

Welch, Matt

From: ptong@raklaw.com
Sent: Tuesday, February 13, 2024 12:24 PM
To: Wroblewski, Karlee; Gunder, Stacy; ilee@raklaw.com; bwang@raklaw.com; aweiss@raklaw.com; pkroeger@raklaw.com; rak_nextgen@raklaw.com
Cc: Stevens, Scott; Welch, Matt; Riolo, Mary
Subject: Re: Order Violations in IPR2023-00680, IPR2023-00681, and IPR2023-00682

EXTERNAL SENDER – Proceed with caution

Hi Karlee,

You may follow up with the Board noting that we do not oppose expunging both your Reply and 1038 and that we do not oppose your filing of a corrected Reply. It should not have any changes beyond the removal of confidential material from Page 5.

Peter Tong
Russ, August & Kabat
4925 Greenville Avenue, Suite 200 | Dallas, Texas 75206
Main +1 310 826 7474 | ptong@raklaw.com | www.raklaw.com

From: Wroblewski, Karlee <Karlee.Wroblewski@alston.com>
Date: Tuesday, February 13, 2024 at 11:14 AM
To: ptong@raklaw.com <ptong@raklaw.com>, Gunder, Stacy <Stacy.Gunder@alston.com>, ilee@raklaw.com <ilee@raklaw.com>, bwang@raklaw.com <bwang@raklaw.com>, aweiss@raklaw.com <aweiss@raklaw.com>, pkroeger@raklaw.com <pkroeger@raklaw.com>, rak_nextgen@raklaw.com <rak_nextgen@raklaw.com>
Cc: Stevens, Scott <Scott.Stevens@alston.com>, Welch, Matt <Matt.Welch@alston.com>, Riolo, Mary <Mary.Riolo@alston.com>
Subject: RE: Order Violations in IPR2023-00680, IPR2023-00681, and IPR2023-00682

Peter,

In view of your correspondence below, Nokia intends to request that Ex. 1038 be expunged and will request permission to refile a corrected version of its Reply excluding reference to Ex. 1038 and the portions cited therein. These requests appear to be in line with your requests below. Please confirm that you do not oppose.

We disagree, however, with your accusation that filing this exhibit was a violation of the Protective Order in 2:22-cv-00307. Ex. 1038 consists of excerpted portions of Dr. Prucnal's Opening Invalidity Report, which we understand do not contain confidential information. Nevertheless, as described above, we will seek for Ex. 1038 and the cited portions to be expunged promptly to alleviate NextGen's concern.

We will plan to reach out to the Board by 1pm ET today. We would appreciate your confirmation that you do not oppose our approach prior to us contacting the Board.

Best,
Karlee

Karlee N. Wroblewski
Senior Associate
ALSTON & BIRD
1120 South Tryon Street, Suite 300
Charlotte, NC 28203-6818
+1 704 444 1299 (O)
+1 715 808 4562 (M)
Karlee.Wroblewski@alston.com

From: ptong@raklaw.com <ptong@raklaw.com>
Sent: Monday, February 12, 2024 6:28 PM
To: Gunder, Stacy <Stacy.Gunder@alston.com>; ilee@raklaw.com; bwang@raklaw.com; aweiss@raklaw.com; pkroeger@raklaw.com; rak_nextgen@raklaw.com
Cc: Stevens, Scott <Scott.Stevens@alston.com>; Wroblewski, Karlee <Karlee.Wroblewski@alston.com>; Welch, Matt <Matt.Welch@alston.com>; Riolo, Mary <Mary.Riolo@alston.com>
Subject: Order Violations in IPR2023-00680, IPR2023-00681, and IPR2023-00682

EXTERNAL SENDER – Proceed with caution

RE: IPR2023-00680, IPR2023-00681, and IPR2023-00682
Immediate Relief Requested Re: Confidential Information

To the Honorable Board,

Late last Friday, Petitioner filed its Replies to Petitioners Request for Director Review (Paper 15) with Exhibit 1038. This filing violates both the Magistrate Judge Payne’s Protective Order and Director Vidal’s Order by submitting new, confidential evidence without seal. Thus, Patent Owners ask that it be immediately expunged.

Director Vidal ordered that “no new evidence is permitted” at the director review stage. Paper 13 at 2. Judge Payne’s Protective Order states that RESTRICTED – ATTORNEYS’ EYES ONLY documents are “limited to the individuals listed in paragraphs 5(a-b) and (d-h),” which does not include the public P-TACTS database. *NextGen Innovations, LLC v. Fujitsu Network Communications, Inc.*, No. 2:22-cv-00307 (lead case), ECF No. 77 ¶ 10 (E.D. Tex. Dec. 13, 2022).

Exhibit 1038 violates both of these orders. Exhibit 1038 violates Director Vidal’s order because it is new evidence. Exhibit 1038 also violates Judge Payne’s Protective Order because it includes “RESTRICTED – ATTORNEYS’ EYES ONLY” deposition testimony from the underlying district court litigation. Page 5 of the Petitioner’s Reply (Paper 15 at 5) similarly violates both Judge Payne’s and Director Vidal’s orders by citing to the confidential evidence and quoting the confidential transcript.

Petitioner did not file the confidential information under seal. Nor did Petitioner ask to de-designate the confidential testimony or seek leave from Director Vidal to submit new evidence.

Thus, Patent Owners ask that the filing of Paper 15 and exhibit 1038 be immediately expunged, with leave to re-file only pages 1-4 of Paper 15.

Peter Tong
Russ, August & Kabat
4925 Greenville Avenue, Suite 200 | Dallas, Texas 75206
Main +1 310 826 7474 | ptong@raklaw.com | www.raklaw.com

From: Gunder, Stacy <Stacy.Gunder@alston.com>
Date: Friday, February 9, 2024 at 6:33 PM
To: ptong@raklaw.com <ptong@raklaw.com>, ilee@raklaw.com <ilee@raklaw.com>, bwang@raklaw.com <bwang@raklaw.com>, aweiss@raklaw.com <aweiss@raklaw.com>, pkroeger@raklaw.com <pkroeger@raklaw.com>, rak_nextgen@raklaw.com <rak_nextgen@raklaw.com>
Cc: Stevens, Scott <Scott.Stevens@alston.com>, Wroblewski, Karlee <Karlee.Wroblewski@alston.com>, Welch, Matt <Matt.Welch@alston.com>, Riolo, Mary <Mary.Riolo@alston.com>
Subject: Nokia of America Corporation v. Alexander Soto, et al.; Nos. IPR2023-00680, -00681, & -00682 — Replies to PO's Responses to Request for Director Review (Papers 15)

Counsel,

Attached are Nokia's Replies to Patent Owner's Responses to Petitioner's Request for Director Review with accompanying Exhibits 1038, filed with the PTAB today in Case Nos. IPR2023-00680, IPR2023-00681, and IPR2023-00682.

Stacy Gunder
Paralegal
ALSTON & BIRD
2200 Ross Avenue, Suite 2300
Dallas, TX 75201
+1 214 922 3480 (O)
Stacy.Gunder@alston.com

NOTICE: This e-mail message and all attachments may contain legally privileged and confidential information intended solely for the use of the addressee. If you are not the intended recipient, you are hereby notified that you may not read, copy, distribute or otherwise use this message or its attachments. If you have received this message in error, please notify the sender by email and delete all copies of the message immediately.