

From: [Trials](#)
To: [Walters, Chad](#); [Trials](#)
Cc: [Michael Saunders](#); [Suhrid Wadekar](#); [Matthew Vella](#); [Amanda L'Esperance](#); [Rich, Harrison](#); [Barazesh, Ellyar](#); [Rao Sasha](#); [Puri Ashe](#)
Subject: RE: IPR2025-00525, -00530, -00629: Motion for Sanctions
Date: Thursday, July 9, 2026 2:25:28 PM
Attachments: [image001.png](#)

Counsel, a conference call to discuss Petitioner's request is scheduled for Monday, July 13th, at 11:30 AM Eastern time. Counsel for Petitioner is ordered to provide a court reporter to transcribe the call. The dial in number is 540-566-5633 and the passcode is 407132307

Regards,

Andrew Kellogg,
Deputy Chief Clerk, Trials
Patent Trial and Appeal Board
USPTO
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(571) 272-5366



From: Walters, Chad <chad.walters@bakerbotts.com>
Sent: Tuesday, July 7, 2026 3:39 PM
To: Trials <Trials@USPTO.GOV>
Cc: Michael Saunders <msaunders@princetonobel.com>; Suhrid Wadekar <swadekar@princetonobel.com>; Matthew Vella <mvella@princetonobel.com>; Amanda L'Esperance <ALEsperance@princetonobel.com>; Rich, Harrison <harrison.rich@BakerBotts.com>; Barazesh, Ellyar <ellyar.barazesh@bakerbotts.com>; Rao Sasha <srao@nixonpeabody.com>; Puri Ashe <apuri@nixonpeabody.com>
Subject: IPR2025-00525, -00530, -00629: Motion for Sanctions

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Dear Patent Trial and Appeal Board,

Petitioners respectfully request authorization to file a motion for sanctions and the award of

reasonable expenses and attorneys' fees under 37 C.F.R. § 42.12 in light of Patent Owner's repeated late cancellations of depositions of Petitioners' experts as follows:

IPR2025-00629 – Noticed deposition of Dr. Singhose scheduled for 9 am EDT on June 11. Patent Owner canceled via email after 5 pm EDT on June 10 (0 business days' notice).

IPR2025-00530 – Noticed deposition of Dr. Chowdhary scheduled for 9 am EDT on June 12. Patent Owner canceled via email after 5 pm EDT on June 10.

IPR2025-00529 – Noticed deposition of Dr. Chowdhary scheduled for June 12 after conclusion of -00530 deposition. Patent Owner canceled via email after 5 pm EDT on June 10.

IPR2025-00530 – Noticed deposition of Dr. Chowdhary scheduled for 10 am EDT on April 9. Patent Owner canceled via email after 9 pm EDT on April 7.

IPR2025-00529 – Noticed deposition of Dr. Chowdhary scheduled for April 9 after conclusion of -00530 deposition. Patent Owner canceled via email after 9 pm EDT on April 7.

Patent Owner did not provide a reason for the cancellations and did not attempt to reschedule. For each of the above, late-canceled depositions, Petitioners had expended considerable time and expense in preparation (including expert preparation expenses and, for all but one deposition, non-refundable travel expenses).

Patent Owner's conduct is sanctionable, and the awarding of reasonable expenses and attorneys' fees is appropriate. *See, e.g.*, IPR2025-00525, Paper 14 (Scheduling Order) at 4 ("The Board may impose an appropriate sanction for failure to adhere to the Testimony Guidelines. 37 C.F.R. § 42.12. For example, reasonable expenses and attorneys' fees incurred by any party may be levied on a person who impedes, delays, or frustrates the fair examination of a witness"); *Dean v. Integrace, Inc.*, No. 1:23-CV-1221-GLR, 2025 WL 2391596, at *6-*8 (D. Md. Aug. 18, 2025) (citing *Felder v. MGM Nat'l Harbor, LLC*, No. CV PJM-18-3405, 2024 WL 3690779, at *19 (D. Md. Aug. 7, 2024)) (explaining that sanctions are warranted for the unilateral cancelation of depositions without "sufficient notice" and that cancelation two days in advance is insufficient); *In re Univ. of San Diego Tuition & Fees COVID-19 Refund Litig.*, No. 20-CV-1946-LAB-WVG, 2023 WL 3316765, at *3-*6 (S.D. Cal. May 8, 2023) (explaining that within the context of FRCP 30(g), the "expenditure of time and resources in preparing" witnesses for depositions that are canceled without sufficient notice is "a recoverable expense").

Patent Owner states these were videoconference depositions with no need for travel, yet Patent Owner incurred its own travel expenses so that its counsel could be in the same location as its expert for 3 depositions on February 25-27. And Patent Owner's statement that it canceled the depositions as soon as it concluded they could be withdrawn is difficult to believe given it belatedly canceled all 3 June depositions at the same time and both April 7 depositions at the same time. And while Patent Owner states that sanctions here "would only encourage parties to proceed with meaningless depositions in instances where they could be canceled," that concern is overblown given the unique facts of these IPRs. These IPRs do not involve sanctions for a single last-minute cancellation, where Patent Owner's concern may have some merit. Rather, the facts of these IPRs show a pattern of conduct resulting in **five** last-minute cancellations across the course of these IPRs. This pattern of conduct in each instance forced Petitioners to incur significant costs and is the type of repeated conduct that should be deterred through sanctions.

Petitioners therefore respectfully request authorization to file a motion for sanctions. As a demonstration of restraint, upon the Board's authorization, Petitioners will only seek reasonable expenses and attorneys' fees associated with the 3 most recently canceled depositions that were scheduled for June 11 and June 12.

