

UNITED STATES DISTRICT COURT

MIDDLE DISTRICT OF FLORIDA

ORLANDO DIVISION

OMEGA PATENTS, LLC, )

Plaintiff, )

v. )

CALAMP CORP. )

Defendants. )

Case Number  
6:13-CV-1950

WEDNESDAY, FEBRUARY 17, 2016, 9:05 A.M.  
CIVIL JURY TRIAL - VOLUME II (DAY 2)  
BEFORE THE HONORABLE PAUL G. BYRON, AND A JURY  
UNITED STATES DISTRICT JUDGE  
ORLANDO, FLORIDA

COUNSEL FOR PLAINTIFF:  
Brian Gilchrist, Esq.  
Ryan Santurri, Esq.

COUNSEL FOR DEFENDANT:  
Joel Kauth, Esq.  
Eugene Chong, Esq.  
Carrie Wozniak, Esq.  
Charles Halloran, Esq.

\*Proceedings recorded by mechanical stenography  
Transcript produced by computer transcription\*

Exhibit  
0003

|    |                                              |
|----|----------------------------------------------|
| 1  | I N D E X                                    |
| 2  |                                              |
| 3  | KENNETH FLICK:                               |
| 4  | Direct examination.....7                     |
| 5  | Cross examination.....86                     |
| 6  | Redirect examination.....136                 |
| 7  |                                              |
| 8  | Video deposition of Gallen Chen.....138      |
| 9  | [played]                                     |
| 10 | Video deposition of Peter Hergesheimer...145 |
| 11 | [played]                                     |
| 12 |                                              |
| 13 |                                              |
| 14 |                                              |
| 15 |                                              |
| 16 |                                              |
| 17 |                                              |
| 18 |                                              |
| 19 |                                              |
| 20 |                                              |
| 21 |                                              |
| 22 |                                              |
| 23 |                                              |
| 24 |                                              |
| 25 |                                              |

1 P R O C E E D I N G S

2 (Jury not present.)

3 DEPUTY CLERK: Omega Patents, LLC versus  
4 CalAmp Corp, defendants, case number  
5 6:13-CV-1950-Orlando-40DAB.

6 Appearances, please, for the plaintiff.

7 MR. GILCHRIST: Brian Gilchrist and Ryan  
8 Santurri on behalf of plaintiffs.

9 THE COURT: Good morning.

10 MR. KAUTH: Good morning, Your Honor.

11 Joel Kauth, Eugene Chong, Carrie Ann Wozniak,  
12 and Charles Halloran for the defendants.

13 THE COURT: Good morning.

14 MR. CHONG: Good morning, Your Honor.

15 THE COURT: All right, counsel. Let me tell  
16 you the status of our jury. Ms. Armbruster, who is  
17 juror number 2 seated -- as we all know seated up in the  
18 top right-hand corner contacted the jury coordinator  
19 this morning -- I'm just looking at the e-mail --  
20 stating that she has been up since 4:00 a.m. and is not  
21 feeling well. She's waiting to contact her surgeon for  
22 his availability and is not well enough to come in this  
23 morning.

24 Obvious from yesterday, as we all saw, that  
25 she was in very severe distress. She was actually in

1     tears when she left, after passing the note up. I give  
2     her great credit for being willing to tell us in jury  
3     selection that she could push through, but it's obvious  
4     that's not possible in light of the oral surgery she  
5     had. So it's my intention to excuse her.

6             Is there any objection by either side?

7             MR. GILCHRIST: None from the plaintiff.

8             MR. KAUTH: No objection, Your Honor.

9             THE COURT: All right. Then, we'll continue  
10     on with the seven jurors that we have remaining. It was  
11     a good call, counsel, to have eight. And we will get  
12     them in, and we will start with your first witness.  
13     Are there any matters to take up before we do that?

14             MR. GILCHRIST: No, Your Honor. I plan on  
15     moving for admission of a number of exhibits, but I'd  
16     like to do that in front of the jury.

17             THE COURT: All right. And the joint  
18     exhibits, we can all stipulate to admission if you  
19     prefer. That way, you don't have to go through the  
20     process. We can do that in front of the jury as well.

21             I also had my law clerk, Ms. Nauman, give you  
22     instruction 2.1, the claim construction for the case  
23     just so you will have in front of you the instruction  
24     that I will be reading at the appropriate time.

25             All right. Let's have the jury, please.

1           THE COURT: The exhibits that the plaintiff  
2 intends to move into evidence when the jury enters, will  
3 there be objection to any of these or are these  
4 unopposed?

5           MR. KAUTH: These are unopposed, Your Honor.

6           (Jury present.)

7           THE COURT: The record should reflect the jury  
8 is present, and the parties are present as well.

9           Good morning, ladies and gentlemen.

10          THE JURY: Good morning.

11          THE COURT: As you will see, Ms. Armbruster is  
12 no longer with us. She will not be participating in the  
13 remainder of the trial. She just was not feeling well  
14 enough to carry on. We all agreed that she was  
15 remarkably stoic in saying to us during jury selection  
16 that she could manage her discomfort, but obviously it  
17 was too severe so we've excused her from further  
18 participation in the case.

19          Now that we're back for the first time, I'm  
20 going to be asking you this question each morning when  
21 we reconvene. Have any of you discussed the case with  
22 anyone else or amongst yourselves or conducted any  
23 independent research? If you have, please raise your  
24 hand. There are no affirmative responses. Then, we're  
25 ready to go. All right, counsel.

1 MR. GILCHRIST: Our first witness will be  
2 Mr. Ken Flick.

3 THE COURT: All right.

4 DEPUTY CLERK: Sir, if you would please step  
5 to the witness box and remain standing. If you would  
6 please raise your right hand. Do you solemnly swear,  
7 under penalty of perjury, to tell the truth, the whole  
8 truth, and nothing but the truth, so help you God?

9 THE WITNESS: Yes, I do.

10 DEPUTY CLERK: Please take a seat. Please  
11 state your name for the record, spelling your last name.

12 THE WITNESS: Kenneth Flick, F-l-i-c-k.

13 DEPUTY CLERK: Thank you.

14 MR. GILCHRIST: And, Your Honor, before I move  
15 into testimony, I'd like to move for admission of the  
16 following exhibits: Joint Exhibit 1, Joint Exhibit 3,  
17 4, 5 and 6. Joint Exhibit 8, 9, 10, 11, 12, 13, and 14.

18 THE COURT: All right. Is there any objection  
19 to the admission of the exhibits just identified by  
20 counsel?

21 MR. KAUTH: No objection, Your Honor.

22 THE COURT: Those exhibits are admitted.

23 MR. GILCHRIST: And I have the following  
24 plaintiff's exhibits. Plaintiff's Exhibits 1 through 6,  
25 8 through 12, 15 through 23, 38, 47, 49, 59 and 60, 62

1 through 66, 73, 88, 90, 99, 100, 104, 105 and 106, 156,  
2 159, 160, and 161.

3 THE COURT: All right. Any objection to the  
4 admission of these exhibits?

5 MR. KAUTH: No objection, Your Honor.

6 THE COURT: They are admitted.

7 All right. When you're ready, sir, you may  
8 proceed.

9 KENNETH FLICK, PLAINTIFF, SWORN

10 DIRECT EXAMINATION

11 BY MR. GILCHRIST:

12 Q Mr. Flick, by whom are you employed?

13 A Omega Patents.

14 Q Are you the president of Omega Patents?

15 A Yes, I am.

16 Q What is the business of Omega Patents?

17 A It started off with being the owner of the patents  
18 that I came up with, the inventions that I did, and to  
19 license them to the other company that I had.

20 Q In we have in today's proceeding four patents at  
21 issue. Are you familiar with those patents?

22 A Yes, I am.

23 Q Are you the inventor of those patents?

24 A Yes, I am.

25 Q Have you assigned them to Omega Patents, LLC?

1 A Yes, I have.

2 Q Can you explain to the Court -- well, what's the  
3 general nature of those patents?

4 A It's related to the vehicle's bus work.

5 Q And can you explain to the jury how you got involved  
6 in vehicle accessories?

7 A Vehicle accessories started back when I was a kid,  
8 still am, but started when I was a kid, approximately 20  
9 years old and I worked at a grocery store. Somebody  
10 broke into my car while I was in the store. And my car,  
11 I felt was my life to a certain degree. I tore that car  
12 apart, put new gauges in the car, redesigning the dash,  
13 the instrument panels, putting in consoles inside the  
14 car that didn't exist. I mean, I customized the inside  
15 of my car very well. And for somebody to break into the  
16 car and start ripping out wires underneath the dash to  
17 get to my eight-track tape deck really ticked me off.  
18 They never got the deck out, but they really did a lot  
19 of damage to my car.

20 Q Now, you said you spent a lot of time customizing.  
21 Were you in college at the time?

22 A No.

23 Q Did you ever go to college?

24 A No, I did not.

25 Q What's the highest level of education you have?

1 A Senior high school.

2 Q How did you do in high school?

3 A I think up to sixth grade, I made nothing but Ds and  
4 Fs. And then, above that started getting some Ds and Cs  
5 and barely passing each one of the years. In fact, in  
6 the elementary school, I actually flunked, and my dad  
7 stuck me into summer schools. And if you took summer  
8 school classes then you automatically passed, 'cause I  
9 have a brother one year behind me and my dad didn't want  
10 me to be in the same grade as him and it just would be  
11 not a good thing. So that's why my dad was pushing me,  
12 you know, forward.

13 Q Did you have any other type of training?

14 A Um --

15 Q A trade school?

16 A When I was in senior high -- my dad is an aircraft  
17 pilot, and he also was a licensed mechanic. So my dad,  
18 I guess, in his dreams -- 'cause I was the oldest child  
19 -- wanted me to go that route. He knew I had problems,  
20 learning disorders, and I couldn't read and write.  
21 Spelling, all of that was just disaster, but I was  
22 really good with my hands. Everything I did with my  
23 hands, I did really good. So he got me into the  
24 aviation school, George T. Baker Aviation School in  
25 Miami, Florida and which from that school I was able to

1 learn drafting, electronics, and you're actually working  
2 on airplanes from that school. And then, I was making  
3 straight A's.

4 Q Straight A's in the trade school?

5 A Yes.

6 Q All right. Bring you back to that car break-in.  
7 What did you do in response?

8 A I went to an electronics store and bought a siren,  
9 some relays, an electrical lock switch that you put a  
10 key in it and turn it back and forth and wired it all up  
11 with the relay so that if you opened up the door the  
12 alarm came on and I wired the relay so that the alarm  
13 would stay running until your car battery went dead.  
14 So that had happened a couple of times, somebody tried  
15 breaking into the car. And as soon as they opened the  
16 door the alarm came on, they took off. But then the  
17 alarm runs until the battery goes dead and I'm inside  
18 the store and nobody would come in and say, hey, there's  
19 somebody with an alarm going.

20 Q Was this a kit that you bought?

21 A No. I bought pieces and stuck it all together.

22 Q How did you know how to do that?

23 A From going to the trade school.

24 Q Did you show your alarm to your friends?

25 A Yeah. My friends, they liked what I did, except for

1 the battery going dead. So I knew from trade school  
2 different metals bent differently when you put power  
3 through it or heat up and then it would warp. So what I  
4 had done for the system, I took two pieces of metal and  
5 bent them so that they had a little bit of pressure.  
6 You had to really play with it a lot to get the right  
7 pressure on it and the 12 volts going to the siren draw  
8 quite a bit of -- a lot of power.

9 So these metals would heat up. And as they heated  
10 up, they warped. And as soon as they warped they came  
11 apart and there was no more 12 volts going to the siren  
12 so it would shut down. And then, as it would cool off  
13 they'd retouch again and it would just reset my alarm  
14 system, but it wasn't running. So that was my first  
15 time of ever doing a timer which was, you know, you  
16 don't know if it's going to run for 60 seconds or one  
17 minute, two minutes, three minutes until it finally bent  
18 enough to where it separated.

19 Q Did you begin to install car alarms for others?

20 A Yes. My friends had me stick it in their car. Of  
21 course, they're concerned with the key lock being in the  
22 side of the car and everybody seeing it and that can,  
23 like, devalue your car. And my car, I had a chrome  
24 strip that ran across it. So in mine, I rotted out with  
25 a grinder the exact size of the hole that I need to

1 stick the lock through right where the metal was, the  
2 chrome trim on the side. So that way you couldn't see  
3 it. So the first one I did for my friend -- he had a  
4 Ford, and the Ford logo was on the side of the rear  
5 panel. And which I told him I would take out the "O" of  
6 Ford and stick my lock right in where that was at so  
7 when the key wasn't in it, it still looked like a Ford,  
8 and you could work it from there.

9 So that was my first one, and he liked what I had  
10 done. Then, it evolved to the manager at the store.  
11 I put a system in his car. There were other employees  
12 that I had done. And when they brought their cars in  
13 for being serviced at the car dealerships, my friends  
14 would brag about the alarm that was in the car and then  
15 the car dealerships got ahold of me to try and say, hey,  
16 can you put in the alarms for us when people were buying  
17 a car and they wanted one.

18 Q And did that turn into a business for you?

19 A Yes. I bought a generator and stuck it in the back  
20 of my car so I could just go out right to people's  
21 places and/or to the dealership, pull up my car and turn  
22 on the generator and I could work the drill, the  
23 grinder, soldering iron, everything right from the car.

24 Q What was the name of that business?

25 A Originally it was called -- Auto Boat Alarm is what

1 we called the alarms.

2 Q Did you also do boat alarms?

3 A You know, we had people wanting me to do the boats,  
4 but it was very hard to do because of the boat moving up  
5 and down, so I was able to find pressure pads so you  
6 could stick a pressure pad inside of the boat. If  
7 somebody stepped on it, then it made a contact so that  
8 would trip the alarm. And then, also took the rope or  
9 the chain that attached the boat to the dock, and then I  
10 ran wires through it and then back, made a loop, so it  
11 was constantly drawing power. And being as you were on  
12 the dock, I could use a transformer or power from the  
13 street so it never went dead on a battery. And if that  
14 loop got broken then it would trip the alarm system.  
15 So if anybody tried just disconnecting the boat,  
16 immediately the alarm would come on.

17 Q Did that expand to any other electronics in the  
18 field?

19 A As I was doing everything portable out of my car,  
20 people would always say, well, if I got a problem how do  
21 I get ahold of you. Well, you've got to get ahold of me  
22 at my parents' house 'cause that's where I was living at  
23 that exact moment. And they were all referring to you  
24 really need a store, and the car dealerships would  
25 prefer me have a storefront. So I did open up a

1 storefront. And with a storefront, I needed more than  
2 just the alarms. It really wasn't a lot of business  
3 back in 1970, '71 to keep me alive. So I was looking  
4 into and did bring in eight-track tape decks and then,  
5 like, four years later bringing in CB radios, and I did  
6 all the installations of all of that. And I didn't have  
7 anybody working for me. It was just me.

8 Q Where was the storefront?

9 A This was all in Miami, Florida. Started off in one  
10 small storefront and then moved into a shopping mall.

11 Q And how much time did you spend at the store?

12 A Twenty-four hours a day, 'cause I lived in the back.  
13 As soon as I opened up the store and I brought in all  
14 the other stuff, I was 19 years old. And at that time,  
15 you had to be 21 years old to be responsible or my dad  
16 was responsible for me up to the age of 21. So if I  
17 didn't pay somebody or whatever, my dad felt like he was  
18 going to get in trouble.

19 So my dad basically took me to court -- did take me  
20 to court, but we settled with the attorney that we had  
21 to where they made me of legal age. They had documents  
22 done up and given them over to friends, relatives,  
23 whatever, to say that I was of sound mind and that I  
24 would be on my own. So I had a legal document that  
25 everything I was buying and selling was my

1 responsibility, not my dad's.

2 But in doing that, then my dad turned around and  
3 said, well, being as you're going to be responsible for  
4 yourself, you can start paying room and board. And  
5 there was no way I could afford to pay the room and  
6 board at home when I had the store. So I just moved  
7 out, and I just started living in the back of the store.

8 Q How long did you live in the store?

9 A Approximately four years. And it was two different  
10 stores when I moved from one to another.

11 Q Did the name eventually change from Auto Boat  
12 Alarms?

13 A Well, Auto Boat Alarm -- as the stuff for  
14 eight-track tape decks and CB radios were selling better  
15 than what the car alarms were -- the car alarms kind of  
16 died down a little bit. For a period of time, I wasn't  
17 doing a lot. It was mostly the eight-track tape decks,  
18 CB radios, and doing all the installs of it. As soon as  
19 it started slowing down and then the alarms started  
20 getting popular again, I started putting all this stuff  
21 back together again. And the original name I was stuck  
22 on was K9 Car Alarms. And then eventually it evolved  
23 into Excalibur Car Alarms.

24 Q We heard in some of the opening statements about a  
25 company called Omega Research & Development. Are you

1 familiar with that?

2 A Yes.

3 Q What is that?

4 A As I was doing so much in the CB radios and the  
5 eight tracks and the car alarms, I ended up selling  
6 wholesale to other stores that were 25, 50 miles away  
7 from me. And that business was getting pretty good  
8 where I was spending more time with that. During this  
9 time, I had gotten married in 1974.

10 So my wife turned around and I had her -- she worked  
11 for me. That's how I met her. She was working for me.  
12 And so she stayed running the store while I just started  
13 doing all this wholesale business. And the accountant  
14 that I had at the time said, you know, you've got this  
15 separate business. You really ought to separate it with  
16 a separate company. So then we opened it up as Omega  
17 Research & Development.

18 Q Did you eventually move into the wholesale business?

19 A Yes. I moved into the wholesale business.

20 Q And did you move the facility?

21 A Eventually from Miami doing all three items, CB  
22 radios, eight-track tape decks, and the car alarms, my  
23 heart was really in the car alarms. And I told my wife  
24 that to really distribute good all around the United  
25 States, moving to Atlanta was my best bet. And so, my

1 wife agreed that I could give up the store. I gave up  
2 the distribution of the radios and the CB radios and  
3 that I was going to focus more on building the car  
4 alarms and selling those nationwide.

5 Q Did you continue to design and innovate in the  
6 electronics field?

7 A That's pretty much all I was doing, 'cause  
8 everything was me.

9 Q How did Omega R & D stay competitive in this field?

10 A Well, in the beginning, I really didn't have any  
11 competitors to amount to anything. It was me and there  
12 wasn't stuff out there already to amount to a lot, as  
13 far as a car alarm goes. But over the years of me doing  
14 my development and building my own stuff, when I also  
15 moved to Atlanta I had met some people over in Taiwan,  
16 and they said that they would build all this stuff for  
17 me. So in Taiwan is where I started building the car  
18 alarms. And the guy told me that, hey, whatever I build  
19 for you, I would never give it to anybody else, it's  
20 always yours, and that didn't quite turn out true.  
21 That started about 1982. And by 19-- or in 1981.

22 By 1985, I all of a sudden found Audiovox has got my  
23 exact system or what was my exact system. The guy over  
24 in China didn't give away exactly what I was selling at  
25 that moment, but he took my older models and turned

1 around and sold them off to other people that wanted to  
2 get in the alarm business. Audiovox wasn't in the car  
3 alarm business. Now they were.

4 And then, another company called -- Directed  
5 Electronics, the same thing happened there. While I was  
6 in Atlanta and then when I confronted the guy in China  
7 about it he was going, well, I didn't think it would  
8 ever affect you, because Audiovox was New York.  
9 Directed Electronics was California. You know, they  
10 were so far away. I go, no, the United States is very  
11 small. Just because you live on an island, I live on an  
12 island called the United States and got stabbed in the  
13 back really bad on that.

14 Q All right. Your car alarms, can you give the jury  
15 the benefit of some of the technology involved in a car  
16 alarm system?

