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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SANTA CLARA

PATRIOT SCIENTIFIC CORPORATION, a Delaware corporation,

Plaintiff,

vs.

TECHNOLOGY PROPERTIES LIMITED LLC, a California limited liability company, ALLIACENSE LLC, a Delaware limited liability company, and DOES 1 to 100, inclusive,

Defendants.

Case No. 1-10-CV-169836

DECLARATION OF CHARLES T. HOGE IN OPPOSITION TO MOTION TO SEAL RECORD

Date: August 12, 2010
Time: 9:00 a.m.
Dept: 9
Judge: Hon. Mark Pierce

I, Charles T. Hoge, declare as follows:

1. I am an attorney at law duly authorized to practice before all the Courts of the State of California, and am a member of the firm Kirby Noonan Lance & Hoge LLP, attorneys of record for Plaintiff Patriot Scientific Corporation in the above matter. I am competent to and would testify to all matters set forth in this Declaration if called upon to do so as a witness.

1 2. The matters discussed in this Declaration concern materials produced to
2 me by counsel for Technology Properties Limited ("TPL") pursuant to the parties'
3 Stipulated Protective Order dated June 25, 2010 governing confidential documents.
4 As such, we are lodging these documents pursuant to CRC 2.550-2.551. Although
5 we have opposed TPL's motion to unseal the file, we do not request that the contents
6 of this Declaration be unsealed. Patriot agrees that a public disclosure of the names
7 of the licensees discussed in the exhibits and the amounts of the licensing if
8 discovered may impact TPL/Alliance's negotiation leverage with other prospective
9 licensees in the market segments of those companies.
10 3. The Court issued its Temporary Restraining Order in this matter on
11 April 23, 2010. In connection with that process, the Defendants agreed to produce to
12 me their files related to the negotiations with "Company A" resulting in the "mixed
13 license" agreement that was the primary basis for filing this action. This was done so
14 we could evaluate our immediate discovery needs. As a result, I approximately 8,000
15 pages of documents related to the course of negotiation of the mixed license with
16 "Company A." Attached hereto as Exhibit "A" is document number 0000159
17 produced by TPL. The document is part of a PowerPoint presentation to Company A
18 reflecting the licensing proposals to "Company A" at the point to license the MMP,
19 Fast Logic, Chip Scale and Core Flash technologies at $18.49 million, $4 million,
20 $2.95 million and $1.18 million, respectively, for a total license demanded of
21 "Company A" of $26.62 million. The total consideration allocated to the MMP by TPL
22 at this point (as discussed below) was 69.45%. The document does not contain the
23 notion of "patent peace" as being valued.
24 4. Attached hereto as Exhibit "B" is document 0000883, also produced to
25 me in connection with the "Company A" negotiation. This document reflects
26 allocation of consideration to "patent peace" but it does not reflect a change in the
27 relative mix of the consideration between the four portfolios being licensed by TPL.
28 "Patent peace" refers to the concept of TPL agreeing not to seek future licenses from

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1 "Company A" with respect to future patent rights it may own or license that are
2 currently unknown.

3 5. Attached hereto as Exhibit "C" is a page from a draft License Agreement
4 to Company A generated in April 2010, document 0000971 also produced to me by
5 TPL. This page from the License Agreement reflects that late in the negotiations (the
6 License was executed by April 8, 2010) the amount of allocation among the four
7 portfolios (the "Group 1" license patents) was still blank, indicating that TPL must
8 have filled the relative allocation of consideration paid by "Company A" to the four
9 portfolios itself just before the license was executed. I have reviewed the final
10 "Company A" agreement. It includes the license of MMP, as well as those other three
11 technologies, but the allocation to MMP among the four was reduced from 69.45% to
12 less than 20%.

13 6. With respect to "Company B," TPL provided us documents in May and
14 June 2010 in anticipation that it would be writing a license with "Company B" shortly.
15 I also reviewed those materials.

