From: Richard L. Brophy <RBrophy@atllp.com>
Sent: Tuesday, October 14, 2025 4:18 PM
To: O'Dell, David M.; Marc Vander Tuig; Sydney K. Johnson; Melanie E. King; Jennifer Carpenter
Cc: David ODell IPR; Greg Michelson IPR; Kelly Lyle IPR; Russ Emerson IPR; Hong Shi IPR
Subject: Re: Kubota v. Vermeer - Request for Depositions of Patent Owner declarants/testimony [IMAN-IDOCS.31681.739.FID5692618]

EXTERNAL: Sent from outside Haynes and Boone, LLP

David,

I can meet and confer tomorrow morning. Feel free to let me know what time works for you.

It would be helpful to understand what relief you intend to seek regarding the Toro depositions. Perhaps we can speak about that in the morning.

Given that we offering our expert on two different days, and you indicated that you are available on at least one of those days, we are not willing to extend the reply deadline.

Thanks,
Richard

Armstrong Teasdale

Richard L. Brophy

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From: O'Dell, David M. <David.Odell@haynesboone.com>
Sent: Tuesday, October 14, 2025 3:37 PM
To: Marc Vander Tuig <MVanderTuig@atllp.com>; Richard L. Brophy <RBrophy@atllp.com>; Sydney K. Johnson <SKJohnson@atllp.com>; Melanie E. King <meking@atllp.com>; Jennifer Carpenter <JCarpenter@Atllp.com>
Cc: David ODell IPR <david.odell.ipr@haynesboone.com>; Greg Michelson IPR <Greg.Michelson.ipr@haynesboone.com>; Kelly Lyle IPR <Kelly.Lyle.ipr@haynesboone.com>; Russ Emerson

IPR <russ.emerson.ipr@haynesboone.com>; Hong Shi IPR <Hong.Shi.ipr@haynesboone.com>
Subject: RE: Kubota v. Vermeer - Request for Depositions of Patent Owner declarants/testimony [IMAN-IDOCS.31681.739.FID5692618]

Marc and/or Richard, are you available for a phone call with me today?

HAYNES BOONE

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From: O'Dell, David M.
Sent: Tuesday, October 14, 2025 2:44 PM
To: Marc Vander Tuig <MVanderTuig@atllp.com>; Richard L. Brophy <RBrophy@atllp.com>; Sydney K. Johnson <SKJohnson@atllp.com>; Melanie E. King <meking@atllp.com>; Jennifer Carpenter <JCarpenter@Atllp.com>
Cc: David ODell IPR <david.odell.ipr@haynesboone.com>; Greg Michelson IPR <Greg.Michelson.ipr@haynesboone.com>; Kelly Lyle IPR <Kelly.Lyle.ipr@haynesboone.com>; Russ Emerson IPR <russ.emerson.ipr@haynesboone.com>; Hong Shi IPR <Hong.Shi.ipr@haynesboone.com>
Subject: RE: Kubota v. Vermeer - Request for Depositions of Patent Owner declarants/testimony [IMAN-IDOCS.31681.739.FID5692618]

Thank you for your response. I am checking on the new deposition date, and will get back to you shortly.

The deposition exhibits you provided only have the cited pages in them. For example, the Borenstein transcript goes from page 1 and then immediately to pages 29-30, then page 32, and so on. Do you have, and can you provide, the complete deposition transcripts?

As for the Board meeting, we want to discuss our options with regard to the Toro depositions. Also, are you still refusing to extend our reply date as previously discussed? If so, we would like to discuss that with the Board as well. Please let me know if you or someone on your team is available tomorrow for a Board call.

HAYNES BOONE

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From: Marc Vander Tuig <MVanderTuig@atllp.com>
Sent: Tuesday, October 14, 2025 12:58 PM
To: O'Dell, David M. <David.Odell@haynesboone.com>; Richard L. Brophy <RBrophy@atllp.com>; Sydney K. Johnson <SKJohnson@atllp.com>; Melanie E. King <meking@atllp.com>; Jennifer Carpenter <JCarpenter@Atllp.com>
Cc: David ODell IPR <david.odell.ipr@haynesboone.com>; Greg Michelson IPR <Greg.Michelson.ipr@haynesboone.com>; Kelly Lyle IPR <Kelly.Lyle.ipr@haynesboone.com>; Russ Emerson IPR <russ.emerson.ipr@haynesboone.com>; Hong Shi IPR <Hong.Shi.ipr@haynesboone.com>
Subject: RE: Kubota v. Vermeer - Request for Depositions of Patent Owner declarants/testimony [IMAN-IDOCS.31681.739.FID5692618]

