



**From:** Brett Mangrum [brett@etheridgelaw.com](mailto:brett@etheridgelaw.com)  
**Subject:** RE: IPR2018-00884: Dr. Easttom Deposition  
**Date:** March 28, 2019 at 2:28 PM  
**To:** Adam Seitz [adam.seitz@eriseip.com](mailto:adam.seitz@eriseip.com)  
**Cc:** Ryan Loveless [ryan@etheridgelaw.com](mailto:ryan@etheridgelaw.com), Paul Hart [paul.hart@eriseip.com](mailto:paul.hart@eriseip.com), Danny Butts [danny@etheridgelaw.com](mailto:danny@etheridgelaw.com), Jeff Huang [jeff@etheridgelaw.com](mailto:jeff@etheridgelaw.com), Jim Etheridge [jim@etheridgelaw.com](mailto:jim@etheridgelaw.com), Travis Richins [travis@etheridgelaw.com](mailto:travis@etheridgelaw.com)

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Adam,

Your response deadline is April 2. We do not understand how you could feign surprise that we offered Dr. Easttom for a deposition on one of the two remaining week days that remain prior to your due date.

Moreover, the compressed schedule that remains is a problem of your own making. During our last conference call, which occurred nearly two weeks ago (on March 15), you acknowledged that you needed to go back to your client on issues we discussed, including whether and how you wanted to proceed. You committed to us that you would update us within days of that call. You did not. Instead, you chose to delay updating us on your position until just this morning. Had you updated us sooner, as you had previously committed to do, we likely would have had more options to consider.

Please clarify as soon as possible as to whether you refuse to depose Dr. Easttom tomorrow.

Thanks,  
Brett

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**From:** Adam Seitz <[adam.seitz@eriseip.com](mailto:adam.seitz@eriseip.com)>  
**Sent:** Thursday, March 28, 2019 2:43 PM  
**To:** Brett Mangrum <[brett@etheridgelaw.com](mailto:brett@etheridgelaw.com)>  
**Cc:** Ryan Loveless <[ryan@etheridgelaw.com](mailto:ryan@etheridgelaw.com)>; Paul Hart <[paul.hart@eriseip.com](mailto:paul.hart@eriseip.com)>; Danny Butts <[danny@etheridgelaw.com](mailto:danny@etheridgelaw.com)>; Jeff Huang <[jeff@etheridgelaw.com](mailto:jeff@etheridgelaw.com)>; Jim Etheridge <[jim@etheridgelaw.com](mailto:jim@etheridgelaw.com)>; Travis Richins <[travis@etheridgelaw.com](mailto:travis@etheridgelaw.com)>  
**Subject:** Re: IPR2018-00884: Dr. Easttom Deposition

Thanks, Brett, for agreeing to make him available for deposition. We absolutely intend to move forward with his deposition. That being said, proposing tomorrow—less than 1-day's notice—is unreasonable and unworkable. Please let us know when Dr. Easttom is available next week, we can make any day or time work.

Also, to clarify, we are agreeing to limit our deposition to the two paragraphs and the basis for his opinion. We are entitled to ask him how and why he reached those opinions contained in those two paragraphs.

Thanks,

Adam

On Mar 28, 2019, at 1:41 PM, Brett Mangrum <[brett@etheridgelaw.com](mailto:brett@etheridgelaw.com)> wrote:

Adam,

With your written stipulation acknowledging that the scope of the deposition will be strictly limited to the two paragraphs from his declaration that Patent Owner cited in his response, Dr. Easttom will be made available for deposition tomorrow (March 28) in the Dallas area (exact location to be determined). Please let us know within the next couple of hours if you plan to move forward tomorrow.

