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From: McCarthy, Sean M.
Sent: Monday, October 30, 2017 6:17 PM
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Subject: Koninklijke Philips N.V. matters Nos. 11-1125 through 15-1131 and 15-1170

Counsel for Acer, ASUS, Double Power, HTC, Microsoft, Visual Land, and YiFang:

On October 24, 2017 the Patent Trial and Appeal Board (“PTAB”) issued an order directing Philips to file by November 1, 2017 a brief in support of its request for additional discovery in IPR2017-00890, -01754, and -01766 relating to (1) whether and to what extent a relationship exists between Microsoft and HTC with respect to the current IPR proceedings, and (2) whether and to what extent a relationship exists between the instant Petitioners (HTC and Microsoft) and the petitioners in earlier *inter partes* review proceedings, namely Google, Acer, and ASUS. In particular, the PTAB stated that Patent Owner should “specifically identify[] the evidence already in Patent Owner’s possession tending to show beyond mere speculation that something useful will be uncovered by the request.” *See, e.g.*, IPR2017-00890, Paper 11, at 3.

Accordingly, on October 25, 2017 we sent to certain of the parties in these litigations an email requesting that they allow us to disclose to the PTAB and to Philips’ IPR counsel any documents they have produced in the litigation which may be relevant to the real party in interest issues before the PTAB without subjecting Philips’ IPR counsel to the prosecution bar. In making that request, we advised these defendants that Philips’ IPR counsel would take every precaution in filing any such documents under seal to maintain their confidentiality.

This email confirms that, in response, only one party has consented to allowing us to share any such documents with IPR

protective order seriously, we have not shared or discussed the contents of any such documents with IPR counsel. However, we maintain our position that there is no legitimate basis for refusing IPR counsel and the PTAB access to potentially relevant materials relating to the real-party-in-interest issue.

Best regards,
Sean

Sean M. McCarthy

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