

Tyson, Christopher J.

From: Julian Pymonto <jpymento@fabricantllp.com>
Sent: Friday, September 15, 2023 6:52 PM
To: Joseph Mercadante; Nilsson, William (DAL); Taasera; sbaxter@mckoolsmith.com; jtruelove@mckoolsmith.com
Cc: Dotson, David C.; Park, Ryuk; Rueckheim, Mike; Shoup, Christopher; Medina, David R.; Roberts, Clement; Caridis, Alyssa (EXTERNAL @ORRICK.COM); O'Neal, Jake; Brewer, Evan; Findley, Eric Hugh (EXTERNAL @FINDLAYCRAFT.COM); Mullins, Sarah; Taasera, Checkpoint (NON-SIDLEY @ORRICK.COM); Bartow, D. Stuart; Melissa Smith; tom@gillamsmithlaw.com; Engelmann, Holly E.; Vinci, Brianna; TrendTaasera; Greene, Bert A.; Liddell, Andrew; Rollins, David J.; Yang, Irene; Bettinger, Mike; Langford, Andrew; Fountain, Erik B.; Blake@TheMannFirm.com; Mark@TheMannFirm.com; Lee, Sharon; Sidley Crowd Strike Taasera; Gaudet, Matthew C.; Snedeker, Alice; Tyson, Christopher J.; Malani, Irfan; St. Clair, Nate; JW-Trellix-IP; Dietrich, Blake; Hunsaker, Kelly C.; Yaquian, Juan C.; Reig, Eimeric; Winston-PAN-Taasera
Subject: RE: In re Taasera MDL - Preliminary Election of Asserted Claims

Counsel:

Pursuant to the Proposed Order Focusing Patent Claims and Prior Art to Reduce Costs, Taasera provides the following Preliminary Election of Asserted Claims per Defendant:

Checkpoint:

796 Patent, Claims 1, 2, 7, 12, 21
441 Patent, Claims 1, 2, 4-8, 10, 11, 12
038 Patent, Claims 1, 23, 25, 31, 33
948 Patent, Claims 1, 2, 5
518 Patent, Claims 1, 6, 9, 10, 17, 20, 22
616 Patent, Claims 1, 4-7
997 Patent, Claims 1, 2, 11-13, 16, 18, 20, 21, 23

Crowdstrike:

441 Patent, Claims 1, 2, 4, 5
038 Patent, Claims 1, 23, 25, 31, 33
948 Patent, Claims 1, 2, 5
616 Patent, Claims 1, 4, 6, 7
997 Patent, Claims 1, 2, 11-13, 16, 18, 20, 21, 23
918 Patent, Claims 1, 7, 9, 17
137 Patent, Claims 1, 2, 6, 8, 9, 12, 25
517 Patent, Claims 1, 3, 13-17, 24

PAN:

796 Patent, Claims 1, 2, 7, 12, 21
441 Patent, Claims 1, 2, 4, 5, 7
038 Patent, Claims 1, 23, 25, 31, 33
948 Patent, Claims 1, 2, 5
616 Patent, Claims 1, 4, 6, 7

918 Patent, Claims 1, 7, 9, 19, 20, 22
137 Patent, Claims 1, 2, 6, 8, 9, 12, 25
517 Patent, Claims 1, 3, 13, 24
356 Patent, Claims 1, 3, 4, 17, 19, 20

Trend Micro:

796 Patent, Claims 1, 2, 7, 12, 21
441 Patent, Claims 1, 2, 4, 5, 7
038 Patent, Claims 1, 23, 25, 31, 33
948 Patent, Claims 1, 2, 5
616 Patent, Claims 1, 4, 6, 7
997 Patent, Claims 1, 2, 21, 23, 25
918 Patent, Claims 1, 7, 9, 19, 20, 22
137 Patent, Claims 1, 2, 6, 8, 9, 12, 25
517 Patent, Claims 1, 3, 10, 13, 24

Trellix:

441 Patent, Claims 1, 2, 4-8, 12
038 Patent, Claims 1, 23, 25, 31, 33
948 Patent, Claims 1, 2, 5
518 Patent, Claims 1, 6, 17, 22
616 Patent, Claims 1, 4, 6, 7
997 Patent, Claims 1, 2, 21, 23, 25
918 Patent, Claims 1, 7, 9, 20, 22
137 Patent, Claims 1, 2, 6, 8, 9, 12, 25
517 Patent, Claims 1, 3, 13, 24

Fortinet:

441 Patent, Claims 1, 2, 4, 5, 7, 8, 12
616 Patent, Claims 1, 4, 6, 7
997 Patent, Claims 1, 2, 21, 23, 25
918 Patent, Claims 1, 7, 9, 20, 22
419 Patent, Claims 13, 15, 17-19
634 Patent, Claims 1-6
453 Patent, Claims 13-18
251 Patent, Claims 1-3, 7-10

If the proposed order on claim narrowing is not granted, or granted in a modified fashion, we reserve the right to reinstate any dropped claims.



Julian Pymonto
Associate

Fabricant LLP

T: 646-797-4341
jpymonto@fabricantllp.com
fabricantllp.com

From: Joseph Mercadante <jmercadante@fabricantllp.com>

Sent: Thursday, September 7, 2023 7:31 PM

To: Nilsson, William (DAL) <wnilsson@jw.com>; Taasera <taasera@fabricantllp.com>; sbaxter@mckoolsmith.com;

jtruelove@mckoolsmith.com

Cc: Dotson, David C. <DCDotson@duanemorris.com>; Park, Ryuk <RPark@winston.com>; Rueckheim, Mike <MRueckheim@winston.com>; Shoup, Christopher <cshoup@sidley.com>; Medina, David R. <dmedina@orrick.com>; Roberts, Clement <croberts@orrick.com>; Caridis, Alyssa (EXTERNAL @ORRICK.COM) <acaridis@orrick.com>; O'Neal, Jake <jake.oneal@orrick.com>; Brewer, Evan <ebrewer@orrick.com>; Findley, Eric Hugh (EXTERNAL @FINDLAYCRAFT.COM) <efindlay@findlaycraft.com>; Mullins, Sarah <sarahmullins@orrick.com>; Taasera, Checkpoint (NON-SIDLEY @ORRICK.COM) <checkpoint-taasera_ohs@orrick.com>; Bartow, D. Stuart <DSBartow@duanemorris.com>; Melissa Smith <melissa@gillamsmithlaw.com>; tom@gillamsmithlaw.com; Engelmann, Holly E. <HEngelmann@duanemorris.com>; Vinci, Brianna <BVinci@duanemorris.com>; TrendTaasera <TrendTaasera@duanemorris.com>; Greene, Bert A. <BGreene@duanemorris.com>; Liddell, Andrew <WALiddell@duanemorris.com>; Rollins, David J. <DJRollins@duanemorris.com>; Yang, Irene <irene.yang@sidley.com>; Bettinger, Mike <mbettinger@sidley.com>; Langford, Andrew <alangford@sidley.com>; Fountain, Erik B. <efountain@sidley.com>; Blake@TheMannFirm.com; Mark@TheMannFirm.com; Lee, Sharon <sharon.lee@sidley.com>; Sidley Crowd Strike Taasera <SidleyCrowdStrikeTaasera@sidley.com>; Gaudet, Matthew C. <MCGaudet@duanemorris.com>; Snedeker, Alice <AESnedeker@duanemorris.com>; Tyson, Christopher J. <CJTyson@duanemorris.com>; Malani, Irfan <IMalani@duanemorris.com>; St. Clair, Nate <nstclair@jw.com>; JW-Trellix-IP <JW-Trellix-IP@jw.com>; Dietrich, Blake <bdietch@jw.com>; Hunsaker, Kelly C. <Khunsaker@winston.com>; Yaquian, Juan C. <JYaquian@winston.com>; Reig, Eimeric <EReigPlessis@winston.com>; Winston-PAN-Taasera <Winston-PAN-Taasera@winston.com>

Subject: Re: In re Taasera MDL - Model Order Focusing Patent Claims and Prior Art

Will, good to go by us

Joseph Mercadante

Partner

Fabricant LLP

jmercadante@fabricantllp.com

M: 973-420-4011

From: Nilsson, William (DAL) <wnilsson@jw.com>

Sent: Thursday, September 7, 2023 6:31:58 PM

To: Joseph Mercadante <jmercadante@fabricantllp.com>; Taasera <taasera@fabricantllp.com>; sbaxter@mckoolsmith.com <sbaxter@mckoolsmith.com>; jtruelove@mckoolsmith.com <jtruelove@mckoolsmith.com>

