

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF OREGON
3 EUGENE DIVISION
4

5 ADASA INC.,)
6)
7 Plaintiff,) No. 6:17-cv-01685-MK
8 vs.) July 13, 2023
9 AVERY DENNISON CORPORATION,) Eugene, Oregon
10)
11)
12)
13)
14)
15)
16)
17)
18)
19)
20)
21)
22)
23)
24)
25)

10
11
12
13 TRANSCRIPT OF PROCEEDINGS

14 (Trial - Day 3)

15
16 BEFORE THE HONORABLE MUSTAFA T. KASUBHAI
17 UNITED STATES DISTRICT COURT MAGISTRATE JUDGE
18
19
20
21
22

23 Court Reporter: Ryan White, RMR, CRR, CSR/CCR
24 United States District Courthouse
25 1000 SW 3rd Avenue, Room 301
Portland, Oregon 97204
(503) 326-8184

APPEARANCES

For the Plaintiff:

FRIEDMAN SUDER & COOKE
By: JONATHAN T. SUDER
jts@fsclaw.com
By: GLENN S. ORMAN
orman@fsclaw.com
By: RICHARD A. WOJCIO, JR.
wojcio@fsclaw.com
604 E 4th Street, Suite 200
Fort Worth, Texas 76102
(817) 334-0400

PERRIN & THAYER, LLP
By: ALAN J. THAYER
alan@thinkilg.com
975 Oak Street, Suite 785
Post Office Box 1268
Eugene, Oregon 97401
(541) 345-2325

For the Defendant:

BENESCH FRIEDLANDER COPLAN & ARONOFF
By: CHARANJIT BRAHMA
cbrahma@beneschlaw.com
100 Pine Street, Suite 3100
San Francisco, California 94111
(628) 600-2250

BENESCH FRIEDLANDER COPLAN & ARONOFF
By: NICHOLAS SECCO
nsecco@beneschlaw.com
71 S Wacker Drive, Suite 1600
Chicago, Illinois 60606
(312) 212-4949

BENESCH FRIEDLANDER COPLAN & ARONOFF
By: TREVOR H. COVEY
tcovey@beneschlaw.com
200 Public Square, Suite 2300
Cleveland, Ohio 44144
(216) 363-4597

TROUTMAN PEPPER HAMILTON SANDERS LLP
By: ROMAN D. HERNANDEZ
roman.hernandez@troutman.com
100 SW Main Street, Suite 1000
Portland, Oregon 97204
(503) 290-2327

INDEXPAGE

Defendant's Witnesses:

Patrick Sweeney

Direct Examination by Mr. Secco 539

Cross-Examination by Mr. Suder 595

Redirect Examination by Mr. Secco 634

Charles Williams

Video Deposition Played 690

Daniel W. Engels

Direct Examination By Mr. Brahma 691

EXHIBIT INDEXEXHIBITRECEIVED

1. 527

2. 531

3. 531

4. 531

19. 533

20. 533

21. 533

31. 534

33. 612

1	<u>EXHIBIT INDEX (Continued)</u>	
2	<u>EXHIBIT</u>	<u>RECEIVED</u>
3	34.	534
4	35	534
5	37.	533
6	273.	547
7	298.	592
8	301.	524
9	308.	718
10		
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

1 THE COURT: Counter-designations at this time?

2 MR. SUDER: No, Your Honor.

3 THE COURT: Okay. Next witness?

4 MR. BRAHMA: Just one housekeeping matter. I just
5 wanted to put a pin in getting admitted into evidence the
6 redacted versions of Exhibits 263 and 64, which we can hopefully
7 take up later.

8 Our next witness for Avery Dennison would be
9 Dr. Daniel Engels.

10 THE COURT: Dr. Engels, please come up with to the
11 witness stand and our courtroom deputy will swear you in.

12

13 DANIEL W. ENGELS,
14 having been first duly sworn or affirmed, was examined and
15 testified as follows:

16

17 THE CLERK: Please state your name for the record
18 spelling your first and last.

19 THE WITNESS: My name is Daniel Wayne Engels,
20 D-a-n-i-e-l, Engels, E-n-g-e-l-s.

21 THE COURT: Do we have witness binders?

22

23 DIRECT EXAMINATION

24 BY MR. BRAHMA:

25 Q. Good afternoon, Dr. Engels.

1 A. Good afternoon.

2 Q. Can you please tell us where you work and what your
3 title is?

4 A. I'm currently semiretired, but also perform work at
5 the Southern Methodist University in Dallas where I advise
6 graduate students and do research with the SMU AT&T
7 virtualization center.

8 Q. And to ask you about your role in this litigation, and
9 to make it clear, you were hired by ADASA, the opposing party,
10 as its expert witness on the issue of validity of the
11 '967 patent; correct?

12 A. That is correct.

13 Q. And you -- because all of the company names in this
14 case start with A, just, again, for clarity, You're not working
15 for my client, Avery Dennison; correct?

16 A. It's my understanding Avery Dennison is paying for my
17 time this week.

18 Q. Other than your time here when I'm asking you
19 questions, you're not being paid by Avery Dennison; correct?

20 A. I have no contracts with Avery Dennison. I don't work
21 for them as an employee.

22 Q. And you also don't work for them as an expert
23 consultant; correct?

24 A. I don't work for Avery Dennison as an expert
25 consultant either.

1 art of people in the field; correct?

2 A. I did.

3 Q. And in your opinion, a person having ordinary skill in
4 the art for purposes of the '967 patent has to have at least a
5 bachelor's degree in electrical engineering, computer science,
6 or computer engineering, or a related discipline, and at least
7 five years of experience which could consist of, A, designing,
8 developing, evaluating and/or using RFID and other AIDC
9 technologies in inventory management, unique object
10 identification, and/or security; or B, studying and conducting
11 research related to RFID technologies and using RFID and other
12 AIDC technologies in inventory management, unique object
13 identification, and/or security.

14 That's the definition you gave?

15 A. I believe that -- you have read that correctly, yes.

16 Q. In coming to that opinion as to the level of ordinary
17 skill in the art, you didn't describe any particular factors you
18 considered to come to the conclusion that that was the ordinary
19 level; right?

20 A. I don't recall whether I described particular factors,
21 but definitely discussed the certain knowledge that a person of
22 ordinary skill would have relative to the '967 patent.

23 Q. You understand that Avery Dennison has proposed that a
24 person of ordinary skill in the art in this 2008 time frame
25 would have a slightly different level of ordinary skill; right?

1
2
3
4
5
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

I certify, by signing below, that the foregoing is a true and correct transcript of the record, taken by stenographic means, of the proceedings in the above-titled cause. A transcript without an original signature, conformed signature, or digitally signed signature is not certified.

DATED this 16th day of July, 2023.

// Ryan White

RYAN WHITE
Registered Merit Reporter
Certified Realtime Reporter
Expires 9/30/2025
Oregon CSR No. 10-0419
Expires 12/31/2023