

Page 1

1 UNITED STATES PATENT AND TRADEMARK OFFICE
 2
 3 BEFORE THE PATENT TRIAL AND APPEAL BOARD
 4
 5 LKQ CORPORATION)
 6 Petitioner)
 7 v.)
 8 CLEARLAMP, LLC)
 9 Patent Owner)

Case IPR2013-00020
 Patent 7,297,364

14 The telephonic deposition of HARVEY BELL taken
 15 telephonically before Angela C. Loisi, Certified
 16 Shorthand Reporter and Notary Public, taken pursuant
 17 to the provisions of the Illinois Code of Civil
 18 Procedure and the Rules of the Supreme Court thereof
 19 pertaining to the taking of depositions for the
 20 purpose of discovery via a dial-in conference call,
 21 commencing at 1:03 p.m. on November 12, 2013.
 22 (Proceedings ended at 1:58 p.m.)
 23 Reporter: Angela C. Loisi, CSR, RPR
 24 License No.: 084-00457

Page 2

1 APPEARANCES:
 2 K&L GATES, LLP
 3 BY: MR. JASON ENGEL &
 4 MR. VIREN SONI
 5 70 West Madison Street, Suite 3100
 6 Chicago, Illinois 60602
 7 (312) 372-1121
 8 Representing the Petitioner;
 9
 10 HARNESS DICKEY
 11 BY: MR. DOUG ROBINSON
 12 7700 Bonhomme, Suite 400
 13 Clayton, MO 63105
 14 (314) 726-7500
 15 Representing the Patent Owner.
 16
 17
 18
 19
 20
 21
 22
 23
 24

Page 3

1 I N D E X
 2
 3 WITNESS: HARVEY BELL PAGE
 4 Examination by Mr. Engel 4
 5
 6 E X H I B I T S
 7
 8 HARVEY BELL EXHIBIT NO. PAGE
 9
 10 (NO EXHIBITS MARKED)
 11
 12
 13
 14
 15
 16
 17
 18
 19
 20
 21
 22
 23
 24

Page 4

1 (Witness sworn.)
 2 MR. ENGEL: This is Jason Engel for
 3 Petitioner, LKQ.
 4 WHEREUPON:
 5 HARVEY BELL,
 6 called as a witness herein, having been first duly
 7 sworn, was examined and testified as follows:
 8 EXAMINATION
 9 BY MR. ENGEL:
 10 Q. Mr. Bell, thank you for taking the time to
 11 sit for this limited deposition.
 12 And it's your understanding that you're here
 13 to talk about a few minor points in your declaration.
 14 Is that your understanding?
 15 A. That is correct. Paragraph 54, 55 and 79.
 16 Q. Okay. And have you had an opportunity to
 17 review those paragraphs in preparation for the
 18 deposition today?
 19 A. Yes.
 20 Q. Okay. Let's go to Paragraph 54 of your
 21 declaration.
 22 Do you have that there in front of you?
 23 A. I -- I do. Let me go to Page --
 24 Paragraph 54.

Page 1

1 UNITED STATES PATENT AND TRADEMARK OFFICE
2
3 BEFORE THE PATENT TRIAL AND APPEAL BOARD
4
5 LKQ CORPORATION)
6 Petitioner)
7 v.)
8 CLEARLAMP, LLC)
9 Patent Owner)

10 Case IPR2013-00020
11 Patent 7,297,364
12
13
14 The telephonic deposition of HARVEY BELL taken
15 telephonically before Angela C. Loisi, Certified
16 Shorthand Reporter and Notary Public, taken pursuant
17 to the provisions of the Illinois Code of Civil
18 Procedure and the Rules of the Supreme Court thereof
19 pertaining to the taking of depositions for the
20 purpose of discovery via a dial-in conference call,
21 commencing at 1:03 p.m. on November 12, 2013.
22 (Proceedings ended at 1:58 p.m.)
23 Reporter: Angela C. Loisi, CSR, RPR
24 License No.: 084-00457

Page 2

1 APPEARANCES:
2 K&L GATES, LLP
3 BY: MR. JASON ENGEL &
4 MR. VIREN SONI
5 70 West Madison Street, Suite 3100
6 Chicago, Illinois 60602
7 (312) 372-1121
8 Representing the Petitioner;
9
10 HARNESS DICKEY
11 BY: MR. DOUG ROBINSON
12 7700 Bonhomme, Suite 400
13 Clayton, MO 63105
14 (314) 726-7500
15 Representing the Patent Owner.
16
17
18
19
20
21
22
23
24

