Trials@uspto.gov
Tel: 571-272-7822

Paper 18
Entered: March 1, 2016

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ACCO BRANDS CORPORATION AND
ACCO BRANDS USA LLC,
Petitioner,

v.

THINK PRODUCTS, INC.,
Patent Owner.

IPR2015-01167 (8,717,758 B2)[1]
IPR2015-01168 (8,837,144 B1)

Before RICHARD E. RICE, SCOTT A. DANIELS, and ROBERT A. POLLOCK, *Administrative Patent Judges.*

POLLOCK, *Administrative Patent Judge*.

ORDER
Conduct of the Proceeding
37 C.F.R. § 42.5

[1] This order addresses a similar issue in both cases and we exercise discretion to issue one order to be filed in each case. The parties, however, are not authorized to use this style of heading in subsequent papers.

A conference call was held on February 29, 2016 between Judges Rice, Daniels, and Pollock, and respective counsel for the parties, Michael R. Weiner and Sandip H. Patel for Petitioner, and Edwin D. Schindler and John F. Vodopia for Patent Owner. Petitioner, via a February 26, 2015, email communication to the Board, requested a conference call to discuss the deposition of Declarant Robert Mahaffey.

Petitioner contends that Patent Owner recently indicated that Mr. Mahaffey is available for deposition, but only in Canada. Petitioner objects on the basis that a Canadian deposition is both inconvenient and contrary to Board rules.

Patent Owner responds that Mr. Mahaffey has encountered immigration problems involving an expired visa and is concerned that he may not be allowed back into Canada if he attends a deposition in the United States. Patent Owner argues that the inconvenience of a deposition in Canada is no greater than for cities in the United States but, nevertheless, offers to reimburse Petitioner for the reasonable costs of holding the deposition in Toronto, Canada.

With respect to taking testimony, our rules provide that

> *Except as the Board otherwise orders,* during the testimony period, deposition testimony may be taken at any reasonable time and location within the United States before any disinterested official authorized to administer oaths at that location.

37 CFR § 42.53(b)(2) (emphasis added); *see also* 37 C.F.R. § 42.5(b) (providing the Board has discretion to waive or suspend requirements under section 42 and place conditions on any such waiver or suspension). In the interest of a just and speedy resolution of this proceeding, we order that Mr. Mahaffey's deposition may be taken in Toronto, Canada.

ORDER

Accordingly, it is

ORDERED that Patent Owner shall make Robert Mahaffey available for deposition in Toronto, Canada during the discovery period;

FURTHER ORDERED that Patent Owner shall reimburse Petitioner for reasonable costs of travel and one night's accommodation for two attorneys attending Mr. Mahaffey's deposition.

PETITIONER:

Michael R. Weiner
Sandip H. Patel
MARSHALL, GERSTEIN & BORUN LLP
mweiner@marshallip.com
spatel@marshallip.com
Docket@marshallip.com

PATENT OWNER:

Edwin D. Schindler
John F. Vodopia
EDSchindler@att.net
jvodopia@gmail.com