

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF WYOMING

ABC IP, LLC, a Delaware limited liability company; and RARE BREED TRIGGERS, INC., a Texas corporation,

Plaintiffs.

Cheyenne, Wyoming
February 4, 2026
9:08 a.m.

vs.

PEAK TACTICAL, LLC, d/b/a
Partisan Triggers, a Wyoming
limited liability company; and
NICHOLAS NORTON, an individual.

Defendants.

TRANSCRIPT OF HEARING PROCEEDINGS
MOTION FOR TEMPORARY RESTRAINING ORDER

BEFORE THE HONORABLE KELLY H. RANKIN
CHIEF UNITED STATES DISTRICT JUDGE

*JANET DAVIS, RDR, FCRR, CRR
Federal Official Court Reporter
2120 Capitol Avenue, Room 2226, Cheyenne, WY 82001
307.433.2154 * jbd.davis@gmail.com*

Proceedings reported by realtime stenographic reporter;
transcript produced with Computer-Aided Transcription.

INDEX IN REAR

APPEARANCES:

For the Plaintiffs: Koch Law PC
BY: NATHAN A. NICHOLAS
TRAVIS W. KOCH
121 West Carlson, Suite 3
Cheyenne, WY 82009

Fish & Richardson PC
BY: MATTHEW A. COLVIN
CARL E. BRUCE
1717 Main Street, Suite 5000
Dallas, TX 75201

For the Defendants: Holland & Hart LLP
BY: JEFFREY S. POPE
2020 Carey Avenue, Suite 800
Cheyenne, WY 82003
TIMOTHY P. GETZOFF
1800 Broadway, Suite 300
Boulder, CO 80302
PAUL SWANSON
555 Seventeenth Street, Suite 3200
Denver, CO 80202

1 (Proceedings commenced 9:08 a.m., February 4, 2026.)

2 THE COURT: Thank you. Please be seated.

3 Well, good morning. We've got a room full of folks
4 here today in the matter of ABC IP, LLC, Rare Breed Triggers,
5 Inc., the two plaintiffs involved, and the defendant --
6 defendants rather, Peak Tactical, LLC, and Nicholas Norton,
7 Case Number 26-CV-18-R.

8 On behalf of the various plaintiffs, I understand we
9 have Nathan Nicholas, Travis Koch, Carl Bruce, and Matt Colvin,
10 and a party representative present at counsel table as well.

11 For the various defendants I see we've got Jeff Pope
12 here. I understand we also have Tim Getzoff and Paul Swanson.
13 Good morning to you and your corporate representative at
14 counsel table as well.

15 Well, this is a hearing on the plaintiffs' motion for
16 a Temporary Restraining Order and preliminary injunction
17 pursuant to Rule 65 of the Federal Rules of Civil Procedure.
18 That's found in Document 6. Response was filed in Document 27.

19 I have reviewed the briefing in this matter and
20 numerous attachments. We have scheduled today's hearing both
21 for argument and evidence, if necessary, including 90 minutes
22 per side, so hopefully we can be efficient with our time. But
23 certainly important issues to address and for the Court to
24 consider.

25 So let me turn to each side to see if there were any

1 preliminary matters that we need to address before we begin.

2 For the various plaintiffs, any preliminary matters?

3 MR. COLVIN: Good morning, Your Honor, Matt Colvin for
4 ABC and Rare Breed. We're ready to proceed.

5 No preliminary matters, but if the Court would like to
6 discuss any logistics or anything in particular that you'd like
7 to see in today's hearing, we're happy to accommodate that.

8 THE COURT: Mr. Colvin, thank you. I understand each
9 side has some potential may-call witnesses.

10 Do you anticipate presenting witnesses here this
11 morning?

12 MR. COLVIN: Yes, Your Honor.

13 THE COURT: And maybe just to help me and our court
14 reporter, generally who do you anticipate calling as witnesses
15 today?

16 MR. COLVIN: We anticipate calling our corporate
17 representative, Mr. DeMonico. We also intend to call our
18 technical expert, Mr. Luettke. We expect to call our
19 economist, Dr. Warty, and we also expect to call adverse
20 Mr. Stakes, Mr. Woods, and Mr. Nixon.

21 THE COURT: I'm sorry. The last one?

22 MR. COLVIN: Mr. Nixon.

23 THE COURT: All right. You're going to have to be
24 efficient with your time this morning, but thank you for the
25 heads-up.

1 On behalf of the defendants.

2 MR. GETZOFF: Good morning, Your Honor, Tim Getzoff on
3 behalf of the defendants.

4 Our may calls would be Mr. Woods, who is present at
5 counsel table, and Mr. Stakes, who is sitting behind us.

6 For efficiency we would, with the Court's permission,
7 just do our redirect at the same time, assuming they're called
8 adversely first.

9 THE COURT: I think that makes sense.

10 Any objection to that approach for the plaintiffs?

11 MR. COLVIN: No, Your Honor.

12 MR. GETZOFF: And I would advise that our technical
13 expert, John Nixon, is not present today.

14 THE COURT: All right. Very well. One less witness,
15 I guess, today.

16 Well, I say we dive in, and I'll turn it over to the
17 plaintiff -- plaintiffs. You have the burden, and you may
18 either provide a brief summary or however you wish to proceed,
19 I'll leave it up to you.

20 MR. COLVIN: Thank you, Your Honor. My plan would be
21 to provide a brief overview, a short opening statement, if you
22 will, and then proceed with witnesses.

23 THE COURT: Very well. Mr. Colvin, thank you. You
24 may proceed.

25 MR. COLVIN: And I have a set of slides I can hand to

1 the Court.

2 May it please the Court. Your Honor, this case is
3 about brazen copying and a decision to flood the market during
4 litigation to try and force Rare Breed out of business.

5 Before we get to the merits, I'd like to give you a
6 bit of a brief technology tutorial just so we're all on the
7 same page with the technology here.

8 THE COURT: Please.

9 MR. COLVIN: So you're going to hear the terms
10 "semi-automatic trigger" and "forced reset trigger" today. A
11 semi-automatic trigger is a trigger where there's one shot per
12 trigger pull, and the key differentiator here is that the
13 trigger has to be reset manually by releasing pressure from the
14 trigger. If you keep holding the trigger back, it will not
15 reset and you cannot take another shot. You have to manually
16 release pressure from the trigger.

17 And the rate of fire using a standard semi-automatic
18 trigger is just dependent on how fast you can manually release
19 the trigger and pull it again, release-pull, release-pull.

20 I have an animation that shows a standard
21 semi-automatic trigger in an AR-15 platform, and you will see
22 that the trigger here in red has been pulled. And this loops
23 several times, so you don't have to try to get it all in one
24 pass.

25 The hammer goes up and hits the bolt carrier. The

1 bolt carrier comes back and cocks the hammer. The hammer is
2 now caught by the green disconnect hook, and while the
3 trigger is still pulled to the rear, the hammer is caught by
4 the disconnect hook in green.

5 When you manually release pressure from the trigger,
6 the trigger comes forward. That allows the trigger to now no
7 longer be caught on the disconnect hook, but to be engaged with
8 the sear, which is at the bottom of the blue hammer and at the
9 nose of the trigger.

10 I'm told the disconnect hook is yellow and not green.
11 That would be my color-blindness coming through.

12 The important thing to note here about the
13 semi-automatic trigger is that the disconnect hook in yellow
14 captures or engages the hammer, and it's not released until the
15 trigger is -- the pressure on the trigger is released so that
16 the trigger can go forward.

17 With a forced reset trigger there's still only one
18 shot per trigger pull, but a key differentiator here is that it
19 is not the user releasing pressure from the trigger that
20 manually resets it; it is the action of the rifle itself that
21 forcibly pushes the trigger forward and resets it.

22 Practically, what this means is the user doesn't have
23 to stop pulling backwards on the trigger to fire another shot.
24 The user can maintain rearward pressure on the trigger, and the
25 firearm will forcibly reset it against the user's finger

1 pressure so that when the bolt comes back into battery, the
2 trigger can be pulled.

3 I have another animation showing this.

4 You will note a few things about this animation. Here
5 the disconnector, which is the orangey-yellowy piece in the
6 middle, has been retracted. It has been pulled back so that it
7 never catches the hammer.

8 You can see the hammer comes back, and instead of
9 being captured by the disconnector, it is -- it is pulled back
10 out of the way.

11 Also, you'll note when the hammer comes back, the
12 hammer impacts the upper portion of the red trigger here, and
13 you'll see that that forcibly pushes the trigger forward,
14 rotates that trigger forward back into the set position such
15 that when the bolt carrier goes back forward, the hammer can
16 rest on the sear.

17 In that situation, the only thing that is keeping the
18 trigger from being pulled is the locking bar in the upper
19 left-hand quadrant there, the purple piece.

20 That locking bar, once the trigger is in the set
21 position, keeps the trigger from being pulled until the bolt
22 carrier impacts it, moves it out of the way, and allows the
23 trigger to pull such that the hammer can be released.

24 Before I move on from this, Your Honor, any questions
25 or clarifications I can offer you?

1 THE COURT: So that -- the distinction, really, is it
2 is sort of pulling -- the finger goes with the trigger, if I
3 understand that correctly; the action involves the finger being
4 pulled because of the action of the bolt. Am I -- is that --

5 MR. COLVIN: That's correct. So the user in a forced
6 reset trigger can maintain pressure on the trigger. They do
7 not have to manually release that pressure, and that's what
8 allows increased rate of fire. You don't have to release and
9 pull, release and pull. You can keep pulling back, and it is
10 the action of the firearm that forces the trigger forward,
11 despite the shooter keeping rearward pressure on the trigger.

12 THE COURT: How is this different from a bump stock?
13 I mean, is there a distinction here between those two things?

14 MR. COLVIN: There is, Your Honor. So --

15 THE COURT: And maybe you're going to get to this.

16 MR. COLVIN: Well, I might defer to my technical
17 expert to get into all the intricacies and differences between
18 this and a bump stock, because, frankly, I'm no expert in a
19 bump stock.

20 THE COURT: Fair enough. I don't want to eat up your
21 time, but there must be some distinction, and we can talk about
22 that later.

23 MR. COLVIN: So the story here is important. Rare
24 Breed was founded in 2020 and brought its forced reset trigger
25 to market. Almost immediately there were legal issues with the

1 ATF and the DOJ making claims that this forced reset trigger
2 was a machine gun component.

3 And ultimately there was litigation between Rare Breed
4 and the DOJ over that question, and the DOJ ultimately settled
5 with Rare Breed in the spring of 2025. The DOJ settlement said
6 they were not going to enforce the machine gun statute against
7 Rare Breed for these products.

8 Effectively what happened in the market at that point
9 is that Rare Breed was now free to sell its products, and the
10 market reacted with other competitors flooding into the market,
11 and in this case, Partisan Triggers copying Rare Breed's
12 trigger to compete with them. And so Rare Breed is now in the
13 position as the innovator in this field, a company that
14 litigated against the DOJ for years and won, only to now face
15 competition from copycat products.

16 On slide 7 we see on the left a figure from three of
17 the patents that are asserted here. This is Figure 8C of the
18 patents, and I've color-coded similar components to match the
19 components of Rare Breed's FRT-15L3. FRT-15L3 is just a
20 product that Rare Breed is selling. That's one of their
21 trigger models.

22 And you can see that the components are very similar
23 to that of the embodiments in these patents.

24 And so enters Partisan. And what does Partisan do?
25 Does Partisan innovate and create a different trigger? No,

1 they don't. They just copy Rare Breed's FRT-15L3.

2 I have two of the triggers to hand up to you, Your
3 Honor, if you'd like to see them. And you will notice that the
4 housing on the Partisan trigger has been cut away a little bit,
5 but other than that cosmetic housing difference, there's really
6 no difference between the triggers. As we showed in the
7 previous picture, on the previous slide, Slide 7, the
8 functional components of these triggers are identical.

9 Would you like to see the triggers, Your Honor?

10 THE COURT: I would.

11 MR. COLVIN: The black trigger I've handed up is the
12 Rare Breed trigger. The green trigger with the cut-away is the
13 Partisan Disruptor.

14 THE COURT: I assume counsel for the defendants have a
15 similar pair of models.

16 MR. GETZOFF: We do, Your Honor. Thank you.

17 THE COURT: Okay. Thank you.

18 MR. COLVIN: And the issues here go beyond just
19 copying, Your Honor. It's not that they have only copied their
20 product. Partisan, Peak, has also made a decision that they're
21 going to flood the market with these products while litigation
22 is pending.

23 They said in their papers that since November they are
24 averaging approximately 3500 orders of the Disruptor trigger
25 per week. And they're planning on 480,000 of them this year

1 and 600,000 of them in the next two years after that.

2 In dollars, the wholesale price of the trigger, that
3 means \$4.8 million in gross profit to Peak Tactical in 2026
4 alone, going up to 6 million in 2027 and 2028, according to
5 their own papers.

6 And it goes beyond them just flooding the market.
7 They've also launched a smear campaign against Rare Breed.
8 There were many of these forum posts and excerpts in our brief.
9 I'll highlight two of them here, one from the Partisan Triggers
10 account on AR-15.com.

11 They're trying to play the victim. The copier is
12 playing the victim and blaming Rare Breed, accusing Rare Breed
13 of bullying small companies.

14 Their spokesman, Ben Woods -- this is his account from
15 AR15.com -- noted: *It ceased to be commendable when it is*
16 *discovered that later that he did so only in order to chain*
17 *those women and children up in his basement and rape them until*
18 *someone stops*, speaking of my client. The issue here is that
19 Rare Breed fought the DOJ for years to try to get these
20 triggers classified as not machine gun parts. Rare Breed won
21 that fight for themselves, and now Partisan is somehow trying
22 to play the victim for Rare Breed enforcing its intellectual
23 property.

24 So how does this all play into the TR0 factors?
25 Briefly I will touch on these, and we can hit them more later.

1 First factor, likelihood of success on the merits:
2 For infringement, the Partisan Disruptor infringes at least one
3 claim of four different Rare Breed patents. We submitted the
4 declaration from our expert, Mr. Brian Luettke, that shows
5 that.

6 Plaintiffs' response -- sorry -- Partisan's response
7 had a lot to say about validity, but let's remember that a
8 patent is presumed valid, and the burden on the defendant to
9 invalidate a patent is very high, clear and convincing
10 evidence. And that burden is even more difficult to meet when
11 the art that they're presenting was in front of the patent
12 examiner, as is the case here.

13 For the second factor, irreparable harm, there are
14 numerous categories here: Permanent market displacement in a
15 market like this cannot be resolved after the fact. There's
16 price erosion happening and significant reputational harm and
17 goodwill being lost by Rare Breed because of Partisan's
18 actions.

19 The balance of equities is almost entirely in Rare
20 Breed's favor. Partisan claims some harm of business risk that
21 they would suffer as an injunction, but let's remember that
22 they have come to this harm. They are the ones who decided to
23 launch a copycat and infringing product in the market, and they
24 should not be heard to complain when they're enjoined from
25 doing that.

1 Factor 4 is public interest. Many of these cases,
2 public interest is difficult to weigh. Not so here. The DOJ
3 has weighed in on public interest. This quote from the screen
4 here is something that the DOJ -- from a paper the DOJ put in
5 in a related case. This was the *Hoffman* case, a case between
6 Rare Breed and ABC and a defendant named Hoffman over a
7 slightly different product but still a forced reset trigger.

8 They put in this statement after a TR0 had been
9 granted but before the preliminary injunction hearing. There,
10 the DOJ said that: *The Government, through the ATF, has a*
11 *strong interest in promoting the safe use of firearms*, and that
12 *The ATF has an interest in limiting the sale and distribution*
13 *of FRTs*. FRTs are forced reset triggers.

14 They went on to say that: *Plaintiffs' patent*
15 *enforcement actions support public safety efforts if successful*
16 *in enjoining use of FRTs by third parties.*

17 The *Hoffman* court in Tennessee issued a Temporary
18 Restraining Order against the defendant there on facts very
19 similar to these, only I would say these are even more
20 egregious because there the product was not a direct copy of
21 Rare Breed's product. Here, the Partisan Disruptor is a direct
22 copy of the Rare Breed trigger.

23 Your Honor, we have three witnesses from Rare Breed
24 here for you, in case you'd like to ask some questions. One is
25 Mr. DeMonico, our corporate representative. We're also going

1 to present to you Mr. Luettke, our technical expert, and
2 Dr. Warty, our economist.

3 THE COURT: Thank you, Mr. Colvin.

4 MR. COLVIN: Unless Your Honor has any questions, we
5 would call our first witness.

6 THE COURT: You may.

7 Let me just turn to the defendants.

8 Counsel for the defendants, do you wish to make a
9 brief opening summary?

10 MR. GETZOFF: Your Honor, I think I will reserve that
11 until it's our time to go and I can get set up and present our
12 case.

13 THE COURT: Very well. That sounds most efficient.

14 Mr. Colvin, you may call your first witness.

15 MR. COLVIN: We call Mr. Lawrence DeMonico.

16 THE COURT: Mr. DeMonico, please come forward to be
17 sworn.

18 (Witness sworn.)

19 COURTRoom DEPUTY: Please state and spell your name
20 for the record.

21 THE WITNESS: Lawrence DeMonico, L-a-w-r-e-n-c-e
22 D-e-M-o-n-i-c-o.

23 THE COURT: You may proceed.

24 MR. COLVIN: Thank you, Your Honor.

1 **LAWRENCE DEMONICO, PLAINTIFFS' WITNESS, DIRECT EXAMINATION**

2 **BY MR. COLVIN:**

3 Q. Good morning, Mr. DeMonico.

4 A. Good morning.

5 Q. Where do you live, sir?

6 A. Austin, Texas.

7 Q. And what is your relationship to Rare Breed and ABC?

8 A. I am the president of Rare Breed Triggers. ABC IP is an
9 intellectual property holding company that Rare Breed Triggers
10 has access as an exclusive licensee to its portfolio of
11 patents.

12 Q. How long have you been president of Rare Breed?

13 A. Since its inception in 2020.

14 Q. Can you tell us a little bit about Rare Breed's business?

15 A. Rare Breed Triggers is in the business of manufacturing,
16 designing, developing, and selling forced reset triggers.

17 Q. And what is a forced reset trigger?

18 A. A forced reset trigger is a trigger that is forcibly reset
19 by the action of the firearm.

20 Q. And specifically, what forced reset triggers does Rare
21 Breed offer for sale?

22 A. Currently Rare Breed Triggers offers two models, the
23 FRT-15L3 and the FRT-MR3.

24 Q. What do those triggers retail for?

25 A. The FRT-15L3 retails for 425, that's \$425, and the FRT-MR3

1 retails for \$525.

2 Q. Does the FRT-15L3 retail for \$450 or \$425?

3 A. I apologize. \$450. Thank you.

4 Q. How long is a forced reset trigger like Rare Breed's
5 designed to last?

6 A. So long as a forced reset trigger is made from decent
7 materials, it is expected to last the duration of the firearm
8 that you install it in.

9 Q. Can you tell us a little bit about the development of Rare
10 Breed's forced reset trigger products?

11 A. Rare Breed Triggers has been in the development of forced
12 reset triggers for quite some time. Quite a bit of time was
13 spent in development to bring our original model to market in
14 2020. That model was the FRT-15. And since that time, Rare
15 Breed Triggers has continued to design, develop, prototype, and
16 even patent additional technologies for additional models that
17 we have currently brought to market, like the FRT-15L3 and the
18 FRT-MR3, but additional models that we plan to release in
19 coming months.

20 Q. So let's discuss briefly the FRT-15L3.

21 Specifically, what is that trigger used for?

22 A. That trigger is designed for the AR-15 platform.

23 Q. And what does the L3 in that product designation refer to?

24 A. The L stands for -- it's based on our locking bar
25 technology, and the 3 means that it is a three-position.

1 Q. When you say "three-position," can you explain that for the
2 Court?

3 A. Sure. "Three-position" meaning safe, standard
4 semi-automatic, and then forced reset semi-automatic.

5 Q. Are those different operation modes of the trigger?

6 A. Yes, sir.

7 Q. And how does -- how is the FRT-15L3 different from prior
8 models of triggers that Rare Breed has sold?

9 A. Our original model, the FRT-15, was a two-position, meaning
10 it had safe and forced reset semi-automatic. It did not have
11 the standard semi-automatic.

12 Q. Are Rare Breed's triggers patented?

13 A. Yes, sir.

14 Q. And who are those patents assigned to?

15 A. Those patents are assigned to ABC IP.

16 Q. And what's ABC's relationship with Rare Breed?

17 A. ABC IP is the intellectual property holding company that
18 Rare Breed has exclusive license -- is the exclusive licensee
19 to its portfolio of patents.

