

RE: 10x v. Parse: Dr. Cooper's Report**Walter, Derek <Derek.Walter@weil.com>**

Tue 5/28/2024 4:41 PM

To: Joshua Reich <joshua.reich@groombridgewu.com>; Parse 10X <Parse.10X@weil.com>

Cc: 10x Parse <10x-parse@groombridgewu.com>; Jacobs, Karen <KJacobs@morrisnichols.com>; Clark, Cameron <cclark@morrisnichols.com>; mfarnan@farnanlaw.com <mfarnan@farnanlaw.com>; bfarnan@farnanlaw.com <bfarnan@farnanlaw.com>

Josh:

Following up on our call from last week, we currently would oppose a motion to strike our defense based on the McCloskey and Linnarsson references. That position may change depending on the district court schedule and developments at the Board, but as things currently stand, we would oppose your motion.

As we explained, we originally filed the IPRs at a time that would have allowed for them to be completed quite comfortably prior to the trial, particularly if the Board were advised of the trial date. Unfortunately, the Board made an acknowledged error in its institution decisions, which had the effect of delaying two out of the three IPRs by months such that they now almost certainly will not be finished prior to the trial. These developments were unforeseeable at the time we filed our IPRs and reflect a hugely significant change of circumstances relative to when we filed. Had we known the PTAB would err in its institution decisions, we would have approached things differently. Given the changed circumstances, we think it would be unjust if our defenses were stricken. Indeed, it appears in this regard that 10x is merely seeking a windfall wherein it can proceed to trial and prevent Parse from presenting a significant defense to the jury before the PTAB has even had a chance to adjudicate the defense. Furthermore, we note that the McCloskey/Linnarsson defense has been part of our contentions throughout the case, including in our most recent contentions served after the institution decisions and roughly a month before expert reports were served. 10x, however, waited to raise this issue until after expert reports were served. This further suggests that 10x is simply seeking to prejudice Parse.

As we previously discussed, we think this ought to be briefed in connection with the schedule. This is because the issue you are raising can likely be avoided if the trial date is moved a few months so that trial does not take place until after the PTAB decisions issues. This approach will also make the most sense from the standpoint of judicial and party resources because it gives the parties the opportunity to avoid a costly trial on claims that will potentially be held invalid.

Please let us know if you have a proposal for how this ought to be briefed.

Thanks,

Derek

From: Joshua Reich <joshua.reich@groombridgewu.com>**Sent:** Thursday, May 23, 2024 7:56 AM**To:** Walter, Derek <Derek.Walter@weil.com>; Parse 10X <Parse.10X@weil.com>**Cc:** 10x Parse <10x-parse@groombridgewu.com>; Jacobs, Karen <KJacobs@morrisnichols.com>; Clark, Cameron <cclark@morrisnichols.com>; mfarnan@farnanlaw.com; bfarnan@farnanlaw.com**Subject:** RE: 10x v. Parse: Dr. Cooper's Report

Derek,

We are unaware of any "substantial unforeseeable and changed circumstances" that provide any basis for Parse to repudiate its representations to the Board. IPR2023-00876 Petition, 75; IPR20023-00955 Petition, 75-76; IPR20023-00958 Petition, 70. Please identify these "substantial unforeseeable and changed circumstances" and your position as to why they permit Parse to violate its stipulation by tonight at 8PM ET to ensure tomorrow's

meet and confer is meaningful. Additionally, please be prepared to discuss our motion to strike, which we intend to file if Parse does not withdraw the identified invalidity arguments. Please confirm that Delaware counsel will also be on the meet and confer.

We are not available at 11:30AM ET but are available anytime between 12-6pm ET. Let us know what time in that window works on your end and please circulate a dial-in.

Regards,

Josh Reich

Groombridge, Wu, Baughman & Stone LLP

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New York, NY 10017

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joshua.reich@groombridgewu.com

From: Walter, Derek <Derek.Walter@weil.com>

Sent: Thursday, May 23, 2024 12:41 AM

To: Joshua Reich <joshua.reich@groombridgewu.com>; Parse 10X <Parse.10X@weil.com>

Cc: 10x Parse <10x-parse@groombridgewu.com>; Jacobs, Karen <KJacobs@morrisnichols.com>; Clark, Cameron <cclark@morrisnichols.com>; mfarnan@farnanlaw.com; bfarnan@farnanlaw.com

Subject: RE: 10x v. Parse: Dr. Cooper's Report

Josh,

As you know, there were substantial unforeseeable and changed circumstances following the filing of our petition. We can discuss further on Friday at 830 AM PT (1130 AM ET) if you like.

Thanks,

Derek

From: Joshua Reich <joshua.reich@groombridgewu.com>

Sent: Tuesday, May 21, 2024 11:25 AM

To: Walter, Derek <Derek.Walter@weil.com>; Parse 10X <Parse.10X@weil.com>

Cc: 10x Parse <10x-parse@groombridgewu.com>; Jacobs, Karen <KJacobs@morrisnichols.com>; Clark, Cameron <cclark@morrisnichols.com>; mfarnan@farnanlaw.com; bfarnan@farnanlaw.com

Subject: 10x v. Parse: Dr. Cooper's Report

Counsel,

In each of Parse's three Petitions for *inter partes* review Parse represented to the Board that "[i]f instituted, Petitioner will stipulate to not pursuing, in the district court litigation, invalidity arguments based on any instituted IPR ground." *E.g.*, IPR2023-00876 Petition, 75. Each of Petitioner's Brenner Petitions included a Ground that the claims were "obvious over the combination of Linnarsson (EX1003) in view of McCloskey (EX1004)," and all three Petitions were instituted. *E.g.*, IPR2023-00876 Petition, 5. Please promptly confirm you will comply with your representations to the Board and withdraw each invalidity argument in the Expert Report of Dr. Gregory Cooper Regarding Invalidity based on Linnarsson in view of McCloskey or provide meet and confer availability for Wednesday, May 22 between 11am-4pm ET.

Regards,

Josh Reich
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