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

MICROSOFT CORPORATION

Petitioner

v.

BRADIUM TECHNOLOGIES LLC

Patent Owner

Case IPR2016-00448

Case IPR2016-00449

Patent No. 7,908,343

Patent No. 8,924,507

Oral Deposition of PEGGY ARGOUIS, Ph.D,
taken at the Law Offices Andrews Kurth Kenyon
LLP, 1350 I Street, NW, Suite 1100, Washington,
D.C., beginning at 9:25 a.m., on Friday, January
13, 2017 before Ryan K. Black, a Registered
Professional Reporter, Certified Livenote Reporter
and Notary Public in and for the District of Columbia.

Job No. 2513060

Pages 1 - 220

1 A P P E A R A N C E S:

2

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21

22

23

24

25

Page 2

1 Whereupon,

2 PEGGY ARGOURIS, Ph.D.,

3 called to testify, having been first duly sworn

4 or affirmed, was examined and testified as

5 follows:

6 MR. DAY: I'm Evan Day, from Perkins

7 Coie, representing the petitioner, Microsoft, in

8 this proceeding, along with Matt Bernstein, also

9 from Perkins Coie.

10 And, Chris, if you want to introduce

11 yourself for the record?

12 MR. COULSON: My name is Chris

13 Coulson, with Andrews Kurth Kenyon, representing

14 patent owner, Bradium.

15 EXAMINATION

16 BY MR. DAY:

17 **Q. All right.**

18 **Good morning, Dr. Argouis.**

19 A. Good morning.

20 **Q. I'm going to go through a few of the**

21 **standard instructions for a deposition. Now,**

22 **some of this you may have heard before. I**

23 **understand you've been deposed before, but,**

24 **you know, these instructions are helpful for**

25 **us to get through these proceedings and avoid**

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1 I N D E X

2 TESTIMONY OF: PEGGY ARGOUIS, PH.D PAGE

3 By Mr. Day.....4, 217

4 By Mr. Coulson.....192

5

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9 E X H I B I T S

10 EXHIBIT DESCRIPTION PAGE

11 Exhibit 1014 A Wikipedia article on

12 IEEE 802.11(a).....63

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1 **confusion in the record.**

2 **Since we are recording this**

3 **deposition, it's being transcribed by the court**

4 **reporter, but we don't have a videographer or**

5 **anything like that here, I want to make sure**

6 **that your responses are reflected clearly in**

7 **the record. So if I ask you a question, try**

8 **to verbalize the answer clearly, yes or no, as**

9 **opposed to uh-huh or nodding.**

10 A. Like that? Yes.

11 **Q. Exactly.**

12 A. Not like that.

13 **Q. Right. And note for the record you**

14 **were nodding, --**

15 A. Yes.

16 **Q. -- so that would be something that the**

17 **reporter wouldn't catch.**

18 A. Yeah.

19 **Q. I think both of us -- I'd like to ask**

20 **you to try and wait for me to finish my question**

21 **before you respond, and, at the same time, I**

22 **will do my best to avoid talking over you so**

23 **that our -- so that, you know, my questions and**

24 **your answers are -- again, that they're clear**

25 **in -- in the transcript.**

Page 5

1 A. Okay.

2 **Q. And if there's any uncertainty that**

3 **you have, if you don't understand a question**

4 **that I've asked, I'd ask you to ask me to**

5 **clarify the question and tell me what it**

6 **is that's unclear about the question.**

7 A. Okay.

8 MR. COULSON: Objection; form.

9 BY MR. DAY:

10 **Q. Additionally, you know, we'll probably**

11 **take a few breaks during this deposition. And**

12 **if you need to take a break at any time, just,**

13 **you know, let -- let your -- your counsel and**

14 **myself and the court reporter know. The only**

15 **things that I would ask are that we not take any**

16 **break while there's a question pending, and that**

17 **you not discuss the substance of your testimony**

18 **with counsel during the breaks.**

19 A. Okay.

20 **Q. Are -- you understand those -- those**

21 **instructions?**

22 A. I do.

23 **Q. And are you able to follow those**

24 **instructions?**

25 A. I will.

Page 6

1 **Q. Now, have you been deposed before?**

2 A. Yes, I have.

3 **Q. How many times?**

4 A. I want to say two. I think it's been

5 two -- no, three, actually. Because there was

6 one a while ago. Yeah, I think three.

7 **Q. And were those in regard to**

8 **litigation?**

9 A. Yes.

10 **Q. What were the names of the cases?**

11 A. That's a good question. Let me think.

12 The first one was a case against the

13 railroad. That was years ago. And the second

14 one was a case of Polaroid versus Hewlett

15 Packard. And the third one was Image Processing

16 against Canon.

17 **Q. Canon, --**

18 A. Yeah.

19 **Q. -- the camera company?**

20 A. Yeah.

21 **Q. Were all those patent infringement**

22 **matters or some other type of case?**

23 A. Well, the first one, I think it was

24 an accident -- well, actually, I know it was

25 an accident, and I was rendering an opinion

Page 7

1 based on imagery that existed which would

2 give information about the conditions that

3 -- the conditions that existed during the

4 accident.

