

# APPENDIX 2-6

Reese Willfulness Merged on 5\_12 PA DC

Scene	Designation	Source	Tx Duration	Elapsed	Remains	Media File	Barcode
1	5:9 -5:17	Reese, Brian 2016-04-13	00:00:13	00:00:00	00:34:44	Reese_B-041316-1c	M7.1
		5:9 Q. Good morning, Mr. Reese.					
		5:10 A. Good morning.					
		5:11 Q. Or afternoon.					
		5:12 Can you please state your name for					
		5:13 the record?					
		5:14 A. Brian Reese.					
		5:15 Q. What is your current position at Sears?					
		5:16 A. Senior Director of Product Development					
		5:17 for Craftsman and DieHard brands.					
2	5:18 -5:24	Reese, Brian 2016-04-13	00:00:21	00:00:13	00:34:31	Reese_B-041316-1c	M7.2
		5:18 Q. When did you join Sears?					
		5:19 A. February 9, 2015.					
		5:20 Q. And what products do you currently work					
		5:21 on?					
		5:22 A. Craftsman and DieHard branded products.					
		5:23 Q. Does that include Craftsman hand tools?					
		5:24 A. It does.					
3	6:5 -6:8	Reese, Brian 2016-04-13	00:00:08	00:00:34	00:34:10	Reese_B-041316-1c	M7.3
		6:5 Q. Do you have any role in Sears' marketing					
		6:6 or development of the Craftsman Max Axess Locking					
		6:7 Wrench?					
		6:8 A. No.					
4	7:4 -8:9	Reese, Brian 2016-04-13	00:01:06	00:00:42	00:34:02	Reese_B-041316-1c	M7.4
		7:4 Q. You have a Bachelor's Degree in					
		7:5 Mechanical Engineering; is that correct?					
		7:6 A. Yes.					
		7:7 Q. Where did you receive that degree?					
		7:8 A. The Ohio State University.					
		7:9 Q. When did you receive that degree?					
		7:10 A. 1998.					
		7:11 Q. And you also have a Master's in					
		7:12 Mechanical Engineering; is that right?					
		7:13 A. Correct.					
		7:14 Q. And where was your -- where is your					
		7:15 Master's from?					
		7:16 A. The Ohio State University.					
		7:17 Q. When did you receive your Master's in					
		7:18 Mechanical Engineering?					
		7:19 A. 1999.					
		7:20 Q. And do you have any patents, Mr. Reese,					

7:21 where you're the listed inventor?  
 7:22 A. Yes.  
 7:23 Q. How many patents?  
 7:24 A. I don't remember exactly how many.  
 8:1 Q. Are the six patents listed on your  
 8:2 LinkedIn page the complete list of patents on which  
 8:3 you are an inventor?  
 8:4 A. I am an inventor on those that are  
 8:5 listed.  
 8:6 Q. Are you the inventor on any additional  
 8:7 patents that are not listed on your LinkedIn page?  
 8:8 A. I am the inventor on pending  
 8:9 applications.

5	<b>20:19 -21:4</b>	Reese, Brian 2016-04-13	00:00:53	00:01:48	00:32:56	Reese_B-041316-1c	M7.5
		20:19 Q. What information did you learn about					
		20:20 anyone at Sears' knowledge of the patents in suit					
		20:21 prior to the filing of this lawsuit?					
		20:22 A. Their knowledge of the suit or the					
		20:23 patents?					
		20:24 Q. The patents.					
		21:1 A. There's an e-mail that shows					
		21:2 correspondence from Apex to the product people at					
		21:3 Sears making statements about their design around the					
		21:4 Brown patent.					
6	<b>25:23 -25:24</b>	Reese, Brian 2016-04-13	00:00:06	00:02:41	00:32:03	Reese_B-041316-1c	M7.6
		25:23 I want to ask you about a different					
	<a href="#">Link &gt; P429.1</a>	25:24 document first. I'm introducing Exhibit No. 4.					
7	<b>26:15 -26:24</b>	Reese, Brian 2016-04-13	00:00:42	00:02:47	00:31:57	Reese_B-041316-1c	M7.7
		26:15 Q. Do you see the bottom e-mail on Page 1 of					
	<a href="#">Link &gt; P429.1.1</a>	26:16 Exhibit 4 is an e-mail from Dan Brown to Brian Reese,					
		26:17 Carey Romano, and others dated October 19, 2011?					
		26:18 A. It was Page 1?					
		26:19 Q. Yeah.					
		26:20 A. I see it.					
		26:21 Q. And do you see there that the e-mail from					
		26:22 Mr. Brown to Ms. Campana and others identifies the					
		26:23 '579 patent?					
		26:24 A. I do.					
8	<b>27:23 -28:7</b>	Reese, Brian 2016-04-13	00:00:22	00:03:29	00:31:15	Reese_B-041316-1c	M7.8
		27:23 Q. Do you know if anyone at Sears was aware					
	<a href="#">Link &gt; P429.1</a>	27:24 of the '579 patent at any time prior to October 19,					
		28:1 2011?					
		28:2 A. I believe so.					
		28:3 Q. And what is your belief based on?					