David:

If the deposition is conducted in Chicago, Dr. Fleming is also available on November 13. Therefore, we can make him available on either November 13 or November 14. It is our understanding that you are available to take the deposition on November 14, but you wanted to have another member of your team take the deposition. I believe that was Jason Lao, is that correct? Please confirm whether November 13 will work.

We have confirmed that Vermeer has no ability to force Toro to cooperate by presenting witnesses for deposition in these proceedings. Also, you indicated that you couldn't locate the transcripts of the Toro witnesses that had been previously submitted to the Patent Office as part of the reexaminations. I have attached copies that we were able to pull from the reexamination file histories.

Please clarify what exactly you want to discuss with the Board in connection with these deposition transcripts. As you know there are no "Toro declarants," given that the only declaration submitted by Vermeer in these proceedings was from Dr. Fleming.

Thanks,

Marc

Armstrong Teasdale

Marc W. Vander Tuig

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From: O'Dell, David M. <David.Odell@haynesboone.com>
Sent: Tuesday, October 14, 2025 8:38 AM
To: Richard L. Brophy <RBrophy@atllp.com>; Marc Vander Tuig <MVanderTuig@atllp.com>; Sydney K. Johnson <SKJohnson@atllp.com>; Melanie E. King <meking@atllp.com>; Jennifer Carpenter <JCarpenter@Atllp.com>
Cc: David ODell IPR <david.odell.ipr@haynesboone.com>; Greg Michelson IPR <Greg.Michelson.ipr@haynesboone.com>; Kelly Lyle IPR <Kelly.Lyle.ipr@haynesboone.com>; Russ Emerson IPR <russ.emerson.ipr@haynesboone.com>; Hong Shi IPR <Hong.Shi.ipr@haynesboone.com>
Subject: RE: Kubota v. Vermeer - Request for Depositions of Patent Owner declarants/testimony [IMAN-IDOCS.31681.739.FID5692618]

Richard and Marc, following up. Are you available to meet with the Board later today or tomorrow?

HAYNES BOONE

David O'Dell | Partner
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From: O'Dell, David M.
Sent: Monday, October 13, 2025 10:31 AM
To: Richard L. Brophy <RBrophy@atllp.com>; Marc Vander Tuig <MVanderTuig@atllp.com>; Sydney K. Johnson <SKJohnson@atllp.com>; Melanie E. King <meking@atllp.com>; Jennifer Carpenter <JCarpenter@Atllp.com>
Cc: David ODell IPR <david.odell.ipr@haynesboone.com>; Greg Michelson IPR <Greg.Michelson.ipr@haynesboone.com>; Kelly Lyle IPR <Kelly.Lyle.ipr@haynesboone.com>; Russ Emerson IPR <russ.emerson.ipr@haynesboone.com>; Hong Shi IPR <Hong.Shi.ipr@haynesboone.com>
Subject: RE: Kubota v. Vermeer - Request for Depositions of Patent Owner declarants/testimony [IMAN-IDOCS.31681.739.FID5692618]

Richard and Marc, thanks for meeting with us today. A few items from the call:

- You are going to get with Dr. Fleming about more possible dates,
    - You were also going to let us know about extensions for our reply.
- You were going to check about any agreement for Toro to participate in depositions such as the ones we are requesting.
- You were going to check for the Kuemper and Borenstein deposition transcript exhibits mentioned in the Vermeer reexam OA responses. Portions of Mr. Kuemper's deposition are provided as "Exhibit 1" (see, e.g., '167IPR, EX1030, pp. 877-900) and portions of Mr. Borenstein's testimony are provided as "Exhibit 2" (see, e.g., '167IPR, EX1030, pp. 795-867). We need the complete transcripts.
- You were going to check on the heath situation and general depo availability for Mr. Hutchinson.
- We have dropped our request to depose the other inventors.
- Finally, are you available Tuesday and/or Wednesday of this week to meet with the Board? For one, we were going to ask them about the Toro declarants (if not available for deposition).

