

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
BALTIMORE DIVISION

PAICE, LLC and
THE ABELL FOUNDATION, INC.,
Plaintiffs,

Case 1:14-cv-00492-WDQ

vs.

FORD MOTOR COMPANY,
Defendant.

_____ /

DEPOSITION OF GREGORY W. DAVIS, Ph.D.
Southfield, Michigan
Tuesday, January 13, 2015

REPORTED BY:

Paula S. Raskin, CSR-4757

Ref. No. 13176

TransPerfect Legal Solutions

1
2 January 13, 2015
3 9:02 A.M.
4
5 DEPOSITION OF GREGORY W. DAVIS, Ph.D., taken on
6 January 13, 2015 by the Plaintiffs at the Law
7 Offices of Brooks Kushman, 1000 Town Center,
8 Southfield, Michigan, before Paula S. Raskin,
9 Certified Shorthand Reporter and Notary Public
10 in and for the State of Michigan, County of
11 Oakland.
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1 INDEX TO EXAMINATIONS
2
3 Witness Page
4 GREGORY W. DAVIS, Ph.D.
5 EXAMINATION BY MR. CORDELL: 10
6
7 INDEX TO EXHIBITS
8
9 Exhibit Page
10 (Exhibits attached to transcript.)
11
12 EXHIBIT 1 - Declaration of Dr. Gregory W. 10
13 Davis in Support of Inter Partes
14 Review - Patent No. 7,104,347
15 EXHIBIT 2 - Declaration of Dr. Gregory W. 11
16 Davis in Support of Inter Partes
17 Review - Patent No. 7,104,347
18 EXHIBIT 3 - Davis Curriculum Vitae 14
19 EXHIBIT 4 - Patent 7,104,347 B2 43
20 EXHIBIT 5 - Patent 5,343,970 122
21 EXHIBIT 6 - Patent 5,586,613 185
22
23
24
25

	Page 6
1	EXHIBIT 7 - "Computer Modelling of the 203
2	Automotive Energy Requirements
3	for Internal Combustion Engine
4	and Battery Electric-Powered
5	Vehicles"
6	EXHIBIT 8 - "Optimisation and Control of a 204
7	Hybrid Electric Car"
8	EXHIBIT 9 - "A Hybrid Internal Combustion 204
9	Engine/Battery Electric Passenger
10	Car for Petroleum displacement"
11	EXHIBIT 10- "A Test-Bed Facility for Hybrid 206
12	IC-Engine/Battery-Electric Road
13	Vehicle Drive Trains"
14	EXHIBIT 11- "Integrated Microprocessor 206
15	Control of a Hybrid I.C.
16	Engine/Battery-Electric
17	Automotive Power Train"
18	
19	
20	
21	
22	
23	
24	
25	

	Page 7
1	PROCEEDINGS
2	Southfield, Michigan
3	January 13, 2015
4	9:02 a.m.
5	* * * *
6	GREGORY W. DAVIS, Ph.D.,
7	having been called as a witness herein, was
8	first duly sworn, examined, and testified as
9	follows: 09:02:31
10	MR. CORDELL: Ruffin Cordell and 09:02:31
11	Pete Guarnieri from Fish & Richardson on 09:02:35
12	behalf of PAICE, and with us is the 09:02:36
13	chairman of PAICE, Frances Keenan. 09:02:38
14	MR. ANGILERI: Frank Angileri for 09:02:41
15	Ford, and in the room are John Rondini, 09:02:45
16	Erin Bowles and Aaron Perez-Daple. 09:02:45
17	MR. CORDELL: Good morning, 09:02:50
18	Dr. Davis. 09:02:51
19	THE WITNESS: Good morning. 09:02:52
20	MR. CORDELL: My name is Ruffin 09:02:52
21	Cordell. We just met this morning. Did 09:02:55
22	you understand I represent PAICE? 09:02:55
23	THE WITNESS: Yes, I do. 09:02:55
24	MR. CORDELL: Is there any reason 09:02:57
25	why you can't testify completely and 09:02:58