28:4 A. The e-mail from Apex.  
 28:5 Q. Do you think the e-mail from Apex you're  
 28:6 referring to is dated prior to October 19, 2011?  
 28:7 A. As I recall.

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9           **28:20 -28:22**   Reese, Brian 2016-04-13           00:00:12   00:03:51   00:30:53   Reese\_B-041316-1c           M7.9  
 Link > P470.1           28:20                    I'm introducing Exhibit No. 5 to  
                           28:21                    today's deposition, which is an e-mail chain that  
                           28:22                    begins at Sears 00055539.

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10           **29:22 -30:20**   Reese, Brian 2016-04-13           00:00:58   00:04:03   00:30:41   Reese\_B-041316-1c           M7.10  
 Link > P470.1.1           29:22                    Q. With respect to the first page of  
                           29:23                    Exhibit 5, there's an e-mail dated March 15, 2012  
                           29:24                    from Mark Good to Barry Pope.  
                           30:1                     Do you see that?  
                           30:2                    A. I do.  
                           30:3                    Q. And can you tell me who Mark Good is  
                           30:4                    again?  
                           30:5                    A. Manager of Industrial Design.  
                           30:6                    Q. And what about Barry Pope?  
                           30:7                    A. Product Manager.  
 Link > P470.1.2           30:8                    Q. In the e-mail from Mr. Good to Mr. Pope  
                           30:9                    dated March 15, 2012 Mr. Good wrote, "Apparently  
                           30:10                    there is a Bionic Wrench that needs a handle as  
                           30:11                    well."  
                           30:12                    Do you see that?  
                           30:13                    A. I do.  
 Link > P470.1.3           30:14                    Q. And in the e-mail above, the one we were  
                           30:15                    just looking at, Mr. Pope responded to Mr. Good on  
                           30:16                    March 15, 2012 and he wrote, "Coming soon, but they  
                           30:17                    are currently attempting to design function around  
                           30:18                    patent - will advise when we get to this point."  
                           30:19                    Do you see that?  
                           30:20                    A. I do.

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11           **30:22 -31:8**    Reese, Brian 2016-04-13           00:00:35   00:05:01   00:29:43   Reese\_B-041316-1c           M7.11  
                           30:22                    Do you know who Mr. Pope was  
                           30:23                    referring to when he wrote that "they" are currently  
                           30:24                    attempting to design function around patent?  
                           31:1                    A. No, I would -- I would have to speculate.  
                           31:2                    Q. Do you think he's referring there to  
                           31:3                    Apex?  
                           31:4                    A. I think he's referring to them.  
                           31:5                    Q. And is the patent that Mr. Pope is  
                           31:6                    referring to a Loggerhead patent related to the  
                           31:7                    Bionic Wrench?  
                           31:8                    A. I'm speculating, but I think that.

12	<b>31:21 -32:2</b>	Reese, Brian 2016-04-13	00:00:29	00:05:36	00:29:08	Reese_B-041316-1c	M7.12
		31:21 Q. What can you testify about with respect					
		31:22 to the people at Sears and any effort to design					
		31:23 around a Loggerhead Bionic Wrench patent?					
	<a href="#">Link &gt; Hide</a>	31:24 A. The people at Sears received an e-mail					
		32:1 from Apex stating that they had designed around the					
		32:2 Brown patent.					
13	<b>32:18 -32:22</b>	Reese, Brian 2016-04-13	00:00:14	00:06:05	00:28:39	Reese_B-041316-1c	M7.13
		32:18 Did anyone at Sears do an					
		32:19 investigation into whether the Apex design infringed					
		32:20 any LoggerHead patent after receiving an e-mail from					
		32:21 Apex claiming that they had designed around the					
		32:22 patent?					
14	<b>32:24 -33:2</b>	Reese, Brian 2016-04-13	00:00:10	00:06:19	00:28:25	Reese_B-041316-1c	M7.14
		32:24 A. I believe that individuals at Sears did					
		33:1 further research evaluating the design around the					
		33:2 patent.					
15	<b>33:4 -33:5</b>	Reese, Brian 2016-04-13	00:00:21	00:06:29	00:28:15	Reese_B-041316-1c	M7.15
		33:4 Q. What individuals are you referring to?					
		33:5 A. Barry Pope, Iqbal Singh.					
16	<b>35:2 -35:11</b>	Reese, Brian 2016-04-13	00:00:53	00:06:50	00:27:54	Reese_B-041316-1c	M7.16
		35:2 What work did Mr. Pope do, if any,					
		35:3 to confirm or investigate Apex's view that they had					
		35:4 designed around a LoggerHead patent?					
		35:5 A. I can only -- I can only respond based on					
		35:6 the documents I've seen. I'd be speculating about					
		35:7 what he might have done or didn't do.					
		35:8 Q. To your knowledge what did Mr. Pope do?					
		35:9 A. Mr. Pope was copied on e-mails from					
		35:10 individuals at Apex clearly stating that a product					
		35:11 was intentionally designed around the Brown patent.					
17	<b>36:20 -37:9</b>	Reese, Brian 2016-04-13	00:00:46	00:07:43	00:27:01	Reese_B-041316-1c	M7.17
		36:20 Q. Did the documents you reviewed in					
		36:21 preparation for today's deposition reveal anything					
		36:22 that Mr. Pope did other than receiving e-mails and					
		36:23 images from Apex with respect to the design of the					
		36:24 Max Axess Locking Wrench?					
		37:1 A. It's possible, but I don't recall.					
		37:2 Q. It's possible that the documents you					
		37:3 reviewed revealed something about Mr. Pope's					
		37:4 investigation beyond receipt of e-mails and images					
		37:5 from Apex?					
		37:6 A. It's possible.					

