

From: [Rosen, Steve](#)
To: [Christopher, Angelo](#)
Cc: [Peter M Kohlhepp](#); [Katherine Chen](#); [Perez, Janie](#); [Hayes, Jennifer](#)
Subject: RE: Samsung/Qualcomm IPR Deposition Request
Date: Wednesday, October 23, 2024 2:42:30 PM

Thank you for your response, Mr. Christopher. The attachment does not describe the substance of the IEEE declaration, but I would be surprised if it was similar to what was provided by Mr. O'Bryan here – which, to be clear, was nothing more than a factual statement about when a library item was catalogued by the University. You do not describe why you believe the statement requires clarification or cross-examination, and until a good faith explanation is offered the deposition request appears to be little more than gamesmanship and potentially an abuse of the deposition rights afforded under the IPR and PTAB rules.

Please note – academic libraries mostly offer these statements as a service to the patent community. If compelled to participate in down-stream depositions as part of that process, these entities will have little choice but to require parties seeking such services to issue deposition and document subpoenas, increasing costs and expense to all involved parties. To that end, I ask that my e-mail and objections to this requested deposition be shared with the reviewing panel as part of the deposition subpoena request. Should the subpoena be issued, I will then discuss with Mr. Kohlhepp issues regarding service and scheduling. Thank you.

Steven G. Rosen
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Thank you for considering the environment before deciding whether to print this e-mail.

From: Christopher, Angelo <achristopher@nixonpeabody.com>
Sent: Tuesday, October 22, 2024 9:38 PM
To: Rosen, Steve <srosen@austin.utexas.edu>
Cc: Peter M Kohlhepp <PKohlhepp@carlsoncaspers.com>; Katherine Chen <KChen@carlsoncaspers.com>; Perez, Janie <janie.perez@austin.utexas.edu>; Hayes, Jennifer <jenhayes@nixonpeabody.com>
Subject: RE: Samsung/Qualcomm IPR Deposition Request

Mr. Rosen,

As you may know from Mr. Kohlhepp, Samsung submitted Mr. O'Bryan's declaration with its *inter partes* review petition in IPR2024-000021 challenging the validity of NST's U.S. Patent No. 7,373,449. The Patent Trial and Appeal Board instituted a trial on June 21, 2024. Qualcomm subsequently filed its own petition challenging NST's patent, also relying on Mr. O'Bryan's declaration, and was joined as a party to the proceeding originally initiated by Samsung and is

now the sole petitioner.

The Board's rules require that Qualcomm make its witnesses, including non-party witnesses, available to NST for cross-examination as part of routine discovery if it wishes to rely on their testimony. Attached please find an order from the Board in a related IPR between the parties explaining these rules in the context of a similar situation. Qualcomm has elected to seek authorization to serve a subpoena to secure Mr. O'Bryan's attendance at a deposition rather than withdraw its reliance on his declaration. Recognizing that Mr. O'Bryan is a third party, we have agreed to a remote deposition and to limit the questioning regarding the declaration to an hour. In short, the reason for the deposition is that Qualcomm is relying on Mr. O'Bryan's testimony to challenge the validity of NST's patent and NST is entitled to cross-examine Qualcomm's witnesses under the Board's rules.

If you have further concerns, we believe they should be directed to Qualcomm, who we understand will be reaching out regarding their subpoena.

Best regards,

- Angelo



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From: Rosen, Steve <srosen@austin.utexas.edu>

Sent: Monday, October 21, 2024 6:01 PM

To: Christopher, Angelo <achristopher@nixonpeabody.com>

Cc: Peter M Kohlhepp <PKohlhepp@carlsoncaspers.com>; Katherine Chen <KChen@carlsoncaspers.com>; Perez, Janie <janie.perez@austin.utexas.edu>

Subject: Samsung/Qualcomm IPR Deposition Request

[EXTERNAL E-MAIL]

Be Aware of Links and Attachments

Mr. Christopher: I am an attorney at UT Austin, and I am writing to follow up on a request I received for a deposition of Assistant Director for Access for The University of Texas Libraries, Sean O'Bryan. Mr. O'Bryan previously provided the attached declaration of a UT Libraries catalogued item as a result of a request made under the Texas Public Information Act. Such requests are not unusual; however, until this request from your client, they have never been the subject of follow-up depositions. Indeed, such declarations are widely accepted as

statements of fact, not subject to dispute or controversy. I asked counsel for Qualcomm, Mr. Kohlhepp, for the rationale of the deposition request, and he explains he too is unfamiliar with the basis of the request. Accordingly, I asked for your contact information so that I may learn what basis may exist for seeking a third party deposition concerning the existence of a catalogued item maintained in a public university library. I explained to Mr. Kohlhepp I am not in a position to discuss service of any subpoena or scheduling dates without such an understanding.

I look forward to hearing from you. Thank you,

Steve Rosen

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