

EXHIBIT 2010

November 15, 2013

Dominic E. Massa
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Wilmer Cutler Pickering Hale and Dorr, LLP
60 State Street
Boston, MA 02109



Re: *Broadcom v. Ericsson* -- IPR2013-00601; IPR2013-00602; IPR2013-00636

Dear Counsel:

As you know, Lee & Hayes has been substituted as counsel for the Patent Owner Ericsson in the above-captioned matters. We look forward to working with your firm toward a just and speedy resolution of these matters.

We write concerning a discovery issue relating to Broadcom's standing under Section 305(b). It is our understanding that Broadcom has a duty to defend or indemnify one or more of the Defendants in the *Ericsson v. D-Link et al.* matter in the Eastern District of Texas (Case No. 6-10-cv-00473).



To accurately assess the nature and scope of Broadcom's relationship with the D-Link Defendants under Section 305(b), pursuant to 37 C.F.R. §§ 42.51(b)(1)(iii) and (b)(2)(i), we hereby request that Broadcom voluntarily produce the following documents:

- contracts between Broadcom and each of the D-Link Defendants relating to the Broadcom products used in any of the D-Link Defendants' products accused of infringement in the D-Link case (including but not limited to Broadcom's BCM

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4313 and BCM 4321 products) which include any indemnity or duty to defend provisions;

- joint defense agreements between Broadcom and any of the D-Link Defendants relating to the Ericsson patents-in-suit;
- invoices received from any of the D-Link Defendants (or their attorneys) seeking reimbursement for any fees or expenses incurred in the D-Link matter;
- records of any payments made by Broadcom to any of the D-Link Defendants (or their counsel) pursuant to any contractual duty to defend or indemnify them against infringement of the Ericsson patents-in-suit; and
- communications between Broadcom (or its counsel) and any of the D-Link defendants (or their counsel) relating to the validity of the Ericsson patents-in-suit.

We will of course agree to treat these documents as confidential under the terms of the Standing Protective Order in the PTAB.

As you are also likely aware, we are simultaneously seeking to discover some of these documents that may have been produced by the D-Link Defendants in that case. Unfortunately, to the extent these documents were produced, we are presently unable to review them because of the terms of the Protective Order entered in that case, a copy of which is attached.

Two provisions in particular are problematic. First, paragraph 12 indicates that any confidential documents “may be used only for purposes of litigation between the parties.” Protective Order at 13. Because Broadcom is not a party in the D-Link matter, we arguably cannot use Broadcom’s own documents in these litigations under the literal terms of the Protective Order.

The second potential issue is the Prosecution Bar in paragraph 8. That section would preclude us from “participat[ing], directly or indirectly, in the drafting, preparation, or amending of any patent claim on behalf of [Ericsson] relating to any method, system, or apparatus for the manipulation, either separately or jointly, of wireless signal processing directed to the claimed subject matter of the patents-in-suit from the time of receipt of such [confidential] information through and including one (1) year following the entry of a final non-appealable judgment or the complete settlement of all claims...” Because we have the ability to amend the claims as of right in these IPRs, we are concerned that Broadcom or the D-Link Defendants might try to invoke this provision in the event that we attempt to do so. For these reasons, we have not yet reviewed any confidential

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documents produced in the D-Link matter until we can obtain assurances from all parties concerned that they will not attempt to enforce this provision against us.

We do not believe that either one of these provisions should prevent us from using these documents in the present cases. As to the first, Broadcom is an author or recipient of all of the documents that we are requesting. There can hardly be any prejudice against using a Broadcom document against Broadcom in this case. In addition, the Protective Order itself permits the use of confidential information against “nonparties ... if it appears on its face or from other documents ... to have been received from or communicated to the nonparty.” Accordingly, we believe that we should be allowed to use these documents in the present IPRs.

As to the Prosecution Bar, none of these business type documents raise any concerns under that provision. As you know, these bars are put in place to prevent a party from using a party’s confidential technical information to carefully draft narrow claims on to the accused products. None of the documents that we seek will give us any insight into the technical design of Broadcom’s products. Therefore, the Prosecution Bar should be a non-issue. We would also note that the Board appears to agree with us. *See Scent Air v. Prolitec*, IPR2013-00179 (Paper 9).

In an attempt to avoid these issues, Ericsson’s EDTX counsel McKool Smith inquired of the D-Link Defendants’ counsel to see if they would waive these two provisions for purposes of these IPR matters. Attached are the email exchanges between Justin Nemunaitis of McKool Smith and several of the defendants’ counsel asking for this information (or alternatively redacted versions) for possible submission to the PTAB. As you will see, Broadcom’s customers would not agree; instead, they referred our inquiries to Broadcom. Consequently, we are asking you to instruct your customers’ to agree to the terms set out in McKool Smith’s requests.

In conclusion, we would ask that you please reply by indicating: (1) whether Broadcom will voluntarily produce the documents requested above; and (2) instruct the defense counsel in the EDTX to waive the terms of the Protective Order that prevent us from using these documents in the present IPRs.

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We would appreciate a definitive response by **November 22, 2013**, so that we can move the Board for additional discovery if necessary.

Regards,

/s/ Peter J. Ayers

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