20 Q. Mr. DeMonico, are you aware of a settlement between Rare
21 Breed and the Department of Justice?

22 A. Yes, sir.

23 Q. How was it that you became knowledgeable of that?

24 A. I was personally involved in the negotiation, drafting, and
25 I ultimately signed that agreement with the Department of

1 Justice.

2 Q. And what were the conditions that the Department of Justice
3 put on Rare Breed in that settlement?

4 A. Specifically, there were three requirements: One, that we
5 would not manufacture and sell forced reset triggers for
6 handguns; two, that we would enforce our patent rights; and,
7 three, that we would only employ responsible marketing
8 techniques.

9 Q. Has Rare Breed developed triggers for use in handguns?

10 A. No, sir.

11 Q. Has Rare Breed Triggers enforced its patents?

12 A. Yes, sir.

13 Q. About how many patent litigations has Rare Breed entered
14 into?

15 A. I think we currently have between 20 and 25 open and active
16 patent litigations right now.

17 Q. What did this DOJ settlement mean for the future of Rare
18 Breed Triggers?

19 A. Well, specifically, it means that we were able to go back
20 into business without a legal question hanging over our heads,
21 and, two, we no longer needed to be concerned about the machine
22 gun statute being enforced against us or any of our downstream
23 customers as we move forward in business.

24 THE COURT: Is there any oversight by the Department
25 of Justice in terms of the settlement terms and these ongoing

1 patent litigations currently?

2 THE WITNESS: I know that they're paying attention
3 because they've weighed into one of the litigations that we
4 currently have in Tennessee that I attended a hearing on last
5 week. They submitted a statement of interest in that specific
6 case, so I know they're paying attention.

7 THE COURT: Thank you.

8 THE WITNESS: Yes, sir.

9 BY MR. COLVIN:

10 Q. Mr. DeMonico, is Rare Breed the only manufacturer of forced
11 reset triggers in the market?

12 A. No, sir.

13 Q. Can you name some of the other competitors?

14 A. There are many individuals that are manufacturing the super
15 safety. There is the Atrius, they make a super selector. AS
16 Designs, they make a product called the ARC-Fire. There is a
17 product on the market called the -- it is known by many names,
18 but most people refer to it as the WOT three-position, and then
19 there is the Partisan Disruptor.

20 Q. And has Rare Breed initiated litigation against any of
21 these other products in the market?

22 A. Yes, sir. I would -- all of them, I believe.

23 Q. And, to your knowledge, has the Department of Justice or
24 the ATF approved any other manufacturer to make forced reset
25 triggers?

1 A. There is not another manufacturer that has a settlement
2 agreement or an agreement at all with the Department of Justice
3 to manufacture forced reset triggers.

4 Q. Rare Breed is the only one?

5 A. Yes, sir.

6 MR. COLVIN: Pass the witness, Your Honor.

7 THE COURT: Thank you, Mr. Colvin.

8 Cross-examination, Mr. Getzoff.

9 **CROSS-EXAMINATION**

10 BY MR. GETZOFF:

11 Q. Good morning, Mr. DeMonico.

12 I just wanted a couple of follow-up questions based on
13 what your client [sic] asked you already.

14 You were here when -- right before your testimony when
15 your counsel was talking about irreparable harm. He had a
16 slide that talked about the different kinds of irreparable
17 harm.

18 You saw that slide, right?

19 A. I was paying attention.

20 Q. And one of the aspects of irreparable harm that your
21 counsel put on the slide in the court today as well as in your
22 brief was a dealer disruption or disruption to dealer networks.

23 Do you recall that?

24 A. I don't recall that, but okay.

25 Q. The fact is Rare Breed does not sell through dealers,

1 right?

2 A. We are currently establishing a dealer network as we speak.

3 Q. As we speak Rare Breed is not selling through any dealers,
4 correct?

5 A. I believe we've already set up one.

6 Q. Do you recall testifying just last week -- you talked about
7 that hearing last week where you sued Mr. Hoffman, right?

8 A. That's right. Yes, sir.

9 Q. And you testified, right?

10 A. Yes, sir.

11 Q. Do you remember testifying last week that Rare Breed had
12 no -- had no dealers, and all your sales were retail?

13 A. Yes, sir, but I would be happy to explain.

14 Q. Well, let me ask you: Is the statement that Rare Breed
15 sales are all retail through your website -- is that accurate
16 or not?

17 A. It was accurate when I made it last week. But in the last
18 week, as I mentioned, we are currently in the process of
19 setting up a dealer network. In that last week -- I believe we
20 have set up one in that last week. So we're in the process of
21 setting up the dealer network currently, like right now.

22 Q. So at least as of right now, there are no dealers selling
23 Rare Breed products; is that true?

24 A. I believe that I just stated we have set up one in the last
25 week, so as of right now, I believe we have one.

1 Q. So what's the dealer that I could go to and buy a Rare
2 Breed trigger right now?

3 A. I'd have to get -- I'd have to get that name.

4 Q. Okay. Now, you talked about the settlement agreement with
5 the DOJ that happened just May of last year, correct?

6 A. Yes, sir.

7 Q. And you said one of the conditions was the DOJ wanted Rare
8 Breed to enforce its patents?

9 A. That's correct.

10 Q. And you have been doing that zealously, fair?

11 A. We have been active in our enforcement.

12 Q. Did the DOJ grant Rare Breed any sort of exclusive right to
13 be the only one to sell forced reset triggers beyond its patent
14 rights?

15 A. I don't think those words were used in the agreement, no.

16 Q. The DOJ didn't tell you in part of the settlement or part
17 of your discussion that it wanted you to enforce monopoly
18 rights beyond what your patents might protect, right?

19 A. In order to make sure we're on the same sheet of music, can
20 you rephrase that question. I want to make sure I answer it
21 accurately.

22 Q. Yeah. I just want to make clear that the DOJ said, Enforce
23 your patent rights, but didn't say anything further about, We
24 want you to be the only one in this market beyond what your
25 patent rights give you?

1 A. They did not ask us to attempt to enforce patent rights
2 that we did not have a good faith belief that we had, if that's
3 what you're asking.

4 Q. And you said the DOJ entered a statement of interest in the
5 *Hoffman* case, right?

6 A. Yes, sir.

7 Q. And just to be fair, Mr. Hoffman, he's a 25-year-old kid by
8 himself posting plans on the Internet, right?

9 A. I believe Hoffman is -- I believe he is 25. I wouldn't
10 consider that a kid. Yes, that is his model of posting
11 downloadable 3D print files or CAD files in order for others to
12 download and use to manufacture forced reset trigger
13 components.

14 Q. Mr. DeMonico, you have a pending motion for preliminary
15 injunction against Mr. Hoffman; that hearing was last week, but
16 that hasn't been ruled on, right?

17 A. That is correct.

18 Q. And you said the DOJ entered a statement of interest in the
19 *Hoffman* case but has not entered a statement of interest in
20 this case, right?

21 A. That is correct.

22 Q. And in the *Hoffman* case, that concerned different patents
23 and different products than the patents and products at issue
24 in this case, right?

25 A. That is correct.

1 Q. Does it cost you, your company, for these two different
2 models that you make -- your cost to make them are a hundred
3 dollars per item; is that right?

4 A. Approximately.

5 Q. So as a profit, you make either \$435 or \$325, depending on
6 the model?

7 A. No, sir, that is incorrect.

8 THE COURT: I think the testimony was \$450 and \$525.

9 MR. GETZOFF: I missed -- yes. Thank you, Your Honor.
10 I'm sure I misstated that. I'm going to move on.

11 BY MR. GETZOFF:

12 Q. Mr. DeMonico, did you testify that Rare Breed's FRT-15 was
13 the first commercialization of a forced reset trigger?

14 A. Yes, sir.

15 Q. Are you aware of the TacCon 3MR trigger that was
16 commercialized by Michal Stakes back in 2014?

17 A. Yes, sir, I am.

18 Q. Are you aware of the patent, the '067 Patent, that Michael
19 Stakes owned when he commercialized and produced that TacCon
20 MR3 product?

21 A. I am familiar with it now, yes, sir.

22 Q. In fact, you tried to purchase Mr. Stakes' '067 Patents on
23 two separate occasions, right?

24 A. No, sir, that's incorrect.

25 Q. Is it your testimony to this Court that you never attempted

1 to purchase the '06 -- the '067 Patent?

2 A. Yes, sir, that is my testimony. I never attempted to
3 purchase the patent from Mr. Stakes; that is correct.

4 Q. Well, I don't want to quibble.

5 Have you -- has your company made any attempt to
6 acquire the '067 Patent at any time?

7 A. Yes, sir, we have.

8 Q. Okay. Tell me about that. When did you first try to
9 acquire the '067 Patent?

10 A. A few weeks ago.

11 Q. Was that the first time or was there an earlier time as
12 well?

13 A. No, that was the first time.

14 Q. You didn't personally make a phone call to Mr. Stakes back
15 in the 2021 time period to try to acquire the '067 Patent?

16 A. No, sir, I did not.

17 Q. You talked about the prior litigation with ATF, right?

18 A. Yes, sir.

19 Q. That went on for years, correct?

20 A. Yes, sir.

21 Q. And in the course of that litigation, the Court, the
22 Eastern District of New York, entered a preliminary injunction
23 against Rare Breed Triggers, right?

24 A. Yes, sir.

25 Q. And in that order, that was a 120-some-page order, right?

1 A. I'm not sure, sir.

2 Q. It was a long -- it was a long order, and you read it,
3 correct?

4 A. I'm not sure how long it was, and, to be honest, I don't
5 really remember reading it either.

6 Q. Would you remember where the Court found that you had
7 willfully evaded a seizure order?

8 A. I don't remember those details, sir.

9 Q. Do you recall when the Court found that you were
10 responsible for filing a false declaration to the Court?

11 A. I don't remember that either, sir.

12 Q. You don't -- you don't remember a declaration filed by your
13 business partner, who is in the courtroom with us today, that
14 the Court found was a false declaration that you intentionally
15 and knowingly relied upon?

16 A. I litigated against the ATF and the DOJ for years. We
17 currently have more than 20 open and active litigations. I
18 don't remember what is in each and every one of them. I
19 apologize for that.

20 Q. Do you remember the Court -- the New York federal judge
21 finding that you had shredded documents to avoid the ATF?

22 A. No, sir.

23 Q. So just to be clear, this conduct that I just described
24 that's spelled out in the order that's a public record, you're
25 saying you don't remember this because you have so many cases

1 you can't keep track of when courts find you at fault for such
2 egregious conduct?

3 A. Well, sir, we don't even own a shredder, so if I'm trying
4 to remember and put pieces together, we had a digital
5 anonymizing capability in our website if individuals, after
6 they purchased, after a given period of time had passed and we
7 weren't expecting a return, that their private information
8 would be anonymized and no longer available in our web system.

9 If that's what you're referring to, I do remember that
10 being an issue. But, in addition to that, yes, it is my
11 testimony that I have been litigating for years now. I have
12 been on the stand multiple times in multiple federal courts. I
13 do my best to keep up with the pleadings. We have more than a
14 dozen attorneys working on this. I do my best to keep up, and,
15 no, I cannot keep up with all of the details, and for that I'm
16 sorry.

17 Q. Do you recall the federal court finding that you
18 intentionally evaded her injunction by continuing to sell
19 triggers through a shell company?

20 A. I believe that is false. I don't think that ever happened,
21 and I don't know where you would have heard that because we
22 absolutely did not violate a court-ordered injunction, and I
23 never would violate a court-ordered injunction.

24 MR. GETZOFF: Thank you, Mr. DeMonico.

25 I have nothing further, Your Honor.

1 THE COURT: Thank you, Mr. Getzoff.

2 Mr. Colvin, anything else?

3 MR. COLVIN: No, Your Honor.

4 THE COURT: Mr. DeMonico, thank you for your
5 testimony, sir. You may step down.

6 THE WITNESS: Thank you, Your Honor.

7 THE COURT: Plaintiffs may call their next witness.

8 MR. COLVIN: Your Honor, plaintiffs call Mr. Brian
9 Luettke.

10 THE COURT: Very well. Mr. Luettke, please come
11 forward to be sworn.

12 (Witness sworn.)

13 COURTRoom DEPUTY: Please state and spell your name
14 for the record.

15 THE WITNESS: Brian Luettke, L-u-e-t-t-k-e.

16 **BRIAN LUETTKE, PLAINTIFFS' WITNESS, DIRECT EXAMINATION**
17 **BY MR. COLVIN:**

18 Q. Good morning, Mr. Luettke.

19 A. Good morning.

20 Q. Please inform the Court of your current occupation.

21 A. I am a firearms consultant and firearms trainer with
22 Luettke Firearms Consulting, Incorporated.

23 Q. And how long have you worked in the firearms field?

24 A. Over 25 years.

25 Q. And have you previously worked at the ATF?

1 A. Yes, I did.

2 Q. What roles have you had at the ATF?

3 A. I started employment with ATF in 1998. I was a special
4 agent. I did criminal investigations for the first 16 years of
5 my career -- actually, first 14 years of my career.

6 I was promoted in 2014 to supervisory special agent
7 for the position of resident agent-in-charge. I did that
8 position for two years until ATF created a full-time training
9 position on firearms identification and topics, and I was
10 selected for that, and that was housed in the Firearms and
11 Ammunition Technology Division in West Virginia.

12 I ended my career being the branch chief of the
13 Advanced Firearms Interstate Nexus Branch, and I retired in
14 October of 2020.

15 Q. As a branch chief within the ATF's Firearms and Ammunition
16 Technology Division, what were your responsibilities?

17 A. My responsibilities, I supervised ATF's armorers, people
18 trained to -- well, they ordered the firearms. They set
19 firearms up. They maintained the inventory of firearms. I
20 supervised the nexus training staff, taught classes nationwide
21 to special agents and firearms enforcement officers to
22 identify, research, classify, and ultimately the goal is that
23 once they pass the course, then they're qualified to be put
24 forward as an expert witness.

25 Q. Have you also been responsible for the ATF's national

1 reference collections?

2 A. Yes, I supervised that as well. That fell under my realm.
3 In that reference collection there's well over 10,000 firearms.
4 It is an inventory of firearms that are used for comparison
5 purposes for evidence, for training purposes, and also that's
6 where the undercover guns come from if they're used in an
7 operation.

8 Q. And has your training included firearm and trigger systems
9 training?

10 A. Yes.

11 Q. Have you received training at firearm manufacturing
12 facilities?

13 A. Yes, I've been to over 40 firearms factories in many
14 different locations, some of them in the United States. These
15 are the big ones like Colt, Smith & Wesson, Ruger, Sig Sauer.
16 I also received training from a firearms manufacturer in South
17 Africa called Excaliber; Glock in Austria, as well as their
18 Georgia location; Heckler and Koch; Walther in Germany; CZ in
19 the Czech Republic; and besides the Colt factory in
20 Connecticut, also the Colt factory in Canada.

21 Q. Have you ever attended a firearms armorer's course?

22 A. Yes, I've attended approximately nine. Some of them are
23 repeat classes that you go to to get recertified. I attended
24 my first armorer's class right around, I believe, 1986 when I
25 was a paratrooper in the 82nd Airborne Division, and I was

1 selected to be -- to go to the training and help run the arms
2 room for my company. That was a two-week course given by the
3 18th Airborne Corps. So that's where my formal education for
4 learning about firearms, taking them apart, fixing, you know,
5 problems at maintenance level before it had to be elevated up.

6 And then throughout my law enforcement career,
7 different armorer's training in Colt, Remington, Smith &
8 Wesson, from revolvers to pistols, Remington shotguns,
9 bolt-action rifles, MP5 submachine guns, things like that.

10 Q. Since leaving the ATF, what kind of work do you perform?

11 A. The company, pretty much now it is a consulting company. I
12 consult for clients who have mainly questions about firearms,
13 firearms classification, in criminal and civil cases.

14 Q. Have you previously testified as an expert witness or an
15 opinion witness with respect to firearms?

16 A. Yes.

17 Q. About how many times?

18 A. Approximately 40 times.

19 Q. Did you say 40, 4-0?

20 A. 4-0.

21 Q. And in what subject areas have courts accepted you as an
22 expert or an opinion witness?

23 A. Firearms and ammunition identification; firearms
24 classification, from Gun Control Act firearms, regular pistols,
25 rifles, revolvers to NFA firearms, machine guns,

1 short-barrelled rifles, shotguns, sawed-off shotguns as some
2 people refer to them as; firearms technology, operability,
3 forced reset triggers.

4 MR. COLVIN: Your Honor, at this time I would move to
5 tender Brian Luettke as an expert in firearms technology,
6 trigger systems, fire control groups, and the mechanical
7 operation and classification of forced reset triggers.

8 THE COURT: Any objection to the designation,
9 Mr. Getzoff?

10 MR. GETZOFF: I don't. I'll voir dire and
11 cross-examine.

12 THE COURT: Very well. Subject to the
13 cross-examination, I will so classify and declare Mr. Luettke
14 as an expert in the firearms field as addressed.

15 MR. COLVIN: Your Honor, at this time I would like to
16 mark a document as Exhibit 1.

17 THE COURT: Plaintiffs' Exhibit 1.

18 Does counsel have a copy of the exhibit?

19 MR. COLVIN: Yes, Your Honor.

20 Your Honor, may I approach the witness?

21 THE COURT: You may.

22 MR. COLVIN: Your Honor, I can pass you up a copy as
23 well, but this is just a copy of Mr. Luettke's declaration. It
24 is in the record.

25 THE COURT: It is. But I'll take a hard copy. Thank

1 you.

2 **BY MR. COLVIN:**

3 Q. Mr. Luettke, you've been handed Exhibit 1, which was an
4 Exhibit Q to plaintiffs' motion for a Temporary Restraining
5 Order and Preliminary Injunction.

6 Do you recognize this document, sir?

7 A. Yes.

8 Q. What is this document?

9 A. This is my declaration on this case dated and signed
10 January 16th, 2026.

11 MR. COLVIN: Your Honor, I would move Exhibit 1 into
12 evidence.

13 THE COURT: Any objection to Plaintiffs' Exhibit
14 Number 1?

15 MR. GETZOFF: No objection. I mean, it is already in
16 the record by virtue of the filing, so -- no objection, Your
17 Honor.

18 THE COURT: As part of the record to today's hearing,
19 I will receive Plaintiffs' Exhibit Number 1, and you may
20 proceed.

21 (Plaintiffs' Exhibit 1 received.)

22 **BY MR. COLVIN:**

23 Q. Mr. Luettke, could you summarize the opinions that you have
24 offered in your declaration in this case, Exhibit 1?

25 A. Yes. I've analyzed both triggers, the Partisan Disruptor

1 as well as Rare Breed Triggers' 15L3, and throughout my
2 declaration I reviewed the claims and compared the triggers,
3 and I found that the Partisan Disruptor violated at least one
4 claim in each of the '223, the '003, '336 and the '0 -- the
5 '807 patents.

6 Q. Did you also form an opinion about whether or not the
7 Partisan Disruptor or Rare Breed meets any claim limitations of
8 the '067 Patent?

9 A. I did. So when I reviewed the '067 Patent, Claims 1
10 through 18, it requires that the TacCon, the -- later the --
11 was it the MR trigger -- requires a reset lever, and the
12 Partisan Disruptor or the Rare Breed trigger, they do not have
13 the reset lever as indicated in those claims. They don't have
14 them so they don't use them.

15 And then Claim 19 requires that -- the selector that
16 permits different travel distances, and the Rare Breed trigger
17 and the Partisan Disruptor, their trigger travel is the same in
18 both semi-automatic and semi-automatic FRT position or mode.

19 MR. COLVIN: No further questions. I will pass the
20 witness, Your Honor.

21 THE COURT: Thank you, Mr. Colvin.

22 Cross-examination, Mr. Getzoff.

23 **CROSS-EXAMINATION**

24 **BY MR. GETZOFF:**

25 Q. Good morning, Mr. Luettke.

1 A. Luettke.

2 Q. I want to ask you about Exhibit 1, which is what you
3 submitted with plaintiffs' motion. That was attached as
4 Exhibit Q to the motion, right, so we're talking about the same
5 thing?

6 A. Yes, this one right here.

7 Q. In your declaration you attach a number of photos, or, I
8 should say, color-coded depictions that you claimed were the
9 infringing device, right?

10 A. Correct.

11 Q. And so this is one of them. And your -- your declaration
12 goes on and has pictures after pictures of what you claim is
13 the Partisan Disruptor, and then you compared it to the claim
14 elements, right?

15 A. That's correct.

16 Q. Now, to be clear, the depiction here, that's not of the
17 Partisan Disruptor, right?

18 THE COURT: Just for the record, can you reference a
19 page?

20 MR. GETZOFF: Yeah, thank you, Your Honor. So I'm on
21 Exhibit 1, and I'm on what I think is --

22 BY MR. GETZOFF:

23 Q. Well, I am showing you Exhibit W that followed Exhibit Q in
24 the -- in the plaintiffs' filing. But let me -- let me be
25 consistent here and show you -- this is from Exhibit 1, and

1 this would be page 43.

