

Kurcz, Jennifer

From: David Healey <Healey@fr.com>
Sent: Friday, May 27, 2016 11:45 AM
To: Kurcz, Jennifer
Cc: John Phillips; Adam Kessel; Trevor Goodrich; Deborah Hamilton; rsokohl@skgf.com; nmorgan@wsgr.com
Subject: Your request on use of documents for PTAB

Jenn,

I am writing regarding your call this morning and emails last night pressing for an agreement on use of materials from the TT v TS Chicago litigation carte blanche in the PTAB proceedings.

I understand your next substantive filing in the PTAB is more than a month away. In the interim, we have several time sensitive issues, such as your request on an expedited appeal of the stay order (for which we still have not received a proposed schedule) to be discussed in a few hours; Ms. Palma's latest complaints on discovery threatening court action if not resolved by the next business day; preparation for Mr. Bartleman's deposition; discovery responses due in Florida (to which our calls and emails regarding a short extension have gone unanswered); and other matters. This said, I am not going to respond further without conferring with our client and our team and there is no reason to get this done today -- other issues have priority.

Next let me make clear, we will not submit to a blanket agreement that any document from the TT v. TS litigation can be used in the PTAB proceedings. There is no basis for this, and it undermines the purpose of creating a cost-effective, highly efficient, focused proceeding in the PTAB. It gives TT license to use a large and disorganized document dump it made on us in the Chicago case as it pleases, dump more documents on us as it pleases to launder them through the lawsuit to use in the PTAB -- regardless of whether the submission is proper or there is an evidentiary basis for it. Indeed, prior emails have lead me to believe that TT intends to overwhelm the PTAB with submissions regardless of their propriety or evidentiary basis in order to create some kind of supposed due process argument.

So I will get back to you after I talk to our team -- but to be clear, it is only the single range of bates-number pages we will consider. I expect to confer with our people before Mr. Bartleman's deposition and we can discuss it in person at that time -- which I believe is still weeks from your next substantive submission.

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