

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION

WALTER KIDDE PORTABLE)
EQUIPMENT INC.,)
)
Plaintiff,)
)
-vs-) No. 6:22-cv-00566-ADA-DTG
)
FIRST ALERT, INC. and BRK)
BRANDS, INC.,)
)
Defendants.)

Video-recorded deposition of THOMAS KONDZIOLKA
taken before TRACY L. BLASZAK, CSR, CRR, and Notary
Public, pursuant to the Federal Rules of Civil Procedure
for the United States District Courts pertaining to the
taking of depositions, at Suite 3300, 70 West Madison
Street, in the City of Chicago, Cook County, Illinois at
9:29 a.m. on the 10th day of May, A.D., 2023.

Page 2 1 There were present at the taking of this 2 deposition the following counsel: 3 4 FISH & RICHARDSON PC by MR. SCOTT M. FLANZ 7 Times Square 20th Floor New York, New York 10036 6 (212) 641-2305 scott.flanz@fr.com 7 on behalf of the Plaintiff; 8 9 K&L GATES LLP by MR. BENJAMIN E. WEED 10 MR. JONAH B. HEEMSTRA 70 West Madison Street 11 Suite 3300 Chicago, Illinois 60602 12 (312) 372-1121 benjamin.weed@klgates.com jonah.heemstra@klgates.com 13 on behalf of the Defendants; 14 15 UL LLC by MS. SARA SKULMAN 16 333 Pfingsten Road 17 Northbrook, Illinois 60062 (479) 883-5299 18 macy.skulman@ul.com 19 on behalf of the Witness; 20 21 ALSO PRESENT: Mr. Ross Colby Legal Videographer. 22 23 ----- 24	Page 4 1 THE VIDEOGRAPHER: Good morning. We are going on 2 the record at 9:29 a.m. on May 10th, 2023. 3 Please note that the microphones are sensitive 4 and may pick up whispering and private conversations. 5 Please mute your phones at this time. 6 Audio and video recording will continue to take 7 place unless all parties agree to go off the record. 8 This is media unit one of the video-recorded 9 deposition of Thomas Kondziolka taken by counsel for the 10 defendant in the matter of Walter Kidde Portable 11 Equipment, Inc. vs. First Alert, Inc., and BRK Brands, 12 Inc., filed in the United States District Court for the 13 Western District of Texas, Waco Division, case No. 14 6:22-cv-00566-ADA-DTG. 15 The location of the deposition is K&L Gates, 70 16 West Madison Street in Chicago, Illinois. 17 My name is Ross Colby representing Veritext 18 Legal Solutions, and I am the videographer. The court 19 reporter is Tracy Blaszak, also from Veritext. I am not 20 related to any party in this action nor am I financially 21 interested in the outcome. 22 If there are any objections to the proceeding, 23 please state them at the time of your appearance. 24 Counsel will now state their appearances and
Page 3 1 VIDEO-RECORDED DEPOSITION OF 2 THOMAS KONDZIOLKA 3 4 May 10, 2023 5 6 EXAMINATION BY: PAGE 7 Mr. Benjamin E. Weed 5 8 112 9 Mr. Scott M. Flanz 76 10 114 11 ***** 12 INDEX OF EXHIBITS 13 14 EXHIBIT DESCRIPTION PAGE 15 Exhibit 1 U.S. Patent 5,578,996 38 16 Exhibit 2 Meeting of the standards technical 65 17 panel of UL for smoke detectors minutes 4/4/03 18 Exhibit 3 First Alert user's manual 85 19 Exhibit 4 First Alert SA10YR 96 20 Exhibit 5 UL 217 99 21 Exhibit 6 First Alert PC 2010 104 22 23 ***** 24	Page 5 1 affiliations for the record beginning with the noticing 2 party. 3 MR. WEED: This is Ben Weed from K&L Gates on behalf 4 of First Alert and BRK. And with me is Jonah Heemstra, 5 also from K&L Gates. 6 MR. FLANZ: Scott Flanz of Fish & Richardson PC on 7 behalf of the plaintiff, Walter Kidde Portable 8 Equipment, Inc. 9 MS. SKULMAN: Sara Skulman at UL representing 10 Mr. Kondziolka. 11 THE VIDEOGRAPHER: Thank you. 12 Will the reporter please swear the witness. 13 THOMAS KONDZIOLKA, 14 called as a witness herein, having been first duly 15 sworn, was examined upon oral interrogatories and 16 testified as follows: 17 EXAMINATION 18 by Mr. Weed: 19 Q Good morning, sir. 20 A Good morning. 21 Q Would you please state and spell your full name 22 for the record. 23 A Thomas Kondziolka, K-O-N-D-Z-I-O-L-K-A. 24 Q And what is your current residential address?

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Page 6 1 A 6375 West Half Street, Chicago, Illinois, 60646. 2 Q Got it. Mr. Kondziolka, have you ever been 3 deposed before? 4 A Yes. 5 Q How many times? 6 A I'm not exactly sure. I think it was about 7 five. 8 Q Okay. And were any of those depositions in 9 connection with patent infringement cases? 10 A No. 11 Q What kind of cases have you given depositions in 12 before? 13 A They were generally smoke alarm issues where 14 alarms didn't alarm or injury. 15 Q Were those products liability like tort cases? 16 A I'm sorry? 17 Q Were they product liability cases? 18 A That I don't know. 19 Q Okay. Did you give any of those depositions in 20 connection with employment for BRK? 21 A No. 22 Q I don't want to get into much of the detail, 23 and, certainly, if anything is confidential, don't tell 24 me about it, but can you tell me at least the companies	Page 8 1 you try to pause after I ask the question to let them 2 speak. Is that okay? 3 A Okay. 4 Q I will try to make sure to let you answer my 5 question before I ask the next. So the more pausing we 6 can do, the better it is for everybody. 7 A Sure. 8 Q In general, if an objection is made, you still 9 have to answer the question. The exception to that rule 10 is if your lawyer tells you something is privileged, you 11 don't have to answer the question, but she'll instruct 12 you not to answer. Is that fair? 13 A Yes. 14 Q As we talked about before we went on the record, 15 we'll be taking breaks about every hour. I don't expect 16 we'll be here all day. But if at any point you need a 17 break, please let me know. And as long as there is no 18 question pending, we can take a break, all right? 19 A Okay. 20 Q Okay. So let's talk a little bit more about 21 those Firex depositions. So you were employed at one 22 point by BRK, right? 23 A Yes. 24 Q And I have your LinkedIn profile here if you
Page 7 1 you were working for when you gave those depositions? 2 A Firex. 3 Q All five or so of them were Firex? 4 A Yes. 5 Q Okay. Have you ever testified at a trial or a 6 hearing in court? 7 A No. 8 Q All right. Let's go over some of the ground 9 rules of the deposition. I think it may have been some 10 time. But as you know, I'll be asking you questions and 11 you will be answering those questions under oath. 12 Is that your understanding? 13 A Yes. 14 Q And is it your understanding that the oath you 15 took to start out today is the same one you would take 16 if we were sitting in the courtroom in Waco, Texas? 17 A Yes. 18 Q Is there any reason why you can't give true and 19 accurate testimony today? 20 A No. 21 Q From time to time as I ask you questions, there 22 may be objections lodged by either your lawyer or 23 Mr. Flanz, and they're entitled to do that. 24 And so for that reason it might be helpful if	Page 9 1 would like to see it, but can you recall when you were 2 employed by BRK? 3 A November '91 to August '94. 4 Q And was BRK -- Well, strike that. 5 Do you have a high school diploma? 6 A Yes. 7 Q Do you have a college degree? 8 A Yes. 9 Q What is your college degree in? 10 A Bachelor of science of electrical engineering 11 from the University of Illinois at Chicago. 12 Q Okay. And what year did you get that degree? 13 A 1991. 14 Q So is it fair to say that your job at BRK was 15 your first job out of college? 16 A Yes. 17 Q How did you get the job at BRK? 18 A I interviewed. There was an ad, I think, in the 19 newspaper, and I just filled it out and I got a job. 20 Q Okay. Do you know who you interviewed with at 21 BRK? 22 A The boss I interviewed with at the time his name 23 was Phil McBride. And I believe there was another one I 24 interviewed with the same day.

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Page 10 1 Q Tom Russo? 2 A No. He was the vice-president of engineering 3 when I left. 4 Q Tom was? 5 A Yes. 6 I can't remember his name now. 7 Q Okay. But as you recall, you talked to 8 Mr. McBride and somebody else when you interviewed for 9 the job? 10 A Yes. 11 Q And do you recall what the responsibilities were 12 when you were interviewing? 13 A Design engineer for smoke alarms. 14 Q Did you have any formal educational training in 15 smoke alarm design? 16 A No. 17 Q Had you done any internships in electrical 18 engineering during your time at school? 19 A No. 20 Q Is it fair to assume based on your degree that 21 you were interviewing for a position to design 22 electronic components of smoke alarms? 23 A I don't quite understand that question. 24 Q Let me ask this: Do you recall if there were --	Page 12 1 A They designed their own smoke sensor. 2 Q Oh, okay. So let me try the question again. So 3 is it fair to say that when you joined BRK in 1991, the 4 smoke alarms you were working on used already existing 5 BRK smoke sensors? 6 A That's correct. 7 Q And so can you recall what aspects of the smoke 8 alarms you were hired to work on? 9 A We basically worked on different projects for 10 different types of smoke alarms. 11 Q And what do you mean when you say different 12 types of smoke alarms? 13 A I worked for -- designed some smoke alarms for 14 Japan and then there is one for the U.K. These were 15 specific for specific companies that needed a certain 16 type of design. 17 We would use our chambers and our electronics 18 to meet their requirements. 19 Q Got it. So you used the word chamber. Is that 20 the word you would use to describe the BRK smoke sensing 21 technology? 22 A It's either a photo chamber or an ionization 23 chamber. 24 Q Okay. And so can you give some examples of
Page 11 1 if BRK was selling smoke alarms at the time that you 2 interviewed with them? 3 A Yes, they were. 4 Q And do you know if those smoke alarms were 5 twist-on smoke alarms? 6 A Yes. 7 Q They were? 8 A Yes. 9 Q So would you agree with me that for a twist-on 10 smoke alarm there are mechanical components that allow 11 the alarm to mount to the base? 12 A Yes. 13 Q And would it be fair to say that the job you 14 were interviewing for was not a job to design the 15 mechanical components of smoke alarms? 16 A That's correct. 17 Q Do you know if the job you were interviewing for 18 was to design the actual smoke sensing mechanism or 19 something else? 20 A Most of the smoke sensing technology they used 21 was pretty standard, so we used whatever current at the 22 time. 23 Q Okay. So fair to say that when you joined BRK 24 in 1991, BRK was buying off-the-shelf smoke sensors?	Page 13 1 things that you designed, for example, for that Japanese 2 customer? 3 A There was, actually, two Japanese customers. 4 And we designed DC-operated smoke alarms that had a 5 specific relay output for a home security system that 6 they used. 7 And there was another one that we designed the 8 automatic light testing feature when you would flash a 9 flashlight and activate the detector. 10 And there was a company in England, we 11 developed one for -- it was actually a telephone 12 company. They had a special requirement for it, special 13 output. 14 Q Was that output similar to the one you talked 15 about where the smoke alarm could talk to a home 16 security system? 17 A No, that was something totally different. It 18 worked for a telecommunication system. All we knew is 19 what had to go out. It was kind of like a black box 20 thing. They told us this is what we needed, and they 21 used it for their application. 22 Q Okay. Now, when you said that you worked on a 23 DC-operated smoke alarm, is that a smoke alarm powered 24 by a battery?

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Page 14 1 A Yes. 2 Q Do you recall the battery technology that was 3 sort of in vogue at the time? 4 A 9-volt batteries. 5 Q Not lithium-ion? 6 A Not in the beginning, no. 7 Q Okay. While you worked for BRK, did lithium-ion 8 batteries become more commonly used? 9 A There was a larger interest, yes. 10 Q And why was that? 11 A Long life. 12 Q Is it fair to say that the smoke alarms you 13 worked on at BRK that used 9-volt batteries were 14 designed so that the battery could be replaced? 15 A Yes. 16 Q Do you have any idea approximately the life of a 17 9-volt battery in a smoke alarm in the early '90s? 18 MR. FLANZ: Object to form. 19 THE WITNESS: It would depend on the technology. 20 Usually ionization would last longer than a photo. 21 Ionization might get a year, a year and a half, whereas, 22 a photo you would probably only get about a year. 23 MR. WEED: Q Okay. And how did that battery life 24 compare to what you saw when lithium-ion became more of	Page 16 1 A Yes. 2 Q Were you the one responsible for corresponding 3 with UL about that? 4 A I was in the meeting, but my boss and his boss 5 were there, as well. 6 Q And are those people Phil McBride and the other 7 person whose name you couldn't remember? 8 A No, Phil McBride was not with the company for 9 very long. 10 It was -- I think Nick Bellavia was the other 11 guy I was thinking of. He was there, I believe, and 12 Mike Swieboda. 13 Q So Mike Swieboda and Nick Bellavia were your 14 bosses while you were at BRK, is that right? 15 A Mike was my direct boss, and Nick was his boss. 16 Actually, for a period there there was another guy, Tom 17 McNellis was my boss. It kind of bounced around a 18 little bit. 19 Q They bounce around, but a lot of them are still 20 there. It's crazy. 21 A Yes. 22 Q Okay. Now, you mentioned -- I think you called 23 it a meeting. Do you recall a specific meeting with UL 24 to talk about ten-year batteries?
Page 15 1 a standard technology? 2 A Well, again, depending on the technology you're 3 using, for ionization it could last for a very long 4 time. 5 Q With a lithium-ion you mean? 6 A Yes. 7 Q Could a lithium-ion battery in the early '90s 8 last for ten years? 9 A Yes. 10 Q Do you recall if when you worked for BRK there 11 were any standards whether for UL or otherwise that 12 applied to ten-year lithium-ion-powered smoke alarms. 13 MR. FLANZ: Object to form. 14 THE WITNESS: I believe at the time the UL standard 15 did not have requirements for ten year. 16 MR. WEED: Q Okay. Is it your understanding that 17 at some point the standard did have requirements for a 18 ten-year product? 19 A If I remember correctly, we actually went to UL 20 and asked them to investigate this because we wanted to 21 make this type of product. In order to get it listed 22 for ten years, they would have to be onboard with it. 23 Q I see. And your recollection is that that 24 outreach happened while you were at BRK?	Page 17 1 A It was, basically, we wanted to start a ten-year 2 battery life test and that was unheard of at the time at 3 UL because the standard requirements was only one year. 4 Q Do you know if that conversation involved more 5 than just BRK and UL? 6 A Not that I'm aware of, no. 7 Q Do you remember where that meeting happened? 8 A At UL. 9 Q Was it common during your time at BRK to have 10 meetings with UL at UL's facilities? 11 A Generally, if you want to have something 12 reviewed by UL, yes. 13 Q Okay. Can you ever recall -- and I want to be 14 very sensitive to your current employment, so I'm 15 talking here about your time with BRK. 16 A Uh-huh. 17 Q Can you recall when you were working with BRK 18 ever signing an NDA to have discussions with UL? 19 A I don't recall. 20 Q Was it your understanding that meetings with UL 21 were confidential during your time at BRK? 22 A Yes. 23 Q And did you have an understanding about what, 24 you know, document or agreement governed that