2 Apologies that I printed this in black and white, so
3 it is not color-coded.

4 But do you recognize these depictions as part of your
5 declaration that's Exhibit 1?

6 A. No. There seems to be a problem, 'cause on my page 43 I do
7 not have that picture.

8 Q. I'm sorry. It is 41 of the declaration, but when it was
9 filed, it got a different page number. That's my mistake.

10 Please turn to 41.

11 And my co-counsel has given me the color version.

12 Okay. Do you see that?

13 A. Yes.

14 Q. Is that page 41 of Exhibit 1?

15 A. Yes.

16 Q. And you represented that these are depictions of the
17 Partisan Disruptor that you color-coded, right?

18 A. Correct.

19 Q. But you understand that these are not depictions of the
20 Partisan Disruptor, right?

21 A. I do not understand that.

22 Q. Well, if you look, for example, the red item, that's --
23 what would you call the red toggle there?

24 A. That is a locking bar.

25 Q. Does that look like the locking bar of the Partisan

1 Disruptor or the locking bar of the -- your client's Rare
2 Breed?

3 A. Looks the same to me.

4 Q. So your testimony is that the locking bar of the Partisan
5 Disruptor looks exactly the same as the locking bar of the Rare
6 Breed?

7 A. Well, I'm comparing it to page 3 where it shows Rare Breed
8 and the Partisan Disruptor, and the way I look at both of
9 those, I guess there's one slight difference on the hook on --
10 the Rare Breed has a hook but the Partisan doesn't, so it
11 appears to be the same to me.

12 Q. Did you generate these pictures?

13 A. No, I did not.

14 Q. Do you know who did?

15 A. I do not.

16 Q. Okay.

17 A. Are you asking me for a named individual?

18 Q. Yeah.

19 A. I do not know the named individual, no.

20 Q. Is this the first case that you ever did a patent
21 infringement analysis?

22 A. No.

23 Q. What was the first case?

24 Let me rephrase.

25 Do you recall testifying last week that the *Hoffman*

1 case was your first patent case?

2 A. Yes, with clarification, meaning that I testified in an
3 arbitration hearing involving some forced reset triggers, and
4 then we backdated -- so analysis from -- when you say
5 "analysis," you're talking about two different companies or
6 you're talking about a patent that I've analyzed?

7 Q. I'm talking a case where you rendered an opinion on patent
8 infringement.

9 A. Last week would have been pretty much the first one, then.

10 Q. Okay. And that's the *Hoffman* case?

11 A. Correct.

12 Q. But you submitted your declaration in this case before last
13 week, right?

14 A. Yes.

15 Q. So this would be the first case?

16 A. This case right here?

17 Q. Yes.

18 A. Well, the declaration would be prior to *Hoffman*. I did not
19 write a declaration in the *Hoffman* case.

20 Q. Right. And the declaration in this case came first in
21 terms of your patent infringement analysis, right?

22 A. Yes.

23 Q. So this case would be your very first case in giving an
24 opinion on patent infringement?

25 A. In a declaration, but not in testimony.

1 Q. When did you give -- are you talking about the *Hoffman*
2 case?

3 A. Yes.

4 Q. Okay. So we've got the *Hoffman* case, and we have this
5 case, right?

6 A. Correct.

7 Q. Do you know the difference between literal infringement and
8 doctrine of equivalence?

9 A. Can you slow that down, please.

10 Q. Do you know the difference between literal infringement and
11 infringement under the doctrine of equivalence?

12 A. Not as I sit here today. I know I've read those terms,
13 but --

14 Q. Do you know which kind of infringement analysis you did in
15 this case?

16 A. I'd -- I'm not exactly sure. I don't --

17 Q. In your -- in this exhibit you say on paragraph 9 -- do you
18 see where you said you reviewed publicly available information
19 on the Partisan Disruptor trigger?

20 A. Yes.

21 Q. When is the first time you reviewed that publicly available
22 information?

23 A. I don't know exactly when I first -- I know when there was
24 talk about it before I was ever retained on this -- this case
25 that there was talk on the Internet from AR15.com about these

1 triggers coming out, Partisan Disruptor. There's a big thread,
2 if you will, on that topic.

3 And then later on before I testified in an arbitration
4 hearing involving conflict, we'll call it, that's when I really
5 started looking and going to different web pages that sold the
6 Partisan, as well as the Partisan Disruptor web page.

7 Q. That Internet thread that you just mentioned as part of
8 your answer, that started back in September of last year,
9 right?

10 A. Well, I probably saw that one. There's multiple threads on
11 forced reset triggers, so . . .

12 Q. And the public information that you reviewed, that included
13 technical specifications and images of the Partisan Disruptor,
14 right?

15 A. Yes, that's what they call it on the web page. I think
16 there's a picture of it on -- on one of these pages. It is
17 kind of dark, hard to see, but they list the technical
18 specifications.

19 Q. Sir, let me take you to paragraph 37 of Exhibit 1, your
20 declaration.

21 Do you see that?

22 A. Paragraph 37, you said?

23 Q. Yeah. And I've got it on the screen as well.

24 A. Can you -- yes.

25 Q. And just to orient you -- and feel free to flip through

1 your declaration, but this comes -- paragraph 37 comes after
2 pages of you going through the claim elements and comparing it
3 to this depiction -- to these depictions, right?

4 A. I think it might be pictured twice, if I remember
5 correctly.

6 Q. Paragraph 37 is, fair to say, your wrap-up on your
7 infringement opinion?

8 A. Yes. Do you know what page that is, sir?

9 Q. It is page 43.

10 A. Thank you.

11 Q. And I'm sorry. Please tell me to slow down if I'm going
12 too fast.

13 A. Okay.

14 Q. So you're with me on paragraph 37?

15 A. Yes.

16 Q. And 30 -- paragraph 37 follows all of your claim-by-claim
17 element analysis for your infringement opinion, right?

18 A. Correct.

19 Q. And this is essentially your wrap-up on why you think the
20 Partisan Disruptor infringes, right?

21 A. Yes.

22 Q. And for your wrap-up, you identify what you call is the
23 core functionality of the asserted patents, right? That's in
24 the first line (indicating)?

25 A. Yes.

1 Q. And the core functionality that you identify that you
2 believe means there's infringement is the fact that Partisan
3 uses a three-position safety selector, right?

4 A. Correct.

5 Q. And just to be clear, the three-position safety selector is
6 a safety selector that allows the user to switch between safety
7 or can't fire to regular semi-automatic to the forced or
8 assisted reset?

9 A. The third position is the semi-automatic forced reset,
10 correct.

11 Q. Right. And you're aware, aren't you, that the '067 Patent
12 that was filed back in 2013 describes at length a
13 three-position safety selector?

14 A. Yes.

15 Q. And the commercial embodiment, the TacCon 3MR trigger that
16 Mr. Stakes commercialized and sold that practiced his '067
17 Patent, that had a three-position safety selector?

18 A. Yes, I'm aware of that.

19 Q. And so this core functionality that you identify as being a
20 key reason for infringement was actually found over ten years
21 earlier by Mr. Stakes, right?

22 A. Well, yes, but those are different -- that patent is
23 totally different than the patents that I wrote about.

24 Q. Well, it's got the -- it's got a three-position safety
25 selector that switches between safety, regular semi-automatic

1 and assisted reset, right?

2 A. Assisted reset, yes. That one doesn't have the forced
3 reset, it is assisted reset, correct.

4 Q. Because you think there's a difference between assisted
5 reset and forced reset, right?

6 A. Very much so.

7 Q. You would agree that in the '067 Patent and Mr. Stakes' 3MR
8 trigger, the bolt carrier action forces the hammer down to the
9 trigger and resets the trigger, right?

10 A. Well, there's a reset lever in the '067 Patent. The reset
11 lever plays a very important part. And Partisan Disruptor and
12 the Rare Breed trigger do not have that reset lever that
13 pushes, then, the trigger forward. On the Rare Breed and the
14 Partisan it is -- it is the hammer that has direct contact in
15 the semi-automatic FRT mode that forces the trigger forward,
16 not a reset lever.

17 Q. Well, the reset lever is being struck by the hammer, right?

18 A. Yes.

19 Q. And then the reset lever moves that trigger, right?

20 A. Yes.

21 Q. So --

22 A. Partial reset.

23 Q. So mechanically it's the same principle, it is just one has
24 an additional component in between the mechanics, right?

25 A. Can you say that again, please?

1 Q. The mechanical principle is the same: The bolt carrier is
2 forcing the trigger forward. The difference is Mr. Stakes'
3 patent and product had an additional component in the chain,
4 right?

5 A. Yes. It has an additional component, and that trigger does
6 not reset all the way to a full reset position. It is a
7 partial reset where the shooter has to still release pressure
8 on the trigger to reset it fully.

9 Q. Have you ever tested or fired the TacCon 3MR trigger?

10 A. No, I've just done a lot of research, watched videos of
11 certain individuals -- they might be in this courtroom today --
12 showing videos at the SHOT Show Range Day where they're
13 demonstrating the function of their trigger. I've watched
14 videos of hobbyists who own their triggers demonstrating it.
15 So I've watched and read as much as I can, including magazine
16 articles.

17 Q. Are you aware of the -- strike that.

18 You haven't looked at the prior art or come to an
19 opinion for purposes of performing an invalidity analysis,
20 right?

21 A. Invalidity of what?

22 Q. Of the patents.

23 A. No, I analyzed these products.

24 MR. GETZOFF: Thank you. Nothing further.

25 THE COURT: Thank you, Mr. Getzoff.

1 Mr. Colvin, any redirect?

2 MR. COLVIN: Brief redirect, Your Honor.

3 **REDIRECT EXAMINATION**

4 **BY MR. COLVIN:**

5 Q. Mr. Luettke, do you still have paragraph 37 of your
6 declaration on page 43 open?

7 A. You said page 47?

8 Q. Paragraph 37, page 43.

9 A. Thank you.

10 Q. It's the same paragraph that counsel was asking you about a
11 moment ago.

12 A. One more time on the paragraph.

13 Q. Paragraph 37. It's at the top of the page.

14 A. Yes, got it. Thank you.

15 Q. You recall counsel asking you questions about the
16 importance of the three-position safety selector?

17 A. Yes.

18 Q. And do you describe the three-position safety selector as
19 the key feature of the Disruptor or a key feature of the
20 Disruptor?

21 A. It's the -- it's the claim of the Disruptor.

22 Q. That's right. And in the last sentence of that paragraph
23 37, are you describing the three-position safety selector as
24 the key feature of the Partisan or as just a key feature of the
25 Partisan Disruptor?

1 A. It is a key feature. There's other features.

2 MR. COLVIN: No further questions, Your Honor.

3 THE COURT: I might have you elaborate. Why the
4 distinction there? Why a key feature?

5 THE WITNESS: Because it also incorporates the forced
6 reset concept of that video that you saw earlier, Your Honor,
7 where the bolt carrier strikes the hammer and makes contact
8 with the upper part of the trigger and forces it forward. So
9 it is just -- 'cause that's a forced reset trigger, and there's
10 four patents, and the '223 was the first patent that had that
11 feature.

12 And then the other three patents have the three
13 selector positions for safe, semi-automatic, and semi-automatic
14 FRT.

15 THE COURT: All right.

16 Any follow-up, Mr. Colvin?

17 MR. COLVIN: One, Your Honor.

18 **BY MR. COLVIN:**

19 Q. In the Partisan and in the Rare Breed trigger, what happens
20 to the disconnector when you move the selector to forced reset
21 mode?

22 A. The disconnector is no longer in play.

23 Q. In the 3MR trigger, if you move the safety selector to
24 assisted reset mode, what happens to the disconnector? Is it
25 moved out of the way?

1 A. I believe it is still present.

2 MR. COLVIN: No further questions, Your Honor.

3 THE COURT: Thank you, Mr. Colvin.

4 Recross, Mr. Getzoff.

5 MR. GETZOFF: Just briefly, Your Honor.

6 **RECROSS-EXAMINATION**

7 **BY MR. GETZOFF:**

8 Q. Mr. Stakes, on this issue between forced reset and assisted
9 reset, have you heard the word --

10 A. Sir, can I interrupt you? You called me Mr. Stakes.

11 Q. I'm sorry. Let me start over.

12 Mr. Luettke, on the question of the difference in your
13 mind between a forced reset trigger and an assisted reset
14 trigger, have you heard the words "positive reset trigger"?

15 A. I have heard that term.

16 Q. Is there a difference in your mind between a positive reset
17 trigger and a forced or assisted reset trigger?

18 A. I think the positive is more in line with an assisted,
19 although I don't use that term. I've heard the term. I use
20 the assisted reset and I use the forced reset.

21 Q. But you've heard the public call these triggers that are
22 forcibly moved back from the force of the bolt carrier positive
23 reset, right?

24 A. I don't know the context. I've heard people talk about,
25 but I haven't gotten into it. I just -- I -- I recognize the

1 terms of the assisted reset and the forced reset. That's --
2 that's -- that's how I analyze things on these triggers.

3 Q. Do you -- sorry.

4 You've also heard the term "active reset," right?

5 A. Same thing applies.

6 Q. In fact, Mr. Hoffman, who was in the hearing yesterday or
7 last week, he uses the words "active reset" to describe his
8 triggers, right?

9 A. Yes, in his terminology, Mr. Hoffman uses the word "active
10 reset trigger" so he doesn't have to call his FRT the forced
11 reset trigger. He came up with "active reset trigger," but I
12 believe it is the same principle.

13 Q. So there's multiple words that describe the same principle,
14 right?

15 A. Somewhat.

16 MR. GETZOFF: Thank you.

17 THE COURT: Mr. Getzoff, thank you.

18 Mr. Luettke, thank you for your testimony, sir. You
19 may step down.

20 THE WITNESS: Thank you.

21 THE COURT: Plaintiff may call its next witness.

22 MR. COLVIN: Thank you, Your Honor. Plaintiff calls
23 Michael Stakes.

24 THE COURT: Mr. Stakes, if you'd please come forward.

25 (Witness sworn.)

1 COURTROOM DEPUTY: Please state and spell your name
2 for the record.

3 THE WITNESS: Michael Stakes, M-i-c-h-a-e-l
4 S-t-a-k-e-s.

5 **MICHAEL STAKES, PLAINTIFFS' WITNESS, DIRECT EXAMINATION**

6 **BY MR. COLVIN:**

7 Q. Good morning, Mr. Stakes.

8 A. Good morning.

9 Q. My name is Matt Colvin. You understand I represent Rare
10 Breed and ABC?

11 A. I do.

12 Q. I'll be asking you some questions this morning.

13 You're an engineer at Peak, right?

14 A. Correct.

15 Q. And you designed the Partisan Disruptor?

16 A. I did not.

17 Q. Who designed the Partisan Disruptor?

18 A. I'm not aware who designed it.

19 Q. You don't know who designed the Partisan Disruptor?

20 A. I do not.

21 Q. No idea?

22 A. No idea.

23 Q. Who manufactures the Partisan Disruptor?

24 A. I think there's several. It is a multi-source.

25 Q. Who? Can you name them?

1 A. I'm not super sure on exactly who it is, but I know
2 there's -- I know there's several sources.

3 Q. So you're an engineer at Peak, but you don't know the names
4 of the manufacturers of the product?

5 A. Correct. I do it mostly on the CAD side. Not mostly, I
6 deal all on the CAD side.

7 Q. So sitting here today, you don't know who manufactures the
8 Partisan Disruptor --

9 A. Right.

10 Q. -- that's your testimony?

11 A. Correct.

12 Q. You know somebody named Doug Rios?

13 A. I do know Doug.

14 Q. Mr. Rios have any role in the design or manufacture of the
15 Partisan Disruptor?

16 A. He did not.

17 Q. Sure about that?

18 A. I'm very sure.

19 Q. Okay. You are a named inventor on the '067 Patent, right?

20 A. Correct.

21 Q. That's not one of Rare Breed's patents, that's a patent
22 that's owned by now Dark Flame; is that right?

23 A. That is correct.

24 Q. You don't own it anymore?

25 A. I do not.

1 Q. You sold it to Mr. Woods' company called Dark Flame
2 Innovations?

3 A. I assigned it to them, correct.

4 Q. Did you sell it to them?

5 A. I did not sell it to them.

6 Q. Did you get any monetary value from assigning that to them?

7 A. I did not.

8 Q. What did you get out of assigning it to them?

9 A. Just an opportunity to work with them in the future.

10 Q. As an employed engineer?

11 A. Um, not, like, direct, not like W-2 employee, but, yeah, as
12 an engineer that they would employ to create further
13 technology, correct.

14 Q. So you assigned Dark Flame your patent, and, in exchange,
15 you got to work for them, correct?

16 A. Work with them, but, yeah, correct.

17 Q. They got to pay you for your time to do services for them?

18 A. Not directly, no. Like I said, not in a W-2 fashion.

19 Q. You're an independent consultant?

20 A. Correct.

21 Q. Independent contractor?

22 A. Yeah. "Consultant" is the term I use, but yes.

23 Q. Are there any ongoing royalties that Dark Flame or Peak
24 owes you?

25 A. No, sir.

- 1 Q. Is your compensation from Peak or Dark Flame tied to the
2 success of the Partisan Disruptor in any way?
- 3 A. It is not.
- 4 Q. Now, Mr. Ben Woods, he also works at Peak?
- 5 A. Not to my knowledge.
- 6 Q. You don't know if he works at Peak?
- 7 A. I do not.
- 8 Q. You're an engineer at Peak?
- 9 A. I do engineering for -- for Peak, correct.
- 10 Q. And you don't know if Mr. Woods works for Peak or not?
- 11 A. No, sir.
- 12 Q. Do you understand that Mr. Woods is the spokesman for Peak?
- 13 A. I understand he's a spokesman. I don't know what his role
14 there is, correct.
- 15 Q. All right. Now, you've designed a trigger called the 3MR
16 trigger; is that right?
- 17 A. That is correct.
- 18 Q. And you understand that the 3MR trigger is to be a -- call
19 it a real-world embodiment of what's described in the '067
20 Patent; is that fair?
- 21 A. That is fair.
- 22 Q. And before working for Peak, you cofounded a company called
23 TacCon?
- 24 A. That is correct.
- 25 Q. And TacCon, your company, that sold the 3MR trigger, right?

- 1 A. That is true.
- 2 Q. And you're aware of a company called Delta Velocity?
- 3 A. Yeah, Delta V, but yeah, Delta Velocity.
- 4 Q. Delta V?
- 5 A. Delta V is what it went by.
- 6 Q. What was your role with Delta V?
- 7 A. Same thing, engineer.
- 8 Q. Engineer. Did you have any ownership stake in Delta V?
- 9 A. I did not personally, no.
- 10 Q. Were you part of a company that had ownership stake in
- 11 Delta V?
- 12 A. Correct, a consulting company. Temporarily. Not any
- 13 longer.
- 14 Q. And Delta V also sold the 3MR trigger; is that right?
- 15 A. It sold a variation of it, correct.
- 16 Q. The Gen 2 3MR?
- 17 A. The Gen 2, that is correct.
- 18 Q. And you have a YouTube profile, right?
- 19 A. I might, yeah. I'm not sure. I'm not very active if it
- 20 is.
- 21 Q. Your YouTube profile user name is tbone6386, right?
- 22 A. No.
- 23 Q. Not you?
- 24 A. No.
- 25 Q. Were there any other owners of TacCon?

1 A. There was.

2 Q. Who?

3 A. My father.

4 Q. What's his name?

5 A. Robert.

6 Q. Does he post on YouTube?

7 A. He might. He loves the Internet. Against my advice he
8 loves it.

9 Q. Now, you've known about Rare Breed for, what would you say,
10 five or six years?

11 A. Yes, since 2020. Since it launched.

12 Q. Okay. And you claim to have had conversations with
13 Mr. Lawrence DeMonico several years ago, correct?

14 A. Just one in '21, correct.

15 Q. In 2021?

16 A. I believe so, yeah.

17 Q. And you were aware of Rare Breed's FRT-15 product that it
18 launched in 2020?

19 A. I was.

20 Q. And you were, of course, aware of Rare Breed's litigation
21 with ATF and DOJ?

22 A. Very aware, yeah.

23 Q. You were following -- you were paying close attention to
24 that litigation, right?

25 A. No, not close attention. I had a lot of people sending me

1 stuff from the industry, so it was unsolicited knowledge of it,
2 yeah.

3 Q. They thought you'd be interested?

4 A. They thought I would be, correct.

5 Q. And you were interested in it?

6 A. Not really.

7 Q. Not really?

8 A. No.

9 Q. You didn't care?

10 A. No. I mean, not that I didn't care. I don't want to say
11 it like a negative thing, but no, I wasn't, like, dying to be a
12 part of it, no.

