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

MICROSOFT CORPORATION, )  
)  
Petitioner, )  
) IPR 2018-01594  
)  
vs. ) Patent 6,434,687  
)  
SAINT REGIS MOHAWK TRIBE, )  
)  
Patent Owner. )  
-----x

VIDEOTAPED DEPOSITION OF HAROLD S. STONE, Ph.D.  
Bellevue, Washington  
Thursday, May 30, 2019

Reported by:  
Connie Recob, CCR 2631, RMR, CRR  
JOB NO. 160990

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May 30, 2019  
9:04 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.

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HAROLD S. STONE, Ph.D.  
THE VIDEOGRAPHER: Good morning.  
Here is the start of media labeled No. 1 of  
the video-recorded deposition of Harold S.  
Stone in the matter of Microsoft, Microsoft  
versus Saint Regis Mohawk Tribe in the  
United States Patent Trademark Office  
before the Patent Trial and Appeal Board,  
No. IPR 2018-01594.  
This deposition is being held at  
Perkins Coie Bellevue at 10885 Northeast  
4th Street, Suite 700, in Bellevue,  
Washington, at approximately 9:04 a.m.  
My name is Craig F. Mitchell, CLVS,  
CDVS. I am the legal videographer from TSG  
Reporting headquartered at 747 Third Avenue  
in New York, New York. The court reporter  
is Connie Recob in association with TSG  
Reporting.  
Counsel, please introduce yourself.  
MR. HSU: This is Sean Hsu and  
Donald Puckett with the law firm Janik  
Vinnakota, LLP in Dallas, Texas, on behalf  
of the patent owner.  
MR. MICALLEF: Joe Micallef and

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

SIDLEY AUSTIN  
Attorneys for Petitioner  
1501 K Street, N.W.  
Washington, D.C. 20005  
BY: JOSEPH MICALLEF, ESQ.  
SCOTT BORDER, ESQ.

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

ALSO PRESENT:

CRAIG MITCHELL - CLVS - VIDEOGRAPHER

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HAROLD S. STONE, Ph.D.  
Scott Border with Sidley Austin for the  
petitioner and the witness.  
THE VIDEOGRAPHER: Thank you.  
Will the court reporter please swear  
in the witness.  
HAROLD S. STONE, Ph.D.,  
called as a witness, having been duly sworn  
by a Notary Public, was examined and  
testified as follows:  
THE VIDEOGRAPHER: Thank you.  
Please proceed.  
EXAMINATION  
BY MR. HSU:  
Q. Good morning, Dr. Stone. Is it okay  
if I call you Dr. Stone for the deposition?  
A. By all means, yeah.  
Q. Okay. Okay. So I'm -- I'm going to  
start -- I guess we'll go over some basic  
ground rules.  
My understanding is you've been in a  
deposition before?  
A. That's correct.  
Q. And about how long ago was that?  
A. The most recent one was in 2018,

1 HAROLD S. STONE, Ph.D.  
 2 over a year ago.  
 3 Q. Okay. All right. So just kind of a  
 4 quick refresher. We're going to basically go  
 5 through a bunch of questions. I'll be asking  
 6 them to you and give the best answer that you  
 7 can.  
 8 I don't want this to be kind of a  
 9 marathon session, so we're going to try to take  
 10 regular breaks. I'm going to aim for like  
 11 about one every hour. If you need to take a  
 12 break earlier than that, just let -- let me  
 13 know. The only thing I do ask is that if we're  
 14 in kind of the middle of a line of questioning,  
 15 I would like to try to get through to kind of a  
 16 stopping point, if that's all right.  
 17 A. That's -- that's fine.  
 18 Q. Okay. And then if there's anything  
 19 I ask that's, you know, unclear or you need me  
 20 to repeat it, feel free to ask. I'm more than  
 21 happy to.  
 22 So starting off, I'll just run  
 23 through some basics. So is there anything that  
 24 you're aware of right now that would prevent  
 25 you from testifying truthfully at this

1 HAROLD S. STONE, Ph.D.  
 2 deposition?  
 3 A. There is nothing I'm aware of.  
 4 Q. Okay. And is there anything that  
 5 would prevent you from testifying competently?  
 6 A. There is nothing.  
 7 Q. Okay. And -- oh, one other kind of  
 8 bookkeeping matter. For depositions in front  
 9 of the Patent Trial and Appeal Board, there's a  
 10 special regulation governing depositions, sort  
 11 of the, kind of the flow of the deposition.  
 12 This part that we're in is considered the  
 13 cross-examination. And so we've started that  
 14 and until essentially that we pass the witness  
 15 to the other side, this is -- the entirety of  
 16 it is considered the cross-examination of you.  
 17 And so one of the kind of  
 18 bookkeeping matters in case counsel hasn't  
 19 discussed this with you, there is a regulation  
 20 prohibiting counsel from talking with witnesses  
 21 about the substance of their testimony until  
 22 the cross-examination period has ended.  
 23 So I just wanted to make that clear,  
 24 make you aware of that so that on breaks and  
 25 stuff, if there's, you know, a need to discuss,