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Page 18 1 confidentiality? 2 A There was a letter that it was sent to me after 3 I left BRK informing me what I could and could not say 4 for a year. 5 Q And that letter came from BRK or from UL? 6 A From BRK. 7 Q Okay. But let me just make sure that I 8 understand. 9 So if you had a meeting like this one we've 10 been talking about between BRK and UL, so UL was 11 present, was it your understanding that those meetings 12 were confidential? 13 A Yes. 14 Q Okay. And the letter you're thinking of when 15 you left from BRK, did that apply to information that 16 BRK had shared with UL, as well? 17 A Anything that was disclosed at BRK was not to be 18 disclosed to anyone else. 19 Q Got it. 20 And you said you thought the period of time for 21 that was one year? 22 A In the letter I believe it said I couldn't say 23 anything for one year, yes. 24 Q Got it.	Page 20 1 closer to the end of your tenure with BRK? 2 A Yes. 3 Q Were you familiar during your time at BRK with 4 something called UL 217? 5 A Yes. 6 Q And how were you familiar with that during your 7 time at BRK? 8 A UL 217 was the standard we designed all of our 9 products to. 10 Q Okay. Do you know if UL 217 existed when you 11 joined BRK? 12 A Yes, it did. 13 Q Had you seen UL 217 before you interviewed with 14 BRK? 15 A No. 16 Q Are you familiar -- and, again, I'm talking 17 about your time with BRK. Were you familiar during that 18 time with what UL calls a standards technical panel or 19 an STP? 20 A Yes. 21 Q And what was your understanding while you were 22 at BRK of what a UL STP was? 23 A The standards technical panel is the group that 24 investigates any new proposals they want to be applied
Page 19 1 And so you said you were at BRK until August of 2 1994, right? 3 A Yes. 4 Q When you left BRK, where in the process of 5 having UL draft standards to cover a ten-year battery 6 were you? 7 A I believe that actually started after I left. 8 Q Okay. So you said that there was a meeting 9 involving you and Mr. Swieboda and Nick, whose last name 10 escapes me. 11 A Bellavia. 12 Q Bellavia. Did that happen while you were still 13 at BRK? 14 A Yes. 15 Q But is it your testimony that UL hadn't actually 16 started working on the new standards until after you 17 left BRK? 18 MS. SKULMAN: Object to the form. 19 Go ahead. 20 THE WITNESS: I was under the impression that UL had 21 agreed at the meeting what was required to be done, and 22 they were going to start working on the changes. 23 MR. WEED: Q I see. I see. Okay. So is it fair 24 to say that the meeting you're remembering happened	Page 21 1 to the standard and they vote on it. 2 Q Okay. 3 A It's usually manufacturers and people in other 4 standards sections. 5 Q Was it your understanding while you were at BRK 6 that BRK was a member of the UL 217 STP? 7 A I believe they were, yes. 8 Q Do you know who BRK's rep for the UL 217 STP was 9 while you were at BRK? 10 A I do not recall. 11 Q Do you know the name Larry Ratzlaff? 12 A Yes, I do. 13 Q When did you first hear that name? 14 A I first heard that name when I worked at Firex. 15 Q So you didn't come into contact with 16 Mr. Ratzlaff during your time at BRK, is that fair? 17 A I don't recall, no. 18 Q Was the meeting that we were talking about 19 before between -- with you and Mr. Swieboda and 20 Mr. Bellavia and UL, was that an STP meeting? 21 A No. 22 Q That was a more informal meeting? 23 A Yes. 24 Q Do you remember who from UL was at that meeting?

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Page 22 1 A I believe it was John Paressan, Vito Vellunto, 2 and Isaac Papier, Papier. I can't pronounce his name, 3 sorry. 4 Q Okay. 5 A Those are what I remember. 6 Q I've heard the first and the last two names. 7 Can you try to spell Vito's last name for me? 8 A V-E-L-L-U-N-T-O, I think. 9 Q Okay. And do you recall what Mr. Paressan's 10 responsibilities were at UL at least as far as you 11 understood them at the time of that meeting? 12 A I believe he was the PDE at the time for smoke 13 alarms. 14 Q What is PDE? 15 A Primary designated engineer. 16 Q Okay. Do you know if Mr. Paressan had 17 previously worked for BRK? 18 A No. 19 Q All right. What about Vito, what was your 20 understanding of his responsibility at UL during that 21 meeting? 22 A I believe he was the engineering manager for the 23 group. 24 Q And what about Mr. Papier, do you know what his	Page 24 1 A The compliance engineer when I was there was 2 Mike Kruezer. 3 Q Kruezer, C-R-U-Z-E-R? 4 A No, K. It's actually pronounced Kruezer. I 5 guess that's the German pronunciation. That's what he 6 used to go about. K U R, I don't know, I can't remember 7 the rest. 8 Q Okay. And, in general, what were the meetings 9 that you had with UL about other than the one we've been 10 talking about? 11 A Usually if there was like a noncompliance issue 12 or if there was an issue with something that we wanted 13 clarification on in the standard. 14 Q And when you say the standard in that answer, is 15 it your testimony that meetings were always about 16 UL 217? 17 A Yes. 18 Q Okay. Were you ever involved in any proposed -- 19 in drafting any proposed modifications to UL 217? 20 A No. 21 Q And that question was intentionally broader than 22 just BRK, so if we think about your entire career before 23 joining UL, have you ever been involved in drafting 24 proposed modifications to UL 217?
Page 23 1 responsibility was? 2 A I don't remember what his title was at the time. 3 Q Do you recall if during that meeting BRK made 4 any presentation with slides to UL? 5 A I don't recall that. 6 Q Do you recall if you did any of the speaking in 7 that meeting? 8 A I don't remember doing a lot, no. 9 Q You would have been a pretty young engineer at 10 that time, right? 11 And do you recall whether there was any meeting 12 minutes taken or records kept of what was said in that 13 meeting? 14 A That I don't recall. 15 Q Okay. During your time at BRK, how many times 16 would you say, if you can estimate it, that you met with 17 UL either at their facility or by phone or at BRK? 18 MR. FLANZ: Object to form. 19 THE WITNESS: Just a few times, maybe two or three 20 in person. And on the phone we actually had a 21 compliance engineer who used to do most of the interface 22 with UL. 23 MR. WEED: Q Okay. And I think I asked you if you 24 remembered who that was. Do you know who that was?	Page 25 1 A Before BRK? 2 Q No, before joining UL. 3 A No. 4 Q You mentioned that you went to Firex after BRK, 5 right? 6 A That's correct. 7 Q And do you recall when you joined Firex? 8 A The end of August of '94. 9 Q Why did you leave BRK? 10 A I was laid off. 11 Q Okay. Do you know why? 12 A Yes. The vice-president of engineering of the 13 company that just bought us, Invensys, decided he wanted 14 to make Plain City, Ohio, the design center of 15 excellence. And a lot of us didn't want to move. And 16 before the move happened, they just started letting 17 people go. 18 Q Is that why you left Firex or is that why you 19 left BRK? 20 A That's why I left Firex. 21 Q Okay. Why did you leave BRK? 22 A A better position. 23 Q Okay. So that was you chose to leave BRK? 24 A Yes.

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Page 26 1 Q Do you remember what your position was when you 2 joined Firex? 3 A I was a project engineer. 4 Q And what kinds of projects were you working on 5 at Firex? 6 A Smoke alarms. 7 Q When you joined Firex, was Firex already making 8 smoke alarms? 9 A They were making ionization smoke alarms, but 10 they were kind of new to the photoelectric aspect of it. 11 Q Okay. Did you live in Chicago when you were 12 working for BRK? 13 A Yes. 14 Q And were you commuting out to Aurora every day? 15 A Yes. 16 Q Did you commute to Firex in Downers Grove when 17 you worked there? 18 A Yes. 19 Q Better commute? 20 A Oh, yes, much shorter. 21 Q Do you remember where in Downers Grove Firex was 22 located? 23 A For a strange reason I can't remember the 24 address, no.	Page 28 1 Q Do you remember where -- did you say Invensys 2 was headquartered in Ohio? 3 A No. Invensys was headquartered in England, but 4 they had 300 and some odd companies all over the world 5 that they ruled. 6 Q Okay. Do you know the company Kidde or Walter 7 Kidde? 8 A I know of them, yes. 9 Q When did you first learn about them? 10 A Basically, when I was at Firex. I don't think 11 we talked much about BRK. 12 Q You didn't talked much about Kidde at BRK? 13 A No, no, I don't think that was ever brought up. 14 Q Okay. And how did you hear about Kidde while 15 you were at Firex? 16 A Just that they were a competitor in the 17 residential market. 18 Q Do you recall ever looking at competitive Kidde 19 products as part of your job at Firex? 20 A I don't recall, no. 21 Q After you left Firex, where did you go after 22 that for work? 23 A I was unemployed for about nine months. 24 Q Okay. And then did you ultimately get another
Page 27 1 Q Could you walk there from the Belmont station? 2 A No. 3 Q For some reason I thought it was right there. 4 I'm from Downers Grove, which is why I asked. 5 A Oh, okay. No. 6 Q Okay. So you joined Firex in August of '94. 7 How long did you work there? 8 A Until December of 2002. 9 Q And you said you left because they wanted to 10 move the headquarters to Ohio, is that right? 11 A Yes. 12 Q Have you ever heard the name of a company called 13 Maple Chase? 14 A Maple Chase was the original name of Firex. 15 Q Okay. So when you left BRK, you joined Maple 16 Chase and then Maple Chase became Firex, is that right? 17 A I think at the time it was -- it was originally 18 Maple Chase, and then they changed to Firex, and we were 19 basically going by Firex because the original name, 20 Maple Chase, came from the streets where the original 21 building was on Maple and Chase in Downers Grove. 22 Q Got it. And is it your testimony that at the 23 time when you left Firex it was owned by Invensys? 24 A Yes.	Page 29 1 job? 2 A I got a job as a consultant for a company called 3 KidSmart. 4 Q And what products did KidSmart make? 5 A They made a programmable smoke alarm for kids so 6 the parent could program his voice in there. It wound 7 up the kids do not respond to 3,000 kilohertz beeping. 8 So if you say, you know, Johnny, wake up, there is a 9 fire, you know, they get up. And they had videos of it. 10 They actually showed people that when you pressed the 11 test button, the kids didn't wake up, but when they 12 heard the parent's voice, they woke up. 13 Q Got it. Cool. And then after KidSmart you went 14 to UL, right? 15 A I was unemployed for a couple of months and then 16 I went to UL. 17 Q Okay. And, again, I don't want to get into a 18 lot about your UL responsibilities, but in your work at 19 UL, do you deal with smoke alarms today? 20 A Yes. 21 Q And have you dealt with smoke alarms in some way 22 in your whole time at UL? 23 A Yes. 24 Q Okay. Let's talk a little bit more about your

