

1 UNITED STATES PATENT AND TRADEMARK OFFICE
2 BEFORE THE PATENT TRIAL AND APPEAL BOARD

3
4 LAM RESEARCH CORP.,

5 Petitioner,

6 v.

7 INPRIA CORP.,

8 Patent Owner.

9
10 Case IPR2024-00033

11 U.S. Patent No. 9,823,564

12
13 REMOTE DEPOSITION of HEATHER STEWART

14 Monday, February 24, 2025

15 9:57 a.m. CST

16
17
18
19 Job No.: 573414

20 Pages: 1 - 58

21 Reported By: Michelle M. Yohler, CSR, RMR, CRR

22

1 The deposition of HEATHER STEWART, held
2 remotely pursuant to notice before Michelle M.
3 Yohler, CSR, RMR, CRR, a certified shorthand
4 reporter, CSR No. 84-4531.

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

A P P E A R A N C E S

ON BEHALF OF THE PETITIONER:

MR. DION M. BREGMAN

MORGAN, LEWIS & BOCKIUS LLP

1400 Page Mill Road

Palo Alto, California 94304-1124

650.849.4400

-and-

MS. KARON N. FOWLER

(Present Via Remote Realtime Feed)

MORGAN, LEWIS & BOCKIUS LLP

110 North Wacker Drive

Chicago, Illinois 60601

312.324.1000

A P P E A R A N C E S C O N T I N U E D

ON BEHALF OF PATENT OWNER:

MR. MICHAEL WOLFE

PAUL HASTINGS, LLP

2050 M Street NW

Washington, DC 20036

202.551.1700

-and-

MR. PAUL M. ANDERSON

PAUL HASTINGS, LLP

600 Travis Street

58th Floor

Houston, Texas 77002

713.860.7300

ON BEHALF OF THE DEPONENT:

MR. JOHN T. McKEE

QUINN EMANUEL URQUHART & SULLIVAN, LLP

295 5th Avenue

New York, New York 10016

212.849.7000

1 A P P E A R A N C E S C O N T I N U E D

2

3 ALSO PRESENT:

4 Mr. Ashley Garry, Clarivate In-House Counsel

5 Mr. Paul Kaminski, Technician

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22

E X A M I N A T I O N S

WITNESS

PAGE

HEATHER STEWART

By Mr. Wolfe..... 9

By Mr. Bregman..... 26

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22

E X H I B I T S

EXHIBITS	PAGE
No. 1006 Declaration of Sylvia Hall-Ellis, Ph.D.....	39
No. 1008 Stowers 2008 Dissertation.....	32
No. 1041 August 13, 2024 Declaration of Heather Stewart.....	12
No. 1049 ProQuest 2008 Stowers Dissertation.....	33
No. 1051 OSU 2008 Stowers Dissertation.....	36
No. 1052 Exhibit 1008 and Exhibit 1051 Redline.....	37
No. 1053 Exhibit 1008 and Exhibit 1049 Redline.....	38
No. 2013 November 5, 2024 Supplemental Declaration of Heather Stewart....	17
No. 2020 OSU Packet.....	23

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

2 (Technician read-on.)

3 MR. WOLFE: Before we go on the record,
4 Dion, we're supposed to have an agreement between
5 the parties if the deposition is video recorded,
6 and we don't have an agreement to do that for this
7 case. I understand if it's for transcript
8 purposes and things like that, but we don't have
9 an agreement on that.

10 MR. BREGMAN: I didn't ask for it to be
11 recorded. I assume that it's the court reporter's
12 recording it for her transcript.

13 MR. WOLFE: Understood. Just making that
14 on the record.

15 MR. BREGMAN: Yeah.

16 MS. REPORTER: Before I swear the witness
17 in, can I please have all attorneys identify
18 themselves and who they represent for the record.

19 MR. WOLFE: Michael Wolfe for Inpria.

20 MR. BREGMAN: Dion Bregman for Lam
21 Research.

22 MR. ANDERSON: Paul Anderson, also on

1 behalf of Inpria.

2 MR. McKEE: John McKee with Quinn Emanuel
3 for the witness.

4 (WHEREUPON, the witness was duly sworn.)

5 HEATHER STEWART,
6 called as a witness herein, having been first duly
7 sworn, was examined and testified as follows:

8 EXAMINATION

9 BY MR. WOLFE:

10 Q Hi, Ms. Stewart. Thank you for your time
11 today. We really appreciate you getting on this
12 call with us. And our time is somewhat limited,
13 as we just mentioned, so I'll just jump right in.

14 Have you ever been deposed before?

15 A I have not.

16 Q Okay. Let me go over some of the ground
17 rules, just so everything is clear at the outset.

18 As you saw, there's a number of people on
19 the call, including a court reporter. And she's
20 going to be writing down everything that I ask and
21 everything that you answer, so it's important for
22 a clear record that we don't talk over each other,

1 okay?

2 A Okay.

3 Q And there's a number of lawyers on the
4 call, and they might have certain objections to
5 questions that I might ask you, either from your
6 lawyer or from Dion. And you just need to let the
7 lawyers make their objections on the record, but
8 then you still need to answer the question unless
9 your lawyer instructs you not to answer.

10 Do you understand that?

11 A I do.

12 Q And if you don't understand a question,
13 please ask me to clarify it, and I'll try to
14 rephrase so it's a little more clear for you,
15 okay?