Page 3

1 I N D E X
2
3 WITNESS: HARVEY BELL PAGE
4 Examination by Mr. Engel 4
5
6 E X H I B I T S
7
8 HARVEY BELL EXHIBIT NO. PAGE
9
10 (NO EXHIBITS MARKED)
11
12
13
14
15
16
17
18
19
20
21
22
23
24

Page 4

1 (Witness sworn.)
2 MR. ENGEL: This is Jason Engel for
3 Petitioner, LKQ.
4 WHEREUPON:
5 HARVEY BELL,
6 called as a witness herein, having been first duly
7 sworn, was examined and testified as follows:
8 EXAMINATION
9 BY MR. ENGEL:
10 Q. Mr. Bell, thank you for taking the time to
11 sit for this limited deposition.
12 And it's your understanding that you're here
13 to talk about a few minor points in your declaration.
14 Is that your understanding?
15 A. That is correct. Paragraph 54, 55 and 79.
16 Q. Okay. And have you had an opportunity to
17 review those paragraphs in preparation for the
18 deposition today?
19 A. Yes.
20 Q. Okay. Let's go to Paragraph 54 of your
21 declaration.
22 Do you have that there in front of you?
23 A. I -- I do. Let me go to Page --
24 Paragraph 54.

Page 5

1 **Okay. I'm looking at Paragraph 54.**
2 Q. And for the record, this is Exhibit 2004.
3 And looking over Paragraph 54 and 55, it
4 appears from my understanding, that there were three
5 different experiments performed.
6 Is that your understanding as well?
7 **A. Well, I want to go back and check.**
8 Q. And maybe I can help direct you a little bit.
9 It appears in Paragraph 54 that there was an
10 experiment done at 1200 grit sandpaper, which you have
11 a picture following --
12 **A. Yes.**
13 Q. -- Paragraph 54?
14 So that would --
15 **A. Yes.**
16 Q. -- be one --
17 **A. Yeah.**
18 **THE COURT REPORTER:** And if I could just ask
19 you to please speak one at a time for the record, so
20 it's clear for the interruptions, please?
21 **THE WITNESS:** Okay. We will speak one at a
22 time.
23 **BY MR. ENGEL:**
24 Q. This is Jason Engel again.

Page 6

1 In Paragraph 55, it appears there are two
2 different experiments. One at 1500 grit sandpaper and
3 one at 320 grit sandpaper.
4 Is that your understanding?
5 **A. Yes.**
6 Q. Okay.
7 **A. And for -- this is Harvey.**
8 Q. And, Mr. Bell, for the experiment in
9 Paragraph 55, you provided a YouTube link for each of
10 those experiments to show videos of those experiments
11 being conducted.
12 Is that correct?
13 **A. That is correct.**
14 Q. And you do not have any video evidence of the
15 experiment in Paragraph 54.
16 Is that correct?
17 **A. That is correct.**
18 Q. Okay. So the experiment in Paragraph 54,
19 what was the purpose of that experiment?
20 **A. The experiment in 54 established that 1500**
21 **grit sandpaper does not get the clear coat off.**
22 Q. But the experiment in 54 used 1200 grit
23 sandpaper.
24 Is that correct?

Page 7

1 **A. Yes. So that -- if it has -- so this is**
2 **Harvey Bell speaking.**
3 **So 1200 grit sandpaper does not get clear**
4 **coat off. Therefore, the 1500 grit sandpaper is**
5 **substantially finer than the 1200 grit sandpaper**
6 **that's -- excuse me.**
7 **The 1500 grit sandpaper is substantially**
8 **finer than the 1200 grit sandpaper. And 1500 grit**
9 **sandpaper will not get the clear coat off.**
10 Q. Okay. So speaking on the experiment in
11 Paragraph 54 with the 1200 grit sandpaper, who
12 performed that test?
13 **A. The people at the -- at the plant.**
14 Q. What people at what plant?
15 **A. The people at the patent -- the patent owners**
16 **plant.**
17 Q. And you're referring to Clearlamp when you
18 said the "patent owners"?
19 **A. Yes.**
20 Q. Do you know who at Clearlamp performed this
21 test?
22 **A. I can find out. I talked to them. I don't**
23 **remember their name at the moment.**
24 Q. Were you present for this test?