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Page 30 1 time at Firex. Are you comfortable if we call it Firex 2 given that you -- 3 A Yes, that's fine. 4 Q So when you went to Firex, did you do any work 5 on smoke alarms that had ten-year lithium-ion batteries? 6 A No. 7 Q What kinds of smoke alarms did you work on for 8 Firex? 9 A We had a few basic ones. Like I said, when I 10 started they didn't have the photo technology. So I was 11 working with another engineer to get the photo chamber 12 to be what we wanted it to be for that. We made a lot 13 of commercial detectors for buildings. That was their 14 biggest thing was commercial products. So we made four 15 inch, five inch, and battery backup versions. 16 Q Okay. At any point during your time at Firex 17 did you work on the ten-year -- any kind of a ten-year 18 lithium-ion battery-powered product? 19 A No. 20 Q Did your work at Firex involve UL 217 at all? 21 A Yes. 22 Q Did you ever participate in meetings with UL 23 while you were at Firex? 24 A No, because there was a compliance engineer who	Page 32 1 A Yes. 2 Q Any idea when that happened? 3 A Around '96, '97. 4 Q Okay. And then was Coleman the owner of the 5 company until Invensys bought it? 6 A No. 7 Q Who else owned it? 8 A After Coleman, Seibe bought us. 9 Q Seibe? 10 A Seibe, S-E-I-B-E, Seibe. 11 Q What was Seibe? 12 A It was an English company. 13 Q Was Seibe a safety products company? 14 A They're part of the other -- another English 15 company that owned a lot of companies around the world. 16 Q Got it. 17 Did Mr. McAvoy stay on as the president when 18 Seibe -- 19 A No. 20 Q Who was the president when Seibe bought the 21 company? 22 A I believe it was John Gillardis. 23 Q John Gillardis. Was Mr. Gillardis located in 24 Downers Grove?
Page 31 1 handled all of that. 2 Q Do you recall that person's name? 3 A Tom Barakat. 4 Q Barakat? 5 A Barakat, yes. 6 Q Have you ever heard the name of a company called 7 Seat, S-E-A-T? 8 A That was another name of -- that was another 9 name for Firex, Maple Chase, Seat, yes. That was 10 another brand name. 11 Q Okay. Do you remember who the CEO of Firex was 12 when you joined? 13 A The president was Jim McKrike. I don't think we 14 had a CEO, but, yes. 15 Q Can you spell Jim's last name or at least guess 16 at it? 17 A M-C-K-R-I-K-E, I think. 18 Q Okay. Was Mr. McKrike the president during your 19 entire time at Firex? 20 A No. 21 Q Who was he replaced by? 22 A Jim McKrike sold the company to Coleman, and he 23 was replaced by a man by the name of Pat McAvoy. 24 Q Coleman like the outdoor company?	Page 33 1 A Yes. 2 Q Was Mr. McAvoy in Downers Grove? 3 A Yes. 4 Q And so was the next owner of Firex after Seibe 5 Invensys? 6 A Seibe merged with a company called BTR, British 7 Tire & Rubber, and they then named the company Invensys. 8 Q Did that merger happen shortly before you left 9 Firex? 10 A About two years, I think. 11 Q Oh, okay. And can you recall why the company 12 Firex, whatever it was called at the time, wanted to 13 move its operations to Ohio? 14 MR. FLANZ: Object to form. 15 THE WITNESS: The vice-president of Seibe -- I'm 16 sorry, Invensys in Ohio decided that all design 17 engineering should be done in Ohio. They had factory or 18 a building, several buildings, actually, in Plain City 19 that they wanted to put everybody in. 20 MR. WEED: Q Got it. You said during your time at 21 Firex that you were not particularly involved with UL, 22 is that true? 23 MR. FLANZ: Object to the form. 24 THE WITNESS: As far as? I don't understand.

Page 34 1 MR. WEED: Q Well, I think I asked you something 2 like whether you attended meetings with UL during your 3 time at Firex, and I thought you said no. 4 MR. FLANZ: Object. 5 THE WITNESS: I don't believe I did, no. 6 MR. WEED: Q Do you know if anybody at Firex was 7 interacting with UL with regard to UL 217? 8 A The compliance engineer would be the only one 9 that would have done that. 10 Q Okay. When you left Firex, can you recall if 11 Firex had a ten-year smoke alarm product that it was 12 selling at that time? 13 A Yes, they did. 14 Q And was that a battery-powered product? 15 A Yes. 16 Q Had you worked on that product? 17 A No. 18 Q Do you recall if that ten-year product that was 19 being sold when you left Firex had a sealed-in battery? 20 A Yes. 21 Q It did? 22 A Yes. 23 Q And why was that? 24 A It was a requirement at the time for the	Page 36 1 sealed-in battery requirement to compete in the market, 2 right? 3 A Yes. 4 Q Can you recall what companies were selling 5 products that marketing wanted to compete with? 6 MR. FLANZ: Object to form. 7 THE WITNESS: I would assume it was the BRK one. 8 MR. WEED: Q Okay. But you're just not 9 specifically aware of that? 10 A I don't recall because I know we did sell that 11 overseas, as well, because Australia and I believe 12 BSI -- or the U.K. wanted it as well. 13 Q Okay. And can you recall if that sealed-in 14 ten-year battery product was intended to be disposed of 15 after the end of ten years? 16 A I believe so, yes. 17 Q And that's because with a sealed-in battery you 18 can't replace the battery, right? 19 A That's correct. 20 Q Do you recall if that sealed-in ten-year product 21 that Firex was selling when you left had a separate 22 mounting bracket from the actual smoke alarm? 23 A Yes. 24 Q And can you recall if when a user mounted the
Page 35 1 project. 2 Q Do you know if it was a project requirement or a 3 UL requirement? 4 A Project requirement. 5 Q And do you know why a sealed-in ten-year battery 6 was a project requirement? 7 A Marketing requested one because they wanted to 8 compete. 9 Q So competitors also had sealed-in ten-year 10 batteries? 11 A Yes. 12 Q And can you recall the commercial name of that 13 ten-year battery product that was being sold by Firex 14 when you left? 15 A It probably would have been under the Firex 16 name, I believe. 17 Q Okay. During your time at Firex did you watch 18 what kinds of products BRK was launching? 19 A No. 20 Q Were you aware of any competitive BRK products 21 during your time at Firex? 22 MR. FLANZ: Object to form. 23 THE WITNESS: I don't recall, no. 24 MR. WEED: Q You said that marketing wanted a	Page 37 1 smoke alarm to the bracket if that actually activated 2 the alarm? 3 MR. FLANZ: Object to form. 4 THE WITNESS: I don't recall. 5 MR. WEED: Q While you were at Firex were you 6 familiar with products like that where the mounting of 7 an alarm activated the alarm? 8 MR. FLANZ: Object to form. 9 THE WITNESS: I don't recall. 10 MR. WEED: Q Can you recall how that sealed-in 11 ten-year product that Firex was selling when you left 12 the company, how it decided to start counting up to ten 13 years? 14 MR. FLANZ: Object to form. 15 THE WITNESS: I don't understand the question. 16 MR. WEED: Q Well, would you agree with me that a 17 product like a smoke alarm is manufactured sometime 18 before a user actually installs it on the ceiling? 19 A Right. 20 Q And so can you recall if that product that Firex 21 was selling at the end of your tenure was already 22 counting down the ten-year period when the user 23 installed it on the ceiling? 24 MR. FLANZ: Object to form.

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Page 38 1 THE WITNESS: I don't believe any of the long-life 2 battery detectors or alarms at that time counted down. 3 It was based on the technology. 4 MR. WEED: Q So is it your testimony that -- Well, 5 strike that. 6 The ten-year product that you're thinking of, 7 did it chirp to tell the user that ten years were up? 8 A Yes. 9 Q And how did it know that ten years were up? 10 A The battery voltage level dropped to the trip 11 level. 12 Q I see. So it wasn't necessarily ten years, it 13 was driven by the voltage level of the battery? 14 A Yes. 15 Q I see. 16 MR. WEED: Let me hand you a document that we'll 17 mark as Exhibit 1. For the record, this was a document 18 produced in the underlying litigation with production 19 Nos. FA-BRK_0000588 through 596. 20 (Exhibit 1 marked as requested.) 21 MR. WEED: Q The first question is just whether 22 you recognize this document? 23 A Yes. 24 Q And what is it?	Page 40 1 subpoena? 2 A I don't recall. 3 Q Okay. You're the named inventor on a handful of 4 patents, right? 5 A Yes. 6 Q Are you familiar, generally, with the way that a 7 patent document is laid out? 8 MS. SKULMAN: Object to form. 9 THE WITNESS: Yes. 10 MR. WEED: Q If you look in the top left corner of 11 Exhibit 1, there is a field numbered 22 in square 12 brackets. 13 Do you see that? 14 A Yes. 15 Q And that is the filing date of the patent, 16 right? 17 A Yes. 18 MR. FLANZ: Object to form. 19 MR. WEED: Q Fair to say that this was filed 20 toward the end of your employment at BRK? 21 A It was after my employment. 22 Q Okay. Did you work on this patent application 23 before you left BRK? 24 A Yes.
Page 39 1 A It's the patent for the long-life detector. 2 Q This is a BRK patent, right? 3 A Correct. 4 Q Why do you say this is the patent for the 5 long-life detector? 6 A I remember seeing this. 7 Q While you were working at BRK? 8 A Yes. 9 Q Have you seen this since -- and I don't want you 10 to -- because I don't know what the context would be, 11 but yes or no question, have you seen this since you 12 worked at BRK? 13 A Yes. 14 Q And were attorneys present when you saw this 15 since you worked at BRK? 16 A No. 17 Q When did you see this since you worked at BRK? 18 A It was in the subpoena. 19 Q Okay. Had you seen this patent between the time 20 when you received the subpoena and the time when you 21 worked at BRK? 22 A I'm sorry, what was the question? 23 Q Had you seen this patent between the time when 24 you worked at BRK and the time that you received the	Page 41 1 Q There is a gentleman listed as an inventor by 2 the name of Calvin Watson. 3 Do you see that? 4 A Yes. 5 Q Do you know who Calvin Watson is? 6 A He was the mechanical engineer at BRK. 7 Q Do you know if Mr. Watson was still there when 8 you left the company? 9 A Yes. 10 Q Do you know where Mr. Watson is now? 11 A No. 12 Q Have you spoken with him since you left BRK? 13 A I spoke to him about two years after I left BRK. 14 That was the last time I talked to him. 15 Q Was it for work purposes or social? 16 A No, somebody quit at BRK and we had a party. 17 Q Got it. All right. So you said Mr. Watson was 18 a mechanical engineer, right? 19 A That's correct. 20 Q And, obviously, you're an electrical engineer? 21 A Yes. 22 Q So can you explain for me the responsibilities 23 of yourself versus for Mr. Watson in connection with 24 this patent?

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Page 42 1 A Mr. Watson and I both worked on this detector. 2 I did the electronic part, he did the hardware part for 3 the base and the mounting bracket. 4 Q And when you say this detector, are you 5 referring to the SA10YR? 6 A Yes. 7 Q Can you recall just timing-wise whether the 8 SA10YR product was fully developed by the time that you 9 left BRK? 10 A Yes, I believe it was. 11 Q Was it being sold by the time you left BRK? 12 A I don't think so. 13 Q Okay. But to your recollection, anyway, that 14 product was at least ready for sale when you left BRK? 15 MR. FLANZ: Object to form. 16 THE WITNESS: It was ready, but there was a 17 requirement for the battery test that would not allow us 18 to ship yet. 19 MR. WEED: Q Was that a UL requirement? 20 A Yes. 21 Q And do you remember what that requirement was? 22 A Battery requirements for a one-year battery 23 project require three months of data before you can get 24 a provisional listing. And when we submitted the ten	Page 44 1 Q So it would have been his responsibility to 2 create the turnable part that activated the switches? 3 A Yes. 4 Q Got it. And how did you pick the switches that 5 were used in this product? 6 A I picked it based on the current requirements of 7 the product. Since it was low current, I picked 8 gold-plated switches. 9 Q And can you recall why there are two switches on 10 this product? 11 A One is for activation and one is for 12 deactivation. 13 Q Do you know how it came to be that this product, 14 the SA10YR, was to have an activation and a deactivation 15 feature in it? 16 MR. FLANZ: Object to form. 17 THE WITNESS: Activation was required for it to 18 power the unit to start it up because UL requirements 19 say no product can be shipped active. And deactivation 20 was because of the fact that the technology at that time 21 used an ASIC. And when the voltage got to 6.5 volts, 22 you weren't sure if it was going to go into alarm or 23 just stop working. 24 MR. WEED: Q Got it. And so for this SA10YR
Page 43 1 year, BRK said six months is what I understand. 2 Q You mean UL said six months? 3 A I'm sorry, UL said six months of preliminary 4 data. 5 Q Okay. So is it your testimony that when you 6 left BRK, BRK was in the middle of that six-month 7 testing? 8 A I believe so, yes. 9 Q If you would look, I mean, several of the 10 pictures would work, but maybe we can look at figure 2, 11 which is on the page ending in 590. 12 Are you there? 13 A Yes. 14 Q Okay. You see the items that are numbered 14b 15 and 14a? 14b is right in the middle of the detector and 16 14a is right to its right. 17 A Yes. 18 Q Those are switches, right? 19 A That's correct. 20 Q And so you said that Mr. Watson was responsible 21 for the mechanical aspects of this. Was the design of 22 these switches his purview or your purview? 23 A I picked the switches. He did the mechanical 24 design that would activate the switches.	Page 45 1 product, would it be fair to say that the product 2 actually tracked how long it had been active? 3 A Not really. There is no way to track how long 4 it would be active. It would just be by the battery 5 technology, by the battery depleting. 6 Q So did this one work the same way as the one we 7 talked about from Firex where when the battery level got 8 low enough, it started to chirp that it was time to 9 replace the unit? 10 A That's basically how both of those operated, 11 yes. 12 Q And I asked that question because you said 13 something about the ASIC technology not being reliable 14 if the power got too low. 15 A Not reliable. It's unstable when it got to like 16 6.5 volts. 17 Q Okay. So is it fair to assume that the 18 threshold to determine to replace the detector is 19 something above 6.5 volts? 20 MR. FLANZ: Object to form. 21 THE WITNESS: Yes. 22 MR. FLANZ: And if you could just give me a second 23 longer to lodge my objection. 24 THE WITNESS: I'm sorry.

