Page 1

UNITED STATES INTERNATIONAL TRADE COMMISSION
WASHINGTON, DC

Investigation No. 337-TA-1076

In the matter of:

CERTAIN MAGNETIC DATA STORAGE

TAPES AND CARTRIDGES CONTAINING

THE SAME (II)

CONFIDENTIAL - PURSUANT TO PROTECTIVE ORDER

DEPOSITION of THOMAS VON ALTEN

WASHINGTON, DC

May 4, 2018 - 9:03 A.M.

Reported by:

S. Arielle Santos

JOB NO. 21434

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	Daga 2		Dogo 4
	Page 2		Page 4
1		1	COUNSEL FOR RESPONDENTS:
2	DEPOSITION of THOMAS VON ALTEN, before S.	2	BY - NATHAN SPEED, ESQ.
3	Arielle Santos, Certified Court Reporter,		Nathan.Speed@WolfGreenfield.com
4	Certified LiveNote Reporter and Notary Public,	3	WOLF GREENFIELD & SACKS P.C.
5	taken at 1299 Pennsylvania Avenue, Northwest,	4	600 Atlantic Avenue
6	Washington, DC, on May 4, 2018.	5	Boston, MA 02210
7		6	
8		7	
9		8	
10		9	CHARLIE WIDNER, Legal Videographer
11		10	
12		11	
13		12	
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15		14	
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20		20	
21		21	
22		22	
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1	APPEARANCES:	1	
2		2	INDEX
3	COUNSEL FOR FUJIFILM COMPLAINANTS:	3	THOMAS W. VON ALTEN 8
4	BY - MARGARET WELSH, ESQ.	4	BY MS. WELSH 8
	margaret.welsh@bakerbotts.com	5	BY MR. TAYLOR 278
5	BAKER BOTTS LLP	6	BY MS. WELSH 308
6	30 Rockefeller Plaza	7	BT MS. WELSIT 500
7 8	New York, NY 10112	8	
9	COUNSEL FOR FUJIFILM COMPLAINANTS:	_	
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	katharine.burke@bakerbotts.com	10	MON ALTERNATIONS AND ARTER AND ARTER
11	BAKER BOTTS LLP	11	VON ALTEN EXHIBITS MARKED - ATTACHED
12	1299 Pennsylvania Avenue, NW	12	Exhibit 1, US Patent Number 6,462,905 11
13	Washington, DC 20004	13	Exhibit 2, opening exhibit report of 11
14		14	Thomas W. Von Alten regarding
15	COUNSEL FOR US INTERNATIONAL TRADE COMMISSION	15	invalidity of US Patent Number
16	BY - TODD P. TAYLOR, ESQ.	16	6,462,905
	todd.taylor@usitc.gov	17	Exhibit 3, US Patent Number 5,901,916 141
17	UNITED STATES INTERNATIONAL TRADE COMMISSION	18	Exhibit 4, FF-Sony-ITC2_00035239 178
18	500 E Street, SW	19	Exhibit 5, EP Patent Publication Number 185
19 20	Washington, DC 20436	20	0,284,687
21		21	Exhibit 6, Japanese Patent Application 214
		1	· / 1 · · · · · · · · · · · · · · · · ·

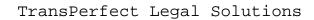
2 (Pages 2 to 5)

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	Page 6		Page 8
1	Exhibit 7, Tsuyuki Reference Unexamined 238	1	At this time will counsel
2	Patent Application H11-288571	2	please introduce themselves.
3	Exhibit 8, Examine Utility Model 250	3	MS. WELSH: I'm Margaret
4	Application Publication	4	Welsh, from Baker Botts, for
5	S63-11776	5	Fujifilm complainants.
6	Exhibit 9, European Patent Application 251	6	MS. BURKE: Katharine Burke
7	Number EP0926676	7	from Baker Botts for Fujifilm
8	Exhibit 10, International Publication 271	8	complainants.
9	Number WO99/41513	9	MR. SPEED: Nathan Speed
10	Exhibit 11, drawing 291	10	from Wolf Greenfield & Sacks for
11	, 6	11	respondents.
12		12	THE VIDEOGRAPHER: Court
13		13	reporter please swear in the
14		14	witness and we can proceed.
15		15	(Whereupon Thomas W. Von
16		16	Alten is Sworn In.)
17		17	THE WITNESS: I do.
18		18	BY MS. WELSH:
19		19	Q Good morning, Mr. Von
20		20	Alten.
21		21	A Good morning.
22		22	Q Could you please state your
	Page 7		Page 9
1	THE VIDEOGRAPHER: This is	1	full name for the record?
2	Tape Number 1 of the videotaped	2	A Thomas William Von Alten.
3	deposition of Thomas Von Alten	3	Q And where do you reside?
4	in the matter of In Re: Certain	4	A In Boise, Idaho.
5	Magnetic Storage Tapes and	5	Q And do you understand that
6	Cartridges Containing The Same,	6	you're here today under oath to tell
7	United States International	7	the truth?
Ŕ	Trade Commission Washington, DC,	8	A I do.
9	Investigation Number 337-	9	Q And do you understand that
10	TA-1076.	10	this is the same oath that you would
11	This deposition is being	11	take if you were testifying in court?
12	held at Baker Botts located at	12	A I do.
13	1299 Pennsylvania Avenue, NW,	13	Q And have you ever been
14	Washington, DC, 20004, on May 4,	14	deposed before?
15	2018, at approximately 9:03 a.m.	15	A Once in this case.
16	My name is Charlie Widner	16	Q In this case.
17	from the firm of TransPerfect	17	And when was that?
18	Legal Solutions and I am the	18	A In Boston, April.
19	legal video specialist. The	19	Q So you're fairly familiar
20	court reporter today is Arielle	20	with the process then, it was fairly
21	Santos in association with	21	recent?
22	TransPerfect Legal Solutions.	22	A The mechanics, yeah.

