

From: Brett Mangrum brett@etheridgelaw.com
Subject: RE: IPR2018-00884: Dr. Easttom Deposition
Date: March 12, 2019 at 1:31 PM

To: Paul Hart paul.hart@eriseip.com

Cc: Danny Butts danny@etheridgelaw.com, Ryan Loveless ryan@etheridgelaw.com, Jeff Huang jeff@etheridgelaw.com, Jim Etheridge jim@etheridgelaw.com, Adam Seitz adam.seitz@eriseip.com, Travis Richins travis@etheridgelaw.com



Paul,

We seem to be talking past one another. Our position is straightforward: pursuant to the rules, any deposition of Dr. Easttom should be strictly limited to the sole proposition for which the only two paragraphs of his declaration is cited. You have refused to agree to this. Instead, your communications confirm you intend to exceed that scope. On your last communication, for example, you confirmed your intention to ask questions regarding an unspecified claim construction position not addressed in the two paragraphs of Dr. Easttom's declaration cited in Patent Owner's response. Because Petitioner has not agreed to properly limit the scope of the deposition to the sole argument in the Response for which the declaration is cited, despite repeated invitations for Petitioner to do so, the parties clearly remain at a real impasse. Uniloc will inform the Board of these facts in its opposition to a motion to strike, should you decide to refile your motion.

Regards,
Brett

From: Paul Hart <paul.hart@eriseip.com>

Sent: Monday, March 11, 2019 1:41 PM

To: Brett Mangrum <brett@etheridgelaw.com>

Cc: Danny Butts <danny@etheridgelaw.com>; Ryan Loveless <ryan@etheridgelaw.com>; Jeff Huang <jeff@etheridgelaw.com>; Jim Etheridge <jim@etheridgelaw.com>; Adam Seitz <adam.seitz@eriseip.com>; Travis Richins <travis@etheridgelaw.com>

Subject: Re: IPR2018-00884: Dr. Easttom Deposition

Brett,

Throughout this weeks-long back and forth Petitioner has never stated or suggested that it seeks cross examination that exceeds the scope permitted by the rules. Your attempt to manufacture such an issue simply finds no support in the parties communications.

I will state our position once again, to ensure there is no confusion. Petitioner disagrees with Mr. Easttom's claim construction position and Patent Owner's reliance on the same. Unless Patent Owner agrees to strike Mr. Easttom's declaration and all reliance on that declaration, Petitioner demands a deposition of Mr. Easttom. It is our right to cross examine Mr. Easttom and we will not consider written questions (and the potential for gamesmanship those introduce) an adequate substitute for live cross examination.

As we've now requested multiple times, either (i) provide dates for Mr. Easttom's deposition or (ii) confirm that (1) you are refusing to make Mr. Easttom available for cross examination and that (2) you will not oppose a motion to strike his declaration and any references or citations thereto following the close of our discovery period.

Best,
Paul

Paul Hart | Shareholder
Erise IP, P.A.
5600 Greenwood Plaza Blvd.
Suite 200
Greenwood Village, CO 80111
(main) 913-777-5600
(direct) 720-689-5441
(fax) 913-777-5601
paul.hart@eriseip.com
www.eriseip.com

On Mar 8, 2019, at 3:56 PM, Brett Mangrum <brett@etheridgelaw.com> wrote:

Paul,

To more productively advance this discussion, it would be helpful if you addressed our prior questions, including whether Petitioner disputes the sole proposition for which the expert declaration is cited. You also neglected to address our proposed compromise. Nevertheless, we understand from your last, including your comment that Uniloc's admittedly narrow reliance on the declaration is "irrelevant," that you seek a deposition for the impermissible purpose of asking questions directed to arguments outside the scope of the Patent Owner Response. You are reminded that 37 CFR 42.23 states a Petitioner's reply may only respond to arguments raised in a patent owner response. Your apparent position in scope is in conflict with this rule. You have provided no authority in support of your position, though we invited you to do so.

In the absence of the clarification we specifically requested, we can only conclude that your purpose in seeking a deposition is to ask questions outside what the rules allow. We need the clarification we requested in order to properly address your questions. Under the present circumstances, we cannot agree to not oppose a new motion to strike.

