

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

HYDRITE CHEMICAL CO.,

Petitioner,

v.

SOLENIS TECHNOLOGIES, L.P.,

Patent Owner.

Case IPR2015-01586
Patent No. 8,841,469

and

Case IPR2015-01592
Patent No. 8,962,059

Deposition of DAVID A. ROCKSTRAW, Ph.D.,
P.E., taken in the above-entitled actions,
taken pursuant to all applicable rules, before
Sarah A. Hart-Reinicke, RPR, RMR, Certified
Realtime Reporter, and Notary Public in and
for the State of Wisconsin, at Quarles &
Brady, 411 East Wisconsin Avenue, Suite 2400,
Milwaukee, Wisconsin on March 11th, 2016,
commencing at 8:28 a.m. and concluding at
6:27 p.m.

Page 2	Page 4
<p>1 A P P E A R A N C E S: 2 APPEARING ON BEHALF OF PETITIONER: 3 QUARLES & BRADY LLP BY: CHRISTOPHER J. FAHY, ESQUIRE 4 300 North LaSalle Street, Suite 4000 Chicago, Illinois 60654-3422 5 (312) 715-5107 christopher.fahy@quarles.com 6 QUARLES & BRADY LLP 7 BY: JOEL A. AUSTIN, ESQUIRE RICHARD T. ROCHE, ESQUIRE 8 411 East Wisconsin Avenue, Suite 2400 Milwaukee, Wisconsin 53202-4426 9 (414) 277-5617 (414) 277-5805 10 joel.austin@quarles.com richard.roche@quarles.com 11 12 APPEARING ON BEHALF OF SOLENIS TECHNOLOGIES, L.P.: 13 BAKER & HOSTETLER LLP BY: JOSEPH LUCCI, ESQUIRE 14 Cira Centre, 12th Floor 2929 Arch Street Philadelphia, Pennsylvania 19104 15 (215) 568-3100 jlucci@bakerlaw.com 16 17 18 19 20 ALSO PRESENT: Mr. David R. Beine, general counsel Hydrite Chemical Company 21 22 23 24</p>	<p>1 2 Exhibit 10 Alther article found in March 188 1998 Chemical Engineering, Hydrite Exhibit 1007 3 Exhibit 11 ICI Americas, Inc. publication, 187 "The HLB System a Timesaving 4 Guide to Emulsifier Selection," Exhibit 1008 5 Exhibit 12 Summary Judgment of 282 NonInfringement, SJ-N.I. Reply Exhibit 4 6 Exhibit 13 U.S. Patent 5,283,322 dated 324 2/1/94, Martin, Hydrite Exhibit 1010 7 Exhibit 14 U.S. Patent 5,558,781 dated 326 9/24/96, Buchold, et al., Hydrite Exhibit 1011 9 Exhibit 15 U.S. Patent No. 6,013,157 dated 329 1/11/00, Li, et al., Hydrite Exhibit 1013 10 Exhibit 16 U.S. Patent Application 330 Publication No. US 2007/0210007 A1 dated 12 9/13/07, Scheimann, et al., Hydrite Exhibit 1014 13 Exhibit 17 U.S. Patent No. 6,548,102 B2 332 14 dated 4/15/03, Fenske, et al., Hydrite Exhibit 1015 15 16 (Original exhibits were attached to original 17 transcript; copies to transcript copies.) 18 19 20 21 22 23 24</p>
Page 3	Page 5
<p>1 I N D E X 2 E X A M I N A T I O N 3 BY MR. LUCCI: 5 BY MR. FAHY: 336 4 BY MR. LUCCI: 339 5 6 E X H I B I T S 7 EXHIBIT NO. PAGE IDENTIFIED 8 Exhibit 1 Patent Owner's Notice of 18 9 Deposition of Dr. David A. Rockstraw in Case IPR2015-01586, Patent No. 8,841,469 10 Exhibit 2 Patent Owner's Notice of 19 Deposition of Dr. David A. Rockstraw in Case IPR2015-01592, Patent No. 8,962,059 12 Exhibit 3 U.S. Patent 8,841,469 B2 dated 19 9/23/14, Hydrite Exhibit 1001 13 Exhibit 4 U.S. Patent 8,962,059 B1 dated 20 2/24/15, Solenis Exhibit 2001 14 Exhibit 5 Declaration of David A. Rockstraw, 23 Ph.D., P.E., U.S. Patent No. 8,841,469, Hydrite Exhibit 1005 16 Exhibit 6 Declaration of David A. Rockstraw, 23 Ph.D., P.E., U.S. Patent No. 8,962,059, Hydrite Exhibit 1005 17 Exhibit 7 Exhibit III To Defendants Joint 82 Motion for Summary Judgment, Declaration of David A. Rockstraw, Ph.D., P.E. 19 Exhibit 8 U.S. Patent 4,702,798 dated 161 10/27/87, Bonanno, Hydrite Exhibit 1006 20 Exhibit 9 U.S. Patent Application 275 Publication No. 22 US 2008/0110577 A1, Winsness, dated 5/15/08, Hydrite Exhibit 1012 23 24</p>	<p>1 TRANSCRIPT OF PROCEEDINGS 2 DAVID A. ROCKSTRAW, Ph.D., P.E., called 3 as a witness herein, having been first duly 4 sworn on oath, was examined and testified as 5 follows: 6 EXAMINATION 7 BY MR. LUCCI: 8 Q Would you state your full name for the record, 9 please. 10 A David Arthur Rockstraw. 11 Q Dr. Rockstraw, have you been deposed before? 12 A I have. 13 Q About how many times? 14 A Fifteen to 20. 15 Q Well, as you probably know, I'm going to be 16 asking questions today, and I would like you 17 to answer my questions with verbal answers. 18 Nods of the head don't show up too well on the 19 record that's being taken by the court 20 reporter, so I would appreciate it if you 21 would give me verbal responses. 22 You'll be able to do that? 23 A Yes. 24 Q Okay. Good. If a question is not clear that</p>

