certificate, or should say "is" because it is probably still present tense, is there, to your knowledge, any other kit approved or not approved that has ever been installed on a Lake aircraft to comply with this AD?

A Yes.

Q What was the source or how many different sources --

A Let's probably not include the word "kit".

Q Okay.

A But alternate means of compliance.

Q A-M-O-C, an AMOC?

A AMOC.

Q Okay. Describe if you could please, what is an AMOC?

A An alternate means of compliance. That is an AMOC.

Q Why would an aircraft owner use an AMOC as opposed to either the Canadian STC kit or the Aerofab kit, what would the reasons be for that?

A That's speculation on my behalf.

Q You said you had knowledge that somebody has done this on their airplane?

A Yes.

Q How many individuals?

A I have absolute knowledge of one.

Q Describe what that alternate means of compliance is please?
A The owner retained an engineer to prepare documentation of an alternate means of compliance.
Q Did it include a -- did it include components that were relatively similar to the patented kit?
A Yes.
Q Who was that owner please?
A Say again?
Q Who was that owner again?
A Oh, I'm getting old. I'll think of it in a minute. The owner committed suicide, and I have a mental block on that. But prior to the owner's demise he retained an engineer, who must submit his documentation to the FAA, have it approved, and then the owner can produce the parts for the compliance.
Q The owner can produce the parts for compliance? So there is a method for the owner to fabricate their own parts to comply with the AD?
A Yes.
Q But that would require an AMOC?
A Yes.
Q Are those AMOCs approved on a one-by-one basis by the FAA?
A To the best of my knowledge, yes.

Q And to your knowledge, there's only been one aircraft owner who has done that?

A No, I said I'm positive of one that has been completed.

Q Do you have knowledge of others that were started?

A Some were started. I don't know their status.

Q Would there be records at the FAA that would indicate whether an AMOC had been approved for a particular aircraft?

A I don't know.

MR. THOMAS: Let's go off the record, and note the time, if you would. I have 12:00. Mark, do you agree with that?

MR. YOUNG: Yeah.

(Off the record at 12:00 PM.)

(Back on the record at 12:55 PM.)

BY MR. THOMAS:

Q One question about the aircraft owners who came to you or your company for compliance with the AD, for those you said that some of the kits you installed were the Aerofab kits and some of them were the Canadian kits?

A Yes.

Q Who made the determination which kit would be

installed on a particular owner's airplane?

A The owner.

Q Did they rely on your recommendation for which kit to select?

A Occasionally.

Q When you had the opportunity to recommend a kit, did you recommend one kit over the other generally?

A No, both complied with the AD.

Q Both complied with the AD, and there was virtually no difference in the kits; is that correct?

A In the compliance, the effective compliance with the AD, there was no difference.

Q The Canadian was a cheaper kit than the Aerofab kit?

A There was a difference in price.

Q You would communicate that to the aircraft owner?

A Yes.

Q Generally speaking, would the aircraft owner make a determination which kit to use just simply based on price then?

A Not always.

Q Some selected the Aerofab kit even though it was more expensive?

A Yes.

Q Now, you own a flying Lake aircraft, correct?
A I own a what?
Q You own an airworthy Lake aircraft, correct?
A Yes.
Q You had the Canadian kit installed on your aircraft; is that correct?
A Yes.
Q What is the identification of your airplane?
A November 80125.
Q Did you file a 337 with the FAA for your aircraft?
A Yes.
Q Have you ever owned any other Lake airplanes?
A Briefly.
Q When was that?
A We're talking about 14 years ago.
Q What was -- Do you recall the identification of that airplane?
A No. I was assisting -- It had been a foreign registered airplane. It needed to be registered to a US entity to achieve US registration. And the owner entrusted me with the ownership of the airplane to accomplish that. Then the aircraft was subsequently sold.
Q Do you have documentation in either your

possession or in your company's possession that would indicate the date you installed the kit on your airplane?

A Yes.

Q Would that be in your possession or your company's possession?

A Yes.

Q Both?

A It's probably in the company possession.

Q Physically located in the Bartow facility?

A Yes.

Q Do you recall what date that was?

A No.

Q Do you recall month or year?

A '01, '02.

Q So if we requested that documentation from you again, you would be able to produce it?

A You've got a 98 percent chance of getting it.

Q Did you have anybody assist you in installing that kit on your airplane?

A I may not have personally installed the kit, but my entity may have installed the kit.

Q Let's see. The other aircraft that you owned 14 years ago, did you -- was that aircraft transferred from your ownership prior to the AD coming out?

A Yes.
Q So that kit really while you owned it, wasn't subject to the AD?
A It was 14 years ago. When was the AD issued?
Q Right.
A Thank you.
Q I'm just making sure.
A I'm trying to keep you from stumbling.
Q I don't believe you told me when you sold it. I think you told me you owned it 14 years ago.
A It was probably within a year of us acquiring it. Our sole reason for assuming ownership of the airplane was to assist the owner in selling the airplane, or the foreign owner.
Q The other aircraft, I think you mentioned 40 plus 26, if I've got the number right, so 66 aircraft total?
A About.
Q You installed or your entity installed kits on, do you recall the time frame that that spanned?
A '01, '02.
Q The documentation that you have in your possession or in your company's possession, would it indicate more precisely what dates those installations were done?

A Yes.
Q Were you involved in any way in the process that led to the issuance of the AD? What I mean by that is, did you participate with communication with the FAA regarding the AD?
A Yes.
Q In what manner did you communicate?
A We're going to talk here for just a minute. When we got word of the Australian crack, there was an aircraft in my shop that we were repairing, doing some -- we had just initially started doing some corrosion work on it, which entailed removing the wings.
When we compared those wings to the information from the Australian report, we found identical cracks. This was communicated to Aerofab. And, in my opinion, largely ignored. Okay?
Subsequent to that my company spent thousands of dollars to acquire equipment to allow for a relatively easy inspection of the wing spars on numerous Lake Amphibians, numerous probably in the neighborhood of 20 to 30, to determine if cracks were present in a wider range and models of the aircraft.
The results of those inspections were communicated with the FAA.
Q When you say you purchased equipment, what

kind of equipment was that?

A It's technically called a borescope.

Q It allows you to get up there and look?

A This particular spot required a very specific diameter and a mirror to be able to look at it.

Q And a light, was there a light associated with that as well?

A It was a lighted borescope video camera.

Q You provided that inspection data to the FAA?

A Yes.

Q Other than that, did you provide any information or communication with the FAA regarding the AD process?

A I don't think I was a commenter on the AD, per se. I do remember writing a letter encouraging, basically encouraging, the FAA to get off of dead center, and let's do something.

As a person who operates Lake Amphibians, I don't want to be going through the clouds. There's no flight manual provision. There's no instruction available to teach you how to deal with a wing separating from an airplane.

Q Were there ever any in-flight airframe failures due to this problem, the cracks in the wings?

A Due to the wing cracks, no.

And one other recorded incident on that, I did a -- a potential buyer asked me to do what is referred to do as a pre-buy on an airplane, pre-purchase --

Q Inspection?

A Yeah. And I went to that aircraft, and on that aircraft I found a severely cracked lower support cap and doubler. That airplane was the proverbial train waiting for the wreck.

Q So you may have saved somebody there by finding that then?

A Potentially, yes.

Q This was a serious issue with these aircraft?

A That issue was reported, you know, on that serial number of that particular instance; but yes, this is a serious issue with the airplane.

Q We talked about the Canadian kit. We talked about the Aerofab kit. We talked about the AMOC, the one known instance by you where you had personal knowledge. As far as you know, was there ever any other kit produced to either comply with the AD or at least I'll say repair the wing to the point where it would be safe to fly the airplane?

A I don't have -- I don't have any knowledge of a kit marketed for that purpose. Like I say, some owners did AMOCs. I have specific knowledge of one --

Q One of those?
A -- compliance.
Q In your opinion as a mechanic and an IA, what is the best way to determine the source of one of these kits that's installed on an aircraft?
A Logbook.
Q Logbook is the best way? What about physical inspection of the airplane? Again, we're trying to identify the source, Aerofab versus Canadian, not whether the kit's installed or not, but who made it.
A Right. The installed appearance of the kits are very similar depending on the fasteners used and other things that could have occurred on installation. It's not a hundred percent of just looking at it.
Q If you had -- I'll follow up with, are some of these kits ever painted over?
A Yes.
Q Does that painting have to be done by a certificated mechanic?
A No.
Q I assume the paint would be to prevent corrosion; is that correct?
A Yes. Or some people are very aesthetic.
Q They want it to look pretty up in there? You're waving your hands.

A I'm waving my hands, but some people are particular about the appearance of their aircraft.

Q I understand. If you were to be handed a kit that was either, say either Canadian or Aerofab, could you distinguish by holding in your hands the parts of the kit as to whether it was a Canadian or an Aerofab kit?

A If it were unpainted, if it were in its original state --

Q As it came from the factory.

A -- from the two sources, yes.

Q You would be able to? What would be the distinguishing identifier of one kit over the other?

A The part number identifications, the QA markings.

Q That would be the markings themselves, not physical features of the kit?

A A slight difference in color, but right now I couldn't tell you which one looked which way.

Q If I showed you a picture of a kit, would you be able to identify which kit it is?

A Not necessarily.

Q Let me show you such a photograph.

A Okay.

Q We're going to make this Exhibit B. I'm

handing you a photograph. First of all, let me ask: Does that look to you the type of kit we're talking about here?

A This does appear to be the type of kit we're talking about.

Q Can you tell from any aspect of the photograph there whether this would be a Canadian kit, Aerofab kit or some other kit?

A This appears to be a Canadian kit.

Q How can you tell?

A I want to say that the AC number, if my memory is correct, that is the identification that they placed on the components of the doubler and the filler.

Q You feel that was a JMC nomenclature that was placed on that part?

A Correct.

Q Is there any -- when you look at this photograph -- is there any doubt in your mind that this is a kit that was one of the kits that you installed on these aircraft in order to achieve compliance with the AD? In other words, is there anything on this photograph that tells you this is some other kit?

A No.

Q Is there anything in this photograph that is left out? In other words, is this a photograph of a

complete kit?

A This appears to be a photograph that is capable of doing one wing.

Q Okay. I understand.

A Okay.

Q You would require two of these to do an entire aircraft?

A That's correct.

Q I should have asked this before: There's no difference between -- there's no left and right kit; is that correct?

A That's incorrect.

Q There is a left and a right?

A The Aerofab kits are considered left and right. The Canadian kits are not marketed as a left and right kit. I'm trying to remember if the JCM kit was actually marketed by the wing or by the aircraft. I know you could buy a single wing if you chose to. But the JCM kit was not marked left or right. Aerofab kit was marked left or right.

Q Okay. They were marked, okay, there was a difference in the marking between the two, but was there a difference in the physical difference in the kits that caused one kit to be left or right, the Aerofab, and allowed the JCM kit not --

A If we're defining, physical difference was the shape of --

Q Dimensions of --

A -- the dimensions and so forth. There's no difference between left and right.

Q Okay. So you didn't have to worry if you had the Aerofab kits in your hand, when I say kits, if you had a complete aircraft kit --

A To do an aircraft.

Q -- to do an aircraft, one for each wing, you really didn't have to worry about which one of those kits went on which wing when you did the Aerofab; is that correct?

A Yes, you did. Because the Aerofab kit was marked.

Q Because they were marked that way?

A Correct. Let me rephrase that. They were marked in a fashion that required appropriate left or right orientation.

Q But again, just to be clear, to your knowledge, there was no dimensional distinction between the left and the right kits?

A That is correct, no dimensional difference.

Q Going back to this photograph for a second. You've identified it as a Canadian kit I think you said

by the nomenclature. Other than the nomenclature is there anything in this photograph, I'll say from a dimensional aspect as you look at these components on here, that would tell you that this is a Canadian kit?

A There's a possibly that the length of the bolts, the thread style of the bolts, and the head style of the bolts would also tend to indicate that this is a Canadian kit.

Q There was some differentiation in the bolts that came with the kit between the Aerofab and the Canadian kit?

A Yes.

Q Other than the bolt differences, is there anything in this photograph you would use to identify this as Canadian versus Aerofab kit?

A I'm dealing on memory now that's approaching ten years old, but two of the nutted fasteners may be different from the Aerofab kit.

Q Those look like the kind of fasteners that have nylon inserts; is that correct?

A That's not the two I'm referring to. The other fasteners do indeed have a nylon insert.

Q Self locking of some type, or anti --

A Yes.

Q -- back out type feature?

A Yes.
Q Looking at the straps, is there any feature of the straps that would tell you, other than the marking on the strap, is there any dimensional feature on the strap that would tell you that this is a Canadian kit versus an Aerofab kit?
A From this picture, no.
Q Is there any physical difference in the Canadian straps, say not in this picture, but just that you recall?
A To hold it in hand, there's a possibility of a bevel on one end, but other than that.
Q Other than that, no?
A Right.
Q Is it an FAA requirement that aircraft owners maintain these logbooks that we've been talking about today?
A I'm mentally trying to review the regulation applicable. There may be a requirement that the owner sees that an entry is made, but not actually make the entry.
Q I understand. Thank you for being detailed. Is there a requirement, generally, that each aircraft have a logbook?
A Yes.

Q And is it generally the aircraft owner's responsibility to make sure the logbook is up-to-date no matter who makes the entry?

A That could be the regulation.

Q I'll flip the question around the other way, and just make sure we're talking -- we're saying the same thing. Is it likely that there would be an airworthy Lake aircraft out there in the US that did not have a logbook?

A Logbooks have been lost, so there is that possibility. Is it likely? No.

Q It would be a rare occurrence?

A I would consider it a rare occurrence.

Q If you lose a logbook, what do you do if you're an aircraft owner?

A There is a process that you go through. You can find other records to substantiate work done on the airplane, physical inspection of the airplane to determine the applicability or the compliance of ADs, maintenance invoices, the shop records of where you had your airplane worked on.

Q Is it fair to say most of those records would reside with the mechanics who did the work or the shops?

A It would depend on the shop. Some shops keep nothing. Some shops keep more.

Q Is there an FAA requirement that the shops keep records as to which aircraft they worked on, who did the work, et cetera?

A If the shop is a certificated repair station, they are required to keep records for a given period of time, typically 12 months.

Q That's all, just 12 months?

A Twelve months.

Q Staying with the records issue for a minute. You said that you have some records or your company does at the Bartow facility regarding the installation of these kits on particular airplanes. Other than the logbook, I should say the logbooks that are in the hands of the owners, and those records that you have already mentioned, do you know of any other documents that would identify which kits have been installed on which airplanes?

A If the owner had a receipt of the purchase of his kit; the logbook entry as you've stated; a 337 filed with the FAA if it was executed in conjunction with a Canadian kit; that's a pretty inclusive list.

Q To your knowledge, how many shops or mechanics participated in the installation of these kits on these airplanes to achieve compliance with the AD?

A No.

Q Let me back up. Do you know of other shops who did this work?
A Yes.
Q Can you list for me the ones you know about?
A Aircraft Innovation and Repair.
Q Any others?
A I could think of some, but none off -- Lake Central in Canada; Talon Aviation, Puyallup, Washington. There are very few shops that specialize in that aircraft, so other shops would be onesies and twosies.
Q A question about the installation of these kits on wings, and then those wings being installed on other airplanes other than the original airplane; does that happen?
A Yes.
Q To your knowledge, how often, is that a rare occurrence, onesie, twosie?
A I would put it in rare occurrence.
Q If a kit were installed on a wing, and then that wing were removed from an airplane and installed on another airplane, the entire kit would go with the wing; correct?
A Yes.
Q In a situation like that would the compliance with the AD from the logbook of the first airplane be

translated to the logbook of the second airplane that accepted the wing?

A It could, but not necessarily.

Q Would you lose track then if you're the owner of that rebuilt airplane with the wing that came from somewhere else, would your logbook of that airplane not show -- would it lack -- show in compliance with the AD?