16 7. Attached hereto as Exhibit "D" is a true and correct copy of an email
17 dated December 23, 2009, Bates-stamped No. 0035464 produced by TPL in this
18 matter. The document indicates that at that point "Company B" wanted to write an
19 MMP license only for $400,000. TPL representative Joe Minville responded
20 negatively, and insisted that a Fast Logic and MMP license be executed
21 simultaneously.

22 8. Attached hereto as Exhibit "E" is another email from that file dated
23 April 6, 2010, Bates-stamped 0035482, indicating that "Company B" wanted to assign
24 a 15/85% split for the Fast Logic and the MMP license, respectively. Mr. Minville
25 responded that he wanted a 25/75% allocation.

26 9. Attached hereto as Exhibit "F" is an excerpt of a PowerPoint
27 presentation dated May 20, 2010, produced to us by TPL in this litigation. The
28 presentation indicates TPL's negotiation posture with "Company B" at that point had a

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77.5/22.5% split to MMP and Fast Logic, respectively, based on license proposals of $620,000 and $180,000, respectively.

10. As required by the TRO, TPL, through its counsel, Mr. Thacker, provided Carl Johnson notice of intention to write a license with "Company B" by email dated July 28, 2010. The allocation in that proposed license is 77.5% to MMP and 22.5% to Fast Logic. Mr. Johnson issued a letter on July 30, 2010 objecting to the allocation because "Company B" had been willing to write a standalone license for just MMP patents in late 2009, and because "Company B" additionally, when told it must take out a Fast Logic license, wanted to allocate 85% rather than 77.5% to the MMP component. A true and correct copy of Mr. Johnson's letter is attached hereto as Exhibit "G."

11. Although we have received many of the pleadings in that action captioned *Technology Properties Limited v. Phil Marcoux*, Case No. 1-09-CV-15953, I have spoken with counsel for Mr. Marcoux to verify certain facts and issues about that action. Most if not all of the information can be found in the Court file. The action was filed by Daniel Leckrone, the owner of Defendants TPL and Alliacense in this action. According to Mr. Lewis, Mr. Leckrone entered into an agreement to acquire the Chipscale technology that was structured as a stock purchase of the Chipscale entity by which Mr. Leckrone agreed to pay $2 million for the company payable over time. The transaction, according to Lewis, was subject to a security agreement including the Chipscale patents. According to Mr. Lewis, Mr. Leckrone never made any of the payments to acquire the Chipscale entity or business, and the former owners of the company including Phil Marcoux initiated a private foreclosure action pursuant to the terms of the security agreement. Mr. Leckrone evidently filed the action to obtain a TRO and preliminary injunction to stop the private sale that involved or included the Chipscale patents. As of March 22, 2010, Mr. Leckrone was not successful and a Preliminary Injunction did not issue out of that court. Mr. Marcoux

1 proceeded to record that he now owned the patents following a private sale,
2 according to the USPTO records on April 22, 2010.

3 12. U.S. Patent and Trademark Office records reflect that Mr. Marcoux had
4 recorded a "Notice of Default" on October 8, 2009, and recording receipt of the patent
5 rights on April 22, 2010. (*See* Request for Judicial Notice Exhibit "D;" (NOL No. 6.)
6 Another copy is attached hereto as Exhibit "H."

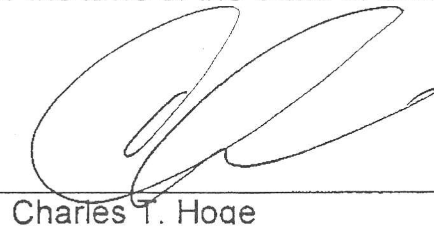
7 13. Mr. Lewis indicated to me that he was not aware that Mr. Leckrone or
8 TPL may have licensed the Chipscale technology to anyone at any time.

9 14. Patriot does agree that the Court file contents may be selectively
10 redacted pursuant to the parties' Stipulated Protective Order already in place in this
11 matter. The redactions that are appropriate would be licensing company names and
12 license dollar amounts. The point is to not compromise license negotiations with
13 industry segment competitors of these companies who may also be approached for
14 licenses.

15 I declare under penalty of perjury under the laws of the State of California that
16 the foregoing is true and correct.

17

18 Dated: 8/4/10



Charles T. Hoge

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