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Transcript of Allen Garrett Smith

Date: September 25, 2024

Case: Affordable Wire Management, LLC -v- CCABH, Inc. (PTAB)

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WORLDWIDE COURT REPORTING & LITIGATION TECHNOLOGY

1 UNITED STATES PATENT AND TRADEMARK OFFICE

2
3 BEFORE THE PATENT TRIAL AND APPEAL BOARD

4
5 AFFORDABLE WIRE MANAGEMENT, LLC,

6 Petitioner,

7 v.

8 CAMBRIA COUNTY ASSOCIATION FOR THE BLIND AND

9 HANDICAPPED, INC.,

10 Patent Owner.

11
12 Case Nos. IPR2024-00139 and IPR2024-00178

13 U.S. Patent Nos. 10,177,551 and 11,349,291

14
15 * CONFIDENTIAL UNDER PROTECTIVE ORDER *

16 DEPOSITION OF ALLEN GARRETT SMITH

17 Pittsburgh, Pennsylvania

18 Wednesday, September 25, 2024

19 9:33 a.m.

20 Job No.: 553475

21 Pages: 1 - 170

22 Reported By: Maria M. Siatkowski, RDR, CRR, CRC

1 Deposition of ALLEN GARRETT SMITH, held at the
2 offices of:

3
4
5 ECKERT SEAMANS CHERIN & MELLOTT, LLC
6 600 Grant Street
7 44th Floor
8 Pittsburgh, PA 15219
9 412-566-6000

10
11
12
13
14 Pursuant to notice, before Maria M. Siatkowski,
15 Registered Diplomate Reporter, Certified Realtime
16 Reporter, Certified Realtime Captioner and Notary
17 Public in and for the Commonwealth of
18 Pennsylvania.

1 A P P E A R A N C E S
2 ON BEHALF OF PETITIONER AFFORDABLE WIRE
3 MANAGEMENT, LLC:
4 ROBERT C. SWEENEY, ESQUIRE
5 KEVIN C. AMENDT, ESQUIRE
6 MINTZ, LEVIN, COHN, FERRIS, GLOVSKY AND
7 POPEO, P.C.
8 One Financial Center
9 Boston, Massachusetts 02111
10 617-542-6000
11

12 ON BEHALF OF PATENT OWNER CAMBRIA COUNTY
13 ASSOCIATION FOR THE BLIND AND HANDICAPPED,
14 INC.:
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20 973-855-4724
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11 ON BEHALF OF PATENT OWNER CAMBRIA COUNTY
12 ASSOCIATION FOR THE BLIND AND HANDICAPPED, INC.:
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14 ECKERT SEAMANS CHERIN & MELLOTT, LLC
15 U.S. Steel Tower
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17 Pittsburgh, PA 15219
18 412-566-6984

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(Attached to transcript)

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

2 Whereupon,

3 ALLEN GARRETT SMITH,

4 being first duly sworn or affirmed to testify to
5 the truth, the whole truth, and nothing but the
6 truth, was examined and testified as follows:

7 EXAMINATION

8 BY MR. SWEENEY:

9 Q Hi, Mr. Smith. My name is Robert Sweeney.
10 I'm counsel for petitioner, Affordable Wire
11 Management, LLC, in IPR 2024-00139, regarding U.S.
12 Patent Number 10,177,551 and IPR 2024-00178,
13 regarding U.S. Patent Number 11,349,291.

14 You're here today for your deposition
15 relating to the declaration that you submitted in
16 both IPR matters on behalf of patent owner,
17 Cambria County Association for the Blind and
18 Handicapped.

19 I'm going to be asking you a series of
20 questions today regarding your declaration,
21 Exhibit 2006 in the 00178 IPR. And Exhibit 2061
22 in the 00139 IPR.

1 Does that make sense?

2 A Yes.

3 Q I want to make sure that the question that
4 you're answering is the question that I'm asking.
5 So if at any time you don't understand my question
6 or need something clarified, please state that.
7 Otherwise, I'm going to assume that you understand
8 my question.

9 Does that sound good to you?

10 A Yes.

11 Q Please let me know if you need a break
12 today. My only request is that if I have an
13 outstanding question that you haven't answered or
14 if I'm in the middle of a line of questioning,
15 that you let me wrap that up before we take a
16 break.

17 Does that sound good?

18 A Yes.

19 Q Can you please state your full name for
20 the record.

21 A Allen Garrett Smith.

22 Q Can you please spell that.

1 A A-L-L-E-N, Garrett, G-A-R-R-E-T-T, Smith.

2 Q Have you ever been deposed before?

3 A No.

4 Q Have you ever testified at a trial before?

5 A No.

6 Q You understand that you just took an oath
7 to tell the truth; is that correct?

8 A Yes.

9 Q And you understand that this is the same
10 oath that you would take if you were testifying in
11 court; correct?

12 A Yes.

13 Q So you understand that I'll be asking you
14 questions and you'll be answering those questions
15 truthfully and completely; correct?

16 A Yes.

17 Q If your counsel objects to one of my
18 questions, you still have to answer that question,
19 unless your attorney specifically directs you not
20 to answer.

21 Do you understand that?

22 A Yes.

1 Q And my questions and your answers are
2 being recorded today by the court reporter here.
3 So for her to do that, please speak audibly and
4 answer with words instead of nodding or shaking
5 your head.

6 Does that sound good?

7 A Yes.

8 Q Are you taking any medication or other
9 substances today that might make it difficult for
10 you to understand or answer my questions?

11 A No.

12 Q Have you had anything containing alcohol
13 that might make it difficult for you to understand
14 or answer my questions?

15 A No.

16 Q Got to ask.

17 Is there any reason why you cannot give
18 full, complete and accurate testimony today?

19 A No.

20 Q I'm going to hand you copies of your
21 declaration. That's Exhibit 2006 from the --

22 MR. McDONOUGH: Thank you.

1 Q -- 00178 IPR. And this is Exhibit 2061
2 from the 00139 IPR.

3 Are you aware of any differences between
4 these two exhibits?

5 A What do you mean?

6 Q Sure. This is the same declaration that
7 you submitted in both cases; correct?

8 A It -- yes.

9 Q Thank you. So when I refer to your
10 declaration today, I'll be referring to the
11 contents of both Exhibit 2006 and Exhibit 2061.

12 Does that make sense?

13 A Yes.

14 Q Thank you.

15 What's your highest level of education?

16 A A master's degree.

17 Q And where did you obtain your master's
18 degree?

19 A University of Pittsburgh.

20 Q And what did you study?

21 A I had an undergraduate in economics and a
22 graduate degree in education.

1 Q You currently work for CAB; correct?

2 A Correct.

3 Q And what's your job title at CAB?

4 A Senior project manager.

5 Q What are the duties of that job?

6 A One of the duties I have is to attend
7 solar trade shows when needed. Another
8 responsibility is to provide input into patent
9 matters.

10 And those are my primary duties right now.
11 It's a part-time job. Part-time position.

12 Q How many trade shows do you go to --
13 withdrawn.

14 How many trade shows have you been to this
15 year on behalf of CAB?

16 A I -- excuse me. I've gone to two. I'll
17 be going to one more.

18 Q What were those trade shows?

19 A Those were solar shows. I don't know the
20 exact name of them at this time.

21 Q Do you remember where they were?

22 A One was in Anaheim. I believe the other

1 was in Philadelphia. The next one is in Chicago,
2 I'm going to in November.

3 Q So they've got you traveling around quite
4 a bit, it sounds like?

5 A Yeah.

6 Q How many trade shows did you go to in 2023
7 on behalf of CAB?

8 A It would just be an estimate, two or
9 three.

10 Q Do you recall which trade shows those
11 were?

12 A One I do recall is ETC in Calgary,
13 Alberta, Canada.

14 Q You don't recall where the other ones were
15 or what they were?

16 A Not -- no.

17 Q Is it fair to say you go to two to three
18 trade shows every year, on behalf of CAB?

19 A That would be fair to say. Yes.

20 Q So same for 2022?

21 A Yes, I would say two or three.

22 Q And same for 2021?

1 A I can't recall, exactly, the number of
2 them.

3 Q Less than five?

4 A Yes.

5 Q More than two, somewhere in there?

6 A Yeah. I can't recall the exact number.
7 Probably one or two.

8 Q I assume in 2020 there weren't many trade
9 shows?

10 A Exactly.

11 Q Prior to that in 2019, did you go to any
12 solar trade shows on behalf of CAB?

13 A I can't recall.

14 Q Can you recall for 2018?

15 A No.

16 Q I assume that's the same for 2017 --

17 A Yeah. Yeah.

18 Q -- right?

19 A It's --

20 Q Does CAB have a standard display that it
21 brings to these trade shows?

22 A It has a display.

1 Q Can you describe that display for me,
2 please?

3 A It would normally consist of some banners
4 or graphics and samples of product.

5 Q How many square feet is that booth,
6 typically?

7 A Typically, it's a 10 x 10 booth or
8 100 square feet. Sometimes it's 20 x 10 or
9 200 square feet.

10 Q Does it cost money to be an exhibitor at
11 these trade shows?

12 A Yes.

13 Q How much does it cost to be an exhibitor
14 at these trade shows?

15 A I haven't seen the cost, lately. I
16 haven't been involved in -- in obtaining space, so
17 I don't know the answer to that.

18 Q Do you know who would know the answer to
19 that?

20 A Someone in our marketing department.

21 Q You don't have any specific names of who
22 would know how much the trade shows cost to

1 exhibit at?

2 A I just don't know who's responsible for
3 purchasing space.

4 Q So your job duties are attending trade
5 shows and helping out on patent matters. Is there
6 anything else?

7 A Right now, that's -- you know, this year
8 that's been the extent of what I've been doing.

9 Q When you're helping out on patent matters,
10 are those patents that you're an inventor on?

11 A Yes. Those are -- correct.

12 Q Do you ever help out on patent matters
13 where you're not an inventor?

14 A No.

15 Q So before holding your current position at
16 CAB, you were the general manager of the Ebensburg
17 division; is that right?

18 A Correct.

19 Q And what year did you take that position?

20 A 1977.

21 Q Must be a good place to work.

22 A Yes, it is.

1 Q Prior to entering the solar market, what
2 was CAB's primary industry?

3 MR. McDONOUGH: Object to form.

4 A Pardon me?

5 MR. SWEENEY: You can answer.

6 MR. McDONOUGH: You can answer. Yes.

7 A Oh, prior to solar, mining was our primary
8 industry. Mining product line.

9 Q What types of products did CAB make for
10 the mining industry?

11 A We made cable supports for underground
12 wiring, communication control wiring to keep
13 cables up off the floor of the mine.

14 Q Were you involved in designing those
15 products?

16 A Yes.

17 Q When you were involved in designing those
18 products, did you have to consult the NEC?

19 A No.

20 Q When did you first start to learn about
21 the NEC?

22 MR. McDONOUGH: Objection. Foundation.

1 MR. SWEENEY: I can --

2 Q Are you familiar with the NEC?

3 A Now?

4 Q Yes.

5 A Yes. Now I am.

6 Q When did you first become familiar with
7 the NEC?

8 A In 2014.

9 Q Why, in 2014, did you start to familiarize
10 yourself with the NEC?

11 A That is when we had Bill Brooks write a
12 white paper on our product line and he referenced
13 that the product met NEC standards that we were
14 trying to sell to solar.

15 Q You're involved in the solar industry;
16 correct?

17 A Correct.

18 Q When did you personally become involved in
19 the solar industry?

20 A I became personally involved in 2012.

21 Q And why did you become involved in the
22 solar industry in 2012?

1 A We had a phone call asking if we had a
2 product line for the solar industry and up until
3 that point, I never even thought about solar.

4 Q Who called CAB asking if you had a product
5 line for the solar industry in 2012?

6 A I -- I don't recall his name. We don't
7 have a record of it, but he was from SunPower.

8 Q What is SunPower?

9 A It's a solar company based in California.

10 Q Do they sell products?

11 A Are you speaking about today?

12 Q At the time that SunPower called you, what
13 was SunPower's business?

14 A I can't give you an overview of their
15 exact business, but I know -- I know they were
16 involved in solar power plants. But I can't tell
17 to what extent they were involved.

18 Q Do you know if they designed solar power
19 plants?

20 A I can't answer that, to be sure.

21 Q Do you know why they would have called
22 CAB?

1 A They were interested in looking at
2 alternatives to cable tray.

3 Q So they saw CAB's hangers and messenger
4 and other cable supporting things and decided to
5 call to see if you had anything that they could
6 use in the solar industry; is that fair?

7 A Right.

8 MR. McDONOUGH: Objection to form.

9 Q Prior to getting that call from SunPower,
10 had CAB at all been considering entering the solar
11 market?

12 A No.

13 Q So this call kind of kicked off CAB's move
14 into the solar market?

15 A It started us looking at the solar market.

16 Q So when did CAB first start marketing its
17 products for solar applications?

18 A In 2013.

19 Q Why did CAB decide to start selling
20 products in the solar market?

21 A To expand job opportunities for, you know,
22 employees with disabilities. So we just thought

1 it was another area that could help employ people,
2 which was our main mission. So...

3 Q Let's go to your declaration, whichever
4 one you choose, at paragraph 13.

5 So it says here that in April of 2012, you
6 spoke with an engineer at SunPower Corp. Is that
7 the discussion we were just talking about?

8 A Yes.

9 Q And you -- you don't recall who that
10 engineer was?

11 A No.

12 Q And you don't know if SunPower designed
13 solar plants or products for solar plants?

14 MR. McDONOUGH: Objection to form.

15 A I don't know their exact business, you
16 know, 'cause it's complicated in the solar
17 industry.

18 Q Do you know if SunPower designed balance
19 of system components?

20 MR. McDONOUGH: Objection to form.

21 A No.

22 Q Do you know what "balance of system"

1 means?

2 A Yes.

3 Q What does balance of system mean?

4 A Balance of system means items or products
5 for solar outside of the panels in the support
6 structure.

7 Q So everything besides panels and support
8 structure?

9 A I can't say everything, but, you know,
10 generally, that's what they refer to.

11 Q And when you say "support structure," what
12 are you referring to?

13 A The piles and framework that the panels
14 would sit in.

15 Q So you say in your declaration at
16 paragraph 13 that "SunPower was the nation's third
17 largest solar company and provided photovoltaic PV
18 solar energy generation systems."

19 Do you see that?

20 A Yes.

21 Q So by photovoltaic solar energy generation
22 systems, you're talking about solar panels?

1 A Correct.

2 Q And PV panels are the same as solar
3 panels?

4 A Yes.

5 Q So you say in paragraph 14 that "Before we
6 developed our cable hangers for use in solar, we
7 first wanted to begin efforts to market the idea
8 of using a messenger wire and cable hangers to
9 support solar cables in a solar power plant."

10 You see that; right?

11 A Yes.

12 Q What do you mean by "develop our cable
13 hangers for use in solar"?

14 A Up until that time, we only had hangers
15 for the mining industry. So we wanted to look at
16 what hangers could be used in solar.

17 Q What sort of things did you look at to
18 make that determination?

19 A The mining hangers are in an underground
20 mine where there's no wind, sun, environmental
21 conditions. For solar, it's in an outdoor,
22 exposed environment, so it's somewhat different.

1 Q Did CAB try using any of its existing
2 mining hangers in solar applications?

3 A No.

4 Q CAB never sold any mining hangers to
5 customers for use in the solar market?

6 MR. McDONOUGH: Objection to form.

7 A I am not aware of any solar plant using a
8 mine hanger in a solar power plant.

9 Q But there's no way of you knowing; is that
10 correct?

11 A I mean, we sell -- we sell mine hangers to
12 distributors and then the distributors sell them
13 to customers, mining customers primarily. So you
14 cannot identify where everything goes. That's
15 all.

16 Q How many distributors does CAB work with?

17 A I don't have that number for that, for
18 that has changed so much. So...

19 Q More than ten?

20 A Yes.

21 Q More than 50?

22 A Today -- today I don't know that exact

1 number. So, yeah. I don't know.

2 Q So you talked about environmental
3 differences that would impact the design of your
4 hangers.

5 What were the differences in your first
6 line of solar hangers from your existing line of
7 mining hangers?

8 A The primary difference in the solar
9 hangers was a multicarrier design that separated
10 AC/DC cables, Datacomm cables from each other so
11 it had individual carriers to separate the cabling
12 to meet the NEC code.