37:7 Q. You don't know one way or the other right  
 37:8 now?  
 37:9 A. I don't recall anything further.

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18      **38:12 -38:17**      Reese, Brian 2016-04-13      00:00:15    00:08:29    00:26:15    Reese\_B-041316-1c      M7.18

38:12                    I'm asking about your review of  
 38:13 documents and whether that review of documents  
 38:14 revealed to you anything that Mr. Singh did to  
 38:15 investigate Apex's design-around claim other than  
 38:16 receive e-mails from Apex?  
 38:17 A. I don't recall.

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19      **38:18 -38:21**      Reese, Brian 2016-04-13      00:00:06    00:08:44    00:26:00    Reese\_B-041316-1c      M7.19

38:18      Q. Is Mr. Singh still with Sears?  
 38:19      A. No.  
 38:20      Q. Is Mr. Pope still with Sears?  
 38:21      A. No.

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20      **39:4 -39:6**      Reese, Brian 2016-04-13      00:00:17    00:08:50    00:25:54    Reese\_B-041316-1c      M7.20

[Link > P467.1](#)      39:4                    MR. SKIERMONT: I'm introducing Exhibit 6 to  
 39:5 your deposition, which is an e-mail chain among and  
 39:6 between Apex and Sears individuals.

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21      **39:21 -39:23**      Reese, Brian 2016-04-13      00:00:13    00:09:07    00:25:37    Reese\_B-041316-1c      M7.21

[Link > P467.1.1](#)      39:21                    MR. SKIERMONT: It is Sears 0005505, and the  
 39:22 top e-mail is from XU Yongsheng to Mark Good and  
 39:23 others dated March 18, 2012.

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22      **40:11 -41:8**      Reese, Brian 2016-04-13      00:01:10    00:09:20    00:25:24    Reese\_B-041316-1c      M7.22

[Link > P467.2.1](#)      40:11      Q. In the bottom of the page there's an  
 40:12 e-mail from Eric Broadaway to Matt McDonnell, Mark  
 40:13 Good, and others. Subject: Plier wrench handle grip  
 40:14 design.  
 40:15                    Do you see that?  
 40:16 A. I do.  
 40:17 Q. And this e-mail from Mr. Broadaway is  
 40:18 dated March 15, 2012; correct?  
 40:19 A. March 15, 2012, 1:38 a.m.  
 40:20 Q. Who is Matthew McDonnell?  
 40:21 A. He was a Director of Product Management.  
 40:22 Q. At Sears?  
 40:23 A. Yes.  
 40:24 Q. In the e-mail from Mr. Broadaway dated  
[Link > P467.2.2](#)      41:1      March 15, 2012 he wrote:  
 41:2                    "We have made some good progress on  
 41:3 the plier style wrench for Craftsman. Attached is  
 41:4 the model of the design that should not infringe upon  
 41:5 the Brown patents for the LoggerHead Tools. The jaws  
 41:6 or plungers are not the U-shape design of Brown."

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41:7 Do you see that?

41:8 A. I do.

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23      **41:15-41:18**      Reese, Brian 2016-04-13      00:00:10    00:10:30    00:24:14    Reese\_B-041316-1c      M7.23

41:15    Q. Is the e-mails that are at Plaintiff's --

41:16    or at Deposition Exhibit No. 6 the e-mail you were

41:17    referring to earlier?

Link > Hide      41:18    A. Yes.

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24      **41:19-41:23**      Reese, Brian 2016-04-13      00:00:22    00:10:40    00:24:04    Reese\_B-041316-1c      M7.24

41:19    Q. Is there any other e-mail other than

41:20    Exhibit 6 that you had in mind when you mentioned

41:21    that Apex sent an e-mail to Sears stating that they

41:22    had designed around the LoggerHead patents?

41:23    A. Yes, I believe there was more than one.