5 That was not in a patent case. The

6 other two were.

7 **Q. All right. And in the Polaroid versus**

8 **HP case, which party were you retained by in**

9 **that case?**

10 A. Polaroid.

11 **Q. And were they the plaintiff in that**

12 **case?**

13 A. Yes.

14 **Q. They were alleging the patent**

15 **infringement against someone else?**

16 A. Against Hewlett Packard.

17 **Q. Okay. And in that Polaroid case, was**

18 **your role in regard to infringement or validity**

19 **or both or some other issue?**

20 A. Well, all I remember, and I'll tell

21 you all I remember, I was an expert in my field

22 and I rendered an opinion. And I don't remember

23 -- it's been years, I don't remember exactly

24 what it was in terms of the legal aspect of it.

25 **Q. And do you recall what law firm**

Page 8

1 **retained you in that case?**

2 A. Yes. Kirkland & Ellis.

3 **Q. Okay. And in that second case, the**

4 **Canon case, do you recall who the -- the -- the**

5 **adverse party was?**

6 A. By adverse party you mean?

7 **Q. Sorry. I'm using a legal term again.**

8 A. Yeah. It's okay.

9 **Q. Who was against Canon in that case?**

10 A. Image Processing Corporation, I think,

11 was the name of entity.

12 **Q. And were you retained by the attorneys**

13 **representing the plaintiff or the defendant in**

14 **that case?**

15 A. Image Processing Lab, --

16 **Q. Okay.**

17 A. -- yeah.

18 **Q. Okay. So in both of those cases,**

19 **you were retained by the plaintiff?**

20 A. Mm-hmm. Sorry.

21 **Q. And how many years ago was that Image**

22 **Processing case?**

23 A. I'm not sure. Several years ago.

24 It was -- yeah, it was a few years ago.

25 **Q. And what law firm retained you for**

Page 9

1 that case?
 2 A. Was it Kenyon -- Kenyon & Kenyon, or
 3 something, I think.
 4 Q. Was Mr. Coulson involved in that case?
 5 A. Yes, he was.
 6 Q. Okay. And what subject matter did you
 7 testify on in the Image Processing case?
 8 A. In my area of expertise, which is
 9 image processing, --
 10 Q. Okay.
 11 A. -- and related topics, yes.
 12 Q. Okay. So you'd characterize your area
 13 of expertise as image processing?
 14 A. No. My area of expertise is wider
 15 than that, but in that particular case, because
 16 the topic was in that area, that was the
 17 expertise that I offered.
 18 Q. Have you ever provided trial
 19 testimony?
 20 A. No, I have not.
 21 Q. And have you ever been retained and
 22 provided expert opinions in any other litigation
 23 matters?
 24 A. No. To the best of my recollection,
 25 no.

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1 Q. So those three cases that
 2 we talked about earlier, the -- the railroad
 3 accident case and those two patent matters,
 4 the Polaroid versus HP and then the Image
 5 Processing versus Canon, those are the only
 6 instances where you've provided assistance in
 7 a litigation matter?
 8 A. Well, these were the cases I wrote an
 9 expert report, and I was deposed for these
 10 cases.
 11 Q. Okay. And I just want to make this
 12 clear from my previous question, so are those
 13 the only cases where you've written an expert
 14 report?
 15 A. I believe so.
 16 Q. Okay. When were you first retained by
 17 Mr. Coulson's firm on behalf of Bradium in this
 18 case?
 19 A. I'm sorry. I don't remember.
 20 MR. COULSON: Objection to form.
 21 THE WITNESS: Yeah, I don't remember
 22 exactly when it was. It was a while ago.
 23 I don't remember exactly.
 24 BY MR. DAY:
 25 Q. So when you say a while ago, I mean,

Page 11

1 would that be more than a year?
 2 A. I'm not sure.
 3 Q. Were you retained before -- do
 4 you know if you were retained before or after
 5 Bradium -- let me restart that question.
 6 At the time you were retained, were
 7 there already proceedings pending at the Patent
 8 Office to invalidate the Bradium patents?
 9 A. I don't know. I don't remember.
 10 Q. When did you first start performing
 11 work for Bradium on this matter?
 12 A. I think it was a few months ago, but
 13 I'm not sure.
 14 You have to understand, this is
 15 not my regular job. My job is really
 16 very demanding, so I don't remember exactly.
 17 Q. Okay. Would that have -- before this
 18 summer?
 19 MR. COULSON: Objection; form.
 20 THE WITNESS: I'm not sure.
 21 BY MR. DAY:
 22 Q. Now, did you start working on this
 23 case immediately after you were retained, or
 24 was there some -- was there some lag time
 25 between when you -- I assume you signed some

