

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

\* \* \* \* \*

SAMSUNG ELECTRONICS CO., LTD. et al.

Petitioner

-v-

MEMORYWEB, LLC

Patent Owner

\* \* \* \* \*

Patent No. 10,621,228

Inter Partes Review No. IPR2022-00222

DEPOSITION OF DR. PHILIP GREENSPUN

Zoom examination taken by agreement of counsel on  
Friday, August 26, 2022, commencing at 10:10 a.m.

Court Reporter via Zoom:

Elaine J. Ritsema, LCR

LCR No. 92 (RSA 310-A)

**EXHIBIT**

APPEARANCES VIA ZOOM:

For the Petitioner:  
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STIPULATIONS

It is agreed that the deposition shall be taken in the first instance in stenotype and when transcribed may be used for all purposes for which depositions are competent under United States Patent and Trademark Office Rules.

Notice, filing, caption and all other formalities are waived. All objections except as to form are reserved and may be taken in court at time of trial.

It is further agreed that if the deposition is not signed within thirty (30) days after submission to counsel, the signature of the witness is waived.

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DR. PHILIP GREENSPUN

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EXHIBITS FOR IDENTIFICATION:

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\* Exhibits retained by counsel

DR. PHILIP GREENSPUN,

having been first duly sworn under RSA 310-a:181, Limited Notarial Function, was deposed and testified as follows:

EXAMINATION

BY MR. WERBER:

Q Good morning, Dr. Greenspun. Could you please state and spell your full name for the record.

A Good morning. It's Philip, P-H-I-L-I-P, Greenspun. That's green S-P-U-N, G-R-E-E-N-S-P-U-N.

Q Thank you.

And then are you able to see the AgileLaw portal where we circulated the login?

A Yes.

Q All right. And if I'm doing this wrong, let me know; but are you able to see a notice of deposition document?

A I think that I can see that as Document 1.

Q Yes. It would be Document 1.

A Okay.

1 Q And do you -- so this is a notice of  
2 deposition caption. Patent notice of deposition of  
3 Dr. Philip Greenspun. This is a deposition notice  
4 asking you to appear and testify under oath in  
5 relation to the matter captioned at the top. Do you  
6 understand you are here to testify about your  
7 opinions in this case?

8 A Yes.

9 Q Do you understand you are here to provide  
10 truthful and accurate answers in response to my  
11 questions?

12 A Yes.

13 Q Do you understand the oath just  
14 administered is the same oath that would be used in  
15 a courtroom in front of a judge and jury,  
16 notwithstanding the remote nature of this deposition  
17 arrangement?

18 A Yes.

19 Q Is there anything that you can think of  
20 that may prevent you from hearing my questions and  
21 understanding my questions today?

22 A Well, until about noon there's three guys  
23 who are working here trying to take the mold out of  
24 the air conditioning system. That's a very Florida

1 Florida.

2 Q I visited Jupiter last June. We've got a  
3 cousin there. Very nice there.

4 Are there any devices operating in the  
5 room that you're sitting in, besides the computer  
6 you are using for Zoom?

7 A I have my phone here on silent per the  
8 court reporter's instructions, there's a laptop and  
9 a briefcase, and there's a closed laptop just behind  
10 me that is off the Internet. It's just got some  
11 source code for review on it.

12 Q Okay. And just as an instruction, would  
13 you mind turning the smartphone off?

14 A No. That's okay. I was only keeping it  
15 on in case the air conditioning people called but  
16 they're here.

17 Q Okay. They're here. Okay. Thank you.

18 A Okay. Now it's off.

19 Q Okay. So here are a few instructions so  
20 we're clear on the rules. You have been deposed  
21 many times before, right?

22 A Yes.

23 Q Okay. Approximately how many?

24 A Approximately at least 20 times.

1 issue.

2 So occasionally there may be some  
3 background noise, and I may have to ask you to  
4 repeat a question, and I actually will have to take  
5 a short break at some time to look at the evaporator  
6 coils myself. But other than -- by the time they  
7 leave, there shouldn't be any issues.

8 Q That's absolutely fine. And with or  
9 without any kind of air conditioning repairs or home  
10 improvement, regardless, if you do not hear a  
11 question, please ask me to restate, or we can have  
12 our court reporter read it back to you. We want to  
13 make sure the transcript is clear and we don't move  
14 forward without you hearing or understanding what's  
15 being asked.

16 Is there anything you can think of that --  
17 assuming you hear the question and understand the  
18 question, is there anything else you can think of  
19 that may prevent you from testifying truthfully?