Cc: Dotson, David C. <DCDotson@duanemorris.com>; Park, Ryuk <RPark@winston.com>; Rueckheim, Mike <MRueckheim@winston.com>; Shoup, Christopher <cshoup@sidley.com>; Medina, David R. <dmedina@orrick.com>; Roberts, Clement <croberts@orrick.com>; Caridis, Alyssa (EXTERNAL @ORRICK.COM) <acaridis@orrick.com>; O'Neal, Jake <jake.oneal@orrick.com>; Brewer, Evan <ebrewer@orrick.com>; Findley, Eric Hugh (EXTERNAL @FINDLAYCRAFT.COM) <efindlay@findlaycraft.com>; Mullins, Sarah <sarahmullins@orrick.com>; Taasera, Checkpoint (NON-SIDLEY @ORRICK.COM) <checkpoint-taasera_ohs@orrick.com>; Bartow, D. Stuart <DSBartow@duanemorris.com>; Melissa Smith <melissa@gillamsmithlaw.com>; tom@gillamsmithlaw.com <tom@gillamsmithlaw.com>; Engelmann, Holly E. <HEngelmann@duanemorris.com>; Vinci, Brianna <BVinci@duanemorris.com>; TrendTaasera <TrendTaasera@duanemorris.com>; Greene, Bert A. <BGreene@duanemorris.com>; Liddell, Andrew <WALiddell@duanemorris.com>; Rollins, David J. <DJRollins@duanemorris.com>; Yang, Irene <irene.yang@sidley.com>; Bettinger, Mike <mbettinger@sidley.com>; Langford, Andrew <alangford@sidley.com>; Fountain, Erik B. <efountain@sidley.com>; Blake@TheMannFirm.com <Blake@TheMannFirm.com>; Mark@TheMannFirm.com <Mark@TheMannFirm.com>; Lee, Sharon <sharon.lee@sidley.com>; Sidley Crowd Strike Taasera <SidleyCrowdStrikeTaasera@sidley.com>; Gaudet, Matthew C. <MCGaudet@duanemorris.com>; Snedeker, Alice <AESnedeker@duanemorris.com>; Tyson, Christopher J. <CJTyson@duanemorris.com>; Malani, Irfan <IMalani@duanemorris.com>; St. Clair, Nate <nstclair@jw.com>; JW-Trellix-IP <JW-Trellix-IP@jw.com>; Dietrich, Blake <bdietch@jw.com>; Hunsaker, Kelly C. <Khunsaker@winston.com>; Yaquian, Juan C. <JYaquian@winston.com>; Reig, Eimeric <EReigPlessis@winston.com>; Winston-PAN-Taasera

<Winston-PAN-Taasera@winston.com>

Subject: RE: In re Taasera MDL - Model Order Focusing Patent Claims and Prior Art

Thanks Joe. Attached are proposed final versions of the motion and order. Please let us know if these are acceptable to Taasera and we will get on file tomorrow.

All the best,

Will

William Nilsson

2323 Ross Avenue, Suite 600 | Dallas, TX | 75201

V: (214) 953-5918 | F: (214) 953-5822 | wnilsson@jw.com



From: Joseph Mercadante <jmercadante@fabricantllp.com>

Sent: Thursday, September 7, 2023 4:25 PM

To: Nilsson, William (DAL) <wnilsson@jw.com>; Taasera <taasera@fabricantllp.com>; sbaxter@mckoolsmith.com; jtruelove@mckoolsmith.com

Cc: Dotson, David C. <DCDotson@duanemorris.com>; Park, Ryuk <RPark@winston.com>; Rueckheim, Mike <MRueckheim@winston.com>; Shoup, Christopher <cshoup@sidley.com>; Medina, David R. <dmedina@orrick.com>; Roberts, Clement <croberts@orrick.com>; Caridis, Alyssa (EXTERNAL @ORRICK.COM) <acaridis@orrick.com>; O'Neal, Jake <jake.oneal@orrick.com>; Brewer, Evan <ebrewer@orrick.com>; Findley, Eric Hugh (EXTERNAL @FINDLAYCRAFT.COM) <efindlay@findlaycraft.com>; Mullins, Sarah <sarahmullins@orrick.com>; Taasera, Checkpoint (NON-SIDLEY @ORRICK.COM) <checkpoint-taasera_ohs@orrick.com>; Bartow, D. Stuart <DSBartow@duanemorris.com>; Melissa Smith <melissa@gillamsmithlaw.com>; tom@gillamsmithlaw.com; Engelmann, Holly E. <HEngelmann@duanemorris.com>; Vinci, Brianna <BVinci@duanemorris.com>; TrendTaasera <TrendTaasera@duanemorris.com>; Greene, Bert A. <BGreene@duanemorris.com>; Liddell, Andrew <WALiddell@duanemorris.com>; Rollins, David J. <DJRollins@duanemorris.com>; Yang, Irene <irene.yang@sidley.com>; Bettinger, Mike <mbettinger@sidley.com>; Langford, Andrew <alangford@sidley.com>; Fountain, Erik B. <efountain@sidley.com>; Blake@TheMannFirm.com; Mark@TheMannFirm.com; Lee, Sharon <sharon.lee@sidley.com>; Sidley Crowd Strike Taasera <SidleyCrowdStrikeTaasera@sidley.com>; Gaudet, Matthew C. <MCGaudet@duanemorris.com>; Snedeker, Alice <AESnedeker@duanemorris.com>; Tyson, Christopher J. <CJTyson@duanemorris.com>; Malani, Irfan <IMalani@duanemorris.com>; St. Clair, Nate <nstclair@jw.com>; JW-Trellix-IP <JW-Trellix-IP@jw.com>; Dietrich, Blake <bdietrich@jw.com>; Hunsaker, Kelly C. <Khunsaker@winston.com>; Yaquian, Juan C. <JYaquian@winston.com>; Reig, Eimeric <EREigPlessis@winston.com>; Winston-PAN-Taasera <Winston-PAN-Taasera@winston.com>

Subject: RE: In re Taasera MDL - Model Order Focusing Patent Claims and Prior Art

****RECEIVED FROM EXTERNAL SENDER – USE CAUTION****

That's correct

Joseph Mercadante

Partner

Fabricant LLP

T: 646-797-4343 | M: 973-420-4011 | jmercadante@fabricantllp.com

From: Nilsson, William (DAL) <wnilsson@jw.com>

Sent: Thursday, September 7, 2023 5:00 PM

To: Joseph Mercadante <jmercadante@fabricantllp.com>; Taasera <taasera@fabricantllp.com>; sbaxter@mckoolsmith.com; jtruelove@mckoolsmith.com

Cc: Dotson, David C. <DCDotson@duanemorris.com>; Park, Ryuk <RPark@winston.com>; Rueckheim, Mike <MRueckheim@winston.com>; Shoup, Christopher <cshoup@sidley.com>; Medina, David R. <dmedina@orrick.com>; Roberts, Clement <croberts@orrick.com>; Caridis, Alyssa (EXTERNAL @ORRICK.COM) <acaridis@orrick.com>; O'Neal,

Jake <jake.oneal@orrick.com>; Brewer, Evan <ebrewer@orrick.com>; Findley, Eric Hugh (EXTERNAL @FINDLAYCRAFT.COM) <efindlay@findlaycraft.com>; Mullins, Sarah <sarahmullins@orrick.com>; Taasera, Checkpoint (NON-SIDLEY @ORRICK.COM) <checkpoint-taasera_ohs@orrick.com>; Bartow, D. Stuart <DSBartow@duanemorris.com>; Melissa Smith <melissa@gillamsmithlaw.com>; tom@gillamsmithlaw.com; Engelmann, Holly E. <HEngelmann@duanemorris.com>; Vinci, Brianna <BVinci@duanemorris.com>; TrendTaasera <TrendTaasera@duanemorris.com>; Greene, Bert A. <BGreene@duanemorris.com>; Liddell, Andrew <WALiddell@duanemorris.com>; Rollins, David J. <DJRollins@duanemorris.com>; Yang, Irene <irene.yang@sidley.com>; Bettinger, Mike <mbettinger@sidley.com>; Langford, Andrew <alangford@sidley.com>; Fountain, Erik B. <efountain@sidley.com>; Blake@TheMannFirm.com; Mark@TheMannFirm.com; Lee, Sharon <sharon.lee@sidley.com>; Sidley Crowd Strike Taasera <SidleyCrowdStrikeTaasera@sidley.com>; Gaudet, Matthew C. <MCGaudet@duanemorris.com>; Snedeker, Alice <AESnedeker@duanemorris.com>; Tyson, Christopher J. <CJTyson@duanemorris.com>; Malani, Irfan <IMalani@duanemorris.com>; St. Clair, Nate <nstclair@jw.com>; JW-Trellix-IP <JW-Trellix-IP@jw.com>; Dietrich, Blake <bdietrich@jw.com>; Hunsaker, Kelly C. <Khunsaker@winston.com>; Yaquian, Juan C. <JYaquian@winston.com>; Reig, Eimeric <EREigPlessis@winston.com>; Winston-PAN-Taasera <Winston-PAN-Taasera@winston.com>

Subject: RE: In re Taasera MDL - Model Order Focusing Patent Claims and Prior Art

Joe,

Defendants understand your proposal to be that, if the Court enters the proposed 8th Amended DCO, Taasera's final election would be on October 23 and Defendants' final elections would be on November 13, while the preliminary election deadlines would remain the same. If that is the case, Defendants will agree to your proposal. Assuming the parties are in agreement, we will circulate proposed final versions of the joint motion and order.