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Page 46 1 MS. SKULMAN: Allow me, too. 2 THE WITNESS: Okay. 3 MR. WEED: Q Now, if we look at figures 3 and 5 on 4 the same page, those are those mechanical components 12a 5 and 12b that we talked about, right? 6 A Yes. 7 Q Is it true that when a user either activates or 8 deactivates the alarm, the things labeled as 12a break 9 off? 10 A Yes. 11 Q And so is it true that until the activation 12 switch is turned, the smoke alarm cannot be mounted to 13 its base? 14 A That's correct. 15 Q When the deactivation switch was turned, was 16 there anything about the product that would have 17 prevented it from being mounted back onto the bracket? 18 A Yes, it couldn't be mounted back on the bracket. 19 Q And why is that? 20 A The mechanical feature of it from the breakoff 21 part. 22 Q And why was that a feature of the product? 23 A Basically as a safety issue. You don't want 24 people putting nonfunctional detectors back up. And I	Page 48 1 have a removable battery, right? 2 A Correct. 3 Q Can you recall if there was a reason why you 4 chose to use two different switches here in this 5 product? 6 A Just one for activation, one for deactivation, 7 that was the only reason. 8 Q And you said that you chose gold-plated switches 9 because of the low voltage requirements? 10 A No, current. 11 Q Sorry. 12 A Low current. Ionization units work at about 6 13 microamps, 6 to 9 microamps, and the lower current you 14 want to avoid any kind of corrosion issues. 15 Q Okay. Do you remember where you sourced these 16 switches from? 17 A No, I do not. 18 Q But they were off-the-shelf products? 19 A Yes. 20 Q And I know that you weren't at BRK for all that 21 long, but can you recall approximately when in your 22 tenure you started working on the SA10 product? 23 A I would say probably about six or eight months 24 before I left.
Page 47 1 believe UL put that in one of their requirements when we 2 had our meeting. 3 Q When you had a meeting while you were at BRK? 4 A I believe so, yes. 5 Q Okay. And so to your recollection, the feature 6 that prevented the deactivated alarm from being 7 reattached was based on a UL requirement? 8 A Well, UL and BRK. I mean, we did realize 9 safety. Nobody wants to put a battery or any kind of 10 detector on the ceiling without power. 11 Q Right. While you were at BRK, were you or was 12 BRK aware that people did that sometimes? 13 A Well, people used to take 9-volt batteries out 14 and put them in toys at the time because their kids 15 wanted to play with their toys and that was a problem. 16 Q And would people, in that situation, would 17 people then remount the smoke alarm? 18 A They would try, but UL also required a battery 19 lockout feature in the event that somebody did take the 20 battery out, it wouldn't mount to the bracket. 21 Q And that was some kind of a physical 22 obstruction? 23 A Yes. 24 Q This product didn't need that because it didn't	Page 49 1 Q Okay. Can you recall anything about the 2 circumstances of BRK asking you to start working on that 3 product? Was there a meeting, a kickoff meeting? 4 A It was a marketing requirement. They wanted to 5 come up with a product that consumers didn't have to 6 change the battery every year. 7 Q Okay. Was the SA10YR the first BRK foray into a 8 ten-year battery-powered product to your knowledge? 9 A I believe so, yes. 10 Q Can you recall that project being kind of a 11 major project for BRK? 12 MR. FLANZ: Object to form. 13 THE WITNESS: As far as I know, yes. 14 MR. WEED: Q Okay. Can you recall ever having a 15 meeting with UL during your time at BRK about the SA10YR 16 technology? 17 A I believe that was part of the same meeting we 18 had originally, yes. 19 Q Oh, okay. So at the time when you had the 20 meeting we spoke about at the beginning of the 21 deposition, BRK was already considering working on what 22 would become the SA10YR, is that right? 23 A I believe that concept was already there, yes. 24 Q And can you remember if the concept included the

Page 50 1 mechanical design that Mr. Watson worked on? 2 A That I don't recall. 3 Q Do you know if the switches that you chose were 4 switches that BRK had used for other smoke alarm 5 products? 6 A No, I do not. 7 Q It's a long shot, but do you recall how you 8 located the switch vendor? 9 A That I don't recall, no. 10 Q Okay. Was the team that worked on the 11 engineering aspects of the SA10YR larger than yourself 12 and Mr. Watson? 13 A No. 14 Q Just the two of you? 15 A Yes. 16 Q And who were you reporting to at that time? 17 A I believe it was Tom McNellis. 18 Q Do you remember who conveyed the marketing 19 requirements to you and Mr. Watson? 20 A It was another guy named Mark, but I can't 21 remember his last name. 22 Q Devine? 23 A No. 24 Q Dibner?	Page 52 1 magnetic switch that you could use -- the concept was to 2 put a permanent magnet in the base, and then as you 3 activated it, it would close the switch and activate the 4 unit. 5 Q And is that something that -- that's not 6 something that found its way into the SA10YR product, 7 right? 8 A No, that was one of the ideas I had while I was 9 coming up with it. 10 Q Did you ever build a prototype of that? 11 A I built one. 12 Q And can you recall the reason why that wasn't 13 the ultimate solution for the product? 14 A Yes. 15 Q What was that? 16 A Nick Bellavia asked me how permanent the 17 permanent magnet was. 18 Q And what did you say? 19 A It's permanent. Because he says, will it last 20 ten years? I says it's a permanent magnet. What else 21 is it going to be? 22 Q Yes. 23 A But he said no. 24 Q He was the ultimate decision-maker?
Page 51 1 A No. Devine was quality at the time. I see his 2 face, but I can't remember his name. 3 Q Not to worry. Not to worry. 4 Do you recall if there was any kind of an 5 internal code name for the product that would become the 6 SA10YR? 7 A I don't recall. 8 Q If you would look at the next page, which is the 9 page ending in 591 of Exhibit 1, do you see figure 6 at 10 the top of that page? 11 A Yes. 12 Q Do you know what figure 6 shows? 13 A I don't immediately recall. 14 Q I can direct you to -- so if you would look at 15 column 4 of the specification, which is on page 594, and 16 starting at line 58 there is a discussion there of 17 figures 6 through 9. 18 Do you see that? 19 A Yes. 20 Q And on line 58 it says, "Figure 6 illustrates a 21 reed relay mechanism"? 22 A Yes. 23 Q Do you know what a reed relay mechanism is? 24 A It was actually a reed switch. It was a	Page 53 1 A Yeah, he said no. 2 Q Okay. If you would look -- and, again, you can 3 flip back to figure 7 and then it's a description right 4 around where we are in column 5. But figure 7 shows 5 another mechanism. 6 Do you recall the picture or the thing 7 illustrated in figure 7? 8 A I think that was another switch that was mounted 9 on the side of the board, and the mounting bracket would 10 activate that when you turned it on. 11 Q And do you recall if that's something that you 12 came up with? 13 A I don't think so. I don't know. I don't 14 recall. 15 Q Do you know if that was a feature that was ever 16 built into a prototype? 17 A No. 18 Q No, you don't recall or, no, it wasn't? 19 A I don't think it was ever built. I don't 20 recall. 21 Q Do you recall having discussions with 22 Mr. Bellavia about that feature? 23 A No, I don't. 24 Q Do you recall if that feature was something that

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Page 54 1 you or Mr. Watson borrowed from other existing smoke 2 alarms? 3 A Not that I'm aware of, no, I don't recall. 4 Q Can you ever recall trying to source something 5 called a slide switch for the SA10YR product? 6 A I don't recall. 7 Q I want to be a little careful here with 8 privilege because I don't want you to reveal any 9 communications you had with lawyers, but can you 10 remember when you first talked to lawyers in connection 11 with filing a patent on your work on the SA10YR? 12 A I don't recall the first time. 13 Q And, again, yes or no, can you recall discussing 14 a patent with lawyers during your time at BRK? 15 A I don't recall, no. 16 MR. WEED: Okay. It's been about an hour. Why 17 don't we take a quick break. 18 THE VIDEOGRAPHER: We'll go off the record. The 19 time is 10:21 a.m. This is the end of media unit one. 20 (a brief recess was taken) 21 THE VIDEOGRAPHER: We're back on the record at 22 a.m. This is media unit two. 23 MR. WEED: Q All right. Do you still have Exhibit 24 1 in front of you, which is the --	Page 56 1 deactivated. 2 In the reed switch example you built, was there 3 a way to prevent the base from being mounted back to 4 the -- sorry, the detector from being mounted back to 5 the base? 6 A I don't recall. 7 Q And you said that a prototype was built, right? 8 A Yes, just one. 9 Q And was the prototype functional as far as it 10 working as a smoke alarm? 11 A Yes. 12 Q And when you demonstrated the prototype, did it 13 operate as you expected that it would? 14 A Yes. 15 Q I asked you a few questions before the break 16 about the process for sourcing the switches that were in 17 the SA10YR. 18 Prior to the work you did on the SA10, had you 19 been required to source parts for BRK before? 20 A I don't recall. 21 Q Can you recall, again, understanding that this 22 was in the early '90s and the Internet wasn't what it is 23 today, can you recall what kind of sources were 24 available to you to try to find vendors for parts for
Page 55 1 A Yes. 2 Q -- '996 patent. We were talking before the 3 break about the reed switch. 4 Do you remember that? 5 A Yes. 6 Q Let's talk a little bit more about how that 7 works. So there was a permanent magnet. Do you recall 8 if the magnet was in the mounting base or in the 9 detector? 10 A Mounting base. 11 Q And there was a piece of metal in the detector, 12 is that right? 13 A No, the switch was the metal that would close. 14 Q Okay. So it was the idea that when you twisted 15 the detector onto the base, the magnet got close enough 16 to the switch to close the switch? 17 A The magnet would be underneath the switch and it 18 would close it. 19 Q Okay. And is it fair to say that if you removed 20 the detector from the base and the magnet was moved 21 farther away, that the detector would then deactivate? 22 A The switch would open, yes. 23 Q Okay. And we talked before about how in the 24 SA10YR you couldn't remount the product after it was	Page 57 1 smoke alarms? 2 A I believe generally it was our vendors. 3 Q So you would reach out to the vendor and say, 4 hey, this is what I need? 5 A Yes. 6 Q When you're thinking about vendors, are you 7 thinking about vendors who would have the capability to 8 supply all of the parts for a detector or did you have a 9 switch vendor and a battery vendor? 10 A Most of them supplied all components. 11 Q Okay. And I know that you can't recall who you 12 got those switches from, but do you recall the names of 13 any vendors you worked with at BRK? 14 A No. 15 Q Were they in the west suburbs of Chicago, 16 generally? 17 A I don't recall. 18 Q Did you work with the same vendors at Firex as 19 you did while you were at BRK? 20 A I don't believe so, no. 21 Q When you were working on the SA10YR product, 22 were you familiar with switches that had three positions 23 to them? 24 A I don't recall.

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Page 58 1 Q Can you recall any of the questions that you 2 asked of any vendor that ultimately led you to the 3 gold-plated switches that found their way into the 4 product? 5 A I don't recall that at all. 6 Q Was dealing with the low current in these 7 products a particularly difficult problem to overcome? 8 A No. 9 Q You were pretty well aware that if gold was the 10 contact, it would be able to work in the lower current 11 environment? 12 A Yes. 13 Q Were you familiar with what a reed switch was 14 before you worked on the SA10YR? 15 A Yes. 16 Q How? 17 A A previous company. 18 Q Oh, you worked somewhere before BRK? 19 A Yes. 20 Q Where did you work before BRK? 21 A I worked for Williams Electronics. Actually, it 22 was a few companies. 23 Q Okay. What was Williams Electronics? 24 A Pinball, video games.	Page 60 1 Q Teletype? 2 A Yes, Teletype. 3 Q What did Teletype do? 4 A Communications equipment. 5 Q Telephones? 6 A No, teleprinters, keyboard printers, that sort 7 of stuff. Way before the Internet. 8 Q Okay. And you worked with reed relay or reed 9 switches at Teletype? 10 A There was a product that had one, yes. 11 Q What did the switch do in that product? 12 A Activated when there was a magnetic force. 13 Q What kind of a product was it? 14 A I don't recall, but I remember it. 15 Q So other than Williams and Teletype, did you 16 have any other jobs in the electronics industry before 17 you went to college? 18 A No, I don't believe so, no. 19 Q Do you know how long you were at Williams for? 20 A I was at Williams, I believe, for six years. 21 Q And do you know how long you were at Teletype 22 for? 23 A Three years. 24 Q Three?
Page 59 1 Q Oh, the pinball machine company? 2 A Yes. 3 Q That's here in Chicago, too, right? 4 A Not anymore. 5 Q Did you work for them during college? 6 A No, it was before college. 7 Q Oh, okay. Was there a gap in time between your 8 high school diploma and your college? 9 A Well, after high school I went to DeVry and got 10 a technician's diploma. 11 Q Got it. Do you remember if BRK told you that 12 part of the reason they hired you was because of your 13 work at Williams? 14 A No, it was because of all of my experience, my 15 previous experience. 16 Q So had you worked with switches during your time 17 at Williams? 18 A Yes. 19 Q And that's where you knew about what a reed 20 relay was? 21 A No, I actually learned that from another 22 company. 23 Q Okay. Where did you learn that? 24 A Teletype Corporation.	Page 61 1 A Three. 2 Q How long did your time at DeVry last? 3 A A year and a half. 4 Q And did that come after your work at Williams 5 and Teletype? 6 A No, DeVry was after high school. 7 Q Okay. Got it. Got it. And so in your -- 8 either in your time at DeVry or working for Williams or 9 Teletype, did you ever come across a three-position 10 switch? 11 A I don't recall. 12 Q Can you recall if the switches that you 13 ultimately used in the SA10YR product were switches you 14 were familiar with from your prior work? 15 A No, I don't recall. 16 Q Was the reed switch in the prototype you built 17 at BRK the same reed switch that was in the product you 18 talked about from Teletype? 19 A I don't recall. 20 Q Were any of the products that you worked on at 21 Williams or Teletype products you would consider to be 22 low current products? 23 A No. 24 Q Any of them battery powered?

