

Kurcz, Jennifer

From: Adam Kessel <Kessel@fr.com>
Sent: Monday, August 01, 2016 1:46 PM
To: Kurcz, Jennifer
Cc: Healey, David J.; nmorgan@wsgr.com; Levin, Michael; Bailey Harris
Subject: RE: TTI v. TS/IBG - Protective Order Issue re CBM

Hi Jen:

Defendants do not object to discussing the documents at a high level on the telephone conference. We do not believe specific details are necessary for the discussion; however, if specifics are disclosed, we would simply request that the transcript be filed under the PTAB protective order.

Regards,

Adam

From: Kurcz, Jennifer [mailto:kurcz@mbhb.com]
Sent: Monday, August 1, 2016 12:24 PM
To: Adam Kessel <Kessel@fr.com>
Cc: David Healey <Healey@fr.com>; nmorgan@wsgr.com; Michael Levin <mlevin@wsgr.com>; Bailey Harris <bharris@fr.com>
Subject: RE: TTI v. TS/IBG - Protective Order Issue re CBM

Adam,

Thank you for your response.

I also assume that TS and IB do not object to TT discussing with the Board some of the documents/information on the telephone conference in which we seek leave to file our motion?

Thanks,
Jen

From: Adam Kessel [mailto:Kessel@fr.com]
Sent: Friday, July 29, 2016 5:51 PM
To: Kurcz, Jennifer
Cc: Healey, David J.; nmorgan@wsgr.com; Levin, Michael; Bailey Harris
Subject: RE: TTI v. TS/IBG - Protective Order Issue re CBM

Hi Jen:

We understand that TT must first seek leave from the Board to file a motion to file supplemental information. If the PTAB permits TT to file a motion to file supplemental information, TradeStation and IBG will not object on the basis of the district court protective order. Likewise, if PTAB's motion to file supplemental information is itself granted, TradeStation and IBG will not object to the actual filing on the basis of the district court protective order. All of this is subject, of course, to any TradeStation/IBG documents or deposition testimony being filed under the PTAB Protective Order. I believe this answers your inquiry but please advise if there remains any ambiguity.

Regards,

Adam

From: Kurcz, Jennifer [<mailto:kurcz@mbhb.com>]

Sent: Friday, July 29, 2016 5:34 PM

To: Adam Kessel <Kessel@fr.com>

Cc: David Healey <Healey@fr.com>; nmorgan@wsgr.com; Michael Levin <mlevin@wsgr.com>; Bailey Harris <bharris@fr.com>

Subject: Re: TTI v. TS/IBG - Protective Order Issue re CBM

Adam,

Just to clarify based on a question I have received from CBM counsel--we plan on filing certain of these and referencing them in the motion before the board to request that we can file them as supplemental information. I guess it is a two step process, so I assume there is no objection to either step. If I am wrong, please provide a basis for that distinction and availability to confer today or Monday.

Thanks.

On Jul 29, 2016, at 12:56 PM, Adam Kessel <Kessel@fr.com> wrote:

Dear Jennifer:

TradeStation and IBG will not argue that the District Court Protective Order prevents TT from seeking leave to file a motion for supplemental information, or from submitting the documents that have been produced in the litigation specifically identified in Exhibit B to your July 27 email as well as the TradeStation and IBG deposition transcripts you identified, to the PTAB under the PTAB Protective Order, in the event that the PTAB permits TT to file supplemental information. To be clear, TradeStation and IBG do not waive any potential arguments opposing TT's request to file supplemental information other than any objection that might be based on the District Court Protective Order.

We believe this agreement eliminates the need for a meet-and-confer today as well as any motion practice before the District Court. If you believe there remains any issues to discuss on this topic, plus let us know and we can speak at 1:30pm CT / 2:30pm ET.

Regards,

Adam

Adam J. Kessel :: Principal :: Fish & Richardson P.C.

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