A No, it could -- the person installing the replacement wing could make a logbook entry, "AD complied with by installation of doubler kit." Okay? So it would be a previously complied with Airworthiness Directive.

Q I guess my question is: The logbook of the newly built airplane would have to have some indication of compliance with the AD; would it not?

A I believe I just mentioned that the person installing the wing could inspect the wing and determine that it had been complied with. That person may not be knowledgeable enough to determine which kit, but in all likelihood compliance.

Q Now, this is the second time -- this lawsuit is the second time you've been a defendant in a lawsuit over this patent; is that correct?

A Yes.

Q The first lawsuit was filed a number of years

ago, correct?
A Correct.
Q That lawsuit was voluntarily dismissed by the plaintiff; is that correct?
A To my knowledge, yes.
Q Who was your attorney for that first lawsuit if you had one?
A His name was Jim Buesse.
Q And he's in Orlando; is that correct?
A Yes.
Q Mr. Buesse is a patent attorney?
A Yes, I believe so.
Q During the course of that previous lawsuit the re-exam request was filed with the US Patent Trademark office; is that correct?
A Yes.
Q And isn't it true that Enpat -- that there was -- Let me back up. Isn't it true that your attorney moved for a stay pending the outcome of the reexamination in that original lawsuit?
A Exactly what he did, I'm not sure of. I mean, I hired an attorney to do the legal side of it.
Q So you're not sure if he moved for a stay of the proceedings in the initial lawsuit?
A No, I'm not sure.

Q Okay. Did you ever get an opinion of any attorney -- Let me back up, and say this a different way. Did you ever see an opinion of an attorney that the kit you have installed on your aircraft does not infringe the '260 patent?

A Yes.

Q Who produced that opinion?

MR. YOUNG: Objection to the extent we're getting in attorney-client privileged information.

BY MR. THOMAS:

Q Let's find out who produced it. I don't think that's privileged. Then we can determine whether there's a privilege or not.

A Jim Salter (phonetic).

Q Where is Mr. Salter located or where was he located at the time?

A I believe he was located in California.

Q Did you pay him for that opinion?

A No.

Q Did you execute a contract with him to secure that opinion?

A No.

MR. THOMAS: I'm going to assert that there was no attorney-client relationship.

MR. YOUNG: Do you want to discuss that now?

BY MR. THOMAS:

Q Let's don't discuss it now. I'm going to ask you: What was his opinion?

A His opinion was the patent was invalid.

Q Well, the specific question I had was: Did you secure an opinion regarding infringement of this patent, separate issue from invalidity?

A I'm going to say that -- I want to say that the information provided by Mr. Salter was intended to constitute an opinion of non infringement relative to the '260 patent.

Q Okay. By that, do you mean that the kit -- it was his opinion that the kit that was installed on the airplane, on your airplane, did not come within the scope of the claims of the '260 patent, or do you mean to say that his opinion was that the '260 patent was invalid, and therefore not enforceable?

A I would lean towards your latter comment as being correct.

Q That more of the opinion went to the validity as opposed to infringement?

A Correct.

Q When was that opinion given to you?

A I want to say plus or minus a few months, 2002.

Q Was that given to you in written form?
A Yes.
Q Do you have a copy of that opinion?
A Yes.
MR. THOMAS: Was that produced, do you recall?
MS. SWARTZ: I don't recall seeing it.
MR. THOMAS: I'm just going to ask, was that produced in the response to the request to produce?
MR. YOUNG: Do you want me to answer?
MR. THOMAS: Yes.
MR. YOUNG: No, it wasn't?
BY MR. THOMAS:
Q You do have a copy of it?
A Yes.
Q When I say you --
A Yes.
Q -- personally have a copy of it?
A It's at the office.
Q It's in your possession or control?
A Yes.
Q Why was it Mr. Salter's opinion that the patent was invalid?
A Mr. Salter --
MR. YOUNG: Objection to the extent we're getting into privileged information.

MR. THOMAS: The question stands on the table. You can either instruct to not answer the question or we can get an answer.

MR. YOUNG: Could we have a minute?

MR. THOMAS: Sure.

(Off the record at 1:30 PM.)

(Back on the record at 1:32 PM.)

BY MR. THOMAS:

Q While you were out we talked about marking the copies of the certifications Exhibit C. And what we've done is, we've asked the court reporter to mark these confidential. These will go in a separate envelope when the transcript is produced.

MR. YOUNG: My only concern is the personal information that may be on those.

MR. THOMAS: I understand.

BY MR. THOMAS:

Q I think the question was: What were the reasons stated by Attorney Salter to support his opinion of invalidity?

A I don't recall all of the reasons, but Mr. Salter is a patent attorney with a reputable patent firm, who had an interest in Lake Amphibians as a Lake owner. And in his opinion on each claim of the '260 patent went through and said it's not valid because of

this. He just touched on every point of the '260 patent with an opinion of why it was not valid.

Q Is he still a Lake owner, do you know?

A I don't know.

Q Have you ever spoken with him personally?

A I spoke with him in the very beginnings of these proceedings, meaning the very beginnings of the reexamination.

Q Have you communicated with him in any written form since the lawsuit started?

A Define lawsuit.

Q This particular lawsuit.

A No.

Q Have you communicated with him in written form at any time?

A I'm sure I have.

Q E-mail?

A I'm not sure. I'm going to say possibly, yes, with Jim.

Q Is it possible that you would have copies of, you know, your written communication?

A It's possible.

Q Would it be in the banker's box?

A There's a very good chance, if we have it, it would be, and realizing that's approaching ten years

ago.

Q I appreciate that. Memories are what they are. Thank you.

Other than the opinion of Mr. Salter and present counsel accepted, have you seen any opinion by any patent attorney that addressed the issue of either invalidity or infringement?

A Yes.

Q When did you see this opinion?

A Through the course of the reexamination.

Q Other than -- You're talking about the re-exam, the actual documents filed in the re-exam?

A Yes.

Q Other than that, have you seen any opinion expressed by an attorney regarding invalidity or infringement?

A Not what I would consider acceptable.

Q Not credible?

A I won't say not credible, but maybe acceptable.

Q Define what you mean by not acceptable?

A The few times I ventured onto the forum some people reputed to be attorneys rendered ideas about the invalidity of the situation, so.

Q When you say the forum, you mean the bulletin

board?

A The bulletin or forum, yes.

Q The one you mentioned before?

A Yes, that is the same.

Q The postings on that bulletin board, do they persist indefinitely?

A I don't know.

Q Who would know that answer?

A I don't know.

Q Somebody at the Lake Aircraft -- forgive me for not knowing the name of the club. I thought I wrote it down. Somebody at the Lake Aircraft owners --

A There is a possibility that someone at the Lake Amphibian Flyers Club may know the status of those postings.

Q How long has that bulletin board been in operation, to your knowledge?

A To my knowledge, maybe ten years. I'm not sure of that because I am not an active participant.

Q You mentioned that there was an opinion expressed in the reexamination papers that were filed. The question I had asked was: Do you know of any opinions regarding infringement or invalidity, but the opinion that was filed and the re-exam was really, really focused on invalidity, correct?

A That is correct.
Q The infringement at that point wasn't an issue, the re-exam itself? The infringement of any particular airplane's kits as in regards to the patent wasn't really an issue in the re-exam, the re-exam was focused on invalidity, correct?
A To my knowledge, again I'm not a patent attorney, but to my knowledge that was the focus of the re-exam.
Q You're aware the ultimate outcome of the reexamination was that all of the claims of the '260 patent were upheld as valid?
A I intuitively disagree with that.
Q Why do you disagree with that?
A My opinion of what I've read, as a layman, to keep me from stumbling, was that the patent was upheld on one of its 14 claims.
Q That's what you understand occurred in the reexamination? So, in other words, the other 13 claims were invalidated; is that what you think?
A Yeah.
Q I don't believe that's correct, but I'm here to coach.
A You have your opinion.
Q So I'm only here to ask.

A That's right.
Q Did you read the complaint that was served on you in this case?
A Yes.
Q Your attorney filed an answer with defenses and counterclaims. Did you read the answer that your attorney --
A Yes.
Q -- served on us?
A Yes.
Q There was an assertion under the general allegations -- this is, just for reference sake, it was allegation nine -- "The anticipated cost for compliance with the NPRM would have been approximately $40,000 or more per airplane." And that was denied by your attorney.
A Yes.
Q And tell me why that was denied please.
A Because I complied with the existence of cracked spars for approximately $20,000 per aircraft.
Q This is prior to the availability of the kit?
A Yes.
Q Allegation ten is read like this, this was also denied. "In response to the NPRM non-party Aerofab, Inc. developed a wing spar modification kit

that could be installed on Lake aircraft to address the problem identified in the NPRM while avoiding the costs and expense and risks associated with removing the aircraft wings."

I know that's a long sentence. I'll read it again if you like.

A Go ahead.

Q "In response to the NPRM non-party Aerofab, Inc. developed a wing spar modification kit that could be installed on Lake aircraft to address the problem identified in the NPRM while avoiding the costs, expense and risks associated with removing the aircraft wings."

That was denied.

A Okay.

Q But isn't that in fact an accurate statement?

A I'm going to say no.

Q Why is it not accurate?

A There's another inventor.

Q Okay. Who is the other inventor?

A Elton Townsend.

Q Why do you claim that Elton Townsend is an inventor?

A Elton provided the doubler concept for the repair of the wing.

Q How do you know this?

A I've seen the communication from Elton to the inventors, actually specifically to Jack Tarbox, prior to a doubler being an option to repair the airplane.

Q Jack Tarbox being one of the inventors who is a named inventor on the patent?

A That is correct.

Q I'm going to present a couple of things to you. One is a copy of the patent itself. I've handed it to your attorney to look at, and then if you could take a quick look. If you'd identify that as -- if you could let me know if you identify that as the patent that we're talking about.

A That appears to be the '260 patent.

Q That is going to be Exhibit D. I'm going to show you now a copy of what looks like a fax, and at the top it says, "Lake Central Air Services." We'll mark this as Exhibit E.

Now, you said you saw the communication from Mr. Townsend to Tarbox, correct?

A Yes.

Q Is that the communication that you're talking about?

A That appears to be the communication we're talking about.

Q So that's then Exhibit E. Okay. If you would

take a minute and look at that, do you have any knowledge, first of all, the date appears to be February 2nd, 1999?

A I would agree with that.

Q At least that's what's on the face of the document. Amazingly enough almost exactly 12 years ago.

Do you have any knowledge as to how far along in the development process Tarbox was when he received this fax?

A We're dealing with memory only ten years out. At that point it appeared to me as a maintenance entity that there had not been much progress in the repair.

Q Do you have any documentation to support that appearance?

A It's possible, but I'm not positive because there were early additions of paperwork relative to this that reflected changing the spar caps.

Q Okay. Were you in communication with Tarbox prior to the date about this issue with these airplanes?

A Yes.

Q Prior to date of this fax?

A Yes.

Q Did he share with you his concepts for fixing the problem of the airplane?

A No.

Q How did you come to receive this fax? I know we have it here today, but you've seen it before today, correct?

A Yes, sir. If you notice, my name is on the cover sheet. I believe it might be evident that Elton Townsend sent it to me.

Q Why did he send it to you and not to Tarbox?

A To my knowledge, it had been previously communicated with Tarbox. If you'll note the date on the cover sheet and the actual date, if it's accurate of the fax date header, are a little bit different. And I believe Elton had previously communicated this with Mr. Tarbox.

Q Actually they're quite a bit different, aren't they? On the top of sheet it has what appears to be May 7th, 2001?

A That's what it has.

Q And that's more than two years after the date that's written into the box there on the actual fax itself?

A That's right.

Q Okay. Do you recognize that number there, (705)687-8983?

A I know the 705 code appears to be the code I would associate with Lake Central.

Q In Canada?
A In Canada. If we look at his letterhead, it bears a strikingly similarity to one of the numbers.
Q Sure. Okay. Now, if you look back at the body, look at the second page of the fax, there's a diagram and handwritten words on there. Well, let's look at the entire fax. This fax consists of four sheets, one of which is a cover sheet, correct?
A I agree.
Q Does this look like a complete copy of the fax to you? In other words, is it missing anything?
A It to my knowledge, it's not missing anything.
Q This is a document upon which you rely for your assertion that Elton Townsend was a co-inventor?
A Yes.
Q Is there any other document other than this document upon which you rely for your assertion that Elton Townsend is a co-inventor of the patent?
A No.
Q Is there any other person you know of, say other than Mr. Townsend himself, who would testify that he was a co-inventor?
A I don't know of anyone.
Q Looking at the second page of the fax, does the filler plate show up anywhere in here?

A No.
Q What about on the second page?
A No.
Q What about on the third page?
A No.
Q What about on the fourth page?
A I don't see any mention of a filler plate.
Q Is there any mention of the coating for the doubler plate?
A No.
Q It doesn't address coating of the doubter plate?
A To my knowledge, no.
Q Does it address anywhere in this fax is it described or addressed the upper inboard end angle of the strap?
A No.
Q Is there any mention of 4340 steel being used?
A No.
Q Is there any mention in this fax of Mr. Townsend's of heat treating the doubler-straps to 180,000 PSI?
A I don't think so.
Q Is there -- We've already said the filler-straps aren't mentioned. There's no mention of a

five-degree angle on the doubler-strap in this fax?

A No.

Q No mention of a six-degree angle on the lower doubler-strap?

A No.

Q No mention of the doubler-strap being protected by a powder coating that is heat cured to perform a ceramic coating?

A No.

Q No mention of an alodine conversion coating on any of the parts here in this fax?

A No.

Q No mention of an epoxy primer, correct?

A Correct.

Q Again, I'm a layperson, but looking at the drawing on the second page, if we kind of run down the spar, there's a series of looks like five original boltholes, correct?

A There appears to be five original.

Q Then continuing on down the spar he says, three additional holes, correct? And he has little arrows there. Do you see where I'm talking about?

A Correct.

Q Then there's a note at the bottom of the page, it says, "Add minimum of three additional bolts in

doubler extension." Do you think that's the three holes he's talking about in that note?

A It appears that that is the case.

Q The actual kit itself actually didn't use bolts, correct, the kit available from Aerofab and Canadian company; is that correct?

A No.

Q It used rivets?

A It used rivets or bolts.

Q Did rivets come with the kit or bolts come with the kit?

A Normally rivets came with the kit.

Q You could replace the rivets with bolts, though?

A Yes.

Q Do you claim that there was any other inventor other than Mr. Townsend who is not named on the face of the patent?

A Do I claim?

Q Yes.

A Yes.

Q And who would that be please?

A Federal Aviation Administration.

Q What is your basis for making that assertion?

A In communication with FAA employees it

appeared that there was a dialogue between the inventors and the FAA with the FAA saying we would desire this as part of the fix. And some of those items were indeed incorporated.

Q What were those items specifically?

A The one that I'm familiar with was a request for the, I believe, it was for the alloy, the material.

Q This would be the aluminum alloy?

A No.

Q Steel?

A Steel.

Q Which alloy was requested by the --

A It is my opinion that they requested 4340.

Q Do you have a document to that effect?

A No.

Q Do you know of the existence of any document to that effect?

A Perhaps.

Q Who would be in possession of that document if it existed? When you say "perhaps," you must have something in mind.

A I think the FAA has possession of that document.

Q But you haven't seen it yourself?

A No.

Q Have you seen such a document in anybody else's possession?
A No.
Q Then are you just relying on intuition?
A I'm relying on conversation with FAA employees.
Q Who did you have the information with?
A Richard Knoll (phonetic).
Q Who is he?
A He's an FAA employee.
Q What is his job function at the FAA?
A I may not describe it accurately, but Mr. Knoll was the contact person for Aerofab regarding the resolution of this AD situation.
Q When did you have this conversation with Mr. Knoll?
A I'm going to say multiple dates during the development of the FAA, and I spoke with Mr. Knoll a few weeks ago.
Q You spoke to him about this subject?
A Yes.
Q Did he tell you that he has documents in his file to the effect of what you're describing here?
A No, he did not tell me that.
Q Did you ask him to look?

