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1 PROCEEDINGS
2 JUDGE GREEN: GOOD AFTERNOON. THIS
3 IS JUDGE LORA GREEN. I ALSO HAVE ON THE LINE JUDGE
4 SHERIDAN SNEDDEN. I WOULD LIKE TO START WITH A ROLL

Transcript

5 CALL. WHO DO I HAVE FOR PETITIONER?
6 MS. HOLLIS: AMANDA HOLLIS AND MITCH
7 JONES, YOUR HONOR.
8 JUDGE GREEN: THANK YOU. AND THEN
9 WHO DO I HAVE FOR PATENT OWNER?
10 MR. ALTIERI: STEVE ALTIERI AND
11 LAURA CUNNINGHAM.
12 JUDGE GREEN: AND THEN DO WE HAVE A
13 COURT REPORTER ON THE LINE?
14 THE REPORTER: YES, WE DO.
15 MS. MARTINEZ: ALANA MARTINEZ IS
16 ALSO ON THE LINE FOR COOLEY.
17 JUDGE GREEN: SO WE DO HAVE A COURT
18 REPORTER FOR PATENT OWNER?
19 ||| UNCERTIFIED ROUGH DRAFT |||
20 THE REPORTER: MY NAME IS MICHEAL
21 JOHNSON. I'M THE COURT REPORTER.
22 JUDGE GREEN: AND THEN, PATENT

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3

1 OWNER, YOU'LL SUPPLY THE TRANSCRIPT OF THE CALL AS
2 AN EXHIBIT?
3 MR. ALTIERI: YES, YOUR HONOR, WE
4 WILL DO THAT.
5 JUDGE GREEN: OKAY. THANK YOU VERY
6 MUCH. IT'S MY UNDERSTANDING THAT PATENT OWNER
7 REQUESTED THE CALL TO DISCUSS FILING A MOTION FOR
8 ADDITIONAL DISCOVERY. WOULD PATENT OWNER LIKE TO
9 BEGIN?
10 MS. CUNNINGHAM: YES, PLEASE. THANK

Transcript

11 YOU, YOUR HONOR, THIS IS LAURA CUNNINGHAM FOR
12 COOLEY.

13 FIRST LET ME IDENTIFY THE DISCOVERY
14 THAT -- WHAT WE'VE PROPOSED TO SEEK IN THIS MOTION.
15 THESE ARE DOCUMENTS THAT RELATE TO THE BEAUDOIN
16 EXPERIMENTS CONDUCTED BY ONE OF PETITION' S
17 DECLARANTS, MR. BJØRN HAUGSGJERD. WE DEPOSED
18 MR. HAUGSGJERD LAST WEDNESDAY AND LEARNED HE
19 ||| UNCERTIFIED ROUGH DRAFT |||
20 CREATED -- HE IDENTIFIED A FEW DIFFERENT DOCUMENTS
21 HE CREATED CONTEMPORANEOUSLY WITH HIS EXPERIMENTS
22 INCLUDING LAB NOTEBOOKS TO -- AND A PROTOCOL TO

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4

1 MEMORIALIZE WHAT HE DID. THIS WAS A SURPRISE TO US
2 BECAUSE WE HAD PREVIOUSLY SOUGHT THIS DISCOVERY IN
3 THE ITC PROCEEDINGS AND HAD UNDERSTOOD THAT AKER DID
4 NOT HAVE THESE DOCUMENTS. HAD NOT WE KNOWN THAT, WE
5 WOULD HAVE SOUGHT THEM EARLIER. BUT NOW WE'RE IN A
6 POSITION WHERE WE'RE GETTING TOWARDS THE END OF OUR
7 DISCOVERY PERIOD AND WE HAVE OUR RESPONSE UPCOMING.
8 SO WE WOULD LIKE TO QUICKLY FILE UNDER AN
9 ACCELERATED SCHEDULE A MOTION FOR DISCOVERY OF THESE
10 DOCUMENTS. WE THINK THESE DOCUMENTS ARE HIGHLY
11 RELEVANT. THEY GO TO THE RELIABILITY OF THE
12 PROCEEDING. HE ALSO -- MR. HAUGSGJERD ALSO
13 TESTIFIED THAT THEY MAY INCLUDE ANALYSES PERFORMED
14 THAT WERE NOT REPORTED IN HIS DECLARATION, HE
15 COULDN'T RECALL FROM MEMORY AT HIS DEPOSITION. SO
16 WE THINK THESE ARE HIGHLY RELEVANT AND IT WOULD BE

