

1 UNITED STATES PATENT AND TRADEMARK OFFICE
2 BEFORE THE PATENT TRIAL AND APPEAL BOARD

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4 APPLE, INC.,
Petitioner,

5

vs.

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7 VOIP-PAL.COM, INC.,
Patent Owner

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9 CASE: IPR2016-01198
PATENT: 9,179,005 B2

10

and

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CASE: IPR2016-01201
PATENT: 8,542,815 B2

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TELEPHONIC HEARING BEFORE THE
ADMINISTRATIVE PATENT JUDGES:

15

16 JOSIAH C. COCKS,
JENNIFER MEYER CHAGNON
JOHN A. HUDALLA

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JANUARY 19TH, 2018

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HELD AT

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A P P E A R A N C E S

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ALARIS LITIGATION SERVICES

1 JUDGE COCKS: So this is a conference
2 call for IPR2016-01198 and 01201. Mr. Malek, I think
3 you requested the call so.

4 MR. MALEK: Your Honor, just quickly
5 here. Probably the most contentious request for a
6 motion to withdraw, but in any event, the patent
7 owner respectfully requests authorization from the
8 board to file a motion for withdrawal of counsel by
9 Knobbe, Martens and that withdrawal is mandated by
10 the rules, and Apple indicated they oppose or would
11 oppose the motion, so that's I think what
12 precipitated this call. I just submit that my firm
13 would become lead counsel and so patent owner would
14 continue to be represented by what I would submit is
15 confident counsel and that would be the basis of the
16 motion.

17 JUDGE COCKS: Okay. And before I hear
18 from Mr. Seitz, I just want to verify that there is
19 no other counsel on this call for patent owner, is
20 that correct? So none of the counsel that are
21 seeking to withdraw are on this call or that you are
22 seeking to have withdrawn are on this call?

23 MR. MALEK: Not that I'm aware of.
24 When I dialed in I got a message that said there were
25 seven participants and that's all I know, but not to

1 my knowledge.

2 JUDGE COCKS: Okay. So let me ask, is
3 there any counsel on the call for Knobbe, Martens?
4 Okay.

5 Mr. Seitz, go ahead, you oppose?

6 MR. SEITZ: Yes, Your Honor. Let me
7 clarify our position. Apple has no objection to
8 Viop-Pal hiring whoever it wants to represent itself
9 in these proceedings and does not object per se to
10 Knobbe's withdraw. We're not trying to interfere
11 with the party's right to select counsel, but there
12 are many issues and factual questions that remain
13 about the course of this proceeding in which Knobbe
14 is implicated that give rise to a concern on our end.

15 And to explain briefly, in our last
16 conference call, Voip-Pal's position was that it had
17 no involvement with Dr. Sawyer, the author of the
18 letters, the ex parte letters, and that he was
19 essentially nothing more than a concerned third party
20 shareholder. Of course, as we discussed last time,
21 Dr. Sawyer's October 23 letter admitted that he had
22 been meeting with and working with both Voip-Pal and
23 its attorneys. Since the filing of our motion and in
24 the opposition that came in last week, Voip-Pal has
25 now reversed course and admitted that it was involved

1 with Dr. Sawyer from the very beginning and was
2 working with him on each and every letter. But it
3 is, however, still unclear as to which of Voip-Pal's
4 attorneys were involved in these meetings and
5 essentially who knew what and when. Presumably it
6 would have been lead counsel, which was Knobbe at
7 that time, and throughout the course of this
8 proceeding.

9 Now there are certainly questions
10 about the waiver of the attorney/client privilege in
11 the meetings between Sawyer, Voip-Pal and Voip-Pal's
12 attorneys, but more importantly, we don't know where
13 this proceeding is going to go. There are scenarios
14 here that could implicate significant ethical issues.
15 We want to make sure that Voip-Pal's attorneys, the
16 ones who were counsel of record during the time Dr.
17 Sawyer and Voip-Pal were writing these letters,
18 remain involved and subject to the board's
19 jurisdiction. The board doesn't have third party
20 subpoena power and that's essentially my concern. In
21 the event it becomes necessary to determine which
22 particular attorneys were involved with Dr. Sawyer in
23 his campaign or to conduct other discovery into who,
24 what and when, we simply think Knobbe should remain
25 in this case and subject to the board's jurisdiction

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