A Yes.
Q Did he tell you he would look?
A He told me he couldn't look. He retired from the FAA.
Q So was he going on memory then?
A Yes.
Q Did he recommend that you contact anybody else at the FAA?
A He said the FAA could be contacted, and that information may be available.
Q Did he give you a contact name at the FAA?
A No.
Q Did he tell you that --
A I take that back. I think he said that the records for the airplane were at the Atlantic ACO. He did mention that.
Q Have you attempted to contact the Atlanta -- did you say ACO?
A ACO, yes.
Q To get those?
A No, I have not attempted to contact the ACO.
Q Other than the suggestion -- and this is your assertion, we're certainly not agreeing to it -- that the 4340 alloy suggestion was made by Mr. Knoll at the FAA, do you assert that he provided any other input as

to inventorship of the '260 patent?

A I'm going to say that is very possible. I cannot assert anything with a hundred percent. Because one, we're dealing with memory. But there appeared to be significant dialogue. And Mr. Knoll in recent conversation indicated that there was dialogue between, specifically, Mr. Knoll mentioned Jack Tarbox.

Q Have you spoken with Mr. Tarbox --

A Yes.

Q -- about this 4340 issue?

A No.

Q You said yes, so you have spoken with him in the past?

A You paused. You said, "Have you spoken to Mr. Tarbox?" I answered that question.

Q When was the last time you spoke with Mr. Tarbox?

A Probably over a year, might have been two years. I'm not sure. I haven't spoken with him much recently.

Q What was the nature of your discussion with Mr. Tarbox last time you spoke with him?

A I could document this, I think, but I had a repair that had been done on a Lake Amphibian. I asked his opinion as an engineer relative to the validity of

that repair.

Q Have you spoken with Mr. Tarbox about any of the issues in this lawsuit?

A If we include the development of the AD, and so forth, and if they're included in the lawsuit, then yes; but since this lawsuit has been issued, no.

Q Have you spoken to him at any time about inventorship, specifically, have you spoken to him about your claim that there is an unnamed inventor?

A No.

Q Have you spoken with him about your claim that -- Well, let me back up and ask it a different way. Have you spoken with him at any time about whether the claims of the patent cover the Canadian kit?

A No.

Q Other than the FAA and Mr. Townsend, is there anybody else you claim who was a named inventor?

A No.

Q Those are the only two?

A Yes.

Q Now, we referred to the Canadian kit as the knock-off kit in the complaint. And we made an allegation, this is number 25, that the knock-off kit infringes one or more claims of the '260 patent.

And my question for you is: When this was

denied, it was denied in your answer, were you really thinking of the invalidity issue or the infringement issue in denying this allegation?

A As a layman, I'm going to say I think it was based on the invalidity of the patent.

Q Would you agree that the Canadian kit -- this is separate from the invalidity issue, I understand that you have an argument as to invalidity, and that certainly is a subject among the Lake aircraft owners and one of the stated defenses here, I understand that -- but separate from -- we disagree with that obviously -- but separate from that, would you agree that the Canadian kit falls within the scope of at least one of the claims of the '260 patent?

A I want to answer that with a qualification. No. The claims of the '260 patent are only valid if that patent is valid. So it can only fall within the scope of those claims if it's a valid patent. If it's not a valid patent, then it doesn't fall in the scope of any --

Q That's why I tried to qualify the question by putting the invalidity to the side. That will be decided separately.

A As a layman I have difficulty separating those issues.

Q I understand that. But just assume that the patent is valid, that doesn't give up anything.

MR. YOUNG: I'm going to object for improper foundation because I don't think we've gone through the claims.

MR. THOMAS: Well, we can do that.

MR. YOUNG: Maybe that would be productive.

BY MR. THOMAS:

Q Let's turn to the patent, which is in front of you there, and turn back to the claims section, which is column seven, this last page of it. And I want to start with the list of elements of the kit itself. Turning to claim one.

MR. YOUNG: I'm going to object because we're skipping over the preamble.

MR. THOMAS: It's my question. I get to ask the question any way I want. We all know the preamble is not to be read into the claims.

MR. YOUNG: Not in all cases.

BY MR. THOMAS:

Q Let's look at the elements comprising the kit. The first one is an upper doubler-strap and an upper filler-strap. Does the Canadian kit have those two elements?

A Yes.

Q A lower doubler-strap and a lower filler-strap is the next one. Does the Canadian kit have those two elements?

A Yes.

Q A plurality of wing-spar attachment-bolts, just means more than one attachment bolt. Does the Canadian kit have that element?

A Yes.

Q The next one is kind of long. We may have to read it once or twice. "Wherein said -- wherein each said upper filler-strap and each said upper doubler-strap have a third series of wing-attach boltholes that correspond precisely with a first series of wing-attach boltholes in an upper edge of a wing spar web, and said lower filler-strap and said lower doubler-strap have a fourth series of wing-attach boltholes that corresponds precisely with a second series of wing-attach boltholes in a lower edge of said wing spar."

Does the Canadian kit have that element?

A Yes.

Q Next one down, "Wherein said upper and said lower doubler-straps have a doubler-protective-coating and said upper and said lower filler-straps have a filler-protective-coating."

Does the Canadian kit have that element?

A Yes.

Q "Wherein said upper doubler-strap has an upper inboard-end angle and said lower doubler-strap has a lower inboard end angle."

Does the Canadian kit have that element?

A Yes.

Q Okay. Let's continue on. Claim two is, "The kit of claim one -- and it adds an additional limitation -- wherein said upper and said lower doubler-straps are made of 4340 steel."

Is the Canadian -- Are the Canadian doubler-straps made of 4340 steel, to your knowledge?

A I think they are.

Q Claim three, "Wherein said upper and said lower doubler-straps are heat treated the kit -- let me back up. "The kit of claim two, wherein said upper and said lower doubler-straps are heat treated to a 180,000 PSI."

To your knowledge, is the Canadian kit heat treated in such a manner?

A I will acknowledge that the Canadian kit is heat treated. I cannot verify the level to which it is.

Q Who would know the answer?

A The people who made the kit. Perhaps the FAA

as well.

Q Claim four, "The kit of claim one, wherein said upper and said lower filler-straps are made of 2024-T3 aluminum?

A I can't verify the alloy of the Canadian filler. It could have been a different alloy.

Q I understand. Claim five, "The kit of claim one, wherein said upper inboard-end angle on said upper doubler-strap is approximately five degrees."

The Canadian kit has that element?

A Yes.

Q Claim six, "The kit of claim one, wherein said lower inboard end angle on said lower doubler-strap is approximately six degrees?

A Canadian kit appears to have an approximate six-degree angle.

Q Thank you. Claim seven, "The kit of claim one, wherein said double-protective-coating that is heat cured to form a ceramic coating."

Does the Canadian kit have that coating?

A No.

Q Claim eight, "The kit of claim one, wherein said filler-protective-coating includes a first coating that is an alodine conversion coating and second coating that is an epoxy primer."

Are the fillers on the Canadian kit coated that way?

A I know they're coated, but I don't know the exact nature of your coating.

Q Claim nine, "The kit of claim one, wherein said each bolthole of said third and fourth series of said wing-attach boltholes in said upper doubler-strap, said lower doubler, said upper filler-strap, and said lower filler-strap is free of said doubler-protective-coating and of said filler-protective-coating."

A I'm not sure regarding the Canadian kit.

Q So you're not sure if the boltholes are free of coating on the Canadian kit?

A That is correct.

Q Claim ten is a long dependent claim. Rather than read it out loud, I'd like to just ask you to read it, and take a minute to understand it.

A It's not doing it today. I just can't wrap around the first series, second series, and so forth.

Q I understand. That's a long and complicated claim. Is it fair to say, as we sit here in this deposition today, when you read claim ten, that you don't understand it?

A Today I don't understand claim ten.

Q Then let's move to claim 11. It's a little easier to chew on. "The kit of claim eight, wherein said wing spar web has a first series of rivet holes on said upper edge and a second series of rivet holes on said lower edge, and said upper doubler-strap and said upper filler-strap each have a series of rivet holes that corresponds to said first series of rivet holes, and said lower doubler-strap and said lower filler-strap each have a series of rivet holes that corresponds to said second series of rivet holes."

I think this just describes the rivet holes there, is that --

A Yes.

Q Does the Canadian kit have the rivet holes?

A Yes.

Q Claim 12, "The kit of claim nine, wherein said upper doubler-strap and said upper filler-strap each have a series of five rivet holes, and said lower doubler-strap and said filler-strap each have a series of seven rivet holes."

Does the Canadian kit have five rivet holes on the upper and seven on the lower?

A They are added to the strap at installation.

Q But as installed they do have those rivet holes?

A As installed, yes.
Q Claim 13, "The kit of claim one, further comprising a plurality of wing-attach bolts, a plurality of cap angle bolts, a corresponding plurality of nuts and washers for said wing attach-bolts and said cap angle bolts, and a plurality of rivets."
Does the Canadian kit have the bolts and the rivets?
A Most of the time.
Q As installed does it have it?
A As installed most of the time.
Q When you say "most of the time," just please tell me why you quantify it?
A Occasionally you can use bolts in lieu of rivets.
Q Is it shoulder bolts that you use in that case? Do you know what I'm talking about when I say a shoulder bolt?
A No.
Q We'll move on. Item 14 or Claim 14, "The kit of Claim 13, wherein said plurality of wing attach bolts includes ten NAS 464-6A24 bolts, said plurality of cap-angle bolts includes two NAS 464-7A24 bolts, said plurality of nuts and washers includes two AN 364-720 nuts, ten AN 364-624 nuts, four AN 960-716 washers, and

twenty AN 960-616 washers, and said plurality of rivets includes twelve AN 470-AD6-22 rivets."

Is this the hardware that comes with the Canadian kit?

A No.

Q You mentioned earlier that the bolts are of a different length in the Canadian kit?

A Different length, different part number, different nut. And again we may not have rivets.

Q I understand. Okay. Does the kit that's installed on your aircraft have rivets?

A Yes.

Q If you're going to use bolts instead of rivets with the Canadian kit installation, do you have to make a notation in the logbook that bolts were used instead of rivets?

A No.

Q Is it possible to tell from looking at the logbook whether bolts or rivets were used?

A Not necessarily.

Q Assertion 31 or allegation 31 in our complaint stated this: "The US PTO determined that each and every claim of the '260 patent remains valid and forcible and unchanged as a result of the reexamination proceeding."

This was denied, but the record is clear that

this is in fact the case. Why was this assertion denied?

A I didn't get the same opinion out of the -- of what I read in the documentation. And I'm not a lawyer, but I can generate an opinion reading material.

Q Assertion 33, "Defendant Shannon's use of an aircraft is a direct violation -- I'm going to skip that.

Assertion 34, "Despite being fully aware of the '260 patent, Defendant Shannon has contributed to and continues to contribute to infringement of the '260 patent by others, and has induced and continues to induce others to infringe the '260 patent by encouraging other Lake Aircraft owners to install knock-off kits on Lake Aircraft."

First of all, you would admit, I think you've already admitted, that you're fully aware of the '260 patent?

A I am aware of the '260 patent.

Q And have been since roughly from the time it issued, correct?

A Yes.

Q And you have installed the Canadian kit on the airplanes of others?

A That is true.

Q And you've informed others that the Canadian kit cost roughly half of the Aerofab kit?
A They would notice that when I gave him a bill; but yes, I've given them that information.
Q Thereby lowering their cost of compliance with the AD?
A That is correct.
Q Assertion 35, "Defendant Shannon is acting without authorization or license from plaintiff Enpat or any prior owner of the patent."
A Say that again.
Q "Defendant Shannon is acting without authorization or license from plaintiff Enpat or any prior owner of the patent."
That was denied. So there's really two pieces to this one. One is, do you assert that you have a license from Enpat to use and install these Canadian kits?
A At the time the Canadian kits were installed there was no patent.
Q But you have an airworthy Lake Aircraft today that has the Canadian kit installed, correct?
A Yes.
Q Do you have authorization from Enpat to use that kit today?

A No.
Q Do you have authorization from some prior owner of the patent to use that kit?
A No.
Q Well, then why was this denied?
A It boils back again to my opinion of the patent. There's no infringement because it's not a valid patent.
Q Really what you're saying in the denial here is not that you have authorization to use the kit, what you're saying is you don't think the patent is valid, correct?
A That is true.
Q Assertion 37, "Defendant Shannon is willfully infringing the '260 patent."
That was denied. But --
A Yes.
Q -- we just went through the claims of the patent. There doesn't seem to be a disagreement that the elements of the kit as described in the claims, at least one of the claims, and we went through all 14 of them, covers the Canadian kit, that you're flying a Canadian kit, that you don't have license from Enpat to fly the Canadian kit, you don't have license from anyone else to fly the kit, yet you claim you're not willfully

infringing the patent?

MR. YOUNG: Objection. I think that mischaracterizes the testimony. I don't think you've gone through the entirety of the claims. I think you skipped over the preamble for obvious reasons.

MR. THOMAS: We skipped over the preamble because it doesn't read into the claims.

MR. YOUNG: I disagree.

A I disagree.

BY MR. THOMAS:

Q With all respect, you're not a patent attorney.

A I've listened to one.

Q And I'm not an AI either.

A That's true.

Q Let's go back. Your denial of infringement here in Assertion 37 is based on your assertion that the patent is invalid, correct?

A Yes.

Q Let's just get down to it.

A In the preamble there's another reason --

Q Okay.

A -- that my aircraft is not mentioned in the preamble.

Q I understand that's your position, and the position of your attorney. Okay?
A That's correct.
Q The preamble does not describe the invention. It is the invention that is the subject of the patent.
MR. YOUNG: Is there a question?
BY MR. THOMAS:
Q I'm responding. So based on that, and there is a question in a second, we read the description of the invention, and we went through each element. Let's take claim one because there's 14 claims, so we don't want to get confused. We read all through claim one, and what you told me was that each element of the claim, and I will say for purposes to avoid the objection accepting what is located in the preamble, we didn't discuss that, but the description of the invention follows the word comprising, that the Canadian kit does in fact have each one of these elements in claim one?
A No.
Q Yes, we did.
A Claim one, we did, yes.
Q I realize there was some question about coating and that sort in some of the other claims, but we're just talking about claim one.
MR. YOUNG: I want to make clear that I object

to a characterization that part of claim one after comprising defines the invention without the preamble.

MR. THOMAS: That's fine. That's an okay objection, but this is a deposition, and this is not -- we're not arguing Markman here.

MR. YOUNG: I understand.

BY MR. THOMAS:

Q So taking what we just said, that each one of these elements that describes the actual invention itself, and not the airplane, okay, covers the Canadian patent?

A Canadian --

Q I'm sorry, the Canadian kit. And you've said that you don't have a license from Enpat to use the kit today, and you don't have a license from some prior patent owner. Then how can you say that you're not infringing the patent?

A There's no patent. There's no valid patent.

Q That's really your only argument, isn't it?

A It is -- it's not my only argument -- but it is a valid argument.

Q Let's put it this way, and this is a perfectly fine question, so to head off the objection, suppose the court disagrees with you and the preamble is not read

into the claims, then are you infringing the patent by your use of the Canadian kit?

A Only if it's a valid patent.

Q If it is otherwise held up as valid?

A At that point in time then it may be determined valid.

Q But the question was: At that point in time would you agree with me that you are infringing the patent?

A No.

Q Why not?

A If the court held it up, I may be legally obligated to the claim to the patent, but my opinion will be it's an invalid patent.

Q You can always have any opinion you like.

A That is correct.

Q It may not be determinative of any outcome. There was also a denial of 38 under the code USC Section 282 that '260 patent enjoys a presumption of validity. Is there some argument with that? That's right in statute.

MR. YOUNG: You're looking at me.