16 A Okay.

17 Q And you understand you're under oath
18 today, right?

19 A I do. Yes.

20 Q Is there any reason you cannot testify
21 truthfully, completely, and accurately today?

22 A No.

1 Q So, to get started, who first contacted
2 you about this case?

3 A I believe it was Morgan Lewis. They
4 contacted our customer service department and
5 asked for a statement on a publication record.

6 Q And do you know about what time frame that
7 was?

8 A That was around mid to end October
9 of 2024.

10 Q Mid to end October or possibly earlier?
11 We can get to your declaration in a little bit,
12 but I believe it's dated in August.

13 A Oh, my apologies. Yes, they followed up
14 to let me know that they were pursuing deposition
15 in October. The original contact was in August,
16 as you said.

17 Q Okay. And in preparing your original
18 declaration, did you review any materials, any
19 written materials?

20 A Yes -- well, we -- I did look at my
21 system, so our computer publication systems to see
22 what the information on the record was.

1 Q Okay. And other than your systems, did
2 you review any other written documents?

3 A Not at the time that I was filling out the
4 declaration.

5 Q Understood.

6 If we could go to the documents, and if
7 you could go to the tab and open what is marked as
8 Exhibit 1041.

9 (WHEREUPON, Exhibit No. 1041 was presented
10 to the witness.)

11 THE TECHNICIAN: Okay. And do you want
12 this -- what do you want this marked as?

13 MR. WOLFE: This one doesn't need to be
14 marked; this one is already in the record.

15 THE TECHNICIAN: Okay. Give me one
16 second.

17 It should be on the screen.

18 BY THE WITNESS:

19 A Oh, is it on the screen? Okay.

20 BY MR. WOLFE:

21 Q So you can view it either on the screen
22 and I'll direct the tech where to go on it, or you

1 can review it on your own so you can scroll
2 through it freely. Whatever works best for you,
3 Ms. Stewart.

4 A Okay.

5 Q Do you recognize this document?

6 A I do.

7 Q And do you see the date at the top,
8 August 13th, 2014?

9 A Yes, I --

10 Q Or 2024. I apologize.

11 A Yes.

12 Q So this is the first declaration that you
13 gave to Lam; is that right?

14 A That's correct.

15 Q If we can turn to Page 4, please.

16 Is that your signature on Page 4?

17 A Yes, it is.

18 Q And did you prepare this declaration?

19 A I completed portions of the declaration.

20 It is prepared by our legal team.

21 Q Which portions did you complete?

22 A If you scroll up, there are some open text

1 boxes. Point 8, I completed all of that
2 information, "Full Text Availability" included in
3 that point and the statement right below where it
4 says "Dissertation No." was also completed by me.

5 Q So other than this Paragraph 8, were there
6 any other portions that you filled in personally?

7 A Can you please scroll through the document
8 so I can double-check?

9 Q And just as a reminder, if you need to
10 take a moment and look at the document yourself to
11 scroll through, please feel free to do that.

12 A Okay. I am going to do that really quick.

13 No, I did not complete any other portion
14 of that.

15 Q Before you filled out this portion of the
16 declaration, were you given any information from
17 Lam as to what the request was?

18 A No, only that they wanted information on a
19 publication record and its availability.

20 Q And how did they indicate which
21 publication record they were looking for?

22 A The email that was forwarded to me by

1 customer service had a link to the document, as
2 well as a follow-up with a short statement of the
3 title, I believe.

4 Q Okay. Let's go to -- before we get there,
5 were you given any information regarding an
6 embargo for this document before you prepared your
7 initial declaration?

8 A I was not, no.

9 Q Can we turn to Paragraph 8, please.

10 This is the paragraph that you mentioned
11 that you filled in the information, right?

12 A Correct.

13 Q And you see at the top how there's a
14 dissertation number that ends in a 339, right?

15 A I do.

16 Q And then you see at the bottom there's a
17 dissertation number that ends in a 399, right?

18 A Correct.

19 Q Why are those different?

20 A That is a clerical error. So when I was
21 originally filling it out, you can see where I
22 mistyped a number. The intended number is 36 --

1 I'm sorry, 3336399, and you can see that I typed
2 the wrong number up top where it says
3 "Dissertation No." that ends in 339.

4 Q So the right number, the correct number
5 for the Jason Stowers dissertation is the one at
6 the bottom that ends in 399; is that right?

7 A Correct.

8 Q Can you take a look at the entry titled
9 "First Made Available for Sale."

10 Do you see that?

11 A I do.

12 Q And it has a date of 01/2009; do you see
13 that?

14 A Yes.

15 Q Is that the correct availability date for
16 Jason Stowers' dissertation?

17 A That is -- if I were to compare the ones
18 together, I was just looking at this recently, and
19 I do believe that is not correct.

20 Q And we'll look at your second declaration
21 in just a moment. And if it is more convenient
22 for you to look at it right now, we can absolutely

1 do that, too, whichever makes more sense.

2 So if you want to pull up from the file
3 site, there's also an Exhibit 2013.

4 (WHEREUPON, Exhibit No. 2013 was presented
5 to the witness.)

6 MR. WOLFE: And you don't need to bring
7 this up on the screen, Mr. Tech -- Mr. Paul.

8 BY THE WITNESS:

9 A Yes, the Exhibit 2013 has the correct
10 "First Made Available for Sale Date."

11 BY MR. WOLFE:

12 Q And if we can turn back, actually, to
13 Exhibit 1041, please. I just have a couple more
14 questions there in Paragraph 8.