13 Q So was the multicarrier design the first
14 line of solar hangers that CAB ever sold?

15 A My best recollection is it is.

16 Q And around that same time, CAB was not
17 selling any single-carrier cable hangers?

18 MR. McDONOUGH: Object to form.

19 A Yes, CAB did sell a single-carrier cable
20 hanger.

21 Q For use in solar?

22 A It could be used in a variety of

1 industries. So...

2 Q So it's possible that CAB single-carrier
3 cable hangers were used in solar around this time?

4 MR. McDONOUGH: Object to form.

5 A It is possible.

6 Q Paragraph 11 of your declaration, you
7 state that "CAB's hangers for the underground
8 mining industry were expanded steadily over the
9 years to include more than 500 different hangers
10 by 2010."

11 Do you see that?

12 A Yes.

13 Q Were any of these mining hangers
14 multicarrier hangers?

15 A Some of the mine hangers were
16 multicarrier.

17 Q What was the purpose of a multicarrier in
18 the mining industry?

19 A To run cables.

20 Q So it was just to run more power? Not
21 because it was intended to separate AC and DC
22 cables?

1 A Right. Right.

2 Q Could those hangers be used to separate AC
3 and DC cables?

4 A In the mines, I'm not aware of that.

5 Q Would it be possible to use those mining
6 hangers to separate AC and DC cables?

7 MR. McDONOUGH: Object to form.

8 A In an underground mine application, you're
9 asking?

10 Q Sure. Yeah.

11 A I'm not aware of that in mining, so I -- I
12 don't know, you know? Just it was never discussed
13 in mining.

14 MR. SWEENEY: I'm introducing a new
15 exhibit here. This will be Exhibit 1044 in the
16 00139 IPR. And this will be Exhibit Number 1029
17 in the 00178 IPR.

18 (Exhibit 1044 for 00139 IPR and 1029 for
19 00178 IPR were marked for identification and is
20 attached to the transcript.)

21 MR. SWEENEY: I'll give you a copy.

22 THE REPORTER: Thank you.

1 Q Have you seen this before?

2 A Yes, I have.

3 Q What is this?

4 A This is the CAB mine brochure.

5 Q Do you know what year CAB released this
6 brochure?

7 A I do not.

8 Q If you go to the last page in the back
9 here --

10 A Mm-hmm.

11 Q -- in the bottom right corner there's a --
12 do you see where it says "Copyright 2010"?

13 A Yes.

14 Q And then you see in the very bottom right
15 corner where it says "VER 2019"?

16 A Yes.

17 Q Was this brochure used by CAB in 2010?

18 MR. McDONOUGH: Object to form. I'm also
19 going to object to this line of questioning as
20 outside the scope of Mr. Smith's direct testimony.
21 I don't know if you want me to make the objection
22 to every question or if you're okay with a running

1 objection.

2 MR. SWEENEY: Yeah. We can do a running
3 objection. I'll only be on this for a second, and
4 I'll let you know when that objection should be
5 withdrawn.

6 MR. McDONOUGH: Sure.

7 BY MR. SWEENEY:

8 Q Was this brochure used by CAB in 2010?

9 A Yes.

10 Q And when you refer in your declaration to
11 the 500 different hangers sold by CAB, does this
12 look to in -- does this brochure look to include
13 those products?

14 A Yes.

15 Q On page 5, there's an image depicting the
16 Bosserman clip.

17 Do you see that?

18 A Yes.

19 Q This clip, the Bosserman clip, was
20 intended to be used with a messenger wire; is that
21 right?

22 A Yes.

1 Q And do you see where it says "Advantages
2 of Bosserman Clips"?

3 A Yes.

4 Q What does Number 4 mean?

5 A It means you could use two hangers to run
6 two cables separately.

7 Q Can you describe what that arrangement
8 would look like?

9 A There would be one short and one long
10 hanger.

11 Q I see.

12 So one would extend farther down from the
13 messenger wire than the other?

14 A Yes.

15 Q I see.

16 Did CAB ever sell Bosserman clips for use
17 in the solar industry?

18 A No.

19 Q Go to page 11 of this brochure.

20 Do you see on the left side of page 11 of
21 this brochure the 2-carrier Bullhorn hanger and
22 4-carrier Bullhorn hanger?

1 A Yes. Yes.

2 Q Did CAB sell these hangers between 2010
3 and 2013?

4 A I can't answer that for sure.

5 Q Were these popular products?

6 MR. McDONOUGH: Object to form.

7 A Not --

8 MR. McDONOUGH: You can answer.

9 A Yeah. I don't know if they were popular.
10 You know?

11 MR. SWEENEY: Okay. All right. We're
12 done with this exhibit for now.

13 So I'll take it your objection is no
14 longer running?

15 MR. McDONOUGH: Yes, that's right. Thank
16 you.

17 Q You used the term "messenger wire"
18 throughout your declaration; correct?

19 A Correct.

20 Q What do you mean by messenger wire?

21 A The other term that is used with messenger
22 wire is guy strand. So it's a -- it's a common

1 utility support wire used to support cabling
2 systems.

3 Q Is there a difference between guy strand
4 and messenger wire?

5 A I am not aware of any difference.

6 Q When you use the term "messenger wire," do
7 you mean a metal cable?

8 A It's a metal cable with metal strands.

9 Q Does the term "messenger wire" imply that
10 that component is serving a support function?

11 A A messenger wire is normally used as a
12 support function.

13 Q So that's how you understand that term?

14 A Mm-hmm.

15 Q Just remember to say "yes" or "no" for our
16 court reporter here.

17 A Yes.

18 Q Thank you.

19 So in 2013 -- withdrawn.

20 Was CAB known in the solar market prior to
21 2013?

22 A No. Not at all.

1 Q What steps did CAB take to get the
2 attention of the solar industry?

3 A We went to a Solar Power International
4 show in Chicago in October of 2013 to gauge
5 interest in an aboveground cable management
6 solution for solar. So...

7 Q How did CAB find out about the SPI trade
8 show?

9 MR. McDONOUGH: Object to form.

10 A I don't know.

11 Q Did SunPower tell CAB about the SPI trade
12 show?

13 A I can't recall that long ago.

14 Q Has CAB been to the SPI trade show since
15 2013?

16 A Yes.

17 Q Has CAB been to the SPI trade show as an
18 exhibitor every year since 2013?

19 A We have gone to multiple shows but I can't
20 say we've been to every one.

21 Q More or less than five times?

22 A More than five.

1 Q So you attended CAB's exhibit at SPI in
2 2013; right?

3 A Correct.

4 Q Who else from CAB went?

5 A Tim Wedding was the other person that
6 went.

7 Q So it was just you two?

8 A Correct.

9 Q And who is Tim Wedding?

10 A Tim -- today? His position?

11 Q Then and today.

12 A I can't remember the name of his position
13 back then. Today, I believe he's solar product --
14 product manager.

15 Q Does CAB have any photographs of its
16 exhibit in 2013 at the SPI trade show?

17 A No.

18 Q Were any photographs taken of CAB's
19 exhibit at the 2013 SPI trade show?

20 A We didn't take any.

21 Q Let's go to paragraph 21 of your
22 declaration. In the third sentence there you say,

1 "CAB's exhibit included a small metal rack with a
2 wire running along the top to suspend three of
3 CAB's cable rings and saddles."

4 Do you see that?

5 A Yeah.

6 Q Can you describe what you mean by metal
7 rack?

8 A The metal rack was made from square tubing
9 about 3 feet long by 18 inches high. And then we
10 would have a wire at the top.

11 Q So it's two square tubes going upright --

12 A Mm-hmm. In the shape of a letter U.

13 Q Understood.

14 Which of CAB's cable hangers did it use in
15 that exhibit?

16 A We used three CAB cable rings,
17 single-carrier cable rings.

18 Q Were they coated?

19 A I believe they were but I -- I'm not
20 positive.

21 Q Would you be able to identify which cable
22 hangers CAB used in this exhibit if you looked at

1 the brochure I just showed you?

2 A I wouldn't know the exact size because so
3 much time has gone by. But --

4 Q Fair.

5 You say later on in paragraph 21 of your
6 declaration that "Most people who saw CAB's
7 exhibit wondered what it was even demonstrating."

8 Do you remember who wondered what CAB's
9 exhibit was demonstrating?

10 MR. McDONOUGH: Object to form.

11 A We talked to attendees and the attendees
12 we talked to wondered what we were showing.

13 Q What was CAB trying to demonstrate?

14 A We were trying to demonstrate that -- we
15 were trying to see if there was any potential for
16 an aboveground cable management solution in solar.

17 Q Was that in response to SunPower's
18 inquiry?

19 A In part, yeah, that was in -- yes.

20 Q What else motivated CAB's demonstration?

21 A We were looking for more opportunities to
22 create jobs and we thought let's give this a shot.

1 So it was trying to see if we could get any
2 attention.

3 Q Approximately, how many people did CAB
4 talk with at that demonstration?

5 MR. McDONOUGH: Object to form.

6 A I'm sorry. I couldn't answer that.

7 Q More than 100?

8 A Normally, at a trade show you would talk
9 to more than a hundred.

10 Q So since that -- since 100 is the normal,
11 would you expect that at the 2013 SPI trade show
12 you spoke with 100 or more people?

13 MR. McDONOUGH: Object to form.

14 A Possibly that number.

15 Q You mentioned meeting Bill Brooks at that
16 trade show; is that right?

17 A Correct.

18 Q And you said that he was impressed with
19 CAB's -- withdrawn.

20 Paragraph 23 of your declaration you say,
21 "Mr. Brooks saw CAB's hangers in a display and he
22 was impressed with the potential for CAB's idea

1 for an aboveground cable management system in
2 solar plants."

3 Do you see that?

4 A Yes.

5 Q When you say that "Mr. Brooks saw CAB's
6 hangers in a display," are you talking about that
7 U-shaped exhibit that you had?

8 A We had a 10 x 10 booth so he came to our
9 booth.

10 Q Was the display that you're referencing
11 here that rack -- that metal rack?

12 A Correct. Yeah.

13 Q When you say he was impressed, do you
14 recall him being impressed after describing what
15 you were depicting or did he understand?

16 A He understood what we were showing and
17 thought the quality of the product looked good.

18 Q And in paragraph 2014, you mentioned that
19 CAB also met Mark Cooper, director of engineering
20 at SunEdison; is that right?

21 MR. McDONOUGH: Object to form.

22 A Correct. Correct.

1 MR. McDONOUGH: Pardon me. Do you mean
2 paragraph 24?

3 MR. SWEENEY: Yes. Sorry. I'll re-ask
4 that.

5 MR. McDONOUGH: Thank you.

6 Q In paragraph 24 of your declaration, you
7 say that CAB also met Mark Cooper, the director of
8 engineering at SunEdison; is that correct?

9 A Correct.

10 Q And you say in paragraph 24 that
11 "Mr. Cooper was intrigued by CAB's idea for an
12 aboveground cable management system."

13 What do you mean by "intrigued"?

14 A Curious. He never saw anything like it,
15 so he was curious about what we were showing.

16 Q You say that he would pass along your
17 contact information to his colleague at SunEdison;
18 is that right?

19 A Correct.

20 Q So he must have been pretty impressed with
21 the idea to immediately agree to pass along your
22 contact information; is that fair?

1 MR. McDONOUGH: Object to form.

2 A I don't know if it's fair. I don't know
3 if he was impressed or just curious.

4 Q Do you remember if anybody else at SPI was
5 impressed or curious with CAB's demonstration?

6 A I -- we did not have much interest.
7 People wondered what we were showing. But we --
8 we did not have a lot of positive feedback.

9 Q You got the curiosity of the third
10 largest -- or excuse me. You got the attention of
11 the largest renewable energy company in the world
12 so, all in all, a success you'd say?

13 MR. McDONOUGH: Object to form.

14 A What was our reaction to that?

15 Q Yes.

16 A We were pleased that we got some interest.

17 Q Paragraph 34 of your declaration, you
18 mentioned that "During 2014, CAB attended solar
19 trade shows in Boston, San Francisco and Munich,
20 Germany; is that right?

21 A Correct.

22 Q Did you attend all three of those?

1 A I attended the Munich. I believe I
2 attended Boston. I'm not positive about
3 San Francisco.

4 Q Do you remember any of the specific
5 industry professionals that were skeptical of
6 CAB's idea?

7 A In the 2014 framework?

8 Q That's right.

9 A I don't believe we have any names of
10 people at the shows that were skeptical.

11 Q Do you remember any companies that were
12 skeptical of CAB's idea for a messenger-based
13 system?

14 A One of the companies we talked to was
15 Tropenas and they -- they were skeptical and they
16 guided us on what we needed to do to try to sell
17 into the solar industry. Tropenas is a solar
18 developer. That's the only name I can
19 remember 'cause we don't keep all those sales
20 leads or data from then.

21 Q Do you mind spelling Tropenas for us.

22 A T-R-O-P-E-N-A-S.

1 Q Thank you.

2 When you say that they guided you on how
3 to sell to the solar industry, what do you mean by
4 that?

5 A We knew nothing about solar, basically.
6 We -- we just went there to try our luck and we
7 were very fortunate to meet Bill Novak from
8 Tropenas who we almost say shepherded us. He told
9 us what we needed to do to try to get an entry
10 into the solar industry.

11 And one of his primary recommendations was
12 to get Bill Brooks to write a white paper to say
13 that our product met -- would meet the NEC code
14 and solar power plants. He said if you don't get
15 that, you're not gonna get anywhere. So he helped
16 us in that regard. Just gave us some advice.

17 Q Why do you think Mr. Novak was so helpful?

18 MR. McDONOUGH: Objection to form.

19 A I don't know. He was a good guy. We were
20 very fortunate.

21 Q Did he like -- strike. Withdrawn.

22 Did he know about CAB's mission to help

1 disabled personnel?

2 A Yeah. I'm sure we told him that. Yes.
3 So that could be why.

4 Q So in paragraph 36, you mentioned that
5 "Mitchel Bowman, SunEdison, contacted me regarding
6 CAB's idea for an aboveground cable management
7 system."

8 Do you see that?

9 A Yes.

10 Q What changed between SunEdison's
11 skepticism that led to SunEdison reaching out to
12 CAB?

13 MR. McDONOUGH: Object -- object to form.

14 A I can't answer that.

15 Q When did SunEdison decide to use CAB's
16 messenger wire and cable hanger system?

17 A To use it in an actual solar power plant?

18 Q Yes.

19 A That -- we were informed in July of 2015
20 that they were gonna use our product. Paragraph
21 43.

22 Q And then a month later, SunEdison approved

1 CAB's aboveground cable management system; is that
2 right?

3 MR. McDONOUGH: Object to form.

4 A Right. August of 2015.

5 Q So do I have it right that less than two
6 years after seeing CAB's prototype at SPI,
7 SunEdison committed to using CAB's products at all
8 of its utility-scale solar power plants?

9 A Correct.

10 Q Don't you agree that's a pretty quick
11 timeline for a new product to be adopted in such a
12 large scale?

13 MR. McDONOUGH: Objection to form.

14 A I can't say that it's that quick of a
15 time. No.

16 Q Did CAB offer any pricing discounts to
17 SunEdison around this time?

18 A I don't recall giving them any discount.
19 We gave them prices.

20 Q Being new to the solar industry, how did
21 CAB know how to price its components for use in
22 solar?

1 MR. McDONOUGH: Objection to form.

2 A We have a price -- we have a pricing
3 formula, you know, based on materials, labor.
4 It's just a -- a costing that we do for any
5 product we sell.

6 Q Is it just materials and labor that go
7 into that analysis?

8 A Those are the two primary factors. There
9 can be other variables.

10 Q What other variables go into your pricing
11 formula?

12 MR. McDONOUGH: I'm going to object to
13 this as beyond the scope of Mr. Smith's direct.

14 A Yeah. Today -- yeah. I haven't been
15 involved in that in a long time. As far as
16 pricing. But I know the pricing is done basically
17 based on your material costs, labor costs.

18 MR. McDONOUGH: Doing okay?

19 THE WITNESS: Mm-hmm.

20 MR. SWEENEY: Let me know if you need a
21 break.

22 THE WITNESS: Yeah. Yeah. My voice may

1 go during the day.