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25      **43:6-43:10**      Reese, Brian 2016-04-13      00:00:25    00:11:02    00:23:42    Reese\_B-041316-1c      M7.25

Link > P467.4.1      43:6    Q. And what is your understanding of what

43:7    that image is on Sears 5508?

43:8    A. It looks like a proposed design for a Max

43:9    Axess wrench and a picture of a LoggerHead Bionic

43:10    Wrench highlighting the gripping element.

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26      **43:21-44:16**      Reese, Brian 2016-04-13      00:01:51    00:11:27    00:23:17    Reese\_B-041316-1c      M7.26

Link > P467.2.4      43:21    Q. In the e-mail from Mr. Broadaway to

43:22    various individuals at Sears dated March 15, 2012,

43:23    did Mr. Broadaway identify any differences between

43:24    the proposed Craftsman design and the Bionic Wrench

44:1    design other than the difference in the jaw or

44:2    plunger?

44:3    A. Yes.

44:4    Q. What -- what was that?

44:5    A. Mr. Broadaway describes the jaws or

44:6    plungers. He describes radio slots. He discusses

44:7    the name. He discusses a locking feature, discusses

44:8    the strength of the tool. The industrial design is

44:9    mentioned -- I'm sorry -- that last statement was for

44:10    the eclipse multi-tool.

44:11    But he does mention industrial

44:12    design on the attached, so I'm assuming that's the

44:13    Max Axess.

44:14    Q. Based on your preparation to --

Link > Hide      44:15    A. He -- he also mentions the dual handle

44:16    material. Okay.

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27      **45:2-45:7**      Reese, Brian 2016-04-13      00:00:20    00:13:18    00:21:26    Reese\_B-041316-1c      M7.27

45:2    Q. Based on your investigation for today's

45:3    deposition, are you aware of whether any of the Sears

45:4    individuals that received Mr. Broadaway's March 15,

45:5 2012 e-mail did any investigation to determine  
 45:6 whether jaws or plungers that are not U-shaped would  
 45:7 design around the LoggerHead patents?

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28 **45:11 -45:11** Reese, Brian 2016-04-13 00:00:02 00:13:38 00:21:06 Reese\_B-041316-1c M7.28  
 45:11 A. I'm unaware.

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29 **45:21 -46:4** Reese, Brian 2016-04-13 00:00:33 00:13:40 00:21:04 Reese\_B-041316-1c M7.29  
 45:21 Q. In preparation for today's deposition,  
 45:22 did you see any communication by any of the Sears  
 45:23 individuals that were recipients to Mr. Broadaway's  
 45:24 e-mail being sent to anyone else at Sears?  
 46:1 A. I am.  
 46:2 Q. Can you describe that, please?  
 46:3 A. It appears like it's the bottom of  
 Link > P467.1.2 46:4 Page 1, Mark Good forwarding it to Matthew McDonnell.

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30 **46:23 -47:10** Reese, Brian 2016-04-13 00:00:56 00:14:13 00:20:31 Reese\_B-041316-1c M7.30  
 46:23 Q. Right. And my question is other than  
 46:24 this e-mail on the first page of Exhibit 6, based on  
 47:1 your investigation, are you aware of anyone at Sears  
 47:2 sending Mr. Broadaway's e-mail to anyone else that  
 47:3 was not an original recipient of Mr. Broadaway's  
 47:4 e-mail?  
 Link > Hide 47:5 A. I am unaware of anybody at Sears sending  
 47:6 this exact e-mail to anyone else.  
 47:7 Q. Is -- do you know Mr. Broadaway?  
 47:8 A. I do.  
 47:9 Q. He's not an attorney; is he?  
 47:10 A. Not that I'm aware.

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31 **47:24 -48:10** Reese, Brian 2016-04-13 00:01:06 00:15:09 00:19:35 Reese\_B-041316-1c M7.31  
 47:24 Q. Based on your investigation in  
 48:1 preparation for today's deposition, are you aware  
 48:2 whether anyone at Sears received any attorney  
 48:3 opinions from Apex with respect to whether the Max  
 48:4 Axess Locking Wrench designed around any LoggerHead  
 48:5 patent?  
 48:6 A. Any correspondence between those lawyers  
 48:7 is not something that I would be able to share.  
 48:8 Q. Do you know whether any correspondence  
 48:9 with lawyers in fact occurred?  
 48:10 A. I -- I don't know.

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32 **49:21 -50:18** Reese, Brian 2016-04-13 00:02:54 00:16:15 00:18:29 Reese\_B-041316-1c M7.32  
 49:21 Q. Based on the documents you reviewed or  
 49:22 conversations you had in preparation for today's  
 49:23 deposition, was it Sears or Apex who came up with the  
 49:24 design of the Max Axess Locking Wrench?