15 You see there's a "Date Full Text is
16 Loaded Into PQDT"; do you see that?

17 A I don't see anything shared on the screen.
18 I can look at it -- am I looking at Exhibit 1041?

19 Q Yes, please. Paragraph 8.

20 A And, I'm sorry, can you repeat the
21 question?

22 Q Yep. If you see there's a field titled

1 "Date Full Text is Loaded Into PQDT."

2 Do you see that?

3 A Yes, I do.

4 Q And that has a date of 01/15/2009; do you
5 see that?

6 A Yes, I do.

7 Q Is that the correct public availability
8 date for the Jason Stowers dissertation?

9 A It is not.

10 Q And now let's please turn to Exhibit 2013,
11 the one that you should also have open.

12 A Okay.

13 Q If you can turn to Page 1, please.

14 Do you see the November 5th, 2024 date at
15 the top?

16 A Yes, I do.

17 Q So this is the second declaration that you
18 sent to Lam, right?

19 A Yes, it is.

20 Q Is that your signature on Page 4?

21 A Yes, it is.

22 Q And like with your previous declaration,

1 did you fill out the information in Paragraph 8?

2 A Yes, I did.

3 Q Why did you prepare a second declaration?

4 A When I found out that there was a
5 possibility that I was going to be asked to
6 participate in a deposition, I re-reviewed the
7 affidavit just to familiarize myself with the
8 publication record, and I immediately noticed that
9 the publication number did not match the title of
10 the dissertation, so I contacted our legal counsel
11 here to let them know that I made a mistake in the
12 original declaration and we needed to make an
13 amendment.

14 Q And the publication number, when you say
15 that, that's the dissertation number, the first
16 number at the top?

17 A Yes, that's correct.

18 Q So the number at the top was incorrect, so
19 you needed to make a correction; is that right?

20 A That is correct.

21 Q So this Exhibit 2013 at the top, under
22 dissertation number, that lists the correct

1 dissertation number for Jason Stowers'

2 dissertation, right?

3 A Yes.

4 Q And then if you look down, do you see the
5 entry titled "First Made Available for Sale"?

6 Do you see that?

7 A Yes, I do.

8 Q That lists December 8th, 2009; do you see
9 that?

10 A Correct. Yes.

11 Q And is that the correct public
12 availability date for Jason Stowers' dissertation?

13 A Yes, it is.

14 Q If you look down a little further, there's
15 the "Date Full Text is Loaded Into PQDT."

16 Do you see that?

17 A Yes, I do.

18 Q That one has the same date of 12/08/2009;
19 do you see that?

20 A Yes.

21 Q And is that the correct date for the
22 dissertation by Jason Stowers?

1 A That is correct.

2 Q And turning back to the "First Made
3 Available for Sale," ProQuest would not have made
4 this document available earlier than that date,
5 would they?

6 A No, we would not have.

7 Q For instance, they wouldn't make it
8 available for free before that date, right?

9 A No.

10 Q If we look down below, there's a field
11 titled "Information Available on Restrictions"; do
12 you see that?

13 A Yes, I do.

14 Q It says "Dissertation Submitted With
15 1-year Embargo"; do you see that also?

16 A Yes.

17 Q What does that mean?

18 A That means at the time that the
19 dissertation was submitted to ProQuest for
20 publication, the student elected for a one-year
21 embargo, in which case you cannot make the full
22 text available for viewing or for sale.

1 Q And as for restrictions, can we turn back
2 to Paragraph 3 of your declaration, please.

3 A Okay.

4 Q Here you mention that: "Shortly after
5 these works are received, ProQuest makes them
6 available for sale to the public, unless
7 specifically restricted from sales by the
8 dissertation author or degree-granting
9 institution," right?

10 A Yes.

11 Q And that's what you're talking about, if
12 they're restricted by the author --

13 A Yes.

14 Q -- right?

15 A Correct.

16 Q So it's the author or the university that
17 decides whether a document is restricted for
18 release to the public; is that right?

19 A Correct.

20 Q ProQuest wouldn't decide that on their
21 own, right?

22 A We would not.

1 Q Do you know how ProQuest coordinates with
2 the university or author to get that restriction
3 information?

4 A For all of our dissertations that are
5 submitted by the participating university or the
6 authors, we have a publishing agreement form where
7 they can elect for a restriction or embargo on
8 their dissertation for a certain period of time
9 when they are submitting for publication with us.

10 Q And that brings me to another document
11 which I'm going to upload now. And unfortunately
12 that probably means you need to refresh the web
13 page --

14 A Okay.

15 Q -- to see it.

16 And it should have been uploaded.

17 (WHEREUPON, Exhibit No. 2020 was presented
18 to the witness.)

19 BY THE WITNESS:

20 A Okay.

21 BY MR. WOLFE:

22 Q Do you see a document in there titled

1 "Exhibit 2020"?

2 A Correct.

3 Q Can you open that up for me, please.

4 A Okay.

5 Q Do you recognize this document?

6 A I do not.

7 Q Please take your time to look through all
8 the pages to make sure.

9 A Okay. This is a ProQuest publishing
10 agreement form.

11 Q Okay.

12 A I don't recognize the first page --

13 Q So when --

14 A -- you go to the second page, that's the
15 dissertation submission form. That was the
16 ProQuest publishing agreement form.

