

UNITED STATES INTERNATIONAL TRADE COMMISSION

WASHINGTON, DC

Investigation No. 337-TA-1076

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In the matter of:

CERTAIN MAGNETIC DATA STORAGE

TAPES AND CARTRIDGES CONTAINING

THE SAME (II)  
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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

TransPerfect Legal Solutions

Page 2

1  
2 DEPOSITION of THOMAS VON ALTEN, before S.  
3 Arielle Santos, Certified Court Reporter,  
4 Certified LiveNote Reporter and Notary Public,  
5 taken at 1299 Pennsylvania Avenue, Northwest,  
6 Washington, DC, on May 4, 2018.  
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2 INDEX  
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10  
11 VON ALTEN EXHIBITS MARKED - ATTACHED  
12 Exhibit 1, US Patent Number 6,462,905 11  
13 Exhibit 2, opening exhibit report of 11  
14 Thomas W. Von Alten regarding  
15 invalidity of US Patent Number  
16 6,462,905  
17 Exhibit 3, US Patent Number 5,901,916 141  
18 Exhibit 4, FF-Sony-ITC2\_00035239 178  
19 Exhibit 5, EP Patent Publication Number 185  
20 0,284,687  
21 Exhibit 6, Japanese Patent Application 214  
22 Publication H11-273307

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

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1 Q Okay.  
2 So I'll remind you that the  
3 court reporter is taking a transcript  
4 of everything that you say, and it's  
5 important that we don't speak over each  
6 other. So I will let you finish your  
7 answers and if you would please let me  
8 finish my questions, that would be  
9 helpful.  
10 If you need a break just  
11 let me know and then we'll take a  
12 break. And please give verbal answers,  
13 okay or yes or no, just so the court  
14 reporter can take down those answers.  
15 A I will do my best.  
16 Q Okay. And if I ask you a  
17 question and you don't understand,  
18 please let me know, and I will try to  
19 rephrase. But if you don't ask me to  
20 clarify, I'll assume that you  
21 understood the question.  
22 A Okay.

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1 Q Is there any reason you  
2 can't provide your full truthful and  
3 accurate testimony today?  
4 A There is not.  
5 Q Are you on any medications  
6 that might affect your testimony?  
7 A I am not.  
8 MS. WELSH: I would like to  
9 mark this as Exhibit 1.  
10 (Exhibit 1 is Marked.)  
11 MS. WELSH: And I'll mark  
12 this as Exhibit 2.  
13 (Exhibit 2 is Marked.)  
14 MR. SPEED: Is that his  
15 report?  
16 THE WITNESS: Thank you.  
17 BY MS. WELSH:  
18 Q So I have handed you two  
19 exhibits.  
20 One is the US Patent Number  
21 6,462,905.  
22 And Exhibit 2 is the

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1 opening exhibit report of Thomas W.  
2 Von Alten regarding invalidity of US  
3 Patent Number 6,462,905.  
4 Would you please turn to  
5 Exhibit 1, the '905 patent?  
6 A (Reviewing.) I have it.  
7 Q Do you recognize it to be  
8 the '905 patent which you've offered an  
9 opinion on?  
10 A I do.  
11 Q And is it okay if I refer  
12 to this document as the '905 patent?  
13 A Yes.  
14 Q You've reviewed this patent  
15 for the case, correct?  
16 A I have.  
17 Q And have you reviewed the  
18 whole patent or just portions of it?  
19 A The whole patent.  
20 Q And when was the first time  
21 you saw the '905 patent?  
22 A I can't be certain, but I

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1 was engaged by Sony in November of last  
2 year, so no later than that.  
3 Q And at that time, you read  
4 the patent in November?  
5 A I did.  
6 Q And was there anything in  
7 the patent that you didn't understand?  
8 A I think I have a pretty  
9 good handle on it all.  
10 Q And are there any mistakes  
11 or anything that you disagree with in  
12 the patent?  
13 A That is a very broad  
14 question. My report speaks to what I  
15 found in the patent.  
16 Q And sitting here today, can  
17 you think of anything in particular,  
18 any mistake that you saw in the patent?  
19 A Again, I -- it's not a  
20 simple short answer question. My  
21 report speaks to it at great length and  
22 detail.

4 (Pages 10 to 13)

1 Q And anything in particular  
2 that you disagreed with in the patent  
3 just sitting here today?  
4 A (Reviewing.) Same answer.  
5 Q And you reviewed and  
6 understood the claims of the '905  
7 patent; is that correct?  
8 A I did.  
9 Q And you've prepared an  
10 expert report in this case, right?  
11 A I have.  
12 Q And if you turn to  
13 Exhibit 2, do you recognize that to be  
14 your opening expert report regarding  
15 the asserted claims of the '905 patent?  
16 A The weight is about right,  
17 cover page looks good, and I will  
18 assume you have copied it accurately.  
19 Q And the words in this  
20 report are your own, correct?  
21 A I worked together with the  
22 Sony's counsel to produce this report.

1 Q So are the words in the  
2 report Sony's counsel's words or your  
3 own words?  
4 MR. SPEED: Objection.  
5 THE WITNESS: The report  
6 and its conclusions are mine and  
7 I worked together with Sony's  
8 counsel to produce it.  
9 BY MS. WELSH:  
10 Q How much of the drafting  
11 did Sony's counsel do on this report?  
12 A Do you want a percentage?  
13 Q Yeah, a percentage will be  
14 fine.  
15 A I don't think it makes  
16 sense to divide it out that way. We  
17 worked together on it in a  
18 collaborative and iterative process  
19 over a couple of months.  
20 Q So more than half?  
21 A I refer you to my previous  
22 answer. We worked together on it.

1 Q Are there portions of the  
2 report that you drafted yourself?  
3 A Yes. We worked together on  
4 drafting this report.  
5 Q Were you sitting in a room  
6 drafting the report together?  
7 A Well, I live in Boise and  
8 the attorneys are in Boston and New  
9 York when they're not traveling, and so  
10 we worked together remotely via  
11 telephone and e-mail.  
12 Q And if you turn to page  
13 6 -- 263?  
14 A (Reviewing.) I'm there.  
15 Q And is that your signature  
16 on the bottom of the page?  
17 A It is.  
18 Q And is there any mistakes  
19 or omissions in your report that you're  
20 aware of?  
21 A There are none that I am  
22 aware of that I can point to and say

1 this was a mistake.  
2 Q And this report contains  
3 all the opinions that you intend to  
4 express at trial; is that right?  
5 A With the reservation as  
6 stated, and in light of the additional  
7 documents that I have seen in regard to  
8 this case.  
9 Q And what additional  
10 documents are those?  
11 A I have seen Dr. Messner's  
12 report, Dr. Slocum's report, and the  
13 two gentlemen's rebuttals, and the  
14 transcripts of their depositions.  
15 There was also an additional document  
16 that Dr. Messner referred to in his  
17 rebuttal that I have looked at.  
18 Q And did those documents  
19 change your opinion of the -- of the  
20 opinions in your report?  
21 A Not materially, no.  
22 Refined some of the points,

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