

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

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

MICROSOFT CORPORATION,)	
)	Nos.
)	IPR2018-01605,
Petitioner,)	IPR2018-01606,
)	and
)	IPR2018-01607
)	
vs.)	Patent No.
)	7,620,800
)	
DIRECTSTREAM, LLC,)	
)	
Patent Owner.)	
-----)	

VIDEOTAPED DEPOSITION OF HAROLD S. STONE, Ph.D.
Bellevue, Washington
Thursday, June 13, 2019

Reported by:
Connie Recob, CCR 2631, RMR, CRR
JOB NO. 160993

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

June 13, 2019
9:07 a.m.

Deposition of HAROLD S. STONE, Ph.D., held at the offices of Perkins Coie, 10885 Northeast Fourth Street, Suite 700, Bellevue, Washington, before Connie Recob, CCR 2631, RMR, CRR, a Notary Public of the State of Washington.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

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

SIDLEY AUSTIN
Attorneys for Petitioner
1501 K Street NW
Washington, D.C. 20005
BY: JOSEPH MICALLEF, ESQ.

JANIK VINNAKOTA
Attorneys for Patent Owner
8111 LBJ Freeway
Dallas, Texas 75251
BY: SEAN HSU, ESQ.
DONALD PUCKETT, ESQ.

ALSO PRESENT:

JOHN REIDT - VIDEOGRAPHER

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

STONE, Ph.D.

THE VIDEOGRAPHER: We're on the record. The time on my video monitor is 9:07 a.m. This is the videotaped portion in the deposition of Dr. Harold S. Stone, Ph.D.

This deposition is being recorded this 13th day of June, 2019. All counsel present will be noted on the transcript. The court reporter will now swear in the witness and you may proceed.

HAROLD S. STONE, Ph.D., called as a witness, having been duly sworn by a Notary Public, was examined and testified as follows:

EXAMINATION
BY MR. HSU:

Q. Good morning -- excuse me.

Good morning, Dr. Stone. Thank you for joining us today. So we're doing an additional deposition, and I think last time we went over some of the, kind of ground rules, but just since it's been a -- about two weeks, I'll go through them again if you'll indulge me for a little bit.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

STONE, Ph.D.

So you recall that there's a PTAB regulation on depositions that until we pass the witness and basically end our side of the questioning, there's a regulation restricting conversations between you and counsel on the substance of the conversations in the deposition.

Do you recall that?

A. I do recall that.

Q. Okay. All right. And so I think for logistics purposes, we're technically scheduled for two days. We'll kind of play it by ear and see how far we get today, but in the off chance we do have to go a little bit longer and it goes into a second day, that will span the -- I guess the period of our questioning. So even though we will end for the day, we haven't yet concluded the questioning.

Does that kind of make sense?

A. That's all right.

Q. So for the evening part, technically the questioning is still open from our side.

A. That's right, and I can't discuss the case with counsel.

1 STONE, Ph.D.
 2 Q. Right, right.
 3 A. I understand.
 4 Q. Yeah, so I'm just asking that you
 5 continue that through the evening if we need to
 6 go into the second day.
 7 A. I understand.
 8 Q. Okay. And also as last time, any
 9 time that you need to take a break, just feel
 10 free to let me know. If we're in the middle of
 11 a line of questioning, I will ask that I try to
 12 finish it up within a couple questions or so,
 13 so I may not be able to go onto break
 14 immediately, but I'll try to wrap it up as soon
 15 as I can. But yes, please let me know if you
 16 need to go on a break.
 17 And then if there's any questions
 18 that I ask that you're unclear about, feel free
 19 to ask for clarification. And then I think
 20 like last time, counsel may have some
 21 objections, so just to keep the transcript
 22 clear, try to not talk over each other and I'll
 23 try to do likewise.
 24 And then one other quick note, since
 25 it's being transcribed, the yeses are

1 STONE, Ph.D.
 2 A. Okay.
 3 Q. Yes. So yes, the last time was
 4 the -- the one ending in I think '687, and then
 5 the two that we're here for today is '324 and
 6 '800. Does that sound familiar?
 7 A. That's correct.
 8 Q. Okay. So I just wanted to clear up
 9 that since you haven't seen the -- the way that
 10 your declarations were used in the petition,
 11 that there were -- there ended up being six, I
 12 guess, declarations from you, and it sounds
 13 like three of them for the '324 were
 14 essentially duplicates with maybe some
 15 formatting or cover document changes.
 16 But as far as you're aware, were you
 17 involved in that at all?
 18 A. I wasn't involved in that. I've
 19 never seen them.
 20 Q. Okay. Okay. But I guess from your
 21 recollection, you've got two declarations that
 22 we're discussing here today one for the '324
 23 and one for the '800; is that correct?
 24 A. That's correct.
 25 Q. Let me see if... okay. So let me