17 Q So looking at the first page, that appears
18 to be an Oregon State University document, right?

19 A Correct.

20 Q And then starting with the second page,
21 that's the publishing agreement form that you were
22 mentioning, right?

1 A Correct.

2 Q If you look at the top left side of
3 Page 2, please. You see that this was filled out
4 by Jason Stowers, yes?

5 A Yes.

6 Q And if we can turn to Page 3, please.
7 You see that there are four options there
8 for selecting, right?

9 A Yes.

10 Q And you see that he has selected TR-2,
11 right?

12 A Yes.

13 Q And do you see below TR-2, it says that he
14 has selected a one-year embargo?

15 Do you see that?

16 A Yes, I do.

17 Q So does this document support your second
18 declaration and your testimony here today that
19 Dr. Stowers' dissertation was under a one-year
20 embargo?

21 A Yes, it does.

22 MR. WOLFE: I think if we can take a short

1 break just to confer with my colleague, I think we
2 might be done with our end. Just a short, like,
3 three-minute break.

4 MS. REPORTER: Off the record then?

5 MR. WOLFE: Yes, please.

6 MS. REPORTER: Off the record.

7 (WHEREUPON, a recess was had.)

8 MR. WOLFE: We have no further questions
9 at this time, and we reserve our rebuttal.

10 MR. BREGMAN: I'm going to go next. If
11 you guys could just give me five minutes to
12 collect my thoughts, and then we can get going.

13 (WHEREUPON, a recess was had.)

14 EXAMINATION

15 BY MR. BREGMAN:

16 Q Thank you, Ms. Stewart, for attending
17 today's deposition.

18 Did you meet with anyone to prepare for
19 this deposition?

20 A I met with John McKee.

21 Q Did you meet -- do you know who Ashley
22 Garry is?

1 A Yes, I do.

2 Q Who is that?

3 A He works with Clarivate. He's an
4 associate counsel.

5 Q Did you meet with him?

6 A Yes, I did.

7 Q Did you meet with anyone else?

8 A No.

9 Q Do you know if your attorney has met with
10 anyone from Inpria prior to this deposition and in
11 relation to your declarations?

12 A I'm unaware.

13 Q Did your attorneys meet with Dr. Stowers?

14 A I am unaware.

15 Q Did your attorneys meet with OSU?

16 A I am unaware.

17 Q Did they communicate with any of Inpria,
18 Dr. Stowers, or OSU?

19 A I am unaware.

20 Q Do you have any experience handling
21 dissertation embargo requests?

22 A Yes, I do.

1 Q What training and expertise do you have
2 with regard to dissertation -- handling
3 dissertation embargo requests?

4 A As a dissertations contact manager, I
5 oversee an editorial staff who often apply the
6 embargo requests at the time of submission of
7 publishing these records.

8 Q And what training or expertise do you have
9 in interpreting ProQuest's internal records?

10 A I've worked here for 27 years in the
11 dissertation publishing area, so I'm very
12 familiar. I have published records myself,
13 applied embargoes, reviewed agreement forms.

14 Q Have you ever encountered a record that
15 had a typographical error?

16 A Yes.

17 Q Did you notice any typographical errors in
18 the records that we're discussing today?

19 A In my own affidavit, yes.

20 Q What about in any records in the ProQuest
21 database?

22 A None that we've discussed today.

1 Q So we already looked at Exhibit 1041 and
2 Exhibit 2013. Both of those discuss a
3 dissertation from Dr. Stowers titled "Direct
4 Patterning of Solution Deposited Metal Oxides"; is
5 that right?

6 A Yes.

7 Q Is it okay if I refer to that as "Stowers
8 2008"?

9 A For which one?

10 Q For the dissertation. I'll call it
11 "Stowers 2008 dissertation," how's that?

12 A Okay.

13 Q Can you describe the process by which
14 ProQuest acquires dissertations from universities
15 like Oregon State University?

16 A If they are a participating university
17 with us, they will collect the dissertations and
18 agreement forms at the university from the
19 students, and then they would submit them over to
20 ProQuest for publishing.

21 Q Is it okay if I refer to Oregon State
22 University as "OSU"?

1 A Sure.

2 Q Does OSU automatically send dissertations
3 to ProQuest, or is it an opt-in system?

4 A It's an opt-in system.

5 Q Did ProQuest receive Stowers 2008
6 dissertation directly from OSU?

7 A Yes.

8 Q How do you know?

9 A I can review history of the submissions,
10 and I can tell from the publishing agreement form
11 that this was submitted to us from the university.

12 Q Does ProQuest verify the authenticity of
13 the dissertations it receives?

14 A We will validate that the dissertation
15 matches the publishing agreement form.

16 Q So you look for things like author and
17 title and see if that matches the form?

18 A Correct.

19 Q Does ProQuest modify or reformat
20 dissertations before publishing them?

21 A We do not.

22 Q Was the ProQuest publication of Stowers'

1 2008 dissertation altered, redacted, or edited in
2 any material way from what was submitted by OSU?

3 MR. WOLFE: Objection. Form.

4 BY THE WITNESS:

5 A So my answer is not to my knowledge.

6 BY MR. BREGMAN:

7 Q So the Stowers 2008 dissertation received
8 from OSU is materially the same as the version
9 that ProQuest published?

10 A From what I can tell, yes.

11 Q Paragraph 10 of Exhibit 1041 and
12 Paragraph 11 of 2013 -- so either of those or both
13 of those you should look at -- say the following:
14 "The attached print copy of the dissertation is a
15 true and complete copy of the record and the full
16 dissertation as originally published and kept by
17 ProQuest in the ordinary course of its business."

18 Do you see that?

19 A Yes.

20 Q Nothing was attached to either
21 declaration, so I've uploaded Exhibit 1008. If
22 you can have a look at that. And once you've had

1 a look at that, can you let me know if that's the
2 copy of the dissertation that you were referring
3 to in Paragraphs 10 and 11 -- 10 of Exhibit 1041
4 and 11 of Exhibit 2013?