Page 8

1 **A. I was not present for the test.**
2 Q. Do you know what the clear coat on the
3 headlamp was as they were trying to remove?
4 **A. No. I do not know exactly what the clear**
5 **coat composition was on the lamp.**
6 Q. Do you know if the lamp was braced at all
7 using any type of jig or other structure?
8 **A. No. I do not know exactly the -- how it**
9 **was -- whether it was braced in a jig.**
10 Q. And, also, just for the record to be clear,
11 it looks like in that same experiment you say one
12 portion was sanded with 1200 grit sandpaper, and the
13 other portion was sanded with 320 grit sandpaper.
14 Is that correct?
15 **A. That's what I was saying, yes.**
16 Q. Okay. And in your declaration you say the
17 bottom half of the lamp was sanded for about five
18 minutes with 1200 grit sandpaper.
19 Yet, in the picture, the bottom half appears
20 to have a cloudy appearance indicating that the clear
21 coat was removed.
22 Is that correct?
23 **MR. ROBINSON:** Objection; form.
24 This is Robinson.

Page 9

1 **BY MR. ENGEL:**
2 Q. You can answer, Mr. Bell.
3 **A. But Robinson objected.**
4 Q. That's fine. You can answer, unless you do
5 not understand my question.
6 **MR. ROBINSON:** Could we maybe get the
7 question red back?
8 This is Robinson.
9 **MR. ENGEL:** Yeah. I will rephrase it.
10 **BY MR. ENGEL:**
11 Q. In Paragraph 54, you say:
12 "Clearlamp then set up a test
13 where the bottom half of a
14 lamp was sanded for about five
15 minutes with a 1200 grit
16 sandpaper."
17 Do you see that?
18 **A. Yes.**
19 Q. And you go on to say:
20 "And the top portion was
21 sanded with a powered orbital
22 sander using 320 grit
23 sandpaper for five minutes."
24 Do you see that?

Page 10

1 **A. Yes.**
2 Q. And it says:
3 "As shown in the picture, the
4 difference is" --
5 I think there's some grammar errors here.
6 "The difference is clear coat
7 removal are substantial."
8 Do you see that?
9 **A. As shown in the picture, the differences --**
10 **the difference of clear coat removal is substantial.**
11 **Yes, I see that.**
12 Q. Okay. And there's a picture on the following
13 page, Page 21 --
14 **A. Yes.**
15 Q. -- headlamps; correct?
16 **A. Right.**
17 Q. And in that headlamp, the top half of the
18 headlamp is clear, and the bottom half of the headlamp
19 is cloudy; correct?
20 **A. The bottom half of the headlamp is cloudy.**
21 **The top half of the headlamp is not completely clear.**
22 Q. Okay. And the bottom half of the headlamp
23 being cloudy indicates that the clear coat has been
24 removed; correct?

Page 11

1 **A. No, it doesn't indicate that.**
2 Q. What does it indicate?
3 **A. It indicates that there's still a surface. I**
4 **mean, it's -- it's all cloudy.**
5 Q. Okay. So if the surface is cloudy then the
6 clear coat hadn't been removed?
7 **A. Yes. Yes. That's -- you can see -- you**
8 **know, if it has gone and not taken everything off,**
9 **there's a -- that cloudy -- is a residue that's**
10 **remaining.**
11 Q. Okay. Well, then let's go to Page 22 of your
12 declaration where you have two pictures. One of 1500
13 grit experiment, and another one of a 320 grit
14 experiment.
15 Do you see that?
16 **A. Yes.**
17 Q. And the 320 grit experiment, do you agree
18 with me that the entire surface of the headlamp is
19 cloudy?
20 **A. Yup.**
21 Q. So based on your testimony, the clear coat
22 has not been removed at the 320 grit sandpaper.
23 Is that correct?
24 **A. No. It would be the -- in this experiment,**

Page 12

1 **it was slightly different. The -- there's an**
2 **intermediate layer there in terms of this experiment.**
3 **So let's go back and review the -- the**
4 **intermedium layer there is the red coating; right?**
5 **Okay. So the -- when you take the 320 grits**
6 **it does the first of the step of getting rid of**
7 **everything.**
8 **But, clearly, the point that we are**
9 **establishing is that 1500 grit or 1200 grit sandpaper**
10 **does not remove the clear coat.**
11 **You got to start -- you've got to start and**
12 **get the 320 so that the red clear coat is removed to**
13 **get the very date done.**
14 **And then you got to -- then it's the -- 364**
15 **clearly demonstrates to get the process finished, you**
16 **need to go through and -- the entire lamp has to be**
17 **cleaned as a clear coat.**
18 Q. Okay. Let's go back to the figure on
19 Page 21. As you sit here today, do you know which
20 sandpaper was divided by which region of this lamp?
21 **MR. ROBINSON:** Objection.
22 Robinson. Objection; asked and answered.
23 **BY MR. ENGEL:**
24 Q. You could answer, Mr. Bell.

