

Ryan, Andrew

From: Ryan, Andrew
Sent: Friday, September 2, 2022 4:04 PM
To: 'Bregman, Dion M.'
Cc: Coyle, Steve; Geiger, Nicholas; HID-IPRs
Subject: RE: ASSA ABLOY AB et al. v. CPC Patent Technologies PTY Ltd., IPR2022-01006, IPR2022-01045, IPR2022-01089, IPR2022-01093, IPR2022-01094

Dion,

Thank you for sending the link to the Apple Developer Program License Agreement.

Please see our seven narrowly tailored proposed additional discovery requests below. Please note that we send these proposed discovery requests while fully reserving Patent Owner's rights to seek further additional discovery consistent with PTAB rules and practices.

1. Any and all agreements between the Assa Abloy Entities (or any of them individually) and Apple, including but not limited to any development agreements, further including but not necessarily limited to any Apple Developer Program License Agreements ("Apple Developer Agreement" or "ADA"), including any and all executed versions thereof.
2. All communications between the Assa Abloy Entities (or any of them individually) and Apple concerning any development agreements, further including but not necessarily limited to any ADAs.
3. Any insurance policy(ies) of the AA Entities (or any of them individually) that name Apple as an additional insured.
4. All communications and/or other documents pertaining to Apple's physical review or inspection of any of the AA Entities' biometric security devices, including but not necessarily limited to [recite all products mentioned in the complaint].
5. All communications or other documents between Apple and the AA Entities (or any of them individually) pertaining to any of the AA IPRs.
6. All communications or other documents between Apple and the AA Entities (or any of them individually) pertaining to the '208 patent, the '705 Patent, or the '039 Patent, including but not limited to any communications or documents related to the validity or invalidity of such patents.
7. Communications between the Assa Abloy Entities (or any one of them individually) and Apple related to the Assa Abloy Entities' (or any one of them individually) indemnification of or obligation to indemnify Apple based on any of the CPC Patents.

In addition, for all communications/documents responsive to any of the above requests but withheld on privilege, we request a privilege log identifying the communication/document being withheld, the author or sender, recipient(s), subject matter, date, and the request to which the communication/document is responsive.

Please let us know as soon as possible if Petitioners agree to the proposed discovery requests so that we may seek assistance from the Board if necessary.

Best regards,

Andy

Andrew C. Ryan
Partner
Cantor Colburn LLP



20 Church Street | 22nd Floor | Hartford, CT 06103-3207
Work: 860-286-2929, ext. 1127 | Fax: 860-286-0115 |
ryan@cantorcolburn.com
www.cantorcolburn.com

HARTFORD WASHINGTON, D.C. ATLANTA HOUSTON DETROIT

From: Bregman, Dion M. <dion.bregman@morganlewis.com>
Sent: Wednesday, August 24, 2022 6:15 PM
To: Ryan, Andrew <aryan@cantorcolburn.com>
Cc: Coyle, Steve <Scoyle@CantorColburn.com>; Geiger, Nicholas <NGeiger@CantorColburn.com>; HID-IPRs <HID-IPRs@morganlewis.com>
Subject: RE: ASSA ABLOY AB et al. v. CPC Patent Technologies PTY Ltd., IPR2022-01006, IPR2022-01045, IPR2022-01089, IPR2022-01093, IPR2022-01094

Andy,

As I'm sure you know, Apple being a "business partner of the ASSA Abloy Entities" is insufficient evidence to show beyond speculation that something useful will be uncovered. Apple has hundreds, if not thousands, of "business partners." See, e.g., <https://www.apple.com/business/partners/>.

Also, I'm sure you are aware of Apple's Developer Agreement (<https://developer.apple.com/support/downloads/terms/apple-developer-program/Apple-Developer-Program-License-Agreement-20220606-English.pdf>), which is public, so it is unclear what Additional Discovery you are after.

In any event, please provide us with your proposed (narrow) additional discovery request so that we can consider it.

Regards,

-Dion

Dion M. Bregman

Morgan, Lewis & Bockius LLP

1400 Page Mill Road | Palo Alto, CA 94304
Direct: +1.650.843.7519 | Main: +1.650.843.4000 | Fax: +1.650.843.4001
dion.bregman@morganlewis.com | www.morganlewis.com
Assistant: Kari B. Aguiar | +1.650.843.7877 | kari.aguiar@morganlewis.com

From: Ryan, Andrew <aryan@cantorcolburn.com>
Sent: Monday, August 22, 2022 1:13 PM

To: Bregman, Dion M. <dion.bregman@morganlewis.com>; Devkar, Andrew V. <andrew.devkar@morganlewis.com>; Kritsas, James J. <james.kritsas@morganlewis.com>; HID-IPRs <HID-IPRs@morganlewis.com>
Cc: Coyle, Steve <Scoyle@CantorColburn.com>; Geiger, Nicholas <NGeiger@CantorColburn.com>
Subject: RE: ASSA ABLOY AB et al. v. CPC Patent Technologies PTY Ltd., IPR2022-01006, IPR2022-01045, IPR2022-01089, IPR2022-01093, IPR2022-01094

[EXTERNAL EMAIL]

Dion,

Thanks for your email.

