

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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AVAYA INC., DELL INC., SONY CORPORATION OF AMERICA,  
and HEWLETT-PACKARD CO.

Petitioners

v.

NETWORK-1 SECURITY SOLUTIONS, INC.

Patent Owner

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Case IPR2013-00071<sup>1</sup>  
Patent 6,218,930

Before JONI Y. CHANG, JUSTIN T. ARBES, and GLENN J. PERRY,  
*Administrative Patent Judges.*

ARBES, *Administrative Patent Judge.*

ORDER

Conduct of the Proceeding  
*37 C.F.R. § 42.5*

A conference call in the above proceeding was held on September 23,  
2013 among respective counsel for Petitioners and Patent Owner, and Judges

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<sup>1</sup> Cases IPR2013-00385 and IPR2013-00495 have been joined with this proceeding.

Chang, Arbes, and Perry. Petitioner Avaya Inc. (“Avaya”) requested the call to discuss Patent Owner’s purportedly late production of certain discovery. Specifically, Patent Owner served with its response on August 7, 2013, a declaration from Dr. James Knox (Exhibit 2015). The parties then scheduled Dr. Knox’s deposition for September 24, 2013. From September 18 to 22, 2013, Patent Owner produced certain expert reports and deposition transcripts from Dr. Knox in related litigations involving Patent 6,218,930 (the “’930 patent”), as well as other litigation expert reports pertaining to the ’930 patent.

Avaya requested that the trial schedule be extended to allow it sufficient time to review the new materials and prepare for the deposition. Patent Owner opposed the request. The parties expressed disagreement as to whether the new materials were produced late and as to whether they contain “relevant information that is inconsistent with a position advanced by [Patent Owner] during the proceeding” that should have been produced by Patent Owner as routine discovery under 37 C.F.R. § 42.51(b)(1)(iii).

The Board proposed going forward with Dr. Knox’s deposition as scheduled on September 24, 2013, and extending DUE DATE 2 by two weeks and DUE DATE 3 by one week to accommodate a second deposition of Dr. Knox regarding the newly produced materials if necessary. The parties agreed that with the modified schedule, a single deposition of Dr. Knox covering all issues could be scheduled, which would resolve the dispute. A Revised Scheduling Order modifying DUE DATES 2 and 3 will be entered concurrently with this Order.

Finally, the parties were reminded that discovery provided by one party in the instant proceeding should be provided to all other parties

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(e.g., from Patent Owner to all four Petitioners). If a party believes there is a reason not to do so for certain discovery, the party should request a conference call.

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