
From: Rader, Michael
Sent: Friday, February 9, 2018 4:02 PM
To: Steve Sereboff
Cc: Giunta, Richard F.; Hunt, Elisabeth; Conley, Bryan S.; Jonathan Pearce
Subject: RE: AIT v. RPX, Nos. 2017-1698, -1699, -1701 [A213.L17199]

Steve,

As indicated in my email to the Chief Deputy Clerk, on which I copied you, RPX intends to ask the Federal Circuit to remove from the public record the highly confidential, sensitive commercial information disclosed at 11:43-11:50 of the audio file. We have asked for the audio file to be provisionally removed until our forthcoming motion is acted upon.

Our motion will request redaction of that brief snippet of audio. Given that we are unsure of the Court's technical capability to redact, we will ask in the alternative for permanent removal of the audio file from the public record if redaction is not possible.

We understand that AIT will not oppose the motion and we plan to so certify when filing it. Please confirm our understanding, as your email below does not expressly address the alternative relief that we plan to include in our request, in case the Court is unable to do redactions.

Thank you.

Mike

From: Steve Sereboff [mailto:SSereboff@socalip.com]
Sent: Friday, February 9, 2018 10:12 AM
To: Rader, Michael <Michael.Rader@WolfGreenfield.com>
Cc: Giunta, Richard F. <Rich.Giunta@WolfGreenfield.com>; Hunt, Elisabeth <Elisabeth.Hunt@WolfGreenfield.com>; Conley, Bryan S. <Bryan.Conley@WolfGreenfield.com>; Jonathan Pearce <jpearce@socalip.com>
Subject: RE: AIT v. RPX, Nos. 2017-1698, -1699, -1701 [A213.L17199]

Mike,

I write this morning for two reasons.

First, I wish to address your client's concerns about confidentiality. We believe that my oral argument kept well within the bounds of AIT's obligations. Apparently RPX agreed, because at no time at the hearing did you or co-counsel raise an objection to anything I said. The statements of the judges are another matter. You, of course, are the watchdog of your client's confidential information in this matter, whether by parties or the court. You didn't object to any statements by the judges. Given the numerous arguments in your brief that AIT had waived arguments by failing to timely raise them, no doubt you recognize that the absence of objections by your team at the hearing equates to consent. Nonetheless, if you wish to have the transcript or the audio recording redacted, we will not object.

Second, it seems that now is a good time for the parties to discuss settlement. If your client is interested, counsel is invited to contact me.

/steve/

RPX Exhibit 1189

From: Michael Rader [<mailto:Michael.Rader@WolfGreenfield.com>]
Sent: Wednesday, January 31, 2018 5:08 AM
To: Steve Sereboff <SSereboff@socalip.com>
Cc: Rich Giunta <Rich.Giunta@WolfGreenfield.com>; Elisabeth H. Hunt <Elisabeth.Hunt@WolfGreenfield.com>; Bryan S. Conley <Bryan.Conley@WolfGreenfield.com>
Subject: AIT v. RPX, Nos. 2017-1698, -1699, -1701

Dear Steve,

I write in anticipation of the upcoming oral argument before the Federal Circuit on February 7, 2018 in the above-referenced appeal. As you know, the parties' briefs and the Appendix contain highly sensitive RPX confidential information that remains subject to the PTAB Protective Order and the protections of Federal Circuit Rules 11(c), 17(e), 28(d) and 30(h).

The Federal Circuit's oral argument guidelines (http://www.cafc.uscourts.gov/sites/default/files/arguments/notice_to_counsel.pdf) make clear that counsel are not to discuss, during oral argument, any confidential information. We trust that, in compliance with the PTAB's protective order and the applicable Federal Circuit rules and guidelines, you will refrain from mentioning any RPX confidential information during the argument. If you have any questions about what you are permitted to say, please contact me at least 48 hours in advance of the argument so that I can discuss with RPX if necessary and get back to you.

I look forward to seeing you next week.

Best regards,

Mike Rader

 **Michael N. Rader** | Shareholder
Michael.Rader@WolfGreenfield.com
617.646.8370 | fax 617.646.8646
Wolf, Greenfield & Sacks, P.C.
600 Atlantic Avenue | Boston, MA 02210
405 Lexington Avenue | New York, NY 10174
<http://www.wolfgreenfield.com> |  