



Planet Depos[®]
We Make It *Happen*[™]

Transcript of Philipp Miehlich

Date: June 7, 2021

Case: PEAG LLC, et al -v- VARTA Microbattery GMBH. (PTAB)

Planet Depos

Phone: 888.433.3767

Email: transcripts@planetdepos.com

www.planetdepos.com

WORLDWIDE COURT REPORTING & LITIGATION TECHNOLOGY

**DOCKET
ALARM**

Find authenticated court documents without watermarks at docketalarm.com.

Transcript of Philipp Miehlich
 Conducted on June 7, 2021

1	3
1 UNITED STATES PATENT AND TRADEMARK OFFICE 2 BEFORE THE PATENT TRIAL AND APPEAL BOARD 3 PEAG LLC (d/b/a JLab Audio), AUDIO PARTNERSHIP LLC 4 and AUDIO PARTNERSHIP PLC (d/b/a Cambridge Audio), 5 Petitioner, 6 v. 7 VARTA MICROBATTERY GMBH, 8 Patent Owner. 9 Case IPR2020-01211 Case IPR2020-01212 10 USP 9,496,581 UPS 9,153,835 11 Case IPR2020-01213 Case IPR2020-01214 12 USP 9,799,858 USP 9,799,913 13 VIDEOTAPED DEPOSITION OF: 14 PHILIPP MIEHLICH 15 16 TRANSCRIPT OF TESTIMONY, as reported 17 by Nancy C. Bendish, Certified Court Reporter, 18 RMR, CRR and Notary Public of the States of 19 New York and New Jersey, conducted virtually via 20 Zoom Videoconference on Monday, June 7, 2021, 21 commencing at 8:02 a.m. EST. 22	1 I N D E X 2 WITNESS EXAMINATION 3 PHILIPP MIEHLICH 4 By Ms. Tempesta.....6,81,86 5 By Mr. Hartmann.....76,82 6 7 8 9 10 11 12 E X H I B I T S 13 NUMBER DESCRIPTION PAGE 14 1032 Article in ElectronicsWeekly.com 15 entitled "Smaller Rechargeable 16 Li-ion Button Cells for Wearables"...32 17 2045 Declaration of Philipp Miehlich.....20 18 19 20 21 22
2	4
1 A P P E A R A N C E S : 2 (All participated remotely via 3 Zoom Videoconference) 4 ON BEHALF OF PETITIONER, PEAG LLC, AUDIO 5 PARTNERSHIP LLC and AUDIO PARTNERSHIP PLC: 6 BAKER BOTTS LLP 7 BY: JENNIFER C. TEMPESTA, ESQ. 8 NICK PALMIERI, ESQ. 9 30 Rockefeller Plaza 10 New York, New York 10112 11 212.408.2500 12 jennifer.tempesta@bakerbotts.com 13 nick.palmieri@bakerbotts.com 14 15 ON BEHALF OF PATENT OWNER, 16 VARTA MICROBATTERY GMBH: 17 LEYDIG VOIT & MAYER, LTD. 18 BY: H. MICHAEL HARTMANN, ESQ. 19 ROBERT T. WITTMANN, ESQ. 20 Two Prudential Plaza 21 180 N. Stetson Avenue, Suite 4900 22 Chicago, Illinois 60601 312.616.5600 mhartmann@leydig.com bwittmann@leydig.com ALSO PRESENT: DR. RAINER JOSTES VINCENT ZHANG, Baker Botts LILY OLM, German Translator JARED BENNETT, Planet Depos Technician BRENDAN CASE, Planet Depos Videographer	1 THE VIDEOGRAPHER: Here begins the 2 video deposition of Philipp Miehlich in the 3 matter of PEAG LLC et al. versus VARTA 4 Microbattery GmbH held in the United States 5 Patent and Trademark Office, Cause Number 6 IPR2020-01211; 12, 13 and 14. 7 Today's date is Monday, June 7th, 8 2021. The time is 8:02 a.m., Eastern Standard 9 Time. 10 Your videographer of the day is 11 Brendan Case representing Planet Depos. This 12 deposition is taking place by video 13 teleconference via Zoom. 14 Would counsel present please 15 identify themselves and who they represent. 16 MS. TEMPESTA: Jennifer Tempesta 17 with Baker Botts on behalf of petitioners. Here 18 with me today is Nick Palmieri, also of Baker 19 Botts. 20 MR. HARTMANN: I'm Mike Hartmann 21 for Respondents in all of the -- I gather it's 22 being taken in all four IPRs, for Respondents.