13 Q. What do you mean, you weren't dying to be a part of it?

14 A. Like, the -- like in the gossip, in the know. Maybe not a
15 great way to phrase it.

16 Q. Now, the 3MR trigger is different from the Rare Breed
17 FRT-15L3, right?

18 A. Correct.

19 Q. The 3MR has a reset lever; the Rare Breed trigger does not,
20 fair?

21 A. That is fair.

22 Q. The Rare Breed trigger has a selector that moves the
23 disconnector, and the 3MR does not, fair?

24 A. That is correct.

25 Q. And there are other differences, right?

1 A. Sure.

2 Q. Do you know why the Partisan Disruptor is a copy of the
3 Rare Breed FRT-15?

4 MR. GETZOFF: Objection to form. Assumes facts not in
5 evidence.

6 THE COURT: Overruled.

7 THE WITNESS: Could you repeat the question.

8 BY MR. COLVIN:

9 Q. Do you know why the Partisan Disruptor is a copy of the
10 Rare Breed FRT-15L3?

11 A. I'm not aware.

12 Q. No idea?

13 A. Not specifically to what you're -- what you're stating, no.

14 Q. Do you have some idea as to why it is a copy?

15 A. Sure, I mean, in general speak, in general terms.

16 Q. Okay. What's your understanding?

17 A. That it uses the energy of the bolt carrier to reset the
18 trigger.

19 Q. But why does it -- why does it look so much like the Rare
20 Breed trigger instead of like the 3MR, for example?

21 A. Probably because the out-of-battery safety.

22 THE COURT: I'm sorry. Could you repeat what you just
23 said.

24 THE WITNESS: Sorry. Out-of-battery safety. It is a
25 gun term for what we're calling here the locking bar.

1 BY MR. COLVIN:

2 Q. Now, in your declaration that you submitted to this court,
3 you say that the terms "assisted reset" and "forced reset" are
4 used interchangeably in literature and articles in the
5 industry, right?

6 A. Correct.

7 Q. And in support of that statement, you provide links to
8 seven articles talking about your 3MR?

9 A. Uh-huh.

10 Q. Is that right?

11 A. That is right.

12 Q. And those are industry articles, right?

13 A. Correct.

14 Q. And isn't it true that not one of those articles uses the
15 language "forced reset trigger" to describe a 3MR?

16 A. I'm not sure, but I'm assuming you've read through them, so
17 yeah, probably not.

18 Q. You certainly didn't point that out in your declaration,
19 did you, sir?

20 A. No.

21 Q. The articles do describe the 3MR as an assisted reset
22 trigger?

23 A. Because that was the marketing term at the time, that's
24 correct.

25 Q. It did use the term "forced reset trigger" to describe the

1 3MR, correct?

2 A. Correct. Yeah, at the time that wasn't a -- wasn't a term
3 that had been coined quite yet.

4 Q. In fact, it was Rare Breed that came up with the
5 term "forced reset trigger," right?

6 A. I'm not aware of who coined it.

7 Q. You also said in your declaration, I think, that the ATF
8 uses the terms "assisted reset trigger" and "forced reset
9 trigger" interchangeably; is that right?

10 A. They do in the conversations I've had with them, correct.

11 Q. Now, the ATF letter that you reference in your declaration,
12 that letter does not call the 3MR a forced reset trigger,
13 correct?

14 A. That is correct.

15 Q. You state in your declaration that you use the
16 phrase "assisted reset" as opposed to "forced reset" mainly
17 because that term was your personal preference nomenclature,
18 right?

19 A. Correct.

20 Q. And you certainly didn't advertise the 3MR as a forced
21 reset trigger, right?

22 A. No, 'cause by definition the additional force is an assist.

23 Q. And, in fact, you've been very careful to say that the 3MR
24 was advertised as not a forced reset trigger, correct?

25 A. I don't recall saying it quite that way.

1 Q. Sir, I'm showing you a slide of a YouTube page. Now, this
2 YouTube page that we're showing on this slide, this is a Delta
3 V YouTube page, right?

4 THE COURT: Just for reference, what are you referring
5 to?

6 MR. COLVIN: Well, this is -- I'm showing a slide -- I
7 think it is going to be slide 109, although the deck that I
8 sent -- that I handed up I don't think has page numbers on it.
9 This is a slide with just a picture of the YouTube page from
10 Delta V.

11 BY MR. COLVIN:

12 Q. Do you recognize that, Mr. Stakes?

13 A. I do not. I didn't have anything to do with any of the
14 marketing for the company.

15 Q. So you were a partial owner in Delta V, correct?

16 A. The consulting company that I own was.

17 Q. Right. And you see on this slide that Delta -- it says
18 "Delta V" here?

19 A. Correct.

20 Q. And you see that this YouTube page says: *Gen 2 3MR,*
21 *ATF-approved assisted reset not FRT.*

22 Do you see that?

23 Let me move it for you.

24 A. Correct. And that's to fall in line with the determination
25 letter from the ATF, correct. I mean, I'm assuming. I didn't

1 write it.

2 Q. What do you mean, "to fall in line" with guidance from the
3 ATF?

4 A. So the determination letter that's kind of allowed all of
5 the different reset technologies that I applied for in 2013
6 refers to it as assisted reset, and so it was kind of a -- kind
7 of just -- I don't know how to say that exactly, but it's just
8 falling in line with what the determination letter says.

9 Q. Why was it important to say this is not an FRT?

10 A. Um, I don't know. I didn't write this. Again, I wasn't
11 the author of it. This is honestly my first time seeing it.

12 Q. Okay. You don't think it had anything to do with making
13 sure that the public knew that it wasn't an FRT so that the ATF
14 wouldn't come after them for using the 3MR, right?

15 A. If I had to make an assumption, I could maybe make the
16 assumption that it was, you know, to settle the fears of some
17 customers that didn't want to purchase FRT triggers, and so
18 maybe that was the guy's point. Again, I wasn't the author,
19 but I'm speculating.

20 Q. And you make that assumption because there's a difference
21 between an assisted reset trigger and a forced reset trigger in
22 the market, right?

23 A. Not in their functions but in their overall general
24 function, correct.

25 Q. In their overall general function there's a difference

1 between an assisted reset trigger and a forced reset trigger?

2 A. In their functionality but not in the way that the force is
3 used, correct.

4 Q. Now, you say in your declaration that you tested the
5 Partisan Disruptor and the Rare Breed FRT, right?

6 A. That is correct.

7 Q. And you say that you measured the stop selector geometry,
8 correct?

9 A. Yes. Yes.

10 Q. And you did that in an effort to measure the trigger travel
11 distance, right?

12 A. Correct, which I did both in actual -- actual trigger setup
13 inside of a receiver and on CAD.

14 Q. Okay. And this is important to your claim that the
15 Partisan Disruptor and the Rare Breed FRT would practice a
16 claim of the '067 Patent, correct?

17 A. Correct, Claim 19.

18 Q. Claim 19.

19 Now, in your declaration you didn't provide any
20 details about the measurements you made, right?

21 A. I don't believe so.

22 Q. You didn't provide the trigger travel distances that you
23 measured?

24 A. I provided them to counsel. I'm not sure if they were
25 included.

1 Q. Did you read the declaration before you signed it, sir?

2 A. I sure did, yeah, but I don't believe it was in there.

3 Q. It is not in there, right?

4 A. Sure.

5 Q. Anyone else present with you when you tested these
6 products?

7 A. Through -- over the phone there was, correct.

8 Q. Over the phone?

9 A. Yeah, we were having a conference call at the time.

10 Q. Conference call. Video call?

11 A. Yeah, video. That way I could show them the screen so we
12 were confirming what was in computer-aided design --

13 (Reporter requested clarification.)

14 A. Sorry. We were comparing during the conference call what
15 was both in --

16 MR. GETZOFF: Your Honor, this question goes to
17 attorney-client communication. I'm going to object. If he
18 wants to ask about his measurement, that's fine. I think the
19 question is discussions with counsel about his measurement, and
20 that's my objection.

21 THE COURT: I assume that attorneys were on this video
22 conference call that you've referred to. Is that fair to say?

23 THE WITNESS: Correct.

24 THE COURT: All right. As to those communications,
25 those conversations, I'll sustain the objection, but you may

1 rephrase the question, Mr. Colvin, to eliminate that potential
2 issue.

3 MR. COLVIN: That's okay, Your Honor. I'll move on to
4 the next little piece of this.

5 May I have the display here for the HDMI, please?

6 Thank you, Ma'am.

7 **BY MR. COLVIN:**

8 Q. Mr. Stakes, do you see the slide Number 119 that I have on
9 the screen?

10 A. I can see it, correct.

11 Q. Now, you recognize this as a CAD -- the two images here as
12 CAD cross-sections of the Partisan Disruptor?

13 A. Um, not the selector, but the rest of the parts, correct.

14 Q. Okay. Now, you measured the distance -- well, let's get
15 oriented for a second.

16 There's kind of a round circle on the left-hand side
17 with a, let's call it, little pie shape in the middle of it.

18 Do you see that?

19 A. Uh-huh.

20 Q. That's the selector, correct?

21 A. Correct.

22 Q. And the green is the trigger here; you recognize that?

23 A. I do recognize that.

24 Q. And the trigger has a little tail on it coming out
25 underneath the selector, correct (indicating)?

1 A. That is correct.

2 Q. And for your measurements, you were concerned about the
3 distance between the trigger tail and what you believed to be a
4 stop surface on the selector, correct?

5 A. Correct, which you can see highlighted in the -- in the
6 whiter section of the cross-section selector barrel.

7 Q. And what you were trying to measure was the difference
8 between the standard semi-automatic stop surface and the forced
9 reset stop surface as it relates to the trigger tail, right?

10 A. Correct.

11 Q. And you assumed that the trigger tail contacts the stop
12 surface of the -- on the selector when the trigger is pulled,
13 correct?

14 A. My assumption was that the selector allowed for two
15 different lengths of travel in the two different modes.

16 Q. And so you measured the distance between the trigger tail
17 and what you believed to be the stop surface on the selector,
18 correct?

19 A. Um, no. No, what I measured was the overall travel allowed
20 by the selector in the two different modes.

21 Q. Okay. Did you consider, though, that the trigger is
22 actually stopped not by the tail, indicating that -- by the
23 tail impacting the selector, but, instead, by the nose of the
24 trigger impacting the housing?

25 A. I was aware of that, which is why I changed my

1 terminology -- I didn't change it, but I used the terminology
2 allowed for a different length of travel, the selector allows
3 for a different length of travel, correct.

4 So in the CAD model, it looks like in the third
5 position it bottoms out in the housing. It, indeed, does not.

6 Q. So what you're referring to is this bottom right-hand
7 picture where it looks like the trigger tail hits the stop
8 selector, correct?

9 A. The stop surface on the selector, it does, in the third
10 position.

11 Q. And it looks like it hits, but it actually is -- it
12 actually -- the nose of the trigger hits the housing first,
13 right?

14 A. No, that is not correct in the third position.

15 Q. Okay. Nevertheless, it is actually the nose of the trigger
16 impacting the housing when the trigger is pulled that stops the
17 rotation and movement of the trigger, correct?

18 A. Only in semi-automatic.

19 Q. And you can tell that by the CAD?

20 A. I can tell by the CAD. I also have a cut-away housing and
21 a cut-away lower receiver that I use for analysis like this.

22 Q. Is that right?

23 A. That is right.

24 Q. Did you do the same thing for the Rare Breed trigger?

25 A. We sure did.

1 Q. And you understand that in the Rare Breed trigger the
2 trigger is also stopped by the nose impacting the housing
3 rather than the tail of the trigger impacting the stop
4 selector, correct?

5 A. Not on the one I analyzed. In the CAD, sure, but with
6 tolerances in manufacturing you can understand that what lives
7 in CAD and what lives in reality is two very different things.

8 Q. What were the differences in trigger travel that you
9 allegedly measured?

10 A. Anywhere from 25/1000ths to 40/1000ths of an inch, which
11 sounds small.

12 Q. 25/1000ths of an inch?

13 A. Yeah, it sounds small, but when you have sear engagement,
14 that's a huge amount. That's like a quarter mile.

15 MR. COLVIN: No further questions, Your Honor.

16 THE COURT: Thank you, Mr. Colvin.

17 Cross-examination, Mr. Getzoff.

18 **CROSS-EXAMINATION**

19 BY MR. GETZOFF:

20 Q. Mr. Stakes, when did you get involved with Partisan
21 Triggers?

22 A. Late last year.

23 Q. In December?

24 A. Correct.

25 Q. Was the Partisan trigger already designed and ready for

1 market by the time you started doing any work for Partisan?

2 A. Yeah, even before our first meeting.

3 Q. And you said you were not involved in the design of the
4 trigger?

5 A. I was not.

6 Q. I ask this question -- I'm going to show you -- this is
7 Exhibit 1 for the hearing today. This is the declaration of
8 Brian Luettke.

9 A. Okay.

10 Q. Have you read Exhibit 1 before?

11 A. I have, a couple of times.

12 Q. And it was marked as Exhibit Q in the filings?

13 A. Correct.

14 Q. Do you remember me asking the question of Mr. Luettke
15 earlier today whether this depicted the Partisan Disruptor
16 trigger or not?

17 A. I do recall that.

18 Q. And he said he didn't know where these pictures came from?

19 A. He did.

20 Q. These color-coded drawings that Mr. Luettke used throughout
21 his declaration in Exhibit 1, are these of the Partisan
22 trigger?

23 A. They're not.

24 Q. How do you know that?

25 A. Just 'cause I'm intimately familiar with the -- with the

1 CAD drawings and the CAD models, and I can -- I can see that
2 just by looking at them.

3 Q. Can you point out some differences for how you know that
4 these are not pictures of the Partisan Disruptor?

5 A. Sure. On the red part here labeled "locking bar" --

6 THE COURT: I'm sorry to interrupt. Just for the
7 record again, page number, please.

8 MR. GETZOFF: So we're on page 7 of Exhibit 1.

9 THE COURT: Thank you.

10 A. So on the red locking bar, the rear section has a -- has a
11 different radius. I understand that as a stop point for
12 forward travel or, I guess that would be in this configuration,
13 clockwise travel, and then also a flat surface for the Rare
14 Breed stop pin for counterclockwise travel from this
15 orientation.

16 BY MR. GETZOFF:

17 Q. Any other differences that you can -- from which you can
18 tell this is not a Partisan Disruptor?

19 A. Yeah, several. The wraparound for the yellow disconnect
20 wraps around farther on that section of the green trigger than
21 the -- than the Partisan does.

22 The front trigger sear is shaped completely different,
23 more of a bull-nose design.

24 The sear surface, the sear geometry of that hammer
25 is -- is a direct reflection of Rare Breed's sear and not

1 Partisan's.

2 Q. Do you believe that this is actually Rare Breed's trigger
3 that's being depicted and represented as the Partisan
4 Disruptor?

5 A. Yeah, it would be a safe assumption that that sweep cut
6 that isn't even the same as Partisan's was added to that
7 hammer, and then the housing was modified to resemble the
8 Partisan's housing, correct.

9 Q. I want to show you your '067 Patent just to orient
10 everyone.

11 This is the patent that you -- that you were named as
12 the inventor and you filed in 2013, right?

13 A. Correct.

14 Q. Let me turn to Figure 2. And let's do just a quick
15 comparison of Figure 2 from your patent to the depiction of
16 whatever this is, the Rare Breed trigger that you just
17 testified to.

18 THE COURT: I'm sorry for the interruption. Is this
19 part of the record? If it is, can you identify it so the Court
20 has this comparison following today's testimony.

21 MR. GETZOFF: Yes, Your Honor. This is the '067
22 Patent. I think it was -- I'll find the exhibit number in
23 the --

24 THE COURT: It is an exhibit, but I just want to make
25 sure we're referring to the right --

1 MR. GETZOFF: Should I go ahead and mark it as
2 Exhibit 2 for today so we're clear?

3 THE COURT: Either way. Either identify it as an
4 exhibit that's previously been filed or as a hearing exhibit,
5 either way, but I just want to clarify that.

6 MR. GETZOFF: I'll get -- I'll get the exhibit number
7 previously filed. I think that's a little cleaner.

8 THE COURT: Very well.

9 **BY MR. GETZOFF:**

10 Q. Okay. So the '067 Patent, that has a hammer, right?

11 A. Correct.

12 Q. And it's got a trigger, of course, right?

13 A. Uh-huh.

14 Q. Sir, yes?

15 A. Yes, sir.

16 Q. Sorry. I didn't hear you.

17 And it's got a hook on the -- on the trigger that can
18 engage with the hook on the hammer, right?

19 A. It's got a hook on the disconnect that can engage with the
20 hammer, correct.

21 Q. And when the bolt carrier travels backwards, it forces the
22 hammer downward, right?

23 A. Correct.

24 Q. And in your patent, the hammer is driven downward and it
25 hits this item, I think it is 52, which is the reset lever,

1 right (indicating)?

2 A. Correct.

3 Q. And then the reset lever drives the trigger down, right?

4 A. Correct.

5 Q. And that forces the trigger forward, right?

6 A. Correct.

7 Q. So is it fair to say the forces of resetting the trigger
8 are the same, whether we're talking about the '067, the
9 Partisan Disruptor, or the Rare Breed trigger?

10 A. Correct. In engineering terms we would call that all the
11 critical surfaces are very similar.

12 Q. And the difference with -- the difference with your device
13 is you added this extra reset lever in between what the hammer
14 hits and the trigger, right?

15 A. Correct.

16 Q. And what the -- what the Rare Breed did is got rid of that
17 extra lever and simply made the trigger -- this back end of the
18 trigger bigger, right?

19 A. Correct, just made it monolithic to the trigger member.

20 Q. So now when the hammer is driven downward, it just contacts
21 directly with the trigger, right?

22 A. Correct.

23 Q. Did you ever consider that design when you were
24 commercializing your product?

25 A. We did. We did consider that design. One of the design

1 constraints that made that not -- not a design worth going
2 after was the selectability. You can't turn it off, so even in
3 the semi-automatic function, it still functions.

4 Q. Did you actually make a prototype of that with -- where you
5 got rid of the reset trigger and just enlarged the back of the
6 trigger itself?

7 A. We did. We had several different iterations before we
8 landed on this -- on this reset lever.

9 Q. The only other difference -- strike that.

10 Is the only other difference between your assisted
11 reset trigger and the Partisan or the Rare Breed is the red
12 safety toggle?

13 A. Yes, the red safety toggle locking bar, out-of-battery
14 safety, correct.

15 Q. Those words you just used, are those different words for
16 the same thing?

17 A. Correct.

18 Q. Did you ever consider adding an out-of-battery safety bar
19 or safety toggle to your device?

20 A. We did. We did. We had customers that were,
21 quote/unquote, outrunning their triggers and causing
22 malfunctions, and we had internally considered what we call the
23 safety device to limit that possibility.

24 Q. Would the safety device have been like we see in this red
25 diagram, this toggle?

1 A. Correct, it would have been -- yeah, I mean, I don't want
2 to say identical, but yeah, it would have been very similar
3 just by the constraints of the gun.

4 Q. Is this safety device -- is that something new that's just
5 been invented by somebody in the last 10 or 15 years?

6 A. No, not at all.

7 Q. Could you elaborate? What's your first understanding, or
8 when you were doing your prototypes, how did you know to add a
9 safety toggle or out-of-battery toggle?

10 A. Sure. We used -- we used a similar design out of the M16
11 auto-sear for the full auto version of that weapon, and we used
12 it on the -- on the reset lever to limit the ability to be able
13 to discharge a firearm before the carrier was in battery.

14 Q. Do fully automatic firearms tend to have an out-of-battery
15 safety toggle?

16 A. They have to by function, correct. They do.

17 Q. So as this trigger moves closer to fully automatic from
18 semi-automatic, what does that mean in terms of the
19 advisability of adding an out-of-battery safety?

20 A. We were advised against it by the ATF. We were advised --
21 is that what you're asking?

22 Q. No, not from a legal standpoint. Just from an engineering
23 standpoint as you're designing triggers that operate more like
24 a fully automatic --

25 A. Yeah.

1 Q. -- weapon, what -- what does that mean for whether it would
2 be a good idea to add an out-of-battery safety?

3 A. Yeah. I think I understand the question.

4 It becomes important just from a timing standpoint, so
5 basically the carrier needs to be as close in battery as
6 possible before the trigger is allowed to discharge or release
7 the hammer, so it becomes an obvious point of functionality.

8 Q. Do you recall Mr. DeMonico saying that he never asked to
9 acquire your '067 Patent back in the 2021 time frame?

10 A. I do remember that.

11 Q. Is he correct?

12 A. He is not.

13 Q. Can you describe that phone call or whatever it was in as
14 much detail as you can?

15 A. Sure, sure. I was working in Colorado in -- in a town
16 called Durango. I was working with a company called Colorado
17 Gunfighter, again on an engineering consulting basis. The
18 company was reached out to by somebody in the Rare Breed camp
19 and was told that Lawrence wanted to have a conversation with
20 me about acquiring the company. They were really excited. I
21 wasn't.