2 MR. SWEENEY: Keep the water going.

3 Q All right. I'm handing you Exhibit 2019.

4 And this is the same exhibit number in both of our
5 IPRs.

6 Do you recognize this document?

7 A Yes.

8 Q What is this document?

9 A It's an E-mail from [REDACTED]

10 [REDACTED] to Tim Wedding.

11 Q And you're copied on this E-mail?

12 A Yes. Yes.

13 Q Who's Gregory Platt?

14 A He is an employee of CAB -- was an
15 employee of CAB at the time.

16 Q What was his role?

17 A He was involved in product development at
18 CAB.

19 Q In solar or just mining?

20 A Different areas. Yeah. Not strictly
21 solar.

22 Q Same for [REDACTED]?

1 A I don't know who that is.

2 Q Must be a [REDACTED].

3 Did CAB end up selling its products to

4 [REDACTED]?

5 A To the best of my knowledge, we have, but
6 I -- I am not positive.

7 Q Who is [REDACTED]? Excuse
8 me.

9 A I don't know. I don't know him.

10 Q Was he an [REDACTED]?

11 MR. McDONOUGH: Object to form.

12 A I didn't work with him. I don't know him.

13 Q This E-mail says, "[REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]"

18 Do you see that?

19 A Yes.

20 Q And then you see his questions in bullet
21 point form?

22 A Right.

1 Q Do you know what in the second bullet

2 "[REDACTED]" means?

3 A [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 Q [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 MR. McDONOUGH: Object to form.

10 A [REDACTED]

11 [REDACTED]

12 Q Did CAB get questions similar to this
13 regarding its mining products?

14 A They would be a totally different set of
15 questions for mining.

16 Q So these are questions that are more
17 generally applicable to the solar industry?

18 A Yes.

19 Q Is design life an important consideration
20 when choosing components for a solar power plant?

21 MR. McDONOUGH: Object to form.

22 A Yeah -- yes, design life is important.

1 Q So as part of CAB's early marketing
2 efforts, CAB installed some solar mock-ups; is
3 that correct?

4 A Correct.

5 Q Why did CAB decide to do a solar mock-up
6 at an actual solar power plant?

7 A Which power plant?

8 Q Sure. The Carlisle -- the one in
9 Carlisle, Pennsylvania.

10 A Why did we decide to do the mock-up?

11 Q Yeah.

12 A We wanted to explore whether an
13 aboveground cable management solution would be
14 viable.

15 Q At this point in 2013, had CAB abandoned
16 any efforts to use its mining equipment in solar
17 applications?

18 MR. McDONOUGH: Object to the form and
19 foundation.

20 A We -- we just thought it would be crazy to
21 try to use those products above ground.

22 Q Whose idea was installing the mock-up in

1 Carlisle, Pennsylvania?

2 A Whose idea to do the mock-up?

3 Q (Nodded head affirmatively.)

4 A A couple of us, probably Tim Wedding and
5 myself.

6 Q Did anyone from SunPower suggest that you
7 install a mock-up?

8 A No.

9 Q No. Prior to doing the mock-up, had CAB
10 sold any products for solar applications?

11 A No.

12 Q How did CAB find the Carlisle solar plant?

13 A I know a woman who told -- because back
14 then, there weren't many solar fields and she told
15 me she was driving the turnpike and saw a solar
16 plant at the Carlisle high school and so that --
17 that's why we decided on that. We didn't know of
18 any other solar plants around.

19 Q Oh, so the Carlisle, Pennsylvania, solar
20 plant, is that a high school there?

21 A Yes.

22 Q How far is that from Pittsburgh?

1 A About a two-hour drive.

2 Q Did you have to pay Carlisle High School
3 to do your mock-up on their solar farm?

4 A No.

5 Q Good neighbors.

6 A Yeah.

7 Q Do you have any idea how much energy that
8 power plant produced?

9 A No idea.

10 Q Do you have any idea how old that power
11 plant was when you installed your mock-up?

12 A We understood it was about two to three
13 years old.

14 Q Somewhere in the 2010, 2011 range?

15 A Yes.

16 Q And so were the AC and DC cables buried at
17 that power plant?

18 MR. McDONOUGH: Object to form. Object to
19 foundation.

20 A We didn't see any, so I'm assuming they
21 were buried.

22 Q So you went to the Carlisle power plant

1 and took photos of the mock-up; is that right?

2 A Yes.

3 Q And those have been used in a variety of
4 different applications?

5 A Yeah. Yes.

6 Q Before installing the mock-up and
7 marketing, did CAB perform any testing to
8 determine if it was feasible to use a messenger
9 wire in a solar farm?

10 A No.

11 Q The last sentence of your declaration at
12 paragraph 14 says, "We simply used single-carrier
13 cable ring and saddle hangers that we had used in
14 other applications."

15 The other applications, is that just
16 mining?

17 A No. Let's see. You're at the last
18 paragraph of 13?

19 Q The last sentence of paragraph 14.

20 A Oh, 14.

21 Q Sorry.

22 A Yes, we had used those in other

1 applications.

2 Q What applications were those used in?

3 A Primarily traffic signal wiring. It's the
4 main application for them.

5 Q Can you describe how they were used in
6 traffic signal wiring?

7 A They would -- you would install the cable
8 ring on the messenger wire and run the traffic
9 signal wiring through them.

10 Q The traffic signal wire being what powered
11 the traffic signal --

12 A Correct.

13 Q -- is that right? Oh, thank you.

14 Were those cable rings and saddles that
15 you used in traffic signal wiring also used in
16 mining?

17 A They would normally not be used in mining.
18 Because we sell through distributors, a mine could
19 buy them, but normally, a mine would not use that
20 product.

21 Q Right. Once it's in the distributor's
22 hands, you don't know where it goes type of thing?

1 A Yeah.

2 MR. McDONOUGH: If you're getting into
3 another exhibit, do you mind if we take a quick
4 break?

5 MR. SWEENEY: Yeah. That's fine. Yeah.

6 MR. McDONOUGH: Thanks.

7 (A recess was taken.)

8 MR. McDONOUGH: All right. I'd like to
9 designate this transcript "confidential" under the
10 protective order, since we're discussing some
11 confidential exhibits. And we will determine at a
12 later date what needs to remain under seal.

13 Does that sound okay?

14 MR. SWEENEY: Sounds good. Thanks.

15 MR. McDONOUGH: Thank you.

16 BY MR. SWEENEY:

17 Q All right. Mr. Smith, I'm handing you
18 Exhibit 2007 from the 00178 IPR.

19 Have you seen this document before?

20 A Yes.

21 Q What is this document?

22 A This is a flyer we created from the 2013

1 mock-up in Carlisle, PA.

2 Q So these are CAB hangers -- withdrawn.

3 So the hangers depicted in this flyer are
4 CAB hangers; is that right?

5 A Correct.

6 Q And these are the hangers that you had
7 previously sold for use in traffic light systems;
8 is that correct?

9 A Correct.

10 Q Do you know when CAB created this flyer?

11 A September of 2013.

12 Q Who did CAB send this flyer to?

13 MR. McDONOUGH: Object to form.
14 Foundation.

15 MR. SWEENEY: Fair.

16 Q Did you -- did CAB send this flyer to any
17 third parties?

18 A We took this flyer to the SPI trade show
19 in Chicago.

20 Q The 2013 SPI trade show?

21 A Yes.

22 Q Did CAB ever use this flyer in any digital

1 marketing?

2 A Digital marketing?

3 MR. McDONOUGH: Object to form.

4 A Describe digital marketing. Or explain
5 what you mean by digital marketing.

6 Q Did CAB only use this flyer for the SPI
7 trade show in 2013?

8 A That was its first use. I recall that we
9 had a website and then I'm not positive. It was
10 put on our website at some point. I don't know
11 the exact date it was put on the website.

12 Q Do you recall how many of these flyers CAB
13 passed out at the SPI trade show in 2013?

14 A No. No. I don't know.

15 Q Were they on the table at CAB's exhibit,
16 free to take?

17 A Yeah. They would be on a table, free to
18 take.

19 Q So CAB's exhibit at the 2013 SPI trade
20 show included its metal rack display as well as
21 these flyers?

22 A Correct.

1 Q And even with this, people didn't
2 understand what CAB was trying to display?

3 A Well, I'll explain. This is the first
4 time I was -- I ever stepped foot in a solar power
5 plant.

6 Q Mm-hmm.

7 A None of the other people were with --
8 nobody had ever stepped foot in a solar power
9 plant. So what we started depicting here is not
10 how the product is used. So that we wanted just
11 to show some solar panels with an aboveground
12 cable management system to see if we could get
13 interest.

14 Q So is the idea by putting this mock-up in
15 here, be easier for people in the solar industry
16 to understand, CAB's trying to sell cable
17 management systems in solar?

18 A Right. We're trying to sell cable
19 management in solar.

20 Q So after doing the Carlisle mock-up, CAB
21 did a mock-up with SunPower; is that right?

22 A Yes.

1 Q In your declaration at paragraph 25, you
2 discussed that installation; correct?

3 A Yes.

4 Q And that was at a power plant in Davis,
5 California. How did CAB identify that power plant
6 for use for a mock-up?

7 A SunPower identified it.

8 Q Was it SunPower's idea to do this mock-up
9 or CAB's?

10 A I would say both.

11 Q Why did SunPower want to do a mock-up of
12 CAB's products?

13 A SunPower wanted to see if there was a more
14 cost effective way to run cables rather than cable
15 tray.

16 Q Was SunPower's desire to do a mock-up a
17 result of your demonstration at the SPI trade
18 show?

19 A It was the result of having conversations
20 with them after that initial phone call.

21 Q Who paid for the SunPower Davis,
22 California, mock-up?

1 A Who paid for it?

2 Q (Nodded head affirmatively.)

3 A We supplied all of the hangers free of
4 charge. That was typical on a mock-up. And they
5 provided the manpower, you know, so there was no
6 charge.

7 Q I see. Why did SunPower want to do this
8 mock-up?

9 MR. McDONOUGH: Objection to form.

10

11 A There could be multiple reasons: To
12 reduce costs. To reduce labor.

13 That would be my most obvious, you know,
14 answers to that.

15 Q What's the difference between costs and
16 labor?

17 A Well, the labor to install cable
18 management system versus labor to install cable
19 tray.

20 Q So you referred to costs and labor. Are
21 those synonymous or do they mean different things?

22 A Labor and materials. Yeah, I'm sorry if I

1 wasn't clear. Labor. They're looking at the --
2 probably to save cost of labor and cost of
3 materials.

4 Q Got it. Thank you.

5 So it seems like SunPower expected CAB's
6 system to provide some cost savings?

7 A Correct.

8 Q So at this stage, SunPower thought it was
9 feasible to use a messenger-based system; is that
10 right?

11 MR. McDONOUGH: Objection to form.

12 A I would not say they thought it was
13 feasible. I thought they wanted to experiment.

14 BY MR. SWEENEY:

15 Q All right. I'm handing you Exhibit 2008.

16 MR. McDONOUGH: Thanks.

17 Q This is -- excuse me. I'm sorry.

18 This is Exhibit 2008 in both the 0139 and
19 0178 IPRs.

20 All right. You only need to look at one
21 of them?

22 A Okay.

1 Q Have you seen Exhibit 2008 before?

2 A Yes, I have.

3 Q What is Exhibit 2008?

4 A [REDACTED]

5 [REDACTED]

6 [REDACTED].

7 Q [REDACTED]

8 [REDACTED]

9 A I'm only trying to recall.

10 MR. McDONOUGH: Object to foundation.

11 A Could you repeat that question?

12 Q Sure. [REDACTED]

13 [REDACTED]

14 [REDACTED]?

15 A Okay. No.

16 Q What were the --

17 MR. McDONOUGH: Let me get my -- repeat
18 the objection to foundation.

19 Q What were the differences?

20 A [REDACTED]

21 [REDACTED]

22 [REDACTED]

1 [REDACTED].

2 Q [REDACTED]

3 [REDACTED]?

4 A Right. [REDACTED]

5 [REDACTED]

6 Q Otherwise, [REDACTED]

7 [REDACTED]?

8 MR. McDONOUGH: Objection. Foundation.

9 A [REDACTED]

10 [REDACTED]

11 [REDACTED].

12 Q So on page 3 of Exhibit 2008, fourth
13 bullet point says, [REDACTED]

14 [REDACTED]."

15 Do you see that?

16 A Yes.

17 Q [REDACTED]

18 [REDACTED]

19 [REDACTED]; is

20 that right?

21 A Could you repeat that question?

22 Q Sure. Actually, let's go to page 7 of

1 this. Do you see at the top there it says,

2

3

4

Do you see that?

5

A Yes.

6

Q What do you take that to mean?

7

A

8

9

10

Q

11

12

13

A I can't answer that.

14

Q You see on the same page it says, "

15

16

A Mm-hmm.

17

Q What does that mean?

18

A I'm not gonna guess at that. I don't

19

know.

20

Q You don't know what WP stands for?

21

A No.

22

Q Go to the next page of Exhibit 2008, page

1 8. You see a slide here titled [REDACTED]"
2 and the summary description.

3 Do you see that column?

4 A Yeah. Yes.

5 Q You see the column next to it has "[REDACTED]
6 [REDACTED]."

7 Do you see those?

8 A Yes.

9 Q [REDACTED]
10 [REDACTED]
11 [REDACTED]?

12 A [REDACTED]
13 [REDACTED] So...

14 Q [REDACTED]
15 [REDACTED]
16 [REDACTED].

17 Do you see that?

18 A I see that.

19 Q And then under messenger cable method it
20 says, [REDACTED]

21 [REDACTED]
22 Do you see that?

1 A Yes.

2 Q [REDACTED]

3 [REDACTED]

4 MR. McDONOUGH: Object to form.

5 A I assisted with the mock-up but I didn't
6 help them with any of their numbers or analysis.
7 So I'm a little reluctant to give you a firm
8 opinion on these numbers.

9 Q Okay.

10 A And how they arrived at it.

11 Q You'll agree that in a summary description
12 there's [REDACTED]; correct?

13 A Repeat that. Please.

14 Q Sure. In Slide 8 of Exhibit 2008, there's
15 no mention of piles or piers; correct?

16 A I mean, I see one line that says [REDACTED]

17 [REDACTED]

18 [REDACTED]. I mean --

19 Q [REDACTED]

20 [REDACTED]

21 [REDACTED]?

22 A Yes, they were already there.

1 Q Were those piles there to support solar
2 panels?

3 A Yeah. Yes.

4 Q So those piles were not specific to the
5 CAB system?

6 A No.

7 Q Do you recall what modifications, if any,
8 had to be made to those piles to attach the CAB
9 messenger?

10 A They didn't have to modify the posts, sir.

11 Q So they could use any post that was there
12 to attach the messenger; is that right?

13 A They -- they selected the section that
14 they wanted us to work on.

15 Q Go to page 15 of Exhibit 2008. At the top
16 there it says, "[REDACTED]

17 What is this investment?

18 A I don't know.

19 Q Do you not know because this was just
20 SunPower business information and not CAB
21 information?

22 A They gave it to us to -- verbally they

1 told us [REDACTED], that
2 it would be a great product, but they never moved
3 forward with it because they said they had other
4 priorities.

5 So we -- we did not end up selling to
6 them, but they gave us this analysis and I just
7 said, you know, we can [REDACTED]
8 [REDACTED] It's kind of in a que to see
9 if it ever gets implemented.

10 Q So they gave it to you, sort of, to
11 reciprocate for giving them the free product to
12 try this out?

13 A Well, they said, you can have this for
14 your records. And then they said, we just don't
15 know when it will be implemented.

16 Q Do you know what other things they were
17 pursuing?

18 A No. I'm not aware of anything.

19 Q So SunPower never ended up using CAB's
20 system?

21 A No. Not for -- not for the years
22 following this. Possibly later. SunPower

1 reorganized -- all these solar companies they just
2 reorganize and so I can't say if they -- they may
3 have at some point in the future, but following
4 this study, we didn't sell anything to SunPower
5 for years.

6 Q So CAB did another prototype with Solar
7 Technology Acceleration Center; is that right?

8 A Correct.

9 Q And Solar Technology Acceleration Center
10 is often abbreviated as S-O-L-A-R, capital T,
11 capital A, capital C; correct?