5 MR. McKEE: Dion, where did you upload
6 that?

7 THE WITNESS: Yeah.

8 MR. BREGMAN: Is it not showing up? Maybe
9 I --

10 MR. WOLFE: I think you have to click a
11 bottom left button that says "Upload" to actually
12 make it go.

13 MR. BREGMAN: My bad. Here it comes.

14 (WHEREUPON, Exhibit No. 1008 was presented
15 to the witness.)

16 BY MR. BREGMAN:

17 Q You should have it now.

18 A Is it 1006?

19 Q It should be 1008. You should refresh
20 again, and you'll see a 1008.

21 A Okay.

22 Q So let me ask my question again.

1 Both your Paragraphs 10 of Exhibit 1041
2 and Paragraph 11 of Exhibit 2013 refer to a copy
3 of the dissertation being a true and complete copy
4 of the full dissertation. Is this a copy of the
5 dissertation you were referring to?

6 A I could not validate that without pulling
7 the copy from our database.

8 Does this have the ProQuest copyright page
9 in it?

10 Q Let me upload a different file.

11 You should be seeing a new exhibit, and I
12 marked that Exhibit 1049. It's still uploading.
13 Just give it a minute.

14 You should have it by now. So that will
15 be Exhibit 1049.

16 A I'm refreshing again. I still don't see
17 it here.

18 (WHEREUPON, Exhibit No. 1049 was presented
19 to the witness.)

20 BY THE WITNESS:

21 A There it is. I'm going to open it now.

22

1 BY MR. BREGMAN:

2 Q So is this the true and complete copy of
3 the record of the full dissertation that you were
4 referring to in Paragraphs 10 of Exhibit 1041 and
5 Paragraph 11 of Exhibit 2013?

6 MR. WOLFE: And we're going to object to
7 this new exhibit as being lack of authentication,
8 being hearsay and relevance.

9 BY THE WITNESS:

10 A Okay. So, again, I can't verify with
11 certainty that this dissertation was downloaded
12 from the ProQuest agreement form -- or, I'm sorry,
13 the ProQuest dissertation and theses platform
14 without actually looking at the one that was on
15 the platform.

16 BY MR. BREGMAN:

17 Q So you just asked me a minute ago whether
18 it had the copyright page. If you go to Page 6 of
19 the PDF, is that the copyright page you're
20 referring to?

21 A There is a ProQuest copyright page in
22 here, correct.

1 Q And that doesn't give you any more
2 confidence that this is the document you intended
3 to attach to your declarations?

4 A No, because I didn't attach anything to
5 the declarations, so I couldn't say that this is
6 the actual version that's on the ProQuest
7 database.

8 Q So I'm going to upload -- so Exhibit 1049,
9 which we already looked at which I uploaded a few
10 minutes ago, so I'll attest that that's a copy
11 that I downloaded from OSU's website. And this
12 exhibit -- sorry, so that was Exhibit --
13 Exhibit 1051 I attest is a copy of the Stowers
14 2008 declaration that I downloaded from OSU's
15 website, and I attest that Exhibit 1049 is a copy
16 of the Stowers 2008 declaration -- dissertation
17 that I downloaded from -- from ProQuest.

18 I'm going to upload another document.

19 MR. WOLFE: Sorry, Dion, just to clarify,
20 you said there's a 1050 in here, too?

21 MR. BREGMAN: 1051.

22 MR. WOLFE: I'm not seeing anything.

1 MR. BREGMAN: You didn't get 1051? I'm
2 going to upload it now.

3 (WHEREUPON, Exhibit No. 1051 was presented
4 to the witness.)

5 BY MR. BREGMAN:

6 Q So you should have three versions that
7 have been uploaded. Exhibit 1008, that's the
8 Stowers 2008 dissertation that's currently in the
9 record; and two new versions, 1049, which is the
10 version from ProQuest; and 1051 is the version
11 from OSU.

12 I'm also going to upload two redlines.

13 MR. WOLFE: And, as we're doing this, I'm
14 just going to put on the record an objection to
15 Exhibit 1051 also with authentication, relevance,
16 and hearsay.

17 MR. BREGMAN: So I can attest to both of
18 these redlines that I ran. One is a redline
19 between Exhibit 1008 and Exhibit 1051, and the
20 other one is a redline between Exhibit 1008 and
21 Exhibit 1049.

22

1 (WHEREUPON, Exhibit No. 1052 was presented
2 to the witness.)

3 BY MR. BREGMAN:

4 Q And if you can open up the first redline,
5 you'll see some markings in red. So that's -- the
6 number of that one is 1052. So that's a
7 comparison of Exhibit 1008, that's the Stowers
8 declaration -- the dissertation that's already in
9 the record, and Exhibit 1051, which is the version
10 from OSU's website.

11 And if you look at that -- can you look at
12 that briefly.

13 MR. WOLFE: While we're pausing, I'm going
14 to put another objection on the record to
15 Exhibit 1052 as authentication, relevance, and
16 hearsay.

17 BY THE WITNESS:

18 A Am I looking at Exhibit 1052 --

19 BY MR. BREGMAN:

20 Q Yes.

21 A -- right now?

22 Okay.

1 Q So can you tell me what the only
2 difference in these two documents are? You should
3 see strikeouts in red.

4 A I see the strikeouts, yes.

5 Q And can you see that those strikeouts are
6 just a footer that's at the bottom of every page?

7 A Yes, I do.

8 Q Okay. And if you open up the other
9 exhibit, which is 1053, which is also a redline,
10 this is a redline between Exhibit 1008 and the
11 ProQuest copy.