All the best,

Will

William Nilsson

2323 Ross Avenue, Suite 600 | Dallas, TX | 75201

V: (214) 953-5918 | F: (214) 953-5822 | wnilsson@jw.com



From: Joseph Mercadante <jmercadante@fabricantllp.com>

Sent: Thursday, September 7, 2023 10:20 AM

To: Nilsson, William (DAL) <wnilsson@jw.com>; Taasera <taasera@fabricantllp.com>; sbaxter@mckoolsmith.com; jtruelove@mckoolsmith.com

Cc: Dotson, David C. <DCDotson@duanemorris.com>; Park, Ryuk <RPark@winston.com>; Rueckheim, Mike <MRueckheim@winston.com>; Shoup, Christopher <cshoup@sidley.com>; Medina, David R. <dmedina@orrick.com>; Roberts, Clement <croberts@orrick.com>; Caridis, Alyssa (EXTERNAL @ORRICK.COM) <acaridis@orrick.com>; O'Neal, Jake <jake.oneal@orrick.com>; Brewer, Evan <ebrewer@orrick.com>; Findley, Eric Hugh (EXTERNAL @FINDLAYCRAFT.COM) <efindlay@findlaycraft.com>; Mullins, Sarah <sarahmullins@orrick.com>; Taasera, Checkpoint (NON-SIDLEY @ORRICK.COM) <checkpoint-taasera_ohs@orrick.com>; Bartow, D. Stuart <DSBartow@duanemorris.com>; Melissa Smith <melissa@gillamsmithlaw.com>; tom@gillamsmithlaw.com; Engelmann, Holly E. <HEngelmann@duanemorris.com>; Vinci, Brianna <BVinci@duanemorris.com>; TrendTaasera <TrendTaasera@duanemorris.com>; Greene, Bert A. <BGreene@duanemorris.com>; Liddell, Andrew <WALiddell@duanemorris.com>; Rollins, David J. <DJRollins@duanemorris.com>; Yang, Irene <irene.yang@sidley.com>; Bettinger, Mike <mbettinger@sidley.com>; Langford, Andrew <alangford@sidley.com>; Fountain, Erik B. <efountain@sidley.com>; Blake@TheMannFirm.com; Mark@TheMannFirm.com; Lee, Sharon <sharon.lee@sidley.com>; Sidley Crowd Strike Taasera <SidleyCrowdStrikeTaasera@sidley.com>; Gaudet, Matthew C. <MCGaudet@duanemorris.com>; Snedeker, Alice <AESnedeker@duanemorris.com>; Tyson, Christopher J. <CJTyson@duanemorris.com>; Malani, Irfan <IMalani@duanemorris.com>; St. Clair, Nate <nstclair@jw.com>; JW-Trellix-IP <JW-Trellix-IP@jw.com>; Dietrich, Blake <bdietrich@jw.com>; Hunsaker, Kelly C. <Khunsaker@winston.com>;

Yaquian, Juan C. <JYaquian@winston.com>; Reig, Eimeric <EReigPlessis@winston.com>; Winston-PAN-Taasera <Winston-PAN-Taasera@winston.com>

Subject: RE: In re Taasera MDL - Model Order Focusing Patent Claims and Prior Art

****RECEIVED FROM EXTERNAL SENDER – USE CAUTION****

Will, we had agreed that the final prior art cut would be the date for opening reports, which is currently Nov. 6 and will probably be pushed back to Nov. 13. I don't think that having a prior art cut happen after your invalidity report goes in makes any sense. If the new DCO gets entered, I think we should just add one week to both of the final elections.

Joseph Mercadante

Partner

Fabricant LLP

T: 646-797-4343 | M: 973-420-4011 | jmercadante@fabricantllp.com

From: Nilsson, William (DAL) <wnilsson@jw.com>

Sent: Wednesday, September 6, 2023 3:31 PM

To: Joseph Mercadante <jmercadante@fabricantllp.com>; Taasera <taasera@fabricantllp.com>; sbaxter@mckoolsmith.com; jtruelove@mckoolsmith.com

Cc: Dotson, David C. <DCDotson@duanemorris.com>; Park, Ryuk <RPark@winston.com>; Rueckheim, Mike <MRueckheim@winston.com>; Shoup, Christopher <cshoup@sidley.com>; Medina, David R. <dmedina@orrick.com>; Roberts, Clement <croberts@orrick.com>; Caridis, Alyssa (EXTERNAL @ORRICK.COM) <acaridis@orrick.com>; O'Neal, Jake <jake.oneal@orrick.com>; Brewer, Evan <ebrewer@orrick.com>; Findley, Eric Hugh (EXTERNAL @FINDLAYCRAFT.COM) <efindlay@findlaycraft.com>; Mullins, Sarah <sarahmullins@orrick.com>; Taasera, Checkpoint (NON-SIDLEY @ORRICK.COM) <checkpoint-taasera_ohs@orrick.com>; Bartow, D. Stuart <DSBartow@duanemorris.com>; Melissa Smith <melissa@gillamsmithlaw.com>; tom@gillamsmithlaw.com; Engelmann, Holly E. <HEngelmann@duanemorris.com>; Vinci, Brianna <BVinci@duanemorris.com>; TrendTaasera <TrendTaasera@duanemorris.com>; Greene, Bert A. <BGreene@duanemorris.com>; Liddell, Andrew <WALiddell@duanemorris.com>; Rollins, David J. <DJRollins@duanemorris.com>; Yang, Irene <irene.yang@sidley.com>; Bettinger, Mike <mbettinger@sidley.com>; Langford, Andrew <alangford@sidley.com>; Fountain, Erik B. <efountain@sidley.com>; Blake@TheMannFirm.com; Mark@TheMannFirm.com; Lee, Sharon <sharon.lee@sidley.com>; Sidley Crowd Strike Taasera <SidleyCrowdStrikeTaasera@sidley.com>; Gaudet, Matthew C. <MCGaudet@duanemorris.com>; Snedeker, Alice <AESnedeker@duanemorris.com>; Tyson, Christopher J. <CJTyson@duanemorris.com>; Malani, Irfan <IMalani@duanemorris.com>; St. Clair, Nate <nstclair@jw.com>; JW-Trellix-IP <JW-Trellix-IP@jw.com>; Dietrich, Blake <bdietrich@jw.com>; Hunsaker, Kelly C. <Khunsaker@winston.com>; Yaquian, Juan C. <JYaquian@winston.com>; Reig, Eimeric <EReigPlessis@winston.com>; Winston-PAN-Taasera <Winston-PAN-Taasera@winston.com>

Subject: RE: In re Taasera MDL - Model Order Focusing Patent Claims and Prior Art

Joe,

Attached are (i) Defendants' draft joint motion seeking entry of an order focusing claims and art and (ii) an accompanying proposed order. We do not believe the proposed amended DCO impacts the preliminary election deadlines, but the attached proposal moves the final election dates back to account for the amended schedule. We would like to get this on file by the end of the week, so please let us know by COB tomorrow if the attached proposals are acceptable to Taasera.