We understand it is your position that Apple was not involved in the preparation of your clients' IPR petitions. Even assuming this is true, however, the PTAB has repeatedly held that while a non-party's involvement with an IPR can weigh in favor of real-party-in-interest ("RPI") status, it is not required and is certainly not dispositive. *See, e.g., Bungie, Inc. v. Worlds Inc.*, 2020 Pat. App. LEXIS 13200, at *44 (PTAB Jan. 14, 2020). In its precedential *Ventex* decision (and in many cases since then), the PTAB explained that a key part of the RPI inquiry is whether a "non-party is a clear beneficiary [of the IPR] that has a preexisting, established relationship with the petitioner." Your client's Complaint for declaratory judgment admits that Apple is a "business partner of the ASSA Abloy Entities" with respect to the technology at issue (e.g., ¶¶ 30, 43) and indeed relies at least in part on the relationship with Apple as a grounds for asserting that a case or controversy between Charter Pacific/CPC and the "Assa Abloy Entities" exists. This alone is sufficient to show beyond speculation that something useful will be uncovered.

I am generally available throughout the day tomorrow for a meet-and-confer. If you still think a meet-and-confer would not be helpful, I will go ahead and email the Board to request a phone conference. Please let me know your availability for a call with the Board later this week and next week.

Best regards,
Andy

Andrew C. Ryan
Partner
Cantor Colburn LLP



20 Church Street | 22nd Floor | Hartford, CT 06103-3207
Work: 860-286-2929, ext. 1127 | Fax: 860-286-0115 |
ryan@cantorcolburn.com
www.cantorcolburn.com

HARTFORD WASHINGTON, D.C. ATLANTA HOUSTON DETROIT

From: Bregman, Dion M. <dion.bregman@morganlewis.com>

Sent: Sunday, August 21, 2022 3:06 PM

To: Ryan, Andrew <aryan@cantorcolburn.com>; Devkar, Andrew V. <andrew.devkar@morganlewis.com>; Kritsas, James J. <james.kritsas@morganlewis.com>; HID-IPRs <HID-IPRs@morganlewis.com>

Cc: Coyle, Steve <Scoyle@CantorColburn.com>; Geiger, Nicholas <NGeiger@CantorColburn.com>

Subject: RE: ASSA ABLOY AB et al. v. CPC Patent Technologies PTY Ltd., IPR2022-01006, IPR2022-01045, IPR2022-01089, IPR2022-01093, IPR2022-01094

Andy, good to meet you.

The Petitions expressly state that “[n]one of the entities mentioned in the Related Matters section below [including Apple] were involved in or offered any assistance to the Real-Parties-in-Interest for this IPR.” Nor would it make any sense for Apple to be an RPI here, as it has its own pending IPRs that have not yet been instituted. Needless to say, Apple was not involved in any way with the subject IPRs, and Petitioners don’t have any information or documents to provide in response to your proposed discovery.

If you still intend to proceed with your request, then, to have a meaningful meet-and-confer, please let us know what evidence you have in your possession that tends “to show beyond speculation that in fact something useful [i.e., that Apple is an RPI] will be uncovered”? See *Garmin Int’l, Inc. v. Cuozzo Speed Techs. LLC*, Case IPR2012-00001, Paper 26 (March 5, 2013).

Regards,

-Dion

Dion M. Bregman

Morgan, Lewis & Bockius LLP

1400 Page Mill Road | Palo Alto, CA 94304

Direct: +1.650.843.7519 | Main: +1.650.843.4000 | Fax: +1.650.843.4001

dion.bregman@morganlewis.com | www.morganlewis.com

Assistant: Kari B. Aguiar | +1.650.843.7877 | kari.aguiar@morganlewis.com

From: Ryan, Andrew <aryan@cantorcolburn.com>

Sent: Wednesday, August 17, 2022 1:42 PM

To: Bregman, Dion M. <dion.bregman@morganlewis.com>; Devkar, Andrew V. <andrew.devkar@morganlewis.com>;

Kritsas, James J. <james.kritsas@morganlewis.com>; HID-IPRs <HID-IPRs@morganlewis.com>

Cc: Coyle, Steve <Scoyle@CantorColburn.com>; Geiger, Nicholas <NGeiger@CantorColburn.com>

Subject: ASSA ABLOY AB et al. v. CPC Patent Technologies PTY Ltd., IPR2022-01006, IPR2022-01045, IPR2022-01089, IPR2022-01093, IPR2022-01094

[EXTERNAL EMAIL]

Dear Mr. Bregman,

By way of introduction, I am counsel for Patent Owner CPC in the above referenced IPRs. We intend to request permission from the Board to file a motion for additional discovery relating to whether Apple, Inc. is a real-party-in-interest and/or privy of one or more of the Petitioners. Please let me know if Petitioners oppose this request.

I can be available for a meet-and-confer tomorrow (8/18) between 1-4pm, Fri. (8/19) between 11am-2pm, or Mon. (8/22) between 1-4 pm (all times Eastern).

Best regards,
Andy

Andrew C. Ryan
Partner

Cantor Colburn LLP



20 Church Street | 22nd Floor | Hartford, CT 06103-3207

Work: 860-286-2929, ext. 1127 | Fax: 860-286-0115 |

ryan@cantorcolburn.com

www.cantorcolburn.com

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Andrew C. Ryan

Partner

Cantor Colburn LLP



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ryan@cantorcolburn.com

www.cantorcolburn.com

HARTFORD WASHINGTON, D.C. ATLANTA HOUSTON DETROIT

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