1 STONE, Ph.D.
 2 preferable to uh-huhs or obviously nonverbal.
 3 So I don't know if we went over that last time.
 4 A. I don't know, but I will answer
 5 verbally so it's on the record.
 6 Q. Yeah. Much appreciated.
 7 Okay. So I guess let's -- let's
 8 start with -- so did you have a chance to look
 9 at the petitions in the IPRs for 1601 through
 10 1603 and then 1605 through 1607?
 11 Have you seen any of the petitions?
 12 A. I have not read any of the
 13 petitions. I don't recognize them by those
 14 numbers. I recognize them by the patent
 15 numbers.
 16 Q. Patent number. Okay. So one thing
 17 I just wanted to clear up. I think we touched
 18 on it earlier.
 19 So in terms of the number of
 20 declarations you prepared, was it two
 21 declarations from your perspective, one for
 22 each of the two patents?
 23 A. I prepared three declarations that I
 24 signed.
 25 Q. Right.

1 STONE, Ph.D.
 2 show you one of the declarations. Let me get
 3 my sea legs here for a little bit. This should
 4 have already been designated as 1003, and this
 5 is in the case IPR 2018-01601. And I -- I
 6 guess for recordkeeping purposes, we're going
 7 to refer to this declaration, so the '324
 8 declaration, we're going to refer to it as the
 9 1003 exhibit.
 10 And my understanding is, and I'll
 11 just state on the record that this declaration
 12 in substance is the same as the ones for 1602
 13 and 1603. And then there's the second
 14 declaration that you prepared. Since it's also
 15 labeled Exhibit 1003 on the IPR proceedings,
 16 we're going to add a little A to that one, so
 17 that one will be 1003a.
 18 A. I understand that, but I can't
 19 attest to that -- this being the same as 1601
 20 and 02 and 03. I've never seen those
 21 documents, so I don't -- I can't -- I don't
 22 know.
 23 Q. Okay. I guess we can do this.
 24 We'll stipulate that --
 25 MR. HSU: I think, Counsel, can we

1 STONE, Ph.D.
 2 just stipulate to the witness that those
 3 are supposed to be identical in substance?
 4 MR. MICALLEF: I believe they are
 5 identical.
 6 MR. HSU: Okay.
 7 BY MR. HSU:
 8 Q. Yeah. And I've got paper copies if,
 9 you know, during one of the breaks, just for
 10 your own edification, if you want to flip
 11 through it, we can do that then.
 12 A. Okay. I don't think I need to do
 13 that, but I'll reserve judgment and I'll call
 14 for them as -- if I see a need for it.
 15 Q. Okay. Sure. Okay. So this one is
 16 Exhibit 1003 for the '324 patent, and on Page 2
 17 here, do you see the signature there?
 18 A. I see that.
 19 Q. Is -- is that your signature?
 20 A. That is.
 21 Q. Okay. And do you recall, I guess,
 22 the preparation process for this declaration?
 23 A. To a limited extent because it's so
 24 long ago.
 25 Q. Yeah. I guess kind of getting into

1 STONE, Ph.D.
 2 some of the details, do you recall about how
 3 long ago it was that you would have started on
 4 this?
 5 A. My recollection is that it was on --
 6 in the spring of 2018 at some point. I
 7 don't -- it may have been June. It may have
 8 been May. I don't -- I really don't remember.
 9 Q. Okay. A ballpark is fine.
 10 And so do you see how the -- next to
 11 your signature, there's a date, September 4th,
 12 2018?
 13 A. I see that, yes.
 14 Q. Okay. So kind of a rough ballpark,
 15 would you say that it was about six months or
 16 so from when you started to when you completed
 17 the declaration?
 18 A. It could be three to six months,
 19 something on that order.
 20 Q. Okay. And do you have a ballpark
 21 rough estimate of how long you spent on the
 22 declaration?
 23 A. I -- I just -- it's been so long, I
 24 don't recall.
 25 Q. Okay. So earlier you mentioned that

1 STONE, Ph.D.
 2 in total you had prepared three declarations
 3 for the -- I guess the concurrent IPRs.
 4 Do you recall if you spent roughly
 5 the same amount of time, more time or less time
 6 on this declaration versus the other two?
 7 A. It's -- I -- I'd have to speculate
 8 on that. I -- I don't really recall. It could
 9 be more or less. I don't really remember.
 10 Q. Okay. I'm going to turn really
 11 quick to -- here it is.
 12 So this is Page 6 of your report.
 13 In Paragraph 12, there's a reference to
 14 Attachment B to the petition. And do you see
 15 where that is?
 16 A. I see that.
 17 Q. It's kind of the -- the last part of
 18 that Paragraph 12.
 19 Do you recall kind of assembling a
 20 list of documents that you had looked at?
 21 A. I -- I prepared all of the exhibits
 22 and I -- the answer is, I do recall preparing
 23 the exhibits.
 24 Q. Okay. And I can pull that up in a
 25 little bit, but just kind of logistics on the