All the best,

Will

William Nilsson

2323 Ross Avenue, Suite 600 | Dallas, TX | 75201

V: (214) 953-5918 | F: (214) 953-5822 | wnilsson@jw.com



From: Joseph Mercadante <jmercadante@fabricantllp.com>

Sent: Friday, August 25, 2023 9:00 AM

To: Nilsson, William (DAL) <wnilsson@jw.com>; Taasera <taasera@fabricantllp.com>; sbaxter@mckoolsmith.com; jtruelove@mckoolsmith.com

Cc: Dotson, David C. <DCDotson@duanemorris.com>; Park, Ryuk <RPark@winston.com>; Rueckheim, Mike <MRueckheim@winston.com>; Shoup, Christopher <cshoup@sidley.com>; Medina, David R. <dmedina@orrick.com>; Roberts, Clement <croberts@orrick.com>; Caridis, Alyssa (EXTERNAL @ORRICK.COM) <acaridis@orrick.com>; O'Neal, Jake <jake.oneal@orrick.com>; Brewer, Evan <ebrewer@orrick.com>; Findley, Eric Hugh (EXTERNAL @FINDLAYCRAFT.COM) <efindlay@findlaycraft.com>; Mullins, Sarah <sarahmullins@orrick.com>; Taasera, Checkpoint (NON-SIDLEY @ORRICK.COM) <checkpoint-taasera_ohs@orrick.com>; Bartow, D. Stuart <DSBartow@duanemorris.com>; Melissa Smith <melissa@gillamsmithlaw.com>; tom@gillamsmithlaw.com; Engelmann, Holly E. <HEngelmann@duanemorris.com>; Vinci, Brianna <BVinci@duanemorris.com>; TrendTaasera <TrendTaasera@duanemorris.com>; Greene, Bert A. <BGreene@duanemorris.com>; Liddell, Andrew <WALiddell@duanemorris.com>; Rollins, David J. <DJRollins@duanemorris.com>; Yang, Irene <irene.yang@sidley.com>; Bettinger, Mike <mbettinger@sidley.com>; Langford, Andrew <alangford@sidley.com>; Fountain, Erik B. <efountain@sidley.com>; Blake@TheMannFirm.com; Mark@TheMannFirm.com; Lee, Sharon <sharon.lee@sidley.com>; Sidley Crowd Strike Taasera <SidleyCrowdStrikeTaasera@sidley.com>; Gaudet, Matthew C. <MCGaudet@duanemorris.com>; Snedeker, Alice <AESnedeker@duanemorris.com>; Tyson, Christopher J. <CJTyson@duanemorris.com>; Malani, Irfan <IMalani@duanemorris.com>; St. Clair, Nate <nstclair@jw.com>; JW-Trellix-IP <JW-Trellix-IP@jw.com>; Dietrich, Blake <bdietrich@jw.com>; Hunsaker, Kelly C. <Khunsaker@winston.com>; Yaquian, Juan C. <JYaquian@winston.com>; Reig, Eimeric <EReigPlessis@winston.com>; Winston-PAN-Taasera <Winston-PAN-Taasera@winston.com>

Subject: RE: In re Taasera MDL - Model Order Focusing Patent Claims and Prior Art

****RECEIVED FROM EXTERNAL SENDER – USE CAUTION****

Thanks Will. We are pretty tied up today with the claim construction brief and a bunch of things going on in other cases. We will get back to you on the proposed DCO by Monday.

Joseph Mercadante

Partner

Fabricant LLP

T: 646-797-4343 | M: 973-420-4011 | jmercadante@fabricantllp.com

From: Nilsson, William (DAL) <wnilsson@jw.com>

Sent: Friday, August 25, 2023 9:58 AM

To: Joseph Mercadante <jmercadante@fabricantllp.com>; Taasera <taasera@fabricantllp.com>; sbaxter@mckoolsmith.com; jtruelove@mckoolsmith.com

Cc: Dotson, David C. <DCDotson@duanemorris.com>; Park, Ryuk <RPark@winston.com>; Rueckheim, Mike <MRueckheim@winston.com>; Shoup, Christopher <cshoup@sidley.com>; Medina, David R. <dmedina@orrick.com>; Roberts, Clement <croberts@orrick.com>; Caridis, Alyssa (EXTERNAL @ORRICK.COM) <acaridis@orrick.com>; O'Neal, Jake <jake.oneal@orrick.com>; Brewer, Evan <ebrewer@orrick.com>; Findley, Eric Hugh (EXTERNAL @FINDLAYCRAFT.COM) <efindlay@findlaycraft.com>; Mullins, Sarah <sarahmullins@orrick.com>; Taasera, Checkpoint (NON-SIDLEY @ORRICK.COM) <checkpoint-taasera_ohs@orrick.com>; Bartow, D. Stuart <DSBartow@duanemorris.com>; Melissa Smith <melissa@gillamsmithlaw.com>; tom@gillamsmithlaw.com; Engelmann, Holly E. <HEngelmann@duanemorris.com>; Vinci, Brianna <BVinci@duanemorris.com>; TrendTaasera <TrendTaasera@duanemorris.com>; Greene, Bert A. <BGreene@duanemorris.com>; Liddell, Andrew <WALiddell@duanemorris.com>; Rollins, David J. <DJRollins@duanemorris.com>; Yang, Irene <irene.yang@sidley.com>; Bettinger, Mike <mbettinger@sidley.com>; Langford, Andrew <alangford@sidley.com>; Fountain, Erik B. <efountain@sidley.com>; Blake@TheMannFirm.com; Mark@TheMannFirm.com; Lee, Sharon <sharon.lee@sidley.com>; Sidley Crowd Strike Taasera <SidleyCrowdStrikeTaasera@sidley.com>; Gaudet, Matthew C. <MCGaudet@duanemorris.com>; Snedeker, Alice <AESnedeker@duanemorris.com>; Tyson, Christopher J. <CJTyson@duanemorris.com>; Malani, Irfan <IMalani@duanemorris.com>; St. Clair, Nate <nstclair@jw.com>; JW-

Trellix-IP <JW-Trellix-IP@jw.com>; Dietrich, Blake <bdietrich@jw.com>; Hunsaker, Kelly C. <Khunsaker@winston.com>; Yaquian, Juan C. <JYaquian@winston.com>; Reig, Eimeric <EReigPlessis@winston.com>; Winston-PAN-Taasera <Winston-PAN-Taasera@winston.com>

Subject: RE: In re Taasera MDL - Model Order Focusing Patent Claims and Prior Art

Joe,

The Defendants agree to 45 total claims for Taasera's first election. We will shortly circulate a draft motion and proposed order, and get that on file later today.

Further, we await Taasera's feedback regarding a potential proposed amended Docket Control Order. We think it would be a good idea to add the parties' agreed election schedule to the DCO as well.

All the best,

Will

William Nilsson

2323 Ross Avenue, Suite 600 | Dallas, TX | 75201

V: (214) 953-5918 | F: (214) 953-5822 | wnilsson@jw.com



From: Joseph Mercadante <jmercadante@fabricantllp.com>

Sent: Thursday, August 24, 2023 8:05 AM

To: Nilsson, William (DAL) <wnilsson@jw.com>; Taasera <taasera@fabricantllp.com>; sbaxter@mckoolsmith.com; jtruelove@mckoolsmith.com

Cc: Dotson, David C. <DCDotson@duanemorris.com>; Park, Ryuk <RPark@winston.com>; Rueckheim, Mike <MRueckheim@winston.com>; Shoup, Christopher <cshoup@sidley.com>; Medina, David R. <dmedina@orrick.com>; Roberts, Clement <croberts@orrick.com>; Caridis, Alyssa (EXTERNAL @ORRICK.COM) <acaridis@orrick.com>; O'Neal, Jake <jake.oneal@orrick.com>; Brewer, Evan <ebrewer@orrick.com>; Findley, Eric Hugh (EXTERNAL @FINDLAYCRAFT.COM) <efindlay@findlaycraft.com>; Mullins, Sarah <sarahmullins@orrick.com>; Taasera, Checkpoint (NON-SIDLEY @ORRICK.COM) <checkpoint-taasera_ohs@orrick.com>; Bartow, D. Stuart <DSBartow@duanemorris.com>; Melissa Smith <melissa@gillamsmithlaw.com>; tom@gillamsmithlaw.com; Engelmann, Holly E. <HEngelmann@duanemorris.com>; Vinci, Brianna <BVinci@duanemorris.com>; TrendTaasera <TrendTaasera@duanemorris.com>; Greene, Bert A. <BGreene@duanemorris.com>; Liddell, Andrew <WALiddell@duanemorris.com>; Rollins, David J. <DJRollins@duanemorris.com>; Yang, Irene <irene.yang@sidley.com>; Bettinger, Mike <mbettinger@sidley.com>; Langford, Andrew <alangford@sidley.com>; Fountain, Erik B. <efountain@sidley.com>; Blake@TheMannFirm.com; Mark@TheMannFirm.com; Lee, Sharon <sharon.lee@sidley.com>; Sidley Crowd Strike Taasera <SidleyCrowdStrikeTaasera@sidley.com>; Gaudet, Matthew C. <MCGaudet@duanemorris.com>; Snedeker, Alice <AESnedeker@duanemorris.com>; Tyson, Christopher J. <CJTyson@duanemorris.com>; Malani, Irfan <IMalani@duanemorris.com>; St. Clair, Nate <nstclair@jw.com>; JW-Trellix-IP <JW-Trellix-IP@jw.com>; Dietrich, Blake <bdietrich@jw.com>; Hunsaker, Kelly C. <Khunsaker@winston.com>; Yaquian, Juan C. <JYaquian@winston.com>; Reig, Eimeric <EReigPlessis@winston.com>; Winston-PAN-Taasera <Winston-PAN-Taasera@winston.com>

Subject: RE: In re Taasera MDL - Model Order Focusing Patent Claims and Prior Art

****RECEIVED FROM EXTERNAL SENDER – USE CAUTION****

Will, if we can compromise at 45 total claims for our first election, we have an agreement.

