
From: Feldhake, Mitchell
Sent: Monday, August 26, 2024 3:12 PM
To: Paul Hart
Cc: Adam Seitz; Nathan Byers; Adam Sandwell; Megan Redmond; Hunter Horton; Carrie Bader; 'Albert Cooper [anovIP]' via PTAB; Babbitt, Michael G.; ProvisurPTAB@willkie.com
Subject: RE: IPR2024-00224 Deposition Scheduling

Paul,

Your understanding appears to be incorrect. Petitioner reserves its rights to challenge the admissibility of these transcripts based on the objections it preserved in Paper 15.

Regards,
Mitch

From: Paul Hart <paul.hart@eriseip.com>
Sent: Monday, August 26, 2024 11:47 AM
To: Feldhake, Mitchell <MFeldhake@willkie.com>
Cc: Adam Seitz <adam.seitz@eriseip.com>; Nathan Byers <nathan.byers@eriseip.com>; Adam Sandwell <Adam.sandwell@eriseip.com>; Megan Redmond <megan.redmond@eriseip.com>; Hunter Horton <hunter.horton@eriseip.com>; Carrie Bader <carrie.bader@eriseip.com>; 'Albert Cooper [anovIP]' via PTAB <ptab@eriseip.com>; Babbitt, Michael G. <MBabbitt@willkie.com>; ProvisurPTAB@willkie.com
Subject: Re: IPR2024-00224 Deposition Scheduling

*** EXTERNAL EMAIL ***

Mitch,

It is our understanding that Petitioner intends to challenge the admissibility of these transcripts on the basis that the witnesses were not produced for cross examination in this IPR proceeding. If that is incorrect, please let me know. Otherwise, Patent Owner will be involving the Board at this time to resolve the dispute. Please let us know your availability this week for a conference call with the Board.

Best,
Paul

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On Aug 22, 2024, at 8:14 AM, Feldhake, Mitchell <MFeldhake@willkie.com> wrote:

Hi Paul,

Patent Owner's response shows that this is not an issue for the Board to resolve at this time. If this is additional discovery, then the parties may agree to it or the party seeking discovery can file a motion with the Board. 37 CFR 42.51(b)(2). Petitioner has filed no such motion. Asking the Board to make a routine vs additional discovery decision regarding the requested depositions would not preclude Petitioner's admissibility challenge, as Petitioner timely objected. Paper 15.

Petitioner maintains that if Patent Owner intends to contact the Board, Petitioner should be afforded the opportunity to review any draft email to confirm its position is accurately reflected.

Regards,
Mitch

Mitchell Feldhake
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From: Paul Hart <paul.hart@eriseip.com>
Sent: Wednesday, August 21, 2024 2:08 PM
To: Feldhake, Mitchell <MFeldhake@willkie.com>
Cc: Adam Seitz <adam.seitz@eriseip.com>; Nathan Byers <nathan.byers@eriseip.com>; Adam Sandwell <Adam.sandwell@eriseip.com>; Megan Redmond <megan.redmond@eriseip.com>; Hunter Horton <hunter.horton@eriseip.com>; Carrie Bader <carrie.bader@eriseip.com>; 'Albert Cooper [anovIP]' via PTAB <ptab@eriseip.com>; Babbitt, Michael G. <MBabbitt@willkie.com>; ProvisurPTAB@willkie.com
Subject: Re: IPR2024-00224 Deposition Scheduling

*** EXTERNAL EMAIL ***

Hi Mitch,

Regarding Duesterhaus and Mayer, because you are reserving a right to challenge the admissibility of these deposition transcripts on the basis of our refusal make these individuals available for cross examination, we need to involved the Board. It is not appropriate to demand discovery, refuse to justify the propriety of the demanded discovery, and then refuse to involve the Board until after it is too late to conduct the discovery.