17 A Well, like I said, the beginning stuff was making my  
18 own timer, doing shock sensors or a motion sensor to  
19 where you stamped out a piece of metal and then had a  
20 pendulum going through it with a weight on it and if  
21 they moved the car then it would short out and then  
22 cause the alarm system to come on.

23 And then over time that changed to where in talking  
24 with engineers over in Taiwan, going from relays and so  
25 forth, to where we could go transistorized to where

1     there's a part called an SCR to where that could replace  
2     what the relays were doing. So everything started  
3     becoming more electronic.

4     Q     What's an SCR?

5     A     Huh?

6     Q     What's an SCR?

7     A     An SCR is silicon rectifier.

8     Q     What is that?

9     A     It's like a transistor. It's laid out similar to a  
10    transistor. But when you've got power on it and when --  
11    and you've got power on another side and then you've got  
12    the one lead coming off going to the alarm system. And  
13    when -- you've got one side that if you grounded it --  
14    it let the power go through the SCR when you grounded  
15    this. And then once the power went through, even if you  
16    undid the ground it stayed there until power was  
17    removed. You had to remove the power to reset it. And  
18    so my timer, I was still using that same timer at the  
19    time, bending the metal. And when it would break apart  
20    it would reset, just like it would do when I was doing  
21    the relays to wire all this up.

22    Q     How were the traditional car alarm systems wired or  
23    how were they installed?

24    A     Everything was hard wired to where you ran a wire to  
25    each door of the car. You ran a wire to the trunk.

1 You ran a wire to the hood. And on the car doors, you  
2 could tap into the pin switches that were there. But on  
3 the trunk a lot of cars didn't have a pin switch so you  
4 had to put your own in it, you had to put your own pin  
5 switch in the hood, which the was a real pain in the  
6 butt because you just couldn't drill a hole and stick  
7 one in it, because your hood sat up so far from the  
8 ledge of the fender. So you usually had a piece of  
9 metal come up and over and stick the pin switch in it.  
10 So that was, you know, causing installation time.

11 And then, in the trunk of the car you'd always  
12 go into the little gutter that ran around the back part  
13 of the car -- in the trunk and you drilled a hole there  
14 and stuck the switch in it and then you got to seal so  
15 that way the rain doesn't come in and necessarily go  
16 down the pin switch and short it out and also get rain  
17 water inside the guy's car.

18 Q What were some of the innovations that you  
19 introduced in the car alarm business?

20 A As it turned into being all transistorized and  
21 circuits, when I was selling 8-track tape decks and CB  
22 radios originally they had wires coming right out of the  
23 brain unit. And you literally had to solder wires onto  
24 it and then run them into the car wherever you needed to  
25 go. If you had a defective unit, you had to cut all

1 those wires you did right down the back of the unit, and  
2 then strip the wires and re-solder them. It was a real  
3 pain doing this if you ran into a problem.

4 And then eventually, the eight-track tape deck  
5 started coming with its own little 5-pin connector,  
6 4-pin connector, made it real easy to take apart and  
7 stick another one in there or upgrade somebody's system.

8 When I started doing the electronics stuff and the  
9 guys over in Taiwan were building it and they started  
10 right off with here's all the wires running six inches  
11 out and you had to strip them all off, put them all in  
12 there. And that was one of the first systems that I did  
13 sell that way, complained about it, and I wanted to put  
14 the connectors on it. So we found Molex connectors and  
15 started doing that.

16 Well, then that was the first unit that they took  
17 and sold to Audiovox was a hard wired system to where  
18 the wires were just bare coming out of the unit. And  
19 then, of course, after Audiovox started selling it and  
20 I've already got one that's got plugs on it, everybody  
21 is telling Audiovox, hey, you've got to be like what  
22 Omega is, you know, with disconnect on it.

23 So then, as I would change features and functions  
24 of what the units were, the guy over in Taiwan was  
25 taking the next generation and giving it off to

1 Audiovox, and then eventually I found out.

2 Q What did you do in response to learning that a lot  
3 of your features were being used by your competitors?

4 A Well, at the time, you know, I did not have a lot of  
5 money to be able to hire attorneys. I didn't -- I just  
6 stayed away from all that. I guess I just was so  
7 wrapped up in working 24 hours a day, that's all I was  
8 doing. And attorneys and stuff like that scared me.  
9 The law would scare me. I just -- you know, let me just  
10 keep working.

11 And I figured if I started changing stuff every, you  
12 know, three or four months, keep on advancing what I was  
13 doing, then it would be very hard for the other people  
14 to catch up to me 'cause it usually took about a year  
15 for the stuff to come out. But once it got  
16 transistorized, I started to find that within, like, six  
17 months, seven months they got my stuff. Or as soon as I  
18 made a change, the guy over in Taiwan would hold it and  
19 then give it off to somebody else that was there. So --

20 Q Eventually you decided you were going to use  
21 lawyers, right?

22 A Eventually when I got into the '90s, my sales were  
23 really good. Even in the '80s they were really good.  
24 I hired my brother-in-law to come to work for me.  
25 He was a banker. And so, as a banker, he was very

1 litigious. Oh, we need to have an attorney firm to  
2 represent in case there's a defect and somebody's car  
3 burns up. We need to have representation and a  
4 response. So we need a response writer, and all this  
5 kind of stuff. And I thought he was crazy. I didn't  
6 want to spend all this kind of money for this stuff.

7 And he turned around and after we did interview a  
8 bunch of stuff on this, the one company said they had a  
9 patent division. So my brother-in-law was telling me  
10 about, hey, they got a patent division. You got all  
11 these ideas and stuff, you really should start patenting  
12 these ideas to protect ourselves 'cause, you know,  
13 they're catching up to us too quick on what was going  
14 on. So that's when I met my patent attorney, and we got  
15 along really good filing the first patent.

16 Q What was the first group of patents that you sought?

17 A The first patent I called it ATV, automatic  
18 transmitter verification. It also was UTA, which is  
19 unauthorized transmitter alert.

20 Q What's that?

21 A There was a problem with all the car alarms, all  
22 your keyless entries from all the different cars. Take  
23 for an example a Ford. If I was a valet attendant, all  
24 I need is a Ford remote transmitter from my car or  
25 anybody's car. I go buy one. I've got a Ford remote

1 transmitter. I get in the car while I'm valet parking  
2 the car. You give me your keys to park the car. I  
3 stick it in the ignition and I turn it eight times  
4 within five seconds. The doors will all of a sudden  
5 lock, unlock, confirming I am now in a learning mode.  
6 I take my Ford remote transmitter, press the button on  
7 it, and that Ford just learned my remote transmitter.

8 Q What does it mean to learn a remote transmitter?

9 A Well, the code that comes out of the car will learn  
10 it, so that way at a later time or right then and there  
11 I can sit there and start locking and unlocking your  
12 doors from my remote.

13 Q So, a valet could get a remote to my car and steal  
14 it potentially?

15 A Yes. And it even gets better than that. Because  
16 that same one Ford transmitter, every Ford that would  
17 get parked, the guy would turn it eight times, the  
18 second car learning the same codes. So that means your  
19 car knows this code. Your car. Your car. Your car.  
20 Thousands of cars could know one remote transmitter.

21 Q What was your response to this problem?

22 A When I started getting some phone calls from  
23 consumers that were buying the system, my systems, they  
24 were telling me that they feel the installer must have  
25 had another remote to the car. Because the car, you

1 usually got it with two remotes. It would learn four.  
2 So you have no idea if there's a third remote or a  
3 fourth remote, nobody did. So what I did, I came out  
4 with a circuit that made the LED light inside the car,  
5 because you always had a flashing LED when your alarm  
6 was armed. When you turned on your ignition key, that  
7 light would blink equal to how many remote transmitters  
8 you got.

9 So if you had three, it would blink three times,  
10 stop; three times, stop. And now when an installer does  
11 the install, he should be showing the consumer, look,  
12 turn on your key, it blinks two times, pauses. Here's  
13 the two remotes that work this car. If somebody adds a  
14 third one, if you need another one for your mother or  
15 your kids or whatever, no problem, we'll add it into the  
16 system and that will start blinking three times.

17 Q How does a gentleman who admittedly got D's and F's  
18 through school turn to a patent lawyer and explain his  
19 ideas?

20 A That was a problem. I never took notes. I don't  
21 write things down. So I advised them that I didn't do  
22 all these different things. And he said no problem,  
23 he'll write them all down. So we would sit there for  
24 days, and I would explain everything there is. I might  
25 jot down, you know, here's a diagram of what I was

1 doing. He would take all my papers. Whatever we did,  
2 he took them back to his office and then came up with  
3 all of the stuff that he needed to do for the legalese,  
4 finding all the -- doing his searches to find out if it  
5 was already there, letting the Patent Office do their  
6 searches on whatever there was, but all the documents  
7 and everything were theirs.

8 And then once he got everything all written  
9 up, he'd come back and he would have to read everything  
10 that was there, because we would be there for days if I  
11 had to read it, and I wouldn't even understand what I  
12 was reading. So he would read it and then I would ask  
13 questions, what do you mean by this and what do you mean  
14 by that. And it may have been, hey, the word  
15 controller, what's a controller? I don't know what a  
16 controller is. I know it is a brain box.

17 But he would explain all these different things at  
18 that moment and go through every one of the claims.  
19 And we'd get it all worked out to where, yes, that's  
20 everything that I was saying it was. And then I'd have  
21 to sign a document stating that what that patent is, is  
22 what I agreed to and I understood at that moment.

23 Q Were you awarded patents for your ATV idea?

24 A Yes, I was.

25 Q How many?

1 A There's -- on the ATV, I think there's just one.  
2 I think there might be about eight of them, 'cause they  
3 were in different -- for the unauthorized transmitter  
4 alert. How many remotes were there. Another one for  
5 not only doing the remote transmitter, but you could  
6 have the same problem out of the keys, 'cause your key  
7 might have a bullet in it or transponder inside of it so  
8 when you stuck it in, but the car could learn more than  
9 what you were given when you bought the car. So we  
10 filed separate patents for using transponders stuck into  
11 the car for a key.

12 Another one would be one with contacts, physical  
13 contact, which would be like on the Ford with a bullet  
14 that's in the key. So you actually made contact and  
15 then there's a current that goes through and that --  
16 there's a resistor that's inside there so it reads that  
17 resistor load. So that was your ignition kill circuit  
18 so somebody couldn't steal your car if they didn't have  
19 the right key with the right bullet in it or the right  
20 transponder.

21 Q All right. I want to move you forward a little bit  
22 and bring you to a Jeep Cherokee. You sat through my  
23 opening statement. Do you recall having a Jeep Cherokee  
24 in your facility?

25 A Yes.

1 Q Can you explain to the jury how that came about and  
2 how the Cherokee caused problems as far as your business?

3 A All right. Being as selling -- building the system  
4 and then selling it nationwide, I'm not nationwide to do  
5 the installs. You got your installers out there. The  
6 stereo shops got into the car alarm business. And when  
7 they were doing the installs they would always call me  
8 to turn and say, hey, I ran into a problem with this  
9 car. How do I get around it? So I'd have to turn  
10 around and sometimes go rent cars that were that, bring  
11 them back to the shop and go underneath the dash and sit  
12 there and figure out exactly how to get around the  
13 problems that they were talking about.

14 Q And so, a Jeep Cherokee came up as a problem car?

15 A Yeah. Jeep Cherokee came up as a problem that  
16 people were complaining that the door locks were working  
17 differently. They didn't understand it. And it was  
18 working differently because it was working from code.  
19 So it was one of the first cars that did door locks  
20 using codes.

21 But when it sent the code off, it send it into the  
22 door mechanism itself. So each door had a computer wire  
23 running into it and which we had to turn around -- I had  
24 to come up with a way of, one, taking apart a door  
25 panel. And then you had to wire up two relays in

1 combination to get around that circuitry. And we  
2 actually had to go to the switch, your manual switch on  
3 the door. And we actually just made the two relays work  
4 like your two switches that were in the car. And you  
5 had to do that on every door to do the door locks.

6 And through the upper '80s and some of the --  
7 in the '90s to do the door locks a lot of times just  
8 took a negative pulse. You found one wire that ran to  
9 all the different door lock mechanisms. If you grounded  
10 it, it made it lock. If you ground this other wire, it  
11 made it unlock. So we never had to take apart door  
12 panels, none of that, and now we did. So I needed to  
13 come up with a way of tapping on to that computer.

14 Q And did you?

15 A Yes. I found a company in Detroit that was making  
16 a box. And you attach it to the bus of the car and you  
17 took your laptop and connected it to it. And I had a  
18 guy working for me that was doing all my computer stuff,  
19 doing all my artwork and layouts, manuals, so he knew  
20 computers really good. So I told him, I'll get the box.  
21 You hook it all up and make the computer work so we can  
22 use the laptop out in the car.

23 Well, when I was telling some of the other  
24 electrical guys that I got inside my office, tech guys,  
25 you know, about this idea of the code working the cars

1 and I think that's where the future's going to be, they  
2 thought I was crazy. And when I got this box in, my  
3 computer guy hooked it all up, we got inside it, the  
4 Jeep Cherokee that we rented, and we sat there and we  
5 would have to -- the program that came along with that,  
6 you downloaded it into your computer, would allow us to  
7 see all the codes running across the screen that was  
8 going on in that car. But it also had a program in it  
9 to where I could stop, still frame what was on the  
10 screen, and I could also type something that was on the  
11 keyboard and say send, and it would sent it into that  
12 data bus.

13 So what we'd have to do is you saw all the stuff  
14 running on your screen and you would hit the lock button  
15 and immediately still frame. And odds are within about  
16 10 or 15 codes that were on your screen, one of those  
17 would have been the lock code. So we actually sat there  
18 and typed in each one of those codes we saw on the  
19 screen until all of a sudden the doors locked. And  
20 then, we did the same thing with the unlock. And then,  
21 we did the same thing with honking the horn and then we  
22 did the same thing turning on the flashers. And we  
23 could turn around and sit there and write all these  
24 different codes down.

25 We could actually sit there and send a code, honk

1 the horn. Send a code -- and I showed this with the  
2 rest of the tech guys that I had, then they became  
3 believers that that is incredible to sit there with a  
4 laptop and be able to honk the horn, flash the lights,  
5 lock the driver's door by itself or unlock all the  
6 doors, roll up and down the windows that were in the  
7 car. That was just very impressive to be able to show  
8 that.

9 Q And that was all within the Jeep Cherokee, right?

10 A That was all within the Jeep Cherokee.

11 Q Did you envision where that type of technology was  
12 going to take your business?

13 A Yeah.

14 Q Can you explain what your thoughts were at the time?

15 A I knew -- well, because of my experience putting in  
16 the radios, I used to do the installs first, not only  
17 with the eight tracks, was just AM radios, putting them  
18 in the cars. And then it became FM radios and then FM  
19 stereos. Then it became FM stereo with an eight-track,  
20 then a cassette. And the car manufacturers, as they  
21 were taking what the aftermarket world was doing and  
22 thought, hey, people want that, aftermarket proved it,  
23 they'd stick it in the car, take it away from the  
24 aftermarket.

25 Well, the car manufacturers started with changing

1 the dash panels to where now when you stuck a radio in  
2 the car, the knob's up here, this is down here, you'd  
3 have to have a separate radio for all the different  
4 cars. And then companies would make converter plates  
5 trying to -- so they can buy one radio and it would work  
6 for these cars and buy this converter plate and  
7 something else, but your inventory just started going  
8 crazy.

9 Well, with the car alarm business, which I liked, it  
10 was -- I got an alarm. It did these functions. Here's  
11 another alarm, did an upgrade, did a little more  
12 functions. But that alarm would fit in any car you  
13 wanted to put it in, and you hard wired it. And you  
14 couldn't say that eventually with eight-track tape decks  
15 and the rest of the stuff that was going on, it took too  
16 much inventory. My inventory was very simple.

17 Well, once you start getting into computers -- and I  
18 know how devious car manufacturers are -- I thought,  
19 hey, they're going to come out with every car with  
20 different codes. Ford's going to want theirs.  
21 Chrysler will want theirs, whatever happens down the  
22 line. So I want an alarm that's going to know all these  
23 different cars. I don't want an alarm for every car  
24 that was going on.

25 So the first data bus stuff that I had filed was

1 based on that, that the alarm system would end up  
2 knowing more than one car's codes or it could learn more  
3 than one car's codes. You know, either you could stick  
4 the alarm in the car and have it learn when you did  
5 lock/unlock and you put it in a learn mode or you may  
6 take the unit and go to a computer and select a car that  
7 you want, download the codes into it, now go put it in  
8 the car, but your inventory was one SKU that you could  
9 use in all these different vehicles. And it may be that  
10 the unit itself knows -- you know, whatever car codes we  
11 reversed engineered.

12 Because the car manufacturer isn't going, hey,  
13 here's all the codes. We're going to give them to you.  
14 Uh-uh, they're hiding them. They ain't letting you know  
15 nothing. So everything we did, we learned how to grab  
16 these codes for the lock and the unlock out of the Jeep  
17 is what we had to start doing with all the car  
18 manufacturers.

19 We'd sit there for days, weeks, years just  
20 constantly learning these codes and then adding it to  
21 the index that was inside of the data bus module so  
22 that, you know, trying to make it as simple, because a  
23 lot of dealers didn't like the idea of I've got to get a  
24 computer, I've got to download into it, and that scared  
25 them. They just wanted a box. I want to plug it in,

1 and want it to work.

2 So, in turn, we stuck all the codes inside of the  
3 unit. And when you plugged it into to the car, it would  
4 turn around and read the VIN number and kind of know  
5 what car that it is and what codes to use to start  
6 operating that car.

7 Q But before you turned that into a product and had  
8 all those codes, did you have a meeting with your patent  
9 lawyer?

10 A Yes, I did.

11 Q And did he ask you about the future of your  
12 business?

13 A Yes. When we did learn --

14 Q Can you explain to the jury what happened?

15 A After we did the first patent, he was wanting to  
16 know what other patents he could file for me. And I go,  
17 I don't know. I never talked about myself. I just  
18 worked, and I just kept things to myself. I didn't tell  
19 everybody everything.

20 And my patent attorney turned around and said, well,  
21 what are you going to do five years from now. And I go,  
22 wow, I can tell you what I'm going to do five years from  
23 now, and I explained all this stuff with what I was  
24 going to do on the bus and how to put the codes into the  
25 unit and all the different combinations of different

1 things so that I had a sellable product to be able to  
2 compete. All the ideas that I just told you, I never  
3 told anybody. Even the guy that did the work, the data  
4 bus module first that hooked up to the laptop that we  
5 were getting the codes out of the car, I never even told  
6 him all of my ideas. I just turned around and said,  
7 wow, this is what I was talking about that the world is  
8 going to go this way and convinced everybody that way.  
9 But I always just kept things to myself.

10 Q Did you disclose to your patent attorney this idea  
11 that one unit should have ability to use through multiple  
12 vehicles?

13 A Yes.

14 Q And did he take that information down?

15 A Yes, he did.

16 Q Did he ask you about how you're going to go about  
17 doing it?

18 A Yes. He asked me how I would do it, how I would get  
19 the codes, how I would build the merchandise to where I  
20 got engineers over in Taiwan that were electrical guys.  
21 So if I got codes for them and sent them codes, they'd  
22 be able to copy it or send the guy over that he could  
23 read things so that we got things mastered. I mean, we  
24 had ways of getting everything built.

25 Q Did he file applications for you for these ideas on

1 how to use the data bus for your business?