Page 13

1 A. So in the deposition, the bottom -- it says
2 pretty clear. Clearly set up the test for the bottom
3 half of the lamp, was standard for about five minutes
4 with the 1200 grit paper.
5 Okay. So it is -- you're asking what that
6 sentence means.
7 Is that correct?
8 Q. You weren't there when this experiment was
9 conducted; correct?
10 A. I was not there. I -- but I was trying to
11 understand your question. Did you not understand
12 those -- the words in the sentence?
13 Q. I understand -- I understand the words in the
14 sentence, Mr. Bell.
15 I am trying to establish whether you know for
16 a fact which sandpaper was applied to which reading
17 and what your basis for that understanding is.
18 A. So obviously I was not at -- present at the
19 test when they actually did it.
20 Q. And so the basis --
21 A. My basis is the -- is the -- is the document,
22 the description that was provided to me.
23 Q. There was a document provided to you?
24 A. Well, in the -- in the e-mail description

Page 14

1 of -- much the same way as what we're looking at right
2 now.
3 Q. Okay. Who sent you that e-mail?
4 MR. ROBINSON: Doug Robinson. Objection;
5 misstates testimony.
6 THE WITNESS: I'm not sure, to tell you the
7 truth.
8 BY MR. ENGEL:
9 Q. But did somebody at Clearlamp send you an
10 e-mail?
11 A. To tell you the truth, I just said, I'm not
12 sure. And I don't remember who exactly sent it to me.
13 Q. So your knowledge of which sandpaper was used
14 to sand down part of the land surface comes entirely
15 from outside of your own personal knowledge from
16 another party; right?
17 MR. ROBINSON: Objection; misstates
18 testimony.
19 THE WITNESS: So my -- my knowledge of what
20 was -- happened here is based on the testing that --
21 in the description of the test.
22 BY MR. ENGEL:
23 Q. And how did you receive that description of
24 the testing?

Page 15

1 Was it an e-mail or a telephone call or --
2 A. It's an e-mail.
3 Q. Okay.
4 A. I don't remember who -- I told you, I didn't
5 remember who sent me the e-mail.
6 Q. And do you know if that e-mail was attached
7 as an exhibit in your declaration?
8 A. I -- I don't know that. I don't believe it
9 was attached. I would have to go back and look at
10 every exhibit on the declaration.
11 Q. Okay. Well, we don't need to do that now.
12 Same with the experiment in Paragraph 54, did
13 you inspect the lamp depicted there before the test
14 was conducted?
15 A. No. I did not inspect the lamp before the
16 test was conducted.
17 Now, quite frankly, this whole line of
18 discussion is based on establishing that the Clearlamp
19 did not get re -- the clear coat did not get removed
20 from the corners.
21 Q. Okay. I would appreciate if you just
22 answered the question that I asked, Mr. Bell.
23 MR. ROBINSON: Objection; argumentative.
24 BY MR. ENGEL:

Page 16

1 Q. So you did not inspect the lamp before it was
2 tested; correct?
3 A. No, I didn't inspect the lamp before it was
4 tested.
5 Q. And did you inspect the lamp after it was
6 tested?
7 A. No, I did not inspect the lamp after it was
8 tested.
9 Q. Do you know the make and model of the car
10 that the lamp comes from?
11 A. No, I do not know the make and model of the
12 car that the lamp -- the car or lamp come from.
13 Q. Do you know whether the lamp was brand new?
14 A. I do not know whether or not the lamp was
15 brand new.
16 Q. And earlier we talked about you did not know
17 what clear coat was applied to the lamp.
18 Do you know --
19 A. It's a chemical composition. I do not know
20 what chemical composition was applied to the lamp.
21 Q. Do you know if it had ever had a clear coat
22 removed from the lamp and reapplied?
23 A. No. I do not know whether or not they
24 removed a clear coat and reapplied a clear coat.

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.