As for your requested clarification, the parties have a fundamental disagreement as to whether the requested cross examination of these witnesses is "routine discovery." As the below timeline reveals,

you have repeatedly stressed that this is “routing discovery” while refusing to explain how, and Weber has repeatedly explained why it is not.

- July 26 - Provisur requests in-person depositions of Messrs. Duesterhaus and Mayer.
- August 2 - Weber responds, asking you to justify the requested cross examination of these witnesses when the submitted evidence was a transcript of a deposition that you conducted.
- August 2 - Provisur responds that its request is “routine discovery” in the form of “[c]ross examination of affidavit testimony prepared for the proceeding,” citing 37 CFR § 42.51(b)(1)(ii).
- August 9 - Weber responds to your contention that the requested cross examination is “routing discovery,” noting that Messrs. Mayer and Duesterhaus “prepared no content for this proceeding at all.” Weber asked you to provide authority “that supports cross examining these witnesses given that the evidence Patent Owner relied upon was not an affidavit prepared for the proceeding and was instead a deposition transcript from a deposition you conducted in the parallel litigation.”
- August 12 - Provisur refuses to provide any authority supporting its requested cross examination of these witnesses, stating the following: “This is not Petitioner’s burden to justify. Patent Owner has relied on these witnesses’ testimony. Thus, Petitioner should be permitted to cross examine the witnesses or raise the issue with the Board during the procedurally proper time.”
- August 15 - Weber again explains that, with respect to these witnesses, “you are not seeking ‘routine discovery’ under the rules. Instead, these exhibits are sworn testimony from depositions in the parallel litigation that your team conducted. We have seen no authority supporting your request for additional cross examination here, and you have refused to identify any. Accordingly, we believe this issue is ripe to bring to the Board.”
- August 16 - Provisur yet again refuses to engage the actual issue and refuses to involve the Board, insisting that “it is Patent Owner’s—not the Board’s—burden to make witnesses available for depositions.” In support, Provisur cites an inapposite case involving “cross examination of declaration testimony of retained experts is authorized as mandatory discovery.” *OpenSky Industries, LLC v. VLSI Technology LLC*, IPR2021-01056 Paper No. 18, FN 6.

Per the PTAB Consolidated Trial Practice Guide, only routine discovery is permitted without Board authorization. TPG, 23. “A request for additional discovery must be in the form of a motion[.]” *Id.* at 24. “A party seeking authorization to file a motion for additional discovery should be prepared to address the Garmin factors and any other pertinent factors during a conference call with the Board to discuss the motion.” *Id.* at 28.

Because your requested cross examination is “additional discovery,” rather than “routine discovery,” you must seek authorization from the Board to file a motion to that justifies the requested discovery. You have not done so, and you have refused to explain how the requested discovery could qualify as “routine discovery” for which no Board involvement is required. Your refusal to engage this issue mandates the Board’s involvement, and Weber intends to ask the Board to determine whether the requested cross examination of Messrs. Duesterhaus and Mayer is routine or additional discovery.

Best,
Paul

Paul Hart | Shareholder

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On Aug 19, 2024, at 4:39 PM, Feldhake, Mitchell <MFeldhake@willkie.com> wrote:

Hi Paul,

We are in agreement on Meyer, Kindler, and Leathers. Please let us know their availability when you have it.

Petitioner will accept 2 hour remote depositions of McCarroll and Boss.

Regarding Duesterhaus and Mayer, Petitioner does not believe this is an issue for the Board to resolve, and Petitioner is unclear what relief Patent Owner is seeking from the Board. Before Petitioner agrees that any issue is ripe for the Board, Petitioner requests that Patent Owner provide clarity. Also, if Patent Owner intends to contact the Board, please provide a draft of the email so Petitioner can confirm its position is being accurately represented.