2 A Yes.

3 Q Now, we heard yesterday that you had never actually  
4 produced a product using a data bus. Is that accurate?

5 A No, it's not.

6 Q Can you explain to the jury the products that you  
7 came out that utilized some of your innovative ideas?

8 A All right. In about 2002 is when I actually came  
9 out -- actually had a sellable product. It was a data  
10 bus module. And that module would -- of course, the  
11 very first one would have been working the Jeep  
12 Cherokee. Some of the GM cars had codes in it. And to  
13 be able to select what car codes to use we used dip  
14 switches on the unit.

15 We weren't doing -- reading the VIN number, coming  
16 back, because we hadn't quite gotten to that point to  
17 develop that, but it was all in the patents for what I  
18 was going to do. But the easiest step was just use the  
19 dip switches to be able to select what car you want.

20 Q Was there a product that came out later that  
21 utilized more of the data bus codes?

22 A Yeah. As things evolved it became more and more  
23 cars were put into the device. And you couldn't have a  
24 dip switch that had -- you know, here's 50 dip switches  
25 going across there. It would cost you a fortune.

1 So then we had no choice but to start doing the  
2 development of it. It needed to know how to do it on  
3 its own.

4 Q And did you have a product that knew how to do it on  
5 its own?

6 A Yes, we did.

7 Q Okay. Now, you said you met with your patent  
8 attorney, and you gave him all these ideas. Did this  
9 turn into many different applications?

10 A Yes.

11 Q Why is that?

12 A Well, the original patents of the data bus stuff all  
13 started in 1996. With my brother-in-law and -- well, I  
14 actually met with my attorneys and filed the first  
15 patents in '95. So in '95, my brother-in-law was  
16 working for him who told me to do this with the attorney  
17 and file these patents.

18 One of his chores that I stuck on him was doing GPS  
19 tracking. And I told him that I think that's where the  
20 next evolution is going to come in from car alarms,  
21 'cause we'd been doing car alarms for so many years that  
22 somewhere along the line, it's going to fade down and  
23 all the cars will have it.

24 Q Well, hold on, Mr. Flick. Now you've taken us a  
25 little different direction. You talk about a tracker.

1 Can you explain to the jury what a tracker is?

2 A GPS tracking unit to where you're able to know where  
3 your car is to where you could get on the Internet and  
4 be able to look at or go to a monitoring station, call  
5 your monitoring station and say, hey, where is my car  
6 and they would be able to tell you 'cause of the GPS  
7 coordinates.

8 Q How does it work?

9 A It would have a GPS receiver inside of it and a  
10 cellular mechanism inside of it. And the GPS would be  
11 able to see the satellite, figure out its -- the  
12 latitude and longitudes and turn around and send off by  
13 cellular to a monitoring station who, in turn, would  
14 read that and then show a map on the screen and that's  
15 where your car would be located.

16 Q Did you develop the tracker product?

17 A Yes.

18 Q What was the name of that?

19 A The first tracker unit that we built was called a  
20 GPS 2000.

21 Q And what year was that?

22 A It actually got -- being sold the first ones in 2001  
23 so I got hassled a lot for calling it a GPS 2000 and not  
24 a 2001.

25 Q What did your GPS 2000 do?

1     A     The GPS 2000, being as I was the first phase of what  
2     there was, and I figured I would have data bus modules  
3     that you could add to it. And I didn't build data bus  
4     codes into it at that time because of the expense. But  
5     on the GPS 2000, it did a lot of unique things that no  
6     one else was doing, and we filed quite a bit of patents  
7     on what was in that.

8     Q     But that didn't connect to the bus?

9     A     That one did not connect to the bus.

10    Q     So, in your mind, you sort of separate tracker ideas  
11    from data bus ideas?

12    A     Well, I wanted to come out with a tracking unit as  
13    soon as I could. If I turned around and said, oh, I've  
14    got to wait until I can do all these other things, you  
15    could be sitting there forever before you came out with  
16    your product. So I needed to make sure that the GPS  
17    unit was working correctly, the cellular was working  
18    correctly, 'cause there was a lot more technical stuff  
19    when you want to get into using the cellular radios,  
20    because the codes that you were sending over the network  
21    for the location and so forth, what we were doing, we  
22    were using a control channel. It wasn't using the voice  
23    channel. And so, there were two companies that had  
24    patents on that and we could choose between those two  
25    companies to hire for when you stuck it in the car it

1 had their phone number in it that went to their place  
2 and they decided what was going on. So there was just  
3 so many areas of having problems.

4 And we did have the problems. I mean, you put them  
5 in the car, and they'd go through areas and the unit  
6 would not work. Well, gee whiz, you've got cellular,  
7 but the control channel people that had those patents  
8 had to put special boxes on the towers. Well, if those  
9 boxes weren't working and, then, it wasn't working my  
10 stuff till somebody complained to say it wasn't working,  
11 then they'd go out there and reset it.

12 Q How many patents have issued in your name?

13 A As me as the single inventor there's over -- there  
14 should be right at 155, as of today, and there's still  
15 more coming.

16 Q How many of those patents are related, in your mind,  
17 to this data bus ideas?

18 A There's -- right now as of today, there is probably  
19 50-some odd that are related to the bus.

20 Q And how many are related to these -- in your mind --  
21 the trackers?

22 A Well, a lot of it could apply to it 'cause we do  
23 mention the trackers being stuck in there. I think  
24 there was probably about four patents that are really --  
25 starts off with a vehicle tracking unit with, you know,

1 connecting to the vehicle's bus running throughout the  
2 car.

3 Q So there's some cross over?

4 A Yeah. There's some cross over.

5 Q I want you to take a look at Joint Exhibits in front  
6 of you, your patents. Joint Exhibit 1, you see it?

7 A This one?

8 Q Nope. Yes, sir.

9 A Like my wife, I get it wrong.

10 Q All right. What is Joint Exhibit 1?

11 A Thirty-one?

12 Q Joint Exhibit 1.

13 A This one?

14 Q Yes, sir.

15 A These are the -- looks like the patents that are at  
16 issue in this case.

17 Q Well, it's one of the patents. Can you identify  
18 which one it is?

19 A This one is the '876.

20 Q And is that one of your patents?

21 A Yes.

22 Q Is that one you've assigned to Omega Patents, LLC?

23 A Yes.

24 Q Is that one where the lawyer has to read it to you  
25 and explain it to you?

1 A Yes.

2 Q If I asked you to go through all the specifications  
3 here today, would you be able to do so within the next  
4 week or so?

5 A No.

6 Q Okay.

7 A Not even in a month.

8 Q Can you identify the next patent that's at issue in  
9 this case?

10 A This one's the '885.

11 Q And is that your patent?

12 A Yes, it is.

13 Q Is that also assigned to the plaintiff?

14 A Yes, it is.

15 Q And what's the next patent at issue in this case?  
16 And what Joint Exhibit number is that?

17 A Three.

18 Q Okay. What?

19 DEPUTY CLERK: Mr. Flick, can you pull the  
20 microphone towards you?

21 THE WITNESS: All right.

22 DEPUTY CLERK: Thank you.

23 BY MR. GILCHRIST:

24 Q What exhibit number do you have now?

25 A Four.

1 Q Joint Exhibit 4. And what is Joint Exhibit 4?

2 A The '727.

3 Q Is that the patent at issue in this case?

4 A Yes, it is.

5 Q Are you the inventor?

6 A Yes, I am.

7 Q Is Omega Patents, LLC the assignee?

8 A Yes, they are.

9 Q And the final patent that we're here today about is  
10 Joint Exhibit what?

11 A Five.

12 Q What patent is that?

13 A '278.

14 Q Is that the patent that you are named as the  
15 inventor?

16 A Yes, I am.

17 Q Have you assigned it to your company, Omega Patents,  
18 LLC?

19 A Yes, I did.

20 Q We talked a little about what Omega Patents is.  
21 Can you explain to the jury how Omega Patents, LLC came  
22 to be?

23 A In around, I guess, it was 2002, I found somebody  
24 selling -- or building data bus modules and which we  
25 filed a suit and it took awhile and they came to my

1 office with their attorney and also the electrical  
2 engineer who was actually building the modules. And in  
3 my office, they were wanting to talk about doing a  
4 license for the patents, and which I was against doing a  
5 license for the patents.

6 I was preaching on the fact that when they came  
7 there that I learned that, gee whiz, you got a  
8 manufacturer who built the modules and is only selling  
9 them to you. And the guy who is building them is the  
10 guy who is actually doing all the reverse engineering  
11 and getting them and selling them to you. And, in turn,  
12 I'm looking for the same thing. I just want you to sell  
13 me, and I've got the national distribution of what there  
14 was. And so, I really didn't want to do it.

15 And at that time, they started revealing more to me  
16 what the sales were of what they had been doing, because  
17 Canada -- I was totally oblivious to what was going on  
18 in Canada. But Canada sales were huge, I mean, with all  
19 the cold weather and stuff up there, and I mostly sold  
20 in the United States.

21 When I went home -- 'cause I worked 24 hours a day.  
22 I don't know how I had four kids. But I went home and  
23 told my wife what was going on. They were looking for a  
24 license. I didn't want to do it. I just want to keep  
25 working.

1           And my wife goes, you know, no, somewhere along the  
2 line you've got to stop this, because your stress is  
3 killing you. And I already had a known heart problem  
4 that I was already going to the doctor twice a week  
5 getting IVs twice a week. And she's going, what's wrong  
6 with doing a license. You know, just get over the fact  
7 that you're not going to be the only person in the world  
8 to be doing this. So, I took my wife's advice. The  
9 next day when we met back in my office again, I said,  
10 all right, if I turn around and did license you, I would  
11 want to get approximately \$10 apiece for them. Well,  
12 that pissed them off.

13           And I said, well, I'm already building the modules,  
14 and they cost \$4.32 to build the module. I'm selling  
15 them for \$20. You're selling them for \$20. Actually,  
16 \$20.50. I said, there's a massive profit here. So, why  
17 would I want to give up that kind of profit ratio when  
18 I'm selling other items and I'm only making 30, 40  
19 percent when I'm, you know, tripling my money. This is  
20 ridiculous.

21           And so, \$10 would put it at 15. They get to make  
22 \$5. Well, that didn't settle with them very well. So,  
23 I brought in my sales people, you know, into the  
24 meeting. And I said, I want you guys to represent Omega  
25 R & D, because you guys are in the sales and so forth,

1 'cause whatever I do with them, I'm going to have to do  
2 with you guys or do it myself.

3 Q At this time is Omega R & D still an ongoing  
4 business?

5 A Yes.

6 Q Still a distributor?

7 A Yes. Omega R & D was my company that we still  
8 manufactured the car alarms, tracking units, and sold  
9 them worldwide at that time.

10 Q What type of sales volume was Omega R & D doing?

11 A Right at \$33 million a year.

12 Q So, sorry to get you off track, but you were telling  
13 the jury how you went about to form Omega Patents, LLC.

14 A When I had said the \$10, my guys even turned and  
15 said, wait a minute, we can't be showing on our books  
16 the -- 'cause they got commissions. So they're going,  
17 that's too much.

18 Q Now, wait. I hate to interrupt you again. Are you  
19 suggesting that you were going to charge your own company  
20 a license fee?

21 A Yes.

22 Q Why is that?

23 A Because if I was going to start doing -- to do the  
24 licensing and I own those patents, then it needed to  
25 start something separate. When I ended up talking to my

1 wife about doing the licensing, she was just going, it  
2 would be a lot easier in life, you know, to do that and  
3 you can stay involved with the technical guys or  
4 whatever, but slowly get out of the nightmare of all  
5 these employees that I had of doing this and I could  
6 just do it myself and that's what I liked to do. I  
7 liked, to a certain degree, working by myself. I do  
8 very good at it. So, you know, if I did this, I would  
9 have to start charging a fee to the company, as well as  
10 a fee to them so that way it was fair. And --

11 Q Did you form a new company to hold all those  
12 patents?

13 A Well, the Omega R & D -- excuse me -- the Omega  
14 Patents, I think, just previous to that situation, I had  
15 opened up Omega Patents. I think at advice of the  
16 counsel just saying there's so many patents or whatever,  
17 if you were to ever sell your Omega R & D, you know,  
18 there could be an argument that, oh, they get the  
19 patents, because I'm listed as the inventor and they  
20 belong to me personally. So it would be a lot better to  
21 separate it completely with a corporation, so that's  
22 what I had done, probably like the year previous.

23 Q Okay. If you will look at Plaintiff's Exhibit  
24 number 156, please.

25 A That's this?

1 Q In this stack, sir.

2 A Oh, 156 right here.

3 MR. GILCHRIST: Nancy, do you have the screen  
4 on? Thank you.

5 BY MR. GILCHRIST:

6 Q Can you identify what Exhibit number 156 is?

7 A I guess something from the Patent Office.

8 Q Okay. Is it your assignment? You can look at the  
9 hard copy, help us identify it.

10 A Yes.

11 Q Do you see your signature?

12 A Yes.

13 Q And can you tell the jury what it is?

14 A This is the document where I assigned the patent  
15 over to -- assigned the patent that was personally mine  
16 over to Omega Patents.

17 Q And that's the plaintiff in this case?

18 A Yes.

19 Q All right. And you were explaining how you decided  
20 to go about the process or you made the decision that  
21 you would license it. Can you explain to the jury how  
22 you arrived at the first licenses? Well, first of all,  
23 who were the first licensees?

24 A The actual first licensee would have been Trilogix,  
25 who I had that lawsuit with as far as actually license

1 -- well, no. Licensing to Omega Research & Development  
2 would have been the first one in which, when I separated  
3 the patents to Omega Patents -- gets confusing -- Omega  
4 Patents, when I opened that up, I licensed Omega R & D,  
5 which is mine, the patents. And the fee was in exchange  
6 for Omega R & D paying all of my expenses for the  
7 patents, because it cost money to file the patents.  
8 It cost money to keep them alive in the Patent Office.  
9 If there was any litigation, they would pay for it.  
10 And then, we got into the litigation. And now, Omega  
11 Research & Development was paying for this litigation of  
12 the first fight.

13 Q That was Trilogix?

14 A That was with Trilogix.

15 Q If you will pull out of your stack Exhibit number  
16 97. Do you recognize Plaintiff's Exhibit number 97?

17 A Yes.

18 Q Can you tell the jury what Plaintiff's Exhibit 97  
19 is?

20 A It's the license agreement with Omega Research &  
21 Development and Omega Patents.

22 Q Essentially, a license agreement with your company  
23 for the patents that you personally held that became  
24 Omega Patents, LLC?

25 A Yes.

1 Q How much did you charge Omega R & D?

2 A What got worked out with my own salespeople saying  
3 it was fair, I got whittled down to \$5 on the unit. And  
4 then -- for the first patent that would be used. And  
5 then when you used the second data bus patent into it,  
6 it was going to be 50 cents extra. Then, if you used a  
7 third patent, it was 25 cents extra. And if you were  
8 doing things that were related to remote starting the  
9 car, that was another fee, 'cause remote starting the  
10 car was one of the key functions.

11 Q Do you recognize your signature on Exhibit number  
12 96? I'm sorry, 97? I'm sorry, you have one that's  
13 executed?

14 A Yes.

15 Q Just couldn't find it?

16 A I don't see the signature on it.

17 Q Now let's move on to Trilogix. Who is Trilogix?

18 A Trilogix was a company in Canada who hired Bomar in  
19 Canada to make the data bus modules.

20 Q And they were the ones that approached you and said  
21 we want to have a license?

22 A Yes.

23 Q And if you will pull out Plaintiff's Exhibit number  
24 103. Do you recognize Plaintiff's Exhibit number 103?

25 A Yes. This is the license with Trilogix.

1 Q So I take it, you did enter a license with Trilogix?

2 A Yes, I did.

3 Q Do you recognize your signature on 103?

4 A Yes, and I initialized every page.

5 Q How much did you agree with Trilogix to license your  
6 patents for?

7 A The same as what I just discussed, because that's  
8 how I came up with the fee to start charging Omega R &  
9 D, myself, the same money that was being done.

10 Q Is there a requirement in your license agreement  
11 that Trilogix mark their product?

12 A Yes.

13 Q Can you explain to the jury what marking is?

14 A The product needed to be marked with what patents  
15 that applied to that product. And you could put the  
16 markings in the owner manual. You could stick it into  
17 the box when it came in, list them all on the brain case  
18 as part of your mold.

19 MR. GILCHRIST: Your Honor, I'd move for  
20 admission of Plaintiff's Exhibit number 97 and 103.

21 THE COURT: All right. Any objection?

22 MR. KAUTH: We have an objection to 97, Your  
23 Honor.

24 THE COURT: And the objection.

25 MR. KAUTH: Relevance and also authenticity.

1 This is an unsigned agreement.

2 THE COURT: All right.

3 And as to 103, is there an objection?

4 MR. KAUTH: No objection to 103, Your Honor.

5 THE COURT: 103 is admitted, without  
6 objection. And 97 is admitted over objection.

7 BY MR. GILCHRIST:

8 Q And if we could look at 103, and that's the Trilogix  
9 agreement.

10 A All right.

11 Q Is there a marking requirement under the agreement  
12 in Section 7-A?

13 A Yes, it is.

14 Q And that's a requirement that your licensee puts  
15 your product -- your patent number's on their product?

16 A Yes.

17 Q Why is that?

18 A That's -- if I wanted to be able to -- if somebody  
19 was to copy the product, that gives public knowledge of  
20 the patents that are out there.

21 Q It warns other people about your patents?

22 A Yes.

23 Q And there's another interesting provision, 6-D.

24 Can you look at that?

25 A Yes.

1 Q What is 6-D in your mind?

2 A They balked at first about this particular one, but  
3 I held my grounds. One, if they didn't have a license  
4 from me and I stopped them, their business profile  
5 changes to something else. If I give you a license,  
6 you're going to be doing the research and stuff on the  
7 data bus and make improvements, just like I do. I'm  
8 making improvements on what goes on.

9 So, in turn, whatever patents or ideas that you come  
10 up with, they belong to me. And that way, if you have  
11 ideas or problems or whatever, I really want you to talk  
12 to me so we can work this all out and get a patent filed  
13 correctly on what was going on. But if you did file it  
14 and you wanted to hide behind, not tell me about it and  
15 you filed your own patent, the patent is mine.  
16 I'm going to have it transferred to me.

17 Q So as part of your license agreement, they had to  
18 provide all their innovations or improvements to your  
19 ideas to you or to Omega Patents?

20 A Yes.

21 Q And did you have a level of trust with Trilogix?

22 A Yes, I did.

23 Q Result of -- well, you had to sue them. Why would  
24 you have a level of trust with them?

25 A Well, most of the time you're not going to get

1 somebody to take you seriously until you sued them, so  
2 it was after you did a couple of the first lawsuits and  
3 then everybody else starts going, I want a license, I  
4 want a license, and they're willing to talk to you,  
5 'cause they know you're not going to be a pushover.

6 Q Are you familiar with the group known as Autostart?

7 A Yes.

8 Q Can you pull Plaintiff's Exhibit number 69.

9 What is Exhibit 69?

10 A Is for a company that I licensed called 160031,  
11 which happens to be Autostart.

12 Q And it's a license Omega Patents entered into with  
13 Autostart?

14 A Yes, I did.

15 MR. GILCHRIST: I'd move for admission of  
16 Plaintiff's Exhibit 69.

17 MR. KAUTH: No objection, Your Honor.

18 THE COURT: 69 is admitted.

19 BY MR. GILCHRIST:

20 Q How did you license -- how did you come about  
21 licensing Autostart?

22 A After the conversations with Trilogix, they turned  
23 around and gave me a call saying --

24 Q They being whom?

25 A Autostart was doing the same thing. They told me

1 that they were building data bus modules themselves.