12 If you'll look at that, you'll see the
13 same footer is different, and then you also see
14 all the copyright page is different on Page 6 of
15 PDF.

16 Do you see that?

17 (WHEREUPON, Exhibit No. 1053 was presented
18 to the witness.)

19 BY THE WITNESS:

20 A Yes, I'm looking at Page 6, and I do see
21 it's different.

22

1 BY MR. BREGMAN:

2 Q So --

3 MR. WOLFE: We're also -- sorry to
4 interrupt, Dion. We're also going to object to
5 Exhibit 1053 as authentication, relevance, and
6 hearsay.

7 BY MR. BREGMAN:

8 Q So looking at those two comparisons, would
9 you agree that the dissertation in all material
10 respects is the same across all three of them; the
11 only difference is being a footer and the
12 copyright notice from ProQuest, right?

13 MR. WOLFE: Objection. Form.

14 BY THE WITNESS:

15 A I couldn't say that they're the same given
16 the amount of time that I've had to look at them.
17 They're several hundred pages long.

18 (WHEREUPON, Exhibit No. 1006 was presented
19 to the witness.)

20 BY MR. BREGMAN:

21 Q If you now look at Exhibit 1006, which you
22 should also have. This is already in the record.

1 A Mm-hm.

2 Q Have you seen this document before?

3 A Yes.

4 Q And this is a declaration by Sylvia
5 Hall-Ellis; is that right?

6 A Hold on. Let me have some time to look at
7 this one.

8 I'm unfamiliar with this record.

9 Q So you didn't receive this from Mr. Garry?

10 A I don't recall receiving this from
11 Mr. Garry.

12 Q So this is a declaration in the record by
13 a librarian attesting to various different things.

14 If you turn to Paragraph 46, you will see
15 that this librarian says the following: "Attached
16 hereto as Attachment 1B is a true and correct copy
17 of the MARC record for the doctoral dissertation
18 titled Direct Patterning of Solution Deposited
19 Metal Oxides obtained from the OCLC bibliographic
20 database."

21 Do you see that?

22 A I'm looking at Point 46?

1 Q Sorry. Yeah, 46. I read the wrong one.

2 "Attached hereto as Attachment 1A is a
3 true and correct copy of the online catalog record
4 for this dissertation from The Valley Library of
5 Oregon State University, Corvallis, Oregon."

6 Do you see that?

7 A Yes, I do.

8 Q And it says: "The catalog record
9 indicates that a copy of the dissertation is
10 located in The Valley Library at Oregon State
11 University in the institution's digital
12 repository, ScholarsArchive@OSU, and through the
13 ProQuest Dissertations and Theses database.

14 Do you see that?

15 A Yes, I do.

16 Q So is it your understanding that the same
17 dissertation was available both at ProQuest and at
18 OSU?

19 MR. McKEE: Objection. Calls for
20 speculation. The witness testified she's
21 unfamiliar with this declaration.

22

1 BY MR. BREGMAN:

2 Q What does that mean to you?

3 A It means that I'm reading a statement that
4 somebody else wrote, but I cannot confirm that
5 that is accurate.

6 Q Do universities often publish the same
7 document that ProQuest publishes?

8 MR. McKEE: Objection. Calls for
9 speculation.

10 BY THE WITNESS:

11 A I don't know.

12 BY MR. BREGMAN:

13 Q So you have no idea whether OSU published
14 Dr. Stowers' 2008 dissertation that ProQuest also
15 published?

16 A No, we receive a dissertation for
17 publication, and that is independent with what the
18 university chooses to do with the dissertation.

19 Q Would you expect the OSU library version
20 and the ProQuest versions to be the same?

21 MR. McKEE: Same objection.
22

1 BY THE WITNESS:

2 A I couldn't answer that question.

3 BY MR. BREGMAN:

4 Q So Mr. Garry told me that ProQuest is not
5 connected to the OSU repository. Would you agree
6 with that?

7 A That is correct.

8 Q He also told me that ProQuest embargoes
9 are specific to ProQuest. Would you agree with
10 that?

11 A That is also correct.

12 Q And he also told me it's quite possible
13 that OSU did not have an embargo. Would you agree
14 with that?

15 A That is also correct.

16 Q Did you personally -- sorry. Were you
17 personally involved in processing, receiving, or
18 handling the Stowers dissertation submission in
19 2008 from OSU?

20 A Not to my knowledge, no.

21 Q Do you know who was?

22 A No.

1 Q Did you personally input any data related
2 to the Stowers 2008 dissertation into the ProQuest
3 system?

4 A Not to my knowledge, no.

5 Q Do you know who would have inputted that
6 information?

7 A No.

8 Q Your declarations, you said earlier,
9 relied on ProQuest's internal records; is that
10 right?

11 A Correct.

12 Q Do you have any firsthand recollection of
13 what occurred with the receipt and publication of
14 the ProQuest's -- ProQuest version of the Stowers
15 2008 dissertation?