Confirmed that the limits going both ways is on a per-defendant basis (or, in the CrowdStrike case, a per-defendant group basis). Also confirmed that we'll count references as in the model order, e.g., each combination counts as a separate reference.

Joseph Mercadante

Partner

Fabricant LLP

T: 646-797-4343 | M: 973-420-4011 | jmercadante@fabricantllp.com

From: Nilsson, William (DAL) <wnilsson@jw.com>

Sent: Wednesday, August 23, 2023 7:11 PM

To: Joseph Mercadante <jmercadante@fabricantllp.com>; Taasera <taasera@fabricantllp.com>;
sbaxter@mckoolsmith.com; jtruelove@mckoolsmith.com

Cc: Dotson, David C. <DCDotson@duanemorris.com>; Park, Ryuk <RPark@winston.com>; Rueckheim, Mike <MRueckheim@winston.com>; Shoup, Christopher <cshoup@sidley.com>; Medina, David R. <dmedina@orrick.com>; Roberts, Clement <croberts@orrick.com>; Caridis, Alyssa (EXTERNAL @ORRICK.COM) <acaridis@orrick.com>; O'Neal, Jake <jake.oneal@orrick.com>; Brewer, Evan <ebrewer@orrick.com>; Findley, Eric Hugh (EXTERNAL @FINDLAYCRAFT.COM) <efindlay@findlaycraft.com>; Mullins, Sarah <sarahmullins@orrick.com>; Taasera, Checkpoint (NON-SIDLEY @ORRICK.COM) <checkpoint-taasera_ohs@orrick.com>; Bartow, D. Stuart <DSBartow@duanemorris.com>; Melissa Smith <melissa@gillamsmithlaw.com>; tom@gillamsmithlaw.com; Engelmann, Holly E. <HEngelmann@duanemorris.com>; Vinci, Brianna <BVinci@duanemorris.com>; TrendTaasera <TrendTaasera@duanemorris.com>; Greene, Bert A. <BGreene@duanemorris.com>; Liddell, Andrew <WALiddell@duanemorris.com>; Rollins, David J. <DJRollins@duanemorris.com>; Yang, Irene <irene.yang@sidley.com>; Bettinger, Mike <mbettinger@sidley.com>; Langford, Andrew <alangford@sidley.com>; Fountain, Erik B. <efountain@sidley.com>; Blake@TheMannFirm.com; Mark@TheMannFirm.com; Lee, Sharon <sharon.lee@sidley.com>; Sidley Crowd Strike Taasera <SidleyCrowdStrikeTaasera@sidley.com>; Gaudet, Matthew C. <MCGaudet@duanemorris.com>; Snedeker, Alice <AESnedeker@duanemorris.com>; Tyson, Christopher J. <CJTyson@duanemorris.com>; Malani, Irfan <IMalani@duanemorris.com>; St. Clair, Nate <nstclair@jw.com>; JW-Trellix-IP <JW-Trellix-IP@jw.com>; Dietrich, Blake <bdietrich@jw.com>; Hunsaker, Kelly C. <Khunsaker@winston.com>; Yaquian, Juan C. <JYaquian@winston.com>; Reig, Eimeric <EReigPlessis@winston.com>; Winston-PAN-Taasera <Winston-PAN-Taasera@winston.com>

Subject: RE: In re Taasera MDL - Model Order Focusing Patent Claims and Prior Art

Joe,

Defendants provide the below counterproposal regarding entry of an order focusing claims and prior art:

- September 15, 2023: Plaintiff's Preliminary Election of Asserted Claims (10 claims per patent, 40 total claims)
- September 29, 2023: Defendants' Preliminary Election of Prior Art (12 references per patent, 60 total references)
- October 16, 2023: Plaintiff's Final Election of Asserted Claims (Model Order limit) (5 claims per patent, 16 total claims)
- November 6, 2023: Defendants' Final Election of Prior Art (Model Order limit) (6 references per patent, 20 total references)

Further, we would like to confirm that both the claim and prior art reference limits apply on a per-defendant basis. Additionally, just to confirm the parties' understanding from Monday's call, for purposes of Defendants' Final Election, each obviousness combination counts as a separate prior art reference as provided in the Model Order. Please let us know by close of business tomorrow if Taasera agrees to Defendants' counterproposal.

All the best,

Will

William Nilsson

2323 Ross Avenue, Suite 600 | Dallas, TX | 75201

V: (214) 953-5918 | F: (214) 953-5822 | wnilsson@jw.com



From: Joseph Mercadante <jmercadante@fabricantllp.com>
Sent: Monday, August 21, 2023 4:41 PM
To: Nilsson, William (DAL) <wnilsson@jw.com>; Taasera <taasera@fabricantllp.com>; sbaxter@mckoolsmith.com; jtruelove@mckoolsmith.com
Cc: Dotson, David C. <DCDotson@duanemorris.com>; Park, Ryuk <RPark@winston.com>; Rueckheim, Mike <MRueckheim@winston.com>; Shoup, Christopher <cshoup@sidley.com>; Medina, David R. <dmedina@orrick.com>; Roberts, Clement <croberts@orrick.com>; Caridis, Alyssa (EXTERNAL @ORRICK.COM) <acaridis@orrick.com>; O'Neal, Jake <jake.oneal@orrick.com>; Brewer, Evan <ebrewer@orrick.com>; Findley, Eric Hugh (EXTERNAL @FINDLAYCRAFT.COM) <efindlay@findlaycraft.com>; Mullins, Sarah <sarahmullins@orrick.com>; Taasera, Checkpoint (NON-SIDLEY @ORRICK.COM) <checkpoint-taasera_ohs@orrick.com>; Bartow, D. Stuart <DSBartow@duanemorris.com>; Melissa Smith <melissa@gillamsmithlaw.com>; tom@gillamsmithlaw.com; Engelmann, Holly E. <HEngelmann@duanemorris.com>; Vinci, Brianna <BVinci@duanemorris.com>; TrendTaasera <TrendTaasera@duanemorris.com>; Greene, Bert A. <BGreene@duanemorris.com>; Liddell, Andrew <WALiddell@duanemorris.com>; Rollins, David J. <DJRollins@duanemorris.com>; Yang, Irene <irene.yang@sidley.com>; Bettinger, Mike <mbettinger@sidley.com>; Langford, Andrew <alangford@sidley.com>; Fountain, Erik B. <efountain@sidley.com>; Blake@TheMannFirm.com; Mark@TheMannFirm.com; Lee, Sharon <sharon.lee@sidley.com>; Sidley Crowd Strike Taasera <SidleyCrowdStrikeTaasera@sidley.com>; Gaudet, Matthew C. <MCGaudet@duanemorris.com>; Snedeker, Alice <AESnedeker@duanemorris.com>; Tyson, Christopher J. <CJTyson@duanemorris.com>; Malani, Irfan <IMalani@duanemorris.com>; St. Clair, Nate <nstclair@jw.com>; JW-Trellix-IP <JW-Trellix-IP@jw.com>; Dietrich, Blake <bdietrich@jw.com>; Hunsaker, Kelly C. <Khunsaker@winston.com>; Yaquian, Juan C. <JYaquian@winston.com>; Reig, Eimeric <EReigPlessis@winston.com>; Winston-PAN-Taasera <Winston-PAN-Taasera@winston.com>
Subject: RE: In re Taasera MDL - Model Order Focusing Patent Claims and Prior Art

****RECEIVED FROM EXTERNAL SENDER – USE CAUTION****

Will, here is our counterproposal:

September 15 – Plaintiff's first cut (10 claims per patent, 50 total)
September 29 – Defendants' first cut (12 references per patent, 60 total)
October 16 – Plaintiff's final cut (Model order limits)
November 6 – Defendants' final cut (Model order limits)

Joseph Mercadante
Partner
Fabricant LLP
T: 646-797-4343 | M: 973-420-4011 | jmercadante@fabricantllp.com

