

From: Day, Evan S. (SDO)
To: "[Coulson, Chris](#)"
Cc: [Bernstein, Matthew C. \(SDO\)](#); [Ng, Chun \(SEA\)](#); [*Perkins-Service-MSFT-Bradium-IPR](#); [Zachary, Michael](#); [Ulrich, Clifford](#)
Subject: RE: Microsoft Corp. v. Bradium Techs. LLC (IPR2016-00448, IPR2016-00449): Limited Waiver
Date: Monday, March 13, 2017 4:18:00 PM
Attachments: [2017 03 12 Bradium Limited Waiver Agreement.Perkins edits.docx](#)

Chris,

Proposed revisions are attached. This is also subject to further review/approval from Microsoft. I will be sending to Mr. Lavi later tonight (tomorrow morning in Tel Aviv).

We disagree with the assertions in your second paragraph, but we can address timing if and when we get an agreement for Mr. Lavi to appear. We have discussed the length of the deposition on multiple previous occasions and Microsoft's position has not changed.

Regards,
Evan

Evan Day | Perkins Coie LLP

COUNSEL
11988 El Camino Real Suite 350
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E. EDay@perkinscoie.com

From: Coulson, Chris [<mailto:CCoulson@kenyon.com>]
Sent: Sunday, March 12, 2017 4:41 PM
To: Day, Evan S. (SDO)
Cc: Bernstein, Matthew C. (SDO); Ng, Chun (SEA); [*Perkins-Service-MSFT-Bradium-IPR](#); Zachary, Michael; Ulrich, Clifford
Subject: RE: Microsoft Corp. v. Bradium Techs. LLC (IPR2016-00448, IPR2016-00449): Limited Waiver

Dear Evan,

Bradium and Mr. Levanon are still considering the language of the attached limited waiver agreement, but have authorized us to send this draft to you. The final agreement will be subject to approval by Bradium and Mr. Levanon. Please confirm that you will promptly forward this draft to Mr. Lavi for his consideration.

Regarding schedule, at this point even if agreement is reached, Bradium will be prejudiced by a late deposition. Bradium is willing to compromise to provide time for Mr. Lavi to comply with his obligation to appear in the United States, but will need Mr. Lavi to appear for deposition for up to two days, to be completed no later than March 24, 2017.

Chris Coulson
ANDREWS KURTH KENYON LLP
Tel: 212.908.6409

From: Coulson, Chris

Sent: Friday, March 10, 2017 4:55 PM
To: 'Day, Evan S. (Perkins Coie)'
Cc: Bernstein, Matthew C. (Perkins Coie); Ng, Chun (Perkins Coie); PerkinsServiceBradiumIPR@perkinscoie.com; Zachary, Michael; Ulrich, Clifford
Subject: RE: Microsoft Corp. v. Bradium Techs. LLC (IPR2016-00448, IPR2016-00449): PTAB March 8, 2017 Conference Call

Evan,

This is a clean copy reflecting the edits:

Dear PTAB,

In the call between the parties and the Board last Monday, the Board asked the parties to discuss whether Patent Owner Bradium, Mr. Levanon and 3DVU would be able to provide assurances to Mr. Lavi to facilitate Mr. Lavi's testimony in the United States. Patent Owner Bradium advised Petitioner Microsoft today that it is still discussing the matter with Mr. Levanon and drafting a proposed agreement, which it has not yet presented to Petitioner Microsoft. The Parties will continue to keep the Board informed regarding the status of these discussions.

Chris Coulson
ANDREWS KURTH KENYON LLP

Tel: 212.908.6409

From: Day, Evan S. (Perkins Coie) [<mailto:EDay@perkinscoie.com>]
Sent: Friday, March 10, 2017 4:52 PM
To: Coulson, Chris
Cc: Bernstein, Matthew C. (Perkins Coie); Ng, Chun (Perkins Coie); PerkinsServiceBradiumIPR@perkinscoie.com; Zachary, Michael; Ulrich, Clifford
Subject: RE: Microsoft Corp. v. Bradium Techs. LLC (IPR2016-00448, IPR2016-00449): PTAB March 8, 2017 Conference Call

Chris,

Your changes are fine. Can you send a clean copy?