PLANET DEPOS

888.422.2767 | WWW.PLANETDEPOS.COM

<p>5</p> <p>1 Mr. Rainer Jostes is also present to assist in 2 any technical translation problems that might 3 arise. 4 THE VIDEOGRAPHER: The court 5 reporter today is Nancy Bendish, representing 6 Planet Depos. Would the court reporter please 7 swear in the witness. 8 9 LILY OLM, German Translator, was remotely sworn 10 by the Court Reporter. 11 PHILIPP MIEHLICH, 12 having been remotely sworn by the 13 Court Reporter, testified as follows: 14 THE REPORTER: Please state your 15 full name for the record. 16 THE WITNESS: Philipp Miehlich. 17 THE REPORTER: And your address, 18 where you're presently located. 19 THE WITNESS: At this point in 20 time I am in the office at Varta Platz 1 in an 21 office building of the VARTA company. 22 - - -</p>	<p>7</p> <p>1 for you to speak in English today to the extent 2 that you're comfortable, and if you'd like the 3 assistance of an interpreter at any time, please 4 just let us know. Is that okay? 5 A. Okay. 6 Q. So before we jump into your 7 declarations, I see that you have some papers 8 there with you today in the office that you're 9 sitting in. Could you tell us what papers you 10 have with you? 11 A. Yes. I have my declaration with 12 me. I have the VARTA patents as well with me. 13 Q. Great. And by the VARTA patents, 14 are those US patent numbers 9,153,835, 15 9,496,581 -- 16 A. Not so fast. It's '581, it's 17 '858, it's '835 and it's '913, yes. 18 Q. Great, thank you. 19 And is there anyone in the room 20 with you today? 21 A. Yes. 22 Q. Who is there with you?</p>
<p>6</p> <p>1 EXAMINATION BY MS. TEMPESTA: 2 Q. Good morning, Mr. Miehlich. I'd 3 like to just start off with some procedural 4 details. I understand that in these IPRs you 5 have submitted four identical declarations; is 6 that correct? 7 (Question translated.) 8 A. (Through Translator) That's 9 correct, declarations. 10 Q. And those declarations were 11 submitted in English, correct? 12 (Question translated.) 13 A. (Through Translator) The document 14 is in English, that's correct. 15 Q. And it's our understanding that 16 you have some conversational ability to speak 17 English; is that also correct? 18 (Question translated.) 19 A. (Through Translator) Yes, I think 20 that that's the case. I believe that we can do 21 the deposition mostly in English. 22 Q. That's great, sir. So we'll ask</p>	<p>8</p> <p>1 A. Dr. Jostes. 2 Q. And why is he in the room with you 3 today? 4 A. In case I have some issues or do 5 not understand some technical wording or 6 whatever, that he can support with some 7 technical pronunciation or in case Mrs. Olm is 8 not this detailed technical phrasing, that he 9 can support. 10 Q. And who is Dr. Jostes? 11 A. Dr. Jostes was former VARTA 12 employee, yeah, and he is on the retirement 13 since (indiscernible). 14 Q. Thank you. Is there anyone else 15 there in the room with you today? 16 A. Nope, nobody. 17 Q. Have you ever had your deposition 18 taken before? 19 A. Sorry? 20 Q. Have you ever had your deposition 21 or testimony taken in a proceeding before? 22 A. No, never. Sorry.</p>

PLANET DEPOS

888.422.2767 | WWW.PLANETDEPOS.COM

<p>9</p> <p>1 Q. Just for clarity, did you ever 2 appear at a trial or other court proceeding 3 where you provided any testimony in the past? 4 (Question translated.) 5 A. No, never. 6 Q. Throughout the course of today's 7 deposition, if at any time you don't understand 8 a question or would like for me to rephrase a 9 question, please just let me know. Unless you 10 tell me otherwise, I will assume that you 11 understand my question, okay? 12 A. Okay. 13 Q. Throughout the deposition I'm 14 going to be referring to the patent owner here, 15 VARTA Microbattery GmbH, as "VARTA"; is that 16 okay with you? 17 A. That is okay with me. 18 Q. Okay, great. 19 So just to confirm, the content of 20 the four declarations that you submitted in 21 these IPRs are all the same. It's four 22 identical declarations, correct?</p>	<p>11</p> <p>1 MS. TEMPESTA: Declaration. 2 Q. And have you spoken with him in 3 connection with preparing your declaration? 4 A. No. 5 Q. Did you speak with him at all? 6 A. Yes. 7 Q. And when was that? 8 A. Oh, that was in a call where I – 9 where we had together explaining the situation 10 about market and some things. 11 Q. Could you provide a little more 12 detail. To what market are you referring? 13 A. I am referring to the CoinPower 14 market and its success. 15 Q. So, is it fair to say that you 16 provided him with some information with respect 17 to VARTA's batteries in connection with these 18 proceedings? 19 A. I provided him the ideas how it 20 came to this product and to the success, 21 commercial success. 22 Q. And for how long approximately did</p>
<p>10</p> <p>1 A. I do not understand the question 2 whether this is four different declarations. I 3 have submitted one, I believe it's one 4 declaration. 5 Q. Understood. And so we're going to 6 focus on one that was submitted in one of the 7 four IPRs today. 8 Did you yourself prepare your 9 declaration? 10 A. With the support of the lawyers, 11 yeah, because I explain in German, then it was 12 translated, and I write it again and sign it. 13 Q. Understood. Are you familiar with 14 the name Martin Peckerar? 15 A. Martin Peckerar, yes, I learned 16 the name Martin Peckerar. 17 Q. And who is that? 18 A. That is highly sophisticated 19 professor who understands a lot of energy 20 storage devices and is making his aussage, his 21 explanation for the situation. 22 (Reporter clarification.)</p>	<p>12</p> <p>1 you speak? 2 A. All in all, maybe ten minutes. 3 All in all. 4 Q. And just to confirm, you're not a 5 lawyer; is that right? 6 A. I'm by far not a lawyer, sorry. 7 Would be an interesting job, but I'm by far not 8 a lawyer. I do not understand the legal phrases 9 or learnings or whatever. 10 Q. And you don't have any specific 11 background in United States patents or anything 12 like that, correct? 13 A. Not at all, not at all. 14 Q. Okay. And you're not a technical 15 expert, are you? 16 A. Maybe I'm not a technical expert 17 to the extent of our R&D specialists, but I 18 would consider myself, with regards to battery 19 know-how and my background, from my university 20 degree, let's say, a very well-known person in 21 the battery industry to understand batteries, 22 yes.</p>