12 A Correct.

13 Q I'm handing you Exhibit 2030. This is the
14 same exhibit in both IPRs.

15 MR. McDONOUGH: Thank you.

16 Q Have you seen Exhibit 2030 before?

17 A No.

18 Q Are you familiar with SolarTAC's
19 demonstration of the CAB system?

20 A Yes.

21 Q If you go to page 2.

22 Actually, before we get into that, what

1 was the relationship between CAB and SolarTAC?

2 A We had no relation with SolarTAC.
3 SunEdison wanted to do a mock-up at the SolarTAC
4 site.

5 Q I see.

6 So SunEdison promoting the CAB products
7 wanted to do something with SolarTAC and the CAB
8 products; is that right?

9 MR. McDONOUGH: Object to form.

10 A SunEdison wanted to do a mock-up of our
11 product at the SolarTAC site to evaluate it.

12 Q How'd you find out about SunEdison using
13 CAB products for demonstration for SolarTAC?

14 A We had met with SunEdison and developed
15 a -- developed a 2-carrier hanger for them for
16 this mock-up to separate the AC and DC wiring.

17 Q What year was that?

18 A 2014.

19 Q How did CAB get Exhibit 2030?

20 MR. McDONOUGH: Object to form.

21 A I don't recall seeing this before.

22 Q Hold off on this one for now, then.

1 If you could take a look at -- excuse
2 me -- paragraph 44 of your declaration. You
3 state, "Following additional testing with
4 SunEdison and CAB making design modifications in
5 August 2015, SunEdison approved CAB's aboveground
6 cable management system as their new standard for
7 utility-scale power plants."

8 Do you see that?

9 A Yes.

10 Q What were the design modifications you're
11 referencing there?

12 A Our first hanger for SunEdison was a
13 2-carrier. And as time went on, they decided they
14 needed a 3-carrier, so we had to do some redesign
15 work adding an additional carrier, adjusting the
16 size of the carriers to meet their specification
17 for the number and size of the cables that they
18 wanted to run.

19 Q I see.

20 So Sun -- SunEdison had some specific
21 needs and they sent you those needs?

22 A Yes.

1 Q Was it SunEdison's idea to have the
2 3-carrier hanger?

3 A No. They gave us their cabling sizes
4 requirements and then we designed the hangers for
5 them.

6 Q What about their cable sizing requirements
7 necessitated the third carrier on that hanger?

8 A I believe they wanted to separate out the
9 string wires from the DC feeders.

10 Q So it was one carrier for AC, one for DC
11 and one for the feeders?

12 A It can be a combination. They -- plus
13 it's a design where you want to keep the hanger in
14 balance and not unbalance. So sizewise, you try
15 to just make everything proportional for the
16 cables, the number of cables.

17 Q So besides doing these mock-ups, what
18 other marketing efforts did CAB undertake?

19 MR. McDONOUGH: Object to form.

20 A We attended trade shows. We also would
21 meet with solar companies, or solar engineering
22 companies, to overcome some of their skepticism

1 about the product line, that it could work in an
2 actual solar power plant.

3 So it took a lot of time and effort just
4 to overcome the skepticism because nobody in the
5 solar industry was using an aboveground messenger
6 cable hanger system.

7 So they were very, very reluctant to even
8 start using it. So we had meetings,
9 demonstrations.

10 Q What impact did Bill Brooks's white paper
11 have on the success of CAB's messenger-based
12 system?

13 MR. McDONOUGH: Object to form.

14 A It had a large impact.

15 Q Why was that?

16 A Because he was very highly regarded in the
17 solar industry. A lot of people called him the
18 guru of the solar industry. He was very familiar
19 with the codes. He was a speaker at various
20 events. He was well respected.

21 So when he wrote a white paper saying that
22 our product could meet the NEC, UL and IEEE

1 standards, that that was a big step for us.

2 Q Did Bill Brooks circulate that white
3 paper?

4 A No.

5 Q You just gave it to CAB and then CAB
6 circulated it?

7 A Right. We paid him to do the report and
8 then we had the report. And so if we were meeting
9 with a company, we would show that to them to show
10 that, you know, you don't have to be afraid to use
11 our product line, that it will meet the code.

12 Q How much did you pay Bill Brooks for his
13 first report?

14 A I can't recall how much.

15 Q [REDACTED]?

16 A No.

17 Q [REDACTED]?

18 A I don't -- no, I don't think so.

19 Q [REDACTED]?

20 A I don't recall, you know, the exact
21 amount. That's -- that's a long time ago.

22 Q Do you recall, roughly, how much you would

1 have paid Bill Brooks for the white paper?

2 MR. McDONOUGH: Object to form.

3 A I just -- I -- I don't know. We -- we
4 paid him for different reports. He's done them --
5 several over the years. I just don't recall.

6 Q Do you know how much you paid him for his
7 most recent report?

8 A No. No.

9 Q Do you know who at CAB would know that?

10 A The accounting department.

11 Q So it's your opinion that prior to CAB, no
12 one had ever used a messenger in a solar power
13 plant?

14 A Messenger with cable hangers. Correct.

15 Q Sure. I'll rephrase.

16 So it's your opinion that prior to CAB, no
17 one had ever used a messenger in a solar power
18 plant with cable hangers?

19 MR. McDONOUGH: Object to form.

20 A Correct.

21 Q Is that opinion based on your personal
22 experience?

1 A That's based on talking to professionals
2 in the industry, solar companies, trade shows. No
3 one was aware of any other cable management system
4 with hangers with a messenger wire for years.
5 That, you know, we never heard of any other cable
6 management system out there. No one -- we never
7 saw one. We never heard of one. Never -- it
8 never appeared in any literature.

9 And we were talking with some of the
10 largest solar companies in the industry and they
11 were not aware of any other system at all.

12 Q And you don't know that unequivocally;
13 right?

14 MR. McDONOUGH: Object to form.

15 A Unequivocalably [sic]? No. I mean --
16 yeah, I couldn't say that unequivocalably.

17 Q So it's possible that someone else had
18 used messenger wire in aboveground cable
19 management in solar before; right?

20 MR. McDONOUGH: Object to form.

21 A It is a possibility. Just no one heard
22 of -- anyone that we talked to, no one ever heard

1 of it. That's all.

2 Q I'm handing you Exhibit 1015 in the 00178
3 IPR.

4 MR. McDONOUGH: Thanks.

5 Q I handed it to you upside down. So
6 sorry -- no, I didn't.

7 Do you know what this is?

8 A Yes. Yes.

9 Q What is this?

10 A This is the locking cable hanger method of
11 using patent application.

12 Q So on page 1 of this document, you see
13 first named inventor, Allen Garrett Smith.

14 Is that you?

15 A Yes.

16 Q Flip to page 202 of this document, please.
17 Sorry, 201. This is titled "Declaration Under 37
18 CFR Section 1.132."

19 Do you see that?

20 A Yes.

21 Q And the first line says, "I, Allen Garrett
22 Smith, declare as follows."

1 Do you see that?

2 A Yes.

3 Q Do you remember submitting this
4 declaration during the prosecution of the '291
5 patent?

6 A Yes.

7 Q Do you remember why you submitted this
8 declaration?

9 A Because we had said that an applicant
10 discloses -- the prior art discloses a system for
11 organizing a plurality of electrical cables
12 extending for -- from a plurality of solar panels.

13 Q Are you reading from the declaration?

14 A Yes.

15 Q Which paragraph are you reading from?

16 A Paragraph 4.

17 Q The top of page 202, the first full
18 sentence you say, "At such time, messenger
19 wire/hanger arrangements had never been employed
20 in the solar industry."

21 Do you see that?

22 A Yes.

1 Q But you don't know that for sure; right?

2 MR. McDONOUGH: Object to form.

3 A We have had -- no one had ever heard of
4 it.

5 Q Did you talk to every single person in
6 solar?

7 MR. McDONOUGH: Object to form.

8 A We talked to many, many people in solar.

9 Q But not everyone; right?

10 MR. McDONOUGH: Object to form.

11 A It would be impossible to talk to every
12 single person.

13 Q So would it be impossible to say
14 unequivocally that messenger wire/hanger
15 arrangements had never been employed in solar --
16 in the solar industry before?

17 A As far as all the available evidence that
18 was out there we could gather and from industry
19 experts across the board, no one had been aware of
20 anything.

21 Q SunPower wasn't involved in a
22 messenger-based system before CAB?

1 A Not -- they didn't -- they didn't say
2 they -- they said they weren't aware of anything.

3 Q If you were presented with evidence of
4 someone using a messenger cable hanger arrangement
5 in solar prior to CAB, would you rescind this
6 statement in your prosecution declaration?

7 MR. McDONOUGH: Object to form.

8 A I can't answer that. In every solar power
9 plant across the board, every executive we talked
10 to, every company we talked to, no one was aware
11 of any other messenger hanger system.

12 Q I'm handing you Exhibit 1004 from the
13 00178 IPR.

14 MR. McDONOUGH: Thanks.

15 Q Have you ever seen this document before?

16 A I saw this for the first time about a year
17 ago.

18 Q What's your understanding of this
19 document?

20 MR. McDONOUGH: Objection. Form.

21 Q I'll rephrase.

22 Do you have an understanding of what this

1 document is?

2 A Not a detailed -- no. When I saw it,
3 the -- the product that they're showing is nothing
4 like the multicarrier hangers that were selling.
5 So...

6 Q You see at the top where Exhibit 1004
7 says, "United States Patent Application
8 Publication PUB NO. U.S. 2010/0139731; correct?

9 A I'm sorry. Where are you reading that
10 from? Publication number?

11 Q That's right.

12 A Okay.

13 Q And you see on the left-hand column it
14 says, "Inventor, Charles Almy," A-L-M-Y?

15 A Yes.

16 Q Do you know Charles Almy?

17 A I don't know him.

18 Q You see below Charles Almy's name,
19 "Correspondence address, SunPower."

20 Do you see that?

21 A Yes. Mm-hmm.

22 Q Is this the same SunPower that CAB was

1 working with early on for its messenger-based
2 system?

3 A I believe it is.

4 Q Do you see next to Number 54 in
5 parentheses the title of this publication?

6 A Yes.

7 Q Would you read that, please.

8 A "Wire-based hanging wireway for
9 photovoltaic modules or module groups."

10 Q We talked about earlier that photovoltaic
11 modules means solar panels; right?

12 A Right.

13 Q Would you read the abstract. You can read
14 it to yourself. You don't have to read it aloud.

15 A (Witness reviews document.)

16 Q Have you finished reading the abstract?

17 A Yes.

18 Q You see the third sentence in the abstract
19 that says, "A first bundle of electrical cables is
20 supported by the wire-based hanging wireway"?

21 A Yes.

22 Q Would you take a look at paragraph 22 of

1 Almy U.S. 2010/0139731.

2 A Would you repeat that?

3 Q Sure. Do you see at paragraph 22 where it
4 says -- yeah. Sorry. It's on the -- okay.

5 A Okay. Gotcha.

6 Q It says, "Referring to Figure 2B, a
7 wire-based hanging wireway, 200B, includes a
8 wireline, 202B, and a plurality of periodic
9 independent wire loops, 204B, coupled to wireline,
10 202B."

11 Do you see that?

12 A Yes.

13 Q If you could flip to the Figure 2B in
14 Almy, please. And there you -- do you see the
15 wireline 202B in this figure?

16 MR. McDONOUGH: I'm going to object to
17 this line of questioning as beyond the scope of
18 Mr. Smith's direct.

19 Q You can answer that question.

20 A I see a wire there. Or what appears to be
21 a wire.

22 Q Is it fair to say that Almy Figure 2B in

1 paragraph 22 of Almy discloses a wire supporting
2 electrical cable -- cables using wire loops?

3 MR. McDONOUGH: Objection. Beyond the
4 scope. Calls for expert testimony.

5 A I see a wire and a wire loop, and the
6 description that they have is a -- electrical
7 cables. I see that.

8 Q So earlier you testified that a messenger
9 wire supports electrical cables.

10 Do you remember that?

11 A Mm-hmm.

12 Q So what's the difference here between
13 Figure 2B and a messenger?

14 MR. McDONOUGH: Objection. Beyond the
15 scope. Calls for expert testimony.

16 A A messenger wire typically is a -- or a
17 guy strand has a particular composition material.
18 It's not just a piece of wire. So it is different
19 than just a wire.

20 Q So the wire in Figure 2B is not a
21 messenger in your opinion because it's not --
22 sorry.

1 Why is -- withdrawn.

2 Is the component labeled 202B in Figure 2B
3 a messenger wire?

4 MR. McDONOUGH: Objection. Outside the
5 scope. Calls for expert testimony.

6 THE WITNESS: Still answer, though?

7 MR. SWEENEY: Mm-hmm.

8 MR. McDONOUGH: Yes.

9 A In my opinion, it doesn't look like or
10 have the appearance or the appearance of a
11 messenger wire.

12 Q What are the differences between 202B and
13 a messenger wire?

14 MR. McDONOUGH: Objection. Outside the
15 scope. Calls for expert testimony.

16 A Messenger wire is a different construction
17 of wire strands wrapped around each other. It
18 provides flexibility and strength compared to just
19 a single wire.

20 Q So if this was stranded, would it be a
21 messenger wire?

22 MR. McDONOUGH: Objection. Form. Calls

1 for --

2 A It could be, depending on --

3 MR. McDONOUGH: I'm sorry. Let me finish
4 my objection.

5 THE WITNESS: Sorry.

6 MR. McDONOUGH: Form. Calls for expert
7 testimony and beyond the scope.

8 Q I'm going to re-ask that and just let Ted
9 here get his objection in.

10 MR. McDONOUGH: Thank you.

11 Q So if this Item 202B was stranded, would
12 it be a messenger wire?

13 MR. McDONOUGH: Object to form. Outside
14 the scope and calls for expert testimony.

15 Thanks, Bob.

16 A If it was constructed in the normal manner
17 a messenger wire is, it would be a messenger wire.

18 Q So if 202B was a single wire, would it
19 have enough strength to support those electrical
20 cables?

21 MR. McDONOUGH: Object to form.

22 A I can't answer that.

1 Q Why did people use stranded cable for
2 messengers instead of a single wire?

3 MR. McDONOUGH: Object to foundation.

4 A There's various electrical, mechanical
5 principles involved in just a single strand of
6 wire and a twisted messenger wire composition.
7 There's different mechanical differences between
8 the two structurally.

9 Q Where are the mechanical differences
10 you're talking about?

11 A I am not qualified to go into all the
12 details. However, a stranded composition with
13 multiple strands gives you a different, more
14 resilient product than having just one single wire
15 strand. If it would be kinked or cut or bent,
16 it -- it's -- it would not be as substantial,
17 strong, durable as a wire rope -- not wire rope,
18 but a messenger wire stranded construction.

19 Q You'll agree that Figure 2B's depicting a
20 wire and a hanger supporting electrical cable;
21 correct?

22 MR. McDONOUGH: Object to form. It calls

1 for expert testimony. And beyond the scope.

2 A No.

3 Q Why not?

4 A It looks like a piece of wire. It doesn't
5 look like a hanger. It looks like a -- something
6 you'd see on a bread bag, you know, a twist -- a
7 piece of wire twisted. Not a substantial hanger
8 intended to carry cables.

9 Q So even though Almy says that it's
10 intended -- withdrawn.

11 So you read the abstract of Almy; correct?

12 A No.

13 Q Earlier when I introduced this exhibit, I
14 asked you to read the abstract of this exhibit.

15 A Oh, okay. I didn't know that was the
16 whole abstract. I'm sorry.

17 Q Totally fine. That's -- I'll represent to
18 you that's the whole abstract on the front there.

19 A Okay.

20 Q That fourth sentence says, "The first
21 bundle of electrical cables is supported by the
22 wire-based hanging wireway."

1 Do you see that?

2 A Yes.

3 Q And you understand that Almy in the
4 abstract is talking about, among other things,
5 what's depicted in Figure 2B; correct?

6 MR. McDONOUGH: Objection. Beyond the
7 scope. Calls for expert testimony.

8 A Yes.

9 Q So is it your opinion that Figure 2B is
10 not depicting a wire-based support for electrical
11 cables?

12 MR. McDONOUGH: Objection. Calls for
13 expert testimony and beyond the scope.

14 A I'm saying I don't believe it shows a
15 messenger wire cable system.

16 Q So the big difference here for you is the
17 messenger wire versus wire cable?

18 MR. McDONOUGH: Object to form.

19 A Also the -- the loop. What they call a
20 "loop." To me, it doesn't look like a hanger
21 system at all.

22 Q If you could go back to Exhibit 2007 from

1 the 00178 IPR.