22 I took the phone call and it really -- it really
23 revolved around P&Ls and how much money we had made and, you
24 know, whether or not it was worth it to buy it. And I was kind
25 of put off by the conversation, and that was really kind of it.

1 Q. Who was that conversation with?

2 A. With Lawrence.

3 Q. Was it just the two of you?

4 A. Yes. I mean, I assumed it was Lawrence. I was told it was
5 Lawrence. I don't -- yeah.

6 Q. When you say "Lawrence," you mean Lawrence --

7 A. Lawrence DeMonico.

8 Q. -- DeMonico?

9 MR. GETZOFF: For clarification, Your Honor, the '067
10 Patent is Exhibit R in our opposition filing -- sorry -- in the
11 motion, in plaintiffs'.

12 THE COURT: Plaintiffs' motion. Thank you.

13 BY MR. GETZOFF:

14 Q. Then, Mr. Stakes, plaintiffs' counsel in his question he
15 wrapped in whether the Disruptor is a copy of the Rare Breed
16 trigger.

17 Let me ask you, in your opinion based on your
18 knowledge of both your devices and embodiments and the hammer
19 and the triggers at issue here, is the Disruptor a copy of the
20 Rare Breed trigger?

21 A. I don't believe so.

22 Q. And why not?

23 A. Just the functionality, the way that it -- the way that it
24 functions according to their patent claims, it doesn't -- it
25 doesn't fall in line with many of them.

1 Q. Would you -- would it be fair to say that both the Rare
2 Breed trigger and the Partisan Disruptor copy your patent?

3 A. From a critical surfaces standpoint, correct.

4 MR. GETZOFF: Nothing further, Your Honor.

5 THE COURT: Thank you, Mr. Getzoff.

6 Counsel, let's take a ten-minute break. Let's come
7 back at 11:05, and we will continue with the testimony.

8 Stand by, Mr. Stakes.

9 (Recess taken 10:54 a.m. until 11:07 a.m.)

10 THE COURT: Thank you. Please be seated.

11 Continue back on the record. I note the presence of
12 counsel and the party representatives here.

13 Mr. Stakes continues on the stand.

14 We are, I think, ready for redirect, Mr. Colvin.

15 MR. COLVIN: Thank you, Your Honor.

16 REDIRECT EXAMINATION

17 BY MR. COLVIN:

18 Q. Mr. Stakes, I want to take you back to the alleged
19 conversation you described about what you claim were
20 Mr. DeMonico's efforts to buy Colorado Gunfighter.

21 A. Buy TacCon. I was at Colorado Gunfighter.

22 Q. To buy TacCon?

23 A. To buy TacCon. I assume associated patents was the premise
24 of the conversation.

25 Q. So the conversation you recall was one about buying a

1 company, not just buying patents; is that right?

2 A. The company for the purpose of acquiring the patents,
3 correct.

4 Q. How do you know that?

5 A. That's what the conversation revolved around.

6 Q. I thought you said the conversation revolved around profits
7 and losses statements.

8 A. Profits and losses to see if the technology was worth
9 purchasing, correct. Around the sale of said technology.

10 Q. Now, when we last spoke, I believe you testified that there
11 was no functional difference between the FRT-15L3 of Rare Breed
12 and the Partisan Disruptor.

13 Is that right?

14 A. I think what I said was in general terms, correct.

15 MR. COLVIN: Can I get the ELM0, please.

16 BY MR. COLVIN:

17 Q. So I'm showing you a document on the ELM0. I'll make it
18 for identification purposes now as Exhibit 3.

19 And do you recognize the image on the right side of
20 this document as depicting the CAD of the Partisan Disruptor?

21 A. Not exactly, no.

22 Q. What's different about it?

23 A. The trigger's front section is different. The wraparound
24 of that disconnect is actually a Rare Breed or mostly a Rare
25 Breed disconnect.

1 Q. You're referring to --

2 A. That entire arm, so that entire extended portion at the
3 front, is not how the Partisan's is shaped. And then the
4 yellow section, the wraparound around that boss, is not the way
5 that it is in the Partisan.

6 Q. So just --

7 A. The finger off the front of it is different.

8 Q. Just so the record is clear, I've drawn a box around what
9 you're calling the front section of the trigger.

10 A. Correct.

11 Q. Do you agree with that?

12 A. Correct.

13 Q. And then the wraparound, you say -- I've drawn a little
14 squiggly line through that.

15 A. There's a circle around the boss. Yeah, the other side as
16 well.

17 THE COURT: Mr. Stakes and counsel, one at a time so
18 we get the record. Please wait for the question, wait for the
19 response and then go one at a time.

20 BY MR. COLVIN:

21 Q. So I've drawn little squiggly lines on what you're
22 describing as the wraparound that's a little different; is that
23 right?

24 A. That's right.

25 Q. Okay. Now, do you recognize what's shown in the middle

1 here as the FRT-15L3?

2 A. I believe so, yes.

3 Q. Okay. And do you recognize what's on the left side of the
4 screen as an image from the '003, '336 and '807 patents that's
5 been colorized?

6 A. Correct.

7 MR. COLVIN: Your Honor, I would move Exhibit 3 into
8 evidence.

9 THE COURT: Any objection to Plaintiffs' Exhibit 3?

10 MR. GETZOFF: No objection, Your Honor.

11 THE COURT: Plaintiffs' Exhibit 3 is received.

12 (Plaintiffs' Exhibit 3 received.)

13 BY MR. COLVIN:

14 Q. Now, with respect to the functionality between the Rare
15 Breed FRT-15L3 and the Partisan Disruptor, you agree there's no
16 difference in how these things work, correct?

17 A. Yeah. The function, like many triggers, has a lot of
18 commonalities as far as critical surfaces, correct.

19 MR. COLVIN: No further questions, Your Honor.

20 THE COURT: Thank you, Mr. Colvin.

21 Recross, Mr. Getzoff.

22 RECROSS-EXAMINATION

23 BY MR. GETZOFF:

24 Q. Mr. Stakes, did you create two videos based on the Partisan
25 Disruptor CAD drawings?

1 A. I sure did.

2 Q. And I'm just going to -- so is what we're looking at -- is
3 this an actual depiction of the Partisan Disruptor trigger
4 taken straight from the CAD drawings from which the Partisan
5 Disruptor is manufactured?

6 A. That is -- that is correct.

7 Q. Okay. And then I'm just going to play this. And could you
8 just confirm that you created this animation using a program to
9 show the Partisan Disruptor -- this is in assisted reset mode
10 in terms of how the different parts move?

11 A. That is correct. I did.

12 Q. I'm going to --

13 MR. GETZOFF: Your Honor, I'm going to get to this in
14 my argument. I just want to get the foundation that this is an
15 accurate -- I think it is the only accurate depiction we have
16 so far of what the Partisan Disruptor actually looks like as
17 taken from the CAD drawings. I'm going to talk when I get to
18 my argument on the noninfringement issues using this, but I
19 just wanted to set the foundation for where this is coming
20 from.

21 THE COURT: Do you want to identify this in the record
22 somehow?

23 MR. GETZOFF: Yeah. I would like to mark it as an
24 exhibit. It is a video file, though, so I can identify it and
25 then supply the Court with a thumb drive or something, as well,

1 of course, opposing counsel. Is that sufficient?

2 THE COURT: It is.

3 MR. GETZOFF: Okay. Then let me mark this -- are we
4 going sequential, Your Honor, for new exhibits, and that would
5 make this 3 -- 4.

6 THE COURT: The others are Plaintiffs' Exhibits 1
7 through 3, so yours would probably be Defense Exhibit A.

8 MR. GETZOFF: Let's call this Defense Exhibit A, which
9 is the Distruptor assisted reset mode. Move this into
10 evidence.

11 THE COURT: Any objection, once received via thumb
12 drive or some flash drive, for Defense Exhibit A?

13 MR. COLVIN: Your Honor, I would just object that this
14 is the first time we're seeing this. I'm not sure how accurate
15 this is, not sure if it is a correct depiction, and having just
16 now seen it, I'm not sure we can effectively cross with this
17 exhibit. So that's my objection to the exhibit.

18 THE COURT: I'll receive it for what it is worth with
19 those concerns in mind. The Court will certainly consider that
20 as well. Subject to any additional foundation or information
21 about it, Defense Exhibit A is received.

22 MR. GETZOFF: Of course, if counsel needs my laptop to
23 cross because it is -- obviously that's -- I'm happy to do
24 that.

25 (Defendants' Exhibit A received.)

1 BY MR. GETZOFF:

2 Q. There's a second video you created, Mr. Stakes, of the same
3 Partisan Disruptor CAD drawings, but this time in semi-auto
4 mode?

5 A. That is correct.

6 Q. And is this that video that you created?

7 A. It is.

8 Q. And does this accurately show from the CAD drawings and
9 your manipulation how the Partisan Disruptor operates in
10 semi-auto mode?

11 A. That is correct, yes, it does.

12 MR. GETZOFF: We move Defendants' 2 into evidence.

13 THE COURT: Exhibit B.

14 MR. GETZOFF: Sorry, Your Honor, yes, Defendants' B.

15 THE COURT: Any objection?

16 MR. COLVIN: Same objections as previously.

17 THE COURT: So noted. Thank you.

18 Defense Exhibit B is received subject to foundation
19 and any other challenges and the concerns of counsel for the
20 purpose the plaintiffs.

21 (Defendants' Exhibit B received.)

22 MR. GETZOFF: Thank you. I have nothing further, Your
23 Honor.

24 THE COURT: Thank you, Mr. Getzoff.

25 Mr. Colvin, in fairness, if you'd like to follow up

1 with any questions regarding these CAD videos.

2 MR. COLVIN: No further questions, Your Honor.

3 THE COURT: Very well.

4 Mr. Stakes, thank you for your testimony, sir. You
5 may step down.

6 THE WITNESS: Thank you.

7 THE COURT: Plaintiffs may call their next witness.

8 MR. COLVIN: Your Honor, we would call Mr. Woods to
9 the stand, and the questioning is going to be done by my
10 colleague Mr. Carl Bruce.

11 THE COURT: Very well. Mr. Woods, please come forward
12 to be sworn.

13 (Witness sworn.)

14 COURTRoom DEPUTY: Please state and spell your name
15 for the record.

16 THE WITNESS: Ben Woods, B-e-n W-o-o-d-s.

17 MR. BRUCE: Your Honor, I have a copy -- excuse me,
18 Your Honor, Carl Bruce on behalf of plaintiffs.

19 May I proceed, Your Honor?

20 THE COURT: I am sorry?

21 MR. BRUCE: May I proceed?

22 THE COURT: You may.

23 MR. BRUCE: I have a copy of Mr. Woods' declaration
24 and exhibits. May I provide that to him?

25 THE COURT: You may.

1 Mr. Bruce, will this be a separate exhibit, or are you
2 going to identify it through the existing record?

3 MR. BRUCE: I believe I will just identify it through
4 the existing record, Your Honor.

5 **BEN WOODS, PLAINTIFFS' WITNESS, DIRECT EXAMINATION**

6 **BY MR. BRUCE:**

7 Q. Mr. Woods, you are the owner and sole manager of a company
8 called Dark Flame Innovations; is that correct?

9 A. That's correct.

10 Q. And that's a Wyoming corporation -- or, sorry -- Wyoming
11 LLC?

12 A. It is.

13 Q. And, Mr. Woods, I guess I'm a little bit confused. Maybe
14 you can help me out here. In your declaration you talk about
15 four different entities: Dark Flame, also referred to as DFI,
16 and an entity called QOX, Peak Tactical, and an entity
17 identified as Partisan Triggers; is that right?

18 A. Correct.

19 Q. In your declaration you state that DFI, QOX, Partisan
20 Triggers, and Peak Tactical together operate the Partisan
21 brand; is that right?

22 A. That's correct.

23 Q. And then in paragraph 11 of your declaration you go on to
24 say that Partisan Triggers only sells to distributors, et
25 cetera; is that correct?

1 A. That's correct.

2 Q. Is Partisan Triggers a d/b/a of Peak Tactical?

3 A. It is.

4 Q. Okay. So when you refer to Partisan or Partisan Triggers
5 within your declaration, you're specifically referring to the
6 Peak Tactical entity, correct?

7 A. Correct.

8 Q. You're not referring to DFI or QOX, correct?

9 A. I'm referring to the collection of companies that make up
10 Partisan Triggers while the d/b/a is assigned to Peak Tactical.

11 Q. I guess I'm not clear. When you refer to Partisan or
12 Partisan Triggers in your declaration, are you referring to
13 Peak Tactical or to the three entities?

14 A. Peak Tactical as well as the other entities.

15 Q. Okay. Thank you.

16 And you work with Peak on making, marketing, and
17 selling the Partisan Disruptor; is that right?

18 A. Correct.

19 Q. You're also the spokesman for Peak Tactical -- sorry --
20 Partisan Triggers; is that right?

21 A. I am.

22 Q. And you state that on your bio on the Partisan Triggers web
23 page, right?

24 A. Peak Tactical did, yes.

25 Q. You're familiar with a website AR15.com; is that right?

1 A. Yes.

2 Q. And Partisan Triggers posts on AR15.com; is that right?

3 A. Correct.

4 Q. And you also post under your own personal account on
5 AR15.com, right?

6 A. That's correct.

7 Q. Your user name on AR15.com is "Ben"?

8 A. Correct.

9 Q. So I'm going to show you here a post from Partisan
10 Triggers, and for the record, this is Exhibit J to Docket
11 Number 7 in the record, so Docket Number 7-10.

12 Sir, are you familiar with this post?

13 A. I am.

14 Q. And what is this post?

15 A. It's a post introducing Partisan Triggers to the market.

16 Q. And if I can read it correctly, it is dated September 13th,
17 2025, is that right, or thereabouts?

18 A. Yes, sir.

19 Q. Did you draft this post?

20 A. Not independently, no, sir.

21 Q. But you were involved in the drafting of it, yes?

22 A. Yes, sir.

23 Q. Okay. And do you control the Partisan Triggers AR15.com
24 account on AR15.com?

25 A. I am one of the people who does control it. I am not the

1 sole controller of that account.

2 Q. Okay. And what was the purpose of this post in September
3 2025?

4 A. At the time of the original post, we had been planning to
5 release just a few weeks after that post was made. Subsequent
6 production delays resulted in the post being drug out for a
7 much longer period of time than we expected.

8 Q. And when you say "release," you're talking about releasing
9 the Partisan Disruptor product; is that right?

10 A. Correct.

11 Q. And in your declaration you refer to a September 20 -- in
12 paragraph 26 of your declaration submitted in this case, you
13 refer to a September 2025 post where you say: *We posted a*
14 *lengthy announcement of our upcoming trigger referring to*
15 *plaintiffs' litigation approach and describing at a high level*
16 *why defendants were ready to bring the Partisan FRT to market.*

17 Do you recall that from your declaration?

18 A. I do.

19 Q. And is this post, Exhibit J to Docket Number 7 -- is this
20 the post to which you refer in your declaration?

21 A. Exhibit J is the post on the screen?

22 Q. Yes.

23 A. I believe it is.

24 Q. You're not aware of any other posts that your declaration
25 would refer to?

1 A. Not in that time frame. Not that I recall.

2 Q. So Exhibit J is the AR15.com post to which you're referring
3 in paragraph 26 of your declaration, right?

4 A. Yes, sir.

5 Q. Now, as we look at this post, there aren't any pictures of
6 the Partisan Disruptor on this post, right?

7 A. Correct. We did not post any pictures on this original
8 post.

9 Q. Okay. When was the first time that anyone from the public
10 would have been able to see the Partisan Disruptor?

11 A. Um, sometime in the summer. I wouldn't remember exactly.

12 Q. What do you mean by "summer"?

13 A. We had units that went out for testing prior to that post,
14 so there were members of the public who had seen it prior to
15 that post.

16 Q. And when you say "members of the public," you're talking
17 about specific people that you sent the units to for testing,
18 right?

19 A. We had some number of units -- I don't remember the exact
20 dates, but we had sent units to people for reviews.

21 Q. Okay. Did you ask them to keep the information or pictures
22 of the Partisan Disruptor under wraps for a certain period of
23 time when you sent those out?

24 A. We did.

25 Q. And when were those -- can we call them beta testers? Is

1 that a fair word?

2 A. Sure, yeah, we can say beta testers. That's fine.

3 Q. When were those beta testers allowed to disclose the
4 Partisan Disruptor or pictures thereof to the public?

5 A. I believe the first public sales and disclosure was Black
6 Friday, and subsequently online the first public disclosures
7 were December 15th.

8 Q. And when you say -- what is your distinction between
9 disclosures on Black Friday versus December 15th?

10 A. I should correct myself. Actually, there was a leak of the
11 photos at one point much prior to on social media by a film
12 crew from somewhere in Hollywood, I think.

13 Q. Okay. Back to my question, when you talk about a release
14 on Black Friday versus a release on December 15th, how are you
15 distinguishing those two?

16 A. We had a soft release through local retailers prior to the
17 online release.

18 Q. And when you say "local retailers," who are you talking
19 about?

20 A. Primarily gun show sales.

21 Q. Where?

22 A. Montana.

23 Q. Only Montana?

24 A. I believe so, but I'm not a hundred percent sure.

25 Q. And then what occurred on December 15th?

1 A. The public launch of the product.

2 Q. And those were the first controlled photos from Partisan,
3 would have been with the public launch on December 15th; is
4 that right?

5 A. Correct.

6 Q. And on December 15th did Partisan or Peak Tactical or
7 anybody associated with Partisan provide pictures of the
8 internals of the Partisan Disruptor trigger unit?

9 A. I don't -- I don't remember. I'm not sure. I know there
10 was a lot of reviews at various places online, either that day
11 or within days, but I couldn't tell you with any level of
12 certainty whether those included pictures of the internals.

13 Q. So the internals wouldn't have been shown to the public
14 prior to December 15th, right?

15 A. Not that I am aware of.

16 Q. And it could have been after that date, right?

17 A. Correct.

18 Q. In preparing to launch the Disruptor trigger, Partisan and
19 DFI and QOX and all the individuals associated with the launch
20 of the Partisan Disruptor, you were all aware of Rare Breed,
21 right?

22 A. Correct.

23 Q. And you were aware of the fact that Rare Breed had signed a
24 contract or a settlement agreement with the DOJ that required
25 it to enforce its patents, right?

1 A. Correct.

2 Q. And, in fact, you mention the fact in the September 2025
3 post on AR15.com that Partisan is preparing and is prepared to
4 take on Rare Breed and its patents, right?

5 A. Correct.

6 Q. Now, as part of that preparation, Partisan never filed
7 what's called an Inter Partes Review of any of Rare Breed's
8 patents with the patent office, right?

9 A. Correct. We did not file an Inter Partes Review.

10 Q. Those are also known as IPRs?

11 A. Yes, correct.

12 Q. And Partisan could have filed an IPR on Rare Breed's
13 patents, right?

14 A. I wouldn't be the right person to ask that question. I'm
15 not an attorney. I'm not going to lie. I don't entirely know
16 how the Inter Partes review works.

17 Q. But you're not aware of anything that prohibited Partisan
18 from filing an IPR on any of Rare Breed's patents, right?

19 A. I wouldn't be able to tell you what is or isn't required
20 for an Inter Partes review. I don't know.

21 Q. So Partisan has obtained insurance for this case, right?

22 A. Correct.

23 Q. Do I understand it is correct that it is two \$5 million
24 policies?

25 A. Correct. It is two \$5 million policies per year.

1 Q. And who do those policies cover?

2 A. Everyone involved in the Partisan brand all the way down to
3 consumers.

4 Q. And what do those policies cover?

5 A. IP defensive insurance as well as enforcement insurance.

6 Q. Do they cover any damages that Partisan may be liable for
7 in the event it's found to infringe any claim of Rare Breed's
8 patents?

9 A. They do cover damages, yes.

10 Q. Okay. But only up to, is it, \$10 million total?

11 A. Per year is my understanding, yes.

12 Q. Do those insurance policies cover willful infringement, so
13 doubling or tripling of damages in the event that Partisan is
14 found to have willfully infringed?

15 A. I would not be able to tell you whether or not that's in
16 the policy.

17 Q. Do those policies cover false marketing or false
18 advertising claims?

19 A. I wouldn't be able to tell you whether that's in the
20 policy.

21 Q. Do those policies cover Rare Breed's attorneys' fees if
22 this case is declared exceptional based on Partisan's actions?

23 A. Could you repeat that question? I'm sorry.

24 Q. Sure. Do those policies cover Rare Breed's attorneys' fees
25 if this case is declared an exceptional case due to Partisan's

1 actions?

2 A. I can't recall.

3 Q. So with respect to Partisan, and I'm referring to all three
4 entities -- Peak, DFI and QOX -- how much money do those
5 companies have in their bank accounts, in any source? How much
6 money is available for those companies?