Page 12

1 sort of agreement and then you started working
 2 on the case?
 3 MR. COULSON: Objection; form.
 4 THE WITNESS: Well, let me try to
 5 remember.
 6 Probably. There usually is some sort
 7 of time before I dedicate my time into something
 8 like this, but I don't remember exactly the
 9 interaction or anything else that had occurred
 10 during that time, like, when and how -- no,
 11 sorry, when.
 12 BY MR. DAY:
 13 Q. Have you been asked to perform any
 14 tasks for Bradium, other than preparing your
 15 declaration for these IPRs?
 16 MR. COULSON: Objection.
 17 THE WITNESS: What do you mean other
 18 tasks?
 19 BY MR. DAY:
 20 Q. Well, so, I mean, I'm aware that you
 21 submitted declarations with respect to two inter
 22 partes reviews that have been instituted, as
 23 well as another -- as well as a declaration for
 24 another petition for inter partes review, which
 25 is pending an institution decision. Have you

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1 performed any work for Bradium other than those
 2 matters?
 3 MR. COULSON: Objection. In that form
 4 it calls for work product. And in its current
 5 form, I'd instruct the witness not to answer
 6 that question.
 7 BY MR. DAY:
 8 Q. Are you going to follow that
 9 instruction?
 10 A. Yes, I will.
 11 Q. You mentioned in both of your
 12 declarations that you're being compensated
 13 at your customary rate. What is that rate?
 14 A. \$500 an hour.
 15 Q. Do you have any -- is there any
 16 additional compensation that you're receiving
 17 in addition to hourly compensation?
 18 A. No.
 19 Q. How much time would you estimate that
 20 you've spent on this matter relating to Bradium?
 21 And when I say that, although there are separate
 22 Patent Office proceedings, I'm, you know,
 23 referring to your whole engagement with Bradium.
 24 How much time do you think you've spent on that?
 25 A. I'm not sure.

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1 Q. More than 50 hours?
 2 A. I'm not sure. I haven't even really
 3 recorded some of these things yet.
 4 Q. What do you mean you haven't recorded
 5 some of these things yet?
 6 A. I mean to provide to ask for
 7 compensation yet. So I'd have to go back and
 8 check my records for that, and I don't have it
 9 off the top of my head.
 10 Q. But you do have records that would
 11 indicate how much time you've spent on this
 12 matter?
 13 MR. COULSON: Objection; form.
 14 THE WITNESS: Well, I try to reflect
 15 that to the best of my ability when I'm billing
 16 for my work.
 17 BY MR. DAY:
 18 Q. Had you ever heard of Bradium before
 19 you were first approached by counsel to work on
 20 this matter?
 21 A. No.
 22 Q. Had you ever heard of 3DVU before you
 23 were asked to work on this matter?
 24 A. What do you mean 3DVU?
 25 Q. Are you -- you're not familiar with

Page 15

1 that company name?
 2 A. Nope.
 3 Q. Okay. So even now, as you're sitting
 4 in your deposition, you're not aware of what --
 5 the names 3DVU Limited or 3DVU, Inc., are not
 6 something you're familiar with?
 7 A. No. You asked 3DVU, and 3DVU could
 8 be a technical term. That was my -- my
 9 -- sorry, I have -- my answer -- my question.
 10 Q. Okay. And just to clarify that, 3DVU
 11 would be spelled out three, and then the letters
 12 D-V-U. And there would be one company named
 13 3DVU Limited and a 3DVU, Inc. And is it your
 14 testimony that you're not familiar with either
 15 of those entities?
 16 A. I don't remember. Have I included
 17 something like this in my report?
 18 Q. I mean, I would have to -- I'd have to
 19 do a search in your report, but as of right now
 20 the question is if you have any familiarity with
 21 those?
 22 MR. COULSON: Objection to form.
 23 THE WITNESS: I don't remember.
 24 BY MR. DAY:
 25 Q. How about GA Central or Gacentral.com?

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1 A. I don't remember.
 2 Q. Flyover Technologies, do you have any
 3 familiarity with an entity by that name?
 4 A. I don't remember.
 5 Q. Have you ever spoken to Isaac Levanon?
 6 A. No.
 7 Q. Have you ever -- have you spoken
 8 with anyone affiliated with Bradium, other than
 9 counsel in this matter?
 10 MR. COULSON: Objection; form.
 11 THE WITNESS: I'm trying to remember.
 12 I'm not sure. I'm not sure.
 13 BY MR. DAY:
 14 Q. Now, are all of the materials that you
 15 reviewed in order to provide your opinion in
 16 this case identified in your declaration?
 17 MR. COULSON: Objection.
 18 THE WITNESS: Well, I reviewed a lot
 19 of materials, as you probably can tell. And to
 20 the best of my ability, I included the ones that
 21 I thought were more appropriate in my
 22 declaration.
 23 BY MR. DAY:
 24 Q. Okay. I'm going to ask you a few
 25 questions about your background. And before we

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