
From: Rob Sokohl [mailto:RSOKOHL@skgf.com]
Sent: Monday, December 12, 2016 11:53 PM
To: 'Kurcz, Jennifer' <kurcz@mbhb.com>; Trials <Trials@USPTO.GOV>; Lori Gordon <LGORDON@skgf.com>; Richard M. Bemben <RBEMBEN@skgf.com>; PTAB Account <PTAB@skgf.com>; Arner, Erika <erika.arnner@finnegan.com>; Emsley, Rachel <Rachel.Emsley@finnegan.com>; Bell, Cory <Cory.Bell@finnegan.com>; Trading-Tech-CBM <Trading-Tech-CBM@finnegan.com>; tt-patent-cbm@tradingtechnologies.com; Gannon, Michael <gannon@mbhb.com>; Sigmond, Leif <sigmond@mbhb.com>; PTAB Account <PTAB@skgf.com>; Rodkey, Kevin <Kevin.Rodkey@finnegan.com>; Goldberg, Joshua <Joshua.Goldberg@finnegan.com>; Richter, Cole <richter@mbhb.com>
Subject: RE: CBM2016-00009

Your Honors

Petitioner disagrees with Patent Owner's characterization that Mr. Rho admitted his declaration contained new arguments. Per prior order of the Board, the parties have already briefed this issue.

Further, the appropriate vehicle to bring Mr. Rho's testimony to the Board's attention is a motion for observations, which is due tomorrow. Nevertheless, Petitioner will be prepared to discuss on Wednesday's call, should the Board determine additional discussion is warranted.

Respectfully submitted,

Rob Sokohl
Lead counsel for Petitioner

Rob Sokohl
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From: Kurcz, Jennifer [<mailto:kurcz@mbhb.com>]
Sent: Monday, December 12, 2016 9:53 PM
To: Trials; Lori Gordon; Rob Sokohl; Richard M. Bemben; PTAB Account; Arner, Erika; Emsley, Rachel; Bell, Cory; Trading-Tech-CBM; tt-patent-cbm@tradingtechnologies.com; Gannon, Michael; Sigmond, Leif;

PTAB Account; Rodkey, Kevin; Goldberg, Joshua; Richter, Cole
Subject: CBM2016-00009

Your Honors,

In view of Mr. Rho's admissions last week that his declaration contains new arguments, Patent Owner respectfully renews its request for authorization to file a motion to strike Petitioners' new arguments set forth in their Reply and in Mr. Rho's declaration. Alternatively, Patent Owner seeks authorization to file a motion for supplemental briefing in order to respond to the new arguments set forth in Petitioners' Reply and supporting Rho declaration.

Patent Owner has conferred with Petitioners regarding this request. Petitioners oppose this request at this time. Patent Owner proposes addressing this matter on Wednesday's call with your Honors.

Respectfully submitted,

Jennifer M. Kurcz
Back-up counsel for Patent Owner



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From: Trials [<mailto:Trials@USPTO.GOV>]
Sent: Friday, December 09, 2016 9:09 AM
To: Kurcz, Jennifer; Lori Gordon; Rob Sokohl; Richard M. Bemben; PTAB@skgf.com; Arner, Erika; Emsley, Rachel; Bell, Cory; Trading-Tech-CBM; tt-patent-cbm@tradingtechnologies.com; Gannon, Michael; Sigmond, Leif; PTAB@skgf.com; Rodkey, Kevin; Goldberg, Joshua
Cc: Trials
Subject: RE: CBM2016-00009

Counsel,

A conference call with the panel has been scheduled for 10:00 am eastern on December 14, 2016. The call in number is 866-617-3597 and the passcode is 9501631.

Thanks,

Andrew Kellogg,
Supervisory Paralegal
Patent Trial and Appeal Board

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From: Kurcz, Jennifer [<mailto:kurcz@mbhb.com>]
Sent: Thursday, December 08, 2016 5:31 PM
To: Trials <Trials@USPTO.GOV>
Cc: Lori Gordon <LGORDON@skgf.com>; Rob Sokohl <RSOKOHL@skgf.com>; Richard M. Bembem <RBEMBEN@skgf.com>; PTAB@skgf.com; Arner, Erika <erika.arner@finnegan.com>; Goldberg, Joshua <Joshua.Goldberg@finnegan.com>; Emsley, Rachel <Rachel.Emsley@finnegan.com>; Bell, Cory <Cory.Bell@finnegan.com>; Trading-Tech-CBM <Trading-Tech-CBM@finnegan.com>; tt-patent-cbm@tradingtechnologies.com; Gannon, Michael <gannon@mbhb.com>; Sigmond, Leif <sigmond@mbhb.com>; Kurcz, Jennifer <kurcz@mbhb.com>; PTAB@skgf.com; Rodkey, Kevin <Kevin.Rodkey@finnegan.com>
Subject: CBM2016-00009

Your Honors,

Patent Owner respectfully requests authorization for additional submissions pursuant to 37 CFR § 42.20. Specifically, Patent Owner requests permission to provide a submission to explain the relevance of the following decisions that issued after Patent Owner's July 21, 2016 Response:

In re: Nuvasive, Inc., No. 2015-1670 (Fed. Cir. Dec. 7, 2016) (relating to motivation to combine for 35 U.S.C. § 103);

GoPro, Inc., v. Contour IP Holding LLC, IPR2015-01080, Paper 55, at 18-28 (P.T.A.B. Oct. 26, 2016) (relating to a "printed publication" under 35 U.S.C. § 102(b)); *GoPro, Inc., v. Contour IP Holding LLC*, IPR2015-01080, Paper 54, at 19-28 (P.T.A.B. Oct. 26, 2016) (same);

Apple Inc. v. Samsung Elecs. Co., 839 F.3d 1034 (Fed. Cir. Oct. 7, 2016) (relating to 35 U.S.C. § 103, including motivation to combine);

Arendi S.A.R.L. v. Apple Inc., 832 F.3d 1355 (Fed. Cir. Aug. 10, 2016) (relating to inapplicability of "common sense" for 35 U.S.C. § 103);

Amdocs (Israel) Ltd. v. Openet Telecom, Inc., No. 2015-1180 (Fed. Cir. Nov. 1, 2016) (relating to analysis under 35 U.S.C. § 101); and

McRo, Inc. v. Bandai Namco Games Am. Inc., 837 F.3d 1299 (Fed. Cir. Sept. 13, 2016) (relating to analysis under 35 U.S.C. § 101)

Counsel for Petitioners have indicated that they do not object to an identification of the *Amdocs* and *McRo* cases to the Board, but are opposed to identification of the other cases, along with supplemental briefing for all cases. Counsel for Patent Owner and Petitioners are available after

10:30 a.m. EST on Monday for a telephone conference with the Board, if needed.

Respectfully submitted,
Jennifer M. Kurcz
Back-Up counsel for Patent Owner



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