

From: Fulghum, Roger <Roger.Fulghum@BakerBotts.com>
Sent: Wednesday, December 13, 2023 12:46 PM
To: Nicholas T. Matich; Speegle, Mark
Cc: Greenthread-OnSemi-MS; Alan Whitehurst; Arvind Jairam; Neil Ozarkar; Stuart McCommas; Barazesh, Ellyar; danderson@ebdlawyers.com
Subject: RE: onsemi/Greenthread (IPR2023-01242, IPR2023-01243, IPR2023-01244) - Authorized Preliminary Replies

Nick,

To your question concerning the identities of the so-called "Greenthread Licensees," we remain concerned about Greenthread's practice of overstealing the entirety of papers filed with the Board. There is a public interest in Patent Office proceedings being open to the public, and that is especially true here when Greenthread is attempting to deprive onsemi of its due process rights on the basis of an agreement that Greenthread has characterized as being confidential (even with regard to the identities of the parties to the agreement). The public may be interested in knowing, for example, that the Board is considering a POPR that asks that the Board find privity between an RPX sublicensee and a supplier to the RPX sublicensee on the basis of an RPX agreement.

Please go ahead and get your motion to seal on file in IPR2023-01242, -01243, and -01244. We expect to file our replies beginning at 1:30P Central, and we will file the replies as available to the "Board and parties" only in accordance with your motion to seal.

If you would like to discuss any issues, I am in my office at (713) 229-1707 or I can be reached on my mobile phone at (281) 217-5031.

Thanks, Roger.

From: Nicholas T. Matich <nmatich@McKoolSmith.com>
Sent: Wednesday, December 13, 2023 8:16 AM
To: Speegle, Mark <mark.speegle@bakerbotts.com>
Cc: Greenthread-OnSemi-MS <Greenthread-OnSemi-MS@mckoolsmith.com>; Alan Whitehurst <awhitehurst@McKoolSmith.com>; Arvind Jairam <ajairam@McKoolSmith.com>; Neil Ozarkar <nozarkar@McKoolSmith.com>; Stuart McCommas <smccommas@McKoolSmith.com>; Barazesh, Ellyar <ellyar.barazesh@bakerbotts.com>; danderson@ebdlawyers.com; Fulghum, Roger <Roger.Fulghum@BakerBotts.com>
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[EXTERNAL EMAIL]

Mark,

Can you please explain why OnSemi believes the identities of Greenthread Licensees (e.g. Intel, [REDACTED]) and RPX should not be treated as confidential?

McKool Smith | Nicholas T. Matich
Principal | Washington, DC | Tel: (202) 370-8301 | Mobile: (703) 863-7922

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From: Speegle, Mark <mark.speegle@bakerbotts.com>
Sent: Tuesday, December 12, 2023 7:03 PM
To: Nicholas T. Matich <nmatich@McKoolSmith.com>
Cc: Greenthread-OnSemi-MS <Greenthread-OnSemi-MS@mckoolsmith.com>; Alan Whitehurst <awhitehurst@McKoolSmith.com>; Arvind Jairam <ajairam@McKoolSmith.com>; Neil Ozarkar <nozarkar@McKoolSmith.com>; Stuart McCommas <smccommas@McKoolSmith.com>; Barazesh, Ellyar <ellyar.barazesh@bakerbotts.com>; danderson@ebdlawyers.com; Fulghum, Roger <Roger.Fulghum@BakerBotts.com>
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Nick,

I think you wrote this email without the benefit of our second conversation today, but to clarify the record: I did not represent that onsemi's reply will contain confidential information. To the contrary, I told you that the reply will contain references to party names (e.g., RPX) that **Greenthread** contends are confidential. As I explained to you earlier, because it is Greenthread who contends these names are confidential, it is Greenthread who should file the motion to seal. This approach is consistent with the Trial Practice Guide, which states: "**A party intending a document or thing be sealed** may file a motion to seal concurrent with the filing of the document or thing. 37 C.F.R. § 42.14" and that "a document or thing will be made publicly available, **unless a party files a motion to seal that is then granted by the Board.**" TPG at 19. Here, the "party intending a document or thing be sealed" is clearly Greenthread.

Based on the above, we do not oppose Greenthread filing tomorrow morning a motion to seal, asking for onsemi's reply to be treated consistent with the prior motions to seal in this case. To be clear, onsemi's position regarding Greenthread's prior requests to seal is unchanged, and we stand by our email to the Board addressing the over-sealing of materials.

Best regards,

Mark Speegle
 Partner

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From: Nicholas T. Matich <nmatich@McKoolSmith.com>
Sent: Tuesday, December 12, 2023 4:46 PM
To: Speegle, Mark <mark.speegle@bakerbotts.com>
Cc: Greenthread-OnSemi-MS <Greenthread-OnSemi-MS@mckoolsmith.com>; Alan Whitehurst <awhitehurst@McKoolSmith.com>; Arvind Jairam <ajairam@McKoolSmith.com>; Neil Ozarkar <nozarkar@McKoolSmith.com>; Stuart McCommas <smccommas@McKoolSmith.com>; Barazesh, Ellyar <ellyar.barazesh@bakerbotts.com>; danderson@ebdlawyers.com; Fulghum, Roger <Roger.Fulghum@BakerBotts.com>
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[EXTERNAL EMAIL]

Mark,

Given your representation that the reply contains confidential information, we think it is appropriate for you to file a motion to seal. The Trial Practice Guide says that the motion to seal should be filed “concurrent with the filing of the document or thing” to be sealed. 37 C.F.R. § 42.14. The trial practice guide also states that “a document or thing will be made publicly available, unless a party files a motion to seal.” We are concerned that if you file confidential information without a motion to seal it will be made public.

If you will not be filing a motion to seal, please let us know if OnSemi will oppose us doing so, so that we may seek appropriate relief.



Nicholas T. Matich
Principal

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From: Speegle, Mark <mark.speegle@bakerbotts.com>

Sent: Tuesday, December 12, 2023 4:07 PM

To: Nicholas T. Matich <nmatich@McKoolSmith.com>

Cc: Greenthread-OnSemi-MS <Greenthread-OnSemi-MS@mckoolsmith.com>; Alan Whitehurst

<awhitehurst@McKoolSmith.com>; Arvind Jairam <ajairam@McKoolSmith.com>; Neil Ozarkar

<nozarkar@McKoolSmith.com>; Stuart McCommas <smccommas@McKoolSmith.com>; Barazesh, Ellyar

<ellyar.barazesh@bakerbotts.com>; danderson@ebdlawyers.com; Fulghum, Roger <Roger.Fulghum@BakerBotts.com>

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Nick,

Petitioner will file its authorized reply to each POPR tomorrow. Petitioner intends to file this paper as available to the Parties and Board only because it will include information it understands Patent Owner believes is confidential.

Petitioner will not be submitting a motion to seal the reply. All allegedly confidential information in the reply will belong to Patent Owner. Patent Owner is best positioned to determine what is and is not allegedly confidential to it and file any motion to seal it believes is necessary.

Best regards,

Mark

Mark Speegle

Partner

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