Transcript

17 APPROPRIATE FOR US TO SUBMIT A MOTION TO THE BOARD
18 TO SEEK THAT PRODUCTION.

19 ||| UNCERTIFIED ROUGH DRAFT |||

20 JUDGE GREEN: OKAY. SO MY
21 UNDERSTANDING, AND I AM GOING TO PRONOUNCE THIS
22 INCORRECTLY AND I APOLOGIZE FOR THAT, WAS THAT

♀

5

1 MR. HAUGSGJERD, MR. -- WHAT WAS THE DECLARANT'S
2 NAME?

3 MS. CUNNINGHAM: YOUR HONOR, I THINK
4 I ALSO PRONOUNCED IT INCORRECTLY. THE NAME AS I CAN
5 SAY IT IS HAUGSGJERD, AND I CAN ALSO SPELL IT.

6 JUDGE GREEN: THAT WOULD BE GREAT.

7 MS. CUNNINGHAM: SURE. THE LAST
8 NAME IS H-A-U-G-S-G-J-E-R-D.

9 JUDGE GREEN: OKAY. SO THERE IS A
10 POSSIBILITY THAT I'M GOING TO PRONOUNCE THAT
11 INCORRECTLY AND I'M GOING TO APOLOGIZE FOR THAT.

12 SO THESE ARE DOCUMENTS THAT
13 MR. HAUGSGJERD DISCUSSED AT HIS DEPOSITION?

14 MS. CUNNINGHAM: CORRECT, YOUR
15 HONOR.

16 JUDGE GREEN: PETITIONER?

17 MS. HOLLIS: YES, YOUR HONOR, THIS
18 IS AMANDA HOLLIS FOR PETITIONER. WE WOULD OPPOSE

19 ||| UNCERTIFIED ROUGH DRAFT |||

20 THE MOTION FOR DISCOVERY. WE'VE ASKED THE PATENT
21 OWNER TO IDENTIFY WHAT IT BELIEVES IS -- IS IN THESE
22 DOCUMENTS THAT SATISFIES THEIR BURDEN OF SHOWING

1 THAT THE DISCOVERY IS REQUIRED IN THE INTEREST OF
2 JUSTICE. THEY HAVEN'T IDENTIFIED ANYTHING. THEY
3 JUST HAVE SAID THEY'RE ENTITLED TO THEM BECAUSE THEY
4 RELATE TO THE EXPERIMENT.

5 AND THERE ARE TWO SEPARATE TYPES OF
6 DOCUMENTS. THERE ARE NOTEBOOKS AND THERE ARE
7 REPORTS. THE NOTEBOOKS, YOUR HONOR, ARE PERSONAL
8 HARD COPY LABORATORY NOTEBOOKS BELONGING TO
9 MR. HAUGSGJERD. HE'S A NORWEGIAN CITIZEN AND THEY
10 ARE IN HIS POSSESSION IN NORWAY. HE HAS INDICATED
11 HE WOULD PREFER NOT TO RELEASE THOSE NOTEBOOKS. AT
12 LEAST ONE OF THEM CONTAINS INFORMATION THAT
13 RELATES -- DOES NOT RELATE AT ALL TO HIS WORK ON THE
14 BEAUDOIN EXTRACTION. AND WE DID NOT ASK HIM TO --
15 WE MEANING AKER, DID NOT ASK HIM TO CREATE THESE
16 NOTEBOOKS, SO THEY ARE REALLY HIS TO GIVE OUT.

17 THE REPORTS, WE HAVE A PRIVILEGE
18 CONCERN WITH THOSE. THE REPORTS ARE TWO DOCUMENTS.

19 ||| UNCERTIFIED ROUGH DRAFT |||
20 THEY'RE COMMUNICATIONS BETWEEN MR. HAUGSGJERD AND
21 AKER'S LEGAL TEAM. MR. HAUGSGJERD WAS RETAINED IN
22 CONNECTION WITH BOTH THE '348 PATENT REEXAMINATION

1 AND THE LITIGATION INVOLVING THE '348 PATENT IN THE
2 DISTRICT OF DELAWARE. AND THE FACT THAT THEY ARE
3 COMMUNICATIONS BETWEEN HIM AND ATTORNEYS WORKING ON

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