HAYNES BOONE

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david.odell@haynesboone.com | (t) +1 972.739.8635

From: O'Dell, David M. <David.Odell@haynesboone.com>
Sent: Friday, October 10, 2025 6:37 PM
To: Richard L. Brophy <RBrophy@atllp.com>; Marc Vander Tuig <MVanderTuig@atllp.com>; Sydney K. Johnson <SKJohnson@atllp.com>; Melanie E. King <meking@atllp.com>; Jennifer Carpenter <JCarpenter@Atllp.com>
Cc: David ODell IPR <david.odell.ipr@haynesboone.com>; Greg Michelson IPR <Greg.Michelson.ipr@haynesboone.com>; Kelly Lyle IPR <Kelly.Lyle.ipr@haynesboone.com>; Russ Emerson IPR <russ.emerson.ipr@haynesboone.com>; Hong Shi IPR <Hong.Shi.ipr@haynesboone.com>
Subject: RE: Kubota v. Vermeer - Request for Depositions of Patent Owner declarants/testimony [IMAN-IDOCS.31681.739.FID5692618]

Thanks. I will send out a calendar invite for 9am Central. I will be sending it to your and Marc's email address, please forward it to others on your team as needed.

HAYNES BOONE

David O'Dell | Partner
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From: Richard L. Brophy <RBrophy@atllp.com>
Sent: Friday, October 10, 2025 5:48 PM
To: O'Dell, David M. <David.Odell@haynesboone.com>; Marc Vander Tuig <MVanderTuig@atllp.com>; Sydney K. Johnson <SKJohnson@atllp.com>; Melanie E. King <meking@atllp.com>; Jennifer Carpenter <JCarpenter@Atllp.com>
Cc: David ODell IPR <david.odell.ipr@haynesboone.com>; Greg Michelson IPR <Greg.Michelson.ipr@haynesboone.com>; Kelly Lyle IPR <Kelly.Lyle.ipr@haynesboone.com>; Russ Emerson IPR <russ.emerson.ipr@haynesboone.com>; Hong Shi IPR <Hong.Shi.ipr@haynesboone.com>
Subject: Re: Kubota v. Vermeer - Request for Depositions of Patent Owner declarants/testimony [IMAN-IDOCS.31681.739.FID5692618]

David,

We can be available any time before 11 CT on Monday. Feel free to circulate an invite for a time that works for you.

Thanks,

Richard

Armstrong Teasdale

Richard L. Brophy

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From: O'Dell, David M. <David.Odell@haynesboone.com>
Sent: Friday, October 10, 2025 5:11:40 PM
To: Richard L. Brophy <RBrophy@atllp.com>; Marc Vander Tuig <MVanderTuig@atllp.com>; Sydney K. Johnson <SKJohnson@atllp.com>; Melanie E. King <meking@atllp.com>; Jennifer Carpenter <JCarpenter@Atllp.com>
Cc: David ODell IPR <david.odell.ipr@haynesboone.com>; Greg Michelson IPR <Greg.Michelson.ipr@haynesboone.com>; Kelly Lyle IPR <Kelly.Lyle.ipr@haynesboone.com>; Russ Emerson IPR <russ.emerson.ipr@haynesboone.com>; Hong Shi IPR <Hong.Shi.ipr@haynesboone.com>
Subject: RE: Kubota v. Vermeer - Request for Depositions of Patent Owner declarants/testimony [IMAN-IDOCS.31681.739.FID5692618]

Thank you Richard. Can we schedule a call for Monday morning (without the Board)?

HAYNES BOONE

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From: Richard L. Brophy <RBrophy@atllp.com>
Sent: Friday, October 10, 2025 11:41 AM
To: O'Dell, David M. <David.Odell@haynesboone.com>; Marc Vander Tuig <MVanderTuig@atllp.com>; Sydney K. Johnson <SKJohnson@atllp.com>; Melanie E. King <meking@atllp.com>; Jennifer Carpenter <JCarpenter@Atllp.com>
Cc: David ODell IPR <david.odell.ipr@haynesboone.com>; Greg Michelson IPR <Greg.Michelson.ipr@haynesboone.com>; Kelly Lyle IPR <Kelly.Lyle.ipr@haynesboone.com>; Russ Emerson IPR <russ.emerson.ipr@haynesboone.com>; Hong Shi IPR <Hong.Shi.ipr@haynesboone.com>
Subject: RE: Kubota v. Vermeer - Request for Depositions of Patent Owner declarants/testimony [IMAN-IDOCS.31681.739.FID5692618]

David,

Marc is out today, so I will respond.