1 HAROLD S. STONE, Ph.D.  
 2 just avoid talking about the testimony.  
 3 Is that all right?  
 4 A. That's fine. I understand that.  
 5 Q. Okay. All right. So jumping into,  
 6 I guess, this IPR process. My understanding is  
 7 you've been involved in some IPRs before; is  
 8 that right?  
 9 A. That is correct.  
 10 Q. Do you know about how many?  
 11 A. It could be over 10, but on that  
 12 order.  
 13 Q. And kind of, do you have a  
 14 recollection of about how many of those you  
 15 went through a deposition?  
 16 A. All of them.  
 17 Q. All of them, okay. And then about  
 18 how many of them did you kind of see all the  
 19 way through to like a trial on the merits so to  
 20 speak?  
 21 A. Let me back off on that -- that last  
 22 one, because there are three patents in- --  
 23 in- -- involved in this, and the next two I  
 24 will be deposed in two weeks. Apart from  
 25 those --

1 HAROLD S. STONE, Ph.D.  
 2 Q. Right.  
 3 A. -- all the others I have been  
 4 deposed on, and they have all gone through  
 5 their whole process although few are still  
 6 waiting -- awaiting the final decision.  
 7 Q. Okay. Okay. So it sounds like you  
 8 have a -- a fair bit of knowledge about the IPR  
 9 process, but just to kind of back up a little  
 10 bit: Do you understand kind of what an IPR is?  
 11 A. I believe I do. I'm not a lawyer,  
 12 but I believe I understand.  
 13 Q. Yeah. And so what is kind of your  
 14 understanding of the purpose of an IPR?  
 15 A. The purpose of the IPR is to listen  
 16 to petitions regarding the validity of patents  
 17 that have issued.  
 18 Q. Okay. And what's your understanding  
 19 of why we are in this IPR proceeding here  
 20 today?  
 21 A. I believe that a patent, or actually  
 22 there are three involved in this family. The  
 23 patents are believed to be invalid and the IPR  
 24 is listening to petitions about their validity.  
 25 Q. And do you have an understanding of

1 HAROLD S. STONE, Ph.D.  
 2 Microsoft's role in this IPR?  
 3 A. Not exactly. I -- I believe that a  
 4 Microsoft product is accused, but I don't have  
 5 much understanding of that.  
 6 Q. Okay. And do you have an  
 7 understanding of what the patent owner's role  
 8 is going to be in this IPR?  
 9 A. Other than being patent owners, I --  
 10 I -- I don't know what they do.  
 11 Q. Okay. That's fair enough. So that  
 12 actually answers maybe a couple of these  
 13 follow-ups, but I'll kind of drill into that a  
 14 little bit.  
 15 Are you familiar with an entity  
 16 called the Saint Regis Mohawk Tribe?  
 17 A. I am not.  
 18 Q. How about an entity called SRC Labs?  
 19 A. I am familiar with the name and they  
 20 are named on patents that I have reviewed;  
 21 otherwise, I don't know much about SRC Labs.  
 22 Q. Okay. And then what about an entity  
 23 called DirectStream? Have you heard of them?  
 24 A. I know nothing about that.  
 25 Q. Okay. So for today's deposition, do

1 HAROLD S. STONE, Ph.D.  
 2 you have an -- a rough understanding of kind of  
 3 what the purpose of this deposition is within  
 4 this IPR proceeding?  
 5 A. I do.  
 6 Q. And what is that understanding?  
 7 A. My understanding is the deposition  
 8 is to ask me about my declaration which took a  
 9 position regarding the validity of a patent.  
 10 Q. And do you understand that this is  
 11 part of, I guess, what we would call a  
 12 discovery process within the IPR proceeding?  
 13 Do you have that understanding?  
 14 MR. MICALLEF: Objection.  
 15 THE WITNESS: I'm not sure of the  
 16 legal term "discovery." I -- I --  
 17 otherwise, I understand it's part of the  
 18 proceeding.  
 19 BY MR. HSU:  
 20 Q. Okay. Sure. Actually, let me back  
 21 up then.  
 22 So you testified, or you just  
 23 testified that you have an understanding this  
 24 is in connection with the declaration that you  
 25 provided.

1 HAROLD S. STONE, Ph.D.  
 2 Do you have an understanding that  
 3 that constitutes sworn testimony in front of  
 4 the Patent Trial and Appeal Board?  
 5 A. I do.  
 6 Q. And so this deposition, as I  
 7 mentioned before, is the cross-examination  
 8 based on that deposition -- or the declaration  
 9 testimony.  
 10 Do you understand that?  
 11 A. I do.  
 12 Q. Okay. So as you recall, you were  
 13 sworn in at the beginning of this deposition,  
 14 right?  
 15 A. Yes.  
 16 Q. And so this deposition will also  
 17 constitute sworn testimony before the Board.  
 18 Do you have that understanding?  
 19 A. I do.  
 20 Q. And just to clarify one other, I  
 21 guess, sort of procedural matter: Do you have  
 22 an understanding that both the declaration and  
 23 this deposition are considered public in terms  
 24 of the testimony, it's publicly available?  
 25 A. I do.

