

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

YITA LLC,
Petitioner,

v.

MACNEIL IP LLC,
Patent Owner.

Case IPR2020-01139
Patent No. 8,382,186

**NOTICE OF JOINT STIPULATION
REGARDING CROSS-EXAMINATION**

Petitioner Yita LLC and Patent Owner MacNeil IP LLC (collectively, “the parties”) jointly stipulate as follows.

I. CROSS-EXAMINATION OF WITNESSES NOT LOCATED IN THE U.S.

As authorized by the Board during the parties’ June 30, 2021 telephone conference with the Board and in the Board’s June 30, 2021 Order (Paper 43), and pursuant to 37 C.F.R. § 42.53, the cross-examination of Patent Owner’s declarants in IPR2020-01139 and IPR2020-01142 who are located outside the United States will occur utilizing the following procedure due to restrictions imposed by the COVID-19 pandemic. With respect to any witness whose preferred language is not English, the parties agree to use the procedure set forth below in place of the procedure for foreign language depositions set forth in *Ariosa Diagnostics v. Isis Innovation Ltd.*, IPR2012-00022, Paper 55 (PTAB Aug. 7, 2013).

A. Procedures for English-Speaking Declarants

If the witness prefers to be interviewed in English, then the following procedures shall apply.

1. Counsel will interview the witness remotely by video (e.g., using a platform such as Zoom or Live Litigation) at a time agreed upon by the parties in lieu of a deposition.
2. The witness will not be administered an oath in advance of the interview and the interview will not be captioned as a deposition.

3. A stenographer will transcribe the questions and answers. The interview will be recorded, and the recording may be used by the stenographer to complete the transcript following the interview. The parties agree to request an expedited transcript of the interview to be completed no later than one day from the date of the interview, the additional cost for expediting to be paid for by Patent Owner. The recording will be used for the aforementioned purposes by the stenographer only and will not be submitted to the Board.

4. Immediately following the conclusion of each interview, and prior to disconnecting the videoconference line, the witness will be asked to sign a supplemental declaration with the following statements:

5. On _____ [date(s)] I was interviewed by counsel for the parties to U.S. P.T.A.B. Proceedings IPR2020-01139 and IPR2020-01142. I hereby declare that all statements I made during the interview of my own knowledge are true and that all statements I made during the interview on information and belief are believed to be true, and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code.

6. Counsel for Patent Owner will provide counsel for Petitioner with a copy of the signed supplemental declaration promptly upon execution.

7. The completed transcript of the interview shall be provided to the witness within one business day of receipt of the final transcript. The witness shall have one week after receipt of the completed transcript to review the transcript for errors. If the witness has any changes to the transcript, an errata sheet must be provided by the witness. The errata sheet shall be in a format analogous to an errata sheet that would be provided for a deposition, where the witness indicates any changes in the testimony and the reason for the change.

8. The completed transcript, supplemental declaration, and errata sheet, if any, shall be combined into a single document (the “witness statement”). Counsel for Patent Owner will provide counsel for Petitioner with a copy of the witness statement promptly after receiving any errata sheet. The witness statement will serve as the official record of the witness’s testimony. Patent Owner agrees not to object to the admissibility of the witness statement based solely on the fact that the testimony is in the form of a witness statement in lieu of a deposition. All other potential objections are hereby preserved.

B. Procedures for Foreign-Language Witnesses

If the witness prefers to be interviewed in a language other than English, then the following procedures shall apply.

9. Counsel will interview the witness remotely by video (e.g., using a platform such as Zoom or Live Litigation) at a time agreed upon by the parties in

lieu of a deposition.

10. Counsel for Patent Owner will provide an interpreter for the interview.

11. The witness and the interpreter will not be administered an oath in advance of the interview and the interview will not be captioned as a deposition.

12. The interpreter will translate counsel's questions from English to the language of the witness and the witness's answers to English.

13. A stenographer will transcribe the English questions and answers ("English transcript"). The interview will be recorded, and the recording may be used by the stenographer to complete the transcript following the interview. The parties agree to request an expedited transcript of the interview to be completed no later than one day from the date of the interview, the additional cost for expediting to be paid for by Patent Owner. The recording will be used for the aforementioned purposes by the stenographer only and will not be submitted to the Board.

14. Immediately following the conclusion of each interview, and prior to disconnecting the videoconference line, the witness will be asked to sign a supplemental declaration with the following statements:

15. On _____ [date(s)] I was interviewed by counsel for the parties to U.S. P.T.A.B. Proceedings IPR2020-01139 and IPR2020-01142. I hereby declare that all statements I made during the interview of my own knowledge are true and

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