

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

DISNEY MEDIA & ENTERTAINMENT DISTRIBUTION LLC,
Petitioner,

v.

DIGITAL MEDIA TECHNOLOGY HOLDINGS, LLC,
Patent Owner.

IPR2024-00736
Patent 7,574,725 B2

Before JAMESON LEE, ROBERT J. WEINSCHENK, and
LISA A. MURRAY, *Administrative Patent Judges*.

MURRAY, *Administrative Patent Judge*.

ORDER
Conduct of Proceeding
37 C.F.R. § 42.5(a)

On May 6, 2025, the parties jointly emailed the Board requesting a conference to discuss a dispute arising during the deposition of Nick Stiliadis, the inventor of the patent challenged in this *inter partes* review, whose declaration was submitted in this proceeding. Ex. 3004 (email from counsel to Board); *see* Ex. 2109 (Stiliadis decl.). The request was granted.

On the same day, at 3:00 PM Eastern Daylight Time, this panel held a conference call with Mr. Haber, counsel for Petitioner, and Mr. Handal,

counsel for Patent Owner. Counsel explained that during Mr. Haber's cross-examination of Mr. Stiliadis, Mr. Handal asked on multiple occasions to contact the Board, asserting that Mr. Haber's questioning was beyond the scope of the Stiliadis declaration. The disputed questions related to the inventor's patent, which, according to the declaration, Mr. Stiliadis discussed with certain industry figures in the year 2000. Ex. 2109 ¶ 5. Mr. Haber asserted that Mr. Handal had repeatedly instructed the witness not to answer such questions, objecting to them as "outside the scope." Mr. Handal disputed that characterization, but agreed that he objected to the questions and that the parties jointly sought the Board's guidance. Mr. Handal also represented that the witness remained available and could continue to be deposed that day.

We did not determine whether the questions in dispute are or are not objectionable. Rather, we instructed the parties to resume the deposition today to allow counsel for Petitioner to develop a full record by obtaining answers to the disputed questions from the witness. We reminded counsel for Patent Owner that a defending attorney may not instruct a witness not to answer a deposition question unless it is necessary "to preserve a privilege, to enforce a limitation ordered by the Board, or to present a motion to terminate or limit the testimony." Consol. Trial Practice Guide at 129 (Nov. 2019).¹ We also ordered that if counsel believes that a question is beyond the scope, he may object for the record without disrupting the questioning, and if Petitioner then relies on the answer to that question later in this trial, the Patent Owner may file a motion to exclude at that time.

With those instructions, the conference call was adjourned.

¹ Available at <http://www.uspto.gov/TrialPracticeGuideConsolidated>.

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