	Page 8
1	truthfully here today? 09:03:00
2	THE WITNESS: No. 09:03:00
3	MR. CORDELL: Could you give us your 09:03:02
4	full name and address for the record. 09:03:03
5	THE WITNESS: Sure. It's 09:03:06
6	Dr. Gregory W. Davis, and I live in 09:03:07
7	Frankenmuth, Michigan, 143 Clarmarc Drive, 09:03:11
8	C-L-A-R-M-A-R-C, and the zip code is 48734. 09:03:16
9	MR. CORDELL: And you've been 09:03:24
10	deposed before? 09:03:24
11	THE WITNESS: Yes, I have. 09:03:26
12	MR. CORDELL: How many times? 09:03:27
13	THE WITNESS: I don't know. 09:03:28
14	MR. CORDELL: Over a dozen? 09:03:31
15	THE WITNESS: Probably not. 09:03:34
16	MR. CORDELL: You know that I'm 09:03:35
17	going to ask you a series of questions, 09:03:36
18	right? 09:03:38
19	THE WITNESS: Yes. 09:03:38
20	MR. CORDELL: And I'm going to 09:03:38
21	presume that you understand my question 09:03:39
22	unless you ask for clarification. Is that 09:03:41
23	fair? 09:03:43
24	THE WITNESS: Fair. 09:03:44
25	MR. CORDELL: And if -- from time to 09:03:45

	Page 9
1	time, Mr. Angileri may interpose an 09:03:50
2	objection. Unless he asks you not to 09:03:53
3	answer the question, you know you're 09:03:55
4	supposed to go ahead and answer it, 09:03:57
5	correct? 09:03:57
6	THE WITNESS: Correct. 09:03:57
7	MR. CORDELL: Okay. Good. 09:04:00
8	MR. ANGILERI: Mr. Cordell, before 09:04:01
9	we start, which deposition are you doing? 09:04:03
10	Because you guys noticed them both for 09:04:04
11	today. 09:04:06
12	MR. CORDELL: I plan on marking both 09:04:07
13	of the declarations, and then we'll see how 09:04:08
14	far we get. 09:04:13
15	MR. ANGILERI: You can mark them 09:04:13
16	both, but I want to proceed one at a time, 09:04:14
17	because if I'm going to make a relevance 09:04:18
18	objection, it needs to be in context. 09:04:21
19	MR. CORDELL: I'm not sure those are 09:04:23
20	appropriate in any context, but make 09:04:23
21	whatever objections you feel like you need 09:04:23
22	to. I'll try to make sure that I'm in 09:04:23
23	context. But the issues overlap, so I 09:04:28
24	don't think you can divide them that way. 09:04:31
25	MR. ANGILERI: I think you can. 09:04:32

Page 10

1 They're two separate proceedings. 09:04:34
 2 MR. CORDELL: You make your 09:04:36
 3 objections, I'll ask my questions. 09:04:37
 4 MR. ANGILERI: Well, which 09:04:39
 5 proceeding are you here for? 09:04:39
 6 MR. CORDELL: Well, we are here for 09:04:41
 7 IPR 2014-00571 and 2014-00579. I will 09:04:44
 8 begin with 571, if that helps you. 09:04:50
 9 MR. ANGILERI: Then I'll consider 09:04:53
 10 this a 571 deposition. 09:04:55
 11 MR. CORDELL: Again, I'm not going 09:04:56
 12 to agree that anything -- well, I not going 09:04:58
 13 to agree that that limitation prevents us 09:05:03
 14 from using questions that you consider to 09:05:05
 15 be appropriate to 571 in the 579 09:05:08
 16 proceeding. 09:05:13
 17 (DEPOSITION EXHIBIT 1 MARKED 09:05:13
 18 FOR IDENTIFICATION) 09:05:13
 19 EXAMINATION 09:05:13
 20 BY MR. CORDELL: 09:05:13
 21 Q. And with that, Dr. Davis, let me 09:05:14
 22 hand you what we've marked as Davis Exhibit 1, 09:05:16
 23 which for the record is the "Declaration of 09:05:19
 24 Dr. Gregory W. Davis in Support of Inter Partes 09:05:21
 25 Review Under," et cetera, but it's marked Ford 09:05:28