We are willing to discuss with Dr. Fleming the possibility of a weekend deposition. We are reaching out to him with that request and will report back.

We disagree that Kubota's requests for depositions constitute routine discovery. 37 CFR § 42.51(b)(1)(ii) states that: "[c]ross examination of affidavit testimony **prepared for the proceeding** is authorized within such time period as the Board may set." The affidavits that form the basis for your deposition request were ***not*** prepared for the proceeding and, as such, do not constitute routine discovery.

We will speak with our client regarding Kubota's request to depose another inventor. We will get back to you on that request as soon as possible. In the meantime, it would be helpful for Kubota to describe its basis in the rules for requesting an inventor deposition.

Given the new requests in your email below, the need for us to discuss these issues with our client, and the need for the parties to conduct a meaningful meet and confer before approaching the Board, it would seem appropriate to wait to contact the Board until I hear back from Vermeer and the parties have an opportunity to hold a call regarding Kubota's new requests.

Thanks,
Richard

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Richard L. Brophy

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From: O'Dell, David M. <David.Odell@haynesboone.com>
Sent: Friday, October 10, 2025 10:17 AM
To: Marc Vander Tuig <MVanderTuig@atllp.com>; Richard L. Brophy <RBrophy@atllp.com>; Sydney K. Johnson <SKJohnson@atllp.com>; Melanie E. King <meking@atllp.com>; Jennifer Carpenter <JCarpenter@Atllp.com>
Cc: David ODell IPR <david.odell.ipr@haynesboone.com>; Greg Michelson IPR <Greg.Michelson.ipr@haynesboone.com>; Kelly Lyle IPR <Kelly.Lyle.ipr@haynesboone.com>; Russ Emerson IPR <russ.emerson.ipr@haynesboone.com>; Hong Shi IPR <Hong.Shi.ipr@haynesboone.com>
Subject: RE: Kubota v. Vermeer - Request for Depositions of Patent Owner declarants/testimony [IMAN-IDOCS.31681.739.FID5692618]

Marc, I want to clarify/add a few things before scheduling a Board meeting, to see if we can come to an agreement:

1. We requested a depo of Dr. Fleming for the week of Oct. 20, and we can even go into the weekend of Oct. 24-26 if that works for him. If you cannot produce him when requested, that is the reason we request the extension. As discussed, we are not available on the single date you offered, November 14. Importantly, when you requested depo of Dr. Valinsky for your two identified days, we said yes. Thus, there was no reason for an extension.
2. When we request an extension, we are willing to move other dates too. We can move forward with the schedule you previously proposed, which I assumed is something you wanted.
3. As for the depositions of the other declarants (except for Mr. Hartke, of course), as we said earlier, this is routine discovery. It is not like the additional discovery that we gave you (without going to

the Board) for the confidential documents, this is to depose declarants on whose testimony you are relying. The fact you obtained these declarations in an earlier matter does not change the fact that we have the right to cross examination.

4. As for the late Mr. Hartke, we request that one of the other 3 inventors be made available.

Please let me know before noon today if you can agree to any of these, so we can remove them from the proposed agenda we plan to submit to the Board.

HAYNES BOONE

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From: Marc Vander Tuig <MVanderTuig@atllp.com>
Sent: Thursday, October 9, 2025 8:21 PM
To: O'Dell, David M. <David.Odell@haynesboone.com>; Richard L. Brophy <RBrophy@atllp.com>; Sydney K. Johnson <SKJohnson@atllp.com>; Melanie E. King <meking@atllp.com>; Jennifer Carpenter <JCarpenter@Atllp.com>
Cc: David ODell IPR <david.odell.ipr@haynesboone.com>; Greg Michelson IPR <Greg.Michelson.ipr@haynesboone.com>; Kelly Lyle IPR <Kelly.Lyle.ipr@haynesboone.com>; Russ Emerson IPR <russ.emerson.ipr@haynesboone.com>; Hong Shi IPR <Hong.Shi.ipr@haynesboone.com>
Subject: Re: Kubota v. Vermeer - Request for Depositions of Patent Owner declarants/testimony [IMAN-IDOCS.31681.739.FID5692618]

David:

We are not available tomorrow, but we can attend a call anytime on Monday. Let us know if you need additional availability next week.