BY MR. THOMAS:

Q Why would you deny that the patent enjoys a presumption of validity?

A It was patented, but in my opinion the patent office looks, shall we say in the patent office, it doesn't look elsewhere for what is obvious.

Q Again, you just think the patent is invalid, that's just what you think?

A I believe I stated that earlier.

Q Assertion 43, "Upon information believed Defendant Shannon has had knowledge of the existence of a '260 patent since an issue from the US PTO on December 11th, 2001."

Your testimony was that you had knowledge of the existence of the patent from about that time; isn't that correct?

A Yes.

(This concludes Volume I of proceeding. Refer to Volume II.)

UNITED STATES DISTRICT COURT

MIDDLE DISTRICT OF FLORIDA

ENPAT, INC., a Florida Corporation, Plaintiff,	
v.	Case No.: 6:11-cv-00084-PCF-KRS
HARRY SHANNON, Defendant.	

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DEPOSITION OF HARRY SHANNON
Taken on Behalf of the Plaintiff

DATE TAKEN: February 4, 2011
TIME: 9:30 AM - 5:50 PM
PLACE: 202 N. Harbor City Boulevard, Suite 300
Melbourne, Florida 32935

Examination of the witness taken before
Vicki Humphries, Court Reporter
and Notary Public, State of Florida at Large

King Reporting Service, Inc.
14 Suntree Place, Suite 101
Melbourne, Florida 32940

APPEARANCES

FOR PLAINTIFF

STEPHEN C. THOMAS, ESQUIRE
KELLY G. SWARTZ, ESQUIRE
Hayworth, Chaney & Thomas, P.A.
202 N. Harbor City Boulevard, Suite 300
Melbourne, Florida 32935

FOR DEFENDANT

MARK J. YOUNG
MARK YOUNG, P.A.
12086 Ft. Caroline Road, Suite 202
Jacksonville, Florida 32225

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OF HARRY SHANNON

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BY MR. THOMAS:

Q We're going to move on to the defenses that were stated in your answer. Your first defense was the defense of non-infringement. I think we're going to beat a dead horse on that one.

Your first defense is that you have not infringed and do not infringe literally or under the doctrine of equivalence any valid or enforceable claim of the patent. Again, it's my understanding that you're really basing defense on your assertion that the patent is invalid?

A Yes.

Q Your second defense, "Defendant has not and is not infringing any claim on the patent, at least due to statements, representations and admissions made to the US Patent and Trademark office during the prosecution or reexamination of the application that matured into the ''260 patent, as well as the prior art that in part or collectively constitutes prosecution history barring plaintiff from asserting claims of the patent encompass or infringe by any product or activities of the defendant."

Exactly what statements, representations and admissions do you claim were made to the patent office

during the prosecution of the patent that constitute prosecution history?

A I need a copy of what you just read to me, please, so I can read it.

Q I don't know that I have a copy. I didn't -- I'll ask the question another way. Is there any statement or claim that was made to the patent office, to your knowledge, that takes the Canadian kit outside the scope of the claims of the patent or that limits the claims of the patent so that the Canadian kit is not covered by the claims?

A We're back to validity of claims made to the patent office. In other words, if not all claims made to the patent office wherein good faith, then --

Q You said, "good faith." What was not, to your knowledge, was not done in good faith during the prosecution of the patent?

A The verification of the angle at different stages in the development of the patent.

Q What do you mean by "verification of the angle?"

A They're stating that at one stage in the development of the doubler there was no angle on the end of it, and then later there was an angle on the end of it.

Q When you say "they," who did you mean by they?
A Aerofab, the inventors.
Q Tarbox?
A And Baker.
Q So you're saying that they didn't initially disclose the angled end?
A It is my opinion that the doubler always had an angle. They claimed that it didn't. We have not seen any kit without an angle.
Q When you say they claim that it didn't have an angle, how did they claim that?
A In the prosecution of the patent. Because information was released in a service bulletin in a time frame that I believe -- and again I'm not an attorney -- but I think it would have rendered applying for the patent or it would have prevented applying for the patent because the knowledge had been in the field.
Q The knowledge of the angled end or non-angled end had been in the field?
A They're claiming that there was a non-angled end on the initial kit. There's no evidence that there was ever a kit with a non-angled end.
Q I want to make sure I understand the significance of what you're saying.
A If information is available to industry for a

given period of time, and no action is taken to patent it, then at some point in time the ability to patent that thought, innovation, whatever, can't be done.

Q How does that apply to the angle versus non-angled? That's where you're losing me.

A The inventors claim that on presentation of information in one of the service bulletins, one of the proposed service bulletins regarding the repair of the wing, that the doubler did not have an end angle. Okay? Where in a later service bulletin issued closer to the time that application for the patent was made the doubler does have an end angle.

Q Do you have copies of those service bulletins that you're talking about?

A Yes.

Q Is it SB-79?

A Yes.

Q You're saying the original SB-79 did not have an angled end on it?

A No. I'm saying the original SB-79 did have an angle on the end of it. The inventors claim that it didn't.

Q You have a copy of that service bulletin?

A Yes.

Q Do you recall what date that issued?

A No, I don't.

Q When you say that the inventors claim that original service bulletin did not have an angled end on it, where do they make that claim? You're saying in the prosecution history of the patent itself, was that what you said?

A I'm not an attorney, but it was either in the prosecution history of the patent or it was restated in the reexamination of the patent.

Q All right. Your third defense -- Well, let me back up and ask: Was there anything else in the prosecution of the patent, to your knowledge, that is relied upon for this assertion that the patent should be invalid?

A Today with the stress of this interview I don't know of another assertion at this moment.

Q Third defense was anticipation and obviousness, and assertion is that the claims of the patent are invalid, unenforceable because they're either anticipated or obvious.

The question I have for you, and I realize you're not a patent attorney, but have you provided to your attorney all of the documents that you have in your possession that you feel support that allegation, that the patent -- the claims of the '260 patent were

anticipated by some prior art?

A I don't understand the question.

Q This defense says that there is some prior art out there that existed before the '260 application was filed. I'm paraphrasing a little bit.

A Okay.

Q That would render the '260 patent application invalid. It was anticipated by some prior art out there. My question for you is: Have you provided to your attorney all of the documents you have in your possession to support that allegation?

A It's more communication than document. In other words, I've -- in conversation with the attorney we established that.

Q Okay. I want to ask you to look at a what's called a Rockwell Service Letter. I want to ask you -- I don't necessarily want to mark this as an exhibit yet -- I just want to ask you to look at this document. It says, Rockwell International on it. For identification purposes just so we can identify it down at the bottom is a bates number HS001558.

Is this the kind of document you're talking about relying upon as prior art that should invalidate the '260 patent?

A This potentially could be an example of such

prior art.

Q Is this a document that you yourself dug up?

A I could have because I researched a number of documents relative to doublers.

Q Just generally speaking, well, do you recognize this Rockwell Service Letter?

A I remember a number of Rockwell documents.

Q If you need a another minute to look at it, that's fine, but my question is: Generally what does this document describe for us?

A It basically describes a wing spar repair.

Q Which includes a doubler?

A Which includes a doubler.

Q Okay. I'm going to ask you to take this particular document, and if you could look through it, and tell me anywhere in here does it describe using a filler-strap either upper or lower?

A It appears that the bill of materials or parts list includes a shim, which may be a filler.

Q Is there a drawing in here that tells you that that's a filler?

A No.

Q Is there anything in here that describes the doubler-straps being made of 4340 steel?

A No.

Q How about, well, let me just continue on, how about heat treating the steel to 180,000 PSI?
A No.
Q Is there anything in here that tells you filler-straps are made of 2024-T23 aluminum? I realize the filler-straps are not referenced in here. Let's just take the shim, which we don't know what that is. Anything in here that identifies the material of the shim?
A Yes.
Q Where is that please?
A Page four of six. And by the way, you gave me two.
Q There were two of them together. I realize that now. Where is that material identified?
A Left-hand column about halfway down, first group, 063 x 2 x 1, 2024-T3.
Q Okay. Anything in here where the upper -- first of all, is there anything in here that says there's an upper and lower doubler?
A No.
Q Is there anything in here that talks about an angled end on the doubler?
A No.
Q Is there any information in here on coating of

any of these of the doubler plates?

A Not that I recall.

Q There's various claims that address coating. I won't go through each one of them for the sake of time.

Is there anything in this Rockwell Service Letter that addresses rivets? Yes, there are. I see that, five.

A Yes.

Q I want to go ahead and attach that as the next exhibit, F. I've removed the second copy.

You said before that through communication with your attorney you had described what you felt represented prior art to the '260 patent. And you said that you had dug up some documents, and it sounded like you weren't quite clear if this particular Rockwell Service Letter that we just attached as an exhibit was one that you came up with or not, but it was representative of the kind of documents you came up with; is that correct?

A It could be, yes.

Q The question I have for you is: When it comes to these documents that you assert are prior art, is there anything you haven't given your attorney?

A I'm going to say no. I've given the

attorney -- some of what I gave the attorney was verbal discussion of what a doubler is, and how it fits, and why it must be angled, and things like that.

Q I understand. But as far as documents go, is there anything you haven't given your attorney?

A There was some other, other than these two, there were some other Rockwell documents. I want to say there was an assessment document. I'm not sure. There was a number we went through. I did a search in a type of library that I put in doubler, you know, it came back with the hits.

Q Those documents you gave to your attorney?

A I gave him some of those documents that appeared to be valid.

Q The documents that you gave him, though, are representative of the kind of documents you were pulling up in research?

A I think so, yes.

Q The next defense was indefiniteness and failure to disclose the best mode, so the question is --

A Failure to disclose --

Q The best mode. It's a requirement of this title 35. When it comes to indefiniteness, is there some assertion that you have that the claims of the patent are indefinite for any reason?

A I'm not wrapping on that one, so.
Q Let me ask the question another way. When you read the claims of the patent, which we went through all of them --
A Okay.
Q -- do you understand clearly what they are claiming?
A Except for Number 10 I understand what the inventors are attempting to claim.
Q I understand the way that you phrased that because you assert invalidity. Subject to that assertion on your part, when you read the claims except for Claim 10, do you clearly understand what the inventor is trying to claim?
A Yes.
Q The first defense is the defense of inequitable conduct. And this assertion is that the applicant or the inventors or their representatives made statements to the PTO that were known to be false.
Do you know of any such false statements made to the PTO?
A As stated earlier, the absence or presence of angles at a given point in time appear to have been misrepresented.
Q Other than that, was there -- is there any

false assertion or statement made to the PTO?

A Inventorship.

Q Other than that, is there anything else?

A That's all I can think of now.

Q The second half of the assertion here the defense has to do with withholding material from the PTO. Other than the two things you just mentioned are you aware of any material that was withheld from the PTO by the inventors or their attorneys?

A Yes.

Q What material was withheld?

A One material was the coating on the part.

Q When you say the coating was withheld --

A The coating that was used on the part claimed in the invention was used on other Lake parts years prior to the application.

Q Okay. I think the patent wasn't claiming to invent the coating. It was the coating on that particular part.

A It was claiming a protective coating, and that same coating was used as a protective coating on an aircraft part.

Q Before the '260 application was filed?

A Long before the '260 was filed.

Q That's the basis of your assertion that that

was withholding --

A That would be an example of withholding information from the patent office.

Q Other than that and what you just mentioned here, is there anything else?

A We mentioned angles. We mentioned coating. Give me a second, let me reread the claims here. Fusing a material is a common function of a doubler. I think the inventors claimed that 4340 was not used anywhere else in the airplane, and it is. Heat treatment to a given level, a given task, is a textbook function of creating a doubler. Use of 2024-T3 is common in aircraft structures.

Q Other than use of materials and coatings, which are listed there, the powder coating, and all of that, and then the materials you just mentioned, other than that sort of thing, do you assert there was information withheld from the patent office by the inventors or their agents.

A Not at this time. I don't know of any.

Q We've already touched on the issue of inventorship, which is the next defense, the sixth defense that was raised by your attorney. And you mentioned that Elton Townsend, you felt, was an inventor, and you stated the reasons for that, and the

FAA individual Knoll was an inventor, you stated the reason for that. Other than two individuals, do you assert that there was any other inventor?

A There was another individual who reviewed the information, and I'm trying to think of his name, with the FAA, who has the potential of being a named inventor.

Q Was he an employee of Lake?

A No, he was with FAA.

Q He worked with Knoll back in the day, did he?

A Yes.

Q He was just a reviewer of information?

A The adequacy of the repair has to be evaluated, and I believe Dick called in a specialist in structures, dynamics, fatigue, whatever, to do that evaluation.

Q Anybody else?

A Not that I know of.

Q Do you have any reason to think that either Tarbox or Baker did not contribute to the invention of the '260 patent?

A In any way?

Q In any way?

A No, I don't have any reason to believe that they didn't contribute.

Q In other words, you're not disputing their inventorship themselves?

A I'm not sure where the in-house engineering came from. Mr. Tarbox was a structures, but the regulation that this aircraft was certified under did not include at the time of its certification fatigue analysis. Fatigue analysis, in my opinion, was an issue in evaluating the validity of the fix for the aircraft using the doublers.

Q What you're saying is you're not sure who did the in-house engineering for that; is that correct?

A Right. I'm not sure if Mr. Tarbox's certification was valid to include fatigue evaluation at that time. And to my knowledge, Mr. Baker is not a DER or designated engineering rep on any level as certified by the FAA.

Q Okay. Other than that engineering analysis in-house there at Aerofab, is there anybody else that you claim may be an inventor of the patent?

A Not that I recall right now.

Q The seventh defense raised is that Enpat's claim should be barred by the doctrine of unclean hands. Is there some act or omission that Enpat has done here that should bar them from enforcing this patent? This is separate from the validity issue.

A If it's a valid patent, I believe they can enforce it.

Q To your knowledge, they haven't done something wrong here that should prevent them from enforcing the patent?

A From conception through the chain to purchase didn't meet with my business ethics.

Q You're talking about an Aerofab's part? Who in your opinion did not meet the standard of ethics?

A Aerofab REVO and Enpat's response to REVO.

Q Enpat has -- Would you agree that from the time that Enpat got involved with this claim, that they have been straightforward in their intention to assert the patent?

A They appear to have been straightforward, yes.

Q Have they committed a fraud or been somehow unethical in their communication with the Lake aircraft owners?

A I don't think it's a fraud. But the general feeling of Lake aircraft owners is that it borders on extortion.

Q But Enpat, to your knowledge, hasn't committed an act of dishonesty here, they're just simply asserting trying to enforce a patent that they own?

A May not constitute dishonesty.

Q The eighth defense was the defense of estoppel, and this goes to a claim that -- apparently an assertion -- we just talked about the plaintiff, so we'll talk about the inventors of the patent, that they somehow did something inequitable that should bar them from this patent being enforced. They're not parties to this lawsuit, the applicants aren't. But did the applicants, Baker and Tarbox, do something in the application of the patent, the prosecution of the patent, other than what we already talked about, that should bar anybody from enforcing the patent?

A To my knowledge, yes, as we discussed certain issues.

Q What we already talked about, but was there something else done untoward in the prosecution of the patent that we haven't already discussed here today?

A To my knowledge, no.

Q The ninth defense is the defense of laches. And this goes, the way it reads is, "Plaintiff unreasonably and inexcusably delayed in filing suit for infringement, and that defendant has been materially prejudiced by the delay."

So how have you been prejudiced by the delay here in filing the lawsuit?

A The initial suit back in 2000 whatever, 2002 I

believe, asked for, I believe, was infringement. Okay? This suit asks for substantially more than just infringement, but I feel that I haven't been using the system in any way. I've used the same legal system that Enpat has available to it, but they've chosen a very different path on the second suit.

Q How is the path different that they've chosen on the second suit?

A Say again?

Q How is the path different on the second suit?

A What was I being charged with in the first suit?

Q You tell me.

A I believe it was infringement.

Q Same as here.