From: Nilsson, William (DAL) <wnilsson@jw.com>
Sent: Monday, August 21, 2023 2:06 PM
To: Joseph Mercadante <jmercadante@fabricantllp.com>; Taasera <taasera@fabricantllp.com>; sbaxter@mckoolsmith.com; jtruelove@mckoolsmith.com
Cc: Dotson, David C. <DCDotson@duanemorris.com>; Park, Ryuk <RPark@winston.com>; Rueckheim, Mike <MRueckheim@winston.com>; Shoup, Christopher <cshoup@sidley.com>; Medina, David R. <dmedina@orrick.com>; Roberts, Clement <croberts@orrick.com>; Caridis, Alyssa (EXTERNAL @ORRICK.COM) <acaridis@orrick.com>; O'Neal, Jake <jake.oneal@orrick.com>; Brewer, Evan <ebrewer@orrick.com>; Findley, Eric Hugh (EXTERNAL @FINDLAYCRAFT.COM) <efindlay@findlaycraft.com>; Mullins, Sarah <sarahmullins@orrick.com>; Taasera, Checkpoint (NON-SIDLEY @ORRICK.COM) <checkpoint-taasera_ohs@orrick.com>; Bartow, D. Stuart <DSBartow@duanemorris.com>; Melissa Smith <melissa@gillamsmithlaw.com>; tom@gillamsmithlaw.com; Engelmann, Holly E. <HEngelmann@duanemorris.com>; Vinci, Brianna <BVinci@duanemorris.com>; TrendTaasera <TrendTaasera@duanemorris.com>; Greene, Bert A. <BGreene@duanemorris.com>; Liddell, Andrew <WALiddell@duanemorris.com>; Rollins, David J. <DJRollins@duanemorris.com>; Yang, Irene <irene.yang@sidley.com>; Bettinger, Mike <mbettinger@sidley.com>; Langford, Andrew <alangford@sidley.com>; Fountain, Erik B.

<efountain@sidley.com>; Blake@TheMannFirm.com; Mark@TheMannFirm.com; Lee, Sharon <sharon.lee@sidley.com>;
Sidley Crowd Strike Taasera <SidleyCrowdStrikeTaasera@sidley.com>; Gaudet, Matthew C.
<MCGaudet@duanemorris.com>; Snedeker, Alice <AESnedeker@duanemorris.com>; Tyson, Christopher J.
<CJTyson@duanemorris.com>; Malani, Irfan <IMalani@duanemorris.com>; St. Clair, Nate <nstclair@jw.com>; JW-
Trellix-IP <JW-Trellix-IP@jw.com>; Dietrich, Blake <bdietrich@jw.com>; Hunsaker, Kelly C. <Khunsaker@winston.com>;
Yaquian, Juan C. <JYaquian@winston.com>; Reig, Eimeric <EReigPlessis@winston.com>; Winston-PAN-Taasera
<Winston-PAN-Taasera@winston.com>

Subject: RE: In re Taasera MDL - Model Order Focusing Patent Claims and Prior Art

Joe,

In view of the Court's entry of its Seventh Amended Docket Control Order (Dkt. No. 99), and to facilitate discussions between the parties, Defendants will agree to move their originally proposed dates back by seven days. Plaintiff's Preliminary Election would be on September 8, 2023, Defendants' Preliminary Election would be on September 22, 2023, Plaintiff's Final Election would be on October 9, 2023, and Defendants' Final Election would be on October 30, 2023. However, Defendants do not agree with your stated reasons for proceeding directly to final elections, particularly in view of Eastern District of Texas case law noting that case narrowing is appropriate during or following claim construction briefing and before the *Markman* hearing. Two such cases are attached: *Thomas Swan & Co. Ltd. v. Finisar Corp.*, No. 2:13-cv-178-JRG, 2014 WL 12951070, at *1 (E.D. Tex. Apr. 11, 2014) ("[R]equests to limit claims and/or prior art references are generally more appropriate during or following the submission of the Parties' claims construction briefing.") and *Round Rock Research, LLC v. Dell Inc.*, No. 4:11-cv-332 (Dkt. No. 89 at 3–4) (E.D. Tex. Mar. 26, 2012) ("The Court finds that limiting the amount of claims asserted by Plaintiff is appropriate at this time to aid in efficiency and narrowing the claims prior to claim construction.").

With respect to Taasera's proposals regarding patent claims and prior art, including Taasera's proposal that "an obviousness combination of two separate pieces of prior art will count as two references," Defendants do not agree to deviate from the Model Order. We intend to discuss further on the call this afternoon.

All the best,

Will

William Nilsson

2323 Ross Avenue, Suite 600 | Dallas, TX | 75201

V: (214) 953-5918 | F: (214) 953-5822 | wnilsson@jw.com



From: Joseph Mercadante <jmercadante@fabricantllp.com>

Sent: Monday, August 21, 2023 9:35 AM

To: Nilsson, William (DAL) <wnilsson@jw.com>; Taasera <taasera@fabricantllp.com>; sbaxter@mckoolsmith.com;
jtruelove@mckoolsmith.com

Cc: Dotson, David C. <DCDotson@duanemorris.com>; Park, Ryuk <RPark@winston.com>; Rueckheim, Mike
<MRueckheim@winston.com>; Shoup, Christopher <cshoup@sidley.com>; Medina, David R. <dmedina@orrick.com>;
Roberts, Clement <croberts@orrick.com>; Caridis, Alyssa (EXTERNAL @ORRICK.COM) <acaridis@orrick.com>; O'Neal,
Jake <jake.oneal@orrick.com>; Brewer, Evan <ebrewer@orrick.com>; Findley, Eric Hugh (EXTERNAL
@FINDLAYCRAFT.COM) <efindlay@findlaycraft.com>; Mullins, Sarah <sarahmullins@orrick.com>; Taasera, Checkpoint
(NON-SIDLEY @ORRICK.COM) <checkpoint-taasera_ohs@orrick.com>; Bartow, D. Stuart
<DSBartow@duanemorris.com>; Melissa Smith <melissa@gillamsmithlaw.com>; tom@gillamsmithlaw.com; Engelmann,
Holly E. <HEngelmann@duanemorris.com>; Vinci, Brianna <BVinci@duanemorris.com>; TrendTaasera
<TrendTaasera@duanemorris.com>; Greene, Bert A. <BGreene@duanemorris.com>; Liddell, Andrew
<WALiddell@duanemorris.com>; Rollins, David J. <DJRollins@duanemorris.com>; Yang, Irene <irene.yang@sidley.com>;
Bettinger, Mike <mbettinger@sidley.com>; Langford, Andrew <alangford@sidley.com>; Fountain, Erik B.
<efountain@sidley.com>; Blake@TheMannFirm.com; Mark@TheMannFirm.com; Lee, Sharon <sharon.lee@sidley.com>;

Sidley Crowd Strike Taasera <SidleyCrowdStrikeTaasera@sidley.com>; Gaudet, Matthew C. <MCGaudet@duanemorris.com>; Snedeker, Alice <AESnedeker@duanemorris.com>; Tyson, Christopher J. <CJTyson@duanemorris.com>; Malani, Irfan <IMalani@duanemorris.com>; St. Clair, Nate <nstclair@jw.com>; JW-Trellix-IP <JW-Trellix-IP@jw.com>; Dietrich, Blake <bdietrich@jw.com>; Hunsaker, Kelly C. <Khunsaker@winston.com>; Yaquian, Juan C. <JYaquian@winston.com>; Reig, Eimeric <EReigPlessis@winston.com>; Winston-PAN-Taasera <Winston-PAN-Taasera@winston.com>

Subject: RE: In re Taasera MDL - Model Order Focusing Patent Claims and Prior Art

****RECEIVED FROM EXTERNAL SENDER – USE CAUTION****

Dial In: 646-893-7187

Passcode: 7845#

Joseph Mercadante

Partner

Fabricant LLP

T: 646-797-4343 | M: 973-420-4011 | jmercadante@fabricantllp.com

From: Nilsson, William (DAL) <wnilsson@jw.com>

Sent: Monday, August 21, 2023 10:32 AM

To: Joseph Mercadante <jmercadante@fabricantllp.com>; Taasera <taasera@fabricantllp.com>; sbaxter@mckoolsmith.com; jtruelove@mckoolsmith.com