7 A. Immediately in the company accounts?

8 Q. Yes.

9 A. I don't know. I don't handle accounting. I'm not sure.

10 Q. Okay. How much are the assets worth for all three of those
11 entities?

12 A. I -- like I said, I don't handle accounting. I'm not sure.

13 Q. Any idea?

14 A. I really wouldn't know.

15 Q. And you didn't include that information in your
16 declaration, did you?

17 A. I don't believe so, no, because -- I'm not sure.

18 Q. So in the event that Partisan is found to infringe a valid
19 claim and Rare Breed is awarded lost profits damages, how would
20 Rare Breed's damages be covered by the Partisan entities?

21 A. That should be covered by the insurance policy.

22 Q. Now, you heard your counsel ask Mr. DeMonico a question
23 about the Rare Breed costs that it incurs to manufacture its
24 triggers, right?

25 A. Correct.

1 Q. And Mr. DeMonico's testimony was around \$100 per unit; is
2 that what you understood?

3 A. Correct.

4 Q. And so if the Rare Breed trigger is selling for \$450, that
5 would leave \$350 per unit profit, correct?

6 A. Correct.

7 Q. In your declaration you estimated that Partisan will sell
8 1.68 million Disruptors within the next three years, right?

9 A. That sounds correct.

10 Q. And 1.68 million times \$350 profit, that's well over \$500
11 million in lost profits damages that Rare Breed will incur,
12 isn't it?

13 A. I can't speculate on how many lost profits Rare Breed will
14 have over three years. I wouldn't know.

15 Q. But you estimate sales of 1.68 million, right?

16 A. Correct.

17 Q. And Rare Breed's contention is that it would make those
18 sales but for Partisan's infringement, right?

19 A. That is their contention, yes.

20 Q. And how would the Partisan entities be able to cover a
21 damages award of over \$500 million?

22 A. I am not, as I said, an accountant, and I am not our lead
23 for counsel that deals with our insurance policies, so I
24 wouldn't be able to tell you.

25 Q. No idea?

1 A. No idea.

2 MR. BRUCE: Pass the witness.

3 THE COURT: Thank you, Mr. Bruce.

4 Cross-examination, Mr. Swanson.

5 MR. SWANSON: Paul Swanson for the defendants.

6 **CROSS-EXAMINATION**

7 **BY MR. SWANSON:**

8 Q. Good morning, Mr. Woods.

9 A. Good morning, sir.

10 Q. To make sure the record is clear, do you have any knowledge
11 about the profitability of Rare Breed's trigger for Rare
12 Breeds?

13 A. The profitability?

14 Q. That's right.

15 A. You mean as far as how much they're making or --

16 Q. That's right.

17 A. If I recall correctly, during the EDNY case they said
18 something like \$40 million over an 18-month period.

19 Q. Do you independently know anything about how much profit
20 Rare Breed makes off of each trigger sale?

21 A. No, we have no way of measuring how many triggers Rare
22 Breed has actually sold.

23 Q. If Partisan Triggers is able to continue selling and is not
24 enjoined, how many triggers did you say you expect the company
25 would sell in the next three years?

1 A. In the next three years, 1.68 million.

2 Q. Overall for all of the entities you mentioned that are part
3 of the Partisan Triggers family, do you know how much in profit
4 that would represent to those companies?

5 A. I would have to check.

6 Q. Would it be hundreds of millions of dollars?

7 A. It would be. It would be significant.

8 MR. SWANSON: Thank you. Nothing further.

9 THE COURT: Thank you, Mr. Swanson.

10 Mr. Bruce, any redirect?

11 MR. BRUCE: No redirect, Your Honor.

12 THE COURT: Very well. Mr. Woods, thank you for your
13 testimony. You may step down.

14 THE WITNESS: Your Honor.

15 THE COURT: Plaintiff may call its next witness.

16 MR. BRUCE: Your Honor, at this time plaintiffs call
17 Dr. Warty.

18 THE COURT: Very well. Dr. Warty, please come forward
19 to be sworn.

20 (Witness sworn.)

21 COURTRoom DEPUTY: Please state and spell your name
22 for the record.

23 THE WITNESS: Samir Warty, S-a-m-i-r W-a-r-t-y.

24 MR. BRUCE: Your Honor, I have a copy of Dr. Warty's
25 declaration. May I approach and provide one to the witness?

1 THE COURT: You may.

2 MR. BRUCE: Would Your Honor also like a copy?

3 THE COURT: Very well. Thank you.

4 **SAMIR WARTY, PLAINTIFFS' WITNESS, DIRECT EXAMINATION**

5 **BY MR. BRUCE:**

6 Q. Dr. Warty, you have a copy of your declaration in this
7 case; is that correct?

8 A. Correct.

9 Q. You signed it?

10 A. Correct.

11 MR. BRUCE: Your Honor, at this point plaintiffs would
12 move for entry of Dr. Warty's declaration into the record.
13 This is Exhibit AA to plaintiffs' motion for TRO and
14 preliminary injunction in the record, Your Honor.

15 THE COURT: All right. Any objection to what's
16 previously been filed of record as Dr. Warty's designation?

17 MR. GETZOFF: No, subject to all our objections and
18 cross that we would have in terms of the foundation.

19 THE COURT: Very well. Subject to those objections or
20 concerns, it will be received into the record. It is already
21 part of the record, so the Court will consider it.

22 (Plaintiffs' Exhibit AA received.)

23 MR. BRUCE: Your Honor, in the interest of time, at
24 this point plaintiffs will pass Dr. Warty for any cross. Thank
25 you, Your Honor.

1 THE COURT: Thank you.

2 Mr. Bruce turns it over for any cross-examination for
3 the defendants.

4 MR. GETZOFF: No cross, Your Honor.

5 THE COURT: All right. Dr. Warty, that was an
6 impressive examination. Thank you for your appearance here
7 today. We'll take a close look at your designation, of course.
8 Thank you, sir. You may step down.

9 THE WITNESS: Thank you, Your Honor.

10 MR. BRUCE: Your Honor, at this point this concludes
11 plaintiffs' affirmative evidence, and we pass to the
12 defendants.

13 THE COURT: Very well. Thank you.

14 Plaintiffs having rested their presentation, I'll turn
15 it over to the defendants.

16 Any remarks, opening remarks, or would you like to cut
17 right to the chase and call your first witness?

18 MR. GETZOFF: Your Honor, I'm going to cut right to
19 the chase.

20 By cutting to the chase, Your Honor, I mean all the
21 witnesses to be called have been called. I think all the
22 evidence is submitted. I want to use the bulk of my time to
23 discuss the substantive issues before the Court that bear on
24 the Court's determination and analysis of the pending motion
25 for TRO and preliminary injunction.

1 I'd like to dive right in. The Court knows the
2 standards for a TR0 and PI. I'm not going to waste time on
3 emphasizing how extreme the remedy is. I'm going to start with
4 the noninfringement issues because I think those are
5 dispositive, frankly, on plaintiffs' claim.

6 So I want to start with the -- the plaintiffs' patents
7 can be divided into kind of two categories. There's the '223
8 Patent, and that's Exhibit A to their complaint. And then the
9 later three patents are, for purposes of my argument,
10 substantially the same. There's no substantial difference in
11 the claim language that I'll be talking about.

12 I'm going to use the '807 Patent as an exemplar. The
13 '807 Patent is Exhibit D to the complaint.

14 And I want to start right in with the asserted claim
15 is Claim 1, and as the Court can see, Claim 1 starts at the
16 bottom of the last page. I'm not going to talk about that
17 first element. I'm going to move right to the rest of the
18 claim. And I have prehighlighted it to aid my discussion.

19 So patents are written with a number of elements. I
20 have lettered these elements, which is common in patent
21 litigation, so we know which particular element that we're
22 talking about. I think, as the Court knows, patent elements
23 are like a checklist. In order for the plaintiff to prove
24 infringement, they have to show that every one of these
25 elements, which is A through H, is met. If there's any one

1 element that's missing, there is no infringement.

2 The first issue I want to talk about is G. So the way
3 the patent reads is it discusses the different items -- the
4 locking member, the disconnector, the sear and sear catch --
5 but when you get down to G, it talks about what needs to happen
6 in standard semi-automatic position.

7 And when you go to the next page, it says that when
8 the -- well, let me start over to make sure we're oriented.

9 It says that in standard semi-automatic position, when
10 the bolt carrier fires, and it forces itself rearward, it
11 connects with the hammer and it pivots the hammer such that
12 said disconnector hook catches said hammer hook, so that's the
13 key language that is absent from the Partisan Disruptor.

14 To put it in different terms -- and I'm going to
15 use -- I'm going to switch now to the video that Mr. Stakes put
16 together. So switching to my HDMI cable, this is
17 semi-automatic mode.

18 So, again, Element G is standard semi-automatic mode.
19 And what it says is that the -- when it fires -- so this is
20 Mr. Stakes animating this. He pulls the trigger. It releases
21 the sear. The hammer springs up, connects with the shell,
22 fires the shell, and then the bolt carrier moves backwards.

23 Now, let me freeze it -- freeze it here. So the bolt
24 carrier moves backwards, forces the hammer downward. The
25 hammer hits the trigger, the butt end, I'll call it, of the

1 trigger, which forces the trigger forward.

2 What the claim element says, though, is -- it is
3 focusing on the white part and the hammer, the dark -- the dark
4 silver part.

5 So what the claim element says is that when the hammer
6 is being forced downward after it fires, the hammer hook and
7 the disconnector hook -- so this piece here, this -- it is like
8 a bottle opener on the hammer, and this sharp hook on the
9 disconnector, they have to catch. That's the way the claim
10 language -- the claim language reads.

11 When that's pushed forward, it -- it nudges it out of
12 the way so that the back of the two hooks, they connect, and it
13 pushes it backwards, but it doesn't catch. There is no time
14 where the hook on the disconnect catches with the hook on the
15 hammer.

16 And so now the gun is back in fire -- in fire
17 position, and that's as simple as it gets.

18 The way this claim was written -- now, let me -- let
19 me switch back to the ELMO.

20 Sorry to do this to you.

21 So in standard semi-automatic position, the rearward
22 movement of the bolt carrier causes the rearward pivoting of
23 the hammer -- so we saw that when the hammer moves down such
24 that the disconnector hook -- that was the white hook --
25 catches said hammer hook.

1 That never happens.

2 What's interesting is in a standard semi-automatic
3 off-the-shelf AR-15 that has an OEM trigger, those hooks do
4 catch. So when the hammer moves downward, it gets to the other
5 side and it catches. And that's part of the safety mechanism
6 in here so it can't fire until it is fully set.

7 But in the Partisan Disruptor, that never happens.
8 That part of the safety mechanism of the disconnector catching
9 the hammer hook is simply not present.

10 As I said, it is present in off-the-shelf AR-15
11 triggers. It was also present in Mr. Stakes' TacCon 3MR. So
12 he kept that safety as part, and that came out in earlier
13 testimony. But the person who wrote this patent claim was
14 either thinking of a standard OEM off-the-shelf trigger for an
15 AR-15 or maybe he was thinking of Mr. Stakes' trigger where
16 that catching happens, but it doesn't happen in the Disruptor.
17 In fact, we don't think it happens -- we haven't tested the
18 Rare Breed trigger. We don't think it happens in the Rare
19 Breed trigger either. So this patent doesn't even cover Rare
20 Breed's own trigger. We have not confirmed that in the time
21 constraints. We've been focusing on the Disruptor. We will
22 get to that later in the case.

23 So that disconnector hook is specifically designed in
24 these after-market triggers never to catch the hammer. That's
25 so that the rifle can be fired faster. And that's one of the

1 goals. That claim limitation is not only in the '807 Patent,
2 that claim limitation is in all three of the later patents. It
3 is substantially the same.

4 Mr. Luettke, he glosses over this issue. So if you
5 look at his declaration, Exhibit -- I think it was Exhibit 12
6 in the original filing -- this is his infringement argument.
7 So you can see that it's the same language that we're talking
8 about, in standard semi the rearward movement causes the pivot
9 such that the disconnector hook catches.

10 Now, to illustrate this, one, this is not the
11 Disruptor trigger, but it's not clear where he's -- where this
12 is in the -- in the firing. Based on the bolt, the bolt is
13 still pushing the hammer backwards, so what I think they did is
14 a clever way to show that as it moves past -- as it is moving
15 downward, I think they tried to freeze it right there so it
16 looks like it catches, but it doesn't.

17 As we saw from the video, in this case the hammer
18 hasn't even connected with the trigger yet, so, as we know, the
19 hammer hits the green part, the blue hits the green, and that
20 pushes the trigger forward. That hasn't even happened yet, so
21 we know that the hammer is still moving down.

22 This depiction suggests, incorrectly, misleadingly,
23 that it is stuck in that position, but we know it is not
24 because the bolt carrier is still moving backwards.

25 This can also be proven, Your Honor, by the device

1 itself. To fire it -- so this is ready to fire. If you pull
2 the safety toggle, called the -- it was the red piece from
3 those, if you push that out of the way and fire it, the hammer
4 smacks up, fires the gun. Then the bolt carrier -- the bolt
5 carrier goes backwards, forces it down. It pushes the
6 disconnector out of the way, but it doesn't catch. It does not
7 catch (indicating).

8 I'm going to do that again.

9 You fire it; it fires the gun; it's pushed downward.
10 The outside edges of the hook touch as it pushes it out of the
11 way, but it doesn't catch. So it is provable not just by the
12 video, but by the actual trigger that I think Your Honor has.
13 That catching does not happen.

14 That in itself shows noninfringement for the later
15 three patents. And Mr. Luettke's attempt to show otherwise is
16 simply wrong.

17 There's a second reason why it doesn't infringe. That
18 has to do with the same patent, but I'm going to move now to
19 the next element, Element H. This is talking about forced
20 reset mode, so when you move the lever, you're now in what they
21 call forced reset semi-automatic position.

22 What this says is that, again, when the bolt carrier
23 moves backwards and pushes the hammer down, it causes -- so
24 that motion causes the trigger member to be forced to a set
25 position. So that's the key language is, again, that backwards

1 motion from the bolt carrier drives the hammer down, and that
2 causes the trigger member to be forced into a set position.

3 The other video that Mr. Stakes did -- I'm going to
4 switch now to my HDMI again and play the -- what they call the
5 forced reset mode.

6 So, again, this is the forced reset mode. The gun
7 fires; the bolt carrier moves backwards, forces the hammer
8 down; it hits the trigger -- so I'm going to stop it right
9 here.

10 It hits the trigger. Now it's -- its motion is
11 stopped, so it has pushed the trigger as far back as it can go,
12 and according to the patent claim, that pushes the trigger into
13 the set -- the set position.

14 This is not in the set position because the sears are
15 not engaged. So how do we know that set position means that
16 the sears have to be engaged?

17 Well, again, let's go back to the claim language, and
18 on the ELMO.

19 What's interesting about all of these patents is set
20 position is never used once outside of the claims. It is only
21 used in the claims. So there's an issue -- that may be a
22 different invalidity issue as to what does this patent mean
23 when it uses "set position," but I think that issue is probably
24 resolved by Element C. So Element C says that when the sear
25 and sear catch are in engagement in said set positions and then

1 they're out of engagement in said released positions.

2 So Element C defines two positions for that sear and
3 sear catch. You've got a set position when they're engaged,
4 and you've got a released position when they're not engaged.

5 Okay. Let's go back to the video. So this is at that
6 point in time in the claim where it needs to be in the set
7 position. The sear and the sear catch are not engaged, and
8 the -- and they won't be engaged until the bolt carrier moves
9 forward again and then it creates headroom for the -- for the
10 hammer to move up and then now it is engaged.

11 So now the reason it stops is because the sear and the
12 sear catch are touching. They're engaged. This is set
13 position. This is set position as defined by the patent. But
14 the way the patent claim reads is that set position needs to
15 happen when the hammer is driven down, and it doesn't. It is
16 not set yet. The setting doesn't come until -- till later.

17 And, again, when you go back, keep it on the video,
18 but in Element H there's a timing of what happens and when it
19 has to happen. And so after that set position, it then says,
20 thereafter, the bolt carrier moves back substantially
21 in-battery, and it is ready to fire. So it creates a timing
22 distinction of set position happens when the hammer is first
23 driven down, but that doesn't happen in the Disruptor. The
24 Disruptor set position does not occur until the bolt carrier
25 has moved back forward towards an in-battery position.

1 In the patent claim that's a different action. That
2 timing does not track the way this -- the patent reads. That
3 claim element is present in all three of the later patents.
4 That's the '807, the '80 -- sorry -- the '336 as well as the
5 '003.

6 That same issue -- in fact, let me show you
7 Mr. Luettke's analysis of this, because he -- okay. So
8 Mr. Luettke had these exhibits, and this is going to be
9 Exhibit X to his -- to the motion for --

10 THE COURT: This is the original motion you're
11 referring to?

12 MR. GETZOFF: This is the original motion. This is
13 Exhibit X. These were referred to -- so he shows -- this is at
14 page 4 of Exhibit X to the original motion. This is
15 Mr. Luettke's analysis on the ELM0. Thank you.

16 So he pretty much agrees with us that you've got two
17 conditions. You have got a set position where the sear and the
18 sear hook is engaged, and you've got a released position
19 because it has been -- it has been fired. And then when he
20 gets to that claim element that we just talked about -- so this
21 is -- this is that same element where we're in forced reset
22 mode and the hammer causing said trigger member to be forced to
23 set position, so same language that we're talking about, he
24 shows that for what is happening in the Disruptor neither of
25 these are set position.

1 Mr. Luettke agrees with us -- sorry. My finger is
2 making it blurry -- that in neither of those instances is the
3 sear set with the sear -- I'm going to focus it manually.

4 Okay. So this is the moment in time when Mr. Luettke
5 depicts what is happening with that claim language, and both of
6 his pictures show that neither of these is in the set position.
7 So Mr. Luettke actually agrees with us there.

8 Now I want to switch. Those dealt with the '22 --
9 with the later three patents, but we still need to deal with
10 the '223 patent.

11 The set position issue that I just talked about also
12 applies to the '223 patent. And let me show the Court -- so
13 for the '223 patent -- this is Exhibit A to the complaint --
14 Claim 4 is what they've accused us of, and for Element C,
15 Element C goes over to the next page.

16 So it, likewise, just like the last patent, it
17 requires that -- the contact causing the trigger member to be
18 forced to a set position, so it starts with saying a trigger
19 member having a sear, to pivot, and then this is where it is
20 important is when the bolt --

21 THE COURT: I might have you pull that down just a
22 little.

23 MR. GETZOFF: Sorry, Your Honor.

24 THE COURT: There you go. Thank you.

25 MR. GETZOFF: When the bolt carrier is cycled, it's --

1 it fires, it moves backwards, the contact causing the trigger
2 member to be forced to the set position. So it is the same
3 requirement in the '223 patent that it is the backwards force
4 of the bolt carrier that causes the trigger member to be forced
5 in the set position. As we just saw, it is not in the set
6 position. The set position is not caused by that. The set
7 position occurs later after the bolt carrier moves forward and
8 gives the hammer room to move up so that the sear is engaged.

9 So the same problem with set position not being met in
10 the later three patents also exists for the '223 patent.

11 I'm going to skip Mr. Luettke's -- in Exhibit W to the
12 motion, he has this same depiction that I showed before, and
13 you'll be able to see -- it is at page 6 -- that the sear and
14 sear hook are not engaged, so they're not set, so he actually
15 agrees with us with respect to the '223 as well.

16 I want to move now to an entirely separate issue,
17 which is invalidity, Your Honor. And the evidence is plaintiff
18 did not put any evidence at all in the record supporting the
19 validity of their patents. Now, if we hadn't shown up or
20 submitted any evidence ourselves, that would be sufficient
21 evidence -- patents are presumed valid, and they're entitled to
22 rely on that presumption, but not in the face of the invalidity
23 arguments and prior art that we submitted, for which they had
24 no response whatsoever.

25 I think the *KSR* case -- that's the seminal Supreme

1 Court case that is directly applicable here, not just in terms
2 of its rulings and holding, but even the facts of *KSR* are
3 analogous.

4 In *KSR* it was a mechanical throttle for a car, so it
5 was -- it was the gas pedal. And what *KSR* had done is taken a
6 mechanical gas pedal, and they added an electronic sensor, and
7 their thought was, well, an electronic sensor would tell the
8 car where the pedal is in space and that would help the car
9 more accurately know how much gas to apply as opposed to just
10 the pedal itself.

11 The federal circuit said, That doesn't seem obvious to
12 us. You've taken known gas pedal technology; you have taken
13 known electronic sensor technology, but you combined them. And
14 so that seems new, and you should have a patent.

15 And the Supreme Court said no. The Supreme Court
16 said: *A patent for a combination which only unites old*
elements with no change in their respective functions is
obvious. The combination of familiar elements according to
known methods is likely to be obvious when it does no more than
yield predictable results.