Regards,
Mitch

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From: Paul Hart <paul.hart@eriseip.com>
Sent: Friday, August 16, 2024 4:51 PM
To: Feldhake, Mitchell <MFeldhake@willkie.com>
Cc: Adam Seitz <adam.seitz@eriseip.com>; Nathan Byers <nathan.byers@eriseip.com>; Adam Sandwell <Adam.sandwell@eriseip.com>; Megan Redmond <megan.redmond@eriseip.com>; Hunter Horton <hunter.horton@eriseip.com>; Carrie Bader <carrie.bader@eriseip.com>; 'Albert Cooper [anovIP]' via PTAB <ptab@eriseip.com>; Babbitt, Michael G.

<MBabbitt@willkie.com>; ProvisurPTAB@willkie.com

Subject: Re: IPR2024-00224 Deposition Scheduling

*** EXTERNAL EMAIL ***

Hi Mitch,

We can agree to your proposal for Meyer, Kindler, and Leathers. I appreciate your effort to reach a resolution on those witnesses.

Regarding McCarroll and Boss, given that they have each submitted an authentication affidavit for a single financial spreadsheet, we cannot produce them for 3.5 hours. To avoid involving the Board on this dispute, we're willing to produce them virtually for 2 hours each.

Please let us know if the above is agreeable, so we can start working on scheduling.

Regarding Messrs. Duesterhaus and Mayer, we are not willing to just let this issue sit. Please let us know your availability next week for a call with the Board. We intend to seek a conference call to request permission to brief this issue for the Board's resolution.

Thanks very much, and have a good weekend.

Best,
Paul

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On Aug 16, 2024, at 9:12 AM, Feldhake, Mitchell
<MFeldhake@willkie.com> wrote:

Hi Paul,

To avoid burdening the Board with this discovery issue, and to address Patent Owner's stated concerns, can Patent Owner agree to produce Meyer, Kindler, Leathers, McCarroll, and Boss for 3.5 hour remote depositions? Petitioner is entitled to 7 hours in person of each of these declarants. However, Petitioner doesn't expect to need all that time and wants to be efficient and work with Patent Owner to get these scheduled.

Regarding Messrs. Duesterhaus and Mayer, Petitioner understands Patent Owner's position to be that Patent Owner will not make these witnesses available for depositions because their testimony was not prepared for this IPR proceeding. Petitioner does not believe this is an issue for the Board to decide at this time, as it is Patent Owner's—not the Board's—burden to make witnesses available for depositions. *See OpenSky Industries, LLC v. VLSI Technology LLC*, IPR2021-01056 Paper No. 18, FN 9 (decision authored by Judge Melvin stating "Our rules and procedures place the responsibility of producing Dr. Singh on Petitioner.") Petitioner reserves the right to address the admissibility of this evidence during the procedurally proper time.

Let me know if you want to discuss. Regards,
Mitch

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From: Paul Hart <paul.hart@eriseip.com>
Sent: Thursday, August 15, 2024 8:58 PM
To: Feldhake, Mitchell <MFeldhake@willkie.com>
Cc: Adam Seitz <adam.seitz@eriseip.com>; Nathan Byers; <nathan.byers@eriseip.com>; Adam Sandwell <Adam.sandwell@eriseip.com>; Megan Redmond <megan.redmond@eriseip.com>; Hunter Horton <hunter.horton@eriseip.com>; Carrie Bader <carrie.bader@eriseip.com>; 'Albert Cooper [anovIP]' via PTAB <ptab@eriseip.com>; Babbitt, Michael G. <MBabbitt@willkie.com>; ProvisurPTAB@willkie.com
Subject: Re: IPR2024-00224 Deposition Scheduling

*** EXTERNAL EMAIL ***

Mitch,

Regarding Meyer, Kindler, and Leathers, we appreciate your additional clarification that you will limit their cross examination to the issues in this proceeding their reports were introduced to support. It is still true, however, you have already had an opportunity to cross examine each witness on the exact secondary considerations evidence and arguments we have introduced here. Each of these witnesses was deposed in the litigation after Weber advanced its secondary consideration evidence and arguments. Accordingly, your requested cross examination of these experts is duplicative of discovery you've already had an opportunity to obtain in the litigation.