2 Q And they're also a Canadian company?

3 A Also a Canadian company.

4 Q And did you have to sue Autostart?

5 A No, I didn't.

6 Q They came to you?

7 A Yes.

8 Q And what type of financial arrangement did you reach  
9 with Autostart?

10 A I gave the exact same arrangement that I gave to  
11 Trilogix to them.

12 Q And when you talk about giving the license, how many  
13 patents -- how many of your patents are you licensing?

14 A Thirteen. At that time, there were 13 data bus  
15 patents.

16 Q And you have a schedule on your license agreement  
17 that lists all those patents?

18 A Yes.

19 Q And you add it to them as new patents came about?

20 A Yes.

21 Q Is that the way you generally tried to license these  
22 data bus patents?

23 A Yes. And that's what -- from the first agreement,  
24 that's kind of what they were saying that, you know, if  
25 we got to sit down and do this every time you come out

1 with another patent to be added to it, we don't want to  
2 sit down and have to be negotiating and then you're  
3 adding more money, adding more money, adding more money.  
4 Let's just put it in there to where it's 25 cents for  
5 every one thereafter, and then whatever you've got it  
6 will be a part of the whole package.

7 Q How does that affect your accounting and making sure  
8 that your licensees are doing what they're supposed to be  
9 doing?

10 A Well, there's a provision in here that they had to  
11 send me samples of what they've got so that way I could  
12 check it out and make sure that I'm getting --  
13 collecting the right royalties on it.

14 Q Did your license with Autostart also include the  
15 marking requirement?

16 A Yes, it did.

17 Q Did it include that innovation clause?

18 A Yes, it did.

19 Q Could you pull number 86, Plaintiff's Exhibit 86.  
20 Do you recognize Plaintiff's Exhibit number 86?

21 A Yes.

22 Q What is it?

23 A It's a license that I gave to Automotive Data  
24 Solutions.

25 MR. GILCHRIST: I'd move for admission of

1 Plaintiff's Exhibit number 86.

2 MR. KAUTH: No objection.

3 THE COURT: 86 is admitted.

4 BY MR. GILCHRIST:

5 Q How did this group obtain a license?

6 A Well, the individual that owned the company left one  
7 of the companies that I had licensed, Fortin. So he was  
8 the main sales manager at Fortin selling them data bus  
9 modules. He opened up his own company and started  
10 building the data bus modules.

11 Q Did you have an identical license?

12 A Well, at first there's a problem that I already had  
13 three licensees and I was not licensing every Tom, Dick  
14 and Harry that was out there. I wanted to make sure  
15 that I'm licensing people that are innovative, they're  
16 honest, and I'm not going to have a problem. And I felt  
17 that the three licensees that I already had in Canada  
18 was more than enough to cover Canada. In fact, Omega  
19 R & D started purchasing from the guys up there, so  
20 everything was just fine with the three. There was no  
21 need. And I told Frank -- he's the main owner -- that  
22 I can't give him a license. You need to go work through  
23 some of the other licensees I got, and you shouldn't  
24 have left the company that you were with. So what he  
25 did is he went over to Autostart and got Autostart to

1 be his partner. So now that was two people owning this  
2 company.

3 Then, he also went over to one of the big retailers  
4 that was in Canada and got him as a partner, so now  
5 there's three partners in ADS. And I told him, I say,  
6 okay, you know, but you're going to have to run  
7 everything through Astroflex, and that wasn't an issue.

8 And so eventually, it got to where instead of  
9 Astroflex sending me the royalty money for what was  
10 going on here, he finally just said I'm going to stop  
11 completely, transfer my license agreement over to ADS.  
12 So they stopped. ADS continued. I still got three  
13 licensees. So at least my licensees are being  
14 protected, that I'm not licensing every Tom, Dick, and  
15 Harry, 'cause if I did there would be no profit. These  
16 guys got to make profit, because it costs a lot of money  
17 to sit there and reverse engineer these cars and figure  
18 out all this stuff. And I knew it took a lot of money  
19 and a lot of time. And I know that if you start  
20 licensing everybody, and then everybody's got to race to  
21 the bottom for -- there's no profit.

22 Q If you will turn next to Exhibit number 92,  
23 Plaintiff's Exhibit 92. Do you recognize Plaintiff's  
24 Exhibit 92?

25 A Fortin Auto Radio.

1 Q Is that a license agreement?

2 A Yes, it is.

3 Q Entered into between Fortin and Omega Patents?

4 A Yes, it is.

5 MR. GILCHRIST: Move for admission of

6 Plaintiff's Exhibit 92.

7 MR. KAUTH: No objection.

8 THE COURT: 92 is admitted.

9 BY MR. GILCHRIST:

10 Q Did you license Fortin?

11 A Yes, I did.

12 Q Did they have a marking requirement?

13 A Yes, they did.

14 Q Did they have that innovation paragraph?

15 A Yes, they did.

16 Q Are they still a licensee?

17 A Yes, they are.

18 Q If you will next pull Plaintiff's Exhibit number 85.

19 Do you recognize Exhibit 85?

20 A Yes, a license agreement.

21 Q Between whom?

22 A Audiovox and Omega Patents.

23 MR. GILCHRIST: Move for admission of Exhibit

24 number 85.

25 THE COURT: Any objection?

1 MR. KAUTH: No objection, Your Honor.

2 THE COURT: 85 is admitted.

3 BY MR. GILCHRIST:

4 Q Who is Audiovox?

5 A Audiovox is a very large corporation in the United  
6 States with, at the time, probably over a billion  
7 dollars a year in sales.

8 Q Are they known by another name now?

9 A Now they're known as Voxx, V-o-x-x.

10 Q Is that the group that moved to Florida recently?

11 A Yes.

12 Q How did Voxx or Audiovox become a licensee?

13 A Audiovox -- I've known the owners of Audiovox for  
14 about 20 years. And after the original litigation stuff  
15 with Trilogix, Pat Lavelle had given me a call saying,  
16 hey, I know you've got these other patents for valet  
17 switches, LED lights up in the window. We'd like to  
18 have a license underneath that. So we did a license  
19 agreement for those.

20 And then, he turned around and said, well, we also  
21 are doing the GPS tracking and which we're using some of  
22 the features on your patents on that. I need a license  
23 for that. So I ended up giving him a separate license  
24 for the tracking stuff.

25 And then, he -- on the data bus stuff, he gave me a

1 call and he told me it was very obvious that, you know,  
2 data bus is where the future is and he needed to start  
3 building his own stuff, being as he was already doing  
4 the car alarms and the rest of it. And the fact that I  
5 had a litigation going on with Directed Electronics at  
6 the time, there were three big people in the United  
7 States selling the most car alarms, millions of them,  
8 which was Audiovox, Directed Electronics, and Omega R&D.

9 While Omega R & D has got the license for doing the  
10 data bus stuff, Directed Electronics was fighting to get  
11 a license. And so, Pat Lavelle knew that. And he  
12 turned around and said, if you give the license over to  
13 Directed Electronics, as friends you've got to see --  
14 you can't keep me out there hanging. It would only be  
15 right to give him a license, and that's what we did.  
16 So, Audiovox got a license right after we settled the  
17 situation with Directed Electronics.

18 Q You also indicated that Audiovox or Voxx took a  
19 license for what you characterized as the tracker  
20 patents, right?

21 A Yes.

22 Q Can you look at Plaintiff's Exhibit number 141.  
23 What is Exhibit 141?

24 A A license agreement.

25 Q Between?

1 A Audiovox and Omega Patents.

2 MR. GILCHRIST: Move for admission of  
3 Plaintiff's Exhibit number 141.

4 THE COURT: Any objection?

5 MR. KAUTH: No objection, Your Honor.

6 THE COURT: 141 is admitted.

7 BY MR. GILCHRIST:

8 Q And is that the tracker patent license?

9 A Yes, it is.

10 Q You mentioned a minute ago about when you were  
11 talking with Audiovox about Directed Electronics.

12 Who is Directed Electronics?

13 A Directed Electronics is in California, which is the  
14 company that I had mentioned back in the '80s was  
15 getting their very first alarms out of my manufacturing  
16 guy over in Taiwan. Audiovox did the same thing. And I  
17 really should have been really ticked and not even  
18 wanting to work with either one of them for what had  
19 happened. But, you know, bygones be bygones, and you  
20 move on in life.

21 Q Well, you didn't exactly move on with DEI. You had  
22 to bring a lawsuit, right?

23 A Yes.

24 Q And they fought you along the way?

25 A Yes.

1 Q Where was that lawsuit pending?

2 A Here in Orlando.

3 Q Did it involve any of the patents that we're here  
4 about today?

5 A Yes.

6 Q The '885?

7 A Yes.

8 Q What became of that lawsuit?

9 A That lawsuit's running similar to this one here.  
10 They start off with --

11 Q No, hold it. I just want you to get to the end.

12 A All right.

13 Q The jury doesn't want to have two trials today.

14 A Oh, okay.

15 Q So what happened after a result of the DEI lawsuit?

16 A The DEI lawsuit ended up with the willful intent.  
17 The Court said I did not have to give him the license.  
18 And we got an injunction on their product. And so that  
19 pissed off DEI. And so, even filing an appeal, I still  
20 got the injunction to deal with.

21 So DEI -- the president gave me a call and said,  
22 hey, I'm willing to make you whole on everything that  
23 there is, and he paid me eight times what the jury  
24 awarded to turn around and make all this go into the  
25 past. And I said, well, that ain't quite good enough,

1 unless I got a personal promise you're not going to make  
2 my life a living hell, like what you've already been  
3 doing, that you're going to be aboveboard and honest  
4 with what you're doing, 'cause I don't wanna be  
5 constantly fighting over everything. And he says, well,  
6 in order not to fight over everything, change your  
7 royalty rate. And I said, okay, what are you talking  
8 about?

9 He's going, life will be a lot simpler, so we don't  
10 got to fight, if you just make it a flat line five bucks  
11 apiece. Forget the 50 cents for the second patent, the  
12 25 cents for each one after. You've got to monitor  
13 what's in it, what's not. We've got to do the same  
14 thing. We'll constantly be at each other's throats.  
15 Just make it five bucks, whatever's in your whole  
16 package.

17 And I said, well, I have a favored nations clause  
18 along with all the other licensees that I've got. So  
19 what I do for you, I've got to do for them. The rest of  
20 my licensees totally agreed that would make our lives a  
21 lot simpler. And I was already doing pretty good at the  
22 royalty rates. So I didn't mind giving up that part of  
23 it.

24 So that was the beginning of the royalty rates being  
25 five dollars for the whole package of what there was.

1 You can use one or you can use 20 of the patents,  
2 whatever that you want to do. And this is all going  
3 back into, you know, all my licensees. I haven't lost  
4 any of them. They're all making very good money, very  
5 good profit. They're very happy with having the  
6 protection of these patents. And that's partly why I'm  
7 here today, 'cause I got to protect the patents, 'cause  
8 they're stepping on some of my licensees' toes and I've  
9 got to defend the patents.

10 Q Did you eventually enter into an agreement with DEI?

11 A Yes. I ended up entering into the agreement.

12 And for the last, I guess, almost ten years of them --  
13 yeah, I'd say right around ten years, almost ten years  
14 that they've been a licensee I've had zero problems.  
15 The check comes in on time. I've got no arguments.  
16 Everything's been fine.

17 Q Can you pull up plaintiff's Exhibit number 96.

18 Do you recognize Plaintiff's Exhibit number 96 as the  
19 DEI settlement and license agreement?

20 A Yes.

21 Q That's the one you entered into on behalf of Omega  
22 Patents, LLC?

23 A Yes, I did.

24 MR. GILCHRIST: Move for admission of  
25 Plaintiff's Exhibit 96.

1 MR. KAUTH: No objection.

2 THE COURT: 96 is admitted.

3 BY MR. GILCHRIST:

4 Q If you can pull up Plaintiff's Exhibit number 84.

5 Do you recognize Plaintiff's Exhibit number 84?

6 A Yes.

7 Q What is 84?

8 A This is Directed Electronics also of Canada, a  
9 separate corporation.

10 Q Also known as Astroflex?

11 A Yes, 'cause they purchased Astroflex.

12 Q Is that another license agreement?

13 A Yes.

14 Q By this time after the DEI case, did you open up  
15 your licensing to more people?

16 A No. On the data bus stuff it's been pretty much the  
17 same people unless I found somebody who was building  
18 something that was unique that did not -- it was not the  
19 same product that my other licensees were doing. It  
20 didn't go into the same cars as what they were doing.  
21 So there are other people that I have run into along the  
22 line that were doing specialized, like with a Mercedes,  
23 a guy doing a Mercedes remote car starter, all using the  
24 bus, none of my licensees had a unit that worked in the  
25 Mercedes.

1 MR. GILCHRIST: All right. Move for admission  
2 of Plaintiff's Exhibit 84.

3 MR. KAUTH: No objection, Your Honor.

4 THE COURT: 84 is admitted.

5 BY MR. GILCHRIST:

6 Q If you would please pull Plaintiff's Exhibit number  
7 81. Do you recognize Plaintiff's Exhibit number 81?

8 A Yes.

9 Q What is Exhibit 81?

10 A It's an agreement with a company called Accele.

11 Q Between Omega Patents?

12 A Omega Patents and Accele.

13 MR. GILCHRIST: Move for admission of 81.

14 MR. KAUTH: No objection.

15 THE COURT: 81 is admitted.

16 BY MR. GILCHRIST:

17 Q If you will pull number 101. Is Exhibit number 101  
18 a license agreement between Omega Patents and Portman  
19 Security?

20 A Yes, it is.

21 MR. GILCHRIST: Move for admission of  
22 Plaintiff's Exhibit 101.

23 MR. KAUTH: No objection.

24 THE COURT: 101 is admitted.

25 BY MR. GILCHRIST:

1 Q That brings us to Plaintiff's Exhibit number 71.

2 What is Exhibit number 71?

3 A It's another agreement.

4 Q Between Lear and Omega Patents?

5 A Yes.

6 Q Can you explain to the jury who Lear is?

7 A Lear was -- or is a manufacturer, pretty much an  
8 OEM manufacturer. They make for GM the dash panels,  
9 seats, electrical devices that are inside the car, all  
10 kinds of stuff that the car manufacturers want. Lear  
11 was like a tier one supplier to the car manufacturers.

12 Q They're a publicly-traded corporation?

13 A Yes, a publicly-traded corporation.

14 Q Did they enter a license agreement for the data bus  
15 patents?

16 A Yes, they did.

17 Q And theirs was a little bit different, though,  
18 wasn't it?

19 A Yes.

20 Q Because theirs was a lump sum payment?

21 A Theirs was a lump sum payment.

22 Q Of how much?

23 A \$5.9 million.

24 Q Why would you take a lump sum payment from a  
25 supplier of GM?

1     A     Definitely the car manufacturers don't like turning  
2     around painting it on per piece.[sic] But anyways,  
3     there were some issues, because Lear had filed  
4     bankruptcy. General Motors filed bankruptcy. Shortly  
5     after that Lear filed, because they owed them so much  
6     money. So that kind of muddled up all of the past  
7     damages. Because in a lawsuit, if they go bust, you're  
8     not collecting the past damages. I was unable to see  
9     what all the sales records were because it was for  
10    attorneys' eyes only, so I didn't know anything on that  
11    part of it. I had to take my counsel's recommendation  
12    that you're still getting your royalties, per each one  
13    of the cars, using a formula for what could be into the  
14    future for what they're already selling. And also, the  
15    fact that it was a limited license.

16           It was for only doing remote starting for one  
17    platform, one car at a time. It wasn't something that  
18    knew multiple cars, 'cause out of all my patents I only  
19    have basically the one patent -- or I do have a set of  
20    patents that cover for remote starting the car using the  
21    bus to be a part of it. All the other stuff --  
22    unlocking the doors, unlocking the doors -- it would  
23    take multi vehicles. But remote car starting, at the  
24    time we filed the patents, that was the only thing that  
25    was very obvious that nobody was remote starting.

1 Q The next one I'm going to have you pull is Exhibit  
2 number 100. Is that an agreement with General Motors?

3 A Yes, it is.

4 Q If you sued their supplier why would you enter into  
5 an agreement with General Motors directly?

6 A During the interim that we sued Lear, GM started  
7 using some stuff from some other people. So we felt we  
8 wanted to collect the royalties on what those pieces  
9 were, being that was a real smart attitude of making  
10 this change. Anyways, we filed the suit. And during  
11 that suit, again I was not privy to see sales records of  
12 what was going on. I had to take counsel's opinion of  
13 everything, and the fact that the majority of the sales  
14 were still from Lear product that was being inside of  
15 there and General Motors had the bankruptcy, and so the  
16 bankruptcy muddled up all kinds out stuff.

17 Q So how much did you settle with General Motors for?

18 A On General Motors, we settled for \$50,000. And that  
19 was a very limited one or two patents and that was it.

20 Q I want you to next pull up Exhibit number 67.

21 Do you recognize Exhibit number 67 as an agreement  
22 between Omega Patents, LLC and Mid City Engineering?

23 A Yes, I do.

24 MR. GILCHRIST: Move for admission of Exhibit  
25 67.

1 MR. KAUTH: No objection, Your Honor.

2 THE COURT: 67 is admitted.

3 BY MR. GILCHRIST:

4 Q And Mid City offered you \$20 a unit?

5 A Yes.

6 Q And you accepted that?

7 A Yes.

8 Q Next I want you to pull Exhibit number 68. Do you  
9 recognize that as a license agreement between Omega  
10 Patents, LLC and Cimble?

11 A Yes.

12 MR. GILCHRIST: And move for admission of  
13 Exhibit 68.

14 MR. KAUTH: No objection.

15 THE COURT: 68 is admitted.

16 BY MR. GILCHRIST:

17 Q Next I want you to pull Exhibit number 154. Do you  
18 recognize Exhibit number 154?

19 A Yes.

20 Q What it is?

21 A It's the royalty reports that you all requested.

22 Q It's a spreadsheet that you prepared?

23 A Yes.

24 Q From your business records?

25 A Yes.

1 Q That accurately reflect the amount of royalties  
2 you've collected?

3 A Right to the penny.

4 MR. GILCHRIST: Move for admission of Exhibit  
5 number 154.

6 MR. KAUTH: No objection, Your Honor.

7 THE COURT: 154 is admitted.

8 BY MR. GILCHRIST:

9 Q Can you tell the jury how much royalty income you've  
10 collected for the patents that are at issue in -- well,  
11 for the group of patents over the years?

12 A As of the beginning of this month, I just rolled  
13 over the 50 million mark in collecting royalties, and  
14 everybody's happy.

15 Q Have you turned down others that have sought a  
16 license?

17 A Yes.

18 Q Can you pull Exhibit number 93. Is Exhibit number  
19 93 an agreement between Omega Patents and JBS  
20 Technologies?

21 A Yes.

22 Q And JBS Technologies agreed to stop using the data  
23 bus technology?

24 A Yes.

25 MR. GILCHRIST: Move for admission of Exhibit

1 number 93.

2 MR. KAUTH: No objection, Your Honor.

3 THE COURT: 93 is admitted.

4 BY MR. GILCHRIST:

5 Q I want you to next pull Exhibit number 102.

6 Is Exhibit 102 an agreement between Omega Patents and  
7 Precision Industries?

8 A Yes, it is.

9 Q In that part of that agreement did Precision  
10 Industries stop using the data bus technology?

11 A Yes.

12 MR. GILCHRIST: Move for admission of Exhibit  
13 number 102.

14 MR. KAUTH: No objection.

15 THE COURT: 102 is admitted.

16 BY MR. GILCHRIST:

17 Q Next one I'm going to have you pull up is Exhibit  
18 number 82. Is Exhibit 82 an agreement between you and  
19 Bomar?

20 A Yes.

21 Q Did Bomar agree to stop using data bus technology?

22 A They agreed to stop selling it to other people.

23 Bomar was the maker that was making the product for  
24 Trilogix. And so, I needed to make sure that he wasn't  
25 going to continue selling the stuff out the back door.