21 So in *KSR*, by adding -- by maybe being the first one
22 to add an electronic sensor when you're using that electronic
23 sensor for what it is known for and you didn't invent that
24 electronic sensor, you just combined two known things that do
25 what they're known to do. That's not patentable; that's

1 obvious.

2 That's exactly what's going on here. What we saw
3 during the testimony is that the patents at issue are the exact
4 same as Mr. Stakes' '067 Patent with two exceptions. One is
5 instead of the reset lever that Mr. Stakes had built in, they
6 made the trigger bigger so they eliminated the reset lever so
7 it is now a one-piece trigger.

8 That's one difference.

9 The second difference is they added that item, the
10 out-of-battery safety, that red toggle. So I don't think
11 there's any question that the only difference between what they
12 patented and what Mr. Stakes patented is those two things.

13 Let's talk about them one at a time. First, when
14 the -- when we're talking about the -- that locking member,
15 that out-of-battery safety, that is replete in the prior art.
16 That's the Nixon declaration. He discusses this at length.
17 Mr. Stakes discussed it in his testimony.

18 Whenever you have an automatic -- a fully automatic
19 weapon and these triggers move -- move the line towards fully
20 automatic, you can have problems with what they call hammer --
21 hammer follow; the hammer flips up too quick. And so that red
22 safety is standard -- it is a standard component in automatic
23 weapons. Mr. Stakes said it was part of the M16. In
24 Mr. Nixon's declaration he cites an old Remington patent. He
25 cites the Remington Model 11. He cites the Hyde patent from

1 1945. That was a fully automatic firearm.

2 So when you're building a trigger mechanism that looks
3 more like automatic, adding that red out-of-battery safety,
4 that's a known component that you're adding for its known
5 function. You're not doing anything new. That tracks exactly
6 with KSR.

7 Going to the one-piece -- so the other thing that
8 Mr. Stakes did not do is -- like we said, he had a separate --
9 that separate lever in between the hammer and the trigger.
10 Now, he did that because it gives -- as he said, it gives him
11 more flexibility. If you want to change the action or change
12 how much reset, all you have to do is replace that one piece.
13 You could change the geometry of that one piece, and you don't
14 have to change any other component, and you could change the
15 overall functionality of the forced reset or assisted reset
16 mode.

17 All Rare Breed did is they got rid of that extra piece
18 and made the -- made the trigger have a larger rear end so it
19 just connects directly with the hammer. Mr. Stakes said he
20 thought of that himself. He built prototypes. That's a
21 clumsier, more rudimentary design than what he did with the
22 extra lever. You don't have the flexibility that Mr. Stakes --
23 but it is probably cheaper and easier to make, and it works the
24 exact same way; you've just eliminated one piece in the
25 building block. In fact, Mr. Luettke admitted to that, that

1 the only difference is you added a component within the chain,
2 but the forces are the same.

3 Now, this would have been obvious on its own because
4 you are simply employing a design change. It doesn't change
5 the function, and you're just getting rid of a piece to make it
6 simpler. But, in fact, that one-piece trigger body connecting
7 directly with the hammer, that was fully disclosed. That's the
8 Bonner reference in the '263 Patent. It is discussed in the
9 Nixon declaration.

10 In Bonner, for a forced reset mechanism, Bonner
11 actually describes four different ways that you can have the
12 hammer connect to the trigger. And the fourth way, which is
13 Figure 19, is a one piece. He calls it an alternative
14 configuration. You can just make -- he added a cam. He called
15 it a cam. You can just put a little cam on there, and then
16 that's going to hit the trigger directly.

17 So even though I think this would have been obvious
18 because the change they made was so minor and not inventive in
19 any sort of improvement way, it's actually specifically
20 disclosed in Bonner. So, again, tracking to KSR, Rare Breed or
21 the patentees added a known, preexisting component, added for
22 the exact same reason and function as described in the prior
23 art, under KSR, that makes it obvious.

24 Now, one important thing I want to note -- and this is
25 in our brief but it bears repeating -- but none of the art I

1 described was disclosed for the first patent, for the '223. So
2 the patent goes through an examination process, and the
3 patentee is obligated to disclose what he or she knows, and the
4 patent office does its own search. Neither of them disclosed
5 any of this art that I mentioned.

6 And, most shockingly, the '067 Patent, which disclosed
7 every element but those two, that was not even before the
8 examiner.

9 In fact, the examiner did issue an office action based
10 on the Foster patent, and what the patentee said that Foster
11 did not disclose -- so -- so to get over Foster -- so Foster
12 was the only patent cited by the examiner, and the patentee
13 said, Well, Foster doesn't disclose any means of forcing the
14 trigger member to return to the set position.

15 Well, the '067 clearly does that. I don't think
16 anyone in this courtroom would dispute that the '067 discloses
17 what the examiner thought was missing in the one art that was
18 before him, a means for forcing the trigger member to return to
19 the set position. We talked about that. That's in the '067
20 Patent. That's in a lot of patents. None of those were
21 considered by the examiner when the examiner signed off on the
22 '223.

23 Going to the other three patents, art was disclosed.
24 The '067 was disclosed. It was one of 147 patents that were
25 given to the patent examiner. 147 patents were given to the

1 examiner and said, Is this patentable? And the examiner did
2 not issue for any of those later three patents a single office
3 action based on prior art. It did a double patenting objection
4 that just meant that the last patent was not patentably
5 distinct from the earlier ones.

6 But he waved his hands at the 147 patents before him,
7 which included the '067 Stakes Patent but no office action
8 based on Stakes. That's incredible given how close Stakes was
9 to this. They should have at least gone through an analysis of
10 what I just did, which is what is the difference and how is
11 that patentable. And the examiner blessed the -- all three of
12 those applications without a single substantive office action,
13 which only happens in, like, 10 percent of the cases. That's
14 very unusual.

15 So my obviousness analysis is not just true on its
16 face, given the prior art that we found -- and, frankly, a very
17 short time between when this case was filed and when we stand
18 here before you today -- but it makes sense given how shoddy,
19 frankly, these examinations were by the patent office. These
20 are single-examiner examinations. They have a limited amount
21 of time. We provided some data in our brief on that. They
22 completely whiffed on the '223, the first patent: No art, no
23 relevant art before it that I've walked through. And on the
24 later three patents there was 147 patents. It was too much.

25 So that's why these patents got through the patent

1 office, but they shouldn't have. If these patents were before
2 the patent office, there is, at a minimum -- which is the
3 Court's standard for denying a preliminary injunction -- at a
4 minimum there is a serious question as to validity. At a
5 minimum there is a serious question as to validity. That's the
6 standard for denying a preliminary injunction.

7 And the key is plaintiff offered no argument, let
8 alone evidence, to support the validity of their patent, so all
9 of our invalidity analysis and evidence and prior art is
10 unrebutted.

11 I'm going to move off the patents, Your Honor, talk
12 about some other topics. My time is running down.

13 But these patent issues I think are key, and if the
14 Court has any questions, I certainly want to stop and give the
15 Court a chance.

16 THE COURT: Not at this time. Thank you.

17 MR. GETZOFF: Okay. Thank you.

18 I will also say, Your Honor, this is complicated
19 stuff. These triggers are surprisingly complicated. It took
20 me almost a week of looking at these every day to finally
21 figure out what is actually going on here and how do all of
22 these things interconnect.

23 But I think just given the compressed time frame we've
24 had, we've presented compelling both noninfringement positions
25 on all the patents as well as invalidity, and we only need one.

1 For the plaintiffs' claim to prevail, they have to show both --
2 well, it has to be determined that the patents -- the patents
3 are infringed and valid.

4 Okay. False advertising. This false advertising
5 claim, forced reset versus assisted reset versus positive reset
6 versus active reset, these are marketing terms. There is no
7 article or authority that anyone has pointed to that breaks out
8 the taxonomy between what each of these mean and whether
9 they're different or not.

10 Michael Stakes used assisted reset in 2013 because he
11 was the pioneer. He coined that term, and there was no other
12 term. So, yes, all the articles talk about assisted reset.
13 Forced reset didn't come along until -- until Rare Breed coined
14 it. So it would make sense that forced reset is what Rare
15 Breed has adopted. But to say that assisted reset and forced
16 reset are categorically different -- different animals,
17 compared to the other terms that are being used -- positive
18 reset, active reset -- these all mean the same thing. It's
19 certainly not false advertising to call one one or the other.
20 There's been no evidence whatsoever that these distinctions are
21 material to anybody, which is something that they would need to
22 show.

23 The other point on the false advertising, this goes
24 back to the '067 Patent, I think it was established and
25 unrebutted today that Mr. Stakes personally measured the

1 difference in the trigger travel distance between the two
2 modes, and there's a difference. There's a material
3 difference. It's a small difference, but it makes a difference
4 given how tight the tolerances are in these triggers. And
5 there's -- there was no evidence to rebut that.

6 They could have had Mr. Luettke get on the stand or
7 submit a declaration saying, I measured it, too, and it is the
8 same. They didn't, and they didn't because they know
9 Mr. Stakes is right, that the difference he measured is
10 correct, and it shows it complies with Claim 19 of the '067,
11 which that's -- the only dispute in the case is whether the
12 Disruptor practices Claim 19. It does, and Mr. Stakes'
13 analysis, his measurement of the key term, stands unrebutted.

14 So no false advertising on the '067, the fact that the
15 Disruptor practices the '067. In fact, we are going to be
16 filing counterclaims for infringement by the Disruptor of the
17 '067, and we'll hash that out in more analysis and discovery.

18 I want to talk about irreparable harm, because, as the
19 Court knows, that's an independent basis to -- not suggesting
20 you punt on the merits, because I would want the Court to look
21 at these merits because I think they're important, but
22 regardless of the merits, if there's no irreparable harm,
23 meaning if there's no monetary damages -- if there's no
24 nonmonetary damages that they can provide evidence of or
25 articulate in other than just conclusory labels, their motion

1 fails.

2 I want to start -- we talked about the delay. I think
3 the delay -- the fact that they took the time to sue six other
4 of our dealers before suing us, what is that about? What in
5 the world -- would they spend the time suing the retailers as
6 opposed to suing the manufacturer and taking the time to do
7 that? In none of those six cases, that are still pending, by
8 the way, did they ever seek a TRO or PI.

9 So that is very inconsistent with their claim of
10 irreparable harm.

11 But on the monetary damages, just a couple of points.
12 One is I think it is important that Rare Breed provided -- so
13 in this last testimony with Mr. Ross [sic] about sales and how
14 much sales would you make, and would we get lost profits, would
15 Rare Breed get lost profits, and how much would this be, and
16 would you be good for it, we don't have a single piece of
17 evidence in the record of any of Rare Breed's sales.

18 Rare Breed had Mr. DeMonico here that he could have
19 testified. Dr. Warty flew all the way here for apparently no
20 reason whatsoever. He could have looked at some sales and
21 said, Well, Rare Breed has sold X.

22 We have no idea -- frankly, the record the way it
23 stands, we have zero evidence that Rare Breed has sold
24 anything. If they haven't sold anything, they get no lost
25 profits. They would be reduced to a reasonable royalty, which,

1 again, is calculable.

2 THE COURT: We heard some from Mr. DeMonico, did we
3 not, today?

4 MR. GETZOFF: In terms of what their sales had been?

5 THE COURT: The price of the units.

6 MR. GETZOFF: The price of the units, correct.

7 THE COURT: Maybe --

8 MR. GETZOFF: I mean, I'm sure they've made sales.
9 But to do a lost profits analysis and for them to argue that,
10 We're going to be irreparably harmed, and not put in, as we
11 did -- we put in our sales projections. They know their sales
12 history. They know what sales they've made. They talk about
13 price erosion. They put nothing in the record on what their
14 prices have been over time. Have they changed or have the
15 prices been stable? Have other forces come in to change their
16 prices?

17 It is remarkable that they didn't lay any foundation
18 for what their economic losses would even be, other than us
19 just guessing, well, I am sure they've made some sales.

20 The case law is clear for price erosion you can't just
21 say "price erosion" and wave your hands and say that is
22 irreparable harm. You have to make a showing.

23 Price erosion is actually compensable. We cited two
24 Fed Circuit cases in our briefing that discusses at length the
25 methodology you would use to calculate price erosion. Price

1 erosion is calculable. Mr. Cragun, our economic expert, our
2 counterpart to Dr. Warty, he's performed price erosion
3 calculations. Dr. Warty has not. It appears that Dr. Warty
4 has never worked on a patent case before. We made that
5 assertion in our brief. He didn't rebut it. He doesn't even
6 know what money damages are recoverable in a patent case.

7 Mr. Cragun does. He explained it in his declaration
8 attached to our opposition. In fact, the only thing Mr. Warty
9 really said is this business about durable goods, so I want to
10 take a minute to talk about durable goods.

11 They seem to rest all of their argument for
12 irreparable harm on these triggers are durable; they last for a
13 lifetime. Mr. DeMonico emphasized that this morning. And
14 because they last for a lifetime, Dr. Warty said, Well, that
15 means when you lose a sale, it is a permanent loss, and so then
16 he jumps to, Well, that's irreparable.

17 He has it backwards. Irreparable harm is if I convert
18 a customer on a disposable or replenishable goods, like diapers
19 or toilet paper -- if I convert a customer to my brand, my
20 technology, my 3-ply, I not only get that sale, I get the
21 stream of future sales, right? I've converted that customer.
22 That's where lost sales could be irreparable. If you've
23 converted a customer relationship, then the patent owner has
24 not lost the one sale; he's lost the stream of future sales,
25 which can be harder to get back.

1 Dr. Warty and plaintiffs have disavowed that in this
2 case. What they've said is that when a customer purchases a
3 Disruptor, assuming it is infringing, that purchase exhausts
4 the relevant demand opportunity. That's Dr. Warty's
5 declaration at paragraph 8. So he's affirmatively saying,
6 There are no more sales. You lose one sale, that's it.

7 Well, we can calculate to a certainty lost profits on
8 each sale, and they're basically saying there are no customer
9 relationships or future stream of sales to be taken into
10 account.

11 So this is a -- this is a case based on their own
12 argument and submissions that specifically show there is no
13 irreparable harm because the harm that they're claiming, if
14 they could prove at trial, would be calculable.

15 I've only got a minute and a half left, Your Honor.
16 Our -- our evidence about the bond is in the record, unless the
17 Court has questions about it.

18 Public interest, balance of hardships, most people
19 give that lip service and sort of say the same thing.

20 I do want to emphasize, though, that granting --
21 granting the injunction would effectively put Partisan Triggers
22 and their other three affiliated companies out of business.
23 These triggers are their entire business. They spent a million
24 and a half dollars bringing this trigger to market. The sales
25 have been strong. They're not flooding the market any more

1 than Rare Breed was.

2 The Rare Breed sales from the Eastern District of New
3 York case said they made, like, \$40 million in two years. That
4 was -- that's way less than the Disruptor sales are expected to
5 get.

6 The balance of hardship is for the plaintiff, they
7 would have to accept competition in the marketplace, and at the
8 end of the day if they win, they will be made whole. For the
9 defendants, it puts them out of business. It shuts down a
10 competitive product which is good for the market, good for
11 competition. It would put dozens of employees out of work and
12 create consequential havoc to the lives of all the people
13 working on assembly, manufacturing, distribution, sales of the
14 Disruptor triggers.

15 With that, Your Honor, my time just expired. I'm in
16 the red.

17 THE COURT: Very well. Thank you, Mr. Getzoff.

18 Mr. Colvin, I will give you a little extra time. I
19 realize the clock was running when we were swearing witnesses
20 in and the like. You carried the lion's share of the testimony
21 that was presented today that both parties, I think, intended
22 to potentially call. So if you would like some additional
23 time, you may have it.

24 MR. COLVIN: I would also like to request a ten-minute
25 recess. I need to get the Partisan trigger we handed you and

1 put it in a shell so I can do a demo to rebut the video that
2 they presented.

3 THE COURT: All right. We've been at it for a while.
4 So why don't we do just that. We will take ten minutes, and
5 then we'll come back and wrap up with your argument.

6 We will stand in recess for ten minutes.

7 (Recess taken 12:28 p.m. until 12:41 p.m.)

8 THE COURT: Please be seated. Thank you.

9 Okay, Mr. Colvin, did you have enough time to kind of
10 set things up, if you will?

11 MR. COLVIN: We are all set, Your Honor.

12 THE COURT: We will tack on another five minutes or so
13 and let you use your time as you wish. So you may proceed.

14 MR. COLVIN: Thank you, Your Honor.

15 Your Honor, I'm going to start with the defendants'
16 noninfringement arguments. They made two to you here today. I
17 am going to address both.

18 The first one I'm going to talk about is what they had
19 to say about the disconnector hook not catching the hammer
20 hook.

21 What I have on the screen is a portion of the claim
22 language from the '003, the '336 and the '807 patents, and the
23 portion of the claim language that's important here is what
24 defendants' counsel discussed, and it is that in the
25 semi-automatic position, rearward movement of the bolt carrier

1 causes rearward pivoting of the hammer such that said
2 disconnector hook catches said hammer hook.

3 Now, in support of their argument, they showed you
4 some animations. Those animations are not correct. The forces
5 shown there are not correct; the movement of the components are
6 not correct. They don't show -- those animations don't include
7 contact forces. Those animations did not include spring
8 forces. And so the disconnector in their animation was not
9 correct.

10 They also attempted to show -- to hold up a trigger
11 and show you how the hammer hook did not engage with the
12 disconnector hook.

13 That's not correct, and the thing that they held up,
14 there was no selector, and that changes how these components
15 operate.

16 What I'd like to do is now switch to the ELMO, if I
17 could.

18 We have installed the Partisan trigger in a mechanism
19 here that allows you to test and see the function of the
20 trigger.

21 And I just want to point out a couple of components to
22 you. First we have the hammer, and then we have the hammer
23 hook, and then right here (indicating) is the disconnector.
24 And this is the disconnector hook.

25 Now, in semi-automatic mode, which this trigger is now

1 in, I want to show you what happens.

2 You have to move the locking bar, and then you can
3 pull the trigger. The hammer goes forward. The hammer is then
4 driven backwards by the bolt carrier. There's no dispute about
5 that. And then pay very close attention to what happens
6 between the disconnector hook and the hammer hook (indicating).

7 Did you see that, Your Honor? It caught.

8 Now, the hammer continues to be driven backwards a
9 little bit by the bolt carrier, and that moves the trigger
10 forward just a little bit, but the hammer hook is still caught.
11 The hammer cannot go forward because it is caught by the
12 disconnect. It is caught and it remains caught, in jail, if
13 you will, until the door opens by moving the trigger forward,
14 by releasing the pressure from the trigger (indicating). Now
15 it is not caught.

16 But to be perfectly clear, if I can go back to the
17 claims on my HDMI, please, the bolt carrier absolutely causes
18 rearward pivoting of the hammer such that the disconnector hook
19 catches the hammer hook, and I just showed it to you on the
20 ELMO. This is the actual Partisan product showing the catch
21 between the hammer hook and the disconnector hook.

22 And, furthermore, this is exactly what is described in
23 the patents that have been asserted here, and so if Partisan is
24 correct, what they're trying to do is read out the preferred
25 embodiment of the -- of the patent. This is what the patent

1 describes. This is what the claims cover. This is what Rare
2 Breed's product does. And this is exactly what the Partisan
3 product does.

4 Let me move to their second argument about trigger
5 forced reset. The claim language here that, again, they
6 mentioned is in forced reset semi-automatic position, the
7 hammer causes the trigger member to be forced to set position.

8 Now, let's be very clear what this says and what it
9 doesn't say. It says that the hammer causes the trigger
10 member -- the trigger member. It doesn't say trigger and the
11 hammer to be forced in said set position. It only requires
12 that the trigger member be forced into said set position.

13 The '223 patent says a very similar thing. It
14 requires the trigger member to be forced to the set position,
15 not the trigger and hammer.

16 This is exactly what happens, and you saw it in the
17 animations, and the witnesses have talked about this, that in
18 the Partisan product when the hammer moves rearward, it causes
19 the trigger to be moved forward. They don't dispute that.

20 What they dispute is that when the trigger moves
21 forward, it is not in the set position. What they're trying to
22 do is rewrite the claim to not be trigger member forced to said
23 set position; they want to rewrite the claim to require trigger
24 member and said hammer to be forced into said set positions.

25 That is not what is in the claim. The claim only

1 requires a trigger member to be moved to the said set position.
2 And they showed it to you many, many times. Their animation
3 even got that part right. The trigger is moved to the set
4 position.

5 Now, certainly, when the bolt carrier moves forward,
6 the hammer rotates, and the hammer arrives in its set position,
7 but those are two different structures.

8 Counsel also said something that he didn't think the
9 patents said anything about a trigger set position in the
10 specification, that it only shows up in the claims. That is
11 not correct.