Cc: Dotson, David C. <DCDotson@duanemorris.com>; Park, Ryuk <RPark@winston.com>; Rueckheim, Mike <MRueckheim@winston.com>; Shoup, Christopher <cshoup@sidley.com>; Medina, David R. <dmedina@orrick.com>; Roberts, Clement <croberts@orrick.com>; Caridis, Alyssa (EXTERNAL @ORRICK.COM) <acaridis@orrick.com>; O'Neal, Jake <jake.oneal@orrick.com>; Brewer, Evan <ebrewer@orrick.com>; Findley, Eric Hugh (EXTERNAL @FINDLAYCRAFT.COM) <efindlay@findlaycraft.com>; Mullins, Sarah <sarahmullins@orrick.com>; Taasera, Checkpoint (NON-SIDLEY @ORRICK.COM) <checkpoint-taasera_ohs@orrick.com>; Bartow, D. Stuart <DSBartow@duanemorris.com>; Melissa Smith <melissa@gillamsmithlaw.com>; tom@gillamsmithlaw.com; Engelmann, Holly E. <HEngelmann@duanemorris.com>; Vinci, Brianna <BVinci@duanemorris.com>; TrendTaasera <TrendTaasera@duanemorris.com>; Greene, Bert A. <BGreene@duanemorris.com>; Liddell, Andrew <WALiddell@duanemorris.com>; Rollins, David J. <DJRollins@duanemorris.com>; Yang, Irene <irene.yang@sidley.com>; Bettinger, Mike <mbettinger@sidley.com>; Langford, Andrew <alangford@sidley.com>; Fountain, Erik B. <efountain@sidley.com>; Blake@TheMannFirm.com; Mark@TheMannFirm.com; Lee, Sharon <sharon.lee@sidley.com>; Sidley Crowd Strike Taasera <SidleyCrowdStrikeTaasera@sidley.com>; Gaudet, Matthew C. <MCGaudet@duanemorris.com>; Snedeker, Alice <AESnedeker@duanemorris.com>; Tyson, Christopher J. <CJTyson@duanemorris.com>; Malani, Irfan <IMalani@duanemorris.com>; St. Clair, Nate <nstclair@jw.com>; JW-Trellix-IP <JW-Trellix-IP@jw.com>; Dietrich, Blake <bdietrich@jw.com>; Hunsaker, Kelly C. <Khunsaker@winston.com>; Yaquian, Juan C. <JYaquian@winston.com>; Reig, Eimeric <EReigPlessis@winston.com>; Winston-PAN-Taasera <Winston-PAN-Taasera@winston.com>

Subject: RE: In re Taasera MDL - Model Order Focusing Patent Claims and Prior Art

Joe,

Today at 4 Eastern works. Can you please circulate a dial-in?

All the best,

Will

William Nilsson

2323 Ross Avenue, Suite 600 | Dallas, TX | 75201

V: (214) 953-5918 | F: (214) 953-5822 | wnilsson@jw.com



From: Joseph Mercadante <jmercadante@fabricantllp.com>

Sent: Saturday, August 19, 2023 6:48 PM

To: Nilsson, William (DAL) <wnilsson@jw.com>; Taasera <taasera@fabricantllp.com>; sbaxter@mckoolsmith.com; jtruelove@mckoolsmith.com

Cc: Dotson, David C. <DCDotson@duanemorris.com>; Park, Ryuk <RPark@winston.com>; Rueckheim, Mike <MRueckheim@winston.com>; Shoup, Christopher <cshoup@sidley.com>; Medina, David R. <dmedina@orrick.com>; Roberts, Clement <croberts@orrick.com>; Caridis, Alyssa (EXTERNAL @ORRICK.COM) <acaridis@orrick.com>; O'Neal, Jake <jake.oneal@orrick.com>; Brewer, Evan <ebrewer@orrick.com>; Findley, Eric Hugh (EXTERNAL @FINDLAYCRAFT.COM) <efindlay@findlaycraft.com>; Mullins, Sarah <sarahmullins@orrick.com>; Taasera, Checkpoint (NON-SIDLEY @ORRICK.COM) <checkpoint-taasera_ohs@orrick.com>; Bartow, D. Stuart <DSBartow@duanemorris.com>; Melissa Smith <melissa@gillamsmithlaw.com>; tom@gillamsmithlaw.com; Engelmann, Holly E. <HEngelmann@duanemorris.com>; Vinci, Brianna <BVinci@duanemorris.com>; TrendTaasera <TrendTaasera@duanemorris.com>; Greene, Bert A. <BGreene@duanemorris.com>; Liddell, Andrew <WALiddell@duanemorris.com>; Rollins, David J. <DJRollins@duanemorris.com>; Yang, Irene <irene.yang@sidley.com>; Bettinger, Mike <mbettinger@sidley.com>; Langford, Andrew <alangford@sidley.com>; Fountain, Erik B. <efountain@sidley.com>; Blake@TheMannFirm.com; Mark@TheMannFirm.com; Lee, Sharon <sharon.lee@sidley.com>; Sidley Crowd Strike Taasera <SidleyCrowdStrikeTaasera@sidley.com>; Gaudet, Matthew C. <MCGaudet@duanemorris.com>; Snedeker, Alice <AESnedeker@duanemorris.com>; Tyson, Christopher J. <CJTyson@duanemorris.com>; Malani, Irfan <IMalani@duanemorris.com>; St. Clair, Nate <nstclair@jw.com>; JW-Trellix-IP <JW-Trellix-IP@jw.com>; Dietrich, Blake <bdietrich@jw.com>; Hunsaker, Kelly C. <Khunsaker@winston.com>; Yaquian, Juan C. <JYaquian@winston.com>; Reig, Eimeric <EReigPlessis@winston.com>; Winston-PAN-Taasera <Winston-PAN-Taasera@winston.com>

Subject: Re: In re Taasera MDL - Model Order Focusing Patent Claims and Prior Art

****RECEIVED FROM EXTERNAL SENDER – USE CAUTION****

Will, we can speak on Monday at 4 Eastern. I'm in a deposition on Tuesday and traveling on Wednesday so Monday works best.

Joseph Mercadante
Partner
Fabricant LLP
jmercadante@fabricantllp.com
M: 973-420-4011

From: Nilsson, William (DAL) <wnilsson@jw.com>

Sent: Friday, August 18, 2023 2:51:27 PM

To: Joseph Mercadante <jmercadante@fabricantllp.com>; Taasera <taasera@fabricantllp.com>; sbaxter@mckoolsmith.com <sbaxter@mckoolsmith.com>; jtruelove@mckoolsmith.com <jtruelove@mckoolsmith.com>

Cc: Dotson, David C. <DCDotson@duanemorris.com>; Park, Ryuk <RPark@winston.com>; Rueckheim, Mike <MRueckheim@winston.com>; Shoup, Christopher <cshoup@sidley.com>; Medina, David R. <dmedina@orrick.com>; Roberts, Clement <croberts@orrick.com>; Caridis, Alyssa (EXTERNAL @ORRICK.COM) <acaridis@orrick.com>; O'Neal, Jake <jake.oneal@orrick.com>; Brewer, Evan <ebrewer@orrick.com>; Findley, Eric Hugh (EXTERNAL @FINDLAYCRAFT.COM) <efindlay@findlaycraft.com>; Mullins, Sarah <sarahmullins@orrick.com>; Taasera, Checkpoint (NON-SIDLEY @ORRICK.COM) <checkpoint-taasera_ohs@orrick.com>; Bartow, D. Stuart <DSBartow@duanemorris.com>; Melissa Smith <melissa@gillamsmithlaw.com>; tom@gillamsmithlaw.com <tom@gillamsmithlaw.com>; Engelmann, Holly E. <HEngelmann@duanemorris.com>; Vinci, Brianna <BVinci@duanemorris.com>; TrendTaasera <TrendTaasera@duanemorris.com>; Greene, Bert A. <BGreene@duanemorris.com>; Liddell, Andrew <WALiddell@duanemorris.com>; Rollins, David J. <DJRollins@duanemorris.com>; Yang, Irene <irene.yang@sidley.com>; Bettinger, Mike <mbettinger@sidley.com>; Langford, Andrew <alangford@sidley.com>; Fountain, Erik B. <efountain@sidley.com>; Blake@TheMannFirm.com

<Blake@TheMannFirm.com>; Mark@TheMannFirm.com <Mark@TheMannFirm.com>; Lee, Sharon <sharon.lee@sidley.com>; Sidley Crowd Strike Taasera <SidleyCrowdStrikeTaasera@sidley.com>; Gaudet, Matthew C. <MCGaudet@duanemorris.com>; Snedeker, Alice <AESnedeker@duanemorris.com>; Tyson, Christopher J. <CJTyson@duanemorris.com>; Malani, Irfan <IMalani@duanemorris.com>; St. Clair, Nate <nstclair@jw.com>; JW-Trellix-IP <JW-Trellix-IP@jw.com>; Dietrich, Blake <bdietch@jw.com>; Hunsaker, Kelly C. <Khunsaker@winston.com>; Yaquian, Juan C. <JYaquian@winston.com>; Reig, Eimeric <EREigPlessis@winston.com>; Winston-PAN-Taasera <Winston-PAN-Taasera@winston.com>

Subject: RE: In re Taasera MDL - Model Order Focusing Patent Claims and Prior Art

Joe,

The Defendants are still discussing your proposal, but at this time it appears a meet and confer will be necessary. Please provide your availability for a meet and confer early next week.