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Page 62 1 A No. 2 Q Was your first professional experience with 3 battery-powered electronics devices at BRK? 4 A Yes. 5 Q Were you familiar with UL before you worked at 6 BRK? 7 A Yes. 8 Q How? 9 A Teletype. 10 Q Were there UL standards that covered Teletype 11 products? 12 A Yes. 13 Q Can you remember what kinds of things those 14 standards required? 15 A I wasn't involved in it, but I know that they 16 had to meet UL requirements. 17 Q Okay. Were they safety type requirements? 18 A Yes. 19 Q But those Teletype products were not safety 20 products, right? 21 A No. 22 Q And I know you say you weren't involved, but did 23 you have any meetings or discussions with UL while you 24 worked at Teletype?	Page 64 1 Do you see that? 2 A Yes. 3 Q Is that how the SA10YR product worked? 4 A Yes. 5 Q And were you responsible for designing the 6 circuit that caused the battery to drain its power? 7 A Yes. 8 Q Do you know how fast that happened? 9 A No, I do not. 10 Q Do you know if the speed of the draining was a 11 requirement of the product? 12 A No, I do not. 13 Q If you look at column 3 on the same page, line 14 38, it refers to UL there. 15 Do you see that? 16 A Yes. 17 Q And at line 38 it says, "Underwriters 18 Laboratories ("UL") requires that power-containing 19 devices, such as detectors, be packaged and shipped in a 20 deactivated state." 21 Do you see that? 22 A Yes. 23 Q Is that something that you were aware of while 24 you worked at BRK?
Page 63 1 A No. 2 Q Did you first meet Mr. Watson at BRK? 3 A Yes. 4 Q And I may have asked you this before, but was he 5 working there when you were hired? 6 A Yes. 7 Q Do you know how long he had been there when you 8 were hired? 9 A I don't recall. 10 Q Do you remember what happened inside of the 11 device, the SA10YR product when the user turned the 12 deactivation switch? 13 MR. FLANZ: Objection, form. 14 THE WITNESS: I don't recall. 15 MR. WEED: Q If you look at the patent, Exhibit 1, 16 column 4. 17 A I'm sorry, which one was that again? 18 Q Column 4, it's on the page ending in 594. 19 A Yes. 20 Q And, again, feel free to read as much of this as 21 you would like for context, but if you look at column 4, 22 line 50, 5-0, it says, "The de-energizing position of 23 switch 14b 'drains' the battery unit 38 of any remaining 24 power."	Page 65 1 A It was in the standard, yes. 2 Q Okay. Is it fair to say that you used the UL 3 217 standard in your daily job at BRK? 4 A Yes. 5 Q Fair to say that you were familiar with it while 6 you worked at BRK? 7 A Yes. 8 MR. WEED: Okay. Let me hand you another document, 9 which, for the record, bears production Nos. 10 FA-BRK_0000524 through 529. 11 (Exhibit 2 marked as requested.) 12 MR. WEED: Q And for this one if you would just 13 take as much time as you need to skim it or read it or 14 whatever. I just want to know if you recognize this 15 document. 16 Have you finished looking through it? 17 A Yes. 18 Q Okay. Do you recognize Exhibit 2? 19 A No, I do not. 20 Q If you look at the page ending in 527, there are 21 two names toward the bottom, one is Kristin Andrews and 22 one is Isaac Papier. 23 Do you see that? 24 A Yes.

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Page 66 1 Q Do you recognize those names? 2 A Isaac, yeah. Kristin I don't. 3 Q And Isaac was the one we talked about before who 4 was involved in discussions that you had with UL while 5 you were at BRK? 6 A Yes. 7 Q The date on this document is April 4th of 2003, 8 do you see that at the top of the first page? 9 A Yes. 10 Q Where were you working at that time? 11 A I was unemployed. 12 Q If you go to the subject line of the document on 13 the first page, it says, Report of the meeting of the 14 standards technical panel of UL for smoke detectors and 15 alarms. 16 Do you see that? 17 A Yes. 18 Q Do you know if you were ever at any meetings of 19 the standards technical panel of UL for smoke detectors 20 and alarms? 21 A No. 22 Q No, you don't or, no, you weren't? 23 A I was not. 24 Q Okay. Do you know who would have attended a	Page 68 1 A No. 2 Q The document is dated April 4th, 2003, but if 3 you look at the part that's highlighted under the 4 subject, it says, "A meeting of the standards technical 5 panel of UL for smoke detectors and alarms was held on 6 March 7th, 2003." 7 Do you see that? 8 A Yes. 9 Q Were you also unemployed on March 7th, 2003? 10 A Yes. 11 Q Were you familiar -- if you go to the page 12 ending in 526, towards the bottom there is a numbered 13 bolded sentence that starts with the No. 2. 14 Do you see that? 15 A Yes. 16 Q And it says, 2, The issue of children not being 17 awakened by the sound of a smoke alarm. 18 Do you see that? 19 A Yes. 20 Q We talked before about your work putting 21 parents' voices into smoke alarms. 22 A Yes. 23 Q Is that because of the issue of children not 24 being awakened by the sound of the smoke alarm?
Page 67 1 meeting of the standards technical panel of UL for smoke 2 detectors and alarms? 3 A At that time, no, I do not. 4 Q And my question wasn't intended to be the names 5 of people. But do you know would that meeting have 6 included the members of the STP? 7 MR. FLANZ: Object to form. 8 THE WITNESS: I don't know. 9 MR. WEED: Q Do you know if the public could have 10 attended that meeting? 11 MR. FLANZ: Object to form. 12 THE WITNESS: That I don't know. 13 MR. WEED: Q In the second line of the subject 14 section of the document it says, Request for comments on 15 the proposed requirements for the fifth edition of the 16 standard for single and multiple station smoke alarms, 17 UL 217, and then it goes on, right? 18 A Yes. 19 Q The phrase proposed requirements there is 20 capitalized. Were you familiar with a concept of 21 proposed requirements during your time at BRK? 22 A No. 23 Q Were you familiar with the concept of proposed 24 requirements during your time at Firex?	Page 69 1 MR. FLANZ: Object to form. 2 THE WITNESS: Yes. 3 MR. WEED: Q So that was a well-known issue at the 4 time when you were working for KidSmart? 5 MR. FLANZ: Object to form. 6 THE WITNESS: Yes. 7 MR. WEED: Q Do you recall there ever being a 8 meeting at UL that was to discuss that issue? 9 MS. SKULMAN: Object to form. 10 THE WITNESS: I don't recall. 11 MR. WEED: Q Do you know the name Daniel Ryan? 12 A I'm sorry? 13 Q Daniel Ryan? 14 A No, I do not. 15 Q Do you know the name Joe DeLuca? 16 A Yes, I do. 17 Q How do you know Joe DeLuca? 18 A Joe DeLuca was a mechanical engineer at Firex. 19 Q And did you ever work with Joe DeLuca? 20 A At Firex, yes. 21 Q What kinds of things did you work with Joe 22 DeLuca on? 23 A He did mechanical enclosures for smoke detectors 24 and CO detectors.

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Page 70 1 Q Did he do mechanical enclosures for smoke and CO 2 detectors that you worked on? 3 A Smoke but not CO. 4 Q Do you know if Mr. DeLuca worked at Firex before 5 you were hired there? 6 A Yes. 7 Q Was he ever your boss? 8 A No. 9 Q Would you consider him to be lateral to you on 10 the seniority food chain? 11 MR. FLANZ: Object to form. 12 THE WITNESS: When I started, yes. 13 MR. WEED: Q Did you eventually eclipse him? 14 A Yes. 15 Q Were you ever his boss? 16 A No. 17 Q Do you know the name Jason Sharp? 18 A Jason Sharp, that sounds familiar but I don't 19 recall. 20 Q While you were at Firex was there a facility of 21 that company in Colorado Springs? 22 A Firex? 23 Q Yes. 24 A No.	Page 72 1 MR. FLANZ: Object to form. 2 THE WITNESS: Not that I'm aware of, no. 3 MR. WEED: Q Form factor-wise a lithium-ion 4 battery from a smoke alarm -- Strike that. 5 Form factor-wise the lithium-ion battery for 6 the SA10YR product wouldn't fit into a 9-volt socket in 7 a kid's toy, right? 8 A That's correct. 9 Q Do you recall if with the SA10YR product the 10 literature included instructions for the user to throw 11 the alarm away when the battery had drained? 12 A I don't recall. 13 Q Do you recall if that was part of the design 14 approach for that product? 15 MR. FLANZ: Object to form. 16 THE WITNESS: I don't recall. 17 MR. WEED: Q Do you recall if the SA10YR was 18 intended to be a reusable product? 19 A No. 20 Q No, you don't recall or it was not? 21 A No, it was not intended to be reused. 22 Q And I think you said before, I apologize if I 23 asked this, but the batteries in that product were 24 sealed in the device, right?
Page 71 1 Q Do you know where Mr. DeLuca worked from when he 2 was at Firex with you? 3 A He worked in Downers Grove. 4 Q Okay. So he lived in the Chicago area at that 5 time? 6 A Yes. 7 Q We talked a little bit before about the idea 8 that it's not safe to have a nonoperational smoke alarm 9 on the wall. 10 Do you remember that? 11 A Yes. 12 Q And was that a problem in the industry that was 13 known while you were at BRK? 14 A I don't recall. 15 Q You talked a little bit in the first session 16 about people taking 9-volt batteries out of their smoke 17 alarms to put into kids' toys. 18 Do you remember that? 19 A Yes. 20 Q Is that something that was known that you knew 21 about while you worked at BRK? 22 A It was talked about. 23 Q Okay. Was that part of the driver to moving 24 toward a longer-life lithium battery?	Page 73 1 A Yes. 2 Q Do you know if -- We talked about the language 3 from the patent about draining the battery upon 4 deactivation. 5 Do you know if the batteries in that product 6 could be recharged in any way after being drained? 7 A I do not. 8 Q Do you recall designing circuitry to permit that 9 to happen for the SA10YR? 10 A No. 11 Q We also talked about before how there were two 12 switches on that product, and I think you said you 13 sourced, right? 14 A Yes. 15 Q And one of them activated the product and the 16 other deactivated it, right? 17 MR. FLANZ: Object to form. 18 THE WITNESS: Yes. 19 MR. WEED: Q You would agree with me that if you 20 have two binary switches, there are four possible states 21 that can be achieved, right? 22 MR. FLANZ: Object to form. 23 THE WITNESS: I don't understand the question. 24 MR. WEED: Q So the switches that you put into the

Page 74 1 SA10YR product are each binary switches, right? 2 A Yes. 3 Q And if you have -- the switches could be in 4 either both off, both on, the first one off/the second 5 one on, or the first one on/the second one off, right? 6 A Yes. 7 Q So there are four different states that could be 8 achieved with those switches? 9 MR. FLANZ: Object to form. 10 THE WITNESS: Yes. 11 MR. WEED: Q But you would agree with me that in 12 the product there was only three states that were 13 achieved with those switches by design, right? 14 A Yes. 15 MR. WEED: All right. I think I'm done, but if you 16 will give me five minutes, I will just make sure. 17 Can we just go off the record. 18 THE VIDEOGRAPHER: We'll go off the record. The 19 time is 10:59 a.m. 20 (a brief recess was taken) 21 THE VIDEOGRAPHER: We're back on the record at 22 a.m. This is continuing media two. 23 MR. WEED: Q I'll just have a couple more 24 questions and then I'll wrap up.	Page 76 1 I'll pass the witness. 2 EXAMINATION 3 by Mr. Flanz: 4 Q Mr. Kondziolka, am I pronouncing that correctly? 5 A Yes, that's fine. 6 Q I just want to practice again. 7 So I have a few questions. I'm going to do my 8 best not to overlap with what's already been asked. 9 A Okay. 10 Q But I'm just going to try and go through and get 11 you out of here as quick as possible. 12 Just the first question, though, burning 13 curiosity, you said there was a party for someone 14 leaving BRK? 15 A Yes. 16 Q Who was that person? 17 A I'll be honest, I don't remember. 18 Q What did you do to prepare for the deposition? 19 A Basically, talked to Macy and then read over the 20 subpoenas. 21 Q Did you communicate with First Alert or BRK's 22 lawyer in connection with the subpoena prior to the 23 deposition outside the context of your lawyer being 24 present?
Page 75 1 We talked about Calvin Watson a bit before. 2 We've been unable to locate him. Do you have any idea 3 how we might be able to find him? 4 A I have no idea. 5 Q Was there anybody that worked at BRK with you 6 and Mr. Watson that you would consider to be a good 7 friend of his? 8 A No. 9 Q You mentioned a party for somebody leaving. Who 10 else was at that party from BRK? 11 A I really don't remember. There were a lot of 12 people there, some people I didn't even know. 13 Q Okay. Did you speak with anybody that wasn't a 14 lawyer for UL in prep for this deposition? 15 A No. 16 Q Did you look at any documents other than the 17 subpoena? 18 A No, just the subpoena. 19 Q Are you being paid for your time today? 20 A Whatever was on the subpoena, that was it. 21 Q So you're not making a separate, for example, 22 consulting rate here? 23 A No. 24 MR. WEED: Okay. I have no further questions, and	Page 77 1 A I was contacted back in October about this, and 2 I referred them to our lawyer. And that was the last I 3 heard of it before this. 4 Q Okay. And you haven't had any other contact 5 with First Alert or BRK's lawyers outside the context of 6 your lawyer at UL? 7 A No. 8 Q Okay. So we talked a little bit about your work 9 for BRK. But if you could refresh my recollection, what 10 types of products did you work on while you were at BRK? 11 A Smoke alarms predominantly, a couple of heat 12 alarms. 13 Q And carbon monoxide detectors? 14 A I actually did not work directly on those. I 15 assisted with those. 16 Q And do you make a distinction between alarm and 17 detector? 18 A There is a distinction because alarm is normally 19 residential and detector is commercial. 20 Q I see. So you worked on residential products? 21 A Yes. 22 Q Okay. And you said you were working on the 23 electronic portions. Now, am I getting it right -- or 24 is that correct?