2 A Okay.

3 Q Look at page 2 and the image at the top of
4 page 2. What are the differences you see between
5 the cable loop in Almy Figure 2B and the cable
6 hanger in Exhibit 2007?

7 MR. McDONOUGH: Objection. Beyond the
8 scope. Calls for expert testimony.

9 A In Almy, it looks like a piece of wire,
10 very fine wire just bent into a shape. Whereas
11 what you see in the image on the flyer is a
12 strong -- a very strong, durable cable hanger.

13 Q Is this cable hanger made from wire?

14 A It's made from a high tensile strength
15 spring steel.

16 Q And that it's bent into shape; is that
17 right?

18 A Correct.

19 Q Is the high tensile strength spring steel
20 of the hanger in Exhibit 2007 made of wire?

21 MR. McDONOUGH: Object to form.

22 A It's made of high tensile strength spring

1 steel wire. Yes.

2 Q Okay. So the wire loop in Almy and the
3 hanger, the CAB hanger in Exhibit 2007, are both
4 made of wire; correct?

5 MR. McDONOUGH: Object to form. Outside
6 the scope and calls for expert testimony.

7 A They're both made of wire.

8 Q And they're both supporting electrical
9 cable; correct?

10 MR. McDONOUGH: Objection. Outside the
11 scope. Calls for expert testimony.

12 A Some type of cable. Yeah.

13 Q And they're both hanging above the ground
14 from a wire; correct?

15 MR. McDONOUGH: Objection. Beyond the
16 scope. Calls for expert testimony.

17 A They're hanging above the ground. It
18 appears his -- I'm not that familiar with his, but
19 it appears his is.

20 Q You understand Almy was published in 2010;
21 correct?

22 A Yeah. I see that date.

1 Q So you agree that Almy discloses a wire
2 hanging above the ground and hanging on it is a
3 wire hanger that is supporting electrical cables;
4 correct?

5 MR. McDONOUGH: Objection. Objection.
6 Form. Beyond the scope and calls for expert
7 testimony.

8 A I wouldn't call it a messenger wire. I
9 wouldn't call it a hanger. And what is pictured,
10 he -- you know, he's saying electrical cables.

11 Q So my question, I actually didn't call it
12 a messenger wire. I said, so you agree that Almy
13 discloses a wire hanging above the ground.
14 Hanging from it is a wire hanger that is
15 supporting electrical cables; correct?

16 MR. McDONOUGH: Objection. Form. Beyond
17 the scope. Calls for expert testimony.

18 A It shows a wire and a wire loop with
19 cables.

20 Q And you'll agree that Exhibit 2007 depicts
21 a wire with wire loop cable hangers hanging from
22 that wire; correct?

1 A No.

2 MR. McDONOUGH: Objection.

3 A I disagree.

4 MR. McDONOUGH: Let me object to form.

5 Beyond the scope.

6 A I would say it's a messenger wire system
7 with a very intended strong-formed hanger hanging
8 electrical cables. Not a simple wire loop. It's
9 a very detailed, purposeful-built hanger compared
10 to just a piece of wire loop.

11 Q So if you knew that the wire loop in Almy
12 was purpose-built to support those cables, would
13 you call it a wire hanger?

14 MR. McDONOUGH: Objection. Form. Beyond
15 the scope. Calls for expert testimony.

16 A I -- I do not call that a hanger. It just
17 looks like a piece of wire made into a loop. Made
18 into an O -- O-ring shape.

19 Q So when CAB makes the hangers depicted in
20 2007, it starts with a piece of wire and then it
21 bends it into a loop shape; is that right?

22 A It bends it -- it's formed into a shape

1 designed to hold cables with messenger wire.

2 Q Go to paragraph 20 of Almy, please. If
3 you go to six lines before the end of that page it
4 says, "In one embodiment of each twisted loop,
5 204A, has a diameter approximately in the range of
6 .02 to .02 meters.

7 "On a specific embodiment, the loop
8 diameter of each twisted loop changes along wire
9 line, 204A, depending on thickness with a bundle
10 of electrical cables, 206, at a particular point."

11 So you see here that Almy is discussing a
12 diameter that changes depending on the thickness
13 of the bundle of electrical cables; right?

14 MR. McDONOUGH: Objection. Beyond the
15 scope. Calls for expert testimony.

16 A I can't say for sure what he's saying
17 there.

18 Q If Almy's loop was made from galvanized
19 steel, would it be strong enough to support
20 electrical cables?

21 MR. McDONOUGH: Objection. Form. Beyond
22 the scope. Calls for expert testimony.

1 A Galvanized steel has nothing to do with
2 strength. It's simply a surface coating for
3 corrosion. Also, Almy's hanger appears to be just
4 twisted in the wire, not a separate hanger
5 attached to a messenger wire. It looks like a
6 piece of wire with some wire loops.

7 Q You're referencing Figure 2A?

8 A Yeah.

9 Q You don't see that, though, in Figure 2B;
10 right?

11 A Very hard to picture what he's showing
12 there in 2B. But it -- by the fact that it's just
13 a piece of wire with some twisting in it with a
14 loop does not make it a messenger wire hanger
15 system.

16 Q What if the wire loop in Figure 2B was
17 made of stainless steel, would that be strong
18 enough to support electrical cable?

19 MR. McDONOUGH: Objection. Form. Calls
20 for expert testimony. And beyond the scope.

21 A Stainless steel can be very soft or hard.
22 So you can't determine that by just what the

1 material is. It's a lot of other factors that
2 affect the performance.

3 Q Like the diameter, would that be one of
4 the factors that affects the performance?

5 A Diameter. Composition.

6 Q So if Almy's wire loop had the same
7 composition and diameter as the wire hangers
8 depicted in Exhibit 2007, would they be
9 sufficiently strong enough to hold electrical
10 cable up?

11 MR. McDONOUGH: Objection. Form. Calls
12 for expert testimony. Beyond the scope.

13 A But in 2A, if you take that wire as
14 pictured and just twist it, it can't be high
15 tensile strength because it would snap and break.
16 It's twisted, so it's got to be a lower tensile,
17 softer material. It's -- it's just --

18 Q What about the loop, 204B in Figure 2B?

19 MR. McDONOUGH: Object to form.

20 A It's hard to see how that's actually made
21 in 2B. I see 2A clearly. Part of 2B is hidden by
22 the messenger -- or the piece of wire there,

1 whatever it is. I don't know. You can't even
2 picture the whole hanger. The whole loop.

3 But clearly, 2A shows twisting of one big
4 piece of wire with a twisted loop in it. It's
5 just not the same.

6 Can we --

7 Q I see you're out of water.

8 A Yeah. I'm out of water and I need to go
9 to the bathroom, too.

10 MR. SWEENEY: Do you want lunch?

11 (A recess was taken.)

12 BY MR. SWEENEY:

13 Q Welcome back, Mr. Smith.

14 A Thank you.

15 Q Just briefly go back to your declaration
16 in Exhibit 1015 on page 202.

17 A Okay.

18 Q So about halfway through paragraph 4, you
19 say, "Such allegation made by the examiner is
20 incorrect."

21 Do you see where I'm reading from?

22 A Yes.

1 Q And the next sentence says, "While the
2 discussion provided in the background of the
3 invention section of the specification" open
4 parens, "which encompasses pages 2 and 3 of the
5 specification, as well as portions on pages 1 and
6 4," closed parens, "discusses solar, mining and
7 electrical industries, the references contained in
8 such section to any use of known, existing cable
9 hanger systems, i.e., systems utilizing a
10 messenger wire and hanger suspended therefrom or
11 portions thereof, i.e., messenger wire hangers for
12 two arrangements and/or components thereof used in
13 the mining or the electrical industries."

14 And you go on to say, "Whereas, any
15 references to the use of arrangements or portions
16 thereof in regard to the solar industry were not
17 to any publicly known/available arrangement by any
18 others as none existed at such time.

19 "Instead, such references were to CAB's
20 own testing/development, which were undertaken
21 nonpublicly/confidently and/or within one year
22 from the filing date of the patent application

1 from which the present application claims
2 priority."

3 What testing by CAB are you referring to
4 in that paragraph?

5 A So testing and development would be
6 making, forming, manufacturing some hangers and
7 doing some -- doing testing on them. Tensile
8 testing to determine weight load capacity. That
9 type of testing.

10 Q Was that testing and development all
11 performed in-house by CAB?

12 A For the most part, yes.

13 Q Do you remember any of the third parties
14 involved in that development and testing?

15 A I do not.

16 Q Does your IPR declaration discuss any of
17 the development and testing that you're referring
18 to in your prosecution declaration?

19 I'll try that again.

20 A Say that again, please.

21 Q So in your file history prosecution
22 declaration at page 201 of Exhibit 1015, you

1 mentioned testing and development that CAB
2 performed.

3 I'm wondering if your declaration that you
4 submitted in connection with this case discusses
5 that testing and development.

6 A Through what period of time?

7 Q The period of time that you're referring
8 to in your prosecution declaration.

9 A You're talking about 2014?

10 Q Was CAB doing any testing and development
11 earlier than 2014?

12 A On the solar hanger product line?

13 Q That's right.

14 A Testing and development. I'm not aware of
15 testing till 2014.

16 Q So the testing and development that you're
17 referring to in paragraph 4 on page 202 of
18 Exhibit 1015 occurred after 2014?

19 A Can you rephrase that question? I'm
20 not -- I'm sorry. I'm not quite sure what your
21 question is.

22 Q Of course. Yeah.

1 So I asked you when CAB's testing and
2 development occurred and you answered, sometime in
3 2014. I'm asking on this page that you have in
4 front of you where you refer to testing and
5 development by CAB when that testing and
6 development occurred.

7 Again, I can try this a different way if
8 I'm confusing you. I'm not trying to confuse you
9 here.

10 So you'll agree that in this prosecution
11 declaration you say that there's a reference to
12 CAB's own testing and development; correct?

13 A Mm-hmm.

14 Q What time period are you referring to in
15 this portion of your declaration in the
16 prosecution history?

17 A 2014 is when we were doing the development
18 and testing of the multicarrier hangers.

19 Q And in your declaration that you submitted
20 in these proceedings, Exhibit 2061 that we've been
21 going through today, do you -- withdrawn.

22 Where in your declaration, Exhibit 2061,

1 and Exhibit 2006 in the other IPR, do you address
2 the testing and development that you allude to in
3 Exhibit 1015?

4 MR. McDONOUGH: Objection to form.

5 A You're talking about in my declaration?

6 Q That's right.

7 A I'm sure in 2014 we were doing development
8 testing.

9 Q All right. We can move on.

10 What is CAB's standards system?

11 A The standards system refers to a messenger
12 wire attached to mid-pier support brackets and
13 cable hangers being used on the messenger wire
14 between piers to provide an aboveground cable
15 management system.

16 It -- the standard system -- we refer to
17 the standard system, it doesn't have any grounding
18 component to it.

19 Q When you say "it doesn't have any
20 grounding component to it," what do you mean?

21 A It doesn't provide the EGC/GEC.

22 Q Does the standard system include end piers

1 or just mid-piers?

2 MR. McDONOUGH: Object to form.

3 Q You can answer.

4 A The entire system would include attachment
5 at mid-piers and attachment at the end pier. The
6 terminal points.

7 Q So the standard system includes a
8 messenger wire attached to mid-pier support
9 brackets and end piers with cable hangers being
10 used; is that right?

11 A Yeah. Not the -- the end piers are not
12 ours, but we -- those are supplied. Those would
13 be already existing on the -- the solar plant. So
14 we would have had the means to attach it to the
15 end pier and mid-piers as part of the system.

16 Q Who develops the -- withdrawn.

17 Who manufactures the end piers?

18 MR. McDONOUGH: Object to form.

19 A A whole variety of companies make piers.
20 We're not involved with it.

21 Q So it doesn't have to be -- sorry to cut
22 you off.

1 A Various manufacturers.

2 Q So it doesn't have to -- so the CAB
3 standard system does not need to use a specific
4 end pier?

5 A In some installations, because of the --
6 the tension, they would drive a separate end pier
7 to attach our system to.

8 So it would not cause deflection on the
9 end pier that has solar panels on it because
10 there's pressure in just one direction, whereas on
11 the mid-piers the direction is uniform, so there's
12 not a pressure to deflect the pier.

13 Q And how many manufacturers did you say
14 developed -- strike that.

15 How many manufacturers did you say provide
16 end piers that can be used with the standard
17 system?

18 A I have no idea. They're -- they're steel
19 suppliers.

20 Q I see. So those end piers can be used for
21 a variety of different purposes; is that right?

22 A An end pier could be an I beam, a

1 C-channel. It could be supplied, you know, by a
2 steel company. Usually the racking companies
3 might have the piers to go with the racking
4 system.

5 Q When was CAB's first sale of the standard
6 system?

7 A I don't know the exact -- 2014. Yeah.

8 Q Who was that first sale to?

9 A I don't -- I don't recall.

10 Q Did that first sale include the sale of
11 mid-piers, messenger wire hanger -- and hangers?

12 A Correct. When we started selling, we
13 would supply the mid-pier brackets, the hangers.
14 And at the very beginning, we sometimes didn't
15 supply the galvanized messenger wire. But --

16 Q Did you not supply the galvanized
17 messenger wire because it was available in
18 other -- withdrawn.

19 Did CAB not supply galvanized messenger
20 wire in some instances because customers had
21 alternative options for buying messenger wire?

22 A Yeah. Yes.

1 Q In 2014, where did CAB source its
2 messenger wire from?

3 A I don't know the exact name of the
4 companies. We had a couple sources for the
5 galvanized messenger wire.

6 Q Do you know someone named
7 Denise Studinary?

8 A Mm-hmm. Yes.

9 Q Who is Denise Studinary?

10 A She's our controller. I believe that's
11 her. I think it's either a controller or VP of
12 finance. It's -- it's hard to know the exact
13 title.

14 Q Do you know what her job duties are?

15 A I don't want to speculate.

16 Q You mentioned something about finance. Is
17 it fair to say she's involved in the finance side
18 of CAB?

19 A Yes, but I don't know her exact job
20 duties.

21 Q Are you aware that Ms. Studinary submitted
22 a declaration in connection with these IPRs?

1 A Nope. I'm not aware of that.

2 Q I'll represent to you that Ms. Studinary
3 did submit a declaration in these IPRs and that
4 she described certain exhibits that are also
5 submitted by CAB in these IPRs.

6 Does that make sense?

7 A Yeah.

8 Q One of them is an exhibit that I'll hand
9 you now. Exhibit 2046. And this is Exhibit 2046
10 in both IPR proceedings.

11 So according to Ms. Studinary,
12 Exhibit 2046 is entitled, "Solar sales figures,
13 total calculations, January 2014-March 2024."

14 And she says that, "This exhibit details
15 CAB sales of solar products, the dollar value of
16 those sales and the product numbers for those
17 products that correspond to the components of A,
18 CAB standard system for aboveground messenger wire
19 supported cable management for solar applications
20 and B, CAB's integrated grounding system."

21 So on the first page of Exhibit 2046, you
22 see at the top it says, "[REDACTED]"?

1 A Yes.

2 Q And then on the second page, it says at
3 the top, [REDACTED]?"

4 A Yes.

5 Q So on pages 1 and 2, based on your
6 experience working for CAB, does this appear to
7 list CAB's part numbers and different names for
8 its [REDACTED]?

9 MR. McDONOUGH: Objection. Beyond the
10 scope and foundation.

11 A I haven't seen this before, so I don't
12 want to speculate.

13 Q Looking at page 1 of Exhibit 2046, do you
14 recognize these part numbers in the first column?

15 A I recognize some.

16 Q Which ones do you recognize?

17 A [REDACTED]. I can't say I recognize the others.

18 Q And if you go to page 2, the mid [REDACTED]
19 kits, do you recognize any of those part numbers?

20 A I haven't looked at part numbers for many,
21 many years, so I can't say I recognize them.

22 Q Do you know if any of these [REDACTED]

1 are intended to only be used with the standard
2 system?

