah, Bowden. Bowden cable, yeah.

10 Q Sorry. Bowden cable.

11 What is a Bowden cable?

12 A It's a coaxial small flexible cable that
13 can provide when -- motion -- it has an interior
14 cable that is able to maintain its length and
15 tension and an outer sleeve that is able to
16 maintain its length and tension and compression,
17 and when you pull the inner cable relative to the
18 outer cable a certain distance at one end, the
19 same distance is moved at the other end of -- of
20 the inner cable.

21 Q Are Bowden --

22 A It's a -- it's a remote control cable.

1 Q So the remote control cable 29 in Outils
2 is a Bowden cable?

3 A It appears to be. A Bowden -- a Bowden
4 cable would do it.

5 Q And Bowden cables are incompressible,
6 right?

7 A Practically, yes.

8 MR. GILFORD: Let's take a short, like,
9 five-minute break and rejoin at, let's say, 12:50
10 Central Time.

11 Does that sound good?

12 THE WITNESS: Sounds good.

13 MR. GILFORD: See you in five minutes.

14 (WHEREUPON, a recess was had.)

15 MR. GILFORD: So, Mr. Sikorski, I'm done
16 with my set of questions here, so I'll turn the
17 deposition over to you.

18 MR. SIKORSKI: Let's take ten minutes.
19 Thanks. I'll look at my notes.

20 MR. GILFORD: Okay. Back in ten minutes.

21 (WHEREUPON, a recess was had.)

22 MR. SIKORSKI: Mr. Reed, I don't have any

1 questions for you. Thank you for your time today.

2 THE WITNESS: You're welcome.

3 MR. GILFORD: Thanks for your time,
4 Mr. Reed. I appreciate it.

5 MR. SIKORSKI: We'll read and sign.

6 FURTHER DEPONENT SAITH NAUGHT.

7 (WHEREUPON, the deposition was concluded
8 at 1:03 CST.)
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ACKNOWLEDGMENT OF DEPONENT

I, E. REED SMITH, do hereby acknowledge
that I have read and examined the foregoing
testimony and the same is a true, correct, and
complete transcription of the testimony given by
me and any corrections appear on the attached
errata sheet signed by me.

(SIGNATURE)

(DATE)

C E R T I F I C A T E O F R E P O R T E R

I, MICHELLE M. YOHLER, a Certified
Shorthand Reporter within and for the County of
Will, State of Illinois, do hereby certify:

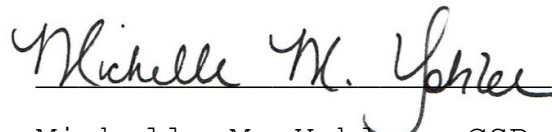
That previous to the commencement of the
examination of the witness, the witness was duly
sworn to testify the whole truth concerning the
matters herein;

That the foregoing deposition transcript
was reported stenographically by me, was
thereafter reduced to typewriting under my
personal direction and constitutes a true record
of the testimony given and the proceedings had;

That the said deposition was taken
remotely before me at the time and place
specified;

That I am not a relative or employee or
attorney or counsel, nor a relative or employee of
such attorney or counsel for any of the parties
hereto, nor interested directly or indirectly in
the outcome of this action.

1 IN WITNESS WHEREOF, I do hereunto set my
2 hand and affix my seal of office at Chicago,
3 Illinois, this 24th day of January, 2021.

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9 Michelle M. Yohler, CSR, RMR, CRR

10 Certified Shorthand Reporter

11 CSR No.: 84-4531
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