Thanks,
Marc

Armstrong Teasdale

Marc W. Vander Tuig

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From: O'Dell, David M. <David.Odell@haynesboone.com>
Sent: Thursday, October 9, 2025 5:45:07 PM
To: Marc Vander Tuig <MVanderTuig@atllp.com>; Richard L. Brophy <RBrophy@atllp.com>; Sydney K. Johnson <SKJohnson@atllp.com>; Melanie E. King <meking@atllp.com>; Jennifer Carpenter <JCarpenter@Atllp.com>
Cc: David ODell IPR <david.odell.ipr@haynesboone.com>; Greg Michelson IPR <Greg.Michelson.ipr@haynesboone.com>; Kelly Lyle IPR <Kelly.Lyle.ipr@haynesboone.com>; Russ Emerson IPR <russ.emerson.ipr@haynesboone.com>; Hong Shi IPR <Hong.Shi.ipr@haynesboone.com>
Subject: RE: Kubota v. Vermeer - Request for Depositions of Patent Owner declarants/testimony [IMAN-IDOCS.31681.739.FID5692618]

Marc,

You still have not explained why Dr. Fleming only has availability for one day for his deposition. We are not available November 14, 2025, and as noted, we are available the week of the Oct. 20, we can even go over the weekend, Oct. 24-26 as necessary. Where can you produce the witness?

We believe all testimony relied on by the Patent Owner in its brief is subject to routine discovery in the form of deposition (except of course for the late Mr. Hartke).

We will be emailing the Board tomorrow morning to schedule a conference to resolve these disputes. Please let us know when you are available to discuss with the Board tomorrow.

Best,

HAYNES BOONE

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From: Marc Vander Tuig <MVanderTuig@atllp.com>
Sent: Thursday, October 9, 2025 4:08 PM
To: O'Dell, David M. <David.Odell@haynesboone.com>; Richard L. Brophy <RBrophy@atllp.com>; Sydney K. Johnson <SKJohnson@atllp.com>; Melanie E. King <meking@atllp.com>; Jennifer Carpenter <JCarpenter@Atllp.com>
Cc: David ODell IPR <david.odell.ipr@haynesboone.com>; Greg Michelson IPR <Greg.Michelson.ipr@haynesboone.com>; Kelly Lyle IPR <Kelly.Lyle.ipr@haynesboone.com>; Russ Emerson IPR <russ.emerson.ipr@haynesboone.com>; Hong Shi IPR <Hong.Shi.ipr@haynesboone.com>
Subject: RE: Kubota v. Vermeer - Request for Depositions of Patent Owner declarants/testimony [IMAN-IDOCS.31681.739.FID5692618]

David:

We have no control over the professional schedule of Dr. Fleming, who is very busy. We have offered him for deposition on November 14—12 days before Kubota's deadline. This falls well within the standard timing expected by the Board. *See, e.g.*, 37 C.F.R. § 42.53(d)(2) ("Cross-examination should ordinarily take place . . . more than a week before the filing date for any paper in which the cross-examination testimony is expected to be used."). Therefore, we do not agree to extend the deadlines in IPR2025-00167 through IPR2025-00171, as you requested. Further, as Mr. Michelson previously noted:

> [M]aintaining the current schedule will best support a fair and efficient process. In our opinion, maintaining the current schedule benefits settlement discussions, as both parties will be in a better position to evaluate their respective positions with respect to the asserted patents . . . . Adherence to the schedule also further promotes efficiency for the Board, as it allows proceedings to move forward in an orderly and timely manner. On the contrary, granting extensions to a schedule that already affords each party adequate time to develop and present its

arguments will likely create a cascading effect that could potentially negatively impact both the Board's efficiency and the parties' ability to settle this case.

Please let us know if you will proceed with Dr. Fleming's deposition on November 14.