3 A I -- I can't tell you that. No.

4 Q Is that the same for [REDACTED] on the
5 second page?

6 A I couldn't say.

7 Q Does CAB sell piles?

8 A No, never sold piles.

9 Q Let's go to page 4 of this exhibit. You
10 see [REDACTED] at the top there?

11 A I do.

12 Q And then the first row says, "[REDACTED]
13 [REDACTED]
14 [REDACTED]

15 Do you recognize this part?

16 A I'm not -- I mean, I don't work with those
17 numbers anymore. I haven't -- and so I can't say
18 I recognize the number.

19 Q Are [REDACTED] used only in
20 CAB's standard system?

21 A Can you repeat that?

22 Q Sure. Are [REDACTED] only used

1 in the CAB standard system?

2 MR. McDONOUGH: Objection to form.

3 A That would be the normal type of sale.
4 Yes.

5 Q Would CAB ever sell [REDACTED]

6 [REDACTED]
7 [REDACTED]?

8 MR. McDONOUGH: Objection to form.

9 A When you -- could you explain what you
10 mean by "would you sell," because companies order
11 things from us and we sell them. But we don't
12 necessarily know how they put them together.

13 Q I see. So it's possible that a CAB
14 customer buys the [REDACTED] and uses
15 it in a CAB standard system?

16 MR. McDONOUGH: Objection to form.

17 A It would -- they would not normally do
18 that.

19 Q Or is it fair to say that once CAB has
20 sold that product, CAB doesn't know how the
21 customer is using that product?

22 MR. McDONOUGH: Objection. Beyond the

1 scope. Form.

2 A There are some cases we know and some we
3 don't know.

4 Q How often do you know what the customer is
5 going to do with the products that you sell them?

6 A I haven't been involved in the speccking --
7 you know, we have people that work with customers
8 directly, that work on build materials and I
9 haven't been involved in that in many years, so I
10 can't answer that question.

11 Q When you were involved in speccking things
12 for customers, did you always know what they were
13 going to use the products for?

14 A Normally, we knew what they were gonna use
15 them for.

16 Q And I know you said you haven't worked on
17 part numbers for a while.

18 A In a long time.

19 Q But do you know what the first number in
20 each of these part numbers refers to? No?

21 A No. Not -- not at all.

22 Q What is CAB's integrated grounding system?

1 A The underground -- excuse me. The
2 integrated grounding system consists of a
3 multifunction line along with assemblies for
4 attachment to piers and cable hangers.

5 Q Does CAB's marketing ever refer to a
6 multifunction line?

7 A Yes.

8 Q But CAB doesn't describe its part -- any
9 of its parts as a multifunction line?

10 MR. McDONOUGH: Objection. Objection.
11 Form.

12 A I don't know.

13 Q Where have you seen CAB describe one of
14 its parts as a multifunction line?

15 A I don't have the literature in front of
16 me, but, you know, when we talk to customers, you
17 know, we'll call it a multifunction line or -- but
18 I don't have that in front of me.

19 Q Is CAB's multifunction line -- withdrawn.

20 Why did CAB ask Bill Brooks to write a
21 white paper about the integrated grounding system?

22 A We asked him. We had an [REDACTED]

1 study showing that it met the standards. And we
2 asked Bill as just additional -- for additional
3 informational purposes to -- to satisfy customers.
4 Just feeling that the more information we had to
5 show them, the better.

6 Q What do you mean by "to satisfy
7 customers"?

8 A With -- with the entire product line,
9 we -- we spent endless -- endless hours, days,
10 banging our head against the wall, as we said,
11 because people were reluctant to go above ground,
12 to try the system, to use it. They were very
13 skeptical.

14 So we felt we needed as much information
15 as possible to satisfy them that it met all the
16 codes. That it would work in their installation
17 because they were so unfamiliar with it in solar
18 power plants. And even in the probably 2017/'18
19 there was still reluctance, so -- until it was
20 finally accepted more generally.

21 Q When you say "there was reluctance," are
22 you referring to reluctance to go above ground at

1 all?

2 A To go above ground primarily. Yes.

3 Q Was there a reluctance about using CAB's
4 integrated grounding system?

5 A There was some reluctance on that, too.

6 Q Was there less reluctance on using the
7 messenger wire as the grounding conductor than
8 going above ground?

9 A Yeah. Initially, there was much more
10 resistance to just using aboveground cable
11 management system. But once we were selling it
12 when we started the integrated grounding, there
13 was some reluctance, but it -- it was nowhere near
14 what the reluctance was to just to have an
15 aboveground solution.

16 Q Why do you think people were less
17 reluctant to use the messenger as an equipment
18 grounding conductor?

19 MR. McDONOUGH: Objection to form.

20 A They -- they were less reluctant because
21 there was just so much reluctance at the
22 beginning.

1 I mean, for years we just were frustrated
2 by trying to get acceptance. With the integrated
3 grounding there was questions about a lot of the
4 details of it, how it would work, how it
5 functioned. Would it actually be the EGC/GEC.

6 So there were still a lot of questions,
7 but not as much as we initially had to develop an
8 aboveground management system.

9 Q Who came up with the idea at CAB to
10 release -- withdrawn.

11 Who came up with the idea for the
12 integrated grounding system?

13 A There -- we have three people listed on
14 the patent because we were involved in going to
15 sites. And as we would talk together and compare
16 notes, it was a fact that running a separate
17 grounding -- grounding conductor and jumpers
18 installed mid-piers was a problem. It -- it was
19 labor intensive. Costly.

20 And so as we talked, compared notes,
21 it's -- it was, you know, we got to come up with a
22 solution here. So it was kind of a joint effort,

1 I guess, between the three of us.

2 Q How do you know you could use the
3 messenger wire as the EGC?

4 MR. McDONOUGH: Objection. Form.
5 Foundation.

6 A We didn't know for sure. You know, we had
7 to explore and do a lot of, you know,
8 investigation.

9 Q Do you remember what Bill Brooks's opinion
10 was on using the messenger as the EGC?

11 A I don't remember what his opinion was
12 until we had him write the white paper.

13 Q When you had Bill Brooks write the white
14 paper, were you already prototyping the integrated
15 grounding system?

16 A I -- when we had him write the white
17 paper, it was -- let me look.

18 Okay. So March of 2018, we asked him to
19 evaluate the integrated grounding system in
20 relation to the NEC and prepare a white paper. So
21 by then, yes, we were selling it.

22 Q Right. And in your declaration right

1 above where I think you're reading from it says,
2 "CAB then sold its first" --

3 A Oh, yeah.

4 Q -- "integrated grounding system in
5 December of 2017."

6 So you see that?

7 A Yeah. Yeah.

8 Q Who did CAB make this first sale to?

9 A I can't answer that. I really don't know.

10 Q Do you remember what components CAB sold
11 as part of its first sale of the integrated
12 grounding system?

13 A I believe I do. Yeah. My best
14 recollection is it would have been comprised of a
15 copper composite multifunction line. A mid-pier
16 bracket assembly as a kit.

17 And I don't -- yeah. I don't know what --
18 you know, I don't know what hanger would be used
19 with it, but they would use it with hangers. That
20 is my best recollection.

21 Q So paragraph 70 of your declaration, you
22 say, "It took several months to develop a

1 customized copper composite messenger wire."

2 In your declaration, you don't refer to
3 this component as a multifunction line; is that
4 right?

5 A I -- I don't know if I do. I'd have to go
6 through the whole thing. I'm not positive.

7 Q I'll represent to you that you don't use
8 that term in your declaration. Why did you not
9 refer to it as a multifunction line in your
10 declaration?

11 A I don't know.

12 Q Prior to making the first sale of the
13 integrated grounding system, was CAB advertising
14 the integrated grounding system?

15 A I don't know.

16 Q Was the integrated grounding system part
17 of a trade show exhibit prior to the first sale of
18 the integrated grounding system?

19 A I don't believe it would have been. No.

20 Q So how did that first customer find out
21 about the integrated grounding system?

22 A We -- again, as I recall, we talked to

1 some of our customers to let them know we had it.

2 Q Did Bill Brooks help CAB develop any of
3 the components in the integrated grounding system?

4 A No.

5 Q Did Mr. Brooks's endorsement of the
6 integrated grounding system contribute to the
7 success of CAB sales of the integrated grounding
8 system?

9 MR. McDONOUGH: Objection to form.

10 A I can't say that that is a fact. I know
11 his original white paper in 2014 was very
12 beneficial. On the integrated grounding, we
13 already had a [REDACTED] study say that it
14 met UL, IEEE and NEC standards. Plus, we already
15 had a UL 467 safety listing for it.

16 So a lot of those steps helped to gain
17 acceptance before Bill's white paper. I think
18 it -- it was not nearly as important as the
19 initial white paper.

20 Q Paragraph 62 of your declaration, this is
21 before releasing -- before the first sale of the
22 integrated grounding system, you say that "By the

1 end of 2016, CAB's aboveground cable management
2 system was rapidly becoming the industry standard
3 for cable management in utility scale power
4 plants."

5 Do you see that?

6 A Yes.

7 Q What do you mean by "industry standard"?

8 MR. McDONOUGH: I'm going to object based
9 on relevance to the extent this question does not
10 pertain to the issues in the 139 proceeding.

11 THE WITNESS: Still answer it?

12 MR. SWEENEY: Yeah.

13 MR. McDONOUGH: Yes, please.

14 A Okay. That was our evaluation that
15 companies were using it and then reusing -- you
16 know, using it on multiple projects. And they
17 were touting the benefits of it so much that it --
18 it was becoming a standard for some of the solar
19 projects. Quite a few of the solar projects.
20 So...

21 Q So that was the term that CAB was using?
22 "Industry standard"?

1 A It's a term used in business. It's a term
2 that we thought applied.

3 Q And then the next sentence starts with,
4 "Aside from CAB's commercial success."

5 Do you see that?

6 A Mm-hmm. Yes.

7 Q What do you mean by a "commercial
8 success"?

9 A Our -- our sales. You can judge
10 commercial success by sales, so we started with
11 zero and we were growing sales through the years.

12 Q For it to be a commercial success, in your
13 opinion, do you need to earn profits on top of
14 just sales?

15 MR. McDONOUGH: Objection. Calls for a
16 legal conclusion. Calls for expert testimony.

17 THE WITNESS: But answer?

18 MR. McDONOUGH: Yes, please.

19 A Commercial success. I don't think
20 necessarily you have to have profits, especially
21 at the beginning of a product launch, to say it's
22 a commercial success. I think if -- because you

1 could invest so much money in the development of
2 it that there's not a lot of profit to begin with.

3 So certainly at some point in -- in sales,
4 you would want to make profit, but especially at
5 the beginning of a product launch or a product
6 intro -- introduction, I don't think profit is a
7 major component of commercial success.

8 Q In 2016, who was CAB's primary customer?

9 MR. McDONOUGH: Objection. Form.

10 A I can't answer that. Yeah, I don't --
11 don't know the answer to that.

12 Q Go to page -- or excuse me, paragraph 55
13 of your declaration.

14 A Yeah.

15 Q Do you see where it says, "By 2016, CAB's
16 number one customer SunEdison"?

17 A Yes.

18 Q So was SunEdison CAB's number one customer
19 in 2016?

20 A I would say at the beginning of 2016, but
21 then in -- I -- the mid -- early to mid-2016, they
22 went bankrupt, so then it was totally -- totally

1 changed. The landscape of solar, after they went
2 bankrupt.

3 So that's why I don't know if they were
4 our largest customer in 2016. I would say at the
5 beginning they probably were.

6 Q When you say that "it changed everything,"
7 what do you mean?

8 A For us, they -- they were instrumental in
9 getting us started and using us on solar projects.
10 So when they went bankrupt, we were very concerned
11 about what was gonna happen with our sales and
12 employment.

13 Q So by "instrumental," do you mean that
14 they were -- withdrawn.

15 By instrumental, do you mean your
16 relationship with SunEdison drove much of the
17 sales of CAB products in solar?

18 A It helped generate sales. And their
19 reputation and the fact they were using our
20 product helped us to expand to other companies.
21 As a reputation of the number one solar --
22 actually, they were the number one renewable

1 energy company in the world at the time, so that
2 meant a lot to us.

3 Q Do you think CAB's standard system would
4 have achieved the same commercial success had it
5 not been for SunEdison?

6 MR. McDONOUGH: Objection. Form.

7 A It may have taken longer, but -- so, but
8 it's hard to say.

9 Q Paragraph 56 of your declaration, you say
10 that "SunEdison's former employees were
11 instrumental in generating interest in CAB within
12 their new companies after SunEdison's bankruptcy";
13 is that right?

14 A Right.

15 Q What companies did those former
16 employees -- withdrawn.

17 What do you mean by "SunEdison's former
18 employees were instrumental in generating interest
19 in CAB"?

20 A So quite a few of the SunEdison employees
21 that were familiar with CAB went to other solar
22 companies and that helped us to be able to, so to

1 speak, get our foot in the door because they said,
2 "Oh, yeah, we're familiar with your product. You
3 can come and do a presentation."

4 Whereas a lot of companies, it was very
5 hard to even get in the door to make a
6 presentation.

7 Q So did that former SunEdison employee
8 support for CAB result in additional sales of CAB
9 products?

10 A It was helpful.

11 Q Do you recall any of the companies that
12 those former employees worked for?

13 A Yeah, I do not.

14 Q After SunEdison went bankrupt in 2016,
15 were CAB's sales spread evenly among its other
16 customers?

17 A I can't answer how evenly it was spread.
18 It certainly would have been more even than when
19 SunEdison was our primary customer.

20 Q After SunEdison's bankruptcy, who became
21 CAB's primary customers?

22 A I -- I'd be speculating if I pulled --

1 gave you names. I -- I'm not sure at that time
2 who our largest customers were. It -- it -- there
3 was a variety of customers, in other words, so
4 it's hard to pick which one was largest.

5 Q If you had to speculate. I'm asking you
6 to speculate. Out of that variety of customers,
7 do you have any idea which were the largest for
8 CAB?

9 MR. McDONOUGH: Objection. Form.

10 A Again, because SunEdison went bankrupt and
11 it seemed like our business was more spread out, I
12 can't say -- I don't -- there wasn't one that
13 stood out to me, but -- that I can recall.

14 Q Did CAB ever do business with Array
15 Technologies?

16 A Array Technologies is a tracker
17 manufacturer and from my recollection, we never
18 sold to them. But they are a company in the solar
19 field.

20 Q So Array Technologies sold components that
21 were used in solar power plants the same way CAB
22 sells components that are used in a solar power

1 plant?

2 A Array sold the tracker, which the solar
3 panels are attached to and it would track the
4 sun's movement during the day. So their main
5 field of business was tracker manufacturing.

6 Q Did CAB ever do business with Shoals,
7 S-H-O-A-L-S?

8 A From my recollection, we never did
9 business with Shoals, but I'm aware of Shoals.
10 They make a cable bundling system.

11 Q Do you know if CAB hangers are used to
12 support that cable bundling system of Shoals' you
13 just alluded to?

14 MR. McDONOUGH: Objection. Form.

15 A Customers have told us they have done
16 that. I haven't seen it.

17 Q How frequently do customers tell you
18 they're using CAB hangers with Shoals' products?

19 A I can't answer that. 'Cause that would
20 be -- I mean, the customers would work with our
21 inside people and build materials and they may
22 disclose that, they may not.

1 MR. SWEENEY: Oh, yeah. Off the record.

2 (A recess was taken.)

3 BY MR. SWEENEY:

4 Q Welcome back, Mr. Smith.

5 A Thank you.

6 Q I'm handing you Exhibit 2009 and that's
7 the same exhibit number in both IPRs proceedings,
8 if you'd like to verify that.

9 Have you seen this document before?

10 A Yes.

11 Q What is this document?

12 A It's an Inter -- excuse me, Inter Solar
13 Award finalist from 2014.

14 Q Why was -- withdrawn.

15 Was CAB given this award?

16 A Yes. We weren't a winner. We were a
17 finalist.

18 Q Thank you.

19 Had CAB actually sold any of its cable
20 hangers in the solar market at the time that it
21 received this award?

22 A I don't have the sales records, so I can't

1 say for sure.

2 Q So it's possible that CAB had not actually
3 sold any cable hangers in the solar market prior
4 to receiving this award?