1 So everything he did sell out the back door he paid me  
2 for, and he had to stop going forward.

3 MR. GILCHRIST: Move for admission of Exhibit  
4 number 82.

5 MR. KAUTH: No objection.

6 THE COURT: 82 is admitted.

7 BY MR. GILCHRIST:

8 Q And please pull Exhibit number 83. Is 83 an  
9 agreement between Omega Patents and Ultrastart?

10 A Yes.

11 Q Did Ultrastart agree to stop using the data bus  
12 technology?

13 A Yes.

14 MR. GILCHRIST: Move for admission of Exhibit  
15 number 83.

16 MR. KAUTH: No objection.

17 THE COURT: 83 is admitted.

18 BY MR. GILCHRIST:

19 Q I want you to next pull Exhibit number 98. Do you  
20 recognize Exhibit number 98 as an agreement between  
21 Omega Patents, LLC and AT Autosport?

22 A Yes.

23 Q Did they agree to stop using data bus technology?

24 A Yes.

25 MR. GILCHRIST: Move for admission of Exhibit

1 number 98.

2 MR. KAUTH: No objection.

3 THE COURT: 98 is admitted.

4 BY MR. GILCHRIST:

5 Q Are you familiar with a group known as Pacific  
6 Accessory Corporation?

7 A 98?

8 Q No, you just did 98.

9 A Oh, I just had that one.

10 Q I'm asking you about Pacific Accessory, no exhibit.

11 A Oh, there is no exhibit.

12 Q No.

13 A Oh, okay. Yes, I do know.

14 Q And did you reach an agreement with Pacific  
15 Accessory Corporation?

16 A Yes, I did.

17 Q Was there a written agreement?

18 A Yes, there was.

19 Q Are you sure?

20 A Yes. I know there was a written agreement.

21 Q All right. Did they agree to stop using the data  
22 bus technology?

23 A Yes.

24 Q And are you familiar with a group known as Mobis?

25 A Yes.

1 Q Who is Mobis?

2 A Mobis is similar to Lear. They are a tier one  
3 supplier to Kia and Hyundai.

4 Q Did they agree to stop using data bus technology?

5 A They were getting stuff through one of my licensees,  
6 and then decided to go to Korea directly. And so my  
7 licensee complained to me, I filed the suit, and now the  
8 product -- I'm getting paid on the royalties on those  
9 pieces through one of my licensees.

10 Q Okay. I want to move now into CalAmp. When did you  
11 first have a face-to-face meeting with a representative  
12 at CalAmp?

13 A Approximately 2009.

14 Q Where?

15 A At the SEMA show in Las Vegas.

16 Q What's a SEMA show?

17 A It's a service -- show for automobile car dealers  
18 and stuff.

19 Q Who was there?

20 A All the car manufacturers, tier one suppliers.

21 Q Sorry, bad question. Who was in this meeting  
22 between you and CalAmp?

23 A Myself, Bill Duffy.

24 Q Bill Duffy is whom?

25 A He's an employee of mine.

1 Q Okay. And who on behalf of CalAmp?

2 A There were two. Gallin Chen is one, and I forget  
3 the other person's name.

4 Q Okay. And can you tell the jury the purpose of that  
5 meeting?

6 A My sales person had contacted CalAmp with, you know,  
7 there's a problem with patents. Here's all this stuff.  
8 Told them about the patent numbers, and so forth. And  
9 they wanted to talk at SEMA, so we did. And when we sat  
10 down with them, I felt like I was right back at an  
11 original Directed Electronics meeting to where I was  
12 being cut down, that my patents stink, there's so much  
13 prior art. These are all invalid, everything that  
14 you've got. We don't need to take anything. And what  
15 kind of degree do you have? And I go, I don't have a  
16 degree. I've got a high school education. Well, we've  
17 got all kinds of degrees, you know. But they did it so  
18 smooth, so calmly of talking, just Mr. Nice Guy. You  
19 couldn't get them pissed off no matter what.

20 So, I mean, when they started just talking down to  
21 me and just tearing me -- just really pissing me off,  
22 I got into their space. In fact, I had told Duffy,  
23 I said, hey, I just want to see if these guys will do  
24 anything but smile and talk nice, so I just started  
25 coming right back at them calling them liars and all

1 kinds of names and just leaning forward in their face.

2 They never budged, very smooth talking.

3 Q Was the purpose of the meeting to negotiate a  
4 license?

5 A Yeah. Well, to talk about a license or to talk  
6 about what was going on with the patents and which the  
7 meeting really was all about how my stuff is invalid and  
8 if we continue on then they're going to invalidate all  
9 my stuff and all my license programs will go right down  
10 the toilet, because they're going to invalidate  
11 everything. They got all the degrees to be able to  
12 prove all this stuff. And back in the '80s, they had an  
13 IC chip that was programmable, and they could have  
14 programmed in every one of these features into the unit.

15 And I'm going, gee whiz, that's, like, more than  
16 ten years ago. Did you actually do that? And they're  
17 going, no, we didn't have to do that then, but we could  
18 have done that all back then. And I said, well, that  
19 don't count in the Patent Office that you could have  
20 done that.

21 Q Let me -- as a result of that meeting, did you enter  
22 into a license agreement?

23 A No.

24 Q Did you offer them one?

25 A I still tried to turn around and do a license

1 agreement. They said to send them a license agreement  
2 so they could read it all over and see what was what,  
3 so that's what we did.

4 Q And did they reject it?

5 A Yes. The meeting was the beginning of November at  
6 the CES show in Las Vegas in 2009. Sent them the  
7 agreement. And then by December -- so that's only like  
8 45 days later -- they're just going, nope, we don't want  
9 any license agreement. We're still standing by our  
10 stuff. So in December, around December 15th, we went  
11 ahead and filed the first lawsuit against CalAmp.

12 Q All right. I want you to, then, tell the jury the  
13 next meeting you had with CalAmp concerning the patent  
14 issues.

15 THE COURT: Mr. Gilchrist, before we move to  
16 this next meeting, let's take our morning break.

17 MR. GILCHRIST: Sure.

18 THE COURT: And we'll be in recess until  
19 11:00. Ladies and gentlemen, it's a 15-minute break.

20 (Jury exits.)

21 The record should reflect the jury has  
22 withdrawn.

23 Mr. Flick, I understand you're very passionate  
24 about your position in the case, but please refrain from  
25 using profanity.

1 THE WITNESS: All right. I didn't realize I  
2 did.

3 THE COURT: Several times.

4 THE WITNESS: Okay. I didn't realize it.

5 THE COURT: We're on break until 11:00.

6 MR. GILCHRIST: Your Honor, may I speak to the  
7 witness about that issue?

8 THE COURT: Yes, you may.

9 MR. GILCHRIST: I know I'm not supposed to  
10 otherwise, but...

11 COURT SECURITY OFFICER: All rise.

12 (Recess 10:45 a.m. to 11:05 a.m.)

13 THE COURT: All right. Are we ready?

14 Nancy, take your time.

15 DEPUTY CLERK: Why, thank you.

16 I have one more to stamp.

17 (Pause in proceedings.)

18 COURT SECURITY OFFICER: Are we ready for the  
19 jury, Your Honor?

20 THE COURT: Let's wait for Nancy just for a  
21 moment.

22 DEPUTY CLERK: Oh, dear, the stress...

23 (Pause in proceedings.)

24 DEPUTY CLERK: Thank you.

25 THE COURT: Sure. All right. Now we are.

1 COURT SECURITY OFFICER: Yes, sir.

2 (Jury present.)

3 THE COURT: The record should reflect the jury  
4 has returned. And the parties are present.

5 Mr. Gilchrist, when you're ready, sir.

6 MR. GILCHRIST: Thank you, Your Honor.

7 BY MR. GILCHRIST:

8 Q When we took a break, we were talking about the fact  
9 that you had a meeting at SEMA and license negotiations  
10 failed and you sued CalAmp. Do you recall that?

11 A Yes.

12 Q And did you have a subsequent meeting after you sued  
13 CalAmp?

14 A Yes. CalAmp said they wanted to meet at the CES  
15 show, which was the first week of January.

16 Q In 2010?

17 A '10. So that was like 20 days or so after they got  
18 filed the suit.

19 Q What did CalAmp say to you at the CES show?

20 MR. KAUTH: Objection. Hearsay.

21 THE COURT: Sustained.

22 BY MR. GILCHRIST:

23 Q Hold on. What did you take away from your meeting  
24 at the CES show in 2010?

25 A That they -- that CalAmp only made a blank box and

1 that's what they sold to their customers and their  
2 customers did all the programming of all of the features  
3 and stuff that I'm complaining about and that I needed  
4 to go sue their customers.

5 Q And did you put your lawsuit against CalAmp on hold  
6 as a result of that meeting?

7 A Yes. We stuck the suit against CalAmp on hold.  
8 It wasn't -- it was kind of dropped, but it was put on  
9 hold because of a -- we were guaranteed a venue if we've  
10 got to bring it back up again. And I went and sued the  
11 customer that I knew that had the product that we found  
12 that had the features in it which was Numerex, and we  
13 sued Numerex.

14 Q And what became of the Numerex lawsuit?

15 A It didn't take too long, and they settled and  
16 they're paying me royalties every month for all the  
17 product that they purchased.

18 Q Will you pull Exhibit number 99? Do you recognize  
19 Exhibit number 99?

20 A Yes, I do.

21 Q Is that the license agreement between Omega Patents  
22 and Numerex?

23 A Yes, it is.

24 Q Did that also have the marking requirements?

25 A Yes, it does.

1 Q Does it also have the innovation provision?

2 A On the data bus side of it, yes, because their  
3 license was a combination of -- my tracking patents were  
4 stuck in a bundle for Numerex 'cause that's what the  
5 argument was about, but during the argument, Numerex --  
6 I explained about all the data bus stuff. They checked  
7 out all the data bus stuff. And they agreed that the  
8 future would be tying the two together and they wanted a  
9 license also for the data bus stuff. So we gave them a  
10 license for both.

11 Q And did there come a time that you pursued another  
12 group that was what you believed to be using some of  
13 your patents known as Sky Patrol?

14 A Yes.

15 Q Can you explain to the jury what happened there?

16 A Sky Patrol is out of Miami, Florida. They were  
17 doing a GPS unit that we found that was in violation of  
18 the patents, and we filed suit. And during the suit,  
19 because they were using product from Enfora -- that's  
20 what I thought, it was an Enfora product. And during  
21 the suit it was discovered that they had just got done  
22 stopping selling CalAmp products. So I didn't see any  
23 of the CalAmp product, but this came up in the  
24 litigation.

25 So the counsel got samples of what it was on the

1 CalAmp stuff that they were doing. And it's got all of  
2 the same stuff in it that I was arguing with CalAmp the  
3 first time that said, oh, we sold a blank box. Well,  
4 Sky Patrol is going, we've got no engineers here to  
5 program all this stuff and do all -- we don't get a  
6 blank box. CalAmp does a hundred percent of it. And  
7 that was the same argument I got back from Numerex.  
8 They laughed when I said I dropped the case against  
9 CalAmp to go sue them when they said they didn't have  
10 engineers to program the box, that CalAmp did all the  
11 programming, downloaded everything in it, they got a  
12 finished product.

13 Q Well, did CalAmp become involved in that lawsuit  
14 with Sky Patrol?

15 A Yes. We pulled -- we had to pull CalAmp into the  
16 middle of the lawsuit with Miami. And then CalAmp  
17 decided to go ahead and pay me the royalties for what  
18 they purchased only, and that was it. So they didn't  
19 want to continue the royalty, you know, the program or  
20 nothing. They just wanted to pay me for what they  
21 purchased.

22 Q If you will look at Exhibit number 45. Can you  
23 identify Exhibit number 45?

24 A Yeah. This is the settlement agreement with CalAmp  
25 for the pieces that Sky Patrol had purchased.

1 MR. GILCHRIST: Move for admission of Exhibit  
2 number 45.

3 MR. KAUTH: No objection.

4 THE COURT: 45 is admitted without objection.

5 BY MR. GILCHRIST:

6 Q Did there come a time that you learned that CalAmp  
7 was moving into the data bus technology?

8 A Yes.

9 Q Is that what brought us here today?

10 A Yes.

11 Q Do you have an interest in licensing CalAmp?

12 A No.

13 Q Can you explain to the jury why?

14 A So far, all of my dealings in the -- in any of my  
15 other dealings, it wasn't this bag of lies. I mean, to  
16 turn around and say, go sue my customers, because I have  
17 a blank box. It's not a blank box. You did it all.  
18 You gave them a finished product. And I turn around and  
19 followed their instructions, because I believed in them  
20 and then turn around and find that from Sky Patrol, a  
21 year or so later, they've got the same stuff, the same  
22 story, and CalAmp settles with what there is there.

23 And then after the meeting at SEMA to be talked down  
24 to and just -- it just really ticked me off. Hopefully  
25 that ain't bad. That, and then the meeting that we had

1 in December, I just don't see -- the mentality of the  
2 company is, hey, I'm too big to fail and I'm too big, I  
3 can take whatever I want. Even though they got their  
4 own engineers and they do their own work, my opinion is  
5 you could probably dig and find other people that are  
6 getting stepped on like me.

7 MR. GILCHRIST: Your Honor, I think I misspoke  
8 before. I would also move for admission of Plaintiff's  
9 Exhibits number 70 through 80.

10 MR. KAUTH: No objection, Your Honor.

11 THE COURT: 70 through 80 are admitted.

12 MR. GILCHRIST: And with that, Your Honor,  
13 I have no further questions of Mr. Flick.

14 THE COURT: Thank you very much.

15 Cross examination?

16 MR. KAUTH: Yes, Your Honor.

17 CROSS EXAMINATION

18 BY MR. KAUTH:

19 Q Good morning, Mr. Flick.

20 A Good morning, Joel.

21 Q You testified earlier that you're familiar with the  
22 patents in suit. Do you recall -- do you have an  
23 understanding of what each of the four patents in suit  
24 covers?

25 A I just know generalities of what -- to read those

1 claims I cannot do, but I know the generality of what  
2 there is.

3 Q Can you give me your general understanding of what's  
4 covered in the '876 patent? And if you need to refer to  
5 it, that's Joint Exhibit 1.

6 A I need to refer to it. I don't know the number  
7 itself.

8 MR. KAUTH: May I approach, Your Honor?

9 THE COURT: Yes, you may.

10 MR. CHONG: Your Honor, could we switch the  
11 monitor to this table, please? Thank you.

12 BY MR. KAUTH:

13 Q I'm going to hand you a copy of Joint Exhibit 1,  
14 and it's also going to be on your monitor.

15 A Okay.

16 Q Mr. Flick, I may be able to help this process.  
17 Can you recall back when you had a conversation with  
18 your patent attorney about the inventions in the '876  
19 patent and what you told him your invention was?

20 A My mind's a little bit fried from everything here  
21 already, but you can refresh it. But once we start  
22 talking, I'll tend to remember.

23 Q Okay. Do you remember any of the general context  
24 from the '876 patent that differentiated from your other  
25 patents?

1 A I don't think we talked about that today, did we?

2 Q I don't believe we did.

3 A All right.

4 Q You've talked about tracker patents. Is this a  
5 tracker patent?

6 A Not necessarily, no.

7 Q Would you call thus one of your vehicle bus patents?

8 A I would call it that, but still what's written in  
9 there may bring up some stuff about, you know, wireless  
10 or from a monitoring station which could be referring to  
11 a GPS tracking system's got cellular in it. So there's  
12 a lot of different areas inside the patent, so I don't  
13 wanna be saying something that you take as gospel that  
14 that's what's in this when I'm not a patent attorney to  
15 describe everything that is in there properly, like what  
16 you're looking for.

17 Q You've testified that you have over 150 patents,  
18 I believe?

19 A Correct.

20 Q In your mind, do you have features from each of  
21 those patents that distinguish them from one another?

22 A You know, they can't be the same. Otherwise, that  
23 would be double patents. Can't do that.

24 Q Do you recall any of the features from the '876  
25 patent that, in your mind, distinguish it from your

1 other vehicle bus patents?

2 A Yeah.

3 Q Can you tell me some of those?

4 A Well, to where it's a way of being able to determine  
5 what vehicle you're in, what kind of bus that you need  
6 to be able to talk with, and there's different ways of  
7 trying to figure that out. In doing those different  
8 ways of figuring it out, it's applied to the whole thing  
9 whether you got transmitter, GPS, you know, everything  
10 all combined that is in there. I wouldn't say that the  
11 patent is covering exactly send off one code. If you  
12 don't get a response, then send off another, and it's so  
13 isolated to that one little piece. It's not. There's a  
14 whole bunch of elements that are inside those claims.

15 Q I heard in the opening that Mr. Gilchrist said you  
16 may be a better visual learner, so maybe if you could  
17 turn to Figure 1 of the '876 patent?

18 MR. GILCHRIST: Your Honor, I'm going to have  
19 to object. This is beyond the scope of direct.  
20 We didn't go into the details of the patent for good  
21 reason.

22 THE COURT: Well, that is true. But to avoid  
23 having to recall the witness, I'll allow some limited  
24 entry into this area.

25 MR. KAUTH: I will try and keep this brief,

1 Your Honor.

2 BY MR. KAUTH:

3 Q At the bottom of Figure 1, do you see a diagram that  
4 includes a vehicle data communications bus?

5 A Yes.

6 Q And do you see the vehicle devices listed below it?

7 A Yes.

8 Q And back when you were developing your ideas to hook  
9 alarm systems on to the vehicle bus, what type of vehicle  
10 devices did you envision controlling?

11 A Well, it's listed in here -- starting the car, door  
12 locks, flashing the lights, horns -- as far as  
13 controlling things inside of the car. And you might be  
14 able to control the BCM, hook directly up to the BCM and  
15 start working the BCM directly rather than the wire  
16 underneath the dash.

17 Q And what's the BCM?

18 A The body control module.

19 Q And what does that do in a vehicle?

20 A Well, the body control module is like the brain or  
21 the controller of the car 'cause it's brain unit that  
22 deciphers different things to do. You know, just like  
23 this right here, you know, they want to call it a  
24 controller, and I usually call it a brain box. That's  
25 the way I've always -- in my language would be a brain

1 box.

2 Q And in your alarm systems that you were building at  
3 Omega R & D, you mentioned the brain box earlier, and  
4 this is before they connected to the vehicle data bus,  
5 what vehicle devices could the brain box control?

6 A Door locks, lights, ignition, emulate what your  
7 ignition key is doing.

8 Q So I could remotely start the car, even if the key  
9 wasn't in?

10 A Correct.

11 Q Okay.

12 A You could read the -- the boxes could determine  
13 when a door was open, because you're reading the  
14 negative pulse that occurs on the door, so that's  
15 reading, not sending the door lock code to lock it.  
16 It's literally, did the door open or did it not, so it's  
17 got to read. So even the brain units in the beginning  
18 were listening and also talking. Even though it was  
19 hard wired, that's the way you've got to put it.

20 That's where you're dealing with an input and an output.

21 Q Okay. Let's jump to the Jeep Grand Cherokee for  
22 awhile.

23 A All right.

24 Q Do you recall what year vehicle that was that you  
25 were looking under when you had your kind of ah-ha

1 moment?

2 A '96.

3 Q And what did you do to that vehicle? Did you  
4 actually connect the device to the bus?

5 A Yes.

6 Q And did you control the door locks with that device?

7 A Yes.

8 Q And refresh my memory, where did you get the codes  
9 to control the door locks or the commands?

10 A I just explained how I got the codes. We bought a  
11 device that was able to read the vehicle's codes that  
12 just came across and it had a software program that you  
13 loaded into your computer, your laptop, that allowed it  
14 to talk to it, because you had one brain box. And that  
15 brain box connected to the bus and it plugged into your  
16 laptop. Then, you had software that had go into the  
17 computer. And, in turn, it allowed the screen to show  
18 you all of the codes that are coming across inside of  
19 the car. So as it came across the car and this  
20 interpreted it and then stuck it up here with zeros and  
21 ones and letters.