20 A No.

21 Q Can you tell me where you are sitting  
22 today?

23 A I'm in Abacoa, which is a MacArthur  
24 Foundation created neighborhood within Jupiter,

1 Q And I believe you said you are in Jupiter,  
2 Florida. You're at your residence?

3 A Yes, that's right. I'm at home.

4 Q Okay. Can you tell us the address?

5 A Sure. It's what I had just given to the  
6 court reporter off the record; but on the record  
7 it's 133 Barcelona Drive, Jupiter, Florida, 33458.

8 Q Thank you.

9 So back -- just a few ground rules. We've  
10 covered it before and you've been through  
11 depositions many times. Today I'll do my best to  
12 ask clear and direct questions you're able to  
13 understand. If you do not understand a question or  
14 would like clarification, please speak up; and I  
15 will rephrase. Or if you didn't hear it right, you  
16 can even ask the court reporter to read it back.

17 We're doing this remotely through  
18 videoconference, but we still have a court reporter  
19 doing her best to record into written form what is  
20 said for a written transcript. To help her out,  
21 please answer verbally with words, yes or no, rather  
22 than nodding your head and other gestures. Does  
23 that make sense?

24 A Yes.

1 Q A few minutes ago Mr. Green, Chris Green,  
2 introduced himself as your attorney for this  
3 deposition. Do you understand he is here -- he is  
4 here on behalf of Samsung?

5 A Yes. That's my understanding.

6 Q Mr. Green may choose to object to some of  
7 my questions. If he does, please, allow him time to  
8 make that objection; and then you can proceed with  
9 answering afterwards.

10 Sometimes just pausing after I ask the  
11 question may help the court reporter so we don't  
12 have multiple voices speaking at once.

13 An objection does not mean you should not  
14 answer. That is unless the attorney tells you not  
15 to answer for reasons of privilege, which I will  
16 hope -- I would assume and hope we won't need to get  
17 into.

18 Without -- I'm at no -- does that make  
19 sense?

20 A Yes.

21 Q Without getting into the specifics of  
22 conversations between you and counsel, can you  
23 generally tell me what you did to prepare for  
24 today's deposition, if anything?

1 MR. GREEN: Before Dr. Greenspun answers,  
2 if I may, I appreciate your appearance at the  
3 deposition. I would like to note that just for  
4 clarity, I am appearing today both on behalf of  
5 Samsung and the witness, Dr. Greenspun.

6 MR. WERBER: Okay.

7 A What did I do to prepare? I reread my  
8 declaration.

9 BY MR. WERBER:

10 Q Mm-hmm.

11 A -- I read the institution decision from  
12 the PTAB, and I met with counsel for a total of  
13 about four hours by Zoom. That's all that I can  
14 think of right now.

15 Q And when you refer to meeting with  
16 counsel, was that over a videoconference or a  
17 telephone call?

18 A Zoom.

19 Q Zoom. Okay.

20 And when you refer to meeting with  
21 counsel, are you referring to counsel for --  
22 attorneys from Fish & Richardson?

23 A Yes.

24 Q Okay. And I would call that outside

1 counsel; is that fair?

2 A Yes.

3 Q Did you speak with any Samsung, you know,  
4 internal, in-house attorneys, or any employees of  
5 Samsung to your knowledge in preparation for today's  
6 deposition?

7 A No.

8 Q So you spoke with attorneys from Fish &  
9 Richardson, you had that videoconference you  
10 mentioned through Zoom for about four hours, you,  
11 you know, reviewed some written materials from  
12 this -- from this proceeding. Besides those items  
13 that you just mentioned, do you recall doing  
14 anything else to prepare for today's testimony?

15 A Not really. I mean, I think I also looked  
16 at Okamura and Belitz a little bit. Their  
17 references are primarily cited in my report, but  
18 that -- that's -- what I said before I think is  
19 everything that I can remember right now.

20 Q That is fine. Thank you. Thank you.

21 And so let's go to Exhibit 1001, which has  
22 already been marked as an exhibit by virtue of the  
23 way that the PTAB operates. That is the 228 patent.  
24 And my question for you is -- there may be a way on

1 AgileLaw for you to download it; and, if not, I'll  
2 insert it in the chat.

3 A I mean, I have what I think is a correct  
4 copy of this in my computer already; but I don't see  
5 a way to download this from AgileLaw.

6 Q Let me share my screen real quick.

7 Actually, this might even be easier. Do you see a  
8 big, red button in your upper right-hand-side  
9 corner?

10 A Leave session?

11 Q Yes.

12 A I do.

13 Q Is there a tiny, little box in the corner  
14 where you might be able to hit download or anything  
15 like that?

16 A No.

17 Q Okay. I will add some things to chat.

18 A While you're doing that, if it's okay, can  
19 we go off the record for a few minutes? I've been  
20 summonsed regarding the evaporator coil.