As for the additional depositions you seek, do you contend that this constitutes routine discovery under 37 C.F.R. § 42.51(b)(1) or a request for additional discovery under 37 C.F.R. § 42.51(b)(2)? If the latter, please provide the full basis for your assertion that this discovery is appropriate or necessary in the interests of justice. We will separately address your evidentiary objections, if necessary, in responding to any motion to exclude that Kubota may file under 37 C.F.R. § 42.64(c). Evidentiary objections/disputes do not impact the permissible scope of limited discovery available in PTAB proceedings. If you have any legal authority to the contrary, please share it with us and we will consider it.

Best regards,

Marc

Armstrong Teasdale

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From: O'Dell, David M. <David.Odell@haynesboone.com>
Sent: Wednesday, October 8, 2025 2:30 PM
To: Marc Vander Tuig <MVanderTuig@atllp.com>; Richard L. Brophy <RBrophy@atllp.com>; Sydney K. Johnson <SKJohnson@atllp.com>; Melanie E. King <meking@atllp.com>; Jennifer Carpenter <JCarpenter@Atllp.com>
Cc: David ODell IPR <david.odell.ipr@haynesboone.com>; Greg Michelson IPR <Greg.Michelson.ipr@haynesboone.com>; Kelly Lyle IPR <Kelly.Lyle.ipr@haynesboone.com>; Russ Emerson IPR <russ.emerson.ipr@haynesboone.com>; Hong Shi IPR <Hong.Shi.ipr@haynesboone.com>
Subject: RE: Kubota v. Vermeer - Request for Depositions of Patent Owner declarants/testimony [IMAN-IDOCS.31681.739.FID5692618]

Marc, this is unexpected. When Dr. Fleming submitted his declaration, he should have been made aware of the trial schedule with an expectation to give a deposition in a reasonable time for us to receive the transcript and prepare our reply. Why is he not available any day in October? I would like to remind you that you only gave us two days you were purportedly available to depose Dr. Velinsky, our expert, to which we complied. If he cannot find a more reasonable date to be available, then we request consolidating Due Date 2 for Petitioner Replies for all cases to December 8. Please let me know.

As for the other depositions, it appears that you are relying on statements from them for the truth of the matter asserted. In that case, we have the right to cross examine the witness.

HAYNES BOONE

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From: Marc Vander Tuig <MVanderTuig@atllp.com>
Sent: Tuesday, October 7, 2025 8:39 PM
To: O'Dell, David M. <David.Odell@haynesboone.com>; Richard L. Brophy <RBrophy@atllp.com>; Sydney K. Johnson <SKJohnson@atllp.com>; Melanie E. King <meking@atllp.com>; Jennifer Carpenter <JCarpenter@Atllp.com>
Cc: David ODell IPR <david.odell.ipr@haynesboone.com>; Greg Michelson IPR <Greg.Michelson.ipr@haynesboone.com>; Kelly Lyle IPR <Kelly.Lyle.ipr@haynesboone.com>; Russ Emerson IPR <russ.emerson.ipr@haynesboone.com>; Hong Shi IPR <Hong.Shi.ipr@haynesboone.com>
Subject: RE: Kubota v. Vermeer - Request for Depositions of Patent Owner declarants/testimony [IMAN-IDOCS.31681.739.FID5692618]

David:

Dr. Fleming's schedule is very full. He is available on November 14 and is holding that date. Please let us know if you would like to proceed with his deposition on that date. Location to be determined.

Thanks,

Marc

Armstrong Teasdale

Marc W. Vander Tuig

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From: Marc Vander Tuig
Sent: Tuesday, October 7, 2025 3:42 PM
To: O'Dell, David M. <David.Odell@haynesboone.com>; Richard L. Brophy <RBrophy@atllp.com>; Sydney K. Johnson <SKJohnson@atllp.com>; Melanie E. King <meking@atllp.com>; Jennifer Carpenter <JCarpenter@Atllp.com>
Cc: David ODell IPR <david.odell.ipr@haynesboone.com>; Greg Michelson IPR <Greg.Michelson.ipr@haynesboone.com>; Kelly Lyle IPR <Kelly.Lyle.ipr@haynesboone.com>; Russ Emerson IPR <russ.emerson.ipr@haynesboone.com>; Hong Shi IPR <Hong.Shi.ipr@haynesboone.com>
Subject: RE: Kubota v. Vermeer - Request for Depositions of Patent Owner declarants/testimony

David:

We are working to confirm Dr. Fleming's availability for a deposition and will have a response to you as soon as possible. Dr. Fleming can testify about the animation exhibit that you identified.