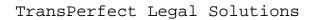
3 (Pages 6 to 9)





	Page	10	Page 12
1	Q Okay.		opening exhibit report of Thomas W.
2	So I'll remind you that the	2	Von Alten regarding invalidity of US
3	court reporter is taking a transcript	3	Patent Number 6,462,905.
4	of everything that you say, and it's	4	Would you please turn to
5	important that we don't speak over each	5	Exhibit 1, the '905 patent?
6	other. So I will let you finish your	6	A (Reviewing.) I have it.
7	answers and if you would please let me	7	Q Do you recognize it to be
8	finish my questions, that would be	8	the '905 patent which you've offered an
9	helpful.	9	opinion on?
10	If you need a break just	10	A I do.
11	let me know and then we'll take a	11	Q And is it okay if I refer
12	break. And please give verbal answers,	12	to this document as the '905 patent?
13	okay or yes or no, just so the court	13	A Yes.
14	reporter can take down those answers.	14	Q You've reviewed this patent
15	A I will do my best.	15	for the case, correct?
16	Q Okay. And if I ask you a	16	A I have.
17	question and you don't understand,	17	Q And have you reviewed the
18	please let me know, and I will try to	18	whole patent or just portions of it?
19	rephrase. But if you don't ask me to	19	A The whole patent.
20	clarify, I'll assume that you	20	Q And when was the first time
21	understood the question.	21	you saw the '905 patent?
22	A Okay.	22	A I can't be certain, but I
	Page	11	Page 13
1	Q Is there any reason you	1	was engaged by Sony in November of last
2	can't provide your full truthful and	2	year, so no later than that.
3	accurate testimony today?	3	Q And at that time, you read
4	A There is not.	4	the patent in November?
5	Q Are you on any medications	5	A I did.
6	that might affect your testimony?	6	Q And was there anything in
7	A I am not.	7	the patent that you didn't understand?
8	MS. WELSH: I would like to	8	A I think I have a pretty
9	mark this as Exhibit 1.	9	good handle on it all.
10	(Exhibit 1 is Marked.)	10	Q And are there any mistakes
11	MS. WELSH: And I'll mark	11	or anything that you disagree with in
12	this as Exhibit 2.	12	the patent?
13	(Exhibit 2 is Marked.)	13	A That is a very broad
14	MR. SPEED: Is that his	14	question. My report speaks to what I
15	report?	15	found in the patent.
16	THE WITNESS: Thank you.	16	Q And sitting here today, can
17	BY MS. WELSH:	17	you think of anything in particular,
18	Q So I have handed you two	18	any mistake that you saw in the patent?
19	exhibits.	19	A Again, I it's not a
20	One is the US Patent Number	20	simple short answer question. My
21	6,462,905.	21	report speaks to it at great length and
22	And Exhibit 2 is the	22	detail.

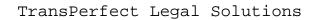
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1	Q And anything in particular	1	Q Are there portions of the
2	that you disagreed with in the patent	2	report that you drafted yourself?
3	just sitting here today?	3	A Yes. We worked together on
4	A (Reviewing.) Same answer.	4	drafting this report.
5	Q And you reviewed and	5	Q Were you sitting in a room
6	understood the claims of the '905	6	drafting the report together?
7	patent; is that correct?	7	A Well, I live in Boise and
8	A I did.	8	the attorneys are in Boston and New
9	Q And you've prepared an	9	York when they're not traveling, and so
10	expert report in this case, right?	10	we worked together remotely via
11	A I have.	11	telephone and e-mail.
12	Q And if you turn to	12	Q And if you turn to page
13	Exhibit 2, do you recognize that to be	13	6 263?
14	• •	14	A (Reviewing.) I'm there.
15	your opening expert report regarding the asserted claims of the '905 patent?	15	Q And is that your signature
16		16	on the bottom of the page?
17	A The weight is about right,	17	A It is.
18	cover page looks good, and I will assume you have copied it accurately.	18	Q And is there any mistakes
19		19	
20		20	or omissions in your report that you're aware of?
21	report are your own, correct? A I worked together with the	21	A There are none that I am
22	Sony's counsel to produce this report.	22	aware of that I can point to and say
22		22	·
	Page 15		Page 17
1	Q So are the words in the	1	this was a mistake.
2	report Sony's counsel's words or your	2	Q And this report contains
3	own words?	3	all the opinions that you intend to
4	MR. SPEED: Objection.	4	express at trial; is that right?
5	THE WITNESS: The report	5	A With the reservation as
6	and its conclusions are mine and	6	stated, and in light of the additional
7	I worked together with Sony's	7	documents that I have seen in regard to
8	counsel to produce it.	8	this case.
9	BY MS. WELSH:	9	Q And what additional
10	Q How much of the drafting	10	documents are those?
11	did Sony's counsel do on this report?	11	A I have seen Dr. Messner's
12	A Do you want a percentage?	12	report, Dr. Slocum's report, and the
13	Q Yeah, a percentage will be	13	two gentlemen's rebuttals, and the
14	fine.	14	transcripts of their depositions.
15	A I don't think it makes	15	There was also an additional document
16	sense to divide it out that way. We	16	that Dr. Messner referred to in his
17	worked together on it in a	17	rebuttal that I have looked at.
18	collaborative and iterative process	18	Q And did those documents
19	over a couple of months.	19	change your opinion of the of the
20	Q So more than half?	20	opinions in your report?
21	A I refer you to my previous	21	A Not materially, no.
22	answer. We worked together on it.	22	Refined some of the points,

5 (Pages 14 to 17)





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