A Not limited to infringement, willful infringement, other people contributing to infringe, and numerous items far exceeding the damages asked in the first suit.

Q How has the delay -- The defense is that the delay in filing the second suit has somehow prejudiced. How has the delay prejudiced you is my question?

A If they had dealt in a more timely fashion, maybe I wouldn't have been asked these additional charges.

Q Would you agree with me that if your counsel asked for the delay, that this defense would be meaningless? This defense says because of the delay somehow you've been prejudiced. Would you agree with me that if it was your attorney that asked for delay, then Enpat hasn't done anything here to prejudice you?

A If the attorney did it.

Q I mentioned before he had moved for a stay, and you said you weren't sure of that. Furthermore, it looks like the Lake Aircraft community banned together, and sought another channel of attack by filing the re-exam request with the PTO?

A Yes.

Q Would you agree with me that that caused some delay?

A The delay that it created was far beyond all expectations.

Q Maybe, but would you agree with me that the filing of the re-exam caused a significant delay in the conclusion of this patent infringement issue?

A Not necessarily.

Q The re-exam was filed in 2002, correct?

A Say again?

Q The re-exam was filed in 2002?

A Yes.

Q And concluded in 2010, correct?
A Yes.
Q That's eight years?
A Yes.
Q Enpat didn't file the re-exam, correct?
A No.
Q The Lake Aircraft owners filed for re-exam?
A No, I filed for re-exam.
Q The Lake Aircraft owners contributed to it, correct?
A Yes.
Q Financially?
A Financially.
Q The tenth defense is the defense of waiver. It's a broad statement that, that somehow either Enpat or the previous owners of the patent did something to waive their claims. Can you tell me what they possibly did that waived their claims?
A Providing false or improper information to the patent office --
Q Which we've already talked about at the deposition here today, the issues you've already brought up, correct?
A Yeah.
Q Is there anything other than that that you

would assert they did to waive their --

A Right here right now, no.

Q I don't want to rush through it. I want to make sure the answers are complete. So when you said that, do you need a minute to think about it? And I'm not being --

A No. Well --

Q -- I'm offering.

A -- how many depositions do you do a year?

Q I'm not being deposed, but some number.

A Okay. As the day wears on --

Q I understand.

A -- it is stressful upon a person not accustomed to --

Q I understand that, which is why I was offering more time to answer the question if you need it.

A It won't contribute to a better answer.

Q I'm going to -- Well, with regard to the eleventh defense, we'll move on to the twelfth defense for the sake of time. It's cost . . .

Okay. The fifteenth defense was the defense of license. And what has been raised, and I'll just read it, Defendant has been granted a license to make, use, sell, offer to sell, import into the United States kits under the '260 patent. I'm paraphrasing for

clarity's sake.

A Say that again.

Q "Defendant has been granted a license to make, use, sell, offer to sell or import into the United States kits as recited in the claims of the '260 patent." We're not really talking about importing at this point although that may be an issue in the lawsuit.

But just for purposes of this initial question, do you assert that you've been granted a license to sell or use the patent? I think before I asked that question you said, no you don't have a license?

A Relative to the import and the sell when those kits were sold, there was no patent, so it's not a --

Q I understand. But you've never received a license from Enpat to do any of these things, have you?

A No.

Q And you didn't receive a license from any of the previous patent owners, correct?

A Well, the -- I'm going to say I received an inferred license. I'd pick up the phone, "I'd like to buy a kit." They sold it to me.

Q When you say they --

A If it had required a license at that point, would they have requested it?

Q -- you mean Aerofab?
A JCM.
Q Okay. But Enpat never granted you a license at any time to do any of these things with the patent, correct?
A I believe, yes.
Q And previous patent owners did not grant you a license to do any of these things with the exception that they did sell you kits so you had the license that may have come with a particular kit, correct?
A I don't think a license document came with any kit.
Q Okay. I understand. The Canadian, the JCM, to your knowledge, were they ever at any time an owner of the '260 patent?
A No.
Q You really do know this, correct, they were never an owner of the patent, we all know that?
A No.
Q Yet you know that the JCM kit is covered by the '260 patent, although you may dispute its validity, correct?
A Correct.
MR. YOUNG: I'm going to object based on the preamble of the claims.

MR. THOMAS: Objection noted.

BY MR. THOMAS:

Q And you are flying a Canadian kit today in your airplane, correct?

A There is a Canadian kit in my airplane.

Q And you have installed Canadian kits on other people's airplanes?

A Yes.

Q Okay. At no time did you ever receive a license from any patent, any owner of the '260 patent, to install Canadian kits or to use Canadian kits, correct?

A No.

Q That was a bad question, and probably confusing when we read it later.

A That's correct.

Q Did you ever receive a license from any owner of the '260 patent to install or use the Canadian kit?

A No.

Q There are counterclaims that have been raised by you in your answer. The first counterclaim you're seeking a judgment of non infringement. Other than the things we've already talked about today in your deposition, is there any other reason you assert that your use of the Canadian kit does not infringe the

patent?

A No other reasons.

Q The second counterclaim is seeking a judgment of invalidity. Other than the things that we've talked about in here today, which we've explored fairly deeply, do you have any other reason to assert that the patent is invalid other than what you've already said here today?

A At this moment, no.

Q The third counterclaim seeks a judgment of unenforceability and specifically mentions the applicants, the inventories breaching their duty with the patent office, and breaching their duty of candor, and good faith and honesty.

Other than what we've already talked about here today, is there any other reason for you to claim that they were somehow dishonest or breached their good faith duty with the patent office?

A At this time, no.

Q I want to give you a document to look at here that we may or may not mark as an exhibit. I'd like you to take a look at that please, along with your attorney, and when you've had enough time to feel comfortable that you understand what is there, answer for me please -- Identify this document if you can.

Do you recognize this document?
A No.
Q Do you recognize the name Puddle Jumper?
A Not Puddle Jumper.
Q There's a designation after Puddle Jumper, it's 6686L. What is that, do you know?
A It appears to be a registration number for an aircraft.
Q Any idea which aircraft that would be?
A The number does not --
Q Doesn't tell you what kind of airplane it is?
A No.
Q That's the from line. On the to line there's an M. Rodstein. Would this be the same Rodstein that was mentioned earlier --
A Yes.
Q -- in the deposition today? Mark Rodstein?
A Probably, yes.
Q And you mentioned he is the president of the Lake Amphibian Flyers Club?
A Correct.
Q Would this appear to you to be a bulletin board printout from the bulletin board you mentioned earlier?
A It could be.

Q Let's see, the third line down there's a mention of Armand. "I have not talked to Armand about this," it says.

MR. YOUNG: I'm going to object on relevance.

MR. THOMAS: It's very relevant. It's communication regarding the lawsuit.

MR. YOUNG: Not by him and not --

A Not by me.

MR. THOMAS: You can make a relevance objection at trial, if you want, but this is discovery.

MR. YOUNG: I just wanted to go on record.

You can answer.

BY MR. THOMAS:

Q Do you think that might be Armand Rivard?

A Yes.

Q There's a statement here that says, "I can tell you this, based on the little I know of these patent issues, if I were representing the patent-collector, I sure as hell wouldn't want Armand on the witness stand on my client's behalf."

Do you have any idea what that sentence means?

A No.

Q And I'm going to ask you again, do you have any idea who the identity of Puddle Jumper is?

A If you read the document, there's also another name, Pete.
Q Down at the signature line?
A Yeah. What is that?
Q "Sponsoonerater Pete"?
A I may, without certainty, have an idea of the identification of this individual.
Q Who would that be please?
A A gentleman named -- an individual named Pete Hartmann.
Q Hartmann, is Pete Hartmann a Lake owner?
A I think he is.
Q Have you ever communicated directly with Pete Hartmann?
A Yes.
Q When was the last time you communicated with Mr. Hartmann?
A A couple of weeks ago. Pete had had some work scheduled with our shop in conjunction with a Lake fly-in. Pete has since had an engine problem, and had to cancel that work.
Q Does Mr. Hartmann live in Florida?
A No.
Q What state does he reside in?
A I think Arizona.

Q Has he come to you for his Lake work in the past?

A We have done some work on Mr. Hartmann's airplane, but it's not usually in Florida.

Q Did you install either one of the kits on Mr. Hartmann's airplane?

A To my knowledge, no. As to Mr. Hartmann, you know, I can check records as we've previously discussed to see if that end number had a kit installed by our shop, but I don't remember.

Q Well, based on your -- I realize it's a guess that this is Mr. Hartmann authoring this to Mr. Rodstein, who we've already identified, and Armand is addressed in here, and the patent is addressed, and there's obviously a patent suit involved here. Would you be relatively certain that this is a communication regarding the lawsuit?

A It has that possibility.

Q Well, I'll just point out at the bottom there's a note edited November 8th, 2010. Would you agree that falls within the time frame of the lawsuit?

A It could.

Q And Armand's kit is addressed, the first sentence, does that help you identify this as --

A Could be.

Q -- probably associated with the lawsuit?
A Right.
Q Let me ask it this way: Given the factors we just talked about, is it more probable than not that this is a communication relative to the lawsuit?
A We're going to define something. A communication relative to the lawsuit would be a communication, in other words, my lawsuit would have to include me. Okay? And I have not seen, prior to today, this communication.
Q Okay. Very good. You haven't seen this? So let's define relative to the lawsuit then in a different way since you're going to define it as including you, a communication addressing you. Why don't we say a communication relative to the issues of the lawsuit?
A It could. That could, not necessarily is it, but that could be a definition.
Q Let me show you another correspondence. I should characterize it as another document. Do you know who Gary Silver, MD is?
A I'm not positive, but I think Mr. Silver is a Lake owner, and again, location, I want to say out west, but I'm not sure.
Q Does this appear to you to be a bulletin board message from the Lake Amphibian Flyers Club?

A I can't verify that because it is examples of this why I don't go on the bulletin board.

Q I understand. I'd like for you to go ahead and hang on to it because I'm going to ask some questions. Again, M. Rodstein is the recipient, best guess be that would be Marc Rodstein, correct?

A Best guess, that is correct.

Q Now, in the first sentence this talks about registered Lake owners. In the second paragraph it addresses an opinion regarding lawsuits. So again, I'm going to ask the question more probable than not that this is relative to the issues of the lawsuit?

A I don't see that in this document. What I see in this document is the way owners are notified relative to issues with their aircraft.

Q Well, let me ask you this: The first sentence says, "Have you responded to the obviously misguided letter? This almost sounds like they're sending this letter to every registered Lake owner."

Do you have any idea which letter he's referring to here?

A Technically, no. Intuitively it has come to my attention that some Lake owners have received a demand letter in the mail.

Q From Enpat?

A From Enpat.
Q Regarding the patent and the installation of infringing kits on Lake airplanes, correct?
A Something like that. I don't think it consists of those few words, but yes.
Q I understand it's longer than that. Okay.
Obviously we're going to have a few of these. I'm going to hand you another document. Hopefully, we can go a little more quickly through these.
For identification sake, from line is Puddle Jumper, and to line is P. Furnee?
A Yes.
Q Now, Puddle Jumper was also in the from line of the first one of these that we looked at. At the bottom there's a signature line, BS Hartmann. The BS is in quotes?
A Yeah. Yes, it is in quotes.
Q It's in quotes? Do you think that may be Pete Hartmann?
A There's a possibility of that.
Q Here's another one. We're going to eventually attach this as a composite exhibit. I've handed you another document. It looks similar in nature, at least, to the others. From line, CMcFarland2. And it's signed at the bottom, Charlie. Do you know who CMcFarland2 is?

A I know a Charlie McFarland.
Q A Lake aircraft owner?
A I believe he's a Lake aircraft owner.
Q Is he a Florida resident, to your knowledge?
A No.
Q Do you know what state he lives in or the general area of the country?
A Oklahoma.
Q There's a comment made in the second paragraph towards the end of the second paragraph where he says, "It is in all our best interests to support Harry. I will have a check in the mail tomorrow to him."
Did Charlie McFarland contribute to your defense of this lawsuit?
A It's possible. I would have to look at that list.
Q And would you agree that in that portion of the sentence I just read he is encouraging others to support you in your defense?
A Yes.
Q The fourth paragraph down starts off with this, "Let them spend time and money figuring out who has the kit and who doesn't."
Moving on down there's a sentence that starts with the word but, "But to just give them the

information after the first request letter seems to be making it too easy for them. Make them at least earn it."

When he is talking about them, he's talking about Enpat, isn't he?

A He could be.

Q Enpat requested information from the Lake aircraft owners in an effort to determine who had Canadian kits and who didn't, didn't they?

A I believe they did.

Q And it's true to say that there is a concerted effort on the part of the Lake aircraft owners to frustrate the efforts of Enpat to ascertain that information?

A I can't honestly verify that.

Q Would you agree at least that this correspondence would tend to support that notion?

A I would agree that there is definitely some unhappiness with the overall methods used to determine that information.

Q I understand. Let's just be honest about it, the Enpat owners aren't happy about the fact that Enpat is requesting their log -- copies of their logbooks and information relative to what kit they have in the airplane, isn't that correct?

A I can't think for them.
MR. YOUNG: Objection.
A You're asking me --
BY MR. THOMAS:
Q I'm asking you based on what you heard.
MR. YOUNG: Can you read back the question?
(Requested portion read back.)
BY MR. THOMAS:
Q The aircraft owners, the Lake aircraft owners, are not happy because Enpat has requested copies of their logbooks in an effort to figure out which kit they have in their airplanes, isn't that correct?
A Yes.
Q And isn't it correct that there is an effort on the part of a group of Enpat -- of -- I'll state it again, of Lake aircraft owners to frustrate Enpat in their efforts to try to understand which airplanes have which kit?
A Reading these documents it appears that you are correct.
Q These documents do tend to support that theory, correct?
A They do tend to support that theory.
Q I'm going to try to move fairly quickly because time is going to run out on us. This next

document is similar in nature, and it looks like the from line is C-G-M-A-I-N-E. Do you have any idea who that -- the identity of that person is?

A That person could be a Lake owner that I know.

Q What's that Lake owner's name please?

A Cliff Maine.

Q Cliff Maine? What state does Cliff reside in?

A Michigan.

Q Do you know a Rob Biceyskis?

A I can't pronounce it either.

Q Do you know this person?

A Yes.

Q He's identified in the to line of this particular --

A Yes.

Q Is he a Lake aircraft owner?

A Yes.

Q The first line on this says, "public information from the attorney, colon," which attorney is that?

A Cliff Maine.

Q Cliff Maine is an attorney?

A Yes.

Q Has he provided an opinion to you regarding any of the issues in this lawsuit?

A Other than the fact to retain appropriate counsel, no.

Q Has he contributed to your defense in this lawsuit?

A That's possible. I would have to look.

Q Take a minute and read this. Would you agree with me that in this correspondence apparently Attorney Maine is providing a link for the file wrapper for the patent?

A Reading the document it appears that is the case.

Q On its face? And he's also provided, apparently, a separate copy of the Board of Patent Appeals' decision, is that correct, just reading the document on its face?

A I'm not sure what the link is.

Q Okay. The next one, for identification purposes at the top it says, message 2768.62, and in the from line it's Lgs3128P. The signature line says Gary. Previously we had one of these. He identified himself as Gary Silver, MD. Same from line. To Puddle Jumper.

Second paragraph starts off, "I am with Charlie and Paul on discovery. I take a dim view of the seemingly scatter-gun approach Enpat seems to be using."

The fourth paragraph down, "Enpat seems to

have no basis for their approach if people with REVO kits are receiving demand letters."

The second sentence in, "I agree with Charlie and Paul, I have no obligation to incriminate myself."

Would you agree with me that this correspondence also tends to support the theory that the Lake aircraft owners are frustrating Enpat's efforts to obtain copies of the logbooks?

A It may indicate that.

Q The next one is identified at the top as message 2768.63. Again from Rob Biceyskis. I'm probably not pronouncing it correctly. B-I-C-E-V-S-K-I-S. To Puddle Jumper, who is identified as Pete in the salutation.