16 A No, I do not.

17 Q What is PQDT?

18 A That's an acronym that stands for ProQuest
19 Dissertations and Theses.

20 Q So you attested in your supplemental
21 declaration that there was a one-year ProQuest
22 embargo that ran from December 7th, 2008, to

1 December 7th, 2009; is that right?

2 A Correct.

3 Q And that embargo applies only to
4 ProQuest's publication of the Stowers 2008
5 dissertation, right?

6 A Yes, that's correct.

7 Q It wouldn't apply --

8 MR. WOLFE: Objection. Calls for
9 speculation.

10 BY MR. BREGMAN:

11 Q It wouldn't apply to OSU publishing a
12 version of the Stowers 2008 dissertation, right?

13 MR. WOLFE: Objection. Calls for
14 speculation.

15 BY THE WITNESS:

16 A No, it would not.

17 BY MR. BREGMAN:

18 Q So, again, Mr. Garry had informed me
19 when -- let's back up a little bit.

20 You had said you changed or you went back
21 to look at your declaration when you heard that
22 you may be subject to a deposition; is that right?

1 A That's correct.

2 Q Do you recall Morgan Lewis asking
3 Mr. Garry to get an update to the -- your
4 declaration to include a more fulsome last
5 paragraph about the penalty of perjury paragraph?

6 A I recall Mr. Garry asking me to supply
7 some amendments to the affidavit. Anything that
8 was not already written in there, I had to submit
9 to the legal team. So I couldn't say with clear
10 memory what the matter was that was added.

11 Q So you don't remember it was just updating
12 the last paragraph about the penalty of perjury
13 statement?

14 A No, I don't.

15 Q And Mr. Garry told me at the time that you
16 noticed an error in your first declaration and
17 that the -- a typographical error, he said, and
18 that the publication date of Stowers 2008 should
19 be March 2009, not January 2009.

20 Are you --

21 MR. WOLFE: Let me --

22

1 BY MR. BREGMAN:

2 Q Are you aware of that?

3 MR. WOLFE: Object to the form of the
4 question. And calls for hearsay.

5 BY THE WITNESS:

6 A I don't recall exact dates other than what
7 I made sure was correct in the final affidavit
8 amendment that was signed by me.

9 BY MR. WOLFE:

10 Q So you don't recall first believing that
11 there was an error in the publication date that
12 should not have been January 2009 and should have
13 been March 2009?

14 A If it's not written in the affidavit that
15 I completed and signed for the amendment, then no.

16 Q So in your supplemental declaration -- and
17 I believe that's Exhibit Number 2013 -- you state
18 that the Stowers 2008 dissertation was publicly
19 available only as of December 2009; is that
20 correct?

21 A Correct.

22 Q And what caused you to change that date

1 from January 2009 to December 2009?

2 A When I reviewed my typographical error and
3 I realized that I had the wrong dissertation
4 number, I went and pulled up the record
5 information for the correct dissertation number,
6 which ends in 399, and I reviewed all of the
7 publication information and submitted the correct
8 information which would also be first made
9 available for sale.

10 Q I see. So the error that had occurred
11 with your -- between your first declaration and
12 your supplemental declaration was that you had
13 used the wrong dissertation number to look up the
14 publication date, and then when you found the
15 correct dissertation number, that's what made you
16 change the dates; is that right?

17 A Correct.

18 Q And the December 2009 date, that was the
19 publication date of dissertation number 3336339,
20 the incorrect dissertation number; is that right?

21 A No. I'm looking at my amendment right
22 now, and the First Made Available for Sale Date,

1 which is the correct date for Mr. Stowers'
2 dissertation, is December 8th, 2009. The
3 publication number ends in 399.

4 Q But when you looked up using the wrong
5 dissertation number, the one that ends in 339,
6 that's how you found the December -- sorry,
7 January 2009 publication date, right?

8 A Yes.

9 Q Okay. So if I understand you correctly,
10 it was an error in the dissertation number that
11 created the incorrect date in your first
12 declaration, and then when you went back and used
13 the correct number that ended in 399, it gave you
14 different data; is that right?

15 A Correct.

16 Q And the data in your system indicates that
17 a one-year embargo was requested; is that correct?

18 A That is correct.

19 Q How do you know that a one-year embargo
20 was actually placed on the publication?

21 A We have the embargo history in our
22 systems, so if it shows the embargo history on

1 there, then that is the confirmation that the
2 embargo was in place.

3 Q What do you mean by "embargo history"?

4 A I can see the date that it was applied as
5 well as the date that it was lifted.

6 Q I see.

7 And the date that it was lifted is the
8 December 2009 date; is that right?

9 A Correct.

10 Q And how do you know the -- what is the
11 date that it was applied?

12 A Reviewing this affidavit, the date that it
13 was applied was December 7th, 2008.

14 Q I see.

15 And who at ProQuest decides that the
16 dissertation should be placed under embargo?

17 A ProQuest doesn't decide; the student or
18 the school decides.

19 Q Other than your attorneys, did you speak
20 to anyone regarding the one-year embargo?

21 A No.

22 Q Did anybody remind you of the purported

1 embargo other than you looking at the correct data
2 entry in the database?

3 A No.

4 Q Did anyone direct you to change your
5 declaration to identify the one-year embargo?

6 A No.

7 Q So you didn't speak to anyone from OSU,
8 Inpria, or Dr. Stowers himself?

9 A No, I did not.

10 Q Do you have any direct independent
11 knowledge of whether any embargo was actually put
12 into place, other than what you read in the
13 record?

14 A No.

15 Q Did you speak to anybody at ProQuest who
16 actually placed the embargo or applied the
17 embargo?

18 A No.

19 Q Sorry. Was there an answer to that?

20 A Yeah, the answer was no.

21 Q Okay. So can you confirm with 100 percent
22 certainty that the ProQuest -- that ProQuest

1 actually placed an embargo on the Stowers 2008
2 dissertation?

