

MR TECHNOLOGIES, GMBH,)
)
 Plaintiff and) **Certified Transcript**
 Counterclaim Defendant,)
)
 vs.) Case No.
) 8:22-cv-01599-JVS-DFM
)
 WESTERN DIGITAL TECHNOLOGIES,)
 INC.,)
)
 Defendant and)
 Counterclaim Plaintiff.) **DAY 7, VOLUME I**
)

SANTA ANA, CALIFORNIA

UNITED STATES DISTRICT COURT

1 A That's correct.

2 Q Your friend Dr. Bertero is the one who called you to ask
3 for your help in this case; correct?

4 A That is correct.

11:24AM 5 Q And your \$600 an hour is much more per hour, that you're
6 making testifying for Western Digital, than you do as a
7 professor; fair?

8 A On an hourly basis, that is true.

9 Q Your role in this case is as an expert witness to prove
11:24AM 10 that Dr. Suess's patents are invalid for obviousness; correct?

11 A My role in this case is to evaluate the patents for
12 obviousness.

13 Q Now, before this case, you thought his patents were
14 pretty impressive, though; right?

11:24AM 15 A Before -- I hadn't even seen his patents until then.

16 Q Okay. You're a fellow with the IEEE; correct?

17 A True.

18 Q And in order to become a fellow, you have to be nominated
19 by another member; correct?

11:24AM 20 A True.

21 Q You were nominated by Dr. Bertero; right?

22 A No. I was nominated by Bill Doyle.

23 Q I'll withdraw.

24 You wrote a letter nominating Dr. Suess to become a
11:24AM 25 fellow of the IEEE; correct?

1 A This is true.

2 Q That's not something you told the jury; right?

3 A I don't think it's come up yet, no.

4 Q Okay. Can we pull up the email, please. And this is --

11:25AM 5 MR. LEE: Your Honor, this is not a trial exhibit.

6 It wasn't disclosed as a trial exhibit. They haven't even

7 tried to clear it.

8 MR. FENSTER: It's impeachment, Your Honor.

9 MR. LEE: I'm not sure --

11:25AM 10 MR. FENSTER: Not moving to admit it. It's

11 impeachment.

12 MR. LEE: What is the question that's being

13 impeached?

14 MR. FENSTER: It's showing that he's made

11:25AM 15 inconsistent statements.

16 MR. LEE: I don't think he's shown that there's any

17 inconsistent statements yet, Your Honor.

18 THE COURT: Objection sustained.

19 MR. FENSTER: Your Honor, he makes specific

11:25AM 20 statements about the patent in the nomination that are contrary

21 to what he's testified to here.

22 MR. LEE: Your Honor, he can ask the questions. If

23 there is inconsistency, he can try to impeach. He has not

24 asked any questions yet.

11:25AM 25 MR. FENSTER: I did ask the question: You thought

1 the patents were impressive before.

2 And I will show you the impeachment, Your Honor.

3 MR. LEE: Your Honor, the witness's testimony was he
4 hadn't seen the patents earlier. That was his testimony.

11:26AM 5 There's nothing inconsistent.

6 MR. FENSTER: He references them in this document
7 I'm going to show Your Honor.

8 THE COURT: Overruled.

9 MR. FENSTER: Thank you.

11:26AM 10 Can we pull up the email.

11 BY MR. FENSTER:

12 Q This is an email that you sent on January 31, 2017, to
13 Dr. Suess; correct?

14 A True.

11:26AM 15 Q It's entitled "IEEE Fellow"; correct?

16 A Well -- oh, yeah. Yes, it is.

17 Q And you say, "Attached are my proposed sections for your
18 nomination"; correct?

19 A True.

11:26AM 20 Q And you say:

21 "Your citation should read, 'For
22 contributions to the understanding of coercivity
23 and thermal stability of magnetic structures and
24 their optimization for storage devices'"; correct?

11:26AM 25 A True.

1 Q The next page is the attachment. And this is what you
2 wrote in support of Dr. -- of your nomination of Dr. Suess in
3 his -- for admission to be an IEEE fellow; correct?

4 A It's a draft of it.

11:27AM 5 Q You said:

6 "In 2005 Dr. Suess proposed exchange spring
7 media, which is a concept similar to ECC media.
8 Both media break the recording trilemma by allowing
9 very small grains to be both thermally stable and
10 easily written by conventional heads. This concept
11 opened a completely new view to the mechanism of
12 coercivity. The general belief was that a high
13 thermal stability goes along with a high
14 coercivity.

11:27AM 15 "However, the new media demonstrated that the
16 coercivity can be partially decoupled from
17 thermostability by the use of multiple magnetic
18 layers with graded anisotropy. The concept of
19 exchange spring media was patented by Dr. Suess in
11:28AM 20 2006."

21 I've read that correct so far; right?

22 A You have.

23 Q And then you go on:

24 "This new media storage" -- strike that.

11:28AM 25 You go on:

1 "This new storage media was quickly applied
2 by industry. Media based on the new concept was
3 quickly adopted by industry. Nowadays almost all
4 state-of-the-art hard disks rely on this idea. The
11:28AM 5 work on exchange spring media of Dr. Suess is cited
6 over 800 times."

7 That's what you wrote in his nomination; correct?

8 A This is true.

9 Q Now, the next page, you have to cite the three citations
11:28AM 10 that most support your nomination; right? In Section 6:

11 "List the three most important items of
12 tangible and verifiable evidence of technical
13 accomplishments"; right? You identified, number
14 one, Dr. Suess's 2005 article; correct?

11:29AM 15 A True.

16 Q Number two, you identified Dr. Suess's 2006 paper
17 describing the Intermag trilayer idea; correct?

18 A True.

19 Q And number three, you cited Dr. Suess's multilayer
11:29AM 20 exchange spring media, the patent publication US201000062286 in
21 2010; correct?

22 A I don't think that is an issued patent.

23 Q That is the published -- that's the publication of
24 Dr. Suess's patent; correct?

11:29AM 25 A I will take your word for it.

1 Q I will show it to you.

2 So this is the U.S. Patent Publication 2010 -- and
3 you see it ends in 2286?

4 A I'm sorry. I missed what you're saying.

11:29AM 5 Q Sure. The U.S. patent publication number -- you
6 understand that patents, before they are issued, are published
7 to the world?

8 A I do.

9 Q And there's a publication number; right?

11:30AM 10 A True.

11 Q And the publication number -- let's just look at the last
12 two -- 2286, in 2010; right?

13 A Right.

14 MR. FENSTER: Okay. Now, Mr. Mortensen, if you
11:30AM 15 could bring up the '864 patent. Thank you.

16 BY MR. FENSTER:

17 Q And you see the prior publication data?

18 A True.

19 Q And this is the 2286, 2010 patent publication that you
11:30AM 20 were referencing in your nomination letter for Dr. Suess to the
21 IEEE; correct?

22 A I am referencing it.

23 Q Okay.

24 THE COURT: We need to stop here, Mr. Fenster.

11:30AM 25 Ladies and gentlemen, we'll resume at 1:30. Please

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COUNTY OF LOS ANGELES)
)
STATE OF CALIFORNIA)

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Date: July 26, 2024

/S/ DEBBIE HINO-SPAAN

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