Third paragraph, "Well if Enpat is the bunch of ambulance chasers that we believe they are, then why not have them work for their dinner."

Further down, "If everyone were to delay their response, then we are helping each other. Why should we help them narrow their targets?"

Same question: In light of what's on the face of this communication, would you agree that this communication tends to support the theory that the Lake aircraft owners are acting in concert to frustrate Enpat's efforts to obtain copies of the logbooks?

A This communication indicates to me that there are owners of Lake aircraft who are attempting to frustrate the efforts of Enpat on some level. And notice I said, "some Lake owners."

Q The next one at the top for identification purposes only, message 2768.66. The from line is from LA4200EP. It's signed signature Michael. Do you know who Michael would be?

A No. The from line is the model of the airplane, so there's a Michael out there with that model. And I don't know.

Q I understand. First sentence states, "Why would anyone respond to a letter from a lawyer anyway? Unless it is a legal subpoena, I would throw the letter in the trash. I do not have to answer any questions from an attorney just because they send me a letter."

Same question: Does this correspondence on the face of it tend to support the theory that some Lake aircraft owners are attempting to frustrate the efforts of Enpat --

A This is certain circumstances.

Q -- to obtain information regarding the kits?

A None of that is mentioned here. It just says a letter from an attorney unless it's a subpoena.

Q You would admit that the LA-4-200-EP is --

A That's a Lake owner.
Q And it's a model subject to the AD?
A That I would admit to.
Q This next one is rather short. For identification purposes it's message 2768.68. The from line looks like it's T-T-U-X-I-L-L, in parentheses "TurboTax" or maybe "TurboTux". Do you recognize Tom Tuxill?
A Tom Tuxill.
Q Did he contribute to your defense?
A I think so.
Q The next one at the top has the identification message 2768.70. Would you agree this is from Paul Furnee?
A It appears to be.
Q To Mark Rodstein?
A It appears to be.
Q Addressed to Marc, that's M-A-R-C. I'll ask you to take a minute and read it. Would you agree that in this correspondence Mr. Furnee is encouraging a group of Lake aircraft owners to act in a concerted fashion?
A That appears to be one of the thoughts in his communication and it's -- Off the record?
Q Sure. We can go off the record for a second.
A I need to go to the bathroom.

(Off the record at 3:46 PM.)

(Back on the record at 3:53 PM.)

BY MR. THOMAS:

Q The next communication and from line, for identification purposes at the top reads 2768.72. Does this appear to be a communication from Paul Furnee from what you can tell?

A It appears to be. It has a from line of P. Furnee.

Q The to line is LakeWash, L-A-K-E-W-A-S-H. Do you know who LakeWash is?

A No. Well, I may know LakeWash, but I don't know who this identifies.

Q Who is the LakeWash you know?

A I may know that person, but this doesn't identify him.

Q For you? I understand. The second -- maybe it's the third sentence of the first paragraph -- "Furthermore, there were quite a number of kits sold that were genuine kits, but -- then in caps -- were not sold by Lake or Aerofab. In other words, there was a black market for these kits that Armand knew nothing about."

What does he mean when he says there were quite a number of kits sold that were genuine kits, but

were not sold by Lake or Aerofab?

A At one time there were some kits sold by the person who manufactured the kits, and those sales did not go through Lake or Aerofab.

Q Okay. When you say the person who manufactured the kits, who was that?

A Mibec is the name that comes to mind. At the time these kits were produced, Aerofab did not have a production certificate, so someone had to be retained who could acquire an FAA --

Q Uh-huh.

A -- to make parts for production for installation on certified airplanes. This firm, I want to say, was Mibec.

Q Do you know how to spell that?

A M-I-B-E-C. It was the initials or something of his daughters. And somewhere, as this goes back now nearly ten years, I may have the name of the person who ran that shop. And there was an issue of nonpayment, this is rumor, by Aerofab, so he had kits. People needed kits, and people contacted him directly.

Q Where was he located, what state?

A Maine.

Q City?

A I'm not sure. I've heard mention it was also

in New York. Try Rochester, but I'm not positive.

Q But you're saying he was a supplier to Aerofab?

A Yes.

Q But that he also sold kits not through Aerofab?

A Yes.

Q Did you ever order a kit from this Mibec?

A I think I got one Aerofab kit from Mibec.

Q You called it an Aerofab kit, but you ordered it directly from Mibec?

A Yes.

Q The last sentence, "In other words, there was a black market for these kits that Armand knew nothing about," Mr. Furnee seems to be saying that Armand didn't know that Mibec was selling kits?

A That's Mr. Furnee's opinion. I can't verify that.

Q He says here in the -- I guess it's the third line again, "There were quite a number of kits sold in this manner," do you have any idea what he means by number of kits?

A No.

Q But you think that you purchased at least one from Mibec?

A I believe it was one and only one.
Q The last sentence in the correspondence says, "You should do whatever will cost them the most money, and you will help everyone."
The first sentence in that last paragraph says, "Inviting them out to inspect your airplane might help you out, but would not help out the general cause."
The sentence I just read, the "them" there is Enpat, isn't it?
A It could be, yes.
Q And would you agree with the assertion that these statements tend to support the idea that at least some of the aircraft owners are acting in concert to frustrate the efforts of Enpat --
A You can read --
Q Let me finish the question, to ascertain which --
A When you pause, it appears to be an end.
Q My brain is working more slowly as yours is too.
A Okay.
Q But do you agree that this communication tends to support the theory that Enpat may be frustrated by some of the Lake aircraft owners?
A I can't tell you if Enpat is frustrated, but

it appears that the Lake owners are -- there appear to be some Lake owners who are attempting to frustrate some of Enpat's efforts.

Q When you say some Lake aircraft owners, based on your communication in the industry, not only what we've gone through here today, but what you know, would you say that's a majority of the Lake aircraft owners.

A No.

Q Why do you say no?

A The level of communication, in other words, how many people, how many unique individuals are evident in this communication.

Q You would agree, though, that it's more than likely that it's just a subset of the aircraft owners that participate in the bulletin board, correct?

A It has to be at least that.

Q You said you don't participate very much?

A I avoid it like the plague.

Q The next is another message, and at the top it says, message 2768.18. Does this appear to be from Paul Furnee?

A It has a P. Furnee from line.

Q In the to line do you recognize the name SunnyDon?

A No.

Q S-U-N-N-Y-D-O-N?

A No, I don't.

Q The third paragraph down about halfway through the paragraph, "How can some kooky law firm prove that I have an infringing kit installed? They can't. Not to mention the fact that somehow, after the kit was installed, I lost my logbooks. The funny thing about logbooks, they have a habit of disappearing."

The next paragraph down, "Now, of course, someone could (only by court order) inspect my airplane to see if they somehow could determine what kit might be installed."

Skipping ahead, "but I just flew my airplane to Siberia last week. Have fun guys."

Is it fair to characterize this communication as encouraging Lake aircraft owners to not produce their logbooks and not to produce their airplanes for inspection?

A No.

Q Why do you say no?

A Because I think most Lake aircraft owners would view this communication as something less than most Lake aircraft owners would feel proper with.

Q I understand that. But my question was: Is it fair to characterize this as encouraging Lake

aircraft owners to not produce logbooks?

A This individual appears to be encouraging that.

Q Would you agree with me, though, that Paul Furnee enjoys some level of respect in the Lake Aircraft community?

A Yes.

Q He is somewhat looked up to by the owners, isn't that true?

A Some owners do indeed look up to Paul.

Q Okay. Thank you. This next posting is -- at the top identifies message 2768.26. In the from line it says flyeddy, F-L-Y-E-D-D-Y. Do you know who flyeddy is?

A No.

Q In the to line it says simply to all. Just to paraphrase, he mentioned hiding slaves in the 1850s and draft dodgers in the '60s and '70s. "Would be easy to understand how a US Lake owner may decide to use an obscure Canadian base of operation for an unexpected duration while exploring the North."

Would you agree that this correspondence tends to support the notion that again there are at least some Lake aircraft owners who are suggesting to the community don't make your airplanes available for inspection?

A It appears this individual is suggesting that.

Q This next message is, for identification purposes at the top 2768.21. In the signature line BS Hartmann. Again this is from Puddle Jumper at the top. Do you think it's likely from Pete Hartmann?

A It has a great possibility of being Pete.

Q The to line is, to all. I'm going to read excerpts of this, "Bottom line, dash, stand behind Harry on this."

Mr. Shannon, would you agree that the Harry in that sentence most likely means you?

A Good possibility.

Q And further on down is a sentence that starts, "But defending it will involve time, money and aggravation, period. Suggest we let Harry's lawyers handle this."

Further on down, "Bottom line, support Harry, dash, his fight is our fight." Our is capitalized."

So would you agree that this communication to all tends to support the theory that the Lake aircraft owners, maybe not all of them, but in general as a community, have been encouraged to stand behind you in your fight to defend this lawsuit?

A That is correct.

Q Okay. The next one is, at the top for

identification purposes, message 2768.11. Again it's signed BS Hartmann. In the from line it says Puddle Jumper. Would you agree most likely Pete Hartmann authored this?

A Yes.

Q The fourth paragraph down in all caps, "United we stand, together we fall. This is our fight." Exclamation point. And then, "Now send Harry an insurance check."

Again, would you agree that this correspondence tends to support the notion that the Lake aircraft owners, at least some of them, are united and standing behind you in your defense of this case and contributing money?

A Yes.

Q The next is another correspondence, and at the top identifies message 2768.20. This is from F-S-T-E-E-V-E-S this time. Do you know who that identity of -- do you know the identity of this person who has authored this correspondence?

A No.

Q It's addressed to Harry.

A It assumes.

Q The Harry would be you, yes?

A I don't know.

Q Most likely?
A There is a chance.
Q Well, it's -- when I say it's addressed to Harry -- actually it's C-G-M-A-I-N-E, which is Mr. Maine, I think you said earlier?
A Could be.
Q Then the salutation is, "Harry," comma, and apparently this person asked one of their patent attorneys to review this, whatever this means, then it says, it says, "Frank," so do you think the Frank could be the fsteeves up there?
A Could be.
Q Do you know a Frank Steeves?
A I don't think -- I don't recall a Frank Steeves.
Q Okay. This correspondence -- Apparently, whoever addressed communication to Frank has reviewed the Board of Patent Appeals decision on its face, and the involved patent would be the '260 patent, then provides some opinion down at the bottom, says, "In order to develop more complex defenses, I would have to review the file wrapper for the '260 patent, and do some searching in Canada for a patent there. I can do the Canadian rather quickly, but perhaps I could simply talk to Mark Young, the attorney for Harry Shannon. If he

has a PDF copy of either, that would save time and effort. Also, I would be happy to give him my thoughts on defenses, if that would help."

On the second page, "Let me know whether or not to contact Mark Young. I'll continue research on the kit issue." Signed Linda.

Did you ever talk with a Linda who apparently is an attorney?

A I got an e-mail from -- I think I got an e-mail from someone I didn't recognize as knowing that dealt with this subject, and I forwarded that to Mark.

Q You did forward that to Mr. Young, your attorney?

A Yes.

Q Did you engage this Linda as an attorney to represent you in this case?

A No.

Q But she e-mailed you directly, did she?

A Someone specifically pointed this communication out to me, and it, like I said, I fight going onto that forum with a passion, but someone had said -- and I don't remember who it was -- said, check this one, and I may have made a response to her to contact Mark.

Q Okay. To your knowledge, did she contact

Mr. Young?

A I don't know.

Q Did she respond to you in any way?

A To my knowledge, I never got another response.

Q But you would agree that someone in the Lake community asked her to get involved and provide some opinion regarding the issues in the case?

A It appears to be the case.

Q Okay. This last one I'm going to show you -- I shouldn't say last. This next one is identified at the top as message 2768.22. Could you identify for me, please, who you -- who would be your best guess as to who that is in the from line there?

A From line reads M. Rodstein.

Q Would that be the same Marc Rodstein we talked about earlier today?

A Could be.

Q Since it's signed Marc Rodstein?

A Yes.

Q The to line is fsteeves. Take a minute and read this if you would please.

Looking at this communication, it addresses Enpat, and the bottom line in the bottom paragraph is, "This is why I'm sending Harry my check for $500 on top of the $1000 previously contributed."

Would the Harry in that line be you?

A I think so.

Q So would you agree that this communication is related to the issues in the lawsuit here?

A It could be.

Q The next one is message 2768.24. Could you tell me, please, can you identify who this is from?

A This name means nothing to me.

Q S-A-N-V-E-8 addressed to Puddle Jumper, which is most likely Pete Hartmann?

A Could indeed be Pete Hartmann.

Q This says, "In talking with Harry the other day, he told me they are requiring the owners that they potentially are going to sue to prove which kit they have installed on their airplane."

Would you agree that on the face of this communication it looks like the author of it spoke with you about the lawsuit?

A It could be.

Q Does that help you identify snave8?

A No.

Q It follows in the bottom there, "My check to Harry is going out Monday morning."

So someone you spoke with, someone who sent you a check and is identified as snave8, you don't --

A Snave8 does not allow me to identify the individual referenced.

Q Okay. The next one, the top is 2768.30 from Puddle Jumper to the person we've previously talked about, Rob Bicevskis. The third sentence down, "Face it, we Lake owners are a cult of sorts. Let's stick together and support Harry."

A Your point.

Q The question is: On the face of it, would you agree that this correspondence is related to the issues in the lawsuit?

A It could be, yes.

Q Okay. I'd like to collect all of those up that I just handed you, I don't know where you've been putting them, and make that a composite exhibit.

Are you aware of -- Are you aware of a kit that was manufactured in South Florida that was intended to help aircraft owners comply with the AD?

A No.

Q Going back to the kit that was manufactured by Mibec. If you used a Mibec kit to comply with the AD, would you have to file an AMOC?

A No.

Q Would you file a 337?

A Probably, no.

Q Would it fall under the protections of the FAA approval that Aerofab had for that kit?

A I think, yes.

Q So it would have been possible to purchase a kit from Mibec, and not pay Aerofab, comply with the AD, and not have to file a 337 or an AMOC?

A Yes.

Q Do you recall what the price of that Mibec kit was that you purchased?

A I want to say -- it would be speculation -- I mean, I know there was a price. It can be determined.

Q Do you have any records that would reflect what the price was of the kit you purchased from Mibec?

A I'm not 100 percent guaranteed, but reasonably confident I do have a record.

Q Would that be in your possession or the company's possession?

A Company.

Q That's at the Bartow facility?

A Yes. And if I bought it, I installed it. I say "I," me or my entity installed it.

Q I understand. I'm going to ask you to speculate here.

A Okay.

Q Based on the communication that you saw from

Paul Furnee where he said quite a number of these kits were sold, is it likely, in your opinion, that Paul Furnee would be accurate in the statements he made there in that communication regarding the number of kits being sold by Mibec?

A There is potential of that.

Q Just to put it in really common, you know, just to boil it down, does Paul Furnee know what he's talking about when he talks about this company selling these kits?

A It's likely that he does.

Q Do you recall if the price of the Mibec kit to you was less than the price of the Aerofab-ordered kit?

A Yes.

Q Substantially less?

A Yes.

Q I'm going to take a break, and go off the record.

(Off the record at 4:27 PM.)

(On the record at 4:33 PM.)

BY MR. THOMAS:

Q Regarding documents relative to any issues in the lawsuit, do you know of anyone who we haven't identified here today -- Scratch that. Do you know of any documents in the possession of anyone other than you

or your attorney that are related to the issues in the lawsuit, and if so, who possesses those documents? I'm going to except from that the FAA. We understand that they have records and certainly the plaintiff.

A The FAA has records. I'm sure there are other communications similar to what you exposed here today that may have been e-mailed or snail mailed that could have --

Q Would that be back and forth between the Lake aircraft owners?

A I don't know.

Q Is it likely that there are such documents out there, e-mail communications and such, documents other than you --

A Are you assured that you have all of the communications on the website?