3 A What I can confirm is that our systems
4 show that there was a one-year embargo placed on
5 this dissertation.

6 Q So Mr. Garry did not want to give us a
7 copy of the records from your database; do you
8 know why?

9 A I imagine it's because it's proprietary.

10 Q We had previously scheduled a deposition
11 for November 2024, and that was canceled, right?

12 A Yes.

13 Q Why was your previously scheduled
14 deposition canceled?

15 A I had requested a subpoena and never
16 received it.

17 Q So you personally requested a subpoena, or
18 did ProQuest request a subpoena?

19 A I would imagine ProQuest, but I said that
20 I would like a subpoena, yeah.

21 Q Do you know what a MARC record is?

22 A Yes.

1 Q What is it?

2 A It's a bibliographic record that is in
3 MARC format, which could be a couple of various
4 formats that can be input into somebody's
5 repository or library system.

6 Q Are MARC records reliable?

7 MR. WOLFE: Objection as to scope.

8 BY THE WITNESS:

9 A I could not answer whether they're
10 reliable or not.

11 BY MR. BREGMAN:

12 Q Is there a MARC record for the Stowers
13 2008 dissertation --

14 MR. WOLFE: Same objection.

15 BY MR. BREGMAN:

16 Q -- from ProQuest?

17 A Not to my knowledge. Not in the ProQuest
18 system that I work in.

19 Q So do ProQuest -- are you familiar with
20 OCLC and WorldCat?

21 A I am abstractly familiar with it, yes.

22 Q Did ProQuest index the publication of the

1 ProQuest version of the Stowers dissertation in
2 either OCLC or WorldCat before December 2009?

3 A I could not answer that question.

4 Q How did ProQuest receive a copy of the
5 Stowers dissertation?

6 A From the publishing agreement form, I can
7 see there's a record of payment, so it does look
8 like we received it directly from the University.

9 Q And that would have been in paper form or
10 in electronic form?

11 A Paper form.

12 Q So you received a copy in paper of the
13 Stowers 2008 dissertation, as well as the -- as
14 ProQuest's publication agreement; is that right?

15 A Yes, it does appear so.

16 MR. BREGMAN: I'm going to take a short
17 break and probably wrap up after that. Thanks.

18 MS. REPORTER: Off the record.

19 (WHEREUPON, a recess was had.)

20 MR. BREGMAN: I have no further questions
21 now. Obviously I reserve my half hour if Michael
22 has further questions.

1 MR. WOLFE: Thanks. If we can take just a
2 quick five-minute break.

3 MR. McKEE: Okay.

4 (WHEREUPON, a recess was had.)

5 MR. WOLFE: We have no further questions.
6 Thank you for your time. We appreciate you.

7 THE WITNESS: Thank you.

8 MR. BREGMAN: One more question from me.

9 BY MR. BREGMAN:

10 Q If I were to search ProQuest's database
11 for 3336399, the correct one, and I were to search
12 for the incorrect number -- if I search the
13 incorrect number, I would be expected to find a
14 publication date of January 2009; is that right?

15 MR. WOLFE: One second. Before this --
16 this is sort of improper rebuttal. We didn't have
17 any questions on our rebuttal, so it's not proper
18 to do this.

19 You can go ahead.

20 BY THE WITNESS:

21 A I couldn't say without looking at it with
22 100 percent certainty what the publication record

1 date should be. I can tell you that it is a
2 completely different publication. The author's
3 name is Andrea Michelle Smith, and the title is
4 different.

5 MR. BREGMAN: Thank you. No further
6 questions.

7 MS. REPORTER: Anything else on the
8 record?

9 MR. WOLFE: Nothing on the record.

10 (WHEREUPON, the deposition was concluded
11 at 10:58 a.m. CST.)
12
13
14
15
16
17
18
19
20
21
22

1 CERTIFICATE OF SHORTHAND REPORTER

2

3 I, Michelle M. Yohler, Certified
4 Shorthand Reporter, Registered Professional
5 Reporter, Registered Merit Reporter, Certified
6 Realtime Reporter, within and for the State of
7 Illinois do hereby certify:

8 That HEATHER STEWART, the witness whose
9 deposition is hereinbefore set forth, was duly
10 sworn by me before the commencement of such
11 deposition and that such deposition was taken
12 before me and is a true record of the testimony
13 given by such
14 witness.

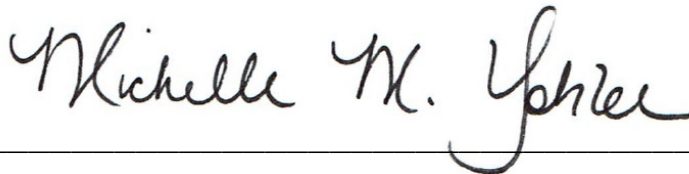
15 I further certify that the adverse party,
16 INPRIA CORP., was represented by counsel at the
17 deposition.

18 I further certify that the deposition of
19 HEATHER STEWART, occurred remotely on Monday,
20 February 24th, 2025, commencing at 9:57 a.m. CST
21 to 10:58 a.m. CST.

22

1 I further certify that I am not related to
2 any of the parties to this action by blood or
3 marriage, I am not employed by or an attorney to
4 any of the parties to this action, and that I am
5 in no way interested, financially or otherwise, in
6 the outcome of this matter.

7
8 IN WITNESS WHEREOF, I have hereunto set
9 my hand this 26th day of February, 2025.

10
11 
12 _____

13 Michelle M. Yohler, CSR, RMR, CRR

14 Certified Shorthand Reporter

15 CSR No.: 84-4531
16
17
18
19
20
21
22