In an attempt to avoid further effort disputing this, we are willing to produce each of these witnesses for limited cross examination. Each witness will be produced for no more than two hours of cross examination. This reflects both the fact that you have already deposed each expert with full notice of the secondary considerations evidence and arguments and that we have relied on limited portions of these expert reports in support of narrow issues. To limit the expenses involved in this duplicative cross examination, all three witnesses will be produced in the same location and on the same day, scheduled permitting.

Regarding Messrs. Boss and McCarroll, neither witness has prepared testimony for this IPR proceeding. Accordingly, you are not seeking "routine discovery" under the rules. Instead, these exhibits are sworn testimony from depositions in the parallel litigation that your team conducted. We have seen no authority supporting your request for additional cross examination here, and you have refused to identify any. Accordingly, we believe this issue is ripe to bring to the Board.

Finally, regarding Messrs. Boss and McCarroll, each submitted a simple authentication affidavit, attesting to the accuracy of a single financial spreadsheet that had been produced in the litigation. These exact spreadsheets were produced in the litigation and were relied upon for purposes of establishing secondary considerations. So you have has a full opportunity to seek discovery into their creation and accuracy. Now, you are demanding in person seven hour depositions of each witness, requiring domestic travel for Mr. McCarroll and international travel for Mr. Boss. Given the uncontested nature of the underlying data in these spreadsheets, these depositions appear designed solely to increase costs. For this reason, we believe this issue is also ripe to bring to the Board.

Best, Paul

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On Aug 12, 2024, at 9:41 AM, Feldhake, Mitchell
<MFeldhake@willkie.com> wrote:

Hi Adam,

There should not be any confusion about the scope. Patent Owner submitted witness declarations and accompanying exhibits in support of its POR. 37 CFR 42.53 permits Petitioner Provisur seven hour in person depositions of Weber's witnesses. The scope of Petitioner's depositions would be limited to the scope of the direct testimony. Patent Owner's accusation of abuse of process for seeking depositions permitted by the rules is not appreciated.

Although it was Patent Owner that put this testimony at issue by introducing it to the proceeding, Patent Owner continues to improperly shift the burden on to Petitioner to justify the routine discovery it seeks. This burden shifting has no root in the rules or trial practice guide. Nonetheless, Petitioner responds below:

1. Consistent with the PTAB's rules, Petitioner seeks relevant testimony regarding the issues within the scope of this proceeding from Patent Owner's experts, Meyer, Kindler, and Leathers. As one example, Petitioner could explore the Dr. Meyer expert report excerpt that Patent Owner submitted, which offered opinions that certain products embody the patent at issue, as well as Dr. Meyer's underlying understanding regarding those products and claims. This examination would not be strictly limited to only the pages Weber submitted. In contrast, Petitioner would not seek deposition testimony about the other patents discussed in the witnesses' testimony that are not at issue in this proceeding (i.e., the

'321, '013, and '823 patent at issue in the district court but not in this IPR).

2. This is not Petitioner's burden to justify. Patent Owner has relied on these witnesses' testimony. Thus, Petitioner should be permitted to cross examine the witnesses or raise the issue with the Board during the procedurally proper time.

3. The rules provide for in person depositions, so that is how Petitioner intends to proceed. If Patent Owner tells Petitioner where the witnesses will be produced, Petitioner will be there so that there is no added cost for Patent Owner's client for travel.

4. This is not Petitioner's burden to justify. However, as Petitioner explained, these depositions are not cumulative because the issues in the district court and IPR are different. Patent Owner has put new claims at issue through its motion to amend, there are different prior art grounds and challenges at issue, and the burden of proof standards are different. Also, in the district court, Petitioner Provisur had to split its deposition time amongst multiple accused patents and products.