50:1 A. I believe Apex came up with the design.  
 50:2 Q. What was Sears' role in the creation of  
 50:3 the design of the Max Axess Locking Wrench if any?  
 50:4 A. Based on the documents, they -- Mark Good  
 50:5 gave direction on the tool handle.  
 50:6 Based on the documents, it stated  
 50:7 the locking feature you have requested. I'm guessing  
 50:8 that that was requested by an individual at Sears to  
 50:9 Apex. There was other correspondence relating to  
 50:10 the -- the width of the handles, and there was  
 50:11 correspondence relating to performance claims.  
 50:12 Q. Are you finished?  
 50:13 A. The visual brand language would probably  
 50:14 have come from Sears individuals.  
 50:15 Q. What is the visual brand language?  
 50:16 A. Visual brand language governs application  
 50:17 of logos, colors, finishes, general branding of the  
 50:18 product.

33	51:16 -51:20	Reese, Brian 2016-04-13	00:00:20	00:19:09	00:15:35	Reese_B-041316-1c	M7.33
		51:16 Other than Exhibits 5 and 6 to 51:17 today's deposition, are you aware of any other 51:18 e-mails exchanged between Apex and Sears discussing a 51:19 design-around of LoggerHead patents? 51:20 A. I can't recall.					
34	52:5 -52:14	Reese, Brian 2016-04-13	00:00:25	00:19:29	00:15:15	Reese_B-041316-1c	M7.34
		52:5 Q. Are you aware whether Apex is 52:6 indemnifying Sears for patent infringement with 52:7 respect to the Max Axess Locking Wrench? 52:8 A. Am I aware? 52:9 Q. Yes. 52:10 A. Yes. 52:11 Q. And what is -- what is your understanding 52:12 of that issue? 52:13 A. That Apex is indemnifying against patent 52:14 infringement.					
37	58:14 -58:18	Reese, Brian 2016-04-13	00:00:16	00:19:54	00:14:50	Reese_B-041316-1c	M7.37
		58:14 Q. Based on the investigation you did in 58:15 preparing for today's deposition, do you have any 58:16 understanding at all of anything Sears did to ensure 58:17 that the Max Axess Locking Wrench did not infringe 58:18 any LoggerHead patent?					
38	58:22 -59:11	Reese, Brian 2016-04-13	00:01:17	00:20:10	00:14:34	Reese_B-041316-1c	M7.38
		58:22 A. In referencing the 315 e-mail from Barry 58:23 Pope to Mark Good, he states. "Coming soon, but they					
	Link > P470.1.3						

58:24 are currently attempting the design function around  
 59:1 patent. Will advise when we get to this point."  
 59:2 My interpretation of that is there  
 59:3 is no move forward until they get that satisfied.  
 59:4 Q. And you were just referring to Exhibit 5?  
 59:5 A. Yes.  
 59:6 Q. And when you said your interpretation is  
 59:7 that there was no move forward until they get that  
 59:8 satisfied, are you referring to Apex getting  
 59:9 satisfied that they had designed around the patent?  
 59:10 A. No. My interpretation of we is Mark and  
 59:11 Barry Pope.

[Link > Hide](#)

39	<b>59:12 -60:3</b>	Reese, Brian 2016-04-13	00:01:16	00:21:27	00:13:17	Reese_B-041316-1c	M7.39
		59:12 Q. What did Barry Pope or Mark Good do to					
		59:13 investigate whether the Max Axess Locking Wrench					
		59:14 design designed around any LoggerHead patent?					
		59:15 A. I can only refer to what's in these					
		59:16 documents.					
		59:17 Q. And based on your review of the					
		59:18 documents, what's your answer to what Barry Pope and					
		59:19 Mark Good did to investigate whether the Max Axess					
		59:20 Locking Wrench design designed around any LoggerHead					
		59:21 patent?					
		59:22 A. One thing that is in the documents here I					
		59:23 can reference is they received an e-mail from Eric					
		59:24 Broadway with a statement that the proposed design					
		60:1 should not infringe upon the Brown patents and that					
		60:2 it continues to explain that the jaws and plungers					
		60:3 are not the U-shaped design of Brown.					
40	<b>60:18 -60:23</b>	Reese, Brian 2016-04-13	00:00:26	00:22:43	00:12:01	Reese_B-041316-1c	M7.40
		60:18 Q. Did the documents that you reviewed					
		60:19 reveal that Mr. Good or Mr. Pope did anything other					
		60:20 than receive e-mails from Apex in -- with respect to					
		60:21 whether the Max Axess Locking Wrench design infringed					
		60:22 any LoggerHead patent?					
		60:23 A. I don't recall that being detailed.					
41	<b>61:18 -61:21</b>	Reese, Brian 2016-04-13	00:00:14	00:23:09	00:11:35	Reese_B-041316-2c	M7.41
	<a href="#">Link &gt; P30.1</a>	61:18 Q. I've marked Exhibit 7 to the deposition,					
		61:19 which is Sears Holdings Corporation Supplemental					
		61:20 Objections and Responses to Plaintiff's Interrogatory					
		61:21 No. 20, and it's also a Supplement to No. 9.					
43	<b>64:10 -64:18</b>	Reese, Brian 2016-04-13	00:00:27	00:23:23	00:11:21	Reese_B-041316-2c	M7.43
		64:10 Q. If you -- staying on Page 3 of Exhibit 7,					
		64:11 in the second full paragraph, second sentence, this					