All the best,

Will

William Nilsson

2323 Ross Avenue, Suite 600 | Dallas, TX | 75201

V: (214) 953-5918 | F: (214) 953-5822 | wnilsson@jw.com



From: Joseph Mercadante <jmercadante@fabricantllp.com>

Sent: Friday, August 18, 2023 12:30 PM

To: Nilsson, William (DAL) <wnilsson@jw.com>; Taasera <taasera@fabricantllp.com>; sbaxter@mckoolsmith.com; jtruelove@mckoolsmith.com

Cc: Dotson, David C. <DCDotson@duanemorris.com>; Park, Ryuk <RPark@winston.com>; Rueckheim, Mike <MRueckheim@winston.com>; Shoup, Christopher <cshoup@sidley.com>; Medina, David R. <dmedina@orrick.com>; Roberts, Clement <croberts@orrick.com>; Caridis, Alyssa (EXTERNAL @ORRICK.COM) <acaridis@orrick.com>; O'Neal, Jake <jake.oneal@orrick.com>; Brewer, Evan <ebrewer@orrick.com>; Findley, Eric Hugh (EXTERNAL @FINDLAYCRAFT.COM) <efindlay@findlaycraft.com>; Mullins, Sarah <sarahmullins@orrick.com>; Taasera, Checkpoint (NON-SIDLEY @ORRICK.COM) <checkpoint-taasera_ohs@orrick.com>; Bartow, D. Stuart <DSBartow@duanemorris.com>; Melissa Smith <melissa@gillamsmithlaw.com>; tom@gillamsmithlaw.com; Engelmann, Holly E. <HEngelmann@duanemorris.com>; Vinci, Brianna <BVinci@duanemorris.com>; TrendTaasera <TrendTaasera@duanemorris.com>; Greene, Bert A. <BGreene@duanemorris.com>; Liddell, Andrew <WALiddell@duanemorris.com>; Rollins, David J. <DJRollins@duanemorris.com>; Yang, Irene <irene.yang@sidley.com>; Bettinger, Mike <mbettinger@sidley.com>; Langford, Andrew <alangford@sidley.com>; Fountain, Erik B. <efountain@sidley.com>; Blake@TheMannFirm.com; Mark@TheMannFirm.com; Lee, Sharon <sharon.lee@sidley.com>; Sidley Crowd Strike Taasera <SidleyCrowdStrikeTaasera@sidley.com>; Gaudet, Matthew C. <MCGaudet@duanemorris.com>; Snedeker, Alice <AESnedeker@duanemorris.com>; Tyson, Christopher J. <CJTyson@duanemorris.com>; Malani, Irfan <IMalani@duanemorris.com>; St. Clair, Nate <nstclair@jw.com>; JW-Trellix-IP <JW-Trellix-IP@jw.com>; Dietrich, Blake <bdietch@jw.com>; Hunsaker, Kelly C. <Khunsaker@winston.com>; Yaquian, Juan C. <JYaquian@winston.com>; Reig, Eimeric <EREigPlessis@winston.com>; Winston-PAN-Taasera <Winston-PAN-Taasera@winston.com>

Subject: RE: In re Taasera MDL - Model Order Focusing Patent Claims and Prior Art

****RECEIVED FROM EXTERNAL SENDER – USE CAUTION****

Will,

Given that claim construction briefing has already started and that there's not much time between the Markman hearing and the close of fact discovery, we propose going straight to the final election of claims with a single cut, instead of doing multiple rounds. Our proposal is below:

October 23 – Plaintiff to select no more than 7 claims per patent and no more than 25 claims total (per defendant)
November 6 – Each defendant to select no more than 8 references per asserted patent and no more than 25 references total.

For the purposes of the prior art references, an obviousness combination of two separate pieces of prior art will count as two references. Happy to get on the phone and discuss if that's easier.

Have a nice weekend.

Joseph Mercadante

Partner

Fabricant LLP

T: 646-797-4343 | M: 973-420-4011 | jmercadante@fabricantllp.com

From: Nilsson, William (DAL) <wnilsson@jw.com>

Sent: Friday, August 11, 2023 11:15 AM

To: Taasera <taasera@fabricantllp.com>; sbaxter@mckoolsmith.com; jtruelove@mckoolsmith.com

Cc: Dotson, David C. <DCDotson@duanemorris.com>; Park, Ryuk <RPark@winston.com>; Rueckheim, Mike <MRueckheim@winston.com>; Shoup, Christopher <cshoup@sidley.com>; Medina, David R. <dmedina@orrick.com>; Nilsson, William (DAL) <wnilsson@jw.com>; Roberts, Clement <croberts@orrick.com>; Caridis, Alyssa (EXTERNAL @ORRICK.COM) <acaridis@orrick.com>; O'Neal, Jake <jake.oneal@orrick.com>; Brewer, Evan <ebrewer@orrick.com>; Findley, Eric Hugh (EXTERNAL @FINDLAYCRAFT.COM) <efindlay@findlaycraft.com>; Mullins, Sarah <sarahmullins@orrick.com>; Taasera, Checkpoint (NON-SIDLEY @ORRICK.COM) <checkpoint-taasera_ohs@orrick.com>; Bartow, D. Stuart <DSBartow@duanemorris.com>; Melissa Smith <melissa@gillamsmithlaw.com>; tom@gillamsmithlaw.com; Engelmann, Holly E. <HEngelmann@duanemorris.com>; Vinci, Brianna <BVinci@duanemorris.com>; TrendTaasera <TrendTaasera@duanemorris.com>; Greene, Bert A. <BGreene@duanemorris.com>; Liddell, Andrew <WALiddell@duanemorris.com>; Rollins, David J. <DJRollins@duanemorris.com>; Yang, Irene <irene.yang@sidley.com>; Bettinger, Mike <mbettinger@sidley.com>; Langford, Andrew <alangford@sidley.com>; Fountain, Erik B. <efountain@sidley.com>; Blake@TheMannFirm.com; Mark@TheMannFirm.com; Lee, Sharon <sharon.lee@sidley.com>; Sidley Crowd Strike Taasera <SidleyCrowdStrikeTaasera@sidley.com>; Gaudet, Matthew C. <MCGaudet@duanemorris.com>; Snedeker, Alice <AESnedeker@duanemorris.com>; Tyson, Christopher J. <CJTyson@duanemorris.com>; Malani, Irfan <IMalani@duanemorris.com>; St. Clair, Nate <nstclair@jw.com>; JW-Trellix-IP <JW-Trellix-IP@jw.com>; Dietrich, Blake <bdietrich@jw.com>; Hunsaker, Kelly C. <Khunsaker@winston.com>; Yaquian, Juan C. <JYaquian@winston.com>; Reig, Eimeric <EReigPlessis@winston.com>; Winston-PAN-Taasera <Winston-PAN-Taasera@winston.com>

Subject: In re Taasera MDL - Model Order Focusing Patent Claims and Prior Art

Counsel,

The following proposal is sent on behalf of all Defendants in this case. Due to the scope of the case, with 15 total patents and hundreds of claims asserted against the Defendants, we intend to request that the Court enter the attached Eastern District of Texas Model Order Focusing Patent Claims and Prior Art to Reduce Costs. We expected that the claim construction process, review of Defendants' source code, and other discovery would result in patents and claims being dropped by this point. However, to date, Taasera has only dropped two asserted claims.

Defendants propose the entry of the Model Order with the default limits on asserted claims and asserted prior art references in the parties' respective preliminary and final elections. Certain deadlines in the Model Order have already passed—namely, the service of a Preliminary Election of Asserted Claims by the P.R. 4-4 date and the Preliminary Election of Asserted Prior Art 14 days thereafter. We therefore propose the following deadlines:

- Preliminary Election of Asserted Claims: September 1, 2023
- Preliminary Election of Asserted Prior Art: September 15, 2023

- Final Election of Asserted Claims: October 2, 2023
- Final Election of Asserted Prior Art: October 23, 2023

Please advise whether Taasera will agree to the above proposal. Otherwise, please provide your availability for a telephonic meet and confer next week.

All the best,

Will

William Nilsson

2323 Ross Avenue, Suite 600 | Dallas, TX | 75201

V: (214) 953-5918 | F: (214) 953-5822 | wnilsson@jw.com