Finally, Patent Owner has repeatedly threatened to involve the Board in this dispute, but it is unclear why it would be appropriate to involve the Board at this time given our ongoing discussions.

Regards, Mitch

Mitchell Feldhake

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From: Adam Seitz <adam.seitz@eriseip.com>

Sent: Friday, August 9, 2024 9:30 AM

To: Feldhake, Mitchell <MFeldhake@willkie.com>

Cc: Paul Hart <paul.hart@eriseip.com>; Nathan Byers <nathan.byers@eriseip.com>; Adam Sandwell <Adam.sandwell@eriseip.com>; Megan Redmond <megan.redmond@eriseip.com>; Hunter Horton <hunter.horton@eriseip.com>; Carrie Bader <carrie.bader@eriseip.com>; 'Albert Cooper [anovIP]' via PTAB <ptab@eriseip.com>; Babbitt, Michael G. <MBabbitt@willkie.com>; ProvisurPTAB@willkie.com

Subject: Re: IPR2024-00224 Deposition Scheduling

Hi, Mitch.

I touched base with Paul and a 9am start time for Dr. Reinholtz's deposition works well.

Regarding the requested depositions, you've mischaracterized our position and you've repeatedly refused to provide any clarity on the cross examination you seek. Starting with our position, we are open to providing one or more of these witnesses for cross examination, but we first need clarity as to the scope of the requested cross examination to ensure the requested testimony is proper and not simply an abuse of process intended to increase costs and inconvenience the declarants as it currently seems to be. Indeed, you contend that your requests are "routine discovery" of "affidavit testimony prepared for the proceeding," but two of these witnesses (Mayer and Duesterhaus) prepared no content for this proceeding at all and the remainder merely submitted affidavits attesting to the accuracy of material prepared for the parallel litigation. Accordingly, your alleged "routine discovery" is inapplicable to two witnesses and would appear to be limited to the accuracy of the submitted reports and spreadsheets for the remainder of the witnesses. Yet you appear to be demanding full day, in person depositions of seven witnesses located in different locations. This broad demand is not supported by the authority you cite and would impose substantial costs for no apparent benefit.

Turning to the clarity we've requested, our goal is to better understand exactly what you are seeking, so we can take a firm position and involve the Board, if necessary to resolve this. We will not simply let this issue sit unresolved as you've proposed and we will be moving for a Protective Order should you persist in your unlimited requests. Accordingly, I will reiterate the questions we've posed that you have not responded to.

- 1) Regarding Drs. Meyer, Kindler, and Leathers, do you intend to cross examine these witnesses on the full scope of their expert reports or will your cross examination be limited to the subject matter relied upon by Patent Owner in its Response?
- 2) Regarding Messrs. Mayer and Duesterhaus, what authority do you rely on that supports cross examining these witnesses given that the evidence Patent Owner relied upon was not an affidavit prepared for the proceeding and was instead a deposition transcript from a deposition you conducted in the parallel litigation?
- 3) Regarding Messrs. Boss and McCarroll, why is an in person deposition required to cross examine these witnesses on
- 4) For each of these witnesses, how is the cross examination you seek not cumulative of discovery you've already obtained in the parallel litigation?

Adam

On Aug 7, 2024, at 3:38 PM, Feldhake, Mitchell <MFeldhake@willkie.com> wrote:

Hi Adam,

Thanks for confirming Dr. Reinholtz. Can you confirm a 9a local start time, or should I wait until Paul returns to confirm?

Regarding the depositions, Petitioner agrees that there appears to be an impasse. Patent Owner is unwilling to make its declarants available for depositions, regardless of the amount of time, regarding their opinions and statements in their declarations/testimony. This position conflicts with Patent Owner's responsibility to make the witnesses available for routine discovery depositions. TPG, 23; 37 CFR § 42.53(g). Provisur will address this issue, as preserved in its objections, through motion practice and/or at oral argument in line with the rules.