Page 11

1 Exhibit 1005, and it's for IPR Case Number 09:05:32
 2 IPR2014-00571. 09:05:36
 3 Is this your declaration, Dr. Davis? 09:05:42
 4 A. It appears to be, without any of the 09:06:42
 5 attachments. 09:06:44
 6 (DEPOSITION EXHIBIT 2 MARKED 09:06:44
 7 FOR IDENTIFICATION) 09:06:46
 8 Q. Okay. Now let me hand you what 09:06:46
 9 we've marked as Davis Exhibit 2, which is also 09:06:48
 10 entitled the "Declaration of Dr. Gregory Davis 09:06:51
 11 in Support of Inter Partes Review," et cetera, 09:06:54
 12 and it is marked Ford Exhibit 1108 for IPR Case 09:06:56
 13 Number IPR2014-00579. 09:07:02
 14 And, Dr. Davis, let me ask, is this 09:07:28
 15 the declaration you did in the 579 proceeding? 09:07:30
 16 A. It appears to be, again without any 09:08:11
 17 of the attachments. 09:08:14
 18 Q. Tell me how you put these 09:08:15
 19 declarations together. 09:08:17
 20 A. I'm not sure I understand your 09:08:22
 21 question. 09:08:23
 22 Q. How did you write these 09:08:24
 23 declarations? Did you sit in a room and write 09:08:26
 24 them? Did you have help? Was it a 09:08:28
 25 collaborative effort between you and the 09:08:32

Page 12

1 attorneys from Brooks Kushman? How did it 09:08:35
 2 happen? 09:08:37
 3 A. Well, I drafted this declaration 09:08:37
 4 much in the same way I would any. I had other 09:08:39
 5 people do most of the typing. I'm not the best 09:08:44
 6 typist in the world. I reviewed obviously the 09:08:49
 7 patents, the prior art, formed my opinions, 09:08:54
 8 often would tell others this is what I want to 09:09:03
 9 say, this is how I want to type it, and we 09:09:06
 10 would type it together. So I did it much in 09:09:10
 11 the same way I would any declaration. 09:09:13
 12 Q. When were you first contacted about 09:09:18
 13 this case? 09:09:20
 14 A. I'm not sure. 09:09:21
 15 Q. Well, it had to be after October of 09:09:25
 16 2013, right? 09:09:30
 17 A. I guess. I don't remember. 09:09:32
 18 Q. Who contacted you? 09:09:36
 19 A. I don't recall. Probably somebody 09:09:37
 20 from Brooks & Kushman. 09:09:40
 21 Q. But, suffice it to say, it was 09:09:44
 22 before April of 2014 when you signed these 09:09:45
 23 declarations. 09:09:48
 24 A. Certainly, yes. 09:09:48
 25 Q. About how much work went into 09:09:49

Page 13

1 putting the declarations together? 09:09:52
 2 A. I spent a lot of time on these. 09:09:53
 3 Q. How much? 09:09:55
 4 A. I can't put a number on it. 09:09:58
 5 Q. Two weeks? 09:10:01
 6 A. Remember, you have to understand, 09:10:04
 7 first of all, I have a day job too, so that 09:10:06
 8 these things take a lot longer. But I spent 09:10:08
 9 a -- much more than two weeks certainly. 09:10:12
 10 Q. More than a month? 09:10:15
 11 A. Yeah. 09:10:23
 12 Q. More than two months? 09:10:24
 13 A. Again, I don't know. I can't give 09:10:25
 14 you any specific dates, but I spent quite an 09:10:28
 15 amount of time. I don't remember all the 09:10:33
 16 details. 09:10:34
 17 Q. Have you ever worked with Ford 09:10:35
 18 before these two IPR proceedings? 09:10:40
 19 A. I'm not sure I understand. 09:10:43
 20 Q. Have you ever been a Ford employee? 09:10:45
 21 A. No. 09:10:51
 22 Q. Have you ever done a contract with 09:10:51
 23 Ford, contract work for Ford? 09:10:53
 24 A. Not that I believe, no. 09:10:56
 25 Q. Have you ever had any research 09:11:02

1 funded by Ford? 09:11:04
 2 A. Yes. I've had engines donated to my 09:11:09
 3 lab facilities, things like that. 09:11:12
 4 Q. Which lab? 09:11:14
 5 A. My advanced engine research lab up 09:11:15
 6 at Kettering University. 09:11:19
 7 Q. Does Ford get along with Kettering 09:11:20
 8 okay, despite its GM roots? 09:11:23
 9 A. Yes. 09:11:23
 10 Q. And aside from having engines 09:11:28
 11 donated, can you think of any other instance in 09:11:32
 12 which you've received any kind of financial 09:11:34
 13 support from Ford outside of this case? 09:11:38
 14 A. I've done another inter partes 09:11:40
 15 review in another case. 09:11:48
 16 Q. Okay. Describe that for me. 09:11:51
 17 A. It was regarding fuel pump 09:11:53
 18 technology. 09:11:56
 19 Q. Which case was that? 09:11:57
 20 A. I don't know the number or anything. 09:11:59
 21 Q. I'm going to mark as Davis Exhibit 3 09:12:07
 22 a copy of your CV, which is Ford Exhibit 1015. 09:12:09
 23 (DEPOSITION EXHIBIT 3 MARKED 09:12:06
 24 FOR IDENTIFICATION) 09:12:25
 25 A. Thank you. 09:12:25