Q No, absolutely not.

A Neither am I. You're asking me a question far beyond my reach to answer.

Q I'm asking if you have specific knowledge as --

A No, I don't have specific knowledge.

Q Today, as we've been in your deposition here today, have you been on any medication that would render it difficult for you to give clear and precise answers?

A No.
Q Have you ever been convicted of a felony?
A No.
Q In any state have you ever been convicted of a crime involving fraud or dishonesty?
A No.
Q Have you ever been convicted of a crime that could have resulted in imprisonment for more than a year?
A No.
MR. THOMAS: We'll tender the witness for cross.

CROSS EXAMINATION

BY MR. YOUNG:

Q For the record, my name is Mark Young. I'm your attorney. And I'm going to ask you a few questions to clarify some things, maybe help clear up some things that were addressed previously today. The same admonitions apply. Please answer yes or no. If you don't understand the question, please ask me to restate it. I'll do my best to be as quick as possible. I understand it's been a long day.
MR. YOUNG: Is this a copy of the exhibits that we have?
MR. THOMAS: I have a complete set for you.

It's gotten messed up. What we can do -- What are you looking for?

BY MR. YOUNG:

Q I can work off my copy of the patent for now. Mr. Shannon, would you mind turning your attention to claim one of the patent labeled Exhibit D. I'll try to be as clear and concise as possible. Does claim one require a root rib angled relative to a vertical plane?

MR. THOMAS: I'm going to object. That calls for a legal conclusion, but go ahead and answer.

A Claim one appears to state, "Wherein said root rib is angled relative to the vertical plane of said amphibious airplanes."

BY MR. YOUNG:

Q Let me rephrase the question to address the objection. Does claim one recite a root rib angled to a vertical -- angled relative to the vertical plane?

MR. THOMAS: Objection, mischaracterizes the claim.

A Yes.

BY MR. YOUNG:

Q Is the root rib of a Lake aircraft angled relative to the vertical plane of the aircraft?

A No.

Q How do you know?

A I've worked on them, taken them apart, put them together. You can look at it visually. And the root rib of the wing is parallel with the vertical access of the aircraft.

Q Does that language in the claim make it confusing and unclear?

A Well, they're talking about an airplane here that has a root rib with angle relative to the vertical access. My aircraft is not configured that way.

Q Is there another element that's recited in the claim that has an angle related to the root rib?

MR. THOMAS: Objection that you've characterized the root rib as an element of the claim.

BY MR. YOUNG:

Q You can answer.

A I believe it says -- claim five says upper doubler-strap -- inboard-end angle on said upper doubler-strap is approximately five degrees.

Q Okay.

A And further, actually the answer to your question is yes, claims five and six reflect that, and indicate angles on the inboard ends of the doubler.

Q What about claim one, is there anything in claim one that refers to the inboard end of the doubler?

A Yes. Claim one does indicate an upper doubler-strap -- where it says upper doubler-strap has an upper inboard end angle and said lower doubler-strap has a lower inboard end angle, so that would also be reflected in claim one.

Q Would changing the angular orientation of the root rib impact the inboard end of the doubler?

A Yes.

Q How?

A The root rib is attached to the spar. The root rib is attached to the spar in close proximity to the bolts that attach the wing to the airplane. If that angle is changed, to maintain an appropriate relationship of the inboard bolthole, then that angle would also have to be changed on the doubler. I think I got that right.

Q Did you previously initiate a reexamination proceeding against the patent?

A Yes.

Q By patent, I'm referring to the same patent that we've been discussing all day.

A The '260 patent.

Q In connection with that, did you identify prior art that was cited against the claims of the patent in that reexamination?

A I know I submitted information to the firm doing the reexamination to specify prior art, you know. We talked about numerous things during that period.

Q Do you recall if you included any prior art that showed or described a doubler having an inboard angled end?

A At that time I can't remember specifically including a doubler with an inboard end angle. I know I've dealt with doublers with angles, but I don't know if that was provided to counsel at that time.

MR. THOMAS: Objection. Mark, when you say cited, cited by whom? You said cited against the claims of the patent.

BY MR. YOUNG:

Q Of the prior art that you supplied, what you recall that you supplied, did you include any prior art that showed a doubler having an angled inboard end?

A No.

Q As a follow-on question: Did you include any prior art that showed a doubler having an angled inboard end to accommodate some adjacent structure?

A No.

Q Do you recall what happened during the reexamination proceeding initially, prior to appeal?

A There was a tremendous amount of

communication, but I remember actually at the first review or reexamination all 14 claims were rejected.

Q On appeal do you recall -- you had an opportunity to review the appellate decision, the decision by the Board of Patent Appeals, didn't you?

A I read them. But if you will, counsel was handling that. They knew a lot more of how this is worded, and so forth, than I did; but yes, I reviewed them briefly when they came back.

Q Do you recall if the panel considered a lack of prior art relating to the angle of the inboard end of the doubler to be important in their decision?

A I don't recall that.

Q Have you ever seen this drawing before?

A Yes.

Q I want to mark this as an exhibit. I don't know how we're going to deal with it. I believe earlier you testified that you were in the aircraft maintenance business?

A Yes.

Q And you, in particular, you focus on Lake aircraft?

A Since 1987 Lake amphibians have been a major portion of my work.

Q What does an aircraft maintenance professional

like yourself do?

A We inspect. We repair. We counsel customers. We have participated in development of ADs. In '99 I was National Aviation Maintenance Technician for the United States, and selected by the FAA process. And in essence that related or one of reasons for that selection for that honor, if you will, was the work put into another AD, specifically on the LA-4-200. And so we -- in my case, as I'm also a licensed pilot, I test fly the work that we perform, and make sure it's ready for true delivery to a customer.

Q What kind of tools do you use in your business?

A Wrenches, socket screwdrivers, sheet metal tools, things that would cut metal, shape metal, measure metal, you know, rivet guns, screw guns, bucking bars, shears.

Q Do you ever work with drawings?

A Drawings are a frequent part of that. Drawings were supplied with the kits to install them from the AD.

Q Earlier you testified about some familiarity with the job of Jack Tarbox and Phil Baker?

A Yes.

Q Would they ever have occasion to work with

drawings?

A They more so than the average mechanic because at the factory all of drawings of the aircraft would be available to someone like Mr. Tarbox or Mr. Baker.

Q Ever have occasion to use a compass?

A Say again?

Q Did you ever have occasion to use a compass?

A Yes.

Q Is this the type of drawing that a professional such as yourself might use in the ordinary course of your business?

A If you have access to such a drawing, yes. It can be very useful in repairing and developing things for aircraft.

Q Did you have access to such a drawing?

A I have a copy of this drawing, but it came into my possession relatively recently.

Q Is this something that Mr. Tarbox and Mr. Baker, the named inventors on the patent, might have access to while they were working for Aerofab or REVO?

A I would think, yes. I'm not -- they worked for the factory, you know, and at times in the past I've called Mr. Tarbox, and said, "I need an answer about a given component of the airplane."

Jack's reply could be, "Just a moment, let me

look at the drawings." So Jack had access probably to these drawings.

Q Is there anyway of determining when this drawing may have been created?

A There appears to be a failure of the print mode here, but this says, "checked by," it could be Jack Tarbox. This date appears to be 11/6/53, perhaps.

Q Are drawings like this occasionally amended from time to time?

A Yes, this drawing would have been amended from its original.

Q Why might a drawing be amended?

A As we progress through different models of an airplane, different structural changes to accommodate more weight, different engines, you know, different equipment.

Q What, in general, does this drawing show? Take a moment to look it over if you need to.

A Like I say, there appears to be a lack of print here, but I believe this BEA is the first letters of beam, B-E-A-M. Meaning that beam is one definition of the wing spar of the Lake amphibian. And this appears to be a drawing that would depict construction and details of the wing spar of a Lake amphibian.

Q Do you believe this drawing has been revised?

A Yes.
Q Why?
A This drawing shows wing doublers on the inboard end of the beam assembly.
Q Can you point to the doublers that you're referring to?
A The doublers appear to be this material here, and this material here. There was a picture earlier, and also in the patent, that shows the installation of the doubler positioned on the spar. But earlier there was perhaps something submitted that would show the similar shape.
Q And are the doublers the parts that are horizontal and parallel near the left corner of the document, each of which says one-and-five-eighths on them?
A Okay. In this area there is a description of one-and-five-eights -- to be more specific, I think if you look here, it calls a -96, -93. Here it calls a -101, -99. There's a chance that those numbers would be related over here. So let's see if we can find -101, I think is one of the numbers I gave you. It says doubler steel. It could reflect, if we had a little better copy of this, what the alloy was. So there's a good chance that those items identified are the doublers

used to satisfy the wing spar AD on the Lake Amphibian.

MR. THOMAS: I'm going to object, Mark, when we're reading the transcript, it's going to be very difficult, if not impossible, to understand here and here when we're pointing on the drawing.

MR. YOUNG: Could we mark up the drawing, would that be okay?

MR. THOMAS: Sure.

MR. YOUNG: Do it in pencil? We could always erase it.

MR. THOMAS: Ink would be better.

BY MR. YOUNG:

Q Why don't you -- would you be so kind as to label the upper doubler, and let's use the language from the patent, is it lower or bottom? Upper and lower doubler-straps?

A (Complying.)

Q Thank you. Okay. For the record, Mr. Shannon has labeled the upper doubler upper doubler, and labeled the lower doubler lower doubler.

If you were designing a doubler to address a cracking issue near the root rib, would a drawing like this be helpful?

A Yes.

Q How so?

A It gives you the angle, you know, it gives you the shape of what you're attempting to make a piece from. Here in a room with pencil and paper we can accurately draw the exact shape of a doubler to fit what we're working on.

Q Can you clarify that for me please?

A One, let's define where cracks have been discovered on the wing beam. They were found primarily, to my knowledge, they were found on the lower, the phrase is cat strip of the beam. As the lower beam is in tension, it's attempting to tear things apart as opposed to compression, which the upper beam is pretty dominantly in compression.

To date, to my knowledge, we found no cracks in the upper beams. In the lower beams we found numerous cracks in this radius of the spar-cap cutout, which is in detail here. And on the aircraft that I inspected on the pre-purchase, that showed the spar near a potential failure, showed a crack through the outboard lower bolthole that included the spar cap and the spar-cap doubler at that time.

Q For the record, would you mind identifying those parts by marking them as crack or cracking?

A Okay. We will describe this as an inboard-end crack. And in this area, where this -83 is, is the

doubler. And I'm trying to think. This is -- I'm looking at this from the front, so this would be a hidden line -- but we have a crack through this point, this area, that includes -- this is a crack in the lower spar-cap doubler and the lower spar-cap angle.

Let me define that. The lower spar cap has an unique angle that is attached to the bottom of the beam making the lower spar cap --

Q What is that angle due to?

A Well, this word "angle" here refers to an extrusion in an angle. Here is an end view of the lower spar-cap angle. Meaning a physical angle. Not -- it does have an -- the angle has an angle to, but it is defined as an angle like an angle extrusion or -- let's say you could buy an angle at Lowe's or Home Depot -- but this is a specific angle made for the lower spar cap of this spar structure.

Q When referring to angles, you may be referring to a structure, or you may be referring to an orientation of a particular component?

A Or an end or shape of a particular component. And this particular thing, I'm referring to a crack in a physical angle, not an angular measurement.

Q Now, are the wings of the Lake aircraft dihedral?

A Yes.
Q What does that mean?
A It means relative to the horizontal access of the aircraft the wing tips, the wings I'm going to say, slope upward. We have then what is considered a positive dihedral meaning the wings from the root to the tip go up.
Q And what does that mean in terms of the internal wing structure? Just let me restate the question. What does that mean in terms of the spars comprising the internal wing structure?
A On the Lake spar or Lake wing we have positive dihedral, and we have a wing that tapers from root to tip. So we have a four-sided polygon that those angles through there are going to have a total to 360 degrees on a polygon. We have a dihedral, if my memory is correct, of approximately five-and-a-half degrees on the aircraft. So the reference line of the spar is sloped up at five-and-a-half degrees.
Q Does that mean the top spar and bottom spar are both sloped up at five-and-a-half degrees?
A No. Because as we mentioned earlier, the wing spar has a taper. So that the upper spar cap is going to have a slightly different angle from dihedral, and the lower spar cap will have a slightly different angle.

Q Can you estimate the angle for the lower spar?
A You can measure it with a protractor. We have a drawing, and we're estimating this appears to be a reference line of the vertical -- a reference line of the doubler. This measures from 90. This is going to give us a six-degree angle off of the -- at the end of the doubler or six degrees from the 90. In other words, you're measuring --
Q Would you mind marking that on the drawing for the record?
A We're going to mark here to here, six degrees. That is this angle from vertical.
Q Would you mind doing the same for the upper doubler?
A Let's see if I can accomplish that. This drawing is measuring approximately four, four-and-a-half degrees. I would say four-and-a-half is what we're measuring on the drawing.
Q Okay. Having a drawing such as this, would that make it easier to design a doubler to fit the spars?
A Yes.
Q Can you clarify that?
A If you're designing -- Let me back up a little bit. We're designing a doubler to re-enforce the weak

areas of this spar. It appears that the research done in developing the doubler showed that we were experiencing potential fatigue failure at the lower outboard attach bolt in normal operations, 1G, you know flying along in stable level flight.

Due to a phenomenon called first effect, this outboard fastener does the majority of attaching the wings. Under those conditions, likewise, as you hit small bumps in flying, this one bolt is exposed to a lot more fatigue forces than the other fasteners attached. When you go the ultimate strength of the structure, the things stretch, and now other fasteners do more of the job.

Because of the discovery of the crack at this point, the initial cracks were found inboard, we found that the doubler had to extend to include -- to strengthen the area here. We need a doubler to bridge that fatigue area on that. We need a doubler that gives us good attachment. As we go through the six bolts, if this doubler were cut at a vertical angle or square on the end of it, we lose effective edge distance on the inboard attach bolt.

Q Let me see if I understand correctly. Does referring to the drawing facilitate determining a suitable angle for the doubler so that it abuts or

nearly abuts the structure at the end?

A The drawing shows you what the angle is. In other words, that's the angle, that's where it needs to fit.

Q To your knowledge, was this drawing or any version of this drawing or drawings similar to this drawing ever submitted to the US Patent and Trademark Office as prior art in connection with the patent?

A To my knowledge, no.

Q I'm done with this drawing for now. Are you familiar with the manufacturer and installation of aircraft reinforcing structures?

A I have seen things that are to reinforce aircraft manufactured in the past, yes.

Q Would a doubler be an example of a reinforcing structure?

A Yes.

Q If you were to, referring to the patent, if you were to replicate that kit from the patent so that you could use the patent as a recipe to make a suitable kit, what type of information would you need?

A We would need the physical dimensions of the strap, you know, the -- how thick it is.

Q Would you need information about the material?

A Yes.

Q Would you need information about the coatings?
A Well, I believe your question was if we were making a doubler to reinforce something on an aircraft. There's general practices that want you to protect the materials involved. There are publications that as a mechanic you're exposed to that say protect the material, so you want a coating on the material to protect the base and the doubler itself.
Q Let me rephrase the question. Assume this patent is your recipe.
A Okay.
Q Your goal is to replicate the doubler described in the patent so you can use it for a particular Lake aircraft.
A Okay.
Q To create that doubler, would you need information about the material?
A Yes.
Q Would you need information about the coatings?
A To create this specific doubler, yes.
Q What about the heat treating?
A You would need that information as well.
Q Would you need information about dimensions?
A Yes.
Q What dimensions?

A The width of it, thickness of it, length, any angular cuts that need to be done on it.

Q Could you determine length and height by examining a two-dimensional CAD drawing?

A You could, yes.

Q What if you did not have a thickness, would that create a problem for you?

A Yes.

Q To your knowledge, does this patent provide any thicknesses for the filler?