[Link > P30.3.1](#)

64:12 states, "Mr. Pope testified that he relied on the  
 64:13 Craftsman engineering team, in addition to Apex  
 64:14 employees, to ensure that the design of the Max Axess  
 64:15 Locking Wrench would not infringe any potentially  
 64:16 relevant patents, including the patents in suit."  
 64:17 Do you see that?  
 64:18 A. I do.

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44      **64:24 -65:3**      Reese, Brian 2016-04-13      00:00:11    00:23:50    00:10:54    Reese\_B-041316-2c      M7.44

64:24 Q. Who did Mr. Pope rely on from the  
 65:1 Craftsman engineering team to ensure that the Max  
 65:2 Axess Locking Wrench did not infringe any LoggerHead  
 65:3 patents?

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45      **65:4 -65:20**      Reese, Brian 2016-04-13      00:01:45    00:24:01    00:10:43    Reese\_B-041316-2c      M7.45

65:4 A. It appears that Iqbal Singh was the  
 65:5 Craftsman engineering team counterpart to Mr. Pope  
 65:6 for this project. I'm assuming that the engineering  
 65:7 team encompassed whatever resources Iqbal would have  
 65:8 engaged for this project.  
 65:9 Q. What engineering resources did Iqbal  
 65:10 engage to ensure that the Max Axess Locking Wrench  
 65:11 did not infringe any LoggerHead patents.  
 65:12 A. I can only answer based on what I've seen  
 65:13 in the documents, and I recall there were other  
 65:14 engineering people included in some of those  
 65:15 documents. Colin Knight was one. I don't recall any  
 65:16 others. There may have been.  
 65:17 Q. Based on your preparation for today's  
 65:18 deposition, what information did Mr. Singh provide to  
 65:19 Mr. Pope with respect to whether the Max Axess  
 65:20 Locking Wrench infringed any LoggerHead patents?

[Link > Hide](#)

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46      **66:2 -66:3**      Reese, Brian 2016-04-13      00:00:10    00:25:46    00:08:58    Reese\_B-041316-2c      M7.46

66:2 A. I'm not aware of a direct e-mail between  
 66:3 Iqbal Singh and Mr. Pope that I can recall.

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47      **66:5 -66:9**      Reese, Brian 2016-04-13      00:00:14    00:25:56    00:08:48    Reese\_B-041316-2c      M7.47

66:5 Q. Apart from a direct e-mail between  
 66:6 Mr. Singh and Mr. Pope, do you have any other  
 66:7 information about what Mr. Singh provided to Mr. Pope  
 66:8 with respect to whether the Max Axess Locking Wrench  
 66:9 infringed any LoggerHead patent?

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48      **66:15 -67:3**      Reese, Brian 2016-04-13      00:00:46    00:26:10    00:08:34    Reese\_B-041316-2c      M7.48

66:15 A. So I have record here that Mr. Pope  
 66:16 relied on the engineering team, but I only have  
 66:17 e-mails. I don't know what other infrastructure or  
 66:18 project management they had in place at the time that

66:19 they could have used to rely on the engineering team  
 66:20 to communicate such.  
 66:21 Q. What is the record here, that Mr. Pope  
 66:22 relied on the engineering team, what are you  
 66:23 referring to?  
 66:24 A. Mr. Pope testified that he relied on the  
 67:1 engineering -- Craftsman engineering team in addition  
 67:2 to Apex employees to ensure the Max Axess Locking  
 67:3 Wrench would not infringe.

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49      **68:23 -69:4**      Reese, Brian 2016-04-13      00:00:31    00:26:56    00:07:48    Reese\_B-041316-2c      M7.49

68:23                      Based on your preparation for  
 68:24 today's deposition, what did Colin Knight inform  
 69:1 Mr. Pope about with respect to whether the Max Axess  
 69:2 Locking Wrench infringes any LoggerHead patent?  
 69:3 A. I don't think we have any record of a  
 69:4 direct e-mail.

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50      **69:18 -69:24**      Reese, Brian 2016-04-13      00:00:14    00:27:27    00:07:17    Reese\_B-041316-2c      M7.50

69:18      Q. What did Mr. Singh do to ensure that the  
 69:19 Max Axess Locking Wrench did not infringe any  
 69:20 LoggerHead patent?  
 69:21 A. Can you restate the question as it was  
 69:22 worded with Colin?  
 69:23 Q. It was the same basic thing.  
 69:24 A. Okay. Same answer then.