Mr. Hartke is unfortunately deceased. What is the basis for your belief that Kubota is entitled to a deposition of the other individuals that you identified?

We will be in touch shortly with Dr. Fleming's availability.

Best regards,

Marc

Armstrong Teasdale

Marc W. Vander Tuig

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7700 Forsyth Boulevard, Suite 1800, St. Louis, MO 63105

From: O'Dell, David M. <David.Odell@haynesboone.com>
Sent: Tuesday, October 7, 2025 1:49 PM
To: Richard L. Brophy <RBrophy@atllp.com>; Marc Vander Tuig <MVanderTuig@atllp.com>; Sydney K. Johnson <SKJohnson@atllp.com>; Melanie E. King <meking@atllp.com>; Jennifer Carpenter <JCarpenter@Atllp.com>
Cc: David ODell IPR <david.odell.ipr@haynesboone.com>; Greg Michelson IPR <Greg.Michelson.ipr@haynesboone.com>; Kelly Lyle IPR <Kelly.Lyle.ipr@haynesboone.com>; Russ Emerson IPR <russ.emerson.ipr@haynesboone.com>; Hong Shi IPR <Hong.Shi.ipr@haynesboone.com>
Subject: RE: Kubota v. Vermeer - Request for Depositions of Patent Owner declarants/testimony

Patent Owner Counsel

I called Richard Brophy and left him a message this morning. We have not heard back from you about scheduling these depositions. Let me propose the following schedule:

- Dr. Fleming – Wednesday, October 22
- The person that produced Exhibit 2036 (if not Dr. Fleming) – Thursday, October 23
- Matthew Hutchinson – Friday, October 24

We can talk later about the depositions for these people:

- Louis Hartke –
- James Kuemper –
- Neil Borenstein –

Please let me know today if this schedule does not work, otherwise I will assume it does work and we will send out the notices of depositions.

HAYNES BOONE

David O'Dell | Partner
david.odell@haynesboone.com | (t) +1 972.739.8635

From: O'Dell, David M. <David.Odell@haynesboone.com>
Sent: Friday, October 3, 2025 3:34 PM
To: Richard L. Brophy <RBrophy@atllp.com>; Greg Michelson IPR <Greg.Michelson.ipr@haynesboone.com>; Kelly Lyle IPR <Kelly.Lyle.ipr@haynesboone.com>; Russ Emerson IPR <russ.emerson.ipr@haynesboone.com>; Hong Shi IPR <Hong.Shi.ipr@haynesboone.com>
Cc: Marc Vander Tuig <MVanderTuig@atllp.com>; Sydney K. Johnson <SKJohnson@atllp.com>; Melanie E. King <meking@atllp.com>; Jennifer Carpenter <JCarpenter@Atllp.com>; David ODell IPR <david.odell.ipr@haynesboone.com>
Subject: Kubota v. Vermeer - Request for Depositions of Patent Owner declarants/testimony

Patent Owner Counsel,

We would like to arrange to take depositions of your declarants. Please let us know the declarants' availability between October, 20th – October, 24th. We would like to plan for in-person depositions, please let us know the location(s).

1. Mark Fleming (EX2016).

2. We would like to take the deposition of the person that produced Exhibit 2036 or receive confirmation that this exhibit was produced by Dr. Fleming and he will be available to discuss the animation.

3. We request deposition of each of the following people whose testimony was relied upon in Vermeer's Patent Owner's Responses.
   - Matthew Hutchinson, "Vermeer's Product Manager"
     - (*see*, *e.g.*,'167IPR, Paper 22, p. 66 citing and relying on statements of Hutchinson declaration at Ex. 1030).
   - Louis Hartke, listed inventor
     - (*see*, *e.g.*, '167IPR, Paper 22, p. 68 citing and relying on statements of Hartke declaration at Ex. 1030).
   - James Kuemper, Principal Designer
     - (*see*, *e.g.*,'167IPR, Paper 22, pp. 69-72 citing and relying on statements of Kuemper testimony at Ex. 1030, e.g., pp. 45-46, 49, 51-53).
   - Neil Borenstein, Marketing
     - (*see*, *e.g.*,'167IPR, Paper 22, pp. 69-72 citing and relying on statements of Borenstein testimony at Ex. 1030, e.g., pp. 39-42, 44-45, 49-50).