<p style="text-align: right;">Page 6</p> <p>1 I ask or if you don't hear all of it, please 2 ask me to clarify it or to complete the 3 question. 4 You can do that? 5 A I will. 6 Q Okay. I'm going to be announcing breaks at 7 reasonable times, but if there's some time 8 that you want to take a break, please let me 9 know, and we can do that, okay? 10 A Thank you. 11 Q Do you have any medical conditions that would 12 affect your ability to give testimony today? 13 A No. 14 Q No medications that you're on that would 15 affect memory, recall, things like that? 16 A None at all. 17 Q Okay. You mentioned you've been deposed 18 before. In what types of cases do you recall 19 being deposed? 20 A There's a number of cases involving trade 21 secrets, fires and explosions, process design 22 issues. All of them in the chemical process 23 industries. 24 Q Any other types of cases in which you've been</p>	<p style="text-align: right;">Page 8</p> <p>1 there? 2 A There was. This particular one involved a 3 antimicrobial additive for oral hygiene 4 products. 5 Q Do you recall the next case prior to that in 6 which you gave testimony in a patent context? 7 A When you say "patent," are you also referring 8 to trade secrets and -- or -- 9 Q If the case involved patents and trade 10 secrets, yes. If the case involved just trade 11 secrets, no. 12 A I don't recall the one prior to that that 13 involved patents. Most of them were trade 14 secret matters. 15 Q So as you sit here right now, you can't recall 16 any other cases in which you gave testimony 17 that involved patents besides the one in Salt 18 Lake City? 19 A Oh, yeah, I do. I recall the -- the one with 20 Stoel Rives involved a corn ethanol patent. 21 Q And what case was that? 22 A The defendant that I was representing was 23 Al-Corn. 24 Q Could you spell that?</p>
<p style="text-align: right;">Page 7</p> <p>1 deposed? 2 A I would have to go through my CV in order to 3 identify if there's others in there. 4 Q No others come to mind? 5 A Those -- that's the emphasis of the work I've 6 done. 7 Q Have you ever been deposed in a matter that 8 involved patents? 9 A Yes. 10 Q How many cases have you worked on that 11 involved patents? 12 A A handful, five, six. 13 Q When did you first get involved in a case 14 involving patents? Do you recall? 15 A I don't recall the first one. Again, I would 16 have to go through my CV. It was about 10 or 17 15 years ago. 18 Q When was the most recent time that you gave 19 testimony in a case involving patents? 20 A I was deposed on a case in Salt Lake City in 21 October of last year. 22 Q What kind of case was that? 23 A It's a patent case. 24 Q Was there a particular technology involved</p>	<p style="text-align: right;">Page 9</p> <p>1 A I believe it was A-L, hyphen, C-O-R-N. 2 Q What were the issues in that litigation? Do 3 you recall? 4 A It was the validity of a patent. 5 Q So the company you were working for was 6 defending against an assertion of patent 7 infringement? 8 A Yes. 9 Q Do you recall what type of activities they 10 were engaged in that were alleged to be 11 infringing? 12 A I think I might have misstated. It wasn't an 13 infringement case. It was an invalidity case. 14 Q So they were alleging a patent was invalid? 15 A Correct. 16 Q Was there an allegation by the patentee that 17 your client was infringing? 18 A There might have been. I don't recall. 19 Q You didn't involve yourself with any 20 allegations of infringement made against your 21 client; is that correct? 22 A That is correct. 23 Q You were only engaged in assessing the 24 validity of the patent that was on the other</p>