12 On this slide, if you just look at page -- at the '807
13 Patent, column 10, lines 16 through 44, or the '336 Patent,
14 column 10, lines 12 through 42, or the '003 Patent, column 10,
15 lines 11 through 39, you will see -- and I had it highlighted
16 on the screen -- the bolt carrier assembly, 92, thereby forces
17 the hammer, 36, and the trigger member, 38, to their set
18 positions. This says that both the hammer and the trigger
19 member have set positions.

20 Now, those are the only arguments that they brought up
21 here in their argument. I'm not going to spend time on the
22 rest of them that they put in their briefs since they didn't
23 feel they were strong enough to present to you today.

24 I will note, though, that we were really looking
25 forward to crossing their technical expert on these issues, and

1 he did not show up. Remember, we just got these
2 noninfringement issue positions and their invalidity positions
3 on Friday evening, and so this stuff is coming at us pretty
4 quick. And, obviously, we haven't had a chance to put in a
5 rebuttal paper. If the Court would like that, we certainly
6 would do that.

7 But we were hoping to cross their expert, and he did
8 not show up.

9 Let me turn to validity. Partisan raises several
10 references in an attempt to cobble together enough disclosure
11 to try to meet these claims. But a very important thing is
12 missing from their argument, and it is not even in the Nixon
13 declaration, if you take a look at it. They don't even provide
14 claim charts that show how these references are cobbled
15 together to try to meet our claim language.

16 Now, the Nixon declaration references claim charts as
17 Exhibits 11 through 14 in his declaration, but those were not
18 attached; they were not submitted to the Court; we've never
19 seen them; we're not sure that they exist. They provide no
20 mapping of this art to the specific claim language.

21 And if you look at the claims that we present, these
22 are very long claims. These claims in some cases cover more
23 than a column of the patent page. In order to show invalidity,
24 they have to prove with clear and convincing evidence that
25 every single limitation is met by a reference for anticipation

1 or that it's rendered obvious. And the standard for obvious is
2 quite high.

3 These patents are presumed valid, and certainly
4 without claim charts they haven't come close to proving their
5 burden of clear and convincing evidence.

6 Even more, here the '067 Patent and the *Bonner*
7 reference that they rely on heavily were in front of the patent
8 office.

9 The *Glaxo Group Limited v. Apotex* case by the Federal
10 Circuit in 2004, that's 376 F.3d 1339, says at 1348 that: *The*
11 *defendant's burden is especially difficult when, as is the*
12 *present case, the infringer attempts to rely on prior art that*
13 *was before the patent examiner during prosecution.*

14 That's exactly what we have here. I am showing on the
15 screen a portion of the file history from the '003 patent. And
16 in the file history of a patent, you can look and see what the
17 examiner did. All the references that were before the examiner
18 are in that file history.

19 And the examiner gets to note whether he considered
20 them or not, and in this case, the examiner said: *All*
21 *references considered except where lined through*, and then he
22 gave his initials, JWE.

23 The Stakes reference, the '067 Patent, is not lined
24 through.

25 Furthermore, the *Bonner* reference, the '263 Patent, is

1 not lined through. The examiner looked at the art, and he
2 issued the patent anyway. That's why the burden is so high on
3 a defendant.

4 Now, of course, we heard from Mr. Stakes today that
5 there are many differences between the '067 Patent and the Rare
6 Breed products and the Partisan trigger.

7 For example, the '067 Patent does not describe a
8 selector that moves the disconnector out of the way.

9 The '067 Patent doesn't have a hammer that directly
10 resets the trigger. There's a locking bar in there that has
11 some other functions -- I'm sorry -- a reset bar in there.

12 The '067 Patent doesn't have a locking bar. And
13 Mr. Stakes admitted that even -- that there are even others.

14 The '067 Patent wasn't rejected -- wasn't used as a
15 rejection by the examiner because it is just not a good prior
16 art reference for these patents.

17 We heard a lot of talk about the '067 Patent and the
18 3MR patent -- sorry -- the 3MR product, but if those were so
19 good, how come Partisan didn't copy the 3MR? How come the
20 Partisan product doesn't use a reset lever? How come they
21 copied the Rare Breed product? It is because there are
22 differences, and those differences matter.

23 Let me talk briefly about irreparable harm. Partisan
24 has admitted, and you heard evidence today, that they are
25 trying to sell hundreds of thousands of these products. In a

1 lost-profits scenario, Rare Breed would be owed, if they
2 prevailed at trial, something north of \$500 million. Partisan
3 is a startup. You heard no evidence that they could pay a
4 damages award of \$500 million, because we know what will
5 happen.

6 There's going to be a damages award at the end of all
7 this, and Partisan is going to fold up shop and go bankrupt,
8 and my client is going to get nothing. That's how this works.

9 Fortunately, we have a TRO and a preliminary
10 injunction available to us to stop that from happening.

11 The delay that counsel mentioned -- he made this big
12 deal that there was this delay. Recall, they didn't start
13 selling their product until December 15th. Rare Breed sued
14 them in Arizona as a John Doe because they couldn't figure out
15 the parties, also sued Michael Stakes in Arizona. On December
16 23rd, eight days later, they were sued. We were just about to
17 file a preliminary injunction there when they made a post on
18 the Internet that said, Hey, you might want to sue us somewhere
19 else. We did that and we sued them here.

20 Dr. Warty's declaration explained harm about price
21 erosion, and we would have loved to cross their econ expert,
22 but, again, he didn't show up.

23 Your Honor, unless you have any questions, I am out of
24 time.

25 THE COURT: I might just follow up on the damages

1 component here and the lack asserted by defendants -- the lack
2 of evidence regarding what the damages really are. And I heard
3 your sort of summary a moment ago with regard to the
4 irreparable harm, but can you elaborate a little bit on your
5 onus when it comes to money damages in this -- in this
6 equation?

7 MR. COLVIN: Your Honor, my colleague Mr. Bruce is
8 really the damages person, so if I could pass it over to him to
9 answer that question.

10 THE COURT: Fair enough. Thank you.

11 Mr. Bruce.

12 MR. BRUCE: Your Honor, I think, given the defendants'
13 actual presentation of -- and assertion of the numbers that
14 they expect to produce over the next three years of 1.68
15 million units and the testimony elicited that our client
16 profits to the tune of \$350 per unit, that's where the large
17 numbers are coming from, is defendants' own projections,
18 and that, you know, testimony was that they have no idea --
19 their witness that they presented has no idea if they can pay
20 that.

21 And we would ask Your Honor to look further into the
22 declaration where Mr. Woods specifies that they have only
23 capitalized the companies to something less than \$1.5 million.

24 THE COURT: Aren't the damages claims fairly
25 identifiable in terms of the equity relief that's sought versus

1 a more definitive monetary damage amount in this case? Is
2 that -- based on what you just said, isn't that now fairly
3 identifiable as opposed to equitable relief?

4 MR. BRUCE: So those numbers are the floor, Your
5 Honor. They do not get to the other equitable issues and harms
6 identified by Dr. Warty addressing issues of price erosion.
7 Our client has had to lower its prices due to market
8 competition. They do not get to the issues of dealer
9 stickiness. You know, the testimony was that our client is
10 working on setting up a dealer network, and those numbers do
11 not take into account the -- what Dr. Warty talks about in
12 terms of, you know, when you've got this price erosion, it is
13 not necessarily as simple when all is said and done at the end
14 of the case and there's a permanent injunction issued just
15 raising the prices back up. You end up with reputational harms
16 when those sorts of things happen.

17 We look at the pharma industry regularly where
18 companies do that. You have got somebody that now goes around
19 with the nickname of "pharma bro" because he had a monopoly and
20 he raised prices and that has not done anything good for his
21 reputation.

22 And so I think, you know, the numbers that we're
23 talking about, like I said, they're the minimums based off of
24 the defendants' own numbers, but they do not take into account
25 all of these other factors that their insertion into the market

1 causes irreparable harms to Rare Breed and ABC.

2 THE COURT: Okay. Mr. Bruce, thank you.

3 I have a procedural question. I'm not sure whether
4 that's for you or Mr. Colvin, but I'm a little curious about
5 the ongoing MDL action in Texas and sort of how this plays into
6 that, if at all.

7 Maybe one of you could address that.

8 MR. COLVIN: So I'll give Your Honor the background on
9 MDL.

10 Initially there were a number of products referred to
11 generally as "super safety products." They're different from
12 this Partisan trigger, but they are also forced reset
13 mechanisms. There are a number of cases involving those
14 products and a few others. Those parties got together and
15 moved for MDL, and this happened early January, perhaps.

16 We then put in a paper. Our response in MDL said,
17 Okay, we agree. MDL is fine, but there's a lot of overlap with
18 all of these other cases as well. We have cases against
19 Atrius; we have cases against Partisan. And in many cases the
20 defendants would sell all of the products. For example,
21 OpticsPlanet sells Partisan Disruptor. It also sells other
22 products that are infringing by other patents.

23 So our position to the MDL board was, You need to
24 consolidate all of these together because issues such as claim
25 construction are better resolved by one court so there's

1 consistency.

2 One of the things that the MDL court is there for is
3 to prevent inconsistent results happening across courts, and
4 there the MDL judge would have all of these cases in front of
5 them for things like that.

6 Now, Partisan put in a response to that MDL and said
7 they agreed, cases need to be consolidated, but they want to be
8 in a separate group from the other products. And we haven't
9 had a chance to put in a response to that yet. We would
10 disagree, but that's as parties do.

11 As it relates to this particular proceeding, I don't
12 think it matters. I think Your Honor has the motion in front
13 of him to rule on this, and to the extent this case gets
14 consolidated for discovery, claim construction, and pretrial
15 proceedings, that would just carry into the MDL.

16 THE COURT: Very well. I thought that's where we
17 were, but I appreciate the update. Thank you, Mr. Colvin.

18 I will give you a couple of minutes to respond. We
19 went a little over here, so, in fairness, again, Mr. Getzoff,
20 you may respond.

21 MR. GETZOFF: I appreciate that, Your Honor. I will
22 be brief.

23 So let me try to take these in the same order quickly.

24 So we have the same -- this issue as to whether it
25 catches. So he was -- Mr. Colvin was suggesting that I was

1 somehow manipulating this. When you fire it --

2 THE COURT: I'm sorry. Let me make sure I can see the
3 screen.

4 MR. GETZOFF: I need to --

5 THE COURT: Good practice run, dry run.

6 MR. GETZOFF: Always practice before you shoot, right?

7 THE COURT: And for the record, this is which device?

8 MR. GETZOFF: This is the Partisan trigger. It is the
9 same trigger that I showed the Court here, only Mr. --
10 Mr. Colvin suggested because it wasn't installed in a dummy
11 piece that it somehow worked differently, and then he proceeded
12 to show the Court that it does catch. So let's talk about
13 that.

14 So we know that these hooks need to catch. That's the
15 safety toggle. You push that. It fires (indicating).

16 When the rearward receiver, the bolt carrier, moves
17 back, pushes it out of the way, it doesn't catch.

18 So how come when I did it, it caught [sic], and when
19 he did it, it did catch? Because he was pulling the trigger.
20 So he was -- he pulled it and then he kept the trigger held.
21 And when you keep the trigger held, this is moving forward, so
22 he was artificially pushing that forward so that it would
23 catch.

24 That's one misdirection that's not in the claim, which
25 I will show in a second.

1 The other thing is this catches when the hammer moves
2 back up. So the claim says that the rearward motion forces it
3 down and causes it such that it catches, that that action
4 language is important. Not only is he doing something
5 different, he's causing it to catch by pulling on the trigger,
6 which is not what the claim says. For this to come up and
7 catch, the bolt's now moving not rearward but forward.

8 So his demonstration violated the claim in two ways,
9 because the claim is clear that it is the rearward motion that
10 causes the hammer to pivot down such that it catches. And
11 nothing else needs to happen. It needs to catch by this
12 function. He's doing two things different. One, he's pulling
13 on the trigger, which that doesn't come till later.

14 And, two, for it to catch, the bolt carrier is now
15 going forward again, but the claim is clear it needs to be a
16 rearward motion of the bolt carrier.

17 So that's the catch.

18 On the set position, Mr. Colvin is ignoring the fact
19 that set position is defined in the claim. He's trying to say,
20 Well, set position means different things depending on whether
21 you're talking about the hammer or the trigger.

22 I'll say as an aside, this dispute seems to scream out
23 for claim construction. This is why there's this whole claim
24 construction issue as we're now disputing what set position
25 means. He's correct, the set position is in the later three

1 patents; it is not in the '223. And if I suggested otherwise,
2 I apologize. It's the '223 that does not use the word "set
3 position." So that's going to be a claim construction issue
4 for the Court, and we're now fighting over what set position
5 means.

6 I think it is clear, given the definition, set
7 position is when the sear is engaged. Mr. Colvin agrees it is
8 not engaged, so he's with me on the operation. He just says,
9 That's not my meaning of set position.

10 Invalidity: He's complaining we don't have claim
11 charts, but the argument is every -- every element from the
12 '067 is present here except for two things, and we talked about
13 this at length. It is except for this out-of-battery gating
14 safety, which was red in the figures, and the separate lever.
15 He never disputed that that's the only difference between the
16 '067 and his patents. That was the opportunity to do that. In
17 fact, he said where are our claim charts. Why do we need claim
18 charts when it is undisputed that the '067 disclosed everything
19 but those two things?

20 Yes, there were 147 references in the -- in the
21 later -- in the later three patents. That made my point.
22 There's no discussion of them. The examiner didn't -- didn't
23 issue a single office action discussing any of them, and the
24 thought that he went through 147 references and signed off
25 given how close the references are speaks for itself in terms

1 of the lack of rigor that these patents got before the patent
2 office.

3 Then, finally, on irreparable harm, all I'm going to
4 say is we just heard for the first time counsel say that
5 they've had to lower their prices. Well, that's not in the
6 record. There's no testimony that Rare Breed has had to lower
7 its prices at any time. So the argument that they make for
8 irreparable harm is speculation: There could be these things.
9 But given what Dr. Warty staked out in how these products are
10 sold, we can readily calculate what the amount is, and there's
11 no -- beyond just speculation, there's no showing of other harm
12 that would be irreparable.

13 THE COURT: Very well. Thank you, Mr. Getzoff.

14 MR. GETZOFF: Thank you, Your Honor.

15 MR. COLVIN: Your Honor, I really feel obligated to
16 say one more thing about the catch disconnector in light of the
17 demonstration by counsel here.

18 THE COURT: Briefly, Mr. Colvin.

19 MR. COLVIN: May I have the HDMI, please, Ma'am.

20 Your Honor, I have on the screen Claim 4 of the '003
21 Patent. Other claims are similar.

22 The claim language that we're so focused on here is
23 this, that "bolt carrier causes rearward pivoting of the hammer
24 such that the disconnector hook catches said hammer hook."

25 Let's pay very close attention to the very next set of

1 words "at which time a user must manually release said trigger
2 member."

3 The trigger has to be pulled in order for the bolt
4 carrier to move rearward and for the hammer to move rearward.
5 This happens in a split second. The trigger is pulled when all
6 of this happens. That's the whole point of the disconnector is
7 that when the trigger is pulled and pulled back, the
8 disconnector has to catch the hammer so that when the bolt
9 carrier moves forward, the hammer doesn't fly up. That's the
10 entire purpose -- that's how a semi-automatic trigger works.
11 You have to release the trigger to fire it again.

12 But when all of this happens, when the hammer is
13 moving rearward, the trigger is pulled, and the claim language
14 takes this into account because the very next set of words says
15 "at which time the user must manually release said trigger
16 member."

17 So my demonstration was a hundred percent accurate as
18 to how this thing works in operation.

19 That's all, Your Honor. Thank you.

20 THE COURT: Thank you, Mr. Colvin.

21 MR. BRUCE: If I may add one word on this, Your Honor.

22 THE COURT: I'll have you come to the podium,
23 Mr. Bruce.

24 MR. BRUCE: If I may add one word on this, Your Honor.
25 Notably, in the Partisan Disruptor they have not removed the

1 hook either from the hammer or the disconnector. If those
2 aren't catching, there's no need for them to waste machining
3 time on having those present, and yet they're there for this
4 very purpose of catching it in semi-automatic mode.

5 THE COURT: Thank you, Mr. Bruce.

6 Okay. Well, Counsel, first of all, thank you for your
7 presentation today and the voluminous briefing, along with all
8 of the attachments.

9 Are there substantial questions -- are there questions
10 about the validity and infringement which may or may not
11 undercut the showing of likelihood of success on the TR0,
12 preliminary injunction piece?

13 The question on irreparable harm is whether the
14 plaintiffs have delayed the filing of this suit. We've heard
15 different arguments, a little bit about the timing and the
16 reasons for the timing, combined with the sort of one-time sale
17 nature of the product and whether that undercuts the urgency
18 and irreparability of the harm.

19 The equities and public interest arguments and how
20 they ought to be considered in the totality of this with
21 respect to validity and infringement issues, all of that is
22 certainly something that I need to drill down on in terms of
23 whether there are technical distinctions showing that the
24 Disruptor may or may not meet all of the claim limitations.

25 So all of that for me to consider, I'm not going to

1 rule today from the bench. There's more information than when
2 we began this morning for me to consider, and this includes, if
3 granted, the need for a bond, et cetera.

4 So we'll get you some written guidance on our
5 discussions and the evidence and arguments presented here
6 today, hopefully sooner than later. If there are any updates
7 with respect to the pending MDL action, even though I agree
8 that shouldn't have any bearing on this Court's ruling on the
9 motion before it, I would like to know sort of the status of
10 that, if there is a change in those proceedings, or an update,
11 rather, in those proceedings.

12 But, otherwise, I'll take a closer look and appreciate
13 some of the technical evidence that's been presented, and
14 hopefully I can cut through some of the more technical
15 components of this, no pun intended. But I think your briefing
16 will help along with what I've heard and observed here today.

17 Anything else that I can address for the parties
18 housekeeping-wise or any other sort of final matters?

19 For the plaintiffs, Mr. Colvin or Mr. Bruce.

20 MR. COLVIN: No, Your Honor. Thank you for your time.

21 THE COURT: You're welcome.

22 Very well. For the defendants, Mr. Getzoff.

23 MR. GETZOFF: No, Your Honor. Appreciate your
24 comments. Thank you.

25 THE COURT: Well, Counsel, again, thank you for your

1 efforts, your advocacy. Safe travels for those that are
2 leaving a beautiful Cheyenne day, and we will be in touch in
3 one form or another.

4 We will stand in recess.

5 (Proceedings concluded 1:13 p.m., February 4, 2026.)

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

C E R T I F I C A T E

2
3
4
5 I, JANET DAVIS, Federal Official Court Reporter for
6 the United States District Court for the District of Wyoming, a
7 Registered Diplomate Reporter, Federal Certified Realtime
8 Reporter, and Certified Realtime Reporter, do hereby certify
9 that I reported by machine shorthand the foregoing proceedings
10 contained herein on the aforementioned subject on the date
11 herein set forth and that the foregoing pages constitute a
12 full, true and correct transcript.

13

14 Dated this 6th day of February, 2026.

15

16

17

18

/s/ *Janet Davis*

19

20

21

22

23

24

25

*JANET DAVIS, RDR, FCRR, CRR
Federal Official Court Reporter*

INDEX

2	OPENING STATEMENTS	PAGE
3	Opening - Mr. Colvin	5
4	 	
5	<u>PLAINTIFFS' WITNESSES</u>	<u>PAGE</u>
6	LAWRENCE DEMONICO	
7	Direct - Mr. Colvin	16
8	Cross - Mr. Getzoff	21
9	BRIAN LUETTKE	
10	Direct - Mr. Colvin	29
11	Cross - Mr. Getzoff	35
12	Redirect - Mr. Colvin	46
13	Recross - Mr. Getzoff	48
14	MICHAEL STAKES	
15	Direct - Mr. Colvin	50
16	Cross - Mr. Getzoff	67
17	Redirect - Mr. Colvin	77
18	Recross - Mr. Getzoff	80
19	BEN WOODS	
20	Direct - Mr. Bruce	85
21	Cross - Mr. Swanson	96
22	SAMIR WARTY	
23	Direct - Mr. Bruce	98

15	PLAINTIFFS'	EXHIBITS	DESCRIPTION	IDENTIFIED	RECEIVED
16					
17					
18	1		Luettke Declaration	34	34
19	3		CAD Partisan Disruptor Drawings	78	80
20	AA		Warty Declaration	98	98

	DEFENDANTS' EXHIBITS	DESCRIPTION	IDENTIFIED	RECEIVED
3	A	Partisan Disruptor assisted reset mode video	82	82
4	B	Partisan Disruptor assisted semi-auto mode video	83	83
6	CLOSING ARGUMENTS			PAGE
7	Mr. Getzoff			99
8	Mr. Colvin			125
9	Mr. Bruce			134
10	Mr. Getzoff			137
	Mr. Colvin			141
	Mr. Bruce			142
11				
12				
13				
14				
15				
16				
17				
18				
19				
20				
21				
22				
23				
24				
25				