22 Q And what was the time frame when you were actually  
23 looking at those codes?

24 A '96.

25 Q And did Omega R & D come up with a vehicle bus

1 device in '96 that it sold?

2 A No.

3 Q When is the first time that Omega sold a device that  
4 connected to the vehicle data bus?

5 A Sold the device would have been 2002.

6 Q Do you recall in your deposition testifying that  
7 that would have been 2004 was Omega's first bus device  
8 and that it was from Trilogix?

9 A Yesterday or two days ago talking with the attorneys  
10 or whatever, I remember that part of the conversation,  
11 but it really wasn't. In fact, it was 2002, and it was  
12 our device that we manufactured ourselves. And I think  
13 there's some other deposition stuff where we talked  
14 about that, just not that one little slivet [sic  
15 phonetic] that was out of there.

16 And my brain is fried and I was wrong to say that I  
17 only started in 2004 and it was only a unit that was  
18 purchased from Trilogix 'cause that wasn't the  
19 situation. I don't know why I said that. But there's  
20 other parts in that deposition that should have it to  
21 where I was building my own units.

22 In fact, you can still find them in a web page doing  
23 a search on DL -- on DL-3, which is a data bus door lock  
24 3, so it did three different types of vehicles, and we  
25 stuck dip switches on it in which we grabbed the codes

1 out of the car, we turned around and sent the  
2 information -- we got another box similar to what we had  
3 and we sent it over to China so we could tell them what  
4 to do, punch in this code. Whatever you saw come out of  
5 the box going to the car, that's what I wanted you to  
6 copy, to stick it in my box. And it would be able to  
7 have a dip switch to select whether I wanted one type,  
8 a second type, or a third type, and then eventually the  
9 dip switches grew.

10 Q The codes came from China, then, based on what they  
11 were able to reverse engineer?

12 A No. We reverse engineered it by going into the car  
13 with this mechanism that we had. We bought a second --  
14 after I was able to prove to my other tech guys that,  
15 hey, this was the future, we bought a second one and I  
16 sent it off overseas so that that way they could hook it  
17 up to whatever they hooked it up to, that we could turn  
18 around and say, punch in this code and whatever comes  
19 out of the box that they had, that's what I wanted you  
20 to emulate to make that device.

21 Q Okay. So the DB-3 could be compatible with three  
22 different vehicles; is that correct?

23 A Approximately, yes, on the first one. They were on  
24 GM units. And then, it started expanding after that.  
25 As soon as we got the first one, hey, everything was

1 great. And then, we added another car, added another  
2 car, added another car.

3 Q So when you say it was a GM unit, you would work  
4 with three different GM vehicles?

5 A GM type. It would work with a Jeep. And it also  
6 did the GM cars, some of the GM cars.

7 Q And tell me how the dip switches worked.

8 A Well, the dip switch would tell the computer IC  
9 chip, when you grounded out one little pin of the IC  
10 chip, then it told the internal computer of it use these  
11 codes so that when you ground this wire over here we  
12 want the lock code coming out. When you ground this  
13 wire, we want to see the unlock code come out. So we  
14 were pretty much just doing door locks at that  
15 particular time.

16 And this module allowed you to hook it up to the car  
17 alarm unit or you could hook it up to a GPS tracking  
18 unit. And my GPS tracking unit that we had had -- you  
19 got outputs, so -- in which we had negative output.  
20 So if you said, hey, trigger output 1, okay, we wired it  
21 up for locking the door. And you trip output 2, you're  
22 unlocking the door. Or same thing with your car alarm,  
23 when you wanted to lock or unlock, you're doing  
24 different negative pulses off these wires. You took  
25 those negative wires to the data bus module we made, so

1 you had two wires going over to the door lock piece and  
2 you only had the one or two wires going over to the  
3 computer inside the car. So --

4 Q And how many different DB devices did you make?

5 A It just grew. There's -- right now, there's like a  
6 DB all, so it does everything. And that box, the  
7 dealers are paying almost \$50 for this box. So the  
8 \$20.50 days, those are gone.

9 Q Okay. And could the DB-3 remotely start the  
10 vehicle?

11 A No.

12 Q Could it set the alarm?

13 A Yes. Because when we sent -- that was one of the  
14 other things we did besides the door lock code that was  
15 in there, it also -- the car had an alarm in it so we  
16 needed to know what -- with the arm the alarm and the  
17 disarm code from them car factory 'cause it had a car  
18 alarm in it, so we could turn around and get those  
19 codes. And inside of the -- there is a code in there  
20 that turns around and says disarm the alarm and unlock  
21 the doors or, you know, lock the door and arm the alarm.  
22 Then, you've got a code, a separate code, that we could  
23 just do the door locks, and then you've got a separate  
24 code that you could honk the horn.

25 Q And was the DB -- let's use the DB-3, was that a

1 free-standing unit or was that a module that attached to  
2 one of your alarms?

3 A It attached to one of the alarms or to a tracking  
4 unit.

5 Q Okay. Let's move on. You spoke about the GPS 2000.

6 A All right.

7 Q And that was not a vehicle data bus compatible  
8 device, was it?

9 A No. It did not connect directly to the data bus.

10 Q And you said you thought that came out in 2001 and  
11 people gave you a hard time, because it had 2000 in the  
12 name?

13 A Yes.

14 Q Do you recall issuing a press release in 2000 about  
15 showing that device at a show in Atlanta?

16 A Yeah. We -- you know, what was asked when I really  
17 started selling the unit, we started selling it right  
18 around the beginning of 2001. There may have been some  
19 pieces that were sold in the year 2000 to where it went  
20 to the SEMA show in 2000 so we ran press releases on the  
21 GPS 2000. We were still 2000. And --

22 Q Did Omega partner with anyone to produce the GPS  
23 2000?

24 A Yes.

25 Q And who is that?

1 A The guy's name is Ashook [phonetic]. He's in  
2 California. I can't remember the name of the company  
3 off the top of my head.

4 Q Do you think it might be Televoke?

5 A No. Televoke was the back-end service provider for  
6 the unit.

7 Q Okay.

8 A They didn't supply the GPS unit or anything. They  
9 were the back end. Televoke had their computer system.  
10 And they had a huge network connected to the trunk line  
11 of the telephone company that went over to the control  
12 channel company, because you weren't really working off  
13 voice channel. You were working off of the control  
14 channel.

15 Q Did the GPS 2000 control any vehicle devices?

16 A Yeah. It had negative outputs to where you could  
17 lock or unlock the doors on cars that you could do that  
18 to.

19 Q And does that mean it output a voltage signal to the  
20 negative output?

21 A Yes.

22 Q Okay.

23 A Yes. And if you had a car that needed data bus,  
24 then you bought the module, the data bus module that we  
25 just talked about, and connected it to it so that it

1 would convert into codes.

2 Q So the DB-3 module would have connected to the  
3 GPS 2000?

4 A Yes.

5 Q Did the GPS 2000 have anything for doing speeding  
6 alerts?

7 A Yes.

8 Q And tell me how speeding alerts work.

9 A Because you're on the control channel, you got  
10 charged for all the different pings that were coming  
11 across, every alert that you got. So on the speed  
12 alert, I had designed it to whatever speed that you set  
13 it for, because the consumer could go into a web page  
14 and set it for 60 miles an hour or 65, whatever that you  
15 wanted to set it for. Well, it needed to do that speed  
16 for greater than 30 seconds. If it was speeding that  
17 speed under 30 seconds, you never got an alert. And the  
18 other companies that were out there that had speed  
19 alerts that were already there did not do that. As soon  
20 as it hit 60 miles an hour, you got an alert.

21 And then --

22 Q And then, where did these alerts go?

23 A To the monitoring station. And then, the monitoring  
24 station would turn around and if they were instructed in  
25 the monitoring station to automatically send me a pager

1 message or call my phone to tell me, hey, your car is  
2 speeding, but even when it did it for the speeding, 60  
3 seconds later or whatever the specs were on the phone  
4 company 'cause you just couldn't sit there and go, you  
5 know, here's one alert, another, another, another, there  
6 were specs off the telephone line that you could do it,  
7 like, once every minute. So if you were speeding every  
8 minute, you would get another one, and another minute,  
9 another one. So you're just cranking up all these  
10 alerts and expense. So to be able to make my unit more  
11 cost effective to the consumers; we ain't paying so much  
12 money per month, having that feature in there that you  
13 could speed for a period of time --

14 Q So I could set it for a two-minute period of time  
15 and maybe a speed of 65 and if I exceeded the speed of  
16 65 for more than two minutes, it would send a  
17 notification; is that correct?

18 A Yeah. If you set it for 65 miles an hour and you  
19 exceeded that speed for, let's say, 30 seconds you got  
20 the alert. And there's also a patent on the fact that  
21 you got one alert. So the only way that the machine was  
22 reset was that when the car stopped and you turned off  
23 the ignition key, then it reset the counter, so that way  
24 you would only get one alert. And sometimes we had set  
25 it up to where, okay, if you got that alert then if it

1 happened again after four minutes or something, then  
2 you're gonna get another alert and you're gonna really  
3 know your kid is hot-dogging out there.

4 Q And the GPS 2000, I'm assuming from the name, had a  
5 GPS unit; is that correct?

6 A Yes.

7 Q And where did the GPS 2000 get the speed information  
8 from?

9 A From GPS. It did not get it from the bus at that  
10 time.

11 Q And so in early 2001, you were selling the GPS 2000?

12 A Yes. Or in -- definitely 2001, if not in 2000, we  
13 was beginning to sell some and get the feelers out there  
14 for the particular units.

15 Q If you could take a look at Joint Exhibit 3.

16 MR. KAUTH: May I approach, Your Honor?

17 THE COURT: Yes, you may.

18 BY MR. KAUTH:

19 Q Do you have an understanding that the '727 patent  
20 that is Joint Exhibit 3, relates to speeding  
21 notifications?

22 A The one up here is the '885.

23 Q I'm sorry.

24 MR. KAUTH: May I approach again, Your Honor?

25 THE COURT: Yes, you may.

1 BY MR. KAUTH:

2 Q I've handed you the wrong exhibit. Turn to Joint  
3 Exhibit 4. So if you could take a look at Joint Exhibit  
4 4, do you have an understanding that the '727 patent  
5 relates to speed notifications?

6 A Yes, that's what it's related to.

7 Q And do you see on the face of the '727 patent it  
8 says it was filed in 2007, correct?

9 A Yes.

10 Q So that's more than six years after the GPS 2000  
11 device came out, right?

12 A Yes. But the GPS 2000, I was working on the design  
13 and doing all of that work in 1999. It took that long  
14 to finish the project to get it out there. It isn't  
15 like, wow, 30 days later you got a product. I've got to  
16 start from scratch.

17 Q But it was publicly sold in 2000?

18 A It was publicly sold, but the project itself was in  
19 great detail in 1999.

20 Q And do you understand -- do you have an  
21 understanding whether the '727 patent would cover the  
22 features of the GPS 2000 regarding speed notifications?

23 MR. GILCHRIST: Object, Your Honor. Calls for  
24 a legal conclusion.

25 A I don't know. It would take time for --

1 THE COURT: Bear with me, Mr. Flick, just one  
2 second, please. I'll allow the witness to answer to the  
3 extent that he can as a lay witness, but not as an  
4 expert.

5 MR. KAUTH: All right. You can answer.

6 A I'm not sure if it's in this patent that has got a  
7 statement on the fact of it could be determined from the  
8 bus. There's possibly another patent that covers from  
9 the bus. I don't know.

10 BY MR. KAUTH:

11 Q Okay. So just to clarify, GPS 2000, though, could  
12 not get speed from the bus. It took speed from the GPS,  
13 correct?

14 A Correct.

15 Q In your mind, have you asserted the '727 patent in  
16 this case for taking speed from the vehicle bus?

17 A I don't know. That's really part of the counsel for  
18 what all the details are.

19 Q Okay. Let's move on to a different topic.

20 You mentioned you met with CalAmp previously and had a  
21 meeting with them in 2009 at SEMA and that you filed a  
22 lawsuit, but it was put on hold. Do you know if Omega  
23 actually dismissed that lawsuit?

24 A That's what I was trying to explain. I think it was  
25 dismissed with the provision in it that if we had to

1 turn around and bring it back alive, we got venue in  
2 Atlanta 'cause that's where the suit was and that's  
3 where we -- or no. We had venue in Orlando, excuse me.  
4 The suit was brought out of Orlando. We didn't want to  
5 lose venue and start the whole process all over again.  
6 So I was told it was put on hold with that clause in it  
7 that it would be here. That's why we're here in Orlando  
8 today because of that clause.

9 Q And do you recall if there was a formal settlement  
10 from that lawsuit?

11 A I don't recall anything to where it was like a  
12 regular document that's all signed up. I'm sure to do  
13 whatever they did with the courts to make it go away,  
14 there was something the attorneys sent in.

15 Q And do you recall if any of the patents that are in  
16 the lawsuit we're in today were involved back in that  
17 lawsuit?

18 A I think so.

19 Q Do you know which ones?

20 A I don't know off the top of my head, but I know  
21 something is there that was involved in those. That's  
22 why I depend on the counsel.

23 Q Are you familiar with a patent that was previously  
24 in this lawsuit called the '989 patent that may be in  
25 your tracker patent group?

1 A If you say so. I haven't gone over any of it on the  
2 '989.

3 Q So you don't -- you're not familiar with why Omega  
4 was asserting the '989 patent in this lawsuit?

5 A Not exactly. I'd have to sit down with counsel to  
6 refresh my memory which, before the case started, we sit  
7 down and go through it all.

8 Q Do you have a recollection if the '989 patent was  
9 included simply to get venue in Orlando?

10 A No.

11 Q As part of your discussions with CalAmp, both  
12 before and after that previous lawsuit, did you receive  
13 any claim charts from CalAmp explaining why they  
14 believed the patents may be invalid?

15 A I know there were claim charts that were sent back  
16 and forth, my attorneys doing up claim charts to them.  
17 I don't know exactly if -- whatever they did, if they  
18 did one that was sent back to me, which I tend to think  
19 they did, that was all given over to the attorney to do  
20 the responses going back saying you're wrong here,  
21 you're wrong there, that's all the legalese that the  
22 attorneys had done.

23 Q And CalAmp sent prior art to Omega as well at that  
24 time, didn't it?

25 A I don't know. You'd have to ask counsel and the

1 attorneys for whatever the prior art is that they would  
2 have sent. Odds are they did send some and my counsel  
3 said everything they sent was already listed on the  
4 patent and the Patent Office already reviewed it all,  
5 so they didn't understand where you're coming from.

6 Q We talked earlier and it was mentioned in opening  
7 that you learned about the vehicle data bus to come up  
8 with the Omega products, and you mentioned earlier a  
9 device where you could read the codes on the computer  
10 screen. Did you do anything else to learn about the  
11 data bus?

12 A No. I'm not a person to sit there and take reading  
13 classes or any of that kind of stuff. I'm more of a  
14 hands-on person. And the company was bigger and I had  
15 different guys doing different things and I could turn  
16 and say, hey, you know, work the computer. You sit  
17 there all day long, look, read the codes, play them back  
18 one at a time, 'cause it could take all day to come up  
19 with some of these codes.

20 Q Okay. And that was, I believe you said, in '96 when  
21 you were looking at the Cherokee, correct?

22 A The original was looking in up '96 on the Jeep  
23 Cherokee so that we knew -- I knew I was in the right  
24 direction, and I knew I could build the product.  
25 That's where I was at.

1 Q In learning about the vehicle bus, did you  
2 investigate any standards that control the vehicle bus?

3 A No.

4 Q Did you investigate different types of vehicle buses  
5 at that time?

6 A The technical guy said I've got -- 'cause I had  
7 about six different guys that answered all the phone  
8 calls for, I can't put it in this car, what's wrong with  
9 this, what's wrong with that. They'd answer, all the  
10 technical guys. And they would come up and -- now I'm  
11 lost. What was the question again?

12 Q I'm lost as well. Let me try a different question  
13 for you.

14 A All right.

15 Q It was, were you aware of the different types of  
16 vehicle buses in 1996?

17 A All right. My technical guys, because we turned  
18 around and spent hundreds of thousands of dollars buying  
19 all these Mitchell books for the wiring diagrams for  
20 each one of the cars, I mean massive quantities of these  
21 books that we had to do for every car. And my guys  
22 would have to sit down and when somebody would call up,  
23 I'm doing an install on such and such a car, we'd have  
24 to get the Mitchell book, go through it, check out  
25 wiring diagrams or whatever and probably, probably

1 inside of those Mitchell books it had SAE, whatever,  
2 that was going on.

3 And I started learning, you know, or hearing the  
4 words SAE more from counsel when they'd turn around and  
5 say, hey, leave it to them. They'll find all -- you  
6 know, all the paperworks that need to be. All the SAE  
7 stuff was inside of the patents. It was all noted that  
8 was in there. But whatever my guys did to come up with  
9 any type of specs or whatever, I didn't pay them to sit  
10 there and start reading manuals. I mean, that's a --  
11 that would be beyond a full-time job for a warehouse of  
12 people.

13 Q So back in '96, you weren't aware of J1978, the SAE  
14 specification?

15 A Not the specification. We were aware of the J18--  
16 of the different buses, we were aware. Well, in '96,  
17 we were just basically familiar with the one that was  
18 in the Jeep. And then I think -- the Jeep had it in  
19 '96, and I think GM started in '97, '98.

20 Q Do you recall if in that Jeep that would have been  
21 an ISO 9141 CAN bus?

22 A I think it was. And in '96, there was a twisted  
23 pair that was inside the car. In the GM, wasn't it a  
24 twisted pair?

25 Q Let's jump back to your dip switch device, the DB-3

1 through whatever. Which bus did that device work on?

2 A It worked on the Jeep, and it also worked on the  
3 GMs.

4 Q And was that a different SKU for the one that worked  
5 on the Jeep and the one that worked on the GM?

6 A The same one. You just flipped the dip switch in  
7 it, and then we emulated the CAN bus or we emulated the  
8 J series.

9 Q Okay.

10 A It was in there. Everything was emulated.  
11 We didn't buy the CAN chip and stick it in the board or  
12 the J chip and stick it in the board. We actually  
13 emulated what it was doing. Today's time, because you  
14 can end up with problems trying to emulate it and it not  
15 be exactly correct with messages and reading all this  
16 stuff, today's time on the bus modules, which we still  
17 make, they actually buy the CAN chip -- and all the  
18 different platforms, the chips are stuck there.

19 Q So back in those days, in '96, your technical guys  
20 would have had to still follow the SAE standards,  
21 wouldn't they, to get the messages in the correct format?

22 A We didn't -- all we did was whatever this box was  
23 that we could punch in a code on our laptop to say, hey,  
24 lock the door and whatever that code was, that's what we  
25 told them over in Taiwan, do that. And whatever came

1 out on your scope, that's what I want to come out of  
2 your IC chip so I can go and lock those doors, and it  
3 worked.

4 Q That's the code coming from the Jeep that you're  
5 reading, correct?

6 A First the box is reading tons of codes coming  
7 across. We would work lock, tell the machine stop.  
8 So the screen would have a hundred different codes  
9 sitting on it.

10 Q So those are SAE-compliant codes that Jeep put in  
11 the vehicle, correct?

12 A Yes.

13 Q Let's turn to your licensing. You spoke about your  
14 different licenses and your program. Have you licensed  
15 your patents to anyone -- let's focus on the vehicle bus  
16 patents -- for a price different than \$5 per unit?