<p>13</p> <p>1 Q. Okay. Let's talk about your 2 university degree. Can you tell us a little bit 3 about that? 4 A. Yes. On my professional I have a 5 degree in (German word). Don't ask me how to 6 translate that. 7 (Reporter clarification.) 8 THE TRANSLATOR: In economics and 9 electronics. 10 A. From a polytechnical high school 11 in Arlen, that is in Baden-Württemberg. 12 Q. And that was high school. Is 13 there a university degree that took place after 14 that? 15 MR. HARTMANN: That wasn't high 16 school. 17 THE WITNESS: High school does not 18 exist in Germany. 19 MS. TEMPESTA: Apologies, sir. 20 THE TRANSLATOR: Interpreter's 21 remark: This is a specialized university that 22 he's referring to.</p>	<p>15</p> <p>1 consider. You do a kind of master of business 2 administration and you do in parallel university 3 study on electronics, and electronics but also 4 some mechanical stuff, yeah. At these 5 universities. 6 Q. Understood. And did you attend 7 any additional school after obtaining this 8 degree? 9 A. Oh, I was participating in some 10 seminars, some trainings like this, yeah. After 11 the university. 12 Q. Okay. And then what did you do 13 after university? 14 A. After university I was in a 15 company, they have been doing semiconductors, 16 was former times headquarter in the US, later it 17 was acquired by Philips Semiconductors. 18 Q. And what was the time period of 19 this work? 20 A. Give me a second. '86 to '90. 21 Q. And then what did you do in 1990 22 after leaving that position?</p>
<p>14</p> <p>1 Q. So when you said polytechnical 2 high school, that's a specialized university? 3 MR. HARTMANN: He didn't say 4 polytechnical high school. We're having a 5 problem with the communication at this point. 6 MS. TEMPESTA: Okay. That's what 7 the transcript says. Apologies. We should get 8 clarity on that. 9 BY MS. TEMPESTA: 10 Q. Sir, could you please repeat what 11 you said. You said something about a degree in 12 economics and electronics and where was that 13 degree from? 14 A. That degree was from polytechnical 15 University of Arlen in Baden-Württemberg. 16 Q. Thank you for the clarification. 17 And now when you referred to 18 economics and electronics, can you give a little 19 more detail on that. Is that like having a 20 double major, one in economics and one in 21 electronics? 22 A. Yes. That is what you can</p>	<p>16</p> <p>1 A. I joined VARTA, from 91 hundreds. 2 Q. And you're still currently 3 employed by VARTA? 4 A. Yes, I'm currently employed by 5 VARTA, but I'm on a transition to retirement. 6 But at the very moment I'm on vacation. 7 Q. Seems like it. Okay. 8 So could you just walk us through 9 your positions at VARTA starting with the 10 beginning when you began there in approximately 11 1991? 12 A. Okay. So, you like we have the 13 whole story; let me think about that. 14 So, I started in '91 as a product 15 manager for rechargeable products. That was 16 rechargeable button cells and rechargeable 17 so-called cylindrical cells. 18 In this times there was -- 19 rechargeable was mainly or only two chemical 20 systems, that was nickel-cadmium and 21 nickel-metal hydride. Later from job location I 22 was a key account manager for telecom --</p>

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.