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Subject: Foreign Witness Depositions | IPR2023-01161 | IPR2024-00004 | IPR2024-00098
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Dear Board,

Petitioner noticed remote depositions in the related litigation for several of the third-party individuals who have executed declarations on behalf of Petitioner in these proceedings. These individuals include Messrs. Lonnemann, Speerschneider, and Funck. They are located in Europe. The depositions are currently scheduled for July 2, 9, and 18, 2024.

On June 7, counsel for Petitioner contacted counsel for Patent Owner, asking whether counsel for Patent Owner would be willing to stipulate to using the testimony obtained from the foreign witnesses through the district court litigation in these IPR proceedings, given that the issues pertaining to these witnesses in the litigation substantially overlaps with the issues presented in the IPRs. This would avoid multiple, redundant depositions for these third-party witnesses and be more efficient for everyone involved.

On June 17, counsel for Patent Owner responded to Petitioner, refusing to stipulate to using the deposition transcripts in the IPR proceedings and stating that it will insist on the IPR depositions being taken in the United States. To date, Patent Owner has not noticed a single deposition in any of the IPR proceedings.

Petitioner would appreciate guidance and direction from the Board on how the parties might obtain any necessary evidence while minimizing the burden on these third-party witnesses. Specifically, Petitioner requests that the Board permit deposition testimony of these foreign witnesses outside of the United States. Additionally, Petitioner seeks guidance from the Board on how discovery for these three related IPR proceedings and the district court proceedings might be consolidated so that these third-party individuals need not undergo four successive rounds of depositions on the same sets of facts that are at issue in these proceedings.

Petitioner would like to schedule a call with the Board to discuss these issues. Petitioner is available to discuss these issues during the call on Patent Owner's proposed motion to amend.

Best regards,

Taylor

Taylor R. Stemler

IPR2024-00098
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