

From: Sukenick, Scott <ssukenick@cooley.com>
Sent: Friday, July 12, 2013 4:52 PM
To: Hertko, Matthew J.
Cc: Vu.Bui@usitc.gov; #Neptune-aker-itc; NeptuneActionEnzymotec@kenyon.com; z/Neptune-ITC; HBITC@hbiplaw.com
Subject: RE: 337-TA-877

Matt,

No third party has requested Neptune's consent, and Neptune has not withheld consent from any third party. Neptune will be able to address the issue if these third parties elect to request consent.

Best,

Scott

From: Hertko, Matthew J. [mailto:mhertko@kirkland.com]
Sent: Thursday, July 11, 2013 3:39 PM
To: Sukenick, Scott
Cc: Vu.Bui@usitc.gov; #Neptune-aker-itc; NeptuneActionEnzymotec@kenyon.com; z/Neptune-ITC; HBITC@hbiplaw.com
Subject: RE: 337-TA-877

Scott:

Thanks for your e-mail. As I noted in my e-mail, both KGK and CRIQ informed us that they cannot discuss any issues relating to Neptune without the consent of your client, due to non-disclosure obligations. We do not represent those parties, and we do not know whether they have requested Neptune's consent. That said, will your client provide its consent? If not, please let us know why the consent will not be provided. Furthermore, please provide the basis for your opposition to any motions seeking a recommendation for judicial assistance. We would appreciate a response on both of these issues by the end of the day tomorrow.

Best regards,

AKBM 1084

Matt

Matthew J. Hertko

KIRKLAND & ELLIS LLP

300 N. LaSalle St.

Chicago, IL 60654

Office: (312) 862-7028

Cell: (847) 204-9402

matthew.hertko@kirkland.com

From: Sukenick, Scott [mailto:ssukenick@cooley.com]

Sent: Thursday, July 11, 2013 9:48 AM

To: Hertko, Matthew J.

Cc: Vu.Bui@usitc.gov; #Neptune-aker-itc; NeptuneActionEnzymotec@kenyon.com; z/Neptune-ITC; HBITC@hbiplaw.com

Subject: RE: 337-TA-877

Matt,

We do not represent any of the three Canadian entities you have listed.

We oppose any motions by you seeking a recommendation for judicial assistance. Are you representing by your email below that one or more of these third-party entities has stated that it requested Neptune's consent to produce documents and that request was denied? Please advise, and, to the extent that you are making such a representation, please identify the specific third-party entity you claim made the request for Neptune's consent.

Regards,

Scott

From: Hertko, Matthew J. [mailto:mhertko@kirkland.com]

Sent: Tuesday, July 09, 2013 10:57 PM

To: Sukenick, Scott

Cc: Vu.Bui@usitc.gov; #Neptune-aker-itc; NeptuneActionEnzymotec@kenyon.com; z/Neptune-ITC; HBITC@hbiplaw.com

Subject: 337-TA-877

Scott:

As I indicated during our meet-and-confer last Tuesday, July 2, Respondents intend to seek discovery from three Canadian entities: KGK Synergize (“KGK”), Centre de Recherche Industrielle du Quebec (“CRIQ”), and L’Universite de Sherbrooke (“Sherbrooke”). Specifically, we are seeking, among other things, discovery regarding each of these entities’ roles in testing or analysis related to the Asserted Patents and the Beaudoin Patents; any testing or analysis of any krill, krill extract, or krill oil provided by or performed for or on behalf of Neptune; and any prior art krill oil or krill extract samples these entities may have in their possession, custody, or control. I inquired during our call as to whether your firm represents any of these three entities, but you said that you did not know and have not gotten back to us.

We have reached out to KGK and CRIQ, and to Sherbrooke’s outside counsel, in an attempt to obtain the discovery in a cooperative manner and without the need for seeking judicial assistance from courts in both the United States and Canada. Both KGK and CRIQ informed us that they cannot discuss any issues relating to Neptune without the consent of your client, due to non-disclosure obligations. We have not heard back from Sherbrooke’s outside counsel.

If your client will not provide consent to these parties to discuss their relationship with Neptune, then we have no choice but to file a motion seeking a recommendation to the District Court for the District of Columbia to issue letters rogatory for international judicial assistance with respect to each of these entities. Of course, if you represent these entities and will accept service of subpoenas on their behalf, then that will obviate the need to seek judicial assistance. Accordingly, we request that, by noon Eastern on Friday, July 12, you inform us (i) whether you represent any of KGK, CRIQ, and Sherbrooke; (ii) if so, whether you will accept service of a subpoena on their behalf; (iii) if not, whether your client will provide consent to these three parties to discuss their relationship with Neptune; and (iv) if not, your position on our motions seeking a recommendation for judicial assistance.

Best regards,

Matt

Matthew J. Hertko

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matthew.hertko@kirkland.com

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