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Page 78 1 A Yes. 2 Q Am I getting it right that some of the things 3 that you were adding were like the photoelectric sensor 4 as opposed to other types of sensors at BRK? 5 A I don't understand that question. 6 Q What types of electronics were you working on at 7 BRK? 8 A Well, it would depend on the sensor, again, 9 ionization or photoelectric, yes. 10 Q Okay. Any other -- we talked about a number of 11 different components, mechanical and electrical today. 12 Anything other than what we've talked about today that 13 you worked on at BRK? 14 A Not that I recall, no. 15 Q Okay. Do you keep in touch with folks that you 16 worked with at BRK? 17 A No. 18 Q Are you proud of the work that you did there? 19 A Yeah. 20 Q Do you follow the company? 21 A Not really. I mean, they are a client for UL, 22 but, yeah. 23 Q So do you ever speak to people you worked with 24 in a professional capacity?	Page 80 1 A They were doing different things that we weren't 2 doing, wanted to know why, different types of 3 rechargeable batteries and stuff like that. 4 Q I see. Any other examples that you can recall? 5 A No. 6 Q Do you know what companies you were looking 7 at -- I'll strike that. 8 Do you know from which companies the foreign 9 smoke detectors or other types of alarms or detectors 10 that you were looking at were? 11 A I don't recall, no. 12 Q Did you ever look at patents from others in the 13 industry while you were at BRK? 14 A I don't believe so. 15 Q Do you know if others that you were working with 16 were looking at U.S. competitor products or patents? 17 MR. WEED: Objection, foundation. 18 THE WITNESS: I don't recall. 19 MR. FLANZ: Q So do you have an understanding 20 today that Kidde has accused First Alert's ten-year 21 smoke and carbon monoxide detectors of infringement? 22 A No, I do not know that. 23 Q And you didn't do any work on the ten-year 24 detectors other than the SA10YR product, is that right?
Page 79 1 A No. 2 Q Do you have a smoke or carbon monoxide detector 3 at home? 4 A Yes. 5 Q Do you know if it's Kidde or First Alert or BRK? 6 A I have Kidde CO detectors and I have Firex smoke 7 detectors. 8 Q And nothing from First Alert or BRK? 9 A No. 10 Q When you were at BRK, you mentioned that Kidde 11 never really came up, is that right? 12 A I don't recall, no. 13 Q And when you were working on designing the 14 products, did you ever look at competitor products at 15 all? 16 A Not the U.S. versions. There were a lot of 17 foreign models that would come in. 18 Q Just to make sure I understand, so while you 19 were at BRK, you would look at foreign competitor 20 products? 21 A Yes. EI was one of the ones that used to come 22 in a lot. Our salespeople used to come in and bring 23 those. 24 Q I see. And what was the reason for that?	Page 81 1 A For BRK, yes, that's right. 2 Q And that was just at the end of your tenure? 3 A Yes. 4 Q Do you have an approximate date around when you 5 started working on the SA10YR product? 6 A No, I do not. 7 Q Do you know if it was like -- Well, strike that. 8 You said you started working in '91? 9 A Yes. 10 Q And you stopped working in '94, right? 11 A Yes. 12 Q Do you know if it was '93 or '94? 13 A I couldn't really tell you. I don't know. 14 Q Do you know about how long the process took of 15 designing the SA10YR product? 16 A I don't recall that either, no. 17 Q Do you know who told you to start working on 18 that product? 19 A I don't recall, either. 20 Q Who was your boss while you were there? You 21 said you had a few. 22 A I had a few. Probably when that started would 23 have been either Tom McNellis or Mike Swieboda. 24 Q And one of them would have asked you to start

Page 82 1 working on the designs? 2 A Yes. 3 Q And their request -- what would their request 4 have been? 5 A Normally a marketing spec was developed and it 6 said this is what we were looking for and this is what 7 you have to start with, and we would go from there. 8 Q Okay. So I want to talk about the SA10YR 9 product a little bit more. 10 So you said that when you left BRK you were in 11 the middle of a six-month testing period so it couldn't 12 be sold yet, is that right? 13 A Per the UL requirement, yes. 14 Q Well, and BRK follows the UL requirements or at 15 least at that time did? 16 A Yes. 17 Q So that wasn't for sale until sometime after you 18 left, right? 19 A Yes, from my understanding. 20 Q Okay. And you said you also worked on at least 21 one prototype for the SA10YR product, is that right? 22 A I don't understand the question, one prototype? 23 Q You worked on at least one prototype? 24 A Yes.	Page 84 1 A Yes. 2 Q Do you remember making any mechanical 3 adjustments to the enclosures for the prototypes? 4 A That I don't recall. 5 Q As part of creating these products -- Strike 6 that. 7 As part of creating the SA10YR product, did you 8 create any documents? 9 A I don't recall. 10 Q Did you, like, write anything down? 11 A I would imagine so, but I don't recall. 12 Q Is it typical to write specs or, sorry, 13 specifications or any other technical documents when 14 you're creating products? 15 MR. WEED: Object to the form. 16 THE WITNESS: Typically, yes. 17 MR. FLANZ: Okay. And I'll just note, for the 18 record, that we haven't, we, Kidde, has not received any 19 documents produced by First Alert in advance of the 20 deposition that are specifications or technical 21 documents or otherwise related to this SA10YR product. 22 Q So I want to talk to you a little bit about the 23 SA10YR product to make sure I understand fully. 24 A Okay.
Page 83 1 Q Right. You were mentioning there were a variety 2 of different types of switches in that product? 3 A Yes. 4 Q And so you worked on prototypes for those? 5 A Yes. 6 Q Do you know about how many? 7 A No. These were all handmade. Most of them 8 never got past the first model. 9 Q Can you talk to me a little bit about that 10 process. What do you mean when you say handmade? 11 A The basic design was taken from a previous BRK 12 detector, and we just used that enclosure and modified 13 them by hand to see how they would work as far as 14 activating and deactivating. 15 Q I see. And when you say we, who does that 16 include? 17 A Calvin and myself. 18 Q Okay. So am I correct in saying that you took a 19 previous enclosure and maybe put the electronics into 20 it, the updated electronics? 21 A Yes. 22 Q Okay. And some of the electronics are what's 23 written in Exhibit 1, which is that patent we discussed, 24 right?	Page 85 1 Q So when the user purchases the product, there is 2 the mounting portion and then the portion that has all 3 of the electronics in it? 4 A Yes. 5 Q Okay. And in order to -- Well, let me back up 6 there. 7 MR. FLANZ: I'm going to introduce an exhibit. 8 We'll mark it as Exhibit 3. It's the document bearing 9 the Bates No. FA-BRK_883. 10 (Exhibit 3 marked as requested.) 11 MR. FLANZ: Q So you have Exhibit 3 in front of 12 you? 13 A Yes. 14 Q Okay. Do you recognize Exhibit 3? 15 A No, I do not. 16 Q Do you see -- if you turn the first page over, 17 it's upside-down, still looking on the first page. 18 A Okay. 19 Q You see on the right it says, "First Alert smoke 20 detector with ten-year nonreplaceable batteries." 21 Do you see that? 22 A Yes. 23 Q And underneath it says, "Ten-year battery 24 powered ionization smoke detector," right?

Page 86 1 A Yes. 2 Q "Product #SA10YR," right? 3 A Yes. 4 Q And then, "User's manual"? 5 A Yes. 6 Q Okay. So do you have any reason to doubt that 7 this is the user's manual for the product that we've 8 been discussing? 9 MR. WEED: Object to the form. 10 THE WITNESS: I do not know. I was not present when 11 this was made. 12 MR. FLANZ: Q Right. You don't have any reason to 13 doubt it, though? 14 A Right. 15 Q Let's go to the page, the other side, so it's 16 the page with Bates No. 884. Do you see that? 17 In your time at BRK did you ever look at a user 18 manual? 19 A Yes. 20 Q And they were generally written to be accurate, 21 right? 22 A Yes. 23 Q Okay. Do you remember if you were involved with 24 the user manual for the SA10YR?	Page 88 1 about the deactivation? 2 A Yes. 3 Q Okay. And in order to deactivate, you have to 4 remove a sticker and then you have to turn something 5 else to turn a slot, right? 6 A Yes. 7 Q And that's something that you do, you know, with 8 a coin or with a screwdriver, right? 9 A Yes. 10 Q And what that does turning it is it drains the 11 battery like we've been talking about all morning, 12 right? 13 A Yes. 14 Q And turning it breaks something inside, right? 15 A Yes. 16 Q Is there anything mechanical that would prevent 17 you from reattaching that into the mount? 18 A I believe that was part of the mounting bracket 19 that would prevent it from being mounted. 20 Q Can you describe that more? 21 A I don't immediately recall. Like I said, it's 22 been a long time. But I thought there was something in 23 the mounting bracket that prevented it from being 24 mounted when that piece was broken off.
Page 87 1 A I don't recall. 2 Q So we can come back to this if we need it, but I 3 just wanted to have it here while we're discussing the 4 operation of the product. 5 A Okay. 6 Q So the way that the SA10YR product worked is 7 when you receive it, it's not activated, right? 8 A Correct. 9 Q And in order to activate it, you need to put a 10 coin into a slot and turn it, right? 11 A Yes. 12 Q Okay. So the activation doesn't happen when I 13 mount it into the bracket? 14 A That's correct. 15 Q In fact, it has to happen before you mount -- a 16 user has to do it before you mount it, right? 17 A That's correct. 18 Q Okay. So would you agree with me that 19 activation is separate from mounting it in the bracket? 20 A Yes. 21 Q Okay. Now, near the bottom of the page we have 22 a section that says, Deactivate, do you see that? Here. 23 So it says, "After ten years or after the low battery 24 warning sounds for over one hour," and then it talks	Page 89 1 Q Okay. I guess we have a couple pictures on the 2 manual. Do you know about where that piece would be 3 that was broken that would prevent mounting? 4 MR. WEED: Objection, foundation. 5 THE WITNESS: Not from these drawings, no. 6 MR. FLANZ: Q Is there anything that would help 7 you identify the, you know, piece that prevents 8 mounting? 9 MR. WEED: Object to the form. 10 THE WITNESS: I do not know, no. 11 MR. FLANZ: Q Okay. And I understand it was a 12 long time ago, so I'll just ask generally, do you have 13 any more information about what the piece was that's 14 broken that prevents mounting, where it was located? 15 A No. 16 Q Do you know how it prevents mounting? 17 A I don't remember. I don't recall. 18 Q Okay. And to give you an idea, there are 19 various ways, you can have something stick out that 20 stops it from turning, you can have something so that it 21 no longer fits in the mount anymore. 22 You don't know if it's any of those? 23 A I don't recall, no. 24 Q Okay. Do you see anything in these instructions

Page 90 1 that talks about a reattachment prevention? 2 MR. WEED: Objection, foundation. 3 MR. FLANZ: And, Counsel, please keep your 4 objections to object to form as per the local rules. 5 THE WITNESS: No, I do not. 6 MR. FLANZ: Q Okay. Shot in the dark. Do you 7 know of the type of document that I would need to look 8 at to see this thing that would prevent reattachment? 9 MR. WEED: Object to the form. 10 THE WITNESS: I do not know. 11 MR. FLANZ: Q Okay. So we can put this aside now. 12 And maybe if you pick up Exhibit 1, which is the patent 13 that we've been talking about that names you. 14 A Okay. 15 Q And do you have that in front of you? 16 A Yes. 17 Q Okay. And so we talked earlier that this patent 18 basically covers the SA10YR product? 19 A Yes. 20 Q And if you look on the front page, for example, 21 you can see like three parts, right? 22 A Yes. 23 Q All right. So just making sure we're looking at 24 the same thing.	Page 92 1 turn a -- I'll back up. And apologies for the bad 2 question. 3 So we talked earlier about the activation 4 that's described in this patent, which is a screwdriver 5 or a coin turning a slot to activate the device, right? 6 MR. WEED: Object to the form. 7 THE WITNESS: Yes. 8 MR. FLANZ: Q And turning that slot with a 9 screwdriver or coin, that is separate from and distinct 10 from mounting it on the bracket, right? 11 MR. WEED: Object to the form. 12 THE WITNESS: Yes. 13 MR. FLANZ: Q Can you go to column 4, line 28 of 14 the patent. It might be 30. I'm looking at the 15 sentence that begins, "Thus, until the detector 10 has 16 been turned on." 17 Do you see that? 18 A Yes. 19 Q And I'll read it for the record. "Thus, until 20 the detector 10 has been turned on and the member 12a is 21 removed from the base 16, the base 16 cannot be mounted 22 to the surface mounted mounting flange 22." 23 Do you see that? 24 A Yes.
Page 91 1 Does UL 217, to your knowledge, have a 2 requirement about the number of parts that a ten-year 3 detector has to have? 4 MR. WEED: Object to form. 5 MS. SKULMAN: Object to form. 6 THE WITNESS: No. 7 MR. FLANZ: Q I didn't hear the answer. 8 A No. 9 Q Okay. And we talked a little bit about how to 10 activate and deactivate, et cetera, that was described 11 in the patent. 12 So the activation mechanism described in the 13 patent is just like what we had talked about before, 14 right? 15 A Yes. 16 Q You'd have to use some sort of screwdriver or 17 coin to turn a slot and that would activate? 18 MR. WEED: Object to the form. 19 THE WITNESS: Yes. 20 MR. FLANZ: Q And so that's not -- that's separate 21 from, not the same thing as mounting it, right? 22 MR. WEED: Object to the form. 23 THE WITNESS: I don't understand the question. 24 MR. FLANZ: Q So using a coin or a screwdriver to	Page 93 1 Q Is that statement accurate? 2 A Yes. 3 MR. WEED: Object to the form. 4 MR. FLANZ: Q Now, we talked before about the reed 5 switch, right? Maybe I'm saying that wrong. 6 A No, that's correct. 7 Q The reed switch was a permanent magnet, although 8 there is some question as to how permanent? 9 A Yes. 10 Q Just for a clean question, the reed switch was a 11 permanent magnet in part of the device that would match 12 up with another magnet and that could serve to activate 13 the device? 14 MR. WEED: Object to the form. 15 THE WITNESS: The magnet was in the mounting base, 16 and the reed switch would be in the detector. 17 MR. FLANZ: Q I see. And when you unscrew -- 18 Well, let me back up. 19 When you say detector, you mean the part with 20 all of the electronics? 21 A The alarm, yes. 22 Q Just want to make sure we're on the same page -- 23 A Yes. 24 Q So when you unscrew the alarm part from the