Thanks,  
Brett

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**From:** Adam Seitz <[adam.seitz@eriseip.com](mailto:adam.seitz@eriseip.com)>  
**Sent:** Thursday, March 28, 2019 11:04 AM  
**To:** Ryan Loveless <[ryan@etheridgelaw.com](mailto:ryan@etheridgelaw.com)>; Brett Mangrum <[brett@etheridgelaw.com](mailto:brett@etheridgelaw.com)>  
**Cc:** Paul Hart <[paul.hart@eriseip.com](mailto:paul.hart@eriseip.com)>; Danny Butts <[danny@etheridgelaw.com](mailto:danny@etheridgelaw.com)>; Jeff Huang <[jeff@etheridgelaw.com](mailto:jeff@etheridgelaw.com)>; Jim Etheridge <[jim@etheridgelaw.com](mailto:jim@etheridgelaw.com)>; Travis Richins <[travis@etheridgelaw.com](mailto:travis@etheridgelaw.com)>  
**Subject:** Re: IPR2018-00884: Dr. Easttom Deposition

Brett,

Looping back on our discussion about Dr. Easttom's deposition. I appreciate you taking the call and discussing these issues with me. I believe you were going to consider whether you would agree to strike his declaration and your reliance upon it to avoid a deposition as originally agreed between the parties. I was going to consider whether we could agree to any claim construction to otherwise avoid his deposition. We have gone back and reviewed the ID, Easttom's declaration, and Uniloc's

responsive brief and we simply can't agree on this issue. The question of how "intercepting a message" should be construed is a fundamental dispute between the parties, was discussed in the ID, and is the very point for which you cite to Easttom in the Patent Owner Response. Unless the parties can revert to our original agreement, then we want to proceed with a deposition of Mr. Easttom. I understand you are concerned about breadth, and to reiterate, the focus of our deposition will be on the cited portions of his declaration and his basis for those statements/opinions.

Please let us know by COB today where you stand on this. If you are not going to give us dates, then please provide times when you are available over the next few days for a conference call with the Board

Thanks,

Adam

On Mar 14, 2019, at 10:26 AM, Ryan Loveless <[ryan@etheridgelaw.com](mailto:ryan@etheridgelaw.com)> wrote:

For our call at 2:30 CST tomorrow, please use the following dial-in:

Dial in number: 214-238-4431  
PIN: 04117

**Ryan Loveless** | Etheridge Law Group  
2600 East Southlake Blvd | Suite 120-324 | Southlake, TX 76092  
[ryan@etheridgelaw.com](mailto:ryan@etheridgelaw.com) | T 972 292 8303 | F 817 887 5950

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**From:** Adam Seitz <[adam.seitz@eriseip.com](mailto:adam.seitz@eriseip.com)>  
**Sent:** Thursday, March 14, 2019 7:12 AM  
**To:** Brett Mangrum <[brett@etheridgelaw.com](mailto:brett@etheridgelaw.com)>  
**Cc:** Paul Hart <[paul.hart@eriseip.com](mailto:paul.hart@eriseip.com)>; Danny Butts <[danny@etheridgelaw.com](mailto:danny@etheridgelaw.com)>; Ryan Loveless <[ryan@etheridgelaw.com](mailto:ryan@etheridgelaw.com)>; Jeff Huang <[jeff@etheridgelaw.com](mailto:jeff@etheridgelaw.com)>; Jim Etheridge <[jim@etheridgelaw.com](mailto:jim@etheridgelaw.com)>; Travis Richins <[travis@etheridgelaw.com](mailto:travis@etheridgelaw.com)>  
**Subject:** Re: IPR2018-00884: Dr. Easttom Deposition

Brett,

That works. Let's do 2:30. I'm currently traveling. Do you mind circulating a dial-in?

Adam

On Mar 13, 2019, at 11:27 AM, Brett Mangrum <[brett@etheridgelaw.com](mailto:brett@etheridgelaw.com)> wrote:

Adam,

We can be available for a conference call between the parties on Friday between 2pm and 3pm (CST). Let us know of that works.