17 A Yes.

18 Q And who are those people?

19 A Mid City Engineering, which we listed all of the  
20 patents, but then we have -- because each one of the  
21 different patents may have, you know, a fringe of  
22 something that he was doing. But then we stick in a  
23 claimant's statement in there that out of all these  
24 patents, you are only authorized to do remote car  
25 starting, anything related to remote car starting in a

1 Mercedes, and it was vehicle-specific. You couldn't do  
2 the GMs or anything else, the Mercedes.

3 Q All right.

4 A And that was a \$20 per piece license, because the  
5 amount that he was selling for that one SKU -- and I was  
6 trying to be nice and not be mean, but nobody else --  
7 none of my other guys were selling this stuff. But at a  
8 \$5 license, I couldn't afford to monitor that license  
9 for what he was selling and pay my attorneys or if any  
10 arguments came up and I got to pay my counsel to go do  
11 something, I would be losing money.

12 Q So it was low volume, but you still had to monitor  
13 it?

14 A Yeah. It was low volume, I had to monitor it, so it  
15 was \$20 apiece on what he paid me in royalties. The  
16 second part of that was -- the reason that I also added  
17 the \$20 on there was the fact that it made an incentive  
18 on his side to work with my other licensees to sell  
19 them. Because if they sold them the unit, they could  
20 sell it and only pay me \$5.00. So he had to give me  
21 reports for if he did, which he did, he sold Directed  
22 Electronics and he sold ADS those modules. And then ADS  
23 stuck it on their reports and so did Directed  
24 Electronics and paid me five bucks apiece. So that was  
25 -- he was very happy with that. But then all of a

1 sudden, Directed Electronics gets so much in sales and  
2 they're also reverse engineered and they came out with  
3 the same stuff and then now he's back to the lower  
4 sales, but I'm still collecting \$20 per unit, and he  
5 still sells hundreds of units.

6 Q All right. One of the licenses you mentioned  
7 earlier was with Lear. I believe that's -- if you can  
8 put up Exhibit 71 of the plaintiff's exhibit, please.  
9 In the Lear agreement, do you recall which companies  
10 Lear was selling products to?

11 A There was, I think, a Honda unit, of course, the GM  
12 unit, and I think there was one other unit that there  
13 were, I was told, low sales. But it would be inside of  
14 the paperwork from Lear 'cause at the time I was not  
15 privy to all of this information.

16 Q So you didn't know how many units were being sold?

17 A I have no idea, just like I have no idea with your  
18 stuff at all. It was all for attorneys eyes only. It  
19 was only when the agreement was done that I got to see  
20 the fact that there was, you know, a Honda model. They  
21 put a list of the model numbers inside the agreement.  
22 Then, I knew that there was some other particular SKUs.

23 Q So there were Lear models for Chrysler as well,  
24 correct?

25 A There may have been. It's all in the print.

1 Q If you could turn your attention to the bottom of  
2 Exhibit 71. You will find an appendix at the end.  
3 It lists the products and the companies.

4 A Yep.

5 Q So you see General Motors, there were four different  
6 Lear products, right?

7 A Yes.

8 Q Chrysler, one product?

9 A Right.

10 Q Ford one product, correct?

11 A Yes.

12 Q Honda, two products. And Alerting Products, one  
13 product; is that correct?

14 A Yes.

15 Q And this was entered into in 2011?

16 A Whatever the date is in there, that sounds about  
17 right.

18 Q And under this agreement they're still allowed to  
19 continue selling products, aren't they?

20 A They're allowed to sell very limited --

21 Q These products at the end?

22 A Yes. But I think when this was done their sales,  
23 they picked up whatever they had sold at any time to  
24 anybody and it all got listed because they wanted to  
25 wash it all out, but the bankruptcy washed it all out.

1 So when the bankruptcy was there, whatever the sales  
2 were in this here, I may not have been paid for it,  
3 because the bankruptcy wiped it out. But the license  
4 that they got was for remote starting the car on a  
5 single platform not, multi platform.

6 And so, in discussions with my attorneys, we felt  
7 that that won't last long at the single platform. They  
8 are going to turn around and say, wow, in GM we got four  
9 different platforms. We need to make one unit that will  
10 work all four of these different platforms out there.  
11 So that's what I'm banking on, of what there was.

12 So in the agreement, it carves out there is no multi  
13 platforms. This is solely remote starting a car on a  
14 single platform. And this was the main -- this was the  
15 only one I had that was on a single platform that I  
16 could recall, which was remote starting the car.

17 Q But you have no idea how many units had been sold  
18 under this license, do you?

19 A I have no idea, but I know the massive majority was  
20 wiped out in a --

21 Q Since 2011, do you have any idea how many cars  
22 General Motors has sold with remote start capability?

23 A No.

24 Q How about Chrysler?

25 A No.

1 Q Do you know how many remote start cars Ford has sold  
2 since 2011?

3 A No.

4 Q How about Honda?

5 A No.

6 Q And do you know how many products -- how many  
7 products Alerting Products company has sold since 2011?

8 A Well, you're getting into -- I don't even think Lear  
9 was continuing to sell Honda or none of these other  
10 people. That was stuff that they had sold in the past.  
11 So to turn around and take future sales of something  
12 that they're not even dealing with them, that may not  
13 have been part of their calculations.

14 Q But you can't calculate what your actual per-unit  
15 royalty would have been on these products, can you?

16 A When this was done, I was told that their  
17 calculations were based upon \$5.00 a car. That's what  
18 it was based upon. And also applying that formula to  
19 what they felt their projection was of what sales were.  
20 That's what I was told.

21 Q Okay. But you can't verify that information now?

22 A I cannot verify that information. Just like the  
23 fact of you say, well, this agreement covers everything  
24 they're selling today and what were their sales today.  
25 I would say, hey, my opinion is they aren't selling that

1 product that they are licensed for in those cars today.

2 What they got in it today, in my opinion, is multi

3 platform --

4 Q But you're not sure?

5 A -- and we'll be back at that again. So just because

6 I settled with this doesn't mean I ain't coming back at

7 them for the multi platform, and they know it.

8 Q Have you confirmed that they're actually using multi

9 platform?

10 A Working on it.

11 Q You're not sure yet?

12 A I feel in my heart I'm a hundred percent correct.

13 It's just the matter of trying to prove it, which is

14 very hard to do.

15 Q Another agreement you mentioned earlier was one with

16 GM for 50,000 and that's the same type, right, a lump-sum

17 settlement?

18 A It was a lump-sum settlement for the same thing,

19 carving out only for what they had transitioned for the

20 time period with Lear. We thought there was going to be

21 a lot more there for what had happened and evidently

22 there wasn't.

23 Q So --

24 A And, in turn, the bankruptcy was a big issue in all

25 of this. So, in turn, my counsel recommended, you know,

1 if you took the \$50,000, you know, that will be fine for  
2 their formulas or whatever they did, it will still come  
3 out to five bucks a unit. Once you get all the  
4 muddiness of the bankruptcy involved, it's not going to  
5 hurt the future licensing program. And then on top of  
6 that it's going to be multi platform after it, and they  
7 know it.

8 Q You were guessing there were about 10,000 units at  
9 play there at \$5.00 each; is that correct?

10 A I don't know how it worked out. Like I say, the  
11 bankruptcy was a big, big problem.

12 Q And is GM still selling under that agreement?

13 A Yeah. The agreement hasn't been cancelled.

14 Q And did you have an agreement with a company called  
15 Enfora?

16 A Yes.

17 Q And did they also have a lump-sum settlement amount  
18 and not a per-unit royalty?

19 A The per-unit royalty was calculated in the lump sum  
20 dollars. On the Enfora suit, there was the original one  
21 which was for the tracking stuff. And then we learned  
22 that they had some data bus stuff. And the data bus  
23 stuff was being sold to -- they were selling the same  
24 stuff to Numerex. And in turn, once the suit was done  
25 on the tracking unit and we saw all about the different

1 modules and the attorneys got all the records for what  
2 their sales were, they noticed that their sales were  
3 almost nothing and all the sales were going to Numerex,  
4 so there was really nothing there to amount to anything.

5 So, Enfora wanted to get this to go away, so they  
6 turned around and agreed to what they paid me for the  
7 tracking, which was right around \$200,000 just for those  
8 particular patents for the tracker, along with if we  
9 dropped the case in Atlanta, which I'm going to get  
10 nothing for, because they were planning on going  
11 bankrupt on all of this stuff anyways and the sales were  
12 not going to be anymore anyways is what they sold us.

13 They gave us the story of bankruptcy, we're in  
14 trouble, and that. So to avoid all of this stuff with  
15 the bankruptcy again that we learned our lesson with  
16 Lear, they turned around and said, we are best to settle  
17 for that. You're still getting what the royalties were  
18 so we can defend the \$2.00 for the GPS and the \$5.00 on  
19 data bus.

20 On the one that was in Atlanta for the data bus  
21 stuff, when that one was dropped, that was also with if  
22 we got to bring -- one, there was a stay so that for two  
23 years I couldn't come back after them, because there may  
24 not be nothing there. They may be doing bankruptcy or  
25 whatever. In their minds, they were looking for

1 somebody else to go fight this, which you guys happily  
2 are doing.

3 Q So you dismissed the lawsuit and agreed that for two  
4 years you wouldn't sue them again, but --

5 A For that patent, there was a stay, which is all  
6 public knowledge. It's all written there. And also,  
7 the venue would go back to Atlanta on that one so that  
8 way, we didn't have to go fight it in California, which  
9 would cost me more money.

10 Q You mentioned earlier DEI several times. Do you  
11 have a license with DEI on a patent, an Omega patent,  
12 the '551 patent?

13 A Yes.

14 Q And then did you sue DEI again in the lawsuit that  
15 you discussed earlier that included the '885 patent?

16 A Yes.

17 Q Why did you sue them the second time?

18 A Because they only had a license for the '551 patent.  
19 And the products that they were doing when I sued them,  
20 they were buying it from one of my other licensees and  
21 wanted it all kept secret and not paying me.

22 Q So their license to the '551 patent didn't cover  
23 what you thought was covered by the '885 patent?

24 A Yes. There were a lot more patents that covered the  
25 rest of the stuff that they were doing.

1 Q All right. You mentioned earlier that your  
2 licensees have a duty to mark their products. Did they  
3 mark their products with the patent number they believe  
4 the product is covered by?

5 A No. I think that what they're doing is -- which is  
6 at the time that all of this started with the patent  
7 markings, people were just turning around and taking all  
8 of the patents and saying this product may be protected  
9 by one or more of these patents, and then you just list  
10 all of the patents that are in there. And that's the  
11 way Directed Electronics and Audiovox, whatever their  
12 patents were for their own products. They just put out  
13 a little card with, you know, this product may be  
14 protected underneath one or more of these patents, and  
15 they just list all their patents. And then, that also  
16 gave a little bit more prestige when the consumer got  
17 it, wow, look at all these patents they got, they must  
18 be a really good R & D company to do this.

19 Q In this case, Omega was asked to provide a list or  
20 identify any products that were marked with any of the  
21 patents in suit and Omega didn't provide any information,  
22 did it?

23 A I have no idea. They should have been able to.

24 Q Would it surprise you if they didn't?

25 A Yeah.

1 Q And do you periodically check to determine which  
2 licensees are marking which products with which numbers?

3 A When I go to -- when it all turned into a flat fee  
4 and I didn't really need to get the pieces anymore to  
5 check all that stuff, when I go to the CES show, they  
6 got the product that is there and, you know, I usually  
7 ask where are you doing the product marking, they'll  
8 hand me a manual or it will be on the gift box itself  
9 printed on there saying, you know, it's protected  
10 underneath this particular patent.

11 I know my licensees have asked me to turn around and  
12 say, hey, can we be a little bit more precise, because  
13 there's a lot of patents that we're not using but at  
14 least cut it down somewhat, because of the space or  
15 whatever. So, you know, I had sent them over a list,  
16 here's a whole bunch of the patents that I'm positive  
17 of. I may have missed one or two. And there may be one  
18 or two that you're not covered.

19 Q So you said some of your licensees said they're not  
20 using all of the patents in their portfolio so they want  
21 to shrink down that listing?

22 A Yeah. Well, everything evolves. My patents cover  
23 so far into the future, they're not there yet, so  
24 they're slowly adding on different things.

25 Q None of your licenses cover the '278 patent that's

1 involved in this lawsuit, do they?

2 A None of my licensing cover the '278? That would be  
3 the speed alert? No, '278 is downloading.

4 Q I can -- let me show you that one so you can take a  
5 look at it.

6 MR. KAUTH: May I approach, Your Honor?

7 THE COURT: Yes, you may.

8 BY MR. KAUTH:

9 Q I'm showing you Joint Exhibit 5, which is the '278  
10 patent. Does that refresh your recollection whether any  
11 of your licenses --

12 A A little bit, yes.

13 Q And do any of your licenses include the '278 patent?

14 A Yes.

15 Q Do you know which ones those are?

16 A Numerex, Directed Electronics, Audiovox.

17 Q And are those listed in the agreements?

18 A I think they are. This one -- all depends on the  
19 date. I'm pretty sure that it is 'cause of the date.

20 No, this one was in '11. This one may not be printed

21 into an update 'cause from time to time I'll do an

22 amendment to what there is, because an amendment is just

23 adding on to the original agreement, and I send them

24 over a list of all the newer patents that are covered in

25 it. And from 2011, I may not have done an upgrade, an

1 agreement on it. I'm not -- I don't recall it exactly,  
2 but they are covered underneath this here. And it is a  
3 part of my agreement that I would give them the other  
4 patents to come along with it, to come along with the  
5 other stuff, because they all have got -- both of them  
6 have got tracker patents. They've both got data bus  
7 patents. And I would have listed this as a part of --  
8 probably underneath the data bus patent. I know it  
9 would have been underneath the data bus patents on that  
10 list.

11 Q Did you produce those amendments in this litigation?

12 A I have no idea. The amendments would only be adding  
13 on additional patents. And I forget when the last time  
14 I did that, which has been awhile, so I know I need to  
15 do it, again, because there has been so much more stuff  
16 that has been issued.

17 Q Now, you mentioned you have 150-plus patents held by  
18 Omega. Are those in the U.S. or is that worldwide?

19 A No, that's just U.S.

20 Q And are you the named inventor on each of those  
21 patents?

22 A Yes.

23 Q Another thing you mentioned earlier was the  
24 innovation clause in several of your license agreements.

25 A All right.

1 Q Tell me how that works.

2 A Well, I already explained it once.

3 Q Let me get to a specific point. If someone contacts  
4 you with an innovation, what happens next?

5 A If they contacted me with an innovation of what  
6 there is and it's very precise of what there is and I  
7 file a patent on that particular thing, they would be  
8 listed as a co-inventor. And in turn, because they're  
9 listed as a co-inventor from that company, that company  
10 doesn't have to pay me any royalties on that device or  
11 that patent, if it ever issues. But everybody else, if  
12 they were using it, would have to pay me the royalties.  
13 And because I have that clause in there, I tried to get  
14 it to where that kind of forced everybody to be  
15 inventive to do as much as they can, because as the  
16 patents expire, they want the other guys to keep on  
17 paying me five bucks while they're not.

18 So if they turn around and have somebody else has  
19 got all these other ideas, they start knocking it off  
20 because it's good stuff, when the patents expire -- all  
21 but theirs -- then I'm collecting five bucks on theirs,  
22 but the guy who had the co-inventorship on that patent  
23 ain't paying me a penny.

24 Q These wouldn't be included in the \$5.00 licenses?  
25 This would be additional for the people that didn't

1 invent it?

2 A No. No. The person who didn't invent it, it's a  
3 part of my whole package that is there for the five  
4 bucks.

5 Q So they wouldn't have to pay anymore either?

6 A They don't have to pay anymore. But when all the  
7 other patents expire, maybe that's the last one left,  
8 they're still paying me \$5.00 when the one who was a  
9 co-inventor is not. And when I explained all that to  
10 everybody, it seemed to be -- everybody agreed. There  
11 was no arguments over it. But no one has been -- no one  
12 has been giving me that information. There's been  
13 several companies that have went and filed the patents  
14 on their own and which I have gone to acquire those  
15 patents, which I have been, and you would think they  
16 would learn their lesson, but they don't.

17 Q So is any -- have any of your licensees -- had you  
18 filed patents through this innovation clause?

19 A No.

20 Q So on the Omega patents, are there any patents that  
21 list any of your licensees as co-inventors?

22 A No. But there are some of the patents that do have  
23 some co-inventors to it. Michael that works for Omega  
24 R & D, he's been listed on some of them, Michael  
25 Thompson --

1 Q But none of your licensees?

2 A Huh?

3 Q None of your licensees?

4 A They are a licensee. Omega Research & Development  
5 is a licensee.

6 Q Okay.

7 A So they're listed on there. Another one of my tech  
8 guys, Robby Drew, he's listed on there along with me.  
9 Because usually when they come up with whatever they're  
10 trying to tell me, it isn't a hundred percent of what  
11 the patent is. You know, it's expanded considerably.  
12 So I'm also listed as an inventor in there because I am,  
13 but so are they. They participated, you know, in the  
14 situation. But I have acquired patents that the other  
15 people have done wrongfully and they get transferred to  
16 me. So that clause has been very useful.

17 Q I want to jump back to the Cherokee for just a  
18 minute. Was that the first time you had ever seen the  
19 vehicle data bus when you saw it in that '96 Cherokee?

20 A Yes.

21 Q So you didn't invent the data bus? That was  
22 somebody else's doing?

23 A No.

24 Q How about the command system on the data bus that  
25 unlocks the door, was that your invention?

1 A No.

2 Q And the device codes that you read back from the  
3 vehicle devices, those follow a standard, right?  
4 Those were not your invention?

5 A They may follow a standard. I don't know.

6 Q In Omega's research in coming up with its bus  
7 products, did you ever look at the SAE J1978 bus  
8 determination for the diagnostic scan tool?

9 A No, I did not.

10 Q And did Omega ever use a scan tool in its research  
11 and development efforts?

12 A After we got this device from up north, we felt that  
13 to be able to get maybe some of the other cars, because  
14 we didn't have things -- we were thinking of buying a  
15 scan tool from Snap On. And at that time, the Snap On  
16 piece, which I thought was the largest company out there  
17 -- when I go to SEMA, they would be there. Well, to be  
18 able to have that scan tool work on the different  
19 platforms, they had little Game Boy cartridges, and they  
20 plugged in that cartridge. It wasn't just plug it in  
21 and it figured everything all out.

22 Q The computer one you had, was that plug it in and it  
23 figured it all out?

24 A It only did that one vehicle.

25 Q So that was Chrysler's or --

1 A Yeah. Whatever was the program, that's all it would  
2 do. And then, if you wanted any of the other cars, you  
3 had to turn around and buy their little box that only  
4 worked that one other car. And then they gave you the  
5 software to be able to see what was coming across,  
6 because I'm pretty sure because they were in Detroit  
7 they were spending the money to buy the CAN chip to  
8 stick it on there, and then they'd have another one with  
9 the other licensed chip that was in there.

10 Q You talked a little bit about the CalAmp products  
11 today. Did you do an investigation yourself of how the  
12 CalAmp products work --

13 A No.

14 Q -- who are accused in this lawsuit?

15 A No. On all of the pieces, when I -- all my  
16 licensees, they're all my spies. Because when they find  
17 people that are doing things, it's taking business away  
18 from them. Such as what CalAmp is doing to Numerex,  
19 what they're doing to Audiovox, they're taking sales  
20 away from my current licensees that I love.

21 Q So all the licensees -- all the licenses that you  
22 went through earlier with Mr. Gilchrist, are those all  
23 for alarms, car alarms, the remote start devices?