1 Q. So what we've marked as Davis 09:12:29
 2 Exhibit 3 is in fact your current CV? 09:12:32
 3 A. It appears to be. 09:13:00
 4 Q. I note that you don't include 09:13:02
 5 litigation that you've been involved with on 09:13:05
 6 your CV. Can you describe for us the 09:13:07
 7 litigation you've had for the last five years, 09:13:11
 8 that you've been involved with for the last 09:13:15
 9 five years? 09:13:17
 10 A. I don't believe that's true. 09:13:17
 11 Q. Maybe I missed it. Where do you see 09:13:20
 12 it? 09:13:23
 13 Oh, there it is. You're right. 09:13:24
 14 It's in the middle of the document. 09:13:26
 15 So which of these cases involved 09:13:28
 16 Ford, if any? 09:13:32
 17 A. I forgot about this one. There's a 09:13:50
 18 case here where I represented Ford in the 09:13:53
 19 International Trade Commission. 09:13:57
 20 Q. In fact, you were adverse to 09:13:58
 21 Dr. Stein in the case, right? 09:14:02
 22 A. I don't remember that. I'm not sure 09:14:07
 23 that is true. 09:14:08
 24 Q. You don't recall Dr. Jeffrey Stein 09:14:10
 25 being on the other side of that case? 09:14:12

1 A. I don't recall. 09:14:15
 2 Q. Which side won that case? Do you 09:14:16
 3 recall? 09:14:19
 4 A. No. 09:14:19
 5 Q. You have no recollection of 09:14:21
 6 reviewing any of Dr. Stein's work in any case? 09:14:28
 7 A. I do believe Dr. Stein was 09:14:33
 8 representing or one of the experts on the other 09:14:39
 9 side in a case I did a number of years ago. 09:14:41
 10 Q. Which one was that? 09:14:46
 11 A. I'm not sure. 09:14:47
 12 Q. So I don't see any IPRs listed in 09:14:53
 13 the legal proceedings section. Is there one 09:14:59
 14 that you can recall where you assisted Ford? 09:15:04
 15 A. Again, I -- when I put this 09:15:08
 16 together, I believe I hadn't provided any 09:15:14
 17 testimony with regards to the IPR that I did 09:15:16
 18 with Ford. 09:15:20
 19 Q. Okay. And do you know who the other 09:15:22
 20 party is in that IPR? 09:15:24
 21 A. I'm not sure, but I believe it's 09:15:31
 22 TMC. 09:15:33
 23 Q. And what is the subject matter of 09:15:35
 24 the Ford-TMC IPR? 09:15:39
 25 A. Again, it involves fuel pumps. 09:15:42

1 Q. And is Ford or TMC the patentee? 09:15:46
 2 A. TMC I believe is the patentee. 09:15:54
 3 Q. Have you done a declaration in that 09:15:59
 4 case? 09:16:02
 5 A. Yes, I have. 09:16:02
 6 Q. Have you been deposed? 09:16:03
 7 A. Yes, I was deposed. 09:16:04
 8 Q. When? 09:16:06
 9 A. I don't recall the exact date. 09:16:07
 10 Q. Well, was it within the last six 09:16:18
 11 months? 09:16:21
 12 A. Yes, that would be fair. I believe 09:16:21
 13 it was. 09:16:23
 14 Q. Sometime in the fall? 09:16:23
 15 A. Yeah, it would be sometime I believe 09:16:25
 16 in the fall. 09:16:27
 17 Q. And who are the lawyers 09:16:29
 18 representing -- 09:16:30
 19 A. I think so, but I'm not actually a 09:16:31
 20 hundred percent sure on that, but I think it 09:16:33
 21 was in the fall. 09:16:35
 22 Q. Sometime in the back half of 2014? 09:16:35
 23 A. That sounds correct. 09:16:37
 24 Q. Really very few depositions in IPRs 09:16:40
 25 happen before that, so that's why -- 09:16:43

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