Regards,
Brett

From: Paul Hart <paul.hart@eriseip.com>
Sent: Thursday, March 7, 2019 1:46 PM
To: Brett Mangrum <brett@etheridgelaw.com>

cc: Denny Bates <denny@etheridgelaw.com>, Ryan Lovrics <ryan@etheridgelaw.com>; Jeff Huang <jeff@etheridgelaw.com>; Jim Etheridge <jim@etheridgelaw.com>; Adam Seitz <adam.seitz@eriseip.com>
Subject: Re: IPR2018-00884: Dr. Easttom Deposition

Brett,

You've submitted an expert declaration in this case and have relied on that declaration in your Patent Owner Response. Under the rules, we're entitled to cross examine your expert in a deposition. The narrowness of your expert's opinions on which you rely is irrelevant. We're entitled a deposition and, if you won't agree to strike his declaration and your reliance on that declaration, we want to proceed with his deposition.

To the extent you are unwilling to provide dates of availability for Dr. Easttom, the only option is his testimony must be stricken. As we stated previously, either (i) provide dates for Dr. Easttom's deposition or (ii) confirm that (1) you are refusing to make Dr. Easttom available for cross examination and that (2) you will not oppose a motion to strike his declaration and any references or citations thereto following the close of our discovery period.

Best,
Paul

Paul Hart | Shareholder
Erise IP, P.A.
5600 Greenwood Plaza Blvd.
Suite 200
Greenwood Village, CO 80111
(main) 913-777-5600
(direct) 720-689-5441
(fax) 913-777-5601
paul.hart@eriseip.com
www.eriseip.com

On Mar 7, 2019, at 8:21 AM, Brett Mangrum <brett@etheridgelaw.com> wrote:

Paul:

As we stated in prior communication, the Patent Owner Response ONLY cites Dr. Easttom's declaration (EX2001 ¶¶ 8-9) for the sole proposition that "a POSITA would understand that the entity

intercepting a message would not be one of the intended recipients of that message.” Our position is that it would be a waste of the parties resources to schedule a deposition that, under the rules, must be restricted to that sole proposition. Indeed, Petitioner has not indicated whether that straightforward proposition is even disputed. Please do so. Given your insistence in scheduling a deposition, we can only assume that you intend to expand the scope of the deposition beyond what the rules allow. Please clarify your position as to the scope and the authority in support of your position. Alternatively, and in the interest of compromise, we would not be opposed to you submitting a limited number of interrogatory questions directed to the single proposition for which the declaration is cited.

Regards,
Brett

From: Paul Hart <paul.hart@eriseip.com>
Sent: Wednesday, March 6, 2019 2:58 PM
To: Brett Mangrum <brett@etheridgelaw.com>
Cc: Danny Butts <danny@etheridgelaw.com>; Ryan Loveless <ryan@etheridgelaw.com>; Jeff Huang <jeff@etheridgelaw.com>; Jim Etheridge <jim@etheridgelaw.com>; Adam Seitz <adam.seitz@eriseip.com>
Subject: Re: IPR2018-00884: Dr. Easttom Deposition

Brett,

Putting this back to the top of your inbox. Please let us know Uniloc’s position.

To the extent we do not hear from you on this issue, your silence will be interpreted as confirmation that (1) you will not provide Dr. Easttom for cross examination and (2) you will not oppose a motion to strike his declaration and any references or citations thereto following the close of our discovery period.

Best,
Paul

Paul Hart | Shareholder
Erise IP, P.A.
5600 Greenwood Plaza Blvd.
Suite 200
Greenwood Village, CO 80111
(main) 913-777-5600
(direct) 720-689-5441
(fax) 913-777-5601
paul.hart@eriseip.com
www.eriseip.com

On Feb 28, 2019, at 9:43 AM, Paul Hart
<paul.hart@eriseip.com> wrote:

Brett,

Given the Court's ruling (attached) that striking Easttom's declaration is premature prior to the expiration of our discovery period, we wanted to follow up with you all on next steps. To the extent that you are maintaining your prior position, please confirm that (1) you will not provide Dr. Easttom for cross examination and (2) you will not oppose a motion to strike his declaration and any references or citations thereto following the close of our discovery period. Otherwise, please provide dates of availability for Dr. Easttom so Petitioner can take his deposition in advance of our Reply.

Best,
Paul

Paul Hart | Shareholder
Erise IP, P.A.
5600 Greenwood Plaza Blvd.
Suite 200
Greenwood Village, CO 80111
(main) 913-777-5600
(direct) 720-689-5441
(fax) 913-777-5601
paul.hart@eriseip.com
www.eriseip.com

<Order denying motion to strike Easttom's Dec.pdf>

On Feb 21, 2019, at 9:44 AM, Paul Hart

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