

**UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE PATENT TRIAL AND APPEAL BOARD**

UNITED SERVICES AUTOMOBILE ASSOCIATION,
Petitioner

v.

NADER ASGHARI-KAMRANI and KAMRAN ASGHARI-KAMRANI,
Patent Owners

U.S. PATENT NO. 8,266,432

CBM2016-00063 and CBM2016-00064

**PATENT OWNER MOTION FOR OBSERVATION REGARDING CROSS
EXAMINATION OF REPLY WITNESS DR. SETH NIELSON**

EXHIBIT

Exhibit 2014 Deposition Transcript of Seth Nielson, Ph.D., March 28, 2017

Pursuant to the Scheduling Order (Paper 15) in CBM2016-00063 and the Scheduling Order (Paper 15) in CBM2016-00064, Patent Owner respectfully submits the following observations regarding the March 28, 2017, cross-examination testimony of Petitioner's ("Petitioner") Reply declarant, Dr. Seth Nielson.

1. In Exhibit 2014, Deposition Transcript of Seth Nielson Ph.D., on page 16 line 13 to page 17, line 7, Dr. Nielson testified (with emphasis added):

Q. So then it would be my understanding that these CBMs involve two CBMs, and patent owner filed Patent Owner's Responses in both CBMs, and as far as you can remember, you only considered one of the responses; is that correct?

...

A. So the primary focus that I took in this document was to respond to the report of Dr. Weaver, and I felt that I had sufficient analysis to do so.

Q. Why did you focus on Dr. Weaver and not Patent Owner's Responses?

A. So I was -- so part of my answer to that is that I was asked to evaluate Dr. Weaver's report, and so this is an opinion I was asked to -- this is what I was asked to opine about, and that is also what I understood this declaration to be focused on, is a rebuttal declaration to that expert report primarily.

This testimony is relevant to the arguments on pages 2-27, Appendix 1, and Appendix 2 of the Patent Owner Response in CBM2016-00063 (Paper 22) and pages 2-27, Appendix 1, and Appendix 2 of the Patent Owner Response in CBM2016-00064 (Paper 22). The testimony is relevant as to whether a person of ordinary skill in the art (“POSITA”) would reasonably conclude that the inventors has possession of the invention claimed in the ‘432 patent in view of the claim constructions, arguments, or mappings of claim features asserted in the Patent Owner Response in CBM2016-00063 or the Patent Owner Response in CBM2016-00064 (hereinafter, “Patent Owner’s Responses”).

2. In Exhibit 2014, on page 17, line 20 to page 18, line 4, Dr. Nielson testified (with emphasis added):

Q. ... [T]he patent owner filed two Patent Owner’s Responses, one in each CBM, and you considered one of them. Do you know which one you considered? Did you consider the one from CBM2016 tack 0063 or the one from tack 0064?

A. Without looking at the one that is cited in paper 22, I’m not sure.

This testimony is relevant to the arguments pages 10, and 16-35 in both the Petitioner’s Reply to Patent Owner’s Response in both CBM2016-00063 and CBM2016-00064 (hereinafter, “Petitioner’s Replies”). The testimony is relevant

to the credibility of the Declaration of Seth Nielson (Exhibit 1054) (hereinafter, “Nielson Declaration”), which is relied on by the Petitioner’s Replies.

3. In Exhibit 2014, on page 22, line 16 to page 23, line 1, Dr. Nielson testified (with emphasis added):

Q. Does your declaration include any citations to any pages or tables inside of this document -- inside of the patent owners' response?

...

A. Off the top of my head, I don't remember if I cited to any of the appendices. Again, I – I focused primarily on Dr. Weaver's report and rebutting it.

This testimony is relevant to the mapping of claim terms stated in Appendices 1 and 2 of the Patent Owner’s Responses and on pages 22-27 and 31-33 of the Petitioner’s Replies. The testimony is relevant as to whether a POSITA would reasonably conclude that the inventors had possession of the claimed invention in view of the mapping of claim terms presented in Appendices 1 and 2 of Patent Owner’s Responses.

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