21 MR. WERBER: Let's do that and we'll take  
22 five or so minutes, whatever time you need; and in  
23 the meantime I'll upload a bunch of stuff in chat.  
24 Okay?

1 THE WITNESS: Very good.  
 2 MR. WERBER: Okay. Thank you.  
 3 (Recess taken from 10:23 am to 10:37 am.)  
 4 MR. WERBER: We can go back on the record  
 5 now.  
 6 BY MR. WERBER:  
 7 Q So we just returned from being off the  
 8 record. Dr. Greenspun had to step out to deal with  
 9 something happening at his house. During the break  
 10 I uploaded or posted to chat a few different  
 11 exhibits. One of them I did the wrong copy of the  
 12 same exhibit, and so I just made sure that counsel  
 13 and everybody on the phone understand that when I'm  
 14 talking about Exhibit 1005 Okamura, we should be  
 15 using the one that's called Ex. 1005-Samsung and  
 16 make sure we're looking at that.  
 17 Dr. Greenspun, I will also just give you  
 18 one more instruction on the record. We would like  
 19 for you to -- obviously you have your laptop open to  
 20 be using Zoom. You may, if you want, open your PDF  
 21 application to look at the exhibits I'm uploading to  
 22 the chat; but, please -- and I want you to confirm  
 23 that this is the only thing you are opening and  
 24 looking at during the deposition, which are the

1 exhibits that I'm posting to chat.  
 2 A Yes.  
 3 Q Okay. Not even your own copies of the  
 4 same exhibit. I just want a clean record that we're  
 5 only using what I'm sharing in this ecosystem. Is  
 6 that okay?  
 7 A Okay.  
 8 Q So I have shared Exhibit 1001, which is  
 9 the 228 patent. Do you have that? And if you need  
 10 a minute to download all the different things,  
 11 please let me know.  
 12 A I think I have them all downloaded now.  
 13 Q Okay.  
 14 A I have the 228 patent that's Exhibit 1001.  
 15 Q Perfect. And you recognize Exhibit 1001  
 16 as US patent No. 10,621,228.  
 17 A Yes.  
 18 Q Let's skip to Exhibit 1003.  
 19 A Okay.  
 20 Q Do you recognize Exhibit 1003 as the  
 21 declaration you submitted that went with the  
 22 petition in this matter?  
 23 A Yes.  
 24 Q And on page 1 it says December 3rd, 2021

1 in Jupiter, Florida, there's a signature block; and  
 2 that is your signature, right, Dr. Greenspun?  
 3 A It is.  
 4 Q Okay. Let's talk about the declaration.  
 5 Without revealing any conversation between you and  
 6 counsel, can you tell me who wrote the declaration?  
 7 A Well, I certainly don't want to take  
 8 credit for at least one section, which is -- oh, I  
 9 have a hard copy of my declaration printed out. Do  
 10 you want me not to use that?  
 11 Q If that's easier but I just want  
 12 confirmation from you that that copy is a clean  
 13 copy.  
 14 A It is. I just printed it last night. So  
 15 it doesn't have any markings on it or anything.  
 16 Q Okay.  
 17 A So there's a section that begins at page  
 18 13 called legal standards, and it goes to page 18, I  
 19 guess. Anyway, I didn't have any -- anything to do  
 20 with that section.  
 21 Q Sure.  
 22 A But other than that I wrote this  
 23 declaration.  
 24 Q Approximately how long did it take to

1 prepare this declaration?  
 2 A I don't remember but I think at least --  
 3 at least 50 hours, probably.  
 4 Q And you testified that you worked with  
 5 counsel to help with certain sections such as a  
 6 legal standards section, right?  
 7 MR. GREEN: Objection to form. I think  
 8 it's slightly mischaracterizing Dr. Greenspun's  
 9 testimony but you may answer.  
 10 A Just that counsel entirely wrote the legal  
 11 standards section, yes.  
 12 Q Okay. So at least in that capacity --  
 13 counsel assisted with the preparation of the  
 14 declaration at least in that capacity?  
 15 A Yes.  
 16 Q And you're referring to attorneys at Fish  
 17 & Richardson when we're talking about counsel in  
 18 relation to this subject?  
 19 A Yes.  
 20 Q Did you receive assistance from any  
 21 attorneys outside Fish & Richardson?  
 22 A No. I don't think so.  
 23 Q Besides you, yourself, Dr. Greenspun, and  
 24 attorneys at Fish & Richardson, did anybody else

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