Thank you,

HAYNES BOONE

David O'Dell | Partner
david.odell@haynesboone.com | (t) +1 972.739.8635

From: Richard L. Brophy <RBrophy@atllp.com>
Sent: Friday, September 5, 2025 4:21 PM
To: O'Dell, David M. <David.Odell@haynesboone.com>; Greg Michelson IPR <Greg.Michelson.ipr@haynesboone.com>; Kelly Lyle IPR <Kelly.Lyle.ipr@haynesboone.com>; Russ Emerson IPR <russ.emerson.ipr@haynesboone.com>; Hong Shi IPR <Hong.Shi.ipr@haynesboone.com>
Cc: Marc Vander Tuig <MVanderTuig@atllp.com>; Sydney K. Johnson <SKJohnson@atllp.com>; Melanie E. King <meking@atllp.com>; Jennifer Carpenter <JCarpenter@Atllp.com>; David ODell IPR <david.odell.ipr@haynesboone.com>
Subject: RE: Kubota v. Vermeer - Service of Vermeer Filings in IPRs 167-171

David,

I appreciate your response and the accommodation. I will be sure to include your team on future correspondence. I hope everyone has a pleasant weekend.

Richard

Armstrong Teasdale

Richard L. Brophy

PARTNER
INTELLECTUAL PROPERTY LITIGATION

RBrophy@atllp.com
T: 314-342-4159

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7700 Forsyth Boulevard, Suite 1800, St. Louis, MO 63105

From: O'Dell, David M. <David.Odell@haynesboone.com>
Sent: Friday, September 5, 2025 3:29 PM
To: Richard L. Brophy <RBrophy@atllp.com>; Greg Michelson IPR <Greg.Michelson.ipr@haynesboone.com>; Kelly Lyle IPR <Kelly.Lyle.ipr@haynesboone.com>; Russ Emerson IPR <russ.emerson.ipr@haynesboone.com>; Hong Shi IPR <Hong.Shi.ipr@haynesboone.com>
Cc: Marc Vander Tuig <MVanderTuig@atllp.com>; Sydney K. Johnson <SKJohnson@atllp.com>; Melanie E. King <meking@atllp.com>; Jennifer Carpenter <JCarpenter@Atllp.com>; David ODell IPR <david.odell.ipr@haynesboone.com>
Subject: RE: Kubota v. Vermeer - Service of Vermeer Filings in IPRs 167-171

CAUTION: EXTERNAL EMAIL

This email is in response to Richard Brophy's emails attached. May I request that future communications for this IPR use official correspondence email addresses set out in the mandatory notices and include all the team members of our group.

Richard, while we do not want to join a joint stipulation, we do not oppose your motion to excuse Vermeer's filing delay. Relatedly, we do not need to change the due dates.

Best regards,
David O'Dell

From: Jennifer Carpenter <JCarpenter@Atllp.com>
Sent: Thursday, September 4, 2025 2:08 AM
To: David ODell IPR <david.odell.ipr@haynesboone.com>; Greg Michelson IPR <Greg.Michelson.ipr@haynesboone.com>; Kelly Lyle IPR <Kelly.Lyle.ipr@haynesboone.com>; Russ Emerson IPR <russ.emerson.ipr@haynesboone.com>; Hong Shi IPR <Hong.Shi.ipr@haynesboone.com>
Cc: Richard L. Brophy <RBrophy@atllp.com>; Marc Vander Tuig <MVanderTuig@atllp.com>; Sydney K. Johnson <SKJohnson@atllp.com>; Melanie E. King <meking@atllp.com>
Subject: Kubota v. Vermeer - Service of Vermeer Filings in IPRs 167-171

Counsel:

Please find Patent Owner's response, exhibits 2016-2038, motion to seal, and updated exhibit list, all filed respectively in the matters listed below before the PTAB.

https://armstrongteasdalehold.sharefile.com/d-sce736e1272754a51a6dcf3a674b4ef4d

IPR2025-00167
IPR2025-00168
IPR2025-00169
IPR2025-00170
IPR2025-00171

Sincerely,
Jennifer

Armstrong Teasdale

Jennifer M. Carpenter

PARALEGAL
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