1 STONE, Ph.D.
 2 preparation of those exhibits, do you recall if
 3 those were provided to you, or did you look for
 4 them on your own or was there kind of a mix
 5 between the two?
 6 A. There was a mix between the two.
 7 Every exhibit I used, I -- I'm relying on
 8 because I understand it and use it regardless
 9 of the source. Okay.
 10 Q. Yeah. And I guess -- so kind of
 11 asking from a different angle: So you did have
 12 an opportunity to look for sources or exhibits
 13 that you felt were important to this IPR
 14 declaration?
 15 A. Would you repeat your question?
 16 Q. Sure. Yeah.
 17 So asking from a different angle:
 18 You did have an opportunity to look for sources
 19 or exhibits that you felt were important to
 20 this IPR declaration?
 21 A. Yes, I did a search and I found
 22 exhibits.
 23 Q. And that -- did you feel that you
 24 had enough time to look for supporting
 25 documents that you would want to or would you

1 STONE, Ph.D.
 2 have wanted more time?
 3 A. I had sufficient time.
 4 Q. And were there any documents that
 5 you wanted to look at or wanted to locate but
 6 were not able to in the course of preparing for
 7 this declaration?
 8 A. Yeah, there may have been. I just
 9 don't recall.
 10 Q. I guess as you sit here today and
 11 kind of recalling the preparation of your
 12 declaration, do you feel that there's any topic
 13 or subject matter that you needed additional
 14 time to research?
 15 A. No. I'm satisfied that I had
 16 sufficient time to research what I needed.
 17 Q. And since you signed the declaration
 18 on September 4th, 2018, have you had a chance
 19 to review the declaration again?
 20 A. I have.
 21 Q. And I guess after that signature
 22 date, did you make any additional edits or
 23 anything to the declaration after you signed
 24 it?
 25 A. I did not.

1 STONE, Ph.D.
 2 Q. And other than the documents that --
 3 that you -- either that you collected or that
 4 were provided to you to review, did you rely on
 5 any other sources outside of those documents,
 6 such as conversations with people or any
 7 materials that would not have been in printed
 8 form?
 9 A. Everything I relied on is indicated
 10 in the -- in the declaration. I don't recall
 11 relying on any conversations.
 12 What -- what else did you ask about?
 13 Q. Oh, I guess just if there were any
 14 other sources that may not be in written form,
 15 so it may just be something that's difficult to
 16 kind of capture in a references considered type
 17 of table.
 18 A. If I had relied on anything else, it
 19 would be in this declaration. I don't recall
 20 having anything in the declaration regarding
 21 these other kinds of sources.
 22 Q. Okay. And that's fair. I'm just
 23 kind of covering bases on your preparation
 24 process.
 25 So in terms of, other than counsel,

1 STONE, Ph.D.
 2 Q. And since that -- the date that you
 3 signed it, have you identified any mistakes or
 4 areas of the declaration that you would want to
 5 correct right now?
 6 A. There may be a typo or two. There's
 7 a broken reference, but these were all minor.
 8 Q. Sure. Yeah. So I guess in terms of
 9 subject matter, there's nothing substantive
 10 that you feel you -- you need to correct right
 11 now?
 12 A. I do not need to correct the subject
 13 matter.
 14 Q. And then for the preparation of your
 15 declaration, were there -- excluding counsel,
 16 was there anyone else who assisted you in the
 17 preparation of the declaration? This could be
 18 helping you with typing or locating references
 19 or gathering materials?
 20 A. No, no.
 21 Q. And do you recall in the course of
 22 preparing your declaration, did you have
 23 multiple drafts or did you kind of have one
 24 working draft that you continually revised?
 25 A. I had one living, working draft.

1 STONE, Ph.D.
 2 other individuals that you may have spoken to
 3 in order to prepare for your declaration, you
 4 don't recall speaking to anyone; is that
 5 correct?
 6 A. That's correct. I spoke to no one
 7 regarding the preparation of this declaration
 8 except possibly with counsel.
 9 Q. Right, right. Yeah.
 10 And so there were a couple names
 11 that I wanted to run through with you and
 12 then -- you may recall this from last time, but
 13 specifically for this declaration 1003 and then
 14 also the declaration for the '800 patent.
 15 So kind of treating those two in
 16 tandem, do you recall speaking with a gentleman
 17 by the name of Stephen Trimberger?
 18 A. I don't know Stephen Trimberger. I
 19 never spoke with him.
 20 Q. What about an individual named, I
 21 think it's -- actually I forget his first name.
 22 Do you know a gentleman Mr. Hauck?
 23 A. Can you spell that.
 24 Q. Yeah, Scott Hauck, H-A-U-C-K?
 25 A. I don't know that individual. I

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.