Regards,
Evan

Evan Day | Perkins Coie LLP

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From: Coulson, Chris [<mailto:CCoulson@kenyon.com>]
Sent: Friday, March 10, 2017 12:44 PM
To: Day, Evan S. (SDO)
Cc: Bernstein, Matthew C. (SDO); Ng, Chun (SEA); *Perkins-Service-MSFT-Bradium-IPR; Zachary, Michael; Ulrich, Clifford
Subject: RE: Microsoft Corp. v. Bradium Techs. LLC (IPR2016-00448, IPR2016-00449): PTAB March 8, 2017 Conference Call

Dear Evan,

We're OK with providing an update as edited below to the Board. I thought it would be helpful to show additions in red and deletions in strike-through, but I can create a clean-text copy if that would be more convenient.

Dear PTAB,

In the call between the parties and the Board last Monday, the Board asked the parties to discuss whether Patent Owner Bradium, ~~and its affiliated entities (e.g. Mr. Levanon and 3DVU)~~ would be able to provide assurances **to Mr. Lavi to facilitate** ~~not to retaliate against Mr. Lavi's for his testimony in the United States,~~ in order to ease Mr. Lavi's concerns about appearing for a deposition. Patent Owner Bradium advised Petitioner Microsoft today that it is still discussing the matter with Mr. Levanon and drafting a proposed agreement, which it has not yet presented to Petitioner Microsoft. The Parties will continue to keep the Board informed regarding the status of these discussions.

Chris Coulson
ANDREWS KURTH KENYON LLP

Tel: 212.908.6409

From: Day, Evan S. (Perkins Coie) [<mailto:EDay@perkinscoie.com>]
Sent: Friday, March 10, 2017 3:00 PM
To: Coulson, Chris
Cc: Bernstein, Matthew C. (Perkins Coie); Ng, Chun (Perkins Coie); PerkinsServiceBradiumIPR@perkinscoie.com; Zachary, Michael; Ulrich, Clifford
Subject: RE: Microsoft Corp. v. Bradium Techs. LLC (IPR2016-00448, IPR2016-00449): PTAB March 8, 2017 Conference Call

Chris,

We understood from Monday's call that the Board expected a response by today, so the parties should provide an update to the Board today. I have drafted a revised proposed email to the Board that could be sent as a joint email.

To clarify, as we indicated on Monday's call, Mr. Lavi has told us that he was considering seeking his own counsel regarding this matter, but he has not informed us that he has actually retained such counsel.

Here is the proposed revised email:

Dear PTAB,

In the call between the parties and the Board last Monday, the Board asked the parties to discuss whether Patent Owner Bradium and its affiliated entities (e.g. Mr. Levanon and 3DVU) would be able to provide assurances not to retaliate against Mr. Lavi for his testimony, in order to ease Mr. Lavi's concerns about appearing for a deposition. Patent Owner Bradium advised Petitioner Microsoft today that it is still discussing the matter with Mr. Levanon and drafting a proposed agreement, which it has not yet presented to Petitioner Microsoft. The Parties will continue to keep the Board informed regarding the status of these discussions.

Regards,
Evan

Evan Day | Perkins Coie LLP

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E. EDay@perkinscoie.com

From: Coulson, Chris [<mailto:CCoulson@kenyon.com>]

Sent: Friday, March 10, 2017 11:20 AM

To: Day, Evan S. (SDO)

Cc: Bernstein, Matthew C. (SDO); Ng, Chun (SEA); *Perkins-Service-MSFT-Bradium-IPR; Zachary, Michael; Ulrich, Clifford

Subject: RE: Microsoft Corp. v. Bradium Techs. LLC (IPR2016-00448, IPR2016-00449): PTAB March 8, 2017 Conference Call

Dear Evan,

During this week, we have diligently worked with Mr. Levanon and Bradium regarding providing a limited waiver to Mr. Lavi addressing his appearance at deposition in the U.S., as was suggested by the Board. We are in the process of drafting an agreement to be signed by Mr. Levanon, Bradium, Microsoft, and Mr. Lavi. We will continue to finalize this draft and consult with Mr. Levanon and Bradium over this weekend, and we expect to be able to provide a draft agreement to you on Monday, if not before.