A To my knowledge, there's no specified thickness on the fillers in this patent.

Q Does the filler thickness make any difference whatsoever?

A It could indeed make a difference.

Q Could it be inadequate?

A Say again?

Q Could it be too --

A Too thick?

Q Could it be excessive?

A It could be excessive and too thick.

Q Referring to this patent how would you possibly know what the thickness of the filler should be from this patent?

A You don't.

Q I believe earlier you mentioned that you are familiar with the individuals that are named as inventors in this patent; is that correct?

A That's correct.

Q And I believe earlier you mentioned that you're familiar with Elton Townsend?

A That is correct.

Q For clarification, who is Elton Townsend?

A Elton Townsend is a principal or owner of Lake Central Air Services, an operation in Canada. He has been dealing with Lakes for a long time.

Q I believe you mentioned earlier that Elton Townsend had faxed some document to you regarding a proposed doubler?

A Yes.

Q Is that correct?

A That is correct.

Q Do you recall in the reexamination proceeding whether there was any declaration or similar document that was submitted on behalf of Elton Townsend?

A I am not positive. I think there was discussion on that, but I don't know if it was actually submitted.

Q Okay. Let me shift gears a bit. Prior to the doubler kit that is claimed in the patent had you

yourself seen doublers in use before?

A Yes.

Q Have doublers been around for a long time?

A Yes.

Q Are you aware of other doublers used on Lake aircraft?

A I have created and used doublers on Lake aircraft.

Q Can you elaborate?

A Another area of Lake exposed to high stresses is the bottom, the forward bottom of the main hull. And in essence, it's a boat on the water exposed to waves. These areas can be cracked. They can be worn down in improper landings, and they need to be repaired to restore the airworthiness of the airplane. So you're in essence doubling an area of the bottom by installing another later of material.

Q Are there other doublers with angled ends, one end angled or both even, ends angled to use in connection with Lake aircraft or other aircraft?

A I have seen others that have doublers on them. The bottom of the Lake aircraft is a polygon with a mixture of straight and curved lines with angled relationship between edges. So if a bottom doubler is a doubler, then yes, it has an angle on it.

Q Are doublers often shaped to accommodate adjacent structures?

A Doublers are often shaped to accommodate their relationship with adjacent structures.

Q Were any such doublers in use before October 25, 2000?

A I have made patches to the bottom of Lakes that had an angle prior to October 25, 2000.

Q I'll hand you what's marked as Defendant's Exhibit B. This document identifies -- does this document identify certain components for an aircraft?

A This document appears to identify components for an airplane, yes.

Q Do you have any idea what aircraft those components are for?

A This goes way back in my history. This appears to identify components used on an aircraft referred to as the mid-jet Mustang, as in small Mustang.

Q To your knowledge, how long has the mid-jet Mustang been around?

A I want to say early '60s. I want to say '70, '71, I started building a Mustang kit personally.

Q Would you describe what the kit is?

A Well, there's a lot more available now in kit form. But at that time in my career you bought a set of

blueprints. Then you made components to those blueprints. As years have gone by, people who market the blueprints also market components to make building an amateur-built aircraft easier so that you can -- to qualify for an amateur-built airplane, the builder has to do 51 percent, but you can buy a lot of 49 percent that helps.

Q Do you still have those drawings?

A I don't have the complete set of drawings for the airplane.

Q Can you describe for me -- Before we get to that, does the mid-jet Mustang have dihedral wings?

A Yes.

Q Does the wing structure of the mid-jet Mustang include spars?

A Yes.

Q Do the spars have an angled inboard end?

A Yes.

Q Does this document identify any components related to the spars for a mid-jet Mustang?

A Yes.

Q Can you describe what component?

A Component 130.316, what is described as a wing rear spar reinforcement left and right.

Q Is the inboard end of that rear spar

reinforcement -- is the inboard angled -- is the inboard end of that component angled?

A Yes.

Q Would that angle have any relationship to the angle of the spar?

A The angle cut on that doubler, which matches the cut on the spar, is due to the relationship between the fit of that spar between the spar and the fuselage.

Q I have just a few more questions. Earlier you mentioned that you were previously sued for infringement of this patent?

A Yes.

Q About when was that?

A Approximately 2002.

Q I believe earlier you mentioned that the lawsuit was dismissed with prejudice -- without prejudice -- about how long after the lawsuit was dismissed did you receive a copy of the complaint in this lawsuit?

MR. THOMAS: I'm going to object because that mischaracterizes the testimony. I think what he testified was he wasn't sure what his attorney did.

MR. YOUNG: Thank you.

BY MR. YOUNG:

Q After the lawsuit was filed, was a

reexamination proceeding initiated in the Patent and Trademark Office?

A Yes.

Q From the time the reexamination proceeding was initiated until the time that you were sued in this lawsuit, did Enpat send any correspondence threatening to sue you?

A No.

Q Did the examiner assigned to the reexamination initially reject the claims of the patent?

A Yes.

Q Do you recall about how long the claims stood rejected?

A Nearly eight years.

Q During this time did you believe that any risks of infringement was extinguished?

A Not extinguished, but confident of no infringement there. I wasn't the only person with an opinion that the claims were not valid.

Q Earlier when discussing the Canadian kits, also referred to as JCM kits, you mentioned that the JCM kits were installed on approximately 26 aircraft?

A I mentioned that I installed or my organization installed JCM kits on approximately 26 aircraft.

Q Were any of those kits installed before December 11, 2001?
A Yes.
Q To the best of your recollection about how many?
A My recollection is 25.
Q Earlier today there seemed to be some confusion in addressing the subpoena that was served and the request for production of documents that was served in this action. Were you confused in answering the questions relating to the subpoena versus the request to produce documents?
A Yes.
Q Earlier today you had mentioned -- Well, were you ever instructed not to destroy any evidence relating to this case?
A Not instructed, no.
Q Let me rephrase the question. Were you ever instructed to preserve materials related to this case?
A No.
Q You spoke earlier about e-mails that you had deleted. Were any of the e-mails that you deleted material to this case?
MR. THOMAS: I'm going to object because that calls for a legal conclusion, but you can go ahead

and answer.

A It's possible, but there would not be -- I don't have a system of saving e-mails, you know. But e-mails that are not relevant, I don't need to keep them in my possession. I didn't consciously reject or to -- what was the word we just used? An effort to eliminate e-mails relative to the case was not made. In other words, in casual communications it could, you know, there was no conscious effort to eliminate e-mails pertinent to this case.

MR. YOUNG: I have no further questions at this point.

REDIRECT EXAMINATION

BY MR. THOMAS:

Q Okay. We want to refer to defendant's -- the big drawing -- which is exhibit Defendant's A. I'm going to ask you, to your knowledge, has this drawing ever been published to the public?

A To the public?

Q Made available to the public through publication?

A Yes.

Q Where?

A Made available to the public? Someone outside -- someone outside the factory has possession.

Does that mean available to the public?

Q What I mean by that is, available to someone who is not under -- not involved with the construction or maintenance of the airplane?

A I would think that would be unlikely that someone not involved with the construction or maintenance would have a drawing.

Q Can you tell from looking at the title block here who created this drawing?

A Part of the title block is not evident.

Q Right, it's been wiped out.

A I would have seen it on other drawings, that's Mr. Tarbox's.

Q You can identify that under the -- in the drawn by block?

A In the drawn by block there's a good chance Mr. Tarbox drew this original.

Q Is there anything in the title block to tell you if there was a corporate entity to control this document?

A Lake Aircraft.

Q Written above Sanford?

A Right.

Q This drawing has a revision history on its face, correct?

A Yes.
Q What was the level of the last revision?
A Probably K.
Q As far as this copy is concerned?
A That's correct.
Q So this drawing was revised at least up through Revision K?
A Correct.
Q And you testified earlier that this drawing originated in 1953. How did you get there?
A The date here, normally by the "drawn by" there's a date.
Q Is there anything that to you indicates that the doublers that are indicated where you made your notations earlier were on the original drawing, in other words, the Rev 0 of this drawing?
A There's nothing on the drawing to indicate that they weren't there at Rev 0. There is other evidence to indicate that they weren't there.
Q That they were not there when the drawing was originally created?
A That's correct.
Q When you looked at the title block to find the date we mentioned for the original drawing, is it your testimony back then when the drawing was originally

created it did not include doublers?

A That's correct.

Q That they were added some time later?

A That's correct.

Q When Mr. Young was asking you if you had ever created doublers for the aircraft, I think your answer was you created what you called patches for Lake aircraft?

A Repairs, yes, doubling certain areas, patching areas, yes.

Q What do you mean by patch?

A You have an area on the bottom that has a crack, for example, so you will map out an area that you're going to double, bring it to existing seams or existing edges, and install that material. That is often referred to as patching the airplane.

Q So you were using it exchangeably with the word doubler; is that correct?

A Yes.

Q Just curious. Earlier you testified that, to your knowledge, this drawing had never been provided to the Patent and Trademark Office; is that correct?

A To my knowledge, it has not.

Q But you admit you don't have perfect knowledge of everything that has ever been submitted to the patent

office?

A That's correct.

Q You also testified that this drawing would aid in fabricating the doubler that's shown here on the wing spar, correct?

A What I think I said is, it would help in designing and fabricating a component to fit in that area of the wing.

Q That's because there's dimensional information on this drawing?

A There's dimensions on this drawing.

Q You could refer to this drawing to fabricate the part?

A That's correct.

Q That's the purpose of a fabrication drawing, is it not?

A That's one of the purposes.

Q This is a fabrication drawing?

A I would assume the factory has to maintain enough drawings to build an airplane.

Q When did you first come into possession of a copy of the drawing that we have here as Defendant's A?

A Three, four months ago.

Q The first time you came into possession was three or four months ago?

A Of this particular drawing, yes.
Q You were asked with regard to the reexamination what the initial action from the patent office regarding validity of claims was. And you had said all 14 claims had been rejected?
A It is my opinion that the first examiner at the patent office when reviewing the patent rejected all 14 claims.
Q Mr. Young neglected to ask you this question, but I'm going to ask it. You also knew that there was an appeal of that decision?
A Yes.
Q So you understood that there was an appeal in process?
A It was in reexamination, so as it went through the process people are talking and communicating.
Q And you got copies of things like the appeal, for instance?
A It's in that banker's box.
Q So I'm going to change your statement that you thought that you were free. I'm going to characterize -- these are not your exact words -- but free to operate because the claims were invalid. That's not entirely accurate because you also knew that an appeal was pending?

A Yes.
Q You knew that decision appealed?
A That process continued.
Q The reality is while you wanted to believe the patent wasn't validated, you understood that there was an appeal in process, and you assumed the risk of continuing to fly your airplane using the Canadian kit, true statement?
A Could be a true statement.
Q Could be a true statement?
A Yeah.
Q In fact, the general Lake aircraft community, let's extend it to the general Lake aircraft community, there is a feeling that the patent should be invalidated? There was an understanding that there was an appeal in the process in the general Lake aircraft community; was there not?
A No, sir.
Q You're telling me that the general Lake aircraft community out there did not understand that appealed?
A That's correct.
Q You don't know that?
A I don't. I base that on conversation with Lake owners. When the review board rendered its opinion

of the patent, and I was sued, a number of people said I thought that was all over.

Q Okay. But are you saying that that communication only occurred after you were served with a complaint in the current action?

A That would be my memory of it.

Q Okay. Just one minute please.

Would you agree with me that if it was your attorney in the original lawsuit who requested that the lawsuit be stay pending the outcome of the reexamination, that Enpat would not be responsible for the delay in filing the current lawsuit?

A No.

Q How can you say that?

A I can't make decisions based on Enpat's benefit or loss.

Q Well, I'm not asking you to make a decision. What I'm asking you is: If it was your attorney who requested the delay, Enpat can't be held responsible for the delay, can they? It doesn't seem reasonable, does it?

A A lot of attorneys request a lot of things. People don't always respect those requests.

Q Do you maintain that Enpat took any action, whatsoever, to delay the re-exam process at the PTO?

A No.
Q In fact, Enpat doesn't really have any control of the re-exam process at the PTO, does it?
A To the best of my knowledge, no.
Q Is it your -- Well, let me back up. The present lawsuit was -- Would you agree with me that the present lawsuit was filed in general terms almost immediately after the re-exam process was concluded?
A It appears it was.
Q That doesn't sound like an unreasonable delay, does it?
A No.
Q Thank you. I need to confer with Kelly. We'll go off the record for a second. I'll be right back.
(Off record at 5:47 PM.)
(On record at 5:49 PM.)
MR. THOMAS: I don't have any more questions.

RECROSS EXAMINATION

BY MR. YOUNG:
Q I have one more question to clear up. Previously I had asked you if you had been advised to retain records, and I believe you indicated that you weren't advised. Were you indicating in your response that Mr. Buesse did not advise you to retain records?

A Mr. Buesse did not. And when you asked the question, that was my fault.

MR. THOMAS: I'm going to object because on the record this question has been asked and answered. In fact, you answered it a couple of different ways. These questions are now being asked after the deponent had an opportunity to confer outside of record here.

BY MR. YOUNG:

Q Do you recall our initial meeting at the inception of this lawsuit?

A Yes.

Q And at our initial meeting did I instruct you to maintain records?

A You said keep records. It was a three-hour meeting, so there was a discussion.

MR. YOUNG: Nothing further.

(Deposition concluded at 5:50 PM. Reading and signing were not waived.)

CERTIFICATE OF OATH

STATE OF FLORIDA)
COUNTY OF BREVARD)

I, VICKI HUMPHRIES, Court Reporter, the undersigned authority, hereby certify that the witness HARRY SHANNON personally appeared before me on February 4, 2011 and was duly sworn.

WITNESS MY HAND AND OFFICIAL SEAL
this 4th day of February, 2011
at Melbourne, Florida.
Produced ID:_____
Personally Known:_____
Accompanied by Counsel: Mark Young, Esquire

_____
VICKI HUMPHRIES
Court Reporter and Notary Public,
State of Florida at Large

CERTIFICATE OF REPORTER

STATE OF FLORIDA)

COUNTY OF BREVARD)

I, VICKI HUMPHRIES, Court Reporter, do hereby certify that I was authorized to and did stenographically report the deposition of HARRY SHANNON, that a review of the transcript WAS requested; and that the foregoing transcript, pages 1 through 251, inclusive, are a true and correct record of my stenographic notes.

I FURTHER CERTIFY that I am not a relative, employee, or attorney, or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorney or counsel connected with the action, nor am I financially interested in the action.

DATED this 9th day of February, 2011.

_____

Vicki Humphries,
Court Reporter

ERRATA SHEET

DO NOT WRITE ON TRANSCRIPT - ENTER CHANGES HERE

IN RE: Enpat v Shannon
CASE NO: 6:11-cv-00084-PCF-KRS
DEPOSITION OF: Harry Shannon
TAKEN: February 4, 2011

Page No.	Line No.	Change	Reason

Under penalties of perjury, I declare I have read my deposition in this matter and that it is true and correct, subject to any changes in form or substance as reflected above.

_____ _____

Date Harry Shannon

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA

ENPAT, INC., a Florida Corporation, Plaintiff,	
v.	Case No.: 6:11-cv-00084-PCF-KRS
HARRY SHANNON, Defendant.	

IN RE: Deposition of Harry Shannon
Taken: February 4, 2011
Date Letter Sent:_____

TO: Harry Shannon
c/o Mark Young, Esquire
12086 Ft. Caroline Road, Suite 202
Jacksonville, Florida 32225

The transcript of your deposition has been completed and awaits reading and signing.

Please call our office at 321-242-8080 and make arrangements to review the transcript as soon as possible.

If the reading and signing have not been completed prior to _____, we shall conclude that the reading and signing of the transcript have been waived.

The original of this deposition has been forwarded to the ordering party. The errata, once completed, is to be forwarded to all ordering parties as listed below.

Thank you,

Vicki Humphries

cc: Stephen C. Thomas, Esquire; Mark Young, Esquire.