5 MR. McDONOUGH: Objection to form.

6 A I don't know.

7 Q You don't know if it's possible?

8 A I don't know if we had sales prior to this
9 award.

10 Q Do you recall the application process for
11 this award?

12 A Yeah. I'm familiar with the application
13 process.

14 Q Can you please describe that?

15 A You fill out an application. It's
16 explaining the advantages of your system, why it
17 is useful, helpful, innovative for the solar
18 industry.

19 Q Do you know how many finalists there were
20 for this award?

21 A I don't know for this one. No.

22 Q More than 50?

1 A I don't know.

2 Q Do you know how many companies received
3 the actual Inter Solar Award in 2014?

4 A The award is given in different categories
5 of solar, like battery storage, photovoltaics. So
6 I believe there was just one winner of photo --
7 photovoltaics.

8 Q Did CAB pay money to be considered for
9 this award?

10 A Not that I'm aware of.

11 Q Whose idea was it to apply for this award?

12 A Tim Wedding and my idea.

13 Q So is it possible that CAB paid money to
14 be considered for this award?

15 MR. McDONOUGH: Objection to form.

16 A I have -- I don't believe there was a
17 charge.

18 Q I'm handing you Exhibit 2016. This
19 exhibit has the same exhibit number in both the
20 IPR proceedings.

21 Have you seen this document before?

22 A Yes, I have.

1 Q What is this document?

2 A Pv magazine based in Germany. Annually --
3 I believe it annually gives a report, information
4 on key products that are helping solar -- the
5 solar industry.

6 Q Did CAB advertise with pv magazine?

7 MR. McDONOUGH: Objection to form.

8 A I don't know.

9 Q Do you know if CAB ever gave any money to
10 PC magazine -- excuse me, pv magazine?

11 A I don't know that. No.

12 Q Did CAB apply for this award?

13 A I don't believe there was an application.
14 No. I think they just selected products.

15 Q So it's your testimony that pv magazine
16 somehow found CAB and selected them without CAB
17 advertising with pv magazine?

18 MR. McDONOUGH: Objection to form.

19 A Can you repeat that question?

20 Q Sure. So it's your testimony that
21 pv magazine somehow found CAB and selected them
22 without CAB advertising with pv magazine?

1 MR. McDONOUGH: Objection to form.

2 A I am not positive of that.

3 Q So it's possible that CAB advertised with
4 pv magazine?

5 MR. McDONOUGH: Objection to form.

6 A I don't believe we advertised with them in
7 this timeframe.

8 Q Does CAB advertise in pv magazine --
9 withdrawn.

10 Has CAB ever advertised with pv magazine?

11 A We advertise in different magazines more
12 so lately, but I am not sure about pv magazine.

13 Again, I don't handle the marketing, so
14 I'm not sure which publications they advertise in.
15 But in the 2000 timeframe, I do not recall
16 advertising with them.

17 Q Do you mean the 2015 timeframe?

18 A '14, '15. Yeah.

19 Q Do you recall CAB ever advertising in a
20 magazine in 2016?

21 A I don't know.

22 Q I'm handing you Exhibit 2018, which is the

1 same exhibit number in both IPR proceedings.

2 Do you know if CAB paid Solar Pro for this
3 article?

4 A I don't know.

5 Q Is it possible that CAB paid Solar Pro to
6 write this article?

7 MR. McDONOUGH: Objection to form.

8 A I don't believe we paid Solar Pro to write
9 an article. No.

10 Q Did CAB ever advertise with Solar Pro
11 Magazine?

12 A Yes.

13 Q How much did CAB pay for advertising in
14 Solar Pro Magazine?

15 MR. McDONOUGH: Objection to form.

16 A I -- I don't know. The marketing
17 department would take care of that. I don't know
18 what they paid for ads.

19 Q Paragraph 81 of your declaration. It says
20 that, "In 2018, CAB's integrated grounding system
21 was selected for the prestigious Showstopper Award
22 for 2018 by the National Electrical Contractors

1 Association."

2 Do you see that?

3 A Yes.

4 Q And then it says later in that paragraph,
5 "The award is based on votes from the largest
6 electrical contractors across the United States."

7 You see that?

8 A Yes.

9 Q Who are the largest electrical contractors
10 across the United States you're referring to here?

11 A I don't have their names, but this is per
12 or according to NECA's information that they give
13 out. It's not ours. This is -- this is the --
14 NECA is the National Electrical Contractors
15 Association, so as such it's composed of large
16 electric electrical contractors.

17 And those contractors evaluate products
18 and make this award annually. So I don't -- I
19 can't give you the names of the contractors.
20 There's so many.

21 Q So the statement in your declaration of
22 "the award is based on votes from the largest

1 electrical contractors across the United States"
2 is based off of NECA telling you that?

3 A We were informed that that's how they do
4 it, but if I -- I can't say if I have that in
5 writing or not. But that is what they have told
6 us. That's what, you know, is understood.

7 Q I'm handing you Exhibit 2021.
8 Exhibit 2021 is the award you're referring to in
9 paragraph 81 of your declaration; correct?

10 A Correct.

11 Q It says that, "The award here is for cable
12 management system for ground-mount solar
13 installation using copper composite messenger and
14 specialized hardware."

15 Do you see that?

16 A Yes.

17 Q Which CAB products is this award
18 specifically for?

19 MR. McDONOUGH: Objection to form.

20 A It's for the integrated grounding cable
21 management system.

22 Q Then why does it say using copper

1 composite messenger?

2 MR. McDONOUGH: Objection to form.

3 A We use a copper composite messenger wire
4 as the multifunction line in the integrated
5 grounding system.

6 Q So it's fair to say this award was for
7 that messenger wire?

8 A I would say the award was for the cable --
9 the integrated grounding cable management system.

10 Q So is it your opinion that this award was
11 not given to CAB for its copper composite
12 messenger?

13 A Not that solely. No.

14 Q CAB was an exhibitor at the NECA
15 convention and trade show that year; correct?

16 A Correct.

17 Q How much did CAB pay to be an exhibitor at
18 that convention?

19 MR. McDONOUGH: Objection to form.

20 A I don't have the figures for that.

21 Q The only products that are eligible for
22 this award are products offered by exhibitors at

1 that trade show; correct?

2 A I don't know.

3 MR. SWEENEY: I want to introduce a new
4 exhibit here. This is going to be Exhibit 1045 in
5 the 00139 IPR, and it will be Exhibit 102 --
6 excuse me. I misspoke. This exhibit in the 00178
7 IPR will be Exhibit 1030.

8 (Exhibit 1045 for 00139 IPR and 1030 for
9 00178 IPR were marked for identification and is
10 attached to the transcript.)

11 Q Have you ever heard of Electrical
12 Contractor before?

13 A Yes.

14 Q What is Electrical Contractor?

15 A I believe it's a -- I haven't seen one in
16 many years, but it's a publication by the
17 electrical contractor industry.

18 Q And this article is titled, "2018 NECA
19 Showstopper Winners"; correct?

20 A Is this a copy of the magazine?

21 Q It is.

22 A Then, yes.

1 Q Do you see on the first page of this
2 document where it says, "At the 2018 NECA
3 convention and trade show in Philadelphia, 22
4 exhibitors won Showstopper Awards"?

5 A Yes.

6 Q So is it fair to say that only exhibitors
7 at this trade show were eligible for these awards?

8 MR. McDONOUGH: Objection to form.

9 A Yes.

10 Q So you'll agree that the only products
11 eligible for this award are products offered by
12 exhibitors at the NECA trade show; correct?

13 A It appears that way, but I'm not positive.
14 I haven't -- I haven't been to this show. I
15 haven't entered an award for it, so I'm not
16 positive of that. But it appears that would be
17 the case.

18 Q Let's go to paragraph 78 of your
19 declaration.

20 A 78?

21 Q Mm-hmm.

22 So here it says, "In addition, 2018 marked

1 the first international export of CAB's product
2 with customer orders from Canada, Mexico and
3 Chile."

4 Do you see that?

5 A Yes, I do.

6 Q How many customers of CAB in 2018 were
7 based in Canada?

8 A I can't answer that. I don't know.

9 Q Do you know how many CAB customers in 2018
10 were based in Mexico?

11 A Very few.

12 Q Do you know if the number of CAB customers
13 in Canada in 2018 were very few, as well?

14 MR. McDONOUGH: Objection to form.

15 A I'm not sure of that number.

16 Q Do you know how many customers of CAB in
17 2018 were based in Chile?

18 A Under five.

19 Q Approximately, what portion of CAB's sales
20 in 2018 were outside of the United States?

21 A I don't know.

22 Q What portion of CAB's sales today are

1 attributable to customers outside of the United
2 States?

3 A I don't know that. I don't track that.
4 I'm not told that. So --

5 Q Does CAB sell its products only for
6 utility-scale PV applications?

7 A To use CAB's cable management system it
8 must be a fenced installation to limit access into
9 the array. So generally that involves
10 utility-scale, larger installations.

11 Q Does CAB ever sell its products for
12 commercial-scale solar plants?

13 MR. McDONOUGH: Object to form.

14 A We could as long as it's a fenced
15 installation.

16 Q Why does CAB's cable management system
17 require the installation to be fenced?

18 A Because the cable management system is
19 running two to three feet, four feet above the
20 ground. You have to limit access so people don't
21 run into it. You know, you just don't want the
22 common public there. Children, people, you know,

1 entering in and being involved.

2 Q Does CAB sell any products for residential
3 solar?

4 A No.

5 Q Does CAB do any direct customer sales or
6 are its sales only through distributors?

7 A Both.

8 Q And you testified earlier that CAB lacks
9 insight into a customer's usage of a product when
10 it's purchased through a distributor; right?

11 A Correct.

12 Q Does CAB have any -- withdrawn.

13 When CAB makes a direct sale of a
14 messenger wire, does it always sell that messenger
15 wire with cable rings?

16 A It can vary because they may be buying
17 replacement parts. They may be -- so it's
18 difficult to know exactly what the customer is
19 doing by their orders.

20 Q So sometimes CAB will only sell a
21 messenger wire without cable hangers; is that
22 correct?

1 MR. McDONOUGH: Objection to form.

2 A I don't know. You know recent -- I don't
3 know 'cause I don't track all the sales. I'm not
4 involved in the sales side right now. Or haven't
5 been for quite a while.

6 Q Do customers of CAB ever just purchase
7 mid-pier kits?

8 MR. McDONOUGH: Objection. Form.

9 A Not that I'm aware of. But again, I don't
10 have full knowledge to all the sales.

11 Q But you are -- withdrawn.

12 CAB does, in some instances, sell
13 individual products instead of selling an entire
14 system to customers; is that correct?

15 MR. McDONOUGH: Objection to form.

16 A The only instances I know of that off --
17 are spare parts or makeup parts.

18 Q So there are instances where a customer
19 only wants to buy one component from CAB instead
20 of an entire system?

21 A There could have been damage to a system
22 and they just need some parts to repair it.

1 Q So to be clear, there are instances where
2 CAB's customers just buy one component from CAB
3 instead of the entire system; is that correct?

4 A There could be on a very, very limited
5 basis. As I said, replacement parts or repairing
6 damaged parts.

7 Q Who are CAB's competitors?

8 MR. McDONOUGH: Objection to form.

9 A Today?

10 Q Let's start with who are CAB's competitors
11 in 2014?

12 A For the solar industry?

13 Q That's right.

14 A Nobody.

15 Q Who were CAB's competitors in 2014 in the
16 solar industry?

17 A Nobody.

18 Q Who were CABs competitors in 2015 in the
19 solar industry?

20 A I'm not aware of any in '15.

21 Q Who were CAB's competitors today?

22 A AWM.

1 Q Who else?

2 A Snake Tray.

3 Q Anyone else?

4 A Gripple. Those are the only ones I'm
5 aware of.

6 Q Have you ever heard of GameChange Solar?

7 A I've heard of the name. Yeah.

8 Q Are they a competitor of CAB's?

9 A Again, I'm not involved in the day-to-day
10 sales and all that information. I don't believe
11 they are.

12 Q Do you know if people -- withdrawn.

13 Do you know of any companies that are
14 still trenching for cable management in the solar
15 field?

16 A I don't know. I just don't know.

17 Q Do you know if any companies are still
18 using cable tray?

19 A I -- again, I don't know that.

20 Q Your first position at CAB was a special
21 services worker; correct?

22 A Yes.

1 Q What were the duties of that position?

2 A I assisted disabled, handicapped
3 individuals primarily to stay in their own home by
4 arranging contractor services to repair steps,
5 porches, having railings installed, fire detection
6 systems.

7 So just to make people more -- as
8 independent as possible in their own home rather
9 than having to go to a nursing home. A lot of
10 them had -- most of them had visual disabilities.

11 Q How did you pivot from that position to
12 the general manager position?

13 A The general -- there was an open position
14 in Ebensburg that I applied for and was assigned
15 there. They had 25 employees. It was a very
16 small operation. And I had some -- I had a
17 college background in economics in addition to --
18 to the education degree. So...

19 Q I see. So your background in economics in
20 your college education --

21 A Mm-hmm. Qualified me for the position.

22 Q Does CAB still employ special services

1 workers?

2 A They have a department for that and I'm
3 not sure how they staff it.

4 Q So CAB is a private not-for-profit
5 organization; correct?

6 A Correct.

7 Q And it is dedicated to providing job
8 opportunities and services to persons with
9 disabilities; correct?

10 A Correct.

11 Q Do customers like that CAB gives these
12 opportunities to disabled people?

13 A They do like it as long as you have a good
14 quality product that will meet their needs. Yes.

15 Q CAB puts in its --

16 (Real time feed difficulties.)

17 Q CAB's included that it's dedicated to
18 providing job opportunities in services to persons
19 with disabilities in its advertising literature
20 for quite some time now; is that correct?

21 A Yes. Mm-hmm.

22 Q Is it fair to say that CAB is proud of the

1 fact that it gives these opportunities to disabled
2 persons?

3 A Yes.

4 Q Do customers choose CAB because of its
5 opportunity -- because of the services and
6 opportunities CAB gives to disabled persons?

7 A They don't choose because of that reason.
8 You know, they -- they choose -- you have to have
9 a good product that satisfies a requirement or a
10 need at a -- at the right price first.

11 But if you're able to do that and satisfy
12 that need, then they usually -- most customers
13 appreciate the fact that we're trying to help
14 persons that are less fortunate.

15 Q I'm handing you Exhibit 2017, which is the
16 same exhibit number in both IPR proceedings.

17 Have you seen this document before?

18 A Yes.

19 Q What is this document?

20 A This is a person in the solar industry,
21 [REDACTED], sending an E-mail to an [REDACTED]
22 regarding CAB.

1 Q In the E-mail from [REDACTED] on
2 page 1 of Exhibit 2017, [REDACTED] states that
3 "CAB has a heartwarming story."

4 A Mm-hmm.

5 Q What is -- what do you think [REDACTED]
6 is referring to?

7 MR. McDONOUGH: Object to form.

8 A I'm looking for the wording that you said.

9 Q Sure.

10 A Is it in the title?

11 MR. McDONOUGH: Right here.

12 A Oh, I see it now. Yes.

13 Yeah, I believe she's referring to the
14 fact that we employ special needs people.

15 Q So you'd agree that this CAB customer, at
16 least this CAB customer, [REDACTED] --

17 [REDACTED] believes that it's a good thing
18 that CAB employs people -- people with
19 disabilities?

20 A Yeah.

21 MR. McDONOUGH: Objection. Objection.
22 Foundation.

1 A She was not a customer.

2 Q What was --

3 A [REDACTED].

4 Q Who was [REDACTED]

5 [REDACTED]?

6 A She was [REDACTED]

7 [REDACTED]

8 [REDACTED].

9 Q I see. [REDACTED]

10 [REDACTED]?

11 A Correct.

12 Q And you'll agree that among her reasons
13 for using the CAB products is this heartwarming
14 story; correct?

15 A Correct.

16 Q Is it good for CAB's reputation that it
17 employs disabled persons?

18 MR. McDONOUGH: Object to form.

19 A It's -- it's who we are. Cambria County
20 Association for the Blind and Handicapped
21 provides, you know, employment services to people
22 with disabilities, so who we are is part of our

1 reputation.