Petitioners have conferred with Patent Owner. Patent Owner's position is as follows:

Patent Owner opposes Petitioners' request for leave to file a motion for sanctions. Although Patent Owner regrets that it was unable to withdraw its deposition notices sooner in these proceedings, Patent Owner was acting in good faith throughout. Indeed, in light of the relatedness of these IPRs, there were effectively just three depositions at issue:

- On March 27, 2026, Patent Owner noticed the videoconference deposition of Dr. Chowdhary for 10:00 AM ET on April 9, 2026, in both IPR2025-00525 and IPR2025-00530. See, e.g., IPR2025-00525, Paper No. 22. The notice was withdrawn on April 7, 2026.
- On June 3, 2026, Patent Owner noticed the videoconference deposition of Dr. Singhose for 9:00 AM ET on June 11, 2026, in IPR 2025-00629. See, e.g., IPR2025-00629, Paper No. 47. The notice was withdrawn on June 10, 2026.
- On June 3, 2026, Patent Owner noticed the videoconference deposition of Dr. Chowdhary for 9:00 AM ET on June 12, 2026, in IPR2025-00525 and IPR2025-00530. See, e.g., IPR2025-00525, Paper No. 34. The notice was withdrawn on June 10, 2026.

Due to the condensed schedules, Patent Owner noticed these depositions before Patent Owner could determine whether they would be necessary. For example, in IPR2025-00525, on June 1, 2026, Petitioner filed its Opposition to Patent Owner's Non-Contingent Revised Motion to Amend, accompanied by the Third Chowdhary Declaration. Patent Owner's Reply to the Revised Motion to Amend was due three weeks thereafter, so Patent Owner noticed Dr. Chowdhary's deposition as quickly as it could and scheduled it to provide Patent Owner with enough time to incorporate any cross-examination testimony. Patent Owner spent the intervening time as efficiently as possible and ultimately concluded that it could forgo the deposition. Patent Owner immediately notified Petitioner, just one week after the notice and two days before the deposition was scheduled. See, e.g., *Donini Int'l, S.P.A. v. Satec (U.S.A.) LLC*, 2006 WL 695546, at *7 (S.D.N.Y. Mar. 16, 2006) ("Thus it appears that plaintiff was provided oral notice of cancellation at least two days prior to the deposition. I do not find that this constitutes insufficient notice of cancellation warranting the award of attorneys' fees and costs.").

Patent Owner regrets that the condensed nature of the schedules caused the short cancelations, but Petitioner's complaints about them are overblown. See, e.g., *Hudson v. L & W Supply Corp.*, No. CIV.A.H-08-2471, 2009 WL 1941498, at *3 (S.D. Tex. July 2, 2009) ("[T]he court should consider all the circumstances, such as whether the failure was inadvertent or in bad faith, when setting proper sanctions."). *First*, Patent Owner had no choice but to schedule prompt depositions. *Second*, Patent Owner canceled the depositions as soon as it concluded that they could be withdrawn. *Third*, the depositions were all to take place by videoconference, so there was no need for travel. *Fourth*, Petitioner's expenses would have been higher had Patent Owner proceeded with the depositions. See, e.g.,

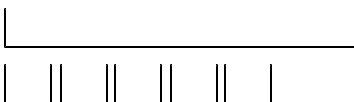
Hudson, 2009 WL 1941498, at *4 (“The record does not provide a basis to find bad-faith, sanctionable conduct by counsel for Hudson [for canceling the deposition two hours before the scheduled time]. . .”).

The cases cited by Petitioner are examples of exceptionally poor conduct in district court litigation—where schedules typically provide far more time—and bear little resemblance to the circumstances here. *See Dean v. Integrace, Inc.*, No. 1:23-CV-1221-GLR, 2025 WL 2391596, at *1, *6 (D. Md. Aug. 18, 2025) (depositions scheduled for six weeks canceled at 5:53 AM of the day of; plaintiff’s only argument was that it was a “legitimate tactical decision”); *Felder v. MGM Nat’l Harbor, LLC*, No. CV PJM-18-3405, 2024 WL 3690779, at *19 (D. Md. Aug. 7, 2024) (noticing party knew “one week before [the third-party’s] scheduled deposition [] that seven attempts had been made to serve [him] to no avail.”); *In re Univ. of San Diego Tuition & Fees COVID-19 Refund Litig.*, No. 20-CV-1946-LAB-WVG, 2023 WL 3316765, at *3 (S.D. Cal. May 8, 2023) (cancelled depositions of four witnesses, noticed over a month earlier, three of which were cancelled within an hour of their anticipated start). Again, Patent Owner regrets the course of events. Patent Owner could have proceeded with the depositions, and thereby avoided the current issue. Instead, Patent Owner decided to save everyone further expense as soon as it realized that the depositions should be canceled. To impose sanctions on such conduct would only encourage parties to proceed with meaningless depositions in instances where they could be canceled, thereby increasing the fees and costs on all involved. *See Inline Packaging LLC v. Graphic Packaging Intl. Inc.*, IPR2015-01609, Paper 27 at 2 (PTAB 2016) (denying authorization for motion for sanctions due to late cancellation of deposition as “Patent Owner, effectively, is no worse off than if Petitioner had conducted the deposition”).

The parties are available for a conference call with the Board on Mon 7/13 at any time before 1pm ET and will make themselves available at other times if the Board requests.

Regards,
Chad Walters
Lead Counsel for Petitioners

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