Thanks,  
Brett

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**From:** Adam Seitz <[adam.seitz@eriseip.com](mailto:adam.seitz@eriseip.com)>  
**Sent:** Tuesday, March 12, 2019 4:59 PM  
**To:** Brett Mangrum <[brett@etheridgelaw.com](mailto:brett@etheridgelaw.com)>  
**Cc:** Paul Hart <[paul.hart@eriseip.com](mailto:paul.hart@eriseip.com)>; Danny Butts <[danny@etheridgelaw.com](mailto:danny@etheridgelaw.com)>; Ryan Loveless <[ryan@etheridgelaw.com](mailto:ryan@etheridgelaw.com)>; Jeff Huang <[jeff@etheridgelaw.com](mailto:jeff@etheridgelaw.com)>; Jim Etheridge <[jim@etheridgelaw.com](mailto:jim@etheridgelaw.com)>; Travis Richins <[travis@etheridgelaw.com](mailto:travis@etheridgelaw.com)>  
**Subject:** Re: IPR2018-00884: Dr. Easttom Deposition

Brett,

Jumping in the middle here. Perhaps we are talking over each other or perhaps we are misunderstanding your thoughts. Why don't we jump on the phone and see if we can figure this out. Do you have time this week where we could talk?

Adam

On Mar 12, 2019, at 2:31 PM, Brett Mangrum <[brett@etheridgelaw.com](mailto:brett@etheridgelaw.com)> wrote:

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

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**From:** Paul Hart <[paul.hart@eriseip.com](mailto:paul.hart@eriseip.com)>  
**Sent:** Monday, March 11, 2019 1:41 PM  
**To:** Brett Mangrum <[brett@etheridgelaw.com](mailto:brett@etheridgelaw.com)>  
**Cc:** Danny Butts <[danny@etheridgelaw.com](mailto:danny@etheridgelaw.com)>; Ryan Loveless <[ryan@etheridgelaw.com](mailto:ryan@etheridgelaw.com)>; Jeff Huang <[jeff@etheridgelaw.com](mailto:jeff@etheridgelaw.com)>; Jim Etheridge <[jim@etheridgelaw.com](mailto:jim@etheridgelaw.com)>; Adam Seitz <[adam.seitz@eriseip.com](mailto:adam.seitz@eriseip.com)>; Travis Richins <[travis@etheridgelaw.com](mailto: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  
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(direct) 720-689-5441  
(fax) 913-777-5601  
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[www.eriseip.com](http://www.eriseip.com)

On Mar 8, 2019, at 3:56 PM, Brett Mangrum  
<[brett@etheridgelaw.com](mailto: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

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**From:** Paul Hart <[paul.hart@eriseip.com](mailto:paul.hart@eriseip.com)>  
**Sent:** Thursday, March 7, 2019 1:46 PM  
**To:** Brett Mangrum <[brett@etheridgelaw.com](mailto:brett@etheridgelaw.com)>  
**Cc:** Danny Butts <[danny@etheridgelaw.com](mailto:danny@etheridgelaw.com)>; Ryan Loveless <[ryan@etheridgelaw.com](mailto:ryan@etheridgelaw.com)>; Jeff Huang <[jeff@etheridgelaw.com](mailto:jeff@etheridgelaw.com)>; Jim Etheridge <[jim@etheridgelaw.com](mailto:jim@etheridgelaw.com)>; Adam Seitz <[adam.seitz@eriseip.com](mailto: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  
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On Mar 7, 2019, at 8:21 AM, Brett Mangrum  
<[brett@etheridgelaw.com](mailto: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

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**From:** Paul Hart <[paul.hart@eriseip.com](mailto:paul.hart@eriseip.com)>  
**Sent:** Wednesday, March 6, 2019 2:58 PM  
**To:** Brett Mangrum <[brett@etheridgelaw.com](mailto:brett@etheridgelaw.com)>  
**Cc:** Danny Butts <[danny@etheridgelaw.com](mailto:danny@etheridgelaw.com)>; Ryan Loveless <[ryan@etheridgelaw.com](mailto:ryan@etheridgelaw.com)>; Jeff Huang <[jeff@etheridgelaw.com](mailto:jeff@etheridgelaw.com)>; Jim Etheridge <[jim@etheridgelaw.com](mailto:jim@etheridgelaw.com)>; Adam Seitz <[adam.seitz@eriseip.com](mailto: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.  
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