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51      **71:16 -71:18**      Reese, Brian 2016-04-13      00:00:08    00:27:41    00:07:03    Reese\_B-041316-2c      M7.51

71:16      Q. What Apex employees did Mr. Pope rely on  
 71:17 to ensure the Max Axess Locking Wrench would not  
 71:18 infringe any LoggerHead patent?

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52      **71:19 -72:2**      Reese, Brian 2016-04-13      00:00:46    00:27:49    00:06:55    Reese\_B-041316-2c      M7.52

71:19      A. There is a statement in Exhibit 6 from  
 71:20 Eric Broadway stating that the design should not  
 71:21 infringe upon the Brown patents for the LoggerHead  
 71:22 Tools.  
 71:23 Q. Other than Mr. Broadway's e-mail in  
 71:24 Exhibit 6, dated March 15, 2012, what Apex employees  
 72:1 did Mr. Pope rely on to ensure the Max Axess Locking  
 72:2 Wrench did not infringe any LoggerHead patents?

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53      **72:3 -72:15**      Reese, Brian 2016-04-13      00:01:10    00:28:35    00:06:09    Reese\_B-041316-2c      M7.53

72:3      A. It appears that Brian List, Jennifer  
 72:4 Miles-Losapio, Junyi Wu, Yongsheng XU, Zhihong Fu,  
 72:5 Jill Lowe, and Peng Li are all Apex employees copied  
 72:6 on that same e-mail.  
 72:7 Q. Did any of the Apex employees you just  
 72:8 listed communicate with Mr. Pope about whether the

72:9 Max Axess Locking Wrench infringes any LoggerHead  
 72:10 patent?  
 72:11 A. I think there's other e-mails from Jill  
 72:12 Lowe.  
 72:13 Q. Anyone else?  
 72:14 A. I'm not sure who all from Apex  
 72:15 corresponded with Barry Pope on the project.

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54      **73:4 -73:11**      Reese, Brian 2016-04-13      00:00:27    00:29:45    00:04:59    Reese\_B-041316-2c      M7.54

73:4      Q. Do any of the e-mails that you're  
 73:5      referring to that gave progress updates on the  
 73:6      product include any analysis as to whether the design  
 73:7      of the Max Axess Locking Wrench did or did not  
 73:8      infringe any LoggerHead patent?  
 73:9      A. I don't know that there was analysis, but  
 73:10     I think there were statements relating to its unique  
 73:11     and innovative design.

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55      **73:18 -73:21**      Reese, Brian 2016-04-13      00:00:17    00:30:12    00:04:32    Reese\_B-041316-2c      M7.55

[Link > P502.1](#)

73:18      MR. SKIERMONT: I'm introducing Exhibit No. 8  
 73:19      to the deposition, which is Sears Holdings  
 73:20      Corporation Statements Regarding Craftsman Max Axess  
 73:21      Locking Wrench dated November 14, 2012.

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56      **76:10 -76:13**      Reese, Brian 2016-04-13      00:00:12    00:30:29    00:04:15    Reese\_B-041316-2c      M7.56

[Link > P502.1.1](#)

76:10     Q. Based on your preparation for today's  
 76:11     deposition, do you know when anyone at Sears first  
 76:12     learned of the 1950s patent depicted in the figure in  
 76:13     Exhibit 8?

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57      **76:17 -76:22**      Reese, Brian 2016-04-13      00:00:15    00:30:41    00:04:03    Reese\_B-041316-2c      M7.57

76:17     A. I don't know.  
 76:18     BY MR. SKIERMONT:  
 76:19     Q. Based on your preparation for today's  
 76:20     deposition, do you know what anyone at Sears's  
 76:21     understanding was of the significance, if any, of the  
 76:22     1950s patent depicted in the figure?

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58      **77:2 -77:7**      Reese, Brian 2016-04-13      00:00:16    00:30:56    00:03:48    Reese\_B-041316-2c      M7.58

77:2      A. I don't know.  
 77:3      BY MR. SKIERMONT:  
 77:4      Q. Based on your preparation for today's  
 77:5      deposition, did anyone at Sears believe or contend  
 77:6      that the Max Axess Locking Wrench was a replica of  
 77:7      the 1950 patent depicted in the figure?