24 A No.

25 Q What else do they cover?

1 A They cover the tracking units.

2 Q So if we look at just the vehicle bus products that  
3 your licensees make, what type of products do they make?  
4 Aren't the majority of those licenses for remote start?

5 A Yeah. As far as the aftermarket world today, 'cause  
6 it has evolved from where it was in 2004, 2002. Today,  
7 to my knowledge, almost every one of the data bus  
8 modules have got something related to remote starting  
9 the car, because the keyless entry is already in the  
10 car, so it's remote starting the car.

11 Q And in your four patents, you disclose functions  
12 like remotely starting the car, setting an alarm or  
13 unlocking a door; is that correct?

14 A In which patents?

15 Q In the four patents in this lawsuit, the '876, the  
16 '885, the '727 and the --

17 A I don't know. Off the top of my head, I don't want  
18 to make a qualified decision. If that's what's in there  
19 -- I'm not -- you're able to read it.

20 Q In your opinion, did you invent the bus discovery  
21 process?

22 A The bus discovery, sending one code then sending  
23 another code or reading the VIN number?

24 Q Correct.

25 A No, I did not.

1 Q And as you sit here today, are you aware of the  
2 J1978 standard that that sets out a bus discovery or a  
3 bus determination procedure?

4 A Yes. I've been aware of it, that one, for awhile.

5 Q Have you ever submitted that to the Patent Office  
6 in any of your patent filings?

7 A Yes, it has been.

8 Q Do you know if it was submitted in any of the  
9 patents in this lawsuit?

10 A Yes, it has been.

11 Q Let's go back and look at the patents and confirm  
12 that. If you can --

13 MR. KAUTH: May I approach, Your Honor?

14 A I'm not the industry expert to be able to go pick it  
15 all out. I was told they are in there. All the stuff  
16 that you were saying don't exist and all that prior art,  
17 it exists.

18 Q Let's start with Joint Exhibit 1 that's in your  
19 stack there.

20 THE COURT: Mr. Kauth, how much longer do you  
21 think on this line of questioning?

22 MR. KAUTH: Fifteen minutes.

23 THE COURT: And will that be the conclusion of  
24 your cross or --

25 MR. KAUTH: Yes.

1 THE COURT: Very well.

2 Ladies and gentlemen, we'll push on through  
3 the next 15 minutes of the cross examination.

4 Go right ahead.

5 BY MR. KAUTH:

6 Q If you could turn to Joint Exhibit 1. Mr. Flick,  
7 are you aware that typically on a patent, the prior art  
8 that was cited will be listed on the face page or on the  
9 next page --

10 A Yes.

11 Q -- as Mr. Gilchrist showed during opening?

12 A Yes.

13 Q And do you see the J1978 standard listed on the  
14 '876 patent?

15 A The way I was told and makes sense to me that when  
16 you want to look at an SAE J2058, that manual is there.  
17 You open it all up. I'm just saying, you open it all  
18 up, and it's got exactly what you're talking about all  
19 through it. Just because it isn't listed there doesn't  
20 mean somebody who actually pulled that document to read  
21 it didn't see what you saw, just 'cause it's not written  
22 right there. So I think if you go and pull all this  
23 prior art stuff, everything that you're saying is in  
24 those documents, just open it up. And it won't be just  
25 one little sentence. It will be all over the place.

1 Q But you can't point me to any spot in any of those  
2 documents, right?

3 A I'm not the attorney that went back and did all this  
4 research or whatever, but I've just been recently told  
5 it all is there. It is in those agreements. It is in  
6 everything that is published that is right here.

7 Q So do you recall at your deposition you told me back  
8 in the filing date of this patent in 2000, you weren't  
9 aware of J1978?

10 A You asked me if I was?

11 Q Correct.

12 A All right. I'm aware of the name of it. But what  
13 it does, what the specs are, whatever, I am not.

14 Q So you wouldn't have even had a copy that you could  
15 have produced in 2000?

16 A Not me. My attorneys. My attorneys are the one who  
17 filed this. They're responsible to go and get all of  
18 the -- whatever documents they need to show: Hey,  
19 here's possible prior art, things that the patent  
20 examiner needs to do. And then from that, the patent  
21 examiner's smart himself to be able to pull stuff out,  
22 'cause you're going to an examiner that is a -- I would  
23 assume the patent examiner is a licensed or a degreed  
24 electrical engineer, plus has his patent degree that is  
25 in there. So therefore, my patents don't go over to

1 somebody that's a patent expert for drugs. It's going  
2 to somebody who knows what's going on to be able to find  
3 all this.

4 Q So does Omega contend in this case that its patents  
5 cover the J1978 bus determination procedure?

6 MR. GILCHRIST: Object to the form, Your  
7 Honor.

8 THE COURT: Sustained.

9 BY MR. KAUTH:

10 Q Do you have an understanding, based on what you  
11 invented, when you filed this patent, the '876 back in  
12 2000, whether you also invented the bus determination  
13 procedure?

14 A I already said I did not. I did not invent send one  
15 code, then send another code or read the VIN number to  
16 determine the car.

17 Q And does the '876 patent discuss different buses in  
18 it or discuss sending different codes for things like  
19 locking and unlocking and remote alarms?

20 A That I could not tell you.

21 MR. KAUTH: Nothing further, Your Honor.

22 THE COURT: All right. Thank you.

23 If you have a brief redirect we can do it now,  
24 Mr. Gilchrist, or if would you prefer, we can do it  
25 after the lunch break.

1 MR. GILCHRIST: I'd prefer after the lunch  
2 break.

3 THE COURT: We'll do that.

4 All right. Ladies and gentlemen, it's 12:15.  
5 Is one hour sufficient for your lunch? Is that fine?  
6 Then, we'll be back at 1:15. Enjoy your lunch.

7 (Jury exits.)

8 The record should reflect the jury has  
9 withdrawn. We are in recess until 1:15. Thank you.

10 (Lunch recess 12:15 p.m. to 1:20 p.m.)

11 Folks, on the break, we had a note from one of  
12 the jurors.

13 And the record should reflect the jury is  
14 absent and the parties are present.

15 And this is from juror number 17,  
16 Mr. Micelotta, who is seated in the bottom row, second  
17 over from the left, and it states as follows. "In a  
18 previous job as a resident property manager, the owner  
19 of Lear Corporation lived in the building. I did know  
20 him as a manager/resident relationship," signed by the  
21 juror. It doesn't indicate anything further. Does  
22 either side desire to have Mr. Micelotta come out to  
23 answer any questions regarding whether or not this would  
24 affect his impartiality?

25 MR. GILCHRIST: No, Your Honor.

1 MR. KAUTH: No, Your Honor.

2 THE COURT: All right, very good.

3 We'll proceed.

4 MR. GILCHRIST: Your Honor?

5 THE COURT: Yes, sir.

6 MR. GILCHRIST: After we're done with  
7 Mr. Flick we'll be moving into some videotape  
8 depositions. The procedure that I've used in the past,  
9 Mr. Santurri will introduce them, call them as a  
10 witness. Some judges permit me to have you give an  
11 instruction reminding the jury that it is evidence and  
12 that both sides have designated -- because sometimes  
13 there's confusion why we put certain things in a video.

14 THE COURT: I'm happy to tell them that, that  
15 the parties have designated the sections of the  
16 testimony that they're interested in having you hear--

17 MR. GILCHRIST: Yes, and both parties are --

18 THE COURT: I'm happy to do that.

19 MR. GILCHRIST: Thank you, sir.

20 THE COURT: All right.

21 Let's have the jury, please.

22 (Jury present.)

23 We are now on the redirect examination of  
24 Mr. Flick.

25 Mr. Gilchrist, when you're ready.

1 MR. GILCHRIST: Thank you, Your Honor.

2 REDIRECT EXAMINATION

3 BY MR. GILCHRIST:

4 Q Mr. Flick, do you recall when counsel asked you  
5 about whether you've licensed the '278 to anybody else?

6 A Yes.

7 Q Could you pull up the '278 which is joint exhibit  
8 number 5. Do you see when it was first issued?

9 A It was first issued in 2011.

10 Q Yes, sir. Do you see a prior publication data on  
11 that cover page?

12 A Yes.

13 Q And that's a number that the Patent Office gives it  
14 while it's still in the process?

15 A Yes.

16 Q Now, if you will take a look at Plaintiff's Exhibit  
17 number 99. And this is the license agreement with  
18 Numerex? Is this the license agreement with Numerex?

19 A Yes.

20 Q Okay. And if you will turn to Schedule A, and it  
21 should be up on the screen in a moment. On the second  
22 page of Schedule A, as we scroll down, do you see that  
23 application publication number listed on the Numerex?

24 A Yes.

25 Q Does that indicate to you the '278 was, indeed,

1 licensed to Numerex?

2 A Yes.

3 Q And when you add additional patents to your existing  
4 licensees, do you do so at times orally?

5 A Yes.

6 MR. GILCHRIST: That's all I have, Your Honor.

7 THE COURT: All right. Thank you very much.

8 Sir, you may step down.

9 All right, gentlemen. At this point in time  
10 is the intention to play some video depositions?

11 MR. SANTURRI: Yes, Your Honor. We're going  
12 to go ahead and call CalAmp's corporate representative,  
13 Mr. Chen, who is not here, and play his deposition.

14 THE COURT: All right. Before we do that let  
15 me give the members of the jury a brief instruction.

16 Members of the jury, you are about to see a  
17 videotaped deposition of a witness. A deposition is a  
18 witness's sworn testimony that is taken before the  
19 trial. During a deposition, the witness is under oath  
20 and answers questions and swears to tell the truth as  
21 they would if they were here. The lawyers for each  
22 party may ask questions of that witness, and a court  
23 reporter is present and takes down a verbatim record  
24 just as if the witness were here live and in court.

25 In this particular instance, the parties have

1 both selected portions of the deposition they would like  
2 included in that videotaped deposition. So the  
3 deposition you're about to see represents the select  
4 testimony from both parties, and that's the proper way  
5 to proceed. I just wanted you to understand the manner  
6 in which this testimony comes to you. You are to recall  
7 the testimony of the witness the same way as you would  
8 any witness who appears live, and you may accept it in  
9 its entirety, reject it in its entirety or accept part  
10 of it, whatever you deem to be appropriate.

11 All right. Thank you very much.

12 When you're ready.

13 (Video deposition of Gallin Chen played from 1:26  
14 p.m. to 3:18 p.m.)

15 THE COURT: All right, very good.

16 That concludes the deposition.

17 And what we will do now, ladies and gentlemen,  
18 is take our break. It's a little bit late, but I wanted  
19 to give that to you all in one sitting. It's now about  
20 3:20, so let's come back roughly at 3:30. It's a little  
21 bit shy of 3:20. We'll come back at roughly 3:30. That  
22 will leave us about a half an hour, maybe 45 minutes for  
23 the day. Unfortunately, I have another hearing later  
24 this afternoon in a different case, so we'll be in  
25 recess for about twelve minutes. Thank you.

1 (Jury exits.)

2 The record should reflect the jury has  
3 withdrawn. Please be seated.

4 In terms of the video depositions that are  
5 being played by either side, we will need a copy of the  
6 transcript. You can have it simply highlighted to  
7 reflect the testimony that appears on the video or if  
8 you have one redacted, whatever is easier, I just would  
9 like the Federal Circuit to have an easier way to view  
10 the testimony rather than having to watch the video.  
11 These things are not transcribed once the video is being  
12 played. It would be a heck of a burden. So if you  
13 could do that at your convenience prior to the end of  
14 trial would be fine. All right. Thank you very much.  
15 I'll see you back here around 3:30.

16 (Recess 3:20 p.m. to 3:35 p.m.)

17 The next video, how long do you anticipate  
18 this one going?

19 MR. SANTURRI: Well, we don't have any videos  
20 that are short enough to fit within the time frame we  
21 have, so we were hoping we could at least get it  
22 started.

23 THE COURT: That's fine.

24 MR. SANTURRI: Given how much both sides have  
25 designated, we do have a lot of video depo to get

1 through.

2 THE COURT: All right. Well, let's do that.

3 All right. If we could have the jury, please.

4 We will stop at -- let's go to 4:15. So if  
5 somebody would mind it, and then just stop at 4:15.

6 (Jury present.)

7 The record should reflect the jury's returned,  
8 and the parties are present.

9 Mr. Santurri, your next witness.

10 MR. SANTURRI: Your Honor, before we do that  
11 can I move a couple of depositions into evidence based  
12 on the depositions we just played?

13 THE COURT: Yes, sir.

14 MR. SANTURRI: Plaintiff's 39.

15 MR. KAUTH: No objection.

16 THE COURT: All right. 39 is admitted.

17 MR. SANTURRI: Plaintiff's 14, which is the  
18 Chen patent application.

19 MR. KAUTH: We object based on foundation and  
20 relevance. This is the publication and not even the  
21 actual issued patents and renew our relevance objection  
22 from the motion in limine.

23 THE COURT: All right. Exhibit 14 is which  
24 patent number? Is it a -- first off, is it a patent  
25 that's in dispute?

1 MR. SANTURRI: It's an application on which  
2 Mr. Chen is an inventor, and he discussed it  
3 significantly in his deposition.

4 THE COURT: And help me to -- let me do this,  
5 gentlemen, so we're not having this conversation open.  
6 Why don't whoever needs to be involved come up for a  
7 quick sidebar.

8 [Sidebar.]

9 THE COURT: All right. I recall the testimony  
10 when Mr. Chen's patent was discussed and there was  
11 reference to comparisons between it and the patent  
12 created by Mr. Flick, and it went back and forth.  
13 Help me to understand how that's relevant to the issues  
14 in dispute of whether there is infringement of these  
15 patents by any of your products.

16 MR. SANTURRI: Well, I think it's going to be  
17 relevant for purposes of validity. Mr. Chen essentially  
18 conceded that almost everything in his patent is also in  
19 Mr. Flick's patent. On the one hand, he swears to the  
20 Patent Office that it's valid and yet the same  
21 technology found years earlier by Mr. Flick is invalid.

22 THE COURT: All right. So to the extent there  
23 is a defense of validity relative to the patent,  
24 whichever patent it was -- I can't remember if it was  
25 the '885 or which one it was. To the extent there is

1 going to be a defense of validity as to the patent, your  
2 contention is that Mr. Chen, having the same or very  
3 similar technology makes it difficult for the defense to  
4 sustain a defense of validity as to the patent at issue,  
5 correct?

6 MR. SANTURRI: Yes, Your Honor.

7 THE COURT: All right. And I think that's a  
8 fair observation. The testimony was the testimony  
9 regarding the claim and the patent at issue and what  
10 appears in Mr. Chen's patent application. So I'll allow  
11 it. If you would like a limiting instruction as to the  
12 application, I will be happy to give one. I just need  
13 you to craft one and run it by opposing counsel.

14 MR. KAUTH: Okay.

15 THE COURT: All right. Thank you gentlemen.

16 MR. KAUTH: Thank you.

17 [End sidebar.]

18 THE COURT: All right.

19 Plaintiff's Exhibit 14 will be admitted.

20 MR. SANTURRI: One final exhibit, Your Honor,  
21 Plaintiff's 48.

22 MR. KAUTH: And we object on foundation,  
23 relevance, and privilege, Your Honor.

24 MR. SANTURRI: Your Honor, this was an e-mail  
25 correspondence that was discussed in the deposition.

1 It included several CalAmp employees, including  
2 Mr. Chen, and their counsel and basically related to  
3 trying to hide information about CalAmp's products for  
4 purposes of Omega not being able to review it.

5 MR. KAUTH: Part of the issue we have, Your  
6 Honor, is it's 17 pages long and I think no more than  
7 the first two to three pages were even discussed.  
8 And when you get further in the chain, Mr. Chen is not a  
9 recipient on that part of the chain and did nothing to  
10 provide a foundation for it.

11 THE COURT: I am willing to allow the portions  
12 of Plaintiff's 48 which were discussed with the witness  
13 during the deposition, but not the other pages, so I'll  
14 rely on counsel to select the ones that are there.

15 And I'm also willing to provide a limiting  
16 instruction to the jury so they understand that the  
17 statements of the non-party are hearsay and they're not  
18 offered for the truth. They're offered more for the  
19 response by the witness. Would you care for me to give  
20 that now or at a later time?

21 MR. KAUTH: Now would be fine, Your Honor.

22 THE COURT: All right.

23 Ladies and gentlemen, we hate to talk as if  
24 you're not sitting right there. We know you are. But  
25 there are rules that apply to the admission of evidence,

1 and we've all heard the term hearsay. Hearsay is a  
2 statement that is attributed to someone who is not a  
3 witness in the case and is not available for cross  
4 examination.

5 So, for example, in the deposition you just  
6 saw, there were some e-mails discussed with the witness  
7 where the person who was writing the e-mail, the  
8 comments attributed to that writer are discussed with  
9 the witness and the witness is asked his thoughts or  
10 views based on those comments.

11 The comments by the writer of the e-mail is  
12 hearsay. That is, he's not here. And it's an  
13 out-of-court statement not subject to cross examination  
14 or further exploration.

15 However, there's an exception hearsay, which  
16 is that those out-of-court statements which would  
17 otherwise be admissible are admissible to the extent  
18 that it demonstrates the witness's response to what he  
19 or she heard.

20 So you do not accept the e-mail comments by  
21 the writer for the truth of the matter. You simply  
22 accept them to understand the response by the person who  
23 is answering those questions. Does that make sense?  
24 Very good. That's the limiting instruction. Thank you.

25 With that limiting instruction, Exhibit 48,

1 the relevant pages, will be permitted.

2 Yes, sir.

3 MR. SANTURRI: And with that, we will go ahead  
4 and call Peter Hergesheimer. This will be a portion of  
5 his first deposition testimony.

6 THE COURT: All right. And ladies and  
7 gentlemen, we will stop that deposition at 4:15, because  
8 I have another matter I have to deal with, so counsel  
9 will just stop it, and we'll pick up with it again in  
10 the morning.

11 (Video deposition of Peter Hergesheimer played  
12 from 3:53 p.m. to 4:16 p.m.)

13 THE COURT: Thank you very much.

14 All right. We've paused in the deposition.  
15 We'll pick up with that tomorrow morning. Ladies and  
16 gentlemen, we need to start a little bit later tomorrow  
17 morning at 9:30, but we'll go through the full day.  
18 So we'll end at 5:00, so that will keep us on track.

19 So let me just advise you again as I did last  
20 night before we took our break, please do not discuss  
21 the case amongst yourselves or with anyone else and  
22 please refrain from any independent research. We look  
23 forward to seeing you tomorrow morning at 9:30. Please  
24 leave your pads in your chairs, and we will collect  
25 those again for you. Have a good evening and travel

1 safely.

2 (Jury exits.)

3 The record should reflect the jury has  
4 withdrawn.

5 Court's 4 is the deposition of Mr. Chen, which  
6 was played previously. And we'll have Court's 5 will be  
7 the deposition of the current witness once we've  
8 concluded presentation.

9 Is there anything else we need to take up this  
10 evening before we break for the day?

11 MR. SANTURRI: No, Your Honor.

12 THE COURT: There being no ayes, then I have a  
13 hearing behind you, if you all would feel free to  
14 collect your goods when you're ready. You can leave  
15 your laptops and all those things. It's a status  
16 conference, so they won't need a whole lot of space,  
17 whatever you're comfortable with.

18 (Adjourned at 4:18 p.m.)

19 - - - - -

20 Reporter's Certification

21 I certify that the foregoing is a correct transcript  
22 from the record of proceedings in the above matter.

23 s/Koretta Stanford

24 \_\_\_\_\_  
25 Official Court Reporter  
United States District Court  
Middle District of Florida

Date: April 7, 2016