Regards, Mitch

Mitchell Feldhake

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From: Adam Seitz

<adam.seitz@eriseip.com>

Sent: Monday, August 5, 2024 3:45 PM

To: Feldhake, Mitchell

<MFeldhake@willkie.com>

Cc: Paul Hart <paul.hart@eriseip.com>; Nathan Byers <nathan.byers@eriseip.com>; Adam Sandwell <adam.sandwell@eriseip.com>; Megan Redmond <megan.redmond@eriseip.com>; Hunter Horton <hunter.horton@eriseip.com>; Carrie Bader <carrie.bader@eriseip.com>; 'Albert Cooper [anovIP]' via PTAB <ptab@eriseip.com>; Babbitt, Michael G. <MBabbitt@willkie.com>; ProvisurPTAB@willkie.com

Subject: Re: IPR2024-00224 Deposition Scheduling

*** EXTERNAL EMAIL ***

Hi, Mitch,

Paul is out this week with his family on vacation so I wanted to respond on a couple points.

Dr. Reinholtz — Confirmed for the 23rd in our Denver office.

Discovery — We seem quite far apart on our view of what discovery is reasonably necessary here. If I'm reading the emails correctly, you're asking for 7 depositions, for 7 hours, without limitation? We won't agree to that. At this point, I think it makes sense to ask for a teleconference with the Board to discuss how it would like us to address briefing on this issue, but let me know your thoughts.

Adam

On Aug 2, 2024, at
4:13 PM, Feldhake, Mitchell
<MFeldhake@willkie.com> wrote:

Paul,

Thanks, August 23 works for our team for a Dr. Reinholtz deposition in your Denver office. We'll await your confirmation.

Regarding the clarity you seek, Patent Owner submitted the affidavits/expert reports of seven witnesses in this proceeding to support Patent Owner's secondary considerations arguments. Thus, Petitioner is permitted to depose those witnesses on the substance of their opinions reflected in EX2007, EX2008, EX2011, EX2012, EX2013, EX2023, and EX2025 (and on any underlying documents they seek to authenticate).

The governing rules provide that parties may conduct the "routine discovery" of "[c]ross examination of affidavit testimony prepared for the proceeding." 37 CFR § 42.51(b)(1)(ii). Because this is routine discovery under the rules, it is Patent Owner's burden to explain why Petitioner cannot depose Patent Owner's declarants. It appears that it is Patent Owner's position that parties are not permitted to cross-examine witnesses if it might be "cumulative" of the cross examination conducted in another proceeding. Provisur is not aware of any authority, including in the TPG, in support of this assertion. Petitioner's position, in contrast, relies on the authority in 37 CFR § 42.51(b)(1)(ii) and the Trial Practice Guide. See TPG, 7 ("After the patent owner has filed a patent owner response and any motion to amend the claims, the petitioner may depose the patent owner's declarants.").

Regardless, Petitioner's depositions would not be "cumulative." Patent Owner is well aware that the issues in the district court proceeding are significantly different than the issues in this IPR proceeding, including the facts that Patent Owner has put new claims at issue through its motion to amend, there are different prior art grounds and challenges at issue, and the burden of proof standards are different.

Accordingly, Petitioner reiterates its request for the depositions of Dr. Meyer, Dr. Kindler, Dr. Leathers, Josef Mayer, Kevin Duesterhaus, Steffen Boss, and Jarrod McCarroll.