<p style="text-align: right;">Page 10</p> <p>1 side of their case? 2 A That's my recollection. 3 Q Was it one patent or more than one patent? Do 4 you recall? 5 A I recall one patent. 6 Q What type of technology did the patent claim 7 is being invented? 8 A I don't know how much I can talk about that 9 case, because it's my understanding that it's 10 been sealed. 11 Q Well, if there's any -- I don't -- I'm not 12 looking for you to breach any duty of 13 confidentiality that you have, but as with 14 most cases in federal court, there's some 15 information that's publicly available. 16 A Um-hmm. 17 Q And if you could -- you know, if you only feel 18 comfortable restricting yourself to that, 19 that's fine. But with that in mind, I would 20 still like you to answer my question. 21 A And I don't know where the line is of what I 22 can and can't talk about. I guess that's -- 23 that's something I'm not familiar with. 24 Q Did you give testimony in court or by</p>	<p style="text-align: right;">Page 12</p> <p>1 I'm saying he can answer that question. I'm 2 just cautioning him not to get into the 3 substance of our conversation. 4 MR. LUCCI: So it's your position 5 that there's a privilege between you and your 6 expert witness on the substance of your 7 communications? 8 MR. FAHY: If it was made in 9 preparing his declaration, for example, for 10 this case, it could be work product, yes. 11 MR. LUCCI: Counsel, I believe your 12 position is incorrect as a matter of law. I 13 would ask you to reconsider that and let the 14 witness answer fully on my question. 15 MR. FAHY: I said he can answer the 16 question. 17 MR. LUCCI: Fully. 18 MR. FAHY: But I'm cautioning the 19 witness not to get into the substance of our 20 conversations. But you can answer the 21 question that was answered -- that was asked. 22 THE WITNESS: Could I have the 23 question repeated? 24</p>
<p style="text-align: right;">Page 11</p> <p>1 deposition or both in that -- 2 A Just by deposition. 3 Q Is there anything you've said in your CV or on 4 your website about that case publicly? 5 A I have it as an entry in my CV, but it 6 provides no detail; it just says who the 7 parties were in the matter. 8 Q And you've never told anyone outside of that 9 case anything about it apart from what's in 10 your CV? 11 A No. 12 Q Did you ever tell counsel for Hydrite anything 13 about it? 14 A I told them that I testified on the matter. 15 Q Did you tell them anything other than the fact 16 that you testified on the matter? 17 MR. FAHY: I would counsel the 18 witness not to get into any of our substance 19 of our conversations because that's 20 privileged. 21 MR. LUCCI: Privilege on what basis? 22 MR. FAHY: Work product as part of 23 this case, the substance of what we talk about 24 with our expert witness. I'm not asking --</p>	<p style="text-align: right;">Page 13</p> <p>1 BY MR. LUCCI: 2 Q I am asking for what you told counsel for 3 Hydrite about your prior litigation that you 4 mentioned where you worked for the Stael Rives 5 firm. 6 MR. FAHY: Objection. Asked and 7 answered. But go ahead. 8 THE WITNESS: I told them that I was 9 involved in a matter that was similar to this 10 one, it involved the corn ethanol industry, 11 and that I took a position that a patent was 12 invalid and wrote an expert opinion to that 13 effect and testified in deposition to that 14 effect. 15 BY MR. LUCCI: 16 Q Did you tell them any of the substance of what 17 you wrote in your expert opinion or testified 18 about? 19 MR. FAHY: Objection. Asked and 20 answered. 21 THE WITNESS: They actually informed 22 me that that particular matter was sealed. 23 And at that point, I would not say anything, 24 because I don't know where the line is. I</p>