2 Q If CAB did not employ disabled persons
3 would it have to employ people without
4 disabilities?

5 A I don't know the answer to that.

6 Q Does CAB employ manufacturing employees
7 that do not have disabilities?

8 A I have not been there for so long, I would
9 be reluctant to know the exact answer to that.

10 Q While you were the general manager of the
11 Ebensburg division, did any of your manufacturing
12 faculty not have a disability?

13 A Our -- all our employees were -- have
14 disabilities. The staff, you know, did not.

15 Q CAB's not required to pay its disabled
16 employees minimum wage; is that right?

17 MR. McDONOUGH: Objection. Form.
18 Relevance and beyond the scope.

19 A I don't know.

20 Q Do you know if CAB pays all of its
21 employees above minimum wage?

22 A No, I don't know that today.

1 Q Do you know if when you were the general
2 manager of the Ebensburg division if CAB paid all
3 of its employees above minimum wage?

4 MR. McDONOUGH: Objection. Beyond the
5 scope and beyond the relevance.

6 A Some were paid a commensurate wage.

7 Q What do you mean by "a commensurate wage"?

8 A Some earned above minimum wage and some
9 were able to work under minimum wage with a
10 special provision of the State of Pennsylvania.

11 Q So some of the employees, while you were
12 the general manager of the Ebensburg division,
13 made less than minimum wage; correct?

14 MR. McDONOUGH: Objection. Asked -- form.

15 A Yes. Some did.

16 Q Do you know -- withdrawn.

17 What percentage of CAB employees working
18 at the Ebensburg division while you were the
19 general manager were paid less than minimum wage?

20 A I don't know that.

21 Q While you were the general manager of the
22 Ebensburg division -- withdrawn.

1 You testified earlier that you and several
2 other CAB engineers were involved in the
3 development of the integrated grounding system;
4 correct?

5 A One was an engineer. The other two were
6 not engineers.

7 Q Who was the engineer?

8 A Greg Platt.

9 Q And who were the other two?

10 A Tim Wedding and myself.

11 Q Did SunEdison request that CAB look into
12 using a messenger wire as a grounding conductor?

13 A I don't recall that they did.

14 Q Did any CAB customer request that CAB look
15 into using a wire messenger as a grounding
16 conductor?

17 A In our visits with customers or on-sites,
18 when we discussed the product line and saw the
19 amount of time it was taking to do the splicing to
20 the mid-piers, we would tell them we're looking
21 into it and they said, yeah, that would be a good
22 idea.

1 So they obviously thought it would be
2 beneficial.

3 Q Do you remember which customers thought it
4 would be a beneficial idea?

5 A No, I don't recall the individual names.

6 Q But SunEdison did not say that it would be
7 a beneficial idea?

8 A I just don't recall that. They may have
9 said something. I just don't remember.

10 Q How early in the development cycle of the
11 integrated grounding system did CAB consult the
12 NEC?

13 MR. McDONOUGH: Objection. Foundation.
14 Form.

15 MR. SWEENEY: Yeah, that's fair.

16 Q Did CAB consult the NEC while it was
17 developing the integrated grounding system?

18 A While we were developing it, we looked
19 into what requirements might be out there. So,
20 yeah.

21 Q Were you looking into the requirements
22 early in the development cycle of the integrated

1 grounding system?

2 A In the late 2016, 2017 timeframe we were
3 looking at codes.

4 Q Are you aware that the NEC has permitted
5 using a messenger wire as an equipment grounding
6 conductor since at least as early as 2008?

7 MR. McDONOUGH: Objection. Form.

8 A I'm not aware of that.

9 Q I'm handing you an excerpted version of
10 Exhibit 1007 in the 00139 IPR.

11 MR. McDONOUGH: Thank you for the excerpt.

12 Q And I'm handing you the same excerpted
13 version that is Exhibit 1009 in the 00178 IPR.

14 Can you please go to page 241 of this
15 exhibit.

16 A Okay.

17 Q And if you --

18 MR. McDONOUGH: Sorry. I'm not there.
19 What is the page --

20 MR. SWEENEY: Bottom right.

21 MR. McDONOUGH: Oh. Thank you.

22 Q Do you see Section 39630 Messenger?

1 A Yes.

2 Q And do you see Subsection C, Equipment
3 Grounding Conductor?

4 A Yes.

5 Q You see where it says, "Where the
6 messenger wire is used as an equipment grounding
7 conductor, it shall comply with the requirements
8 of," and then it gives some other NEC
9 requirements.

10 Do you see that?

11 A Yes.

12 Q So you understand that this is the NEC
13 from 2008?

14 A Okay. Yes.

15 Q And you'll agree that 39630-C says that a
16 messenger wire can be used as an equipment
17 grounding conductor; correct?

18 MR. McDONOUGH: Objection. Beyond the
19 scope. Calls for expert testimony.

20 A Repeat the question.

21 Q So you'll agree that 396.30-C says that a
22 messenger wire can be used as an equipment

1 grounding conductor; correct?

2 MR. McDONOUGH: Objection. Beyond the
3 scope of direct. Calls for expert testimony.

4 A It don't say "can." It says where it is
5 used. So...

6 Q What do you take this Subsection C to
7 mean?

8 MR. McDONOUGH: Objection. Beyond the
9 scope.

10 A If the messenger is used as an equipment
11 grounding conductor, it has to comply with those
12 requirements.

13 Q So is it your understanding that if the
14 messenger wire complies with those requirements,
15 it can be used as an equipment grounding
16 conductor?

17 MR. McDONOUGH: Objection. Beyond the
18 scope.

19 A It appears that way. Yes.

20 Q So when you say in your declaration --
21 well, withdrawn.

22 Is it still your opinion that prior to

1 CAB, no one had used messenger wire as a grounding
2 conductor before?

3 MR. McDONOUGH: Objection. Form.

4 A Yeah, I don't know.

5 Q Does this provision call into question
6 your opinion that no one had ever used a messenger
7 wire as an equipment grounding conductor before?

8 A Certainly in solar it was not done before.

9 Q When you say "in solar it was not done
10 before," what are you basing that off of?

11 A Our experience in the solar industry.

12 Q But you can't say unequivocally that
13 before CAB no one had used a messenger as an
14 equipment grounding conductor before; correct?

15 A Correct.

16 Q Can you take a look at paragraph 70 of
17 your declaration. You say here that you

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]"

21 Do you see that?

22 A Yes.

1 Q Who is [REDACTED]?

2 A They're a company. I believe they're
3 based in [REDACTED]

4 [REDACTED].

5 Q When you say [REDACTED]
6 [REDACTED] "who's the "we" in that sentence?

7 A Greg Platt was doing most of the contact
8 work with [REDACTED] from CAB.

9 Q Had CAB previously worked with [REDACTED]
10 before what you're referring to in paragraph 70?

11 A I believe we had. Yeah.

12 Q Does [REDACTED]
13 [REDACTED]?

14 A Mm-hmm. Yes.

15 Q So did CAB send them specifications of a
16 product that CAB needed?

17 A Correct.

18 Q What [REDACTED]
19 [REDACTED] for this custom messenger?

20 A [REDACTED] had worked with us on what
21 would be a material that would act as [REDACTED]

22 [REDACTED]

1 [REDACTED]
2 [REDACTED]
3 [REDACTED]
4 [REDACTED]

5 So with that information -- and we told

6 [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]

12 [REDACTED]
13 [REDACTED]

14 Q Who is [REDACTED]?

15 A They're an [REDACTED].

16 Q So did [REDACTED]

17 [REDACTED]?

18 A They gave [REDACTED]

19 [REDACTED]
20 [REDACTED] for that
21 information?

22 MR. McDONOUGH: Objection. Foundation.

1 A I don't know.

2 Q Do you know how much CAB paid [REDACTED]
3 for this work?

4 MR. McDONOUGH: Objection. Foundation.

5 A No, I don't.

6 Q Did [REDACTED] do this work for free?

7 A I don't know that.

8 Q [REDACTED] -- sorry. Strike that.

9 Why was [REDACTED]

10 [REDACTED]

11 A [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 Q So if a messenger wire [REDACTED] [REDACTED]

16 [REDACTED] is that right?

17 A That's right.

18 Q What [REDACTED]
19 [REDACTED]?

20 A We asked them [REDACTED]

21 [REDACTED]

22 [REDACTED].

1 Q What were the [REDACTED]

2 [REDACTED]

3 A We wanted a --

4 MR. McDONOUGH: Objection to form.

5 A -- [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 Q Was [REDACTED]

9 [REDACTED]

10 A Yes.

11 Q Does CAB still use that cable?

12 A That's one of the cables that we still
13 use. Yes.

14 Q [REDACTED] [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED], but I'm not positive.

18 Q Why did CAB use Burndy [REDACTED] of
19 Copperweld for the development of clamps?

20 A They had a [REDACTED]

21 [REDACTED]

22 Q Why didn't the clamps that CAB sold with

1 its standard system work with its integrated
2 system?

3 A They were a steel clamp and they were not
4 conductive enough.

5 Q Does CAB manufacture its integrated
6 grounding clamps?

7 A Right now, no, we do not manufacture the
8 clamp. It's a [REDACTED] clamp.

9 Q Can any third party buy that clamp from
10 [REDACTED]?

11 A I don't know the answer to that. It is a
12 custom clamp.

13 Q What [REDACTED]
14 [REDACTED]?

15 A [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]

19 Q What modifications did CAB have to make to
20 its L-shaped brackets for its integrated system?

21 A We had to modify the whole arrangement
22 [REDACTED] of the [REDACTED] bolt, washer, nut

1 assembly. I believe we also had to add a piece of
2 hardware in the back of the -- in the assembly for
3 attachment to the pier.

4 Q Why did you have to change the hardware in
5 the back of the assembly for attachment to the
6 pier?

7 A Because on the standard system, you didn't
8 have to worry about bonding and grounding. And
9 with this new system, we had to have all parts
10 pass the bonding and testing UL 467 test.

11 Q So CAB's standard system did not have to
12 be bonded?

13 A Not electrically.

14 Q In what sense did the CAB standard system
15 have to be bonded?

16 A On the integrated grounding solution, I
17 believe we had to add an additional washer to the
18 L bracket.

19 Q Why did CAB have to add an additional
20 washer to the L bracket?

21 A For bonding.

22 Q Is that a specialized washer?

1 MR. McDONOUGH: Objection to form.

2 A I don't believe it is. Yeah, I don't know
3 for sure, but I don't think it is.

4 Q What material is that washer made of?

5 MR. McDONOUGH: Objection to foundation.

6 A A galvanized steel.

7 Q Are CAB's integrated grounding L brackets
8 made of galvanized steel?

9 A Correct.

10 Q And are CAB's integrated grounding clamps
11 made of galvanized steel?

12 A No.

13 Q What are CAB's integrated grounding clamps
14 made of?

15 A They're made out of silicon tin bronze
16 with a tin coating.

17 Q Why are CAB's integrated grounding clamps
18 made out of silicon tin bronze with a tin coating?

19 A For -- to be very conductive in order to
20 be bonded and for grounding. So it is a very
21 conductive material.

22 THE WITNESS: Can we take a break here for

1 water and for bathroom?

2 MR. SWEENEY: Yeah. Sure. Five minutes?

3 MR. McDONOUGH: Yeah.

4 (A recess was taken.)

5 BY MR. SWEENEY:

6 Q In paragraph 78 of your declaration, you
7 say, "When CAB's integrated grounding system was
8 implemented, solar companies and engineering firms
9 deemed it a game changer," in quotes, "for
10 utility-scale solar applications."

11 Do you see that?

12 A Yes.

13 Q What do you mean by "a game changer"?

14 A That it would help speed installation,
15 simplify installation. Reduce costs. That it
16 would really help improve operations of -- of
17 cable management in the -- in the solar array.

18 Q Was the game-changing aspect the ability
19 to use a messenger as a grounding conductor?

20 A Yes.

21 Q Which solar companies deemed it a game
22 changer?

1 A I just don't recall exact names of
2 companies.

3 Q Which engineering firms deemed it a game
4 changer?

5 A Various engineering companies that we met
6 with. Again, I don't have their names here.

7 Q So you don't know any solar companies or
8 engineering firms that deemed it a game changer?

9 MR. McDONOUGH: Objection to form.

10 A I don't know the names of the companies
11 right off the top of my head. No.

12 Q You say in the same paragraph that [REDACTED]

13 [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED]."

17 Do you see that?

18 A Yes.

19 Q Are those sales [REDACTED]?

20 A That would be overall sales percentage, so
21 it would include [REDACTED].

22 Q Which [REDACTED] does --

1 withdrawn.

2

3

4

A

5

6

7

8

Beyond that, I -- I wouldn't know,
exactly.

9

Q What's the basis of your statement that

10

11

12

?

13

A I base that on the statement of some --

14

Tim Wedding and the sales department. The -- the

15

solar department, rather, not the sales. Solar

16

department.

17

Q How much of the information in your

18

declaration did you get from Tim Wedding?

19

A Very small amount.

20

Q I'm handing you Exhibit 2049 and this is

21

the same exhibit number in both IPR proceedings.

22

Have you seen this document before?

1 A I have not seen this in the -- in a very
2 long time.

3 Q But you have seen it before?

4 A It looks familiar.

5 Q When do you think you saw this document?

6 A Last time I saw it, I would estimate 2017.

7 Q What is the [REDACTED]

8 [REDACTED]

9 MR. McDONOUGH: Objection. Beyond the
10 scope of direct.

11 A I don't know why it was called that. I
12 don't know.

13 Q Do you know what this document is
14 referring to when it says [REDACTED]

15 [REDACTED]?

16 A Yeah. It appears to be showing the

17 [REDACTED].

18 Q Was new [REDACTED]

19 [REDACTED]?

20 A Not that I'm aware of.

21 Q Is there another CAB cable management
22 system, that you're aware of, this could be

1 referring to?

2 A A -- no. I don't know what [REDACTED] is
3 referring to.

4 Q In the second table here titled [REDACTED]
5 [REDACTED]
6 [REDACTED] " do you see the projects listed in the
7 left-hand column?

8 A I see those.

9 Q Are you familiar with any of those project
10 names?

11 A No.

12 Q You've never heard of [REDACTED]?

13 MR. McDONOUGH: Object to form.

14 A I don't know anything about it.

15 Q Do you know anything about [REDACTED]

16 A No. None of those. I haven't been to
17 them. I don't know where they're at. I'm sorry.
18 I don't know anything about them.

19 MR. SWEENEY: Let's do a ten-minute break
20 to gather our thoughts here.

21 MR. McDONOUGH: Certainly.

22 (A recess was taken.)

1 BY MR. SWEENEY:

2 Q Mr. Smith, do you know CAB's profit margin
3 for any of CAB's products?

4 A No.

5 MR. SWEENEY: We pass the witness.

6 MR. McDONOUGH: We have no questions. No
7 redirect.

8 MR. SWEENEY: Great. We're done.

9 (At 4:06 p.m., the deposition concluded.)
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1 CERTIFICATE OF SHORTHAND REPORTER - NOTARY PUBLIC

2
3 I, MARIA SIATKOWSKI, Certified Reporter
4 and Notary Public within and for the State of
5 Pennsylvania do hereby certify:

6 That ALLEN GARRETT SMITH, the
7 witness whose deposition is hereinbefore set
8 forth, was duly sworn by me before the
9 commencement of such deposition and that such
10 deposition was taken before me and is a true
11 record of the testimony given by such
12 witness.

13 I further certify that the adverse party,
14 CAMBRIA COUNTY ASSOCIATION FOR THE BLIND AND
15 HANDICAPPED, INC., was represented by counsel at
16 the deposition.

17 I further certify that the deposition of
18 ALLEN GARRET SMITH occurred at the offices
19 of Eckert Seamans Cherin & Mellott, LLC, 600 Grant
20 Street, 44th Floor, Pittsburgh, PA, 15219, on
21 Wednesday, September 25, 2024, commencing at 9:33
22 a.m. to 4:06 p.m.

1 I further certify that I am not related
2 to any of the parties to this action by blood or
3 marriage, I am not employed by or an attorney to
4 any of the parties to this action, and that I am
5 in no way interested, financially or otherwise, in
6 the outcome of this matter.

7 IN WITNESS WHEREOF, I have hereunto set
8 my hand this 1st day of October, 2024.

9 My commission expires:
10 June 15, 2025

11

12

13 *Maria M. Siatkowski*

14

15 _____
16 NOTARY PUBLIC IN AND FOR THE
17 Pennsylvania.

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