Have a nice weekend, Mitch

Mitchell Feldhake
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From: Paul Hart <paul.hart@eriseip.com>
Sent: Friday, August 2, 2024 11:49 AM
To: Feldhake, Mitchell <MFeldhake@willkie.com>
Cc: Adam Seitz <adam.seitz@eriseip.com>; Nathan Byers <nathan.byers@eriseip.com>; Adam Sandwell <adam.sandwell@eriseip.com>; Megan Redmond <megan.redmond@eriseip.com>; Hunter Horton <hunter.horton@eriseip.com>; Carrie Bader <carrie.bader@eriseip.com>; 'Albert Cooper [anovIP]' via PTAB <ptab@eriseip.com>; Babbitt, Michael G. <MBabbitt@willkie.com>; ProvisurPTAB@willkie.com
Subject: Re: IPR2024- 00224 Deposition Scheduling

*** EXTERNAL EMAIL ***

Mitch,

We're working with Dr. Reinholtz and expect to have availability pinned down soon for your requested deposition of him. Currently, it looks like August 23 may work for a deposition in our Denver office. We'll be back in touch when we confirm this date works.

Regarding your request to depose seven individuals related to our evidence of secondary considerations, we'll need some clarification before we can agree to schedule depositions. As you know, the secondary considerations evidence we submitted in this proceeding is identical to that advanced in the parallel district court litigation. You have already been provided an opportunity to cross examine all the relevant witnesses in that parallel proceeding and to seek discovery into the theories we've advanced regarding secondary considerations and all supporting evidence. Given this overlap, we'll need to better understand the scope of your requested discovery in order to take a firm position as to whether this is proper discovery in our IPR proceeding.

The declarants named in your email fall into three distinct buckets. First, Drs. Meyer, Kindler, and Leathers each submitted full expert reports in the district court litigation. We relied upon isolated portions of those reports in our Patent Owner Response to support our secondary considerations arguments. Each of those experts also submitted affidavits attesting that the reports submitted in our IPR proceeding are true and accurate copies of the reports they submitted in the parallel district court litigation. Given that you have already deposed each declarant on the substance of their reports in the parallel district court litigation, what do you intend to explore with these witnesses on cross examination? If you simply seek to cross examine the witnesses regarding the

content of their affidavits (i.e., whether the exhibits we've submitted are true and accurate copies), this would not appear to justify convening in- person depositions, but we're certainly happy to discuss depositions on this topic. On the other hand, if you seek to cross examine these individuals on the substance of the opinions captured in their respective reports, why would this cross examination be non- cumulative of cross examination you've already conducted in the district court litigation?

Second, Messrs. Mayer and Duesterhaus were deposed in the district court litigation by you. We relied upon isolated portions of their transcripts in our Patent Owner Response to support our secondary considerations arguments. Given that the evidence submitted is a transcript of a deposition that you directly participated in, why would you be entitled to cross examine these individuals on the substance of that transcript?

Third, Messrs. Boss and McCarroll submitted affidavits attesting to the accuracy of two financial spreadsheets that were produced in the district court litigation and relied upon by experts in that case, including as evidence of secondary considerations. Given the ample opportunity you've already had to seek discovery into these spreadsheets and their role in our secondary considerations case, why would cross examination of these individuals be non- cumulative of discovery you've already conducted in the district court litigation?

Best, Paul

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On Jul 26, 2024, at 9:10 AM,
Feldhake, Mitchell <[MFeldhake@ willkie.c om](mailto:MFeldhake@willkie.com)> wrote:

Counsel,

In IPR2024-00224, Petitioner would like to begin discussing deposition scheduling due to the number of witnesses whose testimony Patent Owner has relied on in this proceeding. Petitioner would like to depose Dr. Reinholtz during the week of August 19th, can you please provide his availability for an in-person deposition during that time?

Additionally, Petitioner would like to depose Patent Owner's declarants, which appear to include Dr. Meyer, Dr. Kindler, Dr. Leathers, Josef Mayer, Kevin Duesterhaus, Steffen Boss, and Jarrod McCarroll, during the weeks of August 26th, September 2nd, and September 9th. If possible, we'd like to avoid taking any depositions on back- to-back days. Can you please provide these witnesses availability for in- person depositions during that timeframe?

Regards,
Mitch

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