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59      **77:10 -77:15**      Reese, Brian 2016-04-13      00:00:16    00:31:12    00:03:32    Reese\_B-041316-2c      M7.59

77:10     A. I don't know.  
 77:11     BY MR. SKIERMONT:

		77:12	Q. Based on your preparation for today's					
		77:13	deposition, does anyone at Sears believe or contend					
		77:14	that the Max Axess Locking Wrench used -- uses some					
		77:15	aspect of the 1950s patent depicted in the figure?					
60	<b>77:18 -77:18</b>	Reese, Brian	2016-04-13	00:00:02	00:31:28	00:03:16	Reese_B-041316-2c	M7.60
		77:18	A. I don't know.					
61	<b>77:20 -78:10</b>	Reese, Brian	2016-04-13	00:00:38	00:31:30	00:03:14	Reese_B-041316-2c	M7.61
	<a href="#">Link &gt; P502.1.3</a>	77:20	Q. Do you see in the first sentence of the					
		77:21	Sears statement it says, "We take intellectual					
		77:22	property rights very seriously and respect those					
		77:23	rights."					
		77:24	Do you see that?					
		78:1	A. I do.					
		78:2	Q. Based on your investigation for today's					
		78:3	deposition, what is your understanding of how Sears					
		78:4	took LoggerHead's intellectual property rights very					
		78:5	seriously?					
		78:6	A. I think it was very clear that they took					
		78:7	it very seriously and respected those rights. The					
		78:8	e-mail from Pope stated in effect that the project is					
		78:9	a nonstarter unless there's a workaround on the					
		78:10	patent.					
62	<b>78:18 -79:11</b>	Reese, Brian	2016-04-13	00:00:59	00:32:08	00:02:36	Reese_B-041316-2c	M7.62
	<a href="#">Link &gt; Hide</a>	78:18	What steps did Sears take to take					
		78:19	very seriously LoggerHead's intellectual property					
		78:20	rights?					
		78:21	A. The product manager gave a direct order					
		78:22	not to proceed until the design workaround was					
		78:23	presented.					
		78:24	Q. What did the product manager do to ensure					
		79:1	his direct order was followed?					
		79:2	A. He didn't -- he didn't answer the					
		79:3	question or provide any further information making it					
		79:4	impossible to proceed.					
		79:5	Q. I'm sorry. I don't understand what you					
		79:6	meant by that.					
		79:7	A. Mr. Good asked the question for inside on					
		79:8	the project, and Barry Pope said in effect there is					
		79:9	no project until there is a design workaround.					
		79:10	So he never -- never provided the					
		79:11	next steps that could have been followed.					
63	<b>79:15 -79:24</b>	Reese, Brian	2016-04-13	00:00:22	00:33:07	00:01:37	Reese_B-041316-2c	M7.63
	<a href="#">Link &gt; P502.1.2</a>	79:15	In the first paragraph of Exhibit 8					
		79:16	in the Sears statement the statement says, "Despite					

79:17 some visual similarities to other tools on the  
 79:18 market, the Craftsman Max Axess Locking Wrench  
 79:19 operates in a different way using a mechanism  
 79:20 designed in the 1950s that Mr. Brown expressly argued  
 79:21 to the patent office was different from his own  
 79:22 design."  
 79:23 Do you see that?  
 79:24 A. I do.

64	<b>80:12 - 80:15</b>	Reese, Brian 2016-04-13	00:00:11	00:33:29	00:01:15	Reese_B-041316-2c	M7.64
		80:12 Q. Based on your preparation for today's 80:13 deposition, did you learn where Sears got the 80:14 information about Mr. Brown's arguments to the patent 80:15 office?					
65	<b>80:18 - 81:2</b>	Reese, Brian 2016-04-13	00:00:27	00:33:40	00:01:04	Reese_B-041316-2c	M7.65
		80:18 A. I'm not sure where Sears as an 80:19 organization received it. 80:20 I do have awareness that attorneys 80:21 are able to access discovery on patent applications. 80:22 BY MR. SKIERMONT: 80:23 Q. Based on your preparation for today's 80:24 deposition, what did you learn about when Sears 81:1 learned about Mr. Brown's argument to the patent 81:2 office that is referenced in Sears' statement?					
66	<b>81:5 - 81:7</b>	Reese, Brian 2016-04-13	00:00:09	00:34:07	00:00:37	Reese_B-041316-2c	M7.66
		81:5 A. I'm not sure I can answer when Sears 81:6 learned nor do I know when any individual might have 81:7 learned that.					
67	<b>81:10 - 81:12</b>	Reese, Brian 2016-04-13	00:00:07	00:34:16	00:00:28	Reese_B-041316-2c	M7.67
		81:10 Based on your preparation for 81:11 today's deposition, did you learn anything about the 81:12 creation of Exhibit 8?					
68	<b>81:15 - 81:21</b>	Reese, Brian 2016-04-13	00:00:20	00:34:23	00:00:21	Reese_B-041316-2c	M7.68
		81:15 A. I -- I do not. 81:16 BY MR. SKIERMONT: 81:17 Q. Based on your preparation for today's 81:18 deposition, did you learn anything else about the 81:19 steps Sears took to ensure that the Max Axess Locking 81:20 Wrench did not infringe any LoggerHead patent other 81:21 than what you've already testified to today?					
69	<b>82:4 - 82:4</b>	Reese, Brian 2016-04-13	00:00:03	00:34:41	00:00:03	Reese_B-041316-2c	M7.69
		82:4 A. Nothing further to add, no.					

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