

From: Day, Evan S. (SDO)
To: [Coulson, Chris \(CCoulson@kenyon.com\)](mailto:CCoulson@kenyon.com); [Ulrich, Clifford \(CUlrich@Kenyon.com\)](mailto:CUlrich@Kenyon.com); [Zachary, Michael](#)
Cc: [Ng, Chun \(SEA\)](#); [Bernstein, Matthew C. \(SDO\)](#); [*Perkins-Service-MSFT-Bradium-IPR](#)
Subject: Bradium Technologies v Microsoft
Date: Monday, February 27, 2017 9:19:00 PM
Attachments: [2017 02 13 Letter from C Coulson to E Day re Bradium-Microsoft IPRs.pdf](#)
[2017 02 09 Letter from c.coulson to C.Ng re IPR2016-00448.pdf](#)

Counsel,

I write in regard to Bradium's request for a deposition of Yonatan Lavi. Microsoft has communicated Bradium's request to Mr. Lavi. Mr. Lavi states he is seriously concerned about retaliation by Mr. Levanon (an owner of Bradium) if Mr. Lavi were to willingly provide testimony. We believe these concerns are not unfounded given Bradium already threatened Mr. Lavi (see, e.g. your letters of February 9, 2017 and February 13, 2017) (attached). Regardless, Mr. Lavi said he will not sit for a deposition unless compelled to do so (in which case he will cooperate with any process that he receives).

In view of Mr. Lavi's reluctance to testify, Microsoft proposes that the parties jointly seek authorization from the Board to submit a Letter of Request to the Israel Central Authority designated under the Hague Convention on the Taking of Evidence Abroad in Civil or Commercial Matters. Our understanding is that Israel is generally cooperative with Hague Convention requests and complies quickly; however, as we have previously indicated, Microsoft is also willing to stipulate or move the Board to adjust any due dates that may be necessary. Additionally, Microsoft is willing to reimburse Bradium for the reasonable travel costs incurred by the attorney taking the deposition on behalf of Bradium. I note that Microsoft previously offered to take the deposition of Mr. Levanon in Tel Aviv.

Please advise regarding Bradium's position on this proposal so that the parties can contact the Board.

Best regards,
Evan

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February 9, 2017

By Email to CNg@perkinscoie.com and Counsel of Record for IPR2016-00448

Chun M. Ng, Esq.
Perkins Coie LLP
1201 Third Avenue, Suite 4900
Seattle, WA 98101-3099

Re: *Microsoft Corp. v. Bradium Technologies LLC, Inter Partes Review Proceeding IPR2016-00448 (United States Patent 7,908,343) Exhibit 10107*

Counsel:

I write on behalf of Bradium Technologies LLC and Mr. Isaac Levanon regarding Exhibit 1017, “Declaration of Yonatan Lavi,” which Petitioner Microsoft publicly filed in *Inter Partes Review Proceeding IPR2016-00448 (United States Patent 7,908,343)*.

Our preliminary review¹ of Exhibit 1017 indicates that Mr. Lavi’s declaration reveals confidential corporate information regarding which we understand Mr. Lavi is subject to confidentiality obligations based on his employment with GACentral.com, 3DVU, Ltd., and 3DVU, Inc., which Mr. Lavi refers to collectively as “3DVU”.

To allow us to complete an investigation of this issue and reduce, to the extent possible at this point, any prejudice, I write to request that Microsoft Corporation (“Microsoft”) immediately request that Exhibit 1017 be sealed and that the public version of the declaration be expunged.

We further ask that Microsoft, Perkins Coie LLP and Mr. Lavi preserve all documents, including e-mail communications, letters, draft declarations, and agreements regarding Microsoft’s contact with Mr. Lavi that may have resulted in his publicly revealing 3DVU’s confidential corporate information without notice or consent.

It is unclear based on Microsoft’s reply and Mr. Lavi’s declaration whether Perkins Coie LLP is representing Mr. Lavi personally, or whether Perkins Coie LLP is representing only Microsoft. However, as you have clearly been working closely with Mr. Lavi, we ask that you immediately

¹ Although the declaration appears to have been executed on January 31, 2017, we received no notice of the declaration or its contents prior to its public filing by Microsoft, which were sent to counsel of record at 9:44 p.m. Eastern on Monday, February 6, 2017.

forward this correspondence to Mr. Lavi so that he is aware of the need to preserve, and not destroy, relevant documents. Please confirm that you have done this at your earliest opportunity.

Regarding deposition, Bradium requests that Mr. Lavi be made available for deposition in the United States at our New York office at One Broadway, New York, New York, 10004 on March 2, 2017. *See* 37 C.F.R. 42.53; *Square, Inc. v. REM Holdings 3, LLC*, Case No. IPR2014-00312, Paper 37 (PTAB, Dec. 9, 2014) (Order) (declarant residing outside of the United States required to travel to the United States for deposition). Although we will endeavor to complete Mr. Lavi's deposition within a single day, Mr. Lavi should remain available in New York on Friday, March 3, 2017 because, given the volume and nature of the materials in Mr. Lavi's 31-page declaration (which includes six exhibits that total 40 pages), there is a significant chance that his deposition will need to continue on Friday, March 3.

Very truly yours,

/s/ Chris J. Coulson

Chris J. Coulson

February 13, 2017

By Email to EDay@perkinscoie.com and Counsel of Record in IPR2016-00448

Evan S. Day, Esq.
Perkins Coie LLP
11988 El Camino Real, Suite 350
San Diego, CA 92130-2594

Re: Microsoft Corp. v. Bradium Technologies LLC, Inter Partes Review Proceeding IPR2016-00448 (United States Patent 7,908,343) and IPR2016-00449 (United States Patent 8,924,506) Exhibit 1017

Counsel:

I write on behalf of Bradium Technologies LLC and Mr. Isaac Levanon regarding Exhibit 1017,¹ “Declaration of Yonatan Lavi,” which Petitioner Microsoft publicly filed in *Inter Partes* Review Proceeding IPR2016-00448 (United States Patent 7,908,343) and, following my February 9, 2016 letter, again filed publicly in IPR2016-00449 (United States Patent 8,924,506).

I renew my request that Microsoft file this exhibit under seal. In addition to confidential information that Mr. Lavi obtained via his employment with 3DVU entities, Exhibit 1017 also contains DENSO confidential information at Paragraphs 20 and 22. Microsoft has in its possession a copy of the DENSO license agreement, which is Exhibit 2029, which was filed under seal and served on Microsoft in the IPR proceedings in November 2016.

Also, I have not received a response to the following questions raised in my February 9 letter:

- Does Perkins Coie LLP represent Mr. Lavi?
- Will Petitioner Microsoft make Mr. Lavi available for deposition in the United States at our New York office at One Broadway, New York, New York, 10004 on March 2, 2017, and will Mr. Lavi remain available on March 3 if needed?

Also, please confirm, as requested in my February 9 letter, that Perkins Coie LLP and Microsoft will retain and not destroy any and all communications, including drafts, exchanged with Mr. Lavi. Please also advise whether you have communicated with Mr. Lavi the request to retain all documents.

¹ As you responded to my February 9, 2017 letter directed to Mr. Ng., I direct this letter to you for your convenience.

February 13, 2017

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I would appreciate your response to the above at your earliest convenience.

Very truly yours,

/s/ Chris J. Coulson

Chris J. Coulson