Page 94 1 mount, what happens with respect to the reed switch? 2 A The alarm would no longer be active. 3 Q Okay. And would it start draining the battery? 4 A No. 5 Q Okay. So you would have to do something else to 6 start draining the battery, right? 7 A Yes. 8 Q And that's like what we talked about earlier 9 with the SA10YR, which is you peel back a sticker and 10 you turn another slot, right? 11 A Yes. 12 Q Okay. With respect to the reed switch, did 13 unscrewing and taking out the electronics portion cause 14 that portion not to be able to be rescrewed back in? 15 A No. 16 Q So if I wanted, if I had the prototype that had 17 the reed switch in it, I could screw it in and unscrew 18 it, take it in and out as many times as I wanted? 19 A Yes. 20 Q And that would activate and deactivate, activate 21 and deactivate, right? 22 A Yes. 23 Q Was that typical in the time to have, you know, 24 smoke detectors that you could take in and out?	Page 96 1 A Well, the last two pages with all of the 2 technical information. 3 Q Other than the figures, you just reviewed -- 4 A Yeah. 5 Q Okay. And do you see anything in the figures 6 that would show you a reattachment prevention? 7 A No. 8 MR. FLANZ: Sorry to flip-flop on you. Earlier we 9 were discussing the product, and counsel for defendants 10 have graciously provided me with their example of the 11 product. So I guess we can mark this as an exhibit, 12 Exhibit No. 4. 13 And just for the record, this is a box 14 containing -- I think it's the original box containing 15 the SA10YR product. 16 (Exhibit 4 marked as requested.) 17 MR. FLANZ: Q Do you have -- Exhibit 5, is it -- 18 Exhibit 4 in front of you? 19 A Yes. 20 Q Okay. Can you take out the product? 21 A Do you want me to take it apart? 22 Q Yes. My question is going to be, can you 23 identify where there is a component that prevents 24 reattachment after deactivation?
Page 95 1 MR. WEED: Object to the form. 2 THE WITNESS: I don't recall. 3 MR. FLANZ: Q Okay. Before you said you hadn't 4 looked at this patent in a long time? 5 A Yes. 6 Q So you can take all the time you need, but I'll 7 ask this in stages. 8 So sitting here today, do you recall anything 9 in this patent that discusses a mechanism or a component 10 that would prevent you, prevent a user from reattaching 11 the alarm portion to the bracket after it had been 12 deactivated? 13 MR. WEED: Object to the form. 14 MR. FLANZ: And while he is reading that, Counsel, 15 do you guys have a copy or do you guys have an SA10YR 16 product with you? 17 MR. WEED: Right there. 18 MR. FLANZ: Could I use that? 19 MR. WEED: Yes. 20 THE WITNESS: I don't see anything, to be honest. 21 MR. FLANZ: Did the court reporter catch that? 22 THE COURT REPORTER: Yes. 23 MR. FLANZ: Q And just for the record, you just 24 reviewed the entire patent, right?	Page 97 1 A Let's see. That prevents it from being mounted. 2 I do not, no. 3 Q Okay. And just to be clear, you cannot identify 4 any component or mechanism that would prevent 5 reattachment after deactivation after inspecting the 6 product itself, right? 7 MR. WEED: Object to the form. 8 THE WITNESS: Yes. 9 MR. FLANZ: Q Does holding it in your hands or -- 10 Strike that. 11 So we've been talking about in the abstract the 12 SA10YR product for most of the deposition. But does 13 everything you said still sound true now that you're 14 holding it in your hands? 15 A As far as I remember, yes, that I recall, yes. 16 Q I just wanted to make sure nothing popped into 17 your head while you were holding it. 18 MS. SKULMAN: Was that a question? 19 MR. FLANZ: Q I just wasn't sure if there was 20 going to be a response. 21 A No, no. 22 Q Okay. So let's move along. 23 So you now work for UL, right? 24 A That's correct.

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Page 98 1 Q Can you generally tell me what your role is at 2 UL? 3 MS. SKULMAN: Object to form. 4 THE WITNESS: I'm a staff engineer in the smoke and 5 fire group. 6 MR. FLANZ: Q And are there particular products 7 that you deal with? 8 A Basically, all smoke, gas, heat detectors and 9 alarms. 10 Q And as part of your role, I assume you have to 11 work with UL 217? 12 A Yes. 13 Q In Exhibit 2, do you have Exhibit 2 with you? 14 A Yes. 15 Q On the front page on the very top on the right 16 it says Santa Clara, California. 17 Do you see that? 18 A Yes. 19 Q Does UL have any presence in Santa Clara? 20 MS. SKULMAN: Object to the form. 21 THE WITNESS: I don't know. 22 MR. FLANZ: Q You don't know? 23 A No. 24 Q Is UL solely located in Illinois, do you know?	Page 100 1 Q And let me know when you're there. 2 A Okay. 3 Q All right. So, for the record, we are in 4 Exhibit 5, and we're at the page which should bear the 5 Bates No. FA-BRK_28, and in the top left hand of the 6 page it says 22. 7 Do you see that? 8 A Yes. 9 Q And you see there is a section 15.1.6, right? 10 A Yes. 11 Q Okay. Are you familiar with that section? 12 A Yes. 13 Q Okay. And this is one of the requirements for 14 UL certification is that a ten-year detector has to meet 15 the requirements in 15.1.6? 16 MS. SKULMAN: Object to the form. 17 MR. FLANZ: Q Is that right? 18 A Yes. 19 Q Would you agree with me that 15.1.6 provides 20 companies with a general standard of what must be 21 accomplished but doesn't tell them exactly how to do it? 22 MR. WEED: Object to the form. 23 MS. SKULMAN: Object to the form. 24 THE WITNESS: Yes.
Page 99 1 A No. 2 Q There are locations around the U.S., is that 3 right? 4 A Yes. 5 MR. FLANZ: Okay. Let's introduce another exhibit 6 which this time will be Exhibit 5. And this is a copy 7 of UL 217 with the Bates number beginning FA-BRK_1, it's 8 cut off at the bottom I'm just realizing. I'll 9 represent to you that it's FA-BRK_1 is the Bates number. 10 (Exhibit 5 marked as requested.) 11 MR. FLANZ: Q Do you have that in front of you? 12 A Yes. 13 Q And you've seen UL 217 before? 14 A Yes. 15 Q Can you go to page 28. I appreciate it's a 16 little bit more difficult without the numbers. 17 MR. WEED: Bates stamp page 28? 18 MR. FLANZ: Bates stamp page 28 even though it's cut 19 off. 20 MS. SKULMAN: Can you tell us what page it is? 21 MR. WEED: I have no idea what that is. 22 I think it might be 22. 23 MR. FLANZ: 22 is the page at the top left. Thank 24 you, Counsel.	Page 101 1 MR. FLANZ: Q And it's up to the companies to 2 figure out how to implement that standard? 3 MR. WEED: Object to the form. 4 THE WITNESS: Yes. 5 MR. FLANZ: Q Does UL 217 provide schematics or 6 blueprints for companies to follow for how to comply 7 with 15.1.6? 8 A No. 9 Q And there is no listing of materials or 10 components or designs or anything else about how to 11 comply with 15.1.6? 12 A No. 13 Q In your professional career is it fair to say 14 that you've seen that there are lots of ways to 15 implement 15.1.6? 16 MR. WEED: Object to the form. 17 MS. SKULMAN: Object to the form. 18 THE WITNESS: I don't recall. 19 MR. FLANZ: Q Is there only one way to implement 20 15.1.6? 21 A I don't recall. 22 Q Does 15.1.6 have any statement in there about 23 how many pieces the smoke detector has to be? 24 MR. WEED: Object to the form.

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Page 102 1 THE WITNESS: No. 2 MR. FLANZ: Q You could have a three-piece smoke 3 detector that complies with 15.1.6, right? 4 MR. WEED: Object to the form. 5 THE WITNESS: Yes. 6 MR. FLANZ: Counsel, if you will just let me finish 7 my question. 8 MR. WEED: I just don't want to have him talk over 9 my -- I will try. 10 MS. SKULMAN: Pause if you can after he asks. 11 MR. FLANZ: Q Sitting here today -- Strike that. 12 As part of your current role at UL, do you have 13 to review products to see if they comply with 15.1.6? 14 MS. SKULMAN: Object to the form. 15 THE WITNESS: Yes. 16 MR. FLANZ: Q And do all of those products work 17 the same way with respect to 15.1.6? 18 A I don't understand the question. 19 Q Not all -- I'll just take a step back. 20 You have reviewed company -- or products from 21 more than one company that are compliant with 15.1.6, 22 right? 23 A For a long-term detector? Not really, no. You 24 indicated a lot. I haven't done a lot.	Page 104 1 Q Is it important to not infringe others' 2 intellectual property? 3 MR. WEED: Object to the form. 4 MS. SKULMAN: Object to the form. 5 THE WITNESS: Yes. 6 MR. FLANZ: I'm going to mark as Exhibit 6 one of 7 the accused products in this matter. This is the First 8 Alert PC 1210. So I'll mark that. 9 (Exhibit 6 marked as requested.) 10 MR. WEED: I'll just note for the record, there is 11 no box, there is no manual, there is no indication it 12 wasn't modified, but you can show him what you want. 13 MR. FLANZ: I'll represent, for the record, that I 14 took it out of the box so it would fit in my luggage and 15 I have not modified it. 16 Q Have you ever seen that product before? 17 A No. 18 Q Would you agree with me that there is two 19 portions to that product? 20 MR. WEED: Objection, foundation. 21 THE WITNESS: I don't quite understand the question. 22 MR. FLANZ: Q You have that product in your hands 23 right now, right? 24 A Yes.
Page 103 1 Q I see. More than one? 2 A Yes. 3 Q Okay. And do those more than one products or 4 more than one companies' products that you've reviewed 5 operate exactly the same? 6 A No. 7 Q We can put this aside. 8 A Okay. 9 Q Do you have a -- You worked for Firex, right? 10 A Yes. 11 Q And now you know of Kidde as a company, right? 12 A Yes. 13 Q Would you say that Kidde is an innovative 14 company? 15 MR. WEED: Object to the form. 16 THE WITNESS: Yes. 17 MR. FLANZ: Q Do you know what intellectual 18 property is? 19 A Yes. 20 Q And in your professional experience, is 21 intellectual property important? 22 A Yes. 23 Q Is it worth protecting, would you say? 24 A Yes.	Page 105 1 Q And so you can see that product, right? 2 A Yes. 3 Q Okay. Would you agree with me that there is two 4 portions of the product in your hand right now? 5 MR. WEED: Objection, form. 6 MS. SKULMAN: I'm going to also object to the form 7 and foundation. 8 THE WITNESS: Yes. 9 MR. FLANZ: Q One is the mounting bracket, right? 10 A Yes. 11 Q And the other is the part that seems to have all 12 of the sensors and electronics in it, right? 13 A Yes. 14 Q And it looks like there are, you know, features 15 on the portions that work together so that you can screw 16 the electronics portion into the mounting portion, 17 right? 18 MR. WEED: Objection, form. 19 THE WITNESS: Yes. 20 MR. FLANZ: Q And this is -- you've done work in 21 this field before, right? You were part of designing 22 the SA10YR? 23 MR. WEED: Object to the form. 24 THE WITNESS: Yes.