<p style="text-align: right;">Page 14</p> <p>1 have not confirmed with counsel at Stoel Rives 2 to what extent I could talk about it, so I 3 didn't talk about it. 4 BY MR. LUCCI: 5 Q Did you ever inquire of Stoel Rives or anyone 6 else the extent to which your testimony might 7 have been publicly available? 8 MR. FAHY: Objection. Asked and 9 answered. 10 THE WITNESS: I did not inquire 11 about that. 12 BY MR. LUCCI: 13 Q So over the last week or so -- let's broaden 14 it out. Over the last two weeks, did counsel 15 for Hydrite ask you about the substance of 16 your testimony in the litigation you mentioned 17 for Stoel Rives? 18 MR. FAHY: Same objection. 19 THE WITNESS: They did not ask me 20 about it. They told me that it was sealed. 21 BY MR. LUCCI: 22 Q Did you do anything to confirm or refute what 23 they told you about this being sealed? 24 MR. FAHY: Objection. Asked and</p>	<p style="text-align: right;">Page 16</p> <p>1 A In 2015 I would say it would be just under 2 50 percent. 3 Q And the remainder of that would have been from 4 your position at the university? 5 A That's correct. 6 Q And for 2014 what was the percentage of your 7 income that came from your consulting work? 8 A 2014 was a lean year. I would say it was 9 about 10 percent. 10 Q Over the last five years, what would you say 11 the percentage of your income derived from 12 consulting would be? 13 A Twenty to 25 percent. 14 Q And you are being compensated for your work in 15 this -- these proceedings, aren't you? 16 A Yes, I am. 17 Q And what's your rate or manner of 18 compensation? 19 A \$350 an hour. 20 Q And you're aware that you're testifying in two 21 inter partes review proceedings in the patent 22 office, correct? 23 A I am aware. 24 Q So if I would refer to those as IPRs today,</p>
<p style="text-align: right;">Page 15</p> <p>1 answered. 2 THE WITNESS: I did not. 3 BY MR. LUCCI: 4 Q Dr. Rockstraw, could you give me your home 5 address for the record? 6 A 2008 Calle de El Paso, Las Cruces, New Mexico. 7 Q Can you give me your current title as held in 8 any businesses in which you participate? 9 A I am the academic department head of the 10 chemical and materials engineering department 11 at New Mexico State University. I also hold 12 the title of Robert Davis Distinguished 13 Professor and NMSU Distinguished Achievement 14 Professor. 15 Q Are there any other businesses in which you 16 participate? 17 A My private practice, which -- David Rockstraw. 18 Q What do you mean by your "private practice"? 19 A I do consulting work. 20 Q How long have you done consulting work? 21 A I believe I got my first consulting engagement 22 in 1997. 23 Q For 2015 what percentage of your annual income 24 came from consulting?</p>	<p style="text-align: right;">Page 17</p> <p>1 that would be something that would be 2 acceptable to you? 3 A I understand that acronym, yes. 4 Q Okay. You understand. Good. 5 So what is the value of the work that 6 you've done so far in these IPRs? 7 A Are you asking -- 8 MR. FAHY: Objection. Form. Go 9 ahead. 10 THE WITNESS: -- the total amount 11 that I've billed? 12 BY MR. LUCCI: 13 Q I'm trying to get to the total amount that 14 you've billed, but also worked amounts that 15 you intend to bill but haven't billed yet. 16 MR. FAHY: Objection. Form. 17 THE WITNESS: Any number I give you, 18 of course, would be a guess based on my 19 recollection. I did some work last year in 20 the time frame of May to June that I think I 21 billed out probably about \$30,000 for. And 22 this particular engagement to come here is 23 probably on the order of 10- to 15,000. 24</p>

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