To speed up the communication process, can you please clarify whether Mr. Lavi is represented by counsel, and please provide the contact information of Mr. Lavi's Israel-based counsel that you mentioned on the call with the Board.

Best regards,

Chris Coulson

ANDREWS KURTH KENYON LLP

Tel: 212.908.6409

From: Day, Evan S. (Perkins Coie) [<mailto:EDay@perkinscoie.com>]

Sent: Friday, March 10, 2017 1:48 PM

To: Coulson, Chris

Cc: Bernstein, Matthew C. (Perkins Coie); Ng, Chun (Perkins Coie);

PerkinsServiceBradiumIPR@perkinscoie.com; Zachary, Michael; Ulrich, Clifford

Subject: RE: Microsoft Corp. v. Bradium Techs. LLC (IPR2016-00448, IPR2016-00449): PTAB March 8, 2017 Conference Call

Chris,

Because Bradium has not provided any substantive response regarding Mr. Levanon's or 3DVU's position concerning the issues discussed on Monday's call, and it is now the Sabbath in Israel, Microsoft intends to send the email below to the Board in approximately two hours:

Dear PTAB,

In the call between the parties and the Board last Monday, the Board asked the parties to discuss whether Patent Owner Bradium and its affiliated entities (e.g. Mr. Levanon and 3DVU) would be able to provide assurances not to retaliate against Mr. Lavi for his testimony, in order to ease Mr. Lavi's concerns about appearing for a deposition. While Petitioner has attempted to engage with Patent Owner regarding this issue, Patent Owner has not provided any additional information regarding Mr. Levanon's or 3DVU's position, and therefore the positions of the parties on this issue have not materially changed.

Regards,
Evan

Evan Day | Perkins Coie LLP

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E. EDay@perkinscoie.com

From: Coulson, Chris [<mailto:CCoulson@kenyon.com>]

Sent: Wednesday, March 08, 2017 4:19 PM

To: Day, Evan S. (SDO)

Cc: Bernstein, Matthew C. (SDO); Ng, Chun (SEA); *Perkins-Service-MSFT-Bradium-IPR; Zachary, Michael; Ulrich, Clifford

Subject: RE: Microsoft Corp. v. Bradium Techs. LLC (IPR2016-00448, IPR2016-00449): PTAB March 8, 2017 Conference Call

Dear Evan,

We have reached out to and are working with Mr. Levanon as the Board suggested, and we expect to have an update for you within this week, possibly by tomorrow. We are also reaching out to DENSO, but are not certain when we may hear back from DENSO. Until we can provide more definitive information, a meet and confer would be premature.

We understood the Board clearly to state that Due Date 4 has been moved at least to March 22, and will proceed accordingly. We are happy to discuss moving other dates once the issues surrounding Mr. Lavi's declaration and deposition have been resolved.

We are not going to address the other speculations and characterizations in your email.

Chris Coulson

ANDREWS KURTH KENYON LLP

Tel: 212.908.6409

From: Day, Evan S. (Perkins Coie) [<mailto:EDay@perkinscoie.com>]

Sent: Wednesday, March 08, 2017 12:52 AM

To: Coulson, Chris

Cc: Bernstein, Matthew C. (Perkins Coie); Ng, Chun (Perkins Coie);

PerkinsServiceBradiumIPR@perkinscoie.com; Zachary, Michael; Ulrich, Clifford

Subject: RE: Microsoft Corp. v. Bradium Techs. LLC (IPR2016-00448, IPR2016-00449): PTAB March 8, 2017 Conference Call

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