1 HAROLD S. STONE, Ph.D.  
 2 Q. And so just as a -- a clarification  
 3 that if, for whatever reason, one of the lines  
 4 of questioning goes into something that you  
 5 consider maybe is confidential or should not be  
 6 made public, I guess let us all know. We'll  
 7 flag that and we can have a discussion on how  
 8 best to kind of seal or -- or treat that part  
 9 of the transcript.  
 10 Is that all right?  
 11 A. That's fine. I understand.  
 12 Q. Okay. All right. So in terms of  
 13 the current status of this IPR, do you have an  
 14 understanding of where we are in that process?  
 15 A. I don't know the whole process. I'm  
 16 not familiar with the whole process. My  
 17 understanding is as you described. I'm  
 18 testifying in regard to my declaration.  
 19 Q. Okay. And are you aware that an  
 20 institution decision has been made by the  
 21 Patent Trial and Appeal Board already?  
 22 A. Yes, counsel has informed me of  
 23 that.  
 24 Q. Okay. And have you had a chance to  
 25 review that decision?

1 HAROLD S. STONE, Ph.D.  
 2 A. I have not seen it.  
 3 Q. Okay. Are you aware that the  
 4 institution decision does cite to and discuss  
 5 portions of your declaration?  
 6 A. That's my understanding.  
 7 Q. All right. So I want to get into a  
 8 little bit of discussion about sort of your  
 9 role here.  
 10 So what is your understanding of the  
 11 role that you've been asked to -- to take part  
 12 in in this IPR?  
 13 A. I've been asked to review the patent  
 14 in -- that's in this case, that's the '687  
 15 patent, and to form an opinion with respect to  
 16 its validity based on prior art.  
 17 Q. And do you have an understanding  
 18 that you're undertaking that role as what we  
 19 call an expert witness?  
 20 A. Yes, I do.  
 21 Q. And do you have an understanding of  
 22 what it means to be an expert witness?  
 23 A. Yes, I do.  
 24 Q. And can you provide me just a --  
 25 kind of a short summary of what your

1 HAROLD S. STONE, Ph.D.  
 2 understanding is.  
 3 A. My understanding is I am supposed to  
 4 review the patent in consideration -- from the  
 5 point of view of a person of ordinary skill in  
 6 the art at the time of the -- of the priority  
 7 date of the patent and to determine, as viewed  
 8 by one of ordinary skill in the art, if the  
 9 prior art would have been known in the art to  
 10 that person.  
 11 Q. And as part of your role as an  
 12 expert witness, have you -- has someone  
 13 explained to you sort of the -- I guess what we  
 14 call the federal rules of evidence framework  
 15 for what an expert witness is supposed to  
 16 provide in terms of testimony?  
 17 A. I'm not sure about that. I -- I  
 18 do -- I could refer to my report where I have  
 19 been informed of the standards, legal  
 20 standards, if that's what you're referring to.  
 21 Q. Not specifically. So I guess let me  
 22 step back a little bit then on that.  
 23 So do you have an understanding  
 24 that -- as an expert witness, that you're  
 25 called to provide testimony relying or --

1 HAROLD S. STONE, Ph.D.  
 2 sorry, let me rephrase that.  
 3 Do you have an understanding that as  
 4 an expert witness you're being called to  
 5 provide opinions based on your expertise, sort  
 6 of your knowledge and experience within a  
 7 certain technical field?  
 8 A. Yes, I do.  
 9 Q. And that -- do you have an  
 10 understanding that that opinion needs to be  
 11 based on some sort of fact or data that you're  
 12 considering?  
 13 A. Yes, I do.  
 14 Q. And do you have an understanding  
 15 that your opinions need to have sufficient  
 16 basis in facts and data?  
 17 A. Yes, I do.  
 18 Q. Do you also have an understanding  
 19 that these opinions need to be the product of  
 20 reliable principles and methods?  
 21 A. Yes, I do.  
 22 Q. And one of those I guess approaches  
 23 for technical matters may be, for example, the  
 24 scientific method. Do you have that  
 25 understanding?

1 HAROLD S. STONE, Ph.D.  
 2 A. I do.  
 3 Q. And so talking about the scientific  
 4 method kind of briefly, what's your  
 5 understanding of what that is?  
 6 A. You said scientific method?  
 7 Q. Yes, scientific method.  
 8 A. The scientific method, as I've  
 9 practiced and I've been taught, is to conduct  
 10 research, identify the facts, come to  
 11 conclusions, publish those conclusions and let  
 12 the peer re- -- I -- I'm sorry, submit for peer  
 13 review, respond to peer review, and after  
 14 satisfactory review, to publish openly so that  
 15 it can be reviewed by the scientific community.  
 16 Q. Okay. And I seem to recall from  
 17 your CV that you are very well published. So  
 18 is it fair to say that you're pretty familiar  
 19 with this sort of publication, academic  
 20 publication and peer-review process?  
 21 A. Yes, I am.  
 22 Q. And have you supervised others who  
 23 are kind of going through that same publication  
 24 process as well?  
 25 A. Yes, I have.

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