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Page 106 1 MR. FLANZ: Q So you have experience with smoke 2 detectors, right? 3 A Yes. 4 Q Including ten-year smoke detectors, right? 5 A Yes. 6 Q Okay. And you see there that there is a switch 7 and activate -- do you see the switch on the electronics 8 portion? 9 MR. WEED: Objection, form. 10 THE WITNESS: I see where it says deactivate. I 11 don't see where it says activate above it. 12 MR. FLANZ: Q What was that? 13 A I see where it says deactivate. I don't see 14 where it says activate. 15 Q Right. You see that switch, though? 16 A Yes. 17 Q Okay. And you see that at the bottom there 18 there is a little tab that can be broken off, right? 19 A Yes. 20 Q And so you see that there is two positions that 21 are available, and then if you break off the tab, there 22 is a third position, right? 23 A Okay. 24 MR. WEED: Object to the form.	Page 108 1 A Yes. 2 Q Okay. Did you ever work with him in a 3 professional capacity after your work at Firex? 4 A When he went to Kidde, he came to UL, but I 5 didn't directly work with him. 6 Q Okay. And you never worked with him prior to 7 Firex, right? 8 A No. 9 Q Did you discuss with him his move from Kidde to 10 First Alert? 11 MR. WEED: Object to the form. 12 THE WITNESS: I don't recall. 13 MR. FLANZ: Q Did you know that he moved from 14 Kidde to First Alert? 15 A Yes. 16 Q Do you know any of the circumstances around 17 that? 18 MR. WEED: Object to the form. 19 THE WITNESS: No, I do not. 20 MR. FLANZ: Q Do you know what he worked on while 21 he was at First Alert? 22 A No. 23 Q Do you know what he worked on while he was at 24 Kidde?
Page 107 1 THE WITNESS: Yes. 2 MR. FLANZ: Q Okay. And if you were to take that 3 electronics portion and put it onto the mount portion 4 and connect it, can you do that? 5 A Where is the alignment post? 6 Q And now you can take it off. All right. Is it 7 in the activate position? 8 MR. WEED: Objection, foundation. 9 THE WITNESS: Yes. 10 MR. FLANZ: Okay. Let's go off the record. 11 THE VIDEOGRAPHER: We'll go off the record. The 12 time is 11:48 a.m. This is the end of media unit two. 13 (a brief recess was taken) 14 THE VIDEOGRAPHER: We're back on the record at 15 a.m. This is media unit three. 16 MR. FLANZ: Q All right. Welcome back from the 17 break, Mr. Kondziolka. I do have a few more questions. 18 A Okay. 19 Q But, hopefully, we should be finishing up pretty 20 soon. 21 You mentioned earlier in the deposition that 22 you know of Mr. Joseph DeLuca? 23 A Yes. 24 Q And that you worked with him at Firex?	Page 109 1 A He was the engineering manager I thought, so I 2 don't know exactly what he worked on, no. 3 Q I'd like to talk a little bit more also -- Well, 4 back up. 5 So in your capacity at UL, do you ever see 6 products from Kidde? 7 MS. SKULMAN: Objection to the form. 8 THE WITNESS: Yes. 9 MR. FLANZ: Q Do you ever see products from First 10 Alert or BRK? 11 A No. 12 Q Do you know why that is? 13 MS. SKULMAN: Objection to the form. 14 THE WITNESS: No. 15 MR. FLANZ: Q Do you know if BRK or First Alert 16 get their products certified by UL? 17 A No. 18 Q No, you don't know or, no, they do not? 19 A They do not. 20 Q They do not. Okay. 21 Do you know who they get certified by? 22 A I believe ETL. 23 Q What's ETL? 24 A It's Intertek, it's UL's competitor.

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Page 110 1 Q I see. Do you know what ETL stands for? 2 A I forgot off the top of my head. 3 Q But ETL is equivalent to Intertek? 4 A Yes. 5 Q You mentioned before a meeting that you had 6 while you were at BRK and it was with UL. 7 Do you recall that meeting? 8 A Yes. 9 Q And you said that that was, you know, before you 10 left BRK, obviously, but shortly before you left, right? 11 A Yes. 12 Q And that meeting concerned creation of UL 13 standards relating to ten-year products was your 14 recollection, right? 15 MS. SKULMAN: Object to the form. 16 THE WITNESS: It was discussing using ten-year 17 batteries in the smoke alarms. 18 MR. FLANZ: Q I see. So what's the distinction 19 between what you said and how I said it? 20 A I thought you said something about creating 21 standards. 22 Q Okay. So there was no discussion of creating a 23 standard for UL during that meeting? 24 A I don't recall, no.	Page 112 1 is that right? 2 A Yes. 3 Q Okay. And you hadn't seen that in -- seen that 4 from others before, is that right? 5 A No. 6 Q Would you -- Strike that. 7 MR. FLANZ: With that I'll pass the witness. 8 MS. SKULMAN: Done? 9 MR. WEED: I have just two points to follow up if 10 you don't mind. 11 FURTHER EXAMINATION 12 by Mr. Weed: 13 Q Do you have Exhibit 1 in front of you, the 14 patent? 15 A Yes. 16 Q Okay. If you're looking at the abstract on the 17 front page, do you see it on the right side there? 18 A Yes. 19 Q You talked with Mr. Flanz about disclosures of 20 structures that prevented mounting. 21 Do you remember that? 22 A Yes. 23 Q Would you read the last sentence of the abstract 24 into the record for me, please.
Page 111 1 Q Okay. Do you know why there was such a long 2 gap, you know, '94 until the 2000s between that meeting 3 and standards for governing ten-year products? 4 MR. WEED: Objection, foundation. 5 MS. SKULMAN: Objection to the form. 6 THE WITNESS: No. 7 MR. FLANZ: Q Do you remember if UL standards, a 8 ten-year UL standard came up during the meeting that 9 we've been talking about? 10 A I don't recall. 11 Q Anything else you recall about that meeting that 12 we haven't discussed today? 13 A No, I don't think so. 14 Q I guess the last thing that we haven't really 15 talked about is if you look at Exhibit 1, which is the 16 patent that you're a named inventor on, what would you 17 say is the invention? 18 MR. WEED: Object to the form. 19 MR. FLANZ: Q Like what was the innovative or 20 inventive aspect in the patent? 21 MR. WEED: Object to the form. 22 THE WITNESS: Nonreplaceable battery, maintenance 23 free. 24 MR. FLANZ: Q So the fact that it was sealed in,	Page 113 1 A "Until the detector has been energized, the 2 frangible member blocks mounting of the detector on the 3 surface." 4 Q So you would agree with me that there is 5 discussion in the '996 patent about a member that blocks 6 mounting of a detector when it's not activated, right? 7 MR. FLANZ: Object to form. 8 THE WITNESS: Yes. 9 MR. WEED: Q Okay. And then during some questions 10 that Mr. Flanz asked you about, you mentioned a company 11 called EI. 12 Do you remember that? 13 A Yes. 14 Q What is EI? 15 A They're a company in Ireland. 16 Q Okay. And maybe this was part of your 17 discussion with him, but do you recall when you first 18 became aware of EI? 19 A When I was at BRK. 20 Q Okay. How did you become aware of EI? 21 A They started developing smoke alarms with 22 rechargeable batteries. 23 Q Did you ever look at EI products to understand 24 the smoke alarm market at that time?

Page 114 1 A Just the rechargeable battery part of it. 2 Q Okay. Did you know any people who worked at EI? 3 A Not when I was at BRK. 4 Q Do you know any people who work at EI since your 5 time at BRK? 6 A No. 7 MR. WEED: Okay. I have nothing further. 8 MR. FLANZ: I'll have one follow-up. 9 MS. SKULMAN: Okay. 10 FURTHER EXAMINATION 11 by Mr. Flanz: 12 Q So we just looked at Exhibit 1, we looked at the 13 last sentence of the abstract, right? 14 A Yes. 15 Q And Mr. Weed read it to us, and it talks about 16 until the detector has been energized, do you see that? 17 A Yes. 18 Q Okay. So that is until it's been activated, 19 right? 20 A Correct. 21 Q All right. So this doesn't talk about 22 preventing reattachment after deactivation, right? 23 A Correct. 24 MR. FLANZ: Pass the witness.	Page 116 1 STATE OF ILLINOIS)) ss: 2 COUNTY OF COOK) 3 4 The within and foregoing deposition of the 5 aforementioned witness was taken before TRACY L. 6 BLASZAK, CSR, CRR, and Notary Public, at the place, date 7 and time aforementioned. 8 There were present during the taking of the 9 deposition the previously named counsel. 10 The said witness was first duly sworn and was 11 then examined upon oral interrogatories; the questions 12 and answers were taken down in shorthand by the 13 undersigned, acting as stenographer and Notary Public; 14 and the within and foregoing is a true, accurate and 15 complete record of all of the questions asked of and 16 answers made by the aforementioned witness, at the time 17 and place hereinabove referred to. 18 The signature of the witness was not waived, 19 and the deposition was submitted, pursuant to 20 Rules 30(e) and 32(d) of the Rules of Civil Procedure 21 for the United States District Court, to the deponent 22 per copy of the attached letter. 23 The undersigned is not interested in the within 24 case, nor of kin or counsel to any of the parties.
Page 115 1 MR. WEED: Nothing further. 2 MS. SKULMAN: No. 3 THE VIDEOGRAPHER: Okay. We're going off the record 4 at 12:05 p.m., and this concludes today's testimony 5 given by Thomas Kondziolka. The total number of media 6 units used was three and will be retained by Veritext 7 Legal Solutions. 8 ----- 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	Page 117 1 Witness my official signature and seal as 2 Notary Public in and for Cook County, Illinois, on this 3 26th day of May, A.D. 2023. 4 5 6 7 8  9 TRACY L. BLASZAK, CSR, CRR 10 CSR No. 084-002978 11 One North Franklin Street 12 Suite 3000 13 Chicago, Illinois 60606 14 Phone: (312) 442-9087 15 16 17 18 19 20 21 22 23 24

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Page 118 1 Veritext Legal Solutions 1100 Superior Ave 2 Suite 1820 Cleveland, Ohio 44114 3 Phone: 216-523-1313 4 5 May 26, 2023 6 7 To: SARA SKULMAN 8 9 Case Name: Walter Kidde Portable Equipment Inc. v. First Alert, Inc., et al. 10 Veritext Reference Number: 5907216 11 Witness: Thomas Kondziolka Deposition Date: 5/10/2023 12 13 Dear Sir/Madam: 14 15 Enclosed please find a deposition transcript. Please have the witness 16 review the transcript and note any changes or corrections on the 17 included errata sheet, indicating the page, line number, change, and 18 the reason for the change. Have the witness' signature notarized and 19 forward the completed page(s) back to us at the Production address 20 shown 21 above, or email to production-midwest@veritext.com. 22 23 If the errata is not returned within thirty days of your receipt of 24 this letter, the reading and signing will be deemed waived. 25 26 Sincerely, 27 28 Production Department 29 30 NO NOTARY REQUIRED IN CA	Page 120 1 DEPOSITION REVIEW CERTIFICATION OF WITNESS 2 3 ASSIGNMENT REFERENCE NO: 5907216 CASE NAME: Walter Kidde Portable Equipment Inc. v. First Alert, Inc., et al. 4 DATE OF DEPOSITION: 5/10/2023 WITNESS' NAME: Thomas Kondziolka 5 In accordance with the Rules of Civil Procedure, I have read the entire transcript of 6 my testimony or it has been read to me. 7 I have listed my changes on the attached Errata Sheet, listing page and line numbers as 8 well as the reason(s) for the change(s). 9 I request that these changes be entered as part of the record of my testimony. 10 11 I have executed the Errata Sheet, as well as this Certificate, and request and authorize 12 that both be appended to the transcript of my testimony and be incorporated therein. 13 14 Date _____ Thomas Kondziolka 15 16 Sworn to and subscribed before me, a Notary Public in and for the State and County, the referenced witness did personally appear 17 and acknowledge that: 18 They have read the transcript; They have listed all of their corrections 19 in the appended Errata Sheet; They signed the foregoing Sworn Statement; and 20 Their execution of this Statement is of their free act and deed. 21 I have affixed my name and official seal 22 this _____ day of _____, 20____. 23 24 Notary Public 25 Commission Expiration Date _____
Page 119 1 DEPOSITION REVIEW CERTIFICATION OF WITNESS 2 3 ASSIGNMENT REFERENCE NO: 5907216 CASE NAME: Walter Kidde Portable Equipment Inc. v. First Alert, Inc., et al. 4 DATE OF DEPOSITION: 5/10/2023 WITNESS' NAME: Thomas Kondziolka 5 In accordance with the Rules of Civil Procedure, I have read the entire transcript of 6 my testimony or it has been read to me. 7 I have made no changes to the testimony as transcribed by the court reporter. 8 9 Date _____ Thomas Kondziolka 10 Sworn to and subscribed before me, a Notary Public in and for the State and County, 11 the referenced witness did personally appear and acknowledge that: 12 13 They have read the transcript; They signed the foregoing Sworn Statement; and 14 Their execution of this Statement is of their free act and deed. 15 16 I have affixed my name and official seal 17 this _____ day of _____, 20____. 18 19 Notary Public 20 21 Commission Expiration Date _____ 22 23 24 25	Page 121 1 ERRATA SHEET VERITEXT LEGAL SOLUTIONS MIDWEST 2 ASSIGNMENT NO: 5907216 3 PAGE/LINE(S) / CHANGE /REASON 4 _____ 5 _____ 6 _____ 7 _____ 8 _____ 9 _____ 10 _____ 11 _____ 12 _____ 13 _____ 14 _____ 15 _____ 16 _____ 17 _____ 18 _____ 19 _____ 20 Date _____ Thomas Kondziolka 21 SUBSCRIBED AND SWORN TO BEFORE ME THIS _____ 22 DAY OF _____, 20____ . 23 24 Notary Public 25 Commission Expiration Date _____

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Federal Rules of Civil Procedure

Rule 30

(e) Review By the Witness; Changes.

(1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and

(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) Changes Indicated in the Officer's Certificate. The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

DISCLAIMER: THE FOREGOING FEDERAL PROCEDURE RULES ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY.

THE ABOVE RULES ARE CURRENT AS OF APRIL 1, 2019. PLEASE REFER TO THE APPLICABLE FEDERAL RULES OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

VERITEXT LEGAL SOLUTIONS
COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

Veritext Legal Solutions is committed to maintaining the confidentiality of client and witness information, in accordance with the regulations promulgated under the Health Insurance Portability and Accountability Act (HIPAA), as amended with respect to protected health information and the Gramm-Leach-Bliley Act, as amended, with respect to Personally Identifiable Information (PII). Physical transcripts and exhibits are managed under strict facility and personnel access controls. Electronic files of documents are stored in encrypted form and are transmitted in an encrypted fashion to authenticated parties who are permitted to access the material. Our data is hosted in a Tier 4 SSAE 16 certified facility.

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