

HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY

STATEMENT OF ISSUES PRESENTED

1. Whether a reasonable factfinder could find by clear and convincing evidence that the *single most reasonable inference* from the evidence of record is that the Named Inventors of the Asserted Patents intended to deceive the Patent Office during prosecution.
2. Whether Defendants may use their stricken invalidity theories relating to Project Angel to support their inequitable conduct allegations, and, if not, whether a reasonable factfinder could find by clear and convincing evidence that Project Angel was but-for material based on the remaining evidence of record.
3. Whether Defendants’ allegations of unclean hands rise and fall with their allegations of inequitable conduct, and, if not, whether a reasonable factfinder could conclude by clear and convincing evidence, based on the evidence of record, that Neo is barred from asserting the Asserted Patents due to egregious misconduct akin to perjury, the manufacture of false evidence, or the suppression of evidence.
4. Whether the materials that Defendants and their experts rely on from a separate litigation involving third-party Adaptix is inadmissible and should be considered by the Court in deciding this Motion.

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CONCURRENCE PURSUANT TO L.R. 7.1(A)

Pursuant to L.R. 7.1(a), the parties met-and-conferred on June 14, 2024 regarding the relief sought in this Motion. Defendants did not concur on any of the relief requested herein.